

SPLUMA AS A TOOL FOR SPATIAL TRANSFORMATION

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EXECUTIVE SUMMARY

Cities are being tasked with driving spatial transformation. This transformation objective must meet the need for inclusivity, mobility and access, economic development that drives local and national growth prospects and transforms space in a manner that is socially and environmentally sustainable.

The introduction of the Spatial Planning and Land Use Management Act (16 of 2013) (SPLUMA) is set to aid effective and efficient planning and land use management. In the context of the spatial transformation agenda, SPLUMA has been proposed as a possible tool to effect spatial transformation. This study seeks to understand the extent to which SPLUMA could assist in achieving spatial transformation.

The study is conducted through three phases including a desktop research phase, interview phase comprising and a document development phase.

While there is no agreed on definition for spatial transformation, it is often considered “a broad term used very loosely in public policy, academic research and popular writing” and in its crudest form is referred to as “major urban change or restructuring” (Turok, 2014:74). For the purposes of this research, a “framework lens” for spatial transformation with four key drivers including economic, social, spatial and governance aspects is explored.

Furthermore, SPLUMA is interrogated in terms of four “levers” that could aid spatial transformation. These are: Lever 1: Principles and normative direction to Spatial Development Frameworks (SDFs) and Land Use Management Schemes (LUMs), Lever 2: The SDF, Lever 3: SDF compliance and sector planning/implementation and Lever 4: SDF compliance and land use management.

The “lenses and levers” helped to form the base structure from which this research is undertaken.

Until the promulgation of SPLUMA, the system elements proposed in the 2001 White Paper on Local Government, and detailed in subsequent spatial policy, were not included in any new legislation governing spatial planning and land use management. The Development Facilitation Act (67 of 1995) (DFA), pre-dating the 2001 White Paper, which has since been repealed, was the only post-1994 piece of legislation that dealt with spatial development principles and provided a land use management mechanism. SPLUMA was developed to legislate for a single, integrated planning system for the entire country as a response to the challenges facing planning. The President of the Republic of South Africa enacted SPLUMA on 5 August 2013. It will however only come into operation on a date to be fixed by the President.

The sections that follow discuss the key SPLUMA lever findings.

Lever 1: Principles and normative direction

- Not all principles are unpacked to the same level of detail in SPLUMA. For example, the principle of spatial resilience is not unpacked in any specific detail as such it will be difficult to take guidance from this principle or to assess if this principle has been adhered to
- Principles contain both process and content issues. Some issues are at the level of outcomes, while others describe the desired characteristics of processes

- No order of preference or ranking is provided for the principles to allow for the principles to be prioritised against each other, or against a specific outcome
- The value of the principles as a transformation lever will depend on the principles inclusion in provincial legislation and municipal by-laws, as well as in planning processes and mechanisms in all sectors. The principles are in general not contentious or “new” in terms of content and are aligned to current policy, significantly the NDP and the draft IUDF.

Lever 2: The SDF

- While conceptually the intention of the various SDFs of the three spheres of government is clear, the alignment of these plans and its implications will have to be tested in practice. The challenge will be for the National and Provincial SDFs to give adequate guidance to ensure application of development principles / transformation outcomes and achieve synergy with municipal plans, while not infringing on the constitutional mandate of municipalities in relation to municipal planning
- The content required in the SDF ranges from the application of development principles and a long-term development vision to the implementation of and investment in programmes. Coupled to this is the technical challenge of compiling an in-depth, evidence-based strategic plan, in the context of a lack of human and financial resources and a lack of spatially referenced information
- Explicitly binding municipal SDF formulation to specific sector issues requires interaction with sector departments in the other spheres of government. If there is a lack of commitment to the alignment process, particularly with regards the sharing information, the quality of the Municipal SDF will be negatively affected
- In terms of Section 20 of SPLUMA, the SDF is still recognised as part of the IDP, which in terms of the MSA has a varied set of criteria for what an SDF should entail. There is also a relationship to other aspects of municipal development planning (e.g. infrastructure planning and investment, capital investment, budget alignment) that should be considered when developing an SDF in a municipality.

The SDF is the lever which has the greatest potential as a planning tool to realize spatial transformation. It is the SDF that interprets the principles into a spatial future/s for the city. In terms of municipal planning, stronger spatial guidance as part of the IDP process could lead to more strategic investment and implementation in the municipal space. In order for the potential role of the SDF to be realised, the process issues and institutional arrangement of the planning process must not be disregarded. The SDF is a multidimensional tool that requires constant checks and balances to actively ensure that issues of spatial transformation are being addressed.

Lever 3: SDF compliance and sector planning/implementation

- Alignment of sector plans at different stages in the planning process is critical to ensure that spatial visions are aligned and acted upon, but SPLUMA only contains broad provisions regarding alignment between SDFs and sector plans
- SPLUMA has not clarified or simplified the planning process by explicitly stating that municipal planning is a local function and needs to drive the sector plans of all spheres of government. Mutual

alignment is required which implies a “back and forth” consultation and negotiation process during all planning stages

- Concern has been expressed regarding SPLUMA not obliging national and provincial spheres to share information and align to the municipal SDF process, thus limiting the ability to achieve truly integrated planning between the three spheres of government.

Local Government intervention in the spatial structure of cities in the form of environmental protection, human settlement establishment, transport, as well as special measures such as SIPS or special grants / interventions in the urban network, can contribute significantly to spatial transformation. In order to achieve this, it is important that the alignment process not be reduced to requesting comments from sectors or simply including sectors’ plans as part of the SDF. The importance and complexity of this process must be recognised.

Lever 4: SDF compliance and land use management

- The institutionalised link between SDF and other mechanisms has been a challenge
- The true meaning of well-intended policy statements are often diluted as development applications meander through the inter-governmental structures and administrative processes
- The multi-decision phases of planning often mean that the reasons for specific decisions are lost through the decision hierarchy which results in decision statements being used as precedents without understanding the rationale behind the decisions
- Section 21 of SPLUMA will require a revision of information management systems including the use of GIS as a diagnostic, analytical and early warning tool and consideration around GIS legislation to aid the application, standardisation and development of the field of GIS with regards to capturing and reflecting spatial change
- The gathering and sharing of information is also important. Community information portals, diagnostic systems and real live feedback hubs are all new social and information innovations that can be pursued based on the requirements of the Act. It also allows spatial information and an understanding of spatial transformation to move out of the domain of officials and include citizens
- Mechanisms and Institutional Arrangements:
 - The Municipal Planning Tribunals were highlighted as an area of uncertainty and potential controversy. Issues range from their legality, to their effectiveness, administrative burden, funding burden and appeal procedures
 - SPLUMA provisions are perceived to be less stringent than the Ordinances. For example in the Ordinances service contributions to the municipality are a legislated requirement yet in SPLUMA, they are to be specified in rezoning conditions. This allows for conditions to be altered or omitted which can limit the municipality’s income

There is a clear indication that a Scheme cannot be a set of land use categories only, but that it should start to respond to specific spatial typologies in terms of conditions, categories and schedules. The link between the municipality’s SDF, IDP and Scheme can be strengthened to a larger degree than previously. From an administrative and institutional point of view there is also more flexibility and responsiveness built into

Schemes. This may make land use management schemes more effective in interpreting the requirements of the SDF, and in turn facilitating the spatial vision of the SDF.

The lack of a hierarchy of plans means that consensus must be reached by all departments in all spheres of government through all planning and budgeting cycles to produce aligned strategies, policies, plans and projects for implementation. This absence will make it difficult for SPLUMA to be an efficient tool for spatial change.

While the focus of the SDFs of the different spheres of government can be seen to be different the question arises as to which plan should take precedence, especially if municipal planning is the constitutional responsibility of cities. Furthermore, SPLUMA explicitly requires alignment between the different elements of the municipal planning system (e.g. principles, SDF, sector plans and land use management. Care should be taken that the focus is not solely on the instruments (i.e. different unit / department managing the SDF or Land Use Scheme), and the processes to establish the links are disregarded or undertaken for the sake of compliance.

One of the key findings of the study is to acknowledge the greater responsibility of local government in relation to planning that SPLUMA provides. Local government and particularly cities are increasingly being recognised as the sphere for effective intervention to transform cities. This places substantial responsibility on cities to effectively plan and implement strategies that will both address the historical apartheid spatial legacy and shape the future city.

Government as a whole will have to consider the capacity requirements placed on cities. Even though SPLUMA allows municipalities to implement the Act in terms of each municipality's needs and capacity, effort is required to ensure that adequate resources (human and financial) be made available if local government is to fulfill its planning role.

A number of sector departments (human settlements, the department of environmental affairs, the department of transport etc.) have a planning component to their functions which manifest in local space. Currently, there are inconsistencies as sectors plan independently. Sector legislation is also inconsistent (e.g. SIPS and BEPPS) further limiting integrated planning. A collaboration framework is required to address the strategic planning and budgeting cycles of all spheres of government. This framework needs to ensure:

- Spatially focused priority setting between all sectors and all spheres of government so that there are no competing interests or mandates
- Joint spatial planning and simultaneous implementation of projects between various spheres and sectors to ensure spatially led integrated development
- Joint reporting to streamline the understanding of developmental impact and be able to measure spatial change.

SPLUMA can contribute to spatial transformation in South Africa. A key success factor will be the degree to which intergovernmental cooperation is taken seriously and the level to which all spheres and sectors contribute to the strategic spatial planning and transformation of an area. The study highlights the need for creating SPLUMA awareness in all three spheres of government and across all sectors. This needs to include

the concept of spatial transformation. It also needs to be practical so that officials can directly interact with the different components of SPLUMA and begin to understand the complexity related to the policy. Officials should not only receive training in the areas that they work in.

It has always been a challenge to “translate” planning language in order to connect communities and businesses. The current legislative compliance requirements will demand even more innovative sharing and engagement methods in order to transcend the boundaries between technical and authentic engagement. The concepts of engagement and participation should be fully embraced in municipalities.

SPLUMA’s impact on transformation is dependent on the quality of mechanisms, process and systems established by the various spheres of government, and specifically the extent to which the development principles are translated into achievable, contextualised spatial outcomes in each spatial impact area.

Part 1: Introduction to SPLUMA and the Research

INTRODUCTION

Context of Study

Cities are being tasked with driving spatial transformation. This transformation objective must meet the need for inclusivity, mobility and access, economic development that drives local and national growth prospects, and the critical issue of transforming space in a manner that is socially and environmentally sustainable.

The introduction of the Spatial Planning and Land Use Management Act (16 of 2013) (SPLUMA) is set to aid effective and efficient planning and land use management. In the context of the spatial transformation agenda, SPLUMA has been punted as a possible tool to effect spatial transformation. It is important to note that while there are several concepts that could be considered in understanding SPLUMA's effectiveness, this study explores the extent to which SPLUMA can effectively aid spatial transformation.

The study is intended firstly to understand SPLUMA in the context of spatial transformation as it is defined for the purpose of this research. Secondly, it focuses on establishing key levers within SPLUMA that could possibly interact with the concept of spatial transformation. These levers are then explored to understand the key issues and opportunities that may arise through utilizing SPLUMA as a possible tool for spatial transformation. Finally, the study concludes by discussing a summary of the findings and provides a brief set of recommendations.

Project Scope

The concept of spatial transformation is broad and multifaceted and its influence on SPLUMA could be far reaching. In order for this study to be relevant it has to be framed in a way where pertinent issues are addressed.

In order to achieve this, a review of literature was undertaken to create a framework "lens" of key issues within the spatial transformation concept. This was done to channel the discussion toward a planning focus. Furthermore, SPLUMA was interrogated and "levers" that could aid spatial transformation were identified. The "lenses and levers" helped to form the base structure from which this research was undertaken as the research focuses on exploring the extent to which SPLUMA can aid spatial transformation (see diagram below).

Figure 1: Levers and Lenses

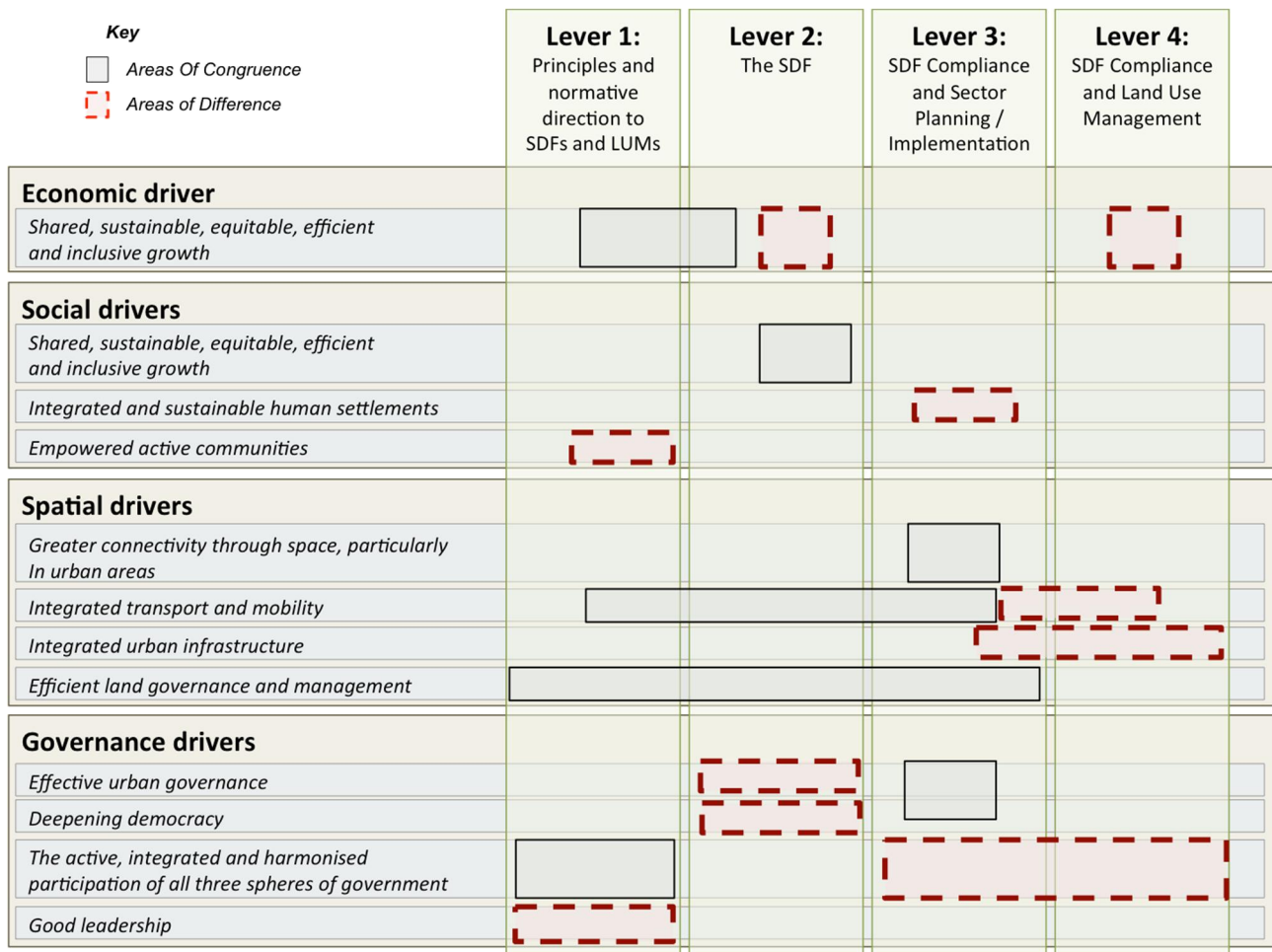


Figure 1 depicts the four drivers that formed the lens for understanding spatial transformation. It also highlights the four key levers in SPLUMA that could aid spatial transformation. The lens and levers are plotted conceptually to identify areas of congruence and difference. Areas of congruence are where the intentions and outcomes of the lenses and levers intersect and align. Areas of difference are where the intentions and outcomes of lenses and levers intersect but do not align. This study focuses on discussing areas of congruence to understand SPLUMA as a tool for spatial transformation.

This study sought to be relevant to planners in practice who are involved in strategic, spatial and land use planning by providing a pragmatic understanding of SPLUMA and some of the key issues and opportunities that exist in aiding spatial transformation. While the research straddles both the legal and planning disciplines, its focus is on understanding SPLUMA as a tool for spatial transformation. The research is therefore not intended to be a legal review of SPLUMA.

Project Objectives

The key objectives of this study are to:

- Develop a framework “lens” to understand the concept of spatial transformation
- Develop a set of “levers” to understand SPLUMA as a tool for spatial transformation
- Explore the extent to which SPLUMA can serve as a tool for spatial transformation
- Discuss the impacts and implications of the study.

The Research Process

The research process was undertaken in three phases. The first phase comprised of a desktop study to understand the current planning legislation context. This also helped in developing a set of questions for the second phase of the research.

The second phase of the research comprised of interviews. Three case study cities were identified as areas where interviews would take place (See table 1). These were the City of Tshwane Metropolitan Municipality, Nelson Mandela Bay Municipality and eThekweni municipality. In the eThekweni municipality the interview was conducted through a focus group discussion. In Nelson Mandela Bay Municipality one interview was conducted with two officials and this was followed by a focus group discussion. In the city of Tshwane three interviews were conducted.

Table 1: Officials interviewed from the three case study municipalities

Contact Person	Organisation	Title
Nicolene le Roux	City of Tshwane Metropolitan Municipality	Acting Executive Director: Built Environment and Enforcement, City Planning and Development Department
Pumza Letsoalo	City of Tshwane Metropolitan Municipality	Director: Spatial Strategy and Policy, City Planning and Development Department
Namugaya Kisuule	City of Tshwane Metropolitan Municipality	Deputy Director: Spatial Strategy and Policy, City Planning and Development Department
Dawn McCarthy	Nelson Mandela Bay Municipality	Senior Director: Strategic Planning and Coordination Office of the Chief Operating Officer
Monde Ganyaza	Nelson Mandela Bay Municipality	Acting Assistant Director: Corporate Governance Legal Services Directorate Office of the Chief Operating Officer

Contact Person	Organisation	Title
Schalk Potgieter	Nelson Mandela Bay Municipality	Director: Strategic Planning and Policy Formulation Human Settlements Directorate
Stuart Beattie	Nelson Mandela Bay Municipality	Director: Spatial Development Framework Planning, Land Planning and Management sub-Directorate Human Settlement Directorate
Debbie Hendricks	Nelson Mandela Bay Municipality	Senior Town Planner Land Planning and Management Human Settlement Directorate
Alan de Vries	Nelson Mandela Bay Municipality	Senior Planner: Land Planning and Management sub-Directorate Human Settlement Directorate
Mohammed Shaik	Nelson Mandela Bay Municipality	Acting Senior Director: Land Planning and Management, Land Planning and Management sub-Directorate Human Settlement Directorate
Lekha Allopi	eThekweni Municipality	Strategic Project Executive: Development Planning
Navin Palayan	eThekweni Municipality	Planning
Kathleen Hall	eThekweni Municipality	Legal
Lulama Miya	eThekweni Municipality	Legal

In addition to city officials, other representatives from government, academic institutions and the private sector were interviewed. The table below provides the details of interviewees.

Table 2: Other People Interviewed for the research

Contact Person	Organisation	Title
Martin Lewis	South African Council for Planners (SACPLAN)	Chief Executive Officer, The South African Council for Planners
Marx Mupariwa	South African Local Government Association (SALGA)	Specialist: Development Planning, SALGA
Michael Kihato		Independent Consultant

Steven Berrisford	Stephen Berrisford Consulting	Director
Neil Klug	University of the Witwatersrand	Senior Lecturer
Sunday Ogunronbi	The Department of Rural Development and Land Reform	Deputy Director General
Henri Stuab	On behalf of SAPOA (Eris Property Group)	Private Sector
Wendy Ovens	Wendy Ovens Consulting	
Soobs Moonsammy		PhD Student

The third phase of the research process comprised the drafting of a document for review.

REPORT STRUCTURE

Structure of the Discussion

In order to examine the role of SPLUMA as a tool for spatial transformation, the discussion in this document is structured as follows:

The intention and focus of SPLUMA is explained by discussing the evolution of planning in post-Apartheid South Africa. The chapters of SPLUMA are then introduced and the legislation's legal status considered.

Then the concept of "spatial transformation" is defined, with reference to South African planning policy and related challenges.

Thereafter, the specific aspects of SPLUMA that could act as levers for spatial transformation are identified. Each of these levers is then explored in detail.

This is followed by a summary of findings. Before concluding, key recommendations are made.

Part 2: Understanding SPLUMA

UNDERSTANDING SPLUMA

Evolution of Planning In Post-Apartheid South Africa

Pre-democracy, South Africa had separate planning legislation for the then four provinces and the black homelands. After 1994, in spite of reforms in government structures and high level policy, existing land use planning laws and mechanisms remained largely unchanged.

At a policy level, the White Paper on Local Government (1998) set the stage for a new paradigm in the form of developmental local government, with an emphasis on integrated development planning. The concepts introduced in the White Paper were legislated in the Municipal Structures Act (117 of 1998) and the Municipal Systems Act (32 of 2000). In terms of the Municipal Systems Act, the municipal strategic spatial planning tool – the Spatial Development Framework (SDF) - formed part of the Integrated Development Plan (IDP). No comprehensive planning legislation was provided for in the Act.

In 2001, the White Paper on Spatial Planning and Land Use Management proposed the following elements of a new spatial planning and land use management system:¹

- **Principles.** The basis of the system will be principles and norms aimed at achieving sustainability, equality, efficiency, fairness and good governance in spatial planning and land use management, which all planning authorities should adhere to
- **Land use regulators.** The most prevalent land use regulators will be municipalities
- **IDP-based local spatial planning.** The inclusion of the SDF in the integrated development plan, with a direct legal link to the land use management scheme, is an essential step towards integrated and coordinated planning for sustainable and equitable growth and development
- **A uniform set of procedures for land development approvals.** One set of such procedures for the whole country, and the alignment of the procedures for land development approval with those presently required in terms of the Environment Conservation Act (73 of 1989) for environmental impact assessments
- **National spatial planning frameworks.** National spatial planning frameworks around particular programmes or regions. This will not be a national plan as such but will rather be a policy framework for sustainable and equitable spatial planning around national priorities.

In this context, it was recognised in the National Development Plan (NDP) (2013) that reform of the planning system was required. Firstly, the importance of forward planning / strategic planning was recognised:² “A plan-led system is needed to bring focus and allow long-term public interests to guide the development of places”.

¹ Extract / summary from White Paper on Spatial Planning and Land Use Management, 2001 (Executive Summary)

² National Planning Commission. 2011. National Development Plan. Vision 2030, p251

Secondly, it was recognised that far reaching reform of the legislative system currently regulating planning was required:³

- Legislation on land-use management, as required by the Constitutional Court decision, needed to pave the way for a thorough review of the planning system. By 2016, further legislation would be presented to Parliament to address crosscutting aspects of spatial planning, which would facilitate simpler, more efficient decision-making on development applications. This might resolve the current fragmentation within the planning system, which divides sectors, for example, land-use management, environmental management, transportation planning and heritage
- Reform the current planning system to require all municipal and provincial plans, including integrated development plans, to be translated into spatial contracts that are binding across spheres of government
- Make provision in legislation for cross-boundary plans that would promote collaborative action in areas including biodiversity protection, climate change adaptation, heritage, tourism and transportation
- In developing a more effective system of governance for city-regions, reform the planning system to ensure integrated, city-region-wide coordination of planning.

As a response to chapter 8 of the NDP, The Draft Integrated Urban Development Framework (IUDF) (2014) vision is, “By 2030 South Africa should observe meaningful and measurable progress in reviving rural areas and in creating more functionally integrated, balanced and vibrant urban settlements. For this vision to be realised the country must clarify and relentlessly pursue a national vision for spatial development; sharpen the instruments for achieving this vision; [and] build the required capabilities in the state and among citizens” (IUDF, 2014: 6). The policy focuses on seven levers, which are directly related to achieving spatial transformation. The levers are:

1. Integrated transport and mobility
2. Integrated sustainable human settlements
3. Integrated infrastructure planning
4. Inclusive economic development
5. Efficient land governance and management
6. Empowered active communities
7. Effective urban governance

³ National Planning Commission. 2011. National Development Plan. Vision 2030, p252

Until the promulgation of SPLUMA, the system elements proposed in the 2001 White Paper on Local Government, and detailed in subsequent spatial policy, were not included in any legislation governing spatial planning and land use management.

The Development Facilitation Act (67 of 1995) (DFA), pre-dating the 2001 White Paper, was the only post-1994 piece of legislation that dealt with spatial development principles and a land use management mechanism. The DFA was applied in parallel to existing provincial and “homeland” planning legislation and mechanisms, and municipal Town Planning Schemes. In 2010, chapters 5 and 6 of the DFA dealing with land use management were declared unconstitutional. The DFA has been repealed with the finalisation of SPLUMA with other historic parallel planning related legislation including the:

- Removal of Restrictions Act (84 of 1967)
- Physical Planning Act (88 of 1967)
- Less Formal Township Establishment Act (113 of 1991)
- Physical Planning Act (125 of 1991)

In addition to a lack of new planning legislation, various pieces of legislation governing issues with a direct impact on spatial planning remained in force or were formulated post-1994. Examples of these are the:⁴

- Subdivision of Agricultural Land Act (70 of 1970)
- National Environmental Management Act (107 of 1998)
- Heritage Resources Act (25 of 1999)
- Mineral and Petroleum Resources Act (28 of 2002)

Introducing SPLUMA

SPLUMA was developed to legislate for a single, integrated planning system for the entire country. It contains the following elements:

- Definitions, objectives, definition of planning system and categories of spatial planning (Chapter 1)
- Development principles; provision for the development of norms and standards (Chapter 2).
- Intergovernmental support (Chapter 3)
- Spatial development frameworks (Chapter 4)
- Land use management schemes (Chapter 5)
- Land development management, including tribunals (Chapter 6)
- General provisions (Chapter 7).

⁴ SACN. 2012. Addressing the crisis of Planning Law Reform in South Africa, p18

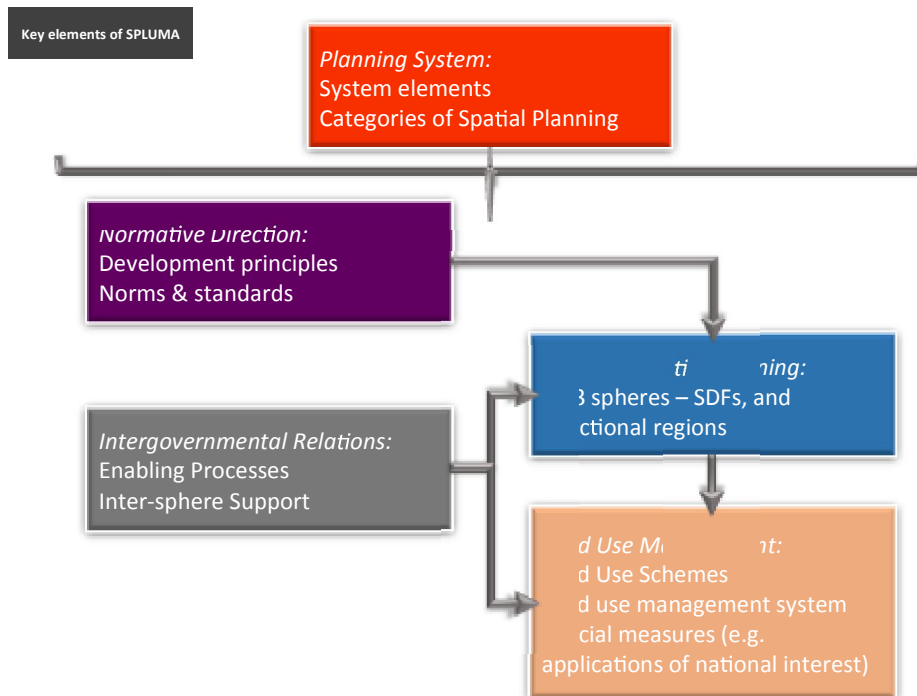
According to the Department of Rural Development and Land Reform (DRDLR), the custodian department of SPLUMA, the enactment of SPLUMA has brought seven fundamental changes to spatial planning and land use management. These changes are:⁵

- Reiteration of the sole mandate of municipalities where municipal planning (land development, land use management) is concerned, placing municipalities as authorities of first instance invalidating inconsistent parallel mechanisms, parallel systems and measures or institutions that existed to deal with land development applications
- Establishment and composition of municipal planning tribunals and appeals structures by municipalities to determine, and decide on, land development applications. Providing municipalities with options for tribunals and appeals structures to be created based on capacity
- Development of a single and inclusive land use scheme for the entire municipality with special emphasis on a municipal differentiated approach
- Preparation of respective SDFs by all three spheres of government, based on norms and standards guided by development principles
- Preparation of Regional Spatial Development Frameworks as may be required
- Strengthened intergovernmental support through enforcement, compliance and monitoring processes
- Alignment of authorisation processes where necessary on policies and legislation impacting land development applications and decision-making processes.

⁵ DRDLR. 2014. SPLUMA implementation: Challenges & Proposals: Presentation to the 8th National SALGA MM Forum Programme. 4-5 September 2014

Schematically, the components of SPLUMA can be presented as follows:

Figure 2: Components of SPLUMA



In summary, SPLUMA is a response to the challenges facing the planning domain in:

- Clearly defining each element of the planning system, from strategic spatial planning to management of land development, and specifying the links between the elements
- Legislating principle-led planning, giving normative direction to the content and intended outcomes of plans and planning mechanisms
- Through the planning principles, attempting to address the fragmented, unsustainable spatial development patterns still characterising the country
- Creating a single, integrated legal system dealing with planning in a uniform way for the country
- Specifying the role of each sphere of government in the planning system.

SPLUMA: Legal Context and Current Status

The Constitution provides the framework within which other policy and legislation, including SPLUMA, are to be formulated. The Bill of Rights to the Constitution provides normative guidance but also has spatial implications (e.g. the spatial form of cities has an impact on the individual's ability to participate in the economy and to have access to housing).

The Constitution also assigns powers and functions to the different spheres of government (sections 155 and 156). For municipalities it specifies a range of powers (section 156):

156. (1) A municipality has executive authority in respect of, and has the right to administer -

- (a) the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5; and

(b) any other matter assigned to it by national or provincial legislation.

The powers listed in Schedule 4, Part B, specifically includes **municipal planning**.

SPLUMA was enacted by the President of the Republic of South Africa on 5 August 2013. It will however only become operational on a date fixed by the President by proclamation in the Government Gazette.

The timeline for SPLUMA coming into operation is partially reliant on the readiness of municipalities to implement its requirements, as well as its regulations being completed and promulgated. The challenge is that the timeline is also in response to the Constitutional Court Judgment on 18 June 2010 regarding the DFA.

At that date, the Constitutional Court delivered judgment in the application by the City of Johannesburg Metro Municipality (CJMM) for the confirmation of an order made by the Supreme Court of Appeal, declaring Chapters 4 and 6 of the DFA unconstitutional and thus invalid. This judgment was based on the fact that the Constitution sets “municipal planning” as a local government function. The Court suspended the order of invalidity for 24 months, to allow Parliament to rectify the defects in the Act, or to pass new legislation (i.e. by 17 June 2012).

Part 3: Understanding and Assessing Spatial Transformation

SPATIAL TRANSFORMATION

Apartheid planning and development was synonymous with segregation, seclusion and isolation. Since the first democratic elections in South Africa in 1994, the country has been grappling at various levels from rhetoric to practice, through legislation, policies, programmes and projects with the urban form created by apartheid.

It has been widely acknowledged that the apartheid spatial form of the country is not desired and that major redress is needed to make the country more inclusive, connected and efficient. Spatial transformation is seen as prerequisite for addressing the physical manifestations of the past administration.

Defining Spatial Transformation

There is no clear agreed on definition for spatial transformation. It is often considered as “a broad term used very loosely in public policy, academic research and popular writing” and in its crudest form is referred to as “major urban change or restructuring” (Turok, 2014:74).

The concept of spatial transformation has different meanings internationally which range from basic upgrading projects in a specific locality to large-scale regional policy intervention. These international definitions do not suit South Africa as the concept has evolved in a particular way, given our needs to redress the outcome of the past (Oranje, 2014).

In his paper on *Transit Oriented Development: An appropriate tool to drive improved mobility and accessibility in South African cities*, Geoffrey Bickford (2014) of the South African Cities Network utilized the work of Williams (2000) who describes spatial transformation as “tension-ridden planning-in-motion”. This apt description acknowledges that spatial transformation is contentious, continuous and “requires reinvention, re-imagination and exploration” (Bickford, 2014:107). Furthermore, it is considered to be complex, multidimensional, open-ended and heterogeneous (Bickford, 2014; Ovens, 2012).

The draft Integrated Urban Development Framework (2014) considers spatial transformation as one of its four strategic goals. It says that spatial transformation should “forge new spatial forms in settlement, transport, social and economic areas” (IUDF, 2014:23). It also recognises that these should be achieved through the seven levers that it proposes.

While a single definition of spatial transformation remains elusive, the readings have highlighted key elements essential to understanding the concept within the South African context. These elements are discussed below.

Understanding the Elements of Spatial Transformation

The current challenges inherent to the spatial structure of development in the country have aided in understanding what the specific dimensions / elements of spatial transformation could be.

The 2030 vision for human settlements as contained in the NDP unpacks a range of challenges related to the current spatial structure of settlements as its states that “By 2050, South Africa will no longer have: poverty traps in rural areas and urban townships; workers isolated on the periphery of cities; inner cities controlled by slumlords and crime; sterile suburbs with homes surrounded by high walls and electric fences;

households spending 30 percent or more of their time, energy and money on daily commuting; decaying infrastructure with power blackouts, undrinkable water, potholes and blocked sewers; violent protests; gridlocked roads and unreliable public transport; new public housing in barren urban landscapes; new private investment creating exclusive enclaves for the rich; fearful immigrant communities living in confined spaces; or rural communities dying as local production collapses.” (NDP, 2012: 233-4).

Furthermore, in the 2011 edition of the “State of the Cities Report”, questions were raised regarding, “the nature and pace of spatial, social and economic transformation, and about the durability of these changes. Are South African cities tied into a narrow, exclusionary and unsustainable growth path at the risk of future disorder or disaster? Are they reducing their dependence on private transport, non-renewable energy sources and low density, highway-oriented development? Is any progress being made in relation to the structural causes of unemployment, poverty and inequality, including spatial segregation?”

Responses to address these issues can be found at different levels and can be addressed through a number of interventions, including SPLUMA. In addition, at a macro level, key drivers of spatial transformation include economic, social, governance and spatial drivers (Turok, 2014). Due to the nature of this exploration further driver “governance” has been added to the framework. Within each of these drivers are various criteria that aid, impact, influence and are influenced by each other as well as other elements. The list is not exhaustive but is intended to provide a sense of the broad nature of spatial transformation. Elements of the key drivers that could be used to understand SPLUMA include:

Economic drivers:

- Shared, sustainable, equitable, efficient and inclusive growth

Social drivers:

- Shared, sustainable, equitable, efficient and inclusive growth
- Integrated and sustainable human settlements
- Empowered active communities

Spatial drivers:

- Greater connectivity through space, particularly in urban areas
- Integrated transport and mobility
- Integrated urban infrastructure
- Efficient land governance and management

Governance drivers:

- Effective urban governance
- Deepening democracy
- The active, integrated and harmonised participation of all three spheres of government
- Good leadership

While the various elements discussed above provide a rudimentary framework to understand the extent to which SPLUMA can address spatial transformation, it is clear that SPLUMA alone cannot effect spatial transformation. SPLUMA is one piece of a larger transformative jigsaw puzzle, which includes other legislation, policies, priorities, programmes and projects. The key is to understand the extent to which SPLUMA can aid this transformation and to acknowledge its role in relation to the other pieces of the puzzle (Ovens, 2012). The framework above will serve, as the lens through which this will be explored.

SPLUMA: POTENTIAL SPATIAL TRANSFORMATION LEVERS

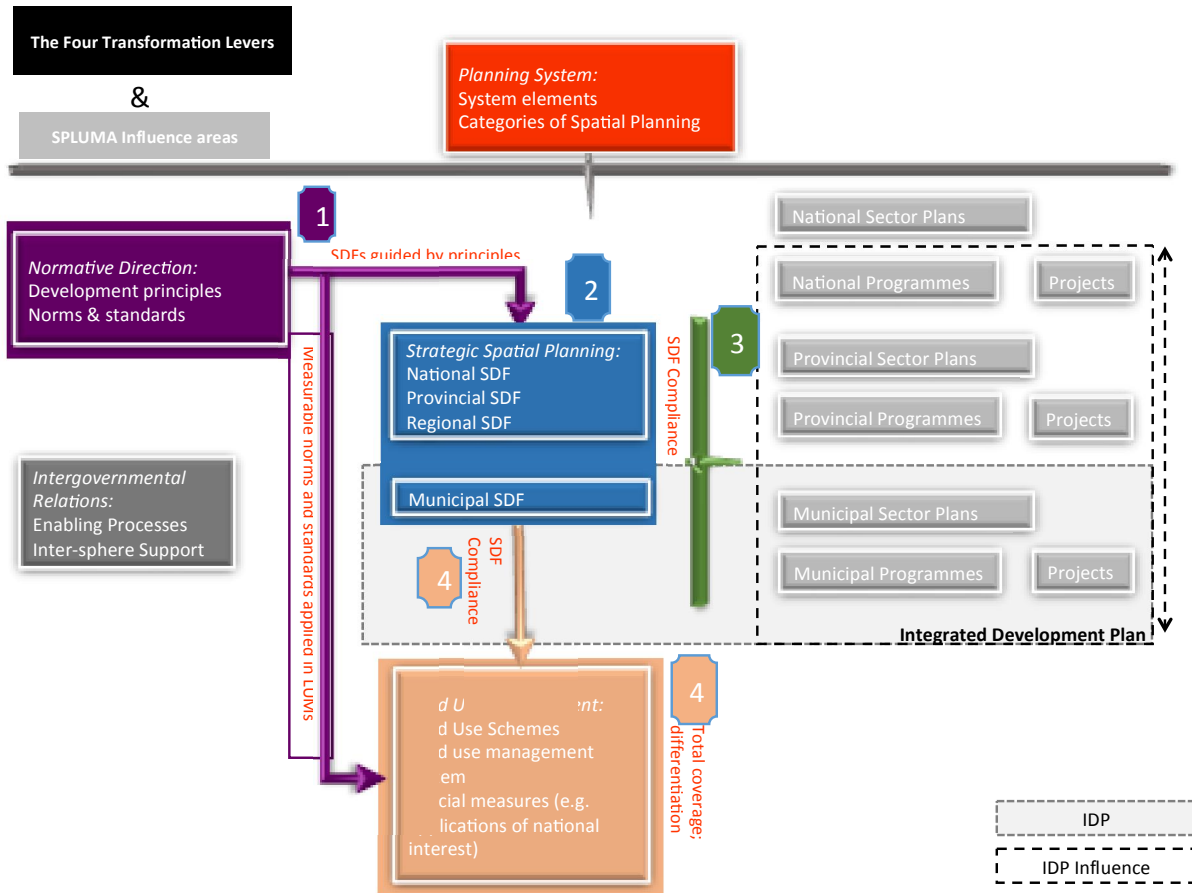
SPLUMA is a wide-ranging piece of legislation, defining the planning system, and addressing normative direction, planning instruments, planning processes / institutional arrangements, and supportive actions in the realm of intergovernmental relations. SPLUMA's role as a transformation tool will as such play out at various levels and in various stages in the planning process and system. In order to make sense of this role, it was considered necessary to unpack the various components and provisions of SPLUMA, and identify a range of specific **transformation levers**. For the purpose of this report, a transformation lever is defined as an aspect of SPLUMA (including normative content, processes, mechanisms and systems) that could directly or indirectly contribute to spatial transformation in light of the framework lens that has been developed above.

The transformation levers to be addressed in this report are shown in the diagram below, also setting them in the context of the broader planning system referred to (but not directly addressed) in SPLUMA. The transformation levers consist of (1) the specific components of SPLUMA, (2) linkages between the components and (3) linkages to policy / legislation that do not form part of SPLUMA but does have an impact on spatial development.

These specific transformation levers form the focus of this study for the following reasons:

- They comprise the normative content of SPLUMA
- They comprise the key mechanisms / products in terms of SPLUMA (e.g. SDF, land use schemes)
- In order for the normative content of SPLUMA to be implemented through the mechanisms, the linkages and compliance requirements between the normative component and mechanisms are critical.

Figure 3: The four Transformation Levers



Four transformation levers have been identified in this study. They include:

- Level 1: Principles and normative direction to SDFs and LUMs
- Level 2: The SDF
- Level 3: SDF Compliance and Sector Planning / Implementation
- Level 4: SDF Compliance and Land Use Management

The transformation levers have been classified as follows for the purpose of this report:

- Content / directive levers: these levers directly relate the key spatial transformation drivers to spatial planning. These include: development principles (Lever 1) and the content requirements for SDFs (part of Lever 2)
- Mechanisms as levers: The SDFs (Lever 2) and Land Use Schemes (Lever 4) are the key mechanisms contained in SPLUMA. The SDFs and Land Use Schemes should get content / normative direction from the development principles
- Processes as levers: This includes the process of alignment, between the development principles and SDFs, between SDFs and Land Use Schemes, as well as the SDFs and sector plans (Levers 2,3 and 4)

- Systems as levers: The prominent systems in SPLUMA are the Land Use Management System and Municipal Planning Tribunals (Lever 4). The role of the systems is to apply the SDFs and Land Use Schemes.

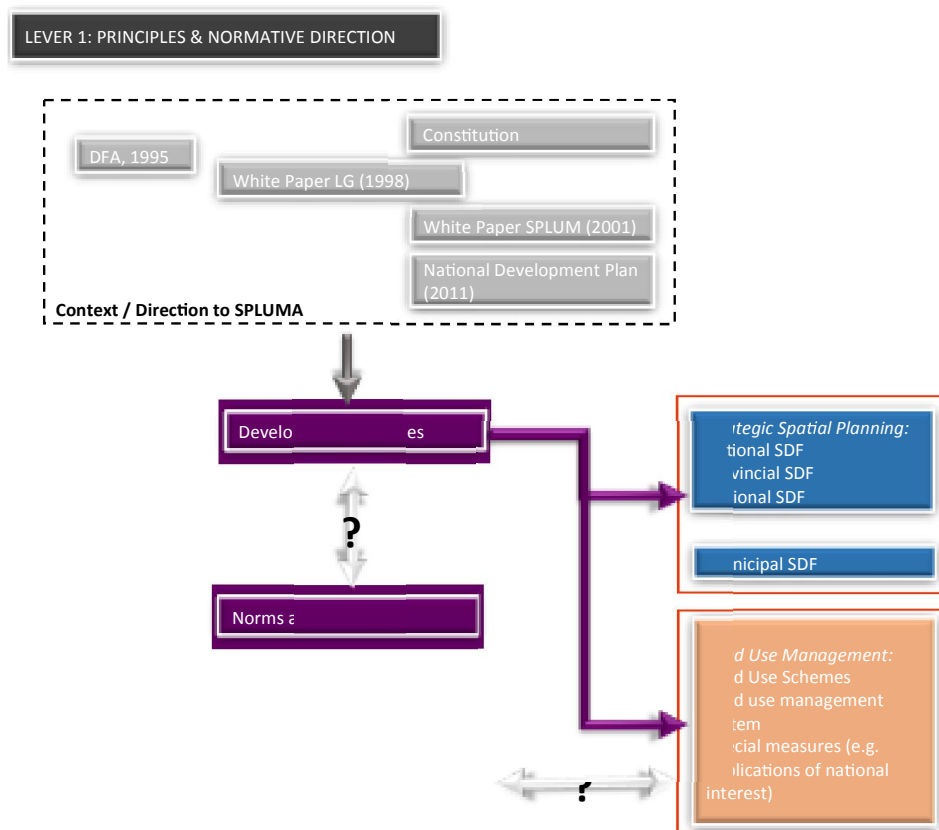
In the next sections, the different levers and the potential areas of influence in terms of spatial transformation will be discussed in more detail.

Lever 1: PRINCIPLES AND NORMATIVE DIRECTION TO SDFs AND LUMs

Understanding the Lever and its Link to Spatial Transformation

The highest level of intervention in terms of SPLUMA consists of the development principles, and the provision for the formulation of norms and standards, contained in Sections 7 and 8 of the Act.

Figure 4: Lever 1: Principles and Normative Direction



The development principles contained in Section 7 of SPLUMA are stated in table 3 below.

Table 3: SPLUMA Principles

Excerpt of SPLUMA Principles
<p>(a) The principle of spatial justice, whereby—</p> <p>(i) past spatial and other development imbalances must be redressed through improved access to and use of land;</p> <p>(ii) spatial development frameworks and policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterised by widespread poverty and deprivation;</p> <p>(iii) spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged communities and persons;</p> <p>(iv) land use management systems must include all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas;</p> <p>(v) land development procedures must include provisions that accommodate access to secure tenure and the incremental upgrading of informal areas; and</p> <p>(vi) a Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application;</p>
<p>(b) the principle of spatial sustainability, whereby spatial planning and land use management systems must—</p> <p>(i) promote land development that is within the fiscal, institutional and administrative means of the Republic;</p> <p>(ii) ensure that special consideration is given to the protection of prime and unique agricultural land;</p> <p>(iii) uphold consistency of land use measures in accordance with environmental management instruments;</p> <p>(iv) promote and stimulate the effective and equitable functioning of land markets;</p> <p>(v) consider all current and future costs to all parties for the provision of infrastructure and social services in land developments;</p> <p>(vi) promote land development in locations that are sustainable and limit urban sprawl; and</p> <p>(vii) result in communities that are viable;</p>
<p>(c) the principle of efficiency, whereby—</p> <p>(i) land development optimises the use of existing resources and infrastructure;</p> <p>(ii) decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts; and</p> <p>(iii) development application procedures are efficient and streamlined and timeframes are adhered to by all parties;</p>
<p>(d) the principle of spatial resilience, whereby flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and</p>

Excerpt of SPLUMA Principles
environmental shocks;
(e) the principle of good administration , whereby—
(i) all spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act;
(ii) all government departments must provide their sector inputs and comply with any other prescribed requirements during the preparation or amendment of spatial development frameworks;
(iii) the requirements of any law relating to land development and land use are met timeously;
(iv) the preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them; and
(v) policies, legislation and procedures must be clearly set in order to inform and empower members of the public.

The White Paper on Spatial Planning and Land Use Management, 2001, established the foundation for the planning principles currently contained in the NDP and SPLUMA. There is close alignment and clear policy direction visible in these sets of principles. The themes of the principles contained in the Whiter Paper, NDP and SPLUMA are summarised in the table 4 below.

Table 3: Planning Principles Thematic Areas

White Paper on Spatial Planning and Land Use Management, 2001	National Development Plan	SPLUMA
The principle of equality	Spatial justice	The principle of spatial justice
The principle of sustainability	Spatial sustainability	The principle of spatial sustainability
	Spatial resilience	The principle of spatial resilience
	Spatial quality	
The principle of efficiency	Spatial efficiency	The principle of efficiency
The principle of fair and good governance		The principle of good administration
The principle of integration		

The principles contained in SPLUMA are as such not a thematic departure from preceding policy and legislation and can be regarded as a more detailed exposition of the general normative direction contained in planning policy and legislation since 1994. The key issues of spatial transformation as defined through the framework lens with its key four drivers are reflected in the White paper and the NDP have directly been taken up in the SPLUMA principles.

The principles contained in SPLUMA are a content-focused transformation lever. It translates the spatial transformation issues that need to be addressed in the South African context into a legislated guideline that is intended to shape the content and outcomes of spatial planning.

Section 6 of SPLUMA specifies that:

6. (1) The general principles set out in this Chapter apply to all organs of state and other authorities responsible for the implementation of legislation regulating the use and development of land, and guide—

- (a) the preparation, adoption and implementation of any spatial development framework, policy or by-law concerning spatial planning and the development or use of land;
- (b) the compilation, implementation and administration of any land use scheme or other regulatory mechanism for the management of the use of land;
- (c) the sustainable use and development of land;
- (d) the consideration by a competent authority of any application that impacts or may impact upon the use and development of land; and
- (e) the performance of any function in terms of this Act or any other law regulating spatial planning and land use management.

This **legislates for the link between, development principles and planning instruments and processes** that form part of the spatial planning system. This in itself is a potentially significant contribution to ensuring that common principles are embedded in spatial planning and implementation.

Furthermore, Section 8 of SPLUMA makes provision for the Minister to prescribe norms and standards for land use management and land development. Section 8 includes both normative and more detailed process-related aspects that have to be addressed in the norms and standards.

At the time of writing, norms and standards were not yet formulated.

Key Issues

The following issues have been identified regarding the level of detail / adequate guidance given by principles:

- Not all principles are unpacked to the same level of detail. For example, the principle of spatial resilience is not unpacked in any specific detail as such it will be difficult to take guidance from this principle or to assess if this principle has been adhered to in the case of a SDF
- In some instances, detailed clarification of principles are given and include specific measures (e.g. in the case of spatial justice and good administration). In other instances, (e.g. sustainability), the principle is defined at a conceptual level

- Principles contain both process and content issues. Some issues are at the level of outcomes, while others describe the desired characteristics of processes
- No order of preference or ranking is provided for the principles to allow for the principles to be prioritised against each other or against a specific outcome.

Other issues that have emerged pertaining to the development principles include:

- Developmental non-negotiable outcomes to be achieved by SPLUMA are not clear
- There is a danger that a focus on procedures and mechanisms can move the emphasis away from the normative aspects of SPLUMA
- Guiding principles are often not the strongest mechanism to set normative direction, as these are easily legally contested. Instead using the long title of legislation⁶ and specific direct clauses in legislation could potentially be more effective
- Spatial justice is an important principle. Its application should however be considered in view of the functioning of the private sector as an important role player in the development of land. Emphasis should be placed on e.g. financial development incentives.

As with any normative / conceptual statement, the principles will be open to interpretation when applied to a specific local context. From the perspective of maintaining flexibility, allowing for differentiated sets of local circumstances, this may be a positive aspect. If, however, clear guidance is not given, the outcomes strived for may not be achieved as they will be “lost” at the highest levels of planning that should guide other detailed plans and planning mechanisms.

There is an opportunity for the principles to be refined in provincial planning legislation. It may be more useful and practical to refine the principles to refer to two separate but related aspects:

- Specify spatial outcomes to realise the broad principles, in terms of specific measures. For example, specific development forms such as infill development and densification to be given preference over low density green-fields development in outlying areas.
- Specify system characteristics and mechanisms that will be favoured (e.g. the efficiency measures already contained in the principles, focus on incentives for private development).

⁶ Long Title: “The formal title appearing at the head of a statute (such as an Act of Parliament) or other legislative instrument. The long title is intended to provide a summary description of the purpose or scope of the instrument; it contrasts with the short title, which is merely intended to provide a convenient name for referring to it. Like other descriptive components of an Act (such as the preamble, section headings, side notes, and short title) the long title seldom affects the operative provisions of an Act, except where the operative provisions are unclear or ambiguous and the long title provides a clear statement of the legislature's intention” (Source: http://en.wikipedia.org/wiki/Long_title, 23/02/15)

In terms of the norms and standards, it is expected that issues will only emerge once the norms and standards have been formulated. A preliminary issue that has been identified is that the relationship between the norms and standards and the various types of SDF and the Land Use Management System will have to be clarified in view of the sub-section of the Act that requires an analysis of and framework for desired land use patterns:

(2) The norms and standards must—

(d) include—

- (i) a report on and an analysis of existing land use patterns;
- (ii) a framework for desired land use patterns;
- (iii) existing and future land use plans, programmes and projects relative to key sectors of the economy;
and
- (iv) mechanisms for identifying strategically located vacant or under-utilised land and for providing access to and the use of such land;

(f) differentiate between geographic areas, types of land use and development needs;

In conclusion, the SPLUMA principles are consistent with the national spatial transformation agenda as set in the White Paper on Spatial Planning and Land Use Management and the NDP. Some of the principles are however broad and do not set clear outcomes, which may have a negative impact on the extent to which they are taken up in spatial planning. The effectiveness of the norms and standards will only become apparent once they are formulated.

Potential Opportunities for Spatial Transformation

The value of the principles as a transformation lever will depend on their uptake in provincial legislation, as well as in planning processes and mechanisms at all levels. The principles are in general not contentious or “new” in terms of content and are aligned to current policy, significantly the NDP.

The link between the principles and spatial planning is legislated from the level of strategic spatial planning (SDF) down to individual land use applications. The potential strength of this section of SPLUMA as a transformation lever is found in the following:

- Principles apply to **all** organs of state and other authorities involved in land development and not only to municipalities
- In the formulation of SDFs, land use schemes, consideration of applications, and any other legislation regulating spatial planning and land use management, the organs of state are **legally compelled** to be guided by the principles.

The realisation of this opportunity for spatial transformation however depends on the appropriate contextualisation of the principles firstly in SDFs, but also in provincial legislation and land use management

decisions. The test will be in their translation into tangible outcomes for a specific spatial area (e.g. the spatial form proposed in an SDF, or the way they are interpreted in the consideration of land use applications).

Lever 2: SPATIAL DEVELOPMENT FRAMEWORKS

Understanding the Lever and its Links to Spatial Transformation

Chapter 4 of SPLUMA requires each sphere of government to compile Spatial Development Frameworks (SDFs).

The SDFs can be considered as the **most critical lever to achieve spatial transformation**. The various levels of SDF determine the key elements of the desired spatial structure of the relevant spaces where they apply and provide a long-term development vision. The SDFs are the mechanisms through which the transformation principles contained in SPLUMA should find expression in a specific spatial context. If the relevant aspects of spatial transformation are not appropriately considered and applied at this level of planning, the transformation drive through SPLUMA may fail in its entirety.

Figure 5 Spatial Development Frameworks



The SDFs are the primary mechanisms through which the **development principles are to be interpreted for a specific spatial context**. SDFs must be guided by the development principles, as stated in Section 6 of SPLUMA, and confirmed in later sections pertaining to the national and municipal SDFs (with the exception of Provincial SDFs):

6. (1) The general principles set out in this Chapter apply to all organs of state and other authorities responsible for the implementation of legislation regulating the use and development of land, and guide—

(a) the preparation, adoption and implementation of any spatial development framework, policy or by-law concerning spatial planning and the development or use of land;

14. The national spatial development framework must—

(a) give effect to the development principles and norms and standards set out in Chapter 2;

19. A regional spatial development framework must—

(a) give effect to the development principles and applicable norms and standards set out in Chapter 2;

21. A municipal spatial development framework must—

- (a) give effect to the development principles and applicable norms and standards set out in Chapter 2;

In addition to guidance by the development principles, SPLUMA **directly refers to the transformation role of SDFs**. Section 12 of SPLUMA, addressing the preparation of SDFs by all spheres of government, contains various clauses aimed directly at spatial transformation:

12. (1) The national and provincial spheres of government and each municipality must prepare spatial development frameworks that—

- (h) include previously disadvantaged areas, areas under traditional leadership, rural areas, informal settlements, slums and land holdings of state-owned enterprises and government agencies and address their inclusion and integration into the spatial, economic, social and environmental objectives of the relevant sphere;

- (i) address historical spatial imbalances in development;

- (j) identify the long-term risks of particular spatial patterns of growth and development and the policies and strategies necessary to mitigate those risks;

This relates directly to the key drivers of the framework “lens” on spatial transformation that has been developed for this study. It impacts on the social and spatial drivers and especially on human settlements, as set out earlier in this report.

In the context of SPLUMA, the SDFs also have to play the role of an **integration / coordination mechanism**, not only being the link between development principles and implementation, but also between different spheres of government, between different sector plans and sector requirements, as well as budgeting and investment. Again, Section 12 of SPLUMA includes specific provisions in this regard:

12. (1) The national and provincial spheres of government and each municipality must prepare spatial development frameworks that—

- (c) represent the integration and trade-off of all relevant sector policies and plans;

- (d) guide planning and development decisions across all sectors of government;

- (e) guide a provincial department or municipality in taking any decision or exercising any discretion in terms of this Act or any other law relating to spatial planning and land use management systems;

- (f) contribute to a coherent, planned approach to spatial development in the national, provincial and municipal spheres;

- (g) provide clear and accessible information to the public and private sector and provide direction for investment purposes;

- (k) provide direction for strategic developments, infrastructure investment, promote efficient, sustainable and planned investments by all sectors and indicate priority areas for investment in land development;

- (l) promote a rational and predictable land development environment to create trust and stimulate investment;

In terms of integration / coordination, Section 12 goes as far as referring directly to specific sector interests:

12. (1) The national and provincial spheres of government and each municipality must prepare spatial development frameworks that—

- m) take cognisance of any environmental management instrument adopted by the relevant environmental management authority;
- (n) give effect to national legislation and policies on mineral resources and sustainable utilisation and protection of agricultural resources; and

Through SPLUMA, the Municipal SDF is framed as a **central, direction-giving and coordination mechanism**, as opposed to a “sector plan” that should form part of the Integrated Development Plan (IDP) as set out in the Municipal Systems Act. The Municipal SDF still has to be prepared as part of the IDP, but much more emphasis is placed on its direction giving and coordination aspects, for example:

21. A municipal spatial development framework must—

- d) identify current and future significant structuring and restructuring elements of the spatial form of the municipality, including development corridors, activity spines and economic nodes where public and private investment will be prioritised and facilitated;
- (m) provide the spatial expression of the coordination, alignment and integration of sector policies of all municipal departments;
- p) include an implementation plan comprising of—
 - (i) sectoral requirements, including budgets and resources for implementation;

Key Issues

The issues pertaining to SDFs are wide-ranging and are discussed below.

Differentiated roles of the SDFs of different spheres of government

The SDFs of the different spheres are required to be aligned with each other / be consistent with each other, with the **National SDF giving the highest, broadest level of land use guidance**, but also playing a **coordinating** role:

14. The national spatial development framework must—

- (a) give effect to the development principles and norms and standards set out in Chapter 2;
- (b) give effect to relevant national policies, priorities, plans and legislation;
- (c) coordinate and integrate provincial and municipal spatial development frameworks;
- (e) indicate desired patterns of land use in the Republic;
- (f) take cognisance of any environmental management instrument adopted by the relevant environmental management authority.

In terms of the **Provincial SDF, strong emphasis is placed on the coordination role of the plan**, in terms of spheres, sectors and municipalities. It has to be consistent with the National SDF, and SPLUMA (Section

16) includes provisions for setting a **framework for municipal planning**, including specific requirements such as delineating areas not to be developed with certain land uses.

15 (2) A provincial spatial development framework must be consistent with the national spatial development framework.

16. A provincial spatial development framework must—

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

22. (3) Where a provincial spatial development framework is inconsistent with a municipal spatial development framework, the Premier must, in accordance with the Intergovernmental Relations Framework Act, take the necessary steps, including the provision of technical assistance, to support the revision of those spatial development frameworks in order to ensure consistency between the two.

For the **Municipal SDF**, the emphasis is on **detailed spatial planning**. Content requirements have been extended compared to the MSA to include specific spatial concepts such as nodes and corridors, sector issues such as areas where provincial inclusionary housing policy may be applicable and quantitative information on aspects such as expected population and economic growth (refer to discussion of Municipal SDF below). It is the only level of SDF, which **directly guides land use management**:

22. (1) A Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of this Act or any other authority required or mandated to make a land development decision in terms of this Act or any other law relating to land development, may not make a decision which is inconsistent with a municipal spatial development framework.

In addition, SPLUMA provides for a **Regional SDF** to be compiled for what can be interpreted to be a **functional region that does not necessarily correspond to administrative boundaries**. The region could for example be larger or smaller than (within) a municipal area. It is however unclear how such a Regional SDF would relate to Provincial or Municipal SDFs, besides a clause requiring the Provincial SDF to coordinate the municipal and regional SDFs. There is also no provision making such an SDF binding on municipal land use management processes or land use schemes. According to an interview with DRDLR, the intention of the Regional SDF was to address planning for functional regions that may span across multiple municipalities or provinces. The lack of clarity in this regard allows for various interpretations. Two examples cited include the

City of Tshwane's intention to develop a regional SDF just for its inner city to aid its funding and fund raising strategy and the Gauteng Planning Commission's intention to develop a regional SDF to further embed the city region concept in the Province.

While conceptually the intention of the levels of SDF seems clear, namely broad normative and strategic guidance through national and provincial SDFs and detailed planning through Municipal SDFs, the alignment of these plans and its implications will have to be tested in practice. The challenge will be for the National and Provincial SDFs to give adequate guidance to ensure application of development principles / transformation outcomes and achieve synergy with lower level plans, while at the same time not infringing on the constitutional mandates of municipalities.

Expanded role and content of Municipal SDFs

The Municipal SDF forms the interface between mostly broad, conceptual principles and direction-giving broader scale plans, and the reality of established development patterns and trends, vested interests and potentially conflicting needs on the ground. The content that is required ranges from application of development principles and a long-term development vision, down to implementation and investment programmes. Coupled to this is the technical challenge of compiling an in-depth, evidence-based strategic plan in the context of a lack of human and financial resources and a lack of spatially referenced information.

This combination of giving effect to land development principles, norms and standards (Sections 7 and 8 of SPLUMA) and SDF content requirements (Section 12 and Section 21 of SPLUMA), adds to the integration / alignment role the Municipal SDF needs to play as part of the IDP process. This contributes to higher levels of technical and process complexity that Municipalities will have to deal with in drafting and revising SDFs.

Table 4 presents a summary of the SDF content in terms of the MSA Regulations⁷, set against the content requirements as stipulated in SPLUMA (Section 21).

⁷ As summarized in Department of Rural Development and Land Reform, 2011. Draft Guidelines for the Formulation of Spatial Development Frameworks (Draft 8; August 2011).

Table 4: SDF Content Requirements

SDF Content (MSA Regulations, 796 of 2001)	SDF Content (SPLUMA, Section 21)
<ul style="list-style-type: none"> • The desired spatial form and pattern of land use for the municipality, which must be visually represented (i.e. a plan) • The desired direction and nature of growth • Areas targeted for redressing past imbalances and spatial reconstruction • Conservation of the built and natural environment • Where particular land use types will be encouraged or discouraged • Urban edges • Where development and infrastructure investment (both public and private) should take place • Where strategic intervention is required and priority spending should be directed • Objectives, strategies and policies to achieve the desired spatial form • Programs and projects for the development of land • Guidelines for a land use management system • A capital investment framework • A strategic environmental assessment of impact of the SDF • A reflection on how the SDF is aligned with the planning of neighbouring municipalities and national and provincial policies and legislation • A reflection on how the SDF gives effect to the DFA principles 	<p>21. A municipal spatial development framework must—</p> <ul style="list-style-type: none"> (a) give effect to the development principles and applicable norms and standards set out in Chapter 2; (b) include a written and spatial representation of a five-year spatial development plan for the spatial form of the municipality; (c) include a longer term spatial development vision statement for the municipal area which indicates a desired spatial growth and development pattern for the next 10 to 20 years; (d) identify current and future significant structuring and restructuring elements of the spatial form of the municipality, including development corridors, activity spines and economic nodes where public and private investment will be prioritised and facilitated; (e) include population growth estimates for the next five years; (f) include estimates of the demand for housing units across different socioeconomic categories and the planned location and density of future housing developments; (g) include estimates of economic activity and employment trends and locations in the municipal area for the next five years; (h) identify, quantify and provide location requirements of engineering infrastructure and services provision for existing and future development needs for the next five years; (i) identify the designated areas where a national or provincial inclusionary housing policy may be applicable; (j) include a strategic assessment of the environmental pressures and opportunities within the municipal area, including the spatial location of environmental sensitivities, high potential agricultural land and coastal access strips, where applicable; (k) identify the designation of areas in the municipality where incremental upgrading approaches to development and regulation will be applicable; (l) identify the designation of areas in which— <ul style="list-style-type: none"> (i) more detailed local plans must be developed; and

SDF Content (MSA Regulations, 796 of 2001)	SDF Content (SPLUMA, Section 21)
	<p>(ii) shortened land use development procedures may be applicable and land use schemes may be so amended;</p> <p>(m) provide the spatial expression of the coordination, alignment and integration of sectoral policies of all municipal departments;</p> <p>(n) determine a capital expenditure framework for the municipality's development programmes, depicted spatially;</p> <p>(o) determine the purpose, desired impact and structure of the land use management scheme to apply in that municipal area; and</p> <p>(p) include an implementation plan comprising of—</p> <ul style="list-style-type: none"> (i) sectoral requirements, including budgets and resources for implementation; (ii) necessary amendments to a land use scheme; (iii) specification of institutional arrangements necessary for implementation; (iv) specification of implementation targets, including dates and monitoring indicators; and (v) specification, where necessary, of any arrangements for partnerships in the implementation process.

There are however various challenges in terms of the content requirements and processes that will have to be addressed to ensure the effectiveness of the Municipal SDF:

- There is a restricted time frame to undertake this detailed and in-depth planning process. The time frames of the annual IDP process, which comprises of several sector plans⁸ including the SDF, may be too tight to allow for proper consideration of the wide range of complex issues and the collection of the detailed information required completing the SDF. The time frame should also allow for intensive public participation and interactions with various sector departments and government agencies.

⁸ For example, housing chapters in terms of the Housing Code, should form part of the IDP process, as such the time frame for preparation is one year. Another example is the ITPs which are prepared for a five-year period and reviewed on an annual basis as part of the IDP process. (National Land Transport Act (5 of 2009)).

Preparing a new SDF for a metropolitan area may require a multi-year timeframe. For example, in the interviews it has been mentioned that in New Zealand where sector alignment also forms part of the SDF process, the process typically takes two to three years

- The capacity of many municipalities to undertake such a demanding project. Although the cities in general are better capacitated than small rural municipalities, the range and depth of issues to be dealt with, as well as the range and number of stakeholders, are more extensive than previously. Adding to this challenge is the lack of reliable information that is current and mapped at a fine grain to allow for consideration in local planning. Section 11 of SPLUMA dealing with municipal differentiation may become an important consideration in the SDF process
- Explicitly binding municipal SDF formulation to specific sector issues (e.g. environmental considerations, mineral rights and the protection of agricultural land), and the requirement of alignment between municipal and provincial SDFs, requires interaction with sector departments in the other spheres of government. If there is a lack of commitment to the alignment process, particularly with regards the sharing information, the quality of the Municipal SDF will be negatively affected
- It will be critical for Municipal SDF content to be framed in a principle-led, transformation focussed approach. Due to the extensive content requirements, this is a danger that the “checklist approach” that has been experienced in IDP formulation will detract from the normative role to be played by SDFs.

Relationship between Municipal SDF, IDP and Other Municipal Processes

In terms of Section 20 of SPLUMA, the SDF is still recognised as part of the IDP:

20. (2) The municipal spatial development framework must be prepared as part of a municipality’s integrated development plan in accordance with the provisions of the Municipal Systems Act.

Section 26 of the MSA indicates that an IDP must reflect a spatial development framework at an equivalent spatial scale to the other components of the IDP. However, in terms of the content specified for the Municipal SDF (Section 21), the SDF seems to be more of a direction-giving, distinct mechanism that is “parallel” to the IDP, but that also could duplicate some aspects of the IDP. This is especially true regarding the implementation plan required in terms of Section 21 (p). Some aspects of the SDF implementation plan may also duplicate what is contained in other mechanisms e.g. the Service Delivery and Budget Implementation Plans (SDBIPs) depending on the level of detail provided in the SDF.

During interviews with DRDLR, indication was given that the MSA Regulation and relevant sections of the MSA itself may be reviewed to align to SPLUMA.

It is unclear at this stage how the relationship between the IDP and SDF will be realised in practice. Although from the content of SDFs in terms of SPLUMA it is clear that a **direction-giving, coordinating role is envisaged**, the specific clause quoted above makes it unclear if this emphasis will also be reflected in the IDP / SDF process.

Further to the issues of the SDF-IDP link, there is also a relationship to other aspects of municipal development planning (e.g. infrastructure planning and investment, capital investment, budget alignment). In

the preamble to SPLUMA, it is indicated that spatial planning is insufficiently underpinned and supported by infrastructure investment.

Already at a principle level, there are a number of provisions that start to provide a framework for capital investment planning. Regarding the SDF, Clause 21 of SPLUMA specifically states that a Municipal SDF must:

(d) identify current and future significant structuring and restructuring elements of the spatial form of the municipality, including development corridors, activity spines and economic nodes where **public and private investment will be prioritised and facilitated**;

(f) include estimates of the demand for housing units across different socioeconomic categories and the planned location and density of future housing developments;

(h) **identify, quantify and provide location requirements of engineering infrastructure and services** provision for existing and future development needs for the next five years;

(i) identify the designated areas where a national or provincial inclusionary housing policy may be applicable;

(k) identify the designation of areas in the municipality where incremental upgrading approaches to development and regulation will be applicable;

(n) **determine a capital expenditure framework** for the municipality's development programmes, depicted spatially;

There are therefore strong legislative links between a municipality's SDF and the resource allocation component of the IDP. Both processes deal with resource allocation, and planning and development objectives that should be reached through capital investment and expenditure. This is further complicated by process requirements of the Municipal Finance Management Act, and the Division of Revenue Act's requirements in relation to Built Environment Performance Plans.

According to some of the stakeholders interviewed for this report, the Municipal SDF fits into a hierarchy of spatial plans, taking direction from the National and Provincial SDF. Others viewed this relationship as unclear, citing the provision that the SDF forms part of the IDP process, and that the relationship between the Provincial and Municipal SDFs is not hierarchical, but required mutual alignment.

Potential Opportunities for Spatial Transformation

Legislated National SDF and Provincial SDFs which are aimed at providing **strategic guidance and a high level framework** to guide and coordinate municipal spatial planning, addresses a gap which has existed since 1994, often leaving municipal strategic spatial planning to happen in a 'vacuum' of either a lack of higher level spatial guidance, or uncertainty about the legal status / enforceability of higher level plans. If the national and provincial spheres produce SDFs, which presents a spatial reflection of the development principles, and provide a clear transformation and coordination framework for municipal spatial planning, it would be a valuable step towards realising spatial transformation.

The **Municipal SDF** in terms of SPLUMA is a more **detailed, quantified document**. As such, it should give much clearer guidance to development. Should the principles, norms and standards be applied appropriately for the local circumstances, the SDF has the potential to be a strong transformation lever.

The **strong alignment / coordination role of the Municipal SDF** is another powerful lever for transformation – this aspect is discussed with regard to sector planning in the following section. In terms of municipal planning, stronger spatial guidance as part of the IDP process may lead to more strategic investment and implementation in the municipal space.

In order for the potential role of the SDF to be realised, the process issues and institutional arrangement of the planning process should not be disregarded. At a process / institutional level, the potential opportunities to mainstream spatial transformation include:

- Inclusion of spatial planning and sector alignment in the IDP process plan, with associated resource allocation to undertake the planning process
- Coordination of investment through spatial development programmes or spatial priority / restructuring areas.
- Prioritisation process of projects guided by SDF and desired spatial structure or outcomes.
- Implementation, monitoring and evaluation system linked to SDF and spatial outcomes.

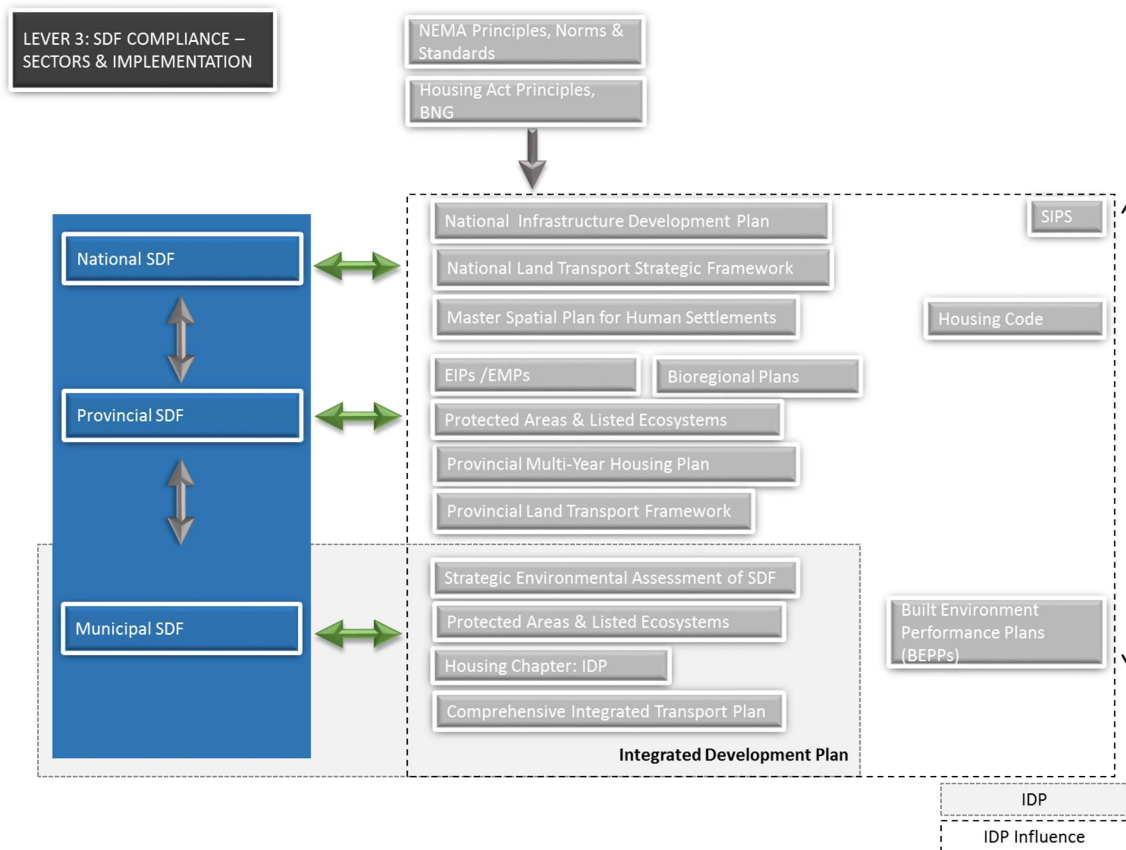
This lever provides the most direct links for SPLUMA to undertake and effect spatial transformation. Institutional, IGR and process issues will impact on the manner and degree to which spatial transformation issues are clearly addressed in the implementation of SPLUMA through this lever. Furthermore, the SDF is a multidimensional tool that requires constant checks and balances to actively ensure that issues of spatial transformation are being achieved.

Lever 3: SDF COMPLIANCE, SECTORS AND PLANNING IMPLEMENTATION

Understanding the Lever and its Links to Spatial Transformation

In SPLUMA, a strong emphasis has been placed on the role of the Municipal SDF in sector alignment.

Figure 6: SDF Compliance - Sectors and implementation



SPLUMA contains various provisions dealing with the link between strategic spatial planning and sector planning. It requires inclusion and alignment of sector plans, providing direction to public investment and strategic development, and also mentions specific sector instruments, legislation and policy applicable to specific sectors (text highlighted by authors):

12. (1) The national and provincial spheres of government and each municipality must prepare spatial development frameworks that—

(c) **represent the integration and trade-off of all relevant sector policies and plans;**

(f) contribute to a **coherent, planned approach to spatial development** in the national, provincial and municipal spheres;

(g) provide clear and accessible information to the **public and private sector and provide direction for investment purposes;**

(k) provide **direction for strategic developments, infrastructure investment**, promote efficient, sustainable and planned investments by all sectors and indicate priority areas for investment in land development;

(m) **take cognisance of any environmental management instrument** adopted by the relevant environmental management authority;

(n) give effect to national legislation and policies on **mineral resources** and sustainable utilisation and **protection of agricultural resources**;

12. (2) (a) The **national government, a provincial government and a municipality** must participate in the spatial planning and land use management processes that impact on each other to ensure that the plans and programmes are coordinated, consistent and in harmony with each other.

(3) The national spatial development framework must contribute to and give spatial expression to national development policy and plans as well as integrate and **give spatial expression to policies and plans emanating from the various sectors of national government**, and may include any regional spatial development framework.

(4) A provincial spatial development framework must contribute to and express provincial development policy as well as integrate and **spatially express policies and plans emanating from the various sectors of the provincial and national spheres** of government as they apply at the geographic scale of the province.

(5) A municipal spatial development framework must assist in **integrating, coordinating, aligning and expressing development policies and plans emanating from the various sectors of the spheres of government** as they apply within the municipal area.

(6) Spatial development frameworks must outline specific arrangements for prioritising, mobilising, sequencing and implementing **public and private infrastructural and land development investment** in the priority spatial structuring areas identified in spatial development frameworks.

Specific provisions in SPLUMA also define the SDF as the “lead mechanism” to ensure integration:

Legal effect of provincial spatial development framework

17 (2) All provincial development plans, projects and programmes must be consistent with the provincial spatial development framework.

Further to Section 12 (5) as quoted above, Section 21 of SPLUMA further confirms the sector alignment role of the Municipal SDF:

21 (m) provide the spatial expression of the coordination, alignment and integration of sectoral policies of all municipal departments;

(n) determine a capital expenditure framework for the municipality’s development programmes, depicted spatially;

(p) include an implementation plan comprising of—

(i) sectoral requirements, including budgets and resources for implementation;

By virtue of the SDF being part of the IDP, its status as guiding mechanism in municipal planning and implementation is further established in terms of the role of the IDP as defined in the Municipal Systems Act, 2000 and its Regulations, 2001.

For the purpose of this report (and within the scope of this study), specific sector requirements and links to the SDF in terms of SPLUMA and sector legislation dealing with sector planning are explored. These include:

- **The natural environment**

- Human settlements / housing
- Strategic infrastructure investment and transport.

These three sectors have been chosen as examples to explore the extent to which the SDF interacts with other sectors to aid spatial transformation. This section highlights the complexity involved as SPLUMA begins to interact with different sectors. This section only provides a brief overview of the complexity of inter-sectoral planning. This was undertaken to highlight the key issues and opportunities that arise through the SDF lever. It is by no means an attempt to create a comprehensive understanding of cross-sectoral planning in relation to the implementation of SPLUMA.

First, SPLUMA and planning's direct links to the natural environment will be explored. Thereafter SPLUMA's relationship with human settlements is highlighted and lastly and the complexity of strategic infrastructure investment and transport planning as it relates to SPLUMA is considered.

Natural Environment

Environmental legislation regarding the protection and management of the natural environment impacts on spatial planning in three ways:

- The formal protection of specific spatial areas and species: this aspect of environmental legislation is non-negotiable and directly informs spatial planning in terms of areas that cannot be developed or where only limited / defined development could be permitted (National Environmental Management: Protected Areas Act (57 of 2003))
- The formulation of environmental plans, such as Bioregional Plans legislated in terms of the National Environmental Management: Biodiversity Act (10 of 2004). These plans identify certain environmental areas and processes that need to be taken into account when doing spatial planning in different location. These plans also contain spatial environmental data that forms a useful input into spatial planning
- Related to land use management, certain land uses are subject to the completion of an Environmental Impact Assessment in terms of the Environmental Impact Assessment EIA Regulations 2010 (regulation in terms of National Environmental Management Act (107 of 1998)).⁹

In the case of environmental sector planning and instruments, it is mainly the SDFs and land use management system taking guidance and input from the sector. It is also explicitly stated as such in the various sections of SPLUMA (with the exception of a provision applicable to Provincial SDFs):

14. The national spatial development framework must—

(f) take cognisance of any environmental management instrument adopted by the relevant environmental management authority.

⁹ A new set of regulations has been published for comments (2014)

19. A regional spatial development framework must—

(g) comply with environmental legislation

21. A municipal spatial development framework must—

(j) include a strategic assessment of the environmental pressures and opportunities within the municipal area, including the spatial location of environmental sensitivities, high potential agricultural land and coastal access strips, where applicable;

Human Settlements / Housing

The establishment of human settlements, including the subsidised housing component, is a major form-giving element in urban areas. The location, density and type of housing, related services and public transport, are key in this regard.

The key piece of housing and human settlements legislation is the Housing Act (107 of 1997)¹⁰. It is augmented by a large range of legislation regulating aspects ranging from building regulation and rental issues to sectional title schemes. Legislation with a potential to impact on spatial form include the Social Housing Act (16 of 2008) (dealing with the identification of transition zones where higher density group housing is to be established) and the Housing Development Agency Act (23 of 2008) (providing for identification of strategic land for human settlement development).

The National Housing Act contains a series of principles for the development of housing. The Act establishes various housing programmes, and also the Housing Code, which contains housing policy and administrative guidelines in respect of related matters.

The human settlements policy direction was set out in the Comprehensive Plan for the Development of Sustainable Human Settlements (also known as “Breaking New Ground” / BNG), 2004. BNG defines sustainable human settlements as “well-managed entities in which economic growth and social development are in balance with the carrying capacity of the natural systems on which they depend for their existence and result in sustainable development, wealth creation, poverty alleviation and equity”. The development of sustainable human settlements go beyond the development of houses, and should also include appropriate social and economic infrastructure, offer a variety of options in appropriate housing solutions (e.g. different tenure forms), and should contribute to spatial restructuring.

During mid-2014, the National Department of Human Settlements launched the concept of a Spatial Master Plan for Human Settlements, which is intended to, among other objectives, “guide spatial planning for local and provincial authorities”.¹¹ At this early stage, the links of the Master Plan to SDFs, or specific mechanisms such as the Built Environment Performance Plans (BEPPs) is not clear. It is however, in direct contravention

¹⁰ As amended by Housing Amendment Act 28 of 1999; Housing Second Amendment Act 60 of 1999; Housing Amendment Act 4 of 2001

¹¹ From presentation to the Human Settlements Summit, 17 October 2014, by the Department of Human Settlements / Housing Development Agency

of the Constitutional Court ruling on the DFA, which explicitly states that municipal planning is the responsibility of local government.

The Provinces are currently the implementing agents of the different housing programmes, with the exception of cases where certain responsibilities have been devolved to specific municipalities.

At a municipal level, housing planning must form an integral part of the IDP in terms of Section 9 of the Housing Act. As a response to this provision, the Housing Code (2009) sets out the requirements for Housing Chapters that should form part of the Municipality's IDP. These Housing Chapters should address:

- Identification and prioritization of informal settlements;
- Identification of well-located land for housing;
- Identification of areas for densification and areas with shortages of land;
- Linkages between housing and urban renewal; and
- Integration of housing, planning and transportation frameworks.

In terms of housing requirements of Municipal SDFs as set out in Section 21 of SPLUMA, the SDF has to:

f) include estimates of the demand for housing units across different socioeconomic categories and the planned location and density of future housing developments;

(i) identify the designated areas where a national or provincial inclusionary housing policy may be applicable;

While the Housing Code focuses on the development of houses, the SDF requirements focus on facilitating and steering the formation of a broader built environment of which housing is a component. In this regard, SPLUMA is better suited to achieving the outcomes of BNG in collaboration with the priorities, plans and budgets of other sectors than any of the tools of the housing sector.

The relationship between this content provision of SDFs as outlined in SPLUMA and the Housing Chapter, which speaks specifically to the IDP, has to be clarified.

In terms of implementation, the housing / human settlements sector has a large variety of programmes and institutions, many of those geared for specific interventions / circumstances. The challenge at a spatial level is to identify the appropriate programme in response to a specific local situation, to be applied in such a way as to realise the normative principles contained in both the Housing Act and SPLUMA.

Infrastructure and Transport

This is a complex and multi-dimensional sector, with the main areas of alignment with the SDF expected to be transport planning, strategic infrastructure projects, and infrastructure grants and the related Built Environment Performance Plans.

Transport Plans:

Current legislation regulating transport planning is the National Land Transport Act (5 of 2009). It specifies the type of plans to be prepared:

Types of plans required by this Act

32. For the purposes of this Act, the following plans are required:

- (a) A National Land Transport Strategic Framework prepared by the Minister;
- (b) Provincial Land Transport Frameworks prepared by the MECs; and
- (c) Integrated transport plans prepared by planning authorities.

Planning authorities can be local, district or metropolitan Municipalities. The content of an Integrated Transport Plan (ITP), as well as its relationship with other planning instruments is stipulated in regulations prepared in terms of the above Act.¹² Currently, the ITP is required to be aligned with the IDPs, and in this way indirectly to SDFs. Chapter 4 of the regulations prepared in terms of the above act state the following regarding the relationship between SDFs and Integrated Transport Plans (ITPs):

Chapter 4: Spatial Development Framework

Integrated Development Plans (IDPs) encapsulate all aspects of development planning and service delivery in municipalities. A spatial development framework (SDF) must form an essential component of every IDP, reflecting geographically the municipality's strategy for delivering infrastructure and services in a sustainable and cost-effective manner.

Transport and travel is an essential and costly component of life for individuals, households, business and government, and so transport efficiency is an important consideration in the development and updating of the SDF. The SDF must be aligned with the ITP for the area, and in turn the SDF must be taken up in the ITP, clearly showing existing and intended transport corridors and nodes, and areas earmarked for mixed land use and densification in support of public transport. The SDF should also indicate the municipal land use strategies that will be used to discourage urban sprawl and the dispersal of activities making them dependent on travel by car.

The ITP should indicate the specific measures proposed in the SDF to support public transport and to ensure that transport services may be carried out in a sustainable and cost-effective manner. The SDF so included in the ITP will give explicit effect to section 38 of the NLTA, which empowers the planning authority to manage any change or intensification of land use, which deviates from that specified in the SDF.

The relationship specified above seems to suggest a two-way interrelationship, where the ITP will serve as direction giving input into the SDF, while at the same time the SDF should provide guidance to the ITP. The last paragraph also speaks to the power of the (transport) planning authority to deal with changes in land use that deviates from the SDF. It is unclear how this issue will be dealt with in the implementation of SPLUMA.

¹² Government Gazette, 28 November 2014, No. R. 954. Minimum Requirements for the Preparation of Integrated Transport

Strategic Infrastructure Projects:

The Infrastructure Development Act (23 of 2014) legislates for the concept of Strategic Infrastructure Projects (SIPS), originally identified in terms of the National Infrastructure Development Plan, 2012. This piece of legislation is important to spatial planning as it involves major interventions in the spatial form and economic development of areas. SIPS are defined as follows:

7. (1) A project or group of projects qualifies as a strategic integrated project for the purposes of this Act if—

(a) it comprises of one or more installation, structure, facility, system, service or process relating to any matter specified in Schedule 1 or such additions to that Schedule as the Council may decide and has published by notice in the Gazette;

(b) it complies with any of the following criteria:

(i) It would be of significant economic or social importance to the Republic;

(ii) it would contribute substantially to any national strategy or policy relating to infrastructure development; or

(iii) it is above a certain monetary value determined by the Commission; and

(c) the Commission has included the project in the national infrastructure plan and has, in terms of section 8, designated the project as a strategic integrated project.

The Act is prescriptive in terms of the priority of the SIPS over strategic spatial planning and land use management:

8 (4) (a) Every organ of state must ensure that its future planning or implementation of infrastructure or its future spatial planning and land use is not in conflict with any strategic integrated project implemented in terms of this Act.

(c) Any dispute which arises in the application of paragraph (a) must be resolved in terms of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), subject to any national legislation regulating spatial planning and land use management.

Concerted effort will have to be made to ensure that the Commission is cognizant of municipal plans and priorities in creating SIPS.

Infrastructure Grants:

A number of conditional grants are allocated to municipalities in terms of the annual Division of Revenue Act (10 of 2014) (DORA). The grant system is in the process of being reviewed and streamlined by National Treasury.

In the case of Metropolitan Municipalities, a mechanism has been devised to spatially coordinate the different infrastructure grants, which is specifically aimed at creating more integrated cities: the Built Environment Performance Plan (BEPP). The BEPP is a strategic summary of the city's infrastructure programme (including grant and own revenue funded infrastructure) that must demonstrate how the city will use its infrastructure investments to change the way the city develops.

The BEPP is intended to bridge the gap between the Integrated Development Plan and the Budget of a municipality, giving effect to Spatial Development Frameworks; a critical instrument for investment prioritisation and focus on spatial targeting and integration.

The submission of the BEPP is legislated in terms of the DORA. The BEPP and allocation of grants in terms of the BEPP will have a direct impact on the spatial structure of the metropolitan areas. Specific spatial structuring concepts form part of the conditions of the grants and have to be included in the BEPP e.g. the urban network elements as defined in the 2014/15 BEPP Guidance Note (National Treasury).

Key Issues

The main challenges pertaining to alignment between SDFs and sectors plans / sector requirements are foreseen to be process related:

Alignment at different stages in the planning process

SPLUMA contains broad provisions regarding alignment between SDFs and sector plans. It is however not indicated how, and at what level, this alignment should be achieved.

The process to align SDFs and sector plans should occur from the first stages of the planning process, (i.e. setting the long-term vision and contextualising the development principles in a specific space). This is complicated given the different planning and budgeting cycles of the different spheres of government. This is necessary if the SDF is to fulfill its role as a normative, direction-giving transformation lever. Ideally, the high-level alignment agreement should result in a type of framework plan indicating the broad structuring elements and the agreed-on spatial structure of a specific space.

Relative status of plans

SPLUMA has not clarified or simplified the planning process by explicitly stating that municipal planning is a local function and needs to drive the sector plans of all spheres of government. Mutual alignment is required which implies a “back and forth” consultation and negotiation process during all planning stages, the complexity of which should not be underestimated. This is also contradictory to the approach taken by other sectors where for example municipal spatial planning must not be in conflict with SIPS (refer to section above), and the spatial requirements of the BEPPS where these national projects determine what should happen at a local level, not the municipality itself.

Information sharing

Concern has been expressed regarding SPLUMA not obliging national and provincial spheres to share information. A pertinent example is the sharing of information of mining and exploration rights – if these aspects have to be considered in spatial planning (and addressed in the Land Use Scheme), such information should not be withheld from municipalities.

Potential Opportunities for Spatial Transformation

The sector alignment and coordination role of the SDF, especially the Municipal SDF, has been explicitly legislated in SPLUMA.

Local Government intervention in the spatial structure of cities in the form of environmental protection, human settlement establishment, public and private transport, as well as special measures such as SIPS or special grants / interventions in the urban network, can contribute significantly to spatial transformation. As these interventions all involve major structuring elements, they can also actively shape the space for private sector investment, though it should be noted that these do not cover all sectors that a municipality would have to consider. This renders the **sector alignment role of the SDF critically important**. It is important that the alignment process is not diminished to requesting comments from sectors or simply including sectors plans as part of a document. The importance and complexity of this process should be recognised and form part of the main activities of the SDF formulation process from the outset. This is further complicated at the implementation level as sector comments and plans are often not compliant with the municipal SDF.

The proper planning and alignment of government investment has also been raised in interviews as a potentially significant contribution to spatial transformation. Currently, different sectors have different priority and focus areas. This dilutes the ability for integrated planning and implementation as consolidated implementation can have several spinoffs including private sector investment.

Lever 4: SDF COMPLIANCE AND LAND USE MANAGEMENT

Understanding the Lever and its Links to Spatial Transformation

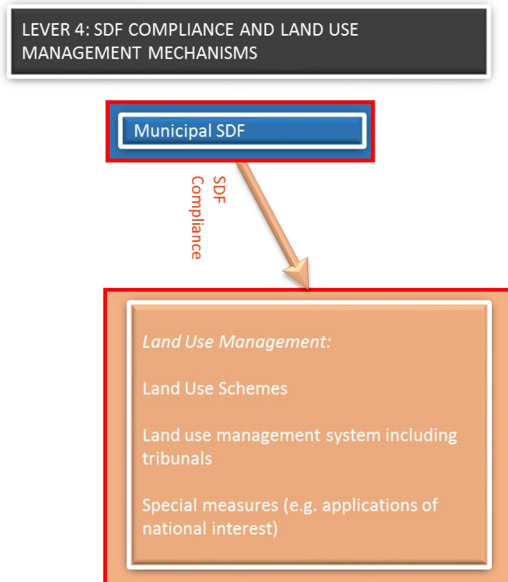


Figure 7: The Spatial Development Framework and Land Use Management

The importance of SDF Compliance & Land Use Management systems goes beyond the existence of noteworthy mechanisms such as a wall-to-wall land use scheme or better constituted and mandated planning tribunals. In terms of realising spatial transformation, the value in the above mechanisms rather vests in the way they translate and apply the normative spatial guidance given by the principles, norms and standards and SDF directives. Their key contribution to spatial transformation is to pro-actively stimulate and accommodate private and public sector development that will lead to a transformed spatial structure.

In SPLUMA, the link between normative guidance, SDFs and the land use management system has been legislated for the first time. Also, SDF's are no longer guidelines but legally recognised policy documents. SPLUMA specifically states that:

22. (1) A Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of this Act or any other law relating to land development, may not make a decision which is inconsistent with a municipal spatial development framework.

(2) Subject to section 42, a Municipal Planning Tribunal or any other authority required or mandated to make a land development decision, may depart from the provisions of a municipal spatial development framework only if site-specific circumstances justify a departure from the provisions of such municipal spatial development framework.

25. (1) A land use scheme must give effect to and be consistent with the municipal spatial development framework and determine the use and development of land within the municipal area to which it relates in order to promote—

- (a) economic growth;
- (b) social inclusion;
- (c) efficient land development; and

(d) minimal impact on public health, the environment and natural resources.

The above links directly to the spatial transformation framework set out earlier in this report. Moreover, the above indicates that most of the drivers and their constituent elements are indeed accommodated in this view.

Another direct requirement for SDF and land use scheme alignment is contained in Section 27:

27. (1) A municipality may review its land use scheme in order to achieve consistency with the municipal spatial development framework, and must do so at least every five years.

At the level of land use applications, SPLUMA reinforces the link to the principles, norms and standards, as well as the SDF:

42. (1) In considering and deciding an application a Municipal Planning Tribunal must—

(a) be guided by the development principles set out in Chapter 2;

(b) make a decision which is consistent with norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the municipal spatial development framework; and

In terms of the above, SPLUMA considers land use management mechanisms to do more than just control development. The following aspects to be contained in a Land Use Scheme strengthen its role as a mechanism to potentially support the development of land, as opposed to simply controlling land use:

24. (2) A land use scheme adopted in terms of subsection (1) must—

(a) include appropriate categories of land use zoning and regulations for the entire municipal area, including areas not previously subject to a land use scheme;

(b) take cognisance of any environmental management instrument adopted by the relevant environmental management authority, and must comply with environmental legislation;

(c) include provisions that **permit the incremental introduction of land use management** and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use scheme;

(d) include provisions to promote the **inclusion of affordable housing** in residential land development;

(e) include land use and development **incentives** to promote the effective implementation of the spatial development framework and other development policies;

(f) include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and

(g) **give effect to municipal spatial development frameworks and integrated development plans.**

(3) A land use scheme may include provisions relating to—

(a) the use and development of land only with the written consent of the municipality;

(b) **specific requirements regarding any special zones identified to address the development priorities of the municipality;** and

(c) the variation of conditions of a land use scheme other than a variation, which may materially alter or affect conditions relating to the use, size and scale of buildings and the intensity or density of land use.

Related to land use management, SPLUMA contains a section providing for land development applications of national interest to be considered by the Minister. No specific statement regarding alignment with the SDF is made in this section, although it is stated that criteria has to be formulated and that the relevant municipality should first consider the application.

52. (6) The Minister must, before the exercise of a power or the performance of a function contemplated in this section and after public consultation, prescribe a set of criteria to guide the implementation of this section, including—

- (a) the types, scale and nature of land development applications that affect the national interest; and
- (b) measures to guide Municipal Planning Tribunals, municipalities and parties to land development applications in determining applications, which are regulated in terms of this section.

(7) Nothing in this section authorises the lodgment or referral of an application for land use or land development to the Minister without such application having first been lodged and considered by the relevant municipality in terms of section 33(1).

Key Issues

The key issues pertaining to land use management are addressed in turn in the following section.

Institutionalised Link between SDF and other Mechanisms

In practice it has always been a challenge to establish and manage the relationship between strategy, policy (SDF and more detailed plans) and land development and management.

Many land use decisions ignore policy, not only because of administrative and institutional issues but because policy is seen as disconnected from “reality” or market conditions. This uncertain relationship between policy directives and decision making of land use applications creates uncertainty and a weak base from which to progressively realise a transformed landscape. It also means that the next level of implementation through Site Development Plans (SDPs), building plans and service level agreements are then further removed from policy guidelines and objectives.

Although there are a number of reasons for the above, a reason is that policy and strategy are to a large degree driven by “new” directives such as SPLUMA and other related legislation, while the land use management system is still based on previous legislation including the Ordinances. This disjuncture creates a number of challenges including the inability to realise substantive spatial transformation through mechanical compliance.

Furthermore, the Schemes are static in nature and are to a largely records of existing rights with administrative rules. These rules (scheme clauses and regulations) are in their nature not intelligent enough to bring about spatial transformation.

Information Issues

Clear communication around how and what must be done via the three spheres of government is already a challenging task. If a specific strategy or policy (e.g. inclusionary housing) is not discussed and defined by all relevant stakeholders, the meaning of that policy statement tends to become diluted as it meanders through inter-governmental structures and administrative processes bringing it into fruition.

The erosion and impact of policy directives is further impacted by political influence and interference at all levels of government. The political expediency required of existing processes also adds to the dilution of specific strategic and policy guidance.

In addition, private sector led property development and changing property conditions contribute to the complexity of realizing effective spatial transformation. In the current situation, there is a possibility that well intended policy and strategy interventions are negated by the time that an application is submitted for consideration.

There are also a number of issues relating to planning and application decisions. Democratising planning decisions resulted in multi-decision phases: from the official that evaluates an application, in-house application discussion meetings, Section 79 committees in terms of the MSA, council resolutions, appeal processes and sector comments. There are therefore a number of decision bases that need to be covered, and reasons for specific decisions are probably lost while decision statements are used as precedents.

The Act's content requirements in terms of Section 21 will require a rethink regarding information management systems (including the use of GIS). New data sets will be required and municipalities will have to update information and ensure quality in a much more efficient manner. The act will also place new requirements on knowledge management and conserving institutional knowledge to run and maintain these data repositories. The opportunity lies therein that spatial information systems can be brought to the fore and resources can be aligned with the legislative requirements. The GIS can also be showcased as more than just a "map-making" tool. Here two opportunities are possible, firstly, GIS as a diagnostic, analytical and early warning tool and secondly, considerations around GIS legislation to aid the application, standardisation and development of the field of GIS with regards to capturing and reflecting spatial change.

The gathering and sharing of information is also becoming more important and more open sharing and data collecting methods needs to be developed. Community information portals, diagnostic systems, real live feedback hubs are all new social and information innovations that can be pursued based on the requirements of the Act. These opportunities whilst exciting also require focused, mindful approaches that challenge how the overall planning and land use management system are currently administered. It also allows spatial information to move beyond the domain of officials.

Institutional / Process Links between Policy and Land Use Management

Links between policy and land use management have the potential to breakdown. Policies and plans will in general indicate design guidelines or statements regarding built-form, creation of pedestrian environments and place-making, but these are not always carried through in land use applications decisions and when the

development. Developers also do not always respond to design guidelines because there are not always direct benefits or long-term certainty regarding support for continuous design management.

The fact that the link between SDFs and Land Use Schemes has been legislated has been viewed as a positive development by a number of stakeholders interviewed. From the above, it is clear that if every link in the spatial transformation value chain is not clearly understood and defined, then the relationships between the links will be weak, thus hampering the opportunity for real spatial transformation on the ground.

Mechanisms and Institutional Arrangements

In interviews, a lot of attention has been placed on the specific mechanisms and institutional arrangements included in SPLUMA. The issues raised include:

- The Municipal Planning Tribunals were highlighted as an area of uncertainty and potential controversy. Issues range from their legality, to their effectiveness, administrative burden, funding burden and appeal procedures
- SPLUMA provisions are perceived to be less stringent than the Ordinances. For example in the Ordinances service contributions to the municipality are a legislated requirement yet in SPLUMA, they are to be specified in rezoning conditions. This allows for conditions to be altered or omitted which can limit the municipality's income
- There is a concern about the capacity requirements to implement the land use management aspects of SPLUMA, especially relating to the enforcement of land use decisions
- Issues regarding the specific wording of clauses were raised and there is a concern that various legal challenges may hamper the implementation of SPLUMA.

Potential Opportunities for Spatial Transformation

Section 6 (1) of SPLUMA indicates that the general principles set out in SPLUMA apply to **all organs of state and other authorities** responsible for the implementation of legislation regulating the use and development of land. These bodies should promote land development in locations that are sustainable and that limit urban sprawl. This should be simultaneously supported by all sector and inter-sphere budgets in these locations to allow for truly integrated planning so leading to tangible spatial transformation.

In terms of a broad framework, Section 26 (1) (a) indicates that a **land use scheme (adopted in terms of a SDF) has the force of law** and that all land owners and users of land, including a **municipality, a state owned enterprise and organs of state are bound by the provisions of the scheme**. From a broad framework point of view, there is therefore opportunity to:

- Create policy and strategy, based on a common set of principles, that applies to all spheres of government;
- Provide a spatial expression of policy of all spheres of government and to coordinate, align and integrate government policy at a municipal level; and
- Create a scheme that binds all parties in the development of land.

The above places strong emphasis on the quality and nature of a municipality's Land Use Scheme. SPLUMA states that the SDF should determine the purpose, desired impact and structure of the scheme.

There is a clear indication that a Scheme cannot be a set of land use categories only, but that it should start to respond to specific spatial typologies in terms of conditions, categories and schedules. Spatial typologies that are mentioned in SPLUMA include environmental management areas, informal settlements and special zones. The link between the municipality's SDF, IDP and Scheme can therefore be strengthened to a much larger degree than previously possible.

From an administrative and institutional point of view there is also more flexibility and responsiveness built into Schemes. SPLUMA talks about incremental introduction of regulations, shortened provisions in certain areas, promotion of incentives and providing provisions that can respond to the application of policy and priorities. Together with the flexibility and responsiveness, there is stronger emphasis on provisions to allow a municipality to enforce a Scheme.

Regarding a SDF and a scheme's ability to address spatial transformation, there seems to be at least a notion that SPLUMA provides enough opportunity to respond to spatial transformation from a broad principle and policy level, at integration and coordination level and at a land development and management level through more responsive Schemes and land use management systems.

A concern has been raised in interviews about the effectiveness of land use management as a transformation tool. To quote an interviewee: "Land use management systems are for people in the property market – it does not help to get people into the property market. This does not aid spatial transformation". It has to be recognised that a land use management system cannot address a range of issues that also impact on spatial transformation (e.g. lack of capital resources prohibiting land ownership, unresolved land claims and security of tenure).

In conclusion, SPLUMA places emphasis on renewed inter-governmental relations and has embedded this principle by including a number of sector-related deliverables that can be consolidated based on the spatial plan. These include housing delivery, environmental issues, incremental upgrading and infrastructure provision and inclusionary housing. Although there is pressure to add more sector information and identify and analyse relevant interrelationships, SPLUMA also places responsibility on all other sectors to start interacting with a spatial plan in a proactive manner and create opportunities for real collaboration. Legislative "relationships" do not guarantee real interaction and engagement, but they do open the door for discussions revolving around spatially focused solutions.

The research has shown that there are areas of congruence between the lens of spatial transformation and the levers of SPLUMA. Some of these include:

- The ability of the principles to provide a normative direction that will influence all drivers including for example shared growth, greater spatial connectivity and integrated human settlements
- The possibility for the SDF to provide for improved coordination and facilitation of spatial planning and thus leading to more effective governance

- A land use management system that is cognisant of all citizens
- Development outcomes that align to the key development policies of the country including the NDP and IUDF

These areas of congruence can only have meaning in implementation. Implementation is required to ensure that the lens and levers have an opportunity to truly interact and impact the transformation of space in the country.

Part 4: Summary of Findings

SUMMARY OF FINDINGS

The Limitations of SPLUMA as a Transformation Tool

SPLUMA is a piece of a larger jigsaw puzzle, which includes other legislation, policies, priorities, programmes and projects that can bring about spatial transformation. However there are a number of levers in the processes outlined in SPLUMA that could significantly aid spatial transformation.

Practitioners should be aware of the multiple transformation levers contained in SPLUMA. These levers are diverse in function and impact. In order to realise its potential contribution to transformation, each of these levers deserves attention. Both the content and nature of the lever should be considered, as well as its links to other levers in SPLUMA and planning processes “outside” SPLUMA.

The Normative Direction of SPLUMA

The principles contained in SPLUMA are not new and can be regarded as a more detailed exposition of the general normative direction contained in planning policy and legislation since 1994 such as the White Paper on Spatial Planning and the NDP.

Principles such as inclusion, efficiency, sustainability and good governance provide a guideline for positive spatial transformation.

Legislating a link between such development principles and planning instruments that form part of the spatial planning system in SPLUMA, is in itself a significant contribution to ensuring that positive spatial change is realised.

SDFs

SDFs between the spheres of government

SPLUMA requires all three spheres of government to produce SDFs. While the focus of the SDFs can be seen to be different (e.g. national provides broad strategic direction, provinces focus on a coordination role, etc.), the question arises as to which plan should take precedence. Especially, given that local government has a constitutional responsibility to plan within its jurisdiction. This situation has already proven to be contentious through the requirement by the national sphere of government that municipal spatial planning must be aligned with SIPS (refer to lever 3) and BEPPS.

According to some of the stakeholders interviewed for this report, the Municipal SDF fits into a hierarchy of spatial plans, taking direction from the National and Provincial SDF. Others viewed this relationship as unclear, citing the provision that the SDF forms part of the IDP process, and that the relationship between the Provincial and Municipal SDFs is not hierarchical, but requires mutual alignment. Clarity is required in this regard.

While the legislation states what is required of sectors to produce SDFs, in practice this does not take place. Sectors often don't share information, set their own goals and targets and implement projects that are often

not aligned to municipal plans and priorities. SPLUMA fails in not clearly legislating the responsibility of sector departments in relation to spatial planning.

22. (3) Where a provincial spatial development framework is inconsistent with a municipal spatial development framework, the Premier must, in accordance with the Intergovernmental Relations Framework Act, take the necessary steps, including the provision of technical assistance, to support the revision of those spatial development frameworks in order to ensure consistency between the two.

This clause could prove to be a source of conflict and is not in line with the principle of good governance particularly as municipal planning is considered to be the core responsibility of municipalities. It is as if the clause disregarded the Constitutional Courts decision on the DFA.

The SDF and municipal processes

SPLUMA requires alignment between the different elements of the planning system, (e.g. principles, SDF, sector plans and land use management). Care should be taken that the focus is not solely on the instruments (e.g. different unit / department managing the SDF or Land Use Scheme), and the processes to establish the links are undertaken for the sake of compliance. An understanding of the transformation intent of linking guiding principles to a contextualised SDF, and in turn ensuring that the Land Use Management System facilitate the implementation of the SDF, will be critical.

There is a restricted time frame in which to undertake a detailed planning process. The time frames of the annual IDP process, of which the SDF forms a part, may be too tight to allow for proper consideration of the wide range of complex issues required to complete the SDF.

The NDP states that provision should be made in legislation for cross-boundary plans that would promote collaborative action in areas including biodiversity protection, climate change adaptation, heritage and tourism and transportation. It also states that in developing a more effective system of governance for city-regions, reform in planning systems must occur to ensure the integrated, city-region-wide coordination of planning. SPLUMA does address this through regional plans and joint tribunals by looking at larger areas and allowing for consistency in decision-making across space.

The SDF as a Transformation Tool

Despite the challenges faced in relation to inter-government and sector alignment the SDF offers the greatest opportunity for SPLUMA to effect spatial transformation. The SDF provides a common future vision for the spatial development of a local municipality. It provides the means by which diverse sector requirements are captured and coordinated. It is where the normative principles can be interpreted in relation to the spatial challenges facing the local government. It provides the opportunity through the public participation process for residents to be part of imagining a better living environment for themselves. It provides the opportunity to ensure that capital budgeting is directed towards the desired spatial form. As a living document it links the vision of the built environment to day to day land use management decision taking. A role that now legislated for. The SDF now has teeth and legal standing.

IGR Complexities

While municipal planning is the domain of municipalities integrated planning requires the aligned efforts of all spheres and sectors of government. Neither SPLUMA, nor any other legislation regarding transport, human settlement planning or any other sector gives the SDF, IDP or any sector plan an explicit role of taking precedence above any other plan.

This lack of a hierarchy of plans means that consensus must be reached by all departments in all spheres of government through all planning and budgeting cycles to produce aligned strategies, policies, plans and projects for aligned implementation.

The contested reality of sector and political priorities exacerbates this challenge. During interviews, examples of situations have been noted where provincial sectors insisted on having the final say in spatial planning relating to their functions.

If the SDF fails in this alignment / coordination role, and if this aspect of the SDF process is not mainstreamed in its formulation, one of SPLUMA's strongest potential spatial transformation levers will be lost. If the SDF succeeds in its alignment and coordination role significant opportunities for improved living environments will be achieved. The commitment and intervention of all stakeholders will be required to achieve this common outcome.

Legal Challenges

Although this study is not intended to be a legal review / legal opinion of SPLUMA, it is useful to highlight some of the challenges and consideration in implementing the Legislation:

- Lack of clarity regarding the role of the Regional SDF in relation to the Municipal SDF
- Potential controversy around applications of national interest that do not align with the municipal SDF
- Principles are legally unenforceable
- Complications relating to the Municipal Planning Tribunals regarding external representation, the appeal authority and the budget required to set up and maintain the tribunals
- Wording of various clauses of SPLUMA that are not formal tried and tested legal language
- Concerns around recognition of the exclusive constitutional mandate of municipal planning especially in relation to the development of National and Provincial SDFs, IGR systems and processes and differing mandates of different sector departments
- Existence of other legislation that to varying degrees address issues contained in SPLUMA, thus making certain sections of SPLUMA redundant. See table below for some examples.

Table 5: Potential policy duplication in SPLUMA

Issue addressed in SPLUMA	Same issue addressed in other Legislation
SDF requirements	Municipal Systems Act

Land uses Schemes	The Ordinances
Municipal Planning Tribunals (Setting up of committees)	Municipal Structures Act
Requirements of a building control officer	NRCS, SABS, NBR
Requirements of a CFO	MFMA
Expectations of a Valuer	Valuation Board
Requirements of a records office	National Archives

Capacity / Resourcing

For certain municipalities, insufficient capacity will limit their ability to implement the requirements of SPLUMA. Where support will be required various sections of SPLUMA state that the provincial and national spheres of government will assist. Often, these spheres of government are also under capacitated. The legislation would have been more transformative in its approach if it allowed for capacity support to transcend the three spheres of government, depending on where there is capacity. It is clear that due to capacity constraints and the need to ensure that implementation will be incremental and the process will differ from local government to local government. In order to facilitate institutional change, targets will need to be agreed upon as to the type of skills and number of staff required.

Part 5: Recommendations and Conclusion

RECOMMENDATIONS

In order to devise recommendations for strengthening the role of SPLUMA as a transformation tool based on the findings on this study, it is necessary ask why spatial and land use planning is necessary?

Planning is in essence a mechanism for social engineering. It is an intervention in the private property market, setting conditions, limitations and sometimes incentives to shape development (investment) in order to achieve a better living environment, often based on a specific ideology. Furthermore, it is also a tool used by government to structure its investment in physical and social infrastructure.

In South Africa, planning encounters the additional challenge of needing to address the past injustices that gave rise to the current spatial structure of settlements. It is in this context that SPLUMA provides the legal framework for the South African planning system. It provides for principles, processes, mechanisms and institutional arrangements that all form part of the planning system, and together, and individually, have the potential to act as transformation levers.

While SPLUMA gives legal standing to the elements of the planning system, in itself it is not the only tool for spatial transformation. SPLUMA should be regarded as part of a “toolbox” where it provides a range of spatial transformation interventions. Therefore, based on the findings of this report, the following recommendations are made to strengthen the use of the transformation levers provided by SPLUMA.

Greater responsibility for local government

Local government (and particularly cities) is increasingly being recognised and acknowledged as the appropriate sphere for more effective and efficient interventions to transform the Apartheid spatial legacy and influence the form of urban areas. This is evident from the concurrent processes to devolve key built environment functions, public transport, planning and housing to local government. This places substantial responsibility on local government to effectively plan, manage and implement strategies and programmes. The enactment of SPLUMA has brought a number of fundamental changes in spatial planning and land use management. The most critical of these is the reiteration of planning as the primary mandate of municipalities (land development, land use management), placing municipalities at the center of planning.

While the obligation to participate in spatial planning is placed on all three spheres of government, it is the local sphere where the biggest impact will be experienced. The central role of the municipal SDF in strategic spatial planning, sector alignment and spatial targeting of government investment, as well as the municipal role in land use management, means that the successful application of SPLUMA's transformation levels will be the responsibility of local government. Local government itself will have to recognise the responsibility it carries in terms of its constitutional planning mandate.

National Government will have to consider the capacity requirements these additional responsibilities place on local government. Even though SPLUMA allows municipalities to implement the Act in terms of each municipality's needs and capacity, effort is required to ensure that adequate resources (human and financial) be made available.

IGR needs direction

Section 6 (1) of SPLUMA indicates that the general principles set out in SPLUMA apply to all organs of state and other authorities responsible for the implementation of legislation regulating the use and development of land. Section 12 (2)(a) furthermore states that national government, provincial government and a municipality must participate in the spatial planning and land use management processes that impact on each other to ensure that plans and programmes are coordinated, consistent and in harmony with each other.

It is important that context is given to SPLUMA, as it does not exist or operate in isolation from other legislation. A number of sector departments (e.g. human settlements, the department of environmental affairs, and the department of transport) have a planning component to their functions which all manifest in the local government space. Currently, there are several inconsistencies as sectors plan independently. Sector legislation is also inconsistent (e.g. SIPS and BEPPS) further limiting joint integrated planning. It is critical that local planning, as stipulated in SPLUMA, guide sector and inter-governmental policy integration.

Emphasis should be on the Capital Expenditure Framework and capital planning as required in SPLUMA, to plan and coordinate investments in terms of targeted areas and across relevant sectors.

A collaboration framework is required to practically address the strategic planning and budgeting cycles of all spheres of government. This framework needs to ensure:

- Spatially focused, joint priority setting between all sectors and all spheres of government to limit competing interests or conflicting mandates
- Joint spatial planning and simultaneous implementation of projects between the various spheres and sectors to ensure spatially led integrated development
- Joint reporting to streamline and understanding of developmental impact.

The strength of local government and its ability to develop structures, processes and capacity to implement spatial planning and land use management will ultimately determine the success of SPLUMA and the extent to which it can facilitate spatial transformation.

Furthermore, within a municipality, issues of sector alignment, integration of the SDF into the IDP process, and areas of overlap between the municipal SDF implementation component and financial instruments, need to be formally accommodated in municipal processes. It is crucial to recognise that SPLUMA readiness does not equate only to setting up Tribunals and land use management systems, but also implies a significant burden of work in terms of the strategic planning component within a municipality through its various sector departments.

Awareness of SPLUMA's Transformation Levers

A key success factor of SPLUMA will be the degree to which intergovernmental cooperation as identified in lever three is taken seriously and all spheres and sectors contribute jointly to the strategic spatial planning of an area. The study has highlighted the need for creating SPLUMA awareness in all three spheres of government and across all sectors.

As such it will be crucial for officials to become aware of not only the role they have to play, but where their role fits into the broader systems and how it could contribute to creating a better quality of life for their communities.

This needs to include the concept of spatial transformation. It also needs to be practical so that officials can directly interact with the different components of SPLUMA and begin to understand the complexity related to the Legislation. Officials should not only receive training in the areas that they work in.

Broader engagement and participation

Although principles, norms and standards promoted through SPLUMA are not necessarily all new, they do place emphasis on comprehensive technical content and analysis across a large number of sectors. The challenge is that the SDF can easily become a very technical document with which to be complied and that, as a result, it no longer resonates with communities and business. A balance is therefore needed for the SDF to comply with technical requirements, be responsive to principles and norms (inclusive economy, justice etc.) and ever-changing urban and social conditions.

It has always been a challenge to “translate” planning language in order to connect communities and businesses. The current legislative compliance requirements will demand more innovative sharing and engagement methods in order to transcend the boundaries between technical and authentic engagement.

There is however an opportunity that plans, management processes and the intended urban fabric can be responsive to the needs of building social capital, enterprise development and small-scale urban innovation through empowered communities. The direction and guidance should be open to bottom-up activities from a range of local role-players. This interaction should take place within a clear framework of achieving sustainability, collective action and prosperity within the boundaries that have been set by SPLUMA and other relevant legislation.

SPLUMA’s potential for innovation

There are clauses in SPLUMA in line with lever four that allow land use schemes to be flexible. In understanding their contexts, municipalities can employ innovative ways of addressing land use management and in this regard land use can be about more than just assessing development applications and development control. SPLUMA for example allows for a much stronger and deeper relationship between policy and guideline planning and the land use management processes. There is also scope to put a legal and not just a policy framework in place to initiate transformation.

Another potential area for innovation that can aid spatial transformation is through the coordinated impact of government investment. Government investment has the ability to influence and guide private sector investment, thus potentially leading to economic growth, job growth and planned development. A commonly agreed upon spatial framework for investment targeting can go a long way to ensure that all government role players are working towards the same goal.

CONCLUSION

This study attempts to understand SPLUMA in the context of spatial transformation. Key questions that the research sought to address included: How will SPLUMA change the way that we have planned to date? Will this bring us closer to the urban environment envisaged by the National Development Plan (NDP)? Will SPLUMA assist and contribute towards spatial efficiency and justice? How will SPLUMA incentivise more efficient public transport and integrated, holistic human settlement development?

As the research shows, SPLUMA's impact on transformation is dependent on the quality of mechanisms, process and systems established by the various spheres of government, and specifically the extent to which the development principles are translated into achievable, contextualised spatial outcomes in each spatial impact area.

The key to achieving spatial transformation is in the appropriate application or use of the transformation levers. Simply having an SDF or wall-to-wall land use management scheme will not automatically realise spatial transformation. With the exception of the broad, guiding development principles, SPLUMA does not prescribe a specific spatial form. This will be primarily the responsibility of the local authority.

What SPLUMA provides is the tools in the form of spatial plans and a land use management system by which cities and citizens can imagine and realize a better built environment.

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