



Reference: E/1/4/2

CIRCULAR: 4/2013

TO ALL MAYORS, MUNICIPAL MANAGERS AND CHIEF TOWN PLANNERS

ZONING SCHEMES IN TERMS OF THE DRAFT WESTERN CAPE LAND USE PLANNING BILL

1. For a number of years the Department of Environmental Affairs and Development Planning has encouraged municipalities to commence with the compilation of their integrated zoning schemes. While a small number of municipalities have progressed to advanced stages, most municipalities have only recently commenced with this process.
2. It is important to note that the new draft Western Cape Land Use Planning Bill (LUPA) will impact considerably on the contents of new zoning schemes. The department anticipates that LUPA will be enacted on 1 April 2014 and therefore it is important that all role players take cognisance of the requirements in the new legislation, as far as zoning schemes are concerned.
3. Municipalities are advised to consider these new requirements in the realisation that zoning schemes under LUPA will differ substantially from those which were approved in terms of Land Use Planning Ordinance, 1985 (LUPO). Although it is not suggested that municipalities should stop with their efforts to compile zoning schemes due to the anticipated changes in legislation, the Department wishes to draw attention to those aspects which may require a

different approach. This will prevent unnecessary duplication or wasteful spending on subsequent amendments.

4. The following aspects will have a marked influence on how zoning schemes will be compiled and implemented in the future:

4.1 Zoning schemes in terms of LUPA will no longer be approved as “regulations” by the Department, as is currently the case under LUPO. In future the zoning schemes, as understood in planning terms, will be approved as “bylaws” in terms of the standard procedures contained in the Municipal Systems Act, 2000 (Act 33 of 2000). This approval will be issued by municipalities themselves.

4.2 The above aspect may not have a substantial influence on the contents of the zoning scheme bylaws, other than the reference to “bylaws” versus “regulations,” however it has a major impact on the procedural requirements for the approval of the bylaw. The Department will in due course provide guidance with respect to the process of compiling and approving bylaws. At this stage it is important that all concerned are aware that **Zoning Scheme Regulations** will in future be approved as “**Zoning Scheme Bylaws**.”

4.3 The second very important aspect is the fact that municipal planning will in future be managed in terms of “**Municipal Planning Bylaws**” and no longer in terms LUPO. LUPA will provide a framework in terms of which municipalities will have to prepare planning bylaws, which will then regulate the day to day planning activities at municipal level. Applications such as for rezoning, subdivision and consent uses, as well as the procedures for such applications, will be contained in “Municipal Planning Bylaws.

4.4 Procedural regulations, such as applications for consent use, departure and subdivision, and also the manner in which advertisements are to be managed, which in the past may have been contained in zoning scheme regulations, will in future be contained in the “Municipal Planning Bylaw.” In practice this means that the municipal planning bylaw and the zoning scheme bylaw may become one document.

4.5 It follows from the above that it is vital that when municipalities compile their zoning scheme regulations, they are aware of these requirements, and determine the aspects to be contained in their "Municipal Planning Bylaws" and not include it into their Zoning Scheme Regulations/Bylaws.

5. The Department is committed to support municipalities and is involved in a number of initiatives which may assist municipalities in this regard.

5.1 The department realises that a number of municipalities may not have the capacity to compile "Municipal Planning Bylaws" and "Zoning Scheme Bylaws," to be approved and operational by the time LUPA is enacted.

5.2 The department is therefore compiling a **Model Municipal Planning Bylaw** which will be available to municipalities to adopt or amend according to their own circumstances. However, for the municipalities without adopted bylaws at the time of implementation of LUPA, the "Model Municipal Planning Bylaw" will be enacted as regulations, which will apply automatically to these municipalities.

5.3 It is essential that all role players involved in the compilation of zoning schemes should familiarise themselves with the contents of the Model Municipal Planning Bylaw when available, in order to avoid unnecessary duplication, as mentioned above. Although the Department has not finalised the bylaw, municipalities are still encouraged to contact the relevant officials with the view to discussing the envisaged contents of the bylaw.

5.4 In addition to the Model Municipal Planning Bylaw, the department is also compiling a **Model Zoning Scheme Bylaw** which municipalities could adapt or amend for their circumstances.

6. Municipalities which need assistance are encouraged, to contact **Kobus Munro** at **044 – 8058600**.



HEAD OF DEPARTMENT

Date: 8 March 2013

Postscript: The previous Circular 3/2013: INVITATION FOR COMMENT ON THE DRAFT WESTERN CAPE DEVELOPMENT PARAMETERS, was sent out to all Municipalities.