

General Notice 81
PG412
2 April 1999

DRAFT REGULATIONS RELATING TO LAND DEVELOPMENT OBJECTIVES IN TERMS OF THE DEVELOPMENT FACILITATION ACT, 1995 (ACT No. 67 OF 1995)

I, Norman Manuel Mashabane, the MEC in the Northern Province to whom the Premier has assigned the performance of certain functions in terms of section 1 (xx) of the Development Facilitation Act, 1995 (Act No. 67 of 1995), hereby publish draft regulations contained in the Schedule. These draft regulations are intended to replace Regulations relating to Land Development Objectives made in terms of Chapter IV of the Development Facilitation Act, 1995 (Act No. 67 of 1995), published in Provincial Gazette Nos. 273 on 1 August 1997 and 222 of 22 January 1997.

Comments are to be submitted to:

The Deputy Director-General
Department of Local Government and Traditional Affairs
Private Bag X9322
PIETERSBURG
0700.
For Attention: Tshilidzi Netshilaphala.
Fax No. (015) 295-8170.
Tel No. (015) 295-6851.
Signed at Pietersburg on this 18th day of March 1999.

N.M. MASHABANE,
MEC: Local Government and Traditional Affairs

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned unless the context otherwise indicates and-

Act means the Development Facilitation Act, 1995 (Act No. 67 of 1995);

land development objectives means land development objectives set by a local government body or the MEC, as the case may be, in accordance with chapter IV of the Act;

MEC means the Member of the Executive Council in the Northern Province responsible for Local Government and Traditional Affairs;

province means the Northern Province;

public means members of the public and communities, either in their individual capacity or organised into associations, bodies, groups, organisations, companies, and other institutions;

responsible department means the provincial government department responsible for implementing the Development Facilitation Act in the province;

review means, when referring to the review of land development objectives, the process of refining the land development objectives that were originally, assessing them in terms of targets set and amending them where required, and aligning them with budgets;

service providers means national and provincial departments and other organs of state or non government agency that provide services;

working plan means a plan referred to in regulation 4.

PART A PROCEDURAL STEPS TO TAKE TO SET/REVIEW AND IMPLEMENT LAND DEVELOPMENT OBJECTIVES

Time period within which land development objectives must be set

2. Land development objectives must be set within one year after the working plan referred to in regulation 4 below have been approved.

Notification that land development objectives must be set

- 3.(1) The MEC must by notice in the Provincial Gazette call upon a local government body, to set or review, land development objectives.
- (2) Such notice must be given in writing to each local government body in the Province.
- (3) Such notice must specify that the local government body must submit a working plan to the responsible department.
- (4) The working plan must be submitted within 60 (sixty) days of the date of the notice being published, or such extended period as the MEC may allow.

Contents of working plan

4. The working plan must, include the following -
 - (1) the steps that will be taken by the local government body to set or review its land development objectives;
 - (2) the costs that will be incurred in setting land development objectives;
 - (3) any financial or other assistance required in order to set land development objectives;
 - (4) a list of service providers that will be consulted during the setting of land development objectives and the manner in which such consultation will take place. This list may not be exhaustive;
 - (5) a public participation plan which gives a description of how public participation will take place and indicates -
 - (a) a list of members of the public who will be consulted in the setting of land development objectives: provided that this list may not be exhaustive and may be added to during the process of setting land development objectives;

- (b) the manner in which consultation will take place.

Approval of working plan

5.(1) The MEC must, within 30 (thirty) days of receiving a working plan -

- (a) approve the working plan;
 - (b) approve the working plan conditionally; or
 - (c) reject the working plan.
- (2) If the working plan is approved conditionally, the MEC must refer it to the local government body for any amendments specified by the MEC.
- (3) If the MEC rejects a working plan he or she must refer the working plan back to the local government body, together with his or her reasons.
- (4) The local government body must re-submit an amended plan referred to in subregulations (2) and (3) above, to the MEC for his or her consideration, within a period of 30 (thirty) days or such longer period as the MEC may allow.
- (5) The final working plans must be approved in writing by the MEC.

Co-ordination of land development objectives

6.(1) In order to promote coordination, the following guidelines must be adopted by local government bodies when setting land development objectives -

- (a) consultations must take place with neighbouring local government bodies regarding the contents of land development objectives;
 - (b) consultations must take place with relevant local government bodies and service providers.
- (2) District councils must -
- (a) coordinate and monitor the setting of land development objectives by all councils within the district concerned,
 - (b) ensure that the land development objectives set by councils in their areas are consistent with land development objectives set by them.
- (3) Horizontal coordination of land development objectives must take place between adjacent rural councils and between district councils and adjacent local government bodies.
- (4) The MEC may amend land development objectives set by a local government body, in consultation with the local government body, to ensure that they are coordinated with the land development objectives of local government bodies in the province.

Notice of intention to set land development objectives

- 7.(1) Within 30 (thirty) days after the approval of the working plan, the local government body must notify the public in its area of jurisdiction of its intention to set land development objectives and invite public participation in accordance with the working plan.
- (2) If the local government body intends to set up a Land Development Objectives Steering Committee, the notice referred to in sub regulation (1) must invite the public to nominate members that should serve on the committee.
- (3) The notice in terms of sub-regulation (1) -
 - (a) must be published in English and at least one other official language used in the local government body area, in two issues of a daily newspaper circulating in the local government body area, the second notice to be published a week after the first;
 - (b) may be advertised in other appropriate media;
 - (c) must, if a Land Development Objectives Steering Committee is to be set up, provide a deadline for nomination of members that should serve on this committee, being no more than fourteen (14) days from the date of the second notice referred to in sub-regulation (3)(a).

Establishment of a Land Development Objectives Steering Committee

- 8.(1) The local government body may set up a Land Development Objectives Steering Committee for the purpose of co-ordination of the setting and implementation of land development objectives in the area under its jurisdiction.
- (2) The functions of the Land Development Objectives Steering Committee are to:
 - (a) provide assistance to the local government body in respect of the public participation process;
 - (b) distribute documentation and other information to the public and service providers;
 - (d) assist in collecting information for the local government;
 - (e) receive any inputs from the public and service providers regarding the content of land development objectives;
 - (f) perform any other function which relates to setting of land development objectives that the local government body may assign it.
- (3) The Steering Committee may make recommendations to the local government body regarding land development objectives.
- (4) The Steering Committee must be chaired by a member of the local government body.

Consultation process in respect of draft land development objectives

9. The local government body must obtain comments on draft land development objectives from the public and service providers specified in the working plan before published for public comment in terms of regulation 10.

Publication of draft land development objectives

- 10.(1) The local government body must publish a notice of the draft land development objectives for comment, before they are submitted to the MEC for approval. Such draft shall also be lodged with the Designated Office of the Provincial Administration.
- (2) The notice calling for comments on the draft land development objectives -
 - (a) must be published in at least two (2) official languages used in the local government area, in two issues of a daily newspaper circulating in the local government area, the second notice being published a week after the first;
 - (b) may be advertised in any other media;
 - (c) must state the place where the draft land development objectives may be inspected and the address where comments may be lodged;
 - (d) must provide a deadline for comments, which must not exceed 30 (thirty) days from the date of the first notice.

Processing of comments on the draft land development objectives

11. The local government body or the Land Development Objectives Steering Committee must study all comments received and may amend the draft land development objectives.

Submission of land development objectives

- 12.(1) Local government bodies must submit draft land development objectives to the MEC for his or her consideration within 30 (thirty) days after expiry of the period referred to in regulation 10(2)(d), or such extended period the MEC may permit,
- (2) Local government bodies shall submit draft land development objectives to the MEC for approval together with any representation or comments received including the local government bodies' comments and recommendations thereon.

Approval of land development objectives by the MEC

- 13.(1) The MEC may, within 60 (sixty) days of receipt of land development objectives-
 - (a) approve such land development objectives; or
 - (b) approve the land development objectives conditionally;
 - (c) reject such land development objectives on the grounds set out in section 27(1) of the Act.
- (2) If the land development objectives are approved conditionally, the MEC must send them back to the local government body for amendment specified by the MEC.
- (3) If the land development objectives are not approved, in accordance with section 27 (1) of the Act, the MEC must furnish his or her written reasons for doing so and must refer the land development objectives back to the local government body for-
 - (i) compliance with the working plan;

- (ii) compliance with section 28 of the Act;
 - (iii) compliance with any other provision of the Act
- (4) Where land development objectives have been referred back to a local government body in terms of sub-regulation (1) (b) or (c), the local government body must, within 30 (thirty) days or such longer period as the MEC may allow, resubmit the land development objectives to the MEC for his or her consideration and approval.
- (5) The MEC must inform the local government body in writing of his or her approval of the land development objectives.

Notice of approval of land development objectives

- 14.(1) Upon approval of land development Objective by the MEC, the local government body must-
- (a) publish a notice in the Provincial Gazette and in a daily newspaper circulating in the local government body area in English and one other official language, stating that-
 - (i) the land development objectives have been approved in respect of that area of jurisdiction; and
 - (ii) copies of the land development objectives are open for inspection at the place specified in the notice.
 - (2) The local government body must make available for inspection, copies of the approved land development objectives at a place determined by the local government body.
 - (3) The MEC must notify the Designated Officer and Tribunal Registrar that land development objectives have been approved in respect of that area.

Review and monitoring of land development objectives

- 15.(1) Land development objectives must be reviewed every 3 (three) year;
- (2) The MEC may require that the land development objectives be reviewed before expiry of three years, after consultation with the local government body.
 - (3) The process of submission of land development objectives for review must be in accordance with these regulations.
 - (4) When a local government body reviews land development objectives, it must -
 - (a) describe and evaluate the performance of the local government body in meeting the approved goals against quantifiable targets and performance measures over the review period;
 - (b) give reasons for departures from the set targets and performance measures;
 - (c) indicate the revisions affected to the objectives, if any;
 - (d) show how land development objectives have been aligned to the local government body's budgeting process.

PART B GENERAL MATTERS

Subject matter of land development objectives

- 16.(1) The subject matter of land development objectives must be in accordance with section 28 of the Act.
- (2) A local government body may on application to the MEC set land development objectives for the first annual cycle, in respect of only part of the subject matter as set out in section 28: Provided that when the first land development objectives are reviewed by the local government body it must set land development objectives in respect of all of the subject matter required under section 28 of the Act.

Body responsible for formulating land development objectives

- 17.(1) All local government bodies in the province must set land development objectives.
- (2) A local government body may appoint a person or body to assist in setting land development objectives.
- (3) A district council may assist local government bodies in their areas to set land development objectives.

Failure to prepare land development objectives

- 18.(1) If a local government body fails to set land development objectives within the period stipulated in terms of these regulations, the MEC shall give notice to the local government body concerned to submit a working plan within 30 (thirty) days of such notice.
- (2) If the local government body fails to submit a working without a good cause, the MEC shall give notice to the local government body that he or she will set land development objectives on behalf of that local government body.
- (3) Any expenditure incurred by the MEC in connection with the setting of land development objectives under sub-regulation (2) shall be recovered from the local government body concerned.
- (5) If the MEC sets land development objectives in accordance with sub-regulation (2), he or may contract any person or body to prepare such land development objectives on his/her behalf.

Status of land development objectives that are in the process of being set or have been approved

- 19.(1) Any Land Development Objectives that have been set prior to these regulations coming into operation, such land development objectives if approved, shall be deemed to be so approved under these regulations
- (2) These regulations shall apply to any process of setting Land Development Objectives that have already commenced.

Short title

20. These regulations shall be called the Northern Province Land Development Objectives Regulations, 1999, and shall come into operation on the date of publication in the Provincial Gazette.

PROCEDURAL STEPS TO SET LAND DEVELOPMENT OBJECTIVES

STEP	ACTIVITY	TIME
1	Notification by MEC	
2	Submission of work plan by local government body	30 days
3	Approval of workplan by MEC	30 days
4	Drafting of LDOs	
	Notice of intention by local government body	30 days
	Establishment of Steering Committee	10 months
	Setting of draft LDOs	
Publication of draft land development objectives		
	Processing of comments and/or amendments	30 days
5	Submission of draft LDOs to MEC	
6	Consideration of draft LDOs by MEC	60 days
7	Notice of approval of LDOs by local government body	