

# LUMS A:

## Kgatelopele Local Municipality



### PROJECT DESCRIPTION:

The LUMS of Kgatelopele Local Municipality consists of the following segments:

- **The By-Law:** The document that only includes a summary of the various documents that forms part of the LUMS.
- **LUMS A** - The Manual and Application Procedure consisting of:
  - Assessment and Approval Procedures;
  - Legislation, land use policy and guidelines;
  - Conditions of approval;
  - Delegation of decision-making;
  - Development incentives;
  - Enabling legislation; and
  - Serves as a basic reference manual.
- **LUMS B** - The Scheme Regulations consisting of:
  - General information on land use development and control measures;
  - Definitions; and
  - Summary of zoning descriptions, development control, integrated zoning scheme and regulations for each land use.
- **LUMS C** - The Application Form consisting of:
  - A comprehensive application form pertaining to land use change procedures; and
  - An abridged application form pertaining to land use change procedures (abridged, shortened and cancellation).
- **LUMS D** - The Zoning Maps consisting of:
  - A3 Booklet of the zoning maps of the total KLM area.
- **LUMS E** - The Zoning Register consisting of:
  - A3 Booklet of all properties and the applicable zonings.



### PERTAINING TO:

SPATIAL PLANNING AND LAND USE MANAGEMENT ACT  
(ACT 16 OF 2013, SPLUMA)-  
MANUAL FOR THE LAND USE MANAGEMENT SCHEME  
(LUMS) AND APPLICATION PROCEDURES FOR LAND USE  
CONTROL APPLICATIONS



### APPROVED:

**2019**

### DOCUMENT COMPILED FOR:



### DOCUMENT COMPILED BY:

Macroplan 

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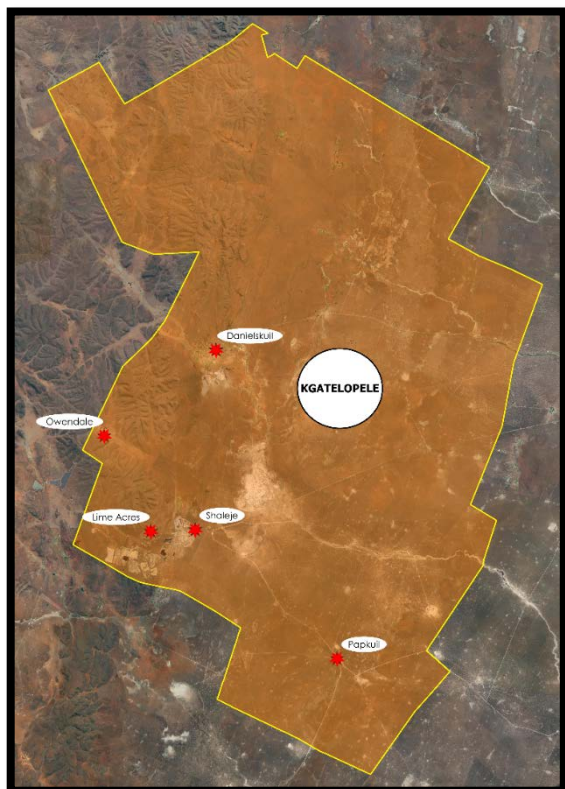
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# MANUAL FOR THE LAND USE MANAGEMENT SCHEME (LUMS) AND APPLICATION PROCEDURES FOR LAND USE CONTROL APPLICATIONS

## Spatial Planning and Land Use Management Act (SPLUMA, Act 16 of 2013)



This document (**LUMS A**) serves as the summary document for any application that is governed by the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013 – SPLUMA). The mentioned act (SPLUMA from hereon) states that municipalities must, within five (5) years from the date of commencement of the Act (01 July 2015), adopt a land use scheme (LUS) for the whole municipal area (the LUS forms part of the Land Use Management System – LUMS). Kgatelopele Local Municipality (KLM from hereon) has adopted its second Spatial Planning and Land Use Management By-Law (forms part of these LUMS) and the LUMS was approved by Council on 27 March 2019 and comes in operation on 1 July 2019.

The By-Law was formulated to help with the administration and general facilitation of all land use change and land development applications within the municipal jurisdiction, referring directly to the LUMS as the legislative input. The application procedures that forms part of this document, takes into consideration and are in-line with the approved By-Law. The KLM LUMS of 2018/19 were influenced by the public participation process, the inputs from the Council and custom made to fit the specific circumstances of this very unique municipal area.



# 1. METHODOLOGY OF THE DOCUMENTATION THAT FORMS PART OF THE LUMS

The intent and purpose of this document (**LUMS A**) that forms part of the Land Use Management Scheme (LUMS) is to assist the Municipality (Municipality of Kgatelopele), municipal- and provincial officials, professional agents, as well as members of the general public and possible investors, with the submission, processing, indicating the formal procedures, the possible timelines, the public participation and the finalisation of any application, in terms of land use management within the municipal area of Kgatelopele Local Municipality (KLM). It is the intention of this document to indicate the powers of decision-making, the procedures in processing an application, standardising applications to a specific level and possible incentives for development in areas earmarked for development in accordance with the Spatial Development Framework (SDF) and the Provincial SDF (PSDF). The intent of the 2017 guidelines issued by the Department of Rural Development and Land Reform (RDLR) is to develop credible SDF's and LUMS through the implementation of the mentioned comprehensive guidelines and formed a guiding factor in the compilation of the KLM LUMS 2018/2019. In order to develop a basic and easy reference the following individual methodology were compiled:

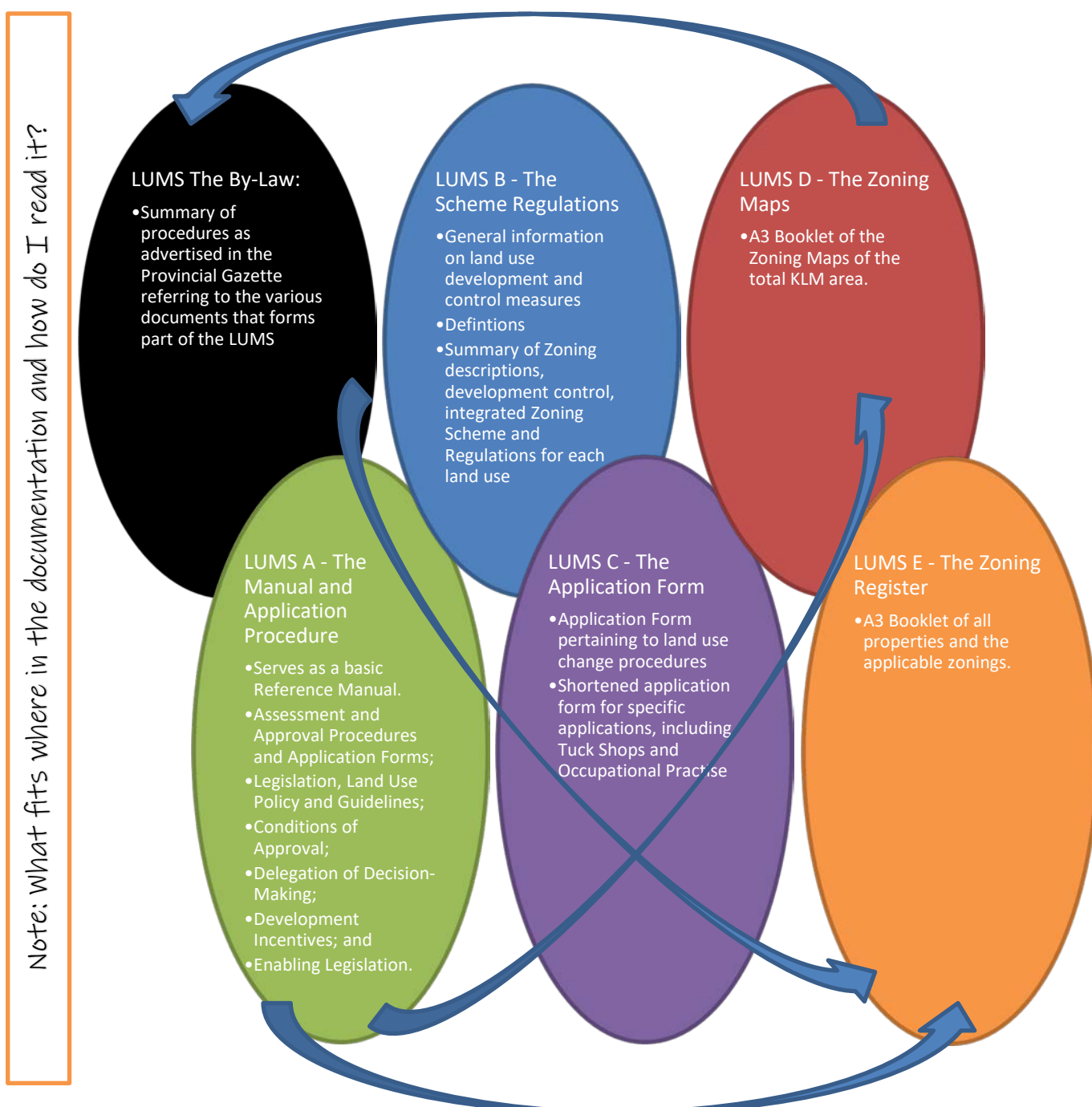


Figure 1: Summary of LUMS documentation for the Kgatelopele LM

## 2. LAND DEVELOPMENT REQUIRING APPROVAL

It is necessary for the reader to understand and interpret the background to land that requires approval for any process and the following must be noted:

- i. No person may commence, continue, or cause the commencement or continuation of land development without the approval of the Municipality in terms of subsection (ii).
- ii. The owner of land (including all organs of state) or a person listed in section 45(1) of the Act must apply to the Municipality in terms of this By-law, and in accordance with the approved Land Use Management Scheme for Kgatelopele Municipality, for any changes- or additional land use/development rights as described in the LUMS.
- iii. If any development right is granted subject to any conditions as may be imposed in respect thereof, the applicant and owner must comply with such conditions imposed, as well as any conditions contained in any applicable land use management scheme and the Spatial Development Framework of the Municipality.
- iv. If a Municipality wishes to apply for any development rights made provision for in this By-law, it must submit its application in the manner prescribed which will be dealt with in the manner prescribed.
- v. If section 52 of the Act is applicable to the development right being applied for, the provisions of section 52 of the Act must be adhered to. The Municipality or Municipal Planning Tribunal, as the case may be, shall inform the applicant in writing if it is of the opinion that section 52 of the Act is applicable.

## 3. BACKGROUND INFORMATION TO THE SUBMISSION AND COMPLETION OF ANY APPLICATIONS PERTAINING TO LAND USE CONTROL



This manual and application procedures (LUMS A) intend to support applications regarding the Municipality's land use control and management process and should be read with the applicable Scheme Regulations (LUMS B) that includes all the detail regarding precise restrictions/inclusions of KLM LUMS, including working definitions and the land use control

measures for each spatial planning category. The following general notes on applications must be kept in mind at all times, namely:

- i. Applicants are advised to consult a Professional Town Planner and to consult the Planning Professional Act, Act 36 of 2002, where applicable and adhere to any regulations and promulgation legislation.
- ii. Applicants are advised to be personally involved with the application process and to determine the impact of all relevant legislation on the planned development before commencing with an application.
- iii. Applicants are advised to provide as much information as possible, as imprecise and vague information leads to delays in the processing of applications.
- iv. All correspondence with reference to any application will be conducted in the language used for completion of the application form, unless the applicant requests otherwise.
- v. When an application requires several approvals in terms of this and other legislation and two or more of the applications must be advertised, the applicant shall point this out to the Municipality, for him/her to be able to advertise all such applications and submit them for approval simultaneously.
- vi. Applications submitted to the Municipality will not be processed by the **Registrar/ Municipal Official** unless all outstanding items, in terms of the mentioned applicable legislation, have been attached and provided to the satisfaction of the mentioned authority. The applicant must adhere to all legislative requirements before submitting an application to the Municipality.



- vii. Any applicant's attention is drawn specifically to the following requirements and provisions that forms an important component of each application, namely:
  - a. Incorrect and incomplete applications shall be sent back immediately by the **Registrar/Municipal Official**, due to the fact that such applications causes delays and impairs developers who compile thorough applications.
  - b. Developers must personally be involved with their applications and must see to it that their own staff or parties that act on their behalf, do not delay the process unnecessarily.
  - c. Applicants must note that, up until the time that an application has been approved in writing, any correspondence or deliberations held in terms of the specific application, cannot be regarded as an indication that approval will be given and the Municipality is not bound in any way.
  - d. No application may be prepared or submitted by an official of the Municipality on behalf of another person or party. No official of the Municipality may assist an applicant with the preparation and/or submission of any application of segment of an application.
  - e. The Municipality reserves the right to annul any approval, based on incorrect information provided by an applicant. Applicants should therefore ensure that all information is provided in terms of restrictive components and aspects that may influence the application or the future development in any possible way.
  - f. Where applicable, the applicant and/or person that acts on their behalf, must adhere to the regulations of the Planning Professional Act, Act 36 of 2002.
- viii. Applicants are advised to discuss their applications and procedures beforehand with the appropriate and responsible official of the Municipality, as part of the pre-application phase.
- ix. It is pointed out to applicants that the most appropriate and restrictive zoning that shall be applicable to the proposed use/development of the site, will be considered by the Municipality and that applications should be submitted as such.

#### 4. INFORMATION ON THE LAND USE CHANGE PROCESS, LAND USE CONTROL AND DEVELOPMENT APPLICATIONS

All development applications for rezoning, subdivision, secondary and/or consent uses or any other relevant application in terms of the Act and/or these regulations and By-law will be executed strictly according to the procedures for the handling of applications, as set out in these regulations. A Land Use and development application shall be made for any of the following purposes:

- i. The establishment of a township or the extension of a township and its existing cadastral boundaries (including all land use change application components).
- ii. The amendment or cancellation of a general plan of a township and SG diagram.
- iii. The rezoning of land.
- iv. The permanent closure of a municipal road (public road) or a public open space (POR/POS).
- v. The subdivision of any land.
- vi. The consolidation of any land.
- vii. The secondary uses as described in these regulations as part of the LUMS.
- viii. The consent uses as described in these regulations as part of the LUMS.
- ix. The deletion, suspension or amendment of the original approval conditions as provided by the Responsible Authority/ Municipality in terms of the LUMS or the Act:
- x. The relaxation, variation or amendment of building lines, heights of building, floor area, coverage, density, departure (temporary or permanent) and any of the matters prescribed in these regulations as part of the planning control described in Development Control (LUMS B).
- xi. The registration of a servitude where such servitude requires geospatial marks and/or registration and includes all cases where any level of authority (local, provincial, national or para-statal) is concerned.
- xii. The cancellation of a servitude where such servitude requires geospatial marks and/or registration and includes all cases where any level of authority (local, provincial, national or para-statal) is concerned.

Note: What type of applications are applicable in the LUMS?



- xiii. The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land where the restriction relates to use, subdivision or development rules.
- xiv. Applications for registration of a sectional title scheme in terms of the Sectional Title Act (Act 95 of 1986) and where the definitions of the land use rights of the property permit sectional titles.
- xv. The extension of the validity period of an approval in accordance to the By-law and SPLUMA.

#### 4.1. Rezoning of land

- i. The rezoning of land may be made applicable to a land unit or part thereof, and zoning of land need not follow the boundaries of land as registered in terms of the Deeds Registries Act.
- ii. An applicant may submit a rezoning application simultaneously with an application for subdivision and/ or consolidation.

#### 4.2. Subdivision

- i. No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted in terms of the Land Use Management Scheme of Kgatelopele Municipality.
- ii. An applicant may submit a subdivision application simultaneously with an application for rezoning and/ or consolidation.

#### 4.3. Consolidation

- i. No person may consolidate land without the approval of the Municipality in terms of the By-law and the LUMS, unless the consolidation is exempted in terms of the mentioned LUMS documents.
- ii. An applicant may submit a consolidation application simultaneously with an application for rezoning and/ or subdivision.

#### 4.4. Amendment, suspension or removal of restrictive conditions

- i. The Municipal Planning Tribunal may upon application amend or remove a restrictive condition contained in the conditions of establishment of a township, in a title deed relating to land or those conditions contained in a land use management scheme administered by it.
- ii. The Municipality must inform the Registrar of Deeds and the Surveyor-General of any suspension or removal of a restrictive condition after approval.

### 5. DETERMINATION OF ZONING

- i. The owner of land or his or her agent may apply in accordance with all planning legislation to the Municipality for the determination of a zoning for land within its municipal jurisdiction.
- ii. When the Municipality considers an application in terms of subsection (i) it must have regard to the following:
  - a. the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of the By-law if it can be determined;
  - b. the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
  - c. any departure or consent use that may be required in conjunction with that zoning;
  - d. in the case of land that was vacant immediately before the commencement of the By-law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and



- e. where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of the By-law cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- ii. If the lawful zoning of land contemplated in subsection (i) or cannot be lawfully determined or was wrongfully converted from a former zoning map, the Municipality must follow the procedures described in section 2.2 of LUMS B.
- iii. A land use that commenced unlawfully, whether before or after the commencement of the By-law, may not be considered to be lawful.

## 6. FORMAT AND STANDARD OF APPLICATIONS

The Municipality's approved application forms (LUMS C) must be used for all applications in terms of SPLUMA and/or the Land Use Management System (LUMS) and Land Use Scheme (LUS) of Kgatelopele Municipality and form the core of any application pertaining to land use control/ land use change. The accurate and complete filling in of these application forms is a prerequisite for any application submitted to the Municipality. Additional to this application form and supporting the application, the following shall form part of any application:

### 6.1. Plans and Maps

The following plans and maps shall accompany the application, together with the information referred to below (See full Regulation and Bylaw for more information on the specifications for each type of map).

- i. Orientating Locality Map.
- ii. Basic Layout Map (for subdivision applications).
- iii. Zoning Map Extract.
- iv. Land Use Map.
- v. Detail Layout Map (if applicable and may be requested).
- vi. Site Development Plan (including all existing servitudes and services).



Nr	Type of Plans and Maps General Note: ✓ = compulsory and • = optional for inclusion	Comprehensive application form		Abridged application form	
		Yes	No	Yes	No
3.2.1	<b>Orientating Locality Map</b> in terms of the town or region on a clearly readable A3 or A4 sized map. Such a map must clearly indicate the application area in relation to the surrounding properties and must include the following basic details, namely: <ul style="list-style-type: none"> <li>• True north, scale, key and heading "Orientating Locality Map";</li> <li>• The approximate location of the land unit involved in the application, relative to the nearest town for farming areas and the immediate residential neighbourhoods for urban areas;</li> <li>• Boundary of the Local Authority, including the names of adjacent Local Authorities for applications near the border of the aforementioned;</li> <li>• Roads, indicated whether they are main roads, highways, national roads or provincial roads if near or adjacent to the application area.</li> <li>• Size and location of the particular portion applicable to the application and;</li> <li>• Any other applicable particulars to give more clarity to the application.</li> </ul>	✓		✓	
3.2.2	<b>Basic Layout Map</b> that gives more information in relation to the following, namely: <ul style="list-style-type: none"> <li>• True north, scale, key and heading "Basic Layout Map";</li> <li>• Erf boundaries, street names (if applicable), including neighbouring erf or farm numbers.</li> <li>• The location of existing buildings and applicable servitudes on the application area and surrounding properties.</li> <li>• Detail regarding the proposed development, including proposed subdivision and consolidation boundaries.</li> <li>• Any physical restrictions on the land unit or neighbouring land units that might influence the application (if applicable).</li> <li>• Any other applicable particulars to give more clarity to the application.</li> </ul>	•	•	✓	
3.2.3	<b>Zoning Map Extract</b> must include an extract of the Competent Authority's Zoning Map with the following detail, namely: <ul style="list-style-type: none"> <li>• The scale, true north, key and heading "Zoning Map Extract";</li> <li>• All land units and existing zonings thereof within a radius of 300m from the outside boundary of the application area, as well as all undeveloped land units for applications within Urban Areas and;</li> <li>• All land units and existing zonings of adjacent farms for applications within Rural Areas.</li> </ul>	✓			✓

Nr	Type of Plans and Maps General Note: ✓ = compulsory and • = optional for inclusion	Comprehensive application form		Abridged application form	
		Yes	No	Yes	No
3.2.4	<b>Land Use Map</b> must be included where the existing land uses differ from the relative zonings of the application area, or if the Competent Authority requests it, the application shall also be accompanied by a map that indicates the existing uses of all land on the map including the following detail, namely: <ul style="list-style-type: none"> <li>• The scale, true north, key and heading "Land Use Map";</li> <li>• The location of existing buildings, applicable servitudes on the application area and surrounding properties, as well as existing infrastructure.</li> <li>• All existing land uses found within a radius of 300m from the outside boundary of the application area, as well as all undeveloped land units for applications within Urban Areas and;</li> <li>• All land units and existing land uses of adjacent farms for applications within Rural Areas.</li> </ul>	✓		•	•
3.2.5	<b>Detail Layout Map (if applicable)</b> must be included for any application that, to the request of the Competent Authority, necessitates such detail for consideration. The mentioned maps and plans must be on one of the international paper sizes varying from A0 to A4 (must be readable on the smallest format) on an appropriate scale, indicating the following, namely: <ul style="list-style-type: none"> <li>• The scale, true north, key and heading "Detail Layout Map";</li> <li>• The Detail Layout plan must indicate the map \number and all amendments shall have consecutive numbers.</li> <li>• Contours with 1m or 2m height differences up to outside of the Layout boundary.</li> <li>• All areas steeper than 1:4.</li> <li>• 1:50 annual flood-line, if applicable.</li> <li>• Other physical restrictions that might influence the layout (e.g. cliffs, marshes, dunes, etc.).</li> <li>• All existing services within and surrounding the application area.</li> <li>• All servitudes influencing the application area.</li> <li>• Road layout on adjacent land units.</li> <li>• The proposed subdivision(s).</li> <li>• Sufficient measurements to indicate the sizes of the subdivisions.</li> <li>• The erven numbered consecutively.</li> <li>• The name of the person or firm that prepared the layout, including Professional Registration number.</li> <li>• If contours, indicated on the map, were prepared by another person or firm, the particular name should also be mentioned.</li> <li>• Lo-coordinates together with grid references if requested.</li> <li>• The proposed new streets names for new township establishments.</li> <li>• A list of the proposed zonings distinguished by means of different colours (the colour code shall be in accordance with the scheme regulations indicated as part of LUMS B), indicating the different uses, amount of erven for each use, surfaces per use and surfaces expressed as a percentage of the total area of the subdivision. The surface area shall be expressed in m<sup>2</sup> and/or hectares.</li> <li>• Professional SACPLAN registration number.</li> </ul>	✓			✓
3.2.6	<b>Site Development Plan</b> (if applicable and submitted by a Competent Person) must be included for any application that, in the opinion of the Competent Authority, can have an influence on interested and affected parties and can include the following, namely: <ul style="list-style-type: none"> <li>• The scale, true north, key and heading "Site Development Plan";</li> <li>• Existing buildings on the land unit and on directly adjacent land units.</li> <li>• All servitudes on the application area.</li> <li>• All existing services within and surrounding the application area.</li> <li>• All proposed buildings, parking bays, landscaped areas and any other detail that can give more clarity to the application.</li> </ul>	✓			✓

Table 1: The various maps and plans that must form part of formal applications.

Note: How do I compile an application?

## 6.2. Motivation Report and all inclusions, annexures and any additional components

A comprehensive motivation for all applications, regarding the desirability of the intended land use amendment/ land use control, shall be attached to the application form. The extent of this report will differ from application to application, depending on the sensitivity of the environment and the scale or size of the intended development. The following guidelines apply regarding such motivation and all factors that must be included as part thereof:

### 6.2.1. Desirability

The concept "desirability" in the context of land use planning, can be defined as the degree of acceptability of the proposed amendment for the particular land unit. The motivation of the proposed development's desirability must be done in relation to the following aspects:

- Physical characteristics of the property:** The expected influence of the proposed land use amendment and any modification of the physical characteristics shall be discussed. The physical characteristics include topography (inclines), geological formations, soil characteristics and depth of underlying rock-formations, microclimate, vegetation (e.g. invasive plants), flood plains and flood-lines, water tables, springs, drainage pattern,





- unique ecological habitats and sensitive areas, existing filled areas and gravel quarries, carrying potential of the area, etc.
- ii. **Existing planning of the area:** Discuss how the intended land use amendment complies with existing planning regarding the area e.g. SDF, NSDF, PSDF, PGDP, IDP, adopted policies of the Competent Authority, etc.
  - iii. **Character of the environment:** Discuss the reconcilability of the proposed land use amendment with the land uses typical for the area, the residential density (e.g. size of erven), historical and architectural areas or areas worth conserving, natural assets, amount of community facilities, privacy of neighbours, street scenes, view, etc.
  - iv. **The potential of the property:** Discuss the potential of the property for other uses, e.g. agriculture (in an existing agricultural area and the potential thereof), conservation (of natural and urban environments), mining (e.g. are there any economically exploitable minerals on the property?), recreation and how this proposal influences potential.
  - v. **The location and accessibility of the property:** Discuss the accessibility of the property in view of existing urban development, the main road network (including approval from other road authorities) and other infrastructure, as well as the influence of additional traffic on the environment, if any. In the case of a rezoning and subdivision application, the availability of land units with similar characteristics and the expected tempo of development of such areas shall also be discussed.
  - vi. **Provision of services:** Discuss the possibility of service provision (are there any problems therewith), what type of services will be rendered, what the cost implication of the provision will be and whether it is desirable to provide this type of services (e.g. what the influence thereof will be on the natural environment), possible pollution, etc. For any private development, detail Civil and Engineering Reports must be attached (if requested) to the document to the satisfaction of the Competent Authority's Engineering Department.
  - vii. **The construction phase of the proposal (if applicable):** Discuss how long the construction phase will last, whether any temporary structures will have to be erected (e.g. camps for workers), where construction material will be collected (e.g. gravel quarries on the site), or if any levelling of dunes, excavations, fillings, removal of vegetation, etc. is contemplated and what the degree thereof will be, where construction materials will be stored and whether any damage to the natural environment will be repaired or not (e.g. by site rehabilitation and Environmental Management Plan).

### 6.2.2. Format of the layout

The format of the detail layout map shall also be motivated in view of the following aspects:

- i. **Intrinsic characteristics of the site:** Discuss how intrinsic physical characteristics and manmade capacity are handled in view of, for instance, existing infrastructure, surrounding land uses, restrictions such as noise and air pollution, inclines, etc. of the site.
- ii. **Provision of community facilities and open spaces:** Discuss the amount, size and location of such facilities, the usefulness of open spaces, how open space fit in with an existing or intended open space structure, how many open spaces will be provided per 1000 persons, etc.
- iii. **Road infrastructure:** Discuss the hierarchy and width of roads, the length and cross section inclines, the linkage with existing road structures, the influence of the road network on other infrastructure (e.g. drainage and sewerage), the accessibility of the various land units, as well as the possible separation of pedestrian and vehicle traffic.
- iv. **Local businesses, high density housing and mixed land use areas:** Discuss the size and location of sites, the proposed zonings thereof, and the influence of these proposed zonings on neighbouring land units, flow of traffic and provision of open spaces.



Note: What components are very critical to obtain?

### 6.2.3. Copy of the Title Deed

A copy of the title deed of each individual portion of land, applicable to the application, shall be attached to the application, as an annexure.

### 6.2.4. Bondholder's Consent

Any application, where such land or a portion thereof is subject to any existing bond, a letter of consent from the mentioned bondholder must be included as an annexure to the application. If such a bond has been cancelled, proof of such cancellation must also be attached

### 6.2.5. Power of Attorney/ Proxy for any application

If the application is prepared and/or submitted by any other person or party than the registered owner of the land, the application shall be accompanied by a power of attorney for the application and the power of attorney shall describe the nature and extent of the application. If the land owner is a Trust, Close Corporation or Company (including community property associations), a resolution by all directors, members and trustees must also be included. Please see note on Planning Professional Act.

### 6.2.6. Applicable and prescribed Surveys and Approvals

Should any other legislation or authority require any other actions (such as the requirements in respect of the environmental impact assessments, heritage, SANRAL approval, Department of Roads and Public Works, etc.) proof of compliance to such prerequisites must be attached to the application.

### 6.2.7. Dolomite Considerations

The following components will be requested due to the problematic dolomite structure in the KLM area:

- i. A Dolomite stability report assessed and approved by the Council for Geoscience will be required as part of applications for any proposed development that constitute densification in areas that were not subjected to such studies before.
- ii. Precautionary measures as identified in the report referred to above shall be reflected in the Site Development Plan and building plans.
- iii. In areas identified as dolomitic, a Dolomite Risk Management Plan (DRMP) for the specific development site shall be compiled by a qualified person and submitted to the municipality before occupation of the property shall be permitted.

### 6.2.8. Any Additional Information

The Municipality has the power to request any additional information, supplementary to above-mentioned information, at any time during the application process, from the applicant if the mentioned authority is of the opinion that it might be necessary for the consideration of the application or for improving the information available during the public participation process. Applications that do not comply with the provisions set out above, shall be deemed to be incomplete, and shall be handled as set out below.

## 7. PROCEDURES FOR SUBMISSION AND HANDLING OF APPLICATIONS

The following detail steps must be followed and taken into consideration by the applicant when applying for any component as described in the LUMS and must also be read in conjunction with the Applicable Time Frames Table below. All development applications for rezoning, subdivision, secondary and or consent use or any other relevant application in terms of the Act and/or these regulations (LUMS) will be executed strictly according to the procedures for the handling of applications as set out in the mentioned LUMS.



*Note: Talk to the Local Municipality first*

## 7.1. Pre-Application Consultation

The Municipality may require an owner of land who intends to submit an application or his or her agent to meet with the **Registrar/ Municipal Official** for a pre-application consultation before he or she submits an application to the Municipality, in order to determine the information to be submitted with the application and the precise steps. The Municipality may set guidelines for determining whether an application requires a pre-application consultation, the nature of the information that is required, the employees from the Municipality or other organs of state or other interested and affected parties that must attend the meeting and the procedures to be followed. After the precise details of the application has been discussed with the Municipality, the applicant must also request the formal Development Charge/ Capital Contribution from the said municipality (payable only after approval of the application). This document must then be provided back to the applicant within twenty one days (**21 days**) of the request. The Development Charge/ Capital Contribution must be signed by the developer/ owner and submitted as part of the formal application to the Municipality.

*Note: Talk to other role players, neighbours and departments*

## 7.2. Liaison with other Role Players and Interested and Affected Parties

It is advised that the applicant and or party acting on behalf of the land owner, contact the Municipality before commencing with any application, in order to obtain the correct procedures and application manual and official form, as well as to discuss the provision of engineering services and the prescribed accompanying documentation. Where a developer can prove that a party is content with a plan or proposal, for example by indicating an endorsement on a plan or letter of the party, such party will not necessarily be asked for comment again during the public participation process. Pre-application consultation with concerned parties is strongly encouraged as applications will be accelerated in this way.

*Note: Compile and submit*

## 7.3. Submission of the application

After the compilation of the application by the applicant, it must be submitted **in colour and in duplicate (x2)** to the Municipality, together with all the required annexures as stipulated above and discussed. A digital copy and/or a reasonable amount of additional copies of the application and all maps, documents and annexures can be requested by the Municipality and the cost thereof will be at the expense of the applicant. With the submission of any application, the relevant application fees for the relevant application(s) shall be determined by the **Registrar/ Municipal Official and requested in writing to the applicant**. All applications must be submitted in accordance with the applicable Language policy of the Municipality.

*Note: Pay the Admin Fees*

## 7.4. Application fees

The proof of payment of the determined fees and the receipt of proof of payment thereof, must be provided to the municipality before such an application is further handled and administrated. Application fees that are paid to the Municipality are non-refundable and the date of the receipt of payment will be seen as the date of commencement of the applicable time frames of the Municipality. For each application or combination of applications, a tariff is payable to the Municipality, as fees are determined annually and are contained in the list of tariffs of the Municipality. Application fees and Development Charges/ Capital contribution are different components of the process, with the first being payable at the submission of the application and the second only after approval thereof. Where two or more applications are submitted simultaneously, application fees for each type of application will have to be paid.



*Note: Did something change after submission?*

## 7.5. Continuation of Application after change of ownership

If land that forms part of any application in terms of the LUMS and By-law, is transferred to a new owner before the process is completed, the new owner may continue with the application as the successor in title to the previous owner. The new owner is regarded as the applicant for the purposes of the By-law, provided that the following is submitted to the municipality:

- i. Proof of change of ownership; and
- ii. An amended power of attorney, if an agent was appointed to make the application.
- iii. The new owner must advise the Municipality in writing of the continuation of the application in the manner prescribed.

*Note: Can an application be refused?*

## 7.6. Grounds for refusing to accept an application

The **Registrar/Municipal Official** of the Municipality may refuse to accept an application for one or more of the following reasons:

- i. The application was not submitted using the official and applicable application forms required by the Municipality and/or the application does not contain the documents required for the submission of the application.
- ii. The Municipality has already decided on the application;
- iii. There is no proof of payment (receipt) of the applicable fees;

*Note: What happens after submission and what is the time frame for each phase?*

## 7.7. Receipt, confirmation, processing and any additional fees and documentation

The following detail steps will be taken by the Municipality to ensure that all applications are handled in accordance with the applicable procedures and time frames:

- i. After the applicant has submitted the formal application to the Local Municipality (in duplicate), the Municipality will notify the applicant in writing of the acknowledgement of receiving such an application, within **21 days**. If any outstanding information, documentation, plans or fees that are required in addition to the submitted application, the Municipality will, within the same timeframe of **21 days** of receipt of the mentioned application, provide in writing such details to the applicant. If the administrator of the Municipality finds the application to be complete and at that stage no further documentation or inputs are required, the applicant will be provided with the precise amount of the Admin Fee that is payable for such an application within the same timeframe.
- ii. The applicant must provide the Municipality with any outstanding information and documentation, including the payment of the admin fees within **14 days** from the date of (i).
- iii. The Municipality will acknowledge receiving any additional information also in writing within a further **21 days**, after the applicant provided a complete and if needs be, an updated application, as well as the receipt of payment of the application fees. The date of commencement of the timeframe for the formal internal processing of such an application will commence only after all outstanding information has been received, together with the receipt of the payment of the Admin Fees. The formal date stamp on the application will be the same as the date of receipt of the fees and outstanding information.
- iv. After the completion of (i), (ii) and (iii), the Municipality will refer the relevant application (additional to advertising and notification as described hereunder), for input and comment, to any party who, according to its opinion, has an interest or can make an input. This does not include State- and/or Para-statal Departments which should be dealt with before or during the commencement of the normal public participation process, where the responsibility lies with the applicant.





- v. The Applicant must allow the said State- and Para-statal Departments a **60 day** period for comments and it is advised that this section be included as an Annexure in the application. It is also advised that all of these mentioned State- and Para-statal Departments be contacted before the submission of an application and that the formal feedback, no-objection and approvals form part of the application submitted.
- vi. The municipality will avail a template for the notification/ advertisement of the public participation process and provide this to the applicant within a period of **14 days** after a complete application and/or all outstanding and requested documents have been received by the Municipality. The Applicant will then be responsible for the process and to provide a copy of the notice to the Ward Councillor as identified by the Municipality at the cost of the applicant.

*Note: How does the public participation work?*

## 7.8. Public Participation process/ Notification of application in media

As the implications and impact will vary from application to application, the extent and methods of advertising will necessarily also not always be identical and the Municipality may request additional methods of advertisement at any stage, irrespective of the minimum as set out in this document. If the Municipality requires additional methods of public notices, it must be communicated in writing to the applicant, indicating the steps to be taken and the chosen methods.

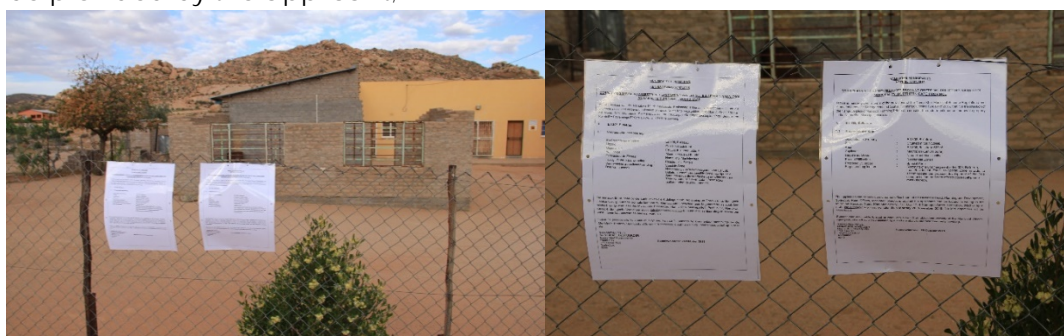
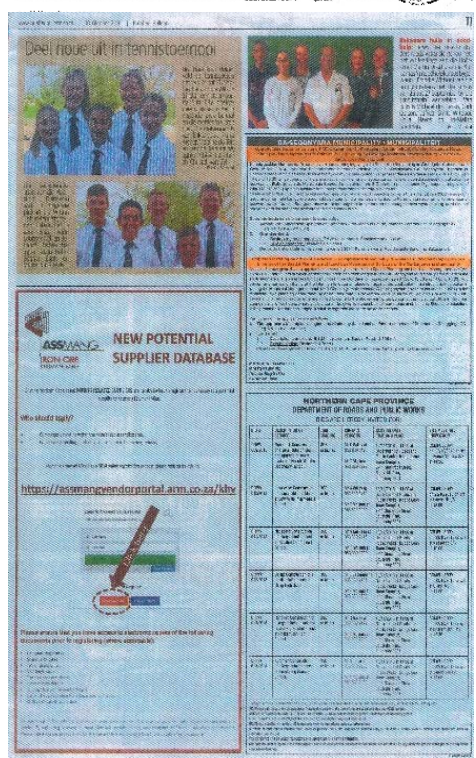
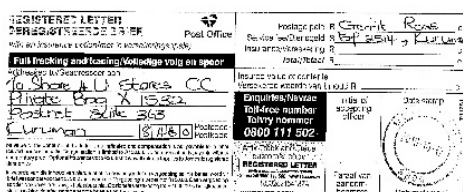
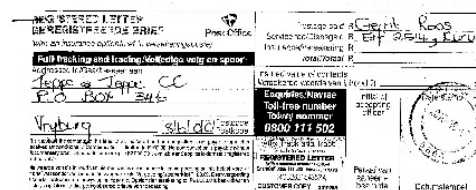
The following steps must be taken to ensure a thorough public participation process:

- i. The primary purpose of advertising and notification is to inform all interested and affected parties, who have any interest in the particular application or may be affected by the approval of the relevant application, of the proposed application. Advertising means to serve a notice of the intended action in terms of the LUMS to interested and affected parties, as may be identified by the Municipality.
- ii. The Applicant is advised to obtain the input and comments of all relevant state- and parastatals departments before submission of the application to the Municipality, as mentioned above. A period of **60 days** will be allowed for the input of the said departments and any inputs or feedback must be included as an Annexure in the application submitted to the Municipality. The following must be taken into consideration:
  - a. If a person or government department is required by the Municipality in terms of the LUMS to furnish any comment or other information and fails to furnish such a comment or input/other information within a period of **60 days** from the date on which that comment or other information was so required, that person or body may be deemed to have had no comment or other information to furnish.
  - b. The period of **60 days** mentioned in subsection (a) shall not apply to the notice of applications for public comment or objections, where the period mentioned in the notice concerned shall apply.
  - c. If such a request or input/feedback were requested from a state- or semi-state department, the applicant must provide proof of the submission and communication with the said department as annexure to the application.
  - d. The local authority reserves the right to provide an additional timeframe of **60 days** or longer to receive this input. This will not be applicable for approvals, such as SALA and Environmental processes which needs to be completed before the submission of the application.
- iii. The proof of payment (receipt) of the prescribed application fees must be supplied by the applicant to the Municipality before the mentioned body will compile the necessary advertisement/notice, as well as a list of interested and affected parties, as to enable the applicant to personally complete the advertising and notification process at his/her own expense.



iv. The placement of the notices, in accordance with the relevant procedures, is the responsibility of the applicant. Proof of the prescribed process, which include a letter stating that all prescribed process have been concluded, including a copy of the local newspaper placement, photographs of the site notifications (at least two photos of the notice, one from close up and one where the notice and full extent of a boundary can be seen where possible), the proof of the registered mail, signed notices, etc., must be provided to the Municipality before any further administrative steps can be followed. The following procedures must be followed in accordance with the prescribed advertisement procedures:

- Appending notices of the application in A3 laminated (one A3 page for each language, e.g. English and Afrikaans) on the notice boards situated at the library/ies and/or Municipal Offices/ Clinic in the town to which the application relates to; and
- The publishing a notice of the application, in newspapers with a general circulation in the area concerned, in at least two of the official languages of the Province most spoken in the area concerned; and
- The placement of the notice of application (one A3 page for each language, e.g. English and Afrikaans), for the precise duration of the notice period, on the land concerned (clearly visible on the front of the site); and
- Notice of an application must be served to each person/s and adjacent land owners whose rights may adversely be affected by the approval of the application by means of one of the following:
  - Registered post: when it is served by registered post, the date of registration must either be before the start of the formal period of participation or the latest the first day of the start of the period;
  - Personal delivery: when it is delivered to that person identified by the municipality personally, it must either be served before the start of the formal period of participation or the latest the first day of the start of the period and a signed copy of the notice must be provided by the applicant;



- v. In the advertisement it shall be mentioned that any interested and affected parties objecting to the proposed amendment, shall lodge such objection in writing within a minimum of **30 days** from the date of the advertisements at the Municipality, and it must furthermore state where the application and plans, if there are any, will be available for inspection.
- vi. The applicant will supply the Municipality with all proof of notices within **7 days** after the closure of the mentioned process, before any commencement of any further administrative procedures.
- vii. After all objections, inputs and comments have been received, the Municipality will provide the relevant correspondence to the applicant for his/her input and comment regarding the correspondence. Any liaison between the applicant and objectors that might result in the resolving of misunderstandings and subsequent withdrawal of objections is encouraged (possible mediation). If the applicant does not respond within the time frame (**90 days**) regarding the objections/inputs, the application will be regarded as having lapsed/withdrawn.
- viii. The Municipality will not consider any objection that, in their opinion, is lodged in an attempt to eliminate commercial competition.
- ix. The particular application, together with all inputs, objections and comments will then be tabled to the relevant decision-making body for consideration. In cases where the relevant application can only be considered by the relevant MEC, the Municipality will submit its recommendation/ input, together with the application and all above-mentioned documents, to the MEC for consideration. Please note the following:
  - a. The Municipality however reserves the right to request additional advertising methods of any application at any time, notwithstanding the identified processes as prescribed in the LUMS.
  - b. When applications are combined, the most comprehensive Advertisement Procedure will have to be followed.
  - c. For the relaxation, variation or amendment of original approval conditions and or restrictions, the various role players and original decision-making authorities will also have to be consulted.
  - d. If any National or Provincial Departments are identified as interested and affected parties during the pre-consultation phase, the **60 days** period that are allowed for inputs by such identified departments, may be launched before the actual submission of the application to the Municipality. The feedback of such department/s may be included in the actual application documentation as an Annexure.
  - e. The **Registrar/Municipal Official** reserves the right to request and/or require any additional steps, inputs and information in order for to process any application and ready the documentation to be submitted to the Responsible Authority for decision-making.





*Note: Can the Public Participation Process be extended?*

## 7.9. Additional public participation procedures

The Municipality may within its sole discretion after taking into account the nature of the application, require the applicant to employ one or more of the following public participation methods (additional to the prescribed process) to give additional public notice of any application. The Municipality must give written instructions to the applicant regarding the additional public notice procedures that will be implemented and the detail requirements as contemplated in this section. These requirements must be stated before the starting of the formal public participation process and will be included in the formal procedures and may include one or more of the following

- a. The lengthening of the formal period for input to **45 days** from the minimum of **30 days**.
- b. A sworn affidavit from the applicant may be requested confirming that the notice was placed on the site and remained on the site for the duration of the prescribed period;
- c. Convening a meeting for the purpose of informing the affected members of the public of the application;
- d. The broadcasting of information regarding the application on a local radio station in a specified language;
- e. The holding an open day or public meeting to notify and inform the affected members of the public of the application;
- f. The publishing the application on the Municipality's website for the duration of the period within which the public may comment on the application;
- g. Obtaining letters of consent or objection to the application from surrounding land owners; or
- h. If to the opinion of the local authority, the display of the notice on site (during the formal public participation process) was done in or on a conspicuous place on the property or premises to which it relates, an additional timeframe may be provided for the extent of the period of comment and public input.

*Note: What does the notice include?*

## 7.10. Content of notices and placements in the media

The following components must be reflected in the formal notices as it forms part of the public participation process:

- i. It must provide the full names of the applicant, the authorised representative, the full names of the representatives of the organisation;
- ii. It must identify the land or land unit to which the application relates by giving the property description in terms of the Deeds Registries Act and the actual physical address of the land;
- iii. It must state the intent and purpose of the application, detailing aspect such as the requested land use change;
- iv. It must state that a copy of the application and all supporting documentation will be available for viewing during specific hours and at the place mentioned in the notice, e.g. the local municipal offices;
- v. It must state the name and contact details of the person to whom comments, objections or representations must be addressed at the local authority;
- vi. It must invite the members of the public to submit written comments, objections or representations, together with the detailed reasons therefore, in respect of the application;
- vii. It must state in which manner comments, objections or representations may be submitted to the local authority;
- viii. The prescribed period for public input may not be less than **30 days** and must be clearly indicated on the mentioned notice.
- ix. It must state the date by which the comments, objections or representations must be submitted, which date may not be less than **30 days** from the date on which the notice was given;
- x. It must state that any person who cannot write, may during normal office hours and the office hours must also be included, come to an address stated in the notice where a named staff





member of the Municipality will assist those persons by transcribing their objections, comments or representations.

*Note: Who pays for the notice?*

### 7.11. Liability for cost of notice

The applicant is liable for the costs incurred for serving notice(s) of an application (all components and prescribed segments and additions included), as well as any additional public participation processes that needs to be conducted, on request of the Municipality.

*Note: Can I withdraw my application?*


### 7.12. Withdrawal of application or authorisation

An applicant may, at any time before the decision-making body or Designated Official as the case may be, make a decision regarding the application submitted, withdraw an application on written notice to the Municipality. The owner of land must also, in writing, inform the Municipality if he or she has withdrawn the authorisation given to his or her former agent.

*Note: Who may comment or object?*

### 7.13. Requirements for objections, comments or representations

Any person or body may, in response to a notice received in terms of the LUMS, object, comment or make representations in accordance with this section. Any objection, comment or representation received as a result of a notice and public participation process, must be in writing and addressed to the person mentioned in the notice and must be submitted within the time period stated in the notice and in the manner set out in this section. The objection, comment or representation must state the following components as part thereof:

- 
- i. The name of the person or body concerned;
  - ii. The address or contact details at which the person or body concerned will accept notice or service of documents;
  - iii. The interest of the body or person in the application; and
  - iv. The reason for the objection, comment or representation and the mentioned reasons must be set out in sufficient detail and must:
    - a. Indicate the facts and circumstances that explain the objection, comment or representation;
    - b. Must demonstrate the undesirable effect which the application will have; or
    - c. Must demonstrate any aspect of the application which is not considered consistent with applicable policy.

The Municipality may not accept an objection, comment or representation received after the closing date of the public participation process.

*Note: What about other departments and persons identified in the process?*

### 7.14. Furnishing of comment and information required for an application

- i. If a person or government department is required by the Municipality in terms of the LUMS and By-law to furnish any comment or other information and fails to furnish such a comment or input/other information within a period of **60 days or the extended period as determined**, from the date on which that comment or other information was so required, that person or body may be deemed to have had no comment or other information to furnish.
- ii. The period of **60 days** mentioned in subsection (i) shall not apply to the notice of applications for public comment or objections, where the period mentioned in the notice concerned shall apply.
- iii. If such a request or input/feedback were requested from a state- or semi-state department, the applicant must provide proof of the submission and communication with the said department.

- iv. The local authority reserves the right to provide an additional timeframe of **60 additional days or period determined by the parties involved** if necessary.

*Note: What happens when inputs and objections are received?*

## 7.15. Right of Applicant to reply to comments received



- i. Copies of all objections, comments or representations submitted to the Municipality must be given to the applicant within **fourteen (14)** days after the closing date for public comment, together with a notice informing the applicant of its rights in terms of this section.
- ii. The applicant may, within a period of **ninety (90)** days from the date of receipt of objections, comments or representations, as contemplated in subsection (i), submit a written reply thereto to the Municipality and must serve a copy thereof on all the parties that submitted objections, comments or representations.
- iii. The applicant may, before the expiry of the **ninety (90)** day period referred to in subsection (ii), apply to the Municipality for an extension of the period to submit a written reply, to an additional period of **thirty (30)** days and/ or can be extended with motivation and under special circumstances, as determined by the parties involved and affected.
- iv. If the applicant does not submit comments within the period prescribed or within an additional period agreed upon and provided, the applicant shall be deemed to have no comment on the objections, comments or representations submitted to the Municipality and the application will lapse.
- v. If as a result of the objections, comments or representations submitted to the Municipality additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be determined by the Municipality or agreed to between the applicant and the Municipality.
- vi. If the applicant does not provide the additional information within the period contemplated in subsection (v), the applicant shall be deemed to have no comment on the additional information requested.

*Note: What about public petitions?*

## 7.16. Requirements for petitions

All petitions launched for or against a specific application must clearly state the following details:

- i. The contact details of the authorised representative of the signatories of the petition, including the proxy constituting the said representative to act on their behalf;
- ii. The full name, telephone number and physical address of each signatory; and
- iii. The detail objection, comment or representation and reasons therefore.

Any notice to the person contemplated in subsection (i) constitutes notice to all the signatories to the petition.

*Note: May the application be amended before decision-making?*

## 7.17. Amendments prior to approval and decision-making on an application

An applicant may amend his or her application at any time after notice of the application has been given in terms of these LUMS and prior to the approval thereof on the following circumstances, namely:

- i. At the applicant's own initiative;
- ii. As a result of an objection, comment or representation made during the notice process; or
- iii. At the request of the Municipality.

If an amendment to an application is requested and agreed to by all parties involved, the Municipality may require that further notice of the application be given or served in terms of the LUMS and By-law in order to obtain additional inputs on the proposed amendment.



*Note: What type of conditions may be included in the decision-making?*

## 7.18. Conditions, provisions and restrictions

The Municipality may approve an application subject to conditions for the proposed utilisation of land. Where the Municipality approves any application, specific conditions, provisions and/or restrictions for approval of the application may be included in the final approval, with the purpose of ensuring that the intention of the application as approved, is adhered to or to address any particular objection. If the Municipality imposes a condition pertaining to engineering services contemplated in this LUMS, an engineering services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land. Except for land needed for public places or internal engineering services, any additional land required by the Municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land. No conditions may be imposed that rely on a third party for fulfilment.

If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land. If no specific mention is made, all conditions must be met before first transfer of property and/or any development may take place. The Municipality may, on its own initiative or on application, amend, delete or impose additional conditions after having given due notice to the owner and any persons whose rights may be affected.

*Note: What about the Development Charges and Capital Contribution?*

## 7.19. Development charges/ Capital Contribution Fee

The following components are applicable regarding development charges/ Capital Contribution fees relating to developments within the borders of the Municipality as imposed by Council in accordance with sections 40(7b) of the Act, namely:

- i. The applicant must pay development charges to the Municipality in respect of the provision of an external engineering service by the municipality after approval of the development (land use change application/ amendment/ development).
- ii. The external engineering service, for which development charges are payable, must be set out in a policy adopted by the Municipality and/or annual fixed tariff list and included in the approval letter.
- iii. The amount of the development charges payable by an applicant must be calculated in accordance with the policy and/or annual fixed tariff list adopted by the Municipality. The development charges/ Capital Contribution must be signed by the owner and developer and submitted with the application.
- iv. The date by which development charges must be paid and the means of payment must be specified in the conditions of approval.
- v. The development charges imposed are subject to escalation at the rate calculated in accordance with the policy and/or annual fixed tariff list on development charges and will be recalculated if these rates have changed before the payment is made.

**CAPITAL CONTRIBUTION**



Note: How do I understand the time frame of this LUMS process?

## 7.20. Applicable time frame

The following minimum and/or maximum time frames are applicable to the various actions during processing and consideration of any application, but may also be subject to National Regulations and time frames for specific applications. All time frames are determined by allowing **7 days** for postal delivery after date of postal slips, where-after the time frame becomes operational:

Steps:	Process:	Prescribed Timeframe:	Responsibility:
1	Start of project, appointment of consultants, pre-consultation meeting with Municipality.	NA	Applicant/ Owner/ Local Authority/
2	Period of input from any other department or body (outside of municipal departments), which may be launched before submitting an application to the Municipality. The Municipality reserves the right to determine if an input from any department is mandatory, e.g. SALA, EA, Bondholders Consent, etc.	60 days (could be lengthened by Local Authority)	The Applicant and other departments.
3	The formal request from the applicant to the Local Authority to determine the Development Charge/Capital Contribution and the formal calculation by the said authority. The owner/developer must acknowledge and sign the Development Charge/ Capital contribution and this must be included as part of the formal application.	21 days	The Applicant and Municipality
4	Submission of completed application (including motivation report and Annexures):	NA	The Applicant.
5	The Municipality studies the documentation submitted and may request additional and/or outstanding information in order to process the application. The Municipality responds in writing and indicates the Application/ Administrative Fees payable for handling the application.	21 days	The Municipality.
6	After receiving the feedback and request for additional information from the Municipality, the applicant must provide formal feedback and proof of payment of the Admin Fees.	21 days	The Applicant.
7	After the Municipality has received all outstanding and additional requested information from the applicant to the satisfaction of the Registrar/ Municipal Official (if not, process reverts back to Step 5), the compilation of notices for the launching of the public participation process can start.	14 days	The Municipality.
8	Launching of the prescribed public participation process. If additional measures are implemented, the timeframe may be lengthened.	30 days minimum	The Applicant.
9	Providing proof of public participation process to the Municipality after closure of the public participation process.	7 days	The Applicant.
10	Municipality provide applicant with all comments and/or objections received for his/her comment. If no comments and inputs were received, Step 12 starts	14 days	The Municipality
11	The applicant's response to inputs and objections received during the public participation process. Extension for the provision of comments may be requested and any mediation and/or agreements may be reached before Step 12 proceeds.	90 days	The Applicant
12	Presentation of the application to the decision-making authority and request a decision on the application.	100 days	The Municipality and Decision-making authority.
13	Notice of the decision to the applicant and any person and or body that gave inputs and objections during the public participation process.	21 days	The Municipality.
14	The affected parties (applicant or any of the objectors during the formal process) may appeal against the decision of the Decision-making body and compile a formal appeal document. Submitting an appeal against a decision.	21 days	The applicant/ Objectors.
15	Knowledge regarding date and place of appeal hearing.	21 days	Appeal Authority
16	Hearing by the Appeal Authority.	60 days	Appeal Authority
17	Notice of Appeal Authority's final decision.	14 days	The Responsible Appeal Authority
18	Expiring of approval if rights are not used.	2 years	The Applicant
19	Extension of approval after the lapsing of the initial 2 year period.	max. 3 years	The Municipality
20	If the developer/ owner/ applicant fails to take up the new land rights/ amendment/ development approvals requested within Steps 19 and 20, all approvals lapse and the process must start back at Step 1.	Total 5 Years	Developer/ Applicant/ Owner

Table 2: The prescribed Time Frame for the handling of land use control and land use change applications.





Note: Intervenor status lasts from Steps 8 – Steps 17

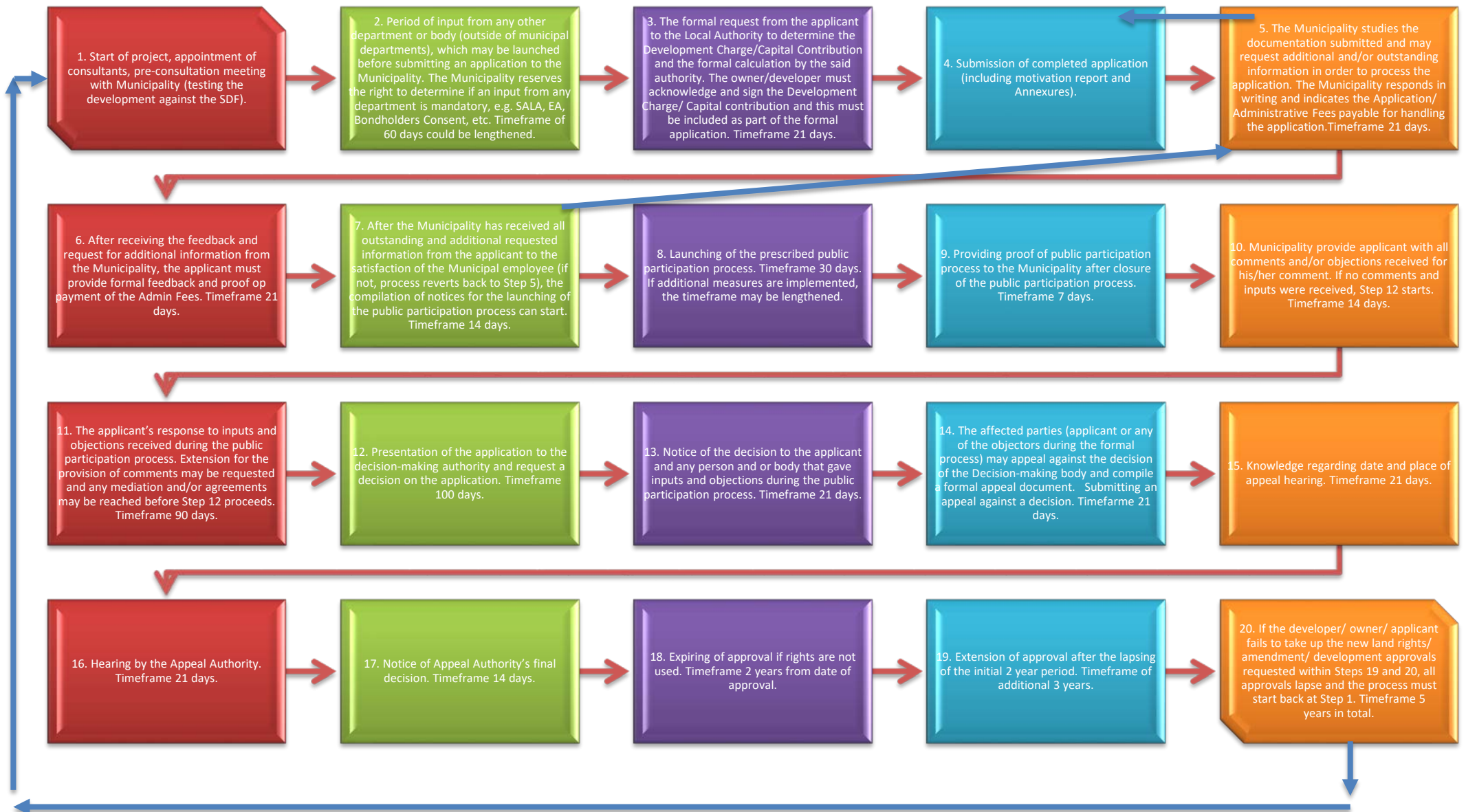


Figure 2: Flowchart of process lines and timeframe for the SPLUMA process.



Note: Who may view my application?

## 7.21. Access to Information about an Application

By lodging an application in terms of this LUMS, the applicant acknowledges that the information contained in the application and obtained during the process may be made available to the public and by lodging an objection, representation, comment or appeal, the person doing so acknowledges that information may be made available to the public and to the applicant.

Note: How many approvals may be requested at once?

## 7.22. Simultaneous consideration of applications

When an application demands various approvals in terms of this and/ or other legislation, and two or more of the applications must be advertised, the applicant has to indicate this to the Municipality to ensure the simultaneous advertising of all such applications. This is also applicable for applications that combine more than one zoning per erf and can be included into one application process.

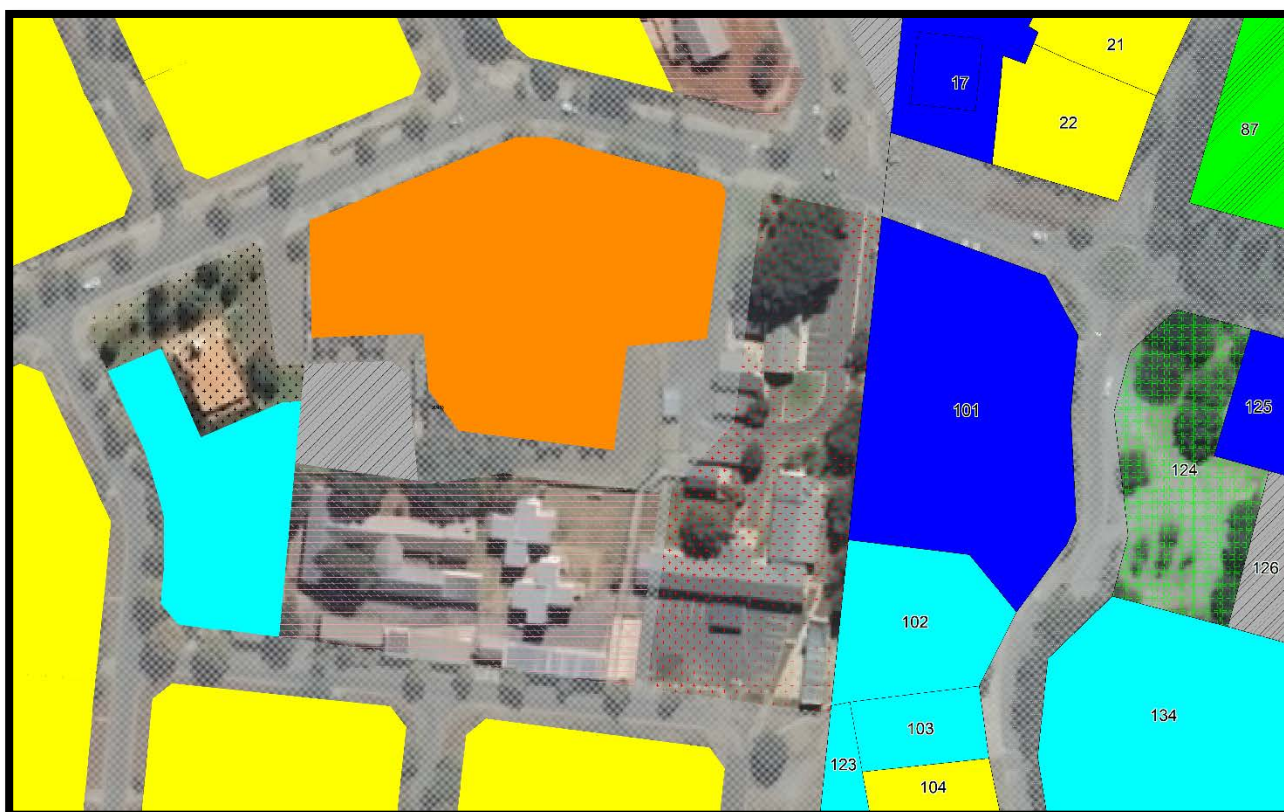


Figure 3: The image above depicts the difference between areas already formalised and subdivided (to the right) and the areas to the left that must still be formalised. More than one land use and application can thus be combined in such a case per application if formalisation is planned in the future.

Note: Who assesses my application?

## 7.23. Written assessment of application

- i. The Municipal Planning Tribunal or the Designated Official may request the Municipality to provide it with a written assessment of any application within a reasonable period of time.
- ii. A written assessment contemplated in subsection (i) may include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

Note: When and how is a decision taken?

## 7.24. Decision and decision-making structures

### 7.24.1. Timeframe for decision-making

The LUMS of the Municipality provides a detail structure for the decision-making process by the Municipality, as adopted by the Council of the Municipality (please see Municipal decision on Municipal/ District/ Joint Planning Tribunal and authorised personnel of decision-making structures). Please note: If inputs and or objections are received during the public participation process, it must be noted that the decision will be taken by the Municipal/ District/ Joint Planning Tribunal, irrespective of delegated powers.

The following steps and time frame are applicable in order for the Municipality to take a decision on any application received:

- i. The **Registrar/ Municipal Official** has a maximum of **100 days** after closing date of objections, or date on which feedback was received from the applicant on inputs on comments received during public participation process, to compile the items for presentation of the application to the decision-making body. Within the same time frame of **100 days** the decision-making body must also take a decision on the application.
- ii. All hearings (applications, objections, comments and appeals) will be written hearings. Neither the Municipal Planning Tribunal, Authorised Official nor the Appeal Body may accommodate any oral representations and/or hearings.
- iii. After the decision-making body has taken a final decision on the application, the **Registrar/ Municipal Official** has **21 days** to provide written feedback to the applicant and all parties which gave input during the public participation process. The Municipality will communicate in writing the final decision on the application to all parties involved (applicant, objector or person/party), notwithstanding the outcome of the decision.
- iv. If any development right is granted subject to any conditions as may be imposed in respect thereof, the applicant and owner must comply with such conditions imposed, as well as any conditions contained in any applicable land use management scheme and the Spatial Development Framework (SDF) of the Municipality.

Note: Who takes the final decision?

### 7.24.2. Decision-Making Structures

Land Use and Development Application decisions will be made in accordance with the applicable legislation and the LUMS. Any application that is submitted to the Municipality, will be handled, by either the Municipal Planning Tribunal (including the District Planning Tribunal), the Municipal official as per Section 35(2) of SPLUMA in accordance with the LUMS. If inputs and or objections are received during the public participation process, it must be noted that the decision will be taken by the Municipal Planning Tribunal, irrespective of delegated powers.

An approval granted or deemed to have been granted in terms of the LUMS and/or SPLUMA do not –

- i. Release anyone from their duty to also obtain any other authorisation required by this LUMS and/ or any other law, and to comply with all laws, a title deed restrictions or any requirement in the constitution of an owners' association; or
- ii. Oblige anyone to execute or use the approval granted.



Note: What happens if someone or even myself is not satisfied with the decision taken?

## 7.25. Appeal Authority, the right to appeal and internal appeals

Any owner of land, the applicant, any person who submitted an input or an objector or person/party that made any written input during the above-mentioned process, has the right to appeal against the Municipality's decision if he/she feels that he/she is wronged by the decision. Please see section below in Intervenor status and how to go about in obtaining this status. Such an appeal on any application in accordance with the KLM By-Law, shall be submitted within **21 days** after notification of the decision (notification date taken as **7 days** after date of letter of decision) is received and a copy of the appeal shall simultaneously be sent to the District Municipality as notice of the appeal. The appeal must be provided to the Appeal Authority in accordance with the Council resolution taken on this matter. If no notice of such an appeal is received by the Municipality within the prescribed time frame, the mentioned authority will proceed accordingly. The following time frames may be subject to the regulations of the Appeal Authority and thus may change accordingly:

- i. Any person or body may, after receiving the final decision of the decision-making authority, launch an appeal against such a decision within **21 days** from the date of notification (municipal date stamp required). Such an appeal must be addressed to the Municipal Manager of **Kgatelopele LM**.
- ii. After receiving the written appeal from the mentioned person or body (submitted to the Municipal Manager) and received in good order, the documentation must be handed over to the **Appeal Authority** for documenting and processing.
- iii. The Appeal Authority has **21 days** to give notice to the various role-players regarding the date and place where the appeal will take place.
- iv. The hearing of the Appeal Authority must take place within **60 days** after giving notice of the said place and date.
- v. The **Registrar/ Municipal Official** of the Appeal Authority has **14 days** to give notice of the decision of the mentioned body to all role players.



Note: Info on obtaining intervenor status

## 7.26. Petition to be granted intervenor status

- i. Where an application has been submitted to the Municipal Planning Tribunal, authorised official or any of its sub-delegates or an appeal has been lodged to the appeal authority, an interested person may, at any time during the proceedings, but within **7 days** of becoming aware of the proceedings, request and petition the local authority in writing to be granted intervenor status.
- ii. The petitioner must submit together with the petition to be granted intervenor status, a full motivation in support of the petition and an affidavit stating that he or she:
  - a. Does not collude with any applicant, objector or appellant; and
  - b. Is willing to deal with or act in regard to the application or appeal as the local authority may direct.
- iii. The municipality must determine whether the requirements of this regulation have been complied with and must thereafter provide a copy of the petition referred to in (i) to the parties involved to the application or appeal.
- iv. The local authority must either through the delegated official or the Municipal Planning Tribunal, determine whether a petitioner qualifies as an interested person as contemplated in section 45 (iv) of SPLUMA and may include the following:



- a. Whether such a person or organisation has a pecuniary or proprietary right or interest in the matter;
- b. That such a person or organisation's right or interest has been affected by the application or may be adversely affected in future;
- c. That the petitioner represents a group of people who have a direct concern in the proceedings;
- d. The ability of the petitioner to protect his or her interest would be impeded by the decision of the Planning Tribunal, authorised official or appeal authority.
- e. The petitioner will provide a different perspective on the issues before the Planning Tribunal or authorised official or appeal authority than has already been brought forward in the process.
- v. A determination by the Planning Tribunal, authorised official or appeal authority whether a petitioner qualifies as an interested person or body, is final and shall not be subject to any further appeal as envisaged in section (i) above and must be communicated to the petitioner and the parties to proceedings in writing without delay

*Note: What can be included in the final decision and feedback?*

## 7.27. Conditions of Approval

- i. The Municipal Planning Tribunal or the designated municipal official, as the case may be, may approve an application subject to reasonable conditions that arise from the approval of the proposed utilisation of land.
- ii. Conditions imposed in accordance with subsection (i) may include conditions relating to—
  - a. the provision and the requirements for engineering services and infrastructure;
  - b. the cession of land or the payment of money;
  - c. the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
  - d. the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
  - e. settlement restructuring;
  - f. agricultural or heritage resource conservation;
  - g. biodiversity conservation and management;
  - h. the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
  - i. energy efficiency;
  - j. requirements aimed at addressing climate change;
  - k. the establishment of an owners' association (HOA) in respect of the approval of a subdivision;
  - l. the provision of land needed by other organs of state;
  - m. the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality;
  - n. the registration of public places in the name of the municipality;
  - o. the transfer of ownership to the municipality of land needed for other public purposes;
  - p. the implementation of a subdivision in phases;
  - q. requirements of other organs of state;
  - r. the submission of a construction management plan to manage the impact of the construction of a new building on the surrounding properties or on the environment;
  - s. agreements to be entered into in respect of certain conditions;
  - t. the phasing of a development, including lapsing clauses relating to such phasing;
  - u. the delimitation of development parameters or land uses pertaining specifically to a specific land use or the combination of land uses or zonings;
  - v. the setting of a validity period, if the Municipality determined a shorter validity period as contemplated in the LUMS and By-law;
  - w. the setting of a period within which a particular condition must be met;



- x. requirements for an occasional use, which must include—
  - i. parking and the number of ablution facilities required;
  - ii. the maximum duration or occurrence of the occasional use; and
  - iii. parameters relating to the approved occasional use.
- iii. If the Municipality imposes a condition contemplated in subsection (ii)(a), an engineering services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
- iv. A condition contemplated in subsection (ii)(b) and (c) may require only a proportional contribution to municipal public expenditure according to the normal need therefore arising from the approval, as determined by the Municipality in accordance with provincial norms and standards.
- v. Municipal public expenditure contemplated in subsection (iv) includes, but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
  - a. community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
  - b. conservation purposes;
  - c. energy conservation;
  - d. climate change; or
  - e. engineering services.
- vi. Except for land needed for public places or internal engineering services, any additional land required by the Municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- vii. If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.

*Note: What about errors and omissions?*

## 7.28. Errors and omissions on decisions taken

- i. The Municipal Planning Tribunal or the **Registrar/ Municipal Official** may at any time correct an error in the wording of its decision, if the correction does not change its decision or result in an alteration, suspension or deletion of a condition of approval.
- ii. The Municipal Planning Tribunal or the **Registrar/ Municipal Official** may on its own initiative or on request by the applicant or interested party, and upon good cause shown, condone an error in a procedure, provided that such condonation does not have a material adverse effect on, or unreasonably prejudices, any party.

*Note: What about parks and open spaces?*

## 7.29. Land for parks, open spaces and other uses as identified

- i. When the Municipality approves a development application which provides for the use of land for residential purposes, the applicant may be required to provide land for parks or public open spaces.
- ii. The extent of land required for parks or public open spaces is determined by the Municipality in accordance with its applicable LUMS and the Spatial Development Framework (SDF) of the Municipality.
- iii. The land required for parks or public open spaces must be provided within the land area of the development application or may, with the consent of the Municipality, be provided elsewhere within the municipal area, as contemplated in section 50(2) of the Act.
- iv. When a development application is approved without the required provision of land for parks or open spaces within the land area of the development, the applicant may be required to pay money to the Municipality in lieu of the provision of land which shall not be more than the actual costs of obtaining, developing and establishing such a park or open space.



*Note: And the naming of streets?*

### 7.30. Naming and numbering of streets

- i. If as a result of the approval of a development application streets or roads are created, whether public or private, the Municipality must approve the naming of the street and must allocate a street number to each of the erven or land units located in such street or road.
- ii. The proposed names of the streets and numbers must be discussed with the Ward Committee and submitted with the approved Surveyor-General Diagram (subdivision applications).
- iii. In considering the naming of streets, the Municipality must take into account the relevant policies regarding street naming and numbering.
- iv. The Municipality must notify the Surveyor-General of the approval of new streets as a result of the approval of an amendment or cancellation of a subdivision in accordance with the LUMS.

*Note: Final transfer of properties created?*

### 7.31. Transfer clearance

- i. A transferor intending to effect the first registration of transfer of a land unit which arises out of an approved subdivision within the area of the municipality, may be required by the municipality to provide the municipality with proof to the satisfaction of the municipality that all the requirements of the original approval have been met.
- ii. A transferor intending to effect the registration of transfer of any land unit within the area of the municipality that is indicated on the system as being subject to the action referred to in the section regarding the approval conditions, must provide proof to the satisfaction of the municipality, that:
  - a. in cases where a contravention levy was imposed in terms of the LUMS, that the levy or penalty has been paid.
  - b. in cases where a compliance notice has been issued, that the directive has been complied with.
- iii. If the Municipality is satisfied that the requirements of subsection (i) and (ii) have been met, the Municipality may issue a certificate authorising the transfer.

*Note: What happens if I do not get a decision?*

### 7.32. Non-Performance by relevant Authority

If no decision is made in the prescribed timeframe by the Municipality and if all necessary procedures and prescribed actions have been completed by the applicant, it shall be deemed to be an undue delay according to the Act. In such a case the applicant must refer to the National SPLUMA Regulations for detail on the necessary steps to be taken.

*Note: Can I get a penalty if I don't comply?*

### 7.33. Enforcement, offences and penalties

- i. Any person who—
  - a. contravenes or fails to comply with the LUMS or
  - b. utilises land in a manner other than prescribed by a zoning scheme without the approval of the municipality and who does not cease that use or take reasonable steps to ensure that the use ceases; or
  - c. supplies particulars, information or answers in an application knowing it to be false, incorrect or misleading or not believing them to be correct,
 is guilty of an offence and is liable upon conviction to a fine and/or imprisonment, as stated in the Act.



- ii. An owner who permits his or her land to be used in a manner set out in subsections (i)(a) and (i)(b) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to breach the provisions of a zoning scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment, as stated in the Act.
- iii. Any person who refuse an authorised employee of the Municipality access to land in terms of sections 32 and/or 48 of the Act or hinders the authorised employee, is guilty of an offence and liable upon conviction to a fine and/or imprisonment as stated in the Act.

Note: What is the powers of Municipal employees?

### 7.34. General powers and functions of authorised employees

- i. An authorised employee of the Municipality may, without the permission of the occupier or owner of land, at any reasonable time, without a warrant and without previous notice, enter upon land or enter a building or premises for the purpose of ensuring compliance with the By-law and Scheme Regulations.
- ii. An authorised employee must be in possession of proof that he or she has been designated as an authorised employee for the purposes of subsection (i).
- iii. An authorised employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

Note: Decisions to be taken by the MEC?

### 7.35. Applications that need to be referred to the MEC for approval

The following applications may not be considered by the Municipality, and the Municipality will, when such applications are received, process and consider the application and make a recommendation to the MEC:

- i. Any application that will have an effect on the powers of any provincial or national government level.
- ii. Any application that might have a financial influence on any provincial or national department.
- iii. Any application that might be conflicting with any provincial or national development plans.

Note: May municipal personnel inspect my property?

### 7.36. Powers to conduct routine inspections

An employee authorised by the Municipality may, in accordance with the requirements of these LUMS enter land or a building for the purpose of assessing an application and/or determining whether conditions of approval are adhered to. When conducting an inspection, the authorised employee may:

- i. Request that any record, document or item be produced to assist in the inspection;
- ii. Make copies of, or take extracts from any document produced by virtue of paragraph (i) that is related to the inspection;
- iii. On providing a receipt, remove a record, document or other item that is related to the inspection;
- iv. Inspect any building or structure and make enquiries regarding that building or structure; and
- v. Such an authorised employee may also take photos of the site for documentation reasons.

No person may interfere with an authorised official/ employee who is conducting an inspection as contemplated in this section. The authorised official/ employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection. An





inspection must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

*Note: If my property is inspected, what can I expect?*

### 7.37. Powers of entry, search and seizure

- i. In ensuring compliance with the LUMS, an authorised employee of the Municipality may—
  - a. question any person on land entered upon, or in a building or on premises entered, who, in the opinion of the authorised employee, may be able to furnish information on a matter that relates to the enforcement of the LUMS and the By-law;
  - b. question any person on that land or premises or in that building about any act or omission in respect of which there is a reasonable suspicion that it might constitute—
    - i. an offence in terms of the By-law;
    - ii. a contravention of the By-law; or
    - iii. a contravention of an approval or a term or condition of that approval;
  - c. question that person about any structure, object, document, book, record or written or electronic information or inspect any structure, object, document, book or record which may be relevant for the purpose of this subsection;
  - d. copy or make extracts from any document, book, record or written or electronic information referred to in paragraph (c), or remove that document, book, record or written or electronic information in order to make copies or extracts;
  - e. require that person to produce or deliver to a place specified by the authorised employee, any document, book, record or any written or electronic information referred to in paragraph (c) for inspection;
  - f. examine that document, book, record or any written or electronic information or make a copy thereof or an extract there from;
  - g. require from that person an explanation of any entry in that document, book, record or any written or electronic information;
  - h. inspect any article, substance, plant or machinery which is or was on the land, or any work performed on the land or any condition prevalent on the land, or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;
  - i. take photographs or make audio-visual recordings of anything or any person on that land or those premises or in that building that is relevant to the purposes of the investigation; or
  - j. seize that book, record or any written or electronic information or that article, substance, plant or machinery or a part or sample thereof that in his or her opinion may serve as evidence at the trial of the person to be charged with an offence under the By-law or the common law, provided that the user of the article, substance, plant or machinery on the land or premises or in the building concerned may make copies of such book, record or document before the seizure.
- ii. When an authorised employee removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated in this section, he or she must issue a receipt to the owner or person in control thereof.
- iii. An authorised employee may not have a direct or indirect personal or private interest in the matter to be investigated.

*Note: When can I do a re-application?*

### 7.38. Re-applications

If any application is denied by the Municipality and/or the Appeal process, such applicant or any successive owner of the particular land, may not submit an application for the same or similar use within a **period of 5 years**, unless it can be proved the circumstances or nature of the application and or objections received on the application have changed.



*Note: Do land use rights lapse after a time-period?*

### 7.39. Lapse of land use rights (approval)

Any new land use rights, added to a portion of land, according to an approval by the Act or the LUMS, **lapse after 3 years** (or any other period that may be determined by other legislation and replaces or exceeds this Act), unless the owner has demonstrated that he/she has developed or used the land according to the application (**including the registration and transfer of at least one erf for subdivisions**).

Any applicant may, before the lapsing of the mentioned approval period of **3 years**, lodge an application for the extension thereof to the Municipality before the date on which the approval lapses, and after evaluation, further extension(s) of **1 year** may be approved to a maximum of **2 years** in total (**5 years in total from date of first approval**). The following will be applicable:

- i. The Municipality may approve an application for the extension of a validity period of any development right granted in terms of the By-law, on a date before or after the expiry of the validity period of an approval, if the application for the extension of the period was submitted before the lapsing of the development right granted.
- ii. When the Municipality considers an application in terms of subsection (i), it must have regard to the following:
  - a. whether the circumstances prevailing at the time of the original approval have materially changed; and
  - b. whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval, have materially changed.
- iii. The extension of development rights granted will be considered by the Municipal Planning Tribunal or the designated employee who granted such rights.
- iv. The extended validity period takes effect on and is calculated from the date on which the original development right thus granted, lapsed.

*Note: What is the other legislative components for inspections?*

### 7.40. Warrant of entry for enforcement purposes

- i. A Magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
  - a. prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
  - b. purpose of the inspection would be hampered by the occupier or owner's prior knowledge thereof.
- ii. A warrant may only be issued if it appears to the Magistrate from information on oath that there are reasonable grounds for believing that—
  - a. an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
  - b. an authorised employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect will be refused;
  - c. there are reasonable grounds for suspecting that an offence has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
  - d. the inspection is reasonably necessary for the purposes of the LUMS and By-law.
- iii. A warrant must authorise the Municipality to enter upon the land or to enter the building or premises to take any of the measures as specified in the warrant, on one occasion only, and that entry must occur—
  - a. within one month of the date on which the warrant was issued; and
  - b. at a reasonable hour, except where the warrant was issued on grounds of urgency.



*Note: Can I lodge a complaint?*

## 7.41. Lodging a complaint

- i. A person, who is affected by an alleged contravention of the LUMS of the Municipality, may in writing, request the Municipality to investigate the alleged contravention and to act in terms of the mentioned LUMS and By-law.
- ii. A person who submits a complaint, objection, comment or representation must provide –
  - a. Sufficient details of the contravention;
  - b. Their full name;
  - c. Their address and other contact details and the method by which they may be notified;
  - d. The reason for the complaint or how they are affected by the contravention, including at least:
    - i. The effect the contravention has on them or the specific area;
    - ii. Any aspect of the contravention that is considered to be inconsistent with policy, and how.
- iii. An objection, comment or representation which does not meet the requirements of subsection (ii) may be disregarded.
- iv. The Municipality must then investigate the complaint within the time and in accordance with the procedure set out in the LUMS and take steps to rectify the matter.

## 8. DEVELOPMENT INCENTIVES, EXEMPTED AND ABRIDGED PROCESSES

*Note: What about development incentives linking the SDF and the LUMS?*

### 8.1. Development Incentives linking the LUMS and the SDF

SPLUMA requires that a LUMS include land use and development incentives to promote the effective implementation of the SDF and the sustainability goals of the Kgatelopele SDF. The SDF was compiled to such an extent and in detail as to include various structuring elements as part of the document and development areas already included in the spatial vision maps. These maps form the basis of future development and the LUMS are consequently linked to these elements with various shortened procedures where applicable. The SDF include various decision-making factors and links the structuring elements to what is allowed and what not. This further is then linked to the LUMS by means of shortened processes and described in detail in these documents. The following components were included and could possibly be included in the future:

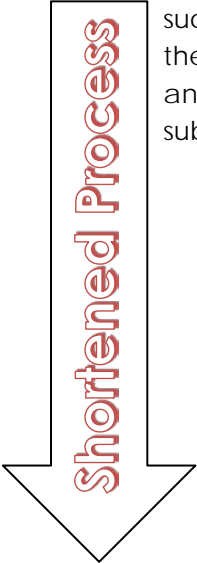
- i. Reducing lot size, setbacks and parking requirements:
  - a. The residential categories were broken down to reflect the current status quo of size and also include reduces building lines for each erf size category.
  - b. The policies for development as identified for precinct areas allow for densification thereof, the combination of land uses and the possibility for organising alternative parking arrangements.
  - c. The inclusion of mixed uses as part of the LUMS and the specific inclusion of SMME, LED and various community related activity in nodes and precincts are highlighted.
- ii. The specific inclusion of mixed land use zones as part of the LUMS and thereby enabling infill practises, providing the opportunity to provide affordable housing in areas close to business activities and options for the combination of land uses in areas forming part of the structuring elements.
- iii. To increase density in areas forming part of the structuring elements, allows for developers to combine higher order business development with higher density residential development, adhering to infill planning and restructuring of the towns and communities striving towards integration.



*Note: What about shortened procedures and applications?*

## 8.2. Exempted Subdivisions and Consolidations (shortened procedures)

The following subdivisions and consolidations are to the advantage of the general public, or are of such a nature that it cannot negatively influence any adjacent land owner or occupant and are therefore exempted from the advertising requirements and application fees of a normal application and includes the following subdivisions, namely (please note that a formal application must still be submitted):

- 
- i. The subdivision of land for the building or changing of roads, railway lines or any other matter in regard therewith;
  - ii. The subdivision of land to bring about the transfer thereof to a local authority, para-statal or other statutory body with the exception of land units expropriated for development;
  - iii. The subdivision of land where the State may require a survey, irrespective whether the State is the land owner or not;
  - iv. The subdivision of land to implement the registration of a servitude or lease area in the name of a local authority, the state, a para-statal or other statutory body;
  - v. The subdivision or consolidation of land that arises from the implementation of a court ruling;
  - vi. The subdivision or consolidation arises from an expropriation;
  - vii. The registration of a servitude or lease agreement for the provision or installation of—
    - a. Water pipelines, pump stains, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
    - b. Telecommunication lines by or on behalf of a licensed telecommunications operator;
  - viii. The exclusive utilisation of land for agricultural purposes, if the utilisation—
    - a. Already has approval in terms of legislation regulating the subdivision of agricultural land; and
    - b. Does not lead to urban expansion.
  - ix. The granting of a right of habitation, right of way, pipe line or usufruct
  - x. Applications for registration of a sectional title scheme in terms of the Sectional Title Act (Act 95 of 1986) and where the definitions of the land use rights of the property permit sectional titles.

At the submission of these applications, the following documentation will be sufficient as part of the abridged procedures, unless the Municipality requires any additional information on any specific application, and approval may be granted by the Delegated Official handling Town Planning, namely:

- i. An Orientating Locality Map,
- ii. A Basic Layout Plan and
- iii. A completed Application Form (Comprehensive).

## 8.3. Applications subject to Abridged Procedures

The following applications falls under the abridged procedures, which includes minimum advertising procedures and application requirements. These applications include the following, namely:

- i. Development that adhere to the spatial vision plans of the SDF, can follow the minimum advertisement procedure per specifications in the LUMS.
- ii. Subdivision, necessitating the survey of streets and/or closed public open spaces, enabling it to consolidate with the adjoining erf or erven;
- iii. The subdivision of land in existing housing schemes in order to make private ownership possible;
- iv. The subdivision of land in order to amend the communal boundaries between two or more land units;





- v. The amendment or cancellation of a general plan of a township;
- vi. Application for the extension of the approval period of an application before the lapsing thereof;
- vii. The consolidation of any land portion; and

At the submission of these applications, the following documentation will be sufficient, unless the Municipality requires any additional information on the specific application, namely:

- i. A orientation locality map, showing the site in relation to the surrounding area;
- ii. A basic Layout map.
- iii. A copy of the title deed(s) and survey diagram(s) of the land;
- iv. A copy of any servitude deed regarding the land;
- v. A copy of any bond(s) regarding the land, together with the bondholder's consent, if applicable;
- vi. The owner's consent and/or power of attorney, if applicable; and
- vii. The completed Application Form (Comprehensive).

*Note: Are there general principles and policies applicable?*

## 9. GENERAL PRINCIPLES AND POLICIES

### 9.1. General principles, policy, influencing factors and further inputs required

The Municipality will use the following principles as basis for the consideration of any application:

- i. The national principles of sustainability, equality, efficiency, integration and sound management.
- ii. The Development Principles as set out in SPLUMA, Act 16 of 2013.
- iii. The reconcilability of the application with the definitions of the SDF and the IDP and any other approved planning document or plan of the Municipality.
- iv. The sustainable delivery of services, such as water, electricity, sewerage and refuse removal, and access to the site.
- v. The Municipality's prescribed procedure and advertising requirements shall strictly be adhered to.
- vi. Reconcilability of the application with the Municipality's Spatial Guidelines as included in the LUMS, any policy document or previous resolutions of the Municipality.
- vii. Any policy of the Municipality, as included in the Municipality's Policy Register or minutes of meetings.
- viii. The impact on existing rights (other than the right to be protected against trade competition).
- ix. No application which will provide for the establishment of any bottle store or any other sales point for alcohol (wholesale excluded), including secondary sales of alcohol inside shops or supermarkets, will be allowed within residential or industrial areas, or any other area not indicated in the SDF, indicated as a CBD or secondary nodes.

### 9.2. Infrastructure and availability of services

Engineering services installed by an owner or developer shall comply with the minimum standards for the provision of engineering services as laid down by the Municipality from time to time. The installation and provision of engineering services for less than 4 erven shall not be subject to a services agreement being entered into with the Municipality, subject to (i), and in the absence of a services agreement, the responsibility for the installation and provision of services shall be placed on:

- i. The owner or developer for all internal engineering services within the boundaries of the property concerned;
- ii. The owner or developer for connecting internal roads and services to the municipal network adjacent to but outside the boundaries of the property; and





iii. The Municipality for external engineering services which are located outside the boundaries of the property concerned, and to which the internal services connect, provided

that where the upgrading or provision of external services are required, it shall be the responsibility of the developer at his cost, except when the Municipality decides otherwise.

The owner or developer may install external services to the satisfaction of the Municipality, or may make a contribution in whole or in part for the cost of external services:

- i. If the Municipality does not have sufficient funds; or if the installation of such external services does not conform to the Municipality's current capital expenditure programme; and
- ii. The conditions relating to such contribution shall be negotiated between the Municipality and the owner or developer, and shall be recorded in a services agreement.

The Municipality may impose a levy on any new development, departure use, secondary or consent use in order to provide for public open space, or to recover the cost of funding the provision of or upgrading of external services, or for some other purposes, provided such levy is consistently applied. The Municipality shall not issue clearance certificates for the transfer of individual erven within any development prior to the submission and acceptance by the mentioned authority of certificates issued and duly endorsed by a professional engineer that all services to be provided for as set out in the approved services agreement, or otherwise agreed upon, has been properly installed.

Further to and forthcoming, the Municipality shall not receive for consideration any building plans, except building plans relating to services infrastructure or associated structures, prior to the necessary clearance certificates having been issued for the individual erf within a development. Subdivision certificates shall not be issued by the Municipality, prior to the payment of the standard development levies pertaining to services whether towards internal or external services, unless formally otherwise agreed upon with the mentioned authority.

The provisions determined shall be applicable to each phase of a development, unless formally otherwise agreed upon with the Municipality. Where bulk meter installations are being provided for a development, the Municipality will only be responsible for the reading of the bulk meters, and the body corporate / home owners association shall be responsible for internal administration.

## 9.3. Development influenced by Flood lines and flood plains

### 9.3.1. General

The local authority may at all times request that the flood lines be indicated on plans accompanying any land development application, in order to inform their decision-making. Furthermore, it remains the prerogative of the decision-making authority to limit any development in such areas as has been designated within the SDF. Please Note: All applications, where flood lines are present and where such flood lines influence the development proposal, will be subject to the inputs and approval from all applicable National & Provincial Departments. Applicable approvals are a prerequisite and must accompany the application.



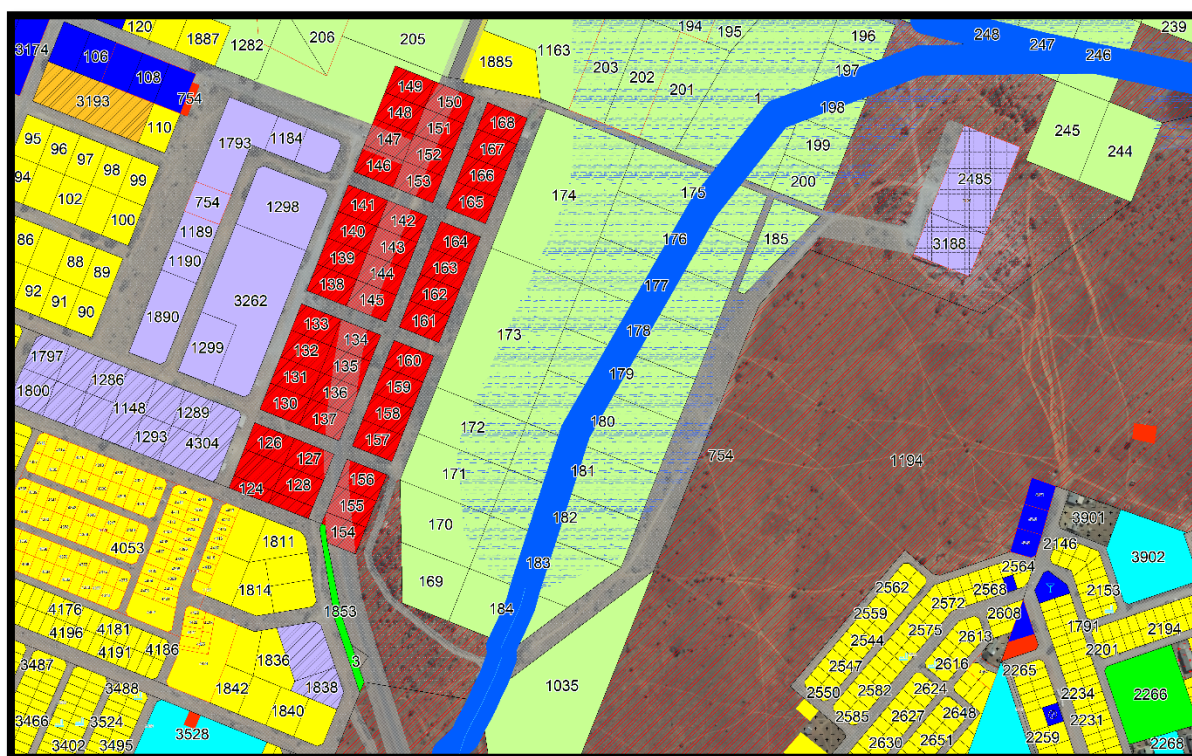


Figure 4: An example of the influence of Surface Water and possible areas influenced by flood lines in KLM

### 9.3.2. Applications for Consideration

Applications for Rezoning, Subdivision, Secondary and Consent Use applications, as discussed in zoning categories C, D.h.1, D.h.3, D.q.1 and certain F categories, that fall within the above mentioned limited development areas within flood lines, may be considered by the Municipality for approval under the following conditions set out for each category, namely:

- i. Applications to D.h.1: Single Residential House within flood plains:
  - a. The applicable secondary and consent land uses may also be considered.
  - b. All subdivided erven, including remainders, must at least be 1000m<sup>2</sup> in size.
  - c. The portion of the erf which is to be utilised for the development of any structures requiring building plans, must be filled or raised to a height of at least 1m above the 1:50 year flood line and approved by the Department of Water Affairs. If any actions in this regard trigger any other authorisations from other legislation, such approvals must be provided to the decision-making authority along with the application.
  - d. A letter of indemnity must be provided by the applicant, indemnifying the Municipality with regard to flood plains and any claims of damage in this regard.
- ii. Applications to D.h.3: Accommodation Facilities within flood lines:
  - a. Only applications for rezoning to D.h.3 for Accommodation Facilities and the applicable secondary and consent land uses, will be considered in areas which are indicated in the SDF for these purposes. These areas are indicated as tourism nodes and corridors, or form part of the precinct plans of Kgatelopele included in the SDF.
  - b. The portion of the erf which is to be utilised for the development of any structures requiring building plans, must be filled or raised to a height of at least 1m above the 1:50 year flood line and approved by the Department of Water Affairs. If any actions in this regard trigger any other authorisations from other legislation, such approvals must be provided to the decision-making authority along with the application.
  - c. A letter of indemnity must be provided by the applicant, indemnifying the Municipality with regard to flood plains and any claims of damage in this regard.
- iii. Applications to D.q.1 and other appropriate land uses within flood plains:

- a. The guidelines stipulated as part of the SDF documentation must be adhered to at all times.
  - b. With each application, the relevant flood lines must be determined and indicated on the detail Site Development Plan, when submitting an application to the Municipality.
  - c. The portion of the erf which is to be utilised for the development of any structures requiring building plans, must be filled or raised to a height of at least 1m above the 1:50 year flood line and approved by the Department of Water Affairs. If any action in this regard, triggers any other authorisations from other legislation, such approvals must be provided to the decision-making authority along with the application.
  - d. A letter of indemnity must be provided by the applicant, indemnifying the Municipality with regard to flood plains and any claims of damage in this regard.
- iv. Applications for subdivision, secondary and consent use applications of Category C may also be considered, under the same conditions as (i)-(iii) as already discussed.

### 9.3.3. Approval Conditions

It is imperative that a comprehensive study and assessment regarding the flood-proofing of buildings, damming effects, etc. be undertaken as part of any mandatory environmental process and/or any other application or legislation in this regard. The following flood characteristics (but not limited to), must be investigated in accordance with the guidelines of the SDF, namely:

- i. Height of maximum flood level: The lower the depth of flooding the easier it is to flood-proof.
- ii. Velocity of water flow during flood peaks: The lower the flow velocity the easier it is to design a building that would resist flood waters.
- iii. Duration and frequency of floods: The longer the area is flooded, the more difficult and expensive is the flood-proofing.
- iv. Other factors such as floating debris.

Any applicant and or developer must focus on the guidelines for flood line development as stated in the SDF document, as well as any guiding documentation from the Department of Water Affairs and Forestry.

## 9.4. Regard to decency and order

The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include regard to—

- i. a person's right to respect for and protection of his or her dignity;
- ii. the right to freedom and security of the person; and
- iii. the right to a person's personal privacy.

## 9.5. Enforcement litigation

The Municipality may apply to the Magistrate Court in whose jurisdiction the land is situated to obtain and order to compel the owner and/or the occupiers of land in question to—

- i. demolish, remove or alter any building, structure or work illegally erected or constructed;
- ii. rehabilitate the land concerned; or
- iii. cease with the unlawful utilisation of land.





## 10. GENERAL SUMMARY OF APPLICATION PROCEDURES FOR KGATELOPELE LM


 Nature of application in accordance with the LUMS (X = Compulsory and O = Optional)		Minimum Advertisement Procedure:					Decision Making Authority:	
		Advertisement in Provincial Gazette	Advertisement in Local Paper	Advertisement on site	Notices to interested and affected parties	Holding of a Public Meeting	Municipal Planning Tribunal	Municipal Official as per Section 35 (2) of SPLUMA
Rezoning	Application for Rezoning for the establishment of a township or the extension of a township (20 or more units).	X	X	X	X	O	X	
	Application for Rezoning to and from any land use described in the Primary and Secondary Use of Zoning Codes A and B.	O	X	X	X	O	X	
	Application for Rezoning to and from any land use described in the Primary and Secondary Use of Zoning Code C.		X	X	X		O	X
	Application for Rezoning in accordance with the guidelines of the SDF.		X	X	X		O	X
	Application for Rezoning that does not fit into the guidelines of the SDF and/or guiding documents (all other rezoning applications).		X	X	X	O	X	
Removal of Title Deed restrictions	The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land which is necessary in order to allow for an application for rezoning and/ or subdivision by the Municipality in accordance with LUMS.	X	O	X	X			X
	The removal, amendment or suspension of a restrictive condition, registered against the title of land which concerns building lines or other design restrictions.		O	X	X			X
Departures	Application for permanent Departure from any stipulations or regulations contained in the LUMS focussing on building control, including the relaxation, variation or amendment of building lines, heights of building, floor area, coverage, density and any of the matters prescribed in these regulations as part of planning control.	O	O	X	X			X
	Application for permanent Departure from any stipulations or regulations contained in the LUMS pertaining to land use rights and any aspects affecting the mentioned rights.	O	O	X	X			X
	Application for Temporary Departure from any stipulation of regulations contained in the LUMS		O	X	X			X
Secondary and Consent Uses	Application for Secondary Use, other than the below mentioned uses.		O	X	X			O
	Application for Secondary Uses: Funeral Parlour, Scrap Yard, Conference Facilities, Hotel, Temporary Housing and Place of Entertainment.		X	X	X		X	
	Application for Consent Use for Occupational Practice, Day-Care centres, second dwellings.		O	X	X			X
	Application for Consent Use of Tuck Shops.		O	X	X			X
	Application for Bird and Animal Cages.		O	O	X			X
Subdivisions	Application for Subdivision for the establishment of a township or the extension of a township (20 or more units).	X	X	X	X	O	X	
	Application for Subdivision in accordance with the guidelines of the SDF and/or guiding documents.		O	X	X			X
	Application for Subdivision that does not fit into the guidelines of the SDF and/or guiding documents.		X	X	X		X	
	Application subject to an abridged proses			O	O			X
Other	The relaxation, variation or amendment of original approval conditions and/or restrictive regulations and procedures.		X	O	O		Original decision-making authority	
	The amendment or cancellation of a general plan of a township.			O	O			O
	The permanent closure of a municipal road (public road) or a public open place (POS).	X	X	X	X			O
	The consolidation of any land portion.		O	O	X			X
	Application for the extension of the approval period of an application before the lapsing thereof.		O	O	O			X
	The registration or cancellation of a servitude.		O	O	X			X
	Any application in terms of these regulations that is not supported in the policy documents and SDF of the Municipality.		X	X	X		X	

Table 3: Summary of the SPLUMA processes, the decision-making components and the prescribed public participation process.

