

**DEVELOPMENT FACILITATION ACT
NO. 67 OF 1995**

[View Regulation]

[ASSENTED TO 28 SEPTEMBER, 1995]
[DATE OF COMMENCEMENT: 22 DECEMBER, 1995]

(English text signed by the President)

as amended by

Housing Act, No. 107 of 1997
[with effect from 1 April, 1998]

Prevention and Combating of Corrupt Activities Act, No. 12 of 2004
[with effect from 27 April, 2004]

ACT

To introduce extraordinary measures to facilitate and speed up the implementation of reconstruction and development programmes and projects in relation to land; and in so doing to lay down general principles governing land development throughout the Republic; to provide for the establishment of a Development and Planning Commission for the purpose of advising the government on policy and laws concerning land development at national and provincial levels; to provide for the establishment in the provinces of development tribunals which have the power to make decisions and resolve conflicts in respect of land development projects; to facilitate the formulation and implementation of land development objectives by reference to which the performance of local government bodies in achieving such objectives may be measured; to provide for nationally uniform procedures for the subdivision and development of land in urban and rural areas so as to promote the speedy provision and development of land for residential, small-scale farming or other needs and uses; to promote security of tenure while ensuring that end-user finance in the form of subsidies and loans becomes available as early as possible during the land development process; and to provide for matters connected therewith.

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INTRODUCTION

1. Definitions.—In this Act, unless the context otherwise indicates—

“beneficial occupier” means, in relation to the occupation of land in a land development area where land development takes the form of upgrading an existing settlement, any person who has been in peaceful and undisturbed occupation of such land for a continuous period of not less than five years;

“Commission” means the Development and Planning Commission established by section 5;

“condition of establishment” means a condition imposed by a tribunal under section 33 or section 51, according to the context;

“conveyancer” means a conveyancer as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

“deeds registry” means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937;

“designated officer” means an appropriate officer in a provincial administration or in the employ of a local government body, designated by the MEC to serve as the designated officer for the purposes of Chapter V or VI, or both those Chapters;

“diagram” means a diagram as defined in section 49 of the Land Survey Act, 1927 (Act No. 9 of 1927);

“environment” means the environment as defined in section 1 of the Environment Conservation Act, 1989 (Act No. 73 of 1989);

“environmental evaluation” means an evaluation of the environmental impact of a proposed land development, conducted in accordance with the integrated environmental management guidelines which are from time to time issued or amended by the Department of Environment Affairs and Tourism;

“general plan” means a general plan of a land development area or of a portion thereof which has been approved in terms of the Land Survey Act, 1927;

“initial ownership” means the form of title established by section 62;

“land availability agreement” means—

- (a) in relation to land development in terms of Chapter V, an agreement contemplated in section 44; or
- (b) in relation to land development in terms of Chapter VI, an agreement contemplated in section 53;

“land development” means any procedure aimed at changing the use of land for the purpose of using the land mainly for residential, industrial, business, small-scale farming, community or similar purposes, including such a procedure in terms of Chapter V, VI or VII, but excluding such a procedure in terms of any other law relating exclusively to prospecting or mining;

“land development applicant” means—

- (a) in relation to land development in terms of Chapter V, any person or body referred to in section 31 (1); or
- (b) in relation to land development in terms of Chapter VI, any person or body referred to in section 49 (1);

“land development application” means—

- (a) in relation to land development in terms of Chapter V, an application lodged under section 31 (2); or
- (b) in relation to land development in terms of Chapter VI, an application lodged under section 49 (2);

“land development area” means any area of land which is the subject of land development, including—

- (a) such an area shown on a layout plan and forming the subject of land development in terms of Chapter V, or on a settlement plan and forming the subject of land development in terms of Chapter VI;
- (b) any land which is not subdivided or intended to be subdivided but on which there are buildings, or on which it is intended to erect buildings or on which sites are laid out, or on which there are buildings in close proximity to each other, and which is used for any of the purposes referred to in the definition of “land development”; and
- (c) a group of pieces of land or of subdivisions of a piece of land which are combined with public places and are used mainly for those purposes or are intended to be so used and which are shown on diagrams or a general plan;

“layout plan” means a plan indicating the relative situation in a land development area of sites, premises, public places and zones used or to be used for any of the purposes referred to in the definition of “land development”, but excluding small-scale farming, and approved as part of a land development application by a tribunal in terms of Chapter V;

“local government area” means the area of jurisdiction of a local government body in terms of any law;

“local government body” means any institution or body referred to in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), and includes—

- (a) any local government body established by or under any law which, in terms of section 229 of the Constitution, continues to be in force in the former Republics of Transkei, Bophuthatswana, Venda or Ciskei;
- (b) any council or committee established under the provisions of the Black Local

Authorities Act, 1982 (Act No. 102 of 1982), prior to the repeal of that Act by section 13 of the Local Government Transition Act, 1993 (Act No. 209 of 1993), and which is, in terms of that section, deemed to be an institution or body referred to in section 84 (1) (f) of the Provincial Government Act, 1961;

- (c) any local government body established under section 30 (1) (a) of the Black Administration Act, 1927 (Act No. 38 of 1927), or any body continuing to perform local government functions by virtue of section 15 (1) of the Local Government Transition Act, 1993;
- (d) a board of management or board referred to in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987);
- (e) any committee referred to in section 17 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983);
- (f) any local council established under section 2 of the Local Councils Act (House of Assembly), 1987 (Act No. 94 of 1987);
- (g) the Local Government Affairs Council established by Act section 2 of the Local Government Affairs Council Act (House of Assembly), 1989 (Act Act No. 84 of 1989);
- (h) any regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985);
- (i) any joint services board established under section 4 of the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990);
- (j) any joint decision-making body, joint local authority or single local authority referred to in paragraphs (c), (e) and (f) of section 8 of the Interim Measures for Local Government Act, 1991 (Act No. 128 of 1991), and established by proclamation issued under that Act
- (k) any person, institution or body declared under section 1 (2) of the Local Government Transition Act, 1993, to be a local government body for the purposes of that Act;
- (l) any transitional council established under the Local Government Transition Act, 1993, which exercises local government functions to the exclusion of any of the aforementioned local government bodies;

“MEC”, insofar as a provision of this Act is applicable in or in respect of a province, means a member of the executive council of a province to whom the Premier has assigned the performance of the functions entrusted to a MEC by or under such a provision;

“Minister” means, in relation to the administration of—

- (a) Chapters I, III, IV and V, the Minister of Land Affairs, acting in consultation with the Minister of Housing;
- (b) Chapter II, the Minister responsible for the implementation of the Reconstruction and Development Programme, acting in consultation with the Minister of Housing and the Minister of Land Affairs;
- (c) Chapter VI, the Minister of Land Affairs, acting in consultation with the Minister of Agriculture; and
- (d) Chapter VII, the Minister of Land Affairs;

“prescribe” means prescribe by regulation;

“**province**” means any province of the Republic established by section 124(1) of the Constitution;

“**provincial commission**” means a provincial development and planning commission established or recognised under section 11 (1);

“**registrar**” means a registrar as defined in section 102 of the Deeds Registries Act, 1937;

“**regulation**” means a regulation made under this Act;

“**settlement plan**” means a plan indicating the relative situation in a land development area of sites, premises, public places and zones used or to be used for small-scale farming, or for small scale farming together with any of the other purposes referred to in the definition of “land development”, and approved by a tribunal as part of a land development application in terms of Chapter VI;

“**State**” includes a province;

“**subdivision register**” means a register referred to in section 46 (1) of the Deeds Registries Act, 1937;

“**surveyor**” means a person registered as a professional land surveyor or a professional topographical and engineering surveyor or a topographical and engineering surveyor under the Professional and Technical Surveyors’ Act, 1984 (Act No. 40 of 1984), and whose name is entered in the register contemplated in section 7 (4) of that Act;

“**Surveyor-General**” means the Surveyor-General as defined in section 49 of the Land Survey Act, 1927;

“**this Act**” includes the regulations;

“**town and regional planner**” means a person registered as a town and regional planner in terms of the Town and Regional Planners Act, 1984 (Act No. 19 of 1984), and whose name is entered in the register referred to in section 9 (2) of that Act;

“**tribunal**” means an administrative development tribunal established for a province by section 15 (1);

“**tribunal registrar**” means a tribunal registrar or a deputy tribunal registrar designated by the MEC under section 15 (9);

“**zoning scheme**” means any townplanning or zoning scheme administered by a local government body or any other competent authority and which relates to the zoning or reservation of land into areas to be used exclusively or mainly for residential, business, industrial, local authority, governmental or other purposes, the prohibition or restriction of the use of land in conflict with the terms of the scheme and matters connected therewith.

CHAPTER I

General principles for land development and conflict resolution

2. Application of principles for land development.—The general principles set out in section 3 apply throughout the Republic and—

- (a) shall also apply to the actions of the State and a local government body;
- (b) serve to guide the administration of any physical plan, transport plan, guide plan,

structure plan, zoning scheme or any like plan or scheme administered by any competent authority in terms of any law;

- (c) serve as guidelines by reference to which any competent authority shall exercise any discretion or take any decision in terms of this Act or any other law dealing with land development, including any such law dealing with the subdivision, use and planning of or in respect of land; and
- (d) for the purposes of—
 - (i) Chapter II, serve as the general framework within which the Commission shall perform its functions and make recommendations and within which those recommendations shall be considered by any competent authority;
 - (ii) Chapter III, serve as principles by reference to which a tribunal shall reach decisions;
 - (iii) Chapter IV, provide the guidelines with which the formulation and implementation of land development objectives of local government bodies and the carrying out of land development projects shall be consistent;
 - (iv) Chapters V and VI, guide the consideration of land development applications and the performance of functions in relation to land development; and
 - (v) Chapter VII, guide the administration of the registration of land tenure rights.

3. General principles for land development.—(1) The following general principles apply, on the basis set out in section 2, to all land development:

- (a) Policy, administrative practice and laws should provide for urban and rural land development and should facilitate the development of formal and informal, existing and new settlements.
- (b) Policy, administrative practices and laws should discourage the illegal occupation of land, with due recognition of informal land development processes.
- (c) Policy, administrative practice and laws should promote efficient and integrated land development in that they—
 - (i) promote the integration of the social, economic, institutional and physical aspects of land development;
 - (ii) promote integrated land development in rural and urban areas in support of each other;
 - (iii) promote the availability of residential and employment opportunities in close proximity to or integrated with each other;
 - (iv) optimise the use of existing resources including such resources relating to agriculture, land, minerals, bulk infrastructure, roads, transportation and social facilities;
 - (v) promote a diverse combination of land uses, also at the level of individual erven or subdivisions of land;
 - (vi) discourage the phenomenon of “urban sprawl” in urban areas and contribute to the development of more compact towns and cities;
 - (vii) contribute to the correction of the historically distorted spatial patterns of settlement in the Republic and to the optimum use of existing infrastructure in excess of current needs; and

- (viii) encourage environmentally sustainable land development practices and processes.
- (d) Members of communities affected by land development should actively participate in the process of land development.
- (e) The skills and capacities of disadvantaged persons involved in land development should be developed.
- (f) Policy, administrative practice and laws should encourage and optimise the contributions of all sectors of the economy (government and non-government) to land development so as to maximise the Republic's capacity to undertake land development and to this end, and without derogating from the generality of this principle—
 - (i) national, provincial and local governments should strive clearly to define and make known the required functions and responsibilities of all sectors of the economy in relation to land development as well as the desired relationship between such sectors; and
 - (ii) a competent authority in national, provincial or local government responsible for the administration of any law relating to land development shall provide particulars of the identity of legislation administered by it, the posts and names of persons responsible for the administration of such legislation and the addresses and locality of the offices of such persons to any person who requires such information.
- (g) Laws, procedures and administrative practice relating to land development should—
 - (i) be clear and generally available to those likely to be affected thereby;
 - (ii) in addition to serving as regulatory measures, also provide guidance and information to those affected thereby;
 - (iii) be calculated to promote trust and acceptance on the part of those likely to be affected thereby; and
 - (iv) give further content to the fundamental rights set out in the Constitution.
- (h) Policy, administrative practice and laws should promote sustainable land development at the required scale in that they should—
 - (i) promote land development which is within the fiscal, institutional and administrative means of the Republic;
 - (ii) promote the establishment of viable communities;
 - (iii) promote sustained protection of the environment;
 - (iv) meet the basic needs of all citizens in an affordable way; and
 - (v) ensure the safe utilisation of land by taking into consideration factors such as geological formations and hazardous undermined areas.
- (i) Policy, administrative practice and laws should promote speedy land development.
- (j) Each proposed land development area should be judged on its own merits and no particular use of land, such as residential, commercial, conservational, industrial, community facility, mining, agricultural or public use, should in advance or in general be regarded as being less important or desirable than any other use of land.
- (k) Land development should result in security of tenure, provide for the widest possible range of tenure alternatives, including individual and communal tenure, and in cases where land development takes the form of upgrading an existing settlement, not

deprive beneficial occupiers of homes or land or, where it is necessary for land or homes occupied by them to be utilised for other purposes, their interests in such land or homes should be reasonably accommodated in some other manner.

- (l) A competent authority at national, provincial and local government level should co-ordinate the interests of the various sectors involved in or affected by land development so as to minimise conflicting demands on scarce resources.
- (m) Policy, administrative practice and laws relating to land development should stimulate the effective functioning of a land development market based on open competition between suppliers of goods and services.

(2) The Minister may by notice in the *Gazette*—

- (a) prescribe any principle for land development in addition to, but not inconsistent with, the principles set out in subsection (1); and
- (b) prescribe any principle set out in subsection (1) in greater detail, but not inconsistent therewith,

whereupon such principle shall apply throughout the Republic on the basis set out in section 2.

(3) The Premier of a province may by proclamation in the *Provincial Gazette*—

- (a) prescribe any principle for land development in addition to, but not inconsistent with, the principles set out in subsection (1) or prescribed by the Minister under subsection (2);
- (b) prescribe any principle set out in subsection (1) or prescribed by the Minister under subsection (2) in greater detail, but not inconsistent therewith; and
- (c) publish for general information provincial policy relating to land development or any aspect thereof which is consistent with the principles set out in or prescribed under subsections (1) and (2) and paragraphs (a) and (b),

whereupon such principle or policy shall apply in the province on the basis set out in section 2.

(4) (a) The Minister shall, before prescribing any principle under subsection (2), cause a draft of such principle to be published in the *Gazette* and shall consider any comment on such draft principle received from any person during the period 30 days after such publication.

(b) A list of principles prescribed under subsection (2) shall be laid upon the Table of Parliament in the same manner as the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), and if Parliament by resolution disapproves of any such principles or any provision thereof, such principles or provision shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such principles or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such principles or such provision before it so ceased to be of force and effect.

(5) (a) The Premier shall, before prescribing any principle or policy under subsection (3), cause a draft of such principle or policy to be published in the *Provincial Gazette* and shall consider any comment on such draft principle or policy received from any person during the period thirty days after such publication.

(b) A list of principles and policies prescribed under subsection (3) shall be submitted to the provincial legislature, and if such provincial legislature by resolution disapproves of any such principle or policy, or any provision thereof, such principles or policy, or provision, shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such principles, policy or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such principles, policy or such provision before it so ceased to be of force and effect.

4. General principles for decision-making and conflict resolution.—(1) The general principles set out in subsection (2) apply—

- (a) to any decision which a competent authority, including a tribunal, may make in respect of any application to allow land development, or in respect of land development which affects the rights, obligations or freedoms of any person or body, whether the application is made or the development undertaken in terms of this Act or, subject to paragraph (c), in terms of any other law;
- (b) without derogating from the generality of paragraph (a), to any decision—
 - (i) on the question whether any illegal use of land should henceforth be regarded as lawful;
 - (ii) approving or disapproving of any proposed change to the use of land in the course of proposed land development;
 - (iii) relating to the level or standard of engineering services that are to be provided in respect of land development;
 - (iv) relating to the permitted periods within which comments or objections should be provided and governmental decisions are to be taken during the course of land development procedures; and
 - (v) relating to the consequences for any land development or for the rights and obligations of any person or body of a failure to provide any comment, make any decision or perform any other act within a period of time contemplated in subparagraph (iv); and
- (c) where a decision referred to in paragraphs (a) and (b) is made under any other law, only when such decision is made during the course of the administration of a law made after the commencement of this Act by the legislature of a province or by a local government body, including such a law which is inconsistent with Chapter III.

(2) The decisions contemplated in subsection (1) shall be taken in accordance with the following general principles:

- (a) The decisions shall be consistent with the principles or a policy set out in or prescribed under section 3.
- (b) The decisions shall be made by at least one appropriate officer in the service of a provincial administration or local government body, and experts in the field of agriculture, planning, engineering, geology, mining, environmental management, law, survey or such other field as may be determined by the Premier.
- (c) The officer and experts shall, before conducting a hearing or reaching a decision, enquire into and consider the desirability of first referring any dispute between two or more parties in relation to land development to mediation and if they—
 - (i) consider mediation appropriate, they shall refer the dispute to mediation; or
 - (ii) consider mediation inappropriate, or if mediation has failed, the officer and experts shall conduct a hearing appropriate in the circumstances and reach a decision binding upon persons or bodies affected thereby including the State or any local government body.
- (d) The hearing conducted by the officer and experts is open to the public and any person entitled to appear at the hearing may be represented by any other person.
- (e) The officer and experts shall upon request provide written reasons for any decision

reached by them.

- (f) The Director-General of a provincial administration shall keep a record of reasons provided in terms of paragraph (e), make such record available for inspection by members of the public and permit the publication of such reasons by any person or body.
- (g) A decision made by the officer and experts shall be subject to review by any division of the Supreme Court of South Africa having jurisdiction.

CHAPTER II

Development and Planning Commission

5. Establishment of Development and Planning Commission.—(1) There is hereby established a juristic person to be known as the Development and Planning Commission.

(2) The Minister may, by notice in the *Gazette*, disestablish the Commission as soon as its functions in terms of this Act have been concluded.

6. Functions and powers of Commission and co-ordination of advice.—(a) The Commission—

- (i) may of its own accord, and shall at the request of the Minister, advise the Minister on any matter falling within the scope of its terms of reference set out in section 14; and
- (ii) unless and until a provincial commission has been established or recognised under section 11, may of its own accord and shall at the request of any Premier or MEC, advise such Premier or MEC on any matter referred to in subparagraph (i) insofar as such matter relates to land development and falls within a functional area specified in Schedule 6 to the Constitution.

(b) The Minister shall, for the purpose of debating or co-ordinating the advice given by the Commission or of debating or co-ordinating the implementation of such advice throughout the Republic or in any part thereof, from time to time convene and attend meetings of MECs.

7. Constitution of Commission.—(1) The Commission consists of—

- (a) not more than 24 members (who are in the opinion of the Minister fairly representative of urban and rural interests or sectors) appointed by the Minister, of whom—
 - (i) nine shall be persons nominated by the Premiers (each Premier nominating one person): Provided that paragraph (b) applies in the event of a provincial commission having been established or recognised under section 11 in respect of any province, and the Premier of such a province may not nominate a person;
 - (ii) not more than three shall be persons nominated by sectors or subsectors who own property, undertake or finance land development in urban and rural areas;
 - (iii) not more than three shall be persons nominated by organisations and community-based groups in civil society who represent the interests of communities intended to benefit from land development in urban and rural areas; and
 - (iv) not more than nine shall be persons who have expertise and experience relevant to the functions of the Commission;
- (b) because of his or her office, the chairperson of each provincial commission or, during his or her absence, the deputy chairperson.

(2) Prior to the appointment of a person to the Commission, the Minister shall—

- (a) make known his or her intention so to appoint such person by notice in the *Gazette*; and
- (b) take into account any comment or objection in respect of such appointment, which might be received by him or her from any person or body.

(3) (a) The Minister shall designate one of the members of the Commission as the chairperson and another member as the deputy chairperson, who shall act as chairperson of the Commission whenever the chairperson is for any reason unable to act as such.

(b) The chairperson shall hold office for the period specified by the Minister upon his or her appointment, but not exceeding three years.

(4) Whenever both the chairperson and the deputy chairperson of the Commission are absent or unable to fulfill any of the functions of the chairperson, the members of the Commission shall designate any other member of the Commission to act as chairperson of the Commission during such absence or incapacity.

(5) (a) The Minister may at the request of a member of the Commission other than the chairperson, the deputy chairperson or a member who serves on the Commission because of his or her office, appoint an alternate member for that member.

(b) An alternate of a member may in the event of the absence of that member from a meeting of the Commission, attend the meeting and when so attending shall be deemed to be a member of the Commission.

(6) The Director General of the Department of Land Affairs shall cause notice of the appointment of a member or alternate member of the Commission, and the date of the appointment, to be published in the *Gazette*.

8. Period of office of members or alternate members of Commission.—(1) A member or alternate member of the Commission holds office for the period specified by the Minister upon his or her appointment, but not exceeding three years, or, if no such period is specified, for a period of three years from the date of his or her appointment and may be reappointed on the termination of such period.

(2) A member or alternate member of the Commission vacates his or her office if—

- (a) he or she resigns;
- (b) his or her estate is sequestrated or he or she applies for the assistance referred to in section 10 (1) (c) of the Agricultural Credit Act, 1966 (Act No. 28 of 1966);
- (c) he or she is incapacitated by physical or mental illness;
- (d) he or she is convicted of an offence involving dishonesty or an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or sentenced to imprisonment without the option of a fine; or

[Para. (d) substituted by s. 36 (1) of Act No. 12 of 2004.]

Wording of Sections

- (e) he or she is nominated as a candidate for election as a member of Parliament, a provincial legislature or the council or other governing body of a local government body.

(3) The Minister may at any time terminate the period of office of a member or alternate member of the Commission if there are sufficient reasons therefor.

9. Meetings of Commission.—(1) The first meeting of the Commission is held at the time and place determined by the Minister, and thereafter meetings are held at the times and places determined by the chairperson of the Commission.

(2) The chairperson or, in his or her absence, the deputy chairperson, may at any time in his or her discretion convene a special meeting of the Commission, and shall convene such meeting within fourteen days of receipt of a request signed by not fewer than eight members of the Commission to convene such a meeting.

(3) A quorum for a meeting of the Commission is two thirds of its members.

(4) The procedure at meetings of the Commission, including the procedure for taking decisions, shall be determined by the Commission subject to the directions of the Minister, if any.

(5) A member or alternate member of the Commission shall not take part in the discussion of or the making of decisions about any matter before the Commission and in which he or she or his or her spouse, immediate family, partner or employer, other than the State, or the partner or employer of his or her spouse, has, directly or indirectly, any pecuniary interest.

10. Conditions of service of members or alternate members of Commission.—(1) A member or alternate member of the Commission, other than a person who is in the full-time employment of the State, is appointed on the conditions of service, including conditions relating to the payment of remuneration and allowances, which the Minister determines with the concurrence of the Minister of Finance.

(2) Conditions of service determined under subsection (1) may differ according to whether the person concerned is a member or alternate member or serves on the Commission because of his or her office or on a full-time or part-time basis or in a professional capacity.

11. Establishment or recognition of provincial commissions.—(1) A Premier may by notice in the *Provincial Gazette*—

- (a) establish a provincial development and planning commission in respect of a province; or
- (b) recognise any body of persons, board or commission established by or under any law as a provincial development and planning commission in respect of a province.

(2) A provincial commission shall, in relation to any matter pertaining to land development and falling within a functional area specified in Schedule 6 to the Constitution, perform such functions of the Commission in relation to a province as the Premier or MEC may determine.

(3) In the case of—

- (a) a provincial commission established under subsection (1) (a), sections 7 (1) (a) (ii), (iii) and (iv), (2), (3), (4), (5) and (6), 8, 9 and 10 shall *mutatis mutandis* apply in respect of such a provincial commission and in such application a reference in the said sections to the Minister and the Director-General of the Department of Land Affairs shall be construed as a reference to the Premier and the Director-General of a provincial administration, respectively; and
- (b) a provincial commission recognised under subsection (1) (b), the composition and meetings of such a commission shall be regulated by the law under which it was established.

12. Administrative and research functions of Commission and provincial commissions.—(1) The administrative, secretarial and research functions of the Commission shall be

performed by—

- (a) officers and employees in the public service designated for such purpose by the Directors-General of the Departments of Land Affairs and of Housing and of the Office of the President, acting in consultation with each other; and
- (b) consultants appointed in the employ of those Departments on such conditions of service as the Minister, the Minister of Housing and the Minister responsible for the implementation of the Reconstruction and Development Programme, with the concurrence of the Minister of Finance, determine.

(2) The administrative, secretarial and research functions of a provincial commission shall be performed—

- (a) by officers and employees in a provincial administration designated for such purpose by the Premier; and
- (b) by consultants appointed in the employ of a provincial administration on the conditions of service determined by the Premier with the concurrence of the MEC responsible for the treasury function.

13. Expenditure of Commission and provincial commission.—The expenditure in connection with the exercise of its powers and the performance of its functions in the case of—

- (a) the Commission, shall be paid out of money appropriated by Parliament for such purpose;
- (b) a provincial commission established under section 11 (1) (a), shall be paid out of money appropriated by a provincial legislature for such purpose; and
- (c) a provincial commission recognised under section 11 (1) (b), shall be paid in accordance with the law under which it was established.

14. Terms of reference of Commission.—The Commission shall advise the Minister or, subject to section 6 (a) (ii), any Premier or MEC, on the following matters:

- (a) Policy and laws relating to the following aspects of planning development generally, including land development:
 - (i) The appropriate scope of planning, including the relationship between spatial and non-spatial planning;
 - (ii) the appropriate levels of government at which planning should be carried out, the kind of planning to be done at each level and the co-ordination between different departments, levels of government and other bodies responsible for planning;
 - (iii) the appropriate documentation or instruments to be used for planning at each level of government;
 - (iv) the appropriate emphasis that should be placed upon development, including land development, for the benefit of low income and historically disadvantaged communities;
 - (v) the appropriate methods of monitoring compliance with the general principles set out in Chapter I and the setting and achievement of objectives for land development by national, provincial and local government;
 - (vi) the appropriate levels and methods of public participation in planning at different levels of government; and
 - (vii) the integration of environmental conservation with planning at different levels of

government.

- (b) Policy and laws relating to measures to identify, assemble and release land for land development, particularly for the benefit of low-income and historically disadvantaged communities, including—
 - (i) measures to provide incentives to the owners of land to release land for land development;
 - (ii) measures to discourage the withholding of land which is suitable for land development; and
 - (iii) the setting of objectives for land development by national, provincial and local government.
- (c) Policy and laws relating to land development, land development procedures, environmental sustainability, heritage conservation and the establishment and administration of appropriate land-use control systems for land development in both urban and rural areas.
- (d) Nationally uniform policy and laws relating to the cadastre, tenure types, land registration procedures and matters relating to security of tenure, including—
 - (i) the reform of land survey systems and procedures and the procedures and institutional arrangements relating to the registration of rights in land which the Commission considers appropriate and expedient;
 - (ii) subject to any general land reform programme, alternative forms of land tenure, including communal tenure, landholding by community-based institutions and tribal or customary systems of landholding; and
 - (iii) measures to facilitate and speed up the disbursement of end-user finance, in the form of subsidies, loans or other forms of financing, for the purpose of land development.
- (e) Policy and laws relating to engineering infrastructure and services and related services to be provided by public authorities, including—
 - (i) the appropriate levels and standards of such services;
 - (ii) the appropriate tariff structures for such services;
 - (iii) the financing of such services, in particular the financing of bulk infrastructure; and
 - (iv) institutional arrangements for the management and provision of such services, in particular the responsibilities of the government and non-government sectors in relation to the provision of bulk and internal services.
- (f) Financial and fiscal policy and laws related to land development which might have an effect on the relationship between different tiers of government or different government bodies.
- (g) Any other matter specified by the Minister by notice in the *Gazette*.

CHAPTER III *Development tribunals*

15. Establishment and composition of tribunals.—(1) A tribunal is hereby established for each province in each case to be known as the development tribunal of the province concerned.

(2) A tribunal consists of a chairperson, a deputy chairperson and the other member or members appointed from time to time by the Premier with the approval of the provincial legislature.

(3) The chairperson, deputy chairperson and the other member or members of a tribunal shall be appointed by reason of their qualifications in and knowledge or experience of land development or the law and shall be persons who are in the Premier's opinion competent to perform the functions assigned to them in terms of this Chapter.

(4) (a) As far as may be practicable in the circumstances, one half of the members of a tribunal shall be appointed from appropriate officers in the service of a provincial administration and officers in the service of local government bodies in a province, and the other half from persons outside such service.

(b) Prior to the appointment of a person as a member of a tribunal, the Premier shall—

- (i) make known his or her intention so to appoint such person by notice in the *Provincial Gazette*;
- (ii) take into account any comment or objection, in respect of such appointment, which might be received by him or her from any person or body; and
- (iii) submit his or her proposals together with any such comment or objection to the provincial legislature for its approval of the appointment of such person as a tribunal member: Provided that if the provincial legislature is not in session at the time when the Premier wishes to make an appointment, and if in the opinion of the Premier it is desirable to make an appointment subject to the subsequent approval thereof by the provincial legislature, the Premier may make such an appointment. If during its ensuing next session the provincial legislature disapproves or fails to approve such appointment, it shall lapse. Pending such approval or disapproval, the provisions of subsections (5) to (12) shall *mutatis mutandis* apply to a person appointed as member of the tribunal in terms of this proviso as if he or she had been appointed with the approval of the provincial legislature.

(5) The chairperson, deputy chairperson and the other member or members of a tribunal hold office for the period specified by the Premier upon their appointment and are appointed on the conditions, including conditions relating to the payment of remuneration and allowances, determined by him or her with the concurrence of the MEC responsible for the treasury function.

(6) (a) The tribunal registrar shall cause notice of the appointment of a member of a tribunal and the date of the appointment to be published in the *Provincial Gazette*.

(b) A member of a tribunal vacates his or her office if—

- (i) he or she resigns;
- (ii) his or her estate is sequestrated or he or she applies for the assistance referred to in section 10 (1) (c) of the Agricultural Credit Act, 1966;
- (iii) he or she is incapacitated by physical or mental illness;
- (iv) he or she is convicted of an offence involving dishonesty, or an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or sentenced to imprisonment without the option of a fine; or

[Sub-para. (iv) substituted by s. 36 (1) of Act No. 12 of 2004.]

Wording of Sections

- (v) he or she is nominated as a candidate for election as a member of Parliament, a provincial legislature, or the council or other governing body of a local government

body.

(c) The Premier may, and if so directed by the provincial legislature, shall, at any time terminate the period of office of a member of a tribunal if there are sufficient reasons therefor.

(7) The deputy chairperson of a tribunal shall act as chairperson of the tribunal whenever the chairperson is for any reason unable to act as such.

(8) Whenever both the chairperson and the deputy chairperson of a tribunal are for any reason unable to act as chairperson of a tribunal, the Premier shall designate any other member of the tribunal, if any, to act as chairperson and if there is no other member of a tribunal, the Premier shall appoint a person who complies with the requirements prescribed in subsection (3), to act as chairperson of the tribunal during the inability of the chairperson and the deputy chairperson.

(9) The administrative functions of a tribunal shall be performed by an officer in the service of a provincial administration, to be known as the tribunal registrar, and one or more deputies to such tribunal registrar, designated by the MEC responsible for urban and rural development functions, by reason of his, her or their knowledge of land development, the law or administration.

(10) (a) A tribunal has its seat at the place or places determined from time to time by the Premier by notice in the *Provincial Gazette*.

(b) A tribunal has jurisdiction in the province for which it has been established.

(c) The functions of a tribunal may be performed at a seat referred to in paragraph (a) or at any other place in the province concerned.

(d) The chairperson of a tribunal may from time to time direct a particular member or members performing functions of the tribunal in terms of section 17 (1), to perform such functions in relation to only a particular area in a province, including one or more local government areas or parts thereof.

(11) If any vacancy occurs on a tribunal, the vacancy may be filled by the appointment of any person in accordance with subsections (3), (4), (5) and (6) and any person so appointed shall hold office for the unexpired portion of the period of office of the member in whose place he or she is appointed.

(12) A member of a tribunal shall not take part in the discussion of or the making of decisions about any matter before the tribunal in which he or she or his or her spouse, immediate family, partner or employer, including the State or a local government body (but only where the State or such local government body is a land development applicant or objector in such matter) or the partner or employer of his or her spouse has, directly or indirectly, any pecuniary interest.

16. Functions of tribunal.—A tribunal—

(a) shall deal with any matter brought before it in terms of section 30 (1), 33, 34, 40, 42, 51, 48 (1), 57 or 61 or any matter arising therefrom;

(b) in dealing with any matter referred to in paragraph (a), (c) or (d) may—

(i) grant urgent interim relief pending the making of a final order by the tribunal;

(ii) give final decisions or grant or decline final orders;

(iii) refer any matter to mediation as contemplated in section 22;

(iv) conduct any necessary investigation;

(v) give directions relevant to its functions to any person in the service of a provincial administration or a local government body;

(vi) grant or decline approval, or impose conditions to its approval, of any application

made to it in terms of this Act;

- (vii) determine any time period within which any act in relation to land development is to be performed by a person;
- (viii) decide any question concerning its own jurisdiction;
- (c) shall deal with any other matter with which it is required to deal in terms of this Act;
- (d) may generally deal with all matters necessary or incidental to the performance of its functions in terms of or under this Act.

17. Decisions of tribunal.—(1) A tribunal may decide that any of its functions or any investigation which it deems necessary in connection with a matter which is being considered by the tribunal, shall be performed or carried out on its behalf by any member or members thereof designated by the chairperson: Provided that where any matter referred to in section 16 (a) or (b) (ii) or (iv) serves before a tribunal, the functions of the tribunal shall be performed by at least four members, two of whom shall be in the service of a provincial administration or a local government body and at least two shall be members appointed from outside such service.

(2) Whenever the chairperson has designated more than one member of a tribunal to perform any function of the tribunal as contemplated in subsection (1), he or she shall designate one of them to act as presiding officer.

(3) The decision of the majority of the members of a tribunal shall for the purposes of this Act be deemed to be a decision of the tribunal: Provided that—

- (a) where a function of a tribunal is, subject to subsection (1), performed by a single member, the decision of that member shall be the decision of the tribunal; and
- (b) the chairperson or the member designated by him or her in terms of subsection (2) shall, in the event of an equality of votes, have a casting vote in addition to his or her deliberative vote.

(4) A decision, award, order or determination of a tribunal may be executed, *mutatis mutandis*, as if it were a decision, award, order or a determination made by a Magistrate's Court in terms of the Magistrate's Court Act, 1944 (Act No. 32 of 1944).

(5) A tribunal shall, subject to the rules prescribed under section 26, within a reasonable time after it has made a decision, provide reasons for its decision in writing to any interested person or body requesting such reasons and, if such reasons were so requested, also to the provincial government.

18. Acquisition of information.—(1) A tribunal may in writing, under the hand of the chairperson or of an officer in the service of a provincial administration or local government body authorised thereto by the chairperson, require any person who in its opinion may be able to give any material information needed for the purposes of or in connection with any matter which is to be dealt with in terms of this Act, and which the said person could have been compelled to give if he or she had appeared before the tribunal on a subpoena issued under subsection (2) (a), to furnish it with such information within such period and in such form as it may specify.

(2) A tribunal (or any member or members thereof) conducting an investigation may—

- (a) subpoena any person who in its opinion may be able to give material information concerning the subject of the enquiry, or who it suspects or believes has in his or her possession or custody or under his or her control any book, document or thing which has a bearing upon the subject of the enquiry, to appear before it at a time and place specified in the subpoena, to be questioned or to produce that book, document or thing, and

(b) retain for examination any book, document or thing so produced.

(3) A tribunal may call and administer an oath to or accept an affirmation from any person present at an enquiry who was or might have been subpoenaed in terms of subsection (2) (a) and may interrogate him or her and require him or her to produce any book, document or thing in his or her possession or custody or under his or her control.

(4) Any person subpoenaed to appear before a tribunal may, if the tribunal registrar is satisfied that he or she has by reason of his or her appearance in obedience to the subpoena suffered any pecuniary loss or been put to any personal expense, be paid from moneys appropriated by the legislature of the province such allowances as the Premier may with the concurrence of the MEC responsible for the treasury function in the province from time to time determine, or the amount of any such loss or expense, whichever is the lesser: Provided that if the person subpoenaed is in the full-time employment of the State or a local government body, the allowances or amount payable to him or her shall be determined in accordance with the laws governing his or her employment.

(5) The law relating to privilege as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply *mutatis mutandis* to the interrogation of any person or the submission of any book, document or thing in terms of this section.

19. Minutes.—A tribunal shall be a tribunal of record.

20. Costs.—A tribunal may in respect of the performance of any of its functions in terms of section 16, make an order as to costs according to the requirements of the law or fairness and any such order may also be made against any organisation, professional or other person acting on behalf of or in any manner assisting a person if that organisation, professional or other person acted unreasonably.

21. Offences.—Any person who—

- (a) fails to comply with any requirement in terms of section 18 (1) or wilfully furnishes a tribunal with false information;
- (b) has been subpoenaed under section 18 (2) (a) and who fails without sufficient cause to attend at the time and place specified in the subpoena;
- (c) has been subpoenaed under section 18 (2) (a) or has been called under section 18 (3) and who refuses to be sworn or to make an affirmation as a witness or fails to answer fully and satisfactorily to the best of his or her knowledge and belief all questions lawfully put to him or her, or to produce any book, document or thing in his or her possession or custody or under his or her control when lawfully required to do so, or who fails to remain in attendance until excused from further attendance by the tribunal;
- (d) during the proceedings of a tribunal insults, disparages or belittles any member of a tribunal in that capacity, or prejudices the proceedings or findings of a tribunal in any manner whatsoever;
- (e) wilfully disrupts the proceedings of a tribunal or misconducts himself or herself in any manner during such proceedings; or
- (f) does anything in relation to a tribunal which if done in relation to a court of law would constitute contempt of court,

shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or imprisonment for a period not exceeding six months.

22. Mediation.—(1) If any party to a dispute serving before a tribunal applies to the tribunal

for the appointment of a mediator, the tribunal may, or if the tribunal is, after an enquiry contemplated in section 4 (2) (c), of the opinion that any dispute serving before it should, before any further inquiry by the tribunal is held, first be referred to mediation, the tribunal shall, after consultation with the parties to any dispute, appoint a person, acceptable to all parties to the dispute, as a mediator in such dispute: Provided that should all the parties to the dispute not be able to reach agreement on the person to be so appointed, the tribunal may appoint any person from the panel of mediators referred to in subsection (2) to act as a mediator in that dispute.

(2) The Premier shall appoint a panel of mediators by reason of their qualifications in and experience or knowledge of mediating land development or similar disputes, for the purpose of being appointed as mediators in terms of subsection (1).

(3) The panel of mediators referred to in subsection (2) shall be appointed by the Premier for the period specified by him or her upon their appointment and on the conditions, including conditions relating to the payment of remuneration and allowances determined by him or her with the concurrence of the MEC responsible for the treasury function.

(4) A mediator appointed under subsection (1) shall confer with the parties to a dispute, conduct such enquiries and investigations as he or she may deem necessary, endeavour to bring about a settlement in the dispute and make a report to the tribunal as to the results of his or her mediation and for these purposes shall have all the powers conferred on a tribunal by section 18 (2) and (3).

(5) All discussions taking place and all disclosures and submissions made during mediation shall be privileged, unless the parties agree to the contrary.

23. Appeals against tribunal decisions.—(1) Any decision or determination by a tribunal is final: Provided that any party to a dispute relating to a matter referred to in section 16 (a) or (b) (ii) may within the period and in the manner prescribed by the rules made under section 26, appeal against the decision of a tribunal in regard to that dispute or any related order as to costs, to the development appeal tribunal for a province established or recognised under section 24.

(2) Pending an appeal in terms of subsection (1), a tribunal may on application make such interim order as it deems reasonable.

(3) The development appeal tribunal may confirm, vary or set aside the order or decision appealed against or make any other order or decision, including an order as to costs, according to the requirements of the law or fairness.

24. Establishment of development appeal tribunal.—(1) A Premier shall, by notice in the *Provincial Gazette*—

- (a) establish a development appeal tribunal for a province; or
- (b) recognise any body of persons, board or commission established by or under any law as a development appeal tribunal for a province.

(2) (a) A development appeal tribunal established under subsection (1) (a) consists of five members appointed by the Premier *mutatis mutandis* in accordance with section 15 (3), (4), (5) and (6): Provided that at least one member shall have knowledge of the law.

(b) Despite anything to the contrary contained in any law referred to in subsection (1) (b), at least the majority of the members of a development appeal tribunal recognised under that subsection shall be appointed by the Premier *mutatis mutandis* in accordance with section 15 (3), (4), (5) and (6): Provided that at least one member shall have knowledge of the law.

(c) Despite anything to the contrary contained in any law referred to in subsection (1) (b), an appeal shall be heard by not less than three members of a development appeal tribunal.

(3) A development appeal tribunal may decide any appeal made to it in terms of section 23.

(4) A development appeal tribunal is a tribunal of record.

(5) A development appeal tribunal shall, subject to the rules made under section 26, within a reasonable time after it has made a decision, provide reasons for its decision in writing to any interested person or body requesting such reasons and, if such reasons were so requested, also to the provincial government.

(6) A member of a development appeal tribunal shall not take part in the discussion of or the making of decisions about any matter before the development appeal tribunal in which he or she or his or her spouse, immediate family, partner or employer, including the State or a local government body (but only where the State or such local government body is a land development applicant or objector in such matter) or the partner or employer of his or her spouse has, directly or indirectly, any pecuniary interest.

25. Review by Supreme Court.—(1) Without derogating from the constitutional right of any person to gain access to a court of law, the proceedings of a tribunal or of a development appeal tribunal may be brought under review before any division of the Supreme Court having jurisdiction under the Supreme Court Act, 1959 (Act No. 59 of 1959).

(2) To the extent that a review relates to an interested person's rights which have been affected as a result of a mistake of law as to the suspension under section 34 of a servitude or restrictive condition of title or as to the suspension under section 33 (2) (*j*) or 51 (2) (*d*) of the operation of a law, the review court may nevertheless review the matter if, in the absence of such mistake, the decision of the tribunal or development appeal tribunal could not reasonably be justified on the facts found by the tribunal or development appeal tribunal.

(3) A review court may regard review proceedings referred to in subsections (1) and (2) as sufficiently urgent to justify non-compliance with the ordinary rules of such court, if delays in the land development concerned will probably adversely affect the ability of intended beneficiaries to afford sites or housing units, or will probably adversely affect a substantial number of persons or persons with particularly pressing needs.

26. Rules of procedure.—(1) The Minister may in respect of a tribunal and a development appeal tribunal established or recognised under section 24 make, amend or repeal rules regulating—

- (a) the form of process and the procedure at or in connection with the proceedings of a tribunal or development appeal tribunal;
- (b) the procedure at or in connection with mediation;
- (c) the representation of any party in mediation proceedings, before a tribunal or development appeal tribunal, and the basis upon which such party who requires representation by any other person, but who is unable to afford such representation, may qualify for financial or other assistance from the State;
- (d) with the concurrence of the Minister of Finance, the fees and costs payable in respect of the service or execution of any process of a tribunal or development appeal tribunal and the tariff of costs and expenses payable in respect of such service or execution;
- (e) the powers, functions and duties of the tribunal registrar and the hours during which his or her office shall be open for the transaction of business;
- (f) the period within which an appeal under section 23 shall be noted;
- (g) the order of preference to be given to matters serving before a tribunal or development appeal tribunal, in order to ensure that priority is given to matters where delays are likely to adversely affect the ability of intended beneficiaries to afford sites or housing units, or are likely to affect a substantial number of persons or persons with

particularly pressing needs;

- (h) generally all matters necessary for or incidental to the exercise of the powers and the performance of the functions of a tribunal or development appeal tribunal.

(2) A Premier may, with the concurrence of the Minister, repeal or amend any rule made under subsection (1) in respect of a province.

(3) The provisions of section 46 (3) shall, *mutatis mutandis*, apply to rules made, amended or repealed under subsection (1).

(4) (a) The Premier shall, before he or she repeals or amends any rule under subsection (2), cause a draft of such repeal or amendment to be published in the *Provincial Gazette* and shall consider any comment on such draft repeal or amendment received from any person during the period 30 days after such publication.

(b) A list of repeals or amendments made under subsection (2) shall be submitted to the provincial legislature, and if such provincial legislature by resolution disapproves of any such repeal or amendment or any provision thereof, such repeal or amendment, or such provision, shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such repeal, amendment or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such repeal, amendment or such provision before it so ceased to be of force and effect.

CHAPTER IV

Land development objectives

27. Body responsible for setting land development objectives.—(1) The land development objectives referred to in section 28 shall, subject to subsections (2), (3), and (4), be set—

- (a) in respect of any particular local government area, by the local government body having jurisdiction, with the approval of the MEC, which approval shall not be refused unless—

- (i) the land development objectives in the opinion of the MEC fail to deal adequately with the subject matter to which land development objectives in terms of section 28 shall relate; or
- (ii) the land development objectives are, in the opinion of the MEC, inconsistent or cannot be reconciled with other objectives set or planning done in terms of any other law in the province; or
- (iii) the procedures and other requirements prescribed under subsection (3) have, in the opinion of the MEC, not been complied with,

and the MEC has, on request therefor, provided the local government body concerned with his or her written reasons for having an opinion referred to in subparagraph (i), (ii) or (iii), as the case may be; and

- (b) outside such local government area, by the MEC.

(2) If a local government body fails to set land development objectives, either generally or in respect of any particular case, within a period of time prescribed by the MEC in the *Provincial Gazette*, the MEC may set land development objectives in respect of that local government area, and objectives so set shall prevail over objectives subsequently set by the local government body.

(3) Land development objectives shall be set in the manner, within the time limits and after following the procedures prescribed by the MEC in the *Provincial Gazette*.

- (4) The procedures referred to in subsection (3) shall include procedures relating to—
- (a) the manner in which members of the public and interested bodies shall be consulted in the setting of land development objectives; and
 - (b) the manner in which the setting of land development objectives shall be co-ordinated with the functions of any department of State or other authority responsible for the administration or formulation of any plan dealing with subject matter which is the same as or similar to the subject matter set out in section 28.

(5) The Minister may, at the request of the MEC, perform the functions assigned to and exercise the powers conferred on the MEC by this Chapter.

28. Subject matter of land development objectives.—(1) Land development objectives shall relate to—

- (a) the objectives of the relevant authority in relation to access to and the standard of services for land development, including public transport and water, health and education facilities;
- (b) the objectives (with reference to local circumstances, including demographic circumstances and prevailing spatial patterns) relating to urban and rural growth and form in the relevant area, including objectives in relation to—
 - (i) the integration of areas settled by low-income communities into the relevant area as a whole;
 - (ii) the sustained utilisation of the environment;
 - (iii) the planning of transportation;
 - (iv) the provision of bulk infrastructure for the purpose of land development;
 - (v) the overall density of settlements, with due regard to the interests of beneficial occupiers;
 - (vi) the co-ordination of land development in consultation with other authorities;
 - (vii) land-use control;
 - (viii) the optimum utilisation of natural resources; and
 - (ix) such other matters as the MEC may determine by notice in the *Provincial Gazette*;
- (c) the development strategies of the relevant authority in relation to—
 - (i) facilitation of the optimal involvement of sectors of the economy or of subsectors thereof involved in land development;
 - (ii) access to finance for land development;
 - (iii) available administrative or proposed new administrative structures to deal with land development in the relevant area;
 - (iv) such other matters as the MEC may determine by notice in the *Provincial Gazette*;
- (d) the quantum of land development objectives in the sense of—
 - (i) the number of housing units, sites or other facilities planned for;
 - (ii) whether such units, sites or other facilities will be delivered by means of upgrading land or built environments, undertaking new land developments or the letting of land or buildings;

- (iii) the rate at which the production or delivery of such units, sites or facilities will increase during a period in future, which period may be determined by the MEC in the *Provincial Gazette*; and
- (iv) the other matters determined by the MEC by notice in the *Provincial Gazette*.

(2) A local government body or the MEC may require the persons or bodies determined by him or her to carry out environmental evaluations in order to assess the likely impact of any land development objective upon the environment.

29. Effect of land development objectives and other plans.—(1) A tribunal or any other competent authority shall not approve a land development application in terms of this Act or any other law dealing with the establishment of land development areas, if such application is inconsistent with any land development objective contemplated in this Chapter: Provided that no provision in this Chapter shall be so construed that it entails the delay of any land development application where no land development objectives have been set.

(2) If a land development objective set in terms of this Chapter is expressly inconsistent or incompatible with any plan as defined in section 1 of the Physical Planning Act, 1991 (Act No. 125 of 1991), the land development objective shall prevail over the plan and the plan shall for the purposes of that Act be deemed to have been amended accordingly.

(3) Despite anything to the contrary contained in the Physical Planning Act, 1991, the MEC may, subject to the procedures deemed fit by him or her or that he or she may prescribe by notice in the *Provincial Gazette*, amend or withdraw, whether in whole or in part, a guide plan referred to in section 37 (1) of that Act, which is deemed to be a regional structure plan or an urban structure plan by virtue of a declaration contemplated in section 37 (2) (a) (ii) of that Act.

CHAPTER V

Land development procedures excluding procedures relating to the development of small-scale farming

30. Exemption from provisions of this Chapter.—(1) A tribunal may, on the terms and conditions and in accordance with the procedures determined in the regulations or, if there are no regulations, determined by the tribunal, grant exemption from any or all of the provisions of this Chapter to any local government body or any other interested person or body, including a group of persons referred to in section 42 (1), in respect of an area or proposed land development area—

- (a) which is already settled by persons and which is intended to be upgraded into a fully established land development area over a period of time; or
- (b) which is intended to be settled by persons on an urgent basis prior to completing the establishment of a land development area in that area, with the intention that such area shall be upgraded over a period of time into a fully established land development area.

(2) For the purposes of applying any provision of this Act from which an exemption has not been granted under subsection (1), to land development contemplated in that subsection, the local government body or other interested person or body, including a group of persons referred to in section 42 (1), or if so directed by a tribunal, any other body, person or group of persons shall be regarded as a land development applicant for all purposes of this Chapter.

31. Land development application.—(1) The following land development applicants may apply for establishment of a land development area in terms of this Chapter:

- (a) An owner of land, including the State or a local government body, in respect of land

owned by it;

- (b) an agent or independent contractor acting on behalf of the owner of land;
- (c) a person acting with the consent of the owner of land;
- (d) a person to whom land has been made available by the State or a local government body in terms of a land availability agreement; or
- (e) a person acting on behalf of the owner of land in any other capacity.

(2) A land development applicant shall lodge a land development application, accompanied by the prescribed documents and information, with a designated officer in the prescribed manner.

(3) A land development applicant shall give notice of a land development application to the prescribed persons or bodies.

(4) Any notice referred to in subsection (3) shall, in the prescribed form, call upon any person or body to whom or which the notice has been given—

- (a) to provide the designated officer with comments in writing on the land development application within the period of time prescribed and specified in the notice; or
- (b) failing the delivery of comments within such period, or if comments were delivered but constitute an objection to any aspect of the land development application, to appear in person or through a representative before a tribunal on a date specified in the notice.

(5) A notice referred to in subsection (3) shall have the same effect, *mutatis mutandis*, as if it were a subpoena issued by a tribunal under section 18 (2).

(6) The designated officer shall within the prescribed period provide the land development applicant with any comments, objections or representations received in terms of subsection (4) (a), to which the land development applicant may reply within the prescribed period.

32. Submission of land development application to tribunal.—The designated officer shall, prior to the consideration of the land development application by a tribunal on the date contemplated in section 31 (4) (b), consider—

- (a) the land development application;
- (b) any comments, objections or representations received within the period referred to in section 31 (4) (a);
- (c) any reply by the land development applicant to such comments, objections or representations,

and shall within the prescribed period submit the land development application and such comments, objections, representations and reply, together with his or her report and recommendations on the land development application, to a tribunal for its consideration.

33. Consideration of application by tribunal.—(1) After receipt of the documents referred to in section 32 and on the date referred to in section 31 (4) (b), a tribunal shall consider and may approve or refuse the land development application in whole or in part or postpone its decision thereon and may in approving the land development application impose one or more of the conditions contemplated in subsection (2).

(2) In approving a land development application a tribunal may, either of its own accord or in response to that application, impose any condition of establishment relating to—

- (a) the provision of engineering services;

- (b) the provision or transfer of land to any competent authority for use as a public open space, or the payment of a sum of money in lieu thereof;
- (c) the provision of streets, parks and other open spaces;
- (d) the suspension of restrictive conditions or servitudes affecting the land on which a land development area is to be established;
- (e) the registration of additional servitudes affecting the land on which a land development area is to be established;
- (f) the question whether any building standards laid down in regulations made under the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), or in any zoning scheme, regulation or bylaw of a local authority under any law, are to apply in respect of the erection of buildings or any class of buildings on a land development area;
- (g) the question whether it is nevertheless necessary for building plans to be submitted to and approved by the competent authority prior to the erection of buildings in the case where a condition is imposed to the effect that the building standards contemplated in paragraph (f) will not apply in respect of a land development area;
- (h) the question whether the use of land in a land development area is to be regulated by—
 - (i) a zoning scheme or other measure under any law governing land development or land-use planning in the area concerned;
 - (ii) general provisions relating to land use which have been prescribed; or
 - (iii) specific provisions relating to special or strategic projects which have been prescribed;
- (i) any amendment to a zoning scheme, other measure or provision referred to in paragraph (h), for the purpose of applying it to a land development area;
- (j) the question whether the provisions of—
 - (i) sections 9A and 11 of the Advertising on Roads and Ribbon Development Act, 1940 (Act No. 21 of 1940);
 - (ii) any law on physical planning;
 - (iii) section 12 of the National Roads Act, 1971 (Act No. 54 of 1971);
 - (iv) any law requiring the approval of an authority for the subdivision of land;
 - (v) any law requiring the issuing of a receipt, certificate or any other document by a local government body, public revenue officer or other competent authority, as a prerequisite to the transfer of land in a land development area; or
 - (vi) any other law relating to land development, but not the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), which in the opinion of the tribunal may have a dilatory effect on the development of a land development area or the settlement of persons therein,

shall apply in respect of a land development area in question: Provided that a decision to suspend the application of a law shall be taken after the tribunal has afforded the authority, if any, which is responsible for the administration of the law, and any other interested person or body an opportunity to provide the tribunal with its views on the expedience of such a decision in the circumstances;

- (k) the provision of educational and other community facilities;
- (l) the question whether the land in the land development area is to be subdivided in terms of this Chapter and if not, whether any other provisions of this Chapter will apply;
- (m) the ownership of the land forming the subject of a land development application and the administration of the settlement of persons on such land by any person, trust, body of persons or juristic person with due regard to the wishes of the community concerned and subject to the provisions of any law;
- (n) the environment or environmental evaluations;
- (o) the manner in which members of any community residing in a settlement shall be consulted during the process of land development whenever land development takes the form of the upgrading of an existing settlement;
- (p) the manner in which the interests of any beneficial occupier of the land development area are to be accommodated whenever land development takes the form of the upgrading of an existing settlement; and
- (q) any other matter considered necessary by the tribunal.

(3) A condition of establishment imposed under—

- (a) subsection (2) (d), has the effect that the restrictive condition or servitude concerned is suspended, subject to section 34;
- (b) subsection (2) (f) or (g)—
 - (i) has effect despite any provision to the contrary contained in the National Building Regulations and Building Standards Act, 1977, or any law authorising a local government body to make building regulations or bylaws;
 - (ii) does not prevent any owner or prospective owner of land in a land development area from submitting building plans to the competent authority for its approval prior to the erection of the building concerned or complying with any national building regulation, zoning scheme, regulation or bylaw contemplated in that subsection;
- (c) subsection (2) (h) or (i) has effect despite any provision to the contrary in any other law governing land development or land-use planning or zoning schemes;
- (d) subsection 2 (j) relating to the suspension of the application of any law referred to in that subsection, has the effect of suspending the application of such a law.

(4) A condition of establishment referred to in subsection (3) comes into operation upon notice of the condition being given by the designated officer in the *Provincial Gazette*, or if a later date is stated in the notice, from such later date.

(5) A condition imposed under subsection (2) according to which a land development applicant shall perform any act, shall state by which stage in the course of the establishment of the land development area such act shall be performed.

(6) The designated officer shall inform the registrar of the approval of a land development application.

34. Suspension and removal of servitudes and restrictive conditions.—(1) A tribunal may, of its own accord or on application from a land development applicant and with the consent of the holder or beneficiary of a servitude or restrictive condition, impose a condition of establishment

contemplated in section 33 (2) (d), in respect of—

- (a) any servitude registered against the title of land in a land development area; and
- (b) any other restrictive condition thus registered or otherwise operative in respect of such land,

if the tribunal is of the opinion that the servitude or condition is inconsistent with, or undesirable in relation to, the use, occupation, development or subdivision of the land, and that the suspension of the servitude or condition in terms of any other procedure will unnecessarily delay the land development concerned.

(2) A tribunal may—

- (a) where the owner of the dominant tenement in relation to a servitude referred to in subsection (1) (a) or any beneficiary of a condition referred to in subsection (1) (h) is not prepared to grant his or her consent to the suspension of the servitude or condition for a consideration or under conditions which the tribunal regards as a fair consideration or fair conditions; or
- (b) where it is not practicable to obtain such consent within a reasonable time on account of the nature of the rights concerned, or the number of persons involved or because the whereabouts of a person contemplated in paragraph (a) or of every such person is not readily ascertainable,

impose a condition contemplated in subsection (1) without the contemplated consent.

(3) A servitude or restrictive condition suspended by a condition of establishment of which notice has been given in terms of section 33 (4), shall be removed when a subdivision register is opened in respect of the land in a land development area.

(4) The registrar concerned shall as soon as possible after a removal contemplated in subsection (3) make the entries in and endorsements on any register and title deed in his or her office or submitted to him or her which he or she deems necessary to reflect such removal: Provided that if such removal affects a diagram or general plan filed in the office of the Surveyor-General the registrar shall notify the Surveyor-General accordingly.

(5) A person who has suffered damage or whose land or real right in land has been adversely affected as a result of a removal in terms of subsection (3) or a suspension in terms of section 33 (2) (d) may, within a period of three years after the removal or suspension and to the extent to which he or she has not already received other compensation, claim compensation from the person who was, at the time of such removal or suspension, the owner of the land in respect of which the condition or servitude was removed or suspended.

(6) The amount of compensation referred to in subsection (5) shall be an amount agreed upon between the claimant and the owner referred to in that subsection or, failing such agreement within one month of a claim having been made under that subsection, shall be an amount determined—

- (a) in the event of such owner not being the State or a local government body, by arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965); or
- (b) in the event of such owner being the State or a local government body, *mutatis mutandis* in terms of sections 12, 14, and 15 of the Expropriation Act, 1975 (Act No. 63 of 1975), as if the servitude or condition were expropriated for public purposes as contemplated in that Act, and for that purpose any reference in that Act—
 - (i) to “Minister”, shall be construed as a reference to the Minister, Premier or local government body, as the case may be;
 - (ii) to property, shall be construed as a reference to such servitude or condition;
 - (iii) to an expropriation in terms of that Act, shall be construed as a reference to a

suspension in terms of section 33 (2) (d) or to a removal in terms of subsection (3), as the case may be.

(7) This section or section 33 (2) (d) does not authorise the suspension or removal of any registered right to minerals, and nothing contained in this Act detracts from the remedies of the holder of rights to minerals under the common law.

35. Amendment of land development application and conditions of establishment, division of land development area and continuation of land development application by another land development applicant.—(1) Subject to the procedures and conditions prescribed—

- (a) a land development application may be amended;
- (b) any condition of establishment may be amended or deleted;
- (c) a land development area may be divided into two or more land development areas;
- (d) another land development applicant may continue with the land development application in the place of the original or a subsequent land development applicant.

(2) The designated officer shall, subject to the procedures and conditions prescribed, inform the registrar and the Surveyor-General of any event contemplated in subsection (1).

36. Restriction on certain contracts.—(1) After a land development applicant has taken steps to establish a land development area, including steps preceding a land development application, no person shall enter into any contract, including a contract subject to a suspensive or other condition—

- (a) for the sale, exchange, alienation or disposal in any other manner of an erf in that land development area;
- (b) for the erection of a dwelling on such erf;
- (c) granting an option to purchase or sell such erf or granting a right of first refusal in respect of such erf; or
- (d) to otherwise acquire such erf, unless—
 - (i) the land development application has been approved under section 33; and
 - (ii) the steps contemplated in section 38 (1) have been completed or, to the extent that such steps have not yet been completed, the land development applicant has furnished the guarantees referred to in section 38 (2) (d) in respect of the completion of such steps, which guarantees shall also be furnished where the ownership (as opposed to the initial ownership) of such erf is involved; or
 - (iii) a tribunal has approved a registration arrangement contemplated in section 61 and the conditions imposed in respect of such approval have been complied with.

(2) Any contract entered into contrary to subsection (1) shall be invalid.

(3) The provisions of this section shall not prohibit the entering into of—

- (a) a contract for the acquisition in any manner by any person of—
 - (i) land on which he or she wishes to establish a land development area subject to the condition that one or more of the erven therein shall be transferred to the seller;
 - (ii) land in respect of which a land development application has been made, and such person notifies the designated officer in writing of his or her acquisition of the land, and that he or she wishes to continue with such application;
- (b) a contract between a land development applicant and a building contractor for the

erection of a building on an erf prior to the disposal of the erf by the land development applicant;

(c) any other contract prescribed.

(4) A registrar is not obliged to satisfy himself or herself as to whether any registrable transaction lodged in a deeds registry is based on or affected by a contract referred to in subsection (2).

37. Lodging of documents with Surveyor-General and registrar.—A land development applicant who has been notified that his or her land development application has been approved shall, within the prescribed period, lodge—

(a) with the Surveyor-General the plans, diagrams, documents and other information which the Surveyor-General requires to approve or provisionally approve the general plan in accordance with the approved application; and

(b) with the registrar the approved plans and diagrams, together with the title deeds and other documents required by the registrar for the opening of a subdivision register: Provided that the registrar shall not be obliged to open a subdivision register if the land development area is situated within more than one province or within the area of jurisdiction of more than one deeds registry or deeds registry referred to in section 66.

38. Commencement of registration of ownership.—(1) A registrar shall commence registration of ownership of land in a land development area, when—

(a) a general plan of the land development area has been approved or provisionally approved;

(b) a subdivision register for the land development area has been opened;

(c) the designated officer has informed the registrar that any conditions of establishment relating to the land development application and which have to be complied with prior to the commencement of such registration, have been complied with; and

(d) the designated officer has informed the registrar that the respective obligations of the land development applicant and the relevant local government body to provide the engineering services contemplated in section 40, have been fulfilled.

(2) Despite the provisions of subsection (1), a registrar shall commence transfer of initial ownership of erven in a land development area when—

(a) the designated officer has informed the registrar in terms of section 33 (6) that the land development application has been approved;

(b) in the event of the area shown on the layout plan not comprising the whole of the piece or pieces of land in respect of which land development is taking place, a diagram corresponding to the outside perimeter of the layout plan and prepared by a professional land surveyor, has been approved by the Surveyor-General;

(c) beacons in respect of individual, proposed erven have been placed by a surveyor in accordance with the layout plan;

(d) the designated officer has informed the registrar that the land development applicant, or the relevant local government body, as the case may be, has delivered to the designated officer—

(i) a guarantee in the prescribed form in favour of that surveyor, conveyancer, professional engineer, local government body or other person determined by the designated officer, and issued by a financial institution or other guarantor

acceptable to the designated officer, in an amount sufficient to cover the costs of—

- (aa) opening a subdivision register if the land development applicant does not within the period referred to in section 37 (b) lodge with the registrar the documents required by him or her for such opening;
 - (bb) complying with conditions of establishment; and
 - (cc) fulfilling the respective obligations of the land development applicant and the relevant local government body to provide the engineering services contemplated in section 40; and
- (ii) the powers of attorney and other documents prescribed or necessary to enable the person in whose favour such guarantee is made to perform the acts contemplated in subparagraph (i);
- (e) a condition of establishment suspending servitudes or other restrictive conditions, if any, has come into operation in terms of section 33 (4);
 - (f) in the event that the area shown on the layout plan comprises more than one piece of land, all such pieces of land are owned by the same person or body or all the owners, where there is more than one owner, have granted a power of attorney in favour of the same person or body, including one of such owners, authorising the person or body to transfer initial ownership on their behalf;
 - (g) any mortgagee in respect of land shown on the layout plan has consented to the cancellation of the mortgage bond or the release from time to time of the sites shown on the layout plan from the operation of the bond;
 - (h) an application contemplated in section 61 (1) has been granted and certificates issued under section 61 (4), the layout plan and the application referred to in section 61 (6) have been lodged with the registrar; and
 - (i) the registrar has completed the entries in his or her records in terms of section 61 (7).

(3) The provisions of—

- (a) subsections (1) and (2) shall not preclude the implementation of a transaction concluded in pursuance of a condition of establishment; and
- (b) subsection (2) (d) shall not apply where a general plan has been approved, the subdivision register has been opened, the conditions of establishment have been complied with and the land development applicant's service obligations have been fulfilled.

(4) A diagram referred to in subsection (2) (b) shall be approved by the Surveyor-General, despite the fact that any other or component diagram showing a subdivision or consolidation of the piece or pieces of land referred to in that subsection, which would otherwise or customarily have been required to be approved as a prerequisite to the approval of the diagram referred to in that subsection, has not yet been approved: Provided that the other or component diagram shall subsequently be prepared and submitted to the Surveyor-General in such form and manner so as not to necessitate any substantial amendment of the diagram referred to in subsection (2) (b).

39. Erection of buildings.—If in terms of a condition of establishment it is unnecessary for building plans to be lodged with any competent authority, there shall be no restriction at any stage on the erection of buildings and the settlement of persons in the land development area, except by virtue of such a condition of establishment or a zoning scheme, other measure or prescribed provision contemplated in section 33 (2) (h).

40. Engineering services.—(1) Every land development area shall be provided with the engineering services agreed upon between the land development applicant and the local government body in a services agreement complying with the prescribed guidelines and approved by a tribunal.

(2) Subject to any exemption authorised by a tribunal in relation to a particular services agreement—

- (a) the land development applicant shall provide the engineering services classified by regulation as internal services; and
- (b) the local government body concerned shall provide the services so classified as external or trunk services.

41. Vesting and reversion of ownership of public streets and places.—(1) The ownership of all public streets and public places indicated as such on the general plan of a land development area shall without compensation vest in the local government body in whose local government area the land development area is situated at the time when transfer of land in ownership become registrable as contemplated in section 38 (1).

(2) If the general plan of a land development area is—

- (a) cancelled in whole or in part the ownership of the public streets and public places in the land development area shown on the cancelled plan or part thereof shall upon such cancellation revert to the person or body who or which was the owner of the land concerned at the time of the land development application in question;
- (b) amended in terms of any law which authorises the closing of such street or place or portion thereof, the ownership of such street, place or portion shall revert to the person or body who or which was the owner of the land concerned at the time of the land development application.

42. Investigation and authorisation of non-statutory land development processes.—(1) Where any local government body or any other interested person or body, including a group of interested persons, has by reason of the actual or likely settlement of persons on, the erection or occupation of any structure on or the layout of land, reasonable grounds for believing that—

- (a) such activities are performed contrary to the procedures prescribed in this Act or in any other law; or
- (b) it is in the public interest and the interests of the persons residing or who are going to reside on such land that an exemption under section 30 (1) be granted, such body, person or group may refer the matter to the designated officer for investigation.

(2) The designated officer shall investigate the matter and submit his or her report thereon to a tribunal.

(3) As soon as is reasonably possible after receiving the report contemplated in subsection (2), a tribunal shall establish whether the settlement of persons, or the erection or occupation of buildings on the land or the layout of the land is in any manner inconsistent with any provision or object of this Act or any other law governing the establishment of land development areas unless an exemption under section 30 (1) is granted, and if the tribunal is satisfied that such inconsistency exists, it may grant or decline to grant an exemption contemplated in that section in respect of such area.

(4) A tribunal may in considering a report referred to in subsection (2) conduct the enquiries, hear the evidence and take the steps considered necessary by it in the circumstances and shall in considering the matter take into account—

- (a) the health or safety of the public generally, or of any class of persons, including persons residing in the area concerned;
- (b) the feasibility of providing rudimentary services in the area concerned and of the upgrading of such services over a period of time;
- (c) the feasibility of housing persons in temporary buildings erected by themselves in the area;
- (d) the feasibility of the development of appropriate community facilities and services in the area;
- (e) the suitability of the area for residential settlement, taking into account its location in relation to employment and transport facilities;
- (f) the feasibility of providing occupants of the area with appropriate security of land tenure;
- (g) the feasibility of erecting permanent dwellings over a period of time;
- (h) the feasibility of establishing an appropriate local government body or including the area within the local government area of such a body and of providing municipal services to the area;
- (i) the possibility of persons settling in the area being able to acquire sites which are affordable to them, taking into account their likely income and other means of finance, including finance provided by the State;
- (j) the feasibility of the area being fully established as a land development area over a period of time;
- (k) the rights of any person in or in respect of the area and, if necessary, the feasibility of such area or rights being expropriated or otherwise acquired for the purpose of establishing a land development area;
- (l) the environmental sustainability of developing the area;
- (m) any similar matter prescribed;
- (n) any other similar matter which the tribunal may deem necessary.

(5) The provisions of any law on the establishment of a land development area or land-use planning shall not apply in relation to land which is the subject of an exemption referred to in subsection (3) or of proceedings contemplated in that subsection which are pending.

43. Proof of certain facts in connection with applications to establish land development areas.—(1) A surveyor, town and regional planner, professional engineer, environmental consultant, attorney, notary, conveyancer or engineering geologist who prepares a document required for a land development application in terms of this Chapter and who signs the prescribed certificate on such document, thereby accepts responsibility and any liability for the accuracy of the prescribed facts mentioned in such document.

(2) The designated officer and a tribunal shall, for the purposes of considering a land development application, accept that the facts referred to in subsection (1) have been conclusively proved.

44. Land development on behalf of State or local government body.—(1) The State or a local government body may, in the prescribed manner and subject to the prescribed guidelines, appoint, in terms of a land availability agreement submitted to and approved by a tribunal, any person to carry on land development in terms of this Chapter on land owned by the State or such local

government body.

(2) Any land which has been made available in terms of subsection (1)—

- (a) shall remain subject to the control of the Minister, MEC or local government body, as the case may be, who or which may, in the event of a breach of the conditions on which the land was so made available by the person to whom the land was made available, withdraw the land thus made available and thereafter deal with such land as the Minister, MEC or local government body, as the case may be, deems fit;
- (b) shall not in any way be alienated or further encumbered by the State or local government body while the land remains available to the person concerned; and
- (c) may be alienated by the person to whom the land has been made available, only in his or her capacity as the duly authorised agent of the State or local government body and on the conditions on which the land has been made available to such person.

45. Delegation.—(1) The Minister may delegate or assign any power or duty conferred or imposed upon him or her by or under this Chapter, except the power conferred upon him or her under section 46, to a Premier or to any officer in the Department of Land Affairs or Housing.

(2) A Premier may delegate or assign any power or duty conferred or imposed upon him or her by or under this Chapter, including any power or duty delegated or assigned to him or her under subsection (1), to any officer in the provincial administration or in the employ of a local government body.

(3) A delegation or assignment under subsections (1) or (2) shall not prevent the Minister or a Premier, as the case may be, from himself or herself exercising the power or performing the duty concerned.

46. Regulations.—(1) The Minister may, subject to the provisions of subsection (3), make regulations regarding—

- (a) the forms of application or notice in terms of this Chapter;
- (b) the persons or bodies to be notified of a land development application;
- (c) the appointment of designated officers and the areas for which they are appointed;
- (d) the procedure to be followed for the extension of the boundaries of an established land development area and the amendment or cancellation of a general plan or of a land development application;
- (e) the duties of a land development applicant, designated officer or a local government body to give notice to any person or body of any fact relating to the establishment of a land development area;
- (f) the classification of engineering services into internal and external or trunk services and guidelines with which a services agreement shall comply;
- (g) the plans and specifications relating to engineering services to be lodged by a land development applicant with a local government body;
- (h) the effect of non-compliance with any time limit prescribed under this Chapter;
- (i) the powers, duties and functions of a local government body in relation to the establishment of a land development area;
- (j) the upgrading or further development of any land development area, including an area which is being developed by virtue of an exemption contemplated in section 30 (1);

- (k) inspections and investigations in relation to a land development application;
- (l) the fees and travelling allowances, if any, to be charged or paid in respect of any act required or authorised to be done under this Chapter;
- (m) the regulation of the use of land in a land development area, including the amendment or substitution of zoning schemes or other measures for—
 - (i) the zoning or reservation of land into areas to be used exclusively or mainly for specific purposes;
 - (ii) the prohibition or restriction of the use of land in a land development area in conflict with the terms of such scheme or other measures;
 - (iii) the replanning of a land development area;
 - (iv) the regulation and limitation of buildings, including the demolition of, or the imposition of a special charge in respect of, buildings erected or altered contrary to any such scheme or other measures;
- (n) the preparation, approval and coming into operation of such an amendment or substitution;
- (o) the consultation in respect of, and consideration of objections and representations made by any person or body in relation to any such amendment or substitution;
- (p) the payment by any person of compensation or a development contribution in respect of any such amendment or substitution and the basis for the calculation thereof;
- (q) land-use planning in general;
- (r) any matter which in terms of this Chapter is required or permitted to be prescribed;
- (s) any other matter which he or she considers necessary to prescribe in order to achieve the objects of this Chapter.

(2) The Minister may make different regulations in respect of different areas.

(3) (a) The Minister shall, before making any regulations under subsection (1), cause draft regulations to be published in the *Gazette* and shall consider any comment on such draft regulations received from any person during the period 30 days after such publication.

(b) A list of regulations made under subsection (1) shall be laid upon the Table of Parliament in the same manner as the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), and if Parliament by resolution disapproves of any such regulations or any provisions thereof, such regulations or provision shall cease to be of force and effect, or to any right or liability acquired or incurred in terms of such regulations or such provision before it so ceased to be of force and effect.

47. State and local government bound.—This Chapter binds the State and local government bodies.

CHAPTER VI

Land development procedures including procedures relating to the development of small-scale farming

48. Exemption from provisions of this Chapter.—(1) A tribunal may, on the terms and conditions and in accordance with the procedures determined in the regulations or, if there are no regulations, determined by the tribunal, grant exemption from any or all of the provisions of this

Chapter to any local government body or any other interested person or body, including a group of persons referred to in section 57 (1), in respect of an area or proposed land development area—

- (a) which is already settled by persons and which is intended to be upgraded into a fully established land development area over a period of time; or
- (b) which is intended to be settled by persons on an urgent basis prior to completing the establishment of a land development area in that area, with the intention that such area shall be upgraded over a period of time into a fully established land development area.

(2) For the purposes of applying any provision of this Act from which an exemption has not been granted under subsection (1), to land development contemplated in that subsection, the local government body or other interested person or body, including a group of persons referred to in section 57 (1), or if so directed by a tribunal, any other body, person or group of persons shall be regarded as a land development applicant for all purposes of this Chapter.

49. Land development application.—(1) The following land development applicants may apply for establishment of a land development area in terms of this Chapter:

- (a) An owner of land, including the State or a local government body, in respect of land owned by it;
- (b) an agent or independent contractor acting on behalf of the owner of land;
- (c) a person acting with the consent of the owner of land;
- (d) a person to whom land has been made available by the State or government body in terms of a land availability agreement; or
- (e) a person acting on behalf of the owner of land in any capacity.

(2) A land development applicant shall lodge a land development application, accompanied by the prescribed documents and information, with a designated officer in the prescribed manner.

(3) A land development applicant shall give notice of a land development application to the prescribed persons or bodies.

(4) Any notice referred to in subsection (3) shall, in the prescribed form, call upon any person or body to whom or which the notice has been given—

- (a) to provide the designated officer with comments in writing on the land development application within the period of time prescribed and specified in the notice; or
- (b) failing the delivery of comments within such period, or if such comments were delivered but constitute an objection to any aspect of the land development application, to appear in person or through a representative before a tribunal on a date specified in the notice.

(5) A notice referred to in subsection (3) shall have the same effect, *mutatis mutandis* as if it were a subpoena issued by a tribunal under section 18 (2).

(6) The designated officer shall within the prescribed period provide the land development applicant with any comments, objections or representations received in terms of subsection (4) (a), to which the land development applicant may reply within the prescribed period.

50. Submission of land development application to tribunal.—The designated officer shall, prior to the consideration of the land development application by a tribunal on the date contemplated in section 49 (4) (b), consider—

- (a) the land development application;

- (b) any comments, objections or representations received within the period referred to in section 49 (4) (a);
- (c) any reply by the land development applicant to such comments, objections or representations,

and shall within the prescribed period submit the land development application and such comments, objections, representations and reply, together with his or her report and recommendations on the land development application, to a tribunal for its consideration.

51. Consideration of application by tribunal.—(1) After receipt of the documents referred to in section 50, and on the date referred to in section 49 (4) (b), a tribunal shall consider and may approve or refuse the land development application in whole or in part or postpone its decision thereon and may in approving the land development application impose one or more of the conditions contemplated in subsection (2).

(2) In approving a land development application in terms of this Chapter, a tribunal may, either of its own accord or in response to that application, impose any condition of establishment relating to—

- (a) the question whether the land in the land development area is to be subdivided in terms of this Chapter;
- (b) the ownership of the land forming the subject of a land development application and the administration of the settlement of persons on such land by any person, trust, body of persons or juristic person with due regard to the wishes of the community concerned, and subject to the provisions of any law;
- (c) the question whether the use of land in the land development area is to be regulated by—
 - (i) the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983);
 - (ii) provisions relating to the use of land outside local government areas which have been prescribed generally for that purpose;
 - (iii) specific provisions relating to special or strategic projects which have been prescribed;
- (d) the question whether the provisions of—
 - (i) any law on physical planning;
 - (ii) any law requiring the approval of an authority for the subdivision of land;
 - (iii) sections 9A and 11 of the Advertising on Roads and Ribbon Development Act, 1940;
 - (iv) section 12 of the National Roads Act, 1971;
 - (v) any other law, but not the Restitution of Land Rights Act, 1994, which in the opinion of the tribunal may have a dilatory or adverse effect on the proposed land development or the settlement of persons therein,

shall apply in respect of a land development area in question: Provided that a decision to suspend the application of a law shall be taken after the tribunal has afforded the authority, if any, which is responsible for the administration of the law, and any interested person or body, an opportunity to provide the tribunal with its views on the expedience of such a decision in the circumstances;

- (e) the environment or environmental evaluations;

- (f) the manner in which members of any community residing in a settlement shall be consulted during the process of land development whenever land development takes the form of the upgrading of an existing settlement;
- (g) the manner in which the interests of any beneficial occupier of the land development area are to be accommodated whenever land development takes the form of the upgrading of an existing settlement; and
- (h) any other matter considered necessary by the tribunal.

(3) A condition of establishment—

- (a) imposed under subsection (2) (c) (i) shall have effect despite any provision to the contrary contained in the law contemplated in that subsection; and
- (b) relating to the suspension of the application of any law referred to in subsection (2) (d), shall have the effect of so suspending such law,

and comes into operation upon notice of such condition being given by the designated officer in the *Provincial Gazette* or, if a later date is stated in the notice, with effect from such later date.

(4) Any condition imposed under subsection (2) according to which a land development applicant shall perform any act, shall state by which stage during the course of the establishment of the land development area such act shall be performed.

52. Amendment of land development application and conditions of establishment, division of land development area and continuation of land development application by another land development applicant.—(1) Subject to the procedures and conditions prescribed—

- (a) a land development application may be amended;
- (b) any condition of establishment may be amended or deleted;
- (c) a land development area may be divided into two or more land development areas;
- (d) another land development applicant may continue with the land development application in the place of the original or a subsequent land development applicant.

(2) The designated officer shall inform the registrar of any event contemplated in subsection (1).

53. Land development on behalf of State or local government body.—(1) The State or a local government body may in the prescribed manner and subject to the prescribed guidelines appoint, in terms of a land availability agreement submitted to and approved by a tribunal, any person to carry on land development in terms of this Chapter on land owned by the State or such local government body.

(2) Any land which has been made available in terms of subsection (1)—

- (a) shall remain subject to the control of the Minister, MEC or local government body, as the case may be, who or which may, in the event of a breach of the conditions on which the land was so made available by the person to whom the land was made available, withdraw the land thus made available and thereafter deal with such land as the Minister, MEC or local government body, as the case may be, deems fit;
- (b) shall not in any way be alienated or further encumbered by the State or local government body while the land remains so available to the person concerned;
- (c) may be alienated by the person to whom the land has been made available only in his or her capacity as the duly authorised agent of the State or local government body, and on the same conditions on which the land has been made available to such person.

54. Subdivision of land.—(1) A land development applicant intending to subdivide land for the purposes of land development contemplated in this Chapter shall draw up or cause to be drawn up a settlement plan indicating the intended subdivision and submit the settlement plan as part of his or her land development application.

(2) A land development applicant may, subject to any condition imposed under section 51 (2), subdivide land in a proposed land development area or cause such land to be subdivided in accordance with this Chapter into pieces of land to be used for the purposes shown on the settlement plan.

55. Lodging of documents with Surveyor-General and registrar.—A land development applicant who has been notified that his or her land development application has been approved shall, within the prescribed period, lodge—

- (a) with the Surveyor-General, the plans, diagrams and other information which the Surveyor-General requires to approve a diagram in accordance with the approved application;
- (b) with the registrar, the approved plans and diagrams, together with the title deeds and other documents required for registration by the registrar.

56. Settlement of persons in land development area.—Settlement of any persons in a land development area shall take place only after a surveyor has surveyed the area and placed the beacons: Provided that a tribunal may in any particular case grant permission that such settlement may take place in the manner determined by it even if the beacons have not yet been placed.

57. Investigation and authorisation of non-statutory land development processes.—(1) Where any local government body or any other interested person or body, including a group of interested persons, has by reason of the actual or likely settlement of persons on, the erection or occupation of any structure on or the layout of land, reasonable grounds for believing that—

- (a) such activities are performed contrary to the procedures prescribed in this Act or in any other law; or
- (b) it is in the public interest and the interests of the persons residing or who are going to reside on such land that an exemption under section 48 (1) be granted,

such body, person or group may refer the matter to the designated officer for investigation.

(2) The designated officer shall investigate the matter and submit his or her report thereon to a tribunal.

(3) As soon as is reasonably possible after receiving the report contemplated in subsection (2), a tribunal shall establish whether the settlement of persons, the erection or occupation of buildings on the land or the layout of the land is in any manner inconsistent with any provision or object of this Act or any other law governing the establishment of land development areas unless an exemption under section 48 (1) is granted, and if the tribunal is satisfied that such inconsistency exists, it may grant or decline to grant an exemption contemplated in that section in respect of such area.

(4) A tribunal may in considering a report referred to in subsection (2) conduct the enquiries, hear the evidence and take the steps considered necessary by it in the circumstances and shall in considering the matter take into account—

- (a) the health or safety of the public generally, or of any class of persons, including persons residing in the area concerned;

- (b) the feasibility of providing rudimentary services in the area concerned and of the upgrading of such services over a period of time;
- (c) the feasibility of housing persons in temporary buildings erected by themselves in the area;
- (d) the feasibility of the development of appropriate community facilities and services in the area;
- (e) the suitability of the area for small-scale farming, taking into account its natural resources and location in relation to agricultural facilities;
- (f) the feasibility of providing occupants of the area with appropriate security of land tenure;
- (g) the feasibility of erecting permanent dwellings over a period of time;
- (h) the feasibility of establishing an appropriate local government body or including the area within the local government area of such a body and of providing municipal services to the area;
- (i) the possibility of persons settling in the area being able to acquire sites which are affordable to them, taking into account their likely income and other means of finance, including finance provided by the State;
- (j) the feasibility of the area being fully established as a land development area over a period of time;
- (k) the rights of any person in or in respect of the area and, if necessary, the feasibility of such area or rights being expropriated or otherwise acquired for the purpose of establishing a land development area;
- (l) the environmental sustainability of developing or permitting small-scale farming in the area;
- (m) any similar matter prescribed; and
- (n) any other similar matter which the tribunal may deem necessary.

(5) The provisions of any law on the establishment of a land development area or land-use planning shall not apply in relation to land which is the subject of an exemption referred to in subsection (3) or of proceedings contemplated in that subsection which are pending.

58. Delegation.—(1) The Minister may delegate or assign any power or duty conferred or imposed upon him or her by or under this Chapter, except the power conferred upon him or her by section 59, to a Premier or to any officer in the Departments of Land Affairs or Agriculture.

(2) A Premier may delegate or assign any power or duty conferred or imposed upon him or her by or under this Chapter, including any power or duty delegated or assigned to him or her under subsection (1), to any officer in the provincial administration or in the employ of a local government body.

(3) A delegation or assignment under subsections (1) or (2) shall not prevent the Minister or a Premier, as the case may be, from himself or herself exercising the power or performing the duty concerned.

59. Regulations.—(1) The Minister may, subject to the provisions of subsection (3), make regulations regarding—

- (a) the forms of application or notice in terms of this Chapter;

- (b) the persons or bodies to be notified of a land development application;
- (c) the appointment of designated officers;
- (d) the duties of a land development applicant, designated officer or local government body to give notice to any person or body of any fact relating to the establishment of a land development area;
- (e) the effect of non-compliance with any time limit prescribed under this Chapter;
- (f) the powers, duties and functions of a local government body or any other competent authority in relation to land development;
- (g) the inspections and investigations in relation to land development applications;
- (h) the fees and travelling allowances, if any, to be charged or paid in respect of any act required or authorised to be done under this Chapter;
- (i) the regulation of the use of land in a land development area;
- (j) the guidelines for a land availability agreement contemplated in section 53;
- (k) the supply of services to persons who are settled in a land development area;
- (l) the granting of financial or other assistance to a land development applicant or intended beneficiary of land development;
- (m) any steps which may be taken if a land development applicant does not comply with the conditions of a land availability agreement;
- (n) any other matter which in terms of this Chapter is required or permitted to be prescribed;
- (o) any other matter which he or she considers necessary to prescribe in order to achieve the objects of this Chapter.

(2) The Minister may make different regulations in respect of different areas.

(3) The provisions of section 46 (3) shall, *mutatis mutandis*, apply to regulations made under subsection (1).

60. State and local government bound.—This Chapter binds the State and local government bodies.

CHAPTER VII

Land tenure matters

61. Registration arrangement involving surveyor and conveyancer.—(1) Any land development applicant referred to in Chapter V may apply to a tribunal for the approval of a registration arrangement contemplated in this section.

(2) A tribunal shall not refuse an application referred to in subsection (1) if—

- (a) the provisions of section 38 (2) (a) to (g) have been complied with to the satisfaction of the tribunal;
- (b) the tribunal is satisfied that the conveyancer and professional land surveyor responsible for the issuing of the certificates contemplated in subsection (4) are in possession of sufficient insurance which enables them to issue the certificates; and
- (c) the tribunal is satisfied, if the land development applicant is the State or a local

government body or a person or body with whom the State or local government body has concluded a land availability agreement subject to a suspensive condition that the State or local government body concerned becomes the owner of the land, and if the State or local government body concerned has not yet taken transfer of ownership of the land concerned, that such land has been expropriated in favour of the State or such local government body by any competent authority.

(3) A tribunal may grant an application in terms of subsection (1) subject to the conditions it deems appropriate: Provided that any condition requiring registration in a deeds registry shall be imposed under section 33 (2) and not under this subsection.

(4) (a) At any time after an application in terms of subsection (1) has been granted, the professional land surveyor contemplated in subsection (2) (b) may issue a certificate in the prescribed form certifying that the beacons referred to in section 38 (2) (c) were placed in terms of that section and to the effect that he or she is of the opinion that there is no substantial risk that a general plan will not be approved accordingly.

(b) At any time after an application in terms of subsection (1) has been granted, and if granted subject to a condition referred to in subsection (3), which condition has to be fulfilled prior to the issuing of a certificate contemplated in this paragraph, after such a condition has been fulfilled, the conveyancer contemplated in subsection (2) (b) may issue a certificate in the prescribed form describing the remaining registrable transactions required in a deeds registry before transfer of ownership of erven in the land development area may be registered as contemplated in section 38 (1), and to the effect that he or she is of the opinion that, in the light of the circumstances contemplated in subsection (2) (a) to (c), there is no substantial risk that transfer of ownership of such erven will not be so registered.

(5) The provisions of section 43 relating to professional responsibility and liability apply *mutatis mutandis* to a certificate referred to in subsection (4).

(6) The land development applicant shall file copies of the certificates referred to in subsection (4) with the designated officer and the originals of such certificates, together with the layout plan and an application by the land development applicant for the registrar to take the steps in terms of subsection (7), shall be lodged with the registrar.

(7) Upon receipt of the certificates and the other documents referred to in subsection (6), the registrar shall make such entries into his or her records as may be necessary in order to—

- (a) reflect that a registration arrangement contemplated in this section is in operation in relation to the land development area in question; and
- (b) create a separate register for the registration of initial ownership by reference to the numbers of the individual, proposed erven appearing on the layout plan: Provided that the registrar shall not be obliged to create such a register if the land development area is situated within more than one province or within the area of jurisdiction of more than one deeds registry or a deeds registry referred to in section 66.

62. Initial ownership.—(1) As soon as the entries referred to in section 61 (7) have been made by the registrar, a form of title to be known as initial ownership may be registered in a deeds registry.

(2) The first transfer of initial ownership shall be registered in accordance with the provisions of the Deeds Registries Act, 1937.

(3) The first transfer of initial ownership of an erf in a land development area shall take place by means of a deed of transfer in a form prescribed under the Deeds Registries Act, 1937.

(4) Registration of transfer of initial ownership under subsection (2) shall vest in the holder of the initial ownership—

- (a) the right to occupy and use the erf concerned as if he or she were the owner thereof;
- (b) the right to acquire ownership of such erf as contemplated in subsection (7);
- (c) the right to encumber the initial ownership by means of a mortgage or a personal servitude but, subject to paragraph (d) and subsections (5) (b) and (6), not the right otherwise to encumber or deal with the initial ownership: Provided that for the purposes of creating or reserving a personal servitude in terms of this paragraph, a reference to “land” in the Deeds Registries Act, 1937, shall be construed so as to include a reference to a registered right of initial ownership; and
- (d) the right to sell such initial ownership.

(5) (a) Land in respect of which initial ownership has been transferred shall not, until the initial ownership has been converted into ownership under subsection (7), in any way be alienated or further encumbered by the owner of that land, except to the extent that it may be necessary to comply with a condition of establishment or to register ownership of the land under section 38 (1).

(b) A registrar may, despite the provisions of section 6 of the Deeds Registries Act, 1937, cancel a deed of transfer conveying initial ownership if, subject to subsection (6), the owner of the land concerned, the holder of the initial ownership of the land, the holder of a personal servitude contemplated in subsection (4) (c) and the mortgagee in respect of the initial ownership, or in respect of such personal servitude, if any, agree thereto and such servitude or bond may be cancelled likewise.

(c) No transfer duty or stamp duty shall be payable in respect of a cancellation in terms of paragraph (h).

(6) In the event of initial ownership being sold by the holder thereof or offered for sale during the administration of a deceased estate, a sale in execution, or a sale in consequence of the insolvency or liquidation of the holder of such initial ownership, or where some other event occurs requiring the transfer of such initial ownership, the initial ownership may be transferred in terms of the provisions of the Deeds Registries Act, 1937, as if it were for all purposes a transfer of ownership of land: Provided that such transfer shall not confer upon the transferee any right which the previous holder of initial ownership did not have.

(7) Immediately upon an erf which is the object of initial ownership becoming registrable in ownership as contemplated in section 38 (1), such initial ownership shall be converted into ownership and from such conversion the ownership of such erf shall, subject to any right which would, but for section 65, read with section 64 (8), have been recorded in a deeds registry, vest exclusively in the person who was the holder of initial ownership in respect of such erf immediately before the conversion.

(8) Upon a conversion into ownership in terms of subsection (7)—

- (a) a mortgage bond or personal servitude registered in respect of initial ownership shall be converted into a mortgage or personal servitude in respect of the erf in question; and
- (b) such ownership shall be subject to any condition, servitude, mortgage bond or other right registered immediately before such conversion against the title of the erf or land in the land development area concerned.

(9) (a) In order to give effect to subsections (7) and (8), the registrar shall make the necessary entries and endorsements in or on his or her registers and other documents in his or her office or submitted to him or her.

(b) No transfer duty, stamp duty or other fees shall be payable in respect of such entries and endorsements.

63. Conversion of informal tenure.—(1) Whenever land development takes the form of the upgrading of an existing settlement, informal or unregistered tenure arrangements existing among occupants of the settlement may, subject to any condition referred to in section 33 (2) (p) or 51 (2) (g), be converted into ownership in the manner prescribed.

(2) The regulations contemplated in subsection (1) may relate to—

- (a) the role of any committee, which includes members of the community residing on the settlement in question, in the conversion of such informal tenure arrangements into ownership;
- (b) the use of aerial photographs or other technology for the purpose of compiling a layout or settlement plan;
- (c) the compilation of a draft layout or settlement plan of the settlement;
- (d) the co-operation between various parties involved in the upgrading of the settlement and the persons residing in the settlement in respect of the identification of physical boundaries and the adjudication of disputes;
- (e) the numbering of structures or dwellings on the settlement;
- (f) the compilation of a formal layout plan or settlement plan of the settlement;
- (g) the placing of beacons on the settlement in accordance with the Land Survey Act, 1927;
- (h) the stage of the upgrading at which surveys shall be carried out, a general plan shall be submitted to the Surveyor-General and the manner in which proposed erven in the settlement shall be rendered capable, in accordance with the Land Survey Act, 1927, and the Deeds Registries Act, 1937, of registration in ownership.

(3) The provisions of section 46 (3) shall, *mutatis mutandis*, apply to regulations made under subsection (2).

64. Special deeds of transfer.—(1) As soon as transfer of ownership of erven in a land development area may be registered under section 38 (1), a deed of transfer contemplated in this section may be prepared and lodged with a registrar: Provided that—

- (a) this section shall not preclude the registration of transfer of ownership of an erf in terms of any other law; and
- (b) a deed of transfer contemplated in this section shall be used only in respect of the first transfer of ownership of an erf in a land development area subdivided under this Act.

(2) A deed of transfer referred to in subsection (1) shall be prepared by—

- (a) a conveyancer; or
- (b) if the owner of the erf is the state or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister, Premier or local government body, as the case may be.

(3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by the owner of the erf or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2) (a) or officer or person referred to in subsection (2) (b) in the manner prescribed under that Act.

(4) An officer or person referred to in subsection (2) (b)—

- (a) shall disclose the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the said transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, *mutatis mutandis*, in terms of section I5A (1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and
- (b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer contemplated in this section.

(5) A conveyancer, officer or person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.

(6) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.

(7) Ownership of an erf in a land development area shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).

(8) Section 17 (1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty or stamp duty shall be payable in respect of the transfer of any erf in terms of this section.

65. Deeds of transfer relating to initial ownership.—Section 64 (2) to (8) shall, *mutatis mutandis*, apply to the registration of the first transfer of initial ownership.

66. Application and administration of registration arrangements contemplated in this Act in former homelands.—Despite anything to the contrary contained in any other law, any transaction, diagram, plan, document, step or action referred to or contemplated in this Act which is capable of registration in a deeds registry or which must be approved by a Surveyor-General, may, in the case of a territory which was immediately before the commencement of the Constitution—

- (a) known as Transkei, Bophuthatswana, Venda or Ciskei, be so registered or approved *mutatis mutandis* in accordance with the provisions of this Act, the Land Survey Act, 1927, and the Deeds Registries Act, 1937: Provided that, for all purposes of such registration or approval, any reference in the said Land Survey Act, Deeds Registries Act or this Act to a “registrar”, a “Surveyor-General” or a “deeds registry” shall be deemed to be a reference to a registrar, Surveyor-General or deeds registry as contemplated or defined in any corresponding act, regulation or enactment relating to land survey or the registration of deeds which, by virtue of section 229 of the Constitution, continues to be in force in such territories; or
- (b) known as KwaNdebele or KwaZulu, be so registered or approved *mutatis mutandis* in accordance with the provisions of this Act, the Land Survey Act, 1927, and the Deeds Registries Act, 1937, to the exclusion of any corresponding act, regulation or enactment relating to land survey or the registration of deeds which, by virtue of section 229 of the Constitution, continues to be in force in such territories.

CHAPTER VIII
General provisions

67. Land development applications made in terms of other laws.—(1) Any application for land development made in terms of any other law prior to the commencement of this Act, but which has not yet, at such commencement, been approved or rejected by any competent authority in terms of such other law may, despite anything to the contrary contained in such other law, be continued as a land development application under this Act on the basis that—

- (a) a tribunal shall only consider such a land development application if it is satisfied that the application originally brought in terms of such other law has been withdrawn and will not be proceeded with in terms of such other law; and
- (b) a tribunal may exempt the land development applicant from any provision of this Act if the tribunal is satisfied that the land development applicant has, by complying with any provision of such other law, substantially complied with an equivalent provision of this Act.

(2) After a land development application has been lodged in terms of this Act the same or a substantially similar land development application may not also be brought in terms of any other law.

(3) If a land development application has been rejected in terms of this Act, the same or a substantially similar land development application may not, within a period of two years, thereafter be brought in terms of any other law.

68. Amendment of laws.—The laws specified in the Schedule are hereby amended to the extent set out in the third column thereof.

69. Short title and commencement.—This Act shall be called the Development Facilitation Act, 1995, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Schedule
LAWS AMENDED

<i>No. and year of lw</i>	<i>Short title</i>	<i>Extent of amendment</i>
Act No. 47 of 1937	Deeds Registries Act, 1937.....	1. Amendment of section 3 by the insertion after paragraph (d) of subsection (1) of the following paragraph:
		„(d)bis register deeds of transfer of initial ownership as contemplated in section 62 of the Development Facilitation Act. 1995 ;”.
		2. Amendment of section 10 by the substitution for paragraph (q) of subsection (1) of the following paragraph:

		„(q) the form of applications, deeds and registers which shall be used in connection with the registration of a right of leasehold, of initial ownership contemplated in section 62 of the Development Facilitation Act, 1995, and any other real right in respect of land held under such right of leasehold or initial ownership;”.
		3. Amendment of section 102 by the substitution in subsection (1) for the definition of “immovable property” of the following definition:
		“‘immovable property’ includes—
		(a) any registered lease of rights to minerals;
		(b) any registered lease of land which, when entered into, was for a period of not less than ten years or for the natural life of the lessee or any other person mentioned in the lease, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period amount in all to not less than ten years;
		(c) a registered right of lease hold; and
		(d) a registered right of initial ownership contemplated in section 62 of the Development Facilitation Act, 1995;”.
Act No. 68 of 1981	Alienation of Land Act, 1981.....	1. Amendment of section 1—
		(a) by the substitution for paragraph (a) of the definition of “land” of the following paragraph:
		“(a) includes—
		(i) any unit;

		(ii) any right to claim transfer of land;
		(iii) any undivided share in land;
		(iv) initial ownership referred to in section 62 of the Development Facilitation Act, 1995;" and
		(b) by the substitution for the definition of "registrable" of the following definition:
		" 'registrable', in relation to land, means capable of being registered as the subject of a separate title deed in a deeds registry in that the requirements of any law relating to such registration have been complied with, and includes capable of being transferred in initial ownership as contemplated in section 62 of the Development Facilitation Act, 1995;"
Act No. 81 of 1988	Conversion of Certain Rights into Leasehold or Ownership Act, 1988.....	1. Amendment of section 5—
		(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

		<p>„(b) in terms of section 4 (1) (b), he shall lodge such declaration and a deed of transfer, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), and made out in the name of the person mentioned in the declaration, with the registrar concerned.”;</p>
		<p>(b) by the insertion after subsection (1) of the following subsection:</p>
		<p>“(1A) (a) A deed of transfer referred to in subsection (1) (b) shall be prepared by—</p>
		<p>(i) a conveyancer; or</p>
		<p>(ii) if the owner of the affected site is the State or a government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister of Land Affairs, a Premier or a local government body, as the case may be.</p>
		<p>(b) A deed of transfer referred to in subsection (1) (b) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by the owner of the affected site or his or her duly authorised agent in the presence of a conveyancer referred to in paragraph (a) (i) or officer or person referred to in paragraph (a) (ii) in the manner prescribed under that Act.</p>

		<p>(c) An officer or person referred to in paragraph (a) (ii)—</p>
		<p>(i) shall disclose the fact that the deed of transfer referred to in subsection (1) (b), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts <i>mutatis mutandis</i>, in terms of section 15A (1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and</p>
		<p>(ii) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.</p>
		<p>(d) A conveyancer, officer or person referred to in paragraph (a) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.</p>

		(e) The registrar shall deal with a deed of transfer and the other documents referred to in paragraph (d) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.
		(f) Ownership of the affected site shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1) (b).
		(g) Section 17 (1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of the affected site in terms of this section.
		(h) Sections 4 (2) and 5 (1) (a) (ii) shall <i>mutatis mutandis</i> apply in respect of a deed of transfer referred to in subsection (1) (b).”; and
		(c) by the deletion of paragraph (b) of subsection (3).
		2. Section 1 shall come into operation three months after the commencement of this Schedule
Act No. 112 of 1991	Upgrading of Land Tenure Rights Act, 1991.....	1. Amendment of section 3—
		(a) by the substitution for subsection (1) of the following subsection:
		„(1) Any land tenure right mentioned in Schedule 2 and which was granted in respect of—
		(a) any erf or any other piece of land in a formalized township for which a township register was or is opened either before or after the commencement of this Act; or

		(b) any piece of land which is surveyed under a provision of any law and does not form part of a township,
		shall, upon the submission by the owner of such erf or piece of land at the deeds registry of a deed of transfer, on the form prescribed for that purpose under the Deeds Act and made out in the name of the person who is the holder of the relevant land tenure right, be converted into ownership by the registrar of deeds by the registration of such erf or piece of land in the name of such person.”
		(b) by the substitution for subsections (2), (3), (4) and (5) of the following subsections:
		“(2) A deed of transfer referred to in subsection (1) shall be prepared by —
		(a) a conveyancer; or
		(b) if the owner of the erf or piece of land is the State or any local government body, any officer in the public service or a person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister, a Premier or a local government body, as the case may be.
		(3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Act and shall be signed by the owner of the erf or piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2) (a) or an officer or person referred to in subsection (2) (b) in the manner prescribed under that Act.

		(4) An officer or person referred to in subsection (2) (b)—
		(a) shall disclose the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of signing accepts, <i>mutatis mutandis</i> , in terms of section 15A (1) and (2) of the Deeds Act, responsibility for the correctness of the facts stated in any such document; and
		(b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.
		(5) A conveyancer, officer or person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Act.”; and
		(c) by the insertion after subsection (5) of the following subsections:

		<p>„(6) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Act.</p>
		<p>(7) Ownership of the erf or piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</p>
		<p>(8) Sections 17 (1) and (2) of the Deeds Act shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf or piece of land in terms of this section.”.</p>
		<p>2. Amendment of section 13—</p>
		<p>(a) by the substitution for subsection (1) of the following subsection:</p>
		<p>„(1) If a township owner, with reference to any formalized township, intends to transfer ownership in respect of any erf or any other piece of land in respect of which no land tenure right has been granted, he may do so by lodging a deed of transfer on the form prescribed for that purpose under the Deeds Act and made out in the name of the transferee, at the deeds registry for the registration of such erf or piece of land in the name of the transferee.”;</p>
		<p>(b) by the substitution for subsections (3), (4) and (5) of the following subsections:</p>
		<p>„(3) A deed of transfer referred to in subsection (1) shall be prepared by—</p>
		<p>(a) a conveyancer; or</p>

		<p>(b) if the owner of the erf or piece of land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister, a Premier or a local government body, as the case may be.</p>
		<p>(4) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Act, and shall be signed by the owner of the erf or piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3) (a) or an officer or person referred to in subsection (3) (b) in the manner prescribed under that Act.</p>
		<p>(5) An officer or a person referred to in subsection (3) (b)—</p>
		<p>(a) shall disclose the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue or such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A (1) and (2) of the Deeds Act, responsibility for the correctness of the facts stated in any such document; and</p>

		<p>(b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.”; and</p>
		<p>(c) by the insertion after subsection (5) of the following subsections:</p>
		<p>„(6) A conveyancer, officer or person referred to in subsection (3) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Act.</p>
		<p>(7) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (6) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Act.</p>
		<p>(8) Ownership of the erf or piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</p>
		<p>(9) Section 17 (1) and (2) of the Deeds Act shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf or piece of land in terms of this section.”.</p>
		<p>3. The amendment of section 18F—</p>
		<p>(a) by the substitution for subsection (2) of the following subsection:</p>
		<p>„(2) Any land tenure right mentioned in Schedule 2 and granted in respect of any piece of land in an area—</p>

		(a) which has been declared under section 18A (1) to be a rural settlement; and
		(b) in respect of which the relevant title deed, diagram, general plan and register have been produced to the registrar of deeds in terms of subsection (1),
		shall, upon the lodgement by the owner of such piece of land at the relevant deeds registry of a deed of transfer, on the form prescribed for that purpose under the Deeds Act and made out in the name of the person who is the holder of the relevant land tenure right, be converted into ownership by that registrar of deeds by the registration of the piece of land in the name of the said person: Provided that the registrar of deeds shall not so register any piece of land unless a certificate of rights to minerals has been taken out for the reservation of the rights to minerals in respect of such piece of land or the land on which such area is situate, as the case may be.”;
		(b) by the substitution for subsections (3), (4), (5), (6) and (7) of the following subsections:
		„(3) A deed of transfer referred to in subsection (2) shall be prepared by—
		(a) a conveyancer; or

		<p>(b) if the owner of the piece of land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister, a Premier or a local government body, as the case may be.</p>
		<p>(4) A deed of transfer referred to in subsection (2) shall be in the form prescribed under the Deeds Act and shall be signed by the owner of the piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3) (a) or an officer or person referred to in subsection (3) (b) in the manner prescribed under that Act.</p>
		<p>(5) An officer or person referred to in subsection (3) (b)—</p>
		<p>(a) shall disclose the fact that the deed of transfer referred to in subsection (2), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A (1) and (2) of the Deeds Act, responsibility for the correctness of the facts stated in any such document; and</p>

		(b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.
		(6) A conveyancer, officer or other person referred to in subsection (3) shall lodge the deed of transfer together with the necessary supporting documents at a deed registry in the manner prescribed under the Deeds Act.
		(7) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (6) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Act.”; and
		(c) by the insertion after subsection (7) of the following subsections:
		„(8) Ownership of the piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (2).
		(9) Section 17 (1) and (2) of the Deeds Act shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any piece of land in terms of this section.”.
		4. Sections 1, 2 and 3 shall come into operation three months after the commencement of this Schedule.
Act No. 113 of 1991	Less Formal Township Establishment Act, 1991.....	1. Amendment of section 9—

		(a) by the substitution for subsection (1) of the following subsection:
		<p>„(1) If, at an allocation under section 8 (1), the developer intends to transfer ownership of an erf, he shall, as soon as the township register in respect of the designated land has been opened, or, if such allocation takes place after the opening of the township register, as soon as possible after the allocation, lodge a deed of transfer, made out in the name of the person to whom the erf has been allocated, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), at the deeds registry, whereupon the registrar of deeds shall register the erf in the name of such person.”;</p>
		(b) by the substitution for subsections (2), (3) and (4) of the following subsections:
		<p>„(2) A deed of transfer referred to in subsection (1) shall be prepared by—</p>
		(a) a conveyancer; or
		(b) if the owner of the erf is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister of Land Affairs, a Premier or a local government body, as the case may be.

		<p>(3) A deed of transfer referred to b subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by the owner of the erf or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2) (a) or an officer or person referred to in subsection (2) (b) in the manner prescribed under that Act.</p>
		<p>(4) An officer or person referred to in subsection (2) (b)—</p>
		<p>(a) shall disclose the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A (1) and (2) of the Deed Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and</p>
		<p>(b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.”; and</p>
		<p>(c) by the insertion after subsection (4) of the following subsections:</p>

		<p>„(5) A conveyancer, officer or person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.</p>
		<p>(6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.</p>
		<p>(7) Ownership of the erf shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</p>
		<p>(8) Section 17 (1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf in terms of this section.”.</p>
		<p>2. The amendment of section 26—</p>
		<p>(a) by the substitution for subsection (1) of the following subsection:</p>

		<p>„(1) „(1) If the tribe, in accordance with a decision referred to in section 25 (1), intends to transfer ownership in an erf to a tribe member, it shall, after the township register in respect of the land concerned has been opened, lodge a deed transfer, made out in the name of the person to whom the erf is to be transferred, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), at the deeds registry, whereupon the registrar of deeds shall register the erf in the name of such person.”;</p>
		<p>(b) by the substitution for subsections (2), (3) and (4) of the following subsections:</p>
		<p>„(2) A deed of transfer referred to in subsection (1) shall be prepared by—</p>
		<p>(a) a conveyancer; or</p>
		<p>(b) if the owner of the erf is the State or any local government body, any officer in the public service person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister of Land Affairs, a Premier or a local government body, as the case may be.</p>

		<p>(3) A deed of transfer referred to subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by the owner of the erf or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2) (a) or an officer or person referred to in subsection (2) (b) in the manner prescribed under that Act.</p>
		<p>(4) A person or officer referred to in subsection (2) (b)—</p>
		<p>(a) shall disclose the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A (1) and (2) of the Deed Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and</p>
		<p>(b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.”; and</p>
		<p>(c) by the insertion after subsection (4) the following subsections:</p>

		<p>„(5) A conveyancer, officer or person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.</p>
		<p>(6) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.</p>
		<p>(7) Ownership of the erf shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</p>
		<p>(8) Section 17 (1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf in terms of this section.”.</p>
		<p>3. Sections 1 and 2 shall come into operation three months after the commencement of this Schedule.</p>
Act No. 126 of 1993	Provision of Certain Land for Settlement Act, 1993.....	<p>1. Amendment of section 1 by the substitution for the definition of “Minister” of the following definition:</p>
		<p>““Minister” means the Minister of Land Affairs;”.</p>
		<p>2. Amendment of section 9—</p>
		<p>(a) by the substitution for subsection (1) the following subsection:</p>

		<p>„(1) If ownership in a piece land referred to in section 5 is transferred, the developer shall, as soon as the surveying thereof is completed, lodge a deed of transfer, made out in the name of the person to which such piece of land has been alienated, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), at the deeds registry, whereupon the registrar of deeds shall register such piece of land in the name of that person.”;</p>
		<p>(b) by the substitution for subsections (2), (3) and (4) of the following subsections:</p>
		<p>„(2) A deed of transfer referred in subsection (1) shall be prepared by—</p>
		<p>(a) a conveyancer; or</p>
		<p>(b) if the owner of the piece of land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister, a Premier or a local government body, as the case may be.</p>
		<p>(3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by the owner of the piece of land his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2) (a) or an officer or person referred to in subsection (2) (b) in the manner prescribed under that Act.</p>

		(4) An officer or person referred to in subsection (2) (b)—
		(a) shall disclose the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i> , in terms of section 15A (1) and (2) of the Deed Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and
		(b) may, despite anything to the contrary contained in any other law, perform all of the functions of conveyancer in relation to the registration of a deed of transfer as contemplated in this section.”; and
		(c) by the insertion after subsection (4) of the following subsections:
		.,(5) A conveyancer, officer or person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.

		(6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.
		(7) Ownership of the piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).
		(8) Section 17 (1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer or stamp duty shall be payable in respect of the transfer of ownership of land referred to—
		(a) in section 2 (1) (a) and (b); or
		(b) in section 2 (1) (c) the owner of which is a development body.”.
		3. The substitution for section 10 of the following section:
		„10. The Minister may, from money appropriated by Parliament for this purpose, in the prescribed manner grant an advance or a subsidy to any person, including a person, trust, group of persons or juristic person contemplated in section 51 (2) (b) of the Development Facilitation Act, 1995—
		(a) in relation to any aspect of the development of land which is designated land, or a land development area as contemplated in the Development Facilitation Act, 1995;

		(b) for the acquisition of designated land or of a land development area contemplated in the said Act;
		(c) for the benefit of occupants of land not owned by them, for the purpose of carrying on a development on such land, with the consent of the owner of such land and in terms of an agreement, complying with the prescribed guidelines, entered into between the owner of such land, the Minister and the said occupants.”.
		4. The repeal of section 11.
		5. Section 2 shall come into operation three months after the commencement of the Schedule.

DEVELOPMENT FACILITATION ACT 67 OF 1995

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REGULATIONS

GN 3004 of 30 August 1996: Gauteng Land Development Objective Regulations

DEPARTMENT OF AGRICULTURE

I, Sicelo Shiceka, being the MEC in the Province of Gauteng to whom the Premier has assigned the performance of certain functions in terms of section 27 (3) of the Development Facilitation Act, 1995 (Act No. 67 of 1995), hereby make the regulations contained in the Schedule hereto.

Given under my Hand at Johannesburg this 28th day of August, One thousand Nine hundred and Ninety-six.

S. SHICEKA

MEC: Development Planning and Local Government

SCHEDULE

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1. Definitions.—(1) In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned unless the context otherwise indicates and “the Act” means the Development Facilitation Act, 1995 (Act No. 67 of 1995);

“**land development objectives**” means land development objectives set by a local government body or an MEC, as the case may be, in accordance with Part D of these regulations;

“**MEC**” means the Member of Executive Council in the Province of Gauteng for Development Planning and Local Government;

“**public participation plan**” means a plan for public participation prepared by a local government body in accordance with regulation 8;

“**working plan**” means a plan, prepared by a local government body, for the setting of land development objectives as contemplated in regulation 10.

PART A

GENERAL PROVISIONS FOR THE FORMULATION OF LAND DEVELOPMENT OBJECTIVES

2. Principles relating to land development objectives.—The setting and implementation of land development objectives by any local government body, shall be consistent with the general principles for land development as set out in section 3 of the Act and such further principles as may be prescribed by the Minister of the Premier of the Gauteng province in terms of the said section.

3. Purpose of land development objectives.—The general purpose of land development objectives set by any local government body shall be

- (a) to create a new system of planning for development at a local level which deepens and promotes democracy;
- (b) to create a new system of planning at local level which links public expenditure to financially sustainable development strategies which are guided by a vision and priorities determined jointly between the government and the general public;
- (c) to create a new system of planning that encourages sustained utilisation of the environment;
- (d) to enable effective participation by members of the public and interested bodies in the setting of land development objectives and to build partnerships and co-operation between government and civil society in implementing land development objectives;
- (e) to build co-operation and co-ordination between the different levels of government in planning and development; and
- (f) to ensure rapid delivery of programmes and projects associated with the Reconstruction and Development Programme (RDP).

4. Co-ordination of land development objectives.—(1) Transitional metropolitan and services councils shall be responsible for co-ordinating land development objectives set by its substructures and its constituent councils respectively.

(2) Such co-ordination shall ensure that land development objectives set by transitional metropolitan substructures and transitional local and rural councils are—

- (a) consistent with the general principles for land development as described in regulation 2;
- (b) consistent with land development objectives set by the transitional metropolitan councils, services councils or other local government bodies which impact on the relevant local government body area; and
- (c) consistent with these regulations.

(3) Land development objectives set by a transitional metropolitan council or a services council shall consist of a composite of land development objectives prepared by transitional metropolitan substructures, transitional rural councils or transitional local councils within their respective areas of jurisdiction together with additional land development objectives relevant to the developmental role of the transitional metropolitan council or services council, as the case may be.

(4) A transitional metropolitan council or services council may where necessary for the purposes of co-ordination as described in sub-regulation (2), amend land development objectives set by a local government body, after consultation with the local government body.

(5) The MEC shall be responsible for co-ordinating land development objectives set by the transitional metropolitan and services council.

(6) Co-ordination by the MEC shall ensure that land development objectives set by transitional metropolitan councils and services councils are—

- (a) consistent with the general principles for land development as described in regulation 2;
- (b) consistent with land development objectives set by other transitional metropolitan councils, services councils or local government bodies which impact on the area; and
- (c) consistent with these regulations.

(7) The MEC may, where necessary for the purposes of co-ordination described in subregulation (6) above, amend land development objectives set by transitional metropolitan or services councils, after consultation with the transitional metropolitan or services council.

5. Failure to prepare land development objectives.—(1) If a local government body fails to set land development objectives within the period stipulated in terms of regulation 9, the MEC himself/herself may set such land development objectives: Provided that the MEC shall not be required to prepare a public participation or working plan.

(2) The MEC shall notify the local government body in writing of his/her intention to set land development objectives as provided for in subregulation (1) above.

(3) Any expenditure incurred by the MEC in connection with the setting of land development objectives under subregulation (1) may be recovered from the local government body concerned.

(4) The local government body may within a period of thirty (30) days from the date of such notice initiate the procedures contemplated in regulations 10 and 11, in which case the MEC shall not set land development objectives as contemplated in subregulation (1): Provided that should the local government body fail to set land development objectives in accordance with the working plan, the MEC may without further notice to the local government body set land development objectives in terms of this regulation.

(5) The MEC may contract any person or body to prepare land development objectives on his/her behalf.

PART B

PARTICIPATION WITH REGARD TO THE SETTING AND IMPLEMENTATION OF LAND DEVELOPMENT OBJECTIVES

6. General objectives of public participation.—(1) The objective of public participation shall be to ensure that land development objectives are based, as far as possible, on consensus between members of the public and interested bodies in a particular area.

(2) Participation should focus on how resources from different groups may be mobilised to assist in the effective implementation of the land development objectives.

(3) Participation by members of the public and interested bodies should be designed to enable direct input in the formulation of land development objectives.

7. Structuring of public participation.—(1) A local government body shall ensure participation in the setting of land development objectives in accordance with regulation 6 and shall involve members of the public and interested bodies within its area of jurisdiction, including

- (a) organisations which are broadly representative of particular interest groups;
- (b) representatives of the business sector;
- (c) government departments; and
- (d) any other organisation which could assist in the setting and implementation of land development objectives.

(2) A local government body may, where issues addressed in the setting of land development objectives are of interest to a specific interest group or sector, invite participation from such organisations as may represent such interests.

(3) In the event that the local government body or any interested body cannot agree in respect of the land development objectives or any aspect thereof, the local government body shall use the deadlock breaking mechanisms for dispute resolution identified in terms of regulation 8 (2) (e), and in the event of such mechanisms failing to resolve the dispute, the local government body shall take the final decision as to the content of land development objectives or any aspect thereof: Provided that the local government body shall notify the MEC in writing of the nature of the dispute and such final decision.

(4) The MEC may at any time during the setting of land development objectives, if he or she is of the opinion that public participation has or is not taking place in accordance with the public participation plan or regulation 6, instruct the local government body to conduct public participation in accordance with the public participation plan or in accordance with such guidelines as the MEC may deem necessary in order to ensure that public participation takes place in accordance with these regulations.

8. Preparation of a public participation plan.—(1) The preparation of a working plan with regard to land development objectives as contemplated in regulation 10 shall include a public participation plan.

(2) The public participation plan shall be prepared by the local government body after consultation with interested bodies and shall take into consideration the provisions of regulations 6 and 7 and include proposals with regard to—

- (a) organisational arrangements and proposed structures for public and community participation;
- (b) methods for dissemination of information relating to the formulation of land development objectives;
- (c) the training, to the extent necessary, of local government officials and councillors and representatives of civil society organisations;
- (d) the financing of the public participation process; and
- (e) deadlock breaking mechanisms.

PART C STAGED IMPLEMENTATION OF LAND DEVELOPMENT OBJECTIVES

9. Time period for submission of land development objectives.—(1) The MEC shall by notice in the Provincial Gazette require local government bodies, within the time period specified in such notice, to set or review, as the case may be, land development objectives which shall cover plans for development for a period of 5 (five) years.

(2) Such notice shall be given in writing to each local government body in the Province.

(3) Such notice shall require the local government body within 60 (sixty) days of the date of such notice or such extended period as the MEC may allow on application of the local government body prior to the expiry of the said 60 (sixty) day period, to submit a working plan as contemplated in regulation 10 below.

10. Compilation of working plan.—The local government body shall within the period required in terms of regulation 9 (3) above, submit to the MEC for approval a working plan which shall, to the extent applicable, include—

- (a) a public participation plan for the setting of the land development objectives in accordance with the provisions of regulation 8;
- (b) a statement as to the period within which the local government body will submit land development objectives for approval to the MEC which period may not exceed 6 (six) months from the date of the MEC's notice as contemplated in regulation 9 (1) above, or within a period agreed to by the MEC;
- (c) a statement as to what assistance the local government body required from the Gauteng provincial government in respect of the setting of land development objectives;
- (d) in the case of a transitional metropolitan council and services council, an indication of the budgetary cycles of local government bodies, within its area of jurisdiction, which are affected by the land development objectives;
- (e) a statement as to the availability of existing financial resources for the setting of land development objectives, any shortfalls anticipated and how these shortfalls will be financed;
- (f) a statement as to how capacity building programmes will be conducted in order to allow disadvantaged groups to participate in the setting of land development objectives; and
- (g) any other documents that the MEC may specify in the notice referred to in regulation 9.

11. Approval of working plan.—(1) The local government body shall submit the working plan to the MEC for his/her consideration.

(2) The MEC may within 30 (thirty) days of receipt thereof

- (a) approve such working plan; or
- (b) reject such working plan in which case he/she shall refer the working plan back to the local government body, together with his/her comments, in which case the local government body shall within a period of 30 (thirty) days or such longer period as the MEC may allow after consultation with the local government body, re-submit such plan to the MEC for his/her consideration.

PART D SETTING OF LAND DEVELOPMENT OBJECTIVES

12. Notice of intention to set land development objectives.—(1) After the approval of the working plan in accordance with regulation 11, the local government body shall notify members of the public and interested bodies within its area of jurisdiction of its intention to set land development objectives and invite their participation in accordance with the public participation plan.

(2) The notice in terms of subregulation (1) shall—

- (a) be published in English and another official language commonly used in the local government body area, in two issues of a daily newspaper circulating in the local government body area, the second notice to be published a week after the first; and
- (b) state, in accordance with the public participation plan, the manner in and time period within which members of the public and interested bodies will be entitled to participate in the setting of and comment on land development objectives.

13. Submission.—The local government body shall, subject to regulation 4 regarding the co-ordination of land development objectives, submit land development objectives as well as any representations received, together with its comments and recommendations therein within the time period specified in the notice contemplated in regulation 9, to the MEC for his/her consideration.

14. Approval of land development objectives by the MEC.—(1) The MEC may, within 60 (sixty) days of receipt of land development objectives submitted to him/her in terms of regulation 13—

- (a) approve such land development objectives; or
- (b) refuse to approve such land development objectives in accordance with section 27 (1) of the Act, in which case the MEC shall furnish his/her written reasons as required in terms of the said section of the Act.

(2) The MEC may, if he/she has refused to approve land development objectives in terms of subregulation (1) (b), refer the land development objectives together with his/her written reasons back to the local government body and the local government body shall, within a period of 30 (thirty) days or such longer period as the MEC may allow after consultation with the local government body, re-submit such land development objectives, together with such further comments or representations as may have been received by the local government body, to the MEC for his/her consideration: Provided that should the MEC refuse to approve land development objectives re-submitted to him/her in terms of this regulation, the MEC shall thereafter set land development objectives in respect of that local government body area.

15. Notice of approval of land development objectives.—(1) Once the MEC has approved the land development objectives in terms of regulation 14 (1), the local government body shall—

- (a) publish a notice in the Provincial Gazette and in a daily newspaper circulating in the local government body area in English and another official language, commonly used, in the area, to the effect that—
 - (i) land development objectives have been approved in respect of that area of jurisdiction; and
 - (ii) copies of the land development objectives are open for inspection at the place specified in the notice; and
- (b) make available for inspection, copies of the approved land development objectives at a place determined by the local government body.

(2) The MEC shall notify the Designated Officer and Tribunal Registrar that land development objectives have been approved in respect of that area.

16. Review of land development objectives.—(1) Land development objectives shall be reviewed annually for the first 5 (five) years and there after at such intervals as the MEC may determine by notice in the Provincial Gazette and which intervals shall be consistent with the

budgeting cycles followed by local government bodies.

(2) Land development objectives shall be reviewed and submitted to the MEC by the relevant local government body in accordance with these regulations which shall apply *mutatis mutandis* to such review.

17. Withdrawal.—The MEC may at any time, in consultation with the local government body concerned, withdraw land development objectives or a portion thereof.

18. Monitoring the implementation of land development objectives.—At the completion of each review period determined in terms of regulation 16 (1) or at any other time as the MEC may determine, the local government body shall submit to the MEC a report describing its performance in terms of its approved land development objectives over the said period.

19. Provisions to be included in the land development objectives.—(1) Land development objectives shall include the subject matter prescribed in terms of section 28 of the Act.

(2) In addition to the subject matter prescribed in section 28 (1) (b) of the Act, land development objectives set in terms of these regulations shall include objectives for the following 5 (five) year period relating to—

- (a) the general direction for overall growth and development in the area in the form of a vision statement indicating—
 - (i) a single short vision statement to guide overall development in the area;
 - (ii) the overall contribution of the area to the growth and development strategy of the region and province; and
 - (iii) the major strategic development strengths, weaknesses, opportunities and threats of the area identified by the responsible body in collaboration with its stakeholders and how each of these will be addressed;
- (b) access to and the standard of services pertaining to the subject matter prescribed in section 28 (1) (a) of the Act, including sanitation, electricity, recreational facilities and public open spaces to be provided for land development (determined by overall anticipated development, affordability and available resources); and
- (c) the development framework for the area indicating the major trends influencing development, including—
 - (i) demographic growth;
 - (ii) existing services and infrastructure;
 - (iii) economic conditions and trends;
 - (iv) social conditions and trends;
 - (v) development priorities and needs within the area;
 - (vi) safety and security within the area; and
 - (vii) state of the environment.

(3) In addition to the subject matter prescribed in section 28 of the Act, land development objectives set in terms of these regulations shall include development strategies for the following 5 (five) year period in relation to—

- (a) the manner in which the following issues will be addressed in the area:
 - (i) The creation of jobs and strengthening of the local economy;

- (ii) social development and how community facilities, health, education and welfare concerns shall be incorporated into the social fabric of communities;
 - (iii) social and economic integration of low income communities in the area;
 - (iv) the provision of adequate support to vulnerable communities until proposed or planned development initiatives materialise;
 - (v) the improvement of safety and security;
 - (vi) the improvement of public transportation and circulation;
 - (vii) the improvement and conservation of the natural environment to achieve environmentally sustainable development;
 - (viii) the provision of bulk and connector infrastructure for land development taking into consideration the local authority investment programme;
 - (ix) the co-ordination of land development in consultation with adjacent local authorities; and
 - (x) the reform of land use control mechanisms to stimulate environmentally sustainable development;
- (b) the subject matter of section 28 (1) (c) (i), including the following sectors and subsectors of the economy:
- (i) industry;
 - (ii) the formal business sector;
 - (iii) small and medium enterprises;
 - (iv) the informal sector;
 - (v) community labour based development activities and public works;
 - (vi) the non-governmental sector;
 - (vii) the urban and rural agriculture sector; and
 - (viii) the tourism and ecotourism sector;
- (c) the subject matter of section 28 (1) (c) (ii), including strategies in relation to—
- (i) a capital investment programme and estimates of the financial implication of the programme, including—
 - (aa) capital improvements to be undertaken and how this is to be achieved; and
 - (bb) implications of the programme for operational and maintenance budgets;
 - (ii) financing mechanisms and sources of funding for the capital investment programme, including—
 - (aa) public sector contributions;
 - (bb) private sector contributions; and
 - (cc) community sector contributions;
 - (iii) overall financial requirements for the implementation of the land development objectives, including revenue sources, financing mechanisms and implications on existing and future financial policy;
 - (iv) encouraging the payment of services as part of the overall financing of the land development objectives; and

- (v) cost-containment and efficiency measures within the local authority and its departments to give effect to the plan;
- (d) the subject matter of section 28 (1) (c) (iii), including strategics in relation to the administrative and institutional arrangements for implementing the land development objectives, including proposed new administrative and delivery structures for the area (such as one stop shop offices, development corporations, partnerships, promotion agencies, etc.);
- (e) gearing programmes and projects to strategically catalyse and increase the level of growth and development in the area, including—
 - (i) the agency responsible for delivering the programmes or projects; and
 - (ii) financing, resourcing and time frames for these programmes or projects within the financing framework outlined in subregulation (c); and
- (f) monitoring and evaluating the implementation of the land development objectives, implementing appropriate monitoring and evaluation mechanisms for this purpose, and monitoring environmental and health performance indicators.

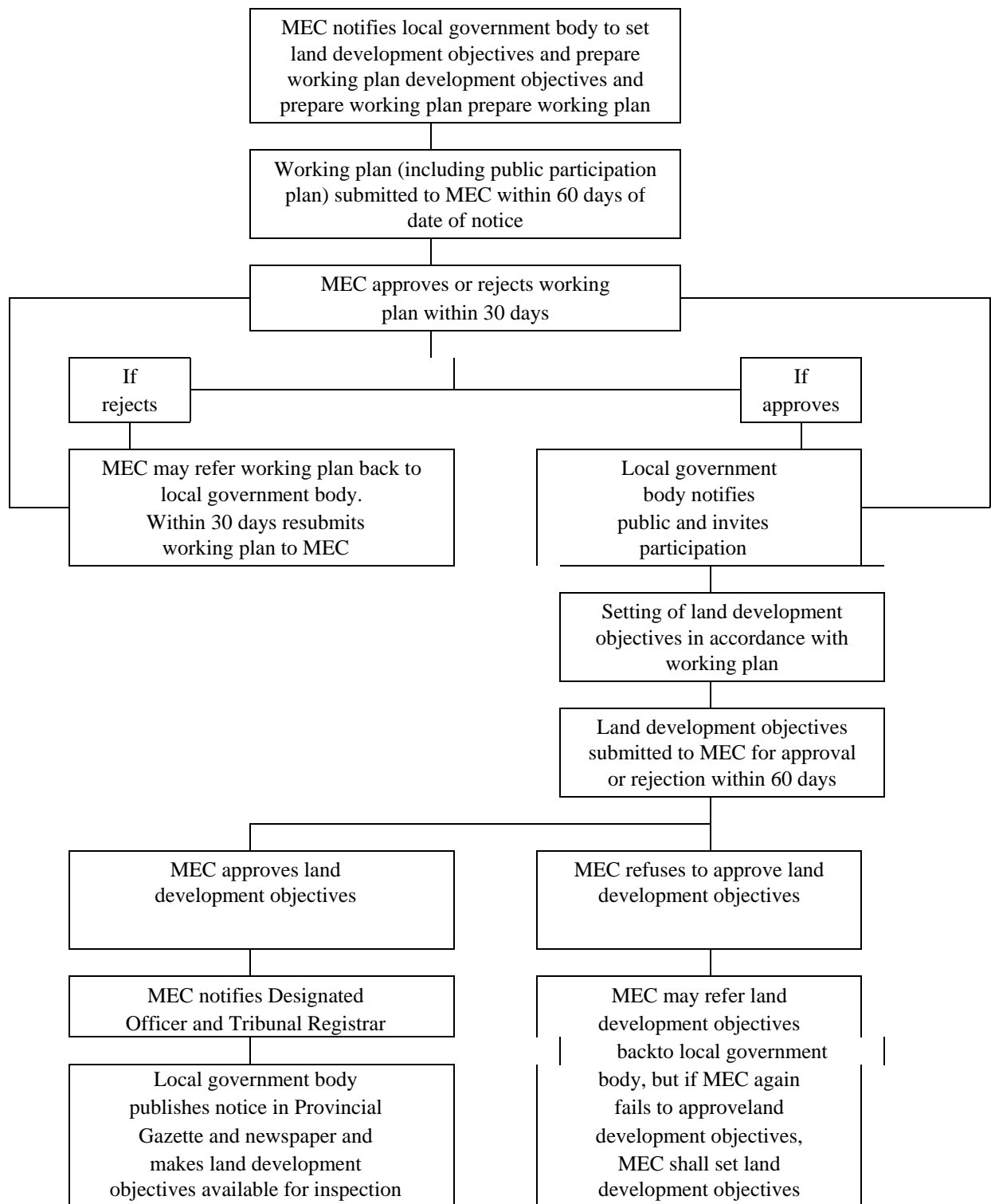
(4) In addition to the subject matter prescribed in section 28 (1) (d) of the Act, land development objectives shall relate to the quantum of land development objectives in the sense of—

- (a) the number of jobs and services considered in these regulations that are planned over the 5 (five) year period; and
- (b) how much of the developments considered in these regulations will be provided each year over the 5 (five) year period, and how this delivery will be accelerated.

20. Short title.—These regulations shall be called the Gauteng Land Development Objectives Regulations, 1996, and shall come into operation on the date of publication in the Provincial Gazette (30 August 1996).

Annexure A PROCEDURE: FLOW DIAGRAM

Annexure A is a flow diagram that provides guidelines to the procedures for the setting of land development objectives in terms of these regulations.



ON 3 of 25 June 1997: Land Development Objectives: North-West

Under section 37 (3) of the Development Facilitation Act, 1995 (Act No. 67 of 1995), I hereby make the regulations contained in the Schedule hereto.

Given under my Hand at Mafikeng this seventeenth day of June, One thousand Nine hundred and Ninety-seven.

DE AFRICA

Member of the Executive Council responsible for Local Government, Housing, Planning and Development.

SCHEDULE

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1. Definitions.—In these regulations any word or expression to which a meaning has been assigned in the Development Facilitation Act, 1995, (hereinafter referred to as the Act), shall, unless clearly inappropriate, bear that meaning, and, unless the context otherwise indicates—

“community participation plan” means a plan for community participation prepared by a municipality in accordance with regulation 8;

“district” means the area of jurisdiction of a transitional district council;

“land development objective” means a land development objective set by a municipality or the responsible Member, as the case may be, in accordance with Part D of these regulations, and “land development objectives” shall have a corresponding meaning;

“municipality” includes a transitional local council, a transitional representative council and a transitional district council being the local government structures in the Province established by and under the Local Government Transition Act, 1993 (Act No. 209 of 1993);

“responsible Member” means the Member of the Executive Council of the Province responsible for planning and development;

“traditional authority” means any community authority, tribal authority or regional authority established in terms of the provisions of the Bophuthatswana Traditional Authorities Act, 1978 (Act No. 23 of 1978), and includes any structure or council pertaining to traditional affairs subsequently established by an Act of the Provincial Legislature as legal successor to any such community authority, tribal authority, regional authority; and

“working plan” means a plan, prepared by a municipality, for the setting of land development objectives as contemplated in regulation 10.

PART A

GENERAL PROVISIONS FOR FORMULATION OF LAND DEVELOPMENT OBJECTIVES

2. Principles relating to land development objectives.—The setting and implementation of land development objectives by any municipality shall be consistent with the general principles for land development as set out in section 3 of the Act and such further principles as may be prescribed by the relevant Minister in the National Government or the Premier of the Province of the North-West in terms of the said section.

3. Purpose of land development objectives.—The general purpose of land development objectives set by a municipality shall be—

- (a) to create a new participatory system of planning for development at a local level which deepens and promotes democracy;
- (b) to create an integrated development planning framework for municipalities that will inform and be informed by development strategies as may be formulated from time to time by both the national and provincial spheres of government;

- (c) to create a planning system for development at a local level which links public expenditure to financially sustainable development strategies, plans and targets that are guided by a vision and priorities determined jointly by a municipality and the community it serves to promote good governance;
- (d) to build co-operation and co-ordination between the respective spheres of government and other organs of state in planning and development;
- (e) to emphasise the developmental role of municipalities thereby ensuring the synthesis of the local development planning process with the provincial and national development planning processes;
- (f) to create a framework within which a municipality will be accountable for its performance in relation to objectives and targets set;
- (g) to ensure rapid delivery of programmes and projects aimed at reconstruction and development; and
- (h) to provide a framework for development decisions by the Development Tribunal and the Development Appeal Tribunal established in terms of the Act.

4. Responsibility for and co-ordination of land development objectives.—(1) A municipality shall set land development objectives for its area of jurisdiction: Provided that land development objectives set by a transitional district council shall

- (a) take into account land development objectives set by all transitional local councils and all transitional representative councils within the district concerned; and
- (b) consist of a composite of all land development objectives contemplated in paragraph (a) together with land development objectives set by the transitional district council in respect of areas within the district not falling within the area of jurisdiction of a transitional local council or a transitional representative council.

(2) A municipality may appoint any person or body to assist in setting land development objectives: Provided that a district council shall, where practicable, assist municipalities, especially transitional representative councils, with the provision of resources, both human and financial, to set land development objectives.

(3) A municipality shall ensure that land development objectives set are—

- (a) consistent with the general principles for land development referred to in regulation 2;
- (b) consistent with the land development objectives set by other municipalities which impact on the area of jurisdiction of the first-mentioned municipality; and
- (c) consistent with these regulations.

(4) A transitional district council—

- (a) shall co-ordinate and monitor the setting of land development objectives by all transitional local councils and all transitional representative councils within the district concerned;
- (b) shall ensure that the land development objectives set by all transitional local councils and all transitional representative councils within the district are consistent with subregulation (3);
- (c) shall consult, liaise and interact with any relevant department or authority within both the national and provincial spheres of government in relation to any matter referred to in section 28 of the Act; and

- (d) may, in consultation with a transitional local council or a transitional representative council within the district, recommend to such transitional local council or transitional representative council, the amendment of any land development objective set by the transitional local council or the transitional representative council.

(5) The responsible Member may, after consultation with a municipality, amend any land development objective set by such municipality, whereupon the municipality shall

- (a) publish in English and one other official language predominantly or commonly used in the area of jurisdiction of the municipality concerned in the Provincial Gazette and in one issue of a daily newspaper circulating in such area, a notice stating that
 - (i) the land development objectives have been amended in terms of this regulation in respect of the area of jurisdiction of such municipality; and
 - (ii) copies of the amended land development objectives are available for inspection during office hours at a place specified in the notice; and
- (b) make available for inspection during office hours, copies of the amended land development objectives at a place determined by the municipality.

5. Powers of responsible Member in case of failure of municipality to set land development objectives or to fulfil any other responsibility in terms of regulations.—(1) If a municipality fails to set land development objectives within a period provided for in these regulations or fails to fulfil any other responsibility in terms of these regulations, the responsible Member may in writing direct such municipality, after the municipality concerned has been given a reasonable opportunity to submit representations, to take such resolution or to take such action within such period as the responsible Member may consider necessary or expedient.

(2) If a municipality fails to comply with a directive under subregulation (1), the responsible Member may

- (a) take such action as he or she may deem necessary or expedient or consider appropriate to eliminate or rectify such failure; or
- (b) authorise any other municipality, person or body to comply with such directive on behalf of the municipality concerned.

(3) Any expenditure or costs incurred by the responsible Member or any other municipality, person or body by virtue of subregulation (2) shall be payable by or recoverable from the municipality concerned.

PART B COMMUNITY PARTICIPATION IN THE SETTING AND IMPLEMENTATION OF LAND DEVELOPMENT OBJECTIVES

6. Objectives of community participation.—(1) The objective of community participation is to ensure that the setting of land development objectives by a municipality is, as far as may be practicable, the result of and based on co-operation and consensus between the municipality and civil society, including the general public and specific stakeholders and interests, in the area of jurisdiction of the municipality.

(2) In applying community participation, a municipality shall—

- (a) focus on the manner in which and procedures whereby resources from different stakeholders and interests within the area of jurisdiction of the municipality may be mobilised and accessed to assist in the formulation and effective implementation of the

land development objectives; and

- (b) facilitate mechanisms and procedures enabling direct input by civil society, including the general public and specific stakeholders and interests, in the process of the setting of land development objectives, in order to promote community ownership of the land development objectives set.

7. Structuring of community participation.—(1) A municipality shall ensure participation in setting of land development objectives in accordance with regulation 6 and shall involve the general public and specific stakeholders and interests within the area of jurisdiction of the municipality, including—

- (a) community organisations;
- (b) non-governmental organisations;
- (c) private sector organisations;
- (d) statutory bodies;
- (e) traditional authorities;
- (f) local or regional offices of a department of the National Government and the Provincial Government; and
- (g) any other person, body or organisation, broadly representative of any particular stakeholder or interest or who or which would be able to assist in the setting and implementation of land development objectives.

(2) A municipality may, where issues addressed in the setting of land development objectives may reasonably be expected to be of importance or relevant to a specific organisation, body or interest, invite participation from such organisation, body or interest.

(3) In the event that a municipality and any organisation, body or interest cannot agree in respect of any land development objectives or any aspect thereof, the municipality shall employ appropriate dispute resolution mechanisms and, in the event that such mechanisms fail to resolve the dispute, the municipality shall have the power to take the final decision as to the content of a land development objective or any aspect thereof: Provided that the municipality shall notify the responsible Member in writing of the nature of any significant dispute and any final decision by the municipality taken in terms of this subregulation as a result of a failure to resolve such dispute.

(4) The responsible Member may, at any time during the setting of land development objectives, if he or she is of the opinion that community participation has or is not taking place in accordance with the community participation plan as contemplated in regulation 8 read with regulations 6 and 7, direct the municipality in writing to conduct the community participation in accordance with the community participation plan and the above-mentioned provisions of these regulations or such additional guidelines as the responsible Member may deem necessary or expedient to ensure community participation.

8. Preparation of community participation plan.—(1) The preparation of a working plan pertaining to the process of setting land development objectives as contemplated in regulation 10, shall include a community participation plan.

(2) The community participation plan shall be prepared by the municipality after due regard to the provisions of regulations 6 and 7 and shall include proposals in relation to

- (a) the organisational or institutional arrangements and proposed structures for community participation;
- (b) the mechanisms for dissemination of information in relation to the process and content

- of setting the land development objectives, including communication with the public media;
- (c) the financing of the process of community participation;
 - (d) the mechanisms for dispute resolution, including deadlock-breaking mechanisms; and
 - (e) the training or capacity building which may be necessary to adequately empower officers or employees of the municipality concerned and representatives of organisations and bodies contemplated in paragraphs (a) – (g) of regulation 7(1);

PART C

NOTICE TO SET LAND DEVELOPMENT OBJECTIVES, PREPARATION AND APPROVAL OF WORKING PLAN

9. Time frame for submission of land development objectives.—(1) The responsible Member shall

- (a) by notice in the Provincial Gazette require all municipalities or certain specified municipalities or municipalities of a certain type or category, within such period of time as may be determined in such notice, to set or review, as the case may be, land development objectives which shall cover plans for development within the area of jurisdiction of the municipality for a period of five years; and
- (b) as soon as may be practicable after publication of a notice contemplated in paragraph (a), cause a copy of such notice to be submitted to each municipality affected thereby.

(2) A notice contemplated in subregulation (1) shall require a municipality contemplated in that subregulation to submit a working plan as contemplated in regulation 10 within 90 days of the date of publication of the notice or within such extended period as the responsible Member may allow on written application of the municipality concerned received prior to the expiry of the said 90 day period.

10. Preparation of working plan.—(1) A municipality shall within the period prescribed by regulation 9(2), submit to the responsible Member for approval a working plan which shall, as far as may be applicable and practicable, include—

- (a) a community participation plan for the setting of land development objectives in accordance with provisions of regulation 8;
- (b) a reference to the period within which the municipality is to submit land development objectives to the responsible Member for approval, which period shall not exceed seven months from the date of publication of a notice contemplated in regulation 9(1), or such other period as may be agreed upon by the responsible Member and the municipality concerned: Provided that any such agreement shall be reduced to writing and signed by or on behalf of the responsible Member and the municipality;
- (c) full details of any assistance, including the provision of financial and human resources, the municipality may require from the Provincial Government in respect of the setting of land development objectives;
- (d) in the case of a transitional district council, an indication of the budgetary cycles of transitional local councils and, especially, transitional representative councils within the district which will be affected by the land development objectives;
- (e) details in respect of the manner in which the process of setting land development objectives will be linked to the budgetary process of the municipality;

- (f) the impact of the land development objectives on the budget of the municipality, including details in respect of the availability of existing financial resources for the setting of land development objectives, any anticipated shortfalls and the proposed financing of anticipated shortfalls;
- (g) a statement as to how disadvantaged groups will be encouraged to participate in the setting of land development objectives, including details of capacity building programmes in this regard;
- (h) in the case of a transitional district council, details in respect of the manner in which the co-ordination and monitoring contemplated in regulation 4 (a) and (b) shall be undertaken; and
- (i) full details in respect of any other matter or aspect as may be specified by the responsible Member in the notice contemplated in regulation 9 (1).

11. Approval of working plan.—(1) A municipality shall submit a working plan referred to in regulation 10 to the responsible Member for consideration.

(2) The responsible Member shall within 30 days of the receipt of a working plan

- (a) approve such working plan with or without amendments;
- (b) reject such working plan and furnish reasons for such rejection to the municipality concerned in which case the municipality shall, within a period of 30 days or such extended period as the responsible Member may allow after consultation with the municipality and after due consideration of the reasons contemplated in this paragraph, submit a revised working plan to the responsible Member for consideration; or
- (c) refer the working plan back to the municipality with comments, recommendations or suggestions in which case the municipality shall, within a period of 30 days or such extended period as the responsible Member may allow after consultation with the municipality, after due consideration of the comments, recommendations or suggestions contemplated in this paragraph, submit a revised plan to the responsible Member for consideration.

PART D SETTING LAND DEVELOPMENT OBJECTIVES

12. Notice of intention to set land development objectives.—(1) After the approval of a working plan in accordance with regulation 11, a municipality shall publish a notice of its intention to set land development objectives and invite community participation of the general public and specific stakeholders and interests within the area of jurisdiction of the municipality in accordance with the community participation plan contemplated in Part B of these regulations.

(2) The notice contemplated in subregulation (1) shall—

- (a) be published in English and one other official language predominantly or commonly used in the area of jurisdiction of the municipality concerned in two issues of a daily newspaper circulating in such area, the second notice to be published within 7 – 10 days after the first;
- (b) for a period of 14 days from the date of publication of the first notice, be conspicuously displayed by the chief executive officer of the municipality concerned at a place installed for this purpose at the offices of the municipality as well as such

other places within the area of jurisdiction of the municipality as may be determined by the municipality; and

- (c) in accordance with the community participation plan, contain details of the manner in which and the period of time within which the general public and specific stakeholders and interests shall be entitled to participate in the process of setting land development objectives.

13. Submission of land development objectives to responsible Member.—A municipality shall, subject to the provisions of regulation 4 and the proviso to regulation 7 (3) and within the period determined in the notice contemplated in regulation 9 (1) (a), submit land development objectives, together with the comments and recommendations of the municipality in respect thereof to the responsible Member for consideration.

14. Approval of land development objectives by responsible Member.—(1) The responsible Member shall within 60 days of the receipt of land development objectives submitted in terms of regulation 13

- (a) approve such land development objectives with or without amendments, whereupon three copies of the approved land development objectives shall, as soon as may be practicable, be submitted by the municipality to the responsible Member for purposes of appending his or her signature after which the responsible Member shall submit one signed copy to the municipality and one signed copy to the Registrar and the Designated Officer concerned, respectively;
- (b) refuse to approve and reject such land development objectives in accordance with section 27 (1) of the Act, in which case the responsible Member shall furnish written reasons for such rejection to the municipality concerned as required by the said section, in which case the municipality shall, within a period of 30 days or such extended period as the responsible Member may allow after consultation with the municipality and after due consideration of the reasons contemplated in this paragraph, submit revised land development objectives to the responsible Member for consideration; or
- (c) refer the working plan back to the municipality with comments, recommendations or suggestions in which case the municipality shall, within a period of 30 days or such extended period as the responsible Member may allow after consultation with the municipality, after due consideration of the comments, recommendations or suggestions contemplated in this paragraph, submit a revised plan to the responsible Member for consideration.

(2) If a municipality fails to obtain approval of land development objectives as contemplated in paragraph (a) of subregulation (1) after the procedure in either paragraph (b) or (c) of subregulation (1) has been followed, the responsible Member may in writing direct such municipality, after the municipality concerned has been given a reasonable opportunity to submit representations, to take such resolution or to take such action within such period as the responsible Member may consider necessary or expedient to cause land development objectives to be set for the area of jurisdiction of such municipality.

(3) If a municipality fails to comply with a directive under subregulation (1), the responsible Member may

- (a) take such action as he or she may deem necessary or expedient or consider appropriate to cause land development objectives to be set for the area of jurisdiction of such municipality; or

- (b) authorise any other municipality, person or body to cause land development objectives to be set for the area of jurisdiction of such municipality on behalf of the municipality concerned.

(4) Any expenditure or costs incurred by the responsible Member or any other municipality, person or body by virtue of subregulation (3) shall be payable by or recoverable from the municipality concerned.

15. Notice of approval of land development objectives.—After the approval and signature of land development objectives by the responsible Member as contemplated in regulation 14(1) (a), a municipality shall

- (a) publish in English and one other official language predominantly or commonly used in the area of jurisdiction of the municipality concerned in the Provincial Gazette and in one issue of a daily newspaper circulating in such area, a notice stating that
 - (i) land development objectives have been approved in terms of the Act in respect of the area of jurisdiction of such municipality; and
 - (ii) copies of the approved land development objectives are available for inspection during office hours at a place specified in the notice; and
- (b) make available for inspection during office hours, copies of the approved land development objectives at a place determined by the municipality.

16. Review or withdrawal of land development objectives.—(1) (a) Land development objectives shall be reviewed by a municipality annually for the first five years and thereafter at such intervals as the responsible Member may determine by notice in the Provincial Gazette: Provided that

- (i) the responsible Member shall, when determining such intervals, have due regard to both the terms of office of the elected members of the municipalities and the budgetary cycles and procedures followed by or applicable to municipalities; and
- (ii) a municipality shall annually report to and receive comments from the community it serves regarding the implementation of the approved land development objectives as required by section 10G(1) (g) of the Local Government Transition Act, 1993 (Act No. 209 of 1993).

(b) Reviewed land development objectives as contemplated in subregulation (1) shall be submitted to the responsible Member for approval in accordance with the provisions these regulations and the provisions of these regulations shall apply *mutatis mutandis* to such review.

(c) At the completion of each review period as contemplated in subregulation (1), or at any other time as may be determined by the responsible Member, a municipality shall submit to the responsible member a detailed report on the implementation of the approved land development objectives over the said period.

(2) (a) The responsible Member may, at any time, in consultation with a municipality withdraw any land development objective or any part thereof or all land development objectives.

(b) The withdrawal of one land development objective or certain land development objectives or any part thereof, shall for the purposes of these regulations, be construed as an amendment of the land development objectives and the provisions of paragraphs (a) and (b) of regulation 4(5) shall, *mutatis mutandis*, apply.

(c) The withdrawal of all land development objectives, shall for the purposes of these regulations, be construed as a notice in terms of section 9(1) to the municipality concerned to set land development objectives within such period of time as the responsible Member may, at the time of

such withdrawal, determine and the provisions of regulation 9(2) shall, *mutatis mutandis*, apply.

PART E
GENERAL AND SUPPLEMENTARY PROVISIONS

17. Status of approved land development objectives.—Approved land development objectives shall—

- (a) have such legal force and effect as contemplated in section 29 of the Act;
- (b) bind the relevant municipality and the Provincial Government;
- (c) direct and inform the decisions of the Development Tribunal and the Development Appeal Tribunal established under the Act; and
- (d) for all purposes be deemed to be an integrated development plan contemplated in section 10B of the Local Government Transition Act, 1993 (Act No. 209 of 1993).

18. Provisions to be included in land development objectives.—Land development objectives shall—

- (a) include the subject matter referred to in section 28 of the Act;
- (b) be set having due regard to the requirements of an integrated development plan as contemplated in section 10B of the Local Government Transition Act, 1993 (Act No. 209 of 1993); and
- (c) as far as is practicable, be set in the manner outlined in the Annexure and address the issues referred to therein.

19. Removal of conflict, ambiguity or administrative problems.—If any land development objective or any part thereof gives rise to conflict with any other land development objective or any part thereof, or if any land development objective or any part thereof is ambiguous or gives rise to administrative problems, the responsible Member may, in consultation with the municipality concerned, amend the land development objectives in order to remove such conflict, ambiguity and administrative problems, whereupon the provisions of paragraphs (a) and (b) of regulation 4(5) shall, *mutatis mutandis*, apply.

20. Future legislation may extend or expand land development objectives.—If National or Provincial legislation, including regulations made under such legislation, require or may in future require a municipality to prepare plans or set objectives in relation to matters similar to the land objectives contemplated in the Act and these regulations, the land development objectives contemplated in the Act and these regulations shall for all purposes be deemed to be extended or expanded to the extent necessary to include such matters in the land development objectives.

21. Short title.—These regulations shall be called the Regulations relating to Land Development Objectives, 1997, and shall come into operation on the date of publication in the Provincial Gazette.

Annexure

CONTENT AND MANNER OF SETTING LAND DEVELOPMENT OBJECTIVES REFERRED
TO IN REGULATION 18(c)

A. Description and background of area of jurisdiction of municipality, including:

1. Name of the area
2. Physical location
3. Areas that constitute the area of jurisdiction of the municipality
4. Brief historical background of the area

B. Brief SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis of the area, including the following aspects:

1. Climate
2. Land and soil conditions
3. Water
4. Topography
5. Vegetation
6. Flood lines
7. Environmental conditions
8. Human resources
 - 8.1 Population size
 - 8.2 Population growth projections
9. Socio-economic characteristics
 - 9.1 Employment and labour conditions
 - 9.2 Average per capita income and expenditure
 - 9.3 Education and literacy levels
 - 9.4 Occupation and skills levels
10. Spatial conditions, land use planning and land use control
 - 10.1 Urban development
 - 10.1.1 Land development/ town establishment, land use
 - 10.1.2 Industrial development land use
 - 10.2 Rural development
 - 10.2.1 Rural settlements
 - 10.2.2 Agriculture
 - 10.2.3 Parks and nature reserves
 - 10.2.4 Land reform programmes
 - 10.3 Conservation and open spaces
 - 10.4 Provincial and National Government land use
 - 10.4.1 Defence
 - 10.4.2 Police station
 - 10.4.3 Prison
 - 10.4.4 Game parks
 - 10.4.5 Airport
 - 10.5 Land use and transport networks (roads and railways)
 - 10.6 Dumping
11. State of Housing
 - 11.1 Formal and informal
 - 11.2 Estimated backlog

- 11.3 Type of ownership/tenure
- 12. Municipal infrastructure and services
 - 12.1 Bulk infrastructure
 - 12.2 Infrastructure services
 - 12.2.1 Water
 - 12.2.2 Electricity
 - 12.2.3 Roads and streets
 - 12.2.4 Sewerage
 - 12.2.5 Storm water drainage
 - 12.2.6 Refuse removal
 - 12.3 Public amenities and services
 - 12.3.1 Education
 - 12.3.2 Health
 - 12.3.3 Recreational facilities including sport, arts and culture (in particular, sports fields, cinemas, resorts, parks, cultural centres and community halls)
 - 12.3.4 Museums
 - 12.3.5 Public transport
 - 12.3.6 Public open spaces
 - 12.3.7 Posts and telecommunications
 - 12.3.8 Welfare services and facilities
 - 12.3.9 Public safety and security
- 13. Economic conditions
 - 13.1 Industry
 - 13.2 Formal business sector
 - 13.3 Small, medium and micro enterprises
 - 13.4 Informal sector
 - 13.5 Urban and rural agricultural sector
 - 13.6 Tourism and eco-tourism sector
- 14. Community organisations and forums, including non-governmental organisations
- 15. Statutory organisations
- 16. Traditional authorities

C. Land development objectives shall include:

- 1. A vision statement to guide overall development in the area
- 2. Guiding principles for the development planning process
- 3. Objectives of the municipality in relation to
 - 3.1 the contribution of the municipal area to the growth and development strategy of the district and the Province
 - 3.2 a spatial planning framework within which identified objectives will be realised
 - 3.3 the optimum utilisation of natural resources
 - 3.4 land development and land use
 - 3.5 planning of transportation
 - 3.6 urban and rural development

- 3.7 bulk infrastructure provision
- 3.8 municipal services and, in particular
 - 3.8.1 access to and the standard of the following services
 - 3.8.1.1 water
 - 3.8.1.2 electricity
 - 3.8.1.3 roads and streets
 - 3.8.1.4 sewerage
 - 3.8.1.5 storm water drainage
 - 3.8.1.6 refuse removal
 - 3.8.2 access to and the standard of the following municipal public services and amenities
 - 3.8.2.1 education
 - 3.8.2.2 health
 - 3.8.2.4 community halls
 - 3.8.2.5 cemeteries
 - 3.8.2.6 public transport
 - 3.8.2.7 recreational facilities, including sport, arts and culture
 - 3.8.2.8 posts and telecommunications
 - 3.8.2.9 welfare facilities
 - 3.8.2.10 public safety and security
 - 3.8.3 provision of housing
 - 3.8.4 integration of areas settled by low-income communities into existing residential areas
 - 3.8.5 overall density of settlements with due regard to the interest of beneficial occupiers
 - 3.8.6 local economic development and, in particular
 - 3.8.6.1 formal business sector
 - 3.8.6.2 small, medium and micro enterprises
 - 3.8.6.3 public/private sector partnership business activities
 - 3.8.6.4 informal sector
 - 3.8.6.5 labour-based development activities and public works
 - 3.8.6.6 industrial development
 - 3.8.6.7 commercial development
 - 3.8.6.8 mining
 - 3.8.6.9 agricultural development
 - 3.8.6.10 eco-tourism
 - 3.8.6.11 job creation
 - 3.8.7 co-ordination with other municipalities, departments of the National and Provincial Governments and statutory organisations
 - 3.8.8 environmental protection

D. Strategies and plans to achieve land development objectives:

1. A land development strategy for the municipal area
2. A housing development strategy
3. An infrastructure investment strategy with aggregate projections of capital and recurrent expenditure
4. A strategy to facilitate the optimal involvement of all sectors and sub-sectors, including partnership arrangements
5. A strategy for job creation

6. A financial strategy to meet land development objectives and, in particular
 - 6.1 the expected expenditure of public funds for capital projects or developments, services, administration and management
 - 6.2 sources of revenue, including
 - 6.2.1 public sector contributions, including inter-governmental grants, municipal fees, tariffs and taxes
 - 6.2.2 the role of payment of services and how such payment will be encouraged
 - 6.2.3 financial contributions from the private sector
7. Available administrative structures; the proposed reorganisation, management of existing administrative structures; and the proposed establishment of new administrative and delivery structures, to implement land development objectives
8. A human resources development strategy
9. A crime prevention strategy
10. A communication and media liaison strategy
11. A strategy for the monitoring and evaluation of implementation of land development objectives
12. Setting annual priorities and formulating delivery programmes and action plans

E. The quantum of land development objectives:

1. The number of land development areas identified in relation to the following types of development
 - 1.1 residential
 - 1.2 industrial
 - 1.3 small business
 - 1.4 agriculture
 - 1.5 land reform
2. The number of housing units to be built or sites to be developed, more specifically
 - 2.1 housing units to be provided through the government subsidy scheme
 - 2.2 housing units to be provided through other means
 - 2.3 form of tenure by which houses will be provided (individual ownership, communal ownership, leasehold or deed of grant)
 - 2.4 means of delivery of sites or housing units
 - 2.4.1 upgrading existing settlements
 - 2.4.2 undertaking new development
 - 2.4.3 the letting of land or buildings
3. Infrastructure services to be provided
 - 3.1 bulk infrastructure
 - 3.1.1 water
 - 3.1.2 electricity supply
 - 3.1.3 sewerage
 - 3.1.4 storm water drainage
 - 3.1.5 dumping sites
 - 3.1.6 roads and streets
 - 3.2 Services per erf
 - 3.2.1 water

- 3.2.2 electricity
- 3.2.3 sewerage
- 3.2.4 refuse removal
- 4. Public amenities to be provided
 - 4.1 schools
 - 4.2 clinics
 - 4.3 sports fields
 - 4.4 libraries
 - 4.5 community halls
 - 4.6 public transport
 - 4.7 cemeteries
 - 4.8 police stations
 - 4.9 post offices
 - 4.10 telephone connections
 - 4.11 recreational facilities
 - 4.12 welfare facilities
- 5. The number of business activities planned
- 6. The number of jobs to be created

ON 9 of 15 August 1997: Land Development Objectives: Mpumalanga

I, Craig Novine Martin Padayachee, Member of the Executive Council for Local Government, Housing and Land Administration, in terms of section 27 (3) of the Development Facilitation Act, 1995 (Act No. 67 of 1995), hereby determine the procedures for the formulation of Land Development Objectives as contained in the Schedule hereto.

Given under my Hand at Nelspruit this Seventh day of August, One thousand Nine hundred and Ninety-seven.

C.N.M. PADAYACHEE,
Member of the Executive Council for Local Government, Housing and Land Administration.

SCHEDULE

ARRANGEMENT OF REGULATIONS

- 1. Definitions

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GENERAL PROVISIONS FOR THE FORMULATION OF LAND DEVELOPMENT OBJECTIVES

- 2. Principles for the formulation, implementation and monitoring of land development objectives
- 3. Purpose of land development objectives
- 4-5. Process of preparing land development objectives
- 6. Co-ordination of land development objectives
- 7. Failure to prepare land development objectives
- 8. Timeframes for submission of working plan to MEC

9. Compilation of Working Plan
10. Approval of working plan

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24. Conflicts, ambiguities and administrative difficulties
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1. Definitions.—In these guidelines, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Development Facilitation Act, 1995 (Act No. 67 of 1995) or the Regulations issued in terms of the Act, shall be construed to have the meaning so assigned and—

“Department” means the Department of Local Government, Housing and Land Administration;

“District Council” means a District Council as defined in the Local Government Transition Act, 1993 (Act No. 209 of 1993);

“land development objectives” means land development objectives formulated by a local government body or the MEC, as the case may be, in accordance with section 27 (1) and (2) of the Act;

“local government body” means a local government body as defined in the Act;

“MEC” means the Member of the Executive Council responsible for Local Government, Housing and Land Administration;

“Minister” means the Minister of Land Affairs;

“Premier” means the Premier of the Mpumalanga Province;

“representative council” means a representative council as defined in the Local Government Transition Act, 1993 (Act No. 209 of 1993); and

“the Act” means the Development Facilitation Act, 1995 (Act No. 67 of 1995).

PART A

GENERAL PROVISIONS FOR THE FORMULATION OF LAND DEVELOPMENT OBJECTIVES

2. Principles for the formulation, implementation and monitoring of land development objectives.—The formulation, implementation and monitoring of land development objectives shall take place in a manner that is consistent and compatible with the general principles as contemplated in section 3 of the Act and any such principles as may be prescribed by the Minister or Premier in terms of the Act.

3. Purpose of land development objectives.—The purpose of land development objectives set by any local government body or the MEC, as the case may be, shall be—

- (a) to create a co-ordinated system of planning for development at the provincial and local spheres of government which fosters and promotes democracy;
- (b) to create a combined system of planning which links public expenditure to environmentally and financially sustainable development strategies which are guided by a predetermined vision and strategies as determined jointly by the government and the public at large;
- (c) to enable efficient participation by the public in development, both at planning and implementation level, and to establish and maintain partnerships and co-operation between the different spheres of government and civil society;
- (d) to establish and maintain co-operation and co-ordination between the different spheres of government in planning and development;
- (e) to co-ordinate policies of all departments at the provincial and local spheres of government;
- (f) to enable municipalities to inform and utilize their capital budgets in a more cost effective and efficient manner, within the framework of the applicable legislation, for the whole community and to provide a basis for the prioritization and co-ordination of capital projects;
- (g) to enable the Mpumalanga Development Tribunal established in terms of section 15 of the Act, as well as municipalities to have an understanding of policies and priorities which would serve as a framework for development related activities and issues;
- (h) to be flexible in order to cater for changing circumstances;
- (i) to set practical goals and achievable targets with tangible benefits for the community with real impact on the budget and decision making processes;
- (j) to support rapid delivery programmes and projects associated with the Reconstruction and Development Programme;
- (k) to further enhance the development capacity and human and financial resources at municipal level; and
- (l) to promote good governance.

4. Process of preparing land development objectives.—Land development objectives shall be formulated for every municipal area by the responsible local government body.

5. (1) The body responsible for the formulation of land development objectives shall ensure that land development objectives set by itself are—

- (a) consistent with the general principles for the setting of land development objectives as contemplated in section 3 of the Act;
- (b) consistent with the land development objectives set by local government bodies of the adjacent areas which impact on the area of jurisdiction of the relevant local government body;
- (c) consistent with the Mpumalanga Provincial Growth and Development Strategy; and
- (d) consistent with these procedures.

(2) In case of areas falling within the jurisdiction of representative councils, each representative council shall formulate its own land development objectives.

(3) The District Council shall avail the necessary resources that will enable representative councils to formulate their land development objectives.

(4) Local government bodies may appoint any person or body to assist them to formulate land development objectives.

6. Co-ordination of land development objectives.—(1) District Councils shall be responsible for the co-ordination of land development objectives formulated by its constituent local government bodies.

(2) Such co-ordination shall ensure that land development objectives set by its constituent local government bodies are—

- (a) consistent with the general principles for land development objectives as contemplated in section 3 of the Act;
- (b) consistent with land development objectives formulated by adjacent local government bodies which impact on the area of jurisdiction of the relevant local government body;
- (c) consistent with the Mpumalanga Provincial Growth and Development Strategy; and
- (d) consistent with these procedures.

(3) The MEC shall be responsible for the overall co-ordination of land development objectives formulated by all local government bodies within the Province.

(4) Co-ordination by the MEC shall ensure that land development objectives set by local government bodies are—

- (a) consistent with the general principles for land development objectives as contemplated in the Act;
- (b) consistent with land development objectives formulated by other local government bodies which impact on their areas;
- (c) consistent with the national and provincial development priorities in order to achieve uniformity with the relevant policies and strategies;
- (d) consistent with the Mpumalanga Growth and Development Strategy; and
- (e) consistent with these procedures.

(5) The MEC may, where necessary for the purposes of sub-regulation (3), amend the land development objectives formulated by any local government body after consultation with the particular local government body.

7. Failure to prepare land development objectives.—(1) If a local government body fails to lodge a working plan for the formulation of land development objectives in terms of regulation 9, or fails to set land development objectives as contemplated in these regulations, the MEC shall notify the relevant local government body of his or her intention to set land development objectives as contemplated in section 27 (2) of the Act.

(2) Any expenditure incurred by the MEC in formulating land development objectives as contemplated in sub-regulation (1), may be recovered from the local government body concerned.

(3) The local government body may, within a period of 30 days from the date of the notice as contemplated in sub-regulation (1), initiate the procedure contemplated in regulation 8 to formulate its own land development objectives, in which case the MEC shall not formulate land development objectives as contemplated in sub-regulation (1): Provided that should the local government body concerned fail to formulate the land development objectives in accordance with the working plan as contemplated in regulation 9, the MEC shall proceed to formulate land development objectives in terms of this regulation without a further notice to the local government body concerned.

(4) The MEC may contract any person or body to formulate land development objectives on his or her behalf.

8. Timeframes for submission of working plan to MEC.—(1) The MEC shall by notice in the Provincial Gazette require local government bodies, within the time period specified in such notice, to formulate or review, as the case may be, land development objectives which shall include plans for development of the local government area for a period of 5 years.

(2) The notice referred to in subregulation (1) shall be given in writing to every local government body required to formulate or review land development objectives in the Province.

(3) The notice referred to in subregulation (1) shall require the local government body, within 60 days of the date of such notice, or such extended period as the MEC may allow on application by the local government body, but prior to the expiry of the said 60 days, to submit a working plan for the formulation of land development objectives, to the MEC.

9. Compilation of Working Plan.—A local government body shall, within the period stipulated in regulation 8 (3), submit for the MEC's approval, a working plan which shall to the extent applicable, include—

- (a) a public participation plan for the formulation of land development objectives in accordance with regulation 13;
- (b) a statement as to the period within which the local government body will submit land development objectives for the MEC's approval, which period may not exceed nine months from the date of the MEC's approval of the working plan as contemplated in regulation 10, or within an extended period as the MEC may allow on application by the local government body;
- (c) a statement as to what assistance the local government body will require from the Minister or the Department in respect of formulating land development objectives and which also states how much was budgeted for the formulation of land development objectives from the resources of the local government body;
- (d) a statement for submission to the MEC briefly indicating critical prevailing development related problems and needs in the area of jurisdiction of the local government body;
- (e) a plan indicating capacity building programmes to allow disadvantaged groups to

- participate in the formulation of land development objectives; and
- (f) any other document or information that the MEC may specify in the notice referred to in regulation 8 (3).

10. Approval of working plan.—The MEC shall, within a period of 30 days of receipt of the working plan submitted in terms of regulation 8 (3) either—

- (a) approve such working plan with or without conditions and/or amendments: provided that any amendments may be effected only after consultation with the local government body concerned, or
- (b) reject such a working plan, in which case the MEC shall refer the working plan back to the local government body with his or her comments for amendments, and the local government body shall within a period of 30 days, or such extended period as the MEC may allow after consultation with the local government body, resubmit such working plan in accordance with these regulations to the MEC for his or her consideration and approval.

PART B

PARTICIPATION WITH REGARD TO FORMULATION AND IMPLEMENTATION OF LAND DEVELOPMENT OBJECTIVES

11. General objectives of public participation.—(1) The objective of public participation shall be to ensure that land development objectives are, as far as possible, based on consensus between members of the public and stakeholders in a particular area.

(2) Participation from different groups should focus on resource mobilisation to assist in the active implementation of the land development objectives.

(3) Participation by the public and stakeholders should facilitate direct input in the formulation of land development objectives.

12. Structuring of public participation.—(1) A local government body shall ensure participation in the formulation of land development objectives in accordance with regulation 11 and shall involve members of the public and stakeholders within its area of jurisdiction, including—

- (a) inter-sectoral participation for instance by community reconstruction and development committees and local reconstruction and development committees;
- (b) organisations which are broadly representative of particular interests for instance women's organisations and disabled people's organisations;
- (c) government departments;
- (d) representatives of the business sector; and
- (e) any other organisation which could assist in the formulation and implementation of land development objectives.

(2) Traditional Authorities should be consulted in the process of formulating land development objectives in areas where such land development objectives shall have an impact on such Traditional Authority areas and proof of such consultation, to the satisfaction of the MEC, shall form part of the working plan and land development objectives.

(3) In the event of the various parties failing to reach consensus in respect of land development objectives or any aspects thereof, the local government body shall use the deadlock breaking mechanisms for dispute resolution contemplated in section 4 of the Act, and in the event of the failure

of such mechanisms, the local government body shall be authorized to take the final decision as to the content of land development objectives or any aspect thereof.

(4) The MEC may, at any time during the formulation of land development objectives, if he or she is of the opinion that public participation is not taking place as contemplated in these regulations, instruct the local government body to conduct public participation in terms of regulation 12.

13. Preparation of public participation plan.—(1) The compilation of a working plan as contemplated in regulation 9 shall include a public participation plan.

(2) The public participation plan shall be prepared by the local government body in consultation with other interested parties, and shall take into consideration the provisions of regulations 11 and 12 and include proposals with regard to—

- (a) organisational arrangements and proposed structures for public and community participation and the local government body may make use of existing structures, if any, for this purpose;
- (b) methods for dissemination of information with regard to the formulation of land development objectives;
- (c) training, to the extent necessary and possible, of local government officials, Councillors and representatives of civil society organisations;
- (d) the financing of the public participation process; and
- (e) deadlock breaking mechanisms.

PART C GENERAL PROVISIONS FOR LAND DEVELOPMENT OBJECTIVES

14. Formulation of land development objectives.—(1) After the approval of the working plan for the formulation of land development objectives as contemplated in regulation 10, the local government body shall notify members of the public and stakeholders within its area of jurisdiction of its intention to formulate land development objectives and invite their participation in accordance with the public participation plan.

(2) The notice in terms of subregulation (1)—

- (a) shall be published in English and another official language commonly used in the local government area, in two issues of a periodic newspaper circulating in the local government area, which notice shall appear for two consecutive weeks; and
- (b) shall state, in accordance with the public participation plan, the manner and the time period within which members of the public and stakeholders will be entitled to participate in the formulation of land development objectives.

15. Submission of land development objectives.—The local government body shall submit the land development objectives together with a list of stakeholders that participated in the formulation of land development objectives to the MEC for his or her consideration and approval.

16. Approval of land development objectives by MEC.—The MEC shall, within 60 days of receipt of land development objectives submitted to him or her in terms of regulation 15, either approve such land development objectives in terms of section 27 of the Act, or refuse to approve such land development objectives in accordance with section 27 of the Act: Provided that the MEC shall provide the local government body concerned with his or her written reasons for having failed to

approve such land development objectives, whereafter the local government body shall make the necessary amendments to the land development objectives and resubmit them to the MEC for his or her consideration within a period of 60 days.

17. Notice of approval of land development objectives.—(1) Once the MEC has approved the land development objectives in terms of regulation 16, the local government body shall publish a notice in the Provincial Gazette and in a weekly newspaper circulating in the local government area in English and another official language commonly used in that area to the effect that copies of the approved land development objectives are available for inspection at a place specified in the notice, for a period of not less than 60 days from the date of the notice.

(2) The local government body shall make two copies of the approved land development objectives available to both the designated officer and the tribunal registrar.

18. Review of land development objectives.—(1) Land development objectives shall be reviewed annually for the first five years and thereafter at such intervals as the MEC may determine by notice in the Provincial Gazette, which intervals shall be consistent with budgeting cycles followed by the local government bodies.

(2) Land development objectives shall be submitted to the MEC by the relevant local government body for review in accordance with these regulations which shall *mutatis mutandis* apply to such review.

19. Withdrawal of land development objectives.—(1) The MEC may at any time withdraw land development objectives or a portion thereof if—

- (a) he or she is of the opinion that the land development processes that are being followed by the relevant local government body are not consistent with these regulations; or
- (b) he or she has a reasonable cause for such withdrawal.

(2) The MEC shall, in writing, give notice to the local government body concerned to the effect that he or she intends to withdraw the land development objectives or a portion thereof, together with his or her reasons for such withdrawal.

(3) The local government body concerned shall respond to the MEC's notice as contemplated in subregulation (2), within 60 days of the receipt thereof.

(4) The MEC shall consider the response given by the local government body as contemplated in subregulation (3), and shall either—

- (a) proceed with the withdrawal of the land development objectives or a portion thereof as contemplated in sub-regulation (1); or
- (b) review his or her intention to withdraw such land development objectives or a portion thereof.

20. Monitoring and implementation of land development objectives.—At the completion of each review period determined in terms of regulation 18 or at any other time as the MEC may determine by notice in the Provincial Gazette, the local government body shall submit to the MEC a report describing its successes and failures in terms of its approved land development objectives over the said period.

21. Provisions to be included in the land development objectives.—(1) Land development objectives shall include the subject matter referred to in section 28 of the Act.

(2) In addition to the subject matter referred to in section 28 (1) (b) of the Act, land

development objectives formulated in terms of these regulations shall include objectives for a period of five years relating to—

- (a) the general direction for overall growth and development in the relevant area in the form of a development vision statement indicating—
 - (i) a single vision statement to guide overall development in the area;
 - (ii) the overall contribution of the area to the sustainable growth and development strategy of the region and the Province; and
 - (iii) the major strategic development strengths, weaknesses, opportunities and threats of the area identified by the local government body in consultation with its stakeholders and the manner through which these problems will be solved.
- (b) development standards pertaining to the subject matter referred to in section 28 (l) (a) of the Act as set by the local government body in consultation with all role players, including—
 - (i) levels of services including transport, water, electricity, sewerage, health, education and public open space to be provided for land development which should be determined by an overall development affordability and availability census of resources;
 - (ii) how access to such services will be provided, particularly to underdeveloped areas and to vulnerable communities; and
 - (iii) the manner in which services and infrastructure will be financed, administered, operated and maintained.
- (c) the development framework and priorities for the area, indicating the major trends influencing development including, *inter alia*,
 - (i) demographic growth;
 - (ii) existing services and infrastructure;
 - (iii) economic trends;
 - (iv) social conditions and trends;
 - (v) existing spatial forms;
 - (vi) development priorities and needs of all stakeholders within the area;
 - (vii) safety and security within the area, and
 - (viii) state of the environment within the area.

(3) Land development objectives formulated in terms of these regulations shall include development strategies for the next five year period following on the period referred to in subregulation (2) in relation to—

- (a) the manner in which the following issues will be addressed by all stakeholders within the area—
 - (i) job creation and strengthening of the economy;
 - (ii) social development and how community facilities, health, social welfare and education concerns will be incorporated into the social fabrics of the community;
 - (iii) social and economic integration of low income communities in the area;
 - (iv) the provision of adequate support for vulnerable communities until the proposed or planned development initiatives materialise;

- (v) improvement of safety and security;
 - (vi) improvement and conservation of the natural and built up environments to achieve environmentally sustainable development;
 - (vii) the improvement of public transportation and circulation; and
 - (viii) the provision of bulk and connector infrastructure for land development taking into account the infrastructure investment programme of the local government body;
 - (ix) the co-ordination of land development in consultation with adjacent local government bodies;
 - (x) the reform of land use control to stimulate environmentally sustainable development;
 - (xi) the ensuring of optimal and environmentally sustainable use of natural resources;
 - (xii) the conservation of agricultural land;
 - (xiii) the co-ordination of mining activities; and
 - (xiv) the incorporation of land reform in the local development programmes.
- (b) the subject matter referred to in section 28 (1) (c) (i) of the Act, including the following sectors and sub-sectors—
- (i) industry;
 - (ii) the formal business sectors;
 - (iii) small and medium enterprises;
 - (iv) the informal sector;
 - (v) community based labour intensive developmental activities and public works programmes;
 - (vi) the non-governmental sectors;
 - (vii) the urban and rural agricultural sector, and
 - (viii) the tourism and eco-tourism sector.

(4) Land development objectives set in terms of regulation 3 (a) and (b) should indicate strategies for urbanisation, renewal, redevelopment and upgrading in order to establish a more efficient and unsegregated urban system as well as the roles of the various stakeholders in implementing these strategies and shall—

- (a) set out the subject matter referred to in section 28 (1) (c) (ii) of the Act, including strategies in relation to—
- (i) the expected expenditure of public, private and community sector funds for capital projects or development services, administration and management as well as financial implications for operations and maintenance; and
 - (ii) the capital investment programme and estimates of the financial implications of the programme including—
 - (aa) capital improvements to be undertaken and how these will be achieved; and
 - (bb) the implications of the programme for the operational and maintenance budget;

- (iii) available resources required for the implementation of land development objectives;
 - (iv) changes to financial policies or sources of revenue in levels of debt, tariffs, fees, taxes and inter-governmental financial assistance, where applicable;
 - (v) the effect on functions, levels and types of services, and the local government body contingency plans or cost containment strategies required to give effect to plans if finances do not become available; and
 - (vi) the encouragement and importance of payment for services and how this should be achieved;
- (b) include the subject matter referred to in section 28 (1) (c) (iii) of the Act, including strategies in relation to the administration and institutional arrangements for implementing the land development objectives, including proposed new administrative and delivery structures for the area such as one stop offices, development corporations, partnerships and promotion agencies;
 - (c) include gearing programmes and projects to strategically catalyse and increase the level of growth in the area, including—
 - (i) the agency responsible for the delivery of programmes and projects; and
 - (ii) financing, resourcing and timeframes for these programmes or projects within the financial framework referred to in sub-paragraph (a);
 - (d) monitor and evaluate the implementation of land development objectives, implementing appropriate monitoring and evaluation mechanisms for this purpose, and key environmental and health performance indicators.

(5) In addition to the subject matter referred to in section 28 (1) (d) of the Act, the land development objectives shall relate to the quantum of land development objectives in respect of—

- (a) the number and sustainability of jobs and services considered in these regulations that are planned over a five year period;
- (b) how much development contemplated in these regulations will be provided during each year of the five year period and how this delivery could be accelerated; and
- (c) how much development will be provided through new development and how much through the upgrading of existing development of services and infrastructure.

22. Staged setting of land development objectives.—(1) A local government body may on application to the MEC set land development objectives for the first annual cycle in respect of the subject matter referred to in regulation 21 (2) (a) and (c) only and such additional subject matter which the local government body in its opinion is able to set in the first annual cycle for the setting of land development objectives: Provided that the local government body shall in its first review of land development objectives as required in terms of regulation 18 (1) set land development objectives in respect of all of the subject matters prescribed in regulation 21.

(2) An application to set limited land development objectives as provided for in sub-regulation (1) shall form part of the working plan to be submitted to the MEC for approval in terms of regulation 9.

23. If land development objectives are found to be in conflict with each other, are ambiguous or give rise to administrative difficulties and a local government body or local government bodies are unable or fail to amend such land development objectives, the MEC may, after consultation with the local government body or local government bodies concerned, by notice in the Provincial Gazette,

amend the land development objectives in order to address such conflicts, ambiguities or administrative difficulties.

FUTURE LEGISLATION

24. Conflicts, ambiguities and administrative difficulties.—(1) In the event that national legislation and/or regulations require or may in future require a local government body to prepare or set plans on matters similar to or the same as the subject matters prescribed by the Act and these regulations, then the local government body may submit land development objectives in compliance with such national legislation and/or regulations and to the extent necessary.

(2) The MEC may by written notice to the local government body and by publication in the Provincial Gazette broaden the subject matter of land development objectives in order to include subject matters not already included in these regulations in order to comply with such national legislation and/or regulations.

25. Short title.—These regulations shall be called the Mpumalanga Land Development Regulations, 1997.

PN 33 of 24 October 1997: Land Development Objectives: Eastern Cape

DEPARTMENT OF HOUSING AND LOCAL GOVERNMENT

PROVINCE OF THE EASTERN CAPE

Under the powers vested in me by section 27 (3) of the Development Facilitation Act (Act No. 67 of 1995), I, Smuts Lulama Ngonyana, in my capacity as member of the Executive Council responsible for the administration of the said Act, hereby make the regulations as set out in the Schedule.

Given under my Hand at Bisho this 17th day of October 1997.

S.L. NGONYAMA,
MEC for Housing and Local Government.

SCHEDULE

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20. Removal of conflicts, ambiguities and administrative difficulties
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23. Short title

1. Definitions.—In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned unless the context otherwise indicates, and—

“day” means a normal working day, excluding week-ends and recognized public holidays;

“Department” means the Department of Housing and Local Government in the Province of the Eastern Cape;

“development planning” means a participatory process to integrate economic, sectoral, spatial, social, institutional, fiscal, and environmental strategies in order to support the optimal allocation of scarce resources between sectors and geographic areas, and across the population, in a manner that promotes sustainable growth, equity and empowerment of the poor and marginalised communities;

“land development objectives” means land development objectives set by a local government body or the MEC, as the case may be in accordance with Part D of these regulations;

“**MEC**” means the Member of Executive Council in the Eastern Cape Province for Housing and Local Government;

“**the Act**” means the Development Facilitation Act, 1995 (Act No. 67 of 1995);

“**working plan**” means a plan, prepared by a local government body, for the setting of land development objectives as contemplated in regulation 11.

PART A

GENERAL PROVISIONS FOR THE FORMULATION OF LAND DEVELOPMENT OBJECTIVES

2. Principles relating to land development objectives.—The preparation and implementation of land development objectives by any local government body shall be consistent with the general principles for land development as set out in section 3 of the Act and such further principles as may be prescribed by the relevant national Minister or the Premier of the Province.

3. Purpose of land development objectives.—The general purpose of land development objectives prepared by any local government body shall be to—

- (a) create a framework within which a local government body, the local public and interested bodies can identify their own development needs and plan the manner in which to realize them;
- (b) address and focus on the basic needs of the community;
- (c) evolve a new system of planning at local level which links public expenditure to environmentally and financially sustainable development strategies, guided by a vision and priorities determined jointly between government and the public at large;
- (d) enable efficient and organized participation by the public in the preparation of land development objectives and thereby to build partnerships and co-operation between government and civil society in implementing them;
- (e) instill the culture of service delivery, economic efficiency and effectiveness in local government bodies and thereby to enable them to inform and utilize their capital budget in a more cost effective and efficient manner for the benefit of the whole community;
- (f) enable the development tribunal to have an understanding of the local government body’s plans and intentions—as a reference framework—in its consideration of development matters;
- (g) integrate and co-ordinate policies between different local authorities and government departments at provincial and national level around matters of planning and development.

4. Co-ordination of land development objectives.—(1) For the purposes of co-ordination local government bodies shall in setting up their land development objectives ensure that such objectives are—

- (a) consistent with any development objectives, strategies or plans prepared by the provincial government;
- (b) consistent with any land development objectives prepared by district councils or other government bodies which impact on the relevant local government body area.

(2) The working plan of each local government body should indicate the manner in which co-operation and co-ordination with provincial and national government departments and other interested bodies such as service providers will be realized, with regard to the legislative requirements outlined in section 22 of the Act.

(3) A district council shall be responsible for—

- (a) co-ordinating and monitoring the preparation of urban and rural land development objectives by local government within its area of jurisdiction;
- (b) preparing district development objectives and thereby integrating land development objectives within its jurisdiction;
- (c) providing support and assistance to local government bodies within its jurisdiction.

(4) A district council may where necessary for the purposes of co-ordination as described in subregulation (3), amend land development objectives prepared by a local government body within its area of jurisdiction, in agreement with the local government body.

5. Failure to prepare land development objectives.—(1) If a local government body fails to set land development objectives within the period stipulated in terms of regulation 8, the MEC through the Department may set such land development objectives on its behalf.

(2) The MEC through the Department, shall notify the local government body in writing of his/her intention to prepare land development objectives as provided in subregulation (1) above.

(3) The local government body may within a period of 30 days from the date of such notice initiate the procedures contemplated in regulations 9, 10 and 11, in which case the MEC shall not prepare land development objectives as contemplated in subregulation (1): Provided that should the local government body fail to prepare land development objectives within the 30 day period, in accordance with the working plan as contemplated in regulation 11 the MEC may without further notice to the local government body prepare land development objectives in terms of this regulation.

(4) Any expenditure incurred by the MEC and the Department on the setting of land development objectives under subregulation (1) shall be recovered from the local government body concerned.

PART B

PUBLIC PARTICIPATION OF THE FORMULATION AND IMPLEMENTATION OF LAND DEVELOPMENT OBJECTIVES

6. General principles relating to public participation.—A local government body shall—

- (a) ensure that land development objectives are based, as far as possible on consensus between such a local government body, member of the public and interested bodies in a particular area;
- (b) ensure that resources from different interested bodies are identified and utilized to assist in the effective implementation of the land development objectives;
- (c) ensure direct input by the public in the formulation of land development objectives and thus to enhance community control in the process; and
- (d) provide a mechanism for the mediation and resolution of conflict over the allocation of resources.

7. Structuring of public participation.—(1) A local government body shall ensure

participation in the setting of land development objectives in accordance with regulation 6 and shall involve members of the public including (if applicable) traditional leaders, service providers, government departments and any other interested bodies within its area of jurisdiction.

(2) It is the responsibility of the local government body and the duly identified civil society stakeholders to determine exactly how and at what level they will structure, organize and finance effective public participation in their area.

(3) A local government body shall, in consultation with interested bodies, develop mechanisms, procedures, structures, financial arrangements and time limits for public participation and shall—

- (a) take into account the provision of regulation 6; and
- (b) clearly reflect these arrangements in the working plan drawn up in accordance with regulation 11.

(4) In the event that the local government body or any interested body cannot agree in respect of the land development objectives or any aspect thereof, the local government body shall use the deadlock breaking mechanisms for dispute resolution contemplated in regulation 11 (1) (b) (iii), and in the event of such mechanisms failing to resolve the dispute, the local government body shall take the final decision as to the content of land development objectives or any aspect thereof: Provided that the local government body shall notify the MEC in writing of the nature of the dispute and such final decision.

(5) The MEC may at any time during the setting of land development objectives, if he or she is of the opinion that public participation has or is not taking place in accordance with the working plan, instruct the local government body to conduct public participation in accordance with a public participation plan set by the Department.

PART C

NOTICE TO SET LAND DEVELOPMENT OBJECTIVES INCLUDING SUBMISSION AND APPROVAL OF A WORKING PLAN

8. Time period for setting land development objectives.—(1) The MEC shall by notice in the Provincial Gazette require a local government body, individually or in conjunction with other local authority(ies), within the time period specified in such notice, to set land development objectives which shall cover plans for development for a period of five years. A local government body shall within the prescribed time limit inform the MEC of its intention to prepare land development objectives.

(2) A copy of the notice contemplated in subregulation (1) shall be served on the relevant local government body by registered post.

(3) The notice shall require the local government body to submit within 60 (sixty) days a working plan contemplated in regulation 11.

(4) The land development objectives may be developed over a period of not more than five years, commencing with priority land development objectives in the first year, where development priorities are identified to inform their annual budget and growing in scope over the five year period to include the contents referred to in regulation 22 below.

(5) The land development objectives shall be revised annually to reflect changing conditions, resources and other factors, and should be clearly reflected in the annual planning and budgeting cycles in local government bodies.

(6) The MEC may recognize all or part of existing plans or planning processes in local

government bodies as constituting all or part of the requirements of the land development objectives: Provided that—

- (a) the local government body applies in writing for this exemption;
- (b) the objectives and intent of these regulations are met;
- (c) the decision is taken in consultation with the Recommendations Committee contemplated in regulation 17 (1).

9. Notice of intention to set land development objectives by a local government body.—(1) On receipt of the notice referred to in regulation 8 (2) the local government body shall notify members of the public and interested bodies within its area of jurisdiction of its intention to prepare land development objectives and invite their participation in accordance with regulations 6 and 7 and proposals for members to serve on the land development objectives planning committee.

(2) The notice of intention to prepare land development objectives—

- (a) shall be published in at least two (2) official languages commonly used in the local government body area, in two issues of a daily newspaper circulating in the local government area, the second notice to be published a week after the first;
- (b) may be advertised in any other appropriate medium i.e. radio, pamphlets, mass meetings, bill boards;
- (c) shall where necessary provide a deadline for submission of proposals for membership of the planning committee, which deadline shall not exceed thirty (30) days from the date of the first notice.

10. Setting up of a planning committee.—(1) The local government body shall either set up a planning committee or recognize existing structures for the purpose of co-ordinating the formulation and implementation of land development objectives in the areas under its jurisdiction: Provided that—

- (a) a local government body shall ensure that the composition of the planning committee is broadly representative of all communities and interest bodies in the area as contemplated in regulation 7 (1); and
- (b) the planning committee shall only make recommendations to the council on matters referred to it.

(2) The planning committee will be chaired where possible by a council of the local government body.

(3) The role of the planning and development profession shall, on express directives obtained from the members of the planning committee in consultation with the local council, be to assist the committee in the running of the consultation process with communities, the gathering of information and the drafting of land development objectives, amongst others.

11. Compilation of working plan.—The local government body shall within the period required in terms of regulation 8 (3) above, submit to the MEC for approval a working plan which shall include—

- (a) details on the composition, status, remuneration and selection criteria of the planning committee made up of representatives of organisations mentioned in regulation 7 (1);
- (b) details of a public participation mechanism including—
 - (i) organizational arrangements and proposed structures for public and community participation;

- (ii) methods for dissemination of information relating to the formulation of land development objectives;
- (iii) clear roles and methods of mediation, deadlock breaking mechanisms and strategies towards conflict resolution;
- (iv) the financing of public participation process;
- (v) practical time limits for public participation;
- (vi) a signed list of all participants in the planning committee;
- (c) a statement as to how capacity building programmes will be conducted in order to increase public awareness of all stages of the planning process and allow marginalised groups to participate in the setting of land development objectives;
- (d) a statement as to the period within which the local government body will submit land development objectives for approval to the MEC which period may not exceed 8 (eight) months from the date of the approval of the working plan contemplated in regulation 12 (2) (a) below or within such period agreed to by the MEC;
- (e) a statement as to what assistance the local government body requires from the Department in respect of the setting of land development objectives;
- (f) a statement as to how land development objectives will affect on the annual budget cycle of the local government body;
- (g) a statement as to the availability of financial resources for the setting of land development objectives, any shortfalls anticipated and how these shortfalls will be financed;
- (h) in the event of more than one local authority compiling joint land development objectives, a stipulation as to which local government body will assume responsibility for setting such joint land development objectives.

12. Approval of working plan.—(1) The local government body shall submit its working plan to the Department for consideration by the MEC.

(2) The MEC shall, subject to regulation 11 (1), within 30 (thirty) days of receipt thereof—

- (a) approve such working plan with or without amendments; or
- (b) reject such working plan in which case he/she shall furnish his/her reasons to the local government body concerned; or
- (c) refer the working plan back to the local government body, together with his/her comments, in which case the local government body shall within a period of 30 (thirty) days or such longer period as the MEC may allow after consultation with the local government body, resubmit such plan to the MEC for his/her consideration.

(3) Should a local government body receive no response within 30 days of receipt of the working plan by the MEC, the plan shall be deemed approved.

PART D
FORMULATION OF LAND DEVELOPMENT OBJECTIVES BY A LOCAL GOVERNMENT
BODY

13. Content of land development objectives.—(1) The content of land development objectives shall be as specified in section 28 of the Act but shall also—

- (a) have regard to the requirements of other legislation where applicable and appropriate including provincial and national planning legislation;
- (b) include goals, policies, activities and quantifiable targets and performance measures for each objective;
- (c) include information that may from time to time be required by notices published in the *Provincial Gazette*.

(2) Land development objectives prepared by a district council shall consist of a composite of land development objectives prepared by its constituent councils within their respective areas of jurisdiction together with additional land development objectives relevant to the development role of the district council.

(3) A local government body shall conduct annual planning and reporting procedures, including preparation of annual budgets and financial statements in accordance with its land development objectives.

14. Notice calling for comments on the draft land development objectives.—(1) The local government body shall advertise the land development objectives for comment, before finally being submitted for approval by the MEC.

(2) The notice calling for comments on the draft land development objectives—

- (a) shall be published in two (2) official languages commonly used in the local government area, in two issues of a daily newspaper circulating in the local government area, the second notice to be published a week after the first;
- (b) may be advertised in any other appropriate medium i.e. radio, pamphlets, mass meetings, bill boards;
- (c) shall state the place where the draft land development objectives may be inspected and the address where comments may be lodged. One such draft shall be lodged with the designated officer in the Department;
- (d) shall provide a deadline for comments on the land development objectives, which deadline shall not exceed 30 (thirty) days from the date of the first notice.

15. Processing of comments on the draft land development objectives.—(1) The planning committee shall study all comments received and make changes to the draft development objectives where it considers this to be justified.

(2) The draft land development objectives, revised in accordance with subregulation (1), shall be presented to one or more public hearings where the parties, referred to in regulation 7 and the community at large shall have the opportunity to make final comments and representations regarding them.

(3) After the public hearing the final draft of the land development objectives shall be submitted to a full sitting of the council of the local government body concerned for consideration and submission to the MEC.

16. Submission of land development objectives to MEC.—The local government body shall submit 10 (ten) copies of the land development objectives, as well as any comments and representations received, together with details of any alterations effected, its comments and recommendations thereon to the MEC for his/her consideration and approval.

PART E
APPROVAL OF LAND DEVELOPMENT OBJECTIVES BY MEC

17. Receipt and approval of land development objectives.—(1) The MEC shall set up a land development objectives recommendations committee to assist him or her with receiving and processing land development objectives as well as to make recommendations on submitted land development objectives.

- (a) The recommendations committee shall consist of eight members, namely—
 - (i) two members from organized local government;
 - (ii) three members from the Provincial Legislature selected from the Standing Committee dealing with development planning;
 - (iii) three members who are technical experts in the fields of environmental management planning, law and local government or development planning.
- (b) The recommendations committee shall be chaired by a member of the committee.

(2) The MEC shall within 60 (sixty) days of receipt of land development objectives submitted to in terms of regulation 16 and in consultation with the recommendations committee—

- (a) approve such land development objectives; or
- (b) refuse to approve such land development objectives in accordance with section 27 (1) of the Act, in which case the MEC shall furnish his/her written reasons as required in terms of the said section; or
- (c) refer the land development objectives back to the local government body for—
 - (i) compliance with the working plan contemplated in regulation 11;
 - (ii) compliance with the subject matter as contemplated in terms of regulation 22;
 - (iii) compliance with the general principles referred to in regulation 2.
- (d) On approval of the original signed copies of the land development objectives shall be submitted to—
 - (i) the local government body concerned;
 - (ii) the designated officer;
 - (iii) the Tribunal Registrar; and
 - (iv) the relevant district council.

(3) Where land development objectives have been referred back to a local government body in terms of subregulation (2) (c) above, the local government body shall, within a period of 30 (thirty) days or such longer period as the MEC may allow after consultation with the local government body, resubmit 10 (ten) copies of such land development objectives together with such further comments or representations as may have been received by the local government body, to the MEC for his/her consideration and approval.

18. Notice of approval of land development objectives.—(1) Once the MEC has approved the land development objectives in terms of regulation 17 (2) (a), the local government body shall publish a notice in the Provincial Gazette and give notice in a daily newspaper circulating in the area, the radio and at mass meetings, that—

- (a) land development objectives have been approved in respect of the area of jurisdiction

of that particular local government body; and

- (b) copies of the land development objectives are open for inspection at the place and time specified in the notice.

(2) The MEC shall through the Department notify the designated officer and the Tribunal Registrar that land development objectives have been approved in respect of that area.

PART F GENERAL PRINCIPLES

19. Review and monitoring of land development objectives.—(1) Land development objectives shall be submitted for approval every five years or at such interval as the MEC may determine by notice in the Provincial Gazette.

(2) The local government body shall prepare an annual plan in accordance with the land development objectives which shall—

- (a) indicate goals, activities and work programmes planned for the year;
- (b) quantifiable targets and performance measures for each activity or programme;
- (c) incorporate the annual budget.

(3) At the completion of each financial year, or at any other time as the MEC may determine, the local government body shall submit to the Department and the relevant district council an annual progress report which—

- (a) describes and evaluates the performance of the local government body in meeting the approved goals against quantifiable targets and performance measures over the financial year;
- (b) gives reasons for departures from the set targets and performance measures;
- (c) indicate the revisions effected to objectives if any;
- (d) incorporates the annual financial statements of the local government body.

(4) Where a local government body substantially deviates from the approved land development objectives as determined by that local council or MEC, that local government body shall resubmit the relevant land development objectives for approval in accordance with regulation 17 (2): Provided that—

- (a) the process for the preparation of land development objectives described in these regulations is followed, including the preparation of a working plan;
- (b) the land development objectives from which there has been no substantial deviation may be excluded from this process.

20. Removal of conflicts, ambiguities and administrative difficulties.—If land development objectives are found to be—

- (a) in conflict with each other;
- (b) in conflict with land development objectives of adjacent local government bodies;
- (c) in conflict with the Provincial Spatial Development Plan or the Provincial Growth and Development Strategy; or
- (d) ambiguous or give rise to administrative difficulties,

and the local government body fails to amend such land development objectives the MEC may, after

consultation with the local government body, by notice in the Provincial Gazette, amend the land development objectives in order to remove the conflict, ambiguities or administrative difficulties.

21. Withdrawal.—The MEC may at any time, in consultation with the local government body concerned as well as other provincial departments, and in accordance with the procedure outlined in regulation 17 (2), withdraw land development objectives or a portion thereof provided that he/she shall provide the reasons for doing so.

22. Provisions which may be included in the land development objectives.—The land development objectives shall be compiled in terms of section 28 of the Act, having regard to other provincial and national planning legislation.

23. Short title.—These regulations shall be called the Eastern Cape Land Development Objectives Regulations, 1997.

GNR.1 of 7 January 2000: Regulations and rules in terms of the Development Facilitation Act, 1995

DEPARTMENT OF LAND AFFAIRS

I, Angela Thokozile Didiza, Minister of Land Affairs, under sections 26 (1), 46 (1) and 59 (1) of the Development Facilitation Act, 1995 (Act 67 of 1995), and acting in consultation with Sankie Dolly Mthembu-Mahanyele, Minister of Housing, hereby—

- (a) repeal, with effect from 1 March 2000, the Regulations and Rules published under Government Notice No. R. 1412 of 30 August 1996; and
- (b) make the Regulations and Rules set out in the Schedule, which Regulations and Rules shall come into effect with effect from 1 March 2000.

A.T. DIDIZA,
Minister of Land Affairs.

SCHEDULE

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33. Noting of Appeal
34. Transitional arrangements
- Annexure A Guidelines for land availability and service agreements
- Annexure B In the development tribunal for [insert name of province, etc]
- Annexure C Form of notice to be given to persons or bodies
- Annexure D Form of notice to be published in newspaper
- Annexure E In the development tribunal for [insert name of province, etc]
- Annexure F In the development tribunal for [insert name of province, etc]
- Annexure G In the development tribunal for [insert name of province, etc]
- Annexure H Conveyancer's certificate
- Annexure I Professional land surveyor's certificate
- Annexure J In the development appeal tribunal for [insert the name of the province, etc]
- Annexure K In the development tribunal for [insert the name of the province]
- Annexure L Land use conditions
- Annexure M Guidelines to the standard conditions for uses excluding township establishment and public resorts
- Annexure N Guidelines to the standard conditions for public resorts

1. Definitions.—In these Regulations, any word or expression to which a meaning has been assigned in the Development Facilitation Act 1995 (Act 67 of 1995) shall have the same meaning, unless the context indicates otherwise, and—

“**day**” means a calendar day, and when any number of days is prescribed for the doing of any act,

it must be calculated by excluding the first day and including the last day. However, if the last day falls on a Sunday or a public holiday, the number of days must be calculated by excluding the first day and also the Sunday or public holiday;

“**deliver**” means to serve copies on all interested persons and file the original with the designated officer or tribunal registrar, as the case may be;

“**notice**” means a written notice and “**notify**” means to give notice in writing;

“**person**” includes a juristic person and an association;

“**public holiday**” means a public holiday referred to in section 1 or proclaimed as such under section 2 of the Public Holidays Act, 1994 (Act No. 36 of 1994);

“**Regulations**” means these rules and regulations and includes any footnote to a rule or regulation and the forms attached hereto or referred to herein;

“**serve**” means to serve in accordance with Regulation 6 and “**service**” has a corresponding meaning;

“**the Act**” means the Development Facilitation Act, 1995 (Act No. 67 of 1995).

2. These Regulations may be cited for all purposes as the Development Facilitation Regulations.

3. Office hours and address of the designated officer and filing of documents.—(1) The office of the designated officer must be open for the filing of documents from 8:00. to 12:30 p.m. and from 14:00 to 16:00 every day other than a Saturday, Sunday or public holiday;

(2) Despite sub-regulation 1, when a different direction as to day and time is given by the tribunal, the designated officer must accept the document in accordance with such direction.

(3) The address of a designated officer’s office is the address notified by the MEC from time to time in the Provincial Gazette.

(4) A document must be filed with the designated officer by:

- (a) Handing the document to the designated officer;
- (b) sending a copy of the document by registered post; or
- (c) faxing the document.

(5) The original document must be lodged with the designated officer. In the case of filing by telefax or of posting a copy of the document, the original document must be lodged with the designated officer within seven days of faxing or posting, as the case may be.

(6) A document is deemed to have been filed with the designated officer on the date—

- (a) on which the document was handed to the designated officer;
- (b) on which a document sent by registered post was received by the designated officer;
- (c) of the completion of the whole of the transmission of the telefax.

(7) The tribunal may make an order—

- (a) condoning the manner in which any filing or other action under this regulation was actually performed; or
- (b) requiring the person concerned to take steps to remedy any defect in filing or any other action.

4. Office hours and address of the tribunal registrar and filing of documents with the tribunal.—The provisions of regulation 3 apply, with the necessary modifications, to the office hours of the tribunal registrar and deputy tribunal registrar and the filing of documents with the tribunal registrar.

5. Correction of documents.—(1) Where any document filed with the designated officer contains a patent defect or error which may materially affect the matter to which it relates, the designated officer shall—

- (a) in writing request the person responsible in terms of these Regulations for the filing of the document, to correct the document; or
- (b) at the written request of the person referred to in sub-paragraph (a), permit the correction of the document.

(2) Where the person referred to in sub-regulation (1) (a) refuses to correct the document, the designated officer must refer the document, together with his or her submission and any reasons for refusing which were furnished by the person, to the tribunal chairperson or a tribunal member/s designated by the chairperson who must give such decision as s/he may deem fit.

(3) The provisions of sub-regulations (1) and (2) apply, with the necessary modifications, to any document filed with the tribunal registrar.

6. Service of documents and proof of service.—(1) Where service of any document or process is required on any particular person, it may be served in any of the following manners:

- (a) By handing a copy of the document to that person;
- (b) by leaving a copy of the document at the person's place of residence or business with any other person who is apparently at least sixteen years old and in charge of the premises at the time of delivery. For the purposes of this sub-paragraph, when a building other than a hotel, boarding-house, hostel or similar place of residence is occupied by more than one person or family, "place of residence" or "place of business" means that portion of the building which is occupied by the said person;
- (c) by leaving a copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority over the said person;
- (d) where the person has chosen an address for service, by leaving a copy of the document at that address;
- (e) by handing a copy of the document to any representative authorised in writing to accept service on behalf of such person;
- (f) by sending a copy of the document by registered post to the last-known postal address of the person. Where this method is used, it will be presumed that service was effected on the seventh day following the day on which the document was posted;
- (g) in the case of a partnership, firm or association—
 - (i) by leaving a copy of the document at the place of business of such partnership, firm or association with the person who, at the time of service, is apparently in charge of the premises and apparently at least 16 years old; or,
 - (ii) if such partnership, firm or association does not have a place of business, by serving a copy of the document on a partner, the owner of the firm or the chairperson or secretary of the managing or other controlling body of such

association, in any manner set out in this regulation.

- (h) in the case of a company or other juristic person, by handing a copy of the document to a responsible employee of the company or other juristic person at its registered office or principal place of business within the Republic or its main place of business in the magisterial district in which the land which is the subject to the application is situated, or, if there is no employee willing to accept service, by affixing a copy of the document to the main door of the office or place of business;
- (j) in the case of a local government body, by handing a copy of the document to the chief executive officer, town clerk, deputy town clerk, assistant town clerk or any person acting on behalf of any of those officers; and
- (k) in the case of any other statutory body, by handing a copy of the document to the person authorised by its enabling law or constitution to defend or oppose proceedings on its behalf or to any other person authorised to act on its behalf; or
- (l) by any other means directed by the designated officer or authorised by the tribunal.

(2) If the designated officer is satisfied that service cannot conveniently or expeditiously be effected in any of the manners set out in subregulation (1), he or she may direct that service be effected in any other manner. Such direction may include transmission by other electronically printed manner.

(3) Unless otherwise directed by the designated officer, service must be effected between 8:00 and 4:00 on any day other than a Sunday or public holiday.

(4) Service may be proved in a tribunal—

- (a) by a signed acknowledgement of receipt by the person on whom the document was served;
- (b) by an affidavit by the person who effected service; or
- (c) in the case of service by registered post, by producing the certificate which was issued by the Post Office when the document was posted and an affidavit that the letter posted contained the document concerned.

(5) If the tribunal is not satisfied that service has taken place in accordance with this regulation, it may—

- (a) make an order condoning the manner in which service was actually effected; or
- (b) direct the person who was required to effect service to take such steps as it deems fit to remedy the original defect.

(6) Proof of service must be filed with the designated officer within seven days of service being effected.

7. Form and content of documents filed with designated officer or tribunal registrar.—(1) Unless the Act or these Regulations provide otherwise, any document initiating tribunal proceedings must—

- (a) have a heading containing the following information:
 - (i) the title of the matter;
 - (ii) the case number assigned to the matter by the tribunal registrar;
 - (iii) an address of the person delivering the document at which that person will accept notices and service of all documents in the proceedings;
- (b) have a substantive part containing the following information in consecutively

numbered paragraphs (and sub-paragraphs)—

- (i) the names, description and addresses of the parties;
- (ii) where the person submitting the document is not a party to the proceedings, his or her interest in the proceedings;
- (iii) a clear and concise statement of the material facts relied upon stated with sufficient particularity to enable other persons to reply to the document;
- (c) be signed by the person initiating proceedings or his/her representative and;
- (d) express all dates, sums and numbers in figures.

(2) Subregulation (1) applies, with the necessary modifications, to any document responding to and continuing with the tribunal proceedings.

8. General provisions for applications.—(1) The provisions of this regulation apply to all applications unless the Act or these Regulations specify otherwise.

(2) An application must be brought on notice to all persons who may have an interest in the application as prescribed by the designated officer.

(3) The notice of application must be signed by the party bringing the application or his or her representative.

(4) The application must be delivered and must contain the following information:

- (a) The title of the matter;
- (b) the case number assigned to the matter by the tribunal registrar;
- (c) the relief sought;
- (d) an address of the person delivering the document at which that person will accept notices and service of all documents in the proceedings;
- (e) a notice advising any other person that if he or she intends opposing the application, he or she must deliver an answering affidavit within 21 days of service of the application, failing which the matter may be heard in his or her absence and an order of costs may be made; and
- (f) a schedule listing the documents which are material and relevant to the application.

(5) Except where an application deals with a procedural issue, the application must be supported by an affidavit.

(6) In the affidavit, the deponent must set out clearly and concisely—

- (a) the names, description and addresses of interested persons;
- (b) the material facts on which he or she relies;
- (c) the legal issues arising from those facts; and
- (d) the relief sought.

(7) The information referred to in subregulation (6) (b), (c) and (d) must be set out with sufficient particularity to enable any interested person to reply to it.

(8) (a) A notice of opposition and an answering affidavit may be delivered by a person opposing the application.

(b) The notice of opposition and answering affidavit must—

- (i) be delivered within 21 days of the day on which the application was served on the

person opposing the application; and

(ii) comply, with the necessary modifications, with sub-regulations 3, 4, 5, 6 and 7.

(9) (a) The person bringing the application may deliver a replying affidavit within seven days of the day on which the notice of opposition and answering affidavit were delivered.

(b) The replying affidavit may address only those issues raised in the answering affidavit and may not introduce new issues of fact or law.

(10) Except where these Regulations provide otherwise, the tribunal registrar must allocate a date for the hearing of the application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first.

(11) The tribunal registrar must forthwith notify the designated officer concerned of the date, time and place of the hearing of the application.

(12) Upon receipt of the details of the hearing, the designated officer must immediately inform the persons concerned of the details.

(13) The tribunal must deal with an application in any manner it deems fit.

(14) Nothing in these Regulations must be construed as precluding a tribunal from directing that oral evidence be heard on specified issues with a view to resolving any dispute of fact.

9. Condonation.—(1) Any person may apply to the tribunal—

(a) for an order condoning non-compliance with any of the time limits or other requirements laid down in these Regulations; or

(b) for any other order for relief (whether interim or otherwise) in respect of any matter not otherwise specifically provided for in these Regulations.

(2) An application in terms of this regulation—

(a) must follow the procedure set out in regulation 8;

(b) may form part of a substantive application for land development, part of an objection to any such application or may be submitted as a special, procedural or interim application.

(3) Unless precluded by the Act, the tribunal may, on being satisfied that good cause has been shown, either before or after expiry of any period or requirement laid down in these Regulations and in respect of any particular matter, abridge or extend any such period or waive such requirement, with or without any conditions it may see fit to impose.

(4) If any person fails to comply with any notice or directive given in terms of these Regulations, any interested person may apply to the tribunal for an order that:

(a) Such notice or directive must be complied with within a specified period; and;

(b) that, failing such compliance, the person in default is not entitled to relief in such proceedings.

(5) Despite sub-regulation (4), a defaulting person is not precluded from commencing proceedings again.

10. Settlements.—Whenever a matter is settled out of tribunal, the person who placed the matter before the tribunal must forthwith notify the tribunal registrar and all interested parties in writing of the terms of the settlement.

11. Types of specific applications.—(1) Without detracting from the right of any person to

bring a matter before the tribunal in terms of the Act or any other provisions of these Regulations, the following applications may be submitted to the tribunal in terms of these Regulations:

- (a) A land development application in relation to land development in terms of Chapter V of the Act;
- (b) a land development application in relation to land development in terms of Chapter VI of the Act;
- (c) an application in terms of Section 61 of the Act for approval of a registration arrangement whether or not such an application is brought as a part of a land development application in relation to land development in terms of Chapter V; 1
- (d) an application in terms of Section 34 of the Act for a condition of establishment to be imposed for the suspension of servitudes or restrictive conditions affecting the land in question; 2
- (e) an application for the amendment of a land development application or conditions of establishment, the division of a land development area or the continuation of a land development application by another applicant in terms of Section 35 or 52 of the Act;
- (f) an application in terms of Section 30 or 48 of the Act for exemption from any or all of the provisions of Chapter V or VI of the Act, as the case may be, or from any of these Regulations, except in circumstances relating to non-statutory land development referred to in Section 42 or 57 of the Act³;
- (g) any application relating to a procedural or interim matter arising from an actual or intended land development application, irrespective of whether or not such application is brought as part of a land development application or as a separate application. The applications referred to in this subparagraph include, but are not limited to, the following applications:
 - (i) an application in terms of regulation 13 (i) by a designated officer to be substituted by another designated officer;
 - (ii) an application by a land development applicant, or by any person or body objecting or wishing to object to a land development application, requesting the tribunal to appoint a mediator already agreed upon between the parties or, failing such agreement, to be appointed by the tribunal from a panel of mediators, in terms of Section 22 of the Act. However, if such an application is brought prior to the date of the first hearing of the land development application by the tribunal which has been set as intended in regulation 21 (4), such application must nevertheless be heard by the tribunal only after the expiry of the period for the filing of objections in terms of regulation 21 (13);
 - (iii) an application in terms of regulation 21 (18) (a) to anticipate the date of the first hearing of a land development application which has been set as intended in regulation 21 (4), if no objection was received within the prescribed period or all representations received were substantially in support of the land development application;
 - (iv) an application in terms of regulation 28 by a land development applicant to compel a designated officer, tribunal registrar or any other government body or official to perform any duty or function; and
 - (v) an application relating to condonation of failure to comply with any provision of these Regulations or to follow alternative steps or to take alternative action, as intended in regulation 3(7), 6(5) or 9.

12. Consolidation and separation of applications.—The tribunal may of its own accord, or on application by any party, on notice to every other party, make an order—

- (a) that applications pending before it in separate proceedings be consolidated, where it deems such consolidation to be expedient and just; or
- (b) that different components of an application, or different applications brought simultaneously in respect of the same land development or different land developments, be dealt with separately or at separate hearings of the tribunal.

13. General duties of designated officers.—Subject to any contrary or more specific provisions of these Regulations, the general duties and functions of a designated officer include the following:

- (a) Accepting, filing and maintaining records of all land development applications, other applications to the tribunal, and documents in support of or in response to such applications;
- (b) obtaining dates for hearing from the tribunal registrar for the land development applicant or any other person entitled to bring an application before the tribunal in terms of the Act or these Regulations;
- (c) assisting applicants to determine the persons, including the identity and offices of persons in the employ of a provincial government or local government body, on whom a land development application should be served;
- (d) giving directions from time to time as to the manner of service of documents in circumstances not provided for in these Regulations;
- (e) providing the land development applicant with all the comments, objections or representations received;
- (f) informing parties of orders and directives given by the tribunal, on the basis of information provided to the designated officer by the tribunal registrar;
- (g) attending tribunal hearings and generally providing documents and information to the tribunal registrar or any member of the tribunal;
- (h) in terms of Section 42 or 57 of the Act, investigating and reporting on and generally assisting the tribunal in relation to proceedings relating to non-statutory land development processes;
- (i) submitting to the tribunal an application to be substituted as designated officer in relation to any land development application where the designated officer's employer, being the provincial government or a local government body, is the land development applicant or an objector to a land development application in respect of which the designated officer is required to provide a report in terms of regulation 20 and the circumstances are such that, in the opinion of the designated officer, he or she is not in a position to provide the tribunal with an objective report;
- (j) Generally liaising with applicants and other parties to ensure the efficiency of the land development application process.

14. Duties of tribunal registrar.—(1) subject to any contrary or more specific provisions of these Regulations, the general duties and functions of a tribunal registrar include the following:

- (a) Liaising generally with the relevant designated officer and the parties in relation to any application or other proceedings filed with the designated officer;

- (b) maintaining a diary of hearings of the tribunal, allocating hearing dates and application numbers to applications, arranging the attendance of hearings by tribunal members, arranging venues for tribunal hearings and generally administering the proceedings of the tribunal and performing administrative functions in connection with such proceedings or the efficient functioning of the tribunal, in accordance with the directions of the chairperson of the tribunal;
- (c) determining, in consultation with the chairperson of the tribunal, of his or her own accord or on good cause shown and at the request of a land development applicant or designated officer to do so, the order of preference to be given to matters awaiting consideration by the tribunal, in order to ensure that priority is given to matters—
 - (i) where, if they are dealt with in the ordinary course of the tribunal, there would be a delay which is likely to affect adversely the ability of the intended beneficiaries of the land development to afford sites or housing units as a result of holding costs or some other factor;
 - (ii) which affect a substantial number of persons or the public at large; or
 - (iii) which affect persons with particularly pressing needs; and
- (d) arranging the affairs of the tribunal so as to ensure that time is available to deal with matters contemplated in paragraph (c) or other urgent applications.

(2) Subregulation (1) shall apply, with the necessary modifications, to the duties and functions of the tribunal registrar in respect of the development appeal tribunal.

15. Tribunal as a tribunal of record.—(1) A record must be kept of—

- (a) any decision of the tribunal;
- (b) any evidence given to the tribunal;
- (c) any objection made to any evidence received or tendered;
- (d) any on-site inspection and any matter recorded as a result thereof; and
- (e) the proceedings of the tribunal generally.

(2) Such record must be kept by such means, including shorthand notes or electronic recording, as the tribunal may deem expedient.

(3) After the person who made any shorthand notes or electronic recording has certified it as correct, it must be filed with the tribunal registrar.

(4) A transcript of the notes or the record or a portion thereof, may be made on the request of the tribunal or any person upon payment of the reasonable expenses incurred by the State in causing such transcript to be made.

(5) Despite subregulation (4), the tribunal registrar may, on good cause shown, dispense with the payment of such amount.

(6) If a transcript is required in terms of sub-regulation (4), the person who made the transcript of an electronic recording or notes must certify it as correct and such transcript, together with any notes or electronic records, must be returned to the tribunal registrar.

(7) The transcript of the shorthand notes or electronic records certified as correct as envisaged in subregulation (3) will be deemed to be correct unless the contrary is proved to the satisfaction of the tribunal and it issues an order accordingly.

16. Witness fees.—A witness subpoenaed to give evidence before the tribunal is entitled to such

fees and costs as are specified in the tariff of allowances payable to witnesses in civil cases prescribed under section 51 *bis* of the Magistrates' Court Act, 1944 (Act No. 32 of 1944) and section 42 of the Supreme Court Act, 1959 (Act No. 50 of 1959).

17. Costs.—(1) The costs allowed in terms of an order of the tribunal in terms of section 20 of the Act must be calculated and taxed by the tribunal registrar at the tariff determined in the tribunal's order but such costs must not exceed the costs which could have been allowed in a provincial division of the High Court of South Africa if the matter had been heard in such a division.

(2) Costs taxed by the tribunal registrar are subject to review by the tribunal on application by one or more of the parties within 14 days of such taxation.

(3) The application referred to in subregulation (2) must identify each disputed item or part of an item together with the grounds of objection to the allowance or disallowance thereof.

(4) Qualifying fees for expert witnesses are not recoverable as costs between party and party unless the tribunal directs otherwise.

18. Land availability agreements.—(1) The terms and conditions on which land has been made available to any person or body in terms of section 44 or 53 of the Act must be contained in a land availability agreement.

(2) Such agreement must—

- (a) be concluded in writing between the State or local government body making the land available and the person or body to whom the land is made available;
- (b) comply with the guidelines set out in Annexure A and any additional written guidelines which may be issued generally by the designated officer from time to time;
- (c) be filed with the designated officer and approved by the tribunal.

(3) Despite sub-regulation (2) (b), the tribunal may in any particular case, permit a deviation from the guidelines.

19. Guidelines for award of land availability agreements.—(1) In order to ensure a fair, public and competitive process, the guidelines set out in this regulation must be followed in the award of land availability agreements.

(2) The State or local government body making the land available, must make a public call for proposals for the development or upgrading of the relevant land according to the following guidelines:

- (a) The methods used to publicise the proposal call must include methods which will reach a wide spectrum of potential developers, including smaller or community-based developers; and
- (b) the proposal call must—
 - (i) be written in clear language and contain all the information necessary to respond to such a call;
 - (ii) not set unnecessarily onerous conditions which would be prejudicial to smaller and/or community-based developers; and
 - (iii) set reasonable time limits within which to respond to such a call.

(3) In deciding on the award of a land availability agreement, the State or local government body must, in addition to any other relevant criteria, take into account the following criteria:

- (a) Appropriateness of proposed land use;

- (b) the proposed disposal price of erven;
- (c) the intended nature of the development, including amongst other things, the number of beneficiaries, whether the development is targeted at persons in need in that area, service levels and tenure types;
- (d) the extent to which it is proposed to involve relevant communities in the planning or carrying out of the proposed development;
- (e) environmental sustainability;
- (f) the extent to which the proposed development will facilitate the creation of employment opportunities and economic growth in the relevant area;
- (g) the cost effectiveness of the proposed development; and
- (h) the extent to which the proposed development accords with any land development objectives set under Chapter IV of the Act, which are applicable in the area.

(4) After making its decision, the State or local government body making the land available must—

- (a) publicly make known its decision on the award of the land availability agreement; and
- (b) if requested in writing by any person who made proposals in response to the proposal call, within 30 days of such request furnish written reasons for its decision.

(5) Nothing contained in this regulation shall detract from the powers, if any, of the State or local government body to dispose of land in any other manner in terms of any other law, including a disposal on terms which are substantially the same as those contemplated in Annexure A, save that Section 44 or 53, as the case may be, of the Act is not applicable to such disposal.

(6) The tribunal may condone a departure from the provisions of this regulation if it considers such departure to be justified in the circumstances.

20. Services agreements.—(1) A services agreement referred to in section 40 of the Act must—

- (a) comply substantially with the guidelines set out in Annexure A, and any additional guidelines which may be issued generally by the designated officer from time to time; and
- (b) be filed with the designated officer and approved by the tribunal.

(2) Despite subregulation (1) (a), the tribunal may, in any particular case, permit a deviation from the guidelines.

21. Application for establishment of a land development area in terms of section 31 or 49 of the Act.—(1) Subject to any exemption from any provision of the Act or these Regulations granted by the tribunal under section 30 or 48 of the Act and subject to any conditions under which such exemption may have been granted, a land development applicant must lodge with the designated officer a written land development application in compliance with these Regulations and in the form of Annexure B to these Regulations.

(2) The land development application must be accompanied by such further documents as Annexure B may prescribe.

(3) Subject to regulation 5, the designated officer must, in writing and within seven days after receipt of the land development application—

- (a) acknowledge receipt of the application;

- (b) inform the land development applicant of any additional information or documents required or other requirements in relation to the application;
- (c) inform and advise the land development applicant regarding the persons or bodies to be given notice of the application in terms of subregulation (6); and
- (d) provide the land development applicant with advice regarding any specific method of giving notice in terms of subregulation (8).

(4) As soon as the designated officer has complied with subregulation (3), he or she must request the tribunal registrar to provide the dates on which—

- (a) a pre-hearing conference will be held; and
- (b) the land development application will be considered by the tribunal.

(5) The tribunal registrar must within two days of receipt of the request referred to in subregulation (4), notify the designated officer who must forthwith inform the land development applicant in writing of the dates, the latter of which must not be earlier than 80 days nor later than 120 days after the date of request to the tribunal registrar, for such date.

(6) A land development applicant must, in the manner described in subregulations (8) and (9), no later than the date 65 days prior to the date fixed by the tribunal registrar in terms of subregulation (5), give notice of the land development application and the dates of the pre-hearing conference and the tribunal hearing substantially in the form of Annexure C to these Regulations to—

- (a) any owner or lessee of land in or adjoining the proposed land development area whose interests may in the opinion of the designated officer be adversely affected by the land development application;
- (b) every holder of limited real rights or mineral rights in respect of the land forming the subject of the application;
- (c) every relevant local government body;
- (d) every other interested party as directed by the designated officer which, without detracting from the generality of the foregoing, may include any or all of the following:
 - (i) Any national government department which in the opinion of the designated officer may be affected by the application and in particular any national government department which is responsible for the administration of any law the operation of which the land development applicant will request the tribunal to suspend under section 33 (2) (j) or 51 (2) (d), of the Act, as the case may be;
 - (ii) any provincial road department, environmental affairs department, education department, agriculture department, health department, regional land claims commissioner, or any other department or division of the relevant provincial administration which, in the opinion of the designated officer, may have an interest in the application and in particular any provincial government department which is responsible for the administration of any law the operation of which the land development applicant will request the tribunal to suspend under section 33(2) (j) or 51 (2) (d), of the Act as the case may be;
 - (iii) any authority or other body which will provide engineering services contemplated in Chapter V of the Act to the proposed land development area; and
 - (iv) residents of the proposed land development area, communities or persons who may have an interest in the land or identifiable persons likely to settle on the land.

(7) A notice in terms of subregulation (6), save for a notice referred to in paragraph (d) (iv)

thereof, has the same effect, with the necessary modifications, as if it were a subpoena issued by the tribunal under Section 18(2) of the Act, to attend the pre-hearing conference.

(8) Notices in terms of subregulation (6) must be given in the following manner:

- (a) A notice to a person or body referred to in subregulation (6) (a) to (c) and (d) (i), (ii) and (iii), must be served on the person or body concerned in accordance with regulation 6.
- (b) a notice to persons referred to in subregulation (6) (d) (iv) must be given in such manner as may be determined by the designated officer in order to ensure that notice of the application is adequately communicated to such persons, for example, by way of distribution of leaflets or by public announcements in the area.
- (c) a notice, with the necessary modifications, in the form of Annexure D to these Regulations must be prominently displayed at an easily accessible position on the land forming the subject matter of the land development application for a period of at least 14 consecutive days. Such notice shall be at least in A2 size and shall be covered in plastic.

(9) A notice given in accordance with paragraphs (a), (b) or (c) of subregulation (6) must be in English and in at least one other official language specified by the designated officer and which is commonly used in or near the proposed land development area, provided that, unless the designated officer has directed otherwise, notices to any national or provincial department shall be in English only.

(10) In addition to giving the notice as set out in subregulation (8), the land development applicant must, within the period set out in subregulation (6), publish once a week for two consecutive weeks in the Provincial Gazette and in a daily newspaper circulating in or near the said land development area notice of the application substantially in the form of Annexure D to these regulations, provided that if there is no daily newspaper in circulation in or near the said land development area, the notice shall be published in a weekly newspaper circulating in or near the said land development area.

(11) The notice referred to in subregulation (10) must be published in at least the two official languages referred to in subregulation (9).

(12) The land development applicant must, not later than the last day upon which representations can be made or objections lodged in terms of subregulation (13), lodge with the designated officer proof, to the reasonable satisfaction of the designated officer, that the provision of subregulations (8), (9), (10) and (11) in respect of notification and service, have been complied with.

(13) Any objector or interested party may, not later than 21 days after the date of the notice given to him or her in terms of subregulation (8) (a), or if he or she was not given such notice, 21 days after the date of the first publication of the notice in a newspaper in accordance with subregulation (10), lodge written objections or representations with the designated officer.

(14) Despite subregulation (13), the designated officer may record in writing the oral representations or objections of any person who within the period stated therein appears before the designated officer in person to make an objection or to make representations but is unable to provide written representations or objections.

(15) Representations may be in support of or against the land development application or any aspect thereof and may include suggested conditions to be imposed by the tribunal or other recommendations.

(16) Objections or representations must state—

- (a) the name and address of the person making the objections or representations;

- (b) the interest of the objector or person making the representations in the application;
- (c) the reasons for the objection or representations; and
- (d) an address for the service of documents.

(17) Within seven days of the last day allowed for the submission of written objections or representations, the designated officer must submit to the land development applicant a copy of every written or recorded objection or representation submitted.

(18) Despite the provisions of subregulation (17)—

- (a) if no objection is received within the period referred to therein or any such objection is withdrawn either during such period or thereafter, and no representations are received or all such representations are substantially in support of the application, the land development applicant may, after the last day allowed for the submission of objections or representations, file an application with the designated officer and the tribunal registrar to anticipate the date of the tribunal hearing originally set by the tribunal registrar in terms of subregulation (5); and
- (b) if any person referred to in subregulation (8) (a) to whom notice of the land development application has been given, having the effect of a subpoena in terms of subregulation (7), has not responded to the notice, the applicant must give such person or body notice in the appropriate form of the anticipated date and place of the hearing as soon as the tribunal registrar has provided the applicant with the necessary particulars of such anticipated hearing and such further notice has the effect of amending the notice originally given.

(19) If subregulation (18) is not applicable, the land development applicant may, within 14 days after receipt of copies of the objections or representations in terms of subregulation (17)—

- (a) submit to the designated officer a written reply to such objections or representations; or
- (b) amend his or her application, subject to such conditions as the designated officer may impose in respect of service or notification of the amended application.

(20) The designated officer must, within 14 days after the filing of the application to anticipate the hearing date referred to in subregulation (18) or the expiry of the period referred to in subregulation (19), as the case may be, submit a written report to the tribunal registrar and the land development applicant regarding the land development application.

(21) The report referred to in subregulation (20) must—

- (a) be accompanied by a copy of—
 - (i) the application;
 - (ii) every objection or representation received or recorded in relation thereto; and
 - (iii) the land development applicant's reply, if any, to such objections or representations;
- (b) contain recommendations by the designated officer to the tribunal in relation to the land development application; and
- (c) be held available for inspection prior to and during the hearing of the tribunal at the office of the designated officer.

(22) The pre-hearing conference must be held on the date and at the time and venue stipulated in the notice referred to in sub-regulation (4): provided that, if there are no objections to the application, no pre-hearing conference shall be held.

(23) The conference must be chaired by a member of the tribunal appointed by the chairperson of the tribunal.

(24) The applicant and every person who intends appearing at the tribunal hearing must attend the conference either personally or through his or her duly authorised representative.

(25) At the conference, the parties must attempt to reach consensus on the following:

- (a) any means by which the dispute may be settled, including referring it to mediation;
- (b) facts which are common cause;
- (c) facts which are in dispute;
- (d) the issues which the tribunal is required to decide;
- (e) discovery, disclosure and the exchange of documents;
- (f) the preparation of an indexed and paginated bundle of documents;
- (g) the manner in which documentary evidence is to be dealt with, including any agreement on the status of documents and whether documents, or parts of documents, will serve as evidence of what they purport to be;
- (h) whether evidence on affidavit will be admitted with or without the right of any person to cross-examine the deponent;
- (i) the order in which parties will present their cases;
- (j) the necessity for any on-site inspections;
- (k) securing the presence at the hearing of any witness;
- (l) the resolution of any preliminary points which are intended to be taken;
- (m) the exchange of witness statements;
- (n) expert evidence;
- (o) the estimated duration of the tribunal hearing;
- (p) any other means by which proceedings may be shortened; and
- (q) whether the hearing will take place on the appointed date, and, if not, the date on which it will take place.

(26) The decisions taken at the conference must be recorded by the tribunal registrar and signed at the conference by all the persons attending the conference.

(27) Within seven days of the conference, the tribunal registrar must dispatch a copy of the minutes and decisions to all persons who attended the conference.

(28) The tribunal member chairing the conference may give any directions to the applicant and any other person in respect of the matters mentioned in subregulation (25), to ensure that the tribunal proceedings are concluded expeditiously.

(29) If any of the persons referred to in subregulation (24) fails to attend a pre-hearing conference or fails to comply with any direction made in terms of sub-regulation (28), he or she will not be permitted to appear at the tribunal hearing, unless the tribunal on good cause shown orders otherwise.

(30) Every person who has complied with subregulation (24) may appear at the tribunal hearing and may be represented at the hearing by a duly authorised representative.

(31) Despite the directions in subregulation (7), any person who was given such notice who has informed the designated officer in writing that he or she has no objection to or has no

representations in respect of the application or who has made representations substantially in support of the application, is not obliged to appear.

(32) The date of the hearing referred to in subregulation (25) (q) is the date originally set by the tribunal registrar in terms of subregulation (5) or the new date set at the pre-hearing conference, or, if the provisions of subregulation (18) are applicable, such earlier date as may have been set by the tribunal registrar and notified to the land development applicant and each person in writing.

(33) The tribunal may initiate such steps as may be competent at law if a person who has been notified in terms of subregulation (8) fails to appear at the pre-hearing conference or fails to remain in attendance at the conference until—

- (a) he or she is excused by the tribunal; or
- (b) he or she having withdrawn the objection in writing.

(34) The tribunal registrar must arrange a suitable venue at which the tribunal hearing is held, having regard in particular to accessibility and proximity to the land forming the subject matter of the land development application.

(35) (a) A document or tape recording not disclosed or discovered at the pre-hearing conference may not, except with the leave of the tribunal granted on whatever terms it deems fit, be used for any purpose by the person who was obliged to disclose it, except that the document or tape recording may be used by a person other than the person who was obliged to disclose it.

(b) For the purposes of this subregulation, a tape recording includes a sound track, film, magnetic tape, record or any other material on which visual images, sound or other information can be recorded.

(36) (a) The applicant or any other person may be permitted to call an expert witness, provided notice of such calling and a summary of the evidence of the expert, was given at the pre-hearing conference.

(b) If the applicant or any other person fails to comply with paragraph the tribunal may admit the evidence only on good cause shown, and may make an order as to costs.

(37) In any proceedings before the tribunal, a party to the dispute may appear in person or be represented by any person.

(38) The tribunal must consider a land development application and may act in accordance with subregulation (29) after—

- (a) receipt of the documents referred to in section 32 or 50 of the Act;
- (b) determining any issues relating to *locus standi*, representation and availability of witnesses and parties;
- (c) determining whether the provisions of the Act have been complied with;
- (d) determining whether a dispute before the tribunal should, before any further enquiry by the tribunal is held, first be referred to mediation in terms of section 22 of the Act.

(39) After complying with the provisions of subregulation (38), the tribunal may—

- (a) approve the application in whole or in part, subject to such conditions as the tribunal may deem appropriate;
- (b) dismiss the application;
- (c) postpone its decision on the application; or
- (d) refer the matter to mediation.

(40) The tribunal registrar must, not later than seven days after the hearing has been

completed, inform the designated officer of the decision of the tribunal.

(41) Within 3 days of being informed by the tribunal registrar of the decision of the tribunal, the designated officer must notify—

- (a) the land development applicant;
- (b) every objector and every other person who submitted written representations; and
- (c) if the land development application has been approved, the Registrar of Deeds, the Surveyor-General and the local government body or any other body referred to in subregulation (6) (d) (iii).

(42) Any interested person or body may, within 7 days of receiving the decision of the tribunal from the designated officer, in writing request the tribunal, through the tribunal registrar, to furnish written reasons for the decision and the tribunal must furnish concise reasons to such person or body and the provincial government, within 7 days of having been requested to do so.

(43) For the purposes of this regulation, “document” includes a tape recording.

22. Continuation of application by new applicant.—(1) If—

- (a) the ownership of land in respect of which an application for the establishment of a land development area has been made, has changed: or
- (b) the land concerned has been made available to a person or body other than the one to whom the land was originally made available: or
- (c) a person other than the original applicant has become the agent of the owner or has been provided with the owner’s consent to establish a land development area on the land, and the new owner of the land or new person or body to whom the land was made available, or the new agent or consent holder notifies the designated officer in writing that he or she wishes to continue with the application;

the designated officer may, if the application has not lapsed, approve the continuation of the application by such new person on any condition he or she may deem expedient.

(2) A land development applicant who continues with an application in terms of subregulation (1) will, for the purposes of these Regulations, be deemed to be the land development applicant who originally made the application.

23. Submission of plans to the Surveyor-General and Registrar of Deeds.—(1) A land development applicant in terms of Chapter V or VI of the Act who has been notified that his or her land development application has been approved by the tribunal must, within a period of five months from the date of such notice, or such longer period as the designated officer may allow, lodge for approval with the Surveyor-General such general plans, diagrams and records as are required in terms of the Land Survey Act, 1997 (Act No. 8 of 1997), and if the land development applicant fails to do so, the application will, subject to subregulation (11) lapse.

(2) Despite subregulation (1), the designated officer may, where appropriate, allow the land development applicant to lodge such general plans, diagrams and records with the Surveyor-General at a stage prior to the relevant land development application having become an approved application.

(3) As soon as possible after lodging the general plans, diagrams and records referred to in subregulation (1), the land development applicant must inform the designated officer of the date of such lodging.

(4) If the land development applicant fails, within 60 days after he or she has lodged the general plans, diagrams and records referred to in subregulation (1), to comply with any requirements the Surveyor-General may lawfully lay down, the Surveyor-General may notify the designated officer

accordingly, and if the designated officer is satisfied, after hearing the land development applicant, that the land development applicant has failed to comply with any such requirement without sound reason, the designated officer must in writing notify the land development applicant that he or she is so satisfied, and thereupon the application will, subject to subregulation (11), lapse.

(5) Upon receipt of the general plans, diagrams and records referred to in sub-regulation (1), the Surveyor-General must deal with them in accordance with the Land Survey Act, 1997.

(6) Any street or public place or part of such street or public place on a general plan or other diagram approved by the Surveyor-General, acting as contemplated in subregulation (5), or any general plan or other diagram approved prior to the coming into operation of the Act, will be deemed to be closed in accordance with any order given by the tribunal and as from the date determined by the tribunal.

(7) A general plan approved by the Surveyor-General, acting as contemplated in sub-regulation (5), or any general plan approved prior to the coming into operation of the Act may be amended or partially or totally cancelled by the Surveyor-General on application to the tribunal and the land shown on such general plan may be consolidated or subdivided, on such terms and conditions as the tribunal may approve or direct.

(8) The land development applicant is responsible for submitting any application for the amendment or partial or total cancellation of a general plan referred to in sub-regulation (7) to the Surveyor-General, together with any approval or direction referred to in sub-regulation (7), and such amended general plan must comply with the requirements of the Land Survey Act, 1997.

(9) After the general plan or, where applicable, other diagrams relating to the land development area, or any part thereof, has been approved by the Surveyor-General, the land development applicant is responsible for making such consequential amendments to the relevant layout plan or settlement plan, as the case may be, as may be dictated by the form in which the general plan or other diagram was approved, and it will not be necessary for any new or additional application to be made or approved in respect of a layout or settlement plan so amended.

(10) Within a period of 2 months, or such longer period as the designated officer may allow, after the date on which the Surveyor-General has approved the plans and diagrams, the land development applicant must lodge a certified copy or tracing of the general plan or other diagrams of the land development area, together with a copy of the layout plan or settlement plan, as the case may be, amended as contemplated in subregulation (9), with—

- (a) the designated officer;
- (b) if the approved land development area will be within the local government body area of any local government body, also with that local government body; and
- (c) the registrar, in accordance with section 37(b) or 55(b) of the Act, together with the title deeds and other documents required for registration by the registrar in terms of the Deeds Registries Act, 1997,

and if the land development applicant fails to do so, the application will, subject to subregulation (11), lapse.

(11) Despite sub-regulation (1), (4) and (10) (c), if a registration arrangement in terms of section 61 of the Act as read with regulation 27 has also been approved in respect of the relevant land development area, the land development application will not lapse and the designated officer must, in the circumstances contemplated in those subregulations, employ the proceeds of the guarantee referred to in section 38 (2) (d) (i) of the Act, to appoint and instruct land surveyors and conveyancers to prepare and lodge the necessary general plans and records, title deeds and other documents with the Surveyor-General and registrar respectively, so that a subdivision register may be opened in respect of the land development area expeditiously.

24. Application for exemption from provisions of Act in terms of Sections 30 or 48 of the Act.—(1) A land development applicant or prospective land development applicant may apply to the tribunal in terms of Section 30 (1) or 48 (1), as the case may be, of the Act, for an exemption from all or any of the provisions of Chapter V or VI, as the case may be, in respect of a land development area.

(2) In order to expedite the application, the applicant must lodge a written application for exemption in the form of Annexure E directly with the designated officer who must, within seven days apply to the tribunal registrar for a hearing date.

(3) The tribunal registrar—

- (a) must, within two days of such application notify the designated officer who must in turn notify the applicant of the date on which the application for exemption will be considered by the tribunal, which date must not be later than 30 days after the date of receipt of the application by the tribunal registrar; and
- (b) may require the applicant to give notice of the hearing to any interested person or body identified by the designated officer.

(4) The applicant must appear at the tribunal hearing and may be represented by a duly authorised representative.

(5) Any other interested party may, at the discretion of the tribunal, appear at the tribunal hearing and make representations to the tribunal and may be represented thereat by a duly authorised representative.

(6) The tribunal may and, if requested to do so by the applicant, must hold an on-site inspection in relation to the application.

(7) The tribunal may—

- (a) approve the application for exemption in whole or in part, subject to such conditions as the tribunal may deem appropriate;
- (b) dismiss the application;
- (c) postpone its decision thereon; or
- (d) direct the applicant as to the extent to which it requires the provisions of the Act or any of these Regulations to be complied with, which may include the applicant giving notice to interested parties as prescribed in terms of regulation 21 (6).

(8) The tribunal registrar must, not later than 3 days after the hearing has been completed, inform the designated officer of the decision of the tribunal who in turn must within 7 days notify—

- (a) the applicant; and
- (b) every objector or other person who appeared before the tribunal.

(9) Any person may, within 7 days after the designated officer has informed the party or parties of the decision of the tribunal, in writing request the tribunal, through the tribunal registrar, to furnish written reasons for the decision and the tribunal must within 7 days furnish such reasons.

25. Investigation by designated officer of non-statutory land development process in terms of Section 42 or 57 of the Act.—(1) A local government body or any interested person or body, including a group of persons (referred to in this regulation as the “applicant”) may in the circumstances referred to in section 42 or 57 of the Act, as the case may be, request the designated officer in the form of Annexure F to these Regulations to investigate a non-statutory land development process.

(2) The designated officer must, within 14 days after receiving the request referred to in subregulation (1), submit a report to the tribunal registrar, and furnish the applicant with a copy thereof, taking into account as far as is possible the factors mentioned in section 42(4) or 57 (4) of the Act, as the case may be, and must include a recommendation to the tribunal as to an appropriate course of action, which may include a recommendation to permit the designated officer to amplify the report within such further period as the tribunal may approve.

(3) The designated officer must, within seven days of the request in terms of sub-regulation (1), inform the applicant of any additional information or documents required by him or her in relation to the application.

(4) The tribunal, after conducting such enquiries, hearing such evidence and taking such steps as it may deem fit and after taking into account the matters referred to in section 42(4) or 57(4), approve or refuse an exemption contemplated in section 30(1) or 48(1) or postpone its decision thereon.

(5) The tribunal registrar must, not later than two days after the hearing has been completed, inform the designated officer in writing of the decision of the tribunal who in turn must within seven days notify—

- (a) the applicant; and
- (b) any person or body directed by the tribunal.

(6) In the event of the tribunal granting an exemption from any or all of the provisions of the Act or these Regulations pursuant to proceedings contemplated in this regulation, the person or body designated by the tribunal must, if and to the extent required by the tribunal, lodge a land development application in terms of regulation 21.

(7) Any interested person or body may, within 7 days after the designated officer has informed the party or parties of the decision of the tribunal, through the tribunal registrar, request the tribunal in writing to furnish written reasons for the decision and the tribunal must furnish such reasons as soon as is reasonably possible.

26. Application to amend or withdraw an application for approval of a land development area.—(1) The land development applicant may at any time before the approval or refusal of the application for approval of a land development area, apply to the tribunal for the amendment of such application.

(2) Such application may be made without notice to any person.

(3) If—

- (a) the amendments applied for are, in the opinion of the tribunal, not material and do not constitute a substantially new application, the tribunal may approve the application for amendment in whole or in part or postpone its decision thereon;
- (b) the amendments applied for are in the opinion of the tribunal material or constitute a substantially new application, the tribunal may direct the applicant as to the extent to which the provisions of regulation 21 (6) regarding the giving of notice by the land development applicant to interested parties are to be complied with.

(4) Any application for amendment may be approved subject to such conditions, as the tribunal may deem appropriate.

(5) Whenever parties agree to postpone a matter, the party who placed the matter before the tribunal shall forthwith notify the tribunal registrar by delivering a notice of postponement: Provided that in the event of failure between the parties to reach an agreement on a postponement any party may, by application to the tribunal registrar and notice to every other party, apply to the tribunal

chairperson or any tribunal member designated by him/her for a postponement of the hearing. The tribunal chairperson or any member designated by him/her, shall take a decision with regards to the postponement and the tribunal registrar shall notify all the parties of such a decision.

(6) A land development applicant may, at any time before the approval or refusal of the application for approval of a land development area, by notice to the designated officer and every other party, withdraw the land development application and provide reasons for such withdrawal. The tribunal may, in the event of such withdrawal, make an order as to costs.

27. Application for approval of a registration arrangement.—(1) The land development applicant may lodge with the designated officer, a written application for a registration arrangement referred to in section 61 of the Act in the form of Annexure G to these regulations.⁴

(2) The application for a registration arrangement shall be accompanied by such further documents as Annexure G may stipulate.

(3) The designated officer must, within seven days after receipt of the application for a registration arrangement—

- (a) acknowledge receipt thereof in writing; and
- (b) advise the land development applicant of any additional information, documents or further requirements in relation to the application.

(4) After the designated officer has complied with subregulation (3), he or she must apply to the tribunal registrar for a date on which the application for a registration arrangement is to be considered by the tribunal.

(5) The tribunal registrar must, within two days of such application, notify the designated officer who must in turn inform the land development applicant of the date on which the application for a registration arrangement is to be considered, which date must not be later than 60 days or, if the application is brought at the same time as a land development application, not earlier than 80 days and not later than 120 days of the date of application to the tribunal registrar in terms of this regulation.

(6) The designated officer must, within 14 days after the lodgement of the application for a registration arrangement or, if the application is brought at the same time as a land development application, at the same time when he or she submits the report referred to in regulation 21(20) submit a written report regarding the application for a registration arrangement to the tribunal registrar.

(7) The land development applicant must appear at the tribunal hearing and may be represented thereat by a duly authorised representative.

(8) The tribunal may—

- (a) subject to such conditions, including, subject to regulation 23(11), conditions as to time periods within which specified actions are to be completed to ensure conversion of initial ownership into ownership, as the tribunal may deem appropriate, approve the application for a registration arrangement in whole or in part;
- (b) dismiss the application; or
- (c) postpone its decision in respect of the application.

(9) The tribunal registrar must, not later than 3 days after the hearing has been completed inform the designated officer in writing of the decision of the tribunal and the designated officer in turn must forthwith notify—

- (a) the applicant;
- (b) if the application has been approved, the Registrar of Deeds; and

- (c) any other person or body required to be informed in terms of the Act or directed by the tribunal to be informed.

(10) Any interested person or body may, within 7 days after the designated officer has informed the party or parties of the decision of the tribunal, request the tribunal in writing to furnish written reasons for the decision and the tribunal must within 7 days, furnish such reasons.

28. Application to compel.—(1) If the designated officer, tribunal registrar or any other governmental body or official, excluding the tribunal, fails to perform any duty or function required of it in terms of these Regulations or the Act within a reasonable time after the due date for performance, any party, referred to in this regulation as the applicant, will be entitled to apply to the tribunal for an order compelling such compliance.

(2) The applicant must lodge a written application to compel with the tribunal registrar, setting out—

- (a) the identity of the person or body in respect of whom or which the application is brought;
- (b) the act which it is sought to compel; and
- (c) the reasons for the application,

provided that, if the application is made to compel the tribunal registrar, the applicant must lodge such application with the chairperson of the tribunal.

(3) The application to compel must be accompanied by such further documents as may be necessary to substantiate the application.

(4) The tribunal registrar must, within seven days after receipt of the application to compel—

- (a) acknowledge receipt thereof in writing; and
- (b) inform the applicant in writing of such date which may not be later than 30 days after the date of receipt of the application on, and the place at which the application to compel is to be considered by the tribunal.

(5) The applicant must, forthwith give notice of the application to compel to the designated officer, the tribunal registrar, and/or any other governmental body or official whose performance it is sought to compel—

- (a) enclosing a copy of the application; and
- (b) setting out the date when and place where the application is to be heard by the tribunal.

(6) The applicant and the designated officer or the tribunal registrar or the other governmental body or official whose performance it is sought to compel must appear at the tribunal hearing and may be represented thereat by a duly authorised representative.

(7) The tribunal may approve or dismiss the application in whole or in part or postpone its decision and give appropriate directions to the government body or official concerned.

(8) The tribunal registrar must, not later than 3 days after the hearing has been completed, inform the designated officer in writing of the decision of the tribunal who in turn must forthwith notify—

- (a) the applicant; and
- (b) any other party directed to be informed thereof by the tribunal.

(9) Any interested person or body may, within 7 days after the designated officer has informed

the party or parties of the decision of the tribunal, through the tribunal registrar, request the tribunal in writing to furnish written reasons for the decision and the tribunal must within 7 days furnish such reasons.

29. Community facilities.—(1) The land development applicant must include in his or her application, as set out in Annexure B, documentation confirming whether the relevant public authorities are willing to provide and maintain the community facilities that the applicant has planned as part of the land development.

(2) The documentation should detail, to the extent that such information is available, the type of facility to be provided, the time-frame within which the facility will be provided, the authority responsible for providing the facility and arrangements for the maintenance and, if applicable, future upgrading of the facility.

30. Geo-technical assessment.—(1) The land development applicant must include in his or her application, as set out in Annexure B, an initial geo-technical report prepared by a person qualified in geotechnics and registered in terms of the Engineering Professions of South Africa Act, 1990, or the Natural Sciences Professions Act, 1993.

(2) The designated officer must make a recommendation to the tribunal as to whether a comprehensive geo-technical report should be prepared.

(3) The tribunal may, on the basis of the initial geotechnical report—

- (a) impose an appropriate condition of establishment as contemplated in section 33(2) or 51(2) of the Act; or
- (b) require the land development applicant to cause a comprehensive geo-technical report to be prepared by a person qualified in geotechnics and registered in terms of the Engineering Professions of South Africa Act, 1990, or the Natural Sciences Professions Act, 1993.

(4) Except where the tribunal orders otherwise, the costs of the initial report and any comprehensive geo-technical report must be borne by the applicant;

(5) The initial geo-technical report must indicate, on the basis of a desk study, excluding field work and utilising information available from maps, data bank sources and where relevant, interpretation of aerial photographs, the suitability of the proposed site for the planned development by reference to the following factors:

- (a) whether the site is underlain by dolomitic rocks, and if so, must generally evaluate the risk of sinkhole and compaction subsidence (doline formation);
- (b) whether the site is undermined and if so the depth, geometry etc of the workings and if affected by undermining, the risk of mining subsidence must be generally assessed;
- (c) whether the site is located on clays which will shrink and swell in response to changes in soil moisture and if so the probable heave movement;
- (d) whether the site is located on soils with a collapse of grain structure and, if so, the probable magnitude of the settlement that could occur should these soils be saturated under load or whether any portion of the site consists of reclaimed or filled ground;
- (e) the occurrence of seep areas and drainage channels;
- (f) the position of the 1:50 floodline;
- (g) the occurrence of existing perched (and possible future perched) and normal water tables;

- (h) whether there is existing or future slope instability on the natural ground surface;
- (i) the suitability of the local materials for construction of, and the construction on, earthworks;
- (j) the depth to which the profile can probably be excavated with a backhoe;
- (k) the permeability of the soils and their performance in the transport of waste water;
- (l) the occurrence of areas of outcrop and sub-outcrop and their effect on excavation;
- (m) whether structures will require modification / reinforcement and/or special foundations.

31. Environmental evaluation.—(1) The land development applicant must include in his or her application, as set out in Annexure B, an environmental scoping report, prepared in accordance with the environmental impact assessment guidelines or other requirements which are from time to time issued or amended by the national Department of Environmental Affairs and Tourism.

(2) The designated officer must make a recommendation to the tribunal as to whether an environmental impact assessment should be prepared.

(3) The tribunal may, on the basis of the environmental scoping report-

- (a) impose a condition of establishment as contemplated in Section 33 (2) or 51 (2) of the Act; or
- (b) require the land development applicant to prepare an environmental impact assessment in accordance with the environmental impact assessment guidelines or other requirements which are from time to time issued or amended by the national Department of Environmental Affairs and Tourism.

(4) The costs of any environmental scoping report and environmental impact assessment must be borne by the applicant.

(5) Despite sub-regulation (4), the tribunal may order any other party to bear such costs.

(6) The scoping report must indicate the extent to which the proposed activity or development will impact on the environment, and where appropriate deal with the following specific aspects of the environmental impact:

- (a) The physical and landscape characteristics of the land development area and its surroundings;
- (b) the ecological characteristics of the land development area and its surroundings;
- (c) the current and potential land-uses of the land development area;
- (d) existing significant archaeological, historical and cultural sites in the land development area and its surroundings;
- (e) the social and economic impact on communities in the land development area and surroundings;
- (f) the existing infrastructure and/or services in or around the land development area;
- (g) the existing social and community structures, services and facilities in or around the land development area;
- (h) the levels of present and possible pollution, including noise pollution, in the future as a result of the proposed development;
- (i) any risks or hazards to the environment posed by the development;

- (j) the health and safety of the public;
- (k) the social costs of the proposed development;
- (l) the effect of the proposed development on different groups or individuals;
- (m) the medium and long term environmental sustainability of the proposed development;
- (n) what mitigating measures could be implemented to reduce negative impacts and enhance positive impacts of the aspects described in paragraphs (a) to (m) and, where appropriate, to what extent alternative sites for the development were investigated.

32. Application to amend the decision of the tribunal or amend or delete conditions of establishment.—(1) The land development applicant may, after the approval of the application for approval of a land development area apply to the tribunal for the amendment of the decision of the tribunal or any amendment or deletion of any condition of establishment.

(2) Such application may be made without notice to any person.

(3) If—

- (a) the amendments applied for are, in the opinion of the tribunal, not material and do not constitute a substantially new application, the tribunal may approve the application for amendment or deletion in whole or in part or postpone its decision thereon;
- (b) the amendments or deletions applied for are in the opinion of the tribunal material or constitute a substantially new application, the tribunal may direct the applicant as to the extent to which the provisions of regulation 21(6) regarding the giving of notice by the land development applicant to interested parties are to be complied with.

(4) Any application for amendment or deletion may be approved subject to such conditions, as the tribunal may deem appropriate.

APPEALS

33. Noting of Appeal.—(1) Any person (hereinafter called the Appellant) wishing to note an appeal against any decision of the tribunal must give written notice thereof to the tribunal registrar and the presiding officer of the hearing.

(2) The notice must—

- (a) as far as is practicable, be substantially in the form set out in Annexure “J” hereto;
- (b) be given within 14 days of the date on which the decision or determination of the tribunal or a decision as to costs is given or of the date on which the tribunal’s written reasons for its decision are given by the tribunal registrar to the appellant, pursuant to a request for such reasons in terms of these Regulations, whichever is the later.

(3) The appellant must simultaneously serve a copy of the notice of appeal on every interested person or body who was a party to the tribunal proceedings appealed against.

(4) Any person or body on whom an appellant has served a notice of appeal, may note a cross-appeal within 10 days of being served with a notice of appeal by serving a notice of cross-appeal.

(5) Any notice of appeal or cross-appeal must clearly indicate:

- (a) Whether the appeal is being lodged against the whole decision or only a part thereof and if only a part, which part;
- (b) the ground or grounds of appeal, specifying the findings of fact or conclusions of law

appealed against and the relief sought on appeal.

(6) Within 14 days of the delivery of the notice of appeal, or cross-appeal, as the case may be, the tribunal may, on application by any party, grant interim relief pending the appeal and may also furnish supplementary reasons for its decision to all the parties to the appeal.

(7) The tribunal registrar must forthwith cause a copy of such supplementary reasons to be served on the appellant and all other parties.

(8) Any party to the appeal may within 10 days of receipt of the supplementary reasons supplement or amend the notice of appeal or cross-appeal by serving same on the tribunal registrar and all other parties to the appeal.

(9) (a) The tribunal registrar, when an appeal is lodged, may require the payment of a deposit in the sum of R 500-00 by the appellant and R250-00 by any party that has noted a cross-appeal.

(c) Such deposit must be refunded if the appeal or cross-appeal as the case may be, is not withdrawn before the hearing or, in the discretion of the chairperson, if it is withdrawn where the circumstances which gave rise to the appeal or cross-appeal no longer apply; Provided that the appeal tribunal may order forfeiture of the deposit if it determines that the appeal or cross-appeal was frivolous or vexatious.

(10) (a) Within 21 days of noting the appeal, the appellant, at his or her own expense, must cause copies of the record contemplated in regulation 15 to be prepared for the appeal tribunal and the parties, as the tribunal registrar may deem necessary.

(b) The appellant must forthwith cause a copy of such record to be served on each of the parties and submit proof of such service to the tribunal registrar.

(c) Despite the provisions of subregulation (10) (a), the tribunal registrar may, on good cause shown, dispense with payment of the expenses incurred by the State in the preparation of such record.

RIGHT TO LODGE MEMORANDUM

(11) (a) A party may, within seven days of supplementing or amending his or her notice of appeal or cross-appeal, serve a memorandum on the tribunal registrar and all other parties.

(b) In such memorandum the party may set out any further information not stated in the notice of appeal (or cross-appeal) or supplement or amendment thereto which the party regards as necessary for the appeal tribunal to consider when making its decision.

(c) Within seven days of receipt of the memorandum, a party may serve an opposing memorandum on the tribunal registrar and all other parties.

(d) Within seven days of receipt of any opposing memorandum, the party submitting the original memorandum may reply to any matters raised in the opposing memorandum.

SETTING DOWN OF APPEAL

(12) (a) Upon receipt of all the aforesaid documents, the tribunal registrar must deliver them to the chairperson of the appeal tribunal.

(b) The chairperson must as soon as possible after receipt of the said documents, set the time, date and place for the hearing of the appeal and forthwith advise the tribunal registrar thereof.

(c) The tribunal registrar must forthwith set the appeal down for hearing, and must in accordance with the provisions of regulation 6 (1) notify or summons to the relevant persons, advising them of the time, date and place of the appeal hearing.

URGENCY AND CONDONATION

(13) (a) Despite subregulations (1), (2) and (3), the chairperson may—

- (i) on application of any party to an appeal, direct that the matter is one of urgency, and determine such procedures, including time limits, as he or she may consider desirable to fairly and efficiently resolve the matter;
- (ii) on good cause shown, condone any failure by any party to an appeal to comply with these Regulations or any directions given in terms thereof, if he is of the opinion that such failure has not unduly prejudiced any other person.

(14) (a) Every application for condonation made in terms of subregulation 12(a) (ii) must be—

- (i) served on the tribunal registrar and all other parties;
- (ii) accompanied by a memorandum setting forth the reasons for the failure concerned, and
- (iii) determined by the chairperson in such manner as he or she considers proper.

(b) Where such failure is condoned in terms of subregulation 12(a) (ii), the applicant for condonation must comply with the directions given by the chairperson when granting the condonation concerned.

DIRECTIONS BY CHAIRPERSON

(15) At the time of informing the tribunal registrar of the time, date and place of the hearing of the appeal, the chairperson must inform the tribunal registrar—

- (a) of the persons required to attend the hearing;
- (b) whether any additional documentation must be furnished to the appeal tribunal, or whether documentation in the appeal requires to be furnished to any other person;
- (c) which persons require to be summoned to attend in accordance with the provisions of regulation 6 (2).

(16) (a) The tribunal registrar must serve details of the time, date and place of the appeal hearing on the appellant, all objectors, and to any other person whom the chairperson may direct.

(b) The tribunal registrar must, when required to do so by the chairperson, either prior to or during the hearing of the appeal, summon any person to attend the appeal hearing in terms of the regulations.

WITHDRAWAL AND ATTENDANCE

(17) (a) Any person who has lodged an appeal or cross-appeal may withdraw such appeal or cross-appeal by serving a notice thereof on the tribunal registrar and all other parties to the appeal.

(b) Any person or body, who has been notified in terms of these regulations of the date of the appeal hearing is entitled to be present and/or to be represented at the hearing.

FURTHER POWERS OF THE APPEAL TRIBUNAL

(18) (a) The appeal tribunal may summon any person to appear before it and give evidence or produce any documents or article.

(b) The appeal tribunal may of its own motion take cognisance of any matter, document or information which would, in its opinion, assist in its consideration of the issue before it, and may conduct an *in loco* inspection prior to or during the hearing of the appeal.

(c) For the purpose of such inspection *in loco*, the appeal tribunal has the power at any

reasonable hour to enter upon and inspect the land and any developments which are the subject of its enquiry: Provided that the Appellant and all other parties have been notified in advance of such intended inspection to which each party has the right of attendance and representation.

(d) The appeal tribunal may accept any other person onto the appeal tribunal, as a non-voting member thereof, for the duration of any appeal in which the experience or expert knowledge of the person concerned will assist the other members in reaching an informed decision.

RECORDS

(19) The tribunal registrar must maintain a register in which he or she records the reference number of each appeal, the names of the parties, the date of the hearing of the appeal, whether the decision was unanimous or by majority vote, the decision of the appeal tribunal and any other relevant information.

34. Transitional arrangements.—The provisions of these Regulations shall not be applicable to any matter in respect of which proceedings before a tribunal were commenced under the regulations published by Government Notice No. R. 1412 of 30 August 1996.

PART B

Subpoenas

1. Where a subpoena is issued or information is required in terms of Section 18 of the Act, the subpoena should, as far as is practicable, be in the form set out in Annexure “K” to these Regulations.

2. The subpoena must set out in clear terms—

- (a) the full names of the person from whom the information is required;
- (b) the information that is required; and
- (c) the book, document or thing to be produced.

3. The subpoena must be served on the person concerned personally, or on a nominated agent. [Note: in his application the person must state the address at which documents can be served on him.]

Proof of notification and postponement

1. For the purposes of Regulation 21 (9) and (10), a land development applicant must lodge with the designated officer the following documents:

- (i) The relevant pages of the issue of the newspaper in question, which must contain at least the page number and date of the publication; and
- (ii) the relevant page(s) of the Provincial Gazette in which the notice was published;

2. The designated officer must retain a copy of the documents referred to in 1 above and forward the originals to the tribunal registrar.

Applications in terms of regulation 13(i)

1. As soon as a designated officer becomes aware that the circumstances are such that he or she would not be in a position to provide an objective report, he or she must in writing advise the tribunal registrar thereof.

2. Within two days of so advising the tribunal registrar, the designated officer must submit a written application to be substituted as designated officer.

3. The designated officer must serve a copy thereof on the Applicant and all parties on whom service of the application has been effected.

4. As soon as practicable, the tribunal registrar must set down the application for substitution and forthwith advise the designated officer of the date.

5. The designated officer must in writing advise the Applicant and all the parties on whom service of the application was effected of the date of the hearing.

6. On the date of the hearing, the tribunal must, if it is satisfied that there are good reasons why the designated officer should be substituted, replace him with another designated officer who will not be subject to a similar conflict of interest.

Referral to mediation

1. The application in terms of section 22 of the Act must be served on the designated officer and all other parties on whom the application in dispute was served.

2. In the application for mediation, the applicant must list three persons whom he believes will be able to serve as effective mediators.

3. The other parties to the dispute must, within seven days of service of the application for mediation, advise the applicant and the designated officer of their attitude to mediation.

4. Such response must indicate whether or not the party oppose mediation as a means of resolving the dispute, and, if not, list three persons whom he believes can facilitate the mediation of the dispute.

5. The response must be served on each of the parties and the designated officer.

6. The designated officer must forthwith submit the application and all the responses to the tribunal registrar.

7. The tribunal must make a decision in terms of the Act.

Annexure A

GUIDELINES FOR LAND AVAILABILITY AND SERVICE AGREEMENTS

(Regulations 18 and 19 of the Development Facilitation Regulations)

1. GENERAL

- (1) Words and phrases that are used repeatedly and which have a different or more specific meaning compared to their ordinary meaning should be suitably defined.
 - (a) Relevant factors and circumstances preceding or leading to the conclusion of the agreement may be recorded in a suitable preamble.
 - (b) There may be such other terms and conditions not inconsistent with these guidelines as the parties may agree.
- (2) Parties

The names of the parties to the agreement and their respective business addresses should be stated. If a party is a company, close corporation, trust or other legal entity that fact should be clearly stated and the authority of the person representing such company, trust or other legal entity should be recorded.
- (3) The Land

The land forming the subject matter of the agreement must be clearly identified by the most accurate description available. Preferably reference should be had to the relevant title deed and diagram and/or general plan. A sketch plan or a locality plan on a scale of 1:50 000 may be appended if an approved diagram and/or general plan does not exist.
- (4) Suspensive and Resolutive Conditions
 - (a) If the agreement is to be subject to any suspensive or resolutive conditions these must be clearly stated.
 - (b) The effect of fulfillment or non-fulfillment, as the case may be, of such conditions must be clearly stated.
 - (c) If any such condition becomes compulsory solely for the benefit of one of the parties to the agreement and may be waived by that party, that fact must be clearly stated.
 - (d) Suspensive or resolutive conditions may include—
 - (i) a condition relating to the approval of the land availability agreement by the Tribunal in terms of Section 44 or 53 of the Act;
 - (ii) a condition relating to the approval of a land development application in respect of the land forming the subject matter of the agreement in terms of Section 33 or 51 of the Act;
 - (iii) a condition relating to the approval of a registration arrangement in terms of Section 61 of the Act;
 - (iv) a condition relating to the incorporation of the land forming the subject matter of the agreement into the area of jurisdiction of any body or authority;
 - (v) any other condition which may be appropriate in the circumstances.
 - (e) The agreement should record the respective obligations of the parties regarding the fulfillment of such conditions.
- (5) Contractual Terms

The contractual rights and obligations of the parties to the agreement should be clearly stated.
- (6) Remedies on Breach

The rights of a party in the event of a breach of the conditions by the other party should be clearly stated. Any requirement that notice to remedy a breach of condition be given and the remedies available to the innocent party should be clearly stated.
- (7) Dispute Resolution
 - (a) In order to facilitate the speedy resolution of conflicts and disputes, provision may be made for—
 - (i) conflicts and disputes to be referred to mediation; and

2. SPECIFIC PROVISIONS IN RESPECT OF LAND AVAILABILITY AGREEMENTS

(1) Purpose

The purpose for which the land is made available and the nature and extent of the proposed development should be recorded. The agreement may provide that the purpose for which the land is made available cannot be changed without consultation with the party making the land available.

(2) Town Planning matters and matters relating to the approval of a Land Development Application

(a) The obligations of the parties in respect of all necessary town planning, land survey, land development application, registration arrangement application or any other application in terms of the Act and related work in relation to the proposed development should be recorded in the land availability agreement. If possible the agreement should state the period of time within which such work is to be performed and the consequences of failure to adhere to such time periods.

(b) If the parties so agree the person or body to whom the land is made available may be appointed by the State or local government body making the land available, to have the necessary town planning and land survey work done and to make a land development application or other application in respect of the land. The responsibilities of the parties regarding the costs incurred in relation to such work should be recorded.

(3) Services

(a) The responsibility of the parties regarding the provision of services must be recorded. By way of example, the agreement must, unless the tribunal is requested to grant an exemption from this requirement, provide that the State or local government body will be responsible for the installation and costs of external engineering services while the person or body to whom the land is made available be responsible for the installation and costs of internal engineering services and the connection thereof to the external engineering services.

(b) If a low level of services is agreed to, provision may be made for a programme for the upgrading of such services over time to be agreed to.

(c) If appropriate the detail of the services to be provided, may be recorded in a separate services agreement.

(4) Environmental issues

The obligations of the parties with regard to the conduct of environmental assessments and impact studies and the compliance with relevant preventative and/or remedial measures in terms of Regulation 30 of the Development Facilitation Regulations or any other additional requirements as the parties may agree to should be recorded.

(5) Community involvement

(a) Where appropriate in the circumstances, provision could be made for consultation with communities and other groups of persons who have an interest in the land or are likely to be affected by the development.

(b) The obligations of the parties in respect of the conduct of such consultation and the costs thereof shall be recorded.

(6) Beneficial occupiers

Where land development takes the form of upgrading an existing settlement the agreement should provide that beneficial occupiers should not be deprived of homes or land or, where it is necessary for land or homes occupied by them to be utilised for other purposes, provision should be made reasonably to accommodate their interests in such land or homes in some other manner.

(7) Erection of Improvements

(a) The relative responsibilities (if any) of the parties to erect improvements on the land concerned should be recorded.

(b) The standard of any improvements to be constructed and the requirements (if

3. PROVISIONS REGARDING SERVICES AGREEMENTS

Services agreements should be consistent and compatible with land development objectives set in terms of section 27 of the Act.

(1) Classification of engineering services—

The engineering services to be provided should be classified as internal or external engineering services, on the basis that

- (a) “external engineering services” consist of both “bulk services” and “link services”;
- (b) “bulk services” means all the primary water, sewerage, sewage treatment facilities and means of disposal of effluent and other products of treatment, electricity and stormwater services, as well as the road network in the system to which the internal services are to be linked;
- (c) “internal services” means all services within the boundaries of the land development area that are necessary for the establishment of serviced erven in accordance with the level of services agreed between the land development applicant and the relevant authority;
- (d) “link services” means all new services necessary to link the internal services to the bulk services;
- (e) if a service within the boundaries of the new land development area is intended also to serve any other area within the jurisdiction of the relevant authority, such service and the costs of provision thereof should be treated as an internal engineering service to the extent that it serves the land development area and as an external engineering service to the extent that it serves any other development.

(2) Development responsibilities

- (a) There should be clear provisions recording the responsibilities of the parties regarding the installation and provision of internal and external engineering services, bearing in mind the principle established by section 40(2) of the Act. If any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service should be clearly identified and the cost or the manner of determining the cost thereof should be clearly set.
- (b) Generally the land development applicant should pay or contribute to the costs of the installation and provision of internal engineering services and conversely the agreement should provide for the relevant authority to pay or contribute to the costs of the installation and provision of external engineering services.
- (c) It should be clear whether additional bulk services are to be provided by the relevant authority and, if so, such services should be identified.
- (d) It should be stated which party shall be responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner (if any) to which the costs of such service connections are to be recovered.
- (e) The service connections to be made should be adequately described and may include all connections between internal services and the individual erf or portion of the land, for example—
 - (i) a water-borne sewerage pipe terminating at a sewer connection;
 - (ii) a water pipe terminating at a water meter;
 - (iii) an electricity house connection cable terminating on the relevant erf.
- (f) The level and standard of the internal services to be installed and provided should be clearly identified with reference to, amongst others—
 - (i) water reticulation;
 - (ii) sewerage reticulation, sewage treatment facilities and means of disposal of effluent and other products of treatment;
 - (iii) roads and stormwater drainage;

Annexure B

IN THE DEVELOPMENT TRIBUNAL FOR [insert name of Province, etc]

Reference number _____

IN THE APPLICATION OF:

[name of applicant]

in respect of the land known as [state description of property]

APPLICATION FOR ESTABLISHMENT OF A LAND DEVELOPMENT AREA

(Application in terms of Regulation 21
of the Development Facilitation Regulations)

PART I: ACKNOWLEDGEMENT OF RECEIPT

To: _____

(applicant to insert his or her name and address where he or she will receive service of all documents and notices)

I hereby acknowledge receipt of the original and two copies of Parts II and III of this form, together with the documents referred to below (applicant to insert description of documents), and I hereby allocate reference number _____ to this application.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

Designated Officer

Date of receipt

PART II: APPLICATION

To: The Designated Officer

(insert address of designated officer)

Applicant's Name : _____

Applicant's Address : _____

Applicant's Tel. No : _____

Applicant's Facsimile No. : _____

Contact Person : _____

APPLICATION FOR ESTABLISHMENT OF A LAND DEVELOPMENT AREA ON:

.....

I/We, the applicant described above, being—

* the owner of the land,

OR

* the duly authorised agent or contractor of the owner of the land,

OR

* a person acting with the consent of the owner of the land;

OR

* a person to whom the land has been made available in terms of a land availability agreement,

OR

* a person acting on behalf of the owner of the land in any other capacity;

OR

* a person directed by the tribunal as contemplated in section 30(2) or 48(2) of the Act, as the case may be.

hereby apply for the approval of a land development area on the land described herein and submit the particulars that appear hereafter.

If applicable, the applicant may include an application for the approval of a registration arrangement in this application. In this case the applicant should attach to this application an application substantially in the form of Annexure G to the Regulations.

Date: _____

Signature of Applicant

Place: _____

Delete whichever is not applicable.

1. DOCUMENTS FORMING PART OF THE APPLICATION

(1) The following documents are filed with the Designated Officer in support of the application:

(a) A layout/settlement plan of the proposed land development area;

YES	NO
-----	----

- | | | | |
|---|--|-----|----|
| (b) A memorandum in support of the application, setting out all relevant facts and circumstances – and specifically including a report on— | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| – whether the application should be prioritised on the basis that delays are likely to adversely affect the ability of intended beneficiaries to afford sites or housing units or are likely to affect a substantial number of persons or persons with particularly pressing needs; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| – the manner in which communities and/or persons affected by the land development and persons who may settle on such land, will participate and be consulted or have participated and been consulted, and the outcome of such consultation, in the process of the establishment of a land development area; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| – a scoping report of the impact of the development on the environment as set out in regulation 31; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| – any laws and restrictive conditions the applicant will ask the Tribunal to suspend and the steps taken by the applicant, if any, in terms of any other applicable law for the removal of such a condition or the obtaining of any exemption from such law; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| – the extent to which the development complies with the principles set out in Chapter 1 of the Act; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| – the extent to which, if applicable, the development complies with the land development objectives (Chapter IV of the Act) applicable in the area; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (c) A copy of the title deed(s) and diagram(s) to the land; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (d) A copy of every deed of servitude relating to the land (only if not covered by certificate in terms of subparagraph (o)); | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (e) A copy of every mortgage bond(s) relating to the land together with the bondholder’s consent, if applicable (only if not covered by certificate in terms of subparagraph (o)); | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (f) A copy of every certificate of mineral rights and cession thereof, together with the mineral rights holder’s consent, if applicable (only if not covered by certificate in terms of subparagraph (o)); | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (g) The owner’s consent and/or power(s) of attorney, if applicable; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (h) A copy of the land availability agreement, if any; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (i) A copy of the services agreement, if already concluded; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (j) A social compact agreement, if applicable; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (k) Documentation regarding the provision of community facilities and the responsibilities of public authorities in this regard; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50px; height: 20px;">YES</td> <td style="width: 50px; height: 20px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |

- | | | | |
|--|--|-----|----|
| (l) If the applicant is a company, close corporation or other legal entity other than a natural person, a copy of a valid authorising resolution; | <hr style="width: 100%; border: 0.5px solid black;"/> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding: 2px 10px;">YES</td> <td style="padding: 2px 10px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (m) A floodline certificate indicating whether the land is or is not subject to a 1 in 50 year flood; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding: 2px 10px;">YES</td> <td style="padding: 2px 10px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (n) An initial geo-technical report as set out in regulation 30; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding: 2px 10px;">YES</td> <td style="padding: 2px 10px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (o) A certificate from a conveyancer indicating who the registered owner of the land is, the conditions of title or servitude(s) recorded in the title deed(s) that affect the proposed land development, as well as the mortgage bonds registered against the property; | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding: 2px 10px;">YES</td> <td style="padding: 2px 10px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |
| (p) Application for a registration arrangement substantially in the form of Annexure G, if applicable. | <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding: 2px 10px;">YES</td> <td style="padding: 2px 10px;">NO</td> </tr> </table> | YES | NO |
| YES | NO | | |

- (2) If any of the documents referred to in 1(1) are considered not to be applicable, reasons must be given (lengthy explanations can be attached as annexures)

- (3) Other documents attached (the application may be supported by such other documents as appropriate).

2. SPECIFIC INFORMATION REGARDING PROPOSED LAND DEVELOPMENT AREA

- (1) Name of proposed land development area:

- (2) The deed description of every portion of the land on which the proposed land development area is to be established:
(a) Title Deed No.: _____
(b) Title Deed No.: _____
(c) Title Deed No.: _____
- (3) Full name(s) of registered owner(s) of the land:

- (4) The land is/is not* mortgaged and particulars of the relevant mortgage bonds are as follows:
(a) Property: _____
(i) Bond No. _____ in favour of _____
(ii) Bond No. _____ in favour of _____
(iii) Bond No. _____ in favour of _____
(b) Property: _____
(i) Bond No. _____ in favour of _____
(ii) Bond No. _____ in favour of _____
(iii) Bond No. _____ in favour of _____
- (5) Mineral rights have/have not* been severed from the ownership of the land and are held by:
_____ under Certificate No. _____
_____ under Certificate No. _____
_____ under Certificate No. _____
- (6) A lease of the rights to minerals has/has not* been granted/the particulars of which are as follows*

- (7) A prospecting contract has/has not* been entered into, the particulars of which are as follows:*

- (8) The proposed land development area—
(a) is situated within the local government body area of _____
(b) adjoins the following local government body areas:

- (9) The proposed land development area falls within the area of the _____ town planning scheme/does not fall within the area of any town planning scheme.*
- (10) Proposed land use(s) (the following are examples only) in a land development area excluding small-scale farming in terms of Chapter V of the Act and total number of erven for each use (if applicable). A layout plan indicating the uses assigned to portions or percentages of land may be attached if land is not to be subdivided. Note: If the Interim Land Use Conditions set out in Annexure 3 to the Development Facilitation Regulations will be used, the following categories should be changed to correspond to Annexure J. Similarly, if an existing zoning scheme is to be extended also to apply to the land development area, the following categories must be amended to correspond to the categories in the zoning scheme.
- | Erven Nos. (on Layout Plan) | Total No. |
|-----------------------------|-----------|
| _____ | _____ |

PART III: CONDITIONS OF ESTABLISHMENT

The tribunal will use this part of the application as the basis for imposing the conditions of establishment in terms of section 33(2) or 51(2) of the Act.

3. PROPOSED CONDITIONS OF ESTABLISHMENT FOR THE LAND DEVELOPMENT AREA

(The conditions stated below are guidelines only and the land development applicant may suggest amended and/or different conditions in appropriate cases.)

(1) Provision and installation of services

The land development applicant and the relevant local government body shall provide and install the services in the land development area, as provided for in the attached services agreement in terms of section 40 of the Act and regulation 19 of the Development Facilitation Regulations.

(2) Open space endowment

The land development applicant shall pay/contribute _____ in lieu of providing public open spaces.

(3) Provision of streets, parks and other open spaces

The land development applicant shall provide the following erven and / or portions of land to be used as streets, parks or other open spaces:

(4) Suspension of existing conditions of title

The following conditions of title and servitudes are suspended in respect of the land development area, upon notice of this condition being given in the Provincial Gazette, or if a later date is stated in such notice, from such later date (the land development applicant must in a separate memorandum list the conditions which it is sought to suspend and steps taken by the applicant in terms of any applicable law for the suspension of such conditions):

(5) Imposition of servitudes

The following servitudes are to be registered in respect of the land on which a land development area is to be established:

Building standards (if any)

The following building standards will apply in respect of the development:.

OR

Although the following building standards will not apply, the land development applicant is still required to submit and have approved building plans in respect of the proposed buildings in accordance with the alternative standards set out below:

(7) Application of zoning scheme or other measures

The following zoning scheme or other measure for regulating land use will apply in the land development area (the land development applicant may propose amendments to the above zoning scheme or other measure for application in the land development area):

OR

The land use conditions set out in Annexure L to the Regulations will apply (the land development applicant may propose amendments to the above prescribed land use conditions for application in the land development area.):

Annexure C

FORM OF NOTICE TO BE GIVEN TO PERSONS OR BODIES

[Regulation 21(6) of the Development Facilitation Regulations in terms of the Development Facilitation Act; 1995]

NOTICE TO:

_____ (name of individual person working for organisation)
_____ (name of organisation)
_____ (full address where notice is to be served)

NOTICE OF LAND DEVELOPMENT AREA APPLICATION

_____ (provide name and address of the land development applicant) has lodged an application for a land development area in terms of the Development Facilitation Act, 1995.

The application is for the development of the following land:

_____ (state description of property)

and will consist of the following:

(insert brief description of the proposed development, including proposed land uses, the target community, and the number and density of proposed residential units, if any)

The application will be considered at a Tribunal hearing to be held at

_____ on _____ at _____ and
the prehearing conference will be held at _____ on _____ at

Please note that in terms of the Development Facilitation Act, 1995:

1. You must within 21 days from the date of this notice, provide the designated officer with written representations in support of the application, or any other written representations you wish to make not amounting to an objection, in which case you are not required to attend the tribunal hearing; or
2. If your comments constitute an objection to any aspect of the land development application, you or your representative must appear in person before the tribunal on the date mentioned above, or on any other date of which you may be given notice.

In terms of the Development Facilitation Act, 1995 this notice has the effect of a subpoena and failure to comply with this notice constitutes a criminal offence.

Any written objection or representation must state the name and address of the person or body making the objection or representation, the interest that such person or body has in the matter, and the reasons for the objection or representation, and must be delivered to the designated officer at his or her address set out below within the said period of 21 days.

The relevant plan(s), document(s) and information are available for inspection at _____ for a period of 21 days from _____ (insert date of first publication of this notice in the newspaper)

If you have any queries contact the designated officer at the following address, telephone and fax no.:

Annexure D

FORM OF NOTICE TO BE PUBLISHED IN NEWSPAPER

[Regulation 21(10) of the Development Facilitation Regulations in terms of the Development

Facilitation Act, 1995]

(Name of land development applicant) has lodged an application in terms of the Development Facilitation Act for the establishment of a land development area on _____
(state description of property)

The development will consist of the following:

_____ (insert brief description of the proposed development)

The relevant plan(s), document(s) and information are available for inspection at _____ for a period of 21 days from _____ (insert date of first publication of this notice).

The application will be considered at a tribunal hearing to be held at _____ on _____ at _____ and the prehearing conference will be held at _____ on _____ at _____

Any person having an interest in the application should please note:

1. You may within a period of 21 days from the date of the first publication of this notice, provide the designated officer with your written objections or representations; or
2. If your comments constitute an objection to any aspect of the land development application, you must appear in person or through a representative before the Tribunal on, the date mentioned above.

Any written objection or representation must be delivered to the designated officer at _____ and you may contact the designated officer if you have any queries on telephone no. _____ and fax no. _____

Annexure E
IN THE DEVELOPMENT TRIBUNAL FOR [insert name of Province, etc]

Reference number _____

IN THE APPLICATION OF:

[Name of Applicant]

in respect of the land known as _____ [state description of property]

APPLICATION FOR EXEMPTION

Application in terms of Regulation 24 of the
Development Facilitation Regulations in terms of the Development Facilitation Act, 1995

To: The Tribunal

I/We, the applicant(s) in terms of section 30 or 48 of the Act, being—

* the owner of the land or a person acting on behalf of the owner,

OR

* a local government body,

OR

* another interested person or body (describe your interest in the land or the development)

hereby apply for exemption from the following provisions of Chapter V or VI of the Act, as the case may be:

1. _____
2. _____
3. _____

In support of the application an application for the establishment of a land development area substantially in the form of the relevant parts of Annexure B to the Development Facilitation Regulations is attached whereon the exemptions that are sought are indicated. [**If an application cannot be attached, by virtue of the nature of the exemption sought or for any other reason, provide an explanation**]

The exemptions listed above are sought for the following reasons:

DATED at _____ on _____ 20_____

Applicant(s)

Annexure F

IN THE DEVELOPMENT TRIBUNAL FOR [insert name of Province, etc]

Reference number _____

IN THE APPLICATION OF:

[Name of Applicant]

in respect of the land known as _____ (state description of property)

REQUEST FOR INVESTIGATION OF NON-STATUTORY
LAND DEVELOPMENT PROCESS

Regulation 25 of the Development Facilitation Regulations in terms of the Development Facilitation Act, 1995

Applicant's Name : _____

Applicant's Address : _____

Applicant's Tel. No. : _____

Applicant's Facsimile No. : _____

Contact Person : _____

I/We the undersigned, being—

* a local government body,

OR

* another interested person or body (describe your interest in the land or the development)

hereby request the designated officer in terms of section 42 or 57 of the Act to investigate a non-statutory land development process, in respect of

land situated at _____ (state description of property).

I/We believe that:

*such activities are performed in contravention of the procedures set out in the Act or in any other law; or

*it is in the interests of the persons residing or who will reside on such land and in the public interest that an exemption under section 30(1) of the Act be granted

on the following grounds (set out the facts and circumstances on which you base your belief):

The applicant must provide information in relation to the following matters in as far it may be relevant in the particular circumstances in order to assist the designated officer in reporting to the tribunal:

- (a) the health or safety of the public generally, or of any class of persons, including persons residing in the area concerned;
- (b) the feasibility of providing rudimentary services and of the upgrading of such services over a period of time
- (c) the feasibility of housing persons in temporary buildings erected by themselves in the area;
- (d) the feasibility of the development of appropriate community facilities and services;
- (e) the suitability of the area for residential settlement taking into account its location in relation to employment and transport facilities;
- (f) the feasibility of providing occupants of the area with appropriate security of land tenure;
- (g) the feasibility of developing permanent dwellings over a period of time;
- (h) the feasibility of establishing an appropriate local government body or to include the

Annexure G
IN THE DEVELOPMENT TRIBUNAL FOR [insert name of Province, etc]

Reference number _____

IN THE APPLICATION OF:

[Name of Applicant]

in respect of the land known as _____ [specify the land in short]

APPLICATION FOR APPROVAL OF A
REGISTRATION ARRANGEMENT

Application in terms of regulation 27 of the
Development Facilitation Regulations in terms of the Development Facilitation Act, 1995

To: _____ The Designated Officer

I/We, the undersigned, being the Land Development Applicant

hereby apply for the approval of a registration arrangement in terms of section 61 of the Act in respect of the land development area called, _____ Reference No. _____ in respect of which the land development application was approved/will be considered on, by the tribunal, sitting at _____

The following documents are submitted in support of the application (the following are examples only):

1. A copy of the approved layout plan and/or a copy of the approved diagram of the outside perimeter (if applicable)
2. A copy of a surveyor's certificate confirming that beacons have been placed in accordance with the layout plan.
3. A guarantee as required by section 38(2) (d) (i) and the necessary powers of attorney and other necessary documents.
4. If applicable, a copy of the notice in the Provincial Gazette suspending the operation of servitudes or other restrictive conditions.
5. In the event of area shown on the layout plan comprising more than one piece of land and having different owners. Powers of attorney granted by all the owners in favour of the same person or body, being one of such owners, authorising the latter to transfer initial ownership on their behalf, must be submitted.
6. A copy of a consent from the mortgagee in respect of land falling within the land development area to the cancellation of or release from the mortgage bond of the relevant sites.

(If the land development applicant is the State or a local government body or a person or body with whom the State has concluded a land availability agreement and the State or local government body have not yet acquired transfer of the land, proof must be supplied that the land has been expropriated in favour of the State or local government body, as contemplate in section 61 (2) (c) of the Act).

DATED at _____ on _____ 20_____

Applicant(s)

Annexure H
CONVEYANCER'S CERTIFICATE
(in terms of Section 61 (4) (b) of the Development Facilitation Act, 1995)

I, the undersigned _____
_____ (state full name)

a conveyancer practicing as such at _____
_____ (state business address)

do hereby certify that:

1. and/or the legal practice of which I am a partner or director or by which I am employed, have sufficient professional indemnity insurance to cover any loss or damage suffered by any third party arising from any fact or circumstance certified in terms hereof, being incorrect and in respect of which I may be professionally liable by virtue of the provisions of Sections 61(5) and Section 43(l) of the Development Facilitation Act, 1995 (“the Act”).
2. acknowledge that by virtue of the provisions of Section 61(5) and Section 43 of the Act I accept the responsibility and *any* liability for the accuracy of the facts mentioned in this certificate.
3. With regard to the *application* by _____
(state name of development applicant) for the approval of a registration arrangement in terms of Section 61 of the Act in respect of _____
_____ (“the land development area”) (state description of property)—

[The following are merely examples of the circumstances that may lead to the required opinion set out in 5 below. Naturally, they may in particular circumstances not justify such an opinion. Therefore, the conveyancer must in this paragraph state the actual reasons why he/she holds the opinion in 5.]

- (a) the designated officer has certified that:
 - (i) a land development application in respect of the property has been approved by the Tribunal;
 - (ii) he/she is in possession of a guarantee and accompanying powers of attorney and other documents in the prescribed form as described in section 38(2) (d) (i) and (ii) of the Act;
 - (b) a diagram corresponding to the outside perimeter of the layout plan has been approved by the Surveyor-General;
 - (c) beacons in respect of individual erven have been placed by a surveyor in accordance with the layout plan;
 - (d) a condition of establishment having the effect of suspending the operation of servitudes or other restrictive conditions has been published in the Provincial Gazette and has come into effect;
 - (e) where there is more than one owner of the land within the land development area, the owners have granted a power of attorney in favour of the same body including one of such owners, authorising the latter to transfer initial ownership on their behalf;
 - (f) any mortgagee in respect of land shown on the layout plan has consented to the cancellation of the mortgage bond or the release of the relevant properties shown on such layout plan from the operation of such bond;
 - (g) if the land development applicant is the State or a local government body or a person or body with whom the State or local government body has concluded a land availability agreement subject to a suspensive condition that the State or local government body concerned becomes the owner of the land, and if the State or local government body concerned has not yet acquired transfer of the relevant land, that such land has been expropriated in favour of the State or such local government body by any competent authority;
 - (h) any conditions imposed in terms of section 61 (3) of the Act required to be fulfilled prior to the issuing of this certificate have been fulfilled.
4. I therefore certify that the following are the only registrable transactions required to be registered in a deeds registry before the properties in the land development area will become capable of being transferred in ownership as contemplated in Section 38(1) of the Act (state

Annexure I
PROFESSIONAL LAND SURVEYOR'S CERTIFICATE
(in terms of section 61 (4) (a) of the Development Facilitation Act, 1995)

I, the undersigned _____
_____ (state full name)

a professional land surveyor practicing as such at

_____ (state business address) do hereby certify that:

1. I and/or the surveying practice of which I am a partner or director or by which I am employed have sufficient professional indemnity insurance to cover any loss or damage suffered by any third party arising from any fact or circumstance certified in terms hereof being incorrect and in respect of which I may be professionally liable by virtue of the provisions of Sections 61 (5) and Section 43 (1) of the Development Facilitation Act, 1995 (“the Act”).
2. I acknowledge that by virtue of the provisions of Section 61 (5) and Section 43 of the Act I accept the responsibility and any liability for the accuracy of the facts mentioned in this certificate.
3. With regard to the application by _____
(state name of development applicant) for the approval of a registration arrangement in terms of Section 61 of the Act in respect of

_____ (“the land development area”) (state description of properly)—

[The following are merely examples of the circumstances that may lead to the required opinion set out in 4 below. Naturally, they may in particular circumstances not justify such an opinion. Therefore, the land surveyor must in this paragraph state the actual reasons why he/she holds the opinion in 4.]

- (a) the designated officer has certified that:
 - (i) a land development application in respect of the properly has been approved by the Tribunal;
 - (ii) he/she is in possession of a guarantee and accompanying powers of attorney and other documents in the prescribed form as described in section 38(2) (d) (i) and (ii) of the Act
 - (b) a diagram corresponding to the outside perimeter of the layout plan has been approved by the Surveyor-General;
 - (c) beacons in respect of individual erven have been placed by a surveyor (**note: if the relevant professional land surveyor placed the beacons personally, this should be stated**) in accordance with the layout plan;
 - (d) a condition of establishment having the effect of suspending the operation of servitudes or other restrictive conditions has been published in the Provincial Gazette and has come into effect;
 - (e) where there is more than one owner of the land within the land development area, the owners have granted a power of attorney in favour of the same body including one of such owners, authorising the latter to transfer initial ownership on their behalf;
 - (f) any mortgagee in respect of land shown on the layout plan has consented to the cancellation of the mortgage bond or the release of the relevant erven shown on such layout plan from the operation of such bond;
 - (g) if the land development applicant is the State or a local government body or a person or body with whom the State or local government body has concluded a land availability agreement subject to a suspensive condition that the State or local government body concerned becomes the owner of the land, and if the State or local government body concerned has not yet acquired transfer of the relevant land, that such land has been expropriated in favour of the State or such local government body by any competent authority;
4. I am of the opinion, in the light of the above mentioned circumstances that there is no substantial risk that a general plan will not be approved accordingly.

Annexure J

IN THE DEVELOPMENT APPEAL TRIBUNAL FOR [insert the name of the Province, etc]

Reference number _____

The Tribunal Registrar

IN THE APPLICATION OF:

[Name of Applicant]

in respect of the land known as _____ [state the description of the property]

NOTICE OF APPEAL

Take notice that the appellant intends appealing at a date, time and place determined by the Tribunal Registrar against the *whole decision/part of the decision or order of the Development Tribunal (specify)

The appeal is based on the following grounds [set out each ground succinctly]:

and take note that the appellant appoints _____ as appellant's representative in this matter.

Take note also that the appellant will accept service of all documents on the above matter at the *appellant's address/address of the offices of the appellant's representative, which is set below:

*(delete whichever is not applicable)

SIGNED and dated at _____ this _____ day of _____

APPELLANT/REPRESENTATIVE

Annexure K

IN THE DEVELOPMENT TRIBUNAL FOR [insert the name of the province]

Reference number _____

IN THE APPLICATION OF:

[name of applicant]

in respect of land known as _____ [state description of property]

SUBPOENA

[state name, occupation and place of business and residence of persons being required to appear]

- (1) _____
- (2) _____
- (3) _____
- (4) _____

BE INFORMED:

That you are hereby required to appear in person before this tribunal at _____
on _____ of _____ at and thereafter to remain in
attendance until excused by the Tribunal in regard to all matters within our knowledge relating
to the matter pending in the Tribunal wherein the applicant is seeking

AND FURTHER BE INFORMED TO bring and produce to the Tribunal the following:

[insert accurately the document, book or thing to be produced]

- (1) _____
- (2) _____
- (3) _____

AND FURTHER BE INFORMED that should you on any account neglect to comply with any
provisions of the subpoena you may render yourself liable to a fine of up to R2 000-00 and/or
to imprisonment of up to six months.

SIGNED AND DATED AT _____ THIS _____ DAY OF _____ .

TRIBUNAL REGISTRAR

Annexure L
LAND USE CONDITIONS

GENERAL

1. DEFINITIONS:

In these conditions, unless the context indicates otherwise—

“Building” includes a construction or structure of any nature on any land;

“Business Purposes” means the use of a building and/or land for offices, showrooms, restaurants or any other business or commercial purposes other than for a place of instruction, a shop, a public garage, an industry, a noxious industry, a builder’s yard or a scrapyard;

“Coverage” means the area of a property covered by buildings measured over the external walls as seen vertically from above and expressed as a percentage of the area of the property;

“Dwelling unit” means an interconnected suite of rooms, designed for human habitation that may contain a kitchen or scullery;

“Floor area” means the sum total of the areas covered by the building at the floor level of each storey;

“Industry” means an activity on any premises amounting to the use of such premises as a factory as contemplated in the definition of that word in the General Administrative Regulations made in terms of Section 35 of the Machinery and Occupational Safety Act, 1983 [Act 6 of 1983], under Government Notice R2206 of 5 October 1984;

“Institution” means a building designed or primarily used as a charitable institution, hospital, nursing home, sanatorium, clinic or any other institution, whether public or private;

“Noxious Industry” includes any industry or form of trade that by virtue of noise or effluents is dangerous or harmful to the health and welfare of the general public, such as but not limited to smelting ores and minerals, works for the production of sulphur dyes, or the sintering of sulphur bearing materials;

“Occupant” in relation to any building, structure or land, includes any person occupying such building, structure or land or legally entitled to occupy it, or anybody having the charge or management thereof, and includes the agent of such a person who is absent from the area or whose whereabouts are unknown;

“Owner” in relation to a building or land, means—

[a] the registered owner;

[b] a person who administers the estate of any person mentioned in (a) above, whether as executor, administrator or guardian or in any other capacity;

[c] a person who receives payment from any occupant, or a person who would receive payment should such building or land be let, whether for his own account or as agent for any person who is entitled thereto or who has an interest therein; and

[d] the duly authorised agent of a person contemplated in [a] to [d] above;

“Place of instruction” means land used or a building designed or primarily used as a school, technical college, lecture hall, institute or other educational centre, and includes a crèche, a convent or monastery, a public library, an art gallery, a museum and a gymnasium;

“Place of public worship” means a building designed for use or primarily used as a church, chapel, oratory, house of worship, synagogue, mosque or other place of public devotion, and includes a building designed for use and used as a place of religious instruction and an institution on the same property as and associated with any of the foregoing buildings that is intended to be used for social intercourse and recreation, but does not include a funeral chapel, which shall be deemed to be a “special purpose”;

“Property” means any portion of land that is registered as a separate unit in a deeds registry.

“Public Garage” means a building designed for or land used primarily for the maintenance, repair of fuelling of vehicles and purposes ancillary thereto;

2. APPLICATION OF DOCUMENT

- 2.1 These conditions shall apply to any property within the area indicated on the layout plan.
- 2.2 The provisions of these conditions shall not render unlawful any existing building that has been lawfully erected in accordance with approved buildings plans: Provided that alterations, other than minor alterations, or a change of use of such building shall be effected in accordance with these conditions.

3. RESPONSIBLE AUTHORITY

The local authority, or, if there is no such local authority, the person or body responsible for the control of the relevant land shall be the authority responsible for enforcing and administering the provisions of these conditions.

SIDE AND REAR SPACE

4. SIDE AND REAR SPACE

- 4.1 No building other than boundary walls, fences and temporary buildings that are required in connection with building operations being conducted on the property, shall be erected without a space, free of any building or structure, between it and one of the side boundaries and also between the building and the rear boundary of the property.
- 4.2 The space at the side of the building shall be a minimum of one metre wide.
- 4.3 The space at the rear of the building shall be a minimum of one metre wide.

5. RELAXATION OF SIDE AND REAR SPACE

- 5.1 On receipt of a written application, the responsible authority may permit the erection of a building within the side or rear space.
- 5.2 Any permission granted in terms of paragraph 5.1 shall be valid for the life of the building concerned.

BUILDING RESTRICTIONS AND USE OF LAND

6. ERECTION AND USE OF BUILDING OR USE OF LAND

The purposes for which buildings and land in each of the use zones specified in column I of Table A may—

- 6.1 be erected and/or used;
- 6.2 be erected and/or used only with the consent of the responsible authority; or
- 6.3 not be erected and/or used, are shown in the second, third and fourth columns of Table A respectively.

TABLE A

USE ZONE	PERMITTED USES	USES PERMITTED ONLY WITH THE CONSENT OF THE RESPONSIBLE AUTHORITY	PROHIBITED USES
[1]	[2]	[3]	[4]

Residential	Residential Buildings	Places of public worship, places of instruction, social halls, sports and recreational purposes, institutions, medical suites, special purposes	Uses not under column [2] or [3].
Business	Shops, business purposes, residential buildings, places of public worship, place of instruction, social halls, sports and recreational purposes, institutions	Uses not under column [2] or [4]	Noxious industries.
Industrial	Industry, business purposes, shops, public garages, scrapyards, parking areas	Noxious industries, special purposes	Uses not under column [2] or [3]
Community facility	Places of public worship, places of instruction, social halls, sports and recreational purposes, institutions	Residential buildings, special purposes	Uses not under column [2] or [3]
Municipal	Municipal purposes	Residential buildings, special purposes	Uses not under column [2] or [3]
Undetermined	Nothing	Uses not under column [4]	Noxious industries.
Public open space	Parks, sports and recreational facilities and buildings used in connection therewith.	Residential buildings, special purposes	Uses not under column [2] or [3]

7. CONDITIONS APPLICABLE TO ALL PROPERTIES

- 7.1 Except with the written consent of the responsible authority, and subject to such conditions as it may impose neither the owner nor any other person shall—
- 7.1.1 have the right, except to prepare the erf for building purposes, to excavate any material therefrom;
 - 7.1.2 have the right to sink any wells or boreholes thereon or abstract any subterranean water therefrom.
- 7.2 Where it is impracticable for stormwater to be drained from higher lying properties direct to a public street, the owners of the lower-lying properties shall be obliged to accept and permit the passage over their properties of such stormwater: Provided that the owner of any higher-lying property the stormwater from which is discharged over any lower-lying property shall be liable to pay a proportionate share of the cost of any pipeline or drain that the owner of such a lower-lying property may find necessary to lay or construct for the purpose of conducting the water so discharged over the property.
- 7.3 The sitting of buildings, including outbuildings, on any property and of entrances to and exits from a public street system shall be to the satisfaction of the responsible authority.
- 7.4 The owner shall be responsible for the maintenance of the entire development on the property.

8. ADDITIONAL USES PERMITTED IN RESPECT OF RESIDENTIAL PROPERTIES

- 8.1 The number of dwelling units and the size of a residential building that may be erected on a property shall be limited only by the height and coverage provisions of these conditions and by any applicable health and building regulations.
- 8.2 The occupants of a residential building may practice, *inter alia*, their social and religious activities and their occupations, professions, or trades, including retail trade, on the property on which such residential building is erected: provided that—
- 8.2.1 the dominant use of the property shall remain residential;
 - 8.2.2 the occupation, trade or profession or other activity shall not be noxious; and
 - 8.2.3 the occupation, trade or profession shall not interfere with the amenity of the neighbourhood.
 - 8.2.4 the practice of the occupation, trade or profession shall not be inconsistent with the land uses provided for in Table A.

9. SPECIAL CONDITIONS APPLYING TO PUBLIC GARAGES

- 9.1 Nothing shall be stored and no repairs of any nature to vehicles or equipment shall be undertaken in a public garage, except in an area that is screened to the satisfaction of the responsible authority for such purposes.
- 9.2 The responsible authority may relax the restriction contained in paragraph 9.1 in a case where the property is adjacent to or surrounded by industrial uses.

10. CONSENT USE OR APPROVAL BY THE RESPONSIBLE AUTHORITY

- 10.1 Any application to the responsible authority for the approval of a consent for use in respect of the relevant property that is listed in column 3 of Table A, shall be made by the owner of the land or building to which the application relates: provided that the provisions of this paragraph and of paragraphs 11 and 12 shall not apply to any application for consent by the responsible authority except for purposes in terms of these conditions as specified in column 3 of Table A.
- 10.2 The power of the responsible authority to grant its consent in terms of paragraph 10.1 shall include the power to refuse consent or approval and, if consent has been granted, the power to impose any conditions that it may deem fit.
- 10.3 If the owner of the relevant property is in breach of a condition upon which any consent was granted by a responsible authority as contemplated in paragraph 10.2, the responsible authority may serve a notice upon such owner or the occupant of the property concerned calling on him to remedy such breach, and if the relevant breach is not remedied as required in such notice such consent may be terminated by the responsible authority concerned.
- 10.4 The notice referred to in paragraph 10.3 shall require that the breach be remedied within a specified period.
- 10.5 Any applicant who feels aggrieved by any decision of the responsible authority as contemplated in this paragraph may appeal to the tribunal within twenty eight days of the decision: provided that, if the responsible authority refuses to give a decision on any application or delays unreasonably in giving a decision, the applicant may appeal to the tribunal as if he/she were appealing against a decision of the responsible authority.

11. APPLICATION FOR CONSENT USE AND OBJECTIONS

- 11.1 Any owner intending to apply to the responsible authority for its consent as contemplated in paragraph 10.1 shall, prior to the submission of such application—
 - 11.1.1 affix, display and maintain a notice of such application on the land or building to which it applies, for a period of fourteen days; and
 - 11.1.2 give fourteen days written notice to the owners of adjacent properties and of the properties directly across the street from the property that forms the subject of the application.
- 11.2 A notice referred to in paragraph 11.1 shall state that any person having any objection to the application may lodge such objection in writing with the responsible authority and with the applicant within fourteen days after the date of the last day on which the notice was displayed.
- 11.3 Proof of the display of the notice contemplated in paragraph 11.1.1 and a list of the owners contemplated in paragraph 11.1.2 and their address shall accompany the application to the responsible authority.
- 11.4 The responsible authority shall consider any objections received within the fourteen-day notice periods contemplated in paragraph 11.1 and shall, within 60 days after the expiry of such notice periods, notify the applicant and the objectors, if any, of its decision by delivering a copy of such decision to the persons concerned.
- 11.5 A decision by the responsible authority contemplated in paragraph 11.4 shall not take effect until the letters of notification to the applicant and objectors have been received by such persons as contemplated in paragraph 11.4 or, if an appeal is lodged in terms of paragraph 10.5, until a decision has been reached in respect of such appeal.

12. LAPSING OF CONSENT

If the rights obtained by virtue of the grant by the responsible authority of a consent in terms of paragraph 10 are not exercised within twenty-four months of the grant of such consent, or if the rights have been exercised but the use permitted thereunder is interrupted for a continuous period of eighteen months, the relevant consent shall lapse, unless any condition upon which such consent was granted specifically provides otherwise or the owner proves to the satisfaction of the responsible authority that he intends to resume the exercise of his rights.

13. SUBDIVISION AND CONSOLIDATION OF PROPERTIES

No property shall be subdivided or consolidated except on condition that:

- [a] A general plan approved by the Surveyor-General, may be amended or partially or totally cancelled by the Surveyor-General on the land shown on such general plan may be consolidated or subdivided, on such terms and conditions as the tribunal/Minister/MEC may approve or direct.
- [b] The township applicant shall be responsible for submitting any application for the amendment or partial or total cancellation of a general plan referred to in regulation 23 (8) of these Regulations to the Surveyor-General, together with any approval or direction referred to in that regulation, and such amending general plan shall comply with the requirements of the Land Survey Act, 1997.

14. PROVISIONS OF PARKING

- 14.1 Sufficient parking space shall be provided in respect of the land uses listed in Table B: Provided that such parking space shall be laid out to the satisfaction of the responsible authority.
- 14.2 The responsible authority may, on application by the owner of the relevant property, grant permission for a relaxation of the parking requirements set out in Table B.

TABLE B

USE	SIZE AREA	MINIMUM PARKING REQUIREMENTS
Residential buildings	Less than 2 000 m ² 2 000 m ² and over	Nil 1 Space per dwelling unit.
Shops	Less than 2 000 m ² 2 000 to 2 999 m ² 3 000 m ² and over	Nil 3 spaces per 100 m ² of shopping floor area 4 spaces per 100 m ² of shopping floor area.
Offices	Less than 2 000 m ² 2 000 m ² and over	Nil 2 spaces per 100 m ² of office floor area.
Industry and business purposes	Less than 2 000 m ² 2 000 m ² and over	Nil 1 space per 100 m ² of floor area

15. RESTRICTIONS OF HEIGHT OF BUILDINGS

15.1 Buildings erected on properties in residential use zones shall not exceed two storeys without the consent of the responsible authority.

15.2 Buildings erected on properties in use zones other than residential use zones shall not exceed three storeys without the consent of the responsible authority.

15.3 The number of storeys contemplated in this paragraph shall include the storey at ground level but shall not include basement storeys that are below ground level.

16. RESTRICTIONS ON COVERAGE OF BUILDINGS

Buildings shall not exceed the coverage specified in Table C: provided that on written application the responsible authority may grant consent for a maximum of 10% additional coverage.

TABLE C

USE ZONE	PERMISSIBLE COVERAGE
Residential	60%
Business	70%
Industrial	70%
Community Facility	70%
Municipal Public Open Space; Undetermined	To the satisfaction of the responsible authority.

GENERAL AMENITY AND CONVENIENCE

19. GENERAL AMENITY AND CONVENIENCE

19.1 Notwithstanding anything to the contrary contained in these conditions, no person shall use or develop a property in such a way as will detract from the amenity and convenience of the area within which it is located.

19.2 The provisions of this paragraph shall be enforceable by the responsible authority or any other party against any lessee or registered owner of the relevant property as contemplated in paragraph 19.1

MISCELLANEOUS

20. SERVING OF NOTICE

Any notice required or authorised to be served in terms of these conditions shall be served in accordance with these Regulations.

Annexure M

GUIDELINES TO THE STANDARD CONDITIONS FOR USES EXCLUDING TOWNSHIP ESTABLISHMENT AND PUBLIC RESORTS.

BUSINESS RIGHTS:

DISTRICT:

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- The rights granted herewith or any part thereof will lapse if any of the conditions imposed, are not complied with within 60 days after the owner of the property has been informed in writing to comply with a certain condition or conditions.
- The rights shall lapse if not exercised within a period of two years from the date of approval or within such further extended period as the tribunal may decide.
- The rights, after they have been exercised, shall lapse if discontinued for a period of twenty four (24) consecutive months.
- A site development plan shall, if required by the local authority, be drawn up to the satisfaction of the local authority and submitted for their approval prior to any building plans being submitted to the local authority. No buildings may be erected on the property before the site development plan has been approved. The whole development shall be in accordance with the approved development plan, provided that the plan may from time to time be amended with the written consent of the local authority.
- The placing of buildings shall be to the satisfaction of the local authority.
- Effective parking places, together with the necessary maneuvering area, shall be provided on the property to the satisfaction of the local authority.
- The loading and off-loading of goods shall take place only within the boundaries of the property.
- No buildings or structures and no facilities which form part of the development (excluding access facilities, parking, lawns and gardens), shall be erected or provided within the limits of any building line which may be applicable.
- Fencing and/or screening of the site as and when required by the local authority, shall be erected and maintained at the cost of the registered owner.
- The registered owner shall be responsible for the maintenance of the whole development on the property. If the local authority is of the opinion that the property or any portion of the development is not being satisfactorily maintained the local authority shall direct the owner to take such steps as the local authority deems necessary to properly maintain the property and the cost of such maintenance shall be borne by the registered owner.
- Sanitary facilities shall be provided to the satisfaction of the local authority.
- The entrances to and exits from the property shall be to the satisfaction of the local authority.
- Any conditions that may be proposed by the relevant Roads Department and imposed by the tribunal must be complied with strictly before the rights are exercised.

Annexure N

GUIDELINES TO THE STANDARD CONDITIONS FOR PUBLIC RESORTS

- Conditions proposed by various departments and parties and imposed by the tribunal shall be complied with before any rights may be exercised.
- The requirements of the applicable standard conditions of the District Council with regard to public resorts must be strictly adhered to.
- Should the development be alienated by means of sectional title, shareblock scheme, timesharing or similar scheme, the District Council must be furnished with guarantees for essential services i.e. water (internal and external), sewerage (internal and external), roads and refuse removal service (waste depositing site included).
- Personnel housing must be screened off effectively from the rest of the development.
- Phasing of the resort development must take place to the satisfaction of the local authority.
- The rights granted herewith or any part thereof as the tribunal may decide will lapse if—
 - (1) any of the conditions imposed, are not complied with within 60 days after the owner of the property has been informed in writing to comply with a certain condition or conditions.
 - (2) any of the recreational facilities which are provided for the resort in terms of these conditions or any other arrangements as motivated in the application, are no longer accessible to the visitors to the resort.
- The rights shall lapse if not exercised within a period of two years from the date of approval or within such further extended period as the relevant MEC may decide.
- The rights, after they have been exercised, shall lapse if discontinued for a period of twenty four (24) consecutive months.
- A site development plan shall, if required by the local authority, be drawn up to the satisfaction of the local authority and submitted for their approval prior to any building plans being submitted to the local authority. No buildings may be erected on the property before the site development plan has been approved. The whole development shall be in accordance with the approved development plan, provided that the plan may from time to time be amended with the written consent of the local authority.
- The placing of buildings shall be to the satisfaction of the local authority.
- Effective parking places, together with the necessary maneuvering area, shall be provided on the property to the satisfaction of the local authority.
- The loading and off-loading of goods shall take place only within the boundaries of the property.
- No buildings or structures and no facilities which form part of the development (excluding access facilities, parking, lawns and gardens), shall be erected or provided within the limits of any building line which may be applicable.
- Fencing and/or screening of the site as and when required by the local authority, shall be erected and maintained and such maintain at the cost of the registered owner.
- The registered owner shall be responsible for the maintenance of the whole development on the property. If the local authority is of the opinion that the property or any portion of the development is not being satisfactorily maintained the local authority shall direct the registered owner to take such steps as it deems necessary to bring the property to proper maintenance. The costs of such maintenance shall be borne by the registered owner.
- Sanitary facilities shall be provided to the satisfaction of the local authority.
- The entrances to and exits from the property shall be to the satisfaction of the local authority.
- The owner of the resort must, to the satisfaction of the local authority, make arrangements to provide any information or any other documents which the local authority may require as proof, that the period of occupation by any visitor to the resort, does not exceed the prescribed period as stated here below.

No stand, portion of/or share in the resort, ground or building or share in the holding company which conveys right of residence for a period of longer than 30 months, may be sold, leased or alienated except with the written approval of the relevant MEC. (The restrictive conditions with

