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1 Introduction

This report looks at what is involved in municipal planning. Municipal planning is first located within the broader legislative framework, whereafter various aspects of municipal planning are divided into those relating to Forward Planning and those relating to Land Use Management. The report ends with a checklist you can use to determine how you can participate in the municipal planning process.

1.1 Why is planning necessary

Planning is the process of setting goals, developing strategies, and outlining tasks and schedules to accomplish the goals.

“Urban planning (urban, city, and town planning) is a technical and political process concerned with the control of the use of land and design of the urban environment, including transportation networks, to guide and ensure the orderly development of settlements and communities. It concerns itself with research and analysis, strategic thinking, architecture, urban design, public consultation, policy recommendations, implementation and management.”

A simplified definition of spatial planning is the intentional arrangement or management of the spatial environment with a view to producing order out of what would otherwise be chaos. How the particular order of the spatial environment is obtained and the tools that are used, constitute the science of town and regional planning.

In other words, in order to ensure that a potentially chaotic human settlement situation is rationally and effectively handled to create an optimal outcome, it is necessary to plan.

Planning effectively requires the input of all relevant interested and affected stakeholders and then a co-ordinated approach to deal with the issues and concerns that are raised.

Spatial planning requires a step by step approach in order to ensure a balanced environment.

1.2 Scales of planning

Planning in South Africa operates within a legal framework, the purpose of which is to ensure that municipalities carry out planning in terms of Sections 152 and 153 of the Constitution.

These planning objectives must be developmentally orientated to strike a balance between various and often competing social, economic and environmental interests and the interests of the public. Development must also be sustainable – capable of being continued with minimal long term impact on the environment, so as to allow future generations to be able to continue living off available resources in an area.

It is important to note that, over and above the stipulation in the Constitution relating to municipal planning, planning is in fact done at 3 levels, viz. national, provincial and municipal.

National planning is the responsibility of the Office of the Presidency and encompasses strategies and policies for the country as a whole. It therefore makes proposals at a broad and strategic level.
Provincial planning is province specific and is based on the policies and principles formulated at the national level. Each province can plan for the unique circumstances of its area.

Municipal planning is the most detailed level of planning as it deals with all planning aspects at a district and local municipal level.

The Constitution of RSA stipulates that certain functions of Government are reserved to municipalities in terms of Section 156 (1) read together with Part B of Schedule 4. In this regard, municipal planning is listed as a functional area in Part B of Schedule 4, in terms of which municipalities have both executive authority and a right to administer to the extent set out in Section 155.

There is no precise definition of exactly what aspects of planning are included under the term municipal planning. The Constitutional Court in a judgement given in June 2010 stated that “...the term [municipal planning] is not defined in the Constitution. But “planning” in the context of municipal affairs is a term which has assumed a particular, well-established meaning which includes the zoning of land and the establishment of townships. In that context, the term is commonly used to define the control and regulation of the use of land.”

1.3 Why must a community participate in planning

Reasons why a community should participate in municipal planning include:

- A wide range of views from a broad spectrum of interested and affected parties, including the local community, will assist in the formulation of plans which are people-centred and participatory
- Participation by a community would do away with the feeling that planning decisions are being imposed on communities against their wishes
- Participation by community members is a legislated requirement in the process of formulation of plans and in the process of amendment of plans or zoning scheme. Relevant legislation includes Chapter 4 of the Municipal Systems Act and provincial Land Use Planning Ordinances, which are discussed in more detail later.

In terms of the prevailing legal framework governing municipal planning, the rights and responsibilities of land owners and the protection of the public interest are governed through a well-defined process. Municipal Councillors must administer this land use management process responsibly and effectively within the confines of the law.

In short, communities (civil society organisations and individuals) should become involved in the planning process in order to ensure that their input is taken into consideration in the formulation of plans.

In addition, once plans have been formulated, communities should monitor and keep track of the implementation processes to ensure that planning is undertaken according to approved plans.
2 Legislative Review

2.1 Legislation related to municipal planning

This section will briefly discuss the most relevant pieces of legislation relating to municipal planning.

2.1.1 Constitution of RSA No 108 of 1996

In terms of section 156 of the Constitution of the Republic of South Africa read with Part B of Schedule 4, municipal planning is a function assigned to municipalities.

2.1.2 Municipal Systems Act No 32 of 2000 (MSA)

Chapter 5 of the Municipal Systems Act requires Municipal Councils to prepare and adopt an Integrated Development Plan (IDP) for the entire municipal area and revise it annually. One of the components of the IDP is a Spatial Development Framework (SDF) which must include basic guidelines for a land use management system in the municipality.

2.1.3 Development Facilitation Act No 67 of 1995 (DFA)

The intention of this legislation was to function as interim legislation with the purpose of facilitating accelerated housing delivery. Certain Chapters have subsequently been declared unconstitutional, as this Act is administered by Provinces, and shifts decision making from municipalities to provinces. The General Principles for Land Development contained in Chapter 1 are, however, still valid.
2.1.4  Less Formal Township Establishment Act No 113 of 1991

This Act provides for shortened procedures for establishment of townships for less formal residential settlement and regulates use of land by tribal communities for communal forms of settlement. As this Act is administered by Provinces, it is likely to be considered unconstitutional as it shifts decision making from municipalities to provinces.

2.1.5  Planning Acts and Ordinances in the Eastern Cape Province

The Eastern Cape Province has a number of Acts and Ordinances, of which the most important relating to spatial planning and land use management are:

- Land Use Planning Ordinance 15 of 1986 (LUPO) – governing the former old Cape Province
- Townships Ordinance 33 of 1934 – governing the former Transkei urban areas
- Land Use Regulation Act No 15 of 1987 – governing the former Ciskei areas.

2.1.6  Spatial Planning and Land Use Management Act No 16 of 2013 (SPLUMA)

This new piece of legislation intends to repeal all old order legislation and provide a single act to govern spatial planning and land use management. One of the intentions of the Act is to enable Provinces to draft and enact provincial specific legislation to assist and guide municipalities in their municipal planning functions.

As far as participation in drafting of new legislation is concerned, an opportunity was given to the public to comment on the Spatial Planning and Land Use Management Bill (SPLUMB). Although the Act has been promulgated, it has not yet come into effect. Once the Regulations have been finalised, the Act will come into effect and old order legislation will be repealed. When draft Regulations are prepared, an opportunity will again be provided for interested and affected parties to comment and provide input on the Regulations. Advertisements inviting comment should be placed in Government Gazettes and local newspapers, as well as on the Department of Rural Development and Land Reform’s website.

2.1.7  Other legislation affecting planning

The following legislation also has an impact on planning:

- Subdivision of Agricultural Land Act No 70 of 1970
- National Building Regulations Act No 103 of 1977
- Physical Planning Act No 125 of 1991
- Housing Act No 107 of 1997
- National Environmental Management Act No 107 of 1998
- National Heritage Resources Act No 25 of 1999
- Promotion of Administrative Justice Act No 3 of 2000
- Planning Professions Act No 36 of 2002
- Social Housing Act No 16 of 2008
- National Land Transport Act No 5 of 2009

2.2 Planning policy-making

The above pieces of legislation (together with all other legislation in the country) have all been developed by the national or provincial legislatures.

The diagram below indicates in a simplified manner how the electorate, legislatures, municipal councils and departments are linked in the policy environment.
3 The Planning Product and Process

3.1 Development principles

Although Chapters 5 and 6 of the DFA dealing with applications have been declared unconstitutional, the principles contained in Chapter 1 of the DFA are still valid and must be taken into account in any development planning and decision-making.

“The general principles for land development specify that policy, administrative practice and laws should promote efficient and integrated land development in that they -

(i) promote the integration of the social, economic, institutional and physical aspects of land development;
(ii) promote integrated land development in rural and urban areas in support of each other;
(iii) promote the availability of residential and employment opportunities in close proximity to or integrated with each other;
(iv) optimise the use of existing resources including such resources relating to agriculture, land, minerals, bulk infrastructure, roads, transportation and social facilities;
(v) promote a diverse combination of land uses, also at the level of individual erven or subdivisions of land;
(vi) discourage the phenomenon of “urban sprawl” in urban areas and contribute to the development of more compact towns and cities;
(vii) contribute to the correction of the historically distorted spatial patterns of settlement in the Republic and to the optimum use of existing infrastructure in excess of current needs; and
(viii) encourage environmentally sustainable land development practices and processes.”

3.2 Hierarchy of plans

Planning occurs at various scales from national to provincial and municipal. The following provides examples of the various plans developed at the various scales.

- National plans
  - National Development Plan
  - Asgisa
  - New Growth Path

- Provincial plans
  - Eastern Cape Growth and Development Plan
  - Eastern Cape Development Plan
3.3 The planning process

The planning process can be divided into 2 broad categories, namely:

- Spatial (forward) planning - medium to long term
- Land use management - short term

3.3.1 Spatial planning

The spatial planning process involves the compilation of IDPs and SDFs and this process is the responsibility of, and must be initiated by, the municipality, with inputs obtained from interested and affected parties at various pre-determined stages in the process. The principle of participatory planning is included in the Municipal Systems Act, 2000. The public is provided with an opportunity to participate in the processes involved in the compilation and approval of IDPs and SDFs.

3.3.2 Land use management

The land use management process is also controlled by the municipality. It is the municipality’s responsibility to ensure that non-conforming land uses are prevented and that development takes place in accordance with the land use management controls stipulated per zone in the zoning scheme regulations.
The municipality is also responsible for assessing applications made to it for a change in zoning or land use management controls. In most cases, applications are received from outside the municipality, whether from the private or public sector, and the municipality is then required to act on these applications in terms of the procedures laid down by Provincial Ordinances and Acts.

Examples include applications for amendment of zoning schemes (rezoning), applications for special consent of the Council, applications for departure from building line restrictions, applications for approval of site development plans and building plan approval etc.

The pieces of legislation which govern applications for change in land use rights, e.g. Ordinances and Provincial Acts, set out processes for obtaining comment from the public, either by way of advertisement in the press of an intention to amend a zoning scheme, or by direct notice being sent to adjacent property owners, giving a period of 21 days for comment/objection.

Any comments and/or objections received from the public are taken into consideration by the Council in making a decision on whether to grant or refuse rights. Following a decision made by a municipality, all interested and affected parties will be notified of the decision in writing. Should any person feel aggrieved by the decision, they have the right to appeal to the relevant Department for the matter to be reconsidered.

While the various pieces of legislation all promote the participatory planning principle, it is often the case that stakeholders are not aware of the processes or do not have a clear understanding of how to respond to requests for input and comment.

Municipalities have a responsibility to ensure that all the planning processes are fully participatory, but due to capacity and budget constraints, these processes are often not as participatory as required. NGO’s could play a role in assisting with community understanding of processes and also assist with alerting communities to opportunities that are presented in the planning processes where their comments and/or input is requested and can be provided.
APPLICATION COMPILATION
- IDP; SDF
- Infrastructure
- Transport/traffic
- Environmental
- Social
- Economic
- Geology
- Etc

Supporting legal documents
- Title deed
- Power of attorney
- Etc

SUBMISSION TO AUTHORITY
Check for completeness
Acceptance

ADVERTISEMENT / COMMUNITY PARTICIPATION

EVALUATION

RECOMMENDATIONS

PUBLIC HEARING

CIRCULATION FOR COMMENTS
- Infrastructure
- Transport/traffic
- Environmental
- Social
- Economic
- Geology
- Political
- IDP/SDFs
- Etc

DECISION
## 4 Municipal planning

### 4.1 Forward planning

There are a number of plans that a municipality is legally obliged to prepare, ranging from longer term forward looking strategic plans encompassing the entire municipal area at a broader level (like the Integrated Development Plan – IDP - and associated sector plans such as Local Economic Development Plans, Transportation Plans, etc.) down to very detailed plans such as precinct plans, Localised Spatial Development Frameworks and land use management or zoning plans that assigns specific land use rights to individual properties.

The following section summarises the different statutory plans (that a municipality is legally bound to produce) and non statutory plans (that a municipality can produce if they want) that form part of municipal planning.

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4.1.1 Long term plans

4.1.1.1 Strategic plan

TITLE: STRATEGIC PLAN/ DEVELOPMENT PERSPECTIVE/ GROWTH AND DEVELOPMENT STRATEGY

SUMMARY: A broad and long term plan setting out the strategic policies of a municipality

PURPOSE: To provide a long term (20 year) vision for the manner in which the municipality wishes to grow

LEGISLATION: There is no legislation stipulating that such plans have to be produced.

CONTENT: Purpose of plan, planning process and objectives, key development issues, Philosophy and Vision, Development Guidelines, Policies, Principles and Strategies, proposed projects

PROCESS: Some form of community consultation can be invited in the development of development strategy plans, but generally this plan is a strategic document encapsulating the municipality’s vision for its growth and development and often has a political basis.

USE: The plan sets the basis for the preparation of the statutory plans by providing overall guidance on the direction in which the municipality wants to grow

LINKAGES: These plans must be guided by National and Provincial Strategic Plans. Other more detailed plans that get prepared should comply with this plan as it provides strategic guidance.

4.1.2 Medium term plans

4.1.2.1 Integrated Development Plan (IDP)

TITLE: INTEGRATED DEVELOPMENT PLAN

SUMMARY: A plan which encompasses all the functions to be undertaken by a municipality and helps to inform local priorities for implementation by other levels of government within a 5 year period guided by long term objectives and strategies. This plan gets reviewed annually.

PURPOSE: To provide for the integrated development of all services (social, infrastructural, environmental) within the municipality

LEGISLATION: IDP’s have to be prepared by municipalities as per Chapter 5 of the Municipal Systems Act, 2000.
Prescribed in terms of the legislation and includes a vision for long term development, an assessment of existing levels of development, development priorities and objectives, development strategies, a spatial development framework, operational strategies, disaster management plans, a financial plan and key performance indicators and targets.

The plan can also make use of Ward or Community based plans where these are available, in order to ensure that the wishes of the communities are taken into consideration in the formulation of the IDP.

The IDP provides a legislative background, relevant objectives and strategies and then lists specific projects to be implemented in order to achieve the goals set out, including budgets per project, location of projects and the responsibility for implementation of the projects.

The Regulations to the Municipal Systems Act, 2000 contain a brief section setting out broad requirements for the content of IDPs.

The IDP manager is responsible together with the Representative Forum to compile the plan. Consultants are often appointed to assist. Involvement of the community is part of the legislated process. Chapter 4 of the Municipal Systems Act places the responsibility for creating a culture of community participation on the municipality. It sets out mechanisms, processes and procedures, how to communicate information and give notice of public meetings, deals with admission of the public to meetings and sets regulations and guidelines for communication. Approval is the responsibility of the Councillors.

All development in the municipal area is governed by this plan. It must:

- link, integrate and co-ordinate various sector plans relating to specific sectors such as Housing, Local Economic Development (LED), Infrastructure etc.
- align resources and capacity of the municipality for the implementation of the plan
- form the policy framework
- form the general basis on which annual budgets are set
- be compatible with national and provincial development plans.

Municipal officials must implement the plan and politicians must ensure that the plan is monitored.

The IDP must comply with the vision and strategies in the Strategic Plan (should the municipality have one) and all lower levels plan must be in accordance with this plan.
4.1.2.2  Spatial Development Framework (SDF)

TITLE: SPATIAL DEVELOPMENT FRAMEWORK

SUMMARY: A spatial representation of the IDP and not just a sector plan which contributes to the formulation of the IDP, as it is specifically listed as a component of the plan.

PURPOSE: The principle strategic planning instrument which guides and informs all planning and development and all decisions regarding planning, management and development in the municipality and links it to the spatial context.

LEGISLATION: Section 26 (e) of the Municipal Systems Act, 2000 specifically calls for a SDF to be included in an IDP.

CONTENT: Provides proposals for the spatial development of the municipality in accordance with the IDP. It must include the provisions for guidelines for a land use management system (LUMS).

The Regulations to the Municipal Systems Act, 2000 contain a brief section setting out broad requirements for the content of SDFs.

PROCESS: Similarly to the compilation of the IDP, the SDF process required public consultation and involves municipal offices in the preparation (with consultants) and Councillors for approval.

The Department of Rural Development and Land Reform (DRDLR) has published a guideline document on formulation of SDFs, entitled “Guidelines for the Development of Spatial Development Frameworks 2011.”

This guideline document devotes a section after the start-up process has been completed to Public Participation, Stakeholder Identification and Guidelines for Advertising. In addition, once a draft SDF has been prepared, an opportunity is again presented for comment by relevant stakeholders and an invitation by way of advertisement in the press is made to the public for input. As the SDF needs review on a 5 year basis, stakeholders will again be offered an opportunity to comment during the revision process.

USE: Indicates where development will take place and where it is to be discouraged. Implementation is the responsibility of the officials and they are also responsible for monitoring.

LINKAGES: The SDF is a component of the IDP and must reflect the policies and principles contained in the IDP and Strategic Plan (if applicable). The plan relies on inputs from Sector Plans and must include provisions of the Land Use Management System (LUMS)
Various Sector Plans

**TITLE:** HOUSING SECTOR PLAN, WATER SERVICES DEVELOPMENT PLAN, ELECTRICITY MASTER PLAN, INTEGRATED WASTE MANAGEMENT PLAN, INTEGRATED TRANSPORT PLAN, PUBLIC TRANSPORT PLAN, LOCAL ECONOMIC DEVELOPMENT PLAN, INTEGRATED ENVIRONMENTAL MANAGEMENT PLAN, DISASTER MANAGEMENT PLAN, etc.

**SUMMARY:** Sector plans form part of the IDP planning process by providing input for the formulation of the IDP

**PURPOSE:** Sector plans are prepared for each service sector of the municipality with the intention of providing input into the status of existing services and infrastructure, and making proposals for implementation of specific projects.

**LEGISLATION:** Required in terms of the Municipal Systems Act and other legislation relating to the specific field, e.g. Housing Act, Water Act, etc.

- National Housing Act 107 of 1997 – Housing Sector Plan
- Water Services Act 108 of 1997 – Water Services Development Plan
- IDP Guidelines produced by Department of Provincial and Local Government (DPLG) require a Local Economic Development Plan, based on the requirement for developmental local municipalities set out in the Constitution.


- Disaster Management Act 57 of 2002 – Disaster Management Plan

**CONTENT:** Sector plans provide input on the status of existing services in a municipal area and the available capacity for future development. They also indicate what upgrade projects are required in order to support development in the area.

**PROCESS:** Service department heads are responsible for the compilation of the plan. Consultants are often appointed to assist. Approval is the responsibility of the Councillors and in some cases the relevant Departments in terms of specific legislation.
USE: Provide input into the IDP planning process. Implementation of the proposals is the responsibility of service department heads. Monitoring is done through the IDP process.

LINKAGES: Sector plans are a component of the IDP and are required in order to develop credible IDPs.

4.1.2.4 Local Area Plans

TITLE: WARD BASED PLANS, NODAL PLANS, PRECINCT PLANS

SUMMARY: There are a number of non-statutory plans which a municipality may prepare to assist with its planning and land use management function. These are usually at a more detailed level and help to guide decision making in the municipality, but do not confer land use rights. Ward based plans are prepared with involvement of community groups within wards and provide the municipality with specific details of what the community wishes to see happen in their area. These proposals feed into the IDP.

Nodal plans/ precinct plans/ local SDF’s focus on a specific area within a town or city and make proposals for future land use.

PURPOSE: To assist the planning and land use management functions of a municipality by providing more detailed level plans. These plans are often prepared for specific areas where there is evidence of pressure for development. Ward based plans allow the community in a specific ward to provide details of how they would like to see their ward developing.

LEGISLATION: There is no legislation that specifically requires such plans to be produced.

CONTENT: Proposals for spatial development including allocation of areas where certain uses would be encouraged and where other uses would be prohibited. Ward based plans would include asset and needs analyses, proposals for development in the ward, implementation actions as well as monitoring and evaluation.

PROCESS: Although not a legislated process, it does follow the procedures used for compilation of the SDF and thus includes an opportunity for input from community members.

USE: To assist officials in assessing applications received for change in zoning. Ward based plans can be used to provide input into the IDP process.

LINKAGES: Nodal Plans and precinct plans form a component of a SDF and must be in accordance with the principles and objectives of the SDF. Ward based plans would provide input in the draft process of an IDP.
4.1.2.5  Financial Plans

TITLE:  FINANCIAL PLAN/ BUDGET

SUMMARY:  A plan / budget showing income and expenditure

PURPOSE:  To indicate where funds will be obtained and on what funds can be expended in order to achieve the goals set out by the municipality.

LEGISLATION:  Municipal Finance Management Act, 56 of 2003

CONTENT:  Inventory of resources, management guidelines, financial guidelines and procedures, operating and capital financing, revenue raising, revenue and expenditure forecast, operating expenses and income, capital investment programme,

PROCESS:  The financial plan is prepared each year and provides information on sources of revenue. Once total revenue is calculated, projects which have been identified in the IDP process and be prioritised and budget allocated according to priority needs.

USE:  To determine where income/ revenue will be obtained and how much is available, so that it can be determined what projects and programmes can be funded per financial year.

LINKAGES:  Financial plans are a vital component of the IDP process and are also required for any implementation of plans.

4.1.3  Annual Plans

4.1.3.1  Annual IDP review

TITLE:  ANNUAL INTEGRATED DEVELOPMENT PLAN REVIEW

SUMMARY:  An annual review of the IDP to provide an update on progress made. Also to make provision for any changes that might be necessary due to changing circumstances, since the compilation of the plan.

PURPOSE:  To ensure that the plan remains up to date and relevant.

LEGISLATION:  Require as per Chapter 5 of the Municipal Systems Act, 2000.

CONTENT:  Progress on projects and implementation and aspects requiring further input.

PROCESS:  The annual review process is a limited and scaled down version of the IDP compilation process.

USE:  Progress reporting on implementation, as well as an opportunity to raise new issues which might have arisen since the original IDP process was finalised.
LINKAGES: The IDP must comply with the vision and strategies in the Strategic Plan (should the municipality have one) and all lower levels plan must be in accordance with this plan.

4.1.3.2 Annual budget review

TITLE: ANNUAL FINANCIAL PLAN/ BUDGET REVIEW
SUMMARY: An annual review of the income and expenditure plan
PURPOSE: To update on annual progress
LEGISLATION: Municipal Finance Management Act, 56 of 2003
CONTENT: Review of income and expenditure, new proposals going forward.
PROCESS: The annual financial review is a limited and scaled down version of the budget process.
USE: Progress reporting on financial matters.
LINKAGES: Financial plans are a vital component of the IDP process and are also required for any implementation of plans.

4.1.4 Once off plans

4.1.4.1 Project Plans

TITLE: PROJECT PLAN
SUMMARY: A plan providing specific information on a specific project, whether it relates to housing, provision of a specific engineering service etc.
PURPOSE: To guide the process of planning and implementation of a specific project.
LEGISLATION: There is no legislation specifically requiring the development of project plans.
CONTENT: Sets out the procedures to be followed in order for a specific project to be planned and implemented and includes post implementation monitoring.
PROCESS: Technical specialists set out the processes to be followed in order for a project to be successfully implemented. The input of community members can be obtained as part of the process, depending on the nature of the proposed project.
USE: The project plan assists developers with the correct procedures to be followed in order to ensure a successfully implemented project which complies with all relevant policies and procedures and specifically includes provisions for budget matters.

LINKAGES: Project plans must comply with the recommendations in the IDP, Sector Plans, the SDF and land use management schemes.

### 4.2 Land use management

**Land use management**

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#### 4.2.1 Formal/ statutory procedures

##### 4.2.1.1 Town planning scheme and regulations

**TITLE:** TOWN PLANNING SCHEME/ ZONING SCHEME REGUATLIONS

**SUMMARY:** Regulations governing the use of land within a municipal area.

**PURPOSE:** Land use management in a municipal area is regulated in terms of the Scheme, which supports the control and management of development within a municipality

**LEGISLATION:** Provincial Ordinances and Acts, e.g. Land Use Planning Ordinance 15 of 1985 (LUPO), Townships Ordinance 33 of 1934 and Land Use Regulations Act 15 of 1987.

**CONTENT:** Schemes comprise of Scheme Regulations, Zoning Plans and a Zoning Register. The Scheme Regulations make provision for various zonings, each containing permitted
use rights (as primary rights and by way of council’s special consent) and development restrictions in terms of building height, coverage, building lines etc.

**PROCESS:** The preparation of the scheme follows procedures set out in the Ordinances. Municipal officials are required to administer land use and development control and keep scheme records up to date.

**USE:** Any proposed amendment to the scheme will need to take the form of a formal application to the municipality, which is then processed and commented on by technical staff within the municipality. A final decision is made by the Council or if delegated powers are not with the municipality, Council makes recommendations to the respective Boards at provincial level. The final approval in such instances is issued by the MEC.

Municipal officials are obliged to ensure that land development is as permitted in terms of the scheme and must monitor compliance with the scheme. Any non-conforming land uses must be dealt with in line with stipulations of applicable regulations.

**LINKAGES:** The Scheme links to the SDF and IDP as it cannot be amended in a manner which is contrary to the proposals set out in the SDF, unless a strong argument in support of such deviation is presented and accepted by Council.

### 4.2.1.2 Amendment to Zoning Scheme

**TITLE:** AMENDMENT OF ZONING SCHEME REGULATIONS

**SUMMARY:** Applications for amendment of Regulations governing the use of land within a municipal area.

**PURPOSE:** Land owners or developers who wish to change the zoning rights applicable to their property, or amend certain conditions linked to the zoning category of their property, can apply in terms of relevant legislation to do so.

**LEGISLATION:**
- Land Use Planning Ordinance 15 of 1985 (LUPO) for former Cape Province areas
- Townships Ordinance 33 of 1934 for urban areas of former Transkei
- Land Use Regulations Act 15 of 1987 for the former Ciskei
- Less Formal Townships Establishment Act 113 of 1991 for former Transkei and Ciskei

**CONTENT:** *Rezoning applications:* to change the existing primary use zone of a property in terms of the relevant Zoning Scheme Regulations e.g. from Residential to Business
Applications for special consent of the Council: to obtain the consent of the Council to use a property for the purposes of a use defined as a consent use in the relevant Zoning Scheme Regulations

Applications for subdivision: to obtain approval for subdividing or splitting a cadastral entity such as an erf into 2 or more portions. The zoning remains unchanged.

Applications for departures: to obtain the Council’s consent for a use of a temporary nature or to deviate from specific land use management conditions such as those relating to height of buildings and building lines

Applications for township establishment: to obtain approval for a layout/subdivision comprising a number of erven and streets with appropriate zoning allocated to them, for which a General Plan must be approved at the Surveyor General’s office.

PROCESS: Applications are submitted to local authorities, advertised for public comment and circulated to various municipal sector departments for technical comments, before a decision is made. Applications in terms of LUPO can be approved by the municipality, while applications in terms of other legislation must be approved at a Provincial level.

An individual wishing to change the rights applicable to his/her land, can apply to do so as set out above. Neighbours and other affected parties have the opportunity to comment and participate in the process during the advertisements period. If aggrieved by a decision of the Council, a person has the right to appeal to the relevant Provincial department.

Rights which are approved are linked to the cadastrally defined land units, although special consents are often linked to the owner of the property.

USE: Township establishment or change in the zoning and limitations relating to land use management

LINKAGES: The Scheme links to the SDF and IDP as it cannot be amended in a manner which is contrary to the proposals set out in the SDF, unless a strong argument in support of such deviation is presented and accepted by Council.

4.2.1.3 Basic Assessment and EIA

TITLE: BASIC ASSESSMENT REPORT AND ENVIRONMENTAL IMPACT ASSESSMENT

SUMMARY: A plan required in terms of environmental legislation to assess characteristics of the land on which an application is proposed and apply for permission to change the use of the land
PURPOSE: To ensure that the environmental integrity of the land is maintained.

LEGISLATION: National Environmental Management Act and its Regulations

CONTENT: Description of activity, feasible and reasonable alternatives, activity position and size, access to site, motivation, waste, effluent, emission and noise management, land character, public participation, impact assessment and mitigation, environmental impact statement

A Basic Assessment Report is prepared for an activity which will have a lesser impact on the environment, while an EIA must be done when environmental impacts are greater. The level of report is determined in the listing notices of the NEMA Regulations.

PROCESS: The process of compilation of environmental assessments includes a well legislated public participation process. In addition, a great deal of technical assessment regarding the site and the proposed new development is required.

USE: The environmental assessment ensures that any new development is done in such a manner as to protect important environmental and heritage resources. It must strike a balance between preservation of the environment and sustainable development.

LINKAGES: Project plans must comply with the NEMA Regulations. Project plans that trigger the need for a BAR or EIA must be approved by relevant departments.

4.2.2 Informal procedures

Informal areas

There are no procedures to govern land use change in informal areas. Land use is determined by the relevant community leaders.

Communal land

Informal land use management takes place on communally owned land, which is governed by the local chief or traditional leaders. They determine what land can be used for and who may use the land.

Communal land is generally not cadastrally defined, and land use rights are often linked to individuals. Where land is defined, it is usually in the form of an informal sketch plan.

Use of land is determined through verbal agreements between chiefs or traditional leaders and community members. There might be cases where this is confirmed in writing.

The system of Permission to Occupy (PTO’s) which were issued by local Magistrates in the past on communal land has fallen away and in many cases, PTO’s issued in the past have been destroyed or not updated. This system did allow for some measure of control and record keeping.
5  Involvement of Community Groups in Planning

The municipality plans in order to help it make decisions as to what type of development it would like to see in its area.

The public and communities can participate at three stages of the planning and development process:

- Firstly, people and communities can participate prior to decisions being made. They can be involved in collecting the data and information that will be used to help inform decisions; and they can be involved in the planning process to influence the decisions that get made and what gets included in the plans.

- Secondly, people and communities can also be involved in monitoring that the decisions that have been made and the plans that have been approved are implemented according to the plans. They can participate in Steering Committees that monitor the implementation of plans.

- Thirdly and finally, people and communities can be involved in evaluating the success of these plans in achieving their specific objectives and in terms of making an impact on the long term development objectives of the municipality. The findings from these evaluations should be used to inform future plans, drawing on the lessons from previous rounds of planning and implementation.

Community groups can participate in planning in the following ways:

- By participating in statutory processes (in other words different plans require specific public participation processes be followed)
- Participation through ward committees and councillors
- Participation through direct communication

STATUTORY PROCESSES

Community groups can become involved in planning by familiarising themselves with the municipality’s operational framework for preparation of IDPs and SDFs. Legislation requires the creation of a Representative Forum for the purpose of including the public in the planning process. Community groups will be able to actively participate in all planning processes relating to their area by becoming involved in their respective Representative Forum through their relevant Ward Councillors.

Information on a Representative Forum can be obtained from individual municipal offices, either at the office of the IDP Manager or the Municipal Manager, or from the local Ward Councillor.

WARD COMMITTEES

Even when there is not a statutory planning process under way, community members are able to approach their ward committees or councillors with any areas of concern regarding planning. In
some cases, these concerns could be included in the following years review processes or could receive priority individual attention from the municipality, depending on the nature of the concern.

DIRECT COMMUNICATION

There is nothing to stop a community or a member of a community in his/ her individual capacity from communicating directly with a municipality or municipal officials. This can be done by telephone, written communication by fax or post or even arranging a meeting with relevant officials to raise concerns. However, community members must be aware that their concerns might not be able to be addressed immediately and might have to be held over until the next cycle of planning reviews.

6 Navigating the planning maze

You may want to participate in a planning process for two reasons:

- To get something you want or need onto a municipal plan. For example, you may need government to help you get a low income house, or you need a clinic to be built in your area. See the forward planning section for the type of plans that you may need to participate in.
- To respond to a plan that has been developed by others that you think may affect you. Examples include: a developer is planning to develop a new housing project in an area you feel needs to be kept as an environmental conservation area, or a new shopping centre is to be built in your neighbourhood. Normally this involves the land use management section.

The following tables summarise how you can navigate your way through these processes.
### 6.1 STARTING WITH A SPECIFIC NEED WHICH NEEDS TO BE ADDRESSED

<table>
<thead>
<tr>
<th>CHECKLIST</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Have you identified your need</td>
<td>Go to step 2</td>
<td>First determine what your need is, e.g. Housing, services etc.</td>
</tr>
<tr>
<td>2. Have you determined which sphere of government is responsible</td>
<td>Go to step 3</td>
<td>Determine whether your need is the responsibility of national, provincial or local government (municipality). e.g. Housing is provided through the provincial department, while services are provided by municipalities</td>
</tr>
<tr>
<td>3. Is your need in the IDP</td>
<td>Go to step 4 and 5</td>
<td>If your need has not been captured in the IDP, you will need to ensure that during the review process, your need is captured by the municipality and evaluated in terms of policies to determine whether it can be included in the review.</td>
</tr>
<tr>
<td>4. Has your need been discussed in the ward</td>
<td>If it has, the chances are it might be included in the IDP (step 3)</td>
<td>If not, you should raise the matter with your ward councillor for possible inclusion in the next review process.</td>
</tr>
<tr>
<td>5. Is your need identified in a sector plan (in some cases aspects of your need are dependent on more than one sector being integrated with other sector plans)</td>
<td>If the need is already in the IDP, the chances are that it is also in the relevant sector plan</td>
<td>If it is not in the sector plan, the chances are that it is also not in the IDP. You will need to raise the matter during the next review.</td>
</tr>
<tr>
<td>6. Has your need been reflected as a project in the IDP</td>
<td>If yes, go to step 7</td>
<td>If your need is not reflected as a project, but is included in the IDP, it could be that there are insufficient funds available for it during the current cycle. You should try to ensure that it receives priority during the next cycle of budgeting</td>
</tr>
<tr>
<td>7. Has the project been budgeted for?</td>
<td>If yes, go to step 8</td>
<td>If the project has not been budgeted for, but is included in the IDP, it could be that there are insufficient funds available for it during the current cycle. You should try to ensure that it receives priority during the next cycle of budgeting</td>
</tr>
<tr>
<td>8. Have the necessary statutory requirements been met?</td>
<td>If yes, go to step 9</td>
<td>In order to commence development, the following statutory approvals are generally required: (other approvals might be required depending on the nature of the development) • Town planning approval, either township establishment, rezoning, subdivision, consolidation in terms of</td>
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</table>
### 6.2 IN RESPONSE TO A SPECIFIC PLAN/PROPOSAL

<table>
<thead>
<tr>
<th>CHECKLIST</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Have you identified your interest or area of concern relating to a specific plan or proposal</td>
<td>Go to step 2</td>
<td>First determine what your interest in a proposed plan is or what concerns you about the proposal</td>
</tr>
<tr>
<td>2. Have you determined how your specific interest is being affected by the proposal</td>
<td>Go to step 3</td>
<td>Determine how your interests are being affected by the proposal</td>
</tr>
<tr>
<td>3. Is the proposals to your benefit and does it have your support</td>
<td>No further action required</td>
<td>Proceed to Step 4</td>
</tr>
<tr>
<td>4. Do you have an alternate proposal to offer</td>
<td>Request a meeting with relevant officials and role-players to discuss</td>
<td>If not, formulate a written objection for submission to the municipality</td>
</tr>
<tr>
<td>5. Are your concerns satisfactorily addressed by the municipality</td>
<td>No further action required</td>
<td>Should you be dissatisfied with the decision of the municipality, you can lodge an appeal against this decision with the provincial government</td>
</tr>
</tbody>
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