



LEGAL NOTICE NO.

THE PHYSICAL AND LAND USE PLANNING ACT, 2019

(No. 13 of 2019)

IN EXERCISE of the powers conferred by section 90 of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL FOR STRATEGIC NATIONAL PROJECTS) REGULATIONS, 2020

PART I—PRELIMINARY

Citation. **1.** These Regulations may be cited as the Physical and Land Use Planning (Development Control for Strategic National Projects) Regulations, 2020.

Interpretation. **2.** In these Regulations, unless the content otherwise requires—

“Certificate of Compliance” is a document issued by the Director General with the approval of the Cabinet Secretary confirming a developments adherence to approved development permission conditions and approved plans;

“Certificate of Occupancy” means a document issued by the National Department responsible for public works confirming a buildings compliance with applicable building codes and other laws, and indicating it to be in conditions suitable for occupancy;

“Commission” means the National Land Commission established under Article 67 of the Constitution;

“Court” means the Environment and Land Court established under section 4 of the Environment and Land Court Act, 2011;

“developer” means a ministry, department or agency, or a public or private entity;

“electronic” has the meaning assigned to it under section 2 of the Kenya Information and Communications Act, 1998;

“Forum” means the National Physical and Land Use Forum established under section 6 of the Act;

“National Liaison Committee” means the National Physical and Land Use Planning Liaison Committee established under section 73 of the Act;

“strategic installation” means any installation that is—

- (a) classified as a strategic installation under the Act;
- (b) declared to be a strategic installation by the Cabinet Secretary under these Regulations; or
- (c) developed in a strategic national project; and

“strategic national project” means a project identified as a strategic national project by the national or a county government under the Act, the Intergovernmental Relations Act, 2012, and any other relevant written law.

Reservation of public land for strategic national projects.

3. (1) Where public land is required for a strategic national project, the relevant planning authority shall cause it to be reserved.

(2) The Cabinet Secretary and County Executive Committee Member may consider reserving public land for strategic national projects before, during or after the preparation of a national physical land use development plan or county physical land use development plan.

(3) The Commission shall register all public land reserved for a strategic national project under this regulation in accordance with the Land Registration Act, 2012, and publish in the *Gazette* a list of the reserved land.

(4) Public land reserved for a strategic national project shall not be used for any other purpose other than the purpose for which it was reserved.

(5) Any person aggrieved by a decision to reserve public land for a strategic national project may lodge an appeal in writing against the reservation with the National Physical Planning Liaison Committee.

Preliminary conceptual application.

4. (1) Where a public institution intends to undertake a strategic national project, the institution shall submit a concept note and preliminary plans to the Cabinet Secretary for policy guidance and approval.

(2) The Cabinet Secretary shall within thirty days upon receipt of the application, issue an advisory or refer it to the National Physical and Land Use Planning Consultative Forum for further consultations.

Application for development permission.

5. (1) Where an advisory has been issued under regulation 5, the applicant may submit a detailed application in electronic form to the Cabinet Secretary.

(2) Within seven days of submission in electronic form, the applicant shall submit hard copies of the application and relevant documents to the Cabinet secretary in Form PLUPA DC-13 set out in the First Schedule.

(3) The application shall be submitted in the following format—

- (a) each document must be paginated;
- (b) all plans shall be Georeferenced; and
- (c) any digital plans shall—
 - (i) have an electronic signature of the author of the plans;
 - (ii) be in PDF format;
 - (iii) not be password protected;
 - (iv) be capable of being reproduced in A4 paper size while retaining sufficient accuracy and detail for the purposes of these Regulations;
 - (v) be limited to 25 Mb per file except GIS layer; and
 - (vi) have images of with resolution not less than 1200 printer dots per inch.

(4) Upon receipt of the application and within fourteen days, the Cabinet Secretary shall cause the Director-General to circulate the application to the following authorities for comments—

- (a) the County Executive Committee Member in responsible for Physical and Land Use Planning in the respective County;
- (b) the Chief Architect responsible for National Public Works;
- (c) the Chairman of the National Land Commission;
- (d) the Director-General of the National Environment Management Authority;
- (e) the Director-General of Medical Services;
- (f) the Director General of the relevant roads authority established under the Kenya Roads Board Act;
- (g) the Managing Director of the Kenya Railways Corporation;
- (h) the Director General of the Kenya Civil Aviation Authority;

- (i) the Managing Director of the Kenya Airports Authority;
- (j) the National Director of Surveys;
- (k) the National Director of Land Administration
- (l) the chairperson of the Community Land Management Committee in the relevant county; and
- (m) any other relevant authority.

(5) The authorities shall submit their comments to Director-General within thirty days.

(6) Publish a notice in the Gazette and in at least two newspapers of national circulation and electronic media informing the public of the intention to undertake a strategic national project and request for submission of comments.

(7) The gazette notice shall require submission of comments sought under sub-paragraph (b) above within thirty days.

(8) In consultation with the respective County Executive Committee Member convene public hearings to consider the strategic national project and receive comments.

(9) The Director General shall convene a technical committee to consider the input received under paragraph 1 and submit comments.

(10) When constituting the technical committee referenced above, the following considerations shall apply to determine the eligibility of members, this includes persons who are—

- (a) knowledgeable about the strategic operational nature of Strategic National Project;
- (b) understand the economic value and importance of National Strategic National Project; and
- (c) in possession of an appropriate qualification and relevant experience in the field of expertise.

(11) Upon receipt of comments from the technical committee under paragraph 2 above, the Director-General shall prepare a technical advisory report and submit to the Cabinet Secretary within thirty days.

Determination of applications for development permission.

6. (1) Upon receipt of the technical advisory report from the Director General under regulation 7(3) the Cabinet Secretary shall consider and—

(a) approve the application;

(b) defer the application; or

(c) reject the application.

(2) The applicant shall be notified in writing of the decision within 7 days.

(3) Notwithstanding the provisions of regulation 12, the Cabinet Secretary may refer the application to the Forum pursuant to section 7 (d) of the Act for advice.

(4) Upon receipt of the advisory sought under paragraph 1, the Cabinet secretary shall notify the applicant of the decision.

(5) Within seven days of making the decision under regulation 8 and 9(2) the Cabinet Secretary shall publish a notice of approval in the gazette and in at least two newspapers of national circulation informing the public that decision to approve the application has been made.

(6) The Cabinet Secretary shall issue a circular to the relevant institutions and agencies including the respective County Executive Committee Member on the approval.

Appeals.

7. Any party aggrieved with the decision by the Cabinet Secretary for development permission under these regulations may appeal within 14 days to National Liaison Committee in a prescribed form.

Exemptions.

8. These regulations shall not apply to developments specified under Section 70 of the Act.

Certificate of compliance.

9. The Director General with the approval of the Cabinet Secretary shall issue a certificate of compliance in a prescribed form **PLUPA...** to the developer where—

(a) an approved development has been completed; and

(b) the development adhered to the approval conditions and the approved Physical and Land Use Development plans.

Certificate of occupancy.

10. The Director General with the approval of the Cabinet Secretary shall upon verification that the development is of livable conditions and subject to issuance of a certificate of compliance under regulation 16, cause to be issued a certificate of occupancy by the relevant department.

Monitoring.

11. (1) Any Ministry/Department/Agency/Developer that receives development permission for a strategic national project shall at least three months before the end of the financial year prepare and submit a status report on its implementation in line with the approved

development plan to the Cabinet Secretary and National Land Commission.

(2) Where development permission relates to development of a strategic national project within the jurisdiction of any County, a copy of the status report shall be deposited to the respective County Executive Committee Member by the Ministry/Department/Agency/Developer.

Enforcement notices.

12. (1) The Cabinet Secretary shall serve a developer of a strategic national project with an enforcement notice where—

- (a) a developer commences development of a strategic national project after the commencement of this Act without the required development permission having been obtained; or
- (b) any condition of a development permission granted under this Act has not been complied with.

(2) A copy of the enforcement notice shall be copied to the relevant County Executive Committee member.

(3) An enforcement notice shall—

- (a) specify the development alleged to have been carried out without development permission or the conditions of the development permission alleged to have been contravened;
- (b) specify measures the developer shall undertake, the date on which the notice shall take effect, the period within which the measures shall be complied; and
- (c) require compliance pursuant to paragraph b above within thirty days.

Appeals.

13. (1) Any developer aggrieved by the issuance of an enforcement notice under these regulations may appeal to the National Liaison Committee within fourteen days of being served with the notice.

(2) The National Liaison committee shall hear and determine the appeal within thirty days of the appeal being filed.

(3) Any developer aggrieved with the determination of the National Liaison Committee may appeal within 30 days to the court.

(4) Where a developer has been served with an enforcement notice and fails to comply with the notice the Director General may, through the Cabinet Secretary refer the matter to the Forum for consideration and further direction.

Public participation.

14. (1) The Ministry/Department/Agency/Developer undertaking the strategic national project shall consult, publish, consider national security and hold stakeholders' meetings before and during the development of the Strategic National Project.

(2) No development permission shall be approved under these regulations without consideration of comments from the relevant authorities, agencies including the respective County Executive Committee Member.

(3) The Director General shall keep and maintain a depository of all plans and projects approved under these regulations.

(4) The information contained in the depository above shall be accessed in line with the Access to Information Act 2016.

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APPLICATION FOR DEVELOPMENT PERMISSION OF A STRATEGIC NATIONAL PROJECT

To the Cabinet Secretary.....

1.0 Name of Applicant.....

1.1 Contacts (a) Physical Address.....

(b)Telephone.....

(c)E-mail.....

(d)Permanent Postal Address.....

2.0 Location of Project

(a) County(s).....

(b) Sub County(s).....

(c) Ward(s).....

(d) Road.....

3.0 Status of Land

(a) Land Tenure (Public/Private/Community).....

(b) Acreage (Hectares).....

4.0 Nature of the project.....

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5.0 (1.) Indicate type of development permission sought

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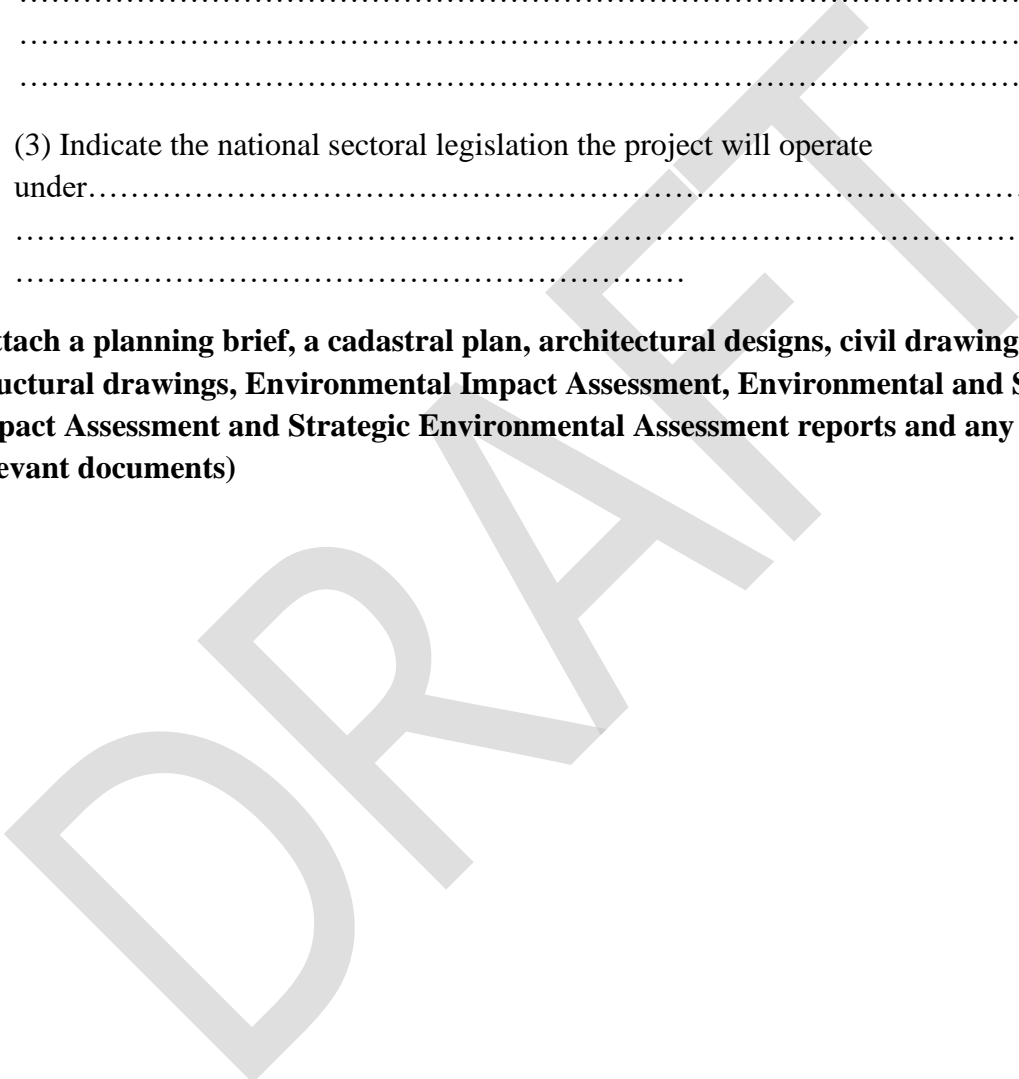
(2) Indicate the national sectoral policy framework the project will operate under

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(3) Indicate the national sectoral legislation the project will operate under.....

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(Attach a planning brief, a cadastral plan, architectural designs, civil drawings, structural drawings, Environmental Impact Assessment, Environmental and Social Impact Assessment and Strategic Environmental Assessment reports and any other relevant documents)





NOTIFICATION OF APPROVAL/REFUSAL/DEFERMENT OF DEVELOPMENT PERMISSION FORM

Section.....

Registered Number of Application.....

To:
.....

Your application number as above, submitted on

.....

for permission to

on L.R. /Parcel No.

situated in..... (County/Sub
County/Ward)

along/off.....Road has been.....
(approved/rejected/deferred) on (date)

for the following reasons/subject to the following conditions:

- (a)
- (b)
- (c)
- (d)
- (e)

Date Signed

Cabinet Secretary, Ministry of Lands and Physical Planning

Cc: Director General, Physical and Land Use Planning

County Executive Committee Member - Responsible for Physical and Land Use Planning for
respective County Government

National Land Commission

Director of Surveys

Director, Land Administration

Chief Land Registrar

Made on the, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

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