



## **ALL MUNICIPAL MANAGERS AND CHIEF TOWN PLANNERS IN THE WESTERN CAPE**

### **IMPLEMENTATION OF THE STANDARD DRAFT MUNICIPAL LAND USE PLANNING BYLAWS – PROCESS MOVING FORWARD**

1. The purpose of this letter is to inform you of the proposed way forward in terms of implementing the new planning laws within the Western Cape, with a particular emphasis on the Standard Draft Municipal Land Use Planning Bylaw that the Department of Environmental Affairs and Development Planning is developing, and how each and every local municipality within the Province must take it forward in order to be ready for the implementation of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and the Western Cape Land Use Planning Bill by September 2014. The process and actions listed hereunder are based on the Joint Municipal Planning Heads Forum and Planning Change Management Strategy Steering Committee meeting that took place at the Strand Council Chambers on 19 March 2014 to which all senior municipal officials involved in land use planning were invited.
2. As you are by now aware, the old order planning legislation is set to be replaced by an entirely new planning legislative framework throughout South Africa. This means that, in the context of the Western Cape, legislation which is currently guiding spatial planning and land use management such as the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the Less Formal Township Establishment Act, 1991 (Act 113 of 1991), the Rural Areas Act, 1987 (Act 9 of 1987), the Municipal Ordinance, 174 (Ordinance 20 of 1974), the Divisional Councils Ordinance, 1976 (Ordinance 18 of 1976), Removal of Restrictions Act, 1967 (Act 84 of 1967), the regulations in terms of the Black Communities Development Act, 1984 (Act 4 of 1984) and the Physical Planning Act, 1967 (Act 88 of 1967) are all set to be repealed and replaced with three key pieces of legislation being the Spatial Planning and Land Use Management Act (SPLUMA), the Western Cape Land Use Planning Act (LUPA) and Municipal Land Use Planning Bylaws. Certain sections of the Municipal Systems Act, 2000 (Act 32 of 2000) will also guide planning matters.

### 3. Legislative reform and its implication for municipalities

The president approved SPLUMA on the 5<sup>th</sup> of August 2013, however the Act has not yet been implemented. Currently, plans are afoot to ensure that SPLUMA is implemented by September 2014, however it is critical to note that there are various elements which both the provincial and municipal spheres of government need to have in place prior to being implementation ready. This communiqué seeks to inform you of those steps, as well as **what you and your council need to do** as well as **what the Department will be doing to assist you**.

Both SPLUMA and LUPA are framework legislation which do not provide the details of how, for example, a municipality will receive, process and decide upon land use applications. The details of how a municipality executes these detailed elements of land use planning are a municipal planning competency. As such, all municipalities will need to have a council approved Municipal Land Use Planning Bylaw in place in order to effectively execute its constitutionally allocated municipal planning function.

The Department has developed a Standard Draft Municipal Land Use Planning Bylaw in response to a request received from SALGA in terms of Section 14(2) of the Municipal Systems Act, 2000 (Act 32 of 2000) based on a resolution made by the SALGA Western Cape Provincial Executive Committee on 5 December 2013. This Standard Draft Bylaw seeks to give effect to both SPLUMA and LUPA, be user friendly and ensure that uniform procedures are applied across the Province as far as possible. It is well recognised that having unnecessarily disparate procedures will act to increase the 'red tape' of land use planning within the Western Cape, which is not desirable from socio-economic growth and development perspective, and hence the adherence to a single Standard Draft Land Use Planning Bylaw is desirable throughout the province.

### 4. The recommended process for municipalities to follow in implementing the Municipal Land Use Planning Bylaws

It should be noted that the Municipal Land Use Planning Bylaw **must** be approved in terms of Section 12 of the Municipal Systems Act, which states that:

- 12 (1) *Only a member or committee of a municipal council may introduce a draft by-law in the council.*
- (2) *A by-law must be made by a decision taken by a municipal council—  
(a) in accordance with the rules and orders of the council; and  
(b) with a supporting vote of a majority of its members.*
- (3) *No by-law may be passed by a municipal council unless—  
(a) all the members of the council have been given reasonable notice; and*



- (b) the proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.
- (4) Subsections (1) to (3) also apply when a municipal council incorporates by reference, as by-laws, provisions of-
- (a) legislation passed by another legislative organ of state: or
  - (b) standard draft by-laws made in terms of section 14

The following sets out the recommended procedures and associated deadlines that municipalities should seek to adhere to in order to be ready for the implementation for the new planning regime by September 2014:

- 4.1. Planning Officials within the municipality to brief the relevant Councillor at the **end of March / beginning of April 2014**.
- 4.2. Relevant Councillor to introduce bylaw at Council meeting in terms of Section 12(1) of the Municipal Systems Act **by end of April 2014**. The Department of Environmental Affairs and Development Planning will provide a pro-forma report, draft by-law and draft advertisement (see attached). ***It should be noted that the Standard Draft Bylaw attached to this communiqué is sufficient to be introduced to your council, however please ensure that you receive the latest draft of the Bylaw in the second week of April 2014 prior to advertising by your municipality.***
- 4.3. The Department of Environmental Affairs and Development Planning will provide officials within the municipality with District-level training workshops during **April 2014** on the content of the Standard draft bylaw.
- 4.4. The municipality must advertise the proposed bylaw in terms of Section 12(3)(a) and (b) of the Municipal Systems Act between **May and July 2014**.
- 4.5. Municipalities to forward all comments received on the draft bylaw to the Department of Environmental Affairs and Development Planning to improve the Standard Draft Bylaw.
- 4.6. Municipalities to consider and, where appropriate, address comments received on the draft bylaw.
- 4.7. Report and revised bylaw to be presented to Council for decision to adopt by-law **by end of September 2014**.
- 4.8. Council to publish adopted Municipal Land Use Planning Bylaw between **September and October 2014**.
- 4.9. Implementation of the bylaw will depend on progress with implementation of SPLUMA and LUPA, and the Department of Environmental Affairs and Development Planning will communicate progress in this regard.

## 5. Conclusion

It is critical that municipalities try as far as possible to comply with the aforementioned timeframes to ensure the implementation of the new planning system throughout the Western Cape. Your key contacts for various elements of the process are listed below:

### Standard Draft Municipal Planning Bylaw

| Name        | Contact Number | Email Address  |
|-------------|----------------|--|
| Kobus Munro | 044 805 8633   | <a href="mailto:Kobus.Munro@westerncape.gov.za">Kobus.Munro@westerncape.gov.za</a> |
| Theo Rebel  | 021 483 8375   | <a href="mailto:Theo.Rebel@westerncape.gov.za">Theo.Rebel@westerncape.gov.za</a>   |

### Municipal Readiness and Training

| Name             | Contact Number | Email Address  |
|------------------|----------------|--|
| Andre Vancoillie | 021 483 5101   | <a href="mailto:Andre.Vancoillie@westerncape.gov.za">Andre.Vancoillie@westerncape.gov.za</a> |
| Allan Rhodes     | 021 483 0764   | <a href="mailto:Allan.Rhodes@westerncape.gov.za">Allan.Rhodes@westerncape.gov.za</a>         |

Kindly acknowledge receipt of this correspondence to Allan Rhodes on the contact details listed above.

Yours sincerely



**A BARNES**  
**CHIEF DIRECTOR: ENVIRONMENTAL AND LAND MANAGEMENT**

**DATE: 20.03.2014**