

OFFICIAL NOTICE 9 OF 1997

15 August 1997

**PROCEDURES FOR THE FORMULATION OF LAND DEVELOPMENT OBJECTIVES
IN TERMS OF THE DEVELOPMENT FACILITATION ACT, 1995 (ACT No. 67 OF 1995)**

I, Craig Novine Martin Padayachee, Member of the Executive Council for Local Government, Housing and Land Administration, in terms of section 27 (3) of the Development Facilitation Act, 1995 (Act No. 67 of 1995), hereby determine the procedures for the formulation of Land Development Objectives as contained in the Schedule hereto.

Given under my Hand at Nelspruit this Seventh day of August, One thousand Nine hundred and Ninety-seven.

C.N.M.PADAYACHEE

Member of the Executive Council for Local Government, Housing and Land Administration

SCHEDULE

Definitions

1. In these guidelines, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Development Facilitation Act, 1995 (Act No. 67 of 1995) or the Regulations issued in terms of the Act, shall be construed to have the meaning so assigned and-

Department means the Department of Local Government, Housing and Land Administration;

District Council means a District Council as defined in the Local Government Transition Act, 1993 (Act No. 209 of 1993).,

land development objectives means land development objectives formulated by a local government body or the MEC, as the case may be, in accordance with section 27(1) and (2) of the Act;

local government body means a local government body as defined in the Act;

MEC means the Member of the Executive Council responsible for Local Government, Housing and Land Administration;

Minister means the Minister of Land Affairs;

Premier means the Premier of the Mpumalanga Province;

representative council means a representative council as defined in the Local Government Transition Act, 1993 (Act No. 209 of 1993); and

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

PART A

GENERAL PROVISIONS FOR THE FORMULATION OF LAND DEVELOPMENT OBJECTIVES

Principles for the formulation, implementation and monitoring of land development objectives

2. The formulation, implementation and monitoring of land development objectives shall take place in a manner that is consistent and compatible with the general principles as contemplated in section 3 of the Act and any such principles as may be prescribed by the Minister or Premier in terms of the Act.

Purpose of land development objectives

3. The purpose of land development objectives set by any local government body or the MEC, as the case may be, shall be-
 - (a) to create a co-ordinated system of planning for development at the provincial and local spheres of government which fosters and promotes democracy;
 - (b) to create a combined system of planning which links public expenditure to environmentally and financially sustainable development strategies which are guided by a predetermined vision and strategies as determined jointly by the government and the public at large;
 - (c) to enable efficient participation by the public in development, both at planning and implementation level, and to establish and maintain partnerships and co-operation between the different spheres of government and civil society;
 - (d) to establish and maintain co-operation and co-ordination between the different spheres of government in planning and development;
 - (e) to co-ordinate policies of all departments at the provincial and local spheres of government;
 - (f) to enable municipalities to inform and utilize their capital budgets in a more cost effective and efficient manner, within the framework of the applicable legislation, for the whole community and to provide a basis for the prioritization and co-ordination of capital projects;
 - (g) to enable the Mpumalanga Development Tribunal established in terms of section 15 of the Act, as well as municipalities to have an understanding of policies and priorities which would serve as a framework for development related activities and issues;
 - (h) to be flexible in order to cater for changing circumstances;
 - (i) to set practical goals and achievable targets with tangible benefits for the community with real impact on the budget and decision making processes;
 - (j) to support rapid delivery programmes and projects associated with the Reconstruction and Development Programme;
 - (k) to further enhance the development capacity and human and financial resources at municipal level. and
 - (l) to promote good governance.

PROCESS OF PREPARING LAND DEVELOPMENT OBJECTIVES

4. Land development objectives shall be formulated for every municipal area by the responsible local government body.
- 5(1) The body responsible for the formulation of land development objectives shall ensure that land development objectives set by itself are-
 - (a) consistent with the general principles for the setting of land development objectives as contemplated in section 3 of the Act
 - (b) consistent with the land development objectives set by local government bodies of the adjacent areas which impact on the area of jurisdiction of the relevant local government body;
 - (c) consistent with the Mpumalanga Provincial Growth and Development Strategy. and
 - (d) consistent with these procedures.
- (2) In case of areas falling within the jurisdiction of representative councils, each representative council shall formulate its own land development objectives.
- (3) The District Council shall avail the necessary resources that will enable representative councils to formulate their land development objectives.
- (4) Local government bodies may appoint any person or body to assist them to formulate land development objectives,

Co-ordination of land development objectives

- 6.(1) District Councils shall be responsible for the co-ordination of land development objectives formulated by its constituent local government bodies.
- (2) Such co-ordination shall ensure that land development objectives set by its constituent local government bodies are-
 - (a) consistent with the general principles for land development objectives as contemplated in section 3 of the Act;
 - (b) consistent with land development objectives formulated by adjacent local government bodies which impact on the area of jurisdiction of the relevant local government body;
 - (c) consistent with the Mpumalanga Provincial Growth and Development Strategy; and
 - (d) consistent with these procedures.
- (3) The MEC shall be responsible for the overall co-ordination of land development objectives formulated by all local government bodies within the Province.
- (4) Co-ordination by the MEC shall ensure that land development objectives set by local government bodies are-

- (a) consistent with the general principles for land development objectives as contemplated in the Act;
 - (b) consistent with land development objectives formulated by other local government bodies which impact on their areas;
 - (c) consistent with the national and provincial development priorities in order to achieve uniformity with the relevant policies and strategies;
 - (d) consistent with the Mpumalanga Growth and Development Strategy; and
 - (e) consistent with these procedures.
- (5) The MEC may, where necessary for the purposes of sub-regulation (3), amend the land development objectives formulated by any local government body after consultation with the particular local government body.

Failure to prepare land development objectives

- 7.(1) If a local government body fails to lodge a working plan for the formulation of land development objectives in terms of regulation 9, or fails to set land development objectives as contemplated in these regulations, the MEC shall notify the relevant local government body of his or her intention to set land development objectives as contemplated in section 27(2) of the Act.
- (2) Any expenditure incurred by the MEC in formulating land development objectives as contemplated in sub-regulation (1), may be recovered from the local government body concerned.
- (3) The local government body may, within a period of 30 days from the date of the notice as contemplated in sub-regulation (1), initiate the procedure contemplated in regulation 8 to formulate its own land development objectives, in which case the MEC shall not formulate land development objectives as contemplated in sub-regulation (1): Provided that should the local government body concerned fail to formulate the land development objectives in accordance with the working plan as contemplated in regulation 9, the MEC shall proceed to formulate land development objectives in terms of this regulation without a further notice to the local government body concerned.
- (4) The MEC may contract any person or body to formulate land development objectives on his or her behalf.

Timeframes for submission of working plan to MEC

- 8.(1) The MEC shall by notice in the Provincial Gazette require local government bodies, within the time period specified in such notice, to formulate or review, as the case may be, land development objectives which shall include plans for development of the local government area for a period of 5 years.
- (2) The notice referred to in subregulation (1) shall be given in writing to every local government body required to formulate or review land development objectives in the Province.

- (3) The notice referred to in subregulation (1) shall require the local government body, within 60 days of the date of such notice, or such extended period as the MEC may allow on application by the local government body, but prior to the expiry of the said 60 days, to submit a working plan for the formulation of land development objectives, to the MEC.

Compilation of Working Plan

9. A local government body shall, within the period stipulated in regulation 8(3), submit for the MEC's approval, a working plan which shall to the extent applicable, include-
- (a) a public participation plan for the formulation of land development objectives in accordance with regulation 13;
 - (b) a statement as to the period within which the local government body will submit land development objectives for the MEC's approval, which period may not exceed nine months from the date of the MEC's approval of the working plan as contemplated in regulation 10, or within an extended period as the MEC may allow on application by the local government body;
 - (c) a statement as to what assistance the local government body will require from the Minister or the Department in respect of formulating land development objectives and which also states how much was budgeted for the formulation of land development objectives from the resources of the local government body;
 - (d) a statement for submission to the MEC briefly indicating critical prevailing development related problems and needs in the area of jurisdiction of the local government body;
 - (e) a plan indicating capacity building programmes to allow disadvantaged groups to participate in the formulation of land development objectives; and
 - (f) any other document or information that the MEC may specify in the notice referred to in regulation 8(3).

Approval of working plan

10. The MEC shall, within a period of 30 days of receipt of the working plan submitted in terms of regulation 8(3) either-
- (a) approve such working plan with or without conditions and/or amendments: provided that any amendments may be effected only after consultation with the local government body concerned, or
 - (b) reject such a working plan, in which case the MEC shall refer the working plan back to the local government body with his or her comments for amendments, and the local government body shall within a period of 30 days, or such extended period as the M[EC may allow after consultation with the local government body, resubmit such working plan in accordance with these regulations to the MEC for his or her consideration and approval.

PART B

PARTICIPATION WITH REGARD TO FORMULATION AND IMPLEMENTATION OF LAND DEVELOPMENT OBJECTIVES

General objectives of public participation

- 11.(1) The objective of public participation shall be to ensure that land development objectives are, as far as possible, based on consensus between members of the public and stakeholders in a particular area.
- (2) Participation from different groups should focus on resource mobilisation to assist in the active implementation of the land development objectives.
- (3) Participation by the public and stakeholders should Facilitate direct input in the formulation of land development objectives.

Structuring of public participation

- 12.(1) A local government body shall ensure participation in the formulation of land development objectives in accordance with regulation 11 and shall involve members of the public and stakeholders within its area of jurisdiction, including-
 - (a) inter-sectoral participation for instance by community reconstruction and development committees and local reconstruction and development committees;
 - (b) organisations which are broadly representative of particular interests for instance women's organisations and disabled people's organisations;
 - (c) government departments;
 - (d) representatives of the business sector; and
 - (e) any other organisation which could assist in the formulation and implementation of land development objectives.
- (2) Traditional Authorities should be consulted in the process of formulating land development objectives in areas where such land development objectives shall have an impact on such Traditional Authority areas and proof of such consultation, to the satisfaction of the MEC, shall form part of the working plan and land development objectives.
- (3) In the event of the various parties failing to reach consensus in respect of land development objectives or any aspects thereof, the local government body shall use the deadlock breaking mechanisms for dispute resolution contemplated in section 4 of the Act, and in the event of the failure of such mechanisms, the local government body shall be authorized to take the final decision as to the content of land development objectives or any aspect thereof.
- (4) The MEC may, at any time during the formulation of land development objectives, if he or she is of the opinion that public participation is not taking place as contemplated in these regulations, instruct the local government body to conduct public participation in terms of regulation 12.

Preparation of public participation plan

- 13.(1) The compilation of a working plan as contemplated in regulation 9 shall include a public participation plan.

- (2) The public participation plan shall be prepared by the local government body in consultation with other interested parties, and shall take into consideration the provisions of regulations 11 and 12 and include proposals with regard to-
- (a) organisational arrangements and proposed structures for public and community participation and the local government body may make use of existing structures, if any, for this purpose;
 - (b) methods for dissemination of information with regard to the formulation of land development objectives;
 - (c) training, to the extent necessary and possible, of local government officials, Councillors and representatives of civil society organisations;
 - (d) the financing of the public participation process. and
 - (e) deadlock breaking mechanisms.

PART C

GENERAL PROVISIONS FOR LAND DEVELOPMENT OBJECTIVES

Formulation of land development objectives

- 14.(1) After the approval of the working plan for the formulation of land development objectives as contemplated in regulation 10, the local government body shall notify members of the public and stakeholders within its area of jurisdiction of its intention to formulate land development objectives and invite their participation in accordance with the public participation plan.
- (2) The notice in terms of subregulation (I)-
- (a) shall be published in English and another official language commonly used in the local government area, in two issues of a periodic newspaper circulating in the local government area, which notice shall appear for two consecutive weeks; and
 - (b) shall state, in accordance with the public participation plan, the manner and the time period within which members of the public and stakeholders will be entitled to participate in the formulation of land development objectives.

Submission of land development objectives

15. The local government body shall submit the land development objectives together with a list of stakeholders that participated in the formulation of land development objectives to the MEC for his or her consideration and approval.

Approval of land development objectives by MEC

16. The MEC shall, within 60 days of receipt of land development objectives submitted to him or her in terms of regulation 15, either approve such land development objectives in terms of section 27 of the Act, or refuse to approve such land development objectives in accordance with section 27 of the Act: Provided that the MEC shall provide the local government body concerned with his or her written reasons for having failed to approve such land development objectives, whereafter the local government body shall make the necessary amendments to the land development objectives and resubmit them to the MEC for his or her consideration within a period of 60 days.

Notice of approval of land development objectives

- 17.(1) Once the MEC has approved the land development objectives in terms of regulation 16, the local government body shall publish a notice in the Provincial Gazette and in a weekly newspaper circulating in the local government area in English and another official language commonly used in that area to the effect that copies of the approved land development objectives are available for inspection at a place specified in the notice, for a period of not less than 60 days from the date of the notice.
- (2) The local government body shall make two copies of the approved land development objectives available to both the designated officer and the tribunal registrar.

Review of land development objectives

- 18.(1) Land development objectives shall be reviewed annually for the first five years and thereafter at such intervals as the MEC may determine by notice in the Provincial Gazette, which intervals shall be consistent with budgeting cycles followed by the local government bodies.
- (2) Land development objectives shall be submitted to the MEC by the relevant local government body for review in accordance with these regulations which shall mutatis mutandis apply to such review.

Withdrawal of land development objectives

- 19.(1) The MEC may at any time withdraw land development objectives or a portion thereof if-
- (a) he or she is of the opinion that the land development processes that are being followed by the relevant local government body are not consistent with these regulations. or
- (b) he or she has a reasonable cause for such withdrawal.
- (2) The MEC shall, in writing, give notice to the local government body concerned to the effect that he or she intends to withdraw the land development objectives or a portion thereof, together with his or her reasons for such withdrawal.
- (3) The local government body concerned shall respond to the MEC's notice as contemplated in subregulation (2), within 60 days of the receipt thereof
- (4) The MEC shall consider the response given by the local government body as contemplated in subregulation (3), and shall either-
- (a) proceed with the withdrawal of the land development objectives or a portion thereof as contemplated in sub-regulation (1); or
- (b) review his or her intention to withdraw such land development objectives or a portion thereof

Monitoring and implementation of land development objectives

20. At the completion of each review period determined in terms of regulation 18 or at any other time as the MEC may determine by notice in the Provincial Gazette, the local government

body shall submit to the MEC a report describing its successes and failures in terms of its approved land development objectives over the said period.

Provisions to be included in the land development objectives

- 21.(1) Land development objectives shall include the subject matter referred to in section 28 of the Act.
- (2) In addition to the subject matter referred to in section 28(1)(b) of the Act, land development objectives formulated in terms of these regulations shall include objectives for a period of five years relating to-
- (a) the general direction for overall growth and development in the relevant area in the form of a development vision statement indicating-
- (i) a single vision statement to guide overall development in the area;
- (ii) the overall contribution of the area to the sustainable growth and development strategy of the region and the Province; and
- (iii) the major strategic development strengths, weaknesses, opportunities and threats of the area identified by the local government body in consultation with its stakeholders and the manner through which these problems will be solved.
- (b) development standards pertaining to the subject matter referred to in section 28(1)(a) of the Act as set by the local government body in consultation with all role players, including-
- (i) levels of services including transport, water, electricity, sewerage, health, education and public open space to be provided for land development which should be determined by an overall development affordability and availability census of resources;
- (ii) how access to such services will be provided, particularly to underdeveloped areas and to vulnerable communities; and
- (iii) the manner in which services and infrastructure will be financed, administered, operated and maintained
- (c) the development framework and priorities for the area, indicating the major trends influencing development including, inter alia,
- (i) demographic growth;
- (ii) existing services and infrastructure;
- (iii) economic trends;
- (iv) social conditions and trends;
- (v) existing spatial forms;
- (vi) development priorities and needs of all stakeholders within the area;
- (vii) safety and security within the area, and
- (viii) state of the environment within the area.
- (3) Land development objectives formulated in terms of these regulations shall include development strategies for the next five year period following on the period referred to in subregulation (2) in relation to-
- (a) the manner in which the following issues will be addressed by all stakeholders within the area-
- (i) job creation and strengthening of the economy;

- (ii) social development and how community facilities, health, social welfare and education concerns will be incorporated into the social fabrics of the community;
 - (iii) social and economic integration of low income communities in the area;
 - (iv) the provision of adequate support for vulnerable communities until the proposed or planned development initiatives materialise;
 - (v) improvement of safety and security;
 - (vi) improvement and conservation of the natural and built up environments to achieve environmentally sustainable development;
 - (vii) the improvement of public transportation and circulation; and
 - (viii) the provision of bulk and connector infrastructure for land development taking into account the infrastructure investment programme of the local government body;
 - (ix) the co-ordination of land development in consultation with adjacent local government bodies;
 - (x) the reform of land use control to stimulate environmentally sustainable development;
 - (xi) the ensuring of optimal and environmentally sustainable use of natural resources;
 - (xii) the conservation of agricultural land;
 - (xiii) the co-ordination of mining activities., and
 - (xix) the incorporation of land reform in the local development programmes.
- (b) the subject matter referred to in section 28(1)(c)(i) of the Act, including the following sectors and sub-sectors-
- (i) industry;
 - (ii) the formal business sectors'.
 - (iii) small and medium enterprises;
 - (iv) the informal sector;
 - (v) community based labour intensive developmental activities and public works programmes,
 - (vi) the non-governmental sectors;
 - (vii) the urban and rural agricultural sector, and
 - (viii) the tourism and eco-tourism sector.
- (4) Land development objectives set in terms of regulation 3(a) and (b) should indicate strategies for urbanisation, renewal, redevelopment and upgrading in order to establish a more efficient and unsegregated urban system as well as the roles of the various stakeholders in implementing these strategies and shall-
- (a) set out the subject matter referred to in section 28(1)(c)(ii) of the Act, including strategies in relation to-
- (i) the expected expenditure of public, private and community sector funds for capital projects or development services, administration and management as well as financial 'implications for operations and maintenance; and
 - (ii) the capital investment programme and estimates of the financial implications of the programme including-
 - (aa) capital improvements to be undertaken and how these will be achieved. and
 - (bb) the implications of the programme for the operational and maintenance budget;
 - (iii) available resources required for the implementation of land development objectives;
 - (iv) changes to financial policies or sources of revenue in levels of debt, tariffs, fees, taxes and inter-governmental financial assistance, where applicable;
 - (v) the effect on functions, levels and types of services, and the local government body contingency plans or cost containment strategies required to give effect to plans if finances do not become available; and

- (vi) the encouragement and importance of payment for services and how this should be achieved;
 - (b) include the subject matter referred to in section 28(1)(c)(iii) of the Act, including strategies in relation to the administration and institutional arrangements for implementing the land development objectives, including proposed new administrative and delivery structures for the area such as one stop offices, development corporations, partnerships and promotion agencies;
 - (c) include gearing programmes and projects to strategically catalyse and increase the level of growth in the area, including-
 - (i) the agency responsible for the delivery of programmes and projects. and
 - (ii) financing, resourcing and timeframes for these programmes or projects within the financial framework referred to in subparagraph (a);
 - (d) monitor and evaluate the implementation of land development objectives, implementing appropriate monitoring and evaluation mechanisms for this purpose, and key environmental and health performance indicators.
- (5) In addition to the subject matter referred to in section 28(1)(d) of the Act, the land development objectives shall relate to the quantum of land development objectives in respect of-
- (a) the number and sustainability of jobs and services considered in these regulations that are planned over a five year period;
 - (b) how much development contemplated in these regulations will be provided during each year of the five year period and how this delivery could be accelerated; and
 - (c) how much development will be provided through new development and how much through the upgrading of existing development of services and infrastructure.

Staged setting of land development objectives

- 22.(1) A local government body may on application to the MEC set land development objectives for the first annual cycle in respect of the subject matter referred to in regulation 21(2)(a) and (c) only and such additional subject matter which the local government body in its opinion is able to set in the first annual cycle for the setting of land development objectives: Provided that the local government body shall in its first review of land development objectives as required in terms of regulation 18(1) set land development objectives in respect of all of the subject matters prescribed in regulation 21.
- (2) An application to set limited land development objectives as provided for in sub-regulation (1) shall form part of the working plan to be submitted to the MEC for approval in terms of regulation 9.

Conflicts, ambiguities and administrative difficulties

23. If land development objectives are found to be in conflict with each other, are ambiguous or give rise to administrative difficulties and a local government body or local government bodies are unable or fail to amend such land development objectives, the MEC may, after consultation with the local government body or local government bodies concerned, by

notice in the Provincial Gazette, amend the land development objectives in order to address such conflicts, ambiguities or administrative difficulties.

Future legislation

- 24.(1) In the event that national legislation and/or regulations require or may in future require a local government body to prepare or set plans on matters similar to or the same as the subject matters prescribed by the Act and these regulations, then the local government body may submit land development objectives in compliance with such national legislation and/or regulations and to the extent necessary.
- (2) The MEC may by written notice to the local government body and by publication in the Provincial Gazette broaden the subject matter of land development objectives in order to include subject matters not already included in these regulations in order to comply with such national legislation and/or regulations.

Short title

25. These regulations shall be called the Mpumalanga Land Development Regulations, 1997.