

SCHEDULE 2
CATEGORISATION OF APPLICATIONS FOR DECISION BY THE MUNICIPAL PLANNING APPROVAL
AUTHORITY
(Section 22(1))

Applications for municipal planning approval that may be decided by a Municipal Planning Authorised Officer

1.(1) A Municipal Planning Authorised Officer may decide the following applications for municipal planning approval –

- (a) the granting of consent in terms of land use scheme for the relaxation of a development control, including spaces around buildings;
- (b) the subdivision and consolidation of land –
 - (i) that does not involve a change of land use; and
 - (ii) of which the end result is the creation of no more than two new properties, excluding properties used exclusively for the accommodation of roads or other engineering services;
- (c) the subdivision and consolidation of land exclusively for the purpose of accommodating engineering services;
- (d) the removal, amendment or suspension of a restrictive condition of title –
 - (i) that has been imposed in terms of this By-law or a repealed municipal planning law; or
 - (ii) that has not been imposed in terms of this By-law or a repealed municipal planning law, but is accompanied by the written approval of the person or entity in whose favour the condition is registered;
- (e) an amendment to an application in terms of paragraphs (a) to (d), prior to the approval thereof by the Municipal Planning Authorised Officer;
- (f) a correction to a decision of a Municipal Planning Authorised Officer on an application in terms of paragraphs (a) to (d) to correct an error in the wording of the decision, correct a spelling error, update land description, or update a reference to a law, person, institution, place name or street name; and
- (g) a non-material amendment to a Municipal Planning Authorised Officer's decision on an application in terms of paragraphs (a) to (d).

Applications for municipal planning approval that must be decided by the Chairperson of a Municipal Planning Tribunal or a tribunal member designated by the Chairperson

2.(1) The Chairperson of a Municipal Planning Tribunal must decide an application for municipal planning approval for –

- (a) an amendment to an application in terms of paragraphs (a) to (l) of item 3, prior to the approval thereof by the Municipal Planning Tribunal;
- (b) a correction to a decision of a Municipal Planning Tribunal on an application in terms of paragraphs (a) to (l) of Item 3 to correct an error in the wording of the decision, correct a spelling error, update land description, or update a reference to a law, person, institution, place name or street name.

(2) The Chairperson of a Municipal Planning Tribunal may designate another member of the Tribunal to decide an application for municipal planning approval for a correction to a decision of a Municipal Planning Tribunal on an application in terms of paragraphs (a) to (l) of Item 3 to correct an error in the wording of the decision, correct a spelling error, update land description, or update a reference to a law, person, institution, place name or street name.

Applications for municipal planning approval that must be decided by the Municipal Planning Tribunal

3. The Municipal Planning Tribunal must decide the following applications for municipal planning approval –

- (a) the zoning or rezoning of land in accordance with an existing zone;
- (b) the granting of consent in terms of land use scheme for land use;
- (c) approval for a development situated outside the area of land use scheme;

- (d) the subdivision and consolidation of land –
 - (i) that involves a change of land use; or
 - (ii) of which the end result is the creation of more than two new properties, excluding properties used exclusively for the accommodation of roads or other engineering services;
- (e) township establishment;
- (f) the notarial tying of adjacent properties;
- (g) the extension of a sectional title scheme by the addition of land to common land in terms of section 26 of the Sectional Titles Act;
- (h) the removal, amendment or suspension of a restrictive condition of title –
 - (i) that has not been imposed in terms of this By-law or a repealed municipal planning law; or
 - (ii) that is not accompanied by the written approval of the person or entity in whose favour the condition is registered;
- (i) the permanent closure of a municipal road or a public place;
- (j) an application for municipal planning approval that has been referred to the Municipal Planning Tribunal by a Municipal Planning Authorised Officer;
- (l) a non-material amendment to a Municipal Planning Tribunal's decision on an application in terms of paragraphs (a) to (j).

Applications for municipal planning approval that must be decided by the Municipal Council

4. The following applications for municipal planning approval must be decided by a Municipal Council –

- (a) the adoption of land use scheme;
- (b) an amendment to wording of land use scheme, including development controls contained in it;
- (c) the zoning or rezoning of land in accordance with a new zone; and
- (d) the zoning or rezoning land by the Municipality to achieve the development goals and objectives of the municipal spatial development framework.
- (e) an amendment to an application in terms of paragraphs (a) to (d), prior to the approval thereof by a Municipal Council;
- (f) a correction to a decision of a Municipal Council on an application in terms of paragraphs (a) to (d) to correct an error in the wording of the decision, correct a spelling error, update land description, or update a reference to a law, person, institution, place name or street name; and
- (g) a non-material amendment to a Municipal Council's decision on an application in terms of paragraphs (a) to (d).

SCHEDULE 13
TRANSITIONAL MEASURES
(Section 126)

Part 1: Town Planning Ordinance

Application for special consent approved in terms of the Town Planning Ordinance

1.(1) An approval for special consent in terms of section 67*bis* of the Town Planning Ordinance must be regarded as consent by the Municipality in terms of the land use scheme contemplated in section 54(3)(a) of this By-law.

(2) For the purposes of section 60(2) of this By-law, the effective date of a Municipality's special consent contemplated in section 67*bis* of the Town Planning Ordinance is –

- (a) the date of expiry of the 28 day period referred to section 67*ter* of the Town Planning Ordinance, if no appeal was lodged against the decision of the Municipality; or
- (b) the date that the appeal was decided, if an appeal was lodged against the decision of the Municipality in terms of section 67*ter* of the Town Planning Ordinance.

Pending application for special consent in terms of the Town Planning Ordinance

2.(1) A pending application for special consent in terms of section 67*bis* of the Town Planning Ordinance must be continued in terms of this By-law.

(2) The Municipal Planning Registrar must confirm the corresponding provision in the application process from which the application for municipal planning approval must be continued.

(3) An applicant does not have to comply with a requirement in terms of this By-law that are more onerous than the requirements of the Town Planning Ordinance in respect of a provision of this By-law that precedes the provision from which the application for municipal planning approval must be continued.

(4) An applicant does not have to comply with a requirement of the Town Planning Ordinance that is more onerous than the requirements of this By-law.

Part 2: Local Authorities Ordinance

Application for permanent closure of a municipal road approved in terms of the Local Authorities Ordinance

3.(1) An approval for the permanent closure of a municipal road in terms of section 211(2) of the Local Authorities Ordinance must be regarded as an approval by the Municipality in terms of section 54(3)(a) of this By-law.

(2) For the purposes of section 60(2) of this By-law, the effective date of a Municipality's approval contemplated in section 211(2) of the Local Authorities Ordinance is the date upon which the Administrator approved the permanent closure of the municipal road as contemplated in section 211(2)(f) of the Local Authorities Ordinance.

Application for permanent closure of a public place approved in terms of the Local Authorities Ordinance

4.(1) An approval for the permanent closure of a public place in terms of section 212(1)(a) of the Local Authorities Ordinance must be regarded as an approval by the Municipality in terms of section 54(3)(a) of this By-law.

(2) For the purposes of section 60(2) of this By-law, the effective date of a Municipality's approval contemplated in section 212(1)(a) of the Local Authorities Ordinance is the date upon which the Administrator approved the permanent closure of the public place as contemplated in section 212(1)(b) read with 211(2)(f) of the Local Authorities Ordinance.

Pending application for permanent closure of a municipal road in terms of the Local Authorities Ordinance

5.(1) A pending application for the permanent closure of a public place in terms of section 211 of the Local Authorities Ordinance must be continued in terms of this By-law.

(2) The Municipal Planning Registrar must confirm the corresponding provision in the application process from which the application for municipal planning approval must be continued.

(3) An applicant does not have to comply with a requirement in terms of this By-law that are more onerous than the requirements of the Local Authorities Ordinance in respect of a provision of this By-law that precedes the provision from which the application for municipal planning approval must be continued.

(4) An applicant does not have to comply with a requirement of the Local Authorities Ordinance that is more onerous than the requirements of this By-law.

(5) The Municipality does not require the Administrator's consent as contemplated in section 211(2)(f) of the Local Authority's Ordinance.

Pending application for permanent closure of a public place in terms of the Local Authorities Ordinance

6.(1) A pending application for the permanent closure of a public place in terms of section 212 of the Local Authorities Ordinance must be continued in terms of this By-law.

(2) The Municipal Planning Registrar must confirm the corresponding provision in the application process from which the application for municipal planning approval must be continued.

(3) An applicant does not have to comply with a requirement in terms of this By-law that are more onerous than the requirements of the Local Authorities Ordinance in respect of a provision of this By-law that precedes the provision from which the application for municipal planning approval must be continued.

(4) An applicant does not have to comply with a requirement of the Local Authorities Ordinance that is more onerous than the requirements of this By-law.

(5) The Municipality does not require the Administrator's consent as contemplated in section 212(1)(b) read with 211(2)(f) of the Local Authority's Ordinance.

Part 3: Less Formal Township Establishment Act

Less formal settlement or township approved in terms of the Less Formal Township Establishment Act

7.(1) An application for a settlement approved in terms of section 3(1) or a township approved in terms of section 14(1) of the Less Formal Township Establishment Act, that has been approved –

- (a) subject to a layout plan; and
- (b) subject to conditions for the development thereof,

must be regarded as a township approved in terms of section 54(3)(a) this By-law.

(2) Despite –

- (a) the provisions of section 3(5)(b), (e) and (g) of the Less Formal Township Establishment Act; or
- (b) a decision to the contrary by the Administrator in terms of section 12(1) of the Less Formal Township Establishment Act,

this Act applies to land designated as a less formal settlement in terms of section 3(1) or a township approved in terms of section 14(1) of the Less Formal Township Establishment Act.

(3) An application is not required in terms of this By-law for –

- (a) the development of a less formal settlement in accordance with an approved layout plan and conditions of approval contemplated in section 4(1) of the Less Formal Township Establishment Act; or
- (b) the development of less formal township in accordance with an approved layout plan and conditions of approval contemplated in section 14(1)(a) of the Less Formal Township Establishment Act.

(4) An application is required in terms of this By-law for the subdivision of land or establishment of a township on land that has been designated as a less formal settlement in terms of section 3(1) of the Less Formal Township Establishment Act, if the land was not designated-

- (a) subject to a layout plan; or
- (b) subject to conditions for the development thereof.

Part 4: Development Facilitation Act

Development approved in terms of the Development Facilitation Act

8.(1) All applications, appeals or other matters pending before a Tribunal established in terms of section 15 of the Development Facilitation Act, 1995 (No 67 of 1995) at the commencement of the Spatial Planning and Land Use Management Act (1st July 2015) that have not been decided or otherwise disposed of, must be continued and disposed of in terms of the Spatial Planning Land Use Management Act.

(2) An application for development approved in terms of section 33(1) or 51(1) of the Development Facilitation Act must be regarded as an application for municipal planning approval approved in terms of section 47(2)(a) and 54(3)(a) of this By-law.

Functions of designated officer may be performed by Municipality

9.(1) Despite the repeal of the Development Facilitation Act, the Municipality must continue to perform the following functions conferred on a designated officer in terms of the Development Facilitation Act –

- (a) to publish the conditions of establishment imposed by the Development Tribunal or the Development Municipal Planning Appeal Tribunal that must be published in the Gazette, as contemplated in sections 33(4) and 51(3) of the Development Facilitation, in the Gazette;
- (b) to inform the Registrar of Deeds that the conditions of establishment which have to be complied with prior to the commencement of registration, have been complied with, contemplated in section 38(1)(c) of the Development Facilitation Act; and
- (c) to inform the Registrar of Deeds that the applicant and the Municipality have fulfilled their obligations relating to the provision of services, contemplated in section 38(1)(d) of the Development Facilitation Act.

(2) The Municipality must appoint a municipal official to perform the functions conferred on a designated officer as contemplated in this item.

Power reserved by Development Tribunal or Development Appeal Tribunal in a decision on an application in terms of the Development Facilitation Act

10.(1) A power reserved by the Development Tribunal or Development Appeal Tribunal in a decision on an application in terms of the Development Facilitation Act must be regarded as a power that must be exercised by the Municipality.

(2) The Municipality must comply with the provisions of this By-law, including the procedure for the amendment of a notice of a decision on an application for municipal planning approval, when exercising a power contemplated in this item.

Part 5: KwaZulu-Natal Planning and Development Act

Application approved in terms of KwaZulu-Natal Planning and Development Act

11. A decision by the Municipality –

- (a) to adopt a scheme contemplated in section 13(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (b) to replace a scheme contemplated in section 13(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (c) to approve an amendment to a Municipality's scheme contemplated in section 13(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (d) to approve the subdivision of land contemplated in section 26(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (e) to approve the consolidation of land contemplated in section 26(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (f) to approve the development of land situated outside the area of a scheme contemplated in section 43(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (g) to approve the phasing or cancellation of an approved layout plan contemplated in section 55(1) of the KwaZulu-Natal Planning and Development Act; or
- (h) to approve the alteration, suspension or deletion of a restriction relating to land contemplated in section 65(1) of the KwaZulu-Natal Planning and Development Act,

must be regarded as approval for an application for municipal planning approval contemplated in sections 54(3)(a) of this By-law.

Application in terms of a repealed planning law that must be regarded as an application approved in terms of KwaZulu-Natal Planning and Development Act

12. An application in terms of a repealed planning law that must be regarded to be an application approved in terms of KwaZulu-Natal Planning and Development Act must be regarded as an application for municipal planning approval contemplated in sections 54(3)(a) of this By-law.

Pending application in terms of KwaZulu-Natal Planning and Development Act

13.(1) A pending application to the Municipality or a pending proposal by the Municipality in terms of the KwaZulu-Natal Planning and Development Act as contemplated in item 1 must be continued in terms of this By-law.

(2) The Municipal Planning Registrar must confirm the corresponding provision in the application process from which the application for municipal planning approval must be continued.

(3) An applicant does not have to comply with a requirement in terms of this By-law that are more onerous than the requirements of the KwaZulu-Natal Planning and Development Act in respect of a provision of this By-law that precedes the provision from which the application for municipal planning approval must be continued.

(4) An applicant does not have to comply with a requirement of the KwaZulu-Natal Planning and Development Act that is more onerous than the requirements of this By-law.

Validation of decision made in terms of KwaZulu-Natal Planning and Development Act after 30 June 2015 but before the commencement of this By-law

14. A decision by the Municipality to approve or refuse an application to it or a proposal by it in terms of the KwaZulu-Natal Planning and Development Act as contemplated in item 1 is not invalid by virtue of not complying with the provisions of the Spatial Planning and Land Use Management Act, if –

- (a) the application to it or proposal by it was made before 1 July 2015; and
- (b) the decision to approve or refuse the application or proposal was made after 30 June 2015 but before the commencement of this By-law.