

SPLUM: civil society – government dialogue

Facilitator: Sibulele Poswayo

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Bhisho



PURPOSE

- Share information on what is happening with national and provincial SPLUM
- Introduce & unpack the recommendations found in the SPLUM petition, looking specifically at how they can be incorporated into provincial policy and legislation
- Explore a possible way forward for developing and implementing provincial SPLUM

AGENDA

1. Introduction to workshop (Ronald Eglin)
2. Background to provincial SPLUM (Dr. Tony Williams)
3. Summary of petition (Ronald Eglin)
4. Facilitated discussion on SPLUM issues & recommendations
5. Way forward
6. Evaluation and closure

Introductions

1. What's your name, organisation you are from and position in the organisation?
2. How is your work affected by SPLUM?

Introduction to workshop

Ronald Eglin
Afesis-corplan



Background to dialogue

- National government introduced SPLUMA in 2013
- Municipalities started to use SPLUMA in July 2015
- Provincial government preparing to develop provincial SPLUM
- Afesis-corplan, ECNGOC & 14 other NGO's submitted SPLUM recommendations petition for provincial SPLUM on 21 June 2016
- This dialogue explores if & how recommendations can be incorporated into provincial SPLUM

Tenure vs. Land use

Tenure

- Who can be on the land
- Formally involves
 - Survey general office
 - Deeds office
- Determined through
 - Market
 - Custom

Land use

- What can be done on the land
- Formally involves
 - Town planning dept
 - Permits (e.g. mining)
- Determined through
 - Land use applications
 - Custom

Spatial Plan vs. Land Use Map

Spatial Plan (SDF)

- Provides broad suggestions for where activities and roads should be in future
- Does not give or take away land use rights

Land Use Scheme Map

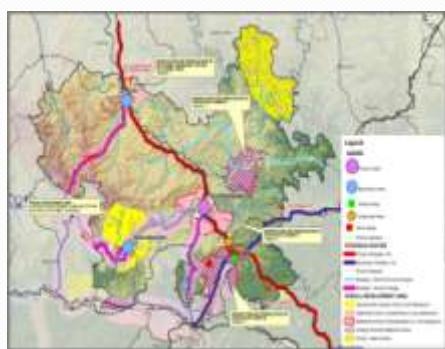
- Provides details as to what people can do on a particular erf
- Gives rights as to what people can do on the land

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Spatial Plan vs. Land Use Map

- Spatial Development Framework (SDF)

- Land use scheme map



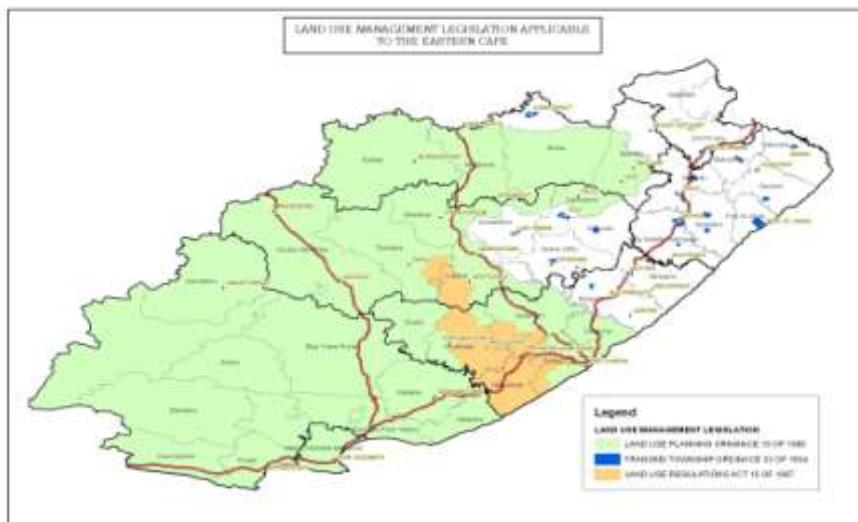
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Example of 'land use change' application



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Our land use management inheritance

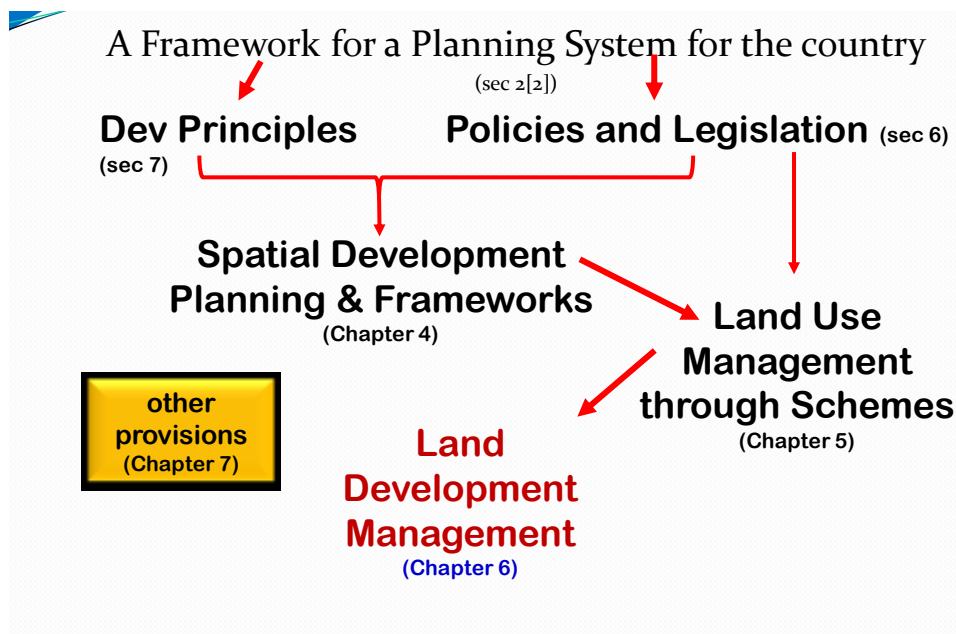


Municipal planning

- Concor decision (Gauteng vs Joburg - 2010) ruled that province must adhere to municipal determined urban edge and can't have provincial determined urban edge
- Municipalities have exclusive competency for municipal planning
 - Forward planning → MSDF
 - Process of developing long to medium term plans
 - Zoning → LUM and LDM
 - process of township establishment; subdivision; consolidation; changing land uses; removal, amendment or suspension of restrictive conditions

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What Does SPLUMA Entail?



Relevant legislation

- National SPLUMA (2013) Framework legislation
 - SPLUMA regulations (2015)
 - SPLUMA norms and standards & guidelines

- Provincial SPLUMA
 - Western Cape → (LUPA)
 - Provincial regulations

- Municipal by-laws More detailed procedures

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SPLUMA principles (1-2)

- **1. The principle of spatial justice, whereby -**
 - *Imbalances must be redressed through improved access to and use of land –*
 - *Inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas*
 - *Enable redress in access to land by disadvantaged communities and persons*
 - *Provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas.*

- **2. The principle of spatial sustainability, whereby -**
 - *Land development must be within the fiscal, institutional and administrative means of the Republic*
 - *Prime and unique agricultural land must be protected;*
 - *Land use measures must be consistent with environmental management instruments;*
 - *Promote and stimulate the effective and equitable functioning of land markets;*
 - *Promote land development in locations that are sustainable and limit urban sprawl;*
 - *Viable Communities – Joint consideration of realistic long term outcomes*

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SPLUMA Principles (3-5)

- **3. The principle of efficiency, whereby -**
 - *Optimise the use of existing resources and infrastructure ;*
 - *Minimize negative financial, social, economic or environmental impacts;*
 - *Efficient and streamlined development application procedures.*
- **4. The principle of spatial resilience, whereby –**
 - *Flexibility in spatial plans, policies and land use management systems are accommodated*
- **5. The principle of good administration, whereby-**
 - *An integrated approach to land use and land development;*
 - *High level of strategic planning integration;*
 - *Timeous adherence to laws relating to land development ;*
 - *Transparent processes of public participation.*
 - *Informed and empowered members of the public.*

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Communal areas

- Municipality must include communal areas in SDF
- Municipality must extend LUS – zoning map - into communal areas (can do it incrementally)
- Traditional councils (TC) must ‘participate’ in land use management system
- Municipalities can enter into service level agreement with TC’s for TC to perform agreed functions, but TC can NOT make decisions relating to LUS.
- TCs, where found, must provide proof of allocation of land according to customary law (land tenure vs land use)
- members of HTL can’t be on MPT

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Multiple approvals

- Macsands ruling (sand miner claimed they had mining approval so did not need municipal planning approval)
- Constitutional court ruled (2012)
 - Each sphere / sector can develop law related to their competency
 - But need all approvals for development to proceed
 - No one approval overrides another
 - If dispute follow appropriate dispute channels

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Provincial SPLUM

Dr Tony Williams

EC-CoGTA

Discussion on provincial SPLUM

Facilitated by Sibulele Poswayo
Afesis-corplan



Promoting active citizenship and good governance

SPLUM issues

- A. Issues relating to implementing SPLUM now
 - Establishing tribunals
 - Approving municipal by-laws
 - Dealing with land applications now

- B. Issues relating to implementation of SPLUM in future
 - See points of petition

SPLUM petition

- See the principle of ‘free prior and informed consent’ of communities in decision making processes forming the backbone of any provincial policy and legislation.
- 1. Involve the public throughout the process of development, implementation and continual review of provincial SPLUM policy and legislation.
- 2. Improve community participation in the development of Spatial Development Framework (SDF) plans.
- 3. Develop more detailed guidelines for how to establish and maintain Land Use Schemes, especially in communal areas.
- 4. Include people with experience in the entire spectrum of development, both urban and rural, on Municipal Planning Tribunals.
- 5. Make it more affordable and easier for ordinary members of the public to appeal land use decisions.
- 6. Clarify and recognise the role of government, traditional leaders, other community leadership structures, and other community stakeholders in the SPLUM process.



Discussion

- Point by point discussion on SPLUM petition
 - 1. What is our understanding of the recommendation?
 - 2. Why do we think this is an issue?
 - 3. What should provincial legislation say about this?
 - 4. Do we need to add anything to the ‘parking lot’ of issues for further discussion?
- Discussion of ‘parking lot’ issues

Way forward, evaluation & closure

Sibulele Poswayo



Way forward

1. What should be the next steps?

2. Who should do what by when?

Evaluation (1)

1. What key lesson(s) did I learn from this dialogue?

2. What, if anything, will I be doing differently in future as a result of what I gained from this dialogue?

Evaluation (2)

	Poor 	OK 	Good 	Excellent
1. Pre-preparation				
2. Workshop facilitation				
3. Content of presentations				
3. Level of discussions				

- What general comments do you have? (write on piece of paper and hand in)



Promoting active citizenship and good governance

Thanks

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To find out more on SPLUMA see

<http://tinyurl.com/pkg66hv>

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