



## HAVE YOUR SAY

### **Public Notice calling for submission of comments on the Northern Cape Spatial Planning and Land Use Management Bill, 2022.**

The MEC of Co-Operative Governance, Human Settlements and Traditional Affairs hereby gives notice in terms of Rule 166 (2) of the Rules of the Northern Cape Provincial Legislature that he intends to introduce the Northern Cape Spatial Planning and Land Use Management Bill (NC SPLUM Bill) in the Legislature in 2022.

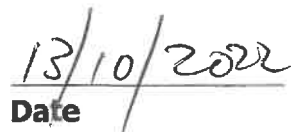
The NC SPLUM Bill, 2022 responds to the need for a modernised and efficient system of spatial planning and land use management which facilitates sustainable development in the Province. It seeks to establish a spatial planning and land use management framework that places emphasis on the effective integration of planning activities across provincial and municipal government so as to facilitate appropriate development.

The Bill centers around five objectives. First, it provides for the adoption of a uniform set of spatial planning categories and land uses for the Province. Secondly, it facilitates the establishment of a Provincial Spatial Planning and Land Use Advisory Committee. Thirdly it provides for matters of provincial interest. Fourthly it seeks to put mechanisms and structures in place for provincial support and monitoring mechanisms to assist local government. Fifthly the Bill seeks to provide for interim measures and matters associated therewith.

In line with the Provincial Legislatures core objectives of facilitating public participation and involvement in legislative processes, we invite public comments on the NC SPLUM Bill. The draft Northern Cape Spatial Planning and Land Use Management Bill is available on the department's website ([www.coghsta.ncpg.gov.za](http://www.coghsta.ncpg.gov.za)). Any person wishing to provide comments and/or objections must do so within a period of twenty one (21) days from the first day of the publication of this notice.

Written comments and/or objections must be submitted to the office of the Director : Planning and Development at this email address: [ambolekwa@ncpg.gov.za](mailto:ambolekwa@ncpg.gov.za) or [andimbolekwa@gmail.com](mailto:andimbolekwa@gmail.com) and [Louwn@ncpg.gov.za](mailto:Louwn@ncpg.gov.za) or at the physical address of the Department, Larry Moleko Louw Building, 9 Cecil Sussman Road , Private Bag X5005 Kimberley 8300 (for attention: Mr A Mbolekwa).

  
**Mr. B.G. VASS**  
**MEC: COGHSTA**

  
**Date**

# **Northern Cape Spatial Planning and Land Use Management Bill, 2022**

## **BILL**

To provide for the spatial planning, land use management and land development in the Province in a sustainable manner by means of the coordination and alignment of land use by way of the adoption of a uniform set of spatial planning categories and land uses for the Province; to provide for the establishment of the Provincial Spatial Planning and Land Use Advisory Committee; to provide for matters of provincial interest, to provide for provincial support and monitoring mechanisms and structures to assist local government; to provide for interim measures; and to provide for matters associated therewith.

## **PREAMBLE**

**WHEREAS** the Northern Cape Provincial Government is required to give effect to the provisions of the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) and the development principles contained therein;

**AND WHEREAS** it is necessary to regulate certain matters relating to the Northern Cape Provincial Government's functions and duties relating to the implementation of SPLUMA in the Province;

**AND WHEREAS** it is necessary to introduce uniform spatial planning categories and land uses for the Province to ensure an integrated basis for spatial planning and land use management within the Province,

**BE IT THEREFORE ENACTED** by the Legislature of the Province of the Northern Cape Province as follows:

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## CHAPTER 1

### DEFINITIONS, PURPOSES AND APPLICATION OF THE ACT

#### Definitions

1. In this Act, unless the context indicates otherwise:

**“Applicant”** means a person who makes a land use and/or development application contemplated in terms of section 45 of Spatial Planning and Land Use Management Act 16 of 2013 and application has a similar meaning;

**“Committee”** shall refer to the Provincial Spatial Planning and Land Use Advisory Committee

**“Competent authority”** means any organ of state which is empowered to grant a right to use of land;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);

**“Consent use”** means any usage of land as granted by a Municipality in terms of a land use scheme or existing scheme;

**“Day”** means a calendar day, and when any number of days are prescribed, it must be calculated by excluding the first day and inclusive of the last day, however, should the last day fall on a Sunday, Saturday or public holiday, the number of days must be calculated by excluding the first day and also the Sunday, Saturday or public holiday;

**“Develop”** in relation to land or the physical improvement of land, means the use of the land or a part thereof or the physical improvement of the land by preparing it for development, including the in-fill of land, draining or levelling of land, the installation of engineering services;

**“Development”** means a process of integrating economic, spatial, social, institutional, environmental, fiscal and other plans and strategies in order to support the optimal allocation and utilisation of scarce resources within and to various sectors, geographical areas and across the jurisdiction of local and provincial government, in a manner that promotes sustainable growth, equity and in particular, but not limited to, the empowerment of the poor and marginalised;

**“Development rights”** means any approval granted in terms of SPLUMA and/or relevant municipal planning by-laws or any other legally granted processes in respect of a land development application, including any removal or amendment of restrictive conditions as provided for in SPLUMA;

**“Executive Council”** means the Executive Council of the Northern Cape Provincial Government established in terms of section 132 of the Constitution;

**“Existing rights”** means any rights legally granted by a competent authority in terms of the provisions of the Northern Cape Planning and Development, Act 7 of 1998, SPLUMA, municipal planning by-laws and/or any other legally granted processes in terms of which the owner of land is entitled to any rights to develop such land, proceed with the development land and proceed with land development on the land in terms of which such rights were granted any rights relating to land;

**“Existing scheme”** means any land use management scheme adopted and approved by a Municipality in respect of the whole or a portion of its municipal area in terms of any provincial or national legislation that governed such land use schemes;

**“Head of Department”** means the administrative head of the Provincial Department within the Province which reports to the MEC tasked by the Premier with the responsibility for the administration of this Act;

**“Information”** means any spatial planning and land use management system, book, document, map or chart in electronic, printed or other format and will include physical objects and models irrespective of the format in which it was produced;

**“Land”** means any erf, agricultural holding or farm portion, and includes any improvement, alteration or building on the land or thereunder and any real right in land excluding sectional title schemes;

**“Land development”** means the change of use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of an applicable land use scheme;

**“Land development application”** means any application submitted by an applicant for any development rights in respect of a land development in terms of SPLUMA and/or municipal planning by-laws and includes an application for the removal, suspension or amendment of a restrictive condition;

**“Land use”** means the purpose for which land is or may be used lawfully in terms of a land use scheme, existing scheme or in terms of any other authorisation, permit or consent issued by a competent authority, including any conditions related to such land use purposes and title conditions;

**“Land use scheme”** means a land use scheme contemplated in SPLUMA for the regulation of land use and shall include, where the context so requires, an existing scheme and title conditions;

**“MEC”** means a member of the Executive Council of the Province responsible for the provincial department to which the Premier has delegated any functions in terms

of in this Act; and where the context so requires, shall include the Head of Department;

**“Monitor”** in terms of section 7(6) of this Act, means the provision of quarterly reports by the Provincial Spatial Planning and Land Use Advisory Committee to the Premier on its activities and performance, or, as and when so required by the Premier.

**“Municipal area”** means the area of jurisdiction of a Municipality as determined in terms of the Local Government Demarcation Act, 1998 (Act No 27 of 1998);

**“Municipal Planning Tribunal”** means the Municipal Planning Tribunal as established in terms of Chapter 6 of SPLUMA;

**“Municipality”** means a Municipality as envisaged in section 155 of the Constitution that is situated within the Province and, where the context so requires the Municipal Planning Tribunal and Authorised official established by the Municipality in question;

**“NCPDA”** means the Northern Cape Planning and Development Act, 1998 (Act No 7 of 1998);

**“Organ of state”** means an organ of state as defined in Section 239 of the Constitution;

**“Person”** means any natural, juristic person and legal persona or figure, including an organ of state;

**“Premier”** means the head of the Executive Council of the Province and any referral to the Premier includes the MEC to which the Premier has delegated any functions to in terms of this Act;

**“Prescribed”** means prescribed in terms of this Act and by regulations enacted in terms of the Act;

**“Province”** means the Northern Cape Province as defined in terms of section 103(1)(f) of the Constitution;



**“Provincial interest”** means any development right or land development which if granted and/or implemented, may have a direct impact on sustainable development within the Province;

**“Public holiday”** means a public holiday referred to in section 1 and proclaimed as such in terms of section 2 of the Public Holidays Act, 1994 (Act No 36 of 1994);

**“Public participation”** means inclusive participation in terms of which any interested and/or affected party may participate, comment or object to the processes which may affect any rights of any person relating to any matter regulated in terms of this Act;

**“Publish”** means the publication of a general notice or any other notice in the Provincial Government Gazette of the Province and “publication” shall have a similar meaning;

**“Regulation”** means a regulation published in terms of the Spatial Planning and Land Use Management Act 16 of 2013;

**“Secondary use”** means any secondary use of land made provision for in a land use scheme or existing scheme;

**“SPLUMA”** means the Spatial Planning and Land Use Management Act, 2013 (Act No 16 of 2013) and any regulations enacted in terms thereof;

**“The Act”** includes the regulations made in terms of the Act and “this Act” shall have a similar meaning;

**“Urban sprawl”** means an uncontrolled expansion of urban area into the surrounding countryside, forming low-density, poorly planned patterns of development;

**“Zone”** means a defined land use which is shown on the zoning map of a land use scheme which may make provision for different zonings for different portions of land.

**“Zoning”** means the prescriptions which state, firstly, the purpose for which land may be used and, secondly, the land use restrictions applicable in respect of the said land uses as determined in a land use scheme.

## **Use of definitions**

2. The definitions set out in section 1 shall be used and applied to all matters referred to in the Act and shall apply to all regulations published in terms of the Act, unless the regulations indicate otherwise.

## **Application of the Act**

3. (1) This Act shall apply to the entire area of the Province
- (2) This Act constitutes legislation in terms of section 104 of the Constitution.

## **Purpose of the Act**

4. The purpose of this Act is to:
  - (1) ensure that spatial planning and land use management in the Province is supported in accordance with national legislation, guidelines and policies;
  - (2) promote development in a sustainable and cost effective manner in the Province;
  - (3) provide for matters of provincial interest;
  - (4) address the challenges of the Province arising from its geographical vastness, low density, limited economic activity and the availability of skills;
  - (5) provide for the establishment, functions and funding of the Provincial Spatial Planning and Land Use Advisory Committee;
  - (6) provide for provincial support and monitoring mechanisms and structures to assist local government within the Province;
  - (7) provide uniformity in respect of land uses to guide municipalities within the Province; and
  - (8) provide for transitional arrangements required.

## **CHAPTER 2**

### **PROVINCIAL APPROACH TO SPATIAL PLANNING, LAND USE MANAGEMENT AND MATTERS OF PROVINCIAL INTEREST**

#### **Provincial approach to Spatial Planning and Land Use Management**

5. (1) All spatial planning, land use management and development within the Province should promote sustainability by recognising the need for a balance between environmental integrity, human well-being and economic efficiency;
- (2) Wherever it is practically possible and financially feasible to do so, internationally acceptable and recognized standards and practices regarding sustainable development should be incorporated and reflected in any provincial and municipal policies and implementation mechanisms relating to spatial and land use management.
- (3) Any land use scheme adopted by a Municipality must be guided by the spatial planning categories as provided for in schedule 1 of this Act, in order to give effect to subsection (1);
- (4) All spatial planning and land use management within the Province must –
  - (a) promote the sustainable integration of the social, economic, and environmental aspects of land development;
  - (b) facilitate sustainable development insofar as it creates or promotes residential and employment opportunities in close proximity to each other;
  - (c) discourage urban sprawl;
  - (d) promote a diverse range of land uses and economic development in terms of the Spatial Development Frameworks;
  - (e) promote public participation;

- (f) maximise local, and provincial economic benefits stemming from land developments; and
- (g) give effect to development principles contained in section 7 of SPLUMA.

### **Matters of Provincial interest**

- 6 (1) The Premier may, after consultation with organs of state in the national, provincial, local spheres of government, and any other person who may have an interest in any matter, determine by way of regulation that any intention to develop, any development or any land development, is a matter of provincial interest.
- (2) If the development rights sought in terms of SPLUMA and/or municipal planning by-laws by an applicant may impact on a matter of provincial interest, the Municipality in whose municipal area the land to which the development rights sought is situated must request the Premier in writing to provide comments to the application received.
- (3) The Premier must provide written comments in respect of any written request received in terms of subsection (2) within 30 days or as per gazetted municipal planning by-laws after receipt thereof.
- (4) If the Premier fails to provide the written comments within the period prescribed in subsection (3), such a failure should be deemed that the Premier has no comment on the application in terms of which written comments was requested in terms of subsection (2) then the municipality may proceed.
- (5) Any written comments received from the Premier in terms of subsection (3) must be considered by the Municipal Planning Tribunal of the Municipality in question when deciding upon the application to which the development rights sought, relates to.

## **CHAPTER 3**

### **PROVINCIAL SPATIAL PLANNING AND LAND USE ADVISORY COMMITTEE**

#### **Establishment and composition of a Provincial Spatial Planning and Land Use Advisory Committee**

7. (1) The Premier must, within 2 years from the date of commencement of this Act, by way of notice in the provincial gazette establish a Provincial Spatial Planning and Land Use Advisory Committee for the Province.
- (2) The Provincial Spatial Planning and Land Use Advisory Committee shall consist of a minimum of 5 and a maximum of 7 persons with the necessary and proven knowledge and experience in spatial planning, land use management and land development or the law related thereto to advise the Premier on matters relating to spatial planning, land use management and development.
- (3) The persons serving on the Provincial Spatial Planning and Land Use Advisory Committee may be appointed from the employees of national departments, provincial departments, the body that represents municipalities situated within the Province, a representative from municipalities, persons employed within the private sector of the Province and a representative from the Provincial House of Traditional Leaders.
- (4) The Premier must appoint the Chairperson and Deputy Chairperson of the Provincial Spatial Planning and Land Use Advisory Committee.
- (5) The Provincial Spatial Planning and Land Use Advisory Committee may request duly qualified or experienced officials or persons who are not members of the Provincial Spatial Planning and Land Use Advisory Committee to advise the Provincial Spatial Planning and Land Use Advisory Committee on any matter it deems to be appropriate.

- (6) The Premier shall determine the conditions of appointment of the members of the Provincial Spatial Planning and Land Use Advisory Committee and monitor its functions.
- (7) The term of office of any person appointed to the Provincial Spatial Planning and Land Use Advisory Committee shall be 5 years after the date on which such a member is appointed by the premier as provided for in subsection (1), (2), (3) and (4).
- (8) An appointment of a member of the Provincial Spatial Planning and Land Use Advisory Committee shall be effective after his/her appointment has been published by the Premier in the Provincial Gazette.
- (9) The Provincial Spatial Planning and Land Use Advisory Committee shall report to the Premier.
- (10) The Head of Department shall determine and ensure that the Provincial Spatial Planning and Land Use Advisory Committee is provided with the necessary infrastructure to function properly.

### **Functions of the Provincial Spatial Planning and Land Use Advisory Committee**

- 8. The Provincial Spatial Planning and Land Use Advisory Committee shall advise the Premier on Spatial Planning and Land Use Management in the Province as well as performing the following functions:
  - (1) to identify matters that may have a strategic impact on spatial planning, land use management and development in the Province;
  - (2) to identify all development and potential development relating to spatial planning and land use management which may have beneficial or adverse impact on the Province;
  - (3) to advise on the facilitation of the possible creation and implementation of investment incentives to support and realize development within the Province;

- (4) to request, obtain and evaluate any research or any information pertaining to spatial planning, land use management and development which may impact on matters of provincial interest or impact adversely upon any development within the Province;
- (5) identify non-compliance with the provisions of this Act by any organ of state or any other person within the Province and to provide information and advice to the Premier relating to such non-compliance;
- (6) identify any needs and shortcomings within the Province that need to be addressed to ensure the implementation of SPLUMA and the Act; and
- (7) provide advice to and assist the Premier in drafting and amending the Provincial Spatial Development Framework of the Province.
- (8) to provide the Premier with a written report of its activities on a quarterly basis.

#### **Funding of the Provincial Spatial Planning and Land Use Advisory Committee**

9. The Premier is responsible for ensuring that the activities of Provincial Spatial Planning and Land Use Advisory Committee are funded and that all its financial requirements are budgeted for.

#### **Term of office and allowances of members of the Provincial Spatial Planning and Land Use Advisory committee**

10. (1) A member of the committee may be appointed for a term not exceeding 5 years and may be reappointed at the lapse of the initial term.
- (2) No person may be appointed as a member of the committee for more than two terms.
- (3) A member of the committee must be paid such reasonable allowances out of the funds of the Provincial department to which the Premier has delegated the functions of this Act, in consultation with the Member of the Executive Council responsible for finance in the Province.

## **Disqualification from being appointed to the Provincial Spatial Planning and Land Use Advisory committee**

11. (1) No person may be appointed to serve as a member of the committee if such a person

- (a) is not a South African citizen;
- (b) is an unrehabilitated insolvent;
- (c) is a mental health care user as defined in terms of section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (d) has at any time been convicted, whether in the Republic of South Africa or elsewhere, of an offence mentioned in Schedule 1, 2 or 5 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (e) has at any time been removed from any office of trust on account of misconduct;
- (f) has at any time contravened a provision of this Act.

(2) No person, knowing that he or she is subject to a disqualification contemplated in subsection (1), may accept an appointment to serve as a member of the committee, and must, if he or she becomes so disqualified while serving as a member of the committee, within a period of 14 days resign as member of the committee.

## **Removal from office**

12. The Premier may, *by* written notice, remove any member from the committee

- (a) on the grounds of misconduct or incompetence;
- (b) if the member becomes subject to a disqualification contemplated in section 11(1);



- (c) if the member is absent from more than two meetings of the committee in one year without sound reason, or, in the case of absence due to medical reasons, without presenting a valid medical certificate.
- (2) A decision to remove a member of the committee on the grounds of misconduct or incompetence must be based on a finding to that effect by an investigating tribunal appointed by the responsible Member.
- (3) A notice contemplated in subsection (1) must state the reasons for the removal of the member.
- (4) The Premier may at any time disband the committee if he or she is, on reasonable grounds, convinced that the committee is not functioning properly or that it will be in the community's or public interest to do so.

### **Meetings and minutes of the committee**

13. (1) Any meeting of the committee must be convened and held on such date and at the time and place as may be determined by the chairperson, but at least once every 3 months.
- (2) If the chairperson is absent or for any reason unable to exercise the powers or perform the functions vested in the office of chairperson, or when the office of chairperson is vacant, the deputy chairperson must act as chairperson.
- (3) If both the chairperson and the deputy chairperson are absent from any meeting of the committee, the members present must, from amongst themselves, elect a person to preside over such a meeting.
- (4) The quorum for a meeting of the committee is a majority of its members.
- (5) Minutes of meetings of the committee must be compiled by the secretariat and must be circulated within 14 days after the meeting.
- (6) The adopted minutes must be signed by the chairperson and is deemed to be a true and correct record of the proceedings of the last meeting.

(7) Minutes of the proceedings of the committee must be retained at the offices of the provincial department responsible for the administration of this Act of the committee.

(8) Notwithstanding the provisions of subsection (1), the chairperson must, on request of the Premier, convene an extraordinary meeting of the committee.

## **CHAPTER 4**

### **PROVINCIAL SUPPORT AND MUNICIPAL MONITORING**

#### **Provincial support**

14. In order to assist Municipalities, the Premier–

- (1) may provide a Municipality with access to services and funding to assist the Municipality in adopting or amending its land use scheme or spatial development frameworks;
- (2) must provide a Municipality with access to information of which the Premier is the custodian of;
- (3) must provide spatial planning and land use management support and guidance to Municipalities;
- (4) may, subject to the conditions imposed by the Premier, provide access to formal training programmes to full time employees of a Municipality tasked with the implementation of SPLUMA and the Act;
- (5) must, within 2 years from the date of commencement of this Act, provide access to informal training to the full time employees of a Municipality tasked with the implementation of SPLUMA and the Act;
- (6) may create and maintain an electronic based educational platform accessible to any employee of any organ of state within the Province tasked with the implementation of SPLUMA and the Act;

- (7) may provide Municipalities with access to any electronic programme which contains information pertinent to a Municipality;
- (8) must inform a Municipality of any advice it receives from the Provincial Spatial Planning and Land Use Advisory Committee which may have any impact on the actions, omission or intended actions of a Municipality; and
- (9) must consult with a Municipality on any matter which may have an adverse effect on the implementation of this Act.

### **Municipal Monitoring**

15. The Premier must monitor adherence to the provisions of this Act by a Municipality by way of –
- (1) at least annually determining the financial and human resource capability of a Municipality and to comply with the provisions of SPLUMA and this Act and provide written feedback to the Municipality in this regard;
  - (2) annually determining the existing and future availability of municipal service infrastructure and provide written feedback to the Municipality in this regard.

### **Information to be provided by Municipalities**

16. Every local Municipality within the Province shall provide the Premier with the following information in order to give effect to an effective system of land use management –
- (1) an annual report as to the status of its adopted Spatial Development Framework, Land Use Management Scheme and existing schemes, if applicable;
  - (2) a bi-annual report on the functioning of the Municipal Planning Tribunal and/or Authorised Official of the Municipality which shall contain the following information:
    - (a) list of applications received by the Municipality;

- (b) the number of development rights granted or refused as per Municipal Spatial Development Framework;
- (c) the number of sittings of its Municipal Planning Tribunal;
- (d) the number of decisions of appeals granted or refused in respect of decisions of the Municipal Planning Tribunal and Authorised Official; and/or
- (e) any other applicable information not limited to the above.

### **Participation of Traditional Leaders**

17. Subject to Section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), a municipality, in the performance of its duties in terms of this Act must allow the participation of a traditional council.

## **CHAPTER 5**

### **PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK**

#### **Matters relating to the adoption and amendment of a Provincial Spatial Development Framework**

18. (1) In addition to the measures contained in SPLUMA, the Premier may implement additional measures to ensure that all persons that may be affected by the adoption or amendment of a Provincial Spatial Development Framework have an opportunity to make submissions to the Premier.
- (2) The measures referred to in subsection (1) shall include, but not be limited to interacting with and providing all persons with the opportunity to make written representations and if circumstances warrant it, verbal representations.

(3) The Premier shall implement the measures referred to in subsection (1) by interacting with –

- (a) all National Departments;
- (b) all provincial Departments of the Province;
- (c) the Municipalities;
- (d) parastatals;
- (e) Traditional Councils and
- (f) the private sector; and
- (g) any other interested party

## **CHAPTER 6**

### **LAND USE SCHEMES AND UNIFORM LAND USES**

#### **Land Use Schemes**

19. (1) Any land use reflected or recorded in a land use scheme adopted or amended after the date on which this Act commences operation, must be guided by the Spatial Planning Categories made provision for in Schedule 1 of the Act.

(2) Any land use reflected or recorded in a land use scheme adopted or amended after the date on which this Act commences operation, must be guided in accordance with the uniform land uses made provision for in Schedule 1 of the Act.

(3) The provisions of this Act do not prohibit the adoption of a land use scheme by a Municipality in terms of section 24 of SPLUMA.

#### **Uniform Land Uses**

20. (1) All land situated within the Province zonings must be guided in accordance with the uniform land uses listed but not limited as provided for in Schedule 1 to this Act.
- (2) The Premier may by way of notice amend, increase or decrease the uniform land uses reflected in the land use schemes adopted or amended by a municipality.
- (3) A Municipality may determine secondary uses and possible consent uses to the uniform land uses listed and provided for in Schedule 1 to this Act which shall be included and reflected in any Land Use Scheme adopted or amended by it.

## **CHAPTER 7**

### **GENERAL PROVISIONS**

#### **Regulations**

21. (1) The Premier may make regulations not inconsistent with this Act in regard to:
- (a) any matter which prescribed in terms of this Act; and
  - (b) any other matter deemed necessary for achieving the objectives of the Act.

#### **Delegation**

22. (1) The Premier may delegate any power or duty conferred or imposed on him or her by this Act to one or more than one Member of the Executive Council by way of notice in the prescribed manner.

(2) The Premier may not delegate his or her power to make regulations.

(3) A delegation under subsection (1) does not prevent the Premier from exercising the power or performing the duty concerned.

### **Repeal of laws**

23. The Northern Cape Planning and Development Act 7 of 1998 is hereby repealed in its entirety by the Northern Cape Planning and Development Repeal Act of 2017

### **Transitional arrangements**

24. (1) Any existing right legally granted shall be deemed to comply with the provisions of this Act.

### **Short title**

25. This Act is called the Northern Cape Spatial Planning and Land Use Management Act, 2017 and comes into operation on a date fixed by the Premier by proclamation in the *Gazette*.

## **SCHEDULE 1**

### **UNIFORM SPATIAL PLANNING CATEGORIES AND LAND USES**

1. Land Uses applicable throughout the Province shall be based but not limited to the following Spatial Planning Categories:

- (a) Core conservation areas;
  - (b) Natural Buffer areas;
  - (c) Agricultural areas;
  - (d) Urban related areas;
  - (e) Industrial areas; and
  - (f) Surface Service Infrastructure areas.
2. Every land use in this Schedule must be linked to a specific Spatial Planning Categories as provided for in this Schedule.
3. The Spatial Planning Categories defined in this Schedule must be reflected in the Land Use Scheme of a Municipality.
4. The Spatial Planning Categories as a minimum, are defined as follows –
- (a) **Core Conservation areas**– means any land that is protected by any national, provincial or local statutes to ensure conservation of the natural and built environment and which by implication cannot develop outside the parameters provided for in the applicable national, provincial or local statutes;
  - (b) **Natural Buffer areas** – mean any non-statutory conservation areas, ecological corridors and urban green areas;
  - (c) **Agricultural areas**– mean extensive and intensive agricultural areas;
  - (d) **Urban Related Areas** – means any main towns, local towns, rural settlements, tribal authority based settlements, communal settlements, institutional areas, government or authority areas, residential areas, business areas, service related business areas, special businesses, SMME incubators, mixed-use development areas, cemeteries, sports fields and associated infrastructure, airports and associated infrastructure, resorts and tourism related areas and farmsteads and outbuildings;



- (e) **Industrial areas** – means any agricultural industry, industrial development zone, light industry, industry, noxious industry and extractive industry; and
- (f) **Surface Service Infrastructure** – means any national roads, main roads, minor roads, public streets, public parking, private road, heavy vehicle overnight facilities, railway lines and associated facilities, power lines, telecommunication and data infrastructure, renewable energy structures, dams and reservoirs, canals, sewerage plants and refuse areas;

6. In this Schedule the uniform land uses provided hereunder may be applicable and reflected as a guide to develop the Land Use Management Schemes of Municipalities:

- (a) **“agriculture purposes”** means purposes normally or otherwise reasonably associated with the use of land for agricultural activities, including the use of land for structures, buildings and dwelling units reasonable necessary for or related to the use of land for agricultural activities;
- (b) **“business purposes”** means purposes normally or otherwise reasonably associated with the use of land for business activities, including shops, offices, showrooms, restaurants or similar businesses other than places of instruction, builder’s yards, scrap yards or other industrial activities;
- (c) **“coastal purposes”** means the area comprising coastal public property, the coastal protected zone, coastal access land and coastal protected areas, the seashore, coastal waters and the exclusive economic zone and includes any aspect of the environment on, in, under and above such areas;
- (d) **“commercial purposes”** means the purposes normally or otherwise reasonable associated with the use of land for distribution centres, wholesale trade, storage warehouses, carriage and transport services,

laboratories or computer centres, office and other facilities that are subordinate and complimentary to such use;

- (e) **“community purposes”** means the purposes normally or otherwise reasonable associated with the use of land for community purposes, including land for cultural activities, social meetings, gatherings, non-residential clubs, sport or other activities where the primary aim is of a non-profit nature;
- (f) **“conservation purposes”** – means land normally used for the preservation of the natural or built environment, including the preservation or protection of the physical, ecological, cultural or historical characteristics of land against undesirable change or human activity, but excluding land falling within a Coastal zone;
- (g) **“educational purposes”** – means any land normally used or otherwise reasonable associated with the use of that land primarily for instructing or teaching purposes, including crèches, private and public schools, lecture halls, monasteries, public libraries, public art galleries, museums, colleges and universities;
- (h) **“gambling purposes”** – means any land primarily used for conducting any form of gambling as defined and regulated by the provisions of the National Gambling Act, 2004 (Act No 7 of 2004) and the Northern Cape Gambling Act, 2008 (Act No 3 of 2008);
- (i) **“government purposes”** – means any land normally used or otherwise reasonable associated with the use of that land for the purpose of conducting business by the national government, the provincial government or any municipality, but excluding any land used for such purposes as defined under the definitions of an “Educational Zone” or “Health Zone” in terms of this Schedule;
- (j) **“health purposes”** – means any land normally used or otherwise reasonable associated with the use of that land for hospitals, nursing homes, old age homes, all clinics of a medical nature, sanatoriums and offices where medical practitioners perform any form or medical

procedure, irrespective of whether such land use is of a public or private nature;

- (k) **“industrial purposes”** – means any land normally used or otherwise reasonable associated with the use of that land for the manufacture, alteration, repairing, assembling or processing of a product, or dismantling or the breaking up of a product, or the processing of raw materials, including a noxious activity;
- (l) **“infrastructure purposes” means** any land normally used or otherwise reasonable associated with the use of that land for telecommunication purposes, the generation of electricity, sewerage treatment plants, refuse areas, solid waste disposal facilities, storm water facilities, water treatment plants, transport related facilities and infrastructure and water pipelines;
- (m) **“mining purposes”** – means any land primarily used for mining purposes;
- (n) **“recreational purposes”** – means any land normally used or otherwise reasonable associated with the use of that land primarily for recreation, including entertainment, amusement, leisure, public or private open spaces, public parks and public gardens;
- (o) **“residential purposes”** – means any land normally used or otherwise reasonable associated with the use of that land primarily for human habitation, including a dwelling house, group housing, hotels, flats, boarding houses, guest houses, residential clubs, social housing, hostels, residential hotels and camping facilities;
- (p) **“special purposes”** – means any land normally used or otherwise reasonable associated with the use of that land not provided for in any of the other uniform land use zones made provision for in this Schedule; and
- (q) **transport purposes** – means land primarily used or otherwise reasonable associated with the use of that land as a point for the pick-

up or off-load of people or goods, including taxi ranks, bus bays, bus stations, bus terminuses, railway stations, airports, roads and streets and ancillary uses.