

Need for new Act

In 1997 Government appointed the *National Planning Commission* that later in 1998 produced the *Green Paper on Spatial Planning and Land Use Management*. The Cabinet approved the *White Paper on Spatial Planning and Land Use Management* in June 2001.

- While the DFA represents a significant attempt at addressing these unacceptable settlement patterns, this piece of legislation did not repeal the pre-1994 pieces of legislation on planning. The net effect is that many pre-1994 planning laws remain in operation.

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This regulatory framework has a direct impact on the country in the following ways:

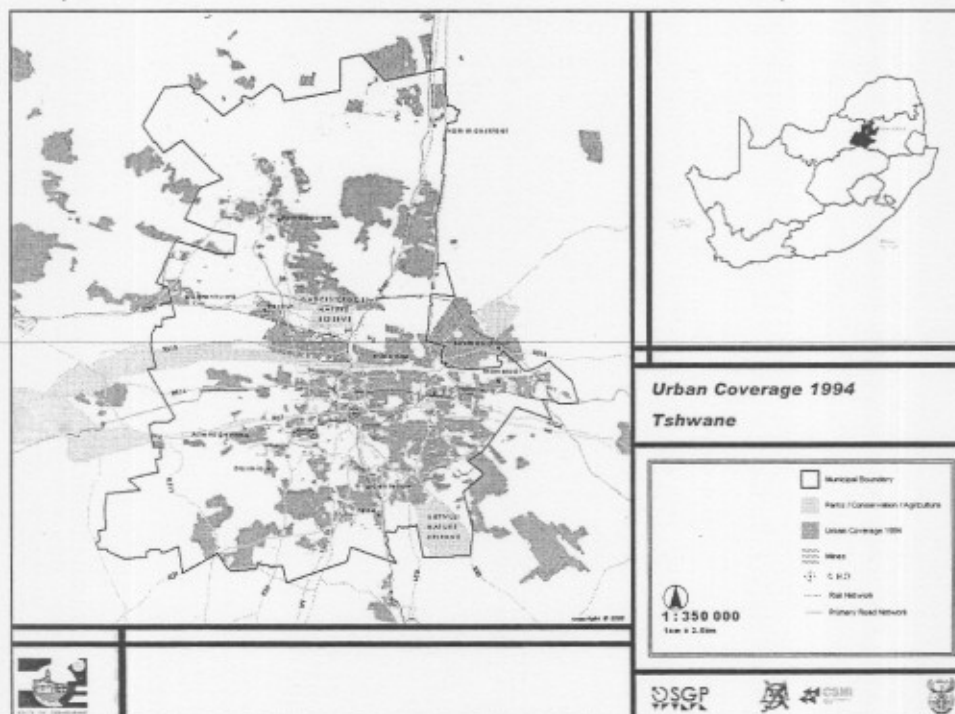
- ❖ Economically: it impedes investment in land development and fails to establish sufficient certainty in the land market;
- ❖ Spatially: it fails to address the segregated and unequal spatial patterns inherited from apartheid; and
- ❖ Environmentally: it does not balance the country's socio-economic needs with those of environmental conservation.

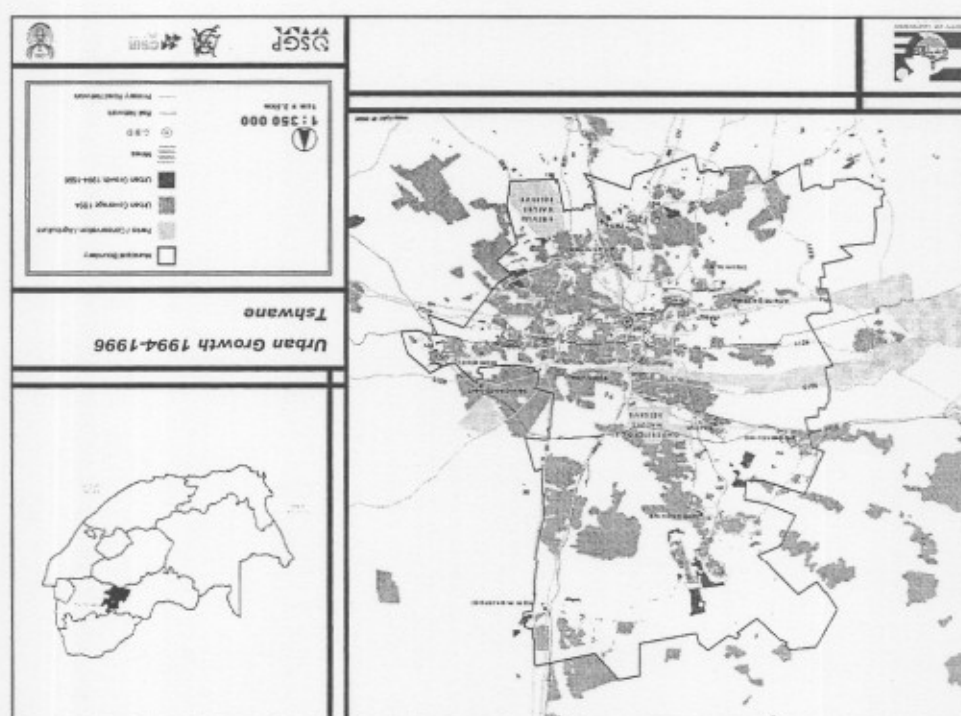
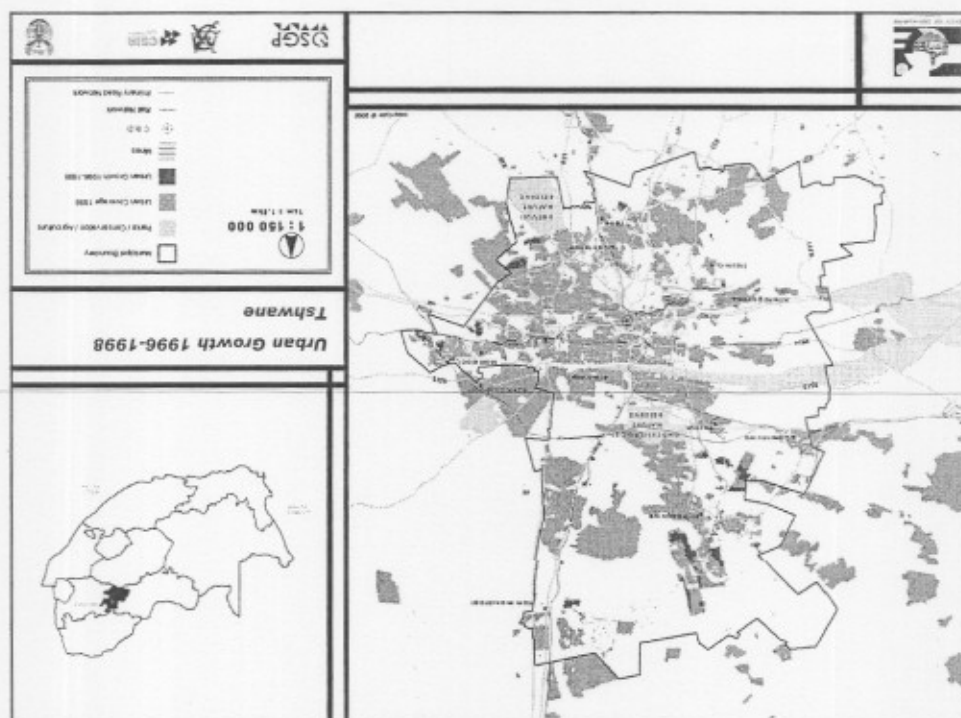
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- The continued operation of these multiple pieces of planning laws renders the entire planning system inefficient, costly and confusing, and
- Current fragmented and multiple land development and planning approval systems do not support a number of noble objectives of the Government especially the *Accelerated and Shared Growth Initiative of South Africa (ASGISA)* and the *Comprehensive Human Settlement Programme*.

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Legislative problems:

- ❖ Too many legislative requirements
- ❖ Tension between these pieces of legislation
- ❖ There are too many gaps between them
- ❖ Authority over these laws reside in different places

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Symptoms:

- ❖ Long approval processes with too many objections/ slow pace of development application approvals;
- ❖ Lack of shared vision and coordinated initiative in respect of what is needed to modernize and rationalize planning and land use management in South Africa and in respect of the interconnections between different kinds of planning in South Africa.
- ❖ Poor linkages between sectoral policies (from all spheres) and spatial planning (by all spheres) on the one hand and land use management mechanisms and processes on the other.

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Symptoms:

- ❖ High degree of legal and procedural complexity in the many land use management processes in South Africa.
- ❖ Too many objections and no mechanisms to deal with them expediently
- ❖ Several parallel approval processes involving substantial duplication and complex land use, environment, heritage, agriculture, transport, etc. (e.g. land use – municipality; environment - province; agriculture- national)

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Symptoms:

- ❖ Delegations (of authority to make decisions) between spheres is often insufficient and unclear.
- ❖ Regulatory processes have few “filtering” mechanisms which allow early identification of which applications require “high intensity regulation” and which not.
- ❖ Serious capacity problems in all spheres but particularly at municipal level (land use management) and at provincial level (environment).
- ❖ There is often opposition, particularly from municipalities, to legal and procedural mechanisms which could speed up development approval processes (e.g. the DFA Tribunals)

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GOVERNMENT'S PLAN

The White Paper on Spatial Planning and Land Use Management (20 July 2001) states:

"The Minister of Land Affairs... proposes to introduce new legislation to parliament that provides a uniform, effective and efficient framework for spatial planning and land use management in both urban and rural contexts. This legislation will clear up the extraordinary legislative mess inherited from apartheid in this area of governance. The most dramatic effect ... is that it will rationalise the existing plethora of planning laws into one national system that will be applicable in each province, in order to achieve the national objective of wise land use."

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OBJECTS OF THE BILL

The objects of the Bill are to :

- (a) provide for a uniform, effective, efficient and integrated regulatory framework for land use and land use management which promotes public interest;
- (b) provide for and determine directive principles and compulsory norms and standards;
- (c) promote -
 - (i) co-operative governance;
 - (ii) socio-economic benefits; and
 - (iii) the achievement of land reform objectives, for persons and communities disadvantaged by unfair discrimination as contemplated in the Constitution;
- (d) establish Land Use Regulators and the National Land Use Commission; and
- (e) address the imbalances of the past and ensure that there is equity in land use and land use management.

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Tools

- Directive Principles (Clause 4)
- Norms & Standards (Clause 5)
- Land Use Schemes (Chapter 4)
- Intergovernmental Support (Chapter 2)

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Land Use Regulation

- Change only with Approval of LUR (Clauses 32 & 33)
- Restrictive Conditions (Clause 35)
- Land Use Schemes (Chapter 4)

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Land Use Regulators

- Municipal Land Use Committees (Part 1 of Chapter 3)
- Provincial Land Use Tribunals (Part 2 of Chapter 3)
- Minister (Chapter 6)
- National Land Use Commission (Chapter 7)

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THE BILL – Chapter 1

The Bill is divided into eight chapters. These are as follows :

CHAPTER 1 - (clauses 1-5) provides for definitions, the application, objects of the Act, directive principles, and for compulsory norms and standards.

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THE BILL – Chapter 2

CHAPTER 2 - (clauses 6-7) mandates the National Government to support and capacitate the provincial and municipal spheres in the implementation of the provision of this Act; and also mandates the Provincial Governments to support and monitor the municipal sphere in the implementation of the provisions of this Act.

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THE BILL – Chapter 3

CHAPTER 3 - (clauses 8-46) deals with municipal land use regulation including the composition and functioning of municipal and provincial land use tribunals; defines the functions and procedures of land use regulators including jurisdiction of land use regulators and the criteria for considering land use applications.

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THE BILL – Chapter 4

CHAPTER 4 - (clauses 47-56) deals with the contents, processes and other issues concerning the adoption of land use schemes by municipalities which define the purposes for which land may be used.

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THE BILL – Chapter 5

CHAPTER 5 - (clauses 57-62) deals with the operational procedures for land use regulators including meetings, delegation of functions and engagement of technical advisers.

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THE BILL – Chapters 6 & 7


CHAPTER 6 - (clauses 63-65) deals with the competence of the Minister as national land use regulator.

CHAPTER 7 - (clauses 66-70) deals with the establishment, functions, composition, terms of office, operating procedures and others in relation to the national land use commission.

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THE BILL – Chapter 8

CHAPTER 8 - (clauses 71-79) contains general provisions on offences and penalties, regulations, non-impediment of functions, powers of the Minister to grant exemptions from provisions of the Act, delegations by the Minister, Premier and MECs to officials, Repeal of legislation, Transitional provisions, and Short title.



**Questions, Comments &
Suggestions**