PREAMBLE

To come

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CHAPTER 1 INTRODUCTORY PROVISIONS

1. Definitions

In this Act, unless the context indicates otherwise—

(1) “applicant”, in relation to a land development application, means the owner of the land in question;

(2) “communal land” means land under the jurisdiction of a traditional council determined in terms of section 6 of the Traditional Leadership and Governance Act (Eastern Cape), 2005 (Act No 4 of 2005) and which was at any time vested —

(a) in the governments of the former Republics of Transkei or Ciskei; or

(b) in the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936);

(3) “comply”, in relation to a spatial development framework or a land development application, has the meaning contemplated in section 10(1);

(4) “consent use” means a land use permitted in terms of a particular zoning with the approval of a municipality;

Comment [PR1]: The definitions set out here are (substantially) a direct crib on the Western Cape Bill (with acknowledgements to the drafters of that Bill). They are inserted as a guide to a consideration of this Bill. The definitions are numbered for convenience which can be removed before publication.

(6). “day” in the computation of a period of time expressed in days, does not include a Saturday, Sunday, public holiday or any day from 16 December to 5 January, and the period in question must be calculated exclusive of the first and inclusive of the last day;

(7). “Department” means the provincial department responsible for land use planning in the Province;

(8). “departure” means-

(a). an altered land use restriction-

(i). imposed in terms of section 34(1);

(ii). imposed in terms of a condition by virtue of any provision of this Ordinance, or

(iii). that is legal in terms of any other provision of this Ordinance, or

(b). a use right granted on a temporary basis in terms of section 34;

(9). “development parameter” means a provision or restriction that sets out the permissible extent of the land use, in terms of a zoning;

(10). “diagram” means a diagram as defined in section 1 of the Land Survey Act, 1997 (Act 8 of 1997);

(11). “District Municipality” means a municipality referred to in section 155(1)(c) of the Constitution and situated in the Province;

(12). “engineering services” means infrastructure, situated within or outside the boundaries of a land area, required for the development and land use, including the provision of water, sewerage, electricity, municipal roads, storm water drainage and gas, and solid waste collection and removal;

(13). “environment” means environment as defined in section 1 of the National Environmental Management Act, 1998 (Act 107 of 1998);

(14). “general plan” means a general plan as defined in section 1 of the Land Survey Act, 1997;

(15). “Head of Department” means the head of the provincial department responsible for land
use planning in the Province;

(16). “land” means a land unit with or without improvements;

(17). “land development” includes any action which requires approval in terms of this Act, and the preparation of land for that action, and “develop” has the same meaning;

(18). “land development application” means an application to a municipality as contemplated in Chapter 6;

(19). “land unit” means:

(a). a portion of land registered or capable of being registered in a deeds registry including a servitude right or lease; or

(b). the area of communal land to which a household holds an informal right recognised in terms of the customary law applicable in the area where the land to which such right is held is situated;

(20). “land use” means the purpose for which a land unit may be developed or used in terms of a zoning scheme, and includes any conditions relating to the land use;

(21). “land use management” means the management of land development through the measures provided for in Chapters 5 and 6;

(22). “land use planning” means zoning and land use management;

(23). “MEC” means the Member of the Eastern Cape Provincial Executive Council responsible for land use planning and related matters;

(24). “Minister” means the national Minister responsible for land use planning and related matters;

(25). “municipal manager” means a municipal manager as defined in section 1 of the Municipal Systems Act;


(27). “municipality” means a municipality envisaged in section 155(1)(a) and (b) of the Constitution and situate within the Province and, for the purposes of this Act, includes a municipal council, a municipal department and a municipal entity, and if the MEC,
acting in terms of section 85(1)(a) of the Local Government: Municipal Structures Act, 1998 Act No 117 of 1998) vests the municipal planning function in a District Municipality it means such District Municipality;

(28). “Ordinance” means the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), then it means such municipality;

(29). “organ of state” means an organ of state as defined in section 239 of the Constitution;

(30). “owner”, in relation to land, means—

(c). the person in whose name that land is registered in a deeds registry in terms of the Deeds Registries Act, 1937 (Act 47 of 1937), including the holder of a registered servitude right or registered lease;

(d). any successor in title of the owner;

(e). a person authorised by a power of attorney to act on behalf of the owner; and

(f). the holder of an informal right to communal land recognised in terms of the customary law applicable in the area where the land to which such right is held is situated;

(31). “prescribe” means prescribe by regulation;

(32). “Province” means the Province of the Eastern Cape;

(33). “Provincial Government” means the provincial government of the Province;

(34). “public participation” means a process whereby all the members of a community or those directly or indirectly affected by any issue, are informed of the issue in such a manner that reasonably and necessarily enables them to understand and appreciate the essential elements of such issue provided in a language or languages commonly spoken by such community in order to make an informed decision thereon, so that their rights may be protected;

(35). “public place” means any place in respect of which the ownership vests in a municipality in terms of section 44;

(36). “public street” means any street in respect of which the ownership vests in a municipality in terms of section 44;
(37). “publish a notice” means to publish a notice as contemplated in section 50;

(38). “region” means a geographical area consisting of the areas, or parts of the areas of:

(a). more than one local municipality; or

(b). a metropolitan municipality and one or more adjoining local municipalities;

(39). “registered planner” means a professional planner registered in terms of the Planning Profession Act, 2002 (Act 36 of 2002);

(40). “Registrar of Deeds” means the Registrar of Deeds of the Province as contemplated in the Deeds Registries Act, 1937 (Act No 47 of 1937);

(41). “rezoning” means an amendment of a zoning scheme as contemplated in section 40 in order to effect a change of zoning in relation to particular land;

(42). “subdivision”, in relation to land, means the division of a land unit into more land units and includes the physical preparation of land for subdivision, but does not include the preparation of a subdivision plan;

(43). “subdivision plan” means the plan contemplated in section 42(3)(b);

(44). “subdivisional area” means a zoning that permits the subdivision of land;

(45). “subsidised housing” means housing provided with the assistance of a state subsidy;

(46). “Surveyor-General” means the Surveyor-General of the Surveyor-General’s Office of the Province as contemplated in the Land Survey Act, 1997;

(47). “sustainability” has the meaning of “sustainable development” as defined in section 1 of the National Environmental Management Act, 1998;

(48). “this Act” includes the regulations;

(49). “use right”, in relation to land, means the right to utilise that land in accordance with its zoning, including any departure, consent use or condition of approval in respect of the rights to utilise the land;

(50). “utilisation”, in relation to land, means the use of land for a purpose, whether lawful or not;

(51). “zone”, in relation to land, means to designate the land for a particular zoning;
(52). “zoning” means a land use category regulating the use and development of land and setting out—
   (a). the purposes for which land may be used; and
   (b). the development parameters applicable to that land use category,
   (c). as determined by the relevant zoning scheme;

(53). “zoning scheme” means the instrument for the zoning, regulation and control of land referred to in sections 26 to 28 or section 38;

(54). “zoning scheme map” means a map of a zoning scheme as referred to in section 28(f) or section 38;

(55). “zoning scheme register” means a register of a zoning scheme as referred to in section 28(g) or section 38.

2. **Objects of the Act**

The objects of this Act are to:

(1). enable the MEC to augment the development principles contained in national legislation to guide land development and land use management to reflect unique qualities peculiar to the Province;

(2). enable the MEC to augment norms and standards adopted in terms of national legislation to guide land development and land use management to reflect unique qualities peculiar to the Province;

(3). enable the MEC to augment and add to the contents, objectives and purposes of Spatial Development Frameworks prepared and adopted in terms of national legislation as applied in the Province taking into account unique qualities peculiar to the Province;

(4). provide a rational and integrated system of land development and land use management appropriate to the Province;

(5). provide for the identification and designation of settlement areas for the purposes of incremental upgrading;

(6). provide for the progressive and incremental extension and application of land
development and land use management to communal land;

(7). address current and historic imbalances and promote development in a balanced, sustainable and cost effective manner in the Province consistent with the contents of Chapter 2 of the Constitution;

(8). address the land development and land use management challenges in the Province arising from its geographical and socio-political context;

(9). align of the functions and powers of all organs of state to ensure that co-operative governance can facilitate sustainable land development and land use management in the Province; and

(10). provide for transitional arrangements necessitated by the repeal of laws in terms of the Act.

CHAPTER 2 DEVELOPMENT PRINCIPLES, NORMS AND STANDARDS AND SPATIAL DEVELOPMENT FRAMEWORKS

3. National Legislation

All land use planning and management in the Province must be carried out in accordance with the development principles and the norms and standards contained in national legislation applicable in the Province.

4. Provincial Development Principles and Norms and Standards

(1). The MEC may, after consultation with the Minister, adopt and apply development principles or norms and standards not inconsistent with development principles or norms and standards contained in national legislation applicable to reflect requirements peculiar to the Province.

(a). The MEC may from time to time amend or repeal such development principles or norms and standards adopted in terms of subsection (1).

(b). Any development principles or norms and standards adopted in terms of subsection (1) and any amendment or repeal thereof in terms of subsection (2) shall be published in the Provincial Gazette and shall come into force on the date of such publication.

Comment [PR5]: Note that the Western Cape repeats these principles in Chapter 7. I have not followed suit and have made the SPLUMB principles part of this Act by reference. The problem if you repeat the provisions of SPLUMB in this Act and SPLUMB is amended then the principles are out of sync and you have a problem in interpretation – when apply when.

Comment [PR6]: Jaap’s comments are valid but should perhaps be directed at SPLUMB (?). I have not removed this sub-section (having removed the same sub-section I had for SDFs – see section 6) because the principles, norms and standards are passive and this section thus directs attention to these things. SDFs are active in the sense that SPLUMB requires every municipality to prepare them.
(c). Any development principles or norms and standards adopted in terms of subsection (1) and any amendment or repeal thereof in terms of subsection (2) shall be binding on all land use planning and management in the Province, including the State, every municipality and all organs of state.

5. **Spatial Development Frameworks**

(1). Every municipality including every District Municipality, must ensure that every Integrated Development Plan prepared and adopted by it in terms of section 25 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) is aligned and not inconsistent with any Spatial Development Framework prepared and adopted by the national, provincial or local sphere of government for the area of such municipality in terms of national legislation.


6. **Provincial Spatial Development Frameworks**

(1). The MEC may, after consultation with the Minister and all municipalities, by notice in the Provincial Gazette, determine additional items to augment and add to the content, objectives and purpose of Provincial, Regional and Municipal Spatial Development Frameworks not inconsistent with similar provisions contained in national legislation applicable in the Province to reflect requirements peculiar to the Province;

(a). The MEC may from time to time by notice in the Provincial Gazette amend or repeal such provisions.

(b). Any provisions published in a notice in terms of subsection (1) and every Spatial Development Framework adopted as a consequence thereof shall be binding on all land development and land use management in the Province, including the State, every municipality and all organs of state.

7. **Structure plans**

(1). Despite the repeal of the Ordinance, the structure plan approved in terms of section 4(6) of the Ordinance in terms of Provincial Notice *** published in Provincial Gazette...
No. *** dated ***, remains in force and is regarded as the provincial spatial development framework approved under section 4(1).

(2). Subject to subsection (1) and despite the repeal of the Ordinance, any other structure plan approved in terms of section 4(6) or 4(10) of the Ordinance, in existence immediately before the commencement of this Act, remains in force.

(3). The authority under the Ordinance that approved a structure plan referred to in subsection (2), must—

(a). review that structure plan to be consistent with the purpose of, in the case of a municipality, a municipal spatial development framework, or in the case of the MEC, a provincial spatial development framework;

(b). incorporate the provisions of the structure plan that are consistent with that purpose in a municipal spatial development framework or the provincial spatial development framework, as the case may be; and

(c). withdraw the structure plan by notice in the Provincial Gazette.

(4). A structure plan referred to in subsection (3) expires after the prescribed period, if not withdrawn under subsection (3)(c).

8. Continuation of spatial development frameworks.

If land situated in the area of a municipality is incorporated into the area of another receiving municipality, a municipal spatial development framework applicable to that land remains in force until amended or reviewed by the receiving municipality in accordance with this chapter.

9. Rights in terms of and publication of spatial development frameworks

(1). A spatial development framework does not confer or take away any land use rights.

(2). The competent authority must within 15 days of the approval, review, amendment or withdrawal of a spatial development framework, publish its decision in the Provincial Gazette.
10. Compliance or consistency with, and departure from spatial development frameworks

(1). If the relevant designation of a proposed land use in an applicable spatial development framework specifically provides for the use or development of land that is proposed in a land use application, the land use application complies with that spatial development framework.

(2). If the relevant designation of a proposed land use in an applicable spatial development framework does not specifically provide for the proposed use or development of land in a land use application but the proposed use or development in the land use application is not in conflict with the purpose of the designation in the spatial development framework, the land use application is consistent with that spatial development framework.

(3). If the proposed use or development of land in a land use application does not comply with, and is not consistent with the relevant designation of a proposed land use in an applicable spatial development framework, it departs from that spatial development framework.

(4). If the relevant designation of a proposed land use in an applicable spatial development framework does not specifically provide for the proposed use or development of land in a land use application but the proposed use or development in the land use application is not in conflict with the purpose of the designation in the spatial development framework, the land use application is consistent with that spatial development framework.

(5). If the proposed use or development of land in a land use application does not comply with, and is not consistent with the relevant designation of a proposed land use in an applicable spatial development framework, it departs from that spatial development framework.

11. Amendment of spatial development frameworks

(1). A competent authority must amend its spatial development framework if the approval of a land use application that departs from the spatial development framework, as contemplated in section 10(3), results in a permanent change of land use which, if not
reflected in the relevant spatial development framework, may undermine its purpose of providing guidelines for the future spatial development of the area to which it relates.

(2). The amendment contemplated in subsection (1) must be initiated as soon as possible after the approval of the land use application.

(3). Subsection (2) does not apply if the next review of the relevant spatial development framework must be completed within 40 days after the land use application was approved.

12. Record of spatial development frameworks

(1). A competent authority must keep, update and make accessible to the public its updated spatial development framework.

(2). The updated spatial development framework contemplated in subsection (1) must show a record of—

(a). approved land use applications that depart, as contemplated in section 10(3), from the spatial development framework; and

(b). amendments to the spatial development framework approved under section 11.

13. Integration of other plans

If the Provincial Government or a municipality is required to approve, in terms of other legislation, a plan, policy or framework affecting land use planning, the Minister or municipality may integrate that plan or framework into the relevant spatial development framework if—

(1). all applicable legislation has been complied with; and

(2). the spatial development framework specifies the relevant legislation in terms of which it is approved and the relevant authorities that approved it.

14. Alignment with Environmental Plans

Every Spatial Development Framework adopted by the MEC or any municipality shall take into account and be aligned with the provisions of any plans dealing with the management of land development and land use management adopted by any sphere of government or organ of state in terms of the national legislation.
CHAPTER 3 PROVISION OF EXPERTISE AND INTERGOVERNMENTAL CO-OPERATION

15. Provincial Planning Board.

(1) The MEC may establish a Provincial Planning Board.

(2) The Board has the functions referred to in section 16 and advises and makes recommendations to the MEC at his or her request, with regard to—

(a) matters affecting the application of this Act; and

(b) regulations that may be necessary in terms of this Act,

(3) Subject to section 16, if the Premier decides to establish a Provincial Planning Board, he or she shall determine its composition, administrative arrangements, powers, functions and funding by regulations published in the Provincial Gazette and the Board shall come into existence on the date of the publication of such regulations or on such other date as the Premier may designate in such regulations.

16. Functions of the Board.

(1) If the Premier establishes a Provincial Planning Board, the function of the Board shall include the following—

(a) Either on its own initiative or at the request of the Premier, the MEC, the House of Traditional Leaders or any municipality in the province to conduct, record and publish research into aspects of land development and land use management relevant to the Province;

(b) At the request of the Premier, any member of the Executive Council of the Province, the Head of any Department of the Provincial Government, the House of Traditional Leaders or any municipality in the province to make recommendations, advise and assist in the preparation and co-ordination of the
application of this Act on communal land.

(c). At the request of a municipality in the province to –

(i). make recommendations to and advise such municipality on the preparation, implementation amendment or withdrawal of -

(ii). any Spatial Development Framework referred to in Chapter 2; and

(iii). any zoning scheme referred to in Chapter 5;

(iv). advise such municipality on any other matter arising from the application of this Act;

(v). assess and advise such municipality, in relation to any land development application or any aspect of the consideration of such application –

(aa) whether such application complies with this Act;

(ab) if the application does not comply with this Act, it what respects it is deficient; and

(ac) any evaluation of the merits or otherwise of such application.

17. Integrated Procedures and Decisions.

(1). A municipality may consult with any organ of state responsible for administering legislation relating to any aspect of an activity that also requires approval in terms of this Act in order to coordinate the respective requirements of such legislation and to avoid duplication.

(2). A municipality, in giving effect to chapter 3 of the Constitution, may after consultation with the organ of state contemplated in subsection (1) enter into a written agreement with that organ of state to avoid duplication in the submission of information or the carrying out of a process relating to any aspect of an activity that also requires authorisation under this Act.

(3). After a municipality has concluded an agreement contemplated in subsection (2) it must take account of any process authorised under the legislation covered by that agreement as adequate for meeting the requirements of this Act.

(4). The implementation of this section in the province is subject to -
(a). the municipality and organ of state have sufficient capacity to implement the section,

(b). such capacity has been verified by the MEC,

(c). the agreement contains mitigating factors should the minimum capacity levels not be satisfied,

(d). the agreement is approved by the MEC, and

(e). the MEC must monitor compliance with the agreement and applicable legislation.

(5). Where an activity requiring authorisation in terms of this Act is also regulated in terms of another law, the relevant municipal council and the organ of state empowered to authorise the activity in terms of the other law may, subject to any agreement concluded in terms of sub-section (2), exercise their respective powers jointly by issuing—

(a). separate authorisations; or

(b). an integrated authorisation.

(6). An integrated authorisation contemplated in subsection (5)(b) may be issued only if —

(a). the relevant provisions of all applicable legislation have been complied with; and

(b). the integrated authorisation specifies the—

(i). provisions in terms of which it has been issued; and

(ii). relevant authorities that have issued it.

(7). A municipal council may regard an authorisation in terms of any other legislation that meets all the requirements set out in this Act as an authorisation in terms of this Act.

(8). Where no possibility exists to issue separate authorisations or an integrated authorisation contemplated in subsection (1) the relevant municipal council must make its decision known to the organ of state empowered to authorise the activity in terms of the other law.

(9). The implementation of this section is subject to:

(a). the municipality and organ of state have sufficient capacity to implement the section,
(b). such capacity has been verified by the MEC,
(c). the agreement contains mitigating factors should the minimum capacity levels not be satisfied,
(d). the agreement is approved by the MEC, and
(e). the MEC must monitor compliance with the agreement and applicable legislation.

18. Support and monitoring.

(1). The MEC must monitor -
   (a). compliance with the development principles, norms and standards;
   (b). the progress made by municipalities with the adoption, implementation or amendment of Spatial Development Frameworks and land use schemes;
   (c). the quality and effectiveness of municipal spatial development frameworks and zoning schemes, and
   (d). the capacity of municipalities to implement this Act.

(2). The MEC may, subject to the Constitution and any other law regulating provincial supervision and monitoring of municipalities in the province:
   (a). assist a local or district municipality with the preparation, adoption or revision of its land use scheme;
   (b). facilitate the co-ordination and alignment of the —
      (i). land use management systems of different municipalities; or
      (ii). land use management system of a municipality with the structure plans, development strategies and programmes of national and provincial organs of state; or
      (iii). take appropriate steps consistent with the Constitution and Intergovernmental Relations Framework Act, 2005, (Act No 13 of 2005) to resolve differences and disputes in connection with the preparation, adoption or revision of a zoning scheme between —
(aa) a municipality and its local community; or

(ab) different municipalities.

(3). On the request of a local municipality, the district municipality, provincial government and national government must, in this order, and within available resources, provide planning support and assistance to a local municipality.

(4). Notwithstanding subsections (2) and (3), the MEC may, in his sole discretion, determine that a local municipality requires the support and assistance contemplated in this section and request or provide such support and assistance on behalf of the local municipality.

(5). The MEC must prescribe minimum standards for municipal planning capacity and must develop criteria according to which the capacity can be measured.

(6). The MEC must develop mechanisms to support, monitor and strengthen the capacity of municipalities to adopt and implement an effective system of land use management in accordance with this Act.

19. Municipal differentiation.

(1). In the development and application of measures to monitor and support the performance of the functions of municipalities in terms of this Act and other legislation on land development and land use management, the MEC must take into account the unique circumstances of each municipality.

(2). For this purpose of this section, the unique circumstances of a municipality may be determined on the basis of identified criteria including:

(a). the categories of municipalities in section 155(1) of the Constitution;

(b). the criteria identified and applied by a national or provincial legislation on the supervision and monitoring of local government; and

(c). financial resources, capacity and financial viability of a municipality.

(3). For the purpose of this chapter, different information may be requested from different municipalities taking into consideration:

(a). the capacity of the municipality especially to administer this Act; and

Comment [PR17]: This needs to be done by a planner (?).

(1) A municipal council must in dealing with any application approve such application in whole or in part and with or without amendment or refuse any application or postpone its decision thereon.

(2) In approving an application or part thereof a municipal council may impose any one or more conditions contemplated in this Act;

(3) A municipal council may grant cost orders according to the requirements of law and fairness and any such order may also be made against any professional body or other person acting on behalf of or in any manner assisting a person if that organisation, professional or other person acted unreasonably.

(4) A municipal council may subpoena 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 to appear before it and to furnish it with such information as may be required.

(5) Any person who fails to comply with a subpoena shall be guilty of an offence as contemplated in Section 79 of this Act.

(6) A municipal council may make any appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this Act.
(7). A municipal council may conduct any necessary investigation.

22. Procedures of the Municipal council

(1). Subject to this Act, the procedures of a municipal council must be as determined by the applicable law.

(2). Where any application that serves before a municipal council is opposed a hearing open to the public as prescribed must be held.

(3). The following provisions shall apply to hearings:

(a). A municipal council may determine its own procedures.

(b). Where a hearing takes place, no fewer than 3 members must be designated by the Chairperson as a Board that will hear the matter and such members shall constitute a quorum.

(c). The Speaker of a municipal council shall designate a Presiding Officer for the hearing.

23. Establishment of the Municipal Appeal Tribunal

(1). A Municipal Appeal Tribunal is hereby established which is an inter-municipal appeal tribunal.

(2). The Appeal Tribunal shall be appointed jointly by all the municipalities in the province.

(3). On the coming into operation of this Act, every municipality shall prepare a list of the names of not more than twelve persons to be considered for appointment as members of the appeal tribunal and shall submit such list to the Premier.

(4). Of the persons nominated by each municipality not more than one half may be in the fulltime employment of the province or a municipality.

(5). In addition to the persons referred to in subsection (3) the Premier may identify such other persons as he or she considers appropriate for appointment as members of the appeal tribunal.

(6). The Premier shall prepare a schedule of the names of all the persons referred to in subsections (3) and (5) and shall submit such schedule to the municipalities for
(7). In consultation with the municipalities the Premier shall record the names of as many of the persons as considered necessary and shall, on behalf of the municipalities, give notice of the names of such persons in the Provincial Gazette.

(8). On publication of the notice referred to in subsection (7) the persons whose names appear in the notice shall be the members appointed to the Appeal Tribunal.

(9). In terms of sections 41(h) and 154 of the Constitution, the Premier shall after consultation with the municipalities determine:

(a). the location of the office where the Appeal Tribunal shall be situated;

(b). provisions for and the performance of all functions necessary to the operation of the Appeal Tribunal

(c). the terms and conditions of employment of members of the Appeal Tribunal

(d). the appointment and remuneration of officials to perform the administrative functions of the Appeal Tribunal; and

(e). in consultation with the MEC for finance the payment of all expenses relevant to the operation of the Appeal Tribunal.

(10). The Premier shall appoint a secretary to the Appeal Tribunal

24. Composition of the Appeal Tribunal

(1). The members of the appeal tribunal shall be persons appointed by reason of their qualifications in and knowledge and experience of planning and development or the law related thereto.

(2). A member of the appeal tribunal shall be appointed for a period of 5 years provided that on the expiry of the 5 year period such member may be re-appointed.

(3). Not more than one half of the members of the appeal tribunal shall be persons who are in full-time employment of the province or the municipalities

(4). In consultation with the municipalities, the Premier shall designate;

(a). A member of the appeal tribunal as chairperson; and
(b). A member as deputy chairperson to act as chairperson when the chairperson is absent or unable to perform his or her functions

(5). The chairperson must designate three but not more than four members of the appeal tribunal to hear, consider and decide a matter which comes before it and shall designate one of such members as the presiding officer.

(6). The members designated in terms of subsection (5) shall include at least one member who is in the full-time employment of the province or a municipality and one member who is not so employed.

(7). After the period of 5 years referred to in subsection (2) has expired the further appointment of members of the appeal tribunal shall be in accordance with the provisions of section 23.

25. Functions of the appeal tribunal

(1). Subject to section 61, the appeal tribunal shall consider and determine all appeals and any other matters referred to it in terms of this Act.

(2). An appeal tribunal must keep a record of all applications and documents submitted in support of and in opposition to any application, the minutes of any meeting of any competent forum and of the decision handed down for a period of five years after such decision is handed down or in terms of any applicable law.

26. Powers of the appeal tribunal

(1). Subject to section 61, the appeal tribunal may:

(a). make any decision which could have been made by a municipality and may uphold or dismiss an appeal and impose any conditions with regard to the subject of an appeal;

(b). make any appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this Act;

(c). conduct any necessary investigation;

(d). give directions relevant to its functions to any person in the service of the provincial administration, a provincial public entity, provincial government
business enterprise or a municipality relevant to matters referred to in this Act;

(e). decide any question concerning its own jurisdiction;

(f). as prescribed subpoena any person to appear before it;

(g). determine any matters referred to it on the grounds of failure by a municipality to register or determine an application within the prescribed period;

(h). determine appeals relating to engineering services and development contributions; and

(i). make an order as to costs.

(2). A decision of the appeal tribunal is final.

27. Disqualification from membership of the appeal tribunal

(1). A person may not be appointed or continue to serve as a member of the appeal tribunal, if that person:

(a). is not a citizen of the Republic, and resident in the province;

(b). is a member of parliament, a provincial legislature, a house of traditional leaders or a municipal council in terms of the constitution.

(c). is an un-rehabilitated insolvent;

(d). is of unsound mind, as declared by a court;

(e). has at any time been convicted of an offence involving dishonesty;

(f). has at any time been removed from an office of trust on account of misconduct;

or

(g). has previously been removed from the tribunal for a breach of any provision of this Act.

(2). A member must vacate office if that member becomes subject to a disqualification as contemplated in subsection (1).

28. Conflicts of interest

(1). A member of the appeal tribunal:
(a). must make full written disclosure of any conflict of interest including any potential conflict of interest in any matter which he or she is designated to consider;

(b). may not attend, participate or vote in any proceedings of a tribunal in relation to any matter in respect of which the member has a conflict of interest.

(2). For the purposes of this section, a member has a conflict of interest if:

(a). the member, or a family member, partner or business associate of the member is the applicant in terms of this Act, or has a pecuniary or other interest in the matter before the tribunal; or

(b). the member has any other interest that may preclude, or may reasonably be perceived as precluding the member from performing the functions of the member in a fair, unbiased and proper manner.

(c). the member is in the full-time employment of a provincial department, municipality, organ of state or service provider which is a party to the appeal.

29. Termination of membership of the appeal tribunal

(1). The Premier may, at any time, remove any member of the appeal tribunal from office if, in the opinion of the Premier there are good reasons for doing so, after giving such a member an opportunity to be heard.

(2). The reasons for removal referred to in subsection (1) may include, but are not limited to:

(a). misconduct, incapacity or incompetence; and

(b). failing to comply with any provisions of this Act.

(3). If a member’s appointment is terminated or a member resigns, the Premier may in consultation with the municipalities appoint a person to fill the vacancy for the unexpired portion of the vacating member’s term of office.

(4). The functions of the appeal tribunal shall not be affected if any member resigns or his or her appointment is terminated.
CHAPTER 5 ZONING SCHEMES

30. Zoning scheme for municipal area

(1) Every municipality must, after a process of public participation as prescribed —

(a). within five years of the commencement of this Act—

(i). approve and adopt a single zoning scheme for its whole area, providing at least for the matters referred to in sections 31; and

(ii). integrate any zoning schemes referred to in section 39 in existence in its area into the single zoning scheme referred to in subparagraph (i); or

(b). if a single zoning scheme exists immediately before the commencement of this Act, review that zoning scheme within three years of the commencement of this Act, or within an extended period as may be approved by the MEC.

(2) The MEC must, by regulations prescribe the procedure that a municipality must comply with to approve and adopt or amend a zoning scheme,

(3) The local municipalities within a district municipality may by agreement request the district municipality to prepare a zoning scheme applicable to the municipal areas of the constituent local municipalities within that district municipality.

31. Purpose and Content of zoning schemes

(1) A zoning scheme must include—

(a). scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone;

(b). a map indicating the zoning of the municipal area into land use zones; and

(c). a register of all amendments to such zoning scheme.

(2) A zoning scheme must at least provide for the regulation of—

(a). zonings;

(b). primary and consent uses;

(c). development parameters.
(d). non-conforming uses to provide that—

(i). land which is being used lawfully under an existing zoning scheme for a purpose that does not comply with a proposed zoning scheme, may continue to be used for that purpose when the new zoning scheme comes into effect; or

(ii). buildings or structures on land referred to in subparagraph (i) may be altered or extended;

(e). the coming into effect of new zonings, if new zonings are provided for in the zoning scheme;

(f). the approval of a map to record the following:

(i). zoning of land units and references to recordings in the register referred to in paragraph (g); and

(ii). rezonings and amendments to references to the register referred to in paragraph (g), where a land use planning application is approved by the municipality or where a use right has lapsed; and

(g). the keeping of a register to record amendments to a zoning scheme, non-conforming use or consent use.

(3). The purpose of a zoning scheme is to—

(a). provide for the orderly development and the welfare of the community; and

(b). determine use rights and development parameters to manage desirable land use, with due consideration of the principles referred to in Chapter 2 and a spatial development framework that applies to the area of the zoning scheme.

(4). A zoning scheme adopted in terms of section 30 must—

(a). include suitable categories of land use zoning and regulations for the entire municipal area, including areas not previously subject to a zoning scheme;

(b). take cognisance of any environmental management instrument adopted by the relevant environmental management authority, and must comply with environmental legislation;

(c). include provisions that permit the incremental introduction of land use
management and regulation in communal or other areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a zoning scheme;

(d). include provisions to promote the inclusion of affordable housing in residential land development;

(e). include land use and development incentives to promote the effective implementation of the spatial development framework and other development policies;

(f). include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and

(g). give effect to municipal spatial development frameworks and integrated development plans.

(5). A zoning scheme may include provisions relating to—

(a). the use and development of land only with the written consent of the municipality;

(b). specific requirements regarding any special zones identified to address the development priorities of the municipality; and

(c). the variation of conditions of a zoning scheme other than a variation which may materially alter or affect conditions relating to the use, size and scale of buildings and the intensity or density of land use.

(6). A zoning scheme must give effect to and be consistent with the municipal spatial development framework and determine the use and development of land within the municipal area to which it relates in order to promote—

(a). economic growth;

(b). social inclusion;

(c). efficient land development; and

(d). minimal impact on public health, the environment and natural resources.
32. Adoption and Legal effect of zoning scheme

(1). Only a member or committee of a municipal council may introduce a zoning scheme for adoption by a municipal council.

(2). A zoning scheme must be adopted by a decision taken by a municipal council—
   (a). in accordance with the rules and orders of the council; and
   (b). with a supporting vote of a majority of its members.

(3). No zoning scheme may be adopted by a municipal council unless—
   (a). all the members of the council have been given reasonable notice; and
   (b). the proposed zoning scheme has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed zoning scheme.

(4). Subsections (1) to (3) also apply when a municipal council amends a zoning scheme.

(5). An adopted and approved zoning scheme—
   (a). has the force of law, and all land owners and users of land, including a municipality, a state-owned enterprise and organs of state within the municipal area are bound by the provisions of such a zoning scheme;
   (b). replaces all existing schemes within the municipal area to which the zoning scheme applies; and
   (c). provides for land use and development rights.

(6). Land may be used only for the purposes permitted—
   (a). by a zoning scheme;
   (b). by a town planning scheme, until such scheme is replaced by a zoning scheme; or
   (c). in terms of subsection (7).

(7). Where no town planning or zoning scheme applies to a piece of land before a zoning scheme is approved and adopted in terms of this Act in respect of such land, such land may be used only for the purposes for which such land was lawfully used or could lawfully have been used immediately before the commencement of this Act.
(a). The right to use land in terms of sub-section (7) shall lapse on the expiry of three years after a zoning scheme is approved and adopted in respect of such land in terms of this Act, unless that zoning scheme specifically provides otherwise.

(8). A zoning scheme developed and approved in terms of this Act must address and resolve any conflict with an existing scheme not repealed or replaced by the new zoning scheme.

(9). Where the boundaries of a municipal area are altered—

(a). the affected municipalities must, in consultation with each other, amend their respective zoning schemes accordingly; and

(b). until the necessary amendments are effected, the provisions of the zoning scheme remain in force in the areas to which they applied before the boundaries were altered, but the receiving municipality must assume responsibility for their enforcement.

33. Review and monitoring of zoning scheme

(1). A municipality may review its zoning scheme in order to achieve consistency with the municipal spatial development framework and must do so at least every ten years.

(2). Every municipality must, within a time prescribed by or in terms of national legislation submit its approved zoning scheme to the Premier for purposes of monitoring the performance of the municipalities.

34. Applications for departure and rezoning.

(1). An owner of land may apply in writing to the applicable municipality -

(a). for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations concerned, or

(b). to utilise land on a temporary basis for a purpose for which no provision has been made in the said regulations in respect of a particular zone.

(2). The municipality may grant or refuse an application referred to in subsection (1).

(3). When granting an application for a departure in terms of subsection (2) for the purposes of subsection (1)(a), the municipality may determine that a building on the land
concerned shall, for the purposes of the Sectional Titles Act, 1971 (Act 66 of 1971), and until such building is demolished or destroyed, be deemed to comply with the provisions of the zoning scheme concerned.

(4). The applicable municipal manager shall:

(a). cause public notice as prescribed to be given of the application if in his opinion any person may be adversely affected thereby;

(b). where objections against the said application are received, submit them to the said owner for his comment;

(c). obtain the relevant comment of any person who in his opinion has an interest in the application;

(d). submit the application and all relevant documents to his council, and

(e). notify the owner of the council's decision and where applicable furnish him with a copy of any conditions imposed by the council.

(5). Failing observance of the provisions of subsection (4) within a period prescribed by regulation action shall be taken in accordance with the regulations.

(6). A departure in respect of which the application has been granted in terms of this section, shall lapse if it is not exercised within two years or within such further period as either the municipality may on the application of the owner concerned determine, after the date on which the application was granted.

(7). Where a departure has lapsed wholly or partly in terms of subsection (6), the council concerned may amend the register and zoning map concerned accordingly.

(8). Subject to section 32(4), a municipality may:

(a). amend its zoning scheme by rezoning any land considered necessary by the municipality to achieve the development goals and objectives of the municipal spatial development framework.

(b). in the interest of the public, on its own initiative, rezone land of which it is not the owner.

(9). An owner of land may apply to a municipality to amend the zoning scheme in terms of
subsection (8).

(10). An approval or a right accrued as a result of a rezoning contemplated in subsection (1), lapses—

(a). in the case of a zoning of a subdivisio nal area, within three years of the date of approval of the zoning, if an application for subdivision of the land or subdivision of the land in phases, is not submitted to the municipality within that three-year period; and

(b). except for a zoning referred to in paragraph (a) and unless a municipality determines a shorter period—

(i). if no building plan is required to utilise the use right, when the land in question is not utilised in terms of the approval within 10 years from the date on which the application is approved; or

(ii). if a building plan is required to utilise the use right, when the owner fails to commence with the development within seven years from the date on which the application is approved.

(11). A municipality must, in writing and at the request of any interested person, confirm the date on which—

(a). a use right approved by the municipality in respect of a land unit was utilised; or

(b). the development in terms of that use right commenced.

(12). A municipality may not confirm that a use right has been utilised as contemplated in subsection (5)(a) before—

(a). the use right as described in the zoning scheme or relevant by-law is utilised; and

(b). all the conditions of the approval and other requirements pertaining to the specific use right have been complied with.

(13). A municipality may not certify in writing that a development has commenced as contemplated in subsection (5)(b) before—

(a). a building plan envisaged for the utilisation of the approved use right has been approved by the municipality; and
(b). construction of the building contemplated in paragraph (a) has commenced.

35. Provincial comment on zoning schemes

(1). The municipality—

(a). Must, before it approves and adopts its zoning scheme or any amendment thereof, submit such zoning scheme or proposed amendment to the MEC for comment; and

(b). may not approve its zoning scheme or any amendment before—

(i). the MEC has issued the comments referred to in paragraph (a) and the municipality has considered those comments; or

(ii). the end of the period referred to in subsection (2), if the MEC has not issued the comments referred to in paragraph (a).

(2). The MEC must, within 60 days of receiving a zoning scheme or amendment in terms of subsection (1)(a), issue comments thereon.

(3). The period referred to in subsection (2) may be extended with the approval of the municipality.

(4). The approval of the zoning scheme must be accompanied by a report setting out the response of the municipality to the comments made by the MEC under subsection (2).

36. Coming into effect of zoning schemes

(1). A municipality must provide appropriate measures to regulate—

(a). the coming into effect of a single zoning scheme under section 30 and subsequent reviews and amendments thereto; and

(b). subject to section 39, the transition from—

(i). a zoning scheme in force under section 39 to a single zoning scheme under section 30; and

(ii). a single zoning scheme under section 30 to subsequent reviews and amendments thereto.

(2). A municipality must publish its decision to approve a zoning scheme map in the Provincial
37. Record of zoning schemes

Each municipality must, in respect of land in its area, keep, maintain and make accessible to the public, the content of its zoning scheme.

38. Reference in other laws

A reference in any law to a town-planning scheme or a zoning scheme, or to any other instrument or document with a similar purpose, that applies in the Province, must be considered to be a reference to a zoning scheme contemplated in this Act.

39. Existing town-planning schemes, zoning schemes and scheme regulations

(1). Despite the repeal of the Ordinance in terms of section 83—

(a). a zoning scheme, including a scheme map, scheme register and scheme regulations in existence in terms of section 7, 8, 8A, 9, 10 or 12 of the Ordinance immediately before the commencement of this Act, remains in force and sections 1, 7 to 14, 39 to 41 and 46 of the Ordinance apply to that zoning scheme, as if not repealed; and

(b). a lawful zoning applicable in terms of a zoning scheme referred to in paragraph (a) remains in force.

(2). Despite the repeal of Provincial Notice 733 of 1989 in terms of section 83 of this Act—

(a). a town-planning scheme in existence in terms of that notice immediately before the commencement of this Act, remains in force and the relevant provisions of Provincial Notice 733 of 1989 and R1897 of 1986 apply to that town-planning scheme, as if not repealed; and

(b). a lawful zoning applicable in terms of that town-planning scheme remains in force.

(3). A land development application submitted after the commencement of this Act and which pertains to a use right that remains in force in terms of subsection (1)(b) or (2)(b) must be considered and processed in terms of this Act and an applicable by-law.
(4) Upon the adoption of a single zoning scheme as contemplated in section 26 a zoning scheme or town-planning scheme referred to in subsections (1) and (2) lapses.

40. Use rights

(1) A municipality must determine a zoning for land—

(a) which, in terms of a zoning scheme or town-planning scheme in force under section 39, is zoned for—

(i) state or other authority purposes;

(ii) a purpose or reservation without development parameters; or

(iii) a purpose for which the land is not being utilised; and

(b) referred to in section 8 of the Ordinance in respect of which no determination of a zoning has been made under section 14 of the Ordinance.

(2) If a municipality determines a zoning under subsection (1)—

(a) the zoning must be determined in accordance with the lawful utilisation of the land on the date of commencement of this Act as determined by the municipality;

(b) the most restrictive zoning must be approved, whether or not in conjunction with a restrictive departure or a consent use, to provide for the lawful utilisation of the land;

(c) the zoning must be determined through the procedures of a rezoning, if the lawful zoning of the land cannot be determined by the municipality;

(d) a land use that commenced unlawfully, whether before or after the commencement of this Act, may not be considered to be the lawful land use; and

(e) for vacant land which has a title deed restriction that confers a use on the land, the use must be determined in accordance with the most restrictive use provided for in the title deed.

(3) A use right approved in terms of the Ordinance and in existence immediately before the commencement of this Act is regarded as a use right in terms of this Act and is valid for the period referred to in section 40(3)(a) or (b).
(4). Land—

(a). to which the provisions of the Legal Succession to the South African Transport Services Act, 1989 (Act 9 of 1989), applies and in respect of which no determination of zoning has been made under that Act other than for transport and ancillary purposes; or

(b). situated above the natural or a human-made high-water mark, or high-water mark designated in terms of other legislation to which the provisions of subsections (1) and (2) and paragraph (a) of this subsection do not apply and in respect of which no determination of zoning has been made, is deemed to be zoned in accordance with its utilisation on the date of commencement of this Act: Provided that the zoning must be determined by the municipality, and that the zoning scheme map must be amended accordingly.

(5). Zoning may be made applicable to a land unit or part thereof, and zoning need not follow cadastral boundaries.

(6). An architect or land surveyor may not certify under section 7(2)(a) of the Sectional Titles Act, 1986 (Act 95 of 1986), that the proposed division into sections and common property complies with a zoning scheme, unless the land is zoned for a use that permits the division.

(7). A use right accrues to land and not to a person, unless the exceptional circumstances of a specific person requires the allocation of a use right which is not intended for successors in title of that person in respect of specific land.

(8). Upon confirmation of a subdivision or part thereof in terms of section 41(6), the zonings determined by the municipality upon approval of the subdivision application are the zonings that apply to the land units arising from the subdivision, and the zoning scheme map must be amended accordingly.
CHAPTER 6 LAND DEVELOPMENT

Part 1: Applications

41. Land Development Applications

(1). Where the development and use of land requires approval in terms of this Act or a zoning scheme an application for such approval must be submitted and be dealt as provided for in this Act and any regulations made in term of this Act.

(2). Every application referred to in sub-section (1) must be submitted to the municipal manager of the municipality in whose area the land is situated, provided that the municipal manager may designate an officer in the service of the municipality for that purpose.

(3). Every application made under this Act must be considered and may be approved or rejected, in whole or in part, by the structure identified by the municipality in terms of section 30(1).

(4). Where an envisaged development includes land situate in the area of more than one municipality, then, provided that such land is contiguous, the application in respect of such development must be submitted to the municipal managers of all applicable municipalities who shall deal with such application in accordance with regulations made in terms of sub-section (1).

Part 2: Subdivision

42. Subdivision of land

(1). An applicant who requires a subdivision of land must apply to the municipality.

(2). A municipality must at least require the following in respect of an application for subdivision:

(a). that the land must be zoned as contemplated in section 43(1) and (2);

(b). the submission of a subdivision plan showing the following:

(i). the relative location of proposed land units, public places and public streets on
land intended for subdivision; and

(ii). the zonings for which the land units are intended to be used;

(c). the submission of a general plan or diagram, as required by the Surveyor-General, after approval of the subdivision;

(d). procedures and criteria for the amendment, cancellation or partial cancellation of a subdivision plan and a general plan in relation to a subdivision not yet confirmed; and

(e). the transfer of ownership of public streets, public places and land needed for public purposes consequent to a condition imposed in terms of section 48(1)(k).

(3). A municipality may approve the implementation of a subdivision in phases over a period exceeding 10 years, which phasing must be approved in terms of a condition of approval as contemplated in section 48(1)(l).

(4). An approved subdivision lapses or partially lapses if the subdivision or part of the subdivision is not confirmed, as contemplated in subsection (6), within 10 years from the date of approval of the rezoning as contemplated in section 39(1).

(5). A municipality must impose appropriate conditions relating to engineering services, as contemplated in section 48(1)(a), to an approval of a subdivision.

(6). A municipality must in writing, at the request of any interested person, confirm a subdivision or a part of a subdivision, if the applicant has to the satisfaction of the municipality submitted proof of compliance with the requirements for the subdivision, including the following:

(a). the registration of a general plan or diagram by the Surveyor-General;

(b). completion of the installation of engineering services in accordance with the conditions imposed under section 48;

(c). confirmation that all relevant conditions in respect of the approved subdivision or part thereof have been met; and

(d). registration of at least one new land unit in respect of the subdivision or part thereof by the Registrar of Deeds.
(7). A right to utilise a land unit for a primary use as part of a confirmed subdivision, does not lapse.

(8). A municipality may not issue a certificate as contemplated in section 118 of the Municipal Systems Act unless the requirements of subsection (6)(a), (b) and (c) have been adhered to.

(9). If an approval of a subdivision or part of a subdivision lapses under subsection (4), the municipality must amend the zoning scheme map and, where applicable, the zoning scheme register accordingly and notify the Surveyor-General.

(10). Except with the approval of the municipality a building or structure may only be constructed on a land unit forming part of a confirmed subdivision.

(11). An applicant who, in relation to proposed land units which have not been registered on a general plan of an approved subdivision, requires the amendment, partial cancellation or cancellation in full of—

(a). a plan of subdivision;

(b). a diagram; or

(c). a general plan,

must apply to the municipality.

(12). A public street or public place indicated on a plan or diagram contemplated in subsection (11)(a) to (c) must be closed in terms of the applicable legislation.

43. Subdivisional area

(1). A municipality may not consider an application for subdivision involving a change of zoning, unless the land in question is zoned as a subdivisional area.

(2). A municipality must, if it approves a rezoning to a subdivisional area, impose conditions to the approval providing for at least the following:

(a). density requirements;

(b). major land uses;

(c). phasing, if applicable; and
(d) the scale of the development.

(3) Subsection (1) does not preclude a municipality from considering applications for rezoning and subdivision simultaneously.

44. **Ownership of public streets or places**

(1) The ownership of land designated for a public street or a public place vests in the municipality upon confirmation of the subdivision or a part thereof as contemplated in section 42(6).

(2) A municipality is not liable for compensation for the land referred to in subsection (1), if the provision of the public street or public place is based on the normal need therefore arising from the subdivision.

(3) If a subdivision plan, diagram or general plan is cancelled under section 42(11), the ownership of a public street or a public place which is shown on the part thereof which is cancelled reverts to the owner of the land.

Part 3: Consolidation of land units

45. **Consolidation of land units**

(1) An applicant who requires the consolidation of land units must apply to the municipality.

(2) If a consolidation of land units is approved but no consequent registration by the Registrar of Deeds takes place within three years of the approval, the consolidation lapses and the municipality must notify the Surveyor-General accordingly.

(3) A building or structure that straddles an erf boundary may only be constructed on a land unit forming part of a consolidation registered by the Registrar of Deeds.

Part 4: Title restrictions

46. **Removal of restrictions, conditions or obligations**

(1) An applicant must apply to the municipality, if he or she requires the removal, suspension or amendment of a restriction, condition or obligation—

(a) which relates to—

(i) the subdivision of the land;
(ii). the purpose for which the land may be used; or
(iii). the requirements to be complied with or to be observed in connection with
the construction of buildings or the use of the land; and

(b). which is binding on the owner of the land by virtue of—

(i). a restrictive condition or servitude registered against the title deed of the land;
(ii). a provision of a law relating to the establishment of townships or to land use
planning;
(iii). a provision of a by-law, regulation or a zoning scheme;
(iv). a provision of a zoning scheme and a restrictive condition or servitude
registered against the title deed of the land; or
(v). a provision of a zoning scheme and a provision of a law relating to the
establishment of townships or to land use planning.

(2). Notice of the application must be served on any person whose rights or legitimate
expectations are materially and adversely affected, including—

(a). any organ of state and other owners of land in the township, if they are
mentioned in the title deed; and
(b). any mortgage holder in respect of land in the township to which the restriction,
condition or obligation applies or in respect of the applicant’s land.

(3). A municipality may take the initiative to have restrictions, conditions or obligations
contemplated in subsection (1) removed, suspended or amended.

(4). Any reference to approval by the Administrator or Townships Board in a restriction,
condition or obligation as contemplated in this section is regarded as a reference to the
relevant municipality.

(5). If a restriction, condition or obligation contemplated in subsection (1) allows for the
relaxation or waiver of that provision under certain circumstances and the person or
body named in that provision, or the successors in title, no longer exist, the
municipality may authorise the relaxation or waiver.

(6). A municipality must notify the Registrar of Deeds of its decision contemplated in this
47. Endorsement by Registrar of Deeds

The Registrar of Deeds must, on receipt of a notice of a decision by a municipality under section 39, make the appropriate entry and endorsement required in terms of the applicable legislation to reflect the effect of that decision in the relevant register, title deed, diagram or map registered in the office of the Registrar of Deeds.

Part 5: Conditions

48. Conditions

(1). A municipality may approve a land development application, subject to conditions in the public interest, including conditions relating to—

(a). the provision of municipal engineering services;

(b). the cession of land or the payment of money, in compensation for past, present or future public expenditure or community needs, including—

(i). engineering services;

(ii). social facilities;

(iii). social infrastructure;

(iv). energy conservation; or

(v). climate change,

which arise directly as a result of the approval in question;

(c). settlement restructuring;

(d). agricultural or heritage resource conservation;

(e). biodiversity conservation and management;

(f). a requirement that agreements be entered into in respect of certain conditions;

(g). the provision of social facilities, social infrastructure or subsidised housing;

(h). energy efficiency;
(i). requirements aimed at addressing climate change;
(j). the establishment of an owners’ association by the applicant;
(k). the transfer of ownership of public streets, public places or land needed for public purposes; or
(l). the implementation of a subdivision in phases.

(2). If land which is the subject of a land development application is required by an authority for the provision of engineering services, social facilities, social infrastructure or to address requirements relating to energy use or climate change, and the need for that land does not arise directly from the development resulting from the land development application that land must be acquired at market value.

(3). If a municipality imposes a condition contemplated in subsection (1)(a) or (b), the condition must be included in a services agreement concluded between the municipality and the owner before the construction of infrastructure commences.

(4). A municipality may impose a condition contemplated in subsection (1) as a suspensive condition.

(5). If a suspensive condition is imposed, the approved use right only comes into effect once the suspensive condition is, subject to subsection (6), fulfilled, and the period of 10 years or three years referred to in section 34(3) only starts running once the condition is fulfilled.

(6). An approved use right does not come into effect if a suspensive condition is not fulfilled within the following periods:

(a). 10 years of the approval, if no period for the fulfillment of the suspensive condition is stated in the approval; or
(b). the period stated in the approval.

(7). A municipality may not make a decision contemplated in this Act conditional to an approval that may be required in terms of other legislation.

(8). An owners’ association or home owners’ association which came into being under the Ordinance and in existence immediately before the commencement of this Act, is
regarded as an owners’ association which came into being by virtue of subsection (1)(j).

49. Amendment of conditions

A municipality may on its own initiative or on application amend or waive a condition imposed under section 48.

Part 7: Procedures and decision-making

50. Publishing of notices

(1) A municipality must publish a notice of its intention to consider the following:

(a) a land development application relating to a restriction, condition or obligation as contemplated in section 46;

(b) a land development application for a rezoning contemplated in section 34; and

(c) the approval, amendment or review of a spatial development framework or a zoning scheme, or approval of a zoning scheme map.

(2) Public notice must be given as prescribed, subject to section 21 of the Municipal Systems Act.

(3) The publication of a notice under subsection (1) or in terms of the land use planning requirements of a municipality must ensure that any party interested and affected by the notice is able to obtain the following information from the notice in an appropriate language:

(a) the purpose of the matter that is being published;

(b) the land unit or land units to which the notice relates;

(c) where and when particulars of the matter that is being published are available for inspection; and

(d) the procedure for parties interested and affected by the notice to make written comments.
51. Serving of notices

(1) A municipality must serve a notice contemplated in subsection (2) of its intention to consider the following:
   (a) a land development application for rezoning as contemplated in section 34;
   (b) a determination of a zoning as contemplated in section 42(2)(c);
   (c) a land development application for subdivision, if a rezoning is required;
   (d) a land development application relating to a restriction, condition or obligation as contemplated in section 46;
   (e) an amendment of a municipal spatial development framework; and
   (f) an amendment of a condition contemplated in section 48.

(2) A notice under subsection (1) or in terms of the land use planning requirements of a municipality, must be served—
   (a) on any person whose rights or legitimate expectations are materially and adversely affected;
   (b) in accordance with section 115 of the Municipal Systems Act; and
   (c) in at least two languages most spoken in the area in question.

52. Notification of Department

(1) A municipality must, within 10 days from the day that the information contemplated in section 57(2) is received, notify the Department of a land development application, if the application concerns—
   (a) a development outside of the municipality’s planned outer limit of lateral urban expansion as reflected in its municipal spatial development framework;
   (b) a development outside the physical edge of existing urban land usage, including existing urban land use approvals, if the municipality has no approved municipal spatial development framework; and
   (c) a rezoning of land zoned for agricultural purposes.
53. **Maximum time for decision-making**

(1). A municipality must decide a land development application within a period of no longer than 130 days, calculated from the day that the information contemplated in section 57(2) is received by the municipality.

(2). The period contemplated in subsection (1) excludes delays caused by the failure of the applicant to comply with legislative requirements.

(3). In exceptional circumstances related to the nature or complexity of the land development application, a municipality may decide the land development application outside of the period contemplated in subsection (1), provided that the municipality notifies the Department.

54. **Comments by organs of state**

(1). An organ of state must comment on a land development application within 40 days of—

   (a) the organ of state receiving a request for comment on a land development application; or

   (b) the organ of state receiving all the information necessary to comment, if the land development application is not complete and provided a request for additional information is made within 10 days of receiving the request for comment.

(2). An organ of state that fails to comment within the period referred to in subsection (1) may be regarded as having no comment.

55. **Fees for land development application**

A municipality may require the payment of land development application fees consistent with minimum standards prescribed by the MEC.

56. **Assessment and recommendation by registered planner**

(1). A municipality must consider a written assessment of and recommendation by a registered planner before deciding on—

   (a) a rezoning;

   (b) a subdivision of more than 20 new cadastral units;
an amendment of a municipal spatial development framework; or

(d). a removal of restrictions, conditions or obligations as contemplated in section 45, if a change of land use is involved.

(2). The municipality may, if it does not have access to a registered planner, request the MEC to appoint a registered planner to provide the report contemplated in subsection (1).

57. Basis of assessment of land development applications

(1). When considering the desirability of the utilisation of land, contemplated in a land development application, the municipality must consider and be guided by—

(a). the applicable spatial development frameworks; and

(b). the development principles and objectives referred to in Chapter 2.

(2). A municipality may not decide on a land development application without having the information, reasonably required to consider the development principles and objectives of Chapter 2.

Part 8: Development that requires both municipal and provincial approval

58. Additional approval of MEC

(1). Subject to subsection (2), in addition to an approval by a municipality contemplated in sections 34, 42, 43, 45 and 46, the MEC’s approval is also required for any development approved by a municipality which—

(a). is in respect of an application by a municipality in relation to its own land;

(b). may have a substantial effect on—

(i). the order or coordinated and harmonious development of a region or the Province; or

(ii). the general welfare of the inhabitants of a region or the Province,

(iii). due to—
(ac) the nature and scale of the land use in question; or

(ad) the cumulative effect of multiple developments of a similar nature; or

(c). may on its own, or as a result of the cumulative effect of multiple developments of a similar nature, demonstrably and materially compromise, at a regional or provincial scale—

(i). the environmental quality of the Province or the relevant region;

(ii). province-wide strategies with respect to mitigation of the impact of climate change and adaptation to climate change;

(iii). the province-wide provision of health services and facilities;

(iv). the province-wide provision of education services and facilities;

(v). the cultural heritage of the Province;

(vi). tourism resources of provincial importance;

(vii). agricultural resources of provincial importance;

(viii). the management of the provincial road and traffic network; or

(ix). the management of the provincial public transport network.

(2). Despite subsection (1), the MEC’s approval under subsection (1)(b) is not required for development—

(a). that complies with an applicable municipal spatial development framework;

(b). referred to in subsection (1)(b)(i), if the development requires environmental authorisation under section 24 of the National Environmental Management Act, 1998 (Act 107 of 1998);

(c). referred to in subsection (1)(b)(v), if the land to be developed is protected by the National Heritage Resources Act, 1999 (Act 25 of 1999);

(d). referred to in subsection (1)(b)(vii), if the development requires consent in terms of the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970); or

(e). referred to in subsection (1)(b)(iii), (iv), (vii) and (ix), if the municipality has received written confirmation from the Provincial MEC responsible for the
relevant function, indicating that the Provincial Government has no objection to the development.

59. **Referral to MEC**

(1). When deciding on a land development application, a municipality must—

(a). decide whether section 58(1) applies to the proposed development; and

(b). include its decision under paragraph (a) as part of an approval of that land development application.

(2). If, in the opinion of a municipal manager, section 58(1) applies to a land development application, the municipal manager must, within 10 days of receipt of the information contemplated in section 57(2), advise the municipal council and the applicant accordingly.

(3). If a municipality decides that section 58(1) applies to the proposed development, it must within 15 days of the date on which its decision to approve a land development application comes into effect, as contemplated in section 64, notify the applicant of its decision and refer the following to the MEC:

(a). the land development application;

(b). the comments received on the land development application and responses to those comments;

(c). the municipality’s decision, including the reasons for the decision; and

(d). any other relevant information.

(4). If a municipality decides that section 58(1) applies to the proposed development, but fails to refer the information as contemplated in subsection (3) to the MEC, the applicant may—

(a). submit the information to the MEC; and

(b). request the MEC to consider the application.

(5). No person may commence with development contemplated in subsection (3) without the approval of the MEC.
60. Decision of MEC

(1). The MEC must decide on a land development application within 30 days of receipt thereof from a municipality or an applicant.

(2). When considering a land development application under section 58(1), the MEC must rely as far as is possible on the information obtained by, and the public participation conducted by the municipality.

(3). If a municipality fails to conduct public participation that meets the requirements of this Act or to obtain the information reasonably required for the MEC to consider the development principles and objectives of Chapter V, the MEC may—

(a). request the municipality or the applicant to provide additional information; and

(b). invite any party interested and affected by the land development application to make representations to the MEC.

(4). When considering the desirability of the utilisation of land, contemplated in a land development application, the MEC may, subject to section 57, consider only the matters listed in section 58(1).

CHAPTER 7 APPEALS

61. Nature of Appeals

(1). An appeal against the adoption or amendment of a zoning scheme must be determined solely on the merits of the hearing appealed against limited to the evidence or information on which the decision under appeal was given.

(2). An Appeal Board hearing any other appeal may admit such further evidence as it may deem desirable, including oral evidence.

62. Effective date of municipal decisions

A decision of a municipal council does not come into effect until—

(a). the period of 21 days within which an appeal may be lodged, has expired and no appeal has been lodged; or

(b). if an appeal has been lodged, the matter has been decided by the appeal authority.
63. Provincial comment on appeals

(1). A municipal manager—

(a). may request the MEC to comment on an appeal;

(b). in circumstances prescribed by the MEC, must notify the MEC of an appeal and request the MEC to comment thereon.

(2). The MEC must submit his or her comments within 40 days of a request as contemplated in subsection (1) and may in the prescribed circumstances contemplated in subsection (1)(b) comment only on the following matters:

(a). whether the process which culminated in the municipal decision is regular and fair to interested and affected parties, including relevant organs of state;

(b). whether the municipal decision is rationally related to the information before the municipality and the reasons given for it, or

(c). whether, the decision constitutes a reasonable exercise of the municipality’s municipal planning power.

(3). An appeal authority may not decide on an appeal until—

(a). it has received and considered the comments of the MEC referred to in subsection (2); or

(b). the period contemplated in subsection (2) has expired.

(4). A decision of an appeal authority must be accompanied by a report setting out the response of the appeal authority to the comments of the MEC.

CHAPTER 8 COMMUNAL LAND

64. Application of this Chapter

(1). This Chapter shall apply to all communal land in the province.

(2). Chapters 5 and 6 shall be applied to communal land subject to the provisions of this Chapter.
65. **Land use schemes**

(1). Any land use scheme applied to communal land must:

(a). be consistent with and reflect the custom and usage of the traditional community occupying such land in regard to the use and development of the land;

(b). not require the subdivision of the land which may be identified by means other than surveyed diagrams or general plans approved in terms of the Land Survey Act, 1997 (Act No 8 of 1997) and may reflect the custom and practice of the members of the traditional community concerned;

(2). A land use scheme on communal land may be adopted and applied incrementally consistent with the provision of municipal services to the members of the traditional community concerned.

66. **Land Development**

(1). No land development referred to in section 35(2) on communal land shall be considered and approved by a municipality unless such land development is first approved by the traditional council with jurisdiction in the area in which the land development is to be undertaken.

(2). Notice required to be given in terms of section 38 must be given in such manner that will ensure that all members of the traditional community resident in the area in which the land development is to be undertaken may reasonably have notice thereof.

(3). Any comment or objection that any member of the traditional community wishes to make in regard to any land development application may be made in an official language chosen by the person making such comment or objection.

(a). The municipality must, at its expense, designate an independent person to assist any person referred to in sub-section (3) to prepare, submit and promote any comment or objection such persons seeks to make.

(b). If by reason of illiteracy or lack of technical knowledge a person referred to in sub-section (3) is unable to comply strictly with the requirements applicable to the process of receiving, preparing and considering a land development application in terms of this Act, then the municipality must condone any non-
compliance with such requirements consistent with fair and equitable practices, taking into account the support provided in terms of sub-section (3)(a).

(c). The failure to comply with subsections (3)(a) or (b) shall be grounds for setting aside any decision taken by the municipality on the relevant land development application concerned.

67. **Land Development application by member of traditional community**

(1). Any land development application by a member of a traditional community on communal land may be made in an official language chosen by the applicant.

(2). The municipality must, at its expense, designate an independent person to assist any person referred to in sub-section (1) to prepare, submit and promote any application such persons seeks to make.

(3). If by reason of illiteracy or lack of technical knowledge a person referred to in sub-section (1) is unable to comply strictly with the requirements applicable to the process of receiving, preparing and promoting a land development application in terms of this Act, then the municipality must condone any non-compliance with such requirements consistent with fair and equitable practices, taking into account the support provided in terms of sub-section (2).

(4). If any person comments or objects to any application made in terms of subsection (1) in a language which the applicant is not familiar with then the municipality must, at its expense, translate such comment or objection into a language that the applicant understands and is familiar with.

(5). The failure to comply with subsections (2)(3) or (4) shall be grounds for setting aside any decision taken by the municipality on the relevant land development application concerned.

68. **Appeals emanating on Communal Land**

(1). A municipality must notify and member of a traditional community who has engaged in any land development application, whether as applicant or as objector, of the right of appeal contained in Chapter 7.
(2). If a person referred to in subsection (1) intends to appeal against a decision of the municipality on any land development application that such person was engaged upon, then the municipality must, at its expense, designate an independent person to assist any person referred to in sub-section (1) to prepare, submit and promote any appeal such persons seeks to make.

(3). If by reason of illiteracy or lack of technical knowledge a person referred to in sub-section (1) is unable to comply strictly with the requirements applicable to the appeals process, then the appeals tribunal hearing such appeal must condone any non-compliance with such requirements consistent with fair and equitable practices, taking into account the support provided in terms of sub-section (2).

(4). If any other persons engaged in any appeal referred to in this section conducts any part of the appeal proceedings in a language which the person referred to in subsection (1) is not familiar with then the municipality must, at its expense, translate such proceedings into a language that the applicant understands and is familiar with.

CHAPTER 9 COOPERATIVE GOVERNMENT AND ASSIGNMENT

69. Exemptions and emergencies

(1). The MEC may by notice in the Provincial Gazette exempt a municipality from a provision referred to in Chapters 2, 5, 6 or 10 to reduce the financial or administrative burden of—

(a). integrated application processes as contemplated in section 17;

(b). the delivery of subsidised housing; or

(c). incremental upgrading of existing settlements.

(2). In exceptional situations, where the existence of an emergency so requires, the MEC may, in writing, authorise a municipality to deviate from a provision of this Act.

(3). In an emergency situation contemplated in subsection (2), the principles referred to in Chapter V remain applicable.

(4). The MEC must—

(a). notify the Provincial Parliament and cause a notice to be published in the Provincial Gazette within 48 hours of the authorisation; and
(b). submit a report to the Provincial Parliament within 14 days of the authorisation.

(5). The MEC may impose, withdraw or amend conditions to an exemption or authorisation granted under subsection (1) or (2).

(6). An authorisation granted under subsection (2) expires after 40 days of being granted, unless it is not withdrawn before its expiry.

70. Assignment of provincial planning functions to municipalities

(1). The MEC may assign to a municipality, any power, except the power to make regulations, or function that is to be exercised or performed by him or her in terms of this Act.

(2). An assignment referred to in subsection (1) must be done in terms of an agreement between the MEC and the municipality, and must be consistent with this Act, sections 126 and 156(4) of the Constitution, section 10 of the Municipal Systems Act and section 3(2A) of the Financial and Fiscal Commission Act, 1997 (Act 99 of 1997).

(3). The assignment takes effect upon proclamation in the Provincial Gazette.

71. Delegation of powers and assignment of duties

(1). The MEC may delegate any of his or her powers, except the power to make regulations, or assign any of his or her duties in terms of this Act to the Head of Department.

(2). The Head of Department may delegate any of his or her powers or assign any of his or her duties in terms of this Act to—

(a). an employee in the Department; or

(b). the holder of a specific office or position in the Department.

(3). A delegation or assignment referred to in subsection (1) or (2)—

(a). must be in writing;

(b). may be made subject to conditions;

(c). may be withdrawn or amended in writing by the MEC or the Head of Department, as the case may be;

(d). may permit the further delegation of that power or further assignment of that duty;
(e) does not prevent the MEC or the Head of Department, as the case may be, from exercising that power or performing the duty; and

(f) does not divest the MEC or the Head of Department, as the case may be, of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

(4) The MEC or the Head of Department, as the case may be, must publish a notice of a delegation or assignment, or the amendment or revocation of a delegation or assignment in terms of subsection (1) or (2), in the Provincial Gazette.

CHAPTER 10 SPECIAL PROVISIONS

72. Land use sensitive areas

(1) The MEC may by notice in the Provincial Gazette declare an area in the Province, described in that notice, as a land use sensitive area.

(2) A land use sensitive area may be declared in exceptional circumstances in order to prevent significant and irreversible damage to—

(a) the heritage value of an area, building or structure; or

(b) the ecological value of an area.

(3) A land use sensitive area may be declared—

(a) on application by any person or a municipality or on the initiative of the MEC;

(b) in consultation with the relevant municipality; and

(c) after an investigation into the application of the criteria contemplated in subsection (2).

CHAPTER 11 GENERAL PROVISIONS

Part 1: Enforcement

73. Powers to inspect and enforce

(1) An employee designated by the Head of Department may, in accordance with the requirements of this section, enter land or a building to—
(a). conduct an inspection to determine whether a person is complying with the terms or conditions of approval granted under section 58(1); and

(b). take any action authorised under this Act to enforce the terms or conditions of an approval granted under section 58(1) or remedy a contravention thereof.

(2). When conducting an inspection, the designated employee may—

(a). request anything to assist in the inspection;

(b). make copies of anything produced under paragraph (a) which is related to the inspection; or

(c). on providing a receipt, remove a record, document or other item related to the inspection.

(3). No person may interfere with a designated employee who is conducting an inspection or enforcement action.

(4). An inspection or enforcement action under subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

(5). The designated employee may enter the land or building in question only with the consent of the occupier or under authority of a warrant issued under section 68.

(6). The designated employee must, upon request, produce identification showing that he or she is authorised by the Head of Department to conduct the inspection or enforcement action.

(7). In an emergency, or in extraordinary circumstances, the designated employee is not required to give reasonable or any notice to enter land or a building, and may take any inspection or enforcement action without the consent of the owner or occupier of the land or building and without a warrant.

74. Warrant

(1). A judge or a magistrate, upon being satisfied by information on oath that—

(a). a designated employee has been refused entry to land or a building that he or she is entitled to inspect or on which he or she may carry out an enforcement action;
or

(b). a designated employee reasonably anticipates that entry to the land or building will be refused,

may, upon application without notice, issue a warrant authorising the designated employee and any other person named in the warrant to enter the land or building and conduct an inspection or enforcement action.

75. Notice to remedy contravention

(1). If the designated employee finds that a person is contravening—

(a). section 59(5); or
(b). the terms or conditions of approval granted under section 48,

the designated employee may issue a written notice requiring the person to remedy the contravention.

76. Content of notice

The notice referred to in section 81 may—

(a). direct the person to stop doing something, or to change the way in which the person is doing it;
(b). direct the person to take any action or measure necessary to remedy the contravention and, if necessary, to prevent a recurrence of the contravention;
(c). state a time within which the person must comply with the notice; and
(d). state that if the person does not comply with the notice within the specified time, the Head of Department may take any action required to remedy the contravention, at the expense of the person.

77. Remediying contraventions

(1). The Head of Department may take any action or measure that is reasonable to remedy the contravention if—

(a). the designated employee has given a written notice under section 75;
(b) the notice contains the statements referred to in section 76;

(c) the person to whom the notice is directed has not complied with the notice within the time period specified in the notice; and

(d) the deadline for requesting a review under section 78(1) has passed or, if a review of the notice has been requested, the decision of the MEC is that the Head of Department must take the action or measure.

(2) The Head of Department may recover the costs of an action or measure taken under this section from the person who contravened this Act.

78. Review by MEC

(1) A person against whom a notice is issued under section 75 may require the MEC to review it by making a written request to the MEC no later than 14 days after the notice is issued.

(2) After receiving a written request to review the notice, the MEC must review the notice and confirm, vary or rescind the notice within 14 days of receipt of the request.

Part 2: Offences and penalties

79. Offences and penalties

(1) It is an offence for—

(a) any person to contravene or fail to comply with section 59(5);

(b) an applicant to supply particulars, information or answers in an application for approval referred to in section 58(1), knowing it to be false, incorrect or misleading or not believing them to be correct;

(c) any person to contravene or fail to comply with any condition imposed under section 48 in respect of an approval referred to in section 58(1); or

(d) any person to hinder or obstruct a designated employee who is conducting an inspection or enforcement action under section 73 or the Head of Department who acts under section 77.

(2) A person who is guilty of an offence under subsection (1) is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such
imprisonment.

(3). A person convicted of an offence under this Act who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding one month or to an equivalent fine, or to both such fine and such imprisonment, in respect of each day on which he or she so continues or has continued with it.

(4). In regard to offences, fines and penalties, a municipality must provide for at least—

(a). offences, fines and penalties to enforce the provisions of a zoning scheme;

(b). investigations into alleged contraventions of the zoning scheme, including the right of the alleged offender to comment;

(c). the issuing of directions to cease unlawful development or land use within a reasonable time period, which may include the following:

(i). rehabilitating the land in question to its original form;

(ii). applying for approval of the development from the municipality within a period determined by the municipality; and

(iii). payment of a contravention penalty in the event that the approval, referred to in subparagraph (ii) is granted; and

(d). the right of any party reasonably affected by an alleged offence, to request the municipality to investigate an alleged offence and to take steps as contemplated in paragraph (c).

Part 3: Regulations

80. Regulations

(1). The MEC, by notice in the Provincial Gazette—

(a). must make regulations regarding matters that must be prescribed; and

(b). may make regulations not inconsistent with this Act in order to facilitate the implementation of this Act, including—

(i). prescribing principles and norms and standards necessary for orderly
coordinated land use planning or for the promotion of integrated socio-economic development;

(ii). regulating, supporting and monitoring municipalities to ensure the effective performance of their land use planning functions in terms of their constitutional mandate;

(iii). determining minimum standards relating to the environment, including minimum standards for application procedures, that will promote environmentally sustainable development;

(iv). determining minimum standards for engineering services, energy use, adaptation to climate change, social facilities, subsidised housing, the extent of land to be made available for amenities and the division of the costs thereof between the relevant municipalities and the owner;

(v). regulating agreements with relevant authorities that have similar process and information requirements, with the purpose of aligning such related processes and avoiding duplication;

(vi). the implementation of Chapter IV Part 8;

(vii). the imposition of minimum standards for conditions relating to the cession of land or the payment of money contemplated under section 48(1)(b).

(2). The MEC may make different regulations in respect of different municipalities to achieve the objectives of this Act.

Part 4: Transitional provisions and repeal of laws

81. Transitional provisions

(1). Any action taken in terms of a law repealed by this Act must be considered to have been taken in terms of this Act or a relevant by-law, and remains in force until the action is repealed or withdrawn in terms of this Act or relevant by-law.

(2). Despite the provisions of section 82, any action taken before the commencement of this Act in terms of the provisions of a law repealed by this Act and which has not been finalised at the commencement of this Act, may be finalised in terms of that law or this Act or a relevant by-law, as determined by the Head of Department or the municipal
manager, as the case may be.

(3). Until a municipality has regulated how it receives, considers and decides on land development application s, the municipality must do so in terms of regulations prescribed by the MEC.

(4). The Planning Advisory Board established under section 33 of the Ordinance continues in existence and may finalise matters which have not been finalised at the commencement of this Act as determined by the Head of Department under subsection (2).

(5). The MEC must disestablish the Planning Advisory Board by notice in the Provincial Gazette upon completion of the matters referred to in subsection (4).

(6). Despite subsection (1), the MEC may, in order to achieve consistency, prescribe that a particular category of matters must for the purpose of subsection (2), be finalised in terms of this Act or a relevant by-law or a law repealed by this Act.

82. Repeal of laws

(1). Laws mentioned in the Schedule are repealed from the date of commencement of this section and to the extent indicated in the third column of the Schedule.

(2). Any reference in any other law or document to any of the laws listed in the Schedule, with effect from the commencement of this section, is considered to be a reference to this Act.

Part 5: Miscellaneous

83. Short title and commencement

(1). This Act is called the Eastern Cape Land Use Planning Act, 2013 and comes into operation on a date determined by proclamation in the Provincial Gazette.

(2). Different dates may be determined under subsection (1) in respect of different municipal areas of the Province.