LIMITATIONS UPON DEVELOPMENT DUE TO LACK OF SERVICES, UNSUITABILITY OF LAND, ENVIRONMENTAL AND OTHER CAUSES.

(1) Subject to the provisions of Section 47(2) of the Ordinance, the Council may prohibit the erection of any building on land situated in any undeveloped part or parts of the area of this Scheme pending the extension thereto of road, sewer, water supply, light or other necessary public services.

(2) (a) No person shall within a controlled area (as defined in clause 1) develop any land, or excavate or level any site, or remove any natural vegetation from, or erect any structure of any nature whatsoever or carry out any work upon such site without having obtained the prior approval of the Council in terms of this sub-clause.

(b) No such approval shall be given unless the Head : Development Planning Environment and Management, after due examination, and subject to such conditions as he/she may specify, is satisfied that any such development, erection or other work referred to in paragraph (a) hereof can be carried out without danger to the site, or any adjoining site or any building thereon.

(c) For the purpose of any examination referred to in paragraph (b), the applicant shall, where required by the Head : Development Planning Environment and Management, submit such plans or other information as the Head : Development Planning Environment and Management may require. Without affecting the generality of the aforesaid, such plans may be required by the Head : Development Planning Environment and Management:-

(i) to be certified by a Land Surveyor or Consulting Engineer as being correct;

(ii) to show sections through the site over the area to be developed down the line of greatest slope, accurate to 50 millimetres and to scale of 1 : 100;

(iii) to show sections at intervals not exceeding 10 metres across the site or at such closer intervals as the Head : Development Planning Environment and Management may require.

(d) The conditions referred to in paragraph (b) hereof may be such as to:-

(i) restrict the form or nature of the building or structure;

(ii) limit the size and/or shape of the building or structure;

(iii) prescribe the form of foundations for the building or structure;

(iv) prescribe or restrict the materials of which the building or structure is to be constructed;
(v) determine the siting of any building or structure and of any soakpits or other drainage works;

(vi) prohibit or control any excavation on the site, the construction of any roadways, paths and other garden features;

(vii) prohibit or control the removal of any natural vegetation;

(viii) control any other aspects which the Head: Development Planning Environment and Management considers to be desirable.

(e) Notwithstanding anything contained in this sub-clause the Council shall not be liable for any loss or damage which may occur to any building, structure or any property whether within a controlled area or otherwise arising out of any action by the Council or the Head: Development Planning Environment and Management in terms of this sub-clause.

(3) The Council may in relation to the erection, alteration or extension of any building or use of land, impose such conditions as are in its opinion necessary having regard to the low-lying nature of the area.

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(4) (a) No person shall within a D’MOSS controlled area (as defined in clause 1) develop any land, or excavate or level any site, or remove any natural vegetation from, or erect any structure of any nature whatsoever, dump on or in or carry out any work upon such site without having first obtained the prior approval in terms of this sub-clause.

(b) No such approval shall be given unless the Head: Development Planning Environment and Management, after due examination, and subject to such conditions as he/she may specify, is satisfied that any such development, erection or other work referred to in paragraph (4)(a) hereof can be carried out without materially and/or temporarily degrading, destroying or negatively impacting on the integrity of the biodiversity and/or environmental goods and services found or generated within the said area.

(c) For the purpose of any examination referred to in paragraph (4)(b), the applicant shall, where required by the Head: Development Planning Environment and Management submit such plans or other supporting documentation as the Head: Development Planning Environment and Management may require. Without affecting the generality of the foregoing, such plans and supporting documentation may be required by the Head: Development Planning Environment and Management to be certified as being correct by an appropriately recognised/registered Environmental Consultant.

(d) The conditions referred to in paragraph (4)(b) hereof may be such as to:

i) restrict the form or nature of the building or structure

ii) limit the size and/or shape of the building or structure
iii) prescribe or restrict the materials of which the building or structure is to be constructed;

(iv) determine the siting of any building or structure and of any soak pits or other drainage works;

(v) prohibit or control any excavation on the site, the construction of any roadways, paths and other garden features;

(vi) prohibit or control the removal of any natural vegetation;

(vii) control any other aspects which the Head: Development Planning Environment and Management considers to be desirable.

(e) In any approval or any conditions as may be specified by the Head: Development Planning Environment and Management above, the applicant shall enjoy a right of appeal to the KwaZulu-Natal Planning and Development Appeal Tribunal as established in terms of section 100(1) of the KwaZulu-Natal planning and Development Act No. 6 of 2008.