KWAZULU-NATAL PLANNING AND DEVELOPMENT ACT, 2008

(Act No. 06 of 2008)

Assented to on 05-12-2008

ACT

To provide for the adoption, replacement and amendment of schemes, to provide for the subdivision and consolidation of land; to provide for the development of land outside schemes; to provide for the phasing or cancellation of approved layout plans for the subdivision or development of land; to provide for the alteration, suspension and deletion of restrictions relating to land; to establish general principles for the permanent closure of municipal roads or public places; to provide for the adoption and recognition of schemes, to provide for compensation in respect of matters regulated by the Act; to establish the KwaZulu-Natal Planning and Development Appeal Tribunal; to provide for provincial planning and development norms and standards; and to provide for matters connected therewith.

WHEREAS the law must –

(a) promote a uniform planning and development system that treats all citizens of the Province equitably;

(b) provide a fair and equitable standard of planning and development to everyone in the
Province, while accommodating diversity such as urban and rural needs;
(c) incorporate and build on good practices and approaches to planning and development
which have evolved outside of the formal planning and development system;
(d) promote a planning and development system that redresses the historic injustices
perpetuated by a fragmented planning and development system;
(e) favour lawful development;
(f) be clear, including the relationship between different laws;
(g) be practical;
(h) promote certainty;
(i) require timeous action by decision makers;
(j) guide decision makers;
(k) require decision makers to obtain expert advice before making a decision; and
(l) be enforceable; and

WHEREAS planning and development decisions must be taken by local government, with appeals
being resolved by an independent tribunal of experts appointed by the responsible Member of the
Executive Council in consultation with the Executive Council of the Province,

BE IT THEREFORE ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as
follows:—

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CHAPTER 1
DEFINITIONS AND OBJECTS OF ACT

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

"Appeal Tribunal" means the KwaZulu-Natal Planning and Development Appeal Tribunal established by section 100(1);

"application for late lodging of appeal" means an application for the late lodging of an appeal contemplated in section 125(1);

"authorised person" means a person authorised by the Registrar to serve a subpoena contemplated in section 119(2);

"certificate" means a written document signed by the issuer in terms of this Act;

"Consolidate" means the consolidation of two or more contiguous erven;

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

"consultation paper " means a paper on the provincial planning and development norms and standards contemplated in section 139(1);

"contravention notice" means a contravention notice contemplated in section 79(1);
"days" means days as calculated in terms of section 159;

"Deeds Registries Act" means the Deeds Registries Act, 1937 (Act No. 47 of 1937);

"deeds registry" means a deeds registry established in terms of section 1(1)(a) of the Deeds Registries Act;

"development" in relation to any land, means the erection of buildings and structures, the carrying out of construction, engineering, mining or other operations on, under or over land, and a material change to the existing use of any building or land for non-agricultural purposes;

"Development Facilitation Act" means the Development Facilitation Act, 1995 (Act No. 67 of 1995);

"diagram" means a document signed by a land surveyor containing geometrical, numerical and verbal representations of a single piece of land, or any line, feature or area, which forms the basis for the registration of a real right in the deeds registry;

"engineering services" means the construction of –

(a) roads and stormwater drainage systems; and
(b) any other infrastructure for the installation of water, sewage disposal, power or telecommunication systems;

"environment" means the surrounding within which humans exist and that are made up of –

(a) the land, water and atmosphere of the earth;
(b) micro-organisms, plant and animal life;
(c) any part or combination of (a) and (b) and the inter-relationships among and between them; and
(d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;
"erf" means any piece of land registered in the deeds registry as an erf, lot, plot, stand or farm and includes a portion of an erf, lot, plot or stand;

"general plan" means a plan representing the relative positions and dimensions of two or more pieces of land, which has been signed by a land surveyor, and which forms the basis for the registration of real rights in the deeds registry;

"inspector" means a person authorised by a municipality to enter upon land for the purpose of inspecting it, as contemplated in section 90(2);

"integrated development plan" means an integrated development plan contemplated in section 25 of the Municipal Systems Act;

"Land Survey Act" means the Land Survey Act, 1997 (Act No. 8 of 1997);

"land surveyor" means a person registered as a professional land surveyor in terms of the Professional and Technical Surveyors Act, 1984 (Act No. 40 of 1984), whose name is entered in the register referred to in section 7(4)(a) of that Act;

"layout plan" means a plan showing the relative locations of erven, public places, or roads, on land intended for development or subdivision and the purposes for which the erven are intended to be used;

"legally qualified" means being admitted as an advocate or attorney of the High Court of South Africa and having practised as such in the Republic for an uninterrupted period of at least five years;

"lodge" has the same meaning as "serve", except in relation to the lodging of plans and documents with the Surveyor-General or the lodging of deeds, plans and documents with the Registrar of Deeds;

"municipality" means a metropolitan municipality or a local municipality as defined in section 1, and established under section 12, of the Municipal Structures Act read with the
provisions of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

"municipal manager" means the person appointed as municipal manager for a municipality under section 82 of the Municipal Structures Act;

"Municipal Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"notify" has a corresponding meaning as "serve";

"Ordinance" means the Town Planning Ordinance, 1949 (Ordinance No. 27 of 1949);

"organ of state" means –
   (a) any department of state or administration in the national or provincial sphere of government; or
   (b) any other functionary or institution exercising a public power or performing a public function in terms of any law;

"owner" means the registered owner of the land contemplated in section 102 of the Deeds Registries Act and also includes the holder of a leasehold, a deed of grant or any similar right registered in the deeds registry, but does not include –
   (a) a right or interest of a tenant, labour tenant, sharecropper or employee that is purely of a contractual nature; or
   (b) a right or interest that is based purely on temporary permission by the owner or lawful occupier of land who may at any time withdraw that right or interest;

"Planning Profession Act" means the Planning Profession Act, 2002 (Act No. 36 of 2002);

"presiding officer" means a member who is legally qualified, appointed by the chairperson of the Appeal Tribunal to preside over the hearing of an appeal contemplated in section
118(a);

"prohibition order" means a prohibition order contemplated in section 81(2)(a);

"Promotion of Administrative Justice Act" means the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000);

"Province" means the Province of KwaZulu-Natal;

"Provincial Administration" means the Provincial Administration of the Province;

"provincial planning and development norms and standards" means norms and standards contemplated in section 144(2), together with approved amendments thereto contemplated in section 150(2);

"public place" means any road and any square, park, recreation ground, garden, commonage or enclosed or open space –
(a) registered in the deeds registry as land set apart for the use and benefit of the public;
(b) of which the ownership vests in the municipality, or under the control or management thereof by law for the use and benefit of the public, or which the public has the right to use; or
(c) to which the public or the inhabitants of a township have a common right in accordance with a record filed in the deeds registry;

"registered planner" means a person registered as a professional planner or a technical planner contemplated in section 13(4) of the Planning Profession Act, unless the South African Council for Planners has reserved the work to be performed by a registered planner in terms of this Act for a particular category of registered persons in terms of section 16(2) of the Planning Profession Act, in which case a registered planner shall mean that category of registered persons for which the work has been reserved;

"registered planner member" means the member of the Appeal Tribunal who must be a registered planner with at least five years experience in land use management, the
subdivision and consolidation of land and the development of land;

"Registrar of Deeds" means the person appointed as registrar of deeds in terms of section 2(1)(b) of the Deeds Registries Act;

"responsible Member of the Executive Council" means the Member of the Executive Council for the Province of KwaZulu-Natal responsible for local government;

"Removal of Restrictions Act" means the Removal of Restrictions Act, 1967 (Act No. 84 of 1967);

"scheme" means a scheme contemplated in section 5, adopted by a municipality in terms of section 12(1)(a) and includes —

(a) approved amendments thereto contemplated in section 13(1)(a); and

(b) permissions in terms thereof contemplated in section 5(d)(i) and (ii);

"serve" in relation to a notice, order or other document means to serve the document concerned in the manner set out in section 158;

"subdivide" means the division of a piece of land into two or more portions;

"subsequent application" means an application for the approval of an activity after the commencement thereof contemplated in section 89(1);

"Surveyor-General" means the Surveyor-General as defined in section 1 of the Land Survey Act;

"township" means a group of erven which are combined with public places and are used for residential, business, industrial or similar purposes, or intended to be used for such purposes;

"transfer" means the registration of an erf in the deeds registry; and

"urgent prevention order" means an urgent order obtained under the circumstances
contemplated in section 84(1)(a) to (c).

Objects of Act
2. The objects of this act are to –
   (1) provide for the adoption, replacement and amendment of schemes;
   (2) provide for the subdivision and consolidation of land;
   (3) provide for the development of land outside schemes;
   (4) provide for the phasing or cancellation of approved layout plans for the subdivision or development of land;
   (5) provide for the alteration, suspension and deletion of restrictions relating to land;
   (6) establish general principles for the permanent closure of municipal roads or public places;
   (7) provide for the enforcement of the Act and schemes;
   (8) provide for compensation in respect of matters regulated by the Act;
   (9) provide for the establishment the KwaZulu-Natal Planning and Development Appeal Tribunal; and
   (10) provide for provincial planning and development norms and standards.

CHAPTER 2
SCHEMES

Part 1: Introductory provisions, contents, legal effect, review and record of schemes

Purpose of scheme
3. The purpose of a scheme is to regulate land use and to promote orderly development in accordance with the municipality's integrated development plan.

Responsibility to prepare scheme
4.(1) A municipality must, within five years from the commencement of this Act adopt a scheme or schemes for its whole area of jurisdiction, unless the responsible Member of the Executive Council has granted an extension of time.
(2) A municipality may apply to the responsible Member of the Executive Council for an extension of the period in which to adopt a scheme or schemes for its whole area of jurisdiction.

(3) An application by a municipality for an extension of time in accordance with this section must be accompanied by—
   (a) a written motivation for the extension of the period; and
   (b) a request specifying the additional time required.

(4) The responsible Member of the Executive Council may, on good cause shown by a municipality, extend the period for the adoption of a scheme or schemes by notice in the Gazette.

Contents of scheme

5. A scheme must –
   (a) be shown on maps with accompanying clauses and any other information that the municipality considers necessary for illustrating or explaining the extent, content, provisions and effect of the scheme;
   (b) define the area to which it applies;
   (c) define the terminology used in the maps and clauses;
   (d) specify –
      (i) kinds of land uses and development that are permitted and the conditions under which they are permitted;
      (ii) kinds of land uses and development that may be permitted with the municipality’s permission, the criteria that will guide the municipality in deciding whether to grant its permission, and the conditions which will apply if the municipality grants its permission;
      (iii) kinds of land uses and development that are not permitted;
   (e) specify the extent to which land that was being used lawfully for a purpose that does not conform to the scheme may be continued to be used for that purpose and the extent to which buildings or structures on that land may be altered or extended; and
   (f) specify areas where the prior approval of the municipality in terms of this Act is not required for the subdivision or consolidation of land.
Status of scheme

6. (1) A scheme is binding on the municipality, all other persons and organs of state, except in the event of a conflict with the provisions of an integrated development plan that was adopted prior to the scheme or amendment to the scheme.

(2) The provisions of integrated development plan will prevail over the provisions of a scheme in the event of a conflict with the provisions of an integrated development plan that was adopted prior to the scheme or amendment to the scheme.

(3) The provisions of a scheme that were adopted prior to the adoption of an integrated development plan prevail in the event of a conflict with the provisions of the integrated development plan.

(4) A municipality or any other organ of state may not approve a proposal to subdivide or consolidate land that is in conflict with the provisions of a scheme.

(5) A proposal to subdivide or consolidate land that is in conflict with the provisions of a scheme is invalid.

(6) Any part of a scheme that applies to land that has been incorporated into another municipality in the Province, as a result of the re-determination of a municipal boundary by the Demarcation Board in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), must be treated as a scheme of the receiving municipality.

(7) A scheme replaces all town planning schemes within the area to which it applies.

(8) The legal status of an existing building or structure that has been lawfully erected before the effective date of the adoption, replacement or amendment of a scheme in terms of section 16 is not affected by the adoption, replacement or amendment of the scheme.

(9) Land that was being used lawfully before the effective date for the adoption, replacement or amendment of a scheme contemplated in section 16, for a purpose that does not conform to the
scheme, may continue to be used for that purpose.

(10) Any extension to buildings or structures on land contemplated in subsection (9) must comply with the scheme.

Review of scheme
7. A municipality must review a scheme within six months after it has adopted an integrated development plan for its elected term as contemplated in section 25 of the Municipal Systems Act.

Record of schemes
8. A municipality must –
   (a) compile and maintain an up-to-date version of a scheme;
   (b) make an up-to-date copy of a scheme available for inspection and copying at all reasonable times by any person.

Part 2: Adoption, replacement and amendment of scheme

Persons who may initiate adoption, replacement or amendment of scheme
9.(1) A municipality may initiate an adoption of a scheme, replacement of a scheme or an amendment of a scheme.

(2) An application to a municipality for an amendment of a scheme, may be lodged by –
   (a) the owner of land who is affected by the proposed amendment to the scheme, including an organ of state; and
   (b) a person acting with the written consent of the owner of land who is affected by the proposed amendment of a scheme.

(3) If land, which is the subject of an application for the amendment of a scheme, is transferred to a new owner, the new owner may continue with the application as the legal successor-in-title of the previous owner.
Process for adoption, replacement or amendment of scheme

10. (1) The procedures in Par 2 of Schedule 1 must be followed for the adoption or replacement of a scheme.

(2) The procedures contemplated in Schedule 1 must be followed for the amendment of a scheme.

(3) Public notice in terms of item 5 or 14 of Schedule 1 is not required in the case of a proposed amendment to a scheme to –
   (a) rectify a spelling error;
   (b) reflect the correct designation of an erf by the Surveyor General; or
   (c) update a reference to a law, person, functionary, organ of state, an institution; or
   (d) update a reference to a street or place name.

(4) A proposal for the amendment of a municipality’s scheme may be combined with a proposal to –
   (a) subdivide or consolidate land; and
   (b) alter, suspend or delete restrictions relating to land,
and processed as one proposal.

Duty to obtain professional evaluation and recommendation

11. Before considering a proposal to adopt, replace or amend a scheme, a municipality must obtain a –
   (a) registered planner’s written evaluation and recommendation on the proposal; and
   (b) certificate signed by a registered planner –
      (i) confirming that the proposal complies in all respects with this Act; or
      (ii) if the proposal does not comply in all respects with this Act, stating that the proposal is defective and provide details of the defect.
Matters relevant in determining merits of proposed adoption, replacement or amendment of scheme

12. For the purposes of determining the merits of a proposal to adopt, replace or amend a scheme, a municipality must take the following matters into account –

(a) the application contemplated in item 1(2) of Schedule 1;
(b) comments in response to the invitation for public comment on the proposal;
(c) the registered planner’s written evaluation and recommendation on the proposal and certificate of compliance of the proposal with the Act;
(d) the potential impact of the proposal on the environment, socio-economic conditions, and cultural heritage;
(e) the impact of the proposal on existing or proposed developments or land uses in the municipality’s area, or on existing developmental or mineral rights;
(f) the impact of the proposal on the national, provincial and municipal road networks;
(g) the resources likely to be available for implementing the proposal, including access to the national, provincial or municipal roads network, engineering services, public transport, municipal services, sewage, water and electricity supply, waste management and removal, policing and security, health and educational facilities, and the fiscal ability of the municipality to pay compensation contemplated in section 95(1);
(h) in the event of the adoption of a scheme, the benefits that will accrue from the adoption thereof compared to the cost of compensation contemplated in section 95(1);
(i) the historical effects of past racially discriminatory and segregatory legislation on land ownership, land development and access to engineering services and public facilities, and the need to address the historical imbalances;
(j) the protection or preservation of cultural and natural resources, including agricultural resources, unique areas or features and biodiversity;
(k) the natural and physical qualities of that area;
(l) the general principles for land development as stated in section 3 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), and other national norms and standards, frameworks and policies contemplated in section 146(2)(b) of the Constitution;
(m) the provincial planning and development norms and standards;
(n) the municipality’s integrated development plan;
(o) the municipality’s scheme;
(p) any local practice or approach to land use management that is consistent with –
   (i) the laws of the Republic;
   (ii) the provincial planning and development norms and standards; and
   (iii) the municipality’s integrated development plan; and
(q) any other relevant information.

Municipality’s decision on proposed adoption, replacement or amendment of scheme

13.(1) A municipality must within the periods contemplated in items 12 and 21 of Schedule 1, consider the merits of the proposal to adopt, replace or amend a scheme and decide to –

(a) approve the adoption, replacement or amendment, with or without alterations; or
(b) refuse to adopt, replace or amend the scheme.

(2) A municipality may not adopt a scheme or approve an amendment to a scheme that is in conflict with –

(a) the provincial planning and development norms and standards; or
(b) the municipality’s integrated development plan.

(3) A municipality may not replace a scheme with a scheme that is in conflict with –

(a) the provincial planning and development norms and standards; or
(b) the municipality’s integrated development plan.

(4) A municipality may approve an application for the amendment of its scheme subject to any conditions that it considers necessary.

(5) In formulating its decision on an amendment to a scheme, a municipality must provide reasons –

(a) for approving or refusing the amendment to the scheme;
(b) why the alterations were made, if the amendment was approved with alterations; or
(c) for any condition imposed to the amendment of a scheme, if the amendment to the scheme has been approved subject to conditions –

(i) that had not been dealt with in the application for the amendment of the scheme; or
(ii) that differ substantially from a condition proposed in the application.

(6) A municipality may at any time correct an error in the wording of its decision as long as the correction does not constitute a change in its decision or an alteration, suspension or deletion of a condition of its approval for an amendment of a scheme.
Persons to be informed of municipality's decision for adoption, replacement or amendment of scheme

14.(1) A municipality must, within 14 days after a decision on the adoption, replacement or amendment of a scheme, serve notice of its decision on every person who lodged a written comment, in terms of Schedule 1.

(2) Notice to anyone who is a signatory to a joint petition or group representation, may be given to the –

(a) authorised representative of the signatories if the petition or representation is lodged by a person claiming to be the authorised representative; or

(b) person whose name appears first on the document, if no person claims to be the authorised representative of the signatories.

(3) Notice to a signatory to a joint petition or group representation contemplated in subsection (2) constitutes notice to each person named in the joint petition or group representation.

(4) If the land of a person who lodged comments in terms of Schedule 1 is transferred to a new owner, the comments are considered as having been lodged by the new owner.

(5) A municipality must within 14 days of a request by the applicant or any other person on whom notice was served in terms of subsection (1), provide the applicant or that person –

(a) with a copy of the municipality’s decision and the reasons for the decision; and

(b) if the application was approved subject to conditions, with a copy of all the conditions imposed by the municipality, together with the reasons for imposing those conditions.

Appeal against municipality's decision on adoption, replacement or amendment of scheme or failure to decide on amendment of scheme

15.(1) A person who applied for the amendment of a scheme or who has lodged written comments in response to an invitation for public comment on a proposal to adopt, replace or amend a scheme by the date stated in the invitation, who is aggrieved by the decision of the municipality contemplated in section 13(1), may appeal to the Appeal Tribunal.
(2) An appellant contemplated in subsection (1) must lodge a memorandum of appeal, contemplated in section 113(1), within 28 days of being notified of the municipality's decision.

(3) The right to appeal to the Appeal Tribunal against the municipality's decision lapses if the appellant fails to lodge a memorandum of appeal within 28 days of being notified of the municipality's decision in terms of section 14(1).

Effective date of municipality's decision on adoption, replacement or amendment of scheme

16. A decision to adopt, replace or amend a scheme comes into effect upon –
   (a) the expiry of the 28 day period referred to in section 15(2), if no appeal was lodged against the decision of the municipality and no application was made for the late lodging of an appeal; or
   (b) the finalisation of the appeal, if an appeal was lodged against the decision of the municipality.

Part 3: General principles for development of land situated inside area of scheme

General principles for development of land situated inside area of scheme

17. Where a municipality considers a land use or development that may be permitted with the municipality's permission as contemplated in section 5(d)(ii) it must –
   (a) give public notice of the proposal to use or develop the land as required in terms of the Regulations on Fair Administrative Procedures, 2002 (Government Notice No R.614 of 2002);
   (b) give interested members of the public a fair opportunity to submit their comments;
   (c) if circumstances so require, cause a site inspection to be carried out, or a hearing to be held;
   (d) allow any person who is entitled to attend such a site inspection or hearing –
      (i) to be assisted or represented at the inspection or hearing by a legal representative or other person; and
      (ii) make representations at the hearing in support of or in opposition to the proposal;
(e) make its decision within a reasonable time; and
(f) ensure that its decision is subject to an appeal to the Appeals Tribunal.

Duty to obtain professional evaluation and recommendation

18. Before considering a proposal to develop land in a manner that is not permitted in terms of a scheme, a municipality must obtain a registered planner’s written evaluation and recommendation.

Matters relevant in determining merits of proposed development of land

19. For the purposes of determining the merits of a proposal to use or develop land in a manner that is not permitted in terms of a scheme without a municipality’s consent, a municipality must take the following matters into account –

(a) comments in response to the notice inviting public comment contemplated in section 17 (2)(b);
(b) the registered planner’s written evaluation and recommendation on the proposal contemplated in section 18;
(c) the criteria for granting permission and the conditions to which they will be subject if permitted as contemplated in section 5(d)(ii); and
(d) any other relevant information

Municipality’s decision

20. A municipality may not approve a proposal for the development of land that requires its prior permission in terms of a scheme, if the proposal is irreconcilable with –

(a) the land use and development norms and standards;
(b) its integrated development plan; or
(c) the scheme.
CHAPTER 3

SUBDIVISION AND CONSOLIDATION OF LAND

Subdivision or consolidation of land permissible only in accordance with this Chapter

21.(1) The subdivision or consolidation of land is subject to approval by the municipality in whose area the land is situated, whether the subdivision or consolidation of land is aimed at the—

(a) subdivision of land for any purpose into two or more erven, including a remainder;

(b) consolidation of two or more contiguous erven for any purpose;

(c) consolidation of two or more contiguous erven, and the subdivision of the land so consolidated;

(d) establishment of a township;

(e) extension of a township;

(f) correction of a registered diagram that affects the extent of an erf, as contemplated in section 36 of the Land Survey Act;

(g) alteration or amendment of a general plan that affects the extent of an erf, as contemplated in section 37 of the Land Survey Act; or

(h) registration of a long term lease contemplated in section 77 of the Deeds Registries Act, 1937 (Act No. 47 of 1937).

(2) A municipality may approve the subdivision or consolidation of land only in accordance with this Act.

Persons who may initiate subdivision or consolidation of land

22.(1) A municipality may initiate the subdivision or consolidation of land which it owns.

(2) The following persons may apply to the municipality for the subdivision or consolidation of land

(a) the owner of the land, including an organ of state; and

(b) a person acting with the written consent of the owner of the land.

(3) If land, which is the subject of an application for the subdivision or consolidation of land, is transferred to a new owner, the new owner may continue with the application as the legal successor-in-title of the previous owner.
Process for subdivision or consolidation of land

23. (1) For the subdivision or consolidation of land, the procedures contemplated in Schedule 1 must be followed.

(2) Public notice in terms of item 5 or 14 of Schedule 1 is not required in the case of a subdivision of land that arises from an encroachment or boundary adjustment that has been resolved by way of an agreement in writing or order of court.

(3) A proposal for the subdivision or consolidation of land may be combined with a proposal to—
   (a) amend a scheme or to develop land situated outside the area of a scheme; and
   (b) alter, suspend or delete restrictions relating to land,
and processed as one proposal.

Duty to obtain professional evaluation and recommendation

24. Before considering a proposal to subdivide or consolidate land, a municipality must—
   (a) obtain a registered planner’s written evaluation and recommendation on the proposal; and
   (b) obtain a certificate signed by a registered planner—
      (i) confirming that the proposal complies in all respects with this Act; or
      (ii) if the proposal does not comply in all respects with this Act, stating that the proposal is defective and providing details of the defect.

Matters relevant in determining merits of proposed subdivision or consolidation of land

25. For the purposes of determining the merits of a proposal to subdivide or consolidate land, a municipality must take the following matters into account—
   (a) the application contemplated in item 1(2) of Schedule 1;
   (b) comments in response to the invitation for public comment on the proposal;
   (c) the registered planner’s written evaluation and recommendation on the proposal and certificate of compliance of the proposal with the Act;
   (d) the potential impact of the proposal on the environment, socio-economic conditions, and cultural heritage;
   (e) the impact of the proposal on existing or proposed developments or land uses in the
vicinity, or on existing developmental or mineral rights;
(f) the provision and standard of engineering services;
(g) the impact of the proposal on the national, provincial and municipal road networks, public transport, municipal services, sewage, water and electricity supply, waste management and removal, policing and security;
(h) access to public transport and health and educational facilities;
(i) the historical effects of past racially discriminatory and segregatory legislation on land ownership, land development and access to engineering services and public facilities, and the need to address the historical imbalances;
(j) the protection or preservation of cultural and natural resources, including agricultural resources, unique areas or features and biodiversity;
(k) the natural and physical qualities of the land;
(l) the general principles for land development as stated in section 3 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), and other national norms and standards, frameworks and policies contemplated in section 146(2)(b) of the Constitution;
(ml) the provincial planning and development norms and standards;
(n) the municipality’s integrated development plan;
(o) the municipality’s scheme;
(p) any local practice or approach to land use management that is consistent with –
   (i) the laws of the Republic;
   (ii) the provincial planning and development norms and standards;
   (iii) the municipality’s integrated development plan; and
   (iv) the scheme; and
(q) any relevant other information.

Municipality’s decision on proposed subdivision or consolidation of land

26.(1) A municipality must within the periods contemplated in items 12 and 21 of Schedule 1, consider the merits of the proposal to subdivide or consolidate land and decide to –
   (a) approve the subdivision or consolidation of the land, with or without alterations; or
   (b) refuse the subdivision or consolidation of the land.

(2) A municipality may not approve the subdivision or consolidation of land that is irreconcilable with –
(a) the provincial planning and development norms and standards;
(b) the municipality’s integrated development plan; or
(c) a scheme.

(3) A municipality may approve an application for the subdivision or consolidation of land subject to any conditions that it considers necessary, including conditions relating to –
   (a) the extent of the applicant’s obligation to provide engineering services;
   (b) the provision of municipal roads, parks or other open spaces;
   (c) the creation of a servitude in favour of the subdivided erven or consolidated erf or against the subdivided even or consolidated erf in favour of another erf;
   (d) the reservation of land for government purposes, including educational or health facilities, sports and recreational purposes or community facilities;
   (e) maximum or minimum sizes of sites;
   (f) the regulation of buildings, with particular reference to –
      (i) the maximum or minimum number of buildings which may be built;
      (ii) the maximum or minimum size of buildings;
      (iii) the location of buildings; and
      (iv) restrictions on building materials;
   (g) the alteration, suspension or deletion of restrictions relating to the land that prohibits the subdivision or consolidation of land;
   (h) the amendment of the municipality’s scheme; and
   (i) a duty to furnish the municipality with a guarantee issued by a financial institution or other guarantor acceptable to it, within a period specified in the condition for an amount sufficient to cover the costs of –
      (i) fulfilling the obligations of the applicant to provide engineering services; and
      (ii) complying with any other condition of approval.

(4) If a municipality imposes conditions of approval contemplated in subsection (3), it must specify which conditions must be complied with before the sale of the land, development of the land or the transfer of the land.

(5) In formulating its decision, a municipality must provide reasons –
   (a) for approving or refusing the subdivision or consolidation of land;
   (b) why the alterations were made, if the subdivision or consolidation of land was approved
with alterations; or
(c) for any condition that it imposed for the subdivision or consolidation of land, if the subdivision or consolidation has been approved subject to conditions that –
(i) have not been dealt with in the application; or
(ii) differ substantially from a condition proposed in the application.

(6) A municipality may at any time correct an error in the wording of its decision as long as the correction does not constitute a change in its decision or an alteration, suspension or deletion of a condition of its approval for the subdivision or consolidation of land.

Persons to be informed of municipality's decision on proposed subdivision or consolidation of land

27. (1) A municipality must, within 14 days after a decision to approve or refuse the subdivision or consolidation of land, serve notice of its decision on every person who lodged a written comment in terms of Schedule 1.

(2) Notice to anyone who is a signatory to a joint petition or group representation, may be given to the –
(a) authorised representative of the signatories if the petition or representation is lodged by a person claiming to be the authorised representative; or
(b) person whose name appears first on the document, if no person claims to be the authorised representative of the signatories.

(3) Notice to a signatory to a joint petition or group representation contemplated in subsection (2) constitutes notice to each person named in the joint petition or group representation.

(4) If the land of a person who lodged comments in terms of Schedule 1 is transferred to a new owner, the comments are considered as having been lodged by the new owner.

(5) A municipality must, within 14 days of a request by the applicant or any other person on whom notice was served in terms of subsection (1), provide the applicant or that person –
(a) with a copy of the municipality's decision and the reasons for the decision; and
(b) if the application was approved subject to conditions, with a copy of all the conditions imposed by the municipality, together with the reasons for imposing those conditions.

Appeal against municipality's decision on proposed subdivision or consolidation of land

28. (1) A person who applied for the subdivision or consolidation of land or who has lodged written comments in response to an invitation for public comment on a proposal to subdivide or consolidate land, who is aggrieved by the decision of the municipality contemplated in section 26(1), may appeal against the municipality's decision to the Appeal Tribunal.

(2) An appellant contemplated in subsection (1) must lodge a memorandum of appeal contemplated in section 113(1) within 28 days of being notified of the municipality's decision.

(3) The right to appeal to the Appeal Tribunal against the municipality's decision lapses if the appellant fails to lodge a memorandum of appeal within 28 days of being notified of the municipality's decision in terms of section 27(1).

Effective date of municipality's decision on proposed subdivision or consolidation of land

29. A decision to subdivide or consolidate land comes into effect upon the –

(a) expiry of the 28 day period referred to section 28(2), if no appeal is lodged against the decision of the municipality; or

(b) finalisation of the appeal, if an appeal was lodged against the decision of the municipality.

Legal effect of approval of subdivision or consolidation of land that constitutes alteration or amendment of general plan

30. A municipality's approval and conditions of approval for the subdivision or consolidation of land, must be treated as the Premier's consent, subject to any conditions as he or she may deem necessary for the purposes of section 37(2) of the Land Survey Act, if –

(a) the subdivision or consolidation of land requires the alteration, amendment, partial cancellation or cancellation of a general plan; and

(b) the powers conferred upon the Premier in terms of section 37(2) of the Land Survey Act
have been delegated to the municipality as contemplated in section 37(3) of the Land Survey Act.

Restriction of certain activities in relation to land for approved subdivision or consolidation of land before compliance with conditions

31. (1) A person may not –
(a) enter into an agreement, with or without suspensive or other conditions, for the disposal of the erf, whether by sale, exchange or any other manner; or
(b) grant an option to purchase or sell an erf, or a right of first refusal in respect thereof, unless the municipality has issued a certificate that the conditions that must be complied with before land may be sold contemplated in section 26(4) have been complied with.

(2) Any agreement entered into contrary to the provisions of subsection (1) is voidable at the sole discretion of the purchaser.

(3) A person may not develop land, unless the municipality has certified that the conditions of approval that have to be complied with before the land may be developed contemplated in section 26(4) have been complied with.

(4) The prohibition on the development of land before compliance with the conditions of approval that have to be complied with before the land may be developed does not prohibit the occupation of a building or structure that was legally in existence on the land before the approval for the subdivision or consolidation of the land.

(5) A person may not apply to the Registrar of Deeds to transfer an erf, unless the municipality has certified that the conditions of approval that have to be complied with before for the land may be transferred contemplated in section 26(4) have been complied with.

Lodging of plans and documents with Surveyor-General pursuant to proposal for subdivision or consolidation of land

32. (1) An applicant must –
(a) lodge with the Surveyor-General the diagrams, plans and other documents, that the
Surveyor-General may require for the registration of the subdivision or consolidation of the land; and

(b) submit a certified copy of the approved diagram or general plan to the municipality within 28 days after the date on which the Surveyor-General has approved the diagram or general plan.

(2) The approval for the subdivision or consolidation of land lapses if the applicant fails to submit to the Surveyor-General the plans, diagrams, and other documents that the Surveyor-General may require, within five years from the date of the approval of the subdivision or consolidation of the land, as contemplated in section 29.

Lodging of plans and documents with Surveyor-General where land is subdivided or consolidated by municipality

33.(1) Where land is subdivided or consolidated by a municipality, such municipality must lodge with the Surveyor-General –

(a) the approved diagrams or general plan together with the deeds; and

(b) other documents that the Surveyor-General may require for the registration of the subdivision or consolidation of land.

(2) The approval for the subdivision or consolidation of land lapses if the municipality fails to submit the plans, diagrams, and other documents that the Surveyor-General may require, within five years from the date of the approval of the subdivision or consolidation of the land, as contemplated in section 29.

Lodging of deeds, plans and documents with Registrar of Deeds pursuant to proposal for subdivision or consolidation of land and certificate of compliance with certain conditions of approval before transfer of land

34.(1) An applicant must lodge with the Registrar of Deeds the approved diagrams or general plan together with the deeds and other documents that the Registrar of Deeds may require for the registration of the subdivision or consolidation of the land, or opening of a township register for the land.
(2) A person may not apply to the Registrar of Deeds for the registration of transfer of an erf, or the opening a township register for the land, unless the municipality has issued a certificate stating that the conditions of approval for the subdivision or consolidation of land as contemplated in section 26(4), have been complied with.

Lodging of deeds, plans and documents with Registrar of Deeds where land is subdivided or consolidated by municipality

35. Where land is subdivided or consolidated by a municipality, the municipality must lodge with the Registrar of Deeds –

(a) the approved diagrams or general plan together with the deeds; and

(b) other documents that the Registrar of Deeds may require for the registration of the subdivision or consolidation of land, or opening of a township register for the land.

Transfer of roads, parks and other open spaces

36. If it is a condition for the approval of subdivision of land, that the municipality requires land for use as a road, park or other open space, the applicant must, at his, her or its own cost, upon the first transfer of an erf, transfer the land to the municipality,

Lapsing of approval for subdivision or consolidation of land

37. (1) A municipality's approval for the subdivision or consolidation of land lapses if the applicant fails to register the subdivision or consolidation of the land with the Registrar of Deeds, within five years from the date on which the municipality's approval became effective in terms of section 29.

(2) Where land is subdivided or consolidated by a municipality, its approval for the subdivision or consolidation of land lapses, if it fails to register the subdivision or consolidation of the land with the Registrar of Deeds within five years from the date on which its approval became effective in terms of section 29.

(3) If the rights granted by the municipality for the subdivision of land have not been fully exercised within five years from the date on which the municipality's approval became effective in terms of section 29, and the municipality is of the opinion that the development will not be
completed within a reasonable period, it may serve a notice on the owner of the land –
(a) warning the owner that it may initiate the cancellation of the part of the approved layout
plan for which the rights have not been fully exercised; and
(b) specifying the period in which the rights must be fully exercised.

(4) The municipality may withdraw a notice contemplated in subsection (3) at any time before the
expiry of the period specified therein.

(5) A notice referred to in subsection (3) is of no force and effect if the municipality fails to initiate
the cancellation of the part of the approved layout plan for which the rights have not been fully
exercised, within six months after the expiry of the period contemplated in the notice.

CHAPTER 4
DEVELOPMENT OF LAND SITUATED OUTSIDE AREA OF SCHEME

Development of land situated outside area of scheme permissible only in accordance with
this Chapter

38.(1) The development of land situated outside the area of a scheme may only occur to the
extent that it has been approved by a municipality in whose area the land is situated.

(2) A municipality may approve the development of land situated outside the area of a scheme
only in accordance with this Act.

(3) For the purposes of this Chapter development means the carrying out of building, construction,
engineering, mining or other operations on, under or over any land, and a material change to the
existing use of any building or land without subdivision, but it does not include –
(a) the construction or use of the first dwelling and outbuildings or improvements usually
associated therewith on a separately registered subdivision, including a secondary self
contained residential unit which may be attached or detached but must be clearly associated
with the first dwelling house and may not exceed 80m²;
(b) the construction or use of any dwelling and outbuildings usually associated therewith for
the settlement of a traditional household on land on which a traditional community
recognised in terms of section 2(5)(b) of the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005), lawfully resides;
(c) land used for the cultivation of crops or the rearing of animals;
(d) the carrying out of works required for the maintenance or improvement of an existing road within its existing boundaries;
(e) the provision of any engineering services in accordance with the municipality's integrated development plan; and
(f) the maintenance and repair of engineering services.

Persons who may initiate development of land
39.(1) A municipality may initiate the development of land which it owns which is situated outside the area of a scheme.

(2) The following persons may apply to the municipality for the development of land situated outside the area of a scheme –
   (a) the owner of the land, including an organ of state; and
   (b) a person acting with the written consent of the owner of the land.

(3) If land, which is the subject of an application for the development of land situated outside the area of a scheme, is transferred to a new owner, the new owner may continue with the application as the legal successor-in-title of the previous owner.

Process for development of land
40.(1) The procedures contemplated in Schedule 1 must be followed for the development of land situated outside the area of a scheme.

(2) A proposal for the development of land situated outside the area of a scheme may be combined with a proposal to –
   (a) subdivide or consolidate land; and
   (b) alter, suspend or delete restrictions relating to land,
and processed as one proposal.
Duty to obtain professional evaluation and recommendation

41. Before considering the development of land situated outside the area of a scheme, a municipality must –

(a) obtain a registered planner’s written evaluation and recommendation on the proposal; and

(b) obtain a certificate signed by a registered planner –

(i) confirming that the proposal complies in all respects with this Act; or

(ii) if the proposal does not comply in all respects with this Act, stating that the proposal is defective and providing details of the defect.

Matters relevant in determining merits of proposed development of land situated outside area of a scheme

42. For the purposes of determining the merits of a proposal to develop land situated outside the area of a scheme, a municipality must take the following matters into account –

(a) the application contemplated in item 1(2) of Schedule 1;

(b) comments in response to the invitation for public comment on the proposal;

(c) the registered planner’s written evaluation and recommendation on the proposal and certificate of compliance of the proposal with the Act;

(d) the potential impact of the proposal on the environment, socio-economic conditions, and cultural heritage;

(e) the impact of the proposal on existing or proposed developments or land uses in the vicinity, or on existing developmental or mineral rights;

(f) the provision and standard of engineering services;

(g) the impact of the proposal on the national, provincial and municipal road networks, public transport, municipal services, sewage, water and electricity supply, waste management and removal, policing and security;

(h) access to public transport and health and educational facilities;

(i) the historical effects of past racially discriminatory and segregatory legislation on land ownership, land development and access to engineering services and public facilities, and the need to address the historical imbalances;

(j) the protection or preservation of cultural and natural resources, including agricultural resources, unique areas or features and biodiversity;

(k) the natural and physical qualities of the land;
(l) the general principles for land development as stated in section 3 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), other national norms and standards, frameworks and policies contemplated in section 146(2)(b) of the Constitution;
(m) the provincial planning and development norms and standards;
(n) the municipality's integrated development plan;
(o) the municipality’s scheme;
(p) any local practice or approach to land use management that is consistent with –
   (i) the laws of the Republic;
   (ii) the provincial planning and development norms and standards;
   (iii) the municipality’s integrated development plan;
   (iv) the municipality’s scheme; and
(q) any other relevant information.

Municipality's decision on proposed development of land situated outside the area of a scheme

43.(1) A municipality must within the periods contemplated in items 12 and 21 of Schedule 1 consider the merits of the proposal to develop land situated outside the area of a scheme, and decide to –
   (a) approve the development of the land situated outside the area of a scheme, with or without alterations; or
   (b) refuse the development of the land situated outside the area of a scheme.

(2) A municipality may not approve a development situated outside the area of a scheme that is irreconcilable with –
   (a) the provincial planning and development norms and standards; or
   (b) the municipality's integrated development plan.

(3) A municipality may approve an application for the development of land situated outside the area of a scheme subject to any conditions that it considers necessary, including a condition relating to –
   (a) the extent of the applicant's obligation to provide engineering services;
   (b) the creation of a servitude in favour of the erf or against the erf in favour of another erf;
   (c) the regulation of buildings, with particular reference to –
(i) the maximum or minimum number of buildings which may be built;
(ii) the maximum or minimum size of buildings;
(iii) the location of buildings; and
(iv) restrictions on building materials;
(d) the alteration, suspension or deletion of restrictions relating to the land that restricts the
   development thereof;
(e) the amendment of the municipality’s scheme; and
(f) a duty to furnish to the municipality with a guarantee issued by a financial institution or
   other guarantor acceptable to the municipality, within a period specified in the condition for
   an amount sufficient to cover the costs of –
   (i) fulfilling the obligations of the applicant to provide engineering services; or
   (ii) complying with any other condition of approval.

(4) In formulating its decision, a municipality must clearly state which conditions of approval must
be complied with before the sale of the land, development of the land or the transfer of the land.

(5) In formulating its decision, a municipality must provide reasons –
   (a) for approving or refusing the development of the land situated outside the area of a
       scheme;
   (b) why the alterations where made if the development of the land situated outside the area
       of a scheme has been approved with alterations; or
   (c) for any condition that it imposed for the development of the land situated outside the area
       of a scheme if the development has been approved subject to conditions that –
       (i) have not been dealt with in the application; or
       (ii) differ substantially from a condition proposed in the application.

(6) A municipality may at any time correct an error in the wording of its decision as long as the
correction does not constitute a change in its decision or an alteration, suspension or deletion of a
condition of its approval for the development of land situated outside the area of a scheme.

Persons to be informed of municipality’s decision on proposed development of land
situated outside the area of a scheme

44.(1) A municipality must within 14 days after its decision to approve or refuse the development
of land situated outside the area of a scheme, serve notice of its decision on every person who has lodged a written comment in terms of Schedule 1.

(2) Notice to anyone who is a signatory to a joint petition or group representation, may be given to the —

(a) authorised representative of the signatories if the petition or representation is lodged by a person claiming to be the authorised representative; or

(b) person whose name appears first on the document, if no person claims to be the authorised representative of the signatories.

(3) Notice to a signatory to a joint petition or group representation contemplated in subsection (2) constitutes notice to each person named in the joint petition or group representation.

(4) If the land of a person who lodged comments in terms of Schedule 1 is transferred to a new owner, the comments are considered as having been lodged by the new owner.

(5) A municipality must within 14 days of a request by the applicant or any other person on whom notice was served in terms of subsection (1), provide the applicant or that person —

(a) with a copy of the municipality’s decision and of the reasons for the decision; and

(b) if the application was approved subject to conditions, with a copy of all the conditions imposed by the municipality, together with the reasons for imposing such conditions.

Appeal against municipality’s decision on proposed development of land situated outside the area of a scheme

45. (1) A person who applied for the development of land situated outside the area of a scheme or who has lodged written comments in response to an invitation for public comment on a proposal to develop the land, who is aggrieved by the decision of the municipality contemplated in section 43(1), may appeal against the municipality’s decision to the Appeal Tribunal.

(2) An applicant contemplated in subsection (1) must lodge a memorandum of appeal contemplated in section 113(1) within 28 days of being notified of the municipality’s decision.
(3) The right to appeal to the Appeal Tribunal against the municipality’s decision lapses if the appellant fails to lodge a memorandum of appeal within 28 days of being notified of the municipality’s decision in terms of section 44(1).

Effective date of municipality’s decision on proposed development of land situated outside the area of a scheme

46. A decision relating to the development of land situated outside the area of a scheme comes into effect upon –

(a) the expiry of the 28 day period referred to in section 45(2), if no appeal is lodged against the decision of the municipality; or

(b) the finalisation of the appeal, if an appeal was lodged against the decision of the municipality.

Legal effect of approval of development of land situated outside the area of a scheme that constitutes alteration or amendment of general plan

47. A municipality’s approval and conditions of approval for the development of land situated outside the area of a scheme, must be treated as the Premier’s consent subject to any conditions as the Premier may consider necessary for the purposes of section 37(2) of the Land Survey Act if the –

(a) development of land requires the alteration or amendment of a general plan; and

(b) powers conferred upon the Premier in terms of that section have been delegated to the municipality as contemplated in section 37(3) of the Land Survey Act.

Restriction of certain activities in relation approved development situated outside the area of a scheme, before transfer occurs

48.(1) A person may not –

(a) enter into an agreement, with or without suspensive or other conditions, for the disposal of the erf, whether by sale, exchange or any other manner; or

(b) grant an option to purchase or sell an erf, or a right of first refusal in respect thereof, unless the municipality has issued a certificate that the conditions that must be complied with before land may be sold contemplated in section 43(4) have been complied with.
(2) Any agreement entered into contrary to the provisions of subsection (1) is voidable at the sole discretion of the purchaser.

(3) A person may not develop land, unless the municipality has certified that the conditions of approval that have to be complied with before the land may be developed contemplated in section 43(4) have been complied with.

(4) The prohibition on the development of land before compliance with the conditions of approval that have to be complied with before the land may be developed does not prohibit the occupation of a building or structure that was legally in existence on the land before the approval for the development of the land.

(5) A person may not apply to the Registrar of Deeds to transfer an erf, unless the municipality has certified that the conditions of approval that have to be complied with before for the land may be transferred contemplated in section 43(4) have been complied with.

LAPSING OF APPROVAL FOR DEVELOPMENT OF LAND SITUATED OUTSIDE THE AREA OF A SCHEME

49.(1) If the rights granted by the municipality for the development of land situated outside the area of a scheme –

(a) have not been fully exercised within five years from the date on which the municipality’s approval became effective in terms of section 46; and

(b) the municipality is of the opinion that the development will not be completed within a reasonable period,

the municipality may serve a notice on the owner of land –

(i) warning the land owner that it may initiate the cancellation of the part of the approved layout plan for which the rights have not been fully exercised; and

(ii) specifying the period in which the rights must be fully exercised.

(2) The municipality may withdraw a notice referred to in subsection (1) at any time before the expiry of the period specified therein.

(3) A notice referred to in subsection (1) is of no force and effect if the municipality fails to initiate the cancellation of the part of the layout plan for which the rights have not been fully exercised, within six months after the expiry of the period contemplated in the notice.
CHAPTER 5

PHASING OR CANCELLATION OF APPROVED LAYOUT PLAN FOR SUBDIVISION OR DEVELOPMENT OF LAND

Phasing or cancellation of approved layout plan permissible only in accordance with this Chapter

50. (1) An approved layout plan for the subdivision or development of land may be phased or cancelled only to the extent that it has been approved by a municipality in whose area the land is situated, whether the phasing or cancellation of the layout plan is aimed at –

(a) the phasing of the development or subdivision of land by dividing the approved layout plan into two or more layout plans;

(b) the redesign of a part of the approved layout plan for the subdivision or development of land by dividing the layout plan into two or more layout plans and cancelling the layout for the area that will be redesigned;

(c) the partial cancellation of rights to subdivide or develop land by dividing the approved layout plan into two or more layout plans and cancelling the layout plans for which the rights are cancelled;

(d) the cancellation of rights to subdivide or develop land by cancelling the approved layout plan; or

(e) the partial cancellation or cancellation of a general plan contemplated in section 37 of the Land Survey Act.

(2) A municipality may approve the phasing or cancellation of an approved layout plan for an approved subdivision or development of land only in accordance with this Act.
Persons who may initiate phasing or cancellation of approved layout plan

51.(1) A municipality may initiate the phasing or cancellation of an approved layout plan.

(2) The following persons may apply to the municipality for the phasing or cancellation of a layout plan –
   (a) the owner of the land, including an organ of state; and
   (b) a person acting with the written consent of the owner of the land.

(3) If land, which is the subject of an application for the phasing or cancellation of approved layout plan, is transferred to a new owner, the new owner may continue with the application as the legal successor-in-title of the previous owner.

(4) The new applicant must be regarded as the legal successor-in-title to the former applicant.

Process for phasing or cancellation of approved layout plan

52.(1) An application for the phasing or cancellation of an approved layout plan must be accompanied by as many copies of the layout plan, general plan and other documents as a municipality may require.

(2) A municipality must serve written notice of a proposed phasing or cancellation of an approved layout plan on –
   (a) every member of the public who has lodged a written comment with regard to the subdivision, consolidation, or development of the land, in accordance with item 5 or 14 of Schedule 1;
   (b) any other person who, in the opinion of the municipality, is likely to be affected by the proposed phasing or cancellation of the layout plan, including organs of state and providers of engineering services;
   (c) the Surveyor General, in the case of the subdivision or consolidation of the land; and
   (d) the Registrar of Deeds.

(3) The notice contemplated in subsection (2), must –
(a) identify and describe the proposed phasing or cancellation of the layout plan;
(b) state that a copy of the proposed phasing or cancellation of the layout plan and its
accompanying documents will be available for inspection during the hours and at the place
mentioned in the notice;
(c) invite the addressee to comment in writing on the proposed phasing or cancellation of
the layout plan;
(d) call on the addressee to lodge comments with the contact person stated in the notice;
(e) state how the comments may be lodged; and
(f) state the date by when the comments must be lodged.

(4) A municipality must allow at least 30 days, from the date on which the notice was served, to
lodge comments.

Duty to obtain professional evaluation and recommendation
53. Before considering a proposal for the phasing or cancellation of an approved layout plan, a
municipality must –

(a) obtain a registered planner’s written evaluation and recommendation on the proposal;
and

(b) obtain a certificate signed by a registered planner –
   (i) confirming that the proposal complies in all respects with this Act; or
   (ii) if the proposal does not comply in all respects with this Act, stating that the
   proposal is defective and providing details of the defect.

Matters relevant in determining merits of proposed phasing or cancellation of approved
layout plan
54. For the purposes of determining the merits of a proposal to divide or cancel a layout plan, a
municipality must take the following matters into account –

(a) the application contemplated in item 1(2) of Schedule 1;
(b) comments in response to the invitation for comment on the proposal;
(c) the registered planner’s written evaluation and recommendation on the proposal and
certificate of compliance of the proposal with the Act;
(d) the potential impact of the proposal on the environment, socio-economic conditions, and
cultural heritage;