

**“AN EVALUATION OF THE APPLICATION OF THE KWAZULU-NATAL LAND  
USE MANAGEMENT SYSTEM/MODEL IN A PERI URBAN/RURAL SETTING -  
THE CASE STUDY OF CLIFFDALE IN ETHEKWINI MUNICIPALITY”**

By

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## Abstract

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In March 1999 the former Durban Metropolitan Council embarked on several pilot studies to test the applicability of some early thinking around a new Land Use Management System with the aim of casting a single and uniform approach to managing and controlling the development of land and buildings within the municipal area. The studies were necessary as post 1994 the municipality and many other municipalities across the Province had inherited fragmented, unequal and incoherent planning systems, which were developed under apartheid. One of such pilot areas is Cliffdale where new land use management approaches were applied to a semi-rural area through the adoption of a new Land Use Scheme. The aim of this dissertation is to evaluate these approaches that were applied to the Cliffdale Land Use Scheme, given that it is 5 years old and new frameworks, ideas and practices have been developed over this period. At the time of compiling the pilot scheme, there were also limited datasets and information available to inform the developing of the new approaches. Subsequent to this pilot study, a similar Provincial wide initiative was launched which resulted in the preparation of a Land Use Management System Manual in 2001. The aim of the manual is to guide municipalities towards applying a uniform approach to land use management and the preparation of municipal Land Use Schemes. The Manual was further reviewed in 2004. This dissertation also looks at the success of the Cliffdale Land Use Scheme in comparison to the existing Town Planning Scheme model and the new Provincial Land Use Management System. In order to achieve this, interviews were conducted with key people who have experience in the new land use management system. Theoretical research was undertaken on other case studies, precedents and new data sets and information. Findings indicated that the new land use management approaches are an improvement to the current Town Planning Scheme model. The approaches however can be further improved through the availability of new datasets, information and concepts that have emerged from other case studies and precedents.

## Declaration

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The work described in this dissertation was carried out in the School of Architecture and Planning, University of KwaZulu Natal under the supervision of Professor Mike Kahn.

The dissertation represents the original work by the author and has not been submitted in any form to another university. Where use was made of the work of others, it has been duly acknowledge.

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# CHAPTER 1

## Introduction

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### 1.1 Introduction

When South Africa's first democratically-elected government came into power in 1994 it inherited the fragmented, unequal and incoherent planning systems which developed under apartheid. During the course of the following years the national parliament had enacted some important laws which had a dramatic effect on planning across the country. The first of these was the Development Facilitation Act No.67 of 1995 (DFA), which was passed to provide the basis for a coherent framework for land development according to a set of binding principles and to provide for the overhaul of the existing planning framework.

At a provincial level, the KwaZulu-Natal Planning and Development Act No.5 of 1998 (PDA) and its Draft Regulations that were published on 10 December 1998, provided the legislative framework in terms of which a new approach to land use management (including zoning, land-use types, buildings and sub-divisional controls) would be introduced. This approach also covered all the circumstances encountered in rural, peri-urban and urban development context.

In 1997 the former Town and Regional Planning Commission (now the Provincial Planning & Development Commission<sup>1</sup>) launched in support of the PDA a research project to evaluate alternative Land Use Control approaches and advise on an appropriate system. The research project titled: "KZN Appropriate Planning and Land Use Controls Project" had to be located within the emerging legal and regulatory system that was emerging in the province at that time and were also sensitive to the fact that many new local authorities were experiencing institutional capacity constraints because of their enlarged areas. Due to this constraint to implement an entirely new system, the research project mainly focussed on producing a modified system of the existing Town Planning Ordinance scheme system that would also allow its applicability to non-urban areas that previously fell

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<sup>1</sup> The KZN Provincial Planning & Development Commission is an objective independent statutory body, whose objective is the management of statutory responsibilities in terms of the Town Planning Ordinance No.27 of 1949, policy formulation on planning and development and perform a co-ordination and facilitation role.



outside such existing Town Planning Schemes. The modify system therefore incorporated the strengths of the existing system and drew on the advantages of some other procedural and regulatory systems currently used in the province and abroad.

In March 1999 the former Durban Metropolitan Council<sup>2</sup> also embarked on a Land Use Management System Project (LUMS) to test the applicability of some early thinking emanating from the Provincial Project in different types of pilot areas in the Durban Metropolitan Area. The projects were conducted on a joint basis with the former sub-structures in which pilot projects were identified in the various local council areas. The Durban Metro projects were also being conducted in an attempt to cast a single land use management system over the municipality's area of jurisdiction. An analysis of the land under the jurisdiction of the Durban Metropolitan Council at that time indicated land was administered/controlled and development rights granted in terms of various pieces of legislations and bylaws. This resulted in the use and development of land and buildings being regulated in different ways by the erstwhile sub-structures. Hence, land use management continued to be fragmented, as a legacy of legislation inherited by the Municipality. The need for a single land use management system was further echoed in the Municipal Structures Act No. 117 of 1998 which gave rise to the Durban Metropolitan Sub-structures being amalgamated into one city administration, and further additional legislations, which was enacted a year later, i.e. The Municipal Systems Act No. 32 of 2000 and the Land Use Management Bill of 2001. The Municipal Systems Act makes provision for municipalities to prepare Integrated Development Plans, which *inter alia* contains a Spatial Development Framework (SDF). In turn, part of the function of the SDF is to outline a broad Land Use Management System, which would specify all the actions a municipality needs to take to manage the use and development of land.

One of first such pilot areas selected was an area known as Cliffdale, which was then situated within the Outer West Sub-structure area of the Durban Metropolitan Council. Due to its agricultural and rural nature, elements of a Basic/Simplified Planning Scheme<sup>3</sup> model was applied and tested. Cliffdale is 1722Ha in extent with

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<sup>2</sup> With the 2000 Municipal Demarcation process, the former six-substructure councils of the Durban Metropolitan Area have been merged into one city administration and renamed to eThekweni Municipality.

<sup>3</sup> KZN Appropriate Planning & Land Use Controls Research Project, 1998. Later referred to as a Primary Planning Scheme in the KZN LUMS Manual of 2001 and defined as a scheme that would normally be applicable to small towns and settlements where a greater level of land use management is required.

approximately 267 privately owned properties ranging on average between 4-6 Hectares in extent. The area with a population of 4700 (1991) is predominantly semi-rural in nature with major land uses being both large and small scale agriculture with an ecologically significant Open Space system that is providing a full range of valued environmentally services to both the local and broader communities.

## 1.2 Research Objectives

As alluded to in the introduction, the dissertation case study of Cliffdale was previously used as a pilot area for the implementation and testing of certain earlier components of the KZN land use management study. The pilot study eventually lead to the adoption of a new Land Use Scheme for the area in 1999 based on some early principles that emanated from the KZN study. Due to the absence of any major developments that have occurred, nor any development applications that have been submitted in the last five years, this research was therefore unable to assess the success of the contents of the Land Use Scheme in respect of its zoning typologies, developments controls and land use definitions. This dissertation will focus on an evaluation of certain new land use management approaches that were applied to the Cliffdale Land Use Scheme, given that it is 5 years old and new frameworks, ideas and practices have been developed over this period. At the time of compiling the pilot scheme, there were also limited datasets and information available to inform the developing of the new approaches.

The approaches that will be evaluated are as follows:

- (i) The introduction of an environmental management "overlay" with associated environmental controls which current Town Planning Scheme model does not provide for;
- (ii) The use made of a "Special Management Area" concept to introduce "urban design" principles and issues, which are only applicable to a certain part of a scheme area into a Land Use Scheme;
- (iii) "Special Planning Area" applied to a non-cadastral based area, which accommodates an informal settlement community;
- (iv) Introduction of a "Road Plan" to facilitate the provision of future roads;  
and
- (v) Applying a new approach to the zoning of agricultural land.

The use made of the above approaches will also be evaluated and compared against the old conventional Town Planning Scheme approaches and the new Land Use Management System. The dissertation will then conclude with recommendations as to how the scheme of Cliffdale can be improved based on findings of the analysis of some new ideas and practices, especially those that emanated from the KZN LUMS Manual and its subsequent revision.

Lessons learnt from the evaluation coupled with further theoretical/policy research that has emerged since the preparation of the Cliffdale Scheme could be fed into the planning profession to improve the application of the provincial Land Use Management System. The research findings will be of particular use to:

- the Commission in the future revisions of the LUMS manual; and
- planning officials at local government level who intends to apply similar approaches to semi-rural areas.

It is also important to note the sequence of events in the history of Cliffdale and the LUMS in order to understand the issues raised in the next section and objectives of this dissertation:

1998 - Completion of the Outer West Integrated Development Plan following the first IDP prepared in 1997.

June 1998 - Completion of the Shongweni/Cliffdale/Salem Local Development Plan.

Prior to 1999 - Although no Town Planning Scheme existed for Cliffdale, the Town Planning Ordinance No27 of 1949 made provision for a standard conventional Town Planning Scheme to be adopted for an area. The former Outer West Council took a resolution to prepare such a Town Planning Scheme for Cliffdale.

1999 - A pilot LUMS type scheme was undertaken for Cliffdale to improve on the old own Planning Scheme system. Simultaneously the Town & Regional Planning Commission undertook their Planning and Land Use Controls Research project in preparation for a provincial LUMS manual for KwaZulu Natal.

- 17/01/2001 - Environmental Record of Decision granted for the adoption of the Cliffdale Land Use Scheme.
- 13/12/2001 - Interim Land Use Scheme adopted for Cliffdale by the Outer West Council. The new land use controls for Cliffdale however was attached as an annexure to the existing Consolidated Outer West Town Planning Scheme.
- 2001 - New KZN LUMS Manual was adopted. From 2001 until 2004 new base data material and new planning "tool boxes" had been developed.
- 2004 - Revision of the KZN LUMS Manual was undertaken.

In summary the objectives of the dissertation would therefore be:

- To gain an understanding of the earlier LUMS model and approaches that was prepared and applied to Cliffdale.
- To critically evaluate the success of the earlier model in view of new changes that has been introduced to the LUMS system since 1999.
- To assess whether this early system has functioned better than the original Town Planning Scheme formulation.
- Through research ascertain whether there are any other approaches and new data sets, which could compliment the model applied to Cliffdale.
- To ascertain whether anything has changed in the study area that could contribute towards informing any recommended changes to the approaches.
- Finally, to attempt to recommend whether the current model approaches applied to Cliffdale can be improved.

### **1.3 Defining the Research Problem**

The planning system which exists in South Africa today in the form of laws, policies, institutions and practices has been shaped by many different governments. Since all South African governments before 1994 were elected by a minority, the planning systems created by them also reflected minority interests. During the apartheid era, different groups and the basis of their race, had entirely unequal access to land for residential and economic purposes. In addition to this racial fragmentation, in

different areas, different laws and systems of tenure applied. In many former white areas land was managed by means of Town Planning or Zoning Schemes. The Town Planning Schemes aimed at establishing and protecting very high standards of environmental amenity in white areas. These Town Planning Schemes were generally based on the concept of zoning, which was 'imported' on a widespread basis from the UK in the 1930's. It is the legal declaration of what use land can be placed under and, via set-backs, height restrictions and bulk factors, the maximum intensity of use which would be allowed. It has been firmly based in the principle of the separation of major land use classes (residential, employment areas, recreational and transportation), which was the central plank of the modernist paradigm. These Town Planning Schemes, which have been the central instrument of land use management in white South Africa, have therefore generally separated different land uses and densities from one another. They have also promoted high and expensive space standards in terms of street widths, building setbacks, and other aspects of layout. The result has been the division of urban spaces into sets of mono-functional and relatively uniform built environments.

Different but similar land use management systems were applied in the former self-governing territories and co called TBVC states. These were far less sophisticated than the Town Planning Schemes that operated in white areas. They offered far less participation and protection of rights, and were generally very rudimentary. Since 1994 municipalities begun to include areas that are an amalgamation of a number of these former racially-defined areas. With the incorporation of such areas, fragmented, unequal and incoherent planning systems were also inherited.

However the effectiveness of zoning systems which has been seen as the pro-active planning tool insofar as it predetermined the use of each land parcel, has been severely reduced over the last decade. One contributing factor has been the amalgamation of municipalities, with the shrinking capacity in municipal and provincial planning departments; another has been the rapid pace of land development in urban areas. A number of changes that have implications for the old zoning system have been introduced since 1994. The National government introduced the Development Facilitation Act, which created a new approach to the management of land development through the involvement of general principles for land development and land development objectives. The philosophical starting point

of this legislation is that the use of each parcel of land should be considered within a broader context, defined by the strategic spatial policy of an area.

Preceding the DFA, the KwaZulu-Natal province followed with the enactment of their own provincial planning legislation (PDA) and a launch of a LUMS research project to implement a new and unified approach to land use management that could be applied across municipal areas.

The rationale for undertaking research in this area is that it is a new arena of planning and development practice. The Land Use Management System is a recently developed model, which is still being tested out and refined through application in a number of areas throughout the Province and the eThekweni Metropolitan Council. When the LUMS was being designed, Cliffdale was chosen as one of the pilot project areas in the Metro where the components of a LUMS were applied. This application was undertaken to test, redefine and see how relevant some early approaches of the proposed system would be in 'on the ground situations'. Although it was possible to apply a conventional Town Planning Scheme model to Cliffdale, the narrowly defined development parameters and lack of flexibility in Town Planning Schemes formulated under the Town Planning Ordinance (No. 27 of 1949) would have resulted in a less than optimal development framework for the area. The fact that five years have passed since the scheme was prepared for Cliffdale, highlights the need for an evaluation of that scheme approaches.

Since the undertaking of the Cliffdale pilot project in 1999, the Land Use Management System has been further refined and completed in 2001 in a form of a manual for Kwa-Zulu Natal. The KZN LUMS manual has also since then been subject to further research and a revision of certain components of the system in 2004.

In conclusion, there is therefore no defined problem as such that is associated with this dissertation topic. The dissertation addresses the evaluation of certain new land use management approaches that was applied to the case study area and to recommend improvements to such approaches.

## 1.4 Research Question

How can the Cliffdale Land Use Scheme approaches as an example of the KwaZulu-Natal LUMS be improved through more recent developed theories, best practices and concepts in order to it evaluate its proposed application as a Basic Planning Scheme model for other parts of the eThekweni Metropolitan Area of similar type?

### 1.4.1 Subsidiary Questions

- How successful has the application of the LUMS model been in Cliffdale in comparison to the original Town Planning Scheme model?
- What other information or new data sets are now available which would contribute to an improved approach to land use development and to update the model applied to Cliffdale?
- Does the Land Use Management System provide any new tools?

## 1.5 Hypothesis

An evaluation of the main approaches to the Cliffdale Land Use Scheme is necessary given that:

1. it is five years old and needs a review in an area that has been subject to pressure for change and development;
2. new tools and new data sets for formulating plans has been developed since the application of the first model;

Lessons can be learnt from the Cliffdale land use scheme model that can be fed into the new LUMS model for similar peri-urban and rural areas.

## 1.6 Chapter Outline

**Chapter One: Introduction** with sub-headings each dealing with the objective of this research, defining the research problem, research questions with subsidiary questions, hypothesis and describing the structure of this report. This chapter will continue to outline the research methodology to be undertaken in respect of the

undertaking of surveys and interviews and the collection of primary and secondary data that will inform the research.

**Chapter Two: Theoretical Framework** will identify the theoretical basis of the research and will elaborate on various key concepts that will inform the study. A brief look at the legal framework that affects the study will also be covered.

**Chapter Three Case Study.** This chapter will address the case study in detail in respect of its location, description and historical background to the study area, the present situation and its socio-economic characteristics. An understanding of the existing Land Use Scheme and its controls that is currently being applied to the area will be presented in this chapter as well.

**Chapter Four: Analysis and Findings.** The chapter will begin by examining the land use surveys findings. Thereafter the information emanating from the interviews and focus groups will be discussed.

**Chapter Five: Synthesis and Recommendations** will be dealt with in this chapter. An indication of how the land use scheme can be improved for Cliffdale and areas with similar character. It is anticipated that the recommendations will be focussed on the following main aspects: linkages of the Cliffdale Land Use Scheme with the area's strategic spatial plans, environmental management controls, appropriate zoning for agricultural land, and non-cadastral based zoning approaches. The assimilated findings will therefore be measures against the question posed by the research hypothesis. The chapter will conclude to attempt to indicate whether the research question and all the subsidiary questions have been satisfactory examined.



## **1.7 Research Methodology**

In the first part of this chapter the objective of this dissertation was discussed as being an assessment and critical evaluation of the application of the earlier emerging components of a new land use management system and to ascertain whether any other approaches and new data sets have emerged that could compliment this system, more specifically in the case of the Cliffdale study area. In selecting the methods used for the collecting both primary and secondary data, the above objectives had to be taken into account, and the reasons for the choices made are explained in the following sections.

### **1.7.1 Primary Data**

Data were mainly collected by means of a land use survey and interviews. Primary data was collected using qualitative methods, the reasoning being that this approach provides an opportunity for gaining a deeper understanding of the field of inquiring through in-depth interviews. One on one interviews with affected stakeholders and professionals allowed for a direct interaction between the researcher and the respondents. Such methods were particular important especially with the LUMS that was foreign to most respondents and beyond the levels of literacy of the community stakeholders.

#### **(i) Land Use Survey**

The main objective of the land use survey was to establish the existing land use typologies of the study area, and to compare it with land use survey information at the time when the original planning scheme was prepared for Cliffdale in 1999. The purpose was to indicate whether a particular land use pattern has emerged or changed over time.

The tasks involved in this process first consisted of the collation of all previous land use survey data that was undertaken in 1999. Such data was available from the local municipal office based in Hillcrest. Secondly, a current land use survey of each property in Cliffdale was undertaken which

was fed into a GIS database for mapping purposes. The last tasks involved undertaking an analysis of the changes in land uses.

## **(ii) Interviews**

Interviews were undertaken with key people and professionals who have had some involvement with land use management issues including stakeholders from the Cliffdale community. A combination of semi-structured interviews were used with some questions prepared before hand.

Interviews have been held through appointments with the following people:

- Ward Councillor: Fanie Moyo who was also involved in the preparation of the previous Land Use Scheme for Cliffdale. The aim of the interview was to determine his knowledge and support of LUMS and whether the current Land Use Scheme has been beneficial to the community of Cliffdale;
- Local planning staff from eThekweni Municipality – Hillcrest office to draw on their experience with administering and managing the scheme, problems encountered with the scheme model and responding to development applications and contraventions. (Senior Town Planner: Vivegie Naidoo);
- LUMS consultant: Cathy Ferguson in respect of her involvement in the production of the LUMS revised manual and other case studies to draw on her experiences and knowledge;
- Ethekeeni Environmental Branch: Trafford Peterson – who is responsible for commenting on development applications from an environmental point of view. The aim of the interview was to draw on his experience in the use of the Land Use Scheme when commenting and giving advise on proposed developments that might have an impact on the environment;
- Department of Agriculture: Ron Bennet – to obtain information on more recent approaches and policies in respect of dealing with agricultural land.

Open ended questions were asked to elicit some discussion on general planning topics and past experiences of participants. Core questions were first used to confirm the participants knowledge of LUMS and how it is applied to Cliffdale, whether the community has made use of their zoning rights, how the scheme has been administered and applied such as how complaints regarding contraventions have been dealt with, whether the existing Land Use Scheme is an improvement to previous approaches and its successfulness of the scheme and whether it has provided an adequate and appropriate framework for land development control.

### **(iii) Analysis of Data Sets**

The various data sets, tools, policies and concepts that have been collected were analysed and interpreted in view of the research question raised in Chapter One. Analysis were undertaken on the following:

- (i) Unpacking and evaluating how the original Land Use Scheme for Cliffdale was prepared;
- (ii) New data sets and how they could refine and improve the approaches applied to Cliffdale;
- (iii) The new LUMS Manual and current practices of applying land use management systems to determine what it has to offer for Cliffdale.

### **1.7.2 Secondary Data**

Secondary data was also collected from a wide range of sources, mainly for the literature review chapter of this study. Such data was collected from books, journals, South African legislation and policies, research papers, case studies and Internet sources. The literature review covered information on land use control & management, and on environmental management.

- Census 2001 Reports: this data was used to compare it with the previous census data to determine a pattern of change in population demographics;

- KZN LUMS Manual 2001 and revised manual of 2004: the manual contains recommendations for land use management issues both in rural and urban areas;
- KZN Appropriate Land Use Control Study, 2001: this study provides findings of international and South African options for land use controls and management;
- Guidelines for Environmental Management Mechanisms for inclusion in Town Planning Schemes, 2001: objectives of research were to ascertain general environmental information that should be considered in the formulation of environmental controls and the use thereof in Town Planning Schemes;
- Books, journals and reports on related land use literature;
- Other case studies: Mandlazini and Shongweni Agric-Village projects and Satockville Valley;
- EThekwini Municipality Statutory Approval and Sub divisional Registers for the Outer West Region: data was collected on statutory related planning and development applications that have been lodged in the past 5 years for Cliffdale. This provided an indication whether the current scheme is able to accommodate current development needs in the area;
- EThekwini Municipality Contravention Register for the Outer West Region: Similar data was collected to determine whether the scheme deals effectively with contraventions.
- Provincial Planning & Development Commission (Larry Sanders): to determine whether any recent planning & development related research projects or policies have been documented;
- EThekwini Environmental Branch: to collect any research papers and documents of new approaches to the Durban Metropolitan Open Space System (DMOSS);
- Cliffdale Land Use Scheme Informants: In the assessment of any Land Use Scheme, it was prudent to collate and gain an understanding of the contents of the various documents, policies and information layers that informed the preparation of the Cliffdale scheme. This will also allow the dissertation research to focus on any new information that is now available that could be used to improve the current scheme model.

- SA Legislation:
  - Development Facilitation Act No.67 of 1995 (DFA)
  - Local Government Municipal Systems Act No.32 of 2000
  - KZN Planning & Development Act No.5 of 1998 (PDA)
  - Land Use Management Bill, 2001
  - Communal Land Rights Act No.11 of 2004 (CLRA)
  - Town Planning Ordinance No. 27 of 1949
  - Subdivision of Agricultural Land Act No. 70 of 1970
  - National Environmental Management Act No.107 of 1998 (NEMA)
  - Local Authorities Ordinance
  - Municipal Property Rates Act

## CHAPTER 2

### THEORETICAL FRAMEWORK

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#### 2.1 Introduction

This chapter will address all the concepts, theories, procedural approaches, legal framework and issues that will inform the thinking behind this dissertation. The first part of the chapter is a discussion of some key concepts. An attempt has been made to relate each concept to the study area. A discussion of theoretical perspectives looks at how theory could be translated into practice in such a manner that the application of LUMS becomes possible in rural/peri-urban areas. This is followed with a discussion comparing conventional Town Planning Schemes and more recent Land Use Schemes.

#### 2.2 Theoretical Perspective

##### 2.2.1 Land Use Management:

“Land use” refers to the different activities (for example commercial, agriculture or residential), which owners and occupiers of land conduct on their individual lots.

“Land Use Management” in turn refers to government activity which seeks to influence or control change in the ways in which individuals used their land including maximizing benefits and minimizing negative impacts. (Van Wyk, 1999)

In terms of the National Land Use Management Bill, 2001, land use management means establishing or implementing any statutory or non-statutory mechanism in terms of which the unencumbered use of land is or may be restricted or in any other way regulated.

The Development Facilitation Act defines ‘land development’ as “any procedure aimed at changing the use of land for the purpose of using the

land for residential, industrial, business, small scale farming, community or similar purposes”.

Managing the use and development of land has two main aspects:

- The management of the development of vacant or redevelopment of land, generally involving the improvement and sub-division of that land and the construction of buildings on it, and
- The management of on-going changes to existing land use – this includes changes in the activities carried out on land, the size and coverage of buildings and the density or intensity of land use. (National Development and Planning Commission Green Paper on Development and Planning, 1999)

The Green Paper of 1999 further states that managing land development is generally the responsibility of public authorities. It starts with the South African law that grants no one the absolute right to develop and use land. Any person who wants to develop or use land can only do so subject to the law's restrictions. Ideally the law should only regulate those aspects of land development and use necessary either to achieve particular strategic objectives or to minimise the negative impacts of land development and use changes on neighbours and the public in general. It is only through implementing such an approach that local government authorities with their limited resources will be able to provide equal levels of protection and service delivery to all citizens regardless whether they live in townships, urban suburbs or rural areas.

The private sector will continue to dominate land development. Whilst land use management systems remain incoherent, unclear, cumbersome and contradictory, the private sector will frequently develop land without any regard for the needs of the general public. In order to remedy this situation, two requirements are essential. Firstly the DFA principles must be applied in assessing applications and giving consideration to change of land use. This will force developers to motivate and justify their actions in terms of such principles. Secondly, certainty, security and investor confidence need to be

provided for the private sector as well as for the people affected by their developments. Certainty can be provided through strategic planning processes such as IDP's.

Land use management has two goals. The first is that it must provide effective protection to both the natural environment and members of the public from negative impacts of land development and land use change. The second is that it must provide a reliable degree of certainty to developers, members of the public and all spheres of government so that there is a shared understanding of the extent, intensity and nature of land development that would be permitted and within a specified time period. Both these goals are essential for the operation and efficient and fair land market. The manner in which land use management systems achieve these goals is through the determination, allocation and restriction of use rights to land development. These rights provide an important basis for the public sector to negotiate with developers as well as individuals to achieve land use and development outcomes that will promote social, economic or environmental benefits. They also provide a basis for the relevant authority to value land and to determine an appropriate rating of the land.

What has been introduced by the DFA-induced paradigm of planning is the concept that rights to the use of land should be consistent with the policies and priorities of the municipality concerned. (Green Paper on Development and Planning, 1999)

In the case of Cliffdale, which has limited areas developed, the preparation of the land use management should be guided and informed by the strategic visions embodied in the relevant Integrated Development Plan and broad strategic spatial plan that would inform the future development of the area. Such a plan, which would need to be prepared in an inclusive fashion taking preferably the DFA principles into account. The objectives of the broader strategic plan would then be translated into a Land Use Scheme to ensure the ongoing management and development of the area and provide the necessary certainty. The LUMS Manual of 2001 defines other principles for scheme preparations and scheme necessity such as healthy living environment, safety, conservation, order, amenity, convenience, general



welfare, efficiency and economy and participation. (See Appendix 1 for a description of the principles)

### 2.2.2 Zoning:

Land Use control through zoning regulations has its origins in the planning system of the United States of America. Zoning may be described as the creation of districts within a city where different building regulations are applied (affecting the height, bulk and coverage of buildings) and within which different use activities are either freely permitted, prohibited or permitted by motivation/special consent. (Van Wyk, 1999). The reason for establishing use zones is to prevent the mixing of incompatible buildings and land-uses and to restrict and limit the use of land.

#### (i) Land use controls

Land use zones, which determine the primary purpose for which land is to be set aside for or used (e.g. residential, open space, commercial or industrial) are linked to a set of land-use control mechanisms used to manage development within each zone and reservation. The controls specify the land-uses permitted within each zone are normally divided into three categories:

- **Freely permitted uses:** uses that may be established in terms of the development controls for the zone without any additional permission required from the Local Authority.
- **Consent uses:** uses permitted with the consent of the Local Authority subject to specific conditions.
- **Prohibited uses:** uses that are not permitted to be established in the zone because they are in conflict with the proposals contained in the Scheme or are incompatible with the surrounding areas.

A Zoning Map which is a cadastral map depicts the location of land use zones and reservation for each property. For example if a particular property is zoned for Residential use, the zone might permit a "bed and breakfast" establishment by special consent. An application is then lodged, normally by the landowner or its appointed agent, which is then considered by the Local Authority. A site assessment is undertaken taking into account the size of the proposed facility, its location in respect of surrounding land uses and zoning, its traffic generating capability, environmental impacts and impacts on surrounding properties or the neighbourhood. (Appendix 1 provides some further principles to consider in assessing land use applications.)

## **(ii) Development controls**

The earliest attempts at regulating land use were in the form of restrictive covenants used by private individuals who were involved in the development of land in London. These covenants were designed to preserve the value of land and to protect attractiveness and exclusivity. It was only during Industrial Revolution when the full effect of the vast expansion in industrial and building activities was being felt; that the modern doctrine of restrictive covenants was introduced through a court decision. This was the first English decision in which a negative covenant was enforced as a right over some other person's land rather than as a contract. This English doctrine soon spread to the United States, Australia and South Africa. (Van Wyk, 1999)

Statutory controls were introduced first to regulate health issues through the Public Health Acts. Later the framework of the modern English planning law was established in the promulgation of the Town and Country Planning Act of 1947. This legislation marked a new beginning for planning control over land development and further established the need to seek permission for all development. Development was defined as: "the carrying out of building, engineering, mining and other operations in, on, or over or under

land, or making of any material change in the use of a building or other land". The concept of development in this Act embraced the whole scope of planning control. This scope comprises physical development operations, changes of use and changes of intensity of use of land and buildings (McLoughlin, 1973)

Within the British Town and Country Planning Legislation, development control is the mechanism by which the policies contained in the Development Plans can be implemented (Booth, 1996). Because it gives effect to the planning objectives of a Development Plan, the quality of the outcome depends on the quality of the Development Plan. Therefore, for a person to develop a piece of land or change the use of a building, the owner must first obtain permission from the controlling authorities. If the application complies with the Development Plan of the area, it is likely that it would be permitted.

In South Africa, as in England, the practice of inserting restrictive covenants into the title deeds of land developed as time and circumstances demanded. In the most early towns, where growth was slow, life was simple and land values low, a rough natural segregation of uses occurred. Limited need was felt for any special control of planning or layout design. Particularly the surveying and registration of erven provided the necessary order. The period commencing the discovery of diamonds in 1867 near Kimberley saw chaotic circumstances develop in the mining towns. What followed was that restrictive covenants controlling the use and density were inserted into title deeds of property and registered. However such restrictive covenants became progressively more inadequate as their rigidity could no longer accommodate the problems, which arose in the towns resulting from greater variety of land uses that were impacting on each other. Legislative enactments followed to control town planning such as the Natal Town Planning Ordinance No 27 of 1949 which is still in force today. In the current Town Planning Schemes in the South African context development controls are used

to control, limit and guide development in respect of land uses and buildings. The following development control mechanisms are used:

- **Building lines:** minimum distances one could build from property boundaries;
- **Coverage & Floor Area Ratios:** the maximum ground area and floor area that buildings can cover on a property;
- **Height:** maximum height of a building;
- **Density:** minimum site sizes that a property can be subdivided or the maximum units that may be permitted on a single erf; and
- **Parking requirements:** minimum parking bays to be provided depending on the land use type.

The above controls are contained in a set of Scheme Clauses that are adopted in terms of the various provincial Town Planning Ordinance.

In summary, therefore zoning is an aspect of a Town Planning Scheme, which is primarily concerned with certain guidelines, restrictions or limitations on the use of land. This has been, the case only in the urban areas and commercial farming areas in South Africa. In respect of Cliffdale, which was not incorporated in any municipal area prior to 1994, has not been subjected to any Town Planning Scheme systems or broader spatial planning.

### 2.2.3 Land Use Management Plans:

A variety of land use management plans exists in the form of policy plans containing statement of policy and are applicable as higher order plans, Structure Plans, Integrated Development Plans, Land Development Objectives, Town Planning Scheme clauses, and zoning maps. (J van

Wyk,1999) A distinction must be made between plans, which facilitate forward and strategic planning, and plans, which merely constitute management tools. Until recently, very little forward planning has been applied in South Africa sustainably. Recent developments in the form of Integrated Development Plans and Land Development Objectives do now constitute policy based plans, which contain a vision and a *modus operandi* for the future. The role of Town Planning Schemes only provides the mechanisms that indicate specific land uses and development regulations.

The Town Planning Scheme system, which was imported from the United Kingdom, is at the heart of the town planning system. The shaping of the Town Planning Scheme in the 1930's, since it's earliest use in South Africa, corresponded with a wide international acceptance of modernism. Most current norms and standards associated with spatial planning were derived to entrench these ideas. The ideals promoted and fostered in the modernist movement have included the concept of the free-standing building within large private green space as the basic building block of settlements, the separation of land uses, the concept of the inwardly-orientated neighbourhood unit, focussing on embedded social facilities, and the dominance of the private motor car. A prevailing belief underpinning this system was that it was possible and desirable to plan comprehensively – to pre determine the use of all land parcels in settlements. These concepts underpinned the mainstream practices of scheme preparations and spatial planning in South Africa pre 1994.

When South Africa's first democratically elected government came into power in 1994 it inherited the fragmented, unequal and incoherent planning systems, which developed under apartheid. During the course of the next few years the national parliament has enacted some important laws with a dramatic effect on planning across the country. The first of these was the Development Facilitation Act No.67 of 1995 (DFA), which was passed to provide the basis for a coherent framework for land development according to a set of binding principles and to provide for the overhaul of the existing planning framework.

At a provincial level, the KwaZulu-Natal Planning and Development Act No.5 of 1998 (PDA) and its draft regulations was published on the 10 December 1998. The intention was for the Regulations to provide the legislative framework in terms of which a new approach to land use management (including zoning, land-use types, buildings and sub-divisional controls) would be introduced. This approach also covered all the circumstances encountered in rural, peri-urban and urban development context. However due to its limited practicality and focussing mainly on the change of some approaches to procedures, the Regulations were not implemented and thus provided only an indirect influence into the new land use management system.

Planning legislation such as the above-mentioned has therefore shifted from being previously control-orientated towards being normatively-based. This means that the law introduces substantive principles (norms) that must guide land development and decision-making. In addition to principles, the DFA for example introduces the concept of land development objectives (LDO's), which set objectives, and targets for development and which inform the spatial and developmental imperatives of a municipal area. These policy based plans also known as Integrated Development Plans (IDP's) are also normative in that they set out desired aims. Normative legislation call for a proactive planning system which places the emphasis on considered judgements and the discretion of decision makers, as apposed to the application of standardised rules and regulations.

In 1997, the former Town and Regional Planning Commission (now the Provincial Planning & Development Commission) launched in support of the PDA a research project to evaluate alternative Land Use Control approaches and advise on an appropriate system for the province. The research project titled: "KZN Appropriate Planning and Land Use Controls Project" had to be located within the emerging legal and regulatory system that was emerging in the province at that time and were also sensitive to the fact that many new local authorities were experiencing institutional capacity constraints. Due to the latter constraints to implement an entirely new system, the research project mainly focused on producing a modified system of the existing Town Planning Ordinance scheme system. The modified system therefore

incorporated the strengths of the existing system and drew on the advantages of some other procedural and regulatory systems currently used in the province and abroad.

The new Land Use Management System has been devised "to bridge the gap between Integrated Development Plans and the detailed requirements of land use management applied at municipal level" (Kahn et al, 2001). A primary aim of the LUMS was to provide municipalities with a commonly applicable land use management system that can be used throughout the Province and that can be applied over the entire municipal area, which is done in response to the new demarcation of wall-to-wall municipal boundaries. In effect, the LUMS responds to a paradigm shift from merely controlling and regulating to managing and facilitating development and land use. It would eventually replace the current conventional Town Planning Schemes that have become outdated, consists of narrowly defined development parameters, lacks flexibility, too prescriptive and control-orientated and have failed to address the challenges facing developing countries.

#### **2.2.4 Existing Town Planning Schemes**

In South Africa, Town Planning Schemes have conventionally been based on the use of zones as the primary management tool. A Scheme has thus consisted of a zone map and a set of development parameters or regulations associated with these zones, which were reflected in scheme clauses. Most existing Town Planning Schemes were prepared in terms of the relevant Provincial Town Planning Ordinances. In respect of KwaZulu-Natal, it's the Town Planning Ordinance No 27 of 1949. The general purpose of Town Planning Schemes is said to ensure the co-ordinated and harmonious development of a local authority area, in such a way that will promote health, safety, order, amenity, convenience and general welfare, as well as efficiency and economy in the process of development and the improvement of communications. (Section 40, Town Planning Ordinance, No. 27 of 1949)

Zoning as described in Section 3.2.2 regulates the activities on land that may be freely permitted, prohibited or permitted by consent from the local

authority. It is generally applied to declared urban areas primarily focussing on regulating private development with emphasis on development control and regulating undesirable developments. The regulations associated with the zoning were discussed in Section 3.2.2.

The preparation of Town Planning Schemes were generally only adopted for formalised urban areas which contained approved cadastral defined properties and where development was scheduled to occur within a 5 year period. Rural areas, commercial farm areas and informal settlement community areas including ex KwaZulu Government territorial areas (Traditional Authority Areas and R293 Proclaimed Townships) were not subjected to such planning control. With the amalgamation of all areas within municipal jurisdiction and the requirements of the of the Municipal Systems Act which was eluded to in Chapter One, the current urban biased Town Planning Schemes are not equipped to deal with such marginalized areas. Due to colonial history, zoning has therefore become contextually and culturally inappropriate and they are too rigid to accommodate the informal sector, which is the livelihood for many of such areas. This is also evident in other developing countries. (Ferguson, 2004) Zoning is also being seen in the past to be too prescriptive, control-orientated and inflexible. Most Town Planning Schemes have not been kept up to date and don't address the challenges of the changing nature of growth and development dynamics. Current zoning typologies are very prescriptive and are applied to properties specific. They for example are unable to cater for mixed use developments which requires multiple land uses to occur on a single site or building. If the scheme is unable to cater for such development proposals, then the landowner is subjected to a rigorous rezoning application to change the zoning.

In respect of state or local government owned properties, such as public parks, cemeteries, administration are reserved for that purpose only. Reservations generally contain no land use or density controls and therefore provides limited scope to be used for some other land use in the event of the land being leased or sold for example to private parties.



Development controls are applied unilaterally across the scheme areas and there is no provision to allow for flexibility in respect of areas that require more complex control mechanisms versus areas that only require a simplified land use management controls. Development controls are linked directly to the zoning typology, therefore all properties zoned "Residential" for example will be subjected to the same level or intensity of controls irrespective if some properties in a particular area or a single property might have the ability to accommodate more relaxed controls. Areas that might require special treatment or additional control over and above what the property zoning provides, cannot be accommodated in current Town Planning Schemes.

### **2.2.5 New Land Use Management System**

In terms of the Municipal Systems Act, Act No. 32 of 2000 (MSA) each municipality must prepare an Integrated Development Plan (IDP) for their area of jurisdiction. A key component of an IDP is a Spatial Development Framework (SDF), which should include basic guidelines for a Land Use Management System (LUMS) that apply to the whole municipality (Chapter 5 Section 26e). In addition, the National and Provincial Land Use Bills, which are currently being drafted to replace the Ordinance, **require the preparation of Town Planning Schemes** as part of an overall LUMS for each municipality.

The 1997, KZN LUMS research project culminated in the development of the LUMS Manual of 2001. This research revealed that whilst most Town and Regional Planners in the Province acknowledged that there were problems with the preparation and use of Town Planning Schemes, they supported an approach that continued to use zones as a basis. A **variant approach** was therefore considered and set out in the 2001 LUMS Manual.

The LUMS, enables development control, at differing levels of complexity, to extend even over per-urban and rural areas. Furthermore, the LUMS is intended to achieve an equitable and identical system to be applied to all land, rather than being based on the differences, which existed in semi-rural

areas such as Cliffdale that was previously controlled by the former Development Services Board Regulations<sup>4</sup>.

The LUMS 2001 Manual distinguished between what constitutes Land Use Management System vs. a Land Use Scheme. A Land Use Management System refers to all the actions required by a municipality to manage land, of which Land Use Schemes are **one** component. Typically, key elements of a Land Use Management System include:

- Spatial Development Framework; various Spatial Plans, Frameworks and Land Use Schemes
- Valuation and rating system
- Property registration, ownership and tenure
- Infrastructure and services provision
- Building bylaws, including signage and elevation control
- Health bylaws
- Environmental issues and requirements, and
- Road and transportation requirements.

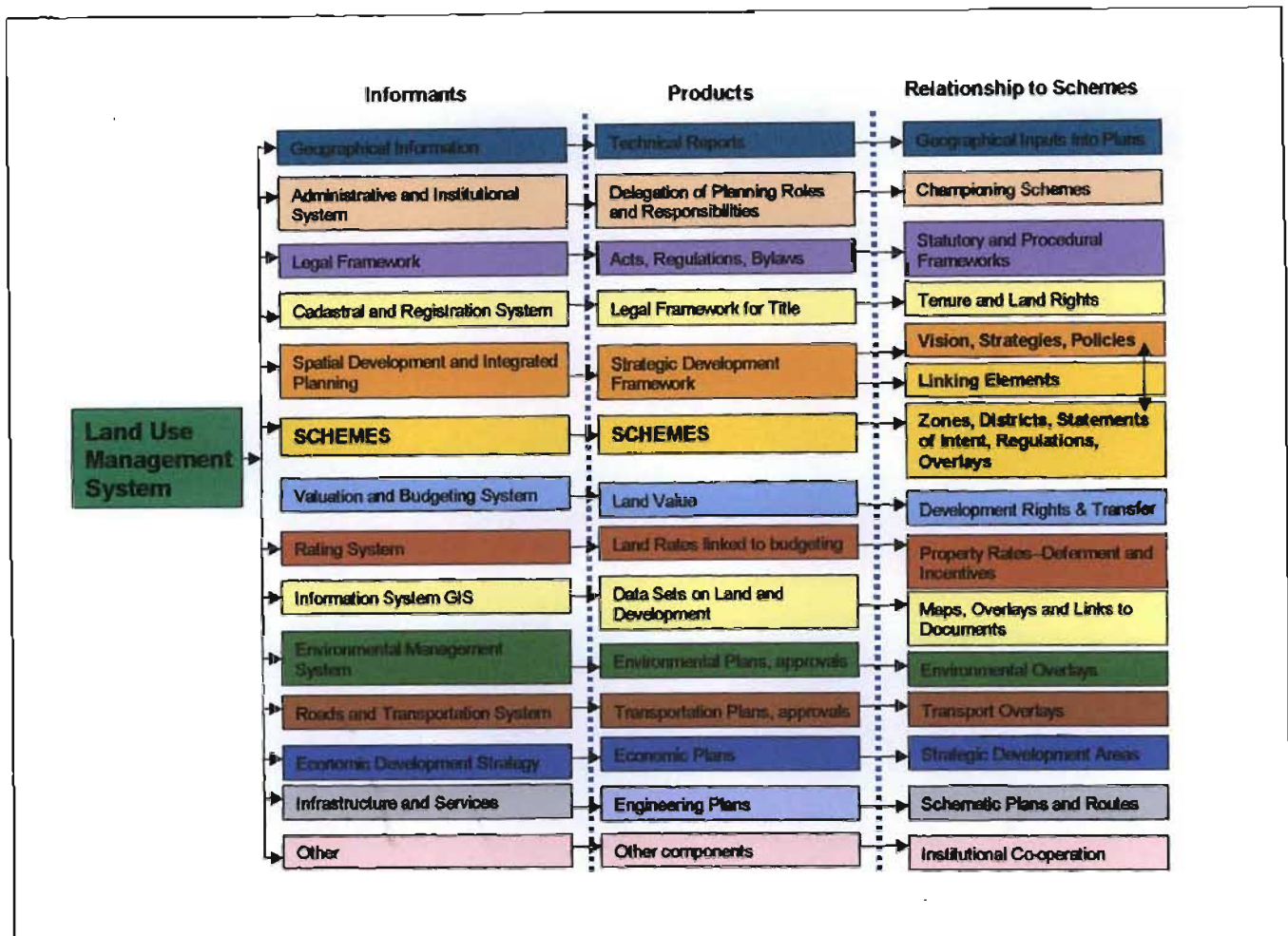
The LUMS Manual that was formulated was a land use scheme system focussing on elements and mechanism that control development on land, not the whole system as defined above.

Diagram 1 illustrates that Planning Schemes are only one element of a suite of management tools that comprise a municipality's broader Land Use Management System. Planning Schemes are crucial components of the Land Use Management System because the zoning of a property in a Scheme, in course of preparation, both informs the management of the use of the land and buildings and impacts directly on property valuations and the calculation of rates.

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<sup>4</sup> Development Services Board (DSB) were responsible for administering certain former ex Natal areas that fell outside municipal boundaries prior to 1994.

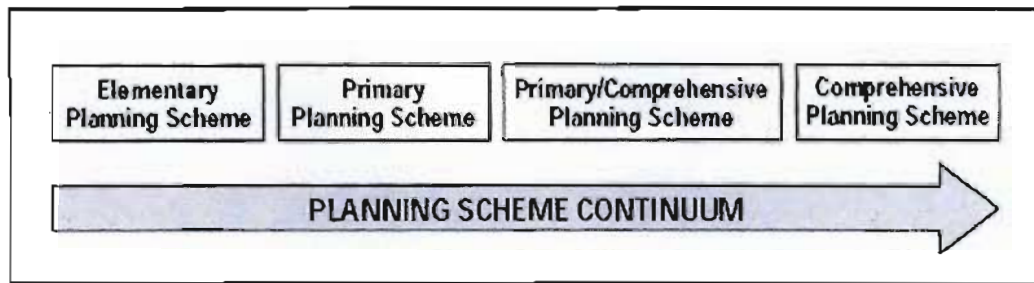
Diagram 1: A Conceptual Model of a Land Use Management System



(Diagram prepared by Atelier von Riessen, Peter Jewell Consulting Services, Michael Kahn, November 2002)

Although a single Land Use Management System will be prepared to manage the rural and urban areas of each municipality, the Manual recommended that it would be necessary to prepare more detailed Planning Schemes for complex areas, and simpler Planning Schemes for less complex areas. The 2001 Manual has taken these different needs into account and has been designed upon the basis of a continuum. This means that any component of the system can be upgraded as and when required without major changes.

Diagram 2 Schemes representation of the concept of the continuum of Planning Schemes.



(KZN LUMS Manual 2001)

Diagram 2 shows how different types of Planning Schemes are located along the continuum of Planning Schemes. Elementary Planning Schemes may be applied to rural or informal settlements where there is settlement but no clearly defined cadastral boundaries. Primary and Comprehensive Planning Schemes may be applied to the less complex peri-urban and rural areas such as Cliffdale and more complex urban areas that contain a full range of development types respectively.

The above Planning Schemes will contain the following as described in the LUMS Manual:

- Policies, which refer to the general plan of action by a municipality;
- Statement of Intent, which are used to define how a municipality wishes particular areas within a Planning Scheme to be developed;
- Districts, this refers to areas of land within zones and indicates the restrictions imposed by a Planning Scheme on the use of land and the erection and use of buildings and structures, as well as regulation parameters pertaining to configuration of development within each District;
- Management Areas, these are areas of land or buildings, which are deemed to require a level of special treatment over and above that provided for an underlying District;
- Management Plans, which are the more detailed guidelines or plans that are developed for generic or area specific situations.

The 2004 Manual is an update of the previous Manual and an update of the broad zone-based approach to Land Use Management. Like the 2001 Manual it considers Planning Schemes as only one component of a wider Land Use Management System.

The guidelines contained in the 2004 revised Manual suggest a **new approach** to the preparation of Land Use Schemes. This approach constitutes a **single system** that can be applied to all areas within a municipality yet provides for differentiation between and within municipal areas by accommodating different local planning, development and conservation needs. It provides effective mechanisms to address the development challenges currently faced by Metropolitan, District and Local municipalities, developers and practitioners. The different mechanisms include:

- Revising existing and preparing new Land Use Schemes that reflect the vision, policies and strategies of municipal Integrated Development Plans
- Integrating new areas and different regulatory systems within municipalities, including rural areas
- Dealing with developments that require a special approach. (KZN LUMS Manual, 2004)

Land Use Schemes are still defined as a tool used by Municipalities to **guide and manage** development according to the vision, strategies and policies of the Integrated Development Plan and Spatial Development Framework and in the interests of the general public to promote sustainable development and quality of life.

The objectives of Planning Schemes as describe in the revised LUMS Manual is summarized as follows:

- To designate desirable land uses and provide clarity on what may or may not occur on a property and what may be considered at the discretion of the municipality

- To promote the certainty of land use which protects property values and creates investor confidence
- To protect the amenity of adjacent land uses
- To resolve conflict between different land uses and to control negative externalities
- To balance the interests of individuals with those of the public
- To enable the co-ordinated and efficient use of land
- To enable the efficient movement of persons and goods
- To promote the economy
- To protect natural resources (ecosystem services) including agricultural resources (high potential agricultural land)
- To protect unique areas or features
- To protect cultural resources and places of religious and cultural significance
- To manage land generally including change of land use
- To provide a statutory basis for public involvement
- To provide a means of enforcement
- To ensure the reservation of land for longer-term uses.

Although prepared and administered by planners, Planning Schemes also provide a **management tool** for other interests such as health, transport, environment, finance and infrastructure. Ultimately, however, Planning Schemes have a particular role to play and the manual alludes to the fact that it cannot be expected to manage all development issues. Planning Schemes are intended to be transparent and to provide information to officials, consultants, home-owners, developers and politicians on what may or may not occur on a parcel of land or what the municipality may consider at its own discretion.

The need for the development of this new approach to Land Use Schemes was identified in response to:

- The advent of democracy in South Africa and the transformation of governance systems which demanded a critical assessment of existing land management systems;

- The need for stronger integration between strategic plans and management tools in order for management tools such as Land Use Schemes to give real effect to strategic plans;
- The restructuring of local government, which requires that Land Use Schemes be applied across all areas within a Municipality, including agricultural and rural areas and areas under communal ownership and administration, such as Traditional Authorities.

South African municipal areas are diverse and range from highly urban to deeply rural. Development pressures relate to the investment necessary to accommodate employment growth and economic prosperity as well as to more immediate concerns such as basic service delivery. The South African society consists of a number of stakeholders with disparate interests and from varying cultural backgrounds. Land Use Schemes therefore need to accommodate rather than restrict livelihood strategies, investment decisions and growth. Importantly, development must also be environmentally and economically sustainable and therefore requires careful management.

Land Use Schemes therefore need to be:

- **Flexible** but **certain** – **flexible** enough to accommodate diverse interests and livelihoods yet also provide **certainty** with regards to investment decisions.
- **Proactive** but **reactive** – **proactive** to provide guidance for future growth and delivery, while accommodating decision-making that can **react** to unanticipated developments or events.
- **Developmental** but **regulatory** – **developmental** in recognising the need for poverty alleviation, service delivery and growth yet **regulatory** enough to provide sufficient protection of the public interest. (KZN LUMS Manual, 2004)

This new approach is a departure from one that is restrictive and obstructive. It facilitates development and use of land, representing a shift from restrictive development control decisions to those that are more facilitative. A balanced approach is necessary to ensure that the public interest is protected within a larger framework of growth and delivery.

Table 1 outlines the differences between the new and the old approach to the preparation of Land Use Schemes. Table 2 highlights how the new approach addresses some of the deficiencies of the past approach.

**Table 1: Differences between the approach prior to demarcation in 2001 and the approach post-demarcation in 2001**

<b>Approach prior to demarcation in 2001</b>	<b>Approach post-demarcation in 2001</b>
Should have been based <b>on</b> a Structure Plan but often was not. <b>Based</b> on sectoral integration	Explicit links to strategic plans through vision statements, statements of intent, policies etc Emphasis on strategic planning and integration
Applied to declared urban areas	Wall-to-wall across Municipalities, including rural and Traditional Authority areas across KZN Acknowledgement of value of indigenous knowledge
Based on clear definition of property ownership	Includes areas of communal ownership and cadastral uncertainty. Not land 'parcel'-based.
One set of regulations for the area with Scheme map/s. Implied flexibility.	Explicit flexibility in level of detail and content of Schemes. Continuum of approaches and recognition that Schemes will evolve over time.
Emphasis on development control and regulating undesirable development	Emphasis on development, performance and impact. Desirable development promoted and undesirable uses regulated.
Public participation often on a 'plan and defend' basis.	Public participation acknowledged as necessary from inception of planning process.
Implicit assumption that Schemes should align with spatial and sectoral plans.	Legislative requirement to align Schemes with IDP/SDF and other sectoral plans required by National and Provincial Legislation.
Implicit consideration of environmental issues.	Explicit inclusion of environmental issues and recognition of value of environmental services to society.
Primarily focused on regulating private development. (Government land held under reservations with few controls)	Considers regulation of both private and public development. (Use of land use reservations dropped)
Tool Box: 1. Scheme map with zones 2. Tables with zones, free entry use, uses by special consent and prohibited uses, reservations, density controls 3. Regulations relating to height, floor area and coverage, density.	Tool Box: 1. Vision Statements 2. Scheme map with zones 3. Statements of intent 4. Matrices of permitted uses, consent uses with development permit or conditional use permit, prohibited uses



parking, loading, access, setbacks, space about buildings, lot sizes etc.	<p>5. Templates with management mechanisms – height, floor area, coverage, intensity of use, parking and loading, setbacks, space about buildings, lot sizes, external appearance of buildings, urban design criteria, signage and advertising</p> <p>6. Management Area Overlay and Plans</p> <p>7. Policies</p>
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(Lums Manual 2004:9)

**Table 2: Deficiencies of the past approach and how this is addressed in the new approach**

<b>Deficiencies of Town Planning Schemes: Extracted from a 1997 workshop</b>	<b>Schemes: As part of Integrated Development Planning (IDP) process</b>
Limited to proclaimed urban areas	Legally required to extend over rural area – continuum of Schemes allows for this; revision expanding on understanding of rural areas and acknowledging the importance of indigenous knowledge in this respect
Fragmentation of land use control system – spatial, sectoral and institutional	Within context of IDP explicit attempt to integrate plans; institutional issues still need to be addressed
Land market bias – operates better where a land market exists	Case studies to consider communally-owned land; changing legislative environment needs to be understood and tracked
Emphasis on restrictions rather than facilitation of development	Schemes are a regulatory tool – developmental component provided by explicit links to strategic plans; strategic intent of development plans must be reflected in Schemes and regularly updated; without the SDF and Suite of Plans setting out development objectives Schemes will remain simply a control mechanism
Implementation framework problematic – capacity, capability and discretion of implementers affects consistency of decision-making	The implementation framework still needs further attention.
Static therefore lack of flexibility	Tools can be flexible; plans must be reviewed in a proactive way; the way in which tools are implemented has made them static in the past
Lack of vision	Explicit link to strategic plans through vision statements, statements of intent and policies
No vertical and horizontal integration between plans and/or across sectors or between adjacent urban areas	Requires more careful consideration of SDFs which are potentially a tool for integration across sectors; also how these are translated into Schemes through a Linking elements or Suite of Plans
Need to explicitly accommodate mixed uses	Inclusion of mixed-use zones

Lack of accessibility – too sophisticated and expensive	Continuum of plans allows more simple approach where appropriate; use of GIS improves accessibility of information
'Broad-brush' use of zones limits choice and variety	Focus on how the Scheme is prepared as well as on the tool itself, emphasising that choices are available

(LUMS Manual 2004: 10)

## 2.2.6 Environmental Management

"Ensuring the conservation and protection of ecosystems services and natural areas that are essential to the sustainable development of towns, cities and settlements. (KZN LUMS Manual, 2001)"

### (i) Internationally

Internationally there has been a growing awareness of the need for integrated environmental planning. The recognition that development is independent on a natural resource base and that the two can not be independently planned or managed was brought to the fore at the United National Conference on Environment and Development (UNCED or the Earth Summit) held in Rio de Janeiro in 1992. Since then the environmental protection in all developments especially Greenfield developments has been considered paramount and the concept of "sustainable development" was introduced to the world at large.

It has also long since been accepted that ad hoc protection of the natural resource base (especially natural and both terrestrial and aquatic) is not adequate due to their integrated and interdependent nature. The protection and adequate management of environmental systems has been proposed to ensure viability of these areas. Natural systems, which are sufficiently large and biologically diverse to support development in surrounding areas and ensure protection of any natural biota of local, regional and broader significance are therefore being planned and managed. (Seppings, 2000)

In some instances where development has occurred to the extent where these natural systems cannot be sufficiently large or diverse, authorities have purchased developed land and created natural environments to ensure the long term survival of the remainder of their developed land. In other cases much emphasis has been placed on management of remaining natural areas to improve their functionality and ability to absorb the impact of development. In these instances tighter controls have simultaneously been instituted on development to minimise systems and more viable developments.

### **(ii) National and Provincial**

Weerts, Butler & Bulman (1998) notes that South Africa has a history of inadequate environmental management and protection due mostly to poor policy development and insufficient financial and human resources for enforcement. Recent advancements since the change in government and the development of the Constitution of the Republic of South Africa, 1996 such as the development of the Environmental Conservation Act, the beginnings of an Environmental Management Policy and Environmental Management Act and Regulations for Environmental Impact Assessments etc., as well as a myriad of town planning acts and regulations at both national and provincial levels have paved the way for a new way of doing things.

### **(iii) Local**

According to Roberts (2002), the eThekweni Municipality is in fact becoming a world leader in environmental management and planning. Not only was one of the worlds first ecologically based open space systems designed and partially implemented in the previous old City of Durban, but the municipality has become a flagship city for the Local Agenda 21 (a programme which promotes the implementation of long term strategies that focus on achieving sustainable development and addressing the concerns of affected communities at the local level). As a result of the programme the development of a metropolitan environmental management policy

and the D'MOSS Framework Plan which provides planning and management guidelines for natural systems throughout the metropolitan area have been initiated.

Historically, environmental issues have been included in the preparation of Land Use Schemes but have focussed largely on issues of amenity. Sustainability of development is essential and no longer a 'nice to have' issue. Planners must focus on ensuring the ability of the environment to provide the necessary services to sustain development. As Land Use Schemes are about managing and developing land, it is critical that issues of sustainability and environmental service provision are considered in Land Use Scheme preparation. It is also important for environmental policies and requirements that affect the use and development of land to be explicit. The Scheme provides an important vehicle to achieve this. The alignment of Land Use Schemes with environmental considerations must occur when preparing the SDF and followed through in the preparation of the Scheme.

Open spaces and environmental/ecosystems as a whole contain resources that are vital for human survival and development. These resources need to be planned and managed as economic assets for people. Open spaces must be physically connected to each other to form a system. This is necessary to ensure the interaction between plants, animals, energy, water nutrients and genetic material necessary for their survival takes place. The eco-systems within this open space system operate like factories that provide goods (e.g. plants for food and medicine, water for domestic purposes, wood for fuel and building materials) and services (e.g. floodplains that reduce flood damage, trees that keep the air clean) to a community. These can be termed eco-system services.

Eco-system services have an economic value for the citizens of a community, an important fact that should inform decisions about the management of these resources for the benefit of the community. The concept of eco-system service provision to a community can be embedded in Land Use Schemes via environmental related zones.

### 2.2.7 Integration

The term integration have become part of the contemporary jargon for planners in South Africa and especially the focus of the Integrated Development Plans that are now required by legislation (Municipal Systems Act, Act No. 32 of 2000). In the context of land use management the term is being used to imply integration in a number of ways:

- Integrating the spatially segregated urban and rural areas of the Municipality. General principles of the DFA also call for the promotion of integration of social, economic, institutional and physical aspects of land development.
- Integration between races and income groups;
- Integrated (total) living environments, i.e. integration between residential, economic and social development;
- Integration of all urban needs, i.e. residential, schools, public open space, commercial facilities, community facilities, work and play;
- Integration of land use planning and transportation planning with particular reference to public transport;
- Integration between departments and between planning and implementation.
- In terms of the Environmental Management Policy of South Africa environmental concerns must be integrated into every area of human activity in order to achieve sustainable development.

In the case of Cliffdale it would mean extending an existing Town Planning Scheme or preparing a new Land Use Scheme to subject Cliffdale to a range of land use management systems and controls similar to its counterpart areas. A scheme would also need to address and recognise the role the area plays within eThekwnini and how it is integrated with adjacent urban periphery and the municipal area as a whole. Since the incorporation of the area into the municipal area as a unicity, no previous planning for the area was undertaken to determine or define its functional role within the municipal area.

Furthermore, due to its location at the head of the city's largest river catchments, the natural environment of the study area presents a major opportunity within the metro context and should be integrated positively as a meaningful part of the overall environment.

A scheme that guides development within the study area should be firmly rooted within this concept of integration. This would apply at various levels and sectors. At a physical level, the concept of integration should ensure the "pulling" together of the presently dispersed and fragmented settlement structure for example. This should be undertaken in a manner where the scheme should retain the individual identity, place and the character of the various local areas. Integration at the physical level should also be based on integrating the study with surrounding areas through improved linkages, the latter which can be achieved through the scheme by reserving land for future roads.

In addition, at a physical level the concept of integration would also apply to the types of activities found within the study area. Land use zoning could promote concepts of mixed use to ensure greater flexibility and an increase in opportunities. Further integration would also apply to the various element of the physical environment such as movement systems, facilities, housing etc where such elements would be integrated into a mutually reinforcing manner. An example of this would be movement corridors intergraded with the location of facilities and economic activities to improve accessibility and to create economic nodes that draw from passing trade.

### **2.2.8 Sustainability**

Historically, environmental issues and development were considered as mutually exclusive, and as conflicting needs within society. However, in the early 1970s people began to consider the relationship between development and the environment as having inter-related impacts. Development generally impacts on the environment, but at the same time, degraded or hazardous environments impact on the quality of life of people. The need to consider this relationship was first raised at the United Nations Conference on the Human Environment in Stockholm in 1972. At this meeting the causal



relationships between poverty, the environment and development were explored. It became clear that development decisions that ignored environmental opportunities and constraints impacted most on the lives of the poor, increasing levels of risk and further trapping people in poverty.

The World Conservation Strategy (1980), the Brundlandt Report (1987), and the United Nations Conference on Environment and Development (UNCED), amongst others, were instrumental in shaping the concept and principles of sustainable development. Since the Rio Earth Summit, several international events have taken place where sustainable development thinking and principles have featured prominently and influenced outcomes and recommendations. For example, the United Nations Conference on Human Settlements, Habitat II, in 1996 embraced the notion of integrating sustainability principles and concerns into human settlement planning and development. More recently ideas of weak and strong sustainability have been debated and considered as the role of the global capitalist economy in shaping the sustainable development agenda is questioned. (DEAT, 2002) Internationally, neo-liberal policies have led to an increasingly market based and inter-dependent global economy, which has been associated with rising global poverty and inequality, and growing environmental degradation. Strong sustainability calls for a re-conceptualisation of the relationship between people and the environment both at the global and local level and for a new way of thinking about economic growth and development (Bond,2002).

The World Summit on Sustainable Development (WSSD) in Johannesburg in 2002, reaffirmed international and local commitment to sustainable development and Agenda 21, the long term action plan for sustainable development that emanated from the Rio Earth Summit in 1992. However, these goals need to be implemented so as to ensure that the principles of sustainability become more than just rhetoric. Integrating sustainability principles into Land Use Management Plans offers one such opportunity in South Africa.

Sustainable development is defined in many different ways. The most widely accepted definition is "development that meets the needs of present generations without compromising the ability of future generations to meet

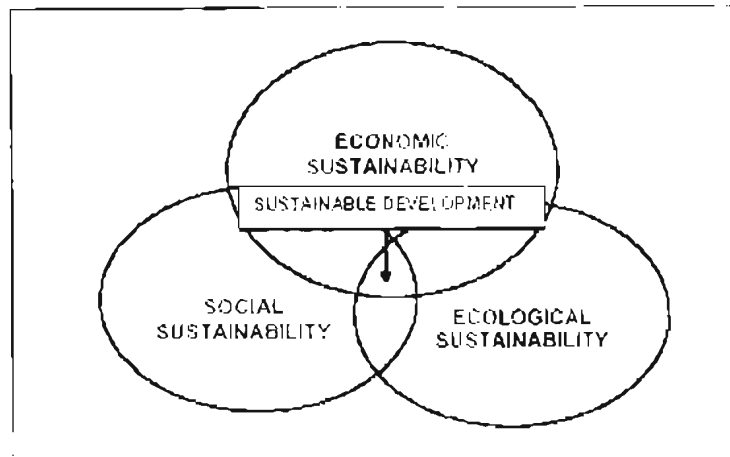
their needs” (WCED, 1987). The key contention in the sustainable development debate is whether the pursuit of economic growth can ever be sustainable. ‘Deep greens’ or ‘deep ecologists’ argue that there is total incompatibility between high levels of economic growth and sustainable lifestyles, as the one systematically undermines the other. At the other end of the spectrum are those who believe that nature’s ability to recover and the ingenuity of people will lead to new technologies and solutions able to address emerging problems. At the core of the Bruntland Report is the assertion that equity, growth and maintenance of environmental integrity are simultaneously possible as long as the key principles of sustainability, including the ‘precautionary principle’, are applied. Even though the definitions of sustainable development are numerous, the concept contains a core set of principles that can be applied in different national, regional and local contexts. Many researchers and practitioners prefer to use the term sustainability since it defines how the world should be, rather than how it is. Sustainable development implies an end point whereas the concept of sustainability is more about a pathway – a direction in which to move (O’Riordan, et al, 2000). It is therefore a framework that can be used to guide decision-making. The principles of sustainability provide the key elements of the framework. Environmental management tools can be used to enhance integration of sustainability principles in decision-making, implementation, monitoring and evaluation so as to move towards sustainable development.

Sustainability is an approach to decision-making, based on a core set of principles.

The first sets of broad principles that need to be considered are those of social, ecological and economic sustainability. In making development decisions, trade-offs are usually made between these three dimensions of sustainability. It is important that all three of these principles are addressed and carefully considered in planning and decision-making.



**Diagram 3: Sustainable Development Conceptual Framework**



(National Framework Document: Strengthening Sustainability in the Integrated Development Planning Process, DEAT, 2002)

- **Economic sustainability:** economic viability and integrity  

Focuses on economic growth that is viable and fair, and which occurs at a rate which does not exceed the ability of natural and social systems to support this growth. It also considers how wealth is distributed and it questions the inequality of the current neo-liberal global economic system.
- **Ecological sustainability:** The conservation of biodiversity and the maintenance of ecological integrity  

Limits the use of natural resources to a level that allows nature to regenerate resources and minimises the use of non-renewable resources. It aims at reducing the amount of waste and pollution that is released into the system, and so does not over-extend the carrying capacity of the global sinks such as the oceans and atmosphere. It recognises the intrinsic value of the natural environment.
- **Social sustainability:** social justice and equity  

Stresses community participation and social justice, paying particular attention to the most vulnerable people in society. Value is attached to social capital and social networks. It supports the use of appropriate technology, and meeting people's basic needs without degrading ecological systems.

Governance and management need to be considered in the trade-offs that are made between the social, economic and natural environment dimensions of sustainability. Governance and management is key to ensuring fair and wise decision-making and well-managed implementation.

In respect of the case study area and its accessibility and general development potential, it is likely that considerable pressure will be exerted on the study area. Largely such pressures currently exist through formal and informal processes. Clifffdale is bordered by the N3 freeway and being a semi-rural area, it becomes the next logical area to absorb development growth as the city's urban areas expands. Development within the study area should be based on an appropriate land use management plan that would ensure growth within the study area is sustainable from, environmental and economic points of view. It is important to acknowledge the potential for growth to reinforce itself in that for example any formalisation of the existing settlements and the provision of facilities within the study area are likely to attract further growth. The vision for development is to provide a framework which would accommodate growth in appropriate locations and which directs such growth in a manner that reinforces overall development objectives of the area.

### 2.2.9 Peri-Urban and Rural

It is imperative to define the locational context that the case study finds itself within the boundaries of the eThekweni metropolitan council. The conceptualization of the study area being in a peri-urban or rural setting has bearing on the type of Land Use Scheme and land use controls that should be effectively applied to the area.

In order to understand such concepts, one would need to define it in context of the broad spectrum of area typologies that is found in the eThekweni Municipal area:

- **Urban areas**, i.e. development consisting of formal structures in a formally laid out manner, established, controlled and managed through formal procedures, residential densities ranging from low to

high, the areas have normally access to the entire range of urban services and facilities and accommodate a range of local economic activities including industrial areas and urban centres of employment such as central business districts, many of such formal urban settlements were in the case of eThekweni Municipality for example previously established as separate local municipal structures such as Pinetown, Central Durban, Umhlanga and Amanzimtoti etc, normally located within reasonable topographic conditions and in proximity of metropolitan and regional transport routes. The eThekweni IDP and its Spatial Development Framework Plan categorises this typology as an urban core.

- **Peri-urban settlement**, i.e. settlement normally on the fringe of urban areas, containing either lower density than those encountered in urban areas or in the form of high-density informal settlements. Generally if left uncontrolled many of such peri-urban settlements may develop into denser urban areas, occurring on land as indicated above with similar limited access to support services and facilities.
- **Semi-rural settlement**, i.e. original low density somewhat more removed from urban development. Such areas consist of residential smallholdings where some small-scale agricultural activities are encountered. Most eco-tourism and “tourist meander” type attractions are located here with limited localised business and commercial activities. Extensive environmental areas such as the upper catchments of main rivers originates from these areas. Areas such as Cliffdale, Peacevale, Assagay and Shongweni could be categorised under this settlement type.
- **Rural settlement**, i.e. traditional low density dispersed settlement mostly located on land held under traditional tenure and on the more remote and difficult to access periphery of urban centre areas, mostly under difficult topographic conditions with limited access to services and facilities, including subsistence agriculture. Most of the large commercial type agriculture such as sugarcane farms occupy these areas.

The dissertation case study can therefore be defined as semi-rural as it is located beyond the urban periphery and contains characteristics that are found in semi-rural areas.

#### **2.2.10 Modernist approaches to town planning in South Africa**

South African Town Planning is a mixture of both the American and the British town planning system, using concepts which were originally formulated for Garden Cities and New Towns. Such a town planning approach insisted on a clear, separated and distinct land uses and which did not make any allowance for mixed-use activities. This modernist perspective to town planning placed emphasis on land control and zoning regulations in the built environment.

During the Industrial Revolution the emphasis was on public health and planners were concerned with separating industry from residence, reducing overcrowding by encouraging suburban expansion, creating Garden Cities and allowing for more space and sunlight to the individual residence. The style of planning was referred to as 'piecemeal blueprint' and involves limited and relatively small-scale interventions at municipal level. (Beauregard, 1989)

Organisation and control through regulation and supervision in maintaining rationality and order within the urban fabric constituted as a major fundamental principle in South African Town Planning. This was often achieved through zoning regulation and development control in preventing incompatible land use that might impinge on each other, for example, noxious industrial use with residential land use.

Modernist town planning is more concerned with maintaining coherence and progress. Residential areas at low densities were also a characteristic feature of Modernist Town Planning and this was often accompanied by uniformity in housing design and layout in homogeneous areas.

### 2.2.11 Postmodernism

Postmodernism advocates pluralism and diversity as well as the importance of recognizing social differences. It further maintains the need for a planning approach that is more integrative instead of paternalistic and prescriptive. Community participation is one aspect of development that can be associated with postmodernism since it seeks to define community priorities and needs, and implements them in practice.

In South Africa, the Integrated Development Plan provides for an interactive process between Government officials and community structures. The process allows communities to identify priority issues confronting them and possible solutions through expert advice from planners.

A compromise is therefore needed of bringing modernism and post-modernism together in a way, which secures both justice and local control, changes and tradition. The Postmodernist process of participation should be coupled with the Modernist approach of regulation to achieve an amicable balance in the land-use planning process.

## 2.3 Subdivision and Change of Land Use for Agricultural Land

The following section provides some insight on the recent developments and debates in respect of the protection of high valuable agricultural land in South Africa.

Since the Minister of Agriculture and Land Affairs repealed the Subdivision of Agricultural Land Act No 70 of 1970 in December 1997, which repeal till date has not been promulgated by the President, there has been a great deal of concern amongst the land use planning community regarding the future utilization of scarce so-called high potential agricultural land. This has inspired the Department of Agriculture (Land Use and Soil Management Unit) to undertake a policy workshop, which was held on the 9th, and 10<sup>th</sup> September 2004 that was attended by the author of this dissertation. (See Appendix 2 for Workshop notes) The purpose of the workshop was to consider the creation of uniform set of norms and standards to ensure that the application of the Act in terms of subdivisional of agricultural land and change of land use applications in terms of relevant Ordinances as well as the Development

Facilitation Act that leads to the creation of small units that will not be used for agricultural purposes, are being reviewed in a uniform way. At the workshop it was evident that many town-planning practitioners were uncertain regarding the application of Act 70 of 1970, and were of the opinion that with wall-to-wall municipalities that have now been put in place through the Municipal Structures Act, all agricultural land now falls within the jurisdiction of a municipal area. Therefore the requirements of the Act, which previously only applied, to agricultural land outside municipal areas, should not be applicable. The Department of Agricultural representatives responded by alluding to Proclamation No. R.100 of 1995, which emended the Act to warrant it still applicable. (See Section 3.7.9 for further details)

There was call for two sets of norms and standards for urban and rural areas, zoned and un-zoned areas. Reference was made to a Land Care Conference held in Western Cape, where four agricultural land categories were identified:

- commercial farms
- subsistence farming
- farming as a lifestyle
- emerging/food security farming

In terms of technical criteria for change of land use of agricultural land, delegates at the workshop resolved that the Department of Agriculture should undertake a proactive process by participating in municipal IDP's and strategic planning by defining areas that should be retained for agriculture use. To date the department has been re-active only responding when applications are lodged such as for the ever-increasing lifestyle developments, game parks and golf course estates that are encroaching into agricultural land country wide.

The following guidelines were agreed upon for change of land use applications by delegates of the workshop:

- Applications to be based on pure agricultural potential based on soil, climate and water qualities;
- Take into account broader agricultural character of the surrounding areas;

- Consider adjacent impacts of neighbouring land uses on agriculture and vice-versa;
- Split zones –change of land use only permitted for building footprint on low potential agricultural land, e.g. Tourism chalets on farmland to allow for farmers to diversify from agriculture.

To retain such agricultural land as far as possible for food security reasons it would be necessary to define and demarcate the areas of the RSA where high potential and unique agricultural land is situated. The new High Potential and Unique Agricultural Land Bill, which will repeal the Act 70, provides further criteria to define high potential agricultural land. The Act distinguishes between Primary Land, which is associated with a wide range of agricultural uses, and Unique Land, which is associated to a specific crop type.

The Natural Resource Section of the KZN Department of Agriculture and Environmental Affairs has taken this work further and are in the process of producing a Land Potential Classification categories that can be applied to agricultural land in the province. Section 3.4 explores this system in detail further.

In view of all the above, it is evident that there is a national concern about protecting the remainder of South Africa's agricultural land, especially the high potential category land. Whilst the Act 70 of 1970 is still applicable as discussed in Appendix 2 the Department will continue to play a roll in implementing criteria for subdivision and change of land use of agricultural land. It is such criteria, norms and identified potential areas that must eventually makes it way into Land Use Schemes for rural areas such as Cliffdale and any other semi-rural and rural areas were most of the agricultural land are found.

At the time of writing up this dissertation there have not been any further progress made on these matters. In absence of any further guidance and clarity from the Department of Agriculture, the preparation of Land Use Schemes must take into account national concerns about the future of agricultural land in South Africa. Agricultural zoning typologies should be considered but most importantly to ensure that land that is zoned for agricultural purpose reflects areas that have in fact potential for agricultural use.

## 2.4 Land Potential Classification System For Kwazulu-Natal

Based on the broad recommendations of Scotney, Ellis, Taylor, van Niekerk, Verster and Wood in their research titled: "A System of Soil and Land Capability Classification for Agriculture in South Africa" (1987) and using the framework provided by the Bioresource Units which categorises the KwaZulu-Natal province into ecological units that have similar climatic, vegetation, soil and topography, the following description of land potential class have been provided by the Department of Agriculture:

**Table 3:Description of Agricultural Land Potential Classes**

Land Potential	Description of Land Potential Class
L1	<b>Very High Potential:</b> No limitations. Appropriate contour protection must be implemented and inspected.
L2	<b>High Potential:</b> Very infrequent and /or minor limitations due to soil, slope, temperatures or rainfall. Appropriate contour protection must be implemented and inspected.
L3	<b>Good Potential:</b> Infrequent and/or moderate limitations due to soil, slope, temperatures or rainfall. Appropriate contour protection must be implemented and inspected.
L4	<b>Moderate Potential:</b> Moderately regular and/or severe to moderate limitations due to soil, slope, temperatures or rainfall. Appropriate permission is required before ploughing virgin land.
L5	<b>Restricted Potential:</b> Regular and/or moderate to severe limitations due to soil, slope, temperatures or rainfall.
L6	<b>Very Restricted Potential:</b> Regular and/or severe limitations due to soil, slope, temperatures or rainfall. Non arable.
L7	<b>Low Potential:</b> Severe limitations due to soil, slope, temperatures or rainfall. Non arable
L8	<b>Very Low Potential:</b> Very severe limitations due to soil, slope, temperatures or rainfall. Non arable

(Department of Agriculture: Natural Resources)

The types of agricultural enterprises and intensity of use that should be practised for each land potential are listed below in Table 4 as a guide. In an interview with Mr Ron Bennet from the Department of Agriculture, Mr Bennett indicated that when considering a specific type of agricultural enterprise (e.g. forestry) for a broad land potential class, temperature and rainfall must be considered to recommend the enterprise. So caution must be used when recommending an agricultural enterprise for an area as broad indicators were used to assess land potential and there will be areas where certain agricultural enterprises will not be productive. In class 4, for



instance, forestry is an option but can only be grown where the rainfall and temperature is sufficient, this also applies to the other enterprises. Mr Bennet further stated that it must be born in mind that these are broad estimates and that within any land potential classes there could be areas that would be able to support a more intensive type of agriculture that are not indicated on the table.

**Table 4 Agricultural Land Potential Classes and intensity of use**

Land Potential	Intensity of Use	Use / Suitability
1	W F LG MG IG LC MC IC VIC	Annual cropping
2	W F LG MG IG LC MC IC	Annual cropping with special tillage or ley
3	W F LG MG IG LC MC	Rotation of crops and ley
4	W F LG MG IG LC	Long term leys
5	W LG MG	Improved pastures. Wild life
6	W F LG MG	Veld pastures and afforestation
7	W F LG	Natural veld grazing and afforestation
8	W	Wild life

W - Wild life

F - Forestry

LG - Light Grazing

MG - Moderate Grazing

IG - Intensive Grazing

LC - Light Cultivation

MC - Moderate Cultivation

IC - Intensive Cultivation

VIC - Very Intensive Cultivation

(Department of Agriculture: Natural Resources Section)

At the time of writing up this dissertation, the above research work has not been completed by the Department. The purpose of this work is to feed these categories eventually as land use zones into the KZN LUMS Manual so that they may be considered to be applied to identified agricultural areas. The latter would be informed by undertaking an agricultural assessment of a scheme area, especially in semi-rural and rural areas where most of the agricultural land would be located. This way the Department would ensure that high valuable agricultural land are protected through the local authority's Land Use Scheme. By applying these agricultural type zones, local authority officials would also be in a position to advise and consider the impact of development applications on agricultural land without having to refer the matter to the Department of Agriculture.

## 2.5 Precedents

### 2.5.1 Mandlazini Agric-Village Project: Richards Bay

The Mandlazini Agri Village was originally set up in terms of a Land Restoration Agreement entered into between the former Richards Bay Town Council and the Mandlazini Community Trust in 1994. The 459 hectare of land situated between Lake Mzingazi and Richards Bay airport was intended to accommodate 570 families in a planned and orderly settlement that would take the form of an agri-village. Assistance for the purchase and development of the land was sought in terms of the Provision of Land for Certain Settlements Act No. 126 of 1993.

In terms of the Designation Notice for Mandlazini Agric Village (Government Notice, No. 577, 12 April 1996) the Trust in negotiation with the former Town Council was responsible for determining appropriate bylaws for the agri-village. The following key issues underpinned the discussions on the planning and development controls:

- There should be flexibility
- There is a need for some control
- One set of bylaws
- Community must be involved
- Incremental approach to upgrading
- Support from the Town Council
- Deciding on where the community would like to see public facilities placed within the village?
- How will the placement of public phones and the possibility of a number of taxi ranks or stopping areas affect development?
- Once decision was made about where things were going to be located, how will this be controlled – what are the rules that will go with these decisions?
- On the residential plots, how will density be controlled and what sort of density do you think you should allow?

- Any decision made should take into consideration the issue of finance, convenience, nuisance and provision of services to the public facilities.

In deliberating these issues, the Mandlazini Development Committee worked with the following principles:

- The controls should be based on agri-village planning, not town planning. The agri-village is not a township and therefore the controls on planning and development should be appropriate;
- The basic rules should be simple and clear, over time these could be amended with changing circumstances.

The zoning that was agreed upon for the agri-village are very basic and simple. (See Appendix 3)

This precedent would relate more to the informal settlement areas of Cliffdale and how one can deal appropriately with such non-cadastral based areas and its integration into the Land Use Scheme. This case study also provides insight on how simplified land use controls can be applied at first and which can be amended as circumstances changes in the village. The approaches followed in Mandlazini can be considered in the review off the Cliffdale Land Use Scheme with respect to the informal settlement areas.

### **2.5.2 Ntshongweni Agric-Village Project: eThekwini**

The project is situated approximately 10km southeast of Mpumalanga/Hammarsdale and within the jurisdiction of the Outer West Region of the eThekwini Municipality. The project area forms part of a rural settlement known as Ntshongweni. In 2001 it was decided to settle the community on Ingonyama Trust Land in terms of the Provision of Land And Assistance Act in an agricultural type village, which was funded through the Department of Land Affairs's Land Redistribution for Agricultural Development programme.

The project consist of 200 beneficiary households who live in imuzi which has accessed residential sites ranging from 600 to 1200 m<sup>2</sup> held under freehold. Basic services has been included such as gravel roads, water and on site sanitation. The balance of the agricultural land is held jointly by a Communal Property Association.

Upon approval of the General Plan for the area, land use conditions were adopted which are enforced and administered by the Local Authority (See Annexure 4)

Similarly this precedent also provides lessons learned as to how one can apply Land Use Scheme controls to informally settled areas without considering complex development control mechanisms. The limited number of zoning typologies used in this case study provides a useful informant for the review of zoning applied to informal settlement areas in the Cliffdale case study.

### **2.5.3 Stockville Valley Road Plan**

Stockville Valley, which consist of approximately 358ha and contains only 59 properties is situated in Gillitts, west of the Mahogany Ridge Industrial Park within the Outer West Region of eThekweni Municipality. The area has a similar character to that of Cliffdale consisting of predominately semi-rural community engaged in small-scale agricultural activities.

Stockville Valley was also subjected to a Town Planning Scheme revision in 2000. The process began with the preparation of the Stockville Local Development Plan that guide development within the valley and preparation of the scheme amendments. A subsequent Road Plan was also prepared with the intention of it forming part of the Town Planning Scheme. (See Appendix 15) Existing and proposed land use activities that were identified in the LDP have highlighted some concerns with regard to the adequacy of the existing road system. The Road Plan was to assess existing conditions, forecast growth and physical development proposals, review existing traffic conditions and produce a road plan with a rational and efficient circulation system (internal and external to the study area) that will facilitate municipal

officials to assess future development and subdivisional applications and to allocate budgets for roads and maintenance and improvements.

in semi-rural areas such as Stockville and other outer lying areas that have been amalgamated in the new municipal demarcations, much of the status of existing road circulation are unknown in respect of its legal ownership and who are responsible for their maintenance. Generally, as reported in the Stockville Road Plan Report for Stockville, roads in these areas consisted either of:

1. provincial district and main roads (unconstructed road reserves and constructed roads) which are under the "ownership" of the Department of KZN Transport;
2. Formal new roads that have been created via developments such as private townships or individual subdivisions which were then handed over the municipality for ongoing maintenance in respect of roads that have been constructed by the developer or unconstructed road reserves with the future intentions of it being constructed by the municipality when the need arises;
3. Informal roadways mostly created by residents themselves that has either remained as private roads providing access to individual houses located on large smallholdings or has over time been used by the broader public and accepted as a "public road".
4. Unknown ownership of roads that were constructed that do not align their road servitudes.

The above similar situation was found in the Road Plan prepared for the Peacevale/Summerveld area which is also located in the semi-rural western parts of eThekweni Municipality. (See Appendix 16)

At the time of preparing amendments to the Stockville Town Planning Scheme which was an conventional scheme prepared in terms of the Town Planning Ordinance, it was assumed that all existing roads and road reserves located in Stockville were public roads. The purpose of the Road Plan was also then to provide a status quo assessment in terms of ownership

and confirmation of who is responsible for the construction and maintenance of such roads.

The Road Plan resulted in recommending that the Town Planning Scheme accommodates land to be reserved for future new roads, road widening of existing roads, closure of existing roads and cancellation of some road servitudes.

The precedent highlighted above can provide further input into recommendations as how the matter of future road circulations can be dealt with effectively in Land Use Schemes through the preparation of a Road Plan. It also alludes us to the fact that existing roads within proposed scheme areas are not always formally registered as public roads and that caution must be taken when allocating zones to such roads.

## **2.6 Incentive Provision for Environmental Management Areas**

### **2.6.1 Cape Nature Conservation - Conservation Stewardship Programme**

The Cape Nature Conservation Services have launched a Conservation Stewardship Programme in 2003 to provide assistance and support to conservation on private land, and provide improved legal status for properties that wish to have permanent conservation status. Stewardship refers to the wise use, management and protection of that which has been entrusted to a person. Within the context of conservation, it means protecting important ecosystems, effectively managing invasive alien species and fires, and grazing or harvesting without damaging the veld.

Stewardship options are tailored to meet the needs of landowners although none of the options require the ceding of ownership to municipalities or in the case of the Cape, to the Cape Nature Conservation. Existing types of protected areas (e.g. private nature reserve, natural heritage sites, mountain catchment areas) can be accommodated within any of these options.

**Table 5: Conservation Stewardship Options for Landowners**

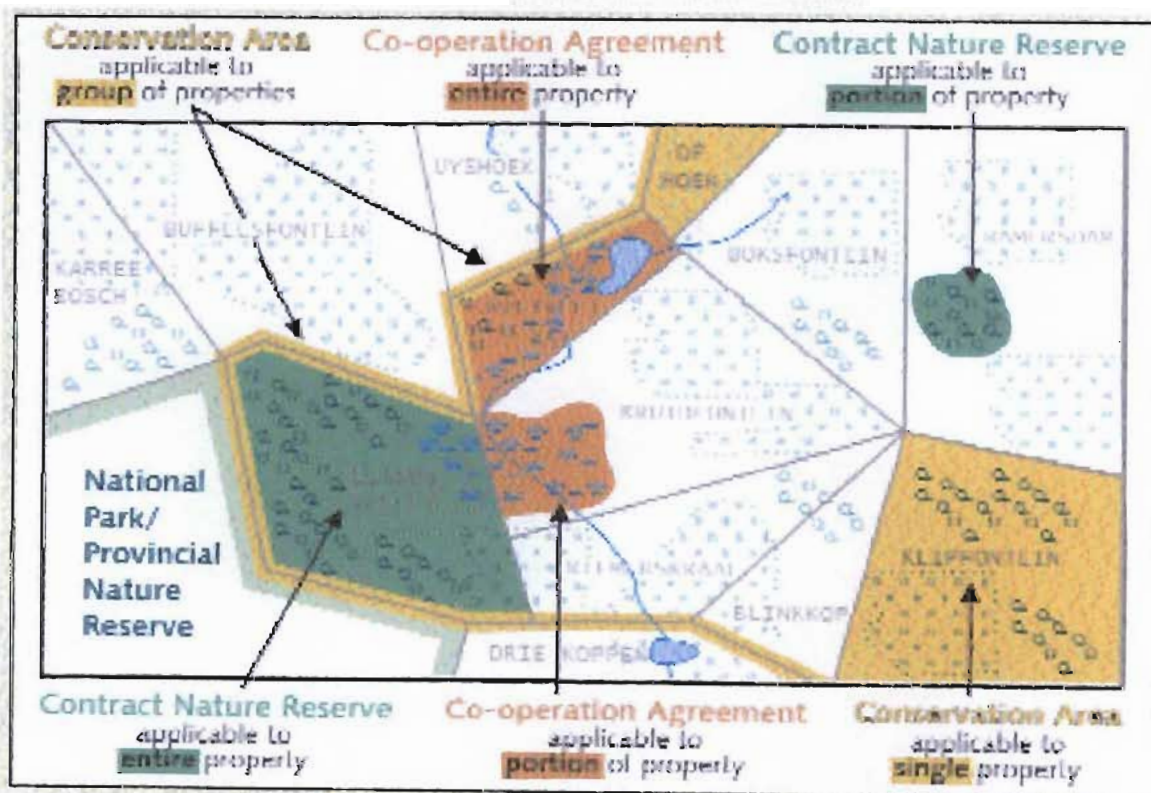
OPTION	1. CONTRACT NATURE RESERVE	2. CO-OPERATION AGREEMENTS	3. CONSERVATION AREAS
<b>WHICH OPTION APPLIES TO YOUR LAND</b>	<ul style="list-style-type: none"> <li>• Priority areas adjacent to statutory reserves of sufficiently large to be self-contained ecosystems.</li> <li>• Critically important and threatened sites</li> </ul>	<ul style="list-style-type: none"> <li>• Suitable for any conservation worthy land (especially wetlands and water catchments), not excluding small and isolated fragments.</li> </ul>	<ul style="list-style-type: none"> <li>• Any natural land is suitable but not a good option if your land has rare or endangered habitats unless this initial designation is seen as part of a plan to progress to higher conservation security.</li> </ul>
<b>POSSIBLE LAND USE CONDITIONS</b>	<ul style="list-style-type: none"> <li>• No development or land use rights will be allowed but access and residence rights are unrestricted.</li> <li>• Owners retain the title.</li> </ul>	<ul style="list-style-type: none"> <li>• Land must be managed in a way that will support natural processes.</li> </ul>	<ul style="list-style-type: none"> <li>• Very few, but the area needs to retain its natural character.</li> </ul>
<b>BENEFITS TO THE LANDOWNER</b>	<ul style="list-style-type: none"> <li>• Substantial assistance with habitat management.</li> <li>• Increased recognition and marketing exposure.</li> <li>• Cape Nature Conservation will lobby on your behalf for incentives e.g. rates rebates.</li> </ul>	<ul style="list-style-type: none"> <li>• Specific agreements for fire, alien, plant and animal management.</li> <li>• Advanced extension services (e.g. alien clearing planning)</li> </ul>	<ul style="list-style-type: none"> <li>• Advice and support through basic extension services.</li> <li>• Assistance with management plans and farm maps.</li> </ul>

The benefits of becoming a custodian of natural habitat on private properties are as follows:



- Natural vegetation (particular wetlands) can act like a filter and preserve the quality of drinking water that collects in dams.
- Clearing alien plants and implementing firebreaks will reduce the risk of damaging fires.
- Conserving vegetation on slopes will prevent soil erosion.
- Landowner's income base can be diversified through the wise use and marketing of natural resources on their properties (e.g. ecotourism opportunities, professional hunting).
- By landowners becoming involved in conservation on their properties, they will have access to support, advice and assistance from dedicated Cape Nature Conservation staff.
- By conserving natural habitats on properties, landowners may be keeping certain plants and animals from extinction, while dramatically improving the survival chances of many others.

**Diagram 4: Conservation Stewardship Types**



([www.capenature.org.za](http://www.capenature.org.za))

The above approach was the first attempt made by the Cape Authorities to provide some benefits and incentives for landowners who contain areas of



conservation worthy on their land. With much of such areas falling within private landownership, it has become necessary to consider mechanism that would ensure the sustainable long term protection of these areas.

## **2.6.2 City Of Cape Town Zoning By-Laws**

The Cape Metropolitan Council in 2000 undertook the preparation of a Metropolitan Spatial Development Framework (MSDF) that informed the preparation of a uniform city zoning by-laws in 2002. The MSDF in terms of environmental issues describes that local conditions, contextual and public opinion will determine conservation practices, potential use and permissible development within the Metropolitan Open Space System areas (MOSS). It further argues that ideally all open space systems as defined by MOSS should be conserved. However they are so varied, that a uniform approach would be inappropriate. Some form of development may be necessary or desirable such as educational or eco-tourism facilities. The issue of management, maintenance, and funding of open space systems is also raised as a critical area of concern. The MSDF recommends that the provision of land for inclusion in MOSS will have to focus on the economic benefits, and not only on the social benefits, as in the past. It would therefore be necessary for MOSS to become economically sustainable to release the maintenance burden on public authorities. Where private owned land are affected by MOSS, incentive quid pro quo deals can be considered, to get private owners to contribute to public goals if this can be shown to be in their interest.

Following the research work done by the Cape Nature Conservation as described in section 3.6.1 the City of Cape Town Zoning By-Law (2002) have addressed the management of environmental areas by making provision for several Open Space and Environment Heritage zoning. In addition, the Cape City By-laws makes provision for a range of overlay zones that can be used to increase flexibility and provide opportunities for development to respond to special circumstances or local conditions. They provide the Council with a mechanism whereby directives, land use rules and design principles may be established for a property or area, which apply over and above the underlying of base zone of the property or area. The overlay

zones can result in more restrictive development rules requiring particular design responses, or they can result in less restrictive development rules thereby encouraging particular forms of development. In applying the overlay zones, the by-laws states that the Council must bear in mind the objectives of this by-law and of any applicable integrated development plan. The techniques can be used to generate appropriate responses to local or site-specific issues, but should be used responsibly to avoid unnecessary administrative complications. Before applying an overlay zone, the Council must follow a transparent process with the aim of establishing collaboration between the Council, the community and property owners. (Cape City By-Laws, 2002)

One such overlay zone is a Management Area Overlay Zone (MAO), with the objective of *“protecting unique agricultural and environmental resource areas that may include significant landscapes, environmental areas or cultural areas which in turn may include but are not limited to the following:*

- *Farming areas which exhibit particular patterns of development and landscape;*
- *Scenic areas which have particular value as tourist attractions; or*
- *Farming areas which contain significant flora and fauna”.* (Cape Town City By-Laws, 2000)

The Development Rules contained in the MAO makes provision to encourage a desired type of land use and levels of conservation, which includes the following:

- 1) *“Voluntary Reserves, where land contains, or is suitable for, important eco-systems and habitats, and where owners co-operate to retain the natural character of such reserves;*
- 2) *Management Agreement Reserves, where land contains areas of rare and threatened habitat, and where development rights are partially restricted;*
- 3) *Contractual Reserves, where land units are sufficiently large to be self contained eco-systems, development rights are restricted, but*

*conservation and appropriate tourist related uses are encouraged".*  
(Cape Town City By-Laws, 2000)

In terms of the MAO, the council may also place contractual obligations on a landowner to whom additional land use rights have been granted, to deal with the following matters:

- *"Implementation of an environmental management system to ensure that land use and resources are managed in a manner that promotes environmental sustainability and biodiversity;*
- *Implementation of a trust fund to ensure that the necessary financial resources are available for effective long term management of the area;*
- *Protection or improvement of the aesthetic quality of the area; and*
- *Provisions for environmental auditing, monitoring and corrective action".* (Cape Town City By-Laws, 2000)

Through the Cape Zoning By-laws it is learned how incentive programmes can be accommodated in Town Planning Schemes and unlike the use of development controls, incentive mechanism can also be used to achieve the same desired objective of protecting the natural environment. This approach first of all provides an alternative to the use of conventional reservations that are normally applied to conservation areas and secondly how to approach conservation worthy areas located on private owned land.

### **2.6.3 Potential Financial and Economic Mechanisms for Controlling Land Development**

The eThekweni Metropolitan Open Space System (MOSS) is a city wide network of open spaces that together contain a set of resources and natural assets necessary for the sustainable development of the eThekweni Municipality. A vision for the management of the MOSS has been established through the D'MOSS Framework Plan (1999). This Plan provides a framework for the physical development, conservation and appropriate management of open spaces in the city. In terms of the land use management strategy of the Framework Plan: *"Urban activities and the land*

*uses that surround open space assets result in impacts on the asset. If the open space is to be sustainable then these land uses need to be directed and managed so that they also continually contribute to the protection, conservation and development of the city's natural resource base".* The D'MOSS Framework Plan has now been substituted with an amended Durban Environmental Services Management Plan (2002) to take into account the 2000 demarcation of the municipal boundary. The ESM Plan use the notion of open space as an asset of the city. Like other assets the open space system provides a return to the city. The return from the open space system can be categorised into a range of different 'services', from recreational opportunities to waste breakdown and assimilation. The value of the goods and services that the open space system provides has been conservatively estimated at R3.1 billion per annum. Although these services are valuable to the city many of them are provided outside of formal markets, which means that the open space system does not raise revenue directly for its own management or protection.

In addition, and partly due, to the absence of a revenue stream from the open space services much of the open space system is not under the ownership or direct management of the municipality. It has been estimated that only 24% of MOSS is publicly owned. Mechanisms therefore have to be sought to either bring these parts of the MOSS under the control of the municipality or to ensure that the relevant landowners manage the land in a manner that allows the MOSS to continue to provide the needed services to the city. The ESM Plan suggests the following creative tools and measures:

- Incentives for conservation:
  - Positive incentives that influences the way people behave towards their environment, such as enhanced development rights, rates rebates, attitude change and motivation through environmental education and public.
  - Disincentives aimed to prevent poor land use. Development impact charges and laws or regulations with associated penalties are examples of disincentives. They require substantial human and financial resources to implement.

- Perverse incentives for example the practice of using property rates taxes to penalise owners of undeveloped land.
  
- Legal protection frameworks:
  - South Africa has many environmental policies and laws to ensure the protection of biodiversity and areas worthy of conservation.
  
- Land use management system:
  - Incorporating the open space system and appropriate associated land use and zoning regulations and controls into the Land Use Management System for the municipality..

In May 2001 a research was undertaken by Palmer Development Group in association with Stephen Berrisford to explore the possibility of using financial mechanisms to exert some measures of control over the management of the eThekweni MOSS especially that non-public landowners manage their assets in accordance with the MOSS framework. The need for this research was particularly urgent given the fact that a substantial proportion of the open space system is both developable and under private ownership and that the present legal instruments including Town Planning Schemes were not necessarily available to compel land-owners to manage their land as determined in the framework.

Berrisford (2001) describes that urban open spaces can be protected by a range of mechanisms, which can be categorised as follows:

- a) Legal acquisition (on a willing-seller/willing buyer or expropriation basis);
- b) Legal injunction (where some form of rules or controls on the use of land is imposed preventing inappropriate development); and
- c) Financial incentives (where mechanisms are put in place to modify the private benefit from land development or protection in order to encourage open space protection)

The first two mechanisms have been widely used in South Africa to conserve open spaces deemed to have important public benefits or on which development is deemed inappropriate (such as riparian reserves). The third mechanism has been used fairly widely internationally, but only to limited extent in South Africa. Although these mechanisms afford some measure of open space protection it must be recognised that none of these provide absolute assurance of the continued existence of open space. The table below indicates some of the limitations on the different types of mechanisms

**Table 6: Limitations on Land Protection Mechanisms**

<b>Mechanism</b>	<b>Limitation on its Effectiveness</b>	<b>Ways to Address Limitations</b>
Land Acquisitions	<ul style="list-style-type: none"> <li>• Acquired land has to be maintained by the municipality and this maintenance is not guaranteed largely due to the cost implication..</li> <li>• Acquired land can be returned or sold by the municipality given as change in priorities or financial circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>• Revenue can be raised to support these operating costs through such mechanisms as user charges or environmental charges.</li> <li>• A greater degree of certainty of land protection may come from land ownership by a higher tier of government – such as through national conservation or heritage legislation.</li> </ul>
Legal Controls	<ul style="list-style-type: none"> <li>• Legal frameworks can be changed and controls relaxed.</li> </ul>	<ul style="list-style-type: none"> <li>• Reliance on national or provincial legislation may make legal controls more secure over the medium to long term.</li> </ul>
Financial Mechanisms	<ul style="list-style-type: none"> <li>• Financial mechanisms only provide 'price or cost signals'; they do not provide guarantees of land use choices by landowners. If a land use development offers a greater return than the disincentive in place the activity will still be profitable to undertake..</li> </ul>	<ul style="list-style-type: none"> <li>• Financial mechanisms can be coupled with legal controls. The legal controls can offer protection for crucial land while the financial mechanisms can support broader good practice in open space management.</li> </ul>

Berrosford (2001) continued to investigate four main mechanisms that were identified that may impose costs on the municipality, either directly or indirectly. The four mechanisms are:

- Purchase or expropriation of the land: although possible in terms of the Expropriation Act of 1975, the municipality may be burdened with maintenance costs;
- Transfer of development rights: is a way of reducing the legal developability of land by transferring the development rights to another property elsewhere. The process however can still be financially costly due to the administrative costs imposed on the municipality and possible compensations in some circumstances;
- Development impact fees: are currently imposed on developers to cover costs of bulk infrastructure connections, particularly in the case of township establishments. This concept can be extended to include money for the maintenance and preservation of the MOSS on neighbouring land; and
- Targeted rating of the land: in terms of the Property Rates Act which makes provision for different categories of land to be rated.

Of the four mechanisms described above, land purchase and expropriation are possible in terms of existing legislation. It is also currently possible to levy development impact fees. The transfer of development rights is not yet possible but has been under serious discussion both nationally and in the province of KwaZulu-Natal. The targeted rating of land has now also been made possible through the Local Government Property Rates Act. None of these mechanisms alone are likely to be sufficient to meet the needs of the MOSS and it is likely that ways of combining them, along side more conventional controls currently used, must be established to form an effective MOSS management strategy. There are other mechanisms that have been used internationally, particularly in the USA, which however are regarded as inappropriate in the context of Durban, primarily because of the onerous capacity demands that they would make on the municipality.

The above section provides further tools to apply in respect of Environmental Management control and how it could be applied to the Cliffdale case study.

It is learned that zoning and development controls alone would not suffice in the protection of environmental areas that fall on private owned land. The use of incentives must be considered as part of a Land Use Management System for a local authority. This is of particular important for areas such as Clifdale which contain a high degree of environmental sensitive areas which none is under the ownership of the local authority.

## **2.7 Legal Framework**

This section seeks to consider land use management within the context of the legal framework and provides a discussion relating to Provincial and National legislation as it applies to land use management issues in general, and how it pertains to the study area.

### **2.7.1 Constitution of the Republic of South Africa**

The Constitution has a bearing on the planning system in that new constitutional requirements such as co-operative governance, which all spheres of government are required to observe and adhere to, procedural and participatory rights to ensure accountability for decision-making, the promotion of social and economic rights, and the protection of the environment create imperatives that profoundly affect planning. It also provides for the establishment of different category municipalities each with their own executive authority in respect of and the right to administer local government matters as listed in Part A of Schedule 4 and Part A of Schedule 5. These listed activities generally covers land use management issues, which is now the responsibility of the municipality. The enabling legislation (Land Use Management Bill) will guide municipalities in the adoption and implementation of their land use management plans.

### **2.7.2 Local Government: Municipal Systems Act 32 of 2000**

This legislation provides for municipalities to prepare Integrated Development Plans (IDP's). An IDP must reflect a Spatial Development Framework, which includes the provision of basic guidelines for a Land Use Management System for a municipality. In terms of the Act, the eThekweni Municipality is



therefore responsible for the preparation of Land Use Management Schemes for their area of jurisdiction.

Chapter 4 of the Municipal Systems Act 32 of 2000, specifies that " a municipality must develop a culture of municipal governance that complements formal representative government with a system of participatory governance, and must for this purpose – encourage, and create conditions for the local community to participate in the affairs of the municipality, including in – preparation, implementation and review of its IDP"

In terms of the Act it is imperative that the preparation or revision of Town Planning Schemes such as in the case of Cliffdale would require some participation from the community.

### **2.7.3 KwaZulu Natal Planning and Development Act 5 of 1998 (PDA)**

The Act makes provision for the preparation of Metropolitan Development Plans in respect of metropolitan councils. Such plans are to contain a co-ordinated policy framework, implementation framework, monitoring, evaluation and review framework, prescribed environmental management component and prescribed planning controls. The purpose of the Development Plan is the "co-ordinated, harmonious and sustainable development of an area to which it relates, in such a way as will most effectively tend to promote health, safety and participation in the planning and development process".

The prescribed draft Regulations emanating from the Act also deals with procedures for facilitating development and the use of buildings and land. Annexure C of the Draft Regulations (December 1998) contain land use controls that formed the basis of the earlier thinking of the LUMS model. A component that was used in the formulation of the Cliffdale Land Use Scheme, relates to the proposed mechanism of Special Planning Areas<sup>5</sup> (SPA's) (Alternatively referred to as: Land Use Code Areas/Special Zones) which offers local authorities and communities the opportunity to plan, control and develop their areas.

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<sup>5</sup> Town & Regional Planning Commission: KZN Appropriate Planning & Land Use Controls, July 1998

In terms of the KwaZulu-Natal Planning & Development Act (PDA) the SPA's aims to encourage communities to order themselves so as to ensure harmonious and integrated planning and development, to build common vision, common involvement in planning and development matters, designation and management of natural and environmental sensitive areas and proposed strategic economic development areas.

The Regulations makes provision for six types of SPAs which are further described in Appendix 5. The application of the SPA concept to Cliffdale is described in section 5.4.2 of this dissertation.

In respect of environmental management issues the Act makes provision for a responsible authority to:

- grant development consent with or without conditions;
- require the applicant to establish a fund or provide a guarantee for the purpose of mitigating any environmental damage which may be caused by the proposed development;
- impose conditions requiring the applicant to provide periodic reports inter alia verifying impact prediction, reporting on the success of failure of mitigatory measures and monitoring adherence to conditions of approval.

Such regulation provides an opportunity for an environmental management plan for example to be adopted as part of a Land Use Scheme. The implementation thereof would be ensured through the provision of approval conditions of development applications.

#### **2.7.4 Natal Town Planning Ordinance No 27 of 1949**

The Natal Town Planning Ordinance regulates the establishment of private townships, the sub-division and layout of land for building purpose or urban settlement and the preparation and carrying out of Town Planning Schemes, and to provide for the other incidental matters. With the redemarcation of municipal boundaries, several per-urban and rural areas have now been

incorporated into municipal areas. The Ordinance would be use to extend existing municipal Town Planning Schemes over such areas or prepare and adopt new Land Use Schemes such as for Cliffdale. However the Ordinance only supports the preparation of Town Planning Schemes if:

- an area is already developed, public improvements are likely to be made with a period of normally five years or if the land comprises buildings or other objects of architectural or historical interest;
- an area which abuts another area that is subjected to development requires scheme protection or contains places of natural interest or beauty;
- areas are to be incorporated into a local authority area.

The current problem with the Ordinance is that only applies to former Natal Ordinance areas, which excludes the former KwaZulu-Natal areas. Cliffdale however was previously considered as a regulated area and administered by the Development and Services Board prior to 1994. Any scheme preparation would therefore be subjected to the Ordinance procedures and criteria.

Section 48 of the Ordinance makes provision for once land is zoned for public open space by a municipality, that municipality is compelled, within a five year period to expropriate the land. If they fail to do that the zoning reverts to what it was before the public open space zoning. This section therefore restricts the adoption of environmental related zones, especially if privately owned properties are affected.

#### **2.7.5 Land Use Management Bill, 2001**

The purpose of the Bill is to set basic principles that would guide spatial planning, land use management and land development in the country; to regulate land use management uniformly; the adoption of municipal spatial development frameworks and Land Use Schemes; to establish provincial land use tribunals to consider applications for change of land use; and to provide for land use appeal tribunals.

Directive principles contained in Chapter two of the Bill states that land use management must be sustainable, equal, efficient, integrated and based on fair and good governance. Land Use Schemes must also be consistent with and give affect to such directive principles, the municipality's spatial development framework; and any national and provincial plans and planning legislation.

The Act also further requires the involvement of local communities in the drafting and adoption of Land Use Schemes and the undertaking of an environmental impact assessment in terms of the National Environmental Management Act.

#### **2.7.6 Communal Land Rights Act No.11 of 2004**

The objective if the Act is to provide secure tenure rights to people living on communal land, including KwaZulu-Natal Ingonyama land. The Act also requires "communal" communities to prepare land use plans for their area to guide future developments.

The Act therefore makes provision for the Sate to purchase the land which can be registered in the name of the community who may form a communal property association in terms of the Communal Property Associations Act, 1996. Once such land is registered, the community may register community rules to regulate the administration and use of the land within the framework of law governing spatial planning and local government.

The Act therefore could be further explored to apply to landless communities and informal settlement area such as in the case of Cliffdale.

#### **2.7.7 National Environmental Management Act No. 107 of 1998**

The purpose of the Act generally is to provide the establishment of principles for decision-making on matters affecting the environment.

Section 46 of the Act allows for "The Minister to make model bylaws aimed at the establishing measures for the management of environmental impacts of any development within the jurisdiction of a municipality, which may be

adopted by a municipality as municipal bylaws”. The purpose of the bylaws must be to:

- a) “mitigate adverse environmental impacts;
- b) facilitate the implementation of decision taken, and conditions imposed as a result of the authorisation of new activities and development, or through the setting of norms and standards in respect of existing activities and developments; and
- c) ensure effective environmental management and conservation of resources and impacts within the jurisdiction of a municipality in co-operation with other organs of state”.

This section of the Act provides for the legitimacy of incorporating environmental related controls in Land Use Schemes.

#### **2.7.8 Local Government: Municipal Property Rates Act No. 26357 of 2004**

The Act provides regulations and powers to municipalities to impose rates on properties, to exclude certain properties from rating in the national interest, to make provision for municipalities to implement a transparent and fair system of exemptions, reductions and rebates through their rating policies, and to make provision for fair and equitable valuation methods of properties.

Section 15 of the Act makes provision for a municipality in terms of its rates policy to grant to owners of a specific category of properties which may be determined by the municipality, a rebate on or a reduction in the rates payable in respect of such properties.

This part of the Act is particular use with reference to private properties that are affected by environmental related zoning and controls.

### 2.7.9 Subdivisional of Agricultural Land Act 70 of 1970

In terms of Section 4 of the Subdivisions of Agricultural Land Act, before a municipality proceeds to extend its Town Planning Scheme or prepare new Land Use Schemes, the consent from the provincial MEC for Agriculture and Environmental Affairs must first be obtained. The Act further defines "agricultural land" as: *"any land, except land situated in the area of jurisdiction of a municipal council, city council, village council, village management board, village management council, local board, health board or health committee, ....."*

The requirements of the Act previously only applied to agricultural land outside municipal areas. With the setting in place of wall-to-wall municipalities in terms of the Municipal Structures Act, the Agricultural Land Act had to be amended to cater for all agricultural land that now fall within municipal jurisdiction. The definition of agricultural land was thus amended by Proclamation No. R.100 of 1995, by addition of the following provision:

*"Provided that land situated in the area of jurisdiction of a transitional council as defined in section 1 of the Local Government Transition Act, 1993 (Act 209 of 1993), which immediately prior to the first election of the members of such transitional council was classified as agricultural land, shall remain classified as such."*

Therefore, land previously defined as agricultural land as falling within the jurisdictional area of the transitional council, remains agricultural. This proclamation retained and effectively defined the agricultural land to which the Subdivisional of Agricultural Land Act, 1970 is applicable.

The requirements of the Act and the above proclamation has an affect on how Land Use Schemes with agricultural land or intended agricultural zoning are prepared and adopted. It affectively means that the Department of Agriculture has an active role to play to ensure that valuable agricultural land are retained and protected in Land Use Schemes.

## CHAPTER 3

### CASE STUDY

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#### 3.1 Introduction

This chapter will begin by discussing the historical planning background and context within which Cliffdale is located. Thereafter, current development and socio economic trends taking place in the area will be highlighted to give clarity as to the character of the area that gave rise to the type of scheme that was prepared.

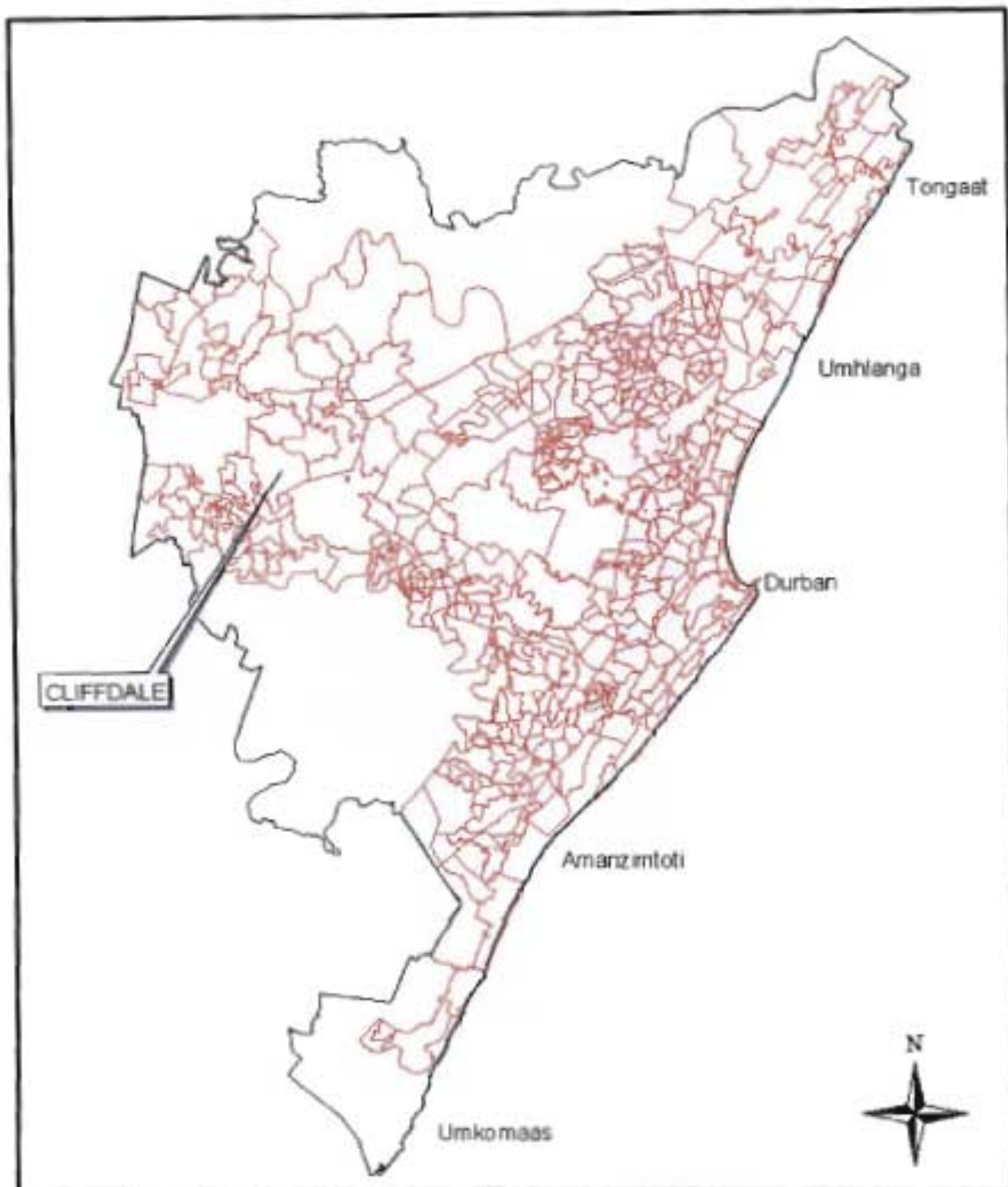
#### 3.2 Historical Background and Location

Cliffdale is a sizeable 1722Ha located in the western semi-rural parts of the Durban Metropolitan Area and at the head of one the municipality's largest river catchments. The area is bordered by the Hammarsdale industrial area and Mpumalanga low-income housing township in the west. Nthsongweni and Assagay, which consist of residential small holdings and agriculture lies to the east of Cliffdale whilst the N3 National Freeway forms the northern boundary. Beyond the freeway are areas such Drummond and Peacevale, which also accommodate residential smallholdings and small-scale agricultural activities. The Sterkspruit River forms the southern boundary where it joins the Mlazi River into Shongweni Dam further downstream.

Historically, the area, which had no adopted Town Planning Scheme, has been predominantly under large and small-scale agriculture owned by Indian families. Prior to the democratic elections of 1994, the area was under the control of the erstwhile administrator of Cliffdale, the then Development Services Board (DSB). The Board took a resolution on the 10 March 1988 in terms of Section 44 of the Town Planning Ordinance No. 27 of 1949 to prepare a Town Planning Scheme for Cliffdale. This was approved by the former Town & Regional Planning Commission on the 23 August 1988. Despite this, when the area was then incorporated into the former Outer West Local Council in 1996, only a preliminary draft Town Planning Scheme map had been prepared by the DSB.



Map 1: Metropolitan Context Map



CLIFFDALE: ETHEKWINI MUNICIPALITY

**METROPOLITAN CONTEXT**

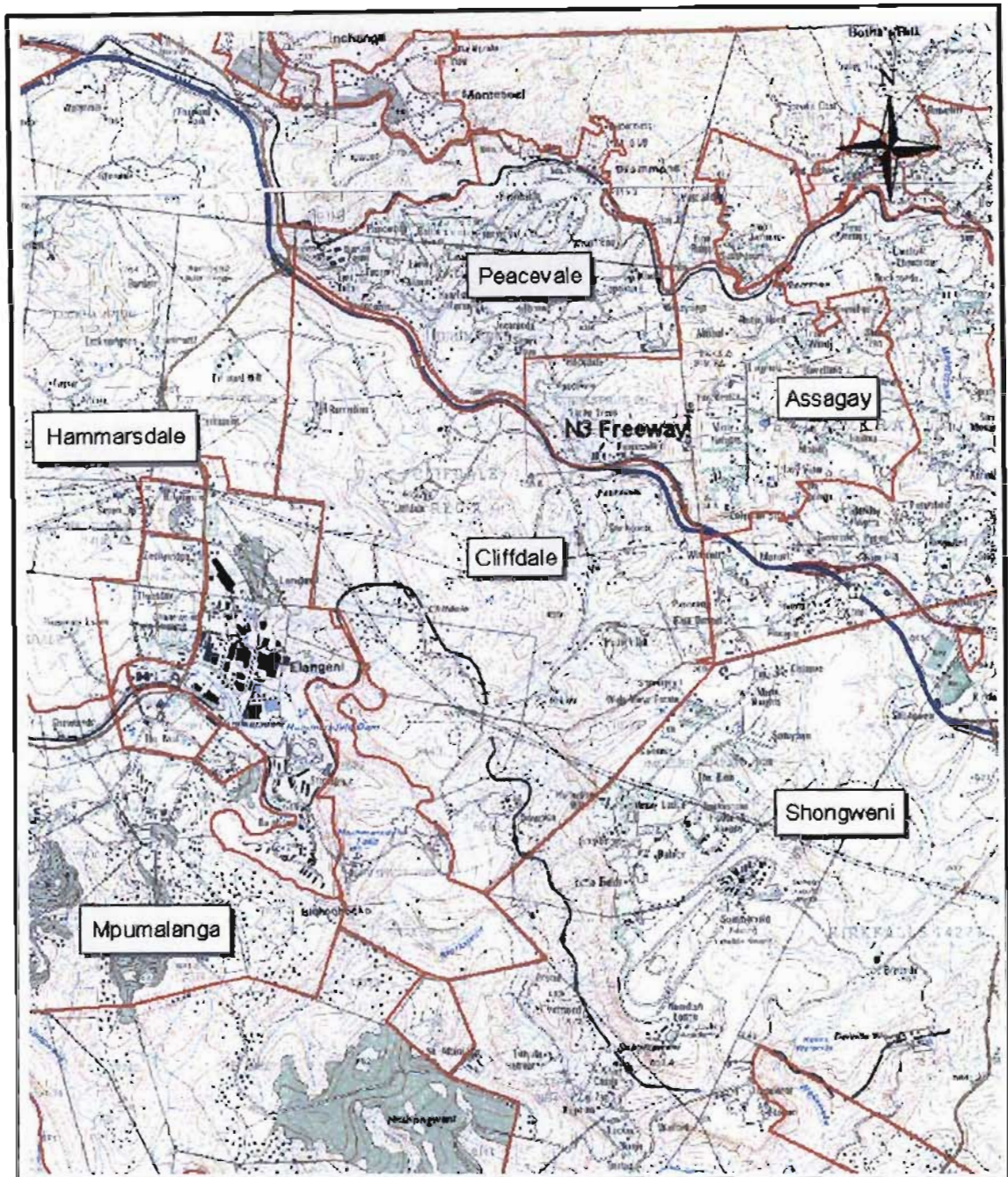
Peter Gilmore  
Student No. 203513248  
MTRP Course 2004  
University KwaZulu-Natal

Date:  
November 2005

PLAN No. 01



Map 2: Local Context Map



CLIFFDALE: ETHEKWINI MUNICIPALITY

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**LOCAL CONTEXT**

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Date: November 2005	PLAN N <sup>o</sup> . 02

Following a decision of the Executive and Finance Committee of the erstwhile Outer West Local Council, consultants were appointed in October 1997 to prepare the Cliffdale/Shongweni/Salem Local Development Plan (LDP). The purpose of the LDP was to provide an appropriate basis for development planning to occur and to provide a structure to manage growth and to promote co-ordinated and forward planning for the area. The LDP was finally adopted on the 5<sup>th</sup> August 1998.

Following the completion and adoption of the LDP, the Council took a further resolution on the 21 October 1998 to prepare a de nova Town Planning Scheme for the area of Cliffdale due to the growing development pressures and contraventions in the area. The Land Use Scheme was prepared during the period November 1998 to November 1999 by the author of this dissertation whilst employed at the time by the Outer West Local Council. The development pressures and contraventions was mainly a result of the area being subjected for the first time to property rates payments as the area was incorporated into a municipal jurisdiction.

During this period a Working Group consisting of Ward councillors and elected community members was established. The Working Group underwent several training workshops, which were provided by the dissertation author, whereby various components of a Town Planning Scheme were introduced. (See Appendix 6) Brochures were also distributed among the community informing of Council's intention of preparing a scheme for the area. A total of eleven workshops over a period of eight months were held with the Working Group in preparation of the Town Planning Scheme. The process was concluded by a public presentation of the draft scheme to all interested and affected parties on the 10 November 1999.

The approval of the draft Town Planning Scheme by the Cliffdale communities was soon followed by the appointment of Kerry Seppings Environmental Management Specialist to prepare an Environmental Assessment for the area. This was a new requirement following the coming into operation of the Regulations of the Environmental Conservation Act and where a change in land use from agriculture or undetermined to another use was contemplated. The environmental assessment was aimed at refining and contributing to the work done by the Durban Metropolitan Open Space Framework Plan and using the work as a basis to develop a Management Plan with adequate land use controls for inclusion in the Land Use Scheme. Such controls would ensure that environmentally sensitive areas would be protected and managed within the Land Use Scheme. The Environmental Impact



Assessment application further followed the environmental assessment that was submitted to the Department of Agriculture and Environmental Affairs in May 2000 in terms of the Environment Conservation Act No.73 of 1989. The Department approved the EIA on the 17 January 2001.

The final process in the completion of the Land Use Scheme was the preparation of a Road Plan for Cliffdale. In terms of the Local Development Plan for the area, it was necessary to prepare a Local Road Plan, which would facilitate a rational, and efficient circulation system and which would also guide the council in assessing future development applications. The Road Plan thus defines the requirement and location of new roads, road upgrades & road widening and the closure of unused road servitudes. The Cliffdale Development Forum was consulted during this process with the final public presentation held on May 2001.

### **3.3 Present Situation**

#### **3.3.1 Population Demographics**

The case study area comprises of Ward 7 of the eThekweni Municipal area. According to the Census 1996 data the total population of the areas was 4700. 81.7% constituted Black people, 2.2% Coloured and remaining 16.1% Indian people. Majority of the population of Cliffdale is young with more than 50% younger than 29 years of age. Unemployment is also high sitting at 59.6%.

#### **3.3.2 Social Activities**

Being a predominantly semi-rural and agricultural area and previously excluded from any municipal area, public amenities such as community halls and sporting facilities are non-existent. The community of Cliffdale rely on the neighbouring areas of Hillcrest, Hammarsdale and Pinetown to access facilities and areas of entertainment and recreation. As far as schools are concerned, there are only two schools – one government primary school and another provided by the Catholic Mission. Health services is provided by the eThekweni Municipality in the form of a satellite clinic which only operates on certain times and days.

### **3.3.3 Economic Activities**

The economy of the area is to a large extent made up of agricultural activities. However since 1988 (interview with Department of Agriculture), agricultural activities have declined dramatically due to poor management, lack of skills, increase in labour wages, loss of soil fertility and most of all the area of Cliffdale being subjected to payment of rates to the municipality. Currently only the eastern part of the area, known as "cabbage valley" is being productively utilized for market gardens by Indian owned land-owners.

Some small businesses such as the local general dealers, hardware store and concrete block manufacturing yard provide some employment opportunities for local people. The two local schools and the cemetery are the only government facilities that provide employment. Further employment is also created at the LTA sand quarry and some temporary sand mining operations occurring on private land holdings.

In addition, there are a number of informal businesses that operate from residential properties. There are small tuck shops, shebeens, panel beaters and motor mechanics who operate from home. Some of the community members from the two informal settlement areas are finding employment from industries located in Hammarsdale and at the Jockey Academy and various private horse stables in neighbouring Shongweni/Summerveld areas.

### **3.3.4 Infrastructure and Services**

Generally the area is reasonably served with infrastructure. The area is well provided with access roads and most of the main community access roads have been surfaced by the former Outer West Local Council. The remaining dirt roads are in relative good conditions and well maintained. There are however several unobstructed road reserves in parts of Cliffdale which have not yet been developed. Developed parts of Cliffdale are provided with electricity and piped water from the municipality. Waterborne sanitation is non-existent and land-owners have to accommodate their own on-site sanitation systems through the use of pit-latrines, septic-tanks and soak-pits.

Postal and public telephone services are provided at one of the general deal stores. General household phone services are also available, but have however suffered continuous service breakdown due to theft of telephone wires. With regard to cell phones, signal transmissions are available in most parts of Cliffdale.

The only areas suffering from lack of infrastructure and services are the two informal settlement areas. They are currently only provided with road access and water stand pipes for communal use.

### **3.3.5 Transport**

The two provincial roads namely MR559 and MR504 connect Cliffdale to the N3 freeway and the rest of the surrounding suburb areas. There are currently no public transport services available in the area.

## **3.4 Development Initiatives and Key Scheme Informants**

The case study area has in the past been subjected to several planning initiatives, which were used to inform the preparation of the scheme:

- *Durban Metropolitan IDP and Spatial Development Framework Plan (April 1999)*: The Spatial Framework Plan was explored to determine whether there were any major proposals for Cliffdale in the plan to ensure that the Land Use Scheme would accommodate such proposals. The SDF only highlighted the significance of retaining urban agriculture in the area of Cliffdale. (See Appendix 7)
- *Durban Metropolitan Open Space System Framework Plan (D'MOSS July 1999)*: An environmental assessment was undertaken of the area, which was aimed at refining and contributing to the work done by the D'MOSS Framework Plan. The findings of the assessment were then used to develop a Management Plan with adequate land use controls for inclusion in the Land Use Scheme (See Section 5.4.1 for further details and Appendix 8);

- *Cliffdale/Shongweni/Salem Local Development Plan (June 1998)*: The LDP that was prepared and approved by the Council in June 1998 formed the basis on which the spatial component of the scheme map was prepared for Cliffdale. The strategy of the LDP is based on the concept of activity corridors and nodes where movement systems are integrated with land use planning. The LDP thus recommended a "semi-urban spine" with secondary and tertiary nodes and a range of residential types of low densities. It was further recommended that the area has a role to play in the broader region that was identified as the "eastern gateway" to Durban in respect of conserving such areas for the promotion of tourism. (See Appendix 9);
- *Detail Land Use Survey (February 1999)*: The survey revealed that 40% of Cliffdale was being used for agricultural/market gardening purposes, 15% for rural residential with several illegal "backyard" home businesses and cartage contractors, 25% vacant due to steep topography, 15% being occupied by informal settlements and 5% for sand winning operations (See Appendix 10).
- *Development Trends at that stage*: Council's records were investigated to locate all previous land use applications and sub-divisional applications that were lodged and approved by the Council. Past subdivisions generally occurred throughout Cliffdale to a minimum of 2.0Ha. It was also evident that past land use applications occurred in the activity corridor area as defined by the LDP (See Appendix 11).

At the time of preparing the Land Use Scheme for Cliffdale, no were no other guidelines or similar case studies available. Cliffdale Land Use Scheme as previously mentioned, was one of the very first pilots in the Province which tested the new thinking and new approaches to land use management. As such the Scheme was prepared before the 2001 and subsequent 2004 LUMS Manual was completed.

## 3.5 Cliffdale Land Use Scheme Development Controls

### 3.5.1 Zoning

The zoning that were proposed for Cliffdale with its associated land use controls did not follow the conventional Town Planning Scheme zoning typologies and land use definitions, but were rather cast in the new land use management format that were developed in a number of pilot projects that were initiated throughout the Durban Metropolitan area in 1999.

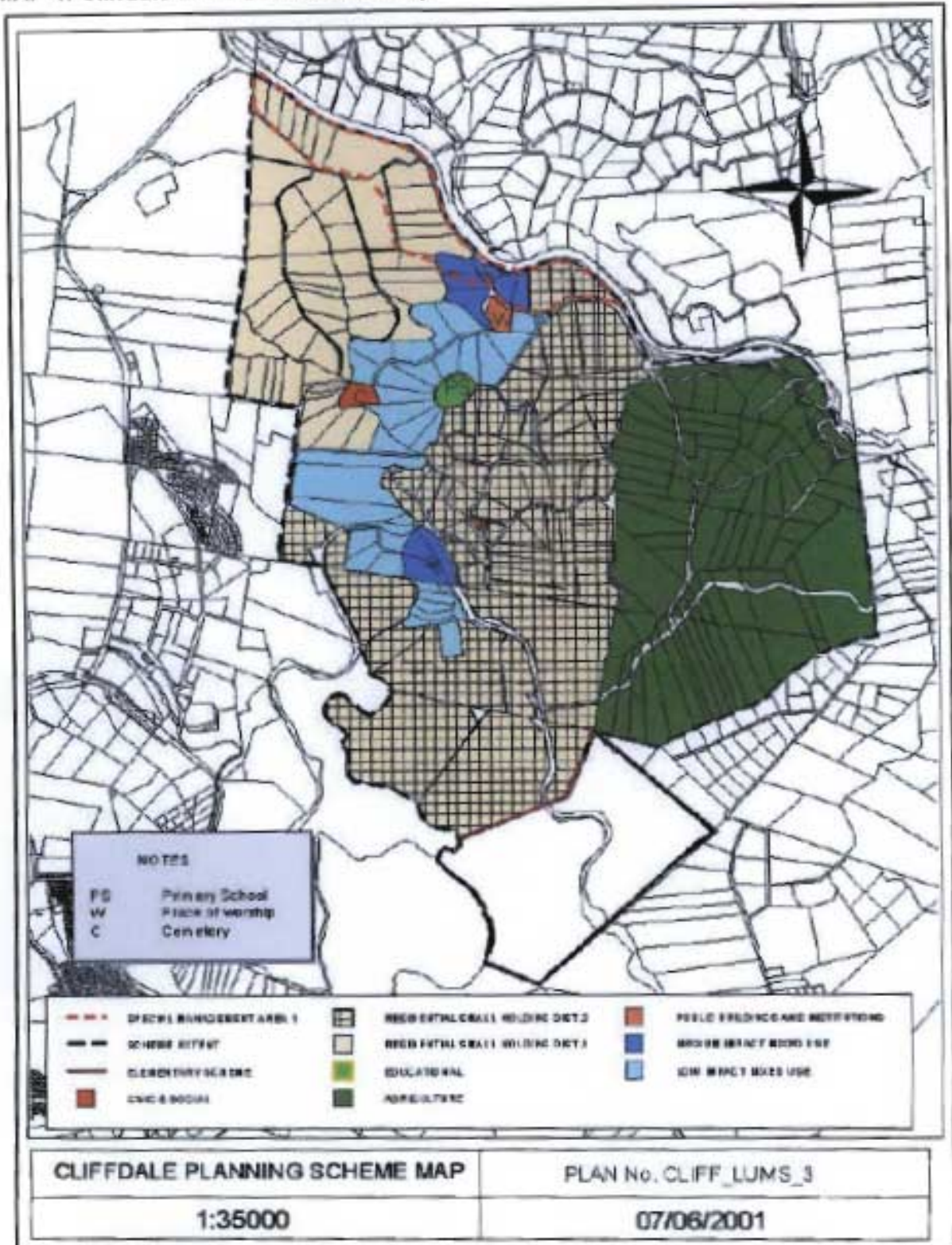
Based on the key informants discussed in Section 4.4, **ten primary land use zones** were identified that would accommodate the existing land uses and trends and that would also co-ordinate and regulate development within the area: *(See Appendix 12)*

- **Residential Small Holding District 1:** which catered for residential sites with a minimum size of 4000m<sup>2</sup> located at the far western end of Cliffdale.
- **Residential Small Holding District 2:** which catered for residential sites with a minimum size of 1 hectare located along the central part of the area.
- **Low Impact Mixed Use:** located along MR 504, which was identified as the "semi-urban spine" in the Shongweni/Cliffdale LDP.
- **Medium Impact Mixed Use:** was allocated to the sites that were identified as the tertiary and secondary nodes. Such nodes already contained a limited retail and business activities.
- **Civic and Social:** zone that accommodated the existing cemetery.
- **Public Buildings and Institutions:** allocated for the existing worship site
- **Agriculture:** with a minimum site size of 2 hectares for the eastern part Cliffdale where most of the existing market garden and agricultural activities were taking place.
- **Interim Site Planning Area (Special Case Zone):** provided for the areas that contained informal settlement areas.
- **Educational:** which accommodated the existing schools in the area.
- **Existing Roads:** to accommodate all existing roads

- **New Road Reserve and Road Closures:** to cater for new proposed roads, road widening and roads that requires future closure.
- **Special Management Overlay Area 1:** applied to all areas abutting the N3 freeway with the purpose of protecting the visual amenity of the area against negative impacts from developments and buildings notwithstanding the development rights granted by the current zoning of the scheme.



MAP 4: Cliffdale Land Use Scheme Map



### 3.5.2 Land use control mechanisms

Land use control mechanisms, which would be used to manage development within each zone, consist of the following: (See Appendix 12 for full Land Use Scheme Controls and Definitions)

- A list of **General Definitions**: Standard Town Planning Scheme Ordinance definitions were used from the Consolidated Outer West Town Planning Scheme Clauses, 2001;
- A list of **Land Uses and Building Definitions**: This list was derived from a schedule of common definitions, which were prepared by Peter Jewell, et al, in a research documents titled: *“KwaZulu-Natal Land Use Management System – Draft Policy Document for the Town and Regional Planning Commission dated March 2000”*;
- **Policy Statement** about the purpose and intent of each zone: These policies relate to the vision and objectives that provides a detailed statement of the desired future development and type of development for particular areas;
- A Matrix Table that states for each zone which land use activities and building types that are:
  - **Freely permitted uses**: uses that may be established in terms of the development controls for the zone without any additional permission required from the Local Authority.
  - **Uses permitted with the consent of the Local Authority by:**
    - (ii) **a development permit**: uses that may be established in terms of the development controls for the zone, but with the written consent of adjacent property owners.

(iii) **a conditional permit:** uses that may be established in terms of the development controls for the zone, but with additional conditions that may be stipulated by the Local Authority. Requires that an application for the use be made to the Local Authority I

□ **Prohibited use:** uses that are not permitted to be established in the zone

- **Development Regulations:** Templates are used to summarise information pertaining to development controls for each zone. The templates contain height restrictions, coverage limitations, parking requirements and predominant use. Templates are depicted as an overlay on the scheme map and as tables in the scheme document.

### 3.6 Main Land Use Management Approaches Applied

The following section provides an overview of how the main approaches and concepts that are referred to in Section 1.2 were applied and used on Cliffdale.

#### 3.6.1 Environmental management control

- (i) The Need for an Environmental Assessment

The Cliffdale/Shongweni/Salem LDP that was prepared highlighted the need for controlled integrated and well-informed development as well as the need to prepare an Environmental Management Plan. In response to the LDP, National and Provincial Legislations such as the National Environmental Management Act & PDA), Local Agenda 21 programme and the D'MOSS Framework Plan, consultants (Kerry Seppings Environmental Management Specialists) were appointed to undertake an environmental assessment of the area. Obviously a comprehensive ecological study of the area would have provided the best basis for such a work. Due to time and budget constraints, it was decided that a vegetation survey and the development of an open space system based on the survey would provide the best

alternative basis for the environmental assessment. Seppings (2000) describes that vegetation is often the most recognised component of an ecosystem and may provide a yardstick by which the rest of the ecosystem components can be measured. In the development context plants are also effective indicators of environmental conditions. Disturbance, induced by both natural and human factors can also be recognised by changes in the plants community.

The environmental assessment was therefore aimed at refining and contributing to the work done by the D'MOSS Framework Plan (1999) with reference to Cliffdale and using the work as a basis to develop an Environmental Management Plan with adequate land use controls for inclusion in the Land Use Scheme. Such controls would ensure that environmentally sensitive areas are protected and managed within the Land Use Scheme. People in semi-rural and rural communities have an empathy and genuine concern for the environment in which they live and an admirable understanding of the economic potential it holds in terms of a development resource base and eco-tourism destination. The open space system can also provide critically needed economic base in terms of eco-tourism, urban agriculture etc. as such semi-rural and rural areas have the weakest economic base in comparison to urban counterpart areas. Cliffdale therefore stood to benefit from a unique opportunity where the open space system can be protected by the Land Use Scheme by instituting environmental controls in the formal planning stages to help guide sustainable development in the area.

The information reflected in the assessment was a combination of aerial reconnaissance; fieldwork, consultation with local environmental stakeholders, academic and town planning document reviews and consultation with authorities. The basis of the research and the physical component thereof was the development of an open space system for Cliffdale. The open space system has been presented as a system of functional and partially functional open spaces linked mainly by riparian reserves.

Seppings (2000) further defined open spaces as spaces that can be urban e.g. parks, sports fields, agricultural, streets, town squares, road reserves, servitudes for services such as electricity transmission lines, dams and private gardens etc. Other land use spaces are natural open spaces. These are areas that contain more terrestrial, freshwater, estuarine and marina ecosystems. Because of Cliffdale's semi-rural status large areas within the area are natural open spaces e.g. grasslands, rivers, dams and geological features etc. Both are important and provide a range of services to the residents. The key to their functioning is their *physical connection* through a *system* to ensure that the plants and animals interact in a manner to ensure that diversity of the resource base is maintained in the long term. Hence there was a need to design and manage open space systems.

Essentially as the case study area develops over time, some open spaces will change from natural open space to urban open space. The key to successful transmission is to ensure that the urban open spaces maintain their ecological function to support the overall functioning of the open space system. This can be achieved by developing adequate land use controls for developed areas.

(ii) Preparation of Environmental Controls

The environmental assessment that was undertaken resulted in categorising the open space areas of Cliffdale into three functional categories: (See Appendix 8)

- **Fully Functional ecosystems:** large open spaces with a wide range of ecosystem functions providing many services and that can provide ecological support to smaller open spaces. These eco-systems are larger, more ecologically diverse areas that have not been severely disturbed by human activity; they have a full complement of ecosystem functions and can therefore provide major services with regional significance. Due to this ecological diversity and

semi-rural nature of Cliffdale, functional ecosystems were found to be prevalent and must be protected;

- **Partially functional ecosystems:** ecosystems that have been disturbed by the built environment but provide important connectors between functional ecosystems and smaller isolated ecosystems. These open spaces may have some attributed of functional ecosystems but not enough to be major service providers and keystones in the regional ecological systems. These areas act as buffers between built environment and sensitive functional ecosystems and therefore have a significant role in the functioning of the system as a whole. Much of Cliffdale even when developed should function as partially functional ecosystems.
  
- **Isolated ecosystems:** small isolated areas of open space that supply a small number of ecosystem services. These areas act as stepping-stones to assist movement of species that maintain ecological viability of functional and partially functional ecosystems.

A set of **environmental controls**<sup>6</sup> that relate to each of the above functional areas were included in the scheme clauses under the section referred to as: "General Restrictions Relating to Specific Land Uses". (See Appendix 13)

(iii) Implementation of the Environmental Controls

There are currently no public owned sites in Cliffdale and therefore the municipality could not allocate Public Open Space zoning or reservation to any of the properties as defined by the above three open space categories. The problem was further aggravated by the Town Planning Ordinance that compels the municipality to expropriate such reserved land within a five-year period. The above

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<sup>6</sup> Kerry Seppings Environmental Management Specialist: Cliffdale, Shongweni ,Salem Environmental Assessment. January 2000: 36-38.



environmental controls are therefore applicable to all the zoning and their respective controls are contained under the "General Restriction" clause of the scheme which eludes the reader of the scheme clauses that there are additional environmental controls applicable which are contained in an annexure to the scheme clauses. In terms of the Land Use Scheme Map, the use of Geographical Information System technology was used in depicting the environmental areas as an overlay on the scheme map.

Due to municipality's lack of capacity and resources to implement an environmental management plan, it was anticipated that such controls would be enforced by way of conditions of rezoning, special consent, subdivisional or building plan approvals. Examples of such conditions could include:

- subdivisional application to be approved on condition that the owner removes all alien invasive plants from the property; or
- completion certificates for building works not to be issued on completed buildings unless any disturbed areas are rehabilitated; etc

The preparation of the Environmental Management Plan was guided by ecosystem management principles and actions as defined by the D'MOSS Framework Plan. The most significant management interventions required to ensure the long term sustainability of the open space system in Cliffdale included alien plant control, grassland management, riparian management, and indigenous plant use. The EMP recommendations were used as a supporting document to further guide landowners and developers who are required to take action in terms of the above controls.

### 3.6.2 Special Interest Settlement Area (Special Zone):

(i) Special Zone

In terms of the scheme, a Special Zone has been allocated to the informal settlements areas of Cliffdale and Bux Farm with a statement of Intent in the scheme clauses that states that: *“the Local Authority intends facilitating the upgrading of the existing informal settlement with the introduction of a Special Zone accompanied with a Development Framework Plan which provides for an interim and transitional arrangement for the development of the area until such time as a detailed township layout with detailed zones and appropriate controls are adopted for the area. It further provided for all land uses to be by consent from the Development Forum and the Local Authority until the Framework Plan with its associated controls are formally adopted”.*

(ii) Designation of “Bux Farm” informal settlement as a Special Planning Area (SPA)

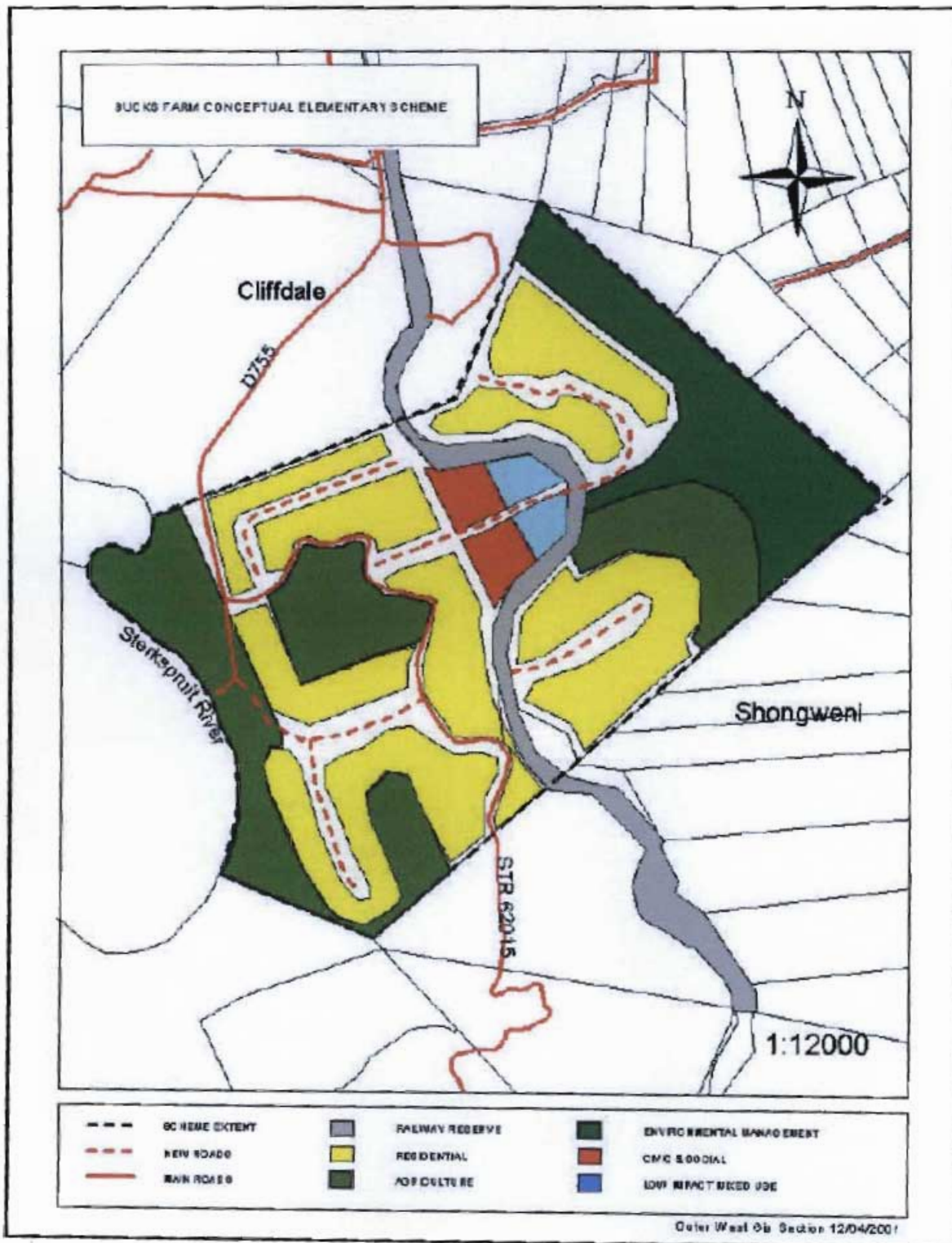
Bux Farm is one of the informal settlement communities that reside within Cliffdale. They currently occupy 168ha on a single farm, which accommodates approximately 275 families. The area resembles a rural character with much of the families practicing subsistence agriculture. In view of the description of a SPA in terms of the Draft PDA Regulations (10 December 1998) and the fact that the informal settlement area could not be accommodated within the normal proposed zones and controls of the Land Use Scheme, the original intention was for the Council to formally demarcate the area as a Special Planning Area in order to develop special land use management mechanisms. A Development Forum was established and together with Council a Development Framework Plan was formulated on the principles of an agricultural village. (See Development Framework Plan – MAP 5) Due to time and capacity constraints the land use management mechanisms that supports the Framework Plan were not completed and therefore not implemented.



The intention of the SPA and its land use management controls concept was to provide for an interim or transitional arrangement for the development of the area, until such time as a detailed township layout with detailed zones are adopted for the settlement. Once the latter is achieved the settlement would be controlled by the normal controls of the Land Use Scheme. Since the area did not contain any cadastral boundaries except for the outer boundary, district zoning would be based and applied on a precinct basis as indicated on the Framework Plan.

A further detailed description of the SPA and its intended land use controls and applicability will be discussed in Chapter 7 where an attempt will be made to recommend a completed SPA approach for Bux Farm.

Map 5: Bucks Farm Elementary Scheme (Cliffdale) Map



### **3.6.3 Proposed Roads and Road Widening Requirements**

In terms of the Local Development Plan for the area, a movement system was proposed for the purpose of internal circulation. It is expected that over time Cliffdale would become increasingly subdivided. Consequently priority roads that require widening and new road linkages were identified that would facilitate access through areas where smaller subdivisions could occur in terms of the zoning and areas that were not currently serviced by roads. The only restriction of applying a fully comprehensive notations of road widening and new roads on the scheme map is the provisions of the Town Planning Ordinance which requires such designated areas to be acquired by the local authority within a 5 year period. (See Appendix 12)

### **3.6.4 Future Required Community Facility Sites**

The development of Cliffdale will result in an increase in the number of people living there, which in turn will place pressure on the social and community facilities serving Cliffdale. Table 7 below indicates the types, number and area of social facilities that would be required in Cliffdale if it were developed to its full capacity in terms of the Local Development Plan and the Land Use Scheme.

**Table 7: Required Community Facilities for Cliffdale**

FACILITY	RECOMMENDED STANDARD	CLIFFDALE	
		YIELD EXISTING	2435 SITES REQUIRED
CRECHE	1 / 710 DWELLINGS	1	2
PRE-PRIMARY SCHOOL	1 / 170 DWELLINGS	0	3
PRIMARY SCHOOL	1 / 170 DWELLINGS	2	1
SECONDARY SCHOOL	1 / 1500 DWELLINGS	0	1
CLINIC	1 / 2700 DWELLINGS	0	1
COM. HEALTH CENTRE	1/5000 DWELLINGS	0	1
COMMUNITY HALL	1 PER COMMUNITY	0	1
ADMINISTRATION OFFICES	1 / 3000 DWELLINGS	0	1
POLICE STATION	1 / 4000 DWELLINGS	0	0
SPORTSFIELDS	1 PER COMMUNITY	0	1
LIBRARY	1 / 2130 DWELLINGS	0	1
WORSHIP	1 PER 450 SITES	1	3
POST OFFICE	1 / 10 000 DWELLINGS	0	0

(Iyer Rothaug Collaborative: Salem/Shongweni/Cliffdale Local Development Plan. June 1998)

In order to acquire land for such facilities, the mix-use zoned areas made allowance for community facilities as permitted or special consent use. Alternatively the Council could require owners of large properties to reserve land for the above uses when subdivisions take place. The list of facilities was not reflected on the Cliffdale Scheme Map nor was it accommodated in the Scheme clauses. It remained as a policy directive in the Local Area Development Plan although the Scheme Clauses did not refer to it.

### 3.6.5 Special Management Area 1:

The concept of a special management area that also emanated from the earlier components of the KZN land use management study was defined as an area of land, which requires a distinct set of policy guidelines and statement of intent to influence development to occur in a unique or specific manner. Such areas can be shown spatially on the scheme map, which are linked to specific controls. In the case of Cliffdale, all properties abutting the N3 freeway were identified as a Special Management Area. The LDP makes mention of the Cliffdale area that contributes to the visual amenity of the area in respect of the role it plays as an area that forms part of the "eastern gateway" to Durban. The latter was of particular importance to promote tourism in the broader region.

Therefore, notwithstanding the zoning rights that was allocated to these sites along the freeway in the Cliffdale Land Use Scheme, all permissible

development within the Special Management Area are all subject to the approval of the Local Authority who shall take into account whether or not the development / building(s) will be injurious to the visual amenity of the area.

### **3.6.6 Agricultural Zoning:**

Chapter 1 of this dissertation made reference to the fact that this research paper does not focus on the contents of the Clifffdale Land Use Scheme in respect of its zoning typologies and development controls. However, a special focus will be given to the agricultural zoning for Clifffdale as this has bearing on how a scheme can be adopted and amended based on new national policies that have emerged.

The agricultural zoning allocated to Clifffdale were purely based on current land use such as the eastern part of the study area, which is intensively being used for market gardens.

## **3.7 Contents of the Scheme Map**

The Land Use Scheme Map for Clifffdale includes the following: (See Appendix 12)

- The different zones required to accommodate the various categories of buildings and land uses together with the location of future social facilities;
- Environmental functional areas depicted as an overlay on the scheme map;
- Future road widening and new roads depicted on the scheme map;
- Special Management Area demarcated;
- Notes of reference to other source documents that provide additional guidance to decision making.

## CHAPTER 4

### ANALYSIS OF FINDINGS

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#### 4.1 Introduction

This chapter provides an analysis of all the data emerging from the empirical research. The chapter commences with an examination of the land use survey carried out to establish the existing land uses at Clifdale and to compare it with the land uses that existed at the time when the scheme was prepared. This would indicate whether a particular land use pattern has emerged or changed over time and how it has responded to the scheme controls.

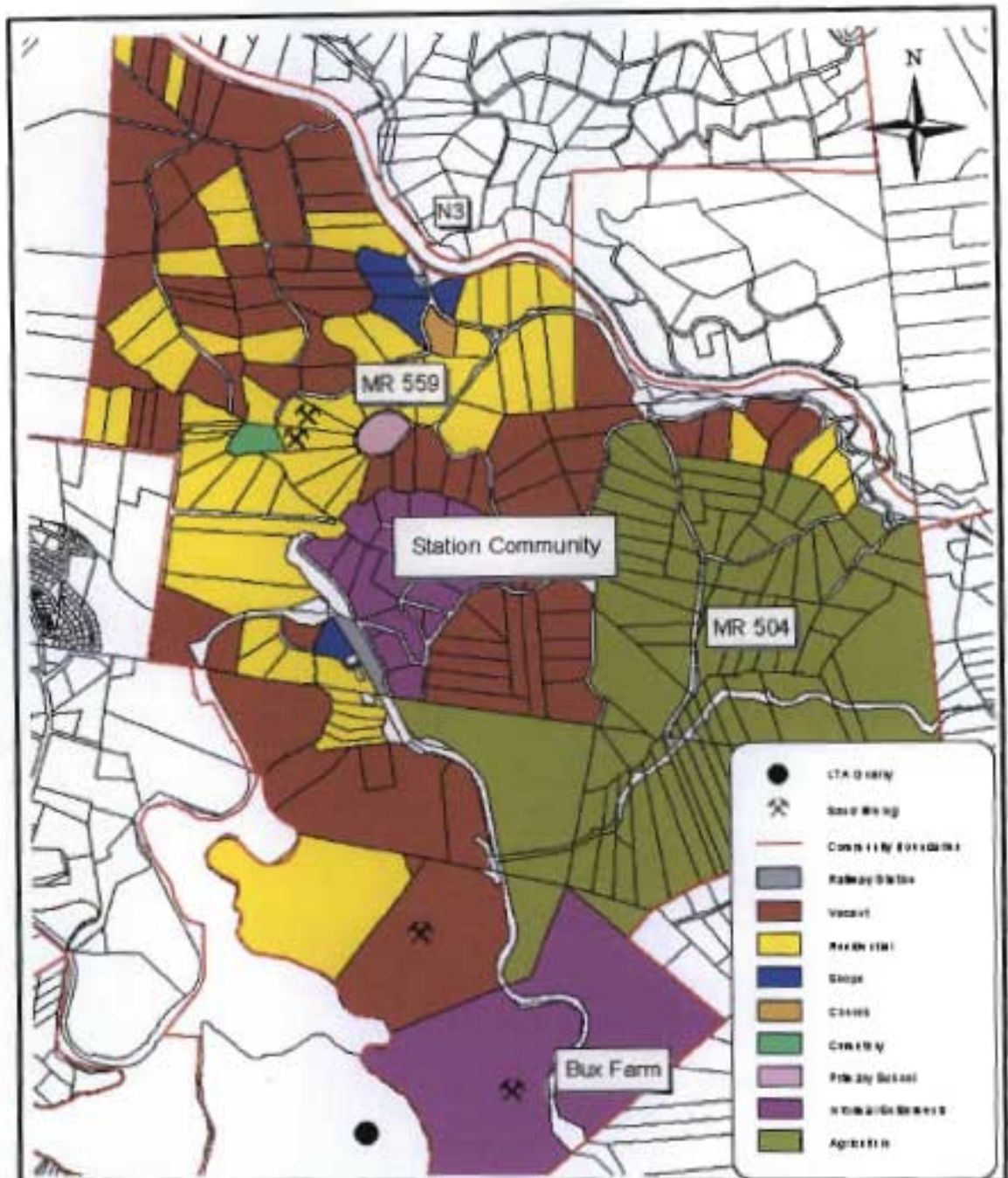
Finally, the interviews findings are discussed which were aimed at collating experiences and views on the various approaches applied to Clifdale and other similar case studies and research projects.

#### 4.2 Land Use Survey

The objective of the land use survey was to establish the existing land use in the Clifdale area. The survey was conducted over the entire area as indicated on Land Use Map 3. The survey revealed that the main land uses are still residential in the form of small holdings with some "backyard" home businesses that are operating illegally. Most of the residential stock is found along Main Roads MR559 and MR504 and the central western part of Clifdale. Properties range on average from 2 – 4ha with a single dwelling per property. The Residential Small Holding zoning allocated to these properties generally only permit a range of residential type uses. Retail, office and industrial activities are prohibited. Minor home business activities such as bed & breakfast establishments, small administrative businesses and minor repair workshops may be permitted by special consent from the local authority which are normally if successful, approved with conditions. Such conditions are there to control the operations from causing any negative impacts on the adjacent neighbours.



Map 3: Existing Land Use Map (2005)



CLIFFDALE: ETHEKWINI MUNICIPALITY

**EXISTING LAND USES**

Peter Gilmore  
 Student No. 203513248  
 MTRP Course 2004  
 University of Zululand-Natal

Date:  
 November 2005

PLAN No. 03

Cliffdale also houses two informal settlements known as the Cliffdale Station community and Bux Farm community. The former community consist of approximately 60 households spread over several privately owned properties located adjacent to the Cliffdale Railway Station. The Bux Farm community currently occupy 168ha on a single farm, which accommodates approximately 275 families. The two areas resemble a rural character with much of the families practicing subsistence agriculture.



**Fig 1: Bux Farm Informal Settlement**



**Fig 2: Cliffdale Station Community**



The eastern portion of Cliffdale is intensively farmed by market gardening activities. Such agricultural small holdings are predominantly owned by Indian land owners who have been involved in agricultural activities for many years.



**Fig 3: Small scale agricultural activities**



**Fig 4: Agricultural small holding**

The remainder central part of Cliffdale is unoccupied or vacant due to the steep topography.



**Fig 5: Vacant properties in the north and central parts of Clifdale**

Social facilities in the form of a cemetery, mobile clinic, secondary school and a church are all located centrally, most along Main Road 504.

Basic commercial facilities are also located along Main Road 504, the first at the entrance to Clifdale off the N3 freeway and the second at the railway station.



**Fig 6: Existing commercial activities**

At the southern end of Clifdale adjacent to Bux Farm community is an existing quarry and sand mining operation owned by LTA Quarries. Some of the community members are employed at the quarry and the crusher plant.



**Fig 7: LTA Quarry**

Besides some further infrastructure upgrade that the area has enjoyed such as road surfacing, the only new developments that have occurred are sand winning operations on the central and northern part of Cliffdale and the construction of a church and fireworks magazine along the N3 freeway. (See Land Use Map No. 3.) According to the municipal's planning registers, the latter two facilities were approved just before the Land Use Scheme was completed and adopted for Cliffdale.

### **4.3 Statutory Planning Registers**

Although very little has changed in Cliffdale over the last five years, the adjacent areas such as Hillcrest, Gillitts and Assagay have exploded with residential growth in the form of upmarket secure estates in the last two to three years. More recently there has been a noticeable trend in commercial and office construction activities due to favourable increase and demands in the property market. Building plan registers inspected at the municipal office for these areas have shown an increase in the amount of building plans submitted since 2002 and on-going building operations are quite evident if one drives through these areas. The impact of this is that semi-rural areas such as Cliffdale, might be under pressure in near future for development in the natural expansion growth path of the city.

**Table 8: Total Annual Building Plans Submitted to the Local Authority**

<b>Total Building Plans Submitted</b>	<b>Year</b>
1600	2002
1839	2003
2257	2004

(EThekweni Building Plan Register: Outer West Region)

Although some current land uses are operating without the necessary consent as was established during the land use survey carried out in 1999, further investigations were carried out by studying the municipality's various development planning and subdivisional registers. The registers revealed that no applications were lodged with the municipality in the past 5 years. In terms of the contraventions register, only one contravention was dealt with which related to a trucking scrap yard that was established along the N3 freeway. According to correspondence on the property file, the matter was resolved through legal routes. Although the unauthorised activity was carried out on land zoned for Medium Impact Mixed Use, in terms of the Special Management Overlay Area, the land use was not permitted to continue nor was there opportunity to make application in order to legalise it. The purpose of the Management Overlay Area is to protect the visual amenity of the area against negative impacts from developments and buildings notwithstanding the development rights granted by the current zoning of the scheme.

In view of the above, very little change has occurred in Cliffdale since the scheme inception. Due to the lack of change of land use, one is therefore unable to evaluate the scheme based on land uses alone.

#### **4.4 Property Rates Tax**

An assessment of the municipality's valuation roll indicates that all vacant land, regardless of whether it is environmentally sensitive or not, attracts the same rates randage, which is also the same as industrial or commercial land, i.e. net 10,806 cents in the Rand. When queried with the municipal Rates Department, the high rates randage on undeveloped land was originally intended to encourage owners of land in the former Durban Municipal Area (where undeveloped land is relatively scarce) to develop their land. With the amalgamation of the municipality's valuation rolls and the application of a common rates policy across the city, the effect has been to penalise landowners, some of whom wish to conserve environmentally sensitive land, especially in the outer areas of the city such as Cliffdale where development demand in most areas is low. As a result, this perverse incentive to develop all vacant land is in some cases leading to environmental damage and is threatening the ability of the city's natural resources base to provide a sustainable supply of environmental goods and services.

in respect of developed land, irrespective of the current property zoning, all properties are rated as residential except if the property is used for commercial/industrial, government/municipal or religious/community purpose. Rebates are currently granted if the landowner is a legitimate farmer and use the property for agriculture purpose. No rebates are currently given to landowners who wish to retain their properties or portions therefore for environmental purposes.

#### **4.5 Interviews**

Interviews were conducted as part of the data collection. In this section all five interviews will be analysed.

The first interview was with Vivegie Naidoo who is the senior town planner responsible for administering the Cliffdale area. The purpose of the interview was to understand the experience with use the scheme and its approaches in comparison to Standard Town Planning Schemes.

The second interview was held with Fanie Moyo (Ward Councillor) to gain information relating to his experience with using the scheme.

The fourth interview was held with Trafford Peterson (eThekweni Environmental Branch) who was responsible for investigating options for incentives for applying environmental zoning to private owned land. The purpose here was to find out more how incentives could be used to compliment the scheme in the enforcement of the environmental controls.

The fifth interview was with Cathy Ferguson (The Planning Initiative) to gain an understanding of the research work she undertook in respect of the revised KZN LUMS Manual and other related environmental management guidelines. This information was needed to assess the environmental component of Cliffdale scheme.

The last interview was with Ron Bennett from the Department of Agriculture regarding the assessment of agricultural land and incorporation of suitable agricultural based zoning in Land Use Schemes..



#### **4.5.1 Interview with Vivegie Naidoo, Senior Town Planner, Planning & Development Department, eThekweni Municipality**

This particular official, although not party to the preparation of the original Land Use Scheme for Cliffdale, has been responsible for the area in the last five years and administering the scheme and dealing with development queries and advice. The official was asked to comment on her experiences with regard to the particular approaches that were applied to the Cliffdale Scheme, which are listed below.

- **Environmental Controls**

In respect of the environmental controls contained in the Cliffdale Land Use Scheme, Miss Naidoo was of the opinion that the environmental ecosystem overlay areas is useful as it provides clear guidance whether a particular development area is affected by a partially or functional ecosystem area. Unlike the DMOSS areas which in the past were treated as "no go" areas, the environmental layer for Cliffdale separates the highly sensitive areas from the moderate important areas and allows certain development to occur subject to conditions and within guidelines. She also mentioned that the environmental assessment that was done for Cliffdale that informed the preparation of the environmental layer and it's associated controls also had an environmental management plan prepared. The purpose of the latter was to give guidance to developers and landowners who would become subject to development approval conditions that require them to carry out certain ameliorating activities to avoid any negative impact on the environment. The Land Use Scheme however does not make mention of the environmental management plan and therefore fails to make the matter aware among members of the public who would access the Land Use Scheme. The latter was of particular concern when dealing with conventional Town Planning Schemes, in the sense that most of the thinking, rationale and intentions/purpose of the author of a

Town Planning Scheme in developing land use management controls are not always captured or referenced in Town Planning Schemes. Unless one was party to the preparation of the scheme, which in the case of Cliffdale no one at Miss Naidoo's office were involved, certain information or references to other source documents are lost.

The final comment made by the official, was the acceptance of the environmental layer by land owners and developers. In Cliffdale large portions of properties are affected by the environmental layer, thus causing landowners to loose a percentage of their development rights on the property that are granted by the zoning. There was concern raised by land owners and potential developers, that the municipality would need to consider certain incentives to encourage landowners to comply with the environmental management plan and consider a loss in development rights for the sake of the environment. Without considering some form of incentives and the current lack of enforcement at the municipal level, the environmental layer will not achieve its purpose.

- **Special Management Area**

Miss Naidoo alluded to two incidents where the Special Management Area (SPA) controls were applied. The first was to do with an unauthorised trucking scrap yard that occurred on a site adjacent to the freeway and the main entrance to Cliffdale. The matter reverted to legal action, which was successfully resolved by applying the principles behind the SPA in respect of protecting the area from any development that would cause a negative impact on the visual amenity of the area. The second matter related the construction of a fireworks magazine also within the area demarcated as a SPA. Through the SPA controls, the officials managed to apply conditions to the building plan approval that appropriate natural screening must be provided to tone down the visual impact of the building.

In both cases, although the current zoning allowed certain developments to occur, SPA controls provided additional control to manage development along the freeway. Miss Naidoo was further of the view that the SPA controls do not provide adequate guidance to official as to how to treat development applications in view of visual amenity, which is such a highly subjective matter. There is no guidance given in the Land Use Scheme on how applications in terms of the SPA clause should be lodged and processed nor any statement provided as to the purpose why the visual amenity of the area should be protected.

- Roads provision

On the issue of demarcating road reserves for future new roads and road widenings, Miss Naidoo emphasised that most conventional Town Planning Schemes were outdated with either road provisions indicated on the Town Planning Schemes Maps that were no longer required or the rationale of providing a new road were not known or made known by draughting its intentions in the scheme clauses. This resulted in an official being unable to make an informed decision when considering sub-divisional applications in respect of whether such subdivision should be accommodating the required road provisions or not.

Miss Naidoo further explained that with the Stockville Town Planning Scheme, a Road Plan was developed that informed the provision of future roads in the preparation of the Town Planning Scheme. The Plan although it was not draughted into the Town Planning Scheme as originally intended, provided a supplementary source of information in the form of a guiding document that would guide the provision or road reserves for new roads and road widenings. The guiding document also allowed for revision and changes to be undertaken to the Plan without going through full statutory procedures if it was included in the scheme clauses. The Road Plan was of particular useful in areas



where zoning allowed for areas to be densified through smaller sites sizes as it provided guidance to officials and developers to allow for sufficient road provision in developments.

- Community Facilities

Miss Naidoo indicated that the Land Use Scheme, similar to the problem with the Road Plan, does not make reference to the required future community facilities that are recommended in the Local Development Plan. Unless an official is aware that this information is available in the LDP, provisions for community facilities would not have been made through the application of the scheme. She further suggested that the scheme clauses should make reference to the LDP to assist in taking decisions and considering development applications.

- Special Zone

When responding to the questions whether the Town Planning Scheme has been applied to the informal settlement areas of Clifdale, Miss Naidoo responded that the scheme provides very limited guidance to such areas as there are no clear development framework or settlement plan adopted. In terms of the Town Planning Scheme, all uses are by "Consent from the Development Forum<sup>7</sup> and the Local Authority" until such time as a development framework plan are prepared. She further stated that the Ward Councillor had concern that these areas were not fully intergraded in the Clifdale Scheme and do not enjoy the benefits it can provide such as regularising the area. As no applications or queries were forthcoming from these areas, Miss Naidoo was not concerned that the scheme has no appropriate development controls.

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<sup>7</sup> Development Committees or Forums are elected representatives of a community that are elected to serve on a Committee to deal with development related matters on behalf of the community. Development Forums are similar to Ratepayers Associations found in more urban formal areas.

- Agriculture

The only comment made by the official with respect to agricultural zoned land was that most Town Planning Schemes such as the Outer West Town Planning Scheme generally apply a blanket Agricultural zoning to areas where development was uncertain. With outdated Town Planning Schemes, many of such areas are under pressure for conversion. Town Planning Schemes made no concerted effort to protect agricultural land.

#### **4.5.2 Interview with Cathy Ferguson, Town Planner, The Planning Initiative**

Mrs Ferguson indicated that the research work on the revised LUMS Manual was prompted by the reason that the original work was undertaken in a time of significant uncertainty and change with respect to Land Use policy and legislation and that various Municipalities have had the opportunity to test out the approach and explore the use of the 2001 Manual. In respect of the Cliffdale approaches that was explained to Mrs Ferguson, the revised Manual had not changed significantly.

The research work done on "Guidelines for Environmental Management Mechanisms for Inclusion in Planning Schemes" mainly recommended an environmental guidelines database to assist municipal officials in assessing development application that had an impact on environmental zoned areas. The research findings also captured and refined the previous research work that was done by Kerry Seppings in the environmental assessment of Cliffdale.

#### **4.5.3 Interview with Trafford Peterson, Environmental Officer, eThekweni Municipality**

In debating the matter of using environmental related controls in Land Use Schemes to regulate the environment, this official first eluded to the fact that the most critical problem lies with the municipality's rating policy in regard to the high rates placed on vacant land. With the amalgamation of the valuation rolls and the application of a common rates policy across the municipal area, the effect has been to penalise landowners, some of whom wish to conserve

environmentally sensitive land, especially in outer areas of the city such as Cliffdale where development demand in most areas is low. As a result this perverse incentive to develop all vacant land is in some cases leading to environmental damage and is threatening the ability of the city natural resource base to provide a sustainable supply of environmental goods and services.

The official further continued to explain that in March 2003 the Municipality adopted the eThekweni Environmental Services Management Plan as the guide for the future planning and development of the open space system in the municipal area. A spatial footprint demarcating the environmentally sensitive land in the city as published as part of the Plan and as a layer within the Spatial Development Framework of the City's Integrated Development Plan. The value of the environmental goods and services (e.g. flood attenuation, firewood, medicinal plants and clean water) that the open space system supplies has been conservatively estimated at R3,1 billion per annum. The protection of these services is essential to the sustainable development of the City and is recorded as a key contributor in the IDP to ensure City sustainability. It was further mentioned that Ezemvelo KZN Wildlife, who are the Provincial authority responsible for, inter alia, biodiversity conservation planning and management, have also conducted planning exercise and identified a number of "irreplaceable" sites, around the province of KwaZulu Natal, which need protection in order to achieve strategic, provincial conservation objectives. Some of these sites are located within the eThekweni municipal area. The only means of encouraging the use of environmental controls and management objectives in Land Use Schemes is for the municipality to either consider amendments to its rates policy or making provision for incentives.

When the official was asked about the effectiveness of the environmental controls itself as they are contained in the Cliffdale Land Use Scheme, he responded that although he was aware of the environmental layer and its associated controls and how they are applied, they have to date not experience its use due to lack of development applications forthcoming from Cliffdale. However the official was of the opinion that the system could be

further improved if the reasoning behind the development and environmental controls are documented.

#### **4.5.4 Interview with Councillor Fanie Moyo, Ward Councillor, eThekweni Municipality.**

An attempt was made to interview the chairman of the Bux Farm Development Forum and the ward councillor simultaneously on the issue of scheme control for the informal settlement areas. However the Chairman unfortunately was not available at the time of writing this dissertation. The councillor had advised that due to political tension the forum had disbanded and most of the members who were involved in the scheme preparation had moved out of the area. The interview was then continued with the councillor who was present at the time when the Town Planning Scheme preparation was undertaken.

The councillor alluded to the fact that the community was excited at the time when the scheme was prepared which included the informal settlement areas. For them it was understood that the Town Planning Scheme lead to their presence there being accepted by Council and the broader community of Cliffdale and that it would add value to their area being formalised and upgraded in the long run. The councillor was further of the opinion that it was a pity that the conceptual Framework Plan for the Bux Farm area were not adopted as part of the scheme as originally intended. Although Bux Farm is an informal settled area, the plan would have encourage the community to order themselves so as to ensure harmonious and integrated settlement of the area and to adhere to a common vision. The scheme controls therefore were not seen as a restrictive mechanism that would have been there to control development, but rather giving guidance and facilitate as to the future development of the area. This would have assisted and made any future upgrading of the area much easier to implement. The current scheme control provides no direction in this respect.

The other concern raised by the Councillor, was that landowners of formal properties who expressed interest at the time of preparing the scheme for Cliffdale, to include environmental related controls in order to help conserve

environmental sensitive areas. However, with the recent amalgamation of valuation rolls, property rates have increased significantly for areas such as Cliffdale in order to bring it inline with the remainder of the municipal areas. This has caused the management and conservation of environmental areas to become less viable for landowners. What is needed is an incentive programme to assist the scheme with its environmental objectives.

#### **4.5.5 Interview with Ron Bennet, Provincial Department of Agriculture & Environmental Affairs – Natural Resource Section**

Mr Bennet was asked to respond to a question of whether his department was aware of the LUMS Manual and what contribution the department was making towards the LUMS System in view of the wall-to-wall municipalities that are now in place. Mr Bennet alluded to the September 2004 national workshop that was held to consider the preparation of national uniform norms and standards with respect to the subdivision and change of land use on agricultural land. The intention was for such norms and standards to be included in municipal LUMS systems, more specifically now that all agricultural land will be subjected to Land Use Schemes. Although, Act 70 of 1970 is still applicable, it's a question of how the department's concerns over agricultural land are accommodated in the Land Use Schemes. Mr Bennet further explained that the department has been making an attempt to classify types of agricultural land in view of preparing and recommending a range of agricultural type zoning based on agricultural potential of the land. The department was less concerned about land that has low and moderate potential and Mr Bennet was of the opinion that Land Use Schemes should provide the tools for municipal officials to make decisions on agricultural land use conversion. The high potential agricultural areas should however be strictly protected where the department retains the right to make the final comment and decision on land subdivisions and change of land use that affects such areas.

Mr Bennet concluded that the process should start with the municipal IDPs where the department should be actively participating in identifying the various land potential classes. Although the classes are based on the broad Bioresource Units, some municipalities or certain areas within a municipality

that are experiencing development pressures, could undertake their own detail agricultural assessment to guide the preparation of Land Use Schemes.

## **CHAPTER 5**

### **SYNTHESIS OF RESEARCH FINDINGS AND RECOMMENDATIONS**

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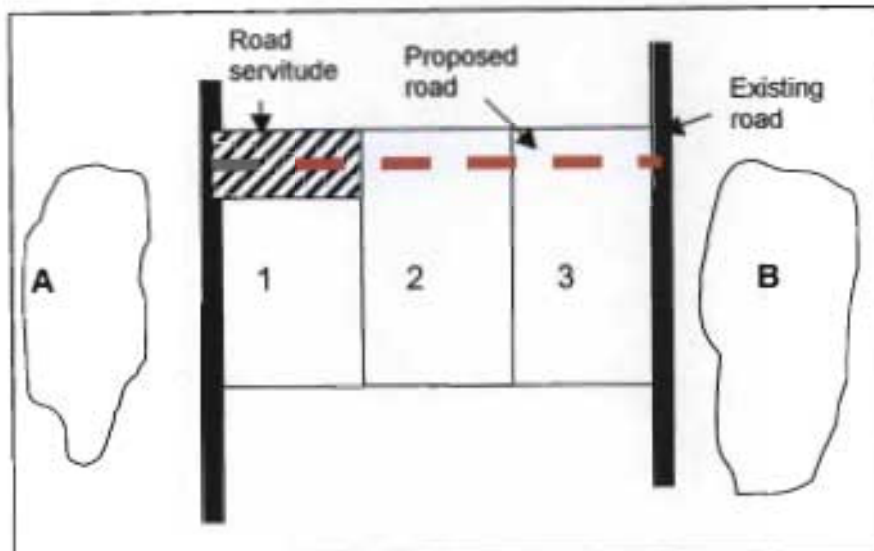
#### **5.1 Introduction**

The main objective of this chapter is to consolidate all the informing concepts, theories, and issues and test them against the empirical findings. Thereafter, an improved application for the case study will be suggested.

#### **5.2 Provision for Road Requirements**

In the case study of Stockville Valley a fully comprehensive Road Plan was produced as part of the LDP of the area. The Road Plan was intended to be used in the amendment of the Town Planning Scheme and provided useful guidance in respect of a rational and efficient circulation system that had to be accommodated in the scheme. Provision of roads has always been an integral part of the existing Town Planning Ordinance type of Town Planning Schemes. However, such roads, whether they be a new road, road closure or road widenings, were only provided on Town Planning Schemes Maps in the form of notations in the event of a municipality having intentions to carry out such works within a 5 year period. It did not provide an overall guidance in support of any forecast growth and physical development proposals of an area. Recommendations for new roads were left up to developers to put forward proposals or it was assessed on an individual subdivisional application basis. The result is that it does not give the municipal officials a holistic and integrated view on road requirements for a scheme area. More recently the eThekweni Municipality has produced an Integrated Transport Plan and Road Master Plan based on a 20 year vision. However the former plan only focuses on areas where high priority public transport networks exist and the latter plan mainly provides a future scenario in terms of major arterials and main community access roads. It does not provide much local guidance in respect of areas such as Cliffdale.

**Diagram 5: Diagrammatic Example of Future Road Provision**



For example, it might be an overall long term objective to link community A with community B in order to improve transport circulation or overall vehicular circulation to accommodate future growth of an area. In most cases, the construction of public roads requires it to traverse multiple properties in order to reach its destination such as in property 1, 2 and 3 above. The most effective way for a municipality to acquire land for road purpose is through subdivisional approval conditions, which entitles the municipality to impose conditions upon landowners to register road servitudes either in favour of the municipality or to transfer a subdivided road reserve into its ownership. The construction of the entire road however could only occur when the municipality has acquired the land for the entire length of the road especially where different owners own the properties. In cases where the above three sites are being developed jointly, a developer would generally construct the entire road to the satisfaction of the local authority which is then transferred to the municipality's ownership for future maintenance thereof, assuming such road serves as a public road.

Without a Road Plan that alludes the official of the objective or provides guidance in respect of the proposed alignment of the link road, a planning official responsible for assessing a subdivisional application lodged for Site 1, for example, might not consider imposing a servitude condition. In the long term when the need arises for



such a road, then the local authority has to undertake a cumbersome and expensive land expropriation process in order to acquire the land for the road purpose.

In Stockville there has been pressure placed on the municipality to take ownership of those roads, which were accepted as being "public roads" in view of maintaining and upgrading such roads. In terms of the Local Authorities Ordinance, local authorities may only maintain and upgrade roads that are defined as public streets and which road reserves and servitudes are registered in their favour. As most of the roads and even public accepted roads did not have any servitude registered over them, it was crucial that the Town Planning Scheme took this into account into noting on the scheme plan which existing roads will be considered as public streets. Guidance was therefore provided by the ownership status quo that was undertaken of all the roads in the Road Plan.

In an Appeal of Stockville residents versus the Outer West Operational Entity of the eThekweni Municipality for the inclusion of land reservation for the proposed MR360/1 freeway in the proposed Stockville Town Planning Scheme Map, the Appeals Board ruled in favour of the residents who objected to this inclusion. The Board were of the opinion that unless the municipality had intentions to construct the road within a 5 year period commencing from the date of adoption of the Town Planning Scheme, then such road reservations should not be accommodated in the scheme. To have such a road reservation especially for a freeway, it was felt that affected landowners could not be burdened by not knowing when the construction of the freeway would commence. Property values will constantly be under threat until such time as the freeway is completed.

In the case of Cliffdale, attention was mainly given to existing road reserves with priority recommendations to close certain unwanted road servitudes. Whilst such servitudes were already in the ownership of the municipality, the "5 year period" principle would not apply.

From the Stockville precedent it was further learned from this case study that when preparing Town Planning Schemes for semi-rural and rural areas that were not previously subjected to Town Planning Schemes, it would be important to assess the status quo of the roads in respect of ownership and legitimacy. In the new Land Use Management Manual, transportation type zoning are allocated to roads such as:

Transportation and Access, Existing and Future Roads and Existing and Future Movement Corridors. It is therefore imperative that the status of road reserves are known before a municipality allocates such zoning to them.

In terms of the Local Authority Ordinance, municipalities are responsible for the maintenance of all public roads. In order to take on this responsibility it is necessary to gain a clear understanding of the current status quo ownership of all existing roads situated within a scheme area. A Local Road Plan would thus facilitate a rational and efficient circulation system and would also guide municipal officials in assessing future development applications and allocation of future budget towards the maintenance and upgrading and restructuring of roads. The Plan should therefore be an ultimate road plan indicating the road network recommended to serve the entire area based on zoning densities as contained in Land Use Schemes. In preparation of a Local Road Plan for areas where the status of roads are unknown the following elements should be addressed:

- Status quo and ownership of existing roads and road servitudes;
- Road needs of existing community;
- Assessment of future developments of the area based on the IDP and Town Planning Schemes to produce a long term potential for the number of erven that may eventuate within each particular land use zoning;
- Future traffic volumes to be forecast on the basis of the estimated future development potential of the area under the existing or proposed zoning scheme;
- Environmental considerations;
- The determination of road standards to be used in the design of the road hierarchy and layout alignments;
- Topography and geotechnical constraints;
- Design of alternative road alignments, widening of existing roads and provision of road servitudes;
- Undertaking consultation with Provincial Transport Departments, Local Authority and community representative structures.

The final Road Plan should preferably be considered as a supporting document that the Land Use Scheme should allude to or be inserted into the scheme clauses as an

annexure. Notations of the Scheme Map can also be used to inform readers of the road provision requirements.

As with environmental considerations, the LUMS Manual, 2004 recommends that Land Use Schemes must be aligned with transport considerations as well. The National Transport Policy promotes:

- Establish structures to facilitate integrated planning;
- Regulate land use development at a local level so that development approval conforms with integrated land use and transport plans;
- Serve travel needs of differentiated customer base with full cost recovery as far as possible – minimize need for subsidization;
- Integrated, cross-modal Transport Planning;
- Explicit commitment to putting public transport first;
- Channel development into public transport corridors and nodes;
- Give priority to infilling, densification, mixed land use, promotion of corridors and nodes;
- Containment of urban sprawl; and
- Discourage decentralization that disperses employment generating activities except if this decreases total transport (LUMS Manual, 2004:58)

Although Cliffdale currently has no public transport, the Scheme has fulfilled some of the policy requirements of promoting corridors and nodes with allocation of mix use zoning and higher density rights along such routes.

### **5.3 Future Community Facilities**

This dissertation has not dealt with the issue, in depth, of the provision of or making allowance in Land Use Schemes to introduce community facility needs as it is mainly in subdivisional and township establishment approval conditions where land for this purpose is made available. Generally, when a township is planned, whether it be for low cost housing areas or conventional middle class subdivisions, land in terms of planning design standards are always set aside for community use purposes such as schools, worship, play lots, etc. The amount of facilities required are based on design criteria's and depends on the total population that will reside in the township. The problem however, especially in the upper high-income bracket areas, is the

trend of large portions of land that are being subjected to "lifestyle development" that results in "gated" communities. Such private developments do not set land aside for community facilities, and if they do, it is mainly for the private use of the residence only who reside in the estate.

A similar approach to that followed with respect to road requirements could be applied by making use of symbols on scheme maps to notate the approximate and desired location of future required facilities that need to be provided. However the "5-year principle" would apply again and unlike the location of future roads, which are determined by engineering standards, the notation of community facilities on private land could be contested by landowners with issues of compensations and rates rebates being raised.

Existing Town Planning Schemes such as in the case of the former Cato Ridge Town Planning Scheme, made use of symbols on the scheme map that noted future required facilities such as parks and municipal/government facilities. It also indicated symbols where future residential growth and industrial areas would be permitted in the scheme area. Such symbols however were only applied to large farm areas and vacant land, which had an undetermined, or blanket residential zoning allocated to them. Such areas would be subjected to future township developments and through subdivisional requirements land would be set aside for the required facilities. The new LUMS Manual is silent on this matter and does not make reference to facilitating the need for future facilities.

It is therefore similarly required that the Land Use Scheme of Cliffdale should make reference to the requirement of future facilities, either as an addendum to the scheme clauses, or reference made to the Local Development Plan of the area. An alternative approach would be to apply the facilities requirements as an "Overlay" onto the Land Use Scheme Map until there is certainty of its location and then include it with appropriate zoning in the Land Use Scheme.

#### **5.4 Special Management Area**

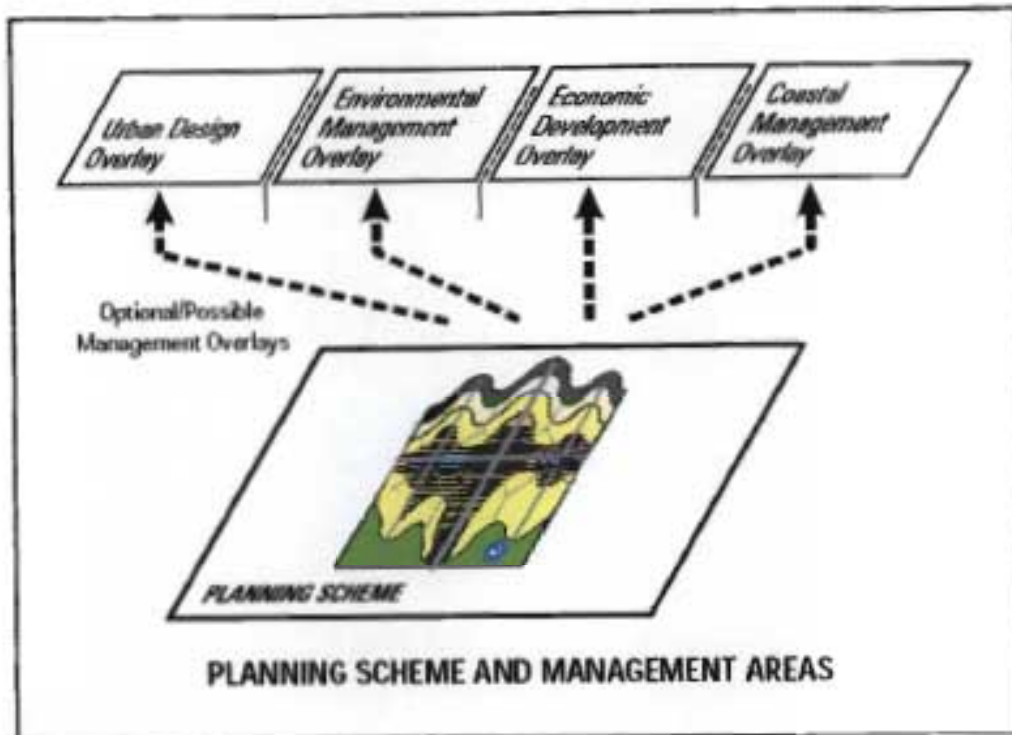
The LUMS Manual defines Special Management Areas as: *"an area of land, which has a distinct set of policy guidelines or statements of intent which influences and facilitates its development in a unique or specific manner. Management Areas may*

*be shown spatially using an overlay to the Planning Scheme Map, and should be linked to a series of management controls or policy statements in the Planning Scheme. Management Areas need not be linked to cadastral property descriptions and may cover small or large areas of land".* An example would be areas with specific urban design requirements, which differ from the standard Zone controls that may be introduced through an overlay.

Each area identified on the Management Overlay will require a Management Plan which will require an extended template that sets out the policies, Statement of Intent, and management controls for the particular area. Such Management Plans contain the detail of how a Management Area will be developed and managed that can be used:

- To elaborate the visions or policy statements for particular areas to differentiate them from surrounding areas
- To provide general and/or generic guidelines for particular types of development
- To provide area-specific schematic plans for particular areas or developments
- To serve as an Environmental or Conservation Management Plan for an area
- To manage detailed area-specific development plans.

Diagram 6: Example of different Management Area overlays.



(KwaZulu-Natal LUMS Manual, 2001: 23)

The draft Regulations of the Planning and Development Act also alludes to the process of designating Special Management Areas that requires the preparation of a Statement of Intent indicating the purpose and management of the area. It is such policy statement that was absent in Cliffdale that made the administration of the scheme difficult as was raised in the interview with planning officials from the municipality.

In respect of the Cliffdale Land Use Scheme, the Special Management Area did not require a Management Plan, as the aim was merely to protect the area against any developments that may impose negative impact on the visual amenity of the area concerned. In the case of the legal action taken against the unauthorized "truck scrap yard" business has proven the Special Management Area to be useful tool to manage land that require additional control over and above that is provided or lack thereof in the zoning of the land. However, if there were clear guidelines or policy statement, it might have prevented the case going through a legal action, as the contravening parties would have been better informed.

Current Town Planning Schemes does not have the ability to make provision for Special Management Area approaches where one intends applying special controls only to a portion of an area that is zoned for Residential for example. The only provision it makes is Special Zones. However such zones are generally applied in instances where a proposed land use differ from the standards zones, or which does not warrant the establishment of a separate Town Planning Scheme.

To assist municipal officials in considering development applications that are lodged in SPA areas, the following standard clause could be included in Land Use Schemes:

- (1) The character, design and external appearances of buildings, including the material used in their construction shall be subject to the approval of the local authority, and no building may be erected without the approval of the local authority.
- (2) In considering any applications the local authority shall have regard to the character of the locality in which it is proposed to erect such building and shall take into account whether or not the building will be injurious to the amenities of the locality by reason of its external appearances or the materials it is proposed to use.
- (3) Any person intending to alter, extend or erect a building shall submit drawings to the local authority as set out in Clause X with whatever other indications the local authority may require, showing the external appearances of the proposed building together with a description of the materials to be used.
- (4) The local authority shall consider and approve the application either with unconditionally or subject to such conditions as it may deem fit, or it may refuse to grant the application on the grounds that the external appearances of such building is acceptable.
- (5) Any applicant aggrieved by the decision of the local authority shall have the right of Appeal to the Appeals Board.

(6) Where any community is desirous, having regard to the character of the locality in which that community is situated, of requiring a minimum residential unit size, unit style or external construction material it may, subject to its demonstration of being fully representative, form a Home Owners Association for a clearly demarcated area and apply to the Council for recognition and for those standards to be imposed. Where a Home Owners Association is recognised by the Council, the Home Owners Association shall within a reasonable period scrutinise any building plans prior to their formal submission to Council.

Latter puts the onus on the HOA to make decisions in view of it being a subjective issue. (Consolidated Outer West Town Planning Scheme, 2001)

Procedures for the establishment and administering of an overlay zone can also be considered for inclusion in scheme clauses. The Cape City By-laws provided the following 'General Provisions Regarding Overlay Zones':

- Objectives: The Council may prepare, review and amend zones for specific areas in the municipality with the objective of:
  - a) Giving expression to the local needs and values of the communities concerned in a planning context;
  - b) Promoting development and responding to current urban realities in a particular area, without materially compromising environmental quality; and
  - c) Responding to particular types of development, urban form, landscape character or environmental features.
  
- Procedures for Management Overlays: If Council intends to adopt or amend, an overlay zone, the municipal manager must:
  - a) Cause the proposed adoption or amendment to be advertised in accordance with the public consultation policy of the Council, affording interested parties the opportunity to submit written comments or objections to the municipal manager within a



- period of not less than twenty one days from date of such advertisement;
- b) Obtain the relevant comment of any public institution which, in his or her opinion, has an interest on the Management Overlay area concerned;
  - c) Submit the proposed Management Overlay area or amendment, and all relevant documentation to the Council for consideration and a decision;
  - d) Notify all persons who submitted comments relating to the adoption or amendment of the overlay zone within the prescribed period, of the Council's decision; and
  - e) Make known the adoption or amendment of any overlay zone by publication of a notice in the press, confirming at which municipal office the overlay zone may be inspected by interested parties.

## **5.5 Environmental Management**

The environmental management mechanisms used in Cliffdale departed significantly from existing Town Planning Schemes to the extent that it moved away from open space reservations to environmental service zones and introduced the concept of an Environmental Management Overlay. At the time of undertaking the work it was argued that Land Use Schemes should be based on a full assessment of the environmental services required for the sustainable development of the area. Fortunately for Cliffdale, the area is situated in a municipality, which has had a Metropolitan Open Space System, first prepared in 1979 which has evolved over time. Most municipalities do not have the benefit of a MOSS system and would have to rely on the C-Plan information from KZN Wildlife. The latter is a product from the Ezemvelo KwaZulu-Natal Wildlife who have produced GIS based mapping that identifies 'irreplaceable areas' which are critically important to the survival of certain species within KwaZulu-Natal and cannot be lost, and 'negotiated areas' that are very important conservation areas. Sustainability of development is essential to consider and/or conserve the environment. Planners must focus on ensuring the ability of the environment to provide the necessary services to sustain development. As Land Use Schemes are concerned with the use and development of land, it is critical that issues of sustainability and environmental service provision are

considered in Scheme preparation. It is also important for environmental policies and requirements that affect the use and development of land to be explicit. These policies and requirements should be written into the Scheme where appropriate. The alignment of Land Use Schemes with environmental considerations must occur when preparing the SDF and then followed through in the preparation of the Scheme. Environmental issues should be included in the overall policies, statements on intent and in all individual zones and not only the environmental zones. The work undertaken by KZN Wildlife will be incorporated into the requirements of the Bio-diversity Act, Act No. 10 of 2004 and Protected Areas Act, Act No. 57 of 2003. The Bio-diversity Act requires the preparation of a national bio-diversity framework. It provides for the determination of a geographic region as a bioregion by the provincial minister as well as the publication of a management plan of bio-diversity for the bioregion. The Act stipulates that a national bio-diversity framework, bioregional plan and bio-diversity management plan prepared in terms of the Act may not be in conflict with any IDP or SDF that has been prepared. They must align with existing IDPs or SDFs. Areas defined in terms of the Protected Areas Act must also be incorporated into Scheme preparation and management. (LUMS Manual, 2004)

The current Town Planning Scheme model only caters for public open spaces in the form of active and passive recreational areas that are reserved for such purposes only. Reserved areas are mostly owned by the state or local government as local authorities are obliged to purchase the land within a 5 year period or enter into an agreement with the land owner within this time. Reservations generally contain no land use or density controls. It therefore provides limited scope to be applied to other types of environmental areas, especially the sensitive types that are found on private owned properties that require specific management.

The LUMS Manual (2001) describes that “ *a municipality may wish to make use of an overlay to depict an area of environmental importance or an Environmental Service Area:*

- *Where it is impractical to zone an area as an environmental zone due to existing zones that are in place.*

- *Where it is appropriate to zone an area for a particular use, but where additional controls are required to sustain the provision of specific environmental services in an area”.*

The preparation of the overlay can be informed by the full set of environmental informants listed here under as defined in the LUMS Manual: (Such informants were also used in the preparation and determination of the Clifffdale Environmental Management Areas)

- 1: 50 year and 1:100 year flood lines;
- Catchment areas;
- Bio-diversity GIS system;
- Bio-Resource units and Ecotypes (areas of agricultural potential);
- Core conservation/fully functional ecosystems providing a full complement of ecological services;
- Links between core areas/partially functional ecosystems;
- Isolated portions of the open space system which are not linked to the other areas, but which provide important stepping stones in the overall ecosystem.
- Areas where urban agriculture may or may not occur;
- Areas where the harvesting of indigenous vegetation may or may not occur;
- Important View Sheds;
- Coastal management areas;
- Other elements that a municipality may identify in an Environmental Management Plan e.g. sites of cultural or ecological significance. . (LUMS Manual, 2004)

The use of an overlay implies that there will be a parallel element of management applied to the area depicted on the overlay. The management choice may in some instances be to undertake no or little management, however this is a conscious decisions when using an overlay, not an oversight. The area depicted on an Environmental Management Area overlay does not have to be cadastrally defined. It may be based on other factors such as the extent of a floodline or the extent of a particular important habitat as was done in the case of Clifffdale.

An Environmental Service Overlay should be linked to a schedule that lists the following:

- Purpose of the management area overlay;
- Categorization of areas;
- Environmental significance, ecosystem service provided, and objectives;
- Development requirements for each area depicted on the overlay;
- Decision guidelines. (LUMS Manual, 2004)

Some of the reasons for the categorization of areas are as follows:

- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with the sustainable provision of environmental services identified for an area. (LUMS Manual, 2004)

Seppings, et al, 2001, in a research on "Guidelines for Environmental Management Mechanisms for Inclusion in Planning Schemes" recommends an advancement of the previous environmental related controls prepared with respect to Cliffdale. The areas that were previously depicted as Functional or Partially Functional on the overlay could be categorized as follows:

• ***No development:***

The area provides, or potentially provides, important environmental services within extremely fragile/sensitive ecosystems. (This would include Protected Areas such as National Parks or Nature Reserves)

• ***Environmental education and eco-tourism development only:***

The area provides, or potentially provides, a full range of environmental services within a fragile ecosystem (including Natural Monument/Heritage area, Private Nature Reserves).

• ***Development with full environmental assessment:***

The area provides, or potentially provides, a full range of valued services (including Protected Landscape Areas). Development permitted subject to rigorous environmental assessment, project environmental management plans, and mitigation measures.

• ***Environmental service interface area:***

Area providing, or potentially providing, a critical ecological support function to the above three areas to sustain the environmental service provision of these areas. Development managed through specific development requirements and EMPs.

- ***Other areas identified as providing environmental services not covered above.***

Linked to each component would be a set of specific requirements to manage land use within those areas. These requirements could be documented in a specific Environmental Management Plan for an area which is referred to in the scheme, or listed in a template or a set of clauses within the scheme. (Seppings et al, 2001)

Map 6: Cliffdale Environmental Service Overlay Map



Much in terms of case studies and the LUMS Manuals has been covered with respect to refining the way environmental management controls can be accommodated in Land Use Scheme clauses and be reflected on Land Use Scheme maps. Through this dissertation it has been learnt that there is an opportunity not just to impose environmental management controls, but also to build in the sustainable management and maintenance of environmental areas responsibilities especially on private land owners where most of such areas are contained. With the lack of capacity at a municipal level, officials area ensuring that recommendations of the environmental management plans are included in the conditions of approval for development applications.

The new Land Use Management System does away with the concept of reservation and incorporates Zones, Districts and Overlays. The implication is that the municipality would not necessarily have to purchase all land set-aside for environmental service provision. However in seeking approval of a new Land Use Schemes or the review of an existing scheme the municipality would have to seek agreement from private landowner to the proposed zoning or overlay. If this agreement were not obtained the landowner would have the right to object to both the municipality and to an Appeal Tribunal. If any exiting rights were being taken away from a landowner the environmental arguments would have to be very strong for the proposed zoning to be upheld at an appeal. The issue of compensation would also undoubtedly be raised as the inclusion of an open space system overlay is perceived as lowering the developability of the land and therefore market value.

In Cliffdale, the communities welcomed such environmental related controls mainly because they rely on the environment to sustain their agricultural activities and for daily survival livelihoods. Some might argue this point that such rural communities that were not exposed to Town Planning Schemes before might not know any better. Certainly in other development proactive communities such restrictions would not have been accepted without considering some form of incentives. The most critical issue though with respect to environmental management overlays that places more onerous restriction on properties, is the consideration of incentives to ensure that such controls are accepted by the majority that are affected, which are private landowners



In the precedent set by the Cape Nature Conservation, various stewardship programmes can be considered. However, it requires intervention and assistance from parastatals as it can place further administrative burden on already under capacitated municipalities.

As neither a Municipality nor a Province can afford to purchase and manage all environmentally sensitive land identified within a municipal area's approved open space plan and the provincial biodiversity plan, the challenge is to develop incentives for private land owners to contribute to agreed environmentally and biodiversity conservation (or sustainability) objectives on their land. Property taxes are the easiest form of incentive that the municipality can implement with little intervention from outside stakeholders and with minimal administration procedures without significantly undermining income streams.

In order for landowners to qualify for consideration, the following recommendations can be put forward:

1. An applicant must meet certain stringent criteria (see Appendix 17).
2. The applicant must also be prepared to enter into a contractual agreement (See Appendix 18) with the municipality, which includes the registration of a conservation servitude over the affected land, with appropriate restrictive conditions, resulting in a reduced property value.
3. Environmental management objectives must be established for the land in question.
4. On this basis the municipality's Real Estates Department can conduct a revaluation of the affected property.
5. Provided that commitment to environmental management is ongoing (this will be monitored by the municipality), the contract will remain in force. The contract provides for termination if the landowner fails to implement the requirements outlined in the contractual agreement and environmental management plan.
6. The net result will be a reduced property tax bill and an increased incentive to protect environmentally sensitive land.

In the interview with Trafford Peterson from the eThekweni Environmental Branch, point 2 above, was further debated with respect to the registration of conservation



servitudes. The registration of conservation servitudes have been piloted in the Outer West Region of the eThekweni Municipality with the approval granted for subdivisional applications where it was in the opinion of municipal official with guidance from the Environmental Branch that such properties contained environmental sensitive areas or were affected by DMOSS. Such approaches were generally followed in absence of Town Planning Scheme areas containing any environmental layers and guidance. The one problem with such servitudes lies with the Private Township Board's requirements, which states that such servitudes must be registered in favour of the municipality. This raises the question of who takes responsibility for the management and maintenance of the servitude area. The purpose of registering the servitude in respect of the property tax incentive tool is to clearly demarcate the affected area on the property diagram, which is not always accurately indicated on Town Planning Scheme maps in cases such as Cliffdale with its environmental overlay. Environmental Management Overlays can effectively be applied in two ways:

- i) using the broad CPLAN or DMOSS of eThekweni for example and applying it to a Land Use Scheme, or
- ii) using a more refined environmental assessment based on local areas conditions as was done for Cliffdale.

The servitude determination would require an on-site assessment using either of the two above mentioned layers as a guidance to finally demarcate the affected area. The servitude also provides ongoing environmental management security especially when properties are transacted. If the environmental management responsibilities were to remain in Scheme clauses only, most new owners would not be aware of it as in most cases new owners do not consult municipal bylaws and Town Planning Scheme controls prior to purchasing properties that might affect their properties. The contractual agreement mentioned in point 2 above also makes allowance for landowners to be responsible for the management of the servitude area in accordance with provisions of a management plan that is prepared.

The inclusion of environmental management mechanisms into Land Use Schemes and incentive tools as part of an overall Land Use Management System is therefore important for a number of reasons:

- The process makes environmental policies explicit and therefore removes frustration on the part of both officials and the public in dealing with environmental issues in the development process.
- It provides a framework for prioritising environmental issues and therefore applications in an area.
- Its also provides a useful tool for managing the provision of environmental services in an area which is imperative in order to keep servicing and maintenance costs within acceptable limits and to ensure the services provided are sustained future generations.

The approach of integrating environmental management mechanisms with incentive tools outlined in this dissertation, would be of benefit to:

- Officials at a local, metropolitan, district and provincial level in the preparation and review of Town Planning Schemes, scheme approvals and the assessment of development applications.
- Developers who will be made aware of environmental issues for example at the outset of the development process and who, by having access to the reasoning behind certain development controls can participate in the process and contribute to win-win development approaches.
- Consultants advising both government and the public who will have access to explicit controls, policies and decisions guidelines.
- The general public.

To ensure the successful incorporation of environmental issues into Land Use Schemes there are a number of crucial success factors that need to be in place including:

- Sufficient environmental information or sufficient resources to collect it.
- Specialist resources within the municipality or sufficient resources to access these resources to provide the analysis of the environmental services and issues.
- Acceptance of environmental services provision as being critical component of the sustainability of our urban and rural areas, especially the sustained production of food resources.

- The documentation of all policies and decision guidelines to be incorporated into appendices or referred to in a scheme

## 5.6 Agricultural Land

At the time of undertaking this dissertation many town-planning practitioners were still uncertain regarding the application of Act 70 of 1970, and were of the opinion that that with wall-to-wall municipalities that have now been put in place through the Municipal Structures Act, all agricultural land now falls within the jurisdiction of a municipal area. Therefore the requirements of the Act, which previously only applied, to agricultural land outside municipal areas, should not be applicable. With the repeal of the Subdivision of Agricultural Land Act No 70 of 1970 in December 1997 by the Minister of Agriculture and Land Affairs, which to date, has not been promulgated by the President, and the Proclamation of the amendment of the Act, it has been determined that the consent of the Department of Agriculture is still required in terms of preparing new Town Planning Schemes or extending existing schemes. From the workshop it was evident that Department of Agriculture should be undertaking a pro-active process by participating in municipal IDP's and strategic planning by defining areas that should be retained for agricultural use.

In the procedures in the case of the eThekweni Town Planning Scheme Extensions process, it was learned that the department will only consider granting such consents after a process of negotiation with a municipality to determine which agricultural areas should be released for development to cater for the future expansion and growth of a municipality and which land to retain for agricultural purpose. The latter will constitute high potential land whilst the moderate to low potential land is likely to be released for development.

The revision of the LUMS Manual highlighted that the protection of valuable / high potential agricultural land and the optimal use of resources are imperative and that research is required during Scheme preparation to determine which land is valuable and how its protection should be managed. The Department of Agriculture have developed a number of agricultural 'land uses' to assist in the management of the agricultural sector. The Manual further recommended that planners **do not zone** agricultural land for particular crops in accordance with these 'uses'. To make a farmer apply to the local municipality to change crops adds unnecessary regulation.

Furthermore, most planners would not have the expertise required to make this type of decision. There may be exceptions to this recommendation in cases where a municipality wishes to support a pro-active agricultural programme in a particular area. In this circumstance a management overlay linked to an Agricultural Management Plan could be useful in guiding the management of certain crop-types to achieve desired strategic outcomes.

In the past, if one considers conventional Town Planning Schemes such as the Consolidated Outer West Town Planning Scheme, which is applied to the western part of the eThekweni Municipality, many large areas where development was not anticipated in the short to medium term, were either allocated with an Undetermined or a blanket Agricultural zoning, irrespective whether the latter zones areas were suitable for agricultural purpose or not. This does not alone create a misperception that such areas have potential for agriculture, but also create confusion among agricultural zoned landowners that they were entitled to rates rebates although they were still being rated as being residential.

Given the above synthesis of current debates and research work that are being undertaken to protect high potential agricultural land, is certainly scope to improve on the previous approaches applied to the Clifdale Land Use Scheme. Recommendations for improvement are as follows:

1. Allow the Department of Agriculture to participate in the preparation of Local Development Plans to ensure that valuable agricultural areas are accommodated in such plans.
2. Undertake a agricultural assessment of the area to support the above process. Should budget not allow for this, then the Department's Bio resource Units can be used for further guidance.
3. In absence of the Department completing their Land Potential Classes and norms and standards relating to subdivision and change of land use of agricultural land, it would be premature at this stage to allocate a range of agricultural type zoning for each of the Land Potential Classes.
4. Agricultural zoning can be applied to areas identified in step 2 above in order to determine the legitimacy of the zoning. In other words, once an area is then zoned for agricultural use, one would be confident that such areas will have the necessary potential.

5. The above zoning will then also allow a municipality to comfortably allocate an agricultural rating category in terms of the Municipal Property Rates Act, which can be applied to the legitimate zoned agricultural areas.
6. The Land Use Scheme should also make reference to any agricultural assessment documents or Bio Resource Units to inform users of the scheme of the rationale and intentions at deriving at the agricultural zoning.

In conclusion, it would be crucial that planning practitioners participate and assist the Department of Agriculture in completing the Land Potential Classes and their norms and standards so that appropriate zoning typologies with associated land use definitions and density/land use controls can be included in the provincial LUMS Manual.

## **5.7 Special Planning Area**

In the case of Buxfarm, the area is currently part of the Cliffdale Land Use Scheme area, which contains an informal settlement. The community is informally settled and due to the fact that the future cadastral development of the area was uncertain, the area not be accommodated within the normal proposed zones and controls of the Land Use Scheme.

The intention at the time of preparing the Land Use Scheme for Cliffdale was to bring immediate development and planning control over the area, whilst knowing that the area would be formalised in the future through a possible government subsidised housing project for example. In current conventional Town Planning Schemes, there are no "interim" arrangements available to deal with such scenarios. The land on which the informal settlement is occupied would have received a blanket "Undetermined" or "Residential" type zoning that would not have distinguished it from other non-informal occupied areas with similar zoning. The result would be the enforcement of development controls that would not have been suited for the area.

In the Cliffdale case study, the concept of introducing SPA was to provide very basic interim controls with an associated Development Framework Plan for the area, until such time as a detailed township layout with detailed zones are adopted for the settlement. Once the latter is achieved the settlement would be controlled by the

normal controls of the Land Use Scheme. This concept was later defined in the Draft PDA Regulations as a **Land Use Code Area 3: Special Interest Settlement Areas** to facilitate the formalisation of existing rural settlements, urban and urbanising nodes and accommodate special precincts and special zones in urban areas. The designation of such areas in term of the PDA also involved the preparation of a policy statement, defining the outer boundaries of the area and compiling a plan with broad zones with appropriate and acceptable land use controls.

In terms of the LUMS Manual 2001, the option of preparing an Elementary Planning Scheme for similar areas was suggested on the basis of the continuum of Planning Schemes that was discussed in Section 3.2.5. The LUMS Manual defines an Elementary Scheme as a simpler scheme that would be applicable to: small rural settlements, emerging settlements, un-proclaimed towns, and areas where there is settlement, but a lack of, or imprecise cadastral boundaries. The manual also recommends that the scheme should contain similar management tools as suggested in the PDA Regulations with a limited number of zoning districts. As the area progresses and becomes more developed, it could then be upgraded and incorporated into the Primary Planning Scheme, which would have for example be applicable to Cliffdale as a whole to accommodate more complex land uses.

The SPA concept was again under review with the revised LUMS Manual of 2004, which suggested a new single system approaches that can still provide differentiation within a scheme area. Special zones were introduced that enables municipalities to manage land developments with unique or specific characteristics and where a proposed land use does not comply with the standard zones.

Besides Special Site Planning Areas that would have controls for the duration of the development, all other Special Zones are recommended to be temporary mechanisms with the specific intention that they will be incorporated into a Scheme during the regular Scheme review process.

Three generic Special Zones are suggested:

- Interim Site Planning Zone: An Interim Site Planning Zone is an interim land use management mechanism through which large and unusual developments may be managed until there is confirmation of the formal

controls that will apply in terms of a Scheme upon completion of the development. An Interim Site Planning Zone makes provision for transitional arrangements through which the development of integrated master plans, bulk zones, and urban precincts are appropriate.:

- Special Site Planning Zone: Special Site Planning Zones may be located in urban and rural areas where there is a need for the management of site-specific developments. Special Site Planning Zones need not be incorporated into the standard Zones of a Scheme as they will have their own set of specific development controls that shall remain in place in perpetuity.
- Environmental Planning Zone: Environmental Planning Zones may be located in rural or urban areas where the primary purpose is the protection of the natural environment. For example, valuable coastal forests, mangroves swamps, coastal dunes, green wedges. (LUMS Manual, 2004)

The Special Zones shall also contain a locality plan with a map showing the outer boundary, initial land use categories with interim development criteria and parameters, and a written statement regarding the vision, objectives and management guidelines. The Special Zones also allows for additional advertising and consultation procedures as determined by the municipality.

In the case of the other two case studies that were investigated, both Mandlazini and Ntshongweni produced a "Development Plan" with limited land use zones with very basic development controls that are suited to the needs of the community. The Mandlazini community based their controls on the principle that it should be simple and clear and that over time these could be amended with changing circumstances.

The recommendations that are put forward for an improved approach to the Bux Farm case study, is taking the work that the author of this dissertation had commence with at the time of compiling the Cliffdale Land Use Scheme, capturing the rationale that was followed and attempting to complete the approach.

Following the recommendations of the revised LUMS Manual, the Buxfarm case study would fall within the Interim Site Planning Zone category.

To facilitate the upgrading of the settlement the following land use mechanisms are suggested:

- A Development Framework Plan that consisted of five precincts for example in the case of Buxfarm: Residential, Commercial, Community Facility, Urban Agricultural and Environmental Management Zone;
- Statement of intent and vision for each zone;
- Responsibilities and functions of the community and the Development Forum;
- Outer cadastral boundary of the designated area;
- Plan indicating broad zones of movement corridors, community and social facilities, agricultural and grazing precincts, environmental sensitive areas and residential super blocks;
- Very basic appropriate and accepted controls in terms of permitted uses;
- General procedural requirements; and
- Environmental management

The key issues that should be considered when deciding on agri-village planning and development controls area:

- Where would the community like to see public facilities placed within the agri-village? (facilities such as post boxes, shops, small businesses, a clinic, a crèche and a market place)
- How will the placement of public phones and the possibility of a number of taxi ranks or stopping areas affect development?
- Once the decision is made about where things are going to be located, how will this be controlled – what are the rules that will go with these decisions?
- On the residential plots of, how will density be controlled and what sort of density do you think you should allow?

Decisions should take into consideration the issues of finance, convenience, nuisance and provision of services to the public facilities.

In a series of workshop that were held with Bux Farm Development Committee during 1999, the Committee agreed that the controls should be based on agri-village planning, not town planning. The agri-village is not a township and therefore the controls on planning and development should be appropriate. The basic rules



should be simple and clear; over time these could be amended with changing circumstances. The following principles should therefore underpin the discussions on planning controls:

- There should be flexibility
- There should be a need for some control
- One set of controls
- Community must be involved
- Incremental approach to upgrading
- Support from the municipality
- Planning controls regulate externalities (spill-over of people's actions)
- The municipality is the ultimate authority

In terms of a Policy Statement the following are proposed:

1.1 The Controlling Authority and the Bucksfarm Community Trust/Community Property Association on the .....(*date of designation adoption*) entered into a land development agreement in terms of which the eThekweni Municipality / Department of Land Affairs sold to the TRUST portion 1 Remainder of AE of the Farm Cliffdale, in extent of approximately 168 hectares.

Should the land be acquired by the Department of Land Affairs for the community in terms of the Communal Land Rights Act, it will be a requirement that the community beneficiary form a Community Property Association who shall prepare a Land Use Plan as required by the Act.

1.2 The parties shall agree that the LAND would be developed as an agricultural village, to be known as "Bucksfarm Agric Village" (for example). The Trust will be submitting funding and development application to the appropriate authorities and in terms of appropriate legislation.

1.3 The zoning and Land Use Scheme controls contained in this part provides for an interim arrangements for the development of the area, until such time as a detailed use zone is adopted for the agri village.

Statement of Intent for appropriate zoning that are recommended are:

- 1) **RESIDENTIAL PRECINCT:** Whereby freely permitted uses may be described as being any land use, building(s) and activities which relate to, and enhance, the residential use of the precinct for living, gardening and other subsistence or income generating activities, and which do not generate noise, pollution, traffic or general harmful effects within the precinct. – The zoning in respect of Bux Farm was mainly to accommodate where people were currently occupying land and land that the community agreed which could be used for future expansion.
  
- 2) **URBAN AGRICULTURE PRECINCT:** Whereby freely permitted uses may be described as being any activities which augment the income earning capability and self-sustaining nature of the local community through low key gardening or semi-commercial agricultural activities. – The zoning catered for agricultural commonage areas that the Bux Farm community agreed on.
  
- 3) **AMENITY/ENVIRONMENTAL MANAGEMENT PRECINCT:** Where environmental/sensitive land is set aside and protected for utilization within clearly stated and strict parameters. - The zoning catered for overstep areas such as the northern cliffs of Bux Farm and conservation areas that fell below the 50 year flood lines.
  
- 4) **COMMERCIAL PRECINCT:** Where freely permitted uses may be described as any land use, building(s) and activities where the exchange of goods and services for payment takes place and which relate to, and enhance the commercial focus of the precinct, but which do not constitute productive, workshop, or pollutive activities causing harmful effects within the precinct. - At the time of preparing the scheme in 1999 consisted of a community hall, temporary crèche and community poultry unit. Future land uses that were anticipated were: shops, post office, clinic, other small businesses or service industry, a market place and a crèche.
  
- 5) **CIVIC/COMMUNITY PRECINCT:** Whereby freely permitted uses may be described as being any land use, building(s) and activities which relate to, and enhance, the community and family orientation of the precinct and which

do not generate noise, pollution, traffic and general harmful effects or safety hazards within the precinct. – To cater for a future primary school.

Simplified Land use controls applicable to each zoning precinct typology in Bux Farm for example could take on the following format:

- **Residential**

- a) Land Use Permitted:

- Dwelling units / residential
    - Amaqungwane
    - Agriculture
    - Agricultural building

- b) Land Uses by Consent

- Crèche
    - Spaza shop
    - Certain services / small business uses (e.g. hairdressers)

- **Commercial**

- a) Presently, this zone contains the following land uses:

- Shop
    - Temporary crèche
    - Communal water tank kiosk

- b) Future Land Uses:

- Only spaza shop are permitted in residential dwellings – any shop that is larger than a spaza shop must be located in the “central” commercial zoned area;

- The Post Office will be requested to place a cluster box facility close to the shops;
- Other small business or service industry;
- A market place for sale of vegetables or crafts produced by the agri-village
- Public telephones.

c) Land Tenure:

The area in question will be owned by the Trust. The recommendations is that the trust finds the means to develop premises for shops / small businesses and rent or lease them to the residents of the agri-village. For those activities that are not communal or being undertaken as a community project, rental will be charged.

- **Community Facility**

a) Future Land Use:

- A clinic has been applied for and this should be sited in this central area
- Crèche
- Community hall
- worship

b) Land Tenure

The area will be owned by the Trust, but non-communal activities will pay an annual lease to the Trust. The terms will have to be negotiated.

- **Education**

a) The area is for development of a primary school and sports field site. Funding for the sports field must be sought from provincial or other sources to develop it so that it can be used by the community and the school.

b) Land Tenure: The Department of Education will have responsibility for the development of the site and be responsible for the services to the site. The site should be formally transferred to the Department. The sports field is intended to be owned by the Trust.

- **Urban Agriculture**

a) The site is to be developed for agriculture and to be used for community market gardens and grazing camps – not for individual garden or plot extensions.

- **Amenity/Environmental Management**

a) Steep cliffs and land within the 50-year floodline to be protected from residential activities. Such sensitive areas to be managed by the Trust in accordance with the Environmental Management Plan.

Although it is necessary to integrate such areas and informal communities into the main stream of applying land use management principles and eventually into the overall Cliffdale Land Use Scheme, it is advisable to follow an incremental approach. As the area is informally settled in a non-cadastral base area, it becomes difficult to apply conventional planning procedures and enforcement of land use controls. The controls therefore need to be very basic accommodating and responding to the informal circumstances of the community. Similarly, the administration processes such as application procedures should be simple and incrementally based as well where the community representatives can take on this responsibility at first and then

as the area develops and formalise over time, the conventional scheme procedures would then be applied.

The function of community representatives pertaining to day to day agric village management and administration, could be engaged in the following functions :

- Allocation of areas to beneficiaries moving in accordance to the Framework Plan;
- Taking complaints and queries on a range of issues related to infrastructure, life of village etc;
- Dealing with issues on social and cultural life of the village – burials in municipal cemetery, interpersonal problems, community policing;
- Assist the municipality in facilitating the provision of basic services, such as sanitation (VIP's) and workshops on the use of services and responsibilities;
- Recording and approving the position of buildings and the use of land;
- Monitoring adherence to, and sustainability of, building use and resources;
- Undertake awareness and education programmes;
- Running of twice-monthly Sunday meetings, which are public meetings, for all residents to maintain information and communication flows.

## **5.8 Conclusion**

The aim of this research is to evaluate several Land Use Management approaches that were applied to a semi-rural area and to compare them against the old conventional Town Planning Scheme system and the more recent Land Use Management System. At the beginning the question was posed: "how can the Cliffdale Planning Scheme approaches be improved in order to be applied to other similar areas?" At this juncture one must reflect back on this main question as well as on the subsidiary matters. The dissertation has responded to the areas of research through applying qualitative methodological techniques. Several interviews were conducted with key people who has experience in the field of Land Use Management or who had been subjected the use of the Cliffdale Land Use Scheme. The theory reviewed included other case studies, precedents and interpretation of new information, datasets and concepts, all of which were analysed to inform the

recommendations for improved approaches. However it was also learnt that some of these approaches and conventional controls alone are unlikely to be sufficient and it is likely that ways of combining them, along side more incentive related programmes, must be established to form an effective land use management strategy.

Throughout this dissertation an attempt has been made to respond to the subsidiary questions as well posed at the outset. The approaches applied to Cliffdale have been successful to a certain degree and certainly has been seen as a better model to the current Town Planning Scheme model. Although these approaches have only been tested using the Cliffdale Land Use Scheme, it is suggested that these guidelines be tested further on a number of actual scheme reviews and the preparation of new Land Use Schemes. In doing so it should be remembered that the approaches contained in this dissertation are not exhaustive, they have been based on limited pilot areas only and one adopted Land Use Scheme. Planners reviewing or preparing Land Use Schemes should consciously seek to build on the mechanisms suggested and to ensure the relevance of those that have been documented. If they are not relevant to an area they should not be included in the scheme document. This will only frustrate the public and discredit the process.

It has been stated in the LUMS Manual that a Land Use Scheme gives effect to the spatial visions, policies and strategies contained in an IDP as documented in the SDF, and linking elements. The Scheme therefore needs a strong policy link to these plans. A brief summary of the IDP vision statement, SDF and other important spatial policies should ideally be provided in the Scheme to reinforce linkages between the various planning documents. However, if any of the aspects listed in the summary change, procedures for amending a Scheme would have to be followed. If there is uncertainty about these aspects or if they are likely to be changed in the short-term, a summary document encompassing these elements should be prepared and referred to in the Scheme. A cross cutting problem that has emerged in the research of the various Land Use Scheme components in this dissertation, is the absence of reference to "informants" that were used in the preparation and or revision of Land Use Schemes. It is not an every day opportunity that municipal planners get involved in the preparation or revision of Land Use Schemes. Most cases with municipalities that lack planning experience or capacity, such work is outsourced. The result is a Land Use Scheme that has been prepared

by consultants with no reference made to the informants and supporting documents that informed the policy statements, zoning typologies, definitions and controls. In experienced municipal officials are therefore most often left with the problem of either trying to interpret certain scheme sections or are subjected to scheme amendments without knowing what the thinking and rationale were behind those who had prepared the Land Use Schemes.

The approach of integrating environmental management mechanisms with incentive tools outlined in this dissertation, would be of benefit to:

- Officials at a local, metropolitan, district and provincial level in the preparation and review of Town Planning Schemes, scheme approvals and the assessment of development applications.
- Developers who will be made aware of environmental issues for example at the outset of the development process and who, by having access to the reasoning behind certain development controls can participate in the process and contribute to win-win development approaches.
- Consultants advising both government and the public who will have access to explicit controls, policies and decisions guidelines.

The lessons learnt from the application of these approaches should continually feed into the planning profession to improve the future review process of LUMS. It may be useful to establish a formal monitoring and review process to review the success of the application of these approaches with its associated guidelines and control mechanisms and to amend them as better practice is developed.



## CHAPTER 6

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Weerts, Butler & Bulman (1998) Conflict or Convergence: Development Planning and the Environment. A Conference hosted by the Department of Environmental Affairs and Tourism

## **6.2 Internet Sources**

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[www.capenature.org.za](http://www.capenature.org.za)

Conservation Stewardship Programme (Cape Nature Conservation)

[www.botanicalsociety.org.za/ccu/downloads/pamphlets/stew%2520.pdf](http://www.botanicalsociety.org.za/ccu/downloads/pamphlets/stew%2520.pdf)

## **6.3 Interviews**

1. Miss V. Naidoo: Senior Town Planner for eThekweni Municipality (Western Region).
2. Mr. F. Moyo Fanie Moyo (Ward Councillor) and James Nxumalo (Chairman of the Bux Farm Development Committee).

3. Mr. T. Peterson: Environmental Officer for eThekweni Municipality (Environmental Branch).
4. Mrs C. Ferguson: The Planning consultant for Planning Initiative Consultancy.
5. MR. R. Bennett: Department of Agriculture and Environmental Affairs. (Natural Resource Section)

## LIST OF APPENDICES

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### APPENDIX 1

#### **THE PURPOSE OF LAND USE MANAGEMENT**

The purpose of preparing a LUMS is to promote co-ordinated, harmonious and environmentally sustainable development. The formulation of a LUMS must be guided and informed by the strategic visions embodied in the relevant Integrated Development Plan and other broader planning frameworks. There are many good reasons why we need land use management. These include:

#### **HEALTHY LIVING ENVIRONMENT**

Some land uses such as open space and community facilities are required to create healthy communities. Other land uses cause a nuisance and pollution, and need to be in the right location.

#### **SAFETY**

Some land uses are harmful to our health and need to be placed in areas where they can be controlled. We need adequate space between neighbouring properties to make provision for access for fire fighting equipment and for stormwater. Accesses, parking and loading areas need to be designed with safety in mind.

#### **CONSERVATION**

Some buildings, places or areas, need to be conserved for future generations.

#### **ORDER**

Land uses which are not compatible need to be separated. People need to be certain when they buy or rent property, that their amenity and property values will be protected.

#### **AMENITY**

Amenity means a pleasant living environment. For example, people want residential areas, which look good, where they feel safe, and which are close to facilities.

#### **CONVENIENCE**

People need to be conveniently located in relation to employment opportunities and to community and other facilities.

#### **GENERAL WELFARE**

Good land use management can benefit the whole community by creating a healthy and safe environment, and by ensuring that adequate provision has been made for all the necessary services and facilities.

#### **EFFICIENCY AND ECONOMY**

Good land use management makes maximum use of scarce resources.

## **PARTICIPATION**

The procedures involved in managing land need to be simple, clear and easily accessible to all people. The participation of people in preparing a LUMS is essential.

(Source: KwaZulu-Natal Land Use Management Manual, 2001)

## APPENDIX 2

### **POLICY WORKSHOP: SUBDIVISION AND CHANGE OF LAND USE FOR AGRICULTURAL LAND**

Most of the debate at the workshop was related to different opinions from various provinces and farmers unions as to what constitutes a viable minimum farm size in terms of norms and standards. The current technical criteria applied to subdivision of agricultural land by the Department of Agriculture to farmland are as follows:

- land must be able to carry a minimum of 60 large stock unit (LSU)
- minimum 100 ha of dry land
- minimum 10 ha of water-rights or 20 ha of irrigated land

The above criteria is based on economic reasoning that a minimum of R24 000 per annum is required to cover basic expenditure such as minimum wages. At an average of R400 per/large stock income generated from livestock, a minimum of 60 livestock would be required. According to financial institutions that attended the workshop, finance are generally only provided to farmers that earn a nett income of R60 000 and above per annum, which necessitates the need for larger farming units.

The technical norm does not support growth and advancement and farmers to diversify. According to the Provincial Free State norms, they require 80 – 100 LSU, 120ha dry land and 30 ha irrigation. Act 70/70 currently does not support 'emerging farming' subdivisions who intend to apply for smaller subdivisions with smaller LSU to allow for a "starting block" in their farming career. The aim of the Act is to protect the last remaining 4% of high potential agricultural land in RSA as a sustainable unit and to avoid a repeat of the 1930 and 1940's where agricultural land was subdivided into smaller units, avoid farm houses being subdivided off from the farm, ensure food security, and to prevent urban sprawl. Agricultural unions further argued that if units are too small, farmers could over utilise their resources on the farm in order to make a living such as encroaching into areas that were previously set aside for conservation value. Such smaller subdivision that would not be viable for farming and too large for residential use will result in landowners reverting to illegal business activities to make a living on site. Sustainability should be based on 5 pillars:

- production
- security

- prevent degradation
- economic viability
- social acceptability

There was a further call for two sets of norms and standards for urban and rural areas, zoned and un-zoned areas. Reference was made to a Land Care Conference held in Western Cape, where four agricultural land categories were identified:

- commercial farms
- subsistence farming
- farming as a lifestyle
- emerging/food security farming

In view of the above, the following Principles were agreed on at the workshop in respect of minimum farm sizes:

- subdivisions must be based on potential and use category (livestock, horticulture)
- based on concept of sustainable agriculture
- farmers must be bona-fida farmer/full-time livelihood excluding external income
- zoning categories to apply in principle

Each province were to apply their minds to the above principles and to report back at a follow up workshop which was scheduled for November 2004.

In terms of technical criteria for change of land use of agricultural land, delegates at the workshop resolved that the Department of Agriculture should undertake a pro-active process by participating in municipal IDP's and strategic planning by defining areas that should be retained for agriculture use. To date the department has been re-active only responding when applications are lodged such as for the ever-increasing lifestyle developments, game parks and golf coarse estates that are encroaching into agricultural land country wide. In the case study of Western Cape, the following pro-active steps were taken:

- Step 1: Map status quo of active and inactive agricultural land including water ways;
- Step 2: Forward planning undertaken by each farmer to match broader district plan;
- Step 3: Added value by other sectors;
- Step 4: Compile Land Use Map for the areas at 1:10 000 aerial photography base;



Step 5: Integrate and participate with IDP process.

The following guidelines were agreed upon for change of land use applications by delegates of the workshop:

- Applications to be based on pure agricultural potential based on soil, climate and water qualities;
- Take into account broader agricultural character of the surrounding areas;
- Consider adjacent impacts of neighbouring land uses on agriculture and vice-versa;
- Split zones –change of land use only permitted for building footprint on low potential agricultural land, e.g. Tourism chalets on farmland to allow for farmers to diversify from agriculture.

**(ii)** Define and demarcate the areas of the RSA where high potential and unique agricultural land is situated. The purpose is to retain such agricultural land as far as possible for food security reasons. The new High Potential and Unique Agricultural Land Bill, which will repeal the Act 70, provides the following criteria to define high potential agricultural land:

- Favourable climate conditions
- Land that can be cultivated
- Possible to irrigate
- Soil – form, depth and clay content, least water retaining qualities and fine grain for most water penetration.

The Act distinguishes between Primary Land, which is associated with a wide range of agricultural uses, and Unique Land, which is associated to a specific crop type.

The Natural Resource Section of the KZN Department of Agriculture and Environmental Affairs has taken this work further and are in the process of producing a Land Potential Classification categories that can be applied to agricultural land in the province.

## APPENDIX 3

### MANDLAZINI AGRIC-VILLAGE CONTROLS

- I. Commercial/public facilities: which at the time of preparing the bylaws consisted of shops, post office and a clinic.
- II. Education: to cater for the existing primary school and the future planned high school;
- III. Worship: to accommodate existing churches and graveyards;
- IV. Recreation: for a future sports field;
- V. Public open space: to cater for agricultural land and community gardens and conservation areas that fell below the 50 year flood lines;
- VI. Residential small holdings ranging from 2000 - 4000 square metres:
  - a) Land use permitted:
    - Dwelling units/residential
    - Amanqungwane
    - Agriculture
    - Agriculture building
  - b) Land use only by consent:
    - Crèche
    - Spaza shop
    - Certain services / small business uses (eg. Hairdresser)
  - c) Density:

In keeping with the agricultural nature of the agri-village, the density of dwellings per small holding plot should not exceed one quarter of the area of the plot (i.e. the FAR should not exceed 0.25 for all buildings) Minimum site sizes were set at 4000sqm.
  - d) Building Lines:

A 2 metre building line should be kept around the boundaries of the site with the exception of the boundary with the servitudes for water pipes and services. A 5 metre building line must be retained along this boundary.

## APPENDIX 4

### NTSHONGWENI TOWNSHIP ESTABLISHMENT CONDITIONS

#### Erection And Use Of Buildings or Use of Land

USE ZONE	PERMITTED USES	USES PERMITTED ONLY WITH THE CONSENT OF THE RESPONSIBLE AUTHORITY	PROHIBITED USES
(1)	(2)	(3)	(4)
Low Impact Residential	Residential buildings, agricultural land	Place of public worship, places of instruction, social halls, sports and recreational purposes, institutions, medical suites, special purpose.	Use not under column 2 and 3.
Mixed Use	Business purposes, industry, institution, places of instruction, places of public worship, residential building, shops, social halls, sports and recreational purposes, municipal purposes.	Uses not under columns 2 and 4.	Noxious industries
Community Facility/Civic and Social	Places of public worship, places on instruction, social halls, sports and recreational purposes, institutions, agricultural land..	Residential buildings, special purposes	Uses not under column 2 and 3.
Open Space	Parks, sports and recreational facilities and buildings used in connection therewith, agricultural land.	Residential buildings, special purposes.	Uses not under column 2 and 3.
Agriculture	Agricultural land	Residential buildings, special purposes.	Uses not under column 2 and 3.

(Ntshongweni Township Establishment Conditions, 2004)

#### Restrictions on Coverage of Buildings

USE ZONE	PERMISSIBLE COVERAGE
Residential	60%
Mixed Use	To the satisfaction of the responsible authority
Community Facility	To the satisfaction of the responsible authority
Public Open Space	To the satisfaction of the responsible authority

Agriculture	To the satisfaction of the responsible authority
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(Ntshongweni Township Establishment Conditions, 2004)

## APPENDIX 5

### **KWAZULU – NATAL PLANNING AND DEVELOPMENT ACT NO. 5 OF 1998: LAND USE CODE AREAS**

- **Land Use Code Area 1: Rural and Traditional Areas** to accommodate the orderly occupation and use of land within rural or tribal areas, facilitate the re-settlement of communities within rural and urbanising contexts and facilitate the establishment of rural service centres;
- **Land Use Code Area 2: Urban Urbanising Areas** to facilitate the upgrading of existing settlement and the settlement of communities adjacent to, or within, urban areas by providing appropriate controls which may be included in town planning schemes;
- **Land Use Code Area 3: Special Interest Settlement Areas** to facilitate the formalisation of existing rural settlements, urban and urbanising nodes and accommodate special precincts and special zones in urban areas;
- **Land Use Code Area 4: Interim Site Planning Areas** situated within town planning scheme areas to provide interim or transitional arrangements for the development of integrated master planning, bulk zones and urban design precincts which, when developed, shall be incorporated within the controls of the town planning scheme;
- **Land Use Code Area 5: Specialised Site Plan Areas** to accommodate and facilitate site specific integrated developments, where detailed conditions shall apply in perpetuity, such as investment areas, resorts, specialised developments in the form of casinos, marinas, waterfronts and for economic development zones such as harbours, airports, industrial development zones where the investment and the use of public funds for the development of strategic economic areas is contemplated;
- **Land Use Code Area 6: Environmental Planning Areas** to provide for site specific, larger developments where the primary purpose is the protection of the natural environment, permitting limited development in accordance with strict controls.

The process of designating land use code areas contains the following:

- Draft agreement between the applicant/community concerned and the local authority;
- A statement of intent indicating purpose and management of area and vision;
- Policy statement;

- Development Committee;
- Outer cadastral boundary;
- Plan indicating broad zones; movement corridors, community and social facilities; agricultural and grazing precincts and environmental sensitive areas and residential super blocks;

Appropriate & accepted controls in terms of permitted land uses; General procedural requirements and Environmental Management.

**APPENDIX 6**

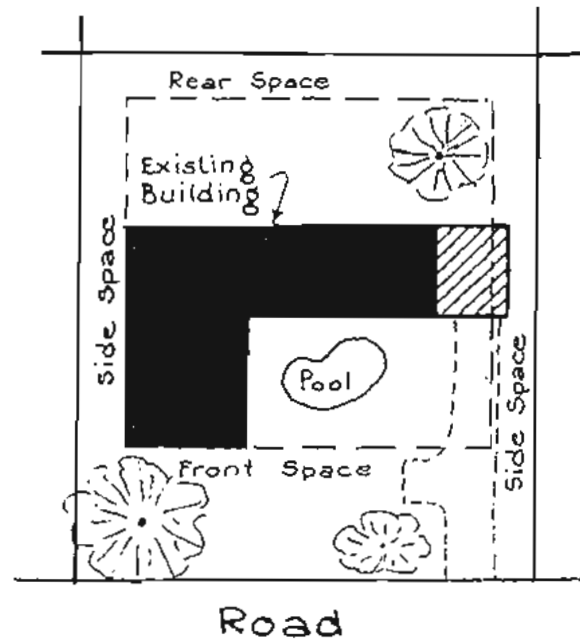
**LAND USE SCHEME BROCHURE**



## BUILDING LINES?

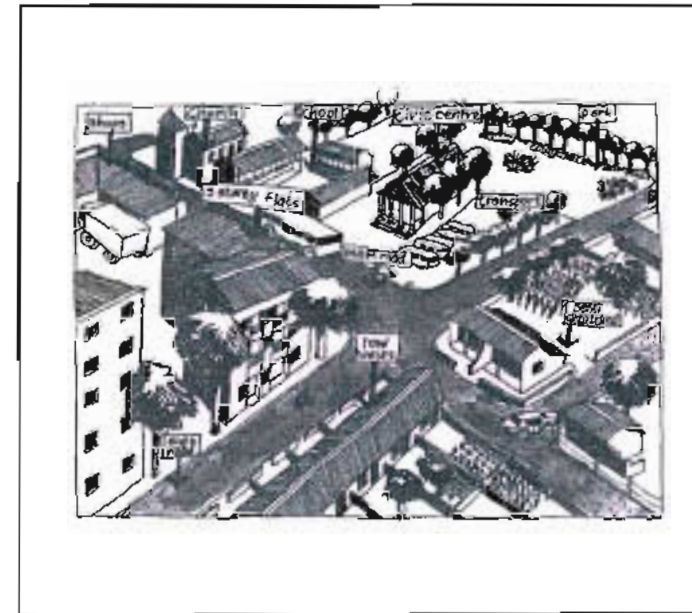
A building line is an imaginary line within a property at a fixed distance from the property's boundaries. No building may be erected in the space between the property boundary and the building line.

The purpose of building lines is to give light and air between buildings, assist in privacy, aesthetics and the preservation of an area's amenity, fire prevention, installation and maintenance of services, and for road widening requirements.



## ETHEKWINI MUNICIPALITY: TOWN PLANNING SCHEMES

DECEMBER 2003



*Prepared By: eThekweni Municipality: Development  
Planning & Management.  
Any further queries regards Town Planning Schemes, please  
contact the Council's Town Planning Department on 7656012.*



## INTRODUCTION:

Following brochure is aimed at informing the reader what a Town Planning Scheme consists of and why a local authorities apply Town Planning Schemes.

## WHAT IS A TOWN PLANNING SCHEME?

A Town Planning Scheme consists of a set of "Controls/Bylaws" and "Zonings" which is used to co-ordinate and regulate development within an area.

"Controls" generally consists of:

Building Lines: minimum distance one can build from the boundary;

Coverage: the maximum area that buildings can cover on a property;

Height: maximum height of a building;

Density: minimum size that a property can be subdivided;

Land Uses: type of activities that may be permitted on a property; etc.

"Zonings" determines the primary purpose for which land is set aside or used for, e.g. residential, public open space or commercial.

The reason for establishing use zones is to prevent the mixing of incompatible buildings and land-uses. The Town Planning Scheme is also there to promote health, safety, order, amenity and general welfare and also ensures the maximum degree of economy and convenience for the residents.

## WHY A TOWN PLANNING SCHEME?

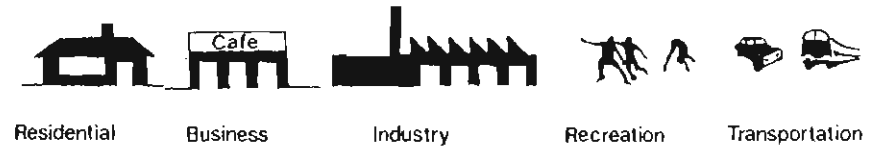
- A Town Planning Scheme aims at determining and arranging the use of the land;
- The siting of the buildings;
- The location of routes of communication (roads, railway, etc) and
- It is required by legislation (KZN Planning & Development Act No 5 of 1998)

## WHAT DOES A TOWN PLANNING SCHEME CONSIST OF?

- Clauses or controls: these set out the land use control mechanisms used to manage development within each zone.
- Land Use Zone: determines the primary purpose for which land is to be set aside or used. (eg. residential, commercial or public open space) The reason for

establishing use zones is to prevent the mixing of incompatible buildings and land uses.

## WHAT ARE LAND USES?



## WHAT INFORMATION IS CONTAINED IN TOWN PLANNING SCHEME:

- Zoning Map: this is a cadastral map or plan that which depicts the location of the land uses;
- Definitions: which defines the various land uses that are permitted by the scheme;
- Bulk Controls: which defines the height, coverage, floor area ratio, building lines and densities restrictions.

## HEIGHT?

It the height in storeys and is expressed as a number.

## COVERAGE?

Is the proportion of a lot covered by buildings, and is expressed as a percentage of the lot area. Thus 25% coverage means that only one quarter of the site may be covered by buildings.

## FLOOR AREA RATIO?

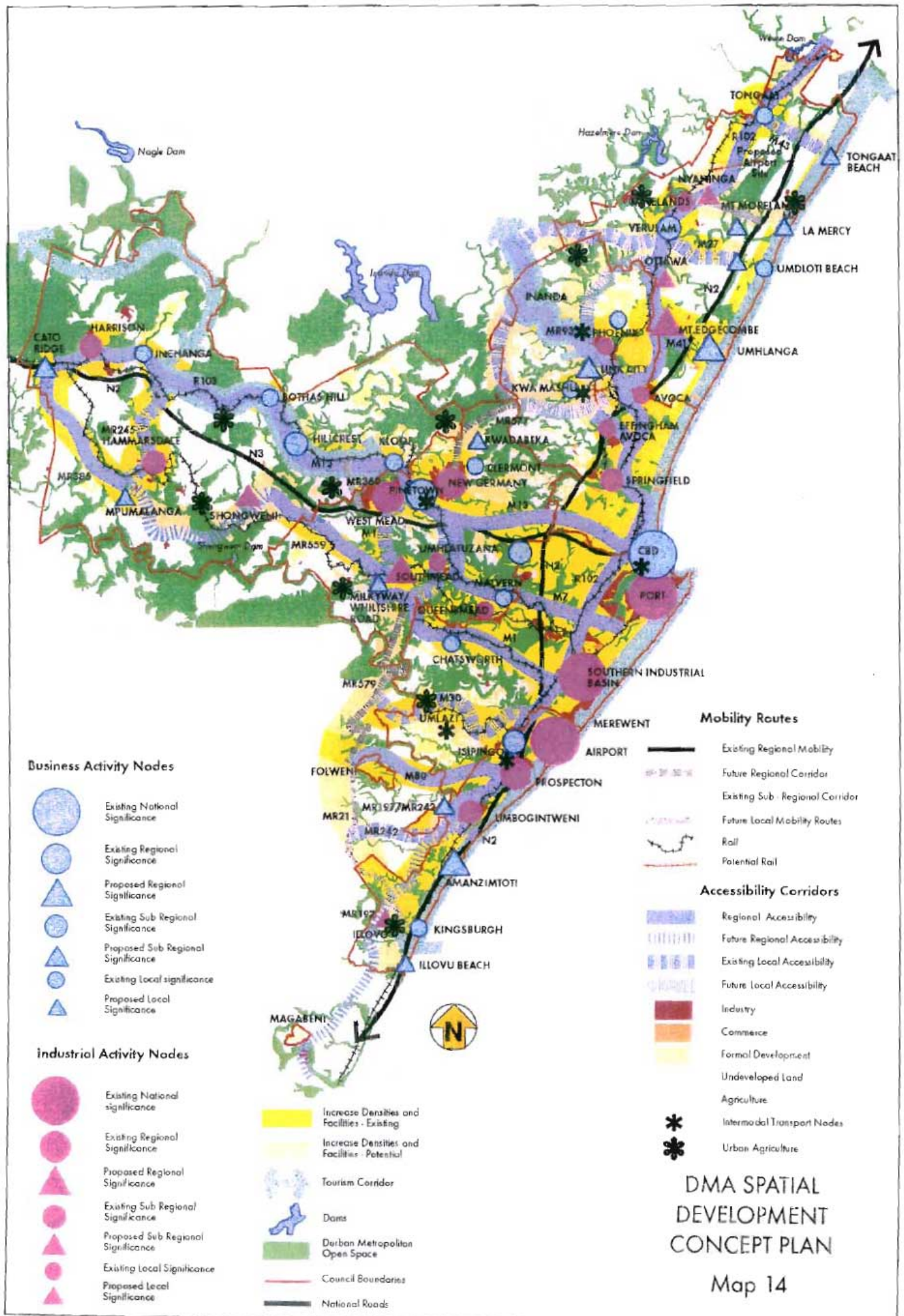
Is the maximum floor area permitted on a property.

## DENSITY?

Is the minimum size that a property can be subdivided or the amount of units that are permitted per hectare.

# APPENDIX 7

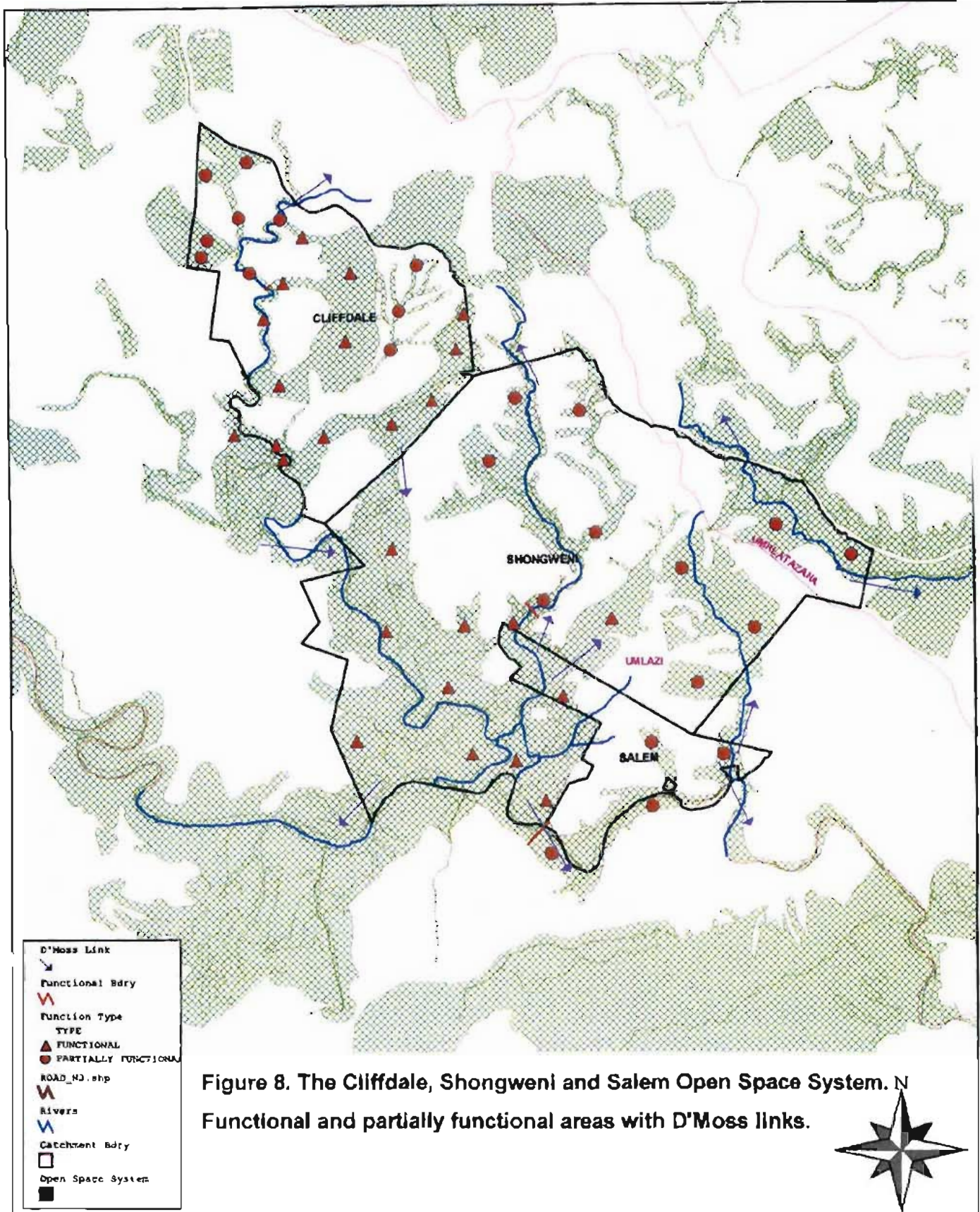
## DURBAN METROPOLITAN SPATIAL DEVELOPMENT FRAMEWORK PLAN



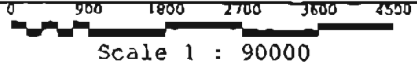


**APPENDIX 8**

**CLIFFDALE ENVIRONMENTAL MANAGEMENT PLAN**



**Figure 8. The Clifdale, Shongweni and Salem Open Space System. N**  
Functional and partially functional areas with D'Moss links.



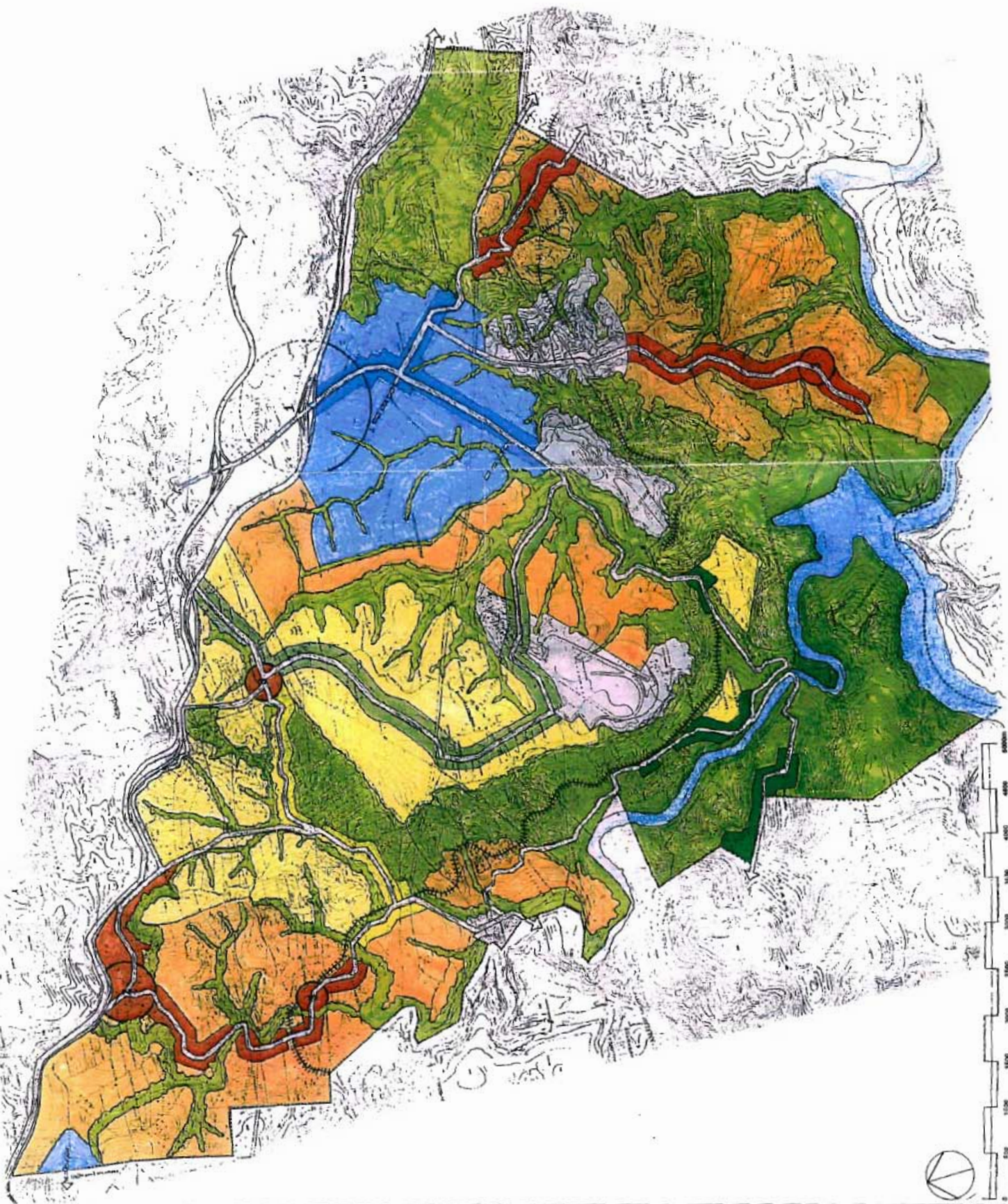
APPENDIX 9

CLIFFDALE LOCAL DEVELOPMENT PLAN



### 4.6 PHYSICAL DEVELOPMENT FRAMEWORK PLAN

- URBAN ECONOMIC SPINE
- SEMI-URBAN SPINE
- EQUESTRIAN TOURISM SPINE
- ECOTOURISM/CRAFT SPINE
- AGRICULTURAL SPINE
- PRIMARY NODE
- SECONDARY NODE
- TERTIARY NODE
- ECONOMIC ZONE
- LOW DENSITY/SEMI-RURAL ZONE
- RURAL RESIDENTIAL ZONE
- SPECIAL ZONE
- OPEN SPACE SYSTEM

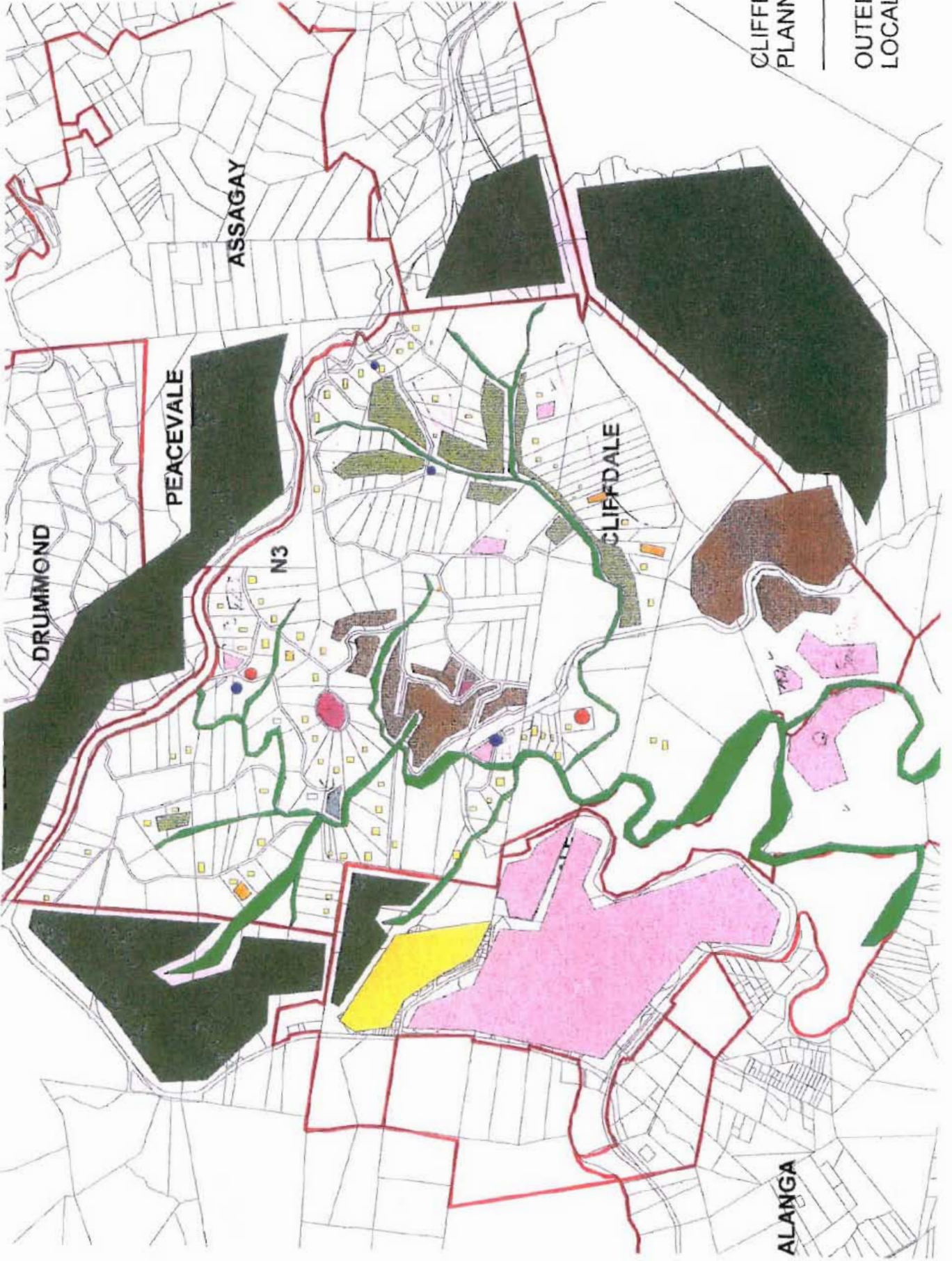


APPENDIX 10

CLIFFDALE LAND USE PLAN, 1999



# EXISTING LAND USES



CLIFFDALE TOWN  
PLANNING SCHEME

OUTER WEST  
LOCAL COUNCIL

## CLIFFDALE TOWN PLANNING SCHEME

Current Land Uses as at 1 June 1999

Prop. Description	Ownership	Current Land Use	Proposed Zoning
161	Govender, J	Market Gardening	
1	Pashiya & 7 Others	Vacant	
Rem/2	Moodley, K	Residential	
Rem/3	Sheoraj S & K	Vacant	
Rem/4	Adilutchmi	Vacant	
Rem/5	Heramoney	Residential	
Rem/6	Pillay D & 2 Others	Small Factory	
Rem/7	Naidoo, P K R Family Trust	Vacant	
Rem/8	Naidoo, P K R Family Trust	Vacant	
Rem/9	Ramawtar, P M & 3 Others	Vacant	
Rem/10	Naidoo, D	Vacant	
Rem/11	Treasure Holdings - (PTY) LTD	Vacant	
Rem/12	Krishnadutt	Residential	
Rem/13	Sooknandan, D & R.P.	Residential	
14	Choudree, C M & 3 Others	Vacant	
15	Quiben Farming - Enterprises cc	Market Gardens	
16	Pillay, T & 11 Others	Vacant	
17	Joint Est. Late Nadasa Chetty	Residential	
18	Pillay, I & P	Vacant	
19	Pillay, S	Vacant	
20	Parkbro Properties (PTY) LTD	Vacant	
21	Pillay, S & 11 Others	Vacant	
22	Iyman, J V & R V	Vacant	
23	Maharaj, R	Poultry	
24	16 Moocross Inv cc	Residential	
25	International Bhuddist Association	Vacant	
26	Naidoo, S D R & M	Vacant	
27	Maghraj Makhar	Residential	
28	Nagapan, M & G	Residential	
29	Haripersad	Vacant	
30	Mahomed, M K A	Vacant	
31	Pillay, R	Vacant	
32	Fakrooden & 7 Others	Vacant	
33	Singh, P & S	Residential	
34	Govender, P	Vacant	
35	Suleman, A	Vacant	
36	Roopnandan, N	Residential	
37	Soobramoney	Vacant	
38	Naidoo, V	Vacant	
39	Ramdhani, A S	Poultry	
40	Venkates	Market Gardens	



41	Sookoo, M	Vacant	
42	Pillay, C L	Vacant	
43	Nedpem Bank	Residential	
44	Sultan, A K & A. G	Residential	
45	Munusamy & 13 Others	Vacant	
46	Moolla, G H A	Vacant	
47/1	Cliffdale Farmers	Vacant	
Rem/47	Banwari	Vacant	
Rem/48	Chetty, P	Vacant	
51	Kylaas	Residential	
52	Douglas, K	Trading Store/Residential	
53	Marimuthu & 3 Others	Vacant	
54	Diplall, J	Residential	
55		Vacant	
56	IMYJ Investments – (PTY) LTD	Vacant	
57	Singh, M	Market Gardens	
58	Reddy T	Residential	
59	Reddy, D	Residential	
60	Subbudu, S & D	Residential	
61	Alli, D A & 12 Others	Residential	
62	Rajcoomar	Residential	
63	Revashunkar	Vacant	
64	Chetty, S	Market Gardens	
65	Naidoo, R	Residential	
66	Local Health – Commission	Cemetery	
67	Khanm, A	Residential	
68	Barath	Residential	
69	Beachen, M K	Vacant	
70	Iylandan	Residential	
71	Rookmin & 4 Others	Res. & M/Gardens	
72	Reddy, S	Residential	
73	Pather, G & P	Residential	
74	M K Bobby Naidoo – Travel Agency	Residential	
75	African Congregational – Church Trustees	Church Catheral /Residential	
Rem/76	Naidoo, N&S & 2 Others	Res/Block Manufac.	
77/1	National Transport – Commission	Residential	
Rem/77	Misra, S P & S.D	Vacant	
Rem/78	Muthath	Residential	
Rem/79	Moonsami	Internal Settlement	
Rem/80	Sookoo, S	Market Gardens	
81	Sarjoo, D & K	Residential	
82	Shriram, P	Residential	
83	Jimmy, M	Residential	
84	Govender, P	Residential	
85	Pillay, O	Residential	
86	Moodley, G N	Vacant	
87	Askram & 1 Others	Vacant	
88	Pramsook	Vacant	
89	Pramsook	Vacant	

90	Saundres, E L	Vacant	
91	Moodley, G N	Vacant	
92	Weekend Resort (PTY) LTD	Res/Informal	
93	Pillay, P	Res/Informal	
94	Arbee, H	Residential	
96	Govender, M	Residential	
97	Pramsook	Vacant	
98	Trustees Cliffdale Indian – Association	School	
99	Goven Ganga	Vacant	
101	Moola, A S M	Res/Informal	
102	Sewlall, K	Residential	
103	Sing, P	Vacant	
104	Govender, M & A	Vacant	
105	Benimadho, R B	Residential	
106	Gevender, R	Res/Informal	
107	Govender, M	Residential	
108	Zora & 3 Others	Residential	
109	Dookie, B	Residential	
110	Birjee	Residential	
111	Bibi Khalija & 1 Other	Residential	
112	Perumal Y	Residential	
113	Mundie, S	School	
114	Victor Apostolic Of Natal	School	
115	Akoo Ahmed	Res/informal	
116	Goven Ganga	Residential	
117	Premrajh, S&J	Residential	
118	Arandaan Sung, T	Magazine	
119	Ramidal, S H	Vacant	
120	Rabikissoon	Vacant	
121	Fatmabi Bee Hans	Vacant	
122	Moosa, E	Vacant	
123	Cara, H	Vacant	
124	Sookujah	Vacant	
125	Singh, B P	Vacant	
126	Rampersad	Vacant	
127	Badat, M C	Vacant	
128	Pathere Nadarajan	Vacant	
129	Soomer	Vacant	
130	Joosub S&H & Ismail	Qaurry	
131	Govender A & M	Market Gardens	
132	Ramasar R	Market Gardens	
133	Preethapal & 4 Others	Residential	
134	Ramsunder	Residential	
135	Pillay S & 11 Others	Vacant	
136	Dawdod Moosa Farm Trust & 3 Others	Vacant	
137	Inderjeeth, A & R	Residential	
138	Sookoo, S	Residential	
139	Padayachee, A	Vacant	
140	Jaglal	Vacant	
141	Jaglal, R	Vacant	
142	Arjoon, S	Vacant	

143	Debipersadh	Vacant
144	Poonia	Residential
145	Shamparkesh	Residential
146	Sookoo, S	Residential
147	Sigamoney	Vacant
148	Seodutt	Market Gardens
149	Seodutt	Market Gardens
150	Seodutt	Residential
Rem/151	Sookoo, H	Market Gardens
152	Sivlal, P	Res. & M/Gardens
153	Gouden, S	Residential
154	Singh, HN	Residential
155	Essack, A C	Residential
156	Gobind, M	Vacant
157	Hansraf & 8 Others	Vacant
158	Dukan, G S	Vacant
159	Suriakumar & 3 Others	Vacant
160	Ramdin, H	Residential
161	Kairoo Bee & 1 Other	Vacant
162	Naidoo, M & L	Vacant
Rem/163	Moonsamy, R	Vacant
Rem/165	Inderjeeth & 2 Others	Residential
Rem/166	Siddi, E & 2 Others	Vacant
Rem/168	Mangalparsad	Residential
169	Devaran & 3 Others	// //
Rem/170	Rungsamy	Shop
172	Ramdin, K	Residential
Rem/173	Boodhoo, S & L	Vacant
174	Sookram & Kalaspathee & 8 Others	Vacant
175	Savithra A Deeba	Vacant
176	Three Of Us Investments	Vacant
177	Muruvan	Market Gardens
178	Moodlair, B & M	Market Gardens
179	Dhinpoormathi & 1 Other	Res. & M/Gardens
180	Moodlair, V	Market Gardens
181	Gobind, R	Market Gardens
182	Sivlal, P	Market Gardens
183	Arjoon	Vacant
184	Rabichand	Market Gardens
185	Pillay & 3 Others	Market Gardens
186	Ramdeva	Market Gardens
187	Persad, H	Residential
188	Kisten, S	Residential
189	Moodlair, K & S	Residential
190	Reddy, Y & S	Residential
191	Heera & Sewmangal	Vacant
192	Heera & Sewmangal	Vacant
193	Atheemullam, V & S	Vacant
194	Moodlair, K & S	Residential
195	Pillay, A	Vacant
196	Hurrypersad	Residential
197	Ramdeva	Residential
198	Pillay, L & 3 Others	Vacant

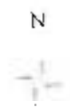
199	Rabichund	Residential	
200	Arjoon	Residential	
201	Subramanian, Y	Poultry	
202	Jooma, M V M	Vacant	
203	Maharaj, R J	Residential	
204	Perumal	Vacant	
205	Perumal	Vacant	
206	Devanand	Poultry	
207	Maharaj, N	Residential	
208	Ramnarain, A	Vacant	
209	Gambro Property Holdings	Res. & M/Gardens	
215	Kamla Pema	Res/Informal	
217	Republic Of South Africa	Residential	
218	Zora Amra	Vacant	
219	Congella Traiding Company (PTY) LTD	Market Gardens	
220	Parvathy	Res. & M/Gardens	
221	Palanisamy	Vacant	
222	Republic O f South Africa	Vacant	
223	Republic Of South Africa	Market Gardens	
224	Moodley, M M	Res. & M/Gardens	
225	Obaray, M J	Residential	
226	Kistan & 2 Others	Market Gardens	
227	Bai, M	Industrial	
228	Vasgrey, O	Industrial / Trading Store	
229	Transnet LTD	Res/Informal	
230	Republic Of South Africa	Residential	
231	Republic Of South Africa	Vacant	
	Pinetown Regional Water		
	Kearney, G D		
	Pinetown Regional Water		
	170 Sunderland Ridge		
	Kingham, E D		
	Republic Of South Africa		
	Glynalmond Investments (PTY) LTD		
	Mentcheeman & 6 Others		
11/8	Pillay, A	Residential	
12/8	Dorasamy 1920	Residential	
13/8	Padayachee, N	Residential	
14/8	Pillay, D	Residential	
Rem/315	Govender, I	Residential	
15/8	Shiram, S & M	Residential	
16/8	Whonanalay	Residential	
7315AB	Dass, S	Church	
1AC	Poolkoowar	Vacant	
2AC	Poolkoowar	Vacant	
3AC	Union Government	Residential	
8443AC	Sing, P	Residential	
Rem/324	Mahomed, C V		
	Nas Vervoer Kom-Nat Com		
2AE	R S A (S A T S)	Res/Informal	

3AE	R S A (S A T S) Transnet Ltd	Residential	
6616AE	Hemant (PTY) LTD	Residential	
	Dhuki & Sarjoo		
	Sookoo, M		
	Maharaj, N		
	Maharaj, N		
	Naidoo & Others		
	Naidoo & Others		
	Sewrathan, R & R		
	Singh, P & S		
	Singh, P & S		
	Joosab Brothers Trust		

# CLIFFDALE: CARTAGE CONTRACTORS MAP



Cartage Contractor Trucks  
Cadastral Boundary



DATE 30/09/1999  
Ref: 16/9/99



22/24 Delamore Rd, Hillcrest



OUTER WEST LOCAL COUNCIL  
CARTAGE CONTRACTOR SURVEY; CLIFFDALE

NO/MAP	SITE NO:	OWNER:	ADDRESS:	VEHICLE TYPE:	NO:OF VEHICLE:	WEIGHT OF VEHICLES:	PARKING ON SITE:
1	60	S.Subbudu		Flat Truck	1	8 Tons	Ok
2	62	I.Rajkoomar		Flat Truck	1	3 Tons	Ok
3	65	R.Naidoo	Box30008 Cliffdale 3702	Tipper Truck	1	20 Tons	Ok
	65	D.Singh	Box210 Cato Ridge 3680	Flat truck	1	12 Tons	Ok
4	68	A.Singh	Box274 Cato Ridge 3680	Flat Truck	2	8 Tons	Ok
5	69	M.K.Beache n	Box274 Cato Ridge 3680	Flat truck	1	8 Tons	Ok
6	70	A.Govender	Box159 Hamnarsdale 3700	Flat Truck	1	3.5Tons	Ok
7	72	S.Reddy	Box36 Inchanga	Flat Truck	1	5 Tons	Ok
8	75	C.D.Gwala	Box2017 Hillcrest 3650	Flat Truck	1	8 Tons	Ok
9	83	S. Moodley					
10	84	S.Govender	Box 442 Hillcrest 3650	Tipper Truck	2	8 Tons	Ok
11	96	M.Govender	Box 440 Hamnarsdale 3700	Tipper Truck	1	20 Tons	Ok
12	131	A.Govender	Box 696 Hillcrest 3650	Tipper Truck	2	8 Tons	Ok
13	133	T.Besasar	Box 192 Hamnarsdale 3700	Flat Truck	2	8 Tons	Ok
14	138	A.Rajcoonna r	Box 364 Hamnarsdale 3700	Tipper/ Flat Truck	2	4/8Tons	Ok
15	143	D.Sivlal	Box 3175 Assagay 3610	Flat Truck	2	8Tons	Ok
16	147	B.Jugroop	Box 489 Kloof 3640	Flat Truck	1	8Tons	Ok
17	160	A.Randin	Box 152	Tipper/Wate	6	7/8Tons	Ok

**OUTER WEST LOCAL COUNCIL**  
**CARTAGE CONTRACTOR SURVEY: CLIFFDALE**

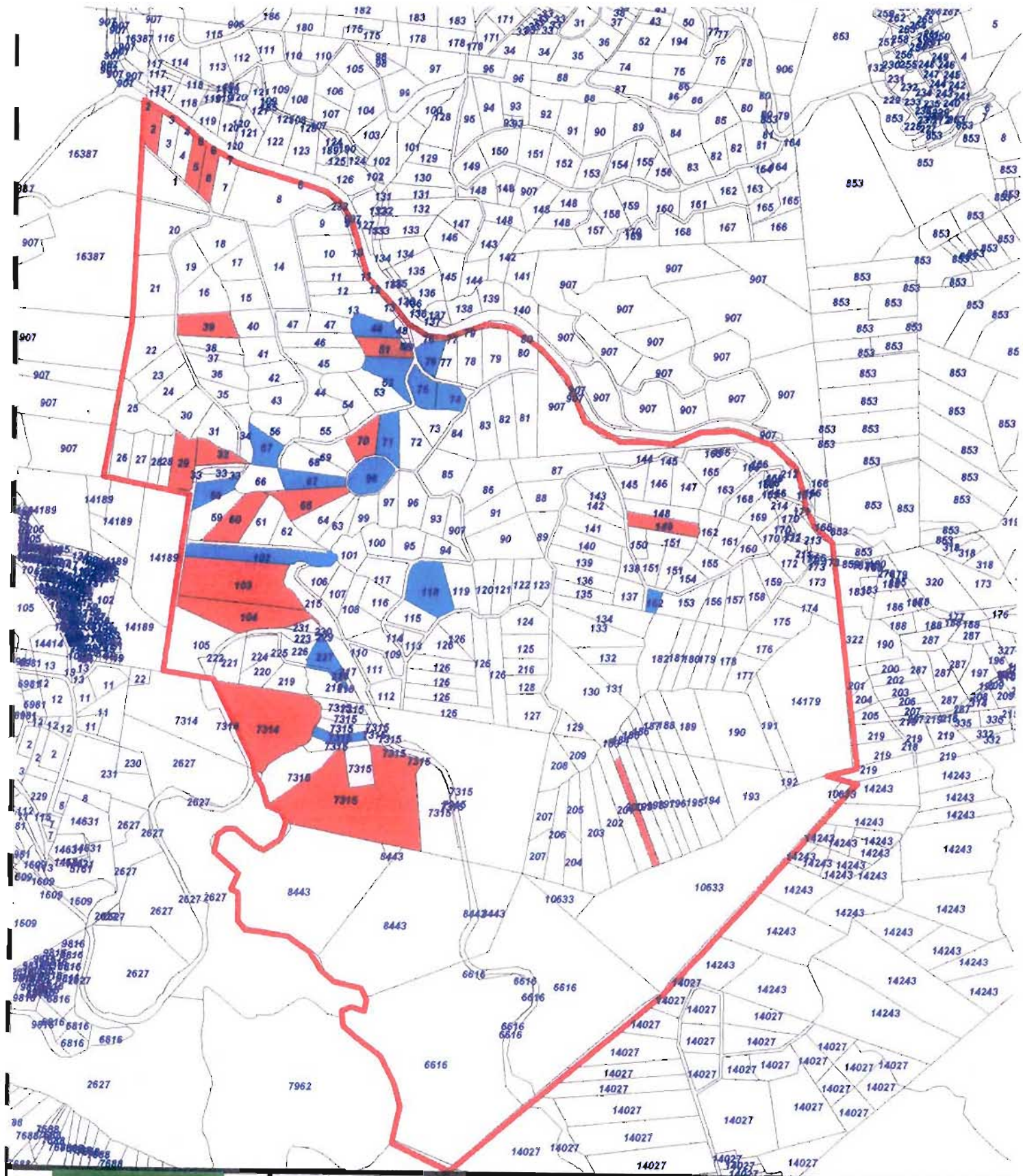
			Hammarsdale 3700	r&Flat Truck			
18	168	V.Ramlall	211Kennedy Rd Clare Estate	Tipper Truck	2	12Tons	Ok
19	169	V.Naicker	Box 146 Cato Ridge	Flat Truck	1	5Tons	Ok
20	198	G.Govonder		Tipper Truck	2	12Tons	Ok
21	200	D.A.Arajoon	Box 30039 Hammarsdale 3700	Flat Truck	1	5Tons	Ok
22	207	N.Maharaj		Flat Truck	1	3Tons	Ok
23	208	A.Maharaj		Flat Truck	2	6Tons	Ok
24	217	M.Ally	Box 16 Cliffdale 1702	Tipper Truck	2	8Tons	Ok
25	AC8443	S,P,R&R Singh	Box 145 Cato Ridge 3680	Tipper Truck	4	8/12/20Tons	Ok



**APPENDIX 11**

**SUBDIVISIONS/LAND USE APPLICATIONS**

# CLIFFDALE LAND USE APPLICATIONS



**LEGEND :**

-  Boundary
-  Cadastral
-  Applications Declined
-  Applications Approved



22/24 Delamore Rd, Hillcrest  
Tel: 7656012

DATE: 30/06/2000  
REF: 92/5/00



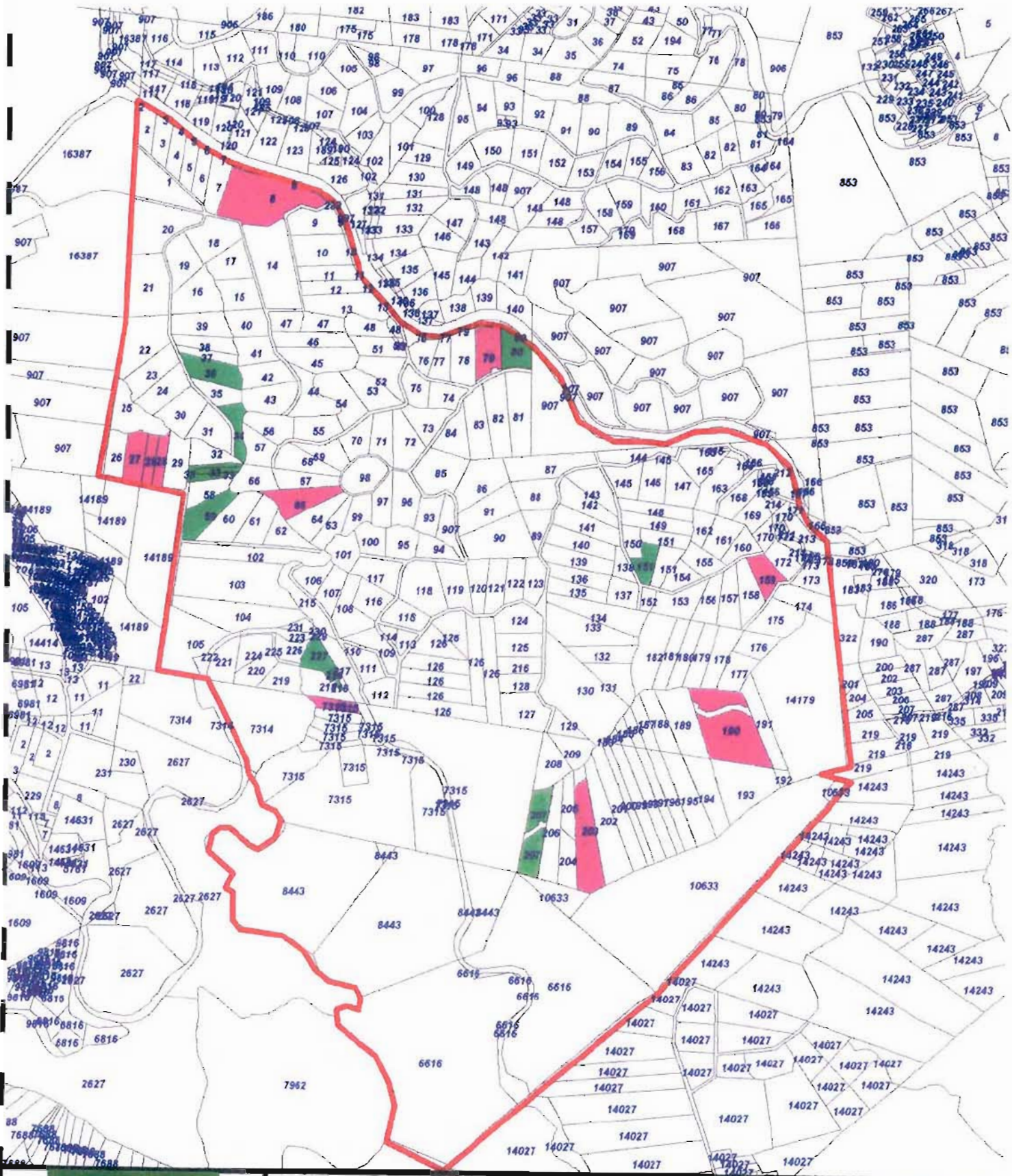
## CLIFFDALE : LAND USE APPLICATIONS

No/Plan	Description	Activity	Date Of Approval
1	Lot 2	Sheet Metal Works	Application was declined on 2/10/1998
2	Lot 6	Fibre - Works Distribution	Unauthorized business operation.
3	Lot 29	Sand Winning	Application was declined on 18/09/1985 because the Board endeavour to retain the natural character of Cliffdale
4	Lot 32	Three shops	The permission was granted to built three shops by the Provincial Board on 4/06/1953. But interms of the Section 11 (2)of the Town Planning Ordinance the applicant was asked to obtain further permission from the Administrator.
5	Lot 39	Manufacturing of Brake Pads	Unauthorized business operation.
6	Lot 48	a). Warehouse b). Service Station c). Found City Children's Home	a). Approved on 23/11/1981. b). Declined by the Road Dept. on 28/05/1982. c). Application was cancelled on 17/03/1995.
7	Lot 51	Commercial	Declined on 9/02/1987..
8	Lot 52	General Dealer	Approved on 1/09/1973
9	Lot 57	Mobile Electrical Contractor	Permission was granted on 3/02/1984.
10	Lot 58	Chicken Run	Approved on 18/05/1976. Not operational
11	Lot 60	Waste and Scrap Dealer Business	Unauthorized. The final contravention notice issued on 20/06/1996 and the owner was instructed to pay an infringement charge of R50 per day to the Service Board.
12	Lot 65	Storage of Salvage Waste	Application was declined on
13	Lot 67	a). Small Retail Shop b). Business Center	a). Permission was granted on 19/03/1964. Not operational. b). Application was declined on 31/12/1968.
14	Lot 70	Video - Shop	Declined on 20/10/1986.
15	Lot 71	Shop	Approved on 1/07/1968. Not operational
16	Lot 74	Fireworks Magazine	Approved 27/04/1988
17	Lot 75	Shop	Approved on 13/03/1998
18	Lot 76	a). Manufacturing and Selling of Concrete Building Blocks b). Scrap Metals Dealer Container Shop	a). Approved on 20/04/1988. b). Unauthorized Final contravention notices issued on 30/12/1998.
19	Lot 98	Cliffdale Indian School	Approved on 16/06/1955.
20	Lot 102	Bricks - Shop	Approved on 28/03/1957. Not operational
21	Lot 103	Sand Winning	Permission was granted on 17/11/1978 Re-application was declined on 25/07/1983
22	Lot 104	Drive - In Cinema, Hotel and Bottle Store	Declined on 1/11/1977
23	Lot 110	Small Factory	Declined on 20/10/1986

24	Lot 118	Fireworks Magazine	Approved on 20/06/1990. <b>Not operational</b>
25	Lot 149	General Dealer's Store	Declined on 4/03/1980
26	Lot 152	General Dealer's Store	Approved on 20/09/1997
27	Lot 183	General Dealer's Store and Liquor Store	No reply
28	Lot 200	Shop	Declined on 2/07/1986
29	Lot 227	(a). Industrial (b). Hardware Shop	(a). Deed of Transfer Condition: No. 7488/19666. (b). Approved 12/02/1986.
30	Sub 2 X No 7314	Sand winning	No reply
31	Lot AB No 7315	Manufacturing of Building Blocks	No reply
32	Sub 12/8/Lot AB 7315	Clothing Factory 100m <sup>2</sup> maximum & 5 people	Approved on 20/04/1988. <b>Not operational</b>
33	Lot 228	General Dealer Store	Deed of Transfer Condition: No. 18763/1973.
34	Sub 1/218	General Dealer Shops And Flats	Approved on 20/07/1959. <b>Not operational</b>



# CLIFFDALE SUBDIVISION APPLICATIONS



## LEGEND:

-  Boundary
-  Applications Approved
-  Applications Declined
-  Cadastral



OUTER WEST  
LOCAL COUNCIL

22/24 Delamore Rd, Hillcrest  
Tel: 7656012

DATE: 30/08/2000  
RHP: 92/600



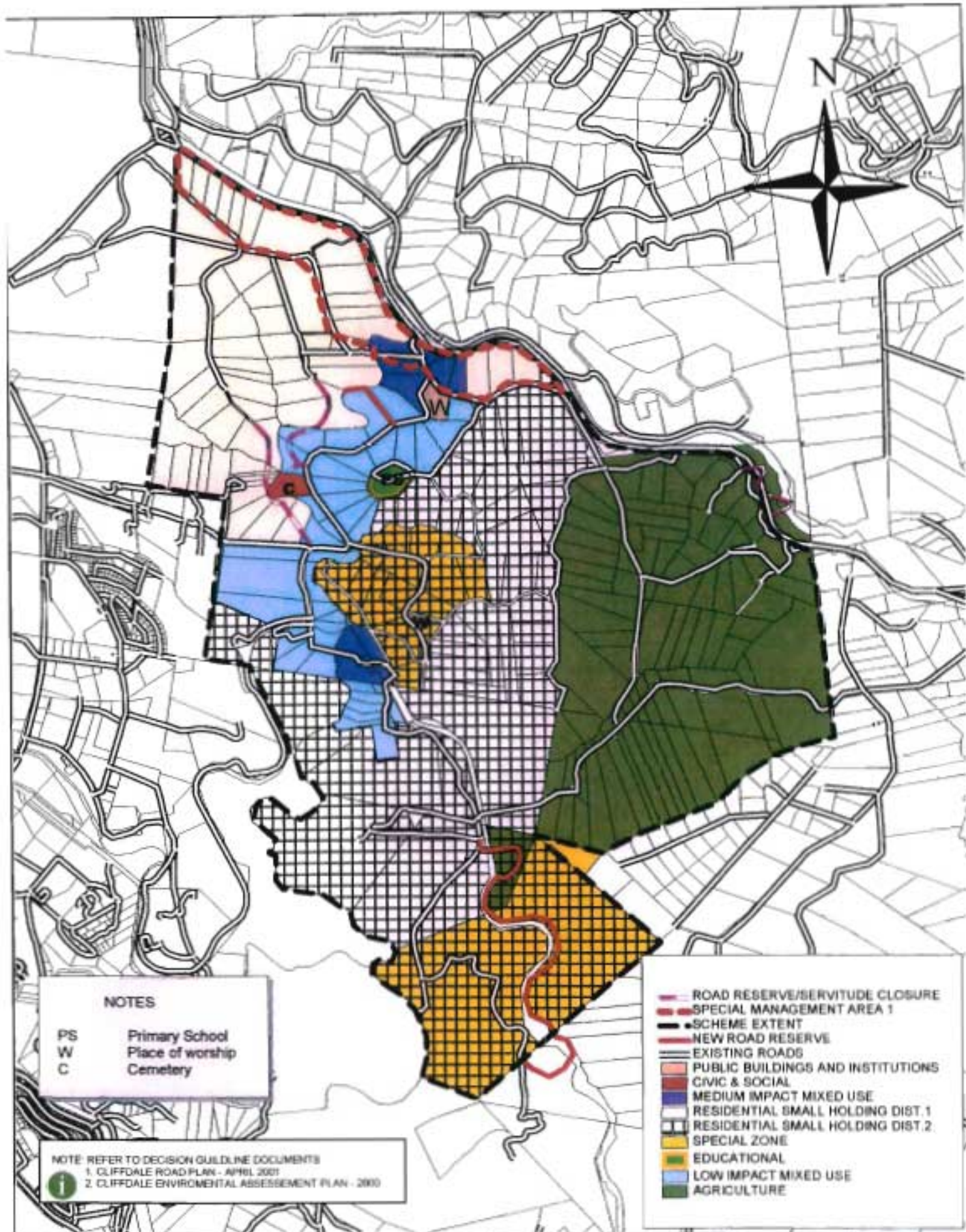
## CLIFFDALE SUBDIVISIONS

PROPERTY DESCRIPTION	SITE AREA	PROGRESS
<b>Lot 8</b>	<b>3,7400 ha</b>	<b>Declined</b>
Rem	1,8600 ha	
Portion 3	1,8800 ha	
<b>Lot 27</b>	<b>3,8119 ha</b>	<b>Declined</b>
Rem	1,5125 ha	
Portion 1	1,9425 ha	
Portion 2	0,3569 ha	
<b>Lot 28</b>	<b>4,4898 ha</b>	<b>Declined</b>
Rem	2,2449 ha	
Sub 1	2,2449 ha	
<b>Lot 33</b>	<b>3,1507 m<sup>2</sup></b>	<b>Approved</b>
Rem	1,0394 m <sup>2</sup>	
Sub 1	1,0610 m <sup>2</sup>	
Sub 2	1,0503 m <sup>2</sup>	
<b>Lot 34</b>	<b>15,99 ac</b>	<b>Approved</b>
Rem	8,49 ac	
Sub 1	7,5 ac	
<b>Lot 36 &amp; 59</b>	<b>?</b>	<b>?</b>
<b>Lot 65</b>	<b>5,7500 ha</b>	<b>Declined</b>
Rem	3,1200 ha	
Portion 1	2,6300 ha	
<b>Lot 79</b>	<b>5,075 ha</b>	<b>Declined</b>
Sub 3	1,57 ha	
Sub 4	1,58 ha	
Sub 5	1,925 ha	
<b>Lot 80</b>	<b>3,7263 ha</b>	<b>Approved</b>
Rem	1,86 ha	
Portion 3	1,86 ha	
<b>Lot 151</b>	<b>8,75 ha</b>	<b>Approved</b>
Rem	2,75 ha	
Sub 1	3,00 ha	
Sub 2	3,00 ha	
<b>Lot 159</b>	<b>36689 m<sup>2</sup></b>	<b>Declined</b>
<b>Lot 190</b>	<b>17,7 ha</b>	<b>Declined</b>
Sub 1	2,1 ha	
Sub 2	2,0 ha	
Sub 3	2,0 ha	
Sub 4	3,0 ha	
Sub 5	2,6 ha	
Sub 6	2,0 ha	
Sub 7	2,0 ha	
<b>Lot 203</b>	<b>25,00 ac</b>	<b>Declined</b>
Rem	17,5 ac	
Sub 1	7,5 ac	
<b>Lot 207</b>	<b>7,45 ha</b>	<b>Approved</b>
Rem	3,74 ha	
Sub 1	3,71 ha	
<b>Lot 227</b>	<b>8,448 ac</b>	<b>Approved</b>
Sub 2	3,3443 m <sup>2</sup> ft	
<b>Lot AB 7315/8</b>	<b>1,7141 ha</b>	<b>Declined</b>
Sub A	4047 m <sup>2</sup>	

**APPENDIX 12**

**CLIFFDALE LAND USE SCHEME CONTROLS**





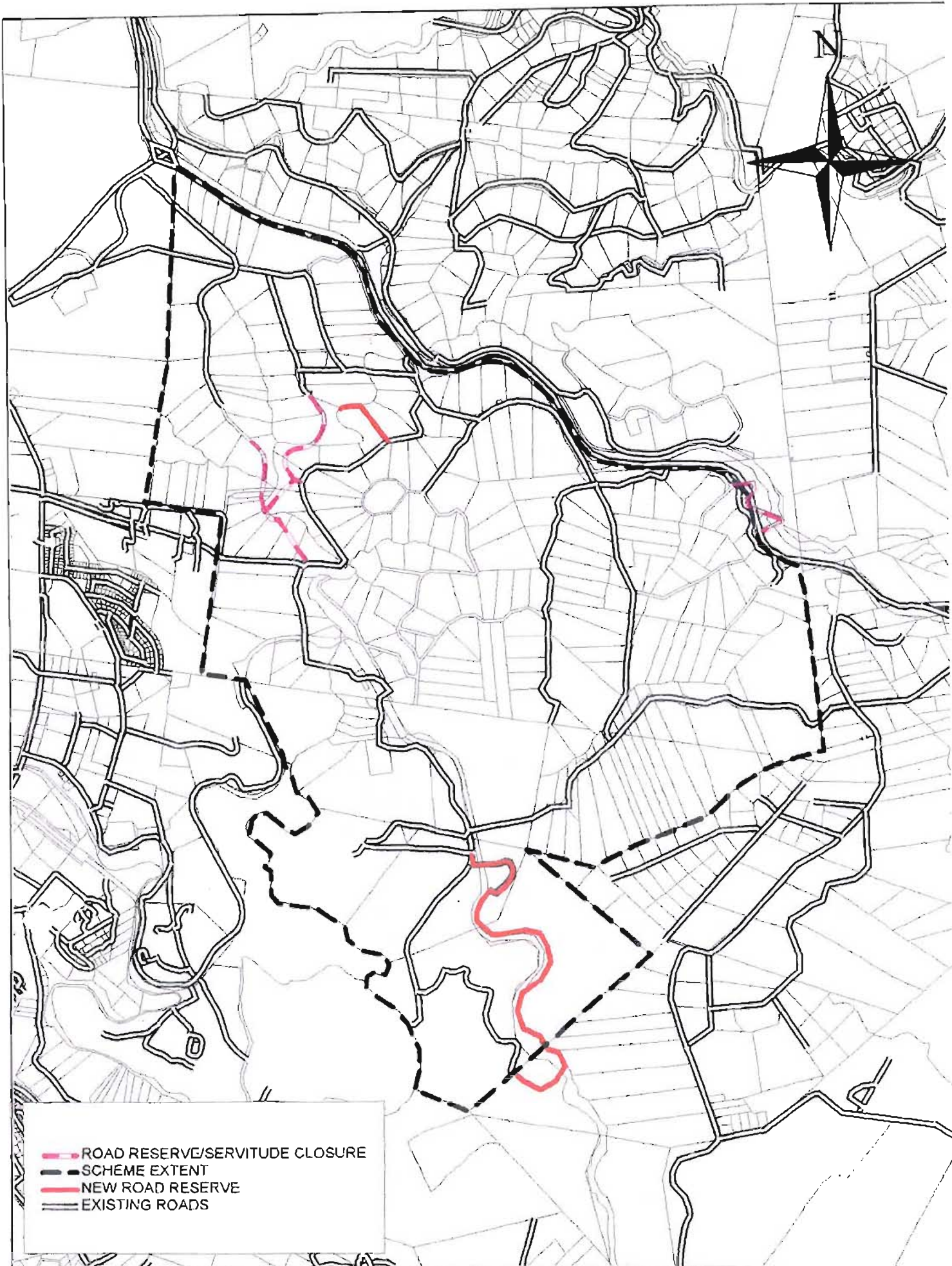
CLIFFDALE PLANNING SCHEME MAP

PLAN No. CLIFF\_LUMS\_3

1:35000

July 2001





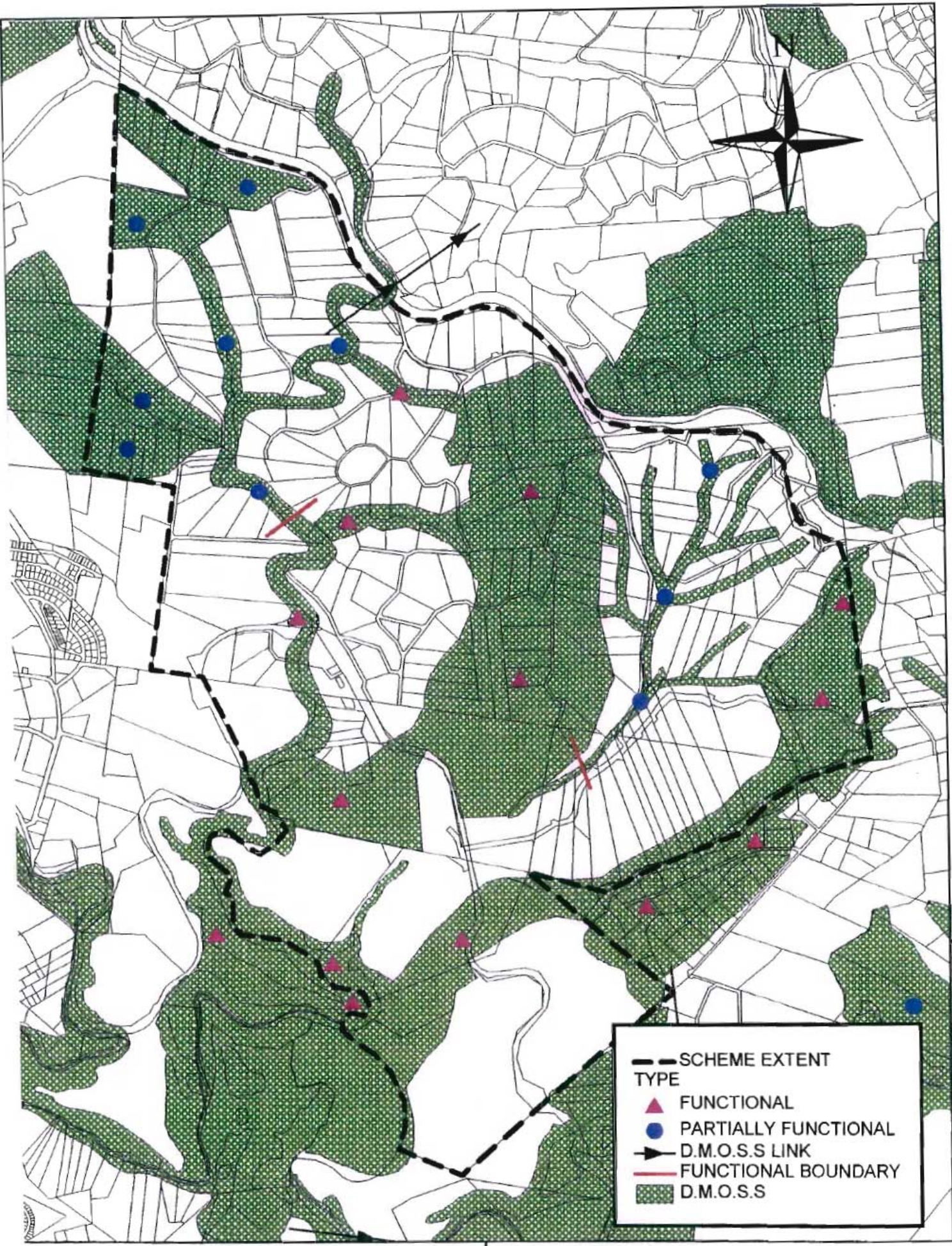
CLIFFDALE PLANNING SCHEME MAP

PLAN No. CLIFF\_RDS\_1

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JULY 2001





CLIFFDALE ECOSYSTEM AREAS

Plan No. CLIFF\_ECO\_2

1:30000

JULY 2001



## ANNEXURE P

### CLIFFDALE INTERIM LAND USE CONTROLS

The following interim land uses controls will apply to all areas of Cliffdale as indicated on the Scheme Map: CLIFF-LUMS-3 dated 7 July 2001. Controls adopted by Ethekiwni Municipality on 13 December 2001.

**Table 1 : Summary of Development Controls per Zone in Cliffdale**

PROPOSED ZONE	FAR	Coverage	Height	Building Line	Side and Rear Space	Minimum Erf Size	Parking
Residential Small Holding (District 1)	0.35	30%	2	7.5m	3.0m	4000m <sup>2</sup>	1/du
Residential Small Holding (District 2)	0.15	15%	2	7.5m	3.0m	1 hectares	1/du
Medium Impact Mixed Use	0.35	30%	2	4.5m	2.0m	1500m <sup>2</sup>	LA
Low Impact Mixed Use	0.35	30%	2	4.5m	3.0m	2000m <sup>2</sup>	LA
Civic and Social	0.35	25%	2	7.5m	3.0m	N/A	LA
Education	0.35	25%	2	7.5m	3.0m	NA	LA
Public Buildings and Institutions	0.5	30%	2	0m	2m + 3m	3600m <sup>2</sup>	LA
Agriculture	0.10	10%	2	7.5m	3.0m	2 hectares	NA
Special Zone	0.35	30%	2	7.5m	3.0m	DFP	DFP
Transportation and Access	NA	NA	NA	NA	NA	NA	NA

Notes:

Education	Public Buildings and Institutions	Health and Social Service	Open Space
PS - Primary School	W - Place of Worship	CL - Clinic	SF - Sports Field
HS - High School	PO - Post Office	H - Hospital	RC - Recreation Club
T - Technikon	FS - Fire Station	FC - Frail Care Centre	GC - Golf Course
CR - Creche	TE - Telephone Exchange	C - Cemetery	Utilities and Services
	P - Police Station	Transportation and Access	RS - Refuse Site
	CO - Civic Office	BD - Bus Depot	ES - Electricity Substation
	CF - Community Facility/Hall		R - Water Reservoir

NA - Not Applicable; DFP: Subject to approved Development Framework Plan

LA - To satisfaction of Local Authority

The following definitions are applicable to the tables contained in the remainder of this section:

- F - freely permitted use (uses that may be established in terms of the development controls for the zone without additional permission from the Local Council)
- D - development permit (uses that may be established in terms of the development controls for the zone, but with the written consent of adjacent property owners)
- X - prohibited use (uses that are not permitted to be established in the zone)
- C - conditional use (uses that may be established in terms of the development controls for the zone, but with additional conditions that may be stipulated by the Local Council. Requires that an application for the use be made to the Local Council for approval following the Special Consent procedures.)

## RESIDENTIAL SMALL HOLDING

General Purpose and Objectives	
Policy principle	A zone where the primary land use is residential and where a limited number of compatible ancillary uses which have a non-disruptive impact on neighbourhood amenity may be allowed.
Objective	To protect the residential use of the zone by specifying compatible ancillary uses.
Definition	A residential small holding zone allocates land for a variety of housing types with a limited number of compatible ancillary land uses permissible so as to cater for every day needs.

### Statement of Intent

To provide for the establishment and protection of existing low density residential neighbourhoods.

### Development Control Template

Zone	Residential Small Holding	
District	1	2
F.A.R.	0.35	0.15
Coverage	30%	15%
Height	2	2
Building line	7.5m	7.5m
Side	3.0m	3.0m
Rear	3.0m	3.0m
Minimum lot size	4000m <sup>2</sup>	10 000 m <sup>2</sup> (1Ha)
Parking	1 / du	1 / du
<b>Additional controls:</b>		
1) All permissible developments within the Special Management Area shall be subject to the approval of the Local Authority who shall take into account whether or not the development / building(s) will be injurious to the visual amenity of the area. Refer to Clause 6.1 for further additional controls.		
2) A Medium Density Housing site shall be subject to the provision of a sewage disposal system to the satisfaction of the local authority.		
3) Where the erf in District 1 is used exclusively for multiple residential purposes, the maximum number of units, which may be established, shall be as per clause 4.7.		
4) In District 2 one dwelling house may be erected in terms of clause 5.2(2)		
5) Additional controls are contained in Annexure N: <i>Environmental Controls</i> .		
6) Refer to Decision Guideline Documents:		
- <i>Cliffdale Road Plan - April 2001</i>		
- <i>Cliffdale Environmental Assessment - 2000</i>		

## Land Use and Building Types

RESIDENTIAL		CIVIC AND SOCIAL	
Ancillary dwelling	D	Administrative building	X
Bed and Breakfast	C	Bus and Taxi rank	X
Block of flats	X	Car park	X
Boarding house	X	Conference centre	X
Cabana	X	Crèche	C
Caravan park	X	Educational building	X
Chalet	C	Funeral parlour	X
Detached house / dwelling	F	Govt. and Municipal purposes	X
Duplex flat	X	Hall / social hall	C
Guest house	X	Institutional building	C
Hotel (licensed)	X	Library	X
Maisonette	X	Museum	X
Medium density residential	C	Place of amusement	X
Mobile home park	X	Place of assembly	C
Outbuilding	D	Place of worship	C
Retirement village	C	Public building	X
Semi-detached house	C	Special building	X
Terrace house	C	Amenity facility	X
<b>RETAIL</b>		<b>INDUSTRY</b>	
Automotive showroom	X	Arts and crafts workshop	X
Bottle store	X	Garage	X
Commercial / business	X	Commercial workshop	X
Farm Stall	C	Factory shop	X
Laundrette	X	General industry	X
Parking garage	X	Light industry	X
Restaurant (coffee shop with no after hours trading)	X	Noxious industry	X
Restaurant (indoor only)	X	Quarrying extractive industry	C
Restaurant (outdoor veranda)	X	Salvage industry	X
Shop	X	Service industry	X
Spaza	D	Petrol service station	X
Take away / fast food	X	Warehousing / storage warehouse	X
Tavern / bar	C	<b>AGRICULTURE</b>	
Totalisator	X	Agricultural building	D
Flea Market	D	Agricultural industry	C
<b>OFFICE</b>		Agricultural land	D
Doctor's consulting rooms	C	Urban agriculture	D
Home business	D	<b>TRANSPORT AND ACCESS</b>	
Office building	X	Arcade	F
Private clinic	X	Bulk services corridor	F
Professional office	X	Pedestrian walkways	F
<b>OPEN SPACE</b>		Railways	F
Conservation area	F	Roads	F
Private open space	C	Transportation	F
Public active open space	C	<b>ALL OTHER LAND USES AND BUILDING TYPES</b>	
Recreation building	C		C

## MEDIUM IMPACT MIXED USE

General Purpose and Objectives	
Policy principle	This zone is intended to provide a mechanism to accommodate the development of mixed use nodes and corridors where the residential amenity of the area is not unduly disrupted.
Objective	To provide for development of a number of formal and informal business opportunities and allows for the development of a range of complementary land uses of a commercial, office, administrative, informal trade and residential nature.
Definition	A zone which sets aside land along major transport and communication corridors for a range of retail, offices, residential and community facilities excluding all forms of industry and trade.

### Statement of Intent

To provide for the establishment of mixed use nodes and precincts along major spine roads, that increase the level of services available in the area.

Development Control Template	
Zone	Medium Impact Mixed Use
District	-
F.A.R.	0.35
Coverage	30%
Height	2
Building line	4.5m
Side	2.0m
Rear	2.0m
Minimum lot size	1500m <sup>2</sup>
Parking	In terms of Clause 6.5
Additional controls	<ol style="list-style-type: none"> <li>Building line, Side and Rear space may be relaxed by local authority provided comments of adjacent and/or opposite owners have been obtained..</li> <li>All permissible developments within the Special Management Area shall be subject to the approval of the Local Authority who shall take into account whether or not the development / buildings will be injurious to the visual amenity of the area. See Part 6</li> <li>Additional controls are contained in Annexure N: <i>Environmental Controls</i></li> <li>Refer to Decision Guideline Documents: <ul style="list-style-type: none"> <li><i>Cliffdale Road Plan - April 2001</i></li> <li><i>Cliffdale Environmental Assessment - 2000</i></li> </ul> </li> </ol>

## Land Use and Building Types

RESIDENTIAL		CIVIC AND SOCIAL	
Ancillary dwelling	C	Administrative building	D
Bed and Breakfast	D	Bus and Taxi rank	C
Block of flats	F	Car park	F
Boarding house	F	Conference centre	F
Cabana	X	Crèche	C
Caravan park	X	Educational building	X
Chalet	X	Funeral parlour	F
Detached house / dwelling	F	Govt. and Municipal purposes	C
Duplex flat	F	Hall / social hall	C
Guest house	F	Institutional building	C
Hotel (licensed)	D	Library	F
Maisonette	F	Museum	C
Medium density residential	F	Place of amusement	C
Mobile park home	X	Place of assembly	C
Outbuilding	D	Place of worship	C
Retirement village	F	Public building	C
Semi-detached house	C	Special building	C
Terrace house	F	Amenity facility	F
RETAIL		INDUSTRY	
Automotive showroom	F	Arts and crafts workshop	C
Bottle store	F	Garage	D
Commercial / business	D	Commercial workshop	D
Farm Stall	C	Factory shop	X
Laundrette	D	General industry	X
Parking garage	C	Light industry	X
Restaurant (coffee shop with no after hours trading)	D	Noxious industry	X
Restaurant (indoor only)	D	Quarrying extractive industry	X
Restaurant (outdoor veranda)	C	Salvage industry	X
Shop	F	Service industry	X
Spaza	D	Petrol service station	C
Take away / fast food	D	Warehousing / storage warehouse	X
Tavern / bar	C	AGRICULTURE	
Totalisator	X	Agricultural building	X
Flea market	C	Agricultural industry	X
OFFICE		Agricultural land	X
Doctor's consulting rooms	F	Urban agriculture	D
Home business	F	TRANSPORT AND ACCESS	
Office building	F	Arcade	F
Private clinic	C	Bulk services corridor	F
Professional office	C	Pedestrian walkways	F
OPEN SPACE		Railways	F
Conservation area	F	Roads	F
Private open space	D	Transportation	F
Public active open space	D	ALL OTHER LAND USES AND BUILDING TYPES	
Recreation building	D		C

## LOW IMPACT MIXED USE

### General Purpose and Objectives

Policy principle	This zone is intended to provide a mechanism to accommodate the development of mixed use areas and corridors.
Objective	To provide for development of a number of higher intensity formal and informal business opportunities and allows for the development of a range of complementary land uses of a commercial, office, administrative, informal trade and residential nature.
Definition	A zone which sets aside land along major transport and communications corridors for the full range of retail, offices, residential and community facilities and excluding noxious and general industry.

### Statement of Intent

To provide for the establishment of lower intensity mixed use nodes and precincts along major spine roads, that increase the level of services available in the area.

### Development Control Template

Zone	Low Impact Mixed Use
District	-
F.A.R.	0.35
Coverage	30%
Height	2
Building line	4.5m
Side	3.0m
Rear	3.0m
Minimum lot size	2000m <sup>2</sup>
Parking	In terms of Clause 6.5
Additional controls	<ol style="list-style-type: none"> <li>Side space may be relaxed by local authority, provided that comments of adjacent owners have been obtained, and access to rear of erf is not compromised.</li> <li>Additional controls are contained in Annexure N: <i>Environmental Controls</i>.</li> <li>Refer to Decision Guideline Documents: <ul style="list-style-type: none"> <li>Cliffdale Road Plan – April 2001</li> <li>Cliffdale Environmental Assessment - 2000</li> </ul> </li> </ol>

## Land Use and Building Types

RESIDENTIAL		CIVIC AND SOCIAL	
Ancillary dwelling	C	Administrative building	D
Bed and Breakfast	D	Bus and Taxi rank	C
Block of flats	X	Car park	F
Boarding house	F	Conference centre	F
Cabana	X	Creche	C
Caravan park	X	Educational building	X
Chalet	X	Funeral parlour	C
Detached house / dwelling	F	Govt. and Municipal purposes	C
Duplex flat	F	Hall / social hall	C
Guest house	F	Institutional building	C
Hotel (licensed)	D	Library	F
Maisonette	F	Museum	C
Medium density residential	F	Place of amusement	C
Mobile park home	X	Place of assembly	C
Outbuilding	D	Place of worship	C
Retirement village	F	Public building	C
Semi-detached house	C	Special building	C
Terrace house	F	Amenity facility	F
<b>RETAIL</b>		<b>INDUSTRY</b>	
Automotive showroom	C	Arts and crafts workshop	C
Bottle store	C	Garage	X
Commercial / business	F	Commercial workshop	X
Farm Stall	C	Factory shop	X
Laundrette	F	General industry	X
Parking garage	C	Light industry	X
Restaurant (coffee shop with no after hours trading)	F	Noxious industry	X
Restaurant (indoor only)	F	Quarrying extractive industry	X
Restaurant (outdoor veranda)	F	Salvage industry	X
Shop	F	Service industry	X
Spaza	D	Petrol service station	C
Take away / fast food	D	Warehousing / storage warehouse	X
Tavern / bar	C	<b>AGRICULTURE</b>	
Totalisator	C	Agricultural building	X
Flea market	C	Agricultural industry	X
<b>OFFICE</b>		Agricultural land	X
Doctor's consulting rooms	F	Urban agriculture	D
Home business	F	<b>TRANSPORT AND ACCESS</b>	
Office building	C	Arcade	F
Private clinic	C	Bulk services corridor	F
Professional office	C	Pedestrian walkways	F
<b>OPEN SPACE</b>		Railways	F
Conservation area	F	Roads	F
Private open space	D	Transportation	F
Public active open space	D	<b>ALL OTHER LAND USES AND BUILDING TYPES</b>	C
Recreation building	D		



## CIVIC AND SOCIAL

### General Purpose and Objectives

Policy principle	The provision and development of all facilities and services required for the administrative, social, health and cultural well-being and benefit of residents and workers.
Objective	To ensure that the health and social services requirements are located in convenient core suburban and residential locations which are convenient to all people.
Definition	A zone which provides for the full range of hospital clinic, community care, welfare and social requirements including cemeteries and crematoria.

### Statement of Intent

To provide for the development of health and social service facilities to serve local and surrounding communities.

### Development Control Template

Zone	Civic & Social
District	-
F.A.R.	0.35
Coverage	25%
Height	2
Building line	7.5m
Side	3.0m
Rear	3.0m
Minimum lot size	NA
Parking	To satisfaction of local authority
Additional controls	<ol style="list-style-type: none"> <li>Building line may be reduced by local authority provided that comments of adjacent and/or opposite owners have been obtained, and access to rear of erf is not compromised.</li> <li>All landscaping within the public areas in this zone should use appropriate indigenous species found in indigenous ecosystems surrounding the zone.</li> <li>Additional controls are contained in Annexure N: <i>Environmental Controls</i>.</li> <li>Refer to Decision Guideline Documents:             <ul style="list-style-type: none"> <li>- <i>Cliffdale Road Plan - April 2001</i></li> <li>- <i>Cliffdale Environmental Assessment - 2000</i></li> </ul> </li> </ol>

## Land Use and Building Types

RESIDENTIAL		CIVIC AND SOCIAL	
Ancillary dwelling	C	Administrative building	F
Bed and Breakfast	X	Bus and Taxi rank	F
Block of flats	X	Car park	F
Boarding house	C	Conference centre	X
Cabana	X	Crèche	C
Caravan park	X	Educational building	C
Chalet	X	Funeral parlour	C
Detached house / dwelling	C	Govt. and Municipal purposes	F
Duplex flat	C	Hall / social hall	F
Guest house	X	Institutional building	F
Hotel (licensed)	X	Library	C
Maisonette	C	Museum	C
Medium density residential	C	Place of amusement	X
Mobile park home	X	Place of assembly	C
Outbuilding	D	Place of worship	C
Retirement village	C	Public building	F
Semi-detached house	C	Special building	C
Terrace house	C	Amenity facility	F
RETAIL		INDUSTRY	
Automotive showroom	X	Arts and crafts workshop	X
Bottle store	X	Garage	X
Commercial / business	C	Commercial workshop	X
Farm Stall	C	Factory shop	X
Laundrette	C	General industry	X
Parking garage	C	Light industry	X
Restaurant (coffee shop with no after hours trading)	C	Noxious industry	X
Restaurant (indoor only)	C	Quarrying extractive industry	X
Restaurant (outdoor veranda)	C	Salvage industry	X
Shop	C	Service industry	X
Spaza	C	Petrol service station	X
Take away / fast food	C	Warehousing / storage warehouse	X
Tavern / bar	X	AGRICULTURE	
Totalisator	X	Agricultural building	X
Flea market	C	Agricultural industry	X
OFFICE		Agricultural land	X
Doctor's consulting rooms	F	Urban agriculture	C
Home business	X	TRANSPORT AND ACCESS	
Office building	C	Arcade	F
Private clinic	F	Bulk services corridor	F
Professional office	X	Pedestrian walkways	F
OPEN SPACE		Railways	F
Conservation area	F	Roads	F
Private open space	F	Transportation	F
Public active open space	C	ALL OTHER LAND USES AND BUILDING TYPES	
Recreation building	C		X



## EDUCATION

### General Purpose and Objectives

Policy principle	The development of the full range of infant and pre-school, primary, secondary and tertiary educational facilities and interests.
Objective	To ensure an adequate range and provision of educational facilities in appropriate and convenient locations which are convenient to all people.
Definition	A zone which allows for the development of all educational facilities

### Statement of Intent

To provide for the development of schools and other educational facilities required to provide education and training for local communities.

### Development Control Template

Zone	Education
District	-
F.A.R.	0.35
Coverage	25%
Height	2
Building line	7.5m
Side	3.0m
Rear	3.0m
Minimum lot size	NA
Parking	To satisfaction of local authority
Additional controls	<ol style="list-style-type: none"> <li>1. F.A.R. and coverage may be increased by local authority, provided that facilities have secure access to conveniently located shared outdoor facilities, such as sportsfields.</li> <li>2. Side and rear spaces may be relaxed by local authority, provided that comments of adjacent and/or opposite owners have been obtained and access to rear of erf is not compromised.</li> <li>3. All landscaping within this zone should use appropriate indigenous species found in indigenous ecosystems surrounding the zone.</li> <li>4. Additional controls are contained in Annexure N: <i>Environmental Controls</i>.</li> <li>5. Refer to Decision Guideline Documents: <ul style="list-style-type: none"> <li>- <i>Cliffdale Road Plan - April 2001</i></li> <li>- <i>Cliffdale Environmental Assessment - 2000</i></li> </ul> </li> </ol>

## Land Use and Building Types

RESIDENTIAL		CIVIC AND SOCIAL	
Ancillary dwelling	C	Administrative building	F
Bed and breakfast	X	Bus and Taxi rank	C
Block of flats	X	Car park	F
Boarding house	C	Conference centre	C
Cabana	X	Crèche	F
Caravan park	X	Educational building	F
Chalet	X	Funeral parlour	X
Detached house / dwelling	C	Govt. and Municipal purposes	X
Duplex flat	C	Hall / social hall	F
Guest house	X	Institutional building	X
Hotel (licensed)	X	Library	F
Maisonette	X	Museum	X
Medium density residential	X	Place of amusement	C
Mobile park home	X	Place of assembly	F
Outbuilding	X	Place of worship	F
Retirement village	X	Public building	C
Semi-detached house	X	Special building	C
Terrace house	X	Amenity facility	F
RETAIL		INDUSTRY	
Automotive showroom	X	Arts and crafts workshop	X
Bottle store	X	Garage	X
Commercial / business	X	Commercial workshop	X
Farm Staff	X	Factory shop	X
Laundrette	C	General industry	X
Parking garage	C	Light industry	X
Restaurant (coffee shop with no after hours trading)	C	Noxious industry	X
Restaurant (indoor only)	C	Quarrying extractive industry	X
Restaurant (outdoor veranda)	C	Salvage industry	X
Shop	C	Service industry	X
Spaza	C	Petrol service station	X
Take away / fast food	C	Warehousing / storage warehouse	X
Tavern / bar	C	AGRICULTURE	
Totalsator	X	Agricultural building	X
Flea market	C	Agricultural industry	X
OFFICE		Agricultural land	X
Doctor's consulting rooms	X	Urban agriculture	C
Home business	X	TRANSPORT AND ACCESS	
Office building	C	Arcade	F
Private clinic	X	Bulk services corridor	F
Professional office	X	Pedestrian walkways	F
OPEN SPACE		Railways	F
Conservation area	F	Roads	F
Private open space	F	Transportation	F
Public active open space	F	ALL OTHER LAND USES AND BUILDING TYPES	
Recreation building	F		X

## PUBLIC BUILDINGS AND INSTITUTIONS

### General Purpose and Objectives

Policy principle	The provision of public, administrative, institutional, and infrastructural developments and buildings for the convenience and proper operation and functioning of urban areas.
Objective	To ensure that public, institutional, administrative and service facilities are provided to permit the efficient and proper administration and functioning of the town.
Definition	A zone providing for the municipal, institutions and public facilities related to infrastructure and services, which includes prisons and juvenile facilities.

### Statement of Intent

To promote the establishment and consolidation of public facilities and services within the area.

### Development Control Template

Zone	Public Buildings and Institutions
District	.
F.A.R.	0.5
Coverage	30%
Height	2
Building line	0m
Side	2m
Rear	3m
Minimum lot size	3600m <sup>2</sup>
Parking	In terms of Clause 6.5
Additional controls	<ol style="list-style-type: none"> <li>1. F.A.R. may be increased for worship buildings and other institutions at the discretion of the local authority.</li> <li>2. Maximum height may be increased for worship buildings and other institutions at the discretion of the local authority.</li> <li>3. All landscaping within the public areas in this zone should use appropriate indigenous species found in indigenous ecosystems surrounding the zone.</li> <li>4. Additional controls are contained in Annexure N: <i>Environmental Controls</i>.</li> <li>6. Refer to Decision Guideline Documents: <ul style="list-style-type: none"> <li>- <i>Cliffdale Road Plan - April 2001</i></li> <li>- <i>Cliffdale Environmental Assessment - 2000</i></li> </ul> </li> </ol>

## Land Use and Building Types

RESIDENTIAL		CIVIC AND SOCIAL	
Ancillary dwelling	C	Administrative building	F
Bed and Breakfast	X	Bus and Taxi rank	C
Block of flats	C	Car park	F
Boarding house	C	Conference centre	X
Cabana	X	Crèche	C
Caravan park	X	Educational building	X
Chalet	X	Funeral parlour	X
Detached house / dwelling	C	Govt. and Municipal purposes	F
Duplex flat	C	Hall / social hall	F
Guest house	X	Institutional building	F
Hotel (licensed)	X	Library	F
Maisonette	C	Museum	F
Medium density residential	C	Place of amusement	X
Mobile park home	X	Place of assembly	F
Outbuilding	D	Place of worship	F
Retirement village	X	Public building	F
Semi-detached house	C	Special building	C
Terrace house	C	Amenity facility	F
RETAIL		INDUSTRY	
Automotive showroom	X	Arts and crafts workshop	X
Bottle store	X	Garage	X
Commercial / business	X	Commercial workshop	X
Farm Stall	C	Factory shop	X
Laundrette	X	General industry	X
Parking garage	C	Light industry	X
Restaurant (coffee shop with no after hours trading)	C	Noxious industry	X
Restaurant (indoor only)	C	Quarrying extractive industry	X
Restaurant (outdoor veranda)	X	Salvage industry	X
Shop	X	Service industry	X
Spaza	X	Petrol service station	X
Take away / fast food	X	Warehousing / storage warehouse	X
Tavern / bar	X	AGRICULTURE	
Totalisator	X	Agricultural building	X
Flea market	C	Agricultural industry	X
OFFICE		Agricultural land	X
Doctor's consulting rooms	X	TRANSPORT AND ACCESS	
Home business	X	Arcade	F
Office building	X	Bulk services corridor	F
Private clinic	X	Pedestrian walkways	F
Professional office	X	Railways	F
OPEN SPACE		Roads	F
Conservation area	X	Transportation	F
Private open space	F	ALL OTHER LAND USES AND BUILDING TYPES	X
Public active open space	F		
Recreation building	F		

## AGRICULTURE

### General Purpose and Objectives

Policy principle	To identify land with agricultural potential and to use these areas primarily for agricultural purposes.
Objective	To use agricultural land in a sustainable way.
Definition	The use of land for agriculture as the main economic activity. It includes areas that are under extensive agricultural use as well as those with low intensity agricultural use combined with scattered rural settlement.

### Statement of Intent

To provide for the land, buildings and uses associated with the cultivation and production of produce and livestock and horticulture and educational activities associated with these activities and includes high potential agricultural and market gardening within the urban context.

### Development Control Template

Zone	Agriculture
District	-
F.A.R.	0.10
Coverage	10%
Height	2
Building line	7.5m
Side	3.0m
Rear	3.0m
Minimum lot size	20 000m <sup>2</sup> (2 Ha)
Parking	NA
Additional controls	<ol style="list-style-type: none"> <li>Additional controls are contained in Annexure N: <i>Environmental Controls</i>.</li> <li>Refer to Decision Guideline Documents: <ul style="list-style-type: none"> <li><i>Clifdale Road Plan - April 2001</i></li> <li><i>Clifdale Environmental Assessment - 2000</i></li> </ul> </li> </ol>

F	freely permitted use
D	development permit
X	prohibited use
C	conditional use

## Land Use and Building Types

RESIDENTIAL		CIVIC AND SOCIAL	
Ancillary dwelling	F	Administrative building	X
Bed and Breakfast	C	Bus and Taxi rank	X
Block of flats	X	Car park	X
Boarding house	X	Conference centre	X
Cabana	X	Crèche	X
Caravan park	X	Educational building	X
Chalet	C	Funeral parlour	X
Detached house / dwelling	F	Govt. and Municipal purposes	X
Duplex flat	X	Hall / social hall	X
Guest house	C	Institutional building	X
Hotel (licensed)	X	Library	X
Maisonette	X	Museum	X
Medium density residential	X	Place of amusement	X
Mobile park home	X	Place of assembly	X
Outbuilding	F	Place of worship	X
Retirement village	X	Public building	X
Semi-detached house	C	Special building	X
Terrace house	X	Amenity facility	X
RETAIL		INDUSTRY	
Automotive showroom	X	Arts and crafts workshop	C
Bottle store	X	Garage	C
Commercial / business	X	Commercial workshop	X
Farm Stall	F	Factory shop	X
Laundrette	X	General industry	X
Parking garage	X	Light industry	X
Restaurant (coffee shop with no after hours trading)	X	Noxious industry	X
Restaurant (indoor only)	X	Quarrying extractive industry	X
Restaurant (outdoor veranda)	X	Salvage industry	X
Shop	C	Service industry	X
Spaza	C	Petrol service station	X
Take away / fast food	X	Warehousing / storage warehouse	X
Tavern / bar	X	AGRICULTURE	
Totalisator	X	Agricultural building	F
Flea market	F	Agricultural industry	F
OFFICE		Agricultural land	F
Doctor's consulting rooms	X	Urban agriculture	F
Home business	X	TRANSPORT AND ACCESS	
Office building	X	Arcade	X
Private clinic	X	Bulk services corridor	F
Professional office	X	Pedestrian walkways	X
OPEN SPACE		Railways	F
Conservation area	F	Roads	F
Private open space	F	Transportation	F
Public active open space	X	ALL OTHER LAND USES AND BUILDING TYPES	X
Recreation building	X		

## SPECIAL ZONE

### Statement of Intent

The Local Authority intends facilitating the upgrading of the existing informal settlements with the introduction of a Special Zone accompanied with a Development Framework Plan which provides for an interim and transitional arrangement for the development of the area until such time as a detailed township layout with detailed zones and appropriate controls are adopted for the area..

### Development Control Template

Zone	Special Zone
District	.
F.A.R.	0.35
Coverage	30%
Height	2
Building line	7.5m
Side	3.0m
Rear	3.0m
Minimum lot size	Subject to approved Development Framework Plan.
Parking	Subject to approved Development Framework Plan.
Additional controls	All uses for the interim to be by consent from the Development Forum and the Local Authority until such time as a Development Framework Plan and such specific controls and conditions are adopted for the area.



## TRANSPORTATION AND ACCESS

General Purpose and Objectives	
Policy principle	To provide adequate land for the provision of transportation corridors and facilities, and to ensure that these are integrated as part of the urban fabric.
Objective	Make provision for railways, major arterial roads, roads, pedestrian walkways to accommodate both vehicular and pedestrian traffic.
Definition	Includes all forms of public and private vehicular transportation, e.g. rail, bus, taxi, car, motor cycles and persons walking on foot.

Statement of Intent	
To provide for the integration of transportation corridors and facilities within the urban fabric.	

Development Control Template	
Zone	Transportation and access
District	-
F.A.R.	NA
Coverage	NA
Height	NA
Building line	NA
Side	NA
Rear	NA
Minimum lot size	NA
Parking	NA
Additional controls	<ol style="list-style-type: none"> <li>All roads and access routes shall be managed as ecological links where disturbance to natural vegetation is minimised and rehabilitation of indigenous ecosystems occurs.</li> <li>Additional controls are contained in Annexure N: <i>Environmental Controls</i>.</li> <li>Refer to Decision Guideline Documents: <ul style="list-style-type: none"> <li><i>Cliffdale Road Plan – April 2001</i></li> <li><i>Cliffdale Environmental Assessment - 2000</i></li> </ul> </li> </ol>

F	freely permitted use
D	development permit
X	prohibited use
C	conditional use

Land Use and Building Types			
RESIDENTIAL		CIVIC AND SOCIAL	
Ancillary dwelling	X	Administrative building	X
Bed and Breakfast	X	Bus and Taxi rank	S
Block of flats	X	Car park	X
Boarding house	X	Conference centre	X
Cabana	X	Crèche	X
Caravan park	X	Educational building	X
Chalet	X	Funeral parlour	X
Detached house / dwelling	X	Govt. and Municipal purposes	X
Duplex flat	X	Hall / social hall	X
Guest house	X	Institutional building	X
Hotel (licensed)	X	Library	X
Maisonette	X	Museum	X
Medium density residential	X	Place of amusement	X
Mobile park home	X	Place of assembly	X
Outbuilding	X	Place of worship	X
Retirement village	X	Public building	X
Semi-detached house	X	Special building	X
Terrace house	X	Amenity facility	F
RETAIL		INDUSTRY	
Automotive showroom	X	Arts and crafts workshop	X
Bottle store	X	Garage	X
Commercial / business	C	Commercial workshop	X
Farm Stall	C	Factory shop	X
Laundrette	X	General industry	X
Parking garage	C	Light industry	X
Restaurant (coffee shop with no after hours trading)	C	Noxious industry	X
Restaurant (indoor only)	C	Quarrying extractive industry	X
Restaurant (outdoor veranda)	C	Salvage industry	X
Shop	C	Service industry	X
Spaza	X	Petrol service station	X
Take away / fast food	C	Warehousing / storage warehouse	X
Tavern / bar	X	AGRICULTURE	
Totalisator	X	Agricultural building	X
Flea market	X	Agricultural industry	X
OFFICE		Agricultural land	X
Doctor's consulting rooms	X	Urban agriculture	C
Home business	X	TRANSPORT AND ACCESS	
Office building	X	Arcade	F
Private clinic	X	Bulk services corridor	F
Professional office	X	Pedestrian walkways	F
OPEN SPACE		Railways	F
Conservation area	F	Roads	F
Private open space	C	Transportation	F
Public active open space	C	ALL OTHER LAND USES AND BUILDING TYPES	
Recreation building	X		X

## 1.1 List of Definitions

The following definitions refer to the various land use zones identified for **Interim Land Use Control** areas as well as more general definitions of key terms that have been used in the document.

### 1.1.1 General Definitions

The following are general definitions that are relevant to land use management:

Aesthetic	Means the perception of artistic elements or elements in the natural or created environment that are pleasing to the eye.
Ambiance	Means the character or tones of an area, as determined by building scale and design, amount and type of activity, intensity of use, location and design of open space, and related factors that influence the perceived quality of the environment.
Amenity	Means a natural or created feature or aspect that enhances a particular property, place or area from the perspective of its aesthetic quality, visual appeal, or makes it more attractive or satisfying.
Ancillary use	Means a use incidental to or customarily associated with a specific use.
Appeal Tribunal	Means the Appeal Tribunal or any of its divisions established under section 13(1) of the KwaZulu-Natal Planning and Development Act, 1998 (Act No.5 of 1998).
Approval	Means the written approval of the Responsible Authority.
Area of Scheme	Means the area which lies within the inner edge of the boundary line coloured blue on the resolution map.
Bio-diversity	Means the rich variety of plants and animals that live in their own environment.
Boarder	Means an individual person, other than a member of the family, occupying a dwelling unit who, for a sum of money, is furnished sleeping accommodation and may be provided with meals, personal care or other such service
Body Corporate	Means the controlling body established on any lot in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), as amended.
Built Environment	Means the physical surroundings created by human activity.
Bylaw	Means the bylaws or regulations of the Responsible Authority in force in the area of a Planning Scheme.
Catchment	Means the area from which any rainfall will drain into the watercourse or watercourses or part thereof through surface flow to a common point or common points
Catchment Management	Means the controlling and protection of catchment areas.
Coastal Resource	Means any coastal wetland, beach, dune, barrier island reef, estuary, or fish and wildlife habitat which is determined by the relevant authority to be of substantial biological or natural resource importance and requiring protection.
Conservation	Means protecting, using and saving resources wisely, especially the bio-diversity found in the area.
Commission	Means the Planning and Development Commission established in terms of section 4(1)(a) of the KwaZulu-Natal Planning and Development Act, 1998 (Act No.5 of 1998).
Controlled Area	Means any area where for reasons of the topography, the unsuitability or instability of the soil or other like reasons, development or building may be prohibited, restricted or permitted upon such conditions as may be specified having regard to the nature of the said area.
Critical Area	Means an area with one or more of the following environmental characteristics: <ol style="list-style-type: none"><li>1. steep slopes;</li><li>2. flood plain;</li></ol>

3. soils classified as having high water tables;
4. soils classified as highly erodible, subject to erosion, or highly acidic;
5. land incapable of meeting percolation requirements;
6. land formerly used for landfill operations or hazardous industrial use;
7. fault areas;
8. stream corridors;
9. estuaries;
10. mature stands of indigenous vegetation;
11. aquifer recharge and discharge areas;
12. wetlands and wetland transition areas; and
13. habitats of endangered species.

<b>Date of Adoption</b>	Means the date upon which this scheme was first adopted by the Responsible Authority in terms of the KwaZulu-Natal Planning and Development Act; provided that, where any provision of this scheme is subsequently varied by way of amendment or revision, the 'date of adoption' of any such varied provision shall be the date upon which it is adopted in terms of the Act.
<b>Develop Land /Development</b>	Means to erect a building or structure on any land or to alter or extend any building or structure or to create a lay out for, or adapt such land for any use or purpose.
<b>Development Tribunal</b>	Means the Development Tribunal for the Province established under section 15 of the Development Facilitation Act, 1995 (Act No.67 of 1995).
<b>District</b>	Means an area within a planning scheme which is defined in terms of the specific land uses and ancillary land uses permitted therein, combined with associated levels of intensity. Districts can extend over fairly large areas or relatively small areas, and can be repeated in various parts of a scheme.
<b>Ecosystem</b>	Means the relationship and interaction between plants, animals and the non-living environment.
<b>Environment</b>	Means the surroundings within which humans exist and includes: <ol style="list-style-type: none"> <li>1. the land, water and atmosphere of the earth;</li> <li>2. micro organism, plant and animal life;</li> <li>3. any part or combination of (i) and (ii) and the interrelations amongst and between them; and,</li> <li>4. the physical, chemical, aesthetic and cultural properties and conditions of the afore going that influences human health and well being.</li> </ol>
<b>Environmental Impact</b>	Means a positive or negative environmental change caused by a human act.
<b>Environmental Management</b>	Means the use of land for the conservation of natural resources and the wilderness qualities associated with these areas; for low intensity eco-tourism; for maintaining bio-diversity and sustainable catchment management.
<b>Environmental Management Plan</b>	Means a plan referred to in section 11(xx) of the National Environment Management Act (Act No, 107 of 1998).
<b>Estuary</b>	Means that part of a river or stream or partially or fully enclosed body of water a connection with the open sea and, <ol style="list-style-type: none"> <li>(1) that is open to the sea permanently or periodically; or</li> <li>(14) within which the sea water can be diluted with fresh water derived from land drainage.</li> </ol>
<b>Existing Use</b>	Means in relation to any building or land a continuous use of that building or land after the date of adoption for the purpose for which it was designed and lawfully authorised by the Responsible Authority at that date.
<b>Family</b>	Means a group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organisation and stability.
<b>Home Owner's Association</b>	Means a company registered in terms of section 21 of the Companies Act, 1973 (Act No.61 of 1973), as amended, membership of which shall be exclusive to and compulsory for the freehold or registered leasehold owners of dwelling unit curtilages in a medium density housing site.



Household	Means a group of people who live together and share eating and living costs and may consist of one family, together with or without their servants and with or without a boarder or boarders, but with a maximum of four boarders.
In-stream Habitat	Means the physical structure of a watercourse and the associated vegetation in relation to the bed of the watercourse.
Integrated Coastal Management	Means an holistic, continuous and dynamic process of sustainable use, development and protection of coastal resources.
Landscaping	Means the planting of groundcover, plants, shrubs and trees on a site to enhance the visual outlook and includes the shaping of land forms, introduction of water and rock features, and the placement of garden furniture, such as benches, bridges, walkways, ornaments, lighting, etc. Landscaping includes "vegetation" of a lot, which refers to a limited form of landscaping, restricted to the introduction of plant material.
Limited Development Area	Means an area declared as a limited development area in terms of section 23(1) of the Environmental Conservation Act (Act No. 73 of 1989).
Marine Protected Area	Means an area located along the sea shore which has conservation status and is intended to include coastal and marine habitats such as sandy beaches, estuaries, dunes, and different types of rocky shores which may be used to rebuild depleted fish stocks and to conserve bio-diversity.
National Building Regulations	Means the national building regulations made in terms of section 17 of the National Building Regulations and Building Standards Act.(Act No.103 of 1977), as amended.
Natural Environment	Means our physical surroundings, including plants and animals when they are unspoiled by human activities.
Natural Features	Includes topographical, drainage, vegetation, and faunal features, such as different land forms, rivers and streams, waterfalls and pools, rare plants, and unusual fauna.
Occupation	Means a business, profession or calling.
Ordinance	Means the Town Planning Ordinance, 1949 (Ordinance No.27 of 1949), as amended.
Owner	Means the person registered in the Deeds Registry as the owner of the land or the person who, for the time being, receives the rent in respect of the land or any building thereon, whether on his/her own account or as the agent or trustee, and includes the liquidator of a company or a legal representative, provided that such a liquidator or legal representative is acting within the authority conferred upon him by law.
Planning Scheme	Means the land use component of a Development Plan.
Pollution	Means any change in the environment caused by: (16) substances; (1) radio active or other waves; and, (17) noise, odour, heat and dust;  Emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person, organs of state, where the change has an adverse effect on human health or well being or on the composition, resilience and productivity of natural or managed ecosystems, or on material useful to people or will have such an effect in the future.
Precinct	Means a defined area of land contained within a District, which has a distinct set of policy guidelines or statements of intent which influences and facilitates its development in a unique or specific manner and which may contain minor variations in respect of conditionally permitted ancillary uses, or some aspect of development control which sets it apart from the surrounding District.
Premier	Means the Premier of the Province of KwaZulu-Natal.
Regulations	Means the regulations of the KwaZulu-Natal Planning and Development Act, 1998 (Act No.5 of 1998), as amended.
Responsible Authority	Means the relevant body or person required, in terms of the KwaZulu-Natal Planning and Development Act, 1998 (Act No.5 of 1998), as amended: (1) under Section 23, to prepare or administer a development plan; (2) under Section 34, to consider a development application;

(3) under Section 39, to consider a sub-divisional application.

Riparian Habitat	Means the physical structure and associated vegetation of the areas associated with a watercourse which are commonly characterised by alluvial soils, and which are inundated or flooded to an extent and with a frequency sufficient to support vegetation of species with a composition and physical structure distinct from those of adjacent land areas.
Scheme Map	Means the map that forms part of the Planning Scheme as adopted by the Responsible Authority.
Sea	Means the water of the sea, the seabed and its subsoil.
Sea Shore	Means the water and the land between the low and high water marks as defined in section I of the Sea Shore Act (Act No. 21 of 1935).
Setback Line	Means a prescribed boundary along a hazardous area ( e.g., the seashore) indicating the limit of development activity.
Soil Erosion	Means the loss of soil as the result of the action of the natural elements, e.g. water, wind, drought, and attrition or from other inappropriate activities, e.g. agricultural or other use or development of the land that results in the washing away or loss of the soil.
Special Nature Reserve	Means an area declared as a special nature reserve under section 18 of the Environmental Conservation Act (Act No 73 of 1989).
Species	Means a group of plants, animals, or micro-organisms sharing a most recent common ancestor, with a shared set of uniquely evolved characteristics, and generally only interbreeding with themselves.
State Land	Means the land that is vested in national or provincial government and includes the land below the high water mark and the Admiralty Reserve but excludes land belonging to a Responsible Authority.
Sustainable Development	Means the integration of social, economic, and environmental factors into planning, implementation and decision making so as to ensure that development serves present and future generations.
Temporary Use	Means a use established for a specified period of time, with the intent to discontinue the use at the end of the time period.
Tribal Authority	Means a tribal authority or a community authority established in terms of the amaXhosi and isiPhakanyiswe Act, 1990 (Act No.9 of 1990).
Tribunal Registrar	Means the Development Tribunal registrar referred to in section 15(9) of the Development Facilitation Act, 1995 (Act No.67 of 1995).
Waste	Means any by-product or residues, be it gaseous, liquid or solid, which is emitted in the course of loading, unloading, storage, manufacture and distribution of raw materials or products. Liquid waste includes domestic sewerage, industrial effluent, and storm water run off containing impurities.
Wetlands	Means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.
World Heritage Site	Means a natural site that by virtue of its importance for the conservation of bio-diversity of plants, animals or other species has international recognition and includes those sites that have fulfilled the criteria of the Ramsar Convention.
Zone	Means an area shown on a Scheme Map, by distinctive colouring or edging or in some other distinctive manner, for the purpose of indicating the restrictions imposed by a Scheme on the erection and use of buildings or structures, or the use of land. A zone conveys certain development rights stipulated in the Planning Scheme.

### 1.1.2 Building Development Definitions

The following building development definitions are relevant to land use management:

Arcade	Means an area forming part of a building which may or may not be covered, reserved exclusively for pedestrian traffic, but may include fountains, benches and other similar features and shall nowhere have a total width of less than 4m and an unobstructed width of less than 2m.
Basement	Means a storey partly underground and having at least one half of its height above the average adjoining grade on all sides of the building or structure.
Bedroom	Means the area of a building approved per building plan as bedroom.

Building	Means any building, structure or erection of an immovable nature for whatever purpose used, including any tank, swimming pool; radio mast (other than a radio mast consisting of a single vertical pole), and any wall or a closed board fence more than two metres in height, but excluding any open fence, post, pier, ramp, fountain, statue, fish pond, pergola or other garden ornamentation.
Building Line	Means a line parallel to a street boundary and distance therefrom.
Building Use	"Building Use", "Use of a building" and similar expressions, and includes the specific purpose for which buildings may be used as defined in the Planning Scheme and the erection of a building.
Car Port	Means a covered structure open on three or more sides to protect a motor vehicle, boat, caravan or any item of a similar nature as approved by a Responsible Authority.
Car Space	Means a space with the minimum dimensions of 2.5m x 5.5m for the parking of a vehicle clearly marked on the ground.
Caravan	Means any vehicle or similar portable or movable or towable structure having no foundation other than wheels or jacks and so designed or constructed as to permit human occupation for dwellings or sleeping purposes, and includes a trailer.
Common Open Space	Means that portion of the common land which is not covered by vehicular road reserves and parking areas but may include walkways, whether grassed or hardened, and structures or buildings intended for recreational use to the satisfaction of the Responsible Authority.
Composite Building	Means a building which is used for two or more purposes recognised as uses in a Planning Scheme.
Coverage	Means the proportion of lots covered by the roofed area of all buildings, and is expressed as a percentage of the lot area as defined. Thus 25% coverage means that only one quarter of the lot is covered by buildings.
Curtilage	Means the whole of the area of ground within the boundaries of the building lot or lots forming the site of any building or proposed buildings.
Developable Area	Means the registered, surveyed area of a lot excluding those areas which are, in the opinion of the Responsible Authority, rendered undevelopable by virtue of such factors as soil instability, liability to flooding, topographic inaccessibility and/or slopes steeper than 1 in 3 and further excluding the area(s) occupied by any public right-of-way, road servitudes, new road or road-widening.
Dwelling	Means a structure or portion thereof which is used exclusively for human habitation.
Dwelling Unit Curtilage	Means a single defined area of land forming part of a medium density housing site comprising the land upon which a dwelling is erected or intended to be erected together with such private open areas and other areas that are reserved for the exclusive use of the occupants of the dwelling unit.
Erection of a Building	Means the construction of a new building or structure, or a structural alteration or additions to any building or structure.
Existing Lot	Means a lot or any subdivision thereof registered before the effective date.
Flood Line	Means the 1 in 100 year flood line referred to the Water Act, 1995 (Act No. 92 of 1995), as amended, to be the maximum level likely to be reached on an average every 100 years by flood waters in any river, stream or watercourse.
Floor Area	Means the sum of the roofed areas of the building at each floor level, measured over and including wall thicknesses, lift shafts, staircases, balconies and access galleries.
Floor Area Ratio	Means the ratio of the total floor area of the buildings on the lot to the lot area, and which is expressed as a decimal, e.g. a Floor Area Ratio of 0.5 means that the floor area of the buildings on a particular lot is half the lot area.
Frontage	Means the length of the boundary of a lot which fronts onto the existing or proposed street.
Front Space	Means the space between the full height of a building facade and the frontage.
Gross Floor Area	Means the sum of the floor area of a structure, including storage area or basement room, and shall include wall thicknesses, but shall exclude parking areas and public conveniences.
Ground Floor	Means the storey of a building or portion of a building on or nearest the mean finished ground level immediately surrounding the building, provided it is not a basement.

Hatchet Shaped Lot	Means any lot where the access point is a part of the same lot and is not narrower than 3.5 metres, but not wider than 6 metres. (A Responsible Authority may stipulate the minimum and maximum width of a hatchet-shaped lot/s)
Habitable Room	Means a room designed or used as a habitable room in accordance with the National Building Regulations, but for the purposes of this Scheme excludes a storeroom, kitchen, pantry, scullery, toilet, bathroom, passage or outbuilding.
Height	Means the height of a building in storeys and which is expressed as a number.
Listed Building	Means any building, structure or place of architectural, historic or artistic interest which is listed in the Planning Scheme and is indicated on the relevant maps by 52means of an asterisk.
Loading Space	Means an allocated area, where vehicles shall be parked while loading or unloading goods, and that shall be clearly marked on the ground.
Lot	Means a piece of land: <ul style="list-style-type: none"> <li>1) registered in the Deeds Registry or other registration office as a lot, site, lot, plot or stand;</li> <li>2) shown as a lot on a general plan of an approved township, and includes: <ul style="list-style-type: none"> <li>(i) more than one lot if such lots are tied or consolidated;</li> <li>(ii) every defined portion of a piece of land laid out as a township but not approved or recognised as such under any law;</li> <li>(iii) part of a lot;</li> <li>(iv) a farm portion or part thereof which is subject to a Planning Scheme.</li> </ul> </li> </ul> <p>Provided that where, as a provision of a Planing Scheme, a proposed road or a change in zoning divides a registered subdivision into two or more portions, the term "lot" shall apply to each portion as if they had been separately registered.</p>
Lot Area	Means the area of a lot, less the area of any public right of way, road servitude, new road or road widening to which the lot may be subject, but shall include any registered servitude for overhead or underground services.
Mall	Means an area of land open to the air and reserved exclusively for pedestrian traffic but may include fountains, benches and other similar features as well as kiosks for, inter alia, the sale of refreshments.
Occupant	Means any person occupying a building, structure or land, or legally entitled to occupy it, or anybody having the charge or management thereof, and includes the agent of such a person who is absent from the area of whose whereabouts are unknown.
Outbuilding	Means a building or portion of a building or portion of a building used, constructed, designed or adapted for use as servant's rooms, a servant's toilet, a storeroom, a workshop, the garaging for motor vehicles, or any other use which is deemed by the Responsible Authority to be an outbuilding use. The size and design of an outbuilding or outbuildings shall be to the satisfaction of the Responsible Authority.
Planned Unit Development	Means a form of development characterised by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.
Private Open Area	Means a usable area, exclusive of utility areas, driveways and parking areas, which is open to the sky and which is adjacent to and has direct access from a dwelling unit on a medium density housing site, such private open area being reserved for the exclusive use of the occupants of the associated dwelling unit, but may include covered open areas (patios) and verandas.
Private Recreation Use	Means sport and/or recreation facilities associated with, but secondary to the residential use of land and used exclusively by the residents of dwelling units on the site.
Rear Boundary	Means that boundary of a lot which is furthest from any street boundary, and which does not meet any street boundary.
Rear Space	Means the space between the full height of a building facade and the rear boundary.
Residential Density	Means the number of permitted dwelling units, determined by dividing the surveyed area of the lot, (excluding the area of an access way on a "hatchet-shaped" lot), by the minimum lot size applicable to the zone in which the lot is situated, and adjusting this figure to the nearest whole number. The permitted density is expressed in terms of dwelling units per hectare.
Service Room	Means a room for accommodating a lift motor, air-conditioning plant, transformer, electrical switch gear or similar services.



Side Boundary	Means any boundary of a lot which meets a street boundary and any other boundary and which is neither a street boundary nor a rear boundary.
Side Space	Means the space between a side boundary of a lot and the elevation for the full height of a building facing the side boundary.
Storey	Means a room or set of rooms at one level, including any room, the floor of which is split into two or more levels and shall have the following implications: - <ol style="list-style-type: none"> <li>(1) The basement shall not count as a storey provided it is used for the purpose of parking vehicles, service installations or storage, and not for residential purposes, or as a shop, factory or work place.</li> <li>(2) A pitched roof containing a habitable room and any other type or style of roofing which contains or supports any rooms, structures or features over and above those mentioned below and which the Responsible Authority considers to be habitable shall count as a storey.</li> <li>(3) A storey shall not be higher than 4.5 metres. If a storey is higher than this, each of the 4.5 metres or part thereof, shall count as a storey.</li> </ol>
Street Boundary	Means that portion of a boundary of a lot which abuts on and is coincident with the boundary of a street or proposed street.
Substantially Commenced	Means the casting of concrete foundations or footings, or the demolition of existing buildings and the clearing of the lot, and the preparation of plans and working drawings, and the submission of such plans and working drawings for approval or other similar and substantial action which the Responsible Authority may deem sufficient.
Trails	Means a beaten path or track extending through areas deemed to be of conservation value or ecologically sensitive, and may be used for the purpose of guided or educational tours.

### 1.1.3 Building and Land Use Definitions

The following building and land use definitions are relevant to the "LUMS" areas: *(Note: "building" shall include the use of land)*

#### AGRICULTURAL

Agricultural Building	Means a building used in connection with, or which would ordinarily be incidental to, or reasonably necessary in connection with the use of the site of that building as agricultural land.
Agricultural Industry	Means a building used for the intensive production in any form whatsoever, of poultry, game birds, livestock and allied products, and includes any final processing of these commodities.
Agricultural Land	Means the use of land for the production of food and fibre, including farming, dairying, pasturage, agriculture, horticulture, viticulture, and animal and poultry husbandry.
Intensive Agricultural Livestock Industry	Means a building or land used for the concentrated fattening of any types of livestock for market and may include any final processing thereof.

#### RESIDENTIAL

Ancillary Unit	Means a building ancillary to a dwelling house and comprising an inter-leading group of rooms which shall not consist of more than one bedroom, a combined lounge/dining area, a kitchen, a bathroom and toilet. {A Responsible Authority may stipulate: (1) the maximum gross floor area of the unit; (2) whether or not the unit shall be attached to the main dwelling; (3) the maximum number of occupants.; (4) the minimum size of a lot upon which an ancillary unit may be permitted; (5) conditions regarding access or shared access; (6) architectural compatibility; (7) the number and size of rooms.}
Bed and Breakfast	Means a dwelling in which not more than 50% of the bedrooms are provided for overnight guests for compensation, on a daily or weekly basis, with or without meals. {A Responsible Authority may stipulate: (1) particular parking requirements; (2) a maximum number of bedrooms/beds which may be rented out; (3) maximum number of guests; (4) that the owner shall also be resident on the property; (5) that breakfasts shall be limited to guests only; (6) control of signage.}
Boarding House	A dwelling unit or part thereof in which lodging is provided by the owner or operator who resides on the premises to three or more but not more than fourteen boarders. {A Responsible Authority may stipulate: (1) particular parking requirements in terms of number and location; (2) a maximum number of bedrooms/beds which may be occupied; (3) maximum number of guests; (4) that the owner shall also be resident on the property; (5) whether a licence is required ; (6) whether cooking facilities are permitted in guest rooms; (7) a minimum floor area for guest rooms.}
Cabana	Means holiday flats for the use of single families as temporary holiday accommodation.
Campground	Means land providing camping or parking areas and incidental services for travellers in recreational vehicles or tents.

Caretaker's Dwelling	Means a dwelling unit for the use of the caretaker or supervisor of the premises and his family. {A Responsible Authority may stipulate: (1) maximum size.}
Caravan Park	Means an area of land provided with adequate ablution and sanitary facilities with or without communal kitchen, constructed with permanent materials arranged for the accommodation of caravans and static caravans which are used primarily for temporary holiday dwelling units and provided also with permanent water points, approved refuse receptacles and containing within the curtilage a sufficient open space for recreational purposes, and may also include one dwelling house or flat for the use of a caretaker or manager.
Chalet	Means a dwelling unit used as a holiday dwelling, consisting of not more than three living rooms with or without sanitary convenience, bathroom, shower and kitchen. {A Responsible Authority may stipulate (1) a maximum and/or minimum size for a chalet}
Child Minder	Means a building or portion of a building which is used for the daytime care of six or less children.
Cluster Housing	Means an inter-related group of buildings containing dwelling units either attached or detached and having an area or areas of land under common ownership.
Day Care Centre	Means a facility operated for the purpose of providing care, protection and guidance to seven or more individuals during only part of a 24 hour day. This term includes creches, nursery schools, preschools, day care centres for individuals, and other similar uses but excludes public and private education facilities or any facility offering care to individuals for a full 24 hour period. {A Responsible Authority may stipulate (1) a maximum number of children permitted in a creche or nursery school; (2) the area of buildings and land to be used; (3) on or off-site parking requirements; (4) hours of operation; (5) design requirements}
Duplex	Means a residential unit in a building, where each unit consists of a ground floor and one upper floor which is connected by an internal staircase and where the unit has direct access to a private open area.
Dwelling Unit	Means a building constructed, used or adapted to be used as a dwelling unit to accommodate one household and which includes not more than one kitchen, habitable rooms for the accommodation of bona fide domestic servants, outbuildings and accessories as are ordinarily used therewith, but shall not include a building which in the opinion of the Responsible Authority is designed in such a way as to enable it to be utilised by two or more separate households.
Dwelling, Multi-family	Means a building or portion thereof which contains two or more dwelling units for permanent occupancy, regardless of the method of ownership and may include an Umuzi or cluster of traditional dwellings established on Ingonyama Trust land.
Dwelling, Semi-Detached	Means a building comprising two dwellings contained in one building, separated vertically with a party wall and each provided with a separate entrance.
Extended Residential Building	Means a building which is used, constructed, designed or adapted for use for human habitation and comprises not more than three dwelling units, together with such outbuildings as are ordinarily used therewith.
Flat	Means a suite of rooms not being a single dwelling or semidetached house, contained in a building having one or more floors.
Guest House	Means a building or group of buildings under single management containing both rooms and dwelling units available for temporary rental to transient individuals or families. {A Responsible Authority may stipulate: (1) particular parking requirements; (2) a maximum number of bedrooms/beds which may be occupied; (3) maximum number of guests; (4) that the owner shall also be resident on the property.}
Halfway House	Means an establishment providing accommodation, rehabilitation, counselling, and supervision to persons suffering from alcohol or drug addiction, to persons re-entering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders.
Holiday Accommodation	Means living accommodation, of which at least 75 percent is designed or used for holiday occupancy and may take the form of single rooms, double rooms, family rooms, cottages or houses as may be determined by its developer with the approval of the Responsible Authority.
Holiday Accommodation Unit	Means a single storey detached or attached habitable building including a factory assembled structure approved by the Responsible Authority and used primarily for holiday occupancy, with or without sanitary convenience, bathroom, shower and kitchen together with approved accessory structures to be used in conjunction therewith. For the purpose of this definition only, the floor area of any accessory structures which have more than 50% of their external vertical face open to the atmosphere shall not be included as part of the unit floor area. {A Responsible Authority may stipulate (1) a maximum and/or minimum size for a holiday accommodation unit}
Holiday Park	Means a grouping of a number of holiday accommodation units on a lot, together with approved outbuildings or ancillary buildings to be used in conjunction with a holiday accommodation unit or series of holiday accommodation units.

Holiday Resort	Means a combination of holiday resort facilities, including a chalet development in association with a caravan park and a resort or public picnic place together with such entertainment facilities, service rooms, ablution and sanitary facilities as are ordinarily used therewith, all under the supervision of a resident supervisor or caretaker.
Home business	Means the conducting of an occupational activity or use in, or in conjunction with a dwelling or residential building. {A Responsible Authority may stipulate: (1) that the home business shall be conducted by the owner of the property, who shall be also be resident therein; (2) under what circumstances the activity may be operated by a person other than the owner; (3) a maximum number of vehicles permitted on the premises at any one time; (4) the maximum weight of vehicles; (5) the location of parking; (6) the amount of additional parking; (7) the maximum number of non-resident employees; (8) the maximum noise level above the prevailing noise level in the surrounding area; (9) hours of operation; (10) a maximum size or floor area to be used; (11) that the activity shall not be such as to impose a greater load on any public utility service than that which is ordinarily required by other uses permitted in the area; (12) that the activity shall not detrimentally affect the amenity of the surrounding area through the emission of ash, dust, fumes, grit, noise, oil, smell, smoke, soot, steam, vapour, vibration, waste products; (13) controls for signs; (14) which activities and occupations shall be specifically excluded.}
Hotel	Means a facility offering transient lodging accommodation to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, recreational facilities, and in respect of which a hotel liquor licence has been or is intended to be issued under Schedule 1 of the Liquor Act, 1995 (Act No. 57 of 1995), as amended, but excludes any off-sales department.
Maisonette	Means a building designed or constructed or adapted to contain two self-contained dwelling units, separated horizontally with individual access.
Medium Density Housing	Means a group of two or more dwelling units, together with such outbuildings as are ordinarily ancillary thereto, with each dwelling unit having direct access to a private open area and access to common land, the whole development having been designed as an harmonious entity. Such development may include duplex flats, semi-detached houses, terrace houses, maisonettes or dwelling houses.
Mobile Home	Means a factory assembled structure, constructed in accordance with the requirements of the S.A.B.S. specification for Mobile Homes, (S.A.B.S. 1122 of 1976), with the necessary service connections made so as to be movable on its own wheels and designed as a permanent dwelling.
Mobile Home Park	Means an area of land upon which mobile homes and ancillary facilities are accommodated. Such a park shall be designed as a harmonious entity.
Outbuilding	Means a building ordinarily used in conjunction with a dwelling unit(s), and used for the garaging of private motor vehicles, storeroom, domestic workers accommodation, workroom and other such similar uses.
Residential Building	Means a building or portion of a building other than a dwelling house, chalet, duplex flat, semi-detached house, terrace house or maisonette used for human habitation, together with such outbuildings as are ordinarily used therewith, and includes a block of flats, boarding-house, hotel, residential club or hostel.
Retirement Village	Means a medium density housing development intended for the accommodation or settlement substantially of persons upon their retirement and in which facilities shall be provided for a frail care centre and place of communal activity and which may include, an office building, medical consulting rooms, laundrette, shop and restaurant, which in each case shall be restricted to the satisfaction of the Responsible Authority and for the sole use of occupants and guests.
Row House	Means a row of at least three dwelling units each with its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common walls.
Shelter	Means a unit of residential accommodation of any material whatsoever, which may not comply with the National Building Regulations, as applicable to the area of jurisdiction of the Responsible Authority.
Semi-Detached House	Means a building comprising two dwellings contained in one building, both on the ground floor and each provided with a separate entrance.
Terrace House	Means a dwelling unit in a building comprising 3 or more dwelling units, each having a separate entrance on the ground floor with direct access to a private open area or areas.
<b>GENERAL MIXED USE</b>	
Adult Entertainment	Means an establishment offering goods and services of an adult nature which includes the selling and rental of publications and other material of a sexual nature. {A Responsible Authority may stipulate: (1) the spacing of adult entertainment facilities; (2) the location of adult entertainment establishments in relation to other civic and social land uses.; (3) the control of signage.}
Amusement Arcade	Means a structure, open to the public, that contains card or coin-operated games, rides, shows, and similar entertainment facilities and devices.



Amusement Park	Means a primarily outdoors facility that may include structures and buildings where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.
Automotive Showroom	Means a building or site used for the exhibition or display of substantially roadworthy motor vehicles and/ or seaworthy marine craft for the purposes of sale or lease or hiring out.
Bar	Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use. {A Responsible Authority may stipulate: (1) whether live entertainment or dancing shall be permitted; (2) setback requirements; (3) the amount and location of parking, particularly if live entertainment or dancing is permitted; (4) whether the consumption of liquor and food may take place inside or outside the buildings.}
Beach Amenity Facility	Means a building or land use designed to service the needs of the general public and residents, within or proximate to the beach and may include a tearoom, restaurant, small retail outlet restricted to the sale of beach apparel, toiletries and photographic goods, public toilets, storage and hire facility for beach equipment and Responsible Authority uses.
Betting Depot	Means a building used for the purpose of a bookmakers premises or a totalisator agency in terms of section 22(1) and 28(3) of the Horse Racing and Betting Control Consolidation Ordinance, 1957 (Ordinance No. 28 of 1957) as amended.
Cartage contractor	Means the storage of vehicles for a limited period of time on a property that is restricted to vehicles used for the transport of materials and goods only. {A Responsible Authority may stipulate: (1) a maximum number of vehicles permitted on the site; (2) the maximum mass of vehicles permitted on the site; (3) parking requirements; (4) controls regarding the storage of fuels and material; (5) the nature of repairs which may occur on site.}
Camping Ground	Means any lot on which tents, but excluding caravans, intended for temporary use by persons for dwelling or sleeping purposes, are erected or used or intended to be erected or used and on which shall be provided adequate ablution and sanitary facilities, water points and approved refuse receptacles.
Commercial Workshop	Means a light industrial workshop wherein the primary purpose is the selling of goods or services by retail and where the processes are operated specifically in conjunction with a shop or office to which the public, as customers, has access and includes such uses as watch repairer, shoe repairer, electronic media repairer and electrician but excludes a garage or petrol service station.
Canteen	Means a building or part thereof and/or premises used for the preparation and disposal of foodstuff and allied products, to the staff of an industrial or commercial undertaking, public office, or educational building, to which it is related.
Conference Centre	Means a building, or group of buildings, including associated land, used for conferences, gatherings, indoor recreation, commercial exhibition hall, related catering facilities, and such other uses considered by the Responsible Authority to be ancillary to or reasonably necessary for the use of the building as a conference centre.
Convenience Shop	Means a building or portion of a building restricted to the sale of convenience goods such as bread and confectionery, dairy products, fresh produce, beverages, canned foods, magazines and newspapers, at the discretion of the Responsible Authority. {A Responsible Authority may stipulate: (1) the maximum size of the shop}
Drive-in Cinema	Means an open air cinema where persons watch cinematography and other performances while seated in motor vehicles.
Exhibition Centre	Means any building used or constructed or designed or adapted to be used for the display of goods or for public entertainment and may include offices for the administration of such centre and other uses considered by the Responsible Authority to be ancillary to or reasonably necessary for the use of the building as an exhibition centre.
Farm Stall	Means a building used for retailing of fresh farm produce produced on site including home made items. {A Responsible Authority may stipulate: (1) the maximum size of the farm stall}
Flea Market	Means an occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.
Funeral Chapel	Means a place of worship specifically set aside for funeral services.
Funeral Parlour	Means a building or land used for the purpose of funeral management and includes a shop intended primarily for public reception and for the sale and display of those commodities required for cemetery purposes and services ordinarily ancillary to funeral management but does not include a monumental mason or crematorium.
Garage	Means a building used for the servicing, repair, storage, display, sale, spray painting, fuelling or washing and cleaning of vehicles together with facilities connected with these activities including the storage and sale of fuel, lubricants, motor spares and accessories, tourist maps, brochures and including an office, storeroom, workshop, grease pit and machinery.
Garden Nursery	Means land used for the purpose of growing, displaying and selling of plants and items incidental thereto and includes the erection of buildings and structures ordinarily used therewith.

Amenity	Means the sale of goods and services from a public place, primarily streets and pavements, usually from either a fixed stall or at a fixed place. (A Responsible Authority may stipulate: (1) the size of hawking stalls/areas; (2) licensing requirements.)
Health Club	An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers.
Home Business	Means the conducting of an occupational activity or use in, or in conjunction with a dwelling or a structure erected by the owner of on the Erf who shall be resident therein, provided that the Responsible Authority may, in exceptional circumstances which do not prejudice the continued dwelling as a residence, <ul style="list-style-type: none"> <li>(a) permit the activity or use to be conducted by a person other than the Owner,</li> <li>(b) not require the regular parking of: <ul style="list-style-type: none"> <li>(i) more than five motor vehicles, or</li> <li>(ii) any vehicle with a tare mass exceeding 2500kg, on or adjacent to the Erf at any one time, and that such parking shall be located to the rear of the Dwelling, where possible,</li> </ul> </li> <li>(c) not involve the regular congregation of more than five persons, in addition to members of a family, on the Erf;</li> <li>(d) not require the employment of more than three persons in addition to domestic employees,</li> <li>(e) not produce a noise level exceeding 7db, measured along the boundaries of the Erf, above the prevailing noise level in the surrounding area,</li> <li>(f) not involve any work between the hours of 20h00 (8pm) and 06h00 (6am),</li> <li>(g) not occupy a floor area in excess of 25% of the floor area of the Dwelling, subject to a maximum floor area of 50M<sup>2</sup>,</li> <li>(h) not impose a greater load on any public utility service than that which is ordinarily required by other uses permitted in the area in which the activity or use is situated.</li> <li>(i) not detrimentally affect the Amenity of the surrounding area through the emission of; ash, dust, noise, oil, smell, smoke, soot, steam, vapour, vibration, waste products, and</li> <li>(j) be limited to the erection of a sign indicating the nature of the activity, which shall <ul style="list-style-type: none"> <li>(i) not be larger than 600mm x 450mm,</li> <li>(ii) be placed on the main wall of the building,</li> <li>(iii) be in compliance with the Responsible Authority's Bylaws, and</li> <li>(iv) and shall compliment the character of the dwelling.</li> </ul> </li> </ul>
Informal Trading Area	Means an area which any small scale economic activity is permitted, provided that each operator occupies a defined space. Provided further that, notwithstanding anything stated to the contrary in these clauses, no specific provision shall apply to such area, unless considered necessary and so specified by the Responsible Authority.
Kennel	Means the boarding, breeding, raising, grooming or training of two or more dogs, cats or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.
Kiosk	Means a building or structure used for any retail trade or business wherein the primary purpose is the selling of goods and appliances by retail and includes a building or structure used for the sale of light refreshments. (A Responsible Authority may stipulate: (1) a maximum kiosk size.)
Laundrette	Means a building used for the purpose of washing and drying clothing and household fabrics, where the machines used are electrically operated and quiet running, and of the type which process each customer's articles individually, and which may be operated by the customer. The washing media used shall be of a type that shall not cause harmful effluent to be discharged into the sewerage system.
Mixed-Use	Means the development of a parcel(s) of different uses on adjacent sites.
Multi-Use Development	Means the development of a structure(s) with two or more different land uses, such as, but not limited to a combination of residential, office, retail, public services and manufacturing in a single or physically integrated group of structures.
Nightclub	Means an establishment dispensing liquor and meals and where music, dancing, or entertainment is conducted.
Office, Building	Means a building or part of a building used as an office and includes: a bank, building society, insurance office, estate agent and other professional suites.
Office, Business Services	Means a building used for activities such as cleaning, delivery, security, repair, maintenance or other services for individual and business purposes.
Office Estate	Means an area in which office buildings are located on individual lots with buildings and structures set back from the boundaries of the sites.

Office, General	Means a building used for business, professional, medical or administrative offices, and may include ancillary services for office workers, such as a restaurant, coffee shop and child-care facilities. A banking hall and the direct selling or storage or display of any goods or commodity whether or not the holding of a general dealers trade licence is required shall be specifically excluded. {A Responsible Authority may stipulate: (1) controls regarding the storage of goods at the premises; (2) parking requirements}
Office, Medical	Means an establishment primarily engaged in the provision of health services but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners.
Office Park	Means a development on an area of land that contains a number of separate office buildings, accessory and supporting uses, and open space designed, planned, constructed, and managed on an integrated and coordinated basis.
Office, Professional	Means an office used for conducting the profession of, or occupation of, an accountant, architect, consulting engineer, land surveyor, legal practitioner, quantity surveyor, town planner, bookkeeper, draughtsman, or any other profession or occupation, excluding a professions normally carried out in a medical office, which the Responsible Authority may, at its sole discretion permit and which, in its opinion is not likely to interfere with the amenities of the surrounding area.
Office, Public	Means an office building used for any central, provincial or municipal purpose, and includes an administrative office, municipal office, town hall, government office, court house, police station, post office, public library, public art gallery, public museum, and buildings ordinarily ancillary thereto.
Parking Garage	Means a building, part of a building or land designed primarily for the purpose of parking and includes washing and servicing of motor vehicles, but does not include a building, any part of which is designed for use as a workshop for the repair of motor vehicles or for the sale of petrol, oil and accessories.
Parking Lot	Means land used for the parking of motor vehicles at the ground level only provided that no buildings shall be erected other than an open-sided roof structure.
Place of Public Entertainment	Means land or a building or portion of a building constructed or designed or adapted to be used as a place of entertainment and includes an exhibition hall, theatre, cinema, amusement park, circus arena, race track or skating ring.
Private Club	Means buildings used as a private meeting place for a group of people with a collective aim.
Restaurant	Means an establishment where food and drink are prepared, served, and consumed primarily within the principal building.
Restaurant, Fast-Food	Means an establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in cars on the premises, or off the premises.
Retail Services	Means a building or an outlet in which the main activity is not the sale of goods but private personal, financial or other services directly to consumers.
Retail Warehouse Outlet	Means a retail operation from a warehouse as an accessory use to the principal warehouse use. {A Responsible Authority may stipulate: (1) that the retail establishment shall be accessory to and incidental to the principal warehouse use; (2) the maximum floor area within the warehouse which may be used for retail sales; (3) the hours of operation; (4) that the items on sale in the retail establishment are actually part of the stock of the warehouse; (5) that adequate parking in accordance with the retail standards, is required for the retail space.}
Service Station	Means a building: <ul style="list-style-type: none"> <li>(1) wherein is sold, by retail sale only: <ul style="list-style-type: none"> <li>(i) petrol or petroleum derivatives capable of use in internal combustion engines,</li> <li>(ii) lubricating oils and greases,</li> <li>(iii) spare parts, including electrical equipment,</li> <li>(iv) tyres, tubes, valves and repair equipment, or</li> <li>(v) tourist brochures and other such incidentals.</li> </ul> </li> <li>(2) where the following operations may be carried on: <ul style="list-style-type: none"> <li>(i) running repairs of a minor nature;</li> <li>(ii) lubricating and greasing;</li> <li>(iii) washing and cleaning;</li> </ul> </li> </ul> <p>but shall not include panel beating, spray painting or the carrying out of vehicle body repair work or repairs of a major nature to the engine or transmission system thereof.</p>

Shop	Means a building or a portion of a building or land in or from which goods are sold or kept or exposed for sale to the public whether by wholesale or retail or a building or portion of a building constructed, designed or adapted for such use and shall include a showroom and a depot for the reception of goods to be washed, cleaned, altered or repaired, but does not include an industrial building, petrol service station, milk depot, warehouse, restaurant, residential building or licensed hotel.
Shopping Centre	Means a group of commercial establishments planned, constructed and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.
Shopping Mall	Means a shopping centre where stores front on both sides of a pedestrian way, which may be enclosed or open.
Sidewalk Café	Means a restaurant with tables on the sidewalk in front of the premises.
Spaza	Means the sale of day-to-day convenience goods from a dwelling house or associated outbuilding where the goods are generally sold through window, doorway or hatchway and does not include a "walk-in" shop where goods are on public display. The size of the spaza shop shall be limited to no more than 50% of the floor area of the outbuilding or any room of the dwelling house.
Tavern	Means a building or eating house in which the on-site consumption of liquor has been legalised by means of a liquor licence issued in terms of Schedule I of the Liquor Act, 1995 (Act No. 57 of 1995), as amended. {A Responsible Authority may stipulate: (1) location of taverns in relation to community facilities; (2) hours of operation.; (3) are of the building to be occupied; (4) the location of the tavern on the property (4) the type of other goods permitted to be sold.}
Tea Garden	Means a building or portion of a building used primarily for the preparation and sale of light meals; confectionery, and non-alcoholic beverages, but shall preclude any use as defined under shop.
Tuck Shop	Means the sale of day-to-day convenience goods from a dwelling unit, associated outbuilding or container where the goods are generally sold through window, door way or hatchway and does not include a walk-in shop where goods are on public display. {A Responsible Authority may stipulate: (1) the minimum size of the tuck shop; (2) hours of operation.; (3) that the tuck shop may be operated from a dwelling or a container; (4) whether the tuck shop should be separated from the residential component of a dwelling; (4) the type of other goods permitted to be sold (5) on or off-site parking requirements; (6) the amount of additional storage space permitted.}
Veterinary Clinic	Means a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.
<b>INDUSTRIAL</b>	
Abattoir	Means a place where livestock is killed and prepared for distribution to butcher shops and food markets.
Factory Shop	Means a building used primarily as a direct retail trade outlet of products originating from a factory either on the same premises or in close proximity. It is characterised by discounting, limited internal displays and no external shop fronts.
Industrial Purposes	Means in relation to any land or building the use thereof for the manufacture, production, extraction, adaptation, alteration, renovation, repair, processing or servicing of any article or material and shall include the use thereof: <ul style="list-style-type: none"> <li>(1) as a factory defined in the Occupational Safety Act, 1983 (Act No.6 of 1983), as amended</li> <li>(2) by a building contractor for the storage of a builders material</li> <li>(3) for the stacking, storing or preparation for resale of scrap material</li> <li>(4) as a storage warehouse</li> <li>(5) as an office, caretaker's flat or for any other purpose which is incidental to or reasonably necessary in connection with the use thereof as a factory, builder's yard or scrap yard.</li> </ul>
Industrial Workshop	Means a light industrial building or use of land which may cater for either the retail or wholesale trade and includes a building for any operation which in the opinion of the Responsible Authority is not a workshop.
Industry	Means a factory as defined in the General Administrative Regulations made in terms of section 35 of the Machinery and Occupational Safety Act, 1983 (Act No.6 of 1983), under Government Notice R2206 of 5 October 1984, and includes a builder's yard or a scrapyards; provided that the activity carried out is not unacceptably detrimental to the amenity of surrounding properties by virtue of noise, dust, fumes, vibration, aesthetics or any other means.



Industry , Extractive	Means the process of extracting, mining, winning or quarrying of raw materials from the ground, including gravel, sand and stone and includes buildings connected with such operations and crushing plant.
Industry , Light	Means an industry which can be carried on without causing nuisance to other properties or to the general public or without detriment to the amenities of use zones by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust, grit, traffic generation or other causes.
Industry , General	Means a factory or a building used a factory or a use of land (not being a Special Industrial Building or use of land) as originally defined in Section 3 of the Factories, Machinery and Building Work Act, 1941.(now repealed) and includes the repair, spray painting and panel beating of motor vehicles.
Industry , Noxious	Means any industry or trade that by virtue of noise or effluent or any other means is dangerous or harmful to the health, welfare and amenity of the general public such as, but not limited to, smelting ores and minerals, works for the production of sulphur dyes, or the sintering of sulphur-bearing minerals.
Industry, Restricted	Includes the terms "Special Industry", "Offensive Industry", "Noxious Industry" and "Noxious Trade" means any activity or undertaking which, or any buildings or land used for any purpose which: <ul style="list-style-type: none"> <li>(1) is, in terms of the "Regulations Relating to Offensive Trades" promulgated in respect of the area of jurisdiction of the municipality Responsible Authority in terms of section 39 (1) read with section 40 (1) (a) (I) of the Health Act, 1977 (Act No. 63 of 1977), as amended in the Government Gazette of 23 June 1978 under Regulation No. R1287 and as may be amended from time to time: <ul style="list-style-type: none"> <li>(i) "noxious", "offensive" or "a danger or potential danger to public health", and/or</li> <li>(ii) referred to in Schedule A of the aforesaid regulations;</li> </ul> </li> <li>(2) is used in connection with the carrying on of a "Scheduled Process"as defined in the Atmospheric Pollution Prevention Act, 1965 (Act No.45 of 1965), as amended, or which may give rise to a "Noxious or Offensive Gas" as defined in the said Act; and/or</li> <li>(3) falls within the scope of the definition of "Explosives Factory under the Explosives Act. 1956 (Act No.26 of 1956), as amended whether such activity or undertaking or use of any building or land falls within the scope of the definition of Industry or not.</li> </ul> <p>Provided that in any application where the duly authorised health representatives of the Responsible Authority certify that the process which it is proposed to employ in the conduct of such activity or undertaking will be such that any nuisance or danger to health will be eliminated, the activity, undertaking or use of a building or land, as the case may be, may be included within the definition of Industry.</p>
Industry, Service	Means a light industrial building or use of land catering specifically for the local customer and includes a builder's yard and allied trades, laundry, bakery and similar types of use.
Industry, Special	Means a building or use of land used or intended for use for any of the purposes originally set out in Schedule A of the Offensive Trade Regulations of Natal made under Section 138 of the Public Health Act of 1919 and published in Government Notice 1047 of 25th June 1924.
Noxious Industrial Building	Means an industrial building used or constructed or designed or adapted to be used for the purpose of any trade, business, or occupation which, by reason of fumes, gases, vapours, dust, smell, noise, vibration or other causes, is deemed by the Responsible Authority to be likely to become, injurious or a source of danger, nuisance, discomfort or annoyance to the neighbourhood.
Offensive Warehouse	Means a building or land used for the storage of goods which the Responsible Authority regards as unsightly, noisy, offensive or dangerous.
Recycling Centre	Means an area of land, with or without buildings, upon which used materials are separated and processed for shipment for eventual reuse in new products.
Service Industrial Building	Means a light industrial building catering primarily for the local customer, and includes a builder's yard and allied trades, laundry, bakery, dairy depot, dry-cleaning and similar types of uses.
Service Workshop	Means a light industry, providing a direct service to the retail customer, in which not more than eight persons are employed, but may include an activity in which less than three persons are employed, whether or not mechanical power is used and may include such activities as baker, dry cleaner, cobbler, dressmaker, seamstress or tailor.
Special Building	Means any other type of building or use not specifically referred to in the Planning Scheme.
Warehouse	Means a building used primarily for the storage of goods except those of an offensive or dangerous nature and includes premises used for businesses of a wholesale nature but does not include buildings intended for retail business.

## CIVIC AND SOCIAL

Cemetery	Means any place which is intended to be permanently set aside for and used for the purposes of the burial of human remains.
Clinic	Means a facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to out-patients, employees or visitors.
Correctional facility	Means a public or privately operated use providing housing and care for individuals legally confined for violation of criminal law, designed to isolate those individuals from a surrounding community.
Crematorium	Means any building or structure in respect of which authority has been granted for human remains to be cremated therein or thereon.
Crisis Centre	Means a facility providing temporary protective sanctuary for victims of crime or abuse including emergency housing during crisis intervention for victims of rape or abuse.
Educational Building	Means a building used as a school, college, technical institute, academy, research laboratory, lecture hall, convent, monastery, gymnasium, public library, art gallery, museum or for other instruction together with any associated land or buildings and includes a hostel but does not include a reformatory.
Hospital	An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury and deformity and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences, and may include for those purposes those activities normally associated therewith that are set out under sections 132 and 157 of Public Health Act of 1919 and published in Government Notice 2103 of 30 December 1966, such as the operation of an incinerator.
Institution	Means a building or portion of a building used or designed for use as a charitable institute including the administration thereof, and a building designed for use as a hospital, homes for the aged or for mentally or physically disabled people, nursing home, sanatorium, clinic, convalescence home, orphanage or other building used as a public or private institution, but does not include a restricted building.
Place of Amusement	Means land or a building or portion of a building constructed or designed or adapted to be used as a place of entertainment and includes a dance hall, exhibition hall, theatre, cinema, music hall, concert hall, amusement park, billiard saloon, circus, arena or skating ring.
Place of Public Assembly	Means a building or land, used for social meetings, gatherings, religious purposes or indoor recreation, but does not include a place of amusement.
Place of Worship	Means a building or portion of a building used or constructed or designed or adapted to be used as a church, chapel, oratory, synagogue, mosque, temple, Sunday school or other place of public devotion, but does not include a funeral chapel.
Recreational Building	Means a clubhouse, gymnasium, squash court, pavilion, shelter, change room and any similar building used in conjunction with a sport. A clubhouse may include dining facilities and lounges.
Restricted Building	Means a building used for such purposes as a clinic or hospital for infectious diseases, a jail, mental home or hospital, or reformatory.

## OPEN SPACE

Amenity Area	Means land reserved for the protection of places of scenic beauty, natural vegetation, rivers and other topographical features, fauna and flora, places of historical interest and the like, but which may with the permission of the owner be used by the public for passive recreation.
Active Public Open Space	Means an open space owned by a public agency and maintained by it for a range of active pursuits the use and enjoyment of the general public and may include ancillary facilities and buildings.
Passive Public Open Space	Means an open space owned by a public agency and maintained by it for recreational purposes other than formal or organised sporting activities or uses specifically defined as active open space, for the uses and enjoyment of the general public and may include ancillary facilities and buildings.
Private Open Space	Means any land owned by any person or body other than the Responsible Authority for use as a private ground for sports, play or recreation

## TRANSPORTATION



	A place where aircraft can land and take off, usually equipped with hangars, facilities for refuelling and repair, and various accommodations for passengers.
Bus and Taxi Rank	Means land, a building, or part of a building used for the purpose of parking six or more buses or taxis. For the purpose of this Planning Scheme the terms 'Bus and Taxi' shall mean a vehicle used to transport people for gain and registered as such.
Marina	A facility for the storing, servicing, fuelling, berthing, and securing of boats and that may include eating, sleeping, and retail facilities for owners, crews and guests.
Park and Ride Station	Means an area of land developed for the purpose of a public transport station and associated parking area.
Railway Facilities	Means railway yards, equipment servicing facilities, and terminal facilities.
Truck Stop	Means any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sales of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodation and restaurant facilities primarily for the use of truck crews.
Truck Terminal	Means land or buildings where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

#### UTILITIES AND SERVICES

Broadcasting Tower	Means a structure on which an antenna or dish is installed for the transmission, broadcasting or receiving of radio, television, radar or microwaves, and similar types of devices.
Municipal Purposes	Means and includes the use of land and the erection and use of buildings by or on behalf of the Responsible Authority for the purpose of carrying out one or more municipal functions which may include the supply of essential protective, health, community, administrative, support or other similar services and the provision of housing, recreational or other similar facilities.
Utilities Building	Means a building which is used for the accommodation and maintenance of plant, equipment, materials and horticultural requisites; and shall include buildings related to the supply of utility services such as water reservoir, sewage treatment plant, electrical sub-station, telephone exchange and such other utilities as may be necessary for health, communication and sanitation.
Waterworks	Means all uses related to pumping, storage and treatment of water.

#### ENVIRONMENTAL MANAGEMENT

Biosphere	Means an internationally designated area created to integrate the natural environment and surrounding communities by the conservation and protection of the diversity and integrity of biotic communities, plants and animals within their natural eco-systems and to demonstrate the value for conservation.
Bird Sanctuary	Means a place dedicated to care, rehabilitation, protection and conservation of wild and exotic bird species which includes breeding and research programs and may be open to the public for educational and recreational purposes.
Conservancy	Means a group of individual farms or similar contiguous land parcels which, through their owners' initiative, are combined together for the protection and preservation of the natural biodiversity of eco-systems in that area.
Customary Harvesting	Means the harvesting and collection of natural grasses and medicinal plants in environmentally sensitive or protected areas or parks for traditional practices and may require permits from the relevant authority.
Eco-Tourism	Means the use of the natural environment to generate associated tourist activities that will be of direct or indirect benefit to the local residents. It may include areas of traditional settlements and associated low intensity subsistence agriculture, and the use of land directly or indirectly by on people for holiday or leisure purposes.
Eco-Tourism Resorts	Means the use of land for eco-tourism development. These areas typically contain natural vegetation where the main focus is on the provision of accommodation in the form of lodges, huttet or bush camps, cultural villages, and bed and breakfast establishments which are set within an attractive natural setting.
Environmental Education	Means the use of land areas for teaching environmental understanding and awareness.
General Game Reserves	Means game reserves providing a wide, but not necessarily complete spectrum of big game, and may not contain certain of the large and/or dangerous species, which occur in Major Game Reserves.

	means an area situated on the coast line including estuaries where the natural habitat, fish and aquatic plant life are protected and conserved.
Major Game Reserves	Means major, international class game reserves which contain the full spectrum of large and dangerous game endemic to the region, such as lion, elephant, rhino, leopard, and buffalo.
Normal Tourism Resorts	Means land use includes all forms of tourism besides eco-tourism. Self-standing resort developments with recreational and other facilities such as golf courses, amusement parks and large conference venues would be located within this zone.
Private Game Reserves	Means game reserves that are located on privately owned land and may be used for conservation and tourist activities including hunting.

#### 1.1.4 Preferred Rural Land Use Definitions

The following definitions relate to Rural Land Use Management:

##### AGRICULTURE

Agriculture	The use of land for agriculture as the primary economic activity. It includes areas that are under extensive agricultural use as well as those with low intensity agricultural use combined with scattered residential.
Intensive livestock	Means a building or land used for the concentrated fattening of any types of livestock for market and may include any final processing thereof.
Extensive grazing	Means the use of natural grasslands for animal grazing
Cropping	Means the use of land for producing harvest able products, planted, grown, and cultivated in the soil.
Irrigated Cropping	Means the use of land for producing harvest able products, planted, grown, and cultivated in the soil with supplementary water
Horticulture	Means the use of land for the production of flowers, fruit and vegetables.
Forestry	Means the use of land primarily for timber production, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services.
Agro-forestry	Means the use of land for agricultural uses and timber production
Fish Farming	Means an area devoted to the cultivation of fish and other seafood for commercial sale.
Traditional Agriculture	Means the use of land under the administration of a Tribal or Community Authority.
Scattered Residential	for residential purposes or pastoral activities and subsistence agriculture including limited cropping and grazing and the gathering of indigenous plants for medicinal purposes or cultural activities, e.g. basket weaving.

##### ENVIRONMENTAL MANAGEMENT

Environmental Management	Means the use of land for the conservation of natural resources and the wilderness qualities associated with these areas, for low intensity eco-tourism; for maintaining bio-diversity and sustainable catchment management.
Special Landscapes	Means landscapes that are selected for their natural beauty or value as reservoirs of bio-diversity, cultural, historical or geological features
Major Game Reserves	Means major, international class game reserves which contain the full spectrum of large and dangerous game endemic to the region, such as lion, elephant, rhino, leopard, and buffalo.
General Game Reserves	Means game reserves providing a wide, but not necessarily complete spectrum of big game, and may not contain certain of the large and/or dangerous species, which occur in Major Game Reserves.
Conservancy	Means a group of individual farms or similar contiguous land parcels which, through their owners' initiative, are combined together for the protection and preservation of the natural bio-diversity of eco-systems in that area.

	Means an internationally designated area created to integrate the natural environment and surrounding communities by the conservation and protection of the diversity and integrity of biotic communities, plants and animals within their natural eco-systems and to demonstrate the value for conservation.
Eco-Tourism	Means areas where the preferred land use is eco-tourism development, which implies the use of the natural environment to generate associated tourist activities that will be of direct or indirect benefit to the local residents. It may include traditional settlements and associated low intensity subsistence agriculture, which may be regarded as eco-tourism resources. It may include the use of land directly or indirectly by on people for holiday leisure purposes.
Eco-Tourism Resorts	Means the use of land for eco-tourism development. These areas typically contain natural vegetation where the main focus is on the provision of accommodation in the form of lodges, bush camps, cultural villages, and bed and breakfast establishments within an attractive natural setting. Eco-tourism areas may also have areas of traditional settlements and their associated low intensity subsistence agriculture.
Normal Tourism Resorts	Means land use includes all forms of tourism besides eco-tourism. Self-standing resort developments with recreational and other facilities such as golf courses, amusement parks and large conference venues would be located within this zone.
Environmental Education	Means the use of land areas for teaching environmental understanding and awareness.
Recreation	Means the use of land for direct and indirect leisure pursuits.
<b>RESIDENTIAL</b>	
Mixed Use	Means concentrations of activities and land uses in close proximity to one another including residential (in all cases) and any combination of business, industrial, civic, commercial, infrastructural or other uses.
Scattered Residential and Small Settlements	Means the use of tribal land for residential purposes and includes limited cropping, ad hoc grazing, settled countryside or sensitive areas where limited residential accommodation may be permitted based on defined density.
Small and Emerging Rural Centres	Means rural villages and settlements of predominantly mixed residential and agricultural character which also contain limited commercial, market, educational, health and community services.
Towns	Means a compact centre of predominantly residential character but with a core of mixed-use commercial, residential and community services.
<b>INDUSTRY</b>	
Agricultural Industry	Means land or buildings used for the intensive production in any form whatsoever, of poultry, game birds, livestock and allied products, and includes any final processing of these commodities.
Light Industry	Means the use of land for small workshops used for manufacturing e.g., metal work, fibre-glass, wood, plastic and related products.
Heavy industry	Means the use of land for large scale or heavy industrial purposes.
Noxious Industry	Means the use of land for any industry or trade that, by virtue of noise, or effluent, or other means is dangerous or harmful to the health, welfare and amenity of the general public.
Business/Commercial	Means the use of land for the conduct of a business undertaking, or the use of land for an outlet through which goods or services are sold.
<b>CIVIC AND SOCIAL</b>	
Administration/Community	Means the use of land for administrative, community, or other institutional purposes
Education	Means the use of land for educational, or directly related purposes.
Health	Means the use of land for health care, or directly related purposes.

## UTILITY AND ACCESS

Utility and access Means the use of land for road or rail access; infrastructural services and corridors.

Physical infrastructure Means the use of land for physical infrastructural works or installations, including a bus/taxi rank.

## QUARRYING AND MINING

Quarrying and Mining Means the use of land for purposes of extracting, mining, winning or quarrying of raw materials from the ground, including gravel, sand and stone and includes buildings connected with such operations and crushing plant.

## **APPENDIX 13**

### **CLIFFDALE ENVIRONMENTAL CONTROLS**

- Exclusively eco-tourism and environmental education developments shall be permitted in the functional areas.
- All permissible developments in the functional and partially functional areas are subject to an Environmental Impact Assessment (EIA) as detailed in the Environmental Conservation Act.
- Permissible developments in the functional or partially functional areas may not threaten the integrity or sustainability of the D'MOSS.
- All disturbances of the land in functional or partially functional areas shall be rehabilitated in accordance with an approved rehabilitation plan to be submitted with the EIA for approval by the relevant authority.
- A 75m reserve shall be imposed to protect all rivers and watercourses except where permission has been granted to relax the reserve for agricultural purposes to 30m in which case the farmer shall ensure the indigenous riparian vegetation is managed and soil erosion on the farmed land does not occur – permaculture principles to be applied.
- Permissible development shall not exceed 5% of a functional area and/or permaculture practices subject to an EIA which clearly shows that the additional coverage does not affect ecosystem functioning in the area.
- Developments that significantly adversely impact on the aesthetics of eco-tourism routes and destinations shall not be permitted throughout the study area.
- The harvesting of sand shall not be permitted in functional or partially functional areas.
- Where development occurs in the functional or partially functional areas the remainder of the property shall be maintained to improve the environmental quality. This is to be detailed in the EIA for the development.
- All public areas are to be landscaped using appropriate indigenous species found in indigenous ecosystems surrounding the development i.e. school grounds, parks, playgrounds etc.
- Permaculture principles shall be applied in all agricultural developments.
- Harvesting of indigenous vegetation in functional, partially functional and/or riparian reserves shall not be permissible unless it occurs under the auspices of a relevant authority approved harvesting programme which is monitored for environmental impact and may be ceased at any time when adverse impacts on the environment are deemed significant.

- The removal or disturbance of any indigenous vegetation shall not be permitted without the approval of the relevant authority.
- All developers shall be responsible for surface run-off on their property and shall use natural retention means where possible.
- The planting of sugar cane, *Eucalyptus spp.*, *Pinus spp.* *Acacia mearnsii* shall be prohibited within the riparian reserve.
- All land owners shall be responsible for the removal and control of alien invasive plant species on their land and the rehabilitation of appropriate indigenous ecosystems on the land to the satisfaction of the relevant authority.
- Alien invasive plant eradication and control shall conform to management programme and recommendations (See section 5).
- All grasslands shall be maintained to improve sward quality.
- No burning of grasslands shall occur in winter.
- Optimal stocking rates shall be determined for all veld used for grazing purposes to ensure that the grazing capacity is not exceeded.
- All grasslands shall be allowed adequate recovery before grazing is permitted.
- *Eucalyptus spp.* *Acacia mearnsii* and *Pinus spp.* shall be removed from the riparian reserve.
- Rehabilitation of the riparian reserve shall occur in accordance with catchment management principles.
- The planting of exotic plant species within the riparian reserve shall not be permitted.
- All servitudes shall be managed as ecological links where disturbance to natural vegetation is minimised and rehabilitation of indigenous ecosystems occurs.



## **APPENDIX 14**

### **INTERVIEW QUESTIONS**

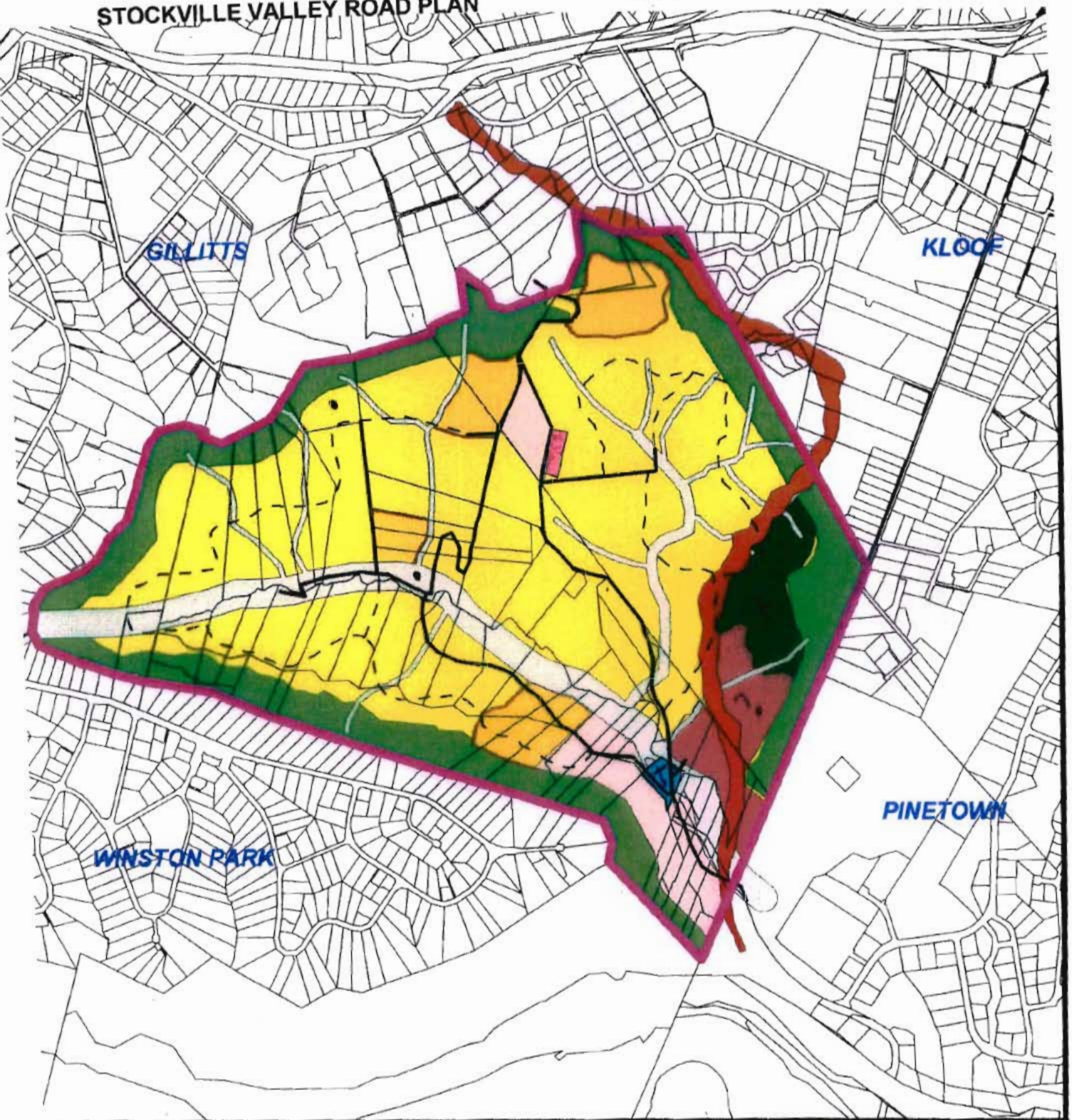
1. Are you aware of the land use management approaches applied to Cliffdale?
2. What has been the response if any in respect of the Cliffdale Land Use Scheme controls, in particular the environmental controls.
3. Have the controls been successfully applied with respect to development applications and contraventions?
4. What problems have been encountered and how can the system be improved?
5. How well has the approached functioned in comparison to the current Town Planning Schemes and the new Land Use Management System?

APPENDIX 15

STOCKVILLE VALLEY ROAD PLAN

**APPENDIX 15**

**STOCKVILLE VALLEY ROAD PLAN**



**O.W.L.C.**

**LEGEND:**

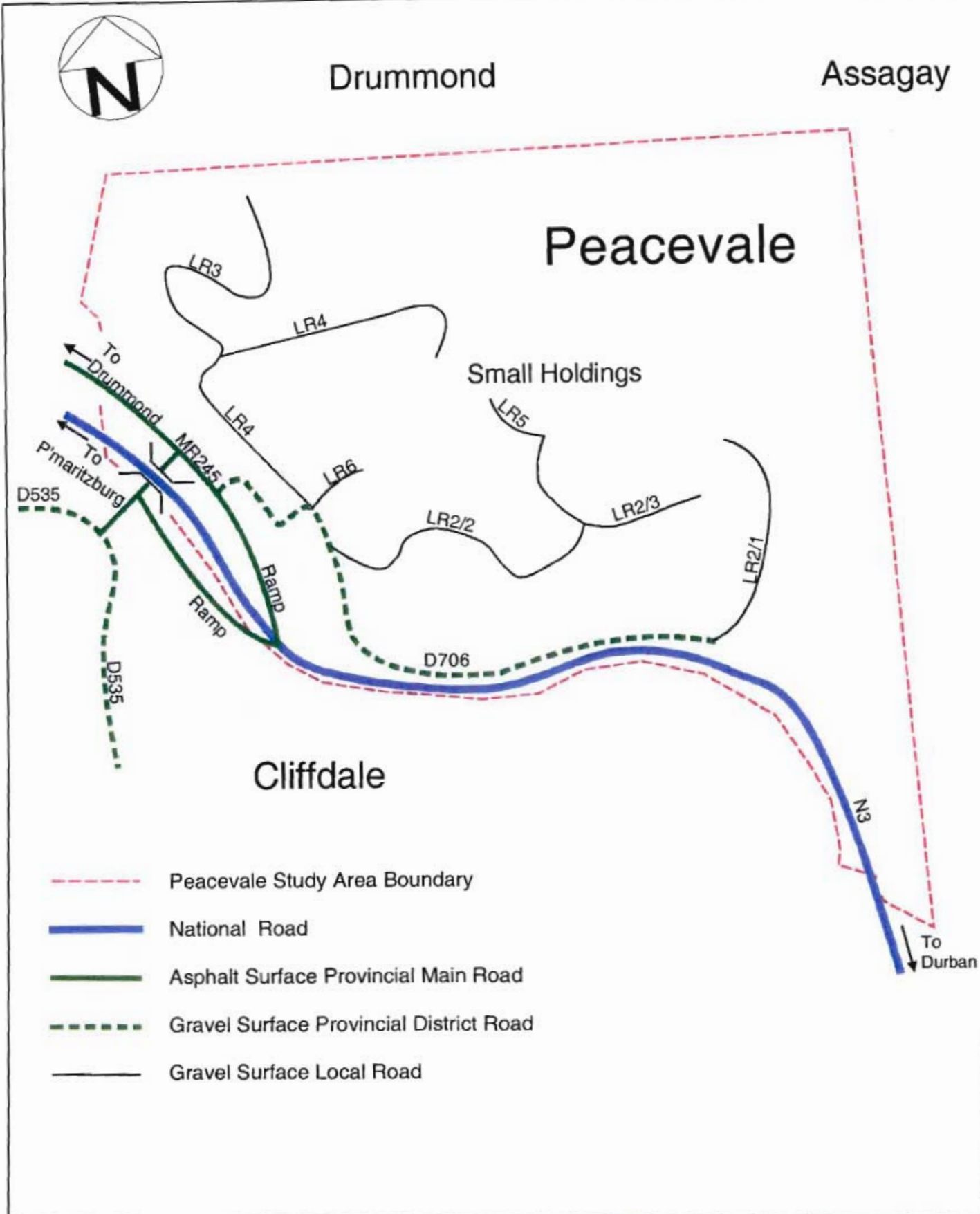


22/24 delamore Rd, Hillcrest  
Tel: 7656012


- Proposed Roads
- Existing Roads
- Site Boundary
- Proposed MR360/1
- Commercial
- Open Space
- Education
- Agriculture
- Special Residential 700
- Mixed Use
- Intermediate Residential
- Special Residential 1200
- Conservation Reserve

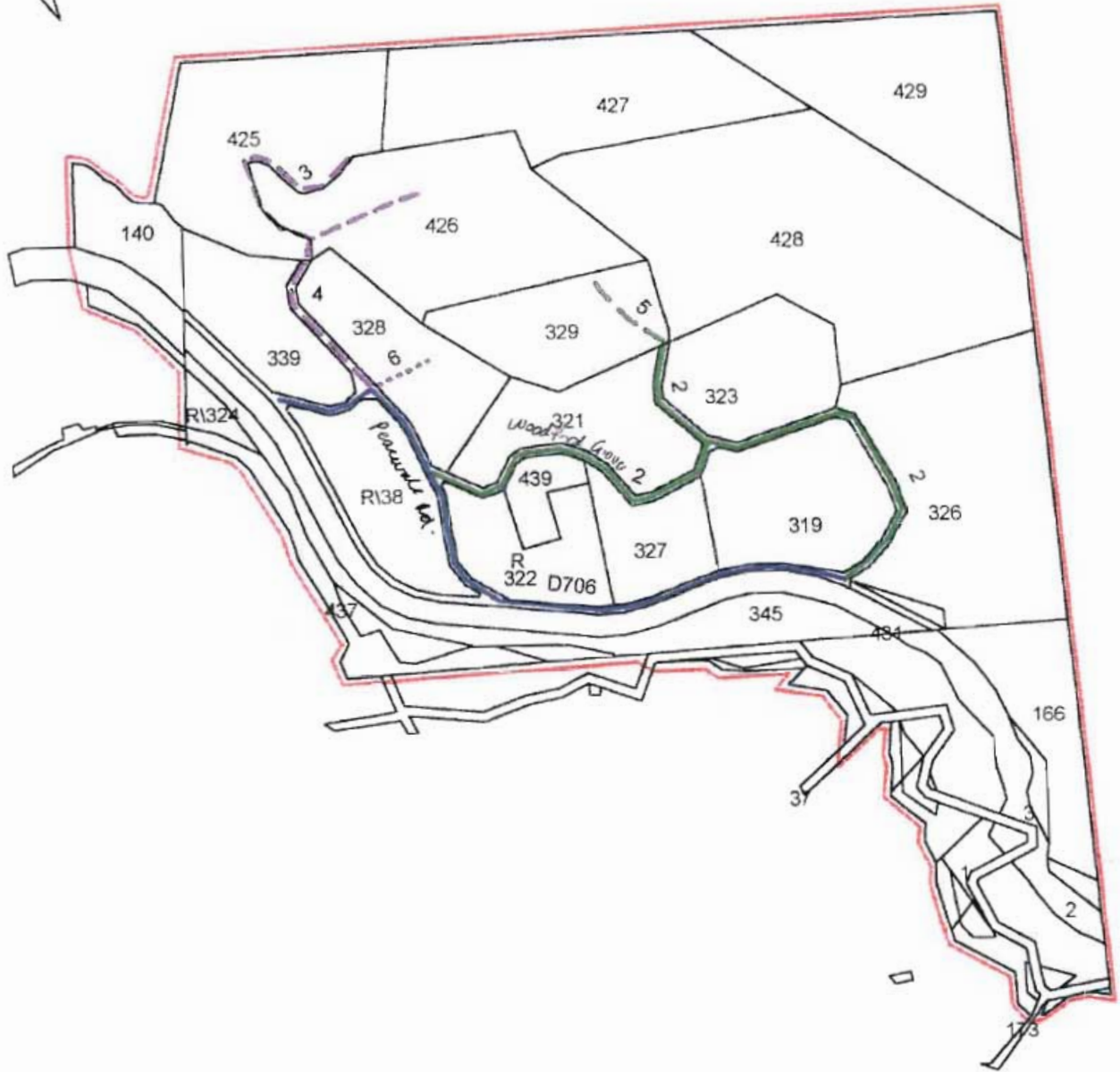
DATE: 20/10/1999



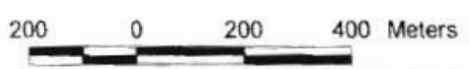


- - - Peacevale Study Area Boundary
- National Road
- Asphalt Surface Provincial Main Road
- - - Gravel Surface Provincial District Road
- Gravel Surface Local Road

Millard Mazibuko Consulting 		PEACEVALE AND SUMMERVELD/ SHONGWENI ROAD PLAN		Outer West Operating Entity	
Date:	SEPTEMBER 2001	Existing Road Network Peacevale		Drawing No.	Rev:
Scale:	NOT TO SCALE			Figure 4	Rev:



- LEGEND**
- Cadastral
  - Study area boundary
  - Provincial roads**
  - road sub
  - Local authority roads**
  - road servitude/ROW
  - road sub
  - Private roads**
  - no registered road reserve
  - road servitude/ROW



SCALE - 1 : 10 000  
 DATE : SEP 2001  
 PREPARED FOR :  
 PEACEWATER WEST  
 MUNICIPALITY

**PEACEVALE & SUMMERVELD/SHONGWENI: ROAD PLAN**  
**EXISTING ROAD LAYOUT**  
**PEACEVALE**

**FIG. No.**  
 12

**ELLIOTT DUCKWORTH ASSOCIATES**  
 urban and regional planners and development consultants  
 100th Ave Suite 112 74 021 564 8217  
 Private Bag 2004 Fax: 011 644 9321  
 Halfway 4902 E-mail: educk@edra.co.za

## APPENDICES OF RECOMMENDATIONS

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### APPENDIX 17

#### RECOMMENDED APPLICATION FORM FOR RATES REBATES

1. Name of applicant (in full) \_\_\_\_\_  
\_\_\_\_\_

Postal Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact Details: (W): \_\_\_\_\_  
(H): \_\_\_\_\_  
(Cell): \_\_\_\_\_

(The Valuer will make contact to view the property at a suitable time)

2. Full names of registered owner/s of the property \_\_\_\_\_  
\_\_\_\_\_

3. Title deed description: \_\_\_\_\_

4. Registered extent of property: \_\_\_\_\_

5. Physical Address of Property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Is the landowner prepared to enter into a contractual agreement with the Municipality thus ensuring that the use of the property or agreed portion thereof will be compatible with environmental management objectives?  
\_\_\_\_\_

7. Does the identified portion of land fall within the spatial footprint of the Environmental Services Management Plan (formerly known as MOSS) and thus also in the Spatial Development Framework of the Municipality Integrated Development Plan?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(If the answer is no to number 6 above, then the answers to 8 - 13 are critical to the Municipality supporting this application.)

8. Has the identified portion of land been identified as a conservation worthy site by Ezemvelo KZN Wildlife in that organisation's conservation planning exercises, e.g. C-Plan?  
\_\_\_\_\_

If so, explain further.  
\_\_\_\_\_  
\_\_\_\_\_



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9. Are there any other known features of significant biodiversity conservation value (landscape, ecosystem, species and genetic)?

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10. What is the size of the land parcel or part thereof for which the application is being made?

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11. What environmental management activities are currently conducted on the site, e.g. alien plant eradication and control, anti-soil erosion measures, prevention and control of poaching and dumping, and controlled burns?

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12. What prospects are there for future management of the site and will the property rates rebate contribute to the likelihood of this occurring?

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13. Are there any other significant conservation areas in the vicinity?

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If so, provide details.

---

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**AGREEMENT TO DECLARE A CONSERVATION  
AREA**

**Between**

---

*[Insert Identity No. of Owner]*  
("the LANDOWNER")

**And**

*[insert name of municipality]* **MUNICIPALITY**

**Represented herein by**

*[Insert reference to the authorized official concerned]*

in his capacity as the *[insert the capacity]*  
("the MUNICIPALITY")/

## PREAMBLE

- A. The LANDOWNER is the registered owner of *[Insert name of Property]* (“the PROPERTY”) measuring *[Insert size of Property]* held under Deed of Transfer No *[Insert Deed Number/s]* dated *[Insert Dates]*.
- B. The MUNICIPALITY is desirous of conserving *[a portion/the whole]* of the PROPERTY and to that end wishes to procure a situation whereby the LANDOWNER is precluded from utilizing *[the relevant portion of]* the PROPERTY for certain purposes, and is obliged to maintain same in an environmentally sustainable manner.
- C. The LANDOWNER is desirous of deriving a rates benefit from the conservation of *[the relevant portion of]* the PROPERTY, and on that basis is prepared to forego stipulated rights therein.
- D. The Landowner and the MUNICIPALITY wish to conclude a written agreement defining their respective rights and obligations in this regard.

## THE PARTIES THEREFORE AGREE AS FOLLOWS

### 1. DESCRIPTION OF PROPERTY<sup>1</sup>

The PROPERTY comprises:

- 1.1. Portion ABCD as is more fully described in the diagram annexed to this agreement marked “A” (“the PRIVATE AREA”); and
- 1.2. Portion EFGH as is more fully described in the diagram annexed to this agreement marked “B” (“the CONSERVATION AREA”).

### 2. CONSENT TO REGISTRATION OF SERVITUDE

- 2.1. Subject to the further terms of this agreement the LANDOWNER consents to the registration of a Conservation *[Non-User<sup>2</sup>]* Servitude

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<sup>1</sup> A distinction has been provided for between the “conservation area” and the “private area” as a Landowner will want, in many circumstances, to reserve a part of the Property for his own private use and exclude it from the conservation area. Where the Landowner wishes to bind his entire Property by the agreement, this clause should be omitted.

<sup>2</sup> The distinction between a non-user servitude and a conservation servitude is in the extent of its provisions. The former usually only deals with use restrictions, whereas the latter can include issues such as non-removal of flora, eradication of aliens, etc. One will need to decide what goes into annexure “A” and what is left to this agreement and the management plan. It is suggested to register only the main issues in the servitude (use restrictions and non-destruction of indigenous flora, and to put the rest into the management plan/clause 3. The potential problem is that the servitude is automatically binding on successors, whereas the agreement is not.

over the *[CONSERVATION AREA/PROPERTY]* on the terms set out in Annexure “C” hereto.

- 2.2. Any costs incurred in registering the said servitude shall be borne by the *[LANDOWNER/MUNICIPALITY]*.<sup>3</sup>

**3. OBLIGATIONS OF LANDOWNER IN RESPECT OF THE *[CONSERVATION AREA/PROPERTY]*<sup>4</sup>**

The Landowner acknowledges that in order properly to ensure the effective conservation of the *[CONSERVATION AREA/PROPERTY]* certain activities must be restricted in/on the *[CONSERVATION AREA/PROPERTY]* and consequently agrees:

- 3.1. to comply with the provisions of the Management Plan for the *[CONSERVATION AREA/PROPERTY]* which is annexed hereto marked “D”;
- 3.2. not to plough, cut, rip, remove or otherwise damage, any indigenous vegetation, ecosystems or habitats in/on the *[CONSERVATION AREA/PROPERTY]* except in accordance with the provisions of the management plan;
- 3.3. not to construct or erect, or allow the construction or erection, of any buildings, roads or structures in/on the *[CONSERVATION AREA/PROPERTY]*;
- 3.4. not to plant, or permit the planting of, any flora other than local non-invasive indigenous flora in/on the *[CONSERVATION AREA/PROPERTY]* except in accordance with the provisions of the management plan;
- 3.5. not to remove, or permit the removal of, any timber of an indigenous species, including fallen timber in/on the *[CONSERVATION AREA/PROPERTY]*;
- 3.6. not to introduce, or permit the introduction of, any non-indigenous fauna including, but not limited to, any livestock, cat, dog or other domestic animal in/on the *[CONSERVATION AREA/PROPERTY]*;

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<sup>3</sup> Whether the Municipality or the Landowner pays the costs of registration of the servitude is a matter for negotiation. The costs are determined by a conveyancing fees guideline, which the appointed conveyancers may be prepared to reduce on negotiation. The fee in each case may be determined by contacting them and requesting a quotation.

<sup>4</sup> The inapplicable options in this clause should be deleted, especially if they merely duplicated what is in the non-user servitude. They will also need to be reconciled with the contents of any management plan applicable to the area. In practice, however, this agreement and the management plan will be negotiated and concluded simultaneously.

- 3.7. not to do, or permit, any act that may adversely affect the natural state, flow, supply, quantity or quality of any water resource in/on the *[CONSERVATION AREA/PROPERTY]*, subject to the provisions of the National Water Act, 36 of 1998;
- 3.8. not to permit or consent to, unless required by law, the placement of any transmission lines, telecommunication lines, cellular towers or public works in/on the *[CONSERVATION AREA/PROPERTY]*;
- 3.9. not to subdivide, or permit the subdivision of, the *[CONSERVATION AREA/PROPERTY]*;
- 3.10. not to operate, or permit the operation of, any trade, industry or business in/on the *[CONSERVATION AREA/PROPERTY]*, unless provided for explicitly in the management agreement;
- 3.11. not to use, or permit the use of, motorcycles or four-wheel drive vehicles in the Conservation Area unless their use is necessary for the proper management and protection of the *[CONSERVATION AREA/PROPERTY]*;
- 3.12. not to dump, or permit the dumping of, any waste material in/on the *[CONSERVATION AREA/PROPERTY]*;
- 3.13. not to hunt, or permit hunting or poaching, to take place unless it is necessary for the proper management of the fauna located in/on the *[CONSERVATION AREA/PROPERTY]*; *[Property/ Conservation Area]* and is catered for in the management plan;
- 3.14. not to permit the general public to access the *[CONSERVATION AREA/PROPERTY]*; unless otherwise catered for in the management agreement; and
- 3.15. to ensure that his/her occupation, use, enjoyment and/or development in/of the Private Area shall take place in a manner that minimises any potential disturbance to, and adverse impacts on, the *[CONSERVATION AREA/PROPERTY]*.

#### **4. MANAGEMENT OF THE CONSERVATION AREA**

- 4.1. The LANDOWNER undertakes to manage the *[CONSERVATION AREA/PROPERTY]* in accordance with provisions of the management plan, and to comply strictly with the further stipulations of the *[Conservation/Non-User]* Servitude and this agreement.
- 4.2. The MUNICIPALITY or its appointed agents will carry out regular inspections of the *[CONSERVATION AREA/PROPERTY]*.



- 4.3. The MUNICIPALITY will convene a meeting with the Landowner on an annual basis, or at such earlier time should either of the parties deem it necessary, to formally review the LANDOWNER'S compliance with, and the continuing appropriateness of the Management Plan.
- 4.4. The MUNICIPALITY shall have the right to amend the Management Plan as a consequence of such review, subject to the LANDOWNER'S right to arbitration in respect of such matters contained in such amended plan which are considered unnecessary or excessive in order to achieve the effective conservation of the [CONSERVATION AREA/PROPERTY].

#### 5. RIGHTS OF LANDOWNER IN RESPECT OF [CONSERVATION AREA/PROPERTY]<sup>5</sup>

- 5.1. Subject to the constraints thereon imposed by this agreement, the LANDOWNER shall retain all rights of ownership over the [CONSERVATION AREA/PROPERTY].
- 5.2. The LANDOWNER and those lawfully on the [CONSERVATION AREA/PROPERTY] may consequently access the [CONSERVATION AREA/PROPERTY] and utilize it to the extent not in conflict with the provisions of this agreement, the Servitude and the Management Plan.

#### 6. ACCESS<sup>6</sup>

The MUNICIPALITY, its employees and consultants, shall be entitled to access to the [CONSERVATION AREA/PROPERTY] at all reasonable times in order to ensure compliance with the terms of this agreement.

#### 7. OBLIGATIONS OF MUNICIPALITY<sup>7</sup>

The MUNICIPALITY shall comply with all the terms and conditions of the management plan, and provide the LANDOWNER with such information and management advice that it may possess to assist the LANDOWNER in ensuring the effective conservation of the

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<sup>5</sup> The rights set out in this clause are merely examples and will need to be negotiated by the parties to suit their specific requirements and circumstances.

<sup>6</sup> The rights set out in this clause are merely examples and will need to be negotiated by the parties to suit their specific requirements and circumstances. These rights are usually exercised to ensure the proper management of the Conservation Area and are not intended to constitute a diminution of a landowner's property rights.

<sup>7</sup> The obligations set out in this clause are similarly examples and will need to be negotiated by the parties to suit their specific requirements and circumstances.

*[CONSERVATION AREA/PROPERTY]*.

## **8. MUNICIPAL RATES**

- 8.1. The MUNICIPALITY undertakes that it shall on conclusion of this agreement, cause an interim valuation of the PROPERTY to be carried out in terms of the relevant provisions of the Local Authorities' Ordinance, *[Property Rates Act]* or any relevant municipal rates policy<sup>8</sup> taking into account the provisions of this agreement, the Servitude and the management agreement.
- 8.2. The effective date of such revaluation shall be the date of the conclusion of this agreement, and any adjustment of rates liability shall be applied to the LANDOWNER'S rates account with the MUNICIPALITY from that date.
- 8.3. The provisions of this agreement shall not be construed so as to prohibit the LANDOWNER'S right to lodge an appeal against such interim valuation, in accordance with the appeal provisions of the said Ordinance.

## **9. CONSERVATION COSTS**

The LANDOWNER shall be solely responsible for the costs of complying with the provisions of this agreement and the management plan.

## **10. REZONING OF CONSERVATION AREA**

The LANDOWNER may rezone the *[CONSERVATION AREA/PROPERTY]* to a zone appropriate to the provisions of this agreement and the Servitude, and the MUNICIPALITY agrees to waive any fees it would otherwise charge in respect of such rezoning.

## **11. RIGHTS OF LANDOWNER IN RESPECT OF THE PRIVATE AREA**

The LANDOWNER'S right to occupy, use, enjoy and develop the PRIVATE AREA in accordance with the applicable town planning scheme shall not be affected by this agreement, provided that such occupation, use, enjoyment and/or development is consistent with the provisions of this agreement.

## **12. DELEGATION OF RIGHTS AND RESPONSIBILITIES**

- 12.1. The parties to this agreement may not delegate or cede their rights or obligations under this agreement unless:

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<sup>8</sup> Delete reference to the former when the latter is brought into operation.

- 12.1.1. they have the written consent of the other party to this agreement, which consent will not be unreasonably withheld; and
- 12.1.2. the party to whom the rights and/or obligations have been delegated or ceded, has acknowledged its acceptance of the delegation or cession in writing.

### 13. BREACH

- 13.1. If either party breaches the terms in this agreement or the management plan, the other party may notify the offending party in writing of such breach, and call upon the offending party to remedy the breach within a reasonable period<sup>9</sup>.
- 13.2. If the offending party fails to remedy the breach within the time stipulated in the notice in 13.1, the other party may, (without waiving any such other rights as it may have in law):
  - 13.2.1. take any necessary measures itself to remedy the breach, or appoint a third party to do so, and thereafter recover its costs in doing so from the offending party; and/or
  - 13.2.2. cancel the agreement and claim any damages to which it may be legally entitled.

### 14. RECOVERY OF EXPENDITURE ON TERMINATION<sup>10</sup>

- 14.1. In the event that this agreement is terminated at the instance of the MUNICIPALITY in terms of clause 13.2.2, the MUNICIPALITY may<sup>11</sup> claim reimbursement (to the extent allowed in law) from the LANDOWNER on demand for the following losses:<sup>12</sup>
  - 14.1.1. the difference in rates between what would have been paid by the LANDOWNER if this agreement had not been concluded, and what was paid; and
  - 14.1.2. the costs which the MUNICIPALITY would have recovered in respect of any rezoning of the PROPERTY as contemplated in clause 10.

<sup>9</sup> It is important to ensure that in giving notice of breach, an adequate time is given for its remedying i.e one that realistically allows for the necessary work to be done if tackled efficiently. That period must be stipulated in the notice in a clear and unambiguous manner e.g. "within ..... days of the date appearing on this notice.

<sup>10</sup> It is important that conservation agencies deploy their scarce resources on properties with the greatest benefit for biodiversity and that they are able to recover these resources where the area is no longer available for conservation.

<sup>11</sup> This is discretionary, not obligatory.

<sup>12</sup> Whichever of these costs are applicable.

## 15. DISPUTE RESOLUTION

- 15.1. Should any dispute of any nature arise at any time between the parties to this agreement, the parties agree to submit the dispute to arbitration in accordance with the following provisions:
- 15.1.1. The arbitration proceedings will be conducted in accordance with the Arbitration Act (No. 42 of 1965).
- 15.1.2. The arbitration proceedings will be held on an informal basis, it being the parties' intention that a decision should be reached as quickly and as inexpensively as possible, subject only to the observance of the principles of due process.
- 15.1.3. Each party may be represented at the arbitration proceedings by its legal representative and/or other experts or specialists employed by it.
- 15.1.4. The Arbitrator will permit each party to present any evidence and argument as the Arbitrator may consider to be relevant to the dispute, and will generally determine in his or her sole discretion, all matters relating to the conduct of the proceedings and the procedures to be adopted in order to give effect to the intent expressed 15.1.2 above.
- 15.1.5. The Arbitrator will be nominated as follows:
- 15.1.5.1. If the matter in dispute is primarily a legal matter, the Arbitrator will be a Senior Counsel to be agreed upon between the parties, and failing agreement, to be nominated by the President for the time being of the Law Society of KwaZulu-Natal .
- 15.1.5.2. If the matter in dispute is primarily an accounting matter, the Arbitrator will be a Chartered Accountant to be agreed upon between the parties and failing agreement, to be nominated by the President for the time being of the South African Institute of Chartered Accountants.
- 15.1.5.3. If the matter in dispute relates to any matter not being primarily a legal and/or accounting issue, or if the parties are unable to agree on the nature of the matter in dispute, the Arbitrator will be such other person having an appropriate knowledge, as may be agreed upon between the parties, and failing agreement, to be nominated by the President for the time being of the Law Society of KwaZulu-Natal.
- 15.1.6. The Arbitrator will, at the request of any of the parties, be assisted by a person having specialised knowledge of environmental management to

be agreed upon between the parties and failing agreement, to be nominated by the Chairperson of the Ezemvelo KZN Wildlife.

15.1.7. The decision of the Arbitrator will be final and binding upon both parties and capable of being made an Order of Court on application by either of them.

15.1.8. Nothing contained in this clause of the agreement will prevent either party from applying to Court for a temporary interdict or other relief of an urgent and temporary nature, pending the award of the Arbitrator.

15.1.9. The Arbitrator will be entitled to direct that any costs associated with the arbitration proceedings, as determined in the sole discretion of the Arbitrator, will be borne by each of the parties or will be paid by one or more of the parties and will be taxed as between “party and party” or as between “attorney and own client”.

## **16. DOMICILIUM AND NOTICES**

16.1. The parties choose the addresses set out below as their *domicilia citandi et executandi* for all purposes of this agreement and as their respective addresses for the service of any notice required to be served on them in terms of this agreement.

16.2. The LANDOWNER - [Insert Address ]

16.3. THE MUNICIPALITY - [Insert Address ]

## **17. VARIATION OF AGREEMENT**

No variation, amendment or suspension of any of the terms of this agreement will be valid, and no further agreement which may conflict in any way with the terms of this agreement will be binding on either of the parties unless the variation, amendment, suspension or conflicting agreement has been recorded in writing and signed by both parties.

## **18. COSTS OF AGREEMENT**

All costs associated with the preparation or implementation of this agreement will be borne by the parties separately.

## **19. DURATION**

This agreement will come into effect on the date the last party signs it

and will remain in force for a period of *[Insert duration of agreement]*<sup>13</sup> unless:

- 19.1. both parties, prior to the expiry of this agreement, elect to extend the duration of this agreement for a further period of *[Insert number of years]*, or
- 19.2. the LANDOWNER elects to sell the property prior to the expiry of the agreement, in which case the agreement will terminate on the date of transfer of the property to the new owner, unless the new owner enters into a similar agreement to the satisfaction of the MUNICIPALITY.

**20. RIGHT OF FIRST REFUSAL**

In the event that the LANDOWNER wishes to sell the property, or a portion/s of it, during the course of this agreement, the LANDOWNER shall give written notice thereof to the MUNICIPALITY, the price at which and the terms on which the MUNICIPALITY may acquire it, and the period in which the MUNICIPALITY may exercise its rights, which period shall not be less than 30 days. In the event that the MUNICIPALITY does not exercise its right to acquire the PROPERTY within the stipulated period, the LANDOWNER may sell it to a third party at the same price and on terms no less onerous than those stipulated.

SIGNED AT \_\_\_\_\_ ON \_\_\_\_\_ .

**AS WITNESSES**

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
**LANDOWNER**

**AS WITNESSES**

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
**MUNICIPALITY**

\_\_\_\_\_

<sup>13</sup> A minimum duration of 10 years is suggested.