

**A critical analysis of the incorporation of environmental issues
into land use and planning instruments of selected
municipalities of the Ehlanzeni District Municipality**

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Abstract

Sustainable development is achieved through the consideration of environmental, social and economic factors in planning and decision making. However, even though the environmental right contained in section 24 of the South African Constitution indirectly requires land use and planning instruments to incorporate environmental issues, developments approved by local authorities suggest that land use decisions at local level exclude environmental considerations. The main aim of the research is therefore to critically analyse whether environmental issues are incorporated in land use and planning instruments within selected municipalities of Ehlanzeni District. The research methods applied in the study include case study selection approach, document review, literature review and interviews. The research mostly identified areas of weaknesses within land use and planning instruments where environmental issues are incorporated to a limited extent or not at all. This compromises the quest for sustainable development since it was found that environmental issues are also consequently not incorporated in decision making. The research has revealed that reasons for not incorporating environmental issues in planning decisions is the lack of incorporation of environmental issues in land use and planning instruments and a lack of understanding and knowledge of the legal requirements regarding environmental issues. Alignment of land use planning tools with environmental legal requirements and tools, development of checklist, capacity building, and appointment of environmental officers and development of strategies for policy implementation are recommended measures to improve land use and planning instruments.

Key words:

Land use and planning instruments, environmental issues, sustainable development.

Samevatting


Volhoubare ontwikkeling word behaal deur die oorweging van omgewings-, sosiale en ekonomiese faktore in beplanning en besluitneming. Alhoewel die omgewingsreg in artikel 24 van die Suid Afrikaanse Grondwet indirek vereis dat grondgebruik en beplanning instrumente omgewingskwessies in ag neem, wil dit voorkom of omgewingskwessies oor die hoof gesien word tydens besluitneming van plaaslike munisipaliteite. Die hoofdoel van die navorsing was dus om vas te stel tot hoe 'n mate omgewingskwessies in ag geneem word in grondgebruik en beplanning instrumente van geselekteerde munisipaliteite. Die navorsingsmetodes wat in die studie toegepas word, sluit in 'n gevallestudie, die nagaan van dokumente en literatuur, en onderhoude. Die navorsing identifiseer waar grondgebruiks- en beplanningsinstrumente omgewingskwessies slegs tot 'n sekere mate in ag neem of dit heeltemal oorsien. Dit stel die soeke na volhoubaarheid op die prys aangesien die navorsing bevind dat omgewingskwessies gevolglik ook nie in ag geneem word tydens besluitneming nie. Die gebrek in integrasie kan verder ook toegeskryf word aan beperkte begrip en kapasiteit wat betref die wetlike vereistes met betrekking tot die omgewing. Die belyning van grondgebruik en beplanning instrumente met die vereistes van omgewingswetgewing en instrumente, die ontwikkeling en gebruik van kontrolelyste, kapasiteitsontwikkeling, en die aanstelling van omgewingsamptenare en ontwikkelingstrategieë vir beleidsimplementering word voorgestel as maatreëls om grondgebruik en beplanning instrumente te verbeter.

Sleutelwoorde:

Grondgebruik en beplanning instrumente, omgewingskwessies, volhoubare ontwikkeling.

DECLARATION

I declare that this research report, apart from the contributions mentioned in the acknowledgements, is my own, unaided work. It is being submitted for the Degree Master of Environmental Management at the North West University, Potchefstroom Campus. It has not been submitted before for any degree or examination at any other university.

A handwritten signature in black ink, appearing to read 'S. van', is written over a horizontal line. The signature is somewhat stylized and partially obscured by a large, scribbled-out circular mark.

(Signature of candidate)

September 2012

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ACRONYMS

BLM:	Bushbuckridge Local Municipality
DARDLA:	Department of Agriculture, Rural Development and Land Administration
DFA:	Development Facilitation Act
DTC:	Development Tribunal Committee
DRDLR:	Department of Rural Development and Land Reform
EA:	Environmental Assessment
EDM:	Ehlanzeni District Municipality
EIA:	Environmental Impact Assessment
EMFs:	Environmental Management Frameworks
GIS:	Geographic Information System
IDPs:	Integrated Development Plans
IEM:	Integrated Environmental Management
KPIs:	Key Performance Indicators
KZN:	Kwa-Zulu-Natal
LM:	Local Municipality
LUC:	Land Use Committee
LUMS:	Land Use Management System/Scheme
MC:	Management Committee
MLM:	Mbombela Local Municipality
MMC:	Member of Mayoral Committee
MSA:	Municipal Systems Act
NEMA:	National Environmental Management Act
NEMBA:	National Environmental Management: Biodiversity Act
NEMAQA:	National Environmental Management: Air Quality Act
NEMPA:	National Environmental Management: Protected Areas Act
NHA:	National Heritage Resource Act
NWA:	National Water Act
SA:	South Africa
SAHRA:	South African Heritage Resource Agency
SAPPI:	South African Paper Product Industry
SDF:	Spatial Development Framework
SEMA:	Sectoral National Environmental Management Acts

SoER: State of Environmental Report
SPLUMB: Spatial Planning and Land Use Management Bill, 2011
TC: Technical Committee
TPEC: Town Planning Evaluation Committee
TPS: Town Planning Scheme
ULM: Umjindi Local Municipality
UNICED: United Nations Conference on Environment and Development

CHAPTER 1

INTRODUCTION AND RESEARCH BACKGROUND

This chapter provides the background of the research through a discussion of the problem statement (1.1), research aim and research sub-questions (1.2), research hypothesis (1.3), and significance of the research (1.4). The chapter concludes with a discussion on the structure of the research.

1.1 Problem statement

The importance of incorporating environmental issues into land use management is well understood and has enjoyed increasing international attention; the focus has begun to shift from development at any cost to sustainable development.

The Brundland Report (World Commission on Environment and Development, 1987) states that "*the environment is where we all live; and development is what we all do in attempting to improve our lot within that abode. The two are inseparable.*" Sustainable development has been on the political agenda as a result of the Earth Summit, United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro in 1992 and the ten year follow-up Earth Summit 2002 in Johannesburg.

Historically, development, urbanisation and population expansion in South Africa have been characterised by environmental degradation. There is overwhelming evidence of detrimental impact (over 0.7 million hectares of land are degraded and left bare by soil erosion (sheet and gully erosion); 4.61 million hectares of natural vegetation are degraded, mainly in indigenous forests, woodlands, and grasslands; a further 0.19 million hectares are degraded by mine tailings, waste rock dumps, and surface-based mining) that land use change can have on the environment (DEAT, 2006:89). Economic growth within the Ehlanzeni District area of jurisdiction has in the past few years increased the number of development proposals. The decisions by local authorities are guided by land use planning instruments as regulated by the planning legal framework.

Land use planning instruments include amongst others, spatial development frameworks (SDFs), integrated development plans (IDPs), land use management systems (LUMS) and town planning schemes. These instruments should incorporate environmental issues and factors in order to provide proper planning and land use projection of a specific area within the framework of sustainable development as required by the South African Constitution. *However, even though the environmental right contained in section 24 of the South African Constitution indirectly requires land use instruments to incorporate environmental issues, developments approved by local authorities suggest that land use decisions at local level exclude environmental considerations.* It is no exaggeration to say that the economic, social and environmental future of our country depends on the wise use of our land resources and policy framework for regulating land uses.

1.2 Aim of the research and research sub-questions

In the light of the aforementioned problem statement the main aim of the research is to critically analyse whether environmental issues are incorporated into land use and planning instruments within selected municipalities of Ehlanzeni District.

In an attempt to respond to the main aim of the research the following research sub-questions will be addressed:

1. What is the legal mandate for incorporating environmental issues in land use and planning instruments?
2. What are the debates relating to the incorporation of environmental issues in land use and planning instruments?
3. To what extent are environmental issues considered in land use and planning instruments?
4. To what extent is land use planning decisions by municipalities considering compliance with environmental requirements?
5. How can land use and planning instruments be improved to incorporate environmental considerations?

1.3 Research hypothesis

The study is based on the hypothesis that environmental issues are not incorporated in land use and planning instruments or decision making in municipalities. The hypothesis stems from environmental consequences identified in municipalities in the application of planning and land use decisions. These planning and land use decisions at local government mostly constitute non-compliance with the National Environmental Management Act (Act 107 of 1998) and sectoral environmental pieces of legislation. It is expected that the results obtained from the evaluation of decision making by local government would be a product of the extent to which environmental issues are incorporated in land use and planning instruments. The research seeks to demonstrate the validity of this hypothesis.

1.4 Significance of study

Land use and planning instruments such as town planning schemes/land use management schemes (LUMS), integrated development plans (IDPs) and spatial development frameworks (SDFs) of municipalities are tools that are meant to provide guidance on land developments. According to Du Plessis (2010) compliance with the provisions of environmental law is crucial to the fulfilment of environmental rights. It is therefore of the utmost importance to assess whether the range of land use and planning instruments available in municipalities support the spirit and purpose enshrined in environmental legislation or make adequate provision and reference to environmental issues where applicable in policy and decision making.

The 2011 SA Reconciliation Barometer found that the majority of South Africans have no confidence in local government structures in terms of service delivery (SARB, 2011). According to Falade (2003) land use plans implemented in most cities often promise a better life for the masses living in cities as a major goal, but the reality is that these lofty and laudable goals are never achieved. For instance, local authorities adopt land use policies aimed at regulating land use and development. Approved developments, however, often compromise the sustainability of natural resources. The spatial and land use pattern and policies in urban areas often results not only in abject poverty for people, but also in conditions not suitable for human habitation as a result of their

unsafe, inconvenient and health-threatening living environment (Falade, 2003; Aribigbola, 2007). The challenge that remains is how to better manage the environment and natural resources in the land use management profession, so that development and growth does not take place to the detriment of the environment, to develop and promote tools that can effectively incorporate environmental issues in decision making.

According to Berke & Godschalk (2007:2) the evaluation of policies and plans is meant to assess the uniqueness of individual plans, which are designed to meet land use planning objectives of a particular locality and the range of legal foundations for land use planning, from constitutional issues to mandatory and permissive state statutes. It is only through research that the extent of environmental issues incorporated in land use and planning instruments can be investigated and determined.

1.5 Structure of the research

The understanding of research structure allows for the flow of research ideas from the problem statement to the research questions including the methodology applied in realising the research aim. The research adopted phases, which are linked to the research objectives, questions and methods. The phases concisely summarised below integrate 5 chapters identified for the research.

Phase 1: Rationale and methodology

Phase 1 provides the background of the research and methods applied in attaining the research objectives. This phase includes the following chapters:

- Chapter 1: Introduction and research background

This chapter introduces the research through a discussion of the problem statement, aim of the research and research sub-questions and research hypothesis followed by the significance of the research. Ultimately the chapter concludes with an outline of the structure of the research.

- Chapter 2: Research methods

The chapter provides a detailed discussion of the methods applied in achieving the project aim and responding to research questions highlighted in Chapter 1.

Phase 2: Preparation and Debate

This phase prepares the researcher in understanding the conceptual or theoretical and legislative framework that relates to the incorporation of environmental issues in land use and planning instruments. The rationale for this phase is mainly to respond to research sub-questions 1 and 2 as set out in Section 1.2 above. The phase consists of the following chapter:

- Chapter 3: Literature Review

This chapter provides background for the legislative framework relating to environmental management and land use planning. The legal mandate for the integration of environmental issues in land use planning is described in this chapter. The chapter further describes environmental issues that should be addressed prior to the consideration of land developments and provides a summary of debates that relate to environmental issues in planning. Local government and planning is also discussed to define the role of local government in ensuring environmental protection.

Phase 3: Collect, analyse and interpret

Phase 3 is considered as the core phase of the research as it responds to research sub-questions 3 to 5 (outlined in section 1.2). The data collected are evaluated through research methods outlined in Chapter 2.

- Chapter 4: Case study and data analysis

This chapter introduces the case studies analysed by providing details regarding the geographic background. The extent of consideration of environmental issues in planning instruments and decision per case study is clearly stated. The findings of each case study in relation to the research sub-questions are compared and discussed in this chapter. Recommendations made by participants for the improvement of land use planning policies to integrate environmental issues form part of the chapter.

Phase 4: Recommend and conclude

This phase provides a summary of the research by recommending areas for further research and measures for improving the integration of environmental issues in land use planning instruments and decision making. The phase includes Chapter 5 which concludes the research. Table 1.1 below provides a summary of the research structure as discussed in Section 1.5 above.

Table 1.1: The Research Structure

CRITICAL ANALYSIS OF THE INCORPORATION OF ENVIRONMENTAL ISSUES INTO LAND USE AND PLANNING INSTRUMENTS OF SELECTED MUNICIPALITIES OF EHLANZENI DISTRICT MUNICIPALITY					
RESEARCH MAIN AIM (Refer to Chapter 1, Section 1.2)	RESEARCH SUB-QUESTIONS (Refer to Chapter 1, Section 1.2)	METHODS (Refer to Chapter 2)	PHASES	CHAPTERS (Refer to Chapter 1, Section 1.5)	
To critically analyse whether environmental issues are incorporated into land use and planning instruments within selected municipalities of Ehlanzeni District Municipality.	1. What is the legal mandate for incorporating environmental issues in land use and planning instruments?	Literature Review (Refer to Chapter 2, Section 2.2.2)	Phase 2: Preparation and Debate	Chapter 3: Literature Review	Phase 1 : Rationale and methodology
	2. What are the debates relating to the incorporation of environmental issues in land use and planning instruments?				
	3. To what extent are environmental issues considered in land use and planning instruments?	Document Review (Refer to Chapter 2, Section 2.2.3)	Phase 3: Collect, analyse and interpret	Chapter 4: Case study and data analysis	
	4. To what extent is land use planning decisions by municipalities considering compliance with environmental requirements?				
	5. How can land use and planning instruments be improved to incorporate environmental considerations?	Document Review and Interviews (Refer to Chapter 2, Section 2.2.3 and 2.2.4)	Phase 4: Recommend and conclude	Chapter 5: Research summary, conclusion and recommendations	

CHAPTER 2

RESEARCH METHODS

According to Melville *et al.*, (1996:1) research is not just a process of gathering information, as is sometimes suggested; rather it is about answering unanswered questions or creating a new understanding or knowledge, which does not currently exist. It can be seen as a process of expanding the boundaries of one's ignorance. This chapter therefore explains the methodological approach applied in achieving the main aim of the research as stated below:

To critically analyse whether environmental issues are incorporated into land use and planning instruments within selected municipalities of Ehlanzeni District.

Research methodology is defined by Bailey (1987:32) as a philosophical process of research that includes the assumptions and values that serve as the rationale the researcher uses for the collection and interpretation of data and reaching conclusions. According to Strauss *et al.*, (1998:1) research methodology is a way of thinking about and studying social reality. In simple terms it can be defined as the way a researcher goes about gathering, analysing and interpreting data or studying any phenomena. The chapter entails four sections, which include research design in Section 2.1, followed by Section 2.2 which provides a broad description of research methods, which include case study selection approach, literature review, document review and interviews. The limitations encountered throughout the research process conclude the chapter.

2.1. Research design

According to Nachmias & Nachmias (1982:75) research design is the programme that guides the researcher in the process of data collection, analyses and interpretation. In order to respond to the research sub-questions the researcher adopted a mixed research method. According to De Silva (2011) a mixed research method is defined as a mixing of approaches or methods, which includes the combination of qualitative and quantitative viewpoints, data collection, analysis, and/or inference techniques in a single study. Quantitative research can simply be defined as research that produces findings by statistical procedures or other means of quantification. Qualitative research is defined as any research that produces findings not arrived at by statistical procedures or other means of quantification; it refers to

research about a person’s life, lived experiences, behaviours, emotions and feelings as well as about organisational functioning, social movements, cultural phenomena and interactions between nations (Strauss *et al.*, 1998:11). Qualitative research produces results and data through open-ended discussions and observations. Creswell (2003) argues that the mixed research method is a strategy for redressing challenges for the application of a single research method. The perspectives and views of stakeholders in local authorities affected by the study form the bases of the qualitative information collected and analysed. The quantitative data synthesised in this research includes the comparison of the incorporation of environmental issues in land use instruments and planning decisions taken in selected case studies. Patton (2002:205) and Yin (2003) argue that evidence exists that ‘mixed research’ methods recognise case study approaches as appropriate and detailed investigation of ‘case’ rather than ‘sample’ as preferable. The research design therefore includes research setting.

2.1.1 Research setting

The broad research setting of the study is the Ehlanzeni District Municipality (EDM) in Mpumalanga Province – refer to Figure 2.1 for the location of the Ehlanzeni District Municipality. However, the study includes three selected municipalities within EDM. These three municipalities therefore are case studies of the research and they include Umjindi Local Municipality, Mbombela Local Municipality and Bushbuckridge Local Municipality. These municipalities are discussed in detail in Section 2.2, where the approach for their selection is discussed. Table 2.1 below provides a summary of selected municipalities.

Table 2.1: Summary of selected municipalities

Case	Municipalities	Category	SDF year of adoption	Land use Scheme year of adoption	Geographic extent of municipal area
1	Umjindi Local Municipality	A	2010	2002	1 739.71km ²
2	Bushbuckridge Local Municipality	A	2010	2011	2 591km ²
3	Mbombela Local Municipality	A	2006	1975, 1985 and 1989	3 451km ²

Categories of municipalities as defined by the Municipal Structures Act, 117 of 1998 (RSA, 1998), namely: Metropolitan (category A) and Local (Category B).

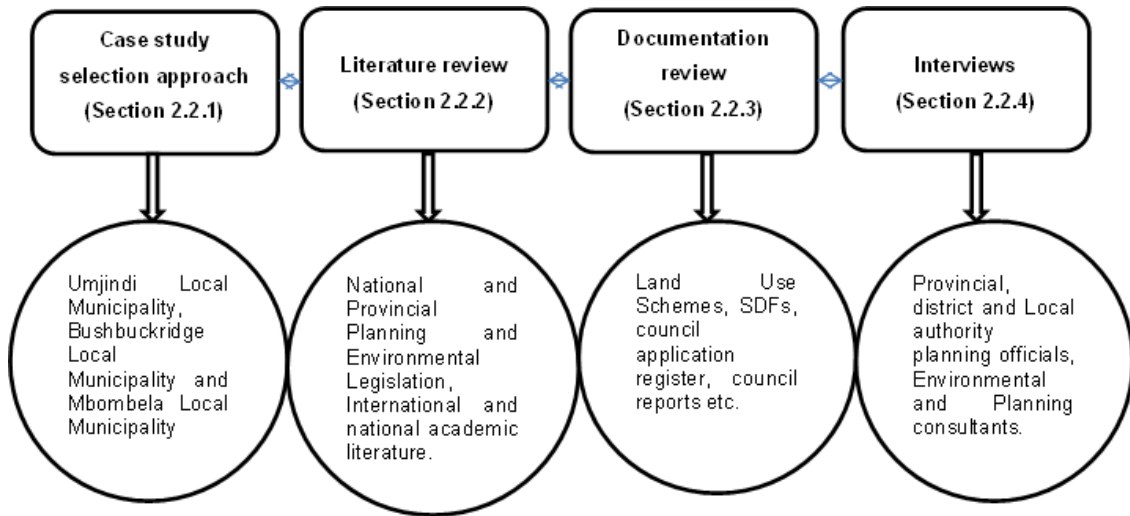
Figure 2.1: Map Showing Ehlanzeni District Municipality in the Mpumalanga Province
(Source: Ehlanzeni District Municipality GIS Unit, 2008)



2.2 Research Methods

This section provides the discussion of qualitative and quantitative methods used. These methods include literature review, documentation review and interviews. Figure 2.1 below graphically presents the synopsis of employed methods.

Figure 2.2: Research Methods



2.2.1 Case study selection approach

Yin (2009) and Robson (2002) define case study research as an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context using multiple source evidence, particularly when the boundaries between phenomenon and context are not clearly evident. Woodside (2010) states that case study research is important as it encourages research strategies that help measure thinking over a period of time, for instance by multiple interviews. As discussed in Section 2.1.1 the study has identified three case studies in Ehlanzeni District Municipality, Mpumalanga Province. The criteria applied in the selection of case studies is summarised as follows:

- Criteria 1: The selection of a sample representing municipalities within a single district was considered as ideal in terms of time saving, easy accessibility (same geographic region) and availability of resources.
- Criteria 2: The sample should have SDFs and land use management schemes or town planning schemes formally adopted and approved by their councils.
- Criteria 3: Sample should preferably mix rural and urban case studies for the research. The case studies include a municipality which is rural (Bushbuckridge Local Municipality), a municipality, which is a small town (Umjindi Local Municipality) and the municipality, which includes the capital city of the Mpumalanga Province (Mbombela Local Municipality).

2.2.2 Literature Review

The literature review included national and provincial legislation, policy documents, international and national academic literature that relates to land use planning and environmental management. The reviewed literature includes Internet and academic sources. The review was conducted to respond to sub-questions 1 and 2:

1. What is the legal mandate for incorporating environmental issues in land use and planning instruments?
2. What are the debates relating to the incorporation of environmental issues in land use and planning instruments?

The academic sources provided a myriad of articles, journals and books that relate to environmental issues, environmental management and land use and planning instruments. The review of international and local academic sources aimed to attain a theoretical perspective and background on the incorporation of environmental issues in land use and planning instruments. There is, however, limited local literature related to the research topic, and therefore international academic literature has been the source of most of the debates. The review of legal documents has provided an understanding of the legal requirements for incorporating environmental issues in planning instruments in national and provincial spheres of government. A basic literature study was performed in terms of:

- The legal mandate for Environmental Management in South Africa,
- The role of local government in Environmental Management in South Africa,
- Land use planning system in South Africa,
- Defining sustainable development and land use management,
- The role of land use planning in environmental protection,
- The role of land use planning instruments in environmental protection and,
- The legal mandate for land use planning in South Africa.

2.2.3 Documentation Review

According to Patton (2002) documentation review includes amongst other things institutional documents (clinical, programmatic, or organisational records), personal documents (diaries, letters, faxes, artistic expressions), and public historical documents (legislative testimony, legal documents).

The rationale for document review was mainly to determine the extent to which environmental issues are incorporated in planning instruments and decision making. The review enabled the researcher to address research sub-questions 3 and 4:

- 3. To what extent are environmental issues considered in land use and planning instruments?
- 4. To what extent is land use planning decisions by municipalities considering compliance with environmental requirements?

The documents reviewed included the following:

- Land Use Management Schemes,
- Spatial Development Frameworks,
- Council development application register, and
- Council or planning committee resolution reports, etc.

The spatial development framework and the land use management schemes were evaluated to assess the incorporation of environmental issues at strategic level. In order to also evaluate the decision-making processes and decisions taken, council development application registers and council or planning committee resolution reports were evaluated. The source of these documents is the three municipalities identified as case studies for the research. These documents were evaluated by means of key performance indicators (KPIs) specifically designed for each land use and planning instrument and for the decision making process and decision making. Table 2.2 (KPIs for SDFs), 2.3 (KPI for land use schemes) and 2.4 (KPI for decision making) provide description of KPIs and their justifications.

Table 2.2: KPI for incorporation of environmental issues in SDF

KPI	Line of enquiry	Justification
1	To what extent are environmental issues incorporated in the situational analyses?	The status quo of municipalities should incorporate social, economic and environmental issues.
2	To what extent are environmental issues incorporated in the objectives set out?	Environmental management or protection is core to sustainable development therefore, it should be

		considered as among things to be achieved.
3	To what extent are environmental issues incorporated in the development priorities and strategies?	Environmental issues should provide direction on how priorities and strategies should be implemented.
4	To what extent are environmental issues incorporated in land use policies?	Protected and heritage areas should be provided land use classifications to ensure their protection.
5	To what extent do projects identified incorporate projects related to environmental issues?	The importance of environmental issues should also be incorporated in projects for protection of environmental resources.

The evaluated SDFs for the research sample were also scored against each KPI. Table 2.5 provides a description of scoring criteria.

Table 2.3: KPI for incorporation of environmental issues in land use scheme

KPI	Line of enquiry	Justification
1	To what extent is the incorporation of definitions related to environmental issues?	Environmental issues include concepts and processes that need to be defined in the scheme.
2	To what extent are provisions for restrictions related to environmental issues?	The scheme should incorporate restrictions such as building lines or buffer areas for environmental sensitive areas.
3	To what extent do the general conditions applicable to all erven consider environmental issues?	Properties where development is proposed beyond threshold provided in NEMA regulations, 2010 should be subject to environmental impact

		assessment.
4	To what extent are environmental issues incorporated in land use classifications?	Land use classifications should ensure environmental protection.
5	To what extent are application processes and regulations making reference to environmental issues?	The scheme should be clear on environmental processes that should be undertaken for proposed developments

The evaluated land use schemes for the research sample were also scored against each KPI. Table 2.5 provides a description of scoring criteria.

Table 2.4: KPI for incorporation of environmental issues in decision making

KPI	Line of enquiry	Justification
1	To what extent do municipal internal departments make provision for the incorporation of environmental issues?	An environmental officer or unit in a municipality is crucial to ensure that environmental issues and processes are considered.
2	What is the level of knowledge of officials in relation to environmental legal requirements?	Environmental issues include legal processes that require compliance during development planning and decision making.
3	To what extent are comments provided on environmental issues?	It is imperative for comments regarding environmental issues to be explicit and constructive on environmental protection measures and process to be followed for legal compliance purpose.

The KPIs discussed above enabled the researcher to provide a score of the extent to which environmental issues are incorporated against each KPI for SDFs, land use schemes and decision making. The score was calculated using the assessment scale presented in the table below.

Table 2.5: Scoring criteria for incorporation of environmental issues

Symbol	Explanation
A	Fully incorporated
B	Limited incorporation
C	No incorporation

2.2.4 Interviews

Patton (2002) indicates that interviews provide a one-to-one opportunity to the researcher for the exploration of interviewees' experiences and perceptions in a phenomenon. Interviews allow study informants to direct the course of the discussion by identifying and describing issues of concern that are not addressed by the researcher (Lofland, 1971). The interviews were conducted using a combination of semi-structured questions to answer the following research sub-question:

5. How can land use planning and instruments be improved to incorporate environmental considerations?

The semi-structured questions approach allows the interviewee to enjoy freedom of expression in talking about issues of concern (Kitchen & Tate, 2000). Telephonic interviews were conducted with respondents that were not available for a one-to-one interview. The principle of non-disclosure of role players' names has been adopted to ensure the realisation of credible and objective information. The interviewees identified as role players in the study include representatives from the following groups (refer to Annexure A for interview schedule).

- Two town planning consultants,
- One provincial and three local planning officials, and
- One environmental consultant.

Selected town planning consultants were interviewed to ascertain their experience and perceptions of local authorities on planning decisions in relation to environmental issues. The mentioned consultants were further engaged to obtain their recommendations on the manner in which land use instruments could be improved. An environmental consultant was interviewed to obtain her recommendations for incorporating environmental issues in planning instruments. Planning authorities were interviewed to acquire a broad understanding of their processes and issues considered in taking planning decisions.

3. Limitation of the study

The study is limited to critical analyses of whether environmental issues are incorporated in land use and planning instruments within selected municipalities of the Ehlanzeni District. The focus therefore is restricted to three municipalities of Ehlanzeni District Municipality, which includes Umjindi Local Municipality (ULM), Bushbuckridge Local Municipality and Mbombela Local Municipality (MLM). Timely receipt of municipal documents has been a challenge during data collection.

CHAPTER 3

LITERATURE REVIEW

The literature review discusses the policy and legislative context and the debates related to the incorporation of environmental issues in planning. This chapter aims to answer the following sub-research questions:

1. What is the legal mandate for incorporating environmental issues in land use and planning instruments?
2. What are the debates relating to the incorporation of environmental issues in land use planning instruments?

3.1 Introduction

The foundation of sustainable development at international policy level is commonly believed to lie in the Brundtland Report and is defined as development that meets the needs of current generations without compromising the ability of future generations to meet their own needs (World Commission on Environment and Development, 1987). Sustainability in South Africa is recognised by breaking down the social, economic and biophysical environment into a number of component parts, often termed as indicators (Donnelly *et al.*, 2007). In terms of the National Environmental Management Act (Act 107 of 1998), sustainable development is defined as the integration of social, economic and environmental factors into planning, implementation and decision making in order to ensure that development serves present and future generations. Berke *et al.*, (2006:10) states that the term sustainable development has generated popular appeal because it implies that the production and consumption of goods and services and the development of the built environment can be accomplished without degrading the natural environment. Haberl (2004) and Lindsey (2003) contend that economic, social and environmental issues are interrelated factors which need to be seen and solved in the context of each other. According to Miyamoto *et al.*, (1996:327) the integration of land use planning and environmental factors is of paramount importance in developing countries due to rapid and dramatic urban growth. Land use planning affects the regional eco-environmental quality, ecosystem services, and also influences the regional socio-economic environmental system by changing land use patterns and structure (Jie, *et al.*, 2010:185).

Land use management regulates the use of land for social, economic and environmental protection. For this reason land use management can be seen as playing an important role in environmental protection and being in the centre of sustainable development.

3.2 Defining land use management and its role in environmental protection

The Spatial Planning and Land Use Management Bill (SA, 2011) defines the land use management system as the system of regulating and managing the land use and conferring land use rights through the use of schemes and land development procedures. Land use management involves the formulation of guidelines, controls and plans for managing the manner in which land is used. Land use management is the officially recognised system that determines and regulates the use of land by maximising benefits and minimising negative impacts (Charlton, 2008:3; Van Wyk, 1999:4).

According to Van Wyk (2007:59) land use planning is divided into two separate and independent processes, namely forward planning (also known as plan creation, planning of land use, or integrated development planning), and development control (also known as the management of changes to the use of land, or land use management). Ovens *et al.*, (2007:14) cite the definition of land use management in the White Paper on Local Government as including the regulation of land-use changes (rezoning), subdivision and consolidation of land parcels, township establishment and formalisation including facilitation of coordinated development.

Land use management is mainly the responsibility of a Town Planner in consultation with other disciplines on specific environmental (biodiversity, protected areas, air quality, compliance, etc.) and infrastructure related issues (water, electricity, sanitation, storm water, etc.). According to Campbell (1996) and Godschalk (2004) the tendency of planners has been to promote the development of cities at the cost of the natural environment. However, land use planning should ensure that land is used for uses compatible to areas they relate to by promoting social and economic justice without compromising the biophysical features of the environment. Land use management and environmental management depend on each other in planning and decision making. Godschalk (2004) argues that land use planning of new development growth is not strongly environmental in orientation and thereby fails to reduce the environmental footprint or environmental impacts associated with development. It is argued by Campbell (1996) and Ekbia & Evans (2009:328) that in practice the planner must, when planning and deciding on development, reconcile three conflicting interests, which include growing the economy, socially equitable growth and protecting the

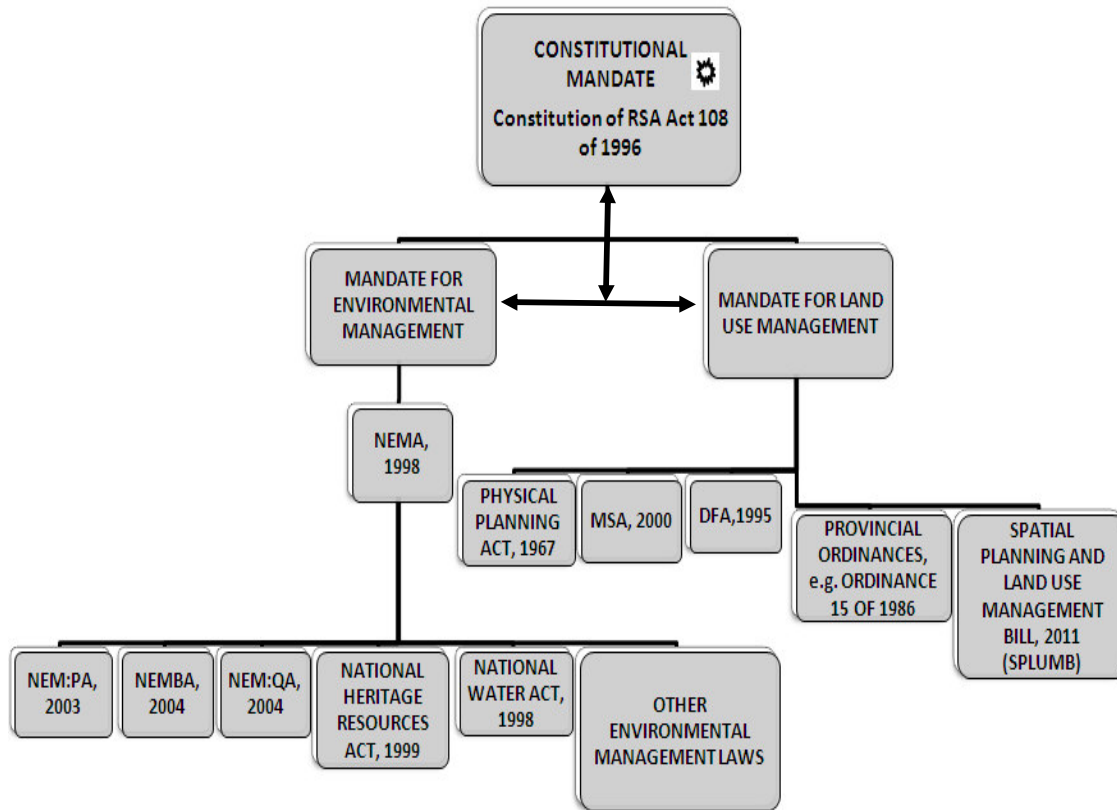
environment. Vitousek *et al* (as quoted by Berke & Conroy, 2000:12) state that critical global environmental issues such as greenhouse gas emissions and loss of biodiversity have led to increased advocacy for sustainable land use practices. Godschalk & Berke (2009) and Berke *et al.*, (2006) clearly state that the incorporation of environmental issues in land use planning could greatly contribute to the attainment of sustainable development. According to Pierce *et al.*, (2005:442), in order for land use planning to be recognised as playing a constructive role in conservation, it has to integrate biodiversity concerns in planning, policies, decisions and practices.

The policy and legal framework is therefore reviewed in the following section to provide what is enshrined in law with regard to environmental issues. This section starts by presenting a discussion on the Constitutional mandate followed by a discussion on the mandate for land use and environmental management. Particular attention is also given to the role of local government in ensuring the incorporation of environmental issues in land use planning.

3.3 The legal mandate for incorporating environmental issues in land use planning

The legal mandate for incorporating environmental issues in land use planning is enshrined in the Constitution, environmental management and planning law, as illustrated by Figure 3.1.

Figure 3.1: Legal Framework for incorporating environmental issues in Mpumalanga Province land use planning



3.3.1 The Constitutional mandate

The Constitution of the Republic of South Africa (Act 108 of 1996) is the supreme law of the Republic of South Africa. The environmental right enshrined in the Constitution requires the promotion of environmental sustainability. In terms of Section 24 of the Constitution (1996) “everyone has the right (a) to an environment that is not harmful to their health or well-being and (b) to have the environment protected, for the benefit of present and future generations through reasonable legislative and other measurements that:

- (i) Prevent pollution and ecological degradation;
- (ii) Promote conservation; and
- (iii) Secure ecologically sustainable development and use of natural resources promoting justifiable economic and social development”.

In its application the Constitution indirectly provides that environmental issues should be considered in land use planning decision making. The importance thereof is traced from a judgement in the Supreme Court of Appeal in a case between Director: Mineral, Gauteng Region and Sasol Mining (Pty) Ltd v Save the Vaal Environment and Others where a

judgement was taken that our Constitution, by including environmental rights as fundamental justifiable human rights, by necessary implication, requires that environmental considerations be accorded appropriate recognition and respect in the administrative processes in our country (Kidd, 2006:73; Van Wyk, 2007). The Constitution is unique in that it is development-orientated as it incorporates the three indicators (social, economic and environmental) of sustainable development in the Bill of Rights (Scheepers, 2000:36; Rossouw & Wiseman, 2004:132).

3.3.2 The legal mandate for land use management

The White Paper on Spatial Planning and Land Use Management (SA, 2001) states that our human settlements was shaped along racial and class lines since 1652 colonialism, which excluded large sections of the population from the economic, social and environmental benefits of vibrant, integrated, sustainable urban and rural development.

Land use planning in South Africa dates back to the early 1930s, when a number of Ordinances were promulgated to respond to land use planning matters. The introduction of the Group Areas Act in the 1950s introduced a formal displacement of people to segregation areas known as homelands. This Act resulted in distorted spatial patterns characterised by risks of landlessness, joblessness, homelessness, economic marginalisation, environmental hazards, and social disarticulation (De Wet, 1995). The apartheid regime reinforced the notion of spatial fragmentation, but it also contributed to putting in place a legal framework to guide environmental management and land use planning. Since 1994 South Africa has adopted and enacted planning legislation which support principles of sustainable development. The new era of planning experienced the adoption of the Development Facilitation Act (Act 67 of 1995), which aimed to redress the past imbalances created by the Group Areas Act.

The land use management mandate regarding environmental issues applicable in the Mpumalanga Province includes provisions contemplated in the Physical Planning Act (Act 88 of 1967), the Municipal System Act (Act 32 of 2002), the Development Facilitation Act (Act 67 of 1995), the Town Planning and Townships Ordinance (Ordinance 15 of 1986) as well as the Spatial Planning and Land Use Management Bill, 2011, which are discussed in the following sections.

3.3.2.1 The Physical Planning Act (Act 88 of 1967)

The Physical Planning Act, 1967 (Act 88 of 1967) aims to promote coordinated environmental planning and the utilisation of the Republic's resources, and for those purposes to provide for control of the zoning and subdivision of land for industrial purposes; for the reservation of land for industrial purposes; for the establishment of controlled areas; for restrictions upon the subdivision and use of land in controlled areas; for the compilation and approval of guide plans; and for restrictions upon the use of land for certain purposes unless reserved for use for such purposes; and for other matters incidental thereto. This Act was wholly repealed by the Physical Planning Act, 1991 (Act 125 of 1991). However, the Act is still applicable or used in Mpumalanga Province for change of land use in areas outside town planning schemes of local authorities. The applications for change of land use rights or permits are done in terms of Section 6(1) of Act 1967, which provides for restriction on the use of land in controlled areas. This section clearly states that no person shall use land in a controlled area other than for the purpose for which it was being used immediately prior to the date as from which the area concerned was or is declared a controlled area or part of a controlled area except under the authority of a permit and for the purpose and in accordance with the conditions specified therein. The Act defines a controlled area as the area declared as such by the Minister in terms of Section 5 of the Act. In a practical explanation a controlled area is an area which falls outside the urban edge of a municipal area where the Physical Planning Act and the Subdivision of Agricultural Land Act (Act 70 of 1970) are applicable.

3.3.2.2 The Municipal Systems Act, 2000 (Act 32 of 2000)

The Municipal Systems Act, 2000 (Act 32 of 2000) promulgated in 2000, is the planning tool of local government, in particular for the Integrated Development Plans commonly (IDPs). Chapter Five of the Municipal Systems Act, 2000 describes the IDP as a single, inclusive and strategic plan for the development of a municipality that will be the principal strategic planning instrument which guides and informs all planning and development, and all decisions with regard to planning, management and development in the municipality. The Act identifies the Spatial Development Framework (SDF) as a component of an Integrated Development Plan, which includes basic guidelines for a land use management system of a municipality. The most significant contribution of the Act in the new dispensation includes its publication on the SDF as a core element of the IDP which brought about change in the understanding of the spatial rationale in the Republic of South Africa.

Section 4(2) of the Act states that the council of a municipality has a duty to “(d) ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner and to (i) promote a safe and healthy environment”. The Spatial Development Framework, in guiding land uses, therefore becomes a legal tool, which integrates environmental issues in forward planning to inform planning decisions.

3.3.2.3 The Development Facilitation Act (Act 67 of 1995)

The DFA (1995) is seen as a key local government planning and development instrument, which introduced measures to facilitate and accelerate the implementation of reconstruction and development programmes and projects in relation to land, laying down general principles governing land development throughout the country (Mawson, 2001:358; Van Wyk, 2007). It is also the argument of Van Wyk (1999:141) that the DFA was promulgated to introduce extraordinary measures to facilitate and speed up the implementation of development programmes and projects. Rigby & Diab (2003:29), Sowman & Brown (2006) and Binns & Nel (2002:925) state that the principles as contemplated in the Act are meant to promote environmental ethics and efficient, integration and sustainable development by encouraging development which is environmentally friendly while meeting the most basic needs of the people in an affordable way. The Act has largely been used for the establishment of land development areas (rezoning, subdivision, removal of restrictive conditions, etc.) and township establishments. Section 33(2)(n) of the DFA (1995) states that in approving a land development application a tribunal may, either of its own accord or in response to that application, impose any condition of establishment relating to environment or environmental evaluation. It is clear that the Act requires environmental issues to be considered in decision making.

3.3.2.4 Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986)

The Transvaal Town Planning and Townships Ordinance, 1986 is the Ordinance used and applicable in the Mpumalanga Province. The ordinance was promulgated in the pre-1994 period to regulate the preparation of town planning schemes and to provide the procedures for land development applications. The subject Ordinance and its attendant regulations only relate to the former Transvaal areas, which include Gauteng, Mpumalanga, North-West and Limpopo provinces. The Ordinance is still in force and applicable in most areas in particular in local authorities identified in the regulations as authorised local authorities.

Section 56 of the Ordinance provides that an owner who wishes to have a provision of a town planning scheme relating to his land amended may in such a manner prescribed apply

in writing to the authorised local authority. This is the process commonly known as rezoning allowing for change of land use. The Ordinance provides procedures for the change in land use (rezoning), subdivision and consolidation of properties, the extension of township boundaries of approved townships, alterations, amendments or cancellation of general plans and appeals against certain decisions by the authorised local authority. The Ordinance respectively aims to coordinate land use control under the jurisdiction of local authorities. In terms of procedure, Ordinance 15 of 1986 considers the principles of sustainable development by giving effect to environmental issues in development. Section 18 (b) of the Regulations giving effect to the Ordinance states that the report submitted for the application of township establishment must provide a motivation relating to the following factors:

- i. The need and desirability,
- ii. The design and use of erven,
- iii. The manner in which the development will be affected by
 - Topography,
 - Geotechnical conditions,
 - Existing and proposed transportation routes,
 - Pollution and environmental factors, and
 - Existing and proposed sewerage works, and
- iv. Any other factors necessary for the consideration of the application.

The requirement for assessment of environmental issues in township establishments affirms the importance of environmental issues in sustainable development and planning.

3.3.2.5 The Spatial Planning and Land Use Management Bill, 2011

The purpose of the bill can be summarised as: to provide guidelines for the framework for regulating land use planning and further to provide guidelines for the formulation of land use scheme and spatial development frameworks (SDFs). The principles of spatial planning, land use management and land development in terms of the Bill include spatial justice, spatial sustainability, efficiency, spatial resilience and the principle of good administration. These principles were adapted from the five principles identified in the White Paper on Spatial Planning and Land Use Management, 2001. The land development principles discussed in the White Paper on Spatial Planning and Land Use Management (SA, 2001) were adopted, adapted and condensed from the DFA, 1995 principles. These principles clearly reflect the importance of land use management in ensuring sustainable development.

SA (2011) clearly states that the control and regulation of land use is the mandate of local authorities in areas to which they relate. The Bill further provides guidelines on the development and adoption of land use schemes. After enactment, the Bill will repeal the Removal of Restrictions Act (as amended), the DFA, and the Physical Planning Act (as amended). It is stated in the Bill that all provincial legislation relating to land development applications should be amended to be consistent with the Bill, including Ordinances. The Bill is identified as giving effect to the principle of sustainable development and environmental issues as it highlights that development should comply with provisions of the NEMA, 1998 (Van Wyk, 2007; SA, 2011).

3.3.3 The role of local government in land use planning

Internationally, land-use planning has been devolved to local government agencies that are expected to consult and involve a wide array of stakeholders from diverse sectors in identifying development options for their regions (Pierce *et al.*, 2005:442). South Africa has also mandated powers to deal with land use matters to local and provincial spheres of government. Section 156 (1) of the Constitution (1996) states that the municipality has executive authority in respect of right to administer (a) local government matters and any matters assigned to it by national and provincial legislation. Part B of Schedule 4 and Part B of Schedule 5 of Act 106 of 1996 refer to a list of functional areas mandated to local government, which include issues that relate to health and safety, environmental protection, municipal planning and services (infrastructure). Section 156 (2) further states that a municipality may make and administer by-laws for the effective administration of matters, which it has rights to administer.

South Africa has therefore devolved all land-use decision making to some 284 local municipalities which encompass the entire country, and which are responsible for almost all land-use decisions. According to Berke (2002:22) up to the 1960s, the classic view of planning was that local government should plan for and exercise control over private land use and building-design practices, as well as guide the location and design of capital improvements such as streets, water, and sewerage. However, the Development Facilitation Act provides powers to provincial development tribunals to preside and approve land use matters, but certain provisions of the DFA has since been found to be unconstitutional by the Constitutional Court of South Africa (in the case between the City of Johannesburg v Gauteng Development Tribunal). It is therefore an uncontested argument that land use planning is the function of local authorities. The functions of local authorities in land use planning and management are governed by national and provincial legislation.

This legislation provides procedures for land use change, subdivisions, consolidation, township establishment and removal of restrictive conditions (refer to Figure 3.1). In terms of planning legislation local authorities are mandated to adopt policies and by-laws in accordance with applicable legislation for land use planning.

Most common policies, which are adopted by municipalities, include a density policy, a subdivision of agricultural land policy, a public open space policy, a golf estate development policy, a land use management scheme and a service contribution policy. Land use planning has identified instruments, which include the integrated development plan, spatial development frameworks and land use management schemes or town planning schemes.

The following section provides a discussion on the land use management tools that may be utilised to ensure sustainable development. The role of land use and planning instruments in environmental protection is presented in terms of the IDP (of which a Spatial Development Framework is a component) and the land use management scheme or town planning scheme.

3.3.3.1 Integrated Development Planning (IDP)

Integrated development planning is about different actors and sectors working together under a commonly-designed agenda and re-aligning individual supply-chains to produce a commonly defined objective or product (Gueli *et al.*, 2007:92). The IDP process allows for stakeholders to identify issues of concern and projects, which range from socio-economic development to environmental protection. This plan has a major influence on the implementation of environmental protection initiatives. In terms of the Municipal Systems Act, (2000) the Spatial Development Framework (SDF) is identified as a component of an Integrated Development Plan, which includes basic guidelines for a land use management system of a municipality. The Spatial Development Framework (SDF) is a spatial strategic plan, which shows projected future planning (vision) of a specific area. The SDF provides a broad spatial overview of an area with regard to earmarked land uses. The SDF has the potential to contribute significantly to environmental protection and sustainable development as it is used by planning authorities as a tool, which guides planning decisions. The development of the SDF is informed by an environmental management framework (EMF), which identifies and earmarks sensitive areas within a specific area in particular in municipalities, which have EMFs.

The SDF therefore designates such identified sensitive areas in terms of applicable use zones, which include conservation, agriculture, and tourism. In practice when a development application is submitted for residential development in an area earmarked for conservation, the SDF therefore becomes a tool to inform the planning authority that the use zone in terms of the SDF is not consistent with the proposed residential use. The use of the SDF as a planning instrument contributes greatly to the quest for realising sustainable development.

3.2.3.2 Land Use Management Scheme or Town Planning Scheme

In terms of the Spatial Planning and Land Use Management Bill (SA, 2011) a land use scheme is a document for regulating land uses. It is important to consider the purpose of land use or town planning schemes in terms of the legal framework. In terms of the KZN Provincial Development Act (2008) the purpose of the land use scheme is to regulate land use and to promote orderly development in accordance with the municipality's integrated development plan. The Land Use Planning Ordinance (1985) states that, the purpose of the zoning scheme shall be to determine use rights and to provide control over use rights and over the utilisation of land under the jurisdiction of a local authority. Ordinance 15 of 1986 states that the purpose of the town planning scheme shall be the coordinated and harmonious development of the area to which it relates in such a way as will most effectively tend to promote the health, safety, good order, amenity, convenience and general welfare of such area as well as efficiency and economy in the process of such development. It is clear from the Ordinances that land use schemes as tools for regulating land use seek to promote sustainable development through amongst others considering environmental issues. The statement is confirmed by SPLUMB (2011) as it states in Section 23 (1) that a land use scheme must give effect to and be consistent with the Municipal Spatial Development Framework and must determine the use and development of land within the municipal area to which it relates in order to promote:

- (a) economic growth;
- (b) social inclusion;
- (c) efficient land development; and
- (d) minimal impact on public health, the environment and natural resources.

(2) A land use scheme must include:

- (a) scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone;
- (b) a map indicating the zoning of the municipal area into land use zones; and
- (c) a register of all amendments to a land use scheme.

It is clearly stated in Section 22 (1) (b) of the SPLUMB that a land use scheme must comply with environmental legislation and specific environmental management Acts as defined in Section 1 of the National Environmental Management Act (Act No 107 of 1998) to promote environmental management.

3.3.4 The legal mandate for environmental management

The application of environmental assessment, which contributes to the consideration of environmental issues in South Africa, dates back to the 1970's where it was undertaken voluntarily (Kidd & Retief, 2009; Wood, 1999; Burger, 2004; Mafune *et al*, 1997). The Environmental Conservation Act, 1989, which was repealed in 1998, was the first guiding legal framework that governed EIA processes and environmental protection in South Africa. In addition, South Africa has enacted an overarching environmental law known as the National Environmental Management Act, 1998, which contributed to the development of numerous specific environmental management acts (SEMAs) that address environmental issues. The responsibility for the application of these laws lies with the national and provincial government. However, local government has a role to play in terms of the duty to respect, protect, promote and fulfil the environmental right (Du Plessis, 2010; DEAT, 1998, UN, 2002; ICLEI, 2006). Du Plessis (2010) contends that local government has moved the focus from being service delivery orientated to being the centre of development. Local government being developmental in nature as mandated by the Municipal Systems Act, 2000 therefore has an obligation to promote the integration of environmental protection in policy, planning, decision making and implementation.

The environmental management legal mandate discussed herein includes provisions of the National Environmental Management Act (Act 107 of 1998), the National Water Act (Act 36 of 1998), the National Environmental Management: Protected Areas Act (Act 57 of 2003), the National Environmental Management: Air Quality Act (Act 39 of 2004), the National Environmental Management: Biodiversity Act (Act 10 of 2004) and the National Heritage Resources Act (Act 25 of 1999).

3.3.4.1 The National Environmental Management Act, 1998

According to Rossouw & Wiseman (2004) the NEMA is considered as an overarching environmental legal framework. The Act provides environmental principles for sustainable development that binds all using the environment.

The NEMA further provides for cooperative governance structures and networks, as well as integrated environmental management (IEM) and environmental impact assessment (EIA) processes (Rossouw & Wiseman, 2004). Furthermore, the adoption of the act has seen the proclamation of EIA regulations in 2006. These regulations were later repealed by the EIA 2010 Regulations, which set out activities that trigger EIA and the process to be followed. The activities listed below are some land use management activities that trigger impact assessment in terms of EIA 2010 Regulations.

- The construction of a facility for the slaughter or concentration of animals beyond threshold (Regulation R544-Activity, 3-5)
- Establishment of cemeteries of 2500 square meters or more in size (Regulation R544-Activity: 24)
- The transformation of undeveloped, vacant or derelict land to development use inside urban areas of more than 5 hectares and the transformation of undeveloped, vacant or derelict land to development use outside urban areas of more than 1 hectare (Regulation R544-Activity: 23, Regulation R545-Activity: 15)
- The transformation of land bigger than 1000 square metres in size zoned open space, conservation or with equivalent zoning (Regulation R544-Activity: 24)
- Provision of infrastructure networks (water, electricity, sewerage, roads and storm-water) beyond required thresholds (Regulation R544-Activity: 1, 9-12, 22, 27-29, 37-41, 47, 50, 52 and 55, Regulation R545-Activity: 1, 7-11 and 19, Regulation R546-Activity: 2-4, 8, 16,-17, 20-21 and 23)
- Construction of and conversion of structures to resorts, lodges or other tourism accommodation facilities in areas identified as conservation or biodiversity areas (Regulation R546-Activity: 5-7, 18)
- The clearance of an area of 300 square meters or more of vegetation where 75% or more of the vegetation cover constitutes indigenous vegetation in areas identified as conservation or biodiversity areas (Regulation R546-Activity: 12-14)
- Construction of infrastructure and building (exceeding 50m²) within 32 meters of watercourse (Regulation R544-Activity: 18).

The NEMA states that local government has an obligation in terms of Section 2(1) of the Act to ensure that all developments comply with the principles set out in this section. Local government, in ensuring compliance with the NEMA principles has an obligation to ensure that all developments approved by councils comply with the NEMA provisions.

3.3.4.2 The National Water Act, 1998 (Act 36 of 1998)

The purpose of the National Water Act, 1998 is to ensure the protection and conservation of water bodies throughout South Africa. The Act provides that a water use licence must be obtained if the flow of water within a water course is impeded or diverted or if the bed, banks, course or characteristics of a water course is or are altered. The NWA further provides that Schedule 1 activities do not require a water use license for particular uses that relate to private domestic use. The regulations proclaimed in support of the Act provide thresholds that trigger the need for a water use license. The Act is relevant in land use planning and environmental management due to the fact that most developments require water and in particular where boreholes are drilled for commercial uses, a water use license become essential.

Section 11(1) of the Water Services Act (Act 108 of 1997) states that the Municipality must progressively ensure efficient, affordable, economical and sustainable access to water services. The Act provides further in Section 12 that the municipality must prepare a draft water service development plan and a summary of that plan as part of the Integrated Development Plan. The municipality has the responsibility to ensure compliance with the provisions of the Act in relation to activities that require water use registration and licensing.

3.3.4.3 National Environmental Management: Protected Areas Act (Act 57 of 2003)

The National Environmental Management: Protected Areas Act (No. 57 of 2003) (NEM:PA) aims to provide a framework for the declaration and management of protected areas, promotes sustainable utilisation of protected areas for the benefit of people, and promotes participation by local communities in the management of protected areas, where appropriate. In terms of Section 9 of the Act, protected areas include the following:

- a) special nature reserves, nature reserves (including wilderness areas) and protected environments;
- (b) world heritage sites;
- (c) specially protected forest areas, forest nature reserves and forest wilderness areas declared in terms of the National Forests Act, 1998 (Act No. 84 of 1998); and
- (d) mountain catchment areas declared in terms of the Mountain Catchment Areas Act, 1970 (Act No. 63 of 1970).

Section 49 of the National Environmental Management: Protected Areas Act (No. 57 of 2003) (NEM:PA) provides that activities in protected areas are regulated or restricted to the extent prescribed by “(c) by-laws made by the relevant municipality in the case of local protected areas”. It is clear that the municipality has the responsibility to enact by-laws or policies related to local protected areas.

3.3.4.4 The National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004)

The main purpose of the this Act is to protect the environment by providing reasonable measures in Section 2(a) for (i) the protection and enhancement of the quality of air in the Republic; (ii) the prevention of air pollution and ecological degradation; and (iii) securing ecologically sustainable development while promoting justifiable economic and social development; and (b) generally to give effect to Section 24(b) of the Constitution in order to enhance the quality of ambient air for the sake of securing an environment that is not harmful to the health and well-being of people. The NEMAQA resulted in the formulation and later the proclamation of a list of activities relating to atmospheric emissions and atmospheric standards for acceptable air quality ambient levels. Air quality has become a global issue due to climate change. The Act provides a mandatory process for acquiring an atmospheric emission license for undertaking activities identified as sources of emissions.

With regard to the air quality issue, Section 3 of the NEMAQA clearly states that the municipality must seek to protect and enhance the quality of air in South Africa, and show a progressive realisation of this. Section 11 (1) states that a municipality may in terms of by-law (a) identify substances or mixtures of substances in ambient air which, through ambient concentration, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment in the municipality or which the municipality reasonably believes present such threat. Section 14 (3) and (5) of the Act states that the municipality must designate an air quality officer from its administration to be responsible for coordinating matters pertaining to air quality management in the municipality. It is also the provision of the Air Quality Act that the IDP of the municipality must incorporate an air quality management plan. Section 36 (1) of the Act states that the responsibility of the atmospheric emission licensing system rests with the metropolitan and district municipalities.

3.3.4.5 The National Environmental Management: Biodiversity Act (Act 10 of 2004)

The National Environmental Management: Biodiversity Act (No. 10 of 2004) (NEMBA) provides for the management and conservation of South Africa's biodiversity within the framework of the NEMA. The protection of species and ecosystems that warrant national protection, the sustainable use of indigenous biological resources, the fair and equitable sharing of benefits arising from bio-prospecting involving indigenous biological resources and the establishment and functions of a South African National Biodiversity Institute are also provided for in the Act. NEMBA further provides the legal basis for bioregional planning through bioregional plans. According to Algotsson (2009:123) these plans are outputs of a systematic spatial conservation assessment of a geographical region, which identifies areas of conservation priorities and constraints. In recent years a number of provinces such as Mpumalanga, Western Cape etc. prepared and adopted biodiversity plans that are meant to inform planning and decision making in areas where they relate.

Section 48 (2) read together with Section 54 of the Act provides that a municipality that must adopt an integrated development plan in terms of the Local Government: Municipal Systems Act, 2000, must-

- (a) align its plan with the national biodiversity framework and any applicable bioregional plan;
- (b) incorporate into that plan those provisions of the national biodiversity framework or a bioregional plan that specifically apply to it; and
- (c) demonstrate in its plan how the national biodiversity framework and any applicable bioregional plan may be implemented by that organ of state or municipality.

3.3.4.6 The National Heritage Resources Act (Act 25 of 1999)

The Act provides for the protection of national heritage resources. The Act clearly states that a permit has to be obtained for alteration, demolition or upgrading of any building structure older than 60 years. Section 38 of the Act is linked directly to land use planning as it provides that; subject to the provisions of subsections (7), (8) and (9) of the Act, any person who intends to undertake a development categorised as-

- (a) the construction of a road, wall, power-line, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;
- (b) the construction of a bridge or similar structure exceeding 50 m in length;
- (c) any development or other activity which will change the character of a site
 - (i) exceeding 5 000m² in extent; or
 - (ii) involving three or more existing erven or subdivisions thereof; or

- (iii) involving three or more erven or divisions thereof, which have been consolidated within the past five years; or
- (iv) the costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;
- (d) the rezoning of a site exceeding 10 000m² in extent; or
- (e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority, must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.

Van Wyk (2007) argues that the activities given above provide a system with thresholds that require the assessment of development impacts on heritage resources. In terms of Chapter 2 of the National Heritage Resource Act, 1999 the municipality has an obligation to prepare an inventory list for heritage resources during the preparation of town planning schemes and spatial development frameworks. In terms of the Act the municipality has a further obligation to ensure that developments comply with provisions of the Act. Local government, being planning authorities, has a leading role to play in the quest for the protection of heritage resources.

3.3 Conclusion

It is evident that sustainable development is about the incorporation of social, economic and environmental issues in planning, policy, decision making and implementation (Donnelly *et al.*, 2007; the NEMA, 1998; Berke *et al.*, 2006:10; Haberl, 2004; Lindsey, 2003). Land use management was discussed as a system for regulating the use of land for the maximisation of benefits and minimisation of negative impacts. Land use planning has further been discussed as mandated to local government. Local government is therefore an engine that should champion attempts for achieving sustainable development.

The chapter has discussed the legal mandate for incorporating environmental issues in land use planning and the debates that relate thereto. The Constitution was discussed as the supreme law, which integrates an environmental right within the Bill of Rights. A number of planning laws in particular the DFA, the Town Planning and Townships Ordinance, 1986 and the Land Use Bill, 2011 were summarised as providing for the incorporation of environmental issues in planning and decision making. The Transvaal Ordinance, 1986 on the establishment of townships requires that all developments must consider environmental issues in planning and report upon this matter when submitting an application.

The Land Use Bill, 2011 clearly states that once enacted, each province will be required to amend its legislation to be consistent with the Bill and the National Environmental Management Act, 1998.

Ekbia & Evans (2009:328) argue that land use planning decisions are influenced by diverse considerations with social, biophysical, and geographic elements. The Spatial Development Framework is a tool identified as a component of the IDP, which has the potential to promote sustainable development through the incorporation of environmental issues. On the other hand the land use management scheme has been discussed as a document that regulates land uses, which have to be consistent with the SDF while considering environmental issues.

The legal mandate for environmental management has identified the National Environmental Management Act, 1998 as an overarching legal framework. A number of sectoral environmental management Acts (SEMAs) have briefly been discussed addressing the importance of incorporating issues that relate to, among others, biodiversity, protected areas and air quality in planning and decision making. The National Water Act and the National Heritage Act have been identified as making reference to environmental issues that affect land use planning. It is clear from the discussion that local government has a critical role to play in environmental management. The NEMA and SEMAs clearly indicate that local government has an obligation through the enactment of by-laws and the adoption of management plans to ensure the protection of the environment.

CHAPTER 4

CASE STUDY AND DATA ANALYSIS

This chapter aims to answer the following research sub-questions:

3. To what extent are environmental issues considered in land use and planning instruments?
4. To what extent is land use and planning decisions by municipalities considering compliance with environmental requirements?
5. How can land use and planning instruments be improved to incorporate environmental considerations?

4.1 Introduction

The review of the literature and legal frameworks has revealed that land use planning should be used as a tool for the attainment of sustainable development since it is expected to incorporate environmental issues, as well as socio-economic factors in policy implementation and decision making. The following section introduces the case studies and the data analysis findings for the different research case studies (sections 4.2 to 4.4). Each case study is analysed by evaluating the applicable Spatial Development Framework, land use scheme or town planning scheme. Since the lack of incorporation of environmental issues in planning and land use instruments are likely to also lead to the lack of considering environmental issues in planning decision making, the planning decision-making process and planning decisions taken are also evaluated. The analysis of case studies provides the opportunity to determine and explore the extent to which environmental issues are incorporated in land use and planning instruments, and thereby the extent to which land use decisions of municipalities consider compliance with environmental requirements. Ultimately, the findings provide recommendations on how land use instruments could be improved to incorporate environmental considerations.

4.2 Analyses of case studies

The case studies analysed include Umjindi Local Municipality (ULM), Mbombela Local Municipality (MLM) and Bushbuckridge Local Municipality (BLM).

4.2.1 Umjindi Local Municipality (ULM)

4.2.1.1 Introduction

The Umjindi Local municipality is located in Barberton, 45km south-east of Nelspruit. The economic base of Umjindi centres on gold mining, forestry, agriculture and tourism. The municipality is a Category B municipality in terms of the Municipal Structure Act and covers an area of 1739.71km² (Umjindi IDP, 2011/12). The formulation, review and implementation of land use and environmental policies in the municipality are the responsibility of the town planning unit, which falls under the Directorate of Developmental Planning.

4.2.1.2 Land use instruments available in the municipality

The municipality has a Spatial Development Framework and town planning scheme. The first town planning scheme (TPS) in the municipality was adopted in 1999 and the second TPS was adopted in 2002. The town planning schemes were adopted and proclaimed in terms of the Transvaal Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986). In 2005 the municipality adopted its first integrated development plan with the spatial development framework in terms of the Municipal Systems Act, 2000. The 2005 SDF has since been replaced by the SDF 2010 of the municipality.

The following sections assess whether environmental issues are considered in the Umjindi Local Municipality's plans, by means of examples including requirements and discussions relating to environmental impact assessment, air quality issues, heritage issues, biodiversity issues, protected areas and water resource issues.

4.2.1.2.1 Umjindi Municipality SDF 2010

The SDF is structured in 6 parts or chapters and these chapters include a situation analysis, development implications, development priorities and strategies, development directives and projects. Table 4.1 below provides an evaluation of the incorporation of environmental issues in the SDF.

Table 4.1: Evaluation of the incorporation of environmental issues in Umjindi SDF 2010

No	Questions	Results	Score
1	To what extent are environmental issues incorporated in the situational analyses?	The status quo of the municipal area has clearly provided and incorporated environmental issues. Section 4.3 of the situational analysis presents information on the natural resource base. The information provided includes climate (section 4.3.2), natural ecology (section 4.3.3), water resources (section 4.3.7), nature reserves (section 4.3.8) and archaeological resources (section 4.3.9). Evidence exists, however, that no data is provided on the atmospheric footprint for the municipality. The failure to incorporate air quality issues is a shortcoming of the municipality, as there are a number of industrial factories (such as South African Paper Product Industry (SAPPI), mines, etc.) with activities that contribute to atmospheric emissions in their operations.	A
2	To what extent are environmental issues incorporated in the objectives set out?	The SDF has failed to identify a strategic objective for environmental management. Section 8.2 of the priorities and strategies identifies 10 strategic objectives, which include objectives for urban growth, quality of life, security of tenure, housing, rural residential, employment and community services, integrated development, strategic intent and the SDF system. The content of these objectives makes no reference to environmental issues. In order for the challenges of environmental issues to be addressed strategies linked to objectives have to be adopted.	C
3	To what extent are environmental issues incorporated in the development priorities and strategies?	The results from the previous question clearly show that priorities and strategies proposed in the SDF lack substance in relation to full incorporation of environmental issues. It is, however, acknowledged that these strategies are explicit on measures for the protection of biodiversity and protected areas. Four planning areas are identified in the SDF as planning priority and strategic areas. These planning areas are found to incorporate an environmental development strategy. The environmental development strategy in Section 9.5 of the SDF in all planning areas clearly states the importance of ensuring environmentally sustainable development and the management of the natural environment	B

		and resources.	
4	To what extent are environmental issues incorporated in land use policies?	<p>The development directives which incorporate policies for guiding development in Part 5 have limited information on the requirements for considering environmental issues in development processes. The policy guidelines that are included in this section include policy guidelines on resorts development, eco-estates, golf estates, golf courses and polo estates, guesthouse/bed and breakfast developments within urban areas, holiday houses within residential areas and guidelines on agri-villages.</p> <p>The guidelines for resort development in Section 11.4.1 clearly state that the development must be subject to control measures that have been extremely carefully considered, also in terms of the required Environmental Impact Assessment (EIA). Section 11.4.1.8 provides conditions that should be imposed on approval of resort developments, which include high biodiversity value requiring some form of protection/security, appointment of an environmental control officer, compilation of EMPs, water quality provision and testing, prevention of pollution to water bodies and subterranean water, compilation of a conservation management plan and a visitor management plan and submission of an integrated management plan. The guidelines for eco-estates, golf estates, golf courses and polo estates in Section 11.4.2.1.1 clearly indicate that where residential components are added to existing amenities in urban areas, as a form of general/overarching densification, the condition is that the recreational and open space/green lung function of such amenities is not compromised and provided that:</p> <ol style="list-style-type: none"> a. if the site is located within the open space system/network, access to public amenities and open spaces is not disrupted; b. the site has not been designated as being of sufficient cultural significance by heritage authorities (SAHRA,) to warrant it a “no-go” area for development; 	A

		<p>c. the site does not fall within an area that has been identified as being of conservation significance, within the urban context;</p> <p>d. the site does not negatively affect the role, function, public enjoyment and status of open space systems/networks, designated sites of cultural significance and/or sites identified as being of conservation significance; and</p> <p>e. the development or part thereof will not be located within the 30m development restriction area measured from the bank of a river stream, wetland or any other natural surface water feature determined as sensitive by the Department of Water Affairs and Forestry (DWAF) and other relevant authorities or within the following flood lines, whichever is the most restrictive.</p> <p>The policy guidelines for eco-estates, golf estates, golf courses and polo estates further require the undertaking of heritage and visual impact assessment and environmental impact assessment including biodiversity assessment. In the location criteria for agri-villages Section 11.4.6.1 clearly states that the outcome of an EIA process is also a major consideration in the establishment of agri-villages. The agri-village policy guidelines are, however, not explicit on other environmental issues as compared to the guidelines for eco-estates, golf estates, golf courses and polo estates.</p>	
5	To what extent do projects identified incorporate projects related to environmental issues?	The SDF under projects in Section 12 identifies SoER and EMF including land use management schemes as projects to be implemented by the municipality. Section 12 has failed to explicitly incorporate EIA-related projects linked to housing and infrastructure development projects. The SDF has further failed to identify projects linked to protected areas (conservation and heritage).	B
Overall score			B

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

The table above clearly shows that the SDF has incorporated environmental issues to a certain degree. The interviews held with officials revealed that the limited inclusion of environmental issues in the SDF is caused by a lack of knowledge and understanding of the environmental legal framework. The environmental legal framework of South Africa has provisions, which require the implementation of assessment processes for certain, developments. These assessment processes include amongst others environmental impact assessment, biodiversity assessment, heritage assessment and air quality assessment. It is therefore a legal requirement that policies adopted recognise such requirements in policy formulation and implementation. The SDF of Umjindi LM has therefore not fully satisfied the requirements of environmental protection as required by the Constitution.

4.2.1.2.2 Umjindi Municipality Town Planning Scheme, 2002

The Town Planning Scheme (TPS) of the municipality was proclaimed in terms of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) on 3 May 2002. The TPS repealed the first land use scheme of the municipality adopted in 1999. In 2008 the municipality initiated a process of formulating a land use management scheme to repeal the TPS, 2002. However, the process has never been completed. The TPS, 2002 is the applicable scheme in the municipality and the subject of the research. The scheme, 2002 is structured into five parts, which include general, streets, building lines, building restriction areas and line of no access, building restrictions and use of land, general amenity and convenience and miscellaneous. The analysis is done by means of questioning the content of the Town Planning Scheme. Table 4.2 provides a summary of the results.

Table 4.2: Evaluation of the incorporation of environmental issues in Umjindi TPS, 2002

No	Questions	Results	Score
1	To what extent is the incorporation of definitions related to environmental issues?	The general section of the scheme provides no definitions related to the environment, for example EIA, HIA, flood line, biodiversity or air quality assessment.	C
2	To what extent are provisions for restrictions related to environmental issues?	Part 2 of the scheme sets out the requirements for streets, building lines, building restriction areas and line of no access. No reference is made to restrictions that could relate to environmental issues.	C
3	To what extent do the general conditions applicable to all erven consider environmental issues?	Section 3 that relates to building restrictions and use of land states that all erven are subject to a condition that no building whatsoever may be erected on a property, which will probably be flooded by a public stream on average every hundred years. The scheme only provides a condition that relates to one environmental issue (water resource).	B
4	To what extent are environmental issues incorporated in land use classifications?	The land uses described in Section 3 in the Town Planning Scheme identify public and private open spaces as use zones for recreation. The Town Planning Scheme has, however, failed to define use zones for protected areas (conservation and heritage sites) respectively.	B
5	To what extent are application processes and regulations making reference to environmental issues?	The scheme provides conditions applicable to developments in relation to use zones and no requirements are provided for the incorporation of environmental issues in town planning applications. For instance, the conditions applicable to public garage erven (Clause 17) where filling stations are permitted provide no reference to the possible need for an environmental assessment to be conducted.	C
Overall score			C

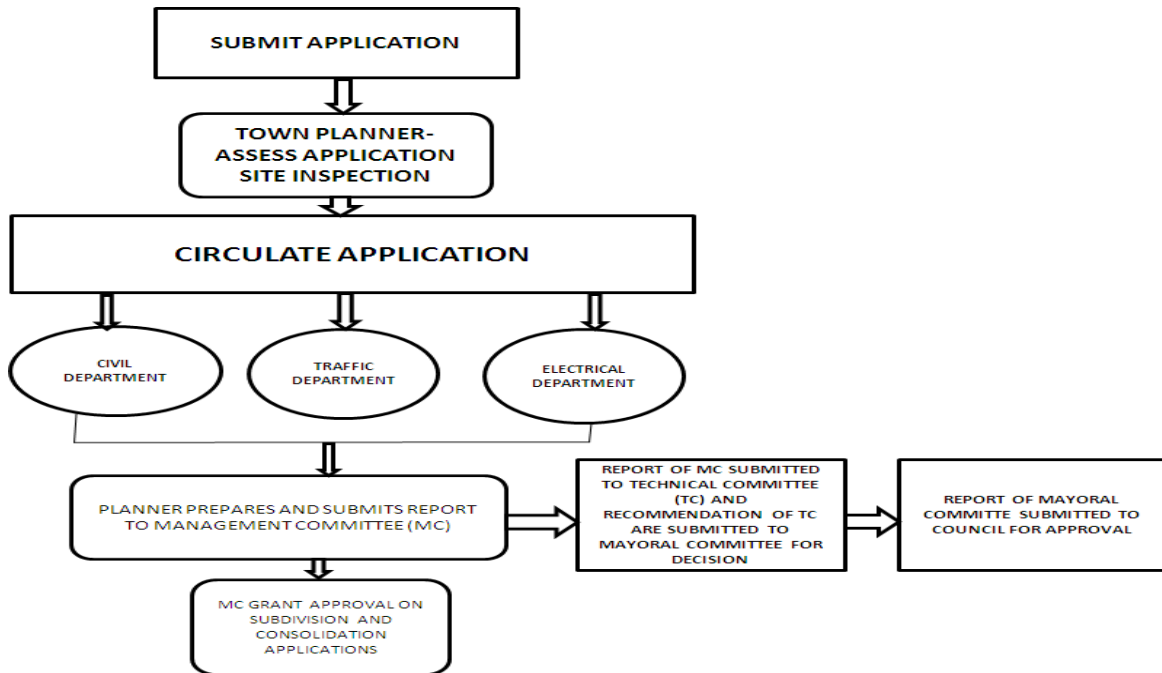
Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

It is clear that the Town Planning Scheme provides limited reference to environmental issues regarding all erven. The overall assessment of the scheme clearly reflects that ULM Town Planning Scheme does not make extensive reference to environmental issues.

4.2.1.3 Planning decision-making process and decisions taken

Planning decisions in the municipality are informed by both the SDF and the Town Planning Scheme, 2002. Figure 4.1 below clearly depicts the process of planning decision making in the municipality. It is illustrated in Figure 4.1 that applications are circulated to various internal departments for comments. The municipality does not have an environmental officer or an environmental management unit to deal with environmental issues. In this case, the town planning section has the responsibility to comment on environmental issues in all developmental applications.

Figure 4.1: ULM Planning Decision-Making Process (own illustration)



The management committee where applications are first discussed consists of all the directors of the municipality and is chaired by the Municipal Manager. It is of interest to note that town planning is represented in this committee for presentation of town planning reports. The municipality has no specific land use committee.

The technical committee is chaired by a member of the Mayoral Committee (MMC) where councillors and the Director Civil and Electrical are present. The town planning section is also represented in this committee for presentation of town planning reports. The Mayoral Committee has no representative from the town planning unit. The town planning section, being the champion of environmental matters in the municipality, has a major responsibility of ensuring the incorporation of environmental issues in decisions taken by both the management and technical committees. Table 4.3 below clearly shows that the lack of knowledge within the town planning unit regarding environmental issues and the environmental legal framework creates a vacuum in the incorporation of environmental issues in the decision-making process.

Table 4.3: Evaluation of the incorporation of environmental issues in the Umjindi LM planning decision-making process

No	Questions	Results	Score
1	To what extent do municipal internal departments make provision for the incorporation of environmental issues?	Figure 4.1 clearly reflects that the municipality has no department dedicated to environmental management and protection.	C
2	What is the level of knowledge of officials in relation to environmental legal requirements?	During interviews with the town planning officials the lack of awareness of environmental legal requirements was obvious from the following statement: "EIA is only required in township establishments".	B
3	To what extent are comments provided on environmental issues?	The municipality only makes comments for EIA processes where it is known that EIA is a requirement, in particular in respect of township establishment applications.	B
Overall score			B

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

It is clear that there is limited awareness of environmental issues during the planning decision-making process in the municipality. The town planning section has, however, insisted that in most township establishment developments requirements for environmental issues have been sanctioned as conditions of approval.

To validate this argument sixteen town planning applications were evaluated to determine whether environmental issues had been considered in this sample of township establishment applications in the municipality. The sample has been limited to 16 as challenges were to be experienced in attainment of information for a larger sample in the Umjindi Local Municipality. Table 4.4 provides the list and description of development applications assessed. The research has only focused on developments, which require consideration of environmental issues. Table 4.5 below provides the overall score on decisions taken by municipality.

Table 4.4: List of evaluated developments with planning decisions in ULM

Number	Description	Extent of Property	Environmental issue triggered
TOWNSHIP ESTABLISHMENTS			
1	Scotston Township Establishment (development area)	230ha	EIA and HIA
2	Barberton Extensions 13 and 14	37.5ha	EIA and HIA
3	Louws Creek Golf Estate	929.6ha	EIA, floodline/water use rights and HIA
4	Farm workers' Township on Dixie Farm	263.3ha	EIA and HIA
5	Esperado Farm workers' Township	8.7ha	EIA and HIA
SEMI-FORMAL TOWNSHIPS			
1	Dingindoda Township	more than 10ha	EIA, floodline and HIA
2	Phola Park Township	more than 20ha	EIA, floodline and HIA
3	Msholozza Township	more than 20ha	EIA, floodline and HIA
REZONING/RIGHT OF USE AND SPECIAL CONSENT			
1	Rezoning of erf 3077 Barberton to high density residential	more than 5000m ²	HIA
2	Rezoning of Portion 2 of Erf 2411	6000m ²	EIA and HIA
3	Land use rights for tourism facilities within a Nature Reserve (Lomshiyi Trust Development)	7ha	EIA and HIA
4	Building of substation within a property zoned residential	Less than 5000m ²	EIA
5	Consent for Barberton air strip	Above 5000m ²	EIA and HIA

PARK CLOSURE			
1	Portion 2 of erf 2411	more than 5000m ²	EIA and HIA
2	Erf 7112 Emjindini Extension 13	Less than 5000m ²	EIA
3	Erf 7115 Emjindini Extension 13	Less than 5000m ²	EIA

Table 4.5: Evaluation of the incorporation of environmental issues in Umjindi LM decisions

Question	Type of application	Results	Score
To what extent are decisions taken incorporate issues regarding environmental processes as required by law?	Township Establishments	Planning decisions in all development applications shown in Table 4.6 and Appendix B have a requirement for environmental impact assessment and the municipality has complied with the NEMA provisions. However, not all planning decisions have made provision for heritage assessments. The planning decisions also make no reference to flood line areas, hence water resource issues are not considered.	B
	Semi-formal township Establishments	Planning decisions ignored the requirements for EIA, heritage as well as biodiversity issues. All planning decisions in this type of development applications ignored the process of identifying sensitive and floodplain areas where development should be restricted.	C
	Rezoning/land use rights/consent	It is evident that planning decisions have ignored the consideration of environmental issues, for example the rezoning of erf 3077 and portion 2 of erf 2411 have a requirement by law for notice of intent to be submitted to the heritage authority, yet no provision is made in this regard in the decision. The building of the substation, the development of the airstrip and the land use rights for tourism facilities within a nature reserve (Lomshiyo Trust Development) by law require EIA processes to be undertaken. However, no EIA requirement was identified in the planning decision of these developments.	C
	Park Closure	Park closure developments require EIA to be undertaken. However, planning decisions in all identified developments in Table 4.6 make no reference to the need for an EIA.	C
Overall score			C

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

Planning decisions on semi-formal township establishment, rezoning or land use rights and park closure applications are identified as mostly not incorporating environmental issues. It is clear from Table 4.5 that planning decisions taken by the municipality do not incorporate environmental issues. Annexure B shows the decisions taken by the municipality.

4.2.2 Bushbuckridge Local Municipality

4.2.2.1 Introduction

The Bushbuckridge Local municipality is located in Bushbuckridge, 89km north of Nelspruit. The municipality covers an area of 2 591km² and is identified as a rural municipality situated within the former homeland. The formulation, review and implementation of land use and environmental policies in the municipality is the responsibility of town planning and the environmental management unit, which fall under the Directorate of Developmental Planning, Economic Development and Environment.

4.2.2.2 Land use instruments available in the municipality

The municipality has a Spatial Development Framework, 2010 and a Land Use Scheme, 2011. The municipality never had a town planning scheme (TPS) before 1994 as it is not identified as a local authority in the regulations of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), which is applicable in the former Transvaal areas. In the year 2005 the municipality adopted its first Integrated Development Plan and Spatial Development Framework in terms of the Municipal Systems Act, 2000. The applicable SDF in the municipality is known as the Bushbuckridge Local Municipality SDF, 2010.

The following sections assess whether environmental issues are considered in the municipality by means of for example the incorporation of requirements and discussions for environmental impact assessment, air quality issues, heritage issues, biodiversity issues, protected areas and water resource issues. The first discussion on the evaluation concentrates on the Spatial Development Framework, 2010 followed by the Land Use Scheme, 2011 and ultimately, the evaluation of the planning decision-making process and planning decisions taken by the local authority.

4.2.2.2.1 Bushbuckridge Municipality SDF, 2010

The SDF of the municipality is structured to include general information, spatial analysis of the current reality, development objectives and spatial concept, as well as implementation strategies and programmes. Table 4.6 below provides findings on the extent to which environmental issues are incorporated in the SDF of the municipality.

Table 4.6: Evaluation of the incorporation of environmental issues in the Bushbuckridge LM, SDF

NO	Questions	Results	Score
1	To what extent are environmental issues incorporated in the situational analyses?	The situational analysis representing the current reality of the municipality lack data on certain environmental issues. Section 3.4 providing environmental features only present data on hydrology, geology, agricultural areas and catchment areas. In Section 3.5 the SDF presents protected or conservation areas, but not explicit on heritage objects or areas. Section 3 has also failed to presents information on climate or air quality. Situation analysis presents the status quo of the municipality and should therefore integrate all environmental issues affecting the municipal area.	B
2	To what extent are environmental issues incorporated in the objectives set out?	<p>Section 4.1.2 incorporates an objective related to environmental management as Objective 1, which reads as follows:</p> <p><i>To protect, enhance and manage the natural environmental resources in the municipality in order to ensure a sustainable balance between human settlement, agriculture and tourism activities in the area.</i></p> <p>Consideration of environmental issues is therefore an objective of the SDF.</p>	A
3	To what extent are environmental issues incorporated in the development priorities and strategies?	The SDF, by incorporating an environmental protection objective, clearly manifests that consideration of environmental protection is a priority. However, the SDF has failed to present an isolated strategy for environmental consideration.	B
4	To what extent are environmental issues	The SDF does not incorporate policies that reflect consideration of environmental	C

	incorporated in land use policies?	issues. The SDF has no policy guidelines for development; it only presents guidelines for land use management, which make no reference to environmental issues.	
5	To what extent do projects identified incorporate projects related to environmental issues?	In Section 5.4 the SDF identifies priority action or projects for implementation. The SDF has identified the development of a municipal environmental management plan as a project. The SDF has further identified the formulation of a development strategy for three protected areas that include Injica Dam, Bushbuckridge Nature Reserve and Andover Nature Reserve. Having not considered heritage issues, the municipality has failed to incorporate projects for the assessment of heritage objects within the municipal area of jurisdiction. The SDF lacks the incorporation of EIA projects.	B
Overall score			B

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

Table 4.6 clearly shows that the SDF of the Bushbuckridge Local Municipality has limited consideration of environmental issues. The findings provided by the evaluation suggest that more work has to be commissioned in the municipality in the quest to ensure sustainable development in policy planning, formulation and implementation.

4.2.2.2 Land Use Scheme of 2011

The legality of the scheme is widely contested by the Provincial Government and town planning consultants in the Mpumalanga Province. The municipality has since adopted the scheme as a By-Law, hence not yet proclaimed, but in force. The scheme is divided into thirteen sections. The table below provides results on the evaluation of the incorporation of environmental issues in the BLM Land Use Scheme, 2011.

Table 4.7: Evaluation of the incorporation of environmental issues in the BLM Land Use Scheme, 2011

No	Questions	Results	Score
1	To what extent is the incorporation of definitions related to environmental issues?	Section 1 of the scheme provides an introduction and clearly states that any person making an application in terms of the scheme is required to specifically comply with the provisions of the National Environmental Management Act, 1998, the Environmental Conservation Act, 1989 and the EIA Regulations, where applicable. By implication EIA requirements are applicable in the application of the scheme. The scheme is, however, not specific regarding compliance with SEMAs, the Heritage Act, and the Water Resource Act. The general provision (Section 2) contains an objective for environmental management and as such indicates the consideration of environmental issues. However, environmental issues in this Section are identified as being considered with limited information. It is clear from Sections 3 and 4 that environmental issues are incorporated, as definitions of EIA and protected areas, are fully presented. Regarding heritage issues a heritage site is defined, yet the HIA or heritage permit is not defined. No atmospheric emission license or air quality assessment is defined. Heavy industrial development requires an atmospheric emission license therefore this should be defined and detailed in policy.	A
2	To what extent are provisions for restrictions related to environmental issues?	Regulation on bulk development in Chapter 7 makes no reference to environmental issues. The general development regulation in Section 9 provides clear regulations on water issues relating to licensing and flood line areas. It is, however, unfortunate that these regulations exclude guidelines for biodiversity, protected areas, EIA and heritage issues.	B

3	To what extent do the general conditions applicable to all erven consider environmental issues?	Section 5 of the Scheme, which deals with conditions applicable to all erven, only makes reference to EIA and cursorily considers biodiversity and protected areas, while ignoring air quality and heritage issues.	B
4	To what extent are environmental issues incorporated in land use classifications?	Section 6 of the scheme identifies a use zone for environmental conservation and open space. It is important for a use zone for protected areas to be incorporated in order to ensure the protection of heritage and biodiversity areas.	B
5	To what extent are application processes and regulations making reference to environmental issues?	Section 11.1.1 clearly states that the municipality may grant consent on application subject to consideration of environmental impacts in the development locality. The procedure of application and application content in both Sections 12 and 13 does not require any comments from SAHRA and environmental affairs on developments. It is noted that no mention is made to include the requirement of a heritage and air quality permit where applicable.	B
Overall score			B

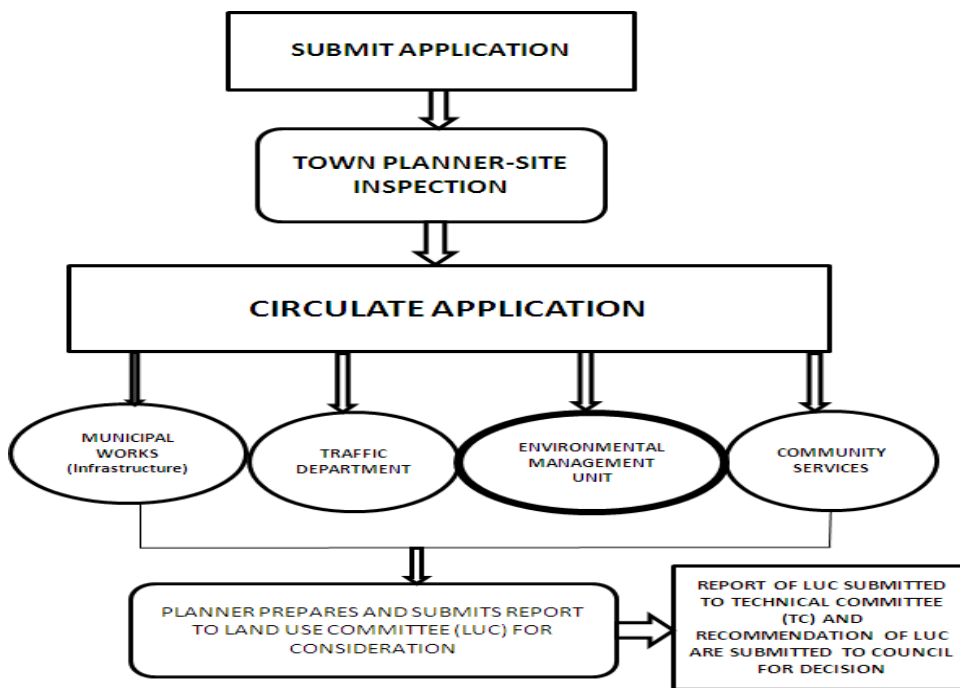
Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

The evaluation of the scheme clearly indicates that the BLM Land Use Scheme does consider environmental issues on a limited scale.

4.2.2.3 Planning decision-making process and decisions taken

The municipal area of jurisdiction is divided into regions and all planning decisions are taken at the head office of the municipality, where the town planning unit is situated. In terms of procedure, members of the public are required to submit a letter of support for the application from the tribal authority or ward councillor, including proof of ownership and a recommendation from the regional manager. Upon receipt of all required documentation the process as depicted in Figure 4.2 below follows.

Figure 4.2: BLM Planning Decision-Making Process (own illustration)



In terms of the planning decision-making process the Town Planner, upon receipt of all comments, prepares and submits a consolidated report on the assessment of the application with recommendations to the Land Use Committee (LUC) of the municipality. The LUC consists of representatives from the Department of Rural Development and Land Reform (DRDLR), the Department of Agriculture, Rural Development and Land Administration (DARDLA), representatives of the municipality (planning, works, traffic, the environmental unit, and community services).

The municipality is fortunate to have a unit (two environmental officers and one manager), which deals with environmental matters. Land development applications are also circulated to the environmental management unit. It has, however, been established that comments normally provided by the unit lack substance as they make no reference to environmental requirements. It has been established that in most cases the environmental unit and municipal works are not represented whenever the land use committee meets. The failure of the environmental unit to be actively involved in the planning process compromises the quest for sustaining environmental resources. The DRDLR and the DARDLA are part of the committee solely to advise on land reform matters and on applications that should be referred to the Province for a decision. Planning decisions recommended by the LUC are then presented to council where the Directorate for Developmental Planning, Economic Development and Environment is represented. Table 4.8 presents the evaluation of the decision-making process.

Table 4.8: Evaluation of the incorporation of environmental issues in the Bushbuckridge LM Planning Decision-Making Process

No	Evaluation Questions for Planning Decision-Making Process	Results	Score
1	To what extent do municipal internal departments make provision for the incorporation of environmental issues?	Figure 4.2 clearly shows that there is a dedicated unit responsible for environmental management in the municipality.	A
2	What is the level of knowledge of officials in relation to environmental legal requirements?	The municipality knows about the existence of environmental requirements, however, activities that require environmental process such as EIA, heritage assessment and air quality assessment are not known.	B
3	To what extent are comments provided on environmental issues?	The comments normally received by the town planning section from the environmental unit on	C

		developments are not substantive as they read “Supported” without any condition that recognises environmental issues.	
Overall score			B

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

It is clear from the table above that the decision-making process at the municipality has shortcomings in the incorporation of environmental issues. Table 4.9 below clearly shows a list of land use change developments approved by the municipality.

Table 4.9: List of evaluated developments with planning decisions for BLM

Number	Description	Extent of Property	Environmental issue triggered
FORMALISATION OF TOWNSHIPS OR LAND TENURE UPGRADING			
1	Shatale A Extension 1 Land Tenure Upgrade	more than 100ha	EIA, floodline, and HIA
2	Shatale B and C Land Tenure Upgrade	more than 100ha	EIA, floodline, and HIA
3	Mkhuhlu A Land Tenure Upgrade	more than 100ha	EIA, floodline, and HIA
4	Mkhuhlu A Land Tenure Upgrade	more than 100ha	EIA, floodline, and HIA
5	Maviljan A Land Tenure Upgrade	more than 100ha	EIA, floodline, and HIA
REZONING/RIGHT OF USE AND SPECIAL CONSENT (FROM AGRICULTURE)			
1	Proposed new New forest Game Lodge	3ha	EIA and HIA
2	Entertainment Resort	2ha	EIA and HIA
3	Maviljan Accommodation Units	more than 5000m ²	HIA
4	Proposed filling station in Clare B	5000m ²	EIA and HIA
5	Cork Thulani Cultural village	6ha	EIA and HIA
6	Justicia-Tourism Development	3ha	HIA

	Facility (Conference Hall, Accommodation and Cultural Dance)		
7	M.P. Stream, Panel Beater Workshop	1ha	EIA and HIA
8	Establishment of Cork Traffic Training College	20ha	EIA and HIA
9	Golf Academy and Hotel	30ha	EIA and HIA
10	Establishment of Clare B Community Graveyard/Cemetery	6ha	EIA and HIA

The above table presents developments in excess of 5000m² where planning decisions were taken by the municipality. Being in a rural setting, the municipality has initiated a number of land tenure upgrading or settlement formalisation projects. Annexure C attached to this study provides the actual planning decisions taken by the Bushbuckridge Local Municipality in relation to the above-listed development applications. Table 4.10 below provides the evaluation of decisions taken.

Table 4.10: Evaluation of the incorporation of environmental issues in BLM decisions

Question	Type of application	Results	Score
To what extent are decisions taken incorporate issues regarding environmental processes as required by law?	Formalisation/Land tenure upgrading	All planning decisions taken on applications for land tenure upgrading as presented in Table 4.9 and Appendix C make no reference to environmental issues. The council of Bushbuckridge LM approves applications without a condition for compliance with the environmental legal framework.	C
	Rezoning/land use rights/consent	Appendix C clearly shows that no environmental issues	C

		are considered in planning decisions for land use rights. All the applications considered have requirements regarding environmental issues that include EIA and heritage assessment. The municipality has failed to ensure compliance with requirements regarding environmental issues.	
Overall score			C

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

It is clear from the above table that no environmental issues are considered in planning decisions by the BLM. The legal framework related to environmental issues provides a threshold on extents for which environmental consideration is required. The extent of properties affected by developments as clearly shown in Table 4.9, warrants consideration of environmental issues. The study reveals that even though the municipality has a clear planning decision process, when developments are approved, however, they are considered as a single item on the council agenda, ignoring reports prepared through the decision-making process. From the study it is concluded that implementation of environmental and land use policies in the municipality remains a challenge.

4.2.3 Mbombela Local Municipality (MLM)

4.2.3.1 Introduction

The municipality is located inland, 320km east of the Metropolitan areas of Pretoria and Johannesburg, with the border post at Komatipoort approximately 120km to the east and the Mozambican coastline being approximately 200km away and is 55km from the famous Kruger National Park (MLM IDP, 2010/2011). The municipality is the capital city of Mpumalanga. The formulation, review and implementation of land use and environmental policies in the municipality are the responsibility of the town planning unit, which falls under the Directorate of Urban and Rural Management.

4.2.3.2 Land use instruments available in the municipality

The municipality has a Spatial Development Framework, 2006 and three Town Planning Schemes (TPS) known as Nelspruit TPS, 1989, Hazyview Peri-Urban TPS, 1975 and White River TPS, 1980. The Nelspruit Town Planning Scheme, 1985 was amended in 1993. The Town Planning Schemes were adopted and proclaimed in terms of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986). In 2006 the municipality adopted its first Integrated Development Plan with the Spatial Development Framework in terms of the Municipal Systems Act, 2000.

The municipality is currently formulating a new SDF to replace the current applicable SDF, 2006. The availability of planning instruments in the municipality is evidence of compliance with legislation related to local government planning.

The following sections assess whether environmental issues are considered in the Mbombela Local Municipality's plans, by means of examples including requirements and discussions relating to environmental impact assessment, air quality issues, heritage issues, biodiversity issues, protected areas and water resource issues. The extent to which environmental issues are considered in the Spatial Development Framework 2006, Nelspruit TPS, 1989, Hazyview Peri-Urban TPS, 1975 and White River TPS, 1985, planning decision-making process and planning decisions is evaluated.

4.2.3.2.1 Mbombela Local Municipality SDF 2006

The SDF of the municipality guides and informs decisions taken by the municipality in planning and development matters. The SDF has identified a number of development principles, which include sustainability, equity, efficiency, integration, as well as fair and good governance. The SDF explains sustainability in Section 2.1 as the management and use of resources, making up the natural and built environment and includes norms, which incorporate environmental protection. Table 4.11 below presents the evaluation of the incorporation of environmental issues in the Mbombela LM, Spatial Development Framework.

Table 4.11: Evaluation of the incorporation of environmental issues in the MLM, SDF

No	Questions	Results	Score
1	To what extent are environmental issues incorporated in the situational analyses?	The status quo analysis of the SDF explicitly incorporates environmental issues. Section 5.3.1.1 of the SDF, which presents environmental aspects fully, incorporates a list of protected areas in Table 2, which includes conservation areas and heritage sites. In Section 5.3.1.1.1 the SDF further explicitly identifies the river systems that affect the municipal area. In Section 5.3.2.3 the SDF states that industrial developments contribute to air and water pollution. The SDF has therefore fully incorporated environmental issues in the status quo analysis.	A
2	To what extent are environmental issues incorporated in the objectives set out?	<p>The study reveals that the objective of environmental protection and management is incorporated in and linked to each development principle. Section 5.2 of the SDF provides environmental development objectives, which include the following:</p> <ul style="list-style-type: none"> • Protection of natural, environmental and cultural resources, disaster management (sustainability principle), • Accessibility to environment for all (equity principle), • Creation of effective buffers, optimal use of existing natural resources (efficiency principle), • Optimal utilisation and conservation of existing national and regional natural resources (effectiveness principle), • Enhancement of regional accessibility to areas with tourism potential 	A

		<p>(effectiveness principle), and</p> <ul style="list-style-type: none"> • Protection of the natural environment for the benefit of future generations (fair and good governance principle). <p>The incorporation of these objectives for environmental protection is meant to ensure the realisation of the constitutional mandate for environmental protection.</p>	
3	To what extent are environmental issues incorporated in the development priorities and strategies?	<p>Section 4.5 identifies environmental sustainability as a spatial priority for the SDF. The strategies proposed in the SDF incorporate environmental issues. The strategies in the strategic environmental assessment are explicit on the requirement for environmental impact assessment (EIA) in all developments undertaken. Section 5.3.1.3.1 clearly states that environmental impact assessments may be required for development activities that are likely to change land use activities. This therefore upholds provisions enshrined in environmental law. Section 5.3.3 provides a strategy for environmental conservation and it includes:</p> <ul style="list-style-type: none"> • Restricting development in biological sensitive areas; • Controlling growth in such a manner that environmental areas should be conserved; • Providing development edges to protect areas from urban creep; • A structured green web; and • The conservation and productive utilisation of high quality agricultural land. 	B

		The strategies are, however, not explicit on other requirements for environmental issues such as heritage and water resources.	
4	To what extent are environmental issues incorporated in land use policies?	The study concludes that the SDF lacks policies providing guidelines for land development. The policy for development incentives incorporated in the SDF makes no reference to environmental issues. The main purpose of the policy as clearly presented in Section 8.1 is to refine the existing incentive programme in accordance with economic principles, and to differentiate the incentives geographically based on local economic dynamics and realities prevailing in each of the respective precincts.	C
5	To what extent do projects identified incorporate projects related to environmental issues?	The projects incorporated in the SDF make no reference to projects specifically in respect of environmental issues.	C
Overall score			B

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

Table 4.11 clearly shows that the SDF of Mbombela LM has limited information on the incorporation of environmental issues. The findings therefore mean that the SDF of the municipality has to be improved to fully incorporate environmental issues.

4.2.3.2.2 Mbombela Municipality Town Planning Schemes

The current three applicable town planning schemes of the municipality are outdated and are in need of update. The municipality is currently developing a land use management scheme, which aims to repeal all existing town planning schemes. These town planning schemes are structured into five parts, which include general, streets, building lines, building restriction areas and line of no access, building restrictions and use of land, general amenity and convenience and miscellaneous. The analysis is done by means of questions on the content of the Town Planning Scheme. Table 4.12 provides a summary of the results.

Table 4.12: Evaluation of the incorporation of environmental issues in the Mbombela Town Planning Schemes

No	Questions	Results	Score
1	To what extent is the incorporation of definitions related to environmental issues?	Definition incorporated in the three Town Planning Schemes make no provision for environmental issues with regard to environmental requirements such as EIA, HIA, flood line, biodiversity and air quality assessment. The schemes do not provide any alignment to the environmental legal framework.	C
2	To what extent are provisions for restrictions related to environmental issues?	Clause 5 of the Hazyview Peri-urban TPS and Part 2 of White River and Nelspruit Town Planning Schemes have no restrictions that relate to environmental issues. The only restrictions that are provided only incorporate building line restrictions on roads. It is necessary for planning tools to incorporate building line restrictions close to water bodies.	C
3	To what extent do the general conditions applicable to all erven consider environmental issues?	Clause 6 of the Hazyview Peri-urban TPS does not provide consideration of environmental issues in conditions applicable to all erven. Clause 11(1) of the Nelspruit TPS and Clause 12 (1) of the White River TPS make provision that no person on any property may sink any wells or boreholes thereon or abstract any subterranean water therefrom without obtaining the necessary consent. Clause 11 (3) of the Nelspruit TPS states that all erven are subject to a condition that no building whatsoever may be erected on a property, which will probably be flooded by a public stream on average every hundred years. However, the White River and Hazyview Schemes have no provision for flood lines. The Town Planning Schemes only provide a condition that relates to one environmental issue (water resource).	B
4	To what extent are environmental issues incorporated in land use	The land uses in the town planning schemes do identify public and private open spaces as use zones for recreation. Clause 4 of the Hazyview Peri-urban TPS on	B

	classifications?	the reservation of land (Table B) provides hatching colours for public and private open space. Table D in Clause 11 of the White River TPS and Clause 5(3) Table A provide zonings for public and private open spaces. These Town Planning Schemes have, however, failed to define use zones for protected areas respectively. It is important for conservation areas to be designated to ensure the sustainability of natural resources and to allow conditions specifically designed for protected areas to be imposed.	
5	To what extent are application processes and regulations making reference to environmental issues?	The schemes provide conditions applicable to developments in relation to use zones and no requirements for the incorporation of environmental issues in applications are required. For instance, the conditions applicable to public garage erven (Clause 15 in the Nelspruit TPS and Clause 16 in the White River TPS) where filling stations are permitted provide no requirement for environmental assessment.	C
Overall score			C

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

The three Town Planning Schemes applicable in the municipality as tools that guide the regulation of land use have failed to fully incorporate environmental issues. The overall assessment of the schemes clearly reflects that the applicable Town Planning Schemes make no reference to the incorporation of environmental issues.

4.2.3.4 Planning decision-making process and decisions taken

Planning decisions in the municipality are informed by both the SDF and the applicable Town Planning Schemes. Figure 4.3 below clearly depicts a process of planning decision making in the municipality. It is clearly shown in Figure 4.3 that applications are circulated to various internal departments for comments. The municipality is identified as having an environmental officer and environmental management unit to deal with environmental issues.

Figure 4.3: The MLM Planning Decision-Making Process

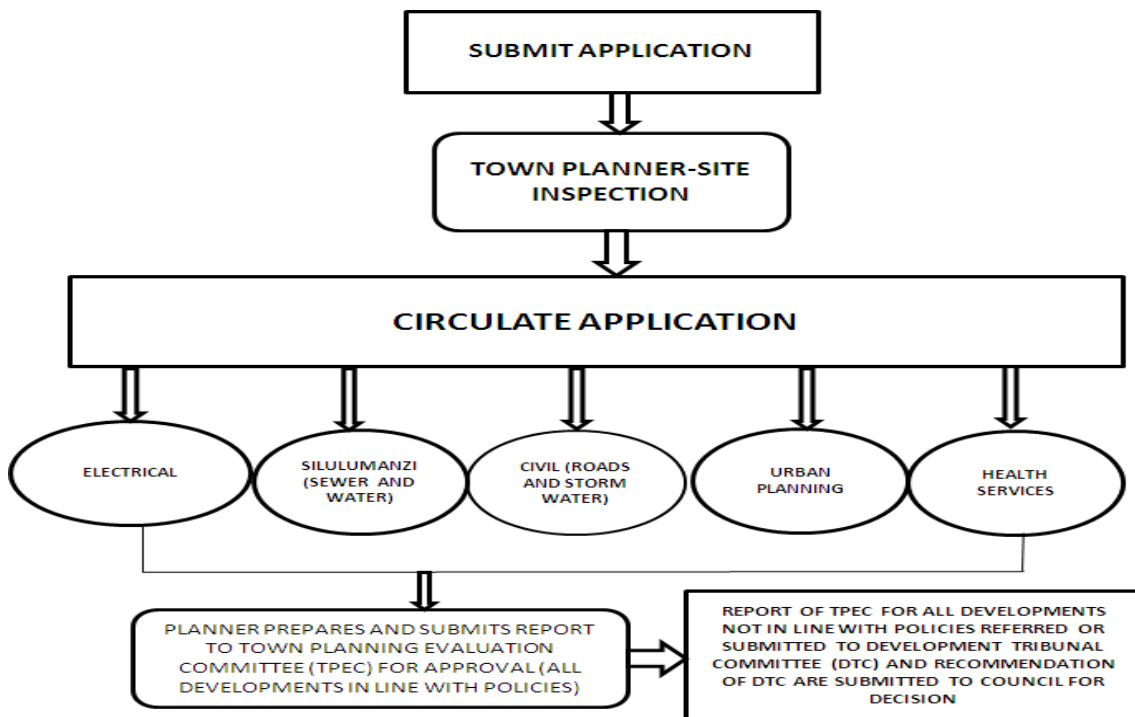


Figure 4.3 clearly shows that development applications are not circulated to the environmental management unit for comments. The town planner, upon receipt of comments from various internal departments on development applications, prepares a report for submission to Town Planning Evaluation Committee (TPEC). This committee is represented by urban planning and civil engineering. The committee only approves applications in line

with the SDF and the Town Planning Schemes. All applications not in line with both the SDF and the TPSs are referred to the Development Tribunal Committee, which therefore makes recommendations to council. In all these committees the environmental management unit is not represented. Urban planning is therefore responsible for providing environment-related comments on developments assessed. Table 4.13 provides results on the evaluation of planning decision-making process.

Table 4.13: Evaluation of the incorporation of environmental issues in the MLM planning decision-making process

No	Questions	Results	Score
1	To what extent do municipal internal departments make provision for the incorporation of environmental issues?	The municipality has a dedicated unit responsible for environmental management and the unit is not involved in the decision making process for developments.	C
2	What is the level of knowledge of officials in relation to environmental legal requirements?	During interviews with the town planning official the lack of awareness of environmental legal requirements was obvious from the following statement: <i>“Please make a copy of the National Heritage Resource Act available to me”</i> . The official is only aware that EIAs are required for township establishment.	B
3	To what extent are comments provided on environmental issues?	The environmental management unit in the municipality does not comment on development applications. However, the limited comments on environmental issues are substantive (EIA and water resource requirements).	B
Overall score			B

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

The lack of integration of environmental issues is a consequence of limited knowledge and understanding of legal requirements for environmental issues. Table 4.13 clearly shows that urban planning, being responsible for the evaluation of developments, has limited knowledge on environmental legal requirements. The study has revealed that town planning, being responsible for providing environmental related comments on developments, only focuses on requirements for EIA, mostly in township establishment applications. It is important for planning decisions to be explicit on all issues related to the environmental system. Table 4.14 below provides the list of development applications approved by the Mbombela Local Municipality in which decisions are evaluated.

Table 4.14: List of evaluated developments with planning decisions for the MLM

Number	Description	Extent of Property	Environmental issue triggered
TOWNSHIP ESTABLISHMENT			
1	Proposed Nelspruit Extension 57	10ha	EIA, floodline and HIA
2	Proposed Hazyview Extension 42	203.6ha	EIA, floodline and HIA
3	Proposed Riverside Park Extension 24	81.26ha	EIA, floodline and HIA
4	Proposed Prudential Estate Proper	6.63ha	EIA, floodline and HIA
5	Proposed Prudential Estate Extension 1	2.28ha	EIA, floodline and HIA
FORMALISATION OF TOWNSHIP			
1	Mataffin Formalisation	305.6ha	EIA and HIA
2	Makoko Formalisation	121.9ha	EIA and HIA
REZONING/RIGHT OF USE AND SPECIAL CONSENT			
1	Rezoning of erf 3369 Nelspruit Extension 29	1.1ha	HIA
2	Rezoning of Remainder of erf 3411 Nelspruit Extension 29	2.2ha	HIA
3	Rezoning of Remainder of erf 3, Riverside Mall	5.1ha	HIA
4	Rezoning of Portion 3, Portion 4 and Portion 5 of erf 3411 Nelspruit Extension 29	3.3ha	HIA
5	Rezoning of erf 49 Mataffin Township	4.9ha	HIA

It is evident from the above table that most of the developments evaluated are in excess of 5000m² in extent. It is the requirement of the National Heritage Resource Act that SAHRA has to be notified on development undertaken on properties measuring 5000m² or larger. Annexure D attached to this study provides the actual planning decisions taken by the Mbombela Local Municipality in relation to the above-listed development applications. Table 4.15 below provides the evaluation of planning decisions taken by the MLM in relation to the incorporation of environmental issues.

Table 4.15: Evaluation of the incorporation of environmental issues in the MLM decisions

Question	Type of application	Results	Score
<p>To what extent are decisions taken incorporate issues in respect of environmental processes as required by law?</p>	<p>Formalisation/Land tenure upgrading</p>	<p>Planning decision for the Mataffin formalisation supported the development on condition that:</p> <ul style="list-style-type: none"> • Environmental Impact Assessment, in terms of the Environment Conservation Act, 1989, be obtained from the Department of Agriculture and Land Administration; • Mbombela must address the additional raw water abstraction and transfer all existing and available Mataffin Precinct Water Rights to primary water; • Development must be in accordance with the findings of the geo-technical survey and must adhere to the conditions of the Record of Decision of the Department of Agriculture and Land Administration <p>The planning decision on the Makoko formalisation supported the application on condition that:</p> <ul style="list-style-type: none"> • The 1:100 year flood line has to be indicated and no development below the flood line will be permitted; • The applicant must comply with any legal requirements as far as water rights and the National Water Act, 1998, are concerned, before proclamation of the township. <p>The two planning decisions have no consistency: the first decision makes reference to EIA, while the other excludes EIA and includes</p>	<p>B</p>

		a requirement for flood line calculation. No condition for heritage assessment has been endorsed in either decision.	
	Township Establishment	<p>The planning decision on Hazyview Extension 42 approved the development on condition that:</p> <ul style="list-style-type: none"> • Authorisation in terms of the Environmental Conservation Act 1989, be obtained from the Department of Agriculture and Land Administration. • The applicant is required to submit a thorough hydrologic analysis of surface water run-off based on parameters applicable to a developed township, wherein the impact of intensified surface water flow on the natural water courses and any existing structures therein, within the proposed development as well as downstream of the proposed development, is investigated and quantified and mitigating measures for the prevention of damage are prescribed. The Record of Decision to be issued on the EIA should take cognisance of this hydrologic analysis; • The Developer must incorporate all conditions stipulated in the Record of Decision issued with regard to an environmental impact assessment done for the proposed development, into the design and standard of services to be provided. A copy of the Record of Decision must be submitted to Mbombela Local Municipality before the submission of the services drawings and if an environmental impact assessment is not required for this 	B

		<p>development then proof of exemption must be submitted to Mbombela Local Municipality;</p> <ul style="list-style-type: none"> • 1:100 year flood lines will be determined and certified by a suitably qualified professional engineer and such flood lines will be indicated on the township layout and all infrastructure layout drawings to be submitted to Mbombela Local Municipality for approval; • The applicant will be responsible to obtain any authorisations and water use licences that may be required to implement the mitigating measures prescribed by the hydrological analysis. <p>All planning decisions for the five assessed developments incorporate the condition for environmental assessment. Planning decisions taken do not incorporate heritage issues and not all decisions have a condition for flood line and hydrological assessment.</p>	
	Rezoning/land use rights/consent	The planning decisions in all assessed rezoning developments are based on land use rights restrictions and no reference is made to heritage issues, yet all have a heritage requirement. No mention whatsoever is made of environmental protection. The decisions only provide requirements and contributions for laying infrastructure service networks.	C
Overall score			B

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

It is evident from Table 4.15 that planning decisions in the MLM contain some considerations in respect of environmental issues. The requirement for EIA has been explicitly stated in the reports of the Town Planning Evaluation Committee or approval letters evaluated for township establishments. Rezoning applications approved make no reference to environmental issues. This information is attested to in Annexure D.

4.3 Comparison of the results from the case studies

In order to draw a conclusion regarding the extent to which environmental issues are incorporated in the different levels of land use and planning instruments for the case studies, the overall results are summarised and compared in Table 4.16 to 4.20. The cross case analysis and comparison of the case studies will determine the key areas of strength and weakness within the different land use and planning tools as well as the decision-making process and decision-making. The results from the analysis will inform the recommendations of measures to improve the incorporation of environmental issues.

Table 4.16: Cross case analysis of SDFs

KPIs	Line of enquiry	Umjindi LM (refer to Tables 4.1 – 4.5)	Bushbuckridge LM (refer to Tables 4.6 - 4.10)	Mbombela LM (refer to Tables 4.11 - 4.15)	Overall Score
1	To what extent are environmental issues incorporated in the situational analyses?	B	B	A	B
2	To what extent are environmental issues incorporated in the objectives set out?	A	A	A	A
3	To what extent are environmental issues incorporated in the development priorities and strategies?	B	B	B	B

4	To what extent are environmental issues incorporated in land use policies?	A	C	C	C
5	To what extent do projects identified incorporate projects related to environmental issues?	A	B	C	B
OVERALL SCORE		B	B	B	B

The table indicates the areas of strength and weakness within the SDFs of the three municipalities. It is evident that not all objectives set out in the SDFs of all three municipalities referred to environmental management or protection and for two of the three municipalities projects related to environmental issues were identified. Key performance indicators (KPIs) 2 and 5 therefore represent areas of strength within the selected municipalities' SDFs. The situation analysis and development priorities in most cases only integrated environmental issues to a limited extent and therefore these parts of the SDF should be improved. The land use classifications did not integrate environmental issues and is therefore the main area of concern. Measures to improve the integration of environmental issues should therefore focus on the land use classifications of SDFs.

Table 4.17: Cross case analysis of Town Planning Schemes

KPIs	Line of enquiry	Umjindi LM (refer to Tables 4.1 – 4.5)	Bushbuckridge LM (refer to Tables 4.6 - 4.10)	Mbombela LM (refer to Tables 4.11 - 4.15)	Overall Score
1	To what extent is the incorporation of definitions related to environmental issues?	C	A	C	C
2	To what extent are provisions for restrictions related to environmental issues?	C	B	C	C
3	To what extent do the general conditions	B	B	B	B

	applicable to all erven consider environmental issues?				
4	To what extent are environmental issues incorporated in land use classifications?	B	B	B	B
5	To what extent are application processes and regulations making reference to environmental issues?	C	B	C	C
OVERALL SCORE		C	B	C	C

Table 4.17 clearly presents that environmental definitions are not incorporated in the schemes of two case studies. It is evident that two case studies have also failed to incorporate restrictions related to environmental issues. The schemes of the three municipalities have considered environmental issues in conditions applicable to all erven to a limited extent. This therefore creates difficulties in decision making. Land use classification lack full incorporation of land uses related to environmental issues. Application processes and regulations incorporated in schemes guides both applicant and competent authorities (local municipalities). It is clear from KPI 1 to 5 that there is a need for improvement in application processes and regulations. The overall poor scores for the five KPIs clearly indicate that there is a need to improve the incorporation of environmental issues in land use schemes.

Table 4.18: Cross case analysis of planning decision-making process

KPIs	Line of enquiry	Umjindi LM (refer to Tables 4.1 – 4.5)	Bushbuckridge LM (refer to Tables 4.6 - 4.10)	Mbombela LM (refer to Tables 4.11 - 4.15)	Overall Score
1	To what extent do municipal internal departments make provision for the incorporation of environmental issues?	C	A	C	C
2	What is the level of knowledge of officials in relation to environmental legal requirements?	B	B	B	B
3	To what extent are comments provided on environmental issues?	B	C	B	B
OVERALL SCORE		B	B	B	B

It is clear from the above table that there is no full incorporation of environmental issues in municipal departments or units by having designated officers that deal with environmental issues. Capacity building on legal requirements for environmental issues is required for all case studies, since the results for KPI 2 presents that all case studies has limited knowledge on legal requirements related to environmental issues. It is clear from KPI 3 that comments provided on development applications on environmental issues have limited relevancy.

Table 4.19: Cross case analysis of planning decisions

KPIs	Line of enquiry	Type of application	Umjindi LM (refer to Tables 4.1 – 4.5)	Bushbuckridge LM (refer to Tables 4.6 - 4.10)	Mbombela LM (refer to Tables 4.11 - 4.15)	Overall Score
1	To what extent are decisions taken incorporate issues regarding environmental processes as required by law?	Township Establishments	B	-	B	B
		Semi-formal township Establishments	C	C	B	C
		Rezoning/land use rights/consent	C	C	C	C
		Park Closure	C	-	-	C
OVERALL SCORE			C	C	B	C

It is clear from Table 4.19 that planning decisions taken on township establishment has limited incorporation of environmental issues. The results present that there is a need to capacitate municipal officials on legal requirements for environmental issues in order to improve planning decisions taken on the establishment of Semi-formal Township, rezoning and park closure.

Table 4.20: Comparison of the overall results from the case studies

Evaluation Themes	Umjindi LM (refer to Tables 4.1 – 4.5)	Bushbuckridge LM (refer to Tables 4.6 - 4.10)	Mbombela LM (refer to Tables 4.11 - 4.15)	Overall Score
SDFs	B	B	B	B
Town Planning Schemes	C	B	C	C
Planning decision-making process	B	B	B	B
Planning decisions	C	C	B	C

Scoring criteria: A = Fully incorporated; B = Limited incorporation; C = No incorporation.

It is clear from table 4.20 that the SDFs incorporate environmental issues to a limited extent. The limited integration of environmental issues in SDF compromises the attempt of achieving sustainable development through protection of natural resources. Town planning schemes are found not incorporating environmental issues. This consequently results in a lack of guidance during decision-making processes, which ultimately results in environmental issues not being considered in planning decision making as evident from Table 4:20. The major effects of limited incorporation of environmental issues in land use and planning instruments includes non-compliance to environmental legal requirements, degradation of protected, sensitive and heritage areas including failure to strive towards sustainable development during policy implementation.

4.4 Improving the incorporation of environmental issues

It is evident that the adoption of measures aimed at improving planning tools and knowledge is a good start towards improving the incorporation of environmental issues in decision making. The following measures are proposed as a result of the data analysis and interviews. The recommendations are presented in two groups responding to the two main problems revealed by the data analysis, namely (a) no explicit reference to environmental issues in land use and planning tools and (b) lack of knowledge and capacity. These recommendations are also derived from existing knowledge and understanding or from the literature (refer to Chapter 3).

4.4.1 Recommendations responding to: no explicit reference to environmental issues in land use and planning tools

- **Alignment of land use planning tools with environmental legal requirements and tools by:**
 - Incorporation of general inclusion of environmental requirements in each regulation presented in town planning schemes or land use schemes for all developments; and
 - Incorporation of the environmental requirements in each land use policy guideline proposed and presented in SDFs.
 - Developing and applying environmental management frameworks (EMFs) as an environmental tool to inform planning at local municipalities.

The legal framework that exists in South Africa is specific on development thresholds that require the consideration of environmental issues. Section 24(1) of NEMA states

that in order to give effect to the general objectives of integrated environmental management, the potential consequences for or impacts on the environment of listed activities or specified activities must be considered, investigated, assessed and reported on to the competent authority. It is therefore important that the provisions of regulations that relate to environmental assessment, heritage assessment, air quality assessment and atmospheric emissions including requirements for water licenses be explicitly described in land use and planning policy.

- **Development of checklists that incorporate all environmental issues to inform decision making**

Checklist guidelines that incorporate environmental issues with other requirements for development approval have to be adopted in policy. The checklists may allow town planners to ensure that conditions for land development have incorporated all environmental issues.

- **Communication and/or co-operative governance between the planning and environmental departments.**

Improved communication and co-operation between planning and environmental departments or units in municipalities may improve flow of information regarding environmental issues. The integration of inputs from environmental departments in planning policies would ensure incorporation of environmental issues in land use and planning tools. Co-operative governance is therefore imperative not only in horizontal and vertical spheres of government but rather within departments of either horizontal or vertical spheres of government.

4.4.2 Recommendations responding to: lack of knowledge and capacity

- **Appointment of environmental officers, where not available**

Dedicated environmental officers to be responsible for ensuring compliance with environmental issues are required. This will allow proposed developments to be assessed against environmental requirements to ensure compliance.

- **Training and capacity building of municipal officials responsible for planning decisions on the legal requirements of environmental issues in developments**

According to Rossouw and Wiseman (2004: 138) the City of Cape Town employed capacity building to identify and prioritise environmental issues during IDP processes and resulted in the key areas of litter and illegal dumping, air pollution, the coast, biodiversity, quality open spaces and noise pollution being identified. Personnel responsible for planning decisions need to be trained on a continual basis on environmental issues and legislative requirements. This will guarantee alignment with and continual review of land use planning instruments to incorporate environmental issues and will improve decision making on developments.

- **Development of strategies for policy implementation**

Land use policies (SDF) provide policy guidelines for land use management without strategies for implementation (refer to table 4.1, 4.6 and 4.11). It is important that dedicated strategies for policy implementation be adopted to promote awareness of existing policy within the respective local authority.

4.5 Conclusion

Three municipalities within the Ehlanzeni District Municipality were selected and their land use and planning instruments analysed to determine the extent to which environmental issues are incorporated. The analysis was undertaken by making use of KPIs and scoring criteria clearly presented in Table 2.5. The results obtained from each case study were compared to the results from the other case studies in order to determine the key areas of strength and weakness within the selected case studies. The result indicated that:

1 – No explicit reference to environmental issues in land use and planning tools

The research mostly identified areas of weaknesses within land use and planning instruments where environmental issues are incorporated to a limited extent or not at all. The only area identified where environmental issues were incorporated was in the objectives and projects identified as part of the SDFs for the selected municipalities. The main areas of concern or weakness included the following:

- The land use classifications in the SDFs
- Provisions for restrictions in the Town Planning Schemes
- Application processes and regulations in the Town Planning Schemes

The lack of incorporation of environmental issues in planning tools makes it improbable for environmental issues to be considered in planning decision making. The incorporation of environmental issues has to be promoted for the protection of natural resources. The achievement of sustainable development is dependent on the integration of social, economic and environmental factors of life.

2 – Lack of knowledge and capacity

It is clear from the research that there is a general lack of knowledge on the relevancy and legal requirements related to environmental issues. The following weaknesses were identified:

- Municipal internal departments or units are not capacitated to deal with environmental issues.
- The majority of planning decisions do not incorporate environmental issues.

The lack of knowledge on environmental legal requirements amongst officials responsible for planning decision presents a challenge in ensuring compliance to environmental legal framework. It is evident in the study that need exists for environmental officers to be appointed in local authorities to be actively involved in planning decision-making. The planning decision making process has to be improved to ensure that all sectors within local authorities play a crucial role in decision making. The results obtained from the analysis of the data and the interviews were used to recommend a number of measures to improve the incorporation of environmental issues in line with the two main problems of the conclusion. The following recommendations were made:

- **Alignment of land use planning tools with environmental legal requirements and tools by (a)** Incorporation of general inclusion of environmental requirements in each regulation presented in town planning schemes or land use schemes for all developments; and **(b)** Incorporation of the environmental requirements in each land use policy guideline proposed and presented in SDFs and **(c)** Developing and applying environmental management frameworks (EMFs) as an environmental tool to inform planning at local municipalities.

- **Development of checklists that incorporate all environmental issues to inform decision making**
- **Appointment of environmental officers, where not available**
- **Training and capacity building of municipal officials responsible for planning decisions on the legal requirements of environmental issues in developments**
- **Development of strategies for policy implementation**
- **Communication and/or co-operative governance between the planning and environmental departments.**

CHAPTER 5

RECOMMENDATIONS AND CONCLUSIONS

5.1 Introduction

This chapter provides final conclusions drawn and recommendations made in respect of the main aim of the research introduced in Chapter 1, namely:

To critically analyse whether environmental issues are incorporated into land use and planning instruments within selected municipalities of Ehlanzeni District.

The chapter will demonstrate that the main aim of the research has been realised and research sub-questions have been answered. The chapter provides a summary of the results (Section 5.2) in relation to each research sub-question. The summary of results presents an outline of the findings. Section 5.3 presents the overall conclusions, after which the chapter concludes by presenting recommended areas for further research (Section 5.4).

5.2 Summary of results

The aim of the research resulted in the formulation of research sub-questions presented in Chapter 1. The realisation of the main aim of the research is subject to the answering of the research sub-questions. Table 5.1 presents the summary of the results with regard to the research sub-questions.

Table 5.1: Summary of results with regards to research sub-questions

Research Sub-Question 1: What is the legal mandate for incorporating environmental issues in land use and planning instruments?

The study has presented the Constitution as the supreme law, which governs the legal mandate for land use and environmental management (refer to Figure 3.1). Section 24 of the Constitution clearly states that *“everyone has the right (a) to an environment that is not harmful to their health or well-being and (b) to have the environment protected, for the benefit of present and future generations through reasonable legislative and other measurements that:*

(i) Prevent pollution and ecological degradation;

- (ii) *Promote conservation; and*
(iii) *Secure ecologically sustainable development and use of natural resources promoting justifiable economic and social development”.*

According to Rossouw and Wiseman (2004:132) environmental rights and environmental justice became the newly accepted values in the environmental policy arena following the adoption of the Constitution. The legal mandate that exists for land use (Municipal Systems Act, DFA, Physical Planning Act, Town Planning and Townships Ordinance, Spatial Planning and Land Use Management Bill) and environmental management (NEMA, NHRA, NWA, NEMPA, NEMAQA and NEMBA) provides principles and a framework for sustainable development. NEMA is considered as a landmark piece of legislation, championing sustainability, and led to the adoption of other environmental resource management legislation known as SEMAs (Todes, *et al*, 2009). These sets of legislation make provision for environmental issues to be considered in development processes and decision making. It is therefore concluded that it is a legal and policy requirement for environmental issues to be incorporated in land use and planning instruments and ultimately decision making. Local government has been found to be responsible for land use management.

Research Sub-Question 2: What are the debates relating to the incorporation of environmental issues in land use and planning instruments?

The debates relating to the incorporation of environmental issues have clearly shown that the incorporation of environmental issues in planning contributes to sustainable development. The themes explored include the definition of sustainable development and land use management, the land use planning system in South Africa, the role of land use planning in environmental protection and the role of land use and planning instruments in environmental protection.

It became evident that land use planning of new development growth is not strongly environmental in orientation and thereby fails to reduce the environmental footprint or environmental impacts associated with development. For land use planning to be recognised as contributing to sustainable development, it has to integrate biodiversity, air quality, and other environmental concerns in planning, policies, decisions and practices. Three land use planning instruments, which include the IDP and the SDF and land use management schemes or town planning schemes, were identified as key to responding to environmental issues. These are the plans that need to be incorporated in policy

processes for the requirements of environmental issues in developments. The plans, being the tools that inform planning decisions, have, by implication, the ability to incorporate the three indicators (social, economic and environmental) of sustainable development in planning, decision and implementation

Research Sub-Question 3: To what extent are environmental issues considered in land use and planning instruments?

The evaluation of the three case studies in relation to the SDF and the town planning schemes has clearly highlighted the extent to which environmental issues are considered in land use and planning instruments.

The research mostly identified areas of weaknesses within land use and planning instruments where environmental issues are incorporated to a limited extent or not at all. The only areas identified where environmental issues were incorporated was in the objectives and projects identified as part of the SDFs for the selected municipalities. The main areas of concern or weakness included the following:

- The land use classifications in the SDFs
- Provisions for restrictions in the Town Planning Schemes
- Application processes and regulations in the Town Planning Schemes

The lack of incorporation of environmental issues in planning tools makes it improbable for environmental issues to be considered in planning decision making. The incorporation of environmental issues has to be promoted for the protection of natural resources. The achievement of sustainable development is dependent on the integration of social, economic and environmental factors of life.

The comparison of the results indicated the need for awareness by local authorities of the importance of the incorporation of environmental issues in planning tools. The land use or town planning schemes, being silent on environmental issues, compromise the quest for ensuring environmental justice and the achievement of sustainable development as environmental considerations are consequently not incorporated in the decision making process.

Research Sub-Question 4: To what extent is land use planning decisions by municipalities considering compliance with environmental requirements?

Case studies have presented different approaches and planning decision-making processes. It is clear from the evaluation that there are limited environmental management units dedicated to deal with environmental issues. It has, however, been established that these environmental units have no influence on decision making as development applications are not circulated to them for comments. In one case study (BLM) comments provided by the environmental unit lacked constructiveness as no reference was made to environmental issues. A number of planning decisions taken on development applications ranging from township establishment and formalisation, rezoning/land use right or special consent and park closure clearly shows that environmental issues are not considered in planning decisions.

Furthermore, after the comparison of the results from case studies it was concluded that planning decisions in municipalities do not incorporate environmental issues. The effect thereof is non-compliance with the environmental requirements as required by law. The study has revealed that reasons for not incorporating environmental issues in planning decisions is the lack of incorporation of environmental issues in land use and planning instruments and a lack of understanding and knowledge of the requirements regarding environmental issues in terms of the law by local authorities. The study found that the environmental unit of Mbombela local municipality has no say in development planning applications or decision.

Research Sub-Question 5: How can land use planning instruments be improved to incorporate environmental consideration?

The literature review, data analysis and interviews undertaken lead to the following proposals for the improvement of land use and planning instruments to incorporate environmental issues:

Alignment of land use planning tools with environmental legal requirements

and tools by (a) Incorporation of general inclusion of environmental requirements in each regulation presented in town planning schemes or land use schemes for all developments; and **(b)** Incorporation of the environmental requirements in each land use policy guideline proposed and presented in SDFs and **(c)** Developing and applying environmental management frameworks (EMFs) as an environmental tool to inform planning at local municipalities.

- **Development of checklists that incorporate all environmental issues to inform decision making**
- **Appointment of environmental officers, where not available**
- **Training and capacity building of municipal officials responsible for planning decisions on the legal requirements of environmental issues in developments**
- **Development of strategies for policy implementation**
- **Transparency/communication and/or co-operative governance between the planning and environmental departments.**

The proposal for improvement of land use and planning instruments are meant to address the two research conclusions that include no explicit reference to environmental issues in land use and planning tools and lack of knowledge and capacity. The failure of land use planning tools to fully incorporate environmental issues is a cause for concern. The adoption of measures to improve policy frameworks would contribute towards the quest for achieving sustainable development. Interviewed government and private sector officials confirmed that there is a need for integration and a turn-around strategy to address environmental issues in planning policy and decision-making processes.

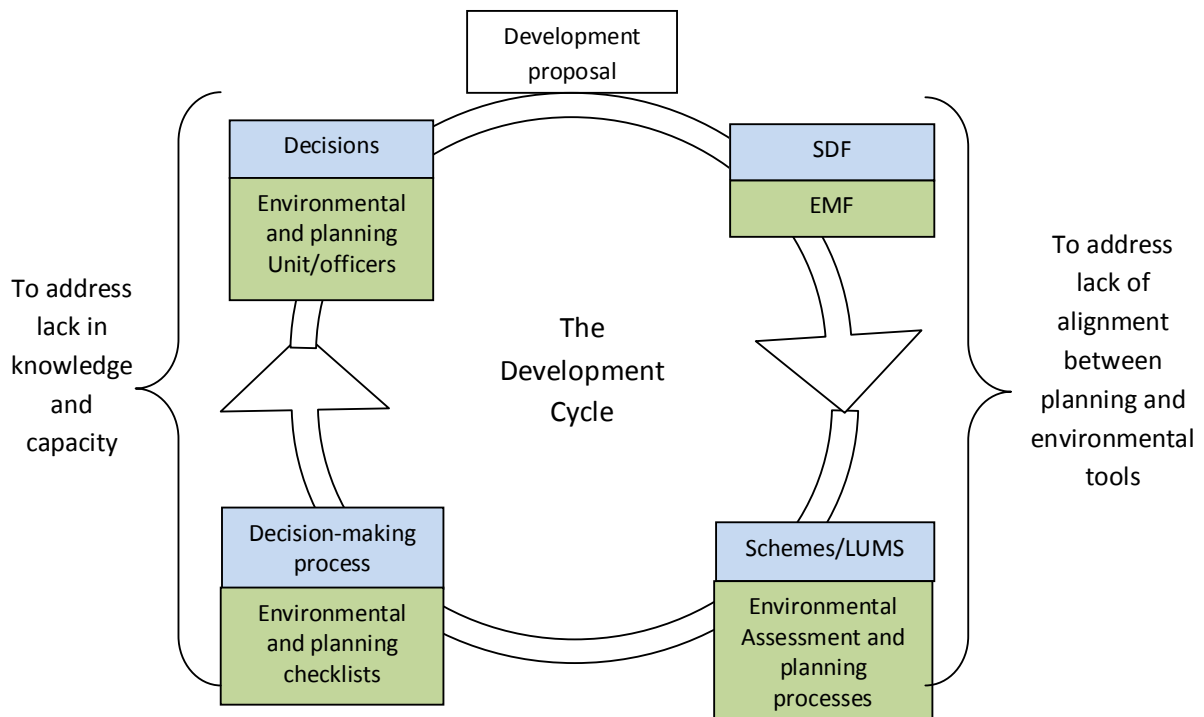
5.3 Overall conclusion

The research covered a wide spectrum of literature and produced a significant amount of data related to environmental issues and land use management. The study has been based on the hypothesis that environmental issues are **not** incorporated in land use and planning instruments or decision making in municipalities. The hypothesis has been validated through the analysis of findings that environmental issues are only incorporated in Spatial Development Frameworks to a limited extent and not in town planning schemes. As a result planning decisions of municipalities have been found as not incorporating environmental issues as well. The results of the hypothesis clearly respond to the question of the main research aim.

The results subsequently conclude that there is a limited reference to environmental issues in land use and planning tools and there is a lack of knowledge and capacity. The outcome of the research suggests that for environmental issues to be effectively incorporated in land use and planning instruments and ultimately decision making, environmental issues should not only be at the centre of policy formulation of land use, but should also filter down to the tools used by planning authorities to regulate land use and influence decision making. Active

involvement by provincial and national spheres of government dealing with planning and environmental issues is required during the formulation of IDP/SDFs and town planning schemes to ensure the incorporation of environmental issues. Figure 5.1 below provides a graphic presentation of the overall summary.

Figure 5.1: Overall summary in terms of development cycle



The above figure clearly presents that planning and environmental issues including decisions should never be isolated. Planning instruments in particular SDF provides a high level projection of land uses permitted within a specific area. It is imperative for SDF to consider the content of EMF in order to redress the weakness of land use classification relating to environmental issues. Land use schemes as regulatory tools for land uses should incorporate requirements for environmental and planning processes where applicable. In order to promote sound planning decisions on developments, a comprehensive checklist that incorporates environmental issues has to be adopted. Decisions taken on planning must be informed by the consideration of environmental issues to ensure sustainable development.

5.4 Recommendations for further research

This research adds value to the debate around the incorporation of environmental issues in land use and planning instruments. In order to take the debate forward the following areas for future research are recommended:

- A larger sample that could analyse results from other district municipalities within the Mpumalanga Province;
- The research can be extended to other provinces to compare applicable planning legal frameworks or land use planning tools and decisions in relation to the incorporation of environmental issues; and
- The research can be extended to investigate the implication of not incorporating environmental issues in land use planning instruments and decision making in selected developments.

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ANNEXURE A
INTERVIEW SCHEDULE

COMPANY/DEPARTMENT	INVOLVEMENT	INTERVIEWEE	MONTH OF INTERVIEW
Department of Rural Development and Land Administration	Planner - responsible for interpretation of land use planning tools and planning decision.	Anonymous	July 2011
Umjindi Town and Regional Planner	Planner - responsible for land use management, interpretation of land use planning tools and planning decision.	Anonymous	September 2011
Bushbuckridge Town and Regional Planner	Planner - responsible for land use management, interpretation of land use planning tools and planning decision.	Anonymous	October 2011
Mbombela Town and Regional Planner	Planner - responsible for land use management, interpretation of land use planning tools and planning decision.	Anonymous	October 2011
Town and Regional Planner	Planner - responsible for the formulation of the SDF and preparation of applications for land use rights.	Anonymous(x2)	September 2011 and November 2011
Environmental Consultant	EAP - responsible for undertaking environmental impact assessment	Anonymous(x1)	November 2011

ANNEXURE B

PLANNING DECISIONS BY THE UMJINDI LOCAL MUNICIPALITY

PLANNING DECISIONS BY UMJINDI LOCAL MUNICIPALITY ON REZONINGS/LAND USE RIGHTS/CONSENT				
<p>1. AMENDMENT SCHEME 61: REZONING OF ERF 3077 (9394M²), BARBERTON</p>	<p>2. AMENDMENT SCHEME 80: PORTION 2 OF ERF 2411 (5000M²), BARBERTON</p>	<p>3. LAND USE RIGHTS FOR TOURISM FACILITIES WITHIN A NATURE RESERVE (LOMSHIYO TRUST DEVELOPMENT)</p>	<p>4. BUILDING OF SUBSTATION WITHIN A RESIDENTIAL ZONED PROPERTY</p>	<p>5. CONSENT FOR ESTABLISHMENT OF BARBERTON AIR STRIP</p>
<p>1. The Council approves the amendment of the Umjindi Town Planning Scheme, 2002, amendment Scheme 61 for the rezoning of erf 3077 from “Commercial to “Residential 3 with conditions to make provision for a coverage of 66%, height of 2 storeys, and 5m on street boundary and 2m on all other boundaries in terms of Section 56 (1) of the Town Planning and Townships Ordinance 1986, (Ordinance 15 of 1986) and the subdivision of erf 3077 into 33 portions in terms of Section 92 (1) (a) of the Town Planning and Townships Ordinance 1986 on condition that:</p> <p>1.1 A site Development Plan (SDP) is submitted to the municipality prior the approval of building plans.</p> <p>1.2 Access to and from Portion 11 of erf 3077 is restricted only to the south of the property.</p> <p>1.3 A service development contribution of R 234 880 (R 7 340. 32) is payable to the municipality prior the development of the property.</p>	<p>1. The Council approves the amendment of the Umjindi Town Planning Scheme, 2002, amendment Scheme 80 for the rezoning of Portion 2 of erf 2411 from “Public Open Space” to “Special” for: institution, places of public worship, places of instruction, dwelling units and dwelling buildings, offices, places of refreshment, administrative uses, community related uses, special and any use related and subservient to the main use, with all uses to be subject and supportive to the church use and with annexure 24 conditions to make provision for the height of 3 storeys, coverage not exceeding 70%, FAR of 2.0, street boundary of 5m and 2m on other boundaries on condition that:</p> <p>1.1. Portion 2 of Erf 2411 be incorporated into the proposed approved Barberton Extension 12 Township in accordance with Council Resolution T.41 dated 30 September 2008 and be consolidated with the present Portion 14, Barberton Townlands (Erf 1 on the layout plan for Barberton Extension 12) and the present Portion 68 Barberton Townlands (Erf 2 on the Layout Plan for Barberton Extension 12) in accordance with the Deed of Sale in respect of the Remainder of Portion 14 of Barberton Townlands and Portion 2/2411</p> <p>1.2. The proposed land use for refreshment</p>	<p>1. The Council approves the application which has been submitted in terms Section 6 (1) which read with Section 8 (1) of the Physical Planning Act, 1967 (Act 88 of 1967), for business rights on a Portion of Portion 1 of the farm Lancaster 359-JU.</p> <p>2. The Environmental Health Officer and Building Inspector should inspect the premises in accordance with Health Safety Act and the National Building Regulations and Building Standard Act, prior to the operation of business.</p> <p>3. The advertising sign should be in compliance with Umjindi Advertising Policy and South African Manual for Outdoor Advertising Control (SAMOAC) standard and be submitted for consideration.</p> <p>4. The alteration of the building structure be submitted to Civil Services for approval.</p> <p>5. The applicant also be informed that this approval must not be interpreted in such a way that his obligations regarding Environmental and Geotechnical requirements are being discharged.</p>	<p>No council resolution was taken by council in this regard the Electrical Services in the municipality took a decision to construct a substation of approximately 50m² in residential zoned property (erf 7976 Emjindini Extension 14) to supply electricity in Emjindini Extension, 13 and 14 including Dingidoda, and Phola Park settlements.</p>	<p>1. The Council approves the operation of the Barberton Valley Airfield on condition that:</p> <p>1.1 The airfield is kept clean and safe to all users.</p> <p>1.2 No signage is placed within and around the property without a written consent from the municipality.</p> <p>1.3 A Site Development Plan (SDP) for new or additional structures is submitted to the municipality prior the approval of any building plan.</p> <p>1.4 The municipality is informed in the event of activities or functions scheduled to take place.</p> <p>2. The old municipal airstrip control tower is disposed to the Barberton Valley Airfield in terms of</p>

	<p>must not be a restaurant.</p> <p>1.3. The dwelling units and dwelling buildings should only serve for the purpose of the church and not for business.</p> <p>1.4. Parking to be provided in terms of the provisions of the Umjindi Town Planning Scheme, 2002.</p> <p>1.5. A Site Development Plan for the proposed development is submitted to the municipality.</p> <p>1.6. The applicant to consider environmental and heritage issues when designing the Site Development Plan.</p> <p>1.7. The applicable Development Service Contribution must be payable to the municipality for the proposed development. The service contribution to be calculated as soon as the Site Development Plan is submitted.</p> <p>2. The applicant to be informed that a park closure process must be undertaken in terms of the Local Government Ordinance, 1939 (Ordinance 17 of 1939).</p> <p>3. Conditions 1.1; 1.2 and 1.3 of the recommendations should be included in the Title Deed/Conditions of Establishment of proposed Barberton Extension 12.</p>	<p>6. Electricity supply should be taken from council and council to take supply point from Eskom.</p>		<p>municipal policy.</p> <p>3. The municipality supports the Barberton Valley Airstrip when it is necessary.</p>
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PLANNING DECISIONS BY UMJINDI LOCAL MUNICIPALITY ON PARK CLOSURES

<p align="center">PROPOSED PARK CLOSURE AND ALIENATION: PORTION 2 OF ERF 2411, BARBERTON TOWNSHIP</p>	<p align="center">PROPOSED PARK CLOSURE OF ERF 7112 EMJINDINI EXTENSION 13</p>	<p align="center">3. PROPOSED PARK CLOSURE OF ERF 7115 EMJINDINI EXTENSION 13</p>
<p>7. Council approves the application for the permanent closure of portion 2 of Erf 2411, Barberton Township as a Park/Public open space in terms of Section 68 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939).</p> <p>8. Council notes that the notice for alienation of the subject property by means of a private treaty to the Dutch Reformed Church of Barberton in terms of Section 79(18) of the Local Government Ordinance, 1939 (Ordinance 17 of 1939) was done concurrently with the notice for park closure.</p> <p>9. The approval as contemplated in no.1 above be subject to the conditions as per Council</p>	<p>1. The Council approves the application for the permanent closure of Erf 7115 and the Remainder of Erf 7112 Emjindini Extension 13 Township as a Park/ "Public Open Space" in terms of Section 68 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939).</p>	<p>1. The Council approves the application for the permanent closure of Erf 7115 Emjindini Extension 13 Township as a Park/ "Public Open Space" in terms of Section 68</p>

Resolution under Item T.19 dated 30 June 2009.				of the Local Government Ordinance, 1939(Ordinance 17 of 1939).
PLANNING DECISIONS BY UMJINDI LOCAL MUNICIPALITY ON TOWNSHIP ESTABLISHMENTS				
1. ESTABLISHMENT OF LAND DEVELOPMENT AREA ON A PORTION OF THE FARM SCOTSTON 587 REGISTRATION DIVISION JT	2. PROPOSED BARBERTON EXTENSION 13 AND 14 SITUATED ON THE REMAINDER OF PORTION 4 OF THE FARM BIGGAR 664-JT AND THE REMAINDER OF PORTION 5 OF THE FARM KEY 358-JU.	3. PROPOSED TOWNSHIP AND/ LAND DEVELOPMENT ON A THE FARM CLAREMONT VALE 312-JU AND THE REMAINDER EXTENT OF THE FARM DIXIE 311-JU	4. PROPOSED TOWNSHIP ESTABLISHMENT ON A PORTION OF PORTION 1 OF THE FARM DIXIE 311-JU FOR THE FARM WORKERS OF DIXIE FARM	5. PROPOSED TOWNSHIP ESTABLISHMENT ON A PORTION 13 (A PORTION OF PORTION 10) OF THE FARM ESPERADO 253-JU FOR THE FARM WORKERS OF ESPERADO FARM
<p>10. Land development area/ subdivision of the farm Scotston 587 JT into a portion of approximately 230 hectares (30 subdivisions measuring approximately 1 hectare each) and a remaining extent of approximately 500 hectares in terms of the Development Facilitation Act of 1995 be approved, on condition that:</p> <p>1.1 Environmental, Heritage and Geotechnical consideration:</p> <p>1.1.1 The EIA process is undertaken until the final stage for issuing of the Record of Decision (ROD) by the Department of Economic Development, Environment and Tourism (DEDET) and the ROD be submitted to the municipality.</p> <p>1.1.2 The recommendations from the Geotechnical Investigation Report are adhered to during the development/construction of dwelling structures.</p>	<p>1. Council approves the division of Barberton Extension 13 Township situated on Remainder of Portion 4 of the Farm Biggar 664-JT and the Remainder of Portion 5 of the Farm Key 358-JU into two townships to be known as Barberton Extension 13 and Barberton Extension 14 in terms of Section 100 Ordinance (Ordinance 15 of 1986) and there amendment to the layout plan as approved for Barberton Extension 13 Township by council (Item T.16, 31/03/2009) on condition that:</p> <p>1.1 Environmental and Geotechnical consideration:</p> <p>1.1.1 The applicant to submit the Record of Decision (ROD) for EIA from the department of agriculture to the municipality.</p> <p>1.1.2 The Geotechnical investigation</p>	<p>1. Council approves the proposed township and/ land development area on the Farm Claremont Vale 312-JU and the remainder extent of the Farm Dixie 311-JU to be known as Dixie Creek and game Resort on condition that:</p> <p>1.1 Portion 1 of the farm Dixie 311 JU and farm Claremont Vale 312 JU are consolidated to become the farm Dixie Vale 932 JU prior the project implementation and the approved SG diagram is made available to the municipality.</p> <p>1.2 Environmental, Heritage and Geotechnical consideration:</p> <p>1.2.1 The conditions of EIA authorisation as contemplated in the Record of Decision (ROD)</p>	<p>1. Council approves the proposed township on a Portion of Portion 1 of the Farm Dixie 311-JU for the farm workers of Dixie farm condition that:</p> <p>1.1 The EIA process is undertaken until the final stage of issuing of the Record of Decision (ROD) by (MDLA) and the municipality is also given an opportunity to make comments.</p> <p>1.2 All comments from other institutions with regard to the proposed township are submitted to the municipality.</p> <p>1.3 The final decision by the Department of Agriculture and Land Administration with regard to the proposed development is submitted to the municipality.</p>	<p>2. Council approves the proposed township on Portion 13 (Portion of Portion 10) of the Farm Esperado 253-JU for the farm workers of Esperado farm to be known as Esperado Farm Workers Township on condition that:</p> <p>2.1 Environmental and Geotechnical consideration:</p> <p>2.1.1 The EIA process is undertaken until the final stage for issuing of the Record of Decision (ROD) by</p>

<p>1.2 The recommendations in the Archaeological Impact Assessment report with regard to Six heritage identified sites on the application property be adhered to and comments from the South African Heritage Resource Agency (SAHRA) are attained and submitted to the municipality.</p> <p>1.3 All comments from other departments/institutions with regard to the proposed development are received and also made available to the municipality.</p> <p>1.4 The Home Owners' Association is established in accordance to the relevant legislation and individual rates and taxes will be charged for all subdivided portions.</p> <p>1.5 The developer acquire permit for the use of ground water from the Department of Water Affairs and that all sanitary services are provided in terms of accepted engineering standards.</p> <p>1.6 The final decision by the Department of Agriculture, Rural Development and Land Administration with regard to the proposed development is submitted to the municipality.</p> <p>1.7 An approved General Plan for the land development /township is submitted to the municipality.</p> <p>1.8 The municipality is always informed with regard to any developments relating to the Scotston farm 587 JT.</p> <p>1.9 No further subdivision would be permitted on the land development area by the municipality.</p> <p>1.10 The building plans for all properties to be submitted to the municipality for approval prior the commencement of building construction work.</p> <p>1.11 All restrictive conditions and servitude to be addressed in accordance with the</p>	<p>report is submitted to the municipality.</p> <p>1.2 Engineering service consideration:</p> <p>1.2.1 The applicant to enter into a Service Level Agreement with the municipality with regard to services such as water, sewer, roads and stormwater, refuse removal and electricity for the development.</p> <p>1.2.2 The applicant to submit a service engineering report to the municipality for both townships.</p> <p>1.2.3 A special emphasis is made to the applicant that the disposal of sewerage be such that it is pumped into the existing network at Emjindini Extension 12 Township to avoid spillage into the river.</p> <p>1.2.4 The applicant to attain letter of approval from SANRAL with regard to the use of P77-1 Road as an access point.</p> <p>1.3 Proposed zonings and development control:</p> <p>1.3.1</p> <p>Barberton Extension 13 Township</p> <p>Erf 1: Zoning: "Business1", Coverage: 60%, F.A.R: 0.75, Height: Not exceeding 3 storeys and Building lines: 16m along Road P77-1,5m along any street boundary, 2m along any other boundaries. The proposed erf 5 with is approved with the above development conditions.</p> <p>Erven 2 & 3: Zoning: "Residential 3", Coverage: 50%, Density: 50 units per hectare, Height: Not exceeding 3 storeys and Building lines: 16m along Road P77-1,5m along any street boundary 2m</p>	<p>issued for the development EIA are hereto.</p> <p>1.2.2 The recommendations from the Geotechnical Investigation Report are adhered to.</p> <p>1.3 Proposed zonings and development control are supported</p> <p>1.4 All comments from other departments/institutions with regard to the proposed township are received and also made available to the municipality.</p> <p>1.5 The home owners' Association is established in accordance to the relevant legislation.</p> <p>1.6 The density for "Residential 2" to be restricted to 20 units per hectare or the zoning to be changed to "Residential 3" to allows 25units per hectare.</p> <p>1.7 The final decision by the Department of Agriculture, Rural Development and Land Administration with regard to the proposed development is submitted to the municipality.</p> <p>1.8 An approved General Plan for the land development /township is submitted to the municipality.</p> <p>1.9 The municipality is always informed with regard to any developments relating to the Dixie Creek and game Resort.</p> <p>1.10 Developer to submit Site Development Plans (where applicable) and building plans to the municipality for approval prior the commencement of building construction work.</p> <p>1.11 The developer to address all issues pertaining to the cancellation or registration of</p>	<p>1.4 An approved General Plan for the township is submitted to the municipality.</p> <p>1.5 The municipality is always informed with regard to any developments relating to the Dixie Farm Workers Township.</p> <p>1.6 The recommendations from the Geotechnical Investigation Report are adhered to during the development/construction process.</p>	<p>(MDLA) and the municipality is also given an opportunity to make comments.</p> <p>2.1.2 The recommendations from the Geotechnical Investigation Report are adhered to during the development/construction processes which are as follows:</p> <p>2.1.2.1 Buildings must be founded at a minimum depth of 0.6 metres below existing ground level in the material of dense consistency.</p> <p>2.1.2.2 The Letaba Lab (Consultant that compiled the geotechnical report) inspects and approves all foundation excavations to confirm depth of founding and bearing pressure.</p> <p>2.2 Proposed zonings and development control:</p> <p>1.2.1 Layout Plan The Layout Plan is approved with the following land uses:</p> <p>a) Erf 1-20 is proposed for "Residential";</p> <p>b) Erf 21-22 is proposed for "Public Open Space";</p>
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<p>relevant legislation and that the municipality does not object to the removal of such restrictive conditions.</p> <p>1.12 The applicant amend the Umjindi Town Planning Scheme in terms of section 125 of Ordinance 15 of 1986 in order for the scheme maps to be prepared and incorporated in the town planning scheme of the municipality.</p> <p>1.13 The development to be of eco-estate nature and that a Landscape Plan be submitted to the Municipality as the area of development is promoted for the establishment of eco-tourism related activities including eco estates, tourism resorts and nature reserves in terms of the Umjindi Spatial Development Framework.</p> <p>2 The Developer to enter into a Service Level Agreement with the Municipality with regard to refuse removal and electricity.</p>	<p>along any other boundaries. The proposed erven 2&3 are approved with the development conditions.</p> <p>Erf: 4:</p> <p>Zoning: “Special” for residential development purposes OR commercial and light service industries related to the motor industry; and with the special consent of the local authority for any other use regarded as compatible with the primary land use rights, Coverage: 50, Density: 50 units per hectare for residential development purposes, F.A.R: Not exceeding 0.5, Height: Not exceeding 3 storeys and Building lines: 16m along the P77-1, 5m along street boundary and 2m along any other boundary. The proposed erf 4 for “Special” is approved for both residential development and commercial as well as light service industries related to the motor industry with the special consent of the local authority for any other use regarded as compatible with the primary land use rights. The proposed erf 5 is also approved for the proposed height, F.A.R. and building line restriction. The residential development is restricted to a density of 1 dwelling unit per 500m².</p> <p>Erf 5:</p> <p>Zoning: “Public Open Space”, the proposed erf 5 for public open space is approved with conditions applicable for public open space in terms of the Umjindi Town Planning Scheme.</p>	<p>servitudes as per the recommendations of the servitude certificate attached with the application as Annexure S in Volume 2 of the application.</p> <p>1.12 The provisions of the Service Agreement as entered between the Dixie Creek Developments (PTY) LTD as the Developer and the Umjindi Local Municipality as the Municipality are implemented as per the agreement.</p> <p>2.3 Proposed zonings and development control are supported</p> <p>2.4 All comments from other departments/institutions with regard to the proposed township are received and also made available to the municipality.</p> <p>2.5 The home owners’ Association is established in accordance to the relevant legislation.</p> <p>2.6 The density for “Residential 2” to be restricted to 20 units per hectare or the zoning to be changed to “Residential 3” to allows 25units per hectare.</p> <p>2.7 The final decision by the Department of Agriculture, Rural Development and Land Administration with regard to the proposed development is submitted to the municipality.</p> <p>2.8 An approved General Plan for the land development /township is submitted to the municipality.</p> <p>2.9 The municipality is always informed with regard to any developments relating to the Dixie Creek and game Resort.</p> <p>2.10 Developer to submit Site</p>	<p>c) Erf 23 is proposed for “Internal Access Road”</p> <p>2.3 All comments from other departments/institutions with regard to the proposed township are received and also made available to the municipality.</p> <p>2.4 The final decision by the Department of Agriculture, Rural Development and Land Administration with regard to the proposed development is submitted to the municipality.</p> <p>2.5 An approved General Plan for the township is submitted to the municipality.</p> <p>2.6 The municipality is always informed with regard to any developments relating to the Esperado Farm Workers Township.</p> <p>2.7 The Provincial Department of Human Settlement provides to the municipality a letter of commitment regarding the extension of the project to the remaining households of approximately 60.</p>
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	<p>1.3.2 Barberton Extension 14 Township</p> <p>Erf 1:</p> <p>Zoning: "Public Open Space", The proposed erf 1 for public open space is approved with conditions applicable for public open space in terms of the Umjindi Town Planning Scheme.</p> <p>Erven 2 & 3:</p> <p>Zoning: "Residential 2", Coverage: 50%, F.A.R: 15 units per hectare, Height: Not exceeding 3 storeys and Building lines: 16m along Road P77-1,5m along any street boundary and 2m along any other boundaries. The proposed erven (2&3) for "Residential 2" are approved with a density restriction of 1000m² per erf.</p> <p>Erf 4:</p> <p>Zoning: "Special" for Rural Residential purposes and with the special consent of the local authority for any other use regarded as compatible with the primary land use rights, Coverage: 20%, Density: 1 Dwelling unit and with a written consent of the local authority for a second dwelling unit, F.A.R: Not exceeding 0.5, Height: Not exceeding 3 storeys and Building lines: 5m along any street boundary and 2m along any other boundaries. The proposed zoning and development conditions for the proposed erf 4 are approved.</p> <p>Erf 5:</p> <p>Zoning: "Business1" Coverage: 60%,</p>	<p>Development Plans (where applicable) and building plans to the municipality for approval prior the commencement of building construction work.</p> <p>2.11 The developer to address all issues pertaining to the cancellation or registration of servitudes as per the recommendations of the servitude certificate attached with the application as Annexure S in Volume 2 of the application.</p> <p>2.12 The provisions of the Service Agreement as entered between the Dixie Creek Developments (PTY) LTD as the Developer and the Umjindi Local Municipality as the Municipality are implemented as per the agreement.</p>		
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F.A.R: 0.75, Height: Not exceeding 3 storeys and Building lines: 16m along Road P77-1,5m along any street boundary 2m along any other boundaries. The proposed erf 5 is approved with the above mentioned development conditions.

Erf 6:

Zoning: "Residential 3", Coverage: 60%, Density: 50 units per hectare, Height: Not exceeding 3 storeys and Building lines: 16m along Road P77-1,5m along any street boundary and 2m along any other boundaries. The proposed erf 6 for "Residential 3" is approved with a density restriction of 20 units per hectare.

Erf 7:

Zoning: "Special" for hotel, tourist accommodation facilities, restaurant, place of refreshment and ancillary uses and with the special consent of the local authority for any other use regarded as compatible with the primary land use rights, Coverage: 50%, F.A.R: Not exceeding 0.5, Height: Not exceeding 3 storeys and Building lines: 5m along any street boundary and 2m along any other boundaries. The proposed erf 7 for "Special" with the above conditions are approved as they will serve for the tourism purposes.

1.4 Service contribution

The service contribution will be calculated based on the approved final layout plan and the contribution will be included in the service level agreement to be signed by both the municipality and

the developer. The service contribution will be calculated in terms of council service contribution policy (R9 424.00 per unit applicable for 2009/2010 financial year). The applicant to note that service contribution increases in every financial year. Therefore an amount of more than R9 424.00 will be payable per unit if the service contribution will be paid after the financial year 2009/2010. The service contribution should be paid before any development take place.

- 1.5 Amendment of the Town Planning scheme is made and Scheme Maps with an annexure be prepared in terms of Section 125 of Ordinance 15, 1986 for Barberton Extension 13 Township and Barberton Extension 14 Township is submitted to the municipality.
- 1.6 The Conveyancer certificate is submitted to the municipality.
- 1.7 The consent for the removal of restrictive conditions with regard to the title restrictive conditions in terms of the Roads and Ribbon Development Act, 1940 (Act 21 of 1940) contemplated in Title Deed No: T61575/1989 under Section C (i) and (ii) is attained from the Department of Agriculture Land Administration and be submitted to the municipality.
- 1.9 The applicant to submit all comments from various departments and institutions to the municipality.
- 1.10 The applicant to submit conditions of establishment for approval after all above comments have been met.
- 1.11 The applicant to submit an approved General Plan for the proposed township.
- 1.12 An application for the further subdivision of properties should be submitted to the municipality in terms

	<p>Ordinance, 1986.</p> <p>1.13 The new townships (Barberton Extension 13 and Barberton extension 14) should be incorporated into Umjindi Town planning scheme/Land Use Management System</p>			
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PLANNING DECISIONS BY UMJINDI LOCAL MUNICIPALITY ON SEMI-FORMAL TOWNSHIP ESTABLISHMENTS

1. DINGINDODA TOWNSHIP	2. PHOLA PARK TOWNSHIP	3. MSHOLOZA TOWNSHIP
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The establishment of these townships was initiated by the municipality through town planning services hence no specific resolution exist:

The residents in Dingindoda and Phola Park were relocated from Emjindini Single quarter squatter settlement: The decision taken by town planning services was only to prepare a layout plan and relocate the residents (approximately 400 households). No specialist studies or formal establishment were undertaken prior relocation.

The residence in Msholozza settlement was relocated from Nkanini squatter settlement: The decision taken by town planning services was only to prepare a layout plan and relocate the residents (approximately 168 households). No specialist studies or formal establishment were undertaken prior relocation.

ANNEXURE C

PLANNING DECISIONS BY THE BUSHBUCKRIDGE LOCAL MUNICIPALITY

PLANNING DECISIONS BY BUSHBUCKRIDGE LOCAL MUNICIPALITY ON REZONINGS/LAND USE RIGHTS/SPECIAL CONSENT

3. PROPOSED NEW NEWFOREST GAME LODGE (3HA)	4. ENTERTAINMENT RESORT (2HA)	6. MAVILJAN ACCOMMODATION UNITS (5700M ²)	7. PROPOSED FILING STATION IN CLARE B (5000M ²)	8. CORK THULANI CULTURAL VILLAGE (6HA)
9. JUSTICIA-TOURISM DEVELOPMENT (CONFERENCE ACCOMMODATION CULTURAL DANCE) (3HA)	10.M.P STREAM, PANEL BEATER WORKSHOP (1HA)	11.ESTABLISHMENT OF CORK TRAFFIC TRAINING COLLEGE (20HA)	12.GOLF ACADEMY AND HOTEL (30HA)	13. ESTABLISHMENT OF CLARE B COMMUNITY GRAVEYARD/CEMETERY (6HA)

These applications were considered in a single **Item** to council and the resolution taken was as follows:

- a) Council supports applications reflected under paragraph 3.3.
- b) Guidelines set-out by other relevant Department(s) must be adhered to.
- c) Applications must conform to the norms and standards set out by Bushbuckridge Local Municipality.
- d) Provision of the development of the business plans including site demarcations shall be at the applicant's own expense
- e) Site development and building plans should be submitted to this municipality for approval prior to commencement of any development, as per legislations framework
- f) Development should commence within 12 months from the date of council approval failing which, Council, would consider the applications nullified.

NB: Comments from internal departments makes no provision for environmental issues.

DECISION BY BUSHBUCKRIDGE LOCAL MUNICIPALITY ON LAND TENURE UPGRADING

1. SHATALE A EXTENSION 1 LAND TENURE UPGRADE	2. SHATALE B AND C TENURE UPGRADE	3. MKHUHLU A LAND TENURE UPGRADE	4.MKHUHLU B LAND TENURE UPGRADE	5.MAVILJAN A LAND TENURE UPGRADE
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The decision for all developments is as follows

The land tenure upgrading projects has been approved by the Bushbuckridge Local Municipality Council in a Council meeting held 30 January 2009 under Council Resolution BLM/05/30/01/09

No conditions whatsoever were sanctioned.

ANNEXURE D

PLANNING DECISIONS BY THE MBOMBELA LOCAL MUNICIPALITY

PLANNING DECISIONS BY MBOMBELA LOCAL MUNICIPALITY ON REZONINGS				
<p>5. AMENDMENT SCHEME 1067: REZONING OF ERF 3369 (1,1HA), NELSPRUIT EXTENSION 29</p>	<p>6. AMENDMENT SCHEME 988: REZONING OF REMAINDER OF ERF 3411 (2,2HA), NELSPRUIT EXTENSION 29</p>	<p>14. AMENDMENT SCHEME 934: REZONING OF REMAINDER OF ERF 3 (5,1HA), RIVERSIDE MALL</p>	<p>15. AMENDMENT SCHEME 875: REZONING OF PORTION 3, PORTION 4 AND PORTION 5 OF ERF 3411 (3,3HA), NELSPRUIT EXTENSION 29</p>	<p>16. AMENDMENT SCHEME 1523: REZONING OF ERF 49 (4,9HA), MATAFFIN TOWNSHIP</p>
<p>Approved for Residential 2 land use rights with density of 20 dwelling units per hectare on condition that:</p> <ul style="list-style-type: none"> I. The restriction of any development above 736 contour line be noted; II. The municipality will determine the most appropriate position for access from Orchard Drive; III. A service contribution in terms of water sewer, sewer, stormwater, electricity and parks will be payable of which the amount will be determined once the full scope of the proposed township becomes available; IV. A service agreement must be entered into; V. Revised Map 3 document be submitted to clearly indicate that 736 contour line be applicable on proposed Portion 19 and 26 that no relaxation be permitted in future; VI. In terms of this approved density of 20 units per hectare and due to the condition of withdrawal of objections by Mr Kolesky, the maximum number of units that may be erected on the property below the rock toe, be restricted to 21 and subsequently the proposed subdivision be amended accordingly. 	<p>Approved for Business 1 land use rights with FAR of 0,29, height of 3 storeys, coverage of 35% and parking as per Amendment Scheme 624. No other conditions were sanctioned.</p>	<p>Approved for Business 1 land use rights with primary uses (shops, offices, hotels, places of refreshment, public garage, places of amusement and parking garage), FAR of 0,47, height of 2 storeys, coverage of 55%. No other conditions were sanctioned.</p>	<p>Portion 3 of erf 3411</p> <p>Approved for Business 1 land use rights with primary uses (filling station, kiosk/convenience store, place of refreshment related to convenience store and such uses related and subservient to the primary uses), height of 2 storeys, coverage of 60%, building line: 8m from any street boundary and 5m from any side boundary and parking: 40% of the site including the area around fuel pump islands but excluding workshops, showrooms, work areas, lubricating and washing areas on condition that:</p> <p>A site development plan be submitted to municipality for approval in terms of Clause 13 of the Nelspruit Town Planning Scheme, 1989. Access should be subject to the approval of Road Agency (TRAC)</p> <p>Portion 4 and 5 of erf 3411</p>	<p>Remainder of erf 49</p> <p>Approved for Special (for purposes of places of refreshment and farm stall, including butchery, confectionary, offices, filling station, including service station), FAR of 0,32, height of 2 storeys, coverage of 50% and Parking as per Nelspruit Town Planning Scheme.</p> <p>Portion 1 of erf 49</p> <p>Approved for Special (for purposes of a hotel limited to 120 rooms), FAR of 0,54, height of 2 storeys, coverage of 50% and Parking as per Nelspruit Town Planning Scheme.</p> <p>Both properties are subject to following conditions:</p> <ul style="list-style-type: none"> 1. Civil engineering 1.1 The municipality reserves the right to levy a service contribution with regard to any service rendered by the

			<p>Approved for Business 1 land use rights with primary uses (Subject to conditions approved for Amendment Scheme 624), FAR of 0,35, height of 3 storeys, coverage of 35%,and Parking: Standard according to Table "F" of the Nelspruit Town Planning Scheme, 1989 on condition that:</p> <ol style="list-style-type: none"> I. A site development plan be submitted to municipality for approval in terms of Clause of the Nelspruit Town Planning Scheme, 1989. II. A line of no access in terms of the conditions approved by Nelspruit Amendment Scheme 624 	<p>Municipality directly or indirectly to the development where, in the opinion of the municipality such service will be burdened by the proposed development;</p> <ol style="list-style-type: none"> 1.2 A site development plan must be submitted; 1.3 A service contribution payable towards streets in the amount of R 4 502 860.48 excluding VAT shall be payable, amount valid until end of June 2011 (this amount will be escalated monthly in terms of CPI) 1.4 The developer will be required to submit a traffic impact study. This department must approve the scope of study before commencing and the Developer shall be responsible for all upgrades to roads and stormwater proposed in the study. 1.5 The type and size of all internal and external storm water infrastructures (canals, pipes, etc.) shall be appropriately designed based on run off calculations. Based on availability of existing piped Municipal storm water infrastructure, the site storm water infrastructure shall be connected to the municipal systems. 2. Silulumanzi 2.1 Service contribution for water and sewer is payable. The
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				<p>calculation was made based on the proposed development right and applicable date: Water=R892 008.77; Sewer=R794 478.53;</p> <p>2.2 All cost for link (including all ancillary works), relocation of services and connection point known and unknown will be for the applicant account. Submit service drawing and service reports for approval;</p> <p>2.3 Where applicable the necessary servitudes, must be registered over municipal services known or unknown;</p> <p>2.4 All the existing services must be within stand boundaries. The stand service outside the new boundaries must be diverted to the new service connection point;</p> <p>2.5 Existing municipal services to be protected and remain visible. Manholes for stand connections to be protected and remain visible;</p> <p>2.6 Applicant must make sure that drainage must gravity to existing municipal sewer line;</p> <p>2.7 Please apply at our offices for water and sewer connections.</p> <p>3. Urban Planning</p> <p>3.1 A site development plan must be submitted for approval prior submission of building plans.</p> <p>4. Electrical Engineering</p> <p>4.1 The municipality does not</p>
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				<p>have capacity to supply this development with electricity.</p> <p>4.2 The supply should be made available the earliest by the date agreed upon by Eskom to increase the Council's Maximum Demand and that the council has completed the necessary upgrade to feed this particular development;</p> <p>4.3 All designs specifications and materials to comply with the sub directorate's latest version of Electrical Reticulations Standards and Supply Methods specifications;</p> <p>4.4 All cost for the development will be for the applicant's account;</p> <p>4.5 Servitude to be registered in favour of council, in the Title Deed where municipal services are located;</p> <p>4.6 The estimated service contribution, connection and link costs will be payable;</p> <p>4.7 All additional costs will lie for the applicant's account;</p> <p>4.8 Only one supply point per stand;</p> <p>4.9 No additional power will be allocated except for what has been allowed.</p>
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PLANNING DECISIONS BY MBOMBELA LOCAL MUNICIPALITY ON TOWNSHIP ESTABLISHMENTS				
<p>1. PROPOSED HAZYVIEW EXTENSION 42 SITUATED ON THE REMAINDER, PORTIONS 5 AND 7 OF THE FARM DE-RUST 12-J.U</p>	<p>2. PROPOSED NELSPRUIT EXTENSION 57 SITUATED ON PORTIONS 278, 279, 280 AND THE REMAINDER OF PORTION 22 OF THE FARM THE REST 454 -I.T.</p>	<p>3. PROPOSED RIVERSIDE PARK EXTENSION 24 SITUATED ON THE REMAINDER OF PORTION 82 OF THE REMAINDER OF PORTION 82 OF THE FARM BOSCHRAND 283-J.T.</p>	<p>4. PROPOSED PRUDENTIAL ESTATE PROPER SITUATED ON A PORTION OF PORTION 5 AND THE REMAINING EXTENT OF THE FARM SOUTH AFRICAN PRUDENTIAL CITRUS ESTATES 131-I.U.</p>	<p>5. PROPOSED PRUDENTIAL ESTATE EXTENSION 1 SITUATED ON A PORTION OF PORTION 5 A PORTION OF THE REMAINING EXTENT OF THE FARM SOUTH AFRICAN PRUDENTIAL CITRUS ESTATES 131-J.U. AND A PORTION OF THE FARM NELSPRUIT RESERVE 133-J.U.</p>
<p>The application is hereby approved subject to the following conditions: 1. URBAN AND RURAL MANAGEMENT 1.1 All outstanding documentation and approvals from other institutions as specified in the Town Planning and Townships Ordinance 15 of 1986, must be obtained; 1.2 The restrictive title conditions must be cancelled or dealt with in a satisfactorily manner; 1.3 Authorisation in terms of the Environmental Conservation Act 1989, be obtained from the Department of Agriculture and Land Administration; 1.4 The amended layout plan for Hazyview Extension 42 is approved, subject to the following development restrictions: 1.4.1 Erven 1 - 616 /617 - 1027 and 1167: Zoning: "Residential 1", Land use: Residential dwelling, Coverage: 50%, Height: 2 storeys, Building Lines: as per Nelspruit Town Planning Scheme 1.4.2 Erven 1032 -1037: Zoning: "Residential 1", Land use: Residential dwelling, Density: 1 dwelling unit per 1000m², Coverage: 50%,</p>	<p>The application is hereby approved subject to the following conditions: 1. All outstanding documentation and approvals from other institutions as specified in the Town Planning and Townships Ordinance 15 of 1986, must be obtained; 2. The restrictive title conditions must be cancelled or dealt with in a satisfactorily manner; 3. The proposed layout plan for Nelspruit Extension 57 is approved, subject to the following development restrictions: 3.1 Erven 1 and 2 : Zoning: "Special" (for Rural Residential purposes and for the development of a second dwelling unit with the Special Consent of the Local Authority), Density: 1 dwelling unit per erf, with a minimum size of 1ha, Height: 2 Storeys, Building lines:</p>	<p>The application is hereby approved subject to the following conditions: 1. All outstanding documentation and approvals from other institutions as specified in the Town Planning and Townships Ordinance, No. 15 of 1986, must be obtained; 2. The Restrictive Title Conditions must be cancelled or dealt with in a satisfactorily manner; 3. The proposed layout plan for Riverside Extension 24 (P1647-14) is approved, subject to the following development restrictions: 3.1 Erven 908 and 909: Zoning: " Residential 2", Coverage: 50%, F.A.R: 0.5, Height: 3 storeys, Building Lines: 5 metre along street boundaries and 2 metre</p>	<p>The application is hereby approved subject to the following conditions: 1. Urban and Rural Management: 1.1 The amendment of the SDF as a result of the township establishment application is supported in principle. However, the envisaged amendment is not supported on the entire property. It is recommended that the envisaged amendment only be applicable to a portion of the property directly adjacent to the N4 and Du Preez Street; 1.2 This partial amendment will create a buffer between the road network and the residential uses and the Matumi Golf Estate. The residential uses adjacent to the Golf Estate and the</p>	<p>The application is hereby approved subject to the following conditions: 1. Urban and Rural Management: The application is supported subject to the following conditions: 1.1 The amendment of the SDF as a result of the township establishment application is supported in principle. However, the envisaged amendment is not supported on the entire property. It is recommended that the envisaged amendment only be applicable to a portion of the property directly adjacent to the N4 and Du Preez Street; 1.2 This partial amendment will create a buffer between the road network and the residential uses and the</p>

<p>Height: 2 storeys, Building Lines: as per Nelspruit Town Planning Scheme</p> <p>1.4.3 Erf 1028: Zoning: "Residential 2", Land use: Residential dwelling, Density: 10 dwelling units per hectare, Coverage: 50%, Height: 2 storeys, Building Lines: as per Nelspruit Town Planning Scheme</p> <p>1.4.4 Erf 1030 - 1031: Zoning: "Business 1", Land use: Shops, Hospital, School, Offices and Retirement Village/Clinic, Residential units, F.A.R: 0.4, Coverage: 50%, Height: 3 storeys, Building Lines: as per Nelspruit Town Planning Scheme, Parking requirement: 3 Parking bays per 100m2 leasable floor area</p> <p>1.4.5 Erf 1147: Zoning: "Special" for the purposes of a Guard house and Refuse removal", Land use: guard house and refuse removal, Coverage: 80%, F.A.R: 1.0, Height: 1 storeys, Building Lines: as per Nelspruit Town Planning Scheme</p> <p>1.4.6 Erf 1029: Zoning: " Agriculture", Land use: Residential dwellings and Agricultural purposes, Coverage: 50%, F.A.R: 0.6, Height: 3 storeys, Building Lines: as per Nelspruit Town Planning Scheme</p> <p>1.4.7 Erven 1148 - 1157: Zoning: "Private Open Space", Land use: Parks, Tourism Activities and open space, Coverage: 50%, F.A.R: 0.6, Height: 3 storeys, Building Lines: as per Nelspruit Town Planning Scheme</p> <p>1.4.8 Erven 1158 – 1166: Zoning: "Special" for purposes of Private access road</p> <p>1.5 The applicant will be responsible for the proclamation costs.</p> <p>2. CIVIL ENGINEERING:</p> <p>2.1 Due to inadequate municipal water and sanitation infrastructure in Hazyview, Mbombela Local Municipality cannot now or in the immediate future provide these services to the proposed development. Although planning for the extension and</p>	<p>5m along street boundary and 2m along other boundaries, provided that the building lines may be relaxed in accordance with an approved Site Development Plan to the satisfaction of the local authority.</p> <p>3.2 Erf 4: Zoning: "Special"(for Private Access Purposes, the erf and buildings erected thereon, or which are to be erected thereon shall be used for private road and related purposes, including a gatehouse that will be utilized for access control and security maintenance, as well as for management purposes).</p> <p>3.3 Erven 3 and 5 : Zoning: "Private Open Space" the erf and building erected thereon shall only be used for private open space and related purposes.</p> <p>4. Provision must be made for internal building lines of 2m on all side & back boundaries and 5m on street fronts over all individual erven for the purpose of future municipal services;</p> <p>5. In terms of municipal policy water rights attached to the property have to be converted to primary water rights (equal to the water demand of the township) and transferred to the Municipality or, in the absence thereof, payment of a levy equal to the market value of the water demand of the development must be made to the</p>	<p>alongside and back boundaries</p> <p>3.2 Erf 910: Zoning: "Special" for the purposes of value retail", Coverage: 50%, F.A.R: limited to 16 500m², Height: 3 storeys, Building Lines: 5 metre along street boundaries and 2 metre alongside and back boundaries</p> <p>3.3 ERVEN 911 and 912: Zoning: "Special" for purposes of a hotel, convention centre, business, education, retail, wholesale, manufacturing, Residential 4, public transport facilities, and any other purposes as approved by the Municipality.", Coverage: 50%, F.A.R: 0.5, Height: 3 storeys, Building Lines: 5 metre along street boundaries and 2 metre alongside and back boundaries</p> <p>3.4 Erf 913: Zoning: "Special" for the purposes of retail, wholesale, business and finance offices", Coverage: 50%, F.A.R: 0.5, Height: 3 storeys, Building Lines: 5 metre along street boundaries and 2 metre alongside and back boundaries</p> <p>3.5 Erven 914 to 918: Zoning: "Special" for the purposes of retail, wholesale, business and finance offices", Coverage: 50%, F.A.R: 0.5, Height: 3 storeys, Building</p>	<p>other existing residential developments must be retained to ensure that a homogenous integrated development is established.</p> <p>1.3 The applicant must furthermore submit a detailed market survey and feasibility study to council to indicate the need for additional business and commercial uses before the development of these Erven will be permitted;</p> <p>1.4 The Residential densities within the envisaged development must take the existing development densities in consideration in order to ensure compatibility of the future developments;</p> <p>1.5 A Site Development Plan has to be submitted for approval prior to the submission of building plans;</p> <p>1.6 The applicant will be responsible for the proclamation costs;</p> <p>1.7 Development must be in accordance with the findings of geotechnical survey;</p> <p>1.8 A 10m building line along the N4 highway, a 2m on all side and back boundaries and 5m on street fronts for the purpose of municipal services in the future, shall be provided over all individual erven;</p> <p>1.9 Where applicable, the necessary servitudes shall be registered;</p> <p>1.10 The proposed layout plan for</p>	<p>Matumi Golf Estate. The residential uses adjacent to the Golf Estate and the other existing residential developments must be retained to ensure that a homogenous integrated development is established.</p> <p>1.3 The applicant must furthermore submit a detailed market survey and feasibility study to council to indicate the need for additional business and commercial uses before the development of these Erven will be permitted;</p> <p>1.4 The Residential densities within the envisaged development must take the existing development densities in consideration in order to ensure compatibility of the future developments; A Site Development Plan has to be submitted for approval prior to the submission of building plans;</p> <p>1.6 The applicant will be responsible for the proclamation costs;</p> <p>1.7 Development must be in accordance with the findings of geotechnical survey;</p> <p>1.8 A 10m building line along the N4 highway, a 2m on all side and back boundaries and 5m on street fronts for the purpose of municipal services in the future, shall be provided over all individual erven;</p> <p>1.9 Where applicable, the necessary servitudes shall be registered;</p>
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<p>provision of the required infrastructure is in progress, no programme has been set for the completion and commissioning of such infrastructure. Support for this application is therefore strictly subject to the provision of sustainable bulk and internal infrastructure and services by the applicant to this proposed development if such infrastructure will be required before it can be provided by MLM. Sustainability in this instance includes the provision of infrastructure of acceptable standard and capacity, the operation and maintenance thereof as well as compliance with all applicable legislation and procurement of all the necessary authorizations prior to the exercising of any development rights. Mbombela Local Municipality will, based on the information supplied by the applicant in its sole discretion decide whether the proposed development will be sustainable or not;</p> <p>2.2 All internal infrastructure will be provided by the applicant at his cost and to the satisfaction of Mbombela Local Municipality;</p> <p>2.3 When municipal bulk infrastructure becomes available in future, the development will be allowed to connect to such infrastructure strictly subject to the payment of development impact contributions and any other conditions pertinent at such time. It is recorded that if and when municipal infrastructure becomes available to be connected to, basic service levies will be payable to Mbombela Local Municipality with regard to each individual property within the township even if it is by choice of the owner/homeowners association not connected to the municipal infrastructure;</p> <p>2.4 In the event of future connection to Mbombela Local Municipality infrastructure and interim bulk infrastructure installed by the developer becoming redundant, the developer/successor in title/homeowners</p>	<p>Municipality;</p> <p>6. The Developer must incorporate all conditions stipulated in the Record of Decision issued with regard to an environmental impact assessment done for the proposed development into the design and standard of services to be provided. A copy of the Record of Decision must be submitted to the Municipality simultaneously with the services drawings and if an environmental impact assessment is not required for this development then proof of exemption must be submitted to the Municipality;</p> <p>7. The responsibility to manage all internal services not taken over by the Municipality will be that of a legally liable Property Owners Association. The establishment of such an association and membership of each property owner is compulsory. Compulsory membership must be a condition stipulated in the Title Deed of each property in the development and proof of the establishment of such an association/company must be provided to Mbombela Local Municipality. The Property Owners Association must compile a constitution in which the responsibility of the association/company to supply, operate and maintain services to a generally acceptable standard and in compliance with all applicable legislation and municipal by-laws, are</p>	<p>Lines: 5 metre along street boundaries and 2 metre alongside and back boundaries</p> <p>3.6 ERF 919: Zoning: "Private Open Space"</p> <p>3.7 Erf 920: Zoning: "Special" for purposes of a private access road</p> <p>4. A site development plan must be submitted for approval prior to submission of building plans;</p> <p>5. The development adheres to the wetland mitigation report and a positive Record of Decision be submitted to the Municipality;</p> <p>6. The proposed development must adhere to the Riverside Precinct Plan;</p> <p>7. A design report with the preliminary layout design of the bulk infrastructure has been submitted to Silulumanzi;</p> <p>8. A design report with the preliminary layout design of the internal and link services required up to the existing Municipal services must be submitted by your engineering consultant to Silulumanzi;</p> <p>9. All the costs of the internal, internal bulk and link services to the existing infrastructures have to be funded by the township developer;</p> <p>10. A services agreement has to be entered into with Mbombela Local Municipality</p>	<p>Prudential Estates Proper be approved, subject to the following development restrictions;</p> <p>1.10.1 Erven 1 and 2: Zoning: "Special" (for purposes of offices, Retail, Value Retail, Commercial, Hotel, Restaurants, Places of Amusement, Hospital, Clinic, Residential and uses ancillary and subservient to the above mentioned uses), Land uses: Offices, Retail, Value Retail, Commercial, Hotel, Restaurants, Places of Amusement, Hospital, Clinic, Residential and uses ancillary and subservient to the above mentioned uses, Height: 3 storeys, F.A.R: 0.7, Coverage: 50%, Building lines: 10m on the N4 highway, 5m on a street boundary and 2m on any other boundary, provided that the building line may be relaxed in accordance with a Site Development Plan, approved by the Municipality.</p> <p>2. Civil Engineering:</p> <p>This application is approved subject to the following conditions:</p> <p>2.1 The developer shall enter into a services agreement with the Municipality. The services agreement will make provision for phased development subject thereto</p>	<p>1.10 The proposed layout plan for Prudential Estates Extension 1 be approved, subject to the following development restrictions;</p> <p>1.10.1 Erven 1 and 2: Zoning: "Special" (for purposes of offices, Retail, Value Retail, Commercial, Hotel, Restaurants, Places of Amusement, Hospital, Clinic, Residential land uses and uses ancillary and subservient to the above mentioned uses), Height: 3 Storeys, FAR: 0,7, Coverage: 50%, Building lines: 10m on the N4 highway, 5m on a street boundary and 2m on any other boundary, provided that the building line may be relaxed in accordance with a Site Development Plan, approved by the Municipality.</p> <p>2. Civil Engineering:</p> <p>This application is approved subject to the following conditions:</p> <p>2.1 The developer shall enter into a services agreement with the Municipality. The services agreement will make provision for phased development subject thereto that any phase commencing later than 24 months after the Signing of the original agreement will be subject to a new services agreement. Phasing of the development do not refer to specific stands only but it also implies that adequate internal and bulk service capacity</p>
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<p>association will be responsible for the disestablishment thereof and the rehabilitation of the sites to the relevant environmental standards;</p>	<p>entrenched. All the services to be provided must be clearly stated in the constitution;</p>	<p>and Silulumanzi for the provision and installation of engineering services;</p>	<p>that any phase commencing later than</p>	<p>must be provided to the satisfaction of the Municipality to accommodate all the stands in any specific phase of the development;</p>
<p>2.5 A services agreement will be entered into with Mbombela Local Municipality by the applicant prior to proclamation of the proposed township. Such services agreement will be for a specific extent of the development based on the principle of sustainability stated above. Phasing of development will be allowed subject to terms that will be stated in the services agreement;</p>	<p>8. The developer shall enter into a services agreement with the Municipality;</p> <p>9. Services contributions for roads will be payable to the Municipality;</p>	<p>11. A bulk service contribution has to be paid by the developer. The cost for upgrading the existing municipal infrastructures will be funded from the bulk services contributions and will be done by Silulumanzi as and when required. Silulumanzi shall report on the services contribution payable, after the above plans and design report has been approved;</p>	<p>24 months after the signing of the original agreement will be subject to a new services agreement. Phasing of the development do not refer to specific stands only but it also implies that adequate internal and bulk service capacity must be provided to the satisfaction of the Municipality to accommodate all the stands in any specific phase of the development;</p>	<p>2.2 The Developer will be compelled to amend the township layout at his own expense if so required by the Municipality for the proper accommodation of services infrastructure to be provided in accordance with the designs to be approved by the Municipality;</p>
<p>2.6 Development Impact Contributions will be payable in respect of roads, water and sanitation services. In respect of water and sanitation the contributions will only be payable upon connection to municipal infrastructure when available. The conditions and time of payment of contributions will be stipulated in the services agreement to be entered into;</p>	<p>10. It is noted that Road 069 is in the process to be de-proclaimed to a municipal road that will be upgraded, from the Uitkyk Road up to the access road of this proposed development, to a surfaced road by the developer of the adjacent Nelspruit Extension 36 in accordance with the requirements of the Municipality. It is further noticed and approved that the proposed access of this proposed township and that of Nelspruit Extension 36 will be a shared access;</p>	<p>12. Engineering Service Drawings must be submitted to Silulumanzi for approval before construction can commence;</p> <p>13. Silulumanzi needs to be notified of all site inspections and meetings. Silulumanzi needs to be present for pipe pressure tests and certify tests;</p>	<p>2.2 The Developer will be compelled to amend the township layout at his own expense if so required by the Municipality for the proper accommodation of services infrastructure to be provided in accordance with the designs to be approved by the Municipality;</p>	<p>2.3 In terms of municipal policy water rights attached to the property have to be converted to primary water rights (equal to the water demand of the township) and transferred to the Municipality or, in the absence thereof, payment of a levy equal to the market value of the water demand of the development must be made to the Municipality;</p>
<p>2.7 Any cost incurred by the applicant regarding the provision of interim bulk services infrastructure will not be deductible from Development Impact Contributions owed to Mbombela Local Municipality;</p>	<p>11. A Right of Way servitude will have to be registered over Erf 4 (private road) of this proposed development in favour of Nelspruit Extension 36;</p>	<p>14. Where applicable the necessary servitudes need to be registered over municipal services;</p>	<p>2.3 In terms of municipal policy water rights attached to the property have to be converted to primary water rights (equal to the water demand of the township) and transferred to the Municipality or, in the absence thereof, payment of a levy equal to the market value of the water demand of the development must be made to the Municipality;</p>	<p>2.4 The Developer must incorporate all conditions stipulated in the Record of Decision issued with regard to an environmental impact assessment done for the proposed development into the design and standard of services to be provided. A copy of the ROD must be submitted to the Municipality simultaneously with the services drawings and if an environmental impact assessment is not required for this development then proof of</p>
<p>2.8 The Developer must incorporate all conditions stipulated in the Record of Decision issued with regard to an environmental impact assessment done for the proposed development, into the design and standard of services to be provided. A copy of the Record of Decision must be submitted to Mbombela Local Municipality before the submission of the services drawings and if an environmental impact assessment is not required for this development then proof of exemption must be submitted to Mbombela Local Municipality;</p>	<p>12. The mutual access control gate to this development and Nelspruit Extension 36 will be located and designed in such a way that no queuing of vehicles will take place past the road reserve boundary into the road reserve of Road 069;</p> <p>13. Stormwater will be controlled and managed to follow natural watercourses and/or channels within road reserves to prevent erosion and damage to other</p>	<p>15. The developers must provide a primary water-use quota, or pay an additional contribution towards obtaining such primary water rights to Mbombela Local Municipality. This policy must be confirmed with the Municipality in writing;</p>	<p>2.4 The Developer must incorporate all conditions stipulated in the Record of Decision issued with regard</p>	<p>2.4 The Developer must incorporate all conditions stipulated in the Record of Decision issued with regard</p>
<p>2.9 All environmental studies and water use licence applications and the approval thereof</p>	<p>entrenched. All the services to be provided must be clearly stated in the constitution;</p>	<p>16. The developer shall enter into a services agreement</p>	<p>that any phase commencing later than</p>	<p>must be provided to the satisfaction of the Municipality to accommodate all the stands in any specific phase of the development;</p>

<p>by the relevant authorities, required for the installation of new infrastructure, will be the responsibility of the applicant;</p> <p>2.10 The responsibility to manage all bulk and internal services not to be taken over by Mbombela Local Municipality will be that of a legally liable Property Owners Association. The establishment of such an association and membership of each property owner is compulsory. Compulsory membership must be a condition stipulated in the Title Deed of each property in the development and proof of the establishment of such an association/company in terms of the Companies Act must be provided to Mbombela Local Municipality. The Property Owners Association must compile a constitution in which the responsibility of the association/company to supply, operate and maintain services to a generally acceptable standard and in compliance with all applicable legislation and municipal by-laws, are entrenched. All the services to be provided must be clearly stated in the constitution;</p> <p>2.11 The submission of an Engineering Services Report is acknowledged and it is recorded that the broad principles of providing services as stipulated in the report are acceptable, however, specific comments on the ESR will be provided separately;</p> <p>2.12 The indicated development rights (FAR = 0.6) for proposed stands 1029 and 1148 to 1157 will occasion the payment of very high development contributions and it is recommended that these rights be reconsidered by the applicant;</p> <p>2.13 Proper designs for all infrastructure and the related services drawings, certified by a professional engineer, will be submitted to Mbombela Local Municipality for approval prior to commencement of the construction of any infrastructure. Services constructed</p>	<p>properties. It will be ensured that any existing stormwater structures e.g. pipes, culverts etc that have to collect storm water from the proposed development, have adequate capacity to accommodate such stormwater. The applicant/owner shall be responsible for upgrading of such infrastructure if required. This development will accept stormwater from higher lying property or roads and will accommodate such stormwater in the internal stormwater system of the development where applicable;</p> <p>14. The applicant shall ensure that all storm water generated by the development shall be dispersed within natural storm water run-off areas in the instance where the storm water system needs to be extended to reach such areas. The applicant shall make his own arrangements with adjacent land owners for the registration of servitudes for the installation of storm water infrastructure. The applicant shall provide proof of servitude registration;</p> <p>15. A design report with the preliminary layout design of the link services required up to the existing Municipal services must be submitted by your engineering consultant to Silulumanzi;</p> <p>16. All the costs of the internal and link services to the existing</p>	<p>with the Municipality. Phased implementation of the development will require a separate services agreement for each phase. Phasing of the development do not refer to specific stands only but it also implies that adequate internal and bulk service capacity must be provided to the satisfaction of the Municipality to accommodate all the stands in any specific phase of the development;</p> <p>17. A services contribution will be payable to the Municipality towards the White River Bulk Water Augmentation Scheme. (This is over and above the Services Contribution levied by Silulumanzi); The Developer will be compelled to amend the township layout at his own expense if so required by the Municipality for the proper accommodation of services infrastructure to be provided in accordance with the designs approved by the Municipality;</p> <p>19. In principle provision must be made for internal building lines of 2m on all side & back boundaries and 5m on street fronts over all individual erven for the purpose of future municipal services. Where boundaries adjoin roads under the jurisdiction of other road authorities the Developer</p>	<p>to an environmental impact assessment done for the proposed development into the design and standard of services to be provided. A copy of the ROD must be submitted to the Municipality simultaneously with the services drawings and if an environmental impact assessment is not required for this development then proof of exemption must be submitted to the Municipality;</p> <p>2.5 No guarantees will be accepted in lieu of completed infrastructure in order to affect the transfer of property;</p> <p>2.6 This property is boxed in and can only obtain access from Du Preez Street. The intended zoning of "Business, Commercial and Institutional" will have a higher trip generation than the current "Future Residential" zoning. Currently Du Preez Street provides the only access to several existing high density developments and has very limited capacity if any in the vicinity of this application property. Due to high traffic volumes and a number of access intersections and turning lanes to be accommodated it is obvious that inadequate space is available for the upgrading</p>	<p>exemption must be submitted to the Municipality;</p> <p>2.5 No guarantees will be accepted in lieu of completed infrastructure in order to affect the transfer of property;</p> <p>2.6 This property is boxed in and can only obtain access from Du Preez Street. The intended zoning of "Business, Commercial and Institutional" will have a higher trip generation than the current "Future Residential" zoning. Currently Du Preez Street provides the only access to several existing high density developments and businesses and has very limited capacity if any in the vicinity of this application property. Due to high traffic volumes and a number of access intersections and turning lanes to be accommodated it is obvious that inadequate space is available for the upgrading of Du Preez Street to accommodate additional traffic that will be generated by the proposed development;</p> <p>2.7 Consequently due to the anticipated detrimental impact on road capacity and limited possibility to increase the capacity of Du Preez Street, this application can only be supported subject thereto that a very detailed traffic impact study and traffic model be submitted to determine the extent and possibility of road upgrading that will be</p>
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<p>without the design and drawings been formally approved by Mbombela Local Municipality, will not be allowed to be connected to municipal infrastructure, will not be taken over by Mbombela Local Municipality or be approved for commissioning and no clearance will be issued for the transfer of any property from the developer to another party;</p> <p>2.14 Final approval of the township layout cannot be provided prior to approval of the services infrastructure designs and drawings and the traffic impact study. Mbombela Local Municipality therefore reserves the right to insist on any amendment of the layout and general plan, dictated by the infrastructure designs and the traffic study;</p> <p>2.15 In order to limit/prevent later amendments to the township layout it is strongly recommended that it be thoroughly evaluated by the professional engineers that will be responsible for the design of the services infrastructure;</p> <p>2.16 The proposed township layout must be evaluated in detail in the traffic impact study with regard to traffic flow, access roads, intersection spacing, property access, road reserve widths, accommodation of pedestrians, public transportation facilities, accessibility by service and emergency vehicles, etc. It is recorded that a superficial review of the proposed road layout and TIS indicated that extensive amendment of the township layout will be necessary. It is suggested that the applicant engage in discussions with Civil Engineering in this regard as soon as possible;</p> <p>2.17 All stands other than those with a zoning of Public Open Space or Park must be clear of the 1:100 year flood lines. It is therefore required a township layout plan clearly indicating all the 1:100 year flood lines and certified by a professional engineer, be</p>	<p>infrastructures have to be funded by the township developer;</p> <p>17. A services agreement has to be entered into with Mbombela Local Municipality and Silulumanzi for the provision and installation of engineering services;</p> <p>18. A bulk service contribution has to be paid by the developer. The cost for upgrading the existing municipal infrastructures will be funded from the bulk services contributions and will be done by Silulumanzi when required. Silulumanzi shall report on the services contribution payable, after the above plans and design report is approved;</p> <p>19. Engineering Service Drawings must be submitted to Silulumanzi for approval before construction commence;</p> <p>20. Silulumanzi needs to be notified of all site inspections and meetings. Silulumanzi needs to be present for pipe pressure tests and certify tests;</p> <p>21. Where applicable the necessary servitudes need to be registered over municipal services;</p> <p>22. All costs in regards to the above requirements will be for the applicant/developer's account;</p> <p>23. The developers must provide a primary water-use quota, or pay an additional contribution towards obtaining such primary water rights to Mbombela Local Municipality. This policy must be confirmed with Mbombela Local Municipality in writing;</p>	<p>shall be responsible to acquired these standards directly from the relevant authority and ensure that the township layout and establishment condition is in compliance with these standards. Proof of this application shall be submitted to this sub-directorate;</p> <p>20. In terms of municipal policy water rights attached to the property have to be converted to primary water rights (equal to the water demand of the township) and transferred to the Municipality or, in the absence thereof, payment of a levy equal to the market value of the water demand of the development must be made to the Municipality;</p> <p>21. The Developer must incorporate all conditions stipulated in the Record of Decision issued with regard to an environmental impact assessment done for the proposed development into the design and standard of services to be provided. A copy of the Record of Decision must be submitted to the Municipality simultaneously with the services drawings and if an environmental impact assessment is not required for this development then proof of exemption must be submitted to the Municipality.</p>	<p>of Du Preez Street to accommodate additional traffic that will be generated by the proposed development;</p> <p>2.7 Consequently due to the anticipated detrimental impact on road capacity and limited possibility to increase the capacity of Du Preez Street, this application can only be supported subject thereto that a very detailed traffic impact study and traffic model be submitted to determine the extent and possibility of road upgrading that will be required. The study shall be based on execution of all land use rights and maximum floor area ratios applied for under this application (trip generation shall be applied on worst case scenario land uses) and shall be submitted for approval by the Municipality. Such a study must address alternative access roads to the development in order to alleviate the potential traffic load on Du Preez Street and to ensure the viability of this development with regard to accommodation of traffic. The extent and viability of this proposed development will be determined by the capacity that can practically be added to the surrounding roads infrastructure.</p> <p>2.8 A services contribution</p>	<p>required. The study shall be based on execution of all land use rights and maximum floor area ratios applied for under this application (trip generation shall be applied on worst case scenario land uses) and shall be submitted for approval by the Municipality. Such a study must address alternative access roads to the development in order to alleviate the potential traffic load on Du Preez Street and to ensure the viability of this development with regard to accommodation of traffic. The extent and viability of this proposed development will be determined by the capacity that can practically be added to the surrounding roads infrastructure.</p> <p>2.8 A services contribution towards roads will be levied against this development;</p> <p>2.9 The geometric design of the internal and external roads shall be guided by the recommendations of Traffic Impact Study / Micro Traffic Simulation Model. The final geometric design of the roads shall be referred back to the traffic engineer originally responsible for the Traffic Impact Study / Micro Traffic Simulation Model for approval and to ensure compliance with recommendations. All costs shall be for the developer's account;</p>
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<p>provided prior to the proclamation of the township;</p> <p>2.18 The submission of a Traffic Impact Study (TIS) is acknowledged. Detailed comments on the TIS will be provided separately by Civil Engineering but must be regarded as forming part of formal comments on this application;</p> <p>2.19 It is recorded that Mbombela Local Municipality accepts responsibility for the cost to be incurred by the applicant regarding the creation of roads classified as minor arterials (Class 3) or higher. Such cost will be deductible from the development impact contribution for roads that will be payable to Mbombela Local Municipality regarding the proposed development strictly subject thereto that such a deduction shall not exceed the amount of the contribution payable. Mbombela Local Municipality shall not accept any responsibility for any cost incurred in excess of the amount of the development contribution and planning and phasing of the development must be done in such a way that this stipulation is accommodated. Classification of roads will be done exclusively by Mbombela Local Municipality based on the criteria stipulated by COTO;</p> <p>2.20 Public roads to be constructed inside and outside the boundaries of the township will be taken over by Mbombela Local Municipality upon completion;</p> <p>2.21 The provision of access roads including the land required for road reserves will be the applicant's responsibility and for his account except where such a road is classified by Mbombela Local Municipality as a minor arterial in which case the principles stated in 2.19 will apply;</p> <p>2.22 The applicant will be responsible for securing approval from all relevant road authorities regarding access to national and provincial</p>	<p>24. Site development plan must be submitted for approval prior to submission of building plans; and building plans of all existing structures if any must be submitted for approval;</p> <p>25. Development must be in accordance with the findings of geo-technical survey and adhere to conditions of the Record of Decision of the Department of Agriculture and land Administration;</p> <p>26. All costs relating to supply and connection of electricity will be for the developers account;</p> <p>27. The applicant will be responsible for the proclamation costs;</p> <p>28. Before the Municipality will consider the issuing of a Section 101 Certificate, the applicants must submit a detailed report to the municipality, comprehensively explaining how there was conformed to each requirement under Section 1 (conditions to be complied with prior to the declaration of the township) of the Conditions of Establishment issued in respect of this township as well as all conditions contained in this letter of approval;</p> <p>29. This approval must be construed to be an approval in terms of Section 102 of Ordinance 15, 1986 and in terms hereof, you are granted a maximum period of 12 months</p>	<p>22. Services contributions towards roads will be levied against this development;</p> <p>23. The developer shall submit a detailed large scale Traffic Impact Study / Micro Traffic Simulation Model. These studies shall be based on execution of all land use rights and max floor area ratios applied for under this application (trip generation shall be applied on worst case scenario land uses) for approval by this sub-directorate;</p> <p>24. The developer shall submit a separate specific traffic study (dealing with special/large event transportation management) for the conference centre planned for stands 901 and 902;</p> <p>25. The geometric design of the internal & external roads shall be guided by the recommendations of Traffic Impact Study / Micro Traffic Simulation Model. The final geometric design of the roads shall be referred back to the traffic engineer originally responsible for the Traffic Impact Study / Micro Traffic Simulation Model for their approval and to ensure compliance with recommendations. All costs shall be for the developer's account;</p> <p>26. All recommendations of the Traffic Impact Study / Micro Traffic Simulation Model</p>	<p>towards roads will be levied against this development;</p> <p>2.9 The geometric design of the internal and external roads shall be guided by the recommendations of Traffic Impact Study / Micro Traffic Simulation Model. The final geometric design of the roads shall be referred back to the traffic engineer originally responsible for the Traffic Impact Study / Micro Traffic Simulation Model for approval and to ensure compliance with recommendations. All costs shall be for the developer's account;</p> <p>2.10 All recommendations of the Traffic Impact Study / Micro Traffic Simulation Model shall be implemented by the developer including amendments to the township layout, land use rights and floor area ratios should this be needed to ensure compliance with intersection and link road minimum level of service and geometric design standards;</p> <p>2.11 A comprehensive stormwater management plan will be required for submission with a detailed stormwater system design;</p> <p>2.12 Stormwater will be controlled and managed to follow natural watercourses and/or channels within road reserves to prevent erosion</p>	<p>2.10 All recommendations of the Traffic Impact Study / Micro Traffic Simulation Model shall be implemented by the developer including amendments to the township layout, land use rights and floor area ratios should this be needed to ensure compliance with intersection and link road minimum level of service and geometric design standards;</p> <p>2.11 A comprehensive stormwater management plan will be required for submission with a detailed storm water system design;</p> <p>2.12 Stormwater will be controlled and managed to follow natural watercourses and/or channels within road reserves to prevent erosion and damage to other properties. It will be ensured that any existing stormwater structures e.g. pipes, culverts etc. that have to collect storm water from the proposed development, have adequate capacity to accommodate such stormwater. The applicant/developer shall be responsible for upgrading of such infrastructure if required. This development will accept stormwater from higher lying property or roads and will accommodate such stormwater in the internal stormwater system of the development where applicable;</p> <p>2.13 The applicant shall ensure</p>
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<p>roads and proof of such approval must be provided to Mbombela Local Municipality prior to proclamation of the township;</p> <p>2.23 The applicant is required to submit a thorough hydrologic analysis of surface water run-off based on parameters applicable to a developed township, wherein the impact of intensified surface water flow on the natural water courses and any existing structures therein, within the proposed development as well as downstream of the proposed development, is investigated and quantified and mitigating measures for the prevention of damage are prescribed. The Record of Decision to be issued on the EIA should take cognizance of this hydrologic analysis;</p> <p>2.24 With regard to existing dams located inside or outside of the proposed development, but which could impact on the development or vice versa, the aforementioned hydrological analysis shall also address the certification of existing dam walls, proof of water use licence for such a dam and the management of flow from such a dam;</p> <p>2.25 The applicant will be responsible to obtain any authorizations and water use licences that may be required to implement the mitigating measures prescribed by the hydrological analysis;</p> <p>2.26 Stormwater will be controlled and managed to follow natural watercourses and/or channels within road reserves to prevent erosion and damage to other properties. It will be ensured that any existing stormwater structures e.g. pipes, culverts etc that have to collect storm water from the proposed development, have adequate capacity to accommodate such stormwater. The applicant/owner shall be responsible for upgrading of such infrastructure if required. This development will accept stormwater from higher located property or roads and will accommodate such stormwater in the</p>	<p>from date hereof to comply with ALL the conditions contained herein.</p>	<p>shall be implemented by the developer including amendments to the township layout, land use rights and floor area ratios should this be needed to ensure compliance with intersection and link road minimum level of service and geometric design standards;</p> <p>27. With the planning of the main internal roads cognizance must be taken of the minimum cross sectional requirements for bus routes such as minimum tarred width of 7,4m, widening at bends and intersections, bus stops, turnaround facilities and the provision of right turn lanes at intersections;</p> <p>28. Entrance gates to residential/commercial clusters will be provided in such a way that queuing of vehicles will not interfere with the traffic on public roads;</p> <p>29. A comprehensive storm water management plan will be required for submission with a detailed storm water system design;</p> <p>30. Stormwater will be controlled and managed to follow natural watercourses and/or channels within road reserves to prevent erosion and damage to other properties. It will be ensured that any existing stormwater structures e.g. pipes, culverts etc that have to</p>	<p>and damage to other properties. It will be ensured that any existing stormwater structures e.g. pipes, culverts etc. that have to collect storm water from the proposed development, have adequate capacity to accommodate such stormwater. The applicant/developer shall be responsible for upgrading of such infrastructure if required. This development will accept stormwater from higher lying property or roads and will accommodate such stormwater in the internal stormwater system of the development where applicable;</p> <p>2.13 The applicant shall ensure that all stormwater generated by the development shall be dispersed within natural storm water run-off areas in the instance where the storm water system needs to be extended to reach such areas. The applicant shall make his own arrangements with adjacent land owners for the registration of servitudes for the installation of storm water infrastructure. The applicant shall provide proof of servitude registration.</p> <p>3. Sembcorp Silulumanzi: Silulumanzi has no objection to the application if each portion is</p>	<p>that all stormwater generated by the development shall be dispersed within natural storm water run-off areas in the instance where the storm water system needs to be extended to reach such areas. The applicant shall make his own arrangements with adjacent land owners for the registration of servitudes for the installation of storm water infrastructure. The applicant shall provide proof of servitude registration.</p> <p>3. Sembcorp Silulumanzi: Silulumanzi has no objection to the application if each portion is fully serviced to the satisfaction of Sembcorp Silulumanzi, the following conditions shall be applicable:</p> <p>3.1 A design report with the preliminary layout design of the bulk and link services required up to the existing Municipal services must be submitted by your engineering consultant to Sembcorp Silulumanzi;</p> <p>3.2 All the costs of the internal, bulk and link services to the existing infrastructures have to be funded by the township developer;</p> <p>3.3 Provide proof of the SDF amendment. Correspondence to be via MLM Monitoring Unit;</p> <p>3.4 Provide proof that the proposed Township has been accepted by MLM to be included into the Concession</p>
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<p>internal stormwater system of the development where appropriate;</p> <p>2.27 The applicant shall ensure that all storm water generated by the development shall be dispersed within natural storm water run-off areas. In case the storm water system needs to be extended to reach such areas the applicant shall make his own arrangements with adjacent land owners for the registration of servitudes for the installation of storm water infrastructure. The applicant shall provide proof of servitude registration;</p> <p>2.28 1:100 Year flood lines will be determined and certified by a suitably qualified professional engineer and such flood lines will be indicated on the township layout and all infrastructure layout drawings to be submitted to Mbombela Local Municipality for approval;</p> <p>2.29 Due to the lack of sufficient water purification capacity at the Mbombela Local Municipality water purification works, this application is supported subject thereto that the applicant shall provide the required services if it is required for the development before such services can be made available by Mbombela Local Municipality;</p> <p>2.30 In terms of municipal policy water entitlements attached to the property to be developed have to be converted to water for primary use (equal to the water demand of the township plus 15% for losses) and transferred to the Mbombela Local Municipality or the legally established Homeowner Association in cases where water will not be supplied by Mbombela Local Municipality. In the absence of such water entitlements and providing that Mbombela Local Municipality dispose of surplus water allocations, the payment of a levy calculated on the basis of the proven market value of the water entitlements and</p>		<p>collect storm water from the proposed development, have adequate capacity to accommodate such stormwater. The applicant/owner shall be responsible for upgrading of such infrastructure if required. This development will accept stormwater from higher lying property or roads and will accommodate such stormwater in the internal stormwater system of the development where applicable;</p> <p>31. The applicant shall ensure that all storm water generated by the development shall be dispersed within natural storm water run-off areas in the instance where the storm water system needs to be extended to reach such areas. The applicant shall make his own arrangements with adjacent land owners for the registration of servitudes for the installation of storm water infrastructure. The applicant shall provide proof of servitude registration;</p> <p>32. The Municipality does not have the capacity to supply this development with electricity at this stage; the supply could be made available the earliest by the date agreed upon by Eskom to increase the Council's Maximum Demand and that</p>	<p>fully serviced to the satisfaction of Sombcorp Silulumanzi, the following conditions shall be applicable:</p> <p>3.1 A design report with the preliminary layout design of the bulk and link services required up to the existing Municipal services must be submitted by your engineering consultant to Sombcorp Silulumanzi;</p> <p>3.2 All the costs of the internal, bulk and link services to the existing infrastructures have to be funded by the township developer;</p> <p>3.3 Provide proof of the SDF amendment. Correspondence to be via MLM Monitoring Unit;</p> <p>3.4 Provide proof that the proposed Township has been accepted by MLM to be included into the Concession Area of Sombcorp Silulumanzi. Correspondence to be via MLM Monitoring Unit;</p> <p>3.5 A services agreement has to be entered into with Mbombela Local Municipality and Silulumanzi for the provision and installation of engineering services before construction can commence;</p> <p>3.6 A bulk service contribution has to be paid by the developer. The cost for upgrading the existing municipal infrastructures will be funded from the bulk</p>	<p>Area of Sombcorp Silulumanzi. Correspondence to be via MLM Monitoring Unit;</p> <p>3.5 A services agreement has to be entered into with Mbombela Local Municipality and Silulumanzi for the provision and installation of engineering services before construction can commence;</p> <p>3.6 A bulk service contribution has to be paid by the developer. The cost for upgrading the existing municipal infrastructures will be funded from the bulk services contributions and will be done by Sombcorp Silulumanzi as and when required. Silulumanzi shall report on the services contribution payable, after the above plans and design report has been approved;</p> <p>3.7 Engineering Service Drawings must be submitted to Sombcorp Silulumanzi and approved before construction can commence;</p> <p>3.8 Each portion must be fully serviced to the satisfaction of Sombcorp Silulumanzi;</p> <p>3.9 Silulumanzi needs to be notified of all site inspections and meetings. Sombcorp Silulumanzi must witness pipe pressure tests and certify all test results;</p> <p>3.10 Where applicable the necessary servitudes need to be registered over municipal services before the hand-over</p>
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<p>the water demand of the development must be made to Mbombela Local Municipality;</p> <p>2.31 The quantity of bulk water available to the proposed development will dictate the extent of the proposed development that will be allowed and it is therefore crucial that the availability be proven of an adequate bulk water supply at least equal to the Annual Average Daily Demand of the proposed development plus 15% for losses, before proclamation of the proposed township. In other words, the extent of the township to be proclaimed may not exceed that for which the availability of an adequate bulk water supply has been proven;</p> <p>2.32 Water entitlements to be transferred to Mbombela Local Municipality must be available at the existing MLM raw water extraction point in the Sabie River and it is therefore crucial that it be confirmed by DWA that the indicated water entitlements from Da Gama Dam intended for eventual transfer to Mbombela Local Municipality, will indeed be accessible at the above-mentioned point of extraction;</p> <p>2.33 Although separate comments will be provided on the ESR it is recorded that MLM is not in agreement with the water demand figures stated in the report and revision thereof will be required;</p> <p>2.34 This proposed development is located outside of the area for which the current Hazyview Water Master Plan (HWMP) has been developed and consequently it is necessary that the existing HWM P be extended to incorporate this proposed development. The execution of such work will be the responsibility of and at the cost of the applicant. Such work will be done under the guidance and supervision of Mbombela Local Municipality and to the satisfaction of Mbombela Local Municipality;</p> <p>2.35 As stated previously there are no existing</p>		<p>the council has completed the necessary upgrade to feed this particular development;</p> <p>33. All design specifications and material to comply with the sub directorate's latest revision of Electrical Reticulations Standards and Supply methods specifications;</p> <p>34. Servitude to be registered in favour of Council, in the title deed, where municipal services are located;</p> <p>35. The estimated service contribution, connection and link costs will be payable;</p> <p>36. Any additional costs will be for the applicant's account;</p> <p>37. Only one electrical supply point per stand will be allowed;</p> <p>38. No additional power will be allocated except for what has been allowed,</p> <p>39. No building plans will be approved if the aforementioned conditions have not been met;</p> <p>40. The applicant will be responsible for the proclamation costs;</p> <p>41. All the costs with regard the above-mentioned requirements will be for the applicant/developer's account;</p> <p>42. Before the Municipality will consider the issuing of a Section 101 Certificate, the applicants must submit a detailed report to</p>	<p>services contributions and will be done by Sembcorp Silulumanzi as and when required. Silulumanzi shall report on the services contribution payable, after the above plans and design report has been approved;</p> <p>3.7 Engineering Service Drawings must be submitted to Sembcorp Silulumanzi and approved before construction can commence;</p> <p>3.8 Each portion must be fully serviced to the satisfaction of Sembcorp Silulumanzi;</p> <p>3.9 Silulumanzi needs to be notified of all site inspections and meetings. Sembcorp Silulumanzi must witness pipe pressure tests and certify all test results;</p> <p>3.10 Where applicable the necessary servitudes need to be registered over municipal services before the hand-over of services;</p> <p>3.11 The developers must provide a primary water-use quota, or pay an additional contribution towards obtaining such primary water rights to MLM. This policy must be confirmed with MLM in writing;</p> <p>3.12 All costs in regards to the above requirements will be for the applicant/developer's account.</p> <p>4. Electrical Engineering: The application is approved on the condition that:</p> <p>4.1 All design specifications and</p>	<p>of services;</p> <p>3.11 The developers must provide a primary water-use quota, or pay an additional contribution towards obtaining such primary water rights to MLM. This policy must be confirmed with MLM in writing;</p> <p>3.12 All costs in regards to the above requirements will be for the applicant/developer's account.</p> <p>4. Electrical Engineering: The application is approved on the condition that:</p> <p>4.1 All design specifications and material to comply with the sub directorate's latest revision of Electrical Reticulations Standards and Supply methods specifications;</p> <p>4.2 All cost for the development will be for the applicant's account;</p> <p>4.3 Servitude to be registered in favour of Council, in the title deed, where municipal services are located;</p> <p>4.4 The estimated service contribution, connection and link costs will be payable;</p> <p>4.5 Any additional costs will be for the applicant's account;</p> <p>4.6 Only one supply point per stand;</p> <p>4.7 No additional power will be allocated except what has been allowed.</p> <p>Before the Municipality will consider the issuing of a Section 101 Certificate, the applicants must submit a</p>
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<p>sewers and sewerage treatment works in Hazyview which this proposed development can be connected to. Although planning of such infrastructure has commenced it will take several years to complete and at this stage it is impossible to determine a date when such infrastructure will be available. If the development of this proposed township should commence before bulk sewerage infrastructure can be made available by Mbombela Local Municipality, the applicant will be responsible for the provision of sustainable alternative bulk sewerage infrastructure at his cost;</p> <p>2.36 This proposed development is located outside of the area for which the current Hazyview Sewerage Master Plan has been developed and consequently it is necessary that the existing master plan be extended to incorporate this proposed development. The execution of such work will be the responsibility of and at the cost of the applicant. Such work will be done under the guidance and supervision of Mbombela Local Municipality and to the satisfaction of Mbombela Local Municipality;</p> <p>2.37 From the comments by Civil Engineering the following pre-proclamation conditions are evident and must be complied with:</p> <p>2.37.1 Proof of an adequate water entitlement and submission of an application to Department of Water Affairs for the conversion thereof to primary use and transfer thereof to the Municipality/homeowners association;</p> <p>2.37.2 Proof of approval by Department of Water Affairs for the method of disposal of sewerage / licence for a package plant;</p> <p>2.37.3 Submission to Mbombela Local Municipality of a hydrologic analysis of surface water run-off;</p> <p>2.37.4 Submission of township layout indicating certified 1:100 year flood lines;</p> <p>2.37.5 Proof of approval of access onto national</p>		<p>the municipality, comprehensively explaining how the developer has conformed to each requirement under Section 1 (conditions to be complied with prior to the declaration of the township) of the Conditions of Establishment issued in respect of this township as well as all conditions contained in this letter of approval;</p>	<p>material to comply with the sub directorate's latest revision of Electrical Reticulations Standards and Supply methods specifications;</p> <p>4.2 All cost for the development will be for the applicant's account;</p> <p>4.3 Servitude to be registered in favour of Council, in the title deed, where municipal services are located;</p> <p>4.4 The estimated service contribution, connection and link costs will be payable;</p> <p>4.5 Any additional costs will be for the applicant's account;</p> <p>4.6 Only one supply point per stand;</p> <p>4.7 No additional power will be allocated except what has been allowed.</p> <p>Before the Municipality will consider the issuing of a Section 101 Certificate, the applicants must submit a detailed report to the municipality, comprehensively explaining how there was conformed to each requirement under Section 1 (conditions to be complied with prior to the declaration of the township) of the Conditions of Establishment issued in respect of this township as well as all conditions contained in this letter of approval.</p>	<p>detailed report to the municipality, comprehensively explaining how there was conformed to each requirement under Section 1 (conditions to be complied with prior to the declaration of the township) of the Conditions of Establishment issued in respect of this township as well as all conditions contained in this letter of approval</p> <p>This approval must be construed to be an approval in terms of Section 102 of Ordinance is, 1986 and in terms hereof, you are granted a maximum period of 12 months from date hereof to comply to ALL the conditions contained herein.</p>
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<p>and/or provincial roads and/or securing of access <i>over</i> property located outside of the proposed development, whatever the case may be;</p> <p>2.37.6 Submission of any information required by MLM to proof sustainability of services to be provided; Entering into a services agreement; the following must be stipulated in each title deed to be issued for property within the proposed township:</p> <p>2.37.7 Membership of the homeowner association is compulsory and the responsibility for complying with the conditions set by MLM will be collectively and severally;</p> <p>2.37.8 Service Development contributions for water and sanitation will be payable to MLM prior to future connection to extended municipal infrastructure;</p> <p>2.37.9 Basic service levies will be payable to MLM when connection to extended municipal infrastructure becomes possible <i>even</i> if by choice of the property owner/homeowners association no connection is made to the available municipal infrastructure;</p> <p>2.37.10 MLM will not accept any responsibility regarding the sustainability and standard of services to be rendered by the homeowners associations.</p> <p>3. ELECTRICAL ENGINEERING:</p> <p>3.1 The applicant must apply and pay Eskom for a bulk connection from Eskom that will be handed <i>over</i> to Council. The internal reticulation and metering and street lighting must be according to Council's electrical specifications. The design drawings must be submitted to Council for approval prior to commencement of any work.</p> <p>Before the Municipality will consider the issuing of a Section 101 Certificate, the applicants must submit a detailed report to the municipality, comprehensively explaining how there was conformed to each requirement under Section 1</p>				
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<p>(conditions to be complied with prior to the declaration of the township) of the Conditions of Establishment issued in respect of this township as well as all conditions contained in this letter of approval</p>				
PLANNING DECISIONS BY MBOMBELA LOCAL MUNICIPALITY ON FORMALISATION OF TOWNSHIPS				
1. MATAFFIN FORMALISATION: PROPOSED TOWNSHIP MATAFFIN, SITUATED ON PORTIONS 13,20, 22, 23 AND THE REMAINDER OF THE FARM RIVERSIDE 308-			2. MAKOKO FORMALISATION: PROPOSED TOWNSHIP MAKOKO SITUATED ON PORTION 1 OF THE FARM MAKOKO NO. 579 JU	
<p>The subject properties are earmarked for "Mixed land uses" purposes in terms of the Mbombela Spatial Development Framework, the application is therefore supported subject to the following conditions:</p> <ol style="list-style-type: none"> 1. All outstanding documentation and approvals from other institutions as specified in the Town Planning and Townships Ordinance 15 of 1986, must be obtained; 2. The restrictive title conditions must be cancelled or dealt with in a satisfactory manner; 3. The proposed layout plan for Mataffin Township is approved, subject to the following development restrictions: <p>3.1 Erven 3, 15, 16 and 43: Zoning: "Special" for residential purposes, including formalisation of existing settlement, Density: 1 dwelling per erf, Coverage: 30 units per hectare, coverage 50%, or as per approved Site Development and height: Not exceeding 2 storeys.</p> <p>3.2 Erven 4, 7, 9, 11, 37 and 39: Zoning: "Agriculture"</p> <p>3.3 Erven 1 and 5: Zoning: "Special" for tourism related business enterprises, F.A.R: 0.4, Density: 30 units per hectare, coverage 50%, and height: Not exceeding 2 storeys.</p> <p>3.3 Erven 6 and 10: Zoning: "Special" for tourism related business enterprises, F.A.R: 0.4, Density: 30 units per hectare, coverage 50%, and height: Not exceeding 2 storeys.</p> <p>3.4 Erf 17: Zoning: "Special" for tourism related business enterprises, F.A.R: 0.4, Density: 20 units per hectare, coverage 50%, and height: Not exceeding 2 storeys.</p> <p>3.5 Erven 8, 25, 33 and 48: Zoning: "Residential 3", F.A.R: 0.4, Density: 40 units per hectare, coverage 50%, and height: Not exceeding 2 storeys.</p> <p>3.6 Erf 35: Zoning: "Special" for Guest Lodge, F.A.R: 0.1, Density: 1 dwelling unit per erf restricted to a maximum of 16 Guest rooms, coverage 10%, and height: Not exceeding 2 storeys.</p> <p>3.7 Erven 23, 28, 29, 32, 41 and 46: Zoning: "Educational", F.A.R: 0.1, Coverage: 75%, and height: Not exceeding 3 storeys.</p> <p>3.8 Erven 12 and 18: Zoning: "Special" for business purposes, F.A.R: 0.3, Coverage: 30%, and height: Not exceeding 3 storeys.</p> <p>3.9 Erven 26 and 31: Zoning: "Residential 2", Density: 30 units per hectare, Coverage: 50%, and height: Not exceeding 2</p>			<ol style="list-style-type: none"> a) The minimum road reserve width shall be as follows ; <ul style="list-style-type: none"> • Thoroughfares and cul-de-sacs up to 500 metres: 10 metres; • Street longer than 500 metres; 12 to 15 metres; • Bus routes (where applicable) : 16 metres; b) The Department of the Civil Engineer does not support development in the vicinity of dongas, however risk-free they may seem; c) The 1:100 year floodline has to be indicated and no development below the flood line will be permitted; d) The applicant must comply with any legal requirements as far as water rights and the National Water Act, 1998, are concerned, before proclamation of the township. e) Storm water courses must be protected by the registration of servitudes and/or parks/reserves as may be applicable; f) Services reports on water and sewer have not been compiled for these areas and the location/impact of existing civil engineering services cannot be confirmed at this stage; g) Access to the development must be obtained from the Department of Public Works, Roads and Transport and proof must be submitted to the Mbombela Local Municipality) (h) The proposed layout plan for Makoko is approved, subject to the following development restrictions: (i) Erven 1 to 5, 7 to 50, 53 to 78, 80 to 162, 166 to 173, 175 to 176, 179 to 181, 183 to 185; 187 to 208, 210 to 212, 214 to 224, 226 and 227: Zoning: "Residential 5", Height: 3 storeys Coverage: 50%, Building lines: 3 metre along all street boundaries 	

storeys.

3.10 Erven 36 and 40: Zoning: "Residential 2", Density: 20 units per hectare, Coverage: 50%, and height: Not exceeding 2 storeys.

3.11 Erven 42 and 44: Zoning: "Residential 1", Density: 1 dwelling unit per 1000m², Coverage: 50%, and height: Not exceeding 3 storeys.

3.13 Erven 27 and 30: Zoning: "Residential 4", F.A.R: 0.5, Coverage: 40%, and height: Not exceeding 3 storeys.

3.14 Erven 20, 21 and 22: Zoning: "Residential 4", F.A.R: 0.6, Coverage: 40%, and height: Not exceeding 3 storeys.

3.15 Erf 24: Zoning: "Institutional", F.A.R: 0.6, Coverage: 75%, and height: Not exceeding 3 storeys.

3.16 Erven 50, 51, 52, 53 and 54: Zoning: "Public Open Space"

3.17 Erf 19: Zoning: "Special" for parking area, parking garage, Ablution facilities, taxi rank, bus depot and offices directly related and subservient to the main use.", F.A.R: 1.2, Coverage: 75%, and height: 2 storeys.

3.18 Erven 13 and 14: Zoning: "Special" for regional sport centre and ancillary facilities.

3.19 Erf 34: Zoning: "Special" for conservation purposes.

3.20 Erf 2: Zoning: "Special" for residential purposes, agricultural activities, and offices directly related to agricultural activities., Density: Dwelling units (20 units per hectare) Dwelling houses (1 dwelling unit per 500m²), F.A.R: 0.2 for offices, Coverage: 50% for dwelling units and dwelling houses 30% for offices, and height: 2 storeys for dwelling units and dwelling houses and 3 storeys for offices.

3.21 Erf 49: Zoning: "Special" for such purposes as the municipality may approve.

4. The main access road into this precinct and also to the proposed soccer stadium is planned as a Boulevard consisting of a 4 lane road separated by a median and with round-about at intersections. The road reserve required for this boulevard must be a minimum width of 40 meters and widening will be required at intersections in order to accommodate the proposed roundabouts. Some of these roundabouts will consist of two circling lanes with a consequent large extend of land required to accommodate the roundabouts. Detail regarding this must be obtained from Civil Engineering;
5. The road reserve indicated from the stadium to the southern boundary of the precinct must have a minimum width of 35m. Due to the fact that this application makes provision for large areas to be planned in greater detail at a later stage it will be necessary that a proper traffic study be conducted and a subsequent basic road layout be compiled. This matter will have to be referred to the 2007/2008 budget. It must be accepted that adjustment of the submitted layout could be necessary due to the findings of such a traffic study;
6. The proposed access intersections from the N4 must be approved by TRAC and SANRAL. They have already indicated that they will conditionally allow these intersections although it will impact on the mobility of the N4;
7. A proper stormwater system will be required and natural water courses must be protected to service as drainage routes for the whole precinct. Detail stormwater runoff calculations must be done based on the proposed land uses to determine the impact on natural water courses and existing in-stream structures;
8. Where applicable the necessary servitudes must be registered;
9. Clause 9.2 of the concession agreement specifies the conditions under which the Concession Area should be extended and we suggest that a meeting be arranged between Silulumanzi and the interested parties to ensure that the terms and conditions of clause 9.2 are fully met. Accordingly, written confirmation must be obtained from Mbombela Local Municipality to include the area into the Concession boundary;
10. A design report and preliminary layout design of the bulk services required up to the existing Municipal services must be submitted to Silulumanzi prior to acceptance;
11. The cost of all the bulk services has to be funded by others. The cost for upgrading the existing municipal networks will also be for the developers account, and a service contribution has to be paid. The calculation will be based on the water demand and sewage run-off of the development into the existing networks as determined by Silulumanzi Water and Sanitation Master Plan dated June 2006;

(ii) **Erven 74 and 182:** Zoning: "Business 2", Height: 3 storeys Coverage: 80%, Building lines: 3 metre along all street boundaries

(iii) **Erven 51 to 52, 163 to 165, 174, 177 to 178 and 225:** Zoning: "Educational", Height: 3 storeys Coverage: 75%, Building lines: 5 metre along all street boundaries

(iv) **Erf 209:** Zoning: "Educational."

(v) **Erven 6, 79, 186 and 213:** Zoning: "Agricultural", Building lines 10 metre from street boundary

(vi) **Erven 228, 229, 230 and 231:** Zoning: "Public Open Space"

l) Detail designs, of all new services must be submitted to the City Engineer and City Electrical Engineer for approval prior to the commencement of any construction;

j) All storm water generated by the development shall be collected by an internal storm water network.

12. The internal and link services must be funded by the development and has to be constructed to approved service drawings and National Standards under supervision of Silulumanzi;
13. Mbombela must address the additional raw water abstraction and transfer all existing and available Mataffin Precinct Water Rights to primary water;
14. The developer has to enter into a Service Agreement for the installation and provision of services between Silulumanzi and Mbombela Local Municipality;
15. Mbombela Local Municipality must reserve land by way of servitudes for the future Bulk water supply lines, outfall sewers and land for the future Mataffin Reservoirs. The actual position of the bulk services will only be determined during the final design stages;
16. Environmental Impact Assessment, in terms of the Environment Conservation Act, 1989, be obtained from the Department of Agriculture and Land Administration;
17. The subject properties, i.e. Portion 13,14,17, 20, 22 and the Remainder of the farm Riverside 308JT), must be consolidated;
18. No development takes place below the 1:100 year flood line from the Gladdespruit;
19. Bondholders consent must be submitted;
20. The development must be consistent with the Precinct Plan for Mataffin;
21. Conditions set out by other Departments must be adhered to;
22. Site development plan must be submitted for approval prior to submission of building plans;
23. Building plans of all existing structures must be submitted for approval;
24. Development must be in accordance with the findings of geo-technical survey and adhere to conditions of the Record Of Decision of the Department of Agriculture and land Administration;
25. A services agreement shall be entered into prior to any construction on site;
26. Services drawings shall be submitted for approval prior to any construction on site;
27. Council will have first option to supply the township with electricity;
28. Services contribution for electricity will be payable by the applicant and be calculated once the electrical load is being provided to the sub-directorate electrical engineering;
29. The applicant will be responsible for the proclamation costs;
30. **Before the Municipality will consider the issuing of a Section 101 Certificate, the applicants must submit a detailed report to the municipality, comprehensively explaining how there was conformed to each requirement under Section 1 (conditions to be complied with prior to the declaration of the township) of the Conditions of Establishment issued in respect of this township as well as all conditions contained in this letter of approval.**
31. This approval must be construed to be an approval in terms of Section 102 of Ordinance 15, 1986 and in terms hereof, you are granted a maximum period of 12 months from date hereof to comply with **ALL** the conditions contained herein.