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7 January 2000

REGULATIONS AND RULES IN TERMS OF THE DEVELOPMENT FACILITATION ACT, 1995

I, Angela Thokozile Didiza, Minister of Land Affairs, under sections 26(1), 46(1) and 59(1) of the Development Facilitation Act, 1995 (Act No. 67 of 1995), and acting in consultation with Sankie Dolly Mthembu-Mahanyele, Minister of Housing, hereby-

- (a) repeal, with effect from 1 March 2000, the Regulations and Rules published under Government Notice No. R. 1412 of 30 August 1996; and
- (b) make the Regulations and Rules set out in the Schedule, which Regulations and Rules shall come into effect with effect from 1 March 2000.

AT DIDIZA
MINISTER OF LAND AFFAIRS

SCHEDULE

Definitions

1. In these regulations, any word or expression to which a meaning has been assigned in the Development Facilitation Act 1995, (Act No 67 of 1995) shall have the same meaning, unless the contexts indicates otherwise, and-

day means a calendar day, and when any number of days is prescribed for the doing of any act, it must be calculated by excluding the first day and including the last day. However, if the last day falls on a Sunday or a public holiday, the number of days must be calculated by excluding the first day and also the Sunday or public holiday;

deliver means to serve copies on all interested persons and file the original with the designated officer or tribunal registrar, as the case may be.'

notice means a written notice and **notify** means to give notice in writing;

person includes a juristic person and an association;

public holiday means a public holiday referred to in section 1 or proclaimed as such under section 2 of the Public Holidays Act. 1994 (Act No. 36 of 1994);

Regulations means these rules and regulations and includes any footnote to a rule or regulation and the forms attached hereto or referred to herein.

serve means to serve in accordance with Regulation 6 and **service** has a corresponding meaning;

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

2. These Regulations may be cited for all purposes as the Development Facilitation Regulations.

Office hours and address of the designated officer and filing of documents

- 3.(1) The office of the designated officer must be open for the filing of documents from 8:00 to 12:30 p.m. and from 14:00 to 16:00. every day other than a Saturday, Sunday or public holiday;
- (2) Despite sub-regulation 1, when a different direction as to day and time is given by the tribunal, the designated officer must accept the document in accordance with such direction.
- (3) The address of a designated officer's office is the address notified by the MEC from time to time in the Provincial Gazette.
- (4) A document must be filed with the designated officer by:
 - (a) handing the document to the designated officer;
 - (b) sending a copy of the document by registered post; or
 - (c) faxing the document.
- (5) The original document must be lodged with the designated officer. In the case of filing by telefax or of posting a copy of the document, the original document must be lodged with the designated officer within seven days of faxing or posting, as the case may be.
- (6) A document is deemed to have been filed with the designated officer on the date -
 - (a) on which the document was handed to the designated officer.
 - (b) on which a document sent by registered post was received by the designated officer;
 - (c) of the completion of the whole of the transmission of the telefax.
- (7) The tribunal may make an order -
 - (a) condoning the manner in which any filing or other action under this regulation was actually performed; or
 - (b) requiring the person concerned to take steps to remedy any defect in filing or any other action.

Office hours and address of the tribunal registrar and filing of documents with the tribunal

4. The provisions of regulation 3 apply, with the necessary modifications, to the office hours and address of the tribunal registrar and the filing of documents with the tribunal registrar.

Correction of documents

- 5.(1) Where any document filed with the designated officer contains a patent defect or error which may materially affect the matter to which it relates, the designated officer may -

- (a) in writing request the person responsible in terms of these Regulations, for the filing of the document to correct the document; or
- (b) at the written request of the person referred to in sub-paragraph (a), permit the correction of the document.
- (2) Where the person referred to in sub-regulation (1)(a) refuses to correct the document, the designated officer must refer the document, together with his or her submission and any reasons for refusing which were furnished by the person, to the tribunal chairperson or a tribunal member/s designated by the chairperson who must give such decision as he/she may deem fit.
- (3) The provisions of sub-regulations (1) and (2) apply, with the necessary modifications, to any document filed with the tribunal registrar.

Service of documents and proof of service

- 6.(1) Where service of any document or process is required on any particular person, it may be served in any of the following manners-
 - (a) by handing a copy of the document to that person;
 - (b) by leaving a copy of the document at the person's place of residence or business with any other person who is apparently at least sixteen years old and in charge of the premises at the time of delivery. For the purposes of this sub-paragraph, when a building other than a hotel, boarding-house, hostel or similar place of residence is occupied by more than one person or family, "place of residence" or "place of business" means that portion of the building which is occupied by the said person;
 - (c) by leaving a copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority over the said person.,
 - (d) where the person has chosen an address for service, by leaving a copy of the document at that address.
 - (e) by handing a copy of the document to any representative authorised in writing to accept service on behalf of the person.
 - (f) by sending a copy of the document by registered post to the last-known postal address of the person. Where this method is used, it will be presumed that service was effected on the seventh day following the day on which the process or document was posted;
 - (g) in the case of a partnership, firm or association,-
 - (i) by leaving a copy of the document at the place of business of such partnership, firm or association with the person who, at the time of service, is apparently in charge of the premises and apparently at least 16 years old; or,
 - (ii) if such partnership, firm or association does not have a place of business, by serving a copy of the document on a partner, the owner of the firm or the chairperson or secretary of the managing or other controlling body of such association, in any manner set out in this regulation.

- (h) in the case of a company or other juristic person, by handing a copy of the document to a responsible employee of the company or other juristic person at its registered office or principal place of business within the Republic or its main place of business in the magisterial district in which the land which is the subject to the application is situated, or, if there is no employee willing to accept service, by affixing a copy of the document to the main door of the office or place of business;
- (j) in the case of a local government body, by handing a copy of the document to the chief executive officer, town clerk, deputy town clerk, assistant town clerk or any person acting on behalf of any of those officers;
- (k) in the case of any other statutory body, by handing a copy of the document to the person authorised by its enabling law or constitution to defend or oppose proceedings on its behalf or to any other person authorised to act on its behalf, or
- (l) by any other means directed by the designated officer or authorised by the tribunal.
- (2) If the designated officer is satisfied that service cannot conveniently or expeditiously be effected in any of the manners set out sub-regulation (1), he or she may direct that service be effected in any other manner. Such direction may include transmission by other electronically printed manner.
- (3) Unless otherwise directed by the designated officer, service must be effected only between 8:00 and 4:00 on any day other than a Sunday or public holiday.
- (4) Service may be proved in a tribunal -
 - (a) by a signed acknowledgement of receipt by the person on whom the document was served,
 - (b) by an affidavit by the person who effected service; or
 - (c) in the case of service by registered post, by producing the certificate which was issued by the Post Office when the document was posted and an affidavit that the letter posted contained the document concerned.
- (5) If the tribunal is not satisfied that service has taken place in accordance with this regulation, it may -
 - (a) make an order condoning the manner in which service was actually effected, or
 - (b) direct the person who was required to effect service to take such steps as it deems fit to remedy the original defect.
- (6) Proof of service must be filed with the designated officer within seven days of service being effected.

Form and content of documents filed with designated officer or tribunal registrar

- 7.(1) Unless the Act or these Regulations provide otherwise, any document initiating tribunal proceedings must -
 - (a) have a heading containing the following information:

- (i) the title of the matter.
 - (ii) the case number assigned to the matter by the tribunal registrar;
 - (iii) an address of the person delivering the document at which he or she will accept notices and service of all documents in the proceedings;
- (b) have a substantive part containing the following information in consecutively numbered paragraphs (and sub-paragraphs)-
- (i) the names, description and addresses of the parties;
 - (ii) where the person submitting the document is not a party to the proceedings, his or her interest in the proceedings,
 - (iii) a clear and concise statement of the material facts relied upon stated with sufficient particularity to enable other persons to reply to the document;
- (c) be signed by the person initiating proceedings or his/her representative and;
- (d) express all dates, sums and numbers in figures.
- (2) Subregulation (1) applies, with the necessary. modifications, to any document responding to and continuing with the tribunal proceedings.

General provisions for applications

- 8.(1) The provisions of this regulation apply to all applications unless the Act or these Regulations specify otherwise.
- (2) An application must be brought on notice to all persons who may have an interest in the application and prescribed by the designated officer.
- (3) The notice of application must be signed by the party bringing the application or his or her representative.
- (4) The application must be delivered and must contain the following information:
- (a) the title of the matter.
 - (b) the case number assigned to the matter by the tribunal registrar,
 - (c) the relief sought.
 - (d) an address of the person delivering the document at which that person will accept notices and service of all documents in the proceedings;
 - (e) a notice advising any other person that if he or she intends opposing the application, he or she must deliver an answering affidavit within 21 days of service of the application, failing which the matter may be heard in his or her absence and an order of costs may be made; and
 - (f) a schedule listing the documents which are material and relevant to the application.
- (5) Except where an application deals with a procedural issue, the application must be supported by an affidavit.
- (6) In the affidavit the deponent must set out clearly and concisely -

- (a) the names, description and addresses of interested persons;
 - (b) the material facts on which he or she relies.
 - (c) the legal issues arising from those facts; and
 - (d) the relief sought.
- (7) The information referred to in subregulation (6) (b), (c) and (d) must be set out with sufficient particularity to enable any interested person to reply to it.
- (8)(a) A notice of opposition and an answering affidavit may be delivered by a person opposing the application.
- (b) The notice of opposition and answering affidavit must-
- (i) be delivered within 21 days of the day, on which the application was served on the person opposing the application; and
 - (ii) comply, with the necessary modifications, with regulations 3, 4, 5, 6, and 7.
- (9)(a) The person bringing the application may deliver a replying affidavit within seven days of the day on which the notice of opposition and answering affidavit were delivered.
- (b) The replying affidavit may address only those issues raised in the answering affidavit and may not introduce new issues of fact or law.
- (10) Except where these regulations provide otherwise, the tribunal registrar must allocate a date for the hearing of the application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first.
- (11) The tribunal registrar must forthwith notify the designated officer concerned of the date, time and place of the hearing of the application.
- (12) Upon receipt of the details of the hearing, the designated officer must immediately inform the persons concerned of the details.
- (13) The tribunal must deal with an application in any manner it deems fit.
- (14) Nothing in these Regulations must be construed as precluding a tribunal from directing that oral evidence be heard on specified issues with a view to resolving any dispute of fact.

Condonation

- 9.(1) Any person may apply to the tribunal -
- (a) for an order condoning non-compliance with any of the time limits or other requirements laid down in these Regulations; or
 - (b) for any other order for relief (whether interim or otherwise) in respect of any matter not otherwise specifically provided for in these Regulations.
- (2) An application in terms of this regulation -

- (a) must follow the procedure set out in regulation 8;
- (b) may form part of a substantive application for land development, part of an objection to any such application or may be submitted as a special, procedural or interim application.
- (3) Unless precluded by the Act, the tribunal may, on being satisfied that good cause has been shown, either before or after expiry of any period or requirement laid down in these Regulations and in respect of any particular matter, abridge or extend any such period or waive such requirement, with or without any conditions it may see fit to impose.
- (4) If any person fails to comply with any notice or directive given in terms of these Regulations, any interested person may apply to the tribunal for an order that:
 - (a) such notice or directive must be complied with within a specified period; and
 - (b) that, failing such compliance, the person in default is not entitled to relief in such proceedings.
- (5) Despite sub-regulation (4), a defaulting person is not precluded from commencing proceedings again.

Settlements

- 10. Whenever a matter is settled out of tribunal, the person who placed the matter before the tribunal must forthwith notify the tribunal registrar and all interested parties in writing of the terms of the settlement.

Types of specific applications

- 11.(1) Without detracting from the right of any person to bring a matter before the tribunal in terms of the Act or any other provision of these Regulations, the following applications may be submitted to the tribunal in terms of these Regulations:
 - (a) a land development application in relation to land development in terms of Chapter V of the Act.
 - (b) a land development application in relation to land development in terms of Chapter VI of the Act.
 - (c) an application in terms of Section 61 of the Act for approval of a registration arrangement whether or not such an application is brought as a part of a land development application in relation to land development in terms of Chapter V.
 - (d) an application in terms of Section 34 of the Act for a condition of establishment to be imposed for the suspension of servitudes or restrictive conditions affecting the land in question;
 - (e) an application for the amendment of a land development application or conditions of establishment, the division of a land development area or the continuation of a land development application by another applicant in terms of Section 35 or 52 of the Act;

- (f) an application In terms of Section 30 or 48 of the Act for exemption from any or all of the provisions of Chapter V or VI of the Act, as the case may be, or from any of these Regulations, except in circumstances relating to nonstatutory land development referred to in Section 42 or 57 of the Act;
- (g) any application relating to a procedural or interim matter arising from an actual or intended land development application, irrespective of whether or not such application is brought as part of a land development application or as a separate application. The applications referred to in this subparagraph include, but are not limited to, the following applications :
 - (i) an application in terms of regulation 13 (i) by a designated officer to be substituted by another designated officer;
 - (ii) an application by a land development applicant, or by any person or body objecting or wishing to object to a land development application, requesting the tribunal to appoint a mediator already agreed upon between the parties or, failing such agreement, to be appointed by the tribunal from a panel of mediators, in terms of Section 22 of the Act. However, if such an application is brought prior to the date of the first hearing of the land development application by the tribunal which has been set as intended in regulation 21 (4), such application must nevertheless be heard by the tribunal only after the expiry of the period for the filing of objections in terms of regulation 21(13);
 - (iii) an application in terms of regulation 21 (18) (a) to anticipate the date of the first hearing of a land development application which has been set as intended in regulation 21 (4), if no objection was received within the prescribed period or all representations received were substantially in support of the land development application;
 - (iv) an application in terms of regulation 28 by a land development applicant to compel a designated officer, tribunal registrar or any other government body or official to perform any duty or function; and
 - (v) an application relating to condonation of failure to comply with any provision of these Regulations or to follow alternative steps or to take alternative action, as intended in regulation 3(7), 6(5) or 9.

Consolidation and separation of applications

- 12. The tribunal may of its own accord, or on application by any party on notice to every other party make an order -
 - (a) that applications pending before it in separate proceedings be consolidated, where it deems such consolidation to be expedient and just; or
 - (b) that different components of an application, or different applications brought simultaneously in respect of the same land development or different land developments, be dealt with separately or at separate hearings of the tribunal.

General duties of designated officers

- 13. Subject to any contrary or more specific provision of these Regulations, the general duties and functions of a designated officer include the following :
 - (a) accepting, filing and maintaining records of all land development applications, other applications to the tribunal, and documents in support of or in response to such applications;

- (b) obtaining dates for hearing from the tribunal registrar for the land development applicant or any other person entitled to bring an application before the tribunal in terms of the Act or these Regulations;
- (c) assisting applicants to determine the persons, including the identity and offices of persons in the employ of a provincial government or local government body, on whom a land development application should be served;
- (d) giving directions from time to time as to the manner of service of documents in circumstances not provided for in these Regulations;
- (e) providing the land development applicant with all the comments, objections or representations received;
- (f) informing parties of orders and directives given by the tribunal, on the basis of information provided to the designated officer by the tribunal registrar;
- (g) attending tribunal hearings and generally providing documents and information to the tribunal registrar or any member of the tribunal;
- (h) in terms of Section 42 or 57 of the Act, investigating and reporting on and generally assisting the tribunal in relation to proceedings relating to non-statutory land development processes;
- (i) submitting to the tribunal an application to be substituted as designated officer in relation to any land development application where the designated officer's employer, being the provincial government or a local government body, is the land development applicant or an objector to a land development application in respect of which the designated officer is required to provide a report in terms of regulation 20 and the circumstances are such that, in the opinion of the designated officer, he or she is not in a position to provide the tribunal with an objective report.
- (j) Generally liaising with applicants and other parties to ensure the efficiency of the land development application process.

Duties of tribunal registrar

- 14.(1) Subject to any contrary or more specific provision of these Regulations, the general duties and functions of a tribunal registrar include the following :
- (a) liaising generally with the relevant designated officer and the parties in relation to any application or other proceedings filed with the designated officer;
 - (b) maintaining a diary of hearings of the tribunal, allocating hearing dates and application numbers to applications, arranging the attendance of hearings by tribunal members, arranging venues for tribunal hearings and generally administering the proceedings of the tribunal and performing administrative functions in connection with such proceedings or the efficient functioning of the tribunal, in accordance with the directions of the chairperson of the tribunal;
 - (c) determining, in consultation with the chairperson of the tribunal, of his or her own accord or on good cause shown and at the request of a land development applicant or designated

officer to do so, the order of preference to be given to matters awaiting consideration by the tribunal, in order to ensure that priority is given to matters -

- (i) where, if they are dealt with in the ordinary course of the tribunal, there would be a delay which is likely to affect adversely the ability of the intended beneficiaries of the land development to afford sites or housing units as a result of holding costs or some other factor;
 - (ii) which affect a substantial number of persons or the public at large; or
 - (iii) which affect persons with particularly pressing needs; and
- (d) arranging the affairs of the tribunal so as to ensure that time is available to deal with matters contemplated in paragraph (c) or other urgent applications.
- (2) Subregulation (1) apply, with the necessary modifications, to the duties and functions of the tribunal registrar in respect of the development appeal tribunal.

Tribunal as a tribunal of record

15.(1) A record must be kept of -

- (a) any decision of the tribunal;
 - (b) any evidence given to the tribunal;
 - (c) any objection made to any evidence received or tendered;
 - (d) any on-site inspection and any matter recorded as a result thereof, and
 - (e) the proceedings of the tribunal generally.
- (2) Such record must be kept by such means, including shorthand notes or electronic recording, as the tribunal may deem expedient.
- (3) After the person who made any shorthand notes or electronic recording has certified it as correct it must be filed with the tribunal registrar.
- (4) A transcript of the notes or the record or a portion thereof may be made on the request of the tribunal or any person upon payment of the reasonable expenses incurred by the State in causing such transcript to be made.
- (5) Despite subregulation (4) the tribunal registrar may, on good cause shown, dispense with the payment of such amount.
- (6) If a transcript is required in terms of sub-regulation (4), the person who made the transcript of an electronic recording or notes must certify it as correct and such transcript, together with any notes or electronic records, must be returned to the tribunal registrar.
- (7) The transcript of the shorthand notes or electronic records certified as correct as envisaged in subregulation (3) will be deemed to be correct unless the contrary is proved to the satisfaction of the tribunal and it issues an order accordingly.

Witness fees

16. A witness subpoenaed to give evidence before the tribunal is entitled to such fees and costs as are specified in the tariff of allowances payable to witnesses in civil cases prescribed under section 51 bis of the Magistrates' Court Act, 1944 (Act No 32 of 1944) and section 42 of the Supreme Court Act, 1959 (Act No 50 of 1959).

Costs

- 17.(1) The costs allowed in terms of an order of the tribunal in terms of section 20 of the Act must be calculated and taxed by the tribunal registrar at the tariff determined in the tribunal's order but such costs must not exceed the costs which could have been allowed in a provincial division of the High Court of South Africa if the matter had been heard in such a division.
- (2) Costs taxed by the tribunal registrar are subject to review by the tribunal on application by one or more of the parties within 14 days of such taxation.
- (3) The application referred to in subregulation (2) must identify each disputed item or part of an item together with the grounds of objection to the allowance or disallowance thereof.
- (4) Qualifying fees for expert witnesses are not recoverable as costs between party and party unless the tribunal directs otherwise.

Land availability agreements

- 18.(1) The terms and conditions on which land has been made available to any person or body in terms of section 44 or 53 of the Act must be contained in a land availability agreement.
- (2) Such agreement must -
- (a) be concluded in writing between the State or local government body making available the land and the person or body to whom the land is made available;
- (b) comply with the guidelines set out in Annexure A and any additional written guidelines which may be issued generally by the designated officer from time to time;
- (c) be filed with the designated officer and approved by the tribunal.
- (3) Despite sub-regulation (2)(b), the tribunal may, in any particular case, permit a deviation from the guidelines.

Guidelines for award of land availability agreements

- 19.(1) In order to ensure a fair, public and competitive process, the guidelines set out in this regulation must be followed in the award of land availability agreements.
- (2) The State or local government body making the land available must make a public call for proposals for the development or upgrading of the relevant land according to the following guidelines :
- (a) The methods used to publicise the proposal call must include methods which will reach a wide spectrum of potential developers, including smaller or community-based developers;
- (b) The proposal call must -

- (i) be written in clear language and contain all the information necessary to respond to such a call;
 - (ii) not set unnecessarily onerous conditions which would be prejudicial to smaller and/or community-based developers; and
 - (iii) set reasonable time limits within which to respond to such a call.
- (2) In deciding on the award of a land availability agreement, the State or local government body must, in addition to any other relevant criteria, take into account the following criteria :
- (a) appropriateness of proposed land use;
 - (b) the proposed disposal price of erven;
 - (c) the intended nature of the development, including amongst other things, the number of beneficiaries, whether the development is targeted at persons in need in that area, service levels and tenure types.
 - (d) the extent to which it is proposed to involve relevant communities in the planning or carrying out of the proposed development;
 - (e) environmental sustainability.
 - (f) the extent to which the proposed development will facilitate the creation of employment opportunities and economic growth in the relevant area;
 - (g) the cost effectiveness of the proposed development; and
 - (h) the extent to which the proposed development accords with any land development objectives set under Chapter IV of the Act, which are applicable in the area.
- (4) After making its decision the State or local government body making the land available must-
- (a) publicly make known its decision on the award of the land availability agreement; and
 - (b) if requested in writing by any person who made proposals in response to the proposal call, within 30 days of such request furnish written reasons for its decision.
- (5) Nothing contained in this regulation shall detract from the powers, if any, of the State or local government body to dispose of land in any other manner in terms of any other law including a disposal on terms which are substantially the same as those contemplated in Annexure A, save that Section 44 or 53, as the case may be, of the Act is not applicable to such disposal.
- (6) The tribunal may condone a departure from the provisions of this regulation if it considers such departure to be justified in the circumstances.

Services agreements

20.(1) A services agreement referred to in section 40 of the Act must -

- (a) comply substantially with the guidelines set out in Annexure A, and any additional guidelines which may be issued generally by the designated officer from time to time and
 - (b) be filed with the designated officer and approved by the tribunal.
- (2) Despite subregulation (1)(a), the tribunal may, in any particular case, permit a deviation from the guidelines.

Application for establishment of a land development area in terms of section 31 or 49 of the Act

- 21.(1) Subject to any exemption from any provision of the Act or these Regulations granted by the tribunal under section 30 or 48 of the Act and subject to any conditions under which such exemption may have been granted, a land development applicant must lodge with the designated officer a written land development application in compliance with these Regulations and in the form of Annexure B to these Regulations.
- (2) The land development application must be accompanied by such further documents as Annexure B may prescribe.
- (3) Subject to regulation 5, the designated officer must, in writing and within seven days after receipt of the land development application -
- (a) acknowledge receipt of the application;
 - (b) inform the land development applicant of any additional information or documents required or other requirements in relation to the application;
 - (c) inform and advise the land development applicant regarding the persons or bodies to be given notice of the application in terms of subregulation (6); and
 - (d) provide the land development applicant with advice regarding any specific method of giving notice in terms of subregulation (8).
- (4) As soon as the designated officer has complied with subregulation (3), he or she must request the tribunal registrar to provide the dates on which -
- (a) a pre-hearing conference will be held and
 - (b) the land development application will be considered by the tribunal.
- (5) The tribunal registrar must within two days of receipt of the request referred to in subregulation (4) notify the designated officer who must forthwith inform the land development applicant in writing of the dates, the latter of which must not be earlier than 80 days nor later than 120 days after the date of request to the tribunal registrar for such date.
- (6) A land development applicant must, in the manner described in subregulations (8) and (9), no later than the date 65 days prior to the date fixed by the tribunal registrar in terms of subregulation (5), give notice of the land development application and the dates of the pre-hearing conference and the tribunal hearing substantially in the form of Annexure C to these Regulations to -

- (a) any owner or lessee of land in or adjoining the proposed land development area whose interests may in the opinion of the designated officer be adversely affected by the land development application;
- (b) every holder of limited real rights or mineral rights in respect of the land forming the subject of the application;
- (c) every relevant local government body;
- (d) every other interested party as directed by the designated officer which, without detracting from the generality of the foregoing, may include any or all of the following :
 - (i) Any national government department which in the opinion of the designated officer may be affected by the application and in particular any national government department which is responsible for the administration of any law the operation of which the land development applicant will request the tribunal to suspend under section 33 (2)(j) or 51 (2)(d), as the case may be, of the Act;
 - (ii) any provincial road department, environmental affairs department, education department, agriculture department, health department, regional land claims commissioner, or any other department or division of the relevant provincial administration which, in the opinion of the designated officer, may be interested in the application and in particular any provincial government department which is responsible for the administration of any law the operation of which the land development applicant will request the tribunal to suspend under section 33(2)(j) or 51(2)(d), as the case may be, of the Act;
 - (iii) any authority or other body which will provide engineering services contemplated in Chapter V of the Act to the proposed land development area, and
 - (iv) residents of the proposed land development area, communities or persons who may have an interest in the land or identifiable persons likely to settle on the land.
- (7) A notice in terms of subregulation (6), save for a notice contemplated in paragraph (d)(iv) thereof has the same effect. with the necessary modifications, as if it were a subpoena issued by the tribunal under Section 18(2) of the Act, to attend the prehearing conference.
- (8) Notices in terms of sub-regulation (6) must be given in the following manner:
 - (a) a notice to a person or body referred to in sub-regulation (6)(a) to (c) and (d)(i), (ii) and (iii) must be served on the person or body concerned in accordance with regulation 6.
 - (b) a notice to persons referred to in subregulation (6) (d) (iv) must be given in such manner as may be determined by the designated officer in order to ensure that notice of the application is adequately communicated to such persons, for example, by way of distribution of leaflets or by public announcements in the area.
 - (c) a notice, with the necessary modifications, in the form of Annexure D to these Regulations must be prominently displayed at an easily accessible position on the land forming the subject matter of the land development application for a period of at least 14 consecutive days. Such notice shall be at least in A2 size and shall be covered in plastic.
- (9) A notice given in accordance with paragraphs (a), (b) or (c) of subregulation (6) must be in English and in at least one other official language specified by the designated officer and which is commonly used in or near the proposed land development area, provided that, unless the designated officer has directed otherwise, notices to any national or provincial department shall be in English only.

- (10) In addition to giving the notice as set out in subregulation (8), the land development applicant must, within the period set out in subregulation (6), publish once a week for two consecutive weeks in the Provincial Gazette and in a daily newspaper circulating in or near the said land development area notice of the application substantially in the form of Annexure D to these regulations, provided that if there is no daily newspaper in circulation in or near the said land development area, the notice shall be published in a weekly newspaper circulating in or near the said land development area.
- (11) The notice referred to in subregulation (10) must be published in at least the two official languages referred to in subregulation (9).
- (12) The land development applicant must not later than the last day upon which representations can be made or objections lodged in terms of subregulation (13), lodge with the designated officer proof, to the reasonable satisfaction of the designated officer, that subregulations (8), (9), (10) and (11) in respect of notification and service have been complied with.
- (13) Any objector or interested party may, not later than 21 days after the date of the notice given to him or her in terms of subregulation (8)(a), or if he or she was not given such notice, 21 days after the date of the first publication of the notice in a newspaper in accordance with subregulation (10) lodge written objections or representations with the designated officer.
- (14) Despite subregulation (13) the designated officer may record in writing the oral representations or objections of any person who within the period stated therein appears before the designated officer in person to make an objection or to make representations but is unable to provide written representations or objections.
- (15) Representations may be in support of or against the land development application or any aspect thereof and may include suggested conditions to be imposed by the tribunal or other recommendations.
- (16) Objections or representations must state -
 - (a) the name and address of the person making the objections or representations;
 - (b) the interest of the objector or person making the representations in the application;
 - (c) the reasons for the objection or representations; and
 - (d) an address for the service of documents.
- (17) Within seven days of the last day allocated for the submission of written objections or representations, the designated officer must submit to the land development applicant a copy of every written or recorded objection or representation submitted.
- (18) Despite the provisions of subregulation (17) -
 - (a) if no objection is received within the period referred to therein or any such objection is withdrawn either during such period or thereafter, and no representations are received or all such representations are substantially in support of the application, the land development applicant may, after the last day allowed for the submission of objections or representations, file an application with the designated officer and the tribunal registrar to anticipate the date

- of the tribunal hearing originally set by the tribunal registrar in terms of subregulation (5), and
- (b) if any person referred to in subregulation (8) (a) to whom notice of the land development application has been given, having the effect of a subpoena in terms of subregulation (7), has not responded to the notice, the applicant must give such person or body notice in the appropriate form of the anticipated date and place of the hearing as soon as the tribunal registrar has provided the applicant with the necessary particulars of such anticipated hearing and such further notice has the effect of amending the notice originally given.
- (19) If subregulation (18) is not applicable, the land development applicant may, within 14 days after receipt of copies of the objections or representations in terms of subregulation (17)-
- (a) submit to the designated officer a written reply to such objections or representations or
 - (b) amend his or her application, subject to such conditions as the designated officer may impose in respect of service or notification of the amended application.
- (20) The designated officer must within 14 days after the filing of the application to anticipate the hearing date referred to in subregulation (18) or the expiry of the period referred to in sub-regulation (19) as the case may be, submit a written report to the tribunal registrar and the land development applicant regarding the land development application.
- (21) The report referred to in subregulation (20) must -
- (a) be accompanied by a copy of -
 - (i) the application;
 - (ii) every objection or representation received or recorded in relation thereto and
 - (iii) the land development applicant's reply, if any, to such objections or representations.
 - (b) contain recommendations by the designated officer to the tribunal in relation to the land development application; and
 - (c) be held available for inspection prior to and during the hearing of the tribunal at the office of the designated officer.
- (22) The pre-hearing conference must be held on the date and at the time and venue stipulated in the notice referred to in sub-regulation (4), provided that if there are no objections to the application, no pre-hearing conference shall be held.
- (23) The conference must be chaired by a member of the tribunal appointed by the chairperson of the tribunal.
- (24) The applicant and every person who intends appearing at the tribunal hearing must attend the conference either personally or through his or her duly authorised representative.
- (25) At the conference, the parties must attempt to reach consensus on the following:
- (a) any means by which the dispute may be settled, including referring it to mediation;
 - (b) facts which are common cause,

- (c) facts which are in dispute,
 - (d) the issues which the tribunal is required to decide.
 - (e) discovery, disclosure and the exchange of documents;
 - (f) the preparation of an indexed and paginated bundle of documents;
 - (g) the manner in which documentary evidence is to be dealt with, including any agreement on the status of documents and whether documents, or parts of documents, will serve as evidence of what they purport to be;
 - (h) whether evidence on affidavit will be admitted with or without the right of any person to cross-examine the deponent;
 - (i) the order in which parties will present their cases,
 - (j) the necessity for any on-site inspections.
 - (k) securing the presence at the hearing of any witness;
 - (l) the resolution of any preliminary points which are intended to be taken;
 - (m) the exchange of witness statements.
 - (n) expert evidence;
 - (o) the estimated duration of the tribunal hearing;
 - (p) any other means by which proceedings may be shortened; and
 - (q) whether the hearing will take place on the appointed date, and if not, the date on which it will take place.
- (26) The decisions taken at the conference must be recorded by the tribunal registrar and signed at the conference by all the persons attending the conference.
- (27) Within seven days of the conference, the tribunal registrar must dispatch a copy of the minutes to all persons who attended the conference.
- (28) The tribunal member chairing the conference may give any directions to the applicant and any other person in respect of the matters mentioned in subregulation (25) to ensure that the tribunal proceedings are concluded expeditiously.
- (29) If any of the persons referred to in subregulation (24) fails to attend a pre-hearing conference or fails to comply with any direction made in terms of sub-regulation (28), he or she will not be permitted to appear at the tribunal hearing, unless the tribunal on good cause shown orders otherwise.
- (30) Every person who has complied with subregulation (24) may appear at the tribunal hearing and may be represented at the hearing by a duly authorised representative.

- (31) Despite the directions in subregulation (7) any person who was given such notice who has informed the designated officer in writing that he or she has no objection to or has no representations in respect of the application or who has made representations substantially in support of the application, is not obliged to appear.
- (32) The date of the hearing referred to in subregulation (25)(q) is the date originally set by the tribunal registrar in terms of subregulation (5) or the new date set at the prehearing conference, or, if the provisions of subregulation (18) are applicable, such earlier date as may have been set by the tribunal registrar and notified to the land development applicant and each person in writing.
- (33) The tribunal may initiate such steps as may be competent at law if a person who has been notified in terms of subregulation (8) fails to appear at the pre-hearing conference or fails to remain in attendance at the conference until -
- (a) he or she is excused by the tribunal; or
 - (b) he or she having withdrawn the objection in writing.
- (34) The tribunal registrar must arrange a suitable venue at which the tribunal hearing is held, having regard in particular to accessibility and proximity to the land forming the subject matter of the land development application.
- (35)(a) A document or tape recording not disclosed or discovered at the pre-hearing conference may not, except with the leave of the tribunal granted on whatever terms it deems fit, be used for any purpose by the person who was obliged to disclose it, except that the document or tape recording may be used by a person other than the person who was obliged to disclose it.
- (b) For the purposes of this subregulation, a tape recording includes a sound track, film, magnetic tape, record or any other material on which visual images, sound or other information can be recorded.
- (36)(a) The applicant or any other person may be permitted to call an expert witness, provided notice of such calling and a summary of the evidence of the expert, was given at the pre-hearing conference.
- (c) If the applicant or any other person fails to comply with paragraph (a) the tribunal may admit the evidence only on good cause shown, and may make an order as to costs.
- (37) In any proceedings before the tribunal, a party to the dispute may appear in person or be represented by any person.
- (38) The tribunal must consider a land development application and may act in accordance with subregulation (29) after-
- (a) receipt of the documents referred to in section 32 or 50 of the Act;
 - (b) determining any issues relating to locus standi, representation and availability of witnesses and parties.
 - (c) determining whether the provisions of the Act have been complied with;

- (d) determining whether a dispute before the tribunal should, before any further enquiry by the tribunal is held, first be referred to mediation in terms of section 22 of the Act.
- (39) After complying with the provisions of subregulation (38), the tribunal may -
- (a) approve the application in whole or in part, subject to such conditions as the tribunal may deem appropriate;
 - (b) dismiss the application;
 - (c) postpone its decision on the application; or
 - (d) refer the matter to mediation.
- (40) The tribunal registrar must, not later than seven days after the hearing has been completed, inform the designated officer of the decision of the tribunal.
- (41) Within 3 days of being informed by the tribunal registrar of the decision of the tribunal the designated officer must notify -
- (a) the land development applicant.
 - (b) every objector and every other person who submitted written representations, and
 - (c) if the land development applicant has been approved, the Registrar of Deeds, the Surveyor-General and the local government body or any other body referred to in subregulation (6)(d)(iii).
- (42) Any interested person or body may, within 7 days of receiving the decision of the tribunal from the designated officer, in writing request the tribunal, through the tribunal registrar, to furnish written reasons for the decision and the tribunal must furnish concise reasons to such person or body and the provincial government within 7 days of having been requested to do so.
- (43) For the purposes of this regulation, "document" includes a tape recording.

Continuation of application by new applicant

22.(1) If -

- (a) the ownership of land in respect of which an application for the establishment of a land development area has been made, has changed; or
- (b) the land concerned has been made available to a person or body other than the one to whom the land was originally made available; or
- (c) a person other than the original applicant has become the agent of the owner or has been provided with the owner's consent to establish a land development area on the land, and the new owner of the land or new person or body to whom the land was made available or the new agent or consent holder notifies the designated officer in writing that he or she wishes to continue with the application,

the designated officer may, if the application has not lapsed, approve the continuation of the application by such new person on any condition he or she may deem expedient.

- (2) A land development applicant who continues with an application in terms of subregulation (1) will for the purposes of these Regulations, be deemed to be the land development applicant who originally made the application.

Submission of plan to Surveyor-General and Registrar of Deeds

- 23.(1) A land development applicant in terms of chapter V or VI of the Act who has been notified that his or her land development application has been approved by the tribunal must within a period of five months from the date of such notice, or such longer period as the designated officer may allow, lodge for approval with the Surveyor-General such general plans, diagrams and records as are required in terms of the Land Survey Act 1997 (Act No 8 of 1997), and if the land development applicant fails to do so, the application will, subject to sub-regulation (11) lapse.
- (2) Despite subregulation (1), the designated officer may, where appropriate, allow the land development applicant to lodge such general plans, diagrams and records with the Surveyor-General at a stage prior to the relevant land development application having become an approved application.
- (3) As soon as possible after lodging the general plans, diagrams and records referred to in sub-regulation (1), the land development applicant must inform the designated officer of the date of such lodging.
- (4) If the land development applicant fails within 60 days after he or she has lodged the general plans, diagrams and records referred to in subregulation (1), to comply with any requirements the Surveyor-General may lawfully lay down, the Surveyor-General may notify the designated officer accordingly, and if the designated officer is satisfied, after hearing the land development applicant, that the land development applicant has failed to comply with any such requirement without sound reason, the designated officer must in writing notify the land development applicant that he or she is so satisfied, and thereupon the application will, subject to subregulation (11), lapse.
- (5) Upon receipt of the general plans, diagrams and records referred to in sub-regulation (1) the Surveyor-General must deal with them in accordance with the Land Survey Act, 1997.
- (6) Any street or public place or part of such street or public place on a general plan or other diagram approved by the Surveyor-General, acting as contemplated in subregulation (5), or any general plan or other diagram approved prior to the coming into operation of the Act, will be deemed to be closed in accordance with any order given by the tribunal and as from the date determined by the tribunal.
- (7) A general plan approved by the Surveyor-General, acting as contemplated in subregulation (5), or any general plan approved prior to the coming into operation of the Act may be amended or partially or totally cancelled by the Surveyor-General on application to the tribunal and the land shown on such general plan may be consolidated or subdivided, on such terms and conditions as the tribunal may approve or direct.
- (8) The land development applicant is responsible for submitting any application for the amendment or partial or total cancellation of a general plan referred to in subregulation (7) to the Surveyor-General, together with any approval or direction referred to in sub-

regulation (7), and such amended general plan must comply with the requirements of the Land Survey Act, 1997.

- (9) After the general plan or, where applicable, other diagrams relating to the land development area, or any part thereof has been approved by the Surveyor-General, the land development applicant is responsible for making such consequential amendments to the relevant layout plan or settlement plan, as the case may be, as may be dictated by the form in which the general plan or other diagram was approved, and it will not be necessary for any new or additional application to be made or approved in respect of a layout or settlement plan so amended.
- (10) Within a period of 2 months, or such longer period as the designated officer may allow, after the date on which the Surveyor-General has approved the plans and diagrams, the land development applicant must lodge a certified copy or tracing of the general plan or other diagrams of the land development area, together with a copy of the layout plan or settlement plan as the case may be, amended as contemplated in sub-regulation (9), with -
 - (a) the designated officer;
 - (b) if the approved land development area will be within the local government body area of any local government body, also with that local government body and
 - (c) the registrar, in accordance with section 37(b) or 55(b) of the Act, together with the title deeds and other documents required for registration by the registrar in terms of the Deeds Registries Act, 1997,

and if the land development applicant fails to do so, the application will, subject to sub-regulation (11) lapse.

- (11) Despite sub-regulation (1), (4) and (10)(c), if a registration arrangement in terms of section 61 of the Act as read with regulation 27 has also been approved in respect of the relevant land development area, the land development application will not lapse and the designated officer must, in the circumstances contemplated in those subregulations, employ the proceeds of the guarantee referred to in section 38 (2)(d)(i) of the Act, to appoint and instruct land surveyors and conveyancers to prepare and lodge the necessary general plans and records, title deeds and other documents with the Surveyor-General and registrar respectively, so that a subdivision register may be opened in respect of the land development area expeditiously.

Application for exemption from provisions of Act in terms of Sections 30 or 48 of the Act

- 24.(1) A land development applicant or prospective land development applicant may apply to the tribunal in terms of Section 30 (1) or 48 (1), as the case may be, of the Act, for an exemption from all or any of the provisions of Chapter V or VI, as the case may be, in respect of a land development area.
- (2) In order to expedite the application, the applicant must lodge a written application for exemption substantially in the form of Annexure E directly with the designated officer who must, within seven days apply to the tribunal registrar for a hearing date.
- (3) The tribunal registrar -

- (a) must, within two days of such application notify the designated officer who must in turn notify, the applicant of the date on which the application for exemption will be considered by the tribunal, which date must not be later than 30 days after the date of receipt of the application by the tribunal registrar; and
- (b) may require the applicant to give notice of the hearing to any interested person or body identified by the designated officer.
- (4) The applicant must appear at the tribunal hearing and may be represented by a duly authorised representative.
- (5) Any other interested party may, at the discretion of the tribunal, appear at the tribunal hearing and make representations to the tribunal and may be represented thereat by a duly authorised representative.
- (6) The tribunal may and, if requested to do so by the applicant, must hold an on-site inspection in relation to the application.
- (7) The tribunal may -
 - (a) approve the application for exemption in whole or In part, subject to such conditions as the tribunal may deem appropriate;
 - (b) dismiss the application.
 - (c) postpone its decision thereon or
 - (d) direct the applicant as to the extent to which it requires the provisions of the Act or any of these Regulations to be complied with, which may include the applicant giving notice to interested parties as prescribed in terms of regulation 21 (6).
- (8) The tribunal registrar must not later than 3 days after the hearing has been completed, inform the designated officer of the decision of the tribunal who in turn must within 7 days notify -
 - (a) the applicant, and
 - (b) every objector or other person who appeared before the tribunal.
- (9) Any person may, within 7 days after the designated officer has informed the party or parties of the decision of the tribunal, in writing request the tribunal through the tribunal registrar, to furnish written reasons for the decision and the tribunal must within 7 days furnish such reasons.

Investigation by designated officer of non-statutory land development process in terms of Section 42 or 57 of the Act

- 25.(1) A local government body or any interested person or body, including a group of persons (referred to in this regulation as the "applicant") may in the circumstances referred to in section 42 or 57 of the Act as the case may be, request the designated officer in the form of Annexure F to these Regulations to investigate a non-statutory land development process.

- (2) The designated officer must, within 14 days after receiving the request referred to in subregulation (1), submit a report to the tribunal registrar, and furnish the applicant with a copy thereof, taking into account as far as is possible the factors mentioned in section 42(4) or 57 (4) of the Act, as the case may be, and must include a recommendation to the tribunal as to an appropriate course of action, which may include a recommendation to permit the designated officer to amplify the report within such further period as the tribunal may approve.
- (3) The designated officer must within seven days of the request in terms of subregulation (1), inform the applicant of any additional information or documents required by him or her in relation to the application.
- (4) The tribunal, after conducting such enquiries, hearing such evidence and taking such steps as it may deem fit and after taking into account the matters referred to in section 42(4) or 57(4), approve or refuse an exemption contemplated in section 30(1) or 48(1) or postpone its decision thereon.
- (5) The tribunal registrar must, not later than two days after the hearing has been completed, inform the designated officer in writing of the decision of the tribunal who in turn must within seven days notify -
 - (a) the applicant, and
 - (b) any person or body directed by the tribunal.
- (6) In the event of the tribunal granting an exemption from any or all of the provisions of the Act or these Regulations pursuant to proceedings contemplated in this regulation, the person or body designated by the tribunal must, if and to the extent required by the tribunal, lodge a land development application in terms of regulation 21.
- (7) Any interested person or body may, within 7 days after the designated officer has informed the party or parties of the decision of the tribunal, through the tribunal registrar request the tribunal in writing to furnish written reasons for the decision and the tribunal must furnish such reasons as soon as is reasonably possible.

Application to amend or withdraw an application for approval of a land development area

- 26.(1) The land development applicant may at any time before the approval or refusal of the application for approval of a land development area apply to the tribunal for the amendment of such application.
 - (2) Such application may be made without notice to any person.
 - (3) If -
 - (a) the amendments applied for are, in the opinion of the tribunal, not material and do not constitute a substantially new application, the tribunal may approve the application for amendment in whole or in part or postpone its decision thereon;
 - (b) the amendments applied for are in the opinion of the tribunal material or constitute a substantially new application, the tribunal may direct the applicant as to the extent to which the provisions of regulation 21 (6) regarding the giving of notice by the land development applicant to interested parties are to be complied with.

- (4) Any application for amendment may be approved subject to such conditions as the tribunal may deem appropriate.
- (5) Whenever parties agree to postpone a matter, the party who placed the matter before the tribunal shall forthwith notify the tribunal registrar by delivering a notice of postponement: Provided that in the event of failure between the parties to reach an agreement on a postponement, any party may, by application to the tribunal registrar and notice to every other party, apply to the tribunal chairperson or any tribunal member designated by him/her for a postponement of the hearing. The tribunal chairperson or any member designated by him/her, shall take a decision with regards to the postponement and the tribunal registrar shall notify all the parties of such a decision.
- (6) A land development applicant, may, at any time before the approval or refusal of the application for approval of a land development area, by notice to the designated officer and every other party, withdraw the land development application and provide reasons for such withdrawal. The tribunal may, in the event of such withdrawal, make an order as to costs.

Application for approval of a registration arrangement

- 27.(1) The land development applicant may lodge with the designated officer a written application for a registration arrangement referred to in section 61 of the Act in the form of Annexure G to these regulations
- (2) The application for a registration arrangement shall be accompanied by such further documents as Annexure G may stipulate.
- (3) The designated officer must, within seven days after receipt of the application for a registration arrangement -
 - (a) acknowledge receipt thereof in writing; and
 - (b) advise the land development applicant of any additional information, documents or further requirements in relation to the application.
- (4) After the designated officer has complied with sub-regulation (3), he or she must apply to the tribunal registrar for a date on which the application for a registration arrangement is to be considered by the tribunal.
- (5) The tribunal registrar must within two days of such application notify the designated officer who must in turn inform the land development applicant of the date on which the application for a registration arrangement is to be considered, which date must not be later than 60 days or if the application is brought at the same time as a land development application not earlier than 80 days and not later than 120 days of the date of application to the tribunal registrar in terms of this regulation.
- (6) The designated officer must, within 14 days after the lodgement of the application for a registration arrangement or, if the application is brought at the same time as a land development application, at the same time when he or she submits the report referred to in regulation 21(20) submit a written report regarding the application for a registration arrangement to the tribunal registrar.

- (7) The land development applicant must appear at the tribunal hearing and may be represented thereat by a duly authorised representative.
- (8) The tribunal may -
 - (a) subject to such conditions, including, subject to regulation 23(11), conditions as to time periods within which specified actions are to be completed to ensure conversion of initial ownership into ownership, as the tribunal may deem appropriate, approve the application for a registration arrangement in whole or in part.
 - (b) dismiss the application, or
 - (c) postpone its decision in respect of the application.
- (9) The tribunal registrar must not later than 3 days after the hearing has been completed inform the designated officer in writing of the decision of the tribunal and the designated officer who in turn must forthwith notify -
 - (a) the applicant.
 - (b) if the application has been approved the Registrar of Deeds and
 - (c) any other person or body required to be informed in terms of the Act or directed by the tribunal to be informed.
- (10) Any interested person or body may within 7 days after the designated officer has informed the party or parties of the decision of the tribunal, request the tribunal in writing to furnish written reasons for the decision and the tribunal must within 7 days furnish such reasons.

Application to compel

- 28.(1) If the designated officer, tribunal registrar or any other governmental body or official, excluding the tribunal, fails to perform any duty or function required of it in terms of these Regulations or the Act within a reasonable time after the due date for performance, any party referred to in this regulation as the applicant, will be entitled to apply to the tribunal for an order compelling such compliance.
- (2) The applicant must lodge a written application to compel with the tribunal registrar, setting out-
 - (a) the identity of the person or body in respect of whom or which the application is brought.
 - (b) the act which it is sought to compel; and
 - (c) the reasons for the application,provided that, if the application is made to compel the tribunal registrar, the applicant must lodge such application with the chairperson of the tribunal.
- (3) The application to compel must be accompanied by such further documents as may be necessary to substantiate the application.
- (4) The tribunal registrar must within seven days after receipt of the application to compel -

- (a) acknowledge receipt thereof in writing and
 - (b) inform the applicant in writing of such date which may not be later than 30 days after the date of receipt of the application on, and the place at which the application to compel is to be considered by the tribunal.
- (5) The applicant must forthwith give notice of the application to compel to the designated officer, the tribunal registrar and/or any other governmental body or official whose performance it is sought to compel -
- (a) enclosing a copy of the application, and
 - (b) setting out the date when and place where the application is to be heard by the tribunal.
- (6) The applicant and the designated officer or the tribunal registrar or the other governmental body or official whose performance it is sought to compel must appear at the tribunal hearing and may be represented thereat by a duly authorised representative.
- (7) The tribunal may approve or dismiss the application in whole or in part or postpone its decision and give appropriate directions to the government body or official concerned.
- (8) The tribunal registrar must not later than 3 days after the hearing has been completed inform the designated officer in writing of the decision of the tribunal who in turn must forthwith notify -
- (a) the applicant and
 - (b) any other party directed to be informed thereof by the tribunal.
- (9) Any interested person or body may, within 7 days after the designated officer has informed the party or parties of the decision of the tribunal, through the tribunal registrar, request the tribunal in writing to furnish written reasons for the decision and the tribunal must within 7 days furnish such reasons.

Community facilities

- 29.(1) The land development applicant must include in his or her application, as set out in Annexure B documentation confirming whether the relevant public authorities are willing to provide and maintain the community facilities that the applicant has planned as part of the land development.
- (2) The documentation should detail to the extent that such information is available, the type of facility to be provided, the time-frame within which the facility will be provided, the authority responsible for providing the facility and arrangements for the maintenance and, if applicable, future upgrading of the facility.

Geo-technical assessment

- 30.(1) The land development applicant must include in his or her application, as set out in Annexure B an initial geo-technical report prepared by a person qualified in geotechnics and registered in terms of the Engineering Professions of South Africa Act, 1990, or the Natural Sciences Professions Act, 1993.

- (2) The designated officer must make a recommendation to the tribunal as to whether a comprehensive geo-technical report should be prepared.
- (3) The tribunal may, on the basis of the initial geotechnical report -
 - (a) impose an appropriate condition of establishment as contemplated in section 33(2) or 51(2) of the Act; or
 - (b) require the land development applicant to prepare a comprehensive geotechnical report to be prepared by a person qualified in geotechnics and registered in terms of the Engineering Professions of South Africa Act, 1990, or the Natural Sciences Professions Act, 1993.
- (4) Except where the tribunal orders otherwise the costs of the initial report and any comprehensive geo-technical report must be borne by the applicant;
- (5) The initial geo-technical report must indicate, on the basis of a desk study, excluding field work and utilising information available from maps, data bank sources and where relevant, interpretation of aerial photographs, the suitability of the proposed site for the planned development by reference to the following factors:
 - (a) whether the site is underlain by dolomitic rocks and if so must generally evaluate the risk of sinkhole and compaction subsidence (doline formation);
 - (b) whether the site is undermined and if so the depth, geometry etc of the workings and if affected by undermining, the risk of mining subsidence must be generally assessed,
 - (c) whether the site is located on clays which will shrink and swell in response to changes in soil moisture and if so the probable heave movement;
 - (d) whether the site is located on soils with a collapse of grain structure and if so the probable magnitude of the settlement that could occur should these soils be saturated under load or whether any portion of the site consists of reclaimed or filled ground;
 - (e) the occurrence of seep areas and drainage channels;
 - (f) the position of the 1:50 floodline;
 - (g) the occurrence of existing perched (and possible future perched) and normal water tables,
 - (h) whether there is existing or future slope instability on the natural ground surface;
 - (i) the suitability of the local materials for construction of, and the construction on, earthworks.
 - (j) the depth to which the profile can probably be excavated with a backhoe;
 - (k) the permeability of the soils and their performance in the transport of waste water.
 - (l) the occurrence of areas of outcrop and sub-outcrop and their effect on excavation.
 - (m) whether structures will require modification / reinforcement and/or special foundations.

Environmental evaluation

- 31.(1) The land development applicant must include in his or her application as set out in Annexure B an environmental scoping report, prepared in accordance with the environmental impact assessment guidelines or other requirements which are from time to time issued or amended by the national Department of Environmental Affairs and Tourism.
- (2) The designated officer must make a recommendation to the tribunal as to whether an environmental impact assessment should be prepared.
- (3) The tribunal may, on the basis of the environmental scoping report -
 - (a) impose a condition of establishment as contemplated in Section 33 (2) or 51(2) of the Act, or
 - (b) require the land development applicant to prepare an environmental impact assessment in accordance with the environmental impact assessment guidelines or other requirements which are from time to time issued or amended by the national Department of Environmental Affairs and Tourism.
- (4) The costs of an environmental scoping report and environmental impact assessment must be borne by the applicant.
- (5) Despite sub-regulations (4) the tribunal may order any other party to bear such costs.
- (6) The scoping report must indicate the extent to which the proposed activity or development will impact on the environment and where appropriate deal with the following specific aspects of the environmental impact;
 - (a) The physical and landscape characteristics of the land development area and its surroundings.
 - (b) The ecological characteristics of the land development area and its surroundings.
 - (c) The current and potential land-uses of the land development area;
 - (d) Existing significant archaeological, historical and cultural sites in the land development area and its surroundings;
 - (e) The social and economic impact on communities in the land development area and surroundings;
 - (f) The existing infrastructure and/or services in or around the land development area;
 - (g) The existing social and community structures, services and facilities in or around the land development area,
 - (h) The levels of present and possible pollution, including noise pollution, in the future as a result of the proposed development;
 - (i) Any risks or hazards to the environment posed by the development;
 - (j) The health and safety of the public.

- (k) The social costs of the proposed development.
- (l) The effect of the proposed development on different groups or individuals;
- (m) The medium and long term environmental sustainability of the proposed development;
- (n) What mitigating measures could be implemented to reduce negative impacts and enhance positive impacts of the aspects described in paragraphs (a) to (m) and, where appropriate, to what extent alternative sites for the development were investigated.

Application to amend the decision of the tribunal or amend or delete conditions of establishment

- 32.(1) The land development applicant, may, after the approval or the application for approval of a land development area apply to the tribunal for the amendment of the decision of the tribunal or any amendment or deletion of any condition of establishment.
- (2) Such application may be made without notice to any person.
- (3) If-
 - (a) the amendments applied for are, in the opinion of the tribunal, not material and do not constitute a substantially new application, the tribunal may approve the application for amendment or deletion in whole or in part or postpone its decision thereon;
 - (b) the amendments or deletions applied for are in the opinion of the tribunal material or constitute a substantially new application, the tribunal may direct the applicant as to the extent to which the provisions of regulations 21(6) regarding the giving of notice by the land development applicant to interested parties are to be complied with.
- (4) Any application for amendment or deletion may be approved subject to such conditions, as the tribunal may deem appropriate.

APPEALS

Noting of Appeal

- 33.(1) Any person (hereinafter called the Appellant) wishing to note an appeal against any decision of the tribunal must give written notice thereof to the tribunal registrar and the presiding officer of the hearing.
- (2) The notice must:
 - (a) as far as is practicable, be substantially in the form set out in Annexure "J" hereto.
 - (b) be given within 14 days of the date on which the decision or determination of the tribunal or a decision as to costs is given or of the date on which the tribunal's written reasons for its decision are given by the tribunal registrar to the appellant, pursuant to a request for such reasons in terms of these regulations, whichever is the later.
- (3) The appellant must simultaneously serve a copy of the notice of appeal on every interested person or body who was a party to the tribunal proceedings appealed against.

- (4) Any person or body on whom an appellant has served a notice of appeal may note a cross-appeal within 10 days of being served with a notice of appeal by serving a notice of cross-appeal.
- (5) Any notice of appeal or cross-appeal must clearly indicate:
 - (a) whether the appeal is being lodged against the whole decision or only a part thereof and if only a part, which part;
 - (b) the ground or grounds of appeal specifying the findings of fact or conclusions of law appealed against and the relief sought on appeal.
- (6) Within 14 days of the delivery of the notice of appeal, or cross-appeal, as the case may be, the tribunal may, on application by any party, grant interim relief pending the appeal and may also furnish supplementary reasons for its decision to all the parties to the appeal.
- (7) The tribunal registrar must forthwith cause a copy of such supplementary reasons to be served on the appellant and all other parties.
- (8) Any party to the appeal may within 10 days of receipt of the supplementary reasons supplement or amend the notice of appeal or cross-appeal by serving same on the tribunal registrar and all other parties to the appeal.
- (9)(a) The tribunal registrar, when an appeal is lodged, may require the payment of a deposit in the sum of R500-00 by the appellant and R250-00 by any party that has noted a cross-appeal.
 - (c) Such deposit must be refunded if the appeal or cross-appeal, as the case may be, is not withdrawn prior to the hearing or in the discretion of the chairperson, if it is withdrawn where the circumstances which gave rise to the appeal or cross-appeal no longer apply: Provided that the appeal tribunal may order forfeiture of the deposit if it determines that the appeal or cross-appeal was frivolous or vexatious.
- (10)(a) Within 21 days of noting the appeal, the appellant, at his or her own expense, must cause copies of the record contemplated in regulation 15 to be prepared for the appeal tribunal and the parties, as the tribunal registrar may deem necessary.
 - (b) The appellant must forthwith cause a copy of such record to be served on each of the parties and submit proof of such service to the tribunal registrar.
 - (c) Despite the provisions of subregulation (1)(a), the tribunal registrar may, on good cause shown, dispense with payment of the expenses incurred by the State in the preparation of such record.

Right to lodge memorandum

- (11)(a) A party may within seven days of supplementing or amending his or her notice of appeal or cross-appeal serve a memorandum on the tribunal registrar and all other parties.
 - (b) In such memorandum the party may set out any further information not stated in the notice of appeal (or cross-appeal) or supplement or amendment thereto which the party regards as necessary for the appeal tribunal to consider when making its decision.

- (c) Within seven days of receipt of the memorandum a party may serve an opposing memorandum on the tribunal registrar and all other parties.
- (d) Within seven days of receipt of any opposing memorandum the party submitting the original memorandum may reply to any matters raised in the opposing memorandum.

Setting down of Appeal

- (12)(a) Upon receipt of all the aforesaid documents the tribunal registrar must forward them to the chairperson of the appeal tribunal.
 - (b) The chairperson must as soon as possible after receipt of the said documents, set the time, date and place for the hearing of the appeal and forthwith advise the tribunal registrar thereof.
 - (c) The tribunal registrar must forthwith set the appeal down for hearing, and must in terms of regulation 6 (1) notify or summons the relevant persons, advising them of the time, date and place of the appeal hearing.

Urgency and Condonation

- (13)(a) Despite subregulations (1), (2) and (3), the chairperson may -
 - (i) on application of any party to an appeal direct that the matter is one of urgency and determine such procedures including time limits, as he or she may, consider desirable to fairly and efficiently resolve the matter;
 - (ii) on good cause shown, condone any failure by any party to an appeal to comply with these Regulations or any directions given in terms thereof, if he or she is of the opinion that such failure has not unduly prejudiced any other person.
- (14)(a) Every application for condonation made in terms of subregulation 12 (a)(ii) must be -
 - (i) served on the tribunal registrar and all other parties,
 - (ii) accompanied by a memorandum setting forth the reasons for the failure concerned; and
 - (iii) determined by the chairperson in such manner as he or she considers proper.
- (b) Where such failure is condoned in terms of subregulation 12 (a)(ii), the applicant for condonation must comply with the directions given by the chairperson when granting the condonation concerned.

Directions by Chairperson

- (15) At the time of informing the tribunal registrar of the time, date and place of the hearing of the appeal the chairperson must inform the tribunal registrar -
 - (a) of the persons required to attend the hearing.
 - (b) whether any additional documentation must be furnished to the appeal tribunal, or whether documentation in the appeal requires to be furnished to any other person.
 - (c) which persons require to be summoned to attend in accordance with the provisions of regulation 6 (2).

- (16)(a) The tribunal registrar must serve details of the time, date and place of the appeal hearing on the appellant, all objectors, and to any other person whom the chairperson may direct.
- (b) The tribunal registrar must when required to do so by the chairperson, either prior to or during the hearing of the appeal, summon any person to attend the appeal hearing in terms of the regulations.

Withdrawal and Attendance

- (17)(a) Any person who has lodged an appeal or cross-appeal may withdraw such appeal or cross-appeal by serving a notice thereof on the tribunal registrar and all other parties to the appeal.
- (b) Any person or body, who has been notified in terms of these regulations of the date of the appeal hearing is entitled to be present and/or to be represented at the hearing.

Further Powers of the Appeal Tribunal

- (18)(a) The appeal tribunal may summon any person to appear before it and give evidence or produce any documents or article.
- (b) The appeal tribunal may of its own motion take cognisance of any matter, document or information which would, in its opinion, assist in its consideration of the issue before it and may conduct an in loco inspection before or during the hearing of an appeal.
- (c) For the purpose of such inspection in loco, the appeal tribunal has the power at any reasonable hour to enter upon and inspect the land and any developments which are the subjects of its enquiry : Provided that the Appellant and all other parties have been notified in advance of such intended inspection to which each party has the right of attendance and representation.
- (d) The appeal tribunal may accept any other person onto the appeal tribunal, as a non-voting member thereof, for the duration of any appeal in which the experience or expert knowledge of the person concerned will assist the other members in reaching an informed decision.

Records

- (19) The tribunal registrar must maintain a register in which he or she records the reference number of each appeal, the names of the parties, the date of the hearing of the appeal whether the decision was unanimous or by majority vote, the decision of the appeal tribunal and any other relevant information.

Transitional arrangements

34. The provisions of these regulations shall not be applicable to any matter in respect of which proceedings before a tribunal were commenced under the regulations published by Government Notice No R 1412 of 30 August 1996.

PART B

Subpoenas

1. Where a subpoena is issued or information is required in terms of Section 18 of the Act, the subpoena should, as far as is practicable, be in the form set out in Annexure "K" hereto.

2. The subpoena must set out in clear terms -
 - (a) the full names of the person from whom the information is required
 - (b) the information that is required and
 - (c) the book, document or thing to be produced.
3. The subpoena must be served on the person concerned personally, or on a nominated agent, [Note : in his application the person must state the address at which documents can be served on him.]

Proof of notification and postponement

1. For the purposes of Regulation 21 (9) and (10), a land development. applicant must lodge with the designated officer the following documents-
 - (i) the relevant pages of the issue of the newspaper in question, which must contain at least the page number and date of the publication.
 - (ii) the relevant pages of the Provincial Gazette in which the notice was published;
2. The designated officer must retain a copy of the documents referred to in 1 above and forward the original to the tribunal registrar.

Applications in terms of regulation 13(i)

1. As soon as a designated officer becomes aware that the circumstances are such that he or she would not be in a position to provide an objective report, he or she must in writing advise the tribunal registrar thereof.
2. Within two days of so advising the tribunal registrar, the designated officer must submit a written application to be substituted as designated officer.
3. The designated officer must serve a copy thereof on the Applicant and all parties on whom service of the application has been effected.
4. As soon as practicable, the tribunal registrar must set down the application for substitution and forthwith advise the designated officer of the date.
5. The designated officer must in writing advise the Applicant and all the parties on whom service of the application was effected of the date of the hearing.
6. On the date of the hearing, the tribunal must, if it is satisfied that there are good reasons why the designated officer should be substituted, replace him with another designated officer who will not be subject to a similar conflict of interest.

Referral to mediation

1. The application in terms of section 22 of the Act must be served on the designated officer and all other parties on whom the application in dispute was served.

2. In the application for mediation, the applicant must list three persons whom he believes will be able to serve as effective mediators.
3. The other parties to the dispute must within seven days of service of the application for mediation, advise the applicant and the designated officer of their attitude to mediation.
4. Such response must indicate whether or not the party oppose mediation as a means of resolving the dispute, and, if not, list three persons whom he believes can facilitate the mediation of the dispute.
5. The response must be served on each of the parties and the designated officer.
6. The designated officer must forthwith submit the application and all the responses to the tribunal registrar.
7. The tribunal must make a decision in terms of the Act.

ANNEXURE A

GUIDELINES FOR LAND AVAILABILITY AND SERVICE AGREEMENTS (Regulations 18 and 19 of the Development Facilitation Regulations)

1. GENERAL

- (1) Words and phrases that are used repeatedly and which have a different or more specific meaning compared to their ordinary meaning should be suitably defined.
 - (a) Relevant factors and circumstances preceding or leading to the conclusion of the agreement may be recorded in a suitable preamble.
 - (b) There may be such other terms and conditions not inconsistent with these guidelines as the parties may agree.
- (2) Parties

The names of the parties to the agreement and their respective business addresses should be stated. If a party is a company, close corporation, trust or other legal entity that fact should be clearly stated and the authority of the person representing such company, trust or other legal entity should be recorded.

(3) The Land

The land forming the subject matter of the agreement must be clearly identified by the most accurate description available. Preferably reference should be had to the relevant title deed and diagram and/or general plan. A sketch plan or a locality plan on a scale of 1:50 000 may be appended if an approved diagram and/or general plan does not exist.

(4) Suspensive and Resolutive Conditions

- (a) If the agreement is to be subject to any suspensive or resolutive conditions these must be clearly stated.

- (b) The effect of fulfilment or non-fulfilment, as the case may be, of such conditions must be clearly stated.
- (c) If any such condition becomes compulsory solely for the benefit of one of the parties to the agreement and may be waived by that party, that fact must be clearly stated.
- (d) Suspensive or resolutive conditions may include -
 - (i) a condition relating to the approval of the land availability agreement by the Tribunal in terms of Section 44 or Section 53 of the Act.
 - (ii) a condition relating to the approval of a land development application in respect of the land forming the subject matter of the agreement in terms of Section 33 or 51 of the Act.
 - (iii) a condition relating to the approval of a registration arrangement in terms of Section 61 of the Act;
 - (iv) a condition relating to the incorporation of the land forming the subject matter of the agreement into the area of jurisdiction of any body or authority;
 - (v) any other condition which may be appropriate in the circumstances.
- (e) The agreement should record the respective obligations of the parties regarding the fulfilment of such conditions.

(5) Contractual Terms

The contractual rights and obligations of the parties to the agreement should be clearly stated.

(6) Remedies on Breach

The rights of a party in the event of a breach of the conditions by the other party, should be clearly stated. Any requirement that notice to remedy a breach of condition be given and the remedies available to the innocent party should be clearly stated.

(7) Dispute Resolution

- (a) In order to facilitate the speedy resolution of conflicts and disputes, provision may be made for -
 - (i) conflicts and disputes to be referred to mediation, and
 - (ii) conflicts or disputes to be resolved by an alternative procedure for dispute resolution.
- (b) Provision could further be made that if a conflict or dispute is not resolved by mediation that conflict or dispute is to be resolved by alternative dispute resolution, it being the intention that conflicts and disputes shall be resolved as expeditiously as possible in the circumstances.

(8) Combined Agreements

A land availability agreement and a services agreement may be combined in one document.

2. SPECIFIC PROVISIONS IN RESPECT OF LAND AVAILABILITY AGREEMENTS

(1) Purpose

The purpose for which the land is made available and the nature and extent of the proposed development should be recorded. The agreement may provide that the purpose for which the land is made available cannot be changed without consultation with the party making the land available.

(2) Town Planning matters and matters relating to the approval of a Land Development Application

- (a) The obligations of the parties in respect of all necessary town planning, land survey, land development application, registration arrangement application or any other application in terms of the Act and related work in relation to the proposed development should be recorded in the land availability agreement. If possible the agreement should state the period of time within which such work is to be performed and the consequences of failure to adhere to such time periods.
- (b) If the parties so agree the person or body to whom the land is made available may be appointed by the State or local government body making the land available, to have the necessary town planning and land survey work done and to make a land development application or other application in respect of the land. The responsibilities of the parties regarding the costs incurred in relation to such work should be recorded.

(3) Services

- (a) The responsibility of the parties regarding the provision of services must be recorded. By way of example the agreement must, unless the tribunal is requested to grant an exemption from this requirement, provide that the State or local government body will be responsible for the installation and costs of external engineering services while the person or body to whom the land is made available be responsible for the installation and costs of internal engineering services and the connection thereof to the external engineering services.
- (b) If a low level of services is agreed to, provision may be made for a programme for the upgrading of such services over time to be agreed to.
- (c) If appropriate the detail of the services to be provided may be recorded in a separate services agreement.

(4) Environmental issues

The obligations of the parties with regard to the conduct of environmental assessments and impact studies and the compliance with relevant preventative and/or remedial measures in terms of Regulation 30 of the Development Facilitation Regulations or any other additional requirements as the parties may agree to should be recorded.

(5) Community involvement

- (a) Where appropriate in the circumstances provision could be made for consultation with communities and other groups of persons who have an interest in the land or are likely to be affected by the development.
- (b) The obligations of the parties in respect of the conduct of such consultation and the costs thereof shall be recorded.

(6) Beneficial occupiers

Where land development takes the form of upgrading an existing settlement the agreement should provide that beneficial occupiers should not be deprived of homes or land or, where it is necessary for land or homes occupied by, them to be utilised for other purposes, provision should be made reasonably to accommodate their interests in such land or homes in some other manner.

(7) Erection of Improvements

- (a) The relative responsibilities (if any) of the parties to erect improvements on the land concerned should be recorded.
- (b) The standard of any improvements to be constricted and the requirements (if any) regarding the approval of plans in respect of permanent improvements should be recorded.
- (c) It should be recorded when it is anticipated that the construction of improvements will commence when it is anticipated that such improvements will have been completed and the consequence of delays should be dealt with.

(8) Community facilities

The obligations if any of the parties to provide and maintain social, community or recreational facilities should be recorded.

(9) Responsibility for Disposal

- (a) It must be clear from the agreement which erven or what number or categories of erven if any, the person or body to whom the land is made available is obliged and/or entitled to dispose.
- (b) Any price restrictions and/or restrictions with regard to the manner of disposal should be recorded.
- (c) The method or procedure to be adopted for the allocation or disposal of erven to prospective purchasers should be recorded.
- (d) If it is contemplated that the land shall remain registered in the name of the State or local government body but that the disposal of erven will be effected by the person or body to whom the land is made available on behalf of State or local government body, provision must be made for the State or local government body, to grant to the person or body to whom the land is made available such powers of attorney and other authorities as may be necessary to enable such person or body -
 - (i) to give transfer of the relevant erven or portions of the land to the purchasers thereof, and
 - (ii) to perform such other acts in relation to land registration as may be necessary or appropriate.

(10) Liability for Local Authority and Service Charges

Provision should be made for the payment to the relevant local authority (if any) of local authority charges, service charges and other levies by the person or body to whom the land is made available and/or by any purchaser of an erf or portion of the land.

(11) Terms of the Deeds of Sale

- (a) Provision should be made for the person or body to whom the land is made available to enter into written deeds of sale complying with relevant law with any person or body to whom it is intended to sell an erf or portion of the land pursuant to the land availability agreement prior to the registration of transfer of that land into the name of such person or body, on behalf of and as agent of the State or local government body making the land available.
 - (b) If applicable the agreement should clearly provide what portion of the disposal price will accrue to the person or body to whom the land is made available and what portion will accrue to the State or local government body making the land available.
 - (c) The date on which payment is to be made to the State or local government body should be stipulated.
 - (d) Any requirements with regard to the provision of bank or other guarantees for payment of any amounts that may be payable to the State or local government body should be stipulated.
 - (e) Provision may be made for the inclusion in every deed of sale of a provision recording the obligations of any person or body acquiring an erf or portion of land in terms of that deed with regard to the payment of local authority charges, metered and unmetered service charges and service inspection fees determined in accordance with the relevant by-laws or regulations enforced from time to time.
 - (f) Any special provisions, requirements or restrictions regarding the sale of erven should be recorded.
- (12) Time Period for Completion of Development

Any restrictions with regard to the time period for the completion of the development should be recorded. The consequence of such time period being exceeded should also be recorded.

3. PROVISIONS REGARDING SERVICES AGREEMENTS

Services agreements should be consistent and compatible with land development objectives set in terms of section 27 of the Act.

(1) Classification of engineering services

The engineering services to be provided should be classified as internal or external engineering services on the basis that -

- (a) "external engineering services" consist of both "bulk services" and "link services";
- (b) "bulk services" means all the primary water, sewerage, sewage treatment facilities and means of disposal of effluent and other products of treatment, electricity and stormwater services, as well as the road network in the system to which the internal services are to be linked.
- (c) "internal services" means all services within the boundaries of the land development area that are necessary for the establishment of serviced erven in accordance with the level of services agreed between the land development applicant and the relevant authority,

- (d) "link services" means all new services necessary to link the internal services to the bulk services;
 - (e) if a service within the boundaries of the new land development area is intended also to serve any other area within the jurisdiction of the relevant authority, such service and the costs of provision thereof should be treated as an internal engineering service to the extent that it serves the land development area and as an external engineering service to the extent that it serves any other development.
- (2) Development responsibilities
- (a) There should be clear provisions recording the responsibilities of the parties regarding the installation and provision of internal and external engineering services, bearing in mind the principle established by section 40(2) of the Act. If any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service should be clearly identified and the cost or the manner of determining the cost thereof should be clearly set.
 - (b) Generally the land development applicant should pay or contribute to the costs of the installation and provision of internal engineering services and conversely the agreement should provide for the relevant authority to pay or contribute to the costs of the installation and provision of external engineering services
 - (c) It should be clear whether additional bulk services are to be provided by the relevant authority and if so, such services should be identified.
 - (d) It should be stated which party shall be responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner (if any) to which the costs of such service connections are to be recovered.
 - (e) The service connections to be made should be adequately described and may include all connections between internal services and the individual erf or portion of the land, for example -
 - (i) a water-borne sewerage pipe terminating at a sewer connection;
 - (ii) a water pipe terminating at a water meter;
 - (iii) an electricity house connection cable terminating on the relevant erf.
 - (f) The level and standard of the internal services to be installed and provided should be clearly identified with reference to, amongst others
 - (i) water reticulation;
 - (ii) sewerage reticulation, sewage treatment facilities and means of disposal of effluent and other products of treatment;
 - (iii) roads and stormwater drainage.
 - (iv) electricity reticulation (high and low tension) and
 - (v) street lighting.
 - (g) Where only basic services are to be provided initially, the time frames and the responsibility of the parties for the upgrading (if any) of services should be recorded.

- (h) It must be clear or determinable when the land development applicant and the relevant authority are to commence construction of internal and external engineering services, at which rate construction of such services is to proceed and when such services shall be completed.
- (i) Provision must be made for the inspection and handing over of internal engineering services to the relevant authority and for the date on which all risk and ownership in respect of such services shall pass to such relevant authority.
- (j) Provision should be made for the following responsibilities after the internal services have been handed over to the relevant authority:
 - (i) When normal maintenance by the relevant authority shall commence.
 - (ii) The responsibility of the land development applicant for the rectification of defects in material and workmanship.
 - (iii) The rights of the relevant authority if the land development applicant fails to rectify any defects within a reasonable period after having been requested to do so.

(3) Insurance

Provision should be made for each of the parties to take out adequate insurance cover (which may include public liability insurance) in respect of such risks as are insurable for the duration of the development of the land development area.

(4) Guarantees

- (a) The agreement may require that performance guarantees be provided as contemplated in Section 38(2)(d)(i) of the Act or otherwise.
- (b) The obligations of the parties with regard to such guarantees should be clearly stated.
- (c) Any such guarantee or undertaking should -
 - (i) be irrevocable during its period of validity; and
 - (ii) be transferable by the person or body to whom such guarantee or undertaking is expressed to be payable.

(5) Sources of financing

Provision may be made for the manner in which the parties are to finance their relative responsibilities in terms of the services agreement. Where appropriate either party may undertake to provide bridging finance to the other party.

ANNEXURE B

IN THE DEVELOPMENT TRIBUNAL FOR [insert name of Province, etc]
Reference number _____

IN THE APPLICATION OF:
[name of applicant]

in respect of the land known as [state description of property]

APPLICATION FOR ESTABLISHMENT OF A LAND DEVELOPMENT AREA
(Application in terms of Regulation 21 of the Development Facilitation Regulations)

PART 1: ACKNOWLEDGEMENT OF RECEIPT

To: _____

(applicant to insert his or her name and address where he or she will receive service of all documents and notices)

I hereby acknowledge receipt of the original and two copies of Parts II and III of this form, together with the documents referred to below (applicant to insert description of documents), and I hereby allocate reference number _____ to this application.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____

Designated officer

Date of receipt

PART II: APPLICATION

The Designated Officer

(insert address of designated officer)

Applicant's Name: _____
Applicant's Address _____
Applicant's Tel. No _____
Applicant's Facsimile No. _____
Contact Person _____

APPLICATION FOR ESTABLISHMENT OF A LAND DEVELOPMENT AREA ON:

- I/We the applicant described above, being -
- * the owner of the land, OR
- * the duly authorised agent or contractor of the owner of the land, OR

- * person acting with tile consent of the owner of the land; OR
- * a person to whom the land has been made available in terms of a land availability agreement, OR
- * a person acting on behalf of the owner of the land in any other capacity; OR
- * a person directed by the tribunal as contemplated in section 30(2) or 48(2) of the Act as the case may be.

hereby apply for the approval of a land development area on the land described herein and submit the particulars that appear hereafter.

If applicable, the applicant may include an application for the approval of a registration arrangement in this application. In this case the applicant should attach to this application an application substantially in the form of Annexure G to the Regulations.

Date _____

Place _____

Signature of Applicant

*Delete whichever is not applicable.

1. DOCUMENTS FORMING PART OF THE APPLICATION

(1) The following documents are filed with the designated officer in support of the application:

- (a) A layout/settlement plan of the proposed land development area. YES/NO
- (b) A memorandum in support of the application, setting out all relevant facts and circumstances - and specifically including a report on -
 - whether the application should be prioritised on the basis that delays are likely to adversely affect the ability of intended beneficiaries to afford sites or housing units or are likely to affect a substantial number of persons or persons with particularly pressing needs; YES/NO
 - the manner in which communities and/or persons affected by the land development and persons who may settle on such land, will participate and be consulted or have participated and been consulted, and the outcome of such consultation in the process of the establishment of a land development area, YES/NO
 - a scoping report of the impact of the development on the environment as set out in regulation 31. YES/NO
 - any laws and restrictive conditions the applicant will ask the Tribunal to suspend and the steps taken by the applicant, if any, in terms of any other applicable law for the removal of such a condition or the obtaining of any exemption from such law; YES/NO
 - the extent to which the development complies with the principles set out in Chapter 1 of the Act. YES/NO
 - the extent to which, if applicable, the development complies with the land development objectives (Chapter IV of the Act) applicable in the area; YES/NO
- (c) A copy of the title deed(s) and diagram(s) to the land, YES/NO
- (d) A copy of every deed of servitude relating to the land (only if not covered by certificate in terms of subparagraph (o)); YES/NO

- (e) A copy of every mortgage bond(s) relating to the land together with the bondholder's consent if applicable (only if not covered by certificate in terms of subparagraph (o)). YES/NO
- (f) A copy of every certificate of mineral rights and cession thereof, together with the mineral rights holder's consent, if applicable (only if not covered by certificate in terms of subparagraph (o)); YES/NO
- (g) The owner's consent and/or power(s) of attorney, if applicable; YES/NO
- (h) A copy of the land availability agreement, if any. YES/NO
- (i) A copy of the services agreement, if already concluded. YES/NO
- (j) A social compact agreement, if applicable; YES/NO
- (k) Documentation regarding the provision of community facilities and the responsibilities of public authorities in this regard; YES/NO
- (l) 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
- (m) A floodline certificate indicating whether the land is or is not subject to a 1 in 50 year flood; YES/NO
- (n) An initial geo-technical report as set out in regulation 30; YES/NO
- (o) A certificate from a conveyancer indicating who the registered owner of the land is, the conditions of title or servitude(s) recorded in the title deed(s) that affect the proposed land development, as well as the mortgage bonds registered against the property; YES/NO
- (p) Application for a registration arrangement substantially in the form of Annexure G, if applicable. YES/NO
- (2) If any of the documents referred to in 1(1) are considered not to be applicable reasons must be given (lengthy explanations can be attached as annexures)

- (3) Other documents attached (the application may be supported by such other documents as appropriate).

2. SPECIFIC INFORMATION REGARDING PROPOSED LAND DEVELOPMENT AREA

- (1) Name of proposed land development area:

- (2) The deed description of every portion of the land on which the proposed land development area is to be established:

- (a) Title Deed No.: _____
- (b) Title Deed No.: _____
- (c) Title Deed No.: _____

- (3) Full name(s) of registered owner(s) of the land: _____

- (4) The land is/is not* mortgaged and particulars of the relevant mortgage bonds are as follows:
 - (a) Property: _____
 - (i) Bond No. _____ in favour of _____
 - (ii) Bond No. _____ in favour of _____
 - (iii) Bond No. _____ in favour of _____

 - (b) Property: _____
 - (i) Bond No. _____ in favour of _____
 - (ii) Bond No. _____ in favour of _____
 - (iii) Bond No. _____ in favour of _____

- (5) Mineral rights have/have not* been severed from the ownership of the land and are held by:
 - _____ under Certificate No. _____
 - _____ under Certificate No. _____
 - _____ under Certificate No. _____

- (6) A lease of the rights to minerals has/has not* been granted/the particulars of which are as follows:*
 - _____
 - _____

- (7) A prospecting contract has/has not* been entered into, the particulars of which are as follows:*
 - _____
 - _____

- (8) The proposed land development area-
 - (a) is situated within the local government body area of
 - (b) adjoins the following local government body areas:
 - _____

- (9) The proposed land development area falls within the area of the _____ town planning scheme/does not fall within the area of any town planning scheme.*

- (10) Proposed land use(s) (the following are examples only) in a land development area excluding small-scale farming in terms of Chapter V of the Act and total number of erven for each use (if applicable). A layout plan indicating the uses assigned to portions or percentages of land may be attached if land is not to be subdivided. Note: If the Interim Land Use Conditions set out in Annexure J to the Development Facilitation Regulations will be used, the following categories should be changed to correspond to Annexure J. Similarly, if an existing zoning scheme is to be extended also to apply to the land development area, the following categories must be amended to correspond to the categories in the zoning scheme.

Erven Nos. (on Layout Plan) Total No.

- Residential _____
- Business _____
- Industrial _____
- Community facility _____
- Municipal _____
- Undetermined _____
- Public open space _____
- Other _____

(11) Proposed land use(s) (the following are examples only) in a land development area including small scale farming in terms of Chapter VI of the Act and total number of erven for each use (if applicable). A settlement plan indicating the uses assigned to portions or percentages of land may be attached if land is not to be subdivided:

Erven Nos. (on Layout Plan) Total No.

- Residential _____
- Arable _____
- Grazing _____
- Community facility _____
- Local Government _____
- Undetermined _____
- Public open space _____
- Conservation areas _____
- Burial grounds _____
- Other _____

(12) The land on which the land development area will be established
 *has been made available to the land development applicant by

_____ and the conditions on which the land has been made available are contained in a land availability agreement, a copy of which is attached to this application/has been lodged with the designated officer for approval on (state the date)*

OR

*will be developed by the land development applicant on behalf of

_____ (insert full name of owner) by virtue of a power of attorney, a copy of which is attached to this application

OR

*will be developed by the land development applicant on the land of

_____ (insert full name of owner) in the land development applicant's own name by virtue of a consent granted by the abovementioned owner, a copy of which is attached to this application

*Delete whichever is not applicable.

PART III: CONDITIONS OF ESTABLISHMENT

The tribunal will use this part of the application as the basis for imposing the conditions of establishment in terms of section 33(2) or 51(2) of the Act.

3. PROPOSED CONDITIONS OF ESTABLISHMENT FOR THE LAND DEVELOPMENT AREA

(The conditions stated below are guidelines only and the land development applicant may suggest amended and/or different conditions in appropriate cases.)

(1) Provision and installation of services

The land development applicant and the relevant local government body shall provide and install the services in the land development area, as provided for in the attached services agreement in terms of section 40 of the Act and regulation 19 of the Development Facilitation Regulations.

(2) Open space endowment

The land development applicant shall pay/contribute _____ in lieu of providing public open spaces.

(3) Provision of streets, parks and other open spaces

The land development applicant shall provide the following erven and or portions of land to be used as streets, parks or other open spaces:

(4) Suspension of existing conditions of title

The following conditions of title and servitudes are suspended in respect of the land development area, upon notice of this condition being given in the Provincial Gazette, or if a later date is stated in such notice, from such later date (the land development applicant must in a separate memorandum list the conditions which it is sought to suspend and steps taken by the applicant in terms of any applicable law for the suspension of such conditions):

(5) Imposition of servitudes

The following servitudes are to be registered in respect of the land on which a land development area is to be established:

(6) Building standards (if any)

The following building standards will apply in respect of the development:
OR

Although the following building standards will not apply the land development applicant is still required to submit and have approved building plans in respect of the proposed buildings in accordance with the alternative standards set out below:

(7) Application of zoning scheme or other measures

The following zoning scheme or other measure for regulating land use will apply in the land development area (the land development applicant may propose amendments to the above zoning scheme or other measure for application in the land development area):

OR

The land use conditions set out in Annexure L to the Regulations will apply (the land development applicant may propose amendments to the above prescribed land use conditions for application in the land development area.):

Until the zoning scheme for _____ (state existing scheme name) has been extended to apply to the land development area, whereupon Annexure L shall cease to apply.

(8) Applicability of certain laws

The operation of the following laws dealing with land development shall be suspended in respect of the land development (The land development applicant must in a separate memorandum substantiate the reasons why suspension is sought in respect of the laws and describe any steps, including steps aimed at obtaining any consent or approval, already taken by it in terms of these laws):

(a) sections 9A and 11 of the Advertising on Roads and Ribbon Development Act, 1940 (Act No. 21 of 1940).

(b) the following laws on physical planning:

(c) section 49 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);

(d) the following law requiring the approval of an authority for the subdivision of land:

(e) the following law requiring the provision of a receipt, certificate or any other document by a local government body, public revenue officer or other competent authority, as a prerequisite to the transfer of land in a land development area:

(f) the following law relating to land development which has a dilatory effect on the development of the land development area:

- _____
- (9) Provision of education and other community facilities

The land development applicant shall set aside/provide the following erven or portions of land as educational and/or community facilities:

- (10) Subdivision (if applicable)

Where the land in the proposed land development areas is not to be subdivided, the following provisions of the Act shall not apply.:

- (11) Ownership and administration (if applicable)

The land in the land development area is to be held by the following persons or other legal body subject to the following conditions: (if appropriate a copy of the trust deed or other founding documents may be attached)

- (12) Environmental conservation

The land development applicant will undertake to do the following in terms of regulation 31 of the Development Facilitation Regulations:

- (13) Consolidation of component portions

The land development applicant shall in the event of the area shown on the layout plan or settlement plan approved as part of the relevant land development application comprising more than one piece of land, show that all such pieces of land are owned by one person or body or all such owners have granted a power of attorney in favour of the same person or body, including one of such owners, authorising the latter to transfer initial ownership on their behalf.

- (14) General _____

ANNEXURE C

FORM OF NOTICE TO BE GIVEN TO PERSONS OR BODIES

[Regulation 21(6) of the Development Facilitation Regulations in terms of the Development Facilitation Act, 1995]

NOTICE TO:

_____ (name of individual person working for organisation)
 _____ (name of organisation)
 _____ (full address where notice is to be served)

NOTICE OF LAND DEVELOPMENT AREA APPLICATION

_____ (provide name and address of the land development applicant) has lodged an application for a land development area in terms of the Development Facilitation Act, 1995.

The application is for the development of the following land:

_____ (state description of property)

and will consist of the following:

(insert brief description of the proposed development, including proposed land uses, the target community and the number and density of proposed residential units, if any)

The application will be considered at a Tribunal hearing to be held at

_____ on _____ at _____ and the prehearing conference will be held at _____ on _____ at _____

Please note that in terms of the Development Facilitation Act, 1995:

1. You must within 21 days from the date of this notice, provide the designated officer with written representations in support of the application, or any other written representations you wish to make not amounting to an objection, in which case you are not required to attend the tribunal hearing, or
2. If your comments constitute an objection to any aspect of the land development application, you or your representative must appear in person before the tribunal on the date mentioned above, or on any other date of which you may be given notice.

In terms of the Development Facilitation Act, 1995 this notice has the effect of a subpoena and failure to comply with this notice constitutes a criminal offence.

Any written objection or representation must state the name and address of the person or body making the objection or representation, the interest that such person or body has in the matter and the reasons for the objection or representation, and must be delivered to the designated officer at his or her address set out below within the said period of 21 days.

The relevant plan(s), document(s) and information are available for inspection at _____ for a period of 21 days from _____ (insert date of first publication of this notice in the newspaper)

If you have any queries contact the designated officer at the following address, telephone and fax no.: _____

ANNEXURE D**FORM OF NOTICE TO BE PUBLISHED IN NEWSPAPER**

[Regulation 21(10) of the Development Facilitation Regulations in terms of the Development Facilitation Act, 1995]

(Name of land development applicant) has lodged an application in terms of the Development Facilitation Act for the establishment of a land development area on _____ (state description of property)

The development will consist of the following: _____
 (insert brief description of the proposed development)

The relevant plan(s), document(s) and information are available for inspection at _____ for a period of 21 days from _____ (insert date of first publication of this notice).

The application will be considered at a tribunal hearing to be held at _____ on _____ at _____ and the prehearing conference will be held at _____ on _____ at _____

Any person having an interest in the application should please note:

1. You may within a period of 21 days from the date of the first publication of this notice, provide the designated officer with your written objections or representations; or
2. If your comments constitute an objection to any aspect of the land development application, you must appear in person or through a representative before the Tribunal on, the date mentioned above.

Any written objection or representation must be delivered to the designated officer at _____ and you may contact the designated officer if you have any queries on telephone no. _____ and fax no. _____ -

ANNEXURE E

IN THE DEVELOPMENT TRIBUNAL FOR [insert name of Province, etc]

Reference number _____

IN THE APPLICATION OF:
 [Name of Applicant]

in respect of the land known as _____ [state description of property]

APPLICATION FOR EXEMPTION

Application in terms of Regulation 24 of the Development Facilitation Regulations in terms of the Development Facilitation Act, 1995

To: The Tribunal

I/We, the applicant in terms of section 30 or 48 of the Act, being -

- * the owner of the land or a person acting on behalf of the owner,
 OR
- * a local government body.
 OR
- * another interested person or body (describe your interest in the land or the development)

hereby apply for exemption from the following provisions of Chapter V or VI of the Act, as the case may be:

1. _____
2. _____
3. _____

In support of the application an application for the establishment of a land development area substantially in the form of the relevant parts of Annexure B to the Development Facilitation Regulations is attached whereon the exemptions that are sought are indicated. [If an application cannot be attached, by virtue of the nature of the exemption sought or for any other reason, provide an explanation]

The exemptions listed above are sought for the following reasons:

Dated at _____ on _____ 20_____

 Applicant

ANNEXURE F

IN THE DEVELOPMENT TRIBUNAL FOR [insert name of Province, etc]
 Reference number _____

IN THE APPLICATION OF:
 [Name of Applicant]
 in respect of the land known as _____ [state description of property]

**REQUEST FOR INVESTIGATION OF NON-STATUTORY LAND DEVELOPMENT
 PROCESS**

Regulation 25 of the Development Facilitation Act Regulations in terms of the Development Facilitation Act, 1995

Applicant's Name _____
 Applicant's Address _____
 Applicant's Tel. No. _____
 Applicant's Facsimile No. _____
 Contact Person _____

I/We the undersigned, being
 * a local government body.
 OR
 * another interested person or body (describe your interest in the land or the development)

hereby request the designated officer in terms of section 42 or 57 of the Act to investigate a non-statutory land development process. in respect of land situated at _____ (state description of property).

I/We believe that:

- * such activities are performed in contravention of the procedures set out in the Act or in any other law; or
- * it is in the interests of the persons residing or who will reside on such land and in the public interest that an exemption under section 30(1) of the Act be granted

on the following grounds (set out the facts and circumstances on which you base your belief):

The applicant must provide information in relation to the following matters in as far it may be relevant in the particular circumstances in order to assist the designated officer in reporting to the tribunal:

- (a) the health or safety of the public generally, or of any class of persons including persons residing in the area concerned.
- (b) the feasibility of providing rudimentary services and of the upgrading of such services over a period of time.
- (c) the feasibility of housing persons in temporary buildings erected by themselves in the area.
- (d) the feasibility of the development of appropriate community facilities and services.
- (e) the suitability of the area for residential settlement taking into account its location in relation to employment and transport facilities.
- (f) the feasibility of providing occupants of the area with appropriate security of land tenure;
- (g) the feasibility of developing permanent dwellings over a period of time.
- (h) the feasibility of establishing an appropriate local government body or to include the area within the local government area of such a body and of providing municipal services for the area.
- (i) the possibility of persons settling in the area being able to acquire sites which are affordable to them, taking into account their likely income and other means of finance including finance provided by the State.
- (j) the feasibility of the area being fully established as a land development area over a period of time.
- (k) the rights of any person in or in respect of the area and, where applicable, the feasibility of such area or rights being expropriated or otherwise acquired for the purpose of establishing a land development area;
- (l) the environmental sustainability of developing the area;
- (m) any similar matter that may be considered appropriate.

*Delete whichever is not applicable

Dated at _____ on _____ 20_____

Applicant(s)

ANNEXURE G

IN THE DEVELOPMENT TRIBUNAL FOR [insert name of Province, etc]

Reference number _____

IN THE APPLICATION OF:

[Name of Applicant]

in respect of the land known as _____ [specify the land in short]

APPLICATION FOR APPROVAL OF A REGISTRATION ARRANGEMENT

Application in terms of regulation 27 of the Development Facilitation Regulations in terms of the Development Facilitation Act, 1995

To: The Designated Officer

I/We the undersigned being the Land Development Applicant

hereby apply for the approval of a registration arrangement in terms of section 61 of the Act in respect of the land development area called _____ Reference No. _____ in respect of which the land development application was approved/will be considered on by the tribunal, sitting at _____

The following documents are submitted in support of the application (the following are examples only.):

1. A copy of the approved layout plan and/or a copy of the approved diagram of the outside perimeter (if applicable).
2. A copy of a surveyor's certificate confirming that beacons have been placed in accordance with the layout plan.
3. A guarantee as required by section 38(2)(d)(i) and the necessary powers of attorney and other necessary documents.
4. If applicable, a copy of the notice in the Provincial Gazette suspending the operation of servitudes or other restrictive conditions.
5. In the event of area shown on the layout plan comprising more than one piece of land and having different owners, powers of attorney granted by all the owners in favour of the same

person or body being one of such owners authorising the latter to transfer initial ownership on their behalf, must be submitted.

6. A copy of a consent from the mortgagee in respect of land falling within the land development area to the cancellation of or release from the mortgage bond of the relevant sites.

(If the land development applicant is the State or a local government body or a person or body with whom the State has concluded a land availability agreement and the State or local government body have not yet acquired transfer of the land, proof must be supplied that the land has been expropriated in favour of the State or local government body as contemplated in section 61 (2)(c) of the Act).

Dated at _____ on _____ 20____

Applicant(s)

ANNEXURE H

CONVEYANCER'S CERTIFICATE

(in terms of Section 61 (4)(b) of the Development Facilitation Act, 1995)

I the undersigned _____ (state full name) a conveyancer practicing as such at _____ (state business address)

do hereby certify that:

1. I and/or the legal practice of which I am a partner or director or by which I am employed have sufficient professional indemnity insurance to cover any loss or damage suffered by any third party arising from any fact or circumstance certified in terms hereof being incorrect and in respect of which I may be professionally liable by virtue of the provisions of Sections 61(5) and Section 43(1) of the Development Facilitation Act, 1995 ("the Act").
2. I acknowledge that by virtue of the provisions of Section 61(5) and Section 43 of the Act I accept the responsibility and any liability for the accuracy of the facts mentioned in this certificate.
3. With regard to the application by _____ (state name of development applicant) for the approval of a registration arrangement in terms of Section 61 of the Act in respect of _____ ("the land development area") (state description of property) -

[The following are merely examples of the circumstances that may lead to the required opinion set out in 5 below. Naturally, they may in particular circumstances not justify such an opinion. Therefore, the conveyancer must in this paragraph state the actual reasons why he/she holds the opinion in 5.]

- (a) the designated officer has certified that:
 - (i) a land development application in respect of the property has been approved by the Tribunal;

- (ii) he/she is in possession of a guarantee and accompanying powers of attorney and other documents in the prescribed form as described in section 38 (2)(d)(i) and (ii) of the Act.
 - (b) a diagram corresponding to the outside perimeter of the layout plan has been approved by the Surveyor-General.
 - (c) beacons in respect of individual erven have been placed by a surveyor in accordance with the layout plan.
 - (d) a condition of establishment having the effect of suspending the operation of servitudes or other restrictive conditions has been published in the Provincial Gazette and has come into effect.
 - (e) where there is more than one owner of the land within the land development area, the owners have granted a power of attorney in favour of the same body including one of such owners, authorising the latter to transfer initial ownership on their behalf.
 - (f) any mortgagee in respect of land shown on the layout plan has consented to the cancellation of the mortgage bond or the release of the relevant properties shown on such layout plan from the operation of such bond;
 - (g) if the land development applicant is the State or a local government body or a person or body with whom the State or local government body has concluded a land availability agreement subject to a suspensive condition that the State or local government body concerned becomes the owner of the land, and if the State or local government body concerned has not yet acquired transfer of the relevant land that such land has been expropriated in favour of the State or such local government body by any competent authority.
 - (h) Any conditions imposed in terms of section 61(3) of the Act required to be fulfilled prior to the issuing of this certificate have been fulfilled.
4. I therefore certify that the following are the only registrable transactions required to be registered in a deeds registry before the properties in the land development area will become capable of being transferred in ownership as contemplated in Section 38(1) of the Act (state registrable transactions to be registered):

(For Example)

(1) The consolidation of the following erven:

- (a) _____
- (b) _____

(2) The subdivision of the following erven:

- (a) _____
- (b) _____

(3) A subdivision register is to be opened in respect of the land development area.

5. I am of the opinion, in the light of the above mentioned circumstances that there is no substantial risk that such erven will not become so registrable or transferable.

6. I have made due enquiry, and, insofar possible, have personally verified all the relevant facts and circumstances.

DATED at _____ on _____ 19_____

CONVEYANCER

ANNEXURE I

PROFESSIONAL LAND SURVEYOR'S CERTIFICATE

(in terms of section 61 (4)(a) of the Development Facilitation Act, 1995)

I, the undersigned _____ (state full name) a professional land surveyor practicing as such at _____ (state business address) do hereby certify that:

1. I and/or the surveying practice of which I am a partner or director or by which I am employed have sufficient professional indemnity insurance to cover any loss or damage suffered by any third party arising from any fact or circumstance certified in terms hereof being incorrect and in respect of which I may be professionally liable by virtue of the provisions of Sections 61(5) and Section 43(1) of the Development Facilitation Act, 1995 ("the Act").
2. I acknowledge that by virtue of the provisions of Section 61(5) and Section 43 of the Act I accept the responsibility and any liability for the accuracy of the facts mentioned in this certificate.
3. With regard to the application by _____ (state name of development applicant) for the approval of a registration arrangement in terms of Section 61 of the Act in respect of _____ ("the land development area") (state description of property) -

[The following are merely examples of the circumstances that may lead to the required opinion set out in 4 below. Naturally, they may in particular circumstances not justify such an opinion. Therefore, the land surveyor must in this paragraph state the actual reasons why he/she holds the opinion in 4.]

- (a) the designated officer has certified that:
 - (i) a land development application in respect of the property has been approved by the Tribunal.
 - (ii) he/she is in possession of a guarantee and accompanying powers of attorney and other documents in the prescribed form as described in section 38(2)(d)(i) and (ii) of the Act
- (b) a diagram corresponding to the outside perimeter of the layout plan has been approved by the Surveyor-General.
- (c) beacons in respect of individual erven have been placed by a surveyor (note: if the relevant professional land surveyor placed the beacons personally, this should be stated) in accordance with the layout plan

- (d) a condition of establishment having the effect of suspending the operation of servitudes or other restrictive conditions has been published in the Provincial Gazette and has come into effect
 - (e) where there is more than one owner of the land within the land development area, the owners have granted a power of attorney in favour of the same body including one of such owners, authorising the latter to transfer initial ownership on their behalf.
 - (f) any mortgagee in respect of land shown on the layout plan has consented to the cancellation of the mortgage bond or the release of the relevant erven shown on such layout plan from the operation of such bond.
 - (g) if the land development applicant is the State or a local government body or a person or body with whom the State or local government body has concluded a land availability agreement subject to a suspensive condition that the State or local government body concerned becomes the owner of the land, and if the State or local government body concerned has not yet acquired transfer of the relevant land, that such land has been expropriated in favour of the State or such local government body by any competent authority.
4. I am of the opinion, in the light of the above mentioned circumstances that there is no substantial risk that a general plan will not be approved accordingly.
5. I have made due enquiry and insofar possible, have personally verified all the relevant facts and circumstances.

DATED at _____ on _____ 19_____

PROFESSIONAL LAND SURVEYOR

ANNEXURE J

IN THE DEVELOPMENT APPEAL TRIBUNAL FOR [Insert the name of the Province, etc]

Reference number _____

The Tribunal Registrar

IN THE APPLICATION OF:

[Name of Applicant]

in respect of the land known as _____ [state the description of the property

NOTICE OF APPEAL

Take notice that the appellant intends appealing at a date, time and place determined by the Tribunal Registrar against the *whole decision/part of the decision or order of the Development Tribunal (specify)

The appeal is based on the following grounds [set out each ground succinctly]

and take note that the appellant appoints _____ as appellant’s representative in this matter.

Take note also that the appellant will accept service of all documents on the above matter at the *appellant’s address/address of the offices of the appellant's representative, which is set below:

*(delete whichever is not applicable)

SIGNED and dated at _____ this _____ day of _____

APPELLANT/REPRESENTATIVE

ANNEXURE K

IN THE DEVELOPMENT TRIBUNAL FOR [insert the name of the province]

Reference number _____

IN THE APPLICATION OF:

[name of applicant]

in respect of land known as _____ [state description of property]

SUBPOENA

[state name, occupation and place of business and residence of persons being required to appear]

- (1) _____
- (2) _____
- (3) _____
- (4) _____

BE INFORMED:

that you are hereby required to appear in person before this tribunal at _____ on _____ of _____ at and thereafter to remain in attendance until excused by the Tribunal in regard with all matters within our knowledge relating to the matter pending in the Tribunal wherein the applicant is seeking _____

AND FURTHER BE INFORMED TO bring and produce to the Tribunal the following:

[insert accurately the document, book or thing to be produced]

- (1) _____
- (2) _____
- (3) _____

AND FURTHER BE INFORMED that should you on any account neglect to comply with any provisions of this subpoena you may render yourself liable to a fine of up to R2000-00 and/or to imprisonment of up to six months.

SIGNED AND DATED AT _____ THIS _____ DAY OF _____

TRIBUNAL REGISTRAR

ANNEXURE L

LAND USE CONDITIONS

GENERAL

1. DEFINITIONS:

In these conditions, unless the context otherwise indicates -

Building includes a construction or structure of any nature;

Business Purposes means the use of a building and/or land for offices, showrooms, restaurants or any other business or commercial purposes other than for a place of instruction, a shop, a public garage, an industry, a noxious industry, a builder's yard or a scrapyards.

Coverage means the area of a property covered by buildings measured over the external walls as seen vertically from above and expressed as a percentage of the area of the property;

Dwelling unit means an interconnected suite of rooms, designed for human habitation that may contain a kitchen or scullery;

Floor area means the sum of the areas covered by the building at the floor level of each stores.

Industry means an activity on any premises amounting to the use of such premises as a factory as contemplated in the definition of that word in the General Administrative Regulations made in terms of Section 35 of the Machinery and Occupational Safety Act, 1983) [Act 6 of 1983], under Government Notice R2206 of 5 October 1984.

Institution means a building designed or primarily used as a charitable institution, hospital, nursing home, sanatorium, clinic or any other institution, whether public or private.

Noxious Industry includes any industry or form of trade that by virtue of noise or effluents is dangerous or harmful to the health and welfare of the general public, such as but not limited to smelting ores and minerals, works for the production of sulphur dyes, or the sintering of sulphur bearing materials.

Occupant in relation to any building, structure or land, includes any person occupying such building, structure or land or legally entitled to occupy it or anybody having the charge or management thereof and includes the agent of such a person who is absent from the area or whose whereabouts are unknown,

Owner in relation to a building or land means -
[a] the registered owner

- [b] a person who administers the estate of any person mentioned in [a] above whether as executor, administrator or guardian or in any other capacity.
- [c] a person who receives payment from any occupant, or a person who would receive payment should such building or land be let, whether for his own account or as agent for any person who is entitled thereto or who has an interest therein: and
- [d] the duly authorised agent of a person contemplated in [a] to [d] above;

Place of Instruction means land used or a building designed or primarily used as a school, technical college, lecture hall, institute or other educational centre, and includes a creche, a convent or monastery, a public library, an art gallery, a museum and a gymnasium.

Place of public worship means a building designed for use or primarily used as a church, chapel, oratory, house of worship, synagogue, mosque or other place of public devotion and includes a building designed for use and used as a place of religious instruction and an institution on the same property as and associated with any of the afore going buildings that is intended to be used for social intercourse and recreation, but does not include a funeral chapel which shall be deemed to be a "special purpose";

Property means any portion of land that is registered as a separate unit in a deeds registry.

Public Garage means a building designed for or land used primarily for the maintenance, repair or fuelling of vehicles and purposes ancillary thereto.

Residential building means a building designed or used primarily for human habitation and the uses permitted in terms of paragraph 8, which may include one or more dwelling units;

Responsible Authority means the authority referred to in paragraph 3,

Shop means land used or a building designed or used primarily for the purposes of carrying on retail trade and the necessary accompanying storage and packaging, and includes any accompanying use on the same site that is incidental and subordinate to the conduct of the retail trade;

Social hall means a building designed for use or used primarily for social assemblies, gatherings, meetings or recreational purposes

Special Purposes means purposes for which land or buildings may be used that are not specified in these conditions.

Storey means the space in a building between one floor level and the following floor level or between one floor level and the ceiling or roof above,

Use zone means a zone that is subject to the restrictions imposed on the erection and use of buildings or the use of land contained in Table A.

2. APPLICATION OF DOCUMENT

- 2.1 These conditions shall apply to any property within the area indicated on the layout plan.
- 2.2 The provisions of these conditions shall not render unlawful any existing building that has been lawfully erected in accordance with approved buildings plans : Provided that alterations other than minor alterations, or a change of use of such building shall be effected in accordance with these conditions.

3. RESPONSIBLE AUTHORITY

The local authority, or, if there is no such local authority, the person or body responsible for the control of the relevant land shall be the authority responsible for enforcing and administering the provisions of these conditions.

SIDE AND REAR SPACE

4. SIDE AND REAR SPACE

4.1 No building other than boundary walls, fences or temporary buildings that are required in connection with building operations being conducted on the property shall be erected without a space free of any building or structure, between it and one of the side boundaries and also between the building and the rear boundary of the property.

4.2 The space at the side of the building shall be a minimum of one metre wide.

4.3 The space at the rear of the building shall be a minimum of one metre wide.

5. RELAXATION OF SIDE AND REAR SPACE

5.1 On receipt of a written application, the responsible authority may permit the erection of a building within the side or rear space.

5.2 Any permission granted in terms of paragraph 5.1 shall be valid for the life of the building concerned.

BUILDING RESTRICTIONS AND USE OF LAND

6. ERECTION AND USE OF BUILDING OR USE OF LAND

The purposes for which buildings and land in each of the use zones specified in column I of Table A may -

6.1 be erected and/or used.

6.2 be erected and/or used only with the consent of the responsible authority, or

6.3 not be erected and/or used.

are shown in the second, third and fourth columns of Table A respectively.

TABLE A

USE ZONE	PERMITTED USES	USES PERMITTED ONLY WITH THE CONSENT OF THE RESPONSIBLE AUTHORITY	PROHIBITED USES
[1]	[2]	[3]	[4]
Residential	Residential buildings	Places of public worship, places of instruction, social halls, sports and	Uses not under column [2] or [3]

		recreational purposes, institutions, medical suites, special purposes	
Business	Shops, business purposes, residential buildings, places of public worship, place of instruction, social halls, sports and recreational purposes, institutions	Uses not under column [2] or [4]	Noxious industries
Industrial	Industry, business purposes, shops, public garages, scrapyards, parking areas	Noxious industries, special purposes	Uses not under column [2] or [3]
Community facility	Places of public worship, places of instruction, social halls, sports and recreational purposes, institutions	Residential buildings, special purposes	Uses not under column [2] or [3]
Municipal	Municipal purposes	Residential buildings, special purposes	Uses not under column [2] or [3]
Undetermined	Nothing	Uses not under column [4]	Noxious industries.
Public open space	Parks, sports and recreational facilities and buildings used in connection therewith	Residential buildings, special purposes	Uses not under column [2] or [3]

7. CONDITIONS APPLICABLE TO ALL PROPERTIES

7.1 Except with the written consent of the responsible authority, and subject to such conditions as it may impose neither the owner nor any other person shall

7.1.1 have the right except to prepare the erf for building purposes, to excavate any material therefrom,

7.1.2 have the right to sink any wells or boreholes thereon or abstract any subterranean water therefrom.

7.2 Where it is impracticable for stormwater to be drained from higher lying properties direct to a public street, the owners of the lower-lying properties shall be obliged to accept and permit the passage over their properties of such stormwater : Provided that the owner of any higher-lying property the stormwater from which is discharged over any lower-lying property shall be liable to pay a proportionate share of the cost of any pipeline or drain that the owner of such a lower-lying property may find necessary to lay or construct for the purpose of conducting the water so discharged over the property.

7.3 The siting of buildings including outbuildings, on any property and of entrances to and exits from a public street system shall be to the satisfaction of the responsible authority.

7.4 The owner shall be responsible for the maintenance of the entire development on the property.

8. ADDITIONAL USES PERMITTED IN RESPECT OF RESIDENTIAL PROPERTIES

8.1 The number of dwelling units and the size of a residential building that may be erected on a property shall be limited only by the height and coverage provisions of these conditions and by any applicable health and building regulations.

8.2 The occupants of a residential building may practise, inter alia, their social and religious activities and their occupations, professions, or trades, including retail trade, or the property on which such residential building is erected: Provided that -

8.2.1 the dominant use of the property shall remain residential;

8.2.2 the occupation, trade or profession or other activity shall not be noxious; and

8.2.3 the occupation, trade or profession shall not interfere with the amenity of the neighbourhood.

8.2.4 the practise of the occupation, trade or profession shall not be inconsistent with the land uses provided for in Table A.

9. SPECIAL CONDITIONS APPLYING TO PUBLIC GARAGES

9.1 Nothing shall be stored and no repairs of any nature to vehicles or equipment shall be undertaken in a public garage, except in an area that is screened to the satisfaction of the responsible authority for such purposes.

9.2 The responsible authority may relax the restriction contained in paragraph 9.1 in a case where the property is adjacent to or surrounded by industrial uses.

10. CONSENT USE OR APPROVAL BY THE RESPONSIBLE AUTHORITY

10.1 Any application to the responsible authority for the approval of a consent use in respect of the relevant property that is listed in column 3 of Table A, shall be made by the owner of the land or building to which the application relates Provided that the provisions of this paragraph and of paragraphs 11 and 12 shall not apply to any application to or approval or consent by the responsible authority for any purposes in terms of these conditions other than those contemplated in column 3 of Table A.

10.2 The power of the responsible authority to grant its consent in terms of paragraph 10.1 shall include the power to refuse consent or approval and, if consent has been granted the power to impose any conditions that it may deem fit.

10.3 If the owner of the relevant property is in breach of a condition upon which any consent was granted by a responsible authority as contemplated in paragraph 10.2, the responsible authority may serve a notice upon such owner or the occupant of the property concerned calling on him to remedy such breach. and if the relevant breach is not remedied as required in such notice such consent may be terminated by the responsible authority concerned.

10.4 The notice referred to in paragraph 10.3 shall require that the breach be remedied within a specified period.

10.5 Any applicant who feels aggrieved by any decision of the responsible authority as contemplated in this paragraph may appeal to the tribunal within twenty-eight days of the decision : Provided that, if the responsible authority refuses to give a decision on any application or delays unreasonably in given a decision, the applicant may appeal to the tribunal as if he were appealing against a decision of the responsible authority.

11. APPLICATION FOR CONSENT USE AND OBJECTIONS

11.1 Any owner intending to apply to the responsible authority for its consent as contemplated in paragraph 10.1 shall, prior to the submission of such application -

- 11.1.1 affix, display and maintain a notice of such application on the land or building to which it applies for a period of fourteen days; and
- 11.1.2 give fourteen days written notice to the owners of adjacent properties and of the properties directly across the street from the property that forms the subject of the application.
- 11.2 A notice referred to in paragraph 11.1 shall state that any person having any objection to the application may lodge such objection in writing with the responsible authority and with the applicant within fourteen days after the date of the last day on which the notice was displayed.
- 11.3 Proof of the display of the notice contemplated in paragraph 11.1.1 and a list of the owners contemplated in paragraph 11.1.2 and their address shall accompany the application to the responsible authority.
- 11.4 The responsible authority shall consider any objections received within the fourteen-day notice periods contemplated in paragraph 11.1 and shall, within 60 days after the expiry of such notice periods, notify the application and the objectors, if any, of its decision by delivering a copy of such decision to the persons concerned.
- 11.5 A decision by the responsible authority contemplated in paragraph 11.4 shall not take effect until the letters of notification to the applicant and objectors have been received by such persons as contemplated in paragraph 11.4 or if an appeal is lodged in terms of paragraph 10.5, until a decision has been reached in respect of such appeal.

12. LAPSING OF CONSENT

If the rights obtained by virtue of the grant by the responsible authority of a consent in terms of paragraph 10 are not exercised within twenty-four months of the grant of such consent, or if the rights have been exercised but the use permitted thereunder is interrupted for a continuous period of eighteen months, the relevant consent shall lapse, unless any condition upon which such consent was granted specifically provides otherwise or the owner proves to the satisfaction of the responsible authority that he intends to resume the exercise of his rights.

13. SUBDIVISION AND CONSOLIDATION OF PROPERTIES

No property shall be subdivided or consolidated except on condition that

- [a] A general plan approved by the Surveyor-General, may be amended or partially or totally cancelled by the Surveyor-General on the land shown on such general plan may be consolidated or subdivided, on such terms and conditions as the tribunal/Minister/MEC may approve or direct.
- [b] The township applicant shall be responsible for submitting any application for the amendment or partial or total cancellation of a general plan referred to in regulation 23(8) of these regulations to the Surveyor-General, together with any approval or direction referred to in that regulation, and such amending general plan shall comply with the requirements of the Land Survey Act, 1997.

14. PROVISIONS OF PARKING

- 14.1 Sufficient parking space shall be provided in respect of the uses listed in Table B: Provided that such parking space shall be laid out to the satisfaction of the responsible authority.

14.2 The responsible authority may, on application by the owner of the relevant property grant permission for a relaxation of the parking requirements set out in Table B.

TABLE B

USE	SIZE AREA	MINIMUM PARKING REQUIREMENTS
Residential buildings	Less than 2 000 m ²	Nil
	2 000 m ² and over	1 Space per dwelling unit.
Shops	Less than 2 000 m ²	Nil
	2 000 to 2 999 m ²	3 spaces per 100 m ² of shopping floor area
	3 000 m ² and over	4 spaces per 100 m ² of shopping floor area.
Offices	Less than 2 000 m ²	Nil
	2 000 m ² and over	2 spaces per 100 m ² of office floor area.
Industry and business purposes	Less than 2 000 m ²	Nil
	2 000 m ² and over	1 space per 100 m ² of floor area

15. RESTRICTIONS OF HEIGHT OF BUILDINGS

15.1 Buildings erected on properties in residential use zones shall not exceed two storeys without the consent of the responsible authority.

15.2 Buildings erected on properties in use zones other than residential use zones shall not exceed three storeys without the consent of the responsible authority.

15.3 The number of storeys contemplated in this paragraph shall include the storey at ground level but shall not include basement storeys that are below ground level.

16. RESTRICTIONS ON COVERAGE OF BUILDINGS

Buildings shall not exceed the coverage specified in Table C : Provided that on written application the responsible authority may grant consent for a maximum of 10% additional coverage.

TABLE C

USE ZONE	PERMISSIBLE COVERAGE
Residential	60%
Business	70%
Industrial	70%
Community Facility	70%
Municipal Public Open Space Undetermined	To the satisfaction of the responsible authority.

GENERAL AMENITY AND CONVENIENCE

19. GENERAL AMENITY AND CONVENIENCE

19.1 Notwithstanding anything to the contrary contained in these conditions, no person shall use or develop a property in such a way as will detract from the amenity of convenience of the area within which it is located.

19.2 The provisions of this paragraph shall be enforceable by the responsible authority or any other party against any lessee or registered owner of the relevant property as contemplated in paragraph 19.1.

MISCELLANEOUS

20. SERVING OF NOTICE

Any notice required or authorised to be served in terms of these conditions shall be served in accordance with these Regulations.

ANNEXURE M

GUIDELINES TO THE STANDARD CONDITIONS FOR USES EXCLUDING TOWNSHIP ESTABLISHMENT AND PUBLIC RESORTS.

BUSINESS RIGHTS:

DISTRICT:

- *
- *
- *

- The rights granted herewith or any part thereof will lapse if any of the conditions imposed, are not complied with within 60 days after the owner of the property has been informed in writing to comply with a certain condition or conditions.
- The rights shall lapse if not exercised within a period of two years from the date of approval or within such further extended period as the tribunal may decide.
- The rights, after they have been exercised, shall lapse if discontinued for a period of twenty four (24) consecutive months.
- A site development plan shall, if required by the local authority, be drawn up to the satisfaction of the local authority and submitted for their approval prior to any building plans being submitted to the local authority. No buildings may be erected on the property before the site development plan has been approved. The whole development shall be in accordance with the approved development plan, provided that the plan may from time to time be amended with the written consent of the local authority.
- The placing of buildings shall be to the satisfaction of the local authority.
- Effective parking places, together with the necessary maneuvering area, shall be provided on the property to the satisfaction of the local authority.
- The loading and off-loading of goods shall take place only within the boundaries of the property.
- No buildings or structures and no facilities which form part of the development (excluding access facilities, parking, lawns and gardens), shall be erected or provided within the limits of any building line which may be applicable.
- Fencing and/or screening of the site as and when required by the local authority, shall be erected and maintained at the cost of the registered owner.

- The registered owner shall be responsible for the maintenance of the whole development on the property. If the local authority is of the opinion that the property or any portion of the development is not being satisfactorily maintained the local authority shall direct the owner to take such steps as the local authority deems necessary to properly maintain the property and the cost of such maintenance shall be borne by the registered owner.
- Sanitary facilities shall be provided to the satisfaction of the local authority.
- The entrances to and exits from the property shall be to the satisfaction of the local authority.
- Any conditions that may be proposed by the relevant Roads Department and imposed by the tribunal must be complied with strictly before the rights are exercised.

ANNEXURE N

GUIDELINES TO THE STANDARD CONDITIONS FOR PUBLIC RESORTS

- * Conditions proposed by various departments and parties and imposed by the tribunal shall be complied with before any rights may be exercised.
- * The requirements of the applicable standard conditions of the District Council with regard to public resorts must be strictly be adhered to.
- * Should the development be alienated by means of sectional title, shareblock scheme, timesharing or similar scheme, the District Council must be furnished with guarantees for essential services i.e. water (internal and external), sewerage (internal and external), roads and refuse removal service (waste depositing site included).
- * Personnel housing must be screened off effectively from the rest of the development.
- * Phasing of the resort development must take place to the satisfaction of the local authority.
- * The rights granted herewith or any part thereof as the tribunal may decide will lapse if-
 - (1) any of the conditions imposed, are not complied within 60 days after the owner of the property has been informed in writing to comply with a certain condition or conditions.
 - (2) any of the recreational facilities which are provided for the resort in terms of these conditions or any other arrangements as motivated in the application, are no longer accessible to the visitors to the resort.
- * The rights shall lapse if not exercised within a period of two years from the date of approval or within such further extended period as the relevant MEC may decide.
- * The rights, after they have been exercised, shall lapse if discontinued for a period of twenty four (24) consecutive months.
- * A site development plan shall, if required by the local authority, must be drawn up to the satisfaction of the local authority and submitted for their approval prior to any building plans being submitted to the local authority. No buildings may be erected on the property before the site development plan has been approved. The whole development shall be in accordance with the approved development plan, provided that the plan may from time to time be amended with the written consent of the local authority.

- * The placing of buildings shall be to the satisfaction of the local authority.
- * Effective parking places, together with the necessary maneuvering area, shall be provided on the property to the satisfaction of the local authority.
- * The loading and off-loading of goods shall take place only within the boundaries of the property.
- * No buildings or structures and no facilities which form part of the development (excluding access facilities, parking, lawns and gardens), shall be erected or provided within the limits of any building line which may be applicable.
- * Fencing and/or screening of the site as and when required by the local authority, shall be erected and maintained and such maintain at the cost of the registered owner.
- * The registered owner shall be responsible for the maintenance of the whole development on the property. If the local authority is of the opinion that the property or any portion of the development is not being satisfactorily maintained the local authority shall direct the registered owner to take such steps as it deems necessary, to bring the property to proper maintenance. The costs of such maintenance shall be borne by the registered owner.
- * Sanitary facilities shall be provided to the satisfaction of the local authority.
- * The entrances to and exits from the property shall be to the satisfaction of the local authority.
- * The owner of the resort must, to the satisfaction of the local authority, make arrangements to provide any information or any other documents which the local authority may require as proof, that the period of occupation by any visitor to the resort, does not exceed the prescribed period as stated here below.

No stand, portion of/or share in the resort, ground or building or share in the holding company which conveys right of residence for a period of longer than 30 months, may be sold, leased or alienated except with the written approval of the relevant MEC. (The restrictive conditions with regard to the above mentioned period limit of occupation are not applicable to resort personnel.)