

PROVINCE OF THE EASTERN CAPE

PROVINCIAL NOTICE

DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM

DRAFT WHITE PAPER ON THE EASTERN CAPE DEVELOPMENT CORPORATION

I, Nonkqubela Pieters, Member of the Executive Council responsible for Economic Development, Environmental Affairs and Tourism in the Province of the Eastern Cape, hereby publish for public comment, the draft White Paper on the Eastern Cape Development Corporation.

Interested persons and organisations are invited to submit comments or written representations on the draft White Paper, within 75 calendar days from the date of publication of this notice.

Comments and/or written representations received after the closing date will not be considered.

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The draft White Paper on the Eastern Cape Development Corporation can be downloaded from the DEDEAT website: www.dedea.gov.za

Nonkqubela Pieters
Member of the Executive Council
Department of Economic Development, Environmental Affairs And Tourism

DRAFT WHITE PAPER
ON
THE EASTERN CAPE DEVELOPMENT
CORPORATION

November 2025

Table of Contents

1	FOREWORD, ABBREVIATIONS AND GLOSSARY	4
1.1	Foreword by the Member of the Executive Council for Economic Development, Environmental Affairs and Tourism	4
1.2	List of Abbreviations / Acronyms	6
1.3	Glossary of Terms	6
2	BACKGROUND AND LEGISLATIVE CONTEXT	7
2.1	Background	7
2.1.1	Establishment of ECDC	7
2.1.2	Legislative context	8
3	PROBLEM STATEMENT	9
3.1	Mandate of the ECDC	9
3.2	Powers of the ECDC	10
3.3	Policy directives in the ECDC Act	10
3.4	Board of Directors	10
3.5	Share Capital	11
3.6	Performance of functions in terms of the Companies Act	11
3.7	Governance, risk and oversight	11
3.8	Financial Sustainability	12
3.9	Duplication of functions	12
4	VALUES AND PRINCIPLES	12
4.1	Values	12
4.2	Principles	12
5	AIM AND APPROACH	13
5.1	Aim	13
5.2	Approach	13
6	POLICY CONTENT	13
6.1	The mandate of the ECDC	14
6.2	Trade and Industry development support	14
6.3	Powers of the ECDC	15
6.4	Share Capital	15
6.5	Performance of functions in terms of the Companies Act	15

6.6	Governance, risk and oversight.....	16
6.7	ACCOUNTING AND OVERSIGHT BODIES	16
6.7.1	Composition, Powers and Functions.....	16
6.7.2	The Board of Directors.....	17
6.7.3	Governance Committees.....	17
6.8	Appointment of Members, Terms and Conditions	17
6.8.1	Appointment of Members	17
6.8.2	Code of Good Practice	18
6.8.3	Assumption of Service	18
6.8.4	Term of Office of Members	18
6.8.5	Termination and Vacation	18
6.8.6	Schedule of Meetings of the Board.....	19
6.8.7	Attendance and Participation at Meetings	19
6.8.8	Remuneration of Serving Members.....	19
6.9	Divesting of Assets	19
6.10	FINANCES AND FUNDING	20
6.11	Other functions	20
6.12	Transitional provisions	20
7	SCENARIOS ON WAY FORWARD	21
7.1	Scenario 1:.....	21
7.2	Scenario 2:.....	21
7.3	Scenario 3:.....	21
8	PREFERRED SOLUTION	21
9	CONSULTATION	21
10	LONG TERM OUTCOMES AND CONCLUSION	22
10.1	Long Term Outcomes	22
10.2	Conclusion	22
11	APPROVAL OF WHITE PAPER.....	22

1 FOREWORD, ABBREVIATIONS AND GLOSSARY

1.1 Foreword by the Member of the Executive Council for Economic Development, Environmental Affairs and Tourism

It gives me great pleasure to present this White Paper on the Review of the Eastern Cape Development Corporation Act. This White Paper represents a critical milestone in our ongoing commitment to modernise, professionalise and strengthen the institutional architecture that underpins economic development in the Eastern Cape.

The Eastern Cape Development Corporation (ECDC) has, since its establishment in 1997, played an important role in advancing socio-economic development and supporting enterprise growth in our province. However, the policy, legislative and operational environment within which the ECDC was created has changed significantly over the past two decades. New national legislation, evolving economic priorities, and the urgent need for a more agile and responsive developmental state make it necessary to re-examine the mandate, governance arrangements and operational capabilities of the ECDC.

This White Paper provides a comprehensive policy framework to reposition the ECDC as an effective Provincial Development Finance Institution (PDFI) and a strategic instrument for driving inclusive growth, industrialisation, investment promotion, and enterprise development in the Eastern Cape. It seeks to eliminate duplication of functions across state entities, reinforce sound corporate governance, strengthen accountability, and ensure that the ECDC is resourced, capacitated and structured to fulfil its role in line with modern best practices and national regulatory requirements.

In doing so, the White Paper supports broader government priorities, including the Provincial Economic Development Strategy (PEDS), our commitments to job creation and transformation, and the imperatives of building competitive sectors capable of stimulating long-term economic resilience. It also aligns with national objectives to improve the performance of state-owned enterprises, enhance fiscal discipline, and ensure that public institutions deliver measurable value to citizens.

The development of this White Paper has been informed by careful analysis, stakeholder engagement and a clear recognition that the economic aspirations of our people demand institutions that are coherent, efficient and purpose-driven. The proposals contained herein aim to strengthen the ECDC so that it can more effectively support entrepreneurs, attract investment, unlock value from its asset base, and contribute meaningfully to the transformation of the Eastern Cape economy.

With this policy framework, we move towards drafting a new legislative instrument to replace the current ECDC Act. Together, we can reshape the ECDC into a modern catalyst for development and a powerful instrument for creating opportunities for all our people.

Nonkqubela Pieters (MPL)

**Department of Economic Development, Environmental Affairs and Tourism
(Eastern Cape)**

1.2 List of Abbreviations / Acronyms

“DBSA” means the Development Bank of Southern Africa;

“DEDEAT” means the Department of Economic Development, Environmental Affairs and Tourism of the Province;

“DFI” means a Developmental Financial Institution;

“ECDC” means the Eastern Cape Development Corporation;

“ECDC Act” means the Eastern Cape Development Corporation Act, 2, of 1997

“GTAC” means the Government Technical Advisory Centre at National Treasury;

“MEC” means the Member of the Executive Council of the Province responsible for economic development;

“PDFI” means a Provincial Developmental Financial Institution;

“PEDS” means the approved Provincial Economic Development Strategy or a similar economic strategy approved by the Department.

“PFMA” means the Public Finance Management Act, 1 of 1999;

“SEZ” means a Special Economic Zone established in terms of the Special Economic Zones act, no 16 of 2014; and

“SOE” means State Owned Enterprise;

1.3 Glossary of Terms

“Province” means the Province of the Eastern Cape;

2 BACKGROUND AND LEGISLATIVE CONTEXT

2.1 Background

2.1.1 Establishment of ECDC

The ECDC was established through the amalgamation of four legacy agencies and development banks operating in the homeland areas before 1994.

The Transkei Development Corporation, the Ciskei People's Development Bank, the Transkei Industrial Development Organisation and the Ciskei Small Business Corporation were all merged in the newly established ECDC into a single corporation by the ECDC Act that came into operation on 2 May 1997. In 2001, the Centre for Investment and Marketing in the Eastern Cape (CIMEC) was also merged with the ECDC.

In terms of section 3 of the ECDC Act, the objects of the ECDC were to plan, finance, co-ordinate, market, promote and implement the development of the Province and all its people in the fields of industry, commerce, agriculture, transport and finance.

Section 4 of the current ECDC Act provides for wide-ranging powers to perform *inter alia*:

- Establish, plan, finance, co-ordinate, promote and carry on any undertaking in any field of activity in the fields of industry, commerce, agriculture, transport and finance, or to acquire any such undertaking or to sell or otherwise dispose of such undertaking.
- Inaugurate, plan, finance, co-ordinate, market, promote or carry out projects which are intended to benefit and develop the Province and all its people or which relate to the exploitation, development or utilisation of natural resources, including human resources and communication resources;

- Lend money on such security and under such conditions as it may deem fit, including special mortgage bonds over immovable property, notarial bonds over movable property, pledges of movable property, cessions of rights and in general any other form of cover or security;
- By the issue of debentures or debenture stock or otherwise, raise loans or borrow money;
- Provide capital or other resources, and to furnish technical and other assistance and expert and specialised advice, information and guidance;
- Take deposits offered by any person for investment and to hold such deposits on such conditions as may be agreed upon, and to arrange and to decide upon the investment and application thereof in accordance with an exemption duly secured in terms of section 2 of the Banks Act, 1990.
- Act as agent or representative in any matter whatsoever for or on behalf of a person in connection with all or any of its objects, or itself to appoint agents or representatives in connection with any of its objects. The ECDC Act integrates functions previously assigned to several organs of the state by respective founding legislations hence its broad mandate.

The ECDC Act makes reference to a number of sections of the Companies Act, especially relating to financial accounting and reporting.

2.1.2 Legislative context

The ECDC Act was developed, passed and came into operation at the time of establishing the Eastern Cape Development Corporation (ECDC). Policy making was to some extent inclined to achieve integration in the approach to socio-economic development.

The Constitution of the Republic of South Africa, 1996, came into operation on 4 February 1997 and the ECDC Act shortly thereafter on 2 May 1997.

Since the commencement of the ECDC Act a number of important National Acts, that directly impact on the ECDC have been passed, for example, that the PFMA in 1999, and Treasury Regulations passed in terms of that Act, a new Companies Act in 2008 and the National Credit Act in 2005.

The legislative context clearly indicates that a review of the ECDC Act is necessary.

3 PROBLEM STATEMENT

ECDC is by its very nature a Provincial Development Finance Institution (PDFI) and is also regarded as such by National Treasury.

The core mandate of a DFI must be consistent with -

- appraising the socio-economic impact of projects seeking financing;
- accompanying investors in the long run through long-term loans;
- offer technical assistance to sectors essential to growth;
- attract investors by facilitating financing operations; and alleviate the negative impact of financial crises through countercyclical financing by offering loans, even during downturns, and pooling efforts with regional financing institutions.

The following paragraphs summarise the problems with the ECDC Act, which in turn manifests problems of the ECDC as an institution:

3.1 Mandate of the ECDC

The mandate of the ECDC is contained in sections 3 and 4 is too broad and the scope of work assigned to the corporation is enormous. There are compelling reasons to streamline the legislative powers so that the corporation focuses on providing development financing, trade and investment promotion as its core mandates.

In delivering the associated services, the corporation, must advance socio-economic development goals and objectives. In addition, the current legislation does not clearly impose an obligation on the state to resource the plan or strategy

and on the ECDC to strive to reach self-sustenance within a well-defined period of time respectively.

It is an established fact that current investments in the form of shares, ownership control, subsidiary undertakings and credit disbursements have not generated healthy earnings. It is also true that the ECDC is not in a position to fund its operations. This is so despite receiving significant funding from government, the listing as a schedule 3D public entity and a huge asset and property portfolio.

The cost of keeping assets that do not generate enough cash to finance operations is a major worry.

3.2 Powers of the ECDC

The powers of the ECDC, contained in section 4 are too broad, wide and far-reaching. In terms of the ECDC Act, the ECDC has the powers to make policy and perform administrative functions of the Department.

Section 4 also provides for powers not related to its core mandate. Furthermore the section refers to the Provincial Exchequer Act, 1994 (Eastern Cape) which has since been repealed.

3.3 Policy directives in the ECDC Act

Section 5 of the ECDC Act provides that it shall be the duty of the ECDC to exercise its powers that every application or proposal dealt with by it is considered strictly on its economic merits, irrespective of all other considerations whatsoever.

This section is contrary to the transformation agenda of the South African Government.

3.4 Board of Directors

Section 7 of the act provides for the appointment of not less than five and not more than eighteen directors. The appointment process of the directors is no longer possible since there are no private shareholders.

Furthermore, eighteen directors is excessive and will be amended to provide for the appointment of no more than 11 directors.

3.5 Share Capital

Section 15 of the Act that deals with share capital of the ECDC is totally inadequate and not workable.

3.6 Performance of functions in terms of the Companies Act

The ECDC Act provides that certain important functions and governance matters must be performed in accordance with the Companies Act. Examples are Books of account and audits (Section 19), Annual financial statements (Section 20) Directors Report (Section 21) and Application of the Companies Act (Section 26)

Not only was the 1973 Companies Act, as defined in the ECDC Act, replaced in 2008, but the section numbering of the Companies Act referred in the ECDC Act have changed, and these references are therefore nonsensical.

3.7 Governance, risk and oversight

The ECDC Act lacks proper provisions to ensure good corporate governance, addressing risks and proper oversight.

Cash borrowing, issuing of loans, ownership control and management of related transactions have been identified as high-risk areas.

Decision making processes on the aforesaid matters require diligent exercise of good corporate governance. The PFMA, Treasury Regulations and Codes of Good Practice give clear directions on how to process transaction such as cash borrowing to a point of final authorisation. Therefore, it is not always proper to empower the responsible MEC to make a final determination on matters requiring authorisation elsewhere.

3.8 Financial Sustainability

It is an established fact the ECDC is not in a position to fund its operations without a significant funding from government despite being a schedule 3D public entity and having a huge asset and property portfolio.

3.9 Duplication of functions

Some of the functions that the ECDC is empowered to perform in terms of the Act are provided by the founding legislation of other development agencies.

Good examples are the Eastern Cape Rural Development Agency and the Eastern Cape Parks and Tourism Board.

The resultant effect is that there are avoidable areas of duplication of effort, uncoordinated overlaps and cost of delivery of services or implementation.

4 VALUES AND PRINCIPLES

4.1 Values

The values of economic development, transformation, transparency and sound corporate governance must be embraced and institutionalised in the legislation for the functioning of the ECDC.

4.2 Principles

The following principles must underpin the Policy and resultant legislation regarding the mandate, objectives, functions and management of the ECDC:

- Striving for excellence in achieving the core mandate of a PDFI in accordance with the transformational agenda of the government of the Province.
- Sound corporate governance in accordance with the King Codes on Corporate Governance and or any other code related to good corporate governance approved by the Government of South Africa.
- Fairness and transparency.
- Accountability.

5 AIM AND APPROACH

5.1 Aim

The aim is to develop policy that will inform legislation that shall ensure –

- that the best interest of the Province as a whole and all its people are served;
- development of the Province in accordance with policies of the government of the Province;
- the attraction of investors the efficient governance and management of the business affairs of the ECDC; and
- that the development of the Province is aligned with provincial economic goals and objectives.

5.2 Approach

The approach is to embed the role and functions of the ECDC as a PDFI in legislation that shall provide for sound corporate governance, transparency with clear lines of accountability and oversight mechanisms.

6 POLICY CONTENT

The main thrust of current policy discourse is pursuit of radical economic transformation. State-owned-enterprises (SOE) are strategically positioned to make a meaningful contribution towards realising broad policy objectives. However, the success is contingent on a number of factors such as how the entity configures its operating systems, structures the business financing options, builds capacity to maintain proficiency in management of corporate undertakings and investments essential to achieving self-sustenance over a period of time.

In consideration of issues which are the subject of discussions in this document, especially the economic development objective, which underscores the establishment purpose of the ECDC, the desire to enhance efficiencies and responsiveness to the ever-changing demands, the review of the current legislation has been deemed necessary.

It is important to note that the state has a responsibility to ensure these institutions are accessible to the majority of South Africans and are able to effectively channel financial and institutional capacity towards a variety of economic transformation objectives, including industrial diversification and development, support to enterprises including co-operatives, sector based initiatives, informal economy initiatives, rural and township based economies, local and regional economic development, as well as designated groups (Women, Youth, People with disability and Military veterans). Therefore, the overall mandate of the DFI's is to advance the socio-economic and political agenda of the developmental state through promotion of social cohesion, creation of decent jobs, level playing fields for economic inclusion for the HDI's and other socio-economic needs. It is understandable that the DFI's are often challenged to strike a balance between the interest of the public and the commercial interests of the entity. It is in this regard that the mandate of the DFI should be clearly defined to avoid ambiguity on policy implementation and shareholder's interests, the shareholder is the government department in this case with a guaranteed majority capital share.

The defining aspects of the review are outlined and discussed below to support the proposed policy direction:

6.1 The mandate of the ECDC

The mandate of ECDC should not include the performance of roles that are catered for in the founding legislation of other sector development agencies.

The withdrawal from servicing less crucial areas as well as those which are the main focus of other sector agencies will result in the elimination of duplication and overlaps of roles which will contribute towards cost saving and directing of resources to priority areas of need.

6.2 Trade and Industry development support

The Province being among the provinces experiencing a high rate of unemployment and poverty desperately needs direct investment, including foreign investment.

The development of trade and industry will be of equal importance to any other role that the ECDC should play and clear provisions will be included in the new Act. Elements of these may include investment promotion, export development and support, technical support, project packaging and implementation of priority sector initiatives aligned with DEDEAT programmes which are in impactful

6.3 Powers of the ECDC

The powers of the ECDC should be clear and limited to those necessary for the attainment of its mandate and objectives.

The ECDC will be empowered to provide development finance with the expectation to address financial market failures in support of the adversely affected sectors of society. At the same time the corporation should strive to attain self-sustenance or at least reduce dependency on state funding.

ECDC's powers must also be clear on how to fulfil its mandate to support trade and industry development.

In order to serve this dual role, the ECDC must be in a position to finance projects with high potential to increase corporate returns. In turn the corporation may, in terms of the PFMA and upon application, have options to utilise its earnings to subsidise some of the operating and/or lending costs. Policy directives in the ECDC Act

ECDC should not be allowed to make policy contrary to that of DEDEAT.

If fact, the policy documents of DEDEAT such as PEDS must inform the decisions and functioning of the ECDC.

6.4 Share Capital

The ECDC will be established as a state-owned company as provided in the Companies Act. No shares shall be issued to private institutions.

6.5 Performance of functions in terms of the Companies Act

References to the Companies Act shall be removed and the functions shall be spelled out in the new Act.

6.6 Governance, risk and oversight

The composition of the Board and accountability of the board to the shareholder is of utmost importance in mitigating the likelihood of occurrence of reputational, operational and financial risks.

The achievement of satisfactory levels of performance is dependent on effectiveness of governance and management structures.

Clear oversight and accountability measures shall be outlined and the Board must be required to submit independent assessment reports on the performance of the ECDC which would give assurance to the shareholder regarding the return on investments or aspects allied to its fiduciary duties.

It is part of the Board responsibility to ensure that in solving the problem of fading returns from assets, utmost attention is given to the manner in which proceeds accruing from this exercise are invested wisely.

It is vital to carefully re-define the role of the ECDC Board in relation to prospects of future management of the ECDC, policies and management of its subsidiaries. This necessitates use of a comprehensive toolkit comprising various elements which are critical to the diligent exercise of oversight duties. The toolkit must integrate components of lawful codes of conduct, laws that regulate credit, borrowing, property and investment dealings.

6.7 ACCOUNTING AND OVERSIGHT BODIES

The creation of mandatory bodies, appropriate assignment roles, delegation or separation of powers to safeguard good governance and accountability shall be provided for in the new act. Some of the mandatory bodies are, the ECDC Board of Directors, Specialised Support Committees and Management Structures.

6.7.1 Composition, Powers and Functions

It is a standard principle that all bodies established in terms of the founding legislation must have the academic qualifications and the requisite know-how to

deal with various aspects relating to the respective selection. The composition of these bodies should therefore possess a mix of skills that lend credence in the manner in which the associated functions and duties are exercised.

6.7.2 The Board of Directors

The Board shall consist of a maximum number of 11 members, 9 of which will be appointed through a public nomination / application process and acceptance of offer and two officials of the administration of the Eastern Cape Provincial Government, nominated by the MEC as shareholder representatives.

One of the nominated officials must be employed by the Provincial Treasury and the other from the Department responsible for Economic Development.

The Chief Accounting Officer, an official holding the most senior position in the ECDC, will serve as ex-officio member whose participation at meetings shall be limited and accordingly with no voting powers.

6.7.3 Governance Committees

The new Act shall provide for the normal governance committees such as an audit committee, risk committee and ethics committee etc.

6.8 Appointment of Members, Terms and Conditions

6.8.1 Appointment of Members

The new Act shall provide for appointment of members who, on satisfaction of applicable requirements, will serve as members of the ECDC Board and other mandatory bodies. The appointment will process will be clearly outlined in the new Act and those of other relevant laws.

In the interest of protecting the integrity and maintaining public confidence in such bodies the MEC or Shareholder representative may terminate appointment and institute extraordinary measures to ensuring the functioning of the respective bodies.

6.8.2 Code of Good Practice

Members serving on the bodies created in terms of the founding legislation must conduct business within the principles of lawful code of good conduct, terms and conditions, which are applicable or associated with the status of respective occupations within and outside of those of being a serving member of the board.

6.8.3 Assumption of Service

A nominee or applicant shall be deemed to have assumed membership upon submitting a signed letter of acceptance within a period not exceeding 10 days from date of letter or notice which upon acceptance will be deemed to be a letter of appointment. The acceptance date shall not have an effect on calculating the period of service but on the assumption of duties of that body.

6.8.4 Term of Office of Members

A Board member holds office for a period of five years calculated from the date that his or her appointment takes effect and may be eligible for re-appointment for an additional term not exceeding 5 years.

The MEC may, , extend the term of office of all the Board members for a period of six months, but he or she may only extend the term of office of the Board twice.

Board members continue in office until the succeeding Board is duly constituted by the MEC.

6.8.5 Termination and Vacation

The service of any member serving on bodies established in terms of the Act or applicable legislation may be terminated prior to expiry or completion of the term of appointment. This can be done by tendering a resignation in compliance with prescribed terms and conditions and at the MEC's instance by notice under warranting circumstances such as conduct of a member, incident and in consideration of costs including but not limited to disrupting the functioning of the structure concerned, defilement and damage to reputation.

6.8.6 Schedule of Meetings of the Board

The MEC must, as soon as is practicable after the appointment of the Board for the first term of office, determine the time and place of its first meeting.

The Board must determine the time, place and manner of future meetings for the first and subsequent terms of office of the Board.

The Board meets as often as circumstances require, but must meet not less than four times in every financial year, unless the MEC approves in writing that more meetings be held.

6.8.7 Attendance and Participation at Meetings

Persons other than members appointed to bodies established in terms of this policy may attend extraordinary sessions and participate as per invitation by the body concerned.

6.8.8 Remuneration of Serving Members

A person appointed to serve on the above structures shall be remunerated in terms of provisions of the relevant prescripts and/or as determined by the MEC. Expenses for travel, accommodation, subsistence and incidentals incurred in pursuit of official duties shall be cost to company. Members shall be reimbursed for actual and reasonable of expenses incurred.

6.9 Divesting of Assets

It is vital that a policy directive be put in place, which guarantees that proceeds from disposal of assets and/or withdrawal of investments shall be to the benefit of the shareholder. Legalities pertaining to dissolution, transfers, conversion and deregistration of assets are by their nature quite complex so is the case with the associated transactions and decision-making processes.

6.10 FINANCES AND FUNDING

The ECDC is listed as Schedule 3D entity in terms of the PFMA and its funding shall consist of monies appropriated by the legislature, revenue that may accrue from investment, fees and other charges.

A suitable model for funding the operations of the ECDC and bodies established in terms of this White Paper should provide at the least for the following:

- access to equitable appropriation of budget from the national sphere of government;
- mobilisation of additional funds to subsidise operational costs and programmes; and
- classification of certain categories of receivable amounts for own use by the entity as provided for in the PFMA.

6.11 Other functions

It is conceivable that the ECDC may be required to perform functions related to economic development that may be outside the scope of a PDFI. However, there should not be an open clause providing for any other functions or as part of a very broad mandate. The Act must therefore provide for Regulations to be promulgated to include such a function of the ECDC and provision must be made for adequate resources to perform such function.

6.12 Transitional provisions

The smooth transition of the current functions, assets and liabilities, employees and membership Board of the ECDC are of utmost importance and transitional provisions shall provide for the transition to ensure that an effective, fair, transparent and just transition is affected.

7 SCENARIOS ON WAY FORWARD

7.1 Scenario 1:

This scenario entails to allow the *status quo* to continue. However, the risks attached to this scenario is very high, especially with regard to the funding that will be required to continue and litigation risks due to incorrect referencing of repealed legislation in the current ECDC Act.

7.2 Scenario 2:

This scenario entails amending the ECDC Act by way of an amendment Act. However, due to the state of the current ECDC Act, almost all the sections of the Act will have to be replaced or extensively amended. Although not impossible an Amendment Act will not be user friendly and may lead to incorrect interpretation.

7.3 Scenario 3:

This scenario entails the adoption of the policy prescripts contained in this White paper and the development of legislation informed by the White Paper and repeal of the current ECDC Act.

8 PREFERRED SOLUTION

Scenario 3 is the preferred solution.

This White Paper and the resultant legislation shall be the product of due consideration and consultation resulting in the best solution for the province and its people.

9 CONSULTATION

@ TO BE INSERTED AFTER CONSULTATION WITH STAKEHOLDERS.

10 LONG TERM OUTCOMES AND CONCLUSION

10.1 Long Term Outcomes

Adoption and implementation of legislation based on this White Paper shall ensure that the best interests of the Province as a whole and all its people are served by development of the Province in accordance with policies of the government of the Province.

ECDC shall be a SOE with efficient and sound corporate governance and management of the business affairs.

10.2 Conclusion

The adoption of the White Paper and resultant legislation will ensure that the resources of the Eastern Cape generally and its Provincial Government specifically shall be used in such a way that the best interests of the people of the Eastern Cape and South Africa are best served.

11 APPROVAL OF WHITE PAPER

This White Paper is hereby approved by the Member of the Executive Council for the Eastern Cape Department of Economic Development, Environmental Affairs and Tourism.

Honourable Nonkqubela Pieters

MEC for Economic Development, Environmental Affairs and Tourism

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