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5/2/2/2- DLRRD NC 005 (2026/2027)

DESCRIPTION: APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE THE LEGISLATIVE REVIEW AND AMENDMENT OF THE NORTHERN CAPE SPLUM BILL WITHIN A PERIOD OF NINE (9) MONTHS IN THE NORTHERN CAPE PROVINCE

CLOSING DATE 14 DECEMBER 2026:

TECHNICAL ENQUIRIES :

Mr Gerhardus de Bruin
TEL : (053) 832 5084
EMAIL : Gerhadus.DeBruin@dlrrd.gov.za

BID RELATED ENQUIRIES :

Ms Tshegofatso Chubane
TEL : (053) 830 4000/30
EMAIL : Tshegofatso.Chubane@dlrrd.gov.za

land reform & rural development
Department:
Land Reform and Rural Development
REPUBLIC OF SOUTH AFRICA

2030 NDP

PROVINCIAL SHARED SERVICE CENTRE: NORTHERN CAPE

Directorate: Financial and Supply Chain Management Services: **Sub-Directorate: Demand and Acquisition Management Services**:
Enquiries: Ms T Chubane : **Tel:** (053) 830 4000/30

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF LAND REFORM AND RURAL DEVELOPMENT

CLOSING TIME: 11H00 **CLOSING DATE:** 14 DECEMBER 2026

DESCRIPTION: APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE THE LEGISLATIVE REVIEW AND AMENDMENT OF THE NORTHERN CAPE SPLUM BILL WITHIN A PERIOD OF NINE (9) MONTHS IN THE NORTHERN CAPE PROVINCE.

VALIDITY PERIOD: 90 DAYS

QUOTATIONS RECEIVED AFTER THE CLOSING TIME AND DATE ARE LATE AND WILL AS A RULE NOT BE ACCEPTED FOR CONSIDERATION

1. Kindly furnish us with a quotation for services shown on the attached forms.
2. Attached please find the SBD 1, SBD 3. 3, SBD 4, SBD 6.1, GCC and Specification.
3. If you are a sole agent or sole supplier you should indicate your market price after discount to your other clients or if that is not possible your percentage net profit before tax, in order to decide whether the price quoted is fair and reasonable.
4. The attached forms must be completed in detail and returned with your quotation. Each quotation document must be submitted in a separate sealed envelope stipulating the following information: Name and Address of the bidder, and closing date and time.
5. The quotation must be addressed to the Director: Finance and Supply Chain Management, Provincial Shared Service Centre, Department of Land Reform and Rural Development, in order to reach the destination no later than the closing date and time. The quotations must be deposited in the bid box situated on the 6th floor reception area of the Department of Land Reform and Rural Development, Corner Knight & Stead Street ,6th floor Court Building Kimberley 8301. **Bidders must ensure that quotations are delivered timeously to the correct address. (failure to comply will disqualify your proposal)**

Yours faithfully

Signed

Mr Baagileng Sekgele

Deputy Director: Supply Chain Management

Date: 20 Nber 2026

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT:

GENERAL CONDITIONS OF CONTRACT

July 2010

NOTES

The purpose of this document is to:

(i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
(ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.

- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if (applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

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General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:

1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.

1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.

1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.

1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.

1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

1.7 “Day” means calendar day.

1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.

1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.

1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.

1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of

origin and which have the potential to harm the local industries in the RSA.

1.12 ”Force majeure” means an event beyond the control of the supplier and not involving the supplier’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

1.13 “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.

1.14 “GCC” means the General Conditions of Contract.

1.15 “Goods” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

1.16 “Imported content” means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

1.17 “Local content” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.

1.18 “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.

1.19 “Order” means an official written order issued for the supply of goods or works or the rendering of a service.

1.20 “Project site,” where applicable, means the place indicated in bidding documents.

1.21 “Purchaser” means the organization purchasing the goods.

1.22 “Republic” means the Republic of South Africa.

1.23 “SCC” means the Special Conditions of Contract.

1.24 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance,

training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

2. Application

2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. Use of contract documents and information; inspection.

5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights

arising from use of the goods or any part thereof by the purchaser.

7. Performance security

7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

(a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
(b) a cashier's or certified cheque

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. Inspections, tests and analyses

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.

10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance

11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

12. Transportation

12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

13. Incidental services

13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

(a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
(b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
(c) furnishing of a detailed operations and maintenance manual

for each appropriate unit of the supplied goods;

(d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and

(e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

14. Spare parts

14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

(a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and

(b) in the event of termination of production of the spare parts:

(i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

(ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s)

within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

17. Prices

17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.

18. Contract amendments

18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

19. Assignment

19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

20. Subcontracts

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. Delays in the supplier's performance

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

21.4 The right is reserved to procure outside of the contract small quantities

or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

23. Termination for default

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

(a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;

(b) if the Supplier fails to perform any other obligation(s) under the contract; or

(c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

(i) the name and address of the supplier and / or person restricted by the purchaser;
(ii) the date of commencement of the restriction
(iii) the period of restriction; and
(iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

24. Anti-dumping and countervailing duties and rights

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in

terms of the contract or any other contract or any other amount which may be due to him

25. Force Majeure

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for insolvency

26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

27. Settlement of Disputes

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
(b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of liability

28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. Applicable law

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

31. Notices

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and duties

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

33. National Industrial Participation (NIP) Programme

33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34 Prohibition of Restrictive practices

In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).

34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

AUTHORITY TO SIGN THE STANDARD BIDDING DOCUMENTS (SBDs) ON BEHALF OF AN ENTITY.

Only authorized signatories may sign the original and all copies of the tender offer where required.

In the case of a **ONE-PERSON CONCERN** submitting a tender, this shall be clearly stated.

In case of a **COMPANY** submitting a tender, include a copy of a resolution **by its board of directors** authorizing a director or other official of the company to sign the documents on behalf of the company.

In the case of a **CLOSE CORPORATION** submitting a tender, include a copy of a **resolution by its members** authorizing a member or other official of the corporation to sign the documents on each member's behalf.

In the case of a **PARTNERSHIP** submitting a tender, **all the partners shall** sign the documents, unless one partner or a group of partners has been authorized to sign on behalf of each partner, in which case **proof of such authorization** shall be included in the Tender.

In the case of a **JOINT VENTURE** submitting a tender, include **a resolution** of each company of the Joint Venture together with a resolution by its members authorizing a member of the Joint Venture to sign the documents on behalf of the Joint Venture."

Accept that failure to submit proof of Authorization to sign the tender shall result in a Tender Offer being regarded as non-responsive.

AUTHORITY OF SIGNATORY

Signatories for companies, close corporations and partnerships must establish their authority **BY ATTACHING TO THIS FORM, ON THEIR ORGANISATIONS'S LETTERHEAD STATIONERY**, a copy of the relevant resolution by their Board of Directors, Members or Partners, duly signed and dated.

An **EXAMPLE** is shown below for a COMPANY:

MABEL HOUSE (Pty) Ltd

By resolution of the Board of Directors taken on *20 May 2000,*

MR A.F JONES

has been duly authorised to sign all documents in connection with

Contract no DRDLR (CRD-10) 2018/19, and any contract which may arise there from,

on behalf of *MABEL HOUSE (Pty) Ltd.*

SIGNED ON BEHALF OF THE COMPANY: (Signature of Managing Director)

IN HIS CAPACITY AS: Managing Director

DATE: 20 May 2000

SIGNATURE OF SIGNATORY: (Signature of *A.F Jones*)

As witnesses:

1. .....

2. .....

Signature of person authorised to sign the tender: .....

Date: .....

SAMPLE

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE
DEPARTMENT OF LAND REFORM AND RURAL DEVELOPMENT

QUOTATION NUMBER: **5/2/2/2 NC DLRRD 005 (2026/2027)** CLOSING DATE: **14 NOVEMBER 2026** CLOSING TIME: **11:00**

DESCRIPTION: APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE THE LEGISLATIVE REVIEW AND AMENDMENT OF THE NORTHERN CAPE SPLUM BILL WITHIN A PERIOD OF NINE (9) MONTHS IN THE NORTHERN CAPE PROVINCE.

The successful bidder will be required to fill in and sign a written Contract Form (SBD 7).

QUOTATION DOCUMENTS MAY BE POSTED TO: **PRIVATE BAG X5007, KIMBERLEY, 8300**

OR

DEPOSITED IN THE BID BOX SITUATED AT *(STREET ADDRESS)*

CORNER KNIGHT & STEAD STREET, NEW PUBLIC (COURT) BUILDING, 6TH FLOOR, KIMBERLEY

Bidders should ensure that Quotations are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week.

ALL QUOTATIONS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS QUOTATION IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

THE FOLLOWING PARTICULARS MUST BE FURNISHED
(FAILURE TO DO SO MAY RESULT IN YOUR QUOTATION BEING DISQUALIFIED)

NAME OF BIDDER ……

POSTAL ADDRESS ……

STREET ADDRESS ……

TELEPHONE NUMBER CODE……NUMBER……

CELLPHONE NUMBER ……

FACSIMILE NUMBER CODE …… .NUMBER……

E-MAIL ADDRESS ……

VAT REGISTRATION NUMBER ……

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN SUBMITTED? (SBD 2) YES or NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (SBD 6.1) YES or NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)…… ……..☐
A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS);
OR……☐
A REGISTERED AUDITOR ……..……..☐
[TICK APPLICABLE BOX]

ARE YOU THE ACCREDITED REPRESENTATIVE
IN SOUTH AFRICA FOR THE GOODS / SERVICES / WORKS OFFERED? YES or
NO

[IF YES ENCLOSE PROOF]

SIGNATURE OF BIDDER .....

DATE .....

CAPACITY UNDER WHICH THIS BID IS SIGNED .....

TOTAL BID PRICE..... TOTAL NUMBER OF ITEMS OFFERED .....

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Department: Land Reform and Rural Development

Contact Person: Ms Tshegofatso Chubane

Tel: 053 830 4000/4030

E-mail address: Tshegofatso.Chubane@dlrrd.gov.za

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Mr Gerhardus de Bruin

TEL : (053) 832 5084

EMAIL : gerhardus.debruin@dlrrd.gov.za

DALRRD ……. 2026-2027

TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE THE LEGISLATIVE REVIEW AND AMENDMENT OF THE NORTHERN CAPE SPLUM BILL WITHIN A PERIOD OF NINE (9) MONTHS IN THE NORTHERN CAPE PROVINCE

Bid Initials ……..
Bid's Signature……
Date:…….

Bid No.: ……

Name of Bidder: ……

TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE THE LEGISLATIVE REVIEW AND AMENDMENT OF THE NORTHERN CAPE SPLUM BILL WITHIN A PERIOD OF NINE (9) MONTHS IN THE NORTHERN CAPE PROVINCE

[SBD 3.3]

PRICING SCHEDULE

(Professional Services)

NAME OF BIDDER: ……BID NO.:

CLOSING TIME

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF QUOTATION.

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate rates based on the total cost to the department for completion of each stage and including Expenses for the project.

3. **TOTAL OFFER PRICE (INCLUSIVE OF VAT)**

R……

NB: PAYMENT TO BE MADE AT THE COMPLETION OF EACH DELIVERABLE

DELIVERABLES	TIME FRAMES	TOTAL
Phase 1: Inception Phase -Comprehensive plan for the duration of the project.	1 Month	**R……..**
Phase 2: Detailed legal and compliance review (standing rules NCPL and NCPL letter to COGHSTA dated 12 May 2025)	3 Month	**R……..**
Phase 3: Redrafting, correction, public participation, Socio Economic Impact Assessment (SEIAS) Report, Stakeholder engagement Report and quality assurance - Final draft NC SPLUM Bill	5 Months	**R……..**
Retention and Closeout report		**R……..**

Are the rates quoted firm for the full period of contract?

……

If not firm for the full period, provide details of the basis on which Adjustments will be applied for, for example consumer price index.

……

Bid No.: ……

Name of Bidder: ……

TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE THE LEGISLATIVE REVIEW AND AMENDMENT OF THE NORTHERN CAPE SPLUM BILL WITHIN A PERIOD OF NINE (9) MONTHS IN THE NORTHERN CAPE PROVINCE
[SBD 3.3]

Any enquiries regarding bidding procedures may be directed to the –

LAND REFORM AND RURAL DEVELOPMENT
PRIVATE BAG X 5007, KIMBERLEY, 8301

Bid related enquiries

SUPPPLY CHAIN ENQUIRIES

Ms Tshegofatso Chubane
Senior Supply Chain Management
Directorate: Finance &Supply Chain Management

Contact Number: (053) 830 4000 ext. 4030

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest1 in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	**Identity Number**	**Name of State institution**

2.2 Do you, or any person connected with the bidder, have a relationship

1 the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:
……
……

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

2.3.1 If so, furnish particulars:
……
……

3 DECLARATION

I, the undersigned, (name)……. in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

3.1 I have read and I understand the contents of this disclosure;
3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium2 will not be construed as collusive bidding.
3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

2 Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

…… ……
Signature Date

…… ……
Position Name of bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

PRICE QUOTATION PROCESS (UP TO R 1 MILLION)

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

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1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and

1.2 **To be completed by the organ of state**

a) The applicable preference point system for this tender is the 80/20 preference point system.

b) 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

(a) Price; and

(b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	**100**

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

1.7 Bidders who wish to claim points in terms of table 4.2 below need to provide proof for each point claimed as guided below:

- Who had no franchise in national elections before the 1983 and 1993 Constitution – **attach certified copy of identity document (ID) and company registration document / CSD report to show/ substantiate percentage ownership equity.**

- Who is female- **attach certified copy of identity document (ID) and company registration document / CSD report to show/ substantiate percentage ownership equity.**

- Who has a disability – **attach doctor's letter confirming the disability**

- Who is youth - **attach certified copy of identity document (ID) and company registration document / CSD report to show/ substantiate percentage ownership equity.**

2. DEFINITIONS

(a) **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

(b) **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

(c) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

(d) **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

(e) **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 **or** **90/10**

$$Ps = 80\left(1 - \frac{Pt - P\,min}{P\,min}\right) \text{ or } \qquad Ps = 90\left(1 - \frac{Pt - P\,min}{P\,min}\right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 **or** **90/10**

$$Ps = 80\left(1 + \frac{Pt - P\,max}{P\,max}\right) \text{ or } \qquad Ps = 90\left(1 + \frac{Pt - P\,max}{Pmax}\right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.

***Note to tenderers: The tenderer must indicate how they claim points for each preference point system.*)**

The specific goals allocated points in terms of this tender	**Number of points allocated (80/20 system)**	**Percentage ownership equity (To be completed by the tenderer)**	**Number of points claimed (80/20 system) (To be completed by the tenderer)**
I. Who had no franchise in national elections before the 1983 and 1993 Constitution	10		
II. Who is female	5		
III. Who has a disability	2		
IV. Specific goal: Who is youth	3		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm…….

4.4. Company registration number: ……...

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

i) The information furnished is true and correct;

ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;

iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

(a) disqualify the person from the tendering process;

(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution, if deemed necessary.

.....

SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME: .....

DATE: .....

ADDRESS: .....

.....

.....

.....

land reform &
rural development
Department
Land Reform and Rural Development
REPUBLIC OF SOUTH AFRICA

Branch: Spatial Planning and Land Use Management
30 Du Toitspan Road, Flaxley House Building, 3rd Floor, Room 301, **Kimberley** 8300; Tel: (053) 832 4588; Fax: (053) 8321482

TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE THE LEGISLATIVE REVIEW AND AMENDMENT OF THE NORTHERN CAPE SPLUM BILL WITHIN A PERIOD OF NINE (9) MONTHS IN THE NORTHERN CAPE PROVINCE

1. PURPOSE

The Department of Land Reform and Rural Development (DLRRD) invites the appointment of a suitably qualified legal service provider, either a single firm or a consortium, to conduct a legislative review and amendment of the draft Northern Cape Spatial Planning and Land Use Management Bill (NC SPLUMB: Attached) with particular emphasis on its non-compliance with the standing rules of the Northern Cape Provincial Legislature (NCPL).

2. BACKGROUND

2.1 The Department of Land Reform and Rural Development (DLRRD) has been mandated by the President to lead the implementation of the Spatial Planning and Land Use Management Act (SPLUMA). In fulfilling this mandate, the department must ensure that the Northern Cape Spatial Planning and Land Use Management Bill (NC SPLUMB) aligns with the national SPLUMA framework and other applicable legislation.

2.2 The draft NC SPLUMB is currently in the process of being introduced to the Northern Cape Provincial Legislature (NCPL). However, several legal and structural deficiencies have been identified that require urgent attention. To address these issues, the Northern Cape Spatial Planning and Land Use Management Unit (DLRRD: NC SPLUM) seeks the services of a suitably qualified legal expert or consortium with specialized experience in legislative drafting, public law and specific experience in the spatial planning and land use management space.

2.3 The appointed service provider will be responsible for conducting a focused legal review of the draft Bill, ensuring its compliance with the standing rules of the NCPL and the guidance outlined in the correspondence from the Legislature to the Northern Cape Department of Cooperative Governance, Human Settlements and Traditional Affairs (COGHSTA), dated 12 May 2025 (attached).

2.4 This assignment does not entail a full redrafting of the Bill. Instead, the emphasis is on verifying legal conformity and making targeted amendments to ensure the Bill meets all legislative standards required for enactment by the NCPL.

3. DISCUSSION

3.1 The appointed legal service provider must demonstrate a strong professional track record and possess specialized expertise relevant to the legislative review and amendment of the Northern Cape Spatial Planning and Land Use Management Bill (NC SPLUMB). This work requires a focus on legal conformity and targeted amendments to ensure the Bill meets all legislative standards for enactment by the NCPL. The required specialized knowledge and experience are detailed in Section 6.1.2. (Mandatory requirements)

3.2 Deliverables:

As part of the assignment, the legal service provider will be required to submit:

- A final, revised draft of the NC SPLUMB that complies with all legislative and procedural requirements and processes.
- A written response detailing how each identified deficiency was addressed.
- All supporting documentation necessary to meet the standards set out by the NCPL.

TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE THE LEGISLATIVE REVIEW AND AMENDMENT OF THE NORTHERN CAPE SPLUM BILL WITHIN A PERIOD OF NINE (9) MONTHS IN THE NORTHERN CAPE PROVINCE

4. SPECIFICATION AND DELIVERABLES

4.1 The appointed legal service provider shall deliver specialized legal expertise and amendments. The primary focus should be to have a packaged reviewed NC SPLUM Bill inclusive of participation processes and supporting documentation to be introduced in the NCPL processes towards enactment. The scope of work will encompass, but is not limited to, the following core deliverables:

- Conduct a legal review and quality assurance of the draft NC SPLUMB. (as per the NCPL standing rules and letter received by COGHSTA).
- Complete the required Socio-Economic Impact Assessment System (SEIAS) report and associated requirements.
- Complete the required public consultation processes, accompanied by a Stakeholder Engagement Report.
- Draft and propose amendments to the Bill to resolve all issues identified by NCPL.
- Ensure the amended Bill is in full compliance with the standing rules of the NCPL.

4.2 Scope of Work:

4.2.1 The appointed legal service provider will be tasked with the following:

4.2.1.1 Legislative Drafting and Quality Assurance: The provider will review and amend the draft Bill to improve its drafting, style, and content. (as per requirements of the NCPL letter to COGHSTA but not limited to). This includes:

- Simplify technical language and ensure all definitions, such as "develop", are clear, complete, and legally sound.
- Revise the Bill to be written in plain, accessible language that avoids unnecessary complexity.
- Correct formatting inconsistencies, including font, spacing, indentation, and cross-referencing errors.

- Restructure chapters and sections with concise, logically ordered headings, avoiding full sentences as titles.
- Resolve contradictory clauses and legal ambiguities, particularly those related to funding, delegation of powers, and advisory committee functions.
- Ensure provisions governing the removal of committee members are suitable for non-employees and procedurally straightforward.
- Update references to repealed legislation to reflect current legal frameworks.
- Review and refine Schedule 1 by adding sub-headings for clarity and eliminating repetitive content.

4.2.1.2 Procedural and Administrative Compliance: The provider will assist DLRRD / COGHSTA / Northern Cape Office of the Premier (OTP) in preparing the Bill for submission to the NCPL. This includes:

- Ensuring all required supporting documents, such as an explanatory memorandum, media notices, and an amended version of the Bill, are prepared.
- Complete the SEIAS report and requirements for submission to the Department of Planning, Monitoring and Evaluation (DPME).
- Verifying and providing proof of public consultation sessions and publication compiled in a Stakeholder Engagement Report as required by the NCPL's standing rules.

4.3 The service provider must submit a final, revised draft of the NC SPLUMB that is compliant with all identified requirements, a written response detailing how each deficiency was addressed, and all necessary supporting documents as per the NCPL's standing rules.

4.4 The service provider must ensure that all submissions comply with the format requirements of the NCPL. This includes providing:

- A soft copy of the revised Bill in editable Microsoft Word format.
- A printed hard copy of the written response, along with all supporting documentation

4.5 These formats must be clearly specified and submitted in accordance with the NCPL protocols.

4.6 The project should be undertaken and be completed within 9 months from the date of appointment. (Project milestones and implementation process depicted in table 1).

Tabel 1

Project Deliverables	Timeframes and cost % (week/month)	Cost %
Phase 1: Inception Phase – Comprehensive plan for the duration of the project.	1 month	5%
Phase 2: Detailed legal and compliance review (standing rules NCPL and NCPL letter to COGHSTA dated 12 May 2025)	3 months	35%
Phase 3: Redrafting, correction, public participation, Socio Economic Impact Assessment (SEIAS) Report, Stakeholder engagement Report and quality assurance – Final draft NC SPLUM Bill	5 months	55%
Retention and Close out report		5%
Project Time	9 Months	100%

4.7 Financial penalties shall be imposed for agreed upon milestones, targets, and deadline not met without providing:

- Timely notification of such delays.
- Valid reasons for the delays.
- Supporting evidence that the delays were outside of the influence of the service provider.

4.7.1 As indicated in 4.7, penalties in terms of percentages will be deducted from payment as indicated below.

Table 2

Milestone	% Payment	5 days overdue	10 days overdue	15 days overdue	30 days overdue	More than 30 days overdue
Phase 1: Inception Phase – Comprehensive plan for the duration of the project.	5%	10%	25%	50%	75%	100%
Phase 2: Detailed legal and compliance review (standing rules NCPL and NCPL letter to COGHSTA dated 12 May 2025)	35%	10%	25%	50%	75%	100%
Phase 3: Redrafting, correction, public participation, Socio Economic Impact Assessment (SEIAS) Report, Stakeholder Engagement Report and quality assurance – Final draft NC SPLUM Bill.	55%	20%	40%	60%	80%	100%
Retention and Close out report	5%	20%	40%	60%	80%	100%
Total	100%					

4.7.2 Payments will be made only for work performed to the satisfaction of the DLRRD. Financial penalties will be imposed if the output produced does not meet the agreed upon deliverables criteria as stipulated in the General Conditions of Contract.

4.7.3 Original invoices should include the Department's order number that will be provided to the selected service provider upon acceptance of the proposal. Invoices must clearly indicate the deliverable as per phase required and approved by the Project Steering Committee. (PSC).

5. SUBMISSION OF QUOTATIONS / PROPOSALS

Quotations must be submitted or hand delivered in Supply Chain Management (SCM) office or via email Department of Land Reform and Rural Development, Northern Cape Provincial Shared Service Centre located at New Public Building, Cnr Stead & Knight Street, Kimberley, 8301, Floor no 6.

6. MANDATORY REQUIREMENTS

6.1 The appointed service provider, whether a single firm or consortium, must meet the following minimum qualifications:

6.1.1 Academic and Professional Credentials (as a minimum):

- A Bachelor of Laws (LLB) degree from a recognized South African university.
- Admission as an Attorney or Advocate of the High Court of South Africa, with good standing.

6.1.2 Specialized Knowledge and Experience:

- Proven experience in legislative drafting within the South African legal and policy framework.
- Proven expertise in spatial planning, land use management, and public law.
- Familiarity with the SEIAS process and its application in legislative development.

- A thorough understanding of the law-making process, including the standing rules and procedures applicable to provincial legislatures in South Africa.
- The ability to assess and interpret the interlinkages between legislation and the Land Use Management System, including implications for governance and implementation.

6.1.3 Project Delivery Capabilities:

- Strong project management skills to ensure timely delivery, stakeholder coordination, and quality assurance throughout the review process.

6.1.4 It is therefore recommended that the service provider ensures that people with relevant skills are part of the project. A list of people containing, among other things, names, qualifications and experience who will be directly involved in the project must be submitted. This should clearly indicate what roles each team member will play. A company/team profile containing, among other things, names, qualifications and experience of persons who will be directly involved in the project must be included.

6.1.5 All team members that will be directly involved in the project will be expected to attend all PSC meetings as scheduled and agreed upon by both parties. MS Teams platform will be used for all PSC Meetings. The selected team members shall remain the same for the duration of the project and cannot be changed without prior discussions with and approval from the DLRRD.

6.1.6 The appointed service provider shall be responsible for facilitating stakeholder engagements in a hybrid format, incorporating both physical meetings and virtual sessions via Microsoft Teams. All costs associated with the planning, coordination, execution, and technological support of these engagements shall be fully borne by the service provider.

6.2 **NB: Failure to submit the following requirements with the proposal will disqualify the bidder's proposal:**

- The service provider shall be admitted as an Attorney or Advocate of the High Court of South Africa and must be in good standing with the relevant professional body. A minimum of ten (10) years post-admission experience is required. (A valid Certificate of Good Standing issued by the Legal Practice Council must be attached as part of the submission.)
- Valid tax clearance certificate / Pin (not a disqualification).
- Cost proposal on company letter head.
- Full compliance to specifications.
- Full completion of Standard Bidding Documents (SBD 4, 6.1).
- Registration to the Central Supplier Database (CSD).

7. EXTRA WORK

Any costs for extra work by the service provider, incurred over and above this proposal which, in the sole opinion of the Director: Spatial Planning & Land Use Management Northern Cape are due to reasons attributable to the service provider during any phase of the project shall be borne by the service provider.

8. REPORTING AND ACCOUNTABILITY

8.1 During the execution of the project, the service provider must submit monthly progress reports (refer to section 4.6) and attend meetings at intervals as determined by the project team managing the service provider. MS Teams Platform will be used for all ad-hoc meetings.

8.2 All electronic and hard copy information captured/utilized to provide the output of the project remains the property of DLRRD. This data should be surrendered to the department at the end of the project, and it cannot be used or shared, whether for profit or otherwise with any other party, without written permission from DLRRD. DLRRD will retain copyright and all associated intellectual rights relating to the project.

8.3 The project will be signed off by the Northern Cape Director: Spatial Planning and Land Use Management when all the end products have been delivered.

9. VALUATION CRITERIA

QUOTATION EVALUATION CRITERIA IN TERMS OF POINTS

9.1 All service providers quote's that have met all the conditions of quotation and legislative requirements will be assessed according to the 80/20 points scoring system:

- Equity (20 points)
- Price (80 points)

9.2 Equity will be evaluated based on the following (out of 20 points)

Table 3

HDI Specific Goals	Number of points (80/20 system)
Who had no Franchise in National Elections before the 1983 and 1994 Constitution	**10**
Who is Female	**5**
Who is Disabled	**2**
Specific Goal: Youth	**3**

10. TERMS AND CONDITIONS.

10.1 Appointment will be subject to the Service Provider's express acceptance of the standard proposal documents inclusive of the Government Procurement General Conditions of Contract.

10.2 No material or information derived from the provision of the services under these may be used for any purpose other than those of the Department except where authorized by the Department in writing to do so.

10.3 Copyright in respect of all documents and electronic data, prepared or developed for the purpose of this project shall be vested in the Department.

10.4 In the case of appointment the Service Provider will enter into a Service Level Agreement with the Department.

10.5 The Service Providers should be available to commence with the project immediately upon appointment.

10.6 The Department reserves the right to award or not to award this contract.

10.7 The Department reserves the right not to accept the lowest cost proposal.

10.8 The Department reserves the right to terminate the contract should the performance of the service provider be unsatisfactory.

10.9 It is the responsibility of prospective service providers to ensure that their proposal documents are submitted before the closing time and date of the price quotation. Price quotations received after closing time and date are late and will NOT be considered.

10.10 Although adequate thought has been given in the drafting of this document, errors such as typos may occur which the Department will not be responsible for.

10.11 Any change of information provided in the price quotation document that may affect delivery of services should be brought to the Department's attention as soon as possible. Failure to comply may result in the contract being terminated.

10.12 Service providers presenting information intentionally incorrect or fraudulent will be disqualified; and

10.13 Service providers who have been declared insolvent and wish to do business with the Department must have been rehabilitated and provide the necessary proof thereof.

10.14 The Service Provider team members named in the proposal should be retained for the duration of the project. Any replacement of team members must first be discussed and approved by the department.

11. PAYMENTS

11.1 Payments will be made only for work performed to the satisfaction of the PSC in recommendation to the DLRRD. The service provider will only be paid according to deliverable successfully achieved (per phase), as per approved program of action, to the satisfaction of the PSC.

11.2 Financial penalties will be imposed if the outputs produced do not meet the agreed upon deliverables criteria as stipulated in the General Conditions of Contract. (Section 4.7.1)

12. REQUIRED INFORMATION ON HUMAN RESOURCES

12.1 The service provider is expected to provide information on available human resource capacity who will be directly involved in the project, including but not limited to: short CV, indicating relevant qualifications and experience as required by this Terms of Reference; full contact details (office, fax and cell phone, and email).

13. OUTCLAUSE

13.1 The DLRRD reserves the right not to appoint if suitable candidates are not found, at the complete discretion of the Department.

13.2 The department reserves the right to terminate the contract if there is clear evidence of non-performance.

13.3 Note that: There will be no briefing session regarding this proposal.

14. RETENTION.

14.1 The DLRRD shall retain 5% of the total project cost in the case of late or non-delivery of the final draft NC SPLUM Bill.

14.2 The service provider shall forfeit the total payment per milestone in the case of the project being delayed for longer than 30 days after milestone due date.

14.3 The service provider may apply to the Department for an extension on the delivery date on any milestone – provided that the service provider gives valid reason(s) to the satisfaction of the Department.

15. REQUEST FOR FURTHER INFORMATION

Technical Enquiries:
Mr Gerhard de Bruin
(053) 832 5084
Email: Gerhardus.debruin@dlrrd.gov.za

Supply Chain Enquiries:
Ms. Tshegofatso Chubane
Northern Cape
(053) 830 4000 ext. 4030
Email: Tshegofatso.Chubane@dlrrd.gov.za

16. APPROVAL OF THE TERMS OF REFERENCE

The terms of reference submitted by:

GJdeBruin
.....
Mr. G de Bruin
Chief Town and Regional Planner
NC SPLUM
DATE: 28 May 2026

Terms of Reference: Approved ~~/ not approved~~

.....
Ms. L Ahjum
Director: NC SPLUM
DATE: 01 June 2026

COGHSTA

Department:
Cooperative Governance, Human Settlements and Traditional Affairs
NORTHERN CAPE PROVINCE

Larry Moleko Louw Building
9 Cecil Sussman Road
Private Bag X5005
Kimberley
8300

Tel. 053 807 2837
Fax: 053

Enquiries : A. Mbolekwa
Dipatlisiso :
Imibuzo :
Navrae :

Reference :
Tshupelo :
Isalathiso :
Verwysings :

Date : **01 July 2024**
Leshupelo :
Umhla :
Datum :

Mr. P.B. Moopelwa
Secretary to the Provincial Legislature
Northern Cape Provincial Legislature
Private Bag X5066
Kimberley
8300

Tabling of the Northern Cape Planning and development Act 7 of 1998, Repeal Bill, 2020

This letter serves to notify you of the intention of the Member of Executive Committee for Cooperative Governance, Human Settlements and Traditional Affairs to table the Northern Cape Spatial Planning and Land Use Management Bill to the provincial legislature.

In support of the intended tabling the following documents are attached:

- An Explanatory Memorandum on the Bill;
- The Northern Cape Spatial Planning and Land Use Management Bill;
- The Northern Cape Planning and Development Act 7 of 1998;
- Certification by the State Law advisor;
- Public Participation records;
- .Evidence of consultation with the House of Traditional Leaders;
- The Executive Council Resolution recommending Bill for consideration of Provincial Legislature.
- Socio – Economic Impact Assessment approval issued by the Office of the Presidency.

Yours faithfully

Mr. B.G. Vass, MPL
MEC OF COGHSTA

08/08/2024
Date

DEPARTMENT OF CO-OPERATIVE GOVERNANCE, HUMAN SETTLEMENTS AND TRADITIONAL AFFAIRS

EXPLANATORY MEMORANDUM OF THE NORTHERN CAPE SPATIAL AND LAND USE MANAGEMENT BILL,

1. Introduction

1.1 The MEC of Co-operative Governance, Human Settlements and Traditional Affairs hereby gives notice in terms of Rule 166(2) and Rule 167 of the Rules of the Northern Cape Provincial Legislature that he intends to introduce the Northern Cape Spatial and Land Use Management Bill ("NC SPLUM Bill") in the Legislature.

1.2 The NC SPLUM Bill, responds to the need for a modernised and efficient system of spatial planning and land use management which facilitates sustainable development in the Province. It seeks to establish a spatial planning and land use management framework that places emphasis on the effective integration of planning activities across provincial and municipal government so as to facilitate appropriate development.

1.3 The NC SPLUMB seeks to promote spatial cohesion and improve inclusivity, mobility and access, economic development that drives local and provincial growth prospects and transforms space in a manner that is socially and environmentally sustainable.

1.4 The said Bill creates a platform to address development matters in a consistent and uniform manner that will develop investor confidence and catalyse growth and development in the province.

1.5 The Bill was also necessitated by a rapidly evolving legal framework surrounding spatial planning.

1.6 The National Spatial Planning and Land Use Management Act No. 16 of 2013 was enacted in 2013 ("SPLUMA") and implemented nationally from July 2015. In its mandate to spatially transform the country, SPLUMA introduces a new, spatial planning system which now places local municipality at the center of spatial planning and decision making related to land use management. SPLUMA basically reinforces the vision set out by the NDP (National Development Plan) to deal with the serious socio-economic issues crippling South Africa through spatial transformation.

1.7 However, the success of SPLUMA still requires commitment and alignment between all spheres of government. Hence provision has been made for each province to enact a provincial spatial planning and land use management act for its own purposes. The NC SPLUM Bill puts forward a system for improved alignment of provincial and municipal planning in the Northern Cape.

1.8 It is evident from section 5 of SPLUMA that spatial planning occurs in the three specified government spheres. As such the NC SPLUM Bill and the eventual enactment will help to guide decision making on land use management, public and private sector investment, and enable greater cooperation between provincial government and local government.

2. Factual Background

2.1 Historically each province had its own set of Acts governing land use within its boundaries. The Northern Cape Planning and Development Act 7 of 1998 was enacted for this purpose in the province, this legislation predates SPLUMA and is thus no longer of practical utility. Thus, it will be repealed through the promulgation of this Bill. As SPLUMA now unifies all provinces under one national legislation. SPLUMA replaced a number of Acts such as Removal of Restrictions Act 84 of 1967, Physical Planning act 88 of 1967, Less Formal Township Establishment Act 113 of 1991,

The Physical Planning Act 125 of 1991 and the Development Facilitation Act 67 of 1995.

2.2 SPLUMA is a framework law that does not set out in detail what provinces have to do in order to effectively execute their provincial planning function. Thus, SPLUMA makes provision for provincial legislation to be developed to give effect to specific considerations for provincial interests.

Moreover, each province is empowered by the Constitution to pass provincial planning laws to further regulate municipal planning in that particular province and also to regulate the provincial government's own planning.

Currently the Northern Cape Province does not have any legislation that is consistent with SPLUMA. Therefore, the Northern Cape Planning and Land Use Management Bill seeks to fill this vacuum and streamline the efficient and sustainable execution of provincial legislative and executive powers insofar as they relate to the development of land and the change of land use.

2.3 A further ground-breaking change brought about by SPLUMA is its use in conjunction with other related planning legislation such as NEMA (National Environmental Management Act) to ensure its consistency, uniformity and alignment with other legislation on land management. In this regard the NC SPLUMB also places emphasis on the need for alignment between land use approval processes and other relevant legislation including environmental, heritage, mineral resources and agriculture.

2.4 The NC SPLUM Bill was jointly drafted by the DALRRD, Department of COGHSTA and Office of the Premier and amendments were made until its completion in 2017.

3. Constitutionality of Northern Cape SPLUMB

3.1 Section 104 (1) (b) (ii) of the Constitution stipulates that the provincial legislature has the power to pass legislation for its province with regard to any matter within a functional area listed in Schedule 5.

3.2 Section 5 (2) (d) of the Spatial Planning and Land Use Management Act 16 of 2013 states that provincial planning consist of the making and review of policies and laws necessary to implement provincial planning.

3.3 Therefore, the enactment of this Bill falls within the purview as set out in section 5 (2) (d) of SPLUMA.

4. Nature of the Northern Cape Spatial Planning and Land Use Management Bill

4.1 The Bill centres around five objectives. First, it provides for the adoption of a uniform set of spatial planning categories and land uses for the Province. Secondly, it facilitates the establishment of a Provincial Spatial Planning and Land Use Advisory Committee. Thirdly it provides for matters of provincial interest. Fourthly it seeks to put mechanisms and structures in place for provincial support and monitoring mechanisms to assist local government. Fifthly the Bill seeks to provide for interim measures and matters associated therewith.

4.2 Chapter 2 of the Bill sets the provincial approach to spatial planning and land use management. It provides further content to matters of provincial interest.

4.3 Chapter 3 regulates the establishment of a provincial spatial planning and land use advisory committee, its functions, funding and term of office for members of the committee.

4.4 Chapter 4 provides for the regulation of provincial support and monitoring.

4.5 Whereas, Chapter 5 regulates the drafting and adoption of a provincial spatial development frameworks.

4.6 Chapter 6 provides for land use schemes and uniform land uses, whereas

4.7 Chapter 7 deals with general provisions relating to regulations, delegation, and transactional arrangements.

4.7 The Bill also provides a schedule which deals with uniform spatial planning categories and land uses for the province.

5. Financial implication

5.1 The publication of the Act will trigger a financial cost.

5.2 The additional costs envisaged from the date of the enactment of the NC SPLUM Bill, costs of which will mainly relates to the activities of the Provincial Spatial Planning and Land Use Advisory Committee which is expected to be covered and budgeted for by the Office of the Premier.

6. Customary Law of Traditional Community

6.1 The Bill was presented to the House of Traditional Leaders on the 13th of February 2018 for consultation and inputs were taken into consideration.

7. Progress to date

7.1 The NC SPLUM Bill has been translated in two official languages, Setswana and Afrikaans.

7.2 Public consultation sessions were conducted on the Bill in Kimberley on 01 September 2017 and in Upington on 08 September 2017.

7.3 On 11 October 2018 the Bill was tabled to G & A cluster for consideration.

7.4 G & A cluster referred the Bill Back with the directive that a socio-economic impact assessment (SEIAS) must first be conducted.

7.5 After several attempts by the Provincial SPLUMA task team to complete and submit the SEIAS process a final submission in January 2021 was successful and approval was granted by the Office of the Presidency in July 2021. An extension of this approval was granted on 18 May 2022.

7.6 The NC SPLUM Bill was advertised for public inputs and comments in October 2022. No comments and inputs were received from the public.

7.7 The Chief State Law Adviser grated constitutional certification for the Bill in October 2023.

7.8 The validity of the SEIAS approval granted in 2022 lapsed. A new submission was made to DPME and approval was issued on 05 June 2024.

8. Organisational and personnel implications

8.1 There will not be any additional organisational and personnel implications that will result from the promulgation and implementation of the NC SPLUM Bill.

8.2 All work emanating from the promulgation of the NC SPLUM Bill will be carried out jointly by the existing provincial institutions responsible for provincial planning (OTP and the Department of COGHSTA).

8.3 Furthermore, all other organisational and personnel implications at Local Government level that originated from the enactment of SPLUMA are in existence and fully operational.

9. Inter-Departmental consultation

9.1 The following platforms and engagements were used to consult municipalities and other stakeholders on the Bill:

- Northern Cape SPLUMA (NC SPLUMA) Implementation Forum
- The Provincial Planning Forum
- 26 Local Municipalities
- 5 District Municipalities
- All sector departments
- National SPLUMA Forum
- National SPLUMA work group 1
- Business Chambers
- Provincial House of Traditional Leaders
- SALGA
- DRDLR
- Public consultation sessions were conducted on the Bill in Kimberley on 01 September 2017 and in Upington on 08 September 2017.

A copy of the Bill together with all relevant supporting documents are attached hereto for ease of reference.

Northern Cape Spatial Planning and Land Use Management Bill,

BILL

To provide for spatial planning, land use management and land development in the Province in a sustainable manner by means of coordinating and aligning land use through the adoption of a uniform set of spatial planning categories and land uses for the Province; to provide for matters of provincial interest, to provide for the establishment of the Provincial Spatial Planning and Land Use Advisory Committee, to provide for provincial support and monitoring mechanisms, to provide for interim measures, and to provide for matters associated therewith.

PREAMBLE

WHEREAS the Northern Cape Provincial Government is required to give effect to the provisions of the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) and the development principles contained therein;

AND WHEREAS it is necessary to regulate certain matters relating to the Northern Cape Provincial Government's functions and duties relating to the implementation of SPLUMA in the Province;

AND WHEREAS it is necessary to introduce uniform spatial planning categories and land uses for the Province to ensure an integrated basis for spatial planning and land use management within the Province,

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

ARRANGEMENT OF SECTIONS

CHAPTER 1

Introductory Provisions

1. Definitions
2. Application of the Act
3. Purpose of the Act

CHAPTER 2

PROVINCIAL APPROACH TO SPATIAL PLANNING AND LAND USE MANAGEMENT AND MATTERS OF PROVINCIAL INTEREST

4. Provincial approach to Spatial Planning and Land Use Management
5. Matters of provincial interest

CHAPTER 3

PROVINCIAL SPATIAL PLANNING AND LAND USE ADVISORY COMMITTEE

6. Establishment and Composition of the Provincial Spatial Planning and Land Use Advisory Committee
7. Functions of the Provincial Spatial Planning and Land Use Advisory Committee
8. Funding of the Provincial Spatial Planning and Land Use Advisory Committee
9. Term of office and allowances for members of the Provincial Spatial Planning and Land Use Advisory Committee
10. Disqualification from being appointed as a member of the Provincial Spatial Planning and Land Use Advisory committee
11. Removal from office
12. Meetings and quorum of the committee

CHAPTER 4

PROVINCIAL SUPPORT AND MONITORING

13. Provincial support

14. Provincial monitoring

15. Information to be provided by Municipalities

16. Participation of Traditional council

CHAPTER 5

PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORKS

17. Matters relating to the adoption and amendment of a Provincial Spatial Development Framework

CHAPTER 6

LAND USE SCHEMES AND UNIFORM LAND USES

18. Land Use Schemes

19. Uniform Land Uses

CHAPTER 7

GENERAL PROVISIONS

20. Regulations

21. Delegation

22. Transitional arrangements

23. Repeal of laws

24. Short title

Schedule 1: Uniform Land Use Zones for the Province

CHAPTER 1

Introductory Provisions

Definitions

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

"Applicant" means a person who makes a land use and/or development application contemplated in terms of section 45 of the Spatial Planning and Land Use Management Act 16 of 2013 and "application" has a similar meaning;

"Committee" shall refer to the Provincial Spatial Planning and Land Use Advisory Committee

"Competent authority" means any organ of state which is empowered to grant a right to use of land;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Consent use" means any usage of land as granted by a Municipality in terms of a land use scheme or existing scheme;

"Day" means a calendar day, and when any number of days are prescribed, it must be calculated by excluding the first day and inclusive of the last day, however, should the last day fall on a Sunday, Saturday or public holiday, the number of days must be calculated by excluding the first day and also the Sunday, Saturday or public holiday;

"Develop" in relation to utilisation of land means the use of the land or a part thereof or the physical improvement of the;

"Development" means a process of integrating economic, spatial, social, institutional, environmental, fiscal and other plans and strategies in order to support the optimal allocation and utilisation of scarce resources within and to various sectors, geographical areas and across the jurisdiction of local and provincial government, in

a manner that promotes sustainable growth, equity and in particular, but not limited to, the empowerment of the poor and marginalised;

"Development rights" means any approval granted to a land development application;

"Executive Council" means the Executive Council of the Northern Cape Provincial Government established in terms of section 132 of the Constitution;

"Existing rights" means any rights legally granted by a competent authority in terms of the provisions of the Northern Cape Planning and Development, Act 7 of 1998, SPLUMA, municipal planning by-laws and/or any other legally granted processes in terms of which the owner of land is entitled to any rights to develop such land, proceed with the development land and proceed with land development on the land in terms of which such rights were granted any rights relating to land;

"Existing scheme" means any land use management scheme adopted and approved by a Municipality in respect of the whole or a portion of its municipal area in terms of any provincial or national legislation that governed such land use schemes;

"Head of Department" means the administrative head of the Provincial Department within the Province which reports to the MEC tasked by the Premier with the responsibility for the administration of this Act;

"Information" means any spatial planning and land use management system, book, document, map or chart in electronic, printed or other format and will include physical objects and models irrespective of the format in which it was produced;

"Land" means any erf, agricultural holding or farm portion, and includes any improvement, alteration or building on the land or thereunder and any real right in land excluding sectional title schemes;

"Land development" means the erection of buildings or structures on land, or the change of use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of an applicable land use scheme;

"Land development application" means any application submitted by an applicant for any development rights in respect of a land development in terms of SPLUMA and/or municipal planning by law and includes an application for removal,suspension or amendment of a restrictive condition.

"Land use" means the purpose for which land is or may be used lawfully in terms of a land use scheme, existing scheme or in terms of any other authorisation, permit or consent issued by a competent authority, including any conditions related to such land use purposes and title conditions;

"Land use scheme" means a land use scheme contemplated in SPLUMA for the regulation of land use.

"MEC" means a member of the Executive Council of the Province responsible for the provincial department to which the Premier has delegated any functions in terms of this Act;

"Municipal area" means the area of jurisdiction of a Municipality as determined in terms of the Local Government Demarcation Act, 1998 (Act No 27 of 1998);

"Municipal Planning Tribunal" means the Municipal Planning Tribunal as established in terms of Chapter 6 of SPLUMA;

"Municipality" means a Municipality as envisaged in section 155 of the Constitution that is situated within the Province and, where the context so requires the Municipal Planning Tribunal and Authorised official established by the Municipality in question;

"NCPDA" means the Northern Cape Planning and Development Act, 1998 (Act No 7 of 1998);

"Organ of state" means an organ of state as defined in Section 239 of the Constitution;

"Person" means any natural, juristic person and legal persona or figure, including an organ of state;

"Premier" means the head of the Executive Council of the Province and any referral to the Premier includes the MEC to which the Premier has delegated any functions to in terms of this Act;

"Prescribed" means prescribed in terms of this Act and by regulations enacted in terms of the Act;

"Province" means the Northern Cape Province as defined in terms of section 103(1)(f) of the Constitution;

"Provincial interest" means any development right or land development which if granted and/or implemented, may have a direct impact on sustainable development within the Province;

"Public holiday" means a public holiday referred to in section 1 and proclaimed as such in terms of section 2 of the Public Holidays Act, 1994 (Act No 36 of 1994);

"Public participation" means inclusive participation in terms of which any interested and/or affected party may participate, comment or object to the processes which may affect any rights of any person relating to any matter regulated in terms of this Act;

"Publish" means the publication of a general notice or any other notice in the Provincial Government Gazette of the Province and "publication" shall have a similar meaning;

"Regulation" means a regulation published in terms of the Spatial Planning and Land Use Management Act 16 of 2013;

"Secondary use" means any secondary use of land made provision for in a land use scheme or existing scheme;

"SPLUMA" means the Spatial Planning and Land Use Management Act, 2013 (Act No 16 of 2013) and any regulations enacted in terms thereof;

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

"Urban sprawl" means an uncontrolled expansion of an urban area.

"Zone" means a defined land use which is shown on the zoning map of a land use scheme which may make provision for different zonings for different portions of land.

"Zoning" means the prescriptions which state, firstly, the purpose for which land may be used and, secondly, the land use restrictions applicable in respect of the said land uses as determined in a land use scheme.

Application of the Act

2. (1) This Act shall apply to the entire area of the Province

(2) This Act constitutes legislation in terms of section 104 of the Constitution.

Purpose of the Act

3. The purpose of this Act is to:

(1) ensure that spatial planning and land use management in the Province is supported in accordance with national legislation, guidelines and policies;

(2) provide for matters of provincial interest;

(3) provide for the establishment, functions and funding of the Provincial Spatial Planning and Land Use Advisory Committee;

(4) provide for the establishment term of office, disqualification, removal from office, meeting and quorum of the Spatial Planning and Land Use Advisory Committee.

(5) provide for provincial support and monitoring mechanisms and structures to assist local government within the Province;

(6) provide for the participation of Traditional Authorities in spatial planning and land use management matters;

(7) Provide provincial specific guidance for the adoption and amendment of the Provincial Spatial Development Framework;

(5) provide uniformity in respect of land uses to guide municipalities within the Province; and

(6) provide for transitional arrangements required.

CHAPTER 2

PROVINCIAL APPROACH TO SPATIAL PLANNING, LAND USE MANAGEMENT AND MATTERS OF PROVINCIAL INTEREST

Provincial approach to Spatial Planning and Land Use Management

4. (1) All spatial planning, land use management and development within the Province should promote sustainability by recognising the need for a balance between environmental integrity, human well-being and economic efficiency;

(2) Wherever it is practically possible and financially feasible to do so, traditional/customary and internationally acceptable and recognized standards and practices regarding sustainable development should be incorporated and reflected in any provincial and municipal policies and implementation mechanisms relating to spatial planning and land use management.

(3) Any land use scheme adopted by a Municipality must be guided by the spatial planning categories as provided for in schedule 1 of this Act, in order to give effect to subsection (1);

(4) All spatial planning and land use management within the Province must –

(a) promote the sustainable integration of the social, economic, and environmental aspects of land development;

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

(c) discourage urban sprawl;

(d) promote a diverse range of land uses and economic development in terms of the Spatial Development Frameworks;

(e) promote public participation;

(f) maximise local, and provincial economic benefits stemming from land developments; and

(g) give effect to development principles contained in ***section 7 of SPLUMA***

Matters of Provincial interest

5. (1) The Premier may, after consultation with organs of state in the national, provincial, local spheres of government, and any other person who may have an interest in any spatial planning, land use management and/or land development matter determine by way of regulation that any intention to develop, any development or any land development, is a matter of provincial interest.

(2) If the development rights sought in terms of SPLUMA and/or municipal planning by-laws by an applicant which may have an impact on a matter of provincial interest, the applicant must request the Premier in writing to provide comments to the application received.

(3) The Premier must provide written comments in respect of any written request received in terms of subsection (2) within 30 days or as per gazetted municipal planning by-laws after receipt thereof.

(4) If the Premier fails to provide the written comments within the period prescribed in subsection (3), such a failure should be deemed that the Premier has no comment on the application then the municipality may proceed.

(5) Any written comments received from the Premier in terms of subsection (3) must be considered by the Municipal Planning Tribunal of the Municipality in question when deciding upon the application to which the development rights sought, relates to.

CHAPTER 3

PROVINCIAL SPATIAL PLANNING AND LAND USE ADVISORY COMMITTEE

Establishment and composition of a Provincial Spatial Planning and Land Use Advisory Committee

6. (1) The Premier must, within 2 years from the date of commencement of this Act, by way of notice in the provincial gazette establish a Provincial Spatial Planning and Land Use Advisory Committee for the Province.

(2) The Provincial Spatial Planning and Land Use Advisory Committee shall consist of a minimum of 5 and a maximum of 7 persons with the necessary and proven knowledge and experience in spatial planning, land use management and land development or the law related thereto to advise the Premier on matters relating to spatial planning, land use management and development.

(3) The persons serving on the Provincial Spatial Planning and Land Use Advisory Committee may be appointed from the employees of national departments, provincial departments, the South African Local Government Association, a representative employed within the administration of municipalities, persons employed within the private sector of the Province and a representative from the Provincial House of Traditional Leaders.

(4) The Premier must appoint the Chairperson and Deputy Chairperson of the Provincial Spatial Planning and Land Use Advisory Committee from amongst the members of the Committee.

(5) The Provincial Spatial Planning and Land Use Advisory Committee may request duly qualified or experienced officials or persons who are not members of the Provincial Spatial Planning and Land Use Advisory Committee but are qualified and experienced in spatial Planning and Land Use Management to advise the Provincial Spatial Planning and Land Use Advisory Committee on any matter it deems to be appropriate.

(6) The Premier shall determine the conditions of appointment of the members of the Provincial Spatial Planning and Land Use Advisory Committee and monitor its functions.

(7) An appointment of a member of the Provincial Spatial Planning and Land Use Advisory Committee shall be effective after his/her appointment has been published by the Premier in the Provincial Gazette.

(8) The Provincial Spatial Planning and Land Use Advisory Committee shall report to the Premier.

(9) The Premier shall determine and ensure that the Provincial Spatial Planning and Land Use Advisory Committee is provided with the necessary infrastructure to function properly.

Functions of the Provincial Spatial Planning and Land Use Advisory Committee

7. The Provincial Spatial Planning and Land Use Advisory Committee shall advise the Premier on Spatial Planning and Land Use Management in the Province as well as performing the following functions:

(1) to identify matters that may have a strategic impact on spatial planning, land use management and development in the Province;

(2) to identify all development and potential development relating to spatial planning and land use management which may have beneficial or adverse impact on the Province;

(3) to advise on the facilitation of the possible creation and implementation of investment incentives to support and realize development within the Province;

(4) to request, obtain and evaluate any research or any information pertaining to spatial planning, land use management and development which may impact on matters of provincial interest or impact adversely upon any development within the Province;

(5) identify non-compliance with the provisions of this Act by any organ of state or any other person within the Province and to provide information and advice to the Premier relating to such non-compliance;

(6) identify any needs and shortcomings within the Province that need to be addressed to ensure the implementation of SPLUMA and the Act; and

(7) provide advice to and assist the Premier in drafting and amending the Provincial Spatial Development Framework.

(8) to provide the Premier with a written report of its activities on a quarterly basis.

Funding of the Provincial Spatial Planning and Land Use Advisory Committee

8. The Premier is responsible for ensuring that the activities of Provincial Spatial Planning and Land Use Advisory Committee are funded and that all its financial requirements are budgeted for.

Term of office and allowances of members of the Provincial Spatial Planning and Land Use Advisory committee

9. (1) A member of the committee may be appointed for a term of up to 5 years and may be reappointed for a second term at the lapse of the initial term.

(2) No person may be appointed as a member of the committee for more than two terms.

(3) A member of the committee must be paid such reasonable allowances out of the funds of the Provincial department to which the Premier has delegated the functions

of this Act, in consultation with the Member of the Executive Council responsible for finance in the Province.

Disqualification from being appointed to the Provincial Spatial Planning and Land Use Advisory committee

10. (1) No person may be appointed to serve as a member of the committee if such a person:

(a) is not a South African citizen;

(b) is an unrehabilitated insolvent;

(c) is a mental health care user as defined in terms of section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);

(d) has at any time been convicted, whether in the Republic of South Africa or elsewhere, of an offence mentioned in Schedule 1, 2 or 5 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

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

(f) has at any time contravened a provision of this Act.

(2) No person, knowing that he or she is subject to a disqualification contemplated in subsection (1), may accept an appointment to serve as a member of the committee, and must, if he or she becomes aware of such disqualified while serving as a member of the committee, resign immediately as a member of the committee.

Removal from office

11. (1) The Premier may, *by* written notice, remove any member from the committee

(a) grounds of misconduct or incompetence;

(b) if the member becomes subject to a disqualification contemplated in section 11(1);

(c) if the member is absent from more than two consecutive meetings of the committee in one year without sound reason.

(2) A decision to remove a member of the committee on the grounds of misconduct or incompetence must be based on a finding by an appointed independent investigator.

(3) Any investigation in terms of subsection (2) must be in accordance with section 3 of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).

(4) A notice contemplated in subsection (1) must state the reasons for the removal of the member.

(5) If the committee is not functioning, the Premier may at any time disband and re-establish the committee within a reasonable period of time.

Meetings and quorum of the committee

12. (1) Any meeting of the committee must be convened and held on such date and at the time and place as may be determined by the chairperson, but at least once every 3 months.

(2) If the chairperson is absent or for any reason unable to exercise the powers or perform the functions vested in the office of chairperson, or when the position of chairperson is vacant, the deputy chairperson must act as chairperson.

(3) If both the chairperson and the deputy chairperson are absent from any meeting of the committee, the members present must, from amongst themselves, elect a member to preside over such a meeting.

(4) The quorum for a meeting of the committee is a majority of its members.

(5) Notwithstanding the provisions of subsection (1), the chairperson must, on request of the Premier, convene an extraordinary meeting of the committee.

CHAPTER 4

PROVINCIAL SUPPORT AND MONITORING

Provincial support

13. In order to assist Municipalities, the Premier–

(1) may provide a Municipality with support and funding in order to adopt or amend its land use scheme or spatial development framework;

(2) must provide a Municipality with access to relevant spatial planning and land use management information of which the Premier is the custodian of;

(3) must provide spatial planning and land use management support and guidance to Municipalities;

(4) may, subject to the conditions imposed by the Premier, provide access to formal training programmes to full time employees of a Municipality tasked with the implementation of SPLUMA and the Act;

(5) must, within 2 years from the date of commencement of this Act, provide access to informal training to the full-time employees of a Municipality tasked with the implementation of SPLUMA and the Act;

(6) may create and maintain an electronic based educational platform accessible to any employee of any organ of state within the Province tasked with the implementation of SPLUMA and the Act;

(7) may provide Municipalities with access to any electronic programme which contains information pertinent to a Municipality;

(8) must inform a Municipality of any advice it receives from the Provincial Spatial Planning and Land Use Advisory Committee which may have any impact on the actions, omission or intended actions of a Municipality; and

(9) must consult with a Municipality on any matter which may have an adverse effect on the implementation of this Act.

Provincial Monitoring

14. The Premier must monitor adherence to the provisions of this Act by a Municipality by way of –

(1) at least annually determining the financial and human resource capability of a Municipality to comply with the provisions of SPLUMA and this Act and provide written feedback to the Municipality in this regard;

(2) annually determining the existing and future availability of municipal service infrastructure and provide written feedback to the Municipality in this regard.

Information to be provided by Municipalities

15. Every local Municipality within the Province shall provide the Premier with the following information in order to give effect to an effective system of land use management –

(1) an annual report on the status of its adopted Spatial Development Framework and Land Use Management Scheme;

(2) a bi-annual report on the functioning of the Municipal Planning Tribunal and/or Authorised Official of the Municipality which shall contain the following information:

(a) list of applications received by the Municipality;

(b) the number of development rights granted or refused as per Municipal Spatial Development Framework;

(c) the number of sittings of its Municipal Planning Tribunal;

(d) the number of decisions of appeals granted or refused in respect of decisions of the Municipal Planning Tribunal and Authorised Official; and/or

(e) any other applicable information not limited to the above.

Participation of Traditional Leaders

16. Subject to Section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), a municipality, in the performance of its duties in terms of this Act must allow the participation of a traditional council as may be needed.

CHAPTER 5

PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK

Matters relating to the adoption and amendment of a Provincial Spatial Development Framework

17. (1) In addition to the measures contained in SPLUMA, the Premier may implement additional measures as may be deemed necessary from time to time to ensure that all persons that may be affected by the adoption or amendment of a Provincial Spatial Development Framework have an opportunity to make submissions to the Premier.

(2) The measures referred to in subsection (1) shall include, but not be limited to interacting with and providing all persons with the opportunity to make written representations and if circumstances warrant it, verbal representations.

(3) The Premier shall implement the measures referred to in subsection (1) after consultation with:

(a) all National Departments;

(b) all provincial Departments of the Province;

(c) the Municipalities;

(d) parastatals;

(e) Traditional Councils and

(f) the private sector; and

(g) any other interested party

CHAPTER 6

LAND USE SCHEMES AND UNIFORM LAND USES

Land Use Schemes

18. (1)Any land use reflected or recorded in a land use scheme adopted or amended after the date on which this Act commences operation, must be guided by the Spatial Planning Categories made provision for in Schedule 1 of the Act.

(2)The provisions of this Act do not prohibit the adoption of a land use scheme by a Municipality in terms of section 24 of SPLUMA.

Uniform Land Uses

19. (1)All land situated within the Province must be guided in accordance with the uniform land uses listed but not limited as provided for in Schedule 1 to this Act.

(2)The Premier may by way of notice amend, increase or decrease the uniform land uses reflected in the land use schemes adopted or amended by a municipality.

(3) A Municipality may determine secondary uses and possible consent uses to the uniform land uses listed and provided for in Schedule 1 to this Act which shall be included and reflected in any Land Use Scheme adopted or amended by it.

CHAPTER 7

GENERAL PROVISIONS

Regulations

20. (1)The Premier may, after public consultation make regulations consistent with this Act prescribing -

(a) any matter regulating land development;

(b) implementation measures required to give effect to this Act; and

(c) any other matter deemed necessary for achieving the objectives of this Act.

Delegation

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

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

(3) A delegation under subsection (1) does not prevent the Premier from exercising the power or performing the duty concerned.

Transitional arrangements

22. (1) Any existing right legally granted shall be deemed to comply with the provisions of this Act.

Repeal of laws

23. The Northern Cape Planning and Development Act 7 of 1998 is hereby repealed in its entirety.

Short title

24. This Act is called the Northern Cape Spatial Planning and Land Use Management Act, 2023 and comes into operation on a date fixed by the Premier by proclamation in the *Gazette*.

SCHEDULE 1

UNIFORM SPATIAL PLANNING CATEGORIES AND LAND USES

1. Land Uses applicable throughout the Province shall be based but not limited to the following Spatial Planning Categories:

   (a) Core conservation areas;

   (b) Natural Buffer areas;

   (c) Agricultural areas;

   (d) Urban related areas;

   (e) Industrial areas; and

   (f) Surface Service Infrastructure areas.

2. Every land use in this Schedule must be linked to a specific Spatial Planning Categories as provided for in this Schedule.

3. The Spatial Planning Categories defined in this Schedule must be reflected in the Land Use Scheme of a Municipality.

4. The Spatial Planning Categories as a minimum, are defined as follows –

   (a) **Core Conservation areas**– means any land that is protected by any national, provincial or local statutes to ensure conservation of the natural and built environment and which by implication cannot develop outside the parameters provided for in the applicable national, provincial or local statutes;

   (b) **Natural Buffer areas** – mean any non-statutory conservation areas, ecological corridors and urban green areas;

(c) **Agricultural areas**– mean extensive and intensive agricultural areas;

(d) **Urban Related Areas** – means any main towns, local towns, rural settlements, tribal authority based settlements, communal settlements, institutional areas, government or authority areas, residential areas, business areas, service related business areas, special businesses, SMME incubators, mixed-use development areas, cemeteries, sports fields and associated infrastructure, airports and associated infrastructure, resorts and tourism related areas and farmsteads and outbuildings;

(e) **Industrial areas** – means any agricultural industry, industrial development zone, light industry, industry, noxious industry and extractive industry; and

(f) **Surface Service Infrastructure** – means any national roads, main roads, minor roads, public streets, public parking, private road, heavy vehicle overnight facilities, railway lines and associated facilities, power lines, telecommunication and data infrastructure, renewable energy structures, dams and reservoirs, canals, sewerage plants and refuse areas;

6. In this Schedule the uniform land uses provided hereunder may be applicable and reflected as a guide to develop the Land Use Management Schemes of Municipalities:

(a) **"agriculture purposes"** means purposes normally or otherwise reasonably associated with the use of land for agricultural activities, including the use of land for structures, buildings and dwelling units reasonable necessary for or related to the use of land for agricultural activities;

(b) **"business purposes"** means purposes normally or otherwise reasonably associated with the use of land for business activities, including shops, offices, showrooms, restaurants or similar businesses other than places of instruction, builder's yards, scrap yards or other industrial activities;

(c) **"coastal purposes"** means the area comprising coastal public property, the coastal protected zone, coastal access land and coastal protected areas, the seashore, coastal waters and the exclusive economic zone and includes any aspect of the environment on, in, under and above such areas;

(d) **"commercial purposes"** means the purposes normally or otherwise reasonable associated with the use of land for distribution centres, wholesale trade, storage warehouses, carriage and transport services, laboratories or computer centres, office and other facilities that are subordinate and complimentary to such use;

(e) **"community purposes"** means the purposes normally or otherwise reasonable associated with the use of land for community purposes, including land for cultural activities, social meetings, gatherings, non-residential clubs, sport or other activities where the primary aim is of a non-profit nature;

(f) **"conservation purposes"** – means land normally used for the preservation of the natural or built environment, including the preservation or protection of the physical, ecological, cultural or historical characteristics of land against undesirable change or human activity, but excluding land falling within a Coastal zone;

(g) **"educational purposes"** – means any land normally used or otherwise reasonable associated with the use of that land primarily for instructing or teaching purposes, including crèches, private and public schools, lecture halls, monasteries, public libraries, public art galleries, museums, colleges and universities;

(h) **"gambling purposes"** – means any land primarily used for conducting any form of gambling as defined and regulated by the provisions of the National Gambling Act, 2004 (Act No 7 of 2004) and the Northern Cape Gambling Act, 2008 (Act No 3 of 2008);

(i) **"government purposes"** – means any land normally used or otherwise reasonable associated with the use of that land for the purpose of

conducting business by the national government, the provincial government or any municipality, but excluding any land used for such purposes as defined under the definitions of an "Educational Zone" of "Health Zone" in terms of this Schedule;

(j) **"health purposes"** – means any land normally used or otherwise reasonable associated with the use of that land for hospitals, nursing homes, old age homes, all clinics of a medical nature, sanatoriums and offices where medical practitioners perform any form or medical procedure, irrespective of whether such land use is of a public or private nature;

(k) **"industrial purposes"** – means any land normally used or otherwise reasonable associated with the use of that land for the manufacture, alteration, repairing, assembling or processing of a product, or dismantling or the breaking up of a product, or the processing of raw materials, including a noxious activity;

(l) **"infrastructure purposes" means** any land normally used or otherwise reasonable associated with the use of that land for telecommunication purposes, the generation of electricity, sewerage treatment plants, refuse areas, solid waste disposal facilities, storm water facilities, water treatment plants, transport related facilities and infrastructure and water pipelines;

(m) **"mining purposes"** – means any land primarily used for mining purposes;

(n) **"recreational purposes"** – means any land normally used or otherwise reasonable associated with the use of that land primarily for recreation, including entertainment, amusement, leisure, public or private open spaces, public parks and public gardens;

(o) **"residential purposes"** – means any land normally used or otherwise reasonable associated with the use of that land primarily for human habitation, including a dwelling house, group housing, hotels, flats,

boarding houses, guest houses, residential clubs, social housing, hostels, residential hotels and camping facilities;

(p) **"special purposes"** – means any land normally used or otherwise reasonable associated with the use of that land not provided for in any of the other uniform land use zones made provision for in this Schedule; and

(q) **transport purposes** – means land primarily used or otherwise reasonable associated with the use of that land as a point for the pick-up or off-load of people or goods, including taxi ranks, bus bays, bus stations, bus terminuses, railway stations, airports, roads and streets and ancillary uses.

THE NORTHERN CAPE PLANNING AND DEVELOPMENT ACT

PREAMBLE

To provide for a single set of procedures and regulations to complement the accelerated development procedures as provided for in the Development Facilitation Act, 1995; and to thereby ensure effective and co-operative planning and land development within the provincial and local spheres of government of the Province of the Northern Cape, through a set of principles which will guide the preparation and implementation of integrated land development plans, the management of rural and urban land and its development through land-use management mechanisms, subdivisions and matters incidental thereto.

Be it enacted by the Provincial Legislature of the Province of the Northern Cape, as follows:

ARRANGEMENT OF THE ACT

Introduction	Definitions (section 1)
Chapter I	General Principles applicable to Planning and Development (Sections 2 & 3);
Chapter II	Establishment and Responsibilities of the Northern Cape Planning and Development Commission (sections 4 to 8);
Chapter III	Establishment and Responsibilities of a Forum for Co-operative Planning and Development (sections 9 to 12);
Chapter IV	The preparation and approval of the Provincial Development and Resource Management Plan, the District Council Settlement and Infrastructure Development and Management Plan and the Local and Representative Council Land Development Plan (sections 13 to 35);
Chapter V	Zoning Schemes and Land Development Procedures and Regulations (sections 36 to 45);
Chapter VI	Subdivision of land and matters related to Land Tenure (sections 46 to 58);
Chapter VII	Removal of Restrictions (sections 59 to 63);
Chapter VIII	General Provisions (sections 64 to 83);
Schedule A	Interim procedures for applications made in terms of this Act;
Schedule B	Laws and Ordinances in respect of which applications may be further dealt with in terms of this Act;

Schedule C	Laws, Ordinances and Regulations repealed;
Schedule D	Town Planning Schemes in terms of the Townships Ordinance, 1934, (Ordinance 33 of 1934) deemed to be Zoning Schemes in terms of section 7(1) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985);
Schedule E	Zoning Schemes made in terms of section 8 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985); and
Schedule F	Town Planning Schemes approved in terms of the Regulations made under the Black Communities Development Act, 1984 (Act 4 of 1984).

(9) "develop" when used in the context of the utilisation of land or the physical improvement of land, means the use of the land or a part thereof or the physical improvement of the land by preparing it for development, including the in-fill of land, draining or levelling of land, the installation of engineering services, the subdivision of land and the erection, alteration or extension of buildings on land;

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

(11) "diagram" means a diagram as defined in section I (vi) of the Land Survey Act, 1997 (Act No 8 of 1997);

(12) "environment" means the environment as defined in section 1 of the Environmental Conservation Act, 1989 (Act No 73 of 1989);

(13) "initial ownership" means the form of title as contemplated and defined in section 62 of the Development Facilitation Act, 1995 (Act No 67 of 1995);

(14) "general plan" means a general plan of a land unit, or of a portion thereof, which has been approved in terms of the Land Survey Act, 1997 (No 8 of 1997);

(15) "land unit" means a portion of land registered or capable of being registered in the deeds registry and may include a servitude lease or right;

(16) "land use restriction" means a restriction, imposed in terms of this Act or any provision contained within an approved zoning scheme and land development procedures and regulations, on the physical extent of the improvement of land;

(26) "rezoning" means a change from one category of land use activity or intensity to another category;

(27) "sectorally integrated" means the integration of various sectors participating in or providing services to support urban or rural areas including economic, environmental, spatial, transport, education, health, sewerage, roads, water, electricity, institutional administrations and fiscal arrangements;

(28) "subdivide" in relation to land, means to subdivide the land, whether by means of:

(a) survey; or

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

(c) its preparation for subdivision.

(29) "surveyor" means a person registered as a professional land surveyor or a professional engineering surveyor or an engineering surveyor in terms of the Professional Land Surveyors' and Technical Surveyors' Act, 1984 (Act No 40 of 1984), whose name has been entered in the register referred to in section 7(4) of that Act;

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

(31) "strategic land or sites" means an area of land which by virtue of its spatial location, size or inherent attributes will or could benefit from specific procedures aimed at realising its relative locational, size or attribute advantages in terms of the development principles contained in Chapter I, or an approved planning and development plan as provided for in Chapter IV of this Act;

CHAPTER I

General principles applicable to planning and development

General Principles

2. The general principles as prescribed in Chapter 1, section 3, of the Development Facilitation Act, 1995 (Act 67 of 1995), shall apply throughout the Province of the Northern Cape and -

(a) shall be applicable to any planning and land development related actions taken by the MEC or his/her administration, any competent authority or any other body or bodies established in terms of this Act;

(b) serve to guide the administration of any spatial plans, policies, development objectives, implementational programmes and projects, regulations and guidelines administered by the MEC or any competent authority in terms of this Act;

(c) serve as guidelines for the exercise of any discretion, recommendation or decision made or taken in terms of this Act.

(For the purposes of this Act the term "land development" as contained in the principles referred to in section 2 shall include the term "development" as used in this Act, and shall be applicable to any procedures or processes which will eventuate in or give rise to land development.)

General principles for decision-making and conflict resolution

3.(1) Any decision taken by the MEC, a competent authority or any other body or bodies established in terms of this Act, shall be subject to the following principles:

(a) the decision shall be consistent with the principles referred to in section 2 and any approved plan referred to in terms of Chapter III of this Act;

(b) prior to reaching a decision, any party or parties who may be adversely affected by such a decision, in terms of their right to utilise or occupy their land, shall be given the opportunity to comment on or object to the substance of the matter;

CHAPTER II

Establishment, Composition and Responsibilities of the Northern Cape Planning and Development Commission

Establishment and Composition of the Northern Cape Planning and Development Commission

4.(1) The MEC shall, by proclamation in the Provincial Gazette, establish a Northern Cape Planning and Development Commission (hereinafter referred to as the "Commission") to perform the functions and duties referred to in section 7.

(2) The Commission shall consist of a chairperson, a deputy chairperson and a maximum of four other members appointed by the MEC, of whom:

(a) not more than two shall be nominated by the Northern Cape Local Government Association;

(b) not more than one person shall be nominated by sectors or sub-sectors who own property or who undertake or finance property development;

(c) not more than one person shall be nominated by organisations or community-based groups in civil society who represent the interests of communities intended to benefit from development;

(d) not more than two persons who have expertise or experience relative to the functions of the Commission, including a person with legal knowledge and experience.

(3) The MEC shall designate one of the members of the Commission as chairperson and a second person as the deputy chairperson, who shall perform the functions of the chairperson in his/her absence.

(4) Prior to the appointment of a person as a member of the Commission, the MEC shall -

(a) by notice in the Provincial Gazette and in newspapers circulating widely in the Province, call for nominations for the members of the Commission;

(7) The MEC may, and if so directed by the Provincial Legislature, shall, at any time terminate the period of office of a member of the Commission if there is sufficient reason therefor.

(8) The deputy chairperson of the Commission shall act as chairperson whenever the chairperson is for any reason unable to act as such.

(9) The MEC may appoint any of the other members to serve as chairperson should the chairperson or deputy chairperson be unable to do so.

(10) The meetings of the Commission shall be held at the times and places determined by the chairperson or the deputy chairperson or any other member acting in his/her stead.

(11) The quorum for a meeting of the Commission shall be the majority of the members of the Commission as at the date of that meeting.

(12) The resolution of a majority of the members of the Commission present at a meeting of the Commission shall constitute the decision of the Commission and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his/her deliberative vote.

(13) A member of the Commission shall not be present at or take part in the discussion of or vote on a matter before the Commission in which he/she has a direct or indirect pecuniary or other interest.

Administration and research functions of the Commission

5.(1) Any functions performed by the Forum which relate to issues of fiscal and financial matters shall be undertaken in accordance with the Northern Cape Exchequer Act, 1994 (Act No 1 of 1994) and shall conform with the Provincial Tender Board Procedures.

(2) The administrative, secretarial and research functions of the Commission shall be performed by:

(a) officers and employees in the Provincial Government designated for such purpose by the MEC;

(b) consultants appointed by the Provincial Government in accordance with the provisions of Treasury Instructions.

agencies and spheres of government which impact on the effectiveness and efficiency of planning and land development within the Province.

(b) Investigate and report on mechanisms and approaches on how to advance the process of reforming and improving planning and development systems in the Province, including the need to amend this Act or the preparation of new legislation.

(c) Investigate and report on mechanisms and approaches which will advance the implementation of effective co-operative governance within the field of planning and development.

(d) The preparation of regulations, guidelines and user manuals which will result in the more effective administration and implementation of the provisions of this Act.

Inquiries by the Commission

8.(1) If the MEC or any other body or person refers a matter to the Commission in terms of section 7(1)(a), the Commission shall, if it deems it necessary, conduct an inquiry into the matter.

(2) The procedure to be followed in conducting the inquiry shall be determined by the Commission at its discretion, with due regard to the circumstances of each case.

(3) The proceedings and evidence at an inquiry shall be minuted in a manner deemed fit by the Commission.

(4) For the purposes of an inquiry-

(a) the Commission may subpoena any person who could presumably furnish information on the subject of the inquiry or who has in his/her possession or under his/her control a book, document, or other object which relates to the subject, to appear before the Commission at a time and venue mentioned in the subpoena, to be questioned or to submit that book, document or other object; and

(b) the Commission or a person designated by the Commission may question that person under oath or affirmation administered by

CHAPTER III

Establishment, Composition and Responsibilities of a Forum for Co-operative Planning and Development

Establishment and Composition of a Forum for Co-operative Planning and Development

9.(1) The MEC shall, by proclamation in the Provincial Gazette, and with effect from a date specified therein, establish the Forum for Co-operative Planning and Development in the Northern Cape (hereinafter referred to as the "Forum").

(2) The Forum shall, subject to the provisions of subsections (5) and (6), consist of:

(a) all MEC's and representatives of their Departments who, in the opinion of the MEC for Housing and Local Government and the MEC for Finance, Economic Affairs and Tourism, influence, participate in or administer issues dealing with planning and land development, including National Ministries with regional offices;

(b) the chairpersons of the Executive Committees of all district councils proclaimed within the Province of the Northern Cape;

(c) the chairperson or the deputy chairperson of the Northern Cape Planning and Development Commission;

(d) not more than two representatives from the Northern Cape Local Government Association;

(e) not more than four persons nominated by sectors or subsectors who own property, or who undertake or finance property development;

(f) not more than four persons nominated by organisations and community-based groups in civil society who represent the interests of communities intended to benefit from development.

(3) The Forum shall be jointly chaired by the MEC's for Housing and Local Government and for Finance, Economic Affairs and Tourism or in a case where neither of the MEC's are available, by a person nominated by either one of the MEC's or jointly nominated.

(7) The Forum shall meet a minimum of three times per calendar year, and not more than six months shall lapse between two consecutive meetings.

(8) A notice calling for a meeting of the Forum, together with a proposed agenda and any associated documentation, shall be issued to all representatives at least 14 days prior to the scheduled meeting.

(9) The quorum for a meeting of the Forum shall be the majority of the representatives of the Forum as at the date of the meeting.

(10) The resolution of a majority of the members of the Forum present at a meeting of the Forum shall constitute the decision of the Forum and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his/her deliberative vote.

(11) A member of the Forum shall not be present at or take part in the discussion of or vote on a matter before the Forum in which he/she has a direct or indirect pecuniary or other interest.

(12) A representative of the Forum, other than a person who is in the full-time employment of the State or a local government body, is appointed on the conditions of service, including conditions relating to the payment of remuneration and allowances, which the MEC shall determine with the concurrence of the MEC for the Treasury function.

Administrative functions and expenditure of the Forum for Co-operative Planning and Development

10.(1) The administrative, secretarial, research or training functions of the Forum shall be performed by:

(a) officers and employees of the Provincial Government designated for such a purpose by the appropriate MEC;

(b) consultants appointed by the Provincial Government in accordance with the provisions of Treasury Instructions.

(2) The Department of Housing and Local Government shall prepare an annual budget for funding the functioning of the Forum.

(3) Based on the annual report referred to in section 12, the annual budget referred to in subsection (2) shall be submitted by the Department of

Annual report of the Forum for Co-operative Planning and Development

12. Within six months of the end of the Provincial financial year, the Forum shall present an annual report of its activities to the Premier and the Executive Council of the Province of the Northern Cape, setting out its achievements, problems and failures together with proposals and budgetary implications for its next year of office.

The Purpose of a Provincial Development and Resource Management Plan

14. The purpose of a Provincial Plan shall be to ensure that the use and allocation of Province's resources, both renewable and non-renewable, are informed by a set of integrated and coordinated policies, objectives, implementational strategies, programmes and, where appropriate, projects aimed at:

(1) elaborating on and implementing the principles referred to in Chapter 1, as well as any other national initiatives which may impact on the content and purpose of the Provincial Plan;

(2) setting and monitoring, where appropriate, measurable standards with regard to, amongst other things, public access to health, safety, amenity, education and economic opportunity;

(3) ensuring that the supply of public infrastructure is directed towards meeting the standards referred to in subsection (2) in a prioritised, coordinated, sustainable and cost effective way, in terms of capital and maintenance expenditure;

(4) ensuring the protection and sustainable utilisation of land, water and air where these are important for the maintenance of ecologically sensitive systems or processes, areas of biological diversity, public health or public amenities;

(5) providing an investment and expenditure programme coordinated with budgetary cycles and capable of securing financial and other resources from National Government and any other funding agencies as well as public/private sector partnerships; and

(6) informing and guiding the preparation and implementation of District Council Settlement and Infrastructure Management Plans and Local and Representative Council Land Development Plans.

The contents of a Provincial Development and Resource Management Plan

15. A Provincial Plan shall consist of the following components:

(1) A set of sectorally integrated and coordinated policies, objectives and implementational strategies informed by:

(a) the General Principles referred to in Chapter 1;

(3) Prioritised programmes and projects aimed at implementing the policies, objectives and implementational strategies referred to in subsections (1) and (2) through:

(a) defining time - related targets based on projected development needs, which shall, where appropriate, be informed by the measurable and quantifiable social and economic development, bulk engineering and social service needs referred to in section 15(1)(c);

(b) prioritised three- to five-year capital expenditure programmes informing the annual capital and operations budget allocation of the Province;

(c) motivating, levering and securing funding from National government;

(d) motivating, levering and securing funding from any other funding-related agencies; or

(e) partnership arrangements with the private sector.

Procedures for the formulation of the Provincial Development and Resource Management Plan

16.(1) The responsible member shall within 60 days of his/her appointment by the Premier referred to in section 13 (1), publish a notice in the Provincial Gazette and notify all local government structures in writing as well as publish a notice, in at least two official languages which are most commonly used in the specific area, in local newspapers circulated throughout the area of the Province, stating-

(a) the intent to prepare a Provincial Plan;

(b) the purpose of the Provincial Plan as prescribed in section 14;

(c) the proposed contents of the Provincial Plan, including those prescribed in section 15;

(d) the manner in which and when in the preparation process the public, community-based organisations, the private sector and

(4) Based on its performance referred to in subsection (2), review its prioritised programmes and projects and set revised programmes and projects, as provided for in section 19, to inform the following year's budget cycle.

Amendments to the Provincial Development and Resource Management Plan

18.(1) Within 90 days of a Provincial general election having taken place, the incoming members of the Executive Council of the Province shall give consideration to the existing approved policies, objectives and implementational strategies in the plan and, if considered necessary, shall amend the policies, objectives or implementational strategies in terms of the provisions of this section.

(2) Any substantive amendments to the policies, objectives or implementational strategies referred to in sections 15(1) and (2), which are not minor amendments, which shall include an amendment correcting or changing:

(a) an explanatory matter of the policies or objectives; or

(b) the format or presentation of the policies or objectives; or

(c) a grammatical error in the policies or objectives; or

(d) a factual matter incorrectly stated in the policies or objectives,

shall be published for public comment in the Provincial Gazette and in local newspapers in at least two official languages which are most commonly used in the specific area, stating those policies, objectives or implementational strategies to be amended, the nature and content of the proposed amendments, the availability of the amendments for inspection purposes and the date by which comments must be lodged, which period shall not be less than 30 days.

(3) Following consideration of any comments submitted in terms of subsection (2), the amendment shall be submitted, together with any comments received in terms of subsections (2) and (3), to the Provincial Executive Council for decision.

Management Plan (hereinafter referred to as a "District Council Plan"), which approval, shall within 60 days of the submission date, not be refused unless:

(a) in the opinion of the MEC, the plan fails to deal adequately with the subject matter referred to in section 22;

(b) in the opinion of the MEC, the plan is inconsistent or cannot be reconciled with the Provincial Resource and Development Management Plan or any other objectives or planning related initiatives in terms of any other law in either the Province or at a national level;

(c) the procedures and other requirements prescribed in section 23 have, in the opinion of the MEC, not been complied with.

(2) Should the MEC not approve the District Council Plan in terms of this section, he/she shall give reasons in writing to the district council for that decision.

(3) In the event of a district council having initiated the preparation of a plan prior to the promulgation of this Act, which, in the opinion of the MEC, satisfies the purpose and contents of a District Council Plan as prescribed in sections 21 and 22, and has generally followed the procedural requirements of section 23, such a plan may be submitted to the MEC for approval, whereafter such approved plan shall comply with any applicable provisions of this Chapter.

The Purpose of a District Council Settlement and Infrastructure Development and Management Plan

21. The purpose of a District Council Plan shall be to:

(1) provide a spatial and infrastructural framework to guide the location, distribution and servicing of existing and proposed urban or rural settlements within the jurisdiction of a District Council;

(2) ensure that the exercise of the powers, duties and functions of District Councils as referred to in Schedule "B" of the Local Government Transition Act, 1993 (Act No 209 of 1993) or any amendments thereto, through a set of integrated and coordinated

(b) any national or provincial policies, directives or initiatives which may emanate from the Provincial Plan which may impact on the area of jurisdiction of the District Council;

(c) the demographic composition and distribution of people living and working within the area;

(d) the distribution of current and future economic activities and opportunities within the area of jurisdiction of the district council, including, amongst others, agricultural, processing, service and tourist activities, and their access to markets, transportation and other infrastructural service needs, such as water, electricity and communication networks;

(e) a set of identified, projected, and where appropriate, quantifiable, social, economic, health and service related needs of the area, in addition to those referred to in subsection (d);

(f) the need to protect, maintain and where appropriate, enhance ecologically sensitive systems and processes, areas of biological diversity and areas with amenity value; and

(g) the fiscal and budgetary capacity of the district council and any other sources of revenue available to it.

(2) Prioritised programmes and projects aimed at implementing the policies, objectives and strategies referred to in subsection (1) through:

(a) defining targets based on projected needs, which shall, where appropriate, be informed by the measurable and quantifiable social, economic, health and service needs referred to in subsection (1)(e);

(b) prioritised three-to-five-year capital expenditure programmes informing the annual capital and operational budget allocation of the district council;

in the specific area, stating the availability of the plan for comment purposes; and

(b) circulate the plan to provincial departments who have an interest in the matter and all local, representative and rural councils situated within the jurisdiction of the district council for comment purposes, where such comment period shall not be less than 30 days following the date of publication in the Provincial Gazette.

(3) Based on the comments referred to in subsection (2), the plan shall be revised where necessary and submitted, together with the comments received, to the district council for their consideration.

(4) Following the approval of the District Council Plan by the district council, the plan shall be submitted to the MEC in terms of section 20.

The District Council budgeting process and the District Council Settlement and Infrastructure Development and Management Plan

24.(1) In preparing its budget, both long- and short-term capital expenditure as well as operational expenditure, the district council shall have regard for the policies and prioritised objectives, programmes and projects approved in the District Council Plan.

(2) (a) the district council shall regularly monitor and assess its performance against the approved policies, objectives and measurable social, economic, health and service indicators referred to in section 22 (2) (a); and

(b) annually report back to its community on its performance relative to the approved policies, objectives and measurable social, economic, health and service indicators.

(3) Based on its performance referred to in subsection (2) (a), review its prioritised programmes and projects and set revised programmes and projects, as provided for in section 26.

Amendments to the District Council Settlement and Infrastructure Development and Management Plan

25.(1) Within 90 days of a local government election having taken place, the incoming councillors of the council shall give consideration to the existing

26.(1) The prioritised programmes and projects referred to in section 22 (2) shall, in accordance with the provisions contained in section 24, be revised, where appropriate, prior to each annual budgetary cycle.

(2) Prior to the submission of the revised prioritised programmes and projects to the district council concerned, the chief executive officer shall refer such revised programmes and projects to all provincial departments which may have an interest in the matter and to all local and representative councils for their comment, where such comment period shall not be less than 30 days following the date of referral.

(3) Simultaneous with the provisions of subsection (2), the chief executive officer shall publish the revised programmes and projects in the Provincial Gazette and in the local newspapers in at least two official languages which are most commonly used in the specific area, stating the availability of the revised programmes and projects for comment purposes, where such comment period shall be not less than 30 days following the date of the notice.

(4) Based on the comments referred to in subsections (2) and (3), the revised programmes and projects shall be amended, where necessary, and submitted to the district council, together with the comments, for approval.

(5) Following the approval of the revised implementational programmes and projects by the district council concerned, the revised programmes and projects shall be submitted to the MEC as provided for in section 20 and, when approved, shall be published in the Provincial Gazette.

Local and Representative Council Land Development Plan

Responsibility for the Local and Representative Council Land Development Plan

27.(1) Each local and representative council shall submit to the MEC for his or her approval a Local and Representative Council Land Development Plan (hereinafter referred to as a "Land Development Plan"), which approval shall, within 60 days of the submission date, not be refused unless:

(a) in the opinion of the MEC, the Land Development Plan fails to deal adequately with the subject matter referred to in section 29;

appropriate, measurable and quantifiable objectives, together with implementational strategies and programmes aimed at:

(a) elaborating on and implementing the Principles referred to in Chapter I, as well as any other policies, objectives, strategies or programmes prescribed in terms of both the Provincial Plan and the District Council Plan which may have an impact on a Land Development Plan;

(b) ensuring that the supply and distribution of public infrastructure and public facilities, such as health, educational, libraries, halls and recreational facilities, are directed at meeting the standards referred to in sections 15 (1) (c), (2) (e) and 22 (1) (e) or any other standards agreed to in terms of section 29 (2) (d) and (e) in a prioritised, coordinated and cost effective way, in terms of capital and operational expenditure;

(c) where appropriate, ensuring the protection and sustainable utilisation of land, water and air, where these are important for the maintenance of ecologically sensitive systems or processes, areas of biological diversity, public health or public amenities;

(d) providing a basis for securing and levering financial resources from provincial and national government sources as well as securing private sector investment; and

(e) informing and being informed by the contents and objectives of the Provincial Plan and the District Council Plan.

(3) complement and contribute to the purpose, intent and contents of an integrated development plan as provided for in the Local Government Transition Second Amendment Act, 1996 (Act No 97 of 1996) and any guidelines and regulations promulgated in terms of that Act.

The contents of a Local and Representative Council Land Development Plan

29. A Land Development Plan shall consist of the following components:

(2) A development framework shall consist of a set of co-ordinated and integrated policies, objectives and strategies:

(a) elaborating on and aimed at implementing the Principles referred to in Chapter I as well as any other policies, objectives, strategies or programmes prescribed in the Provincial Plan and the District Council Plan or any other initiatives impacting on land development, either at a provincial or national level;

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

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

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

(e) informed by the projected future infrastructural needs and costs required to service growth and development, as identified in subsections (c) and (d), within the jurisdiction of the local or representative council;

(f) informed by a land availability assessment, identifying local government, provincial and national owned land, including any commonage, together with an analysis of its development potential relative to the meeting of the development needs of the local or representative council as identified in subsections (c) and (d);

(g) informed by the environmental context as provided for in subsection (1) (a).

(d) the manner in which and when in the preparation process the public, the private sector and community organisations will be requested to participate in and comment on the plan and its preparation;

(e) the estimated time for the completion of the plan, which period shall not exceed 18 months following the date of this notice.

(2) Prior to the submission of the Land Development Plan to the local or representative council for its consideration, the chief executive officer shall:

(a) publish a notice in the Provincial Gazette and in local newspapers in at least two official languages which are most commonly used in the specific area, or through any other means which will enable effective communication, stating the availability of the plan for comment purposes; and

(b) circulate the plan to the district council concerned, any provincial or national departments which may have an interest in the plan and any other body or bodies which may have an interest in the plan for comment purposes,

where such comment period shall not be less than 30 days following the date of publication in the Provincial Gazette.

(3) Based on the merits of the comments received in terms of subsection (2), the plan shall be revised where necessary and submitted, together with the comments received, to the local or representative council for their consideration.

(4) Following the approval by the local or representative council of the Land Development Plan, the plan shall be submitted to the MEC in terms of section 27.

The Local or Representative Council Budgeting Process and the Local and Representative Council Land Development Plan

31.(1) In preparing its budget, both long-and short-term capital expenditure as well as operational expenditure, the local or representative council shall

of the chief executive officer, have an interest in the matter, as well as publish a notice in local newspapers in at least two of the official languages which are most commonly used in the specific area, where such information and notice shall state those policies, objectives or implementational strategies to be amended, the nature and content of the proposed amendment, the availability of the amendment(s) for inspection purposes and the date by which comments must be lodged, which period shall not be less than 30 days.

(3) Following consideration of any comments submitted in terms of subsection (2), the amendment shall be revised where necessary and submitted, together with the comments received, to the local or representative council concerned for its consideration.

(4) Following the approval of the amendments by the local or representative council in terms of subsection (3), the amendments shall be submitted to the MEC in terms of section 27.

Revision of the Local and Representative Council Land Development Plan

33.(1) The prioritised programmes and projects referred to in section 29 (3) shall, in accordance with the provisions contained in section 31, be revised, where appropriate, prior to each annual budgetary cycle.

(2) Prior to the submission of the revised prioritised programmes and projects to the council of the local and representative council concerned, the chief executive officer shall refer such revised programmes and projects to all provincial and district council departments which may have an interest in the matter, for their comment, where such comment period shall not be less than 30 days following the date of referral.

(3) Simultaneous with the provisions of subsection (2), the chief executive officer shall publish the revised programmes and projects in local newspapers in at least two official languages which are most commonly used in the specific area, stating the availability of the revised programmes and projects for comment purposes, where such comment period shall be not less than 30 days following the date of the notice.

(4) Based on the comments referred to in subsections (2) and (3), the revised programmes amd projects shall be amended, where necessary, and

representative council, which area is defined in terms of the previous Group Areas Act for a particular race group, shall be deemed to be withdrawn;

(c) if approved after 27 April 1994 and regulates land development of the entire jurisdiction of a local or representative council or relates to a specific area of a local or representative council which was not defined previously in terms of the Group Areas Act for a particular race group, shall remain in operation until a land development plan is approved in terms of section 27, or for 18 months following the commencement of this Act, whichever comes first, whereafter it shall be deemed to have been withdrawn.

(2) Notwithstanding the provisions of subsection (1), the MEC may, in consultation with the local or representative council concerned, if he or she deems it to be in the community's interest, reinstate or extend the period of application or withdraw any approved structure plan by notice in the Provincial Gazette.

concerned, whereafter such zoning scheme and land development procedures and regulations, or any amendments thereto, shall be submitted to the MEC as provided for in subsection (1).

(5) Following the approval and publication of a zoning scheme and land development procedures and regulations, or any amendments made thereto, in the Provincial Gazette as referred to in subsection (2), the implementation and enforcement thereof shall become binding on the local or representative council concerned.

The purpose of Zoning Schemes and Local Development Procedures and Regulations

37. The purpose of zoning schemes and land development procedures and regulations shall be to:

(1) give effect to the implementation of the Land Development Plan referred to in Chapter IV, in association with the Principles contained in Chapter I;

(2) allocate and define land development rights in a way which will:

(a) enable the most effective use of existing and proposed infrastructure, in particular the integration of land use with transportation;

(b) optimise access opportunities between places of residence, work, retail and recreation;

(c) make available suitably located land for economic development, in particular the informal sector;

(d) create investor confidence through the allocation of flexible, yet predictable, land development rights;

(e) protect and enhance those parts of the city/town or rural areas which are environmentally sensitive or are of high public amenity value;

(3) provide for land development procedures and regulations which will enable:

concerned, whereafter such zoning scheme and land development procedures and regulations, or any amendments thereto, shall be submitted to the MEC as provided for in subsection (1).

(5) Following the approval and publication of a zoning scheme and land development procedures and regulations, or any amendments made thereto, in the Provincial Gazette as referred to in subsection (2), the implementation and enforcement thereof shall become binding on the local or representative council concerned.

The purpose of Zoning Schemes and Local Development Procedures and Regulations

37. The purpose of zoning schemes and land development procedures and regulations shall be to:

(1) give effect to the implementation of the Land Development Plan referred to in Chapter IV, in association with the Principles contained in Chapter I;

(2) allocate and define land development rights in a way which will:

(a) enable the most effective use of existing and proposed infrastructure, in particular the integration of land use with transportation;

(b) optimise access opportunities between places of residence, work, retail and recreation;

(c) make available suitably located land for economic development, in particular the informal sector;

(d) create investor confidence through the allocation of flexible, yet predictable, land development rights;

(e) protect and enhance those parts of the city/town or rural areas which are environmentally sensitive or are of high public amenity value;

(3) provide for land development procedures and regulations which will enable:

(c) the determination of the method and contents of a public participation process;

(d) the need for the applicant to comment on the objections and comments raised in response to the provisions of paragraph (c);

(e) the responsibilities of the local or representative council in preparing a report and associated documentation for submission to the decision-making body; and

(f) the designation of time contraints attached to each phase of the application process, the overall time of which shall not exceed 120 days from the date of application, excluding the time taken by the applicant to respond to the need for additional information as provided for in paragraph (b) and the time taken to respond to any comments or objections as provided for in paragraph (d).

(4) Should a local or representative council fail to comply with the provisions of subsection (1), the MEC shall prepare and publish in the Provincial Gazette a set of procedures governing applications referred to in subsection (1), which procedures shall thereafter be applicable throughout the area of jurisdiction of that local council or representative council.

The Lapsing of Existing Zoning Schemes and Town Planning Schemes

41.(1) All zoning schemes and town planning schemes referred to in section 39 shall lapse 18 months following the approval of a Land Development Plan as provided for in Chapter IV, or simultaneous with the approval of a zoning scheme and land development procedures and regulations by the MEC in terms of section 36 which shall thereafter, and subject to subsections (2) and (3), be applicable within the area of jurisdiction of each local or representative council.

(2) A local or representative council may apply, in writing, to the MEC for the period referred to in subsection (1) to be extended for an additional six months, which application shall be granted, if in the opinion of the MEC and after consultation with the local or representative council concerned, the local or representative council has taken sufficient steps to enable it to complete the preparation of a zoning scheme and land development

decision-making body of the local or representative council, a notice shall be published in the local newspaper in at least two official languages which are most commonly used in the specific area, informing members of the public of the availability of the relevant documents and inviting comments. The period given for comment shall not be less than 30 days.

(5) Based on any comments referred to in subsection (4), the zoning scheme and land development procedures and regulations or any proposed amendments thereto shall be revised and submitted, together with the comments received, to the relevant local or representative council's decision-making body for its recommendation to the MEC as provided for in section 36.

Existing land use related property rights

43.(1) In the preparation of a zoning scheme and land development procedures and regulations, or any subsequent amendment thereto, no owner of land who has a legal existing land use related right attached to his/her land, shall have that right or rights removed or altered contrary to his/her wishes, where that removal or alteration will result in a decrease in the monetary value of that land.

(2) Subject to section (1), should such an owner be of the opinion that his/her land value has decreased, he/she may, within 60 days of the altered land use rights becoming applicable, inform the local or representative council in writing of his/her intention to claim compensation for the loss of value to the property.

(3) The local or representative council shall, subject to the provisions of subsections (4) and (5), pay the owner the amount of compensation agreed upon by the two parties, or shall have the option of restoring the land use rights deemed to have been removed or altered.

(4) In determining the amount of compensation payable consideration shall be given to:

(a) the likelihood of the owner exercising his/her development rights within the current land market;

(b) the capacity of the property to accommodate the full extent of the rights and, if so, the impact that this may have on the

Applications for Subdivision

48.(1) An owner of land may apply in writing to the chief executive officer in whose area of jurisdiction the proposed subdivision falls for the granting of a subdivision in terms of section 49.

(2) The chief executive officer shall process such application in terms of the interim procedures for applications as provided for in Schedule A, or, if approved, the procedures provided for in terms of section 40 or 42 which shall apply *mutatis mutandis*.

Approval or refusal of an application

49.(1) Either the MEC or the local or representative council, subject to section 76, may approve or refuse an application for the subdivision of land, with or without conditions as provided for in section 65.

(2) In granting such an application either the MEC or local or representative council, as the case may be, shall indicate on the approved subdivision plan changed zonings together with any conditions which shall be recorded as provided for in subsection 47 (2).

(3) Following the approval or refusal of the subdivision in terms of subsection (1), the MEC or the local or representative council, as the case may be, shall inform the applicant and the objectors in writing of the decision, together with any condition imposed, and inform them of their right to appeal in terms of section 74.

(4) Should the application be approved, the MEC or local or representative council, as the case may be, shall inform the Surveyor-General of the decision and of any conditions attached thereto.

Approval of General Plan or Diagram

50. If an application is approved in terms of section 49, the owner of the land shall submit a general plan or diagram, as specified by the Surveyor-General, to the Surveyor-General for approval.

Confirmation of Subdivision

51.(1) If the Surveyor-General has approved a general plan or diagram as provided for in section 50, the owner shall-

(2) To give effect to subsection (1) the Registrar of Deeds shall note the vesting of public streets and places in his or her register and make suitable endorsements on the title deed of the land concerned.

Owners' Association

53.(1) Either the MEC or the local or representative council, as the case may be, may, when approving an application for subdivision in terms of section 49, impose conditions in terms of section 65 relating to the compulsory establishment of an owners' association by the applicant for subdivision.

(2) An owners' association coming into being by virtue of the provisions of subsection (1) shall-

(a) be a body corporate;

(b) have a constitution which-

(i) has as its object the control over and maintenance of buildings, services and amenities arising from the subdivision;

(ii) provides for the implementation of the provisions of subsection (c); and

(iii) has been approved by the local or representative council in order to ensure compliance with the provisions of subsections (i) and (ii); and

(c) have as its members all the owners of land units originating from the subdivision, who shall be jointly liable for expenditure incurred in connection with the association and its functions.

(3) An owners' association or home owners' association which came into being by virtue of a condition imposed in terms of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), and which exists at the commencement of this Act, shall be deemed to be an owners' association which came into being by virtue of the provisions of subsection (1).

(4) If an owners' association referred to in subsection (2) or (3) fails to meet any of its obligations by virtue of the provisions of subsection (2)(b)(i) or

confirmed portion of the subdivision is closed in terms of any law relating to local government matters or in terms of this Act.

(2) The MEC or the local or representative council, as the case may be, shall, if they are of the opinion that the amendment or cancellation of the plan of subdivision in terms of subsection (1) adversely affects the interests that any person has in land, make known the proposed amendment or cancellation of the plan of the subdivision, and thereupon the provisions of section 43 shall apply *mutatis mutandis*.

(3) The provisions of subsections (1) and (2) shall apply *mutatis mutandis* to all general plans in force at the commencement of this Act.

Reversion of certain places and land

56. If a plan of a subdivision, including a diagram or a general plan, is deemed to have lapsed wholly or in part in terms of section 51 (1) (a) or is cancelled wholly or in part in terms of section 55, the ownership of the land taken up by public streets and places, as shown on the plan or part thereof which is so deemed to have lapsed or which is so cancelled, shall revert to the owner of the land and the Registrar of Deeds shall note the vesting in his/her register and make a suitable endorsement on the title deed of the land.

Initial Ownership

57.(1) For the purposes of sections 57 and 58, where the Development Facilitation Act, 1995 (Act 67 of 1995) refers to "a tribunal", it shall for the purposes of this Act be deemed to refer to the MEC or a competent authority, as the case may be.

(2) Any applicant may apply in writing to the MEC or the local or representative council, as the case may be, for approval of the registration of land known as initial ownership.

(3) The MEC or the local or representative council, as the case may be, may approve or refuse an application in terms of subsection (2), and such application may not be refused if-

(a) the terms of subsection (3) have been complied with, and

CHAPTER VII

Removal of Restrictions

Applications for removals

59.(1) An owner of land may apply in writing to the chief executive officer of the local or representative council concerned for the amendment, suspension or removal of a restriction registered against the title deed of the land or any relevant register, diagram or plan.

(2) The chief executive officer shall process such application, as referred to in subsection (1) in terms of the interim procedures for applications as provided for in Schedule A, or, if approved, the procedures provided for in terms of section 40 or 42 which shall apply *mutatis mutandis*.

Approval or refusal of application

60.(1) Either the MEC or the local or representative council, as the case may be, may approve or refuse an application for the amendment, suspension or removal of a restriction subject to the provisions of section 64, with or without conditions as provided for in section 65.

(2) Following a decision taken in terms of subsection (1), the MEC or the local or representative council, as the case may be, shall inform the applicant, and if there were, objectors to the application, in writing of their right of appeal in terms of section 74.

(3) If a right of appeal is not excercised as provided for in subsection (2), the MEC or the local or representative council, as the case may be, shall inform the parties concerned and the Registrar of Deeds and the Surveyor-General of its decision and publish a notice in the Provincial Gazette within 30 days of the date of decision in terms of subsection (1).

(4) If the right of appeal is excercised as provided for in subsection (2), the registrar of the appeal tribunal shall inform the parties concerned and the Registrar of Deeds and the Surveyor-General of its decision and shall cause a notice to be published in the Provincial Gazette giving effect to its decision within 14 days following the resolution of the appeal.

finalisation of applications or the development or utilisation of land or will be otherwise inappropriate, subject to the provisions of subsection (5).

(3) The responsible national Minister may on application by the MEC by notice in the Provincial Gazette in respect of a law which falls outside the legislative competence of the Provincial Legislature excercise a power similar to that conferred upon the MEC in terms of subsection (1).

(4) Notwithstanding any provisions of any law to the contrary, the MEC may of his/her own accord, or by application, by the publication of a notice in the Provincial Gazette, wholly or in part remove or suspend any restriction registered against the title deed of immovable property which in his/her opinion is not being beneficially utilised or, with a view to the use or development of the land, will not be capable of being beneficially utilised in the future, if he/she is of the opinion that such a restriction is contrary to or will unnecessarily delay the finalisation of applications or the development or use of land.

(5) Prior to the MEC or the responsible national Minister, as the case may be, acting as contemplated in subsections (2), (3) or (4), he/she shall first consult with any government body which may have an interest in the matter and make known his/her intentions through the publication of a notice in the Provincial Gazette, giving interested parties at least 30 days to respond to his/her intentions and, prior to taking a decision on the matter, give consideration to any comments received.

(6) Subsections (2) and (4) shall not be construed as authorising the suspension of a registered mineral right.

(7) The MEC or the responsible national Minister, as the case may be, may amend or revoke a notice contemplated in subsections (2), (3) and (4) by the publication of a notice in the Provincial Gazette.

(8) The provisions of sections 60, 61 and 62 shall apply *mutatis mutandis* to any restrictions suspended or removed in terms of subsections (2), (3) and (4), and upon registration of a general plan by the Registrar of Deeds or in the event of rezoning, within the period determined by the MEC, any restriction which has been suspended or removed in terms of subsections (2), (3) or (4) shall be cancelled.

(3)(a) Conditions imposed in terms of subsections (1) and (2) or amended with or without additional conditions as provided for in subsection (4), may include suspensive conditions.

(b) When suspensive conditions are imposed, an application shall only be deemed to be approved once the conditions have been complied with, and periods in respect of the lapsing of any use right or approval shall only come into effect upon compliance.

(c) An approval shall lapse if the suspensive condition is not complied with within 2 years, unless either the MEC or the district, local or representative council or the appeal tribunal extends the period, which extension may be granted at any stage within the initial two year period, provided that the extension shall not extend the validity of the initial approval for a period exceeding 5 years, whereafter the initial approval shall lapse and the provisions of section 45 shall apply *mutatis mutandis*.

(4) Conditions imposed in terms of subsections (1), (2) and (3) or any other conditions previously imposed in terms of any law listed in Schedule B, may be waived, deleted, amended and additional conditions imposed, subject to the following provisions-

(a) Upon written application by an owner of land, the MEC or district, local or representative council, as the case may be, shall, after consultation with the applicant and any party or parties who may have an interest in the matter, waive, delete or amend any condition and in doing so may impose any additional conditions deemed necessary by the MEC, or the district, local or representative council, as the case may be, in order to ensure that the intention of the application as approved is realised.

(b) In the event of a condition being waived, deleted, amended or any additional conditions being imposed, as provided for in subsection (a), such waivers, deletions, amendments and additional conditions shall be recorded in the register, as referred to in section 38 (3).

(c) In the event of any of the additional conditions imposed being suspensive conditions, the provisions of subsection (3) shall apply as of the date of approval of such suspensive conditions.

Commission, and after informing that competent authority in writing, withdraw any approval or authorisation granted by the competent authority, exercise the powers and perform the duties of the competent authority and recover from the competent authority any amount spent by the MEC in that connection, or instruct the competent authority as to the steps to be taken by it in order to ensure compliance with subsection (1), and such instruction shall in law override any decision of the council of that competent authority.

(4) No provision of subsection (1) and (2) shall authorise a competent authority to demand rectification of a contravention or to fix a contravention levy in respect of a plan for a building which has been mistakenly approved in conflict with a provision of this Act, or a zoning scheme and land development procedures and regulations, in so far as such a plan had already been executed when the mistaken approval was brought to the owner's attention.

Investigation and authorisation of contraventions

67.(1) Any interested party having reasonable grounds for believing that section 66 (2) is being contravened, may in writing request the authority concerned to give effect to the provisions of section 66(1), and if the authority concerned, after investigation, finds that that subsection has been contravened, the authority shall, subject to subsection (2), act in terms of section 68 (1). = Procedure

(2) If a request as contemplated in subsection (1) originates from the actual or likely informal settlement of persons on land or the erection or occupation of any structure on land by those persons, the chief executive officer of the district, local or representative council shall-

(a) cause an inquiry to be held regarding the manner in which and the period during which rectification thereof can be effected;

(b) request the relevant comment of any person who in his/her opinion has an interest therein, and

(c) submit the comments provided for in subsection (b) and all relevant documents to the council.

(3) If the owner disputes the existence or the nature and extent of the contravention to which the instruction relates, he/she shall on or before the date referred to in subsection (1) (a) submit a written statement on the matter to the chief executive officer concerned.

(4) If the owner disputes the existence or the nature or extent of the contravention to which the instruction relates, or applies for an approval in terms of this Act, the chief executive officer shall obtain the relevant comment of any person who in his/her opinion has an interest in the matter.

(5) The council shall thereupon consider the state of affairs, with due regard to all the facts and the public interest, and-

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

(b) if the contravention exists and if an application has been made for an approval in terms of this Act, decide whether that application shall be refused and the contravention rectified or whether the application concerned shall be approved and a contravention levy paid simultaneously;

(c) if the contravention is to be rectified, determine the period within which it shall be done, and

(d) if a contravention levy is to be paid, determine the amount of the levy.

(6) If any person feels aggrieved by the decision of a council in terms of subsection (5), he/she may, within 21 days following notification of the council's decision, appeal to the appeal tribunal against the decision.

(7) Following its deliberation on the matter referred to it in terms of subsection (6), the appeal tribunal shall inform the competent authority and all other interested parties of its decision.

(8) A contravention levy shall become due and payable-

(a) in one capitalised sum on or before the date, or

(3) ordering a person to restore the environment on the basis and conditions deemed fit by the judicial officer;

(4) authorising the MEC or competent authority, as the case may be, to execute the repairs as contemplated in subsection (3) if the person mentioned therein should fail to execute the repairs on the basis and conditions set out in the order; and

(5) awarding compensation to the MEC, or the competent authority, as the case may be, for the repairs in the circumstances as contemplated in subsection (4), and thereafter the provisions of sections 300 (2), (3), (4) and (5) of the Criminal Procedure Act, 1997 (Act 51 of 1977), shall apply *mutatis mutandis*.

Right of entry

70. Any person authorised in writing by the MEC or a council may at any reasonable time, after reasonable notice and causing as little inconvenience as possible, subject to the right of privacy conferred in terms of the Constitution, enter upon any land unit in order to-

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

(2) make enquiries or conduct an investigation or survey in connection with the powers or duties of the MEC or council, as the case may be, in terms of this Act.

Submission of application

71.(1) The department head or the chief executive officer, as the case may be, may, in the absence of regulations on the subject, from time to time prescribe the form of any application to be made to him/her in terms of this Act.

(2) Where an application in terms of this Act is required to be submitted to any person in particular, the department head or the chief executive officer, as the case may be, may direct that it shall be submitted simultaneously to another person or body involved in it.

(3) The department head or chief executive officer, as the case may be, shall ensure that different types of applications in respect of the same land

to the approval of such an application in terms of this Act, including an application approved in terms of a zoning scheme and land development procedures and regulations, may lodge an appeal in writing to the appeal tribunal within 21 days following notification of the approval by the MEC or the district, local or representative council, as the case may be.

(b) A person or body aggrieved by a decision of the MEC or a district, local or representative council in terms of any application made to amend, alter, waive or delete any land related use-rights and was an objector to that application, may appeal against such a decision to the appeal tribunal in the prescribed manner and within 21 days following the decision being taken.

(2) The appeal tribunal may, following its deliberations in terms of its powers and duties conferred on it in terms of section 73, and after consultation with the MEC, district, local or representative council concerned, in its discretion dismiss an appeal contemplated in subsection (1) (a) and (b) or uphold it wholly or in part and may impose any conditions it deems necessary in terms of section 65.

(3) For the purposes of this Act, an application referred to in subsections (1) (a) or (b) shall be deemed to have been approved or conditionally approved or refused by the MEC or by the district, local or representative council, as the case may be, in accordance with the action taken by the appeal tribunal under the provisions of subsection (2).

(4) In terms of the powers and duties assigned to the appeal tribunal in terms of section 73, it may, in respect of any application against which an appeal is lodged, first refer it for mediation after consultation with the parties involved in a dispute and after the prescribed requirements and procedures for mediation have been complied with.

(5) In lodging an appeal in terms of subsection (1), the appellant shall submit to the designated officer of the appeal tribunal a motivated letter stating the reasons and basis for appeal and shall simultaneously notify the MEC, district, local or representative council concerned, as the case may be, of that action.

(6) The designated officer shall, in consultation with the tribunal registrar, notify the appellant and the MEC or district, local or representative

(6) The provisions of section 8 (4), (5) and (6) shall apply *mutatis mutandis* to an inquiry in terms of subsection (5) of this section, and in its implementation a reference in section 8 (4), (5) and (6) to "Planning and Development Commission" and "Chairperson" shall be construed as being a reference to a mediator.

(7) All discussions, disclosures and submissions in the course of mediation shall be privileged, unless the parties agree to the contrary.

Powers and duties

76.(1) The MEC shall, simultaneous to the commencement of this Act, publish in the Provincial Gazette a schedule of powers and duties, which shall be excercised in terms of this Act, subject to the following-

(a) the provisions of section 156(1) (a) read with section 153 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

(b) the provisions of section 156(4) of the Constitution of the Republic of South Africa, 1996;

(c) at the MEC's discretion, the provisions of section 156(1)(b) of the Constitution of the Republic of South Africa, 1996;

(d) any other matter or matters that the MEC deems will be more effectively executed by the council of a competent authority.

(2) The schedule of powers and duties referred to in subsection (1) may be amended or additional powers and duties added from time to time at the discretion of the MEC by notice in the Provincial Gazette.

(3) Notwithstanding the provisions of subsections (1) and (2), the MEC may, if deemed necessary, withdraw or amend any powers and duties assigned to any one or more council of a competent authority in terms of the provisions of section 139 of the Constitution of the Republic of South Africa.

(4) Should the MEC act in terms of subsection (3) he/she shall publish a notice in the Provincial Gazette giving effect to the withdrawal or amendment of the powers and duties assigned to the council of a competent authority.

who in the opinion of the department head or chief executive officer, as the case may be, may have an interest in the matter and whose address he/she knows or can obtain.

(3) Whenever the service of a notice to a person is authorised or required in terms of this Act, it shall be deemed to have been efficiently and sufficiently served on that person if it complies with subsection (1) (a) and any or a combination of the following -

(a) if it has been delivered to the addressee in person;

(b) if it has been left with a person presumably above the age of 16 years at the addressee's place of residence or business in the Republic of South Africa and a written acknowledgement of its receipt has been submitted to the competent authority;

(c) if it is sent by mail to the person's latest known residential or business address in the Republic;

(d) when the person's address in the Republic of South Africa is unknown, if it has been served on his/her agent or representative in the Republic of South Africa in the manner determined in subsection (a), (b) or (c).

(4) The department head or the chief executive officer, as the case may be, shall, in addition to subsection (3), cause a notice to be displayed on the subject land unit, which notice shall comply with the provisions of subsection (1)(a) and shall be displayed in accordance with any prescribed regulations made in terms of section 79.

Offences and Penalties

78.(1) Any person who-

(a) contravenes or fails to comply with any provisions of this Act, or any order, instruction, prohibition, condition, requirement or notice made, issued, imposed, stipulated or given in terms thereof, or

(b) threatens, resists, hinders or obstructs, or uses foul, insulting or abusive language towards a person in the excercise of the power

(v) services agreements, land availability agreements, environmental contracts and the establishment of environmental monitoring committees;

(vi) additional powers and duties of the Planning and Development Commission and the recovery of expenditure from any party appearing before the Commission or the appeal tribunal;

(vii) the powers and duties of owners' associations; and

(viii) measures in respect of the determination and payment of spot fines.

(2) Different regulations may be so made in respect of different local or regional authorities or categories of authorities.

(3) A regulation made under subsection (1) may, for a contravention thereof or failure to comply therewith, prescribe a penalty not exceeding a fine of R10 000 (ten thousand rand) or imprisonment for a period of one year, and, in the case of a continuing offence, a fine not exceeding R250 (two hundred and fifty rand) in respect of each day on which the continuing offence is continued.

(4) The MEC shall, prior to making any regulations as provided for in this section, cause draft regulations to be published in the Provincial Gazette and shall consider any comments on such draft regulations received from any person during the period of 30 days after such publication.

(5) A list of regulations made in terms of this section shall be tabled in the Provincial Legislature in the same manner as the list contemplated in section 17 of the Interpretation Act, 1957 (Act 33 of 1957), and if the Provincial Legislature, by resolution, does not approve such regulations or any of its provisions, such regulations or provisions shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such regulations or such provision before it so ceased to be of force and effect, to any right or liability acquired or incurred in terms of such regulations or such provision before it so ceased to be of force or effect.

SCHEDULE "A"

Interim procedures for applications made in terms of this Act

1. An owner of land, or an agent authorised by the owner by way of a power of attorney or empowering resolution, may apply, on the prescribed form contained in Annexure "A" of this Schedule, to the chief executive officer or the department head, as the case may be, for any one or a combination of actions to be initiated by the council or Provincial Government. Such actions may include:

   (1) The rezoning of land from one zone to another;

   (2) A departure from the land use restrictions prescribed in the regulations of an applicable zoning scheme;

   (3) A consent use as provided for in an applicable zoning scheme;

   (4) A temporary departure to permit a building or land to be used for a purpose not provided for in a particular zone for a period of time not exceeding five years;

   (5) The subdivision of land as provided for in Chapter IV;

   (6) The removal, suspension or amendment of a title deed restriction;

   (7) The removal, suspension or amendment of and conditions previously imposed on an application as contemplated in section 63; or

   (8) Any other application provided for in this Act.

2. Within a period of two weeks after receiving such an application or combination of applications, the council shall, in consultation with the applicant, request any additional information which the chief executive officer or department head deems necessary to enable:

   (a) The public to effectively assess the application and formulate comments and/or objections;

   (b) The council to make an informed assessment of the application and thereafter a decision.

4(1) Following the receipt of any comments or objections as referred to in paragraph 3, such comments and/or objections shall be referred to the applicant for his/her consideration and response.

(2) Should the applicant fail to respond to the objections and/or comments as referred to in paragraph 3 within a period of 90 days following the applicant's receipt of the comments and/or opbjections, the application shall be deemed to have lapsed.

(3) In the event of the applicant revising his/her application in response to the comments and/or objections submitted to an extent where the chief executive officer or the department head, as the case may be, is of the opinion that the nature and content of the application has altered, he or she may, if it is considered to be in the public interest, cause the revised application to be readvertised in terms of paragraphs 3.

(4) Should the chief executive officer or the department head, as the case may be, invoke the provisions of sub-paragraph (3),

(a) the applicant shall be entitled to respond to any further comments and/or objections which may arise and the provisions of sub-paragraph (2) shall apply, and

(b) the period of time taken by the applicant to respond to any of the comments and/or objections as referred to in this paragraph shall not be more than 90 days.

(5) The application shall thereafter, within a period of 60 days, be referred to the appropriate body for decision, together with a report, objections and/or comments received and a recommendation.

(6) Within 7 days of the decision being taken, the applicant and any affected objectors shall be notified of the decision and any conditions attached thereto and shall be informed of their right to appeal in terms of section 74, should either party feel aggrieved by the decision.

DOCUMENTS FORMING PART OF THE APPLICATION

(1) The following documents are submitted in support of the application:

A locational plan showing the site relative to the surrounding area	yes	no	n/a
A plan showing the zoning of the surrounding area	yes	no	n/a
A plan showing the actual and existing uses surrounding the site	yes	no	n/a
A copy of the title deed(s) and survey diagram(s) of the land	yes	no	n/a
e) A copy of any deed of servitude relating to the land	yes	no	n/a
A copy of any mortgage bond(s) relating to the land together with the bondholder's consent, if applicable	yes	no	n/a
g) A copy of any certificate of mineral rights and cession thereof, together with the mineral rights holder's consent, if applicable	yes	no	n/a
The owner's consent and/or power of attorney, if applicable	yes	no	n/a
i) Documentation regarding the anticipated provision of community facilities and the responsibilities of public authorities in this regard	yes	no	n/a
Documents regarding the anticipated provision of engineering or road services and responsibilities of public authorities in this regard	yes	no	n/a
Documents regarding any public involvement processes which have been initiated with regard to this application and any social compacts, if applicable	yes	no	n/a
If the applicant is a company, close corporation, or other legal entity other than a natural person, a copy of a valid authorising resolution	yes	no	n/a
A floodline certificate indicating whether the land or any portion is or is not subject to a 1 in 50 year flood	yes	no	n/a
A traffic impact assessment based on the capacity of the surrounding road network to cope with any additional demand generated by the development	yes	no	n/a
o) An environmental assessment based on the potential impact that the proposed application will have relative to the surrounding environmental context	yes	no	n/a

(7) If the application is for the amendment, suspension or removal of a condition previously imposed in terms of this Act, when was the condition imposed?

.....

.....

(8) Are there any other approvals required to implement the proposed development which fall outside of this Act?If yes, list them

.....

.....

.....

.....

.....

J. MOTIVATION IN SUPPORT OF THE APPLICATION(S)

A full motivation giving reasons in support of your application, which should, where appropriate, be supported by scaled plans, elevations, models or any other means which will clearly communicate your intentions. (This should be attached as part of the application)

SCHEDULE "C"

ıws, Ordinances and Regulations Repealed

umber and Year of Law or Ordinance	Short Title	Date on which Repeal Comes into Effect
of 1985	Land Use Planning Ordinance	Date of Commencement of this Act
3 of 1991	Less Formal Township Establishment Act, 1991, in so far as it applies in this Province	Date of commencement of this Act
No 100/1987 of 30 October 1987 rovincial Gazette 4505)	Amendment Proclamation PK 100/1987	Date of commencement of this Act
) 6/1992 of 7 February 1992 (Provincial Gazette 4734)	Amendment Proclamation 6/1992	Date of commencement of this Act
R 1897 of 12 September 1986	Regulations regarding township establishment and land use in terms of the Black Communities Development Act, 1984 (No 4 of 1984), in so far as it applies in this Province	Date as determined by the Premier by proclamation
ovincial Notice 733 of 22 September 1989	Regulations regarding the imposition and amendment of town planning schemes for the Province of the Cape of Good Hope in terms of the Black Communities Development Act, 1984 (No 4 of 1984)	Date as determined by the Premier by proclamation
of 1967	Removal of Restrictions Act, 1967 in so far as it applies in this Province	Date as determined by the Premier by proclamation
of 1968	General Law Amendment Act, 1968, in so far as it affects the Removal of Restrictions Act, 1967 and applies in this Province	Date as determined by the Premier by proclamation
96 of 1969	Expropriation of Mineral Rights (Townships) Act, 1969, in so far as it affects the Removal of Restrictions Act, 1967, and applies in this Province	Date as determined by the Premier by proclamation

SCHEDULE "D"

wn Planning Schemes in terms of the Townships Ordinance, 1934, deemed to be
oning Schemes in terms of section 7(1) of the Land Use Planning Ordinance, 1985:

nielskuil Municipality
)e Aar Municipality
uglas Municipality
iserburg Municipality
lartswater Municipality
kamas Municipality
nberley Municipality
Kuruman Municipality
rydale Municipality
fantshoek Municipality
Petrusville Municipality
stmasburg Municipality
neska Municipality
bington Municipality

SCHEDULE "F"

n Planning Schemes approved in terms of the Regulations made under the Black nmunities Development Act, (Act 4 of 1984):

choko, Postmasburg Municipality
igani, Douglas Municipality
oung, Olifantshoek Municipality
embeni, Prieska Municipality
leshewe, Kimberley Municipality
tseng, Warrenton Municipality
vano, Windsorton Municipality
uyasa, Colesberg Municipality
zamuxolo, Noupoort Municipality
anyisweni, Philipstown Municipality
arydale Township, Marydale Municipality
inyusane, Victoria West Municipality
aleng, Barkly West Municipality
atlhomola, Griekwastad Municipality
vabantu, Britstown Municipality
swedimosa, Ritchie Municipality
ompumelelo, Hanover Municipality
zwakazi, De Aar Municipality
elo, Richmond Municipality
embinkosi, Petrusville Municipality
nalo, Delportshoop Municipality
akalatlou, Danielskuil Municipality
span, Jan Kempdorp Municipality

OFFICE OF THE PREMIER

STATE LAW

ADVISORY SERVICES

J.W. Sauer Building
Private Bag X5016
KIMBERLEY 8300

J.W. Sauer Gebou
Privaatsak X5016
KIMBERLEY 8300

J.W. Sauer Building
Cnr Quinn & Roper Streets
KIMBERLEY 8300

J.W. Sauer Gebou
H/V Quinn & Roper Straat
KIMBERLEY 8300

Tel: (053) 838 2646
E-mail: pmona@ncpp.gov.za

Fax: (053) 838 2626
Fax: 086 748 4668

Enquiries : K. VICTOR
Dipatlisiso :
Imibuzo :
Navrae :

Date : 6 OCTOBER 2023
Leshupelo:
Umhla :
Datum :

Reference :
Tshupelo :
Isalathiso : L7.2.1.2.5-5/2023
Verwysings:

Member of the Executive Council
Department of Cooperative Governance,
Human Settlements and Traditional Affairs
Private Bag X5005
KIMBERLEY
8300

Attention: Honourable Bentley Vaas

RE: CERTIFICATION: NORTHERN CAPE SPATIAL PLANNING AND LAND USE MANAGEMENT BILL, 2023

1. I have perused the above-mentioned Bills and hereby certify that:

   i. It is not in conflict with the Constitution of the Republic of South Africa, 1996;

   ii. The language, drafting form and style of the proposed Bill conforms to the juridical editing standards and procedures of the Republic of South Africa ('the Republic');

   iii. It is not *contra bonos mores* or in conflict with other laws of the Republic.

2. I accordingly advise that the Bill may be taken through the legislative process.

Yours sincerely.

MS G. BOTHA
HEAD: STATE LAW ADVISORY SERVICES

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

NO FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

GENERAL NOTICE 286 OF 2022

HAVE YOUR SAY

Public Notice calling for submission of comments on the Northern Cape Spatial Planning and Land Use Management Bill, 2022.

The MEC of Co-Operative Governance, Human Settlements and Traditional Affairs hereby gives notice in terms of Rule 166 (2) of the Rules of the Northern Cape Provincial Legislature that he intends to introduce the Northern Cape Spatial Planning and Land Use Management Bill (NC SPLUM Bill) in the Legislature in 2022.

The NC SPLUM Bill, 2022 responds to the need for a modernised and efficient system of spatial planning and land use management which facilitates sustainable development in the Province. It seeks to establish a spatial planning and land use management framework that places emphasis on the effective integration of planning activities across provincial and municipal government so as to facilitate appropriate development.

The Bill centers around five objectives. First, it provides for the adoption of a uniform set of spatial planning categories and land uses for the Province. Secondly, it facilitates the establishment of a Provincial Spatial Planning and Land Use Advisory Committee. Thirdly it provides for matters of provincial interest. Fourthly it seeks to put mechanisms and structures in place for provincial support and monitoring mechanisms to assist local government. Fifthly the Bill seeks to provide for interim measures and matters associated therewith.

In line with the Provincial Legislatures core objectives of facilitating public participation and involvement in legislative processes, we invite public comments on the NC SPLUM Bill. The draft Northern Cape Spatial Planning and Land Use Management Bill is available on the department's website (www.coghsta.ncpg.gov.za). Any person wishing to provide comments and/or objections must do so within a period of twenty one (21) days from the first day of the publication of this notice.

Written comments and/or objections must be submitted to the office of the Director : Planning and Development at this email address: ambolekwa@ncpg.gov.za or andimbolekwa@gmail.com and Louwn@ncpg.gov.za or at the physical address of the Department, Larry Moleko Louw Building, 9 Cecil Sussman Road , Private Bag X5005 Kimberley 8300 (for attention: Mr A Mbolekwa).

Mr. B.G. VASS
MEC: COGHSTA

13/10/2022
Date

GENERAL NOTICE 287 OF 2022

HAVE YOUR SAY

Public Notice calling for submission of comments on the Northern Cape Planning and Development Act 7 of 1998, Repeal Bill 2022.

The MEC of Co-Operative Governance, Human Settlements and Traditional Affairs hereby gives notice in terms of Rule 166 (2) of the Rules of the Northern Cape Provincial Legislature that he intends to introduce the Northern Cape Planning and Development Act 7 of 1998, Repeal Bill in the Legislature in 2022.

The Bill seeks to repeal the entire Northern Cape Planning and Development Act 7 of 1998, which is primarily based the principles underpinning and contained in the Development Facilitation Act 67 of 1995, which was found to be unconstitutional and subsequently repealed in its entirety by the Spatial Planning and Land Use Act 16 of 2013 (SPLUMA), which came into operation in July 2015.

In line with the Provincial Legislatures core objectives of facilitating public participation and involvement in legislative processes, we invite public comments on our intention to repeal the Northern Cape Planning and Development Act 7 of 1998. The draft Northern Cape Planning and Development Act 7 of 1998, Repeal Bill is available on the department's website (www.coghsta.ncpg.gov.za). Any person wishing to provide comments and/or objections must do so within a period of twenty one (21) days from the first day of the publication of this notice.

Written comments and/or objections must be submitted to the office of the Director : Planning and Development at this email address: ambolekwa@ncpg.gov.za or andimbolekwa@gmail.com and Louwn@ncpg.gov.za or at the physical address of the Department, Larry Moleko Louw Building, 9 Cecil Sussman Road , Private Bag X5005 Kimberley 8300 (for attention: Mr A Mbolekwa).

13/10/2022

Mr. B. G. VASS
MEC: COGHSTA

Date

Published in the NFA, Friday 21 October 2022

HAVE YOUR SAY

Public Notice calling for submission of comments on the Northern Cape Spatial Planning and Land Use Management Bill, 2022.

The MEC of Co-Operative Governance, Human Settlements and Traditional Affairs hereby gives notice in terms of Rule 166 (2) of the Rules of the Northern Cape Provincial Legislature that he intends to introduce the Northern Cape Spatial Planning and Land Use Management Bill (NC SPLUM Bill) in the Legislature in 2022.

The NC SPLUM Bill, 2022 responds to the need for a modernised and efficient system of spatial planning and land use management which facilitates sustainable development in the Province. It seeks to establish a spatial planning and land use management framework that places emphasis on the effective integration of planning activities across provincial and municipal government so as to facilitate appropriate development.

The Bill centers around five objectives. First, it provides for the adoption of a uniform set of spatial planning categories and land uses for the Province. Secondly, it facilitates the establishment of a Provincial Spatial Planning and Land Use Advisory Committee. Thirdly it provides for matters of provincial interest. Fourthly it seeks to put mechanisms and structures in place for provincial support and monitoring mechanisms to assist local government. Fifthly the Bill seeks to provide for interim measures and matters associated therewith.

In line with the Provincial Legislatures core objectives of facilitating public participation and involvement in legislative processes, we invite public comments on the NC SPLUM Bill. The draft Northern Cape Spatial Planning and Land Use Management Bill is available on the department's website (www.coghsta.ncpg.gov.za). Any person wishing to provide comments and/or objections must do so within a period of twenty one (21) days from the first day of the publication of this notice.

Written comments and/or objections must be submitted to the office of the Director : Planning and Development at this email address: ambolekwa@ncpg.gov.za or andimbolekwa@gmail.com and Louwn@ncpg.gov.za or at the physical address of the Department, Larry Moleko Louw Building, 9 Cecil Sussman Road , Private Bag X5005 Kimberley 8300 (for attention: Mr A Mbolekwa).

Mr. B.G. MASS
MEC: COGHSTA

13/10/2022
Date

DFA, MONDAY 8 OCTOBER 2018

NORTHERN CAPE PROVINCE/NOORD-KAAP PROVINSIE

CALL FOR PUBLIC HEARING ON NORTHERN CAPE PLANNING AND DEVELOPMENT ACT, 7 REPEAL BILL

In line with Provincial Legislatures core objective of facilitating public participation and involvement in legislative processes, we invite public comment on our intention to repeal the Northern Cape Planning and Development Act, Act 7 of 1998.

NOTICE OF 2018

DEPARTMENT OF CO-OPERATIVE GOVERNANCE, HUMAN SETTLEMENTS AND TRADITIONAL AFFAIRS

PUBLICATION OF EXPLANATORY SUMMARY OF THE NORTHERN CAPE PLANNING AND DEVELOPMENT ACT, 7 REPEAL BILL, 2018

The MEC of Co-operative Governance, Human Settlements and Traditional Affairs hereby gives notice in terms of Rule 166(2) of the Rules of the Northern Cape Provincial Legislature that he intends to introduce the Northern Cape Planning and Development Act Repeal Bill, 2018 in the Legislature in 2018 and, in accordance with Rule 167 of such Rules, publishes and explanatory summary of the Bill.

The Bill seeks to repeal the entire Northern Cape Planning and Development Act, 1998 (Act 7 of 1998) ("the Act") which provides for a single set of procedures and regulations to complement the accelerated development procedures as provided for in the Development Facilitation Act, 1995 and thereby ensuring effective and co-operative planning and land development within the provincial and local spheres of government of the Province of the Northern Cape.

On 1 July 2015 the Spatial Planning and Land Use Act, Act 16 of 2013 (SPLUMA) came into operation. SPLUMA provides inter alia a framework for spatial planning and land use management in the Republic. SPLUMA also provides that no legislation not repealed by this Act may prescribe and alternative and parallel measure, institution or system on spatial planning, land use management and land development in a matter inconsistent with the provisions of SPLUMA. In terms of SPLUMA the Development Facilitation Act, Act 67 of 1995 was repealed in its entirety. The Provisions of the Act are thus obsolete, redundant, and in contravention of SPLUMA. It is envisaged that the Northern Cape Spatial Land Use Management Act will be tabled in the provincial legislature during 2019. There will not be a vacuum between the promulgation of the Bill as the national SPLUMA is already in operation.

Interested individuals and interested groups wishing to comment on the above-mentioned Bill are kindly requested to forward written submissions to the Office of the Chief State Law Advisor by no later than **Monday, 1 October 2018.** Stakeholders interested in making oral submissions are also requested to make a written request or contact our office by the same date.

All correspondence should be addressed to **Adv J.F. Victor, Principal State Law Advisor, Office of the Premier, J.W. Sauer Building, Corner Quinn and Roper Streets, Kimberley, 8301 or emailed to kvictor@ncpg.gov.za (tel. 053 838 2649) or nmapatsi@ncpg.gov.za (tel. 053 838 2634).**

OPROEP VIR OPENBARE VERHOOR OP NOORD-KAAPSE BEPLANNING EN ONTWIKKELING WET 7 VAN HERROEPWETSONTWERP

In ooreenstemming met die Provinsiale Wetgewers se kerndoelwit om openbare deelname en betrokkenheid by wetgewende prosesse te fasiliteer, nooi ons Publieke Kommentaar oor ons voorneme om die Noord-Kaapse Wet op Beplanning en Ontwikkeling 7 van Herroepingswetsontwerp te herroep.

KENNISGEWING VAN 2018

DEPARTEMENT VAN SAMEWERKENDE REGERING, MENSELIKE NEDERSETTING EN TRADISIONALE SAKE

PUBLIKASIE VAN VERDUIDELIKENDE OPSOMMING VAN DIE WETSONTWERP OP DIE NOORDKAAP BEPLANNING EN ONTWIKKELING HERROEPING WET, 2018

Kennis word hiermee in terme van Reël 166(2) van die Reëls van die Noord-Kaap se Provinsiale Wetgewer gegee dat die LUR (Lid van die Uitvoerende Raad) van die Departement van Samewerkende Regering, Menselike Nedersetting en Tradisionele Sake beoog om die Noordkaap Beplanning en Ontwikkeling Herroep Wetsontwerp 2018 eersdaags in die Noord-Kaap se Provinsiale Wetgewer te dien. Die verduidelikende opsomming van die Noordkaap Beplanning en Ontwikkeling Herroep Wetsontwerp 2018 word hierby in terme van Reël 167 van die Reëls van die Noord-Kaap se Provinsiale Wetgewer gepubliseer.

Die wetsontwerp beoog die herroep van die Noor-Kaap Wet op Beplanning en Ontwikkeling, 1998 (no. 7 van 1998) as geheel, wat 'n enkele stel procedure en regulasies verskaf om die Wet op Ontwikkelingfasilitering, 1995 (no. 67 van 1995) te ondersteun deur effektiewe geïntegreerde beplanning en grondontwikkeling te verseker op plaaslike en provinsiale regeringsvlakke van die Noord-Kaap Provinsie.

Op 1 Julie 2015 het die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (no. 16 van 2013) in werking getree. Hierdie wetgewing verskaf 'n raamwerk vir ruimtelike beplanning en grondgebruikbestuur in die Republiek van Suid-Afrika. Verder stipuleer die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (no. 16 van 2013) dat geen ander wetgewing, wat nie herroep is deur Wet 16 van 2013 nie teenstrydige mag wees met prosedures of parallelle voorskrifte, instansies of sisteme vir ruimtelike beplanning, grondgebruikbestuur en bepalings daarvan nie. Die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (no. 16 van 2013) het die Ontwikkelingfasiliterings Wet, 1995 (no. 67 van 1995) as geheel herroep. Die Noord-Kaap Beplanning en Ontwikkeling, 1998 (no. 7 van 1998) is dus nietig, nie relevant en teenstrydig met die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (no. 16 van 2013). Dit word voorsien dat die Noord-Kaap Beplanning en Grondgebruikbestuur Wet aan die Noord-Kaapse Wetgewer voorgelê aangesien sal word in 2018. Geen vakuum word verwag in die proklamasie van die Wetsontwerp nie aangesien die Wet op Ruimtelike Beplanning en Grondgebruikbestuur Wet, 2013 (no. 16 van 2013), reeds in werking is.

Belanghebbende individue en belanghebbende groepe wat kommentaar wil lewer op bogenoemde Wetsontwerp, word vriendelik versoek om skriftelike voorleggings aan die Kantoor van die Hoofstaatse Regsadviseur voor te lê teen nie later nie as **Maandag, 1 Oktober 2018.** Belanghebbendes wat belangstel om mondelinge voorleggings te maak, word ook versoek om 'n skriftelike versoek te maak of kontak ons kantoor op dieselfde datum.

Alle korrespondensie moet gerig word aan **Adv J.F. Victor, Hoofregteradviseur, Kantoor van die Premier, J.W. Sauer-gebou, h/v Quinn en Roperstraat, Kimberley, 8301 of e-pos aan kvictor@ncpg.gov.za (tel. 053 838 2649) of nmapatsi@ncpg.gov.za (tel. 053 838 2634).**

DEPARTMENT OF CORPERATE AND GOVERNMENT AFFAIRS, HUMAN SETTLEMENT AND TRADISIONAL AFFAIRS

SPATIAL PLANNING: TOWN AND REGIONAL PLANNING

01 Sept 2017

Date: 01 September 2

SPLUM Bill Consultation Session (Kimberley)

...e	Organisation	Tel No	E-mail adress	Signature
...mbi Louw	COGHSTA	053 807 2830	louwn@ncpg.gov.za	
...nda Mushayathoni	COGHSTA	053 807 2836	bmushayathoni@ncpg.gov.za	
...ntsikelelo Mapatsi	OTP	053 8382634	nmapatsi@ncpg.gov.za	
...apache Victor	OTP	053 838 2649	kvicor@ncpg.gov.za	
...usa Kalane	Cogsta	053 807 2838	ckalane@ncpg.gov.za	
...er Joto	Provincial House Trad leaders	053 807 2820	totomotlharc@gmail.co	
...elo Ramabina	COGHSTA	071 402 8298	tramabina@ncpg.gov.za	
...ni Bruwer	Macroplan	071 354 9885	jlongland@mweb.co.za	
...EBOGENG MARWANE	Soc PLAATJE MUNICIPALITY	053 8306475	cMARWANE@SOCPLAATJE.ORG.ZA	
...nk Wolmarans	SAGI	082 565 4201	hpw@lsbgroups.co.za	
...alla van Zyl	Karlberg LM	0827892616	calla@karlberg.co.za	
...bothat a Collin	Gamagara Lm	053 723 6000	rabothatac@gamagara.co.za	
...ais ...ang Praiovo Selao	Gamagara L.M	053723 6000	selaon@gamagara.co.za	
...ndsta Kruger	STATS SA	079 6991511	christalk@statssa.gov.za	
...ENRI MARAIS	MISA	072 016 7849	henri.marais@misa.gov.za	

DEPARTMENT OF CORPERATE AND GOVERNMENT AFFAIRS, HUMAN SETTLEMENT AND TRADISIONAL AFFAIRS

SPATIAL PLANNING: TOWN AND REGIONAL PLANNING

01 Sept 2017

SPLUM Bill Consultation Session (Kimberley) | Date: 01 September 2

ne	Organisation	Tel No	E-mail adress	Signature
[illegible] DE BRUIN	DRDLR.	082 8276264	GERHARDUS, DEBRUIN & DRDLR. GOV. ZA.	[signature]
[illegible] Du PLESSIS	DRDLR	0824022712	Janco.duplessis@DRDLR.gov.za	[signature]
affour Awuah	DEDAT	0783545620	Bawuah@ncpg.gov.za	[signature]
dina Mesko	SALGA	082 2800[illegible]	bmaseko@salga.org.za	[signature]
[illegible] Leserwane	Gamagara L.M.	0829401871	protea@gamagara.co.za	[signature]
elisa Msomi	SPM	0710935558	NMsomi@solplaatje.org.za	[signature]

J Municipalities
Dawid Kruiper
Nama Khoi
ZF Mgcawu

DEPARTMENT OF CORPERATE AND GOVERNMENT AFFAIRS, HUMAN SETTLEMENT AND TRADISIONAL AFFAIRS

SPATIAL PLANNING: TOWN AND REGIONAL PLANNING

NC SPLUM Bill Consultation Session (Upington) Date: 08 September 2017

Name	Organisation	Tel No	E-mail adress	Signature
J Du Plessis	David Kruiper Mun	054 3387074	townplanner@kharahais.gov.za	[signature]
J. Stevens	DENC	054 378 4800	stevensj083@gmail.com	[signature]
N Mapatsi	OTP	0538382634	nmapatsi@ncpg.gov.za	[signature]
Kiaoache Victor	OTP	053-8382649	kvictor@ncpg.gov.za	[signature]
Tinus Galloway	ZFM	0543572873	tgalloway@zfm.dkm.gov.za	[signature]
C Geldenhuys	David Kruiper Mun	054-3387126	hcdtownplan@dkm.gov.za	[signature]
JP Theron	Macroplan	082 821 1024	jptheron@mweb.co.za	[signature]
Len Fourie	Macroplan	0828211025	macroplan@mweb.co.za	[signature]
G.J. DE BRUIN	DRDLR SPI	0828276264	GERHARDS.DEBRUIN@DRDLR.GOV.ZA	[signature]
D. C. Mageman	Nama Khoi	0832641581	deon.mageman@namakhoi.gov.za	[signature]
M. Masehla	SALGA	0873587800	mmasehla@salgaco.org.za	[signature]

MINUTES OF THE MEETING OF THE NCPHTL SITTING HELD IN THE GA-SEGONYANA LOCAL MUNICIPALITY IN KURUMAN ON 13 FEBRUARY 2018 AT 10:00.

ITEM	DETAILS	Resolutions	Responsible Person
1. **Opening and welcome**	The meeting was opened with a prayer by Kgosi Jantjie. Chairperson Kgosi Pelonomi Toto welcomed members of the House and informed members that the meeting started late due to unavailability of venue to hold the meeting in Kuruman. The meeting was planned to take place at Council chambers of John Taolo Gaetsewe, then the venue was cancelled because of the Mayoral meeting which took precedence of our meetings. We then resolved to travel to Mothibistad which venue was cancelled at the eleventh hour because of lack of ventilation. The HOD intervened and we eventually got a venue at Ga-Segonyana municipality. Chairperson raised this as a serious concern that Traditional leaders do need their own venue to accommodate it and the HOD should think about the challenge faced by Traditional leaders.	Chairperson confirmed quorum and meeting started at 11h05.	Chairperson
2. **Roll call/Attendance register**	The attendance register was circulated.		
3. **Apologies**	Kgosi Dioka is ill and could not attend the meeting, while Kgosi Phetlhu had an urgent meeting at the National House Executive Committee.	Apologies noted,	Members
4. **Adoption of the Agenda**	The Chairperson moved a motion for the adoption of the Agenda. It was adopted by Kgosi Thaganyane and seconded by Kgosana Tsinyane.	The agenda was duly adopted.	All

Items for the Sitting	1. **Presentation by HOD**: There has been non-performance on Engagement sessions between the Provincial and Local House and this has led to underperformance and this has been brought to the attention of the MEC by the Portfolio committee. The MEC has mandated the HOD to address the matter directly with the Provincial House and have thus come up with proposals on how to improve the work of the Houses. The MEC indicated that Traditional Affairs has been the best performer over the years and was a bit concerned on the dip in the performance of the unit and therefore wanted this matter to be addressed immediately and needed to understand the challenges so that he can provide strategic advice on how to remedy the shortcomings. The MEC indicated that Traditional Affairs has been the best performer over the years and was a bit concerned on the dip in the performance of the unit and therefore wanted this matter to be addressed immediately and needed to understand the challenges so that he can provide strategic advice on how to remedy the shortcomings.	The Acting Director of Traditional Affairs, Mr Kopa set the tone and reiterated the presentation of the HOD during his remarks during the Sitting of the Provincial House on 13 February 2018 in that the Houses needs to ensure that all its technical indicators were met because it is reflecting negatively on the overall performance of the Department and as such the MEC and the Portfolio Committee on COGHSTA were not happy about the recent performance of the House. In Terms Of Section 41 Of The No. 2 Of 2007: Northern Cape Traditional Leadership, Governance And Houses Of Traditional Leaders Act, 2007· ❖ The Provincial House in addition to quarterly meetings, hold an annual meeting with Local Houses to give account of the activities and finances of the Provincial House;	All Secretary Secretary

2. Performance of the Provincial and Local Houses: In accordance with approved Technical Indicators of the Department, the Houses of Traditional leaders should amongst others has the following obligations: ➢ Activities of Houses of Traditional leaders in compliance with Act 2 of 2007 ➢ Number of initiatives in promoting social development in traditional communities ➢ Engagement sessions between Provincial and Local Houses ➢ Capacity building programmes for the institution of Traditional leadership.	❖ Be responsive to the needs of Local Houses within the province ❖ establish clear relationships, and facilitate co-operation and communication between Local Houses; ❖ Quarterly inform the Local Houses of how the Provincial House is managed, of costs involved and the persons in charge ❖ Provide an equitable, fair, open and non-discriminatory working environment for all Local Houses.	
The Houses needs to improve on Engagement sessions more especially soon after the reconstitution of the Houses of Traditional leaders. Executive of both Houses needs to ensure that this indicator is met. Induction of both Houses will help strengthen capacity of members and roles will be clearly defined. We have yet again requested the National House to roll out the joint induction training and it will be done during the month of February 2018.	The resolution of the House on the matter was that it will make sure that the targets are met and that all its activities as set out in the Technical indicators will be met going forward. It was a commitment undertaken by the Chairperson and that the PHTL will finalise activity plan and the activities of the joint Houses which must be adhered	

3. Committees of the House:

The Secretary proposed the following committees of the House which are aligned with Committees of the National House:

- ❖ Executive committee
- ❖ Justice & Crime Prevention
- ❖ Gender, Youth & People with disabilities
- ❖ Planning & Cooperative Governance
- ❖ Land, Agriculture, Rural Development and Tourism
- ❖ Social development
- ❖ Tradition, Heritage & Culture

The Secretary further explained that the composition of the Executive Committee should include the following members:

(a) Chairpersons and Deputies of the Local and Provincial House
(b) The Leader of delegation to National House, which will be five (5) members

It would further be advisable to cluster the six (6) remaining committees into three, with three (3) members each.

to.

The Draft Activity Plan of both Houses was presented and comments and additions were recorded. The Activity plan will be adopted and will operate at the beginning of the new financial year, 2018/2019.

It was resolved that Executive Committee further take the role of Planning & Cooperative Governance and Justice and Crime Prevention due to their strategic nature.

Therefore the remaining committees were combines as follows:

1. Social Development Committee and Gender, Youth and People with disabilities:
2. Tradition, Heritage and Culture was paired with Land, Agriculture, Rural Development and Tourism

In order to address the concerns of Traditional leaders, the Provincial

4.Presentation on SPLUMA: Adv. Kapache Victor: OTP

Traditional leaders are concerned about the implementation of SPLUMA. The major worry about this Act is that it has removed Traditional leaders from participating in spatial planning. This situation is the breeding ground for disputes and conflicts with municipalities if the Act is implemented in the current form. Traditional leaders propose that the DRDLR should meet with them with the intention to discuss possible amendment. Further engagements and/or engagements should be considered to ensure that the intention of the Act and the clear role of traditional leaders should be clarified.	Draft Steering Committee under the auspices of the Office of the Premier, Legal Services has held two sessions with the Traditional leaders to present the draft Provincial SPLUMA. There is still some resistance from Traditional leaders on the implementation of SPLUMA but since it has become law, traditional leaders will be engaged in terms of incorporation of Section 81 of the Municipal Structures Act 117 of 1998 and the Traditional Leadership and Governance Framework Act 41 of 2003: "A municipality, in performance of its duties in terms of this Act, **must** allow the participation of a traditional council" This proposal in the Draft SPLUMA strengthens the overall participation of traditional leaders in provincial spatial planning and would appease traditional leaders to a great deal. That the Draft Provincial Bill will be translated into Setswana so that Dikgosi and headmen can make meaningful inputs/comments.

	5. Presentation by Adv. Mogami Manyeneng: Constitutional Amendment: Incorporation of 14 villages of Kgosi Mothibi: Adv. Manyeneng, who is the Acting Chief Director of Cooperative Governance, made a presentation about the Constitutional amendment which has been gazette by the Minister of Justice and Correctional Services regarding the incorporation of Ba-ga Mothibi community into the Northern Cape province. According to the gazette, it needed to be presented to the Provincial House of Traditional leaders and sought its endorsement of the process. The presentation was overwhelmingly endorsed by members of the House and that the process should be concluded as they want to be reincorporated with their people of Kgosi Galeshewe.		
3. Closure	Kgosi Toto thanked all members for attending the meeting and acknowledged the presence of the Acting Director of Traditional Affairs , Mr London Kopa and made a commitment to attend to the issues raised by the HOD to ensure that the Houses comply as requested by the HOD. Kgosana Moncho closed the meeting with the prayer. **Meeting ended at 15H00**	**Announcements:** ❖ The opening of the National House would be on 27 February and Debate of the President' speech will be on 1 March 2018 respectively. ❖ Chairpersons Forum will be held on 28 February 2018 to prepare for the debate with the President.	All

NCPHTL
Provincial House of Traditional Leaders
NORTHERN CAPE PROVINCE

46 Old De Beers Road
Midas building
Dept. of COGHSTA
Kimberley
8300

Tel: 053 –807 2820
Fax: 053 – 807 2815
E-mail: bcindi@ncpg.gov.za

Enquiries
Dipatlisiso
Imibuzo :
Navrae

Reference :
Tshupelo :
Isalathiso :
Verwysings :

Date :
Leshupelo :
Umhla :
Datum

INPUTS FROM THE PROVINCIAL HOUSE OF TRADITIONAL LEADERS: SPLUMA

Definitions (section 1)	Include the following definitions: - Competent authority should include traditional councils. - Land – the definition should include communal land. Communal land is defined as land which is, is to be, occupied or used by members of a community subject to the rules or custom of that community. - traditional council – traditional councils established in terms section 3 of the Traditional Leadership and Governance Framework Act, 2003 (Act no 41 of 2003)
Objects of the Act (Section 3) (a) Provide for a uniform, effective and comprehensive system of spatial planning and land use management in the Republic.	This objective can be done with the involvement of traditional leaders and their traditional communities.
(b) Ensure that that the system of spatial planning and land use	Traditional leaders and their communities are the people that can

management promotes social and economic inclusion	ensure social and economic inclusion as they are local people that deal with local issues on daily basis.
(c) Provide for development principles and norms and standards.	The development of norms and standards should be done with traditional leaders and those will incorporate traditional communities. Traditional council's offices should be well resourced to achieve that.
(d) Provide for the sustainable and efficient use of land.	This objective should not be aimed to remove land from traditional leaders and their communities and give it to municipalities as this will end up in the land been used for commercial reasons and there will end up being no land enough for sustainability and we will not be able to practice our cultural differences.
(e) Provide for cooperative government and intergovernmental relations amongst the national, provincial and local spheres of government.	This will be more effective if traditional leaders will retain powers in terms of land administration in their traditional communities, rather than the powers being given to municipalities. This can only be achieved if traditional councils are resourced in the same way as municipalities are. Traditional councils practiced this for time immemorial.
(f) Redress the imbalances of the past and to ensure that there is equity in the application of spatial development planning and land use management systems.	
Development principles (Section 7(a) (ii) and (iv)	
The principles of spatial justice apply to spatial planning, land development and land use management whereby spatial	It is stated in this section that the spatial development framework and policies should address the inclusion

development frameworks and policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterized by widespread poverty and deprivation, and land use management systems must include all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas.	of areas that were previously excluded, however there is no mention of traditional communities. It is recommended that traditional communities under areas of traditional leaders should be included in the development framework as areas that were previously excluded The Act targets informal settlements and former homeland areas which are currently under the jurisdiction of traditional leaders.
Preparation of Spatial Development Framework (Section 12 (1) (h) The national and provincial spheres of government and each municipality must prepare spatial development frameworks that include previously disadvantaged areas, areas under traditional leadership, rural areas, informal settlements, slums and land holdings of state-owned enterprises and government agencies and address their inclusion and integration into the spatial, economic, social and environmental objectives of the relevant sphere.	This section is silent in terms of the consultation process on the development of the framework with traditional leaders instead municipalities are given the authority to prepare the spatial development framework without any inputs from the affected parties.
Provincial spatial development framework (Section 15(1)) The Premier of each province must compile , determine and publish a provincial spatial development framework for the province	The Premier of each province must, after consultation with other organs of state and with the public, compile determine and publish provincial spatial development framework for the province
Regional spatial development framework (Section 18(1) The Minister after consultation with the Premier and the Municipal Council	The Minister must also consult traditional councils responsible for the

responsible for a geographical area, may by notice in the Gazette publish a regional spatial development framework to guide spatial planning, land development and land use management in any region of the Republic.	said geographical area.
Preparation of municipal spatial development framework (section 20(1) The Municipal Council of a municipality must by notice in the Provincial Gazette adopt a municipal spatial development framework for the municipality	The Municipal Council of a municipality must, after consultation with traditional councils, by notice in the Provincial Gazette adopt a municipal spatial development framework for the municipality
Role of executive authority (section 23(2) Subject to section 81 of the Local Government: Municipal Structures Act, 1998 (Act no 117 of 1998), and the Traditional Leadership and Governance Framework Act, 2003 (Act no 41 of 2003), a municipality, in the performance of its duties in terms of **this Chapter** must allow the participation of a traditional council	Traditional leaders should be included in the administration and management of the whole Act and not Chapter 5 only. Referral to section 81 of the Local Government: Municipal Structures Act, 1998 (Act no 117 of 1998) should be omitted from this section
Enforcement of land use scheme (section 32(1) A municipality may pass by laws aimed at enforcing its land use scheme.	A municipality may, after consultation with relevant stakeholders and traditional councils, pass by laws aimed at enforcing its land use scheme.
Establishment of Municipal Planning Tribunals (Section 35(2)) A municipality may authorize that certain land use and land development applications may be considered and determined by an official in the employ of the municipality,	This section gives municipalities' authority to grant an official in the employ of the municipality powers to decide the land in rural areas that belong to traditional leaders and their communities. It is the view of traditional leaders that when

	determining and considering land use and land development applications in rural areas, an official in the employ of the municipality must consult and involve traditional leaders and their communities.
Composition of Municipal Planning Tribunals (Section 36 (a)-(b) A Municipal Planning Tribunal must consist of officials in the full-time service of the municipality and persons appointed by the Municipal Council who are not municipal officials and who have knowledge and experience of spatial planning and land development.	This section allows officials in full employ of the municipality and those persons appointed by the municipal council to serve in the municipal planning tribunal. This excludes traditional councils in its entirety. Traditional councils have knowledge on spatial planning and land development and therefore should form part of the municipal planning tribunal.
Disqualification from membership of Municipal Planning Tribunals (Section 38(b) A person may not be appointed or continue to serve as a member of a Municipal Planning Tribunal if that person is a member of Parliament, Provincial Legislature or a House of Traditional Leaders.	This section excludes traditional leaders from participating in the municipal planning tribunal, as traditional leaders are one way or the other part of these structures. It is the view of traditional leaders that they should not be disqualified from forming part of the Municipal Planning Tribunals even though they are members of the structures mentioned in this section.
Change with approval of Municipal Planning Tribunal (section 41) Municipal planning tribunal, upon application in the prescribed manner, may - Change the use, form or function of land or - Remove, amend or suspend a restrictive condition	All changes of use, form and function of land or removal, amendments or suspension of restrictive conditions should be done in consultation with traditional councils

Deciding on application (Section 42) In considering and deciding an application a municipal planning tribunal must -be guided by the development principles set out in Chapter 2 -make a decision which is consistent with norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the municipal spatial development framework	This section does not recognize the role that traditional leaders play in the administration of land in their traditional communities. In consideration of the application, the municipal planning tribunal should consider spatial planning frameworks for Traditional Councils.

RECOMMENDATIONS

As Traditional Leaders we would like to make the following recommendations with regard to SPLUMA and the implementation thereof:

- That the Traditional Leaders remain as "competent authority", in relation to land use, so that they will continue to grant or approve the right to use of land for a specified purpose in their Traditional Councils or areas of jurisdiction according to section 1 (1) of the Act.

- That "incremental upgrading of informal areas" where there is progressive introduction of administration, management, engineering services and land tenure rights to an area that is established outside existing planning legislation, and may include any settlement or area under traditional tenure, be done under the leadership of Traditional Leaders and their councils, where administration offices within rural communities shall be empowered and fully equipped to deal all issues of development as according to local economic development of each Traditional Council area of jurisdiction.

- The inclusion of previously disadvantaged areas, areas under Traditional Leadership, rural areas, informal settlements, e.t.c.

into the spatial, economic, social and environmental objectives of the relevant spheres, without removing them from decision making in the process. They must retain powers and not just be members of forums that do not have decision making powers.

- A land use scheme adopted that must include provisions that permits the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use scheme, should be done without the Traditional Leaders having a final say on that incremental introduction of land use, management and regulations. This calls for total empowerment of traditional leaders on all government operations, legislation that has effect in their operations recognition as legitimate African organs that must be respected.

- Exclusion of lands owned by Traditional Councils from section 28(1) which land considered necessary by the municipality to achieve the development goals and objectives of the municipal spatial development framework. This section is the core taking by force the land that Africans fought, for many years and which are heritage to them and the generations to come.

- Exclusions of land owned by Traditional Councils from section 32 (1) – (3) which when done will render the rest of the section invalid to Traditional Councils and it says:
  - A municipality may pass by-laws aimed at enforcing its land use scheme.
  - A municipality may apply to a court for an order – (a) interdicting any person from using land in contravention of its land use scheme, (b) authorising the demolition of any structure erected on land in contravention of its land use scheme, without any obligation on the municipality or the person carrying out the demolition to pay compensation, (c) directing any other appropriate preventative or remedial measures
  - A municipality – (a) may designate a municipal official or appoint any other person as an inspector to investigate any

non-compliance with its land use scheme, (b) must issue its inspector with a written designation or appointment in the prescribed form, stating that the person has been appointed in terms of this act.

NB: If bylaws and court orders are going to be used in villages to force activities and to force taking over of land, then the battle for black consciousness, land ownership, return of lands to their rightful owners, constitutional right to dignity, and right to cultural diversity will be defeated and the blood of struggle heroes will have been shed for nothing.

- Exclusion of lands owned by Traditional Councils from section 41(1) - (2) which says
  (a) the Municipal Planning Tribunal, upon application in the prescribed manner, may –
  – Change the use, form or function of land: or
  – Remove, amend or suspend a restrictive condition.

  (b) An application contemplated in subsection (1) includes an application for
  – Township establishment
  – Subdivision of land
  – The consolidation of different pieces of land
  – The amendment of land use or town planning scheme, except any change affecting the scheme regulations in terms of section 25 (2)(a) or
  – The removal, amendment or suspension of a restrictive condition.

NB: All that this section requires must remain the responsibility of combined Traditional Councils because they will consider issues of culture, traditions, heritage and the future. It will also to a greater extend avoid unnecessary tribal conflicts.

SECRET

M•E•M•O•R•A•N•D•U•M

OFFICE OF THE PREMIER
KANTORO YA TONAKGOLO
I-OFISI YE NKULUMBUSO
KANTOOR VAN DIE PREMIER

JW Sauer Building
Corner of Roper Str & Quin Rd
Private Bag X5016
KIMBERLEY 8300

JW Sauer Gebou
Hoek van Roper Str & Quin Weg
Privaatsak X5016
KIMBERLEY 8300

Tel: +27 (053) 8382939
Fax: (053) 8382698

E-mail: dadams@ncpg.gov.za

Enquiries : Mr. D. Adams
Dipatlisiso :
Imibuzo
Navrae :

Date : 03 January 2022
Leshupelo:
Umhla
Datum

Reference : Executive Council Secretariat
Tshupelo
Isalathiso .
Verwysings:

TO: Premier
MEC: CoGHSTA
Director-General
HOD: CoGHSTA

EXECUTIVE COUNCIL RESOLUTION: NO. 077/2021(11)

Attached for your information, Executive Council Resolution No. 077/2021(11) dated 24 November 2021.

MR. D. ADAMS
EXECUTIVE COUNCIL SECRETARIAT

SECRET

PROVINCE OF THE NORTHERN CAPE

Agenda Item: 6.5.1
24 November 2021

SPACIAL PLANNING AND LAND USE MANAGEMENT BILL

RESOLUTION NO: 077/2021(11)

Resolved that:

- *The Executive Council:*
  - ✓ *Notes the progress made in the finalization of the Northern Cape Spatial Planning and Land Use Management Bill;*
  - ✓ *Supports and approves the processes leading to promulgating the NC SPLUM Bill.*



THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA

SOCIO-ECONOMIC IMPACT ASSESSMENT AND QUALITY ASSURANCE SIGN- OFF FORM

This is to confirm that:

1. The Presidency has assessed the Socio-Economic Impact Assessment (SEIAS) Report as per the following:

   * Initiating Department : Department of Co-Operative Governance Human Settlement and Traditional Affairs Northern Cape
   * Name : Northern Cape Spatial Planning and Land use Management Bill
   * Type of Assessment : Final Impact Assessment

2. The initiating department has been given feedback and incorporated all inputs as contained in the Final Socio-Economic Impact Assessment report.

3. The Department of Co-operative Governance, Human Settlement and Traditional Affairs in the Northern Cape Province may proceed with the submission of the Bill for further provincial consultation and approval.

4. Verified and signed off by The Policy and Research Services branch:

Official Stamp and Date

THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA
POLICY AND RESEARCH SERVICES
SEIAS
Socio-Economic Impact Assessment System
No: 09/24-25
AUTHENTIC AND OFFICIAL
STAMP OF APPROVAL
FINAL
Date: 2024/06/05

Interdepartmental Memorandum

Northern Cape
Provincial Legislature

Postal Address
Private Bag 5066

Physical Address
Kimberley 8300

Fax: Admin 839 8094
Tel: (053) 839 8020

Date: 12 May 2025 Ref: 1.5.1.1- 28 Enquiries: AW Pietersen-Hendricks

To: Head of Department: COGHSTA
Mr BS Lenkoe
By email

Attention: Adv M Manyeneng

INTRODUCTION - NORTHERN CAPE SPATIAL PLANNING AND LAND USE BILL

1. Your letter dated 15 November 2024 read with letter of MEC of COGHSTA as received on 08 August 2024, bear reference.

2. **Legal position**

   2.1 **Rule 166 of the NCPL Standing Rules** clearly states that the papers as referred to in subparagraph (3) must accompany the Bill when submitted to the Legislature for introduction.

   2.2 **Rule 165(3) of the NCPL Standing Rules** also states that legislation is assessed based on legal technical aspects, general style, editing and drafting convention and any other aspects that impacts the interpretation of the Bill.

3. Upon this office's perusal for compliance with Chapter 7, (Rules 163 -178) of the **Standing Rules of the Northern Cape Provincial Legislature,** the following observations were made:

   3.1 (Rule 164) The Bill was published for comment in the **Northern Cape Provincial Gazette No 2549 dated, 14 October 2022,** and reference is made to publication in the **DFA on 8 October 2018**, however **the copies submitted of DFA do not provide actual proof of publication.**

   3.2 The following are not included as per legal requirement:

3.2.1 Rule 166(3)(a) **Explanatory memorandum** as envisaged in Rule 167(f), **with a clause-by-clause explanation of the contents of the Bill**.

3.2.2 Rule 166(3)(c) **media** and other notices inviting the public to submit comments and representations.

3.2.3 Rule 166(3)(e) **amended version of the Bill** if changes had been effected after publication.

4. It should also be noted that this office in its attempt to perform quality assurance as envisaged in **Rule 165** reviewed the Explanatory Memorandum, documents and Bill, and require clarity and/or additional information on the following:

4.1 whether the version submitted by the Hon Member Vass dated and signed on 08 August 2024 and received by the Legislature on 19 August 2024 is the final version to be introduced. Clarity in this regard is required as there is a material difference between the Bill submitted for quality assurance and the Bill as published for public comment and/or the Bill available on COGHSTA's website.

4.2 whether the consultations held on 01, 08 September 2017 and 13 February 2018 were for inputs on the (National) SPLUMA or Northern Cape SPLUM Bill. If the registers submitted were for the (National) SPLUM Bill, kindly advise whether consultation sessions were held with specific reference to the Northern Cape SPLUM Bill, and if so, please submit proof of such consultations;

4.3 whether the inputs by stakeholders and /or the public were considered and included in the Bill – **refer to Rule 166(3)(e) with reference to 3.2.3 and 4.1 above**;

4.4 whether the Spatial Development Framework has been drafted. If so, a copy of the said framework should also be provided;

4.5 whether the Municipal Planning Tribunal has been established. If so, kindly submit a copy of the enabling legislation, ordinance etc. in terms of which it has been established;

4.6 in order to ensure compliance with regard to general style, editing and drafting convention, kindly advise on or attend to the following:

4.6.1 what interim measures are referred to in the long title of the Bill, please provide reference to a specific section in the Bill where these interim measures can be found;

4.6.2 headings and chapters should be concisely written, with reference to the content of sections, for example under Chapter 3 with the heading "PROVINCIAL SPATIAL PLANNNG AND LAND USE ADVISORY COMMITTEE", the heading could read Establishment and Composition etc. (refrain from using sentences as Headings or Chapters);

4.6.3 some headings are standardized and should have logical flow. The first heading named 'Introductory Provisions' should read "Definitions, Purposes and Applications of the Act";

4.6.4 definitions should not be written in capital letters as found in Chapter 1, unless it is the name of a Legislation, place or abbreviation which usually appear in capital letters, e.g. SPLUMA etc.;

4.6.5 the definition of develop is incomplete, please review and amend accordingly;

4.6.6 general spacing, indentation and font must be consistently applied throughout the Bill- kindly use Times New Roman font 11 with 1.5 spacing consistently when drafting;

4.6.7 clause 5(1) and (2) is cumbersome and does not read well. Provisions should be simple and clearly written. Please review and amend accordingly in order to provide clarity to the reader;

4.6.8 clause 7 refers to functions and clause 8 refers to activities, kindly provide clarity with regards to the meaning of both references made;

4.6.9 clause 8 - Funds should follow functions. It is stipulated that funding will be provided by the Premier, but in Section 9(3) it stipulates that it will be funded by the Provincial Department to whom Premier will delegate functions. This creates legal uncertainty and should be clarified;

4.6.10 clause 10 provides for instances which will disqualify certain persons from becoming members, and general reference is made to experience in clause 6.2. In terms of the functions as stipulated in clause 7 the Committee will provide specialized advisory services to the Premier and be paid consultation fees and/or allowances, hence it would be advisable to include specific qualifications in order for members to be qualified as specialists in the field; as there are no provisions made for specific qualifications

to qualify a person to be elected or be appointed as a member;

4.6.11 reference is made to grounds for removal of a member based on misconduct and incompetence, however the Committee will serve as a specialized advisory committee to the Premier, and shall not be employees as envisaged in normal labour legislation, where these grounds would find application. Clause 11(1)(a) and (2) is thus unnecessary and will overcomplicate removal of members;

4.6.12 cross-referencing in clause 11(1)(b) is incorrect and should be rectified;

4.6.13 clause 15 refers to the Municipal Planning Tribunal. Kindly advise whether the Tribunal has been established. If so, provide information regarding the empowering legislation and any additional information regarding same;

4.6.14 clause 17- refers to additional measures to be implemented, how these measures will be introduced should be stipulated clearly,

4.6.15 Section 18 and 19 should be reviewed, as it appears to be contradicting each other;

4.6.16 Section 21- Delegation to more than one MEC creates legal uncertainty as to who the functionaries would be and therefore clarity should be provided in this regard;

4.6.17 Section 22- transitional arrangement should contain reference to a transition from the previous legislative conditions, rights, functions or processes in terms of the repealed legislation;

4.6.18 Section 24 - short title date should be removed;

4.6.19 schedule 1 should have sub-headings in order to provide clarity between Uniform spatial planning categories and Land use categories in order to prevent confusion;

4.6.20 clause 1 and 4 of Schedule 1 are repetitive and should be reviewed;

4.6.21 clause 6(h) of schedule 1 refers to repealed legislation and should be rectified; and

4.6.22 kindly confirm whether any regulations in terms of this Bill have been drafted, if so, please submit a copy for quality assurance as per Part 8 (Rules 203A- 203C) of the

Standing Rules of the Northern Cape Provincial Legislature.

4.7 Legislation should be drafted in simple clear and non-technical language, clarity is thus sought on the meaning of each clause, therefore a clause-by-clause explanation should be included in the explanatory note, as some clauses seem overcomplicated and unclear.

5. Failing to comply with the lawmaking process as set out in the Standing Rules opens the envisaged legislation to legal and Constitutional scrutiny and challenge.

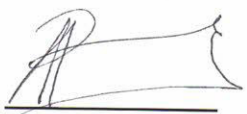
5.1 Not submitting documentation as required in terms of Rule 166 is material non-compliance to legal prescripts.

6. It is hence advised that the **Department should first correct deficiencies** as indicated **and submit a written response** with all requested information stipulated above **to Adv AW Pietersen-Hendricks, in hard copy, by** no later than close of business (16h00) **Monday 19 May 2025**. Kindly also submit a soft copy of the Bill in word format via email to APHendricks@ncpleg.gov.za.

7. A**ny further enquiries** or clarity seeking questions may be directed to the writer via email (APHendricks@ncpleg.gov.za).

8. Should you require a meeting, same may be arranged with the writer in this regard, which may also be requested in writing via email.

Regards,



Adv AW Pietersen-Hendricks
Senior Legal Advisor: Legal Services

Cc Adv M Manyeneng
MManyeneng@nccoghsta.gov.za

Ms M Masehla
mmasehla@nccoghsta.gov.za

Ms N Matlakala
nmatlakala@nccoghsta.gov.za