SPLUMA: The Transformation of Land Use Planning Administration and Governance in South Africa

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Abstract

The physical administration of land use planning and management underwent a fundamental change upon the enactment and implementation, of the *Spatial Planning and Land Use Management Act* 16 of 2013 (*SPLUMA*), partly because section 33(1) of this Act provides that the municipality is the body of first instance for land use applications. The structural and administrative change of decision-making and record-keeping moved from a dual system of land-use administration, formerly shared by the provincial government and the local government, entirely to being the responsibility of the local government. This included the land use administration of traditional areas, mostly land owned by national government. This also implies that the historical division between urban, rural, traditional and agricultural areas, has been unified under the municipal area in terms of the wall-to-wall land use scheme and subsequent land use planning and development administration. This follows the 1996 constitutional requirement that municipal areas cover the entire country. This article considers the transformation of land use planning administration and governance in terms of land use planning and development administration. It considers the legislative frameworks, before and after the promulgation of the *Constitution* of 1996, that inform land use planning and relevant to the transformation to the *SPLUMA* land use management system. The administrative effects that changing legislation and geographical structures have on the land use system are discussed.

Keywords

Spatial Planning and Land Use Management Act 16 of 2013 (*SPLUMA*); land use management system; municipal boundaries; land use planning; land tenure; land use administration; municipalities; wall-to-wall land use schemes; municipal governance; urban edge

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1 Introduction

The administration and decision-making of land use planning changed with the enactment[1] and then the implementation[2] of the *Spatial Planning and Land Use Management Act* 16 of 2013 (*SPLUMA*) and its Regulations.[3] What impact did the implementation of *SPLUMA* have on the spatial planning and land use management system? Most importantly, it significantly expanded the needed capacity of local government in terms of the land use planning system that includes decision-making and administration. The momentum of these changes have accumulated since the promulgation of the 1996 *Constitution*. The implications of the geographical boundaries of municipalities, the interplay between the provincial and local governments' land use administration and the spatial planning and land use management system form the core of this historical momentum. This is, however, complicated by historical land ownership issues.

Firstly, the article considers what the spatial planning and land use management system is and what constitutes it. Secondly, it considers the land use scheme as the key planning tool to govern land use planning within the planning system and its administration. Thirdly, the changing landscape of municipalities or local government is considered, more particularly its geographical and administrative scope in terms of land use planning. These considerations will answer the question of what impact section 33(1) of *SPLUMA* has on the capacity of municipalities, being the body of first instance for land use planning and development administration. These physical changes to land use administration necessitate a re-thinking or consideration of the needed capacity and possibly the structure of the land use administration system.

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1 The *Spatial Planning and Land Use Management Act* 16 of 2013 (*SPLUMA*).

2 Proc 26 in GG 38828 of 27 May 2015. The Act came into operation on 1 July 2015.

3 GN R239 in GG 38594 of 23 March 2015 (Regulations in terms of the *Spatial Planning and Land Use Management Act* 16 of 2013; the *SPLUMA* Regulations).

2 The spatial planning and land use management system in South Africa

What can be constituted as the spatial planning and land use management system? Legislation primarily informs the framework and structure of this system. *SPLUMA* is the first and most long-awaited national legislation that introduced a unified system for spatial planning and land use management in order to address the system that consisted of fractured legislation inherited from the apartheid government.[4] The fractured legislation refers to the different forms of legislation prescribed to the different segregated areas.[5] Structurally and geographically it refers to areas within the urban edge, outside the urban edge, the so-called historical "homelands" and rural areas.[6] The geographical and administrative structures of municipalities changed before and after the adoption of the *Constitution* of 1996, which influenced the application of planning legislation as well as the formulation of subsequent legislation. This is discussed under section 4. Apart from the structural division of municipalities, this network of legislation also included legislation that applied to the four pre-democratic provinces, the four independent states and six self-governing territories.[7] The turning point for the significant change within this system was when the Government of National Unity assumed office in May 1994 and established the nine provinces within the context of the *Interim Constitution*.[8] This unified the different governing and administrative bodies within the Republic of South Africa and assigned administration to different spheres of government to address development and service delivery.[9] This initiated the movement that resulted in the adoption of *SPLUMA* with reference to land use planning.

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4 Schoeman 2015 *Town and Regional Planning* 53, 55.

5 Van Wyk *Planning Law* 44-50.

6 De Visser 2009 *Commonwealth Journal of Local Government* 8.

7 The *Development Trust and Land Act* 18 of 1936 was responsible for what was defined as a "black area". The *Bantu Authorities Act* 68 of 1951 (also inadvertently called the "*Black Authorities Act*") provided the larger legal framework for the establishment of the independent areas; each independent area were established in this Act, for example KaNgwane, as the area where SiSwati people lived, was established on 28 November 1975 by this Act and its government established in 1977; Bophuthatswana, as an area where Setswana people lived, was established on 21 April 1961, and gained independence on 6 December 1977. Each independent area was established at different times within this Act.

8 National Treasury 1999 http://www.treasury.gov.za/publications/igfr/1999/chapters.pdf (Chapter 1: Profile of the Provinces).

9 National Treasury 1999 http://www.treasury.gov.za/publications/igfr/1999/chapters.pdf (Chapter 1: Profile of the Provinces).

2.1 The content of SPLUMA and what the system includes

The purpose of *SPLUMA* was to create a unified and integrated spatial planning and land use management system for the whole of South Africa.[10] This *SPLUMA* system is directed by inherently developmental principles[11] that should be considered and motivated in all development decisions. The developmental principles are similar in purpose to the principles of the *Development Facilitation Act* of 1995. Further, the legislated system provided for the governance system and description of the roles of spheres of government within the planning system.[12] It outlined the establishment and functioning of the Municipal Planning Tribunal (MPT),[13] which is prescribed as the decision-making body for land use planning applications and considerations. The system confirms the authority of the local government[14] and the foundational municipal role in the planning system.[15] It provides for the land use scheme as the primary instrument for land use management[16]and stipulates its required content and functioning.[17] It

10 Schoeman 2015 *Town and Regional Planning* 53-55; Van Wyk and Oranje 2014 *Planning Theory* 356-357.

11 Section 7 of *SPLUMA*. See also ss 6 and 8 of *SPLUMA*.

12 Section 9 of *SPLUMA* refers to the National Government's role of support and monitoring in terms of the Act. S 10 of *SPLUMA* refers to provincial governments' role of support and monitoring in terms of the Act. S 11 of *SPLUMA* refers to the considerations of support and monitoring for municipalities. Ss 13 and 14 of *SPLUMA* indicate the requirements and content for a national Spatial Development Framework (SDF). Ss 15-17 of *SPLUMA* indicates the requirements, content, legal stance and governmental alignment of a provincial SDF. Ss 18-19 of *SPLUMA* indicates the requirements and content of a regional SDF. Ss 20-22 of *SPLUMA* indicates the required process, content and decision-making authority for a municipal SDF and the necessity for alignment of the SDFs for governmental spheres. S 23 of *SPLUMA* establishes that the municipality is the executive authority over land use management and the land use scheme and indicates the requirement of subsequent by-laws as well as the inclusion of traditional authorities in its decision-making process. S 33(1) establishes that the municipality is the body of first instance for development applications and is noted as municipal land use planning.

13 Sections 35-50 of *SPLUMA* prescribe the establishment of a Municipal Planning Tribunal (MPT), the composition and other internal arrangements of the MPT, the prescribed process of consideration and decision-making of land development and management applications (where applicable).

14 Sections 33 and 23 of *SPLUMA*.

15 Schoeman 2015 *Town and Regional Planning* 53-55; Van Wyk and Oranje, 2014 *Planning Theory* 356-357.

16 Sections 24-32 of *SPLUMA*. S 26(1) of *SPLUMA* specifically indicate that a land use scheme has the force of law, whereas the Spatial Development Framework (SDF) is indicated as a guide for decision-making on land development applications; see ss 22(2) and 42(b).

17 Sections 24-32 of *SPLUMA* stipulate the needed content and administration processes for the land use scheme (also see regs 14-19 of the *SPLUMA* Regulations that provides for the submission of land development and land use applications, categorisation of applications as well as process timeframes and other implications that includes traditional authorities).

stipulates general inclusive land uses,[18] the definition of a land use scheme and the required contents of a scheme.[19] Furthermore, it also includes the outline of processes and procedures for planning applications with guiding timeframes.[20] In terms of spatial planning it prescribes the Spatial Development Framework (SDF) as the primary tool for spatial planning.[21] Lastly, it outlines appeals procedures for land use applications and repeals outdated legislation.[22] The mentioned content forms the statutory system for spatial planning and land use management in South Africa.[23] This system took many years to develop, and its enactment and implementation were essential to address and rectify the fragmented land use planning legislation inherited from South Africa's past.

2.2 Structure of legislation pre SPLUMA/SPLUMA and its influence on addressing the planning system

The legal structure of the inherited system[24] largely involved legislation that was promulgated on a provincial governance level, but also included national legislation and the local town planning schemes. As part of addressing this structural difficulty, *SPLUMA* with its Regulations were promulgated as national legislation,[25] to create the umbrella for a uniform South African land use planning system. The intent was that subsequent provincial legislation would follow in repealing the inherited provincial ordinances of the previous dispensation, which were primarily used for land use planning applications within urban areas before the implementation of

18 Schedule 2 of *SPLUMA* lists the required land use categories and purposes, also see s 23(2) of *SPLUMA* and reg 3 of the *SPLUMA* Regulations that refer to the involvement of traditional authorities and require some integration.

19 Section 25(2) of *SPLUMA* stipulates the required content of a land use scheme.

20 Section 44 of *SPLUMA* stipulates the requirement of prescribed timeframes for land use and land development applications. Also see reg 16 of the *SPLUMA* Regulations.

21 Sections 12-22 of *SPLUMA* indicate the required content, considerations and procedures for national, provincial, regional and municipal SDFs as the spatial planning tool in *SPLUMA*.

22 Schedule 3 of *SPLUMA* repeals five Acts in its entirety, which includes the *Development Facilitation Act* 67 of 1995, the *Physical Planning Act* 125 of 1991, the *Less Formal Township Establishment Act* 113 of 1991, the *Physical Planning Act* 88 of 1967 and the *Removal of Restrictions Act* 84 of 1967.

23 See the summary of *SPLUMA* in the Act itself.

24 Schoeman *Urban and Regional Planning* 3. Schoeman categorised the nature of spatial planning that involved the related planning legislation in South Africa into three phases as follows: the urban and rural formation phase (1652 to 1948); the urban and rural separation (fragmentation) phase (1948 to 1994); and the urban re-integration phase and rural development (post-1994). The urban and rural formation phase, as well as the fragmentation phase, produced numerous pieces of legislation that had to be redressed to confront the urban and rural segregation.

25 See GN R239 in GG 38594 of 23 March 2015.

SPLUMA or the repeal of the provincial ordinances by new provincial legislation.[26] Land use planning applications are discussed more fully in section 3 below. Considering the different levels of legislation in the statutory land use planning system in its transition, the restructuring of this system could be regarded as being complicated in that legislation cannot be repealed without the promulgation of replacement legislation.[27] Legislation can only be repealed on the same administrative level that it was originally promulgated in – i.e., provincial legislation repeals provincial legislation, national legislation can only repeal national legislation and not provincial legislation. Unfortunately, the promulgation of *SPLUMA* did not produce the timely desired provincial legislation[28] in all provinces. The result is that municipal by-laws mostly preceded the needed and related provincial legislation, except for the Western Cape.[29] The related provincial legislation followed later and, in some cases, still should be promulgated in order to repeal the ordinances.[30] It was strategically needed to promulgate *SPLUMA* at a national level in order to absorb the preceding development of transformative legislation and repeal other foundational planning legislation from the previous dispensation.

2.3 The absorption and replacement of legislation within SPLUMA

SPLUMA was set to create the spatial planning and land use management system in South Africa that accumulated and integrated the content of the *Development Facilitation Act* (*DFA*), Green Paper on Development and Planning (1999), the White Paper on Spatial Planning and Land Use Management (2001) and the Draft Land Use Management Bill (2008)[31] as the legislative platform for planning across the whole country. In parallel, the White Paper on Land Reform (1991) was a necessary first step to promote

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26 Van Wyk and Oranje 2014 *Planning Theory* 356-357.

27 Van Wyk 2013 *SAPL* 102.

28 Van Wyk and Oranje 2014 *Planning Theory* 357.

29 Poswa and De Visser 2017 https://dullahomarinstitute.org.za/multilevel-govt/publications/provincial-planning-laws.pdf/view 3.

30 Limpopo Province still needs to promulgate the Limpopo Spatial Planning and Land Use Management Bill, 2022. The *Mpumalanga Town Planning and Land Related Laws Repeal Act* 2 of 2016 came into operation on 1 October 2019 and repealed the relevant ordinances 15 and 20 of 1986. The Northern Cape Province repealed Ordinance 15 of 1985 in 1998 but still needs to establish provincial legislation in line with *SPLUMA*. The Northern Cape use appropriate by-laws, for example the *Spatial Planning and Land Use Management By-law*, 2015 of Ga-Segonyana Local Municipality. The Eastern Cape Province still needs to establish *SPLUMA*-related legislation to repeal the Ordinance. The Eastern Cape Province recently enacted legislation for environmental management, tourism and a socio-economic consultative council (2024), but it is not effective yet.

31 Schoeman 2015 *Town and Regional Planning* 52.

the Abolition of Racially Based Land Measures Bill in 1991, that was enacted in June 1991. The *Abolition of Racially Based Land Measures Act* 108 of 1991 simultaneously repealed discriminatory laws related to land – this included the 1913 and 1936 *Land Acts*.[32] *SPLUMA* also repealed, replaced and partially absorbed *the Removal of Restrictions Act* 84 of 1967, the *Physical Planning Act* 88 of 1967, the *Less Formal Township Establishment Act* 113 of 1991, the *Physical Planning Act* 125 of 1991 as well as the *DFA*.[33]

2.3.1 Development Facilitation Act (DFA) and the SPLUMA system

The *DFA* was repealed by *SPLUMA*. *SPLUMA* absorbed and appropriately adjusted the general principles for land development of the *DFA*.[34] *SPLUMA* included a landmark ruling from the Constitutional Court in terms of land use planning administration by adding section 33(1) that declares the municipality as the body of first instance for land use planning and development applications.[35] Van Wyk and Oranje[36] state that the *DFA* was the first post-apartheid transformative legislation in the system of transformative legislation.[37] However, the *DFA* posed many challenges that the government had not foreseen, which is understandable in the context in which it was promulgated. Some of these challenges are discussed below.

2.3.1.1 *DFA* and land use planning administrative authority incorporated in the *SPLUMA* system

The DFA was intended to facilitate and quicken development as post-apartheid legislation as a temporary measure awaiting the passing of an all-inclusive piece of land use legislation.[38] The *DFA* allowed for the establishment of Provincial Development Tribunals and enabled them to

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32 Maleham *Almost Three Years After Commencement of SPLUMA* 10; Schoeman 2017 *International Journal of Transport, Development and Integration* 183, 191; *Abolition of Racially Based Land Measures Act* 108 of 1991.

33 Schoeman 2015 *Town and Regional Planning* 44; *SPLUMA* Schedule 3.

34 Section 3 of the *Development Facilitation Act* 67 of 1995 (specifically s 3(1)(c)(i-vii), listing the development principles); Schoeman 2017 *International Journal of Transport, Development and Integration* 183.

35 Steyn and Van Wyk *Planning Law Casebook* 33; *City of Johannesburg Metropolitan Municipality v Gauteng Development Tribunal* (CCT89/09) [2010] ZACC 11 (18 June 2010).

36 Van Wyk and Oranje 2014 *Planning Theory* 356.

37 Schoeman 2015 *Town and Regional Planning* 44; Van Wyk and Oranje 2014 *Planning Theory* 356.

38 *Albert Dykema v Arthur Pule Malebane and Bela-Bela Local Municipality* (CCT332/18) [2019] ZACC 33 (10 September 2019).

make land development decisions[39] and that were administered by the respective provincial administration.[40] Municipalities typically administered land development applications and management of decision-making regarding applications within their jurisdictions. The changing geographical structure of municipalities played a significant role in this development of the land use planning system. This is discussed further in section 4, that considers the change from the municipal areas that had only consisted of urban areas during the previous dispensation, to the wall-to-wall municipal areas that includes all areas. In this transitional period, it caused a parallel process in terms of development approvals within a municipal area, after the restructured wall-to-wall municipalities. The parallel process also involved the amendments of related land use schemes.[41] The complications of the land use scheme are discussed under section 3. In the functioning of the Provincial Development Tribunals, it appeared at times as if developers were taking advantage of the *DFA* development tribunal process. It could be argued that there were developers who attempted to sidestep the local authority or possible negative outcome from a municipality in land development applications. One such example turned out to be a landmark ruling from the Constitutional Court, although the implementation of this ruling was not successful until the implementation of *SPLUMA* had taken place.

The landmark Constitutional Court ruling related to a matter between the City of Johannesburg Metropolitan Municipality (CoJ) and the Gauteng Development Tribunal, that affirmed the Supreme Court of Appeals judgement. This judgement declared that Chapters V and VI of the *DFA* were unconstitutional and invalid[42] because of the contradictory authority to make decisions on land use development and management applications. The matter related to the powers that the *DFA* attributed to the provincial tribunal to make decisions on applications that entailed rezonings and township establishments in terms of the *Town Planning and Townships Ordinance* 15 of 1986, which the municipality (CoJ) typically made decisions on. The CoJ did not agree with this dual system between the provincial administration and the local government administration of development or land use planning applications. The CoJ sought relief from the court to

39 Section 15(1) of the *DFA* allows for the establishment of development tribunals for each province within South Africa.

40 Section 15(9) of the *DFA* establishes the tribunal registrar as an officer that is in the service of the provincial administration in the capacity of land development, the law or administration.

41 Steyn and Van Wyk *Planning Law Casebook* 30, 31.

42 *City of Johannesburg Metropolitan Municipality v Gauteng Development Tribunal* (CCT89/09) [2010] ZACC 11 (18 June 2010) Media Summary.

determine whether rezoning and the establishment of townships should be determined by the provincial government, the local government or both. The CoJ maintained that "municipal planning" was reserved for municipalities in terms of section 156(1) of the *Constitution*, read with Part B of Schedule 4 to the *Constitution*. In accordance with this principle, the CoJ contested two development applications within its boundaries that were approved by the Gauteng Provincial Tribunal. The CoJ attempted to appeal these decisions and the provincial tribunal opposed leave to appeal the approvals. The provincial tribunal was convinced that their authority to make decisions on urban and rural development in terms of land use and development applications was justified under Part A of the Schedule 4 of the *Constitution*. The judgement determined that "planning" was a function of "municipal planning" as indicated in the *Constitution*.[43] It also established that "planning" in the context of a municipality included the zoning of land and the establishment of townships.[44] This would typically imply that it was the responsibility of the municipality to administer and make decisions on land use planning and development matters. Subsequently, the mentioned chapters of the *DFA* were ruled unconstitutional and invalid. However, to address the disruptive effect that this ruling would have on administration and development, the Constitutional Court suspended the order of invalidity for 24 months. The Court intended to provide time for Parliament to pass new legislation to replace the *DFA* and provide for a framework of legislation for spatial planning and land use management in South Africa. Additionally, the Court prohibited provincial tribunals from processing any new applications within the CoJ and the eThekwini Municipality.[45] The rest of the country still functioned within this dual administrative system. The DFA was entirely repealed by the proclamation of *SPLUMA*,[46] though the implementation of *SPLUMA* came into operation on the 1st of July 2015.[47] The implementation of section 33(1) of *SPLUMA* gave practical effect to the Constitutional Court ruling which affected the whole country. This was the long-awaited proclamation and implementation of national legislation that established the municipality as the body of first instance for all land

43 Schedule 4 Part B of the *Constitution of the Republic of South Africa*, 1996 (the *Constitution*) indicates "municipal planning" as a function of local government.

44 *City of Johannesburg Metropolitan Municipality v Gauteng Development Tribunal* (CCT89/09) [2010] ZACC 11 (18 June 2010) Media Summary.

45 CER 2010 https://cer.org.za/news/constitutional-court-confirms-unconstitutionality-of-parts-of-the-development-facilitation-act.

46 *City of Johannesburg Metropolitan Municipality v Gauteng Development Tribunal* (CCT89/09) [2010] ZACC 11 (18 June 2010) Media Summary; Steyn and Van Wyk *Planning Law Casebook* 29.

47 Proc 26 in GG 38828 of 27 May 2015 is a proclamation by the president that determines the date of implementation of *SPLUMA* in terms of s 61 of the Act.

development applications[48] and has the authority to make subsequent decisions. This resolves the dual administrative system, and the complications as addressed in the ruling of the Constitutional Court. The period between the Constitutional Court ruling and the implementation of *SPLUMA* was a time anticipating replacement legislation for all municipal and provincial administrations.

The three-year time period, 2010-2013, was a period where the regulation of municipal planning was caught in a forced state awaiting the promulgation of legislation that would conclude the transition from the *DFA* to *SPLUMA*.[49] Land use planning administration and decision-making were still managed between the provincial government and the local government during this time, and thus was a fragmented system.[50] Administration of land use development applications of properties located *outside* the urban edge, would be managed and administered by the provincial government. Administration of land use development applications of properties located *within* the urban edge would typically be administered by the municipality.[51] The exception to this dual system was of course the CoJ Metropolitan Municipality and the eThekwini Metropolitan Municipality, where only the municipality administered and decided on the planning applications. The Mpumalanga Provincial Government, specifically, had standardised application forms that relied on section 6(1), read with section 8(1)(a) of the *Physical Planning Act* 88 of 1967 and read with section 36 of the *Physical Planning Act* of 1991 to change the use of land within a controlled area.[52] These applications had to comply with the general principles in Chapter 1 of the *DFA* and/or the SDF of the related local municipality. Township establishment applications made by the *Less Formal Township Establishment Act* 113 of 1991, were administered by the provincial government.[53] The transition between the administration of the local and

48 *City of Johannesburg Metropolitan Municipality v Gauteng Development Tribunal* (CCT89/09) [2010] ZACC 11 (18 June 2010) Media Summary; CER 2010 https://cer.org.za/news/constitutional-court-confirms-unconstitutionality-of-parts-of-the-development-facilitation-act.

49 *Albert Dykema v Arthur Pule Malebane and Bela-Bela Local Municipality* (CCT332/18) [2019] ZACC 33 (10 September 2019); Kleynhans 2024 *Interview*.

50 Kleynhans 2024 *Interview*. Schoeman 2015 *Town and Regional Planning* 53; Schoeman 2017 *International Journal of Transport, Development and Integration* 183; Van Wyk and Oranje 2014 *Planning Theory* 356.

51 Kleynhans 2024 *Interview*.

52 Mpumalanga Department of Co-operative Governance and Traditional Affairs *Applications*.

53 Section 1 of the *Less Formal Township Establishment Act* 113 of 1991.

provincial government developed into the *SPLUMA* framework that secures the land use administration under the local government.

The tangible long-anticipated change in planning legislation was presented in the Land Use Management Bill, published in 2008. This was followed by the Draft Spatial Planning and Land Use Management Bill in 2010, which developed into the Spatial Planning and Land Use Management Bill, 2012 and then effectively into *SPLUMA*. The administration from the provincial government in terms of land use planning was only transferred to municipalities, physically, after the implementation of *SPLUMA*. The registers held by the provincial government had to be processed for the provincial archives to release the physical records to municipalities, which had to agree to the receipt of the physical records. In the Province of Mpumalanga, this physical transfer formed part of the process of the development and establishment of the new *SPLUMA* wall-to-wall land use schemes. The physical records had to be incorporated into the new land use scheme register as required by *SPLUMA*.

The *DFA* was guided by development principles[54] as required by the 1996 *Constitution*.[55] After the *DFA* had been deemed unconstitutional, the development principles were still used to motivate development applications until *SPLUMA* was promulgated.[56] *SPLUMA* replaced the development principles with its own, but similar in principle, development principles as mentioned in section 2.3.1.[57]

The *DFA* played a significant role in the development of the land use planning and development administration, in the re-thinking and structuring of administration as well as the advancement of an understanding of what land use planning was. The integration of the ordinances and the re-demarcated municipal areas also played a significant role in the development of land use planning and management system.

54 Section 25(2)(c) of *SPLUMA.*

55 Schoeman 2017 *International Journal of Transport, Development and Integration* 183.

56 Schedule 3 of *SPLUMA* indicated the repealed laws; Steyn and Van Wyk *Planning Law Casebook* 29.

57 Section 7 of *SPLUMA* indicates the development principles. Also see Laubscher *et al SPLUMA Practical Guide* 63-85 for a more detailed discussion on the development principles; s 3 of the *DFA* (specifically s 3(1)(c)(i-vii)) lists the development principles; Schoeman 2017 *International Journal of Transport, Development and Integration* 183.

2.4 The provincial ordinances and the changing landscape of the provinces after the declaration/promulgation of the Constitution and eventual relationship with SPLUMA in its transition

The establishment of the nine provinces of South Africa had a significant influence on the development of the land use planning system as it is today. The formation of the provinces and the land use planning legislative background that was fundamentally influenced by the provincial legislation prompts a discussion of the history of land use planning legislation. Though the provincial ordinances from the previous dispensation directed land use planning and development within the urban edge or urban areas, the related applications were authorised by municipalities.[58] The national legislation related to land use planning was largely administered by the provincial government and was typically applicable to areas outside the urban edge.[59] Thus, a dual functioning land use planning and development administration. The previous dispensation's provincial boundaries and structure were established during 1910, when the Union of South Africa was established by the South Africa Act of 1909, which was an Act from the parliament of the United Kingdom. It united the four British colonies known as the Orange River Colony, Transvaal, Natal and the Cape of Good Hope.[60] The colonies would become the provinces of the Union and then later the Republic of South Africa in 1961.[61] The provinces were known as the Orange Free State, Transvaal, the Cape Province and Natal. Their demarcations remained until 1994.[62] These provinces formed the foundation of planning

58 The *Town Planning and Townships Ordinance* 15 of 1986 establishes that the local authority prepares and administers the town planning scheme (today better known as land use scheme), noted that the scheme was purposed for a particular urban area (previous dispensation municipal structure). This Ordinance was valid for the Gauteng, Mpumalanga, Limpopo and North West provinces as explained below. The *Townships Ordinance* 9 of 1969 for the province of the Free State determined that the local authority is similarly responsible for the administration of the land use scheme, and township establishments would be submitted to the provincial government. Other ordinances mentioned in section 2.4 have similar structures and applications.

59 The provincial government administered land use management on areas outside the urban edge in terms of legislation that include the *Less Formal Township Establishment Act* 113 of 1991 (repealed), the *Upgrading of Land Tenure Rights Act* 112 of 1991, *Physical Planning Act* 88 of 1967 (repealed), the *Physical Planning Act* 125 of 1991 (repealed), the *Advertising on Roads and Ribbon Development Act* 21 of 1940, the *Interim Protection of Informal Land Rights Act* 31 of 1996 (which was supposed to lapse after 12 months after promulgation), amongst other legislation.

60 Devenish 2011 *Obiter* 108.

61 The *Republic of South Africa Constitution Act* 32 of 1961 constituted the Union into the Republic of South Africa, which was independent but constitutionally loyal to the Crown (United Kingdom). Pre-1994 planning legislation was also largely influenced by English planning legislation forms.

62 Devenish 2012 *Fundamina* 2.

legislation as per the provincial ordinances for the urban areas. As mentioned, the provincial ordinances were used for land use planning and development applications up until *SPLUMA* came into effect in 2015.[63] Long before SPLUMA was developed, the geographical grouping of these provinces was reconsidered.

The re-demarcation of provinces was established by the *Interim Constitution* of 1993, but founded in the *Constitution* of 1996[64] and indicates the nine provinces of South Africa: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Mpumalanga, Northern Cape, Northern Province, North West and the Western Cape, which replaced the four old provinces on which the planning ordinances had been based. The promulgation of *SPLUMA* intended to generate provincial legislation that would replace the previous ordinances.[65] However, this did not happen. The general result was that most municipalities were prompted to formulate *SPLUMA*-aligned municipal by-laws that would address the planning system as per *SPLUMA* and establish processes and procedures to accommodate the land use planning system. The nine provinces of the democratic government each had their respective relevant legislative and institutional context that represented the requirement that the whole territory of South Africa should be included in a municipality.[66] This included the incorporation of the four independent and self-governing states Transkei, Ciskei, Bophuthatswana and Venda into its administration after 1994. They were previously known as Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa and QwaQwa. The mentioned administrative systems had to be integrated into municipalities and fell under the authority of such municipalities.[67] That means that all land use planning and development decisions would be made by the respective municipality that they fell under. This caused difficulty at times within the administrations due to debates about authority in decision-making on land use matters. *SPLUMA* makes provision for and requires the representation

63 Bronstein 2015 *SALJ* 649.

64 Schedule 1A of the *Constitution*.

65 Van Wyk and Oranje 2014 *Planning Theory* 356-357. The intention and certainty of the promulgation of nine provincial spatial planning Acts in terms of *SPLUMA* are indicated here in 2014 for purposes of addressing spatial divisions of the apartheid regime and cultivating comprehensive approaches to land development in municipalities that include all areas within it.

66 Section 151(1) of the *Constitution*.

67 National Treasury 1999 http://www.treasury.gov.za/publications/igfr/1999/chapters.pdf (Chapter 1: Profile of the Provinces); the *Constitution of the Republic of South Africa* 200 of 1993 (the *Interim Constitution*); and the *Constitution*.

of traditional councils within its decision-making processes.[68] The issue of land tenure will be discussed below – it relates to difficulty in the land use scheme and register as well as the processing of applications.

The consideration of the formation and inclusions of the provinces are important for the demarcation and reflection of the inclusivity of the wall-to-wall local municipal areas and its administration as it explains some of the considerations that are and should be included in the development of the land use management system.

The transitioning of the administrative systems per province is indicated below:[69]

- The administrative areas that were integrated within the Mpumalanga Province include KaNgwane, which consisted of three administrative areas; the majority of KwaNdebele, which consisted of a total of three administrative areas; part of Transvaal Provincial Administration; and 20 municipalities. Mpumalanga transitioned to 20 municipal areas, that includes three district municipalities. Before *SPLUMA* systems, the *Town-Planning and Townships Ordinance* 15 of 1986 and the *Division of Land Ordinance* 20 of 1986 were generally used for planning applications.
- Gauteng Province had to integrate administrative systems of the Transvaal Provincial Administration as well as 26 municipalities. It transitioned to 11 municipalities, that included three metropolitan municipalities and two district municipalities. Before *SPLUMA* systems came into effect, the *Town-Planning and Townships Ordinance* 15 of 1986 and the *Division of Land Ordinance* 20 of 1986 applied to this province. It established the *Gauteng Planning and Development Act* 3 of 2003, which repealed the ordinances.[70]
- Limpopo Province included Venda; Lebowa, which consisted of 11 administrative areas; Gazankulu, which had six administrative areas; part of Transvaal Provincial Administration; and ten municipalities.

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68 Section 23(2) of *SPLUMA* provides that subject to s 81 of the *Local Government: Municipal Structures Act* 117 of 1998 and the *Traditional Leadership and Governance Framework Act* 41 of 2003, a municipality in the performance of its duties in terms of the land use management chapter, must allow the participation of traditional council.

69 National Treasury 1999 http://www.treasury.gov.za/publications/igfr/1999/chapters.pdf (Chapter 1: Profile of the Provinces); Municipal Demarcation Board Municipal Powers and Capacity Assessment 2018 Mpumalanga; Stats SA 1991 *Population Census 1991* xvii-xxi.

70 Schedule to the *Gauteng Planning and Development Act* 3 of 2003.

Limpopo transitioned to 27 municipalities, which included five district municipalities. Before the *SPLUMA* system came into effect, the *Town Planning and Townships Ordinance* 15 of 1986 and the *Division of Land Ordinance* 20 of 1986 were generally used for planning applications.

- The North West Province included the administrations of the majority of Bophuthatswana; part of KwaNdebele; part of the Transvaal and Cape Provincial Administrations; and 15 municipalities. It transitioned to 22 municipalities, which included four district municipalities. Before *SPLUMA* systems came into effect, the *Town-Planning and Townships Ordinance* 15 of 1986 and the *Division of Land Ordinance* 20 of 1986 were generally used for planning applications.
- The Western Cape involved the integration of part of the Cape Provincial Administration and 41 municipalities. It transitioned to 30 municipalities, which include a metropolitan municipality and five district municipalities. The *Land Use Planning Ordinance* 15 of 1985 (*LUPO*) was relevant for the province and was repealed by the *Land Use Planning Act* 3 of 2014.[71]
- The Eastern Cape Province integrated the administration of Transkei; Ciskei; part of Cape Provincial Administration; and 41 municipalities. It transitioned to 39 municipalities, which included two metropolitan municipalities and six district municipalities. LUPO applied to the province and was repealed by the *Repeal of Local Government Laws Eastern Cape Act* 1 of 2020.[72]
- The Northern Cape Province included the administration of part of the Cape Provincial Administration and 23 municipalities. It transitioned to 31 municipalities, which included five district municipalities. *LUPO* applied to the Province and was repealed by the *Northern Cape Planning and Development Act* 7 of 1998.[73]
- The Free State Province integrated the administration of QwaQwa, which consisted of one administrative area; the Orange Free State Provincial Administration; part of Bophuthatswana; and 50 municipalities. It transitioned to 23 municipalities that included one metropolitan municipality and four district municipalities. The *Townships Ordinance* 9 of 1969 was relevant for this province.
- KwaZulu-Natal included the administration of KwaZulu, which consisted of 26 administrative areas; the Natal Provincial

71 Schedule to the *Land Use Planning Act* 3 of 2014.
72 Schedule to the *Repeal of Local Government Laws Eastern Cape Act* 1 of 2020.
73 Schedule C to the *Northern Cape Planning and Development Act* 7 of 1998.

> Administration; and 39 municipalities. It transitioned to 54 municipalities that included one metropolitan municipality and ten district municipalities. The *Town Planning Ordinance* 27 of 1949 applied[74] and was replaced by the *KwaZulu Natal Planning and Development Act* 6 of 2008[75] (which came into operation on 1 May 2010).[76] This Act was regarded as progressive at the time. It replaced the *Town Planning Ordinance* of 1949 and amendments to this ordinance.

The different administrative bodies that were integrated into the municipalities had different land ownership administrations.

2.5 The complication of land tenure and SPLUMA

Land is the common entity vested in all planning matters, specifically land use planning and development administration. Land ownership is protected under the *Constitution*'s property clause.[77] Land use rights are directly linked to property. Land use rights are registered on a record held by municipalities as required by *SPLUMA* to keep a record of all amendments of the scheme. Land use planning and development applications are to be submitted by the owner of a property or a person or entity that represents the owner and/or have permission from the owner to apply.[78] This complicates the keeping of a record of amendments when different types of land tenure are present within a municipal area. It is further complicated by the consideration of applications in a system that firmly recognises ownership in terms of a title deed.

Land tenure was and still is a complicated issue that leaves people residing in some of the mentioned previous "homelands" or trust areas without security of tenure. The *Development Trust and Land Act* established the land administrative system for "permission to occupy" (PTO), which had its own administrative system.[79] A PTO in its integration with the strict title deed registration for ownership of land creates vulnerability for holders of these

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74 Van Wyk 2013 *SAPL* 99.

75 *KwaZulu-Natal Planning and Development Act* 6 of 2008; LexisNexis 2004 https://www.ghostdigest.com/articles/kzn-planning-and-development-act/52030.

76 Van Wyk 2013 *SAPL* 99; Van Wyk *Planning Law* 38.

77 Van Wyk *Planning Law* 187.

78 Written legal record from the rightful owner is needed as proof. This includes affidavits, company resolutions, signed letters confirmed by a commissioner of oaths etc.

79 Du Plessis "Traditional Leadership and Authority" 5.

rights.[80] The *Communal Land Rights Act* 11 of 2004 (*CLaRA*)[81] was intended to provide legally secure tenure and land use rights in the areas that did not have secure tenure in the form of title deeds and were and are mostly owned by the national government and to a smaller extent the provincial government. *CLaRA* was eventually eliminated in its entirety by the Constitutional Court.[82] Other related legislation to accomplish more secure tenure or ownership included the *Upgrading of Land Tenure Rights Act* 112 of 1991 and the *Interim Protection of Informal Land Rights* Act 31 of 1996 (*IPILRA*). The *Upgrading of Land Tenure Rights Act* 112 of 1991 was intended to secure the ownership of certain rights and specifically assist in the transfer of ownership from the national or provincial government to the traditional authority. *IPILRA* was intended to protect people's land rights temporarily and provides the right to occupy, use and access land within the former homelands.[83] *IPILRA* did not have the effect it was purposed to have and secured rights for few.[84] This was/is a tedious process to transfer the land owned by the national or provincial government to local government in order to establish townships and register title deeds. The process is commonly referred to as the transfer of state land applications or processes. This process was administered and had to be approved by the Department of Rural Development and Land Reform (DRDLR) for many years. The applications were/are done in terms of *IPILRA*. After a normally long process, the land will be transferred to the municipality. The application to the DRDLR will be accompanied by a proposal for a township establishment together with its motivation, a site development plan, the needed resolutions and consent from the relevant community in terms of *IPILRA* and other necessary documents. The property to be transferred will not entail vast areas of land or farm portions. It will only transfer the area that is indicated on the proposed township establishment application, with a small border around the proposed development area. The related area will be subdivided from the original farm portions, and only that area transferred to a municipality. The transfer of state land does not happen as frequently as it should to enable registered individual ownership by title deed. The Dr JS Moroka Local Municipality in Mpumalanga does not own the land that their

80 Du Plessis "Traditional Leadership and Authority" 6.

81 Van Wyk 2013 *SAPL* 100.

82 Clark and Luwaya 2017 https://www.parliament.gov.za/storage/app/media/Pages/2017/october/High_Level_Panel/Commissioned_Report_land/Commisioned_Report_on_Tenure_Reform_LARC.pdf 11.

83 Custom Contested Date Unknown https://www.customcontested.co.za/laws-and-policies/the-interim-protection-of-informal-land-right-act-ipilra/.

84 Clark and Luwaya 2017 https://www.parliament.gov.za/storage/app/media/Pages/2017/october/High_Level_Panel/Commissioned_Report_land/Commisioned_Report_on_Tenure_Reform_LARC.pdf 9.

administrative building is on, for example. The land that is owned by the state that communities are living on and expressing land uses follows a system that is not easily integrated into the *SPLUMA* system. The land use register and the process of applications for these areas could be described as an experiment. There are no clear guidelines or institutional processes on how to address this other than the transfer of state land process. Other legislation that assisted in the transformation to the development of *SPLUMA* should be discussed briefly to consider the effort that went into the process of legislative development for a new land use planning system.

3 Land use schemes and transformation towards the SPLUMA system

3.1 Town planning schemes: land use planning within the urban edge (urban areas)

The land use scheme as known in terms of S*PLUMA*,[85] used to be termed "town planning schemes". Town planning schemes were typically proclaimed or officially declared in terms of the relevant provincial ordinance. The Land Use and Planning Regulations as per Government Notice R1888 of 1990 determined procedures for land use schemes.[86] The scheme itself would also be approved by the provincial government.[87] A typical example is the Nelspruit Town Planning Scheme of 1990, which was advertised as an amendment to the Nelspruit Town Planning Scheme 1/1952 in terms of the *Town Planning and Townships Ordinance* of 1965 by the Minister of Budget and Local Government House of Assembly.[88] The Marloth Park Town Planning Scheme of 2000, for example, was promulgated under the provision of section 18 of the *Town Planning and Township Ordinance* 15 of 1986.[89] Municipalities would administer the land use and development applications submitted to them through their planning

85 Section 24(1) of *SPLUMA* indicates the requirement for a single land use scheme for its entire area. S 25(1) indicates that this land use scheme must determine its use and development.

86 Van Wyk 2013 *Southern African Public Law* 95.

87 The Kinross Town Planning Scheme of 1980 had a clear stamp from the Director of the Local Government of the Provincial Administration and was signed by the director as a true copy.

88 Gen N 290 in Transvaal PG 4662 of 14 February 1990 (Nelspruit Amendment Scheme 1/52).

89 This Ordinance was relevant for the provinces of Mpumalanga, Gauteng, Limpopo and the North-West, which together formed the Transvaal province from the previous dispensation.

department.[90] Town planning schemes would only cover the area of a town within the urban edge, which could be seen as the boundary of a municipality. Town planning schemes were typically centred on urban areas (with an urban edge). However, it could be argued and should be acknowledged that the term "urban" may vary and may not necessarily be perceived as the same coherent concept or "idea" but is formulated through integrated levels and layers of informed thinking.[91] It is a complex boundary that needs to be examined in a context. The administration of each urban area, or the previous dispensation's "town" or "city" that has its subsequent town planning scheme would typically involve their own processing of land use planning and development applications.

This means that usually each urban area would have its own administration for land use planning applications. Each administration would have planners and administrators managing the applications within the urban edge.

3.2 Subdivisions outside the urban edge and SPLUMA

Outside the urban edge, the subdivision as part of land use planning and development administration was applied for in terms of the *Subdivision of Agricultural Land Act* 70 of 1970 (*SALA*).[92] This Act, which came into operation on 2 January 1971, regulated the subdivision for agricultural land before the implementation of *SPLUMA*. This Act was not repealed, although the government published an Act in 1998 that repealed the whole Act, but the Presidency did not publish the operational date for it. The reason for this was that there was no other legislation to replace *SALA*.[93] The Preservation and Development of Agriculture Land Bill was introduced to the National Assembly in 2021 and it was purposed to replace *SALA*.[94] Currently, an

90 The planning department might be termed with differently titled names to each municipality as it is the municipality's choice how they refer to their planning department.

91 Steÿn *Public Participation as a Cultural Determinant* 9-27.

92 The *Subdivision of Agricultural Land Act* 70 of 1970 (*SALA*), which came into operation on 2 January 1971, was used to subdivide all agricultural land before the implementation of *SPLUMA* but was not repealed (the government published an Act in 1998 that repealed the whole Act, but the Presidency never proclaimed the operational date).

93 Ramothar, Marais and Coetzee 2021 https://www.fasken.com/en/knowledge/2021/07/26-the-repeal-of-the-subdivision-of-agricultural-land-act indicated that the question was raised as to why the Repeal Act was not implemented and the answer from the Department of Agriculture, Land Reform and Rural Development on the 11th of February 2020 was that there was no other legislation to replace it.

94 Ramothar, Marais and Coetzee 2021 https://www.fasken.com/en/knowledge/2021/07/26-the-repeal-of-the-subdivision-of-agricultural-land-act indicated that the Preservation and Development of Agriculture Land Bill was introduced to the

application in terms of *SPLUMA*[95] is required to apply for any subdivision[96] via the Department of Agriculture, Land Reform and Rural Development, but specifically the Department of Agriculture. The permission of the Minister of the Department of Agriculture is still required when subdivisions on agricultural land are considered.[97] This department is still mandated to protect the subdivision of agricultural land[98] and prevent the fragmentation of agricultural land.[99] Similarly, the Department of Environment, Forestry and Fisheries is responsible for the protection of the environment in terms of the *National Environmental Management Act* 107 of 1998 (*NEMA*).[100]

3.3 Land use schemes: wall-to-wall land use planning in urban and rural areas

Outside the urban edge, the provincial government managed the land use planning and development applications. This administration was largely based on the *Physical Planning Act* of 1967 and the *Physical Planning Act* of 1991 related to a controlled area.[101] The *Physical Planning Act* of 1967, which was national legislation, was purposed:

> To promote co-ordinated physical planning and the utilisation of the Republic's resources and for those purposes to provide for control of the zoning and subdivision of land for industrial purposes and of the establishment or extension of factories, for the establishment of controlled areas, for restrictions upon the subdivision and use of land in controlled areas and for other matters incidental thereto.[102]

The controlled areas mentioned are areas that are declared or established under section 5 of the *Physical Planning A*ct as a controlled area or the

National Assembly on 22 April 2021 by the Minister of Agriculture, Land Reform and Rural Development where transitional arrangements were established.

95 Section 35(4) read together with s 41(b) of *SPLUMA* allows for the subdivision of land (not restricted to agricultural land).

96 Van Wyk *Planning Law* 335.

97 Ramothar, Marais and Coetzee 2021 https://www.fasken.com/en/knowledge/2021/07/26-the-repeal-of-the-subdivision-of-agricultural-land-act.

98 Ramothar, Marais and Coetzee 2021 https://www.fasken.com/en/knowledge/2021/07/26-the-repeal-of-the-subdivision-of-agricultural-land-act discusses *SALA*; Van Wyk *Planning Law* 336.

99 Ramothar, Marais and Coetzee 2021 https://www.fasken.com/en/knowledge/2021/07/26-the-repeal-of-the-subdivision-of-agricultural-land-act discusses *SALA*.

100 Schedules 1 and 2 of *NEMA* are of particular interest in the overlapping of planning applications that might affect the environment and relate to the management of the environment.

101 The Mpumalanga Provincial Government Department of Co-operative Governance and Traditional Affairs' application form to change land use in a controlled area states the foundation of s 6(1) read with s 8(1)(a) of the *Physical Planning Act* 88 of 1967 read together with the *Physical Planning Act* of 1991.

102 The summary of the *Physical Planning Act* 88 of 1967.

disestablishment of a controlled area in a proclamation in the Government Gazette.[103] A significant example is the proclamation in the Government Gazette of the Province of Transvaal as a controlled area that was signed by the State President of the Republic of South Africa in 1969. This proclamation specifically excluded areas that had been established by the *Development Trust and Land Act* 18 of 1936 and any area located within a local authority and peri-urban areas.[104] The validity of the *Physical Planning Act* was questioned after the re-demarcation of municipalities. The re-demarcation of municipalities will be discussed in section 4 of this article.

The concern with the validity of the *Physical Planning Act* was that the structure of municipalities had been changed with section 151(1) of the *Constitution* of 1996. The *Constitution* explicitly indicates that municipalities (local government) must be established over the whole of South Africa.[105] This means that no area will fall outside a municipality. The Department of Land Affairs concluded that this Act would still be in operation, but not applicable to any urban area. It would still apply to all areas outside of urban areas.[106] This established that the administration of the provincial government in terms of land use planning and development which was still in operation before the implementation of *SPLUMA* would repeal this Act and implement wall-to-wall land use schemes.

The wall-to-wall land use schemes would implicate the land use planning and development administration of the provincial government and the administration of municipalities to reform into one administration under the authority of every municipality. This would have a significant impact on capacity and the need for capacity within municipalities to take over the provincial government administration. Apart from the converging provincial administration, the administration of the different urban areas already merged through the re-demarcation of municipalities. This implies that there would be more than one town planning scheme in the current *SPLUMA*'s single wall-to-wall land use scheme.[107] The administration of land use planning and development increased significantly within municipalities. They would be responsible for the margining of the different urban areas within the extended geographical wall-to-wall municipal area. Each municipality will also be responsible for the administration of the areas

103 Section 5 of the *Physical Planning Act* of 1967.
104 Schedule in Proc R20 in GG 2276 of 7 February 1969.
105 McLachlan and Van Schoor *Letter from Chief State Law Adviser*.
106 McLachlan and Van Schoor *Letter from Chief State Law Adviser*; Mpumalanga Department of Co-operative Governance and Traditional Affairs *Applications*.
107 Section 24(1) of *SPLUMA*.

outside the urban edge that the provincial government administers. Was there careful consideration given as to the needed capacity for this transition? Could the same administration that managed a single urban area have the capacity to administer multiple urban areas as well as the areas outside of the urban edge? How much consideration was given to the internal administration system and the needed capacity to successfully manage the first comprehensive land use administration?

Municipalities were under pressure after the 1st of July 2015 to comply with *SPLUMA*. The provincial governments at this point already anticipated the need for assistance to municipalities to align their administration with *SPLUMA*.[108] Municipalities would work from a municipal readiness report. Specifically in the Province of Mpumalanga, for example, the provincial Department of Rural Development and Land Reform assisted with and monitored the establishment of the MPTs,[109] developing the necessary Spatial Planning and Land Use Management By-law and accompanying tariffs for applications. The provincial Department of Co-operative Governance and Traditional Affairs was part of the supportive structure for municipalities to transition to *SPLUMA* compliance. The provincial department facilitated a generic draft by-law, developed by an appointed service provider.[110] The municipalities had to manage their service providers to adjust this generic by-law according to their respective contexts if they chose to use it. These by-laws were proclaimed or officially declared in the Government Gazette at a very high cost.[111] In the Province of Mpumalanga a few of the related *SPLUMA* by-laws promulgated were found to be unconstitutional in that it had not been authorised by section 156 read with Part B of Schedule 4 of the *Constitution* and contradicted section 118 of the *Municipal Systems Act*.[112] The by-law typically entailed the establishment of the MPT, land use planning and development application procedures, appeal procedures, the land use scheme, the spatial development framework, charges for engineering services and more

108 De Visser 2009 *Commonwealth Journal of Local Government* 13. This supportive role of the provincial government that relates to supervision forms part of its institutional role towards a municipality.

109 Section 35(1) of *SPLUMA* requires the establishment of an MPT to determine land use and development applications.

110 The generic by-law was titled "Spatial Planning and Land Use Management By-law".

111 The Government Printing Works charged R1002.98 per page in 2015 for proclamations. A by-law would typically consist of approximately 90 pages.

112 De Kock 2022 https://www.snymans.com/advice/spluma-in-mpumalanga-the-saga-continues. The Middelburg (Steve Tshwete Local Municipality), Emalahleni and Kinross Local Municipalities by-laws were found to be unconstitutional in 2021.

contextual arrangements. In other words, the by-law contextualised the spatial planning and land use management system for the area.

3.3.1 SPLUMA section 24(1) and the wall-to-wall land use schemes

One of the most significant differences between a *SPLUMA*-compliant wall-to-wall land use scheme and the previous "town planning schemes" could be said to be the area covered and the nature of the area covered. Section 24(1) of *SPLUMA* indicates that a land use scheme should be developed that covers the entire municipal area. This requires each municipality to develop a wall-to-wall land use scheme that includes all urban areas, rural areas, agricultural land, previously disadvantaged areas and traditional authorities. One should note that in any of the more current land use schemes, it would indicate within the document that it represents the accumulation and integration of the relevant previous town planning schemes. This includes all areas under previous land use planning and development administrations. This integration of administration is complicated and the "how to" integration of the land use planning and development administration was left to the municipality. This was not just administrative integration, but other complications such as different ways of land ownership were present in many municipalities. The implications of processing planning applications and applying this on the land use register were left to the resolution of municipalities.

Municipalities would make decisions on development applications based on the urban edge and the location of the proposed development in terms of it. The urban edge is not a legislative line and has the nature of a policy,[113] much like the nature of an SDF; though an SDF is legally required, it is also not a legislative document, but a policy and integrated principles. Typically, and historically, the land use scheme would cover the area within the urban edge and any application outside of it, for example a township establishment, and would then amend and expand the current land use scheme – and broaden the service delivery area of the municipality. The urban edge was and is subject to the discretion of the related municipality.[114] The change of boundaries of municipalities from the urban edge to wall-to-wall municipalities, played a major role in the change of the land use planning and development administrative system.

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113 Cilliers and Schoeman "Urban Development Boundary" 87; Van Wyk *Planning Law* 239.

114 Van Wyk *Planning Law* 238-239 explains the complex term "urban edge".

4 Municipal boundaries and the transformation of local government in the light of the *SPLUMA* system

4.1 The comprehensive land use planning system vested in SPLUMA section 33(1) – the significance of the geographical municipal structure

The role of the municipality has been established in its authority over the processing and decision-making of land use planning and development applications. Section 33(1) of *SPLUMA* establishes the municipality as the body of first instance for land use planning and development applications within its vicinity.[115] This, considering that all land within South Africa falls within a municipality as established by the *Constitution* and the extent of the wall-to-wall land use scheme, creates an unparalleled comprehensive administrative system in terms of land use planning and development. The land use planning and development administration of rural and agricultural areas was moved from the provincial administration to the municipal administration.[116] The administration was added to the system that includes all urban areas within the municipal area. This kind of comprehensive single system instituted by *SPLUMA*[117] has no previous process to compare it with, creating a new territory for administration and a question for the needed capacity. The advancements of the government to establish this system have been long in coming and the focus was on establishing the necessary legislation. It is understandable that the considerations for capacity for this system did not enjoy the needed official administrative considerations. It was an onerous and tremendous task to produce framework legislation that could cover and address a new land use planning and development system, while addressing the historical legislation of this system, without interrupting development. Municipalities frequently are criticised for the slow processing of applications or not enforcing land use practices according to the schemes. At times the mentioned lack of assessment that was initially necessary to address the administrative system is at play. The responsibility of specifically smaller municipalities is tremendous to maintain and administer the land use planning and development system. The comprehensive system is purposed for a significantly larger administrative

115 Laubscher *et al SPLUMA Practical Guide* 183-185. After the submission of the land use and land development applications to the municipality, it is considered by the MPT (s 35(1)) or the appointed municipal official (s 35(2)).

116 De Visser and Poswa 2019 *PELJ* 1.

117 SPLUMA was promulgated on the 5th of August 2013 and commenced on the 1st of July 2015 (Proc 26 in GG 38828 of 27 May 2015). The Regulations of *SPLUMA* was published in GN R239 in GG 38594 of 23 March 2015.

system and should be equipped with more professional planners and supportive staff.

4.1.1 The Constitution, the Municipal Demarcation Act and the wall-to-wall municipalities in the light of SPLUMA

The *Constitution* of 1996 established municipalities as an important sphere of government.[118] It required that the municipal areas should include rural and urban areas[119] covering the entire country resulting in the current wall-to-wall municipalities. The promulgation of the *Local Government: Municipal Demarcation Act* 27 of 1998 provided the platform for the structuring of the boundaries or demarcation of municipalities.[120] The Act[121] required an appointed board to determine or change municipal boundaries in terms of other related legislation and Chapter 7 of the *Constitution*[122] that prescribe the framework for local government.[123] During the year 2000 the municipal boundaries were re-demarcated. The transitional local authorities failed to integrate rural and urban areas in some cases, because of certain disputes as well as issues with provincial boundaries. This necessitated the reconsideration and change of the criteria for demarcating municipal areas. Various changes were made between 1993 and 2020, with significant re-demarcation during 2011 and 2020[124] and boundary changes were made over a period of 22 years.[125] The number of municipalities changed from 1262 municipalities in 1993 to 257 municipalities in 2020, which absorbed 1262 previous municipal areas,[126] creating new challenges for municipal administration and land use management. In effect, the municipalities changed from being just within the urban edge to wall-to-wall municipalities.[127] This coincided with the new system of local

118 De Visser 2009 *Commonwealth Journal of Local Government* 9.

119 Jeeva and Cilliers 2021 *Town and Regional Planning* 83.

120 Jeeva and Cilliers 2021 *Town and Regional Planning* 83 provides a table of the necessary demarcation criteria as per ss 24 and 25 of the *Local Government: Municipal Demarcation Act* 27 of 1998. The reference also explains the inconsistencies of previous attempts to the demarcation of municipalities.

121 Sections 1-5 of the *Local Government: Municipal Demarcation Act* 27 of 1998 indicates the required establishment, status, function and powers of the Municipal Demarcation Board.

122 Section 4 of the *Local Government: Municipal Demarcation Act* 27 of 1998.

123 Sections 151-164 of the *Constitution.*

124 Jeeva and Cilliers 2021 *Town and Regional Planning* 87-89 indicate that these changes were made to redefine administrative regions within the country in line with the *Constitution* and redefinition of administrative areas.

125 Jeeva and Cilliers 2021 *Town and Regional Planning* 88 refers to local boundaries.

126 Jeeva and Cilliers 2021 *Town and Regional Planning* 87; Sikhakane and Reddy 2009 *Administratio Publica* 234.

127 Forbes *Introduction to Municipal Planning* 5.

government.[128] The restructured wall-to-wall municipalities extended the municipal area significantly from its historical structure and included all urban areas, farmland or agricultural areas, any previously disadvantaged areas as well as traditional areas.[129]

The structure of the re-demarcated municipalities was echoed in *SPLUMA. SPLUMA* in its definition of a municipality was in line with the 2000 to 2006[130] re-demarcation of municipal areas that relates to being wall-to-wall municipalities. Municipalities that stretched planning beyond the previous traditional municipal boundaries, were levelled with the urban edge and included all areas of new responsibility extended to farmland and traditional areas.[131]

The inclusion of all areas within a municipal area and within a comprehensive land use scheme and subsequent land use planning and development system requires a practical example.

5 Practical considerations of the implementation of *SPLUMA*

It would be useful to consider a municipality as an example of what a current wall-to-wall land use scheme will include and what it previously would exclude. A diversity of areas could be found in the integration and compilation of the current Nkomazi Local Municipal Land Use Scheme. The Nkomazi Municipality is located within the Mpumalanga Province, bordering Eswatini, Mozambique and including parts of the Kruger National Park. The previous dispensation's "town planning schemes" that were promulgated in terms of the old provincial ordinance[132] includes the Greater Malelane Town Planning Scheme (1997), the Komatipoort Town Planning Scheme (1992), and the Marloth Park Town Planning Scheme (2000). These are now included in the *SPLUMA* wall-to-wall land use scheme. The mentioned schemes were structured around the previous dispensation's consideration of a municipal area that were related to certain urban areas only. Hectorspruit, Kaapmuiden, Kamaqhekeza, Tonga and Kamhlushwa could

128 De Visser 2009 *Commonwealth Journal of Local Government* 10.

129 Forbes *Introduction to Municipal Planning* 5; De Visser 2009 *Commonwealth Journal of Local Government* 10. The traditional areas to be included in the municipality refers to the areas divided according to the *Natives Land Act* 27 of 1913 and the *Development Trust and Land Act* 18 of 1936.

130 Jeeva and Cilliers 2021 *Town and Regional Planning* 87.

131 Forbes *Introduction to Municipal Planning* 5.

132 *Town-planning and Townships Ordinance* no.15 of 1986 applied to the Mpumalanga Province.

also arguably be regarded as urban or developed areas, but did not have schemes previously. It is worth mentioning the complexity of the scheme of Marloth Park as it was regarded as a holiday township with a nature conservation status. Administratively this is a complex challenge as to the record-keeping and implementation of land use rights. The Scheme also includes the traditional authorities within the municipal area that formed part of the KwaNgwane "homeland" area in the previous dispensation. The inclusive and integrated traditional authorities within the scheme are the Mlambo Tribal Authority, Hhoyi Tribal Authority, Siboshwa Tribal Authority, Kwa-Lugedlane Tribal Authority, Mawewe Tribal Authority, Matsamo Tribal Authority, Mhlaba Tribal Authority and the Lomshiyo Tribal Authority. The current *SPLUMA*-aligned scheme also includes a large section of the Kruger National Park, as it falls within the demarcated municipal boundary, as well as other conservation areas. The scheme is also inclusive of the potential Nkomazi Special Economic Zone (SEZ) as driven by the Mpumalanga Economic Growth Strategy (MEGA) and other provincial resources that have been in the pipeline for several years. The Lebombo Border Post is also included in the scheme, which would previously have been under the administration of the Province. The scheme also provides for the sugar mills within the municipal boundary owned by RCL Foods. The diverse land uses with different land use rights as well as land tenure challenges are included in the *SPLUMA*-compliant land use scheme, whereas in the previous dispensation there would only be schemes for this area that covered the three mentioned towns and excluded the areas in-between and beyond. Considering the mentioned area and what is included in the *SPLUMA* wall-to-wall land use scheme, the complexity of the administration of the scheme can be envisaged. It will require an extraordinary administrative support framework to be able to be made to function efficiently and effectively.

6 Conclusion

The changing landscape of the land use planning and development administration in terms of *SPLUMA* after its implementation on the 1st of July 2015 had a significant practical impact on how land use planning and management are conducted in South Africa. This contribution identified the following as the main considerations:

6.1 Broadened scope of responsibility: Section 33(1) of *SPLUMA* effectively broadens the responsibility of municipalities in South Africa. It mandates them to include all areas, irrespective of their characteristics or utilisation, within a single land use scheme. Historically, the current vast municipal area would include more than

one or several land use schemes, one for each urban area. This requirement ensures the responsibilities of municipalities now extend to diverse land use types, from traditional lands to national parks.

6.2 Increased administrative burden and capacity building: The broadened scope under *SPLUMA* significantly enhances the administrative duties of municipalities. They are now tasked with the development and administration of comprehensive land use schemes. There were no official constructive processes to evaluate and determine capacity to facilitate the expanded responsibilities of municipalities. To efficiently handle this expanded responsibility, municipalities need to build capacity, potentially employing more professional planners and establishing new administrative systems for effective record-keeping and land use application management.

6.3 Potential risks of administrative fatigue and obstructions: If municipalities are not assisted in the evaluation of the needed capacity to effectively and efficiently administer the land use planning and development applications, it could have a negative impact on the overall planning and development processes. Inadequate administrative structures could lead to inefficiencies in the administration of planning and its applications, ultimately hindering local development and land use management.

6.4 Land use planning and development applications and land tenure: Land ownership is crucial in the consideration of planning and development applications. The current system still requires the owners of land to provide permission to submit any land use planning and development application. Land ownership is still indicated by means of a title deed. This creates significant difficulties in the possible processing of applications. The previous "homelands" are predominantly still registered to the ownership of the government. This implies that the people with the permission to occupy the land do not have official ownership, and thus it means that municipalities must find a way to legally accommodate the people living on government owned land.

6.5 The land use register as required by *SPLUMA* is at risk: The difficulty in land ownership and the capacity issue within administration as indicated above in paragraphs 6.1, 6.2 and 6.3 poses a valid concern in the maintenance and credibility of the land use register.

Bibliography

Literature

Bronstein 2015 *SALJ*
Bronstein V "Mapping Legislative and Executive Powers Over 'Municipal Planning': Exploring the Boundaries of Local, Provincial and National Control" 2015 *SALJ* 639-663

Cilliers and Schoeman "Urban Development Boundary"
Cilliers JE and CB Schoeman "The Urban Development Boundary as a Planning Tool for Sustainable Urban Form" in Goshpodini A, Brebbia CA and Tiezzi E (eds) *The Sustainable City V: Urban Regeneration and Sustainability* (Johannesburg WITS Press 2008) 85-94

De Visser 2009 *Commonwealth Journal of Local Government*
De Visser J "Developmental Local Government in South Africa: Institutional Fault Lines" 2009 *Commonwealth Journal of Local Government* 7-25

De Visser and Poswa 2019 *PELJ*
De Visser J and Poswa X "Municipal Law Making Under SPLUMA: A Survey of Fifteen 'First Generation' Municipal Planning By-laws" 2019 *PELJ* 1-28

Devenish 2011 *Obiter*
Devenish GE "The South African Act Revisited – Some Constitutional and Political Reflections on Lessons Learnt from the Centenary of the Union of South Africa in 1910" 2011 *Obiter* 108-125

Devenish 2012 *Fundamina*
Devenish GE "The Republican Constitution of 1961 Revisited: A Re-evaluation After Fifty Years" 2012 *Fundamina* 1-14

Du Plessis "Traditional Leadership and Authority"
Du Plessis EWJ "Traditional Leadership and Authority Versus Local Government" in *KAS/NWU Conference* (13-14 September 2018 Potchefstroom) 1-18

Forbes *Introduction to Municipal Planning*
Forbes J *An Introduction to Municipal Planning within South Africa: SALGA-SAPI-MILE* (Axis Marketing Durban 2011)

Jeeva and Cilliers 2021 *Town and Regional Planning*
Jeeva Z and Cilliers J "An Explorative Approach to the Evolving Municipal Landscape of South Africa: 1993-2020" 2021 *Town and Regional Planning* 81-91

Kleynhans 2024 *Interview*
Kleynhans T (Chief Town and Regional Planner Mpumalanga Department of Co-operative Governance and Traditional Affairs, Land Use Management) 2024 *Interview*

Laubscher *et al SPLUMA Practical Guide*
Laubscher N *et al SPLUMA: A Practical Guide* (LexisNexis Durban 2016)

Maleham *Almost Three Years After Commencement of SPLUMA*
Maleham N *Almost Three Years After Commencement of the Spatial Planning and Land Use Management Act 16 of 2013: An Analysis of Challenges to Its Implementation with Relation to Planning Applications and Appeals* (LLM-dissertation University of KwaZulu-Natal 2018)

Municipal Demarcation Board 2018 *Municipal Powers and Capacity Assessment 2018 Mpumalanga*

McLachlan and Van Schoor *Letter from Chief State Law Adviser*
McLachlan JN and Van Schoor SM *Letter from Chief State Law Adviser to the Department of Land Affairs :The Department of Land Affairs Requests Our Opinion with Regard to Two Questions Relating to Certain Provisions of the Physical Planning Act, 1967* (Department of Land Affairs Pretoria 18 November 1998) (Copy Obtained from T Kleynhans, Chief Town and Regional Planner, Mpumalanga Department of Co-operative Governance and Traditional Affairs, Land Use Management)

Mpumalanga Department of Co-operative Governance and Traditional Affairs *Applications*
Mpumalanga Provincial Government, Department of Co-operative Governance and Traditional Affairs *Application for Change in Land Use / Business Rights / Rural Residential / Excision of Holdings* (Mpumalanga Provincial Government Nelspruit 2014)

Poswa and De Visser 2017 https://dullahomarinstitute.org.za/multilevel-govt/publications/provincial-planning-laws.pdf/view
Poswa X and De Visser J 2017 *Implementing SPLUMA: A Review of Four 'Post-SPLUMA' Provincial Planning Bills* https://dullahomarinstitute.org.za/

multilevel-govt/publications/provincial-planning-laws.pdf/view accessed 25 February 2025

Schoeman *Urban and Regional Planning*
Schoeman CB *Urban and Regional Planning and the Interface with Environmental Management and Transportation Planning* (Inaugural Lecture North-West University, Potchefstroom 2010)

Schoeman 2015 *Town and Regional Planning*
Schoeman CB "The Alignment Between Spatial Planning, Transportation Planning and Environmental Management within the New Spatial Systems in South Africa" 2015 *Town and Regional Planning* 42-57

Schoeman 2017 *International Journal of Transport, Development and Integration*
Schoeman CB "Spatial Planning, Transportation Planning and Environmental Management Policy Informing Strategic Planning in Support of Modelling as Integrative Instrument in Developing Countries" 2017 *International Journal of Transport, Development and Integration* 182-193

Sikhakane and Reddy 2009 *Administratio Publica*
Sikhakane BH and Reddy PS "Local Government Restructuring and Transformation in South Africa with Specific Reference to Challenges Faced by Buffalo City Municipality" 2009 *Administratio Publica* 232-251

Stats SA 1991 *Population Census 1991*

Steÿn *Public Participation as a Cultural Determinant*
Steÿn JJ *Public Participation as a Cultural Determinant in Planning within the Frame of Mind of the Urbanism Concept* (PhD-thesis University of the Free State 1989)

Steyn and Van Wyk *Planning Law Casebook*
Steyn P and Van Wyk J *Planning Law Casebook* (Juta Cape Town 2015)

Van Wyk *Planning Law*
Van Wyk J *Planning Law* 3rd ed (Juta Cape Town 2020)

Van Wyk 2013 *SAPL*
Van Wyk J "The Legacy of the 1913 Black Land Act for Spatial Planning" 2013 *SAPL* 91-105

Van Wyk and Oranje 2014 *Planning Theory*
Van Wyk J and Oranje M "The Post-1994 South African Spatial Planning System and Bill of Rights: A Meaningful and Mutually Beneficial Fit?" 2014 *Planning Theory* 349-369

Case law

Albert Dykema v Arthur Pule Malebane and Bela-Bela Local Municipality (CCT332/18) [2019] ZACC 33 (10 September 2019)

City of Johannesburg Metropolitan Municipality v Gauteng Development Tribunal (CCT89/09) [2010] ZACC 11 (18 June 2010)

Legislation

Abolition of Racially Based Land Measures Act 108 of 1991

Advertising on Roads and Ribbon Development Act 21 of 1940

Bantu Authorities Act 68 of 1951

Communal Land Rights Act 11 of 2004

Constitution of the Republic of South Africa 200 of 1993 (the *Interim Constitution*)

Constitution of the Republic of South Africa, 1996

Development Facilitation Act 67 of 1995

Development Trust and Land Act 18 of 1936

Division of Land Ordinance 20 of 1986 (Transvaal)

Gauteng Planning and Development Act 3 of 2003

Interim Protection of Informal Land Rights Act 31 of 1996

KwaZulu-Natal Planning and Development Act 6 of 2008

Land Use Planning Act 3 of 2014 (Western Cape)

Land Use Planning Ordinance 15 of 1985 (Cape of Good Hope)

Less Formal Township Establishment Act 113 of 1991

Local Government: Municipal Demarcation Act 27 of 1998

Local Government: Municipal Structures Act 117 of 1998

Local Government: Municipal Systems Act 32 of 2000

Mpumalanga Town Planning and Land Related Laws Repeal Act 2 of 2016

National Environmental Management Act 107 of 1998

Natives Land Act 27 of 1913

Northern Cape Planning and Development Act 7 of 1998

Physical Planning Act 88 of 1967

Physical Planning Act 125 of 1991

Removal of Restrictions Act 84 of 1967

Repeal of Local Government Laws (Eastern Cape) Act 1 of 2020

Republic of South Africa Constitution Act 32 of 1961

South Africa Act, 1909

Spatial Planning and Land Use Management Act 16 of 2013

Spatial Planning and Land Use Management By-law, 2015 (Ga-Segonyana Local Municipality)

Subdivision of Agricultural Land Act 70 of 1970

Town-Planning and Townships Ordinance 15 of 1986 (Transvaal)

Townships Ordinance 9 of 1969 (Free State)

Traditional Leadership and Governance Framework Act 41 of 2003

Upgrading of Land Tenure Rights Act 112 of 1991

Government publications

Draft Land Use Management Bill, 2008

Gen N 290 in Transvaal PG 4662 of 14 February 1990 (Nelspruit Amendment Scheme 1/52)

GN R1888 in GG 12691 of 10 August 1990 (Land Use and Planning Regulations)

GN R239 in GG 38594 of 23 March 2015 (Regulations in terms of the *Spatial Planning and Land Use Management Act* 16 of 2013)

Green Paper on Development and Planning (1999)

Kinross Town Planning Scheme, 1980

Limpopo Spatial Planning and Land Use Management Bill, 2022

Marloth Park Town Planning Scheme, 2000

Proc 20 in GG 2276 of 7 February 1969

Proc 26 in GG 38828 of 27 May 2015

White Paper on Land Reform (1991)

White Paper on Spatial Planning and Land Use Management (2001)

Internet sources

CER 2010 https://cer.org.za/news/constitutional-court-confirms-unconstitutionality-of-parts-of-the-development-facilitation-act
Centre for Environmental Rights CER 2010 *Constitutional Court Confirms Unconstitutionality of Parts of the Development Facilitation Act* https://cer.org.za/news/constitutional-court-confirms-unconstitutionality-of-parts-of-the-development-facilitation-act accessed 25 February 2025

Clark and Luwaya 2017 https://www.parliament.gov.za/storage/app/media/Pages/2017/october/High_Level_Panel/Commissioned_Report_land/Commisioned_Report_on_Tenure_Reform_LARC.pdf
Clark M and Luwaya N 2017 *Communal Land Tenure 1994-2017: Commissioned Report for High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change, an Initiative of the Parliament of South Africa* https://www.parliament.gov.za/storage/app/

media/Pages/2017/october/High_Level_Panel/Commissioned_Report_land/Commisioned_Report_on_Tenure_Reform_LARC.pdf accessed 25 February 2025

Custom Contested Date Unknown https://www.customcontested.co.za/laws-and-policies/the-interim-protection-of-informal-land-right-act-ipilra/
Custom Contested Date Unknown *The Interim Protection of Informal Land Rights Act (IPILRA)* https://www.customcontested.co.za/laws-and-policies/the-interim-protection-of-informal-land-right-act-ipilra/ accessed 25 February 2025

De Kock 2022 https://www.snymans.com/advice/spluma-in-mpumalanga-the-saga-continues
De Kock W 2022 *SPLUMA in Mpumalanga: The Saga Continues* https://www.snymans.com/advice/spluma-in-mpumalanga-the-saga-continues accessed 26 September 2024

LexisNexis 2004 https://www.ghostdigest.com/articles/kzn-planning-and-development-act/52030
LexisNexis 2004 *KZN Planning and Development Act* https://www.ghostdigest.com/articles/kzn-planning-and-development-act/52030 accessed 21 November 2024

National Treasury 1999 http://www.treasury.gov.za/publications/igfr/1999/chapters.pdf
National Treasury 1999 *Intergovernmental Fiscal Review* http://www.treasury.gov.za/publications/igfr/1999/chapters.pdf accessed 10 September 2024

Ramothar, Marais and Coetzee 2021 https://www.fasken.com/en/knowledge/2021/07/26-the-repeal-of-the-subdivision-of-agricultural-land-act
Ramothar A, Marais J and Coetzee J 2021 *The Repeal of the Subdivision of Agricultural Land Act – So Close, Yet So Far* https://www.fasken.com/en/knowledge/2021/07/26-the-repeal-of-the-subdivision-of-agricultural-land-act accessed 25 February 2025

List of Abbreviations

CER	Centre for Environmental Rights
CLaRA	Communal Land Rights Act 11 of 2004
CoJ	City of Johannesburg Metropolitan Municipality

DRDLR	Department of Rural Development and Land Reform
IPILRA	Interim Protection of Informal Land Rights Act 31 of 1996
LUPO	Land Use Planning Ordinance 15 of 1985
MPT	Municipal Planning Tribunal
NEMA	National Environmental Management Act 107 of 1998
PELJ	Potchefstroom Electronic Law Journal
PTO	permission to occupy
SALA	Subdivision of Agricultural Land Act 70 of 1970
SALJ	South African Law Journal
SAPL	Southern African Public Law
SDF	Spatial Development Framework
SPLUMA	Spatial Planning and Land Use Management Act 16 of 2013