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## GENERAL NOTICE

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### NOTICE 280 OF 2011

#### DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

#### INVITATION TO COMMENT ON THE DRAFT SPATIAL PLANNING AND LAND USE MANAGEMENT BILL, 2011

The Department of Rural Development and Land Reform hereby invites any interested person or body to provide comments on the Draft Spatial Planning and Land Use Management Bill, 2011 (hereinafter called "the Bill") as published hereunder.

The Bill will replace the Development Facilitation Act, No 67 of 1995, Removal of Restrictions Act, No 84 of 1967, the Physical Planning Act, No 88 of 1967 and other laws. The Bill will impact on all national, provincial and pre-1994 pieces of legislation on land use management and land development.

The objects of the Bill are to—

- (a) provide for a uniform, effective, efficient and integrated regulatory framework for spatial planning, land use and land use management in a manner that promotes the principles of co-operative government and public interest;
- (b) provide for and determine development principles, compulsory norms and standards for land use management;
- (c) maintain essential standards for land use management, spatial development and land use;
- (d) promote—
  - (i) co-operative governance;
  - (ii) socio-economic benefits; and
  - (iii) sustainable and efficient use of land;
- (e) establish planning tribunals; and
- (f) redress the imbalances of the past and ensure that there is equity in land use and land use management.

Written comments and consultative inputs on the Bill must be submitted by no later than 06 June 2011 to:

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The Bill may be downloaded from [www.ruraldevelopment.gov.za](http://www.ruraldevelopment.gov.za).  
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**REPUBLIC OF SOUTH AFRICA**

**SPATIAL PLANNING AND LAND USE MANAGEMENT BILL, 2011**

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*(To be introduced in the National Assembly (proposed section 76);  
explanatory summary of Bill published in Government Gazette No.      of      )  
(The English text is the official text of the Bill)*  
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**(MINISTER OF RURAL DEVELOPMENT AND LAND REFORM)**

**[B - 2011]**

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**Bill**

**To provide a framework for spatial planning and land use management in the Republic; to specify the relationship between the spatial planning and the Land Use Management System and other kinds of planning; to provide for the inclusive, developmental, equitable, and efficient spatial forward planning at the different spheres of the Republic across different geographic scales; to provide a framework for the monitoring, coordination and review of the spatial planning and Land Use Management System; to provide for policies, principles, norms and standards for spatial development planning and land use management; to coordinate different land development processes and reduce duplication of procedures relevant to land development; to address past spatial and regulatory imbalances; to promote greater consistency and uniformity in application procedures and decision-making structures for provincial and municipal authorities responsible for land use decisions and development applications and for appeal procedures; to provide for the establishment, functions and operations of Provincial Planning Tribunals and Municipal Planning tribunals; to provide for the control and enforcement of land use and development measures; and to provide for matters connected therewith.**

## PREAMBLE

**WHEREAS** many people in South Africa continue to live and work in places defined and influenced by past spatial planning and land use laws and practices which were based on racial inequality and segregation and unsustainable settlement patterns;

**AND WHEREAS** current spatial planning and land use management laws have not as yet been comprehensively overhauled to better reflect the provisions of the Constitution;

**AND WHEREAS** the continued existence and operation of multiple laws at national and provincial spheres of government in addition to the laws applicable in the previous homelands and self-governing territories has created fragmentation, duplication and unfair discrimination;

**AND WHEREAS** parts of our urban and rural areas currently do not have any applicable spatial planning and land use management legislation and are therefore excluded from the benefits of spatial development planning and land use management systems;

**AND WHEREAS** various laws governing land use give rise to uncertainty about the status of municipal spatial planning and land use management systems and procedures and frustrates the achievement of cooperative governance and the promotion of public interest;

**AND WHEREAS** current land use management processes and decisions are insufficiently aligned with the objectives of Spatial Development Frameworks;

**AND WHEREAS** informal and traditional land use development processes are poorly integrated into formal systems of spatial planning and land use management;

**AND WHEREAS** spatial planning is insufficiently underpinned and supported by infrastructural investment;

**AND WHEREAS** it is the state's obligation to realise the constitutional promises in:

- Section 24 of the Constitution, to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures, which includes a land use planning system that is protective of the environment;
- Section 25(5) of the Constitution, to take measures designed to foster conditions that enable citizens to gain access to land on an equitable basis; and
- Section 26 of the Constitution, to have the right to adequate access to housing which includes an equitable spatial pattern and sustainable human settlements;

**AND WHEREAS** the state must respect, protect, promote and fulfil the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities;

**AND WHEREAS** sustainable development of land requires the integration of social, economic and environmental considerations in both forward planning and ongoing land use management to ensure that development of land serves present and future generations;

**AND WHEREAS** regional planning and development, urban and rural development and housing are functional areas of concurrent national and provincial legislative competence;

**AND WHEREAS** provincial planning is within the functional areas of exclusive provincial legislative competence, and municipal planning is primarily the executive function of the local sphere of government;

**AND WHEREAS** municipalities must participate in national and provincial development programmes;

**AND WHEREAS** it is necessary that—

- a uniform, recognisable and comprehensive system of spatial planning and land use management be established throughout the country to maintain economic unity and equal opportunity or equal access to government services;
- the system of spatial planning and land use management promotes social and economic inclusion;
- principles, policies, directives and national norms and standards required to achieve important urban, rural, municipal, provincial, regional and national



development goals and objectives through spatial planning and land use management be established;

- procedures and institutions to facilitate and promote co-operative government and intergovernmental relations in respect of spatial development planning and land use management systems be developed.

**BE IT THEREFORE ENACTED** by the Parliament of the Republic of South Africa, as follows:—

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3. Spatial Planning System
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Schedule 3: Repeal of Laws ((Section 57)

Schedule 4: Default Regulations

## CHAPTER 1

### INTRODUCTORY PROVISIONS

#### Definitions -

1. (1) In this Act, unless the context indicates otherwise:

**“applicant”** means a person who makes a development application contemplated in Chapter 6 of this Act.

**“body”** means any organisation or entity, whether a juristic person or not and includes a community association.

**“competent authority”** means, in relation to land use, as defined, the authority that grants or approves a right to use land for a specified purpose.

**“Constitution”** means the Constitution of the Republic of South Africa, 1996

**“day”** when used to define time periods in this Act means a calendar day.

**“engineering service”** means a system for the provision of water, sewerage, electricity, municipal roads, stormwater drainage, gas and solid waste collection and removal required for the purpose of land development as referred to in Chapter 7.

**“environmental legislation”** means the National Environment Management Act, No. 107 of 1998 and its Regulations, or any legislation which has the same or similar effect.

**“Executive Council”** means the Executive Council of a Provincial Government established under Section 132 of the Constitution.

**“external engineering service”** means an engineering service situated outside



the boundaries of a land area and which is necessary, as prescribed, to serve the use and development of the land area.

**"existing legislation"** means the old order planning and land use legislation existing at the time of commencement of this Act;

**"general plan"** means a general plan approved by the Surveyor General in terms of the Land Survey Act No. 8 of 1997;

**"inclusionary housing"** means the provision of affordable housing within middle and high income residential developments to achieve an equitable socio-economic balance;

**"incremental upgrading area"** means an area defined on a Spatial Development Framework or land use scheme for which specific policies have been made for incremental upgrading of informal areas or slums;

**"incremental upgrading of informal areas"** means the progressive introduction of administration, management, engineering services and land tenure rights to an area that is established outside existing planning legislation and may include any settlement or area under traditional tenure;

**"Integrated Development Plan"** means a plan adopted in terms of Chapter 2 of the Local Government: Municipal Systems Act No. 32 of 2000.

**"internal engineering service"** means an engineering service within the boundaries of a land area and which is necessary, as prescribed, for the use and development of the land area and which is to be owned and operated by the municipality or service provider.

**"land development"** means the erection of buildings or structures on land, or the change of use of land, including the subdivision or consolidation of land or any

deviation from the land use or uses permitted in terms of an applicable Land Use Scheme;

**“land use management system”** means the system of regulating and managing land use and conferring land use rights through the use of schemes and land development procedures

**“land use scheme”** means the documents referred to in Chapter 6 for the regulation of land use.

**“land use”** means the purpose for which land is or may be used lawfully in terms of a land use scheme, existing scheme or in terms of any other authorisation, permit or consent issued by a competent authority, including any conditions related to such land use purposes.

**“land”** means any erf, agricultural holding or farm portion and includes any improvement or building on the land and any real right in land.

**“MEC”** means a member of the Executive Council of the province.

**“Minister”** means the Minister of Rural Development and Land Reform;

**“Municipal Area”** means the area of jurisdiction of a municipality in terms of the Local Government Demarcation Act No. 27 of 1998.

**“Municipal Council”** means a Municipal Council referred to in section 157 of the Constitution

**“Municipal Planning Tribunal”** means the Municipal Planning Tribunal referred to in Chapter 6.

**“municipality”** means the municipality as envisaged in Section 155(1) of the Constitution and for the purposes of this Act includes a municipal department, the Municipal Council and the municipal manager, where the context so requires.

**“open space”** in relation to a land area means land set aside or to be set aside for the use by a community as a recreation area, irrespective of the ownership of such land as open space.

**“organ of state”** means an organ of state as defined in Section 239 of the Constitution.

**“owner”** means the person registered in a deeds registry as the owner of land or who is the beneficial owner in law.

**“person”** means any natural or juristic person including an organ of state.

**“planning tribunal”** means a Municipal Planning Tribunal or a Provincial Planning Tribunal as the context requires.

**“prescribed”** means prescribed in this Act or by regulation in terms of this Act or any other legal instrument relevant to the performance of any act, function or duty in terms of this Act

**“provisional general plan”** means a general plan which is provisionally approved in terms of section 14 of the Land Survey Act, 8 of 1997.

**“public place”** means any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram which is for the use of the general public and is owned by or vests in the ownership of a Municipal Council and includes a public open space and a servitude for any similar purpose in favour of the general public.

**“publish”** means the publication of a general notice in the Gazette or Provincial Gazette.

**“region”** in relation to a regional spatial development framework means a circumscribed geographical area characterised by distinctive economic, social or

natural features which may or may not correspond to the administrative boundary of a province or provinces or a municipality or municipalities, provided that it cannot fall within the boundary of a single municipality;

**“Registrar of Deeds”** means the Registrar of Deeds in terms of the Deeds Registries Act No. 47 of 1937.

**“restrictive condition”** means any condition registered against the title deed of land restricting the use, development or subdivision of the land concerned.

**“rezone”** means an amendment to the Land Use Scheme contemplated in Chapter 5 and rezoning has the same meaning.

**“servitude”** means a servitude registered against a title deed of land.

**“Spatial Development Framework”** means a spatial development framework referred to in Chapter 4 of this Act

**“Surveyor General”** means the Surveyor General as defined in the Land Survey Act, 8 of 1997.

**“this Act”** includes the regulations made in terms of this Act.

**“title deed”** means any deed registered in a Deeds Registry recording the ownership of land or a real right in land.

**“township register”** means the subdivision register of a township in terms of the Deeds Registries Act 47 of 1937.

**“township”** means an area of land divided into erven, and may include public places and roads and which is indicated as such on a general plan.

**“zone”** means a defined category of land use which is shown on the zoning map of a Land Use Scheme.

(2) The definitions in sub-section (1) shall apply to and be used in the

regulations and any Land Use Scheme in terms of provincial legislation enacted in terms of this Act.

### **Application of the Act**

2. This Act applies to the entire area of the Republic of South Africa and is legislation enacted in terms of section 155(7) of the Constitution insofar as it regulates municipal planning and section 44(2) insofar as it regulates provincial planning.

### **Spatial Planning System**

3. The system of spatial planning in South Africa shall consist of the following components:

- (a) Spatial Development Frameworks to be prepared and adopted by National, Provincial and Municipal spheres of Government;
- (b) Development principles, norms and standards that must guide spatial planning, land use management and land development ;
- (c) The management and control of land use as contemplated in Chapter 5 of this Act through the mechanism of land use schemes.
- (d) Procedures and processes for the preparation, submission and consideration of land development applications and related processes as provided for in Chapter 6 of this Act and provincial legislation.

### **Categories of spatial planning**

4. For the purposes of this Act:

- (1) Municipal planning consists of the following elements:



- (a) The compilation, approval and review of integrated development plans;
- (b) The compilation, approval and review of the components of an integrated development plan prescribed by legislation and falling within the competence of a municipality, including a spatial development framework and a land use scheme; and
- (c) The control and regulation of the use of land within the municipal area where the nature, scale and intensity of the land use does not affect the provincial planning mandate of provincial government or the national interest.

(2) Provincial planning for the purposes of this Act consists of the following elements;

- (a) The compilation, approval and review of a provincial spatial development framework;
- (b) The planning by a province for the efficient and sustainable execution of its legislative and executive powers insofar as they are related to the development of land and the change of land use; and
- (c) The making and review of policies and laws necessary to implement provincial planning.

## **CHAPTER 2**

### **DEVELOPMENT PRINCIPLES, COMPULSORY NORMS AND STANDARDS**

#### **Application of Development Principles**

5. (1) The general principles set out in this chapter shall apply to the actions of all organs of state, and other authorities responsible for the implementation of legislation regulating the use and development of land and shall guide:

- (a) the preparation, adoption and implementation of any Spatial Development Framework, policy or by-law concerning spatial planning and the development or use of land;
- (b) the compilation, implementation and administration of any Land Use Scheme or other regulatory mechanism for to the management or control of the use of land;
- (c) the use and development of land;
- (d) the consideration by a competent authority of any application that impacts or may impact upon the use and development of land;
- (e) the performance of any function in terms of this Act or any other law regulating spatial planning and Land Use Management;

(2) Notwithstanding the categorisation of principles in this section, all principles prescribed by this Act, apply to all aspects of spatial development planning, land use management and land development.

#### **Development Principles applicable to the Spatial Planning System**

6. The following principles apply to spatial planning, land use management and land development—

- (a) the principle of spatial justice, whereby—
  - (i) past spatial and other development imbalances are redressed through improved access to and use of land;

- (ii) Spatial Development Frameworks and policies at all spheres of government address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterised by widespread poverty and deprivation;
  - (iii) spatial planning mechanisms, including land use schemes, include provisions that enable redress in access to land and property by disadvantaged communities and persons;
  - (iv) land use management systems are inclusive of all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas;
  - (v) land development procedures will include provisions that accommodate access to secure tenure and the incremental upgrading of informal areas; and
  - (vi) where a planning tribunal considers an application before it, the planning tribunal's exercise of discretion may not be impeded or restricted on the ground that the value of land or property is affected by the outcome of the application;
- (b) the principle of spatial sustainability, whereby spatial planning and land use management systems must—
- (i) promote land development that is within the fiscal, institutional and administrative means of the country;

- (ii) ensure protection of the prime and unique agricultural land, the environment and other protected lands and the safe utilisation of land;
  - (iii) promote and stimulate the effective and equitable functioning of land markets;
  - (iv) consider all the current and future costs to all parties for the provision of infrastructure and social services in land developments;
  - (v) promote land development in locations that are sustainable and limit urban sprawl;
  - (vi) result in communities that are viable;
  - (c) the principle of efficiency whereby—
    - (i) land development optimises the use of existing resources and infrastructure;
    - (ii) decision-making procedures are designed with a view to minimising negative financial, social, economic or environmental impacts; and
    - (iii) development application procedures are efficient and streamlined and time frames are adhered to by all parties;
  - (d) the principle of spatial resilience whereby flexibility in spatial plans, policies and land use management systems is accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks;
- and
- (e) the principle of good administration whereby: —

- (i) all spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act;
- (ii) no government department may withhold their sector input or fail to comply with any other prescribed requirements during the preparation or amendment of Spatial Development Frameworks;
- (iii) the requirements of any law relating to land development and land use are met timeously;
- (iv) the preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, to include transparent processes of citizen participation and all parties to have the opportunity to provide inputs on matters affecting them; and
- (v) policies, legislation and procedures must be clearly set out and inform and empower citizens.

### **Introduction of further development principles**

7. (1) The Minister may, as prescribed, amend or elaborate on the development principles or introduce further development principles.

(2) An MEC may, as provided for in a provincial legislation, introduce further development principles applicable to the province, and such principles must not be inconsistent with the principles, norms or standards set out or authorised by this Act.



## **Compulsory norms and standards**

8. (1) The Minister must, after public consultation, prescribe compulsory norms and standards for land use management and land development that are consistent with this Act, the Promotion of Administrative Justice Act No. 3 of 2000 and the Intergovernmental Relations Framework Act No. 13 of 2005.

(2) The compulsory norms and standards must—

- (a) reflect the national policy, national policy priorities and programmes relating to land use management and land development;
- (b) promote social inclusion, spatial equity, desirable settlement patterns, rural revitalization, urban regeneration, and sustainable development;
- (c) include—
  - (i) a report on and an analysis of existing land use patterns;
  - (ii) a framework for desired land use patterns;
  - (iii) existing and future land use plans, programmes and projects relative to key sectors of the economy; or
  - (iv) mechanisms for identifying strategically located vacant or underutilised land and for providing access to and the use of such land;
- (d) standardise the compilation of all maps and diagrams at an appropriate scale;
- (e) differentiate between geographic areas, types of land use and development needs; and
- (f) provide for the effective monitoring and evaluation of compliance with this Act.

(3) The Minister may in consultation with or at the request of another Minister responsible for a related land use or land development function prescribe compulsory norms and standards to guide the related sectoral land use or land development.

## CHAPTER 3

### INTERGOVERNMENTAL SUPPORT

#### National support and monitoring

9. (1) The Minister—
- (a) must, within available resources, provide support and assistance to any—
    - (i) province as contemplated in section 125(3) of the Constitution; or
    - (ii) municipality as contemplated in section 154(1) of the Constitution,in the performance of its land use management functions and related obligations; and
  - (b) must monitor—
    - (i) compliance with the development principles and compulsory norms and standards; and
    - (ii) progress made by municipalities with the adoption or amendment of land use schemes;
    - (iii) quality and effectiveness of municipal spatial development frameworks; and
    - (iv) the capacity of provinces and municipalities to implement this Act.
- (2) The national government must in accordance with this Act and the Intergovernmental Relations Framework Act No. 13 of 2005 develop mechanisms to support and strengthen the capacity of provinces and municipalities to adopt and implement an effective land use management system.

(3) The Minister must in the performance of the functions in terms of this Chapter consult with the Ministers responsible for the National Planning Commission; Agriculture, Fisheries and Forestry; Mineral Resources; Water and Environmental Affairs; Cooperative Governance; Human Settlements; and Transport.

### **Provincial support and monitoring**

10. (1) Provincial legislation, which is consistent with this Act and the Intergovernmental Relations Framework Act No. 13 of 2005, may provide for matters—

- (a) of provincial interest; or
- (b) not specifically dealt with in this Act.

(2) A Premier may, subject to the Constitution and any other law regulating provincial supervision of municipalities in the province—

- (a) assist a municipality with the preparation, adoption or revision of its land use scheme;
- (b) facilitate the co-ordination and alignment of the land use management—
  - (i) systems of different municipalities; or
  - (ii) system of a municipality with the structure plans, development strategies and programmes of national and provincial organs of state; or
- (c) take appropriate steps consistent with the Constitution and Intergovernmental Relations Framework Act No. 13 of 2005 to resolve differences and disputes in connection with the preparation, adoption or revision of a land use scheme between—
  - (i) a municipality and its local community; or

(ii) different municipalities.

(3) A Premier may, by notice in the *Provincial Gazette*, identify matters of provincial interest in respect of which provincial policies, frameworks, norms and standards consistent with this Act must apply.

(4) Provincial governments must develop mechanisms to support and strengthen the capacity of municipalities to adopt and implement an effective system of land use management in accordance with this Act.

## CHAPTER 4

### SPATIAL DEVELOPMENT FRAMEWORKS

#### Preparation of Spatial Development Frameworks

11. (1) National and provincial spheres of government may and in the case of local government must prepare spatial development frameworks that:

- (a) interpret and represent the spatial development vision of the responsible sphere of government and authority;
- (b) are informed by a longer term spatial development vision statement and plan;
- (c) represent the integration and trade-off of all relevant sector policies and plans;
- (d) guide planning and development decisions across all sectors;
- (e) guide a provincial department or municipality in taking any decision or exercising any discretion in terms of this Act or any other law dealing with spatial planning and land use management systems;

- (f) contribute to a coherent, planned approach to spatial development at national, provincial and municipal spheres;
- (g) provide clear and accessible information to the public and private sector and provide direction for investment;
- (h) include previously disadvantaged areas, areas governed by traditional authorities, informal settlements and slums and land holdings of state owned enterprises and government agencies and address their inclusion and integration into the spatial, economic, social and environmental objectives of the relevant sphere;
- (i) address historical spatial imbalances in development;
- (j) identify the long-term risks of particular spatial patterns of growth and development and the policies and strategies necessary to mitigate those risks;
- (k) provide direction for strategic developments, infrastructure investment, promote efficient, sustainable and planned investments by all sectors and indicate priority areas for investment in land development;
- (l) promote a rational and predictable land development environment to create trust and stimulate investment in land development projects;
- (m) comply with applicable environmental legislation or a specific environmental management Act as defined in section 1 of the National Environmental Management Act No. 107 of 1998;
- (n) give effect to national legislation and policies on sustainable utilisation and protection of agricultural resources;
- (o) constitute and reflect the outcome of substantial citizen engagement including direct participation in the process through public meetings, public exhibitions,



public debates and discourses in the media and any other fora or mechanisms that promote such direct involvement.

(2) The spatial development frameworks prepared by different spheres of government must be co-ordinated, aligned and be in harmony with each other and once adopted as provided for in this Act, guide and inform the exercise of any discretion or of any decision taken in terms of this Act or any other law dealing with land use and development of land by that sphere of government.

(3) The Municipal Spatial Development Frameworks must, in accordance with Chapters 2 and 5 of the Municipal Systems Act, contribute to and be part of the Integrated Development Plans and must assist in integrating, co-ordinating, aligning and expressing development policies and plans emanating from the various sectors of the three spheres of government as they apply within the municipal area.

(4) The Provincial Spatial Development Frameworks must contribute to and express provincial development policy as well as integrate and spatially express policies and plans emanating from the various sectors of the provincial and national spheres of government as they apply at the geographic scale of the province.

(5) The National Spatial Development Framework must contribute to and give spatial expression to national development policy and plans as well as integrate and give spatial expression to policies and plans emanating from the various sectors of national government and may include any Regional Spatial Development Framework.

(6) Spatial Development Frameworks must outline specific arrangements for prioritising, mobilising, sequencing and implementing public and

private infrastructural and land development investment in the priority spatial structuring areas identified in Spatial Development Frameworks.

(7) The Minister may determine procedures to resolve and prevent conflicts or inconsistencies which may emerge from the spatial development frameworks of different spheres of government and between a spatial development framework and the objectives or plans of any other organ of state.

### **National Spatial Development Framework**

12. (1) The Minister, after consultation with the National Planning Commission or such other body as the President may designate, must compile and publish a National Spatial Development Framework.

(2) The Minister must review the national spatial development framework at least once every five years from the date of its last publication or amendment.

(3) A national spatial development framework must take into account—

- (a) policies, plans and programmes of public and private bodies that impact on spatial planning, land development and land use management;
- (b) any matter relevant to the co-ordination of such policies, plans and programmes that impact on spatial planning, land development and land use management; and
- (c) all representations submitted to the Minister in respect of such framework and any related matter.

(4) Before determining the national spatial development framework contemplated in subsection (1) and any proposed amendments to the national spatial development framework contemplated in subsection (2), the Minister must—

- (a) give notice of the proposed national spatial development framework in the media;
- (b) invite the public to submit written representations in respect of the proposed national spatial development framework to the Minister, within 30 days after the publication of the notice referred to in paragraph (a); and
- (c) consider all representations received in respect of the proposed national spatial development framework.

(5) The national spatial development framework contemplated in subsection (1) and any proposed amendments to the national spatial development framework contemplated in subsection (2) must be approved by Cabinet and published in the *Gazette*.

### **Contents of national spatial development framework**

13. The national spatial development framework must—

- (a) give effect to the development principles;
- (b) give effect to national policies, priorities, plans and other planning legislation;
- (c) co-ordinate and integrate provincial and municipal spatial development frameworks;
- (d) enhance spatial co-ordination of land development and land use management activities at a national level;
- (e) indicate desired patterns of land use in the Republic; and

- (f) be consistent with applicable national legislation on environmental management.

### **Provincial Spatial Development Frameworks**

**14.** (1) The Premier must compile, determine and publish a Provincial Spatial Development Framework for the province.

(2) A Provincial Spatial Development Framework must be consistent with the National Spatial Development Framework.

(3) Provincial Spatial Development Frameworks must coordinate, integrate and align:

- (a) provincial plans and development strategies with policies of national government;
- (b) the plans, policies and development strategies of provincial departments;
- (c) the plans and policies and development strategies of municipalities; and
- (d) provincial and municipal plans, policies and development strategies.

(4) The Executive Council must adopt and approve a Provincial Spatial Development Framework for the province at least once every five years.

(5) The Executive Council may amend the Provincial Spatial Development Framework from time to time as considered necessary and must review it at least once every five years.

### **Content of Provincial Spatial Development Frameworks**

- 15.** (1) A Provincial Spatial Development Framework must:

- (a) provide a spatial representation of the land development policies, strategies and objectives of the province, which must include the province's growth and development strategy where applicable;
- (b) indicate the desired and intended pattern of land use development in the province including the delineation of areas in which development in general or development of a particular type would not be appropriate;
- (c) coordinate and integrate the spatial expression of the sectoral plans of provincial departments;
- (d) provide a framework for coordinating Municipal Spatial Development Frameworks with each other where they are contiguous;
- (e) achieve the coordination of municipal development frameworks with the Provincial Spatial Development Framework and any Regional Spatial Development Frameworks as they apply in the relevant province; and
- (f) incorporate any spatial aspects of relevant national development strategy and programme as they apply in the relevant province.

### **Legal effect of Provincial Spatial Development Frameworks**

16. (1) A Provincial Spatial Development Framework comes into operation upon approval by the Executive Council and publication to that effect in the provincial gazette.

(2) All provincial development plans, projects and programmes must be consistent with the Provincial Spatial Development Framework.

(3) All Municipal Spatial Development Frameworks must be consistent with the Provincial Spatial Development Framework.

(4) The Provincial Spatial Development Framework must guide and inform decision-making by planning tribunals in the province.

(5) The Provincial Spatial Development Framework cannot confer on any person the right to use or develop any land except as may be approved in terms of this Act and the relevant provincial legislation.

### **Regional spatial development framework**

17. (1) The Minister, after consultation with the Premier and municipalities responsible for a geographic area, may by notice in the *Gazette* publish a regional spatial development framework to guide spatial planning, land development and land use management in any region of the Republic.

(2) The Minister must review the regional spatial development framework at least once every five years from the date of its last publication or amendment and may, after consultation with the Premier and municipalities responsible for a geographic area, propose amendments to the regional spatial development framework.

(3) The Minister, after conclusion with the Premier and municipalities responsible for a geographic are, may—

(a) in the event of the inability or failure of a municipality to publish a spatial development framework in terms of the Municipality Systems Act or in accordance with this Act;

- (b) where a municipality is unable or has failed to review or amend its spatial development framework within the prescribed period; or
- (c) when necessary to give effect to national land use policies or priorities in any specific geographic area of the Republic in addition to the spatial development framework applicable to such area;

declare any geographic area of the Republic to be a region for the purpose of this Act.

(4) Before determining the regional spatial development framework contemplated in subsection (1) and any proposed amendments to the regional spatial development framework contemplated in subsection (2), the Minister must—

- (a) give notice of the proposed spatial development framework in the media;
- (b) invite the public to submit written representations in respect of the proposed spatial development framework to the Municipal Council, within 30 days after the publication of the notice referred to in paragraph (a); and
- (c) consider all representations received in respect of the proposed spatial development framework.

### **Contents of regional spatial development framework**

**18.** A regional spatial development framework must—

- (a) give effect to the development principles;
- (b) give effect to national policies, priorities, plans and planning legislation;
- (c) reflect the current state of affairs in that area from a spatial and land use of the region;
- (d) indicate desired patterns of land use in that area;



- (e) provide basic guidelines for spatial planning, land development and land use management in that area;
- (f) propose how the framework is to be implemented and funded; and
- (g) be consistent with environmental management legislation.

### **Preparation of Municipal Spatial Development Frameworks**

19. (1) The Municipal Council of a municipality must by notice in the *Provincial Gazette* determine a municipal spatial development framework for the municipality.

(2) The Municipal Spatial Development Frameworks must be prepared as a part of a municipality's Integrated Development Plan in accordance with the provisions of the Municipal Systems Act.

(3) Before determining the municipal spatial development framework contemplated in subsection (1) and any proposed amendments to the municipal spatial development framework, the Municipal Council must—

- (a) give notice of the proposed municipal spatial development framework in the media;
- (b) invite the public to submit written representations in respect of the proposed municipal spatial development framework to the Municipal Council, within 30 days after the publication of the notice referred to in paragraph (a); and
- (c) consider all representations received in respect of the proposed municipal spatial development framework.

## **Content of Municipal Spatial Development Frameworks**

**20.** A Municipal Spatial Development Frameworks must:

- (a) give effect to the development principles set out in chapter 2;
- (b) include a written and visual representation of a five year spatial development plan for the spatial form for the municipality;
- (c) include a longer term spatial development vision statement for the municipal area which indicates a desired spatial growth and development pattern for between ten (10) and twenty (20) years into the future;
- (d) identify current and future significant structuring and restructuring elements of the spatial form of the municipality, including development corridors, activity spines and economic nodes where public and private investment will be prioritised and facilitated;
- (e) include population growth estimates over the next five years;
- (f) include estimates of the demand for housing units across different socio-economic categories and the planned location and densities of future housing developments;
- (g) include estimates of economic activity and employment trends and locations in the municipal area over the next five years;
- (h) identify, quantify and provide location requirements of engineering infrastructure and services provision for existing and future development needs over the next five years;

- (i) identify the designated residential, business, commercial and industrial areas where national or provincial inclusionary housing and inclusionary economy policy or statutory requirements will be applicable;
- (j) include a strategic assessment of the environmental pressures and opportunities within the municipal area, including the availability of high potential agricultural land where applicable;
- (k) identify the designation of areas in the municipality where incremental upgrading approaches to development and regulation will be applicable;
- (l) identify the designation of areas in which:
  - (i) more detailed local plans must be drawn up; and
  - (ii) where shortened land use development procedures may be applicable and land use schemes may be so amended;
- (m) provide the spatial expression of the co-ordination, alignment and integration of sectoral policies of all municipal departments;
- (n) determine a capital expenditure framework for the municipality's development programmes;
- (o) determine the purpose, desired impact and structure of the land use management scheme to apply in that municipal area; and
- (p) include an implementation plan comprising:
  - (i) sectoral requirements including budgets and resources for implementation;
  - (i) necessary amendments to a Land Use Scheme;
  - [iii] specification of institutional arrangements necessary for implementation;
  - [iv] specification of implementation targets, including dates and monitoring indicators; and

- (v) specification, where necessary, of any arrangements for partnerships in the implementation process.

### **Status of Spatial Development Frameworks**

21. (1) A planning tribunal or any other authority required or mandated to make a land development decision in terms of this Act or any other law dealing with land development, may not make a decision which is inconsistent with a Municipal Spatial Development Framework.

(2) A planning tribunal or any other authority required or mandated to make a land development decision may depart from the provisions of a Municipal Spatial Development Framework only if -

- (a) site specific circumstances justify a departure from the provisions of such Municipal Spatial Development Framework; or
- (b) the application of the Municipal Spatial Development Framework under particular circumstances will lead to illogical or unintended result.

(3) A Municipal Spatial Development Framework may not contradict an applicable Provincial or National Spatial Development Frameworks.

(4) Where a published Provincial Spatial Development Framework is inconsistent with the applicable Municipal Spatial Development Framework, the MEC must take the necessary steps, including the provision of technical assistance, to support the revision of those spatial development frameworks in order to ensure consistency between the two.