Introduction
- *What* is Inclusionary Housing?
- *Why* Inclusionary Housing?

Project Purpose

How does the Inclusionary Housing mechanism work?

The Legal and Policy expectation

How to introduce a municipal Inclusionary Housing Policy

Next Steps
Introduction
Lower-income residents looking for a new home soon face a choice among several undesirable options: extreme commute times, overcrowding, substandard housing, or rents or mortgages that are so high they deplete resources for other essentials. Displaced families are not the only ones who suffer—everyone loses when economic diversity deteriorates. Unequal access to housing drives sprawling development patterns; worsens traffic congestion; pollutes air quality; increases taxpayer dollars spent on basic infrastructure; and decreases racial, cultural, and economic diversity (Ewing, Pendall, and Chen 2003 quoted in (Jacobus, 2015)).
Case Study: Spatial Apartheid in Cape Town
Case Study: Spatial Apartheid in Cape Town

Number of residential properties by market segment
City of Cape Town, 2019

- The Affordable market (R300,000 – R600,000)
  - 142,759
  - 19%
- The Conventional market (R600,000 – R900,000)
  - 313,485
  - 41%
- 139,306
  - 18%
- 98,786
  - 13%
- 72,539
  - 10%

Data source: CAHF's Citymark, using deeds registry data supplied by Lightstone as at the end of December 2019 (sourced June 2020).

Distribution of new residential transactions by market segment
City of Cape Town, 2019

Data source: CAHF's Citymark, using deeds registry data supplied by Lightstone Pty. as at the end of December 2019 (sourced June 2020).
What is Inclusionary Housing?

- When a developer applies for new or additional land use rights:

- Inclusionary housing obliges the developer to make a contribution towards affordable housing by providing units for rent or sale cheaper than the units s/he is planning to sell or rent.

- Depending on where the development is, this contribution will be made within the development, within another development, or in the form of a cash contribution. It must always result in well-located affordable housing opportunities.
Why Inclusionary Housing?

Inclusionary housing is a mechanism to promote spatial inclusion and transformation. It is not, in the first instance, a housing delivery programme and will not deliver at scale.

It seeks to leverage enhanced land use rights (land value) in areas with active land markets, in partnership with the private sector to:

• Create opportunities for middle to low income households to live in better locations
• Break the social divisions caused by the apartheid spatial form
• Build more inclusive and integrated communities with better access to the opportunities of our urban settlements (‘the urban dividend’) and break the glass ceiling for household progress
• Build a more socially and economically sustainable future for our settlements
Spatial Transformation in the Western Cape

- Improve the places where people are living
- Service delivery, social facilities, local economic development and urban upgrading & management
- Create better linkages between places through safe, efficient & affordable public transportation
- Create spatially and economically vibrant growth points
- Create new opportunities for people to move to more central locations
- Inclusionary land and housing and economies (formal & informal)
- Public transport, non-motorized and mobility investments and integration
- Inter-governmental pipeline of spatially targeted investment
Spatial Transformation in the Western Cape

Opportunities for more centrally located housing via land and planning

- Increase land supply
- Understand residential markets and cost drivers – intervene?
- Create new (affordable) opportunities for people to move to more central locations
- Land value capture/sharing – e.g. Inclusionary Housing
- Infrastructure capacities in priority areas
- Land release conditional on affordable housing component + SHI Smart Partnerships
- Reforming and streamlining regulatory environment
- Expediting procedures in designated areas
- Leverage land value
- Ease of Doing Business to promote development & reduce costs

Intelligence driven opportunity/interventions
The WCG has led the application of inclusionary housing within mixed use / market development in the Game Changer Conradie Better Living Model Project in the 2014-2019 term.

The lessons learnt and application of the concept is now being extended to the Founders Garden/ Artscape Precinct on the Foreshore.

This learning is a springboard for the next step – to scale up through the development of a policy to assist municipalities to apply inclusionary housing in their work and to provide a clear and consistent approach in the Western Cape Province.
Purpose of a Western Cape Inclusionary Housing Policy Framework
SIMPLY PUT, THE POLICY FRAMEWORK AIMS TO ANSWER:

- **What** is Inclusionary Housing?
- **Why** should it be used as a mechanism for spatial transformation?
- **On what basis** can Inclusionary Housing be applied in the Western Cape?
- **How** can Inclusionary Housing be introduced in municipalities?
- **What** should be done first?
- **Who** should do what?
- **What** are the policy considerations?
- **How** can the state provide greater certainty and predictability for developers?
Notes on the approach #1

- Inclusionary Housing is applied via planning permissions – this is primarily, albeit not exclusively, a municipal competence

- Given the nature of the Western Cape’s settlement patterns...

  Who should benefit from Inclusionary Housing?
  Where should inclusionary housing be built?
  Appropriate and feasible options for how the obligation is met?

... May differ between cities and towns

- The WC Policy Framework therefore does not take a prescriptive approach but seeks to create an enabling framework
Notes on the approach #2

- It is a sophisticated tool
- It does require extensive capacity in government

**Let’s get started:**
- To work together on how we can and should apply Inclusionary Housing in the SA/ WC context – build culture & practice
- An opportunity to leverage systemic improvements in how we:
  - Understand residential land markets
  - Understand where opportunities exist to support housing and affordable housing supply
- Together we can learn by doing and build a body of evidence from practice and institutionalising monitoring and evaluation
- Avoid closing opportunities for developers, municipalities, etc. to find innovative solutions to making inclusionary housing work

*A sustainable future for our cities, towns and society is everyone’s concern*
How does the Inclusionary Housing mechanism work?
How does Inclusionary Housing work?

Inclusionary housing is not a tax

KEY PRINCIPLES:

1. Society at large contributes to land value

2. The ‘IH obligation’ must not compromise the developer’s project viability/hurdle rate
How is an Inclusionary Housing requirement imposed?

As a condition of planning approval.

Within the designated area in the MSDF, Western Cape municipalities, and the WCG where relevant, should apply inclusionary housing provisions where:

a) A change to mixed use or residential land use rights is applied for, or additional rights are applied for in favour of mixed or residential use - where this gives significant additional value to the land and the size of the proposed development exceeds the threshold identified in the municipal Inclusionary Housing Policy

b) An application is made to develop property within an Inclusionary Housing Overlay Zone or an area where the municipality has proactively upzoned the land through another regulatory mechanism and has set out the concomitant requirements that must be met if taking up these rights; i.e. where additional rights are already permitted subject to the provision of inclusionary housing
Where is Inclusionary Housing feasible?

As inclusionary housing is delivered through partnership with the private sector, it can only be applied where there are active land markets and there is demand driving developers to develop

- Inclusionary housing will not be feasible in all Western Cape municipalities because of:
  - Stagnant residential housing markets (low levels of private sector activity) and/or
  - Low demand because housing need is predominantly from households earning less than R3,500 or the settlement is depopulating

- The Western Cape’s economic centres – Paarl, Stellenbosch, Saldanha, Hermanus, Mossel Bay, George, Knysna, Plettenberg Bay – are likely to be candidates for inclusionary housing policies informed by:
  - Residential market studies / housing market intelligence
  - Income profiles
  - % change in residential property values
  - Property transactions (new build)
  - Residential rental returns

“"The rate of building generally has more impact on the number of affordable units created than the level of the inclusionary requirement” (Development Action Group)
The Legal and Policy Expectation
The Legal Basis for Inclusionary Housing Policy

Spatial Planning & Land Use Management Act, No 16 of 2013: Spatial Planning

7. The following principles apply to spatial planning, land development and land use management:

- (a) The principle of **spatial justice** whereby:
  - (i) past spatial & other development imbalances must be redressed through improved access to and use of land
  - (ii) spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged communities and persons
  - (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.

- (b) the principle of **spatial sustainability** whereby spatial planning and land use management systems must:
  - (iv) promote and stimulate the effective and equitable functioning of land markets

- (c) the principle of **efficiency** whereby:
  - (i) Land development optimises the use of existing resources and infrastructure

- (d) the principle of **good administration**

Section 12. ..spatial development frameworks must address **historical and spatial imbalances**

Section 21. A municipal spatial development framework must -
- (i) identify the designated areas where a **national or provincial inclusionary housing policy** may be applicable
The Legal Basis for Inclusionary Housing Policy

Spatial Planning & Land Use Management Act, 2013 (Act 16 of 2013): Land Use Management

Section 24 (2). A land use scheme adopted in terms of subsection 91) must -

(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

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

Land Use Planning Act, 2014 (Act 3 of 2014)

Section 40 (2) Conditions imposed in accordance with subsection (1) may include, but are not limited to, conditions relating to –

- (d) **settlement restructuring**
Section 125(2)(d) of the *Constitution of the Republic of South Africa, 1996*, which empowers the Premier together with the Cabinet, to develop and implement provincial policy.

Furthermore, the WCG is expressly mandated by the Constitution to support municipalities in the exercise of their functions. In this regard:

- Section 154(1) of the Constitution provides that the national and provincial governments, by legislative and other measures, must **support and strengthen the capacity of municipalities** to manage their affairs and to perform their functions.

- Section 155(7) of the Constitution provides that the national government, subject to section 44, and the provincial governments have the legislative and executive authority to see to the **effective performance by municipalities** of their functions in respect of matters listed in Schedules 4 and 5, by regulating the exercise by municipalities of their executive authority referred to in section 156(1).
The Policy Mandate

**NATIONAL**

- National Development Plan
  - Chapter 8
- Integrated Urban Development Framework
  - Policy Lever 3
- National Spatial Development Framework
  - Spatial Outcome 2
- Medium Term Strategic Framework
  - Spatial Integration

**PROVINCIAL**

- Provincial Strategic Plan
  - VIP 4: Mobility and Spatial Transformation
- Living Cape Human Settlements Framework
- Provincial Spatial Development Framework
  - Settlement Policy Objectives
  - Provincial Spatial Policies
- Minister’s Priorities
  - Spatial Transformation
How to introduce Inclusionary Housing in municipalities

➢ What should be done first?
➢ Where should it be applied?
➢ Who should benefit?
➢ What are the policy considerations?
### What should be done first?

**INITIAL MUNICIPAL ACTIONS TO INTRODUCE INCLUSIONARY HOUSING**

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<tr>
<td><strong>1.</strong> Define the affordability gap in the residential market to understand the number of opportunities which should be provided to promote spatial transformation (which could be targeted by an IH Policy)</td>
<td><strong>Important work anyway</strong></td>
</tr>
<tr>
<td><strong>2.</strong> Undertake feasibility study to understand the potential for development typologies in the area (% the cost drivers of residential development) &amp; their economic contribution</td>
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<td><strong>3.</strong> Draft, consult &amp; approve Inclusionary Housing Policy</td>
<td><strong>3.</strong> Designate whole urban area of city/town as IH “trigger area” and ‘priority areas for investment in land development/ restructuring’ as IH “receiving areas” and where there is preference for on site provision in MSDF via compilation/amendment</td>
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<td><strong>4.</strong> Apply Inclusionary Housing Policy</td>
<td><strong>3.</strong> Municipal Planning By-Law amended to authorize the application of the municipal inclusionary housing policy and imposition of related conditions + Municipality ‘upzones’ priority areas for investment in land development/ restructuring/ integration/densification. <strong>Mandatory</strong> IH provision linked to added value of upzoning.</td>
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Where should IH Policy apply?

The MSDF is important to enabling Inclusionary Housing Policy

**Where do we need to invest and what must we invest in, for who, to achieve justice and reap the urban dividend?**

**Direct strategic development**

**Direct infrastructure development**

**Promote planned investment**

- Designate areas for:
  - Inclusionary housing
  - Incremental housing
  - More detailed local plans
  - Shortened procedures

**Indicate priority areas for investment in land development**

- Identify development corridors, activity spines & economic nodes where public investment will be prioritised & facilitated

- Identify planned location and density of future housing & employment locations

- Identify, quantify & provide location requirements of engineering infrastructure & service provision for existing & future development need
Where should IH Policy apply?

Spatial Targeting

“Trigger Area”

“Receiving Area” / Overlay zone area

NOTE: The George SDF is being used for illustration purposes only
Who should benefit?

The ‘GAP’ or Affordable Housing Market

<table>
<thead>
<tr>
<th>Household income (monthly)</th>
<th>Ownership</th>
<th>Rental</th>
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<tbody>
<tr>
<td>0 – R1 500</td>
<td>Breaking New Ground (BNG subsidized house)</td>
<td>Public rental stock &amp; CRUs (City owned and managed)</td>
</tr>
<tr>
<td>R1 500 – R3 500</td>
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</tr>
<tr>
<td>R3 501 – R10 000</td>
<td>Gap market (FLISP subsidy)</td>
<td>Social housing (Managed by SHIs)</td>
</tr>
<tr>
<td>R10 001 – R15 000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>R15 001 – R22 000</td>
<td></td>
<td>Private sector</td>
</tr>
<tr>
<td>R22 001 +</td>
<td>Private sector</td>
<td></td>
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NOTE: FSC Affordable Limit: R26,100
Who should benefit?

- Employed households with a stable income (able to pay rent)
- Upper income threshold - Social Rental threshold R15,000; FLISP ownership threshold R22,000
- Earning between approx. R10,000 and R26,000 per month (estimated at approximately 46% of the South African housing market)*
- Properties valued between R300,000 – R600,000
- On average, a registered nurse earns R20,594**, a teacher earns R15,000 – R25,000, and a SAPS employee earns R17,109 a month***
- Ideally municipal / town specific market studies determine relevant income target

* Note that a developer may partner with a Social housing Institution to deliver its inclusionary housing contribution – the SHI can then also leverage subsidies. SHIs must accommodate a range of incomes within the income bracket determined by the Social Housing Regulatory Authority up to R15,000.

** http://www.indeed.com/salaries/registered-nurse-statistics

*** https://www.payscale.com/research/ZA/Employer=South_African_Police_Services/Salary

Key workers are an important target market
Who should identify beneficiaries?

• **Not Government!**
  • Draft Western Cape Inclusionary Housing Policy Framework identifies principles and considerations

• Municipal Inclusionary Housing Policies should set out criteria:
  o Income targeting
  o Household structure diversity (families, single headed families and smaller)
  o Human rights & vulnerable groupings: gender, youth

• Inclusionary Housing Agreements linked to planning permissions must record the municipal – applicant agreement on criteria to be applied in that project based on the Municipal policy

• Housing waiting lists may be a resource through which to market and invite applications

• Social Housing Institutions have their own, established processes
Policy Considerations: Developer Obligation Options

Developer proposes residential/mixed use development incl product targeted at household income targeted by Inclusionary Housing Policy

No Inclusionary Housing required. Approval condition required to link exemption from Policy with the stated target market of the development

Units sold/rented. May or may not be linked to state programme eg FLISP/SH

Developer proposes residential/mixed use development in upzoned area

Mandatory IH Requirement

IH Requirement met on site

Developer sells IH units to beneficiaries at defined price

Developer transfers IH units to another institution

Developer requests additional residential/mixed use rights in “trigger area”

IH Requirement linked to additional rights requested & granted

IH Requirement met off site in priority area

Developer rents IH units at defined rental

Developer builds obo another institution

IH Requirement met with in lieu payment towards IH development in priority area
Policy Considerations: Developer Obligation Options

In Lieu Scenarios

In lieu payment made to Municipality, or

Land assembly & preparation for affordable housing development pipeline in priority development area (incl Social Housing)

Co-fund costs to secure SHI / FLISP/ mixed-market project viability

Fund building institutional capacity to improve policy implementation and oversee tenure preservation

In lieu payment made to SHI project in priority development area in terms of agreement with Municipality, or

• To secure project viability
  • To increase density
  • To achieve deeper reach (lower household income)

In lieu payment made to another Development Agent in terms of agreement with Municipality towards affordable housing project in priority development area

IH Requirement met with in lieu payment towards IH development in priority area in terms of agreement with the Municipality
Policy Considerations: Affordability Preservation

Practical considerations and administrative expectations on municipalities lean towards social rental Mechanism – but developer’s choice

- Requirement for IH units calculated in price paid for land – units constructed and rented at targeted price – lease agreement allows for regular income certification; annual reporting to municipality

- Requirement for IH units calculated in price paid for land – units constructed and sold at targeted price – title deed restriction to limit who unit may be on-sold to, at what price (FLISP may be used but can FLISP be combined with such a restriction?)

- Requirement for IH units calculated in price paid for land – units constructed and handed over at no cost to institution that will rent and manage these units (Residual land value absorbs cost of constructing IH units)
Policy Considerations: Incentives

De-risk development

s.21 (l) of SPLUMA requires MSDFs to identify the designation of areas in which – (ii) shortened land use procedures may be applicable and land use schemes may be so amended – an important incentive to complement/improve the opportunity for Inclusionary Housing.

- Infrastructure planning and availability alignment
- Deferred developer contributions

The need for cost offsets to be determined by Feasibility Study

- Additional density allowance
- Reduced parking requirements
- Expedited planning permission via overlay zone upzoning designated areas
- FLISP/ SHI co-funding
- Other?
Next steps
Next Steps

**DEADLINE FOR PUBLIC INPUT:**

**13 JULY 2021**

**By post:**
The Head of Department
Department of Environmental Affairs & Development
Planning
Directorate: Spatial Planning
Private Bag X9086
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**By hand:**
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Thank you
Questions and discussion
Contact Us

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