



Reference: 1/4/1/1/2, 15/4/3/1 AND 15/3/1/2/4
CIRCULAR: 7/2013

TO ALL MAYORS, MUNICIPAL MANAGERS AND CHIEF TOWN PLANNERS

AMENDMENT OF GENERAL STRUCTURE PLAN AND SCHEME REGULATIONS (SECTION 7(2) AND 8) IN TERMS OF THE LAND USE PLANNING ORDINANCE, 1985 (ORDINANCE 15 OF 1985) IN ORDER TO EXTEND DELEGATIONS FOR PLANNING APPLICATIONS TO MUNICIPALITIES

1. Circular 2 of 2013 dated 6 February 2013 of this Department, has reference.
2. The General Structure Plan and applicable Scheme Regulations (section 7(2) as well as 8) has been amended or withdrawn by the Minister responsible for Planning in order to extend the delegations for planning applications to all municipalities in the Western Cape.
3. REZONING APPLICATIONS
- 3.1 The General Structure Plan has been amended to read as follows:

“GENERAL STRUCTURE PLAN TO AUTHORISE MUNICIPALITIES TO GRANT OR REFUSE REZONING APPLICATIONS

1. *The Minister has, in terms of section 4(7) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), read together with sections 5(2) and 42(1) of the same Ordinance, amended the General Structure Plan for the Western Cape Province, to authorise municipalities to grant or refuse rezoning applications in terms of sections 14(4), 16(1) or 18 of LUPO and to determine in terms of section 16(2)(a) of LUPO an extended period after which a rezoning authorization shall lapse.*

2. *This authorisation is subject thereto that certain rezoning applications be referred to the Department of Environmental Affairs and Development Planning (DEA&DP) for comment prior to any municipal decision-making. The Provincial comment must be submitted to the municipality within 30 days after having received the request for comment. Should DEA&DP not provide comment within the 30 day response period, then the municipality must deem DEA&DP not to have any comment on these applications and the municipality should then proceed with their decision-making.*

The following rezoning applications must be referred to DEA&DP for comment prior to municipal decision-making:

- 2.1 *any rezoning application of land outside the approved urban edge of a town in terms of the SDF of a municipality or in cases where no approved SDF exists, the built up area of a town, and*

- 2.2 *any rezoning application of an area from agriculture, conservation or similar purposes."*

4 DEPARTURE APPLICATIONS

- 4.1 Regulation 2.1 of the Scheme Regulations made in terms of section 7(2) of the

Ordinance and published in Provincial Notice 1047 of 5 December 1988 to supplement the Scheme Regulations relating to the zoning schemes set out in the Schedule thereto as amended by P.N. 177/2009 of 29 May 2009, has been amended to read as follows:

“A Municipal Council may in terms of subsections (1)(b) and (5) of section 15 of the Ordinance respectively grant or refuse an application for a departure, or determine an extended period after which such departure shall lapse: provided that, where the Council authorises the utilization of land on a temporary basis as contemplated by section 15(1)(a)(ii), such authorisation shall be granted for a maximum period of five years, with the exception of a departure for a mining activity, in which case the authorisation may be granted for such number of years as is related to the expected lifetime of the mine concerned.”

- 4.2 Regulation 5.1.1 of the Scheme Regulations made in terms of section 8 of the Ordinance, published in Provincial Notice 1048 of 5 December 1988 as amended by P.N. 177/2009, has been amended to read as follows:

“A Municipal Council may in terms of section 15(1)(b) of the Ordinance respectively grant or refuse an application for a departure, or in terms of section 15(5) determine an extended period after which such departure shall lapse: provided that, where the Council authorises the utilization of land on a temporary basis as contemplated by section 15(1)(a)(ii), such authorisation shall be granted for a maximum period of five years, with the exception of a departure for a mining activity, in which case the authorisation may be granted for such number of years as is related to the expected lifetime of the mine concerned.”

5 SUBDIVISIONS APPLICATIONS

- 5.1 Regulation 3.1 of the Scheme Regulations made in terms of section 7(2) of the Ordinance and published in Provincial Notice 1047 of 5 December 1988 to supplement the Scheme Regulations relating to the zoning schemes set out in the Schedule thereto as amended by P.N. 177/2009, has been amended to read as follows:

“A Municipal Council may grant or refuse an application for the subdivision of land in terms of section 25(1) of the Ordinance within, and subject to the conditions applicable to a subdivisional area, as well as an application for

the subdivision of land involving no change in zoning."

- 5.2 Regulation 5.2.1 of the Scheme Regulations made in terms of section 8 of the Ordinance, published in Provincial Notice 1048 of 5 December 1988 as amended by P.N. 177/2009, has been amended to read as follows:

"A Municipal Council may grant or refuse an application for the subdivision of land in terms of section 25(1) of the Ordinance within, and subject to the conditions applicable to a subdivisional area, as well as an application for the subdivision of land involving no change in zoning."

6. REMOVAL OF RESTRICTIONS APPLICATIONS

- 6.1 Regulation 4 of the Scheme Regulations made in terms of section 7(2) of the Ordinance and published in Provincial Notice 1047 of 5 December 1988 to supplement the Scheme Regulations relating to the zoning schemes set out in the Schedule thereto as amended by P.N. 177/2009, has been withdrawn.

- 6.2 Regulation 5.3 of the Scheme Regulations made in terms of section 8 of the Ordinance, published in Provincial Notice 1048 of December 1988 as amended by P.N. 177/2009, has been withdrawn.

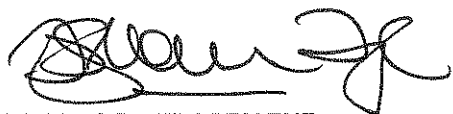
7. The above mentioned amendments and withdrawals have the following implications for municipalities on planning applications in terms of LUPO, namely:

- 7.1 municipalities will now consider all rezoning applications and only refer certain applications to DEA&DP for comment;
- 7.2 municipalities will not be able to refer planning applications delegated to them in terms of the General Structure Plan or zoning scheme regulations to the Provincial Sphere of Government as "development packages" for a final decision, and
- 7.3 restrictive conditions which may have a bearing on a planning application do not have to be removed prior to a LUPO application being granted.

8. APPLICATIONS CURRENTLY WITH THE DEPARTMENT FOR CONSIDERATION

- 8.1 Applications submitted to the Department, prior to 26 July 2013, in terms of the previous General Structure Plan will be processed and decided upon by the Minister.
- 8.2 All previously non-delegated applications received by the Department subsequent to 26 July 2013 will be referred back to the relevant municipality

for decision making in terms of the amended General Structure Plan.



HEAD OF DEPARTMENT

Date: 06 . 08 . 2013

Postscript: The previous Circular 6/2013: RENEWABLE ENERGY DEVELOPMENTS: FINANCIAL PROVISION FOR DECOMMISSIONING AND ENVIRONMENTAL REHABILITATION, was sent out to all Mayors, Municipal Managers and Chief Town Planners.