

WATERBERG DISTRICT MUNICIPALITY



on the Go for Growth

MANUAL

RURAL LAND USE AND

SUBDIVISION CONDITIONS

PREPARED BY
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PART I: STRUCTURING AND APPLICATION OF CONDITIONS

INTRODUCTION

The context of many years of restructuring local government in South Africa has highlighted a number of inadequacies in land use management systems and processes relevant to the rural components of affected municipalities such as the Waterberg District Municipality (WDM). The fact that no fewer than six local municipalities form part of the Waterberg District, has thrown into sharp relief the considerable differences in systems, procedures and structure. The WDM has been in an on-going process of evaluating these shortcomings.

In this context the WDM has identified the following Aims and Objectives:

- to improve and standardise systems, procedures and structures;
- to improve the legislative and governance environment; and
- to improve and develop skills and resources in the six local municipalities.

Each of these objectives is articulated through the identification of a number of issues, for which interventions are proposed. In respect of the objective to improve and standardise systems, procedures and structure, one of the issues identified is that of disparate conditions of approval of development applications, based on previous administrative practice. This manual is intended to address this particular issue.

HOW TO USE THIS MANUAL

This Manual is a guide to good practice in the conditioning of development applications (both for subdivision and land use change). However, it remains a guideline only, it cannot be considered definitive.

The Manual is designed in a loose-leaf format, to be reviewed and updated regularly in order to incorporate more effective conditions that may be developed in practice, to accommodate changing circumstances (e.g. the promulgation of an amended Zoning Scheme or Land Use Management System), new laws impacting on the imposition of conditions or the outcome of appeals and so on.

A continual improvement process of review and monitoring, and ad-hoc amendment is required, with a single point of accountability for this process located in the Waterberg District Municipality. All staff from local municipalities utilising the Manual should provide feedback on an on-going basis.

USING CONDITIONS IN DEVELOPMENT APPLICATIONS

Before approving an application by a landowner for permission to develop or subdivide land, local municipalities are empowered to attach conditions to such approval. Generally these conditions are imposed to:

- Mitigate the impact of a proposed development on the receiving environment; and/or
- Enhance the co-ordinated, harmonious development of an area in line with the adopted policy of the Municipality (i.e. SDF); and/or
- Establish appropriate performance standards for a development.

In essence, the purpose of imposing conditions is to balance the owner's interest in developing the land with the Municipality's interest in matters for the common good and the community's interests in being protected from any adverse impacts that such a development might generate. The ability to impose conditions enables an element of flexibility in decision-making.

LEGAL CONTEXT AND POLICY FRAMEWORKS

Conditions on planning and subdivision permissions may only be imposed within the statutory powers available.

■ General powers

In the main, the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) and the Division of Land Ordinance, 1986 (Ordinance 20 of 1986) are the principal enabling statutes in a municipality granting conditional planning and/or subdivision permission. Both Ordinances provide authority to impose conditions on granting of an application provided for in such legislation. However, development rights in various rural areas of the WDM, are provided through the Black Community Development Act (Act 4 of 1984).

A number of Zoning Scheme or LUMS that are applicable in the WDM also make provision for the imposition of conditions and in respect of conditional uses and consent procedures.

Generally, conditions attached to an approved planning application vest in the land (not the owner) and are binding on successors in title.

However, this authority is not unfettered. A municipality is only entitled to impose conditions that are directly related and incidental to the proposed use of the property. Such conditions are limited to:

- the community needs and public expenditure which may arise from the authorisation, exemption, application or appeal

concerned and the public expenditure incurred in the past which in the municipality's opinion facilitates the said authorisation, exemption, application or appeal; and

- the various rates and levies paid in the past or to be paid in the future by the owner of the land concerned, include conditions in relation to the cession of land or the payment of money which is directly related to requirements relating to said authorisation, in respect of the provision of necessary services or amenities to the land concerned.

■ Authority to Amend Conditions

The Ordinance generally authorize a municipality to:

- Waive or amend any condition; and
- Impose additional conditions

Provided notice is given of the proposed amendment of conditions or the imposition of additional conditions, objections are considered and the owner of the land concerned is consulted. Obviously, such amendments are subject to the status of the application.

■ Other considerations

The limits of the enabling powers are not the only constraints on the imposition of conditions. It is important that conditions accord with the spirit of other legislation. Thus, the Constitution and the Promotion of Administrative Justice Act establish the requirements for reasonableness, fairness and justification in the context of an application being granted. The Local Government: Municipal Systems Act, 32 of 2000 makes stipulations in regard to public participation. Planning, environmental and heritage legislation establish general principles to guide land development.

The imposition of conditions should also be consistent with the provisions of relevant approved policy plans and general policy guidelines adopted by the Municipality (i.e. SDF/IDP, etc).

MAKING THE DECISION

■ Considering a planning application

When considering a planning application (either land use changes and/or subdivision), it is important to identify factors that are relevant to the decision and to establish whether these considerations warrant a refusal, an amended proposal and/or a conditioned approval. These considerations must be material considerations, in other words, they must relate to the application at hand. They would include (but are not limited to):

- the impact of the proposal;
- environmental considerations;
- the design of the proposed development;
- its relationship to its surroundings; access;
- the provision of infrastructure;
- the views of statutory and other bodies or individuals consulted; and
- legitimate public concern or support expressed on relevant planning matters.

It is for the decision-maker to determine whether a consideration is material and to assess both the weight to be attached to each consideration and whether individually or together they are sufficient to outweigh the development proposal.

■ The need for discussion and dialogue

Decisions on planning applications (either in favour or against) can be challenged through specified objection/appeal procedures. Objection/Appeals have resource implications. This means municipal

planners must be prepared to discuss and advise on development proposals both before applications are submitted and during the application process. Sensible dialogue at an early stage can allow the applicant to formulate proposals that take into account municipal concerns or requirements and assists in making sure that those requirements are reasonable in relation to the development proposals. Discussion can reduce the need for conditions and can ensure that the terms of conditions that remain necessary are reasonable and tailored to the specific circumstances.

THE IMPORTANCE OF STANDARDISED CONDITIONS

Lists of standard or generic conditions can be of great benefit. They can:

- Improve the consistency of decisions;
- Make more effective use of staff resources
- Increase the speed of processing applications
- Strengthen co-operation among local municipalities in the Waterberg District.

However, they may also encourage uncritical application. It is very important that generic conditions are not applied as a matter of routine, without careful assessment. It must be understood then that:

- The list of generic conditions cannot be considered to be exhaustive
- Generic conditions must be adapted where appropriate to suit the circumstances of the particular case
- Clear and precise reasons should be able to be given to justify the imposition of each and every condition
- If officials simply impose conditions without applying their mind or adapting them where necessary, the decision could be reviewable in a court of law.

In providing justification for the imposition of conditions of approval, **Table 1** illustrates the difference between an unsatisfactory reason for imposing a condition and a satisfactory reason.

TABLE 1 : REASONS FOR IMPOSING CONDITIONS

SUBJECT	ISSUE	UNSATISFACTORY REASON	SATISFACTORY REASON
Regulation of land use	Hours of operation	In the interests of residential amenity	To protect occupants of nearby housing from noise and disturbance late in the evening
Design	Materials	In the interests of visual amenity	To ensure that the extension matches the external appearance of the existing building and thereby maintains the visual quality of the area
Transport	Visibility displays	In the interests of traffic safety	To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit

CRITERIA TO ESTABLISH THE VALIDITY OF CONDITIONS

In considering whether a particular condition is valid, a number of substantive criteria have been established. As a general guideline, conditions should only be imposed when they meet all (or the majority) of the following tests:

- **Substantive criteria**
 - Rational basis
 - Legal conformity
 - Reasonable
 - Purpose

- Related
- Proportional
- Application
- Enforceable
- **Drafting criteria**
 - Precision
 - Focus
 - Compliance with other controls
 - Timelessness
 - Performance

An explanation of each of these "tests" is provided below.

- **Substantive criteria:**

Rational basis for imposition:

This tests the need for a condition. Ask whether planning permission would have been refused if that condition were not imposed. If not, then the condition needs clear and precise justification. A condition should not be imposed unless there is a definite need for it.

Legal conformity:

Conditions must be imposed in the context of current legislative powers to impose conditions – at present the relevant Ordinances, together with other applicable legislation are relevant. Conditions should also not be framed so as to undermine the intent of the zone. For example, approval of a consent use should not create a new use in conflict with the intent of the underlying zone. Conditions in conflict with other legislation would clearly be ultra vires. It is also important that conditions accord with the spirit of other legislation. The principles underlying the Constitution, new planning, environmental and heritage legislation, the Systems Act and the like are important determinants in establishing the framework for decision-making and the conditioning thereof.

Reasonableness:

A condition should be reasonable in all respects. For example, a condition cannot impose an undue burden on the landowner i.e. if the cost, inconvenience or other impact on the owner is too onerous, given the benefit to the public of the condition. A condition that conflicts with other legislation would also be considered unreasonable.

Purpose:

Conditions should be designed to both serve the public interest and should be relevant to the particular proposed development. The question should be asked: whose interests are you protecting, and whose position are you promoting in imposing the condition?

Relatedness:

The condition must be directly related to and incidental to the proposed land use, and the application should give rise to the need for the condition. When the condition does not relate to, or lessen, the particular impacts of the development, it does not fulfil this criterion. Conditions out of keeping with the scale of the application do not fulfil this criterion.

Proportionality:

This is linked to relatedness & reasonableness. Conditions requiring, for example, upgrading of a road to accommodate pre-existing traffic problems would not meet this criterion.

Application:

In general conditions should relate to the use of the property and not the user, and should not regulate the details of the operation of a business, unless they are relevant to planning and directly manage impacts. It is important to remember that rights accorded by a rezoning accrue not just to the current owner but to all subsequent owners.

Ability to enforce:

A condition should not be imposed if it cannot be enforced. By this, it is not meant the actual capacity of the enforcement agency. Sometimes a condition will be unenforceable if, in practice, it is impossible to detect the infringement. It should also be such that the owner can reasonably be expected to comply with the condition.

■ **Drafting criteria:**

Precision:

The framing of the condition requires great care. This is also important to ensure that a condition is enforceable. There are a number of aspects to this. A condition cannot be so vague as to make it difficult to ascertain what is required or what effect is intended. The condition must give a clear idea of what is expected – of the owner/developer/occupant, of the local authority and for surrounding neighbours who may be impacted by the proposal. Wording must be clear and simple, not difficult to follow. Conditions must be articulated clearly, concisely and definitely so that they can be implemented without confusion by all relevant parties. Conditions requiring vague qualifications, difficult to interpret, should be avoided. For example "to the satisfaction of the Town Planning Department" makes the applicant no more certain of what is required. Finally, and significantly, a condition must state the circumstance of its performance, especially the time frame in which it will be performed. The timing must relate to easily understood, discrete events ("what, who, when").

Focus:

In part related to the test of precision, conditions must be tailored to tackle specific problems, they should not be wider in scope than is necessary to achieve the desired objective. For example, if an overlooking feature on one side of a property would be unacceptable, it would not be reasonable to impose restrictions on all future rights to extend the building. Also, approvals should not be overloaded with conditions, imposed "just in case".

Compliance with other controls:

Conditions should not attempt to enforce compliance with other legislative requirements. A condition that duplicates the effect of other controls is unnecessary and one whose requirements conflict with those other controls will be ultra vires because it is unreasonable. For example, it would not usually be necessary to control emissions from a development that would be subject to pollution controls in terms of other legislation.

Timelessness:

Conditions must stand the test of time. The time between an approval and actual development may be lengthy – this clause is particularly pertinent if imposing monetary payments.

Performance:

Compliance with the condition is to be expected of the owner, not the Municipality or any other body, public or private. It is unreasonable to impose a condition which the developers would be unable to comply with themselves, or which they could comply with only the consent or authorisation of a third party. For example, a requirement that a development proceeding be dependent upon completion of road improvements by the Road Authority when there is no reasonable indication that this may occur must be considered unacceptable, as would making a development dependent upon Road Closure, if such a process has not yet commenced.

THE IMPOSITION OF GENERIC CONDITIONS OF APPROVAL

The need to avoid slavish adoption of standard or generic conditions has already been noted. The use of the Criteria outlined above to test the validity of a condition will be important in facilitating site specific and appropriate adaptation of generic conditions.

However, there are other parameters to test the validity of a condition namely:

- the nature and scale of the intended use; and
- the type of application

also provide clues to determine when certain generic conditions may be appropriate to use and when not. To illustrate, it is generally appropriate to include a condition requiring a site development plan on large-scale developments, but a less likely requirement on an application for a small mono use development (i.e. a new single dwelling unit). Similarly, it may be generally appropriate to restrict the hours of operation of a child-care centre in a residential area but not a business in a commercial area. As an aid to determining the circumstances in which each generic condition in this manual can be considered for application. The checklist below provides a "rule of thumb" guideline.

It is of course impossible to provide for all eventualities, site specifics will always mean there will be circumstances where the opposite holds true. This may particularly be the case on environmental and heritage matters.

This checklist should therefore not be considered the last word when considering generic conditions and familiarity with the contents of the sections that follow (where provisos are established) will also be important.

Although it is cumbersome in the formal reporting process to provide an explanation for every condition imposed, it should be possible for the official processing the planning application to justify every condition if challenged.

CHECKLIST ISSUES TO CONSIDER WHEN FORMULATING CONDITIONS TO ATTACH TO A PLANNING APPLICATION APPROVAL

■ Authority

1. Does the Municipality have the authority to approve or reject this application or is it merely a commenting authority?
2. Is the application processed in terms of an Ordinance, and/or the Zoning Scheme/LUMS clauses and/or any other legislation?
3. Apply your mind to the legal basis for the granting or refusal of an application in terms of the relevant legislation (make sure of your facts).

■ Other procedural constraints

4. Is the application awaiting the outcome of an Environmental Impact Assessment and/or a Heritage Impact Assessment and has the relevant authority issued a Record of Decision?

■ Factors material to the planning application at hand

5. Is the development considered large, moderate or small scale?
6. Is the development in an area, or will it impact on an area of environmental (including visual) sensitivity? (identify the zone in which it is situated – via the SDF)
7. Is the development in an area with heritage (built, cultural) sensitivities?
8. Does the development include one or multiple uses that may require individual conditioning?
9. What are the impacts on the immediate neighbours and the surrounding properties? Can these be managed through the application of targeted, conditioned approval?
10. If comments and objections have been received, which of these could be considered legitimate or material to the application at hand and why?

11. If comments and conditions have been received from other Directorates within the Municipality, could they all be considered material to the application at hand? Do they require discussion with the relevant Directorate and is the applicant aware of these requirements?

■ Some final considerations

12. Have you discussed the draft conditions with the applicant?
13. How easy will it be to monitor and enforce the conditions?
14. Can you justify each condition individually?
15. Does each condition meet the eight substantive criteria specified in the Manual? i.e. is it rational, does it conform with other legislation, is it reasonable, does it serve a public purpose, is it related to the proposed land use, are the conditions proportional to the extent of the use, do the conditions regulate the use and not the user or the details of the operation of a business, can it be enforced?
16. Does each condition meet the five drafting criteria specified in the Manual? i.e. is it precise, tailored to specific problems, does it avoid duplicating the effect of other legislation or controls, can it stand the test of time (immediate and long term), can it be reasonably complied with?

PART II: GENERIC CONDITIONS

INTRODUCTION

The generic conditions presented in the section below are ordered by the categories of planning applications. Refer to the Contents page of this Manual if you wish quick direction to the conditions relevant to the application in hand. Most of the generic conditions are preceded by an explanation of the use of such a condition, followed by one or more generic conditions and, in certain instances, examples of unacceptable conditions are also presented to illustrate the case.

It should be noted that many of the generic conditions include provision for the decision-maker to incorporate specific details, as relevant to the application.

It is also important to remember that when you refer to an Appendix in a condition, attach it to the Report and to the letter of Approval.

1. PLANNING PERMISSIONS

1.1 Time limits

This condition is to only be applied in the granting of consent in terms of the applicable zoning scheme/LUMS. A temporary or time restricted consent is only appropriate if the applicant proposes a temporary development, or if a trial run is required to assess the effect of the development on the area, or if the land is required for road widening or other local authority purposes in the future. A time-restricted consent should not be imposed to limit the effect on the amenity of the area. Concerns to safeguard the amenity of an area are more rightly met with conditions specifically devised, and if this is not acceptable, the proposal should more properly be refused.

Time limits

- That the consent use shall be valid for a period of year(s) from date of approval
- That ... (specify e.g. buildings/works) hereby permitted shall be removed or the use hereby permitted shall be discontinued and the land restored to ... (specify requirements). Any such restoration works shall be carried out by ... (specify date)

It should be noted that such time restrictions mean any development of the property must be capable of reversion to the uses permitted as of right in the underlying use zone. Allowance may be made for an application for extension or a de novo application will be required. As a rule, a second temporary consent should not normally be granted if it is granted in order to provide for a trial period – the time should be set that it is sufficiently long for it to be clear at the lapsing whether permanent permission or a refusal is more appropriate. However, if the temporary consent is applied because the land (or a portion thereof) is required for a Road Widening Scheme, not expected to be implemented for some time, an extension may be appropriate.

You need to consider requirements for restoration, if any, once operations cease – cessation of the use may not be sufficient if restoration is necessary. However, it is undesirable to require the demolition of a building that is clearly intended to be permanent.

It should be noted the "date of approval" in a condition means as from the date on the final letter of notification of approval.

1.2 Commencement of development

A condition that places an onus on the developer to commence with a development within a specified timeframe (e.g. "the development hereby permitted shall be commenced within ... years from the date of approval of this consent") is not generally used.

It would also not generally be reasonable to require that a development be completed within a specified time limit unless it would serve a clear planning purpose.

Time limits

Example of an unacceptable condition: "The application for a Temporary Consent being valid for a period of five years only" – it is the approval, not the application that is valid for five years. Also, there is no need to stipulate „only“ – five years is sufficiently precise although the time frame could be linked to the date of approval.

1.3 Restriction to operator

Land use rights accrue to the land, not the owner. Thus, it is never appropriate to restrict an approved application to a specific owner or operator.

There is a tendency to utilise this condition for consent uses permitting business operations in a residential or other zone. In imposing conditions of this nature, it should be established whether the objective of maintaining a residential component or character cannot be better met by requiring a residential component, permanently occupied, to the approved development or use (see Occupancy conditions below).

2. LAND USE AND BUILT FORM

2.1 Permitted uses

In designing conditions to restrict land uses, notwithstanding the uses permitted in the Zoning Scheme/LUMS clauses, it is preferable to phrase the condition so as to prohibit a particular unacceptable use or uses (provided the list is not too long) rather than in terms which prevent any change of use at all i.e. restriction only to the specific use applied for. Sometimes, it may be more appropriate to restrict the scale of development rather than the uses. It should also be noted the list of prohibited uses can only include those uses listed as of right in the applicable use zone. Any other uses would require further planning permission and thus do not require specification.

Restriction to operator

Example of an unacceptable condition:

"That this consent is granted to the current applicant/owner only, and the guest house may be only sold as a going concern subject to the new owner accepting all the original conditions in writing, prior to the alienation/transfer of the subject property being affected" – Generally, the rights and associated conditions accrue to the land and are binding on all successors in title. Also, spelling error "affected" rather than "effected" changes the sense of the sentence – points to the importance of precise drafting.

Permitted uses

- That, notwithstanding uses permitted in the Zoning Scheme/LUMS clauses, the following uses are not permitted:
-(specify)
- That notwithstanding uses permitted in the Zoning Scheme/LUMS Clauses, the following uses may be permitted with Municipality's consent:
-(specify)
- That the zoning of the newly created erven will be as follows:
- Portion 1: (specify)
- Portion 2: (specify)
- Etc.

Permitted uses Example of an unacceptable condition: "That the applicant submits a Building Plan within ... months, indicating all changes of use of buildings on the site in accordance with the requirements of the National Building Regulations" – a re-statement of other legislative controls is unnecessary, this is regulated by the National Building Regulations and Standards Act.	Extent of use • That the(specify activity) shall be limited to a maximum of ... rooms within the Dwelling House on the property.	Height • That, notwithstanding heights permitted in the Zoning Scheme/LUMS clauses, no building or structure on the property shall exceed (specify) storeys in height • That no point on any building or structure on the property shall be higher than (specify) metres above Mean Sea Level • That no point on any building or structure on the property shall be higher than (specify) metres measured from highest finished road level at (specify name of the street) • That after casting the ground floor slab, a Land Surveyor's certificate shall be submitted to the Municipality verifying the level of the slab. No further construction work shall be permitted without the Municipality having confirmed the levels in writing.
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2.2 Extent of land use

The extent of use may need to be restricted when the scale of the development proposed is important to the management of impact or to ensure the building remains available to meet the purpose for which it was zoned. This may be the case, for example, for business operations in residential areas. Floor space is one restriction available to condition (see building parameters below), but occasionally it may be necessary to confine an operation to a certain number of rooms within a dwelling.

2.3 Building parameters

Generally restrictions on building parameters are straightforward and can be easily specified.

2.3.1 Height

On steep slopes, there may be debate as to what constitutes a basement or a storey and care should be taken to specify alternative measurements of height. Conditions in this regard should however be carefully considered. It is preferable to benchmark the height of structures to Mean Sea Level. This allows for a simple approach to the verification as to whether the structure complies to the height restriction or not. (This can be "measured" by a land surveyor).

Most of the Zoning Schemes/LUMS currently in application provide definitions for the floor to ceiling height of a storey and it would not generally be necessary to specify further. However, where this is not provided, the use of specification of an absolute height would be appropriate.

2.3.2 Floor space

It should be noted that conditions specifying minimum floor areas are inappropriate, unless it is determined that a particular use or service should be provided at a minimum. However, the planner should be certain that this is possible to comply with.

It is preferable to specify maximum gross floor areas (rather than net, or leasable area for example) to simplify verification as to whether the structure complies with the floor space restriction or not. Remember, Gross Leasable Floor Area is only calculated with regard to establishing parking requirements – it is not a tool to define the extent of a development. Remember that "bulk" is just another description of "Gross Floor Area".

2.3.3 Coverage

Floor space

Maximum Gross Floor space shall not exceed (specify) metres

Coverage

That notwithstanding the provisions of the Zoning Scheme/LUMS clauses, the maximum permissible coverage shall not exceed (specify) %

2.3.4 Setbacks/Building Restriction Areas

It is important to specify the setback requirements in detail, both in the conditions and in the recommendations. It is often useful to refer to a Plan to indicate where the departure is to be permitted, to avoid any confusion.

Setbacks/Building Restriction Areas

- That notwithstanding the provisions of the Zoning Scheme/LUMS clauses, the following building lines will be applicable (at ... floor level):
 - Street boundary: (specify) metres - Lateral boundary (if only one, specify east/west/north/south):(specify) metres
 - Rear boundary:(specify) metres
 - Common boundaries:(specify) metres
- (Note: it may be appropriate to refer to a Plan in the case of an irregularly shaped erf)

Setbacks

Examples of unacceptable conditions:

"No portion of any structure is to project over the property boundary" – this would be illegal and is not necessary to specify

"No windows or apertures are permitted on the lateral boundaries" – if the objective is to prevent overlooking, rather stipulate "overlooking features" to encapsulate all such possible features, and define.

Density

- That not more than (specify number) dwelling units, with a minimum erf size of m² (specify), shall be permitted on the property.
Or
- That not more than ... (specify number) dwelling units shall be permitted on the property.

2.4 Density

Density may be expressed in a number of ways, including dwelling units per hectare – gross or net – (du/ha) or a maximum number of dwelling units in a development or relevant to a site. Select whichever is appropriate. It is preferable to specify the number of dwelling units or erven/subdivisions.

2.5 Visual impacts

The appearance of a proposed development and its relationship to its surroundings are material considerations in planning decisions. While conditions of this nature should not impose matters of taste, there will be circumstances where it is important to secure a high quality of design if a development is to make a positive contribution to site and surroundings. The appearance and treatment of spaces between and around buildings is often important. The relationship of the development to the street is particularly significant. Certain vistas or landscape features may need to be maintained or enhanced. However conditions of this sort may be onerous and are generally imposed only for larger developments or in particularly sensitive landscapes.

2.5.1 Design, architectural treatment

Generally, specification of design parameters follows approval of the essential concept. Thus, conditions relating to design matters are often reserved for later approval procedures, such as the submission of precinct plans, site development plans or architectural design manuals.

Design, architectural treatment

- Development of the property shall be substantially/generally in accordance with Plan (or approved Architectural Guidelines) (specify plan description, number, reference as submitted by applicant), dated (specify).
- Details of the design of (specify, for e.g. fenestration, perimeter walls, etc) shall be submitted to the (specify Director) for approval, prior to building plan approval

Design, architectural treatment

Example of an unacceptable condition:

"That the developer will strive to enhance and preserve the rural character and architecture of the area through the provision of functional landscaping and an aesthetically acceptable development to the satisfaction of the municipality – this condition is vague in the extreme and provides no guidance to any party.

2.5.2 Materials

Materials

- A second dwelling unit shall be constructed in an architectural style, and with external material, finishes and colour, similar to the main dwelling house
- The type and colour of materials to be used in the (specify aspect of the development, for e.g. roofing, exterior walls, etc) shall be submitted to the (specify Director) for approval prior to building plan approval and all subsequent work shall be in accordance with such approved materials.
- The types and colour of materials to be used in the development shall be as specified on Plan (specify, as submitted by applicant), dated (specify).

2.5.3 Signage

The provisions of the Outdoor Advertising Bylaw control signage in the municipal area. There is therefore no need to specify requirements unless they are **more** stringent than the Bylaw. Some Zoning Schemes/LUMS specify additional signage requirements, particularly with respect to specified Consent uses. Again, there is no need to restate if already a legal requirement, although it may be useful to be included for information in an Appendix attached to the letter of approval

Signage

Example of an unacceptable condition:
 "Any signage displayed be in terms of the relevant bylaw" – this is a requirement in terms of existing legislation. If necessary, it should be included as information.

2.5.4 Walls, fencing

Walls and fencing are a common feature of South African residential areas, intended to provide both privacy and security. However, they have the potential to significantly impact on the streetscape. For this reason, planners tend to require input into the design of perimeter walls or fencing in larger developments or in areas of conservation significance. It is important however to ensure such conditions are commensurate with the scale of the development and are not impractical or onerous. Discussions with the applicant will assist in determining the most appropriate conditions in this respect.

Walls, fencing

- That the boundary wall/fence on the (specify which boundary) shall be (specify particular design parameters, for e.g. visually permeable, the same colour as the existing wall, height, etc), the designs for which shall be submitted to the (specify Director) for approval prior to building plan approval.

Walls, fencing

Example of an unacceptable condition:

"The design of the boundary walls shall be to the satisfaction of ..." – this provides no guidance to the developer and provides no timeframes for performance.

2.6 Occupancy

Since planning is concerned with the use of land rather than the identity of the user, the question of who is to occupy premises for which permission is to be granted is generally irrelevant. However, in the case of home businesses, it may be appropriate to avoid a material change of use by requiring occupation of a residential component.

In the case of second dwellings, particularly if such a development is a separate building, which provides for independent living accommodation, it is not appropriate to restrict future occupation as a separate dwelling.

Occupancy

- The major portion of the property/ a minimum of square metres specify as appropriate) must remain as a dwelling for the living accommodation of a single family.
- That a permanent residential component is retained on the premises.

Occupancy

Example of an unacceptable condition

"A second dwelling unit may not be separately alienated in terms of the Sectional Titles Act..." – approvals in terms of LUMS or the Ordinance cannot dictate approvals in terms of any other legislation, "... and shall not in itself be sufficient reason for the Municipality to approve subdivision of the land unit containing an additional dwelling in terms of the Planning Law" – this is a matter for information.

"The extension or second dwelling hereby permitted shall be used solely as part of the existing dwelling house and at no time shall it be occupied as a separate dwelling."; the Scheme Regulations define second dwellings as a unit for the accommodation of a family. This condition negates the approval of a second dwelling

2.7 Restrictions on operations

It is important when imposing conditions that limit the details of the business to relate the condition to the proposed use of the land – the focus should be on minimising potential adverse impacts, not on regulation of the manner of the operation.

2.7.1 Hours of operation

Hours of operation
That the use hereby permitted shall only operate between ... (specify hours and days).

2.7.2 Storage of materials

Storage of materials
• No materials, including waste products, shall be stored on the site outside of the buildings • No ...(specify materials e.g. hazardous waste, flammable substances) shall be stored within ...(specify) metres of buildings on the site or within ...(specify) metres of the(specify: site boundary, or rear, lateral or front boundary) • No...(specify materials e.g. hazardous waste) shall be stored on the site.

Storage of materials
Example of an <u>unacceptable</u> condition: "That the site shall be kept tidy at all times" – the condition is vague and unlikely to be capable of enforcement.

2.7.3 Other restrictions on operations

It should be noted that whilst these types of conditions may be used in any type of application when appropriate, they are more commonly used to condition Consent applications. Many of these uses are governed by policy (including Bed and Breakfasts, Home businesses, child-care facilities, second dwellings and house taverns), which stipulate the range of conditions applicable. Moreover, all these policies were drawn up prior to the standardisation of development conditions and, in some instances, are contrary to the Criteria established in this Manual to govern the drafting of all development conditions. **They should therefore be used circumspectly and only where justified by the specifics of the particular application.**

Restrictions on operations: general

- A maximum of ... (specify) employees in connection with this activity shall be permitted
- A maximum of ... (specify) employees in connection with this activity shall be permitted, whether or not such person ordinarily resides on the premises.
- A maximum of ... (specify) children shall be permitted on the premises at any one time
- A maximum of ... (specify) paying guests or lodgers shall be permitted at any one time.
- A maximum number of ... (specify) rooms shall be used for the accommodation of paying guests or lodgers
- Every guest room must be attached to the dwelling house/ second dwelling unit (whichever is applicable)
- The selling or supply of liquor is prohibited to non-guests
- The operation of video games or pinball tables are not permitted on the premises

Restrictions on operations: general

Examples of unacceptable conditions:

"Any person wishing to operate a centre which does not comply with these conditions may apply to the municipality for consent to operate a crèche, or for a rezoning to operate a place of instruction" – this should be for information, not a condition "The applicant shall provide adequate insurance cover for the transportation of children" – this is not of relevance to planning ""The applicant being held responsible for the supervision of the operators and being present on site during operating hours" – this is not of relevance to planning. Rather, and if pertinent, condition the precise impact to be managed.

Restrictions on operations: general (continued)

Examples of unacceptable conditions continued:

"Registration is required with the Department of Social Services and Poverty Alleviation: Provincial Administration in terms of the Child Care Act No 74 of 1983, as amended" – this is a statement of other legislative requirements, it should be for information, not a condition.

"The selling or supply of liquor is strictly prohibited, unless the necessary consent has been obtained from the Municipality and a liquor licence has been obtained" – there is no need to re-state the requirement for other approvals in the conditions, it should be included for information.

"That the house shop complies with the requirements of the National Building Regulations and Building Standards Act, No 103 of 1977" – this is a statement, not a condition, for information.

"A register of guests and lodgers must be kept, and completed when rooms are let, and the register must be produced for inspection on request by a Council official" – this is difficult to enforce and unlikely to manage the specific impacts so anticipated.

"Guest rooms shall not be converted to or used as separate dwelling units and there shall be no cooking facilities in the guest rooms apart from a kettle" – this will be covered by the restrictions of the Zone.

"That no tour buses shall be permitted to visit this site": this would be considered an unreasonable restriction on public roads and cannot be legally enforced. If an operation is likely to generate significant heavy traffic, it may be more appropriate to consider whether it should be approved.

"Only meals that are supplied to guests or lodgers who have lodging at the bed and breakfast establishment or dwelling house are permitted" – imprecise. What about meals for permanent residents and their guests? If the objective is to restricting an open restaurant, if the application is in a residential zone, a restaurant is not a permitted use. If in a zone where a restaurant is a permitted use, this use can specifically be precluded.

3. ENVIRONMENTAL AND HERITAGE

As a general rule, environmental and heritage factors should be identified at the outset and should inform the use of the land.

Environmental and heritage conditions and requirements tend to be very site specific. A minor development application in an environmentally or historically sensitive area may have a far greater impact than a similar development in an area not considered sensitive. Thus, it is more difficult to generate standard conditions since the exception may more frequently be the rule. The application of standardised conditions must therefore be considered with extreme caution.

Conditions pertaining to environmental and heritage matters are imposed from a number of other authorities. Given the overlap of interests, it is critical to ensure a co-ordinated approach and to clarify where responsibility lies for monitoring and enforcing compliance. Whilst certain of these issues can be incorporated into the conditions, successful co-ordination lies in a consultative approach and agreed internal procedures. Care must be taken to avoid conflicting or unrealistic requirements.

Many environmental conditions will also fall into the category of „Further Processes” - that is, detailed resolution of an issue is required only at a later stage in the development process. For ease of reference, many environmental and heritage conditions are included in this Section. However, it is important to read this Section together with Section 5 below in order to understand some of the issues relating to this type of condition, specifically as they pertain to ensuring compliance.

It should also be noted that other matters of environmental or heritage concern, such as visual impacts, signage and storage of materials are also of general concern and included elsewhere in this Manual. Familiarity with all aspects of the Manual is therefore important.

3.1 Landscaping

Landscaping conditions are generally only appropriate for large-scale developments, where land is to be transferred as public open space or where an environment is particularly sensitive. It would not be usual, for example, to impose such a condition on a home business, or a subdivision of an erf into two portions.

It is important to ensure that the landscape design proposals are reflected in the quality of works and materials in the final product. The design and implementation stages of landscape treatment may therefore be addressed more successfully by separate conditions, occurring as they do at different stages and under variable conditions.

Enforcement of such conditions is important but they require careful wording since they could be construed as unreasonable. This is specifically the case as landscaping is generally undertaken only in the final phases of a development. Linking landscaping works in to a programme or timetable agreed with the developer is desirable. For example, it may be unreasonable to require that all elements of landscaping be completed prior to building occupation – this may mean that a building remains unoccupied for a considerable time as landscaping generally occurs when it is unlikely to conflict with other construction activity. It may however be reasonable to require fulfilment of this condition prior to occupation of the last unit in a multi-unit facility. It may also be acceptable to require that works should be substantially completed by a certain period.

See Section 5 below for further consideration of issues pertinent to the imposition of landscape requirements.

Three aspects of landscaping are considered below: plans, implementation and tree protection.

3.1.1 Landscape plans

It should be noted that there may be overlap with other condition requirements, such as information required of a site development plan, or environmental management plan. Congruence between these conditions is essential.

Landscape design and the treatment of open space can vary greatly and is likely to be subjectively viewed and valued (see Section 2.5 above for further discussion on this matter). A key objective should to ensure that the intended design quality can be achieved and sustained in practice. Thus, it is important for the authority to clarify, in so far as is possible, the essential characteristics and elements of an acceptable landscape scheme, and to ensure that such expectations are not unreasonable.

Landscape plans

- A Landscape Master Plan/Detailed Landscape Plan (select as applicable) for the property concerned must be submitted by (specify time frame) to the (specify Directorate/s) for approval. Such Plan is to indicate, inter alia, the extent, location and design of the following (select as appropriate, add others if necessary):
 - existing vegetation/trees to be either removed and/or retained, indicating types(species) of all vegetation/trees
 - all proposed newly planted vegetation, including types (species) and planting specifications
 - existing and finished ground levels
 - a metered connection and/or irrigation plan
 - all landscaping features, including fences, walls, retaining walls, paving, street furniture, lighting and play equipment (indicating detailed specifications)
 - all existing and proposed new services traversing the property
 - phasing and timing of implementation, including a twelve month establishment period.

3.1.2 Landscaping implementation

Particular attention should be paid to implementation of landscaping requirements in subdivision approvals. Essential elements of the landscape framework should be completed prior to transfer to individual owners, and although the option may be provided, it should be pointed out that requiring compliance prior to building plan approval is probably too late in a development that comprises many new even. It is also important to make provision for on-going maintenance and to clarify responsibilities in this regard. This is easier if a Body Corporate or Home Owners Association can assume responsibility.

Provision should be made in the conditions, where appropriate, for the cession of open space to be transferred and managed by the Municipality (see Section 6.2 below).

It should be noted that there may be overlap with other condition requirements, such as the implementation of a site development plan, or environmental management plan. Congruence between these conditions is essential.

Landscaping implementation

- The approved Landscape Master Plan/Detailed Landscape Plan (select as applicable) shall be implemented by and at the cost of the owner/developer, in accordance with the implementation plan, prior to the transfer/subdivision clearance of the last ... even in this subdivision/approval of building plans/within ... months of the approval (select as appropriate) Implementation shall be to the satisfaction of the (specify Directorate/s). Alternatively, a Bill of Quantities for the cost of installing the landscaping as indicated on the approved Landscape Master Plan/Detailed Landscape Plan and specifications (select as appropriate) should be submitted for the approval of the (specify Directorate). An acceptable guarantee by a reputable financial institution (based on the Bill of Quantities) for the amount as approved by the(specify Directorate/s) shall be lodged with the....(specify Directorate) prior to the transfer/subdivision clearance of the last ... even in this subdivision/approval of building plans/within ...months of the approval. The said financial guarantee must be renewed timeously.
- the development of public open space shall be in accordance with the standard requirements of the(specify Director) in this regard which are indicated on the attached Appendix(specify) hereto
- The Body Corporate/Homeowners Association/Owner/Developer (select one) shall be responsible for the:
 - maintenance of the ...(specify elements) for a minimum period of from the date of completion(specify if necessary)
 - eradication of invasive alien vegetation according to ...(specify a schedule)
 -(specify as necessary)

Landscaping Implementation

- The approved Landscape Master Plan/Detailed Landscape Plan (select as applicable) shall be implemented by and at the cost of the owner/developer, in accordance with the implementation plan, prior to the transfer/subdivision clearance of the last ... even in this subdivision/approval of building plans/within ... months of the approval (select as appropriate) Implementation shall be to the satisfaction of the ... (specify Directorate/s). Alternatively, a Bill of Quantities for the cost of installing the landscaping as indicated on the approved Landscape Master Plan/Detailed Landscape Plan and specifications (select as appropriate) should be submitted for the approval of the (specify Directorate). An acceptable guarantee by a reputable financial institution (based on the Bill of Quantities) for the amount as approved by the(specify Directorate/s) shall be lodged with the....(specify Directorate) prior to the transfer/subdivision clearance of the last ... even in this subdivision/approval of building plans/within ...months of the approval. The said financial guarantee must be renewed timeously.
- the development of public open space shall be in accordance with the standard requirements of the(specify Director) in this regard which are indicated on the attached Appendix ... (specify) hereto
- The Body Corporate/Homeowners Association/Owner/Developer (select one) shall be responsible for the:
 - maintenance of the ...(specify elements) for a minimum period of ... from the date of completion (specify if necessary)
 - eradication of invasive alien vegetation according to ...(specify a schedule)
 -(specify as necessary)

3.1.3 Tree protection

Whilst generally considered as part of a landscape plan, it may be useful in certain circumstances to expressly condition the securing or preservation and/or the planting of trees. It may be appropriate to require the submission of particular details relating to trees to be retained on site, such as their location in relation to the development, and their general state of health and stability. The protection of trees during construction may also require specification. Long-term maintenance over a specified number of years (including provision for removal and replacement of dead trees) is usually necessary to ensure secure establishment of new trees.

Generally all queries with regard to trees within a municipality's road reserves and on public open spaces (excluding formal sports fields) need to be referred to Parks Department for consideration, and such matters will be dealt with in terms of the relevant policy of the municipality. Trees in Urban Conservation Areas need to be dealt with in a co-ordinated manner with City Parks and Environmental Management.

Tree protection

- (provision for the specification of trees to be removed and retained)
- No trees on the property shall be lopped, topped, felled, removed or disturbed in any way without the prior written approval of the (specify Director). This condition also extends underground to include the area of the root zone.
- Development on the site shall not begin until trees marked for retention on (specify approved plan reference) have been suitably protected to the satisfaction of....(specify Director)

3.2 Environmental Management Plans

Environmental Management Plans (EMPs) are essentially a tool designed to protect the environment during and for post construction. It is difficult to standardise the application of these conditions as context is critical in making this determination. However, there are common issues and concerns that warrant standardisation of aspects of these conditions.

There are a number of commonly used generic EMPs, designed to suit the particular requirements of different developments:

- In a large residential estate development or commercial development where the developer is responsible for both installing the services and constructing the individual units (EMP1). Depending on the nature of the site, an EMP may be required only for the installation of services and not for the construction of the units as well. EMPs for the construction of dwellings will only be required in exceptional circumstances.

Environmental Management Plans

EMP1 (Single phase development): for services only

- The developer/owner (select one) must submit an Environmental Management Plan (EMP) for the installation of the Services to the Municipality for approval by the (specify Director) prior to the commencement of any earthworks on the property.
- The EMP must address, inter alia, the following:
 - (specify)
 - The developer/ owner (choose the appropriate one) is bound to comply with and enforce compliance by contractors with provisions of the EMP during the earthworks, installation of the services. The developer shall ensure that the EMP forms part of the contractor's documentation.
 - The developer/owner (select one) shall appoint, at his/her cost, an independent Environmental Site Officer (ESO), with appropriate environmental qualifications for the duration of the works contemplated in the EMP, in order to monitor compliance by all parties with the EMP and requiring the ESO to liaise with Council's environmental officers on a regular basis.

- In large residential estate developments, where a developer installs the services and subsequent homeowners build individually (EMP1a)
- In small scale developments that have minimal environmental impacts, but where social impacts may be of concern (Site Environmental Management Plans - SEMPs)
- The long-term management of large developments that may or may not be associated with tracts of private open space or sensitive landscapes or water bodies. This ensures that environmental awareness and good practice is continued through the lifespan of the development (Operational Environmental Management Plan - OEMP)

As an alternative to an OEMP, a management agreement can be entered into which places the responsibility of managing the conservation worthy area on the HOA/developer.

- The developer/owner (select one) shall enter into a contract with the ESO detailing the minimum hours per week the ESO must be on site and conferring the power on the ESO to stop the construction on site if there is non compliance with the EMP.
 - The developer/owner (select one) shall make good any damage to the environment caused as a result of non compliance with the EMP.
- (Single phase development): for services and dwellings**
(note: only in exceptional circumstances should an EMP be required for the construction of dwellings)
- The developer/owner (select one) must submit an Environmental Management Plan (EMP) for the installation of services and the construction of the dwellings to Municipality for approval by the ... (specify Director) prior to the commencement of any earthworks on the property.
 - The EMP must address, inter alia, the following:
 - (specify)
 - The developer/ owner (choose the appropriate one) is bound to comply with and enforce compliance by contractors with provisions of the EMP during the earthworks, installation of the services and the construction of the dwellings. The developer shall ensure that the EMP forms part of the contractor's documentation.
 - The developer/owner (select one) shall appoint, at his/her cost, an independent Environmental Site Officer (ESO), with appropriate environmental qualifications for the duration of the works contemplated in the EMP, in order to monitor compliance by all parties with the EMP and requiring the ESO to liaise with Council's environmental officers on a regular basis.
 - The developer/owner (select one) shall enter into a contract with the ESO detailing the minimum hours per week the ESO must be on site and conferring the power on the ESO to stop the construction on site if there is non compliance with the EMP.
 - The developer/owner (select one) shall make good any damage

- In the event that the owners of the erven arising out of the subdivision are to construct their dwellings,
- The Home Owners Association (HOA) shall undertake responsibility for the monitoring and enforcement of the EMP during the construction of the individual dwellings
 - The owners of erven arising out of the subdivision shall comply with the provisions of the EMP during the construction of the individual dwellings and any alterations to the dwellings.

Environmental Management Plans

EMP1a (Two phase development – to be used if an HOA is to be established)

- The Constitution of the HOA shall contain provisions which:
 1. empower and oblige the Association to undertake responsibility for the monitoring compliance with the EMP by the individual owners and their contractors during the construction of the individual dwellings.
 2. empower the Association to develop measures to enforce compliance with the EMP.
 3. oblige the members (individual owners) to comply with the provisions of the EMP when constructing the dwellings and making material alterations to the dwellings.
 4. oblige the members (individual owners) to include the EMP in their building contractors documentation.
 5. oblige members (individual owners) to appoint a suitably qualified ESO at the members cost and prior to the construction of the individual dwellings to monitor and ensure compliance by all parties with the provisions of the EMP.

In small scale developments that have minimal environmental impacts, but where social impacts may be of concern a Site Environmental Management Plan (SEMP) may be required. For example, in the case of a childcare facility, the location of outdoor play equipment may have some impact.

Environmental Management Plans

SEMP

- The owner/developer (specify) must submit an A3 Plan indicating all elements of the Site Environmental Management Plan (SEMP) for the approval of (specify Director/official) prior to building plan approval.
- A Site Environmental Management Plan (SEMP) is required is to contain, at a minimum, the following:
A fully dimensioned plan indicating the footprint of the structures on the property, the erf boundaries, the stockpile areas, toilet facilities during construction, entrances and exits to the erf during construction as well as a notation on how the following issues are to be dealt with:
Noise Dust Control
Erosion Control
Materials and Construction traffic
Hours of operation
Demarcation of site
Ablution facilities
Waste management during construction
Protection of sensitive features (e.g. trees)
Material handling, storage and stockpiles
- The owner/developer (specify) is obliged to comply with the SEM and ensure that the contractors (including sub-contractors) comply with the SEM.

The long-term management of large developments that may or may not be associated with tracts of private open space or sensitive landscapes or water bodies may require an Operational Environmental Management Plan (OEMP). This ensures that environmental awareness and good practice is continued through the lifespan of the development.

Environmental Management Plans

OEMP

- An Operational Phase Environmental Management Plan (OEMP) is to be compiled for the property by the developer/ owner (select) for approval by the(specify Director). The OEMP is to be in place prior to the transfer of the last 50% of the even.
- The OEMP shall deal with the ongoing environmental protection of the property including, storm water management, open space management as well as the planting of suitable indigenous species....(or specify other)
- The OEMP shall contain provisions whereby an independent ESO with appropriate environmental qualifications conducts an assessment/ audit of compliance by all parties bound to comply with same and shall report to (specify Director) once every calendar year(or other as specified)
- The owners of individual even are obliged to comply with the provisions of the OEMP
- The Home Owners Association (HOA) is obliged to comply with the OEMP in so far as it relates to the property belonging to the HOA.
- The Home Owners Association shall monitor and enforce compliance by individual owners and by the Association itself with the OEMP and its constitution shall contain the provisions in the objects clause and in the body of the constitution to empower it to carry out this function.

3.3 Environmental Impact Assessment

It is not possible to provide standard applications of Environmental Impact Assessment (EIA) conditions as such application is determined by the Regulations issued in terms of the National Environmental Management Act, 1998 (Act 107 of 1998). The competent authority responsible for the application of NEMA regulations will determine the conditions.

Environmental issues need to be identified at the outset so as to inform the land usage; consequently the undertaking of an EIA process needs to precede a planning application, but at the same time needs to be carefully managed to allow the two processes to run concurrently so as to avoid duplication of advertising and the processing time of applications.

3.4 Heritage

As with requirements for an EIA, it is not possible to provide standard conditions for Heritage Impact Assessments (HIA) as such application is determined by Section 24 of the National Heritage Resources Act 25 of 1999 (NHRA). In terms of the Act, an HIA is required, for example, in respect of the change in character e.g. of any site measuring greater than 5000m² or where 3 or more properties are involved.

Heritage issues (including archaeological remains) need to be identified at the outset so as to inform the land usage; consequently the undertaking of an HIA process needs to precede a planning application, but at the same time needs to be carefully managed to allow the two processes to run concurrently so as to avoid duplication of advertising and the processing time of applications.

Environmental and Heritage requirements

Example of an unacceptable condition:
 "The requirements of the Department of Environmental Affairs and Development Planning as specified in the Record of Decision being complied with" – the requirements of a Record of Decision (RoD) are given force in terms of the NEMA or NHRA and do not need re-stating.
However, the RoD is to be attached as an Annexure for information.

4. TRAFFIC AND TRANSPORT

Developments often generate additional traffic, either in the form of vehicles of residents, visitors or employees. There may be delivery traffic. This will imply requirements for adequate road and parking space, some of which (such as parking for certain uses) is specified in the relevant Zoning Scheme/LUMS. Any conditions in this regard should be reasonable in relation to the size and nature of the development as well as consistent with transport policy. A Traffic Impact Assessment (TIA) or Traffic Impact Statement (TIS) is generally required to form part of the application under consideration. Early discussions between the applicant and the approving road authorities (which may include Provincial authorities) will facilitate agreement on these matters. It is important that an approval detail any road improvements required such as adding an extra turning lane, traffic control measures such as a stop, signal or roundabout.

The municipality may have developed Standard Conditions for the construction or alteration of such infrastructure by private developers that should be attached to any application approval and reference made to it in the conditions pertaining to such approval.

4.1 Access

In order to minimize impact of a development, it may be necessary to impose restrictions on access. In large-scale developments, such conditions should be imposed on the principal application rather than on subsequent subdivision as it is more difficult to impose when details are being considered. It is important to make the distinction between public rights of way and those over which there is no public right of passage. It will also be important to specify the provision of access in relation to the phasing of the development.

Traffic and transport

- Detailed design and location of (specify e.g. access points, circulation, parking, loading, pedestrian facilities, etc) shall be in accordance with Drawing number, dated (specify as appropriate) submitted in terms of this application.
- the design, construction and/or alteration of transport, roads, pedestrian facilities and stormwater infrastructure where said infrastructure vests or will vest in the Municipality, shall be generally in accordance with the Standard Conditions imposed by the Municipality in this respect and attached as Appendix (specify), or as otherwise agreed. Details shall be submitted to the (specify Director) prior to ... (specify e.g. building plan approval, occupation, earthworks commencing, etc).

Access

- No direct vehicular access shall be permitted onto ...(specify road)
- Access to the property concerned shall be via(specify) and shall be (specify exact location or setback if appropriate)
- Visibility splays shall be provided and maintained on each side of the new access in accordance with the standard specifications of(specify)
-access shall be provided prior to(specify e.g. any works commencing on the site, etc

4.2 Parking

Where not provided for in terms of the Scheme/LUMS regulations, additional provision may have to be made for parking. In certain circumstances, off-site parking may be acceptable. In this case, it is important that the development is readily accessible from the car park, and that control and management of the parking area is clarified. It will also be important to notarially tie the off-site parking to the site, without which it will not be considered an acceptable part of the fulfillment of parking requirements.

Consistency in the application of parking requirements is important, particularly given that a number of Zoning Schemes/LUMS are silent on parking requirements.

4.3 Public transport

Although generally the responsibility of the authorities, large scale developments may warrant the provision of public transport facilities. Standards and phasing of implementation should be specified.

Parking

- Parking shall be provided by the owner on the property in the ratio of ... bays(specify) per(specify number of dwelling units or area, generally gross leasable area (GLA) including ratios for different uses if on the same site), plus bays per to be reserved and clearly marked for visitor's parking

Parking

Example of an unacceptable condition:

"On-site parking must be provided to the satisfaction of the Municipality" – this is imprecise and provides no clarity to the owner as to requirements of the Municipality.

"No more than 2 motor vehicles that are used by employees of this activity shall be parked in Church street or any of the surrounding streets" – this condition seeks to control in respect of a public road which is not under the control of the applicant and would be difficult to enforce. Rather ensure sufficient parking is secured, failing which the development proposal may require amendment or the application refused.

5. FURTHER PROCESSES

In considering an application it may be that certain aspects of the development that are crucial to the decision as to whether the application should be recommended for approval or refusal are clear, but that other (less fundamental) details require further consideration. In order to facilitate the development process, it is appropriate to condition an approval subject to further assessment of those matters. Such matters cannot be of such import that if there cannot be a satisfactory resolution at this later stage, the development should not have been permitted in the first instance.

Conditions of this type are generally used in large-scale developments, requiring a host of other approvals, a phased development process and where the approval of the application in terms of the Ordinance will facilitate these other processes. Such conditions are also used in order to secure that a particular aspect of a development is provided by a particular stage if it may be that the developer is likely to defer or omit completion of such an aspect. For example, it may be desirable to require that a new access is provided before construction on the development commences. This approach however must be reasonable. For example, it may be unreasonable to require that all elements of landscaping be completed prior to building occupation – it may mean that a building remains unoccupied for a considerable time as landscaping generally occurs when it is unlikely to conflict with other construction activity. It may however be reasonable to require fulfillment of this condition prior to occupation of the last unit in a multi-unit facility. Or, a requirement that works should be substantially completed by a certain period.

It is important to note that all onerous conditions must be imposed at the rezoning or sub-division stage – a staged approval process may not be used to impose additional conditions at a later stage, for example, at the Site Development Plan stage.

An important component of such a condition is the link to a time or process significant event to ensure compliance. These include the requirement to submit for approval prior to building plan approval, transfer, commencement of site clearing, and so on. Ascertaining which of these events would be most appropriate is application specific.

However, a knowledge of how all approval processes in the development cycle relate to each other will assist in this determination.

5.1 Submission of Precinct Plans, Site Development Plans

Where more detailed aspects of the proposed development require further consideration or where aspects of the proposal require modification (provided such modification is not of a substantial nature, requiring re-advertising), conditions may be included that require approval of these aspects at a later stage. The requirement for Precinct Plans or Site Development Plans (SDP) permits further consideration of aspects of the development concept before the building plan approval stage. Generally only used for major developments, or where a number of use zones are to be created, a distinction should be drawn between a Precinct Plan and an SDP. Precinct Plans are to be used in only the very largest of developments, where development will take place in a phased manner and over a long period of time. A Precinct Plan is intended to outline the overall development concept, precinct identification, phasing, and matters appropriate to this scale (for example, an approach to public access, broad design parameters and so on). A Site Development Plan is a subsequent requirement, providing more detailing on the concept for each precinct. Where a development is not of the magnitude to require submission of Precinct Plans, the submission of an SDP allows for further detailing of the concept. Both remain at the level of concept – actual detailing will occur on submission of building plans, but must be in accordance with the parameters contained in the Precinct Plan and SDP.

Precinct and Site Development Plans

- That a Precinct Plan for the entire area be submitted for approval by the (specify Director) prior to (specify process). Such Plan is to include the following (select as relevant):
 - A site layout plan identifying development precincts and phasing
 - Land use allocations, and development parameters, including heights, coverage and associated bulk and design guidelines
 - Major circulation routes (vehicular and pedestrian), access, loading and parking areas
 - Servitudes to be registered
 - A Landscape Framework Plan
 - Bulk Service arrangements
- That a Site Development Plan be submitted for approval by the (specify Director) prior to (specify process). Such a Plan is (to be generally/substantially in accordance with the approved Precinct Plan and) is to include the following:
 - Boundary edge definition
 - A layout plan showing (include as appropriate: the position of all roads, sidewalks, parking areas, loading, access points, refuse storage and removal, the allocation of uses, the position and orientation of all buildings, the allocation of public and private spaces, building developed bulk, setbacks ...)
 - A Cadastral Plan showing (include as appropriate: erf boundaries, subdivisions, servitudes ...)
 - Details of the phasing of the development - A landscaping plan showing (include as appropriate: the location and species of existing and proposed trees, shrubs and hedges.....)
 - A plan of services showing, inter alia, all existing and proposed new services traversing the property, connection points for such services, (include additional as appropriate see Engineering Services, Section 6 below)

However, care should be taken to ensure that the fundamental parameters of the development are set as a condition at the rezoning stage, not dealt with at the SDP stage. Any further amendments to a SDP, once approved, must be done by way of an application in terms of the relevant clause of the LUMS.

- A Design Manual showing (include as appropriate: details of built form, showing inter alia, elevations, garage types, siting, orientation, sections, type and colour of external materials, signage ... see Design, Architectural Treatment above)
- All development shall be generally/substantially in conformance with the approved Site Development Plan (specify Plan Reference number and date)

5.2 Completion of procedure

In order to ensure the Municipality is able to input appropriately (and with increasing attention to detail) as a planning proposal passes through all the procedures required of it, it is possible to link such inputs to various approval procedures. If carefully conditioned, such conditions should also be structured to assist the developer in obtaining financing, or proceeding with elements of the development without unnecessarily restricting the process. Generally, such conditions are used for the approval of subdivisions, particularly larger ones, and where a rezoning is required. However, great care should be taken to condition appropriately and in terms of the statutory powers granted.

The Ordinances ensure that sub-division conditions are complied with. They stipulate that before registration of a sub-division can be effected by the Registrar of Deeds, the transferor has to submit proof to the Municipality that all conditions have been complied with. There is therefore no need to stipulate conditions to this effect. It should also be noted that on confirmation of a sub-division, all public places automatically vest in the Municipality. There is thus no need to include transfer requirements as a condition.

5.3 Administrative requirements

Although it is generally not appropriate to include internal procedural requirements as conditions (they should rather be a matter for information), in the larger applications, particularly where an approval is linked to various approval procedures, it may be appropriate to specify essential administrative requirements as a condition to ensure such procedures can be completed timeously. Since these are application specific and subject to change, current administrative requirements may be listed in an annexure.

Completion of procedure

Example of an unacceptable condition:

"That all such conditions must be complied with prior to(specify building plan approval, registration, transfer of first/any even, etc)": this is provided for in the Ordinance "That no building plans shall be approved until all the relevant conditions have been complied with and, furthermore, no plans be approved prior to the confirmation of the subdivision or submission of written confirmation by the transfer attorney that the registration of the first erf is being attended to": again, building plans can only be approved if they comply with all applicable laws, which include conditions of rezoning.

"In the event of the owner wishing to take out a Certificate of Registered Title, consideration will be given to suspension of these conditions of approval until the land is transferred": there is no statutory power to do so and it should be considered bad practice.

Administrative requirements

- The Standard Administrative Requirements for(specify e.g. the issuing of Clearance Certificates, rates clearance, etc), attached as Appendix must be complied with. (See Appendix A)

5.4 Removal of uses, buildings

Removal of uses, buildings
• That the entire property be cleared of builders rubble and associate dumping materials prior to (specify: building plan approval, transfer, etc) • The ...(specify building or structure) be removed from ...(specify position/erf if relevant) at the applicants cost, prior to(specify: subdivision clearance, building plan approval, transfer, etc) • The ...(specify use) cease operation on...(specify position/erf if relevant) at the applicants cost, prior to(specify: subdivision clearance, building plan approval, transfer, etc) (note: exercise caution with this clause: it can only be used where the subdivision impacts on the use)

5.5 Survey matters

Survey matters
• That a servitude for (specify e.g.: municipal services or provision of access) be registered in favour of(specify) prior to(specify, generally transfer) • That even ... and(specify) be noterially tied. • That consolidation of the erven ... (specify) occur prior to(specify: building plan approval, transfer, etc) • That the conditions contained within this approval shall be applicable to the consolidated site • That conditions(specify) be registered against the title deed of erf.... (note: this condition should be used sparingly)

5.6 Financial guarantees

In order to ensure enforcement of certain conditions that will require financial outlay by the developer, but without delaying other elements of the development process, it is possible to require the lodgement of financial guarantees with the Municipality, which can be released on submission of proof of completion. Although such guarantees generally take the form of a bank issued guarantee, it is preferable to provide flexibility and refer to "financial" guarantees, acceptable to Council. The furnishing of financial guarantees effectively means that the condition for which the guarantee is issued has been satisfied.

However, a number of cautionary notes should be made: cheques can bounce or be cancelled and are not considered acceptable. Each financial guarantee submitted should be thoroughly vetted by an experienced official and it is important to monitor the lapsing of such guarantees so as to ensure that they are renewed timeously.

5.7 Homeowners association

In granting an application for a subdivision, a Home Owners Association may be required. The registration of such an Association is intended primarily to ensure maintenance of buildings, services or land on common property. This is similar to a Body Corporate, which requirement is for Sectional Title Schemes and required in terms of the Sectional Titles Act.

Developers often insert additional land use restrictions via the Home Owners Association Constitution or Architectural Design Guidelines. Constitutions often contain onerous conditions forbidding the members from applying for subdivision or rezoning and requiring them by virtue of their membership of the HOA, to consent to any further development that the developer wishes to undertake. These provisions cause problems for a Municipality when processing such applications. It is therefore important to indicate clearly on the approval of the Home Owners Association Constitution that the Municipality is approving

Financial guarantees

- That a Financial Guarantee, from a recognised financial institution and as approved by the Director (specify), for R.... (specify if possible)/an amount as approved by the(specify Directorate), shall be lodged with the(specify Directorate) prior to(specify: subdivision clearance, approval of building plans, within ...months of approval, before transfer of the last ... even).

Homeowners association

1. That a Home Owners Association (HOA) be established and shall come into being before the Municipality will certify that any condition on which the subdivision was granted, has been complied with, except if sufficient proof has been submitted by the transfer attorney that such Home Owners Association has been established after the title condition as indicated in (paragraph 6 or referred to relevant condition number in report) has been inserted in the title deed of the mother erf to be automatically carried forwarded into the title deeds of the newly created erven.
2. That the following private road/s and open space/s (use appropriate terminology) with erf number/s (use numbers on GP) shall vest in the HOA who shall take transfer simultaneously with the transfer or separate registration of the first deducted land portion in such phase.
3. That the HOA shall be responsible for (choose the relevant options)
 - (a) The maintenance of the roads, private open space, all internal services the running costs of street lighting.

the Constitution in its capacity as authorized local authority in terms of the Ordinance. In other words, the Municipality is not approving the additional land use restrictions, prohibitions on objections to rezoning applications and so on. These are private restrictions that must be enforced by the HOA. Furthermore, when approving Architectural Guidelines, please ensure that the Guidelines do not contain restrictions on use which conflict with the LUMS.

- (b) Enforcing compliance with the approved architectural guidelines, landscaping guideline manual.
 - (c) Commenting on whether building plans comply with the architectural guidelines.
 - (d) other requirements.....
4. That the Constitution of the Home Owners Association specifically empowers the Association to deal with the matters set out above. (Remember to include the environmental conditions if required).
 5. That the Constitution must contain a provision that certain identified paragraphs thereof may not be altered or amended in any way without the prior written consent of Council.
 6. The Home Owners Association shall comprise the registered owners of the land units (use your terminology) designated as portions ... on the approved subdivision layout plan. The owners shall become members of the HOA automatically upon taking transfer of their respective land unit. This requirement will be binding on the said owners and their successors in title and shall be included in the title deed of each portion. The Power of Attorney to pass transfer shall include the following conditions which shall be carried forward into the title deeds:
 "SUBJECT to the following condition imposed by the Municipality when approving the subdivision of.....: "The owner of each subdivided erf shall upon registration of such erf in its name ipso facto become a member of the Home Owners Association and remain so while owning the property. The erf may not be sold or transferred save with the consent of the Home Owners Association, which consent will not be unreasonably withheld".
 7. That the land held by the HOA shall not be disposed of, alienated or transferred to any other party, nor mortgaged which condition shall be carried forward into the Title Deed/s of the concerned land.

8. That the Constitution for the Home Owners Association be submitted toby..... (date or event) for approval and to ensure that the additional requirements imposed in these conditions of approval are incorporated.
9. That the first meeting of the HOA be called once 80 % (use this as the norm but change if circumstances requires it) of the erven have been sold or dwellings occupied on such erven, whichever comes first, and the minutes of that meeting be sent towithin two weeks of the meeting. The first Annual General Meeting be held within 12 months from approval of the said Constitution bythe developer/members of the HOA.
10. That until the establishment of the HOA, the developer shall assume the responsibilities of the HOA.

6. ENGINEERING

It should be noted that this section excludes the conditions pertaining to water, sewerage, electricity and Telkom. These are to be obtained from the relevant Directorates on an application-by-application basis.

Engineering issues are increasingly impacting on the approval or otherwise of development applications. An historical lack of investment in infrastructure and maintenance has meant there is a backlog of improvements required to achieve adequate compliance and capacity in respect of services such as wastewater, stormwater and so on. Financial constraints and legislative requirements in respect of undertaking capacity extensions (such as EIA requirements) mean that it can take several years before the necessary improvements are in place to accommodate development. This issue affects some areas more than others. In this context, it is important to be aware of areas constrained by service capacity and to determine, in consultation with the relevant Service Directorates, whether this may significantly influence the outcome of development application decisions.

It should be noted that conditions that fall outside the scope of the authority contained in the Ordinance cannot be added as a requirement of the administrative approval. Requirements outside the scope of the Ordinance will require a separate agreement entered into between the developer and Council prior to a decision being taken to approve the application.

6.1 Services

Service requirements of a development, particularly larger subdivisions, can be substantial, and will involve a number of Municipal Directorates. Given the extensive nature of these requirements, and the application of many legal, policy and guideline frameworks, model conditions are more easily compressed into a number of overarching stipulations, which allow the Service Directorates to apply the

Engineering services

- The owner/developer shall be responsible for all costs incurred in respect of the upgrading, extension, deviation, connection or removal of any existing storm water, sewerage, electricity, roads or other service or work arising from the development.
- All services upgrading, extension, deviation or removal must be done in accordance with engineering design drawings which meet the requirements of and must be approved by the(specify Director)(or any other body having authority so to require as a result of the development of the property) prior to(specify process e.g. any earthworks/ any construction commencing/ building plan approval/ subdivision clearance, etc).
- The Standard Conditions for (specify e.g. the construction or alteration of transport, roads and storm water infrastructure by private developers, etc), attached hereto as Appendix must be complied with.

relevant standards. However, these standard requirements must be adequately and clearly communicated to developers. Those Roads and Stormwater Engineering Standards may be attached as an appendix. It should be noted that a number of engineering requirements can be included in conditions outlined in Section 5 above.

6.2 Development contributions and cession

A requirement for the cession of land or monetary contributions is permitted in terms of the Ordinance (i.e. parks). The Ordinance permits the imposition of conditions in relation to the cession of land or the payment of money which is **directly related to requirements resulting from the said authorization, exemption, application or appeal** in respect of the provision of necessary services or amenities to the land concerned" (emphasis added). Critically, it is noted that for such a condition to be valid, any such requirement (for land or money) must be collected only for **public facilities and infrastructure** for which that specific land development causes a need, and must be proportional to the impact of the development.

Where there is a requirement for a contribution above and beyond that permitted by the Ordinance, this must be required by way of separate agreement concluded between the Service Directorate and the developer/owner. It may **not** be included as a condition of a development application. However, it must be noted as a requirement in the Report approving an application, and such a Report should not be submitted for approval until the Agreement has been finalized.

It should be noted that such requirements should not include those development levies authorized in terms of other legislation and municipal policy and tariffs.

In respect of the cession of land, it should be noted that on confirmation of sub-division, all public places automatically vest in

Development contributions

- The owner shall pay a financial contribution towards the provision of(specify element e.g. public open space, public roadway, municipal service, etc.)in the amount of/calculated on the basis of (specify e.g. cost per additional erf, etc). Such payment shall be made prior to(specify process e.g. from date of approval of rezoning/consent/departure; prior to transfer of first erf, prior to subdivision clearance, etc).
- Such financial contribution shall be subjected to escalation calculated as follows:
 - calculations shall be per month or part thereof
 - the escalation shall be based on the Consumer Price Index (CPI) as published in the Statistical News Release by Statistics South Africa
 - the CPI used in the calculation will be those of a twelve month period prior to the current financial year
 - the escalation rate will be revised annually on (date).

the Municipality. There is therefore no need to stipulate ownership requirements in this regard as part of the development conditions, as long as the extent of public open space within the parameters allowed by the Ordinance and/or an approved Municipal Policy. Any conditions relating to cession must be treated with caution – it is important that the Municipality has the statutory power to require cession, failing which an Agreement must be entered into.

7. HEALTH

Health conditions pertain to many aspects of a development, including noise, nuisance, the preparation of food, pollution and so on. However, it should be noted that many health requirements are authorized in terms of other legislation. These requirements should not be included as conditions, but the Standard Requirements of the Directorate City Health can be communicated to the applicant.

Health related conditions that fall outside the scope of the authority delegated by the Ordinance cannot be added as a requirement of the administrative approval.

Noise can have a significant effect on an environment and the quality of life enjoyed by communities. Noise sensitive developments, such as residential, should ideally be separated from major sources of noise. If it is not possible to achieve such a separation of uses, in the consideration of, for example a home industry, it is important to consider whether it is practical to control or reduce noise levels, or to mitigate the impact of noise through conditions.

Health
- In order to minimise noise pollution, site clearance, preparation and development may only occur between ... and ...(specify hours) on ...(specify days), except with the written permission of the ...(specify Director). - The Standard Conditions of the ...(specify Director), attached hereto as Appendix ... must be complied with. - A Noise Management Plan must be submitted for the approval of the ...(specify Director) prior to ...(specify process e.g. building plan approval). Such Noise Management Plan is to include ...(specify aspects to which particular attention is to be paid). - The ...(specify Director) reserves the right to call for the submission by and at the cost of the owner, of a Noise Impact Assessment report, compiled and carried out by an accredited Acoustic Engineer or consultant. Subject to the outcome of the aforementioned report, the ...(specify Director) reserves the right to call for further restrictive requirements. - The Municipality may, if it is of the opinion that the business is being conducted in a manner which is, or is likely to be detrimental to the residential environment, or a source of nuisance, serve a notice in writing on the operator calling upon him/her to: 1) Comply with the instructions set out in such notice 2) Cease using the premises in question for a business by a date specified in such notice"

Health
Example of an unacceptable condition: "No activities shall be carried out which constitute or are likely to constitute a source of public nuisance" – nuisance is controlled by other legislation

PART III: DRAFT RECOMMENDATIONS

INTRODUCTION

In drafting recommendations for consideration of a planning application by the Municipal Council/Committee, attention should be paid to a number of relevant factors:

- the nature and type of the application and its legislative context
- the recommendation to refuse or approve
- the recommending authority
- reference to the subject property
- reference to any relevant plan illustrating the proposal
- reference to any applicable conditions of approval

Standard recommendations are provided for the following:

- Rezoning
- Subdivision
- Temporary Use/Relaxation
- Regulation Departure
- Conditional Use/Consent Use
- Removal of Restrictions
- Amendment of Conditions
- Amendment of Zoning Schemes
- Amendment of Schedule of Conditions
- Site Development Plan Approval

It is important to consider each application individually. Note the relevant factors as listed above and modify the recommendations accordingly.

Note should be made of whether the Municipality has the authority to approve the application – recommendations should be framed

accordingly (i.e. recommendation to approve, became recommendation to recommend).

Recommendations: Rezoning

That the application for:

Rezoning of Erf xxx, (allotment area) from (existing zone) to xxx, as indicated on the attached Site Development Plan No. (xxx) (if applicable), drawn by (xxx), dated (xxx), be approved in terms of Section of the Ordinance 15 of 1986, subject to the conditions contained in the attached Annexure A.

Rezoning of Erf xxx, (allotment area) from (existing zone) to xxx be refused in terms of Section ... of the Ordinance No 15 of 1986 for the following reasons.

CONDITIONS IMPOSED IN TERMS OF SECTION OF ORDINANCE NO 15 OF 1986 (*insert the conditions here*)

Recommendations: Subdivision

That the application for:

Subdivision of Erf xxx,(allotment area) into (xxx), be approved in terms of Section of the Ordinance No 15 of 1986, in accordance with the attached Subdivision Sketch Plan No. (xxx), drawn by (xxx), dated (xxx), subject to the conditions contained in attached Annexure A.

Subdivision of Erf xxx,(allotment area) into (xxx) be refused in terms of Section of the Ordinance No 15 of 1986 for the following reasons.

CONDITIONS IMPOSED IN TERMS OF SECTION OF THE ORDINANCE NO 15 OF 1986 (*insert the conditions here*)

Recommendation: Temporary land use departure

That the application for: Temporary Use under the Land Use Management Scheme Regulations in respect of Erf xxx, (allotment area) to permit xxx (specify) for a period of (specify years) be approved in terms of Clause of the Land Use Management Scheme No 15 of 1986, in accordance with the attached (xxx) Plan No. (xxx) (if applicable), drawn by (xxx), dated (xxx), subject to the conditions contained in attached Annexure A.

Temporary Use under Land Use Management Scheme Regulations in respect of Erf xxx, (allotment area) to xxx for a period of (specify years) be refused in terms of Clause of the Land Use Management Scheme for the following reasons.

CONDITIONS IMPOSED IN TERMS OF CLAUSE ... OF THE LAND USE MANAGEMENT SCHEME (Insert conditions here)

Recommendation: Relaxation of Development Restrictions

Note: Relaxations must be individually specified (either in recommendation or by Annexure) and not assumed i.e. in the case of a building line relaxation, specify from 4,5m to ...m on ... boundary (lateral, rear, street building line).

That the application for:

Relaxation of the (xxx) Land Use Management and Scheme Clauses in respect of Erf xxx,(allotment area), involving (xxx) relaxation of (specify) to permit xxx (specify) be approved in terms of Clause of the Land Use Management Scheme, in accordance with the attached (xxx) Plan No. (xxx) (if applicable), drawn by (xxx), subject to the conditions contained in attached Annexure A.

Relaxation from the (xxx) Land Use Management Scheme Clauses in respect of Erf xxx,(allotment area), involving (xxx) (specify) to xxx be refused in terms of Clause Of the Land Use Management Scheme for the reasons mentioned hereunder:

CONDITIONS IMPOSED IN TERMS OF CLAUSE OF THE LAND USE MANAGEMENT SCHEME (Insert conditions here).

Recommendation: Consent use

That the application for Consent Use in respect of Erf xxx, ... (allotment area) to permit (xxx) be approved in terms of Clause ... of the Land Use Management Scheme, in accordance with the attached (xxx) Plan No. (xxx) (if applicable), drawn by (xxx), dated (xxx), subject to the conditions contained in attached Annexure A.

That the application for Consent Use in respect of Erf xxx, ... (allotment area) to permit xxx be refused in terms of Clause ... of the Land Use Management Scheme for the reasons mentioned below (*insert reasons here*).

It should be noted that, in Limpopo Province, the National Removal of Restrictions Act, 1967 applies. The decision making authority vests in the relevant Provincial Department and the local municipality is only obliged to comment on such application.

Recommendations: Removal of restrictions (and approval of amendment scheme if applicable)

APPROVAL:

1. That the application for the removal/amendment of the restrictions in terms of Act 84 of 1967 for erf as per Annexure ... be supported and the competent authority be advised accordingly.
2. That, if the competent authority grants the removal/amendment of the restrictions as set out in 1 above, the simultaneous rezoning of erf ... also be supported, subject to the conditions contained in Annexure ... attached to this report.
3. For the purposes of any rights of appeal, the date upon which the competent authority's office notifies the Municipality that the restrictions as set out in annexure have been removed/amended shall be deemed to be the date on which the simultaneous rezoning/departure is granted.
4. That, if the Minister/competent authority refuses to grant the removal/amendment of the necessary restrictions, then it is recommended that there shall be no decision on the rezoning of erf

REFUSAL:

1. That the application for the removal/amendment of restrictions in terms of Act 84 of 1967 for erf not be supported and the competent authority be informed accordingly.
2. That the application for the simultaneous rezoning of erf not be supported for the reasons stipulated below: (*insert reasons here*).

Recommendation: Site Development Plan Approval

That the application for Site Development Plan approval in respect of Erf (xxx) (allotment area) be approved/refused in terms of Clause (xxx) of the (xxx) Land Use Management in accordance with Plan No. (xxx), drawn by (xxx), dated (xxx), subject to conditions attached in Annexure A.

APPENDICES

- APPENDIX A: ESSENTIAL ADMINISTRATIVE REQUIREMENTS
- APPENDIX B: GENERAL INFORMATION
- APPENDIX C: STANDARD COUNCIL REQUIREMENTS
 - C1: Transport, Roads & Stormwater
 - C2: Health
 - C3: City Parks
 - C4: Solid Waste

APPENDIX A

ESSENTIAL ADMINISTRATIVE REQUIREMENTS

SUBMISSION OF SUBDIVISION APPLICATIONS

1. A copy of the proposed sketchplan of Subdivision (hard and/or electronic format) should be submitted as part of the Subdivision application. The application will not be considered complete or processed without the aforementioned information. The proposed sketchplan of Subdivision must preferable be drawn on an A4 or A3 format, indicating the following information:

Building contour structures and existing engineering services

Portion numbers

Extent of portions

Dimensions

Proposed street or unit numbers

Proposed street names (private and/or public)

In case of a complex, the proposed name for the development

Zoning schedule (normal subdivision and rezoning)

(Note: Applicants must also comply with the requirements set out in the relevant ordinance).

AFTER APPROVAL

2. Should the proposed sketchplan of Subdivision, as submitted by the applicant, require any amendment as a result of the Municipality's decision, it will be required :
 - That only the amended sketchplan of Subdivision be endorsed; and
 - That a copy of the endorsed plan (hard and/or electronic format) be submitted to the relevant Section of the Municipality's Legal Division.

AFTER FINAL APPROVAL

3. The applicant/developer's land surveyor must submit an electronic copy of the final approved subdivision (GP or SG format) of all the relevant steps of the subdivision to the Town Planning Section before or when submitting to the SG Office, and prior to the submission of any Building Plans or the granting of Clearance for the registration of the first erf which ever may occur first.
4. It will further be required from the applicant/developer's land surveyor and transfer attorney:
 - That all newly created public places and public streets to be vested in the Municipality, be clearly defined and indicated on the approved SG plan/s and erf diagram/s, whichever is applicable (also applies to road splays).
 - That all newly created public places and public streets to be vested in the Municipality, be provided with erf numbers (and not indicated as remainders) on the approved SG plan/s or erf diagram, whichever is applicable (also applies to road splays).
 - That all public places and public streets be transferred to the local authority upon transfer of the first unit/erf in that subdivision. All cost for the surveying and transfer of public land will be for the account of the applicant/developer.

DATA CAPTURING & DIAGRAM STANDARD

5. The Surveyor must create the following layers.

TITLE	Contains all title information, including any endorsements and references
NOTES	Contains all noted information both from the developer/surveyor and the Surveyor General
PROPERTY PORTION NUMBERS	Portion numbers are the original portion numbers before the erf numbers were acquired from the SG Office
PROPLINES PROPNUM COORD	Contains all the property lines Contains property (erf) numbers Contains all coordinates for the property beacons (corners)
PROPDIM	Contains all property dimension information
PROPBSURV	Contains bearing and distance information
PROPBEACON	Contains all property beacon (corners) annotation (Beacon labels)
SERVITUDES GRID_REF	Contains all servitude annotation Contains orientation grid reference information, usually represented by a short line and coordinate annotation
MAP_FURNITURE	Contains all additional features and annotation required to complete diagram, such as north arrow, scale bar and any other information required

6. No additional information other than that described above may be indicated in the defined layers/features. If any additional information is supplied on the diagram it must not be placed in any of the layers described above. This additional information can be placed in any other named layer.
7. It is important that each Servitude Boundary is complete and forms a closed polygon, i.e. the lines must touch each other. It is important that each Property Number anchor is located within the respective property"s boundaries
8. The drawing must be completed using real world co-ordinates using the Datum of the Surveyor General of Limpopo.
9. The data must be delivered in a standard, digital dxf format or shapefile format. If the data is to be supplied in a digital shapefile format then separate shapefiles are required for each of the above defined layers/feature classes.

APPENDIX B: GENERAL INFORMATION

Note : In notifying applicants of an approval, it may be useful to attach information that cannot be attached as a condition of approval, but nevertheless which is useful for the applicant. This information should be attached as an Appendix, referred to in the letter of approval. Select as appropriate.

GENERAL INFORMATION

1. This subdivision approval lapses unless separate registration of at least one land unit is effected in the Deeds registry within 5 years of the date of the letter of approval, unless the extension of the validity thereof has been granted, **prior to the lapsing of the approval.**
2. A relaxation granted in terms of Clause of the LUMS shall lapse if it is not exercised within 2 years, unless the extension or the validity thereof has been granted prior to lapsing of the approval.
3. Any further amendments to a Site Development Plan, once approved, must be done by way of an application in terms of Clause of the LUMS.
4. Approval of a second dwelling shall not in itself be sufficient reason for the Municipality to approve subdivision of the land unit containing an additional dwelling or double dwelling house.
5. The selling or supply of liquor is strictly prohibited, unless the necessary consent has been obtained from the Municipality and a liquor licence has been obtained.
6. The premises must comply with the requirements of the National Building Regulations and Building Standards Act, No 103 of 1977.

7. The subdivision clearance certificates must accompany applications for Rates Clearance to the Treasurer for the individual portions of the subdivision. In the case where servitudes are created the Powers of Attorney to pass transfer must be submitted to ... and the clearance certificates will be endorsed on these documents. In terms of Regulation 38 of Ordinance ..., the Treasurer will not issue a rates clearance for any portion of this subdivision until such time as it is supplied with proof of compliance with the conditions of subdivision (i.e. the subdivision clearance certificate).
8. The Surveyor General will require the preparation of a diagram of the newly created land unit(s)/servitude (select) or General Plan for approval. You are requested to liaise with the SG office in this regard.
9. The Registrar of Deeds will not permit the transfer or the registration of a Certificate of registered title of a land unit or a registration of the servitude area/s (select as appropriate) unless the Municipality has issued a clearance certificate in terms of Regulation 38 of the Ordinance. This clearance certificate will only be issued once conditions of subdivision, if any, have been complied with to the satisfaction of the Director:
10. Street names require separate approval in terms of the Local Government Ordinance, 1937. Application in this regard should be made timeously to avoid delay in the approval of the General Plan.

GIS/DATA CAPTURING REQUIREMENTS

11. The following information must be indicated on the Final Approved Subdivision (all relevant GPs or SG diagrams relating to the subdivision)

LOW COST HOUSING DEVELOPMENTS (i.e. ACT 113 OF 1991)

15. The appointed surveyor must submit an electronic copy of all the relevant steps of the Plan of Subdivision (GP format) as approved by the Provincial Authority, to the Town Planning Section before, or when submitting to the SG Office.
16. The appointed surveyor must also submit an electronic copy of the provisional and final approved General Plan to the Town Planning Section at the appropriate and agreed time as the low cost housing project proceeds.
17. The electronic copy must be in one of the following formats:
 - Preferably Shp (ESRI - GIS) or
 - Dwg (Auto CAD)
 - Dxf (other CAD)
 - Drg (AllyCAD)Containing:
 - Newly allocated erf numbers
 - Co-ordinates
 - Survey dimensions
 - Geo- referenced
 - Geographic Coordinate System (WGS 1984)

DATA CAPTURING & DIAGRAM STANDARD

The Surveyor must create the following layers.

TITLE	Contains all title information, including any endorsements and references
NOTES	Contains all noted information both from the developer/surveyor and the Surveyor General

- Newly allocated erf numbers
 - Co-ordinates
 - Survey dimensions
 - Geo- referenced
 - Geographic Coordinate System (WGS 1984)
12. The electronic copy of the Final Approved Subdivision (all relevant GPs or SG diagrams relating to the subdivision) must be in the following format:
 - Preferably Shp (ESRI - GIS) or
 - Dwg (Auto CAD)
 - Dxf (other CAD)
 - Drg (AllyCAD)
 13. Building plans may not be submitted to the Building Control Office if the electronic data has not been submitted to the Town Planning GIS Section.
 14. Building Plans will not be approved before:
 - A copy of the Diagram or General Plan (electronic or hard copy) submitted to the Surveyor General for consideration has been submitted to the GIS Section at the relevant district Planning office.
 - All conditions of approval have been complied with in full prior to clearance.
 - The developer / transfer attorney has submitted proof that the subdivision has been confirmed in that the first erf / unit in the subdivision has been registered / transferred. Application for the development of show houses may be submitted prior to confirmation of a subdivision, but subject to submission of an approved SG diagram or GP.
 - A Site development plan (SDP) if required is approved.

PROPERTY PORTION NUMBERS	Portion numbers are the original portion numbers before the erf numbers were acquired from the SG Office
PROPLINES	Contains all the property lines
PROPNUM	Contains property (erf) numbers
COORD	Contains all coordinates for the property beacons (corners)
PROPDIM	Contains all property dimension information
PROPBSURV	Contains bearing and distance information
PROPBEACON	Contains all property beacon (corners) annotation (Beacon labels)
SERVITUDES	Contains all servitude annotation
GRID_REF	Contains orientation grid reference information, usually represented by a short line and coordinate annotation
MAP_FURNITURE	Contains all additional features and annotation required to complete diagram, such as north arrow, scale bar and any other information required

21. The drawing must be completed using real world co-ordinates based on the Standard Datum of the Surveyor General of Limpopo Province.
22. The data must be delivered in a standard, digital dxf format or shapefile format. If the data is to be supplied in a digital shapefile format then separate shapefiles are required for each of the above defined layers/feature classes.

19. No additional information other than that described above may be put into the defined layers/features. If any additional information is supplied on the diagram it must not be placed in any of the layers described above. This additional information can be placed in any other named layer.
20. It is important that each Servitude Boundary is complete and forms a closed polygon, i.e. the lines must touch each other. It is important that each Property Number anchor is located within the respective property's boundaries.

APPENDIX C: STANDARD REQUIREMENTS OF THE MUNICIPALITY

Select and attach as relevant.

Please note: Section C1 excludes conditions pertaining to water, sewerage, electricity and Telkom. These are to be obtained from the relevant Directorates on an application-by-application basis

C1 : STANDARD CONDITIONS FOR THE CONSTRUCTION OR ALTERATION OF TRANSPORT, ROADS AND STORMWATER INFRASTRUCTURE BY PRIVATE DEVELOPERS

1. INTRODUCTION

The following Standard Conditions pertain to the design and construction or alteration of Transport, Roads and Stormwater infrastructure by private Developers where the infrastructure ownership will vest in the Municipality.

These Standard Conditions should be read in conjunction with any Project Specific Conditions pertaining to the proposed development.

2. DEFINITIONS

2.1 "Council" and "City" shall mean the Municipality.

2.2 "Development" shall mean any man-made change to property, including but not limited to construction or upgrading of buildings or other structures, filling, paving, municipal services etc., or the associated preparation of land.

2.3 "Developer" shall mean the owner of the property on which the development takes place or his authorised representative.

2.4 "Director" shall mean the Executive Director or his authorised representative.

2.5 "Registered engineering professional" shall mean an Engineering Professional registered with the Engineering Council of South Africa in terms of the Engineering Professionals Act 46 of 2000, with competence in the relevant field.

3. LEGAL, POLICY AND GUIDELINE FRAMEWORK

The following national guidelines have relevance:

- Guidelines for Human Settlement and Design (Red book)
- The South African Road Traffic Signs Manual
- Applicable UTG and TRH Series Design Guidelines
- South African Road Safety Manual
- Department of Transport: Pedestrian and Bicycle Facility Guidelines

The following provincial guidelines have relevance :

- Provincial Government of the Limpopo Province: Road Access Guidelines

The Developer is responsible for ensuring compliance with applicable legislation and policies. Certain activities may be subject to permit approvals by National, Provincial and Municipal Government Departments.

4. REZONING OR SUBDIVISION STAGE OR OTHER APPLICATIONS IN TERMS OF THE ORDINANCE

Applications for rezoning, subdivision or other applications in terms of the Ordinance should be submitted in accordance with the requirements of the Municipality.

5. HEALTH AND SAFETY

The Developer's attention is drawn to the Construction Regulations 2003 (which pertain to the Occupational Health and Safety Act, Act 85 of 1993 that place certain responsibilities on the Developer as the client).

6. STANDARD CONDITIONS AND REQUIREMENTS

6.1 Design and specifications

6.1.1 A preliminary design, to an acceptable scale, of the proposed roads and stormwater infrastructure should be submitted to the Director: for comment prior to the detail design. This is to allow for the setting of further requirements, specifications and conditions related to Transport, Roads and Stormwater infrastructure, which must be considered in the detail design. Attention must be given to existing, planned and potential development in the vicinity of the development. It must be stated up front if a development will be implemented in phases.

6.1.2 The preliminary and detail designs must be in accordance with the Municipality's requirements and standards. Any proposed deviation from the requirements and standards must be submitted together with a motivation report to the Director: for consideration.

6.1.3 Drawings submitted to the Director: for approval must be signed by a Registered Engineering Professional.

6.1.4 Approval of the design by the Director: in no way absolves the Developer from any responsibility and/or liability in respect of the design.

6.1.5 The detail design of the proposed infrastructure must be approved prior to final building plan approval.

6.1.6 The Director: may require the Developer to design and construct road and stormwater infrastructure to service existing or future surrounding development by agreement.

6.1.7 The difference in quantity between the pre and post development stormwater runoff must be accommodated on site where specifically required.

6.1.8 The standard of workmanship and the materials used shall be in accordance with SABS 1200. The Municipality may however, specify amendments to SABS 1200.

6.2 Construction, supervision and testing

6.2.1 No construction work may commence before the approval of the detail design, in writing, by the Director: is given.

6.2.2 The Director must be informed in writing not less than 5 working days before construction is to commence.

6.2.3 An adequate level of supervision by a Registered Engineering Professional must be provided for the full duration of the works. In this regard a proposal for site supervision must be submitted to the Director: for approval before construction work commences.

The proposal shall include the name (or names where a team is required) of the individuals proposed, their CV's and the time that they will devote to on-site supervision on the project. Failure to adhere to the approved proposal may jeopardise clearance for separate registration of the properties. The Registered Engineering Professional may have no direct financial interest in the development, other than payment of standard professional fees for the work performed.

6.2.4 The Registered Engineering Professional shall arrange for any tests that may be necessary to determine whether the workmanship and materials conform to the required standards.

6.3 Traffic accommodation

All the necessary precautions to ensure the safety of all road-users must be taken while work affecting existing roads is in progress. All signs, barricades etc., must be displayed in accordance with Chapter 13 of the latest edition of the South African Road Traffic Signs Manual. Traffic flow is to be maintained at all times. Access to properties must be maintained at all times. Traffic accommodation plans are to be submitted by the Registered Engineering Professional to the Traffic Manager for comment and the Director: for approval before construction work commences.

6.4 Condition and maintenance of existing infrastructure

6.4.1 The condition of all roads adjacent to the site of the works as well as the condition of the stormwater and sewer systems immediately downstream of the works must be inspected by the Registered Engineering Professional together with an authorised representative of the Director: prior to the commencement of any site works. The severity or extent of any damage, silt or blockages existing at this stage must be noted by both parties and any further damage, silting or blockages must be rectified at the Developer's expense.

6.4.2 Should no communication be received prior to the commencement of the site works, it will be assumed that all infrastructure was in a good clean condition and any damage, silt accumulation and/or blockages found during construction and on handover will be deemed to have been caused by the Developer and must be reinstated at the Developer's expense.

6.4.3 Stormwater systems affected by the works shall be kept functional at all times and windblown sand removed from infrastructure on a regular basis.

6.4.4 When the construction period includes a break of more than 7 days (e.g. end of year shutdown) or when requested by the Director: for shorter periods (e.g. long weekends or for special events), the Developer must leave behind and maintain the infrastructure and road reserve affected by the works in a safe and neat condition during those periods (e.g. all excavations in the road reserve must be properly reinstated prior to shutdown, all building material removed, traffic accommodation and signage maintained, and any windblown sand must be removed on a regular basis).

6.4.5 Subsequent to handover of any new Transport, Roads and Stormwater infrastructure to the Municipality, the Developer will remain responsible for any damage caused to the infrastructure by the ongoing activities of his contractors.

6.5 Existing services

6.5.1 The onus is upon the Developer to ascertain the positions of any existing services on site. The Developer must apply for the necessary wayleaves and/or permits from all service authorities including the Director: before any excavation or construction commences.

6.5.2 Should any additional unidentified services be exposed during the course of construction the Developer shall immediately notify the relevant authority concerned for further instruction.

6.6 Maintenance period

6.6.1 The Developer shall remain liable and be held responsible for all project related defects in respect of road and stormwater

infrastructure for a period of twelve months from the issue of an acceptable Certificate of Compliance (clause 6.9 refers). The establishment period applicable to soft landscaping is twenty four months.

6.6.2 Regarding the above, the Developer shall furnish to the Municipality a bank guarantee equal to 5% of the value of the road and stormwater infrastructure constructed. The guarantee shall be to the satisfaction of the Director: and valid for the twelve month maintenance period, which shall commence from the date of approval of the Certificate of Compliance.

6.6.3 Similar to the above, a bank guarantee equal to 20% of the value of the soft landscaping (including slope stabilization) or an amount agreed upon by the Director:, valid for the twenty-four month establishment period shall be issued to council.

6.7 Latent defects

Notwithstanding the 12-month maintenance period, the Developer will be held responsible for the repair and consequences of any latent defects that manifest itself later.

6.8 Servitudes

Where approval has been granted for infrastructure (underground or overland), that will vest in the Municipality, to cross private property, the Developer must ensure that this infrastructure is protected by a registered servitude in favour of the Municipality. The Developer must make all arrangements via the Municipality, who will register the servitude. The cost of such registration, survey etc. will be for the Developer's account. It should however be noted that every effort should be made to avoid the need for servitudes.

6.9 Certificate of compliance

6.9.1 A certificate stating that **all** work has been carried out in accordance with the Director: specifications and requirements, signed by the Registered Engineering Professional must be submitted together with the "As Built" drawings upon completion of the project.

6.9.2 Reference must be made to all pipeline and material testing and the certificate must confirm that the test results meet or exceed the requirements of the specifications. A copy of the relevant test results must be attached.

6.9.3 If in the opinion of the Director: the certificate is not supported by adequate test results, the Municipality will require additional tests to be carried out by the Registered Engineering Professional at the cost of the Developer.

6.9.4 A clearance certificate for separate registration (clause 6.11 refers) will not be issued until the abovementioned requirements have been met.

6.10 As-built plans

6.10.1 "As built" plans in the electronic format specified by the Municipality, together with one set of paper prints, for all infrastructure, shall be submitted together with the Certificate of Compliance to the Director:

6.10.2 The "as built" plans must accurately record any variation made to the approved design by the Registered Engineering Professional as well as any deviation from the design by the contractor during the course of construction.

6.11 Clearance for separate registration

A subdivision (or phase of a phased subdivision) will not be cleared for separate registration until such time as the works has been completed to the approved standards and specifications and certified by the Registered Engineering Professional.

6.12 Cost

The cost in respect of all of the above will be for the account of the Developer.

**C2: HEALTH:
STANDARD CONDITIONS OF APPROVAL FOR LAND USE APPLICATIONS**

Select as appropriate

NOISE

1. Compliance with the Noise Control Regulations P.N. 627/1998 as promulgated under the Environment Conservation Act, 1989 (Act 73 of 1989) by not creating a disturbing noise and/or noise nuisance to surrounding property owners. In this regard it must be noted that any noise producing plant or equipment must be adequately muffled.
2. A Noise Management Plan must be submitted for approval to the relevant authority regulating health issues, which must comply with the requirements set out in the Noise Regulations promulgated under the Environmental Conservation Act (Act 73 of 1989) and is to include recommendations for the satisfactory management of noise levels and impacts generated for the proposed use. The above Directorate reserves the right to call for the submission of a Noise Impact Assessment Report, carried out and completed by an accredited acoustic engineer or consultant. Such assessment will be to the cost of the applicant and is to be based on an acceptable series of readings to the satisfaction of the Director: In addition, subject to the outcome of the aforementioned report the right is reserved to call for further restrictive requirements, such as limiting the hours of operation should it be deemed necessary.
3. Any noise producing plant or equipment must be adequately muffled so as not to create a disturbing noise or noise nuisance to any of the surrounding property owners, churches, hospitals, educational buildings or offices.

BUSINESS LICENSE

4. Should the premises be used for a category of business which is required to be licensed in terms of the Business Act No 70 of 1991 i.e. Sale and Supply of meals; Health and Entertainment; etc then application must be made for the relevant business license. Should food be prepared or handled then application must also be made for a Certificate of Acceptability for food premises in terms of Regulation R918 dated 30/07/99 promulgated under the Health Act 1977 (Act 63 of 1977). These requirements come into effect once the Municipality has approved the consent use application.

TOBACCO SMOKING

5. The premises must be made to comply with the requirements of the Tobacco Products Control Act, 1993 (Act No 83 of 1993) and Notice Relating to Smoking of Tobacco Products in public places, Regulation No R975 dated 29 September 2000. In this regard Guidelines for the design of designated Smoking Areas, and requirements for artificial ventilation that serves smoking areas, can be obtained from the local Environmental Health Practitioner.

CRÈCHE

6. Applications for approval to operate a childcare facility must be made to the Director: in terms of the LUMS. The use of premises for the purpose of a crèche is subject to the approval by the Municipality and must comply with any conditions or requirements that may be stipulated. Any alterations or additions carried out or expense incurred by the applicant on the premises before the Town Planning aspect has been finalised, is done so at the risk of the applicant.

7. Application must be made to the relevant Provincial Department in order to register the facility in terms of Child Care Act. In this regard the applicant is also required to obtain a Health Clearance Certificate from the Director: before registration of the facility is recommended.

8. Should meals be prepared for the children, application must be made for a Certificate of Acceptability in terms of Regulation R918 dated 1999-07-30 promulgated under the Health Act 1977 (Act 63 of 1977).

ACCOMMODATION ESTABLISHMENTS

9. All accommodation establishments must comply with the requirements as stipulated in the LUMS.

CELL MAST AND RELATED INFRASTRUCTURE

10. The base station infrastructure (or any future combination of such infrastructures) shall not at any time cause the public to be exposed to RF levels that exceed the ICNIRP public exposure guideline.

11. The projected RF exposure levels within the area to which the public has reasonable access to, must be determined and certified by a qualified person and supplied to Municipality's Director: prior to the erection of the cell mast infrastructure.

12. The applicant must take appropriate steps, to the satisfaction of Municipality, to ensure that:

12.1 The public exclusion zone is determined by a qualified person and forwarded to Municipality prior to the erection of the infrastructure. Such exclusion zone must thereafter be adequately sign posted with the appropriate health warning signs in accordance with international best practice.

12.2 Access control measures must be implemented to ensure that unauthorised persons do not gain access to the public exclusion zone.

13. The Municipality must ensure that regular measurements are taken to ensure that the cell base station and related infrastructure meet the ICNIRP public exposure guidelines. Such measurements are to be at the cost of the applicant and made available to the Director:

14. In the event of such measurements showing that the ICNIRP public exposure guidelines are being exceeded, the Municipality reserves the right to withdraw the permission and cause the cellular telecommunication infrastructure to be decommissioned at the cost of the applicant.

15. If the Director: is of the opinion that if future scientific evidence supports a link between electromagnetic field radiation and health, the permission for the erection of the base station be reviewed, which could result in the decommissioning of the station.

FUEL BURNING APPLIANCE

16. Should any fuel burning appliance be installed, altered, replaced or extended application must be made to the Municipality and in compliance with its directives.

PREMISES THAT GENERATE MEDICAL WASTE

17. In terms of the City of Cape Town: Environmental Health BY-Law No 13333 Part 3, Section 23: Medical Waste Management, all medical waste generators must make application to the relevant authority to handle and store medical waste. All transporters of medical waste must make application for registration of such

facilities as may be required in the controlling legislation. Medical Waste may only be disposed of by a person who holds a permit to operate a hazardous waste site in terms of section 20 of the Environmental Conservation Act, 73 of 1989 or who is authorized to incinerate medical waste by means of equipment which has been approved in terms of the Atmospheric Pollution Prevention Act, 45 of 1965, or both.

DUST CONTROL

18. Adequate measures must be taken to control the emissions of dust into the atmosphere in terms of the relevant national legislation.
19. The landscaping contractor must take all the necessary precautions, so as not to use manure/compost, which is flyblown, and may give rise to offensive odours and cause a health nuisance.

RADIOLOGY

20. Any facility dealing with radioactive material must be registered with the South African Radiation Commission.

ANIMAL KEEPING

21. Should the applicant wish to keep animals or poultry, application must be made for the relevant permit from the Director..... of the Municipality.
22. The Director: reserves the right to restrict the number and kinds of poultry or animals at any stage should it be deemed necessary.

SCHOOL

23. The proposed school must be registered with the Department of Education.

DRAINAGE

24. Should no waterborne reticulation system be available to an area, structures that may be constructed must be serviced by an on-site drainage disposal system of the type approved by the Municipality which must be designed and constructed in accordance with the Specifications of the Municipality. Detailed drainage plans must be submitted in this regard and must comply with the provisions of the National Water Act, 1998.

INDUSTRIAL SERVICE UNITS

25. Prior to the sale of any industrial unit, the approval of the Director: must be obtained for the type of activity proposed. Such applications must detail usage, activity, hours of operation, work procedures, materials, equipment to be used and types and volumes of waste generated and the control of smoke, emissions, odours, noise and vibration. This condition is applicable to all successors-in-title to any portion of land in this development. Each tenant is to sign a declaration that they agree to adhere to the restrictions imposed by the Director:
26. All the proposed industrial service units must comply with the relevant municipal bylaw that no industrial effluent generated on the premises is allowed to discharge into the stormwater system and the necessary measures must be taken to safely dispose of any industrial effluent generated. In this regard the services of an accredited waste removal contractor must be obtained should the effluent not be able to be discharged into the Municipality's sewer reticulation system.

27. All proposed industrial service units that may utilize spray booths should comply with the following requirements:

27.1 Exhaust ventilation system serving the spray booth must be fitted with control equipment to prevent over spray from accumulating in the duct and discharging to the outside. Such control equipment must be fitted before the exhaust fan.

27.2 The exhaust ducting from the spray booth must extend at least one metre (1m) above the roof and must not be fitted with any caps or weather cowl. The terminal velocity of the air measured at the apex of the ducting must not be less than nine (9m) metres per second. Details of the control equipment must be submitted.

28. The proposed industrial service units that generate dust and fumes must supply details of how the generation of dust and fumes will be limited. The methods used to limit these pollutants must be approved by the Director:

29. A Pollution Management Plan must be submitted to the Director: prior to the approval of the proposed Development.

TATTOOING AND BODY PIERCING ESTABLISHMENTS

30. Tattooing and body piercing establishments must comply with the requirements as stipulated in the relevant bylaw of the Municipality.

HAIRDRESSERS AND BARBERS

31. Hairdressers and barbers premises must comply with the requirements as stipulated in the relevant bylaw of the Municipality.

FUNERAL UNDERTAKERS

32. Funeral undertakers (where corpses are prepared or stored) must apply for a certificate of competence from the Director:

OFFENSIVE TRADES/SCHEDULED PROCESSES

33. In terms of the Offensive Trade Regulation all listed activities require to apply for permission to operate to the Director:

34. Before any scheduled process in terms of current legislation is undertaken an E.I.A must be carried out in terms of NEMA. Such E.I.A must be submitted to the Provincial Government: Limpopo.

MILKING SHEDS

35. Any proposed milking shed must comply with the relevant Regulations. Applications for a certificate of acceptability and provisional certificate of acceptability must be made to the Director:

KENNELS OR CATTERIES

36. All proposed kennels or catteries must comply with the requirements as stipulated in the municipal bylaw.

HOMES FOR THE AGED

37. Application must be made to the relevant Department for registration of premises where aged persons will be cared for. Should meals be provided, application must be made for a Certificate of Acceptability.

GENERAL

38. An integrated waste management approach must be used that is based on waste minimization and should incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill site, licensed in terms of Section 20 of the Environmental Conservation Act, 1989 (Act No 73 of 1989).
39. Any hazardous waste originating from any site either during the demolition of an existing building or unearthed during site clearing operations, or during the construction process, are to be handled, transported and disposed of at an approved hazardous waste site in a manner acceptable to the Municipality and in compliance with the requirements of any other law i.e. Asbestos.

C3 : PUBLIC PARKS: REQUIREMENTS/CONDITIONS FOR DEVELOPING OPEN SPACE

Select as appropriate

1. All Open spaces shall be cleared of any invasive alien vegetation.
2. Sound horticultural and „water-wise” principles are to be used as a basis for all specifications.
3. All specifications are to be approved by the representative of the Director:
4. All trees are also to comply with requirements set out in the approved Policy of the Municipality.
5. The developer will be responsible for the establishment of all landscaping requirements as set out above for a period of not less than twelve consecutive calendar months commencing on the date of practical completion as agreed and signed by the representative of the Director:
6. All costs incurred for the above are to be for the account of the owner/developer, including the cost of electricity and water connections. The Municipality to pay water account from date of connection on public open spaces only.
7. That, should it be required of the developer to pay compensation due to the shortfall in the provision of the required open space area, the amount determined by the relevant departments will have to be utilized as improvements, over and above these set out above. These improvements will be at the discretion of the Director:, as well as the location thereof.
8. Notwithstanding the fact that water restrictions have been implemented, this will not absolve the owner/developer from his responsibilities pertaining to implementation of the approved Landscape Plan. Developers are advised to make timeous application for exemption from these restrictions.
9. Where storm water retention ponds are required:
 - such ponds will generally be developed on the same basis as per standard public open spaces, but will require co-ordination

across affected Directorates (and in terms of the National Water Act, 1998).

- the embankments must be graded to the satisfaction of the Director: so that they are accessible by tractor for maintenance purposes.
- the floor of the pond is to be designed with a grassed swale so that during low flow periods the floor is able to drain easily.

C4: SOLID WASTE: REQUIREMENTS/CONDITIONS FOR NEW DEVELOPMENTS

Select as appropriate

MINIMUM REQUIREMENTS FOR VEHICLE ACCESS / WASTE COLLECTION

1. Access shall be provided in such a way that collection vehicles can complete the waste collection beats with a continuous forward movement.
2. Municipal departmental or contracted waste collection teams will not enter private property. Therefore, the removal of solid waste is effected from the kerbside of a public street. Provision of communal Waste/Recycling storage areas/rooms will therefore have to be provided on private property immediate adjacent to the nearest public road.
3. Access shall be provided with a minimum travelable surface of 5m width.
4. Minimum corner radii shall be 5m.
5. Maximum depth of cul-de-sac shall be the lesser of 20m or 3 erven. Where this requirement is exceeded, it will be necessary to construct a minimum turning circle, as below or, alternatively – a turning shunt as per the attached drawing. With respect to the latter, on-street parking is to be prohibited by way of "red lines" painted on the road surface as well as "no parking" signboards, as a single parked vehicle can render these latter circles and shunts useless.
6. Minimum turning circle radius shall be 11m to the centre line of the vehicle.

7. Road foundation shall be designed to carry a single axle load of 8 200kg.
8. Further to condition 2 above, Waste/Recycling storage areas/rooms are to be provided for all premises other than single residential erven, the size of which will be determined in accordance with minimum requirements as specified by Solid Waste Collection Branch.

STANDARDS AND GUIDELINES FOR WASTE / RECYCLING STORAGE AREAS/ROOMS

9. Provision of communal waste / recycling storage area / rooms must be provided next to the nearest public road for servicing cluster / estate developments as municipal departmental or contracted waste collection teams will not enter private property.
10. A single, centralised waste / recycling area / room are required for each completed development. The only exception is the case of a single residential dwelling, where a waste storage area is not required.
11. **Size**
The Waste/Recycling storage area/room shall be large enough to store all refuse produced on the premises, including all material intended for recycling.
The size of the waste / recycling storage area / room depends on the rate of refuse generation and the frequency of the collection service. For design purposes, sufficient space should be available to store two weeks' refuse.
Where the premises might be utilised by tenants for purposes other than those originally foreseen by the building owner, the

area shall be sufficiently large to store all refuse generated, no matter what the tenant's business may be. Room for future expansion is also desirable.

Waste storage area / rooms should be designed to cater for wheeled containers. The dimensions of these containers are:

Industrial 1 375mm by 1 080mm Commercial / domestic 585mm wide x 730mm deep x 1 100mm high

With regard to flats and townhouses, a minimum of 50 litres of storage capacity per person, working or living in the premises, is to be provided to allow for a "once a week" collection frequency.

Should designers be in any doubt regarding a suitable size for the Waste/Recycling storage area/room, advice should be sought from the Solid Waste Collection Branch.

BUILDING SPECIFICATIONS FOR WASTE ROOMS

12. Floor

The floor shall be concrete, screeded to a smooth surface and rounded to a height of 75mm around the perimeter. The floor shall be graded and drained to a floor trap (See: Water Supply and Drainage).

13. Walls and roof

The waste / recycling storage area / room shall be roofed to prevent any rainwater from entering. The walls shall be constructed of brick, concrete or similar and painted with light colour high gloss enamel, or alternatively, tiled with tiles of a light colour. The height of the room to the ceiling shall be not less than 2.2m.

14. Ventilation and lighting

The waste / recycling storage area / room shall be adequately ventilated by means of fixed glass louvers. The room shall be provided with a solid hardwood, lockable door which shall be fitted with an efficient self-closing device, and shall have the lower 150mm protected by sheet metal on the outside. The door and louvers shall be separated at least 3m from any door or window of a habitable room. Adequate artificial lighting is required in the storage area.

15. Water supply and drainage

A tap with minimum 12mm diameter standard hose connection shall be provided in the waste / recycling storage area / room for washing containers and cleaning spillage. The floor should be drained towards a 100mm floor trap linked to a drainage pipe discharging to a sewer gully outside the building. A grease trap / gully is required in terms of the Water Services Directorate.

16. Access

Municipal departmental or contracted waste collection teams will not enter private property. Therefore, the removal of solid waste is effected from the kerbside of a public street. Provision of communal waste / recycling storage areas / rooms will therefore have to be provided on private property immediate adjacent to the nearest public road.

Should the waste / recycling storage area / room be located at a level different from the level of the street entrance to the property, access ramps are to be provided as stairs are not allowed. The maximum permissible gradient of these ramps is 1:7.

17. Bays on public street for waste truck to empty waste / recycling storage area / room

A bay with minimum dimensions of 15m in length x 2.5m in width plus 45 degrees splay entrance, on a public street, must be provided where traffic flows or traffic sight lines are affected.

18. Compaction equipment

Any containers or compaction equipment acquired by the building owner must be approved by the Director:to ensure compatibility with the servicing equipment and lifting attachments of the Municipality.

19. Screening and security

The municipal Integrated Waste Management Policy requires that stored waste should not be visible from a street or public place. Suitably screen walls may be required in certain instances.

Access must be denied to unauthorised persons, and waste storage areas should be designed to incorporate adequate security for this purpose.

20. General – approval by Municipality

All waste / recycling storage area / rooms shall be approved by the Director: prior to construction, to ensure that the Municipality is able to service all installations, irrespective of whether these are currently serviced by the Municipality or other companies.