



CIRCULAR: EADP 0011/2016

**ALL MUNICIPAL MANAGERS, MUNICIPAL PLANNING HEADS AND INTEGRATED
DEVELOPMENT PLAN MANAGERS**

**SUBJECT: MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORKS (SDFs) AND INTEGRATED
DEVELOPMENT PLANS (IDPs)**

1. As you are no doubt aware, to date all Municipalities in the Western Cape, bar one, have introduced the new spatial planning and land use management regime (herein after referred to as the "Planning" regime) through implementing the Spatial Planning and Land Use Management Act, 2013(Act 16 of 2013) (SPLUMA), the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014)(LUPA), and the municipal planning bylaws (MPB). The institutionalization of this new "Planning" regime comes at a time when municipalities are heading into the start of a new five year Integrated Development Plan (IDP) cycle. In some municipalities this provides an opportunity to revise their Municipal Spatial Development Frameworks (SDFs) to bring them in line with any new legislative requirements or changed circumstances, while simultaneously drafting and adopting a new Municipal IDP.
- 1.1 In drafting, adopting and amending a SDF one needs to understand the relationship between the SDF and the IDP. To provide clarity on this matter, we turn to what the incumbent legislation says about the relationship between the SDF and the IDP.

a) *The Local Government Municipal Systems Act, 2000 (Act 32 of 2000) (MSA)*

Section 26(e) of the MSA refers to the municipal SDF as a "core component" of the municipal IDP along with, amongst others, the council's development strategies, the council's operational strategies, disaster management plans, a financial plan and key performance indicators and targets.

In this regard, it is worth noting the High Court Judgement in **Shelfplett 47 (Pty) Ltd v MEC for Environmental Affairs & Development Planning and Another** (16416/10) [2012] ZAWCHC 16; 2012 (3) SA 441 (WCC) (5 March 2012) where the presiding Judge made it clear that "an SDF forming part of the municipality's duly adopted

IDP" (para. 117), "Section 25 of the Systems Act requires the IDP (including the SDF) to be adopted by the municipality's council" (para. 107) and that an amended SDF must "be submitted to the MEC for Local Government as required by s 32(1) of the Systems Act" (para. 108).

b) *Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)(SPLUMA)*

Section 20(2) of SPLUMA indicates how a municipal SDF must be prepared "as part of" a municipal IDP, in accordance with the provisions of the MSA. Furthermore, Section 20(1) of the MSA refers to how a Municipal Council must by notice in the Provincial Gazette adopt a municipal SDF.

c) *Western Cape Land Use Planning Act, 2014 (Act 3 of 2014)(LUPA)*

In Section 10(1) of LUPA, reference is made to a municipality adopting or amending its SDF in terms of the MSA. In this regard it is significant to note that the MSA does not provide separate processes to draft, adopt or amend an SDF independently from the IDP. The only process the MSA regulates is the process to draft, adopt and amend an IDP and therefore the SDF must follow this process.

d) *Municipal Planning Bylaws*

Section 3(1) of the Standard Draft Municipal Land Use Planning By-law, prepared and distributed by the Department, makes reference to a Municipal Council compiling or amending its municipal SDF in accordance with the MSA. Your specific municipal planning bylaw may have a similar clause. Here again, it must be stressed that it is significant that no separate process to compile, adopt or amend a municipal SDF is provided for in the MSA. As a municipal SDF is a core component of a municipal IDP, i.e. part of an IDP, any amendments to the municipal SDF must be subject to the MSA and its regulations.


1.2 What is clear from the above is that the MSA and SPLUMA explicitly makes the municipal SDF part of the municipal IDP, while LUPA and the Standard Draft Municipal Land Use Planning By-Law make it clear that the process to be followed in the drafting, adoption and amendment of an municipal SDF is the same process used for the drafting, adoption and amendment of a municipal IDP as set out in the MSA and its regulations.

1.3 The compilation and adoption of a municipal SDF is therefore regulated by all four laws mentioned above which contain both procedural and content requirements that municipalities have to adhere to. Most importantly the said legislation does not allow for a municipal SDF to be drafted, adopted or amended in isolation or separately from the IDP. A municipal SDF must therefore be compiled, adopted and

amended as part of the municipal IDP drafting, adoption and amendment process. If a municipal SDF is to be amended after the adoption of the five-year IDP, then the municipal SDF amendment must be done as part of the amendment process of the municipal IDP.

2. While many are familiar with the fact that the municipal SDF is a core component of the IDP, what has yet to be mainstreamed and institutionalised is the fact that a municipal SDF amendment is a municipal IDP amendment and that the process to amend a municipal SDF must comply with the municipal IDP amendment process as set out in the Local Government: Municipal Planning and Performance Management Regulations, 2001. This Department is therefore in the process of developing a Guideline for drafting, adopting and amending a municipal SDF which will be distributed in due course.
3. The Department will also schedule training and discussion workshops for municipal SDF practitioners and municipal IDP managers during the second half of the year to ensure that the aforementioned requirements are understood by all. These workshops will further unpack the various benefits and incentives which municipal SDFs are capable of.
4. In the interim please be aware that the requirements for amending a municipal SDF, is contained in Section 3 of the Municipal Planning and Performance Management Regulations, SPLUMA, LUPA and in your own Municipal Planning By-Law. This is particularly relevant now as you draw up your municipal IDP Process Plan for the development of the new fourth generation IDP.
5. Finally, the Department would like to stress the importance of following the correct procedures, particularly at the land use decision-making level, in order to prevent any unintended consequences such as legal review.
6. The content of this Circular is based on our current understanding of the relationship between municipal SDFs and IDPs. We are however in the process of obtaining a legal opinion from Senior Counsel to provide additional clarity on this matter.
7. Please do not hesitate to contact Kobus Munro of DEADP should the need to amend an SDF arise. Mr Munro can be reached on (021) 483 4796 or kobus.munro@westerncape.gov.za

Yours sincerely



PIET VAN ZYL
HEAD OF DEPARTMENT

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