

TOWN PLANNING: REZONING / CONSENT USE



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Introduction

- ⦿ It is a well known fact that a number of Acts, Ordinances and Town Planning Scheme manage land uses / developments within our towns and cities.
- ⦿ This presentation will give a short history of land use control, the purpose thereof, as well as a short summary of the different land use control instruments.
- ⦿ Land Use policies guiding land uses within an area will also be addressed.
- ⦿ Lastly, a short summary of the rezoning and consent use processes will be tabled.

Purpose / Necessity of Land Use Control (1)

- The purpose of land use control can be summarized as follows:
 - Co-ordinated and harmonious development
 - Promotion of health, safety, good order, amenity and convenience,
 - General welfare of an area
 - Efficiency, and
 - Economy (Sec 19 of the Town Planning and Township Ordinance, 15 of 1986)
- Land use control is also necessary to protect people's investment in land and building.
- For example: allowing panel beater, industrial development, taverns, high density residential etc. adjacent single residential development could have a negative impact on the adjacent property values.

Purpose / Necessity of Land Use Control (2)



- Land use control stipulates a public participation process that must be adhered to when applying for land use change (rezoning / consent).
- The intention of the development must be advertised and letters must be forwarded to adjacent property owners.
- External and internal departments must also give input regarding the change of land use.
- The town planning official then evaluates the application in terms of the approved land use management policies and the input of the departments and community.
- Any negative input from the community will require a hearing process.

Land Use Control – Legislation (1)

- Government approved a number of Acts and Ordinances to manage the administrative procedure pertaining to land use control.
- The following is a short summary of the legislation that is applicable within the Ekurhuleni Metropolitan Municipality's area of jurisdiction:

Gauteng Removal of Restrictions Act (3 of 1996)

- Land uses are sometimes addressed in the title deed of a property restricting development to agricultural, single dwelling, institutional, etc.
- To then obtain the necessary rights on the property (flats) a removal of restrictions – cum – rezoning application needs to be submitted.
- This application will then cancel the restrictive condition in the title deed and simultaneously rezone the property.
- Section 5 of the Act and Regulations stipulates the procedure to be adhered to.

Land Use Control – Legislation (2)

Town Planning and Township Ordinance (15 of 1986)

- Each Province has an Ordinance promulgated, setting out procedures according to which township establishment, subdivision and rezoning applications must adhere to.
- The Old “Transvaal” Ordinance, 15 of 1986 is still in place and rezoning, etc. is still being attended to in Gauteng, North West and Mpumalanga in terms of this Ordinance.
- A rezoning application is attended to in terms of Section 56 of this Ordinance.
- Section 56 of the Ordinance and Regulations stipulates the procedures to be adhered to.

Land Use Control – Legislation (3)



Spatial Planning and Land Use Management Act, 2013 (SPLUMA)

- Spatial Planning and Land Use Management Act, 2013 was proclaimed and will come into affect once the regulations were published / proclaimed.
- The Gauteng Planning and Development Act (3 of 2003) that will be aligned with SPLUMA will replace the Town Planning and Township Ordinance, 1986.
- The administration process of the Gauteng Planning and Development Act (3 of 2003) will be similar to the Old “Transvaal” Ordinance, 15 of 1986.

Land Use Control – Legislation (4)

Town Planning Schemes

- Most towns and cities have Town Planning Schemes in operation controlling land uses within areas of jurisdiction.
- The Ekurhuleni Town Planning Scheme, 2014 (ETOPS) that came into operation on the 14th of January 2015 is controlling land uses within the City of Ekurhuleni.
- According to ETOPS each property has a specific zoning that allows certain primary land uses on the property.

Land Use Control – Legislation (5)



- The scheme (ETOPS) also allows for certain secondary land uses that can be obtained with the consent of the local authority.
- The scheme tables the land use control measures such as allowable density, coverage, height restriction, parking requirements and building lines.
- The scheme also allows via a written consent application for the coverage and height to be increased.
- Provision is also made in the scheme that the building lines and parking be reduced.

Land Use Control – Legislation (6)

	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
	Land Use Category	Primary Rights: Purposes for which land and/or buildings may be used	Special Consent of Municipality Land Use Application Land and/or Buildings which may be erected and purposes for which they may be used only with the Special Consent of the Municipality	Written Consent A and B of the Municipality Land and/or Buildings which may be erected and purposes for which they may be used only with the Written Consent of the Municipality	Provisos: Ancillary Uses applicable to Columns 3 & 4 (see Clause 13.2)
3	Residential 3	Dwelling House, Dwelling Units, Residential Buildings, Retirement Villages, Private Roads	Old Age Homes, Hotels (excluding Off-Sales), Social Halls, Places of Public Worship, Places of Instruction, Institutions, Child Care Facilities, Special Uses	Written Consent A Home Enterprises (Subject to Clauses 14.2 and 14.3) Written Consent B Day Care Facilities	Living Accommodation for Domestic Workers limited to 6m ² per Dwelling Unit for the entire residential development Ancillary Offices, Laundrette
4	Residential 4	Dwelling House, Dwelling Units, Residential Buildings, Private Roads	Hotels (excluding Off-Sales), Social Halls, Places of Public Worship, Places of Instruction, Institutions, Restaurants, A Tuck Shop, Child Care Facilities, Old Age Homes, Special Uses	Written Consent A Home Enterprises (Subject to Clauses 14.2 and 14.3) Written Consent B Day Care Facilities	Living Accommodation for Domestic Workers limited to 6m ² per Dwelling Unit for the entire residential development Ancillary Offices, Laundrette

Land Use Control – Legislation (7)

Table D: Permissible Height, Coverage and Density

	USE ZONES	PRIMARY RIGHTS		MAY BE INCREASED BY MEANS OF WRITTEN CONSENT A TO:		MAXIMUM PERMISSIBLE DENSITY
		Height in Storeys	Coverage %	Max Height in Storeys	Max Coverage %	Density
1	Residential 1	2	0 – 300m ² 60% 301 – 500m ² 55% 501 – 1000m ² 50% 1001m ² above 50%	3	0 – 300m ² 70% 301 – 500m ² 60% 501 – 1000m ² 55% 1001m ² above 50%	One dwelling per erf
2	Residential 2	2	0 – 300m ² 60% 301 – 500m ² 55% 501 – 1000m ² 50% 1001m ² above 50%	3	0 – 300m ² 70% 301 – 500m ² 60% 501 – 1000m ² 55% 1001m ² above 50%	One dwelling per erf
3	Residential 3	2	50%	3	60%	Up to a maximum of 85 dwelling units/ha
4	Residential 4	3	60%	As per policy	90%	Greater than 60 dwelling units/ha

Land Use Control – Legislation (8)



CITY PLANNING
P O Box 2300
Kempton Park
1620
Tel: (011) 999-4773
Fax: (011) 999-4613

ZONING CERTIFICATE

1. DESCRIPTION OF PROPERTY	Erf no. 432	Township KEMPTON PARK X2
2. TOWN PLANNING SCHEME	Ekurhuleni Town Planning Scheme, 2014.	
Zoning	RESIDENTIAL 1	
Coverage	50%	
Height (in storeys)	2	
FAR	<null>	
Density	1/ERF	
Parking	Refer to Table "E" or Annexure	
Building Lines	Refer to Table "A" or Annexure	
Applicable Annexure	<null>	
Additional or Restrictive Rights	<null>	
Applicable Consent	<null>	
Consent Description	<null>	
3. STREET ADDRESS	32 KERK STREET	
4. NAME OF APPLICANT	TERRAPLAN	



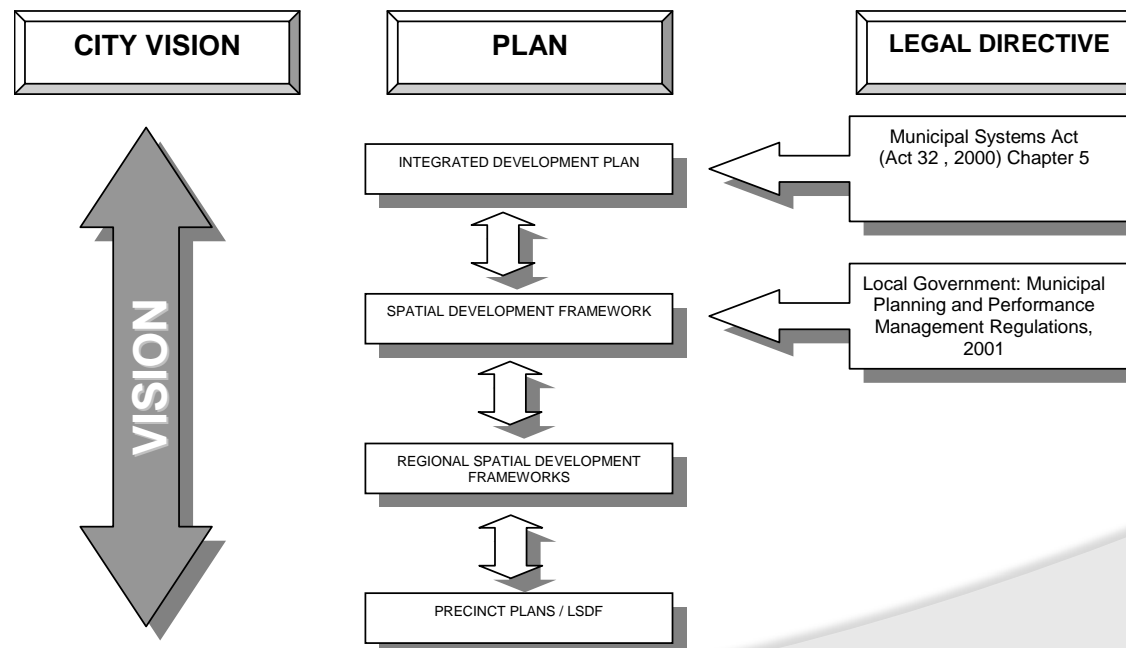
M. MASHABELA
Area Development Planner
KEMPTON PARK CCC

Date: 3/02/2014

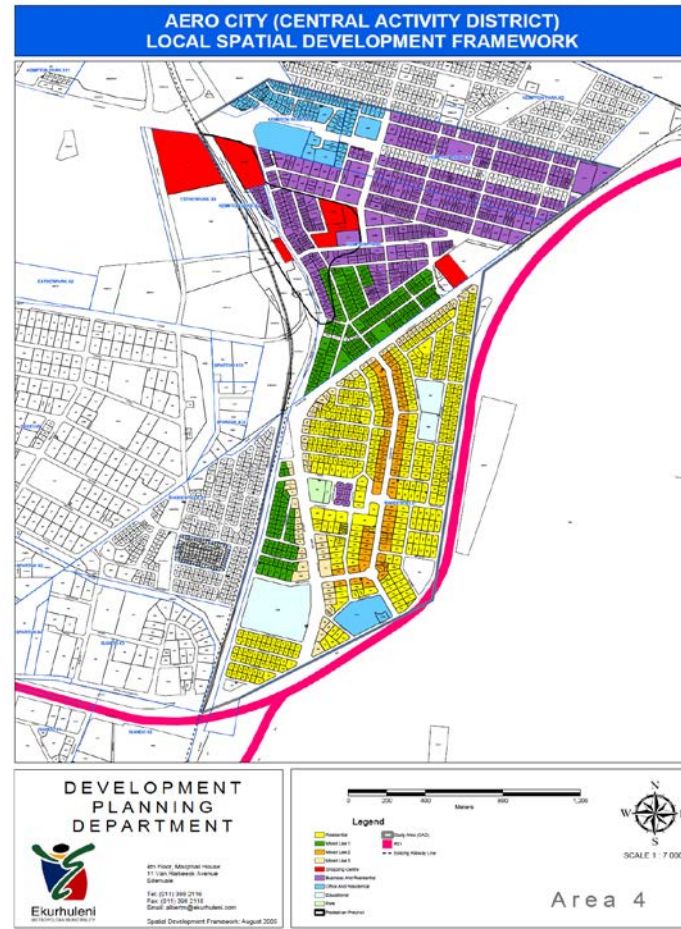
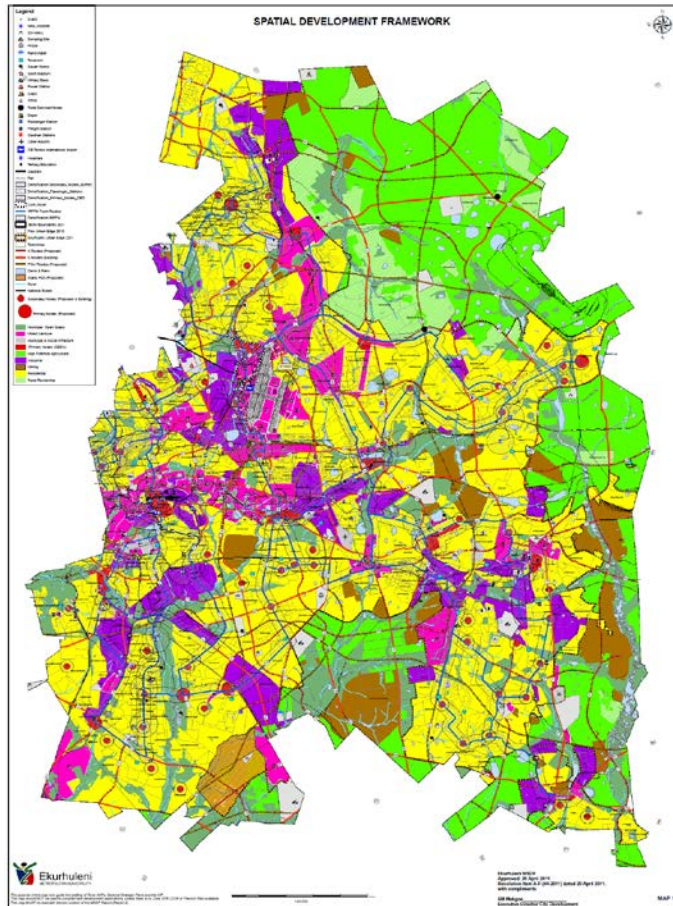
Even with a relevant annexure are subject to the special rights, restrictions and conditions applicable to the erf.
This certificate does not override any of restrictive conditions contained in the Deeds of Transfer of any property.
Terms used as defined in the Ekurhuleni Town Planning Scheme 2014.

Frameworks / Policies (1)

- Council is compelled in terms of the Local Government Systems Act, 2000, Local Government: Municipal Integrated Development Planning Regulations, 2001, etc. to draft Spatial Development Frameworks (SDF) and Local Spatial Development Frameworks (LSDF)
- These plans state the development objectives, policies and strategies and also earmark pre-domain land use within areas.
- In a nutshell, land development is directed by SDF's LSDF



Frameworks / Policies (2)



- ## F2. REZONING
- F2.1: Typical Process And Time Frames For Section 56 Rezoning Applications To CCC's In Ekurhuleni**
- Time Frames are estimates only
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graph TD
 Owner[Owner (Applicant)] --> CityDev[City Development Department at CCC]
 CityDev <--> External[External Circulation to i.e. Provincial & National roads, Eskom, Telkom, Rand Water, Surrounding Local authorities etc (60 Days)]
 CityDev <--> Internal[Internal Circulation to i.e. Roads Transport and Civil Works, Municipal Infrastructure, Legal, Parks, Ward Councillor etc. (4 weeks)]
 CityDev --> Adverts[Advertisements (28 days for objection)]
 Adverts -- "If no objections received" --> Comments[Provide comments to applicant, to also accept draft conditions of approval (6 weeks)]
 Adverts -- "If objections received" --> Objections[Provide objection/s to applicant for comments (6 weeks)]
 Comments --> Policy[Policy compliant / Report considered i.t.o delegations (5 weeks)]
 Comments --> Against[Against / no policy / Report considered by portfolio comm (7 weeks)]
 Objections --> Report[Report to Development Tribunal for inspection, hearing and decision (3 months)]
 Adverts --> Appeal[Appeal by owner / objector against Tribunal or other decision (MEC decision: 12 months)]
 Policy --> Notified[Owner/objector notified. Owner accepts COE if approved at Tribunal. Final layout from Owner (6 weeks)]
 Against --> Notified
 Report --> Notified
 Appeal --> Notified
 Notified --> Amended[Applicant accepts amended conditions if applicable (4 weeks)]
 Amended --> CouncilMap[Council compiles Map 3 documents (6 weeks)]
 CouncilMap --> CouncilNotice[Council places promulgation notice (6 weeks)]
 CouncilNotice --> OwnerPay[Owner notifies to pay External Service Contributions prior to transfer or exercising of rights (4 weeks)]

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The flowchart illustrates the typical process and time frames for Section 56 rezoning applications to the City Development Department at CCC in Ekurhuleni. The process begins with the Owner (Applicant) submitting an application to the City Development Department at CCC. The department then consults with External Circulation (Provincial & National roads, Eskom, Telkom, Rand Water, Surrounding Local authorities etc) for 60 Days and Internal Circulation (Roads Transport and Civil Works, Municipal Infrastructure, Legal, Parks, Ward Councillor etc.) for 4 weeks. The application is then advertised for 28 days for objection. If no objections are received, the applicant provides comments to accept draft conditions of approval (6 weeks). If objections are received, the applicant provides objections for comments (6 weeks). The process then branches into two paths: Policy compliant (Report considered i.t.o delegations, 5 weeks) or Against / no policy (Report considered by portfolio comm, 7 weeks). Both paths lead to the Owner/objector being notified and accepting the COE if approved at the Tribunal, with a final layout from the Owner (6 weeks). The process then continues to the Applicant accepting amended conditions if applicable (4 weeks), followed by the Council compiling Map 3 documents (6 weeks), the Council placing a promulgation notice (6 weeks), and finally the Owner notifying to pay External Service Contributions prior to transfer or exercising of rights (4 weeks).
- OCTOBER 2010
- 5

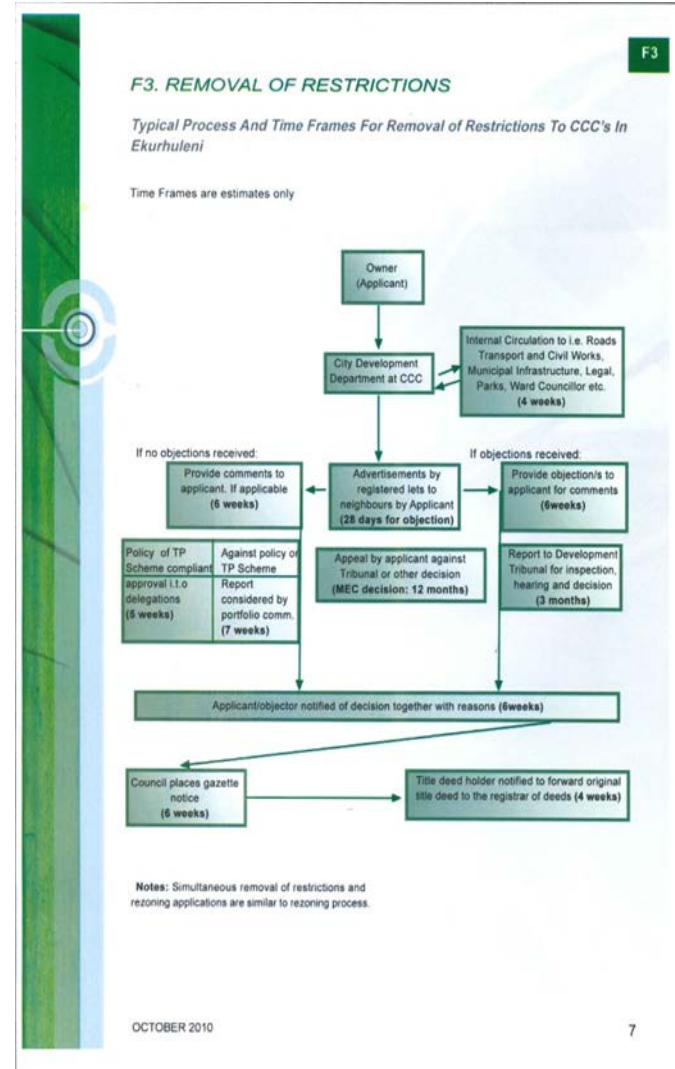
# Rezoning Procedure (2)

- The applicant shall pay application fees.
- Give notice of the application by advertising in 2 daily news papers and provincial gazette once a week for 2 consecutive weeks and post a notice on site for a period of 14 days.
- The applicant needs to inform the neighbours of the developers intention.
- On receipt of the application the local authority will forward the application to the internal and external departments.
- Once the public participation process was completed and all the necessary internal and external departments commented, the application will be forwarded to the area planner for the town planning report.
- The town planning report will then be forwarded to the delegated official for approval.
- After the application was approved, the final amendment scheme documents must be prepared and thereafter a proclamation notice is published in the Provincial Gazette.



# Rezoning and Removal (1)

- An owner of land who wishes to have the zoning of the property amended and remove certain title deed conditions can apply in writing to the authorised local authority.
- Removal of Restrictions and simultaneous rezoning application submitted in terms of Section 5 of the Gauteng Removal of Restrictions Act needs to be drafted and submitted to the local authority.
- Draft motivational memorandum (need and desirability)
- Supporting documents:
  - Memo
  - Title Deed
  - Special Power of Attorney / Resolution
  - Bondholders consent
  - Application form

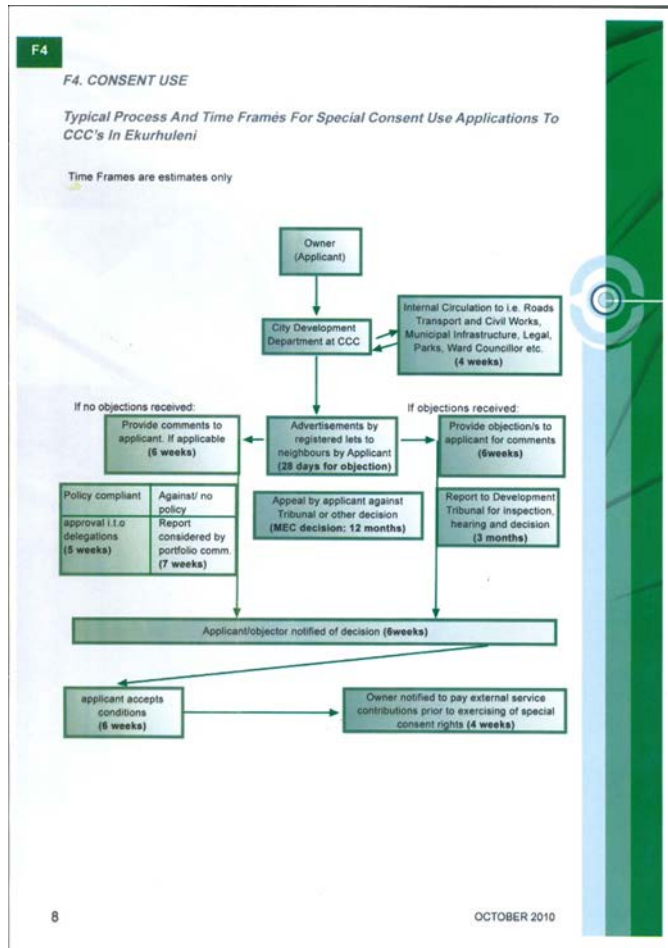


# Rezoning and Removal (2)



- The applicant shall pay the prescribed application fees.
- Give notice of the application by advertising in 2 daily news papers and provincial gazette once a week for 2 consecutive weeks and post a notice on site for a period of 14 days.
- The applicant needs to inform the neighbours of the developers intention and the removal of the title deeds.
- On receipt of the application the local authority will forward the application to the internal and external departments.
- Once the public participation process was completed and all the necessary internal and external departments commented, the application will be forwarded to the area planner for the town planning report.
- The town planning report will then be forwarded to the delegated official for approval.
- After the application was approved, the final amendment scheme documents must be prepared and thereafter a proclamation notice is published in the Provincial Gazette.
- Endorse the title deed.

# Consent Use



- Special Consent application in terms of Section 32 of the Ekurhuleni Town Planning Scheme, 2014 needs to be drafted and submitted to the local authority.
- The applicant shall, within a period of 7 (seven) days of submitting an application to the Municipality, cause a site notice(s) of the application to be displayed on the property, in English and at the discretion of the Municipality, any other official language(s),
- An applicant shall, at his/her own expense, hand deliver or dispatch by registered mail, notice to all owners of land abutting upon or sharing a common boundary with that land.
- On receipt of the application, the local authority will forward the application to the internal and external departments.
- Once the public participation process is completed and all the necessary internal and external departments commented, the application will be forwarded to the area planner for the town planning report.
- The town planning report will then be forwarded to the delegated official for approval.

# Bulk Contribution

- ◎ The local authority has adopted bulk service contribution policy
  - Water and Sanitation Department – April 2009
  - Energy Department – December 2008
  - Roads and Stormwater Department – June 2009
- ◎ Contributions are based on the additional land use rights applied for
- ◎ Payable before Site Development Plan and Building Plans are approved

# Thank You

