Polokwane Municipal Immovable Property Acquisition, Holding and Disposal Policy Framework
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## Glossary of Terms

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<th>Term</th>
<th>Definition</th>
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<tr>
<td>Applicant</td>
<td>A person or representative of a legal entity who submits a Land Development Application to the Municipality to develop either private or public land or buildings; an applicant could also be a person applying to have a Deed of Grant issued on their R293 property.</td>
</tr>
<tr>
<td>BEE</td>
<td>Black Economic Empowerment, referring to the economic empowerment of all black people (defined as African, Coloured and Indian people) with an added emphasis on women and youth. BEE also emphasises providing opportunities for disabled people and people living in rural areas through socio-economic strategies that include i) increasing the number of black people that manage, own and control enterprises and productive assets; ii) facilitating ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises; iii) human resources skills development; (iv) achieving equitable representation in all occupational categories and levels in the workforce; (v) preferential procurement; and (vi) investment in enterprises that are owned or managed by black people.</td>
</tr>
<tr>
<td>Biodiversity</td>
<td>The number and variety of organisms found within a specified geographic region. Biodiversity also includes the variability within and between species and within and between ecosystems.</td>
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<tr>
<td>BNG</td>
<td>Breaking New Ground (alternatively known as the Comprehensive Plan for Sustainable Human Settlement). The Department of Human Settlements introduced this planning strategy at the end of 2004 as a guide to housing development in order to redirect and enhance existing mechanisms for more responsive and effective delivery. Some key objectives include: i) accelerating the delivery of housing as a key strategy for poverty alleviation; ii) facilitating the creation of jobs through the provision of housing; iii) opening up access to property to all citizens as an asset for wealth creation and empowerment; iv) using housing to bring about spatial restructuring and sustainable human settlements; v) promoting and facilitating affordable rental and social housing markets; vi) upgrading informal settlements; and vii) providing social and communal facilities through housing delivery. In essence, BNG encourages a flexible approach to the use of a variety of instruments and mechanisms to achieve sustainable human settlements.</td>
</tr>
<tr>
<td>Capital Assets</td>
<td>Includes immovable assets such as land, buildings and installations that cannot be moved without changing their identity.</td>
</tr>
<tr>
<td>Charter</td>
<td>The Bank Housing Charter, providing for affordable bondable-housing subsidized by the Department of Human Settlements.</td>
</tr>
<tr>
<td>COGHSTA</td>
<td>The Limpopo provincial Department of Cooperative Governance Human Settlements and Traditional Affairs.</td>
</tr>
<tr>
<td>Competent</td>
<td>In relation to land use, means the authority that is empowered to...</td>
</tr>
</tbody>
</table>
Authority. grant or approve a right to use of land for a specified purpose.

Diagram. A cadastral diagram as defined in the Land Survey Act, 1997 (Act No. 8 of 1997). The diagram is the fundamental registerable document prepared by the land surveyor. The essential information shown on a diagram is the unique description of the property; an illustration depicting the property; the boundary description listing the corner beacons and the details of any curved/rounded boundary; descriptions of the corner beacons; a table listing the numerical data of the boundaries and the area of the property. The Surveyor-General gives each diagram a unique reference number.

Disposal. Sale, exchange, donation, or letting of Municipal land.

DoPW. Department of Public Works.

DORA The Division of Revenue Act, enacted annually, to provide for the equitable division of revenue raised nationally among the national, provincial and local spheres of government for a financial year and the responsibilities of all three spheres pursuant to such division; and to provide for matters connected therewith.

DRA. Deeds Registries Act, 1937 (Act No. 47 of 1937) as amended by the Deeds Registries Amendment Act 2010 (Act 12 of 2010). The purpose of the Act is to regulate the registration of deeds and make uniform the practices of each Deeds Registry in the process of registering deeds.

DRD&LR. Department of Rural Development and Land Reform.

EEDBS programme. Enhanced Extended Discount Benefit Scheme was introduced to assist: i) persons to acquire state financed rental housing, ii) existing sales debtors to settle the balance on the purchase price of their public sector properties or iii) persons to repay publicly financed credit that had been used for housing purposes. This programme applies to state financed properties occupied before 1994; not those built under the auspices of the Reconstruction and Development Programme. The programme discounts an amount of up to the prevailing housing subsidy against an existing loan, purchase price or purchase price balance of a property.

EIA Environmental impact assessment, which is a pro-active and systematic process where potential environmental impacts both positive and negative associated with certain activities are assessed, investigated and reported. The process contributes to giving effect to the objectives of integrated environmental management as decision makers are informed of the desirability of such activities and on the conditions which authorisation of the activity should be subject to,
where relevant.

**Engineering Service.** A system for the provision of water, sewerage, electricity, municipal roads, stormwater drainage, gas and solid waste collection and removal, required for the purpose of land development.

**Erf.** Any piece of land registered as a plot or stand in a Deeds Registry. It can also be a lot or stand in a portion of land laid out for development, but not yet proclaimed as a township.

**HSDG** Human Settlement Development Grant, which finances the provision of housing subsidies through a number of mechanisms that all ultimately benefit low income households: project-linked subsidies (where the bulk of the grant is spent); Individual subsidies; Institutional subsidies; Consolidation subsidies; The Peoples Housing Process; and, The finance-linked subsidy programme. The integrated housing and human settlement development grant provides funding for housing units and associated internal infrastructure (infrastructure that is on the associated plot or within the associated development), as well as planning activities and land acquisition. In the case of institutional subsidies, funds may also be used for setting up housing support centres. In general, about 15 per cent of the subsidy may be used for internal services, with additional amounts possible in adverse geotechnical conditions.

**HSP.** Housing Sector Plan (sometimes referred to as the Housing Chapter) is a summary of the housing planning undertaken by a municipality and should be done as part of the IDP process. The summary of the housing plan becomes a chapter of the IDP.

**GIAMA.¹** Government Immoveable Assets Management Act (Act No. 19 of 2007). The purpose of GIAMA is: to provide a uniform framework for the management of immovable assets held or used by national or provincial government departments; to ensure the coordination of the use of an immovable asset with the service delivery objectives of a national or provincial department; and, to provide for the issuing of guidelines and minimum standards in respect of immovable asset management by a national or provincial department.

¹ GIAMA will be applicable to all spheres government shortly. National and provincial departments are already required to comply with the Act. The necessary legal framework is being debated currently as a precondition for applying GIAMA to the sphere of local government. Requirements for immovable asset management could be incorporated in either a separate set of regulations issued in terms of the Municipal Systems Act, 2000 or an amendment to the Local Government: Municipal Planning and Performance Management Regulations, 2001 issued in terms of that Act. Such additions / amendments to the aforesaid Regulations would be issued by the Minister of Cooperative Governance.
GRAP. Generally Recognised Accounting Practice. These practices prescribe standards for presenting financial statements, cash flow statements, accounting policies and changes in accounting estimates and errors. They are effective for all public entities using the accrual basis of accounting for annual financial statements.

IDP. Integrated Development Plan is a strategic management tool for the municipal planning process that guides development within the municipal jurisdiction. It gets adopted by a Municipality in terms of Chapter 2 of the Municipal Systems Act (Act No. 32 of 2000).

Inclusionary housing. The provision of affordable housing within middle and high income residential developments to achieve an equitable socio-economic balance.

Incremental upgrading of informal areas. The progressive introduction of administration, management, engineering services and land tenure rights to an area that is established outside existing planning legislation, and may include any settlement or area under traditional tenure (governed by the National Housing Code, Part 3, Incremental Interventions (Consolidation Subsidies, Emergency Housing Programme, Integrated Residential Development Programme and Enhanced Peoples Housing Process) and Upgrading Informal Settlement (Subsidy Quantum – Incremental Interventions). See Proclamation R188 for traditional authority jurisdiction and Proclamation R293 for South African Development Trust (SADT) jurisdiction.

Investment property defined in the MFMA. Investment property is land and/or buildings (or part of a building) held to earn rentals and/or capital appreciation and is distinguished from property that is occupied and used by the municipality. Investment property is leased under an operating lease to a lessee where the municipality acts as lessor. A property constructed by the municipality that will be held as an investment property should not be treated as such until it is ready for its intended purpose (i.e. until it meets the definition of investment property). Until such time, it should be accounted for according to the Generally Recognised Accounting Practice (GRAP) number 17. Similarly, property being constructed on behalf of a third party does not constitute investment property and should be accounted for as a construction contract in terms of GRAP 11. Properties held for sale in the ordinary course of business should be recognised as inventory, and accounted for in terms of GRAP 12. - Source: GRAP Implementation Guide for Municipalities).

Upgrading of Tenure. The Upgrading of Land Tenure Rights Act (No. 112 of 1991), provides for the upgrading and conversion into ownership of certain rights granted in respect of land and for the transfer of tribal land in full ownership to tribal authorities and for matters connected therewith.
See Proclamation R188 for traditional jurisdiction and Proclamation R293 for South African Development Trust (SADT) jurisdiction.

**USDG**

Urban Settlement Development Grants, which Metropolitan municipalities directly receive from the national department of human settlements to address infrastructure needs.

**Land.**

An erf, agricultural holding or farm portion.

**Land development.**

The erection of buildings or structures on land, or the change of use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of an applicable land use scheme (as defined in the Spatial Planning and Land Use Management Bill, No. 14 of 2012).

**Land swop or Exchange.**

The simultaneous acquisition and disposal of immovable property or right in land in terms of an agreement between the Municipality and any other party or parties, where the compensation payable by the parties to each other is offset and only the difference, if any, is payable to the appropriate party.

**Land Use.**

Means the purpose for which land is or may be used lawfully in terms of a land use scheme, existing scheme or in terms of any other authorisation, permit or consent issued by a competent authority, and includes any conditions related to such land use purposes (as defined in the Spatial Planning and Land Use Management Bill, No. 14 of 2012).

**Land Use System. Man**

Means the system of regulating and managing land use and conferring land use rights through the use of schemes and land development procedures (as defined in the Spatial Planning and Land Use Management Bill, No. 14 of 2012).

**Land Use Scheme.**

A scheme that regulates land use.

**LUMTC**

Land Use Management Technical Committee, a structure ion the Polokwane Municipal Spatial Planning and Land Use Management Division which advises and guides decision-making with regard to applications for land use and development rights in the Polokwane jurisdiction.

**Municipal Area.**


**MFMA.**

Municipal Finance Management Act (Act No. 56 of 2003). The purpose of the MFMA is to establish the basis for improved financial management at the local government level. The MFMA aims to modernise budget and financial management practices in municipalities and maximise the capacity of municipalities to deliver services to all their citizens.
MIG. Municipal Infrastructure Grant. The MIG is a new municipal infrastructure funding arrangement which combines all the existing capital grants (i.e. the Consolidated Municipal Infrastructure Programme, Water Services Projects, Community Based Public Works Programme, Local Economic Development Fund, Urban Transport Fund, Building for Sport and Recreation Programme and the National Electrification Programme) into a single consolidated grant.

MSA. Municipal Systems Act, (Act No. 32 of 2000). To provide for the core principles, mechanisms and processes that are necessary to enable municipalities to move towards the social and economic upliftment of local communities and ensure universal access to essential services that are affordable to all. The MSA also defines the legal nature of a municipality to include the local community within the municipal area, working in partnership with the municipality’s political and administrative structures. More specifically, the MSA brings the IDP in as a mandatory planning document that will integrate and centralise the planning of all municipal sectors and align with national and provincial policies and plans.

NDoHS. National Department of Human Settlements.

NEMA National Environmental Management Act (no 107 of 1998), which provides for co-operative, environmental governance (between the different spheres of government) by establishing principles for decision-making on matters affecting the environment, institutions that will promote co-operative governance and procedures for co-ordinating environmental functions exercised by organs of state; and also provide for matters connected with the above issues.

Non-viable property. Immovable property that owing to urban planning, physical constraints or unviable land parcel size cannot be developed on its own or function as a separate entity and only becomes functional if alienated or leased to an adjoining owner for use in conjunction with the owner’s property.

Owner. The person registered in a deeds registry as the owner of the land or the beneficial owner in law.

Owner occupied Municipal property. Land or buildings (or both) held by an owner or by a lessee under a finance lease for use in supply of goods and services or for administrative use.

PFMA. Public Finance Management Act (No. 1 of 1999). The purpose of the PFMA is to regulate financial management in national and provincial
government; to ensure that all revenue, expenditure, assets and liabilities of government is managed efficiently and effectively and to provide for the responsibilities of persons entrusted with financial management in those governments.

**Polokwane Municipal essential property.**

Property that the municipality uses for the provision and delivery of essential services to communities in the municipal jurisdiction. Sufficient property for this purpose is also held for future needs. It is property that cannot be disposed of unless future reviews of the IDP and SDF pronounce otherwise.

**Spatial Reconstruction.**

Property that the municipality earmarks for facilitating the achievement of Spatial Reconstruction, after considering its IDP, SDF and HSP documents. These properties could also be used to address social and welfare services as well as unplanned-for economic or environmental disasters.

**Property.**

Investment property is land and/or buildings (or part of a building) held to earn rentals and/or capital appreciation and is distinguished from property that is occupied and used by the municipality. The purpose of investment property is to earn the municipality the highest rate of return on these immovable assets.

**Surplus-to-needs Property.**

Property that the municipality cannot put to good use as: i) essential municipal property, ii) property for Spatial Reconstruction and iii) investment property.

**Public place.**

Any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram which is for use by the general public and is owned by or vests in the ownership of a Municipal Council, and includes a public open space and a servitude for any similar purpose in favour of the general public (as defined in the Spatial Planning and Land Use Management Bill, No. 14 of 2012).

**Public Private Partnerships.**

A Public - Private Agreement between the Municipality and a Private Partner as contemplated in Section 120 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

**R188.**

Proclamation R188 of 1969, under the authority of the Black Administration Act (No. 38 of 1927) in terms of which tenure in rural areas of South African Development Trust (SADT) land was regulated. Town planning and township establishment in the rural parts of the SADT land was governed in terms of R188. The town planning provisions established procedures for laying out and surveying plots and handing them over to occupiers that conferred rights which are inferior (in terms of tenure law) to those practiced in the former white South Africa. These procedures have persisted in law and regulation for
these areas after 1994, and have been incorporated into new spatial planning and development rights processes.

R293. Proclamation R293 of 1962, under the authority of the Black Administration Act (No. 38 of 1927), in terms of which tenure in the denser settlements of South African Development Trust (SADT) land was regulated. Town planning and township establishment in the denser settlements of the SADT land was governed in terms of R293. The town planning provisions established procedures for laying out and surveying plots and handing them over to occupiers that are inferior (in terms of tenure law) to those practiced in the former white South Africa. These procedures have persisted in law and regulation for these areas after 1994, and have been incorporated into new spatial planning and development rights processes.

SOE. State Owned Enterprise.

SMME. Small, Medium and Micro Enterprises.

SBU. Strategic Business Unit.

SCM. Supply Chain Management Policy, which guides the acquisition and disposal of municipal land.

SDF Spatial Development Framework. A SDF is compiled to support the development vision, objectives and strategies identified in the Municipality’s Integrated Development Plan (IDP). In terms of Section 26 (e) of the Municipal Systems Act (no 32 of 2000) the SDF is a legally required component of the Municipality’s IDP. The SDF sets out a more detailed approach to spatial planning for development – and land use management – extending and refining the approach outlined in the IDP. The SDF has a status of a statutory plan and serves to guide and inform all decisions made by the Municipal Council on spatial development and land use management in the area to which it applies.

Title Deed. Any deed registered in a Deeds Registry recording the ownership of land or a real right in land.

Township. An area of land divided into erven, including public places and roads indicated as such in a general plan.


Viable property. Immovable property that can be developed and function as a separate entity and be registered as such at the Registrar of Deeds.
<table>
<thead>
<tr>
<th>Zone.</th>
<th>A defined category of land use shown on a zoning map of a land use scheme.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1939</td>
<td>Transvaal Local Government Ordinance No. 17 of 1939.</td>
</tr>
<tr>
<td>Ordinance</td>
<td>.</td>
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</tbody>
</table>
1. Introduction

The Polokwane Municipal Acquisition, Holding and Disposal Policy Framework reflects the methodology and procedures for the sale and letting of various types of properties, in order to make economic opportunities available for investors.

The following are values and principles that provide guidance for the decision-making that is required at key points in the Property Acquisition, Management and Disposal business processes (as depicted in the business process model diagrams, in the following section). These diagrams reflect the processes not as they are currently constituted but as they should be if they are to address the gaps in the current processes. These gaps have been identified and clarified in the previous Status Quo Report. Therefore, the business process model diagrams are a reconstructed set of processes, the so-called TO-BE processes. The diagrams as well as the policy principles for decision-making are also the measures required to address the identified gaps. Outcomes to address these gaps are described in the detailed activity tables in the operational procedures manual.

Guidelines for the Municipality to relate to the process of applications for development rights in R188 areas and in the R293 townships of Mankweng and Sebayeng, are contained in the diagrams of the Property Development Rights business process. These diagrams are a reconstructed set of processes, the so-called TO-BE development rights application processes.

The key decision points in the TO-BE processes are colour coded in orange. In addition, where there is further detail of a set of sub-processes within a particular procedure, the procedure in question is colour-coded green. The detail of the sub-processes is provided in a second diagram that immediately follows the primary diagram.

It is important to note that the focus of the policy guidelines is on the Property Acquisition, Management and Disposal processes, which are conventionally referred to under the heading of ‘Property Management’. There are certain points in the overall Property Management process which intersect with Property Development Rights process, for instance where a property management unit needs to make a decision about the route that it would like to follow in the future development of a specific property or set of properties. These points in the property management process where it intersects with the Property Development Rights process are colour coded blue.

In applying the guideline principles and policy framework to decision-making at key points in the TO-BE processes, the Municipality will adhere to:

- Municipal Finance Management Act (Act No. 56 of 2003).
- Municipal Property Rates Act (Act No. 6 of 2004).
• Other relevant legislation.

These principles are drawn from and respond to the development aims and objectives of the Polokwane Municipality as outlined in their website (August 2012) on the subject of Spatial Planning and Land Use Management:

1.1 DEVELOPMENT AIMS:

• Promotion of sustainable human settlements;

• Harmonization, alignment and synchronization of the Municipality’s IDP and SDF with the National Spatial Development Plan and Limpopo Employment, Growth and Development Plan;

• The promotion of economic growth through an emphasis that includes facilitating the development of small, medium and micro enterprises;

• Eradication of apartheid space;

• Equitable access to land;

• Ensuring full ownership and rights in land especially for marginalized groups;

• Proper administration of municipal immovable property;

• Establishment of a functional hierarchy of settlements with proper transportation networks;

• Aligning transport networks to post-apartheid spatial planning; and,

• Developing Transportation Plans for the city.

1.2 DEVELOPMENT OBJECTIVES:

• Regulate, manage and promote well-coordinated spatial planning with a focus on integration and redress;

• Have fixed capital investment beyond basic services in localities where there are high levels of poverty and development potential;

• Promote integrated land use management;

• Provide security of tenure (in R293 areas in particular) and formalize informal areas in both R293 and R188 areas (installation of services);

• Encourage up-to-date planning initiatives;

• Draw up and adopt policy dealing with the acquisition, holding and disposal of immovable property;

• Identify opportunities for economic development, *inter alia*, with programmes that extend the existing incubator programme;
• Compile a Final Asset Register and verify all immovable assets; and,

• Compile an integrated transport plan that is in line with legislative requirements.

1.3 KEY ORGANISATIONAL VALUES THAT SHOULD BE ADOPTED:

The Property Strategic Business Unit has a core responsibility to acquire, hold and dispose of land and buildings, in order to:

• Ensure Strategic Business Units have land and properties available to develop and maintain municipal infrastructure;

• Promote service delivery;

• Facilitate social and economic development, spatial integration and environmental sustainability;

• Ensure that surplus immovable assets not deemed as investment property and not required for future municipal purposes find their way into strategic ‘spatial justice’-related development projects;

• Maximise financial returns on all MFMA classified “Investment Property” on behalf of its residents and ratepayers;

• Various government spheres should take cognisance of each other’s areas of competence and respect each other’s jurisdictions – the IDP and SDF are critical guidelines for local development that should be prioritised by all levels of government; and,

• Promote Affirmative Action and Black Economic Empowerment (BEE) principles, giving previously disenfranchised South Africans the opportunity to benefit economically from access to municipal land and buildings; the Acquisition, Holding and Disposal Policy Framework must incorporate these principles and redress past apartheid and economic injustices.
2. Restructured (TO-BE) Property Management Processes of Municipal Property

2.1 LAND ACQUISITION, MANAGEMENT AND DISPOSAL
2.2 LAND ACQUISITION, MANAGEMENT AND DISPOSAL: PROPERTY MAINTENANCE AND TENANT MANAGEMENT SUB-PROCESSES
3. Guiding Principles for the Approval of Land Use Rights Applications

- The Spatial Planning and Land Use Management Bill provides the overall regulatory context for approval of land use rights applications;

- Within this context the core processes are those that the Municipality follows for all land use rights applications which have been made in terms of either the 1939 or the 1986 Ordinance;

- Previously applications for land use rights in R188 jurisdictions and R293 areas followed separate routes to the 1939 and 1986 ordinances – these should be incorporated into a single process governed by the Spatial Planning and Land Use Management Bill.

  - R188 and R293 applications should continue to originate through COGHSTA; and,
  - COGHSTA should continue to have the authority to approve R188 and R293 applications after consideration by the Municipality’s SBUs and on recommendation of the proposed Municipal Tribunal.

- Clarity on role of the council in recommending and/or approving land use rights in R188 areas (governed by traditional authorities) is provided in the diagram “Property Development Rights Business Process”, the diagram detailing the roles and functions of the DRD&LR, traditional authorities and communities as well as the table of activities which describes the actions of the various authorities and their staff in greater detail (see overleaf).
3.1 APPLICATION AND APPROVAL OF DEVELOPMENT RIGHTS
3.2 APPLICATION AND APPROVAL OF DEVELOPMENT RIGHTS: R188 COMMUNITY AND TRADITIONAL AUTHORITY SUB-PROCESSES
<table>
<thead>
<tr>
<th>Ref No.</th>
<th>Procedure</th>
<th>Headline actions</th>
<th>Detailed tasks/Checklist/guidelines documents</th>
<th>Document that initiates action</th>
<th>Job Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>DRD&amp;LR COMMUNITY PARTICIPATION PROCESS</td>
<td>CP 1.</td>
<td>Official submits report to DRD&amp;LR</td>
<td>CP1.1 Complete role player analysis&lt;br&gt;CP1.2 Complete community dynamics analysis&lt;br&gt;CP1.3 Complete documentary research on land rights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CP 2.</td>
<td>Resident/church/school/clinic/business applies for land use development rights</td>
<td>CP2.1 Constitute a proper community meeting&lt;br&gt;CP 2.2 Investor presents investment/development proposals, administration and distribution of benefits, compensation, role of structures and election of committee</td>
<td></td>
<td>Director: Rural Development and Land Reform</td>
<td></td>
</tr>
<tr>
<td>CP</td>
<td>Official’s report to DRD&amp;LR</td>
<td></td>
<td></td>
<td>Director: Rural Development and Land Reform</td>
<td></td>
</tr>
<tr>
<td>TRADITIONAL AUTHORITY AND DRD&amp;LR SUPPORT</td>
<td>TA</td>
<td>Discuss the</td>
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<td>Relevant</td>
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<tr>
<td>Ref No.</td>
<td>Procedure</td>
<td>Headline actions</td>
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<tr>
<td>1.</td>
<td>idea/plan with traditional authority and community structures, and approve</td>
<td></td>
<td>Document that initiates action</td>
<td>Traditional Council</td>
<td></td>
</tr>
<tr>
<td>TA</td>
<td>Secure and In-principle Letter/Permission to Occupy from the traditional authority</td>
<td></td>
<td></td>
<td>Relevant Traditional Council</td>
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</tr>
<tr>
<td>TA</td>
<td>Apply to Provincial COGHSTA for right to develop the site</td>
<td></td>
<td></td>
<td>Applicant</td>
<td></td>
</tr>
<tr>
<td>A1</td>
<td>Owner/Authorised Agent of the Owner, applies for development rights</td>
<td>A1.1 Complete relevant application form and submit to Municipality</td>
<td>Development rights application form</td>
<td>Applicant</td>
<td></td>
</tr>
<tr>
<td>A2</td>
<td>Owner of R293 site applies either to COGHSTA or the municipality for rezoning of development</td>
<td>A2.1 COGHSTA receives the application (if in respect of Mankweng and Sebayeng)</td>
<td></td>
<td>Applicant</td>
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A2.2 Municipality
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<th>Ref No.</th>
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<th>Document that initiates action</th>
<th>Job Position</th>
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<tr>
<td>A3.</td>
<td>COGHSTA receives application in respect of R188 development</td>
<td>rights</td>
<td>receives the application if in respect of Seshego)</td>
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</table>

**INITIAL PROCESSING OF THE APPLICATION**

I1. Town Planning SBU considers the application

I1.1 If the Town Planning Division decides not to forward the application because it is incomplete, it communicates this to the applicant and requests that all outstanding steps in the application process be completed, including requirements if there is a recommendation to re-submit

I1.1.1 **Confirm a list of project/community beneficiaries**

In the case of a residential development (housing) project, identify who the project/community beneficiaries are

I1.1.2 **Confirm council decision supporting project in principle?**

- Submit proposal to council to approve in principle, if there is demonstrated need/demand
- Motivate the proposal to the

<p>| Waiting list | Manager: City Planning and Property Management |
| Market research analysis | |
| Housing subsidy applications (if required) | |
| The Housing Act | |</p>
<table>
<thead>
<tr>
<th>Ref No.</th>
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<td></td>
<td>council (if required)?</td>
<td>Manager: City Planning and Property Management</td>
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<td></td>
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<td></td>
<td>• Receive Council resolution</td>
<td></td>
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<tr>
<td>I1.1.3</td>
<td>Confirm project in alignment with the IDP and SDF (or compliant with SDF principles)</td>
<td></td>
<td>• Confirm project in alignment with the IDP and SDF (or compliant with SDF principles)</td>
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<td></td>
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<td></td>
<td>• Check the project details against assessment criteria</td>
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<td></td>
<td></td>
<td></td>
<td>that reflect the objectives and principles of the IDP</td>
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<td></td>
<td>• Get Municipal Manager (MM)/IDP manager to sign off on alignment with IDP objectives/principles</td>
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<td>• Check the project details against assessment criteria</td>
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<td>that reflect the objectives and principles of the SDF</td>
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<td></td>
<td></td>
<td></td>
<td>• Get Planning Department to sign off on alignment with SDF</td>
<td></td>
</tr>
<tr>
<td>I1.1.4</td>
<td>Confirm map showing (residential) project proximate to primary health care (PHC) facility, economic hub &amp; primary schools</td>
<td></td>
<td>Map showing existing facilities, amenities and residential areas</td>
<td></td>
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<td></td>
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<td></td>
<td>• Identify necessary existing facilities and amenities on a map showing the location of</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>• Map showing existing facilities, amenities and residential areas</td>
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<td>Ref No.</td>
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</table>
| C1.     | The Town Planning SBU circulates application to internal SBUs of Municipality | C1.1 Legal and Secretariat SBU check application for legal compliance with applicable legislation | • SCM  
• MFMA | SCM Policy  
MFMA | Director: Planning and Development |
| C1.     | The Town Planning SBU circulates application to internal SBUs of Municipality | C1.2 a, b & c Water and Sewer SBU, Roads and Stormwater SBU and Electricity SBU check application | • Confirm existing bulk capacity or approved upgrade plans  
• Identify the average walking distance between existing facilities/amenities and project  
• SCM Policy  
MFMA | Director:  
Engineering Department (Water and Sewer SBU, Roads and Stormwater SBU, and Electricity SBU) Reports | Director:  
Planning and Development; Director: Engineering Services |
<table>
<thead>
<tr>
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<tr>
<td></td>
<td>C1.2.a, b &amp; c 2</td>
<td><strong>Confirm budgets from planning, land, bulk services, top structures, etc.</strong></td>
<td>this alignment</td>
<td><strong>Engineering Department (Water and Sewer SBU, Roads and Stormwater SBU, and Electricity SBU) Reports</strong></td>
<td><strong>Director:</strong> Planning and Development; <strong>Director:</strong> Engineering Services</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Identify capital expenditure implications (If any) of the applied-for project with respect to bulk and link infrastructure</td>
<td><strong>Engineering</strong></td>
<td><strong>MIG</strong></td>
<td></td>
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<td></td>
<td></td>
<td>• Confirm that the necessary funds for infrastructure have been budgeted for and secured (including assumptions of developer contribution to the funding of bulk and link)</td>
<td><strong>USDG</strong></td>
<td><strong>DORA</strong></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Confirm that the necessary funds for top structures have been budgeted for and secured</td>
<td><strong>HSDG</strong></td>
<td><strong>HSDG</strong></td>
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<td></td>
<td></td>
<td>• Confirm that the funding of the land has been taken into account and funds secured for this purpose (in the case of municipal-owned land)</td>
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<td></td>
<td></td>
<td>• Confirm that the required social facilities (health care facility, schools), and</td>
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<td>Ref No.</td>
<td>Procedure</td>
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<td>C1.3 Fire and Emergency Services SBU check application</td>
<td>C1.3.1 <strong>Confirm Geo-tech study</strong> (if required)</td>
<td>• Confirm that the funding for the required social facilities and amenities (if any) has been budgeted for</td>
<td>Geo-tech report</td>
<td>Director: Community Services</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• Conclude agreements (if applicable) regarding developers’ service contributions and payments by applicant</td>
<td></td>
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<td></td>
<td>C1.4 Environmental SBU check application</td>
<td>C1.4.1 <strong>Confirm Environmental Scoping Report or EIA</strong> (if required)</td>
<td>• Identify completed Environmental Scoping Report or EIA (if required)</td>
<td>NEMA</td>
<td>Director: Community Services</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Confirm any environmental constraints on the project</td>
<td>EMF</td>
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<td></td>
<td>• Align the project plan in the application with the above</td>
<td>Environmental Scoping Report</td>
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<td>EIA</td>
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<td>Detailed tasks/Checklist/guidelines documents</td>
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<td>environmental constraints</td>
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<td>• Identify outstanding project</td>
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<td>features in order to comply with Environmental Scoping Report/EIA (if required)</td>
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<td>ADJUDICATE APPLICATION</td>
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<tr>
<td>AA1.</td>
<td>Town Planning</td>
<td>AA1.1 Prepare feasibility report on bulk infrastructure and necessary funds, the mitigation of disaster and environmental risks and access to economic opportunities</td>
<td></td>
<td></td>
<td>Director: Planning and Development</td>
</tr>
<tr>
<td></td>
<td>SBU collates comments and compiles report for Land Use Management Technical Committee</td>
<td>AA1.2 Submit feasibility report to Land Use Management (LUM) Technical Committee</td>
<td></td>
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<td></td>
<td></td>
<td>AA1.3 Use land use survey and land rights enquiry to develop a land register</td>
<td></td>
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<tr>
<td>AA2.</td>
<td>Land Use Management Technical Committee</td>
<td>AA2.1 LUMTC assesses the application</td>
<td></td>
<td></td>
<td>Director: Planning and Development</td>
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<tr>
<td></td>
<td>recommends/does not recommend the</td>
<td>AA2.2 LUMTC places an advert for public</td>
<td></td>
<td></td>
<td>Public</td>
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<td></td>
<td>Municipal Manager</td>
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<td>Ref No.</td>
<td>Procedure</td>
<td>Headline actions</td>
<td>Detailed tasks/Checklist/guidelines documents</td>
<td>Document that initiates action</td>
<td>Job Position</td>
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<td>AA3</td>
<td>Municipal Tribunal recommends approval/conditional approval/rejection of the application (for Mankweng, Sebayeng and R188 sites), and either approves/conditionally approves/rejects the applications for all other areas</td>
<td>input regarding the application and considers these inputs (if any) AA2.3 LUMTC recommends/does not recommend the application</td>
<td>AA3.1 If the Municipal Tribunal decides to approve the application conditionally (because it is incomplete), it communicates this to the applicant and requests that all outstanding steps in the application process be completed, including requirements if there is a recommendation to re-submit.</td>
<td></td>
<td>Elected Chairperson/Municipal Manager</td>
</tr>
<tr>
<td>AA3.1</td>
<td>COGHSTA approves/does not approve</td>
<td></td>
<td></td>
<td></td>
<td>Head of Department/Senior</td>
</tr>
<tr>
<td>Ref No.</td>
<td>Procedure</td>
<td>Headline actions</td>
<td>Detailed tasks/Checklist/guidelines documents</td>
<td>Document that initiates action</td>
<td>Job Position</td>
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<tr>
<td></td>
<td>application for land use development rights (Sebayeng, Mankweng and R188 areas)</td>
<td>CHECK DETAILED DEVELOPMENT OF SITE</td>
<td>SD1. If application approved applicant submits detailed site development plans to the building plans SBU</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>SD2. Building Plans SBU checks site development plans and circulates these to internal municipal SBUS</td>
<td>SD2.1 Building Plans Division</td>
<td>SD2.1.1 Check that there are building plans for the project and structures SD2.1.2 Check that the specifications on the building plans align with the National Building Regulations and/or other appropriate building standards/regulations</td>
<td>Building plans</td>
<td></td>
</tr>
<tr>
<td></td>
<td>SD2.1 Building Plans Division</td>
<td></td>
<td></td>
<td>National Building Regulations</td>
<td>Director: Planning and Development</td>
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<td>Specified building regulations</td>
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Manager: Spatial Planning
Applicant
4. Guiding principles for Sustainable Municipal Growth and Development

Principles in relation to sustainable municipal growth and development should promote social inclusion, spatial equity, desirable settlement patterns, rural revitalisation, urban regeneration, sustainable usage of energy and other non-renewable natural resources, a sustainable carbon footprint and sustainable development. How do you sustain growth within a context of finite resources\(^2\) such as water and non-renewable energy? Does the municipality always need to get the best value for leases or sales? How can the tide be turned to ensure that the city changes to accommodate those that cannot afford market prices?

The above challenges should be met through the Municipality playing the role of public sector developer, where the Municipality:

- Acquires land for development in terms of its IDP;
- Plans the implementation of integrated human settlement projects on its existing land-for-spatial restructuring;
- Establishes partnerships through which to effect implementation, or puts the implementation out to tender;
- Manages its partnerships and/or contracts; and.
- Monitors and evaluates the functional performance of these projects in terms of its IDP objectives.

4.1 THE PRINCIPLES OF SPATIAL JUSTICE\(^3\):

- Where past spatial and other development imbalances (such as between present-day dominant and emergent players in the land market) are addressed through improved access to land and sustainable land use for the emerging development and business sector;

- Where the spatial development framework and Polokwane Municipal Land Policy addresses the inclusion of people and areas previously excluded from economically viable locations, with an emphasis on SADT areas, former homeland areas, informal settlements, and areas characterised by widespread poverty and deprivation;

- Where spatial planning mechanisms (including land use schemes) incorporate provisions enabling access to land by disadvantaged communities and persons;

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\(^2\)There is debate about whether exponential growth can be sustained within finite resources - some say no and others say yes if the growth is delinked from matter, or 'dematerialised', i.e. it is about services rather than physical products; it is hard to see how this could be a sustainable form of growth without a lowering of the population size and a radical change in consumption patterns and lifestyle expectations of the 30 per cent who constitute the world’s middle classes, and consume 80 per cent of its resources.

\(^3\)The Principle of Spatial Justice is derived from the Spatial Planning and Land Use Management Bill, No. 14 of 2012
• Where land use management systems include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas;

• Where land development procedures accommodate access to secure tenure and the incremental upgrading of informal areas; and,

• Where the municipality plays a facilitating role for mixed residential and non-residential development, aimed specifically at stimulating businesses that will promote job creation.

4.2 THE PRINCIPLES OF SPATIAL SUSTAINABILITY:

• Where special consideration is given to the protection of prime and unique agricultural land, especially arable land;

• Where there is consistency in the application of land use measures in adherence with environmental management law and instruments;

• Where the effective and equitable functioning of land markets is promoted and stimulated;

• Where consideration is given to all current and future land development costs to all parties, for the provision of infrastructure and social services;

• Where land development is promoted in locations that are sustainable and that limit urban sprawl and wasted additional bulk infrastructure; and,

• Where the outcome is viable communities with enhanced economic and social opportunities.

4.3 THE PRINCIPLES OF FINANCIAL AND ADMINISTRATIVE SUSTAINABILITY:

• Where land development is promoted within the fiscal, institutional and administrative means of the Municipality;

• Where the Municipality clearly identifies gaps in its fiscal, institutional and administrative means as well as interventions to address these gaps;

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4The Principle of Spatial Sustainability is derived from the Spatial Planning and Land Use Management Bill, No. 14 of 2012
• Where the Municipality takes action in cooperation with community and other governmental partners to implement the above interventions (including support and assistance from other spheres of government);

• Where municipal land managers regularly know the market values of their properties through an instrument such as the Land Asset Register, which needs to be regularly updated to ensure its validity;

• Where the following circumstances warrant the application of market prices:
  o When a municipal property is classified as an investment property according to the MFMA definition;

• Where the following circumstances DO NOT warrant the application of market prices:
  o When a municipal property is classified as one that meets the objectives for Spatial Reconstruction. For example, in the political transition, land from the former non-independent homeland of Lebowa (i.e. the former R293 towns) was donated to the Polokwane Municipality by the Department of Public Works (DoPW) to facilitate the transition of Lebowa into the South African legislative and administrative system; and,
  o Within the above category of land/properties the Polokwane Municipality's City Planning and Property Management Strategic Business Unit (SBU) is responsible for facilitating the Deed of Grant registration process with CoGHSTA for those R293 properties which do not qualify for the Extended Expanded Discount Benefit Scheme (EEDBS).

4.4 THE PRINCIPLES OF EFFICIENCY:

• Where land development optimises the use of existing resources and infrastructure;

• Where planning decisions are cognisant of impact (financial, social, economic or environmental);

• Where development application procedures are streamlined for efficiency and timeframes are adhered to by all parties; and,

• Where planning flexibility is entertained in respect of vulnerable communities encountering economic or environmental shocks.

4.5 THE PRINCIPLES OF TRANSPARENCY AND PUBLIC INTEREST:

• Where the preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them;

• Where policies, legislation and procedures are clearly set to empower members of the public to participate effectively; and,
Where not only the required monetary resources (which might be limited) are provided but also the necessary time-related human resources are made available to enhance public participation. Particularly the participation of marginalised communities, unemployed people, women and the aged, through for instance better and more effective communication and planning of public meetings and venues.
4.6 PRINCIPLES IN RELATION TO PLANNING FOR SUSTAINABLE GROWTH AND DEVELOPMENT:

- Where sustainable growth and development means development that meets the needs of the present without compromising the ability of future generations to meet their own needs; to give effect to this means that the Municipality will strive towards implementing Local Agenda 21 principles of sustainable development and environmental preservation with the following objectives throughout the municipal jurisdiction:
  - Renewable resources are the first choice for the provision of energy (through, e.g. solar water heaters)
  - The rate of use of non-renewable resources is less than or equal to the rate at which they can be replaced by sustainable renewable resources (this means that where, for example, electricity is provided from coal-fired power stations [coal being a non-renewable source of energy] this is only consumed to the extent that electricity cannot be sourced from renewable sources (e.g. solar voltaic cells, wind farms, etc.)
  - The rate of pollution emissions is less than or equal to the rate at which they can be absorbed and processed by the environment.

- Where the Municipality strives to realise the above principle by considering measures to incentivise and thereby facilitate all municipal consumers to:
  - Increasingly replace their consumption of energy from non-renewable sources by consumption from renewable sources;
  - Continuously improve their management of energy demand so that energy is used more efficiently and appropriately;
  - Save water through managing water consumption (including technologies) as well as rain-water harvesting; and,
  - Assist at source in the recycling of waste disposal.

- Where the Municipality strives to implement the above measures through regulation, incentivisation and fiscal (rating) mechanisms.

- Where the imbalances of the past are redressed to ensure that there is equity in the application of Spatial Development Planning and Land Use Management systems;

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5Local Agenda 21 refers to a United Nations Earth Summit environmental action programme developed to assist Local Authorities across the world to achieve sustainable development, drafted at the Rio de Janeiro Earth Summit in 1992, and ratified by the leaders of 179 countries. Agenda 21 principles are: -
(i) using a multi-sectoral approach to achieve sustainable development;
(ii) the integration of social, economic and environmental issues in planning and implementation;
(iii) concern for future generations alongside equity, justice and accountability for present generations;
(iv) recognizing and working within ecological limits;
(v) developing partnerships with civil society; and,
(vi) linking local issues with their impact on the earth.
Where there is adherence to the Spatial Development Framework as the municipal guide to spatial planning, land use management and land development;

Where management and the facilitation of land use is activated through the mechanism of Land Use Schemes;

Where there are clear, unambiguous procedures and processes in place for the preparation, submission and consideration of land development applications;

Where there are regular Strategic Business Unit (SBU) inputs and reviews of the Polokwane Municipality’s Integrated Development Plan including updates (where necessary) of the Spatial Development Framework and Land Use Scheme;

Where the Polokwane Municipality should in principle be open to utilising more than one process to facilitate the planning and implementation of land and property development; and,

Where the Polokwane Municipality could use municipal land assets to their maximum value capability by looking at varieties of measures that encourage private, non-governmental and state sector investment.

4.7 DEVELOPMENTAL PRINCIPLES:

To promote social inclusion and spatial equity, a percentage of the monetised value of municipal leases (rents less rates and taxes and other obligations) could contribute towards funding local economic activities (i.e. providing rent subsidised premises to SMME’s);

Municipality could play a key role in ensuring that appropriately located municipal land is used for both affordable housing and local economic development in mixed land use zones, for those marginalised by the established land and property market;

Municipality could package raw land, zoning rights, services and bulk infrastructure to established enterprises (as anchor clients) and use the rent to cross-subsidise LED projects; and,

Opportunities for inclusion in parts of the retail/light industrial tenants upstream or downstream value chain may open up as a result of the proximity of SMME’s to established businesses.

4.8 GUIDING PRINCIPLES RELATING TO SUSTAINABLE HUMAN SETTLEMENTS:

The objective of sustainable human settlements should be kept in mind as the overall vision of what should be achieved through land development. Sustainable human settlements is defined as: “well managed entities in which economic growth and social development are in balance with the carrying capacity of the natural systems on which they depend for their existence and result in sustainable
development, wealth creation, poverty alleviation and equity” (from the Comprehensive Plan [BNG] quoted in the National Department of Housing’s ‘Sustainable Human Settlement Planning Resource Book on Housing Chapters’, page 36).

The Polokwane Municipality should operationalise the definition of “sustainable human settlements”: the operational guidelines should determine the meaning of the following criteria, which should be used to check whether a development would be consistent with BNG:

- Well managed entities;
- Economic growth;
- Social development;
- Balance with the carrying capacity of the natural systems;
- Sustainable development;
- Wealth creation;
- Poverty alleviation; and,
- Equity.

Checklists are needed for the eight points above.
5. Guiding Principles for the Acquisition of Property for Sustainable Growth and Development

5.1 RESPONSIBILITY FOR THE ACQUISITION, HOLDING AND DISPOSAL OF LAND

- The City Planning and Property Management SBU is responsible for the acquisition, holding and disposal of all municipal property.

5.2 WHEN SHOULD THE POLOKWANE MUNICIPALITY ACQUIRE PROPERTY?

- When the Department of Public Work’s (DoPW’s) Government Immovable Asset Management Act has been complied with and the City Planning and Property Management SBU has drafted Land Use Management Plans that identify clearly all the immovable assets that the council has at its disposal and in so doing:
  
  o An assessment of stock in the Immovable Assets Register shows that assets are declining and will not meet future needs;
  o Shows that current or future development needs as indicated in the Spatial Development Framework (SDF) and Integrated Development Plan (IDP) cannot be met by the existing immovable asset stock;
  o Indicates that strategically placed land (as per the SDF and IDP) is to become available on the market for purchase;
  o There should be sufficient demand for the land to be utilised within a sustainable human settlement, either in the short, medium and/or long-term;
  o The location and costs of acquiring the land are such that its development can meet a clearly defined objective within a sustainable human settlement, either in the short, medium and/or long-term;
  o There are funds available to acquire the land;
  o There are funds to develop the land;
  o There is an operational budget dedicated to the holding of the land;
  o The Polokwane Municipality should be able to sustain the costs of holding the land (including rates and taxes, management and maintenance and GIAMA-related costs); and,
  o If the land is privately owned, all potential to acquire state land in the defined area has been exhaustively explored, examined, attempted and/or discarded for sound reasons.

- The Polokwane Municipality needs to regularly assess land use patterns, applications for rezoning’s, and land use demand across the city in order to keep pace with the needs of people both served by the land market and NOT served by the land market. For those not served by the land market, mechanisms are needed for identifying strategically located vacant or under-utilised land.
5.3 HOW COULD THE POLOKWANE MUNICIPALITY ACQUIRE PROPERTY?

In addition to the normal methods of acquiring land, there are numerous innovative acquisition mechanisms that the Polokwane Municipality could consider in order to acquire land, should a shortfall in stock exist, or the existing stock proves unsuitable for requirements:

- Land readjustment (or land massing) schemes wherein the Municipality could temporarily expropriate and service unused private land (usually adjacent to insufficient quantities of Municipal land) in order to initiate and drive development according to the SDF and IDP. Land readjustment is particularly relevant when there are a large number of landowners, in strategically important development nodes who are reluctant to sell their land. In exchange for ceding their land to the adjustment scheme, owners receive a proportion of developed sites back, relative to a generalised value of the land in the area and the amount of land initially ceded to the scheme in the first place. Land readjustment schemes are useful ways for the Municipality to develop portions of land which it could not ordinarily afford to purchase at market prices;
  - This pre-supposes that the Polokwane Municipality is able to use state finances to service and install bulk infrastructure on what is *de facto* private land. To test the provisions of the Municipal Finance Management Act (MFMA), the land could be ceded to the scheme, through “temporary expropriation” until such time as the Municipality is ready to return a portion of serviced land to the original owner;
  - Readjustment schemes are a mechanism for a Municipality to ensure that its immovable assets achieve maximum value;

- Land swops: where parcels of land and financial shortfalls in value are exchanged;

- Land parcel amalgamation (with the option of readjustment): two or more parties contribute parcels of land for purposes of either implementing a joint development or voluntarily providing raw land in return for a portion of the land now serviced and with possible high value zoning rights; and,

- The City Planning and Property Management SBU should develop a set of practices that enables it to move seamlessly between one mechanism and another because it may need to employ more than one acquisition mechanism in a development.

- When is expropriation viable?
  - When land in the asset register is not compatible with council driven development plans as expressed in the IDP and SDF and where a readjustment scheme in unavailable or current immovable assets cannot be swopped with the land required, or the land required is too expensive in relation to land valuator opinions or an owner refuses to sell despite evidence that the development would be in the “public good”.

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5.4 WHERE SHOULD THE POLOKWANE MUNICIPALITY ACQUIRE PROPERTY?

The Polokwane Municipality should identify geographical and spatially-defined areas which represent best opportunities for the city’s growth and development following the guidelines of sustainable human settlements where i) there is a sufficient need with a sustainable demand, ii) there is a demonstrated potential for sustainable economic development and, iii) there is demonstrated potential for an economic development hub or linkages to another potential or real economic development hub.
6. Guiding Principles for the Holding of Properties for Sustainable Growth and Development

6.1 GUIDING PRINCIPLES BEHIND THE HOLDING OF PROPERTY BY THE POLOKWANE MUNICIPALITY:

- Municipal properties with different uses (i.e. essential property, property for spatial reconstruction, investment property or surplus-to-needs property) requires different forms of property management. Holding land assets brings with it rising management and maintenance costs, unintended or intended speculation and possible profiteering by the holding entity, and this should be avoided. If the GIAMA is complied with, much of the risk of holding land which is surplus to needs will become apparent, and allow the City Planning and Property Management SBU to make recommendations on what to do with surplus land;

- Land holdings need to be based on a long, medium and/or short-term plan that identifies and aligns the concentration of demand, resources, likely economic viability and ecological sustainability;

- The land holding is necessary to meet the appropriate land costs, the immediacy (timing) of demand and the speed of release required to achieve a clearly defined objective in either in the short, medium and/or long-term;

- The holding of land should be a distinct spatial intervention to enable the development of economically viable locations through ecologically sustainable development;

- An example where a private tract of land might be held in preference to a public tract could be where the location of the private tract is more suitable and favourable for achieving a sustainable human settlement; and,

- The Polokwane Municipality should only decide whether to hold a particular tract of land in the short, medium or long-term on the basis of a sound business case.

6.2 CRITERIA FOR TIME OF HOLDING:

Land parcels need to be viable in terms of topography, size and location. If not, and the parcel is unviable, acquisition mechanisms described above need to be considered, including expropriation, to obtain adjacent parcels. Up to 2 years should be allowed to conclude negotiations around the inclusion of an adjacent
piece of land to make an unviable parcel viable, and should this be unsuccessful, to commence expropriation in the third year.

The Polokwane Municipality needs to consider the prospects of holding land and properties in the short-term (for immediate development), the medium-term (up to three years) and the long-term (up to 15 years):

- **Short-term land holding:**
  - There is immediate need or effective demand;
  - Subsidies and required top-up funding is available and likely to be secured;
  - There is a bankable project plan already packaged or almost complete; and,
  - There is a short land preparation process or preparation process that is almost complete (e.g. conditions of township establishment are already complete or where an inner city property is being refurbished).

- **Medium-term:**
  - There is on-going need or effective demand;
  - Subsidies and required top-up funding is available and can be applied for (in terms of qualifying criteria for beneficiaries etc.);
  - A bankable project plan can be completed in reasonable time; and,
  - Land preparation process (or outstanding land preparation items) can be completed in medium-term time frame (township establishment can be expedited).

- **Long-term:**
  - Demonstrated future growth in need or demand (as indicated in the SDF and IDP);
  - Demonstrated sustainability of future growth in need or demand;
  - Optimal location of the land (i.e. it is well located in relation to space economies, transport arteries and the flow of money, goods and services);
  - Good-value for money in terms of the price or cost of the land;
  - Ability to keep the project affordable to enable inclusionary housing, in the long-term; and,
  - Land preparation process should be achievable – i.e. there are no major obstacles relating to township establishment, bulk, Environmental Impact Assessment (EIAs) etc.

**6.3 GUIDING PRINCIPLES IN RELATION TO RECOUPING HOLDING COSTS:**

Recouping of holding costs should be built into the lease value except where the beneficiaries are deemed to be in a category of vulnerability in terms of affordability (e.g. indigent households including child headed households etc.); holding costs for leases for the vulnerable categories of tenants need to be cross-subsidised from other leases.
7. Guiding Principles for Disposal of Properties to Facilitate Sustainable Growth and Development

7.1 GUIDING PRINCIPLES IN RELATION TO THE DISPOSAL OF MUNICIPAL PROPERTY:

Requirements of the MFMA
Section 14 of the MFMA provides as follows:-

Disposal of capital assets

- A municipality may not transfer ownership as a result of a sale or other transaction or permanently dispose of a capital asset (immovable assets such as land, buildings and installations that cannot be moved without changing its identify) that is needed to provide the minimum levels of basic municipal services;

- A municipality may transfer ownership or dispose of a capital asset other than one contemplated above, but only after the municipal council in an open public meeting has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services and has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset;

- A Municipal decision that a specific capital asset is not needed for the provision of basic municipal services may not be reversed by the municipality after that asset has been sold, transferred or disposed of;

- Any transfer of ownership of a capital asset must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain in terms of section 111 of the MFMA.

Requirements of the Polokwane Municipality Supply Chain Management Policy

- Promotion of the objectives of the Broad-Based Black Economic Empowerment Act and the application of the Preferential Procurement Policy Framework where:
  - Preference is given in terms of the disposal of viable immovable properties as embodied in Section 9(2) of the Constitution of the Republic of South Africa, 1996;
  - Municipal land and property put up for lease or sale has the potential to create new opportunities for emerging contractors, lessees and purchasers in an equitable, fair and transparent way:
    - The municipality aims to spread opportunities for development, lease and purchase to as broad a range of SMME's as possible:
    - This could be done by specifying that preference would be given to individuals and SMME companies that have not as yet benefitted from municipal property opportunities in the form of construction, leasing or purchase, or benefitted only marginally.
Partnerships between PDI’s and established developers, lessees and purchasers could also be entertained.

- Where the free transfer of R293 properties to households not benefiting from the Extended Discount Benefit Scheme operates on the principle of equity wherein only one R293 property is transferred to each household. Only when all eligible households have had one property transferred to them should households be able to apply for a second R293 property.

- The disposal of any and all capital assets must be dealt with in accordance with the provisions of section 14 of the MFMA;

- Adjudication of disposals will be conducted in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), and the following formula will be applied:
  - the 80/20 or 90/10 preference point system for the sale and letting of assets, with the 80/20 formula applying to a value below R1 Million and the 90/10 formula to values above R1 Million;
  - both the 80 and 90 points in the case of an open tender, can be further divided into points for functionality and price, provided that tender documents contain a detailed breakdown of the points that will be awarded for various criteria.

- The Municipal Council will dispose assets using the following ways -
  - Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - Selling the asset at market related price or auction; and
  - Disposing the asset:
    - A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal service; and,
    - A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection 7.2 (above) but only after the municipal council, in a meeting open to the public has decided on a reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services.

- Following are conditions under which the capital assets may be sold:
  - Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - Only the executive committee or executive mayor will recommend to Council decision to expropriate immovable property or rights in or to immovable property;
  - All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be annually reviewed.
Guiding principles for the disposal of land and buildings

- The Polokwane Municipality should view their land holdings as assets that could be used to leverage other opportunities where other parcels of land are brought in to achieve advantageous location and appropriate scale (size) so that the maximum development potential of the land is achieved;

- The Municipality should exclude property speculation in principle as an option on municipal land – this is critical in strategic areas as defined in the Polokwane Spatial Development Framework:
  - The Municipality could achieve this by defining development criteria for the leasing or purchase of municipal and state land. These criteria could be the timeframe for development, the type of development allowed, and the legal rights of the Municipality should the timeframe, zoning, density, and environmental conditionalities of the deal not be adhered to.

- Where the risks are high that land disposed of will be developed for purposes other than for sustainable human settlements, the Polokwane Municipality should not release this land but continue to hold it with the intention of developing it or considering its future release when conditions are favourable (over the medium to long-term);

- If there is a risk of land invasion and/or a risk of other land usages being enforced on the property, the municipality should not release the land, but continue to hold it and explore other mechanisms to achieve similar objectives;

- Municipal land should not be disposed of if the plans originally contemplated during acquisition or land assembly are likely to not be adhered to;

- The Municipality’s City Planning and Property Management SBUs should be given a mandate to facilitate the development of projects with a mix of residential and commercial/retail components to achieve both economic value (as return for the Municipality) and social inclusion;

- Existing legislation (like the MFMA) in relation to acquisition and disposal of immovable assets should be seen as enabling rather than merely preventative and/or prescriptive; and,

- Where there are conflicting claims over the disposal of municipal properties (e.g. R293), there needs to be a clear, transparent, and impartial dispute resolution process in place to resolve these conflicts before the property can be disposed of.

7.2 METHODS OF DISPOSAL:

In terms of the MFMA and the Municipal Supply Chain Management Policy, the municipality can dispose of land using the following methods:

- For specified development either through a public-private-partnership, a public-public partnership or through a competitive public tender:
A Public Private Partnership entails a disposal of capital assets is a transaction between the Municipality and a private party, in compliance with Section 120 of the MFMA;

A Public-Public partnership is governed by the Public Finance Management Act, Act 1 of 1999; and,

If the sale or letting is by competitive public tender or proposal call, all immovable assets must be leased or sold at current market related value except when the property is to be used to address public interest or the socio-economic needs of a disadvantaged community or households. All public tenders for immovable property are subject to tendering and adjudication guidelines, and should be open to the public.

- **Public Auction:**
  - Immovable assets may not be sold or leased on public auction unless the sale or lease on the open market has not yielded satisfactory results for the Municipality.

- **Donation:**
  - The donation of a capital asset can occur from the Municipality to other organs of State or to Non-Profit, Community Based or Non-Governmental Organisations, to enhance the objectives of the Municipality in meeting socio-economic, spatial, or environmental needs.

- **Sale out of hand:**
  - Whenever a number of comparable immovable properties are offered for sale or lease by public competition and there are remaining properties unsold or not leased after the tendering process, the remaining properties may be sold or leased out of hand by the Municipality at the average realised price obtained for properties sold or leased in the public competition process. The price is usually valid for a maximum period of 12 months calculated from the date of the adjudication of the relevant public competition process;
  - Where an out-of-hand lease of immovable property is contemplated for registered social care organisations, the rental shall be determined by the Municipality;
  - Closed streets, avenues and lanes, public open spaces and odd lots of land which can be of no practical use to the Municipality or any other person may be sold/leased out of hand to adjoining property owners, provided that (i) written notice has been served on all adjoining property owners; and (ii) the selling price/rental shall be at fair market value;
  - Immovable property may be sold or leased out of hand to other spheres of government and other district municipalities. All such immovable property transactions shall be considered at fair market value, except (i) where immovable property was acquired for the development of a less formal township and the township is to be transferred to the Municipality at a later stage (e.g. R293 townships) and (ii) where the property will be used for projects with a view to social and economic upliftment of a previously disadvantaged group;
  - Immovable properties may be sold out of hand to existing tenants who have leased the same premises for five years or longer on condition that the immovable assets are sold at fair market value;
Immovable assets may be sold or leased out of hand in exceptional cases where the Municipality is of the opinion that public competition would not serve a useful purpose or that the asset sale or lease out of hand is in the Public Good and serves the interests of the Municipality. The full reasons for the Municipality preferring such an out-of-hand sale or lease needs to be recorded in the minutes of the Council Meeting where the decision is taken; and,

Immovable property acquired by the Municipality for public purposes or in the community's interest, may be leased out of hand to any applicant for temporary use until such time as the property is required for development.

- **Sale by prequalification:**
  - This method of alienation is specifically designed for the sale or lease of vacant residential building sites to persons on a waiting list who are eligible to tender for these vacant building sites when they become available because they have complied with pre-set qualification criteria for eligibility.

- **Meeting a land claim requirement from the National Department of Rural Development and Land Reform (DRD&LR);**

- **The registration of any real or personal right in respect of Municipal land, including servitudes;**

- **Lease:**
  - The leasing of an immovable asset must be at a market related rental as contemplated in section 14(2)(b) of the MFMA except where the economic or community benefit would be greater, or where the needs of a disadvantaged community/ households are imperative and would be best served by accessing the land or building; and,
  - All leases concluded should have an Agreement of Lease that clearly describes the parties to the lease, details of the immovable asset, rent payable (if any), conditions of the lease, duration and what constitutes a breach of the Lease Agreement.

- **Land swopping or land exchange:**
  - The process of swopping or exchange, where a disposal and an acquisition take place simultaneously, and where an exchange of ownership of the respective immovable assets occurs, provided that in the event that one immovable asset is of a higher monetary value than the other, a cash payment equivalent to the shortfall must be made by the party whose asset is of the lesser value; and

- **A land availability agreement:**
  - Meaning an agreement that has been concluded between for example, the Municipality making land available as contemplated in section 34(9) of the Regulations relating to Township Establishment and Land Use (Proclamation R162 of 1994) and a developer to whom the land is made available. The use of a land availability agreement must be guided by Annexure A in the Regulations relating to Township Establishment and Land Use entitled Guidelines for Land Availability Agreements.
• Transfer between spheres of government:
  o Where the Municipality holds an immovable asset that is identified as essential
to a government department in the national, provincial or local sphere, the
transfer of such an asset should take preference over any other proposed
disposal for which that asset may be earmarked. This is a requirement of the
MFMA. However, such a transfer is subject to a clearly defined reversionary
clause, where a reversion of ownership to the Municipality, free of charge, can
occur in the event that the immovable asset is no longer required by the
government department concerned.

• Unsolicited bids and Private Treaty Sales:
  o Unsolicited Bids:
    ▪ The Municipality is in terms of Section 113 of the MFMA not obliged to
      consider unsolicited bids received outside a normal bidding process,
      unless it has decided to consider the bid in terms of Section 113(2) of the
      MFMA. It may only do so if it makes its decision public in accordance with
      Section 21A of the Municipal Systems Act, together with its reasons as to
      why the bid should not be open to other competitors, an explanation of the
      potential benefits for the Municipality were it to accept the unsolicited bid
      and an invitation to the public or other suppliers to submit their comments
      within 30 days of the notice; and,
      ▪ Once the Municipality has received written comments, it must submit these
        included any responses from the unsolicited bidder, to the National
        Treasury and the relevant Provincial Treasury for comment. If any
        recommendations of the National or Provincial Treasury are rejected or not
        followed, the Municipal Accounting Officer must submit to the Auditor
        General, and the National and Provincial Treasuries, the reasons for
        rejecting or not following the recommendations. Such submission must be
        made within seven days after the decision on the award of the unsolicited
        bid is taken, but no contract committing the Municipality to the bid may be
        entered or signed within 30 days of the submission.
  o Private Treaty Sales or Leases
    ▪ Unsolicited bids for purchase or lease of municipal property which are
      submitted in terms of special circumstances can be entertained by Private
      Treaty where the following categories of properties are concerned:
      ▪ Non-viable parcels of land may be let or sold to adjoining owners,
        provided that the determination of non-viability rests with the Council
        and its decision will be final;
      ▪ Viable properties in the case of business and industrial expansion and
        retention may be let or sold to the adjoining owners at market-related
        prices;
      ▪ Properties identified for sale or lease to Community Based, Non-
        Governmental, Non-Profit, Civil Society or Public Benefit Organisations,
        defined by the Income Tax Act, No. 58 of 1962 and listed in schedule 9
        of the Act;
      ▪ Vacant industrial land
- Vacant land for the development of lower income housing in the categories of low cost, social and bank charter housing;
- The sale of municipal land, involving BEE in partnership with foreign investors
- Municipal land for Community projects;
- Land for religious worship purposes
- Municipal property for educational purposes other than private schools;
- Municipal property for sale and hire to registered business co-operatives; and,
- The sale of municipal owned property, subject to a long term registered lease, of ten years and longer, where the sale of the freehold rights is of greater benefit to Council than the present value of the income flow from rental. This provision does not apply to Council owned property that is multi-tenanted. Such a sale must only take place after a proper cost benefit analysis has been undertaken.
8. Criteria for Preparing Municipal Properties for Sustainable Growth and Development

8.1 PRE-QUALIFICATION CRITERIA:

- That development rights have been secured and obtained;
- That there is a clear indication of the need for the project in respect of municipal plans;
- That there is evidence that sufficient funding has been sourced and is available for the provision of bulk services;
- That there is sufficient existing bulk infrastructure capacity to accommodate additional demand from the project, or approved plans in place to upgrade infrastructure;
- That disaster management risk assessment has been drafted and no environmental risks are in place and if there are, that the land has been sufficiently rehabilitated (if feasible); and,
- That the future of the property ties in with the requirements of the Housing Sector Plan (HSP), SDF and IDP.

8.2 KEY OBJECTIVES:

- Ensuring that adequate planning has taken place (i.e. ensure there is political support and that municipality has applied their mind to assessing needs and costs);
- Ensuring that the project has been factored into the budget cycle of relevant spheres of government;
- Avoidance of bottlenecks created by insufficient bulk infrastructure;
- Ensuring that adequate disaster management takes place and that environmental disasters and loss of life are avoided; and,
- Maximisation of local community job creation and small business opportunities resulting from project.

8.3 OTHER KEY PREPARATION CONSIDERATIONS:

- Zoning;
- Removing redundant structures and installations;
• Energy sources and level of servicing;
• If residential, densities to be adhered to;
• Target market;
• Impact on the environment – is the property adjacent to a vulnerable eco-sensitive environment e.g. wetlands protected area, mining etc.; and,
• Polokwane Municipality should commit itself to managing land development in a way that tackles the carbon-footprint by giving consideration to a sustainable biosphere where consideration is given to the types of waste systems approved, the preservation of water supply and rainwater harvesting wherever possible; and,
• The Polokwane Municipality should prepare the land only if by doing so it will improve on the turnaround time from inception to township establishment.

9.1 ALL FORMS OF TENURE:

- The Polokwane Municipality commits itself to promoting and protecting all forms of tenure; these include:
  - Rental (from private owners, municipalities or employers);
  - Rent-to-buy or instalment sale from a housing association or housing company (usually a company established in terms of Section 21 of the Companies Act of 1973);
  - Communal ownership (Co-operative, Communal Property Association, Share Block Company established in terms of the Co-operatives Act of 1981, Communal Property Associations Act of 1996 and Share Block Control Act of 1980 respectively);
  - Sectional title in terms of the Sectional Title Act of 1986;
  - Individual private ownership; and,
  - Fractional ownership schemes.

9.2 OBJECTIVE CRITERIA AND DISPUTES:

- Where there is a reason for municipal land to be transferred to the occupiers the Polokwane Municipality will assess each case against objective and clear criteria which are clearly communicated to the general public - these criteria should reflect the general principles of Sustainable Growth and Development (referred to above) as well as the specific guiding principles of Disposal of Municipal Land to facilitate Sustainable Growth and Development (referred to above);

- The Municipality will ensure that it speedily addresses all outstanding multiple claims for tenure in some of the areas it governs; to achieve this the Municipality shall prioritise:
  - Identifying where (which townships and which sections of townships) there are multiple claims for tenure (these are concentrated in sections of R293 townships Seshgeo, Sebayeng and Mankweng) and recording these and clearly communicating this information to the general public;
  - Designing and implementing a dispute resolution process to ensure that all parties to the dispute are heard, understand what is required of them and the dispute resolution process and are permitted to freely give evidence;
  - Administering the process efficiently and effectively, including the recording of both oral and documentary evidence and filing this information in a way that makes it easily and practically accessible;
  - Upon the resolving of each dispute, forwarding recommendations and all attached paperwork to the Limpopo provincial department of Cooperative Governance Human Settlements and Traditional Affairs (CoGHSTA) for Deed of
Grant processing; and,
  o Monitoring the CoGHSTA processing of Deed of Grants and keeping applicants informed of progress in relation to their applications.

- Where no disputes on R293 land occur, and where the occupant does not have a registered Deed of Grant with the Deeds Office, and the property in question does not qualify for the Enhanced Extended Discount Benefits Scheme (EEDBS) programme, the Polokwane Municipality’s Property SBU will speedily facilitate recommendations per erf for a Deed of Grant to be issued with the approval of CoGHSTA.
10. Guiding Principles for the Monitoring and Tracking of Municipal Properties for Sustainable Growth and Development

• Provide for the effective monitoring and evaluation of municipal properties;

• Track leased properties in respect of upkeep, land use as stipulated in the lease agreement, payment of rental, payment of rates and taxes, period of the lease; and,

• Evaluate the return on investment annually particularly in relation to business leases.
11. Case Study Illustrations of the Application of Principles to Acquiring, Holding and Disposing of Municipal Property

The following land administration policy documents were scrutinised and used as examples of what other South African municipalities have formulated as policies on the acquisition, holding, preparation, and disposal of property:

11.1 CASE STUDY 1 - EMNAMBITHI

- **Name of Municipality**
  - Emnambithi / Ladysmith Local Municipality

- **Type of Policy**
  - “Disposal of Immovable Property Policy”

- **Date of Policy**
  - 21 January 2011

- **Content of Policy**
  - This Policy consists of the following aspects:
    - Purpose
    - Definitions
    - Policy statement
    - Policy objectives
    - Principles, adoption and contents of the Disposal of Property Policy
    - Land Alienation Policy
    - Residential land
    - Commercial and Multi-use land
    - Industrial
    - Institutional land
    - Public Open Spaces
    - Land Availability agreement
    - Method of disposal

- **Summary of the above Policy**
  - The objective of this policy is to provide procedures in which the Municipality may dispose of its immovable property. The policy must be implemented together with MFMA and the Supply Chain Management Policy. The policy intends to promote local, social and economical development in line with the Municipality’s development strategies.
  - This Policy makes provision for land to be disposed by, via Private Treaty, Public Auction, Public Tender, Donation, lease option and by Land Availability agreement.
  - The policy distinguishes between residential land, Commercial and Multi-use land, industrial, institutional, and public open space sites / land.
The Policy makes provision that certain types of land be sold at market value, while others be sold at 20% of the market value. The type of use will determine at what price it will be sold. The Policy also makes provision that certain types of properties be donated to non-profit organisation.

This Policy does not address the issue of acquisition of land / property and merely provides details on the procedures to be followed during the dispose of its immovable property within the statutory framework.

11.2 CASE STUDY 2 – UMDONI

- **Name of Municipality**
  - Umdoni Local Municipality

- **Type of Policy**
  - “Immovable Property Disposal Policy Framework”

- **Date of Policy**
  - 25 November 2009

- **Content of Policy**

  This Policy consists of the following aspects:
  - Introduction
  - Key principles underpinning land Policy
  - Key Values and Issues
  - Principles
  - Definitions
  - Requirements of the Municipal Finance Management Act
  - Supply Chain Management Policy
  - Application
  - Methods of Disposal and Letting
  - Transfer between Spheres of Government
  - Unsolicited bids and Private Treaty sales
  - Officials and Political office bearers
  - Disposal of Rights in immovable assets
  - Key Principles and Guidelines pertaining to the letting by Council of immovable Property
  - Key Principles and Guidelines pertaining to the Disposal and letting Council of immovable Property for Social care uses
  - Gazetted Notices

**Summary of the above policy**

This policy reflects the methodology and procedure for the sale and letting of various types of properties, in order to make economic opportunities available to investors. This Policy is based on the principles of Efficiency, Effectiveness, Sustainability, Democracy, Co-operation and co-ordination, Redress by levelling the playing filed, Equity, Flexible and dynamic, Developmental, Informed.

This Policy makes provision for the following types of Disposal:
• Tender / Proposal call – will be done at market value
• Donations – to State organs or non-profit organisations
• Letting – market related value
• Exchange – cash for less than equivalent
• Public Private Partnership – Section 120 of MFMA
• Sale prequalification – persons on waiting list

This Policy makes also provision for unsolicited bids and treaty sales, subject to the provisions of MFMA and the Supply Chain Management Policy. The Policy describes the principles applicable when Council’s property(s) are been let and when Council’s immovable property are been disposed off.

11.3 CASE STUDY 3 - MAFIKENG

• Name of Municipality
  o Mafikeng Local Municipality

• Type of Policy
  o “Land Disposal Policy”

• Date of Policy
  o 27 October 2006

• Content of Policy
  This Policy consists of the following:
  o Introduction
  o Power of Council
  o Objectives
  o Categories of Municipal properties
  o Pricing
  o Manner of disposal of Municipal’s various categories of assets
  o Transparency and prudent control
  o Lease
  o Protection of Public Interest
  o Transactions with Provincial and National Government

Summary of the above Policy
The objective of this policy is to provide a framework for the disposal or transfer of immovable assets or rights thereof and the management and use of Council’s immovable property in the event that the property is not subject to disposal, in a manner that would support the strategic objectives of the municipality contained in its Integrated Development Plan and the needs and aspirations of the community that it serves.

The policy identifies the following categories of immovable assets, namely:
• Residential land
• Commercial and industrial land
• Social sites, and
• Sports sites
The Policy stipulates that only those properties that are not required to provide basic municipal services are subject to this policy. The policy distinguishes between viable and non-viable immovable properties. The Policy stipulates that immovable properties be alienated at a fair market related value to be determined by two valuations. The disposal would be done through the following means:

- Outright tender process
- Competitive bidding
- Unsolicited bid
- Private Treaty

In addition we also consulted the policies of the Municipalities of Mafikeng and Overberg. Overall, these polices are geared towards compliance in terms of their interpretation of all the relevant laws and regulations applicable to the land administration cycle, but what they lack are substantive principles. Principles are sometimes identified with only a single word and without substantial guidelines, meaning that there are no policy departure points (guideline principles) for the land administration work of these municipalities. What all the policies have in common is that they emphasise compliance but lack developmental principles. Often the policy objectives are not substantiated.

The principles in this document, however, fill that gap by emphasising the meaning of terms like ‘sustainability’, ‘spatial justice’, ‘acquiring properties’, ‘holding properties’, ‘disposing of properties’. This is a document that can stand alongside and inform and be informed by, the municipality’s SDF, IDP and HSP.

In addition to the guideline principles referred to earlier, there are further practical challenges and issues in implementing an efficient and effective land administration policy in practice:

### 11.4 MUNICIPAL RESOURCE CAPACITY FOR PROPERTY MANAGEMENT (ACQUISITION, HOLDING, PREPARATION AND DISPOSAL):

Does the municipality have the capacity (in terms of sufficient trained, skilled and competent personnel and integrated management structures) to effectively and efficiently manage its properties? The world economic recession and the low growth Eurozone and slowing Chinese economies have impacted negatively on the growth of jobs and economic development activities in the South African economy. This in turn constrains the fiscus, and all spheres of government experience budget constraints and the deeper challenge of balancing their budgets over the short to medium term. Effective and efficient management of its immovable property assets could be a critical factor in both generating revenue for the municipality as well as enabling it to fulfil its social commitments to the urban and rural working poor and the unemployed. This is precisely what occurred in Europe during recent years.

In the Netherlands, where Dutch municipalities have a large volume of wide-ranging real estate for different social objectives and functions, the book value of municipal
real estate is estimated to be worth approximately €20 billion. The value for the purposes of the Valuation of Immovable Property Act (the TAX value) is estimated to be in excess of €35 billion (source: ESB, De Stille reserves van Nederlandse gemeenten [The Silent reserves of Dutch municipalities] by Bert Teuben, 13 May 2011). (EMEA EU Real Estate, http://www.deloitte.com/assets/Dcom-Austria/Local%20Assets/Documents/Studien/EMEA%20EU%20Real%20Estate%20lr.pdf). The source (above) also notes that for a number of years, everything has been dominated by spending cuts and reviews. The effects of the economic recession are increasingly evident in Dutch municipalities. While this could prompt these municipalities to sell some of their real estate at market values (to raise revenue) the source, interestingly, explains that the impact of the recession has not been the selling off of municipal property but increasing emphasis is being placed on finding saving opportunities in the area of real estate management, thus allowing the municipality to retain these assets. The importance of efficient and effective property management has thus been prioritised in these circumstances.

11.5 MUNICIPAL PROPERTY AND ENTREPRENEURIAL DEVELOPMENT

A similar question around capacity could be asked in respect of Municipal Property and Entrepreneurial Development: are the municipal personnel able to use municipal property in complex transactions for the objective of creating entrepreneurial and work opportunities in the context of sustainable human settlements? More specifically the Polokwane property division faces the challenge of cost effective transfer of deeds of grant while at the same time addressing the Lights and Water arrears accounts of the occupants of R293 properties in order to facilitate clearance for transfers.

By emphasising the full recovery of these accounts before clearing the properties for Deeds of Grant transfer might not the municipality be creating a disincentive for these occupants to take ownership, and thereby, might it not be undermining its long-term objective of a greater spread of property ownership in order to expand its rates base? Linked to this is the question about the Valuation of Municipal property and the discretion of the municipality and /or council to discount specific values off the value of the properties, particularly in the R293 areas.
11.6 DISPUTE RESOLUTION

Resolving disputed claims to a property is a specific challenge faced by the Polokwane Municipality, as indicated in the Polokwane Property Management Status Quo report (8 August 2012). There are few if any cases of conflicting claims over R293 properties reported elsewhere in the country - an extensive Google scan revealed none. However, other conflict resolution processes, which have been documented mainly through student and academic research, shed some light on how these conflicts might be better managed if not fully resolved. A Wits University study (into the areas surrounding Mbombela, in Mpumalanga and Durban in KZN) (http://www.ucl.ac.uk/dpu-projects/drivers_urb_change/urb_infrastructure/pdf_land_tenure/NAERUS_ESF_Mogale_tenure_security_south_Africa.pdf) and an Urban Landmark study (also in the Greater Durban area, particularly in and around the Kennedy Road informal settlement), (http://www.urbanlandmark.org.za/downloads/Local_Land_Registration_Practices.pdf) found that a major factor in the process of resolving conflicting claims over the same property was the existence of grassroots community structures with a system for allocation and complaints, and that the formal authority (in this case the eThekwini municipality) needed to interact with and work with these structures. The relationship between the formal authority and the grassroots structures provided a framework to guide the process of tenure rights allocation and also served as a channel for preventing conflicting claims arising over the same property. In the Mbombela district traditional authorities provided the structures within which conflicting claims over the same R293 properties could be resolved.
12. Legal Regulation of Property Acquisition, Holding and Disposal

The process of Acquiring, Holding, Preparing and Disposing Municipal Land is clearly regulated by legislation such as the Municipal Systems Act, and the MFMA and likely in the future to be regulated through GIAMA. Within the framework laid out by these Acts there is a clear structure for implementation of the land management process, particularly around the valuation, disposal through sale and other means, and accounting for immovable land assets held by the municipality.

In terms of these laws the municipality can own, sell, rent, develop, and expropriate property. The Municipal Systems Act clearly requires the municipality to take into account its IDP when making decisions with regard to the Acquisition, Holding and/or Disposal of its land. There is also provision in all the legislation for the municipality to fulfil certain social objectives through its asset and land management policies, including playing a welfare function, and more recently (with reference to BNG) a more defined developmental function in terms of sustainable growth and development and the achievement of sustainable human settlements. Nothing in law prevents the municipality from setting a non-market related rental and/or sale value to municipal property when the usage of that property is clearly related to the achievement of social goals which contribute to sustainable growth and development and spatial reconstruction.

Nevertheless, the policy concepts are complex and this complexity arises from how land management is implemented and exactly what procedures are followed. The answers to such issues will require paying special attention to the various pieces of legislation and regulations and in some instances municipal bye-laws as well. Some of the detail of what has to be proceduralised is already contained within the municipality’s SCM policy. In addition, the Treasury has recently published guidelines for the transfer of assets from municipalities as well as the definition of ‘investment property’ as a particular category of municipal property and a guide for Generally Recognised Accounting Principles in relation to immovable asset management. Finally GIAMA, which is likely to apply to municipalities in the near future, will require that they take stock annually of all their immovable assets and formulate a plan for the effective management and usage of these assets - or disposal of those that are surplus to their needs. GIAMA is thus an important definer of how the acquisition, holding and disposal of land process should be activated.

The policy principles to guide the acquisition, holding, preparation and disposal of municipal properties are high level guides to why the municipality might or might not pursue a particular route in the acquisition, management and disposal of its land. As such the policies provide a vision of where the municipality would like to focus its property resources for a future objective. The policy principles also capture the underlying values that drive this process and therefore give expression to these values. When these policies are applied in practice they intersect with the specific legal requirements governing the usage and management of municipal land and property assets. The policy guidelines in themselves do not contain the measures to ensure that they are practically aligned with the legislation referred to.

In respect of Land Readjustment Schemes outlined in the Guiding Principles document, the prevailing legal issue pertains to whether public sector funding can be spent on privately owned land, where the land is temporarily expropriated for spatial reconstruction. Should the Polokwane Municipality wish to pursue the idea of readjustment schemes, it will need to get legal opinion of the type of amendment that would be needed to allow for
investment on private land. This legal opinion would need to be forwarded to the Policy Directorate in the National Department of Human Settlements.