

11.7	<b>PARKS, OPEN SPACES AND ENVIRONMENT: (PC: J JOON)</b>
------	---

NONE

11.8	<b>PLANNING: (PC: CLLR C VAN WYK (MS))</b>
------	--

11.8.1	<b>APPROVAL TO COMMENCE WITH THE PUBLIC PARTICIPATION PROCESS FOR THE ADAM TAS CORRIDOR OVERLAY ZONE IN TERMS OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BY-LAW</b>
--------	---

Collaborator No: 736732  
 IDP KPA Ref No: Good Governance and Compliance  
 Meeting Date: 19 October 2022 and 26 October 2022

**1. SUBJECT: APPROVAL TO COMMENCE WITH THE PUBLIC PARTICIPATION PROCESS FOR THE ADAM TAS CORRIDOR OVERLAY ZONE IN TERMS OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BY-LAW**

**2. PURPOSE OF REPORT**

To obtain approval from Council to commence with the public participation process for the draft Adam Tas Corridor Local Spatial Development Plan (LSDF) Overlay Zone in line with the minimum requirements of the Stellenbosch Municipality Land Use Planning Bylaw to obtain comment on the draft Adam Tas Overlay Zone that will enable the Directorate Planning and Economic Development to finalise the Adam Tas Overlay Zone and submit the policy document to Council for consideration.

**3. DELEGATED AUTHORITY**

Council

**4. EXECUTIVE SUMMARY**

Council resolved at their meeting of 29 May 2019 to authorize the Municipal Manager to enter into a multi-stakeholder engagement involving the key national departments, relevant local government institutions, the university, private stakeholders, and various land owners to explore a public private partnership for the Adam Tas Corridor re-generation initiative. Council also authorised the Municipal Manager to undertake further work to explore the feasibility, dependencies, and associated risks, etc. in determining the appropriate path for unlocking the Adam Tas Corridor.

Acting in terms of her delegation from Council, the Municipal Manager gave approval on 20 March 2020 for the commencement of the drafting of a local spatial development framework and overlay zone for the Adam Tas Corridor.

Following a public tender, the Built Environment Partnership (BEP) was appointed by Stellenbosch Municipality (SM) during January 2021 to prepare a Local Spatial Development Framework (LSDF) for the Adam Tas Corridor (ATC) area and draft overlay zone.

---

The Draft ATC LSDF was submitted to the Section 80 standing Committee for Planning for consideration on 4 October 2022 after which it will be tabled at the Council meeting at the end of October 2022 for final consideration.

With this LSDF, municipal approval is sought to incorporate the area as a Local Area Overlay Zone in the Stellenbosch Zoning Scheme By-Law 2015. The Local Area Overlay Zone is the mechanism for cementing the development rights implied by the LSDF in law. The current zoning – largely related to the manufacturing, storage, and distribution of wine and similar products – cannot support dense, mixed-use development.

The purpose of the overlay zone in terms of Section 239 (1) of the Stellenbosch Municipality: Zoning Scheme Bylaw is to designate land for future subdivision where a change of zoning from the pre-existing base zone will be required once the subdivision is approved and where the principle of future subdivision has been approved through a rezoning process, but the subdivision plan itself has not yet been approved.

This agenda item seek to obtain the approval of Council to commence with the process of advertising the Adam Tas Corridor LSDF. Only once all comments and input have been received, duly considered and taken into account where needed, the final draft LSDF will be brought before Council for consideration.

## 5. RECOMMENDATION

- (a) that Council take note of the draft Adam Tas Corridor Overlay Zone attached as **APPENDICE 1** to the agenda;
- (b) that Council gives approval for the commencement of the public participation process and advertisement of the draft Adam Tas Overlay Zone subject to the following conditions:
  - a. The public participation phase of the project will take place over 60 days (2 months).
  - b. The draft Overlay Zone will be advertised in the local newspaper, municipal web page and notice boards within two weeks after the decision by Council.
- (c) that After the process of public participation was concluded, the draft Adam Tas Corridor report must be resubmitted to Council together with all comments received for consideration within 2 months.

## 6. DISCUSSION /CONTENTS

The Municipal Spatial Development Framework (MSDF) approved by Council in November 2019 aimed to address the restructuring of Stellenbosch in a meaningful way with a view to respond to the principles of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA).

The approved MSDF recognised and proposed two catalytical projects which can play a significant role in achieving these principles spatially, one of which was the development of the Adam Tas Corridor.

---

The final draft ATC LSDF was submitted to the Section 80 Standing Committee for Planning and will serve at Council at the end of October 2022 for approval.

The complexity associated with the Adam Tas Development Corridor can be encapsulated as follows:

1. That landownership over the 11 identified precincts is not homogenous with various land parcels currently in the ownership of the private sector and various state institutions
2. Determine a mechanism to implement such an initiative that will be significantly incentivised to attract investment
3. To ensure that there is sufficient bulk infrastructure to enable the development vision.
4. The magnitude of the project is of such a nature that it will be implemented over multiple years and require significant public and private partnerships.

The ATC LSDF guides and informs decisions made by the Municipality relating to land development, without conferring or removing development rights. For rights to be allocated to the ATC – enabling actual development as contemplated in the LSDF – the envisaged rights and obligations need to be incorporated in the Stellenbosch Municipality Zoning Scheme By-Law 2019.

The most appropriate option for incorporating the LSDF's envisaged rights and obligations in the LUMS appears to be establishing an ATC Local Area Overlay zone as provided for in Section 17 of the Stellenbosch Municipality Land Use Planning By-law, 2015.

#### **ADVANTAGES TO ESTABLISH AN OVERLAY ZONE**

From the perspective of the ATC, establishing an Overlay Zone will have the following advantages:

- Framing development parameters specific to the project context, including the specific objectives pursued through the project.
- Ensuring a high-level of integration in the work undertaken by different landowners for different parts of the area over a prolonged period of time.
- Enabling a clear and accountable Land Use Management process while allowing significant flexibility over time to accommodate changes in societal and landowner context.

Chapters 23 and 24 of the Stellenbosch Municipality; Zoning Scheme Bylaw deals extensively with Overlay Zones.

In terms of the By-law an Overlay Zone (*oorlegsonering*) means a category of zoning that applicable to a defined area or land unit which stipulates additional development parameters that may be more or less restrictive than the base zone as defined in the zoning scheme.

The objective of an Overlay Zone is to serve two different roles, which may be pursued within a single overlay zone:

- (a) In the first role an overlay zone can impose additional and more restrictive development parameters to achieve e.g., a conservation goal, like prescribing a building character, development parameters or limiting the types of land uses to protect an established historic character of an area.

- 
- (b) In the second role it can be used as a tool to facilitate development in pursuance of a specific developmental goal e.g., to promote a type of development or harness investment and job creation and may include the establishment of less restrictive development parameters and/ or by vesting inherent additional land use rights with the potential of incentives for less burdensome statutory processes.

The overlay zone envisaged for the Adam Tas Corridor is in pursuance of the second role, and specifically in pursuance of:

- (a) The development vision of the Stellenbosch Municipal Spatial Development Framework in general and the Adam Tas Corridor Spatial Plan in particular,
- (b) Unlocking and leveraging investment by facilitating the establishment of pre-approved land use rights.

### **INCORPORATION OF OVERLAY ZONE INTO EXISTING ZONING SCHEME BY-LAW**

In pursuance of the approved spatial planning goals and in consultation with all landowners and interested and affected parties, the municipality will develop and approve the overlay zone in accordance with a process to rezone the land to a representing subdivisional area zoning in accordance with the zoning scheme bylaw.

The envisage overlay zone will not change the existing base zoning and land use rights but will establish an additional layer of inherent enhanced land use rights attached to pre-determined performance conditions to be complied with when the subject landowner exercises the option to take up the inherent land use rights of the overlay zone.

Although the inherent land use rights exist and may be taken up at any time, the base zoning and associated existing land use rights will not change if not purposefully taken up by the subject landowner. The subject landowner will consequently also not be liable for any enhanced land tax, development charges or any other obligations unless the subject landowner elects to act on and implement the enhanced land use rights of the overlay zone.

As previously indicated, the Adam Tas Corridor consists of eleven distinct precincts, and each precinct will have its own distinct type and mix of land uses in accordance with the LSDF and Development Guidelines of the Adam Tas Corridor. There will consequently not be a single type of overlay zone, but rather a suit of overlay zones (11 to be precise, which coincides with the 11 identified precincts) with different land uses attached to these different overlay zones to match these distinct areas and their objectives. The inherent land use rights attached to the overlay zones, and which will apply to the different properties, will consequently also be different.

The land use rights attached to the overlay zone is pre-approved in accordance with the subdivisional area rezoning process during the establishment of the overlay zone, and the landowners will consequently not be required to launch individual land use application processes with associated public participation processes to establish these land use rights.

### **ADMINISTRATIVE PROCESS TO IMPLEMENT INHERENT LAND USE RIGHTS**

To facilitate the implementation of the inherent land use rights, the developers will need to launch administrative processes (this means it is not statutory processes where land use rights are granted, and which are associated with public participation

---

processes) to ensure that all conditions and requirements attached to the overlay zone is being complied with.

During this process, the subject landowners within a precinct will first need to develop a precinct development plan for the approval of the Municipality that will illustrate the overall implementation and allocation of land use rights to the different properties, as well as the associated obligations and counter performance in terms of required infrastructure investment. This again is an administrative process (this means it is not statutory processes where land use rights are granted, and which are associated with public participation processes) but must be developed in partnership between landowners in a specific precinct.

Following the approval of this precinct development plan, a site development plan that complies with this precinct development plan needs to be submitted for approval to the municipality by individual property owners/ developers to take up the specific land use rights attached to such property. This again is an administrative process (this means it is not statutory processes where land use rights are granted, and which are associated with public participation processes).

The purpose of these precinct development and site development plans is to illustrate how the inherent land use rights will be implemented in accordance with the pre-approvals facilitated by the establishment of the overlay zone. The purpose of these plans is therefore not to establish any new or additional land use rights, and consequently there will also be no need or obligation for any additional public participation processes.

A landowner has no obligation to implement the inherent land use rights attached to the overlay zone and will also not be prohibited by pursuing any other type of development not permitted in terms of the subject overlay zone. Should the developer/ landowner however elect to establish any additional or alternative land use rights which are outside the scope of the inherent land use rights attached to the overlay zone, a comprehensive land use application process will need to be followed.

The only other statutory requirement relates to the submission of the actual building plan for approval in terms of the National Building Regulations. This process will be subject to normal building plan approval processes.

Establishing an Overlay Zone will involve an amendment to the Stellenbosch Municipality Zoning Scheme By-law, 2019, following the procedures related to public participation and approval set out in Sections 12 and 13 of the Municipal Systems Act. In terms of the Stellenbosch Municipality Zoning Scheme By-law, 2019, the Overlay Zone does not change the underlying zoning of the properties to which it relates but may vary the development parameters relating to these properties.

A draft description of the ATC Local Area Overlay zone is attached as **APPENDIX 1**.

## 7. COMMENTS FOR OTHER DEPARTMENTS

The agenda item and draft Overlay Zone was circulated for comment and input to other relevant departments. Comments were received from the Senior Manager: Land Use Management, Manager: Housing Development and Manager: Project Management Unit.

All the comments were discussed, accepted in incorporated in the final documents.

**8. FINANCIAL IMPLICATIONS**

No financial implication.

**9. LEGAL IMPLICATIONS**

The recommendations in this report comply with Council's policies and applicable legislation.

**10. STAFF IMPLICATIONS**

None

**11. RISK IMPLICATIONS**

None

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-10-19: ITEM 7.8.1**

- (a) that Council take note of the draft Adam Tas Corridor Overlay Zone attached as **APPENDIX 1** to the agenda;
- (b) that Council gives approval for the commencement of the public participation process and advertisement of the draft Adam Tas Overlay Zone subject to the following conditions:
- a. The public participation phase of the project will take place over 60 days (2 months).
  - b. The draft Overlay Zone will be advertised in the local newspaper, municipal web page and notice boards within two weeks after the decision by Council.
- (c) that After the process of public participation was concluded, the draft Adam Tas Corridor report must be resubmitted to Council together with all comments received for consideration within 2 months.

**APPENDICES**

APPENDIX 1: Draft Adam Tas Corridor Local Spatial Development Framework Overlay Zone

**FOR FURTHER DETAILS, CONTACT:**

<b>NAME</b>	BJG de la Bat Pr Pln
<b>POSITION</b>	Manager: Spatial Planning
<b>DIRECTORATE</b>	PLANNING AND ECONOMIC DEVELOPMENT
<b>CONTACT NUMBERS</b>	021 808 8653
<b>E-MAIL ADDRESS</b>	Bernabe.delabat@ Stellenbosch.gov.za
<b>REPORT DATE</b>	3 October 2022