

# PLANNING, HOUSING POLICY AND LOW INCOME HOUSING DEVELOPMENT IN SOUTH AFRICA

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## **Abstract**

Since the advent of democracy in 1994, post-apartheid South Africa spatial development policies have attempted to mitigate the severe, negative effects of the apartheid settlement patterns and to create more compact, efficient and sustainable settlements. As the government attempts to redress the legacy of apartheid, low cost housing provision remains its major focus. The White Paper on Housing of 1994 prioritised the needs of the poor, encouraged community participation and the involvement of the private sector. Since the inception of the White Paper several policies, programmes and legislation followed. However, two decades after the inception of such policies and significant levels of public and private sector investments, the South African low income housing landscape remains unchanged. Planning systems set rules and guidelines to control the supply and location of land usable for a full set of legally defined purposes independently of price and so influence the level, location and pattern of development activity. Using a literature survey, the aim of this paper is to examine the relationship between planning and low income housing development in South Africa, investigate the extent to which the planning system is aligned to the low income housing policies and evaluating whether planning regulations enable or constrain the provision of low income.

**Keywords:** Spatial planning, Low income housing development, Housing policy

## **1 Introduction**

The impact of public policy on land and property markets is the subject of much interest and research. White and Allmendinger (2003) assert that many aspects of fiscal and regulatory policy impinge upon and affect markets in property and housing. However, it is the planning system in its various guises that has the most significant impact. While spatial planning is concerned with coordinating and guiding land uses and linkages between them, to balance demands for development with the need to protect the environment and to achieve social and economic development objectives, land use management is a regulatory mechanism which aims to increase the efficiency of the use of land and to ensure greater equity in that use (Evans, 2004 in Whitehead, 2006). According to Cheshire *et al.* (2002), planning systems set rules and guidelines that control the supply and location of land usable for a full set of legally defined purposes independently of price and so influence the level, location and pattern of activity. The ultimate role of planning is to promote a balance of environmental, social and economic welfare that meets the needs of current and future generations. According to Beer *et al.* (2007), planning as a form of regulation has been seen to occupy an equivocal position with respect to housing affordability in Australia. Planning can be seen to restrict the supply of land for residential development and impose additional costs on developers, at the same time planning bonuses and similar tools are considered potentially valuable in meeting the housing needs of low

income households. Adams & Watkins, 2002 and Whitehead (2006), attested to the idea that planning constraints impact on different groups of actors including developers, existing landowners and new purchasers since they lead to higher prices, densities, restrictions in the quantity of homes supplied and convergence in the type and design of homes.

According to Musvoto (2011), in the South African context, unsustainable and inefficient patterns of apartheid era planning persist for more than 20 years into the post-apartheid settlements. Compounding this situation are new, unsustainable emerging trends such as the continuing peripheral location of mono-functional low income housing developments (Musvoto, 2011). Although the planning system has remained largely unchanged for more than 20 years, attempts have been made through the Development Facilitation Act (DFA) and other planning policies to restructure the segregated cities. Huchzermeyer (2003) argues that the reason why segregated dormitory developments have prevailed since 1994 despite the vision and integrated planning tools was the neo-liberal and Marxist perspectives that cities and their residential component are shaped by the way they are financed.

As noted by various authors, the South African housing landscape is marred by a massive backlog of about 2.1 million houses, the low income housing units are poorly built (40 000 units have poor workmanship), located at the periphery of towns far away from amenities, thereby intensifying urban sprawl and increasing the daily reproductive costs of the poor (Newton and Schuermans, 2013; Seekings, 2000; Jenkins, 1999). The apparent reasons for this as noted in Venter *et al.* (2004) include greater affordability of land on the urban periphery as opposed to expensive land in the more central areas, coupled with insufficient subsidy amounts to build at higher densities to offset the higher land costs. The debate on combating urban sprawl has been highly supported by various policies in South Africa as it makes the core principles of the DFA which was intended to guide all the all physical planning and development and are embedded in the White Paper on Urban Development (1997), the Breaking New Ground policy of 2004, the Inclusionary Housing Policy of 2007, and the Spatial Planning Land use Management Act of 2013. Todes (2003) highlights that emphasis on restructuring away from an apartheid urban form and on creating more integrated cities has meant that the location and form of housing for low income households is a key concern, as such, the urban form of cities is continuously being challenged by urbanisation.

As the Government attempts to redress the legacy of apartheid, low income housing provision remains its major focus. The aim of the White Paper on Housing (1994) was to “*create viable, integrated settlements where households could access opportunities, infrastructure and services...*” Besides the focus on the budgets, subsidies and other institutional arrangements, the White Paper on Housing focused on land and planning issues as they impacted housing delivery. It clearly states that, “*The historical and existing patterns of land use and allocation as well as the legislative framework associated to land, provides an immense challenge and constraint. A fundamental approach will be required to make the housing programme a sustainable reality*”. In this instance, the White Paper acknowledged the dysfunctional human settlements that were inherited from the apartheid era. These are still the same issues that are the cause of criticism in today’s low income housing settlements. According to Berrisford (2011), despite a widely acknowledged causation between old planning laws and the spatial legacy of apartheid, South Africa has been unable to effect major changes to the legal frameworks governing land use and land development. Until 2013, when the Spatial Planning and Land use Management Act, 2013 (Act 16 of 2013) was promulgated, the same laws that were used to implement apartheid’s segregation and inequality policies remained in use, with the exception of the Development Facilitation Act, 1995 (Act 67 of 1995) which was an interim law to speed up development with low income housing development in mind, until its demise in 2010, when most of its chapters were declared unconstitutional. This implies that some of

the problems associated with low income housing delivery in South Africa are linked to spatial planning and land use management.

While this paper examines the relationship between spatial planning and low income housing development in South Africa, it investigates the extent to which the South African planning system is aligned to low income housing policies, in the process giving a perspective on whether planning regulations enable or constrain the provision of low income housing from a theoretical perspective. It will be presented in 6 Sections. The second section discusses the evolution of post-apartheid housing and planning policy intervention. This is followed by the review of international literature on housing and planning in practice in Section 3. Section 4 presents the impact of planning on low income housing development in South Africa. This is followed by the gaps in literature and implications of the research in Section 5 and the conclusion in Section 6.

## **2 The Evolution of Post-apartheid Housing and Planning Policy Intervention**

### **2.1 *White Paper on Housing (2004)***

The promulgation of the White Paper on housing in 1994 set the pace for all the housing policies, legislation and programmes that followed. According to Jenkins (1999), the White Paper on Housing of 1994 prioritised the needs of the poor, encouraged community participation and the involvement of the private sector to deliver 1 million houses in 5 years. While it incorporated the principles of spatial planning concepts such as compact cities, densification and unification of the urban fabric as highlighted in Restructuring Development Programme (RDP), the White Paper focussed on issues of budgets, subsidies and other institutional arrangements as well as the land and planning issues as they impacted on the delivery of housing. It highlighted the challenges associated with land and planning issues. As noted earlier, the White Paper acknowledged the dysfunctional human settlements that were inherited from the apartheid era which led to issues such as high rates of urbanisation, inefficient and inequitable cities marred with urban sprawl and dispersed rural settlement structures hampering service delivery, accessibility and there was a lack of a housing strategy defining the roles and responsibilities of all role players. One of the goals of the policy was to replace the land use and spatial planning system with a new approach and legislation that acknowledged the scarcity of land in the Republic, promoted higher densities and encouraged planning techniques that enabled social cohesion and had an impact on costs and efficient resource utilisation (water and energy).

### **2.2 *Development Facilitation Act, 1995 (Act 67 of 1995)***

According to Du Plessis (2013), the Development Facilitation Act, 1995 (Act 67 of 1995) (DFA) through its provision for the preparation of Land Development Objectives, represented the first step to a new spatial planning framework. Furthermore, the DFA provided for far reaching set of general principles for land development (the DFA Principles), the establishment of a development and planning commission and the establishment of one development tribunal for each province (Berrisford, 2011). These principles provided the legal source to guide post-apartheid spatial planning and were factored in all planning and land development decisions whether taken under the DFA or any other legislation (Du Plessis, 2013; Berrisford, 2011).

### **2.3 *GEAR (1996) and ASGISA (2006)***

The economic related policies such as the Growth, Employment and Redistribution Programme (GEAR) in 1996 and the Accelerated and Shared Growth Initiative for South Africa in 2006 identified planning and land use management as key areas requiring institutional reform, with

great emphasis on integrated planning and service delivery by all spheres of government (Harrison *et al.* 2008). Integrated Development Planning Process had to include a Spatial Development Framework (SDF) in each municipal IDP. Furthermore, important initiatives in planning arena included the adoption of the White Paper on Spatial Planning and Land Use Management of 2001, which proposed a much stronger role for national legislation rationalising the provincial laws into one uniform set of national rules and procedures (Berrisford, 2011).

#### **2.4 *Breaking New Ground (2004)***

Despite all the well-intended measures, the inequalities and inefficiencies of the apartheid space economy had lingered on. This led to the shift from developer to municipal oriented development through the birth of the Breaking New Ground Policy of 2004 (BNG). Based on the principles of the White Paper on Housing (1994), BNG was not introducing a new policy direction but merely emphasizing and outlining a comprehensive plan for the development of sustainable human settlements (Charlton and Kihato, 2006). According to Sishaka (2011), the policy substantially increased emphasis on the role of the State in determining the location and nature of housing as part of a plan to link the demand for and supply of housing. It also envisaged that municipalities would assume a greater responsibility for housing programmes in their areas of jurisdiction. Key elements of the BNG included (i) pursuing a more compact urban form through the introduction of fiscal incentives to promote the densification of targeted human settlements while introducing disincentives to sprawl, (ii) facilitating higher densities by investigating aspects of promoting densification such as planning guidelines, property taxation, zoning, subdivision, land swaps and consolidation as well as drafting a densification policy, (iii) mixed land use development, and (iv) integrating land use and public transport planning, so as to ensure more diverse and responsive environments whilst reducing travelling distances. The National Spatial Development Perspective (NSDP) and the draft National Urban Strategy were adopted to implement the elements of the BNG.

#### **2.5 *Inclusionary Housing Policy***

A Social Contract for Rapid Housing Delivery which stated that, “every commercial development including housing developments that are not directed at those earning R1500 or less, spend a minimum of 20% of project value on the construction of affordable housing” was forged between the government and the private sector. This led to the 2007 Framework for Inclusionary Housing Policy (IHP) which aims to achieve a “more balanced outcome of the built environment creation in the direction of a more racially integrated and income inclusive residential environments (Tissington, 2011). With the Town Planning Compliant component, the IHP aimed to ensure that the rapid housing delivery of affordable housing was set off using mandatory requirements and process of land use planning and development such as township establishment procedures, zoning and rezoning development approvals in return for incentives such as density bonuses, allowance for multi-storey units, some commercial rights and public investment in bulk and connector infrastructure. According to Tissington (2011), the inclusionary housing policy has been implemented in metropolitan municipalities like Johannesburg (Cosmo City and Brickfield) and Cape Town (N2 Gateway). Other municipalities have been lagging behind due to a lack of capacity to implement such a complex policy. However, its impact on urban integration and inclusion has remained negligible.

#### **2.6 *The National Housing Code (2009) and Outcome 8 (2010)***

The National Housing Code of 2000, revised in 2009, seeks to improve the coordination and alignment between different planning instruments and economic policies; emphasizing on the need to develop a single planning authority or instrument in order to provide macro level

guidance on the development of sustainable human settlements. The government launched “Outcome 8” in 2010 which aimed to deliver 400,000 upgraded units in informal settlements by 2014 principally by scaling up and reinvigorating existing upgrade programmes (Patel, 2015). It consolidates the policy shift in the revised Housing Code to a focus on informal settlement upgrading and supporting the market to develop affordable housing. With 4 outputs, it reiterates the need for a proper functioning of the land use management system to improve development and zoning processes and systems by fast tracking the development of a new comprehensive land use development and management legislation.

In an attempt to implement the outputs of “Outcome 8”, the government promulgated the Spatial Planning and Land use Management Act, 2013 (Act 16 of 2013) (SPLUMA) after chapters of the DFA were declared unconstitutional and repealed in 2010. Its main objective is to provide a uniform, effective and comprehensive system of spatial planning and land use management. It sets a legal obligation for SDFs to provide an estimation of the housing needs and identification of the planned locations and densities of future housing (Section 21(b) and (c)). A land use scheme must give effect to and be consistent with the SDF and determine the use and development of land within the municipal area. Housing (and its location) is no longer simply a concern of the housing department, as it will be included as part of the municipality’s spatial planning framework (Denoon-Stevens, 2014).

In terms of aligning the housing and spatial planning policies, the DFA was the only post-apartheid legislation that dealt with spatial development principles and provided a land use mechanism; yet, all the housing policies emphasized the importance of spatial planning in the delivery of low income housing. The Housing Act and the housing code stipulated that housing should form an integral part of the IDP at municipal planning level. The link between SDFs and the housing chapter in IDPs has been investigated by Graham *et al.* (2014) in the assessment of whether the existing municipal framework facilitates or hinders integrated planning for sustainable human settlements. Drawing from the case studies of Johannesburg, Buffalo City and eThekweni, Graham *et al.*, (2014) concluded that cities have achieved a level of integration in the long term vision and to a large extent, in the IDP that synthesises the various sector plans into an overall strategy. However, sector plans are still drawn up independently, and the level of integration is determined by the degree to which municipal departments’ liaise with each other. This implies that there are still serious concerns about the alignment of spatial and housing policies. This maybe in vigour of the housing programmes relative to the sluggish planning framework (Charlton and Kihato, 2006) or in the amount of effort required to translate policy sentiments into specific realisable projects (Charlton, 2003).

### **3 Housing and Planning in Practice: An International Perspective**

According to Adams and Tiesdell (2010), the impact of spatial planning is direct in the property development market but indirect in the user and investment markets. This impact operates through three types of policy instruments, intended respectively to shape, regulate and stimulate. Furthermore, the economic interpretations of relations between planning policy and property markets can be viewed through neoclassical economics which asks how far planning policy directly affects the overall quantity of market supply and demand, while welfare economics concentrates on the extent to which planning policy is able to overcome market failure, and new institutional economics focussing on its capacity to reduce (or indeed increase) market transaction costs. In each of these approaches, the market is essentially viewed as dichotomous to planning: open, of course, to influence, but characterised by the unfamiliar terrain of profit-driven behaviour. This implies that any planning system has both benefits and costs. There are direct costs and indirect costs. The direct costs arise from the application of a complex system but more importantly from the costs falling on the private sector in order to comply with the system (Cheshire *et al.*, 2012). The indirect costs arise from the higher costs

of space brought about by the constraint on its supply, and the controls imposed on the choice of location. It is this direct view of costs that planners have that causes a lot of spinoffs in the property industry.

### ***3.1 Availability of land for housing***

Internationally, much attention has been paid to the extent to which planning policies make land and property more expensive through constraining supply. Cheshire and Sheppard, 1989; Adams and Watkins, 2002; Meen, 2005 covered the UK, while Maclennan and others (1998) several European countries and Glaeser and Gyourko (2003) the United States. For instance, Glaeser and Gyourko's work was the first where the data permitted fully specified hedonic models to estimate the effects of regulations on the value customers place on the underlying land. Similar, if not less, robust quantitative results on the effect of policy on housing have also been obtained for developing countries. For example, Malpezzi and Mayo (1997) used a simple regression model to compare housing supply elasticities in the Republic of Korea, Malaysia and Thailand to show how various public interventions constrain supply elasticity especially in the Malaysian housing market. They found that interventions such as the provision of publicly constructed housing and inappropriate building and land use standards, cause supply to be considerably less elastic. According to Baken and Van der Linden (1993) in Buckley and Kalarickal (2005), the study ignored political and cultural frameworks within which land markets function. This implies that supply inelasticity is not only caused by the regulations but by the broader policy framework that governs land supply. Buckley and Kalarickal (2005), further argue that the effects of housing policy on the supply of housing has provided empirical support for the view that housing the public sector enable rather than control or displace the private sector. This is essential to improve the affordability of housing in general.

### ***3.2 Affordability***

Bramley (1993) argues that the absence of planning cannot solve all the problems of housing supply, even theoretically because housing supply would not be completely elastic. Planning in practice can be quite responsive to the market. For instance, Whitehead (2006) investigates the use of land use planning in providing affordable housing in England. She pointed out that policies to address the issues of how to ensure affordable housing for particular groups arising from the misadministration of income within a market framework include income supplements, targeted price reductions or regulatory mechanism that separates the housing market into two or more segments. Furthermore, land use planning can be used in principle to achieve the goal of lower house prices overall by enabling more land to be provided by using the zoning system which states that particular areas are designated for housing. However, Bramley (1993) highlights concerns about speculative withholding of land by private owners or developers as an issue to the development process.

In investigating the relationship between land use regulation and residential construction, Mayer and Sommerville (2000) characterised regulations either as adding explicit cost, uncertainty or delays to the development process. Using data from 44 United States metropolitan areas, they found that the land use regulations lower the steady state of new construction and the regulations that lengthen the development process or otherwise constrain new development have larger and more significant effects. Cheshire and Sheppard (1989) applied a sophisticated intra-urban model to measure the impact of planning controls and planned amenity provision in a limited number of cities. They concluded that British planning control, by containing urban extension, tends to increase house prices moderately but has its main (adverse) welfare impact in the form of increasing densities and house-type mix. These conclusions are consistent with the qualitative observations of Evans (1991) concerning the

type of housing produced under the relatively tight planning regime which is characteristic of southern England.

## **4 Impact of Planning on Low Income Housing Development in South Africa**

### ***4.1 Constraint to the ability of the poor to acquire and develop land***

In investigating the challenges faced by the poor in accessing land and housing, Berrisford *et al.* (2008) cited the inconsistent or inadequate policies and legislation, confusion between myriad agencies involved, lack of clarity over responsibilities and accountability, lack of capacity of the implementing agencies, the rising costs and delays in accessing building materials, corruption and a lack of training for both government officials and housing hopefuls as major challenges experienced in Ethembalethu, Mogale City. Furthermore, they concluded that planning implementation systems are extremely complex and laden with transaction costs, for instance the township establishment process runs parallel to the Environmental Impact Assessment (EIA) process, stifling the capacity of all actors and constraining the ability of the poor to acquire and develop land. Consistent are the conclusions of Kitchin and Ovens (2013) who pointed out the increase in construction and handling costs due to the delays in the application and approval delays. Oranje *et al.* (2010) investigated the perceptions and everyday experiences of developers and municipalities around urban land development. The general perception of the developers in the case study was the cost implications associated with bureaucratic delays.

Kihato and Berrisford (2006) examined the role of regulatory frameworks in the management of urban land in South Africa and how it influences access to land among the urban poor. They cited that regulatory frameworks are intended to protect and enhance an investment, for instance zoning and other regulations that prevent uses of land that negatively affect property values. Furthermore, regulatory laws are too technocratic and highly procedural thereby hindering the activities on land like densification. Also consistent are the conclusions of Rubin (2008) in his study of the contemporary land use management systems and their operation at both policy and practical level who concluded that the existing planning schemes, zonings and the cadastral system are in many ways exclusive of the needs of low-income households and communities and seem to result in the disempowerment and alienation of those that they intend to include and empower. By initiating a search for an appropriate criterion for land use management system in South Africa, Görgens and Denoon-Stevens (2012) characterised the traditional land use management system as zoning emphatic and argue for a more flexible system that responds to the dynamics of the urban land market and directly addresses the needs of the poor.

### ***4.2 Affordability***

Zille *et al.* (2008) conducted a qualitative analysis on the dynamics of urban land markets in South Africa. They argue that restrictive town planning regulations and an inflexible institutional environment limit the supply of land, increases development risk, raises the price of land and therefore impacts on development activity. They further argue that planning regulations alter land prices, for instance, a decision by public authorities to bring public land to the market may also alter land availability and price of land- as supply increases, so the price will drop. Napier *et al.* (2007) discusses the balance between state allocation of urban land and market distribution of land as a resource. He noted that the outcome of the distortions is that house prices at the upper end of the market have seen unprecedented growth, while low income house owners have not benefited from the same growth. This implies that while there is little research on the tradable values of subsidised housing, it is widely understood that there has

been substantial depreciation in formal sales. It is clear that the house prices in low income housing developments are not at par with their counterparts in affluent areas because of the location, neighbourhood influences and access to bank loans. Low income housing developments are stagnant, non-active housing markets where investors make losses, getting no return for their investments. These problems having been created partially by planning mechanisms and can be addressed by proper planning. It is at this stage that Adams & Tiesdell (2010)'s call for planners to see themselves as market actors intricately involved in framing and reframing local and property markets, hence operating as a significant constitutive element of such markets becomes relevant.

## **5 Gaps in the Literature and Implications for Research**

In the literature review, housing policies (BNG, IHP, and housing code) highlighted the importance of spatial planning in the delivery of low income housing and the need to incorporate the housing chapter in the municipal IDPs in a bid to align housing delivery and spatial planning. None of these studies have followed up on the link between housing policies and spatial planning, whether the spatial planning aspects highlighted in the housing policies have been incorporated in the planning tools and used in practice.

The Inclusionary Housing Policy introduced the use of incentives such as density bonuses and allowance for multi storey units to ensure the rapid delivery of affordable houses. There is need for further research in incorporating the housing concepts highlighted in the BNG and IHP into the land use management tools such as integrated development plans, spatial development frameworks and zoning schemes in order to develop a framework to deliver low income housing through the planning system.

## **6 Conclusion**

The aim of the paper is to examine the relationship between planning and low income housing development in South Africa, investigate the extent to which the planning system is aligned to the low income housing policies and evaluating whether planning regulations enable or constrain the provision of low income housing. The study concludes there is relationship between planning and the availability and affordability of housing yet such relationship has not been well articulated in low income housing developments. However, the complex approach to housing delivery relies on the implementation of policy and legislative frameworks for both planning and housing across different spheres of government. Moreover both housing and planning officials should be empowered to handle the planning and delivery of housing in a holistic manner.

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