

SUBMISSION ON THE RELEASE OF WELL-LOCATED STATE OWNED LAND IN THE CAPE TOWN METROPOLITAN AREA FOR LOW-INCOME HOUSING AND MIXED USE DEVELOPMENT: RESPONSE TO COVID-19 AND LONGER TERM URBAN TRANSFORMATION.

Date: 07 December 2020

To:

THE PRESIDENCY: NATIONAL COMMAND COUNCIL

c/o: Ms Khusela Diko & Mr Mike Louw

Per email: khusela@presidency.gov.za and presidentrsa@presidency.gov.za

THE MINISTER OF PUBLIC WORKS AND INFRASTRUCTURE: MS PATRICIA DE LILLE

c/o: Mr Theo Esau & Ms Precious Shuping

Per email: theo.esau@dpw.gov.za & precious.shuping@dpw.gov.za

THE MINISTER OF DEFENCE AND MILITARY VETERANS: MS NOSIVIWE NOLUTHANDO MAPISA-NQAKULA

c/o: Mr Siphiwe Dlamini, Ms Joy Nonsukiso-Peter & Ms Nozuko Gqirhara Woko

Per email: siphiwe.dlamini@dod.mil.za & joy.peter@dod.mil.za

THE MINISTER OF HUMAN SETTLEMENTS: MINISTER LINDIWE SISULU

c/o: Ms Mareldia Chowglay, Mr Makhosini Mgitywa & Mr Franscois Hugo

Per email: Mareldia.Chowglay@dhs.gov.za, Makhosini.Mgitywa@dhs.gov.za & Francois.hugo@dhs.gov.za

THE MINISTER OF HEALTH: DR ZWELI MKHIZE

c/o: Mr Popo Maja

Per Email: popo.maja@health.gov.za

THE MINISTER OF HOME AFFAIRS: DR AARON MOTSOLEDI

c/o: Acting Director General Jackie McKay

Per Email: jackie.mckay@dha.gov.za & Minister@dha.gov.za

THE MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS: DR NKOSAZANA DLAMINI ZUMA

c/o: Ms Mandisa Mbele & Ms Pamela Salusalu

Per Email: MandisaMB@cogta.gov.za & PamelaS@cogta.gov.za

THE MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: MINISTER THOKO DIDIZA

c/o: Mr Reggie Ngcobo & Ms Nwabisa Kale

Per email: Reggie.Ngcobo@gmail.com & PA.Minister@daff.gov.za

SOUTH AFRICAN AIR FORCE COMMUNICATIONS: COL MARIETTE HARTLEY

Per email: caf@tiscali.co.za

GRAAF TRUST

Per email: info@graaffs.co.za & brett@graaffs.co.za

For further information, please contact:

- Adi Kumar (Executive Director, DAG): adi@dag.org.za / 071 069 8147
- Michael Clark (Researcher, Ndifuna Ukwazi): michael@nu.org.za / 082 535 6209
- Prof Vanessa Watson (University of Cape Town): Vanessa.watson@uct.ac.za
- Charlton Ziervogel (Community Organisation Resource Centre CORC) charlton@corc.co.za



Prof V. Watson, University of Cape Town

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
1. INTRODUCTION	7
2. CONTEXT	9
2.1 Cape Town's apartheid spatial legacy and exclusionary housing market	
2.2 COVID-19 has exacerbated existing inequalities	
3. ADDRESSING SPATIAL TRANSFORMATION THROUGH THE RELEASE OF STATE LAND	15
3.1 Unlocking state land to address spatial apartheid	
3.2 Ysterplaat, Wingfield and Youngsfield	
4. LEGAL MECHANISMS FOR RELEASE OF STATE LAND	18
4.1 The Constitution	
4.2 Spatial Planning and Land Use Management Act (SPLUMA)	
4.3 Mechanisms for release of state land	
4.3.1 <i>Inter-state transfers</i>	
4.3.2 <i>Land acquisition</i>	
4.3.3 <i>Expropriation</i>	
5. DETAILS OF THE LAND TO BE RELEASED	33
5.1 A case for the three sites	
5.2 Site constraints and opportunities	
5.3. A closer look at Ysterplaat and Wingfield	
5.4. A closer look at Youngsfield	
5.5. An incremental approach to development	
6. IMPLEMENTATION MODALITIES	44
6.1 Guiding principles	
6.2 Implementation imperatives	
7. CONCLUSION	49
8. ORGANISATIONS AND INDIVIDUALS INVOLVED IN THIS SUBMISSION	50

EXECUTIVE SUMMARY

“There can be no greater injustice than a society where some live in comfort and plenty, while others struggle at the margins to survive with little or nothing at all.”

- President Cyril Ramaphosa, Address to the Nation (20 April 2020)¹

Nowhere is this injustice clearer than in disparities of access to land and housing in South Africa.

This submission is a joint initiative of a group of civil society organisations working on land and housing in Cape Town, namely the Community Organisation Resource Centre (CORC), the Development Action Group (DAG), the Legal Resources Centre (LRC), and Ndifuna Ukwazi.² In addition to the above organisations, Professor Vanessa Watson, Professor in City and Regional Planning at the School of Architecture, Planning and Geomatics and founding and executive member of the African Centre for Cities (ACC) at the University of Cape Town, actively participated in the development of this proposal.³

The purpose of this submission is to urge the national government to release three large and exceptionally well-located parcels of unused or under-utilised military land in Cape Town that are either owned by the Department of Defence or under the custodianship for the Department of Public Works for the development of affordable housing, namely Youngsfield, Wingfield and Ysterplaat.

As will be demonstrated in this submission, it is our view that allowing this well-located state-owned land to lie fallow or under-utilised is irrational and unreasonable when it could instead be used for transformation and redress, and to advance spatial justice through the delivery of affordable housing in line with the state’s constitutional and legislative obligations to promote spatial transformation. In the face of entrenched patterns of spatial apartheid, an exclusionary housing market, and the disproportionate health and economic ramifications of the COVID-19 pandemic, Cape Town is in the grips of an acute housing crisis that disproportionately affects poor and working-class families (who are predominantly Black and Coloured).

This crisis requires decisive, proactive measures on the part of national government to protect the health, livelihoods and housing rights of vulnerable communities. We urge the state to urgently release this well-located land for the development of affordable housing. Given the scale of the current housing crisis in Cape Town, we hereby request a meeting with Presidency and related government departments in order to share our ideas and motivate for the release of these parcels of land.

Cape Town: Spatial apartheid, exclusionary housing market and COVID-19

Twenty-six years after apartheid, Cape Town continues to be characterised by deep and enduring spatial inequalities that have been brought about by its colonial and apartheid history

¹ See K Madisa, “Ramaphosa speaks out on poverty in the face of lockdown”, *Sowetan Live* (20 April 2020), available:

<https://www.sowetanlive.co.za/news/south-africa/2020-04-20-ramaphosa-speaks-out-on-poverty-in-the-face-of-lockdown/>.

² For more information on these organisations, see part 8 of this submission.

³ For more on Prof Watson, see: <http://www.apg.uct.ac.za/apg/vanessa-watson>.

and an exclusionary housing market. This spatial injustice has meant that the vast majority of poor and working-class families (who are predominantly Black and Coloured) have been excluded from accessing housing in the well-located areas of Cape Town and have been confined to housing projects on or beyond the urban edge. Where a person lives in a city matters – it determines a person's access to opportunities and the quality of services. Many peripheral areas in Cape Town have limited access to basic services, schools generally perform worse, gang violence is rife, substance abuse is more common, and social amenities such as hospitals and clinics are difficult to access. Poor and working-class people spend a disproportionate component of their income and time on unreliable transport - some as high as 45% of their income.⁴ Critically, research shows that there is a direct relationship between where people live in South African cities and the likelihood that they will find employment opportunities.⁵

Although the state has made some important progress in the provision of state-subsidised housing and access to basic services, this has done little to alter the city's residential settlement patterns. In fact, in many ways the state's housing policies have had the unintended consequence of entrenching and reproducing spatial injustice and social exclusion by creating "poverty traps" on the outskirts of the city far from economic opportunities and social amenities.⁶

Cape Town's spatial apartheid, coupled with an entirely unregulated and exclusionary housing market, has resulted in an acute housing crisis in terms of which hundreds of thousands of poor and working class families are in desperate need of access to well-located land and/or adequate affordable housing in well-located areas.

And the crisis has only been compounded as the economic ramifications of the COVID-19 pandemic have driven more people into homelessness. Research shows that the economic impact of the COVID-19 pandemic, the consequent economic recession and the national lockdown, has disproportionately been borne by the poor and working class - and particularly those living on the outskirts of cities and towns - with many facing significantly higher rates of unemployment, diminished incomes and higher rates of hunger.⁷ Those living in the densely populated peripheral informal settlements have also been at a significantly higher risk of contracting the virus and, given the presence of comorbidities in poor and working class communities,⁸ are more likely to die as a result of it. In this time of crisis, decisive action is urgently needed.

⁴ In Cape Town, low-income earners spend on average 45% of their earnings on transport compared a global average of 5-10%. See City of Cape Town Transport, *Transport Development Index* (2016).

⁵ In the South African context, see J Budlender and L Royston, *Edged Out: Spatial Mismatch and Spatial Justice in South Africa's Main Urban Areas*, Socio-Economic Rights Institute of South Africa (SERI) Research Report (2016). See also, in relation to cities in the United States, E Badger and Q Bui, "Detailed maps show how neighborhoods shape children for life", *New York Times* (1 October 2018): <https://www.nytimes.com/2018/10/01/upshot/maps-neighborhoods-shape-child-poverty.html>.

⁶ Budlender and Royston, *Edged Out*.

⁷ NIDS-CRAM, "Synthesis Report Wave 2" (2020), p. 1, available: <https://cramsruvey.org/wp-content/uploads/2020/09/1.-Spaull-et-al.-NIDS-CRAM-Wave-2-Synthesis-Findings.pdf>.

⁸ Hypertension, cardio-vascular disease, diabetes and HIV - illnesses that are very prevalent in poor and working class communities in South Africa - have all been linked to significantly higher rates of death for patients with COVID-19. For the linkage between comorbidities and increased likelihood of

Unlocking state land to immediately alleviate the crisis

The state is under a range of constitutional and legislative obligations to combat spatial inequality, including an obligation to ensure that citizens progressively gain access to land on an equitable basis⁹ and to progressively realise the right of access to adequate housing.¹⁰ When read together these provisions impose a duty on the state to do more than simply building homes where-ever – the *location of housing delivery becomes a crucial component of the realisation of this right*.¹¹ It is therefore not sufficient for the state to claim that it has fulfilled its obligations to provide housing by developing housing opportunities on cheap land on the periphery of the cities, as this type of housing is likely to replicate the very spatial inequality these constitutional provisions seek to undo.

This is a direct result of the state - at all levels - failing to use its *own* land to combat spatial apartheid and comply with its constitutional and legislative duties. The state - at all levels - owns vast amounts of well-located public land in Cape Town. Much of this land is unused or under-utilised given its potential, and could be used more efficiently for the development of social and/or affordable housing. By unlocking and releasing well-located state land for this purpose, the state could make considerable strides in alleviating the housing affordability crisis, reversing Cape Town's apartheid legacy, and ameliorating the devastating health and economic consequences of the COVID-19 pandemic.

Ysterplaat, Wingfield and Youngsfield

It is in this context, that we urge the national government to release three large and exceptionally well-located parcels of unused or under-used military land for the development of affordable housing, namely Youngsfield, Wingfield and Ysterplaat. These properties are either owned by the Department of Defence or under the custodianship for the Department of Public Works.

All three sites are very well-located. Each site is located approximately 10km from the Cape Town CBD. The sites are close to existing economic and industrial nodes, offering considerable employment opportunities and implying less money spent on travel – often a disproportionately heavy strain on poor households' budgets.¹² The sites are also located in close proximity to various primary schools and high schools, social facilities, police stations

death as a result of COVID-19, see A Sanyaolu, C Okone, A Marinkovic, R Patidar, K younis, P Desai, Z Hosein, I Padda, J Mangat, M Altaf, "Comorbidity and Its Impact of Patients with COVID-19", *SN Comprehensive Clinical Medicine*, 2 (2020), pp. 1069-1076. For evidence of the rates of chronic non communicable diseases in poor communities in South Africa, see M Schneider, B Bradshaw, K Steyn, R Norman and R Laubscher, "Poverty and Non-Communicable Diseases in South Africa", *Scandinavian Journal of Public Health*, 37(2) (2009), pp. 176-186.

⁹ See section 25(5) of the Constitution and the Spatial Planning Land Use Management Act 16 of 2013 (SPLUMA).

¹⁰ See section 26 of the Constitution and SPLUMA

¹¹ United Nations Committee on Economic, Social and Cultural Rights (UN Committee on ESCR), "General Comment No 4: The Right to Adequate Housing (Art. 11(1) of the Covenant)" (13 December 1991), UN Doc E/1992/23.

¹² See City of Cape Town Transport, *Transport Development Index* (2016).

and health services. The sites are located in areas that enjoy bus, taxi and train public transit, and are particularly close to a number of train stations and bus stops. Moreover, the sites fall within areas that have been earmarked for additional transportation infrastructure. Ysterplaat and Wingfield fall within an area that has been specifically identified by the City and the Province as an urban development corridor. Wingfield and Ysterplaat are also located in areas that have been identified by the Minister of Human Settlements and Water Affairs as Priority Human Settlements and Housing Development Areas (PHSHDAs) - areas where affordable housing development processes can be expedited and into which significant financial resources and infrastructure investment are being channelled. While the specific details of the sites are described in more detail in our submission, it suffices to say that the unique geographical advantages that the sites offer makes them perfect for the development of affordable housing.

Besides location, there are two particular advantages to releasing Ysterplaat, Wingfield and Youngsfield for the development of affordable housing. First, the considerable size of these sites (totalling 668 hectares) has the potential to deliver significant economies of scale in terms of serviced land delivery and single-handedly ease a significant amount of pressure off the housing shortage.¹³ Together these sites could yield between up to 67 000 homes to meet an immediate need across metropolitan Cape Town. Second, the sites are close to existing infrastructure thereby minimising the need for the installation of new bulk infrastructure. In particular, the sites are all close to waste water treatment plants (although the capacity of these will need to be considered). With bulk infrastructure available along the periphery of these parcels of land, any housing or mixed-use development will be much more feasible and cost effective.

Schematic plans for the sites

Our submission identifies a variety of existing legal, policy and programmatic mechanisms that could be employed to release Ysterplaat, Wingfield and Youngsfield and to develop affordable housing on the sites. In relation to the development of the sites, we believe that the state should employ a “package of plans” approach to ensure incremental development of the sites. As part of the developmental vision, various housing programmes can be utilised in tandem to develop each of these sites.

We have also included schematic ideas and plans for the development of these sites, along with careful analysis of the opportunities and constraints of each site, and the guiding principles and implementation imperatives that should underpin any development of the sites.

We believe that the current use of the land as military airports is inefficient and irrational in the context of a profound housing and segregation crisis facing Cape Town and the opportunity that these parcels of land offer the state to redress spatial apartheid and promote spatial, racial and economic inclusivity.

¹³ According to some estimates, the sites could deliver approximately up to 67 000 affordable housing units thereby reducing the City of Cape Town’s housing backlog by almost a fifth and the Western Cape Province’s housing backlog by almost an eighth.

1. INTRODUCTION

“There can be no greater injustice than a society where some live in comfort and plenty, while others struggle at the margins to survive with little or nothing at all.”

- President Cyril Ramaphosa, Address to the Nation (20 April 2020)

Nowhere is this injustice clearer than in disparities of access to land and housing in South Africa.

This submission is a joint initiative of a group of civil society organisations working on land and housing in Cape Town, namely the Community Organisation Resource Centre (CORG), the Development Action Group (DAG), the Legal Resources Centre (LRC), and Ndifuna Ukwazi.¹⁴ In addition to the above organisations, Professor Vanessa Watson, Professor in City and Regional planning at the School of Architecture, Planning and Geomatics and founding and executive member of the African Centre for Cities (ACC) at the University of Cape Town, actively participated in the development of this proposal.¹⁵ These organisations have a long-standing history and considerable experience in social justice, land and housing rights. As such, the submission does not underestimate the political contestation and complexity underlying housing delivery in Cape Town or South Africa. However, it sees this project as an opportunity to attempt to address some of those challenges and build a consensus around addressing the critical need facing our society to deliver dignified housing options to those historically disadvantaged and excluded from the housing market.

The purpose of this submission is to urge the national government to release three large and exceptionally well-located parcels of unused or under-used military land in Cape Town that are either owned by the Department of Defence or under the custodianship for the Department of Public Works for the development of affordable housing, namely Youngsfield, Wingfield and Ysterplaat.

As will be demonstrated in this submission, it is our view that allowing this well-located state-owned land to lie fallow or under-utilised is irrational and unreasonable when it could instead be used for transformation and redress. Additionally, the land can be used to advance spatial justice through the delivery of affordable housing in line with the state’s constitutional and legislative obligations to promote spatial transformation. In the face of entrenched patterns of spatial apartheid, an exclusionary housing market, and the disproportionate health and socio-economic ramifications of the COVID-19 pandemic, Cape Town is in the grips of an acute housing crisis that disproportionately affects poor and working class families (who are predominantly Black and Coloured).

This crisis requires decisive, proactive measures on the part of national government to protect the health, lives, and housing rights of vulnerable communities. We urge the state to urgently release this well-located land for the development of affordable housing.

¹⁴ For more information on these organisations, see part 8 of this submission.

¹⁵ For more on Prof Watson, see: <http://www.apg.uct.ac.za/apg/vanessa-watson>.

This submission is structured as follows:

- Part 2 of this submission sets out the context of the housing crisis facing Cape Town by considering how the city continues to be characterised by spatial apartheid, an exclusionary housing market and how the COVID-19 crisis has exacerbated these existing inequalities.
- In part 3 of this submission, we highlight how public land could be utilised to address the housing crisis in Cape Town. In particular, this section shows that releasing Ysterplaat, Wingfield and Youngsfield for the development of affordable housing has the potential to address a significant component of the housing need in Cape Town and sets out reasons why this land is ideal for such development.
- Part 4 of this submission describes the state's constitutional and legislative obligations to redress spatial inequality by promoting the development of well-located affordable housing, as well as the legal mechanisms that exist that could be employed to release state land for such development. Existing legislation and policy contains various mechanisms to transfer, acquire and expropriate land for housing, and various programmes through which the identified sites could be developed incrementally (albeit each with their own benefits and constraints). This part clearly shows that the legal, policy and programmatic mechanisms to release state land exist, all the state needs to do is implement them.
- Part 5 of this submission sets out schematic ideas for the development of the sites, along with careful analyses of the opportunities and constraints of each site. This part also outlines our approach towards incremental development.
- In part 6 we address key guiding principles and implementation imperatives that should underpin any development of the sites.
- Finally, in part 7 we reiterate our calls for the state to release Ysterplaat, Wingfield and Youngsfield for the development of affordable housing and make some concluding remarks.

2. CONTEXT

Some general comments on Cape Town's apartheid spatial legacy and exclusionary housing market, and the need for affordable housing, warrant mentioning.

2.1 Cape Town's apartheid spatial legacy and exclusionary housing market

Twenty-six years after apartheid, Cape Town remains one of the most spatially divided cities in the country – with residential settlement patterns still segregated along race and class lines. The City continues to be split in two: The majority of Black and Coloured households live in densely populated, peripheral townships and informal settlements where economic opportunities, access to transport facilities and social amenities are few; while the central and northern, well-located residential areas of Cape Town, where economic opportunities, transport facilities and social amenities are plentiful, are inhabited predominantly by White (and wealthier) people and are significantly less densely populated.

While this spatial inequality has its historical origin in the colonial and apartheid eras,¹⁶ a key contemporary driver is Cape Town's acute housing affordability crisis. The Western Cape Provincial Government and the City of Cape Town's failure to regulate land and property markets has resulted in stubbornly high rents and property prices that have excluded most poor and working-class families (and disproportionately affected Black and Coloured families). The average sale price for a home in Cape Town is the highest in South Africa and buying a home is unaffordable for the vast majority of residents. In 2019, the City registered the seventeenth highest year-on-year property inflation in the world at 9.1% (higher than any other city in Africa).¹⁷ The effect of property inflation is even more worrying when broken down by market share as property prices in middle-priced and lower-priced markets continue to increase.¹⁸ Property prices in lower-priced markets, in particular, indicate a year-on-year inflation "in the double digit territory".¹⁹

According to 2011 Census Data, 75% of households in Cape Town earn less than R18 000 a month (the figure rises to 92% for Black households), and most people cannot afford to pay more than R3 000 a month in rent or R281 000 to own.²⁰ In 2019, Stats SA found that the

¹⁶ During the colonial era until the end of apartheid, various laws were used to systematically dispossess Black and Coloured people of their land. Millions of Black and Coloured people were forcibly removed from the cities and dumped in peripheral areas far away from any existing social and support networks, hospitals, schools, and jobs. See, for example, M Clark, *Pathways out of Poverty: Improving Farm Dwellers' Tenure Security and Access to Housing and Services*, Association for Rural Advancement (AFRA) Research Report (2017), pp. 8-10; and S Wilson, J Dugard and M Clark, "Conflict Management in an Era of Urbanisation: Twenty Years of Housing Rights in the South African Constitutional Court", *South African Journal on Human Rights* (2025), 31(3), pp. 472-477.

¹⁷ Frank Knight, "Global Residential Cities Index: Q4 2019" (2019), p. 2: <https://content.knightfrank.com/research/1026/documents/en/global-residential-cities-index-q4-2019-7111.pdf>.

¹⁸ First National Bank (FNB), "Cape Town Sub-Regional House Prices" (August 2019), p. 1: <https://www.fnb.co.za/downloads/economics/reports/2019/CapeTownSub-RegionalHousePricesAug.pdf>.

¹⁹ FNB, "Cape Town Sub-Regional House Prices" (August 2019), p. 1.

²⁰ See Ndifuna Ukwazi, *Inclusionary Housing: Measuring Access to Residential Development by Race and Class* (November 2018): <https://jumpshare.com/v/KRIwYlKmkqEQGzFyB1a7>.

median income of a South African is R13 546 per year, or just R1 129 per month.²¹ This puts rent and homeownership in well-located areas close to Cape Town's economic nodes out of reach for most middle-class South Africans, let alone the poor or working class. As a result, most poor and working class households are forced out to peripheral areas where a disproportionate component of their income and time is spent on unreliable transport to and from work, schools and other opportunities.

The provision of state-subsidised housing has also done little to redress Cape Town's entrenched spatial apartheid, with housing delivery failing to keep pace with the considerable backlog. In 2019, the Western Cape provincial housing backlog stood at over 600 000 families, of which 365 000 are in the City of Cape Town alone.²² And these figures only refer to the families that qualify for fully state-subsidised homes, approximately 75% of the population of Cape Town qualify for some form of housing assistance.²³ In the 2018/2019 financial year, the City provided and upgraded only 5 692 homes.²⁴ The overwhelming scale of the need means that the City itself believes that it will be over 70 years before it can eradicate the housing backlog.²⁵

In fact, spatial inequality has been exacerbated since the end of apartheid.²⁶ This is due to post-apartheid housing policy prioritising scaling up of state-subsidised housing by developing larger-scale housing projects in peripheral areas where land is usually more affordable. This approach has had the unintended consequence of reproducing spatial inequality and social exclusion by creating poverty traps on the outskirts of the city far from economic opportunities and social amenities.

Where you live in the city matters – it determines a person's access to opportunities and the quality of services. Many peripheral areas in Cape Town have limited access to basic services, forcing families to share an insufficient number of temporary outdoor toilets and collect water from communal standpipes. The schools in these areas generally perform worse, gang violence is rife, substance abuse is more common, and social amenities such as hospitals and clinics are not easily accessible. Poor and working-class people spend a disproportionate

²¹ Statistics South Africa (Stats SA), *Inequality Trends in South Africa: A Multidimensional Diagnostic of Inequality* (2019):

<http://www.statssa.gov.za/publications/Report-03-10-19/Report-03-10-192017.pdf>.

²² See Q Qukulu, "About 600,000 Cape residents on housing waiting list, says Human Settlements MEC", *Cape Talk* (11 July 2020); and S Fischer, "City of CT committed to tackling backlog", *Eye Witness News* (September 2018).

²³ See Ndifuna Ukwazi, *Inclusionary Housing: Measuring Access to Residential Development by Race and Class* (November 2018).

²⁴ City of Cape Town, "2019/2020 Adjusted Budget – May 2020: Annexure 4.1: Corporate Scorecard – Quarter 4 2020 Amendments" (May 2020), p. 1.

²⁵ See City of Cape Town, "Municipal Spatial Development Framework" (25 April 2018), p. 220.

²⁶ Professor Sue Parnell, a professor in the Environmental and Geographical Sciences Department at the University of Cape Town, recently provided expert evidence in the Western Cape High Court stating that central Cape Town "remains vastly less densified and diverse than it was fifty years ago". See *Adonisi and Others v Minister for Transport and Public Works: Western Cape and Others; Minister of Human Settlements and Others v Premier of the Western Cape Province and Others*, Judgment, Western Cape High Court (31 August 2020), Case Nos 7908/2017 and 12327/2017, para 35. The judgment is available at: <https://jmp.sh/qIPgThH>.

component of their income and time on unreliable transport.²⁷ Critically, research shows that there is a direct relationship between where people live in South African cities and the likelihood that they will find employment opportunities.²⁸ Living on the urban periphery in South Africa therefore ends up trapping the poor and working class in a cycle of structural poverty.²⁹

All this points to a housing crisis where hundreds of thousands of poor and working class people have been forced to live in peripheral townships and informal settlements because the state – at all levels – has failed to satisfy the need for housing or redistribute well-located land.

2.2 COVID-19 has exacerbated existing inequalities

The economic fall-out as a result of the COVID-19 outbreak has exacerbated existing socio-economic challenges including spatial inequality, and increased the need for well-located affordable housing. In many respects, the economic burden of the virus has, and will continue to be, disproportionately borne by the poor and working class. Data shows that the economic impact of the COVID-19 pandemic, the consequent economic recession and the national lockdown, has led to significantly higher rates of unemployment, diminished incomes and higher rates of hunger.

The South African National Income Dynamics Study – Coronavirus Rapid Mobile Survey (NIDS-CRAM), a survey of a representative sample of 7 000 South Africans, found that between February and April 2020, 3 million South Africans lost their jobs, and a further 1.5 million lost their income (through being furloughed).³⁰ This represents a 18% decline in employment, with the number of employed persons dropping from 17 million in February to only 14 million in April.³¹ The study also found that 1-in-3 (33%) income earners in February did not earn an income in April, representing a massive decline in employment and other income generating activities.³² The vast majority of these job losses were concentrated among already disadvantaged groups, including those in the informal economy, women, the youth

²⁷ In Cape Town, low-income earners spend on average 45% of their earnings on transport compared a global average of 5-10%. See City of Cape Town Transport, *Transport Development Index* (2016).

²⁸ In the South African context, see J Budlender and L Royston, *Edged Out: Spatial Mismatch and Spatial Justice in South Africa's Main Urban Areas*, Socio-Economic Rights Institute of South Africa (SERI) Research Report (2016). See also, in relation to cities in the United States, E Badger and Q Bui, "Detailed maps show how neighborhoods shape children for life", *New York Times* (1 October 2018): <https://www.nytimes.com/2018/10/01/upshot/maps-neighborhoods-shape-child-poverty.html>.

²⁹ See Budlender and Royston, *Edged Out*, p. 2. See also the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change (High Level Panel), *Report of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change* (November 2017), p. 81.

³⁰ See NIDS-CRAM, "Overview and Findings: NIDS-CRAM Synthesis Report Wave 1" (2020), p. 3, which can be found, alongside all the NIDS-CRAM working papers at the NIDS-CRAM website, available: <https://cramsurvey.org>. See also, for a summary of the results, Spaull, "The jobs reckoning is here: 3 million jobs lost".

³¹ NIDS-CRAM, "Overview and Findings: NIDS-CRAM Synthesis Report Wave 1", pp. 3-5.

³² See NIDS-CRAM, "Overview and Findings: NIDS-CRAM Synthesis Report Wave 1", p. 4. The NIDS-CRAM data confirms preliminary data from Statistics South Africa ("StatsSA"). See StatsSA, "Results from Wave 2 Survey on the Impact of the COVID-19 Pandemic on Employment and Income in South Africa" (May 2020), available:

<http://www.statssa.gov.za/publications/Report-00-80-03/Report-00-80-03May2020.pdf>.

and less educated. Women were particularly hard hit, accounting for up to 2 million of the 3 million job losses.³³ Concerningly, none of the people who lost their jobs between February and April were reemployed between May and July and only half of those that were furloughed were reabsorbed into the labour force.³⁴ This indicates that the losses could be long-lasting and potentially even permanent.³⁵

This economic devastation has profoundly impacted poor and working-class people's ability to pay for and retain access to housing. A nationwide survey of 80 000 tenants in South Africa, indicates that the pandemic has negatively affected the tenure security of many poor and working class households.³⁶ The survey found that 78.8% of tenants' income has been negatively affected by COVID-19 and that this has affected tenants' ability to pay their rent. In fact, only 37% could afford to pay their rent in full and a staggering 22% couldn't pay their rent at all.

The economic impact of the COVID-19 pandemic was also unevenly distributed spatially – with people in rural and peri-urban areas (i.e. people living on the outskirts of cities in townships or informal settlements) being disproportionately negatively affected by losses in jobs and income-generating activities.³⁷ In fact, according to the second wave of the NIDS-CRAM survey people living in peri-urban areas were twice as likely to be unemployed than people living in the suburbs.³⁸

In addition, the very factors that decrease a person's access to economic activity and social amenities, make them more vulnerable to exposure to the virus. The COVID-19 pandemic Vulnerability Index Map for Cape Town and the identification of hot-spots shows how socio-spatial deficits resulted in higher COVID-19 health impacts: over-crowded and poorly serviced areas with high public transport use, particularly on the Cape Flats, were hardest hit. This is due to those living on the urban periphery being dependent on public transport, living in crowded conditions, sharing basic service facilities, and having to wait in long queues to access healthcare.

The pandemic has therefore heightened the urgent need to address the inadequate living conditions the majority of our city endures and places significant additional pressure on access to urban land. The increase in incidents of land occupations in Cape Town and other cities, soon after the imposition of the national lockdown, is an example of the extent to which the need for land has reached a breaking-point.

³³ NIDS-CRAM, "Overview and Findings: NIDS-CRAM Synthesis Report Wave 1", p. 5; Spaull, "The jobs reckoning is here: 3 million jobs lost".

³⁴ NIDS-CRAM, "Synthesis Report Wave 2" (2020), p. 1, available: <https://cramsurvey.org/wp-content/uploads/2020/09/1.-Spaull-et-al.-NIDS-CRAM-Wave-2-Synthesis-Findings..pdf>.

³⁵ NIDS-CRAM, "Synthesis Report Wave 2", p. 1.

³⁶ The survey and report were compiled in May 2020 by a residential rental proptech platform - Flow. See Flow, "How COVID-19 has affected South African tenants", *Flow Findings Research Report* (May 2020), available: <https://flow.rent/tenants>.

³⁷ NIDS-CRAM, "Synthesis Report Wave 2", p. 4. See also I Turok, "Four lessons to learn from the state's management of COVID-hit townships", *Business Day* (4 October 2020), available: <https://www.businesslive.co.za/bd/opinion/2020-10-04-ivan-turok-four-lessons-to-learn-from-states-management-of-covid-hit-townships/>.

³⁸ NIDS-CRAM, "Synthesis Report Wave 2", p. 4.

In this context, we contend that the state has a legal, moral and public health obligation to expedite that release of well-located public land for the development of affordable housing. In this time of crisis, decisive proactive measures are necessary to protect the health, and lives, of residents, especially the most vulnerable.

3. ADDRESSING SPATIAL TRANSFORMATION THROUGH THE RELEASE OF STATE LAND

3.1 Unlocking state land to address spatial apartheid

The single greatest impediment to achieving spatial justice in Cape Town is the poor availability and often exorbitant cost of well-located land for the development of housing. In line with this, the state has consistently blamed spatial injustice on the lack of well-located land that could be used for housing development. However, all levels of government already own vast tracts of land in Cape Town's well-located areas.³⁹ Much of this land is unused or under-utilised given its potential, and could provide ample space for the development of housing.

For decades, civil society organisations, urban research centres and government departments have advocated for well-located public land to be released for the development of affordable housing and to address spatial inequality and segregation. This approach would be in line with the state's constitutional and legislative obligations to combat spatial apartheid,⁴⁰ and the recommendations to alleviate poverty and inequality in the context of urban land rights issued by the Parliamentary High Level Panel on the Assessment of Key Legislation and Acceleration of Fundamental Change and the Mandela Initiative.⁴¹

However, instead of unlocking and releasing well-located public land for the development of affordable housing, the state - particularly the Western Cape Province (the Province) and the City of Cape Town (the City) - have been disposing of well-located public land by selling it off at the highest market value or leasing it to private entities for decades at a time (often at discounted rates). These disposals are often made without requiring the purchasers or lessees to utilise the land for the development of affordable housing, meaning that most of this prime public land has failed to yield additional affordable housing.

We contend that the constitutional and legislative obligations to promote spatial transformation require more from the state. The state – including national government – can and must play a direct and proactive role in combatting spatial inequality by unlocking and releasing unused or under-utilised well-located state land for the development of affordable housing. Effective management of urban state land requires that different levels of government develop and implement a clear, detailed strategy that reflects the state's plans in relation to land acquisition and release. The state, in its conception of such plans and strategies, has a responsibility to

³⁹ According to conservative estimates, the state has 93 000 buildings and 1.9 million hectares of land under the custodianship of the Department of Public Works (see B Phakathi, "Patricia de Lille wants to speed up the release of state-owned land for housing", *Business Day* (30 May 2019)). In addition, the City of Cape Town's own policy documents indicate that it owns 87 000 pieces of land (City of Cape Town, "Management of Certain of the City of Cape Town's Immovable Property Policy" (26 August 2010), Ref No C54/08/10, cl. 5.2). While not all of this land is not well-located or suited for the development of affordable housing, some of it certainly is.

⁴⁰ The constitutional and legislative obligations of the state to promote spatial transformation are discussed in part 4 of this submission.

⁴¹ See High Level Panel, *Report of the High Level Panel*; and M Clark and LR Circolia, "Informalisation, Urban Poverty and Spatial Inequality", Mandela Initiative Brief (2018).

create opportunities for meaningful engagement, with the ability to influence decision-making and budgets for the landless and those residing in precarious housing who are most in need of well-located urban land.

A streamlined and developmental land release process must allow for concomitant strategies such as human settlement approaches that include incremental, self-build housing on serviced sites (along with financial and technical support for local small-scale contractors), at appropriate densities and along with provision for public social facilities and spaces, a mix of land uses and recognition of the necessary role of the informal economy in such contexts. Moreover, rapidly releasing public land for the purposes of affordable housing is paramount to creating an urban environment that allows for the creation of inclusive, integrated and vibrant neighbourhoods.

If the state is serious about addressing the persistent urban spatial disparities that plague Cape Town and diminishing the disproportionate economic and health consequences of the COVID-19 pandemic, all levels of government need to proactively unlock and release well-located public land for the development of affordable housing as a matter of urgency.

3.2 Ysterplaat, Wingfield and Youngsfield

It is in this light that we urge the national government to release the three large and exceptionally well-located parcels of under-used military land in Cape Town that are either owned by the Department of Defence or under the custodianship for the Department of Public Works, namely Youngsfield, Wingfield and Ysterplaat. This submission directly addresses the urgent need to release these parcels of land both to address urgent health emergencies as well as longer-term socio-spatial transformation.

Over the last decade these sites have been identified by various state officials - at all levels of government - as key parcels of public land that should be released for the development of affordable housing as they offer a unique opportunity for simultaneously addressing the housing crisis and promoting socio-spatial justice in Cape Town. Some of these pronouncements include:

- In 2017, the Minister of Defence and Military Veterans Nosiviwe Mapisa-Nqakala announced that her Department intended on “sweating surplus Defence Endowment assets” - including unused or under-utilised land - as part of the restructuring of the Department.⁴² Minister Mapisa-Nqakala noted that the Department was developing a policy and practice note to release various parcels of land and dispose of or “lease [out] under-utilised facilities”.⁴³

⁴² See Minister N Mapisa-Nqakala, “Defence Department Budget Vote 2018/19” (18 May 2018), an address made in Parliament prior to the opening of the budget debate for the Department of Defence available: <https://www.gov.za/speeches/minister-nosiviwe-mapisa-nqakala-defence-dept-budget-vote-201819-18-may-2018-0000>.

⁴³ Minister Mapisa-Nqakala, “Defence Department Budget Vote 2018/19”.

- In 2018, former Western Cape Premier Helen Zille specifically identified Ysterplaat, Youngsfield and Wingfield as part of a package of five well-located military properties⁴⁴ that, if released, have the potential to deliver 100 000 affordable housing units as part of mixed-use developments - thereby meeting almost a third of the City's demand for affordable housing.⁴⁵
- Most recently, the Minister of Public Works Patricia De Lille, under whose custodianship these parcels of land fall, has indicated that she would be open to releasing these sites "on a gratis basis subject to various administrative processes being concluded".⁴⁶

However, despite these public announcements, Ysterplaat, Youngsfield and Wingfield continue to lie vacant or under-utilised.

⁴⁴ The five properties identified were Ysterplaat, Youngsfield, Wingfield, Culemborg and Denel. This submission focuses on the three largest of these sites, namely Ysterplaat, Youngsfield and Wingfield. We note that the other two sites, Culemborg and Denel, as well as many other tracts of well-located public land across the city, should urgently be considered for release, but inevitably some prioritisation will be needed.

⁴⁵ Premier H Zille, "State of the Western Cape Province Address 2018" (22 February 2018), a public address delivered at the Western Cape Provincial Parliament available:

<https://www.westerncape.gov.za/assets/premier-zille-sopa-2018.pdf>. See also DefenceWeb, "Western Cape Premier wants military property released for housing and other development", *DefenceWeb* (23 February 2018), available: <https://www.defenceweb.co.za/joint/logistics/western-cape-premier-wants-military-property-released-for-housing-and-other-development/>.

⁴⁶ See M Charles, "Land spat: De Lille slams City of Cape Town's 'creche politics'", *Cape Argus* (5 November 2019), available:

<https://www.iol.co.za/capeargus/news/land-spat-de-lille-slams-city-of-cape-towns-creche-politics-36684993>.

4. LEGAL MECHANISMS FOR THE RELEASE OF STATE LAND

This section describes the state's constitutional and legislative obligations to redress spatial inequality by promoting the development of well-located state-subsidised housing, as well as the legal mechanisms that exist that could be employed to release state land for such development.

4.1 The Constitution

The Constitution of the Republic of South Africa, 1996 (the Constitution) recognises South Africa's history of forced removals and dispossession and places obligations on the state to proactively redress past injustice.

Section 25(5) of the Constitution enshrines an obligation on the state to ensure that citizens progressively gain access to land on an equitable basis,⁴⁷ and section 26 sets out the state's obligation to progressively realise the right to access to adequate housing.⁴⁸ These obligations cannot be divorced from, but rather give context to, the state's responsibility, at all levels of government, to advance spatial justice.

In the case of *Government of the Republic of South Africa v Grootboom* (*Grootboom*),⁴⁹ the Constitutional Court had to decide whether the national housing programme was sufficiently flexible to respond to those in desperate need in our society and to cater appropriately for immediate and short-term requirements. In addressing this issue the Court looked at the obligations imposed on the state by section 26. Section 26 provides that everyone has the right to have access to adequate housing and section 26(2) provides an obligation upon the state to take reasonable legislative and other measures to ensure the progressive realisation of this right within its available resources. The Court found that a reasonable housing programme must make provisions to provide immediate relief for those individuals living in intolerable or crises situations and ordered the state to act to meet the obligation imposed upon it by section 26(2) of the Constitution. This includes the obligation to devise, fund, implement and supervise measures to provide relief to those in desperate need.⁵⁰

The state's obligations have recently been affirmed by the Western Cape High Court decision in *Adonisi v Minister for Transport and Public Works: Western Cape; Minister of Human*

⁴⁷ See section 25(5) of the Constitution, which reads:

"The state must take reasonable legislative and other measures, within available resources, to foster conditions which enable citizens to gain access to land on an equitable basis."

⁴⁸ Section 26 of the Constitution reads:

"(1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable measures, within available resources, to achieve the progressive realisation of this right.

(3) No-one may be evicted from their home, or have their home demolished, without an order of court made

after considering all the relevant circumstances. No legislation may permit arbitrary evictions."

⁴⁹ *Government of South Africa and Others v Grootboom and Others* (CCT11/100) [2000] ZACC 19.

⁵⁰ *Grootboom*, para 96.

Settlements s v Premier of the Western Cape Province (the *Adonisi* or Tafelberg case), where Judge Gamble wrote:

“[I]t is fair to say that the statutory and policy framework which finds its origins in the Constitution and the legislation mandated thereunder, renders it necessary for [the state] to redress the legacy of spatial apartheid as a matter of constitutional injunction. The *constitutional and statutory obligations of ... government to provide access to land and housing on a progressive basis, encompass the need to urgently address apartheid’s shameful and divisive legacy of spatial injustice and manifest inequality.*”⁵¹

When read together these rights imply that the state has a duty to do more than simply building homes where-ever – the *location of housing delivery becomes a crucial component of the realisation of this right.*⁵² It is therefore not sufficient for the state to claim that it has fulfilled its obligations to provide housing by developing housing opportunities on cheap land on the periphery of the cities, as this type of housing is likely to replicate the very spatial inequality these constitutional provisions seek to undo.

The obligation to combat spatial injustice is not just an abstract future promise, it is a constitutional duty that needs to be urgently prioritised. Section 273 of the Constitution provides that all constitutional obligations must be performed diligently and without delay as failing to do so “not only undermines [the Constitution] but also deprives the bearers of constitutional rights of timeous performance of the obligations owed to them”.⁵³ This means that the state could be in breach of its obligations to redress spatial apartheid every time it fails to use underutilised well-located land that it owns for the development of housing.

The obligations imposed by sections 25(5) and 26 of the Constitution require the state to take positive steps to redress spatial inequality by proactively managing all public land. This means that the state is required to review its largest and most well-located parcels of public land, proactively identify the public land it owns that would be suitable for the development of housing, proactively rezone these parcels of land, negotiate the end of leases or other legal encumbrances, and decline to encumber state land where such land is needed for the development of housing.

In addition, section 7 of the Constitution mandates the state to “respect, protect, promote and fulfil” the rights contained in the Bill of Rights, which includes the rights to gain access to land on an equitable basis and adequate housing. Although these obligations are interconnected,

⁵¹ See *Adonisi*, para 94 (emphasis added).

⁵² United Nations Committee on Economic, Social and Cultural Rights (UN Committee on ESCR), “General Comment No 4: The Right to Adequate Housing (Art. 11(1) of the Covenant)” (13 December 1991), UN Doc E/1992/23.

⁵³ See *District Six Committee and Others v Minister of Rural Development & Land Reform and Others* 2019 4 All SA 89 (LCC), p. 15, which goes on to state:

“A strong commitment to performing constitutional obligations without delay, diligently and conscientiously contributes not only to the consolidation of democracy and greater respect for the Constitution but also engenders confidence amongst all that the law can and does indeed work and that the imperatives contained in the Constitution are much more than paper promises but promises of substance that can be enforced.”

the duties they place on the state differ in practice.⁵⁴ The obligation to “respect” places a duty on the state not to impair a person’s existing rights. In other words, the state must refrain from interfering directly or indirectly with the rights to land and housing that people have realised for themselves. The state would fail to comply with this obligation if it were to pass legislation or take other measures that weaken the rights that people have that enable them to gain access to land and housing. The obligation to “protect” requires the state to take measures to prevent others, including individuals, groups and corporations, from interfering with rights. It is to give effect to this obligation that the state adopted the Prevention of Illegal Evictions and Unlawful Occupation of Land Act, 1996 (PIE). However, this obligation does not end with the enactment of protective legislation, it also requires that the state ensures that such protective legislation is effectively implemented in practice. The obligation to “promote” and to “fulfil” the rights to housing and to gain access to land on an equitable basis require that the state “adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures toward the full realisation of [these] right[s]”.⁵⁵

4.2 Spatial Planning and Land Use Management Act (SPLUMA)

The SPLUMA is national legislation which aims to advance spatial transformation. It articulates the obligations on the state to advance and support the development of spatially just cities. These obligations are reinforced in provincial legislation, including the Western Cape Land Use and Planning Act 2014 (LUPA).

SPLUMA and LUPA set out progressive development principles which must apply to spatial planning, development and land use management when considering any application that impacts on or may impact on the use and development of land at all levels of government, including at the national, provincial or local level. These principles include spatial justice,⁵⁶ spatial sustainability⁵⁷ and spatial efficiency.⁵⁸

As the Western Cape High Court noted in the *Adonisi* case:

“SPLUMA is the very legislation that seeks to advance the breaking down of the barriers of apartheid spatial planning, and [the state is] duty bound to implement it to the best of their abilities. *While they may not have done so in the past, they are obliged to do so, both presently and in the future.*”⁵⁹

Importantly, SPLUMA and LUPA should not only apply to how the state governs how others use land, but also to how it uses its own land. Land use and land management should be guided by the same principles, whether driven by the private or public sector.

⁵⁴ See, for example, Sandra Liebenberg, *Socio-Economic Rights: Adjudication under a Transformative Constitution* (2010), pp. 54-55.

⁵⁵ See the UN Committee on ESCR, “General Comment No. 14: The Right to the Highest Attainable Standard of Health” (2000), UN Doc E/C.12/2000/4, p. 33. Although this is in the context of the right to health, the legal obligations are similar in relation to the rights created in terms of sections 25(5) and 26 of the Constitution.

⁵⁶ See s 7(a)(iii) of SPLUMA and ss 59(1)(a) and (g) of LUPA.

⁵⁷ See ss 7(b)(iv)-(vii) of SPLUMA and ss 59(2)(a)(vi)-(vii) and 59(2)(g) of LUPA.

⁵⁸ See ss 7(c)(i) and (ii) of SPLUMA and s 59(3)(b) of LUPA.

⁵⁹ See *Adonisi*, para 444 (emphasis added).

The overall effect of these provisions is that the national government is also required to use its own land to give effect to spatial transformation and should proactively review the land that it owns, and consider how this land could be used to more actively give effect to spatial justice; and social, economic and racial inclusion.

4.3 Mechanisms for the release of state land

There are several legal mechanisms in existing housing legislation and policy that could be utilised to expedite or compel the release of these sites for the development of well-located affordable housing in Cape Town. In particular, legislation and policy contains various mechanisms to transfer, acquire and expropriate land for housing, albeit each with their own benefits and constraints.

4.3.1 Inter-State Transfers

The simplest legal mechanism available to facilitate the release of state land is inter-state transfers, in terms of which a state entity that has control over state land transfers such land to another state entity. In practice, inter-state transfers remain underutilised. This is due to a lack of interdepartmental coordination in relation to land. The prevailing approach to the use, regulation and release of land is that each Department has essentially been left to legislate and create processes at their own discretion and in silos.⁶⁰ Interdepartmental coordination in relation to land transfer should be improved, with a focus on expediency and limiting the discretionary powers of reluctant Departments.

There are two primary pieces of legislation that govern the use, regulation, release and disposal of state land, namely the Government Immovable Asset Management Act 19 of 2007 (GIAMA) and the State Land Disposal Act 48 of 1961 (SLDA). In addition to these Acts, the Housing Development Agency Act 23 of 2008 (HDA Act) and the Infrastructure Development Act 23 of 2014 (the Infrastructure Act) provide key mechanisms for acquiring, holding and releasing land for the purposes of housing development. Each of these laws is briefly described below.

GIAMA

GIAMA provides a uniform framework for the management and disposal of immovable assets held or used by a national or provincial department, including all land and/or buildings on such land. GIAMA prioritises the social value of state-owned land by ensuring that the use of immovable assets aligns with the service delivery objectives of the relevant national or provincial department.

In terms of GIAMA, the Minister of Public Works acts as a “custodian” of the immovable property vesting in the national government.⁶¹ This means that the Minister acts as “caretaker” of the national government’s immovable property, and that she is empowered to acquire,

⁶⁰ See the High Level Panel, *Report of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change* (November 2017), p. 57.

⁶¹ See s 4(1)(a) of GIAMA.

manage and dispose of immovable property (provided that this is in line with the State Land Disposal Act or other legislation).⁶²

Section 5(1) of GIAMA provides a set of principles in terms of which immovable assets should be governed. A core principle of GIAMA is that immovable assets should be used efficiently by Departments to achieve their service delivery objectives. When an immovable asset no longer supports the service delivery objectives of a user Department at an efficient level and cannot be upgraded to attain such a level or efficiency, it becomes “surplus”.⁶³ Only once an asset is considered “surplus” may it be disposed of by way of sale, lease, exchange or donation.

However, to ensure that immovable assets are used efficiently, GIAMA requires that the Minister must consider whether an immovable asset can be used:

- by another user Department (either individually or jointly);
- in relation to social development initiatives of government; and
- in relation to government's socio-economic objectives, including land reform, black economic empowerment, alleviation of poverty, job creation and the redistribution of wealth.⁶⁴

If any of the above factors are applicable, section 13 of GIAMA provides that the Minister may dispose of an immovable asset by allocating it to another user Department or by disposing of it through the SLDA.⁶⁵ Of particular interest is section 18 of GIAMA, which empowers the Minister to assign her custodianship (along with the custodian powers, responsibilities and duties) to another organ of state.⁶⁶

While GIAMA offers various legal mechanisms through which state-owned land can be transferred, used or disposed of to give effect to the rights to gain access to land on an equitable basis and housing, it does not impose positive obligations on provincial and national departments to do so. Without a legislated obligation compelling the state to release land to give effect to reform objectives, these principles therefore remain subject to the discretion of the decision maker (in this case the Minister of Public Works).

State Land Disposal Act (SLDA)

The SLDA provides a regulatory framework for the disposal of state land. In particular, it gives the Minister of Public Works and the President various powers to dispose of state land.⁶⁷

⁶² See s 4(2)(a) and (b) of GIAMA. See also s 4(2)(c) of GIAMA that states that the Minister is liable for any act or omission that in relation to the immovable assets that she is custodian over (excluding acts or omissions in good faith).

⁶³ See s 5(1)(a) of GIAMA.

⁶⁴ See s 5(1)(f) of GIAMA.

⁶⁵ See s 13(3) of GIAMA. See also below for a discussion of the SLDA.

⁶⁶ See s 18(1) of GIAMA. This assignment can be retracted in writing, but for its duration, the organ of state will be liable for all activities and functions performed on or in relation to the immovable asset.

⁶⁷ The definition of “minister” in section 1 of the SLDA should be read as a reference to the Minister of Public Works (unless express reference is made to the Minister of Rural Development and Land Reform).

The Act empowers the Minister of Public Works to transfer state land over which the Department of Public Works has custodianship to another state or public entity (such as a municipality). In terms of the process outlined in the SLDA, the Minister is required to identify and obtain the consent from any user Departments (these are Departments that were using the land) prior to embarking on a disposal. The Minister then makes an application to the relevant Provincial State Land Disposal Committee, which determines whether the disposal is in line with the Provincial Spatial Development Framework. On approval of the Committee, the application is forwarded to the Minister of Rural Development and Land Reform for his approval and issuance of an Item 28(1) certificate. Thereafter the land can be transferred to the relevant state or public entity.

The SDLA also provides that the Minister may assign any power or duty in terms of the Act to a provincial administrator or any office in service of the state and may lease land to any council or body instituted in terms of any law (for example, a municipality).⁶⁸

These provisions provide for the possibility of an application for the transfer of state land to be made to the Minister of Public Works or the Provincial State Land Disposal Committee. If the Minister or her delegated authority fails to make a decision in terms of the SLDA, this could be challenged by bringing an application to judicial review the failure to make sure a decision.⁶⁹

Importantly, section 2 of the SLDA also gives the President discretionary powers to sell, exchange, donate or lease certain state land on behalf of the state.⁷⁰ The President may assign his powers and duties in terms of SLDA to the Minister, including the power to assign a deed of grant over state land.⁷¹

Housing Development Agency Act (HDA Act)

The Housing Development Agency (HDA) is a statutory body created with the purpose of “facilitat[ing] the acquisition of land and landed property in a way that complements the capacities of Government across all spheres” and “fast-tracking land acquisition and housing development services [to create] sustainable human settlements”.⁷² To achieve these aims, the HDA is mandated to “*identify, acquire, hold, develop and release* state, communal and privately owned land for residential and community purposes and for the creation of sustainable human settlements.”⁷³

In particular, sections 5 and 6 of the HDA Act provide that the HDA may, after consultation with the land owner, identify, acquire and hold land that is registered or vested in the state or

⁶⁸ See s 7(a) and (b) of the SLDA.

⁶⁹ An application for judicial review may be brought for a failure to make a decision in terms of the Promotion of Administrative Justice Act (“PAJA”).

⁷⁰ See s 2 of the SDLA. The President may not dispose of state land that’s disposal is subject to a provincial ordinance.

⁷¹ See s 6 of the SDLA.

⁷² See s 2(a) and (c) of the HDA Act. The HDA was established in terms of section 3(4)(h) of the Housing Act, which empowers the Minister of Human Settlements to establish and finance financial institutions for the purposes of housing development.

⁷³ See s 4, read with ss 5 and 6, of the HDA Act (emphasis added).

any organ of state (provided that the organ of state is prepared to dispose of such land).⁷⁴ The Act also empowers the Minister of Human Settlements to expropriate land in terms of the Housing Act 107 of 1997 (the Housing Act), where this is necessary to create sustainable human settlements.⁷⁵

The HDA Act also sets out the functions of the HDA, which include developing strategic plans to identify and acquire land and monitoring the progress of the development of land and property acquired to create sustainable human settlements.⁷⁶ Importantly, the HDA has a duty to ensure that the development of human settlements are sustainable, viable and *appropriately located*; establish compliance and fraud prevention mechanisms for developments; and ensure that meaningful community participation takes place prior to any housing development.⁷⁷

While the HDA Act makes clear that one of the HDA's core functions is the identification, acquisition and release of land for the development of housing and the HDA has played this role in specific instances, it has not performed this function in a programmatic manner for the majority of its existence.

Crucially, section 7(3) of the HDA Act empowers the HDA to:

- “(a) declare priority housing development areas for residential and community purposes in accordance with integrated development plans and provincial spatial development frameworks;
- (b) develop and submit a development plan for such priority housing development areas as contemplated in subsection 1(a); and
- (c) implement such measures as may be prescribed to fast-track housing development in the declared priority housing development areas.”

On 15 May 2020, the Minister of Human Settlements declared 136 areas as Priority Human Settlements and Housing Development Areas (PHSHDAs) in accordance with section 7(3) of the HDA Act.⁷⁸ The aim of the PHSHDAs is to synchronise and fast-track the development of human settlements in these areas by utilising existing housing programmes contained in the National Housing Code of 2009. To this end, a “significant” portion of public funding will be directed to developments in PHSHDAs (with the intention of attracting private sector investment).⁷⁹

The declaration also indicates that the Department intends on using the Infrastructure Act to facilitate and expedite the development processes for housing developments in designated PHSHDAs, including development approvals, authorisations, licences, permissions or

⁷⁴ See ss 5 and 6 of the HDA Act.

⁷⁵ See s 6(2) of the HDA Act.

⁷⁶ See s 7(1) of the HDA Act.

⁷⁷ See ss 7(2)(a), (b) and (e) of the HDA Act.

⁷⁸ See Department of Human Settlements, Water and Sanitation, “Declaration of the Priority Human Settlements and Housing Development Areas” (15 May 2020), Government Notice. No. 526, available: https://www.gov.za/sites/default/files/gcis_document/202005/43316gon526.pdf.

⁷⁹ See Department of Human Settlements, Water and Sanitation, “Declaration of Priority Human Settlements and Housing Development Areas”.

exemptions, and unblocking “obstacles to the expeditious implementation of the national infrastructure plan”.⁸⁰ In particular, the Infrastructure Act prescribes strict timeframes for the development processes for certain priority integrated projects that cannot be extended.⁸¹ The reference to the Infrastructure Act in the declaration of the PSHDAs indicates that these areas constitute strategic integrated projects contemplated in Infrastructure Act, which allow the Act to be utilised to expedite the housing developments in these areas.

Importantly, the wards in which both Wingfield and Ysterplaat are located (wards 56 and 55 respectively) form part of the identified priority areas within the City of Cape Town. While the Youngsfield site does not fall within a PSHDA, this does not bar the development of housing on the site, but may mean that it would not be as easy to expedite development processes for the purposes of developing the site.

4.3.2 Land Acquisition

Housing Act and National Housing Code

The Housing Act 107 of 1997 (the Housing Act) is the primary piece of legislation dealing with the development of state-subsidised housing in South Africa. The Act provides for the national housing development process by laying down general principles for housing development in all spheres of government; defining the functions of national, provincial and local governments in respect of housing development; and laying the basis for the financing of the national housing programmes.

Section 2(1) the Housing Act provides that all spheres of government must give priority to the needs of the poor in respect of housing development, and are mandated to meaningfully consult with individuals and communities affected by housing development. The Act further provides that the state must ensure that housing developments offer as wide a choice of housing and tenure options as is reasonably possible; are economically, fiscally, socially and financially affordable and sustainable; are based on integrated development planning; are administered in a transparent, accountable and equitable manner; and uphold the practice of good governance.⁸²

The bulk of the regulatory framework relating to housing - the main principles, policy choices and implementation rules - are not set out in the Act but in the National Housing Code.⁸³ Section 4 of the Housing Act specifies that the Code should include the national housing policy

⁸⁰ See ss 2(1)(g) and (h) of the IDA.

⁸¹ See s 17(1) of the IDA, read with Schedule 2.

⁸² See s 2(1) of the Housing Act. See also K Tissington, *A Resource Guide to Housing in South Africa 1994-2010: Legislation, Policy, Programmes and Practice* (2011), p. 14.

⁸³ See M Clark and K Tissington, “Courts as a Site of Struggle for Informal Settlement Upgrading in South Africa”, in LR Cirolia, T Görgens, M van Donk, W Smit & S Drimie (eds), *Upgrading Informal Settlements in South Africa: A Partnership-Based Approach* (2016), p. 378. This arrangement has been criticised on the basis that crucial components of housing development are not legislated in national legislation or deliberated in Parliament. See, for example, K McLean, “Housing”, in S Woolman, T Roux, J Klaaren, A Stein, M Chaskalson and M Bishop (eds), *Constitutional Law of South Africa*, 2 ed (2006).

and administrative and procedural guidelines for the implementation of the policy.⁸⁴ According to the Housing Act,⁸⁵ the Code is delegated legislation that is legally binding on provincial and local level.⁸⁶ This means that both the Act and the Code constitute concrete, legally enforceable legislative instruments and that the implementation of national housing programmes must be consistent with the prescripts laid out in the Code.

The Code sets out the government housing programmes available. For the purposes of this submission, the most important of these programmes are the Emergency Housing Programme (EHP),⁸⁷ the Integrated Residential Development Programme (IRDP),⁸⁸ and the Upgrading of Informal Settlement Programme (UISP).⁸⁹ Each of these programmes are discussed below.

Emergency Housing Programme (EHP)

The EHP makes provision for municipalities to apply for grants from provincial government to provide emergency housing to those affected by emergencies.⁹⁰ The aim of the EHP is to enable municipalities to “provide temporary [housing] relief to people in urban and rural areas who find themselves in emergencies” through the acquisition of land, provision of municipal engineering services, relocation assistance and provision of accommodation.⁹¹

⁸⁴ S 4 of the Housing Act provides:

- “(1) The Minister must publish a code called the National Housing Code (in this section referred to as the “Code”).
- (2) The Code –
 - (a) must contain national housing policy;
 - (b) may, after consultation with every MEC and the national organisation representing municipalities as contemplated in section 163(a) of the Constitution, include administrative and procedural guidelines in respect of -
 - (i) the effective implementation and application of the national housing policy;
 - (ii) any other matter that is reasonably incidental to national housing policy.”

⁸⁵ S 7(3) of the Housing Act, which states that the MEC is obliged to administer every national housing programme contained in the Code.

⁸⁶ See Clark and Tissington, “Courts as a Site of Struggle”, pp. 378-379; *Melani v City of Johannesburg*, South Gauteng High Court, Case No. 02752/2014 (22 March 2016) (“Melani”), para 32.

⁸⁷ DHS, “Emergency Housing Programme”, Part 3, Volume 4 of the National Housing Code (2009), available:

http://www.dhs.gov.za/sites/default/files/documents/national_housing_2009/4_Incremental_Interventions/2%20Volume%204%20Emergency%20Housing%20Programme.pdf.

⁸⁸ DHS, “Integrated Residential Development Programme”, Part 3, Volume 4 of the National Housing Code (2009), available:

http://www.dhs.gov.za/sites/default/files/documents/national_housing_2009/4_Incremental_Interventions/3%20Volume%204%20Integrated%20Residential%20Development%20Programme.pdf.

⁸⁹ DHS, “Upgrading of Informal Settlements Programme”, Part 3, Volume 4 of the National Housing Code (2009), available:

http://www.dhs.gov.za/sites/default/files/documents/national_housing_2009/4_Incremental_Interventions/5%20Volume%204%20Upgrading%20Informal%20Settlement.pdf.

⁹⁰ DHS, “Emergency Housing Programme”, pp. 14-15. For a full description of the EHP see Tissington, *A Resource Guide to Housing*, pp. 94-96; and Housing Development Agency (HDA), *Guidelines for the Implementation of the Emergency Housing Programme* (2012).

⁹¹ DHS, “Emergency Housing Programme”, p. 9. The cost of consumption of certain basic services can also be funded through the programme for a period of three years (provided approval is obtained from the MEC of Human Settlements and the municipality is unable to fund these services from its own resources).

The EHP applies in various emergency housing situations ranging from an eviction or the threat of an eviction, to the demolition of homes as a result of natural disasters.⁹² The situation most applicable to the current circumstances is a situation where persons:

“[h]ave become *homeless* as a result of a *declared state of disaster*, where assistance is required, including cases where initial remedial measures have been taken in terms of the Disaster Management Act 2002 by government, to alleviate the immediate crisis situation.”⁹³

This description requires: (a) a declared state of emergency, and (b) homelessness. In the context of the COVID-19 pandemic, the first requirement has already been met as Minister Nkosazana Dlamini-Zuma declared a National State of Disaster on 15 March 2020. However, in the context of informal settlement communities being relocated in an attempt to “de-densify” or “re-block” informal settlements, it is unlikely that the second requirement would be met as these communities would not be rendered homeless.

The EHP provides for the acquisition of land “when it is suitable for housing development in emergency housing situations”.⁹⁴ This requires the municipality to identify suitable land, having regard for the relevant Spatial Development Frameworks (SDFs) and Integrated Development Plans (IDPs).⁹⁵

The Programme says that acquiring state land is preferable to acquiring privately owned land (although the latter may take place as a last resort).⁹⁶ In the case of state land, the EHP specifies that the MEC for Human Settlements or the municipality should request that the state land be made available free of charge through a land transfer agreement.⁹⁷ If the land is nationally owned and under the control of the Department of Public Works, the EHP requires that consultations with the state be directed through the relevant Provincial State Land Disposal Committee.⁹⁸ The EHP also provides for the possibility of privately owned land being purchased at a market-based purchase price. If the parties fail to come to an agreement about a purchase price, the MEC or municipality could resort to expropriation in terms of the Expropriation Act 63 of 1975.⁹⁹ However, this should only occur in exceptional circumstances.¹⁰⁰ As a last resort, land could be acquired by concluding a lease agreement at market-related rental.¹⁰¹ However, this should be for a fixed period and should not exceed a period of 12 months.¹⁰²

⁹² DHS, “Emergency Housing Programme”, p.15.

⁹³ DHS, “Emergency Housing Programme”, p.15.

⁹⁴ DHS, “Emergency Housing Programme”, p. 44.

⁹⁵ DHS, “Emergency Housing Programme”, p. 44.

⁹⁶ DHS, “Emergency Housing Programme”, p. 44.

⁹⁷ DHS, “Emergency Housing Programme”, p. 44.

⁹⁸ DHS, “Emergency Housing Programme”, p. 44.

⁹⁹ Parliament is currently in the process of drafting a new Expropriation Act.

¹⁰⁰ DHS, “Emergency Housing Programme”, p. 44.

¹⁰¹ DHS, “Emergency Housing Programme”, p. 45.

¹⁰² DHS, “Emergency Housing Programme”, p. 45.

Integrated Residential Development Programme (IRDP)

The IRDP makes provision for the development of “integrated housing” in well-located areas by providing a range of housing typologies and price categories, together with institutional, commercial, recreational and social amenities (for example, police stations, clinics, parks and schools or pre-schools).¹⁰³ A key feature of the IRDP is that it allows for the development of a mix of housing typologies and price categories, alongside other land uses. It is therefore not unusual to see IRDP developments that include a range of housing options from fully state-subsidised housing, social housing, finance-linked housing (such as the housing in terms of the Finance Linked Institutional Subsidy Programme (FLISP)), to houses or serviced stands for sale on the open market.¹⁰⁴ The Programme also allows for the planning and reservation of institutional stands (such as police stations, clinics or other public sector purposes); commercial stands; and community service stands. The IRDP is therefore unique as it adopts a holistic approach to the development of housing by catering to beneficiaries’ housing, as well as social and economic needs.¹⁰⁵

The IRPD can only be used for the development of (a) unoccupied vacant land or (b) an integrated human settlements project in an existing township where an undeveloped parcel of land is used for development.¹⁰⁶ This limits the potential scope of the IRDP to greenfields projects.¹⁰⁷

Funding is determined on a project basis and includes funding for project planning, land acquisition, township planning and establishment, the provision of serviced residential stands and other land use stands, the construction of houses and the installation of municipal engineering services (however, the IRDP states that municipal engineering services will only be funded as a last resort where other funding sources were not obtainable).¹⁰⁸ Importantly, municipalities are able to acquire additional funding to supplement the funding received in terms of the IRDP. This includes private funding, as well as funding streams in terms of other state-subsidised housing programmes.¹⁰⁹

The IRDP specifically provides for the municipality to acquire unoccupied or undeveloped land for development. The municipality is responsible for identifying land for development in terms of its IDP and SDFs.¹¹⁰ This could include public or private land. In the case of public land, the municipality is required to approach the relevant public entity to determine compensation (if any) and conclude a land availability agreement. Once the rights to the land and the

¹⁰³ DHS, “Integrated Residential Development Programme”, pp. 9-10. See also Tissington, A Resource Guide to Housing , p. 81.

¹⁰⁴ DHS, “Integrated Residential Development Programme”, p. 21. See also HDA, Assessment of the Integrated Residential Development Programme (IRDP) and its Impact on Spatial Transformation, HDA Research Report (2017), which investigates the different implementation configurations that could be applied through the IRDP by looking at four distinct IRDP projects.

¹⁰⁵ DHS, “Integrated Residential Development Programme”, pp. 9 and 50.

¹⁰⁶ DHS, “Integrated Residential Development Programme”, pp. 9-10 and 14.

¹⁰⁷ NUSP, “South African Policies, Programmes and Instruments”, pp. 12-13.

¹⁰⁸ DHS, “Integrated Residential Development Programme”, pp. 20-24.

¹⁰⁹ See DHS, “Integrated Residential Development Programme”, p. 21. See also HDA, Assessment of the Integrated Residential Development Programme , which includes various examples of projects that relied on a combination of public and private funding streams.

¹¹⁰ DHS, “Integrated Residential Development Programme”, p. 36.

development rights have been obtained, the municipality is required to complete the required feasibility studies and geotechnical studies.¹¹¹

The IRDP sets out a set of criteria to identify land for development in terms of the Programme. These include:¹¹²

- The land should offer easy access to employment opportunities, and education and healthcare facilities;
- The land should either be serviced by adequate existing bulk services or the municipality should be capable and bound to provide services “within a reasonable period”;
- The land should afford access to adequate transportation facilities (including public transport);
- The land should promote urban efficiencies and spatial integration in towns and cities; and
- Any additional criteria that the MEC (which must be consistent with National Housing Policy).

The land acquisition process outlined above is therefore aimed at gaining access to well-located land for the development of integrated housing developments. The Programme offers an ability to meet the urgent needs of housing beneficiaries, while addressing the need for ongoing spatial reform. Moreover, the process for the acquisition of public land is significantly less onerous than the acquisition of privately owned land, thereby enabling municipalities to expedite the process.

Upgrading of Informal Settlement Programme (UISP)

The UISP provides for municipalities to apply for funding from provincial government to redevelop informal settlements by incrementally providing occupiers with infrastructure, tenure security, and access to basic services in an inclusive and participatory manner.¹¹³ In addition, the Programme provides for land acquisition through either acquisition, negotiation or expropriation.¹¹⁴ The Programme funds the creation of serviced stands through the installation of both interim and permanent municipal engineering services. Where interim services are provided, they should always constitute “the first phase of the provision of permanent services”. The UISP does not provide assistance for the construction of housing, which should be funded through one of the other national housing programmes in phase 4 of the project upgrading project.

¹¹¹ DHS, “Integrated Residential Development Programme”, p. 40.

¹¹² DHS, “Integrated Residential Development Programme”, pp. 36-37.

¹¹³ Funding in terms of the programme is provided in three phases: Phase 1 includes funding for land surveying, registration, community participation, development facilitation, dispute resolution, geotechnical investigation, pre-planning for land acquisition and the provision of interim municipal engineering services; and phases 2 and 3 provide funding for detailed town planning, contour surveying, land survey examination, civil engineering and project management. In addition, the Programme makes funding available for land rehabilitation. See Tissington, A Resource Guide for Housing, p. 86.

¹¹⁴ DHS, “Upgrading of Informal Settlements Programme”, p. 43.

The UISP specifically provides for and funds the acquisition of land. The municipality is responsible for identifying land for upgrading in terms of its IDP and spatial development plans, as well as plan for the future release of land it owns for this purpose.¹¹⁵ The Programme states that it will only apply in respect of “informal settlements situated on land suitable for permanent residential development”.¹¹⁶ However, if the land is not suitable for development, the Programme also provides for funding for the rehabilitation of land in circumstances where the land in question is particularly well-located. In particular, rehabilitation may be funded “if the locational advantages offset the cost”.¹¹⁷

The Programme applies equally to informal settlement on public or private land. In the case of acquisition of public land, the Programme provides that “[l]and held by municipalities, provincial governments, parastatal organisations and other state departments and/or public entities should, where possible be *made available free of charge*”.¹¹⁸ As noted above, municipalities and provincial governments are encouraged to proactively plan for the release of land they own that is occupied by informal settlements in their IDPs or SDFs.¹¹⁹

The UISP is unique as it offers various opportunities for the National Department’s resettlement objectives in relation to the COVID-19 outbreak. First, the UISP provides for the acquisition of land where informal settlements are currently located by negotiated purchase, expropriation or inter-state transfer. In fact, the Programme encourages the release of state land on which informal settlements exist for upgrading. Second, the Programme is premised on the incremental development of the informal settlement, which means that immediate interventions can later be supplemented on an ongoing basis. Many of the mechanisms identified by the National Department as essential to combatting COVID-19 in densely occupied settlements, such as reblocking, are also constitutive elements of an upgrading process. Lastly, in recent years the National Department has invested considerable technical and institutional expertise into the UISP through the creation of the National Upgrading Support Programme (NUSP), which will be ideally suited to support municipalities as they embark on upgrading projects in an effort to resettle densely occupied communities.

4.3.3 Expropriation

While expropriation always remains an option, the Intergovernmental Relations Framework Act 13 of 2005 (IGRFA) and Chapter 3 of the Constitution prioritise intergovernmental coordination and cooperation between state departments and bodies. This means that it is unlikely that a state entity would resort to expropriation to obtain rights to land owned by another state entity for the purposes of housing development. In spite of this, expropriation remains available as a mechanism to release state land as a last resort. To this end, the Ministers of Human Settlements and Public Works, as well as municipalities, have powers to expropriate land for the development of housing in terms of various pieces of legislation.

¹¹⁵ DHS, “Upgrading of Informal Settlements Programme”, p. 49.

¹¹⁶ DHS, “Upgrading of Informal Settlements Programme”, p. 14.

¹¹⁷ DHS, “Upgrading of Informal Settlements Programme”, p. 38.

¹¹⁸ DHS, “Upgrading of Informal Settlements Programme”, p. 51 (emphasis added).

¹¹⁹ DHS, “Upgrading of Informal Settlements Programme”, p. 49.

The Housing Act and the HDA Act provide for the Minister of Human Settlements to expropriate land for the development of housing. In fact, the HDA Act reserves the right to expropriate land for the Minister, implying that any expropriation for the purposes of the HDA would have to be performed by the Minister on behalf of the HDA. Section 9(3) of the Housing Act provides a framework for the Minister of Human Settlements to manage the purchase or expropriation of land for the purposes of housing development. This provision empowers the Minister to expropriate land if the Minister is unable to purchase the land on reasonable terms through negotiation with the landowner (which could include another state department or organ of state).¹²⁰

The Expropriation Act provides for the Minister of Public Works to expropriate any property for public purposes or assert the right to use any property temporarily for public purposes, subject to paying compensation.¹²¹ Section 5 of the Act makes provision for expropriation of land by a municipality where such municipality is empowered to expropriate land or property in terms of existing legislation. For instance, a municipality has a power to expropriate in terms of section 9(3) of the Housing Act. Where local government is empowered to expropriate property, such expropriation is governed by the provisions of the Expropriation Act.

In *Fischer v Occupiers of Erf 150 (remaining extent) Phillipi, Cape Division, Province of the Western Cape* (the *Fischer* case), the Western Cape High Court ordered a municipality to initiate the process provided for in terms of section 9(3) of the Housing Act, by entering into good faith negotiations to purchase specific land (on which a large number of unlawful occupiers resided) and expropriating the land in the event that purchase negotiations failed.¹²² This suggests that a failure to expropriate land for the development of housing in circumstances where other mechanisms of acquiring access to land has failed, could be subject to judicial oversight.

4.4 Conclusion

The preceding discussion in part 4 illustrates that there are several legal mechanisms in existing housing legislation and policy that could be utilised to expedite or compel the release of well-located public land for the development of affordable housing - and particularly to release Ysterplaat, Wingfield and Youngsfield for this purpose. In particular, legislation and policy contains various mechanisms to transfer, acquire and expropriate land for housing.

Each of the laws, policies or programmes discussed in part 4 offers clear administrative processes that could be followed to release the three sites, as well as various benefits and potential constraints. However, what is clear is that the lack of legal mechanisms to facilitate

¹²⁰ This requires sign-off from the MEC.

¹²¹ See s 2 of the Expropriation Act

¹²² *Fischer v Persons listed on Annexure X to the Notice of Motion and those persons whose identity are unknown to the Applicant and who are unlawfully occupying or attempting to occupy Erf 150 (remaining extent) Phillipi, Cape Division, Province of the Western Cape and Others ; Stock and Others v Persons unlawfully occupying Erven 145, 152, 156, 418, 3107, Phillipi & Portion 0 Farm 597, Cape Rd and Others ; Copper Moon Trading 203 (Pty) Ltd v Persons whose identities are to the Applicant unknown and who are unlawfully occupy remainder Erf 149, Phillipi, Cape Town and Others 2018 (2) SA 228 (WCC)*, paras 205-206. The High Court judgment was taken on appeal and an order by agreement was granted by the Supreme Court of Appeal on 4 March 2020 confirming the judgment.

the release of state land is not a sufficient justification. The legal, policy and programmatic mechanisms exist, all the state needs to do is implement them.

While the state officials empowered to facilitate the release of state land in terms of the abovementioned legislation and policy have the ultimate discretion to determine which mechanisms to utilise to expedite the release of Wingfield, Youngsfield and Ysterplaat, we believe that the State Land Disposal Act offers the simplest process of land release. In particular, the SLDA gives the President a discretionary power to release state land and to assign his powers and duties in terms of the Act to the Minister of Public Works, which includes the power or duty to issue deeds of grant.

In relation to the development of Ysterplaat, Wingfield and Youngsfield, we believe that the state should employ a “package of plans” approach. This would consist of various housing programmes being utilised in tandem with each other to develop each of these sites. The advantage of a package of plans approach is that various housing typologies and affordability levels can be targeted simultaneously, while limiting the constraints of individual housing programmes. In particular, we believe that the incremental housing programmes, including the IRDP and UISP, are well suited to facilitate the development of these sites. It should be noted that programmes have already been identified by the Minister of Human Settlements identified the IRDP as key programmes to facilitate the rapid release of land and promote ‘de-densification’ in the national, provincial and municipal response to the COVID-19 pandemic - so they could be used to develop these sites with relative ease.

5. DETAILS OF LAND TO BE RELEASED

5.1. A case for the three sites

All three sites are very well-located. Each site is located within a 10km radius from the Cape Town CBD. The sites are close to existing economic and industrial nodes, offering considerable employment opportunities and implying less money spent on travel – often a huge strain on poor household budgets. The sites are also close to various primary schools and high schools, social facilities and health services. They are in close proximity to bus, taxi and train public transit, and are particularly close to a number of train stations and bus stops. Moreover, the sites fall within areas that have been earmarked for additional transportation infrastructure. Ysterplaat and Wingfield also fall within an area that has been specifically identified by the City and the Province as an urban development corridor. While the specific details of the sites are described in more detail below, it suffices to say that the unique geographical advantages that the sites offer makes them perfect for the development of affordable housing.

A particular advantage of releasing Ysterplaat, Wingfield and Youngsfield for the development of affordable housing is the size of these sites (totalling 668 hectares) which has the potential to deliver significant economies of scale in terms of serviced land delivery and most immediately take the greatest pressure off the housing shortage. If these sites are used for the development of mixed use and incremental (self-build) housing, the land has enormous potential. At 60 dwelling units per hectare gross, Ysterplaat (adjacent to Century City) can deliver 15 348 units (255,8 ha), Wingfield (located on the key transit artery of the Voortrekker Road corridor) can deliver 16 206 units (270,1 ha) and Youngsfield (close to the southern economic and public transport corridor) can deliver 8 502 units (141,7 ha). Together these sites could yield a between up to 67 000 homes to meet an immediate need across metropolitan Cape Town.

Besides location, another huge benefit of the three sites is their relative proximity to existing infrastructure thereby minimising the need for the installation of significant new bulk infrastructure. In particular, the sites are all close to waste water treatment plants (although the capacity of these will need to be considered). With bulk infrastructure available along the periphery of these parcels of land, any housing or mixed-use development will be much more feasible and cost effective.

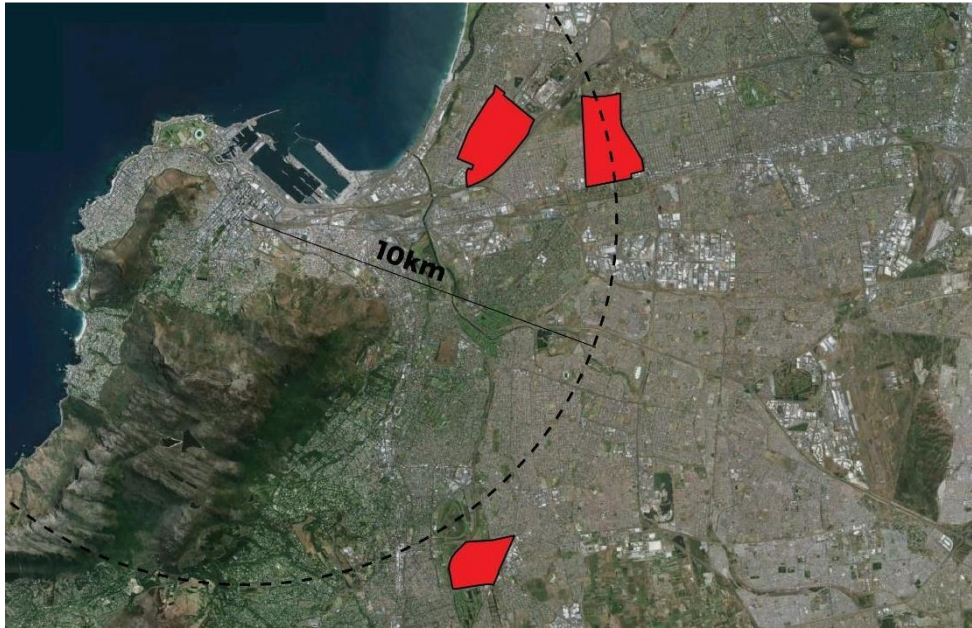


Image 1 - Graphic detailing the position of Ysterplaat, Wingfield and Youngsfield in relation to the Cape Town CBD

5.2. Site constraints and opportunities

The following diagrams (under section 5.2.) set out the opportunities and constraints presented by each of the individual sites. To demonstrate the suitability of each land parcel for mixed-use development, the diagrams highlight key local features which are essential to a transformed and integrated city. The following opportunities and constraints have been identified:

Road Network

All three sites are well serviced by major arterial roads resulting in short commutes to the major economic nodes. Although all are proximate to surrounding residential neighbourhoods, their usage as military bases restricts direct access to these neighbourhoods due to adjacent high speed vehicular roads.

Public Transport

Public transport services including bus, taxi and rail are easily accessible to all three sites. In the case of Wingfield there is a planned extension of the MyCiTi system services to the site. Youngsfield is located alongside Ottery Road which is a future MyCiTi route. The development of these sites will substantially increase densities and provide an appropriate threshold for public transport to be viable.

Bulk services

While all three sites are relatively close to bulk service connections, the capacity of these (and particularly bulk sewer and water facilities) will have to be considered. Primary and secondary power connections will also have to be considered.

Natural Environment

Key areas of biodiversity are highlighted on each of the sites in the form of wetland areas. Each of the sites presents key opportunities for innovative landscaping, public open space strategies and the use of water-sensitive urban design. However, natural features including wetlands and biodiversity will also pose challenges to development both in terms of the physical site and environmental law constraints.

Healthcare and Education

Healthcare facilities, including clinics and hospitals, are located in adjacent neighbourhoods and are therefore accessible and in close proximity to all sites. Schools are located in adjacent neighbourhoods, although their ability to absorb large numbers of new learners will have to be assessed. Tertiary education facilities (CPUT, UWC and UCT) are accessible via public transport.

Economic Opportunity

The three sites are well located in relation to economic, industrial and commercial centres. Each parcel is adjacent to at least one major economic corridor, again emphasising the well located nature of these sites. Site development will also provide an opportunity to expand and intensify the economic activities in these areas, serviced by public transport.

Land claims

Both Wingfield and Ysterplaat have existing land claims on portions of the land, which might present some constraints. Part of Wingfield (54.8ha along the N7) was awarded to the Ndabeni Land Trust in 2001 as part of a restitution claim. The Graaff Family Trust is a pre-emptive rights holder over the Ysterplaat Air Force base and must be consulted should the site be used for purposes other than military purposes. NSD Wingfield is affected by a reversionary clause by the Graaff Family Trust.

Cape Town spatial planning

The City of Cape Town Metropolitan Spatial Development Framework (MSDF, 2018) sets out the spatial vision and development priorities to achieve a reconfigured, inclusive spatial form for Cape Town. These sites, when developed, will contribute significantly towards spatial inclusion and integration of the city.

Urban Inner Core

Wingfield and Ysterplaat are located within the Urban Inner Core, one of the four primary Spatial Transformation Areas identified in the 2018 MSDF. The strategy prioritises public investment and incentivises private sector investment in support of growth in these areas, to achieve spatial transformation. This transformation, including higher densities and mixed land use, is to be underpinned by infrastructure upgrades along development corridors and activity routes such as Voortrekker Road.

Incremental Growth and Consolidation Area

The MSDF (2018) positions Youngsfield within the Incremental Growth and Consolidation Area. The City of Cape Town is committed to servicing existing communities with these growth areas and new development will be subject to infrastructure capacity. National and Provincial inclusionary housing policy applies in these areas, as does an incremental upgrade approach.

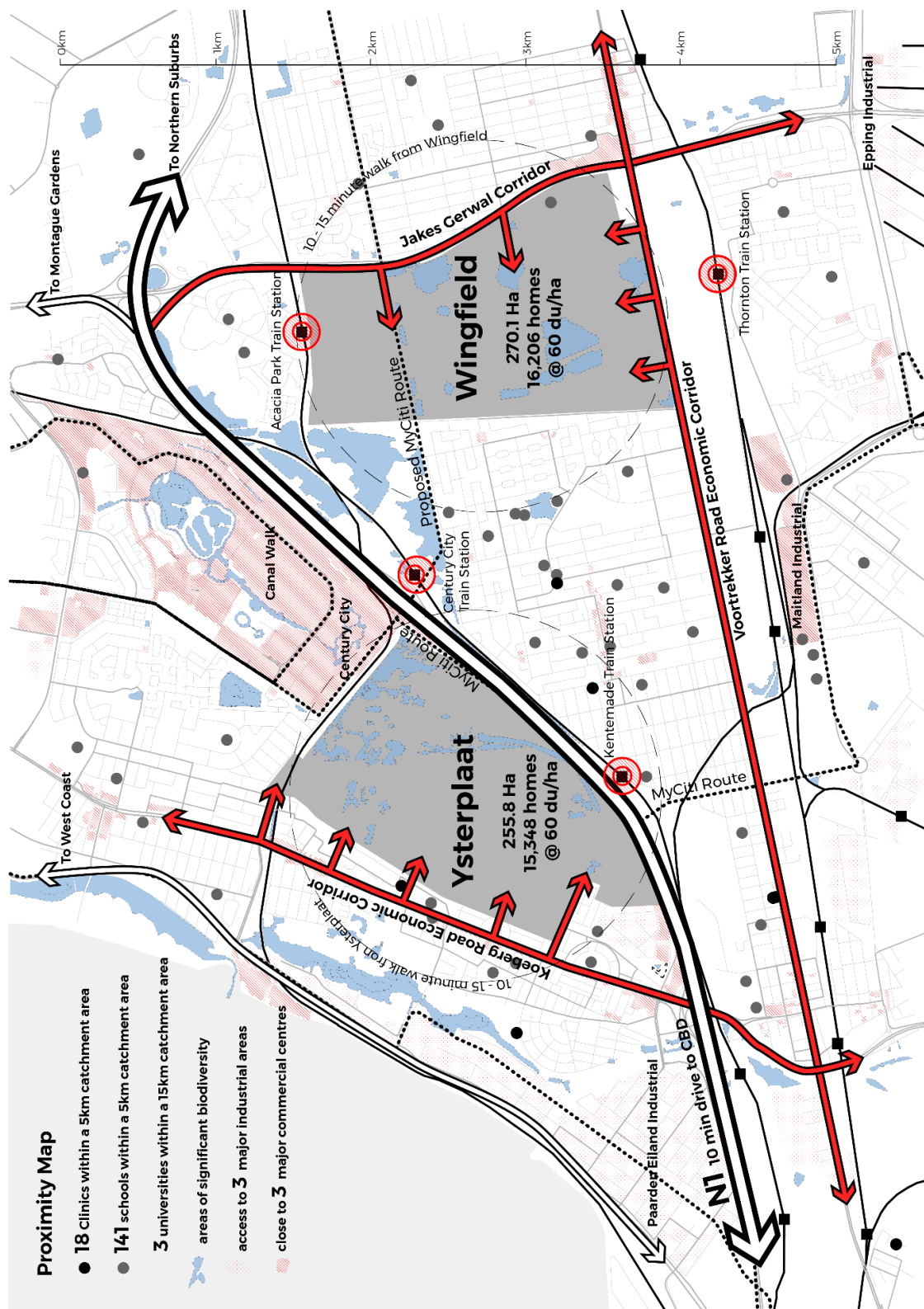


Image 2 – Opportunities and Constraints of Ysterplaat and Wingfield

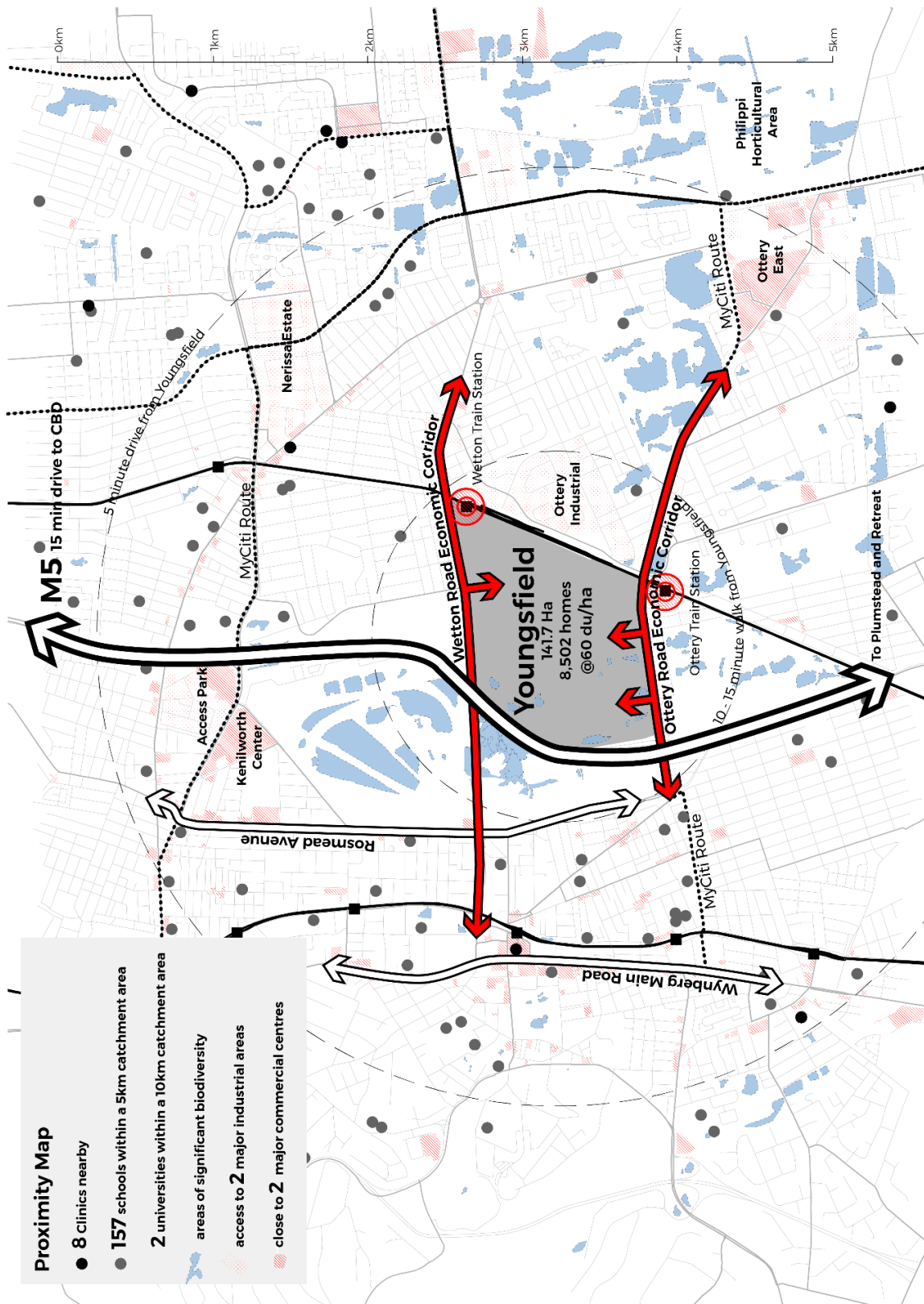


Image 3 – Opportunities and Constraints of Youngsfield

5.1.2. Potential Yields

The table below sets out a range of possible densities for the three sites ranging from 40-100 dwelling units per hectare (du/ha) gross. The City of Cape Town makes reference to the potential yields of all three in their district plans.¹²³ Although the implementation of densities above 60du/ha will require upgrades to the local bulk infrastructure systems we believe that anything below 60du/ha would be under-capitalising on the unique opportunity these sites present. Furthermore, high densities provide conditions for an efficient and sustainable public transport system as well as support for public facilities.

Average Density:	40 du/ha gross	75 du/ha gross	100 du/ha gross
Ysterplaat 255.8ha	10,232 homes	19,185 homes	25, 580 homes
Wingfield 270.1ha	10,804 homes	20,258 homes	27, 010 homes
Youngsfield 141.7ha	5,668 homes	10,628 homes	14,170 homes
Total potential yields:	26,704 homes	50,070 homes	66,760 homes

Table 1 – Possible housing yields at a range of densities

5.3. An incremental approach to development

The vision for these sites is to create developments that are socially, economically and physically integrated. The character of each will be informed by its location and adjacencies, which are outlined in the diagrams that follow, however there are many overarching themes that apply to all. In each case the majority of the site should be planned to accommodate a mix of housing and tenure types ranging from medium density, single residential units to high density sectional title blocks, with the emphasis on the former. These areas have the potential to demonstrate an effective and well managed approach to a combination of self-build, incremental and market housing and a phased approach to increasing the density to match the surrounding bulk upgrades and decreasing the overall lead times by adopting a package of plans approach.

The images below could be applied to each of the 3 sites, detail a design and development approach to dealing with the opportunities and constraints present in many large, well locate land parcels in Cape Town.

¹²³ City of Cape Town, "District Plans" (2012), available: <http://www.capetown.gov.za/Work%20and%20business/Planning-portal/Spatial-Plans-and-Frameworks/District-plans>.

5.3.1. Initial Phase

The first phase of the Package of Plans approach is the Contextual Framework which links sites to the Spatial Development Framework. The second phase, the Development Framework, sets out access proposals, land use and planning principles. This phase will set up the open space network, and link into and extend local economic corridors and public transport routes. This sets up the bones of the future development and starts with medium density (40-60 du/ha) incremental housing opportunities from two to four storeys as well as well-structured self-build options.



Image 4- Current status sketch of Ysterplaat.¹²⁴

¹²⁴ Illustrations by Martin Kruger Architect & Urban Designer

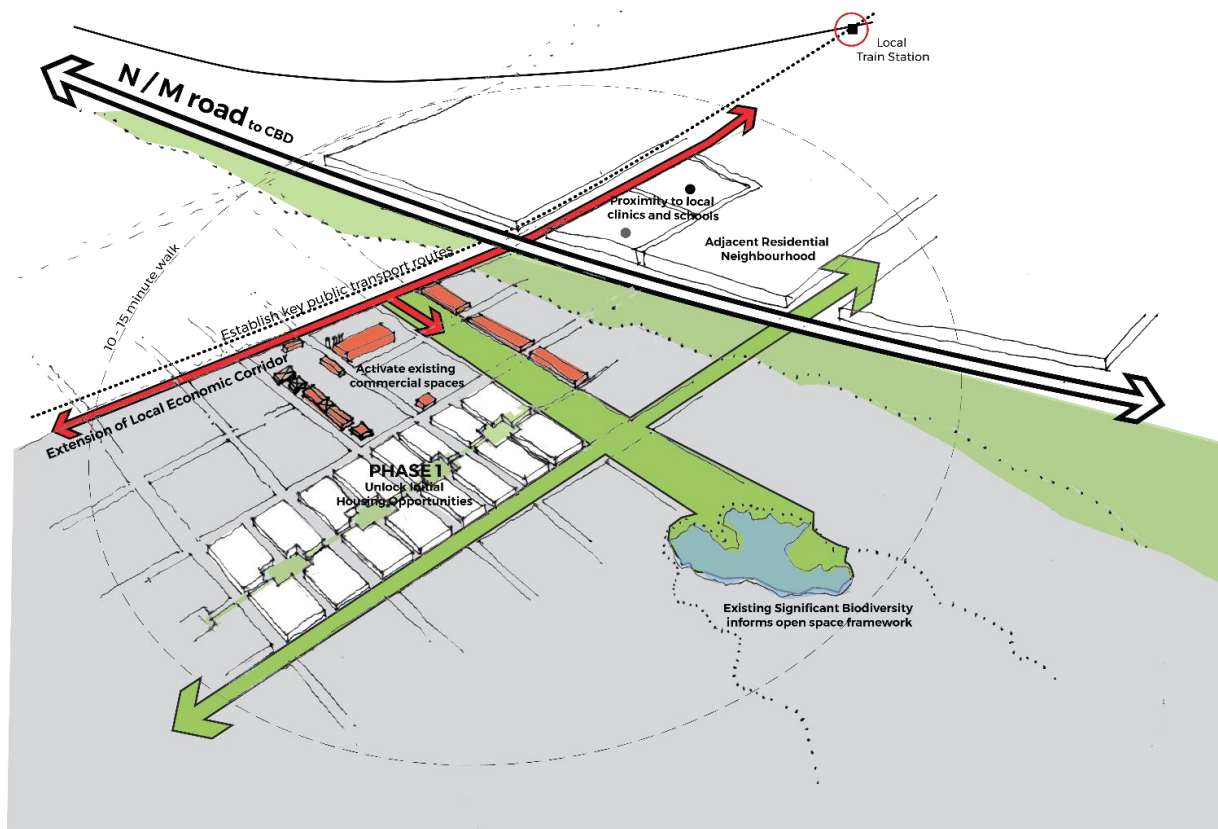


Image 5 & 6 – Aerial (above) and street (below) view of the initial phase of development

5.4.2. Intermediate Phase 2

Subsequent phases of the Package of Plans process will set out precinct, subdivision and site development plans. The intermediate phase of actual development will see the explosion of the incremental housing opportunities and the overall densification of the initial phase taking us to a range of 40-100-du/ha. Additional packages are developed to include some higher density typologies and this triggers additional commercial as well as informal trading. Access to public transport routes and hubs becomes vital to the new residents travelling for work or education and extensions are implemented along main economic corridors. Adjacent development is likely to be stimulated and the expansion of communal facilities is triggered (libraries, schools etc). A careful approach to design of open spaces is essential as well as the incorporation of wetlands.



Image 7- Intermediate phase sketch of Ysterplaat.¹²⁵

¹²⁵ Illustrations by Martin Kruger Architect & Urban Designer

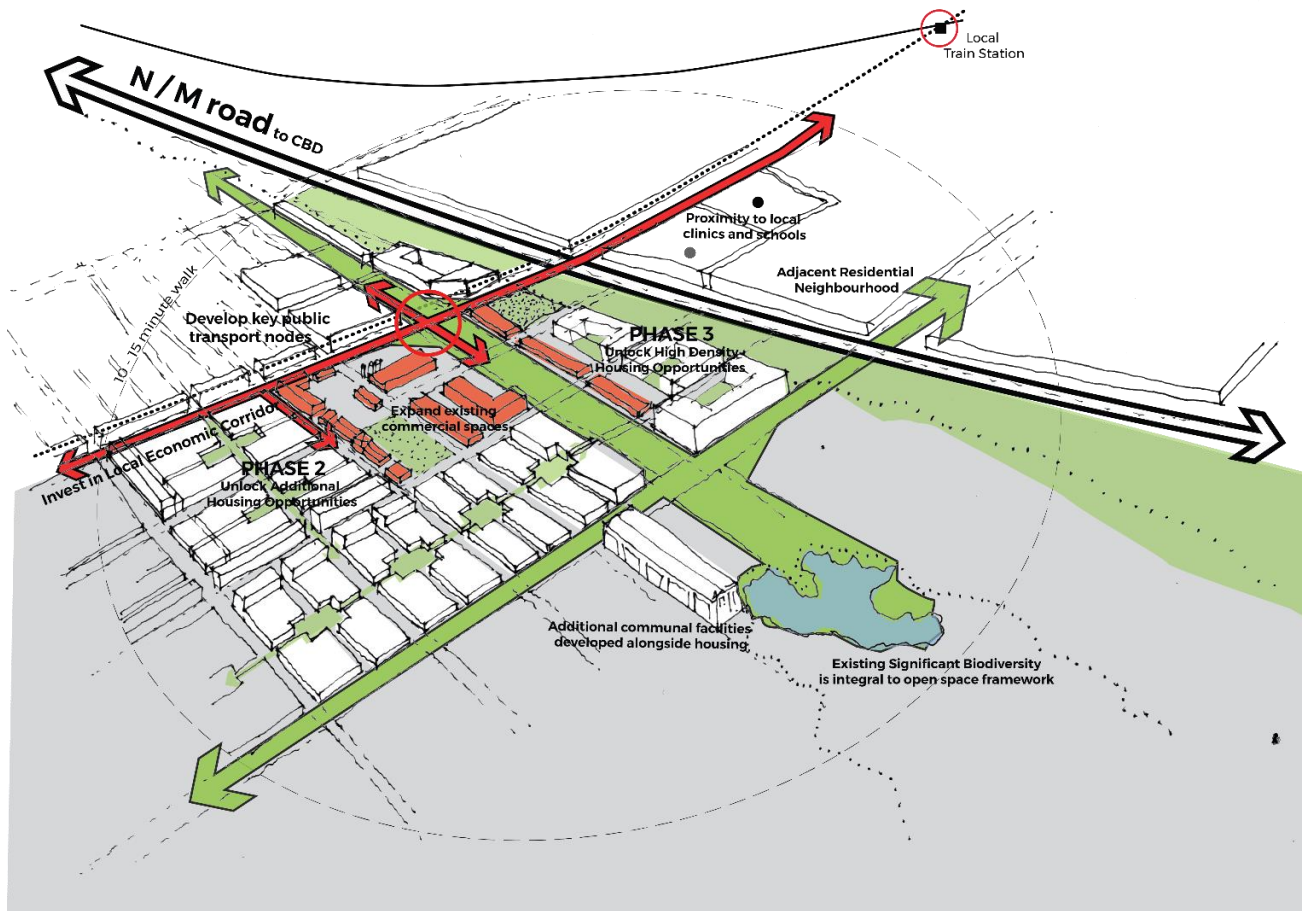


Image 8 & 9 – Aerial (above) and street (below) view of the intermediate phase of development

5.3.3. Advanced Phase

In the advanced phases of the development many of the planned packages have been initiated and all units are a minimum of 2 storeys, with the majority at 4 – 5 storeys. The overall density of the area is within 40-100 du/ha. The highest density typologies are used as buffers along key arterial roads, new public transport interchanges are now well established and the intensified commercial and civic centres become local economic hubs.



Image 10- Long term development vision sketch of Ysterplaat.¹²⁶

¹²⁶ Illustrations by Martin Kruger Architect & Urban Designer

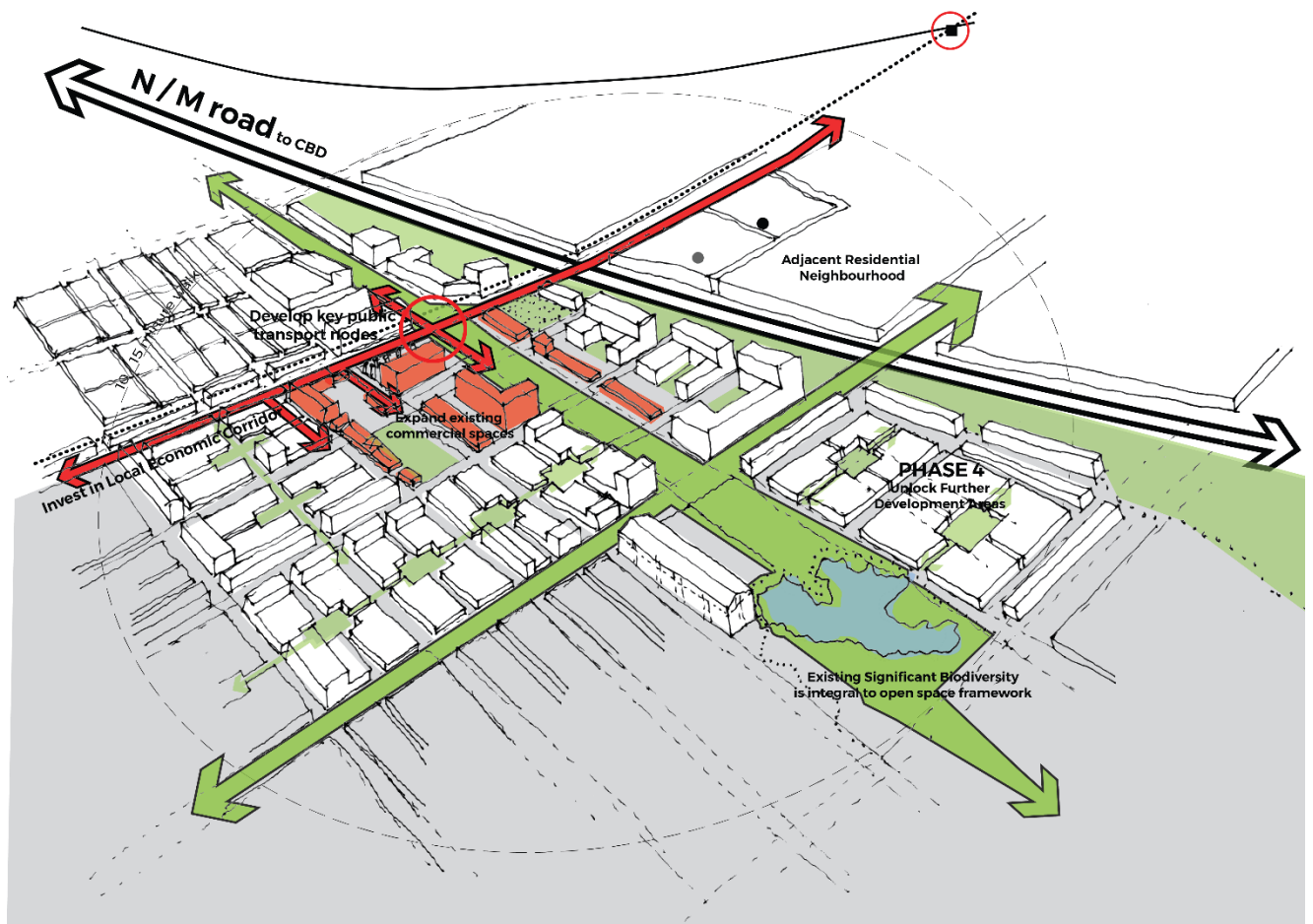


Image 11 & 12– Aerial (above) and street (below) view of the advanced phase of development

6. IMPLEMENTATION MODALITIES

The release of these parcels of land needs to be closely associated with implementation modalities¹²⁷ that inform any development proposals. Below we provide an implementation plan aimed at maximising the potential benefits that the release of the land parcels may yield. While this is not a comprehensive implementation plan, it suggests key principles and ideas that we believe should guide how and who should develop this land.

6.1 Guiding principles

- **Dismantling spatial apartheid and promoting spatial justice** – Public land identified and released for the development of affordable housing must be strategically located close to social amenities, employment opportunities and public transport routes, and with access to the necessary infrastructure. The use and management of state land must be underpinned by spatial justice imperatives – in line with SPLUMA – ultimately seeking to dismantle existing spatial inequalities in access to urban land and housing. As prescribed by SPLUMA, an appropriate land use management system has to be flexible and allow for the suitable management of areas where strategic land management principles were not previously applicable and/or prioritised. The sites must demonstrate a new approach to housing, leaving behind the model of the dormitory township at the urban edge and instead creating a hub for local economic development in line with the character of the surrounding neighbourhoods and aimed to serve the future residents of the site in terms of education, commerce, employment and lifestyle.
- **Inclusive, integrated, vibrant and resilient neighbourhoods** – Public land must be used and managed in a manner that yields cities that are racially, economically, socially, culturally, and gender inclusive. Resilient neighbourhoods need to support livelihoods and public life, rather than be ‘dormitory’ suburbs, with most residents forced to transit outside of their resident neighbourhoods for employment and to access income opportunities.
- **A shift away from the “cheap land, poor location” default response to housing delivery** – The state - and municipalities in particular - should proactively identify, acquire and release well-located public land for the development of subsidised housing. This would allow the state to avoid paying exorbitant land prices and prevent purchasing large poorly located land in peripheral areas.
- **Long term planning and strategising** – The state – at all levels (including state-owned enterprises and municipal entities) – has a responsibility to develop clear programmatic responses to the release and development of state land, including a detailed long term strategy for public land. In particular, municipalities must develop strategic plans that clearly outline their land acquisition, land disposal, development pipeline and land release strategies, where applicable their land banking strategies, and how the plan will

¹²⁷ Implementation modalities refer to the tools/strategies applied to give effect or put into action a decision or plan. In the context of this paper it includes key principles and strategies that should underpin and be applied throughout every process of implementation.

be utilised over the short, medium and long term to promote spatial, racial and economic inclusivity.

- **Public land used to maximise its best and most productive use, including its social value** – In all instances, state entities must ensure that public land is released with the aim of maximising the best and most productive use vis-à-vis other uses, having due regard to the social and economic value of the land. The state should recognise that the release of well-located vacant, unused or underutilised state land for the development of state-subsidised housing would enable it meaningfully contribute to the fulfilment of its constitutional and legislative obligation to maximise available resources to realise socio-economic rights, in this instance, the right of access to adequate housing and equitable access to land.
- **Public land use and management should be underpinned by transparency and accountability** – State land is a crucial public resource. For this reason, the process of acquiring, managing, developing or releasing state land must be fully transparent, to ensure accountable and responsive governance. Specifically, long term plans in relation to well-located publicly-owned land should indicate its intentions, associated budgets and programmes – with significantly more detail about how this important public resource will be used than what is usually covered in existing municipal planning documents.
- **Prioritising the social function and value of land** – State land must be used and managed as a public good. This implies that state land should be used primarily to benefit the public at large or particular communities, rather than solely conceiving of land as a tradable asset.
- **Focusing on the quality of life of citizens** – Public land should be used to develop adequate housing that is sufficient to meet the needs of citizens, with access to basic services and social amenities and with mechanisms and opportunities to advance livelihoods.
- **Meaningful public participation** – Communities must be able to participate meaningfully in the planning, budgeting and implementation of strategies aimed at public land acquisition, management, development and release. This includes having access to information about public land and its uses/non-uses, and being able to meaningfully influence decisions about how the land will be utilised to best meet social needs while underpinned by good governance practices. Moreover, municipalities must allocate sufficient financial resources to allow for meaningful public participation during this process.
- **Pipelining and consolidating other public/ private land parcels** – Public land must be dealt with in a manner that facilitates more efficient use and release of all viably sized smaller (for instance, the Tafelberg site in Cape Town) land parcels / infill sites for affordable housing delivery, particularly for social (rental housing).

- **Higher density-build for efficient land use** – Implying higher building densities – without over-crowding – to maximise valuable locations as well as create thresholds for public transport and services, as opposed to low built-densities of Breaking New Ground (BNG) and RDP housing projects. In each case the majority of the site should be planned to accommodate a mix of housing and tenure types ranging from medium density, single residential units to high density sectional title blocks. These areas have the potential to demonstrate an effective and well managed approach to a combination of self-build, incremental and market housing and a phased approach to increasing the density to match the surrounding bulk upgrades – decreasing the overall lead times by adopting a package of plans approach.
- **Flexibility and accommodating long term change.** Move away from usual ‘end-state’ planning of new neighbourhoods to flexible planning which acknowledges that over time densities, use of land and the nature of land occupants will change. In particular, as the current trend towards owner-built small scale rental units continues, the demand for infrastructure and services increases often well beyond early assumptions of planned populations.
- **Environmental resilience as a guiding principle of new land development.** Development needs to consider environmental constraints and opportunities both on and around new sites (constraints such as wetlands, flooding, water systems, biodiversity) as well as use of land potentials for activities such as urban agriculture, recreation, protection from wind and so on. Longer term pressures from climate change need to be considered.
- **Ensuring tenure security by providing a range of options that are duly recognised.** The development of the land must be underpinned by a conscious effort to improve the tenure security of the citizens that unlocks both public and private investment. Tenure arrangements must allow for flexibility with a range of options including freehold, leasehold, communal or individual ownership, sectional title, ‘off-register’ rights, etc., and where affordability is crucial.

6.2 Implementation imperatives

Strategic Short and Long Term Planning

The three parcels of land must be urgently released as a response to the COVID-19 pandemic. Once available, the sites can be used to strategically respond to the ever-growing need for land in the state's efforts to de-densify overcrowded informal settlements. This must be supplemented by a 'package of plans' approach to expedite the long term developmental priorities in parallel with short term actions. The 'package of plans' must clearly reinforce the use of this land for affordable and social housing, in a manner that allows citizens to partake in every stage of the development. Any land value escalation, urbanisation pressures and anticipated gentrification over the long term, needs to be curbed with specific planning regulation and conditions on tenure security. Local governments must be equipped and capacitated to manage long term planning processes, including capacitation enabling them to skilfully navigate through complex negotiations with different levels of government and parastatals to acquire and access land for human settlements, on the three land parcels.

Institutional Arrangements

The release of this land has to be underpinned by effective and responsive Intergovernmental Relationships (IGR) and has to acknowledge the role of the National, Provincial, and Municipal functions, while also acknowledging the role of the Housing Development Agency (HDA). The institutional arrangements must be underpinned with a stipulated timeframe to unlock land for development and clear sense of urgency to utilise this land over the short term as a COVID-19 response and over the long term, as incremental development. Any risks related to the development lingering for years between government departments, must be minimised and crystallised as part of IGR. Through effective use of IGR mechanisms and platforms, unnecessary delays in land transfer across departments, specifically to meet socio-economic needs, must be investigated and consequently, measures put in place to accelerate land release. Similarly, where there are intentions to dispose of these land parcels, and other well-located urban land suitable for human settlements, the option of a first right of refusal must be afforded to the Department of Human Settlements and where appropriate the HDA. Furthermore, the private sector can and must play an important role in, and due consideration must be given to the extent to which public-private partnerships can be used to more efficaciously achieve the outlined objectives.

Finance Mechanisms

In the South African context, the finance mechanism 'form follows function'. The nature of the funding, for instance the Human Settlements Develop Grant (HSDG), often produce 'single plot single title deed, single beneficiary, low density developments'. With the release of these three parcels, greater flexibility in financial instruments can enable a stronger people led process through the Peoples Housing Process (PHP) and medium to high density social and affordable housing. The finance mechanisms must also enable the establishment of the housing support centres, that can provide necessary technical support for a range of

incremental housing typologies. To ensure that funds allocated to land acquisition and release are indeed used for this purpose, funds set aside for same must be ring-fenced.

Meaningful Public Participation

As part of the release, it is suggested that significant time and resources are invested towards developing a social compact between citizens and state around the utilisation of this land. The social compact must underpin the fundamentals that well organised local groups, community based organisations and civics must spearhead the development and long term urban management of these parcels. The social compact must also emphasise the importance of unlocking local contractors and businesses during implementation, rather than utilisation of large construction companies and centralising resources in large turnkey developments. The shift towards household and small builder incrementalism will likely open pathways to employment and adaptability to a diversity of household needs. Meaningful engagement should also be key in process that speak to housing allocation, with important aspects thereof thoroughly debated between communities and the state entity driving the process.

Reporting, Monitoring and Evaluation

To ensure best-use of available land suitable for human settlements and other socio-economic needs, relevant departments and parastatals must report on all land parcels owned, identified for human settlement development, the use of the land, etc. This is especially applicable in the case of well-located vacant and unused land. Land identified must be packaged accordingly, with leading departments developing a portfolio of all state-owned land, and the government's intent and purpose regarding the land. Specifically, reports on the extent of identification, acquisition, packaging and release of public land, across departments and parastatals, must be correlated with urban land reform outcomes and spatial justice objectives more relevant to metropolitan municipalities. A public platform where relevant departments share land related data and information, including its land plans, policies, programmes and budgets would go a long way in ensuring that all of government and the public have clarity around the country's urban land reform agenda and implementation plan. Information must be user-friendly and easily accessible to all relevant parties, most notably communities. With this information in hand, departments (specifically the NDHS, DPWI, National Treasury, and DRDLR) would be better equipped to monitor and review the country's management of public land, allowing for adjustments and strategic change to be made iteratively.

Innovation, Creativity and Implementation-Learning

A rigid and static approach to land policies and programmes aimed at transforming urban land contexts will likely hamper successful implementation. However, it is often exceptionally challenging for government departments to operate in a manner that facilitates strategic change and adaptability where existing processes and procedures are not yielding intended results. Moreover, issues around land and its uses are exceptionally complex, requiring a transversal and collaborative approach across different state entities. Toward this end, the existing frameworks must be infused with a level of flexibility so that it allows for innovation and creative solutions to challenges and problems and that departments can learn and adapt as they implement the urban land reform agenda.

7. CONCLUSION

This submission sought to demonstrate to the state how the release of three significant land parcels that are either owned by the Department of Defence or under the custodianship for the Department of Public Works for the development of affordable housing, namely Youngsfield, Wingfield and Ysterplaat, can be used to address Cape Town's housing need as well as fundamentally transforming and restructuring unjust spatial patterns across the city. With this submission we therefore wish to advocate for the rapid release of these three large and exceptionally well-located parcels of unused or under-used military land in Cape Town.

The submission identified numerous existing legal, policy and programmatic mechanisms that could be employed to release Ysterplaat, Wingfield and Youngsfield and to develop affordable housing on the sites. Regarding site development, we argue for a "package of plans" approach to ensure incremental development of the sites. This would consist of various housing programmes being utilised in tandem with each other to develop each of these sites.

We have also included schematic plans for the development of each of the sites, along with careful analysis of the opportunities and constraints of each site, and the guiding principles and implementation imperatives that should underpin any development of the sites.

8. ORGANISATIONS AND INDIVIDUALS INVOLVED IN THIS SUBMISSION

Community Organisation Resource Centre (CORC)

CORC is a registered NPO that supports communities across South Africa using the methodologies of ISN and FEDUP including savings, data collection, peer-to-peer learning exchanges, community-based planning and engaging with government and other actors. CORC's mission is to support poor communities that are willing and able to help themselves. CORC is a member of the South African SDI Alliance that supports urban poor communities to find solutions to homelessness, landlessness and poverty. Through building organised communities and collaborative partnerships, urban poor communities seek to make cities more inclusive and pro-poor.

CORC website: <https://www.sasdialliance.org.za/about/corc/>

Contact person: Moegsien Hendricks
moegsien@corc.co.za

Development Action Group (DAG)

DAG is leading Non-Profit Organisation that supports communities to strengthen community organising; enabling affordable housing, land and tenure security; resist evictions; and shape urban development policies. Our mission is to support and advocate for community led development addressing economic, social and spatial imbalances.

DAG website: www.dag.org.za

Contact person: Adi Kumar
Adi@dag.org.za

Legal Resource Centre (LRC)

The Legal Resources Centre is an independent non-profit public interest law firm, established in 1979 which uses the law as an instrument of justice. The LRC operates throughout the country from its offices in Johannesburg, Cape Town, Durban and Makhanda. The work of the LRC includes litigation and advocacy on housing rights, assisting vulnerable communities facing unlawful evictions; challenging failures to provide basic services including water, sanitation and refuse collection; spatial planning and just land use management; the right to affordable inclusionary housing; restitution of land rights that includes protection of labour tenant's rights and environmental justice.

LRC: <http://lrc.org.za/>

Contact person: Anneline Turpin
anneline@lrc.org.za

Ndifuna Ukwazi (NU)

Ndifuna Ukwazi is a non-profit activist organisation and law centre that combines research, community organising and litigation in campaigns to advance urban land justice in Cape Town. Ndifuna Ukwazi's primary mission is to expand and protect access to affordable housing towards building a more just and inclusive city.

Ndifuna Ukwazi website: www.nu.org.za

Contact person: Michael Clark
michael@nu.org.za

Prof Vanessa Watson

Professor in City and Regional Planning at the School of Architecture, Planning and Geomatics and founding and executive member of the African Centre for Cities (ACC) at the University of Cape Town.

Prof Watson profile: <http://www.apg.uct.ac.za/apg/vanessa-watson>.

ORGANISATIONS THAT ENDORSE THIS SUBMISSION

- Abahlali baseMjondolo
- Afesis Coplan
- Bishop Lavis Backyarders Forum
- Bonteheuvel Ratepayers and Tenants Association
- Community Organisation and Resource Centre (CORC)
- Delft Backyarders
- Development Action Group (DAG)
- Dullah Omar Institute
- Eerste Rivier Backyarders Forum
- Federation of the Urban and Rural Poor (FEDUP)
- Gatesville Tenant Committee
- Informal Settlement Network (ISN)
- Institute for Poverty Land and Agrarian Studies (PLAAS)
- Khayelitsha Peacebuilding Team
- Kraaifontein Economic Drivers
- Land and Accountability Research Centre (LARC)
- Langa Residents Ratepayers Association
- Legal Resources Centre (LRC)
- Madalay Montclair Business Forum
- Maitland Garden Village Housing Forum
- Mitchell's Plain United Residents Association
- Ndifuna Ukwazi (NU)
- Peoples Environment Planning (PEP)
- Phuhlisani
- Planact
- Reclaim the City
- Socio-Economic Rights Institute of South Africa (SERI)
- Studies in Poverty and Inequality Institute
- Ubuhle Bakha Ubuhle (UBU)
- uTshani Fund
- Women Zone