MACROPLAN TOWN & REGIONAL PLANNERS

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Attention: Andre Thirion

Town Planning Legislation and the Application Processes to follow Pertaining to Resort and tourism related developments within the borders of Dawid Kruiper Municipality

Our office would like to thank you for this opportunity to be of assistance to you in this regard and providing a general planning statement, regarding the town planning process in the area in which we work and have gained experience over the past 3 decades specifically pertaining to the **Dawid Kruiper Local Municipality**. Macroplan Town and Regional Planners work mainly in the Northern Cape Province as Town Planning specialists and our experience as indicated in this statement, is based on our experience in the said Province. Other provinces and the experience of other consultants, may differ from ours.

1. Town Planning Legislation.

- Spatial Planning and Land Use Management Act, Act 16 of 2013 (SPLUMA).
- **Dawid Kruiper Land Use Management Scheme (March 2018 – Reviewed in 2023)**

2. Competent Authority.

- The Dawid Kruiper Municipality has established its own decision-making authority in terms of the parameters of SPLUMA. In the light of the latter, land use applications are submitted to the Dawid Kruiper Municipality as the authority of first instance, for processing, but the decision on such applications submitted, are either taken by the **Dawid Kruiper Municipal Planning Tribunal or a delegated official** as described in more detail in § 3.2, i.

3. Application process.

a) The applicant (Macroplan) uses the approved all-inclusive Land Use Management Scheme (LUMS) of the **Dawid Kruiper Municipality** (includes Municipal By-Laws and applicable scheme regulations) to guide us in terms of the needed land use changes and applicable application procedures.

b) The scope of work that an application may entail is now researched as far as possible before the client is provided with a detail quote and more time and effort is put into this process. The research include determining which departmental inputs/ approvals are needed for a particular application (for example DALRRD, DFFE, SAHRA, DRPW, SANRAL, Transnet etc.), this determination is very important for feedback to a client, due to the extensive timelines of these processes.

c) Under the guidance of SPLUMA, the **Dawid Kruiper Municipality** has compiled their own, very unique and individualised Land Use Management By-Law depicting their own timelines, capital contributions and public participation processes to name a few aspects. For each application the consultant will have to work through the relevant by-laws and familiarise themselves with all the requirements and possible pitfalls.

d) To make sure that all matters are considered in such an application, the SPLUMA act and the **Dawid Kruiper LUMS** incorporated what is referred to as "pre-consultation". This is basically the part of the application process, during which the basic information is gathered, where an applicant consults the local municipal town planning office to obtain their input and perspective, in order to inform the application process further. This process is undertaken in order to determine if the consultant interprets the SDF correctly, if any other information or documentation will be needed and again to determine possible pitfalls.

e) The application is submitted to the **Dawid Kruiper Municipality** as the authority of first instance, and if the municipality has no further queries and no additional information or inputs are required, the normal public participation process can start whereby a minimum 21 day period commences within which any member of the public may provide inputs and/or objections to the proposed development at the offices of the local municipality in accordance with the **Dawid Kruiper Land Use Management Scheme Regulations, Application Procedures and By-Law (March 2018).**

f) If no comments or objections are received during the public participation process, the application is scheduled for decision-making by the **Dawid Kruiper Municipal Planning Tribunal or a delegated official** (as described in more detail in § 3.2, i).

g) If comments and/or objections are received during the public participation period, the applicant is permitted 90 days to respond thereto or to mediate the inputs received, before the relevant decision-making authority can schedule the application and a final decision can be made.

h) In terms of application types in accordance with SPLUMA, you have category 1 applications and category 2 applications. The scope of your application determines what application form will be used and how an application will be decided upon: see detail table below:

Process:	Municipality/ body:	Prescribed Time Frame:
Period of input from any other department or body (outside of municipal departments), which may be launched before submitting an application to the Municipality.	The Applicant.	60 days
The Municipality's request for additional information, after receiving the application and receipt as part of the proof of payment of the applicable administrative fees.	The Municipality.	14 days
After the Municipality has received all outstanding and requested information from the applicant, the compilation of notices for the launching of the public participation process can start.	The Municipality.	14 days
Launching of the prescribed public participation process.	The Applicant.	21 days minimum
Providing proof of public participation process to the Municipality after closure of the public participation process.	The Applicant.	7 days
Municipality provide applicant with all comments and/or objections received for his/her comment.	The Municipality	14 days
The applicant's response to inputs and objections received during the public participation process.	The Applicant	90 days
Presentation of the application to the decision-making authority.	The Municipality.	60 days
Notice of the decision to the applicant and any person and or body that gave inputs and objections during the public participation process.	The Municipality.	14 days
Submitting an appeal against a decision.	The applicant/ Objectors.	21 days
Knowledge regarding date and place of appeal hearing.	Appeal Authority	21 days
Hearing by the Appeal Authority.	Appeal Authority	60 days
Notice of Appeal Authority's decision.	The Responsible Appeal Authority	14 days
Expiring of approval if rights are not used.	The Applicant	2 years
Extension of approval after the lapsing of the initial 2 year period.	The Municipality	max. 3 years

i) The responsibility of making a decision will revert to either of the following bodies:
   i. **Authorised official**: This is applicable in case of a category 2 application, if a local authority has an authorised official (this must be a decision taken by the Municipal Council), usually a professionally registered town planner. If the municipality does not have an authorised official, the decision will be made by the relevant Planning Tribunal, see below.
   ii. **Municipal Planning Tribunal:** This tribunal only make land use change decisions on applications that fall within their own local municipality, e.g. Dawid Kruiper Municipality.
   iii. ~~**Joint Municipal Planning Tribunal:** This tribunal is formed where two or more municipalities decides to perform the functions of a Municipal Planning Tribunal together, e.g. ZF Mgcawu District.~~
   iv. ~~**District Municipal Planning Tribunal:** This tribunal is formed through the agreement of all municipalities within a District Municipality, to form a Municipal Planning Tribunal to receive and decide upon land use applications within the district municipal area, e.g. John Taolo Gaetsewe District.~~

j) The local municipality provides the applicant with the written decision of the application on their own letterhead (see relevant **Dawid Kruiper LUMS** for timeline).

k) The validity period of an approval and the conditions thereto is described in the **Dawid Kruiper LUMS**

3 The following components and legal adherence may be necessary for a Resort band tourism related development to be completed:

- Contour Survey of the site, including the location services, servitudes, etc.
- Completion of Geotechnical Studies.
- The compilation of detail Engineering Reports to detail the impact of the development on the Bulk Infrastructure of Upington.
- Obtaining Environmental Authorisation for the site in accordance with NEMA.
- WULA to be completed by an appointed specialist if the development is proposed beneath the 1:50 year floodline.
- Flood line determination to be conducted by an appointed specialist if the development is proposed beneath the 1:50 year floodline.
- Town Planning for the site and obtaining SPLUMA approval for the development.
- The Survey and the Pegging of the sites, including the registration of the SG diagrams at the SG Office.

4 Additional information on the process of obtaining approval (not all applicable to this development and will be determined during the course of the process).

- The process of attaining land use change approval differ in timelines and requirements for each application and in each municipality, according to that municipality's municipal SPLUMA by-laws, scheme regulations and application manual. This is especially true for any application where DALRRD, DFFE, Heritage and SALA approvals are applicable and must be investigated beforehand.
- Examples: Our office has compiled and submitted an application for rezoning and removal of restrictive title deed conditions in Dawid Kruiper Municipality and the total timeline of the process was 10 weeks from start to finish (this is from the day of our appointment to the day of receiving final approval from the said municipality). This is exceptional and the normal timeframe of other Municipalities are closer to 7-9 months in most cases. We have also had extremely complicated applications, needing DFFE authorisation that has had timelines of 24 months or more and thus each application can have its own problems, pitfalls and challenges.
- In terms of the previous town planning legislation (NCPDA), applications were frequently handled in parallel to other departmental inputs being obtained. For example, a municipal application for rezoning was submitted, whilst a long term lease application for the same site was being processed at DALRRD and this way of handling applications in the past saved a lot of time on applications.
- However, in terms of SPLUMA the parallel component has fallen away almost entirely and in most applications handled by this office since July 2015, this has had an adverse effect on timelines. For example, to obtain a long

term lease approval from DALRRD, you have to submit an application already containing the project Environmental Authorisation (EA), DALRRD land use change no objection (obtaining this is reliant on the afore-mentioned EA) in terms of SPLUMA, Municipal SPLUMA land use change approval (obtaining this is reliant on the afore-mentioned EA and DALRRD land use change no objection), as well as a signed lease agreement, amongst other basic information.

- The pre-consultation part of the process is thus very important to assure streamlined timelines as far as possible.

5 Risks to projects, pitfalls and project development constraints.

It is our opinion that the planning legislation poses certain challenges to any development proposal, especially in terms of how complicated applications can get and the time that it takes to complete them. The planning and managing of the timelines of applications and getting the precise sequence in order, forms an important step at the start of any process. This process specifically will have its own challenges, but none that can't be overcome and it will definitely have a positive influence on the development of Upington.

We hope that you will find the information contained in this break-down of use. Please note that the detail of the steps will be compiled as we move through the various legislative frameworks and if you have specific comments or inputs, do not hesitate to contact us.

We trust that you will find these matters to be in order.

Sincerely yours

Len J Fourie Pr. Pln. A/1322/2006