

THE ASSOCIATION FOR LOCAL AUTHORITIES IN NAMIBIA

MANUAL ON TOWN & REGIONAL PLANNING PRACTISE IN NAMIBIA

VOLUME 2

HANDBOOK

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

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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) Many new towns and villages were proclaimed in the Communal areas of Namibia and local authorities were established for these towns. This resulted in town planning 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 manage these responsibilities.

(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 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 seminar was supported and part sponsored by CRIAA (Development Centre for Research - Information - Action in Africa) 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 to be equipped with a user friendly, comprehensive manual on how they should carry out their town planning and development control responsibilities.

(iv) This Manual is the result of the vision of CRIAA, NITRP and ALAN.

(v) Funding for the preparation of this manual was procured from the European Commission, CRIAA and ALAN. The manual was produced for ALAN, who is the client. Its production 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 extent of their town planning responsibilities;
- b. formulate town planning and related policies;
- c. 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 and process development applications received; and
- 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 I has provided general information on plans and plan management, planning procedure, planning legislation and the bodies involved in planning decisions together with their functions.

(ix) Volume 2 is aimed at enabling councils and planning officials to translate general information into procedures guiding them on how to :

- establish a planning office;
- process common planning applications;
- perform certain planning administrative tasks;
- perform certain local authority planning tasks;
- get help if they have planning problems.

(x) Whereas Volume I has provided you with answers to the questions of:

- Why planning is necessary and desirable,
- Why certain procedures are to be followed,
- What those procedures are; and
- Who the decision making bodies are,

(xi) Volume 2 is intended to provide methods that can be used to achieve the planning objectives of the local authority i.e. "how to" perform these tasks within the planning framework and legislation of Namibia.

DEFINITION OF COMMON TERMS USED

The following definitions and 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 a Local Authority area.

Building

- a) means any structure, whether of a permanent or temporary nature, constructed or used for the housing or accommodation of human beings 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 may limit the use of 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 an approved township. Land situated outside approved townships is called a farm or a portion of a farm.

Freehold Title

means the system according to which people can own and register 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 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 matters 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 and assigns real rights to land.

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.

Townlands

means land within a local authority area but outside the approved township area. Such land is called farms or portions of farms.

CHAPTER TWO

HOW TO ESTABLISH A PLANNING OFFICE

INTRODUCTION

- (i) The basic planning functions of a local authority have been broadly categorised in Chapter 2 of the Reference Book (Volume 1) as,
- investigations,
 - development guidance and control and
 - forward planning and design.
- (ii) In more general terms town planners employed by local authorities must advise their councils on the formulation of planning policies and the adequacy and desirability of development proposals. However, few local authorities employ in-house town planning staff to perform such duties.
- (iii) Rather than risking continuous unplanned settlement and development, the challenge is to equip all local authority officials with the basic knowledge and tools necessary to perform at least the basic planning functions of the local authorities. This manual should be seen as a tool designed to assist local authority officials in this task.

FUNCTIONS OF A PLANNING OFFICE

- (iv) Before establishing a planning office, a local authority must clarify the functions and responsibilities to be allocated to such an office. It is imperative that Councils are realistic in this task. The functions and responsibilities allocated to an office employing trained town planners is vastly different to those allocated to an office staffed with officials with little or no knowledge of town planning. Let us review the town planning functions of any local authority. This will provide us with the broad picture. Once this is known, every local authority must assess which of these functions can be performed in-house and for which functions help must be sought from either the Division of Town and Regional Planning (MRLGH) or from private planning consultants.
- (v) The following duties must be performed by any planning office no matter how small.
- a. Handling of applications in terms of the Town Planning Act and the Town Planning Scheme namely rezonings involving changes in land use, bulk or densities and consent uses involving the variations of the scheme over which the local authority has power to approve and lay down conditions.
 - b. Administration of Amendments to the Town Planning Scheme (changes to a scheme can only be made through the compilation of an amendment scheme and application to the Minister for the approval of such amendments).
 - c. Handling of applications to amend conditions of title (where a freehold tenure system exists).

- d. Handling of applications in terms of the Townships and Subdivision of Land Act including township establishment, amendment of proclamations, subdivisions, consolidations and incorporation into townships of portions of farms.
- e. Handling of applications in terms of the Local Authorities Act namely the closure of public spaces and streets.
- f. Handling of sectional title applications.
- g. Enforcing of regulations and the provisions of the Town Planning Scheme by receiving and responding to complaints, carrying out inspections, administration, summonses and court cases.
- h. Provision of zoning certificates as a public service or as a pre-requisite for trade registration.
- i. Assessing building plans conforming with regulations for building lines, use of buildings, coverage, bulk, density, fuel installations and other special conditions.
- j. Assessing of advertising signs.
- k. Research and recording of changes and trends.
- l. Managing a data base.
- m. Investigating changes to the zoning plan and identifying development opportunities.
- n. Redesigning cadastral boundaries and creating new subdivisions and townships with accompanying zoning proposals.
- o. Advising the public on planning matters.
- p. Advising Council on changes to policy and regulations and seeking delegated authority in terms of policy.
- q. Advising on the management of Council's own property in respect of future planning, present zoning and use, alienation and development and applications to government on behalf of the local authority.
- r. Administration of the office in general including correspondence, delegated authority approvals, acceptance of deposits, issuing of clearance certificates in respect of conditions imposed by Council, office budgeting and provision for consulting fees, conference fees and planning publications.

(vi) Irrespective of the resources available, any local authority or planning office must perform or cause these duties to be performed. When establishing a planning office a local authority basically creates a department dedicated to the performance of the above-mentioned duties. The ultimate aim should be to consolidate all such duties in the planning office and establish the necessary linkages with an other local authority departments to ensure order in the growth and development of the town.

LINKAGES WITHIN A PLANNING OFFICE

LINKAGES WITHIN A PLANNING OFFICE

(i) A local authority planning office does not operate entirely on its own. Most functions of a planning office also involves input, comments and advise from other departments. Some tasks performed by other departments also need the inputs and approval of the town planning office. A planning office also needs to link with other external offices to get advise and or comments on certain planning issues.

(ii) Whenever an application is received the planning office must consider the possible influence of the change which will be caused by the application. Comments must then be sought from all departments whose operations / responsibilities may be influenced by the application.

(iii) For example, if the planning office receives an application to subdivide a 10,000m² residential erf into nine new erven, such an application may have an influence on roads, stormwater drainage, electricity provision to the new erven, water provision, sewerage reticulation, property values etc. When an office receives such an application it must be circulated to the department(s) who are responsible for the provision of such services. These departments must consider the application and comment on the acceptability thereof and also state the conditions they may wish to impose to ensure order and limit any negative effect which granting the application may have.

(iv) In larger established local authorities, applications will need to be circulated to the various divisions of the engineers department (eg. water, sewage, roads, electricity etc.) for technical evaluation, to the properties department for comment and valuation of endowment and betterment (see page 16) for health regulations to the health department and, if applicable, to the legal adviser. In smaller new local authorities, such departments may not exist, but it is just as important to circulate the application to those managers or employees who have specialist knowledge in these fields and who are responsible for these functions.

(v) In addition to linkages within the local authority structure you may also need comments from external bodies such as Post and Telecommunications, Water Affairs, NamPower, Roads Authority or the Transport Department in the Ministry of Works, Transport and Communications, the Deeds Office and the Office of the Surveyor General. Whenever possible, these comments must be obtained in writing.

SETTING UP AND RESOURCING A PLANNING OFFICE

SETTING UP AN OFFICE

- (i) For the purpose of explaining the process of setting up a planning office local authorities can be classified as belonging to one of two groups. The first group consists of those local authorities with town planning schemes, structure plans and policy plans already prepared for their areas.
- (ii) The second group consists of those local authorities with few if any planning tools". The new local authorities in Namibia which have only just started the process of municipalization can be seen as falling in this group.
- (iii) Whichever group you belong to, now is the time to commit resources to the planning function in your local authority. Such a decision will have to be initiated by your Council.
- (iv) The first step in the establishment of a planning office is to assess your resources:
- What skills are available?
 - Which planning tools exist?
 - Given the tools and skills available, which functions could be allocated to such an office?
 - Which strategic actions are necessary to enable such an office to function meaningfully and to maximise the functions which can be performed by such an office.
- (v) Based on this assessment you may now allocate certain functions to the office and implement the strategic actions necessary to enable the office to function meaningfully. This may include the identification of the most appropriate staff member to head the office, the drawing up of a task list and job description for the official, the allocation of funds to the office and the creation of supporting management structures.

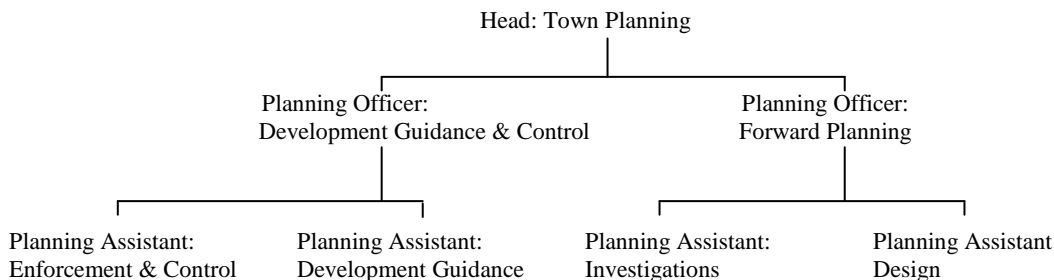
RESOURCING THE OFFICE

- (vi) Many of the duties mentioned above are already being performed by someone in the local authority. A good way of finding the most important resource for the planning office is to investigate the duties and find the person who performs most of them. Identifying the right person and providing him with the necessary tools, financial resources and technical support will improve the chances of success.
- (vii) It is suggested that Council review the performance of the above-mentioned functions, identify the person who performed most of these tasks and carefully consider assigning this person to start up the planning office.

ORGANISING, MANAGING, STAFFING AND EQUIPPING THE OFFICE

ORGANISATION AND MANAGEMENT

- (i) The planning office must be accommodated within the structure of the Municipality. Someone must be made responsible for the management and monitoring of the office.
- (ii) A planning office is often accommodated within the Department of the City Engineer, with the City Engineer also managing the planning office. Many smaller local authorities do not have city engineers departments and another structure for a planning office must be found in such a case. The most appropriate home for the planning office is in a technical department. Most local authorities have such a department with formally qualified staff or staff with many years of experience. The manager or head of the department should also head the planning office initially. It would also be good if staff from this department with some experience be allocated to the planning office. There is, however, no hard and fast rules. Town planning can also be accommodated under the Town Clerk. It can also stand alone with the technical department reporting to town planning.
- (iii) Irrespective of how many staff are allocated to the planning office, the structure of this office should be designed with the future in mind. As experience and knowledge increases over time, provision should be made to extend the functions of the office and to allocate more staff to it. The following structure can be used for a new planning office (future positions are indicated with a dotted line).



STAFF AND EQUIPMENT

- (iv) Council must decide how many staff should be allocated to the planning office. It is suggested that only one planning officer be appointed to start off the planning office. Once he starts work he will probably walk into an empty office with no equipment and only a list of tasks he will be expected to perform. It is suggested that outside assistance be procured to assist the planning officer in obtaining a clear understanding of his tasks, to create the "tools" and equipment he will need to perform the task and to ensure that these tools are effectively used.
- (v) The most important tools which can be provided to the planning official is a set of up to date plans of the town, a file of approved policies, the town planning scheme if available together with any structure or guide plans which may exist. A list of previous decisions on planning

applications by the Council should be provided as a reference for future planning advice. The planning office should maintain up to date cadastral plans. A good procedure would be to collect the most up to date "noting plans" from the Surveyor General in Windhoek. Thereafter these plans must be maintained up to date. Depending on the number of changes taking place in the town these plans can possibly be replaced every two to ten years. If there is a general plan for the area the Surveyor General will have diagrams for each erf covered by the general plan. These should also be obtained for record purposes. When changes to cadastral boundaries are made, diagrams will also change which must be kept up to date. Updating can be done by:

- collecting or hiring someone to collect and send new diagrams to the planning office regularly (practical only if the number of changes is significant).
- imposing standard conditions on any subdivision or consolidation that copies of the new approved diagrams be supplied to the local authority by the applicant before any building plans will be approved. Title deeds controlling rights attached to land are also important in areas where town planning schemes are not in force. These are available from the deeds registry in Windhoek. Applicants should, in general, be requested to supply copies of the title deed(s) when applying for any action which may alter the rights attached to the specific land.

(vi) It is important not to leave the planning officer to his own devices. Visits by planning staff of the Division of Planning; MRLGH should be used to train and assist the planning officer as much as possible.

(vii) Depending on the level of expertise of the planning officer equipment needed could vary from stationery and access to typing and photocopy facilities to a drawing board or even computer aided design facilities for preparing development applications, rezoning schemes and even structure plans and town planning schemes for those offices who employ qualified town planners.

(viii) Depending on the complexity of the task, an assistant could be appointed, for example, to police the enforcement of council policies and the provisions of the town planning scheme;

(ix) External assistance in the establishment and initial running of the planning office is highly recommended. This can be done by appointing a town planning consultant to assist council in the establishment of a planning office, the procurement of planning tools and the basic training of the planning officer.

(x) Another way of approaching the problem is to appoint a town planning consultant to perform a specific task such as the preparation of a town planning scheme. Part of the brief to the consultant should then be to work very closely with and use the planning officer in the preparation of the scheme with the clear objective of training the planning officer to understand, use and enforce the provisions of the scheme for this town.

(xi) At a national scale the Association of Local Authorities in Namibia could create opportunities for the training planning officers throughout the country through forums for the exchange of information, resolution of common problem areas and planning conferences.

CHAPTER THREE

HOW TO PROCESS COMMON PLANNING APPLICATIONS

INTRODUCTION: STEPS APPLICABLE TO ALL APPLICATIONS (1)

INTRODUCTION

(i) As the planning officer of the local authority you will receive many development applications from the public and/or consultants which you will be required to process. These may include inter alia, applications for sectional title development, consents, rezoning, closing of public places, consolidations, subdivisions and township establishment. The purpose of this chapter is to equip you with the basic tools you will need to be able to process such applications.

(ii) All types of applications may be processed in a similar way and the following five steps should be followed in all cases:-

- clarification of the proposals,
- obtaining all necessary facts and information on the matter,
- evaluating the merit of the application,
- preparing a submission on your findings and
- submitting to council for consideration.

STEP 1: CLARIFICATION OF PROPOSALS

(iv) The processing of a development application will commence as soon as you receive an application in writing from the applicant. You should then proceed to clarify the proposal.

a. Go through the application to make sure that the applicant has provided all the necessary information. Review the applicable sections in this manual to draw up a check-list of all the information which needs to be provided by the applicant. If the application is incomplete list all the information which is still needed and refer back to the applicant. It is important to be strict with applications from the outset. If you are lenient it may cause applications to go through the local authority approval process easily but then get refused by the Townships Board or by NAMPAB. This normally creates expectations with the applicant who then gets frustrated if the application is refused further on in the process. If the help of a planner is needed, obtain such assistance at an early stage.

b. Eliminate personal aspects from the application. Identify the applicant for example as the owner of the particular erf rather than by name. This will prevent any personal feelings from influencing the decision of Council or any official in the local authority.

STEP 2: INVESTIGATE THE APPLICATION

(iv) Once the applicant has supplied all the necessary information you should proceed to obtain all information which may help you to evaluate the application.

a. Start your investigation with a site inspection. Physically visit the site and make notes on the suitability of the site for the proposed use. Note any important features of the surrounding

area which may support or prohibit the intended development. When evaluating the suitability of the site for the proposed use check for the following:-

- the general suitability of the site relative to adjacent properties;
- the slope of the land and storm water courses and runoff which may be influenced by the development;
- the physical suitability of the land;
- the existing buildings and current use;
- areas of pollution like noise, refuse etc.
- the possible influence on the surrounding area through observation and sometimes discussion with neighbours.

b. Circulate a copy of the application to the engineer or technical department of your local authority for comments on the influence the proposed development will have on existing services or the serviceability of the proposed new development. The cost of the proposed development to the local authority must also be considered and commented on.

c. Also circulate the application to all other departments on whose functions the application may have an influence e.g. the property section, the health department or the legal adviser.

d. Identify the relevant legislation which regulates the type of application, e.g. the Town Planning Scheme, the Town Planning Ordinance, the Local Authorities Act, Conditions of Title etc.

e. Obtain previous council decisions on similar applications and any previous or existing policies Council may have regarding the issue at hand.

f. Investigate the experience of other towns which may have considered such applications in the past. This may be used as a guide-line on how to resolve the issue, but should not simply be copied. Every town is unique and information from other towns must be used carefully.

g. Obtain information on the zoning of the property and the zoning of the surrounding erven.

STEP 3: EVALUATE THE MERIT OF THE APPLICATION

(v) Once you have obtained all of the information necessary to evaluate the application, you may proceed as follows :-

a. Review any public comments and objections which may have been lodged. Also consider the response of the applicant to these comments or objections.

b. From your own point of view consider the impact of the proposal on the neighbouring properties and the implications of granting the application.

c. Review the compliance or deviation of the application from the Town Planning Scheme or the Conditions of Title. Establish whether changes are possible and desirable.

d. Consider the impact of the proposed development for the wider neighbourhood and the town as a whole. Determine who pays and who gains; what will be the costs and the benefits to individuals and to the immediate and larger community. Development should benefit the whole community without being detrimental to or at the cost of a small segment of the community.

e. Imagine how the proposal will influence the future. If you receive 20 more such applications in the next year, will you treat them the same? How will you treat similar applications in future to ensure consistency?

INTRODUCTION: STEPS APPLICABLE TO ALL APPLICATIONS (2)

STEP 4: PREPARE A SUBMISSION ON YOUR FINDINGS

- (i) You have now gathered all the necessary information and you have evaluated the implications of the proposal. The next step is to prepare the submission and recommendation to Council.
 - a. Start the submission with a background explanation of the application by stating what is applied for together with a detailed plan showing the intentions.
 - b. In the second section of your submission, state the relevant information and facts as clearly as possible. Review public comments on the proposal and state experience from other local authorities if applicable.
 - c. Explain your view on the environmental impact. Motivate your views as clearly as possible.
 - d. Indicate to what extent the granting of the application will conform to or deviate from previous policies or decisions. Reiterate the importance of consistent decision making by the local authority.
 - e. Based on the above analysis state the conclusion of your evaluation.
 - f. The third part of your submission to Council will consist of your recommendation. You should recommend that, based on your evaluation, the application be approved or not approved. If you recommend that the application be approved you should include any conditions necessary to ensure that possible negative effects be limited and to protect the local authority from problems or costs arising from the development.
- (ii) If you recommend that the application be refused, you should list the main reasons for your recommendation. In addition to your recommendation, you may also propose a policy on how to deal with similar applications which may be received in future.

STEP 5: SUBMIT YOUR RECOMMENDATION TO COUNCIL

- (iii) Once completed you must forward your submission to Council for consideration. It will normally be considered first by the Management Committee of the Council. After consideration, the Management Committee may refer the application back to you for further investigation or to clear up certain issues. After consideration, the Management Committee will recommend to Council the approval or refusal of the application and will also recommend the conditions under which the application be approved. Once Council has decided on the matter, the decision of Council must be communicated to the relevant parties in writing. It is normally healthy practice to request the applicant to indicate acceptance of the conditions under which the application was approved.

HOW TO PROCESS APPLICATIONS FOR CONSENT

APPLICATIONS FOR CONSENT (REFERENCE BOOK)

(i) You will only receive applications for the consent of Council if a Town Planning Scheme is in force in your town. A town planning scheme will always indicate the primary use of each erf in the scheme area, consent uses which may be allowed on such land by the local authority and prohibited uses which will not be allowed (See reference book for detail). A person who wishes to use his land for a purpose defined as a consent use in the Town Planning Scheme must apply to the Local Authority before he may do so.

(ii) When such an application is received the steps in the previous section must be followed to process the application. To assist you, the following list can be used to check the application for completeness. The following information may be needed:

- a. A location plan of the area where the erf is situated showing the location of the erf relative to other erven and indicating the various land uses of the neighbouring erven with street names and erf numbers;
- b. A site plan of the erf showing the existing buildings on the property and the dimensions of both the property and the buildings;
- c. Comments from all neighbours likely to be affected by the proposal. A letter giving details of the intended application for consent, together with the motivation therefore, should be sent to all neighbours by registered mail. Such a letter must request their consent for the proposed new use and would also state where and how objections against the proposal may be lodged (see the page on advertising for more detail). Both consents and objections received must accompany the application to Council;
- d. Proof of advertising must be provided. Because a change in the use of land may affect other property owners, the intention to apply to the local authority council for consent must be advertised in two newspapers circulating the area twice over two consecutive weeks. A period of 14 days from the last placing of the advertisement must be allowed to allow people to react. Any comment received from the public must accompany the application; and
- e. A plan clearly showing how the new use will be accommodated on the erf and how other necessary requirements, e.g. parking will be met.

(iii) Should the application not include all information needed to process the application, make a list of outstanding information and refer the application back to the applicant.

(iv) Once the application is complete you can proceed to process the application using the steps applicable to all applications.

(v) You may recommend that permanent or conditional or temporary consent be granted. Conditional consent may be made valid for a limited period only or can be linked to the applicant. For example, consent for a home occupation may be granted to an owner of an erf. However, should the owner sell the erf such consent automatically ceases and may not be carried forward to a new owner. Where consent is granted on a more permanent basis you may recommend that such consent be granted on condition that the land be rezoned to reflect the new (consent) use in the Town Planning Scheme. This consolidates control in the Scheme and prevents a situation where

many permanent consents (and therefore, rights) exist without being reflected in the Town Planning Scheme.

HOW TO PROCESS APPLICATIONS FOR REZONING

APPLICATIONS FOR REZONING (SEE REFERENCE BOOK)

(i) Rezoning applications will only be made where a Town Planning Scheme is in force i.e. where the rights and restriction of land are regulated by a zoning scheme. When somebody wishes to use land for a purpose identified as a prohibited use by the Town Planning Scheme, he may apply to change the zoning of such land to that of the proposed new use. The use of land in the "residential" use zone for "office" purposes for example is prohibited by the Town Planning Scheme. Council may, however, have adopted a policy according to which a specific area in the residential zone will be considered for rezoning to office use due to its close proximity to the town centre.

(ii) A landowner who wishes to use his land for office purposes must apply to the local authority and the government for the rezoning of the property from "residential" to "office".

PROCEDURE

(iii) Rezoning involves the "amendment" of a Town Planning Scheme because the zoning of land specified in the scheme is changed. Being a statutory document a Town Planning Scheme may only be amended by the Minister who will do so only after receiving recommendation from the applicable local authority and NAMPAB. Application must, therefore, be made first to the local authority whereafter it is referred to NAMPAB (as the representative of the Minister) as an Amendment Scheme.

(iv) Your Local Authority Council cannot approve a rezoning application. Should you and your Council agree that a rezoning is desirable, you can only support the application which must then be forwarded to NAMPAB as an application to amend the Town Planning Scheme. Windhoek Municipality prepares and submits these Amendment Schemes itself, while most other local authorities require that the amendment application be made by the original applicant.

PROCESSING

(iv) Should an owner of a piece of land wish to use his land for a purpose defined as a prohibited use or a consent use he may apply to the Local Authority for a recommendation to re-zone his land.

(v) Such an application must contain the following information for it to be effectively processed.

- a. A location plan indicating the relative location of the erf, streets, erf numbers and erf sizes. The existing zoning of the erf and the surrounding erven must also be indicated;
- b. A site plan of the erf showing the existing buildings on the property and the size of both the property and the buildings;

- c. A plan showing how the erf can be converted to accommodate the proposed new use; for example will there be adequate space for on site parking as required by the local authority;
 - d. A motivation from the applicant indicating why the re-zoning is justified, needed, desirable or feasible;
 - e. Comments from all neighbours likely to be affected by the rezoning, including any counter comments to objections raised;
 - f. Proof of advertising must be provided. Rezoning of the property may affect the rights of other property owners and their comments and/or objections must be considered carefully by Council before taking a decision. (See page 14 on more detail for the advertising requirements);
 - g. If the application is made on behalf of the owner of the land a special power of attorney must be given to the applicant by the registered owner of the land.
- (vii) Once you have ensured that all the necessary information is provided by the applicant you may process the application following the steps applicable to all applications.

APPROVAL

- (viii) Council will consider the application and may decide to turn the application down, to support the application unconditionally or to support the application subject to certain conditions which they may regard as necessary to ensure orderly development and to protect others from any possible negative effects.
- (ix) Upon approval of support Council may undertake to include the rezoning in the next Town Planning Amendment Scheme to be submitted to the Minister of Regional and Local Government and Housing.
- (x) Alternatively, permission may be granted to the applicant to submit his own application for an amendment of the Town Planning Scheme to the Minister.
- (xi) Remember that you may request the payment of "Betterment" as a condition of the re-zoning (see later page on betterment for more detail).

HOW TO PROCESS APPLICATIONS FOR THE AMENDMENT OF TITLE CONDITIONS

APPLICATION FOR AMENDMENT OF TITLE CONDITIONS

(i) Every piece of land registered under freehold title is subject to certain rights and restrictions. These rights and restrictions are defined through the provisions of a Town Planning Scheme or through the conditions of title registered in the title deed of the land or both. There can be different rights attached to land through conditions of title and a town planning scheme. Whenever these are different always remember that the more stringent of the two applies.

(ii) Changing the rights and restriction attached to land where a Town Planning Scheme is in force is done by a rezoning. Changing the rights and restrictions attached to land where no Town Planning Scheme is in force is done through changing the conditions of title registered against such land in the title deed of that land.

(iii) As is the case with a rezoning, a Council cannot approve the amendment of title conditions. It may only support or reject the proposed amendment. Only the Minister can approve such proposed amendments. Since many local authority areas do not have Town Planning Schemes this method of changing the rights and restrictions to land may occur more often than the rezoning of land.

PROCESSING

(iv) Should you receive an application for the amendment of title conditions of an erf, the same considerations as for a rezoning application are applicable.

(v) The application must contain the following information :

- a. A copy of the title deed of the erf;
- b. A location plan indicating the relative position of the erf, streets, erf numbers and erf sizes. The existing use of the erf and the surrounding erven must also be indicated;
- c. A plan showing how the erf can be converted to accommodate the new use which amendment of title conditions will allow. For example will there be adequate space for on site parking as required by the local authority?
- d. A motivation from the applicant indicating why the alteration of condition of title is justified, needed, desirable or feasible;
- e. Comments from all neighbours likely to be affected by the proposed new use, including any counter comments to objections raised;
- f. Proof that the proposed amendment has been advertised. A changed use which will follow from an amendment of title conditions may affect the rights of other property owners and their comments and objections must be considered carefully by Council before taking a decision;

g. If the application is made on behalf of the owner of the land, a special power of attorney must be given to the applicant by the registered owner of the land.

(vi) Once you have ensured that all the necessary information is at hand you may process the application. Should there be no standard conditions which may be registered against the land you should propose the new conditions which your Council should support.

APPROVAL

(vii) Council must consider the application and state their support or rejection of the proposed amendment of the conditions of title. The applicant must be informed of the decision of Council. If the proposed amendment is supported by Council the conditions which are supported must be stated clearly.

(viii) The applicant may then apply to the Minister for approval to amend the conditions of title as supported by Council. Such an application should be addressed to the Townships Board as the adviser of the Minister. Upon approval by the Minister the applicant must appoint a conveyancer to affect the amendments as approved in the title deed of the erf concerned.

HOW TO PROCESS APPLICATIONS FOR THE CONSOLIDATION OF LAND

CONSOLIDATION OF LAND

(i) The consolidation of land is the legal merging of two or more erven, each with its own title deed, into one erf with only one title deed. Such a consolidation may not take place without the approval of the local authority and the Townships Board. Erven may only be consolidated if the zoning is the same for each erf (where a town planning scheme is in force) or if the conditions of title are the same for each erf.

(ii) Should this not be the case, rezoning or the change of the conditions of title must be completed before the consolidation can take place. This can, however, be done in the same application.

APPROVAL PROCEDURE

(iii) When a landowner wishes to consolidate two or more erven application must be made first to the local authority council. Upon recommendation of approval by the local authority, application must then be made to Townships Board. After approval by the Townships Board, a land surveyor must be appointed to survey the erf and draw up a new diagram for the erf for submission to the Surveyor General. Once approved by the Surveyor General the new consolidated erf may be registered in the Deeds Office.

(iv) Should an owner of two or more erven apply for the consolidation of the two erven, the applicant must provide the following information :

- a. A letter to the Council requesting permission to consolidate the erven. The letter should contain a motivation for the consolidation in terms of compliance with the use and density zoning of the area, the general trend of development in the area, the influence of the consolidation on the surrounding area and the future development intentions on the land.
- b. A plan of the erven indicating their location with reference to the surrounding erven and streets, the erf numbers and sizes, the boundaries of the original erven and the new boundaries of the proposed consolidation, contours of the erven, the outlines of existing buildings affected by the consolidation and any servitudes registered against the erven must also be shown. Like all plans the plan must also show the scale and the orientation of the drawing.
- c. Should the application be made on behalf of the registered owner a special power of attorney authorising the applicant to act on behalf of the owner must be provided.

(v) Once you have ensured that all the necessary information is available the application can be processed using the steps applicable to all applications.

(vi) When Council considers the application, it may recommend conditions for approval of the consolidation. Upon approval, the applicant must be notified of Council's decision in writing. He must also be informed that he may now proceed to apply to the Townships Board for approval

of the consolidation. A letter of recommendation for approval by the Council must accompany the application to Townships Board.

(vii) Upon approval of the application by the Townships Board the Board will issue a "Certificate" which can be used to appoint a land surveyor to draw up a new diagram. Once approved by the Surveyor General the new consolidated erf can be registered in the Deeds Office. Only after registration is the process completed.

HOW TO PROCESS APPLICATIONS SUBDIVISION AND TOWNSHIP ESTABLISHMENT APPLICATIONS

SUBDIVISION OF LAND

(i) The subdivision of land may not take place without the recommendation of the local authority and the approval of the Townships Board. If a subdivision entails the creation of more than ten (10) new erven, permission to subdivide must also be obtained from the Minister via NAMPAB. Any landowner may apply to subdivide his property into two or more erven. Subdivision is a process which is used to "cut up" a bigger portion of land into smaller pieces, each with its own title deed.

APPROVAL PROCEDURE

(ii) Application for subdivision must be made to the local authority in the first instance. Once recommended for approval by the local authority, application for "need and desirability" must be made to the Minister via NAMPAB before a final application may be made to the Townships Board. In the case where 10 or less new portions are to be created by the subdivision, application to NAMPAB is unnecessary and the applicant may apply directly to the Townships Board for approval.

(iii) The Townships Board will evaluate the application in technical town planning terms. Once approved, the Townships Board will issue a subdivisional "Certificate" which is the authority needed by the landowner to appoint a land surveyor to survey the erven and to draw the erf diagrams for submission to the Surveyor General.

(iv) Once the diagrams are approved by the Surveyor General the new erven may be registered in the Deeds Office. The Registrar of Deeds will normally be requested (by the local authority) not to register transfer of the new erven until proof is submitted that the endowment has been paid. (See page 25 of the Reference Book to learn more about endowment).

(v) Should you receive an application for the subdivision of an erf the application must be checked for completeness. It must provide the following information :

- a. a locational plan showing the location of the erf with reference to the surrounding erven and streets.
- b. a subdivisional plan showing the boundary of the erf to be subdivided, the subdivision lines defining the new erf or erven, the area of the new erven, the contours of the whole erf and the outline of existing buildings.
- c. A motivation from the applicant in writing indicating why the subdivision is justified, needed, desirable or feasible.
- d. Should the application be made on behalf of the registered owner a special power of attorney authorising the applicant to act on behalf of the owner must be provided.

(vi) Once you have ensured that all necessary information has been provided you may process the application using the steps applicable to all applications. Remember to ensure that the proposed subdivision complies with the density zoning of the erf and that every new erf has direct

access from the street. If panhandles are used it should be at least four meters in width and must be kept as short as possible.

(vii) You may recommend to Council any conditions which are regarded as necessary to ensure order and to safeguard the rights of the public and neighbouring property owners. Upon approval the applicant must be notified in writing of the decision of Council. He must also be informed that he may now proceed with his application to either NAMPAB or the Townships Board depending on the number of new erven which will be created through the subdivision.

(viii) Remember that you may request the payment of endowment on the new portions so created. (See other page for more detail).

(ix) Subdivisions and township establishment will or may lead to the creation of new streets. Such streets must be named and such names registered as the official street names. Applicants may be requested to suggest names for new streets so created. Some guidelines may also be provided or even prescribed to the applicant. Council or its delegates (like a street name committee) must consider and approve new street names. Such names must preferably be included in the subsequent applications to NAMPAB and the Townships Board. It is however, not necessary.

HOW TO PROCESS APPLICATION FOR THE PURCHASE OF LOCAL AUTHORITY LAND

SALE OR LETTING OF COUNCIL LAND

- (i) The local authority may often receive applications from the public to rent or purchase immovable property belonging to Council. Such transactions are regulated by the Local Authorities Act 23 of 1992. The act stipulates the methods to be used should Council wish to sell or let Council land.
- (ii) The purpose of the provisions of the act is to prevent individuals from benefitting unfairly from such transactions and to ensure that the general public is fully aware of such transactions.

PROCEDURE

- (iii) Should you receive an application to rent or purchase Council land it is imperative that you evaluate the desirability of disposal of such land. Consider the future planning of Council in terms of future township development, the effect the sale and use will have on the surrounding area, the expected demand for the land should it be put up for sale at an auction and the extent to which the proposed new use will complement the general structure of the town. You can also use the steps applicable to all applications to further clear your thinking about the matter. Seek the comments of your colleagues in other departments.
- (iv) Such applications will normally be received by the property department and forwarded to you for comment. It may often necessitate other procedures eg. closure of public land, subdivisions, consolidations and rezonings. In smaller local authorities you may be required to process the application alone.

PROCESSING

- (v) Once you have evaluated the application and have received the comments from other departments, a submission must be prepared for Council's consideration. Such a submission should state the background to the application, the considerations regarding the desirability of the transaction and the proposed manner of sale **eg.** private treaty, auction or tender, and the recommendation.
- (vi) Should Council resolve to allow the sale or letting of the land through private treaty, auction or tender, the Council must cause a notice to that effect being published in at least two newspapers circulating in its area on one occasion in a week for three consecutive weeks.
- (vii) You may be required to prepared and publish such a notice on behalf of Council. The notice must contain the particulars of the property and the purchase price or rent proposed to be paid. In the case of a private transaction, it must call upon interested parties to lodge any objections. It must state that objections must be lodged with the Council within a period of not less than 7 days after the last publication of such notice.
- (viii) If no objections are received, Council may proceed with the proposed transaction.

(ix) If any objection is lodged, the transaction may not proceed before the local authority has submitted the particulars related to the proposed transaction to the Minister. The submission must include the objections lodged and the comments of your Council on such objections.

(x) The transaction may only proceed if approved by the Minister. He or she may grant or refuse the proposed transaction or direct that such a transaction be concluded by way of public auction or tender.

CHAPTER FOUR

HOW TO PERFORM CERTAIN PLANNING ADMINISTRATIVE TASKS

INTRODUCTION

INTRODUCTION

(i) Every local authority has to perform certain planning administrative tasks as a part of its day to day activities. The activities which must be performed by the planning office include:-

- a. the preparation of advertisements to notify the public of intentions of Council;
- b. the preparation of enforcement orders and defence against appeals;
- c. the calculation and collection of endowment and betterment payments;
- d. the evaluation of building plans and the preparation of building plan reports; and the preparation of certificates of rights.

(ii) This chapter will concentrate on providing you with a method on how to perform these various administrative tasks on a day to day basis.

HOW TO PREPARE ADVERTISEMENTS

ADVERTISEMENTS

- (i) The need to advertise the intentions of certain 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. (See page 24 of the Reference Book).
- (ii) When applying to the local authority or the Government, one or more of four advertising methods may be required.

DIRECTLY WITH AFFECTED PERSONS

- (iii) In order to ensure that persons or bodies most likely to be affected by development proposals are adequately consulted, you may require applicants to contact them directly and to provide proof that consultations has taken place and that an adequate explanation of the proposals has been provided. A letter motivating the developer's intentions, together with a detailed sketch plan (similar to the application to the local authority) should either be hand delivered or mailed by registered post to the persons or bodies concerned. Proof of receipt must be kept and applicants should endeavour to obtain written statements of consent from the immediate neighbours,

NOTICE IN THE PRESS

- (iv) You may (and sometimes have to) require that the applicant publishes a notice of his intentions once a week for two consecutive weeks in two newspapers circulating the area. One of these notices must be in a newspaper in the official language. Local authorities should check the requirements of their own Town Planning Schemes to establish when and how advertising is required.
- (v) Such a notice must clearly specify the intentions of the applicant, identify the properties concerned and invite objections. It must also specify where plans of the intended development may be inspected. The notice shall state that any person having objections against the intended development must lodge such objections, together with the grounds thereof, in writing with the council and the applicant within 14 days of the date of the last appearance of the advertisement. The following is an example of such a notice.

Herewith please take notice that the Council of Matatura intends permanently closing erf no. 210, corner of Kuiseb and Independence Avenue, zoned public open space for the purpose of widening and improving the road crossing of the two streets. Plans of the proposed closure is available at the office of the Town Council at 49, Independence Avenue in room 204. Any party who wishes to object to the proposed *closure* must lodge their objections in writing to the Town Council, P.O. Box 47. Matatura, on or before 17 March 1995

(vi) It is practical to have a large notice board in the town planning office. Plans from applicants can then be fixed to the notice board for public scrutiny. Such a notice board must be easily accessible to the public and should be fixed for example outside the planning office in a corridor or a foyer where people can come and look at it at any time without having to disturb the activities of the office.

NOTICE ON SITE

(vii) You may also require applicants to post a notice on the site concerned for a period of 14 days. Such a notice must be in the official language. It must be fixed and be clearly visible to the public. The notice must be large enough (the letter size may not be smaller than 3 cm.) to be readable from a reasonable distance. An enlarged version of the press notice could be used.

NOTICE IN THE GOVERNMENT GAZETTE

(viii) Notices concerning statutory plans require the publication of a notice in one or two issues of the Official Gazette.

(ix) As the representative of the local authority, you must ensure that Council considers any objections received within the prescribed period. You must also ensure that the objector and the applicant are notified of Council's decision. Such a decision, however must not be implemented until time has been allowed for any appeals which may result. A minimum period of 28 days must be allowed for this.

HOW TO DEAL WITH ENFORCEMENT ORDERS AND APPEALS

ENFORCEMENT ORDERS

- (i) Any local authority has the duty to observe and enforce the provisions of the Town Planning Scheme in force in its area of jurisdiction. If no Scheme is in force, the conditions of title of erven must be observed and enforced. Any person who contravenes the provisions of the Scheme or the conditions of title, or knowingly permits such contraventions is guilty of an offence. It is important to note here that the government is not subject to its own scheme.
- (ii) Should you, as the representative of Council or the responsible official detect any contravention as described above, you must take action to remedy the situation.
- (iii) Let us assume that it has come to your attention that a property owner is illegally using his residential property for the purpose of operating a business. This illegal use causes great discomfort to the immediate neighbours and distracts from the general amenity of the area. (The purpose for which the property may be used can be defined either by the Town Planning Scheme or in the conditions of title of his property).
- (iv) You must now, through an Enforcement Order, attempt to remedy the situation. An Enforcement Order is no more than a letter to the offending party stating the nature of the contravention, ordering the ceasing of illegal use and spelling out the consequences of not reacting to the order. An example of an Enforcement Order is provided in Annexure 1 E. This example may be adapted to suit your own circumstances.

DEFENCE AGAINST APPEALS

- (v) Any person who is aggrieved by a decision of a Council in terms of an application made under the Town Planning Scheme may appeal against the decision to the Minister of Regional and Local Government and Housing, Private Bag 13289, Windhoek. Notice of intention to appeal must be given within 28 days following the decision of Council. This period may be extended by the Minister.
- (vi) Should any person appeal to the Minister against a decision of Council, the MRLGH will inform the local authority and request comment within a set period. You will have to prepare a defence against the appeal. Such a defence will consist basically of a list of reasons why Council took its decision.
- (vii) Let us assume that Mr. Smith applied to Council for the rezoning of his residential property to business. Being situated in a residential area some distance from an existing business area, you recommended to Council that such a rezoning be turned down because of the conflicting nature of the proposed new use and the negative effect it would have had on the neighbours and on the general amenity of the area.
- (viii) Mr. Smith felt aggrieved and appealed to the Minister against the decision of Council. You are called upon to defend against the appeal by Mr. Smith.

(ix) Your defence will consist of the following :

- a. A plan showing the detail of the application, including the location of the erf in relation to other erven and streets, the zoning of the neighbouring properties, erf numbers, a scale and a north point.
- b. Any objections received from neighbours or other person against the proposed rezoning, together with any letters of support.
- c. A letter in which the reasons for the decision by Council are explained. This should include an interpretation of the Town Planning Scheme, existing Council policies related to the issue, the level of public resistance and the anticipated negative effect which the development would have had on the immediate area.

(x) You may be called upon to present your defence in person or in writing to the responsible authority (Minister or his/her delegates).

(xi) For more complicated cases you are allowed to obtain legal council. Assistance may be sought from a professional town planner.

HOW TO ESTIMATE ENDOWMENT AND BETTERMENT

ESTIMATES FOR ENDOWMENT

- (i) An endowment is an amount of money payable to a local authority upon alienation of new erven created through subdivision. The payment of endowments is prescribed by the Townships and Division of Land Ordinance (11 of 1963 as amended) stating that:
- a. endowment is payable to the local authority upon the sale or disposal of any erf created through a subdivision;
 - b. endowment payments are to be used by the local authority to finance and carry out betterment work; and
 - c. the amount of endowment payable is to be calculated as a percentage of the value of such erven at the time of disposal.

(ii) Your Council should request endowment payments (as a condition for approval of a subdivision) to cover development costs to the community arising in small increments from each increase in development density. Where a new township is established in a new area a large endowment of up to 30% may be justified. The endowment could be made 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 endowment is warranted.

(iii) Let us assume that a person approaches you for information on the cost of subdividing land. The payment of endowment must be clearly explained to the applicant. You may be required to estimate the total cost of endowment. The ideal situation would be that your Council has adopted an endowment policy in which certain fixed percentages have been approved for the purpose of calculating endowment payments.

(iv) The following is an example of an endowment policy:

Council Policy for Endowments on Subdivisions as Contained in Council Resolutions 716/11/83, 559/10/91, and 253/06/92

1. That where a subdivision involves no rezoning and no streets or other public places are created, an endowment of 7,5% of the land value (market value as determined by the City Valuer) of the first 10 erven and 1% of the value of additional erven created by the subdivision (but excluding the remainder) shall be payable.
2. That where a subdivision in an existing township involves no rezoning but involves the creation of streets or other public places, the necessity for which streets or public places arises from the subdivision, such streets or public places shall be transferred free of compensation, subdivisional costs and transfer fees to the Municipality and an endowment as provided for in 1. above shall be payable in respect of the balance of the newly created erven.
3. That upon establishment of a new township, streets and other public places reserved for municipal purposes shall be transferred free of any compensation, transfer fees or any other costs whatsoever to the Municipality and an endowment as provided for in 1 above shall be payable in respect of the balance of the erven in the township.
4. That where land is extracted on subdivision for street widening purposes not associated with or arising from the subdivision:

- 4.1. full compensation be payable for any portion but that such compensation be deducted as far as possible from any endowment payable in respect of the subdivision;
 - 4.2. that endowment be payable on the balance of the newly created erven on the basis as provided for in 1 above;
 - 4.3. that the Municipality bear the subdivisional and transfer costs in respect of ground extracted in terms of 4.1 and 4.2.
5. That, in the case where two or more erven are consolidated into one erf and the consolidated erf is again subdivided into the same number or less erven, no endowment is payable.
 6. That no endowment or betterment be levied on land transferred to the local authority.
 7. That Council reserves the right to amend the endowment percentage required for the subdivision of land outside the proclaimed townships.

The provisions of such a policy could be used to estimate the endowment payable by a prospective subdivision applicant.

ESTIMATES FOR BETTERMENT

- (v) A betterment payment is made to the local authority for any increase in the value of land due to a rezoning or the coming into operation of the provisions of a Town Planning Scheme. In terms of section 34 of the Town Planning Ordinance 18 of 1954, betterment may be recovered from a person whose property is increased in value. The amount payable should not exceed seventy-five percent of the amount of the increase in value.
- (vi) Any sum recoverable must be paid immediately or, subject to the amount being secured by a mortgage bond, by installments spread over a period not exceeding thirty years.
- (vii) Any question arising as to the right of a responsible authority to recover or the amount and manner of payment shall, unless the authority and all persons concerned otherwise agree, be determined under the provision of the Arbitration Proclamation, 1926.
- (viii) 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.
- (ix) If approached to estimate the amount of betterment which will result from a rezoning two values must be known. Firstly you must know the increase in the value of the land due to the rezoning. Assistance must be sought from the city valuer to establish this value. Secondly the betterment percentage must be decided upon. This could be as low as 10% or as high as 75% of the increase in value. Your Council may decide on the percentage it wishes to levy, but the decision should be related to the expected future cost which the rezoning may inflict on the local authority.
- (x) Before betterment may be recovered a motivated application must be approved by the Minister in respect of the amount to be levied. Recent approvals of Amendment Schemes indicate that amounts of between 10% and 50% are acceptable to the Minister, depending on the nature of the re-zoning.

HOW TO PREPARE BUILDING PLAN REPORTS

- (i) All local authorities have the duty to ensure that any development and building activity in its area of jurisdiction conforms to certain minimum building standards, to the conditions set in the title deeds of land and to the provisions of the Town Planning Scheme in force in the area (if applicable).
- (ii) The approval of building plans is normally done by the building control section of a local authority. The planning office will, however, normally be called upon to scrutinise the building plans to ensure that title conditions and Scheme provisions are adhered to.
- (iii) Should you receive such a request the following steps can be used to evaluate the plans and prepare a building plan report.

WHERE A TOWN PLANNING SCHEME IS NOT IN FORCE

- (iv) In towns without a Town Planning Scheme the conditions of title in the title deed of the property concerned must be checked to see that the use of the building is in line with the conditions contained in the deed. You must also ensure that the building line restrictions are adhered to and that building will not be situated in a flood area (if you have floodlines in your town).
- (v) Also ensure that the proposed building will not interfere v/ith the reservation of land for future roads or other Council purposes. You must also assess the effect the building will have on storm water runoff. The deviation of natural storm water may be detrimental to other land owners.
- (vi) Once you have evaluated the building plans you must prepare a report stating any conditions which are breached by the plans. Should there be no problems, the report should simply state that the planning office is satisfied that the plans conform to the conditions of the title deed. If relevant, you should also list any other planning requirements which may be detrimental to the building plans.

WHERE A TOWN PLANNING SCHEME IS IN FORCE

- (vii) In towns where a Town Planning Scheme is in force the rights and restrictions of every erf is clearly indicated. Building plans must be evaluated in terms of their compliance with the rights and restrictions attached to the erf.
- (viii) Check the following :
 - a. that the building does not extend across building lines of the erf;
 - b. that the building is designed and will be used only for the purposes the land is zoned;
 - c. that the size of the building does not exceed the coverage allowed in the zoning scheme;
 - d. that the building(s) will not exceed the density specified in the zoning scheme;

- e. that the total floor area of the proposed building will not exceed the bulk restrictions of the erf;
- f. that the building will not be erected in a flood area;
- g. that it will not interfere with the reservation of land for future roads or other Council purposes; and
- h. that the height of the building does not exceed any height limitations which may exist.

(ix) Once you have evaluated the building plan in these terms you should prepare a report on your evaluation specifying which restrictions and rights will be violated by the proposed building (if any).

(x) Remember that the proper scrutiny of such plans is extremely important. Should plans be approved which violate certain rights, you may not be able to do anything to rectify the situation and compensation may be claimed against the Council should the development be stopped or should changes be forced on the owner or developer.

HOW TO PREPARE TOWN PLANNING CERTIFICATES

CERTIFICATES OF RIGHTS

- (i) A Town Planning certificate is a statement of the rights and restrictions attached to an erf.
- (ii) When property transactions take place or when individuals wish to register businesses you may be requested to issue a Town Planning Certificate for a specific erf. Although it may be used for different purposes any Town Planning Certificate should state the following information:
 - a. the use and density zoning of the erf;
 - b. the bulk factor and allowable coverage of the erf;
 - c. whether the property is situated in a flood area or not;
 - d. indicate any servitudes which may be registered against the erf;
 - e. the building line requirements;
 - f. the height restrictions which may be applicable; and
 - g. whether the erf is influenced by any future reservations of land for roads or other Council purposes.
- (iii) Town Planning Certificates are often a pre-condition for the registration of businesses and accuracy is therefore very important. The Ministry of Trade and Industry recently abolished the issuing of trade and business licences. This was done on the assumption that local authorities will adequately control the use of land for business purposes.
- (iv) Such control is usually undertaken by the Health and Town Planning Departments of local authorities. Health Departments should be cautioned not to register any business without the applicants being in the possession of a Town Planning Certificate issued by the planning office.

CHAPTER FIVE

HOW TO PERFORM CERTAIN LOCAL AUTHORITY PLANNING TASKS

INTRODUCTION TO "HOW TO" PERFORM CERTAIN LOCAL AUTHORITY TASKS

- (i) Local authorities, as the owners of land, must often perform planning tasks related to their own land.
- (ii) Depending on the level of training and experience of staff in your planning office, you may sometimes wish to perform certain planning tasks in-house. To be able to do this you need to know the procedures which must be followed and you also need some draughting and basic planning skills. The golden rule, however, is not to attempt a planning task if you are not confident about the in-house ability of your technical staff to successfully perform that task. When in doubt, rather appoint a planning consultant to assist you.
- (iii) The following tasks could be performed successfully by a planning office without a town planner, assuming that you have staff with some basic experience in the field:-
 - a. Establishment of Council policies;
 - b. Land use surveys;
 - c. 'Closure' of public places;
 - d. Applications for subdivision and consolidation of council land;
 - e. Amendment Schemes; and
 - f. Incorporation of townlands.
- (iv) In this chapter you will find guide-lines on "how to" perform these local authority planning tasks.

HOW TO ESTABLISH COUNCIL POLICIES

THE ESTABLISHMENT OF COUNCIL POLICIES

- (i) Development policies are a collection of non-statutory statements of development policy by the Council on specific topics such as informal settlement, subdivisions, sale of municipal land, public open spaces, informal markets etc. Such policies often take the form of a series of pamphlets or statements on Council's policy on various subjects.
- (ii) The purpose of drafting and adopting policies is to establish clear guidelines to assist the local authority in directing and controlling development applications.
- (iii) A Council resolution forms the basis of a policy. Any later application with essentially the same circumstances should be treated in exactly the same manner. In this way a local authority shows itself to be consistent and fair. If a local authority agrees to treat all similar matters in the same way it is creating a policy. It may then delegate consideration of such matters to an official who then handles all such matters according to the policy decision of the Council.
- (iv) Cities, towns and villages are living organisms. They grow, change, decline and even die. It is therefore impossible to make hard rules which must always be followed. It is, however, necessary to create as much order as possible. Given the static nature of statutory and development plans, the formulation and use of policies becomes an indispensable part of town planning and town management.

FORMULATING A POLICY

- (v) The format of a policy may range from a very simple statement explaining the intentions of council regarding a specific issue to a full explanation of **why** the policy has been formulated, **how** it was arrived at and **what** it entails. When formulating a policy it is suggested that a framework be used to structure your thinking. This will help to formulate policy which can be clearly understood by the public.
- (vi) Let us assume that Matatura became a Municipality only a year ago. It has a Town Planning Scheme which was prepared years ago by government planners from Windhoek. You have been appointed as planning officer for Matatura or are responsible for the evaluation of development applications received by Council. Through the course of the year, Council has received six applications from various parties to build more than one house on their residential erf. Four of these applications were made for erven larger than 700 m² while two applications involved erven of 350m². Council approved the applications for the bigger erven but denied the applications for the smaller erven.
- (vii) The applicants whose applications were refused felt unhappy and Council was perceived to be taking unfair decisions. It is this kind of situation which provides the ideal opportunity to formulate a policy on second dwellings on residential erven. The objective of such a policy would be to clear up misunderstandings and to communicate to the public how and under which circumstances Council will approve the construction of second dwellings on residential erven.
- (viii) The elements of such a policy will be as follows:

- a. **The background to the formulation of the policy.** In this section you will explain that Council often receives applications of this nature, and you will indicate what happened with these applications in the past. You will also explain that this policy was prepared in order to communicate Council's views to the public so as to inform the public what they could expect when applying to build more than one dwelling per erf.
- b. **The main reasons why control over the number of dwellings per erf is necessary.** This section should include an explanation of density zoning and will take care to explain what would happen to densities if two dwellings were allowed on very small erven.
- c. **The policy.** This section will elaborate Council's policy, spelling out what may be allowed and under what conditions it would be allowed.

(ix) A full example of how a Council policy statement could be formulated is given in Annexure 1 D.

(x) The policy could be printed as a pamphlet and made available to the public when they make enquiries about second dwellings on residential erven. As more policies are formulated, a series of pamphlets on various policy issues can be published and made available to the public.

CRITERIA TO BE USED IN THE FORMULATION OF POLICIES

(xi) Policies may be formulated on an array of different issues such as second dwellings, building lines, home occupations, informal settlement, service stations, industrial development, residential development, pensions, sidewalks and street furniture, informal sector development, offices on the urban fringe, community centres, suburban shopping centres and heritage buildings.

(xii) The process of formulating policy will be essentially the same for all policy issues. The considerations used to formulate a policy for second dwellings, for example, would be different from the considerations used to formulate a policy on the location of offices on the urban fringe.

(xiii) Since the formulation of a policy will always be based on decisions already made by Council, it will already have identified and applied the considerations relevant to that issue. Those considerations will also guide you on and form the basis of your policy.

(xiv) The formulation of various policies requires various levels of public participation. Although some policies can be formulated without public participation other may require substantial public input to ensure its acceptability. Depending on the type of policy the input from the general public or from special interest groups may be desirable.

(xv) A proposed format for the setting out of Council policies is given in Annexure 1 D.

HOW TO PREPARE LAND USE SURVEYS (1)

LAND USE SURVEYS

- (i) The body of knowledge about the existing situation in any town or village can be divided into two sets of data; physical characteristics of the area and social and economic characteristics of the area.
- (ii) The physical characteristics include cadastral (legal boundaries) information, land use, the use, age and condition of buildings and the height of buildings and coverage.
- (iii) The social and economic characteristics include the size, age composition, incomes, and other characteristics of the population living in the area, the economic infrastructure of the area, public utilities, social services and communications and transport.
- (iv) A land use survey will be necessary whenever you may need accurate data on the various activities taking place in your town. Accurate knowledge on land use is necessary for the preparation of town planning schemes and development plans. Surveys could also be undertaken to assess the extent to which land use may be in conflict with town planning schemes or conditions of title.
- (v) Town planning schemes and development plans prepared by town planners usually include land use and socio-economic surveys. If your local authority has the experience and resources, you could undertake the land-use and socio-economic surveys yourself. This will serve to improve your own knowledge of your town. It is important to state, however, that the survey will be useless unless it is extremely accurate and is fully completed. If you are uncertain of your ability to complete the task accurately in-house, then rather have the work done by a town planning consultant. If you and your staff work closely with the consultant, you may well have the confidence to do the next survey on your own.

SCOPE OF THE TASK

- (vii) A Land Use Survey entails visiting each and every property in your town and recording the following data :
 - a. Erf number or other plot identification;
 - b. Intended land use (land use allocated to the land through conditions of title or the existing Town Planning Scheme);
 - c. Actual land use (the current use of the land e.g. residential, commercial, business, government or institutional);
 - d. The existing buildings on the property, including the nature of the buildings e.g. permanent/temporary, building material used, size and heights of the buildings, purpose for which buildings are used,
 - e. Estimated age of the buildings and an assessment of the conditions of the buildings;

- f. Any special features on the property e.g. fountains, extra-ordinary vegetation and historical buildings:
- g. Ownership – to whom does the property belong to.
- h. Public services - which services are available. Who provides services like water, sewerage, electricity and telecommunications; and
- i. Size of the property in m² or ha whichever is appropriate.
- (vii) It is essential to have a clear statement of objectives for the survey. This should ensure that
 - (a) adequate data is collected and
 - (b) that no time is wasted on the collection of irrelevant data.
- (viii) Land use surveys for the preparation of a Town Planning Scheme must, however, include all of the above data.

HOW TO PREPARE LAND USE SURVEYS (2)

HOW TO PERFORM THE TASK

(i) The process to be followed entails three main phases namely, preparatory desk work, fieldwork and analysis and presentation of results.

Phase 1: Preparatory desk work

(ii) You must obtain a plan of the area to be studied. This plan must clearly identify the area to be surveyed and show all the properties to be surveyed. Each erf or portion of land must be identifiable through an erf number or other identification which may be in use.

(iii) Let us assume that Matatura consists of a total of 300 erven and the land use survey must cover all erven in the town. You have all the necessary plans and information as described above. You now need to design a data sheet which can be used by your fieldworkers to record their findings when they visit each of the 300 erven in Matatura. The field sheet example given in Annexure 1 C is suitable to record the relevant data for each erf.

(iv) There are many ways to record data and you can design your own data sheets.

(v) The next step is to identify and train your fieldworkers and to do the fieldwork. The fieldworkers are your eyes and ears in the field. Reliable and responsible fieldworkers must be found to ensure that the data be captured as accurately as possible.

(vi) When recruiting fieldworkers, make sure that they are motivated and trustworthy. Try to select fieldworkers who are known to you and who possess these qualities. Do not use too many fieldworkers. Where we have 300 erven to be visited, only three fieldworkers are needed to handle 100 erven each in say fourteen days.

(vii) Once recruited, fieldworkers must be trained to understand exactly what they must do and how they must do it. Enough time and effort must be put into this training, including a few tests in the field. They must learn how to gain entry to the property by explaining the purpose of the survey to property owners and occupants.

Phase 2: Fieldwork

(viii) Each fieldworker will be provided with a map indicating the erven that he must survey. Such a map must provide a means of identification of each erf and should enable the fieldworker to find and survey each erf.

(ix) Each erf must be visited and a data sheet must be completed. Under no circumstances should a data sheet be completed based on a distant view across the fence of a property. If they cannot succeed in gaining access, this must be noted on the data sheet with the erf number filled in so that other arrangements can be made.

(x) The quality of the land use survey depends entirely on the quality of the field work. Fieldwork must, therefore, be monitored and tested from time to time by the project leader.

Completed data sheets can be controlled on the original site by the project leader. Revisit the erf to see if data was correctly recorded. Problem areas should be discussed with the fieldworkers and resolved to prevent future occurrences.

Phase 3; Analysis of results

(xi) The results of the survey should be recorded on a map or plan of the area. You can, for example, develop a colour code and colour in the various land uses in different colours. This will provide you with a clear indication of the areas used for various purposes. With another symbol you can mark all the erven which are used for purposes other than the intended use.

(xii) With yet another symbol you can indicate the special natural features of the area.

(xiii) On another map you can illustrate land ownership with annotations identifying privately owned land, municipal land and government land.

(xiv) All social amenities distributed through the area could be mapped to show distribution and types of facilities like schools, hospitals, clubs, swimming baths, recreation areas, cinemas and theatres. Ratios of floor space to site areas and ground coverage could also be mapped to indicate building densities throughout the town.

(xv) Original data sheets should be retained and filed for future reference. These provide vital information on each erf which could be used later when processing development applications for a specific erf.

OUTPUTS OF THE SURVEY

(xvi) The most important output of land use surveys is the body of knowledge gained from the visits to each erf. Although results can be presented in various ways the study must provide data on:

- the current use of land;
- buildings on the land, and the condition, size and use thereof;
- land ownership;
- public services available; and
- special features of each erf.

(xvii) Together with a socio-economic survey, the data from a land use survey can be used to improve overall understanding of the current status of the study area.

HOW TO "CLOSE" PUBLIC PLACES

CLOSURE OF PUBLIC PLACES

(i) It may from time to time be necessary for a local authority to change the use of land allocated for public use like streets and public open space. Clause 50 of the Local Authorities Act 23 of 1992 regulate closures.

APPROVAL PROCEDURE

(ii) Clause 50 of the Local Authorities Act 23 of 1992 authorises local authorities to close streets or public places when necessary. The following procedure is set in the Act:

(iii) After taking a resolution to close a street or public place the local authority must indicate the location and nature of such closure on a plan and advertise its intention to do so following normal advertising procedure. The advertisement must specify the nature of such closure, state where a plan of the intended closure is available and call for objections.

(iv) If any objections are received the local authority must submit the detail of the proposed closure, together with the objections received and the comments of Council, to the Minister (via NAMPAB) who will make a final ruling on the matter.

INFORMATION NEEDED

(v) As the representative of the local authority you must prepare a plan showing the nature of the closure or diversion. Your must include a "location plan" showing the position of the closure in relation to the rest of the town.

EXECUTION OF THE TASK

(vi) Once the plan showing the nature and location of the closure has been prepared, you must draw up a notice which must state the reason for the closure, identify the location of the proposed closure, state where a plan of the proposed closure is available and invite objections.

(vii) This advertisement or notice must be published once a week for two consecutive weeks in the Official Gazette and two newspapers circulating the area. The closing date for objections must be at least 14 days after the last placing of the notice. The following is an example of such a notice:

NOTICE

Herewith please take notice that the Council of Matatura intends permanently closing erf no. 210, corner of Kuiseb and Independence Avenue, zoned public open space for the purpose of widening and improving the road crossing of the two streets. Plans of the proposed closure are available at the office of the Town Council at 49, Independence Avenue in room 204. Any party who wishes to object

to the proposed closure must lodge their objections in writing to the Town Council, P.O. Box 47. Matatura, on or before 17 March 1995.

(viii) A copy of this notice must, within 14 days of publication be served on any owner or occupier of any immovable property situated directly opposite any such public place or street.

(ix) If no objections are received the local authority may issue a "closure certificate" and must notify the Surveyor General of any such closure or diversion of a street or portion of a street. The following is an example of a Certificate issued in respect of the closure of an open space.

CERTIFICATE

CERTIFICATE ACCORDING TO THE STIPULATIONS OF ARTICLE 50(1) (C) OF THE LOCAL AUTHORITIES ACT OF 1992

I, Hafeni Johannes Aktofel, the undersigned, in my capacity as Town Clerk of the Municipality of Matatura, hereby certify that with reference to the closing of

ERF 210, MATATURA, AT THE CORNER OF KUISEB STREET AND INDEPENDENCE AVENUE, MATATURA, AS A PUBLIC OPEN SPACE

all the necessary conditions as stipulated by Article 50(1)(C) of the Local Authorities Act of 1992 (Act 23 of 1992) have been carried out and no objections have been received.

***H.J-AKTOFEL
TOWN CLERK
June 5, 1995***

(x) If any objections are received the detail of the proposed closure together with the objections lodged and the comments of your Council thereon must be submitted to the Minister who will make a ruling on the matter. If the ruling is in favour of the closure the local authority may proceed with the closure and notify the Surveyor General as above.

(xi) Public open space is normally closed with the purpose of changing the use of such land. Subsequent to closure it will be necessary to rezone or change the conditions of title of such land. It may also be necessary to subdivide the land or to consolidate it with other land. Once closed the normal procedures must be followed for rezoning, subdivision or consolidation.

HOW TO APPLY FOR THE SUBDIVISION OR CONSOLIDATION OF MUNICIPAL LAND (1)

SUBDIVISION AND CONSOLIDATION OF LAND

(i) Subdivision is a process which is used to "cut up" a bigger portion of land into smaller pieces, each with its own Title Deed. Consolidation is the legal merging of two or more erven, each with its own Title Deed, into one erf with one Title Deed. The subdivision or consolidation of land may not take place without the recommendation of the local authority council and the approval of the Townships Board. Should your Council wish to subdivide or consolidate any of its properties, it will be subject to the same procedures as any other land owner.

APPROVAL PROCEDURE

(ii) The consolidation of two or more erven into one or the subdivision of an erf into 11 or more new erven requires that application for subdivision or consolidation must be made to your Council in the first instance. Once recommended for approval by the Council for subdivisions into 11 or more new portions or subdivision of farmland into portions of less than 25ha, application for "need and desirability" must be made to the Minister via NAMPAB before a final application may be made to the Townships Board. In the case of all consolidations or in the case where 10 or less new portions are to be created by the subdivision application to NAMPAB is unnecessary and you may apply directly to the Townships Board for approval.

(iii) The Townships Board will evaluate the application in technical town planning terms. Once approved, the Townships Board will issue a subdivision "Certificate" which is the authority you will need to appoint a land surveyor to survey the erven and to draw the erf diagrams for submission to the Surveyor General.

(iv) Once the diagrams are approved by the Surveyor General the new erven may be registered in the Deeds Office.

INFORMATION NEEDED

(v) Before preparing an application, the following information must be obtained :

- a. The density zoning of the erf;
- b. The exact size of the erf obtainable from the Surveyor General's office or from the Title Deed of the property;
- c. A copy of the Title Deed of the property; and
- d. A plan of the erf indicating the location of the erf relative to surrounding erven and streets, the proposed subdivisional line showing the new erf or erven, the areas of the new erven (as well as the remainder), the contours and the outline of existing buildings.

PREPARING THE APPLICATION

(vi) It may be necessary to prepare up to three applications in order to obtain final approval. Applications will have to be made first to your Council and last to the Townships Board. If more than ten new erven result from a subdivision or when farmland is subdivided into portions of less than 25ha, it will also be necessary to submit an intermediate application to NAMPAB.

APPLICATION TO THE LOCAL AUTHORITY COUNCIL

(vii) The first application is to your Council for permission to subdivide the erf. The application must be prepared as follows:-

- a. You should make sure any proposed subdivision will not result in any portion being smaller than required by the zoning e.g. in an area zoned 1:900 no new portion may be smaller than 1:900.
- b. Prepare a location plan showing the location of the erf with reference to the surrounding erven and streets.
- c. Prepare a plan showing the boundary of the erf or erven to be subdivided, the lines defining the new erf or erven, the area of the new erf or erven, the contours of the whole erf and the outline of existing buildings. Make sure that every erf has direct access from the street. If a panhandle is used it should be at least 4 metres in width and always be kept as short as possible.
- d. Write a submission to your Council motivating the subdivision or consolidation in terms of compliance with the density zoning of the area, the general direction of development in the area, the policies of Council, the expected influence of the subdivision on surrounding areas and your technical town planning principles.

(viii) Your motivation should be based in these terms. Supply your Council with the answers they require.

(ix) Your submission will be considered first by the Management Committee who will, in turn, endorse your recommendations and forward the item to Council for decision.

HOW TO APPLY FOR THE SUBDIVISION OR CONSOLIDATION OF MUNICIPAL LAND (2)

(i) The format of an application to Council has already been discussed. This page discusses the format of applications to NAMPAB and the Townships Board.

APPLICATION TO NAMPAB FOR NEED AND DESIRABILITY (SUBDIVISION ONLY)

(ii) Upon recommendation of approval of the proposed subdivision by Council, you may proceed with further applications to the Government. If the subdivision involves the creation of 11 or more new erven or the subdivision of Townlands, application must be made to NAMPAB. If 10 or less new erven are involved application should be made directly to the Townships Board.

(iii) Application to NAMPAB is necessary in order to establish the necessity and desirability of more extensive subdivisions because of the greater impact this will have on surrounding areas.

a. Should the application be in respect of "need and desirability" only, then the application will consist merely of a location plan showing the proposed erf or farm portion, with an indication of adjacent land use, together with a letter requesting approval from NAMPAB. Such a letter will include a motivation for need and desirability. The motivation could, for example, be based on compliance with density zonings, existing densification policies, shortage of serviced land, changes in the external environment and the cost of servicing new land. In short you should do your best to demonstrate why the subdivision is necessary and desirable.

b. Should, however, the application be for the subdivision of Townlands, then a full subdivision application must be submitted. Using the plans and other documents prepared for the application to the local authority council you should compile your application with the following documents:

c. Your letter to NAMPAB.

d. The prescribed application form together with a receipt for payment of the prescribed fees from any revenue office.

e. The fees payable for a subdivision application amounts to N\$20 plus N\$2 for each new portion created through the subdivision. It can be paid at any revenue office under the vote 310217003. The receipt should be marked "ANNEXURE A".

f. The letter of approval by your local authority, "ANNEXURE B".

g. The detailed sketch plan marked "ANNEXURE C".

h. The conditions to be registered against the erven marked "ANNEXURE D".

- i. A Power of Attorney signed by the Town Clerk marked "ANNEXURE-E".
- (iv) Fifteen copies of the application, bound together as above, together with three copies of the Title Deed for the land must be submitted to :

*The Secretary: NAMPAB
Division of Town and Regional Planning
Ministry of Regional and Local Government and Housing
Private Bag 13289
Windhoek*

APPLICATION TO THE TOWNSHIPS BOARD (CONSOLIDATIONS AND SUBDIVISIONS)

- (v) After approval by the local authority and NAMPAB (in the case of the subdivision of land into more than ten erven or townlands), you must apply to the Townships Board for final approval of the subdivision or consolidation.
- (vi) The Townships Board will evaluate the application in technical town planning terms similar to the evaluation carried out by the local authority.
- (vii) The application to Townships Board should be prepared as follows:-
 - a. A letter motivating the application must be prepared. This letter could be very similar to the one used to apply to the local authority.
 - b. The prescribed application form together with a receipt of payment of the prescribed fees from any revenue office. The fees payable for a subdivision application should be ascertained from the Secretary and are usually an amount for the application plus an additional amount for every new portion so created. For consolidations a single fee applies.
It can be paid at any revenue office under the vote 310317003. The form and receipt should be marked "ANNEXURE A".
 - c. The letter of approval from the local authority marked "ANNEXURE B".
 - d. The detailed sketch plan marked "ANNEXURE C".
 - e. The standard conditions to be registered against the erven marked "ANNEXURE D".
 - f. A power of attorney from the registered owner of the land marked "ANNEXURE E".
 - g. A copy of the approval of need and desirability by NAMPAB marked "ANNEXURE F. (if applicable)
- (viii) Twelve copies of the application, bound together as above, together with three copies of the Title Deed of the property, must be submitted to:

*The Secretary : Townships Board
Division of Town and Regional Planning*

Ministry of Regional and Local Government and Housing
Private Bag 13289
Windhoek

(ix) Upon approval of the application Townships Board will issue a "Certificate" which will authorise you to appoint a registered land surveyor to survey the erven, and draw up the erf diagrams for submission to the Surveyor General for approval. Once approved by the Surveyor General the new erven may be registered in the Deeds Office.

HOW TO PREPARE AMENDMENT SCHEMES

AMENDMENT SCHEMES

- (i) The preparation of amendment schemes is only applicable in local authority areas where a Town Planning Scheme is in force. It is a difficult procedure similar to the preparation of a Town Planning Scheme. It is not recommended that you attempt the preparation of an amendment scheme unless there are qualified and experienced staff in your office.
- (ii) The purpose of this section is simply to explain why amendment schemes need to be prepared and what is involved in such a preparation.
- (iii) An amendment scheme is literally the tool used to amend a Town Planning Scheme. It is used to change the provisions of a Town Planning Scheme when it becomes necessary. Remember, a town or city is like a living organism, it grows, changes, declines or it can even die.
- (iv) The need to amend a Town Planning Scheme stems from the need to adapt to changing circumstances. When land needs to be rezoned, densities changed, coverage, bulk and height restrictions needs change this can only be done through the amendment of the Town Planning Scheme. A local authority must ensure that its scheme is kept up to date with any approved amendments.
- (v) Thus, whenever the rights and restrictions attached to a piece of land needs to be emended an amendment scheme must be prepared and submitted to the Minister through NAMPAB for approval.
- (vi) Remember that the Minister is the only person who may amend a Town Planning Scheme and she will normally only do so if the proposed amendment is supported by both the local authority under whose jurisdiction the land is situated and NAMPAB (who is his/her advisory body).
- (vii) Lets assume, for example, that you received an application for the rezoning of an erf in your town and that the application is supported by the Council. Council will recommend the application for approval.
- (viii) To finalise the rezoning the Town Planning Scheme must now be changed to reflect the change in zoning of the particular erf. This must be done through an application to NAMPAB to amend the Town Planning Scheme. The process comprises the following steps:
- If approved, a number for the amendment scheme will be allocated by the Minister.
 - Upon approval, you must publish a notice of such approval in the Government Gazette and a newspaper circulating the area at least once a week in two consecutive weeks and notify where a plan of the proposed amendments can be viewed;
 - Prepare the amendment scheme, clearly stating the motivation for the amendment and revisions to the clauses of the Scheme;
 - Upon receipt of the amendment scheme application, the Minister will refer the scheme to NAMPAB for its consideration. NAMPAB will advertise the receipt of the amendment

scheme, indicating where copies are available for inspection and where objections to the proposed amendment scheme may be lodged.

- After consideration and a hearing of possible objections, NAMPAB will report to the Minister and make whatever recommendations it may deem fit.
- Following approval, the Minister shall give notice of such approval through proclamation in the Official Gazette and the Scheme will come into operation upon publication of such proclamation.

BETTERMENT

The Town Planning Ordinance (18 of 1954) provides for the payment of "betterment" to be levied by local authorities should a rezoning result in an increase in value of the property concerned. Betterment may be set at up to 75% of the increase in value due to the rezoning. Local Authorities normally indicate the percentage of betterment payable as a condition for supporting the rezoning. Upon proclamation of the Amendment Scheme, the local authority must apply to the Minister to levy betterment. (See the "Reference Book" and an earlier page of this volume for a fuller explanation of betterment).

HOW TO INCORPORATE TOWNLANDS INTO A PROCLAIMED TOWNSHIP

INCORPORATION OF TOWNLANDS

- (i) It may, from time to time, be necessary for a local authority to incorporate a portion of its townlands into a proclaimed township. The incorporation of townlands is the process of adding some of its undeveloped farmland held for future development into its existing townships.
- (ii) This could entail the "inclusion" of only a portion of an existing farm in which case such a farm must first be subdivided to obtain the desired portion for incorporation. On the other hand the portion to be incorporated could already exist in which case you can proceed directly with the incorporation.
- (iii) To subdivide townlands to obtain a suitable portion for incorporation, application must be made to the Minister who will refer the application to NAMPAB for consideration. The Minister has the right to, should the application be granted, to impose any conditions the Minister may deem fit against the subdivision or the remainder.
- (iv) Assuming that the portion of townlands to be incorporated exists **as a** cadastral unit, application must then be made to the Townships Board for the incorporation of the portion *o'* townlands into the proclaimed township. Upon recommendation by the Townships Board the Minister will then incorporate the townlands into the township through a notice in the official gazette. The new portion will receive an erf number after incorporation and the general plan of the township must be amended accordingly.
- (v) Thereafter, the new erf may be subdivided or whatever the intentions may be through normal procedures.

CHAPTER SIX

GETTING HELP

GETTING HELP

INTRODUCTION

- (i) This manual cannot and does not aim to make town planners out of local authority officials. Its aim is to help officials understand the planning environment better and to start performing the basic day-to-day planning and administrative tasks assigned to local authorities.
- (ii) Depending on the size and capabilities of your planning office it will be necessary to seek assistance from others to assist you to perform some planning tasks for your local authority.
- (iii) As a general rule it should be stated that whenever you are not confident that your office is capable of performing a planning task, help must be sought.

SOURCES OF HELP

- (iv) There are various sources where you can get help for your planning problems.
- (v) Firstly you can seek help from other local authorities who may employ qualified and experienced staff. The former commercial towns all have experienced staff while Windhoek and Walvis Bay has qualified town planners in their staff. They will be glad to help you with any advice you may need.
- (vi) Secondly you can approach the Division of Town and Regional Planning in the Ministry of Regional and Local Government and housing. The Head of that Division can be contacted in Windhoek at telephone number 224711.
- (vii) Thirdly you can approach any of the private Town and Regional Planning Consulting firms registered with the Namibian Institute for Town and Regional Planning. A complete list of their addresses is provided on page 8 of the Reference Book, Volume 1 of this manual.
- (viii) Never be afraid to ask for assistance from any of the above sources.
- (ix) If you decide to approach a town planning consultant for help, you must remember that consultants make a living out of town planning work. Most will be happy to give advice or information which is readily available, but where the help required involves hours of work or the employment of expensive resources, then such help will not be free!
- (x) If you wish to assign a major planning task to a consultant, then it is important to both parties that you spell out your requirements very clearly. This is called "briefing", and the remainder of this chapter provides information on how to brief consultants clearly and accurately.

HOW TO BRIEF PLANNING CONSULTANTS - GENERAL

INTRODUCTION

(i) Depending on the size and capabilities of your planning office it will be necessary, to a greater or lesser degree, to seek assistance from consultants to perform certain planning tasks for your local authority. Amongst these tasks could be the preparation of:-

- a. Town Planning Schemes
- b. Development Plans
- c. Implementation Plans
- d. Policies and Feasibility Studies
- e. Township Establishment
- f. Development Applications

(ii) This section will provide you with a framework on how to brief consultants to perform the above-mentioned tasks to your specifications and requirements.

(iii) Now that a number of town planning firms have established in Namibia (five firms are now registered with the NITRP), several local authorities have opted to, or are considering, inviting competing submissions from different firms.

(iv) There is always a place for healthy competition, but tendering (especially where this is done mainly on the basis of price) can be detrimental to the standard of work received. Minimum fees have been recommended by NITRP on the basis of historical practice over a number of years and are considered 'air to both client and consultant. All local consulting firms have bound themselves to the Scale of Fees, pledging to inform clients of reasons where lower or higher fees are asked.

(v) In view of the above it is suggested that any competition between planning firms should be based on your evaluation of a written "technical proposal", rather than a financial tender or bid. Such proposals (incorporating methodology, professional teams, resources, inputs, outputs etc.) should be presented in response to a clear, well-structured terms of reference, together with a budget based on the NITRP Scale of Fees. Assistance in drawing up such "terms of reference" could be sought from the town planning offices of Windhoek or Walvis Bay Municipality or from the NITRP.

(vi) Continuity of relationship between planner and client is important, especially to local and regional authorities which do not employ their own planning staff. In these cases, a decision to invite competing submissions should *be* taken very carefully. If your local authority already employs a consultant and is happy with the relationship which exists and the service delivered, there seems no need to change to another consultant. Competitions should, therefore, only be considered for major jobs and/or where the local authority is employing a consultant for the first time or where the local authority is unhappy, for any reason, with the consultant currently employed.

GENERAL METHODOLOGY

Why Is a proper brief important?

A proper brief is important to ensure that both the consultant and you, the client, understand exactly:

- *the nature of the task to be performed;*
- *how it is to be performed; and*
- *what outputs are expected to result from the task.*

(vii) In order to ensure a common understanding of the task to be performed by the consultant a simple structure can be used to brief a consultant for any planning task. You can use the following structure to brief consultants:

Background

- a. Firstly explain the background of the task at hand together with the objective the local authority wishes to achieve through the performance of the task.

Scope of the Task

- b. The scope of the task at hand must be spelled out clearly to the consultant. In this section you must tell the consultant clearly what the nature of the task is, how you expect it to be performed and what outputs you expect to result from the task. Any special requirements of the Council could also be included in this section.

Programming and Cost Estimates

- c. Ask for cost estimates based on the NITRP Scale of Fees, together with a programme for implementation of the project. It is important that you **know** what the project will cost and how long it will take to complete.

(viii) When selecting a consultant look at the staff and other resources at his/her disposal and study the previous experience of the firm. This will help you to evaluate their suitability for the job you have in mind.

HOW TO BRIEF PLANNING CONSULTANTS – SPECIFIC TASKS 1

INTRODUCTION

(i) This section will assist you in a little more detail with some examples to brief consultants for the following tasks:

- Preparation of Town Planning Schemes;
- Preparation of Development Plans;
- Preparation of Implementation Plans;
- Policies and Feasibility Studies;
- Township Establishment; and
- Development Applications.

TOWN PLANNING SCHEMES

The preparation and carrying out of Town Planning Schemes is regulated by law through the Town Planning Ordinance (18 of 1954) as amended. This ordinance spells out exactly how a planner must go about the task of preparing a Town Planning Scheme.

You want to prepare a Town Planning Scheme for your area in order to obtain a comprehensive policy framework on the physical structure of your town/city, the land use zones and the direction of its future development.

See the reference book for more detail.

(ii) It is a relatively simple task to brief a consultant to prepare a Town Planning Scheme. The reason is that the preparation of a town planning Scheme is controlled by the Town Planning Ordinance. The Ordinance clearly spells out:

- the purpose of a Town Planning Scheme
- the contents of a Town Planning Scheme
- the methodology to be used in preparing a Town Planning Scheme.

(iii) Use the general methodology to tell your consultant exactly what you expect from him

(iv) Annexure 1A provides an example of a brief to a consultant to prepare a Town Planning Scheme for the fictional town called Matatura.

DEVELOPMENT PLANS

Local Authorities often prepare development plans to assist them in managing the development of the area under its jurisdiction. Development plans include Guide or

Structure Plans and Policy Plans. These plans differ from a Town Planning Scheme in that it is less regulatory and control oriented and more flexible and future oriented. Development Plans are not statutory documents like a Town Planning Scheme. Development plans are planning management tools. They provide guidelines for future development and establish a framework for rational and consistent decision making. They embody the policies of council and indicate the desired direction of development.

(v) When briefing a consultant to prepare a Guide Plan or Structure Plan or a Policy Plan, you must first clarify:-

- why you want the plan prepared (what is its purpose);
- what area must be covered;
- which issues must it address; and
- which special circumstances and requirements must be considered or met in the preparation process.

(vi) Once you have clarified these issues, use the general methodology to explain your requirements to your consultant. Make sure that the consultant understands all your requirements using the "Scope of the task" section to specify clearly what you expect including any special requirements you may have.

(vii) An example of a typical brief to a consultant for the preparation of a Structure Plans is given in Annexure 1 B.

IMPLEMENTATION PLANS - GENERAL

Implementation plans are a collection of plans which put planning into action e.g. township layouts, site plans, subdivision plans, building plans and subject plans. The purpose of implementation plans is to execute town planning procedures within the guidelines of the policy plans and development policies of Council. Council may, for example, wish to establish a new township in their local authority area. Within the guidelines of the structure plan and other council policies a township layout will be prepared containing such cadastral and other information necessary to put the proposal into practice. Such a layout plan would be the implementation plan for establishing the new township.

LAYOUT PLANS

(viii) A layout plan for a new township is an implementation plan. Such a layout needs to be prepared by qualified town planners. Provision should be made for a balanced layout, the appropriateness and adequacy of which will be controlled by the local authority and by the Townships Board. The layout will interpret the intentions of Council and the needs of the community into a plan indicating, inter alia, residential erven, streets, community facilities, business erven and institutional erven. It will set the physical structure and land use zones of the new township.

(ix) Various issues need to be considered by the consultant when he prepares a layout for the new township. This could include the definition of the site, site evaluation, policy evaluation and evaluation of requisite infrastructural services.

(x) It is important that you provide the consultant with a full background of information in the brief giving him a clear idea of Councils vision and physical planning requirements. For example, for the planning of a residential layout for an ultra-low income township, the layout may provide not only for residential erven, but also for a small business and light industrial area.

(xi) Where important, the consultant should be specifically instructed to, for example:-

- a. ensure that erven are as flat as possible to contain future building costs.
- b. provide specified erf sizes and densities for the envisaged target group;
- c. determine the catchment areas and land use requirements for social facilities such as clinics, schools and old age homes;
- d. design the road system and road reserves to be able to accommodate services and future traffic expected in the area; and
- e. ensure pedestrian friendliness in the design taking the needs of the community into consideration.

(xi) You may also require the consultant to, before proceeding to a final layout, provide you with alternative designs. These may be sketch layouts, but must be fully motivated for Council to be able to choose between the alternatives-

HOW TO BRIEF PLANNING CONSULTANTS – SPECIFIC TASKS 2

POLICY AND FEASIBILITY STUDIES

Development policies are a collection of non-statutory statements on specific topics such as informal settlement, subdivisions, sale of municipal land, informal markets, public open spaces, etc. Such policies are the management tools of a Council. They ensure fair and consistent decision making. Council formulates and formally adopts such policies to assist them to make consistent decisions on similar matters in future.

Feasibility studies are investigations into the "workability" of ideas. They provide for systematic testing and evaluation of ideas to make sure that they are feasible in practice before being considered for implementation.

- (i) Your Council will frequently be confronted with applications for development for which no guidelines, policy or precedent exists. The ad-hoc decisions which result may solicit allegations of favouritism or discrimination from applicants whose proposals were rejected. When this happens, your Council may feel that something must be done to prevent a similar situation from recurring.
- (ii) One way of doing so is to formulate a policy on a number of common topics and to inform the people as to the reasons for having such a policy and what type of development would be allowable under normal circumstances.

Nature of the Problem

- (iii) When briefing a consultant to assist in the formulation of policy on any matter, it is important that you provide the full background. You must explain to him why the issue poses a problem to Council and indicate the type of applications which have been received.

Solution to the Problem

- (iv) Explain to the consultant that the formulation of a policy is seen as a method to inform the public of Council's views on the issue. The format of the policy statement must be such that ordinary residents will understand why the policy is necessary and what they can expect from Council when submitting a related application.
- (v) State your requirements on the extent to which the consultant must investigate the nature of the problem, consult with Council and other interest groups and explain to Council the planning principles underlying the proposed policy.

Other Issues

- (vi) Should there be no Town Planning Scheme in force in your town the formulation of town planning policies on a wide range of issues become even more important. In the absence of a

scheme, you might wish to prepare a zoning policy plan to guide Council on a wide range of zoning and subdivision issues.

TOWNSHIP ESTABLISHMENT

A new township is usually planned by the property owner or his consultant. It can be a private person or company but usually it is the local authority. The planning of a new township 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, guide-lines and policies. In the case of a new township extension to 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 must be compatible with existing land use and desirable for the future development of the town.

(vii) Let us assume that your Council identified the need for a new residential township. A consultant should be appointed to establish the township. The end product needed by Council is a number of erven which may be sold to the public for the construction of houses. Getting to the end product is, however, a long process. The process of getting to this point has been explained in the Reference Book. This process must be kept in mind when you brief the consultant and you must remember that land surveyors, engineers and conveyancers are also involved.

(viii) Use the general methodology as explained before, to explain to the consultant exactly what you want. An important element of such a brief will be your requirements for the layout.

(ix) The consultant must be provided with guidelines on how to prepare the layout. If you have any special requirements, these must be communicated to the consultant. You should tell him, for example, for which target group the township will be developed. If the township is to cater for the very low income segment, you might specify a maximum erf size, level of services, provision to be made for informal markets, schools and other community facilities and minimum building values to be included in the conditions of title. **TELL THE CONSULTANT CLEARLY WHAT YOU WANT-!!**

(x) Also see the pages on implementation plans for more detail.

GENERAL

(xi) In briefing the consultant to perform any of the above-mentioned applications you must follow the normal briefing structure. You should specify the task and the scope, define the land involved, provide Council Policies which may have an influence on the application and define the outputs expected from the task.

Scope of the Task

(xii) It is important that you clearly explain the task and clearly indicate those stages for which he will be responsible. For example, you may instruct the consultant to subdivide an erf into three

new erven with a minimum size of 900m³, submit an application to the local authority council and, upon approval, to the Townships Board.

Define the Land

(xiii) You must provide the consultant with a plan clearly indicating the erf involved in the application. In the case **of** the subdivision example, the motivation for the application is important to both Council and to the Township Board. You must also supply him with a power of attorney authorising him to act on behalf of Council in the matter concerned.

Council Policies to be provided

(xiv) Should any relevant Council policies exist, these must be provided to the consultant.

Council's requirements on output

(xv) Tell the consultant what you expect the output of the task to be. For example, you may require an approved subdivision certificate and plan which authorises the land surveyor to survey the subdivision or, in the case of a rezoning, an approved amendment scheme. You may also require the consultant to report progress on the task at least once a month.

Cost Estimate and Programme

(xvi) Always remember to ask the consultant to provide you with a cost estimate or budget and a programme for the completion of the task.

ACKNOWLEDGEMENT

The Association of Local Authorities in Namibia (A.L.A.N.) wishes to extend its appreciation to the following Institutions and individuals for the part they played in making the production of the manual possible :-

The Centre for Research-Information-Action in Africa (CRIA) and Mr. P. Renaud in particular for initiating the project and subsequently procuring the funding for the preparation of the manuals.

The European Commission from whom the majority of the funds were sourced.

The Council of the Namibian Institute of Town and Regional Planners whose members monitored the preparation of the manuals and personally assisted the consultants in the preparation of the documents.

The Municipality of Windhoek who consented to the use of material prepared by the Municipality.

The Local Authorities and their delegates who attended the Grootfontein workshop and contributed to the final structuring of the manuals.

Mr. B. Watson whose comments and suggestions on the manual were of great assistance in structuring the manual in an appropriate and user friendly format. His expert knowledge of town planning practice in local authorities was an invaluable asset.

Members of the NITRP whose comments contributed much to the technical accuracy of the manuals. Their practical knowledge of planning in Namibia helped to identify the many potential pitfalls which local authorities encounter in performing their day to day planning tasks.

A.L.A.N.'s Secretary, Mrs. van Rooyen for her diligent and competent assistance whenever it was requested.

ANNEXURES

1A Brief Example - Town Planning Scheme

1B Brief Example - Structure Plan

1C Example of Land Use Survey Data Sheet

1D Example of Council Policy Format

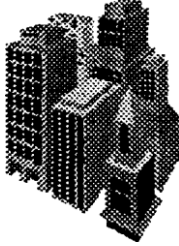
1E Example of an Enforcement Order

1F Example of a Sketch Plan for a Consent Application

ANNEXURE 1A

BRIEF EXAMPLE – TOWN PLANNING SCHEME

MATATURA TOWN COUNCIL



P.O. Box 546666 Tel: 674325 Fax: 674326
MATATURA NAMIBIA
Date : 6/1/95

ABC Town Planners
P.O. Box 11117
Windhoek

Dear Sir

PREPARATION OF A TOWN PLANNING SCHEME FOR THE TOWN OF MATATURA

The Town Council of MATATURA recently resolved to have a Town Planning Scheme prepared for the town. The Council wishes to appoint your firm to undertake this task on our behalf.

The following information is provided to guide you in your preparation for the task.

A. *General*

The Municipality of Matatura was established in 1993 and became responsible for the management of the area previously planned and managed from Windhoek. In order to promote and guide the development of the area under its jurisdiction, the Council resolved to have a Town Planning Scheme prepared as a basic policy document with the objectives of:

- improving its ability to take informed decisions;
- improving the consistence and fairness of decisions;
- providing a framework for formulating town planning policies;
- providing a framework to guide development related decisions; and
- generally direct land use to achieve the promotion of the optimum health and welfare of the inhabitants of the area.

A precondition to the achievement of the above objectives is extensive community participation in the preparation of the scheme. This will promote community support for the scheme and enhance the ability of Council to facilitate the peaceful coexistence of the inhabitants of the area. Provision for this element must be made in all work programmes.

B. Definition of the Scheme Area

The area to be covered by the scheme shall include the existing built up area of Matatura together with areas for future development as more specifically indicated on Map No. 1 attached to this brief as Annexure.

C. Scope of the Task

The task of preparing a Town Planning Scheme shall be performed in accordance with the provisions of the Town Planning Ordinance 18 of 1954 as amended. More specifically the consultant must:

- Obtain approval from the MRLGH to prepare a scheme including the prescribed notices of intent to prepare a scheme.
- Undertake a survey of the scheme area dealing with all matters prescribed in the first Schedule of Ordinance 18 of 1954 as amended.
- Filter the results of the survey through a process of community participation and obtain the views and ideas of the community.
- Prepare and submit a draft scheme to the local authority for approval.
- After amendments and approval, submit the scheme to the MRLGH for approval.
- Assist in the handling of objections against the scheme and represent the Local Authority in such hearings.
- Generally advise Council or its officials on the carrying into effect of the scheme.

D. Existing policy to be considered when drafting the Scheme

Matatura Town Council sees itself as answerable to the people living and working in its area of jurisdiction and the Town Planning Scheme must reflect this principle. Zoning policies, building values and standards, employment creation through development etc. must be flexible enough to accommodate the particular need and character of Matatura town and its inhabitants.

Although only few Town Planning policies exist, the consultant must familiarise himself with existing policies of Council. This can be done through consultation with officials and councillors.

ACCEPTANCE

Please confirm your acceptance of this appointment and submit the following as soon as possible :

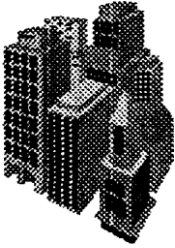
- a) The methodology to be used in the preparation of the scheme.
- b) A programme indicating:
 - starting date
 - Date of completion of the survey (First Schedule)
 - Community Workshop to guide preparation of draft scheme
 - Date of completion of draft scheme
 - Lodging of scheme with the MRLGH for approval
 - Estimated date of commencement of the scheme.
- c) A cost estimate for the preparation of the scheme. This must be based on the Scale of Fees as recommended by the NITRP; and
- d) A short resume of the resources, capabilities and experience of your firm.

I look forward to hearing from you in due course.

TOWN CLERK

ANNEXURE 1B

BRIEF EXAMPLE – STRUCTURE PLAN



P.O. Box 546666 Tel: 674325 Fax: 674326
MATATURA NAMIBIA
Date : 6/1/95

ABC Town Planners
P.O. Box 11117
Windhoek

Dear Sir,

Preparation of a Structure Plan for the town of Matatura

The Town Council of Matatura recently decided to prepare a structure plan for the town. Following our initial discussion it has now been decided to appoint your firm, ABC Town Planners, to prepare a structure plan for the area as indicated on the attached map. The Council wishes to prepare such a plan to assist it in making consistent and rational decisions. It must be prepared and presented so as to be accessible and understandable to the general public. It must enable both Council and the public to anticipate the desirability of development and land use related plans and proposals. The following terms of reference must guide the preparation of the plan.

A. The Existing Situation

The consultant must do a proper survey of the existing situation in Matatura. The survey must deal with the following:

- historical analysis of the growth of the local authority area with emphasis on population, traffic, built-up areas, commercial areas and industrial areas.
- the physical characteristics and constraints with emphasis on topography, geology, rainfall, temperature and winds
- Land use maps for the area and the area and percentages of the various uses.
- Land ownership maps illustrating private, municipal, communal, state and other land with areas and percentages.
- Population size and densities with particular attention to population growth, population densities/area and other population factors needed to explain the population characteristics of Matatura.

- Communications including the growth of the road pattern, increase in traffic volumes and densities, parking and the analysis of the street system and its elements.
- Public services like water supply, electricity, telecommunications, sewerage treatment and systems and refuse removal and treatment.
- The nature and adequacy of social facilities like schools, hospitals, clubs, recreation and cultural facilities.
- Characteristics of existing buildings by plot ratio, floor space, bulk, site areas and coverage.
- Special historic landmarks and buildings.
- Age and conditions of all buildings.
- Commercial and industrial activity by nature, location, employment, transport, client base and growth.
- Income and expenditure patterns.

B. Analysis

Once completed the available information must be analysed and presented in a format appropriate to understand the existing situation and a/so provide trends and pointers of what could be expected in future.

C. Public Comment and Participation of Interest Groups

The Consultant must set up and run a workshop during which he must explain the findings of the survey and seek the views and opinions of the public.

Each relevant group must be given the opportunity to contribute to the body of knowledge and views from which the structure plan will be prepared.

D. Preparation of the Plan

Using the information gained through the survey and public participation the consultant must formulate a structure plan.

The plan must contain information on, inter alia, the following:-

- The physiographic factors of the area;
- Past and present land use;
- Infrastructure supply;
- Population data;
- Employment patterns;
- Economic considerations; and
- Projections and future assessments.

E. Formulation of Policies

The consultant must make proposals for a general development strategy , together with specific development programmes for the town. The Council wishes to establish a policy on the development of the central business area and the consultant must develop policy guidelines which can be used to guide developmental this area.

F. Special Requirements

The Consultant must consider the future need for and type of residential development in Matatura. Policy guidelines on the size of erven and the levels of municipal services to be provided in the various areas must be developed.

Before commencing with the task, the consultant must submit a project plan and programme together with a detailed project budget to council for approval. The reason for this requirement is to ensure that both Council and the consultant understand the scope and content of the task and the outputs to be expected.

Please provide us with the above information within 21 days of the date of this letter. You may contact our Mr. Guirab should you have any additional queries.

Yours faithfully

TOWN CLERK

ANNEXURE 1C

BRIEF EXAMPLE OF A LAND USE SURVEY DATA SHEET

MATATURA LAND USE SURVEY: DATA SHEET (Page 1)

Notes to fieldworkers:

1. This sheet must be thoroughly completed for each of the fifty erven allocated to you. Each erf must be visited physically.
2. Explain to the owners and inhabitants why you are there and what you are doing. Ask their permission before you start. Should permission be refused, report such refusal to the project leader.
3. When completing the data sheet follow the following sequence:
 - Write in your name and the date of the visit.
 - Write in the erf no. of the property.
 - Calculate the approximate size of the property and record it.
 - Observe the main purpose the land is used for and record it.
 - Draw the buildings on the property in their estimated relative positions and number the buildings.
 - For each building, give a brief description of the building and record the estimated size, condition and use.
 - If there are any special features on the site, indicate the position thereof on the site plan and describe each in the space provided.

MATATURA LAND USE SURVEY: DATA SHEET (Page 2)					
Name of field worker:					
Date of visit:					
1. Erf Address					
Suburb		Street			
Erf No.		No.			
2. Designated use					
Use Zone		Density			
Bulk		Other			
3. Actual Use					
SITE PLAN					
Building No.	Description	Size	Condition	Use	Note
Services					
		Provider	Type		
Sewerage					
Water					
Electricity					
Telecommunications					
Special features					
Notes					

ANNEXURE 1D

EXAMPLE SHOWING A POSSIBLE FORMAT FOR COUNCIL POLICY

POLICY OF THE TOWN COUNCIL OF MATATURA ON THE CONSTRUCTION OF SECOND DWELLINGS ON RESIDENTIAL ERVEN

1. Background

Council often receives applications from the public to construct second dwellings on residential erven. To date Council considered these applications each on its own merit. Some applications were approved while others were refused. In order to inform the public on Council's views regarding this practice and to provide the public with a framework from which they can judge what Council's decision on their application might be, this policy was established. It will guide the public in applying and Council in deciding on such applications and will serve to ensure that Council takes fair and consistent decisions.

2. Why is Control Needed?

Various density zonings exist throughout Matatura. This varies from one dwelling per 700m² to one dwelling per 200m². Allowing a person to construct a second dwelling will effectively double the density involved. This is acceptable to Council on erven of more than 700m² in size but not for erven smaller than 700m². Council has to control densities so as not to negatively affect the general amenity of the area and the neighbouring properties.

Council is also concerned about the size of the dwellings to be constructed on one erf. If it covers most of the erf, little open space is allowed for and should a few neighbouring erven be used for second dwellings, it can lead to unpleasant and unhealthy conditions not conducive to the well being of the inhabitants.

Where densification (increase in density) takes place more people and more traffic can be expected. This must also be considered and controlled by Council.

Because of the very high cost of servicing new land and the general scarcity of water, Council previously adopted a densification policy. Densification provides new housing opportunities and is generally expected to reduce per capita water consumption because less land is available for gardening.

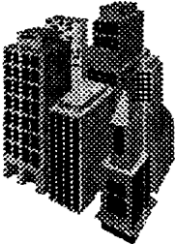
3. The policy

In order to enable Council to take fair and consistent decisions and to assist the public in applying to Council, the following policy has been adopted by Council at its meeting held on 12/12/94 (Resolution No 193/12/94).

- That the construction of two dwelling houses would be permitted on all residential erven which is more than 700m² in size,
- That the combined floor area of all buildings on the erf may not exceed 50% of the erf size.
- That no additional restrictions be placed on the size of dwelling houses other than the above 50% limit.
- That provision for at least three on site parking bays must be made where a second dwelling is constructed.
- That the decision to approve second dwellings be delegated to the Engineer who will ensure that the above conditions be met before building plans are approved.

ANNEXURE 1E

EXAMPLE OF AN ENFORCEMENT ORDER



MATATURA TOWN COUNCIL

P.O. Box 546666

Tel: 674325

Fax: 674326

MATATURA

NAMIBIA

Ref-. 231/1

Date : 28W95

Mr. P. Kanguatjivi

P.O. Box 11068

Matatura

Dear Sir

CONTRAVENTION OF THE PROVISION OF THE TOWN PLANNING SCHEME: ERF 231

It has come to my attention that you currently operate a business from your property, Erf no. 231, Matatura. Your property is zoned residential and may only be used for residential purposes. Business activities are an illegal or prohibited use on your property and complaints have been received from some neighbours. The general amenity of the area is negatively affected by your actions.

You are hereby requested to cease your business activity on erf 231 within fourteen days from the date of this letter. Should your activities continue after that date you shall be guilty of an offence and liable on conviction to a fine not exceeding N\$500 or, in default of payment, to imprisonment for a period not exceeding six months. In the case of a continuing offence an additional fine of not exceeding N\$25 for every day upon which the contravention continued may be imposed.

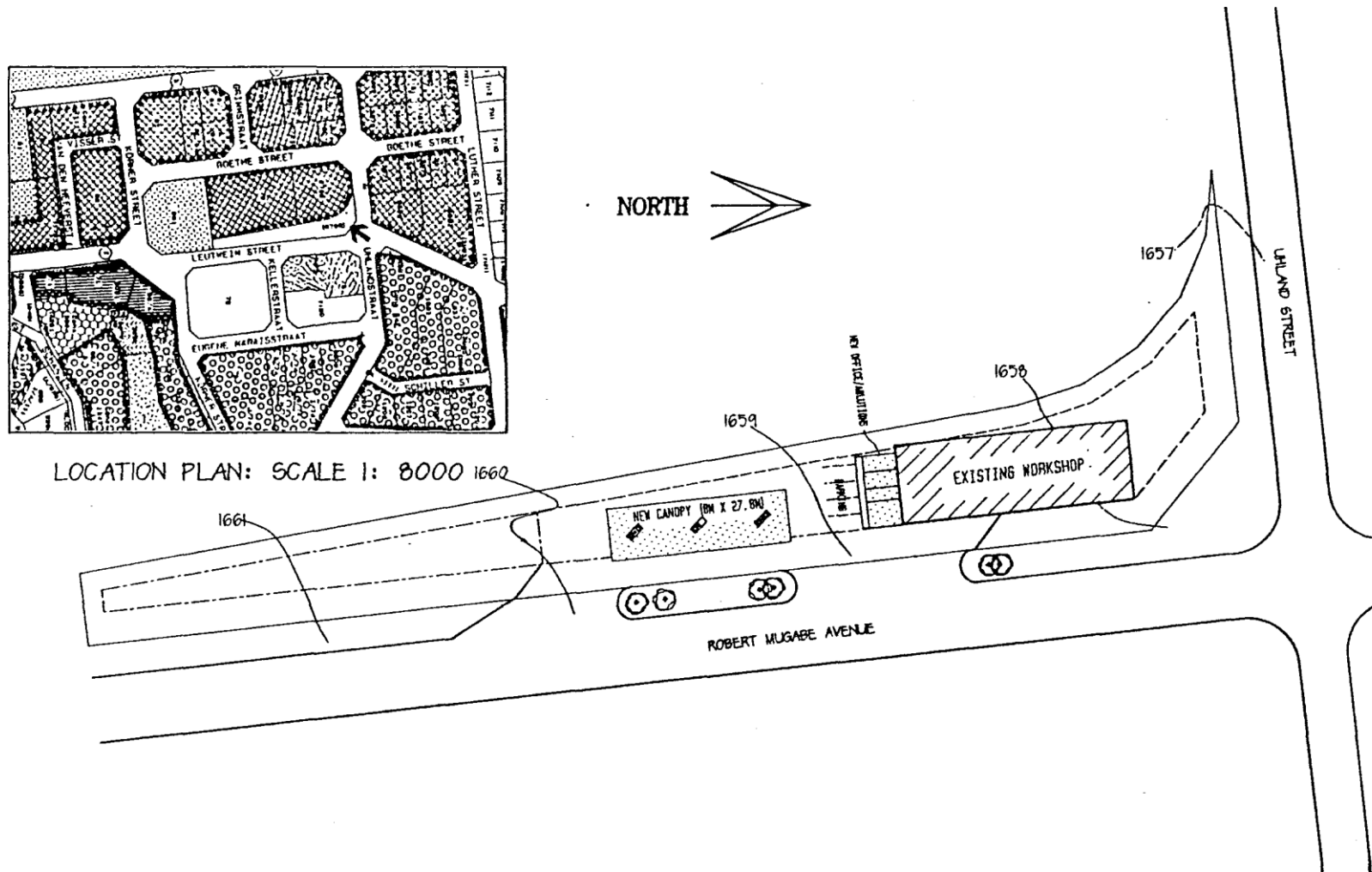
Other areas zoned to accommodate your business activity are available and *you* are most welcome to come and discuss your needs with our planning office. I trust that this matter will be resolved amicably and that no further steps need to be taken against you.

Yours faithfully

TOWN CLERK: MATATURA

ANNEXURE 1F

EXAMPLE OF A SKETCH PLAN SUPPORTING A CONSENT APPLICATION



APPLICATION FOR CONSENT TO USE A PORTION OF ERF 6708 FOR A FILLING STATION

SKETCH PLAN LAYOUT FOR PROPOSED NEW FILLING STATION ERF 6708 WINDHOEK