# CHAPTER 18 CHANGE IN USE (REZONING) OF LAND

18.1 OVERVIEW

18.2 POLICIES

18.3 PROCESSES AND PROCEDURES

<table>
<thead>
<tr>
<th>Subsection</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>18.3.1</td>
<td>APPLICATIONS IN RESPECT OF LAND OVER WHICH SANRAL HAS NO DIRECT JURISDICTION</td>
<td>3</td>
</tr>
<tr>
<td>18.3.2</td>
<td>APPLICATIONS IN RESPECT OF LAND OVER WHICH SANRAL HAS DIRECT JURISDICTION</td>
<td>4</td>
</tr>
<tr>
<td>18.3.3</td>
<td>APPLICATIONS IN RESPECT OF LAND OVER WHICH SANRAL HAS INDIRECT JURISDICTION</td>
<td>5</td>
</tr>
</tbody>
</table>

18.4 ANNEXURES

<table>
<thead>
<tr>
<th>Subsection</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>18.4.1</td>
<td>Letter - No jurisdiction over the proposed change in land use.</td>
<td>7</td>
</tr>
<tr>
<td>18.4.2</td>
<td>Letter - Direct jurisdiction over land use.</td>
<td>8</td>
</tr>
<tr>
<td>18.4.3</td>
<td>Application Form - Direct jurisdiction over land use.</td>
<td>9</td>
</tr>
<tr>
<td>18.4.4</td>
<td>Letter - Indirect jurisdiction over land use.</td>
<td>?</td>
</tr>
</tbody>
</table>
18.1 OVERVIEW

18.1.1 Applications for the change in use (rezoning) of land is dealt with in terms of various legislation, including the relevant Provincial Planning Ordinances, the Development Facilitation Act, the Less Formal Township Establishment Act, and the KwaZulu Land Affairs Act. However, no Section of the South African National Roads Agency Limited and National Roads Act, 1998 (Act 7 of 1998) [the Act] specifically authorises the South African National Roads Agency Limited [SANRAL] to approve or reject any application for the change in land use.

18.1.2 As an application for the change in land use usually implies that some new form of development will take place on the land, it must be noted that the provisions of several Sections of the Act may well have an impact on an application for rezoning. As stated in paragraph 4.1 of the Introduction to this Manual, different aspects are governed by the provisions of different Sections of the Act and this Manual must be read as a whole and applied as such. It is therefore reiterated that Chapters (especially this Chapter) must not be read in isolation. This Chapter is a prime example of a Chapter that must always be read with at least Chapters 9, 12, 13, 14, and 15 of this Manual.

18.1.3 In some circumstances SANRAL may have direct jurisdiction over a proposed change in land use as a result of conditions it had previously imposed in accordance with the provisions of the Act and which conditions have or should have been taken up in the Conditions of Establishment of the relevant township and/or the Title Deed of the affected land.

18.1.4 SANRAL may also have indirect jurisdiction over the proposed change in use of land situated within or partially within the defined Statutory Building Restriction Area as the specific application is or should have been accompanied by or will have to be followed by an application -

(a) for direct access to and egress from the relevant national road;

(b) to erect, construct, lay or establish anything on, over or below the surface of the relevant land, or alter or add to an existing structure on the relevant land;

(c) for the sub-division of the relevant land;

(d) for the displaying of an advertisement visible from a national road; or

(e) to trade within the Statutory Building Restriction Area.

18.1.5 Most Local Authorities and Town Planners who either have jurisdiction over or deal with applications for change in land use, normally also distribute as part of their standard practice, such applications for comment to all “interested and affected parties” of whom SANRAL is considered to be one. However, this is not always the case and it is therefore of the utmost importance that SANRAL’s Regional Staff should -
(a) scrutinise all Provincial Gazettes to ensure that SANRAL is aware of all applications for change in land use and/or proposed developments that may have an impact on the national road network;

(b) be actively involved in all forums responsible for the compilation of Guide Plans\textsuperscript{12}, Structure/Integrated Development Plans\textsuperscript{13a} and Town Planning Schemes\textsuperscript{13b}; and

(c) ensure that proper communication channels are maintained with all provincial and municipal planning authorities within the area under its control.

18.1.6 SANRAL must also use the opportunity to establish whether a specific rezoning (even if the land affected by an application is situated outside the area over which SANRAL has jurisdiction) will have a detrimental effect on the national road network, such as an abnormal increase in traffic or storm-water flow that will have to be accommodated by the national road infrastructure.

18.1.7 In cases where SANRAL is of the opinion that a proposed rezoning will have a detrimental effect on the national road network, it should, simultaneously with the submission of its comments on an application as set out hereunder, also request the relevant Municipality, Provincial Administration or Development Tribunal\textsuperscript{14} to protect its interests by the inclusion of appropriately worded conditions regarding the responsibility for costs that may have to be incurred for the upgrading or installation of such additional infrastructure, into their approval of the rezoning application.

18.1.8 It must thereby be ensured that all costs in respect of the possible stallation of additional infrastructure or the taking of such steps as may be required by SANRAL, will be for the account of the relevant applicant.

18.2 POLICIES

18.2.1 No application for the proposed change in land use (rezoning) that is submitted to SANRAL for comment, or is published in a Provincial Gazette, may be ignored.

18.2.2 All applications must be carefully scrutinised and must be dealt with in the manner referred to in paragraph 18.3 hereof.

18.3 PROCESSES AND PROCEDURES

As mentioned above, SANRAL will either have no jurisdiction to impose any conditions on a specific Application for the change in land use, or will have direct or indirect jurisdiction to impose or amend previously imposed conditions in this regard. The processes and procedures relevant to the specific categories of Applications are therefore as follows:

18.3.1 Applications re land over which SANRAL has no direct jurisdiction:

If SANRAL has no direct jurisdiction over a specific portion of land -

(a) the Application must be dealt with on
File No 11/4/1 in respect of General Enquiries (Township Development) or File No 11/3/1 in respect of General Enquiries (Sub-division of land); and

(b) the Applicant or relevant Local Authority or Municipality must merely be informed that SANRAL has no jurisdiction to object to the proposed change in land use, but if necessary, the relevant Municipality, Provin-cial Administration or Development Tribunal must also be requested to protect SANRAL’s interests by the inclusion of appropriately worded conditions regarding the responsibility for costs that may have to be incurred for the upgrading or installation of such additional infra-structure, into their approval of the rezoning application15.

18.3.2 Applications re land over which SANRAL has direct jurisdiction.

(a) As described in Chapter 13 hereof66, SANRAL, when considering an application for the sub-division of land, may impose conditions-

(i) prohibiting the further division of such land;

(ii) limiting the use to which the land may be put;

(iii) limiting the number or extent of buildings or other structures which may be erected on the land; and

(iv) prohibiting the erection, construction or establishment of any structure or other thing on, over or below the surface of the land within a specified distance from the relevant national road reserve boundary.

(b) Although SANRAL may in certain circumstances have imposed a condition in respect of only one of the aforementioned categories, it must be noted that the previous decision would have been based on information that was available at the time of the initial Application. However, the proposed change in land use may have the effect that SANRAL now wishes to also impose a condition in respect of one of the other categories.

(c) In view of the aforementioned, cognisance must always be taken of the fact that although the title deed of a specific property or the Conditions of Establishment of a specific township may for instance only mean that SANRAL may only limit its comments to this restriction. The new information may well result in SANRAL wishing to now also impose a restriction on, over or below the surface of the land within a specified distance from the relevant national road reserve boundary, it does not mean that SANRAL may only limit its comments to this restriction. The new information may well result in SANRAL wishing to now also impose a restriction on for instance the use of the land in question and thus, even in such circumstances, SANRAL is deemed to have direct jurisdiction over the proposed change in use of land.

(d) Therefore, if SANRAL has direct jurisdiction over the proposed change in use of land17, cognisance must be taken of the fact that the Application for the change in land use is affected by a previously imposed

15 See ANNEXURE 18.1
66 Sub-division of Land (Section 49 of the Act)
17 See Paragraph 18.1.2 supra
condition that has been taken up in either the title deed of the subject property or the relevant township’s Conditions of Establishment. Therefore, a Case File with reference 11/3/3 - (route/section) - (case No) or 11/4/3 - (route/section) - (case No) in respect of the subject land, will (under normal circumstances) exist already. The Application for the proposed change in land use must therefore be dealt with on the existing Case File. However, as the proposed rezoning may have the effect that further or more restrictive conditions than those that were previously imposed, are deemed necessary, the “further” Application must be evaluated as if it is a new Application. All the policies, processes and procedures described in Chapter 13 of this Guideline Manual (Sub-division of Land) will therefore be applicable and must be adhered to.

(e) In reply to such Applications for the proposed change in land use, SANRAL must inform the Applicant and/or relevant Local Authority or Municipality

(i) that SANRAL has jurisdiction over the use of the specific land as a result of the aforementioned previously imposed conditions that have been or should have been taken up in the property’s title deed or the relevant township’s Conditions of Establishment; and

(ii) that SANRAL will either enforce or will be prepared to relax, alter or amend the previously imposed conditions, or will be imposing further or more restrictive conditions, but that a formal Application in this regard must be submitted to SANRAL for consideration and that the relevant prescribed Application Form, which Form can be obtained from all Regional Offices of SANRAL, must be used for the submission of all such Applications.

(f) On receipt of the said “further” Application referred to in the paragraph (d)(ii) supra, it must also be dealt with on the existing Case File. However, as the proposed rezoning may have the effect that further or more restrictive conditions than those that were previously imposed, are deemed necessary, the “further” Application must be evaluated as if it is a new Application. All the policies, processes and procedures described in Chapter 13 of this Guideline Manual (Sub-division of Land) will therefore be applicable and must be adhered to.

18.3.3 Applications re land over which SANRAL has indirect jurisdiction.

(a) As mentioned above, SANRAL may have indirect jurisdiction over the proposed change in use of land situated within or partially within the defined Statutory Building Restriction Area.

(b) Such Applications for the proposed change in use of land must also be dealt with on File No 11/4/1 in respect of General Enquiries (Township Development) or 11/3/1 in respect of General Enquiries (Sub-division of land).

(c) However, if SANRAL has indirect jurisdiction over the proposed change in use of land, SANRAL must inform the Applicant and/or relevant Local Authority or Municipality -

(i) that SANRAL has indirect jurisdiction over the use of the specific land as the land is situated within or partially within the defined Statutory Building Restriction Area;

(ii) that SANRAL will either support or
oppose the proposed change in land use; and

(iii) that the Applicant must, by using the applicable Application Form(s)\textsuperscript{26}, which Forms can be obtained from all SANRAL Regional Offices\textsuperscript{26}, submit to SANRAL for consideration, a formal Application(s) in respect of one or more (as the case may be) of the following:

- An application for direct access to and egress from the relevant national road\textsuperscript{27}.
- An application to erect, construct, lay or establish anything on, over or below the surface of the relevant land, or alter or add to an existing structure on the relevant land\textsuperscript{28}.
- An application for the sub-division of the relevant land\textsuperscript{29}.
- An application for the displaying of an advertisement visible from a national road\textsuperscript{30}.
- An application to trade within the Statutory Building Restriction Area\textsuperscript{31}.

(e) On receipt of the said “further” Application(s) referred to in paragraph (d)(ii) supra, it must also be dealt with on the Case File series applicable to the relevant category. It will therefore be necessary to open a new Case File and the policies, processes and procedures described in the relevant Chapters of this Guideline Manual (see Footnotes below), will be applicable.

18.4 ANNEXURES

18.4.1 - Letter - No jurisdiction over the proposed change in land use.

18.4.2 - Letter - Direct jurisdiction over land use.

18.4.3 - Application Form - Direct jurisdiction over land use.

18.4.4 - Letter - Indirect jurisdiction over land use.

\textsuperscript{26} These Application Form(s) are referred to and attached as ANNEXURES to Chapters 9 & 12 to 15.

\textsuperscript{27} See ANNEXURE 888 - List of SANRAL’s Regional Offices.

\textsuperscript{28} See Chapter 9 hereof and Section 44 of the Act.

\textsuperscript{29} See Chapter 12 hereof and Section 48 of the Act.

\textsuperscript{30} See Chapter 13 hereof and Section 49 of the Act.

\textsuperscript{31} See Chapter 15 hereof and Section 52 of the Act.

Rev. 0 - March 2009
Dear Sir

PROPOSED CHANGE IN LAND USE IN RESPECT OF ………………………………

1. Your letter with reference ………… /Application dated …………… Refers

The above-mentioned property is situated outside the area over which the South African National Roads Agency Limited has jurisdiction and therefore, this office has no further comments to offer on the proposed change in the use thereof.

or

2. Although the above-mentioned property is situated outside the area over which the South African National Roads Agency Limited (SANRAL) has jurisdiction, the proposed rezoning will have a detrimental effect on the national road network in that …….. [insert reasons]. It will therefore be appreciated if SANRAL’s interests can be protected by the incorporation of the following condition(s) into the Conditions of Approval of the above-mentioned proposed rezoning:

2.1  .................

2.2  .................

[include appropriately worded conditions regarding for instance the responsibility for costs that may have to be incurred for the upgrading or installation of additional stormwater or other infrastructure].

Yours faithfully

Statutory Control Officer
for Regional Manager
Dear Sir/Madam

NATIONAL ROUTE .................................................. TO .................................

PROPOSED CHANGE IN LAND USE IN RESPECT OF .................................


2. By virtue of Condition …. on page …… of Deed of Transfer/Certificate of Consolidated Title/ Certificate of Registered Title No T............./Conditions of Establishment affecting the above- mentioned property/township, the South African National Roads Agency Limited (SANRAL) has jurisdiction over the use of the land referred to above.

3. In view of the aforementioned, kindly inform the landowner/Applicant that a formal Application to amend the use of the said land, will have to be submitted to this Office for consideration. Also inform the landowner/Applicant that SANRAL may decide to enforce the restrictions it had previously placed on the use of the said land, or may be prepared to relax, alter or amend the previously imposed conditions. It may even be imposing further or more restrictive conditions on the use thereof.

4. A pro forma Application Form in this regard, is attached hereto/can be obtained from any of SANRAL’s Regional Offices and a duly completed Application Form, as well as the required documentation, must be forwarded to this Office without delay, please.

Yours faithfully

..........................................................
Statutory Control Officer
for Regional Manager
Dear Sir/Madam

NATIONAL ROUTE ............................................. TO ....................................

PROPOSED CHANGE IN LAND USE IN RESPECT OF ...........................................


2. The South African National Roads Agency Limited (SANRAL) has indirect jurisdiction over the use of the land referred to above as it is situated within or partially within the Statutory Building Restriction Area adjacent to the above-mentioned national road. Therefore, although SANRAL will support/oppose the proposed change in the use of the said land, the landowner/Applicant will have to formally submit to this Office for consideration, an application(s) -

(a) for direct access to and egress from the national road;

(b) to erect, construct, lay or establish anything on, over or below the surface of the land, or alter or add to an existing structure thereon;

(c) for the sub-division of the relevant land;

(d) for the displaying of an advertisement visible from a national road; or

(e) to trade within the Statutory Building Restriction Area.

3. Pro forma Application Forms in this regard, is/are attached hereto/can be obtained from any of SANRAL’s Regional Offices and a duly completed Application Form(s), as well as the required documentation, must be forwarded to this Office without delay, please.

Yours faithfully

........................................
Statutory Control Officer
for Regional Manager