

USE GUIDE

The information provided in this document is presented in informal and plain language for the purpose of providing advice on development matters and procedures relevant to the land use scheme regulations.

Should there be any discrepancy with the provisions to the underlying legislation, the actual legislation takes precedence and should be consulted directly

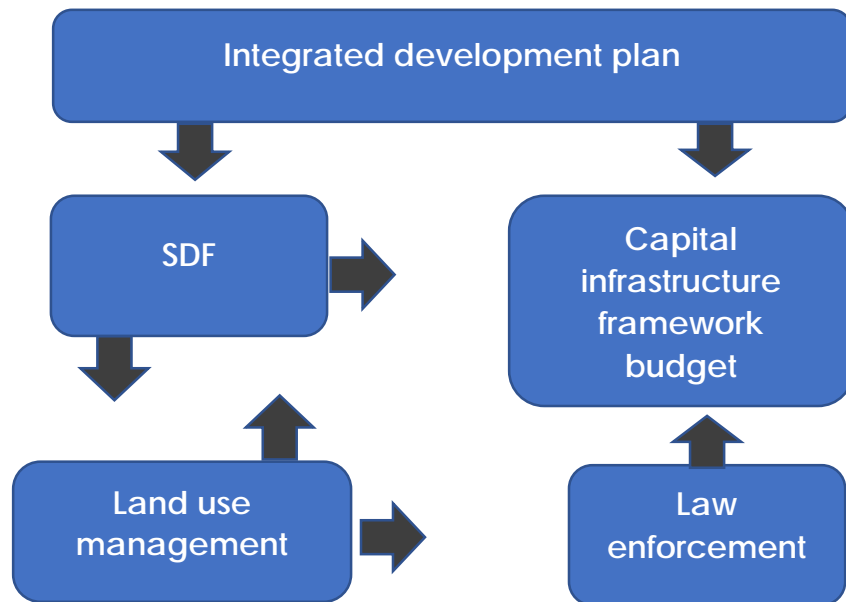
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1. Introduction to Land Use Applications

City of Mbombela Spatial Planning and Land Use Management By-Law, or in terms of the Land Use Scheme Regulations as stipulated.

In terms of the Spatial Planning and Land Use Management Act, 2013, the land use management process is controlled by the municipality. It is the municipality’s responsibility to ensure that non-conforming land uses are prevented, and that development takes place in accordance with the land use management controls stipulated per land use zone in the zoning scheme regulations.



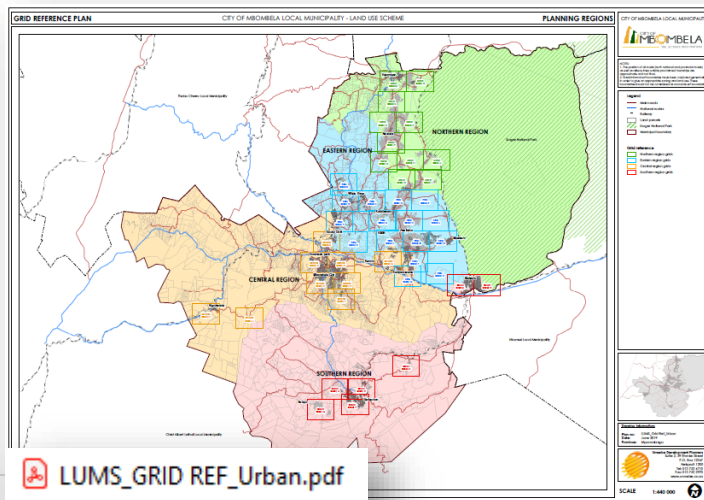
New developments within the boundaries of the City of Mbombela may require approval, which must be obtained by applying to the department Land Use Management: Development Control. Applications are made in terms of the

2. How to determine the existing land use rights of a property (Zoning Certificate)

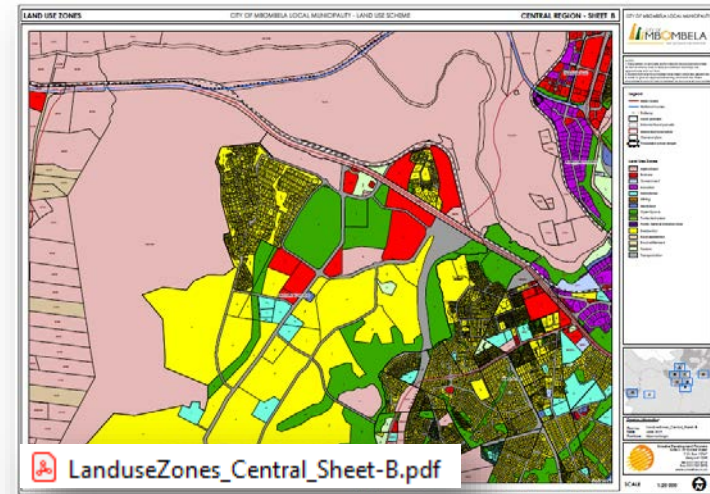
It is recommended that members of the public apply for a zoning certificate. The municipal officials will use the method described below to generate a zoning certificate.

Every property within the boundaries of the City of Mbombela has been allocated a **Land Use Zone**. The Land Use Zone was determined by looking at the **base zone** (zoning in terms of the previous town planning scheme or approvals in terms of provincial legislation) Before any planning or decision can be made on a property it is therefore crucial to determine what the existing land uses and development rights of a property is. The following steps must be taken to determine the Land Use Zone, land uses and development controls:

Step 1: Open the LUMS GRID reference map



and determine whether the property falls within the northern, eastern, southern, central or rural "demarcated" area. This map will indicate the relevant map sheet number i.e. *Landuse Zones_Central_Sheet-B*



The map will show the Use Zone of the property i.e. Business, Institutional, Residential

* Refer to Chapter 4 of the scheme regulations for a breakdown of land use zones and the relevant notations, number and codes

* It should be noted that upon the promulgation of the land use scheme, the land use zone maps will be active GIS maps, which will be updated as new applications are approved. The land use register and land use scheme

maps are linked, and the maps will therefore be automatically updated once the land use register is updated. The Municipal official will therefore use the live GIS system to determine the use zone of a property.

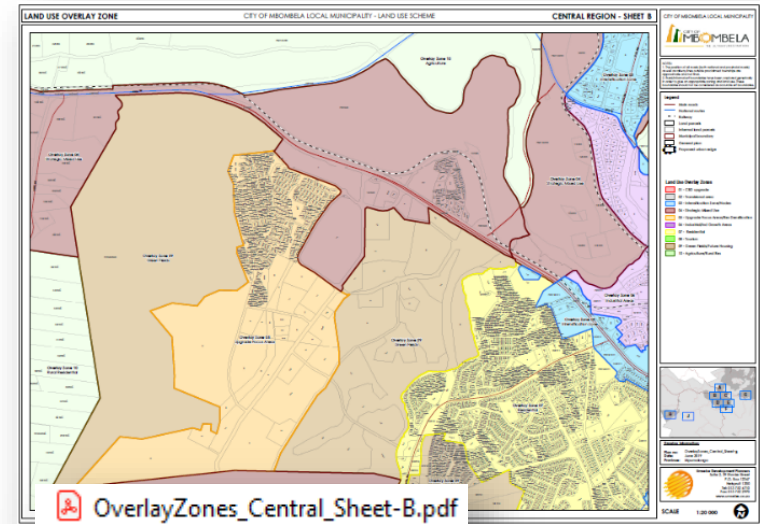
Step 2: Now that the Use Zone is determined open the land use register/ register of land use rights to determine the base zone of the property. The base zone of the property indicates the existing land uses and development controls of the property.

*As mentioned these are the zonings that was captured in the land use register as per the previous town planning schemes and other applicable legislation

3. How to interpret the land use overlay zone matrix

Each land use zone sheet has a corresponding land use overlay zone map.

The land use overlay zone under which the property falls can now be determined by opening the corresponding map.



Each land use overlay zone (indicated in the legend on the right side of the map) has a corresponding land use overlay zone matrix attached as Schedule 2 to the Scheme Regulations.

The land use overlay zone matrix should be consulted to determine what type of land uses is regarded as "ideal" in certain areas.

Explaining the Land Use Overlay zones (Schedule 2):

1. The land use overlay zones correlates with the SDF 2019 recommendations.
2. The City is divided into 10 Land Use Overlay Zones
3. Each Land Use Overlay Zone table comprise of 15 Land Use Zones (Columns) *refer to Section 4.1 of the scheme clauses
4. Each Land Use Overlay Zone table comprise of 123 land uses (rows) *refer to Section 3.2 of the scheme clauses for the land use definitions
5. Each land use is depicted as either a P for primary, C for Consent Use or blank, to indicate a prohibited use *also refer to Section 5.1 of the Scheme regulations)
6. The maximum permissible development controls is stipulated on the bottom of each land use overlay zone

4. How to determine which application procedure to follow: Applications and the general development regulations

4.1. Refer to Chapter 5.1 of the Scheme Regulations : the use of buildings and land



Section 5.1.2 (a) of the Scheme regulations: **Primary Uses**

- All land uses marked as **P** in the land use overlay zone matrix is regarded as a **primary use** under the relevant land use zone.

LAND USE OVERLAY ZONE 1 - CBD UPGRADE																
LAND USES		LAND USE ZONES														
P	Primary Use	Agriculture	Business	Industrial	Industrial	Government	Municipal	Open space	Residential	Rural Residential	Rural Settlement	Tourism	Protected Areas	Transportation	Utilities	Wing
C	Consent use															
	Prohibited Use															
1	Adoption															
2	Adult entertainment business		P													
3	Agriculture					P										
4	Agricultural buildings															
5	Agricultural industry					P										
6	Agri-Village						P	P								
7	Airfield					C	C									

- A property does not automatically have the land uses marked as **P** in the land use overlay zone matrix.
- As mentioned in Chapter 2 the existing land uses of a property is captured in the land use register and will be indicated on a zoning certificate.
- Any land uses marked as P and not present on the zoning certificate will have to be obtained by means of a rezoning application. * Application to be submitted in terms of the By-Law.

- If the applicant applies for additional land use(s) marked by notation P Section 5.1.2 a) iii of the regulations is applicable.

*In terms of Section 5.1.2 a) iii of the LUMS, refers to Section 114 (a) of the by-law where the municipality may grant exemption from compliance of certain provision of the By-Law to reduce the financial and administrative burden.

- Although a rezoning application is submitted in terms of the By-Law the application process as stipulated in Section 9.3 of the Scheme Regulations may be followed.
- The LDO to approve the application if unopposed.



Section 5.1.2. (b) of the Scheme regulations: **Consent uses**

- All land uses marked as **C** in the land use overlay zone matrix is regard as a secondary use under the relevant land use zone.

LAND USE OVERLAY ZONE 3 - INTENSIFICATION ZONES AND NODES												
LAND USES		LAND USE ZONES (To be read with the Intensification zone policy)										
P	Primary Use	Agriculture	Business	Institutional	Industrial	Government	Municipal	Community	Residential	Rural Residential	Rural Settlement	Tourism
C	Consent use											
	Prohibited Use											
1	Abattoir	C			P							
2	Adult entertainment business		P									
3	Agriculture	P				P						P

- A property does not automatically have the land uses marked as C in the land use overlay zone matrix.
- As mentioned in Chapter 2 the existing land uses of a property is captured in the land use register and will be indicated on a zoning certificate.
- Any additional land uses marked as C must be applied for in terms of Clause 9.2 of the Scheme Regulations.
- The LDO to approve the application if unopposed.



Section 5.1.2. (d) of the Scheme regulations: **Prohibited Use**

- All land uses with no notation in the land use overlay zone matrix is regarded as a **prohibited use**.

LAND USE OVERLAY ZONE 2 - TRANSITIONAL AREA												
LAND USES		LAND USE ZONES										
P	Primary Use	Agriculture	Business	Institutional	Industrial	Government	Municipal	Community	Residential	Rural Residential	Rural Settlement	Tourism
C	Consent use											
	Prohibited Use											
1	Abattoir											
2	Adult entertainment business											
3	Agriculture											
4	Agricultural buildings											
5	Agricultural industry											

- Any additional land uses marked as Prohibited will have to be obtained by means of a rezoning application. * Application to be submitted in terms of the relevant By-Law
- The application to be considered by the MPT.

4.2. Refer to chapter 5.2 of the Scheme Regulations: Provisions related to FAR, densities and second dwelling units



Section 5.2 of the Scheme regulations: FAR

- The maximum recommended FAR is stipulated on the bottom of the zoning matrix.
- The increase of FAR to be obtained by means of a rezoning application in terms of the By-Law.
- The decrease or increase of the FAR by no more than 15 % can however be applied for in terms of Clause 9.4 of the scheme regulations *Clause 9.4 is also known as Permanent Departure A.
- The decrease or increase of FAR to be approved by the LDO if unopposed.



Section 5.2.4 of the Scheme Regulations: Second dwelling units

- Applications for second dwelling units on properties with a use zone of "Residential" **with a low density**, "Agricultural" or "Rural Residential" to be done in terms of Section 9.4 of the Scheme Clauses. *Permanent Departure A.
- The applicant is however exempted from Section ion 9.4.2 to 9.4.5. and thereby the public participation associated with Permanent Departure A.

- Application method for second dwellings on properties with a different use zone, or "Residential " with a **medium to high density** in terms of Density Overlay Zone will be determined by the notation P or C as earmarked under the relevant land use overlay zone.

Explaining the Density parameters and Density Overlay Zones:

- The Density Overlay Zone maps, correlate with the density parameters as stipulated in the SDF.
- By checking the density overlay zone maps the recommended densities for certain areas can be determined.

	1 du per 120m ² or less (83+ du/ha)
	1 du per 200-300m ² (33-50 du/ha)
	1 du per 300-500m ² (20-33 du/ha)
	1 du per 500-700m ² (14-20 du/ha)
	1 du per 700-1000m ² (10-14 du/ha)
	1 du per 1000-2000m ² (5-10 du/ha)
	1 dwelling unit/ha

- Section 4.1.7 of the Scheme Regulations differentiate between low, medium and high density

Number: 8	Zone: Residential	Code: R
Colour notation	RGB	
	R=255	
	G=255	
	B=000	
Definition	Land uses normally or otherwise reasonably associated with the use of land primarily for human habitation. Low density residential = equal or lower than 10 to 14 dwelling units per hectare or equal or lower than 1 dwelling unit per 700 m ² . Medium density residential = between 15 to 33 units per hectare or between 1 dwelling unit per 500 to 300 m ² units per Erf. High density residential = equal and higher than 33 dwelling units per hectare or equal and higher than 1 dwelling unit	

- The increase of coverage to be obtained by means of a rezoning application in terms of the By-Law.
- The decrease or increase of the coverage by no more than 15 % to be obtained by means of an application made in terms of Section 9.5 of the Scheme Clauses.*
Permanent Departure B
- Application to be approved by the LDO if unopposed.

4.4. Refer to Chapter 5.4 of the Scheme Regulations: height

- The maximum recommended height is stipulated on the bottom of the zoning matrix.
- For the increase of height by 1 story application to be made in terms of Section 9.5 of the Scheme Clauses *Permanent Departure B.
- The increase of height to be obtained by means of a rezoning application in terms of the By-Law
- Application to be approved by LDO.

4.5. Refer to Chapter 5.5 of the Scheme Regulations: relaxation of building lines

- Application for the relaxation of building lines to be done in terms of Section 9.6 of the Scheme Clauses;



Section 5.2 of the Scheme Regulations: Density

- Determine what the recommended density of an Erf is by means of the density overlay zone maps.
- Application for the increase in density to be submitted by means of a rezoning application in terms of the By-Law.
- Application to be approved by the LDO if unopposed.

4.3. Refer to Chapter 5.3 of the Scheme regulations: Coverage

- The maximum recommended coverage is stipulated on the bottom of the zoning matrix.



- Relaxation of building lines may also be applied for in terms of an SDP application and the approval of the SDP application will serve as the approval of the building line relaxation or the building line indicated relaxed on the SDP.

4.6. Refer to Chapter 5.15 of the Scheme Regulations: Saving for special purposes



Refer to Section 5.15.1 (d): Permission for a home office

- Refer to Section 15.5.1. d (i) to (v) to determine whether permission is required for the operating of the home office.
- Should permission be required application to be done in terms of Section 9.2 of the Scheme Clauses *Consent Use application

5. How to determine which application procedure to follow: applications and conditions applicable to specific developments

The conditions applicable to specific developments is an amalgamation of conditions previously applicable to specific developments as contained in the town planning schemes, (updated and amended where applicable), relevant council resolutions affecting specific developments and policies accepted by council regarding specific developments.

Not all specific developments qualify for alternative application procedures and only the developments that qualify will be pointed out in this chapter.

5.1. Refer to Chapter 6.4 of the Scheme Regulations: provision related to the establishment of bed and breakfast or guest houses

- Application for a bed and breakfast or guest house on a low density residential zoned property to be done in terms of Section 9.2 of the Scheme Clauses. * Consent Use application
- The number of overnight guest is however restricted to 12 to trigger the application process in terms of Section 9.2.
- Any deviation from the stipulations as captured in Section 6.4.1 or 6.4.6, a rezoning application to be done in terms of the By-law.

5.2. Refer to Chapter 6.5 of the Scheme Regulations: provisions related to the establishment of child day care centres

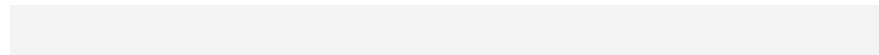
- Application for a play group, day mothers, afterschool care centres and pre-schools on a low density residential zoned property for more than 6 kids to be done in terms of Section 9.2 of the Scheme Clauses. * Consent Use application

5.3. Refer to Chapter 6.6. of the Scheme Regulations: Provisions related to cellular masts

- Application to be done in terms of Clause 9.2 * Consent Use
- If application is made for the erecting of an antenna on existing buildings or other urban structures and infrastructure, application to be submitted in terms of Clause 9.5 * Permanent Departure B.

5.4. Refer to Chapter 6.10 of the Scheme Regulations: Provisions related to the establishment of student accommodation

- The provision of student accommodation for up to four students is allowed without consent from the local municipality
- The provision of lodging for not more than 15 students per residential stand to be applied for in terms of Section 9.2 of the Scheme Clauses * Consent Use
- The provision of lodging for more than 15 students to be applied for in terms of the Mbombela By-Law * Rezoning application.



6. Discussing the Management Zone

Chapter 7 of the Scheme Regulations refers to the Rural Incremental Management Zone, which in affect provides guidance on land use in the areas in rural areas and under the administration of traditional leadership.

Due to these areas not previously being subject to land use management, incremental land use management will be introduced.

Most land located in these areas have been provided a use zone of Rural Settlement with the approximate uses of each land parcel indicated on the land use plans in the possession of the local municipality. These land uses were captured during the land use survey process done in 2017/2018.

- Refer to Chapter 7.3 of the Scheme Regulations indicating what is regarded as high intensity land uses applicable in these areas.
- An application for a high intensity use to be done in terms of the By-Law
- An application for any other land use will be regarded as a low intensity development and application will therefore be done in terms of Clause 9.2 of the Scheme Regulations *Consent Use
- The beneficial owner will be regarded as the “registered owner”.

7. Discussing Overlay Zones and the application process

Overlay zones applies in addition to the base zone of a property and may vary the rules relating to a particular area or land unit.

Any new development rules or rights indicated on an overlay zone are not automatically granted and must be applied for as discussed in the scheme regulations.

More than one overlay zone may apply to a land unit.

Council may adopt, replace or amend overlay zones following the rezoning procedure stipulated in the planning law.

Council may grant departure from the development rules of an overlay zone without amending the overlay zone.

The following overlay zones are applicable and should be consulted before and during an application.

7.1. Refer to Chapter 8.4 of the Scheme Regulations: Land Use Overlay Zones

- The land use overlay zones designate the preferred development as identified in the SDF.

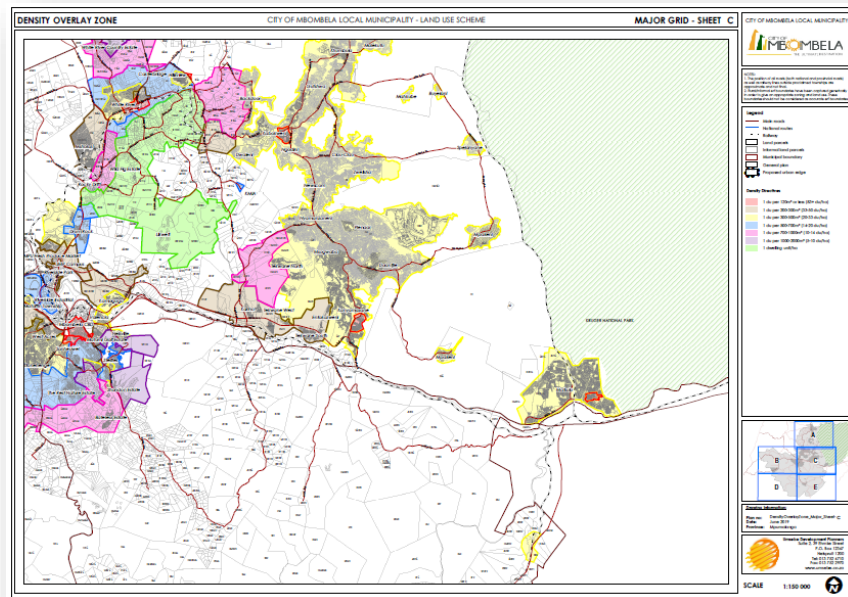
- The land use overlay zone may indicate shortened application procedures as discussed in Chapter 4 of this document.

7.2. Refer to Chapter 8.5 Density Overlay Zone

The provisions of the Density Overlay Zone is consistent with the density policy as stipulated in the SDF.

The density overlay zone, can therefore be consulted to determine the preferred density in certain areas.

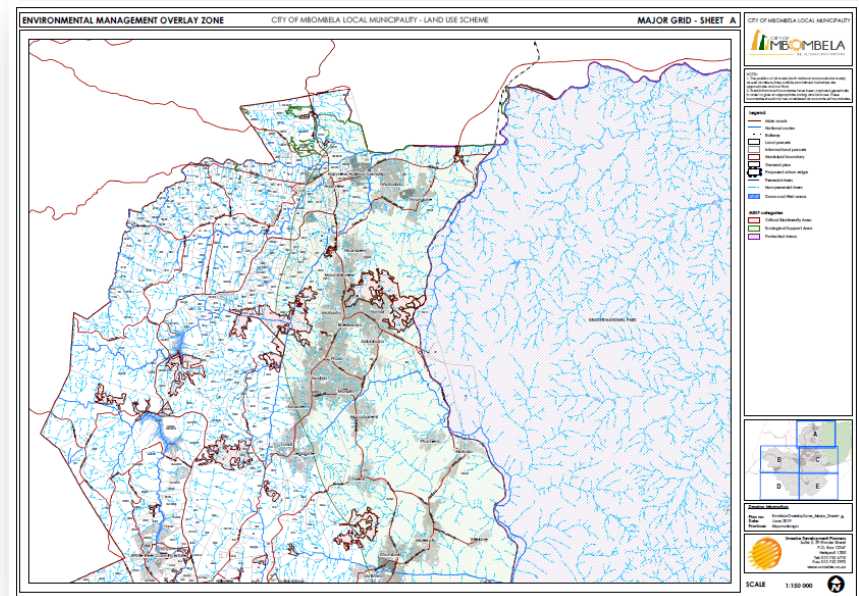
The density refers to the envisaged residential density of areas.



7.3. Refer to Chapter 8.6: Environmental Management Overlay Zone

The environmental management overlay zone provides a mechanism for the protection of Critical Biodiversity Areas (CBA's) and Ecological Support Areas (ESA's) and wetlands.

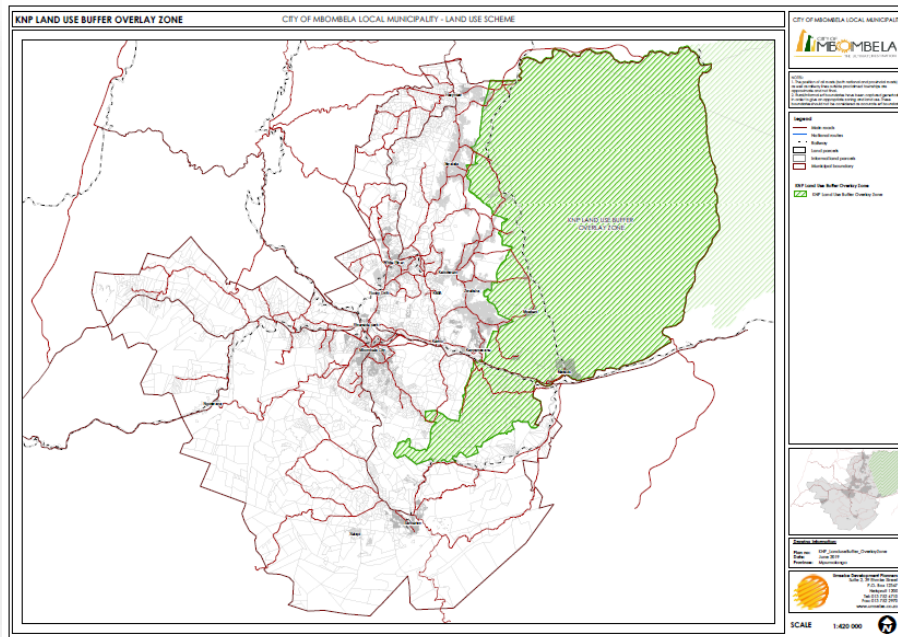
Should a property be affected by one of the identified areas, the application to be referred to SANBI for their comments and/or recommendations.



7.4. Refer to Chapter 8.7: Kruger National Park Land Use Buffer Overlay Zone

The purpose of the KNP Land Use Buffer Overlay Zone is to protect the integrity of the Kruger National Park and to reduce or mitigate the negative influences of activities taking place outside the parks.

Should an application property be affected by the KNP Land Use Buffer, the application to be referred for comments and/or recommendations to the designated person at the KNP.



7.5. Heritage Protection Overlay Zone and Mining Overlay Zone

It should be duly noted that although provision is made for a Heritage Protection Overlay Zone and Mining Overlay Zone, the municipality is not in a position to provide maps on these areas, due to a lack of relevant data at this stage.

Each application will therefore be assessed individually to determine whether the property is affected by a heritage protection area or whether a mining permit has been issued on an area.

Should an application property be affected by either of the above, the application to be referred to the contact persons at the relevant municipal and provincial departments.

8. Chapter 9 quick application and notification guide

	Clause 9.2 Consent Use	Perm
Notification process:		
<i>Erecting a site notice on site within 7 days of submitting application to Municipality</i>	X	
<i>Notification period of 21 days</i>	X	
<i>Serving of notices to registered owners of abutting properties within 7 days of submission to Municipality</i>	X	
<i>Obtain signatures from neighbours</i>		
<i>Municipality may require additional notification</i>	X	
Compliance certificate	X	

Typical applications		
	Clause 9.2 Consent Use	Additional land uses to a Land Use
		Additional land use to a Land Use
		Application for a low intensity
		Application for a home office
		Application for child day care
		Application for a cellular mast
	Clause 9.4	Applications where land use
		Applications for second dwellings
	Permanent Departure B	Increase of coverage up to 10%
		Increase of height by 1 storey
Clause 9.6 Building line relaxation	Application for cellular attenuation	
	Building line relaxation	

9. Additional documentation required when submitting an application in terms of the Land Use Scheme

Additional documents required	Consent Use	Permanent Departure A	Permanent Departure B	Building line relaxation
Application form	X	X	X	X
Power of Attorney (if owner is not the applicant)	X	X	X	X
Company Resolution if applicalbe	X	X	X	X
All signature from Trustees (if applicable)	X	X	X	X
Written motivation	X	X	X	X
Proof of payment of application fees	X	X	X	X
Power of Attorney from Traditional Council (if applicalbe)	X	X	X	X
Certified copy of title deed	X	X	X	X
S.G. diagram or General Plan	X			
Locality Plan (including Geographical Coordinates in decimal degrees)	X	X		X
Copy of Zoning Certificate	X			
Bondholders Consent (if Applicable)	X			
Zoning Plan	X			
Land Use Plan	X			
Description of all existing servitudes and services on the land	X			
Explanatory maps, plans and diagrams		X		X
Proof of notification of abutting property owners (Form 1)	X	X		X
Affidavit confirming Display of Site Notice	X			
Photographic Proof of Site Notices (one near, one from across the street)	X			

10. Site notice and notification to adjoining owners.

A site notice, and notification letter to adjoining owners should contain the following information:

- The name, physical address and contact details of the applicant;
- Identify the land to which the application relates by giving the property description (erf number) and the physical address (street name and number);
- state the intent and purpose of the application;
- state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
- state the contact details of the relevant municipal employee;
- invite members of the public to submit written comments or objections together with the reasons therefor in respect of the application;
- state in which manner comments or objections may be submitted;
- state the date by when the comments or objections must be submitted which must not be less than 30 days from the date on which the notice was given;
- state that any person who cannot write may during office hours attend at an address stated in the notice where a named staff member of the Municipality will assist that person to transcribe that person’s objections or comments.

Example of Site Notice

NOTICE

LAND DEVELOPMENT APPLICATION IN TERMS OF THE MBOMBELA LAND USE SCHEME 2019

I/We (**Applicant**) have lodged a land development **application (unique reference number)** in terms of Sections (**relevant section in land use scheme**) of the Mbombela Land Use Scheme 2019 for **Consent Use/ Permanent Departure B** for (**reason for application**) situated at (**physical address or description of location of property**)

The intention of the application is ...

A copy of the application and supporting documentation is available for viewing during normal office hours at the Office of the Senior Manager: Land Use Management, Office 205, Civic Centre, 1 Nel Street, Mbombela, 1201, who can be contacted at the following contact number: (013) 759 2185.

Written comments or objections together with reasons therefore in respect of the application must be submitted, in the prescribed format, to the Municipal Manager, P O Box 45, Mbombela, 1200; or delivered to Registry Section of Records, 1st Floor, Civic Centre, 1 Nel Street, Mbombela; or faxed to (013) 759 2070; or emailed to: registry@mbombela.gov.za by no later than (**date**) .

The format for the comments or objections is available from the office of the Senior Manager: Land Use Management at the above-mentioned address or on the municipality's website (www.mbombela.gov.za).

Any person who cannot read or write may consult with any staff member of the office of the Senior Manager: Land Use Management Section during office hours and assistance will be given to transcribe that person's objections or comments.

[Applicants Contact Details:](#)

11. The land use scheme application process

The land use application process will usually involve the following steps:

Pre- submission

- Step 1:** Obtain zoning certificate of property to determine correct Use Zone, and base zone (allowed uses and development controls).
- Step 2:** Pre consultation with development control official or *town planning consultant* to determine type of application process to be followed.
- Step 3:** Obtaining/Issuing of relevant application forms, submission requirements and information on applicable procedure.

Submitting application

- Step 4:** Submission of application to the City's registry department (preferably electronically).
- Step 5:** Forward of application from registry to the department Development Control

Processing of application

- Step 6:** Capture application on the system and issue a unique reference number.



- Step 7:** Allocation of application to official within the department.
- Step 8:** Official inspect application for validity and completeness.
- Step 9:** Acknowledgement receipt is send to applicant.
- Step 10:** Notify applicant in writing of any further outstanding information or documents required.
- Step 11:** Notify applicant in writing that public participation may commence (if required), and to which external departments or entity the application need to be referred. or give notification of any additional notification processes that needs to be completed.
- Step 12:** Notify applicant of any comments and objections received in order for the applicant to respond.
- Step 13:** Development control official assess the desirability of the development proposal and write a report with a recommendation to the decision -making authority (either LDO, or MPT), who will decide on the application.
- Step 14:** Notification of applicant and any objectors of the decision and offer all parties the opportunity to appeal.

Step 15: If no appeals are received, provide final notification of decision

Step 16: If an appeal is received, provide a final notification once the appeal authority has decided on the appeal.

12. Contact details

For any further questions on land use management issues contact the development management office on the number provided below:

City of Mbombela Local Municipality
1 Nel Street, Civic Centre, 2nd floor
PO Box 45, Mbombela, 1200
Contact number 013 759 9173