ACT

PREAMBLE

To provide for the spatial planning, land use management and development of land in the Northern Cape Province in a sustainable manner, by means of the coordination and alignment of land use, land development policies, plans and systems of all spheres of government through the development of a single spatial structuring system, which ensures that sustainable development is developmental, consistent, uniform, transparent and inclusive in nature.

BE IT THEREFORE ENACTED by the Legislature of the Province of the Northern Cape Province as follows:

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Definitions

1. In this Act, unless the context indicates otherwise:

(a) “amendment scheme” means an amended land use scheme which provides for additional land use changes not contained in any existing scheme and may include but is not limited to the introduction of new sustainable development opportunities that did not exist or were catered for in an existing land use scheme;

(b) “applicant” means a person who makes a development application contemplated in terms of this Act and application has a similar meaning;

(c) “approval” means a written approval of any application provided for in terms of this Act or a land use scheme by a competent authority and “approved” has the same meaning;

(d) “authorised agent” means a person appointed in terms of a power of attorney by an owner and may, dependant on the circumstances include the appointment of a qualified professional planner in terms of Planning Professions Act 36 of 2002;

(e) “body” means any organisation or entity, whether a juristic person or not and includes a community association;
(f) “bio regional planning” means land use planning and management that promotes sustainable development by recognizing the relationship between, and giving practical effect to, environmental integrity, human wellbeing and economic efficiency within a defined geographical space, the boundaries of which were determined in accordance with environmental, social and economic criteria whilst having due consideration for national, provincial and municipal boundaries and its legal implications as prescribed by law;

(g) “building” means any structure for which building plans are required to be submitted to a municipality for approval in terms of the National Building Regulations and Standards Act 103 of 1977;

(h) “building regulations” means the regulations issued in terms of the National Building Regulations and Standards Act 103 of 1977;

(i) “by-law” means a by-law promulgated by a municipality in terms of the provisions of this Act or the provisions of National legislation;

(j) “communal property” means land owned in terms of the Communal Property Associations Act 28 of 1996;

(k) “community association” means a duly constituted organisation which represents the interests of a community or a defined group of persons;

(l) “competent authority” means, in relation to land use, as defined, the authority that grants or approves a right to use land for a specified purpose;

(m) “conditions of establishment” means any conditions imposed as contained in the title deed of land or in the deed of sale pertaining to a specific portion of land at the time of township establishment;


(o) “contiguous” in relation to land means any areas of land which have a common boundary or boundaries;
(p) "day" if used to define time periods prescribed in terms of this Act means a calendar day;

(q) “deeds registry” means a deeds registry as defined in section 102 of the Deeds Registry Act 47 of 1937;

(r) “Department head” means the head of the Department within the Province charged with the responsibility for the administration of this Act;

(s) “departure” means an altered land use granted in terms of the provisions of this Act or in terms of an approved zoning scheme and land development procedures and regulations;

(t) “determine” in relation to any application or appeal, means to decide on the approval or refusal of an application and adjudicate has a similar meaning;

(u) “develop” in relation to land or the physical improvement of land, means the use of the land or a part thereof or the physical improvement of the land by preparing it for development, including the in-fill of land, draining or levelling of land, the installation of engineering services, the subdivision of land and the erection, alteration or extension of buildings on land;

(v) "development" means a process of integrating economic, spatial, social, institutional, environmental, fiscal and other plans and strategies in order to support the optimal allocation and utilisation of scarce resources within and to various sectors, geographical areas and across the jurisdiction of local and provincial government, in a manner that promotes sustainable growth, equity and in particular, but not limited to, the empowerment of the poor and marginalised;

(w) “developmental state” means a developmental state that tries to balance economic growth and social development by using state resources and state influence to attack poverty and expand economic opportunities;
(x) “development application” means an application as contemplated in terms of the provisions of this Act;

(y) “development contribution” means the payment to be made by the applicant to a municipality in respect of an external engineering services;

(z) “diagram” means a diagram approved by the Surveyor General in terms of the Land Survey Act 8 of 1997;

(aa) “directive” means a directive contained in a Provincial Spatial Development Framework;

(bb) “environment” means the environment as defined in section 1 the Environmental Conservation Act 73 of 1989;

(cc) “engineering service” means a system for the provision of water, sewerage, electricity, municipal roads, storm water drainage, gas and solid waste collection and removal required for the purpose of land development as referred to in this Act;

(dd) "environmental legislation" means the National Environment Management Act 107 of 1998 and its subordinate legislation and any other legislation that regulates a specific aspect of the environment on a National and Provincial Level;

(ee) “erf” means an area of land in a township shown on a general plan or diagram as an erf, lot, plot or stand and includes a portion of such erf or consolidation of such erven as registered with a deeds registry in term of the Deeds Registries Act 47 of 1937;

(ff)  “Executive authority” Means the executive committee or executive mayor of the municipality or if the municipality does not have aforesaid, committee of councillors appointed by the municipal council;

(gg) “Executive Council” means the Executive Council of a Provincial Government established under Section 132 of the Constitution;
(hh) "external engineering service" means an engineering service situated outside the boundaries of a land area and which is necessary, as prescribed, to serve the use and development of the land area;

(ii) "existing legislation" means the old order planning and land use legislation existing at the time of commencement of this Act;

(jj) "existing scheme" means any land use management scheme approved in terms of legislation repealed in term of the Act or any land use management scheme approved in terms of any other repealed act;

(kk) "farm" means an area of land described as a farm on a diagram in terms of the Land Survey Act 8 of 1997;

(ll) "general plan" means a general plan approved by the Surveyor General in terms of the Land Survey Act 8 of 1997;

Please note that the definition of guidelines as well as section 49 has been deleted

(mm) "incremental upgrading area" means an area defined in a Spatial Development Framework or land use scheme for which specific policies have been made;

(nn) "interested party" means any person which has submitted comments or has opposed the approval of an application in terms of this Act;

(oo) "internal engineering service" means an engineering service within the boundaries of a land area and which is necessary, as prescribed, for the use and development of the land area and which is to be owned and operated by the Municipality or service provider;

(pp) "land" means any erf, agricultural holding or farm portion and includes any improvement or building on the land or there under and any real right in land;
(qq) **“land area”** means the total area of erven and/or farms or farm portions which are the subject of an application in terms of this Act or a land use scheme;

(rr) **“land development”** means the erection of buildings or structures on land, or the change of use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of an applicable Land Use Scheme;

(ss) **“land unit”** means a portion of land registered or capable of being registered in the deeds registry and may include a servitude lease or right;

(tt) **“land use”** means the purpose for which land is or may be used lawfully in terms of a land use scheme, existing scheme or in terms of any other authorisation, permit or consent issued by a competent authority, including any conditions related to such land use purposes;

(uu) **“land use management system”** means the system of regulating and managing land use and conferring land use rights through the use of schemes and land development procedures;

(vv) **“MEC”** means a member of the Executive Council of the Province responsible for the provincial department as managed by the head of the Department within the Province charged with the responsibility for the administration of this Act;

(ww) **“Minister”** means the National Minister of Rural Development and Land Reform;


(yy) **“municipal area”** means the area of jurisdiction of a Municipality in terms of the Local Government Demarcation Act 27 of 1998;
(zz) “Municipal Council” means a Municipal Council referred to in Section 157 of the Constitution;

(aaa) “Municipal Manager” means the accounting officer of a Municipality as duly appointed in terms of the Local Government: Municipal Systems Act 32 of 2000;

(bbb) “Municipal Planning Tribunal” means the Municipal Planning Tribunal as referred to in chapter 6 of SPLUMA; Please note the addition of this definition

(ccc) “Municipality” means a Municipality as envisaged in sections 155(1)(b) and (c) of the Constitution and shall include a municipal council, executive authority, municipal manager, municipal Department and Municipal Planning Tribunal where the context so requires; Please note the amendment of the definition

(ddd) “NCPDA” means the Northern Cape Planning and Development Act 7 of 1998;

(eee) “Northern Cape Provincial Spatial Development Framework” means a framework prepared and adopted in terms of this Act for the Province or a framework prepared and adopted in terms of an Act repealed by this Act;

(fff) “open space” in relation to a land area means land set aside or to be set aside for the use by a community as a recreation area of whatsoever nature, irrespective of the ownership of such land as open space;

(ggg) “organ of state” means an organ of state as defined in Section 239 of the Constitution;

(hhh) “owner” in relation to land, means the person in whose name land is registered in a deeds registry or who is the beneficial owner in law, which shall include the holder of a registered servitude right or lease and any successor in title of such a person and includes;
(iii) “part of land” means an area of land which is part of an erf, agricultural holding or a farm portion which is not separately defined in a diagram or general plan in terms of the Land Survey Act 8 of 1997;

(jjj) “person” means any natural or juristic person including an organ of state;

(kkk) “power of attorney” means a written document signed by the owner of land, a land area or a land unit in terms of which the owner appoints an or authorised agent to act on his or her behalf to comply with the provisions of the Act and the Planning Professions Act 36 of 2002;

(III) “Premier” means the head of the Executive Council of the province and includes and MEC acting under delegation by the Premier;

(mmm) “prescribed” means prescribed in this Act and by regulations enacted and published in terms of the Act;

(nnn) “professional planner” means a person registered as a professional planner in terms of the Planning Profession Act 36 of 2002;

(ooo) “Province” means the Northern Cape Province;

(ppp) “public place” means any open or enclosed place, street, road or thoroughfare or other similar area of land shown on a general plan or diagram which is for the use of the general public and is owned by or vests in the ownership of a Municipal Council;

(qqq) “public participation” means inclusive participation in terms of which any interested person may participate, comment or object to the processes prescribed;

(rrr) “publish” means the publication of a notice in the Government Gazette of the Province;

(sss) “region” in relation to a regional spatial development framework means a circumscribed geographical area as defined in terms of a bio regional approach
characterised by distinctive economic, social or natural features which may or may not correspond to the administrative boundary of a province or provinces or a municipality or municipalities;

(ttt) “regional planning” means a co-operative bio regional planning approach to the needs of a specific region as jointly identified by the Provincial Government and the Municipalities whose areas of jurisdiction falls within the region agreed upon;

(uuu) “Registrar of Deeds” means the Registrar of Deeds in terms of the Deeds Registries Act 47 of 1937;

(vvv) “regulation” means a regulation published in terms of this Act;

(www) “restrictive condition” means any condition registered against the title deed of land restricting the use, development or subdivision of the land concerned;

(xxx) “rezone” means an amendment of a Land Use Scheme in respect of a specified area of land to change the land use of that specified area of land and include the change of rights in respect of that land and rezoning has the same meaning;

(yyy) “road” means a municipal road, any other public road, a servitude for public road purposes and a road established by law;

(zzz) “rural development” means the sustainable development of all areas of the Province that fall outside any core or urban area;

(aaaa) “servitude” means a servitude registered against a title deed or recognised by a South African Court of Law;

(bbbb) “SPLUMA” means the Spatial Planning and Land Use Management Act, Act _____ and any regulations enacted in terms thereof;
“Spatial Planning and Land use Management Appeal Tribunal” means the Spatial Planning and Land use Management Appeal Tribunal established in terms of the Act; **Please note the insertion of this definition**

"subdivide" in relation to land, land area or land unit, means to subdivide the land, whether by means of:

(i) survey; or

(ii) the allocation, with a view to the separate registration of land units, of undivided portions thereof, in a manner which includes the marketing and conclusion of contracts with regard to the alienation, sale or exchange of portions of the property; or

(iii) its preparation for subdivision

"suspensive condition" means a condition requiring another or a further approval to be granted, or agreement to be concluded, or requiring that the applicant should first do something before the approval is made final;

“Surveyor General” means the Surveyor General as defined in the Land Survey Act 8 of 1997;

"the Act" includes the regulations made in terms of this Act and this Act shall have a similar meaning;

“title deed” means any deed registered in a Deeds Registry recording the ownership of land or a real right in land;

“township register” means an approved subdivision register of a township in terms of the Deeds Registries Act 47 of 1937;

“township” means an area of land divided into erven, and may include public places and roads and which is indicated as such on a general plan;
Use of definitions

2 The definitions set out in section 1 shall be used and applied to all matters referred to in the Act and shall apply to all regulations published in terms of the Act unless the regulations indicate otherwise.

Application of the Act

3 (1) The Act shall apply to the entire area of the Northern Cape Province.

(2) The Act constitutes legislation in terms of section 104 of the Constitution and section 9 of SPLUMA and is applicable to all owners of land within the Province, including any organ of state.

Purpose of the Act

4 The purpose of the Act is to:
(1) ensure that spatial planning and development in the Province are in accordance with national legislation, guidelines and policies;

(2) address the historical imbalances of the past and promote development in a sustainable and cost effective manner in the Northern Cape Province;

(3) address the challenges of the Province, its geographical vastness, low density of inhabitants and unique challenges in its spatial planning and land use on provincial and municipal levels;

(4) provide for the alignment of the functions and powers of the Provincial Government and that of municipalities to ensure that co-operative governance can facilitate sustainable development;

(5) provide for spatial development and land use management principles, norms and standards to be implemented in a standardized and consistent manner by all municipalities within the Province; and

(6) provide for transitional arrangements brought about by the repeal of laws in terms of the Act.

CHAPTER 2

GENERAL PRINCIPLES, NORMS AND STANDARDS

5 The following principles, norms and standards shall apply to spatial planning and land development in the Province -

(1) all spatial planning and land use development within the Province shall promote sustainable development by recognising the need for a balance between environmental integrity, human well-being and economic efficiency within the boundaries of the Province and any Municipality situated therein;

(2) the Province forms part of the Republic of South Africa and as such is provincial and municipal mechanisms should be aligned with the Republic of South Africa as a nation and give effect to the principles enshrined in the Constitution;
(3) internationally accepted standards and practices regarding sustainable development shall be incorporated and reflected in all provincial and municipal documents and mechanisms;

(4) the principles underpinning a bioregional approach to spatial planning and land development shall be the basis upon which all spheres of government shall approach, implement and comply with spatial planning and land use management legislation in the Province, assist, monitor and facilitate sustainable development;

(5) all provincial and municipal documents, policies and mechanisms should promote efficient and integrated sustainable development in that they:

(a) promote the integration of the social, economic, institutional and physical aspects of land development;

(b) facilitate sustainable development insofar as it creates or allows for residential and employment opportunities in close proximity to or integrated with each other;

(c) optimise the use of all existing resources that can facilitate sustainable development;

(d) discourage urban sprawl;

(e) ensure the financial and physical ability of Municipalities to facilitate sustainable development on a continuous basis;

(f) promote a diverse combination of land uses;

(g) ensure that communities affected by or participating in land development are active participants in such developments;

(h) maximising local benefits stemming from land development in the form of job creation, skills development, skills transfers and any other benefits that might benefit local communities;

(i) enable redress in access to land by historically disadvantaged communities and individuals;

(j) are clear and concise in content and written in such a manner that they are as user friendly as possible;

(k) encourage fair and transparent competition insofar as it is practical to do so; and

(l) optimise the contributions of all sectors of the economy of the Province.

(6) incorporate the principle of spatial justice whereby:

(a) past spatial and other development imbalances are redressed through improved access to and use of land;

(b) Spatial Development Frameworks and policies at all spheres of government address the inclusion of persons and areas that were previously excluded, with an
emphasis on informal settlements, former homeland areas and areas characterised by widespread poverty and deprivation;

(c) spatial planning mechanisms, including land use schemes, include provisions that enable redress in access to land and property by disadvantaged communities and persons;

(d) land use management systems are inclusive of all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas; and

(e) land development procedures will include provisions that accommodate access to secure tenure and the incremental upgrading of informal areas.

(7) incorporate the principle of efficiency whereby:

(a) land development optimises the use of existing resources and infrastructure;

(b) decision-making procedures are designed with a view to minimising negative financial, social, economic or environmental impacts; and

(c) development application procedures are efficient and streamlined and time frames are adhered to by all parties.

(8) incorporate the principle of spatial resilience whereby flexibility in spatial plans, policies and land use management systems is accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks;

(9) incorporate the principle of good administration whereby:

(a) all spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act;

(b) the requirements of any law relating to land development and land use are met timeously;

(c) the preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, to include transparent processes of public participation and all parties to have the opportunity to provide inputs on matters affecting them;

(d) policies, legislation and procedures must be clearly set out and inform and empower citizens;

(e) to ensure that any competent authority ensure sustainable development through a facilitative rather than restrictive approach; and
(10) the Premier may from time to time, after consultation with municipalities situated within the Province, by way of regulation prescribe additional principles to be applied in the Province.

CHAPTER 3
SPATIAL PLANNING AND LAND USE MANAGEMENT, ORGANISATIONAL ARRANGEMENTS AND RESPONSIBILITIES AND MATTERS RELATING THERETO

Establishment and Composition of a Provincial Spatial Planning and Land Use Forum

6 (1) The Premier may, by way of notice in the manner prescribed establish a Provincial Spatial Planning and Land Use Forum.

(2) The Provincial Spatial Planning and Land Use Forum shall consist of:

(a) all members of the Executive Council of the Province and any duly authorised and qualified officials who influence or participate in Spatial Planning and Land Use Management in Province; and

(b) Municipal Managers of all Municipalities situated within the Province.

(3) The Premier shall act as or nominate the Chairperson of the Provincial Spatial Planning and Land Use Forum for each sitting thereof.

(4) The persons who are members of the Provincial Spatial Planning and Land Use Forum shall cease to be members if they vacate the posts or positions which they held at the time of their appointment.

Purpose of the Provincial Spatial Planning and Land Use Forum

7 The Provincial Spatial Planning and Land Use Forum shall have the following functions:

(1) to identify all projects or opportunities relating to land use which will have a regional or provincial impact regarding spatial development and or land use;

(2) to promote intergovernmental co-operation and assistance to ensure that all possible assistance and available resources are made available to realise projects or opportunities relating to land use which will have a regional or provincial impact regarding spatial development and or land use;

(3) to facilitate the creation and implementation of investment incentives on a provincial, regional and municipal level;

(4) to oversee the creation of a provincial electronic data repository which must be accessible to all Municipalities and all other responsible spheres of government within the Province;
(5) to request and evaluate any research or any information pertaining to projects or opportunities relating to land use which will have a regional or provincial impact regarding spatial development and or land use; and

(6) identify all non-compliance with the provisions of the Act and report same in writing to the relevant government department or municipality as the case may be; and

(7) to provide any assistance within existing budgetary constraints to municipalities to realise projects or opportunities relating to land use which will have a regional or provincial impact regarding spatial development and or land use.

Functioning of the Provincial Spatial Planning and Land Use Forum and matters relating

8 (1) The Premier shall be responsible for ensuring that the Provincial Spatial Planning and Land Use Forum is properly funded and all budgetary requirements, including permanent or temporary employment of government duly authorised and qualified or consultants from the private sector should be budgeted for by the office of the Premier.

(2) In order to give effect to the functions of the Premier as referred to in subsection (1), the Premier shall establish a Provincial Spatial and Planning Land Use Management Unit which shall be staffed by authorised and duly qualified officials with proven qualifications experience.

(3) In addition to the supporting the functioning of the Provincial Spatial Planning and Land Use Forum the Provincial Spatial and Planning Land Use Management Unit shall:

(a) manage and update the provincial data repository as referred to in section 7(4);

(b) provide support to municipalities to ensure compliance with the provisions of the Act with specific emphasis on the strengthening capacity within municipalities;

(c) be responsible for the drafting, publishing, amendment, review and processes relating thereto of a Provincial Spatial Development Framework and public participation relating thereto as prescribed;

(d) fund the operation of and act as secretariat for the Provincial Spatial Planning and Land Use Management unit and Appeal Tribunal; and

(e) ensure on behalf of the Premier the implementation of section 9 of the Act;

(4) The Premier shall ensure that the Provincial Spatial Planning and Land Use Forum shall meet as regularly as required.

Provincial support

9(1) Within six months of the enactment of the Act the Premier and the Municipalities situated in the Province shall:

(a) in conjunction with one another ascertain the ability of each Municipality regarding its staff and infrastructure to give effect to the provisions of the Act;
(b) look at any remedial steps that a Municipality can take if a Municipality is not able to fulfil its functions in terms of the Act; and

(c) identify those Municipalities which are unable to give effect to the sections of the Act referred to in subsection (1)(a).

(2) If the Premier and a Municipality agree that a Municipality is unable to give effect to the provisions of the Act or has been identified in terms of subsection (1) as being unable to fulfil its required obligations, the Premier shall facilitate the negotiations and conclusion of agreements in the prescribed manner to be entered into between District Municipalities and a Municipality identified in this subsection to enable the district Municipality to assist with or fulfill the duties and obligations of the Municipality in terms of sections referred to in this subsection.

(3) The entering of the agreements referred to in subsection (2) shall be completed within eight months after the enactment of the Act.

(4) The Premier may, after consultation with all Municipalities situated in the Province, publish regulations which shall categorize development and land use applications in accordance with the manner of notification required, the fees payable in respect of such categorised applications and the role which professional planners must play in the drafting such categorised applications.

### Preparation of a Provincial Spatial Development Framework

10 (1) A long term Provincial Spatial Development Framework spanning thirty years must be prepared for the Province as prescribed, and adopted or amended, as the case may be, by the Executive Council of the Province.

(2) A Provincial Spatial Development Framework may be amended from time to time and must be reviewed at least every five years.

(3) A Provincial Spatial and Development Framework or any amendments thereto will come into effect after it has been adopted by the Executive Council and published.

(4) Any additional measures pertaining to the form, content, compilation, public participation and finalisation of a Provincial Spatial Development Framework must be as prescribed.

(5) Any Provincial Spatial Development Framework prepared or adopted by the Province in terms of the NCPDA prior to the commencement of SPLUMA or the Act shall be deemed to have been drafted and formulated and published in term of the Act and shall remain as such until such time as it is amended or replaced by a Provincial Spatial Development Framework adopted or amended, as the case may be, in terms of the Act.

(6) The preparation or amendment of a Provincial Spatial Development Framework shall include consultation with:

(a) all provincial departments of the Province;
(b) all municipalities situated within the Province;
(c) all other organs of state who might have an interest in the process; and
(d) any other persons or bodies which may be appropriate.

(7) Consultation shall include the right of any of those parties referred to in subsection (6) to make written representations or submissions to the Executive Council.

Establishment of a Spatial Planning and Land Use Management Development Appeal Tribunal

11 (1) The Premier must within six months of the enactment of the Act facilitate and administer the establishment of a Spatial Planning and Land Use Management Appeal Tribunal for the Province.

(2) The establishment of the Spatial Planning and Land Use Management Appeal Tribunal shall commence with the nomination by every Municipality in the Province of five persons that it deems to be suitable qualified to be members of the Tribunal.

(3) In addition to the person nominated by the Municipalities in terms of subsection (2) the Premier may identify other persons that he or she may deem fit and proper persons for possible appointment to the Spatial Planning and Land Use Management Appeal Tribunal

(4) The Premier shall prepare a schedule of all the persons who were nominated by the various municipalities and those identified in terms of subsection (3) and shall submit such schedule to the municipalities for consideration.

(5) In consultation with the municipalities in the Province the Premier shall appoint the members of the Spatial Planning and Land Use Management Appeal Tribunal by publication of a notice in the Government Gazette.

(6) The appointment as described in subsection (5) shall include the appointment of a chairperson and deputy chairperson by the Premier. The appointments of a chairperson and deputy chairperson shall be done after the premier has consulted with the municipalities situated in the Province.

(7) On publication of the notice referred to in subsection (3) the person shall be deemed to be appointed to the Spatial Planning and Land Use Management Appeal Tribunal.

Composition of the Spatial Planning and Land Use Management Appeal Tribunal and matters relating thereto

12 (1) The Premier must in terms of section 11 appoint at least seven members to the Spatial Planning and Land Use Management Appeal Tribunal and the members will be appointed by reason of their qualifications, knowledge and experience regarding planning and development.
(2) Not more than half of the members appointed to the Spatial Planning and Land Use Management Appeal Tribunal may be in the full time employment of National Government, Provincial Government or a municipality situated within the Province.

(3) At least one professional planner and one admitted attorney or advocate must be appointed as members of the Spatial Planning and Land Use Management Appeal Tribunal.

(4) A member of the Spatial Planning and Land Use Management Appeal Tribunal shall be appointed for a period of five years provided that on expiry of the five year period such a member may be re-appointed.

(5) A person may not be appointed as a member to the Spatial Planning and Land Use Management Appeal Tribunal if he or she –

(a) is an unrehabilitated insolvent;

(b) is under curatorship in terms of a court order;

(c) has been convicted of a criminal offence involving dishonesty or corruption; and

(d) is incapacitated by physical or mental illness.

(6) A member of the Spatial Planning and Land Use Management Appeal Tribunal shall vacate his or her office if –

(a) he or she resigns in writing;

(b) he or she is incapacitated by physical or mental illness;

(c) he or she is convicted of a criminal offence involving dishonesty or corruption or imprisoned without the option of a fine;

(d) he or she is nominated as a candidate for election as a member of the National Parliament, a member of a provincial legislature or a councillor of a municipality; and

(e) his or her estate is sequestrated by a court of law.

(7) The Premier may at any time remove a member of the Spatial Planning and Land Use Management Appeal Tribunal from his or her office if, in the opinion of the Premier there are good reasons for doing so and after the member has been given the opportunity as to why he or she should not be removed as a member. The reasons for the removal of a member may include, but are not limited to—

(a) misconduct, dishonesty or incompetence; and

(b) failing to comply with the provisions of this Act.
(8) In terms of sections 41(h) and 154 of the Constitution the Premier shall, after consultation with all municipalities situated in the Province determined by way of regulation:

(a) the location of the office and secretariat where the Spatial Planning and Land Use Management Appeal Tribunal shall be situated;

(b) provisions for and the performance of all functions necessary to the operation of the Spatial Planning and Land Use Management Appeal Tribunal;

(c) the terms and conditions of employment of the members of the Spatial Planning and Land Use Management Appeal Tribunal;

(d) the appointment and remuneration of officials to perform the administrative functions of the Spatial Planning and Land Use Management Appeal Tribunal;

(e) in consultation with the MEC for finance the payment of all expenses relevant to the operation of the Spatial Planning and Land Use Management Appeal Tribunal; and

(f) Due to the vastness of the Province designate the two towns situated within the Province where the Spatial Planning and Land Use Management Appeal Tribunal shall hear matters referred to it in terms of the Act.

(9) A meeting of the members of the Spatial Planning and Land Use Management Appeal Tribunal shall be called by the Chairperson or the deputy chairperson as the case might be and three members need to be present at such a meeting to constitute a quorum.

Members to act in good faith

13 (1) In exercising their powers and functions the members of the Spatial Planning and Land Use Management Appeal Tribunal members must –

(a) at all times act impartially and in good faith;

(b) not participate in any proceedings of the Spatial Planning and Land Use Management Appeal Tribunal in which a member might have a direct or indirect interest of a pecuniary or personal nature;

(c) disclose any direct or indirect interest of a pecuniary or personal nature which him or she might have in any proceedings serving before the Spatial Planning and Land Use Management Appeal Tribunal to the other members and recuse himself or herself from such proceedings; and

(d) not partake in any proceedings of the Spatial Planning and Land Use Management Appeal Tribunal in which a party to the proceedings is an employer, friend or family of such a member.
Functions of the Spatial Planning and Land Use Management Appeal Tribunal

14 (1) The Spatial Planning and Land Use Management Appeal Tribunal shall consider and determine all appeals and any other matter referred to it in terms of this Act.

(2) In addition to subsection (1) the Spatial Planning and Land Use Management Appeal Tribunal shall:

(a) inform the Premier and MEC of any inconsistencies within the Act itself or with any other relevant law which may make its operation or implementation inefficient or non-effective;

(b) inform the Premier and MEC of any inefficiencies in the Administration of the Act, including any lack of co-operation between various spheres of government which might affect the implementation of the Act;

(c) inform the Premier and MEC of any allegations made during a the adjudication of an appeal of mismanagement or fraud in the implementation and administration of the Act; and

(d) investigate any matter referred to it by the Premier regarding the implementation of the Act, provided that the matter thus referred is not a matter referred to it in terms of subsection (1).

(3) The Spatial Planning and Land Use Management Appeal Tribunal shall keep written and electronic records of all its proceedings.

(4) The Spatial Planning and Land Use Management Appeal Tribunal must provide written reasons for any decision or determination made as described to all interested parties.

Powers of the Spatial Planning and Land Use Management Appeal Tribunal

15(1) The Spatial Planning and Land Use Management Appeal Tribunal may:

(a) uphold or dismiss any decision that have been made by a municipality or Premier and impose any conditions it may deem relevant to such a decision;

(b) refer a matter back to the Municipality or Premier as the case might be and on such terms it deems necessary;

(c) make a determination regarding matters contained in the Act that are relevant to its functions and powers;

(d) conduct any investigation;
(e) direct a municipality, its employees or any other person how to fulfil its functions in terms of the Act;

(f) decide questions relating to its jurisdiction to adjudicate upon a matter referred to it;

(g) subpoena any person in the format described to appear before it;

(h) determine matters referred to it if a municipality fails to register or determine an application within the prescribed period;

(i) adjudicate any disputes or appeals relating to engineering services and development charges; and

(j) make any order as to costs as it deems fit, subject to the condition that any cost order made by it may not exceed the tariffs as determined from time to time in the Magistrates Court Rules in terms of the Magistrates Court Act, Act 32 of 1944.

(2) The powers and functions of the Spatial Planning and Land Use Management Development Appeal Tribunal must be exercised by its members in terms of the prescribed procedures.

Types of appeal

16(1) An appeal may be lodged with the Spatial Planning and Land Use Management Appeal Tribunal as provided for in this Act:

(a) by an applicant who is aggrieved by –

(i) the refusal of failure by a Municipal manager to register a land use and development application;

(ii) the refusal of any application in terms of this Act including a refusal in terms of land use scheme or existing scheme;

(iii) any conditions of approval of an application imposed by a Municipality;

(iv) any other decision of a Municipality or the Premier in terms of this Act, excluding the enactment of regulations in terms of the Act;

(v) the failure of a Municipality to adjudicate an application within the time frames prescribed;

(b) by an objector who is aggrieved by any decision made in terms of the provisions of the Act to which a objector lodged objections to.
Appeal procedure

17 An appeal must be submitted to the Spatial Planning and Land Use Management Appeal Tribunal in the manner and within the time period prescribed.

Notification of appeal

18 (1) An applicant who has lodged an appeal must simultaneously give notice of the appeal, as prescribed, to:

(a) the Municipality; and

(b) every objector or interested party.

(2) A objector or interested party who has lodged an appeal must simultaneously give notice of the appeal, as prescribed, to:

(a) to the Municipality; and

(b) to the applicant.

(3) A Municipality who is aggrieved by the decision of the Premier must simultaneously give notice of the appeal, as prescribed, to:

(a) the Premier; and

(b) every objector or interested party.

(4) Any person or body to whom a notice of appeal has been given may oppose the appeal as prescribed.

Hearing of appeal

19 After an appeal has been lodged with the office of the Spatial Planning and Land Use Management Appeal Tribunal:

(1) the secretariat must refer the appeal to the Spatial Planning and Land Use Management Appeal Tribunal which must determine a date and time for the hearing of the appeal;

(2) the office must notify the appellant and every other party who has opposed the appeal of the date and time of the hearing of the appeal as prescribed;

(3) the parties must to the appeal must try and reconcile their differences by holding a conciliation meeting;

(4) if the parties reach consensus during the conciliation meeting referred to in subsection (3), the parties can request the Spatial Planning and Land Use Management Appeal Tribunal to make the agreement reached a formal order terms of the Act;

(5) a conciliation meeting as referred to in subsection (3) must be held within twenty days after the lodgement of the appeal in the manner prescribed;
(6) the conciliation meeting will be chaired by a conciliator appointed by the Spatial Planning and Land Use Management Appeal Tribunal and no party shall be allowed legal representation during a conciliation meeting;

(7) if no consensus is reached between the parties during conciliation proceedings, any of the parties shall be entitled to refer the matter to mediation;

(8) the mediation will be chaired by a mediator appointed by the Spatial Planning and Land Use Management Appeal Tribunal and no party shall be allowed legal representation during a mediation meeting;

(9) if the parties reach consensus during the mediation, the parties can request the Spatial Planning and Land Use Management Appeal Tribunal to make the agreement reached a formal order in terms of the Act;

(10) no appeal shall be heard by the Spatial Planning and Land Use Management Appeal Tribunal if the parties have not conciliated and mediated their dispute as prescribed.

Determination of appeal

20 (1) An appeal must be heard by the Spatial Planning and Land Use Management Appeal Tribunal within ninety days after the lodgement of the appeal.

(2) After the hearing of an appeal, the Tribunal must determine the appeal and provide its written ruling within twenty days after the hearing of the appeal.

(3) After the appeal has been determined, the office of the Spatial Planning and Land Use Management Appeal Tribunal must inform the appellant, the Municipality and all parties to the appeal accordingly.

Procedure after appeal

21 If a Municipality abides by the determination of the Spatial Planning and Land Use Management Appeal Tribunal it must amend its record and registers in accordance with the determination.

Reasons

22 (1) Any party to an appeal may as prescribed may request the reasons for the decision of the Spatial Planning and Land Use Management Appeal Tribunal; and

(2) The office of the Spatial Planning and Land Use Management Appeal Tribunal must provide such reasons as prescribed.
Roles and functions of District Municipalities

24 (1) Each district municipality shall prepare a District Spatial Development Framework which must be submitted to the Premier for his or her evaluation prior to the adoption of such a plan by the District Municipality as to ensure that such a plan is aligned with the Provincial Spatial Development Framework.

(2) A District Municipality shall adopt a District Spatial Development Framework within eight months after the enactment of the Act and review same annually and amend it in the same manner as is prescribed for local municipalities.

(3) The Premier must provide his or her comments on the District Spatial Development Framework within sixty days after receipt thereof, failing which the District Spatial Development Framework will be deemed to have been evaluated by the Premier.

(4) If the Premier is of the opinion that the proposed District Spatial Development Framework is not aligned with the Provincial Spatial Development Framework, the Premier must in consultation with the District Municipality concerned attempt to reconcile any differences and contradictions regarding same.

(5) In drafting and adopting a District Spatial Development Framework a District Municipality must consult with its constituent local municipalities to ensure that there are no differences and contradictions regarding the planning visions of its constituent local municipalities.

Roles and functions of local municipalities

25 (1) A local municipality must prepare and adopt a Municipal Spatial Development Framework in the manner prescribed that complies with the provisions of the Act and any other applicable legislation.

(2) Each local municipality shall prepare a Spatial Development Framework which must be submitted to the Premier for his or her evaluation prior to the adoption of such a plan by the Local Municipality as to ensure that such a plan is aligned with the Provincial Spatial Development Framework.

(3) A Local Municipality shall adopt a Spatial Development Framework within eight months after the enactment of the Act and review same annually and amend same in the same manner as is prescribed for local municipalities.

(4) The Premier must provide his or her comments on the Spatial Development Framework within sixty days after receipt thereof, failing which the Spatial Development Framework will be deemed to have been evaluated by the Premier.

(5) If the Premier is of the opinion that the proposed Spatial Development Framework is not aligned with the Provincial Spatial Development Framework, the Premier must in consultation with the Local Municipality concerned attempt to reconcile any differences and contradictions regarding same.
Northern Cape Spatial Planning and Land Use Management Bill, 2012 draft 1.5

(6) A local Municipality must prepare, adopt and implement a land use management scheme in the manner prescribed, including the adoption of by-laws as may be prescribed.

(7) Any land use scheme adopted by a local Municipality must comply with all requirements published by the Premier in terms of the Act.

(8) A Municipality must review the provisions of its land use scheme and must do so at least every 5 years calculated from the last adoption of a land use scheme or the last amendment of a land use scheme.

(9) After receipt of the comments of the Premier or if no such comments have been received within 60 days, the municipal manager shall submit the report to the municipal council, including the comments of the Premier if any, for consideration.

(10) The Municipality shall give notice to of an intended review or amendment of the land use scheme and allow any person who has been given such notice to submit objections or representations in respect of the intended review or amendment of the land use scheme.

(11) All objections, representations and comments received must be considered prior to the Council of a Municipality reviewing or amending its existing land use scheme which it may approve with or without amendment.

CHAPTER 4

SPATIAL DEVELOPMENT FRAMEWORKS

Purpose of a Provincial Spatial Development Framework

26 (1) The purpose of the Provincial Spatial Framework of the Province is to provide guidelines, policies and directives in accordance with existing legislation and legal instruments created in terms thereof to help land-use related decision makers to determine the desirability of proposed developments in a uniform and informed manner by considering whether it is socially, economically and environmentally sustainable.

(2) In order to give effect to subsection (1), the purpose shall be founded on:

(a) the principles set out in the Act;

(b) the elaboration on any national or applicable international initiatives which may impact on the Provincial Spatial Development Framework;

(c) the setting of measurable standards with regard to, amongst others things, public access to health, safety, amenities, education and economic opportunity and the monitoring thereof;

(d) ensuring that the supply of public infrastructure is directed towards giving effect to subsection (2) in a sustainable and cost effective way in terms of capital and maintenance expenditure; and
(e) informing and assisting District and Local Municipalities in the preparation of the respective Spatial Development Frameworks.

**Content of the Provincial Spatial Development Framework**

27 A Provincial Spatial Development Framework shall comply with the provisions of national legislation and shall contain at least the following components:

(1) the components prescribed in existing national legislation;

(2) a set of integrated and co-ordinated policies, objectives and strategies informed by –

(a) the principles set out in the Act;

(b) any national initiatives, policies and directives which may occur from time to time;

(c) the identified and where appropriate, measurable, social and economic development needs and challenges of the Province;

(d) the need to ensure that ecological sensitive systems, biodiversity are protected and enhanced;

(e) guiding and identifying the budgetary requirements and capacity of all spheres of government relevant to the expenditure of the Province;

(f) the current and future socio-economic benefits, opportunities and constraints offered by the private sector;

(g) clearly defined and motivated spatial planning categories of development based on a bioregional approach to sustainable development;

(h) a clear informed and aligned delineation of the current identified sectors present in the Province, their growth potential, their spatial distribution of activities and their spatial relationship to markets and transportation infrastructure;

(i) the impact of the identified sectors on the distribution and scale of existing and future settlements;

(j) the need for engineering services and recreational facilities;

(k) the fiscal and budgetary capacity of all spheres of government relevant to Provincial expenditure;

(l) possible partnerships with the private sector; and

(m) possible funding mechanisms to secure any funding required.

(3) The Premier may by notice in the Provincial Gazette prescribe any additional requirements regarding content for the preparation of Provincial Spatial Development Frameworks in general or relating to a specific Provincial Spatial Development Framework.
Content of a District Municipal Spatial Development Framework

28 A District Municipal Spatial Development Framework must comply with the provisions set out in section 29 of the Act insofar as it is applicable and in addition contain at least the following components:

(1) be aligned with the land use planning directives, categories and subcategories contained in the Provincial Spatial Development Framework;

(2) be aligned with the composite spatial plan for the district as contained in the Provincial Spatial Development Framework;

(3) define and address the roles of settlements, transport and engineering services viewed from a district level; and

(4) identify and indicate the existence of all ecologically sensitive ecosystems and scarce resources.

Content of a Local Municipal Spatial Development Framework

29 A Local Municipal Spatial Development Framework shall consist of the following components:

(1) A contextual framework, the scope and contents of which shall include the following:

(a) the identification, spatial location and evaluation of elements and areas of the environmental, topographical, resources, geological, natural environment, including of ecological, biological, agricultural and scenic significance, marine systems including marine sanctuaries, dunes, reefs, and estuaries; catchment areas including mountains and valleys, river corridors, wetlands, vleis, flood plains to the 50 year flood line and areas with a high water table, mineral deposits, damaged land, unstable soils, scenic drives and panoramic views, areas of indigenous vegetation including indigenous forests, habitats and nature reserves;

(b) the identification and assessment of the current and predicted role and need for a public open space system and the provision of recreational, sporting and other public facilities, including libraries, museums and community halls;

(c) the identification and assessment of the current and future economic trends by sector, including the mining, manufacturing, processing, service and informal sectors, together with their spatial distribution relative to their resource base, infrastructure needs, markets and labour;

(d) the identification and assessment of the existing and future social trends, including a demographic and spatial analysis in terms of population composition, its distribution and access to health, education and training, employment, housing, potable water, electricity, public transport and any other indicators of social benefit;
(e) the identification and assessment of the current and future capacity and spatial distribution of bulk infrastructure, including sewerage, water and electricity reticulation, roads and public transport provision; and

(f) an evaluation of the historical and cultural built and natural environment.

(2) A development framework shall consist of a set of co-ordinated and integrated policies, plans, objectives and strategies which shall include an Integrated Development plan;

(a) elaborating on and aimed at implementing the Principles contained in the Act as well as any other policies, objectives, strategies or programmes prescribed in the Provincial Spatial Development Framework and the District Municipal Spatial Development Frameworks or any other initiatives impacting on land development, either at a provincial or national level;

(b) informed by the projected future demographic growth and change both within the area of jurisdiction of the local Municipality or as a result of immigration;

(c) informed by the projected future economic growth, by sector, within the area of jurisdiction of the local Municipality, as well as any economic activities operating beyond its area of jurisdiction which may have a secondary impact on the local Municipality, together with the infrastructural requirements needed to service that growth;

(d) informed by a set of identified and projected social needs, and where appropriate, quantifiable standards in relation to people’s access to health, education and training, public transport, employment, recreational facilities (both active and passive), housing, potable water, electricity and any other indicators of social benefit;

(e) informed by the projected future infrastructural needs and costs required to service growth and development, within the jurisdiction of the local Municipality;

(f) informed by a land availability assessment, identifying local government, provincial and national owned land, including any commonage, together with an analysis of its development potential relative to the meeting of the development needs of the local Municipality;

(3) An implementation framework, consisting of prioritised programmes and projects aimed at implementing the policies, objectives and strategies referred to in subsection (2) through:

(a) defining targets based on projected needs, which shall, where appropriate; be informed by the measurable and quantifiable social, economic, health and service related indicators and standards referred to in the Act;

(b) motivating, levering and securing funding from district Municipality, provincial and national sources;

(c) motivating, levering and securing funding from any other funding related agencies; and
(d) partnership arrangements with the private sector.

CHAPTER 5
LAND USE SCHEMES, SUBDIVISIONS AND REMOVAL, RESTRICTIVE CONDITIONS
AND LAND USE APPLICATION PROCEDURES

Purpose of a Land Use Scheme

30 (1) The purpose of a land use scheme is to determine and to regulate the use and
development of land in the area of a local Municipality.

(2) The provisions of a land use scheme determine the permitted development and use
of land in order to promote:

(a) the land development policies of the Municipality, Provincial Government and
National Government;

(b) the development and use of land that is sustainable;

(c) the reasonable protection of individual and community interests in land;

(d) the development and use of land in the general interest of public welfare;

(e) the most effective use of existing and proposed engineering services;

(f) the availability of the most suitable land for sustainable development;

(g) the availability of the most suitable land for sustainable development;

(h) the creation of investor confidence through predictable yet flexible land use rights;

(i) the optimisation of access opportunities between places of residence, work, retail
and recreation; and

(j) the limitation of undesirable conditions in the use and development of land.
Preparation and adoption of a Land Use Scheme

31(1) Except as provided for in subsections (3) and (4) every Municipality shall within five years of the Act coming into operation, prepare and adopt a single land use scheme for the whole of its jurisdiction.

(2) The preparation of the land use scheme shall be in accordance with the requirements and procedures prescribed.

(3) By written consent and at the request of its constituent local Municipalities, a district Municipality as made provision for in section 155(1)(c) of the Constitution may prepare a land use scheme for the whole of the area of the district Municipality, subject to the condition that the constituent local Municipalities will be individually responsible for the administration and enforcement of such land use scheme and the prescribed adoption of same.

(4) Where a Municipality advises that Premier that it is unable to prepare or fails to prepare a land use scheme as prescribed, the Executive Council may do so on its behalf subject to the condition that the municipality must adopt such a land use scheme prepared.

(5) After a land use scheme has been prepared in terms of either subsections (1), (3) or (4) the municipality, district municipality or the Executive Council, as the case might be shall give notice thereof as prescribed.

(6) If a land use scheme has been prepared in terms of subsections (1) or (3), said land use scheme shall be submitted to the Premier for comment.

(7) Any comments or objections received from the Premier or any other party, must be considered prior to adoption the land use management scheme.

(8) Upon adoption of the land use management scheme by the Council of a Municipality the municipal manager of a Municipality shall publish same.

Form and content of a Land Use Scheme

32(1) A land use scheme must include:

(a) a document containing the written provisions, procedures and conditions relating to the use and development of land including the current zoning of land;

(b) a zoning map indicating the categories of land use referred to in the written document;
(c) an electronic and written register of all applications received in terms of the Act together with an electronic and written register of the outcome of such applications;

(d) a register of all applications in terms of the land use scheme together with a record of their approval or refusal;

(e) a proper record of any management area as made provision for in SPLUMA including its size and the written management policy associated therewith; and

(f) a register of all approved amendments to a land use scheme.

(2) A land use scheme must include provisions relating to:

(a) the purposes for which land only be used or developed with the consent of a Municipality;

(b) the relaxation or variation of conditions of a land use scheme;

(c) procedures required in terms of the land use scheme other than those made provision for in terms of the Act; and

(d) the persons or bodies to whom a copy of a land use application must be circulated.

(3) Where the provisions of an adopted land use scheme is in conflict with the provisions of SPLUMA or the Act, the provisions of SPLUMA or the Act shall prevail.

Status of a Land Use Scheme and Existing Schemes

33 (1) An approved land use scheme shall come into operation on the date on which it is published and shall bind all owners of land including the Municipality, all organs of state, all landowners and any person having a right to or interest in land.

(2) All existing schemes shall be deemed to have lapsed upon the adoption of the land use management scheme which shall replace it.

(3) Where the provisions of a land use scheme are more onerous or restrictive than an existing scheme it replaces, the less restrictive or onerous conditions shall apply for a period of five years from the date on which the land use scheme is published.

(4) If an owner of land rights to the use and development thereof has changed by the publication of a land use scheme that owner shall be entitled to continue to use the
land in terms of the previous scheme, subject to the condition that no new or amended usage or developments of such land shall be allowed other than those made provision for in terms of the land use management scheme or in terms of subsection (3).

(5) Notwithstanding the provisions subsections (2), (3) and (4), the use of any building for which building plans have been approved prior to the publication of a land use scheme, may be continued to be used as if the land use scheme had not been published.

(6) Any building plans submitted prior to the publishing of the land use scheme shall be approved in terms of the applicable existing scheme that is to be replaced by the published land use scheme.

(7) If a building is altered or extended after the date on which a land use scheme comes into effect, the provisions of the land use scheme shall apply only to such alterations and extensions. The provisions of subsections (4) and (5) shall not apply to the demolishing of buildings after a land use scheme has been published.

Rezoning and Subdivision of land

34 (1) No person, including the State, shall subdivide or rezone any land within the Province except in accordance with an application approved in terms of the provisions of this Act.

(2) Land which on the date of commencement of this Act had been approved for the purposes of subdivision in terms of the NCPDA or any other applicable law, and the plan of which has been registered in the office of the Surveyor General shall, be deemed to be a confirmed subdivision in terms of this Act, except in so far as a portion thereof or a land unit or land area therein is further subdivided or amended.

(3) Should any application for the subdivision of land, if approved, result in a change of zoning from one category of use or intensity to another, including the establishment of public places or streets, the Municipality shall, in the manner prescribed notify the public, for the purpose of calling for comments and objections, of the proposed changes in zoning simultaneous with the subdivision application.

(4) Following approval and upon confirmation of the subdivision or any part thereof, as provided for in this Act, the approved changes in zoning shall be recorded on the local Municipality’s zoning map and land use scheme and if conditions are imposed in terms of this Act, such conditions shall be recorded by the Municipality.

(5) Upon approval of any decision regarding a subdivision of land, a land unit or land area the owner shall submit a general plan or diagram as specified by the Surveyor-General, to the Surveyor-General for approval.

(6) If the Surveyor-General has approved a general plan or diagram as provided for in subsection (5), the owner shall -
(a) within a period of two years after such an application for subdivision in terms of the Act, or two years after all conditions imposed in respect of the subdivision have been complied with, or within the extended period consented to in terms of subsection (11), furnish the Registrar of Deeds with the documentation and information required by the Registrar of Deeds;

(b) comply with the requirements of the Registrar of Deeds in connection with the cancellation of existing conditions of title;

(c) provide any internal engineering services or development contribution which are required in terms of any conditions imposed regarding the subdivision approved; and

(d) thereafter give effect to the registration of at least one land unit.

(7) Where an owner has failed to comply with the provisions of subsection (6) with regard to the registration of a subdivision or a portion thereof, the approval regarding the subdivision shall lapse with regard to the said subdivision or part thereof at the expiry of the period contemplated in subsection (6)(a), and the diagram or general plan shall be amended in accordance with the requirements of the Surveyor-General.

(8) As soon as the provisions of subsection (6) have, with regard to the subdivision or a part thereof, been complied with in such a way that the approval of the application cannot lapse in terms of subsection (7), the subdivision or part thereof shall be deemed to be confirmed.

(9) Subject to the provisions of the Act, any changed zonings resulting from the subdivision or part thereof, shall lapse 2 years following the confirmation of the subdivision as provided for in the Act.

(10) Any right approved by a Municipality regarding the subdivision of land, a land unit or land area shall lapse two years following the date on which the owner thereof was notified in the manner prescribed of the granting of the right to subdivide the land, land unit or land area unless the owner has demonstrated his or her intent to develop the land, land unit or land area, failing which the Municipality that approved the right in question shall amend its records to reflect the zoning and or undivided status of the land, land unit or land area to its status immediately prior to the granting of the right in question.

(11) Notwithstanding the provisions of subsection (10), the owner of the land, land unit or land area may apply in writing to the Municipality in the manner prescribed to extend the lapsing date. The Municipality shall grant such an extension unless it is of the opinion that the extension of such a right will contradict the objectives of the Municipality’s Spatial Development Framework.

Removal of restrictions

35 (1) An owner of land, except a Municipality may apply in writing in the manner prescribed to the Municipal Manager of the Municipality concerned for the amendment, suspension or removal of a restriction registered against the title deed of the land or any relevant register, diagram or plan in terms of the provisions of the Act.
(2) The Municipality shall receive, register, process and approve or deny the application in the manner prescribed.

(3) If a Municipality is the owner of land and wishes to amend, suspend or remove a restriction registered against the title deed of the land or any relevant register, diagram or plan, it must submit its application in the manner prescribed to the Premier.

(4) The Premier shall with regards to an application received in terms of subsection (3) receive, register, process and approve or deny the application in the manner prescribed.

(5) The Registrar of Deeds concerned shall if an application is approved in terms of subsections (2) and (4), upon receipt of the written decision by the Municipality or the Premier as the case may be, make the appropriate entries required to record the decision in or on any current register, title deed, diagram or plan registered in his or her office, provided that the Registrar of Deeds concerned may not proceed with the steps set out in this subsection if an appeal as prescribed has been lodged until such time as the appeal has been decided and the Registrar has been informed in the manner prescribed of the outcome of the appeal.

(6) If any person feels aggrieved by the decision referred to in subsections (2) and (4), he or she may appeal against such decision in the manner prescribed.

(7) The written decision referred to in subsection (5) shall be provided to the Registrar of Deeds and the Surveyor-General concerned by the Municipality or Premier within thirty days after such a decision has been made, after which it is the responsibility of the owner of the land to ensure at his or her cost that the Registrar of Deeds concerned make the appropriate entries required to record the decision in or on any current register, title deed, diagram or plan registered in their respective offices.

**Development and the use of land**

36 All development and land use applications must be submitted in terms of the Act only.

**Land Use and Development Applications**

37 (1) A land use and development application shall be made for any one or more of the following purposes:

   (a) the establishment of a township or the extension of the boundaries of a township;

   (b) the amendment of an existing scheme or land use scheme;

   (c) the removal, amendment or suspension of a restrictive condition, servitude or reservation registered against a title of land;

   (d) the amendment or cancellation of a general plan of a township;
(e) the rezoning of land;

(f) the permanent closure of a municipal road or a public place;

(g) the subdivision of any land where such subdivision is not expressly provided for in a land use scheme with the exception of agricultural land;

(h) the subdivision of any land where such subdivision is expressly provided for in a land use scheme;

(i) the consolidation of land;

(j) the consent or approval of the municipality for any purposes in terms of a land use scheme;

(k) subject to subsection (2) any consent or approval required in terms of a condition of title, a condition of establishment of a township or existing scheme;

(l) the relaxation, variation or amendment of a condition of land use scheme or existing scheme;

(m) the relaxation, variation or amendment of building lines, coverage and density; and

(n) any other matter prescribed.

(2) A development application may include more than one of the purposes set out in subsection (1).

(3) An application for any one or more purposes referred to in subsection (1) shall be known as a Land Use and Development application.

(4) A consent or approval referred to in subsection 1(c) shall only apply to a condition imposed in terms of:

(a) The Land-use Planning Ordinance 15 of 1985;

(b) The NCPDA;

(c) The Removal of Restrictions Act, Act 84 of 1967;

(d) The Less Formal Township Establishment Act, Act 113 of 1991;

(e) The Black Communities Development Act, Act 102 of 1982;

(f) The Development Facilitation Act, Act 67 of 1995; and

(g) This Act.
Submission of land use and development applications

38 (1) A land use and development application must be drafted by a professional planner and may only be submitted by:

(a) the owner or owners, including the state, of the land concerned; or

(b) a person acting as the duly authorised agent on behalf of the owner or owners; or

(c) a person to who the land concerned has been made available in writing by an organ of state or any other owner of the land concerned; or

(d) the duly authorised agent of a person referred to in subsection (1)(c).

Lodgement and registration of land use and development applications

39 (1) All development and land use applications shall be lodged with the Municipal Manager as prescribed.

(2) Upon receipt of a development and land use application the Municipal Manager shall, against delivery thereof, acknowledge receipt in writing thereof in the manner prescribed. Acknowledgement of receipt of the application shall not be deemed to constitute registration thereof by the Municipality concerned.

(3) After a development and land use application has been lodged and the prescribed application fee has been paid, the Municipal Manager shall register the application and notify the applicant in writing as prescribed only if the applicant has complied with the provisions of subsection (5).

(4) If a Municipal Manager fails or refuses to register a development or land use application, he or she shall provide the applicant with the reasons for such refusal in writing as prescribed.

(5) A Municipal Manager may refuse to register a development or land use application if:

(a) the provisions of subsection has not been met;

(b) the circulations procedures to be followed by the applicant, if applicable, has not been complied with;

(c) the prescribed fees have not been paid;

(d) the applicant has failed to prima facie prove that he or she complied with the provisions of other national or provincial legislation regarding approval needed to proceed with the development or land use application;

(e) all relevant information has not been disclosed in terms of the application lodged;

(f) the owner of the land is, at the time of lodgement of the application, insofar as the land to which the application relates to, acting in contravention of the land use
scheme or existing scheme or is in contravention of the provisions of the National Building Regulations and Standards Act, Act 103 of 1977; and 

(g) the owner of the land is in arrears of any amount owed to the Municipality for whatsoever reasons for a period of more than ninety days after such amount became due and payable and the owner has not declared a dispute with the Municipality for the payment of such amount outstanding.

(6) Where a Municipal Manager fails or refuses to register a development or land use application the applicant may appeal as prescribed.

Notification and Circulation of land use and development applications registered

40 (1) After a development or land use application has been registered in terms of section 39 or if the applicant has lodged an appeal in terms of section 39(6), the applicant shall give notice of the application as prescribed.

(2) The applicant shall submit proof of the notification of the municipality as prescribed.

(3) If the applicant fails to give notice within the period prescribed or to circulate the application in terms of subsection (4), the Municipality must cancel the registration of the application.

(4) The applicant shall, together and simultaneously with the notice referred to subsection (1) circulate a copy of the notice together with any relevant application documents to every municipal department, organ of state or to any other person or entity as prescribed.

(5) The applicant shall submit proof of circulation of the application in terms of subsection (4) to the Municipality.

(6) A Municipal Department, organ of state or any other person or entity shall submit its comments on the application to the applicant and the Municipality within twenty days after receiving the notice contemplated in subsection (4).

(7) The Municipality may within twenty days after receipt of the comments referred to in subsection (6) request an applicant to provide supplementary information to any application document or report thereto.
(8) If an applicant refuses or fails to comply with the provisions of subsections (2) and (7) within twenty days after being requested to do so in writing, the Municipality may refuse the application.

(9) If a Municipal Department, organ of state or any other person or entity fails to submit its comments within the prescribed period or apply for condonation in terms of the Act, it shall be deemed that it has no comments, objections or requirements regarding the application.

(10) Upon receipt of the comments referred to in subsection (7) the Municipality must provide the applicant with the comments received and the applicant is entitled to respond to such comments received within twenty days after same has been provided by the Municipality. Should the applicant fail to respond to the comments received within the prescribed period and fail to apply for condonation in terms of the Act, it shall be deemed that the applicant has no comments.

Consideration and determination of land use and development applications

41(1) After the prescripts of sections 39 and 40 have been complied with the Municipality shall consider and adjudicate the application in the manner prescribed.

(2) All applications considered and adjudicated by the Municipality shall be completed within the timeframes prescribed as calculated from the date of registration of a land use and development application, subject to the condition that if the applicant’s failure to comply with the provisions of the Act is the cause that the application is not considered within the period prescribed, the delays caused by the applicant will deemed to be excluded from the calculation of the time period prescribed.

(3) In determining a land use and development application a Municipality may:

(a) approve the application in whole or in part;

(b) approve the application with amendments;

(c) approve the applications subject to any appropriate conditions, said conditions which can include conditions to be complied with on an incremental basis prior to a final approval being issued and published; or

(d) refuse the application.

(4) The Municipality shall inform the applicant and all other interested parties of its decision regarding the application in writing and publish same in the prescribed form and provide reasons for its decision of requested to do so by the applicant or any other interested party.

(5) The Municipal Manager shall record the approval or refusal of an application in the application register as prescribed.
An applicant and any other interested party, excluding the Municipality, who is aggrieved by the adjudication of the application may appeal within prescribed time period and manner prescribed.

If a Municipality fails to adhere to the provisions of this Act or fails to adhere to any other provision of this Act or an applicant or other interested party is aggrieved by the decision of a Municipality it regarding the land use and development application, he or she may refer the application to the Spatial Planning and Land Use Management Appeal Tribunal.

General Provisions relating to land use and development applications

The following general provisions shall be applicable to all land use and development applications:

1. The change of ownership of land shall not affect the procedures relating to land use and development applications that has been registered but not yet approved or refused.

2. If the ownership of land is transferred after the registration of a land use and development application or an appeal has been lodged regarding the refusal or failure of a Municipality to register a land use and development application, the applicant, together with the new registered owner of the land in question must inform the Municipality in writing of the change of ownership after which the new owner of the land shall be deemed to be the applicant and shall assume all right that previously vested in the original applicant.

3. Two or more owners of land may make a single land use and development application provided that the land area to which the application relates to forms a single area of erven, agricultural holdings and/or farm portions which are contiguous or which are separated by a road.

4. An applicant may at any time prior to the approval or refusal of a land use and development application withdraw same and shall inform the Municipality in writing accordingly.

5. An applicant may at any time prior to the publication of an approval of land use and development application abandon same by informing the Municipality in writing of its intention to do so.

6. Any withdrawal or abandonment in terms of subsections (4) and (5) shall be recorded by the Municipal Manager of a Municipality in any register referred to in terms of the Act.

7. An applicant may, at any time prior to the approval of a land use and development application being published in the manner prescribed request the Municipality to amend its application in which event all affected and interested parties must receive notice of the proposed amendments and have an opportunity to submit their presentations to the Municipality regarding the proposed amendments in the same manner and within the same time periods described in which they would be allowed to submit their original written representations.

8. Any delay caused by the amendment of a land use and development application shall be excluded from the time periods prescribed.
(9) The acceptance by an applicant of a partial approval of a land use and development application shall not constitute an amendment in terms of the Act.

Land use and Development application by a Municipality

43 Subject to the provisions of this Act, a Municipality may develop and use land owned by it.

Approval of a land use and development application of a Municipality

44 (1) A Municipality must apply to the Premier to use and develop land under the following circumstances:

(a) where the land in question is owned or vests in the Municipality, and

(b) where a Municipality wishes to close a public place.

(2) The form, content, notification, circulation, registration by the Premier, consideration, decision and implementation of approval or partial approval, must be as prescribed.

(3) The procedure to be applied by the Premier must be similar to the process prescribed for a Municipality dealing with a development or land use application regarding public participation.

Provision of engineering services

45(1) The approval of a land development application must be subject to conditions for the provision of engineering services for the development or land use concerned, as prescribed.

(2) The applicant must be responsible for the provision and installation of internal engineering services as prescribed.

(3) The Municipality is responsible for the provision and installation of external engineering services as prescribed.

(4) Where the Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of such service.

(5) The applicant must install the internal engineering services in accordance with the conditions of approval of the application.

(6) The Municipality or service provider must, subject to the payment of any relevant development contributions, install the external engineering services in accordance with National Standards as is applicable from time to time.

(7) The applicant may as prescribed, with the prior agreement of the Municipality or service provider, install any external engineering service in lieu of the payment of the applicable development contributions.
(8) If external engineering services are installed by an applicant instead of payment of development charges, the provision of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) pertaining to procurement and the appointment of contractors on behalf of the Municipality does not apply.

(9) The Premier shall publish draft agreements to be used by Municipalities to formalise the provision, payment and regulation of engineering services.

**Development contributions**

46 (1) The applicant must pay development contributions to the Municipality or service provider, as the case may be, in respect of the provision and installation of external engineering services.

(2) The external engineering services for which development contributions are payable by the applicant must be determined by the Municipality according to guidelines as prescribed and the amounts payable must be calculated in accordance with guidelines issued by the Premier from time to time.

(3) The applicant must pay a development contribution to the Municipality in respect of the provision of land for the purpose of refuse sites as prescribed.

(4) The amounts payable by an applicant in respect refuse sites must be calculated in accordance with any guidelines issued by the Premier from time to time.

(5) The Premier shall publish draft agreements to be used by Municipalities to formalise the payment and regulation of development contributions.

**General matters**

47 (1) The first registration of any erf in a township or an erf in the extension of the boundaries of a township or any subdivided portion of land in a Deeds registry shall not take place before a certificate by the Municipality has been issued to the Registrar of Deeds to the effect that:

(a) the relevant development contributions have been paid by the applicant; and

(b) any relevant conditions to be met prior to the transfer or the development of land have been complied with.

(2) Any development contributions payable as a result of an approved development application or land use application must be paid prior to:

(a) the use and development of the land; and

(b) the approval of any building plans.

(3) The roads in an approved township which are to be municipal roads must vest in the Municipality from the date of the first registration in the Deeds Registry of any erf in the township, subject to any conditions imposed regarding the payment of the constructions of such roads.
(4) The amounts of any development contribution must be determined by the Municipality from time to time in accordance with any guidelines issued by the Premier.

(5) Any amounts of money paid as a development contribution must only be used for the purpose for which such contribution was paid as prescribed.

(6) The Municipality must account for all development contributions received.

(7) An applicant who is aggrieved by any decision of the Municipality relating to engineering services or development contributions, may appeal.

CHAPTER 6
GENERAL PROVISIONS

Regulations

48 (1) The Premier may make regulations not inconsistent with this Act in regard to:

(a) any matter which may be prescribed in terms of this Act;
(b) determining the fees payable in respect land use and development applications; and
(c) the specific requirements to be met for each land use and development application; and
(d) any other matter deemed necessary for achieving the objects of this Act.

(2) Any regulations made in terms of subsection (1) shall come into effect on the date of publication of a notice thereof or such other dates as provided for in such notice.

(3) Before the publication of a notice in terms of subsection (2), the Premier must by notice in the Provincial Gazette and by any other means considered appropriate, invite any persons or bodies to submit comments or representations in respect of the draft regulations.

Decisions

49 (1) Any decision required to be made in terms of this Act by a Municipality, the Premier or the Spatial Planning and Land Use Management Appeal Tribunal must not be delayed pending any determination or approval of a matter related to the use or development of land in terms of any other law.

(2) Wherever it is practical to do so, a Municipality, the Premier or the Spatial Planning and Land Use Management Appeal Tribunal issue their decisions in terms of section 29 of SPLUMA.
(3) Except as referred to in subsection (4), a decision taken in terms of this Act by a Municipality or the Spatial Planning and Land Use Management Appeal Tribunal does not override a restriction or condition imposed in terms of any other law except in the case of a law which has been repealed.

(4) If a condition in the approval of any application or in terms of a Land Use Scheme expressly so provides, such condition must prevail over a by-law of the Municipality concerned.

(5) Where any suspensive condition is imposed in respect of any a land use and development application approved, such a land use and development application shall only be deemed to be approved once the suspensive conditions have been complied with, and periods in respect of the lapsing of any right or approval shall only come into effect upon compliance. **Note the insertion of this subsection**

(6) Any land use and development application which has been approved subject to suspensive conditions which are not complied with within two years shall lapse, unless the Premier or the Municipality, as the case may be, extends the period which extension may be granted at any stage within the initial two year period, provided that the extension shall not extend the validity of the initial approval for a period exceeding five years, whereafter the initial approval shall lapse. **Note the insertion of this subsection**

(7) Any land use and development application that has been approved subject to conditions which does not include suspensive conditions may, after having received the approval as prescribed, be implemented by the owner if the conditions are complied with. **Note the insertion of this subsection**

(8) Any land use and development application that has been approved as prescribed in terms of which an appeal has been lodged with the Spatial Planning and Land Use Management Tribunal in terms of the Act, may not implemented or proceeded with until such time as the Spatial Planning and Land Use Management Tribunal has made a ruling in terms of the appeal lodged. **Note the insertion of this subsection**

**Condonation**

50 (1) A Municipality or the Spatial Planning and Land Use Management Appeal Tribunal may of its own accord, or on application as prescribed by an applicant or any interested party and upon good cause being shown, grant condonation of any failure to comply with any procedure or time limit prescribed in terms of the Act.

(2) An application for condonation in terms of subsection (1) must not be granted if it would unreasonably prejudice any party.

**Delegation**

51 (1) The Premier may delegate any power or duty conferred or imposed on him or her by this Act to one or more than one Member of the Executive Council by way of notice in the prescribed manner.

(2) The Premier may not delegate his or her power to make regulations.

(3) A delegation under subsection (1) does not prevent the Premier from exercising the power or performing the duty concerned.
(4) Subject to the provisions of the Local Government: Municipal Structures Act, 117 of 1998, a municipal council may delegate any power or duty conferred or imposed on it or the Municipal Manager by this Act to a committee of the council or any official in the municipal administration.

Application fees

52 (1) Application fees payable in respect of any application submitted to any authority in terms of this Act or appeals noted shall be as prescribed.

(2) The fees determined in terms of subsection (1) may be reduced or waived by the Municipality concerned.

(3) Any fees determined by the Premier in conjunction with the Municipalities situated in the Province in terms of subsection (1) must be published in the Provincial Gazette.

(9) No fees must be payable in respect of the following matters:

(a) an application for condonation;

(b) the withdrawal or abandonment of an application in terms of the Act;

(c) the publication of any notice of approval;

(d) any matter referred to as a request in terms of this Act, Regulations or land use scheme.

Right of entry Note the insertion of this clause

53 Any person authorised by the Premier or a Municipality may at any reasonable time, after reasonable notice and causing as little inconvenience as possible, enter upon any land in order to –

(1) to do anything which the Premier or a Municipality, as the case may be, is permitted or required to do in terms of the Act; or

(2) make enquiries or conduct any investigation or survey in connection with the powers or duties of the Premier or a Municipality, as the case may be, in terms of the Act

Civil enforcement of Act Note the insertion of this clause

54 (1) Notwithstanding anything to the contrary contained in any law relating to magistrates' courts, a magistrate shall have jurisdiction, on the application by way of civil proceedings of the Premier or the Municipality, to make an order –

(a) prohibit any person from commencing or proceeding with the development or use of land that is in contravention of the Act;

(b) authorising the Premier or the Municipality, as the case may be, to demolish any structure or portion thereof, provided that such an authorisation may only be granted after a decision contemplated in section 55(8) and (10) has been made;
(c) ordering a person to restore the land on the basis and conditions deemed fit by the presiding judicial officer; and

(d) authorise the Premier or the Municipality as the case may be, to execute any order referred to in terms of subsection (1)(c) on behalf of the person against whom the order was granted and top award compensation to the Premier or the Municipality as the case may be for giving effect to such a order.

(2) The procedures provided for in terms of subsection (1) may be instituted at any time irrespective of whether any steps contemplated in section 55 has been commenced with.

Rectification of contraventions Note the insertion of this clause

55 (1) If land, a land unit or land area or a building situated thereon or any part thereof was developed or utilised or any other action was taken in contravention of the of section 54, the Premier or a Municipality shall serve a notice to comply (“notice to comply”) on the owner in the manner prescribed to rectify the contravention before a date specified in the notice to comply, being not more than 90 (ninety) days after the date on which the notice to comply was served.

(2) The Premier or a Municipality may on written application or of its own accord, agree to the extension of the period within which the contravention is to be rectified, provided that an extension shall be granted if a building has to be demolished to rectify the contravention.

(3) Any application for the approval of a land use and development application required to remedy the contravention referred in the notice to comply in terms of subsection (1) shall be lodged with the Premier or a Municipality as the case may be within the period referred to in subsection (1).

(4) If the owner fails to comply with the notice to comply, the Premier or a Municipality shall, subject to the provisions of subsection (4), take all further steps required to rectify the contravention.

(5) If the owner disputes the existence or the nature of the contravention to which the notice to comply relates, he or she shall on or before the date referred to in subsection (1) submit a written statement to the Municipal Planning Tribunal of the Municipality concerned or the Premier as the case may be.

(6) If the owner disputes the existence or the nature of the contravention to which the notice to comply relates to in terms of subsection (5), the Municipal Planning Tribunal of the Municipality concerned or the Premier, as the case may be, shall obtain the written comments from any interested who has an interest in the matter.

(7) Upon receipt the written comments from any interested party as referred to in subsection (6), the owner shall within 10 (ten) days after receipt of copies of the written comments referred to in subsection (6) provide his or her written response thereto to the Municipal Planning Tribunal of the Municipality or the Premier as the case may be. If the owner who disputes existence or the nature of the contravention to which the notice to comply relates fails to provide his or her written response thereto within the prescribed period, such an owner shall be deemed to no response to the written comments referred to in subsection (6), unless condonation is granted in the manner prescribed.
(8) Upon receipt of the written response referred to in subsection (6) or upon expiry of the period contemplated in subsection (7) the Premier or the Municipal Planning Tribunal of the Municipality concerned shall, with due regards to all facts and public interest—

(a) make a decision with regard to the existence or the nature and extent of the contravention;

(b) if a contravention exists and if a land use and development application has been made in terms of the Act to remedy the contravention, decide whether the land use or development application shall be approved or rejected;

(c) impose a contravention levy if deemed appropriate and determine the date on which it is payable; and

(d) if a contravention is to be rectified, determine the period within which it shall be done and the conditions imposed in respect thereof.

(9) Any decision in terms of subsection (8) shall be served on the owner in the manner prescribed.

(10) If any person feels aggrieved by the decision of the Premier or the Municipal Planning Tribunal it may appeal against the decision in the manner prescribed.

(11) The person who is the owner of the land, land unit or land area concerned on the date on which a decision was made in terms of subsection (8) was served as prescribed, shall be liable for the payment of the contravention levy.

(12) Ownership of land, land unit or land area in terms of which a notice to comply in terms of subsection (1) has been served, shall only be transferred after a decision was made in terms of subsection (8).

(13) Any approval in terms of subsection (8)(b) shall only take effect after the payment of any contravention levy imposed has been paid.

Offences and penalties

56 (1) Any person who:

(a) contravenes any provision of this Act or a land use scheme;

(b) wilfully furnishes a Municipality, the Premier or the Spatial Planning and Land Use Management Appeal Tribunal with false information;

(c) fails to produce any document or information in his or her possession when lawfully required to do so;

(d) fails to attend any hearing after being issued with a subpoena; or
(e) wilfully disrupts the proceedings of a municipal tribunal, or the Planning Spatial Planning and Land Use Management Appeal Tribunal or in relation to such proceedings does anything which, if done in relation to a court of law, would constitute contempt of court;

shall be guilty of an offence.

(2) A person convicted of an offence in subsection (1) shall be liable on conviction to pay an appropriate fine not exceeding R50 000.00 (Fifty Thousand Rand) or to imprisonment for a period not exceeding 5 (five years) or both such fine and such imprisonment. Note the amendment of this subsection

(3) A person convicted of an offence under the Act who, after conviction, continues with the conduct of which he/she was so convicted shall be guilty of a continuing offence and be liable on conviction thereof to a fine not exceeding R10000.00 (Ten Thousand Rand) in respect of each day on which he/she continues or has continued with it. Note the insertion of this subsection

(4) The provisions of section 341 of the Criminal Procedure Act, 1977 (Act 51 of 1977) shall apply mutatis mutandis with regard to the contravention of any provisions of this Act. Note the insertion of this subsection

Enforcement

57 A Municipality shall be responsible to promulgate by-laws for the effective enforcement of its land use scheme.

Provision of information

58 Any person shall be entitled to obtain a copy of any document or information relating to a development application, land use application or any other document referred to in this Act from the Municipality or secretary, as the case may be, provided that:

(1) the copy of the document or information must be provided within 7 days of the date of such copy of the document or information being requested in writing;

(2) the person requesting a copy of the document or information must pay the reasonable cost of printing or reproducing such copy; and

(3) Any document containing confidential propriety information may only be disclosed with the consent of the owner thereof.

Hearings open to public

59 Any hearing of an application by a Municipality or the Spatial Planning and Land Use Management Appeal Tribunal must be open to the public.

Correction of errors

60 (1) Where an error or omission has occurred in an approval referred to in this Act in any conditions of approval or conditions of establishment, in any land use scheme or
amendment scheme, or in any notice published in the Provincial Gazette, such error or omission may be corrected.

(2) A correction of an error or omission referred to in subsection (1) must be limited to:

(a) technical or administrative matters which do not materially affect the subject of the correction; or

(b) typographical or grammatical matters.

(3) If a notice published in the Provincial Gazette is corrected, a notice of such correction must be published in the Provincial Gazette.

Transitional arrangements

61 (1) Any application submitted or any other pending matter in terms of any law repealed by this Act not disposed of prior to the commencement of this Act must be dealt with and finalised as if this Act had not come into operation.

(2) Any appeal or other matter pending before the Municipality or the Northern Cape Development Appeal Tribunal in terms of any law repealed by this Act not disposed of prior to the coming into operation of this Act must be dealt with and finalised by the Municipality or the Northern Cape Development Appeal Tribunal as if this Act had not come into operation.

(3) For the purposes contemplated in subsection (2) the Premier or the MEC must extend the term of office of any members and secretarial staff serving on the date on which this Act comes into operation on such terms and conditions as may be necessary under the circumstances.

(4) Where necessary, any notice, certificate or other document or any consent or approval issued, or anything lawfully done in terms of any law repealed by this Act must be deemed to comply with the provisions of this Act.

(5) An application for the amendment of an existing scheme made prior to the coming into effect of a land use scheme but which is approved after the land use scheme comes into effect must be deemed to be an amendment of the land use scheme to the extent that may be necessary and the land use scheme must be amended accordingly.

Repeal of laws

62 The laws set out in the Schedule 1 to this Act are hereby repealed as specified and to the extent as set out in the schedule.

Short title and commencement

63 (1) This Act is called the Northern Cape Spatial Planning and Land Use Management Act, 2012.

(2) The Act comes into operation:

(a) on the date determined by the Premier in publication of notice thereof; or
(b) on different dates in respect of different provisions of the Act determined by the Premier in publication of a notice thereof.

SCHEDULE 1

LAWS REPEALED

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<th>Short Title</th>
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<td>Northern Cape Planning and Development Act, 1998</td>
<td>Date of commencement of this Act</td>
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SCHEDULE 2 OF THE REGULATIONS

LAND USE MANAGEMENT

APPLICATION FORM
APPLICATION FOR TOWNSHIP DEVELOPMENT, SUBDIVISION OF LAND, CONSOLIDATION OF DIFFERENT PIECES OF LAND, AMENDMENT OF LAND USE (REZONING), AMENDMENT OF TOWN PLANNING SCHEME OR DEPARTURE FROM SCHEME REGULATIONS AND CONSENT USE

Application for any of the above-mentioned MUST be done in accordance with the following legislation:

- Northern Cape Planning and Development Act, 7 of 1998
  - Scheme Regulations (Land Use Planning Ordinance, 15 of 1985)
  - Black Communities Development Act, 4 of 1984 [Section 20(2)(b)]
  - Rural Areas Act, 1987, Act 9 of 1987
- Planning Profession Act, 36 of 2002


SECTION A

Details of Applicant (See Planning Profession Act, Act 36 of 2002)

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<thead>
<tr>
<th>Name:</th>
<th>Contact person:</th>
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<td>Postal address:</td>
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54
SECTION B
Details of Land Owner (If different from Applicant)

Name: ________________________________  Contact person: ________________________________
Postal address: ________________________________  Physical address: ________________________________
                                      ________________________________  ________________________________
                                      Code: ________________________________  Code: ________________________________
Tel no: ________________________________  Cell no: ________________________________
Fax no: ________________________________  E-mail address: ________________________________

SECTION C
Details of Property

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<th>Existing zoning</th>
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<td>Municipality:</td>
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SECTION D
Type of Application being Submitted (Mark with an X and give detail)

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<td>Number of new erven (including remainder):</td>
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<td>Consolidation of different pieces of land</td>
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<tr>
<td>Amendment of a land use or zoning (rezoning)</td>
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<td>Removal, amendment or suspension of restrictive conditions</td>
<td>Sections to be removed:</td>
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**NOTE:** Submit separate prescribed application form

**Brief description of proposed development / intent of application:** (Detail motivation to be attached as annexure)
### SECTION E

**List of supporting information required / submitted**

(Mark with an X / number annexure)

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<th>ANNEXURE</th>
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<td>Application form: Removal of Restrictions</td>
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<td>Conveyancer’s certificate</td>
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<td>Bondholder’s consent</td>
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<td>Home Owners’ Association consent / stamp of approval</td>
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<td>Copies of special endorsement/proxy</td>
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<td>Mineral rights certificate (together with mineral holder’s consent)</td>
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<td>Prospecting contract and/or mining permit</td>
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<td>Registered servitudes (deed and map/plan)</td>
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<td>Surveyor general diagrams (cadastral information)</td>
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<td>Status report from Surveyor General – street closure or state owned land</td>
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<td>Locality plan</td>
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<td>Site plan</td>
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<td>Topographic map with contours</td>
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<td>Zoning plan – including surrounding areas (Radius ±250 m)</td>
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<td>Land use plan – including surrounding areas (Radius ±250 m)</td>
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<td>Land use map indicating existing facilities and threshold distances (township development)</td>
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<td>Proposed consolidation plan</td>
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<td>Proposed subdivision plan</td>
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<td>Proposed design/layout plan</td>
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<td>Proposed development plan</td>
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<td>Engineering services report (Bulk and internal infrastructure)</td>
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<td>Report on the handling of storm water</td>
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<td>Environmental Impact Assessment (EIA and RoD)</td>
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<td>Archaeological Impact Assessment (AIA)</td>
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<td>Mineral impact assessment (MIA)</td>
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<td>Traffic impact study (TIS)</td>
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<td>Geological and geo-technical report (NHRB Standards)</td>
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<td>Flood line certificate / coastal setback report - certificate from relevant Dept</td>
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<td>Subdivision of agricultural land (Approval of relevant department)</td>
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<td>Renewable energy - permission from Department Agriculture, Land Reform and Rural Development</td>
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<td>List of sections in Title Deed conditions to be removed /amended</td>
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<td>Public participation report and minutes of meeting</td>
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<td>Proof of adherence to all relevant planning legislation</td>
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<td>Motivation</td>
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The *Guidelines for Human Settlement Planning and Design* as published by CSIR - Building and Construction Technology, Pretoria forms the basis of planning standards.

**SECTION F**

**Fees payable**

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<th>Application fee</th>
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<td>Administration fee (including postage)</td>
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<td>Advertisement fee</td>
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<td>Other:</td>
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### SECTION G

**Declaration**

**Note:** If application is made by a person other than the owner, a Power of Attorney is compulsory. If the property is owned by more than one person, the signature of each owner is compulsory. Where the property is owned by a company, trust, or other juristic person, a certified copy of the Board of Directors/Trustees’ resolution is compulsory.

I hereby certify the information supplied in this application form to be complete and correct and that I am properly authorised to make this application.

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<th>Applicant’s / Owner’s Signature:</th>
<th>Date: YYMMDD</th>
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<td>Full name (print):</td>
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<td>Professional capacity:</td>
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<td>Applicant’s ref:</td>
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### SECTION H

**For office use only**

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<td>Cut-off date for objections: YYMMDD</td>
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<tr>
<td>Submit to Council by: YYMMDD</td>
<td>Resolution No:</td>
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<td>Date of Letters to Applicant/Objectors conveying Council resolution:</td>
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<th>Checklist of documents attached to be submitted to Provincial Government (Removal of Restriction application):</th>
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<td>See SECTION I.</td>
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<th>Comments:</th>
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Schedule B
## Schedule 3

**LAWS REPEALED**

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<tr>
<th>Number and Year of Law</th>
<th>Short Title</th>
<th>Date on which Repeal comes into effect</th>
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<tr>
<td>7 of 1998</td>
<td>Northern Cape Planning and Development Act, 1998</td>
<td>Date of commencement of this Act</td>
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