

# FINAL DRAFT



## MKHAMBATHINI RURAL LAND USE MANAGEMENT POLICY

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## TABLE OF CONTENTS

<b>1</b>	<b>INTRODUCTION TO THE MKHAMBATHINI RURAL LAND USE MANAGEMENT POLICY .....</b>	<b>1</b>
1.1	BACKGROUND AND FOUNDATION OF THE RURAL LAND USE MANAGEMENT POLICY .....	1
1.2	STATUS OF THE RURAL POLICY .....	2
1.3	COMPONENTS OF THE POLICY .....	2
1.4	MANAGEMENT OVERLAYS.....	2
1.4.1	<i>Traditional Council Management Overlay Map.....</i>	<i>2</i>
1.4.2	<i>Agricultural Management Area Overlay Map (Act 70 of 1970).....</i>	<i>2</i>
1.4.3	<i>Critical Biodiversity Overlay .....</i>	<i>2</i>
1.5	INSPECTION OF THE POLICY.....	3
1.6	AMENDMENTS TO THE POLICY .....	3
1.7	CONFLICT OF LAWS.....	3
1.8	POLICY SUBORDINATION LAWS .....	3
1.9	NON-CONFORMING EXISTING USE .....	3
1.10	RESERVATION OF LAND.....	3
1.11	USE OF LAND FOR CERTAIN MUNICIPAL PURPOSES.....	4
<b>2</b>	<b>DEFINITIONS.....</b>	<b>5</b>
2.1	GENERAL DEFINITIONS .....	5
2.2	LAND USE AND DEVELOPMENT DEFINITIONS.....	13
<b>3</b>	<b>GENERAL PROVISIONS TO LAND USE AND DEVELOPMENT .....</b>	<b>22</b>
3.1	APPLICATIONS FOR THE USE AND DEVELOPMENT OF LAND .....	22
3.1.1	<i>Council Approval for the Use and Development of Land.....</i>	<i>22</i>
3.1.2	<i>Site Development Plans.....</i>	<i>22</i>
3.2	EXTERNAL APPEARANCE OF BUILDINGS .....	23
3.2.1	<i>Approval of Building Plans .....</i>	<i>23</i>
3.2.2	<i>Siting of Buildings and Access Points .....</i>	<i>24</i>
3.3	GENERAL DEVELOPMENT AND DESIGN GUIDELINES APPLICABLE TO ALL LAND USE ZONES .....	24
3.4	ENVIRONMENTAL REQUIREMENTS APPLICABLE TO ALL LAND USE ZONES.....	24
3.4.1	<i>Environmental Requirements Applicable to “Listed Activities” .....</i>	<i>24</i>
3.4.2	<i>Environmental Requirements Applicable to Environmentally Sensitive Area .....</i>	<i>25</i>
3.4.3	<i>Requirements Applicable to Water Quality Environmental Control Zones (ECZ) .....</i>	<i>25</i>
3.5	APPLICABLE PROVISIONS FOR TELECOMMUNICATION INFRASTRUCTURE .....	26
3.6	APPLICABLE PROVISIONS FOR SPECIAL ZONES.....	26
3.7	ADVERTISEMENTS AND SIGNAGE .....	26
<b>4</b>	<b>SPECIFIC PROVISIONS TO THE RURAL LAND USE MANAGEMENT AREAS.....</b>	<b>27</b>
4.1	PROCEDURES FOR LAND DEVELOPMENT IN TRADITIONAL AUTHORITY AREAS .....	27
4.1.1	<i>Traditional Areas.....</i>	<i>27</i>
4.1.1.1	<i>Land Use Allocations.....</i>	<i>27</i>
4.1.1.2	<i>Approval of Building Plans .....</i>	<i>28</i>
4.2	PROCEDURES FOR LAND DEVELOPMENT IN AGRICULTURAL LAND .....	28
4.2.1	<i>Agricultural Management Areas (Act 70 of 1970) .....</i>	<i>28</i>
4.2.1.1	<i>Use of Agricultural Land .....</i>	<i>28</i>
4.2.1.2	<i>Change of Land Use from Agriculture to any other use.....</i>	<i>28</i>
4.2.1.3	<i>Application for Land Uses not Specified in the Rural Policy.....</i>	<i>28</i>
4.2.1.4	<i>Subdivision of Agricultural Land .....</i>	<i>28</i>
<b>5</b>	<b>RURAL LAND USE DESIGNATIONS AND STATEMENTS OF INTENT .....</b>	<b>29</b>
5.1	AGRICULTURE .....	29
5.1.1	<i>Agriculture Only .....</i>	<i>29</i>
5.1.2	<i>Agriculture Communal .....</i>	<i>30</i>
5.1.3	<i>Agriculture Limited Tourism.....</i>	<i>31</i>
5.1.4	<i>Agriculture Opportunity Areas .....</i>	<i>32</i>

5.1.5	<i>Industrial Opportunity Areas</i> .....	33
5.2	CIVIC AND SOCIAL .....	34
5.2.1	<i>Community Service Centres</i> .....	34
5.3	ENVIRONMENTAL SERVICES .....	35
5.3.1	<i>Conservation</i> .....	35
5.4	RESIDENTIAL .....	36
5.4.1	<i>Rural Residential</i> .....	36
5.5	LAND RESERVATIONS.....	37
5.5.1	<i>Rail</i> .....	37
5.5.2	<i>Road</i> .....	37
5.5.3	<i>Utility and Services</i> .....	37

#### **LIST OF MAPS**

Rural Land Use Designations  
Overlay Map – Traditional Authority Areas  
Overlay Map – Agricultural Policy Areas  
Overlay Map – Critical Biodiversity Areas

#### **LIST OF APPENDICES**

APPENDIX 1a: Flow Chart for “Environmental Listed Activity”  
APPENDIX 1b:Flow Chart for “Environmental Sensitive Areas”  
APPENDIX 2: Land Use Guidelines for Water Quality Environmental Zones

## ABBREVIATIONS USED IN THIS DOCUMENT

DAFF	-	Department of Agriculture, Forestry and Fisheries
EIA	-	Environmental Impact Assessment
Ha	-	Hectare
HRA	-	Heritage Resources Act, 1999 (Act 25 of 1999)
IDP	-	Integrated Development Plan
IEM	-	Integrated Environmental Management
KZN	-	KwaZulu-Natal
LUMS	-	Land Use Management System
MFMA	-	Municipal Finance Management Act (No. 56 of 2003)
PDA	-	Kwazulu-Natal Planning & Development Act (No. 6 of 2008)
SDF	-	Spatial Development Framework
SEA	-	Strategic Environmental Assessment
SEMP	-	Strategic Environmental Management Plan
TA	-	Traditional Authority

# 1 INTRODUCTION TO THE MKHAMBATHINI RURAL LAND USE MANAGEMENT POLICY

## 1.1 Background and Foundation of the Rural Land Use Management Policy

The Mkhambathini Rural Land Use Management Policy serves to assist the municipality in decision-making processes related to land use and development outside of its formal scheme areas, specifically on agricultural land and Traditional Authority areas. Subsequently, the policy shall apply to all land within the jurisdiction of the municipality which are agricultural land or traditional authority land as defined by the Subdivision of Agricultural Land Act (No. 70 of 1970) and the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No. 5 of 2005) respectively.

The Policy is intended to be flexible yet able to provide the necessary guidance to land development in an attempt to achieve the short and long term goals of the Municipal Integrated Development Plan and its associated Spatial Development Framework. The Policy further provides guidance towards the future expansion of the Mkhambathini Scheme over the entire jurisdiction of the municipality as per the prescriptions of the KwaZulu-Natal Planning and Development Act (No. 6 of 2008).

As such, the Policy was formulated and will be applied under the provision of the KwaZulu-Natal Planning and Development Act (No. 6 of 2008) [hereinafter “the Act”] and, although not a scheme, remains subject to the provisions and regulations of the Act. The direct implications are:

- a) Certain developments, as defined by Section 38(3) of the Act, which are not subject to the Act, will also not be subjected to this policy. These include:
  - a. the construction or use of the first dwelling and outbuildings or improvements usually associated therewith on a separately registered subdivision, including a secondary self-contained residential unit which may be attached or detached but must be clearly associated with the first dwelling house and may not exceed 80m<sup>2</sup>;
  - b. the construction or use of any dwelling and outbuildings usually associated therewith for the settlement of a traditional household on land on which a traditional community recognised in terms of section 2(5)(b) of the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 (Act No.5 of 2005), lawfully resides;
  - c. land used for the cultivation of crops or the rearing of animals;
  - d. the carrying out of works required for the maintenance or improvement of an existing road within its existing boundaries;
  - e. the provision of any engineering services in accordance with the municipality's integrated development plan; and
  - f. the maintenance and repair of engineering services.
- b) That all developments, not excluded by the provisions of Section 38(3) shall require approval in terms of Chapter 4 of the KwaZulu-Natal Planning and Development Act (No. 6 of 2008) from the Mkhambathini Municipality, in addition to any consents and/or leases granted by traditional leaders, the Ingonyama Trust Board, the Department of Agriculture, Forestry and Fisheries (DAFF) and/or any other authority which may require authorisation prior to the commencement of development.

For the purposes of the application of Chapter 4 of the Act, it is important to note that the land uses designated within this policy does not constitute in any manner in allocation of zoning and/or development rights on such defined land, and serves only to illustrate the municipality's intentions for the development of such land and subsequently its position toward any development application submitted for such land.

The Policy provides for three distinct positions to the development of land under the various land use designations, viz:

- a) **Preferred Uses:** These are land uses which the municipality will probably consider favourably within the designation and indicates the municipality's vision of the future land uses within the larger spatial context and planning directives of the municipality. Development application submitted in terms of Chapter 4 of

the Act, which seeks approval for use listed under the preferred uses, may be supported by the municipality.

- b) **Uses Requiring Further Consideration:** These are land uses which the municipality could under favourable circumstances consider favourably within the designation, subject to either additional investigation or motivation required from the applicant, and/or preceding authorisations and/or licences from external authorities.
- c) **Non-Preferred Uses:** These will include all land use not specified within the first two categories and indicates the position of the municipality to not support applications for the relevant excluded land uses.

## 1.2 Status of the Rural Policy

- (1) This Rural Policy is binding on the Municipality, all other persons and organs of state, except in the event of a conflict with the provisions of an Integrated Development Plan that was adopted prior to the rural policy or its amendment thereof.
- (2) The provisions of an Integrated Development Plan shall prevail over the provisions of this policy in the event of a conflict with the provisions of an Integrated Development Plan and its associated plans / strategies.

## 1.3 Components of the Policy

The Rural Policy shall comprise of this document and the Maps indicated below, attached as Annexure A:-

Map Reference	Content
RP39 – 01 – V5	Rural Land Use Designations
RP39 –02 –V5	Overlay Map – Traditional Authority Areas
RP39 –03 –V5	Overlay Map –Agricultural Policy Areas
RP39 –04 –V5	Overlay Map – Critical Biodiversity Areas

## 1.4 Management Overlays

Where additional and more detailed land use management, beyond that stipulated in the Policy is required, this is processed via the use of Management Overlays. A Management Overlay provide for management of specific issues that is overarching to the land use designations in the Policy to which additional regulations or guidelines are applicable within a specific geographic area. The Management Overlay redirects the user to the “informant” or “plan” that contains the additional information required to guide decision-making by both the applicant and the Municipality.

Management overlays applicable to the Policy include the following:-

### 1.4.1 Traditional Council Management Overlay Map

The Traditional Council Management Overlay depicts land that is registered in the name of the Ingonyama Trust, and managed by Traditional Councils. Due to lack of, or disregard for cadastral boundaries, this area is also subjected to a policy statement. There are existing management procedures in place, which is depicted in **Section 4.1**.

### 1.4.2 Agricultural Management Area Overlay Map (Act 70 of 1970)

The Agricultural Management Overlay depicts areas that are managed by the **Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970)**. Due to the provisions of Act 70 of 1970, these farm portions cannot be officially incorporated into a Scheme. The area demarcated by this management overlay will be subjected to policy statements depicting preferred uses on the agricultural land. The procedures for land use and development applications are as outlined in **Section 4.2**.

### 1.4.3 Critical Biodiversity Overlay

Ezemvelo KwaZulu-Natal Wildlife identified critical biodiversity areas which is natural or near-natural landscapes that include terrestrial and aquatic areas that are considered critical for meeting biodiversity targets and thresholds, and

which safeguard areas required to ensure the persistence of viable populations of species, and the functionality of ecosystems and ecological infrastructure.

These Critical Biodiversity Areas are addressed in the uMgungundlovu Strategic Environmental Assessment, which further depicts preferred and non-preferred land uses for each Critical Biodiversity Area (CBA). This overlay shall be considered a relevant informant to any decision made by Council for land use and development proposals on any lot to which such overlay may apply.

### **1.5 Inspection of the Policy**

- (1) The Municipality will maintain an up to date version of this Policy, and make it available for inspection and copying at all reasonable times by any person.
- (2) A Register of all applications and decisions made by means of the Policy shall be kept in accordance with the requirements of the relevant legislation in force at the time.

### **1.6 Amendments to the Policy**

- (1) If the Council desires to rescind, alter or amend any of the provisions of the Policy, it shall follow the acceptable participation and administration procedures as stipulated within the Promotion of Administrative Justice Act.

### **1.7 Conflict of Laws**

- (1) Nothing in this Policy shall be construed as enabling any person to erect or use any building or to develop or use any land which is in conflict with any condition of title imposed by the Premier in terms of the KwaZulu-Natal Planning & Development Act, 2008 (Act 6 of 2008) as amended or by the State under any other law.
- (2) The Policy provisions shall apply over and above the Bylaws/Regulations where they are more onerous than the Bylaws/Regulations. Where the Policy makes no provision, the Bylaws/Regulations shall apply.

### **1.8 Policy Subordination Laws**

- (1) The Municipality may not adopt, approve an amendment or replace the Policy to be in conflict with:
  - (a) the Provincial Planning and Development Norms & Standards; or
  - (b) the Municipality's Integrated Development Plan; or
  - (c) the Municipality's Spatial Development Framework.

### **1.9 Non-Conforming Existing Use**

- (1) Any existing building or existing use which is not in conformity with the Policy, but for which authority was obtained from the Municipality or the relevant authority prior to the date of adoption, may be completed and continue to be used for the purpose for which it was designed, subject to compliance with any conditions which may have been imposed by the Municipality and any other relevant authority, and provided that:
  - (a) any such non-conforming existing building or use of land may be increased on the lot by an amount not greater than 12,5% of its total floor area or area as the case may be, at the date of adoption, provided that the completed building or use is in conformity with the rural policy, relating to the specific policy area in which such building or use is situated.
  - (b) any alteration or addition or change of use which in the opinion of the Municipality alters the character of an existing building or use of land, shall automatically remove such building or land from the category of "existing building or existing use".
  - (c) where the non-conforming existing use of any building or land is discontinued for a continuous period of 18 months or longer, such existing use shall be deemed to have lapsed and shall not be recommenced.

### **1.10 Reservation of Land**

- (1) The Municipality shall reserve the right to the reservation of land for public benefit where any of the land is in Municipality ownership or is in ownership of any organ of state, provided the use of the affected site does not infringe on the amenity of the affected surrounding area/s.
- (2) Where any of the land is in Municipality ownership, the Municipality may execute thereon any development necessary or incidental to the purpose for which the land is reserved.
- (3) The Policy shall at all times indicate the use or uses to which the land may be put in the event of such reservation being rescinded.

- (4) In instances where a use has not been assigned to that land, the zoning for that land shall referred to as “undetermined” until such time a use and appropriate zoning shall be assigned to the land by Council.

### **1.11 Use of Land for Certain Municipal Purposes**

- (1) Notwithstanding any of the provisions of this Policy, the Municipality may erect buildings required for Municipal purposes or lay drains, pipes, wires or cables on, through, over or under any land in accordance with the provisions of the Local Authorities Ordinance No. 25 of 1974 as amended from time to time or of any other law.



## 2 DEFINITIONS

Unless the context indicates otherwise, any word in these clauses shall have the same meaning as assigned to it in these definitions or, where not specifically defined, shall have the same meaning as assigned to it in the KwaZulu-Natal Planning and Development Act No. 6 of 2008.

### 2.1 General Definitions

**“Acceptable”**; **“adequate”** means satisfactory or suitable in the Council’s opinion.

**“Act”** means the KwaZulu-Natal Planning and Development Act (No. 6 of 2008)

**“Advertise”** means the giving of public notice by an applicant or the municipality in a manner as defined in Schedule 1 Item 5(2) or Item 14(2) of the KwaZulu-Natal Planning and Development Act (No. 6 of 2008) respectively.

**“Advertisement”** when used in the context of outdoor advertising, has the same meaning as assigned to it in terms of the Outdoor Advertising Bylaw;

**“Amenity”** means the natural or created features of a place, property or area that assists to create a pleasant living/working/recreational environment and is compatible with the surrounding use.

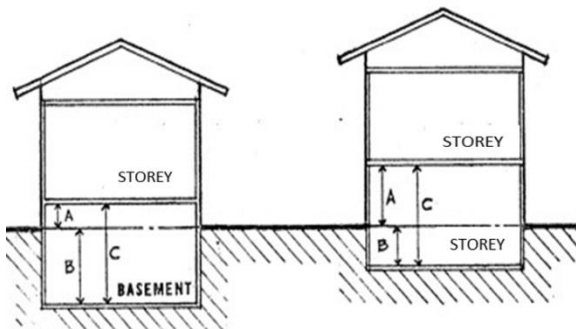
**“Ancillary use”** means a use incidental to, or customarily associated with a lawful specific use.

**“Appeal Tribunal”** is the KwaZulu-Natal Planning and Development Appeal Tribunal established by Section 100(1) of the Act and the Town Planning Appeals Board established by Section 73bis of the Town Planning Ordinance (No 27 of 1949), until such time when the Ordinance is completely repealed.

**“Approval”** means the written approval of the Council.

**“Basement”** means the lowest part of any building, which part is constructed with more than 50% of its volume below the lower of either the mean finished ground level or the existing natural ground level immediately surrounding the building. See illustration in Figure 1.

Figure 1: Illustration of Basement



**“Boundary”** in relation to land, means a cadastral line registered with the Surveyor General, separating a lot from another lot or a street.

**“Building”** means:-

- (a) any other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected for or in connection with:
  - (i) The accommodation or convenience of human beings or animals;
  - (ii) The manufacture, processing, storage, display or sale of any goods;
  - (iii) The rendering of a service;
  - (iv) The destruction or treatment of refuse or other waste materials;
  - (v) The cultivation or growing of any plant or crop

- (b) any wall more than 2m, swimming bath, swimming pool, reservoir or bridge or any other structure connected therewith;
- (c) any fuel pump or any tank used in connection therewith;
- (d) any part of a building, including a building as defined in paragraph (a), (b) or (c); and
- (e) any facilities or systems, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, stormwater disposal, electricity supply, or other similar services in respect of the building. [NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT (NO. 103 OF 1977) AS AMENDED]

**“Building line”** means a line parallel to any boundary of a lot which is conterminous with a street, public right of way or road reservation; or in the case of “hatchet shaped” lots, a line parallel to the boundary nearest to the street which is not a boundary of the access strip.

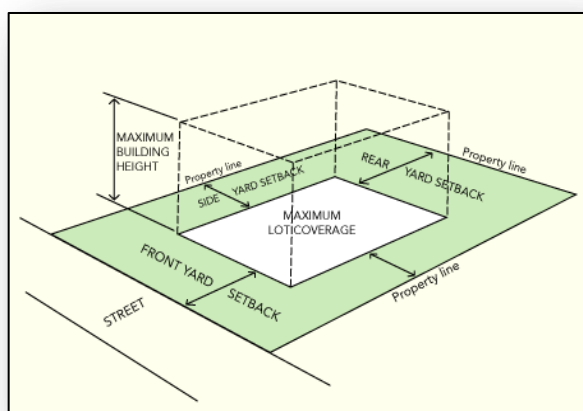
**“Bylaw”** means a regulation made by the municipality to enable it give proper effect to the powers and duties conferred or imposed upon it.

**“Consent”** means special permission granted by Council, after due consideration of all relevant facts and lawful, reasonable and procedurally fair administrative action, in terms of which a specific type of land use or activity is permitted, in addition to the primary use right applicable to the erf concerned.

**“Council”** means the Mkhambathini Local Municipality established in terms of Provincial Gazette Notice and includes any municipal standing committee or municipal official with delegated powers in terms of the area of jurisdiction within which these town-planning conditions apply. Council or its delegated authority shall be the approving authority for all applications pertaining to this Policy.

**“Coverage”** means the proportion of a lot covered by buildings, and is expressed as a percentage of the lot area as defined. Thus 25% coverage means that only one quarter of the lot may be covered by buildings.

**Figure 1:** Illustration of Coverage



$$\text{Coverage} = \frac{\text{area of buildings seen vertically from above}}{\text{Total area of property}} \times 100$$

$$\text{Coverage} = \frac{220\text{m}^2 + 50\text{m}^2 + 30\text{m}^2}{900} \times 100$$

$$\text{Coverage} = 33,3\%$$

**“Date of adoption”** means the date upon which any provision of this Scheme is finally adopted by the Municipality.

**“Density”** means the maximum number of dwelling houses per hectare as set in relation to a specific area in the provisions of the Policy.

**“Development”** in relation to land, means the erection of buildings and structures, the carrying out of construction, engineering, mining or other operation on, under or over land and a material change to the existing use of any building for non-agricultural purposes [[Kwazulu-Natal Planning and Development Act No. 6 of 2008](#)].

**“Display”** in relation to a sign, without in any way limiting its ordinary meaning, includes the erection of any structure for the support of such sign;

**“Dominant use”** means the predominant or major use of a property, and may consist of a primary or a Consent use permitted on the property;

**“Duplex Flat”** means a dwelling unit in a building each such unit consisting of a ground floor and one upper floor connected by an internal staircase and having direct access to a private open area.

**“Dwelling Unit”** means a self-contained inter-leading group of rooms with not more than one kitchen, used only for the living accommodation and housing of one family, together with such outbuildings as are ordinarily used therewith.

**“Dwelling unit curtilage”** means a single defined area of land forming part of a medium density housing site comprising the land upon which a dwelling is erected or is intended to be erected together with such private open areas and other areas as are reserved for the exclusive use of the occupants of the dwelling unit.

**“Eave”** means a portion of a roof not projecting 600mm beyond the face of a building..

**“Environment”** means the surroundings within which humans exist and that are made up of:-

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being. [[National Environmental Management Act No. 107 of 1998 as amended](#)]

**“Environmentally Sensitive Area”** means an area which contains natural organisms and similar characteristics and is considered to be of environmental significance to the functioning of the natural ecosystem and maintenance of biodiversity within such ecosystems. Such areas of ecological sensitivity may include but not limited to the following:-

- (a) habitat of a rare species;
- (b) pristine/indigenous vegetation;
- (c) proclaimed protected areas; and
- (d) designated buffer zones related to such areas of ecological sensitivity.

**“Environmental Impact Assessment (EIA)”** means a systematic process of identifying, assessing and reporting environmental impacts associated with an activity and includes basic assessment and S&EIR (scoping and environmental impact reporting process as contemplated in regulation 26 to 35) [[NEMA Environmental Impact Assessment Regulations, Gazette Notice No. R 543, 18 June 2010](#)]

**“Environmental Management Programme (EMPr)”** means a management plan as defined in Section 11 of the National Environmental Management Act (No. 107 of 1998).

**“Erection”** in relation to a building, includes the alteration, conversion, extension, rebuilding, re-erection, subdivision of or addition to, or repair of any part of the structural system of, any building. [[National Building Regulations and Building Standards Act \(No. 103 of 1977\) as amended](#)]

**“Erf (same as “Lot”)** means any piece of land registered in the deeds registry as an erf, lot, plot, stand or farm and includes a portion of an erf, lot, plot or stand [[Kwazulu-Natal Planning and Development Act No. 6 of 2008](#)].

**“Erf area (same as “Lot area)”** is the area of an erf, less the area of any public right of way, road servitude, new road or road widening to which the Erf may be subject, but shall include any registered servitude for overhead or underground services. Erf area, in any zone, is exclusive of access ways in “hatchet-shaped” erven.

**“Existing building”** means a building lawfully erected before the date of adoption or a building erected in accordance with plans which were approved by the Municipality prior to that date.

**“Existing use”** means in relation to any building or land, a continuous use of that building or land after the date of adoption for the purpose for which it was designed and lawfully authorised by the Municipality at that date.

**“Facility”** means land used by governmental/non-governmental organizations for the provision of services in the interest of the broader public which can include inter alia, power lines, reservoir, electrical substation, sewerage plant, etc.

**“Family”** means a man or a woman or both, with or without their parents and with or without the children of one or the other or both of them, living together as one household.

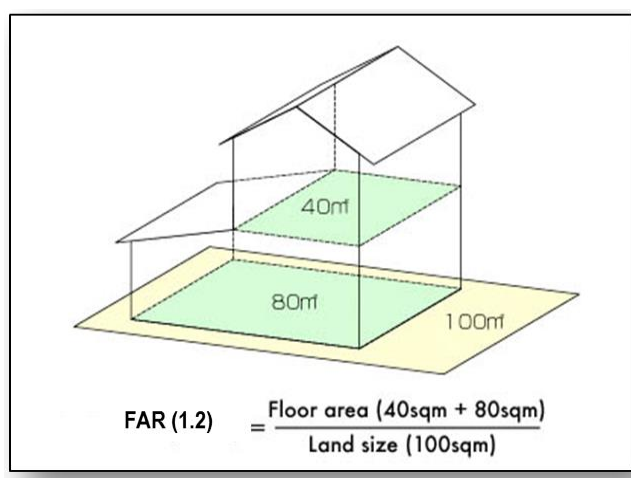
**“Floor”** means the inner, lower surface of a room on or nearest to the mean natural ground level immediately surrounding the building, garage or basement and includes a terrace to which occupants of a building have access.

**“Floor area”** means the floor area of a building which shall be taken as the sum of the roofed areas of the building at each floor level, measured over and including wall thicknesses and enclosed balconies, verandas and staircases but shall exclude:

- (a) public access galleries, public toilets, lift shafts and lift motor rooms, water storage tanks, fire escapes, refuse storage areas, areas used for electricity transformer rooms, substations and meter rooms, and areas for the accommodation of mechanical ventilation, air-conditioning and effluent treatment plants;
- (b) any area used exclusively for the loading and unloading of motor vehicles;
- (c) covered parking spaces or garages other than such areas within a petrol filling station, parking erf / parkade and automotive showroom;
- (d) any area within a basement used exclusively for storage purposes;
- (e) any area to which the general public has access and which, in the opinion of Council, comprises bona fide pedestrian shopping arcades, malls or part thereof, provided that such area is not itself used for any business or commercial purpose whatsoever; and
- (f) features of a purely decorative nature such as ledges, spires, turrets and belfries.

**“Floor Area Ratio (FAR)”** means the ratio (expressed as a proportion of 1) which is prescribed for the calculation of the maximum floor area of a building or buildings permissible on a lot or erf; it is the maximum floor area as a proportion of the net erf area and calculated as follows:

Figure 2: Illustration of Floor Area Ratio



**“Flood line”** means an indicative line indicating the maximum level likely to be reached by floodwaters on average once in every 100 years. [Paraphrased from [SECTION 144 OF THE NATIONAL WATER ACT NO. 36 OF 1998](#)]

**“Frontage”** is the length of the boundary of a lot which is coincident with the boundary of an existing or proposed street.

**“Gross floor area”** is the sum of the floor areas of a building including storage, corridors, lift shafts, staircases, kitchens and conveniences, and shall include wall thickness and basements, but shall exclude public conveniences and areas for parking purposes.

**“Ground floor”** means the storey of a building or portion of a building on or nearest the mean finished ground level immediately surrounding the building, provided it is not a basement.

**“Guideline(s)”** means written non-regulatory information that directs or influences land use decisions.

**“Habitable room”** means a room designed or used for human habitation in accordance with standards prescribed by the bylaws but excludes a storeroom.

**“Height”** means the height of a building measured from floor to apex of a roof and may be expressed as a number, provided that where the ground floor of a building is on more than one level, such building shall be regarded as formed of portions in relation to each respective level and the height of such a building shall be calculated separately in respect of each portion as if such portion were a separate building but shall exclude spires and decorative architectural features.

**“Heritage Resource”** means any place or object of cultural significance as determined in the National Heritage Resource Act.

**“Heritage Resource Act”** means the National Heritage Resource Act, No 25 of 1999.

**“Home Owners’ Association”** means a company registered in terms of section 21 of the Companies Act, No. 71 of 2008, as amended, membership of which shall be exclusive to and compulsory for the freehold or registered leasehold owners of dwelling unit cartilage in a medium density housing development.

**“Integrated Development Plan”** means a plan envisaged in Section 25 of the Municipal Systems Act No 32 of 2000.

**“Land”** means a tract of ground capable of being owned as property and includes land covered by water.

**“Land use right(s)”** means the approval to utilise or improve land in accordance with a site development plan and conditions in terms of this Policy.

**“Landscaping”** means the planting or emplacement of plants for the purpose of protecting, preserving and promoting the aesthetic appeal, scenic beauty, character and value of properties as well as to promote public health and safety through the reduction of noise pollution, storm water runoff, air pollution, visual pollution and light glare.

**“Lease diagram”** is a diagram registered with the Surveyor General, depicting an area being subjected to a lease agreement. A lease diagram is linked to a specific lease, and needs to be reregistered when a new lease is granted.

**“Liquor Act”** means the National Liquor Act (No. 59 of 2003) as amended.

**“Liquor Licence”** means license obtained in terms of the KwaZulu-Natal Liquor Licensing Act (No. Act 6 of 2010) as amended

**“Maisonette”** means a two storey building consisting of 2 dwelling units placed one above the other with separate entrances.

**“Maximum floor area”** means the greatest total floor space which is allowed for a building or buildings with all its or their floors on a site; such floor area is calculated by multiplying the floor factor with the net erf area of a site or that portion of the site which is situated within the particular zone; provided that where a site is situated within two or more zones to which different floor factors apply, the maximum floor space for each portion of the site; further provided that for the purpose of determining the permissible floor area of a building:

- a) any area including a basement which is reserved solely for the parking of vehicles, will be excluded;
- b) any area required for an external fire escape will be excluded;
- c) subject to (d) below, any balconies, terraces, stairs, stairwells, veranda’s, common entrances and common passages covered by a roof will be included except in the case of a residential building on a residential site, where it will be excluded;
- d) any stairs, lift walls or other walls, in the case of multi-storey buildings, will only be calculated once; and
- e) any arcade, with a minimum width of 2 metres and which at all times provides access through the building concerned from public parking of a pavement or public road, street or open space and which at all times is open to the public by means of a servitude, as well as any other covered walkway through which the roof allows light, will be excluded.

**“Medium Density Housing Site”** means a defined area of land upon which medium density housing is established or is proposed to be established and which comprises dwelling unit curtilages and common land.

**“Municipality”** means the Mkhambathini Municipality as defined in section 1, and established under section 12 of the Municipal Structures Act, No. 117 of 1998 and read with the provisions of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000).

**“Municipal area”** means the Council’s municipal area of jurisdiction as proclaimed from time to time by the Municipal Demarcation Board and in terms of the Municipal Demarcation Act No. 51 of 2002.

**“Municipal Manager”** means the person appointed as municipal manager for a municipality under section 82 of the Municipal Structures Act No. 117 of 1998 and includes a municipal official acting under delegated powers.

**“National Environmental Management Act”** means the National Environmental Management Act, No 107 of 1998 as amended and its associated regulations, and Specific Environmental Management Acts.

**“Net Developable Area”** means the surveyed area of a lot excluding the following areas but not limited to:-

- (a) any public right of way, road servitudes, new roads, or road widening;
- (b) areas of soil instability and/or soils classified as having high water tables;
- (c) soils classified as highly erodible, subject to erosion, or are highly acidic;
- (d) areas liable to flooding and flood plains;
- (e) inaccessibility of topography and/or slopes steeper than 1:3;
- (f) land formerly used for landfill operations or hazardous industrial use;
- (g) fault areas;
- (h) stream corridors;
- (i) estuaries;
- (j) mature stands of indigenous vegetation;
- (k) aquifer recharge and discharge areas;
- (l) wetlands and wetland transition areas; and
- (m) habitats of endangered species

which in the opinion of the Municipality are considered undevelopable.

**“Noise level”** means reading on an integrating impulse sound level meter, taken in accordance with accepted scientific principles and relevant legislation.

**“Non-conforming existing use”** means any lawfully existing use of a lot/or building as at the date of adoption which does not conform to the current development controls applicable to such a lot, or the provisions of this Policy.

**“Object”** means, in the context of a heritage resource, any moveable property of cultural significance which may be protected in terms of any provisions of the Heritage Resource Act, including;

- a) any archaeological artefact;
- b) paleontological and rare geological specimens;
- c) meteorites;
- d) other objects referred to in the Heritage Resource Act.

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

**“Ordinance”** means the Town Planning Ordinance No.27 of 1949), as amended.

**“Outbuilding”** means a building ordinarily used in conjunction with a dwelling unit(s), and used for the garaging of private motor vehicles, storeroom, staff rooms and ablution facilities, and workroom; workroom meaning a room used for maintenance of the dwelling unit(s) or for private hobbies.

**“Owner”** in relation to a building or land, means the person in whose name such land is registered in the Deeds office.

**“Permission to Occupy”** (PTO) means is a form of leasehold whereby one may occupy a land in custody of a traditional leader, and develop the land as mutually agreed. This applies only to Ingonyama Trust land.

**“Pollution”** means any change in the environment caused by:-

- a) substances;
- b) radioactive or other waves; or
- c) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or wellbeing or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future. [[NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998 AS AMENDED](#)]

**“Premier”** means the Premier of the KwaZulu-Natal Province.

**“Prescribed”** means prescribed in terms of legislation.

**“Primary use”** means the dominant use of any erf, building or structure.

**“Principles”** means a set of values and guiding rules that should guide and inform on-going planning and development.

**“Property”** means any land that is registered as a separate unit at the Surveyor General’s Office and the Deeds Office.

**“Provincial Government”** means the Provincial Government of the Province of KwaZulu-Natal.

**“Public Authority”** means a National Department, Municipality or semi-state agency or the Provincial Government.

**“Rear boundary”** shall mean that boundary of a lot or erf which is furthest from any street boundary, and which does not meet any street boundary.

**“Register”** means a record of all applications, including:

- a) conditions of land use changes that affect the land use rights; and
- b) consent uses and non-conforming uses;
- c) applicable to any farm or portion thereof, lot or erf as prescribed or required under this Policy.



**“Restriction”** means a servitude or condition registered against the title deed of immovable property restricting its utilization, and any other statutory restriction on the planning, development or utilization of that immovable property.

**“Rural”** means land located outside of urban areas within rural settlements on land not used for bona fide agricultural activities.

**“Satisfactory”** or **“Suitable”** means acceptable, adequate in the Council’s opinion.

**“Servitude”** means a registered right that grants the use of a portion of land for specified purposes.

**“Side Boundary”** means any boundary of an erf which meets a street boundary and any other boundary and which is neither a street boundary nor a rear boundary.

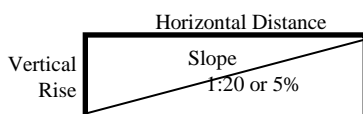
**“Sign”** means any sign, sign writing, mural, graphic design, signboard, screen, blind, hoarding or other device by means of which advertisement of notice is publicly displayed.

**“Site development plan”** means a scaled and dimensioned plan which shows details of proposed development and may include but not limited to (i) existing physical characteristics of the property, (ii) the position, use and extent of buildings, and (iii) any other details as may reasonably be required by the Council. [See Section 3.1.2.](#)

**“Slope”** means the degree of deviation of a surface from the horizontal, expressed as a ratio or percentage and calculated for the purpose of this Policy as depicted below:

For Example: a piece of land rise 5m vertical over a 100m distance. The slope is calculated as follows:

$$\begin{aligned}\text{Slope} &= \frac{\text{Vertical Rise}}{\text{Horizontal distance}} \\ &= \frac{5}{100} \\ &= \frac{1}{20} \\ &= 5\% \text{ slope}\end{aligned}$$



**“Storey”** is a room or set of rooms at one level, including any room, of which the floor is split in two or more levels, and shall have the following implications:

- The basement of a building, not used for residential purposes, but used solely for the purpose of parking vehicles, service installations, such as transformer and meter rooms, or storage shall not count as a storey provided such area or areas constitutes a basement;
- The ground floor may be on several levels;
- A pitched roof containing a habitable room and any other type or style of roof which contains or supports any rooms, structures or features over and above those mentioned in paragraph (e) below and which the Municipality considers to be habitable shall count as a storey.
- A storey shall not be higher than 4.5 metres. If a storey is higher than this, each 4,5 metres or part thereof shall count as a storey;
- With the exception of Lift rooms, stairwells and pitched roofs, any structures or architectural features situated on the roof of a building and greater than 1,2 metres in height shall constitute a storey.

**“Structure”** without in any way limiting its ordinary meaning, includes any building, wall, fence, pillar, pergola, steps, landing, terrace, swimming pool, petrol pump or underground tank and any portion of a structure.

**“Subdivide and subdivision”** in relation to land, means to subdivide the land, whether by means of:

- a survey;
- the allocation, with a view to the separate registration of properties, of undivided portions thereof in any manner, including the marketing and conclusion of contracts for the alienation, sale or exchange of portions of the lot or erf;



(c) the preparation thereof for subdivision.

**“Systems Act”** means the Municipal Systems Act (No. 32 of 2000).

**“Total Floor Space”** of a building means the sum of the floor space of all the storeys of a particular building, including basements’

**“Townhouse”** means a private or self-contained dwelling with private grounds within a common ground for other dwellings.

**“Used”** in addition to its ordinary meaning includes designed or intended to be used;

**“Use right”** in relation to land, means the right to utilise that land in accordance with its zoning, including any lawful departure or Consent use.

**“Utilisation”** in relation to land, means the use of land for a particular purpose and includes the extent of such use.

**“Utility Area”** means the outdoor private area adjacent to and associated with the kitchen area of a medium density housing unit, the screening of which shall be to the satisfaction of the local authority and which includes patios, verandas and drying areas.

**“Water Act”** means the National Water Act, No. 36 of 1998, as amended.

**“Watercourse”** means:-

- (a) a river or spring;
- (b) a natural channel in which water flows regularly or intermittently;
- (c) a wetland, lake or dam into which, or from which, water flows; and
- (d) any collection of water which the Minister may, by notice in the Gazette declared to be a watercourse, and a reference to a watercourse includes, where relevant, its bed and banks [[NATIONAL WATER ACT \(NO. 36 OF 1998\)](#), [AS AMENDED](#)].

**“Wetland”** means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil [[NATIONAL WATER ACT \(NO. 36 OF 1998\)](#), [AS AMENDED](#)].

## 2.2 Land Use and Development Definitions

1. **“Agricultural Building”** is a structure designed for farming and agricultural practices, including but not limited to: growing and harvesting of crops and raising livestock and small animals. Such buildings inter alia include, but not limited to the following: Barns, greenhouses, storage buildings for farm equipment, animal supplies or feed, storage buildings for equipment used to implement farming and/or agricultural practices, storage buildings for crops grown and raised on site (cold storage), horticultural nursery.
2. **“Agricultural land”** means land as defined in Section 1 of the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970).
3. **“Agri-Industry”** means a commercial activity supporting or complementing agricultural activities, including concentrated plant or animal production units, or related to processing or beneficiation of agricultural products. Included are operations that supply agricultural tools and machinery and agricultural requirements such as fertiliser and stock feeds; commercial mechanical or engineering workshops; plant nurseries and production tunnels or other such structures, processing of dairy products or saw milling of timber, abattoirs, cattle feedlots, chicken batteries and piggeries and the wastes or by- products from such activities. Excluded from the definition are any of the above activities which are carried for purely "own use" or non-commercial

purposes. Also excluded are facilities for handling livestock for purposes of dipping, spraying, counting or shearing, or for basic cleaning and packaging of crops such as potatoes.

4. **“Airfield”** means a demarcated area and associated buildings where light aircraft can land and take off, and may be used for pilot training, aircraft storage and maintenance, associated offices, facilities and accommodation. An airfield shall be authorised by the relevant authority.
5. **“Automotive Showroom”** refers to a display room where roadworthy motor vehicles are displayed for sale to the public.
6. **“Automotive Workshop”** means the use of buildings or land for the repair, maintenance and servicing of motor vehicles including the installation of parts and accessories.
7. **“Arts and Crafts Centre”** means land or building wherein the primary purpose is the production, display and the selling of goods, and may include a cultural village. This includes such uses as, inter alia, graphic arts, textile design, weaving, pottery, furniture making, leatherwork, studios, creative fashion design, stained glass, and may include a printer. The process carried on and the machinery installed shall not be such that they will not cause nuisance to other properties or be detrimental to the amenity of the surrounding areas.
8. **“Bed and Breakfast Establishment”** means a private dwelling house where not more than four rooms in the building or an approved outbuilding are let out for commercial tourist overnight accommodation, managed by the owner of the property, who shall also reside on the property, and where meals may be served to registered guests.
9. **“Builder’s yard”** means a lot, which is used for the storage of material:
  - a) if necessary for or normally used for construction work; or
  - b) that was obtained from demolitions of structures or excavations of ground; or
  - c) required or is normally used for land improvements, such as storage of material used for building roads, for installing essential services, or for any other construction work (e.g. of sand or bricks), whether for public or private purposes; or
  - d) or land or building used for the preparation for use of materials thus stored but does not include a builders’ yard established for the purpose of temporarily storing of such materials in connection with and for the duration of construction or building works, in the vicinity of such builders yard and does not include the storage at a “Shop” or a “Warehouse”.
10. **“Butchery”** means a building or portion of a building where the sale of animal products, and associated goods occurs but excludes the slaughtering of livestock and poultry, treatment of carcasses, preparation of offal and by-products for distribution.
11. **“Camping Area”** means an area of land set aside for the purpose of camping involving the erection of tents and other forms of temporary shelter, and may include trailers and caravans but excludes chalets or mobile homes.
12. **“Caravan Park”** means an area of land provided with ablution and sanitary facilities and with or without a communal kitchen, constructed of permanent materials, arranged for the accommodation of caravans which are used for temporary holiday dwellings, and provided also with permanent water points, approved refuse receptacles and containing within the curtilage a sufficient open space for recreational purpose and may include incidental commercial use.
13. **“Carwash Facility”** means a place or structure having special equipment for washing automobiles. This does not include informal carwash facilities on parking areas.

14. **"Cemetery Purposes"** means land or buildings which is permanently set aside for the purpose of burying human or animal remains, and may include an office for administrative uses associated therewith, a funeral chapel/s, gardens, roads, parking, sheds for maintenance purposes and the like but shall not include a Crematorium.
15. **"Clinic"** means, in relation to the definition of an institution, a place where patients receive medical treatment or medical related advice and may include a wellness centre, out-patients centre or a medical centre, provided that live-in facilities for not more than 20 persons (including staff and patients) are provided.
16. **"Commercial Building"** means a building designed or used for such purposes as distribution centres, wholesale trade, storage, computer centres, warehouses, petrol filling stations, public garages, cartage and transport services and laboratories and may also include offices such that use usually ancillary to or reasonably necessary in connection with the main use.
17. **"Commercial Workshop"** means a light industrial building wherein the primary purpose is the selling of goods or services by retail and may be in conjunction with a shop or office to which the public has access and includes such uses as a watch repair, shoe repair, valet services, radio/television repairer, electrician and may include a jobbing printer.
18. **"Community Facility"** means premises used for cultural activities, social meetings, gatherings, non-residential clubs, gymnasiums, sport clubs or recreational or other activities where the primary aim is not profit seeking and excludes a place of entertainment.
19. **"Conservation Purposes"** means environmentally sensitive land, coastal areas and/or water bodies, or land earmarked for environmental rehabilitation which includes independent or linked open space areas and permits only limited and specific developments that are normally associated with, but secondary to, the conservation of land, such as parking areas, walking trails, bird watching structures, educational buildings, restaurant / tuck shop and other facilities for the convenience of visitors. Development would most likely be subject an environmental approval process in line with relevant legislation.
20. **"Crèche"** means any building or premises maintained or used, whether for profit or otherwise, for the reception, protection and temporary or partial care of more than six children apart from their parents, but does not include any boarding school, school hostel or any establishment which is maintained or used mainly for the tuition or training of children and which is controlled by or which has been registered or approved by the State, including a provincial administration.
21. **"Crematorium"** means a place for incinerating corpses in a furnace, and includes associated facilities such as a chapel and offices.
22. **"Day Care facility"** refers to the care of a child during the day by a person other than the child's legal guardians, typically performed by someone outside the child's immediate family. A day care facility may not have more than 6 children being looked after.
23. **"Dwelling House"** means a free standing dwelling unit on a single erf, which does not form part of either Medium Density Housing or Chalets, used as a Dwelling Unit for a single family together with such outbuildings and as are customary used incidental therewith. It may include land used for sport and/or recreation facilities associated with, but secondary to the residential use of land and used exclusively by the residents of the dwelling unit on the site.
24. **"Education"** means the use of land for educational, or directly related, purposes.

25. **“Farm Stall”** means a building used for retailing of fresh farm produce produced on site, including homemade items. The Municipality may stipulate the maximum size of the farm stall.
26. **“Farm Supply Centre”** means the use of land or buildings for the supply of vegetable seeds, fertilisers, agricultural chemicals, stock foods, tractors, farm equipment, implements or components, or irrigation equipment but excludes the repairs of equipment.
27. **“Farm Tourism”** This form of tourism refers to working farms that supplement their income with some form of tourism business. This type of tourism generally requires little investment and represents a successful symbiotic relationship for areas where neither farming nor tourism could be independently justified. Farm holidays provide an additional income cushion to agricultural enterprises that are subjected to fluctuating and uncertain markets. Overnight visitors shall be limited to a maximum of 15 on any one erf.
28. **“Food Outlet”** means a building, portion of a building or separate structure used primarily for the preparation and sale of food and non-alcoholic beverages mainly for consumption off the premises.
29. **“Funeral Parlour”** means a building or land used for the purpose of funeral management, the preparation of the deceased for burial or cremation, and may include a shop intended primarily for public reception and for the sale and display of those commodities required for cemetery purposes and services ordinarily ancillary to funeral management, but does not include a monumental mason, cremation facilities or the manufacturing of coffins.
30. **“Garage”** means a building for the parking of motor vehicles, and includes a carport but does not include a public parking area or petrol filling station.
31. **“Health and Welfare Facility”** means land or building which provides medical services to the general public and may include a sanatorium, community care facility; welfare centre and pension pay points.
32. **“Hospital”** means a medical facility which is either government owned, privately-owned or non-governmental, authorised by the relevant legislation(s) and may include a hospice to diagnose and treat human illness; with integrated facilities such as operating theatres and live-in accommodation for patients; and includes a clinic and medical consulting rooms.
33. **“Hotel (Licensed)”** means a facility offering transient lodging accommodation to the general public and providing additional services accessible by guests and the general public, such as restaurants, meeting rooms / conference facilities, entertainment, recreational facilities, health and beauty facilities, and limited shopping, and in respect of which is in compliant with the requirement of a hotel as laid down in the Hotels Act, 1965 (Act 70 of 1965), as amended, but does include an off-sales facility.
34. **“Informal Trading Area”** means an area where any small-scale economic activity is permitted, provided that each operator occupies a defined space. Provided further that, notwithstanding anything stated to the contrary in these clauses, no specific provision shall apply to such area, unless considered necessary and so specified by the Municipality.
35. **“Large-Scale Infrastructure”** means infrastructure which has the potential to impinge on the integrity of the natural environment or on the aesthetic quality of the landscape. Included are items such as regional powerlines, major dams and water canals, reservoirs or other infrastructure associated with water reticulation schemes, highways, railways, cellular telephone masts, cableways and the like.

36. **“Laundrette (or Laundromat)”** means a building used for the purpose of washing and drying clothing and household fabrics, where the machines used are electrically operated and quiet running, and of the type which process each customer’s articles individually, and which may be operated by the customer. The washing media used shall be a type that shall not cause harmful effluent to be discharged into the sewerage system.
37. **“Light Industrial Building”** means an industrial building or factory in which the processes carried on or the machinery installed are such as can be carried on or installed in a Light Industrial zone without causing nuisance to other properties within such zone or to the general public, or without detriment to the amenities of other use zones, by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust, grit, traffic generation, size or other causes.
38. **“Market”** means premises used for the display and sale of goods from stalls by independent vendors.
39. **“Medical Centre”** means a building designed for the use as consulting rooms or offices for medical purposes that is used by a medical doctor, sangoma, herbalist, physiotherapist, homeopath, optometrist or any other medical related use that serves the purpose of consultation, but excludes a clinic or any other medical use that provides overnight accommodation for patients. This use will only be valid on a residential erf where such person also resides on the erf. It excludes any noxious practices or uses which will interfere with the amenity of the surrounding properties or is of nuisance value by virtue of noise, appearance, smell or activities or for any other reason whatsoever.
40. **“Municipal Purposes”** means and includes the use of land and the erection and use of buildings by or on behalf of the Council for the purpose of carrying out one or more municipal functions which may include the supply of essential protective, health, community, administrative, engineering, support or other similar services and the provision of housing, recreational or other similar facilities, but excluding uses provided for under specific zones such as cemeteries, refuse sites, sewerage treatment plants and water works.
41. **“Nature and Resource Conservation”** means the long term management, including the associated environmental education opportunities, of natural resources such as bio-diversity resources and sites of social, cultural, spiritual, archaeological, paleontological, geological or scenic value, in order to ensure their continued existence in an acceptable condition, whether or not utilisation, active or passive, is taking place.
42. **“Nursery Garden”** means land used to propagate, grow, and sell plants and/or the sale of gardening equipment, horticultural products and landscaping supplies provided that:-
- (a) any structure / building developed and/or used in connection therewith shall not exceed a coverage of 150m<sup>2</sup>;
  - (b) not more than 3 persons shall be employed on the property.
  - (c) the person operating the nursery garden shall reside on the property in question; and
43. **“Office Building”** means a building or part of a building used as an office and includes a bank, building society, insurance office, estate agent and other professional suites, but does not include a public office, medical offices or any other use which in the opinion of the Municipality, may interfere with the amenity of the surrounding area.
44. **“Office” - Public** means an office building used for any National, Provincial or Local Government purposes or public service use, and includes an administrative office, Municipality office and town hall, government office, court house, police station, post office, public library, public art gallery, public museum, and buildings ordinarily ancillary thereto.

45. **"Parking Garage"** means a building, part of a building or land designed primarily for the purpose of parking, other than parking required in terms of Clause 4.4, and includes washing and servicing of motor vehicles, but does not include a building or part thereof which is designed for use as a workshop for the repair of motor vehicles or for the sale of petrol, oil and accessories.
46. **"Petrol Filling Station"** means land or building wherein motor vehicles are provided with fuel, lubricants, tyres, motor spares, electrical equipment, and may on Consent from the municipality include, the repair of motor vehicles of a minor nature, lubricating and greasing, washing and cleaning, a restaurant or café and a convenience store which does not exceed 30% of the total floor area and is integrated with the other facilities in terms of design, but shall not include the carrying out of operations such as spray painting, panel beating or body or blacksmith works, the repairs of a major nature to the engine or overhauling of motor vehicles and transmission systems thereof.
47. **"Place of Instruction"** means a place for education at pre-school, school or post school levels, including a crèche, nursery school, primary school, secondary school, college, university, research institute and ancillary uses such as boarding hostels, monastery, convent and all uses which are ancillary, directly related to and subservient to the main use; or a civic facility for the promotion of knowledge to the community such as a public library, public art gallery, museum, public library, public art gallery, museum; or a place of instruction in sport where the main objective is instruction as opposed to participation by the public as either competitors or spectators; but excludes a reformatory, commercial conference facility, gymnasium or in-house business training centre.
48. **"Place of Public Amusement"** means a place used predominantly for commercial entertainment which may attract relatively large numbers of people, operate outside normal business hours or generate noise from music or revelry on a regular basis and includes a building designed for use or a building or land which is used as an amusement park, billiards saloon, bingo halls, casino, cinema, circus arena, concert hall, dance hall, discos, exhibition hall (trade, industry or other recreational purposes), gymnasium, Live Music, music hall, night clubs, race courses, skating rink, sports arena, theatre, and also includes such uses as are ancillary, directly related to and subservient to the main use but excludes pornographic / adult entertainment.
49. **"Place of Public Assembly"** means a public hall, hall for social functions, music hall, concert hall, recreational hall, public art gallery, a town or civic centre or exhibition hall which is not directly related to a commercial undertaking, or a town hall or civic centre, but excluding a school hall and a place of entertainment.
50. **"Place of Worship"** means a church, synagogue, mosque, temple, chapel or any other building intended to be used for practicing of religion and includes a building or residential unit ancillary thereto, or parsonage but does not include a funeral parlour.
51. **"Private Open Area"** means a usable area, exclusive of utility areas, driveways and parking areas, which is open to the sky and which is adjacent to and has direct access from a dwelling unit on a medium density housing site, such private open area being reserved for the exclusive use of the occupants of the associated dwelling unit, but may include covered open areas (patios) and verandas.
52. **"Private Recreation Area"** means a sport ground, playing field or other open space of a club, firm, private person or other body, including buildings normally ancillary to recreational activities.
53. **"Public Open Space"** means an open space or reserve owned by the municipality which the public has a right to use and enjoy, and includes all ancillary facilities and buildings.

54. **“Public Parking Area”** means a building used or land used, whether or not for gain or reward, for the provision of parking of motor vehicles, not related to the parking requirements or provisions of the Rural Policy for another building or site or part thereof.
55. **“Public Recreational Use”** means the use of Municipal-owned open space for enjoyment by the public, and may include playgrounds, botanical and zoological gardens, sport and recreational facilities and similar uses, and may include parking areas necessary for such use/s and a restaurant or shop ancillary to such sport and recreational uses.
56. **“Railway Infrastructure”** means land used for the transport of goods and passengers via rail and may include railway routes, facilities to park, maintain and manoeuvre railway vehicles and shunting / marshalling yards, but excludes a Railway Terminal.
57. **“Recreational building”** means a clubhouse, gymnasium, squash court, pavilion, shelter, change room, stadium, and any similar facility used in conjunction with a sport or recreational activity. A clubhouse may include dining facilities and lounges, and may include an open space or reserve which the public has a right to use and enjoy, and includes any ancillary facilities.
58. **“Residential building”** means a building (other than a dwelling house or town house) for human habitation, together with such outbuilding as are normally used therewith, and includes a boarding-house, block of flats, residential club, old age home, a children’s home and a hostel, but does not include buildings mentioned whether by way of inclusion or exclusion in the definitions of “place of instruction” or “institution”.
59. **“Restaurant”** means a building or portion of a building used primarily for the preparation and sale of food, confectionery and beverages for consumption on the premises and could include:
- a) a coffee shop or cafeteria
  - b) the licenced provision of alcoholic beverages, only with the consent of the council but excludes a tavern.
60. **“Retail Facility”** means a building or land used for any retail trade or business wherein the primary purpose is the selling of goods and appliances by retail and includes a building used for the purpose of a hairdresser, ticket agency, showroom including a motor showroom restricted to the display and sale of vehicles only, auction mart or for the sale of food and drink for the consumption off the premises or for the reception of goods to be washed, cleaned, altered, dry-cleaned or repaired and includes ancillary buildings ordinarily incidental to the conduct of the retail business, but does not include an industrial building, milk depot or hotel.
61. **“Road Infrastructure”** means land used for the transport of goods and passengers via road and may include national, provincial and municipal roads, facilities to park and stop, road reserves, maintenance and maneuvering facilities.
62. **“Rural Tourism Facility”** means any land development or building mainly aimed at day visitors, with limited overnight accommodation and may include a day spa, health spa, wedding venue and ancillary facilities such as a chapel and / or restaurant.
63. **Semi-Intensive Human Settlement”** means settlements which, on the basis of density, range of land uses, and structure would normally be defined as conventional residential development. Such settlements may or may not be formally defined and recognized, but which are at a level requiring the provision of communal infrastructure and which are almost totally dependent on food brought in from other areas. As they develop further, these settlements tend toward urban development.



64. **“Service Industry”** means a light industrial building or premises which has a retail shop front and from which goods manufactured on the premises may be sold, and includes a builder’s yard, laundry, bakery, dairy depot, dry-cleaning, and similar types of uses, and which caters specifically for the essential day to day needs of a residential area.
65. **“Servitude”** means a registered right that grants the use of a portion of land for specified purposes.
66. **“Shop”** means a building or land used for any retail trade or business wherein the primary purpose is the selling of goods and appliances by retail and includes a building used for the purpose of a hairdresser, ticket agency, video hire, showroom (including motor showroom restricted to the display and sale of vehicles only), auction mart or for the sale of food and drinks for consumption off the premises or for the reception of goods to be washed, cleaned, altered, dry-cleaned or repaired and includes ancillary buildings ordinarily incidental to the conduct of the retail business, but does not include an industrial building, garage, petrol filling station, milk depot, hotel, service trade, motor repair garage, restaurant, adult entertainment business, bottle store and if such uses are included on the property they shall be regarded as separate uses subject to such separate development rules.
67. **“Small-Scale Rural Settlements”** means a residential use at rural density and intensity on either commercial farms or communally-owned land, and could include limited cropping and ad hoc grazing, which is in line with Council’s Housing Plan, Spatial Development Framework and /or as part of a land reform/labour tenant project.
68. **“Small-Scale Tourism Development”** development of a small scale tourism facility limited to a chalet complex, small hotel, conference facilities, event venues; camping and caravan facilities, and cottage industries and art and craft outlets. A chalet shall have a maximum floor area of 150m<sup>2</sup>, and unless specifically motivated, tourism activities shall be clustered.
69. **“Spaza Shop”** means a building, portion of a building or a separate structure used or adapted to be used for the sale of convenience goods for the day to day needs of the public.
70. **“Tavern”** means a building in which the onsite consumption of liquor is legalized by means of the National Liquor Act (No. Act 59 of 2003) and subsequently granted a liquor licence in terms of the KwaZulu-Natal Liquor Licensing Act (No. Act 6 of 2010) and may include a restaurant, café, bar or pub designed and used for the preparation and or retail trade of meals, refreshments and liquor and may in addition also mean the retail sale of cold drink and smoking requisites, but excluding a hotel, residential use and drive in restaurant. It may include a place of amusement. It may not interfere with the amenity of surrounding properties or be of nuisance value by virtue of noise, appearance, dust, smell, activities or for any other reason whatsoever.
71. **“Transportation Facility”** means the use of land or building for the transportation of goods or passengers by means of rail, road, sea or pipeline including the use of such land for the purpose of a harbour, railway station, bus depot, taxi rank, transport interchange and ancillary purposes, but does not include an airfield, airport and helicopter landing pad.
72. **“Umuzi(Imizi)”** means a residential land use often made up of one or more traditional dwellings units used primarily for shelter in Traditional Authority areas, and may include kraals for the storage of animals.
73. **“Utility Facility”** means land or buildings used for the provision and maintenance of essential infrastructural services such as service roads, rail, sewer, water, electricity, gas, telecommunications infrastructure, public lighting and stormwater control and other services deemed necessary by the Council, and may include a water reservoir, dam, waterworks, electrical substation, telephone exchange, postal collection points, weigh bridge, servitudes for the provision of services and conveyers, etc.



74. **“Warehouse”** means a building used for storing goods, which are not dangerous, noxious or unsightly, before distribution to retailers, but does not include a store for good normally incidental to a shop, business premises or another building. It includes wholesale trade and may also include ancillary office accommodation, which is subsidiary to the main use, but excludes any retail trade on the property of such building, unless the Consent of the Municipality has been given.

### 3 GENERAL PROVISIONS TO LAND USE AND DEVELOPMENT

- a) The licensed provision of alcoholic beverages, only with the consent of the Council but excludes a tavern.

#### 3.1 Applications for the Use and Development of Land

- (1) Applications in terms of the Act shall be made in writing to the Municipal Manager, shall contain all information required by the Act and the Municipality and may be subject to an application fee.
- (2) Notwithstanding paragraphs (1) and (2):-
  - (a) applications for development on land falling under the ownership of Ingonyama Trust require power of attorney from the Ingonyama Trust Board to submit an application on their behalf and a letter of support from the applicable Traditional Leader/Council (refer to section 4.1).
  - (b) Applications for development on land subject to the provisions of the Subdivision of Agricultural Land Act (No. 70 of 1970) shall be subject to an application to the National Department of Agriculture, Forestry and Fisheries (refer to section 4.2).
- (3) The Municipality may refuse to accept an application which:
  - (a) is incomplete<sup>1</sup>
  - (b) lacks any prerequisite approval(s)
- (4) In such cases defined in paragraphs (3)(a) and (3)(b), the Municipality will inform the applicant to resubmit a complete application, and provide the applicant with a description of the necessary additional information which must be submitted as a complete application in terms of Schedule 1, items 3 and 4 of the Act.
- (5) Notwithstanding the provisions of paragraph (1) to (3), all categories / types of development as defined in Section 38(3) of the Act shall not be subjected to Council approval.
- (6) Notwithstanding the provisions of paragraph (5), all infrastructure developments not listed as projects in the Municipal Integrated Development Plan shall be subject to an application in terms of the relevant section[s] of the Act, and subsequently obtain approval of Council and/or authorisation from any other relevant authority[s] prior to the commencement of development.

##### 3.1.1 Council Approval for the Use and Development of Land

- (1) The validity of any written approval obtained from the Council shall be as follows:-
  - (a) any approval granted by Council for subdivision and consolidation shall remain valid from the date of granting of such approval; and;
  - (b) any approval granted by Council for development outside of the scheme (within the Policy Area) shall remain valid for 5 years from the date of granting such approval unless otherwise stated.
- (2) Notwithstanding paragraph (1)(a), the written approval of the Council shall lapse as contemplated in Section 39 of the Act.
- (3) Notwithstanding paragraph (1)(b), the written approval of the Council shall lapse as contemplated in section 49 of the Act where any building or work referred to in any such approval has not been substantially commenced within the said period of 5 years or where an appeal has been lodged, within a period of 5 years from the date of notification of the outcome of such appeal, or where there has been an interruption in the development of the building or use of land for a continuous period of 5 years, the said approval shall automatically be considered to have lapsed and building operations shall not be commenced or recommenced unless a fresh application for approval has first been applied for and duly obtained.
- (4) Where an appeal has been lodged in respect of a Council's decision, any decision, order or authorization given by the Appeal Tribunal in terms of the Act and as confirmed or altered on review due to any other relevant legislation, shall be a valid approval granted by the Council and, as such, shall be construed as being in accordance with the duly adopted provisions of the Rural Policy.
- (5) The Municipality shall within 28 days from the date of decision of the Appeal Tribunal, inform all parties who submitted representation on the Council's decision on the said application, of the revised approval.

##### 3.1.2 Site Development Plans

- (1) The Council may from time-to-time for the purpose of the coordinated allocation of land use rights and restrictions as contemplated in this Policy and as a requisite for development, instruct prospective owners/developers to submit within a specified period of time to Council, site development plans in respect of a specific area.

<sup>1</sup>A complete application is as contemplated in Schedule 1, item 2 of the Act.

- (2) Any site development plan shall, as may be requested by Council and to its satisfaction, acknowledge recommendations stemming from previous or current research conducted at Mkhambathini Municipality.
- (3) The Site Development plans shall amongst others provide for but not be limited to:
  - (a) a to-scale drawing of the site/s, building lines applicable, town planning bulk factors and controls (Floor Area Ratio, Coverage and Height factors), existing services, existing and proposed servitudes, etc.
  - (b) the design and layout of proposals including details as to the functioning thereof;
  - (c) a programme of development;
  - (d) an Environmental Management Plan;
  - (e) landscaping proposals;
  - (f) slope analysis
  - (g) details of and programme for the provision of essential services including storm water, sewerage disposal, pollution control, electricity and solid waste disposal;
  - (h) traffic engineering details on the vehicular and pedestrian elements thereof, their implementation and management;
  - (i) details as to the project management ownership, mechanisms, control and monitoring through construction phases till project completion.

### 3.2 External Appearance of Buildings

- (1) The character, design and external appearance of buildings, including the material used in their construction, shall be subject to the approval of the Municipality, and no building may be erected without the approval of the Council.
- (2) Any person intending to alter, extend or erect a building shall submit drawings to the Municipality as set out in Section 3.3.1 with whatever other indications the Municipality may require, showing the external appearance of the proposed building together with a description of the materials to be used.
- (3) In considering any application, the Municipality shall have regard to the character of the locality in which it is proposed to erect such building and shall take into account whether or not the building will be injurious to the amenity of the locality by reason of its external appearance or the materials it is proposed to use.
- (4) The Council shall approve the application within the time period as stipulated in Section 7(1) of the [NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT \(NO. 103 OF 1977\) AS AMENDED](#) either unconditionally or subject to such conditions, or it may refuse to grant the application on the grounds that the external appearance of such building is unacceptable.
- (5) Any applicant aggrieved by any decision in terms of [paragraph \(4\)](#) hereof shall have the right of appeal to the Appeal Tribunal.
- (6) The Council approval granted in [paragraph \(4\)](#) shall lapse 12 months from the date of granting of such approval as stipulated in Section 7(3) of the same.

#### 3.2.1 Approval of Building Plans

- (1) For the purpose of securing the approval of Council, the following documents shall be lodged with the Municipality;
  - (a) Five (5) copies of drawings showing the elevations facing any National or Provincial Highway, railway line, street, or access way, together with side and rear elevations; the drawings shall be to a scale not less than 1:100 or in the case of projects too large to be shown conveniently to this scale, a scale of 1:200 will be acceptable; fences, gates and boundary walls being deemed to form part of the elevation for the purpose of this clause.
  - (b) All drawings shall be in colour and presented in such a manner as will clearly indicate the finished appearance of the proposed building or alterations or additions, and, if so required, supplemented by plans and sections to indicate the true intent and meaning of the elevations.
  - (c) A Block Plan to a scale not less than 1:500 indicating the siting of the buildings on the lot, the position of any existing buildings on the adjoining lots, and servitudes, building lines and rights-of-way to which the lot is subject.
  - (d) Five (5) copies of the brief schedule, specifying the general construction and finishes of the proposed building, alterations or additions on the lot.
- (2) The approval by the Council of the design and external appearance of the proposed buildings, additions or alterations shall not be deemed to be an approval in terms of any other provisions of the Policy or of the Building Bylaws/Regulations, which approval shall first be applied for and obtained before any building work is commenced.

### **3.2.2 Siting of Buildings and Access Points**

- (1) The siting of any buildings intended to be erected or the development or use of any land shall be subject to the approval of the Council and persons intending to erect buildings or use land shall, before commencing, apply to the Municipality for approval of the siting, use or development.
- (2) In respect of any application to develop a lot, the Municipality may determine the position and number of vehicular or pedestrian points of access and may, if it deems fit, prohibit pedestrian or vehicular access across any boundary or boundaries and require that a suitable fence or wall be erected to prevent such access.

### **3.3 General Development and Design Guidelines Applicable to all Land Use Zones**

- (1) Open spaces, environmentally sensitive areas and heritage resources shall be properly identified and conserved, among others, within the context of the Mkhambathini IDP, the Umgundundlovu SEA and SEMP, the Umgundundlovu Biodiversity Plan as well as within the context of the Land Use Zones allocated in this Scheme.
- (2) For civic and social buildings, the design should be such that access is easy and welcoming with appropriate shady waiting areas for those buildings where such is necessary.
- (3) Education facilities should be designed and landscaped with the idea of promoting social interaction and the well-being of those using the buildings and facilities.
- (4) Where possible the development of commercial and other types of land uses as part of a mixed use development should be done in a way that adds to the amenity and aesthetic value of the area.
- (5) Public spaces must be planned in a way to preserve an “open-market” atmosphere with appropriate landscaping and urban design elements.
- (6) While dwellings on larger properties will allow for private open space and gardens, it is also important to landscape the streets and public areas to enhance the value of the land use zone and increase its attraction.
- (7) Quarrying and mining shall be subject at all times to the provisions of the relevant environmental and mining legislation relating to the establishment, operation and decommissioning of quarrying and mining operations and the use of land within and around quarries and mining areas.

### **3.4 Environmental Requirements Applicable to all Land Use Zones**

- (1) No development shall be permitted in environmentally sensitive areas including, but not limited to, flood plains, watercourses and wetlands, except within the zones of Utilities and Services, Existing and Future Roads, and Existing and Future Movement Corridors.
- (2) Any developments within or adjacent to wetlands and watercourses, either identified or not identified on the Policy Map shall be subject to any environmental authorisation and/or water use licence processes in terms of applicable legislation.
- (3) No building or infrastructure shall be erected on any portion of land which in the opinion of the Municipality is in a wetland or watercourse area as defined in **Section 2**, unless Environmental Authorisation has been issued for these activities.
- (4) Where a land or portion thereof may have a wetland, the Municipality may require the owner / applicant to appoint an independent wetland specialist to delineate the extent of the wetland using soil hydromorphic characteristics and establish appropriate buffers, and to indicate the delineation and buffers on the site plan or building plan.
- (5) In considering any application for development of land situated within a scheme area in terms of Chapter 4 of the Act, it shall be the duty of the Municipality to ensure wherever it is considered appropriate, that adequate provision be made for protection of environmentally sensitive areas, by means of conditions qualifying approval of such development. Where possible, areas are to be set aside for conservation purposes, such areas being clearly indicated on a site plan.
- (6) Where any development which through an Environmental Authorisation or an Environmental Screening Process, identifies an area as environmentally sensitive, such area[s] shall be zoned as Private Open Space or Conservation, either of which may seem appropriate.

#### **3.4.1 Environmental Requirements Applicable to “Listed Activities”**

- (1) Notwithstanding the provisions of this Policy, any development or land use activity which is included as a “Listed Activity” in terms of the Environmental Impact Assessment Regulations of the National Environmental Management Act No. 107 of 1998 as amended shall be subject to an Environmental Impact Assessment as

- part of an application to obtain Environmental Authorisation from the relevant authority.
- (2) An Environmental Impact Assessment shall be undertaken in the manner prescribed in the Environmental Impact Assessment Regulations of the National Environmental Management Act No. 107 of 1998 as amended (see [Appendix 1a](#)).
  - (3) Environmental authorisation shall be obtained from the relevant authority prior to the submission of any application for development to the Municipality.
  - (4) The Municipality shall at its discretion, include all conditions or part thereof contained in the Environmental authorisation referred to in [paragraph \(3\)](#) to its conditions of approval issued in terms of the Act.

#### **3.4.2 Environmental Requirements Applicable to Environmentally Sensitive Area**

- (1) Notwithstanding the provisions of this Scheme, the Municipality, shall at its discretion, request an applicant to provide an Environmental Screening Report for any development or land use activity on any site or portion thereof which it considers to be an environmentally sensitive area or in an area identified as being critical for biodiversity conservation (see [Appendix 1b](#)).
- (2) The Environmental Screening Report as mentioned in [paragraph \(1\)](#) must be undertaken by a person that has the necessary knowledge and experience in environmental management, natural resources or ecology, and should include:
  - (a) information about the project including the spatial extent, timing, frequency and duration of the project;
  - (b) the identification of relevant environmental legislation, regulations, policies and plans relevant to the proposed development and identify those activities that require licensing or authorisation before they can proceed;
  - (c) an understanding of the ecological context based on existing ecological information, data gathering, literature searches, site visits and preliminary ecological surveys, and any baseline studies already carried out;
  - (d) identify project activities likely to cause damage, stress, disturbance or impact on ecosystems processes;
  - (e) identify the factors affecting the integrity of the relevant ecosystems and the conservation status of relevant habitats and species; and, ecological features likely to be significantly affected and therefore requiring further study;
  - (f) identify other significant activities, e.g. access roads, associated with the project/proposal that could result in significant cumulative effects; and,
  - (g) potential strategies to avoid and/or minimise any negative environmental impacts and the identification of opportunities for enhancing biodiversity and promoting Provincial biodiversity objectives
- (3) The Environmental Screening Report shall be included as part of an application submitted to the Municipality else such application shall be deemed incomplete.

#### **3.4.3 Requirements Applicable to Water Quality Environmental Control Zones (ECZ)**

- 1) Only activities that can demonstrate how they would not further compromise water quality and that would result in positive impacts on water quality shall be undertaken within Water Quality Environmental Zones (see [Appendix 2](#) for Land Use Guidelines for Water Quality Environmental Zones);
- 2) All activities must make use of advanced effluent management and treatment systems within any identified ECZ.
- 3) If a development is proposed within an ECZ, studies must be undertaken to delineate the occurrence of wetlands and access to the functionality of any wetland areas on the site or in close proximity of the site, as is the requirement outside of an ECZ at the discretion of the relevant authorities;
- 4) Site specific development buffers around delineated wetlands and watercourses, in excess of general standards, shall be established within which development shall not be allowed to encroach;
- 5) Development shall not encroach within 100 metres of the full supply level of the main water supply dams or within the 100 year flood line (whichever is larger), unless exceptional circumstances permit.

### 3.5 Applicable Provisions for Telecommunication Infrastructure

- (1) The Council shall require an application for “**Development Outside of a Scheme Area**” to erect telecommunication infrastructure on a lot, or part thereof, and within any land use designation provided for in this Policy.
- (2) When considering an application to erect telecommunication infrastructure, the Council shall consider the following objectives:
  - (a) to encourage co-location as a means of preventing unnecessary proliferation and duplication of such infrastructure;
  - (b) to minimize the visual impact of such infrastructure on the surrounding locality; and
  - (c) to avoid impact on lines of sight and any impact that the infrastructure may have on the responsibilities of the South African Civil Aviation Authority.
- (3) Council reserves the right to insist on the decoration of telecommunication masts/antennae if regarded necessary, as well as the possible relocation of and/or alterations to the mast by and at the expense of the applicant if the need arises.

### 3.6 Applicable Provisions for Special Zones

- (1) In general, the creation of Special Zones shall be discouraged.
- (2) Notwithstanding **paragraph (1)**, in exceptional circumstances and where an existing land designation and its associated uses in the Policy does not accommodate existing or proposed buildings and land uses required, Council may consider the development of such uses, and may grant its approval with or without conditions.
- (3) Such application for unspecified land uses or development shall be properly motivated on its uniqueness and as to the reasons the proposal should be considered by Council.
- (4) Such applications as in **paragraph (2)** may be required to be submitted for consideration in the prescribed format as determined by Council from time to time.

### 3.7 Advertisements and Signage

- (1) The Municipal bylaws pertaining to Advertisements and Signage shall apply.

## 4 SPECIFIC PROVISIONS TO THE RURAL LAND USE MANAGEMENT AREAS

### 4.1 Procedures for Land Development in Traditional Authority Areas

#### 4.1.1 Traditional Areas

The following procedures shall be followed to obtain approval for development on land registered in the name of the Ingonyama Trust. The areas registered in the name of the Ingonyama Trust is subjected to and depicted on the Traditional Council Management Overlay Map.

##### 4.1.1.1 Land Use Allocations

##### (1) Residential Uses

- a. Where an applicant wishes to obtain a residential site, the applicant shall to apply to the Local Traditional Leader for allocation of a site.
- b. Where the applicant wishes to obtain a new residential site, it may only be allocated within areas earmarked for “Rural Residential”, as depicted on the Policy Map.
- c. Where the applicant wants to take over a site from a current occupant, the applicant must produce a letter of removal received from the previous area resident for background check purposes.
- d. Community dialogues must be conducted with prospective neighbours so that they are aware of the new occupant, and welcome the applicant into the neighbourhood.
- e. The new residential site must be geo-referenced with proper polygons and submitted within 60 days from the date of the allocation of the site for incorporation into the Rural Policy map(s) and the Municipal GIS systems. These updates must be shared with all decision-makers, including the Ingonyama Trust, in order to direct municipal services and prevent double allocations.

##### (2) Non-Residential Uses (excluding Extractive Industries)

- a. Application for non-residential uses shall be undertaken as follows:
  - i. A prospective developer must obtain consent from the Local Traditional Leader by completing the necessary application procedure;
  - ii. The prescribed application form and supporting documents shall be submitted to the Ingonyama Trust Board for consideration, and to enter into an agreement thereof;
  - iii. A PDA application shall be lodged with the Municipality in terms of Chapter 4 of the KwaZulu-Natal Planning and Development Act (No. 6 of 2008);
  - iv. Upon receipt of Council Approval, a lease diagram must be registered with the Surveyor General to depict the area of the proposed development;
  - v. the applicant shall lodge with the Municipality, a copy of the registered lease diagram and details of the land use which shall be captured and correctly depicted on the Rural Policy Map.

##### (3) Extractive Industries

- a. Applicants for mining rights surface leases are required to do the following:
  - i. Obtain consent from the Ingonyama Trust by completing and returning the prescribed application form to the **Ingonyama Trust Board**.
  - ii. Obtain consent from the relevant Traditional Council (where formal traditional councils have been proclaimed) by completing and returning the prescribed application form and Consent granted to the **Ingonyama Trust Board**.
  - iii. A PDA application shall be lodged with the Municipality in terms of Chapter 4 of the KwaZulu-Natal Planning and Development Act (No. 6 of 2008).
  - iv. Upon receipt of Council Approval, a lease diagram must be registered with the Surveyor General to depict the area of the proposed development;
  - v. The applicant shall lodge with the Municipality, a copy of the registered lease diagram and details of the land use which shall be captured and correctly depicted on the Rural Policy Map.
- b. In addition to the consent from the land owner being obtained as described in sub paragraph (i) and (ii), the provisions of the Mineral and Petroleum Resources Development Act (No. 28 of 2002) shall further be adhered to.



#### **4.1.1.2 Approval of Building Plans**

- (i) In accordance with the National Building Regulations and Building Standards Act, 1977 (No. 103 of 1977), all buildings not constructed in a traditional manner shall require building plans to be submitted to the Municipality for Council's approval before construction of the building may commence.
- (ii) The procedure to obtain approval for building plan shall be undertaken in terms of [Section 3.2.1](#) of this document.

## **4.2 Procedures for Land Development in Agricultural Land**

### **4.2.1 Agricultural Management Areas (Act 70 of 1970)**

This section deals with the management of land uses, the change of land uses, and approval of land uses on land regulated by the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970). The land parcels regulated by Act 70 of 1970 is depicted and discussed under [Section 1.9.2](#).

#### **4.2.1.1 Use of Agricultural Land**

- (i) Land may only be utilised for the purposes and land uses depicted in the Rural Land Uses Designation Tables depicted in [Section 5](#) of this document.
- (ii) Should an applicant wish to change land uses, subdivide the land, or utilise the land for any other purpose not specified within the Rural Land Uses Designation in Section 5, the procedures outlined in [Sections 4.2.1.2 to 4.2.1.4](#) should be followed.

#### **4.2.1.2 Change of Land Use from Agriculture to any other use**

- (i) In order to change the land use of agricultural land to land uses not classified as agriculture, an application needs to be submitted to the Department of Agriculture Forestry and Fisheries to exempt the land or a portion thereof from the provisions of the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970).
- (ii) Following approval of the exemption from the provisions of the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970), an application in terms of Chapter 4 of the Act shall be submitted to the Municipality for amendment of the Rural Policy in the format as prescribed by the regulations of the relevant act or ordinance.

#### **4.2.1.3 Application for Land Uses not Specified in the Rural Policy**

- (i) If an applicant wants to develop a land use not specified in the Rural Land Uses Designation Tables, the process outlined in [Section 4.2.1.2](#) of this document shall be followed.

#### **4.2.1.4 Subdivision of Agricultural Land**

- (i) If an applicant intends to subdivide land regulated by the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970), an application in the prescribed manner shall be submitted to the Department of Agriculture Forestry and Fisheries (DAFF), in accordance with its regulations and requirements, for approval of the subdivision of such land.
- (ii) The Mkhambathini Municipality shall be notified in writing of any application being submitted to the DAFF.
- (iii) Following a decision of the DAFF, the Municipality shall be informed in writing within 60 days of such decision.
- (iv) On approval of the subdivision of the agricultural land, all approved subdivision diagrams, as submitted to the Surveyor General, shall be submitted to the Municipality within 60 days of receipt of such diagrams to allow it to update its GIS records.
- (v) Where the new property is transferred into new ownership, the municipality shall be informed in writing within 60 days of the date of transfer of the new ownership, in order to update its Valuations Roll and Land Use Management Policy.
- (vi) Should the subdivision of the property be subject to restrictions in accordance with any act or provincial ordinance or will be subject thereto after subdivision, the owner of the land must obtain and submit the recommendations and conditions to the authority concerned.




## 5 RURAL LAND USE DESIGNATIONS AND STATEMENTS OF INTENT

This Section of the Policy provides details on the Land Use designations and their corresponding statements of intent and development guidelines.

### 5.1 AGRICULTURE


#### 5.1.1 AgricultureOnly

Agriculture Development Only		
<div>Notation:</div> <div></div>	<div>STATEMENT OF INTENT:</div> <div>Most of the Agricultural land in the Municipality is utilized for commercial agriculture, and a significant proportion of the land has a very high production potential. Housing Development funded by government shall be considered, In general the subdivision of prime agricultural land is discouraged, and the development of this land for non-agricultural purposes should be allowed only if:</div> <div><ul style="list-style-type: none"><li>The land has already been subdivided to such an extent that it is no longer agriculturally viable, in the opinion of the Department of Agriculture, Forestry and Fisheries;</li><li>The whole land or a significant portion has already been developed for non-agricultural purposes, which have been authorised prior to the Policy;</li><li>The proposed development does not compromise the primary agricultural activity of the property;</li><li>The proposed development comprises a secondary activity to supplement a landowners income;</li><li>It will facilitate the implementation of the Land Reform Programme and Labour Tenant Projects.</li></ul></div>	
	Land Use Controls	
Preferred Uses	Uses Requiring Further Consideration	Non-Preferred Uses
<div>3. Agri-Industry</div> <div>7. Arts and Craft Centre</div> <div>19.Conservation purposes</div> <div>23.Dwelling House</div> <div>26.Farm Supply Centre</div> <div>41.Nature and Resource Conservation</div> <div>47.Place of Instruction<sup>1</sup></div> <div>42.Nursery Garden</div>	<div>4. Airfield</div> <div>8. Bed and Breakfast Establishment</div> <div>25.Farm Stall</div>	<div>Buildings and land uses not listed in the other two columns.</div>
Additional Controls / Provisions		
<div><ul style="list-style-type: none"><li><sup>1</sup>A Place of Instruction shall refer to farm schools only.</li></ul></div>		

### 5.1.2 Agriculture Communal

Agriculture - Communal		
<b>Notation:</b>	<b>STATEMENT OF INTENT:</b> This designation is characterized by high accessibility and natural features within a rural setting, and particularly referring to land under the administration of a Traditional Authority. The main objective of this designation is to maintain and enhance the existing rural tourism character, the full range of rural-based tourism land uses, and where more intensive agriculture will therefore be encouraged. Land development will not be supported if it will jeopardize the agricultural viability of existing and/or potential future farming operations, and/or if subdivision will negatively impact upon the biodiversity and ecosystem services such as clean water production; and large scale transformation such as exclusive residential estate should not be allowed. However, rural housing projects funded by government either on freehold or communal basis will be allowed in appropriate locations.	
Land Use Controls		
Preferred Uses	Uses Requiring Further Consideration	Non-Preferred Uses
1. Agricultural Building 3. Agri-Industry 7.Arts and Craft Centre 8.Bed and Breakfast Establishment 23.Dwelling House 25.Farm Stall 26.Farm Supply Centre 41.Nature and Resource Conservation 47.Place of Instruction 42.Nursery Garden 67. Small-Scale Rural Settlements	4. Airfield 62. Rural Tourism Facility 68. Small-scale Tourism Development	Buildings and land uses not listed in the other two columns.
Additional Controls / Provisions		
<ul style="list-style-type: none"><li>1 visitor per every 2Ha shall apply for all tourism developments.</li></ul>		

### 5.1.3 Agriculture Limited Tourism

Agriculture - Limited Tourism		
<b>Notation:</b>	<b>STATEMENT OF INTENT:</b> This designation allows for tourism developments which are largely rural-based, of a small, labour orientated and related to the existing agricultural activities and the natural resources base. It is envisaged that agriculture will be primary land use in this zone, exceeding tourism in importance. Tourism development in this area shall be of a lesser intensity. Large scale land transformation such as exclusive residential estates and other forms of large scale accommodation would not be allowed. However, rural housing projects to accommodate the rural communities will be allowed in appropriate locations, including Land Reform Programme and Labour Tenant Projects. Land subdivision will not be supported if it will jeopardize the agricultural viability of the existing and/or potential future farming operations; and/or if subdivision will negatively impact upon the biodiversity and ecosystem service such as clean water production. Particular attention should be paid to retention of the integrity of rural landscapes.	
		
Land Use Controls		
Preferred Uses	Uses Requiring Further Consideration	Non-Preferred Uses
1. Agricultural Building 3. Agri- Industry 5. Arts and Craft Centre 8. Bed and Breakfast Establishment 23.Dwelling House 25. Farm Stall 41. Nature and Resource Conservation 47. Place of Instruction 42.Nursery Garden 68.Small-scale Tourism Development	4. Airfield 27. Farm Tourism 62. Rural Tourism Facility	Buildings and land uses not listed in the other two columns.
Additional Controls / Provisions		
<ul style="list-style-type: none"><li>1 visitor per every 2Ha shall apply for all tourism developments.</li><li>A Place of Instruction shall refer to farm schools only.</li></ul>		

#### 5.1.4 Agriculture Opportunity Areas


Agriculture - Opportunity Area			
Notation:	<b>STATEMENT OF INTENT:</b> The provision of employment opportunities is to be encouraged at these points as well as tourism development which may take place at a higher density than in other areas. Servicing is, however, to be thoroughly investigated and agreed upon before any development can be permitted. Where land is of moderate (or higher) agricultural potential, the development concept / site development plan shall include an agricultural component.		
Land Use Controls			
Preferred Uses		Uses Requiring Further Consideration	Non-Preferred Uses
7. Arts and Craft Centre 8. Bed and Breakfast Establishment 12. Caravan Park 23. Dwelling House <sup>1</sup> 25. Farm Stall 33. Hotel (Licenced) 35. Large-Scale Infrastructure 42. Nursery Garden 62. Rural Tourism Facility 63. Semi-Intensive Human Settlement 68. Small-Scale Tourism Development		4. Airfield 3. Agri-Industry	Buildings and land uses not listed in the other two columns.
Additional Controls / Provisions			
• 1 visitor per 2Ha shall apply for all tourism developments.			

### 5.1.5 Industrial Opportunity Areas

Notation: <div></div>	<b>STATEMENT OF INTENT:</b> This designation allows for the consideration of low impact industrial activities uses which are compatible with adjacent land uses, such as residential, mixed-use and open space zones. As a light industrial opportunity area, it would permit industrial activities that usually do not involve significant vibration, noise, dust, odour, or high volume of automobile and truck traffic. Warehousing of materials considered non-noxious or non-hazardous are preferred in buildings in this designation, with possible conditions.	
Land Use Controls		
Preferred Uses	Uses Requiring Further Consideration	Non-Preferred Uses
5.Automotive Showroom 6.Automotive Workshop 9.Builders Yard 16.Commercial Building 17.Commercial Workshop 23.Dwelling House <sup>1</sup> 37.Light Industrial Building 43.Office Building 44.Office - Public 64.Service Industry 74.Warehouse	1.Agricultural Building 2.Agricultural Land 29. Funeral Parlour 30.Garage 36.Laundrette 45.Parking Garage 46.Petrol Filling Station 52.Private Recreation Area 57.Recreational Building 59.Restaurant 66.Shop <sup>2</sup>	Buildings and land uses not listed in the other two columns.
Development Controls		
Subject to the requirements of the local municipality and the various service providers.		
Amenity and Aesthetic provisions for N3 Highway		
<ul style="list-style-type: none"><li>All development fronting the N3 Highway shall conform to cohesive architectural treatment as agreed by an applicant and the Municipality in an application. This would include the architectural character, design and style of buildings which enhances the amenity of the area and general aesthetics from N3.</li><li>All sites abutting the N3 except for residential sites shall be subject to compulsory screening to minimise visual impact onto the N3 highway.</li><li>No scrap yards shall be permitted and no outdoor storage of goods shall be permitted in clear view of the N3 Highway.</li></ul>		

## 5.2 CIVIC AND SOCIAL

### 5.2.1 Community Service Centres

Community Service Centres			
<b>Notation:</b> 	To provide for a variety of uses where appropriate, and to serve as a local service node for the provision of social infrastructure, as well as commercial facilities.		
Land Use Controls			
Preferred Uses	Uses Requiring Further Consideration		Non-Preferred Uses
7. Arts and Craft Centre 10. Butchery 14. Cemetery Purposes 15. Clinic 18. Community Facility 20. Crèche 22. Day Care Facility 24. Education 28. Food Outlet 31. Health & Welfare Facility 32. Hospital 34. Informal Trading Area 38. Market 39. Medical Centre 40. Municipal Purposes 43. Office Building 47. Place of Instruction 50. Place of Worship 52. Private Recreation Area 44. Office-Public 58. Residential Building (restricted to accommodation of doctors and nurses/ staff and pupils) 60. Retail Facility 64. Service Industry	1. Agricultural Building 9. Builders Yard 13. Car Wash Facility 23. Dwelling House 29. Funeral Parlour 46. Petrol Filling Station 49. Place of Public Assembly Restaurant (ancillary to a Preferred use) 70. Tavern 71. Transportation Facility		Buildings and land uses not listed in the other two columns.
Additional Controls / Provisions			

### 5.3 ENVIRONMENTAL SERVICES

This designation accommodates areas that provide an important environmental, recreational and social service such as proclaimed parks, view sheds, open spaces system (e.g. water courses, wetlands, grasslands, and other natural habitats, proclaimed conservation areas, sport fields, play lots and parks, etc. It reserves land as part of a sustainable living environment.

#### 5.3.1 Conservation

Conservation		
<b>Notation:</b>	<b>STATEMENT OF INTENT:</b> A land use designation that provides part of the sustainable open space system which includes independent or linked open space areas; and may permit only limited and specific developments. It further makes provision for the protection and conservation of ecologically sensitive, culturally and historically important sites and the natural habitats of animals, birds, or reptile species, in accordance with national laws and policies, provincial and local guidelines, strategies and programmes. It reserves land as part of a sustainable living environment by virtue of its importance in terms of biodiversity. Environmental services includes all land which has special environmental status and economic value due to its function in providing and environmental service which contributes to the overall open space system through physical elements such as water courses, wetlands, grasslands, open spaces and other natural habitats.	
Land Use Controls		
Preferred Uses	Uses Requiring Further Consideration	Non-Preferred Uses
19. ConservationPurposes 41. Nature and Resource Conservation 52. Private Recreation Area	4. Airfield 68. Small-scale Tourism Development	Buildings and land uses not listed in the other two columns.
Additional Controls		
<ul style="list-style-type: none"><li>1 visitor per every 2Ha shall apply for all tourism developments.</li></ul>		

## 5.4 RESIDENTIAL


### 5.4.1 Rural Residential

Rural Residential			
<b>Notation:</b>	<b>STATEMENT OF INTENT:</b> This land use is used primarily for residential purposes either on freehold or communal bases, and includes associated land uses that support livelihoods. This may include low-cost housing provided by government either as new developments or as in-situ upgrades.		
Land Use Controls			
Preferred Uses	Uses Requiring Further Consideration	Non-Preferred Uses	
2. Agricultural Land 50. Place of Worship 69. Spaza Shop 72. Umuzi (Residential) 23. Dwelling House	None	Buildings and land uses not listed in the other two columns.	
Development Controls			
The provisions as set out in Section 4.1 shall apply to all developments in this land use designation.			



## 5.5 Land Reservations


### 5.5.1 Rail

Rail		
<b>Notation:</b> 	<b>STATEMENT OF INTENT:</b> To provide for the provision of railway infrastructure, including stations and passenger terminal buildings.	
Land Use Controls		
Preferred Uses	Uses Requiring Further Consideration	Non-Preferred Uses
56. Railway Infrastructure	None	Buildings and land uses not listed in the other two columns.
Development Controls		
Subject to the requirements of the local municipality and the various service providers.		

### 5.5.2 Road

Road			
<div>Notation:</div> <div></div>		STATEMENT OF INTENT: To allow for road infrastructure provision.	
Land Use Controls			
Preferred Uses	Uses Requiring Further Consideration		Non-Preferred Uses
61. Road Infrastructure	None		Buildings and land uses not listed in the other two columns.
Development Controls			
Subject to the requirements of the local municipality and the various service providers.			

### 5.5.3 Utility and Services

<b>Notation:</b> 			
<b>Applicable Alphabetic Notations inclusive of Colour Notation</b>			
ES – Electricity / WW – Water Works / SW – Sewerage Works / TC – Telecommunication Infrastructure			
<b>Land Use Controls</b>			
<b>Preferred Uses</b>	<b>Uses Requiring Further Consideration</b>	<b>Non-Preferred Uses</b>	
4. Airfield 73. Utility Facility 40. Municipal Purposes	All building related and ancillary to Preferred Uses	Buildings and land uses not listed in the other two columns.	
<b>Development Controls</b>			
Subject to the requirements of the local municipality and the relevant service providers.			

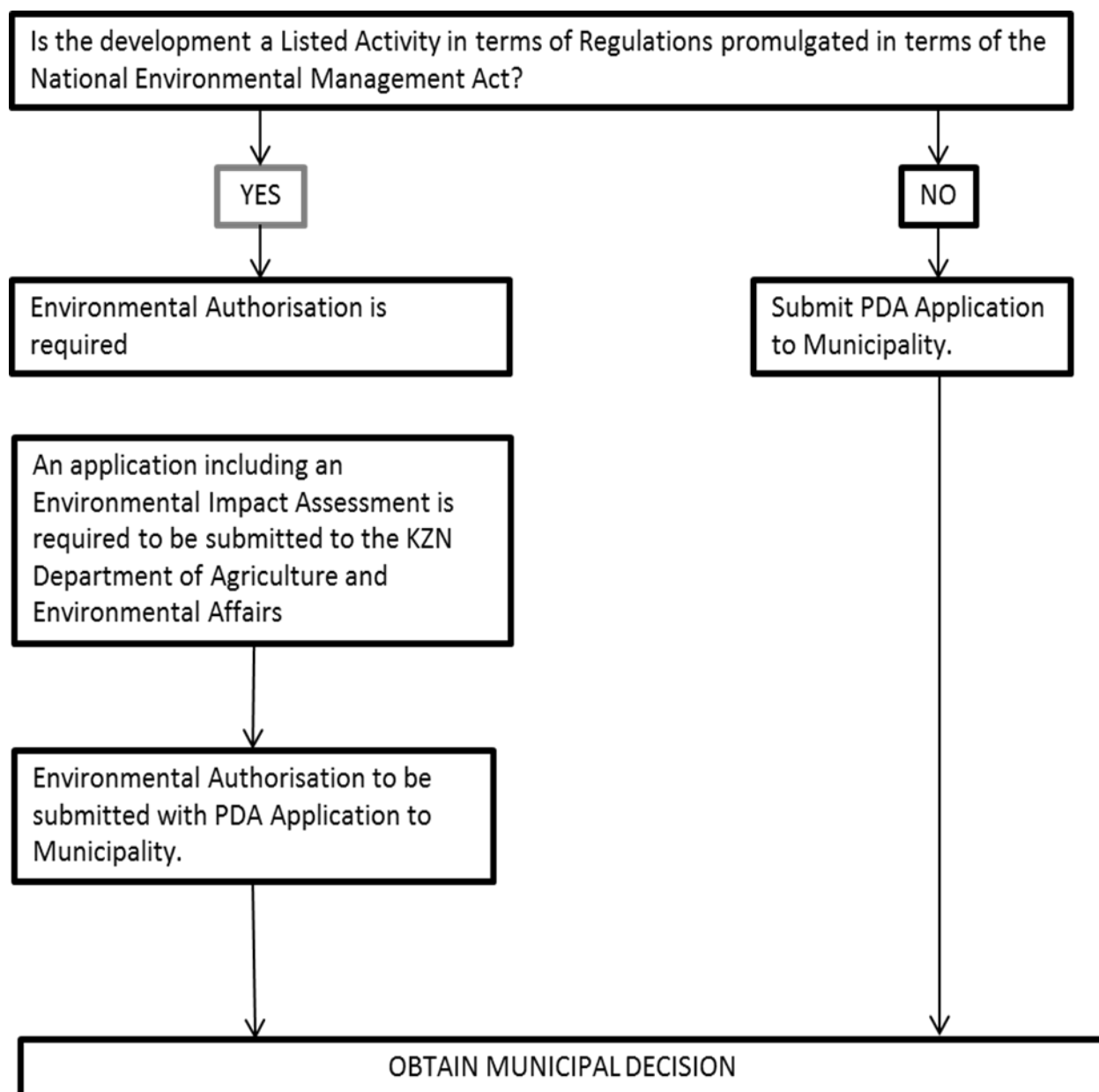
# MAPS

Map Reference	Content
RP39 – 01 – V5	Rural Land Use Designations
RP39 –02 –V5	Overlay Map – Traditional Authority Areas
RP39 –03 –V5	Overlay Map –Agricultural Policy Areas
RP39 –04 –V5	Overlay Map – Critical Biodiversity Areas

# APPENDICES

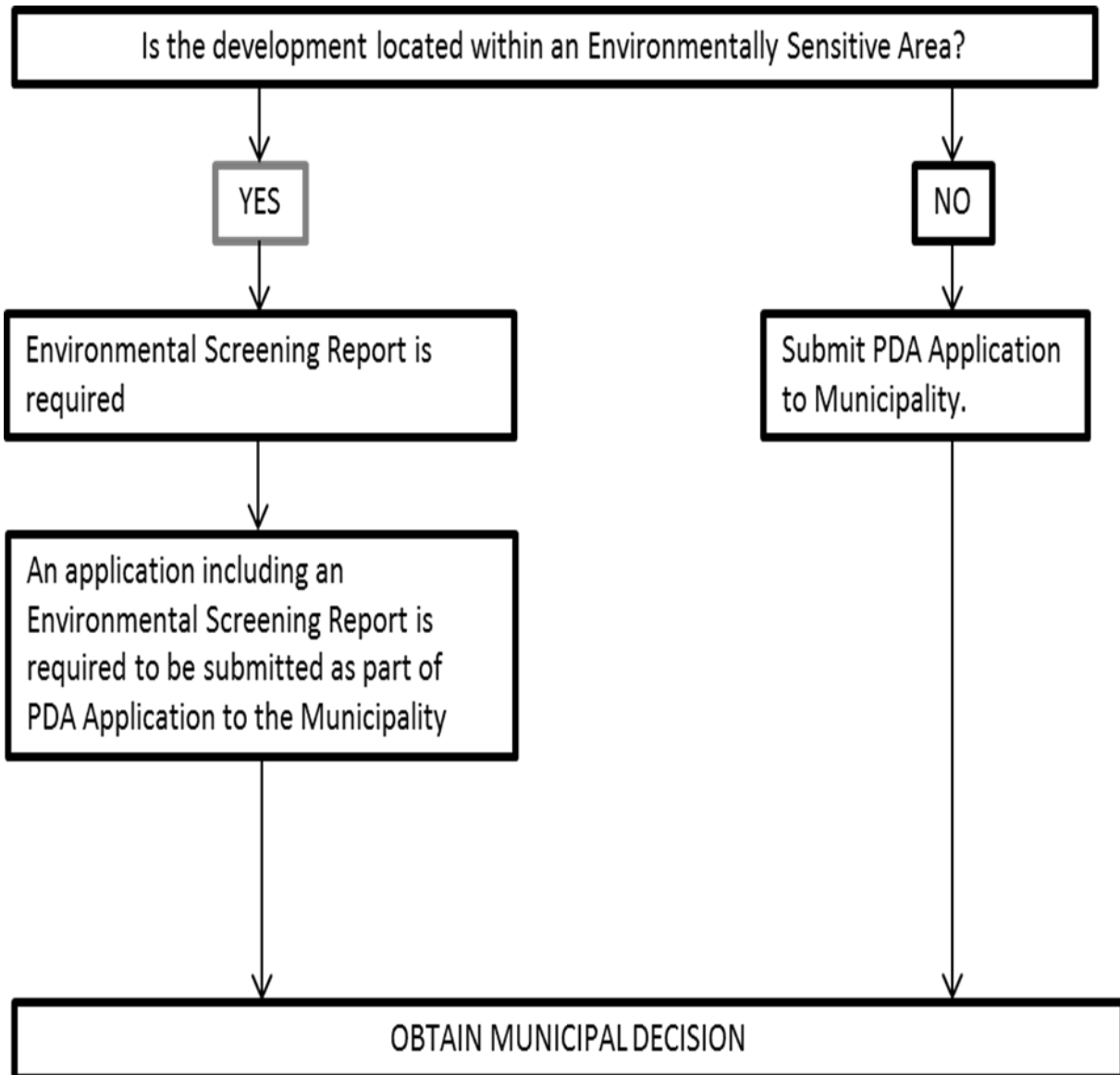
## APPENDIX 1a

### Flow Chart for Environmental “Listed Activity”



## APPENDIX 1b

### Flow Chart for “Environmentally Sensitive Areas”



## APPENDIX 2

### Land Use Guidelines for Water Quality Environmental Zones

Land Use Categories			Water Quality Category	
			Main Stem Rivers	Major Dams
Non-Urban Development	Agriculture	Irrigated Crop Production	2	2
		Extensive Crop Production	2	2
		Intensive Crop Production	2	2
		Agri-Industry	3	2
		Intensive Production of Animals and/or Animal Products	3	3
		Extensive Animal Production	1	1
		Forestry	2	2
	Environmental Services & Conservation Areas	Conservation Management and Stewardship	1	1
		Ecological Infrastructure	1	1
		Transformed Open Space	2	2
	Tourism	Low Impact/Eco-Tourism	1	1
		Medium Impact Tourism	2	2
		High Impact Tourism	3	2
Urban Development & Non-Urban Development	Infrastructure and Services	Airstrip	2	2
		Roads and Railways	2	2
		Utilities and Services	2	2
		Sewerage Works	2	2
		Water Works Projects and Catchment Transfers	2	2
	Rural/Traditional Settlement		3	2
Urban Development	Residential		3	2
	Mixed Use		3	2
	Civic and Social		3	2
	Industry	Extractive Industry/Quarrying and Mining	3	3
		Industry	3	3

#### Key:

1 Compatible Activity

Recommended.

2 Potential Activity

Potential may exist depending on the existing land use and potential, the current ecological state and the sustainable nature of the development type in question.

3 Incompatible Activity

Not Recommended.

## APPENDIX 3

[illegible]