

**KWADUKUZA MUNICIPAL SPATIAL  
PLANNING AND LAND USE MANAGEMENT  
(SPLUMA)  
AMENDMENT BY-LAW 2023**

## GENERAL EXPLANATORY NOTE:

[       ] Words in bold type in square brackets indicate omissions from existing enactments.

       Words underlined with a solid line indicate insertions in existing enactments.

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BE IT ENACTED by the KwaDukuza Local Municipality, as follows: -

**1. Amendment of section 1 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

Section 1 of the principle By-law is hereby amended by –

(a) the addition of the definition of “**Catalytic Project**” as the following definition:

“**Catalytic Project**” or “**CP**” means a project of significant scale (i.e. its reach) and scope (i.e. impact), thereby displaying some or all of the following characteristics:

- a. It makes a substantial impact on employment, services and infrastructure, economic and social investment, and/or rates;
- b. It provides leverage and/or creates multiplier effects;
- c. It has the power to radically activate development (social, economic or both);
- d. It significantly impacts spatial form;
- e. It creates jobs, and increases land value;
- f. It contributes to the achievement of the vision and goals of the District, Province or National; and
- g. it is any other development as determined and/or prescribed by the DAC.”

(b) the addition of the definition of “**DAC**” as the following definition:

“**DAC**” means the Development Assessment Committee of the KwaDukuza Municipality.”

(c) the definition of “**Electronic Land Use Management System**” of the following definition:

“**Electronic Land Use Management System**” means the online system developed, designed and implemented by the Municipality to process applications, provide information and monitor compliance”.

(d) the addition of the definition of “**Enforcer**” as the following definition:

“**Enforcer**” means, in the context of a Notarial Tie Agreement, the extent to which the Municipality is the Enforcer, shall be where the Municipality requires that the relevant two or more properties so linked shall not be sold, alienated, mortgaged, leased, dealt with or disposed of in any manner separately.”

(e) the addition of the definition of “**Enforceable**” as the following definition:

“**Enforceable**” means, in the context of a Notarial Tie Agreement, the extent to which enforceable or enforceability arises, is only where the Municipality is the party to the Notarial Tie Agreement which requires that the relevant two or more properties so linked shall not be sold, alienated, mortgaged, leased, dealt with or disposed of in any manner separately.”

(f) the addition of the definition of “Informal Business” as the following definition:

“**Informal Business**” shall have the same meaning as “**Informal Economy**” as defined in the Informal Business Bylaw.”

(g) the addition of the definition of “**Informal Business Bylaw**” as the following definition:

“**Informal Business Bylaw**” means the KwaDukuza Informal Business Bylaw.

(h) the addition of the definition of “**Notarial Tie Agreement**” as the following definition:

“**Notarial Tie Agreement**” means the agreement executed before a Notary, by and between the Land Owner/s of the properties to be notarially Tied and the Municipality stipulating inter alia:

- a) That such two or more properties so linked shall not be sold, alienated, mortgaged, leased, dealt with or disposed of in any manner separately;
- b) Any other condition imposed by the Municipality;  
and where such conditions are to be registered against the title deeds of each of the two or more properties to be notarially Tied.”

- (i) the addition of the definition of “**Notary**” of the following definition:

“**Notary**” means a person admitted to practice as a notary in terms of the Legal Practice Act No. 28 of 2014”

- (j) the addition of the definition of “**Protection of Personal Information Act**” of the following definition:

“**Protection of Personal Information Act**” or “**POPIA**” shall mean Act 4 of 2013.”

- (k) the addition of the definition of “**Registered Notarial Tie**” of the following definition:

“**Registered Notarial Tie**” means the linking of two or more properties by virtue of a Notarial Deed in restraint of free alienation registered in the Deeds Registry and stipulating that such two or more properties so linked shall not be sold, alienated, mortgaged, leased, dealt with or disposed of in any manner separately. Such condition shall be enforceable by the relevant Municipality.”

2. **Amendment of subsection 17(3) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the insertion of the words “or electronically sign” into subsection 17(3) of the Principal By-Law.**

The principal By-Law is hereby amended by the substitution of subsection 17(3), with the following subsection:

“The Presiding Officer must sign or electronically sign the decision of the Municipal Planning Tribunal.”

3. **Inclusion of a new Section “21A” after subsection 21(4) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

The principal By-Law is hereby amended by the addition *after* subsection 21(4), of the following section:

“Development Assessment Committee  
Section 21A

- (1) The DAC is established in terms of the DAC Policy of the Municipality.
  - (2) The function of the DAC, insofar as it relates to municipal planning, is to make recommendations to the Municipal Planning Approval Authority on land development applications for Catalytic Projects.
  - (3) The DAC Policy shall determine the internal procedures and processes of the DAC.
  - (4) The DAC must submit its recommendations to the Municipal Planning Approval Authority within 14 days of having made such recommendation."
4. **Deletion of subsection 43(1) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

The principal By-Law is hereby amended by the deletion of subsection 43(1) in its entirety:

**"[43.(1)       The Municipality must, by 1 July 2020, adopt a land use scheme in ESRI Shapefile format for its whole municipal area.]"**

5. **Amendment of subsection 46(1) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the insertion of the words "alteration, cancellation, partial cancellation and" after the word "The" of Section 46(1)(o) of the Principal By-law:**

**"Section 46(1)(o)   The alteration, cancellation, partial cancellation and amendment of a general plan –"**

**By the Insertion of the following subsection *after* section 46(1)(o) of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion *after* subsection 46(1)(o) of the following subsection:

**"46(1)(p)       A Notarial Tie Agreement."**

**6. Amendment of subsection 47(2) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the inclusion of the word “planning approval” after the words “An application for municipal” of Section 47(2) of the Principal By-law:**

The principal By-Law is hereby amended by the substitution of subsection 47(2) for the following subsection:

“Section 47(2) An application for municipal planning approval is not required for the subdivision and/or consolidation of land if it arises from –”

**7. Amendment to subsections 47(2) and 47(3) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law).

**By the substitution of subsection 47(2) and 47(3) to include the wording “in areas identified as traditional authority areas/areas zoned RUMA as per the LUMS” of the Principal By-law:**

**47(2)** “An application for municipal planning approval is not required [**outside the area of a land use scheme**] in areas identified as traditional authority areas/areas zoned RUMA as per the LUMS for a development that does not constitute an activity listed in Schedule 3.”

**47(3)** “An application for municipal planning approval is not required for the use of a building that is situated [**outside the area of a land use scheme**] in an area identified as a traditional authority area and/or zoned RUMA as per the LUMS, if –

- (a) the building has been used for a purpose defined in Schedule 3; and
- (b) the use of the building for that purpose has commenced –
  - (i) before development approval was required for the development in terms of section 11(2) of the Town Planning Ordinance with effect from 1 August 1951;
  - (ii) before section 11(2) of the Town Planning Ordinance was amended to require development approval for the development with effect from 10 October 2008; or
  - (iii) before development approval was required in terms of section 14 of the KwaZulu Land Affairs Act, 1992 (Act No. 11 of 1992) with effect from 19 June 1998.

**8. Amendment subsections 47(2), 47(3), and 47(4) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018(hereinafter referred to as the principal By-law).**

**By the renumbering of subsections 47(2), 47(3) and 47(4) of the Principal By-law:**

The principal By-Law is hereby amended by the renumbering of the following subsections:

**“[2] (3)** An application for municipal planning approval is not required in areas identified as traditional authority areas/areas zoned RUMA as per the LUMS for a development that does not constitute an activity listed in Schedule

**[3] (4)** An application for municipal planning approval is not required for the use of a building that is situated in an area identified as a traditional authority area and/or zoned RUMA as per the LUMS, if –

(b) the building has been used for a purpose defined in Schedule 3; and

(b) the use of the building for that purpose has commenced –

(iii) before development approval was required for the development in terms of section 11(2) of the Town Planning Ordinance with effect from 1 August 1951;

(iv) before section 11(2) of the Town Planning Ordinance was amended to require development approval for the development with effect from 10 October 2008; or

(iii) before development approval was required in terms of section 14 of the KwaZulu Land Affairs Act, 1992 (Act No. 11 of 1992) with effect from 19 June 1998.

**[4] (5)** An application for municipal planning approval contemplated in section 46(k) is not required for the permanent closure of a municipal road or a public place that has not been registered in separate ownership by the Registrar of Deeds, but an application contemplated in section 70 may be required to remove references to the proposed municipal road or public place from the Municipal Planning Approval Authority's Record of Decision.”

**9. Amendment of subsection 51(1)(a) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the substitution of subsection 51(1)(a) to include the wording “The land is included as part of a Municipal boundary adjustment, in which instance, such land may only be used for the purposes for which it could be lawfully used prior to it being included within the Municipal Boundary” of the Principal By-law:**

The principal By-Law is hereby amended by the substitution of subsection 51(1)(a) of the following subsection:

“(a) [it does not have a land use scheme and the scale of the development does not justify the adoption of a land use scheme;]  
The land is included as part of a Municipal boundary adjustment, in which instance, such land may only be used for the purposes for which it could be lawfully used prior to it being included within the Municipal Boundary;”

**10. Amendment of subsection 53 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the Insertion of a new subsection “53(6)” after subsection 53(5) of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion after subsection 53(5) of the following section:

“53(6) The procedure in Schedule 14 must be followed in addition to the procedure in Schedule 4 for an application for a Notarial Tie.”

**11. Amendment of subsection 54(3) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the insertion of a new subsection “54(3)(c)” after subsection 54(3)(b) of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion *after* subsection 54(3)(b) of the following section:

“(c) Postpone or defer.”



- 12. Amendment of subsection 58(b) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the replacement of the numbers “30” with the numbers “21” and “2” with the number “3” of subsection 58(b) of the Principal By-law:**

“58.(b)           The expiry of the [30] 21 day period contemplated in Section 57[(2)] (3), if – “

- 13. Amendment of subsection 69 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the replacement of the word “Item 1” with the word “Item 2” of subsection 69 of the Principal By-law:**

“69.               An application for an amendment to a Municipal Planning Approval authority’s Record of Decision to correct an error in the wording of the decision, correct a spelling error, update a property description, or update a reference to a law, person, institution, place name or street name must follow the process in [item 1] Item 2 of Schedule 6.”

- 14. Amendment of subsection 78(1) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the replacement of the numbers “30” with the numbers “21” of subsection 78(1) of the Principal By-law:**

The principal By-Law is hereby amended by the substitution of Section 78(1) of the following Section:

“78.(1)           The Presiding Officer must prepare written reasons for the decision of the Municipal Planning Appeal Authority within [30] 21 days after the last day of the hearing.”

- 15. Amendment of section 102 the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the Insertion of a new subsection “102A” *after* subsection 102(2) of the Principal By-Law:**

The Principal By-Law is hereby amended by the insertion *after* subsection 102(2) of the following section:

“Section 102A

- (1) An owner is guilty of an offence, if the owner fails to register a notarial tie agreement within the prescribed time specified in the notarial tie agreement.
- (2) In the event that an owner/s fails to register a notarial tie agreement within the prescribed time specified in the notarial tie agreement, the municipality shall have the power in its sole discretion, to cause the registration of the notarial tie agreement and recover the legal costs of same from the land owner by use of the credit control policy, alternatively, the municipality shall have the right to unilaterally cancel the notarial tie agreement.
- (3) An owner who is guilty of an offence in terms of this section is liable on conviction to a fine not exceeding R 1 000 000 or to imprisonment for a period not exceeding 1 year or to both such a fine and such imprisonment.”

- 16. Amendment of subsection 107(1) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the insertion of a new subsection “107(1)(f)” *after* subsection 107(1)(e) of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion *after* subsection 107(1)(e) of the following section:

- “(f) by submitting the document on the Electronic Land Use Management System.”

- 17. Amendment of subsection 107(2) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the insertion of a new subsection “107(2)(e)” *after* subsection 107(2)(d) of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion *after* subsection 107(2)(d) of the following section:

“(e) the document was submitted on the Electronic Land Use Management System.”

- 18. Amendment of Section 108 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the insertion of a new subsection “108(b)(iii)” *after* subsection 108(b)(ii) of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion *after* 108(b)(ii) of the following subsection:

“(iii) to the Electronic Land Use Management System.”

- 19. Amendment of Section 109 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the insertion of a new subsection “109(b)(iii)” *after* subsection 109(b)(ii) of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion *after subsection* 109(b)(ii) of the following section:

“(iii) to the Electronic Land Use Management System.”

- 20. Amendment of Section 110 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the insertion of a new subsection “110(5)” *after* subsection 110(4) of the Principal By-law:**

The principal By-law is hereby amended by the insertion *after* subsection 110(4) of the following section:

“Section 110(5) If a document has been served by submitting it on the Electronic Land Use Management System, service must be regarded as having been effected on the date which the Electronic Land Use Management System logs that the document was submitted.”

**21. Amendment of Section 121 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018**  
(hereinafter referred to as the principal By-law)

**By the Insertion of a new subsection “121A” *after* subsection 121(3)(b) of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion after subsection 121(3)(b) of the following section:

“Declaration of land for Informal Business Area  
Section 121A

(1) The Municipality may declare land as land for the establishment of an Informal Business Area, if-

(a) Such declaration is in accordance with the Informal Business By-Law;

(b) Such declaration is in accordance with an Informal Economy: Spatial Designation System designating such area as an Informal Business Area;”

**22. Amendment of Schedule 2, subsection 1(b)(ii) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the addition of the words “including the remainder” in Schedule 2, subsection 1(b(ii)) of the Principal By-law:**

“1(b)(ii) of which the end result is the creation of no more than ten new properties including the remainder, excluding properties used exclusively for the accommodation of roads or other engineering services;

**23. Amendment of Schedule 2, subsection 3 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the addition of the words “or the amendment or cancellation of a general plan” in Schedule 2, subsection 3(e) of the Principal By-law:**

The principal By-Law is hereby amended by the substitution of Schedule 2, subsection 3(e) of the following section:

“(e) township establishment or the amendment, cancellation or partial cancellation of a general plan;

**24. Amendment of Schedule 4, subsection 3 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the insertion of a new subsection “3(6)” after Schedule 4, subsection 3(5) of the Principal By-law:**

The principal By-Law is hereby amended by the insertion *after* Schedule 4, subsection 3(5) of the following section:

“(6) Developers are encouraged to promote the provision of space in developments for informal businesses and the informal economy in general.”

**25. Amendment of Schedule 4, Section 5(1) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the Insertion of a new subsection “5(1)(n)” after Schedule 4, subsection 5(1)(m) of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion after Schedule 4, sub-section 5(1)(m) of the following section:

“(n) if an application is an application for the approval of a Notarial Tie in favour of the municipality, the following further documents are required:

- (aa) A draft Notarial Tie Agreement;
- (bb) Power of Attorney; if a mortgage bond is registered in respect of the land concerned, the relevant bondholder's consent;
- (cc) a written motivation for the Application based on any relevant criteria of the property concerned; or
- (dd) a locality plan and site development plan, (if required), or a plan showing the proposed land development in its cadastral context;
- (ee) a conveyancer's certificate indicating that the Application is not restricted by any condition contained in the title deed pertaining to the land concerned or a copy of all historical title deeds;
- (ff) Any other information as the Municipality may designate in terms of its policy."

**26. Amendment of Schedule 4, Section 11(2) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the Insertion of the words "method or a" in Schedule 4, Section 11(2) of the Principal By-Law:**

The principal By-Law is hereby amended by the substitution of Schedule 4, subsection 11(2) of the following section:

- "11(2) The Municipal Planning Registrar may require an applicant to consult the public at the applicant's expense by means of any method or a combination of the methods of public notice contemplated in item 1 of Schedule 5."

**27. Amendment of Amendment of Schedule 4, Section 17(2) and Section 20(2) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the deletion of Schedule 4, subsection 17(2) and Schedule 4, subsection 20(2) of the Principal By-Law:**

The principal By-Law is hereby amended by deletion of Schedule 4, subsection 17(2) and Schedule 4, subsection 20(2) in their entirety:

- "[17(2) An application for municipal planning approval lapses if a Municipal Planning Authorised Officer or a Municipal Planning Tribunal failed to decide the application within the specified period.]"

**“[20 (2) An application for municipal planning approval lapses, if a Municipal Council failed to decide the application within the specified period.]”**

- 28. Amendment of Schedule 5, subsections 4, 5 and 6 of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the renumbering of subsections “4”, “5” and “6 “to read “7”, “8” and “9” as they appear on page 85 of Schedule 5 of the Principal By-Law:**

The principal By-Law is hereby amended by the substitution of schedule 5, subsections 4, 5 and 6 of the Principal By-Law with the following subsections:

**“[(4)] (7)** The Municipality may, at its own discretion, instruct an applicant to follow a relevant public participation process, should it consider it necessary to inform the public and/or possible interested and affected parties of the land development application.

**[(5)] (8)** The remaining applications not listed in this schedule, items 6 and 7 above shall be required to undergo the public consultation process as outlined in schedule 5, item 1.

**[(6)] (9)** Where surrounding landowners’ addresses are not available:

- (a) the applicant would be required to inform the surrounding landowners of the application as instructed by the Municipality;
- (b) a community meeting may be held at a venue convenient to the surrounding landowners. Notice of the meeting shall be by means of loud hailing and displaying a notice onsite in a visible location.”

- 29. Amendment of Schedule 10, subsection 2(3) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the replacement of the numbers “30” with “21” of Schedule 10, subsection 2(3), and the insertion of a new subsection 2(3)(c) after subsection 2(3)(b), Schedule 10 of the Principal By-Law:**

The principal By-Law is hereby amended by the substitution of schedule 10, subsection 2(3) of the principal By-law, of the following section:

- “(3) A person who wants to lodge a responding memorandum must, within **[30]** 21 days after the memorandum of appeal was served on that person serve the responding memorandum on –
- (a) the Municipal Planning Appeal Authority Registrar; and
  - (b) the Municipal Manager; and
  - (c) the Appellant.

**30. Amendment of Schedule 10, subsection 14(1) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the amendment of Schedule 10, subsection 14(1) of the Principal By-Law:**

The principal By-Law is hereby amended by the substitution of Schedule 10, subsection 14(1) of the following section:

- “14.(1) The Municipal Planning Appeal Authority Registrar must notify all parties to an appeal hearing in writing of the time and place of the appeal hearing. Such notice must be given at least 21 days before the date on which the appeal hearing is to take place.”

**31. Amendment of Schedule 11, subsection 1(1) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the replacement of the numbers “30” with “21” of Schedule 11, subsection 1(1) of the Principal By-Law:**

The principal By-Law is hereby amended by the substitution of Schedule 11, subsection 1(1), of the following section:

- “1.(1) An applicant or a person who has a right of appeal, may, within the **[30]** 21 days allowed for the lodging of an appeal, apply to the Chairperson for an extension of the period within which to lodge a memorandum of appeal.”



**32. Amendment of Schedule 11, subsection 1(3) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the addition of subsection 1(3)(d) of Schedule 11, of the Principal By-Law:**

The principal By-Law is hereby amended by the addition of subsection 1(3)(d) of Schedule 11, of the Principal by law, of the following section:

“1(3)(d) all the persons who responded in writing to an invitation to comment on the application for municipal planning approval who–

(i) responded before the closing date for comments; and

(ii) have provided their contact details.”

**33. Amendment of Schedule 11, subsection 4(a) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the replacement of the numbers “30” with “21” of Schedule 11, subsection 4(a) of the Principal By-Law:**

The principal By-Law is hereby amended by the substitution of Schedule 11, subsection 4(a), of the following section:

“(a) rule on an application for late lodging of a memorandum of appeal within **[30] 21** days of the expiry of the period for the lodging of an application for the late lodging of a memorandum of appeal, which ruling may include an order as to costs as the Presiding Officer considers fair and appropriate;”

**34. Amendment of Schedule 11, subsection 4(b) of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the addition of the words “which extension may not be more than 40 days from the expiry date for the lodging of a memorandum of appeal” into Schedule 11, subsection 4(b) of the Principal By-Law:**

The principal By-Law is hereby amended by the substitution of Schedule 11, subsection 4(b), of the following section:

- “(b) in the event that an application for late lodging of a memorandum of appeal is granted, review and adjust the time limits relating to the lodging of memoranda and the hearing of the appeal by the Municipal Planning Appeal Authority, which extension may not be more than 40 days from the expiry date for the lodging of a memorandum of appeal;”

**35. Amendment of the KwaDukuza Local Municipality: Municipal Spatial Planning and Land Use Management By-law, 157/2018** (hereinafter referred to as the principal By-law)

**By the Insertion of a new SCHEDULE 14 – NOTARIAL TYING OF PROPERTIES of the Principal By-Law:**

The principal By-Law is hereby amended by the insertion after Schedule 13 of the following schedule:

**“SCHEDULE 14**  
**NOTARIAL TYING OF PROPERTIES**

**1. Application for a Notarial Tie of Properties:**

1.1. A landowner or his agent may apply to the Municipality, in relation to the development of the land concerning a Notarial Tie to link two or more properties in order to comply with development controls, the land use scheme, another bylaw and/or a directive of the Municipality.

1.2. A Notarial Tie application may apply where:

1.2.1. such Application is a stand-alone Application and does not supplement another land use or development Application being considered by the Municipality in terms of Section 46 and where:

a) consolidation of land is prudent but has been exhausted and/or cannot be achieved; or

b) consolidation of land is ineffective for the lawful purpose proposed; or

c) a notarial tie is required in terms of Section 4(2) of the Sectional Titles Act for the development of a Scheme;

such approval of application is at the discretion of the Municipal Planning Approval Authority.

1.2.2. such Application is a supplementary or complementary land use or development Application in terms of Section 46, in instances where (but not limited to):

a) consolidation of land is prudent but has been exhausted and/or cannot be achieved, or

b) consolidation of land is ineffective for the lawful purpose proposed; or

c) As an interim provision in the consolidation of land, subject to such consolidation of land occurring within a prescribed time frame subject to any other conditions that the Municipal Planning Approval Authority may imposed; or

d) Where a notarial tie is in terms of Section 4(2) of the Sectional Titles Act for the development of a Scheme;

e) in such other instances at the discretion of the Municipal Planning Approval Authority;

1.3. The municipality shall only be required to consider an application for a Notarial Tie, where the municipality is the enforcer of the agreement. In such instances and/or circumstances where the municipality is not the enforcer of the agreement, the consent of the municipality shall not be required.

1.4. Notwithstanding any provision contained in this By-law or any other law, the Notarial Tie Application and registration of a Notarial Tie in the Deeds Registry by the owners of such properties with the intention of circumventing a land development Application or in an attempt to condone an illegal land use or action, shall not be approved by the Municipality.

## **2. Conditions of Approval**

2.1. The Municipality shall require that the Notarial Tie Agreement be registered in the Deeds Registry against the title deeds of all the properties concerned including such registerable conditions

imposed in a decision by the municipal planning authority on a proposed Notarial Tie application.

**3. Delegation to sign a Notarial Tie Agreement**

3.1 The municipal manager and/or his/her delegated authority shall sign the Notarial Tie Agreement on behalf of the municipality

**4. Requirement of proof of Registered Notarial Tie Agreement to be supplied to the Municipality**

4.1. An Applicant shall provide the Municipality with an original certified copy of the registered Notarial Tie Agreement within 5 days of date of its registration.

**5. Enforcement of contractual obligations in terms of the Notarial Tie Agreement**

5.1. In the event of the Land Owner breaching the conditions as stipulated in the Notarial Tie Agreement:

5.1.1. Prior to the Registration of the Agreement in the Deeds Registry:

(a) The Municipality, may at its discretion, on a case-by-case basis:

(i) Issue a Notice of compliance to be served on the Land Owner/s requiring compliance to be met; and/or

(ii) Issue a Letter of demand to be issued to the Land Owner/s to remedy the cause of breach; and/or

(iii) be entitled to utilise its credit control policy against the land owner/s in ensuring compliance is met;

(iv) Institute legal action where demand has not been met.”