

ANNEXURE B:

OUTLINE: DRAFT REGULATIONS TO PLANNING PROFESSION ACT, 2002 (PPA)

REGULATION NUMBER	TOPIC OR SUBJECT TO BE ADDRESSED IN REGULATIONS	RATIONALE FOR PROPOSED REGULATION	SUGGESTED WORDING OF DRAFT REGULATION	PPA SECTION DERIVED FROM
1	Definitions			Section 1
1 and sub-regulations	Definitions to be inserted which are not covered in PPA to include (but not limited to) those listed in suggested wording:	Definitions in draft Regulations to be provided "in addition to" those definitions contained in the PPA and by reference to new terms added in draft regulations.		
			"Agricultural Holding" As per the 1919 Act.	
			"Certification" To address registered person attesting to compliance of document plan, report, etc. with statutory requirements. Previously provided for in Development Facilitation Act, 1995 (DFA). Similar to Certification by registered professional engineer in regard to floodlines (as per National Water Act, 1998). Or certification by registered geotechnical engineer in regard to dolomitic zones, etc.	

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		Definitions in draft Regulations to be provided "in addition to" those definitions contained in the PPA and by reference to new terms added in draft regulations.	"Deeds Registries Act, 1937" As referred to in the draft Regulations	
		Definitions in draft Regulations to be provided "in addition to" those definitions contained in the PPA and by reference to new terms added in draft regulations.	"Land Development Application" This is the term used in SPLUMA and in most municipal by-laws. It is central to the work done by registered persons in acting for land development applicants.	
		Definitions in draft Regulations to be provided "in addition to" those definitions contained in the PPA and by reference to new terms added in draft regulations.	"Land Use Scheme" The land use schemes contemplated in SPLUMA and municipal by-laws, often the subject of land development applications including rezoning, departures, applications for consent, relaxations and other relief.	
		Definitions in draft Regulations to be provided "in addition to" those definitions contained in the PPA and by reference to new terms added in draft regulations.	"Layout Plan" Township Establishment, subdivision, consolidation or related land development applications must, in the main, be accompanied by a layout plan which, in turn, should be certified by a registered person and should be defined accordingly.	



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			<p>"Processing"</p> <p>To describe the term as it applies to that part of the regulatory process as per a by-law or SPLUMA.</p>	
		Definitions in draft Regulations to be provided "in addition to" those definitions contained in the PPA and by reference to new terms added in draft regulations.	<p>"Rules"</p> <p>Reference to Rules adopted by SACPLAN (from time to time) and which may impact on the work attended to by a registered person and regulated in terms of the Regulations to the PPA and must be defined accordingly.</p>	
			<p>"Township"</p> <p>A proper definition is required.</p>	
2.	Identification of Planning Professional Work			Section 16
2(1)	Make reference to planning profession principles in PPA. Delimitation, regulation and management of land uses	Link proposed categories of work to stated principles in Section 2.	<p>(1) With reference to Section of Act. The limitation, regulation and management of land uses. To provide for the:</p> <p>(i) preparation and processing of new, revised or consolidated land use scheme for a municipal area or part thereof, as provided for in any Act or other statutory instrument regulating such matters, with specific reference, but not limited to, the provisions</p>	Section 2(a)(i) Draft Amended Planning Principles may be dopted – Regulations to be cross referenced accordingly



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			<p>of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) and any municipal or associated legislation enacted in terms thereof or in alignment therewith including, but not limited to, any municipal by-law enacted in terms of the provisions of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or superseding legislation;</p> <p>(ii) preparation and processing of a land development application for the amendment of, or departure from a provision of a land use scheme as provided for in ruling legislation;</p> <p>(iii) preparation and processing of a land development application for the consent or permission of a decision making authority authorized for such purpose to permit a change in land use rights or restrictions regulating the use and development of land, as may be contemplated in, but not limited to a land use scheme or a condition in a title deed or in legislation regulating such matters;</p>	

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			<p>(iv) preparation and processing of a land development application for the removal, amendment, suspension or relaxation of any provision contained in a title deed pertaining to the use and development of land;</p> <p>(v) assessment, evaluation and, where applicable, approval or recommending for approval of any land development application contemplated in (1)(i) up to and including (iv) above; and</p> <p>(vi) preparation of a report containing an expert opinion and/or the giving of evidence and/or a professional opinion in respect of any of the aspects forming part of or contemplated in (1)(i) to (iv) above to any person, body or authority or court or tribunal or appeal authority or arbitration body.</p>	
2.(2)	Make reference to Planning Profession Principles Organization of service infrastructure, etc. and housing for human settlements. Co-ordination and integration of various sectors comprising human settlements	Link stated planning principles to identified categories of work	(2) Organization of service infrastructure, utilities, facilities and housing for human settlement; and Co-ordination and integration of social, economic and physical sectors which comprise human settlements. To provide for the:	Sections (2)(a)(ii) and (iii) of the Act Draft Amended Planning Principles may be dopted – Regulations to be cross referenced accordingly



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			<p>(i) preparation, processing and certification of a layout plan and a motivating report required as part of a land development application for the establishment of a new development area or township or settlement on underdeveloped or vacant land, to take the form of a new township or settlement, either in a rural or urban context, aimed at developing residential, industrial, commercial, business, recreational, tourist or related facilities capable of being registered by a Deeds Registry in the context of the Deeds Registry Act, 1937 or superseding legislation;</p> <p>(ii) preparation and certification of a sketch plan and motivating report required as part of a land development application for the subdivision and/or consolidation of an erf or erven in a Township, an agricultural holding or holdings or a farm portion, or portions, so as to render such subdivided or consolidated properties capable of registration in terms</p>	

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			<p>of the Deeds Registries Act, 1937 or a superseding legislation;</p> <p>(iii) assessment, evaluation and, where applicable, approval or recommending for approval of any plan and document contemplated in (2)(i) and (ii) above; and</p> <p>(iv) preparation of a report containing an expert opinion and/or the giving of evidence and/or a professional opinion in respect of any of the aspects forming part of or contemplated in (2)(i) and (ii) above to any person, body, authority, court, tribunal, appeal authority or arbitration body.</p>	
2.(3)	Initiating and management of change in the built and natural environment.	Link stated planning principles to identified categories of work	<p>(3) Undertaking of Environmentally responsible planning to ensure sustainable development as set out below:</p> <p>(i) preparation and processing of spatial plans and explanatory reports as part of a process aimed at formulating new or revised spatial planning policy guidelines, including a spatial development framework or precinct plan or similar instrument for the development</p>	Sections 2(a)(iii), 2(c)(iv) of the Act Draft Amended Planning Principles may be adopted – Regulations to be cross referenced accordingly



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			<p>and management of any part, or the whole of the area of jurisdiction of a municipality, group of municipalities, a region or geographical area under control of a provincial or national Government Department to meet the statutory requirements where such policy guidelines are contemplated in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), Spatial Planning and Land Use Management Act, 2013 (SPLUMA) or any provincial or municipal legislation enacted in terms thereof, or similar or superseding legislation;</p> <p>(ii) preparation and processing of an explanatory report containing the results of an assessment of the impact of spatial policies, plans and programmes (including spatial development frameworks), on the environment as part of a Strategic Environmental Assessment (SEA) report as contemplated in, inter alia, the National Environmental Management Act, 1998 (Act 107 of 1998) (NEMA) or similar or superseding legislation;</p>	



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			<p>(iii) assessment, evaluation and, where applicable, approval or recommending for approval of any of the plans and documents contemplated in (3)(i) and (ii) above;</p> <p>(v) preparation of a report containing an expert opinion, and/or the giving of evidence and/or a professional opinion in respect of any of the aspects forming part of or contemplated in (3)(i) and (ii) above to any person, body, authority, court, tribunal, appeal authority or arbitration body</p>	
2.(4)	Legislation requiring involvement of Registered Person (Example DFA, 1995)	Add provision i.t.o. legislation requiring involvement of Registered Person	(4) Work in respect of which relevant legislation determines that a specific function shall be fulfilled, service rendered or document or plan be prepared and certified, be it in printed or electronic format, only by a professional planner.	Not in Act
3.	Provision to include Technical or other planner(s) per registration category	Add provision to provide for technical	3. Notwithstanding, any provision herein to the contrary, a technical planner and planner shall be permitted to perform any of the planning professional work referred to in sub-regulation (1), save for any certification of plans	Section 13 (As may be amended/ amplified) Draft Amended Planning Principles may be dopted – Regulations to be



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			and reports which must be attended to by a professional planner and excluding the giving of expert evidence on a spatial planning and land use management matter.	cross referenced accordingly
4	Identification of Planning Profession Work which may be carried out by persons registered in terms of other legislation	Provide for other professions i.e. land surveyors to continue doing planning profession work under certain circumstances	<p>4(1) With reference to Section of the Act, it shall be competent for the following professional persons registered in terms of legislation other than the Planning Profession Act, 2002, to perform specified components of the work contemplated in sub-regulations 2(1)(i), (ii), (iii), (iv) and 2(2)(i), (ii) namely:</p> <p>(a) a geometrics professional duly registered in terms of Section 13 (4)(d) of the Geomatics Profession Act, 2013 (Act 19 of 2013);</p> <p>(b) a practicing attorney, duly admitted and enrolled under the Legal Practice Act, 2014 (Act 24 of 2014); and</p> <p>(c) a professional architect, registered in terms of the Architectural Profession Act, 2000 (Act 44 of 2000)</p>	Section 16(4) Draft Amended Planning Principles may be adopted – Regulations to be cross referenced accordingly



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4		Qualify circumstances where other professional persons will be permitted to do planning profession work	(2) The registered professional persons contemplated in sub-regulation 4(1) shall only be permitted to perform the specified components of the work contemplated in sub-regulations 2(1)(i), (ii), (iii), (iv) and 2(2)(i), (ii) namely, as provider for in sub-regulation 4(3) hereof.	
4	Certificate by SACPLAN i.r.o. other professions	Provide for SACPLAN to register successful applicants from other professions	<p>(3) Upon the issuing of a certificate by the Council in terms of which the Council confirms:</p> <p>(a) that it has received a written application from the registered professional person in accordance with sub-regulation 4(2) and that it has satisfied itself that the said person is suitably qualified and possesses sufficient experience and skills to enable such person to diligently and skilfully perform the component(s) of work specified in the relevant certificate as issued; and</p> <p>(b) that the person is indeed registered in terms of one or more of the Acts referred to in sub-regulation 4(2) and such person is in good standing with the relevant regulatory body and that such person being so registered, remains subject to the</p>	Section 16(4) and (5)



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			code of conduct, rules and regulations of the profession contemplated in any of the Acts alluded to in sub-regulation 4(2).	
4			<p>(4) The certificate contemplated in sub-regulation 4(3) shall only be issued in response to a written application by the relevant person as submitted to Council within 24 months (twenty four) of the date of the coming into operation of these regulations and, by such person complying with the following minimum requirements. The submission of the following to the satisfaction of the Council:</p> <p>(a) a full description of the qualifications of the person, so applying</p> <p>(b) proof of registration in terms of one or more of the Acts contemplated in sub-regulation 4(2) of the person so applying;</p> <p>(c) proof from the relevant regulatory body that the person is in good standing as on date of the submission to the Council</p> <p>(d) a full description of the person's experience, skills and expertise in</p>	



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			<p>regard to the relevant component(s) of the work to which the application applies;</p> <p>(e) a written motivation together with documentary proof as to why the person regards himself/herself to possess the necessary skills and expertise to perform the component(s) of the work applied for.</p> <p>(f) written confirmation from the regulatory body regulating the person's profession that the application is supported; and</p> <p>(g) written confirmation from the regulatory body of the person's profession, stating whether the component of work in respect of which application is made, falls within the ambit of the Code of Conduct and Rules of that body and that effective disciplinary action may be taken against the person should he or she fail to comply with such Rules and/or Code of Conduct, for as far as same may apply to the rendering of services that fall within the ambit of the relevant component(s) of the work.</p>	



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4	Provide for revoking of certificate by SACPLAN	Revocation by SACPLAN if work done is not up to standard	<p>(5) Notwithstanding anything to the contrary contained in the Act or these Regulations, the Council shall be entitled to, at any time after the issuing of the certificate and after the relevant person has been given due notice of the Council's intention to revoke the certificate and for such person to make representations in that regard, and after due consideration by the Council of the said representations, revoke the certificate or a component thereof, if Council is satisfied that:</p> <p>(a) the work rendered by the person is not of acceptable quality or standard; or</p> <p>(b) the conduct of the person in any matter relating to the rendering of the certified component of work, was of such a nature that, had the person being a registered person either a professional or technical planner, in terms of the Act, the relevant conduct of such person would have resulted in a breach of the Code of Conduct of the Council, as provided for in the Act; and that it would have resulted in disciplinary action being instituted against such a person.</p>	16(4)



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4	SACPLAN Code of Conduct to also apply to other professions	Provide for other professions to remain subject to SACPLAN Code of Conduct	(6) A person registered in terms of any of the Acts contemplated in sub-regulation 5(1) and whom is in possession of a certificate issued by the Council as contemplated in sub-regulation 5(2), will be subject to the Code of Conduct of Council insofar as such person may perform the specified component(s) of the work contemplated in sub-regulations 4(1)(a)(ii), (iii) and (iv) and 4(1)(b)(i) and (ii) hereof.	16(4)
5	Independence of registered persons	Provide for independence requirement in Regulations	<p>(1) A person registered in terms of the Act as either a professional planner or technical planner, or a person contemplated in the aforesaid sub-regulations when executing any of the categories of planning profession work contemplated in these regulations shall do so by remaining independent.</p> <p>(2) In attending to any of the planning profession work contemplated in these Regulations, the responsible registered person as aforesaid, must:</p> <p>(a) perform such work in an objective manner, even if it may result in views and findings that</p>	



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			<p>may not be favourable to an instructing client, employer or party, whom may hold an interest in such matters;</p> <p>(b) ensure that he or she does not hold any potential conflict of interest in the outcome or result of the work so performed; and</p> <p>(c) abstain from attending to any matter which may potentially result in him or her benefiting from a positive outcome of such work by for example, being briefed to attend to subsequent downstream work associated with the same matter.</p>	
6	Short title and commencement	These regulations shall be known as the Planning Profession Regulations, 20..., and shall come into operation on the date fixed by the Minister by proclamation in the <i>Gazette</i> .		