



Municipal Planning By-law and the Municipal Planning Tribunal

Questions and Answers

1. How do the Constitution, SPLUMA and the MPBL relate?

The Constitution empowers a municipality to make a by-law about municipal planning (s 156(2)). This original legislative competence does not depend on national or provincial legislation. The City adopted its [Municipal Planning By-law, 2015 \(MPBL\)](#) as original constitutional legislation.

National and provincial governments may make municipal planning legislation limited to norms and guidelines. The national government has made the [Spatial Planning and Land Use Management Act, 2013 \(SPLUMA\)](#).

The MPBL operates as an alternative to and in parallel with SPLUMA, an arrangement that SPLUMA permits (s 2(2)). While the MPBL was not adopted under SPLUMA, it is consistent with SPLUMA.

Since the MPBL comprehensively governs municipal planning in Cape Town, it (not SPLUMA) determines matters concerning the Municipal Planning Tribunal (**MPT**).

2. What guides the MPT's decision-making?

MPT decisions must be lawful, reasonable and procedurally fair and comply with other principles of administrative justice. Decisions are governed by law and policy. The MPT decides an application in accordance with detailed legal criteria (s 99 of the MPBL) and must apply the provisions of the MPBL, including its development management scheme. Applicable policies include spatial development frameworks (at municipal, district and local levels) and the densification policy. Those policies are adopted, amended or updated through a public participation process.

3. Do MPT members have ethical rules?

Yes. All members of the MPT are bound by a code of conduct (s 117(2) of the MPBL), which requires them, among other things, to—

- (a) make decisions fairly, impartially and promptly;
- (b) treat members of the public and other members of the MPT with respect, courtesy, honesty and fairness;
- (c) make public disclosure of all their personal or private business interests regarding any decision to be made in the planning process in which they serve; and
- (d) abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal or private business interest and leave any chamber in which such matter is under deliberation unless the interest is disclosed and cleared.

Breach of the code of conduct is an offence and may result in the removal of the MPT member.

4. What if someone is unhappy with an MPT decision?

A development applicant or an objector who is unhappy with an MPT decision may appeal the decision to the appeal authority. The appeal decision can then be taken on administrative review to the High Court.

5. How is the MPT established?

Section 115 of the MPBL requires the City's Municipal Council to establish an MPT to determine land use and development applications under the MPBL referred to it. The Council also designates a chairperson and deputy chairperson.

6. Who are the members of the MPT?

MPT members must be either officials in the full-time employment of the City or external persons appointed by the Municipal Council. Since the MPT makes technical and specialised decisions, MPT members must have knowledge and experience in the disciplines of spatial planning, land use management, land development or the law related thereto (s 115(2) of the MPBL).

Among the officials who serve on the MPT are district managers of the City's [Development Management Department](#), but they will not participate in deciding a matter if the property is located in or was assessed by an official in the district they manage.

7. How many members does the MPT have?

The MPT has 23 members (8 external and 15 officials). All members have the required specialist knowledge and experience and are appointed by Council. The MPT sits as four panels for various areas (south-west, south-east, north-west and north-east).

8. How long do MPT members serve?

The term of office of a member of the MPT may not exceed five years but is renewable (s 116(4) of the MPBL). MPT members are currently appointed until June 2030.

9. Why did Council amend section 116 of the MPBL in 2025, and how does the amendment benefit the MPT and the public?

The amendment clarifies when an MPT member who has served two terms (10 years) can be reappointed. Suitably knowledgeable and experienced planning professionals are difficult to find, and attrition is high — over the past 10 years, more than 60% of members have resigned for a variety of reasons. Retaining experienced members is therefore critical to sound, policy-informed decision-making on the complex matters the MPT determines. The amendment is a rational measure that benefits the communities served.

10. Is the amended section 116 consistent with section 37 of SPLUMA?

Yes. Section 37(1) of SPLUMA provides that an MPT member may not serve for a “continuous” period longer than 10 years. The purpose of s 37(1) is to clear deadwood. It requires a municipality to decide whether to reappoint a person who has served 10 years, considering the value of renewing their membership. However, given the shortage of skilled and experienced planning professionals, especially in smaller municipalities, it would be unwise to require municipalities to lose their most experienced MPT members without regard to their value. That is why SPLUMA does not place a limitation of the re-appointment of a MPT member after he/she has taken a break after 10 years.

Since SPLUMA is silent on when a reappointment is not “continuous”, the amendment to s 116 defines this — a member may be reappointed only after a break of at least one month. The amendment, drafted by senior counsel, is legally compliant, sensible and in the public interest.

11. Does the absence of a maximum term undermine independence?

A maximum term is not necessary for independence. Otherwise, the law would not require High Court judges to be appointed permanently (subject to a retirement age).

Unlike judges, MPT members, who are not required to be independent of the City, do have term limits. Their term of office is for no longer than five years. Requiring reappointment allows the Municipal Council to evaluate whether a person *should* again be a member of the MPT. Allowing an appointment to be renewed as many times as the Municipal Council decides enables the City to retain experienced, valuable members. This is a sensible and lawful balance.

12. What is an administrative penalty and how is it determined?

Administrative penalties are among the MPBL's enforcement measures. A person who wishes to rectify a contravention must apply for an administrative penalty (s 122J(2)) or the City Manager may apply to the MPT to impose an administrative penalty on a person for contravening the MPBL (s 129(3)).

The 2025 amendment to the MPBL introduced standard administrative penalties prescribed by the Municipal Council. However, the MPT must determine an administrative penalty if a person refuses the standard administrative penalty or the City Manager considers it inappropriate (s 129(1E)).

After considering representations and a recommendation from the City's [Development Management Department](#), the MPT determines an appropriate administrative penalty, taking account of the factors listed in the MPBL (s 129(8))—

- (a) the nature, duration, gravity and extent of the contravention;
- (b) the conduct of the person involved in the contravention;
- (c) whether the unlawful conduct was stopped;

- (d) whether a person involved in the contravention has previously contravened the MPBL or a previous planning law; and
- (e) any matter relevant to redressing the contravention.

13. Is the conduct of MPT meetings subject to rules and procedures?

Yes. Council has adopted the rules and procedures for MPT meetings which must be strictly adhered to by all members and parties authorised to participate in the meeting proceedings. MPT meetings are open to the public. The chairperson is responsible to ensure that MPT meetings are conducted orderly and in accordance with the rules and procedures which inter alia provides for the scheduling of meetings, approval of agendas and minutes, order at MPT meetings, and management of oral submissions by interested and affected parties. Interested parties may not address or make oral submissions to the MPT if not allowed by the chairperson. Both a councillor and an objector or applicant must at least 5 days before a meeting inform, in case of a councillor, or submit a written request with reasons, in the case of an objector or applicant, to the chairperson that he/she would like to make an oral submission.