



The South African
Council *for* Planners
S A C P L A N

EXPLANATORY MEMORANDUM

**DRAFT RULES ON THE IDENTIFICATION OF PLANNING PROFESSION WORK IN
TERMS OF SECTION 16 OF THE PLANNING PROFESSION ACT, 2002 (ACT 36 OF
2002)**

FEBRUARY 2021

1. INTRODUCTION

- 1.1 The Planning Profession Act, 2002 (Act 36 of 2002) (the Act) regulates, inter alia, the registration of persons as Professional Planners and Technical Planners and the Act, in its long title, imposes an obligation on the South African Council for Planners (SACPLAN) to prescribe the identification of areas of work for planners. Furthermore, planning, as a profession, is obliged in terms of the aforesaid Act to pursue and serve the interests of the public to the benefit of present and future generations. For such purpose SACPLAN is obliged to maintain high standards of quality and integrity in the profession and, in turn, must identify certain areas of planning work to be reserved for registered persons contemplated in the Act (Professional Planners and Technical Planners).
- 1.2 In the above context SACPLAN is authorised to, by notice in the Government Gazette, make rules on any matter which is required or permitted to be prescribed in terms of the Act, including the identification of planning profession work.
- 1.3 The planning profession principles set out in Section 2 to the Act provide the framework against which planning profession work is to be more specifically compartmentalized, defined and prescribed.
- 1.4 In attending to the preparation and adoption of rules for such purpose, SACPLAN is obliged to consult with, inter alia, recognised voluntary associations in terms of the Act (most notably the South African Association of Consulting Professional Planners (SAACPP), the South African Planning Institute (SAPI), and the Committee of Heads of Planning Schools (CHoPS)) whilst also having regard to the interests of associated professions including the South African Geomatics Council (SAGC) (inclusive of registered land surveyors), practising attorneys and registered professional architects.

2. COMPONENTS OF THE PLANNING PROFESSION

- 2.1 In broad terms, the planning profession presents as those registered persons employed by different spheres of government (the larger component of which is in the municipal sphere) to serve as appointed officials in, inter alia, receiving, evaluating and deciding or recommending for approval various types of land development applications as may be contemplated in municipal by-laws on spatial planning and land use management matters and related legislation. The same officials may also be confronted with the obligation to prepare and bring into effect new statutory land use schemes and policy guidelines on spatial planning and land use management including the likes of spatial development frameworks.
- 2.2 The other large component of the planning profession presents as private planning practitioners (typically referred to as consultants) acting for clients in their capacities as land development applicants, seeking to develop land for different purposes and, as a result having to approach relevant authorities for authorisation to do so. For such purpose land development applications are prepared by the planning practitioners and submitted to the relevant authority (typically the municipality) on behalf of the land development applicant. The private planning practitioners may also be confronted with

obligations to act for instructing clients (typically municipalities or other authorities) to assist in the preparation of spatial planning policy guidelines and land use management instruments including spatial development frameworks and land use schemes (or the review thereof from time to time).

2.3 The above is not an exhaustive list and merely talks to the main components of the larger planning profession. Planners employed in academia, in research institutions and related or associated endeavours also form part of the larger profession.

2.4 Against this background and having regard to the planning profession principles enshrined in the Planning Profession Act, 2002 (Act 36 of 2002) (the Act), SACPLAN has formulated draft Rules pertaining to the identification of planning profession work to be reserved for persons registered in terms of the Act and for such purpose will engaged with:

- Voluntary Associations including SAACPP, SAPI, and CHoPS:
- Associated professions including the SAGC (more particularly registered land surveyors);
- Legal practitioners and more particularly practising attorneys through the Law Society of South Africa (LSSA); and
- The South African Council for the Architectural Profession (SACAP), particularly practising architects in private practice.

3. THE IDENTIFIED SCOPE OF WORK AS PART OF THE REGULATORY MECHANISM

3.1 The scope of work as part of Rules is part of the regulatory mechanisms. The scope of work is defined as “the range or extent of the work to be performed by a person registered in that category”. This mechanism is strongly directed towards informing the user of the planning professional services. The different categories of registration indicated first and foremost the path to registration followed by the relevant registered person and includes academic qualification and experience gained.

4. COMPETENCIES AND STANDARDS OF REGISTERED PERSONS

4.1 For the purpose of detailing the competencies and standards which registered Professional Planners and Technical Planners are to possess for purposes of registration in terms of the Act, SACPLAN conducted appropriate research for such purpose. This resulted in a comprehensive report and recommendations received from the appointed service providers (acknowledged experts in their field), a copy of which is available on the official website of SACPLAN namely www.sacplan.org.za.

4.2 The competencies and standards reflected in the aforesaid report inform and underpin the *curricula* of accredited planning degrees on offer by different planning schools associated with various universities and universities of technology throughout the country. These facts are also reflected on the official website of SACPLAN and, for the purposes hereof, shall not be repeated.

4.3 It follows that the identification of planning profession work, to be reserved for registered persons in terms of the Act, is equally based on the results of the aforesaid research and the submissions by participating voluntary associations and other bodies active within the larger profession.

5. ACCOMMODATING OTHER PROFESSIONS

5.1 Section 16(1) of the Act authorises SACPLAN to, where relevant, accommodate other professions when identifying planning profession work to be reserved as set out herein. The background to this stems from the fact that, historically, certain members from other professions (including but not limited to registered professional land surveyors, architects and practising attorneys) attended to certain parts of what may be more properly described as planning profession work and certain of such practitioners remain reliant on income derived from such work, to sustain their practises and livelihoods.

5.2 In the result, the enactment of Rules by SACPLAN by the identification of planning profession work for persons registered in terms of the Act, should not summarily negate the ability of such affected practitioners to continue to render services, albeit within the realm of what has been identified by SACPLAN to be attended to by persons registered in terms of the Act (Professional Planners and Technical Planners).

5.3 For such purpose, the Rules provide a window period of 24 months from date of enactment for any such affected practitioner from the identified allied professions to submit to SACPLAN certain documentation in proof of their competence in the rendering of such services and related information. Based on same SACPLAN will be placed in a position to, where relevant, issue a certificate in favour of the affected person permitting the ongoing rendering of the identified part of the relevant planning profession work.

5.4 Such certificate, issued by SACPLAN, will be made subject to the recipient remaining properly registered under the auspices of the relevant regulatory body for the profession within which the affected person is registered and to remain in good standing. Also, in attending to the identified part of the planning profession work stipulated in the certificate, such affected person shall also remain subject to the provisions of the Act, the Rules issued by SACPLAN and the Code of Conduct of SACPLAN.

5.5 In practical terms this implies that persons in receipt of the aforesaid certificate shall be permitted to continue conducting planning profession work (as specified) for the duration of their professional careers. This implies that no affected party which falls within the aforesaid category will be denied the benefits of his or her ongoing rendering of the services so specified.

6. MECHANISMS TO ENHANCE ENTRY INTO THE PROFESSION AND PROTECT PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT.

6.1 Adherence to best practice is a cornerstone of professional competence. The user of services must once again be informed of the rules and standards directing the professional conduct of the person he / she intends to appoint. As much as the rules of professional conduct and best practice will provide the boundaries for professional conduct, they will also inform the end-user of the standard to be expected.

6.2 Professional registration allows for the regulation of registered persons by a regulatory body, setting and enforcing the standard of professional conduct to ensure the protection of the health, safety and pecuniary interest of the public and the quality of standards.

7. CATEGORISATION OF PLANNING PROFESSION WORK

7.1 In the Rules prepared by SACPLAN it was necessary to rely on the planning profession principles listed Section 2 of the Act to guide and inform the identification of more detailed components of work.

7.2 Section 2(a) confirms that planning and the planning profession are areas of expertise involving the initiation of management of change in the built and natural environment (both urban and rural) with a view to furthering human development and environmental sustainability. The broad categories of planning profession work are described under Section 2(a)(i) up to and including (iii) namely:

- The delimitation, regulation, and management of land uses;
- The organisation of service infrastructure, utilities, facilities, and housing for human settlements; and
- The co-ordination and integration of social economic and physical sectors which comprise human settlements.

7.3 Throughout the synthesis and integration of relevant information planning work typically results in the preparation of strategic, policy, statutory and other development plans. The central theme in this regard remains for planning to pursue and serve the interests of the public to the benefit of present and future generations.

7.4 Building on the aforesaid the rules as prepared by SACPLAN provide for the following:

- **Delimitation, regulation, and management of land uses**

This typically talks to the creation of new or revised land use schemes, being statutory regulatory instruments used primarily by municipalities to regulate and manage the use of land within their areas of jurisdiction. Apart from creating new or revised land use schemes, the work associated herewith also extends to include land development applications seeking to amend the provisions of a

land use scheme alternatively to procure authorisation to change land use provisions by consent of the decision making authority or to approach such authority for authorisation to deviate from any provision imposed in terms of the statutory scheme.

Apart from the above, registered professional planners are often briefed to provide so-called expert reports on any of the aforesaid matters so as to assist a court or an arbitration body or a tribunal in coming to an informed decision where any proposal stemming from a land use scheme may be in dispute.

On the part of municipal and other government officials, they are typically required to act as authorised officials in receiving, evaluating and determining land development applications alternatively to prepare reports for consideration by decision making tribunals or other authorities including recommendations on the approval or refusal of any such application.

- **Organisation of service infrastructure, utilities, facilities, and housing for human settlements**

The term human settlement is also often referred to as a “township” being a technical term used in the offices of the Surveyor General and Deeds Registries. Given the different categories of land (erven in proclaimed townships, farms or portions of farms or agricultural holdings or portions thereof) a township is a technical description of one of such categories.

The design of the layout of a proposed township to provide for subdivided erven to allocate different land use zoning rights and restrictions thereto to provide for public places, public roads and services servitudes and to have same approved by the decision making authority is central to this category of work. The choice of wording stemming from Section 2(a)(ii) of the Act namely “organisation” is telling of the typical service rendered by a professional or technical planner. A planner typically co-ordinates the actions of a multi-disciplinary team of consultants (civil and electrical engineers, geotechnical engineers, environmental consultants, conveyancers, heritage consultants and land surveyors) in their endeavours to jointly support the process of establishing a new settlement/township. This encompasses the proper structuring of conditions of establishment to comply with the requirements of the Chief Registrar of Deeds and the statutory provisions of the various municipal by-laws regulating such matters. It also encompasses the appropriate amendment of the provisions of a land use scheme to accommodate the proposed land use zoning categories attaching to each of the subdivided erven within the larger township/settlement. Central to these activities is the obligation on the professional planner to ensure that the township layout plan for the relevant settlement complies in all relevant respects with ruling legislation and for such purpose to certify such plan on a basis similar to a certificate to be issued by a geotechnical engineer or a registered professional engineer in respect of a certified floodline.

Finally, it is often required to brief a professional planner to give evidence in disputed matters before a competent court or an arbitration body or a tribunal where the subject matter focusses on a proposed township development.

- **Co-ordination and integration of socio-economic and physical sectors of human settlements**

Municipalities and other authorities are typically obliged to prepare and adopt appropriate policy guidelines in the form of spatial development frameworks or similar instruments to guide and inform decisions on future land development and changes in land use. The process of co-ordinating the involvement of multi-disciplinary services in integrating the socio-economic and physical sectors to develop a spatial development framework is typically the work of a registered professional technical planner.

This extends to the prospect of being involved as a part of a larger team to inform the formulation of a strategic environmental assessment report where the impact of existing planning policy guidelines on the environment require to be assessed.

The aforesaid is a summary of the broad categories of work to be reserved for professional and technical planners (and also those other professionals which qualify as set out in the Rules).

The standards and competencies alluded to in a previous paragraph further inform the more detailed aspects of the skills and experience required on the part of planning practitioners to attend to the aforesaid matters.

In its endeavours to protect the interests of the public to benefit present and future generations, SACPLAN is obliged to delineate the identified categories of planning profession work and to prescribe same as contemplated in the Act. The draft Rules prepared for this purpose are based on the aforesaid framework and principles.

Prepared by SACPLAN