

MANGAUNG METROPOLITAN COUNCIL

APPROVAL OF AN AUTHORISED OFFICIAL TO DEAL WITH CATEGORY 2 LAND USE AND DEVELOPMENT APPLICATIONS IN TERMS OF SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO.16 OF 2013 (SPLUMA) AND MANGAUNG LAND USE PLANNING BY-LAW OF 2021

1. INTRODUCTION

Spatial Planning and Land Use Management Act, 2013 Act No.16 of 2013 (SPLUMA) came into effect in July 2015. The purpose of this act is to provide a framework for spatial planning and land use management system and other kinds of planning in the entire Republic of South Africa.

BACKGROUND

Chapter 6 of SPLUMA, Part B; Section 35(1) states that "A municipality must in order to determine land use and development applications within its municipal area, establish a Municipal Planning Tribunal. Sub-Section 2 states that a municipality may authorise that certain land use and development applications be considered and determined by an official in the employ of the municipality.

Section 35(3) of (SPLUMA) states that a municipality must, in order to determine land use and land development applications within its municipal area, categorise development applications to be considered by an official and those to be referred to the Municipal Planning Tribunal.

The Municipality has categorized land use change and/or land use reservation applications, as contemplated in Section 35(3) of the Act, into two (2) categories;

Section 21(1) and (2) of the Mangaung Land Use Bylaw 2021 has categorised land use and development applications as follows:

Category 1 applications consist of the:

- (i) establishment of a township, division of a township or the amendment of the layout of a township;
- (ii) amendment of an existing scheme or land use management scheme by the rezoning of land;
- (iii) removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land; amendment or cancellation in whole or in part of a general plan as approved by the Surveyor General;
- (v) subdivision and/or consolidation of any land parcel (other than a subdivision and consolidation which is provided for as a Category 2 application);
- (vi) permanent closure of any public place;
- (vii) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use management scheme; and
- (viii) any consent or approval provided for in any law referred to in Section 52(4).

Category 2 applications consist of the:

- (i) subdivision of any land where such subdivision is expressly provided for in a land use management scheme;
- (ii) creation of any servitude or long-term lease and the consolidation of any land;
- (iii) simultaneous subdivision, as contemplated in subsection (b)(i) and consolidation of land;
- (iv) consent of the Municipality for any land use purpose or temporary use or deviation in terms of a land use management scheme, which does not constitute a land development application; and

- (v) Registrar's removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use management scheme in operation.

Section 78(1) of the Land Use Planning Bylaw 2021, states that Category 2 applications must be considered and determined by an authorized employee and the Municipality must delegate the powers and duties to decide on those applications to an authorized employee, as contemplated in Section 35(2) of the Act.

Section 78(2) states that the Municipal Planning Tribunal considers and determines all applications, other than those in respect of which the powers and duties to consider and determine them have been delegated and assigned to an authorized employee in terms of subsection (1).

The Mangaung Metro has established the Mangaung Planning Tribunal and it has been operational since July 2015 up until now. However, the Mangaung Metro has not complied with Section 35(2) of SPLUMA read together with Section 78(1) of the Mangaung Land Use Planning Bylaw 2021 which requires the appointment of an official to consider and deal with category 2 applications. This submission therefore seeks to solicit Council approval for appointment of an authorised official as required by SPLUMA and Mangaung Land Use Planning Bylaw.

DELEGATED POWERS OF AN AUTHORISED OFFICIAL

In terms of Section 65 of the Mangaung Land Use Planning Bylaw, an authorised official may in respect of a Category 2 application contemplated in subsection 21(2)(b)—

- (a) approve, in whole or in part, or refuse that application;
- (b) upon the approval of that application, impose conditions under Section 75, including conditions related to the provision of engineering services and the payment of a development charge;

- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law and provincial legislation;
- (d) conduct any necessary investigation;
- (e) give directions relevant to its functions to any person in the service of the Municipality or municipal entity; and
- (f) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-law.

MERIT OF THE APPLICATION

The nature of land use and development applications differs in complexity, and this means that applications require different processes and therefore different timeframes. There are applications which are more complex than others and there those that are straight forward applications which are guided by clear town planning policies for example, town planning schemes. SPLUMA has made provision for more complex application to be considered by the Municipal Planning Tribunal and the less and straight forward applications to be considered by an authorised official.

The consideration of category 2 applications by an authorised official who is already in the employ of the municipality improves the turnaround times for processing and consideration of land use applications by the municipality as such applications do not have to wait for Mangaung Planning Tribunal for consideration. Furthermore, this will save the municipality money as the number of MPT sittings will be reduced because only category 1 (complex) applications will be referred to the MPT.

RECOMMENDATIONS:

1. That Mangaung Metropolitan Municipality appoint an authorised official in terms of Section 32(b) of Spatial Planning and Land Use Management Act No.16 of 2013 read together with Section 78(1) of the Mangaung Land Use Planning Bylaw 2021;
2. That the General Manager: Town and Regional Planning be appointed by Council as an authorised official;

3. That an authorised official appointed by Council must be a professional town planner registered with South African Council for Town Planners (SACPLAN);and
4. That an authorised official appointed by Council will be responsible to provide Council with a report of all considered applications on a quarterly basis.

Submitted by:


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S.M. MAHAO

ACTING GENERAL MANAGER: TOWN AND REGIONAL PLANNING

11/07/2022
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DATE

Recommended by:

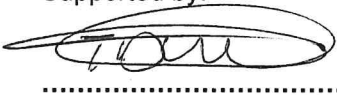

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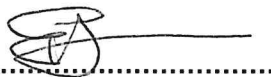

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T. MOTLASHUPING

ACTING CITY MANAGER

19/07/2022
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Supported by:


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V. JONAS

MMC: PLANNING

19-07-2022
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Approved by:


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M SIYONZANA

EXECUTIVE MAYOR

19/07/2022
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DATE