

THE ASSOCIATION FOR LOCAL AUTHORITIES IN NAMIBIA

MANUAL ON TOWN & REGIONAL PLANNING PRACTISE IN NAMIBIA

VOLUME 1

REFERENCE BOOK

Managed by the Namibia Institute of Town and Regional Planners (NITRP)

Written by E.A. Simon TRP Associates

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FOREWORD

This manual will be of multiple benefit. For those established in local authority town planning, it will be a practical reference document. It encapsulates much of what a town planning officer needs to know in two small volumes. For those entering the field, and there are many such people, it will be a useful training document. Training schemes can be based on its contents and extended nationwide. For the public it will contribute to improving standards of service. Officials will be more confident and clear regarding procedures and policies. For my Ministry and myself, it will raise appreciation of the Ministry's role and make our administrative tasks much easier.

On behalf of my Ministry and myself, I welcome the two volumes as a significant contribution to improving local authority planning standards in our nation.

Signed

Doctor Libertine Amathila

Honourable Minister of Regional and Local Government and Housing.

13 November 1995

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CHAPTER ONE

INTRODUCTION & TERMS OF REFERENCE

PURPOSE AND STRUCTURE OF THE MANUAL

INTRODUCTION

(i) The Proclamation of many new towns and villages in the Communal areas of Namibia and the establishment of local authorities for these towns and villages resulted in town planning functions and responsibilities being assumed by newly established councils and their officials, often with little or no knowledge or experience of town planning functions and procedures. Most Namibian towns and villages do not have the financial means to employ full time town and regional planners to fulfill these functions.

(ii) Recognising the need for physical development planning at all levels in post independent Namibia, the Namibian Institute for Town and Regional Planners (NITRP) and the Association for Local Authorities in Namibia (ALAN) teamed up to present a one day seminar on 6 July 1994 attended by some sixty councillors and officials from twenty -five member local authorities throughout Namibia. The seminar sought to improve the awareness of such councillors and officials about the importance of town and regional planning, the role which they should play in the formulation of physical development plans, and the responsibilities which they carry to ensure harmonious development. The running of the seminar was supported and part sponsored by CRIAA who also participated in the presentations and discussions.

(iii) During the course of the seminar, ALAN, the NITRP and CRIAA. identified a need for local authorities (especially the newly created ones) to be equipped with a user friendly, comprehensive manual on how they should carry out their town planning and development control responsibilities.

(iv) The Manual is the result of the vision of CRIAA, NITRP and ALAN to provide the local authorities with a tool to guide the enormous demand for development in their areas in order to achieve urban environments which are conducive to the health and welfare of all inhabitants.

(v) Funding for the preparation of this manual was procured from the European Commission, CRIAA, ALAN and the NITRP. The production of the manual was monitored and controlled by a committee appointed by the NITRP. as agent for ALAN.

PURPOSE OF THE MANUAL

(vi) The purpose of this manual is to provide local authorities with a user friendly handbook to be used by Councils and officials in order to assist them to:-

- a) understand the scope and extend of their town planning responsibilities;
- b) formulate town planning and related policies for development and control;

- c) prepare or brief consultants to prepare town planning schemes, structure plans, development plans and policies;
- d) understand the various town planning procedures specified by the various Acts and Ordinances related to town planning;
- e) adjudicate development applications received;
- f) control development and land use;

STRUCTURE OF THE MANUAL

(vii) The manual consist of two volumes. Volume 1 is a reference book containing general and specific information on plans and plan management and planning procedure. Volume 2 is a user friendly handbook on "how to" undertake a number of important local authority planning tasks.

(viii) Volume 1 will introduce the reader to

- a) the Namibian land system and the relation of various categories of land to town planning procedures;
- b) town planning practice in Namibia in general;
- c) town planning and related legislation in Namibia;
- d) plans and plan management including the various types of plans, development approval and application procedures and development management procedures; and
- e) planning procedure in general

(ix) It is sincerely hoped that this manual will provide you, the Councillors and officials who have to prepare policies and make planning decisions, with a tool that will enable you to improve the physical structure of your town to the benefit of those inhabitants you serve.

DEFINITION OF COMMON TERMS USED

The following definitions/explanations are provided to facilitate better understanding of the many unfamiliar terms used in the planning environment.

Approved Township

means any township proclaimed as such in accordance with the provisions of the Townships and Division of Land Ordinance 11 of 1963 as amended. It is the surveyed area laid out in erven with a general plan and diagrams of the erven. It is situated within the Local Authority area but excludes the Townlands.

Building

- a) means any structure, whether of a permanent or temporary nature, constructed or used for the housing or accommodation of human being or animals, birds or bees, or for the storage, manufacture or sale of any goods or for the destruction or treatment of refuse of any kind;
- b) a wall of at least 1,2 metres in height, swimming bath, reservoir, tower, bridge, chimney, mast, summer house or hothouse of any structure appurtenant thereto;
- c) any boundary, fence or wall.

Conditions of Establishment

means the conditions subject to which a township was established. These conditions are noted on the title deeds and determine the uses allowed on each individual erf in a proclaimed town.

Diagram

means an accurate cadastral drawing or plan of a piece of land surveyed, drawn and certified as accurate by a registered Land Surveyor and approved by the Surveyor General or his delegate. A diagram forms the basis of a freehold title system identifying accurately the boundaries of a piece of land to which certain real rights are attached.

Erf

means any and every piece of land situated in a approved township. All land situated outside approved townships is called a farm or a Portion (of a farms).

Freehold Title

means the system according to which people can own and register such ownership of a piece of land in the deeds office. This provides the owner with a real right to the land which is inalienable without his consent.

General Plan

means a plan which, representing the relative position and dimensions of two or more erven, has been surveyed and signed by a registered land surveyor and which has been approved or certified as such by the Surveyor General or his delegate.

Land Use

means the purpose for which a piece of land is currently used or the use allocated to a piece of land in the title deed or a Town Planning Scheme. It is applicable to all types of land.

Local Authority

means the authority established for the purpose of management, regulation and control of matters pertaining to the health and welfare of the inhabitants of the area under its jurisdiction.

Local Authority Area

means the area under the jurisdiction and control of a local authority.

Local Authority Council

means any municipal council, town council or village council elected to govern the affairs of a municipality, town or village.

Management Committee

means the committee consisting of persons elected by the local authority council from amongst its members and responsible for the day to day management tasks of the local authority council.

Minister

means the Minister of Regional and Local Government and Housing.

Owner

in relation to immovable property, means the person in whose name such land **is** registered, or his legal representative.

Proclamation

means the procedure whereby the Minister officially notifies the public that certain decisions e.g. approval for the establishment of new townships or approval of a Town Planning Scheme have been given and are now legal and binding.

Public Place

means any street, square, recreation ground, garden, park or enclosed space situated within and/or owned by the local authority. For the use and benefit of the public, or which the public has or acquired the right to use.

Real Rights

means the rights attached to a piece of land by virtue of the conditions of title contained in the title deeds of such land or a Town Planning scheme in force in the area within which such land is situated.

Regional Council

means any council elected to govern the affairs of a region.

Settlement Area

means an area declared such by a regional council on the grounds of prevailing circumstances necessitating management, regulation and control of matter relating to the health and welfare of the inhabitants of the area.

Street

means any road, thoroughfare, pavement, sidewalk, lane or other right of way set apart for the use and benefit of residents in a local authority area.

Title Deed

means a document containing evidence of ownership and a record of the rights and conditions of use allocated to a piece of land. The originals of these documents are kept at the Deeds Office in Windhoek.

Town Planning Scheme

means a document containing a comprehensive policy statement serving as a framework and foundation for future development and land use patterns for the area to which it applies. It is a statutory document enforceable by law.

Township Owner

means, in the case of an approved township or a township in the process of being established, the person registered in the deeds registry as the owner of such land.

CHAPTER TWO

THE NAMIBIAN LAND TENURE SYSTEM

Classification of Land in Namibia

(i) The status or classification of land is important to local authorities because it provides a reference for establishing which procedures must be followed for a particular planning task. In its simplest form, all land was either farmland, communal land or state land. Through ever evolving circumstances and development over many years, the use of land was changed to accommodate new circumstances and needs.

(i) Different procedures have been developed to guide this process of change in an ordered and logical way to ensure harmony between people and land uses in the increasingly complex structure of countries, towns and cities.

(iii) The following classification is the most appropriate since the various procedures to be followed in planning will relate logically to it. The classification is presented in the form of a table for easy reference.

TABLE

Description of Land	Demarcation of boundaries	General Comments	Tenure System
Local Authority Areas “Local authority area” means the area declared by the statutory authority through proclamation to be a municipality; thus the area under the jurisdiction of a local authority	Local authority boundaries demarcated on noting plans	Planning procedures are prescribed in the Town Planning Ordinance of 1954 and the Townships & Division of Lands Ordinance 11 of 1963 and the Local Authorities Act 23 of 1992 as amended.	
Approved Township A local authority area will always have within its boundaries an approved township which is an area planned, surveyed as shown on a general plan and proclaimed as an approved township.	It will always fall inside a municipal boundary and be demarcated as an approved township on a noting plan.	Surveyed portions of land situated within an approved township are legally referred to as erven.	All land within an approved township will be held on freehold title by the owner and will be registered in a deeds office.
Townlands Townlands comprise all land within a local authority area but outside an approved township area.	Land demarcated as being within a local authority area but outside an approved township	All townlands will be designated as a farm or portion of a farm. Ownership may be any legal person (not necessarily a local authority)	Portions of townlands will be held by freehold title registered in a deeds office
Commercial Farmland Commercial farmland comprises all land outside the local authority areas and communal areas which is held	It is demarcated by surveyed farm boundaries. Whenever a subdivided portion is to be smaller than 25ha the subdivision is regulated by the	 Whenever a subdivision is contemplated it must be referred to the Minister of Regional and Local Government, Housing and Rural Development	Tenure system is freehold title.

on freehold title	Townships and Division of Land Ordinance 11 of 1963.	who will refer it to NAMPAB for recommendation. NAMPAB may request the comments of any local authority it believes will be affected.	
	Whenever a subdivided portion is to be bigger than 25ha the subdivision is regulated by the Subdivision of Agricultural Land Act 70 of 1970.	Application will be made to the Minister of Agriculture according to the provisions of Act 70.	
<p>Communal Land (Unregistered State Land)</p> <p>Communal land is state owned land held in trust and is controlled by the headman of the area.</p>	<p>It comprises all land outside of commercial farming areas and local authority areas.</p> <p>Rural communal land comprises all communal land excluding urban communal land.</p>		Communal land tenure system involved land allocations by headmen
	<p>Urban Communal Land</p> <p>Urban communal land consists of all the urban settlements in communal areas.</p>	Once proclaimed urban communal land is transformed into local authority areas	Once proclaimed and surveyed the tenure system converts to freehold title.
<p>Settlement Areas</p> <p>Settlement areas are created by regional authorities when they are of the opinion that provision should be made for management, control and regulation of matters pertaining to the health and welfare of the inhabitants of the designated area.</p>	Boundaries are determined by the regional authority and proclaimed in the Government Gazette.	<p>Settlement areas are always outside the boundaries of local authority areas.</p> <p>Management is by the regional council as if such area is a local authority area.</p>	

BOUNDARIES AND LAND TENURES

Administrative and legal Boundaries

- (i) Boundaries are drawn to indicate the border between one type of land and another or to differentiate areas of jurisdiction of adjacent authorities. As can be seen from the Table, various boundaries and areas of jurisdiction exist. The accurate identification of these is important to establish which procedures are to be followed when executing planning tasks in such areas.
- (ii) Every local authority or regional authority must be aware of the boundaries relevant in its area of jurisdiction. Regional Authorities must not only know the legal boundaries of its region as identified by proclamation, but also the legal boundaries of local authority areas and settlement areas within its region.
- (iii) Within local authority areas legal boundaries exist for approved townships and also for statutory plans such as town planning schemes. The boundaries of farms, portions and erven (which are surveyed and registered in the office of the Surveyor General and the Deeds Office) are also legal boundaries with certain rights and restrictions attached to each. Administrative boundaries will coincide with legal boundaries whenever this is practical. However, it will often happen that the boundaries of non-statutory "guide plans" or policy plans will follow logical planning features rather than existing legal boundaries.
- (iv) It is important for local authorities to work with plans on which boundaries are clearly identifiable. Assistance in this could be obtained from private planning consultants or the Ministry of Regional and Local Government and Housing.

Land tenure/registration

There are two systems of land tenure in use in Namibia.

- (v) Within the commercial farming areas and proclaimed towns every piece of land is accurately surveyed and a freehold title system is in force. Ownership of property, together with the real rights and restrictions accorded to such a property is registered in the Deeds Office by way of title deeds which secure such property rights. Land may be sold, mortgaged or dealt with as the owner may deem fit, provided that the conditions of title are not transgressed.
- (vi) Within the communal areas and in un-proclaimed towns or villages all land belongs to the state. Individual ownership of land does not exist and the right to occupy and use defined tracts of land is given in terms of a "permission to occupy" (PTO) system similar to leasehold. The PTO system is currently administered by the Ministry of Regional and Local Government and Housing, together with relevant local authorities for un-proclaimed urban areas. The Ministry of Lands, Resettlement and Rehabilitation is responsible for PTO's for rural land within communal areas.
- (vii) Many local authority areas in communal areas are currently in the process of being surveyed. Once these townships have been proclaimed, a freehold title system will come into effect for such areas.

CHAPTER THREE

TOWN PLANNING PRACTISE IN NAMIBIA

WHAT IS TOWN AND REGIONAL PLANNING?

Introduction

(i) In Namibia, town and regional planning is recognised as a profession on par with architects, engineers etc. Government planners are employed in the Division of Town and Regional Planning in the Ministry of Regional, Local Government and Housing (MRLGH). The professional behaviour, control of standards, rules of private practice, etc. are controlled by the Namibian Institute of Town and Regional Planners (NITRP) which currently has some 37 members. No town planner can practice in Namibia unless he registered with this Institute. In Namibia, most practicing town and regional planners are employed by the Windhoek Municipality or the Division of Town and Regional Planning (MRLGH) or they are engaged in private practice.

What is Town and Regional Planning ?

(ii) Two elements of this name are important to formulate a definition of town and regional planning; "planning" and "town and regional".

(iii) **"Planning"** is concern about the future; in its broadest sense being the future health, wealth and welfare of a given community or population. Plans provide a future framework within which human activities can take place and serve two main purposes:-

(a) to provide a spatial structure for future activities and land uses which, in some way, will create a pattern of development which is better than patterns that would exist without planning. The key words here are:

- future - all planning is future orientated;
- activities - the primary purpose of planning is to facilitate the harmonious activities of people. People participation is therefore essential;
- land use - ultimately control of activities is through control of land use;
- "better than- unless planning results in improvement, it is worthless; and

(b) to provide authorities responsible for development with a tool for development control. Zoning plans provide authorities with the means to assess whether proposed uses of land and buildings conform with, or are opposed to, the long term development objectives of that authority.

(iv) Reference to **"town and regional"** is to indicate that planning takes place at many levels and scales. The range of scales could vary from a small site through larger suburban areas, towns, big cities, regions and countries to multi-national areas encompassing several countries. Due to the scope of the town and regional planning task, town planners will seldom work in isolation. Architects, Engineers, Sociologists, economists and even politicians are mostly consulted in order to obtain the best possible understanding of the physical environment, together with the community and its institutions within which the planning task is performed,

(v) The output of town and regional planning comes in many forms including designs, plans, maps, structure diagrams, explanatory reports, policy statements, procedures, etc.

What is a Town and Regional Planner?

(vi) A town and regional planner is a professionally qualified expert whose job it is to undertake town and regional planning. He qualifies by undergoing specialist training at a University or Technical Institution to a standard recognised by the government of a country in which he works. It is also quite common for people with related qualifications in, for example, geography, sociology, architecture, land surveying, engineering etc., to become town and regional planners by undertaking additional studies.

(vii) Characteristically, a town and regional planner must be something of an all-rounder. He must have skills in a variety of disciplines including statistics, philosophy, mathematics, sociology, design, economics and engineering. A specialist scientist or artist would probably not make a good town planner. He needs to be a logical problem solver employing methodological procedures and bringing in skills where these are not available.

(viii) Planners work in both the public sector (e.g. government and municipality) and in private practice as consultants. In Southern Africa, most planners are found in the public sector, but they are supported by consultants who play an important role.

NAMIBIA INSTITUTE OF TOWN AND REGIONAL PLANNERS

Organisation and Scope of Activities

(i) The NITRP is a professional organisation comprising of members whose professional and technical qualifications are recognised as enabling them to practice in Namibia as town and regional planners. The institute is organised around a National Council elected by members country wide. The institute is responsible for the integrity and discipline of its members and has established a recommended scale of fees for use by those members in private practice.

(ii) Membership of the institute falls into the following classes:

- Honorary Members
- Town and Regional Planners
- Town and Regional Planners in Training
- Affiliate members

(iii) As at mid June 1995, 19 of the then 40 members were employed in the public sector, while 12 were in private practice and 4 were not working directly in the field of physical planning or were resident outside Namibia.

Goals and Objectives of the Institute

(iv) The goal of the Institute is to advance the science and art of town and regional planning. More specifically, its objectives are as follows:

- To secure the association of those engaged or interested professionally or otherwise in town and regional planning, to guide interrelations among members of the profession, and to create a forum for discussion.
- To maintain standards of knowledge and skill for membership of the Institute.
- To promote the profession and support the interests of its members as professionals to the common goal.
- To promote honourable practice, and to exercise discipline over members of the Institute.
- To enhance the public understanding of matters pertaining to town and regional planning.
- To consider and monitor all questions effecting the interests of the discipline and, if considered desirable, to petition for changes where required.
- To encourage research and all other such activities as may contribute to the advancement of the knowledge and practice of town and regional planning and the dissemination of information appertaining thereto.

(vii) At Annual General Meetings the Institute reviews the promulgated fees and makes recommendations to the Council for Town and Regional Planners so as to ensure a reasonable relationship between quality and quantity of the professional input and the fees charged.

NAMIBIA COUNCIL OF TOWN AND REGIONAL PLANNERS

Organisation

- (i) The NCTRP was created by an Act of Parliament. The Town and Regional Planners Act, 1996 (Act 9 of 1996) was promulgated by Government Notice No. 185 on 11 July 1996.
- (ii) The purpose of the Act was to provide for the registration of town and regional planners and town and regional planners in training; and to provide for matters connected therewith.
- (iii) The Council consists of five members appointed by the Minister of Regional and Local Government, Housing and Rural Development for a three year term. Four of the members are town and regional planners nominated by the Institute and one is a staff member employed in the Public Service.

Functions

- (iv) Functions of Council include the following.
 - Keeping and maintaining a register of town and regional planners and town and regional planners in training in which the name of every town and regional planner or town and regional planner in training shall be entered into.
 - Determine the manner in which an applicant shall apply for registration as a town and regional planner or town and regional planner in training, the fees which shall be payable.
 - Making recommendations to the Minister regarding qualifications for registration.
 - Considering and deciding upon any application for registration as a town and regional planner or town and regional planner in training.
 - Recommending to the Minister the minimum fees to be charged by town and regional planners or town and regional planners in training for their professional services.
 - Recommending to the Minister the kinds of work of a town and regional planning nature which shall be reserved for town and regional planners.
 - Taking any steps which it may consider expedient for the protection of the public in their dealings with town and regional planners or town and regional planners in training, for the maintenance of the integrity of, the enhancement of the status of and the improvement of the standard of services rendered by town and regional planners and town and regional planners in training and for the improvement of the professional qualifications of town and regional planners or town and regional planners in training.
 - Encouraging research into matters relating to the town and regional planners' profession, to give advice or render financial or other assistance to any educational institution, institute or examining body with regard to educational facilities for and the training and education of prospective town and regional planners and to determine educational requirements and qualifications of training officers.

Regulations

Kinds of Work

(v) The Minister by Notice 126 in the Government Gazette of 26 June 2001 has prescribed certain kinds of work to have been reserved for town and regional planners.

Kinds of work reserved for town and regional planners

The following kinds of work are reserved for town and regional planners:

- (a) Preparation and submission of a policy plan for urban development;*
- (b) Preparation and submission of a structure (strategic) plan for urban development (guide plan for urban development);*
- (c) Preparation and submission of a structure (strategic) plan for regional development (guide plan for regional development);*
- (d) Preparation and submission of a town planning scheme (zoning scheme), including revision;*
- (e) Preparation and submission of a township layout;*
- (f) Preparation and submission of an application for a township establishment;*
- (g) Preparation and submission of an amendment scheme (re-zoning scheme);*
- (h) Preparation and submission of an application for subdivision of an erf and other land, except –*
 - (i) subdivision relating to a consolidation which does not require a change of zoning;*
 - (ii) subdivision relating to the subdivision of an erf into 10 or less portions, provided that –*
 - (aa) zoning of the new portions and remainder are to remain identical to that of the parent property; and*
 - (bb) no new access road, other than a minor widening of an existing road, is to be created.*

Minimum Fees

(vi) On recommendation by Council, the Minister has prescribed minimum fees to be charged for town and regional planning work. Copies of these fees may be obtained from any practicing town and regional planner in Namibia, the Ministry, or on request to the Council.

The main components of the fees are:-

- (a) an hourly rate for work undertaken by a town and regional planner;*
- (b) "formulae fees" calculated for various categories of planning work; namely Policy Plans, Structure Plans, Town Planning Schemes, Amendment Schemes, Consent Applications, Township Layout, Township Establishment, Feasibility Studies and Subdivisions/Consolidations.*

Fees are reviewed periodically to effect improvements after consultation with the Institute, with consultants and employers; and to ensure that fees keep pace with inflation.

Legal Enquiries

(vii) Council has a duty to enquire into alleged cases of improper conduct which a person who is or was at any time registered in terms of the Act as a town and regional planner or as a town and regional planner in training and if a person is found guilty at an enquiry of improper conduct to impose a fine, cancel that person's registration, issue a reprimand, or suspend that person from practicing for a designated period.

(viii) Council has a duty to enquire into alleged cases by non-town and regional planners in terms of Section 20 of the Town and Regional Planners Act No. 9 of 1996 which prohibits any person other than a town and regional planner for gain performing any kind of work reserved for town and regional planners, or who pretends to be a town and regional planner in any way whatsoever, or uses and description or title whatsoever which is calculated to lead people to infer that that person is registered as a town and regional planner.

Anyone having grounds for believing that a person or legal person has offended as set out above, or who wishes to lay a complaint against any person registered in terms of the Act as a town and regional planner or town and regional planner in training may submit the particulars to the Council in writing for investigation and consideration accompanied by documentation substantiating the charge, if such exists, and such affidavits as may be required to confirm the complaint or charge being made.

(v) PLANNING RESPONSIBILITIES – PUBLIC SECTOR

RESPONSIBILITIES OF PLANNERS

(i) In general all planners have the following basic professional responsibilities towards their profession and towards their clients and employers.

a. Towards their profession and colleagues:

The development of the profession by improving knowledge and techniques, proposing solutions appropriate to community problems, sharing knowledge with fellow professionals and increasing professional and public understanding of planning activities. A planner should always strive for a high standard of professional integrity, proficiency and knowledge.

b. Towards their clients and employers:

Diligent, creative, independent and competent performance of work in pursuit of the client or employer's interest in such a way that this performance is reconcilable to the interests of society as a whole.

(ii) Wherever a planner works, the above ethical responsibilities should always form the basic framework within which all planning tasks are performed.

THE PUBLIC SECTOR

(iii) In Namibia planners are employed within the public sector by the MRLGH and by local authorities. The responsibilities within each of these institutions could be summarised as follows:

The Ministry of Regional and Local Government and Housing

(iv) The Minister of Regional and Local Government and Housing (The Minister) is, by virtue of the powers vested in him/her by the various Acts and Ordinances related to town and regional planning, responsible to ensure the coordinated and harmonious development of cities and regions in such a way as will most effectively promote the health, safety, order, amenity, convenience and general welfare of their citizens.

(v) Furthermore, the Minister is responsible to ensure orderly establishment of townships and for the regulation and control of the development and subdivision of land and other matters incidental thereto.

(vi) Town and regional planners in the Division of Town and Regional Planning in the MRLGH are responsible to advise the Minister on all issues and applications received by the Minister in terms of the Town Planning Ordinance (18 of 1954), the Townships and Division of Land Ordinance (11 of 1963) and any other related legislation and regulations. They will evaluate applications in terms of the appropriateness, necessity and desirability of intended actions and

they will advise the Minister through the Namibia Planning Advisory Board (NAMPAB) for which it is the secretariat.

(vii) The Division of Town and Regional Planning is also responsible for the local authority planning function in those local authorities, towns and villages which do not employ town and regional planners. They will either perform planning tasks themselves for councils which do not have the means to afford the services of a private town planning consultant or appoint and brief private town planning consultants on behalf of such councils.

Municipalities

(viii) Local authority councils have the same basic function as the Minister but the responsibilities are limited to the geographical area under the jurisdiction of the local authority. Town and regional planners employed by local authority councils advise these councils on the formulation and guidance of development proposals and policies. They will effectively administer town planning legislation from the point of view of the local authority.

(ix) The activities of town and regional planners in local authorities can be divided into **three** categories :

a. Investigations:

They carry out research related **to** spatial planning in order to advise Council on decision and policy formulation.

b. Development Guidance and Control:

They act to support the functional efficiency and environmental quality of the physical environment by

- offering guidance on development planning; and
- administering local authority planning policy through the day to day management and control of development in the local authority areas.

c. Forward Planning and Design:

They plan and guide the future direction and nature of development through the design and implementation of new settlement areas, through the use of land and through an ongoing analysis and review of the nature of and activities within established areas.

PLANNING RESPONSIBILITIES – PRIVATE SECTOR

PRIVATE PRACTICE

(i) As can be seen from the previous section, the planning responsibilities performed by planners in the public sector entails essentially a controlling and managerial function. The shortage of qualified manpower however, seriously constrains the effective execution of these functions. The private planning consultant is thus used to assist the government and the local authorities, as well as private sector clients with various planning tasks.

SCOPE OF SERVICES

(ii) The planning consultant is able to offer the following professional services to his client:

- a. The Preparation of Structure Plans 'regional planning 'urban structure plans 'local structure plans
- b. The Preparation of Town Planning Schemes 'new town planning schemes 'town planning amendment schemes
- c. The Preparation of Policy Plans
- d. Township development, 'township establishment, 'residential layouts, 'commercial layouts, 'industrial layouts, "formalisation of informal settlements
- e. Development Control 'rezoning, 'removal of restrictive conditions of title, 'subdivisions and consolidations, 'urban renewal & upgrading
- f. Applications for Consent Use
- g. Community Facilitation
- h. Property Development
- i. Environmental Impact Assessment
- j. Social and Economic Research
- k. Transport and Traffic Surveys

COMPETITION FOR WORK

(iii) With five consulting firms operating in Namibia, public planning authorities may decide to ask interested firms to compete for major planning work such as town planning schemes, structure plans, township development, etc. This should especially be the case for smaller local and regional authorities which do not employ in-house planners. Such planning work could be linked to a 3 or 5 year "retainer" contract for smaller jobs and advice.

(iv) Public authorities should facilitate fair competition for planning work by inviting "technical proposals" on the basis of a very clear terms of reference which should include, inter alia:-

- a) a call for proposals on methodology, team and other resources, experience, programme, inputs and outputs; and
- b) a budget prepared using the Institutes Scale of Fees for that particular planning task;

(v) Allowance should be made for competitors to offer a lower or higher fee, provided that they must give very clear reasons as to why a variance from the recommended fees is contemplated.

TOWN PLANNING CONSULTANTS IN NAMIBIA

An updated list of practicing consultants may be obtained on request from the NITRP.

CHAPTER FOUR

TOWN PLANNING LEGISLATION

TOWN PLANNING ORDINANCE, ORDINANCE 18 OF 1954, AS AMENDED

GOALS OF THE ORDINANCE

(i) The goal of the Town Planning Ordinance 18 of 1954 is to make provision for the preparation and carrying out of town planning schemes and for matters incidental thereto and to provide a framework for planners within which such schemes are to be prepared.

OBJECTIVES OF THE ORDINANCE

(ii) The primary objective of this ordinance is to facilitate the coordinated and harmonious development of local authority areas, or the area or areas situated therein or to which it relates in a way that will most effectively tend to promote health, safety, order, amenity, convenience and general welfare as well as efficiency and economy in the process of development and the improvement of communications. This includes, where necessary, areas which have already been subdivided into erven upon which buildings may or may not have been erected.

(iii) This objective is to be achieved through the "Town Planning Scheme", which is a comprehensive policy statement adopted by the Council which acts as an objective framework and foundation for future development.

(iv) Before a local authority can confidently formulate such a policy statement to guide future planning it must know;

- a. what exists presently;
- b. what can be permitted without damaging the environment;
- c. how to structure future activities and land use to create a pattern of development which will be better than patterns that would exist without planning.

SCOPE OF THE ORDINANCE

(v) In order to ensure that the above issues are addressed during the preparation of town planning schemes the ordinance:

- a. establishes the Namibian Planning Advisory Board to advise the Minister in matters relating to the preparation and carrying into effect of schemes and other related planning control and management functions (clause 9 to 14)
- b. prescribes the procedures to be followed to obtain permission to prepare a town planning scheme including the resolution to be taken by the local authority council, approval or the

resolution by the Minister and advertising of the intention to prepare a town planning scheme (Clauses 16 to 17)

- c. specifies the contents of schemes and matters to be dealt with by schemes including, inter alia, the demarcation or zoning of areas to be used exclusively for certain purposes, the reservation of land for future public use, the provision of services, control of building structures, building lines and density zonings (sections 18, 19 and second schedule).
- d. sets out the approval process for town planning schemes, including the powers of NAMPAB in relation to schemes in the course of preparation, the lodging and hearing of objections by NAMPAB, the approval and coming into effect of schemes, variation and revocation of schemes and the enforcement and carrying into effect of schemes (Clauses 20 to 28).
- e. deals with the purchase, expropriation, conformation, compensation for rights, recovery of betterment, claim procedures and the payment of compensation for land or rights affected through the coming into effect of a scheme (Clause 29 to 38).
- f. states offences and the penalties to be incurred when the scheme provisions are transgressed for example the use of land or buildings contrary to the provisions of the scheme or the making of false statements etc. (Clauses 48 to 50).
- g. specifies the matters to be dealt with in surveys carried out to increase understanding of the existing situation in an area for which a scheme is to be prepared including for example, the physical characteristics of the land, the current utilisation of land, population and densities, traffic and road patterns and systems, social services, age and conditions of buildings, etc. (first schedule).

TOWNSHIPS & DIVISION OF LAND ORDINANCE, ORDINANCE 11 OF 1963, AS AMENDED

GOAL OF THE ORDINANCE

- (i) The goal of Ordinance 11 of 1963 is to consolidate and amend the laws relating to the establishment of townships and to provide for the regulation and control of the development and subdivision of land and for matters related thereto.

OBJECTIVES OF THE ORDINANCE

(ii) Depending on its position and use, all land has some form of legal status arising from the statutory framework which governs the area in which it is located. The land may fall within the boundary of a town planning scheme and will probably carry certain conditions of title. It may be townlands or it may be agricultural land. As development takes place there will be more and more demand to use land for purposes other than that permitted in terms of zoning or conditions of title. Local authorities will want to create new residential, commercial or industrial townships or change the boundaries of their local authority areas.

(iii) In pursuit of orderly development and the peaceful co-existence of people living in any urban or rural area, the provisions of the Ordinance have the objective of ensuring that:

- a. new townships be established in an orderly manner through the technical evaluation of all such proposals/intentions which may lead to the establishment of a new township;
- b. subdivisions, consolidations, endowments, deproclamations and the cancellation of existing conditions are done in a manner which will ensure or at least not be detrimental to the peaceful and harmonious co-existence in the area in the future;
- c. the correct procedures be followed so that all issues relevant to the above are covered adequately in decision making.

SCOPE OF THE ORDINANCE

(iv) In order to ensure that the above objectives are achieved the Ordinance :-

- a. provides for the establishment of the Townships Board, the composition thereof, and the functions to be performed by the Board (Clauses 2 and 3).
- b. prescribes the procedures to be followed in the establishment of Townships, the issues to be addressed and the conditions under which such applications may not be granted (Clauses 4 to 18).
- c. prescribes the procedures to be followed in obtaining permission to subdivide and consolidate land and the endowments payable on subdivisions (Clauses 19 and 30).

- d. prescribes the procedure for the subdivision of land outside an approved township or outside the townlands of such township where either the subdivision or the remainder so created is less than 25ha in extent (Clause 20).
- e. prescribed the procedure for the subdivision of townlands (Clause 21).
- f. prescribes the procedure for the change of the name of an approved township (Clause 23).
- g. provides for the deproclamation of approved townships,, the re-vesting and transfer of public places and reserved land in deproclaimed townships and the cancellation or amendment of the general plan for such townships (Clauses 24 to 26).
- h. provides for the extension of approved townships by the Minister (Clause 29).
- i. provides for the variation, cancellation and enforcement of conditions imposed in terms of this ordinance (Clause 31 to 33).

LOCAL AUTHORITIES ACT NO. 23 OF 1992

GOAL OF THE ACT

(i) The goals of the Local Authorities Act is to provide for the determination, for purposes of local government, of local authority councils; the establishment of such local authority councils; and to define the powers, duties and functions of local authority councils and to provide for matters related thereto.

OBJECTIVE OF THE ACT

(ii) The objective of the Act is to provide for the establishment of an ordered system of management for the affairs of cities, towns and villages. It should always be remembered that local government officials and councillors are servants of the people living in the area.

(iii) The Act seeks to establish the rules, procedures and tasks of the local authorities which must be performed to ensure the highest possible level of harmony where many people live together.

SCOPE OF THE ACT

(iv) For the purpose of this manual the following issues are important.

- a. As will be seen later when we look at development approval and development management procedures, local authorities are the first level of authority to evaluate town planning and related land use proposals. The Act establishes procedures necessary to ensure good planning practice through the employment of local knowledge and experience held at the local authority level.
- b. The act sets out the procedures to be followed **for** the closing of public places (Clause 50).
- c. The act sets out the procedure to be followed for the closing of cemeteries situated in its area (Clause 45).
- d. The act sets out the procedures that must be followed for the sale of land which belongs to the local authority Council.
- e. The act specifies the duties and responsibilities of local authorities regarding the servicing of land under its jurisdiction.

REGIONAL AUTHORITIES ACT NO. 22 OF 1992

GOAL OF THE ACT

(i) The goal of the Regional Authorities Act is to establish Regional Councils in regions determined in accordance with article 103 of the Namibian Constitution; to provide for the election by Regional Councils of members of the National Council; and to define the rights, powers, duties and functions of such regional councils; and to provide for related matters.

OBJECTIVE OF THE ACT

(ii) Besides setting up regional councils the objective of the Act is to, on a geographically larger scale than local authorities, coordinate the planning and development of regions regarding the physical, social and economic characteristics of the region and its relations to neighbouring regions, urbanisation, natural resources and economic development, physical and social infrastructure, general utilisation of land, environmental management, the creation of Settlement Areas and to assist local authorities within its area of jurisdiction.

SCOPE OF THE ACT

(iii) Although the Regional Authorities Act does not specify specific planning procedures it does authorise Regional Councils to create settlement areas within the boundaries of its region.

(iv) If Regional Councils are of the opinion that, by reason of circumstances prevailing, provision should be made for the management, control and regulation of matters pertaining to the health and welfare of the inhabitants of such an area, the Regional Council may declare such an area a "Settlement Area" and provide for the management of such an area (clause 31 and 32).

(v) Once a Settlement Area has been declared many of the procedures and responsibilities laid down in the Local Authorities Act become applicable for the planning and management of these Settlement Areas.

STATUTORY BODIES RELEVANT TO TOWN PLANNING

STATUTORY BODIES

(i) In order to regulate and control town planning matters a number of statutory bodies have been created by various Acts and Ordinances- It is important to understand the functions of these bodies as they relate to the physical planning of Namibia, its Regions and Cities, Towns and Villages.

LOCAL AUTHORITIES

(ii) Local Authorities are established in accordance with the provisions of the Local Authorities Act (No. 23 of 1892) and could be seen as the appointed guardians for the health and welfare of its citizens. The primary responsibilities of local authorities are to undertake investigations, to provide development guidance and control and to prepare future physical plans and designs. Local Authority Councils act as the first screen for any planning procedures taking place within its area of jurisdiction.

(iii) Should a developer wish to improve, densify or change the use of land or buildings, this may only be done after full consultation with the Local Authority Council or its delegates. Neither NAMPAB nor the Townships Board will consider any changes to existing land rights or conditions, nor the establishment of new townships, unless such intentions are first considered and endorsed by the Local Authority Council within whose area such land is situated.

(iv) Authorities are responsible for ensuring that no land is used for purposes other than those specified in the Title Deed or the Town Planning Scheme. They must also ensure that buildings and building activities are planned and constructed in such a way as to not interfere with municipal services or pose a danger to any inhabitant of the city. Besides receiving development applications, local authorities often take the initiative in development which they will either undertake "in-house" or will appoint a consultant to do the task.

(v) While many development matters may be dealt with directly by local authorities, certain issues such as the subdivision of land and re-zonings must be referred to higher level statutory bodies, including the Townships Board and the Namibia Planning Advisory Board (NAMPAB). In these cases, the Local Authority Council will prepare a recommendation for final processing by these higher bodies.

(vi) Local Authorities are empowered to impose fines or cause legal action to be taken against any person who contravenes the stipulations of the Local Authorities Act or other related legislation.

TOWNSHIPS BOARD

(vii) The Townships Board is the statutory body responsible for all technical aspects of town planning in proclaimed townships. These include the technical evaluation of subdivision proposals, consolidation proposals and layout plans.

(viii) The Townships Board is legally constituted through the Townships and Division of Land Ordinance, Ordinance 11 of 1963 and consists of not less than five and not more than ten members. Ex officio members of the Board are the Surveyor General, the Registrar of Deeds, the Chief Roads Engineer of the Department of Works, the Director of Works and Director of Local Government of the State or their delegates and one delegate each from Water Affairs and TransNamib.

(ix) In addition the Minister appoints a person who shall bring to the notice of the Board the views of local authorities and the interests of the inhabitants of areas of local authorities and a person who is a member of the Namibia Planning Advisory Board with a view of coordinating between those two Boards.

(x) The functions of the Board are to consider and report on applications for permission to establish townships, subdivisions and consolidations and more specifically to consider :-

- a. the suitability of the land
- b. the existence of and encumbrances which may affect the establishment of a proposed township.
- c. the proposals and stipulations of the applications and the conditions on which the application should be granted.
- d. the extent of the townlands and the reservation of land for the state or other public purposes.
- e. the proposed layout and name of the Township.
- f. the allocation of use zones for erven and the order in which they may be sold.
- g. the maximum number of houses which may be built on each erf and the maximum area of each erf which may be built on.
- h. the amount of endowment which should be charged by a local authority.

(xi) After consideration, the Board will recommend the approval or disapproval of applications to the Minister of request that it be referred back to the applicant for amendment.

NAMIBIA PLANNING ADVISORY BOARD (NAMPAB)

(xii) NAMPAB is a statutory body constituted through the Town Planning Ordinance, with the function of advising the Minister of Regional and Local Government and Housing on planning policy issues. Being a policy advisory body, the Board will look beyond mere technical issues and will consider planning issues in relation to their social, economic and political background.

(xiii) NAMPAB consists of the Permanent Secretary of the Ministeries of Regional, Local Government and Housing, the National Planning Commission, the Ministry of Agriculture, Water and Rural Development, the Ministry of Works, Transport and Communication, the Ministry of Fisheries and Marine resources and the Ministry of Justice. Nampower, the Association of Local Authorities in Namibia and one person appointed by the Minister also have seats in NAMPAB.

Planners from the Ministry of Regional and Local Government and Housing form the Secretariat for NAMPAB and also attend meetings.

(xiv) The functions of NAMPAB are :

- a. to advise the Minister in matters relating to Town Planning Schemes;
- b. to formulate in general terms a town planning policy for the country;
- c. to undertake any survey within the country and to prepare plans in connection therewith;
- d. to encourage the study of town and regional planning;
- e. to ensure that local authorities exercise their powers in respect of town planning wisely;
- f. to advise and assist local authorities in the preparation of Town Planning Schemes;
- g. to advise the Minister on the desirability for and necessity of establishing townships or deproclaiming townships; and
- h. to advise the Minister on the subdivision of land situated outside a proclaimed township or outside the townlands of such a township where either the subdivision or the remainder thus created is smaller than 25ha.

CHAPTER FIVE

TYPES OF PLANS

CLASSIFICATION OF PLANS

(i) The most common and important output of town and regional planning is plans and maps. Plans and maps are produced for the purpose of guiding development in a direction that will be better than what would have been the case if no such plans existed. Plans become a tool which authorities can use to control development. Although all plans share this common goal, many different types of plans are used to accomplish specific objectives. All plans may be classified as either Statutory Plans, Development Plans, Implementation Plans, including Development Policies.

(ii) The following Table summarises the differences in content and characteristics between the four categories which have been identified. Later pages provide more details.

TABLE

ASPECTS	TYPES OF PLANS			
	STATUTORY PLANS (SCHEMES)	DEVELOPMENT PLANS	DEVELOPMENT POLICIES	IMPLEMENTATION PLANS
LEGAL	Statutory	Non-statutory	Non-statutory	Non-statutory
PURPOSE	Legal procedure	Advisory (policy/physical)	Advisory (policy)	Implementation (physical)
CHARACTER	Directive	Structural or diagrammatical guidelines	Descriptive	Descriptive (physical)
TIME FRAME	Medium (5-years)	Medium to long (5-20 years)	Short	Short
IMPORTANCE	Legal procedure for development control	Guide to detailed planning and complex development	Guidelines for determining consent & rezoning applications	Implementation of procedures
FORMAT	Cadastral land-use zones	Diagram for planned physical structure, or policy zones or statements	Council resolutions on policy	Application of policies

STATUTORY PLAN: PURPOSE AND PREPARATION OF A SCHEME

STATUTORY PLANS

(i) A Statutory Plan is a legal document enforceable by law and binding on the local authority, the State and the inhabitants living in the area covered by such a plan. Statutory Plans may not be amended without the approval of the Minister of Regional and Local Government and Housing. Town Planning Schemes are the only statutory plans currently in force in Namibia.

THE PURPOSE OF TOWN PLANNING SCHEMES

(ii) The purpose of a town planning scheme is to create a comprehensive policy statement which will act as a framework and a foundation for future development and land use patterns. Two elements of this statement in particular need further elaboration:-

a "comprehensive"

To ensure that planning remains relevant and effective, it is very important to obtain a global picture of the existing structure and direction of growth of development in a town. A lack of such a comprehensive picture may lead to piecemeal and uncoordinated planning which may in turn be detrimental to the future health and welfare of the inhabitants of the area.

b. "framework"

The lack of a logical and structured framework within which planning decisions can be taken may result in uncoordinated urban growth which allows mixed and conflicting land use patterns to develop in an area.

(iii) The local authority must prepare a town planning scheme in order to obtain a comprehensive policy framework for the physical structure of the city, its land use zones and the direction of its future development. This framework will be used to ensure the harmonious future development of the town and the control of such development.

PROCEDURE FOR PREPARING A SCHEME

(iv) Before any local authority council may cause a scheme to be prepared it must formally resolve to prepare such a scheme. This resolution must be approved by the Minister. The area for which such a scheme is to be prepared must also be approved by the Minister.

(v) Once this resolution has taken effect the local authority must publish a notice of the resolution in the Official Gazette and a newspaper circulating the area at least once during each of two consecutive weeks (for two consecutive issues). Such an advertisement shall contain a statement of the resolution together with information as to the place and times at which a map defining the area to which the resolution applies may be inspected.

(vi) The local authority may then proceed to cause a scheme to be prepared.

(vii) While the scheme is in the course of preparation, the local authority may consult NAMPAB regarding any matter connected therewith. Upon request, the local authority must disclose its proposals to NAMPAB who may request a variation of the proposals. The local authority may, however, appeal against such requested variation to the Minister whose decision shall be final.

(viii) Upon completion of the scheme proposal the local authority must first "adopt" the scheme before submitting it to the Minister for approval.

(ix) Upon receipt of the scheme proposals the Minister will refer the scheme to NAMPAB for its consideration. NAMPAB will advertise the receipt of the scheme proposal, indicating where copies are available for inspection and where objections to the proposed scheme may be lodged.

(x) Every owner or occupier of immovable property in the scheme area has a right of objection to the scheme and may lodge such objections together with the grounds therefore, in writing to NAMPAB.

(xi) It is important to note that a local authority is responsible for the enforcement of the provisions of its scheme. To be able to do so a local authority must be extremely careful not to transgress the provisions of its own scheme.

STATUTORY PLANS 2: CONTENTS OF A TOWN PLANNING SCHEME

THE SURVEY

(i) In order to ensure that all relevant information is considered during the preparation of a scheme the Ordinance prescribes the matters to be dealt with in surveys to be done towards understanding the existing situation in the area for which the scheme is to be prepared. Prescribed subject matters include:-

- a. A brief history of the development of the area;
- b. Land utilisation with maps indicating usages and different activities of the area.
- c. Land ownership;
- d. Population statistics and densities;
- e. Communications networks and traffic analysis;
- f. Public utilities e.g. water supply, electricity, telephones, sewerage etc;
- g. Nature and location of social services;
- h. Height of buildings and coverage;
- i. Age and conditions of buildings; and
- j. Commerce and industry and its infrastructure.

(ii) The information obtained from the survey will be analysed and used to prepare the town planning scheme. There are two components to a town planning scheme, the map and the document with its regulatory clauses.

THE MAP

- (iii) The map must show as much cadastral information as possible. Streets are an important planning component and should be shown on the map using survey coordinates.
- (iv) Any established rights of way should be included in the map. Registered servitudes over private and public ground should also be shown.
- (v) Land use zones and building restrictions defined in the document must also be shown on the map.
- (vi) Reservations of land for future streets may be shown on the map if these can be accurately determined.
- (vii) Topographical information must also be shown on the map.

THE DOCUMENT

(viii) The document provides detailed description of the policy and intentions of Council and should deal with the following issues.

- a. The scheme area and the responsible authority.
- b. Definitions of all terms used in the document which may cause confusion.
- c. A zoning scheme wherein different use zones are allocated and defined for the whole scheme area. Actual land uses will guide this allocation of zones together with under/over provision of certain facilities or uses and consideration of future requirements. The definitions are set out in the document, usually in the format allowing for primary uses, consent uses and prohibited uses.
- d. The reservation of land for new roads or the widening or other improvements of existing roads or for purposes of recreation, parks, public open spaces, aerodromes, parking or other matters for public convenience.
- e. The reservation of land for government or local authority purposes of a public nature.
- f. Building, structures and erections with special reference to building lines, limiting the number of buildings (densities) regulation of the size, height, design and external appearance of buildings, regulation of the use of buildings and the regulation of building operations.
- g. Disposal of land acquired by the local authority.
- h. The preservation of buildings or other objects of architectural, historic or artistic interest and place of natural interest or beauty.
- i. Powers of entry and inspection by the local authority.
- j. Powers of the local authority to remove, alter or demolish any obstructive work.
- k. Control and regulation of the disposal of waste materials and refuse.
- l. The provision of electricity, water and sewage disposal.

AMENDING THE TOWN PLANNING SCHEME

(ix) It is important not to see a town planning scheme as a rigid blueprint to be followed at all cost. It is a document guiding the direction of future development through the policy embodied in the Scheme. Applications may be made to the local authority for the amendment of a town planning scheme for example re-zonings, removal of building restrictions etc. Should the local authority approve such applications, it must cause the scheme to be amended accordingly through application to the Minister of Regional, Local Government and Housing advised by NAMPAB.

(x) The process used to amend a town planning scheme is similar to the preparation of a scheme. There are however, certain exemptions from procedures. When amending a scheme it is not necessary to perform the prescribed survey. The map to be included can be specific only for the changes which are proposed while the document will mainly concentrate on motivating the proposed changes to the existing scheme.

DEVELOPMENT PLANS

TYPES OF DEVELOPMENT PLANS

(i) Local authorities often prepare development plans to assist them in managing the development of the area under its jurisdiction. Two types of development plans will be discussed namely Guide Plans and Policy Plans.

GUIDE PLANS (STRUCTURE PLANS)

(ii) Also referred to as a Structure Plan, a Guide Plan is a town planning management tool which is less regulatory and control oriented and more flexible and future oriented than a town planning scheme. A guide plan is not a statutory document like a town planning scheme. It is not required by law, hence it can be prepared, amended and cancelled by the local authority.

Purpose of a Guide Plan

(iii) The purpose of a guide plan is to provide guidelines for future development which will be of value to the local authority and to the public. It establishes a framework for consistent and rational decision making. A guide plan embodies Council policies and indicates the desired direction of development as defined by these policies. Guide plans should be accessible to all inhabitants and should be used to anticipate the desirability of development in the context of local authority policies.

Preparation of a Guide Plan

(iv) Guide Plans can be prepared for the whole local authority area or only a part thereof. Defining the area to be covered and the intended future use of the plan must be done before initiating its preparation. The following procedures should be followed in the preparation of a guide plan.

Get the facts

(v) A guide plan must be based on the existing land use situation in order to effectively guide growth and change. The first step is to conduct a survey of matters similar to those set out on a previous page specifying the matters to be dealt with in surveys for the preparation of town planning schemes.

Analyse the available information

(vi) Once information has been obtained it must be analysed in a format which will help to understand the existing situation and provide pointers and trends of what could be expected in future. These projections and future expectations must be stated clearly and likely implications must be explained.

Let interest groups participate

(vii) Because the guide plan arises out of common interest and is intended to guide the public in general, each relevant group must be given the opportunity to contribute to the body of knowledge and views from which the guide plan is to be prepared.

Formulate the plan

(viii) Armed with knowledge gained in the previous steps the planner can use his experience to prepare a logical plan. A guide plan will typically contain information and propose policies on:

- a. Physiographic factors (Natural characteristics);
- b. Past and present land use;
- c. Infrastructure supply;
- d. Demography (Population data);
- e. Employment characteristics;
- f. Economic considerations; and
- g. Projections and future assessments.

(ix) Broad policies may be proposed for development strategy and development programmes. More detailed policies may be provided for:

- a. Particular areas;
- b. Sectoral interests (e.g. environment + recreation, retail distribution etc.); and
- c. Infrastructure and municipal services, (e.g. sewer systems, public transport etc.).

Amendment of a Guide Plan

(x) A guide plan must be amended or updated regularly to keep track with changing conditions in the area. Amendments are done directly by the local authority since the plan is not a statutory document.

POLICY PLANS

(xi) Policy plans are prepared to address specific issues in more detail than a guide plan. Where a guide plan may, for example, address the re-development of an existing area in a town or city in comprehensive terms, a policy plan will contain information and propose policies on the future zoning of the area. It may form a part of a guide plan or exist independently.

Purpose of Policy Plans

(xii) The purpose of a policy plan is to provide a detailed policy statement applicable to a specific procedure or activity. Policy plans provide a detailed framework for policy decisions to guide development in small geographic areas or to regulate procedures for the provision of services by the local authority.

The preparation of Policy Plans

(xiii) A policy plan will typically contain statements on subjects or procedures together with information relevant to the issue. A policy plan on the reservation and development of integrated public open space systems will, for example, contain information on:

- a. the existing situation and historical development of public open spaces;
- b. the policy or desired direction regarding the provision of public open space systems;
- c. the strategy to be followed to reach the desired goals and objectives; and
- d. mechanism for the monitoring of the policy and plan and evaluation of performance.

(xiv) Such plans must be constantly reviewed to ensure that the implementation of the policy does actually bring about the desired outcome.

IMPLEMENTATION PLANS AND DEVELOPMENTAL POLICIES

IMPLEMENTATION PLANS

- (i) Implementation plans are a collection of plans which put planning into action e.g. township layouts, site plans, subdivision plans, building plans, subject plans etc.
- (ii) The purpose of implementation plans is to execute town planning procedures within the guidelines of the policy plans and the development policies of council. A developer or Council may, for example, wish to establish a new township. Within the guidelines of council's policy, a township layout will be prepared which will contain all cadastral and other information required to put the proposed idea into practice. Such a layout would be the "implementation plan" for the establishment of the new township.

DEVELOPMENT POLICIES

- (iii) Development policies are a collection of non-statutory statements of development policy by the council on specified topics such as informal settlement, subdivisions, sale of municipal land, public open spaces, informal markets etc. They are not plans as such, but often take the form of a series of pamphlets or statements on council's policy on subjects which council has adopted through formal resolution.
- (iv) The purpose of drafting and adopting development policies is to establish clear guidelines to assist the local authority in development and processing development applications.
- (v) Municipalities frequently receive, for example, applications to build two residential units on one erf. Instead of considering every ad hoc application on its merit, Council may decide to formulate a policy specifying the conditions to be met before such an application will be considered favourably. In doing so they will have created a set of rules which may be used by the public and Council alike in considering such development. Council may even decide to delegate decisions on matters for which such policies exist to its officials or to the management committee of council.

CHAPTER SIX

DEVELOPMENT APPLICATION PROCEDURES

CONSENT APPLICATIONS

INTRODUCTION

(i) Through town planning schemes and conditions of title, every piece of land is allocated certain rights and restrictions. Development proposals conforming to these rights and restrictions pose no deviation from adopted plans and policies and the only approval procedures to be followed in such a case is the approval of building plans.

(ii) However, when development proposals involve deviations or possible deviations from such rights and restrictions, applications for changes to these rights or the removal of restrictions must be made to the local authority council and the government. Procedures for such applications have been set out in the applicable acts or ordinances. The six most common applications are for consent, re-zoning, township establishment, subdivision, consolidation and the closure of public places.

CONSENT APPLICATIONS

(iii) Consent applications only need to be made where town planning schemes are in force. A zone in a town planning scheme will always indicate the primary use of the land, consent uses which may be allowed on such land by the Local Authority Council and prohibited uses, as in the following example:-

TABLE	LAND-USE ZONE SPECIFICATIONS		
Use Zone	Primary Uses	Consent Uses	Prohibited Uses
Residential	Residential purposes, houses, residential buildings	Places of public worship, places of instruction, special halls, institutions, special buildings pensions.	Other uses not under columns 2 and 3

(iv) **Primary uses** are those for which no planning permission is required from the Municipality and development may commence as soon as building plans have been approved.

Prohibited uses are those which will not be allowed by the Municipality under any circumstances.

Consent uses are those for which the Municipality has the power to approved or refuse in accordance with its own local policy, its evaluation of the need and desirability of the use and its evaluation of the extent to which the proposed use would add or detract from the existing amenity in the area concerned.

(v) The primary use for land within the residential use zone for example, is residential purposes, houses and other residential buildings with churches, schools, social halls, institutions, special buildings (embassies) and pensions being consent uses. All other uses are prohibited in the residential use zone. Persons wishing to construct a pension in the residential use zone must before doing so apply to the local authority council for consent to do so.

APPLICATION PROCEDURE FOR CONSENT

(vi) A consent application to Council must consist of:

- a. a letter stating the intent and motivating the proposed use of land.
- b. a site plan on a suitable scale showing the cadastral information of the property and the location of the proposed development. A sketch layout of the proposed buildings could also be included.
- c. a locality plan showing clearly where the property is situated.

(v) This application is then lodged at the offices of the local authority who will evaluate it and recommend the approval/refusal thereof to Council. The local authority council is fully empowered to determine such applications.

APPROVAL PROCEDURES FOR CONSENT

(vi) Upon receipt of an application for consent, the local authority will evaluate it in terms of the standing policies of Council and the desirability of such a development.

(vii) The influence of such a development on :

- the environment,
- the capacity of existing services,
- the neighbours and the neighbourhood as a whole,
- the harmony of the area and
- the future development of the area.

(viii) And the conformity of such a development with the town planning scheme, structure plan and any other adopted policies of council will be considered before a decision is taken.

(ix) The decision of council must then be relayed to the applicant in writing together with the conditions, if any, that the council decided to impose for such consent to be approved.

(x) Once such approval is granted the applicant may proceed with the development subject to the normal building regulations applicable to the land.

RE-ZONING APPLICATIONS

RE-ZONINGS

(i) Re-zoning applications will only be made where a town planning scheme is in force i.e. where the rights and restrictions of land are regulated by a zoning scheme. Where no town planning scheme is in force these rights and restrictions are contained in the conditions of title in the title deeds of all freehold properties. In areas without a scheme the same results of re-zoning can be obtained by applying to cancel existing conditions of title and registering new conditions of title. The application and approval procedures are essentially the same.

(ii) When a developer wishes to use land for a purpose which is prohibited by the town planning scheme, he may apply to change the zoning of such land to that of the new proposed use. The use of land or buildings in the residential use zone for office purposes, for example, is prohibited by the town planning scheme. Council may, however, have formulated a policy according to which a specific area of land in the residential use zone will be considered for re-zoning to office use due to its close proximity to the town centre or a suburban shopping/office complex.

(iii) A person wishing to use such land for office purposes must then apply to the local authority and the government for the re-zoning of the property from "Residential" to "Office".

APPLICATION PROCEDURE

(iv) Re-zoning involves the amendment of a town planning scheme because the zoning of land specified in the scheme is changed to a new zoning and the scheme must therefore be amended. As a statutory document, the scheme may only be amended by the Minister of Regional and Local Government and Housing. This procedure is prescribed by the Town Planning Ordinance 18 of 1954 as amended (clause 27).

(v) A property owner eager to change the zoning of his property will apply to the local authority council for support. Before proceeding the applicant must advertise his intention to apply for rezoning. This must be done in the prescribed manner (see later page) through local newspapers and by directly informing contiguous landowners.

(vi) The application to council for support must contain:

- a. a letter motivating the application and indicating the impact the proposal will have on the environment and the neighbours.
- b. proof of advertisement and consultation of neighbours.
- c. plans indicating the location of the erf, streets, erf numbers, erf size and the existing zoning of the erf and surrounding erven.
- d. a clear statement of intended new uses and proposed new zoning.
- e. proof that the erf can be converted to accommodate the proposed new usage, for instance will there be adequate space for on-site parking.

and must be submitted in writing to the local authority.

APPROVAL PROCEDURE

(vii) Upon receipt of the application the technical staff of the local authority will evaluate it in terms of its impact on the environment, its benefit to the community, its conformity to the policies of Council. Public comment and objections must also be taken into consideration.

a. A formal decision must then be taken by Council on whether to support the application or to turn it down.

b. Should the application be supported, the applicant must be informed of any "betterment" payable (see later page) or other conditions which may have to be met.

c. The application will then be included in the Council's next Amendment Scheme for submission to the Minister.

d. The Amendment Scheme is advertised for public comment and forwarded by the Minister to NAMPAB for recommendation.

e. Once government approval has been obtained, notice is given in the Official Gazette that the Amendment Scheme is now an approved scheme.

f. The local authority will then apply to the Minister for permission to recover betterment (see later page).

h. The property owner will be informed of the approval and of the betterment amount which must be paid.

i. The property owner may then proceed with development in terms of the new zoning.

SUBDIVISION APPLICATIONS

SUBDIVISIONS

(i) An owner may apply for the subdivision of his/her property into two or more erven. Subdivision is the process used to cut up bigger portions of land into smaller pieces, each with its own title deed.

APPLICATION PROCEDURE

(ii) When application is made to the local authority for a subdivision, the following information must be included in the application.

- a. A full motivation of the proposed scheme.
- b. A plan on which the following is indicated
 - The location of the erf with reference to the surrounding erven and streets.
 - The proposed subdivision line showing the new erf/erven so created
 - The new erf areas.
 - Contours
 - Outlines of existing buildings (if any)
 - any servitudes registered against the erf.
- c. A copy of the title deed of the erf concerned. If no title deed exist, a copy of the deed of sale.
- d. A power of attorney (authorisation) from the legal owner to the person applying on behalf of the owner (if applicable)

(iii) Care must be taken that the erf to be subdivided is big enough for the subdivision to comply with the applicable density zoning of the erf. e.g. for a density zoning of 1 unit /900m² on erf to be subdivided must be at least 1800m² in extend to yield 2 new erven of 900m² each. Each erf must also have its own street access.

(iv) If access is gained via "panhandle" access, the panhandle should be at least 4 meters in width.

(v) Upon approval of the application by the local authority council, a subsequent application in terms of sections 2, 19 and 30 of the Township and Division of Land Ordinance 11 of 1963 must be made to the Township Board. The following must accompany the application.

- a. A completed application Form (attached as Annexure B)
- b. A receipt of the application fee from the Ministry of Finance calculated at N\$20 per application plus N\$2 for each new portion created by the subdivision.
- c. 12 Copies of a sketch plan showing the proposed subdivision
- d. Three copies of the title deed of the erf.

- e. A power of attorney from the owner if he is not the applicant.
- f. A copy of the City Council resolution concerning the subdivision.
- g. A copy of the municipal conditions to be registered against the new erven.
- h. Street closure certificate where applicable. The original set of application documents, together with ten copies and three copies of the Title Deed of the erf must be submitted to:
The Secretary: Township Board Private Bag 13289 Windhoek

(The most recent requirements should be ascertained from the Secretary)

(vi) In the case of subdivisions into more than 10 new portions or subdivisions involving Townlands, application must first be made to NAMPAB to establish the necessity and desirability of such a subdivision before application to the Township Board will be accepted. The contents of the application to NAMPAB should contain the same information as the application to Townships Board.

APPROVAL PROCEDURE

(vii) Upon receipt of the application by the local authority the application will be evaluated in terms of compliance with the density zoning of the area, the policies of council and the general impact which the proposed development will have on the surrounding area. Street access, the provision of services and, where applicable, the width, length and desirability of panhandles used will also be considered.

(viii) Once the Council has resolved to recommend the application, it must be submitted to the Townships Board who will evaluate the application in technical town planning terms similar to the evaluation by the local authority.

(ix) Once approval of Townships Board has been obtained, a land surveyor must be appointed, for the account of the applicant, to survey the erven and to draw up the erf diagrams for submission to the Surveyor General. The land surveyor is not authorised to undertake any cadastral survey without being in possession of a "Certificate" issued by Townships Board.

(x) Once the diagrams have been approved by the Surveyor General, the new erven may be registered in the Deeds Office. The Registrar of Deeds will normally be requested not to register the transfer of any of the erven until proof has been submitted that the "endowment" has been paid.

(xi) In the event of any of the new erven created through the subdivision being sold by the owner, endowment, calculated as a percentage of the value of the erven to be sold, is payable to the Municipality. Endowment is discussed in more detail on a later page.

CONSOLIDATION APPLICATIONS

CONSOLIDATIONS

(i) The consolidation of land is the legal merging of two or more pieces of land, each with its own Title Deed, into one erf with only one Title Deed. Erven may only be consolidated if the zoning is the same (where a scheme is applicable) or if the conditions of title are the same. Should this not be the case, rezoning (or a change in the conditions of title) of one or more of the erven must be completed before they can be consolidated.

APPLICATION PROCEDURES

(ii) As with the subdivision of land two successive applications must be submitted in order to consolidate two or more pieces of land.

(iii) The first application is to the local authority council and should consist of the following:

- a. A letter motivating the application together with copies of the title deeds of the erven and indication whether a future subdivision is intended.
- b. A plan showing:
 - the location of the erven with reference to surrounding erven and streets
 - the erf numbers and sizes
 - the boundaries of the original erven and the proposed new boundary of the consolidated erf.
 - contours
 - outlines of the existing buildings affected by the consolidation
 - Servitudes registered against the erven (if any)
 - access and any right of way servitudes, the land use zoning of the erven.
 - A power of attorney if application is made on behalf of the owners.

(iv) This first application should be addressed to the Town Clerk of the local authority.

(v) Once Council has recommended approval of the subdivision, an application must be made to the Minister in terms of section 30 of the Townships and division of land Ordinance 11 of 1963 as amended, who will refer it to the Townships Board for consideration. The application to the Minister is similar to the one sent to the local authority except that fees are charged and additional copies of certain information are required. The content of this application to Townships Board is exactly the same as that required for subdivisions as discussed previously on page 20.

APPROVAL PROCEDURES

(vi) Once an application for consolidation has been received by the local authority it will evaluate the application in terms of the zoning of the erven to be consolidated, the future subdivisions intended(if applicable), the effect of the consolidation on the neighbours and the area in general, access to the property and the consolidation policies of Council. Due to the relative

simplicity of consolidating erven, decisions in this regard are often delegated to the Management Committee or the City Engineer or other officials.

(vii) Upon receipt of the City Council's resolution recommending the consolidation, an application must be made to the Townships Board who will evaluate the application in technical town planning terms similar to the evaluation of the local authority.

(viii) After approval has been granted and a "Certificate" issued, a land surveyor must be appointed, for the account of the applicant, to survey the erf and to draw up a new erf diagram for submission to the Surveyor General.

(ix) Once the diagram has been approved by the Surveyor General the new consolidated erf may be registered in the Deeds Office.

TOWNSHIP ESTABLISHMENT

TOWNSHIP ESTABLISHMENT

- (i) Township establishment is a formalised large scale subdivision of land for urban use. The planning of a new Township is not something that is done in a vacuum. It is dependent on planning goals and existing constraints and opportunities. The establishment of a new township should fit into a wider framework of planning intentions, guidelines and policies. In the case of a new township extension in an existing town, the wider framework may be a policy statement by the local authority regarding the future use of adjacent land and the future availability of engineering and social services to the extension. The development should be shown to be compatible with existing land use and desirable for the future development of the town.
- (ii) A new Township is usually planned by the property owner or his consultants. It may be a private person or company but often, in Namibia, it is the local authority. The planning may be undertaken by employees of the owner or by his consultants.

APPLICATION AND APPROVAL PROCEDURES

- (iii) The layout of a township is handled by town planners, land surveyors and engineers. The final plan must make provision for erven which can be surveyed and registered, which have street access and which are connected to utility services which are linked to the rest of the town. Provision should be made in the layout for a balance of land uses which are adequate and desirable for that particular development. For example adequate land should be made available for public facilities such as schools in a residential township development. All these aspects are critical for the township and the town's development. Hence in addition to the determination of "need and desirability", the township layout must be evaluated for appropriateness and adequacy.
- (iv) Conditions which are to be registered over the properties so created must also be set. The procedure for legally establishing a township is contained in the Townships and division of land Ordinance, No. 11 of 1963.
- (v) Applications for permission to establish a township must be made in writing to the Minister of Regional Local Government and Housing accompanied by all the necessary motivations and plans required. The Minister will refer the application to NAMPAB for consideration and recommendation on the desirability and necessity of establishing the proposed township. Should the Minister agree that the township is needed and desirable, NAMPAB will advertise this fact in the Official Gazette and in such newspapers as it may deem fit.
- (vi) The advertisement will inform the public that the application is available for inspection and will invite objections to the proposed township establishment.
- (vii) After considering all relevant information, the Minister may grant, refuse or postpone the application. Should the application be granted, the Minister has the right to impose such conditions as he/she may deem fit, provided that if the proposed township is situated in an area covered by a Town Planning Scheme, then no conditions which are in conflict with the provisions of the Scheme shall be imposed.

- (viii) Upon the granting of permission to establish a township, the proposals and layout are submitted to the local authority for its recommendations. They are then advertised again for public comment and submitted to the Townships Board together with all recommendations and comments.
- (ix) The Townships Board will consider the appropriateness and adequacy of the subdivisional layout and upon the approval of the layout the owner must cause the township to be surveyed in accordance with the approved design.
- (x) On the completion of the survey the township owner must lodge the General Plan so created with the Surveyor General. Once the General Plan has been approved by the Surveyor General, he will notify the Minister, the owner and Registrar of Deeds of such approval.
- (xi) Within one year of receipt of the approval of the Surveyor General, the township owner must lodge the said plan and diagram with the Registrar of Deeds for endorsement. The title deeds will also be endorsed to indicate that the land concerned has been laid out as a township.
- (xii) The Registrar of Deeds will also open a register for every approved township (the township register). Upon receipt of notification from the registrar of Deeds that this has been done, the Minister shall, by notice in the Government Gazette, declare the area represented by the General Plan to be an approved township and such notice shall, in a schedule thereto, set out the conditions subject to which the application for permission to establish the township has been granted. This process is referred to as the proclamation of a township.
- (xiii) It may sometimes be necessary to deproclaim a township or a portion of a township. To deproclaim a Township, an owner may, at any time, apply to the Minister to do so. This must be applied for in writing and must be accompanied by all information the Minister may require.
- (xiv) The Minister will require the applicant to deposit a sum of money which is estimated to cover the expenses which need to be incurred.
- (xv) In addition, an undertaking to defray any balance of expenses must also be given.
- (xvi) An application will not be considered by the Minister unless the applicant is the owner of all erven or land situated in that township or portion of the township which is to be deproclaimed.
- (xvii) Consent of all legal mortgage bond holders for such deproclamation must also be attached to the application.
- (xviii) Upon receipt of such application the Minister shall publish notice of the intention in the Official Gazette calling for any objections against the application. The Minister will also notify the local authority of the intentions.
- (xix) After consideration the Minister will, if approved, publish a notice in the Official Gazette declaring the township or portion of the township no longer to be a township or a portion of a township.

CLOSING OF PUBLIC PLACES

CLOSING OF PUBLIC PLACES

(i) It may be necessary from time to time for a Council to change the use of land reserved for public places like streets, public open space etc. Since all public land belongs to the local authority, such changes will be initiated by the local authority. Closure could, however, be undertaken at the request of another party.

(ii) The closing of public places like streets or parks may be made necessary as a result, for example, of the realignment of streets across park areas or the redevelopment of an existing public open space.

PROCEDURE FOR CLOSURE

(iii) Clause 50 of the Local Authorities Act 23 of 1992 authorises local authorities to close streets or public places as it may deem fit and sets out the procedures to do so.

(iv) After taking a resolution to close a street or public place, the local authority must:

- a. Cause a plan to be prepared showing the nature of the closure or diversion of such a public place or street and the location of such;
- b. Advertise its intention to close a public place, setting out the nature of such closure and stating where the plan is available for inspection by the public;
- c. Call for objections against the proposed closure/diversion; and
- d. If any objections are lodged, the local authority must submit detail of the proposed closure together with the objections lodged and the comments of Council thereon to the Minister, who will make a ruling on the matter.

(v) Once approved, the local authority will issue a "Closure Certificate" and must notify the Surveyor General of any permanent or temporary closure of a public place.

CHAPTER SEVEN

DEVELOPMENT PROCEDURES AND OBLIGATIONS

ADVERTISING, APPEALS AND ENFORCEMENT

ADVERTISING

(i) The need to advertise the contents of development proposals may be prescribed by law or may be requested by local authorities or the State to ensure that persons or bodies most likely to be affected by such proposals have been given opportunity to comment or object.

(ii) Advertising is a statutory requirement when permission is sought to prepare town planning schemes, to amend town planning schemes, or to establish new townships. It is also required with applications for rezoning and changes to conditions of title. It may be requested for any other procedure where uncertainty exists regarding the acceptability of such proposals or when consent is sought to use land for a purpose other than its primary use

(iii) One or more of four advertising methods may be required. These are:

a. Directly with affected persons or bodies

In order to ensure that persons or bodies most likely to be affected by development proposals are adequately consulted, local authorities may require applicants to contact them directly and to provide proof of such consultations have taken place and that adequate explanation of proposals has been given. A signed statement is generally acceptable as proof.

b. Notice in the Press

Local authorities may require that a notice of the developer's intention to submit a development application be published once a week for two consecutive weeks in two newspapers circulating widely in the local authority area, one of which must be a newspaper in the official language. The notice shall state that any person having objections against the intended development/use may lodge such objections, together with the grounds thereof, with the Council and the applicant in writing within 14 days of the date of the last appearance of the advertisement. It shall further state where the plans, if any, may be inspected.

c. Notice on Site

Local Authorities may require an applicant to post a Notice for a period of fourteen days in the official language on the site concerned. The notice to be posted must contain the same information as that required for an advertisement in the press and must be large enough to be clearly legible.

d. Notice in the Government Gazette

(iv) In this situation the local authority will require that the applicant publish a similar notice to that placed in the press into one or two issues of the Official Gazette.

(v) The local authority council must take into consideration any objections received within the prescribed period and must notify the objectors and the applicant of its decision. A decision

must not, however, be implemented before at least twenty-eight days have expired following such notification to objectors. This is to allow time for appeals against Council decisions to be lodged.

(vi) Annexure C provides a typical example of a notice to be published in the press.

APPEALS

(vii) Appeal procedures are set up to provide an opportunity to any person who is aggrieved by a decision of a Council to appeal to the Minister of Regional and Local Government and Housing (the competent authority).

(viii) A person may appeal not only against a decision taken by a Council, but also against undue delay or refusal to give a decision in a certain matter.

(ix) Written notice of an appeal must be given to the Competent Authority and to the Council. If the appeal is against a decision made by a Council, the notice must be given within twenty eight days of the date on which the appellant was served notice of the Council's decision.

(x) The Competent Authority may extend this period by not more than twenty eight days upon application by the person wishing to appeal.

(xi) Whenever a Council receives such an appeal, it should not enforce its decision until such time as the appeal has been resolved or disposed of.

ENFORCEMENT

(xii) A Local Authority Council has a duty, in terms of section 20 of the Town Planning Ordinance 18 of 1954, to observe and enforce observance of all provisions of the town planning scheme in force in its area (if applicable) and also conditions of title of land and of the conditions laid down for the establishment of townships.

(xiii) Any person who commits or knowingly permits a contravention thereof shall be guilty of an offence and liable on conviction to the penalties which may be prescribed by Section 48 of the Town Planning Ordinance 18 of 1954, Section 94 of the Local Authorities Act 23 of 1992 or any other applicable legislation.

(xiv) Local authorities must always be careful not to contravene the provisions of its own scheme through the taking of un-informed and ill considered decisions.

ENDOWMENT AND BETTERMENT

ENDOWMENT

- (i) An endowment payment is an amount of money payable to a local authority following approval of a subdivision. The payment of endowments is prescribed by the Townships and Division of Land Ordinance 11 of 1963 stating that:
- a. endowment is payable to the local authority at the time of sale of or disposal of any erf created through a subdivision;
 - b. endowment payments be used by the local authority to finance and carry out betterment work; and
 - c. that the amount of endowment payable be calculated as a percentage of the value of such portion at the time of disposal.
- (ii) Endowment payments are intended to cover development costs to the community arising from the incremental effect of each increase in development density. Where a new township is established in a new area, a large endowment of up to 30% may be required to cover the greater financial commitment required of a local authority. The endowment could be payable in cash or in land for parks, cemeteries or other local authority purposes. Where a small township is established or subdivision takes place within a proclaimed township much of the development cost has already been recovered and only a small additional charge is warranted-
- (iii) Once an application to subdivide is approved by the local authority it is submitted to the Minister of Regional and Local Government and Housing for approval. If an endowment is payable the approval of the Minister will require that the amount be paid before registration or sale of the new erven can take place.
- (iv) The Registrar of Deeds will not register the transfer of any erf which is subject to endowment unless the application for such registration is accompanied by a receipt or certificate from the local authority concerned as proof that the endowment on the portion has been paid.

BETTERMENT

- (v) Betterment is a payment to be made to the local authority for any increase in the value of land resulting from a rezoning or the coming into operation of the provisions of a town planning scheme.
- (vi) In terms of section 34 of the Town Planning Ordinance 18 of 1954, a local authority is entitled to recover betterment following the coming into operation of any provision contained in a scheme, or by the execution of any work under a scheme which results in an increase in the value of property. Betterment may be recovered from a person whose property is so increased in value. The amount payable should not exceed seventy-five percent of the amount of the increased value.
- (vii) Any sum recoverable under this section may be paid immediately or, subject to the amount being secured by a mortgage bond, by installments spread over a period not exceeding thirty years.

(viii) Any question arising as to the right of a responsible authority to recover betterment or as to the amount and manner of payment shall, unless the authority and all persons concerned otherwise agree, be determined under the provisions of the Arbitration Proclamation, 1926.

(ix) All sums received by a responsible authority by way of betterment shall be applied in such manner as the Minister may approve, towards the discharge of any debt of the responsible authority, or otherwise for any other purpose for which capital money may be applied.

THE PLANNING PROCESS, NORMS AND PRINCIPLES

THE PLANNING PROCESS

(i) In order to make plans logical, it is important that a logical sequence of steps is followed in their preparation. Planning problems, opportunities and constraints must be taken into account and care must be taken to ensure that no important issues are omitted. In its simplest form, the planning process may be broken down into four basic steps as follows :-

Understanding the Area

(ii) Getting the facts is a necessary first step in preparing plans. Information to help understand planning areas must be collected from all possible sources:-

- a. Socio-economic and land use surveys are the most common source of information for social economic, demographic and physical data necessary to understand the existing situation;
- b. Information so obtained must be analysed at an appropriate level to yield relevant data indicating patterns and trends;
- c. Processed data, together with local and historical knowledge and facts, must be used to isolate specific problem areas which need to be addressed, and also to identify opportunities and constraints present in the area.

Preparation of proposals and Plans

(iii) The planner's understanding of the area must be used to formulate planning goals, objectives and criteria,

- a. There are usually many ways to reach the desired objectives. Alternative concepts must be evaluated and explored in order to find the best way of reaching the desired objectives.
- b. Once decisions are taken, a plan can be developed along with supporting policies which will best achieve desired planning goals and objectives.

Adoption and Approval of the Plan

(iv) Once a plan and its supporting policies have been formulated it must be accepted by the people affected by the plan proposals. The involvement of the resident community from the First step is essential if popular support and commitment to the plan is to be achieved. Local inputs and views will improve the effectiveness of plans.

(v) The plan must also be adopted by the local authority council and, where relevant, the government through NAMPAB, the Townships Board and the Minister.

The Implementation of a Plan

(vi) To obtain popular support and understanding of a plan and its supporting policies, it is important that the plan be published in an understandable format and that it is accessible to the community it serves.

(vii) No plan, however, can achieve its set objectives without proper management. Pre-determined performance criteria must be monitored constantly and the plan must be directed so as to optimise its effectiveness. The plan must also be enforced and, should shortcomings be identified, these must be remedied through revision of the plan where improvements are possible.

PUBLIC PARTICIPATION

(viii) Planning is for people. The main objective of planning is the development and management of the human habitat in such a way as to ensure the well being of its inhabitants. Rather than attempting to perform this task for people, it should be done with people. It is, therefore, imperative that each of the steps in the planning process be taken with full public participation. In this way the plan will receive the support of the community during implementation.

(ix) An effective consultative process should take place at all levels and should include, inter alia:-

- a. communities directly through community meetings;
- b. residents committees;
- c. steering committees;
- d. local and regional authorities;
- e. government bodies (including coordinating boards);
- f. business and commercial interest groups; and
- g. institutional bodies.

(x) Meaningful public participation is difficult and time consuming, but delays resulting from poor public involvement at the implementation stage will be much more serious.

PLANNING NORMS OR STANDARDS

(xi) In order to calculate how much land is needed to provide for residential land, schools, hospitals, shopping, offices etc. for a certain number of people, planners use an appropriate set of planning norms or standards. The standards applicable in a particular country, region or urban area are important in allocating and reserving land for use in the future.

(xii) Taking the provision of primary health facilities as an example, the norm set by the Ministry of Health and Social Services may be that of one clinic be provided for every 15,000 people located on a one hectare plot. This would mean that a town with an existing population of 45,000 people would need at least three clinics.

(xiii) Through experience and knowledge of planning norms used elsewhere, town planners have a good idea of how to provide land for urban growth in future. Usually, however, norms

and standards are prescribed by the relevant authority, usually the government planning department in a country or, sometimes, the local authority itself.

CONCLUSION

(xiv) Town and regional planning is an extensive and complex subject taught at a university over a period of at least four years of full time study. Town Planning procedures will appear complicated to a person without formal training. A reference book like this cannot equip a layman to become self sufficient in the performance of planning tasks. It is hoped, however, that this document will provide a basic understanding and point of reference on the nature and scope of town planning and on the basic town planning functions and procedures likely to be performed by local authorities.

ANNEXURES

ANNEXURE B

APPLICATION FOR SUBDIVISION AND/OR CONSOLIDATION

1. Name and address of the applicant.
2. State on whose behalf the application is made. Attach a Power of Attorney if the owner of the ground is not applying
3. Provide the registered name/names of the ground on which the proposed subdivision and/or consolidation will be made.
4. Give the approximate sizes of the new portions.
5. State whether the proposed subdivision and/or consolidation is situated within a proclaimed township, or outside.
6. All subdivision situated outside a proclaimed township, will be referred to the Namibia National Planning Advisory Board. The Ministry of Regional and Local Government & Housing will handle those within a township.
7. State briefly the reasons, which led to the proposed consolidation/subdivision.
8. If buildings are to be erected, for what purpose will they be used?
9. In what manner and by whom will water, power and sewerage be supplied to the relevant portions.
10. For what purpose is the ground zoned if it is situated within an area where a Town Planning Scheme is applicable?
11. What is the proposed minimum building , excluding the value of the outbuilding of the new portion.
12. If access is to be taken from a main road, has permission been given by the Department of Transport?
13. Is a portion of the subdivision situated within 100 meters from the median of a building restriction road?
14. Is a consolidation with other portions intended?

ANNEXURE C

TYPICAL PUBLIC NOTICE

NOTICE

Take notice that ABC Town Planners intends applying to the Council of the Town of Matatura for consent to use a portion of erf 1820, No. 61 Folio Street, Matatura for light industrial purposes.

Further take notice that a plan of the erf lies for inspection at the notice board, on the 2nd floor of the Municipal offices, Independence Avenue, Matatura.

Further take notice that any person objecting to the proposed use of the land as set out above may lodge such objection together with the grounds thereof, with the Council and with the applicant in writing before 3rd December 1994.

Dated at Windhoek this 8th day of November 1994.

Applicant: ABC Town Planners P.O. Box 610
Matatura

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