



**Western Cape
Government**

Department of Environmental Affairs and
Development Planning

Western Cape Government Inclusionary Housing Policy Framework

Approved by the Western Cape Cabinet
October 2022

Contents

Contents	2
Table of Figures.....	3
Acronyms, Terminology and Definitions	4
Foreword.....	10
Vote of Thanks	11
1. Introduction	12
2. Why the need for interventions to address the need for affordable housing and better located affordable housing?.....	15
2.1 Housing Market Failure and the Economic Consequences	15
2.2 The persistence of Spatial Apartheid : Why location matters	19
2.3 The Need for Well-located Affordable Housing: The Case of 5 Major Urban Centres in the Western Cape	21
2.3.1 Cape Town	21
2.3.2 George, Mossel Bay, Stellenbosch and Paarl-Wellington urban centres.....	23
2.4 Why is there Insufficient Affordable Housing in the Right Locations in the Western Cape?	26
2.5 Programmes to address the need for Affordable Housing in the Western Cape.....	28
3. What is Inclusionary Housing?	30
3.1 The purpose of Inclusionary Housing	30
3.2 Starting Principles.....	31
3.3 Inclusionary Housing Policies in South Africa	32
3.4 Where is Inclusionary Housing Policy possible in the Western Cape?	32
4. Provincial and Municipal Mandate for Inclusionary Housing.....	35
4.1 Policy Mandate	35
4.2 Legal Mandate for Inclusionary Housing.....	35
4.3 The Provincial Mandate.....	37
4.4 The Municipal Mandate	38
5. How is an Inclusionary Housing Requirement Imposed?	40
6. Guidelines for the Development of a Municipal Inclusionary Housing Policy	44
6.1 Preparing for a Municipal Inclusionary Housing Policy: Building Blocks	44
6.1.1 Determining Who Should Benefit – Housing Market Study.....	44
6.1.2 Determining What Kind of Development Should Contribute and How Much – Economic/ Financial Feasibility Study.....	46
6.1.3 Determining Where Inclusionary Housing Should be Applied	48
6.1.4 Steps to incrementally introduce municipal Inclusionary housing policy and regulatory provisions.....	52
6.2 Inclusionary Housing Policy Elements.....	52
6.2.1 Who Does Inclusionary Housing Aim to Benefit?	52

6.2.2	Options for Providing Inclusionary Housing: On Site, Off Site and <i>In Lieu</i>	55
6.2.3	Affordability Preservation	60
6.2.4	De-risking development to improve the scope for Inclusionary Housing.....	64
6.2.5	What Should Inclusionary Housing Look Like?	67
7.	Supporting Programmes/ Actions.....	69
7.1	Land Assembly.....	69
7.2	Partnerships.....	70
7.3	Municipal Support Programme	70
7.4	Expediting Planning Permissions.....	72
8.	Application of this Policy Framework	74
8.1	SPLUMA Section 21 (i).....	74
8.2	Future Provincial Legislation/ Regulation	75
9.	Policy Monitoring, Evaluation and Review.....	76
10.	References and Resources	79

Table of Figures

Figure 1: Focus Areas of VIP 4: Mobility & Spatial Transformation	12
Figure 2: Aggregated annual income distribution across the City of Cape Town, Stellenbosch, Drakenstein, George and Mossel Bay. Bars in red represent income categories that could afford to buy a property at the average sale price in the Western Cape (Data from HIS Markit, 2021. Own calculations).	15
Figure 3: Comparison of proportion of households properties in the affordable, conventional, and high end market segments to households in the equivalent market segments (Data from (CAHF & WCG, 2022); IHS Markit, 2021)	16
Figure 4: Growth in household disposable income per capita, 2001 – 2020 (Western Cape Government Provincial Treasury, 2021)	17
Figure 5: Property sales in the Western Cape (Property 24, 2022)	18
Figure 6: Residential and Employment Density in Cape Town (City of Cape Town, 2018)	21
Figure 7: City of Cape Town Valuation Roll 2015 mapped.....	22
Figure 8: Distribution of residential properties in Cape Town by market segment (CAHF, 2020)	22
Figure 9: Distribution of new transactions by market segment City of Cape Town, 2020 (CAHF, 2020)	23
Figure 10: Comparison of residential property markets in four Western Cape Towns (CAHF & WCG, 2022)	24
Figure 11: Income distributions in four Western Cape towns (IHS Markit, 2021)	24
Figure 12: Distribution of residential properties by market segment in 4 Western Cape towns (CAHF & WCG, 2022)	25
Figure 13: Residential property values by location in George (WCG, 2021)	26
Figure 14: An Incentive-driven approach to Inclusionary Housing	30
Figure 15: A spatially differentiated approach.....	51
Figure 16: Steps to progressively introduce municipal inclusionary housing policy and regulation..	52

Acronyms, Terminology and Definitions

ACRONYMS	
CAHF	Centre for Affordable Housing Finance
DEA&DP	Department of Environmental Affairs & Development Planning
FLISP	Finance-linked Individual Subsidy Programme
FSC	Financial Services Charter
HOA	Home-Owners Association
HWC	Heritage Western Cape
IDP	Integrated Development Plan
IUDF	Integrated Urban Development Framework
NDP	National Development Plan 2030
NHRA	National Heritage Resources Act 25 of 1999
LUPA	Western Cape Land Use Planning Act 3 of 2014
MPBL	Municipal Planning By-Law
MSDF	Municipal Spatial Development Framework
NEMA	National Environmental Management Act 107 of 1998
PHSHDA	Priority Human Settlement Housing Development Area
SARS	South African Revenue Service
SALGA	South African Local Government Association
SHI	Social Housing Institution
SHRA	Social Housing Regulatory Authority
SPLUMA	Spatial Planning and Land Use Management Act No 16 of 2013
UDZ	Urban Development Zone
WCG	WCG

TERMINOLOGY AND DEFINITIONS

Additional land use rights (obtained through development permissions)	Any development permission that increases or enhances allowable bulk or development yield over and above the existing rights, including the removal of title deed restrictions.
Affordable Housing	<p>National Government has determined an income threshold for the affordable or “gap” housing market of households earning up to R22 000 per month. However, affordability can fluctuate depending on the context; namely, the place in which housing is available (City of Cape Town, 2021) and time.</p> <p>The Financial Services Charter (FSC) defines the Affordable Housing target market to be the approximate cost of bonded entry-level housing in the country, capable of being mortgaged, adjusted annually by the midpoint of the average Consumer Price Index and the average Building Cost Index. The Banking Association of South Africa annually updates this measure and makes this available on its website.</p> <p>For the purposes of municipal inclusionary housing policies, what is affordable housing will be determined based on multiple sources and should seek to define what is actually (effectively) affordable to households in that settlement. These include the National Government and FSC definitions, as well as outcomes of housing market and feasibility studies that further define the affordability gap in the housing market for a particular settlement. This is to cater for variations from place to place.</p> <p>A prescriptive definition of the gap market that applies to all municipalities could lead to municipal inclusionary housing policies targeting an income range that does not meet the local affordability gap.</p> <p>Also refer to “Gap Market/ Housing” below.</p>
Affordability preservation	The purpose of inclusionary housing is to increase the stock of well-located affordable housing over the long term. If such housing is not restricted from being sold or rented in the open market following the first generation of allocation, the purpose is defeated, while public value profits a few (Jacobus, 2015). Preserving the affordability of inclusionary units over the long term is therefore a key policy concern.
Density bonus	Density bonuses are a zoning tool that allows developers to increase height and/or bulk in a project by allowing building heights or a floor factor/ floor space greater than the zoned maximum as well as relaxations of related requirements, such as parking, in exchange for a public or a social good. In the instance of this policy framework, this public good is inclusionary housing. This tool is used primarily for projects that include the development of housing units. The added density is intended to compensate the developer with additional revenue from the construction of additional dwellings. This recognises the added costs of development or differences in profit margins between market rate units and the inclusion of below-market units or unprofitable amenities. The result is development that provides

TERMINOLOGY AND DEFINITIONS	
	additional density and public benefits without direct public funding. (Cities Support Programme, 2017).
Development Management Scheme/ Zoning Scheme/ Land Use Scheme	A municipal by-law to manage and determine the use and development of land within a municipal area. The purpose of a land use scheme is set out in Section 25 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA).
Down-raiding	When a household that can afford a higher value property occupies a cheaper property because it is unable to find a suitable property for its needs in its price range. This means this cheaper property is not available to poorer households for whom it would be affordable, reducing the supply of houses to poorer households.
Finance-linked Individual Subsidy Programme (FLISP)	The FLISP is a housing subsidy for first-time home buyers to assist with purchasing a property. The subsidy can be used on its own or in combination with mortgage and non-mortgage finance facilities, making it more affordable to purchase a property (plot and/or house). Households with an income between R3 501 to R22 000 may qualify for the FLISP subsidy if they meet all the criteria. The subsidy amount depends on the income of the applicant and ranges between R27 960 – R121 626.
Gap Market/ Housing	Households falling into the portion of the market that earn too much to qualify for full grant housing assistance, but too little to be able to afford a bond of sufficient size to purchase an entry level market house. The gap housing market is understood to fall within the broader affordable housing market. Also refer to "Affordable Housing" above.
Housing/ property ladder	The progressive stages of securing adequate and improved housing. This encompasses moving from informal to formal housing, and within the formal realm, from renting to owning and from owning a small house or flat to owning a larger and/or more valuable property.
Hurdle rate	The minimum acceptable rate of return on a project or investment required by an investor – it describes the appropriate level of compensation for the risk present (Kenton, 2020).
Inclusionary housing	A spatially targeted mechanism that relies on the regulatory system of development planning permissions to oblige property developers to provide affordable housing, for sale or rent, within their development.
Key workers	An employee who provides a vital service, typically in the police, health and education sectors (Oxford Languages , 2021).
Land market	Land markets exist when and wherever it is possible to exchange rights in land for agreed amounts of money or services rendered. The ability and capacity of banks and other financial institutions to lend money is underpinned by an efficient land market, which in turn requires an efficient land administration system (Mahoney, Dale, & McLaren, 2007).
Land use/ Development rights	'Land use' means the purpose for which land is, or may be, used lawfully in terms of the development management scheme or any other authorisation issued by a competent authority and includes

TERMINOLOGY AND DEFINITIONS

	any conditions related to such land use (SPLUMA, 2013). Expressed as the type of land use that may occur on a site and the amount of saleable or rentable floor space permitted.
Open Market housing	Housing sold or rented on the open market (willing buyer and seller) with no state assistance, with or without a mortgage.
Mixed-market housing	Development projects catering to a mix of income groups. Typically, this refers to affordable housing and open market housing developed in partnership between a private sector and affordable housing developer on public land. Government housing, land and infrastructure subsidies are typically used in these developments.
Mixed-use	Land use where compatible uses are permitted on the same site or in the same building, such as commercial, retail, office and residential.
Overlay zone	<p>A zoning, in addition to the base zoning, stipulating the purposes for which land may be used and the development rule which may be more or less restrictive than the base zoning (City of Cape Town, 2015).</p> <p>A category of zoning that applies to land or land units in specific areas in addition to the base zoning and that—</p> <p>(a) stipulates development parameters or use rights that may be more or less restrictive; and</p> <p>(b) may include provisions and development parameters</p> <p>In order to:</p> <p>(a) give expression, in a planning context, to the local needs and values of the communities concerned; and</p> <p>(b) promote particular types of development, urban form, landscape character, environmental features or heritage values. (Mossel Bay Municipality, 2021)¹</p>
Planning Permissions	Authorisations given in response to applications made to a competent authority to develop land.
Set-aside requirement	How many inclusionary units or the value of inclusionary housing that must be provided in a development according to the size of the development or in relation to the additional rights given.
Settlement restructuring	Refers to the need to transform i) the Apartheid form of our urban settlements where the poorest live the furthest away from opportunities - spending the most time and money accessing these opportunities or being caught in spatial poverty traps - and residential areas are defined and separated by class and race; ii) the unsustainable modernist form of our settlements where settlements are designed with the motor car as the main form of movement and land uses is monofunctional. Typically, settlement restructuring is planned for and implemented through investment in socially integrated, mixed-use infill development on well-located land, along with densification, intensification of land uses, public transport and non-motorised transport and taking high quality facilities and amenities to marginalised township areas.

¹ While the Mossel Bay Planning By-Law is quoted, almost all municipalities outside of the City of Cape Town, in the Western Cape adopted municipal planning bylaws that are based on a model by-law prepared by the WCG and therefore have similar or the same provisions.

TERMINOLOGY AND DEFINITIONS	
Smart Partnership Programmes	Medium term (five year) framework agreements between municipalities and Social Housing Institutions (SHI) serving as a municipal registration process where the municipality applies its own criteria in addition to those of the Social Housing Regulatory Authority (SHRA) to satisfy itself on the suitability of a panel of SHIs to act as its delivery agents in the implementation of social housing development projects on municipal land. This 'pre-qualification approach' allows the municipality to proceed on a 'by-invitation' transaction approach sharpening requirements appropriate to specific sites through successive agreements.
Social housing	Rental housing targeted at households earning R1,850 – R22,000 per month. Social Housing is governed by the Social Housing Act, 2008 (Act 16 of 2008) and the policy prescripts of the National Housing Code.
Spatial targeting	A built environment investment prioritisation approach where specific areas are designated for investment or specific land uses at a range of geographic scales, within an urban system, to achieve transformative development outcomes. Spatial targeting is an approach recommended by the National Development Plan 2030 (NDP) .
Spatial Apartheid	The legacy of apartheid – communities segregated from one another based on race (and class) with so-called black and coloured people relocated to less well-resourced urban areas or prevented from accessing or owning property in these areas – as well as the impacts of the legacy of the modernist approach to city building based on the automobile and functional separation of land uses. This has left South Africa with cities that are inefficient, inequitably developed and environmentally, socially, and fiscally expensive to live in and to manage. It has also meant that discrimination has been structured into settlement patterns.
Spatial transformation	<p>The NDP states that a national focus on the spatial transformation of our cities should, by 2030, ensure that a larger proportion of the population should live closer to places of work and that travel distances and costs should be reduced, especially for poor households. Urban systems are key levers to overcome the debilitating impact of distance and separation on the fortunes of the individual, household, business, and the state, as well as the environment and the resilience of the system as a whole. These include both hard (physical structures and networks) and soft (such governance systems including urban management and land use management) systems that facilitate and enable compact cities and transformed urban spaces of social and economic inclusion on an equitable basis. The equitable redistribution of resources within cities, as well as building systems that facilitate affordable and safe access to the full ambit of resources that makes urban living productive, are critical to spatial transformation (National Treasury, 2017).</p> <p>The South African Local Government Association (SALGA) defines spatial transformation as <i>“the overhaul of an inherited segregated spatial dispensation and preventing it from reestablishing itself in new</i></p>

TERMINOLOGY AND DEFINITIONS

	<i>forms of post-apartheid class and income-based spatial segregation and spatial inequality."</i> In considering how to measure whether we are spatially transforming our settlements, SALGA identifies four themes: Proximity and Access, Housing and Basic Services, Integration and Inequality, Safety and Amenity and Agency and Governance (SALGA, 2021).
Well located areas	Areas (such as suburbs, neighbourhoods, town centres, activity corridors) with good public transport and non-motorised transport access to existing public and private education, health and social facilities, amenities, retail facilities and work opportunities. For the purposes of this Policy Framework, well located areas are identified or designated in Municipal Spatial Development Frameworks (MSDF) as priority development areas, integration zones, intensification zones, densification encouragement areas, restructuring zones, urban inner core, and other terms. In the South African context, available land for development is limited in these areas, land prices are high and there is demand for high- and middle-income housing. All of these factors are challenging for the provision of affordable housing.

Foreword



The need to transform our cities and towns is non-negotiable. This is why one of the five top priorities for the Western Cape Government is spatial transformation and a focus area is to create opportunities for people to live in better locations.

We are determined to be bold in exploring as many opportunities as possible for promoting spatial integration to build social cohesion and connected, safer spaces in our towns. It is not only a question of spatial justice but also of economic growth.

Too many of our households travel long distances to work at great expense, they can least afford, because they are unable to find affordable housing opportunities closer to their places of work and study. This impacts on the cost of labour, labour productivity, job security, disposable income, upward mobility and the safety and wellbeing of workers, learners and families.

Lower income households and lower to middle income households, including many of our essential workers, need easier access to economic opportunities and social amenities in our towns and cities. At the same time, urban land in the Western Cape is very valuable, coupled with development rights this is a resource that can be leveraged in partnership with developers towards creating affordable housing opportunities in areas with active, profitable property markets.

This is the foundation upon which the province has based this Inclusionary Housing Policy Framework – the first provincial policy framework in South Africa. An important first step that will most certainly evolve and be improved over time, it aims to help municipalities in the Western Cape to facilitate the inclusion of more affordable housing units in developments in their cities and towns, working with the private sector. Clearly, inclusionary housing policy is not the only mechanism to promote well located affordable housing. It is complementary to many of the other interventions we as the provincial government and municipalities are exploring to effectively address this need within our resource constraints.

The Western Cape Inclusionary Housing Policy Framework is a joint effort of the Departments of Environmental Affairs and Development Planning, Human Settlements and Transport and Public Works, as well as the Department of the Premier. Whilst we all recognise the risks and uncertainties in venturing into this new terrain, we are nevertheless taking the first step. We want more affordable and inclusionary housing in well-located areas within our urban centres and we look to municipalities to rise to the challenge.

We look to municipalities, developers, landowners, society, academia, and non-governmental organisations to contribute towards the improvement of this Policy Framework and municipal policy, as we build a body of evidence through practice.

Anton Bredell
Minister of Local Government, Environmental Affairs and Development Planning

Vote of Thanks



The Western Cape Inclusionary Housing Policy Framework is a result of the collaborative effort and critical engagement of multiple role players from both inside and outside of the Western Cape Government.

We are especially grateful to the Development Action Group (DAG) and their partners, the Lincoln Institute of Land Policy and their local expert reference group, the Provincial Planning and Development Forum participants, the City of Cape Town, Ndifuna Ukwazi, the City of Johannesburg, the Association of Consulting Town and Regional Planners, colleagues in the George, Stellenbosch, Drakenstein and Overstrand municipalities, the

South African Local Government Association, and other members of civil society and academia that contributed extensively to reviewing successive drafts of the Policy Framework. The Land Value Capture Dialogues convened by the Development Action Group, over many years, paved the way for constructive engagement on this important topic.

We also thank the Western Cape Government's project team, whose membership included the Western Cape Department of Human Settlements, the Department of Transport and Public Works and the Department of the Premier. The support of the Heads of these Departments and the bravery of our leadership throughout the process is much appreciated.

The hard work now begins, building on this foundation, to support municipalities to consider the scope for application of inclusionary housing in their cities and towns and to build the partnerships and capacity to implement inclusionary housing. I am pleased to report that we have already started this work. With the Western Cape Department of Human Settlements, we have already started to undertake preparatory research in our larger cities and towns on their housing supply and demand across the market, the affordability gap and where there is development interest.

Co-creating the mechanisms for securing affordable housing opportunities in well-located parts of our urban centres requires sustained effort, from multiple angles, over the long term. The Western Cape Inclusionary Housing Policy Framework sets out one approach to leverage valuable resources embedded in the value of land and development rights towards more inclusive urban centres. Progress will no doubt be incremental, with the potential for significant cumulative impact over time.

A handwritten signature in black ink, appearing to read 'Gerhard Gerber'. The signature is stylized with a large 'G' and a long horizontal stroke at the end.

Gerhard Gerber

Head of Department

Environmental Affairs & Development Planning

1. Introduction

The goal of this provincial Inclusionary Housing Policy Framework is to better enable inclusionary housing as a mechanism to contribute towards spatial transformation in the cities and towns of the Western Cape. The Western Cape Government's (WCG) Provincial Strategic Plan 2019 - 2024 identifies the development of an inclusionary housing policy framework as an intervention supporting its focus area of generating more opportunities for people to live in better locations. It does this in terms of one of the Strategic Plan's five priorities: to promote Mobility and Spatial Transformation. There are four focus areas within this Priority, steering a range of programmes aimed at tackling spatial transformation and improved mobility, of which this Policy Framework is but one.

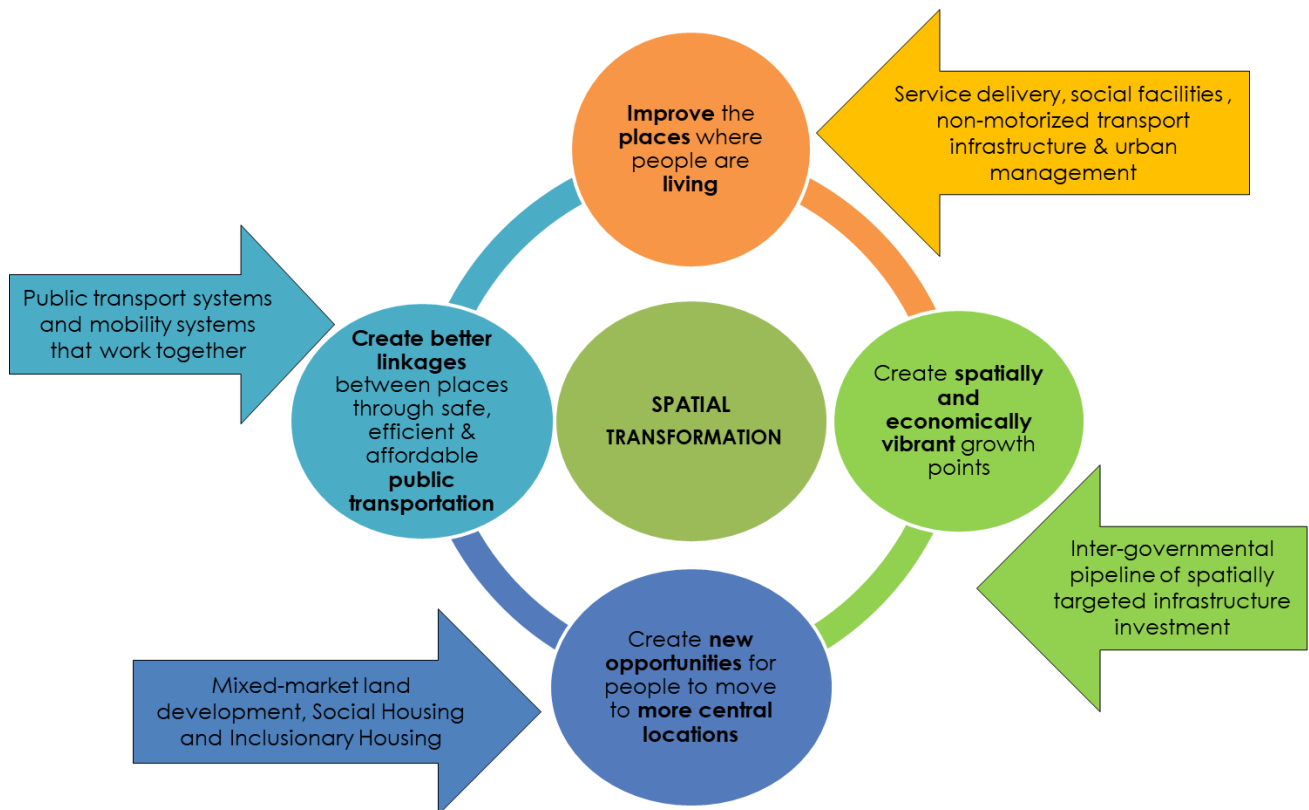


Figure 1: Focus Areas of VIP 4: Mobility & Spatial Transformation

Inclusionary housing is a *spatially targeted mechanism that relies on the regulatory system of development planning permissions to oblige property developers to provide affordable housing, for sale or rent, within their development*².

The aims of this Policy Framework are:

- i. To further the obligation on the state to pursue a just society and transformed settlements underpinned by the Constitution and SPLUMA's principles of spatial justice, sustainability, efficiency and good governance, and specifically, to meet SPLUMA's expectation of a provincial inclusionary housing policy.

² An explainer video on Inclusionary Housing can be found here: <https://www.youtube.com/watch?v=KF0V7J7zFY>

- ii. To set out the context that suggests government must consider a range of mechanisms to promote the supply of affordable housing and specifically, well located affordable housing in our larger towns and cities and why inclusionary housing is one of those mechanisms.
- iii. To set out the legislative and policy basis for the application of inclusionary housing provisions in land use planning permissions, as a mechanism to implement the SPLUMA requirement that a land use scheme promotes the inclusion of affordable housing in residential land development and that the scheme incentivises, promotes and gives effect to national, provincial and municipal policies, including the MSDF.
- iv. To assist municipalities and promote consistency between municipalities, with a framework for developing their own inclusionary housing policy and regulatory mechanism by:
 - Providing direction as to the goal, purpose and intended outcomes of inclusionary housing.
 - Providing definitional clarity and certainty.
 - Providing the legal framework and a policy basis for municipal inclusionary housing policy and regulation.
 - Identifying the key research required to design a policy.
 - Introducing and explaining policy principles.
 - Clarifying the context within which inclusionary housing policies would be feasible / appropriate.
 - Identifying the policy elements and choices that municipal inclusionary housing policy and regulation will need to determine and their institutional implications.
- v. To outline the support to be offered to municipalities in the development and implementation of municipal inclusionary housing policy and the monitoring and oversight role to be played by the WCG.
- vi. To build public understanding and support for inclusionary housing by being clear about who it aims to benefit, the rationale for inclusionary housing and the approach that should be taken to introducing inclusionary housing provisions.
- vii. In so doing, it also aims to promote good governance by contributing to policy consistency and predictability – a key concern and risk for the property development sector – across the Western Cape.

Simply put, this Western Cape Inclusionary Housing Policy Framework document sets out to answer the following questions:

- i. What is inclusionary housing?
- ii. Why should it be used as a mechanism for spatial transformation?
- iii. On what basis can inclusionary housing be applied in the Western Cape?
- iv. How can inclusionary housing be introduced in municipalities – what should be done first?

- v. Who should do what?
- vi. What are the policy considerations?
- vii. How to preserve the affordable housing opportunities created through the inclusionary housing mechanism over the long term?

There is no doubt that the introduction of inclusionary housing is a complex and technical task, involving several role-players and stakeholders, variable property markets and housing demand across towns in the province and competencies and capacities that are only emerging – all coupled with possible unintended consequences which are difficult to predict. The design of an inclusionary housing policy requires very careful thought with important preparatory steps that require expertise, time and resources. Models of inclusionary housing to learn from in South Africa are limited.

Nevertheless, the expectation of South Africa's law is clear. The need to transform our cities and towns, beleaguered by the impact of spatial Apartheid and subsequent policy directions, financial constraints and urban land markets that have entrenched these spatial patterns, from a social, economic, environmental and governance perspective, is indisputable. This is an opportunity to use spatial planning and land use legislation and regulation, historically used as an instrument to enforce spatial separation and disadvantage, as a tool to reverse this legacy.

Empowered by this legislation and bringing to conclusion decades of debate, the WCG must be brave and bold whilst recognising that designing the perfect policy from the outset is not possible. Through approaching the introduction of inclusionary housing policy in the Western Cape as an incremental exercise with a view to the long term, this initial Policy Framework and any subsequent municipal inclusionary housing policies will evolve and be improved over time. This will occur through learning by doing in the form of frequent review and feedback received as municipalities prepare, launch, and apply their own policies or provisions, guided by this one. This Policy Framework is about getting started. It will look to municipalities, developers, landowners, civil society, and organisations to partner and contribute towards its improvement as we build a body of evidence from practicing inclusionary housing and institutionalising affordability preservation. Municipalities are encouraged to explore and innovate within the legal framework. For this reason, it seeks to avoid closing opportunities for developers, municipalities and other parties who are looking to find innovative solutions for inclusionary housing, through being too prescriptive or pre-empting policy choices. This policy does not try to uncover all the possible permutations that inclusionary housing implementation might take and the guidance that may be required because many of these innovations will emerge in practice.

2. Why the need for interventions to address the need for affordable housing and better located affordable housing?

2.1 Housing Market Failure and the Economic Consequences

The Western Cape's estimated average monthly household income in 2019 was R19,430 (Quantec, 2021). Amongst the larger urban centres including Cape Town, George has the highest average income, only marginally more than the provincial average, at R20,650.

The average Western Cape household is therefore unlikely to be able to afford a property of more than R600,000; however, the average property sale price in the Western Cape in 2021 was R1,350,000 (Property 24, 2022). To buy a property at this average sale price, a household would need to earn a gross monthly income of approximately R33,248 (assuming a 10% deposit, 7.75% interest rate, and 20-year loan tenor).

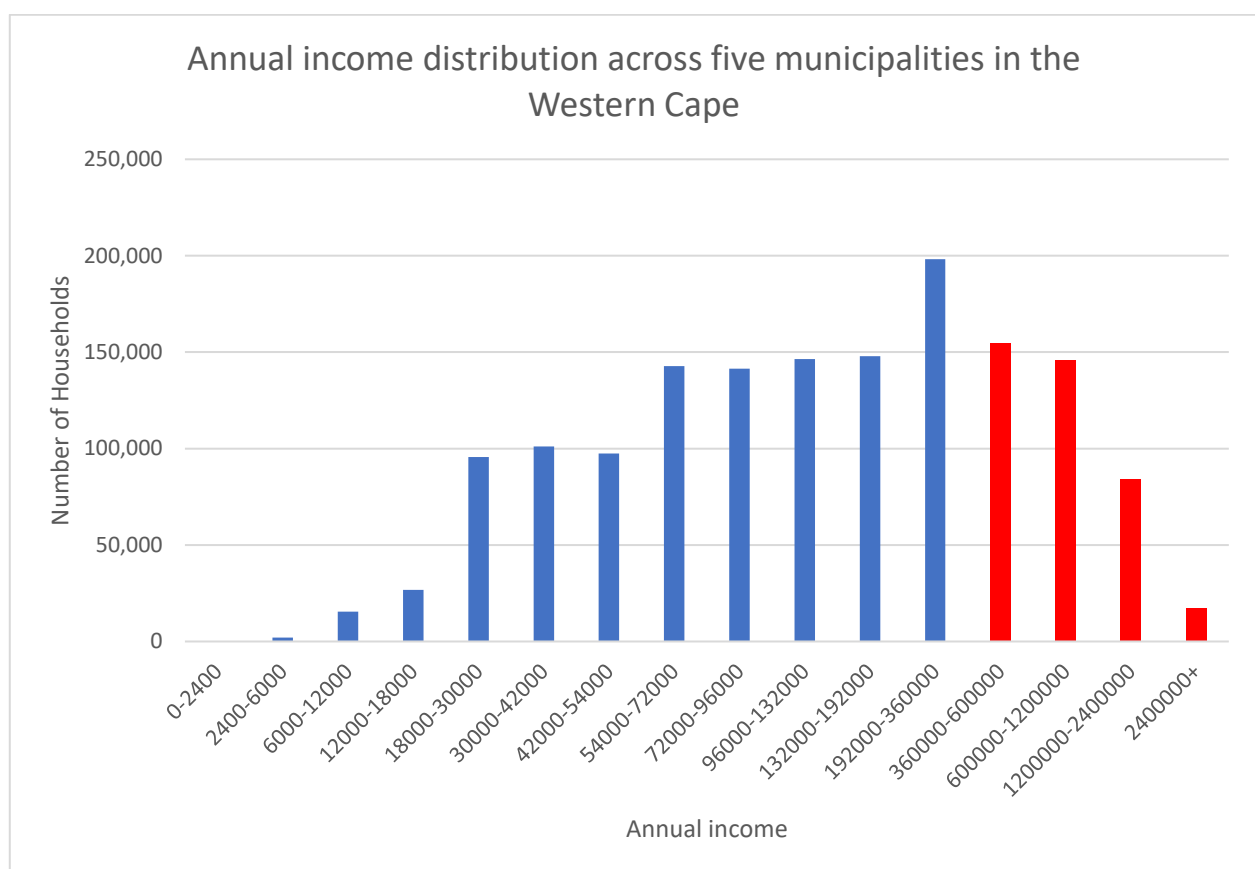
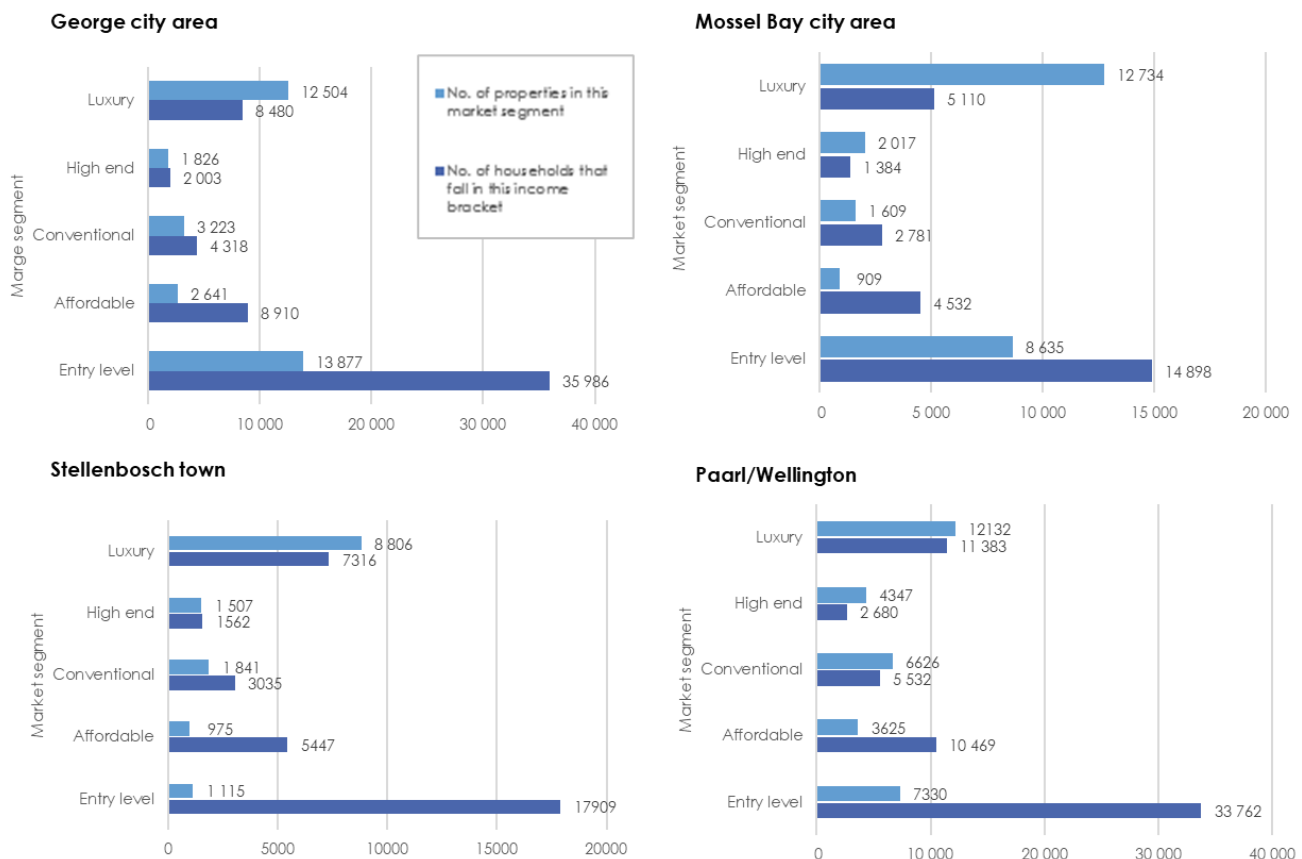


Figure 2: Aggregated annual income distribution across the City of Cape Town, Stellenbosch, Drakenstein, George and Mossel Bay. Bars in red represent income categories that could afford to buy a property at the average sale price in the Western Cape (Data from HIS Markit, 2021. Own calculations).

Across four of the biggest urban centres in the Western Cape (Paarl-Wellington, Stellenbosch, George and Mossel Bay), over 44% of the properties are valued at more than R1.2 million (the “luxury market”). Only 23% of our population earn enough to afford to purchase these properties. Recent research conducted by the WCG reveals the mismatch between the number of properties and the number of households falling between the luxury market and the properties typically developed by the State in terms of its housing subsidy programme. A comparison between market segmentation and household income distribution is a rough method for comparing supply to demand. Looking exclusively at property values between R300 000 and R600,000 (as an approximation for the

affordable market), and households falling into equivalent income segments, in every centre there are more households than properties for the R300 000 – R600 000 segment³ in some cases up to five times more households – shown in Figure 3 (WC DEA&DP, 2022). This same research has, based on an analysis of property transactions between 2017 and 2021, indicated marginal participation of the private sector in the conventional (properties worth between R600,000 and R900,000) and affordable market segments (properties worth between R300,000 and R600,000) relative to the luxury market. Yet every new “luxury” housing development brings with it the need for services that must be staffed by people that will earn less, who themselves need housing.



* Assuming 7.75% interest rate, 20 year loan tenor, 30% premium to income ratio, 10% deposit and no FLISP.

** Assuming even spread of number of households at each income level, within an income bracket.

Source: Lightstone data as of 31 Dec 2021; ©GEOTERRAIMAGE – Neighbourhood Lifestyle Index™© (NLI™©) Release 2021. Own calculations.

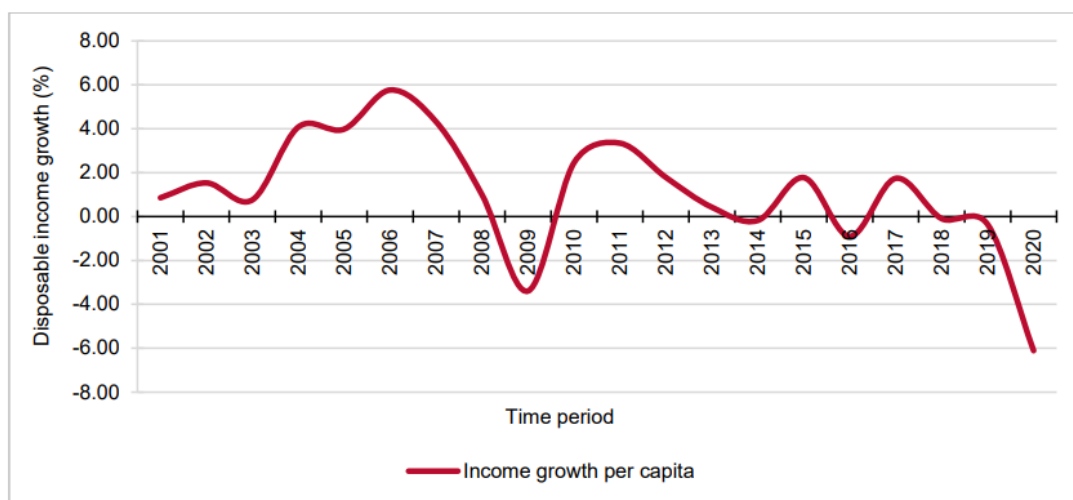
Figure 3: Comparison of proportion of households properties in the affordable, conventional, high end and luxury market segments to households in the equivalent market segments (WC DEA&DP, 2022)

Formal housing markets are not responding adequately to the needs of households who earn up to approximately R30,000 a month, perhaps even more. These are middle- and lower-income households in our cities and towns in the Western Cape, many of whom are households undertaking work critical to the well-being of our economy and society.

³ This may indicate unmet demand, but it also could also be due to other factors – for example, these households may be renting or staying in houses that have appreciated beyond their income levels. The calculation also assumes that households have a deposit and are able to access a bond.

The ratio of asset wealth (including property) to income is rising in developed countries and in South Africa. Property values are growing faster than household income: In the Western Cape, average household income decreased by 0.3% from 2015 to 2019 (Quantec, 2021), while the average sale price of property increased from R950 000 to R1 176 429 (an increase of 24%) over the same period (Property 24, 2022). Disposable income growth is on a downward trajectory (Western Cape Government Provincial Treasury, 2021). Figures 4 and 5 show these trends. This reinforces existing imbalances as those who own property accumulate wealth faster than those who don't and, in particular, constrains upward mobility of households who carry the inter-generational consequences of South Africa's discriminatory past – deprived of property assets or prevented from acquiring such assets.

The WCG's Growth Diagnostic research points out that, *"a large gap between demand and supply has led to rising prices across the whole housing market from top to bottom. On the one hand, this raises the household wealth of homeowners. On the other, it raises the cost of accommodation resulting in lower real ex-accommodation household incomes. It also results in upward wage pressure on local firms. Higher prices ripple across the housing market, making even the most affordable formal housing stock more expensive, with huge implications for living standards and inclusion"* (intellidex, 2022). Higher income households out compete other households for housing, pushing others into more and more marginal housing options, further disadvantaging households and constraining their ability to be part of a broader economic growth, social healing, and wellness trajectory. As a result, economic inequality is growing and the property market, as a means to "climb the economic ladder", is increasingly inaccessible in the Western Cape, hindering households from improving their asset wealth and ability to leverage this wealth for other positive outcomes – such as small business development, better education, and employment.



Note: Data in constant 2010 prices

Source: South African Reserve Bank, 2021; Own Calculations

Figure 4: Growth in household disposable income per capita, 2001 – 2020 (Western Cape Government Provincial Treasury, 2021)

Sold Erven

This graph shows the annual number of sold erven and average sold price in Western Cape, as registered in the South African Deeds office.

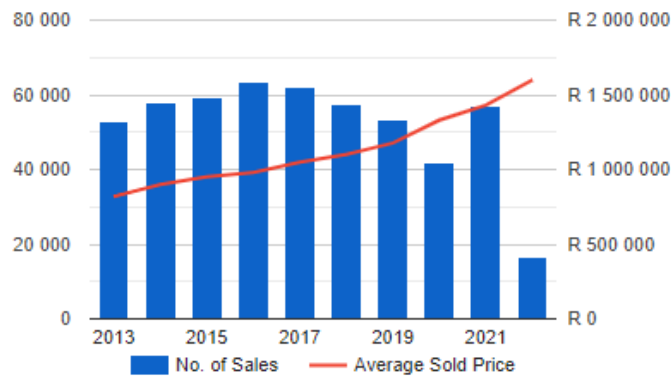


Figure 5: Property sales in the Western Cape (Property 24, 2022)

This is not just a burden the household carries. Inadequate supply of affordable housing in the right locations impacts negatively on the economy – linked to the upward pressure on wages, employers are unable to attract skilled labour (for whom long and expensive commuting distances are unattractive) and they suffer the externalities of employees commuting long distances (including late arrivals and early departures, safety risks associated with poor public transport, public transport interruptions, and related financial vulnerability). Labour's income is consumed by high transport costs, leaving little to put back into the economy. The time and financial costs place pressures on household income that affect wellness, which in turn impacts on the workplace and has further negative consequences for the economy (World Health Organization, 2013).

The corollary, as pointed out in the WCG's research into housing markets in four urban centres and by the Growth Diagnostic report is that *"the gap between housing demand and housing supply – reflected in rising prices – also creates opportunities for growth in construction, as well as in a variety of supply chains in the manufacture, sale and maintenance of household goods and services. Many of these sectors/supply-chains are intensive in the use of unskilled labour. Apart from these effects, slowing the rate of growth of the cost of accommodation is welfare-improving and could reduce some upward pressure on wages across the provincial economy. If it facilitates densification (e.g., through the delivery of apartment blocks), expanded housing production has the potential to increase urban efficiency and reduce the province's per capita greenhouse gas emissions"* (intellidex, 2022). The report concludes that filling the gap between demand and supply will boost growth in the Western Cape.

Significant problems sit on both the supply and demand sides of the housing market and with both the state and the private sector, for which there are both historical and contemporary reasons, which are both innate to housing markets and unique in the South African and Western Cape context. What is clear is that this presents a challenge to Western Cape urban centres in terms of both social justice and economic development, now and in time to come.

The key is to fill the gaps in the housing ladder, particularly in the market between R300,000 and R900,000, and especially in the market between R300,000 and R600,000. Without this, households in the entry market have nowhere to go when their circumstances improve and their needs change, blocking the opportunity for households to progressively improve their housing, leaving behind their

old house which can then be made available to another household seeking an entry level or affordable unit (Rust, 2022).

There are many avenues to address housing market failure. Indeed, there is no one solution. The challenge requires tackling matters, in parallel, at multiple levels in the property development value chain and housing ladder. This requires cooperation from all three spheres of government, the private sector, and households. To be successful, factors that drive costs up and limit supply of more affordable housing, as well as factors such as creditworthiness and/ or inaccessible finance sitting on the demand side of the housing market, need to be tackled.

Indeed, the inadequate supply of affordable, well-located housing is not a problem unique to South Africa and is found elsewhere where private land markets and certain land use zoning regimes prevail, like those of South Africa. Various mechanisms are being used to address the problem, including zoning reforms and inclusionary housing regulation.

Inclusionary housing introduces an obligation on developers to contribute towards affordable housing supply, using the gains in the value in land, land use rights and additional density, attributable to location and the actions of broader society as the resourcing mechanism. Crucially, it is just one way in which to promote more affordable housing provision and private sector participation in this provision, but importantly, it's particular focus is on **where** the affordable housing is provided. This is of particular importance in the South African and Western Cape context.

MARKET SEGMENTATION USED IN THIS POLICY FRAMEWORK

The property value segments referred to throughout this Policy Framework are defined as follows:

Entry level market: Under R300,000

Affordable market: R300,000 – R600,000

Conventional market: R600,000 – R900,000

High-end market: R900,000 – R1.2 million

Luxury market: Over R1.2 million

This categorisation allows for consistency with the segmentation of data used for housing market studies nationally.

Box 1

2.2 The persistence of Spatial Apartheid : Why location matters

The economic consequences of housing market failure are exacerbated by persistent Apartheid patterns in the spatial form of our cities and towns in the Western Cape, where entry level and affordable housing that is built, is built away from areas of high value and opportunity. Lower income households were removed or excluded from areas that are well served by public transport, social facilities, amenities, and economic activity, based on their race. This exclusion has persisted as property values in these areas have escalated putting housing out of reach of even middle-income households, never mind those reliant on state- assisted housing programmes. As central areas become very expensive, developers explore neighbouring areas which may be less expensive, starting a process of gentrification, further pushing out households who can no longer afford the rent or rates. Entry level and affordable housing opportunities have had to be developed in cheaper locations, further away, where other services and facilities are slow to arrive, and under significant pressure when they do, and economic activity is reluctant to follow, for a variety of reasons including poor services and concentrations of poor communities with low purchasing power.

Well-located areas are unaffordable for most citizens to secure a place to live – even those with stable incomes and professions (such as teachers, nurses, police people and other key workers). These patterns of exclusion have become deeply entrenched, perpetuated by the operation of property and financial markets (local and international), public sector regulations (including zoning), the unavailability of under-utilised but well-located state land, and established communities in well-served areas resisting denser development which can support greater affordability.

This has resulted in lower-to-middle income households having to spend a substantial share of their income and time on travelling to and from work, or school or tertiary education facilities. This limits time and capacity for investing in childcare and supervision or individual betterment, payment of municipal rates and tariffs and adequate nutrition, as well as eating into disposable wealth that could otherwise uplift the household's circumstances, through further education or moving up the housing ladder for example. It stands to reason that good quality education, from a young age, impacts on future opportunities for children, implying that exclusionary land markets create structural constraints to social mobility and entrench intergenerational disadvantage.

From the WCG's perspective, many of its employees fall prey to the consequences of living in segregated cities and towns with limited supply of affordable housing stock in suitable locations. They suffer long travel distances to work and the costs and risks that accompany this. Career progression and talent retention is compromised by the difficulty of finding affordable accommodation close to work. Young professionals feel excluded from the cities and towns they live in because there are no options to live where they might aspire to live. Teachers' and nurses' salaries typically range between R20,000 and R30,000 a month, and social workers and police officers typically earn at the bottom of this range.

These consequences are not only borne by households and employers. Broader society and the state bear the social, environmental, and economic costs of persistent exclusionary development patterns. This is why South African policy and planning legislation across all three spheres of government places so much emphasis on the need for spatial justice and spatial transformation and why location matters for affordable housing.

Inclusionary housing targeted at responding to the needs of the affordable market for well-located housing opportunities, presents an opportunity to empower these households to climb the housing/property ladder over time as they are able to save (or rehabilitate debt) by reducing travelling costs and investing saved time in household advancement.

2.3 The Need for Well-located Affordable Housing: The Case of 5 Major Urban Centres in the Western Cape

2.3.1 Cape Town

The maps below illustrate where most people live in Cape Town, shown by means of residential density, and where the economic opportunities are, shown by means of employment density.

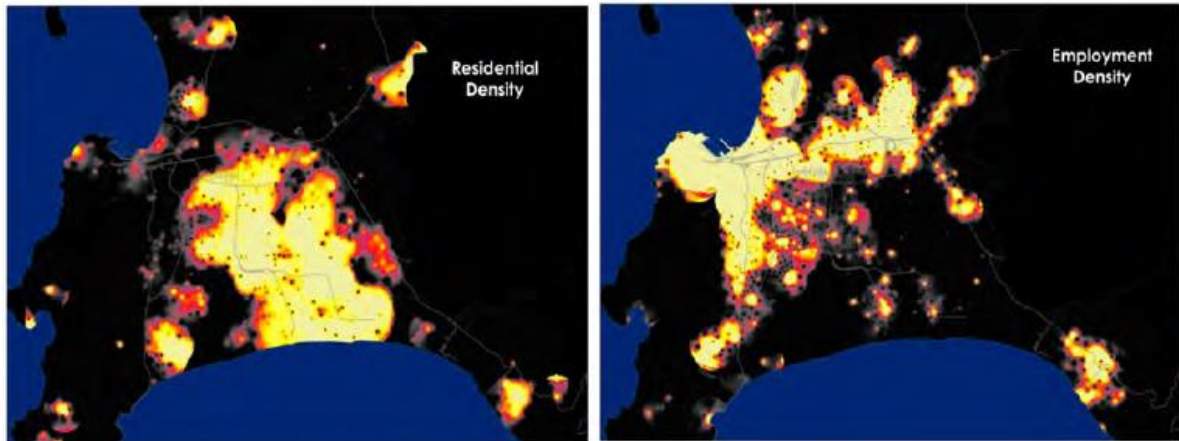


Figure 6: Residential and Employment Density in Cape Town (City of Cape Town, 2018)

Property valuation data shown in Figure 7, indicates how the higher property values (in red and orange) clearly mirror the employment density map. Also presented, are the distribution of residential properties in Cape Town by market segment. The distribution of new residential transactions clearly indicates that entry (green), affordable (blue) and conventional (orange) housing is being produced on the periphery of the city, exacerbating the pattern of poorer households having to travel the furthest to work. The high end (pink) and luxury (red) markets track the areas of highest employment density and opportunity.

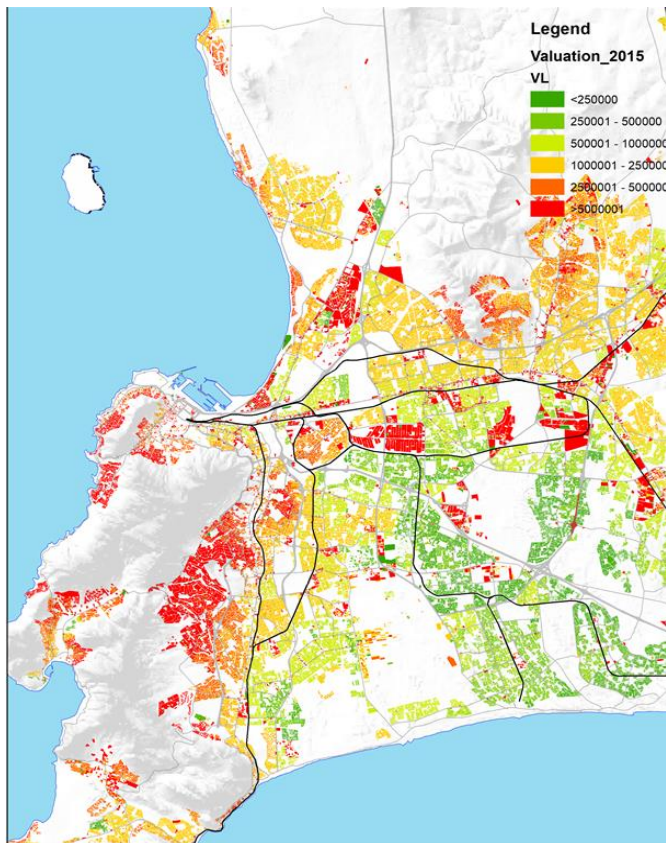


Figure 7: City of Cape Town Valuation Roll 2015 mapped

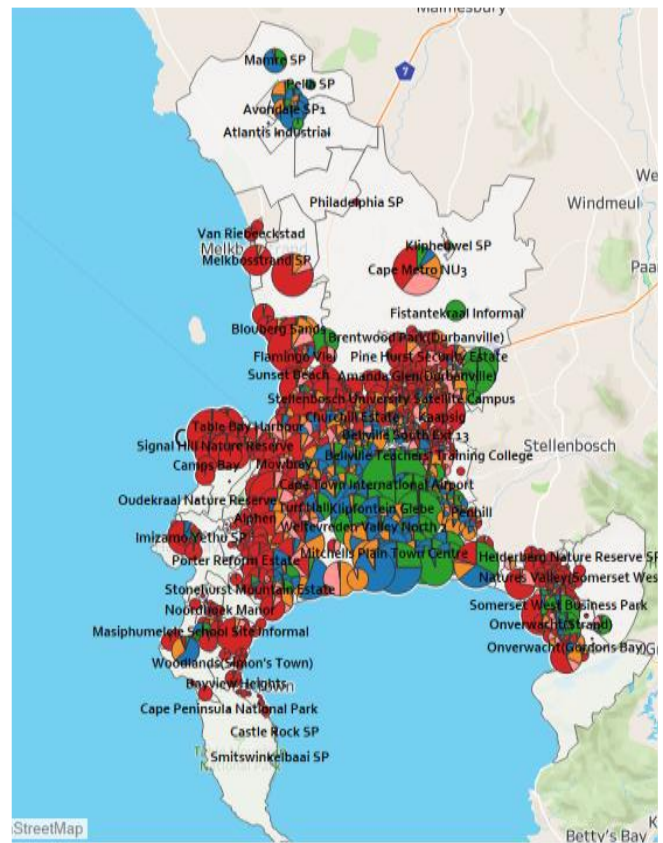


Figure 8: Distribution of residential properties in Cape Town by market segment (CAHF, 2020)

It is estimated that in Cape Town, households spend up to 40% of their income on transport. For the most part, this is spent getting to and from work (City of Cape Town, 2018). With this kind of spending on transport, norms around spending 25% - 30% on housing costs become unrealistic, and households can realistically spend less on their housing costs, limiting choices, forcing less well-located housing.

New property transactions suggest some shifts in the luxury market to more peripheral locations. Developments catering to the segments including properties worth R900,000 and below have tended to concentrate in the peripheral locations.

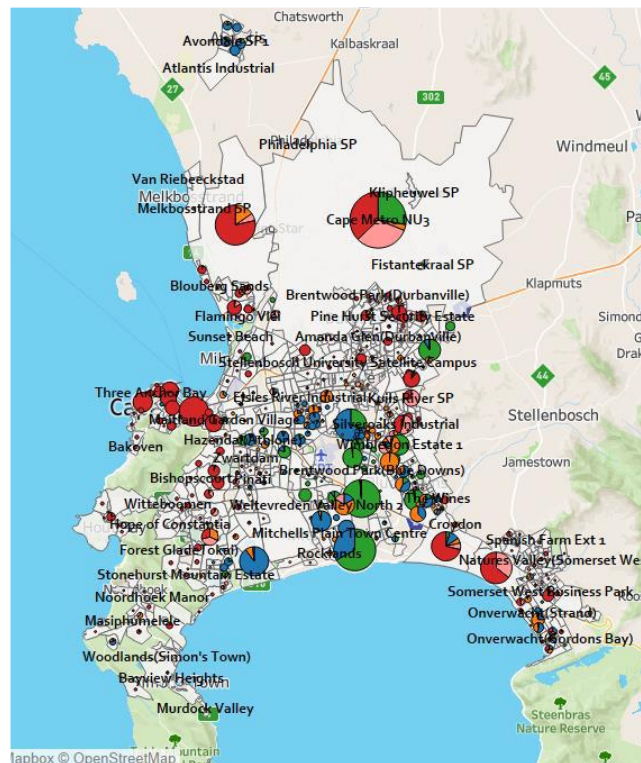


Figure 9: Distribution of new transactions by market segment City of Cape Town, 2020 (CAHF, 2020)

51% of Cape Town's residential market sits in the luxury (properties worth over R1.2 million) and high end (properties worth R900,000 – R1.2 million) (CAHF, 2020). Approximately 28% of Cape Town households might be able to afford a property in these markets (City of Cape Town, 2021). The average household income in Cape Town is R20,616 (Quantec, 2021). Households earning this income could typically afford a house in the affordable or lower end of the conventional markets. Approximately 71% of Cape Town households earn between R0 and R20,000 (City of Cape Town, 2021). 31% of formal residential properties fit into this market segment in Cape Town currently (CAHF, 2020).

2.3.2 George, Mossel Bay, Stellenbosch and Paarl-Wellington urban centres

Property markets in the Western Cape's secondary cities and larger towns demonstrate similar spatial and economic inequality. The picture emerging from housing market studies conducted by the Centre for Affordable Housing Finance (CAHF) on behalf of the WCG in the urban centres of Mossel Bay, George, Stellenbosch and Paarl-Wellington show a series of settlements defined by their unequal property markets.

Figure 10 shows a comparison of the property markets in each of the four towns⁴. The markets in each town are dominated by luxury market properties (above R1.2 million) and the entry market properties valued below R300 000 – except for Stellenbosch, which has a very limited share of housing below R300 000. For all towns, most of the market below R300 000 consists of government subsidised housing. In general (except for Paarl-Wellington), the supply of houses valued between R300 000 and R1.2 million is extremely small compared to the other market segments.

⁴ The data reflected in these graphs is not for the entire municipal areas, but for the major urban centres in each municipality. The analysis is based on deeds data obtained from Lightstone and not municipal valuation rolls.

Residential market size

Properties by market segment, government -subsidised housing and property type
Western Cape Housing Study Municipalities, 2021

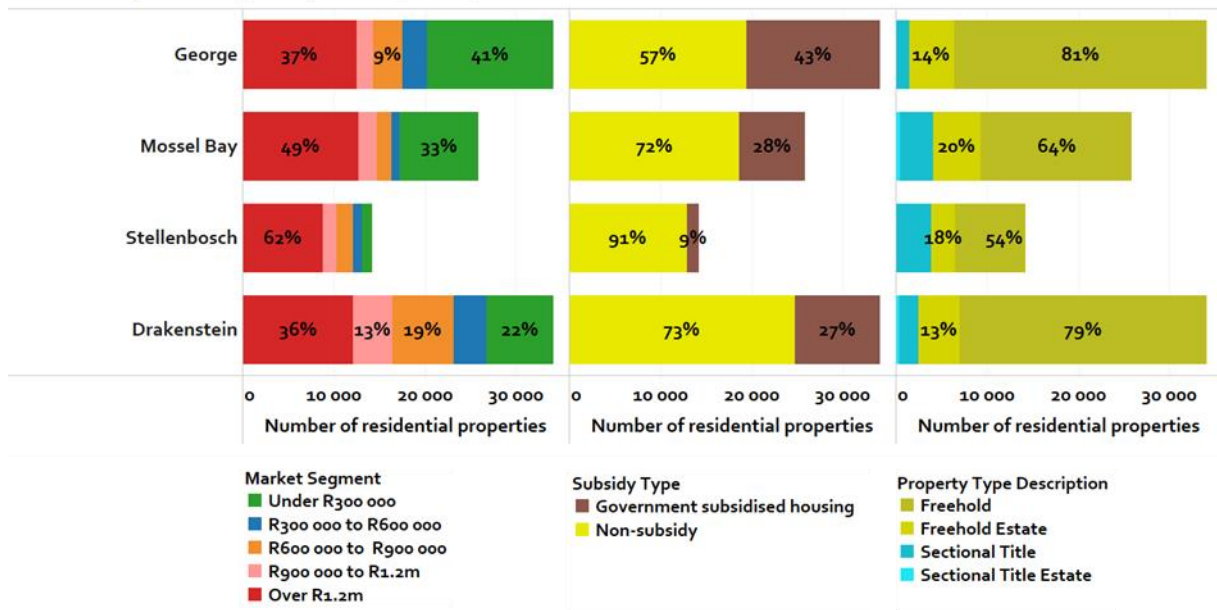


Figure 10: Comparison of residential property markets in four Western Cape Towns (WC DEA&DP, 2022)

This means that the private housing market consists almost exclusively of properties above R1.2 million. The market is significantly skewed, particularly when considered against the income profiles of the residents in the four municipalities⁵. As Figure 11 shows, around one third of all households in each municipality fall into income categories that should theoretically be able to afford housing finance for properties valued between R300 000 and R1.2 million, (assuming a 10% deposit, 7.75% interest rate, a 20 year loan tenor, and no access to the FLISP subsidy).

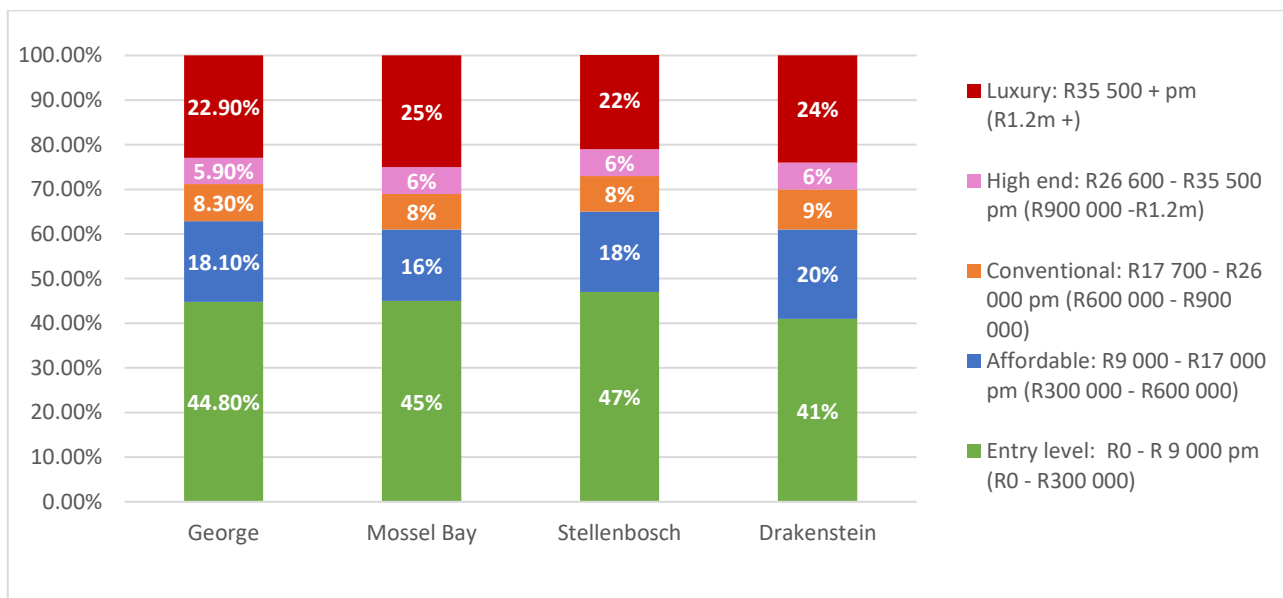


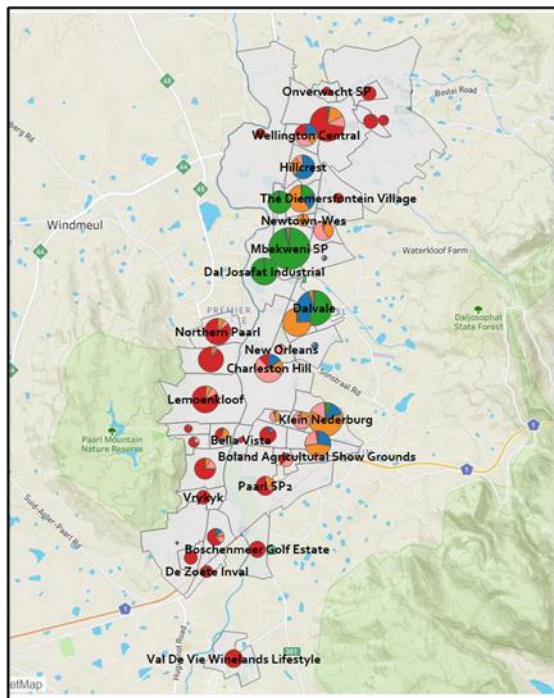
Figure 11: Income distributions in four Western Cape towns (IHS Markit, 2021)

⁵ The WCG does not have access to income data below municipal level. The income segments depicted in Figure 11 are generated by IHS Markit using modelled projections of 2011 census data. As such, they should be treated as indicative only, but they are useful to give a sense of what the shape of the property market in each town should be.

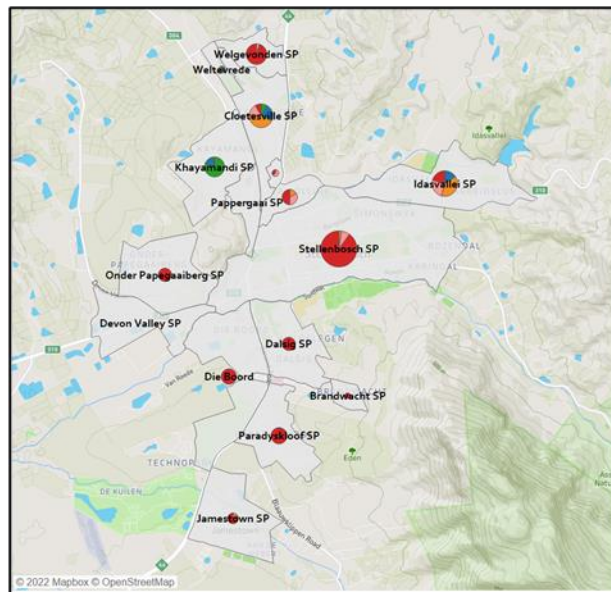
Spatially, a similar pattern of inequality is visible in how properties are distributed within each settlement.

Figure 12 maps the value of residential properties in the four towns in question, using deeds registry data aggregated by subplace. Figure 13 does the same for George city area using valuations roll data. As is clear, the polarisation of the property market manifests in space in all four towns, with properties in different value segments clustered together.

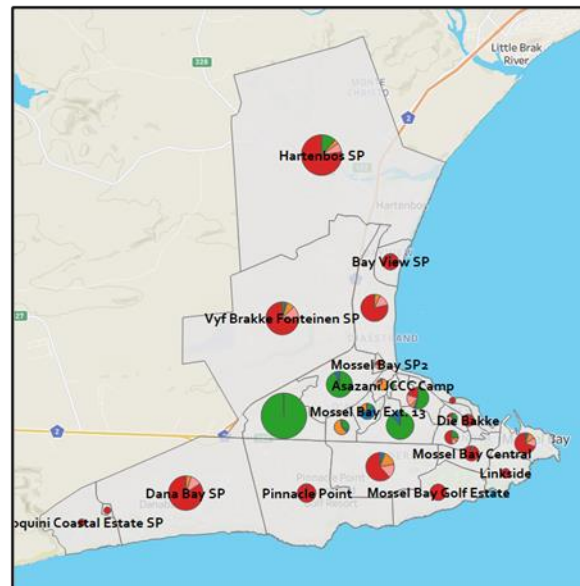
Paarl/ Wellington/ Mbekweni



Stellenbosch town



Mossel Bay/ Kwanonqaba/ Hartenbos



George City Area

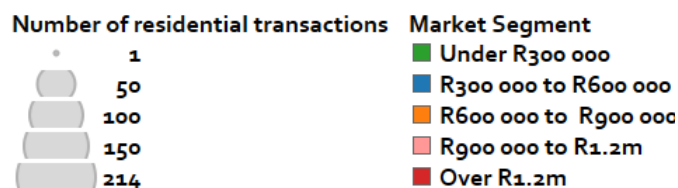
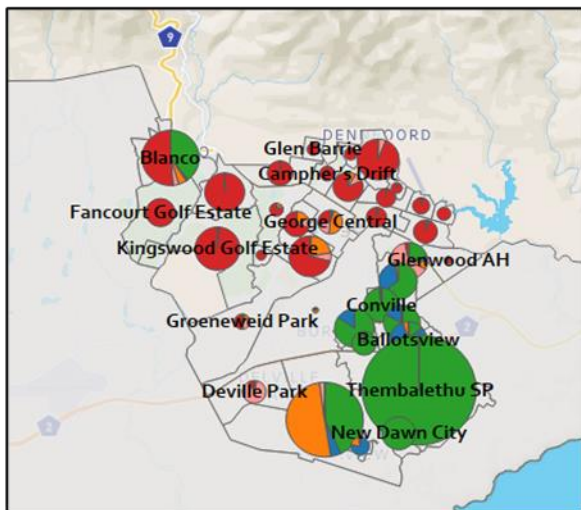


Figure 12: Distribution of residential properties by market segment in 4 Western Cape towns in 2021 (WC DEA&DP, 2022)

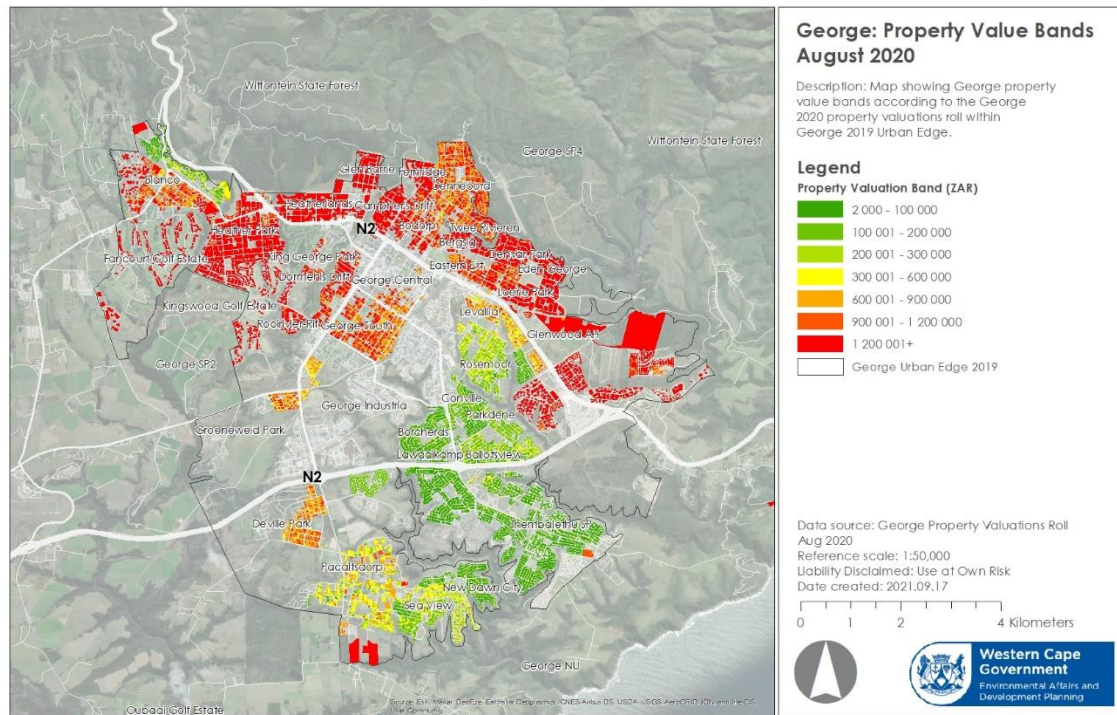


Figure 13: Residential property values by location in George (WCG, 2021)

As with the case of Cape Town, the concentration of high value properties in particular areas enables the benefits of the nearby amenities to accrue to higher income households (access to work, healthcare, education, and public space), while the inverse is true for areas with high densities of lower value properties. This reinforces inequality, as discussed throughout this Policy Framework.

All told, this points to the following situation:

- The spatial distribution of properties by value is polarised, which entrenches economic and social inequality.
- Most residential properties below R300 000 are government subsidised.
- These government subsidised properties over 8 years old serve as stock of low value/ entry level housing for low-income housing.
- Developers are not catering to the entry, affordable markets and are catering to a limited extent to the conventional market.
- As a consequence, there are very few properties in the gap between the top and bottom of the market – especially when considered against income.

The presence of active property markets at the high end, coupled with unmet demand in the middle, suggests that inclusionary housing policy that incentivises the private sector to develop affordable housing in good locations could **unlock economic opportunity** while also **driving spatial transformation**.

2.4 Why is there Insufficient Affordable Housing in the Right Locations in the Western Cape?

The need to redress the Apartheid legacy rapidly post-1994, the backlog in housing supply and the levels of poverty meant that the State stepped into a leading role in the provision of low-cost housing in South Africa. Limited funding and the desire to deliver at scale pushed housing programmes to develop a standard product with a focus on the very poor, in more peripheral locations where available land was extensive, cheaper to develop, and local community resistance was low. Over time the state's ability to sustain at-scale delivery has diminished due to

diminishing fiscal resources, less available suitable land, community resistance, criminal activity, and cumbersome institutional and procurement systems. While the state owns considerable, well-located tracts of land, regulatory, institutional, and administrative constraints have hindered the ability of the state to use this land for the provision of affordable housing (McGaffin). Sale restrictions, backlogs in issuing title deeds and inaccessible and expensive land use management regulations and land transaction systems have also contributed to under-performance in the secondary housing market. This is important, because as the city/ town grows, older housing development projects become better located and have the potential to become a significant source of entry level and affordable housing supply.

The private land/ property market in the Western Cape has responded to demand in the middle-to-upper income markets⁶, increasingly primarily in the luxury market, also struggling to adequately respond to demand for well-located affordable housing. This is because, for a new house to be supplied by the private sector, the price (value) that a household is willing and able to pay must be greater than the cost to build the house– the “Value versus Cost Challenge”. Broadly speaking affordability is a function of two main factors. Firstly, the ability of a household to pay for a house, which is in turn a function of a household's income, credit worthiness and the value of existing assets they may own. Unfortunately, many households are asset poor for historical reasons, many have high levels of indebtedness and or impaired credit records and generally have low levels of income. Secondly, affordability is a function of the cost of a house, which has been increasing due to the inelastic supply of land, complex development processes, rising building costs, high (perceived or real) infrastructure development charges and at times, inappropriately high standards (McGaffin). Interest rates, conservative financing parameters and infrastructure capacity limitations also constrain supply. That is not to say, however, that if it were possible, developers would develop a product for any market other than the market that might offer the most profitability⁷, especially given the risks developers face and the price they pay for this risk. But with every middle-to-upper income household accommodated in an area comes the need for these households to be served by people who earn less and can afford less – teachers, caregivers, nurses, police officers, municipal workers working in libraries, managing community halls, or dealing with waste or the maintenance of roads and utilities, and other professionals.

The cost of land has been cited by banks and developers alike, as the most significant cost driver in residential development in the Western Cape. Property prices in our cities and towns are generally higher than elsewhere in South Africa, particularly and especially in the more attractive areas well served by infrastructure, business, schools, and amenities. Compared to the average sale price of R1,350,000 in 2021 in the Western Cape, in Gauteng the average sale price was R967,000, and in Kwa-Zulu Natal it was R998,000 (property24, 2022). These prices are driven, in part, by high land values. Land values have to do with the landscape or location within which our cities, towns and suburbs sit, their heritage, relatively good governance and urban management, historical patterns of social facility and amenity provision, the actions of others in the area (residents organisations or improvement districts for example) and Apartheid and post-Apartheid settlement plans and programmes that separate rich and poor and apply different infrastructure and urban management standards and service levels. It also has to do with restricted supply of land, contributed to the nature of our towns located within sensitive natural environments or valuable agricultural land, by the unavailability of poorly utilised, well-located state-owned land, as well as established communities' resistance to new/ higher density development. Of course, demand also

⁶ Developers active in the affordable market in South Africa have struggled to gain a foothold in Cape Town due to higher development costs, predominantly (but not only) because of high land prices (McHardy, 2020).

⁷ This would also be supported when there is an overall housing shortage (substantial demand for housing in the middle to upper income bands) and/ or there is a healthy appetite from foreign investors for local properties.

drives up land values where land supply is constrained. The Western Cape has the demand of natural growth as well as demand for investment and retirement properties (local and international), as well as from relocations due to socio-political factors elsewhere in South Africa and the shift to working from home enabled by the COVID-19 pandemic – the latter is fuelling demand in the luxury segment, with many properties bought without the need for finance (Western Cape Government, 2022).

This creates a reinforcing cycle of increasing property values, in turn driving land prices further up, making it prohibitive for both the state and the private sector to acquire land for affordable housing development in these areas and perpetuating the exclusion of many of our residents from the benefits of living in better located areas.

2.5 Programmes to address the need for Affordable Housing in the Western Cape

While the state plays a direct role in providing housing assistance to the very poor, it also offers some assistance to households earning above the R3,500 threshold through its Upgrading Informal Settlements Programme (serviced site only), Social Housing Programme and the Finance-Linked Individual Subsidy Programme (FLISP). The WCG has supporting initiatives including a Housing Voucher Scheme linked to its Credit Readiness Programme, creating more certainty in the FLISP and deferred ownership models. The WCG has also entered into several Land Availability Agreements over the years enabling the development of mixed open market housing projects, inclusive of Social Housing and FLISP products. Of course, its title deed programmes also contribute to the supply of affordable housing stock through stimulating a secondary market in subsidy housing where the sale restriction period has expired.

However, state-assisted housing programmes have historically struggled to create better located housing opportunities and contribute to spatially transforming our settlements. The Social Housing Programme is perhaps the most impactful in terms of achieving better located affordable housing, which remains affordable in perpetuity, but itself is constrained by access to affordable land and the limited pool of financial support for the construction costs.

The importance of releasing well -located, suitable land in state ownership to deliver affordable housing and promote greater inclusivity in the better performing parts of our cities and towns must be emphasised. For this reason, the WCG has committed itself to doing so and has set precedent in this regard, with the Conradie Better Living Model Project in Cape Town in the implementation stage and the Founders Garden / Artscape and Leeuloop Precincts under preparation. The WCG is committed to facilitating integrated developments on these sites in partnership with and creating opportunities for the private sector, including non-profit developers.

But the State has limited capacity and resources. It cannot provide affordable housing across the spectrum of middle to lower-income households, nor should it. It must seek innovative ways to incentivise the participation of the private sector in the provision of housing to a broader income spectrum, leveraging value appropriately and reducing cost drivers where it can.

Systemic improvements to the efficiency of planning permissions processes across national, provincial, and local government and a review of the standards applied is essential to ensure that the cost of compliance and associated risk is managed downwards. This generally affects viability, supply, and affordability, and leads to leaking value that could otherwise be directed towards better, more inclusive urban performance outcomes (URERU, 2019). This is a fundamental precondition for a policy framework such as this. Efforts are ongoing to improve the WCG's permissions processes, while also supporting municipalities to improve their own systems and lobbying national government to address its own areas of weakness. Protracted permissions

processes, conflicting policies, onerous development rules (such as parking ratios) or conditions, and poor urban management in the precinct within which the development sits are all risks that are priced into the cost of finance for a development and are passed on to the end-user, affecting the affordability of the end product.

Similarly, timeous planning and preparation for infrastructure delivery in areas where we want to enable and attract development in terms of our Spatial Transformation priority focus areas is key to limiting delays and associated costs to developing land. Significant effort on the part of the WCG and its partners is going into supporting municipalities to properly plan, package and explore innovative ways to fund required infrastructure projects.

It is important that our systems efficiently support the overall supply of housing into the market. The need for upper- and middle-income markets must also be met to try and prevent any undesirable exclusionary effects that rampant gentrification or down-raiding may cause. Mitigating the risks in the development of land supported for development in the MSDF, through efficient planning permissions processes, maintaining good standards of service delivery and urban management, improving accessibility in terms of public transport provision, and creating predictability in terms of infrastructure capacities, are all enabling conditions for achieving more equitable outcomes with developers.

How the WCG and the municipalities prioritise and invest effort in interventions such as these to improve the supply of affordable housing in a settlement should be guided by a robust study aimed at understanding housing markets in that settlement. Such a study will allow for a thorough understanding of housing demand and supply, the affordability gap and the cost drivers of residential land development that drive up sales prices or rentals or, at a very basic level, inhibit viability – all of which should be spatialised. Such a study may also shed light on where quite simple interventions might be introduced that could improve overall supply into the residential market. For example, regulatory reforms, affordable finance, and communication campaigns could unlock the potential for properties zoned for single dwellings to develop second and third dwellings that could contribute significantly to affordable supply over the long term. Similarly, attention paid to these same areas could enable micro-developers, increasingly active in our lower-middle to low-income suburbs, to scale up their provision of affordable rental housing. The key is to always consider how to ensure these interventions will create opportunities in the right locations to achieve spatial justice. All of these factors need to come together in the municipal Human Settlements Plan, the Integrated Development Plan and the MSDF.

As is clear from the discussion above, the supply of affordable housing is a key concern in the Western Cape. Inclusionary housing is **one** of several mechanisms that can tackle the challenge of affordable housing supply in well-located areas. It is a particular approach to address some of the above challenges by firstly, using planning and land use management to require more balanced development and to use land value and additional development rights to generate increased resources to support this more balanced development, drawing on the expertise and efficiency of the private sector. The specific focus of inclusionary housing is on **where** value in land and property markets can be shared **through private sector participation in the provision of affordable housing**.

Inclusionary housing will not deliver affordable housing at scale or at speed. It is a complementary mechanism with more focus on integration, cumulative impact and using resources other than money to achieve spatial redress. The reality is that the nature of the problem and the need for affordable housing requires that all of the legislative and policy mechanisms at our disposal should be used. Indeed, many of the actions identified in this Policy Framework can serve to more broadly create a better enabling environment for the supply of affordable housing by a range of role-players.

3. What is Inclusionary Housing?

Inclusionary housing is a spatially targeted mechanism that relies on the regulatory system of development planning permissions to oblige property developers to provide affordable housing, for sale or rent, within their development.

Inclusionary housing policy recognizes the broader societal role in creating land value and the economic value given in municipal decisions to grant development rights and seeks to capture some of this value back for public good – mitigating the exclusionary impact of current land ownership and settlement patterns.

Through explicit policy, clear signals are given to the market on where inclusionary housing contributions are required and under what circumstances. Prospective developers offset the cost of this contribution into the cost paid for the land and the amount of development rights requested. Municipalities may offer further incentives to offset these costs through reduced planning requirements such as parking, through expedited decision-making and possibly, discounted charges relating to the inclusionary component of the development.

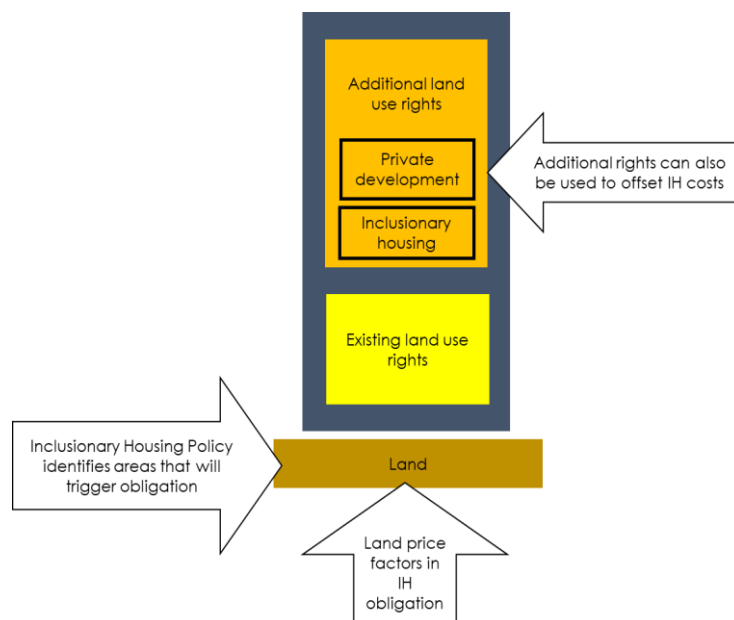


Figure 14: An Incentive-driven approach to Inclusionary Housing

3.1 The purpose of Inclusionary Housing

Inclusionary housing pursues economic inclusion, sharing the economic gains of increased property values that are made possible through the granting of additional land use rights and other improvements made to our urban areas. While it is a mechanism that speaks to the supply of affordable housing, it is specifically concerned with the **location** of this affordable housing and promoting private sector participation in integrated development that does not perpetuate exclusion, and as a result, inequality.

The purpose of inclusionary housing is to foster:

- i. Spatial transformation, by using the value in land and land use rights to lower the barriers to entry to affordable housing in well-located areas, contributing to addressing past and present spatial inequities and supply/ demand gaps that persist in excluding people from enjoying the best of what is offered in our cities and towns.
- ii. Spatial justice in our cities and towns through the more equitable distribution of the benefits and burdens of urban growth.
- iii. Social mobility through enabling more racially, socially and economically inclusive, integrated neighbourhoods in well located areas closer to employment opportunities, public transport services, amenities and facilities.
- iv. Affordability preservation, to secure such spatial and social gains over the long term; and
- v. Partnership with the property development sector to contribute to the supply of affordable housing stock over the long term in these well-located areas of our cities and towns. It achieves this by sharing the land value returns that are, in part, a consequence of the State and general public's planning and investment in infrastructure, facilities, amenities and urban management to the benefit of the public.

As discussed in section 2.5, there are several ways in which to promote better located affordable housing, all of which require the investment of resources. The resources leveraged in inclusionary housing are the value of land and land use rights in well located areas and the capacity of the private sector. The lever is the land use planning and regulatory system of government. It is an opportunity to turn the exclusionary nature of the property market on its head, rather leveraging this to promote greater inclusivity and integration in well located parts of our cities and towns.

3.2 Starting Principles

This Policy Framework advocates an approach to inclusionary housing founded on four principles:

- i. The provision of affordable housing in well located areas is the responsibility of all role-players in the property market.
- ii. Through clear spatial planning policy, prospective developers are forewarned of the expectation that there will be an inclusionary housing contribution required in a particular area or site and are able to factor this into the price paid for the property to be developed.
- iii. Through clear spatial planning, land use and municipal inclusionary housing policy and law, prospective developers can anticipate and calculate what the required contribution will be and tailor the development rights requested to off-set the cost of the inclusionary housing contribution, while ensuring that development profitability is maintained.
- iv. The type of development to trigger a requirement, the quantum of the requirement and the enabling conditions – such as the planning permissions process – must be carefully determined in order **not** to undermine reasonable developer profitability. Inclusionary housing is a mechanism that relies on property development to generate the scope for an affordable housing contribution. If there is no appetite for property development, there will be no opportunity for such contributions.

It is important to note that the intention is not that a Municipal Planning Tribunal impose an obligation via condition of planning approval that requires a developer to return to the drawing board and resubmit an application, but that applicants respond proactively to clear direction given in MSDFs at minimum, or MSDFs and supporting Inclusionary Housing Policy and MPBL provisions at best, by including Inclusionary Housing as part of their proposals.

3.3 Inclusionary Housing Policies in South Africa

An attempt was made in the late 2000s by both the national and Western Cape provincial spheres of government to introduce inclusionary housing policies. A Policy Framework was published by the National Department of Human Settlements. The Provincial Government published a discussion document, having put on hold its own policy development process to follow the direction given by the national government. Be that as it may, the national Policy Framework was not taken any further. Notably, these efforts preceded the SPLUMA. The SPLUMA now indicates an expectation for this provincial inclusionary housing policy framework and firmly locates the application of inclusionary housing within the ambit of spatial planning, while making it clear that the land use management system must implement spatial planning and spatial justice

The only operational inclusionary housing policy is the City of Johannesburg's "[Inclusionary Housing Incentives, Regulations and Mechanisms](#)", introduced in February 2019. That policy gives the option of price limited inclusionary housing units (through Social Housing, FLISP or defined rental caps) or options that limit the size of inclusionary units only. To date, as one may expect, other than social housing developments, developers have mainly favoured and implemented the size limited options, where there is no cap on price (for purchase or rental). While the City hopes the supply of small, well-located units will bring down housing prices over time, it is too early for concrete results to be reported.

The City of Cape Town, after publishing a Concept Document, has several investigations underway, including a financial feasibility analysis, to assist with the formulation of its approach to inclusionary housing policy.

All the careful thinking invested into these historic and current processes, and public responses to them⁸, have been important informants to the formulation of this Policy Framework.

3.4 Where is Inclusionary Housing Policy possible in the Western Cape?

Inclusionary housing is only possible where there is a strong land market, i.e., where there is the appetite (prospect of return) to develop property and take up additional land use rights, responding to effective demand for residential units and mixed-use floor area in these areas. In these areas the potential returns from the construction of new development (whether greenfield or redevelopment) should exceed the value of the existing property. A residential or mixed-use property development can only contribute to affordable housing if the development is feasible, inclusive of this obligation. If developers aren't building (and landowners aren't selling), then there is no opportunity for the realisation of inclusionary housing, even if demand may exist.

Inclusionary housing targets unmet need within the gap housing market. If there is no gap market or the gap market's housing needs are adequately met by the private sector, linked, or not linked to state assistance, then this may suggest there is no need for an inclusionary housing policy depending on where this need is being met. **It is critical to remember that the purpose of**

⁸ Noting specifically SAPOA's 2018 publication "INCLUSIONARY HOUSING Towards a new vision in the City of Jo'burg and Cape Town Metropolitan Municipalities"

inclusionary housing is to facilitate access to affordable housing in the well-located parts of our cities/ towns and in so doing to promote spatial justice.

The Integrated Development Plan (IDP), the MSDP and the municipal Human Settlements Plan should confirm the state of the property development economy, the housing need and the housing affordability gap, informed by a Housing Market Study, and this position should be reviewed and regularly updated, as these plans are reviewed and subject to public participation⁹. This feedback process is especially important given the dynamic nature of property and housing markets.

When considering the introduction of municipal inclusionary housing policy, relevant municipalities will need to consider whether the level of effort to put in place and administer an inclusionary housing policy is justified relative to the number of well-located, affordable units that may be supplied through the application of such a policy, recognising that:

- i. There are long term economic, social and fiscal benefits and savings to breaking down perceived and real barriers to responding to the need for affordable housing in well-located areas.
- ii. A municipal inclusionary housing policy can be tailored to be simpler or more sophisticated.
- iii. Cumulative impact over time can be significant, even if immediate gains may not be.
- iv. Property markets go through cycles and inclusionary housing policy can take time to put in place. There is a risk of missing a property “boom” conducive to the application of inclusionary housing policy.
- v. There may be alternative policy instruments that can achieve the same outcomes or greater impact – depending on the municipality's ability, resources and commitment, noting however that there is significant risk of continued poor spatial outcomes, where municipality's limit their instruments to those entirely dependent on the state capacity for funding and delivery; and
- vi. In many municipalities the scale of the challenge requires multiple parallel, complementary efforts to deal with factors that result in a “missing middle” in the housing ladder and the perpetuation of spatial apartheid in our cities and towns. The factors that drive up the costs of housing, limit supply and push affordable housing to the edges of our towns/ cities, e.g., the availability of land, the time-cost and cost of obtaining planning and related permissions, community resistance; etc.

There are varying issues, policies and strategies, which change over time and which municipalities choose to resource (in and outside of the legislative framework) and in so doing, make trade-offs in respect of how resources are allocated. It is a question of the priorities of the municipality and designing a municipal policy that is practical for the municipality to implement. Municipalities in the cities and larger towns of the Western Cape are not without resources to fulfill this legislated expectation.

⁹ It however remains important to ensure that all new development, public or private, is placed to facilitate spatial transformation – to ensure that new development is improving the inclusivity, efficiency and resilience of our settlements and households.

MIXED MARKET HOUSING VS INCLUSIONARY HOUSING

Inclusionary housing is a specific mechanism where a condition requiring a contribution to affordable housing is imposed through the process of granting a development planning permission to an applicant. It is not the intention, in this mechanism, that a housing subsidy is made available to assist the applicant to meet this condition of planning approval. But rather, that the cost of the contribution is absorbed in the land price paid for the land and in the award of additional land use rights to offset the costs of such a contribution.

Another mechanism is where the state may initiate a property (re)development project on its own land that seeks to develop a mixed use or residential development catering to a range of income groups, *inclusive* of affordable housing. Typically, in this instance, the land is made available at a subsidised rate, housing subsidies are made available, and the state may or may not develop the site in partnership with the private sector and/or other partners, such as SHIs. An example of such a project is the WCG's Conradie Better Living Model Project, now known as [Conradie Park](#).

Both inclusionary housing and mixed-market state-initiated property development projects contribute to spatial transformation. They can also be complementary, with the state-initiated projects becoming potential receiving sites for *in-lieu* inclusionary housing contributions explained further in section 6.2.2. It is, however, useful to understand the distinction between the two mechanisms.

Box 2

4. Provincial and Municipal Mandate for Inclusionary Housing

4.1 Policy Mandate

A cascading set of national and provincial policies and plans establish strong coherence around the need to explore all mechanisms at our disposal to pursue spatial transformation and inclusion.

The **NDP** (National Planning Commission, 2012), in *Chapter 8: Transforming human settlement and the national spatial economy*, requires that we respond ‘systematically, to entrenched spatial patterns across all geographic scales that exacerbate social inequality and economic inefficiency’. Noting the exclusionary nature of the growth of the property market and the growing gap market, the NDP identifies the need for tools to be developed that empower municipalities to make critical interventions to redress past social segregation and, specifically, the need to retool the instruments of land-use management to achieve spatial objectives, incorporating the social value of land imperatives and the fiscal instruments to achieve spatial objectives. The NDP goes on to recommend that private housing developments are incentivised to include a proportion of affordable housing. There is a clear enabling legal and institutional framework across the spheres of government that will allow municipalities with the necessary capacity to introduce value capture instruments to extract a portion of the additional value that accrues to a property, as a result of investment by the state, for the public benefit.

The **Integrated Urban Development Framework (IUDF)** (2016) is government's policy position to guide the future growth and management of urban areas. In *Policy Lever 3: Integrated Human Settlements*, it identifies the need to work in partnership with the private sector and key stakeholders. It further identifies Inclusionary housing policy as a short- to medium-term priority to incentivise property developers to include a level of affordable housing in their developments. Notably, the IUDF identifies the need for inclusionary housing to consider young individuals, female-only households and people with disabilities.

The specific commitment to an inclusionary housing policy framework in the **Provincial Strategic Plan 2019 – 2024** is informed by the Western Cape's **Provincial Spatial Development Framework's** (2014) *Settlement Policy Objective* to support inclusive and sustainable housing. This is underpinned by its Spatial Policies to Promote sustainable, integrated and inclusive housing in formal and informal markets and to specifically promote private sector participation in the gap market to diversify and expand housing delivery options.

This is further supported by the WCG's **Living Cape: A Human Settlements Framework** (2019) which states that to maximise urban potential, it is necessary to ensure that investments and contributions made by the state, the private sector and communities work as catalysts for value creation. The framework argues that this value is shared by all those living in the Western Cape, noting an important shift to be made by the state as provider of housing to the state as enabler of housing.

4.2 Legal Mandate for Inclusionary Housing

The Preamble to the Constitution of the Republic of South Africa, 1996 (“the Constitution”) binds all of government to “heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights” and “improve the quality of life of all citizens and free the potential of each person”.

The Bill of Rights requires the state (inclusive of local government) to take reasonable legislative and other measures, within its available resources, **to foster conditions which enable citizens to gain**

access to land on an equitable basis¹⁰ and to achieve the progressive realisation of the right to adequate housing¹¹. South African courts have confirmed that the right to access to housing goes beyond building houses and includes planning and land use regulation and policy (Alexander, 2021)¹².

The Housing Act, 1997 (Act 107 of 1997) expects **all of government** to give priority to the needs of the poor in respect of housing development and to ensure that housing development

*“(i) Provides as wide a choice of tenure options as is reasonably possible
(ii) Is economically, fiscally, socially and financially affordable and sustainable
(iii) Is based on integrated development (Section 2(1)(c) (i) to (iii))”*

“Housing development” in the Housing Act is defined as

*“the establishment and maintenance of habitable, stable and sustainable public and private residential environments to ensure viable households and communities in areas allowing convenient access to economic opportunities, and to health, educational and social amenities in which all citizens and permanent residents of the Republic will, on a progressive basis, have access to--
(a) permanent residential structures with secure tenure, ensuring internal and external privacy and providing adequate protection against the elements; and
(b) potable water, adequate sanitary facilities and domestic energy supply establishment and maintenance of habitable, stable and sustainable public and private residential environments.”*

The Housing Act also expects all of government to promote:

*“(iii) the establishment, development and maintenance of socially and economically viable communities and of safe and healthy living conditions to ensure the elimination and prevention of slums and slum conditions;
(I) the process of racial, social, economic and physical integration in urban and rural areas;
(II) the effective functioning of the housing market while levelling the playing fields and taking steps to achieve equitable access for all to that market; and
(vii) higher density in respect of housing development to ensure the economical utilisation of land and services. (Section 2(1)(e) (iii), (iv), (v) and (vii))”.*

More recently, SPLUMA more explicitly places an obligation on all three spheres of government to apply the principle, amongst others, of spatial justice to spatial planning, land development and land use management:

Section 7(a) provides for the principle of spatial justice whereby-

*“(i) past spatial and other development imbalances must be redressed through improved access to and use of land;
(iii) spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged communities and persons;
and
(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*

¹⁰ Section 25(5) of the Constitution

¹¹ Section 26(2) of the Constitution

¹² Refer to paragraph 36 of the judgement in *Government of the Republic of South Africa v Grootboom* 2001 (1) SA 46 (CC).

of land or property is affected by the outcome of the application (Section 7(a) (i), (iii) and (iv))”.

It is important to note that all of the other SPLUMA development principles; namely, spatial sustainability, efficiency, spatial resilience and good administration – are supported by the introduction of policy to support well-located affordable housing. Subject to applicable law, the SPLUMA anticipates the introduction and application of inclusionary housing policy. This is elaborated on further in section 4.4 of this Policy Framework.

4.3 The Provincial Mandate

The specific enabling legislation for the introduction of this Policy Framework is to be found in the Constitution:

Section 125(2) The Premier exercises the executive authority, together with the other members of the Executive Council, by-

“(d) Developing and implementing provincial policy”.

In so doing, the WCG is providing support and guidance to local government in line with Sections 154(1) and 155(6) and (7) of the Constitution. Section 155(7) of the Constitution provides that 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)”*. It is on this authority that provincial government regulates, through the Land Use Planning Act, 2014 (Act 3 of 2014) (“LUPA”), how municipalities exercise municipal planning, and provide guidelines on land use management in terms of inclusionary housing.

In addition, it is the duty of provincial government in terms of Section 154(1) of the Constitution, to, by legislative and other measures *“support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions”*. Furthermore, Section 155(6) of the Constitution imposes a duty on Provincial Government *“to provide for the monitoring and support of local government in the province”* (Section 155(6)(a)) and to *“promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs”* (Section 156(6)(b)).

The expectation of national or provincial inclusionary housing policy is presented in Section 21(i) of the SPLUMA. A **Policy Framework** approach is being taken because *“inclusionary housing must be understood as a planning and land use regulation tool governed by land use regulatory powers”* (Development Action Group, 2020) and these powers sit, primarily, at municipal level. Also, the nature of considerations that input into the development of an inclusionary housing policy ideally require local-level research, feasibility analysis and determination (discussed in section 6.1 of this Policy Framework).

This Policy Framework is therefore primarily aimed at encouraging and supporting the development of municipal inclusionary housing policy and its application in an informed, fair and consistent manner. Taking cognisance of the limitations of municipal capacity, and efficiencies to be gained from peer learning, the WCG will further explore tools, systems and best practice to support the adoption and implementation of such municipal policies in a consistent way across the province without impeding on necessary adaptations to ensure local relevance and the municipal planning mandate.

4.4 The Municipal Mandate

In addition to the general obligation on municipalities to pursue the SPLUMA principles in both spatial planning and land use management, the following sections of the SPLUMA provide the foundation, indeed obligation, for the introduction of a mechanism, such as inclusionary housing, to promote well located affordable housing through its spatial planning and land use management system:

Section 12(1) Preparation of spatial development frameworks must:

- (i) Address historical and spatial imbalances in development (12(1)(i))*

Section 21. A municipal spatial development framework must -

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

Section 24(2). A land use scheme adopted in terms of subsection (1) 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 schemes must also determine the use and development of land to promote *inter alia* social inclusion and efficient land development (Section 25(1)(b) and (c)). Furthermore, a land use scheme may include provisions relating to specific requirements regarding any special zones identified to address the development priorities of the municipality (Section 24(3)(b)).

The policy and legislative provisions set out in this Policy Framework require the municipal land use system to pursue the creation of integrated, inclusive settlements and to leverage the tools available to it to create affordable residential opportunities in well located areas. It is clear in the SPLUMA that land use schemes are understood as instruments to implement policy, such as MSDFs.

Inclusionary housing is a mechanism available to municipalities to fulfill the obligations set out above, using its planning and land use regulatory powers. The powers granted to municipalities under the Constitution to regulate municipal planning underpin the authority of municipalities to impose an inclusionary housing requirement through MPBLs and inclusionary housing policy. As discussed in Section 4.2, the state's obligation to achieve the progressive realisation of the right to adequate housing extends to planning and land use regulation and policy.

Similarly, the duties and obligations of municipalities to achieve the purposes set out in the Constitution, the Housing Act and the SPLUMA support their introduction of inclusionary housing requirements.

Section 26(5) sets the requirements to amend its land use scheme after public consultation. The authority to set and amend rights provided in a land use scheme are broad and require only that the changes:

- (a) be in the public interest;
- (b) advance or are in the interest of a disadvantaged community; and
- (c) further the vision and development goals of the municipality.

For as long as municipalities fail to ensure that their MSDFs and land use schemes address the above, municipal planning permissions will be vulnerable to scrutiny and appeal. The consequent delay and associated costs experienced by applicants will create disincentives to development in the municipality. **The WCG therefore requires that municipalities pay close attention to ensuring that their by-laws, MSDFs and land use schemes address the requirements set out in the SPLUMA.** The introduction of their own inclusionary housing policies can assist municipalities in doing so.

5. How is an Inclusionary Housing Requirement Imposed?

- i. The imposition of an inclusionary housing obligation is normally implemented through the MSDF, an Inclusionary Housing Policy and the MPBL and enforced as a condition of planning approval.
- ii. Sections 2, 3 and 4 of this Framework have outlined the normative, policy and legal bases for introducing such an obligation and how the need for affordable housing arises from ongoing property development following inherited and existing patterns that characterise our property markets. LUPA stipulates that, conditions may relate to settlement restructuring, must be reasonable and arise from the approval of the proposed utilisation of land (s40(1) and (2)).
- iii. It is recommended however that municipalities secure a framework of good governance in the imposition of inclusionary housing obligations by ensuring that the MSDF's designation of areas for the application of inclusionary housing policy and a municipal inclusionary housing policy, as important leading actions in a policy-led land use management system, are in place and are reinforced by an amendment to the MPBL. Such an amendment serves to include a specific enabling provision for the municipality to impose an inclusionary housing requirement, cross-referencing the municipal inclusionary housing policy which identifies when and how such a requirement will be imposed.
- iv. The implementation of a municipal inclusionary housing policy is not, however, contingent on such a by-law amendment. The existing empowering provisions of MPBLs with respect to setting conditions may, in principle, be applied in the interim, in applicable circumstances within the constraints of the MPBL concerned. It is emphasised that, in such instances, the municipality must ensure the legality of its decision with reference to the specific application in question and the empowering provisions of its by-law.
- v. A Municipal Planning Tribunal may not depart from an MSDF, except and only if there are site specific circumstances that justify a departure from the MSDF. If a development application falls within a designated area, the MSDF and supporting policy must be applied. In addition, any inclusionary housing overlay zone set out in the municipal Zoning Scheme By-Law must be applied in the assessment and approval of the application.
- vi. Within the designated area, it is recommended that Western Cape municipalities 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 use¹³, 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; or
 - b. an application is made to develop property within an inclusionary housing overlay zone or an area where the municipality has proactively up zoned the land through another regulatory mechanism, such that additional rights are already permitted subject to the provision of inclusionary housing.

¹³ The rezoning of land to industrial or commercial use also represents an enhancement of land value. Commercial and industrial developments could also be argued to generate the need for housing across a range of income groups. In the USA such developments can incur "linkage fees" which are invested in affordable housing developments. It is, however, proposed that inclusionary provisions are not applied to such development applications at this point in time.

- vii. A pre-application engagement between the Municipality (the planning department's case officer as well as any other official(s) capacitated and delegated to provide specialist support in the application of inclusionary housing policy) and the applicant is recommended, as this is considered essential to:
- a. Confirm that the development triggers the application of the inclusionary housing policy and the quantum of the contribution required based on the application of a municipal inclusionary housing contribution calculator or formula.
 - b. Understand the target market of the development (for instance, if the development is already targeting the gap market, the application should be considered to be making a voluntary contribution and the permission should place this on record for monitoring and compliance processes).
 - c. Discuss feasibility constraints and how these might be addressed through measures to offset costs through, for example, shortened procedures, reductions in parking requirements, a density bonus should this be appropriate and other such mechanisms, determined through the application of the calculator. Such measures are explored further in section 6.2.4.4; and
 - d. Discuss the feasibility of on-site contributions or whether alternatives, such as off-site or *in-lieu* contributions may be considered in terms of the municipal inclusionary housing policy's provisions for determining where alternative forms of contribution are appropriate.

The pre-application engagement, and further engagements in the permissions process, must be led by the provisions set out in the municipal inclusionary housing policy.

- viii. An inclusionary housing requirement is imposed as a condition to the approval of a development application. The nature of the requirement is determined in the assessment of the development application by the municipality, informed by the applicable policy and subject to the municipal planning and zoning scheme by-law, when these are in place.
- ix. In the case of large developments where the applicant is packaging and servicing the land for the purposes of selling on to property developers, conditions of approval must be attached to the land parcels that will be subject to the inclusionary housing requirement. These must require that the inclusionary housing conditions remain applicable with the transfer of these portions of land and must be recorded in the sales agreement.
- x. It is recommended that the planning permission require an inclusionary housing agreement to be concluded between the applicant (landowner/ developer) and the Municipality setting out the basis on which the inclusionary housing contribution will be made in line with the municipal inclusionary housing policy, including *inter alia*:
- a. Whether the contribution will be met on site, off site or as an *in-lieu* contribution;
 - b. When and where the inclusionary housing units will be constructed;
 - c. The number and sizes of units to be provided on site or off site;
 - d. How off-site units will be provided;
 - e. Whether the units will be rented or sold and the sale price or monthly rental and fixed term lease period;

- f. The formula to be used to adjust the sales price or rental for inflation should the units only be developed in following years, or, in the case of rental units, for subsequent tenanting¹⁴;
 - g. How levies will be dealt with in terms of units sold within sectional title schemes;
 - h. The income group (or groups within the broader income range) to be targeted to purchase or rent the units as well as other priority groups such as women, the youth or people with disabilities, along with the proportional allocation of the inclusionary units, if relevant;
 - i. Who will undertake the screening and allocation process and how this process will be undertaken;
 - j. If the rented units will be sold on to an institution or agent to manage and to whom;
 - k. The quantum of the *in-lieu* contribution, should this be the case, and to whom, how and when it will be paid;
 - l. That information will be made available on request to the municipality or its agent, to enable the monitoring of affordability of the inclusionary units over time;
 - m. Consequences if affordability of rental units is not preserved over time (or cross-referencing to the municipal inclusionary housing policy in this regard);
 - n. Title deed restrictions to be introduced on stock for sale to maintain affordability; and
 - o. Provisions to be secured in Constitutions of Body Corporates or Homeowners Associations in respect of affordability preservation (see section 6.2.3 for further information).
- xi. It is recommended that municipalities maintain a centralised register of these agreements and any amendments thereto, to allow for compliance and performance monitoring, evaluation and review over time. It is important that this register be treated as public information to promote transparency and opportunity for shared oversight. This can be an input into and report to Council as part of the annual MSDF performance review. This is also critical to support recording the inclusionary units on databases underpinning the municipality's property value chain and supporting, for example, the implementation of specific rating policy provisions.
- xii. It is expected that failure to comply with the condition and associated agreement attached to the planning permission would be treated as would any other failure to meet the conditions of approval.
- xiii. When categorising applications, it is recommended that municipalities consider delegating applications that comply with the municipal inclusionary housing policy and fall within inclusionary housing overlay zone areas, to an Authorised Official to fast track these decisions in line with s.21(l) of SPLUMA. Capturing these applications on a register should ensure accountability.
- xiv. It is also recommended that municipalities ensure that an application to amend an inclusionary housing condition in the planning permission or to amend an inclusionary housing agreement, where there is a change to the quantum of the contribution to be made and the income group to benefit, is a decision of the Municipal Planning Tribunal.

¹⁴ The WCG, municipalities, the SHRA and other interested organisations or institutions can work in partnership to publish these formulae and establish this practice. Existing SHRA practices can be used as guidance.

- xv. A municipal inclusionary housing policy may choose to define the nature of a change that may be made under delegation and the reporting requirement of such a decision.
- xvi. **When** a developer must meet the requirements of an inclusionary housing obligation is an important consideration, as it can improve the feasibility of the obligation, but also present risk – to both the developer and to ensuring the obligation is met. This is less a concern when the inclusionary housing units are to be included within a single building which cannot be phased; however, where the development is to be phased or an off-site or in lieu contribution is to be made this needs to be carefully managed and stipulated in the conditions or the agreement.
- xvii. The WCG will apply inclusionary housing provisions, in terms of the applicable inclusionary housing policy, to development applications which fall under Section 53 of LUPA, where these fall within the designated area in the applicable MSDF.

AN INCLUSIONARY HOUSING OVERLAY ZONE

A municipality can incentivise the participation of the private sector in the supply of well-located affordable housing by proactively providing allowance for a greater mix of land uses or higher densities in designated areas, the take up of which is linked to the provision of inclusionary housing. This can be done through the existing overlay zone mechanism in the Municipality's Zoning Scheme By-Law, supported by Section 24(3) of the SPLUMA.

Municipalities must pay attention to the provisions for the introduction of an overlay zone set out in their own Municipal Planning By-Law and Zoning Scheme By-Law. However, most municipal planning by-laws in the Western Cape are based on a model by-law prepared by the WCG.

Typically, the route to the introduction of an Inclusionary Housing Overlay Zone is as follows:

- A legislative process is undertaken in terms of the Municipal Systems Act, 2000 (Act 32 of 2000) to amend the municipal Zoning Scheme By-Law to create a particular type of overlay zone – in this case an inclusionary housing overlay zone.
- This is a decision of Council.
- This process does not necessarily include the designation of specific areas over which the overlay zone will apply – the procedure for doing this is set out in the municipal planning by-law.
- It is recommended, however, that the creation of an overlay zone for inclusionary housing and the designation of areas over which the overlay would apply are undertaken as one process with Council approval, if this is possible in terms of the zoning scheme and land use planning by-law of the specific municipality.

Box 3

6. Guidelines for the Development of a Municipal Inclusionary Housing Policy

The following guidelines are provided to municipalities as a model developed by the WCG of an approach to developing municipal inclusionary housing policy with a view to guiding and supporting municipalities. They should not be construed to constrain or restrict the right of municipalities to develop municipal inclusionary housing policies in a manner deemed suitable for the local conditions, within the law.

6.1 Preparing for a Municipal Inclusionary Housing Policy: Building Blocks

A municipal inclusionary housing policy must decide:

- i. Who should benefit from the affordable housing opportunities created through the implementation of the policy.
- ii. What quantum of additional land use rights generates sufficient value to trigger a feasible inclusionary housing contribution.
- iii. What the quantum of the required inclusionary housing contribution should be from a development.
- iv. Where in the city or town an inclusionary housing obligation would be triggered.
- v. The circumstances under which alternative options for meeting this obligation could be considered; and
- vi. Where a municipality might want to proactively rezone properties or increase allowable densities to incentivise inclusionary housing obligations to be met on site.

There are three critical pieces of work that need to be undertaken to ensure that an inclusionary housing policy is evidence-led, correctly targeted and feasible to implement. This is also important to mitigate the risk of unintended consequences of the policy.

6.1.1 Determining **Who** Should Benefit – Housing Market Study

An inclusionary housing policy aims to create affordable housing opportunities in or through private development, to address spatial transformation in a city or town and mitigate the ongoing exclusionary impact of high value property markets.

These are not free housing opportunities in these locations. Benefitting households must be able to pay rent or pay towards a bond, as well as associated costs, but at a cost lower than is otherwise available in the open market. For this reason, inclusionary housing is not a mechanism to respond to the housing needs of the poorest of the poor, but rather a mechanism targeted at promoting more affordability in the private sector property market – and incentivising this, especially where the private sector is active in well located parts of our cities and towns.

The affordable housing market, including the gap market, is generally well defined in South Africa. The “Gap” market is understood to be households that fall between the cracks of the state-assisted housing delivery programmes, which are primarily targeted at households earning R3,500 a month or less, and those households that qualify for a bond with a bank (currently these households typically earn R22,000 or more) or can rent accommodation privately (currently these households

typically earn R15,000 or more). The Financial Services Sector has defined the affordable housing market as households earning a gross income of up to R27,200 in 2022 (Banking Association of South Africa, 2022).

However, a municipal or city/town level housing market study¹⁵ is a useful and important tool to understand the specificities of the housing market and affordability gap in that city/ town. A residential or housing market study should determine:

- i. whether local housing markets are affordable to the people living there or there are sufficient housing products available at price points to match the spectrum of need in that settlement.
- ii. the housing affordability gap – what can most households afford versus the cost of most residential properties in the area; and
- iii. the extent of unmet demand, in terms of the number of households and range of household incomes under-served by the market.

This study will assist to ensure that the Municipality has a solid evidence base to determine the need for an inclusionary housing policy, the household income range to be targeted to benefit from the policy and an appropriate further segmentation of this household income range and relative need within this range. It also assists in determining the concomitant unit price or rent that would be affordable to this target group, as well as profiling the nature of households in need in the municipality in terms of household size and composition.

Such a study would use various data sources to understand demand and supply in the housing market of a settlement. For example, deeds/ property transaction data assists to consider supply across income segments/ values in the housing market, as well as areas of the city or town that represent high value locations with an active property market. Successive municipal valuation rolls are another data source to track changes in values, the volume of properties in different value segments relative to the number of households in different income segments and changes in values relative to household income growth/ decline, as indicators of affordability in the market.

This intelligence might also assist the municipality to identify other possible interventions that could enable increased affordable housing supply across household income segments. This intelligence is an essential input into *inter alia* a municipality's IDP, MSDF and Human Settlements sector plan.

A Housing Market Study would need to be updated on a regular basis, ideally every two years, to track changes in the housing market and the impact that might have on the policy, in respect of income targeting for example, and other relevant plans and policies of the Municipality. For this reason and given the importance of such research as an ongoing input into broader municipal planning, it is strongly recommended that municipalities subscribe to data sources and develop the internal capacity to track residential market behaviour over time or assign resources to subscribe to services that assist in this regard. The WCG is also considering how to institutionalise the ongoing provision of municipal housing market data.

Such market studies are valuable in and of themselves as they offer market intelligence to the property development sector to inform its identification of opportunities. Such studies, if commissioned by the public sector, should therefore be made publicly available.

¹⁵ The WCG has commissioned Housing Market Studies for several cities/ towns in the Western Cape, as such, a model terms of reference for such a study is available. Examples of existing city-level housing market studies commissioned by National Treasury, including for Cape Town, can be found [here](#).

The WCG has commissioned Housing Market Studies for several cities/ towns in the Western Cape, offering evidence presented in the introduction to this Policy Framework. As such, a model terms of reference for a Housing Market Study is available. Examples of existing city-level housing market studies commissioned by National Treasury, including for Cape Town, can be found [here](#).

6.1.2 Determining **What** Kind of Development Should Contribute and How Much – Economic/ Financial Feasibility Study

Inclusionary housing is only possible if the land price paid, and the value of the land use rights are conducive to the developer achieving minimum profitability (the 'hurdle rate') and generating sufficient funding to make the required inclusionary housing contribution. An inclusionary housing policy will need to set requirements and supporting provisions with confidence that a project can safely support the costs associated with providing the affordable housing contribution.

In order to ensure that:

- i. On the one hand, a requirement is not set too high that it compromises the feasibility of development and in turn, disincentivises development, by placing too much downward pressure on what people are prepared to pay for land, therefore disincentivising the sale of land for development and pushing the price of existing housing upwards - defeating the objective of increasing the supply of affordable housing into the market (Jacobus);¹⁶
- ii. On the other, a requirement is not set too low, under-valuing the value in land and additional land use rights generated, in part, by public actions.

Municipal Inclusionary Housing Policies must define a threshold that determines the typology and size of development, or the value of additional rights permitted, that would trigger an inclusionary housing requirement.

In addition to setting the threshold that triggers an inclusionary housing requirement, inclusionary housing policies must identify the "set aside requirement" – the inclusionary housing contribution to be provided by the development through the planning permissions process. This requirement can be expressed as:

- i. A percentage of the total number of residential units yielded by the development; or
- ii. A percentage of the total floor area allowed by the additional rights; or
- iii. A percentage of the additional value made possible by the additional rights.

Refer to Box 4 in this section for an explanation on how one can determine this additional value.

In doing so, it is clearly important to understand land values, land market dynamics and the costs of different development typologies in a city or town. An economic or financial feasibility study is considered best practice to gain this understanding. An Economic Feasibility Study will identify a typology of residential and mixed-use developments typically seen in that town/ city (through recent development applications) and research the costs (construction, financing, operating and additional costs) and revenues (sale prices, rental and other revenues) in order to understand the general profitability of these types of property development projects (Grounded Solutions , 2018).

¹⁶ If developers are disincentivized, the demand for land or the price developers are prepared to pay for land is reduced and landowners may be reluctant to sell their land – limiting land supply and in turn pushing overall land prices up affecting affordability.

Using this information as the base, the Study supports the testing and determination of the following in an inclusionary housing policy:

- i. The economic value of development rights.
- ii. What quantum of additional land use rights generates sufficient value to trigger a feasible inclusionary housing contribution.
- iii. What the quantum of the required inclusionary housing contribution can be from a development as a percentage of the additional rights requested.
- iv. Income group targeting within the broadly defined income range for affordable housing, considering affordability over time, including how many units can be targeted at specific segments within the income range, within the overall inclusionary housing contribution.
- v. Test the impact of incentives to offset the costs of meeting an inclusionary housing requirement, for example a reduction in parking ratios or an increase in allowable density, and other measures, such as expedited permissions processes (see section 6.2.4.4 for further discussion on incentives). It may also identify other possible opportunities for incentives; and
- vi. A standard calculator for developers to use to determine contributions.

While it is acknowledged that each property development project has its idiosyncrasies, it is possible to make these determinations based on a city or town level study and calculator (Grounded Solutions , 2018), using the expertise of local property development practitioners and professionals.

The development or adaptation of a calculator is an important part of this study. It is a tool to promote ease of doing business, by creating transparency, predictability and consistency in the process of determining inclusionary housing contributions so as to reduce the scope for negotiations based solely on project-level feasibilities which presents significant governance/ probity risks.

A simple guide to best practice in setting the brief for inclusionary housing feasibility studies can be found [here](#).

The City of Cape Town is piloting the economic feasibility study and the associated development of an inclusionary housing calculator. It is hoped that this calculator could become a model for adaptation with local data, in other towns and cities in the Western Cape. Certainly, the terms of reference for such a study have been tested and lessons learnt from this pilot can be shared between municipalities.

An Economic/ Financial Feasibility Study will also play a central role in understanding the regulatory impact of a municipal inclusionary housing policy.

DETERMINING THE VALUE OF ADDITIONAL DEVELOPMENT RIGHTS

The recommended approach to determining the value that additional rights bring to a development is to do a comparative residual land value calculation.

The residual valuation method calculates the value of a property with development potential by subtracting total development costs including profit from the gross value of the property after development. A discounted cashflow is used to accommodate the time it takes for property development to take place (Royal Institution of Chartered Surveyors, 2019).

The residual land value of the property development using existing rights is compared with the residual land value of the property using existing plus additional rights.

Box 5

6.1.3 Determining **Where** Inclusionary Housing Should be Applied

There are two key spatial principles that underpin inclusionary housing:

- i. It should serve to improve the availability of affordable housing opportunities in well located areas, where proximity to better public transport, work opportunities, services and amenities will improve the beneficiary household's life chances, but where current property values exclude these households.
- ii. Inclusionary housing works with active property markets where there is demand for development rights, on the part of developers and consumers of the developer's product.
- iii. Property markets also respond to clear signals from local government – if developers can reliably expect municipalities to make consistent decisions aligned to their plans, implement incentives aligned to their priorities, ensure a quality of service aligned to their plans and priorities, developers will respond.

There are two approaches that municipalities could consider in the designation of areas in their MSDFs where a municipal inclusionary housing policy may apply:

6.1.3.1 A spatially **targeted** approach

- i. SPLUMA requires an MSDF to identify the well-located areas within a city or town. An MSDF must:
 - a. Provide direction for strategic development, infrastructure investment, promote efficient, sustainable and planned investments by all sectors and indicate priority areas for investment in land development (Section 12(1) (k)); and
 - b. 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. (Section 21(1)(d))
- ii. MSDFs in the Western Cape do identify these areas, albeit labelled differently. MSDFs use designations such as: priority development areas, densification encouragement areas, integration zones, intensification zones, restructuring zones and spatial transformation areas,

etc. All of these have a similar purpose – namely, to prioritise investment in these areas to enhance the integration, efficiency and inclusivity of land use towards spatially transforming the settlement.

- iii. MSDFs should not create a new spatial designation for inclusionary housing but rather, clearly state which of these priority development areas, however they are named in an MSDF, are where inclusionary housing policy will apply.
- iv. The requirement of municipalities to identify restructuring zones in terms of the Social Housing Act and the stated purpose of these zones to promote spatial, social and economic restructuring (Cadre, 2017) suggests that they play a similar role in guiding the provision of affordable housing – in this case, affordable social rental housing – to better resourced locations in our cities. For this reason, MSDFs should include these restructuring areas and should align these to the priority areas designated as per the SPLUMA requirements and especially where inclusionary housing policy may apply. This is important in order not to preclude the opportunity for partnership between developers and SHIs where development applications fall within priority development areas¹⁷.
- v. In addition, declared Priority Human Settlement Housing Development Areas (PHSHDA) intend to advance Human Settlements Spatial Transformation and Consolidation. They aim to do this by ensuring that the delivery of housing is used to restructure and revitalise towns and cities, strengthen the livelihood prospects of households and overcome apartheid spatial patterns by fostering integrated urban forms. These areas should align to the priority development areas designated by the MSDF. Importantly, these PHSHDAs will determine the flow of public housing funding going forward and probably also investment in bulk infrastructure to support housing delivery, which can be leveraged to incentivise private sector investment in these areas and support the application of inclusionary housing policy.
- vi. It is important that these housing specific designations align with the MSDF to ensure that coherent spatial direction is given to investment in affordable housing, given that they all share the common objective of spatial redress. The MSDF and the municipal inclusionary housing policy should confirm and clearly articulate the link between/ integration of these types of spatial designations and where inclusionary housing obligations may apply.
- vii. The prioritisation of certain areas for development in an MSDF should guide the prioritisation of infrastructure investment to ensure that infrastructure investment planning is in place and bulk infrastructure capacity is available, or that its availability is predictable, to support these areas. This is supported by Section 21 (h) of the SPLUMA.¹⁸ Development Contributions Policies can be designed to support the prompt development of infrastructure by developers in these areas, adding further incentive by improving the ease of doing development in these priority areas and the viability of inclusionary housing contributions.
- viii. Furthermore, the SPLUMA mandates municipalities to expedite land use procedures in areas targeted to address the municipalities' policy objectives. Municipalities should ensure that the areas designated by the MSDF where inclusionary housing policy shall apply should be included in the designation of areas in terms of s.21 (l) of the SPLUMA; namely, *areas in which*

¹⁷ SHIs may only benefit from the capital subsidies when developing within gazetted restructuring zones.

¹⁸ Specifically, Section 21(h) states that a municipal spatial development framework must “identify, quantify and provide location requirements of engineering infrastructure and services provision for existing and future development needs for the next five years” (SPLUMA, 2013)

– (ii) shortened land use procedures may be applicable and land use schemes may be so amended.

- ix. There are a range of ways in which a municipality can make land use procedures more efficient. This is discussed further in section 6.2.4.1.
- x. As explained in Box 3, overlay zones are also an existing tool available to municipalities to shorten land use procedures and improve ease of doing business by proactively increasing the available development rights, and linking in incentives, provided that inclusionary housing obligations are met. MSDFs can identify where such overlay zones could be introduced within the priority development areas.
- xi. The MSDF, infrastructure plans, incentives policies and municipal inclusionary housing policy must seek to align and “crowd in” the measures to support development in priority areas and disincentivise development in less desirable areas. Development in these priority areas must be a sufficiently attractive proposition that inclusionary housing obligations are not seen as a disincentive.

Municipalities should consider whether residential development that nonetheless succeeds in locating in peripheral locations, and as such perpetuates the need for and cost of infrastructure and services to bring lower income people to serve these areas, should make a contribution towards inclusionary housing opportunities in well located areas close to such developments. Considering the evident predominance of lower density estate development in housing markets in several of our intermediate cities/ larger towns (Western Cape Government, 2022), excluding areas where such developments typically occur would be inequitable and fail to mitigate these developments deepening the exclusionary nature of our land markets. For this reason, municipalities should strongly consider a differentiated approach to designation in their MSDFs, and municipal inclusionary housing policies may need to have a differentiated approach to how the inclusionary housing obligation is imposed, as on-site provision would not be appropriate. In these cases, municipalities may wish to take a different approach to implementing inclusionary housing policy.

6.1.3.2 A spatially **differentiated** approach

Under this approach, municipalities are advised to designate inclusionary housing areas in their MSDFs in two ways:

- i. Inclusionary Housing Trigger Area
 - a. Designation is done at town or city level; in other words, the whole urban area within the urban edge is designated as a “trigger” area where inclusionary housing policy will apply.
 - b. Proposed developments of a size above the threshold, seeking additional rights, in this “trigger area” will be required to make an inclusionary housing contribution.
 - c. The location of the development will be a key determinant in whether it is appropriate for the municipality to require an on-site contribution – from the perspective of the inclusionary housing beneficiaries and their ability to access services, facilities and opportunities affordably and easily from this location.
- ii. Priority Receiving Areas for Inclusionary Housing
 - a. Under this approach, the well-located areas identified for inclusionary housing (as described in section 6.1.3) are designated as “receiving areas” for inclusionary housing.

- b. In principle, where development falls within these areas, an inclusionary housing requirement should be met **on site**. A development falling outside of these priority areas may meet their obligation on site, off site or in the form of an *in-lieu* contribution – but in the case of an off-site or *in-lieu* contribution, this should be directed to the “receiving areas”.
- c. This is illustrated graphically in Figure 15.

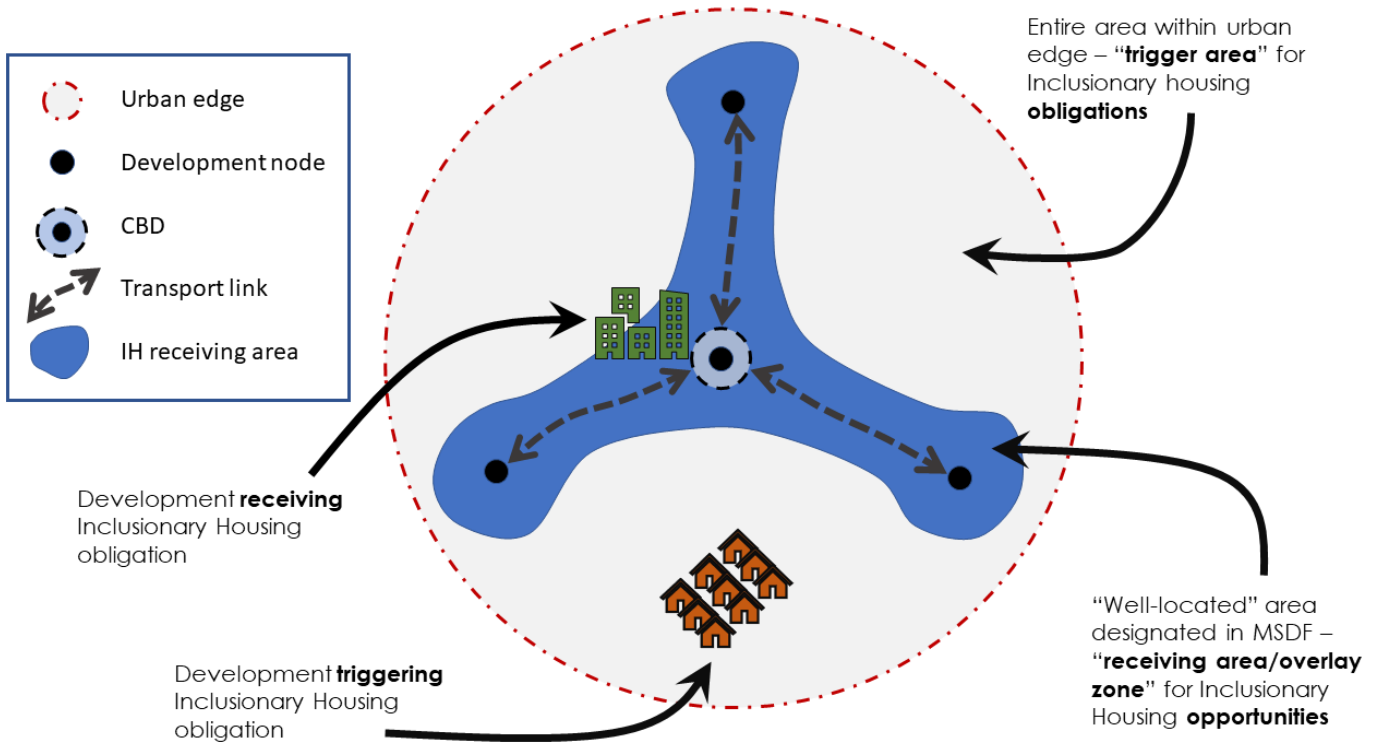


Figure 15: A spatially differentiated approach

6.1.4 Steps to incrementally introduce municipal Inclusionary housing policy and regulatory provisions

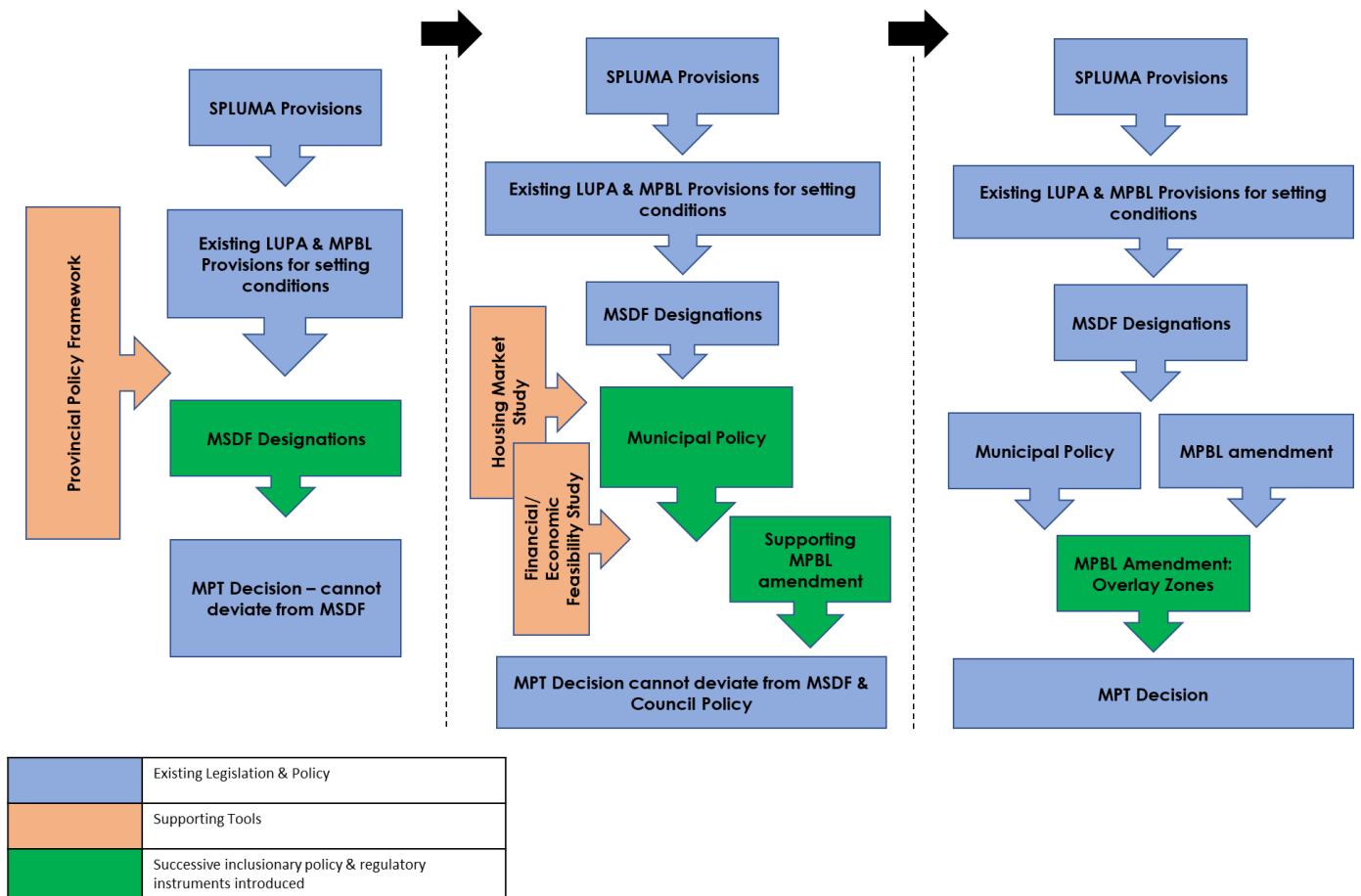


Figure 16: Steps to progressively introduce municipal inclusionary housing policy and regulation

6.2 Inclusionary Housing Policy Elements

6.2.1 Who Does Inclusionary Housing Aim to Benefit?

- A municipal policy must set out clearly who should benefit from the application of the policy. In the case of inclusionary housing this entails setting out the principles or criteria developers should apply when planning, designing and allocating inclusionary units. The municipal policy should also include the income range of households that can qualify and the appropriate distribution of inclusionary housing units within this income range (specifying the number of units to be targeted at the lower end, the middle and upper end of the income range). Additional considerations include the variety of household composition that should be accommodated and in what proportion, gender criteria and any other specific criteria or principle responding to the need for that municipality. This could be further refined in the specific planning permission / inclusionary housing agreement attached to the planning permission.

6.2.1.1 Income

- This policy aims to benefit employed households earning stable incomes that fall within the affordable housing market. These are preferably households that fall between the cracks of

the state-assisted housing delivery programmes, which are primarily targeted at households earning R3,500 a month or less, and those households that qualify for a bond with a bank (currently these households typically earn R22,000 or more) or can rent accommodation privately (currently these households typically earn R15,000 or more) but may include households earning up to R27,200 in 2022. The affordability gap – the mismatch between what most households can afford versus the price most properties are available for – may differ across towns. As discussed in section 6.1.1, it is advisable to verify this gap at municipal level based on median income, and the affordability of current housing supply in a town or city. Median income across the urban area should be used to define the target market.¹⁹

- ii. Municipal inclusionary housing policies will identify the income range to be targeted in that municipality/ town/ city informed by settlement level Housing Market Studies. This income range will need to be adjusted on a regular basis to consider effects of inflation on income and building costs, along with other factors. The Financial Services Sector, in terms of the Financial Sector Code, revise (and publish) their target market definition for affordable housing on an annual basis using the midpoint between the Consumer Price Index and Building Cost Index (Banking Association South Africa, 2021).
- iii. Municipalities should carefully consider breaking up the targeted affordable market income range into lower, middle and upper segments and set out the proportional allocation of inclusionary housing units to be developed per segment, tailored to proportional need in that town/ city. This would be to avoid all units being made available to households in the upper segment of this range only, for example between R20,000 and R27,200 in terms of current definitions. On-site inclusionary housing is likely to limit opportunities to households on the upper end of the affordability range if a municipality does not prescribe the distribution of units according to income. Municipalities should be cautious, however, not to undermine development feasibility in doing so²⁰.
- iv. City/town level Housing Market Studies can assist to identify appropriate segmentation and relative demand/ need between these segments and Economic Feasibility Studies can test proportional targeting of different income segments against different development typologies.
- v. The determination of the household incomes that will qualify for inclusionary housing units in/ arising from a particular development will need to be confirmed at project level in the case where such an obligation is to be met on the site of that development or off site in another development, within the parameters set by this Policy Framework and a municipal policy.
- vi. Off-site contributions where developers partner with SHIs or where *in-lieu* contributions are made that can be invested into projects on state land, for example, must achieve deeper reach (better affordability) within this range.
- vii. Municipal inclusionary housing policies should put in place a provision that the Council will publish regular amendments to the Policy providing for the updating of household income targeted by the Policy or put in place a formula in the Policy that allows for household income adjustments to be made to the Policy. This is not intended to apply to existing

¹⁹ In international inclusionary housing policies, the target income group is defined as a percentage below the median income of the surrounding neighbourhood. Given the history of the separation and settlement of people based on race and the concomitant economic discrimination that defines our local areas along class and racial lines, this is not considered appropriate in the South African context.

²⁰ Complementary municipal incentives or cost offsets could facilitate deeper reach for on-site inclusionary housing contributions through lowering development costs.

inclusionary housing stock but rather to new development applications where inclusionary housing obligations are imposed.

- viii. There is an overlap between the household income range targeted by inclusionary housing policy and state-assisted housing programmes that offer partial assistance to households earning up to R22,000; namely, the FLISP or social rental housing programmes. However, opportunities for households to benefit from the FLISP or social rental housing are limited by access to affordable finance, affordable land and in the case of social rental, affordable well-located land, as well as the availability and predictability of subsidies. The need considerably outweighs the capacity of these programmes to respond. Nevertheless, this overlap suggests potential complementarity in that inclusionary housing policies contribute to the supply of stock that could be acquired in terms of these programmes.
- ix. Households need not be excluded from benefitting from an inclusionary housing unit on the basis that they have been the beneficiary of a state subsidy. Inclusionary housing is focused on unlocking affordable opportunities in better locations and facilitating greater mobility in the affordable housing market.

6.2.1.2 Diversity

- i. Ensuring a fair, or better, pro-poor distribution of units across income bands within the affordable housing target range is important for ensuring a diverse range of beneficiaries who are representative of groups historically and presently marginalised from living in the better located parts of our cities and towns. While adequate supply of entry level housing opportunities and affordability of housing is a growing issue across the board, municipalities should consider the inter-generational impact of historical race-based policies of spatial and economic discrimination.
- ii. The legacy of forced removals from areas of now high property values makes this a crucial point. For example, forced removals in District Six, Constantia, Claremont and Harfield Village in Cape Town have meant that affected families were prevented from realising the benefits of tenure security in well-located areas over generations.
- iii. Similarly, inclusionary housing presents an opportunity to address the need for secure tenure and safer housing opportunities for women and women-headed households. Development opportunities that ensure a deliberate focus on how women benefit show greater benefit to households as whole (National Planning Commission, 2021).
- iv. Vulnerable groups such as youth and people living with disabilities may also be given preference within the allocation of affordable housing units. Accommodation for people living with disabilities requires adaptation and greater cost. This is a consideration when trading off the number of inclusionary units with who will benefit. The priority is to ensure that these well-located housing opportunities are allocated to economically active households who will benefit most from the advantage of better located housing and the 'step up' this offers.
- v. Variety in household composition is also an important consideration. While small units creating better located, affordable accommodation opportunities for young professionals have merit, so too does creating diversity in unit sizes to accommodate a variety of households, allowing, for example, families with children to benefit from better access to educational facilities, safer public spaces and amenities with the attendant benefits to

wellbeing outcomes for children and families. In the USA there is evidence that children who have moved from worse to better neighbourhoods were able to earn more in later life (Chetty and Hendren 2015 quoted in (Jacobus, Inclusionary Housing: Creating and Maintaining Equitable Communities, 2015)).

- vi. While affordable, well located student housing is a need in several cities and towns in the Western Cape, this is not considered a primary target market for inclusionary housing as it does not necessarily lead to long term spatial transformation benefits for the town.

6.2.1.3 Who Should Identify Beneficiaries?

- i. Within the criteria set out in a municipal policy and/or a condition or agreement attached to the planning permission, the identification of beneficiaries should, in the first instance, be the responsibility of the developer, in the case of an inclusionary unit to be owned, and with the landlord/ managing agent in the case of a rented unit. This is an important principle, as landlords take on the risk associated with having a tenant and the developer/ financiers/ body corporates take on the risk in the case of an owned unit.
- ii. It is critical that whoever screens and qualifies applicants does so through a transparent process. The allocation of units can be a process vulnerable to unethical practices. The practices of SHIs may offer lessons.
- iii. No political or other lobbying should be tolerated regarding the identification of beneficiaries.
- iv. Prospective beneficiaries should voluntarily apply to take up the affordable units on offer and independently qualify in terms of the criteria set out.
- v. In the process of marketing such units, a municipality may make available its waiting list/ housing demand database to the developer/ landlord for marketing purposes but should not interfere in the allocation process. Where there is over-subscription, qualifying, vetted households may be prioritised based on date of registration on the housing demand database.
- vi. Developers may partner with companies with employee housing assistance programmes, in which case the beneficiaries would be identified through these programmes if they meet the income and diversity criteria set out by the municipality and in the planning permission and any associated agreement. This opportunity is further discussed in section 7.2.
- vii. Excepting where inclusionary stock is to be owned, allocated and managed by a SHI, municipalities would need to play a monitoring and compliance role via an initial report submitted by the developer, landlord or managing institution on the allocation and tenancy of the units. This report should include evidence of the qualifying households meeting the agreed criteria as set out in the inclusionary housing agreement attached to the planning permission.

6.2.2 Options for Providing Inclusionary Housing: On Site, Off Site and *In Lieu*

- i. The intention of inclusionary housing is to promote better located inclusive, integrated housing. For this reason, in the first instance, inclusionary housing policy should endeavour to

realise the inclusionary housing opportunities within the development seeking planning permission and incentivised accordingly, i.e., **on-site**.

- ii. In principle, where development falls within the designated areas identified in the MSDF in terms of Sections 12(1)(k) and 21(1)(d) of the SPLUMA, including the Social Housing Act, 2008 (Act 16 of 2008) restructuring zones, an inclusionary housing requirement should be met **on-site**.
- iii. It is recognised, however, that it may not always be viable, practical or appropriate to accommodate the inclusionary housing provision on-site. Municipalities may wish to include alternatives to meeting inclusionary housing obligations on-site in their policy, to allow for some flexibility and practicality, such as, allowing for the inclusionary units to be delivered **off-site** or allowing for an **in-lieu** financial contribution to be made. It would need to do so on clear terms, however, to ensure that the policy objectives - to realise housing opportunities in high-value, well-located locations in our cities and towns where middle-to-low-income households would otherwise be excluded based on affordability constraints - are still met using these alternatives and that these alternatives do not become the default or result in an unreasonable delay in the delivery of the inclusionary units. Noting that these alternatives require their own operational arrangements to be in place.
- iv. The basis on which alternatives to on-site development of inclusionary units may be considered must be outlined in a municipal inclusionary housing policy and relates specifically to the local context. Examples of instances where off-site or *in-lieu* inclusionary housing contributions may be considered suitable include the following:
 - a. For reasons outlined in section 6.1.3 notwithstanding its location, a development may trigger an inclusionary housing requirement but may not be as well located from the perspective of a lower income household, in terms of access to public transport, local facilities and services. An off-site or *in-lieu* contribution directed towards realising inclusionary units in the receiving area designated in the MSDF, could in this instance, be considered preferable.
 - b. The proposed development may be very high end with very expensive running costs which may preclude the long-term affordability for households occupying inclusionary units or the sustainable cross-subsidisation of these by the Body Corporate.
 - c. There are similarly well-located social housing projects nearby to the proposed development whose performance, in terms of yield, deeper reach; etc, could be significantly enhanced with an *in-lieu* contribution from a developer and affordability preservation could be better ensured through these projects.
- v. The requirements to operationalise inclusionary housing, particularly from the perspective of putting in place the systems to ensure affordability preservation, discussed further in section 6.2.3, are intricate and extensive. It is acknowledged that, practically, it may be more effective in the short term to allow *in-lieu* payments that are invested in existing affordable or social housing projects which meet the spatial transformation objectives of this Policy Framework, a municipal inclusionary housing policy and a MSDF. However, the municipality must have the mechanisms in place to ensure that such *in-lieu* contributions are directed as quickly and efficiently as possible into well located affordable housing projects.

6.2.2.1 Off- Site

- i. As with on-site provision, off-site provision would entail the same developer developing and selling, or renting, the specified number of units at the determined affordable price and meeting all terms of the planning permission and/or inclusionary housing agreement, on an alternative site.
- ii. The alternative site must, at minimum, be within the area designated for the application of inclusionary housing policy by the MSDF if a *spatially targeted approach* is followed; or within the priority receiving area for inclusionary housing, if a *spatially differentiated approach* is followed. A municipal inclusionary housing policy may set a maximum distance within which an off-site obligation must be met.
- iii. While the developer will be responsible for obtaining the planning and building permissions for the off-site development, the municipality will need to consider how it can ensure efficient approval of the off-site development, if not already in place.
- iv. A developer may propose to partner or collaborate with another developer to realise their contribution on the latter's site. This could present either opportunity or risk to successfully and timeously meeting the obligation from the municipality's point of view. The developer whose obligation it is must be liable for this obligation until such time as it is met.
- v. While the provision of an off-site contribution on public land may present difficulties in terms of legislation²¹ governing how this land is made available to the market, if public land is used to receive an off-site contribution, an important principle is that the developer does not make a saving on their contribution given the access to state land or subsidise the provision of state land for affordable housing. If adding to an existing affordable housing project on state land, the contribution must realise greater affordability or increased yield that would not have otherwise been possible in this receiving development.

6.2.2.2 In Lieu

- i. An *in-lieu* contribution is a "financial contribution" paid as **an alternative, functional equivalent** to providing the required units on site or on an alternative site (off-site), provided that these funds are used to achieve the same outcome – well located affordable housing targeted at households identified to benefit from the municipal inclusionary housing policy.
- ii. An *in-lieu* contribution should not be considered as a default but rather as a policy alternative that a municipality chooses to make available to developers, understanding the practical need for flexibility given varying circumstances that might make an on-site contribution very difficult to implement and disadvantageous to the developer and potential beneficiary households.
- iii. There is precedent for such an alternative method of contribution in the form of *in-lieu* fees for parks and open spaces authorised by the SPLUMA (Development Action Group, 2020) and LUPA. LUPA in s40, also provides for financial contributions.

²¹ Legislation such as the Municipal Asset Transfer Regulations or the Government Immovable Asset Management Act 19 of 2007.

- iv. An *in-lieu* contribution must be used to fund the provision of affordable housing units in the MSDP's priority development areas for spatial transformation and for the benefit of households in the income range targeted by this Policy Framework and/or a municipal inclusionary housing policy. It therefore must be ring-fenced or earmarked by way of Council resolution and an approved, clear guideline, plan and programme for spending must be in place to ensure that the contribution is invested timeously as intended.
- v. These funds should be used to enable the feasibility of a well-located affordable housing project, to enable more affordable units to be built in such developments, to enable higher densities (playing the role of a 'densification grant', for example) and/or to enable the units being provided to be affordable to more households at the lower end of the affordability range (to achieve 'deeper reach').
- vi. The economic/ financial feasibility study undertaken by the municipality to guide the formulation of its inclusionary housing policy should advise on a suitable method to calculate an *in-lieu* contribution and indexing to account for annual changes to the costs of construction. A common formula used is to calculate the *in-lieu* contribution as the difference between the value a unit would have been sold for on the open market within the development triggering the obligation, and the value a unit would have been sold for as an inclusionary unit within that same development, multiplied by the number of inclusionary units required. This can be expressed as follows:

In-lieu contribution = (Value of **open market** unit – Value of **inclusionary unit**) x total number of units in the development x % of units to be dedicated to inclusionary housing

- vii. In some cases, abroad, *in-lieu* fees are set higher than the cost of on-site or off-site provision in order to dis-incentivise developers from going this route. This is not recommended at this stage.
- viii. As the inclusionary housing obligation is imposed by the municipality in terms of municipal policy, the municipality must determine to whom an *in-lieu* contribution is paid.
- ix. The municipality must ensure that:
 - a. The funds are accounted for separately. A ring-fenced municipal fund is legally possible.
 - b. Capacity is established/ identified to manage and use the funds.
 - c. The funds are used to:
 - 1. fund the acquisition and/ or assembly and/or packaging of well-located land to be developed for affordable housing for the target market identified in the municipal inclusionary housing policy; or
 - 2. the construction of affordable housing on such land; or
 - 3. to offset costs payable to the municipality that a Social Housing or affordable housing project will incur, such as land costs or Development Contributions, over and above discounts such a project may benefit from; or
 - 4. to secure feasibility, scale/ density or deeper reach of such an affordable housing development.
 - d. There are clear performance requirements and timeframes within which the funds must be invested.

- e. Publicly available annual reports are prepared and submitted to Council, reporting on the funds collected, their use and/or plans for their use in terms of clearly set out programmes.
 - f. The funds may not be utilised to subsidise functions the municipality is required to perform outside of this policy.
- x. The municipality may enter into an agency agreement where the funds are paid directly to the WCG, a SHI, a developer or another implementing agent who is able to invest the funds in the preparation or construction of affordable housing units within the spatially designated priority area.
- xi. It is possible, on the request of municipalities, for the WCG to set up a dedicated fund which would allow for transfer payments to projects within the municipalities where the funds originated from.
- xii. *In-lieu* contributions may be used to complement or add onto a state subsidy or another private sector developer's contribution, in a project where the same income group is targeted, provided that such a contribution enables project viability, deeper income reach or higher yield than was otherwise intended or be possible. The *in-lieu* contribution must not substitute for a state subsidy or a land subsidy that should otherwise be provided on state land.
- xiii. Municipalities should put in place the capacity to prepare and implement land assembly and preparation programmes to ready sites as potential recipients of *in-lieu* contributions. Smart Partnership Programmes (discussed in more detail in section 7.2) and/or a pipeline of projects to be developed by SHIs or developer/ SHI partnerships are important opportunity in this regard.
- xiv. **When** the payment of an *in-lieu* contribution is required should be carefully considered and specified very clearly in the condition of planning approval. The municipality's ability to enforce the payment is key, while this is also an opportunity to share the burden of risk held by a developer. Preferably payment should be required before a milestone requiring the municipality's authorisation, such as prior to the transfer, building plan or occupancy stage, as a trigger to check for compliance with the conditions of approval/ zoning conditions. The following approaches could be considered by a municipality:
- a. Payment could be determined to coincide with the payment of Development Contributions which is due on submission of building plans or transfer, whichever occurs first (in other words, if erven are sold, Development Contributions are paid on transfer, and if sectional title is developed, they are due at the building plan stage).
 - b. If the municipality seeks a later date, it could coincide with other milestones such as the occupancy certificate, which is when the building is complete.
 - c. Payment could be required prior to the issuance of a zoning compliance certificate in terms of Section 137 of the City of Cape Town's MPBL and Section 28 of other Western Cape municipalities' MPBL. This is only relevant in the transfer of new erven, i.e., not sectional title; or
 - d. If relevant (with reference to paragraph xv below), payment could be required prior to the issuance of a tax clearance certificate in terms of Section 118 of the Municipal Systems Act.

- xv. The National Treasury may view in lieu fees as a novel Statutory or bespoke tax in terms of Section 5 of the Municipal Fiscal Powers and Functions Act, Act 12 of 2007. In which case the prescribed process set out in this Act will apply. Ideally, engagement with National Treasury is done on a collective basis or the National Treasury proactively create the enabling regulatory environment for in lieu fees. The WCG will seek to play a facilitative role in this regard should municipalities request such assistance.

6.2.3 Affordability Preservation

- i. Inclusionary housing can take the form of rented units or owned units. In either case, the units must be provided in such a way as to ensure that they are secured as affordable housing stock over the long term, if not in perpetuity. The 'long term' will need to be clearly defined by the municipality. It is recommended that the long term is understood as no less than 30 years.
- ii. While asset creation is a legitimate policy objective, the effort and expense involved in securing inclusionary housing units, and the public value directed to benefit the qualifying household would be wasted if this stock is lost to the open market, which could happen within a short period of time without restrictions in place. Restrictions must be effective over the long term, to ensure that affordable housing units are not rapidly sold or leased on to households that fall outside of the targeted income range (down raiding) defeating the policy objective.
- iii. Municipal rates and tariffs will need to be adapted to ensure that affordable housing units are able to benefit from rebates where applicable, in order that the municipality's own policies do not undermine affordability. This is discussed further in section 6.2.4.3.
- iv. As discussed in section 6.2.3, measures to ensure affordability preservation will be included as a condition of planning approval/ in the inclusionary housing agreement. Failure to comply with the condition and any associated agreement over the long term should result in a penalty, with rates due on units meant as inclusionary housing units, calculated for the whole period when units were supposed to be affordable and were not. Consequences of the failure to comply should be set out in municipal inclusionary housing policies or if necessary, the conditions of planning approval/ inclusionary housing agreement.
- v. Levies and special levies, if not managed upfront in the planning permission, can also threaten affordability of inclusionary housing units over time. This is discussed further in section 6.2.3.2.

6.2.3.1 Rental Inclusionary Units

- i. Developers/ property owners may choose to retain the inclusionary housing units in their ownership and rent them to households that fall within the agreed targeted income range and meet the criteria introduced by a municipal policy and in the inclusionary housing obligation set out in the planning permission. In this instance, the landowner will need to put in place the necessary capacity to market and manage the allocation process over successive generations of tenants, as well as providing the normal services of a landlord, as with any tenant.
- ii. Rents charged must remain within the affordability threshold but can be adjusted annually to accommodate inflation. It is recommended that the basis on which rentals will be

adjusted annually to preserve affordability is set out in the planning permission/ inclusionary housing agreement

- iii. Formulae for annual adjustments to affordable rentals will need to be published to guide municipalities when defining the terms of new obligations/ inclusionary housing agreements. Considering, also, changes in the affordability dynamics in the housing market and related changes to targeted income categories in amendments to the municipal inclusionary housing policy from time to time. This is already done by the SHRA in the case of social housing and presents an existing point of reference. The WCG, municipalities, the SHRA and other interested organisations or institutions can work in partnership to establish this practice.
- iv. Sub-letting should not be permitted in rental contracts.
- v. A developer may choose to build the inclusionary units and sell/ hand them over to an SHI to manage them. This approach has significant practical benefits in that the SHIs are specifically established to provide rental housing to the market targeted by inclusionary housing policy and can do so for the long term. SHIs have established tenant identification, screening, selection, management systems and capacity. The [SHRA](#) monitors the viability of SHIs. A municipality may not see the need to, itself, oversee compliance for the inclusionary units once they are built, should these be taken over by an SHI. It is noted that SHIs do require a certain scale to be operationally viable – this scale could be achieved at precinct level, not necessarily within one building on its own.
- vi. A development that has an off-site or *in-lieu* obligation may well partner with a SHI to achieve this. Established Municipal – SHI Partnerships are a critical enabling condition in this regard. These are discussed further in section 7.2.
- vii. Fixed term leases will be the primary instrument for ensuring that inclusionary units continue to benefit the intended income group as identified in the planning permission/ associated inclusionary housing agreement. When these leases expire and new leases are entered into, rental adjustments will need to be made, associated with the municipal inclusionary housing policy, in respect of the targeted income group for inclusionary housing at that point in time, allowing for income growth, inflation and rising rentals in the local area that still mitigate against affordability. Successive tenants would therefore pay an adjusted rental, i.e., the rental would not revert to the original rental payable when the unit was first allocated, nor is the landlord limited to the latest rental charged prior to the expiry of the first lease.
- viii. The planning permission/ inclusionary housing agreement should establish the basis for information to be made available by landlords on request by the municipality or its agent, to allow for monitoring that successive tenants continue to meet the criteria.
- ix. The WCG/ municipalities or mandated partners should ground truth such reports from time to time on a sample basis to validate the data.

6.2.3.2 *Inclusionary Units for Ownership*

- i. Making inclusionary units available to qualifying households on an ownership basis could take several routes:
 - a. A developer could sell a unit outright to a qualifying household. That household would independently secure finance from a bank.

- b. A developer could run an instalment sale or lease with an option to buy programme.
- ii. The sales price of inclusionary housing units for sale must be stipulated in the inclusionary housing agreement tied to the planning permission with a view to ensuring this is clearly tailored to the gap housing market. The Agreement should record provisions for the adjustment of this price year on year should the development take several years to materialise.
 - iii. The challenge is to ensure that this investment into well located affordable housing is not lost in the short term but rather that successive generations of owners also fit within the criteria and affordability range targeted by this and a municipal inclusionary housing policy.
 - iv. Similarly to rental, inclusionary units made available for sale should be tracked to monitor that these units remain occupied by the target market. Original sale agreements and title deed provisions must compel owners to cooperate with such surveys.
 - v. It is important to clarify that it is not the intention to prevent a household from selling a unit when circumstances necessitate this, but to ensure that when it is sold, it is sold to another household falling within the household income range targeted by the relevant inclusionary housing policy. The income targeted would of course need to be adjusted year on year to take into consideration inflation and other variables.
 - vi. Price restrictions on the resale of owned units can provide for equity accumulation and preserve affordability. Therefore, another important principle, is that scope for returns to be earned by the original owner is allowed for in the sale price, to promote asset care and wealth creation for the original household, but that this is capped to ensure affordability preservation.
 - vii. The only current mechanism for tenure preservation of inclusionary units for sale is a restrictive condition placed on the ownership of land imposed in the process of township establishment and inserted into the title deeds. Such a restriction is registerable provided that:
 - a. Only real rights (rights against the property) can be registered as title deed restrictions.
 - b. To be registered as a real right, the registration must bind the owner and successors.
 - c. It must also result in a subtraction from dominium (must restrict the rights of ownership of the property).

The original Inclusionary Housing Agreement / planning permission should set out the mechanism for subsequent generations of owners to be vetted and confirmed as meeting the defined income range targeted by the municipal inclusionary housing policy.²²

- viii. For the same reason of affordability preservation, Home-Owner Associations (HOA)/ Body Corporate Constitutions and rules set up by developers should prohibit sub-letting of inclusionary units.
- ix. Levies and special levies would have to remain affordable for households living in inclusionary units over the long term. While it is not legally permissible to impose requirements or limitations regarding levies on Body Corporates/ HOAs, the Body Corporate/ HOA Constitutions and

²² This capacity could sit in a partnering arrangement by agreement with another organisation or institution.

rules are, in the first instance, set up by the developer and can consider the following measures to promote affordability preservation:

- a. A municipality may grant additional non-residential rights, with the explicit intent that the Body Corporate/ HOA use the rental revenue, to cross-subsidise the levies and special levies of inclusionary housing units.
 - b. The inclusionary housing agreement could include the upfront establishment of a fund with a once off contribution from the developer to subsidise levies and special levies on an ongoing basis.
 - c. Formulas for calculating levies and special levies are designed on a pro-rata basis – based on the square meterage of a unit or the market value of the unit.
 - d. Energy and water efficient systems in common areas, high quality construction and upfront capital needs assessments, can allow for adequate reserve funds to be built up over time to fund future replacement costs, reducing the need for special levies.
 - e. The representation of owners of inclusionary units in Body Corporate/ HOA decisions to adjust levies or introduce a special levy (Centre for Community Land Trust Innovation, 2022).
- x. Property development institutions that run instalment sales or “lease with an option to buy” affordable housing programmes and partnerships with employer assisted housing programmes may present opportunities to implement and retain affordable inclusionary housing over the long term on an ownership basis.
- xi. When levies make an otherwise affordable unit unaffordable, off site or *in-lieu* contributions on the part of a developer may be the best way forward in the short term. Precedent does, however, exist in South Africa where education and capacitation programmes, levy, rates and tariff payment management, and Body Corporate participation is managed to support new homeowners of affordable housing stock²³.
- xii. It is important to note that where an organisation, such as an SHI, acquires the inclusionary units within a broader sectional title development, similar concerns will arise with respect to maintaining the affordability of levies for these rental units owned by the organisation renting them out. The considerations set out in paragraph ix above may similarly apply.
- xiii. To maintain affordability preservation, this Policy Framework recommends that municipalities ensure their Rating Policy includes inclusionary housing as a category that will benefit from discounted rates (see section 6.2.4.3), supported by the capped valuation of these units²⁴. Rating Policies already accommodate social housing developments on properties owned by SHRA-accredited SHIs in this way.
- xiv. In the case of individually owned inclusionary units, it is important that, should the inclusionary unit owner’s income grow to a point that exceeds the target market of inclusionary housing unit, that owner should not continue to benefit from discounted rates. For this reason, it is recommended that owners of inclusionary units are required to apply to the municipality, in

²³ See <https://chartwellgroup.co.za/>

²⁴ Having a market approach to valuations that does not take the nature and purpose of an inclusionary property into account will see a disconnect between what the household can earn from selling unit vs rates that would be charged (even if a rebate is given).

terms of the provisions for inclusionary housing in the Rating and Indigency Policies of the municipality, for rates relief on an annual basis. In this way, the municipality is able to use existing systems and the burden of proof is on the beneficiary to maintain affordability but avoid undue subsidisation. It is critical therefore that inclusionary housing units are tagged or registered in the municipalities' property value chain systems.

- xv. It is clear that affordability preservation in the case of owned inclusionary units is complex and is therefore not the recommended approach in the short to medium term, given the practical considerations. This option has, however, not been excluded from this Policy Framework as it may be that developers, in concert with municipalities and financiers, are able to innovate in this space.

6.2.4 De-risking development to improve the scope for Inclusionary Housing

6.2.4.1 Planning Alignment and Permissions

- i. Holding costs (made up of, for example, interest payments, security costs, rates and taxes) are one of the foremost cost drivers for prospective developers. A primary contributor to these holding costs is the time it takes for a developer to obtain the necessary planning permissions. This risk is factored into the cost of money (the interest charged by lenders to developers). The overall importance of efficient planning permissions process is discussed in section 0 of this Framework. Recent research suggests that, overwhelmingly, quick decision-making on planning applications has the biggest impact on the scope for developers to meet inclusionary housing obligations.
- ii. It is acknowledged that municipalities are not responsible for all planning permissions processes. The provincial role in expediting planning permissions is discussed further in section 7.4.
- iii. Adequate capacity in municipalities and the efficiency of systems supporting the assessment of planning applications are basic considerations in expediting the planning permissions process. However, there are several areas that can be scrutinised to remove the underlying drivers of unnecessary or inefficient processes:
 - a. Municipal planning and zoning scheme by-laws should be scrutinised to remove unnecessary application triggers, public participation processes, submission requirements, and other mechanisms.
 - b. The categorisation of applications and the related systems of delegation can also be reviewed to secure efficiencies.
 - c. Existing opportunities in the law to streamline permissions processes where different authorities are involved, allowing for one decision-maker to take several decisions on the same development proposal, can be used; for example, municipalities are supported and encouraged to follow integrated decision-making processes where multiple permissions are required in terms of different pieces of legislation relating to land development²⁵; and
 - d. Where appropriate, municipalities can apply to Heritage Western Cape (HWC) to exempt areas from blanket heritage protections afforded in terms of Section 34 of the National Heritage Resources Act, 1999 (Act 25 of 1999) (NHRA). This facilitates the removal of unnecessary regulatory processes where heritage protections are not relevant. The process to develop an overlay zone could simultaneously consider this

²⁵ Note [DEA&DP Circular No 0026/2020](#).

opportunity, by reviewing the NHRA triggers in the area and whether they are of sufficient heritage value to merit protection or HWC involvement in decision-making.

- iv. An overlay zone that introduces additional land use rights subject to meeting inclusionary housing provisions is an important contribution to streamlining permissions processes. The process of putting in place the overlay zone will include public participation and internal municipal sector consultations and should remove or streamline the need for this in the actual assessment of a development application within the overlay zone area.
- v. It is important to remember that additional rights may trigger additional requirements and additional procedures, such as with parking ratios. These will need to be checked, reviewed and relaxed to effectively realise the benefit of the additional rights as an incentive.
- vi. Planning for and securing the availability of infrastructure is also an important part of minimising delays to a developer being able to proceed with the construction and hand over of a development. This may involve:
 - o Prioritising infrastructure planning, maintenance and upgrading in the spatial priority areas identified by the MSDF, including areas designated for inclusionary housing; and
 - o Allowing developers to install the necessary public infrastructure in lieu of development contributions.
- vii. The capacity of officials to engage actively, promptly and confidently with development applications, in terms of the inclusionary housing policy, is a critical basic element to put in place. This is important to mitigate the risk that application of an inclusionary housing policy may cancel out the benefits of an otherwise expedited planning permissions process. In this regard, municipalities can:
 - o Identify and capacitate a specialist official/ team to participate in or advise the planning application process and conclude the inclusionary housing agreement alongside the planning assessment process.
 - o Put in place a predictable, standardised approach to calculating inclusionary housing contributions by way of a calculator, for example, where project-level negotiations are the exception, not the rule, is important from an efficiency, predictability and good governance (farness) perspective.
 - o Establish standard operative procedures or protocols; and
 - o Train the Municipal Planning Tribunal, the Appeal Authority and its advisors to promote alignment, predictability and fairness in the decision-making process.
- viii. Improvements to the efficiency of planning application assessment processes is recommended across the board, to bring down costs which could have knock-on impacts on affordability. However, SPLUMA does permit differentiation in how applications are dealt with across different parts of a municipality; namely, SPLUMA s.21(l) requires an MSDF to *"identify the designation of areas in which – (ii) shortened land use development procedures may be applicable and land use schemes may be so amended."*

6.2.4.2 Subsidies

- i. Inclusionary housing is intended to leverage the residual value of land and the value of additional land use rights, to offset the costs of including affordable housing units in private

developments in high value areas where property prices otherwise exclude these households. Inclusionary housing is not subsidised housing. Inclusionary housing is a regulatory (not financial) instrument to contribute to the supply of affordable, well-located housing and offset the exclusionary impact of property markets in towns in the Western Cape.

- ii. However, there may be instances where developers bring in SHIs as partners to deliver and/or operate an inclusionary housing component of a development. Such institutions may bring with them the opportunity to apply for capital subsidies that may be used to acquire the affordable units from the developer. This could be positive because SHIs are increasingly struggling to find affordable property in restructuring zones. However, partnering with SHIs *where it is expected that the SHI bring in a capital subsidy* (administered by the SHRA), is limited by the current social housing regulatory framework, in that social housing projects using this capital grant cannot sit on the same erf as the units sold or rented on the open market. This is because social housing projects require a notarial deed of restriction.²⁶ This limitation is under review by the SHRA, and it is expected that sectional title arrangements will be accommodated. The WCG is actively engaging the SHRA on this matter.
- iii. Households who may qualify for the FLISP subsidy may seek to use this to acquire an inclusionary housing unit for sale. The WCG's Credit Readiness and Housing Voucher Programmes have the potential to assist with improving certainty for potential FLISP beneficiaries, developers and financiers alike.

6.2.4.3 Related Municipal Policy Provisions

- i. It is important that affordability (and tenure security) for households who benefit from inclusionary units is not compromised by subsequent ongoing costs which are not adjusted to also be affordable, such as rates/ property taxes. The valuation of the inclusionary units should be capped in the municipal rates policy which includes provision for the determination of categories of property owners that may qualify for exemptions, rebates and reductions.
- ii. It is therefore important that inclusionary housing obligations secured in planning permissions are effectively "tagged" in the municipality's property value chain system, in order to ensure that inclusionary housing units are treated differently in the valuation and determination of rates for these units. As well as, to ensure that the system can be used to validate applications from owner-occupants for rebates/ reductions / exemptions in terms of, for example, linked municipal indigent relief policies/ provisions.
- iii. Inclusionary housing may be treated similarly to existing provisions in municipal rates policies dealing with Social Housing.
- iv. Municipalities have significant property market intelligence that they can leverage. The data itself and analysis of this data can be made available to the market (for example, deeds data, valuations data and data on planning permissions applied for and granted). This data should be de-identified from the perspective of the Protection of Personal Information Act (Act 4 of 2013 as amended), and made openly available, as it is another resource

²⁶ The SHRA's concern is that SH units might be the minority on a Body Corporate and whilst they can vote, might always be outvoted on the decision to increase levies, which will create animosity amongst occupants of the apartment block and compromise affordability.

municipalities can share with the property market to address information asymmetry in understanding residential land markets and identifying opportunities.

6.2.4.4 Incentives

- i. The primary incentive to enable inclusionary housing is in the additional land use rights made available to an applicant.
- ii. Further incentives offered in terms of an inclusionary housing policy may be considered necessary to further offset costs to secure the inclusionary housing provision or to expand the provision of inclusionary housing, in terms of the quantum of units provided or the deeper-down reach of such provision to lower-income households (greater affordability).
- iii. Such incentives should not place a cost burden on the municipality to the extent that it amounts to a hidden subsidy and is not sustainable for the municipality, while noting, importantly, the long-term fiscal efficiencies and social and environmental sustainability gained from better located affordable housing for all three spheres of government.
- iv. Incentives also need to be tested, as some may have a marginal impact on a developers' feasibilities and therefore may be ineffective. It is important that the Financial/ Economic Feasibility Study model various possible incentives a municipality would be prepared to consider, to test their impact on enhancing the scope for and scale of an inclusionary housing obligation.
- v. Removing or reducing associated planning requirements, such as parking requirements, can make a substantial difference to offsetting costs.
- vi. Discounting or deferring the payment of Development Contributions for the affordable component of the development, discounting or waiving planning and building plan application fees or connection fees, are examples of possible incentives a municipality may consider and do have precedence in Western Cape municipalities.
- vii. When costs need to be paid, often makes a substantial difference to a developer's feasibility, deferring these costs rather than waiving or discounting them can make a big difference.
- viii. The [Urban Development Zone \(UDZ\)](#) is a tax incentive administered by the South African Revenue Service (SARS). It was introduced "to address the issue of urban decay within inner cities and to maintain existing infrastructure while encouraging investment in certain property". In the Western Cape this incentive is currently only available in areas designated in the City of Cape Town and is available until 31 March 2023 (SARS, 2022). Where applicable, it is important that there is alignment between UDZs and areas designated for the application of inclusionary housing policy. Further information on the UDZ can be found [here](#). Categories of building development that can benefit from tax savings include the erection, extension or improvement of or addition to low-cost housing (City of Cape Town, 2022).

6.2.5 What Should Inclusionary Housing Look Like?

- i. On-site inclusionary housing should be 'tenure blind'. In other words, the differences in the income between households living in a flat or development next door to one another may not be discernible from the outside appearance of the unit or building.

- ii. It may be that inclusionary units have a lower specification of internal decoration and fittings to assist with the feasibility of including these units in the development. However, minimum standards must be met regarding bathroom and kitchen area and fittings, and the quality of these facilities must avoid higher maintenance costs down the line. It is proposed that the Social Housing norms and standards are used as a benchmark in this regard, but not necessarily a rule.
- iii. While unit size should be determined by the municipal policy based on the profile of households in need of affordable housing opportunities and the development feasibility, there should, as a principle, be a mix of studio, one-bedroom and two-bedroom units in order to respond to different family composition. The reviewed optimum unit sizes proposed for social rental stock is a useful guideline:

Unit Size Range per unit type and occupancy			
Type of Unit	Optimum Size (m2)	Minimum size	Occupancy *
Room	12	10	1b1p
Bachelor / Studio	25	18	1b2p
1 Bedroom	35	25	1b2p / 2b3p
2 Bedroom	48	42	3b3p / 4b4p
3 Bedroom	60	52	3b4p / 5b6p

Table 1: Proposed Unit Sizes - Draft Social Housing Norms and Standards (SHRA, 2020) (b=bed; p=person)

7. Supporting Programmes/ Actions

There are several supporting activities that the WCG and municipalities can put in place to support the successful application of inclusionary housing in a city or town and more broadly the supply of affordable housing outside of an inclusionary housing policy.

7.1 Land Assembly

- i. While inclusionary housing is primarily focused on leveraging private sector participation in the affordable housing market towards better-located affordable housing, the flexibility built into the approach to allow for off-site or *in-lieu* contributions, under appropriate circumstances, will require land to “host” or “receive” these kinds of contributions. The Municipality has a duty to identify its own land, along with land owned by other spheres of government and state-owned enterprises, which is under-utilised, well located and should be released for inclusive, equitable development, in order to realise spatial transformation or settlement restructuring. Typically, MSDFs do identify this portfolio of land and the implementation of these MSDF proposals requires an implementation programme to be resourced within the municipality²⁷, in so far as its own land is concerned.
- ii. It is critical that municipalities take this forward and develop a land assembly programme²⁸ and start to commit resources to the packaging and preparation of land for inclusive development, while engaging with the other public sector stakeholders to unlock their land. Municipalities should lead by example and ensure that their land is optimally used to achieve spatial justice. For this reason, municipalities are urged to ensure that well-located municipal land released²⁹ for development to the market is made available conditional on the provision of inclusionary housing at a higher percentage than might be required of the private sector on private land.
- iii. A pipeline of well-located land under preparation for development or ready for development is a vehicle for hosting the off-site provision of inclusionary units or receiving *in-lieu* contributions. This will ensure that there is a short-term output stemming from the implementation of the municipal inclusionary housing policy and will mitigate against mistrust or suspicion that contributions are unaccounted for and promote the credibility of the municipality's inclusionary housing programme.
- iv. The WCG has pioneered the release of well- located state land for mixed market development, including a target of 50% of the site's residential yield going towards affordable housing. The WCG is committed to reviewing government property for well-located land for affordable housing across the province, and to developing an associated land release programme that will continue to target at least 50% of the residential yield for affordable housing.

²⁷ The National Treasury Cities Support Programme's [Catalytic Land Development Guideline](#) provides useful guidance

²⁸ The National Department of Human Settlements and Housing Development Agency's draft Land Assembly Policy requires municipalities to prepare Land Assembly Plans led by their MSDFs.

²⁹ This may take the form of the sale of a long-term lease, provided the term of the lease is conducive to private financing and overall feasibility considerations.

7.2 Partnerships

- i. In addition to putting in place a pipeline of well-located land for development that is inclusive of affordable housing, municipalities can enter into framework partnership agreements with affordable housing providers such as SHIs and Other Development Agents. [Smart Partnerships](#) with SHIs can assist in putting in place a programme in the municipality for affordable housing delivery by matching land to SHIs and creating opportunities for *in-lieu* inclusionary housing contributions to be invested directly into producing affordable, social rental units available in perpetuity in well located areas. A credible and predictable land pipeline and enabling partnership agreements empower affordable housing delivery agents to gear up finance and capacity to deliver over the long term.
- ii. Municipalities can also enter into partnerships with other developers who can offer a range of affordable housing products on well-located sites – similarly *in-lieu* inclusionary housing contributions can contribute to increased densities/ yield or more products achieving a deeper reach to poorer households.
- iii. There is potential for synergy and innovative partnerships between developers and major employers in a city or town, where there is opportunity for matching employees, supported (or not) by employer housing programmes, with developers and their inclusionary units. Employers are at the coal face of carrying the consequence of employees residing far away, dependent on unsafe, unreliable and expensive public or private mass transportation to get to work. Employers also face challenges recruiting and retaining talent who struggle to find affordable accommodation close to work. Partnerships with employers suggests opportunities to sustainably operationalise affordability preservation.
- iv. The financial sector's interest in affordable housing is growing. There is extensive demand and the opportunity for steady returns in the affordable housing sector. Partnerships between developers and housing impact funds, or state pension funds with retail property portfolios in a state of decline, merit further investigation.

7.3 Municipal Support Programme

The municipal resource (financial and human) requirements could be significant for a smaller municipality with limited human and financial resources and expertise. The WCG acknowledges the enabling, capacity building and support role it will need to play. However, given the likely scale of provision outside the metropolitan municipality, this is likely to be manageable if the WCG, municipalities and other stakeholders such as the SHIs work together. There is also scope to work in partnership with other government, academic and research institutions and associations, as well as advocacy organisations, to build capacity, leveraging initiatives already underway, such as the national Inclusionary Housing Peer to Peer Learning Sessions convened by the Development Action Group and supported by the National Treasury's Cities Support Programme.

A technical assistance programme is needed to support municipalities, on an ongoing basis, to put in place the building blocks, draft a policy and implement it. This programme includes the following activities:

Priority Activities:

- i. Establish a municipal working group to engage *inter alia* on draft products of the support programme, support peer sharing and learning, capacity building, and sharing expertise.
- ii. Develop model terms of reference for a Housing Market Study and Economic/ Financial Feasibility Study and offer technical assistance with service provider briefing and oversight, where requested (this work is underway – a model Housing Market Study terms of reference is available).
- iii. Develop explanatory notes on valuation techniques and monitoring local land markets to understand the value of land use increments – an important input into Feasibility Studies.
- iv. Support for and monitoring of MSDF amendment/ compilation to meet the requirements of the SPLUMA s21.
- v. Development of training materials and training/ capacitation of municipal spatial, land use and human settlement planners and related professions, Councillors and Municipal Planning Tribunals on inclusionary housing and engaging with development feasibilities.
- vi. Development of a model municipal inclusionary housing policy.
- vii. Support the review and amendment of MPBLs to specifically authorise the imposition of inclusionary housing requirements guided by the MSDF and municipal inclusionary housing policy.
- viii. Engagement with National Treasury on creating an enabling governance environment for in lieu inclusionary housing contributions.

Further Activities Required:

- i. Development of a model overlay zone.
- ii. Development of model planning permission conditions and/or inclusionary housing agreement with developers.
- iii. Research into *in-lieu* contribution calculation.
- iv. Drafting of Standard operating procedures for recording inclusionary housing provisions in planning permissions to enable monitoring over time.
- v. Research and guidance on operational matters associated with compliance monitoring and affordability preservation, along with recommended approaches (such as annual updating of income thresholds; mechanisms for affordability preservation in sectional title; and other matters)
- vi. Documenting emerging practice.
- vii. Building a monitoring and evaluation framework and associated data standards.

- viii. Undertaking or commissioning monitoring and evaluation of the implementation of inclusionary housing policies.
- ix. Further investigation should municipalities express an interest in the WCG or other agents receiving in lieu fees directly.
- x. Assistance with updating housing market studies.

Existing support services available in the WCG:

- i. Advisory assistance with the assessment of development applications.
- ii. Facilitation of peer sharing and learning through municipal planning and human settlements forums convened by the WCG.
- iii. Assistance with the review, identification of opportunities and implementation of expedited procedures in terms of the SPLUMA s21 (I).
- iv. Land assembly and preparation of land potentially for off-site or *in-lieu* receiving projects.
- v. Engagement with development partners such as developers, SHIs and employer housing initiatives.

7.4 Expediting Planning Permissions

As discussed in section 0, efficient planning permissions processes are a critical pre-condition for thriving land markets and housing supply more generally, as well as more affordable housing supply. Extended, inefficient planning permissions processes can increase costs and leak value from property economies. If this function is performed well, the state can build investor confidence and reduce the costs of doing business – costs that are passed on to the end user.

The WCG plays a key role in supporting, monitoring and overseeing the work of municipalities in spatial planning, land use management and regulation, in addition to its more direct role in human settlements planning and delivery and the management of land owned by the WCG.

Further, the WCG also plays a direct role in the planning permissions process where the National Environmental Management Act 1998 (Act 107 of 1998) (NEMA), the NHRA, or LUPA s53³⁰ are triggered.

- i. Permissions required in terms of NEMA and the NHRA will be made as efficiently as possible, within prescribed timeframes, in order to minimise the risks such permissions processes might present to development.
- ii. Municipalities are supported and encouraged to follow integrated decision-making processes where multiple permissions are required in terms of different pieces of legislation relating to land development³¹.

³⁰ LUPA s53 requires WCG approval of land development that will have a substantial effect on (a) the orderly coordinated or harmonious development of a region or the province; (b) the general welfare of the inhabitants of a region or the province; or (c) agriculture due to - (i) the nature or scale of the proposed land use; or (ii) the cumulative effect of multiple developments.

³¹ Note [DEA&DP Circular No 0026/2020](#).

- iii. At the same time, opportunities are being sought to put in place the upfront planning to guide where exemption from Section 34 of the NHRA may be applied for, to allow developers to alter, improve and demolish buildings older than 60 years; and/or, where urban areas may be declared in terms of NEMA to exclude certain listed activities, so as to streamline planning permissions processes as far as possible. This is particularly important in removing unnecessary impediments to development in designated priority areas for development identified in MSDFs.

8. Application of this Policy Framework

- i. Further to section 3.4, and informed by the findings of the Growth Potential of Towns Study 2018, as a first step, municipalities will be encouraged and supported to undertake housing market studies as outlined in section 6.1.1 to determine the scope for the application of an inclusionary housing policy, with a focus on the City of Cape Town and the intermediate cities and towns with high-value property economies, some of whom are benefitting from the availability of additional national conditional grants aimed at infrastructure investment to promote spatial transformation.
- ii. Should the findings of the Housing Market Study suggest the potential for an inclusionary housing policy, and the Municipal Council support the introduction of an inclusionary housing policy in principle, relevant municipalities are encouraged, and may be supported, to undertake a Feasibility Study or to consider the relevance of the findings of the City of Cape Town's Feasibility Study (should this be made available) or any progress made on a provincial calculator and the opportunity to adapt and/or build on this work for that municipality.
- iii. Municipalities who undertake Housing Market Studies, or receive assistance with such studies, should obtain a Council resolution on whether to proceed with a municipal inclusionary housing policy within a year of undertaking this work. This is important to ensure that this intelligence is used timeously, and the studies deliver impact and return on investment.
- iv. Relevant municipalities are urged to review and amend MPBLs as considered necessary and adopt inclusionary housing policies within three years of the adoption of this Policy Framework, to minimise uncertainty in property markets, promote a level playing field and support decision-makers compelled to make decisions aligned to SPLUMA and MSDFs.

8.1 SPLUMA Section 21(i)

- i. Municipalities are advised to ensure that, going forward, any amendment to their MSDF or compilation of an updated or new MSDF, includes the designation of areas for the application of an inclusionary housing policy, as guided by section 6.1.3 of this Policy Framework.
- ii. In associated guidelines contained in the MSDF, the MSDF can make explicit the municipality's intention to introduce an inclusionary housing policy, and the accompanying enabling MPBL amendment, including the introduction of a related overlay zone – should the intention be to introduce an overlay zone in all or some of the areas designated in the MSDF.
- iii. If the municipality intends on introducing a municipal inclusionary housing policy, the MSDF should confirm if the implementation of the application of inclusionary housing policy in the designated areas will only commence with the approval of the policy and provide indicative timelines for the adoption of the policy and any related municipal by-law amendment.
- iv. The municipality may consider putting in place an interim arrangement should developers seek additional rights in areas designated in the MSDF; for example, noting that voluntary inclusionary developments will enjoy certain incentives, such as have been outlined in this Policy Framework.
- v. Even if the MSDF designation precedes a policy and MPBL amendment, this is an important measure to prepare investors for the likelihood of such a policy when they are considering the purchase of land in these areas and to factor this into their feasibilities and land price offered, in order to avoid the risk to developers of having to absorb this cost downstream.

8.2 Future Provincial Legislation/ Regulation

Provincial legislation or regulation may be considered necessary in time to support the implementation of this Policy Framework and mitigate against the risks of inconsistent application of inclusionary housing requirements across the province that may put certain municipalities at a comparative disadvantage.

At this point in time, however, the intention is to start with this Policy Framework and to further develop it as it is tested in practice, prior to determining what might be necessary in law.

Amendments to LUPA will be sought to improve enabling provisions associated with setting conditions and providing for inclusionary housing *in-lieu* contributions to be made.

The National Department of Agriculture, Land Reform and Rural Development has also been approached by the WCG with a request to amend SPLUMA to improve the enabling provisions for the application of inclusionary housing including, *inter alia* providing a definition of inclusionary housing, including municipal inclusionary housing policy in SPLUMA s21(i) and providing for *in-lieu* contributions.

A Provincial Act will be required should the WCG, on the request of, or with the agreement of, the municipalities, set up a mechanism for receiving and disbursing *in-lieu* contributions in terms of the Public Finance Management Act, 1999 (Act 1 of 1999) and Schedule 2 of the annual Western Cape Appropriations Act.

9. Policy Monitoring, Evaluation and Review

It is important that a framework for the monitoring and evaluation of this Policy Framework is put in place, which will also be a test for a suitable approach to the monitoring and evaluation of municipal policies.

Monitoring and evaluation of inclusionary housing policy will need to consider several matters over the short and long term with an increasing focus on outcomes and impact over the long term.

In the short term (next 3 years), the WCG's focus will be on monitoring:

- i. Progress in the implementation of the Municipal Support Programme - tools, assistance and further guidance made available, as well as peer learning activities undertaken.
- ii. Designation of areas for the application of inclusionary housing policy in MSDFs.
- iii. Progress in the take up by municipalities of the guidance set out in this Policy Framework; for example, housing market studies, feasibility studies undertaken; etc. .
- iv. The number of municipalities successfully adopting inclusionary housing policies.
- v. What is working and what is not, in attempts to implement this Policy Framework and in the design, adoption and implementation of municipal policy.

While municipal inclusionary housing policies should identify their own monitoring and evaluation frameworks aligned to how their policies are designed, it is recommended that the following should be monitored to allow for the evaluation of the effectiveness of inclusionary housing policy and its application:

Outputs:

- i. number of inclusionary housing agreements entered into (or other mechanisms introduced by municipal inclusionary housing policies to secure inclusionary housing obligations).
- ii. the time taken to conclude agreements and permissions in respect of applications triggering inclusionary housing obligations.
- iii. agreements complied with.
- iv. number of applications exempted from the policy on the basis of their addressing the target market in the first instance.
- v. the quantum of contributions agreed.
- vi. number of units delivered.
- vii. the timing of delivery of the units or *in-lieu* fees paid.

- viii. compliance with the conditions associated with an inclusionary housing requirement/ agreement.
- ix. the location of the units.
- x. typology of units delivered.
- xi. profile of beneficiary households in terms of income and diversity.
- xii. where *in-lieu* fees are paid and invested and the outputs of these investments.
- xiii. permissions with inclusionary housing obligations overturned by the Appeal Authority.
- xiv. amendments made to inclusionary housing related conditions; and
- xv. projects cancelled or postponed due to having to meet an inclusionary housing agreement.

Outcomes:

- i. Improvements in household performance, for example
 - a. educational outcomes.
 - b. income improvement at household level.
 - c. churn as households progress up the housing ladder.
 - d. debt rehabilitation.
- ii. Impact on market behaviour and land prices/ property values (indicators include but are not limited to diminished demand for or supply of land; or higher demand driving gentrification).
- iii. Performance in respect of affordability preservation; and
- iv. Other outcomes.

Government, academic and other research institutions and associations, as well as advocacy organisations, will need to play a key role in monitoring the implementation and effectiveness of inclusionary housing policy in the Western Cape. This can be facilitated by the WCG, but municipalities can and do also work in partnership with such organisations.

In the short term, this Policy Framework will be reviewed on a bi-annual basis (every two years), and amended, if need be, following annual reports on the progress being made in the institutionalisation and implementation of this Policy Framework and the interim measures, challenges and opportunities identified, as well as trends measured.

This review process should be supported by an annual report compiled by municipalities that have adopted inclusionary housing policies reporting on the planning permissions granted with inclusionary housing conditions and the status of compliance with these conditions. This should include where *in-lieu* contributions have been made and how these have been invested, as well as picking up any implementation challenges and policy adjustments needed. This can be integrated with the annual performance review of MSDFs and/or the IDP.

Such a report will be significantly aided by a standard practice or system, established at the point of granting a planning permission, which records the permission given and the terms of the

inclusionary housing agreement in a single repository for recoding such planning permissions and associated agreements. This will also be a crucial enabling practice to support compliance monitoring and further monitoring and evaluation of the implementation of the municipal policy. Such information should be a matter of public record to allow for partnering in monitoring and evaluation.

Municipal policies should aim to be reviewed every two years to start with, to ensure that lessons learnt in the application of the policy, with implications for the policy provisions are considered and taken on board where appropriate.

10. References and Resources

- Alexander, C. (2021). Comments submitted in response to the draft Western Cape Inclusionary Housing Policy Framework.
- Banking Association of South Africa. (2022). *Financial Sector Code : Affordable Housing Standards 2022*.
- Banking Association South Africa. (2021). Financial Sector Code Affordable Housing Standards.
- Cadre. (2017). *Assessment of the implementation of Restructuring Zones and the effectiveness thereof as an urban restructuring tool*.
- CAHF. (2020). *CAPE TOWN Housing Market Report 2020*.
- Centre for Community Land Trust Innovation. (2022). Correspondence via Email.
- Cities Support Programme. (2017). *Land-Based Financing Tools to Support Urban Development in South Africa*.
- City of Cape Town. (2015). Municipal Planning By-Law.
- City of Cape Town. (2018). *Municipal Spatial Development Framework*.
- City of Cape Town. (2021). *Human Settlements Strategy*.
- City of Cape Town. (2022, February 20). *The Urban Development Zone*. Retrieved from www.capetown.gov.za:https://www.capetown.gov.za/work%20and%20business/doing-business-in-the-city/business-support-and-guidance/urban-development-zones
- COGTA. (2016). *Integrated Urban Development Framework*.
- Development Action Group. (2020). *Draft Inclusionary Housing Report: Legal Aspects of Inclusionary Housing in South Africa*.
- Gallows, G., Eliason, N., & Shonfeld, S. (2011). Access to Affordable Housing Finance for the Lower and Middle Income Households in South Africa.
- George, H. (1879). *Progress and Poverty: An enquiry into the cause of industrial depressions, and of increase of want with increase of wealth*. K. Paul, Trench & Company.
- Grounded Solutions . (2018). *Strengthening Inclusionary Housing Feasibility Studies Convening Summary*.
- IHS Markit. (2021). IHS Regional eXplorer: Household income per municipality.
- intellidex. (2022). *Western Cape Growth Diagnostic*.
- Jacobus, R. (2015). *Inclusionary Housing: Creating and Maintaining Equitable Communities*. National Community Land Trist Network, Cornerstone Partnership, Lincoln INstitute of Land Policy.
- Jacobus, R. (n.d.). *Inclusionary Housing: Creating and Maintaining Equitable Communities* . National Community Land Trist Network, Cornerstone Partnership, Lincoln INstitute of Land Policy.
- Kenton, W. (2020, October 23). *Investing Essentials* . Retrieved from Investopedia: <https://www.investopedia.com/terms/h/hurdlerate.asp>
- Mahoney, R., Dale, P., & McLaren, R. (2007). *www.fig.net*. Retrieved from https://www.fig.net/resources/monthly_articles/2007/july_2007/july_2007_mahoney_dale_mclaren.pdf
- McGaffin, R. (n.d.). Comments on the Draft Western Cape Inclusionary Housing Policy Framework.
- McHardy, M. P. (2020, December 17). Executive Director. (C. Stone, Interviewer)

- Mossel Bay Municipality . (2021). Mossel Bay By Law on Municipal Land Use Planning.
- National Planning Commission. (2012). *National Development Plan 2030 Our Future - Make it Work*.
- National Planning Commission. (2021). *Advancing Women's Emancipation and Gender Equality*.
- National Treasury. (2017). *Guidance Note: Framework for the formulation of Built Environment Performance Plans* .
- Ndifuna Ukwazi. (2020). *Erf 35418, 40 old Oak Road, Belville Objection*.
- Oxford Languages . (2021, March 25). *Good English Dictionary*. Retrieved from Oxford Languages : <https://languages.oup.com/google-dictionary-en/>
- Property 24. (2022, June 1). *Western Cape Property Trends and Statistics*. Retrieved from <https://www.property24.com/property-trends/western-cape/9>
- property24. (2022, May 24). *South Africa Property Trends and Statistics*. Retrieved from property24: <https://www.property24.com/property-trends/>
- Quantec. (2021). *Data provided to Provincial Treasury, calculations by Urban Econ*.
- Royal Instituion of Chartered Surveyors. (2019). *Valuation of development property (RICS professional standards and guidance, global)*.
- Rust, K. (2022, June 6). (C. Stone, Interviewer)
- SALGA. (2021, November 16). Spatial Transformation Barometer: Towards refinement of indicators for municipalities.
- SARS. (2022, February 20). *Tax and Urban Development Zones*. Retrieved from [www.sars.gov.za: https://www.sars.gov.za/businesses-and-employers/my-business-and-tax/tax-and-urban-development-zones/](https://www.sars.gov.za/businesses-and-employers/my-business-and-tax/tax-and-urban-development-zones/)
- SHRA. (2020). *Policy Recommendation Report on Inclusionary Housing*.
- SPLUMA. (2013). Act No. 16 of 2013: Spatial Planning and Land Use Management Act, 2013.
- URERU. (2019). *Mapping the Development Process in Cape Town*.
- WC DEA&DP. (2022). Housing Market Studies for Intermediate Cities/ Larger Towns in the Western Cape.
- WCG. (2021). Property Value Bands Map for George using George Valuations Data.
- Western Cape Government . (2020, December 11). *Finance Linked INdividual Subsidy Programme (FLISP)*. Retrieved from Western Cape Government : <https://www.westerncape.gov.za/service/finance-linked-individual-subsidy-programme-flisp>
- Western Cape Government. (2014). *Provincial Spatial Development Framework*.
- Western Cape Government. (2019). *Living Cape: A Human Settlements Framework* .
- Western Cape Government. (2022). *Draft Housing Market Studies for George City Area, Mossel Bay-Kwanonqaba-Hartenbos, Stellenbosch town and Drakenstein*.
- Western Cape Government Provincial Treasury. (2021). *Provincial Economic Review and Outlook 2021*.
- World Health Organization. (2013). *The economics of social determinants of health and health inequalities: A resource book*.

Email: Catherine.stone@westerncape.gov.za

Tel: +27 21 483 4796 Fax: +27 21 483 3016

Department of Environmental Affairs and Development Planning

Chief Directorate: Development Planning

Directorate: Spatial Planningwww.westerncape.gov.za

Department of Environmental Affairs and Development Planning: General Enquiries

Email: enquiries.eadp@westerncape.gov.za

Tel: +27 21 483 4091 Fax: +27 21 483 3016



**Western Cape
Government**

PR322/2022

ISBN: 978-0-621-50768-3