

ACCOMMODATION AND HOSPITALITY SECTOR IN KWADUKUZA

REVISITING POLICIES AND REGULATIONS



PREPARED FOR:
KWADUKUZA MUNICIPALITY

PREPARED BY:
HELENA JACOBS^{PSF}
P.O. Box 1224
Ballito
4420

Tel (032) 946 1361
Fax (032) 946 0192

Helen.jacobs@vodamail.co.za

KwaDukuza Accommodation

Revisiting Policies and Regulations





TABLE OF CONTENTS

TABLE OF CONTENTS	2
1. INTRODUCTION	4
2. THE BRIEF & FORMATION OF STEERING COMMITTEE	5
The Brief	5
The Steering Committee	6
3. EXISTING POLICIES AND REGULATIONS	7
4. NEW STANDARDISED DEFINITIONS	8
Category 1 – Self Catering Accommodation	9
Apartments & Villas	9
Backpacker / Hostelling Establishment	9
Resort	9
Category 2 – Serviced Accommodation	10
B&B Establishment	10
Guesthouse (maximum 12 rooms in S.R. zone)	10
Country House	10
Boutique Hotel	10
Lodge	10





5. TOURISM GRADING COUNCIL CRITERIA	11
6. PLANNING APPLICATION-, REGULATION AND REGISTRATION SYSTEM	12
Planning Application Requirements:	12
Proposed Regulation and Registration System:	13
7. COMMUNICATION STRATEGY	16
8. PROPOSED COMPLIANCE, MONITORING AND CONTROL SYSTEM – NEW BY-LAW	16
Compliance & Proposed New By-law:	16
Monitoring & Control:	17
8. BEE / EMERGING SECTOR CHARTER	19



KwaDukuza Accommodation

Revisiting Policies and Regulations

1. INTRODUCTION

The KwaDukuza Municipality Executive Committee resolved to review policies relating to the accommodation and hospitality sector, and to this extent, the following resolution has reference:

"EDP 26/2008 REF:19/19/R

- *Council support the recommendation for a policy and regularization review of the hospitality sector*
- *An implementation plan with related budget and timeframes are to be prepared by LED and Development Control for the following:-*
 - *Review Policy and Regulations*
 - *Review Compliance, monitoring and control systems*
 - *Survey and analysis of all current operations within KwaDukuza*
 - *Formulation of a new database*
 - *Registration Plan for emerging sector*
- *Stakeholder workshop to be held to inform the process*
- *An amnesty period be investigated and considered to encourage all hospitality sector operators to legalise their operations and register*
- *Finance Department review rebates for the 2008/09 period as part of the budgetary process, and investigate possible rates relieve for the 2007/08 period during the Adjustment Budget process"*

A photograph of a bronze statue of a man in a suit, standing on a pedestal. The statue is located on the left side of the slide, partially overlapping the white content area.

KwaDukuza Accommodation

Revisiting Policies and Regulations

2. THE BRIEF & FORMATION OF STEERING COMMITTEE

The Brief

In order to give effect to the resolution of the Executive Committee Meeting, the process the public participation process commenced at the end of February 2008 to:

1. **Develop a Policy; and**
2. **Review the Regularisation of the Accommodation and Hospitality Sector in KwaDukuza.**

A Steering Committee comprising of various stakeholders in the hospitality and accommodation sector in KwaDukuza met on a regular basis, with the objective to:

- Review Existing Policies and Regulations relating to the hospitality and accommodation sector in KwaDukuza
- Make recommendations to the KwaDukuza Municipality for the restructuring of the Industry to ensure SMME and BBEE involvement and integration
- Review planning, development control systems, procedures and standardization of definitions.
- Develop compliance, monitoring and control systems
- Survey and analyse all current operations within KwaDukuza
- Update Existing Database / Record of Establishments operating in KwaDukuza
- Develop a Registration Plan for the Emerging Sector
- Develop a registration plan and investigate "Amnesty Period" to encourage all hospitality sector operators to legalise their operations and register
- Prepare a new Classification System to incorporate different categories of land uses
- Develop new policy, with by-law and operation system for adoption by Council
- Align Applicable Rates System to the new Policy.

A photograph of a statue of a man in a suit, standing on a pedestal. The statue is located on the left side of the slide, partially overlapping the main content area.

KwaDukuza Accommodation

Revisiting Policies and Regulations

The Steering Committee

During March and May 2008 representations were made to stakeholders, including the KwaDukuza Ward Committees and the accommodation network sector. General buy-in was obtained which led to the Established the KDM Accommodation Working Group as a Technical Working Group to assist in formulation of new policy.

1. Regular monthly meetings of the KDM Accommodation Working Group was held in preparation of the report, and
2. 2 Representatives from the Working Committee reported to the KDCPA (KwaDukuza Dolphin Coast Publicity Association) Steering Committee.

The list of stakeholders involved had representatives in 6 categories of the hospitality and accommodation sector in KwaDukuza, namely:-

- B&B's, Guesthouses and Home Hosting Establishments
- Self Catering and letting agents
- Hotels and conference centres
- Fedhasa, KZN Tourism and tour operators
- Restaurants, pubs, taverns, and clubs
- And the emerging sector

A Technical Working Group comprising of the representatives listed below were established to ensure that the necessary co-ordination take place between the sector stakeholders and the KwaDukuza Municipality:-

- 1 person from each of the categories mentioned above;
- KwaDukuza Municipality Departments of Local Economic Development, Town Planning and Building Control, Legal and Corporate, Finance and Revenue.

KwaDukuza Accommodation

Revisiting Policies and Regulations





3. EXISTING POLICIES AND REGULATIONS

KwaDukuza Municipality does not have a standardized set of regulations or a set of planning controls to regulate the hospitality and accommodation sector.

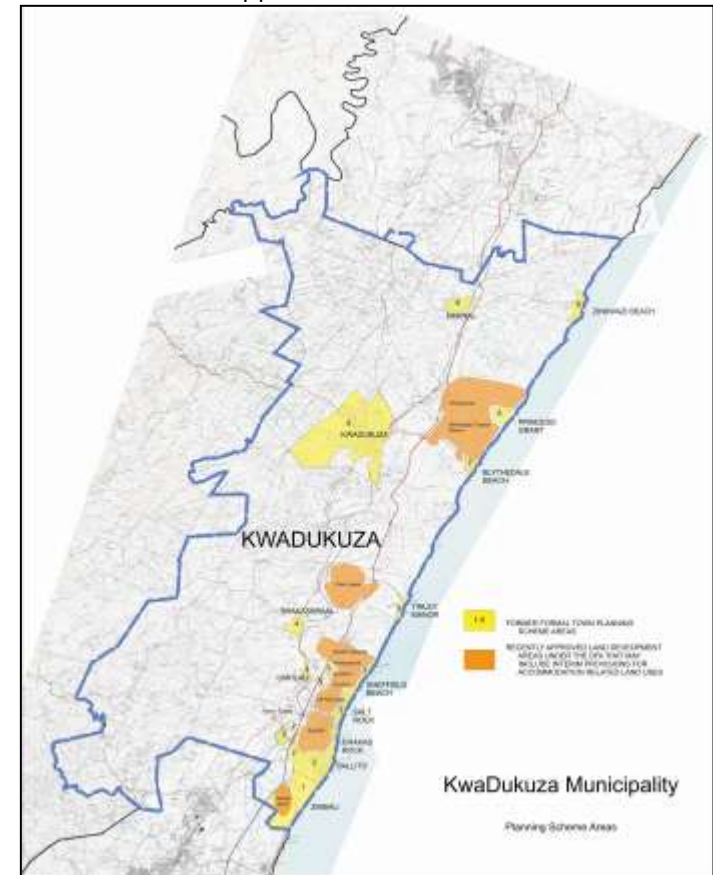
The area is governed through 9 Town Planning Schemes, a number of approved Development Facilitation Act approvals which contain interim land use controls pertaining to accommodation classifications, and then, for the rest of the area that falls outside formal planning schemes, the general provisions of the Natal Town Planning Ordinance, No. 27 of 1949 is supposed to prevail. Each of these planning schemes and land use schemes has its own standards and definitions, with the result that an urgent need for regularisation and standardisation in the sector has now emerged. Certain amendments to existing town planning schemes will be required, and the new KwaDukuza LUMS will have to include a set of standardised definitions and procedures ones adopted.

Figure 1 to the right depicts the geographic distribution of the 9 town planning scheme areas and land development areas with interim land use controls that may have an impact on the definitions and controls pertaining to the hospitality sector, as approved through the Development Facilitation Act.

Need for KwaDukuza Municipality EXCO to Initiate Scheme Amendments

1. To give effect to the proposed changes, the Executive Committee of KwaDukuza Municipality has to resolve to amend the relevant Town Planning Schemes in course of preparation;
2. KwaDukuza Municipality has to approve the proposed new by-law for the hospitality and accommodation sector, and resolve to promulgate the said by-law in terms of the relevant legislation; and
3. The provisions of the scheme amendments have to be incorporated into the proposed new LUMS which is in the process of being prepared.

There are no by-laws at present to govern the accommodation and hospitality sector for the KwaDukuza Municipality. It will be necessary to introduce a by-law for this purpose.



KwaDukuza Accommodation

Revisiting Policies and Regulations



4. NEW STANDARDISED DEFINITIONS

The definitions are categorized in two main groups, namely establishments that fall under **Self Catering Accommodation** and those that fall under **Serviced Accommodation**.

OVERRIDING PRINCIPLES

1. Tourism initiatives are to be **actively promoted** and encouraged to such an extent that it becomes one of the key economic drivers in KwaDukuza.
2. The Tourism Sector in KwaDukuza must be widely publicised and promoted as per Midlands Meander example, so that KwaDukuza can become the destination of choice in 2010 and beyond.
3. Tourism and accommodation industry is one of the pillars of the KwaDukuza economy, but the sector is faced by **challenges**.
4. Need a well **functioning system** of compliance, monitoring, control and operation that enjoys all the stakeholders' buy-in, and that is fair and equitable
5. Need a process to **review existing policy and regulations** pertaining to the accommodation- and hospitality sector in KwaDukuza
6. Investigate possible options to encourage all operators to **legalise** their operations and register their operations
7. Investigate alternatives to review the rebate applicable to the **rates policy** and possible reprieve to this sector

CATEGORY 1:- **Self Catering Accommodation include**

- Apartments & Villas
- Backpacker / Hostelling Establishment
- Resort

CATEGORY 2:- **Serviced Accommodation include**

- B&B Establishment
- Guesthouse
- Country House
- Boutique Hotel
- Lodge

LAND USE APPLICATION PROCEDURES AND –CRITERIA have been established for each of the categories and definitions listed above. It will be necessary for the Municipality to include these procedures and requirements into the proposed changes of the planning schemes. These appear on pages 13 to 28 of Report 2/2 attached.

A brief description of each of the proposed new definitions follows in the next section. The planning criteria to be used, and application process to be followed appears as Annex A hereto.

KwaDukuza Accommodation

Revisiting Policies and Regulations



Category 1 – Self Catering Accommodation

Apartments & Villas

“Means a dwelling house, cabana, cottage, chalet, bungalow, flat, studio, apartment, villa, where the owner/agent does not reside and facilities and equipment are provided for guests to cater for themselves as temporary holiday accommodation. The facilities should be adequate to cater for the maximum advertised number of residents the facility can accommodate. The booking is usually done through an agent and check in procedures would not normally be completed on site”

Backpacker / Hostelling Establishment

“A Backpacker / Hostelling establishment is an accommodation facility that offers a range of alternative sleeping arrangements i.e. dormitories, en suite bedrooms, bungalows, etc. as well as communal facilities. Selected meals may be provided, however, adequate facilities must also be provided to cater for the advertised number of guests. Only establishments that cater for transient guests qualify. Check in procedures are usually completed on site, and the owner/manager may reside on the site”

Resort

“A Resort is a complex which offers, in addition to accommodation, a number of facilities and holiday experiences. Particularly well-suited for family vacations, a resort offer a variety of experiences which may include inter alia hotels, conferencing, public entertainment areas, golfing, sport, watersports, wildlife, wellness centres, hydros, spas, health resorts, cultural, historical, and gambling.”

NOTE: Transient Guest: is a person who occupies accommodation for less than 45 consecutive days.

IMPORTANT NOTICE TO SELF-CATERING ESTABLISHMENTS

In terms of the KwaZulu-Natal Tourism Authority Amendment Act (Act No. 2 of 2002), and it's associated 'KwaZulu-Natal Tourism (Registration of Tourism Establishments and Tourism Operators) Regulations, 2004:

1. All tourism establishments and tourism operators listed in columns 1 and 2 of Appendix 1 to the said regulations must apply for registration with the Authority within six months of the commencement of these regulations; and
2. To be registered with the Authority, a tourism establishment or tourism operator must –
 - i. Be a member of at least one Community Tourism Organisation if it is necessary to the marketing of its service;
 - ii. Have a business or trading licence; and
 - iii. Have public liability insurance.

In this regard, a “**certificate of registration**” means a certificate issued by the Authority in terms of regulation 9(2) to a tourism establishment or tourism operator to confirm registration with the Authority; and a “**community tourism organisation**” means an independent local organisation registered with the Authority, responsible for the promotion of tourism establishments and tourism operators within a local area, within the Province.

KwaDukuza Accommodation

Revisiting Policies and Regulations



Category 2 – Serviced Accommodation

NOTE: Transient Guest: is a person who occupies accommodation for less than 45 consecutive days.

B&B Establishment

“Means an establishment, which is primarily a dwelling and makes excess rooms available to transient guests. The bathrooms may or may not be en suite. This establishment may be managed by the owner and/or designated person. Breakfast may be available for all guests. Public areas are usually shared by guests and owners/hosts alike”

Guesthouse (maximum 12 rooms in S.R. zone)

“Means an establishment that is purpose built/alterd for the sole use of providing transient guests with accommodation. This establishment shall be occupied by and may be managed by the owner or manager/host/hostess. The public areas are for the exclusive use of the guests. This facility will offer breakfast and depending on location, dinner and other facilities may be offered”

Country House

“Means an establishment that is purpose built/alterd, is located in peaceful/tranquil surrounds (i.e. farm, lake, dam, river, forest etc) and is for the sole use of providing transient guests with accommodation. This establishment may be managed by the owner and/or manager/host/hostess. The public areas are for the exclusive use of the guests. This facility will offer breakfast and depending on location, dinner and other facilities may be offered”

Boutique Hotel

“Means a small and intimate accommodation establishment, typically offering an enhanced level of service and marketed to the affluent”

Lodge

“A lodge is an accommodation facility that is located / situated in a game/nature reserve. The rates charged are usually inclusive of all meals and the various experiences offered at the lodge, i.e. game drives, battlefield tours, game walks, birding, speciality excursions such as game tracking, fauna identification, etc.”

IMPORTANT NOTICE TO ALL SERVICED ACCOMMODATION ESTABLISHMENTS

In terms of the KwaZulu-Natal Tourism Authority Amendment Act (Act No. 2 of 2002), and its associated 'KwaZulu-Natal Tourism (Registration of Tourism Establishments and Tourism Operators) Regulations, 2004:

1. All tourism establishments and tourism operators listed in columns 1 and 2 of Appendix 1 to the said regulations must apply for registration with the Authority within six months of the commencement of these regulations; and
2. To be registered with the Authority, a tourism establishment or tourism operator must –
 - iv. Be a member of at least one Community Tourism Organisation if it is necessary to the marketing of its service;
 - v. Have a business or trading licence; and
 - vi. Have public liability insurance.

In this regard, a “**certificate of registration**” means a certificate issued by the Authority in terms of regulation 9(2) to a tourism establishment or tourism operator to confirm registration with the Authority; and a “**community tourism organisation**” means an independent local organisation registered with the Authority, responsible for the promotion of tourism establishments and tourism operators within a local area, within the Province.

KwaDukuza Accommodation

Revisiting Policies and Regulations



5. TOURISM GRADING COUNCIL CRITERIA

In addition to the requirements for registration with the tourism Authority and relevant 'Community Tourism Organisation', and for purposes of ensuring quality control in the sector, it is necessary to note that **all tourism establishments** and **all tourism operators may be graded by the Grading Council** in terms of the following criteria:

Backpacker & Hostelling:

"A Backpacker and/or Hostelling establishment is an accommodation facility that provides communal facilities, including dormitories yet may offer a range of alternative sleeping arrangements. Only establishments that cater for transient guests (travelling public) will qualify for grading"

Bed and Breakfast:

"Bed and Breakfast accommodation is provided in a family (private) home and the owner / manager lives in the house or on the property. Breakfast must be served. Bathroom facilities may or may not be en suite and / or private. In general, the guests shares the public areas with the host family"

Country House:

"A country house is a large guest house, usually situated in natural, peaceful surroundings such as near a nature reserve, a forest, a lake etc. It offers all the services of a hotel, including a dinner"

Guest House:

"A guest house can be an existing home, a renovated home or a building that has been specifically designed to provide overnight accommodation. A guest house will have public areas for the exclusive use of its guests. A guest house is a commercial enterprise and as such the owner or manager may live on the premises"

Lodge:

"A lodge is an accommodation facility located in natural surroundings. The rates charged are usually inclusive of all meals and the experiences offered at the lodge, with game drives, battlefield tours, etc.

Self Catering:

"A house, cottage, chalet, bungalow, flat, studio, apartment, villa, houseboat, tent or any accommodation where facilities and equipment are provided for guests to cater for themselves. The facilities should be adequate to cater for the maximum advertised number of residents the facility can accommodate"

A statue of a man in a suit, standing on a pedestal, located on the left side of the slide.

KwaDukuza Accommodation

Revisiting Policies and Regulations

6. PLANNING APPLICATION-, REGULATION AND REGISTRATION SYSTEM

Planning Application Requirements:

From the preceding sections it follows that the hospitality- and accommodation sector land use / zoning criteria is already regulated. To this extent, the procedures to be followed include inter alia procedures in terms of:

**The Development Facilitation Act, 1995;
Removal of Restrictive Conditions of Title Act, 1967;
The KwaZulu-Natal Planning and Development Act, 2008;
The Natal Town Planning Ordinance, 1949;
Special Consent Applications; and
Rezoning / Scheme Amendment applications.**

Each of the Acts and pieces of legislation referred to above have its own regulated set of application procedures. It is not the intention of the KwaDukuza Municipality to interfere with existing legal processes, but rather to align these procedures and application processes in a transparent and simplified manner so that it meets the requirements of the relevant legislation.

It is in any event recommended that the KwaDukuza Municipality include the different categories and types of uses in a new LUMS to ensure a fair application / implementation of the regulations across the Municipal area. As an interim, whilst there are still 9 individual schemes in place, and whilst there are still areas in KwaDukuza that is not covered by a Planning Scheme, it is recommended that the following principles be applied for the registration of all new and existing establishments:

1. All new applications have to meet the criteria and fit the new set of definitions provided;
2. All existing and new establishments have to register with the KwaDukuza Municipality, obtain the relevant planning approval, and obtain the necessary environmental authorization, where applicable.
3. All existing and new applicants to register with the relevant tourism Authority and the relevant Community Tourism Organisation.
4. All existing and new establishments have to obtain a business license from the Lower Tugela Business License Authority.

A photograph of a bronze statue of a man in a suit, standing on a pedestal. The statue is positioned on the left side of the page, partially overlapping the main text area.

KwaDukuza Accommodation

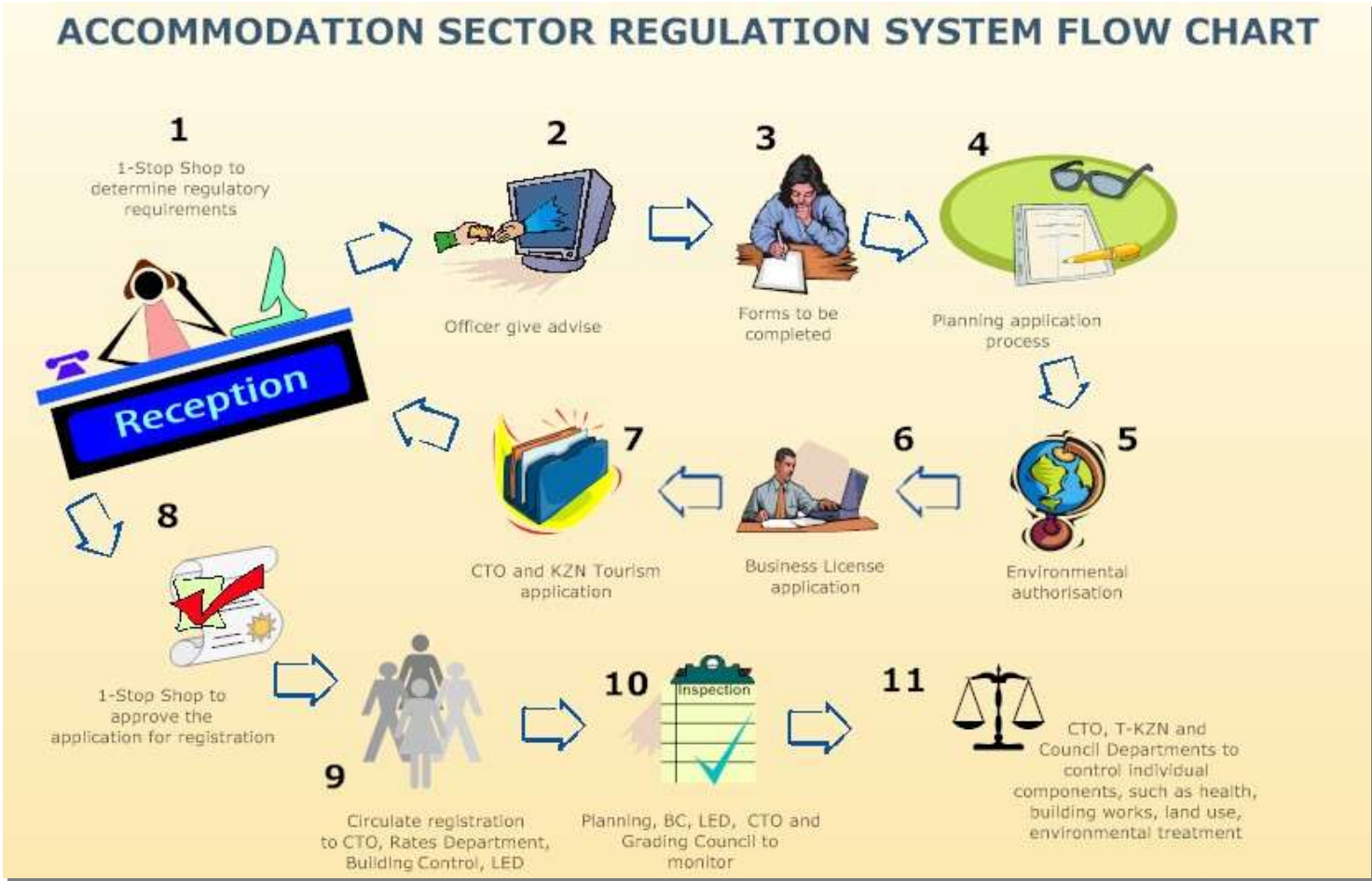
Revisiting Policies and Regulations



Proposed Regulation and Registration System:

Although the sector is regulated at the moment, it has become necessary to standardise on procedures and requirements, and to this extent, a new system of regulation, within which provision exists for registration, compliance, monitoring and control is required.

The flow diagram below sets out the relationship between the different components of the proposed new regulation system.



KwaDukuza Accommodation

Revisiting Policies and Regulations



The proposed Regulation System, depicted in the flow diagram here above, is as follows:-

1. **Establish a 1-Stop Shop** - KwaDukuza Municipality to establish a '1-Stop Shop' / Administrative Help Desk to deal with all enquiries. This administrative function will typically be assigned to the Development and Planning Department. The purpose of this help desk will be to deal with all enquiries, to give advise, to assist applicants in the selection of the correct procedures to be followed, to maintain the database, to liaise with other departments and other stakeholders, and to ensure that the necessary communication take place with all stakeholders to ensure a smooth running system. The help desk will capture the details of the proposed establishment at this stage, and commence with managing the tracking system.
2. **Explaining the process** – During the step 2 and 3 processes, the help desk official will give advise to the applicant on which processes to follow, which application forms are to be completed (assist with completion where necessary), and give advise which planning and regulatory applications will have to be prepared and submitted.
3. **Planning application** – Step 4 involves the actual planning application stage. During this phase the applicant will either submit an application to obtain the special consent of the Municipality, or rezone the land, or apply for removal of restrictive condition of title application, etc. This step in the process may be quite lengthy, and the KwaDukuza Municipality may facilitate the process by assisting with the processing of the application.
4. **Application for registration with other authorities** – the applicant may pursue the applications (steps 5, 6 and 7) for environmental authorisation, business license application and T-KZN / CTO Registration concurrently with the planning application in step 4.
5. **Application for Registration as a Tourism Establishment** – once all the planning, environmental and other required approvals have been granted, the applicant will submit an application for registration of the establishment to the help desk (Step 8). At this point in time the 1-Stop Shop will log the approval of the registration, and all the relevant departments will be informed of the decision (Step 9).

A bronze statue of a man in a suit, standing on a circular base, located in an outdoor setting with trees in the background.

KwaDukuza Accommodation

Revisiting Policies and Regulations

6. **Monitoring and Control** – once all the stakeholders have been informed of the decision, the necessary monitoring and control can be done by the relevant authorities and –stakeholders. All enquiries must be fed back to the 1-Stop Shop where all aspects with regards to every establishment will be tracked and communicated to.

The help desk operator has to **have direct access to planning specialists and environmental specialists** to ensure effective task completion. The person(s) at the help desk will require at least a basic understanding of the multi-disciplinary fields of planning and the environment and a more specialist knowledge of public administration.

For purposes of facilitating a fair and equitable process, it is recommended that the KwaDukuza Municipality adopt a standard 'Registration Form'. The completion of this form shall be compulsory for all new and existing establishments and have to be completed at stage 8 in the flow process above.

Attached as **Annex 'B'** is a copy of the application form for registration of new and existing establishments with the KwaDukuza Municipality.



KwaDukuza Accommodation

Revisiting Policies and Regulations

7. COMMUNICATION STRATEGY

The KwaDukuza Municipality will have to communicate the new policy to all its residents and property owners on an ongoing basis. The communication strategy will have to involve at least the following minimum requirements:-

- **Publication of the strategy on the KwaDukuza Municipality's web page as one of the policies / by-laws;**
- **Notice to be given on Council's notice boards and in the local press;**
- **Notice to be given at the main tourism centres;**
- **Newsletter to be circulated with all rates accounts; and**
- **Item to be discussed at all Ward Committee meetings.**

All current, as well as new establishments and tourism operators have to register on the database, and the Municipality may consider giving an amnesty period to allow existing establishment to comply with all legal requirements and formalise their establishments, and register same with the KwaDukuza Municipality, TKZN and the KwaDukuza CTO.

It is also imperative that the Municipality establish the help desk and capacitate the person(s) to be working at the help desk with the necessary skills, knowledge and equipment to fulfil the tasks prior to giving notice of the new process.

8. PROPOSED COMPLIANCE, MONITORING AND CONTROL SYSTEM – NEW BY-LAW

Compliance & Proposed New By-law:

All types of establishments listed in the bylaws shall comply with the relevant legislative and policy requirements as set out in the various planning-, environmental-, business- and sector regulatory environments.

Bearing in mind that the by-laws aims to facilitate the development of the tourism (hospitality and accommodation) sector in KwaDukuza, enforcement of compliance should rather be seen as a facilitative process as opposed to an enforcement issue.

KwaDukuza Accommodation

Revisiting Policies and Regulations



It is still first and foremost the responsibility of each of the stakeholder departments to ensure compliance with its own regulatory framework / requirements, and the nature of the contravention will determine which authority or department gets involved with the prosecution.

The new KwaDukuza Accommodation Regulations / Bylaws, will however place the responsibility on each and every individual establishment and operator to register as a member of the CTO. Equally important, the onus rests on the KwaDukuza Municipality to provide a penalty system for contraventions that:

1. Is practical to implement;
2. can lead to effective prosecution; and
3. Is cost effective to maintain.

It will become a violation of the by-law if an establishment does not comply with the regulatory framework. The Municipality's Legal Department will therefore play an important facilitative roll in this process. The court route should be the absolute last resort.

The proposed new By-law appears in **Annex C**.

Monitoring & Control:

Constant monitoring and control will be required on an ongoing basis.

There is however room for a more facilitative type of monitoring and control system to be introduced to ensure that compliance happens on a voluntary basis. The principle of Self-Regulation within the sector should be strongly emphasised. The 1-Stop Shop help desk should be capacitated to facilitate this P.R.O.

KwaDukuza Accommodation

Revisiting Policies and Regulations



function, and the communication strategy of the said help desk is an important tool in the facilitation of this function.

The relevant individual interest groups within the sector, as well as T-KZN and the CTO also have an important role to play in the monitoring and control of the sector. It therefore follows that:

Each stakeholder / authority has its own set of regulatory / legislative requirements;
Enforcement of compliance of these requirements, as well as the monitoring and control onus therefore rests on the relevant stakeholder / authority;
Prosecution of any contraventions (although a last resort) will come from these individual departments/ stakeholders / authorities –

KwaDukuza Accommodation

Revisiting Policies and Regulations



8. BEE / EMERGING SECTOR CHARTER

Tourism is a key economic driver in the KwaDukuza economy. As such the KwaDukuza IDP and LED Sector Plan within the IDP emphasises the unique opportunities that tourism as a sector presents to KwaDukuza. It is however critically important to ensure that the sector is developed across the entire geographical area, and that equal opportunity exists to develop tourism in all the KwaDukuza communities, and in all the available product categories.

- For this purpose, the KwaDukuza Municipality resolved that this review should incorporate provisions for accommodation of the emerging sector in the hospitality and accommodation restructuring strategy.
- In addition to the cross cutting issues that have been incorporated into the procedures and definitions, it is also proposed that all stakeholders acknowledge, in the form of a charter, the need for empowerment in the tourism sector in KwaDukuza.
- A copy of a draft Emerging Sector / BEE Charter appears in **Annex D**.



KwaDukuza Accommodation

Revisiting Policies and Regulations