



TERMS OF REFERENCE

ESTABLISHMENT

OF

THE LEPHALALE MUNICIPAL PLANNING TRIBUNAL

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1. Introduction

The objective of this document is to provide the terms of reference for- including the terms and conditions of service for members of the Lephalale Municipal Planning Tribunal; including to detail such mechanisms deemed to inform the functioning of the Municipal Planning Tribunal.

2. Background

The Spatial Planning and Land Use Management Act 16 of 2013 (The Act) is set to provide a framework for all spatial planning and land use management legislation within the Republic of South Africa and to: -

- specify the relationship between the spatial planning and the land use management system and other kinds of planning,
- provide for the inclusive, developmental, equitable and efficient spatial planning at the different spheres of government,
- provide a framework for the monitoring, coordination and review of the spatial planning and land use management system,
- provide a framework for policies, principles, norms and standards for spatial development planning and land use management,
- address past spatial and regulatory imbalances,
- promote greater consistency and uniformity in the application procedures and decision-making by authorities responsible for land use decisions and development applications,
- provide for the establishment, functions, and operations of Municipal Planning Tribunals,
- provide for the facilitation and enforcement of land use and development measures, including to provide for matters connected therewith.

The Act together with its Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 (the Regulations) was promulgated for its effectiveness from the 01 July 2015. The following milestones were concluded to ensure the state of readiness of the Lephalale Municipality to implement the Act:

- schedule of application fees payable in connection with applications,
- delegation framework in compliance with Section 56 of the Spatial Planning and Land Use Management Act 16 of 2013),
- The Municipal Spatial Planning Land Use Management By-Law was gazetted on the 22nd of September 2017.
- Decision to set up a stand-alone Municipal Planning Tribunal as stipulated in Section 34 (1) of the Act and Regulation 2 of the Regulations.
- Establishment of the Municipal Tribunal as prescribed under Part B of Chapter 6 of the Act.
- Preparation and declaration of a wall-to-wall Municipal Land Use Scheme that include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas and areas not previously subjected to a land use scheme.

- Compilation and adoption of SPLUMA compliant Municipal Spatial Development Framework.

The Lephalale Municipality aims to maintain its decision for a stand-alone Municipal Planning Tribunal as mandated by Section 35(1) of the Spatial Planning and Land Use Management Act of 2013 read with Regulation 2(1)(c) of the Regulations.

3. Legal Authority & Mandate

Spatial Planning and Land Use Management Act 16 of 2013 (The Act) read with its Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015

4. Objectives of the Tribunal

- To determine land use and development planning applications within the Municipality. To determine land use and development planning applications referred to it as per the Municipal Planning Tribunal's approved terms of reference and delegated authority as delegated to it by the Council.
- Timely participation of all relevant stakeholders thereby improving the turnaround time for finalisation of all applications.
- Efficient and effective decision making in processing development applications.
- Thorough assessment of applications in line with the relevant statutes.
- Ensure robust deliberations on all development applications thereby building inter-disciplinary team capacity.
- To reduce red-tape in relation to the processes and thereby expedite the approval process for the development applications.

5. Composition of the Tribunal

The Lephalale Municipal Planning Tribunal Municipal shall consist of at least five members or more as the Municipal Council may deem necessary.

5.1. Permanent Members

Officials as may be delegated in the full-time service of the Lephalale Municipality (*Section 36(1)(a) of the Act*).

5.2. Additional Members

Persons {*who are not municipal officials as contemplated in terms of Section 36(1)(b)*} appointed by the Municipal Council after taking cognisance of their knowledge and experience in respect of spatial planning, land use management and land development matters or the law related thereto.

5.3. Chairperson

The Municipal Council shall designate—

- (a) a member of the Lephalale Municipal Planning Tribunal as chairperson;
- and

- (b) another member as deputy chairperson, to act as chairperson of the Lephalale Municipal Planning Tribunal when the chairperson is absent or is unable to perform his or her duties.

5.4. Secretariate

The Municipality will be responsible for coordinating the secretariat services for recording purposes.

6. Administration of the Tribunal

6.1. Functions of the tribunal

(1) The Lephalale Municipal Planning Tribunal may-

- (a) approve, in whole or in part, or refuse any application referred to it in accordance with the Act and its prescripts,
- (b) in the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges,
- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this Act and provincial legislation,
- (d) conduct any necessary investigation,
- (e) give directions relevant to its functions to any person in the service of a municipality or municipal entity,
- (f) decide any question concerning its own jurisdiction,
- (g) keep a record of all its proceedings and decisions,
- (h) provide reasons for any of its decisions made upon any written request submitted by any of the parties which appeared before it and such reasons will be provided by the Municipal Planning Tribunal's Chairperson in writing within 14 days from date of receipt of such request.

It be noted that:

- a decision of a majority of members of the Lephalale Municipal Planning Tribunal, is a decision of the Lephalale Municipal Planning Tribunal, and in the event of an equality of votes, the presiding officer has a deciding vote.
- The Lephalale Municipal Planning Tribunal must decide a land use application without undue delay and within a prescribed period, and shall act to Approve, Partially Approve or Refuse an application, with reasons.

6.2. Reporting & publication of approved applications

All approved applications will be reported by the relevant Department and to the relevant Committees of Council. Furthermore, all outcome of applications will be publicised on the Municipal Website.

6.3. Secretariat

6.3.1. Role of the secretariate

- To issue invitations for the meetings of the Lephalale Municipal Planning Tribunal
- To prepare and distribute the agenda of all sittings.
- To take minutes of all proceedings and ensure that all minutes are distributed timeously.

6.4. Preparation of the agenda

6.4.1. Adoption of the standard agenda

- The Standard agenda is attached (Annexure A1) to be adopted by the Lephalale Municipal Planning Tribunal for the preparation and to guide all sittings as may be scheduled.

6.4.2. Inclusion of items to the agenda

- Items set for the attention of the Lephalale Municipal Planning Tribunal shall be submitted to the Secretariat no later than 14 days before the date of the meeting.
- The Secretariat will consolidate the final agenda items and ensure that copies of the agenda with items are dispatched to all members no later than 7 working days before a scheduled sitting.

Plans (bigger than A3 size) that will be discussed in the agenda will be displayed or demonstrated electronically during the date of the meeting.

- ↳ The Agenda items will be sent to all members of the Lephalale Municipal Planning Tribunal electronically at least 7(seven) days before the meeting.

Circulating & convening of meetings

6.5. Scheduling and convening of meetings.

A calendar of meetings will be set for a period of a quarter. Notice of meeting will be communicated to all members by email.

6.5.1. Ordinary Meetings

Meetings will be held once per quarter.

6.5.2. Special meetings

In cases of emergency, an urgent meeting may be convened to deal with such matters.

7. Application approval and sign off

After the consideration of the applications and the formulation of the decisions by the Municipal Tribunal, the Chairperson will: -

- ↳ endorse and authorise the issuing of the notification of such outcomes as determined.
- ↳ ensure that a detailed progress-update report (accompanied by minutes of meeting together with the items that were discussed after 5 days of the sitting) is forwarded for the attention of the Municipal Manager for noting.

Thereafter, the respective Department shall administer the decision to:

- a) The applicant
- b) Every person who lodged written comments in response to invitation to comment on the application by the closing date stated in the invitation.

8. Record keeping and archiving

All copies of the Lephalale Municipal Planning Tribunal proceedings shall be filed in accordance with the Municipal Records Management Systems for records purposes.

9. Annexures

Annexure 1: Standard Agenda for the Lephalale Municipal Planning Tribunal