

**KOSRA PROPOSAL (NO OVERLAY) THIS IS FOR ALL RATEPAYERS IN
NDLAMBE**

**FOR NDLAMBE LAND USE SCHEME 2019
PROPOSED AMENDED DEFINITIONS AND ZONINGS**

DEFINITIONS

Page 11

1. "ground level" means the mean average natural undisturbed level of the earth calculated between the highest point and the lowest point of any erf as determined by a registered land surveyor.

Page 12

- 1.1. "maximum height" "height" means the maximum permissible vertical dimension of any building, outbuilding, additional dwelling unit, garage, boundary wall or structure of any nature on any erf which vertical dimension shall be measured from the ground level to the highest externally visible point thereof:
- 1.2. Provided that:
 - 1.2.1. Chimneys, flues, satellite dishes, masts and antennae having a total accumulated diameter of less than 1.5 metres shall be excluded from the calculation of the height of the structure;
 - 1.2.2. Elevator motor rooms, ventilation shafts, water tanks, air conditioning plants vehicles and equipment attached to or parked on top of a structure are included when determining the height of the structure;

1.3. And provided further that where the slope of the erf is such that the maximum permissible vertical dimension determined in the manner set out above:

1.3.1. is lower than a horizontal line drawn 1.8 metres above the rear boundary line above and across the erf, the maximum permissible vertical dimension shall be adjusted in respect of the boundary wall and any outbuildings only, to be the horizontal line, or;

1.3.2. is higher than a horizontal line drawn 1.8 metres above the rear boundary line above and across the erf, the maximum permissible height shall apply without adjustment.

Page 14

5. "Outbuilding" means a building separate from a dwelling unit, utilised or intended to be utilised as a Motor vehicle garage, Storage space, Laundry facility and Staff accommodation in so far as these uses are usually and reasonably required in connection with the main dwelling unit.

Page 15

3. Add the following words to the definition of Public Roads and Parking:
"...excluding a pedestrian lane";

4. "Pedestrian lane" means any path, passage or access not allocated, demarcated or named by the Municipality, less than 6 metres wide which vehicles may not use except with the express prior written permission of the Municipality to enable

an owner of an erf and his or her invitees to have restricted and private access to the erf under such conditions as the Municipality may determine;

OTHER AMENDMENTS

Page 55

6. 48(a) to read as follows: “the design, appearance, positioning, nature of any building, outbuilding, additional dwelling unit, garage, boundary wall or structure of any nature or any part thereof on any erf and any access to and egress from any erf shall respect, have due regard for and be balanced with the rights and interests of nearby properties.

7. Add a new 48(k) to read as follows:

48(k) If the Municipality:

(i) is satisfied that the application for approval of any building plans complies with the requirements of this Land Use Scheme and any other applicable law, it shall grant its approval in respect thereof, or;

(ii) is not so satisfied; or

(iii) is satisfied that the building to which the application in question relates:

(b) is to be erected in such manner or will be of such nature or appearance that the area in which it is to be erected will probably or in fact be disfigured thereby;

(c) it will probably or in fact be unsightly or objectionable;

(d) it will probably or in fact derogate from the value of adjoining or neighbouring properties;

(e) it will probably or in fact be dangerous to life or property,

the Municipality shall refuse to grant its approval in respect thereof and give written reasons for such refusal:"

NB I HAVE DELIBERATELY COPIED SECTION 7 OF THE NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT. THERE HAVE BEEN DECIDED CASES ON THE INTERPRETATION OF THIS SECTION WHICH CAN ONLY ASSIST OWNERS IN THE EVENT OF A DISPUTE.

GENERAL NOTES

8. Floor factor to be "1" and not 0.75.

9. Building Lines for erven more than 600m² : Rear 3m, Lateral 1.5m, Street 5m and erven less than 600m² : Rear 1m, Lateral 1m and Street 4m

12. Lapse period for approved plans to be extended to 24 months.

13. A provision must be added to the following effect:

“Without derogating from any other provision or law, no application for subdivision which will result in an erf of less than 600 square metres shall be considered or permitted.”

Water Storage - Compulsory

No approval shall be granted in respect of any building plans, whether in respect of a new structure or any alteration of an existing structure unless the existing structure or plans for any new structure provide, for erven larger than 600m, for the installation of collection and storage facilities for rain water of not less than 20 000 litres and for erven less than 600m², for the installation of collection and storage facilities for rain water of not less than 5 000 litres.

PS: Page 5 - *‘Consent use in relation to a land unit, means the permitted use (us...in 3rd draft proposal) Rectify by adding ‘e’ — spelling error.*

TRIBUNAL PROVISIONS

I AM NOT SURE THAT THIS IS PRACTICAL FOR NDLAMBE. PLEASE SEE TYPICAL EXAMPLE OF SUCH PROVISIONS EXTRACTED FROM THE JOHANNESBURG SCHEME

Chapter

4

Municipal planning tribunal and authorised official

13. Establishment of Municipal Planning Tribunal

(1)The City shall, in order to determine land development applications within its area of jurisdiction, establish a Municipal Planning Tribunal.(2)The Municipal Planning Tribunal shall decide applications referred to it as per the Municipal Planning Tribunal's approved terms of reference, the provisions of the SPLUMA and this By-law.

14. Composition of Municipal Planning Tribunal

(1)A Municipal Planning Tribunal must consist of(a)officials in the full-time employment of the City; and, at the sole discretion of the City, it may also include (b)persons appointed by the City who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law relating thereto. (2)Municipal Councillors shall not be members of a Municipal Planning Tribunal.(3)A Municipal Planning Tribunal must consist of at least 5 members or more as the City deems necessary.(4)A Municipal Planning Tribunal may designate at least three members of the Tribunal which will form a quorum to hear, consider and decide a matter which comes before it.(5)The City must designate a member of the Municipal Planning Tribunal as chairperson(s).(6)The terms and conditions of service of members of the Municipal Planning Tribunal as envisaged in subsection (1)(a) and (b) above shall be as per Schedule 1 of the SPLUMA Regulations.(7)The members of the Municipal Planning Tribunal must also adhere to and shall be required to sign a code of conduct as approved by the City which shall be substantially in accordance with Schedule 3 of the SPLUMA Regulations.(8)The members of the Municipal Planning Tribunal shall also be subject to disqualification from membership as set out in section 38 of the SPLUMA.(9)Should the City, in its sole discretion, decide to appoint members to the Municipal Planning Tribunal as envisaged in subsection (1)(b) above, it shall comply with the call for nomination procedures as set out in the SPLUMA Regulations.

15. Powers and functions of a Municipal Planning Tribunal

(1)A Municipal Planning Tribunal may(a)approve, in whole or in part, or refuse any application referred to it in accordance with this By-law; (b)in the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any engineering services contributions; (c)make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law, the SPLUMA and/or any Provincial legislation; (d)conduct any necessary investigation; (e)give directions relevant to its functions to any person in the service of the City or Municipal Entity; or (f)decide any question concerning its own jurisdiction. (2)A Municipal Planning Tribunal must keep a record of all its proceedings and decisions.(3)A Municipal Planning Tribunal must provide reasons for any of its decisions made upon any written request submitted by any of the parties which appeared before it within 28 days of date of receipt of the notice of the decision and such reasons shall be provided by the Municipal Planning Tribunal's Chairperson in writing within 14 days from date of receipt of such request.

16. Classification of applications to be determined by the Municipal Planning Tribunal

Subject to section 18(3), the Municipal Planning Tribunal shall decide any opposed land development application referred to it in terms of the provisions of this By-law, or the City's land use scheme or any other applicable law relating to land development.

17. Authorised official

(1)As envisaged in terms of section 35(2) of the SPLUMA the City may authorise an official in terms of a proper delegated power to decide on certain land development applications.(2)The authorisation in terms of subsection (1) above may include the power to sub-delegate such authorisation to any suitably qualified official(s) in the employ of the City and under the control of the authorised official.(3)The provisions of section 15 above shall apply mutatis mutandis to such authorised official or duly authorised sub-delegate(s).

18. Classification of applications to be decided by the authorised official

(1)The authorised official may only decide unopposed land development applications submitted in terms of this By-law, or the City's land use scheme or any other applicable law relating to land development which application complies with the provisions of section 5 above.(2)The authorised official may decide any unopposed application which does not comply with any one or more of

the criteria as set out in section 5 of this Bylaw without forwarding it to the Municipal Planning Tribunal for a decision.(3)Notwithstanding subsection (1) and (2) above, such authorised official will have the discretion to forward any application referred to him/her to the Municipal Planning Tribunal for a decision.(4)Such authorised official shall also decide applications as envisaged in section 66(2) of this By-law.

WORKING