



31 October 2025

To: The Head of Department
Eastern Cape Provincial Treasury
Mr. D. Majeke

Cc: Alderman N. Mathetha, Speaker of Council
Walter Sisulu Local Municipality
(for oversight purposes)

Per Email: Chwayita.Yokwe@treasury.ecprov.gov.za; notemba.nqabisa@ectreasury.gov.za;
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Subject: Request for intervention – Irregular Tender and Lease Process – Proposed Long-Term Lease of the Aliwal Spa, Buffelspruit Nature Reserve and Oppie Bron Flats

Dear Mr. D. Majeke

I write in my capacity as the Caucus Leader of the Democratic Alliance in the Walter Sisulu Local Municipality to formally lodge an objection and request the urgent intervention of the Provincial Treasury regarding the process followed in the award of a tender for the long-term lease of the Aliwal Spa Holiday Resort, Buffelspruit Nature Reserve, and Oppie Bron Flats.

The process followed by the municipality raises serious concerns regarding compliance with the Municipal Finance Management Act (MFMA), Municipal Supply Chain Management Regulations (SCMR), and Municipal Asset Transfer Regulations. Notably, the tender documents used the business name of an individual who had not consented to its use, and the consortium agreement contains internal inconsistencies and potentially unenforceable clauses. Immediate Treasury oversight is requested to ensure compliance and mitigate potential legal or financial risks.

1. INTRODUCTION

This correspondence serves as a formal request for intervention by the Eastern Cape Provincial Treasury and simultaneously informs the Speaker of the Walter Sisulu Local Municipality. The objection is based on alleged legal and procedural irregularities in the award of a tender for a long-term lease for the assets noted above. The process appears to contravene the Municipal Finance Management Act (MFMA) No. 56 of 2003, the Municipal Supply Chain Management Regulations, 2005, and the Municipal Asset Transfer Regulations, 2008, which, if confirmed, could result in irregular, fruitless, or wasteful expenditure under Section 32 of the MFMA.

2. BACKGROUND

- Council documents (March 2025 and September 2025) indicate the tender was awarded to Limakatso Tsa Maletswai Consortium following an Expression of Interest process.
- Subsequent council meetings revealed:
 - The consortium used the name **Louis Lategan Safaris CC** in tender documents, despite Mr. Lategan confirming that he was not involved and had not consented.

FREEDOM. FAIRNESS. OPPORTUNITY. DIVERSITY.



- The consortium agreement submitted was signed by Bennie and Carien Lategan, not by any representative of **Louis Lategan Safaris CC**.
- It appears that the Bid Evaluation Committee (BEC) may not have fully verified the validity or authenticity of the consortium agreement.”
- Despite council being advised of these discrepancies (30 September and 31 October 2025), the approval process continued.

3. LEGAL ISSUES AND OBSERVATIONS

3.1. Misrepresentation and Consortium Agreement

- The inclusion of **Louis Lategan Safaris CC** in the consortium’s documents without his consent may amount to a material misrepresentation under Section 83(b) of the Municipal Systems Act, 2000 and Regulation 38(1)(d) of the Municipal Supply Chain Management Regulations (SCMR).
- The consortium agreement may be unenforceable due to a lack of **consensus ad idem** (meeting of the minds) between the named entity and the signatories.
- If verified, the alleged misrepresentation could have civil or criminal implications under the Prevention and Combating of Corrupt Activities Act, 2004, and the Companies Act, 2008.
- In submissions to Council the consortium representative indicated relevant company information has been provided by Mrs Carien Lategan via email. However, the agreement references **Louis Lategan Safaris CC** rather than the company owned by Mr Bennie Lategan, **Lategan Safaris**. This discrepancy raises questions regarding the accuracy of the statement and the validity of the agreement.”

3.2. Municipal Responsibilities

- Section 62(1)(f)(iv) of the MFMA, obliges the Municipal Manager to ensure fair, transparent, and compliant supply chain processes.
- Once Council was made aware of the misrepresentation, the process should have been paused and investigated.
- Proceeding without addressing these concerns may amount to maladministration and could give rise to irregular expenditure under Section 32(1)(a) of the MFMA.

3.3. Bid Evaluation Committee (BEC)

- The BEC bears statutory responsibility under Regulation 28(1)(b) of the SCMR to evaluate and verify all bids in accordance with specifications and applicable law, including confirmation that consortium agreements are valid, signed by authorised persons, and legally binding.
- The failure to detect or act upon the incorrect naming of **Louis Lategan Safaris CC** suggests possible procedural shortcomings that warrant further review to ensure compliance with Regulation 28.

3.4. Asset Valuation and Public Participation

- The municipality appears to have applied Regulation 34(2) to fragment asset valuations below R10 million, resulting in the apparent omission of the enhanced public participation process prescribed under Regulation 35(1).
- Considering the combined asset value of R20.7 million, there is a risk that the regulatory requirements were not fully observed, potentially impacting transparency and accountability.



3.5. Public Participation

- The information statement published in February 2025 contained the name of **Louis Lategan Safaris CC**.
- The inclusion of incorrect information in a document circulated for public participation raises serious concerns regarding the integrity of the process and warrants urgent review by Provincial Treasury.
- The legal opinion obtained for Council on 31 October did not assess the impact or legality of using an unauthorised business name as part of the public participation process.
- Mr. Louis Lategan could consider legal recourse for the unauthorised use of his business name.

3.6. Contractual Defects

- The draft Notarial Lease Agreements contain:
 - References to incorrect entities (e.g. **Louis Lategan Safaris CC**)
 - Ambiguous or non-existent cross-references (e.g. Clause 24, 25.3.1, 25.3.2).
 - Insufficient protection of municipal assets (Clause 12.3.6).
- These defects could render the contracts void for uncertainty and may be inconsistent with fiduciary duties under Section 63(1) of the MFMA.

3.7. Withholding of Critical Information

- POPIA was appropriately invoked to deny public access; however, Council oversight requires disclosure under Section 37(1)(a).
- The Municipal Manager did not provide the contract to Council despite multiple items to council and repeated requests.
- Tabling the consortium agreement on 31 October was the first time Council had access.

4. POTENTIAL CONSEQUENCES

- Continuing with the process could potentially constitute irregular and unlawful transactions (MFMA Sections 32 and 173(1)(a)).
- Any resultant financial losses may give rise to potential legal or administrative consequences for the consortium or the municipality, should the matters outlined be confirmed.
- Auditor-General may issue adverse findings under the Public Audit Act, 2004, and the Public Protector may initiate an investigation under Section 182 of the Constitution.

5. REQUEST FOR INTERVENTION

In light of the above, the DA respectfully request that:

1. Provincial Treasury investigate the legality of the award and suspend registration of all notarial leases pending review.
2. The Speaker and Municipal Council halt further approvals until an independent legal and forensic review is completed.
3. National and Provincial Treasuries issue directives under Section 5(4)(c) of the MFMA to ensure compliance.
4. Bid Evaluation and Adjudication Committees undergo a formal compliance audit, with disciplinary measures instituted if negligence is confirmed.



6. CONCLUSION

The processes followed by the Walter Sisulu Local Municipality appear to have created a potentially untenable legal situation that could undermine transparency, accountability, and good governance. Proceeding with a lease amid allegations of an unauthorised business name and an invalid agreement may constitute a breach of procurement and fiduciary standards. Immediate Provincial Treasury oversight is therefore necessary to mitigate potential legal and financial risks.

We trust that Treasury will treat this matter with the urgency and impartiality it deserves.

Attachments: Council items (March, September, October 2025) and DA formal objection letter (30 October 2025).

Yours faithfully,

Councillor Magda Botha

Caucus Leader – Democratic Alliance

Walter Sisulu Local Municipality

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