

REFLECTIONS ON THE IMPLEMENTATION OF THE LAND USE SCHEMES: POST SPLUMA by NEWCASTLE MUNICIPALITY

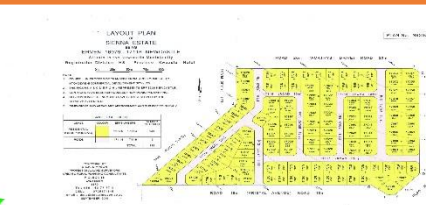
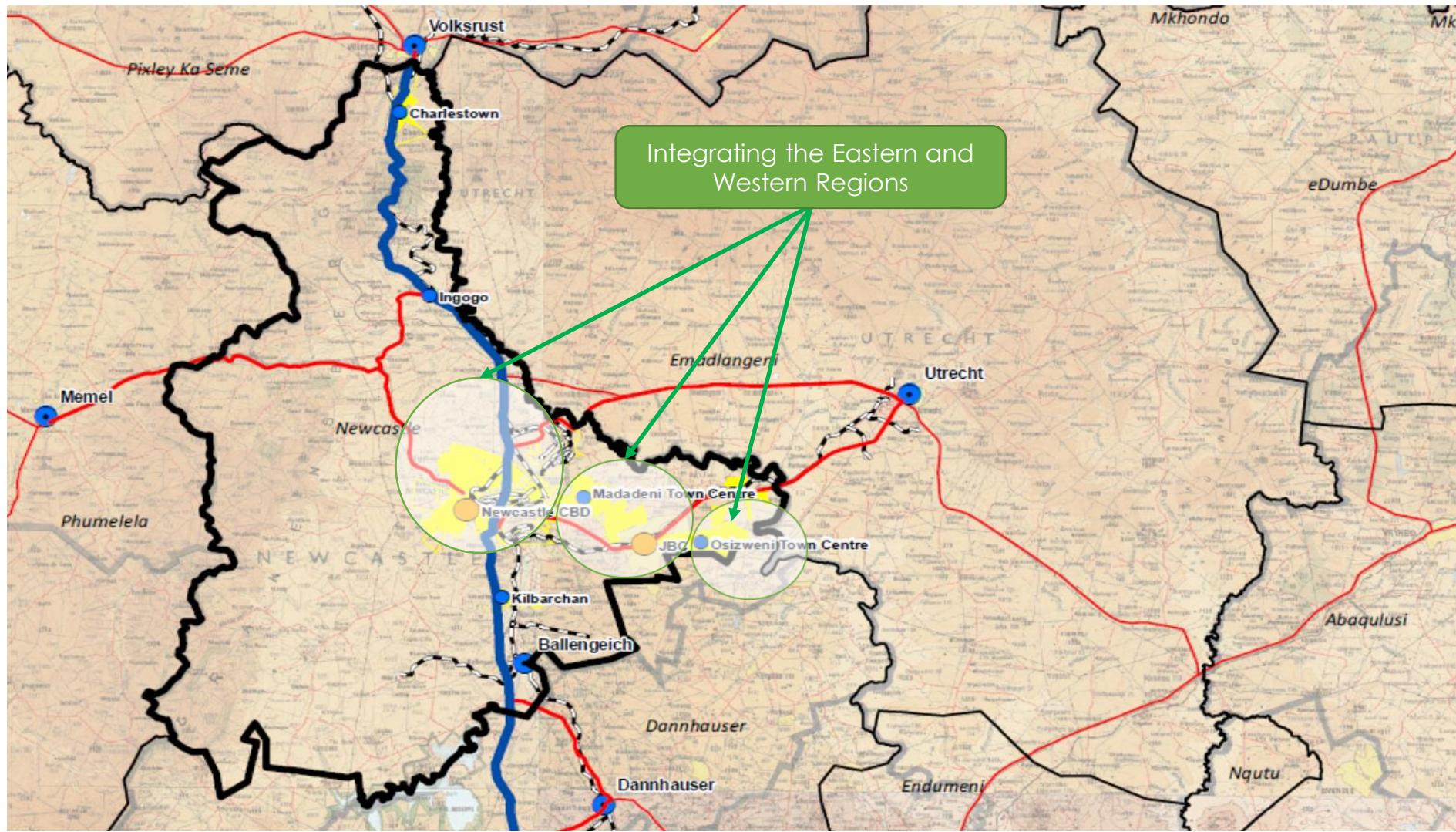
----- 23 August 2019 -----

Spluma Forum



- Background information: Application of the act and its objectives
- *LOCUS STANDI* : Status of the Newcastle land use planning scheme
- LESSONS LEARNT: Reflecting on the planning Scheme implementation
 - a) Red tape reduction;
 - b) Passive parallel planning systems and access to land
 - c) Enforcing the Scheme vs the basic rights

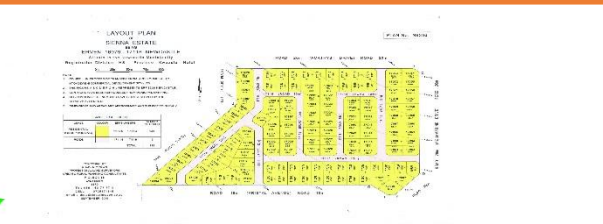




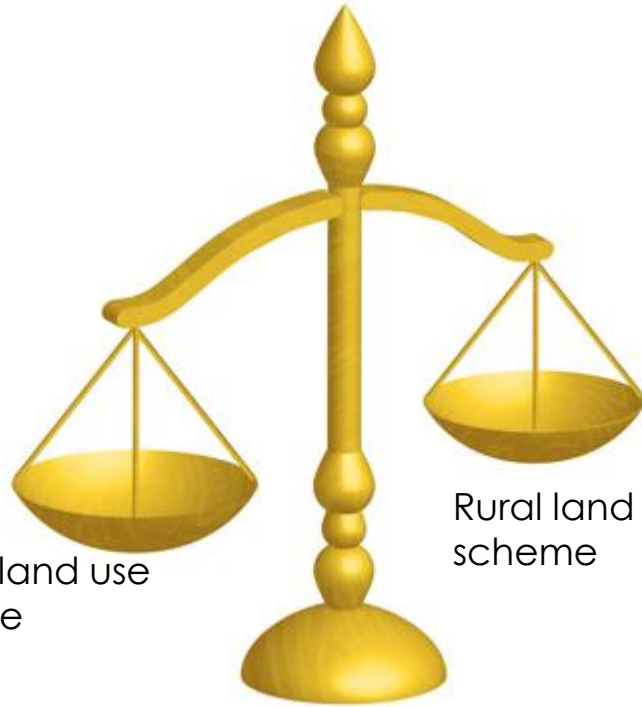
- Historically the Reconstruction and Development Programme (**RDP**) amongst other developmental principles was concerned about delivery of low income housing development to the previously under privileged groups in large volumes as a fundamental principle of 'Ubuntu' to secure tenure;
- Development Facilitation Act (**Act 67 of 1995**) as a piece of legislation enhanced delivering on such volumes through the parallel Tribunals until entirely repealed in 2013 by Spatial Planning and Land Use Management, **Act 16 of 2013**;
- Policy direction has evolved from supplying large volumes of settlement planning to sustainable human settlement, i.e the Breaking New Ground, National Spatial Development Plans, etc;
- Spluma is implemented in the context where the **scarcity of land** is being emphasized through public discourse, the same kind of emphasis which was placed by Development Facilitation Act,



- Sec 2 (2) reads: ‘Except as provided for in this Act, no legislation not repealed by this Act may prescribe an alternative or parallel mechanism, measure institution or system on spatial planning, land use, land use management and land development in a manner inconsistent with the provisions of this Act’;
- The main objective is to redress the imbalances of the past and to ensure equitable application of spatial planning and land use management in the Municipal space;
- Its implementation has to ensure **Spatial Justice** by also including previously excluded people from the organized planning system with more emphasis to people living in squalor conditions and riddled with high poverty margins;



Gazetted Spatial Development Framework/ Binding Land Use Planning Scheme



Urban land use scheme

Rural land use scheme



- A single Newcastle Land Use Planning Scheme was adopted in April 2016 following;
- Initiated in terms of the PDA and completed and adopted in terms of Spluma;
- Since its inception it has not been amended as part of the IDP/ SDF Process;
- Weaknesses and conflicting information has become evident, particularly on the 'Urban Clauses'
- The review process is imminent to resolve all conflicts between the new and the old scheme;
- Extension of the Scheme on 'agricultural land' was negligible, such is undertaken based on the need and the extent it has on the Urban Development boundary;



OLD TOWN PLANNING SCHEME			NEW TOWN PLANNING SCHEME		Uses not catered in the new TP scheme	Uses added in the new TP scheme	Implications	Recommendations	Type of amendment	Risk if amendment do not occur	
Use Zone (1)	Purposes for which buildings may be erected and used (2)	Purposes for which buildings may be erected and used with special consent of council only (3)	Free Entry Uses (4)	Consent uses (5)							
Group and Cluster Housing			Residential Only Medium Density		<ul style="list-style-type: none"> •Terrace House (as part of Group and Cluster Housing) •Maisonette (as part of Group and Cluster Housing) •Laundrette (as part of Group and Cluster Housing) 	<ul style="list-style-type: none"> •Home business •Hotel •Lodge •Residential building •Professional office •Public office •Residential building 	In order	Amendment required	Accommodating land use rights	People who are complaint with the old land use scheme will be transgressing with the new scheme	
Group and Cluster Housing	<ul style="list-style-type: none"> • Cluster Housing •Group Housing •Duplex (as part of Group and Cluster Housing) •Terrace House (as part of Group and Cluster Housing) •Maisonette (as part of Group and Cluster Housing) 	<ul style="list-style-type: none"> •Club building •Dwelling house •Educational building •Laundrette (as part of Group and Cluster Housing) •Place of Physical Instruction (as part of Group and Cluster Housing) •Place of Public Assembly •Shop (as part of Group and Cluster Housing) 	<ul style="list-style-type: none"> •Cluster housing •Group housing 	<ul style="list-style-type: none"> •Club building •Dwelling house •Education building •Home business •Hotel •Lodge •Residential building •Place of physical Instruction •Place of public assembly •Professional office •Public office •Residential building •Shop 							
Old Town Planning Scheme	Building Controls	Newcastle Suburbs		New Land Use Scheme	Building controls			Not in order	Amendment required	The coverage needs to be converted back to "no limits"	Rights reduced
		East	West		DERE1	DERE2					
Group and Cluster Housing	Coverage	No limit	No limit	Medium Density Residential (Multi-unit Housing)	Coverage (%)	50	50				
	F.A.R.	0,40	0,40		F.A.R.	0,4	0,4				
	Building Height	2 storeys	2 storeys		Building Height	3 storeys	3 storeys				
	Frontage	4m	4m		Frontage (m)	6m	6m				
	Side & Rear	2m/2m	2m/2m		Side & Rear (m)	2m/2m	2m/2m				
					Units per Ha	20	25				
				Minimum Erf Size (m ²)	2000 m ²	2000 m ²					
Old Parking Requirements: At least 2 car spaces for every dwelling unit. At least one car space for each dwelling unit shall be under cover.					New Parking Requirements: 2 car spaces for every dwelling unit. 1 car space for each dwelling unit shall be under cover.			In order	Amendment not required	Not required	No risks

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
General Industrial			High Impact Industry		●Special Building	●Conservation ●Salvage industry ●Builders yard ●Truck-stop [Combined public & private office] [Combined storage & wholesale warehouse]	Not in order	Amendment required	Accommodating land use right	People who are complaint with the old land use scheme will be transgressing with the new scheme
General Industrial	<ul style="list-style-type: none"> ●General Industrial Building ●Light Industrial Building [Panel-beating Workshop] ●Storage Warehouse ●Wholesale warehouse [Service Industrial Building] [Industrial shop] 	<ul style="list-style-type: none"> ●Commercial Workshop ●Parking Garage ●Private Office Building ●Public Office Building ●Service Station ●Shop ●Special Building ●Special Industrial Building [Motor Trade Shop] 	<ul style="list-style-type: none"> ●Conservation ●General industrial building ●Industrial shop ●Light industrial building (panel beating) ●Service industrial building ●Salvage industry ●Warehouse 	<ul style="list-style-type: none"> ●Builders yard ●Commercial workshop ●General industrial building ●Office ●Motor trade shop ●Service station ●Shop ●Truck-stop 						
Old Town Planning Scheme	Building Controls	Newcastle Suburbs		New Land Use Scheme	Building controls		Not In order.	Amendment required	Land use rights must be returned.	Previously compliant properties are non-compliant with the new scheme.
General Industrial		East	West	High Impact Industry	Coverage (%)	50%				
		F.A.R.	1.00		F.A.R.	1.00				
		Building Height	No limit		Building Height	No limit				
		Frontage	6 m		Frontage (m)	4m				
		Side & Rear	2 m		Side & Rear (m)	2m				
					Units per Ha	No limit				
		Minimum Erf Size	1500m ²							
Parking requirements	1 car space for every 100m ² or part thereof of gross floor area up to a gross floor area of 1 500m ² , plus one car space for every 200m ² or part thereof of gross floor area in excess of 1 500m ² .			Parking requirements	1 car space for every 100m ² or part thereof of gross floor area up to a gross floor area of 1 500m ² , plus one car space for every 200m ² or part thereof of gross floor area in excess of 1 500m ² .					

- Legal status of the Settlement Plans;
- Use of indigenous systematic approach
- Enforcement of the Land Use Planning Scheme vs the binding nature of the Scheme on land owners and organs of the State;
- Sec 26(6) Obligation to resolve conflict on the Scheme;
- Contestation between Scheme Enforcement and basic rights to services i.e clean drinking water or electricity

