



THE PROVINCE OF MPUMALANGA
DIE PROVINSIE MPUMALANGA

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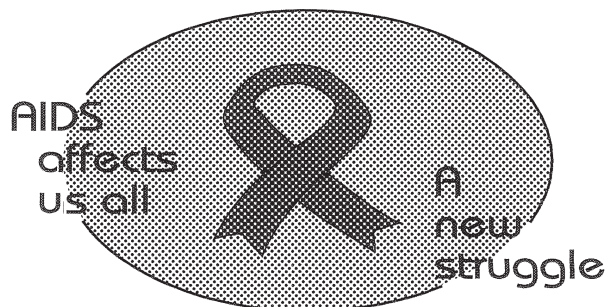
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LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS**LOCAL AUTHORITY NOTICE 110 OF 2021****CITY OF MBOMBELA LAND USE SCHEME, 2019 – AMENDMENT SCHEME AM/21/00071**

The City of Mbombela Local hereby declares in terms of Section 58 of the Mbombela By-law on Spatial Planning and Land Use Management, 2019, that it has approved an amendment of the Mbombela Land Use Scheme, 2019, by the township establishment of Orchard View Extension 5.

Copies of the amendment scheme are filed with the Municipal Manager, Civic Centre, Nel Street, Mbombela, and are open for inspection at all reasonable times. This amendment scheme shall come into operation on date of publication hereof.

W KHUMALO
MUNICIPAL MANAGER

City of Mbombela
P O Box 45
NELSPRUIT
1200

DECLARATION AS AN APPROVED TOWNSHIP

The City of Mbombela Local Municipality hereby declares in terms of Section 103 (1) of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), and Section 56 of The City of Mbombela Spatial Planning and Land Use Management By-Law, 2019, Orchard View Extension 5 to be an approved township subject to the conditions set out in the schedule hereto.

SCHEDULE

STATEMENT OF THE CONDITIONS UNDER WHICH THE APPLICATION MADE BY MABALENGWE DEVELOPMENT COMPANY (PTY) LTD (HEREINAFTER REFERRED TO AS THE APPLICANT) UNDER THE PROVISIONS OF CHAPTER III (PART C) OF THE TOWN-PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986), FOR PERMISSION TO ESTABLISH A TOWNSHIP ON PORTION 12 OF THE FARM ORCHARD VIEW 1009, PROVINCE OF MPUMALANGA, HAS BEEN GRANTED

1. CONDITIONS OF ESTABLISHMENT**1.1 NAME**

The name of the township shall be Orchard View Extension 5.

1.2 DESIGN

The township shall consist of erven and streets as indicated on General Plan S.G. No. 81/2021.

1.3 ACCESS

Access to the township shall be from Du Preez Street, Midnight Street and Shamouti Street, as indicated on the General Plan.

1.4 RECEIPT AND DISPOSAL OF STORMWATER

1.4.1 The township owner shall arrange the stormwater drainage of the township in such a way as to fit in with all relevant roads and shall receive and dispose of the stormwater running off or being diverted from the road.

1.4.1.1 The township owner shall submit for City of Mbombela's approval, a detailed scheme complete with plans, sections and specifications prepared by a civil engineer who is a member of SAACE for the collection and disposal of stormwater throughout the township by means of properly constructed works and for the construction, tarmacadamising, kerbing channelling of the streets therein together with the provisions of retaining walls as may be considered necessary by the City of Mbombela.

1.4.1.2 Furthermore, the scheme shall indicate the route and gradient by which each erf gains access to the street on which it abuts.

1.4.1.3 The township owner shall carry out the approved scheme at its own expense on behalf of and to the satisfaction of the City of Mbombela under the supervision of a civil engineer who is a member of SAACE.

1.4.1.4 The township owner shall be responsible for the maintenance of the streets to the satisfaction of City of Mbombela until the streets have been constructed as set out in subclause 1.4.1.1.

1.4.1.5 If the township owner fails to comply with the provisions of paragraphs 1.4.1.1, 1.4.1.2 and 1.4.1.3 hereof, City of Mbombela shall be entitled to execute the work at the cost of the township owner.

1.5 REMOVAL AND/OR REPLACEMENT OF MUNICIPAL SERVICES

Should it become necessary to remove, alter or replace any municipal services as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

1.6 ERECTION OF FENCE OR OTHER PHYSICAL BARRIER

The township owner shall at his own expense erect a fence or other physical barrier to the satisfaction of the City of Mbombela, as and when required by him to do so, and the township owner shall maintain such fence or physical barrier in a good state of repair until such time as this responsibility is taken over by the City of Mbombela.

1.7 REMOVAL OF LITTER

The township owner shall at his own expense have all litter within the township area removed to the satisfaction of the City of Mbombela.

1.8 REMOVAL AND/OR REPLACEMENT OF ESKOM SERVICES

Should it become necessary to remove, alter, or replace any existing services of Eskom as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

1.9 REMOVAL AND/OR REPLACEMENT OF TELKOM SERVICES

Should it become necessary to remove, alter, or replace any existing services of Telkom as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

1.10 RESPONSIBILITIES IN RESPECT OF ESSENTIAL SERVICES

The township owner shall provide all essential services in terms of the provisions of sections 116 to 121 of Ordinance 15 of 1986 prior to the registration of any stands in the township.

1.11 PROTECTION OF STAND PEGS

The township owner shall comply with the requirements with regard to the protection of boundary pegs as determined by the City of Mbombela in this regard, when required to do so by the City of Mbombela.

1.12 DEMOLITION OF BUILDINGS AND STRUCTURES

The township owner must at his own costs demolish all existing buildings and structures that are located within building restriction areas, side spaces of common boundaries to the satisfaction of City of Mbombela.

1.13 SIGNAGE

The applicant shall at his own expense erect the required signs to the satisfaction of the City of Mbombela and the township owner shall maintain such signage in a good state of repair, until such time as his responsibility is taken over by the City of Mbombela.

1.14 DISPOSAL OF EXISTING CONDITIONS OF TITLE

The following conditions contained in Title Deed Number T12824-2016, pertaining to Portion 12 of the farm, Orchard View 1009 JU will be disposed of and not carried forward into the title deeds of the erven in the township:

A. The said farm, whereof the remaining extent, measuring 2859,4755 Hectares, held hereunder, is a portion, is entitled:

(a) To a servitude of aqueduct over Lot 149 and Nelspruit No 222, Section D of Kaap Block, Barberton, as will more fully appear from Notarial Deed No 97/19258, registered on the 21st February, 1925.

By virtue of Notarial Deed of Variation No 1179/70 S dated 11th October 1967 the aforesaid servitude has been cancelled only in so far as that portion indicated by the line A middle of irrigation canal B on servitude diagram SG No A 6811/56 is concerned, the said portion being no longer in use in consequence of the deviation referred to in the said Notarial Deed.

(b) To a perpetual servitude of aqueduct, Storage and Abutment over the farm STONEHENGE No 220, Barberton. Subject to certain conditions as will more fully appear from Deed of Servitude No 181/25 S registered on the 27th March 1925.

- (c) To a perpetual servitude of aqueduct over Portion A of the farm BESTERSLAST No 185, district Barberton. Subject to certain conditions as will more fully appear from Deed of Servitude No 182/25 s registered on the 27th March 1925.
- (d) To a perpetual servitude of Aqueduct, over the remaining extent of the said farm BESTERSLAST subject to certain conditions as will more fully appear from Deed of Servitude No 183/25 S, registered on the 27th March 1925.
- (e) That the State-President may at any time, and in any such manner and under such conditions as he may think fit,
- i Construct or authorise the constructions of dams or reservoirs upon the said land;
 - ii Construct or authorise the constructions upon, through or under the said land of water furrows, pipe lines, canals and drains, and conduct or authorise the conducting of water therefrom or there over for the benefit of the public or of any owner or occupier of neighbouring land;
 - iii Construct and work or authorise the constructions and working subject to the provisions of any law, of railways, roads, telegraph and telephone lines on or over the said land; And take material from the said land for the purpose of any such works. Compensation shall be paid to the owner for any loss or damage sustained by it by reason of the exercise of the powers aforesaid, provided, however, that there shall be set off against the loss or damage caused to the owner the benefit instant or prospective which he derives or is likely to derive by reason of the construction of the works. In the event of compensation being payable the amount thereof shall be mutually agreed upon, or failing such agreement, shall be determined by arbitration.
- B By virtue of Notarial Deed of Variation No 1179/70S dated 11th October 1967 the property hereby transferred is entitled to a perpetual Servitude of Aqueduct along the deviated route of the canal, indicated by the figure A E F B on Servitude Diagram A6812/56, for the purpose of diverting water over the Remaining Extent of Portion 2 of the farm Nelspruit no 312, Registration Division J T measuring 341,7370 Hectares held by virtue of Deed of Grant 64/25 dated 16th March 1925, and registered 30th March 1925.
- C SUBJECT to an order of the Water Court for the Water Court District No 19 registered under K 296/52S dated 10th February 1950.
- A The said farm, whereof the remaining extent, measuring 2859,4755 Hectares, held hereunder, is a portion, is entitled:
- (a) To a servitude of aqueduct over Lot 149 and Nelspruit No 222, Section D of Kaap Block, Barberton, as will more fully appear from Notarial Deed No 97/19258, registered on the 21st February 1925.
- By virtue of Notarial Deed of Variation No 1179/70S the servitude referred to above has been cancelled only in so far as that portion indicated by the line A middle of irrigation canal B on servitude diagram S G A 681 1/56 is concerned, the said portion being no longer in use in consequence of the deviation referred to in the said Notarial Deed of Variation.
- (b) To a perpetual Servitude of aqueduct, storage and abutment over the farm STONEHENGE No 220, Barberton. Subject to certain conditions as will more fully appear from Deed of Servitude No 181/25S, registered on the 27th March 1925.
- (c) To a perpetual Servitude of Aqueduct over Portion A of the farm Besterslast No 185, district Barberton, subject to certain conditions as will more fully appear from Deed of Servitude No 182/25S, registered on the 27th March 1925.
- (d) To a perpetual servitude of aqueduct over the remaining extent of the farm BESTERSLAST subject to certain conditions, as will more fully appear from Deed of Servitude No. 183/25S, registered on the 27th March 1925, the conditions of which Notarial Deed have been varied and added to by Notarial Deed 151/55S, registered on 23rd February, 1955, as will more fully appear 5 from the latter Notarial Deed.
- B. The former farm GOOD LUCK No 318, district Barberton, of which that portion of the property held hereunder lettered A' inner bank of river f g h Q R S V W X A', exclusive of the deduction figures marked

Portions E and M on the aforesaid diagram S G No A 3125/25 forms a portion, is subject to the following conditions.

- (a) That the State President may at any time and in any such manner and under such conditions as he may think fit,
- i construct or authorise the constructions of dams or reservoirs upon the said land;
 - ii construct or authorise the construction upon through or under the said land of water furrows, pipe lines, canals and drains, and conduct or authorise the conducting of water therefrom or there over for the benefit of the public or of any owner or occupier of neighbouring land;
 - iii Construct and work or authorise the construction and working subject to the provisions of any law of railways, roads, telegraph and telephone lines on or over the said land. and take material from the said land for the purpose of any such works.

Compensation shall be paid to the owner for any loss or damage sustained by it by reason of the exercise of the powers aforesaid, provided however, that there shall be set off against the loss or damage caused to the owner the benefit instant or prospective which he derives or is likely to derive by reason of the construction of the works. In the event of compensation being payable the amount thereof shall be mutually agreed upon, or failing such agreement, shall be determined by arbitration.

- C. The property held hereunder is subject to certain servitudes with reference to rights to water and aqueduct in favour of Portions H and K of the aforesaid farm transferred to the Nelspruit Estates (Proprietary) Limited by Deed of Transfer No 689/28, dated 25th June, 1928.
- D. By virtue of Notarial Deed No 175/32S, registered 3rd May, 1932, the remaining extent of the aforesaid farm SOUTH AFRICA PRUDENTIAL CITRUS ESTATES, measuring as such 1206,0642 Hectares, which forms portion of the property held hereunder, is subject to the right in perpetuity in favour of the Village Council of Nelspruit as owner of the remaining extent of the Townlands of Nelspruit of the farm Nelspruit No 22, district of Nelspruit, measuring as such 509, 1055 hectares held under Crown Grant No 64/1925, dated 16th March, 1925, to draw water from certain canal of the irrigation works situate on the aforesaid remaining extent of the farm SOUTH AFRICAN PRUDENTIAL CITRUS ESTATES for the purpose of driving its hydroelectric turbines as will more fully appear from the said Notarial Deed, the terms whereof have been modified and varied by Notarial Deed No 449/53 S.
- By virtue of Notarial Deed No 699/73S dated 13th September, 1972, the abovementioned condition has been cancelled in so far it concerns Portion 41 (a portion of portion 2) of the farm Nelspruit No 312, Registration Division J T district Nelspruit, measuring 9, 7912 Hectares and held under Deed of Transfer T 28526/1965 as will more fully appear from the said Notarial Deed.
- E. By virtue of Notarial Deed No 1213/55S, registered on the 28th November, 1955, the remaining extent of the aforesaid farm SOUTH AFRICAN PRUDENTIAL CITRUS ESTATES, measuring as such 1206,0642 Hectares, which forms portion of the property held hereunder, is subject to rights of way in favour of the Town Council of Nelspruit as owner of the remaining extent of the farm Nelspruit Reserve No 54, district Nelspruit, measuring as such 792,7245 Hectares held under Crown Grant No 16/28, registered on 1st February, 1928, as will more fully appear from the said Deed.
- F. Subject to the terms of an Order of the Water Court for the Water Court District no 19 dated 10th February 1950, and registered under no 296/52S on 24th June, 1952.
- G. The former Holding No 139, in South African Prudential Citrus Estates Agricultural Holdings represented on diagram SG No. A3125/25 annexed to Certificate of Consolidated Title 11423/25, as indicated thereon forming part of the property held hereunder is subject to a servitude of right of way and use of road in favour of the following portions of the farm KINGSTON VALE No. 178, district Nelspruit, held by Deed of Transfer No 4650/34:
- i Remaining Extent of Portion A measuring as such 78,6522 hectares;
 - ii Portion B measuring 173,3179 Hectares;
 - iii Portion C measuring 62,6724 Hectares;
 - iv Remaining Extent of Portion D measuring as such 49,6813 Hectares;

- v Portion E measuring 118,5155 Hectares;
 - vi Portion F measuring 188,6626 Hectares;
 - vii Portion G measuring 81 ,0351 Hectares;
 - viii Portion 1 of Portion A measuring 1,6509 Hectares;
 - ix Portion 1 of Portion D measuring 3777 square metres. As will more fully appear from Notarial Deed no 322/1934 S registered on the 3rd July, 1934, which condition as far as the said Portion E is concerned, has partially lapsed by merger in respect of the properties described in Paragraphs 1 to 6 hereof.
- H The former Remaining Extent of the Property hereby transferred is FURTHER SUBJECT TO THE FOLLOWING CONDITIONS I
- (a) a Perpetual servitude of storage and abutment.
 - (b) a perpetual servitude of aqueduct by means of a canal or furrow for the purpose of leading water in favour of
 - i Portion 2 of Portion F measuring 39,4333 square metres;
 - ii Remainder of Portion G measuring 53,4904 square metres;
 - iii Remainder of Portion H measuring 136,8139 square metres;
 - iv Remainder of Portion F measuring 8, 5653 square metres;
- all portions of the farm "The Union Farm" no 130 JIU. district Nelspruit, held under Deed of Transfer 20127/1963 as will more fully appear form Notarial Deed of Servitude No 146/68 S.
- I By virtue of Notarial Deed of Variation No 1 179/70S dated 11th October, 1967 the former Remaining Extent of the property hereby transferred measuring 3025, 1994 Hectares is entitled to a perpetual servitude of aqueduct along the deviated route of the canal indicated by the figure A E F B on Servitude Diagram A 6812/56, for the purposes of diverting water over The Remaining Extent of Portion 2 of the farm Nelspruit No 312 Registration Division J T measuring 341 ,7370 Hectares held by Deed of Grant 64/25 dated 16th March, 1925 and registered on 30th March, 1925.
- J. By virtue of Notarial Deed No 1296/72S the former Remaining Extent of the property hereby transferred measuring 2967,0774 Hectares is subject to a servitude for an underground sewerage pipeline 3,15 metres wide in favour of the Town Council of Nelspruit as will more fully appear form the said Notarial Deed.
- K. By virtue of Notarial Deed 940/73 S the right has been granted to ESCOM to convey electricity over the former Remaining Extent of the property hereby transferred, measuring 2964,9057 Hectares, together with ancillary rights, and subject to conditions, as will more fully appear on reference to the said Notarial Deed. By Notarial Deed of Amending Servitude No K 2636/75/s dated 15th September, 1975, Notarial Deed of Servitude No 940/73S has been amended as the line of route of the power line over the within mentioned property has now been defined by survey as will appear from line G B C D E F on Diagram S G No A 5432/74 annexed to the said Notarial Deed.
- L. By virtue of Notarial Deed No 2025/77S dated 22nd March 1977, the property hereby transferred is subject to a servitude in perpetuity to convey electricity together with ancillary rights in favour of the Town Council of Nelspruit. The extent and width of the servitude area shall be 7,50 metres west and 23,50 metres east of the line indicated by the letters A B C D E on Diagram SG No A 4576/76 as will more fully appear from reference to the said Notarial Deed.
- M. By virtue of Notarial Deed No K 765/1980 S dated the 24th September 1980 the former Remaining Extent of the aforesaid farm SOUTH AFRICAN PRUDENTIAL CITRUS ESTATES, measuring as such 2964,9057 Hectares, is subject to the right in perpetuity to construct a sewer pipe-line across the said property in favour of the Town Council of Nelspruit, as will more fully appear form the said Notarial Deed.
- N. By virtue of Expropriation Notice 709/86 the property is subject to a right in favour of National Transport Commission to gravel stone, sand, clay, water or any other substance of portions jointly approximately 3,5234 Hectares, and Expropriation Notice 404/87 and Expropriation Notice 8/87 in favour of the Department of Transport in extent 2, 7000 Hectares, and an endorsement in terms of Section 11 (1) (B) of Act 37 of 1935 in respect of a portion of the property in extent 35, 7259 Hectares, as will more fully appear from the said Expropriation Notices.
- O. The said farm NELSPRUIT RESERVE No 133, Registration Division JU Transvaal (Portion 1 whereof is hereby transferred) is subject to the following conditions:

- (a) The said farm NELSPRUIT RESERVE No 1'33, Registration Division JU Transvaal (Portion 1 whereof is hereby transferred) is subject to the following conditions:

The Minister of Lands reserves to himself the right or power from time to time, by writing under his hand, to authorise and allow the construction, laying, repairing, maintenance, and free use of a channel or furrow, or line of pipes through, over or under the land for the purposes of conducting to adjoining or other land, water for railway, domestic or other purposes. from any river or other source of supply situate outside the land. without payment to the Grantee of any compensation for damage thereby occasioned to him, the terms of this clause shall also apply to any furrow, channel or line of pipes at present existing on the land.

- (b) The land hereby transferred shall be subject to all servitudes which now affect or at any time hereafter may be found to affect the title to the land hereby transferred, or to be binding on the Republic of South Africa, in respect of the said land.
- (c) That the State President shall at all times have the right to make roads, railways, dams, aqueducts, drains and to conduct telegraphs over the land for the benefit of the public and to make materials for these purposes without payment of compensation therefor.
- (d) The land shall be subject to the conditions and stipulations contained in Notarial Deed of Servitude 97/1925 S dated the 10th day of February, 1925, in favour of the South African Prudential, Limited.
- P. By virtue of Notarial Deed 1295/72S the property hereby transferred is subject to a servitude for an underground sewerage pipeline 3,15 metres wide in favour of the Town Council of Nelspruit as will more fully appear from the said Notarial Deed.

2. CONDITIONS OF TITLE

THE ERVEN MENTIONED BELOW SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS AS LAID DOWN BY THE CITY OF MBOMBELA IN TERMS OF THE PROVISIONS OF THE TOWN PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986), AND THE MBOMBELA BY-LAW ON SPATIAL PLANNING AND LAND USE MANAGEMENT, 2019

2.1 CONDITIONS APPLICABLE TO ALL ERVEN

- 2.1.1 The erf is subject to a servitude 2m wide in favour of the City of Mbombela, for sewerage and other municipal purposes along any two boundaries other than a street boundary and in the case of a panhandle erf, an additional servitude for municipal purposes 2m wide across the access portion of the erf, if and when required by the City of Mbombela: provided that the City of Mbombela may dispense with any such servitude.
- 2.1.2 No building or other structure shall be erected within the aforesaid servitude area and no large rooted trees shall be planted within the area of such servitude or within 2m thereof.
- 2.1.3 The City of Mbombela shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude area such material as may be excavated by it during the course of construction, maintenance or removal of such sewerage mains and other works as it, to its discretion may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made by the City of Mbombela.
- 2.1.4 The erf is situated in an area that has soil conditions that could detrimentally effect buildings and structures and be the cause of damage. Building plans which are submitted to the City of Mbombela for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to the City of Mbombela that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

3. CONDITIONS WHICH, IN ADDITION TO THE EXISTING PROVISIONS OF THE RULING TOWN PLANNING SCHEME, HAVE TO BE INCORPORATED IN THE MBOMBELA LAND USE SCHEME, 2019, IN TERMS OF SECTION 125 OF ORDINANCE 15 OF 1986.

3.1 Erf 20, Orchard View Extension 5

Land Use Zone:	“Business”
Permitted uses:	Offices, Retail Shop, Bulk Retail Trade, Warehousing and Packaging, Wholesale Trade, Laboratory and Residential
Density:	35 dwelling units per ha
Height:	3 storeys
Coverage:	50%
Building lines:	5 metres on street boundaries and 2 metres on any other boundaries
Parking:	4.5 spaces per 100m ² floor area for offices, 6 spaces per 100m ² floor area for retail shops, 3 spaces per 100m ² floor area for bulk retail trade, 1 space per 100m ² floor area for wholesale trade and 3 spaces per 100m ² floor area for related offices, 3 spaces per 100m ² floor area for laboratories, 1 covered space per dwelling unit of 3 living rooms or less, 1 covered and 1 uncovered parking space per dwelling unit with 4 or more living rooms and 1 uncovered parking space per 3 dwelling units for visitors

3.2 Erf 21, Orchard View Extension 5

Land Use Zone:	“Business”
Permitted uses:	Offices, Retail Shop, Bulk Retail Trade, Warehousing and Packaging, Wholesale Trade and Laboratory
Density:	n/a
Height:	3 storeys
Coverage:	50%
Building lines:	5 metres on street boundaries and 2 metres on any other boundaries
Parking:	4.5 spaces per 100m ² floor area for offices, 6 spaces per 100m ² floor area for retail shops, 3 spaces per 100m ² floor area for bulk retail trade, 1 space per 100m ² floor area for wholesale trade and 3 spaces per 100m ² floor area for related offices, 3 spaces per 100m ² floor area for laboratories

3.3 Erf 22, Orchard View Extension 5

Land Use Zone:	“Business”
Permitted uses:	Offices, Retail Shop, Bulk Retail Trade, Warehousing and Packaging, Wholesale Trade and Laboratory
Density:	n/a
Height:	3 storeys
Coverage:	50%
Building lines:	5 metres on street boundaries and 2 metres on any other boundaries
Parking:	4.5 spaces per 100m ² floor area for offices, 6 spaces per 100m ² floor area for retail shops, 3 spaces per 100m ² floor area for bulk retail trade, 1 space per 100m ² floor area for wholesale trade and 3 spaces per 100m ² floor area for related offices, 3 spaces per 100m ² floor area for laboratories

3.4 Erf 23, Orchard View Extension 5

Land Use Zone:	“Business”
Permitted uses:	Offices, Retail Shop, Bulk Retail Trade, Warehousing and Packaging, Wholesale Trade and Laboratory
Density:	n/a
Height:	3 storeys
Coverage:	50%
Building lines:	5 metres on street boundaries and 2 metres on any other boundaries
Parking:	4.5 spaces per 100m ² floor area for offices, 6 spaces per 100m ² floor area for retail shops, 3 spaces per 100m ² floor area for bulk retail trade, 1 space per 100m ² floor area for wholesale trade and 3 spaces per 100m ² floor area for related offices, 3 spaces per 100m ² floor area for laboratories

3.5 ALL ERVEN

- 3.5.1 The erf is situated in an area that has soil conditions that could detrimentally effect buildings and structures and be the cause of damage. Building plans which are submitted to the City of Mbombela for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to the City of Mbombela that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

**W KHUMALO
MUNICIPAL MANAGER**

City of Mbombela
P O Box 45
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1200

LOCAL AUTHORITY NOTICE 111 OF 2021**CITY OF MBOMBELA LAND USE SCHEME, 2019 – AMENDMENT SCHEME AM/21/00070**

The City of Mbombela Local hereby declares in terms of Section 58 of the Mbombela By-law on Spatial Planning and Land Use Management, 2019, that it has approved an amendment of the Mbombela Land Use Scheme, 2019, by the township establishment of Orchard View Extension 6.

Copies of the amendment scheme are filed with the Municipal Manager, Civic Centre, Nel Street, Mbombela, and are open for inspection at all reasonable times. This amendment scheme shall come into operation on date of publication hereof.

W KHUMALO
MUNICIPAL MANAGER

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DECLARATION AS AN APPROVED TOWNSHIP

The City of Mbombela Local Municipality hereby declares in terms of Section 103 (1) of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), and Section 56 of The City of Mbombela Spatial Planning and Land Use Management By-Law, 2019, Orchard View Extension 6 to be an approved township subject to the conditions set out in the schedule hereto.

SCHEDULE

STATEMENT OF THE CONDITIONS UNDER WHICH THE APPLICATION MADE BY MABALENGWE DEVELOPMENT COMPANY (PTY) LTD (HEREINAFTER REFERRED TO AS THE APPLICANT) UNDER THE PROVISIONS OF CHAPTER III (PART C) OF THE TOWN-PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986), FOR PERMISSION TO ESTABLISH A TOWNSHIP ON THE REMAINDER OF THE FARM ORCHARD VIEW 1009, REGISTRATION DIVISION JU, PROVINCE OF MPUMALANGA, HAS BEEN GRANTED

1. CONDITIONS OF ESTABLISHMENT**1.1 NAME**

The name of the township shall be Orchard View Extension 6.

1.2 DESIGN

The township shall consist of erven and streets as indicated on General Plan S.G. No. 82/2021.

1.3 ACCESS

Access to the township shall be from Alpha Street and Nova Street, as indicated on the General Plan.

1.4 RECEIPT AND DISPOSAL OF STORMWATER

1.4.1 The township owner shall arrange the stormwater drainage of the township in such a way as to fit in with all relevant roads and shall receive and dispose of the stormwater running off or being diverted from the road.

1.4.1.1 The township owner shall submit for City of Mbombela's approval, a detailed scheme complete with plans, sections and specifications prepared by a civil engineer who is a member of SAACE for the collection and disposal of stormwater throughout the township by means of properly constructed works and for the construction, tarmacadamising, kerbing channelling of the streets therein together with the provisions of retaining walls as may be considered necessary by the City of Mbombela.

1.4.1.2 Furthermore, the scheme shall indicate the route and gradient by which each erf gains access to the street on which it abuts.

1.4.1.3 The township owner shall carry out the approved scheme at its own expense on behalf of and to the satisfaction of the City of Mbombela under the supervision of a civil engineer who is a member of SAACE.

1.4.1.4 The township owner shall be responsible for the maintenance of the streets to the satisfaction of City of Mbombela until the streets have been constructed as set out in subclause 1.4.1.1.

1.4.1.5 If the township owner fails to comply with the provisions of paragraphs 1.4.1.1, 1.4.1.2 and 1.4.1.3 hereof, City of Mbombela shall be entitled to execute the work at the cost of the township owner.

1.5 REMOVAL AND/OR REPLACEMENT OF MUNICIPAL SERVICES

Should it become necessary to remove, alter or replace any municipal services as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

1.6 ERECTION OF FENCE OR OTHER PHYSICAL BARRIER

The township owner shall at his own expense erect a fence or other physical barrier to the satisfaction of the City of Mbombela, as and when required by him to do so, and the township owner shall maintain such fence or physical barrier in a good state of repair until such time as this responsibility is taken over by the City of Mbombela.

1.7 REMOVAL OF LITTER

The township owner shall at his own expense have all litter within the township area removed to the satisfaction of the City of Mbombela.

1.8 REMOVAL AND/OR REPLACEMENT OF ESKOM SERVICES

Should it become necessary to remove, alter, or replace any existing services of Eskom as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

1.9 REMOVAL AND/OR REPLACEMENT OF TELKOM SERVICES

Should it become necessary to remove, alter, or replace any existing services of Telkom as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

1.10 RESPONSIBILITIES IN RESPECT OF ESSENTIAL SERVICES

The township owner shall provide all essential services in terms of the provisions of sections 116 to 121 of Ordinance 15 of 1986 prior to the registration of any stands in the township.

1.11 PROTECTION OF STAND PEGS

The township owner shall comply with the requirements with regard to the protection of boundary pegs as determined by the City of Mbombela in this regard, when required to do so by the City of Mbombela.

1.12 DEMOLITION OF BUILDINGS AND STRUCTURES

The township owner must at his own costs demolish all existing buildings and structures that are located within building restriction areas, side spaces of common boundaries to the satisfaction of City of Mbombela.

1.13 SIGNAGE

The applicant shall at his own expense erect the required signs to the satisfaction of the City of Mbombela and the township owner shall maintain such signage in a good state of repair, until such time as his responsibility is taken over by the City of Mbombela.

1.14 DISPOSAL OF EXISTING CONDITIONS OF TITLE

The following conditions contained in Title Deed Number T12824-2016, pertaining to the Remainder of the farm, Orchard View 1009 JU will be disposed of and not carried forward into the title deeds of the erven in the township:

A. The said farm, whereof the remaining extent, measuring 2859,4755 Hectares, held hereunder, is a portion, is entitled:

(a) To a servitude of aqueduct over Lot 149 and Nelspruit No 222, Section D of Kaap Block, Barberton, as will more fully appear from Notarial Deed No 97/19258, registered on the 21st February, 1925.

By virtue of Notarial Deed of Variation No 1179/70 S dated 11th October 1967 the aforesaid servitude has been cancelled only in so far as that portion indicated by the line A middle of irrigation canal B on servitude diagram SG No A 6811/56 is concerned, the said portion being no longer in use in consequence of the deviation referred to in the said Notarial Deed.

(b) To a perpetual servitude of aqueduct, Storage and Abutment over the farm STONEHENGE No 220, Barberton. Subject to certain conditions as will more fully appear from Deed of Servitude No 181/25 S registered on the 27th March 1925.

- (c) To a perpetual servitude of aqueduct over Portion A of the farm BESTERSLAST No 185, district Barberton. Subject to certain conditions as will more fully appear from Deed of Servitude No 182/25 s registered on the 27th March 1925.
- (d) To a perpetual servitude of Aqueduct, over the remaining extent of the said farm BESTERSLAST subject to certain conditions as will more fully appear from Deed of Servitude No 183/25 S, registered on the 27th March 1925.
- (e) That the State-President may at any time, and in any such manner and under such conditions as he may think fit,
- i Construct or authorise the constructions of dams or reservoirs upon the said land;
 - ii Construct or authorise the constructions upon, through or under the said land of water furrows, pipe lines, canals and drains, and conduct or authorise the conducting of water therefrom or there over for the benefit of the public or of any owner or occupier of neighbouring land;
 - iii Construct and work or authorise the constructions and working subject to the provisions of any law, of railways, roads, telegraph and telephone lines on or over the said land; And take material from the said land for the purpose of any such works. Compensation shall be paid to the owner for any loss or damage sustained by it by reason of the exercise of the powers aforesaid, provided, however, that there shall be set off against the loss or damage caused to the owner the benefit instant or prospective which he derives or is likely to derive by reason of the construction of the works. In the event of compensation being payable the amount thereof shall be mutually agreed upon, or failing such agreement, shall be determined by arbitration.
- B By virtue of Notarial Deed of Variation No 1179/70S dated 11th October 1967 the property hereby transferred is entitled to a perpetual Servitude of Aqueduct along the deviated route of the canal, indicated by the figure A E F B on Servitude Diagram A6812/56, for the purpose of diverting water over the Remaining Extent of Portion 2 of the farm Nelspruit no 312, Registration Division J T measuring 341,7370 Hectares held by virtue of Deed of Grant 64/25 dated 16th March 1925, and registered 30th March 1925.
- C SUBJECT to an order of the Water Court for the Water Court District No 19 registered under K 296/52S dated 10th February 1950.
- A The said farm, whereof the remaining extent, measuring 2859,4755 Hectares, held hereunder, is a portion, is entitled:
- (a) To a servitude of aqueduct over Lot 149 and Nelspruit No 222, Section D of Kaap Block, Barberton, as will more fully appear from Notarial Deed No 97/19258, registered on the 21st February 1925.
- By virtue of Notarial Deed of Variation No 1179/70S the servitude referred to above has been cancelled only in so far as that portion indicated by the line A middle of irrigation canal B on servitude diagram S G A 681 1/56 is concerned, the said portion being no longer in use in consequence of the deviation referred to in the said Notarial Deed of Variation.
- (b) To a perpetual Servitude of aqueduct, storage and abutment over the farm STONEHENGE No 220, Barberton. Subject to certain conditions as will more fully appear from Deed of Servitude No 181/25S, registered on the 27th March 1925.
- (c) To a perpetual Servitude of Aqueduct over Portion A of the farm Besterslast No 185, district Barberton, subject to certain conditions as will more fully appear from Deed of Servitude No 182/25S, registered on the 27th March 1925.
- (d) To a perpetual servitude of aqueduct over the remaining extent of the farm BESTERSLAST subject to certain conditions, as will more fully appear from Deed of Servitude No. 183/25S, registered on the 27th March 1925, the conditions of which Notarial Deed have been varied and added to by Notarial Deed 151/55S, registered on 23rd February, 1955, as will more fully appear 5 from the latter Notarial Deed.
- B. The former farm GOOD LUCK No 318, district Barberton, of which that portion of the property held hereunder lettered A' inner bank of river f g h Q R S V W X A', exclusive of the deduction figures marked

Portions E and M on the aforesaid diagram S G No A 3125/25 forms a portion, is subject to the following conditions.

- (a) That the State President may at any time and in any such manner and under such conditions as he may think fit,
- i construct or authorise the constructions of dams or reservoirs upon the said land;
 - ii construct or authorise the construction upon through or under the said land of water furrows, pipe lines, canals and drains, and conduct or authorise the conducting of water therefrom or there over for the benefit of the public or of any owner or occupier of neighbouring land;
 - iii Construct and work or authorise the construction and working subject to the provisions of any law of railways, roads, telegraph and telephone lines on or over the said land. and take material from the said land for the purpose of any such works.

Compensation shall be paid to the owner for any loss or damage sustained by it by reason of the exercise of the powers aforesaid, provided however, that there shall be set off against the loss or damage caused to the owner the benefit instant or prospective which he derives or is likely to derive by reason of the construction of the works. In the event of compensation being payable the amount thereof shall be mutually agreed upon, or failing such agreement, shall be determined by arbitration.

- C. The property held hereunder is subject to certain servitudes with reference to rights to water and aqueduct in favour of Portions H and K of the aforesaid farm transferred to the Nelspruit Estates (Proprietary) Limited by Deed of Transfer No 689/28, dated 25th June, 1928.

- D. By virtue of Notarial Deed No 175/32S, registered 3rd May, 1932, the remaining extent of the aforesaid farm SOUTH AFRICA PRUDENTIAL CITRUS ESTATES, measuring as such 1206,0642 Hectares, which forms portion of the property held hereunder, is subject to the right in perpetuity in favour of the Village Council of Nelspruit as owner of the remaining extent of the Townlands of Nelspruit of the farm Nelspruit No 22, district of Nelspruit, measuring as such 509, 1055 hectares held under Crown Grant No 64/1925, dated 16th March, 1925, to draw water from certain canal of the irrigation works situate on the aforesaid remaining extent of the farm SOUTH AFRICAN PRUDENTIAL CITRUS ESTATES for the purpose of driving its hydroelectric turbines as will more fully appear from the said Notarial Deed, the terms whereof have been modified and varied by Notarial Deed No 449/53 S.

By virtue of Notarial Deed No 699/73S dated 13th September, 1972, the abovementioned condition has been cancelled in so far it concerns Portion 41 (a portion of portion 2) of the farm Nelspruit No 312, Registration Division J T district Nelspruit, measuring 9, 7912 Hectares and held under Deed of Transfer T 28526/1965 as will more fully appear from the said Notarial Deed.

- E. By virtue of Notarial Deed No 1213/55S, registered on the 28th November, 1955, the remaining extent of the aforesaid farm SOUTH AFRICAN PRUDENTIAL CITRUS ESTATES, measuring as such 1206,0642 Hectares, which forms portion of the property held hereunder, is subject to rights of way in favour of the Town Council of Nelspruit as owner of the remaining extent of the farm Nelspruit Reserve No 54, district Nelspruit, measuring as such 792,7245 Hectares held under Crown Grant No 16/28, registered on 1st February, 1928, as will more fully appear from the said Deed.

- F. Subject to the terms of an Order of the Water Court for the Water Court District no 19 dated 10th February 1950, and registered under no 296/52S on 24th June, 1952.

- G. The former Holding No 139, in South African Prudential Citrus Estates Agricultural Holdings represented on diagram SG No. A3125/25 annexed to Certificate of Consolidated Title 11423/25, as indicated thereon forming part of the property held hereunder is subject to a servitude of right of way and use of road in favour of the following portions of the farm KINGSTON VALE No. 178, district Nelspruit, held by Deed of Transfer No 4650/34:

- i Remaining Extent of Portion A measuring as such 78,6522 hectares;
- ii Portion B measuring 173,3179 Hectares;
- iii Portion C measuring 62,6724 Hectares;
- iv Remaining Extent of Portion D measuring as such 49,6813 Hectares;

- v Portion E measuring 118,5155 Hectares;
vi Portion F measuring 188,6626 Hectares;
vii Portion G measuring 81 ,0351 Hectares;
viii Portion 1 of Portion A measuring 1,6509 Hectares;
ix Portion 1 of Portion D measuring 3777 square metres. As will more fully appear from Notarial Deed no 322/1934 S registered on the 3rd July, 1934, which condition as far as the said Portion E is concerned, has partially lapsed by merger in respect of the properties described in Paragraphs 1 to 6 hereof.
- H The former Remaining Extent of the Property hereby transferred is FURTHER SUBJECT TO THE FOLLOWING CONDITIONS I
- (a) a Perpetual servitude of storage and abutment.
- (b) a perpetual servitude of aqueduct by means of a canal or furrow for the purpose of leading water in favour of
- i Portion 2 of Portion F measuring 39,4333 square metres;
ii Remainder of Portion G measuring 53,4904 square metres;
iii Remainder of Portion H measuring 136,8139 square metres;
iv Remainder of Portion F measuring 8, 5653 square metres;
- all portions of the farm "The Union Farm" no 130 JIU. district Nelspruit, held under Deed of Transfer 20127/1963 as will more fully appear form Notarial Deed of Servitude No 146/68 S.
- I By virtue of Notarial Deed of Variation No 1 179/70S dated 11th October, 1967 the former Remaining Extent of the property hereby transferred measuring 3025, 1994 Hectares is entitled to a perpetual servitude of aqueduct along the deviated route of the canal indicated by the figure A E F B on Servitude Diagram A 6812/56, for the purposes of diverting water over The Remaining Extent of Portion 2 of the farm Nelspruit No 312 Registration Division J T measuring 341 ,7370 Hectares held by Deed of Grant 64/25 dated 16th March, 1925 and registered on 30th March, 1925.
- J. By virtue of Notarial Deed No 1296/72S the former Remaining Extent of the property hereby transferred measuring 2967,0774 Hectares is subject to a servitude for an underground sewerage pipeline 3,15 metres wide in favour of the Town Council of Nelspruit as will more fully appear form the said Notarial Deed.
- K. By virtue of Notarial Deed 940/73 S the right has been granted to ESCOM to convey electricity over the former Remaining Extent of the property hereby transferred, measuring 2964,9057 Hectares, together with ancillary rights, and subject to conditions, as will more fully appear on reference to the said Notarial Deed. By Notarial Deed of Amending Servitude No K 2636/75/s dated 15th September, 1975, Notarial Deed of Servitude No 940/73S has been amended as the line of route of the power line over the within mentioned property has now been defined by survey as will appear from line G B C D E F on Diagram S G No A 5432/74 annexed to the said Notarial Deed.
- L. By virtue of Notarial Deed No 2025/77S dated 22nd March 1977, the property hereby transferred is subject to a servitude in perpetuity to convey electricity together with ancillary rights in favour of the Town Council of Nelspruit. The extent and width of the servitude area shall be 7,50 metres west and 23,50 metres east of the line indicated by the letters A B C D E on Diagram SG No A 4576/76 as will more fully appear from reference to the said Notarial Deed.
- M. By virtue of Notarial Deed No K 765/1980 S dated the 24th September 1980 the former Remaining Extent of the aforesaid farm SOUTH AFRICAN PRUDENTIAL CITRUS ESTATES, measuring as such 2964,9057 Hectares, is subject to the right in perpetuity to construct a sewer pipe-line across the said property in favour of the Town Council of Nelspruit, as will more fully appear form the said Notarial Deed.
- N. By virtue of Expropriation Notice 709/86 the property is subject to a right in favour of National Transport Commission to gravel stone, sand, clay, water or any other substance of portions jointly approximately 3,5234 Hectares, and Expropriation Notice 404/87 and Expropriation Notice 8/87 in favour of the Department of Transport in extent 2, 7000 Hectares, and an endorsement in terms of Section 11 (1) (B) of Act 37 of 1935 in respect of a portion of the property in extent 35, 7259 Hectares, as will more fully appear from the said Expropriation Notices.

- O. The said farm NELSPRUIT RESERVE No 133, Registration Division JU Transvaal (Portion 1 whereof is hereby transferred) is subject to the following conditions:
- (a) The said farm NELSPRUIT RESERVE No 1'33, Registration Division JU Transvaal (Portion 1 whereof is hereby transferred) is subject to the following conditions:
- The Minister of Lands reserves to himself the right or power from time to time, by writing under his hand, to authorise and allow the construction, laying, repairing, maintenance, and free use of a channel or furrow, or line of pipes through, over or under the land for the purposes of conducting to adjoining or other land, water for railway, domestic or other purposes. from any river or other source of supply situate outside the land. without payment to the Grantee of any compensation for damage thereby occasioned to him, the terms of this clause shall also apply to any furrow, channel or line of pipes at present existing on the land.
- (b) The land hereby transferred shall be subject to all servitudes which now affect or at any time hereafter may be found to affect the title to the land hereby transferred, or to be binding on the Republic of South Africa, in respect of the said land.
- (c) That the State President shall at all times have the right to make roads, railways, dams, aqueducts, drains and to conduct telegraphs over the land for the benefit of the public and to make materials for these purposes without payment of compensation therefor.
- (d) The land shall be subject to the conditions and stipulations contained in Notarial Deed of Servitude 97/1925 S dated the 10th day of February, 1925, in favour of the South African Prudential, Limited.
- P. By virtue of Notarial Deed 1295/72S the property hereby transferred is subject to a servitude for an underground sewerage pipeline 3,15 metres wide in favour of the Town Council of Nelspruit as will more fully appear from the said Notarial Deed.

2. CONDITIONS OF TITLE

THE ERVEN MENTIONED BELOW SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS AS LAID DOWN BY THE CITY OF MBOMBELA IN TERMS OF THE PROVISIONS OF THE TOWN PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986), AND THE MBOMBELA BY-LAW ON SPATIAL PLANNING AND LAND USE MANAGEMENT, 2019

2.1 CONDITIONS APPLICABLE TO ALL ERVEN

- 2.1.1 The erf is subject to a servitude 2m wide in favour of the City of Mbombela, for sewerage and other municipal purposes along any two boundaries other than a street boundary and in the case of a panhandle erf, an additional servitude for municipal purposes 2m wide across the access portion of the erf, if and when required by the City of Mbombela: provided that the City of Mbombela may dispense with any such servitude.
- 2.1.2 No building or other structure shall be erected within the aforesaid servitude area and no large rooted trees shall be planted within the area of such servitude or within 2m thereof.
- 2.1.3 The City of Mbombela shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude area such material as may be excavated by it during the course of construction, maintenance or removal of such sewerage mains and other works as it, to its discretion may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made by the City of Mbombela.
- 2.1.4 The erf is situated in an area that has soil conditions that could detrimentally effect buildings and structures and be the cause of damage. Building plans which are submitted to the City of Mbombela for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to the City of Mbombela that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

2.2 CONDITIONS APPLICABLE TO ERF 25

Subject to a right-of-way servitude area as indicated by the figure 'efghea' on General Plan 82/2021 in favour of the property owner of Erf 26, Orchard View Ext 6.

3. CONDITIONS WHICH, IN ADDITION TO THE EXISTING PROVISIONS OF THE RULING TOWN PLANNING SCHEME, HAVE TO BE INCORPORATED IN THE MBOMBELA LAND USE SCHEME, 2019, IN TERMS OF SECTION 125 OF ORDINANCE 15 OF 1986.

3.1 Erf 24, Orchard View Extension 6

Land Use Zone:	"Residential"
Permitted uses:	Dwelling units
Density:	35 dwelling units per hectare
Height:	2 storeys
Coverage:	50%
Building lines:	5 metres on street boundaries and 2 metres on any other boundaries, provided that the building lines may be relaxed in accordance with a site development plan, approved by the municipality.
Parking:	1 covered space per dwelling unit of 3 living rooms or less, 1 covered and 1 uncovered parking space per dwelling unit with 4 or more living rooms and 1 uncovered parking space per 3 dwelling units for visitors

3.2 Erf 25, Orchard View Extension 6

Land Use Zone:	"Residential"
Permitted uses:	Dwelling units
Density:	35 dwelling units per hectare
Height:	2 storeys
Coverage:	50%
Building lines:	5 metres on street boundaries and 2 metres on any other boundaries, provided that the building lines may be relaxed in accordance with a site development plan, approved by the municipality.
Parking:	1 covered space per dwelling unit of 3 living rooms or less, 1 covered and 1 uncovered parking space per dwelling unit with 4 or more living rooms and 1 uncovered parking space per 3 dwelling units for visitors

3.3 Erf 26, Orchard View Extension 6

Land Use Zone:	"Residential"
Permitted uses:	Dwelling units
Density:	35 dwelling units per hectare
Height:	2 storeys
Coverage:	50%
Building lines:	5 metres on street boundaries and 2 metres on any other boundaries, provided that the building lines may be relaxed in accordance with a site development plan, approved by the municipality.
Parking:	1 covered space per dwelling unit of 3 living rooms or less, 1 covered and 1 uncovered parking space per dwelling unit with 4 or more living rooms and 1 uncovered parking space per 3 dwelling units for visitors

3.4 ALL ERVEN

- 3.4.1 The erf is situated in an area that has soil conditions that could detrimentally effect buildings and structures and be the cause of damage. Building plans which are submitted to the City of Mbombela for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to the City of Mbombela that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

**W KHUMALO
MUNICIPAL MANAGER**

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