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Implications of SPLUMA in areas under rural traditional leadership in Mpumalanga Province: The Case of Bushbuckridge Local Municipality and Dr JS Moroka Local Municipality

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A research report submitted to the Faculty of Engineering and the Built Environment, University of the Witwatersrand in fulfilment of the requirements for the degree of Master of Science Town and Regional Planning.

Date: 17 August 2018

DEDICATION

This book is dedicated to my mother and brother:

Sibongile Terresa Sambo and Tlangelane Bongumusa Sambo

You are loved

DECLARATION

I hereby declare that this research report is my own unaided work. It is submitted for the degree of Master of Science Town and Regional Planning in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other University or is to be submitted for a qualification at any other University. The information used in the research report has been obtained while employed by, or working under the aegis of, any person or organisation other than the University.

_____

Tinyiko Sambo

17th day of August 2018

ABSTRACT

"Although the bantustan system was abolished prior to the democratic transition, a sizable body of academic scholarship has asserted that this geography has left a lasting imprint upon rural areas" (King and Mccusker, 2006:1)

The South African colonial and apartheid planning laws influenced the landscape of rural areas through fostering segregation, under-development, restrictions to land ownership and the establishment of the permission to occupy land. In post-apartheid South Africa, the government has tried to make strides to repeal and reverse the imprint which colonial and apartheid legislations left on the country. Yet, the process has not been without challenges, with Chapters 5 and 6 of the Development Facilitation Act, Act No.67 of 1995 (DFA) being declared unconstitutional in 2010. The DFA also had loopholes as it did not repeal colonial and apartheid planning legislations. Thus, modernist planning approaches were retained and continued to influence segregated land use management after 1995. Furthermore, the DFA by and large focused on the management of urban areas and did not subject rural areas to formalised land use management; irrespective of these areas practicing certain forms of land use practices. In order to bridge the gap in planning law, the Spatial Planning and Land Use Management Act, Act No.16 of 2013 commonly known as SPLUMA in the planning fraternity was enacted and assented into operation on the 1st July 2015. The new planning law is tasked with the responsibility of ensuring spatial justice through the incremental upgrading of informal areas by means of encouraging the "progressive introduction of administration, management, engineering services and land tenure rights to areas that are established outside existing planning legislation, and may include any settlement or area under traditional tenure" (SPLUMA, 2013:8).

In light of the above, the research report explores the implications of SPLUMA in areas under rural traditional leadership with focus on two case studies respectively Bushbuckridge Local Municipality and Dr JS Moroka Local Municipality in Mpumalanga Province. The research report aims to understand the manner in which land use management can be incrementally introduced to rural areas from a modernist and post-modernist theoretical framework. The research rationale does not seek to resolve existing challenges as the study scope is limited, but explores the application of planning theory and practice on land use management within rural areas. The framing theory is informed by social theoretical analysis from different perspectives of dealing with traditional leadership, since traditional authorities

continue to be influenced by planning law directly and indirectly. The modernist theoretical framework draws insight from theories on functionalism, liberalism and Marxism. Whilst post-modernism a subjective framing theory is informed by constructivism.

The research is based on a qualitative research method informed by five key pillars respectively: desktop research influenced by grey literature; case studies as a means to compare research findings; interviews and observation sessions as a means of drawing experiences and insight from planning professionals in the public and private sector; mapping and photography. The primary focus of the qualitative research was on the case studies, aided by research interviews with municipalities, provincial sector departments and organisations that have either written or undertaken incremental land use planning in one form or another. The research sample comprised of twelve interviewees of which traditional authorities were not part of the sample mainly due their contestation on the implementation of SPLUMA.

The research findings illustrate that the implementation of SPLUMA expands the traditional planning scope from focusing on urban areas, but by also focusing on areas previously excluded by planning. More critically that the planning profession needs to undertake research on indigenous knowledge in order to merge traditional and modern planning approaches in policy, tools and systems. Thus, the responsibility of ensuring spatial justice within rural areas cannot be solely achieved through land use management, but also needs to be accompanied by other land administration matters such as land tenure. The concept on incremental land use management is considered to be broad and vaguely discussed in SPLUMA.Thus; in-depth research should be undertaken by provincial and national government to unpack the concept of incrementalism and its' practical implementation in areas previously excluded from planning processes. Furthermore, municipalities require political support and should also consider establishing land use structures/committees that operate within the traditional authority offices, aided by educational programmes on spatial planning and land use management.

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LIST OF ACRONYMS AND ABBREVIATIONS

CLaRA – Communal Land Rights Act, Act 11 of 2004

CLTP – Communal Land Tenure Policy,2013

COGTA - Department of Cooperative Governance and Traditional Affairs

CONTRALESA - Congress of Traditional Leaders of South Africa

CRDP - Community Rural Development Programme

DCOG – Department of Cooperative Governance

DFA - Development Facilitation Act, Act No. 67 of 1995

DPME – Department of Planning, Monitoring and Evaluation

DRDLR – Department of Rural Development and Land Reform

GIS – Geographical Information System

IDP – Integrated Development Plan

IGR – Intergovernmental Relations

IGRF - Intergovernmental Relations Framework Act, Act 13 of 2005

MFMA - Municipal Finance Management Act, Act 56 of 2003

MTSF – Medium Term Strategic Framework

NDM – Nkangala District Municipality

NDP - National Development Plan 2030

NHTL – National House of Traditional Leaders Act, Act 22 of 2009

PAJA - Promotion of Administrative Justice Act, Act No.3 of 2000

SACPLAN – South African Council for Planners

SALGA - South African Local Government Association

SDF – Spatial Development Framework

SLA – Service Level Agreement

SPLUMA - Spatial Planning and Land Use Management Act, Act 16 of 2013

SPLUM – Spatial Planning and Land Use Management

TLGF - Traditional Leadership and Governance Framework Act, Act 41 of 2003

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CHAPTER 1: THE LANDSCAPE OF PLANNING IN SOUTH AFRICA'S RURAL AREAS

1.1. BACKGROUND TO THE STUDY

In a speech by Inkosi Bonga Mdletshe, a KwaZulu-Natal member of parliament for the Portfolio Committee of Land Affairs,[1] he stated,

> *"Traditional communities are based on the shared ownership of land and the role of traditional leadership in its administration...a community and its land are united by a mystical relationship which ties together past, present and future generations. Traditional leadership remains the final expression and the custodian of this relationship. The shared ownership of land is at the basis of social communalism, culture of ubuntu and sense of social solidarity. The essential feature of traditional communities is the self-administration of land assigned by the community, via the action of traditional leadership, to each of its members to meet his or her needs. The institution of communal property and traditional leadership are sides of the same coin and neither can survive without the other" (Southern African Regional Poverty Network 2002:54).*

The *excerpt* from Inkosi Bonga Mdletshe's speech highlights the administrative function of traditional leaders and their relationship with land use management in rural communities in the country. The speech points at land use management functions, ownership of land within rural areas as a shared entity that serves both individual and communal needs. The speech also states that the role and importance of traditional authorities cannot be separated from land irrespective of the functions related to it. In support, Reddy and Biyela (2003:278) state that rural areas are guided by basic principles for "the establishment and development of viable local government structures...which include inter alia funding of local government, land ownership and the clear roles that are played by various stakeholders who constitute rural communities; i.e., traditional communities and owners of farmlands". However, the traditional authority system has been disrupted over the past decades.

The inception of much of the disruption occurred when the Native Land Act 1913 was enacted to ensure the establishment of reserves aimed at restricting indigenous

[1] Speech extracted from the Southern African Regional Poverty Network (2002:54)

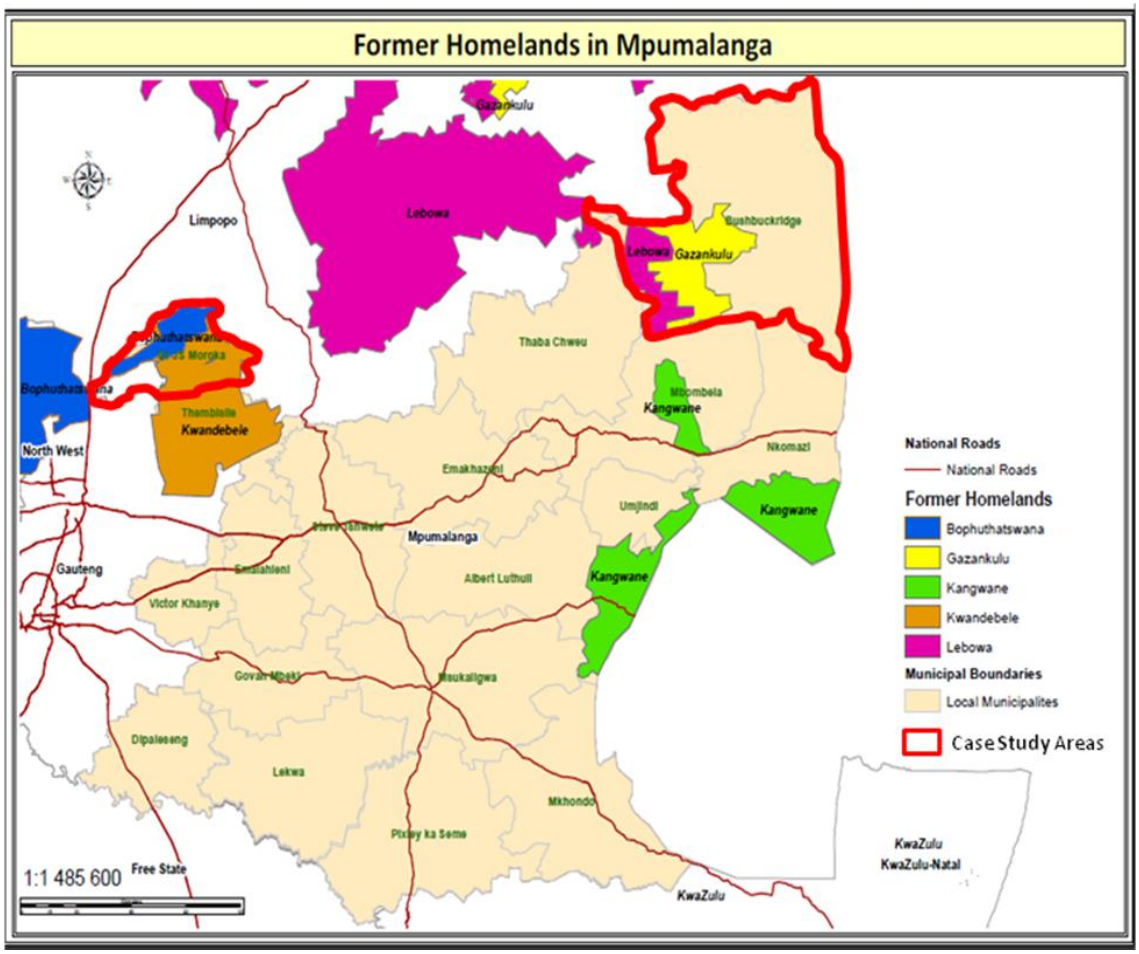
people to only thirteen percent (13%) of South Africa's land area. This meant that all land purchases and rentals by African people were considered to be illegal (Kitchin and Ovens,2013). Butler (2002) argues that the Native Land Act (2013) resolutions enabled white farmers to take economically viable land and differentiate land for the allocation of reserves to African people. The notion of differentiating land and establishing reserves, resulted in "marginalisation – politically, economically and in all aspects" (ibid:15) of life. The process of marginalisation was further entrenched through legislating the Native Administration Act (1927) which enabled the colonial government to appoint a governor general as the supreme chief that had the powers to: appoint and regulate the roles and privileges of traditional leaders, regulate land ownership within the classified reserves, declare new tribal boundaries and force the relocation of tribes between various areas deemed viable (Butler, 2002).

According Ntsebeza (Independent Projects Trust, 2002) the appointment of illegitimate traditional leaders by the colonial government redefined the roles and responsibilities of traditional leaders and reduced their powers to civil issues. Shula Marks (in Butler, 2002) observes that whilst the colonial legislations "condemned the majority of the people to poverty and servitude," there was also prospects for chiefs to "exploit opportunities in their own interest" (Butler,ibid:15). Also, Vaughan and McIntosh (1999) argue that despite the fact that the powers of traditional leaders were limited; the traditional authorities were still consulted on government policy by the native commissioners and magistrates.

Over the decades, the process of ensuring land restrictions on black people was attained through legislations provisions such as; Group Areas Act 1950, Group Areas Act 1957, Natives Resettlement Act 1954, Native Trust and Land Amendment Act 1954, Bantu Laws Amendment Act 1952 and Promotion of Bantu Self-government Act 1959. Bundy (1979:227) argues that the apartheid government legislative provisions "completely re-organised and distorted the spatial and livelihoods configurations of settlements within the reserves/homelands/Bantustans and undermined the integrity of traditional systems of land use management and livelihoods". Figure 1.1 below illustrates the location of the former self-governing territories in Mpumalanga Province and the location of the proposed case studies for the research report respectively Bushbuckridge Local Municipality and Dr JS Moroka Local Municipality. Bushbuckridge Local Municipality is located in the north-eastern region of the Province comprised of the Lebowa and Gazankulu self-governing territories, whilst Dr JS Moroka Local Municipality is located in the north-western

region of the Province which comprised of Bophuthatswana and KwaNdebele self-governing territories.

Figure 1.1: Map illustrating Mpumalanga Province and its former Self-governing Territories



Source: Department of Rural Development and Land Reform, 2015

This meant that the first democratically elected government of South Africa "inherited a set of land use management procedures that reflected the priorities of apartheid spatial planning" (Bertoldi and Abrahams, 2010:7). This encompassed two features namely; racially based planning and political economy that encouraged development at the expense of black people. The land governance assessment framework compiled by Urban Land Mark (Kitchin and Ovens ,2013:6) outlined that forty percent (40%) of South Africans by 1994 "were living in extreme poverty in the former homeland areas," due to being located on arable land which could not support small scale farming within rural areas.

The transitional phase from apartheid to the democratic era resulted in the 1996 South African Constitution (No.108 of 1996) which established three spheres of

government respectively: national, provincial and local which are meant to be distinctive, interdependent and interrelated (Constitution of RSA Section 40, 1996). This enabled the homelands/Bantustans and self-governing territories to be abolished and absorbed into the Republic of South Africa into various local municipalities within the local sphere of government. Despite the abolishment and incorporation into the democratic South Africa, no means or systems were established to address the spatial injustices which existed within the homelands and self-governing territories.

The Constitutions' establishment of the three spheres of government meant that traditional authorities were not instituted as the fourth sphere of government. The significance of this illustrates the limitations that traditional authorities have in terms of governance and functions. However, traditional authorities were recognised in Chapter 12 Section 211 and 212 of the 1996 South African Constitution. This also facilitated the establishment of a Council of Traditional Leaders and Houses of Traditional Leaders to be governed by national and provincial legislations. However, the national and provincial legislations did not outline the roles and responsibilities of the traditional authorities in terms of spatial planning and land use management and in terms of any land administration matters. Whilst, the establishment of the spheres of government through the 1996 Constitution enabled various functions to be assigned to the three spheres, with various forms of planning being instituted at national, provincial and local level. Therefore, there was a void in linking municipalities with traditional authorities mainly around the functions and responsibilities of land from a planning context.

In order to facilitate development within the transitional phase of the country, the Development Facilitation Act (DFA), Act No. 67 of 1995 was enacted to guide decisions pertaining to land development (Abrahams and Bertoldi, 2010). The DFA aimed to create national uniformity within the planning fraternity but failed as it enabled various entities in the form of municipalities, Provincial Development Tribunals and Townships Boards to make decisions on land development applications, which were not aligned to municipalities' strategic guiding documents and frameworks in the form of spatial development frameworks. However, the enactment of the DFA did not repeal existing pre-1995 legislations (Ogunronbi, 2012) such as Ordinances and other old order legislative provisions assigned to the homelands and self-governing territories[2]. Therefore, a municipality could utilise three

[2] Removal of Restrictions Act 1967, Physical Planning Act 1967, Less Formal Township Establishment Act 1991 and Physical Planning Act 1991. In certain instances the national legislations were also assigned to Provinces to be executed.

pieces of legislation respectively: the Ordinance, the Less Formal Township Establishment Act 1991 and the Development Facilitation Act 1995 to process town planning applications. Hence, the processing of town planning applications and guiding uniform municipal growth and development to deal with the spatial injustices caused by colonialism and apartheid was mired by overlapping planning functions between municipalities and provincial governments responsible for planning. The gist of the problem was rooted in applying old order legislations which comprised of varied objects and promoted segregated developments which continued to marginalise previously disadvantaged areas and communities.

Bertoldi and Abrahams, (2010) observed that the varied procedures that needed to be adhered to had major implications on approval processes. Developers opted to utilise the DFA to accelerate the approval process. Unfortunately, this resulted in "municipal policy requirements being circumvented and spatial policies ignored" (ibid: 21). As time went by, this compounded with challenges and led to the Constitutional Court judgement on the DFA[3] in 2010 involving the City of Johannesburg (CoJ) and Gauteng Development Tribunal (2010). This judgement outlined that Chapters 5 and 6 of the DFA were invalid as municipal planning is a function of municipalities. The court stated that the municipal planning function "may not be assigned by an Act of Parliament to another sphere of government" (Case CCT 89/09 – DFA, 2010), due to inconsistent decisions with municipal spatial development frameworks. The Department of Rural Development and Land Reform (DRDLR), responsible for the DFA was required to develop legislation within 24 months [from the 18 June 2010 to 17 June 2012] on spatial planning and land use management. The Department (DRDLR) also had to outline the roles and responsibilities of national, provincial and local government in planning.

Subsequently, the Spatial Planning and Land Use Management Act, (Act 16 of 2013) which is commonly referred to as SPLUMA in the planning fraternity was enacted in 2013 and assented by the State President of the Republic of South Africa to be operational as of the 1st July 2015. It is worth noting that the drafting of the SPLUMA took 12 years to develop since the White Paper on Spatial Planning and Land Use Management of 2001. The fact that the act was brought into operation three years after the Constitutional Court deadline also illustrates the challenges with this planning law and the continuous transitional challenges that the country needs to make in dealing with the impacts of colonial and apartheid legislations.

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[3] City of Johannesburg Metropolitan Municipality vs Gauteng Development Tribunal and Others [2010] ZACC 111 Development Facilitation Act, Constitutional Court of South Africa

1.2. PROBLEM STATEMENT

King and Mccusker (2006:1) state that "although the bantustan system was abolished prior to the democratic transition, a sizable body of academic scholarship has asserted that this geography has left a lasting imprint upon rural areas". This is partly due to the Native Land Act (Act 27 of 1913) and Bantu/Black Authorities Act (Act 68 of 1951) which have influenced the current location of rural areas. The Native Land Act (2013) is considered to be "the single most important apartheid legislative instrument that resulted in the present under-development of the country, especially in the former African-designated areas; then known as the homelands" (Mahlangeni, 2013:3). Steenkamp's (2012:4) overview of the historical development of the South African land issue 1652-2013 argues that the main intentions of the Native Land Act (2013) were to ensure segregation, under which "blacks may not buy, lease or otherwise acquire land outside the listed black territories" and "whites were not permitted to buy, lease or otherwise acquire land inside the listed black territories. Furthermore, ensure the identification of reservations".

Mahlangeni (2013) states that the Act created a land tenure system that restricted land ownership, perpetuated land dispossession and established the permission to occupy land system for rural areas[4]. The permission to occupy system deprived rural communities "the right to utilise the land as security against loans needed for further development (ibid, 2013:3). Therefore, land could not be maximised and used as the means of production as ownership was dually denied. Mahlangeni (2013:4) further argues that the Native Land Act (2013) impeded land delivery systems as the 13% of land reserved for Africans had "special land delivery procedures known as Proclamation R293 of 1962[5] for proclaimed urban areas and R188 of 1969 for rural areas[6]. The homelands that opted for a nominally independent status had their own versions of Proclamation R293". Thus, the creation of separate development enabled the implementation of land use management practices that:

[4] Black Administration Act (Act No.38 of 1927) granted people residing in rural areas permission to occupy certificates [PTOs] in perpetuity but barred black South Africans from having title deeds to the land.

[5] Proclamation R293 of 1962 made provisions for the establishment of a special kind of township by the Minister of Bantu Administration and Development for African citizens in areas of land held by the South African Native Trust established by the Native Trust and Land Act, 18 of 1936. The proclamation limited forms of tenure by creating deeds of grant and certificates of occupation of a letting unit for residential purposes. Provisions of the proclamation also catered for the; establishment of special deeds registries, registration of deeds of grant, trading and other activities within the townships to ensure control" (Constitutional Court Case CCT22/99, DVB Behuising Pty Limited versus North West Provincial Government and the Registrar of Deeds)

[6] Proclamation R188 of 1969 was for unproclaimed traditional areas, therefore settlements were established without layout plans and surveying (South African Cities Network,2011).

> *favoured the development needs of the white population group. This further led to the development of major affluent residential areas for the whites with good quality services, whilst little or no formal residential development was developed for Black, resulting in the proliferation of informal settlements and shack-dwellers without access to basic services such as clean running water, sanitation and refuse removal (Mahlangeni, 2013: 3).*

In post-apartheid South Africa, the DFA sought to encourage reconstruction of the country in both urban and rural areas, in accordance with the principles of the 1994 Reconstruction and Development Programme. However, the DFA had loopholes as it did not repeal the legislations utilised in the self-governing territories. Therefore, even if development was occurring post 1995, pre-1995 legislations still encouraged segregated development and spatial injustice in terms of land use management. The DFA, by and large focused on the management of land use management in urban areas. Furthermore, rural areas did not get subjected to formal land use management; irrespective of these areas practicing certain forms of land use practices. To this end, little research has been conducted to understand practices within rural areas and the manner in which these practices influence the municipal planning function in contrast to urban areas.

In order to surmount the above, SPLUMA identifies six objects (Section 3 SPLUMA, 2013:12) that inform fundamental changes to planning within the country namely to:

(a) Providing uniform, effective and comprehensive system of spatial planning and land use management for the Republic;
(b) Ensuring that the system of spatial planning and land use management promotes social and economic inclusion;
(c) Providing for development principles and norms and standards;
(d) Providing for the sustainable and efficient use of land;
(e) Providing for cooperative government and intergovernmental relations amongst the national, provincial and local spheres of government; and
(f) Redress the imbalances of the past and to ensure that there is equity in the application of spatial development planning and land use management systems.

In light of the above, one should question what changes SPLUMA seeks to achieve in the former homelands and areas governed by Traditional Authorities, since these areas continue to be a legacy of the past and are a subject of developmental imbalances and poverty. Also, the National Development Plan 2030 (NDP) indicates that "rural areas are usually divided into different types of villages, towns and informal settlements in commercial farming areas and former homelands. Therefore, there is a need for differentiated planning responses to social, economic and demographic conditions, anticipated population shifts and governance arrangements particularly to the role of traditional authorities" (NDP, 2009:241). This question arises in light of the fact that the Environment and Development Agency 1999 Annual Report (Butler, 2002:37) found that rural areas were subject to:

- Widespread insecurity of tenure;
- Breakdown, chaos and probably illegal practices in the system of local land allocation and administration;
- Conflict between traditional authorities and elected local authorities;
- Confusion around tenure and land administration which obstructs local land development.

In order to address the imbalances of the past, the principle of spatial justice in SPLUMA (Section 7(a) (iv)) indicates that a municipality must have a land use management system that includes all areas of a municipality. The system must "specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas" (SPLUMA,2013:15). This means that municipalities are required to have a single land use scheme[7] and allow the participation of traditional councils (SPLUMA, 2013). The question that arises for planners is whether rural areas can be subjected to the same land use management practices instilled in urban areas. Furthermore, one needs to question whether or not the principle on spatial justice seeks to challenge planners to understand the history and dynamics of land use management of rural areas, to encourage the development of flexible schemes that acknowledge the history, current and future conditions of rural areas.

In order to address the gap within planning policy and legislation, SPLUMA Section 24(2)(c) indicates that a land use scheme must "include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not

[7] Spatial Planning and Land Use Management Act, Section 24(1) A municipality must after public consultation, adopt and approve a single land use scheme for its entire area within five years from the commencement of the Act – July 2020.

previously subject to a land use scheme" (SPLUMA, 2013:34). Essentially, this means that the wall-to-wall land use schemes must incorporate mechanisms to address areas that were previously excluded from town planning schemes. Kitchin and Ovens (2013:23) argue that Urban LandMark has been one of the advocates for an incremental tenure approach which "would commence with the application of benign zoning provisions recognising the existence of informal settlers, incrementally extending tenure rights to them initially by administration decision, progressing to legally secure tenure and ultimately freehold tenure". This notion of advocating for incremental land use management might seem practical in urban areas which mainly consist of informal settlements and slums; however in rural areas there is the complexity of no legal mechanism to register communal land. Currently, land within rural areas is registered to the state under the custodianship of traditional authorities (Kitchin and Ovens, 2013). Butler (2002) argues that planners need to be "cognisant of the institutional weakness of traditional authority systems from an administrative perspective as "traditional authorities have little capacity to carry forward development processes and their weakness also renders them vulnerable to corruption" (Vaughan and McIntosh in Butler, 2002:45).

SPLUMA makes it clear that in order to positively change the form of planning within rural areas the introduction of land use management needs to occur incrementally. This can be achieved through means of introducing key principles within municipal spatial planning and land use management by-laws. As this will enable land use schemes to be adopted and implemented for areas within South African which were excluded from the provisions of town planning schemes. In order to achieve this process, Section 23(2) of SPLUMA encourages municipalities in the performance of its' functions to allow the participation of a traditional council (SPLUMA, 2013) subject to Section 81 of the Local Government: Municipal Structures Act,1998. Vaughan and McIntosh (ibid: 48) argue that "the establishment of constructive working relationships between traditional authorities and rural municipalities has become critically necessary for two reasons. The first is that services must be provided in ways which are affordable for rural municipalities and for rural communities. The second is that conditions must be created under which rural municipalities can fulfil their planning responsibilities".

In terms of Section 152(e) of the Constitution (1996:74), one of the objectives of local government is to "encourage the involvement of communities and community organisations in matters of local government". In rural areas, municipalities need to acknowledge both the public it is serving but also the traditional authority to which the

communities belong to (Constitution of RSA Section 211, 1996). The Municipal Structures Act, Act 117 of 1998, Section 81, stipulates that 10% of traditional authorities can participate in the proceedings of a municipal council however; this was revised to twenty percent (20%) in terms of the amendment act. The Municipal Structures Act (1998) permits traditional authorities to express their views before a municipal council makes a decision on a municipal matter. Also Section 5 of the Traditional Leadership and Governance Framework Act, Act 41 of 2003 (TLGF) encourages partnerships between municipalities and traditional councils based on the principle of co-operative governance. Thus, service delivery agreements should also be entered into by the two parties (Traditional Leadership and Governance Framework Act Section 5, 2003). These three acts illustrate the importance of intergovernmental relations between traditional leaders and municipalities in ensuring alignment and co-ordination (IGR, 2005) in achieving the objectives of Integrated Development Plans (IDP).

SPLUMA also reiterates the participation of traditional authorities in land use management Section 23(2). However, the challenge is that SPLUMA does not specify the manner in which traditional authorities can participate and contribute to land use management, in accordance with the day-to-day municipal operational matters. Whilst the SPLUMA Regulations Section 19 is clear that traditional authorities "may not make a land development or land use decision" (SPLUMA Regulations, 2015:29), the municipalities and traditional authorities are given liberty to conclude service level agreements to outline the roles and responsibilities of each party within the provisions of national and provincial legislations.

The Communal Land Tenure Policy (CLTP) (2013) outlines that traditional authority functions are to support municipalities in: facilitating community involvement in development planning, communicate community needs to the three spheres of government and recommend appropriate interventions to government on bringing development and service delivery. Despite these stipulations, Sithole and Mbele (2008) state that the Intergovernmental Relations Framework (IGRF) does not enforce practices that pertain to traditional leaders. Thus, this means that despite traditional authorities being recognised by the 1996 Constitution and the existence of National and Provincial Houses of Traditional Leaders, the traditional authorities' role is limited in ensuring fundamental changes to governmental operations. The IGRF also does not provide a dispute mechanism for traditional leaders within the government spheres. Thus, one can deduce that the traditional authorities are regarded as a stakeholder rather than a governmental institution, with allocated roles

and responsibilities in terms of the 1996 Constitution schedules. This signifies an assignment of a lesser role which does not make it vital for traditional authorities to have a close working relationship with local municipalities, in order to jointly serve the needs of communities (Vaughan and McIntosh in Butler,2002) efficiently and in a sustainable manner (SPLUMA, 2013).

Rugege (2009) argues that traditional leaders that have not been nominated to serve on the municipal council in terms of the Municipal Structures Act (Act 117 of 1998), should be given the opportunity to express their views on any matter which may affect their communities, from a spatial planning and land use management perspective in the form of: integrated development plans, spatial development frameworks and land use schemes. The main problem identified is that the Municipal Structures Act (Act 117 of 1998) in conjunction with the Traditional Leadership and Governance Framework Act (Act 41 of 2003) does not identify the roles of traditional authorities and how these roles differ from those of municipal officials dealing with spatial planning and land use management matters.

The lack of deep attention to the legislated roles of traditional authorities is also reflected in literature. Existing literature on rural areas in South Africa has limited information addressing the role of traditional authorities in land use planning. Much of the literature addresses the traditional authorities general roles (see du Plessis and Scheepers 1982; Bizana-Tutu 2008; Ntsebeza 2002). The limitation in literature poses challenges for planners within the local sphere of government with predicaments of not only drafting wall-to-wall land use schemes by June 2020, but whether:

a) The same urban and regional planning principles applied in urban areas can be applied to rural areas when drafting land use schemes.
b) Land use management can be incrementally introduced in rural areas. In this instance, Urban Land Mark in Kitchin and Ovens (ditto: highlighted earlier) suggests that land governance can be implementable in rural areas without contestation from traditional leaders as “communal property and traditional leadership are sides of the same coin and neither can survive without the other” (South African Regional Poverty Network,2002).
c) Traditional authorities and rural municipalities can have a constructive working relationship in terms of aspects pertaining to spatial planning and land use management.

d) Rural dwellers can be subjected to the payment of property rates, in the same manner as urban areas in terms of the Property Rates Act (Act 6 of 2004) once communities are granted freehold titles. Subsequently, what will be the role and responsibility of the traditional authorities in this instance, in light of the Traditional Leadership and Governance Framework Act (Act 41 of 2003) and their historic functions in the colonial and apartheid eras.

1.3. RESEARCH QUESTIONS

1.3.1 The research question is:

What are the implications of incremental land use management in terms of SPLUMA in areas under rural traditional leadership in South Africa?

1.3.2 Subsidiary questions:

a) What were the land use management practices in rural areas prior to the enactment of SPLUMA?
b) What are the land use management practices that are introduced by SPLUMA?
c) What are the implications of these land use management practices on rural local municipalities' daily municipal functions?
d) What will the changes to land use management practices mean for Traditional Authorities daily functions?
e) How can Traditional Authorities participate in aspects of land use management in rural areas in accordance with SPLUMA requirements?
f) What does the notion of incremental land use management mean for rural areas and its' communities with a specific reference to the attainment of freehold title and payment of property rates and taxes?
g) How different will traditional authorities' participation in land use management practices differ from their roles in the colonial and apartheid era?
h) What are the theoretical explanations for the various approaches to rural development?
i) How can land use management in urban and rural areas have the same planning principles?

The purpose of concentrating specifically on the above subsidiary questions as the researcher, I believe that this approach can assist in answering the research question and in drawing viable recommendations for this research.

1.4. RATIONALE OF THE STUDY

This research was motivated by the need to be conscious of the environment in which planners inhabit in both urban and rural spaces. As Taylor argues,

> *Town planning is a form of social action or a social practice. It is about intervening in the world to protect or change it in some way to make it other than it would otherwise be without planning. Because it is a practice, it requires more than anything sound judgement – judgement about what best to do…about how best to plan the environments we inhabit" (Taylor, 1998:167-168). In order to understand what needs to be done to improve the physical and socio-economic aspects of the environment and the lives of communities that inhabit these spaces, actions undertaken by planners need to be guided and influenced by sound judgement. As "the way we fashion the urban (built) environment also affects the rural and the natural environment (Taylor, 1998: vi).*

It is noteworthy that modernist and post-modernist planning practices in the country have resulted in existing literature and research on land use management being predominantly focused on urban growth and development and the conditions of informal settlements. The research on rural areas is predominantly on land reform, governance of traditional authorities and conflicts with councillors in terms of their roles and responsibilities in serving communities. According to Bikam and Chakwizira (2014) traditional authorities feel that they are not fully involved in land use planning and development, as their role is restricted to public participation processes. Thus, "in spite of the strong constitutional commitment to democratic local government, traditional leaders want to participate more concretely in land use planning than the current practice of only consulting during the preparation and revision of Spatial Development Frameworks and debating projects in the Integrated Development Plan" (Bikam and Chakwizira,2014:147).

Therefore, the rationale of the study was not to concentrate on land ownership but on the rights associated with the use of land, how it affects and contributes to the land use management system. Furthermore, which entity grants and manages the rights within a rural context. Hence, the rationale of the research study aims to contribute to the land use management knowledge on rural areas by;

- Identifying the practical working relationship that may exist between municipalities and traditional councils with the proposed incremental approach to land use management.

The research rationale is to learn “from practice, in order to assist practice” (Watson,2000:8) by means of trying to illustrate the views of traditional authorities and municipalities on land use practices and its effects on the practical service delivery elements that are needed by rural communities which they serve. The research rationale does not seek to resolve existing challenges as the project scope was limited, but hopes that planning theory and practice can encourage more literature on the development of rural areas from a land use management perspective. This notion is in accordance with the earlier statement from the National Development Plan that “differentiated planning responses” (NDP,2009:241) are required in ensuring spatial justice and good administration towards an “integrated approach to land use and land development that is guided by spatial planning and land use management systems”(SPLUMA,2013:16). Therefore, the research deals fundamentally with social and spatial justice being attained in the democratic era by people that live within rural areas and for people that will opt to return to the rural areas upon their economic emancipation in urban areas. The research also aims to contribute to the urban and rural debate by illustrating that they influence each other directly and indirectly. As Campbell (2002:284) states that “if planners have no capacity to learn, we have no capacity to plan effectively”.

1.5. HYPOTHESIS

a) There is minimal interaction between municipalities and traditional authorities regarding land use planning.
b) The incremental introduction of land use management in rural areas will result in traditional communities obtaining secure freehold tenure and paying property rates.
c) Land use management in both urban and rural areas have the same planning principles, however cadastre in rural areas have multiple land uses. Thus, the introduction of wall-to-wall land use schemes will require multiple definitions to accommodate both urban and rural land use practices.
d) Africa is becoming an “increasingly urban continent” (Simone, 1999:1), therefore planners should not be concerned about planning for rural areas.

1.6. RESEARCH METHODS

The research is based on a qualitative research method. Leedy and Ormrod (2013) state that qualitative research illustrates that the subject matter has multiple dimensions. Therefore, the outcomes obtained from the research do not necessarily reflect “a single ultimate truth to be discovered” (Leedy and Ormrod, 2013:141). The research is informed by interviews, case studies and journals outlining the notion of incremental land use management. The research method is unpacked in the subsequent section with a key focus on: desktop research, case studies, interviews, mapping and photography.

1.6.1 Desktop Research

The desktop research is informed by grey literature which provides insight into existing theories, ideologies and common notions written on the research topic. The research is further informed by various sources of data which include: planning, sociology and African studies theories, policy and legislative provisions, archives and newspapers. The desktop research process enabled the researcher to identify existing challenges which are unknown and not considered in terms of the research (Cresswell, 2009). The research is informed by literature focused on understanding the roles and responsibilities which traditional authorities have had and have, in influencing spatial planning and land use management within rural areas through the eras of: pre-colonisation, colonisation, apartheid and democratic.

1.6.2 Case studies

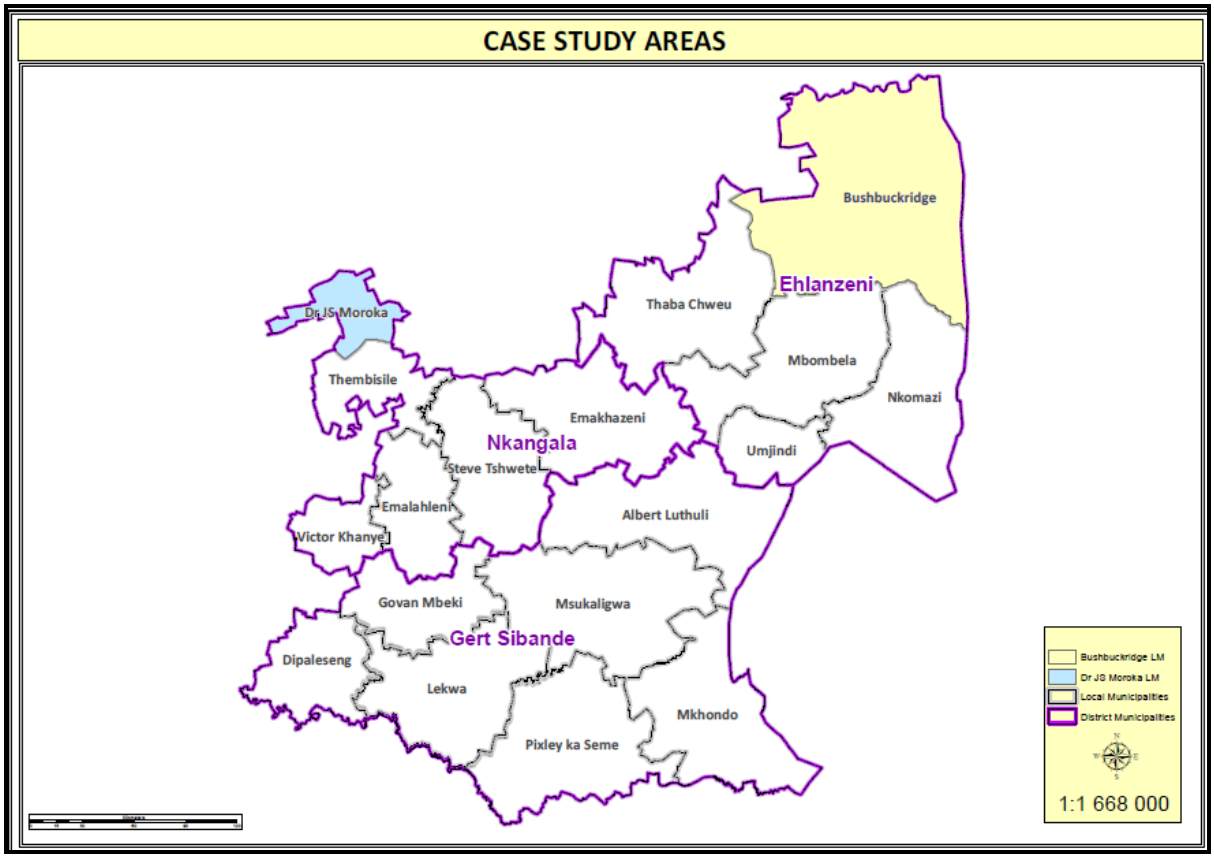
The qualitative research is informed by two case studies respectively; Bushbuckridge Local Municipality and Dr JS Moroka Local Municipality. Leedy and Ormrod (2013:143) indicate that the focus on two or more case studies is known as the multiple or collective case study, as this enables the researcher to “make comparisons, build theory or propose generalisations”. These two rural municipalities in Mpumalanga Province both have areas that were part of the former self-governing territories. The two case studies were chosen in order to be able to compare existing processes of dealing with land use management within the municipalities. The use of case studies in the research required extensive data to be sourced in the form of journals, interviews, general documents and site visits to the rural areas in order to understand the; physical landscape by collecting data on the types of land use and existing land use practices within the traditional authorities.

The study areas dynamics of having former self-governing territories indicates that the municipalities land use planning landscape is similar and different at the same time. The Bushbuckridge Local Municipality, within the Ehlanzeni District Municipality was identified as one of the twenty seven most impoverished areas in the country. The municipality comprises of two former self-governing territories respectively Gazankulu and Lebowa, which respectively had a land cover of 746 925Ha and 2 249 748Ha (DRDLR Land Audit, 2013). Dr JS Moroka Local Municipality's planning function was re-assigned to Nkangala District Municipality due to the lack of capacity within the municipality, to execute the municipal planning function by the MEC more than 10 years ago. The municipality also comprises of two former self-governing territories respectively KwaNdebele and Bophuthatswana, which respectively had a land cover of 337 332Ha and 3 991 519Ha (DRDLR Land Audit, 2013).

The decision to focus on the two areas as case studies sought to establish whether King and Mccusker' (2006:1) notion that "although the bantustan system was abolished prior to the democratic transition, a sizable body of academic scholarship has asserted that this geography has left a lasting imprint upon rural areas" is relevant and can be attested to the current challenges in terms of spatial planning and land use management within rural areas. The two local municipalities utilised the; Black Communities Development Act No. 4 of 1984 and Black Administration Act No.38 of 1927. It was indicated that the Town-Planning and Townships Ordinance No.15 of 1986 was not applicable to these areas, which resulted in the DFA filling the legislative gaps. Figure 1.2 below illustrates the location of the case study areas in Mpumalanga Province.

The DRDLR Land Audit (2013) outlined that Mpumalanga Province comprised of 7 649 500Ha, with 25% (1 875 146) being state owned land, 63% (4 805 344) being private owned land and 13% (969 010) being unaccounted land. The land audit outlined that traditional authorities within Mpumalanga account for 108 655Ha only 10.32% of land cover.

Figure 1.2: Map illustrating case study areas in Mpumalanga Province



Source: DRDLR, 2015

1.6.3 Interviews

The research report is informed by Sandercock's (1995) theory of voices from the borderlands in the pursuit to listen to the voices of people inhabiting rural areas in context of SPLUMA Section 7 on understanding the notion of spatial justice in rural areas and how it can be attained through land use management systems. The research aims not only to dwell of the history of land use management in rural areas but seeks to identify and provide practical solutions and strategies to the identified problems (Beard in Healey et al., 2014). The interviews focus on municipalities, provincial sector departments responsible for planning and organisations that have either written about or undertaken incremental planning. The sampling of the above mentioned institutions/organisation is based on the fact that in some form or another the institutions have direct or indirect responsibility in executing the SPLUMA mandate through means of providing; theoretical and legislative prescribes or addressing service delivery community mandates.

The researcher had one-on-one interviews and group setting interviews for interviewees in the same institution/organisation as identified in Table 1.1. The one-on-one interviews between the interviewer and the interviewees enabled closer communication that was streamlined (Morgan,1997), but also encouraged the interviewee to diverge in their responses by providing details and ideas based on their views and experience in terms of rural planning (Gill et al.,2008). The group interviews were considered as a research method on the basis that the interviewees within the institutions/organisations have varied knowledge and experience. Thus, the view points of the respective interviewees created in-depth discussion on land use management and its incremental approach within rural areas, as the introduction of a spatial planning and land use management legislation is relatively new in the country. Buckle (1995:102) states group interviews have the "advantage of generating a lot of information over a relative short period of time," due to discussions being stimulated very easily. Thus, the process of group discussions according to Kitzinger (1995:299) "can help people to explore and clarify their views in ways that would be less easily accessible in a one to one interview". The researcher anticipated that the use of the group interviews would create conversations outside of the normal interview processes.

The research interviews were conducted utilising a questionnaire with the institutions/organisations outlined in Table 1.1 below. However, the researcher also undertake direct observation of the municipalities based on their functionality, in terms of both policy and practice in relation to aspects pertaining to spatial planning and land use management. As Dandekar (1986:2) argues that "there is a gap between what people say they do or will do and what they actually do. Asking people what they will do in a given situation does not reliably provide an accurate understanding of what they actually do when faced with that situation". Buckle (1995) argues that the process of conducting interviews is a meaningful way of collecting and collating data, within the broader context of conducting research. Insight and lessons obtained from the interviews illustrate the shift in both planning theory and practice. Through means of identifying which framing theory between modernism and postmodernism, can South African planning be routed in when dealing with traditional authorities as a key component within rural planning.

In order to aid the research data collection process, the researcher utilised an audio recording device and also transcribed notes during the interviews, in order to ensure accuracy in the data being collated. Markle (et al., 2011:3) indicates that "the

advancement of audio recording technology, recording and transcription of interviews has become a staple of qualitative research". The use of technology provides researchers with the ability to improve the quality of data through means of keeping detailed records of the interview but also the quality of field observations (Markle et al., 2011). This enables the researcher to attentively listen whilst also observing the participants during the interview process. Stockdale (2002) also encourages the use of audio recording technology in qualitative research, however notes that the use of technology requires quality tools, "as a good hammer is essential to fine carpentry, a good tape recorder is indispensable to fine fieldwork" (Patton in Stockdale, 2002:1). The use of quality tools ensures efficiency, accuracy, trustworthiness and reporting quality (Markle et al., 2011) as data can be verified and easily referenced during the analysis phase of the research. However, Markle (2011) cautions that researchers need to take cognisance of the ethical consideration of utilising audio recording technology and safeguarding the information provided by participants.

Table 1.1: Research interviewees

	Institution/ Organisation	**Proposed interviewees**	**Justification**	**Interviewees that participated in the research interviews**	**Structure of interview**
1.	Bushbuckridge Local Municipality (former Gazankulu area)	-Manager Town Planning -Senior Town Planner	Municipal planning has been assigned to municipalities as the authorities of first instance in terms of Section 5 and 33(1) of SPLUMA.	Town Planner	one-on-one interview
2.	Dr JS Moroka Local Municipality (former KwaNdebele area)	-Manager Town Planning -Senior Town Planner	Municipal planning has been assigned to municipalities as the authorities of first instance in terms of Section 5 and 33(1) of SPLUMA	Manager Town Planning	one-on-one interview

3.	Nkangala District Municipality	-Manager Town Planning -Senior Town Planner	The district municipality has been assigned the municipal planning function for Dr JS Moroka Local Municipality in terms of Section 85 of the Municipal Structures Act, Act 117 of 1998.	Chief Town Planner Two Town Planners Three Town Planning Interns	Group interview
4.	Department of Cooperative Governance and Traditional Affairs	-Director: Land Use Management -Chief Town Planner	Assigned to develop the Provincial legislation in terms of Schedule 1 of SPLUMA.	-Director: Land Use Management -Chief Town Planner	one-on-one interview
5.	South African Local Government Association (SALGA)	-Manager Economic Development Planning	Is an autonomous association for municipalities that has interfaces with various spheres of government.	-Manager Economic Development Planning	one-on-one interview
6.	Urban LandMark	-Key participants must still be identified.	The organisation aims to improve access to land and property rights. Furthermore, the organisation has written reports on incremental planning.	One town planning consultant which commissioned research work for the organisation.	one-on-one interview

Traditional authorities were not interviewed in this research study due to limited timeframe. The traditional authorities were also not included in the research, as traditional leaders contested the implementation of SPLUMA on the basis that the Act undermined “their authority to manage communal land” (Clark, 2015). DRDLR must still issue an official statement on the resolutions reached with the traditional leaders regarding SPLUMA, as the Department is responsible for ensuring implementation of

the Act. The researcher also works for DRDLR, thus interactions with the traditional leaders would have been interpreted and viewed with ambiguity.

1.6.4 Mapping

Daley (2004:1) states that qualitative research tends to focus on “understanding the meaning imbedded in participant experiences through open-ended, unstructured and subjective approach...with data collection methods including interviews, observations, field notes and documents”. However, research is encompassed by numerous challenges such as ensuring that the collected data does not losing meaning, is transparent and can convey the analysis findings in a clear credible manner (Daley,2004). In order to address the challenges that may be encountered in a qualitative research study, Daley proposes the usage of concept maps. Daley (2004:1) states that concept maps “can be used to frame a research project, reduce qualitative data, analyse themes and interconnections in a study and present findings. Maps in this research have a fundamental role in; not only illustrating the location of case study areas but also the dispersed settlement patterns created by colonial and apartheid separate development and also the relationship between municipalities, traditional authorities and communities in dealing with land use management in rural areas.

1.6.5 Photography

The use of photography in the study aims to illustrate the apartheid and post-apartheid depiction of planning within rural areas. The study employed Holm’s theory of also analysing the photographs in order to aid the research findings in accordance with the study’s theoretical framework. Holm (2008:3) states that traditionally photography has been utilised in anthropology and sociology for documentaries, record keeping or “providing illustrations to text without actual analysis of the photographs”. Holm (2008:3) further states that photographs can also be utilised to “elicit information in interviews” and the photographs can either be taken “by the researcher or by the participants themselves”. The use of this method is to “not only encourage the interviewee to tell about their everyday lives, remember past events or to unblock forgotten information but also to reveal participants hidden views and values” (Holm,2008:3). The researchers’ photographs are result of their observations and can be classified as informal data collection (Buckle, 1995). Whilst the photographs taken by the participants reflects their views, which the “researcher might not otherwise have access to or consider important” (Holm, 2008:3).

1.7. LIMITATIONS OF THE STUDY

SPLUMA (Act 16 of 2013) grants municipalities five years to develop wall to wall land use schemes, respectively June 2020 since the commencement of the Act on the 1st July 2015. The two identified case studies had not budgeted to align their municipal schemes to SPLUMA in the 2016/2017 financial year. Thus, the research's analysis on incremental introduction was influenced by by-laws and existing schemes implemented prior to the enactment of SPLUMA. Therefore, the research was subjected to limited data. Access to state information which is still being developed was another limitation as there are governmental processes that need to be adhered to. Healey (et al., 2014:9) states that "planning researchers should not expect a simple linear relationship between research study and a practical outcome". Furthermore, that planners need to be conscious "of the implications of our research on policy and practice" (Healy et al., 2014:9). As some of the data which was utilised such as statistics were finalised in 2011 and 2012, the researcher needs to consider the implications and inferences of these on the research.

The study had a limited project scope by focusing on two local municipalities, as the findings of the research might not be applicable to other Provinces in the country due to the various apartheid legislative prescripts that were assigned provincially. Furthermore, Dr JS Moroka Local Municipality's municipal planning function has been assigned to Nkangala District Municipality in accordance with Section 85 of the Municipal Structures Act (Act 117 of 1998) due to the lack of capacity to deal with town planning related matters. Therefore, the challenges that this local municipality faces might only be applicable to municipalities that are also rural and have their planning function re-assigned due to the lack of capacity.

The research was commissioned over a two year period respectively between 2016 and 2017. One of the critiques by the research interviewees was that the research questions were structured in a manner that assumed that all the requirements of incremental land use management were in place yet; SPLUMA was only brought into operation in 2015. Therefore, practical experience of incremental land use management post SPLUMA implementation has either not occurred or documented. Hence, the lack of access to information impacted on the outcomes of the research. The research was also limited by the unavailability of senior municipal officials, as appointments were continuously postponed and in certain instances eventually cancelled. In undertaking the research it become evident that the research has multiple dimensions which cannot be researched within the research scope.

1.8. ETHICAL APPROACH TO THE STUDY

Prior to undertaking the interviews within the various organisations and institutions it is worth noting that as a researcher I was entering the personal sphere of the key participants, who are also professionals within the planning profession. Thus, aspects of professionalism, confidentiality and neutrality were of key importance (Healey et al., 2014; Buckle, 1995). Furthermore, as a planner I had to ensure that my beliefs and opinions on the research do not limit my understanding to the research finding and produce subjective views. Healey (et al., 2014:2) states that "planners must be sensitive to forces outside scientific, rational, technocratic arena traditionally envisioned as the planner's legitimate purview". Since it has become evident that culture, tradition, social psychology, personal intuitions and history play a great part in the decisions people make and the way they choose to act (Healey et al., 2014). Therefore, the information represented must ensure accuracy were possible within the report, in order to avoid the misrepresentation of the research findings (Sarantakos, 2005). The following ethical considerations have been taken into consideration in accordance with the research methods that were utilised in the study.

1.8.1 Ethical Issues on Desktop Research and Case Study

The researcher needs to ensure that the work of existing researchers and scholars is utilised in an accurate manner, in order not to construe the scholars' theories and ideologies on planning and traditional authorities. Therefore, the researcher needs to ensure that there is no plagiarism of information obtained from books, journals, archives, policy and legislative provisions and internet sources (University of Minnesota,2003). The researcher has obtained consent to utilise unpublished information in the form of policy documents and ensure the protection of intellectual property of the respective organisations and institutions (ibid).

1.8.2 Ethical Issues on Interviews

In accordance with the research method, the study had identified eleven interviewees to participate in the research. The identified professionals belong to various facets of government and the private sector; therefore the individuals are governed by specific code of conduct. Therefore, the researcher firstly attained permission from the participants to participate in the research. The participants were granted the liberty to withdraw from the research at any time should their reputation or that of their respective organisation and institution be compromised in any manner (University of

Minnesota,2003). Secondly, the researcher obtained consent to utilise the interviewees' names and names of organisations and institutions in the research analysis findings. Research participants taking part in this research were not pressurised to participate and consent forms were provided by the researcher, outlining the intent and proceedings. This process enabled honest perspectives and questions to be asked by the research participants to the researcher about the intent and limitations of the research.

Therefore, the research report will either utilise the research interviewees' names or names of organisations based on the consent granted by the participant. Thirdly, the researcher has had to ensure that there is no conflict of interest. The University of Minnesota Centre for Bioethics (ibid) proposes that this matter can be addressed with the researcher identifying if there is conflict of interest and the possible manner that it may be addressed. Fourthly, the researcher has had to ensure that there is data management based on the collated research findings. This process entailed; "ethical and truthful collection of reliable data, retaining data and sharing access to collected data" (ibid:22).

1.8.3 Ethical Approach to Mapping and Photography

In terms of the usage of mapping and photography the researcher aimed to utilise the same principles which were employed for the desktop research, case study and interviews section, as some of the aspects are similar. In light of this the researcher had to obtain consent to utilise unpublished mapping and photographs. This included obtaining consent to take photographs of people and spaces which are deemed to be sacred in some form or another to either the communities or institutions/organisations forming part of the research.

1.9. RESEARCH STRUCTURE

The research structure provides a synopsis of the eight research chapters which are as follows:

Chapter 1 of the research report introduces the research topic through means of outlining South Africa's brief history on land use management in rural areas with a key focus on legislative frameworks that have shaped the country's landscape. The chapter identifies the role which traditional authorities have had in managing rural areas, and the evolving roles and responsibilities for both the traditional authorities and three spheres of government in spatial planning and land use management. The

chapter highlights the research method which is informed by unpacking some of the following key components in the research respectively: the two research case studies, identifying key research participants, assessing the ethical and research limitations.

Chapter 2 of the research report focuses on the literature review and theoretical framework that informs the research report and act as a benchmark for the analysis in Chapter 7, based on the research findings. The literature review focuses on theoretical and ideological approaches that influenced planning legislations directly and indirectly from a: planning, geographical, sociological and economical perspective in the modernist and post-modernist era. The theoretical framework focuses on the following theories; functionalism, Marxist, constructivism and liberalism.

Chapter 3 of the research report reflects on the theoretical arguments through history with a focus on: colonialism (1652-1948), apartheid era (1948-1994) and democratic era (1994 to 2017). The modernism and postmodernism theoretical arguments in each era unpack the role of traditional authorities in relation to spatial planning and land use management.

Chapter 4 of the research report focuses on the realities and complexities of incremental planning and its application to rural areas. The chapter unpacks the approach to incremental land use management by municipalities and provincial departments in South Africa; this is also related to the international context.

Chapter 5 of the research report focuses on the case study review on Bushbuckridge Local Municipality. The chapter unpacks the elements underpinning the functionality of the municipalities with a key focus on; social trends, economic trends, spatial analysis, existing spatial planning and land use management tools and municipal projects related to spatial planning and land use management which have been incorporated into the municipal integrated development plan. The chapter also draws insight from interviews with municipal officials.

Chapter 6 of the research report focuses on the case study review on Dr JS Moroka Local Municipality. The chapter unpacks the elements underpinning the functionality of the municipalities with a key focus on; social trends, economic trends, spatial analysis, existing spatial planning and land use management tools and municipal

projects related to spatial planning and land use management which have been incorporated into the municipal integrated development plan. The chapter also draws insight from interviews with municipal officials.

Chapter 7 of the research report focuses on analysing the research findings from the research qualitative research method in relation to the literature and theory represented in Chapter 2, 3, 4, 5 and 6.

Chapter 8 of the research report highlights the planning findings in relation to the hypothesis, problem statement and aims to answer the research question taking into consideration the key findings and analysis of matters indicated in Chapter 7. The chapter is concluded by providing recommendations on the research report.

1.10. CONCLUSION

The construct of traditional authorities illustrates that the customary institution in the South African context has a significant role not only in practice but also legislation. As the traditional authority system has over eras had to adapt to various government legislative provisions, in order to remain relevant and functional. In the democratic era traditional authorities are governed by the TLGF Act (Act 41 of 2003). Cousins and Walker (2015:75) state that the TLGF "entrenches the controversial tribal authority boundaries established by the apartheid government in terms of the Bantu Authorities Act of 1951...as section 28 deems pre-existing tribal authorities to be traditional councils". The Communal Land Rights Act, Act 11 of 2004 (CLaRA) legislated in 2004 further ensured the establishment of "traditional councils as land administration committees with far-reaching powers to represent the community as the owner of communal land, and to allocate and administer all land within their jurisdictional boundaries" (ibid:76). However, legal contestations regarding the constitutionality of CLaRA resulted in the act being declared invalid by the Constitutional Court (ibid). Thus, TLGF and NHTL with the provincial subsidiary legislations have profound impact "on power relations in rural areas" (ibid: 77).

In terms of the research on seeking to understand the implications of SPLUMA on rural areas under the administration of traditional authorities, the essence of power in governing rural areas becomes predominantly evident between traditional authorities and municipalities. As the National House of Traditional Leaders indicates that the implementation of SPLUMA undermines traditional authorities' authority by placing the responsibility of planning on municipalities without taking cognisance of traditional

authorities roles within rural areas (Gasa, 2015). Bikam and Chakwizira (2014:147) state that “in spite of the strong constitutional commitment to democratic local government, traditional leaders want to participate more concretely in land use planning than current practice of only consulting during the preparation and revision of Spatial Development Framework and debating projects in the Integrated Development Plan of local municipalities”. The subsequent chapter deals with the literature review.

CHAPTER 2: LITERATURE REVIEW - INFLUENCES OF MODERNISM AND POSTMODERNISM IN PLANNING FOR RURAL AREAS

2.1. INTRODUCTION

The literature review focuses on the theoretical and ideological perspectives that influence planning legislations directly and indirectly from a: planning, geographical, sociological and economical perspective in the modernist and post-modernist era. The theoretical framework illustrates a normative research study as it seeks to uncover the processes of transformation in rural areas. The theoretical framework is considered to be normative and explanatory based on Allmendinger's (2002) argument, that the planning profession comprises of an eclectic collection of theories and practices which are drawn and influenced by various disciplines, in the form of the social sciences and economics. Dandekar (1986:1) states that planning has "shifted from physical/technical plan making of its earlier master plan making tradition to policy analysis and a primary concern with human/social systems". Therefore, the normative and explanatory theoretical framework seeks to; critique the status quo and question whether spatial justice can be achieved through the incremental introduction of land use management in rural areas.

The literature review is structured into two sections and draws insight from key municipal and national documents, which are part of grey literature that deals with spatial planning and land use management. The first section of the literature review outlines the views on planning in Africa with a specific focus on rural areas and the construct of traditional authorities in South Africa in relation to spatial planning and land use management. The second section outlines the theoretical framework, unpacking the influences of modernism and postmodernism.

2.2. PLANNING IN THE AFRICAN CONTEXT

The UN Habitat in 2012 compiled a report on the status of planning in Africa in order to highlight the state of planning with a focus on settlement formation, urbanization and rural development. The report highlights that in pre-colonial Africa "land was vested with traditional leaders, families and communities, and controlled and managed through customary practices" which included spatial land allocation and management in countries such as Nigeria (UN Habitat, 2013:10). Thus, this process ensured that "settlement patterns were informed by the location of natural resources, land for grazing and other farming practices, watercourses and religious practices" (UN Habitat, 2013:10). The introduction of modernist planning through colonialism on

the African continent from the 19th century resulted in "planning systems that existed in Britain, Belgium, France, Portugal and elsewhere in Europe to be applied within the colonies[8]…in order to control the development of settlements, land use management and the construction of buildings…to meet the demand for cheap labour in mining and manufacturing sectors" (UN Habitat, 2013:10-11). According to Keulder (2010:150) traditional authorities command is firmly rooted in colonial policies of indirect rule or decentralized despotism…with customary law becoming a mechanism for upholding the colonial order: perhaps even to the extent that the colonial order became the customary".

Rural areas in Africa are mostly still governed by traditional authorities, with the exception of countries such as Kenya, where traditional leadership is not formally recognised (Dano,year unknown) and Zimbabwe, where "central government has taken control of all traditional land" (UN Habitat,2013). However, according to Dano (year unknown: 1) countries such as Ghana still recognise that traditional authorities have a fundamental role in society. Thus, traditional authorities are considered to be custodians of natural resources, social development and are accountable to their communities. Previously, "some traditional authorities took advantage of the lack of checks and balances and thus avoided being held accountable to their communities…on issues related to land distribution, concessions and illegal taxation" (Cumbe, 2010:29) in countries such as Mozambique and South Africa. In some African countries such as Ghana the existence of traditional authorities has become enshrined in the Constitution which also entails the establishment of national and regional houses of chiefs and traditional councils (Dano,year unknown), which is also similar to the South African structure. Despite, these similarities between Ghana and South Africa Dano (ibid) states that both countries struggle with the powers, roles and functions of traditional authorities. Thus, Dano (ibid: 2) suggests that Ghana and South Africa need to shift "beyond the constitutionalisation of traditional leadership to a complementary role to be played by the institution in a modern state".

Informal land use management is common within rural areas as processes such as land "acquisition, subdivisions and the disposal of land" (UN Habitat, 2013:15) are undertaken informally. As planning legislations such as the Town and Country Act were deemed to have limited relevance in areas governed by traditional authorities during colonialism. In Kenya the process of informal land use management is

[8] British Town and Country Planning dominated in Southern and Western Africa, respectively in the following countries; Kenya, South Africa, Zambia Zimbabwe, Ghana and Nigeria. French planning dominated in Western and Central Africa respectively in the following countries; Benin, Burkina Faso, Chad, Cote d'Ivoire, Mali and Senegal. Portuguese planning dominated in the following countries respectively; Angola, Cape Verde, Guinea-Bissau, Mozambique and Sao Tome e Principe.

considered to be shorter and cheaper as “sale agreements are prepared by the Wazee wa Mtaa (village elders) and thereafter formally recognised by the authorities” (UN Habitat, 2013:15). Despite, what may be considered as informality within rural areas countries such as Tanzania encourage “village councils to collaborate with district councils to prepare village land use plans” (ibid). However, this notion of collaboration between traditional authorities and local authorities is not too clear, as Le Fleur and Jara (2012:14) indicate that in “Tanzania all the chiefs have been removed” from positions of power. One of the challenges identified in African countries is that planning policies and frameworks do not address development within rural areas. Thus resulting in local authorities being excluded from major developmental projects and bearing the grant of providing infrastructure within rural areas to aid the existing developments in the form of; resorts, malls, office parks, manufacturing and gated residential developments in countries such as Lusaka and Mauritius (UN Habitat, 2013). These challenges can be considered as a resultant of “traditional and modern systems always perceived as fighting against each other as opposed to (planners) interrogating how to integrate the two systems more effectively in order to better serve citizens” (Dano,year unknown:1).

2.3. THE CONSTRUCT OF TRADITIONAL AUTHORITIES IN SOUTH AFRICA

According to Brynard and Musitha (2011:114) “the institution of traditional authorities in Africa is an integral part in the social, political and cultural establishment of African communities”. Dlungwana (2012:1) defines a traditional leader “as a person who by virtue of his ancestry occupies the throne or stool of an area...with the primary function to regulate and control social behaviour within a traditional community”. Therefore, traditional leaders are more people orientated as opposed to service orientated like municipalities (ibid).

Beall and Ngonyama (2009:2) argue that “in many parts of the world and especially in post-colonial states, customary institutions remain important...traditional leaders have been inventive in their efforts to adapt and thrive, and their own legacies are ambiguous and historically layered”. South African literature boasts a long history on traditional authorities in terms of governance and their roles in colonial, post-colonial and democratic eras. Beall and Ngonyama’s argument of traditional leaders being inventive over the decades to remain relevant, as this is seen in South Africa’s fabric comprising of “variations of traditional governance structures in the different provinces...which include traditional, community and regional authorities, the

Provincial House of traditional leaders and the National House of traditional leaders (Lutabingwa et.al.,2006:74).

Kamieth (2007:13) states that the “legitimacy of traditional leadership and the traditional communities is not exclusively based on customary law but also on statutes, legitimacy is measured in accordance with the Constitution and the respective legislation”. In 2003, the Traditional Leadership and Governance Framework Act (Act No.41 of 2003) was legislated, according to Day (year unknown:11) the act “commits government to not only protect but to encourage” the institution of traditional leaders and their role in land administration, economic development and the management of natural resources within local government. In 2005 provinces enacted the provincial Traditional Leadership and Governance Acts. According to the Department of Cooperative Governance and Traditional Affairs the Framework Act 2003 and other subsidiary provincial legislations sought to recognise the different levels of traditional leadership positions and structures (Madiga, 2016).

Whilst the National House of Traditional Leaders Act, Act 22 of 2009 (NHTL) was legislated in 2009, the other subsidiary provincial legislations provided for the establishment of houses of traditional leaders (ibid). Cousins and Walker (2015:75) state that the TLGF “entrenches the controversial tribal authority boundaries established by the apartheid government in terms of the Bantu Authorities Act of 1951...as section 28 deems pre-existing tribal authorities to be traditional councils”. The Communal Land Rights Act, Act 11 of 2004 (CLaRA) legislated in 2004 further ensured the establishment of “traditional councils as land administration committees with far-reaching powers to represent the community as the owner of communal land, and to allocate and administer all land within their jurisdictional boundaries” (ibid:76). However, legal contestations regarding the constitutionality of CLaRA resulted in the Act being declared invalid by the Constitutional Court (ibid). Thus, TLGF and NHTL with the provincial subsidiary legislations resulted in having a profound impact “on power relations in rural areas” (ibid: 77) as illustrated below in accordance with the statistics of traditional leaders.

Table 2.1: Statistics of traditional leaders per province and level in South Africa

Provinces	Level of traditional leadership position			
	Kingship/Queenship	Principal Traditional Leaders	Senior Traditional Leaders	Headmen/Headwomen
Eastern Cape	4	2	215	1193
Free State	1	1	13	96
Gauteng	0	0	2	14
KwaZulu-Natal	1	0	296	3100
Limpopo	3	0	183	2118
Mpumalanga	2	0	58	522
Northern Cape	0	0	8	25
North West	0	0	54	59
TOTAL	11	3	829	7127
GRAND TOTAL	7970			

Source: Madiga (2016)

Table 2.2: Traditional Council areas in South Africa

Province	Traditional area (km²)	Total area (km²)	% Area	Household in traditional areas	Total households	% Traditional households
Eastern Cape	38 819	169 311	23%	771 983	1 686 635	46%
Free State	1318	130 012	1%	73 912	823 155	9%
Gauteng	41	18 182	0%	38 485	3 908 771	1%
KwaZulu Natal	32 536	94 467	34%	951 067	2 539 218	37%
Limpopo	32 602	130 171	25%	1 055 043	1 417 717	74%
Mpumalanga	6 542	76 584	9%	490 911	1 075 276	46%
North West	18 806	106 502	18%	477 129	1 061 869	45%
Northern	9 847	378 355	3%	51 438	301 261	17%

Cape						
Western Cape	-	131 522	0%	-	1 633 860	-
Grand Total	140 511	1 235 106	11%	3 909 968	14 447 762	27%

Source: DRDLR Land Use Scheme Guidelines, 2017

Table 2.3: Structure of traditional authority

	STRUCTURE OF TRADITIONAL AUTHORITY	**FUNCTIONS AND DUTIES**
1.	**Chief/Traditional Leaders**	• Serve traditional community/tribe. • Maintains law and order by dealing with grievances, problems and matters pertaining to external relations. • Head of the traditional authority and consent must be granted for all matters affecting and effecting the traditional community and area of jurisdiction. • Consults advisors on administrative functions of the traditional authority • Ensure headman/headwomen are managing the traditional authority area efficiently and effectively. • Is the custodian of traditional land • Controls and distributes the use of traditional land • May legislate law after consultation with advisors and traditional community/tribe.
2.	**Confidential advisors**	• Chief assisted by confidential advisors which are either next of kin or influential chieftains or headmen. • Assist in policy development and advise on matters to be referred to the traditional council.
3.	**Induna**	• Advisor to the chief but is not a member of the royal family but an ordinary traditional community member. • Spokesperson and also liaises with the chief and traditional community.
4.	**Headmen/headwomen**	• Either part of the royal family or an ordinary member of the traditional community.

		• Position is either hereditary or member can be appointed by the chief. • Responsible for maintenance of law and order in local area designated to them. • Represent traditional community members and address their problems and grievances. • Regulates occupation and use of land • Controls the influx of foreigners • Imposes fines and other punishment. • Ensures traditional community members honour obligations to the chief.
5.	**Traditional Council**	• Comprises of chief, confidential advisors, chieftains, headmen/headwomen and nominated traditional community members based on skills and expertise. • Controls governance and policy matters of areas within the traditional authority. • Decision making structure
6.	**General tribal meeting**	• Adhoc meeting which maybe convene after the traditional council and the chief is the chairperson.
7.	**Traditional community/tribe**	• Traditional community/tribe has its own name and occupies designed area of land. • Seek guidance from traditional leaders regarding governance matters in the form of justice, land rights, customary and traditional practices.

Source: Information derived from Tlhoaele (2012) and Ndlela (et.al. 2010)

2.4. THEORECTICAL VIEWPOINTS

Traditional leadership is normally viewed from two schools of thought respectively the modernist and postmodern approaches. The modernist theoretical framework is informed by the following theories: functionalism, liberalism and Marxism. The modernist approach is informed by the basis that traditional leadership is founded on rural patriarchy and is a hindrance to democracy (Cousins and Walker,2015). Modernists view traditional leadership as a lower stage of societal development based on inadvanced principles of administration.

2.4.1 Modernism Perspective

In this study, the theories of modernism are interlinked to the varied eras of rural planning within the South African context from the pre-colonial era to the post-apartheid era. The intention of the critical review is to engage the relationship between the strife to modernise by planners, the role of traditional leaders and the position of SPLUMA. The impact of SPLUMA on traditional leadership can be understood from the perspective of modernity.

In the South African context Harrison, et al (2007:22) argues that the transition to modernity was informed by “liberal and racial materialist traditions of historiography” through which liberalism reflected “conflict between races and the sin of apartheid was its interference with the natural progression of economic development” (Harrison, et al, 2007:22). This period of the 1880s to the 1940s illustrated a modernist period in South Africa as British town planning systems were introduced by the Union of South Africa, in order to ensure control and regulation “of urbanisation of black South Africans” (ibid). Modernism in this period sought to place emphasis on “simplicity, order, uniformity and tidiness” (Taylor, 1998:166). Harrison (1996:32) argues that “modernist planning despite its reformist intentions has a murky record as functional zoning created sterile cities, slum redevelopment, displaces the poor and destroyed social structures; freeways divided communities and allowed urban sprawl, growth poles created costly inefficient non-sustainable urban centres and so forth”.

Yiftachel (1994) argues that “modernist planning often served as a regressive instrument of change – the very same planning tools usually introduced to assist social reform and improvement in people’s quality of life can be used as a means of controlling and repressing minority groups” (in Harrison,1996:32). Modernism epistemology based on positivism and critical realism was influenced by theories of, but not limited to; functionalism, liberalism and Marxism. The first theoretical approach to be discussed is the functionalist approach.

2.4.2 Functionalism and Neo-functionalism

According to the functionalist perspective of sociology, each aspect of society is interdependent and contributes to society's stability and functioning as a whole. Functionalists believe that society is held together by social consensus, in which members of the society agree upon, and work together to achieve, what is best for society as a whole. Hagemeier (2005:30) states that functionalism is founded by the

notion that “society is a complex system whose various parts work together to produce stability and solidarity”. Therefore, functionalism considers structure, order and balance as the “normal state of society” (Hagemeier, 2005:30). It recognises individual and collective equilibrium through stability and obtaining consensus (Boudon, 1975).

In relation to the study, functionalists therefore argue that “traditional societies were/are composed of groups that were under the authority of independent chiefs (traditional authorities); with common acceptance that all land is held in trust by the chief for the people. The chief was obliged to consult with his group of councillors and there were clearly stipulated conditions determining where and when the chief could appropriate land” (Ntsebeza, 2003:180). The “land was held in the name of the chief, whilst commoners possessed the means of production but they did not own them” (Peires in Ntsebeza, 2003:181). Hence, land use management was administered by the chief through the assistance indunas/headmen, whilst the community oversaw the functionality of communal land.

Therefore, in the pre-colonial and colonial eras the chiefs maintained the view of having a functionalist role in society. This was achieved through creating stability and authority over development during the pre-colonial era. The society was seen to be functional is as far as having: a common identity, common social system and legal forms so that the mental state, or discourse of even land management was common to all. To this day some people argue that traditional leadership have the functionalist role.

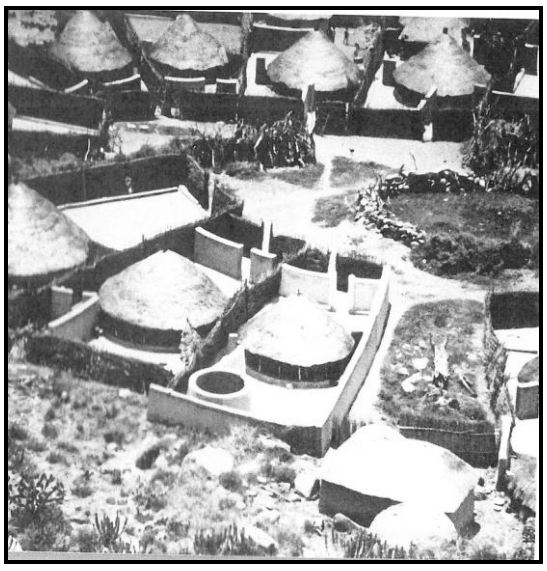
The pre-colonial era represents a traditionalist approach as traditional authorities’ ensured rural governance and political stability (Dlungwana, 2012). Thus, the traditional authorities illustrated a functionalist ideological position through means of ensuring structure, order and balance in creating the “normal state of society” (Hagemeier,2005:30). Hence, the traditional authorities created their own order to govern communities without the influence or interference of the state through legislative provisions. Functionalism in the pre-colonial era ensured that the community and traditional authority had clear roles, responsibilities and means of accountability as articulated by Day below (year unknown).

With this notion in mind theorists such as Rugege (2009:172) argue that pre-colonial Africa was governed “by kings supported by a hierarchy of chiefs and councillors or advisors...the traditional leaders served as political, military, spiritual and cultural

leaders and were regarded as custodians of the values of society". This enabled the traditional leaders to provide land for the communities subsistence needs and encouraged community participation. Thus, "traditional leaders provide for some organic form of governance that is closer to the people" (Claassens in Sithole and Mbele, 2008:26). Hence, this form of organic governance enabled chiefs to allocate land use rights, as the land use management system was vested to the traditional authority to allocate and manage land use rights (Southern African Regional Poverty Network,2002). This system made the traditional authorities accountable to their communities, as there were systems in place that allowed communities to contest the decisions and actions taken by the leaders (Day,year unknown). The sense of accountability also granted both traditional authorities and their respective communities to voice their opinions and thus contributed to establishing functional settlements. Thus, order and hierarchy contributed to a functionalist society. Delius and Hay (2009) state that pre-colonial building styles and settlement patterns occurred throughout rural areas. Figure 2.1 below illustrates settlement patterns of homesteads on the Mpumalanga escarpment. The settlement patterns illustrate that pre-colonial settlements were not based on the traditional linear settlement patterns. However, the pre-colonial settlements were based on household needs that catered for various areas designated with varied uses, as illustrated in Figure 2.2.

Figure 2.1 and 2.2: Settlement pattern of homesteads on the Mpumalanga escarpment





Source: Delius and Hay (2009)

Consequently, it is considered that "many towns and cities flourished in Africa prior to the colonial era...some areas had a wall which defined the settlement, controlling

growth and protecting the inhabitants from external threats" (Global report on human settlements, 2002:48). This illustrates Bizana-Tutu (2008) earlier viewpoint that African history did not commence in either 1652 or 1910, it went beyond that. Planners cannot change history but we can aim to understand the dynamics that have influenced current land related systems that we have become accustomed to and whether these systems can accommodate and redress spatial and other development imbalances through improved access to and use of land (SPLUMA,2013:15).

In the colonial and apartheid eras, the chiefs' role shifted towards supervising development in accordance with the repressive legislative provisions outlined in the list of appendices. Therefore, the chiefs' actions deviated from being community based agents to implementing agents for the colonial and apartheid states. The chiefs' actions were neo-functionalist as they retained their positions but with different functions. Even post-apartheid rural areas still comprised of traditional wards without formal demarcated areas which were governed by traditional leaders with the aid of indunas (KwaZulu-Natal Planning and Development Commission, 2010). The establishment of municipalities within the rural areas formed a shift from the normal state of society as certain traditional communities opted to be no longer only accountable to traditional authorities but to municipalities mandated to provide service delivery in accordance with the Constitution.

However, the embracement of traditional authorities by the Constitution and the endorsement of their roles in local government have introduced a neo-functionalist element. The term Neo-functionalism can be used to literally describe a social theory that is 'post' traditional structural functionalism. It is the perspective that all integration is the result of past integration. Hence, from this perspective traditional authorities are viewed as part of South Africa's governance structures pre and post-apartheid.

Chen (2011:1) argues that neo-functionalism aims to draw in-depth understanding on the manner in which stability and solidarity can be attained by breaking down the "relationship among several integration variables such as the economy, politics and culture". Ozen (1998:1) regards neo-functionalism as an "integration theory aimed at establishing a political community at the end of the political process," based on a step-by-step process of linking economic and political integration. Schmitter (2015) argues that integration is an incremental process which involves a sequence of interrelated decisions that lead to mutual cooperation. The process of incremental integration is substantiated by Dunn (2012) who argues that integration cannot occur

too quickly as it is not a resultant of conscious choice (Moravcsik,2005). Therefore, integration creates two types of spillovers according to Moravcsik (2005) respectively: functional spillover and political spillover. Functional spillover alludes to “cooperation in certain sectors of the economy (or society) creates technocratic pressure for cooperation in adjoining sectors thereby propelling integration forward” (Moravcsik,2005:352). Whilst political spillover is a resultant of on-going cooperation within society (Moravcsik,2015). However, neo-functionalism has been critiqued on the idealism of attaining cooperation and integration whose interests are being pushed and by whom (Lee,2007).

In relation to this study neo-functionalism seeks to draw attention to community needs and move away from the political conflicts that exist between traditional authorities and municipalities based on power struggles. Neo-functionalism may be challenging planners to understand rural communities’ needs in terms of matters related to land use management and attaining an integrated approach thereof. Therefore, this process would require the municipality to undertake research in order to understand the interpretation of land use management by rural communities. The process of undertaking research would need to be guided by the traditional authorities and their respective communities. Hence, the traditional authorities and municipalities can establish their functions in the service level agreement in accordance with Regulation 19 of SPLUMA. The development of a service level agreement between the traditional authorities and municipalities requires mutual cooperation, on issues of governance related to land use management. The process of mutual cooperation is informed by the incremental approach on decision making, which requires constant communication and integrated approach to ensuring functional land use management within rural areas. Chen (2011:2) states that “neo-functionalism emphasises the role of utility in shaping community rather than beliefs and recognition that values the role of technocrats (individuals exercising government authority because of their knowledge)”.

2.4.3 Liberalism and Neo-Liberalism

The next way of looking at traditional leadership is through a liberal perspective. Liberalism is based on positivism/universalism epistemology influenced by “economic, political and social relations best organised through formally free choices of formally free and rational actors, who seek to advance their own material or ideal interests in an institutional framework” (Jessop, 2014:2). Liberalism mode of argument is aimed at ensuring an “open, non-coercive society in which the people,

the living, free, distinct people, may voluntarily associate and disassociate and as they see fit, participate in the decisions affecting their lives" (Carson, 2011:3). Thus, there is a liberal mindset that allows all institutions to flair according to their own system. This process enables individual but separate growth and self-determination. When juxtaposed to the South African context, the use of legislation in both the colonial and apartheid eras created mechanisms to advance the livelihoods of the minority economically, politically and socially above the needs of the majority. Whilst in the democratic era the use of legislation aims to create redress and advance socio-economic and political equality, this is rooted in the Constitution's bill of rights and assented legislations post 1996.

The liberal view has mutated to neo-liberalism perspectives since the 1980s, through a modified form of liberalism tending to favour free-market capitalism. Neo-liberalism is a policy model of social studies and economics that transfers control of economic factors to the private sector from the public sector. Neo-liberalists retain the liberal elements, but emphasise structural liberalism that: the legislative system should be open/flexible to all business to flare, privatisation. Therefore, neo-liberalism tends to support the function of traditional leadership if only they support market rationality. Neo-liberalism according to Harvey (in Barnett, 2009:2) is a;

> *theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices. It must also set up those military, defence, police and legal structures and functions required to secure private property rights and to guarantee, by force if need be, the proper functioning of markets.*

Penalver (2009:823) states that legal economists that deal with land use "construct their behavioural theories around the figure of a rational landowner motivated primarily by the desire to maximise their wealth". Thus, "private ownership creates the incentive to use the land wisely, conserving it (or consuming it) in response to signals sent by the market about the scarcity and value of the resources embodied within a particular parcel of land" (ibid). In relation to the study Penalver's notion on conserving land and also maximising its wealth is related to the municipalities' function of ensuring the execution of the SPLUMA principle on spatial sustainability.

The principle on spatial sustainability aims to ensure that the land use management systems in accordance with Section 7(b) (SPLUMA, 2015:15):

(i) promotes land development that is within the fiscal, institutional and administrative means;

(iii) uphold consistency of land use measures in accordance with environmental management instruments;

(iv) promote and stimulate the effective and equitable functioning of land markets.

Thus, ideally the incremental introduction of land use management for municipalities is aimed at protecting the usage of land as a scarce commodity. Whilst also ensuring that communities can maximise their socio-economic benefits of the land, within the prescribed permitted land uses in accordance with Schedule 2 of SPLUMA. Similarly in terms of the municipal rates policy based on the Municipal Property Rates Act, Act 6 of 2004 the municipality must have a criteria applicable for the payment of rates in order to support the expansion of the market economy. The introduction of wall-to-wall land use schemes in SPLUMA creates a link to the Municipal Property Rates Act 2004, through means of introducing a neo-liberal market and free enterprise system within rural areas.

In terms of the South African context Harvey's (in Barnett, 2009) argument on neo-liberalism manifested with the democratic government adopting neo-liberal policies, with the state aiming to focus on privatisation approaches (Narsiah, 2008). Narsiah (2008:27) argues that "post 1996 signalled a new approach by municipalities to efficiency and financial sustainability...thus municipalities were forced to re-think service delivery in order not to sink into bankruptcy". This meant that municipal administrations needed to adopt stringent fiscal and credit control measures to ensure solvency (ibid) and avoid being placed under administration in accordance with Section 139 of the 1996 Constitution.

In terms of the study the theory on neo-liberalism is related to how SPLUMA introduces the development of wall to wall land use schemes that cover the entire municipal jurisdiction. This ultimately means the introduction of land use management to areas previously excluded by apartheid legislation from planning provisions. However, the neo-liberalism ideology on the introduction of formalised land use management does not outline manner in which the concept ought to be implemented.

2.4.4 Marxism and Neo-Marxist

The next way of looking at traditional leadership is through a Marxism perspective. Marxism according to Boudon (1975) seeks to emphasise that conflict allows processes of change to occur in society, therefore rejecting functionalism theories on consensus (Hagemeier,2005). Paden (2003:82) argues that the "idea of Marxist urban planning seems to be something of oxymoron as there seems to be an essential conflict between Marxist theory and the necessarily normative stance that must inform the practice of urban planning". Marxist theory seems to focus on "unravelling the historical logic of capitalism" (Paden,2003:82) and "numerous phenomena ranging from war to conditions of labour (Fainstein and Fainstein, 2009:1) and not being able to provide "prescriptive theories of planning (Paden,2003:82).

Manza and McCarthy (2011) state that neo-Marxism is structured around the capitalist state having autonomy from the dominant classes in order to protect capitalism as an economic system. Thus, the "capitalist state is constrained to policies that are supportive of the needs of capital accumulation" (Manza and McCarthy, 2011:160). This means that the state is not autonomous from capitalism (ibid) as the policies from the colonial era through to the post-apartheid era are ultimately influenced by the economic system in one form or another. Baumrind (1998) states that the capitalistic ideology to neo-Marxism enables some form of oppression. In the sense that "some individuals or groups of exploitive constraints on their freedom to choose the conditions of self-formation by other individuals or groups whose purpose is to enhance their own access to resources and their own options to pursue what they regard as a good life" (Baumrind,1998:158). Baumrind's observation of neo-Marxism when juxtaposed to the research study illustrates traditional authorities support the ideology of that particular era together with its discourses and patriarchy of control. Mainly to benefit themselves as opposed to seeking viable solutions within the capitalistic system, to also benefit the entire rural communities which they serve.

In relation to the study, Marxist positions see traditional leadership as in conflict with the Constitution and with the needs of the workers/subjects. Marxists view the institution of traditional leaders as conservative and counter revolutionary. They dismiss traditional authorities as the entity is associated with the subversive class and agents for the state to enhance capitalism. Thus, traditional authorities are still regarded as individuals that serve their own needs as opposed to those of their

communities. Therefore, the principles of the colonial and apartheid eras are still embedded within traditional leaders even within the democratic era.

2.4.5 Postmodernism

The next way of looking at traditional leadership is through a postmodernism perspective. The postmodern view towards legislating traditional/rural areas is structured around the process of embracing diversity. Postmodernism is a subjective framing theory that typically celebrates “complexity, diversity, difference and pluralism thus there can be no one type of environment which is ideal for everyone” (Taylor,1998:166). Taylor (1998:164) argues that postmodernism seeks to question the modernist epistemology on whether the “deficiencies of cities and our environment generally can be made better by planned action” through means of radical planning. Harrison (1996:26) states that “postmodernism confronts development planners in South Africa with stimulating but uncomfortable challenges”. As it places emphasis on “human consciousness, symbolic meaning, the importance of language, local differences, cultural, gender diversity” and seeks to celebrate “irony, incoherence, inconsistency, ambiguity and uncertainty and is tolerant of diversity and difference” (Harrison, 1996:26-27).

Charles Lindblom in Hirt (2002:7) argues that there should be disjointed incrementalism in which “policies should be advanced by trial and error rather than through comprehensive planning – through pursuing practical problems in small steps rather than grand goals in large steps”. Hirt (2002:8) states that disjointed incrementalism does illustrate postmodernism epistemology as “it questions the wisdom of comprehensive rational decision-making and unitary solutions to complex problems”. Hirt (2002:9) further argues that communicative planning and strategic planning also illustrate postmodernism, as the theories focus on setting up “specific and attainable goals and their implementation” through means of being more pragmatic and inclusive of public interactions and debates.

In relation to the study postmodernism within the democratic context is focused more on the rural communities attaining spatial justice, whilst taking cognisance of their unique circumstances that environments are different (Taylor,1998;Harrison,1996). The Constitution itself embraces diversity and equality. The, postmodern view in accordance with the National Development Plan (NDP) also requires “differentiated planning responses” (NDP,2009:241) that can adapt and accommodate learning between rural communities, traditional authorities and municipalities in developing

rural specific land use management systems. The postmodernism epistemology is based on constructivism, can be summaries as follows.

2.4.6 Postmodern Approach

The postmodernist theoretical framework is informed by constructivism. The idea that traditional authorities construct their own understanding and knowledge of the world, through experiencing things and reflecting on those experiences. Hence the need to embrace diversity of systems. As such, the postmodern approach is that traditional leaders ensure "rural governance, political stability and successful policy implementation and hence rural development" (ibid:2). Traditional authority is defined as "structures of governance that derive part of their legitimacy from an association with the pre and post-colonial state" (Oomen in Brynard and Musitha, 2011:116). Thus, traditional authorities are considered to be promoting "participatory democracy in the decision-making processes through structure such as advisors, holding meetings with their followers and taking collective decisions as opposed to unilateral decisions, thus making traditional authorities more acceptable to communities than decisions of other spheres of government" (Brynard and Musitha,2011:114).

Ntsebeza (in Bikam and Chakwizira, 2014:145) states that in the early years of the democratic era "traditional leaders were initially ignored on matters related to land use planning and development projects but were later brought into the process that led to their participation in the IDP forums and Spatial Development Planning". However, in the all-embracing postmodernist 1996 Constitution and other legislative provisions, the democratic government took recognition of traditional authorities[9]. Traditional authorities are granted participation in local government based on Section 81 of the Municipal Structures Act, 1998 on an ex-officio basis and also through the development of Integrated Development Plans in terms of Section 29 of the Municipal Systems Act,2000 (Dlungwana,2012). At a provincial and national level traditional leaders are represented at the Provincial and National Houses of Traditional Leaders in order to advise on "matters which affect the customs and traditions of their communities" in terms of the TLGF,2003 (ibid:2). Brynard and Musitha (2011:115) argue that "traditional authorities must be consulted and participate in policy-making as an organised structure...if they are not consulted there may be no effective implementation of government policies".

[9] Municipal Structures Act (Act No.117 of 1998), Municipal Systems Act (Act No.32 of 2000) and Traditional Leadership and Governance Framework Act (Act No.41 of 2003)

Post-apartheid traditional authorities have been incorporated into the Integrated Development Planning process that "assists municipalities to prepare strategic development plans (referred to as Integrated Development Plans - IDPs) for a five-year period...which integrate all planning, budgeting and managerial activities" (Brynard and Musitha,2011:115). Oranje (2003:182) states that communities within rural areas "have taken ownership of the Integrated Development Plan" and municipalities have made attempts to incorporate the traditional authorities in the process of preparing the plans from "the beginning to through to the end". Despite, the resistance from traditional leaders and "a decision by the House of Traditional Leaders not to formally participate in the preparation of IDP's" (ibid:182), Oranje (2003:186) argues that the process of involving communities and traditional authorities within the Integrated Development Planning process illustrates that planning is beginning to "localise and Africanise the planning system through means of giving key components or events in the process of preparing IDPs with names that have local meaning". However, Oranje (ibid:186) cautions that processes of "informal, continuous, post-colonial engagement between communities, individuals and planning systems should not be allowed to lead to new forms of division, fragmentation and exclusion".

Traditional authorities "argue that they are not fully involved in the process (of land use planning and development) simply because they play a participative role during public participation forums" (Bikam and Chakwizira, 2014:144). Bikam and Chakwizira (2014) argue that the views by traditional authorities regarding their lack of involved participation emanates from unclear definitions in the Municipal Structures Act,1998 on the suitable roles of traditional authorities. This especially relates to municipal functions on the basis that traditional authorities are "apportioning land under their jurisdiction to residents without prior consultation with municipalities under which they fall" (ibid: 144). This results in inefficient settlement patterns, wasted land and inability to provide services and infrastructure effectively (Sefala, 2007). Bikam and Chakwizira (2014) caution that the overlaps that exist between municipalities and traditional authorities can result in the emergence of conflict. This is highlighted by the National House of Traditional Leaders indicating that the implementation of SPLUMA undermines traditional authorities' authority in terms of planning and governance within rural areas (Gasa, 2015). Bikam and Chakwizira (2014:147) state that "in spite of the strong constitutional commitment to democratic local government, traditional leaders want to participate more concretely in land use planning than the current practice of only consulting during the preparation and revision of Spatial Development

Framework and debating projects in the Integrated Development Plan of local municipalities".

2.4.7 Constructivism

The embrace of diversity leads to the argument that traditional leaders can also learn along the modern ways of governance. Ultanir (2012:195) states that "constructivism is a learning or meaning-making theory that offers an explanation of the nature of knowledge and how human beings learn". This process of constructivism is based on previous experiences and background knowledge in order to be able to influence existing understanding (ibid, 2012). Ultanir's notion is supported by Dewey on the basis that the "relationship between knowledge and reality is a result of individual and social experiences" (ibid, 2012:5). Therefore, constructivism is regarded not to be a "social or educational theory, as it is both a scientific and meta theory which defines the possibility and limitations of daily life theories in the formation of humanity" (ibid, 2012:2). Piaget on the other hand states that in order to have cognitive constructivism "humans cannot be given information which they immediately understand and use, instead humans must construct their own knowledge" (ibid, 2012:7) based on "learner-centred and discovery-orientated learning processes" (Liu and Matthews, 2005:387). Therefore, there is a "shift from teaching by imposition to teaching by negotiation" (Ultanir, 2012:10).

The theory on constructivism can be applied to the study as it aims to illustrate that information provided to human beings cannot be understood immediately.However, it can be applied if people are granted the opportunity to construct their own knowledge. Piaget's theory on constructivism illustrates that the principles and dynamics of SPLUMA being implemented in rural areas might not make sense to the traditional authorities. However, as planners we need to understand the manner in which incremental land use management can be introduced whilst understanding and interpreting traditional aspects of spatial planning and land use management are understood within existing systems. Therefore, the process on the manner in which incremental land use management is introduced is negotiated between the municipalities and the traditional authorities through the Service Level Agreement in accordance with SPLUMA Regulation 19. This process is to enable both the municipality and the traditional authorities to learn as the practical aspects of implementing SPLUMA unfold in space. The process of introducing land use management within rural areas will be informed by background knowledge from traditional authorities, "based on their existent understanding, through their interaction

with the immediate learning environment. Learning will be largely situation-specific and context-bound activity" (Liu and Matthews,2005:388) based on;

- The land use typologies within their areas. Are the land uses standard or seasonal?
- What informs the location of the specific land uses?
- What process does an individual within the community need to undertake to change the land use?
- What are the control measures issued by the traditional authorities to ensure land use management?

The knowledge from the municipalities, traditional authorities and other government and non-government stakeholders will be informed by three forms of constructivism in the form of (Applefield et al,2001:7);

- Exogenous constructivism in which "information will be based on the external realities of the environments experienced".
- Endogenous constructivism or cognitive constructivism in which the individual constructs knowledge based on the "internal cognitive conflicting need to resolve mental disequilibrium".
- Dialectical constructivism or social constructivism in which "views the origin of knowledge construction as being the social intersection of people, interactions that involve sharing, comparing and debating among learners and mentors".

2.5. CONCLUSION

The literature review was structured into two sections respectively unpacking the construct of traditional authorities in terms of spatial planning and land use management but also the importance of modernism and postmodernism theoretical influences. The literature review illustrated that the modernism epistemology is based on positivism which is influenced by theories of but not limited to: functionalism, liberalism and Marxism. The theories address various components focusing on: order, uniformity, conflict, consensus and stability. The theories when juxtaposed to research report illustrate that in terms of liberalism the use of legislation in both the colonial and apartheid eras advances the livelihoods of the minority economically, politically and socially above the needs of the majority. In the democratic era in terms of the neo-liberalism theory municipalities despite the policies on privatisation still

need to ensure the provision of service delivery, with revenue being generated from the services the municipality provides. The process of service delivery is dependent on a municipality having a functional, efficient and effective land use management systems in accordance with the provisions of SPLUMA.

The literature review has illustrated that the postmodernism approach is a subjective framing theory that typically celebrates “complexity, diversity, difference and pluralism thus there can be no one type of environment which is ideal for everyone” (Taylor, 1998:166). In relation to the study postmodernism within the democratic context is focused more on the rural communities attaining spatial justice, whilst taking cognisance of their unique circumstances in accordance with Taylor (1998) and Harrison (1996) that environments are different. Thus, postmodernism in accordance with the NDP requires “differentiated planning responses” (NDP, 2009:241) that can adapt and accommodate learning between rural communities, traditional authorities and municipalities in developing rural specific land use management systems but also encouraging modern ways of governance. The postmodernism epistemology based on constructivism, the process of learning or meaning-making theory (Ultanir, 2012). The subsequent chapter deals with relating the theoretical arguments to South Africa’s history analysed through the lens of colonialism, apartheid and democratic era.

CHAPTER 3: REFLECTION ON THE THEORETICAL ARGUMENTS THROUGH HISTORY

3.1. INTRODUCTION

> *In order to achieve real action you must yourself be a living part of Africa and of her thought; you must be an element of that popular energy which is entirely called forth for the freeing, the progress and happiness of Africa. There is no place outside the fight for the artist or for the intellectual who is not himself concerned with, and completely at one with the people in the great battle of Africa and suffering humanity (Steve Bantu Biko in Boaduo,2013:221).*

In order to fashion a revolution and achieve real action outlined by Steve Bantu Biko, it is imperative to understand the country's history from a spatial planning and land use management perspective. The third chapter of the research report links the influences of modernism and postmodernism to the South African planning context through an overview on: colonial, apartheid and post-apartheid eras. This process is substantiated by theoretical and ideological approaches that influence the introduction of legislation whether directly or indirectly, in order to understand current planning challenges in rural areas and the significance of legislation. This chapter concludes with the statement that influences of modernism and postmodernism in planning for rural areas require traditional authorities and municipalities to co-exist.

3.2. COLONIALISM (1652-1948) AND APARTHEID ERA (1948-1994)

Colonialism and the apartheid era encompass the gain of modernism, as both eras utilised legislative provisions to ensure racial, ethnical and spatial divisions through the development of homelands. The eras were based on the ideological notion of separate development to aid the introduction of capitalism but simultaneously create order and control through territorial rights (Harrison et al.,2007; Yiftachel,1994; Nine,2008).

Nine (2008:149) defines territorial right as the "relationship between the state and a geographic region, therefore it is a jurisdictional right that the state has the right to make, adjudicate and enforce law within a certain area". Carson (2011:23) also from a liberitarian analysis perspective argues that "British (colonial) land policy in Africa was centred on disposing indigenous communities of the greater part of their

traditional territories, claiming uncultivated or common lands, forests and grazing land as property of the colonial administration and abrogating traditional rights of access – not to mention head taxes to compel subsistence cultivators to enter the money economy".

The fundamental changes that influenced planning resulted from the Union of South Africa being established in 1910, subsequent to which the Native Land Act was legislated in 1913. The 1913 legislation was informed by "colonial authorities assuming that European models of planning would be effective in colonised territories based on the modernist planning approach in which; politics, ethnic or racial domination and exclusion were vital rather than the interests of good planning (Global report on Human Settlements,2002). Thus aspects of primordial approach were evident in the colonial era as traditional culture that influenced pre-colonial settlements were challenged "by the influences of emigrant culture" (Rex, 2001:21) through means of modernism.

Thompson (2001:2) argues that "colonisation has economically, culturally and politically been changing the shape of world history over the past five centuries...through means of being informed by ideologies of re-creating the world in the image of America and Western European principles and cultures". The subjection to modernism enabled rich countries to exploit poor countries through means of "locking them into positions of powerlessness and structural dependence. Culture was replaced with the specificity of class, race and gender in the developmental process" according to neo-Marxist and world systems theorists (ibid: 6).

The above mentioned functionalist notions are evident in Native Land Act (1913) legislative mandate which ensured racial domination and exclusion through means of establishing reserves for black ownership and occupation. This illustrates that the functionalist colonial "normal state of society" (Hagemeier, 2005:30) could only be attained through the establishment of the reserves in order to enable black and white separation. The listing of the scheduled areas meant that African people could not purchase land outside of the reserves (Geldenhuys, 1981). Thus, this ensured that traditional rural communities were powerlessness and dependent upon the colonial state, as the pre-colonial functionalist state controlled by the traditional authorities was eroding.

The Black/Native Administration Act (1927), enabled the colonial government the authority to "select and appoint traditional leaders but also relocate the traditional authority's areas of jurisdiction" (Day,year unknown:2). Therefore traditional leaders

reported to the colonial government and not their respective communities, as the chiefs had been incorporated into the colonial government administration system (ibid). According to Butler (2002) the Native Administration Act (1927:14) “formally imposed the white governor general as the appointed supreme chief with powers to appoint chiefs and izinduna and regulate their roles and privileges; to regulate land ownership in the reserves through the Department of Native Affairs; intervene in local governance and declare new tribal boundaries and force tribes to move between different areas”.

The legislative mandate brought by the Native Land Act (1913) and the Black/Native Administration Act (1927) illustrates principles of modernist planning developed post 1850. The modernist planning approach was informed by a top-down approach to planning lead by the government/state as the functional agent in the production of plans underpinned by land use regulatory system and promotion of a particular urban form of mono-functional use areas and movement systems (Global report on human settlements, 2002:47). The modernist planning approach of the 1913 Native Land Act could be regarded to have been influenced by various ideological approaches from various disciplines such as anthropology, sociology, geography and most importantly economics, which was further entrenched through the apartheid system.

In 1936 the Native Trust and Land Act was promulgated, this resulted with more land being incorporated into the black reserves, with the intention that black people “should be developed to take charge of their own affairs in their own areas...but the reserves should never become independent states” (ibid: 3). The Native Land Act (1913) was the conception of segregated developed and the confinement of African people to access land. Figure 3.1 and Figure 3.2 below illustrates the processes undertaken to identify arable land and the establishment of reserves in South Africa, as the “availability and utilisation of land is an important factor in land use management and planning” (KwaZulu-Natal Planning and Development Commission, 2010:15). Manza and McCarthy (2011) and Baumrind (1998) argue that neo-Marxism enables oppression and enhances the protection of capitalism as an economic system is evident in the land capability classification alluded to in Figure 3.1. Neo-Marxism argues that the reserves allowed the dominant class to access resources to pursue and maintain the capitalist good life (Baumrind, 1998).

The colonialist governments’ action of appointing a governor general to administer the appointment of chiefs and change traditional culture illustrates the liberitarian theory that “territory is important to individuals, to ethnic, cultural, national and religious collectives, to rulers and to bureaucrats” (Nine, 2008:148). The governor

general's administrative role of regulating land ownership and demarcation of tribal boundaries indicates that the colonialist government had territorial rights over the land also within black reserves through means of the appointment of illegitimate traditional leaders and reduction of their powers "to traditional civil issues" (Ntsebeza in Butler,2002:14). Therefore, ensuring that the black reserves could not become independent based on the 1936 the Native Trust and Land Act. Furthermore, the appointment of illegitimate traditional leaders illustrates that some community members opted for the Marxist capitalist state, as it enabled them to have access to resources and some form of power, as opposed to experiencing the challenges of the repressive state. The process of a repressive state was further entrenched through the apartheid system which was institutionalised in 1948 until the dawn of the democratic era in 1994. The apartheid government also utilised legislations such as the Black Administration Act No.38 of 1927 legislated in the colonial era to administer the functionality of the homelands and self-governing territories. It is pivotal to understand that the colonial and apartheid system granted and also took away the rights of traditional leaders. This is pivotal for planners as it has an influence not only on land allocation but also land use rights within rural areas. As traditional authorities were governed by apartheid legislation and self-framed customs. According to Knoetze (2014:167) this enabled "autocratic traditional leaders to do as they wished in their own administrative areas".

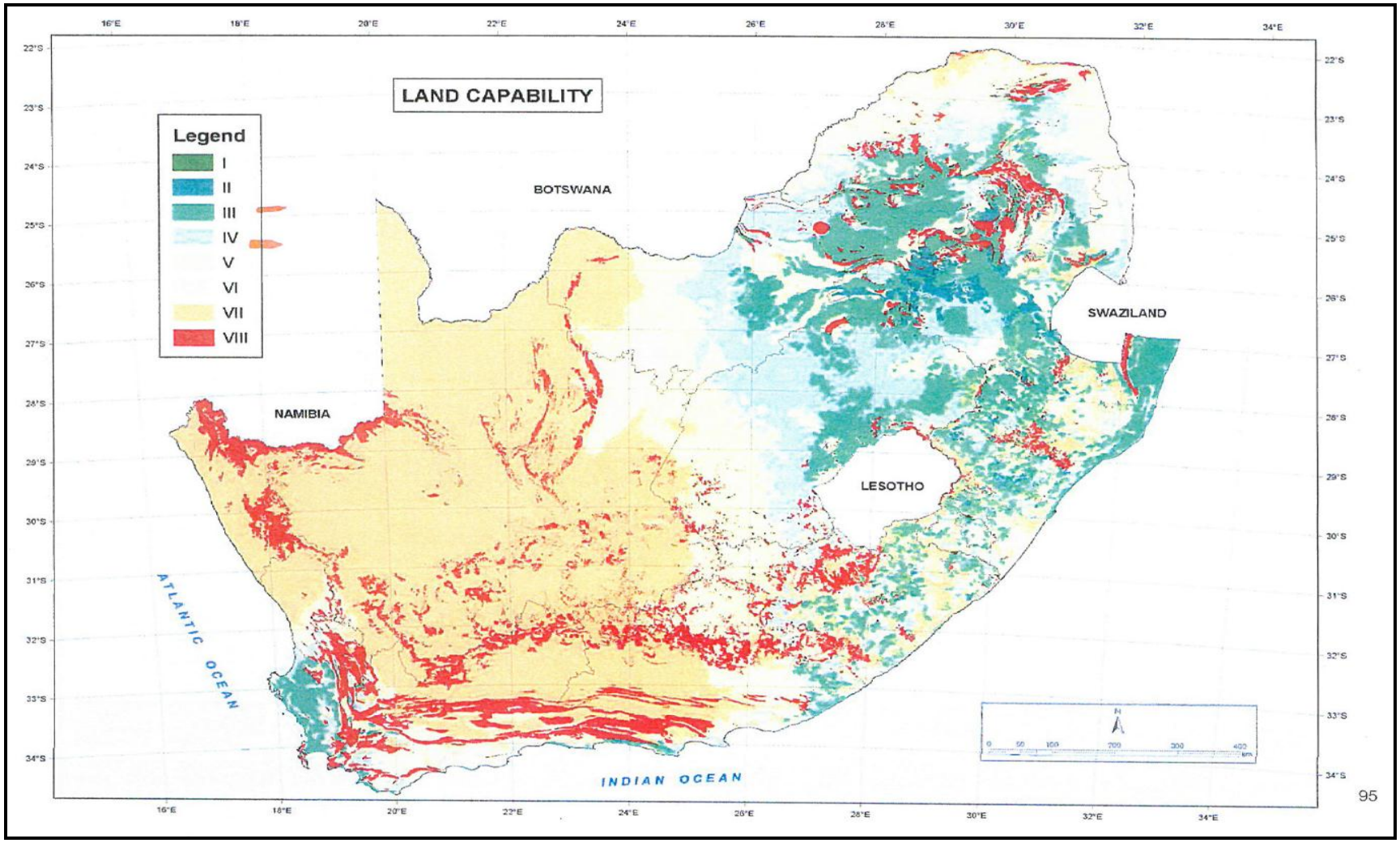


Figure 3.1: Identification of land capability in South Africa

Source: unknown

OTHER LAND CATEGORIES

LAND CAPABILITY

Background

The classic eight-class land capability system (Klingebiel & Montgomery, 1961) was adapted for use with GIS in South Africa, taking data availability into account (Schoeman *et al.*, 2000).

Land capability classes are interpretive groupings of land units with similar potentials and continuing limitations or hazards. Land capability is a more general term than land suitability and more conservation oriented. It involves consideration of (i) the risks of land damage from erosion and other causes and (ii) the difficulties in land use owing to physical land characteristics, including climate. Social and economic variables are not considered. Class concepts are set out in the table to the right and broad land use options in the table below.

Land capability class	Land use options	Land capability groups
I II III IV	W F LG MG IG LC MC IC VIC W F LG MG IG LC MC IC W F LG MG IG LC MC W F LG MG IG LC	Arable land
V VI VII	W F LG MG W F LG MG W F LG	Grazing
VIII	W	Wildlife

W - Wildlife
F - Forestry
LG - Light grazing
MG - Moderate grazing
IG - Intensive grazing
LC - Poorly adapted cultivation
MC - Moderately well adapted cultivation
IC - Intensive, well adapted cultivation
VIC - Very intensive, well adapted cultivation

	Percentage of province occupied by various classes							
	I	II	III	IV	V	VI	VII	VIII
EC	0.1	0.9	6.7	9.9	10.4	25.3	27.7	19.1
FS		0.3	17.3	28.7	25.3	15.7	4.9	7.8
G		20.4	35.3	5.6	3.4	21.9	1.6	11.8
KZN	0.1	5.7	24.9	11.1	3.0	29.5	16.2	9.5
L		0.7	16.8	20.2	25.7	17.5	6.9	12.2
M		12.1	26.9	12.2	5.1	26.2	5.0	12.5
NW		0.2	14.0	21.7	19.8	16.8	19.7	7.9
NC					2.7	4.0	78.6	14.7
WC		0.2	6.9	6.8	4.7	14.6	39.7	27.1
RSA	0.2	1.8	10.6	11.0	10.5	15.5	36.1	14.4

Class	Concepts
I	Land in Class I has few limitations that restrict its use; it may be used safely and profitably for cultivated crops; the soils are nearly level and deep; they hold water well and are generally well drained; they are easily worked, and are either fairly well supplied with plant nutrients or are highly responsive to inputs of fertilizer; when used for crops, the soils need ordinary management practices to maintain productivity; the climate is favourable for growing many of the common field crops.
II	Land in Class II has some limitations that reduce the choice of plants or require moderate conservation practices; it may be used for cultivated crops, but with less latitude in the choice of crops or management practices than Class I; the limitations are few and the practices are easy to apply.
III	Land in Class III has severe limitations that reduce the choice of plants or require special conservation practices, or both; it may be used for cultivated crops, but has more restrictions than Class II; when used for cultivated crops, the conservation practices are usually more difficult to apply and to maintain; the number of practical alternatives for average farmers is less than that for soils in Class II.
IV	Land in Class IV has very severe limitations that restrict the choice of plants, require very careful management, or both; it may be used for cultivated crops, but more careful management is required than for Class III and conservation practices are more difficult to apply and maintain; restrictions to land use are greater than those in Class III and the choice of plants is more limited.
V	Land in Class V has little or no erosion hazard but has other limitations which are impractical to remove that limit its use largely to pasture, range, woodland or wildlife food and cover. These limitations restrict the kind of plants that can be grown and prevent normal tillage of cultivated crops; it is nearly level; some occurrences are wet or frequently flooded; others are stony, have climatic limitations, or have some combination of these limitations.
VI	Land in Class VI has severe limitations that make it generally unsuited to cultivation and limit its use largely to pasture and range, woodland or wildlife food and cover; continuing limitations that cannot be corrected include steep slope, severe erosion hazard, effects of past erosion, stoniness, shallow rooting zone, excessive wetness or flooding, low water-holding capacity; salinity or sodicity and severe climate.
VII	Land in Class VII has very severe limitations that make it unsuited to cultivation and that restrict its use largely to grazing, woodland or wildlife; restrictions are more severe than those for Class VI because of one or more continuing limitations that cannot be corrected, such as very steep slopes, erosion, shallow soil, stones, wet soil, salts or sodicity and unfavourable climate.
VIII	Land in Class VIII has limitations that preclude its use for commercial plant production and restrict its use to recreation, wildlife, water supply or aesthetic purposes; limitations that cannot be corrected may result from the effects of one or more of erosion or erosion hazard, severe climate, wet soil, stones, low water-holding capacity, salinity or sodicity.

Implications

98% of the area of South Africa (Class III –VIII) is shown to have severe limitations with respect to climate (rainfall), terrain or soils. The arable land, as represented by Class I-III, covers 12.4%. Another 11% is covered by marginal land (Class IV).

Figure 3.2: Land categories for land capability in South Africa
Source: unknown

Coetzee (2012:11) in his journal *The transformation of municipal development planning in South Africa post 1994* states that planning in the country prior to the 1990 was "dominated by the typical modernist urban planning system...associated with concepts of land-use control and zoning and structure planning based on influences from the USA, UK and Western Europe". The adoption of modernist planning was a direct result of "many foreign professionals remaining to work for post-colonial governments after independence, in most cases implementing planning legislation inherited from colonising powers" (Global report on Human Settlements, 2002:51). Therefore modernist planning approaches were retained and continued to influence governments' post-colonisation (Global report on Human Settlements, 2002). Coetzee (2012:11) states that the modernist "planning approach was widely criticised for being too complex, rigid, autocratic and lacked democratic properties...as it proved incapable of addressing the broader aspects of integrated urban and rural development and more specifically the growing needs in terms of social and economic development".

This is illustrated through policy on separate development which was further entrenched by the apartheid system through the establishment of independent homelands and self-governing territories, introduced through the Bantu Authorities Act 1951. Geldenhuys (1981) argues that the notion of separate development was supported by the 1950 Tomlinson Commission in order to eliminate racial conflict. However, there was a concern as to how the homelands/Bantustans could have sustainable development. The Tomlinson Commissions' notion of seeking to eliminate racial conflict through means of segregated development illustrates the neo-Marxist theoretical approach, that the "existence of public evil has to be accounted for by the fact it is beneficial to some members in the sense that the profit they acquire from the public evil is by reason of their socio-economic role in society larger than the deficit they suffer from its existence as members of the society at large" (Boudon, 1975:389).

In order to address this challenge the Tomlinson Commission had recommended a development plan for the first ten years of the homelands. However this notion was not supported by the apartheid government due to the enormous fiscal requirement. The decision to decline fiscal support to the homelands illustrates that the existence of segregated development seemed to benefit the socio-economic status of the minority and not enable mechanisms which would aid the provision of basic services to African communities. The Tomlinson Commission further suggested that "the three British High Commission Territories – Bechuanaland, Basutoland and Swaziland and the existing black reserves should be consolidated into seven ethnic homelands" respectively Tswanaland, Vendaland, Pediland, Swaziland, Zululand, Xhosaland and Sotholand (Geldenhuys, 1981:4). In terms of Marxism the conflict for territory through the alteration of geographical

jurisdictions and establishment of jurisdictional authority by establishing the seven ethnic homelands , created changes to occur within society without consensus from communities on the manner in which their environments should develop (Boudon,1975;Nine,2008).

This process enabled the confinement of sixteen million black people to live in less than fifteen percent (15%) of South Africa's least arable land surface. Thus, ensuring capital accumulation through the dispossession of resources and communities needs and sense of dignity (Harvey,2004). Harvey (2004:73) from a neo-Marxist perspective argues that this new imperialism of accumulation by dispossession is aided by a facilitative state that "secures the integrity of money, private property, juridical individualism, freedom of contract and appropriate structures of law and governance". Harvey's view is that new imperialism ideology is seen in the manner in which apartheid laws changed the customary forms of land allocation and management, by enabling the establishment of independent Bantustans. Harvey's ideologies are further substantiated by Manza and McCarthy (2011:160) that the "capitalist state is constrained to policies that are supportive of the needs of capital accumulation". According to Butler (2002:16) governance of the Bantustans "continued to be heavily dependent on the indirect rule model and so the cooperation of traditional authorities was fundamental". In the apartheid system traditional leaders were granted "greater powers" and increased stipends. However their powers were to be "exercised in pursuit of and within the confines of the broader apartheid project" which also permitted land allocation and administration (ibid: 16). Thus, despite the traditional leaders having greater powers in comparison to the colonial system the apartheid system ensured "a progressive centralisation of service delivery functions into line departments and as a result traditional authorities were bypassed as officials from government line departments" (Vaughan in Butler, 2002:19). This meant that traditional authorities were neglected and not taken into consideration by the respective government departments. Therefore resulting in limited revenue being provided to the authorities to fulfil their traditional functions and ensure the provision of service delivery within their areas (Butler, 2002).

In 1957 the Transkei became the first homeland, by 1959 the Promotion of Bantu Self-government enabled the establishment of eight main homelands[10] based on ethnicity, the territorial authorities were granted limited power (Geldenhuys, 1981). In 1971 the Black States Constitution was legislated in order to fasttrack the constitutional development of the homelands and for the areas to be considered as self-governing territories. Geldenhuys (1981) stipulates that the leaders of the homelands did not want independence, others opted to co-operate as proxies for the state as Wolpe in Fine (1990:96) argues "that the Bantustan

[10] Gazankulu(1971-1994),Qwa-Qwa(1974-1994),KwaZulu(1981-1994),Bophuthatswana (1977-1994), Lebowa(1972-1994), Venda (1979-1994), Ciskei(1981-1994)

policy was aimed at the institution of subordinate states which would act as agents for the regime". Thus, one can deduce that the apartheid system was constructed in order to establish a minority elite class in the apartheid state and indirect rule of certain Bantustan governments and traditional leaders (Butler, 2002) as in terms of the constructivist theory in which Ultanir (2012:197) argues that "we do not find knowledge we construct it".

The Black Communities Development Act No. 4 of 1984 and Black Administration Act No.38 of 1927 influenced land use management. This was achieved through neo-functionalism with traditional leaders being granted the authority powers to; allocate land, preserve law and order, provide administration services at local government which included "the processing of applications for social security benefits and business premises, promotion of education – including the erection of and maintenance of schools and the administration of access to education finances" (Musitha, 2012:36). Kurahashi (2012:7) argues that "homeland areas had many similarities with South African local government...as the urban management structures consisted of town councils and municipalities elected ratepayers or residents". The power of traditional authorities was reduced to allocation, distribution and dismissal of people from land (Day, year unknown). Therefore, these actions illustrate that there was some form of land use management within the homelands and self-governing territories based on the powers traditional authorities were granted. However, "planning systems in many African countries were highly centralized, top-down and non-participatory, producing rigid end-state master plans underpinned by traditional zoning schemes" (Global report on Human Settlements, 2002:57). Thus, the capitalist oppressive functionalist state was continuously being enshrined and re-printed in all facets of society in both the urban and rural planning contexts.

Spatial planning in the apartheid era "took the form of master planning and was fragmented and differentiated along racial lines (Todes et al, 2010:416)". This enabled the main focus of planning to be based on the "physical design of areas and the management of land use change through town planning schemes, which detailed the land uses allowed and their intensity. Simplified schemes existed in areas reserved for black people". This system meant that changes to land systems created a real estate market that enabled a system in which people needed to either "rent or purchase land in order to cultivate it" (Carson, 2011:12). Therefore property rights were based on an individual basis and not collective property (ibid), putting into practice the lockean theory. Nine (2008:149) states that the lockean theory is "a property right in land which gives the owner of the land the right to control access to that land and use that land in any way that does not violate the law of nature and civil laws". Carson (2011:11) argues that "the imposition of freehold property was clarifying not so much for the local inhabitants – the customary structure of rights had always been clear enough to

them – as it was for the tax official and the land speculator. The cadastral map added documentary intelligence to state power and provided the basis for the synoptic view of the state and a supralocal market in land. Freehold title and standard land measurement were to central taxation and the real-estate market". Therefore, the Marxist capitalist system also re-focused property rights from a communal entity to an individual rights entity. This spatial planning division in rural areas was undertaken through the development of the Proclamation R293 of 1962 for proclaimed urban areas and R188 of 1969 for rural areas which limited forms of tenure systems (Mahlangeni, 2013).

According to Coetzee (2012:12) the emergence of social movements in the 1960s and 1970s in the form of advocacy planning and basic needs approach "highlighted the problems of the rigid, autocratic and scientific apartheid (patriarchal) urban planning system and the discriminatory practices" of the apartheid era. Therefore, the social movements depicted the saturation of the apartheid capitalist system, as there were political and socio-economic crisis's which were instigating the collapse of apartheid. Thus, the apartheid system moved towards a neoliberalism approached influenced by (Kimelberg, 2011:45) "a variety of economic, social and political ideas, policies and practices functioning on both individual and institutional levels," informing aspects of privatisation. Narsiah (2008:24) states that "the US, the UK and the World Bank deployed privatisation globally during the 1980's...the National Party government subscribed to the neoliberal discourse that was being deployed by the institutional apparatus of the global north during the period leading up to the demise of apartheid". Therefore, privatisation according to the apartheid governments programme meant (ibid:25) "the systematic transfer of appropriate functions, activities or property from the public to the private sector where services, production and consumption could be regulated more efficiently by the market and price mechanisms". Ultimately this enabled the transfer of the administration of the economy to the private sector (ibid). According to Narsiah (2008) privatisation had serious implications for the delivery of services to communities. As "restructuring on the local government scale left municipalities in a tenuous situation when it came to financially sustainable delivery" in the 1990's (ibid: 22).

3.3. DEMOCRATIC ERA (1994 TO 2017)

The transition to the democratic era is underpinned by conflict, as Marxism stresses that conflict enables the process of change to gradually occur in society (Boudon,1975). Boudon's arguments illustrates that the modernist planning approach of segregated development enforced in both the colonial and apartheid eras enforced political, social and economically systems that resulted in conflict not only amongst black and white South

Africans but also amongst various institutional structures that enabled “culture to be replaced with the specificity of class, race and gender” (Thompson, 2001:6). In light of this the transition from apartheid to the democratic era required a shift from modernism to post-modernism, with the social construct being based upon constructivism aimed at mutual learning to developing a democratic South Africa underpinned by the principles of the Freedom Charter. However, despite the transition from one era to the next the capitalism functionalist society could not be simply eliminated but transformed to neo-liberalism (Narsiah,2008; Kimelberg,2011).

In December 1991 the first plenary of the Convention for a Democratic South Africa was convened between the country’s political parties, communist parties and homeland governments with the aim of creating a united South Africa and this ultimately resulted in the draft Interim Constitution/transitional Constitution (SAHO, 2015). The process of compromise and consensus between the various stakeholders during the transitional phase from the apartheid to the post-apartheid era can be considered as illustrating aspects of; functionalism, neo-functionalism and constructivism. As the transitional phase towards regional integration within the country comprised of non-state actors such as traditional authorities, that had a fundamental role in providing direction towards societal change (Chen,2011;Schmitter,2002). The participation and acknowledgment of traditional authorities as non-state actors, in Chapter 5 Section 211 and 212 of the 1996 Constitution of the Republic of South Africa illustrates functionalism in the form of cooperation which enables “for a solid foundation to be laid for a closer regional or international political coalition”(Chen,2011:2). The constructivism approach to the establishment of an integrated country indicates that “previous experience and background knowledge” (Ultanir, 2012:195) of the colonial and apartheid systems influence existing understanding of how to build a developmental state post segregated development policies. The Draft Green Paper on Development and Planning (National Development and Planning Commission, 1999:ii) stated that South Africa inherited “fragmented, unequal and incoherent planning systems,” thus the legislation of the DFA was to provide a “coherent framework for land development”. The DFA, No.67 of 1995 legislated subsequent to the Interim Constitution sought to facilitate the implementation of reconstruction and development programmes and projects, in order to address the challenges created by both the colonial and apartheid era.

According to Bertoldi and Abrahams (2010: iv) the DFA sought to deal with “complex mosaic of old laws which were frustrating development...while apartheid development laws were being repealed”. The challenges that were associated with the implementation of the DFA were (Bertoldi and Abrahams, 2010:7):

- Poor capacity within municipalities to deal with planning and making decisions regarding land development which had implications for the establishment of functional land use management systems.
- In some former homeland areas there was no other applicable legislation.
- The act was supposed to be transitional legislation from pre-apartheid system.
- "Land use management was characterised by a high degree of legal and procedural complexity with the former white areas being governed predominantly by Ordinances[11]".
- In former black townships the Black Communities Development Act 4 of 1984 and the Less Formal Township Establishment Act 113 of 1991 were utilised[12].

Coetzee (2012:11) states that "the African National Congress prior to transformation and during the transformation phase realised that a new improved and more liberal form of planning was needed to address the spatial and development flaws of the apartheid system and the challenges of the new South Africa". Coetzee (2012:11) further argues that democratic government was influenced by "liberal forms of planning" informed by international trends drawing more attention to aspects of "community involvement and participation, social planning and communities, strategic planning, environmental management and sustainable development, relationship between urban planning and urban management and municipal affairs". According to Narsiah (2008) the South African government post the apartheid era adopted neo-liberal policies with the state aiming to focus on privatisation approaches initiated in the apartheid era. Privatisation in post-apartheid meant (ibid:26) "reducing the public sector in certain areas in ways that will enhance efficiency, advance affirmative action and empower the historically disadvantaged while ensuring the protection of both consumers and the right of employment of worker," as a means of ensuring the provision of basic services to communities. Narsiah (2008:27) argues that "post 1996 signalled a new approach by municipalities to efficiency and financial sustainability...thus municipalities were forced to re-think service delivery in order not to sink into bankruptcy.

The central government exercised strict fiscal control especially with regard to transfers to municipalities. The Finance and Fiscal Commission 1998 reported that intergovernmental transfers to municipalities were cut by 85 per cent between 1991 and 1997". This was

[11] Cape Land Use Planning Ordinance 15 of 1985, Orange Free State Townships Ordinance 9 of 1969, Transvaal Town Planning and Townships Ordinance 15 of 1986 and Natal Town Planning Ordinance 27 of 1949. The ordinances were provincial legislations which could not be repealed at a national level.

[12] These acts were national legislations; however certain provisions of the Less Formal Township Establishment Act were assigned to all provinces. The Black Communities Development Act 4 of 1984 was repealed however Annexure F on land use management rules remained the responsibility of provinces and municipalities to manage.

considered to have been a serious problem as municipalities relied on the central government for approximately 95% of funding (ibid) since the homelands/Bantustans and self-governing territories were abolished and absorbed into the Republic of South Africa into various local municipalities within the local sphere of government. This meant that municipal administrations needed to adopt stringent fiscal and credit control measures to ensure solvency (ibid) in accordance with the Municipal Finance Management Act, Act No.56 of 2003 (MFMA) and the Municipal Property Rates Act (Act No.6 of 2004), in order to avoid being placed under administration in accordance with Section 139 of the 1996 Constitution. However, from a neo-Marxism perspective the legislative provisions that were developed in the democratic era can be interpreted as a form of capitalism re-inventing itself in order to sustain its thrust within the economic system, under the stabilised democratic environment.

In 2003 the Traditional Leadership and Governance Framework Act, Act 41 of 2003 (TLGF) was legislated, however there have been contestations between elected municipal councillors and traditional leaders, on the basis of there being no clear distinctions in their respective roles within the local sphere of government (Day,year unknown). As a resultant "members of the Congress of Traditional Leaders of South Africa (CONTRALESA) advocate that traditional leaders should be the sole institution or body responsible for governing tribal areas and their communities" (Day, year unknown:14) with local government being organised into three spheres respectively; metropolitan and local government, town/village municipal council and traditional authorities.

The Department of Rural Development and Land Reform (DRDLR) drafted the Communal Land Tenure Policy (CLTP,2013) which seeks to advance the objectives of the Community Rural Development Programme (CRDP) developed in 2009 aimed at ensuring post-colonial reconstruction and development in the lives of people living in rural areas (DRDLR,2009). The CLTP seeks to advance the objectives of the CRDP through effective land administration, spatial integration and land use planning. The policy forms part of the democratic governments' neoliberal policies aimed at (CLTP, 2013:15) promoting rights and responsibilities across all communal areas in the interest of rural economy transformation and growth. The DRDLR in the CLTP (2013) argues that the current challenges faced by people living in rural areas are largely due to racially discriminatory legislations. Whilst taking cognisance of the countries spatial planning history, planners need to understand the new planning legislation and what it means for the country's physical landscape, moreso land use management in rural areas. SPLUMA is the resultant of the 2010 Constitutional Court judgment that DRDLR must develop legislation within 24 months [from the 18 June 2010 to 17 June 2012] on spatial planning and land use management and outline the roles and responsibilities of national, provincial and local government in planning. As the court

concluded that Chapters 5 and 6 of the DFA, Act 67 of 1995 were invalid as municipal planning is the function of municipalities. Therefore, according to Berrisford (2011:247) the unconstitutionality of the DFA meant that South Africa became reliant again on “pre-democratic planning legislation”.

Table 3.1 below highlights the traditional authorities’ structural role in terms of both legislation and land use management. The table highlights the powers of traditional authorities through the three eras discussed in the report, in accordance with the theoretical epistemologies. The summary indicates that from colonialism to the democratic era, traditional authorities have had to adapt to varied legislative provisions in order to ensure their existence. This is also seen in the manner in which traditional authorities are viewed by the community, as the entity responsible for land use management. As the traditional authorities approve applications for residential and business land allocations, in accordance with their land use management system which also entails the payment of affiliation/application fees. Thus, the contestation by the traditional authorities against SPLUMA is also questionable on the basis that the councils also have some form of a property rates system. Thus, planners need to question whether traditional authorities seek to maintain a specific capitalistic functionalist society which excludes municipalities.

	Traditional Authorities Legislative Provisions	Structure	Process of land use management	Powers of traditional authorities'	Theoretical epistemologies
Pre-colonial era	▪ No legislative provisions	▪ Hierarchy comprising of kings, chiefs, councillors and advisors	▪ Chiefs allocate land use rights and communities could contest the decisions taken by chiefs.	▪ Traditional leaders served as political, military, spiritual and cultural leaders and were regarded as custodians of the values of society.	▪ Traditional approach underpinned by functionalism, as traditional authorities provided order, structure and balance in establishing a normal state of society. This created stability and solidarity as community participation was encouraged and traditional authorities were held accountable by their communities.
Colonialism and apartheid era	▪ Native Land Act 1913 ▪ Black Administration Act 1927	▪ In the colonial era the traditional authorities formed part of the government administrative system.	▪ Traditional authorities ensured land allocation, land administration and law and order under the apartheid era. ▪ Traditional authorities processed applications for social security benefits and business premises, promotion of education – including the erection of and maintenance of schools and the administration of	▪ Limited powers under the colonial state, as the Black Administration Act enabled a white governor general to be appointed as the supreme chief with powers to appoint chiefs and izinduna and regulate their roles and privileges; to regulate land ownership in the reserves through the Department of Native Affairs; intervene in local governance and declare new tribal boundaries and force tribes to move between different areas. ▪ Power needed to be exercised within the confines of the broader apartheid project of separate development and ensure cooperation in the development of the homelands.	▪ The colonial and apartheid eras enabled modernism to replace culture with class, race, gender and capitalism based on Marxism and neo-Marxism. ▪ The eras promoted the libertarian theory on territory and separate development incited by oppression through racial and ethnic divisions.

			access to education finances.		
Democratic era	▪ Traditional Leadership and Governance Framework Act (Act No.41 of 2003)	▪ National House of Traditional Leaders ▪ Provincial Houses of Traditional Leaders ▪ District Houses of Traditional Leaders	▪ Refer to Figures 3.3 and 3.4 which outlines the application process for residential and business erven.	Participation in local government based on Section 81 of the Municipal Structures Act in the development of IDP's and SDF's. ▪ Serve on the National and Provincial Houses to advise on matters which affect the customs and traditions of their communities in terms of the Traditional Leadership and Governance Framework Act,2003	▪ Democratic era has created a neo-liberalism approach to legislation in the form of SPLUMA. The Act enables incremental land use management to be implemented in rural areas, through the development of wall-to-wall land use schemes. ▪ SPLUMA creates a constructivist opinion that traditional authorities and municipalities can learn together as the Act is being implemented to improve upon the processes of land use management in rural areas. ▪ Traditional authorities have contested the implementation of the Act, as it emulates neo-Marxism through means of trying to reinvent capitalism through means of a modern bureaucracy in rural areas. As a means of changing tenure systems and introducing the payment of property rates and taxes to sustain the local government. ▪ The neo-Marxist contestation is attributed to by the sense of no clarity on the manner in which incremental land use management can be introduced within the complex systems of rural communities, in order to attain stability and solidarity through functionalism and neo-functionalism.

Table 3.1: Summary of traditional authorities' powers and contestations for existence

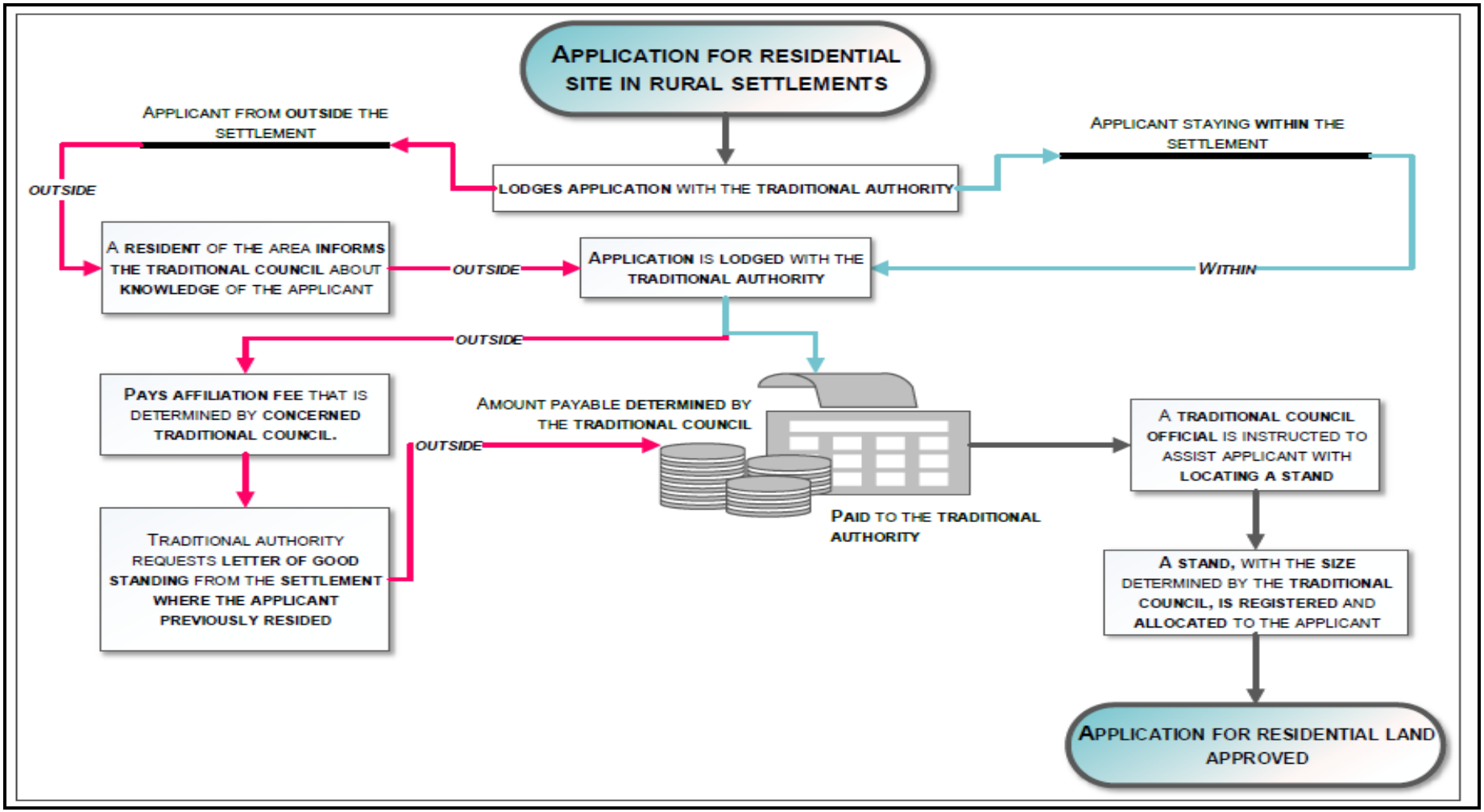


Figure 3.3: Process for approving residential applications

Source: DRDLR, 2015

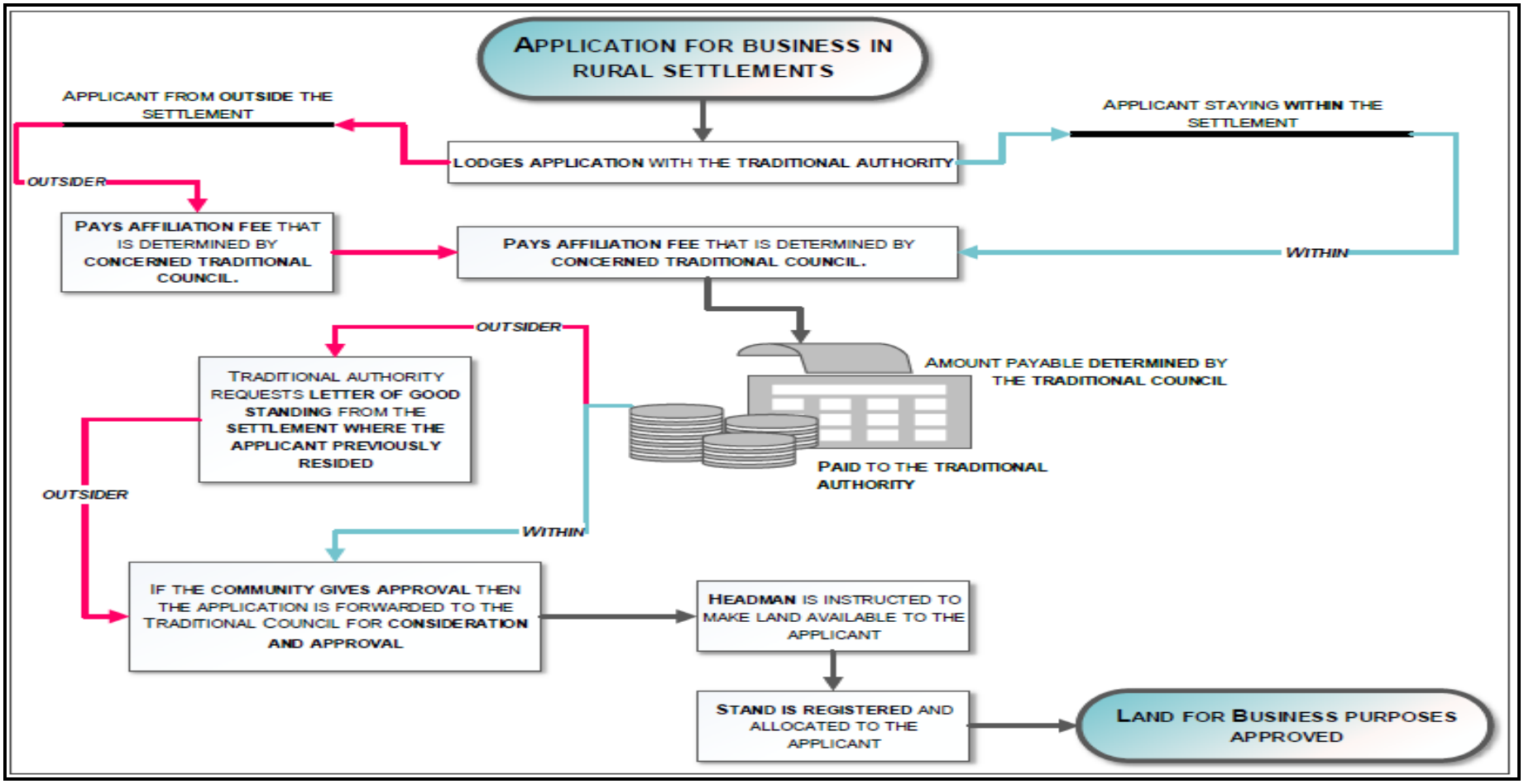


Figure 3.4: Process for approving business applications

Source: DRDLR,2015

3.4. CONCLUSION

The third chapter of the research report was structured to unpack the history of traditional authorities and planning from the eras of: pre-colonialism, colonialism (1652 – 1948), apartheid (1948-1994) and democratic (1994-2017). The power and role of traditional authorities in relation to planning in this research report has been analysed through the application of modernism and post-modernism theoretical framework. The modernist approach is founded on the basis that traditional leadership is rooted in rural patriarchy and is a hindrance to democracy (Harrison, 2007). Whilst the traditionalist approach is that traditional leaders ensure "rural governance, political stability and successful policy implementation and hence rural development" (Harrison, 2007:2).

The reflection through history has illustrated that traditional authorities and municipalities co-exist within the same space. The municipality's responsibilities in terms of the South African Constitution are clearly articulated in terms of planning, whilst the traditional authorities' roles and responsibilities are not articulated. In relation to the study, the conflict which exists between the traditional authorities and municipalities from a Marxist position see conflict as a possible means of attaining sensible agreements between the traditional leaders and the municipalities, with the respective notions and ideologies of the two parties being taken into consideration. However, in terms of Marxism conflict does not guarantee that consensus will be attained.

In light of the above, Vaughan and Mclntosh (in Butler,2002) have indicated that it is crucial for municipalities and traditional authorities to cooperate with one another, in order to ensure that communities receive service delivery. Moreso, that municipalities can fulfil their mandate in terms of the Constitution but also in terms of postmodern legislations such as SPLUMA. SPLUMA as neo-liberal legislation, it aims to establish a rural economy informed by stability and transition from a neo-Marxist fragmented system. Therefore, municipalities and traditional authorities need to determine whether both modernist and post-modernist approaches are suitable in developing a multi-layered land use management system, based on the current existing dynamics within rural areas. As Gorgens and Denoon-Stevens (2012) state that land use management is achieved through three aspects respectively: understanding the land market, emphasising flexibility and negotiation as opposed to a prescriptive specific urban form and incorporating the value and needs of communities into the areas which they inhabit. The subsequent chapter deals with unpacking the fundamental realities of incremental planning.

CHAPTER 4: THE REALITIES OF INCREMENTAL PLANNING

4.1. INTRODUCTION

> *There are other silences – or perhaps barely audible whispers – is more accurate: around questions of planning's roles in shaping the quality of place and design, and around land use management. These tend to be seen as either luxuries of little use to the poor or as part of traditional planning's legacy of control...Questions of land use management-its relevance, appropriate forms and how it might address the diversity of needs in an equitable manner-remain unresolved in South Africa. Here, traditional forms of land use management are integral to property values and are fiercely defended in parts of the city, but these exist in the context of remaining fragmented and differentiated systems inherited from the apartheid era (Todes, 2011:121).*

The neglect of land use management as outlined by Todes (2011) can only be improved through planning systems that are flexible and underpin traditions and customs that reflect people's communities in order to create land use management systems based on a culture of learning, research, benchmarking, experience and innovation (Coetzee, 2012). Van Wyk (in Mostert and Pope et al.,2010) indicates that it is vital to understand the basics of land use and land use management as these two sub-disciplines form a fundamental aspect of planning law but also in order to be able to develop flexible planning systems in accordance with Todes (2011). According to van Wyk (in Mostert and Pope et al., 2010) land use planning deals with forward planning by creating a blueprint of future land uses guided by policy plans and through instruments in the form of land use schemes. The KwaZulu-Natal Planning and Development Commission (2010) on the other hand indicate that land use planning has two components respectively; development planning and development control. The former refers to the development of plan "about how different land uses and development can best be implemented in the public interest" (KwaZulu-Natal Planning and Development Commission,2010:15) whilst the latter is the implementation of development planning (ibid).

In light of the above arguments this chapter outlines the manner in which land use management has been considered within rural areas, internationally and also in other parts of South Africa by researchers and various spheres of government. Some of the existing research was commissioned in urban areas, therefore it is vital to take note of this notion and consider whether the proposed theories can be applicable in rural areas. As van Huyssteen, Oranje and Meiklejohn (2010:14) state that planners should approach "rural development

from an appreciative and visionary, potential-orientated position, whilst also recognising the opportunities and specific challenges of settlements could provide an opportunity for inspiration and action". Without ignoring the complexities of the built environment and deviating from the nuance of producing sameness and vulnerability (Nel, 2016).

4.2. LAND USE MANAGEMENT SYSTEMS IN RURAL AREAS

According to the Communal Land Tenure Policy, 2013 (CLTP) "procedures for land allocation in traditional communal tenure areas are generally not clearly articulated...as there is a general absence of uniform criteria for qualification to apply for land and land allocation procedures" (CLTP, 2013:27). This is further exacerbated by the overlapping and conflicting nature of various land administration institutions respectively; traditional authorities, communal property associations (CPA's), trusts and local government (ibid). Therefore, based on the above one can interpret that the communal policy seeks to encourage land use management through the establishment of townships in rural areas, in order to create the NDP's rural economy. Bizana-Tutu (2008:18) argues that the country seeks to maintain colonial legacies by undermining indigenous systems by:

- Considering no registered title as ipso facto state land and;
- Replacing customary land tenure with state imposed individual property rights to land and land based resources, as formal title does not increase tenure security.

Claassens (2014:2) on the other hand argues that "the 1997 White Paper on Land Policy recognised those with de facto occupation and use rights on that state land as the underlying owners and the Interim Protection of Informal Land Rights Act of 1996 provides that no-one can be deprived of such informal land rights except with their consent or by expropriation". Since 2003 policy and legislation has been favourably transferring title of communal land to traditional leaders and institutions as opposed to the people who live and work within the traditional communities (Claassens, 2014). Academics on liberitarian theory also have varying arguments on whether land within rural areas should continue to be subjected to communal or individual ownership. Carson (2011:4) argues that "communal ownership of land is legitimate and plausible models for property rights in a stateless society based on free association...as rural areas typically have commune joint ownership of land as a rooted history of a group of families sharing common descent. Lea (1992:44) further indicates that "cultural entrenchment of communal rather than individual land holdings is reflected in the fact that the community derives its very identity through communal land holding".

The CLTP (2013) indicated earlier that land use management is aligned to the payment of rates and taxes to municipalities. Municipalities' processes of generating revenue in order to provide service delivery needs are constitutionally protected in terms of the MFMA (Act 56 of 2003) and Section 229-230 of the Constitution. However this might pose a challenge to rural areas based on the high poverty rate. Kurahashi (2012:14) states that "local government is largely regarded as being self-sufficient, raising most of its revenue from imposing rates on property, levies and user charges. However, while the metropolitan municipalities generally collect 94% of their own revenue; poorer rural municipalities derive at least 92% of their income from transfers from provincial and national government". The Southern African Regional Poverty Network (2002) argues that rural communities associate municipalities with repressive tax policies based on the apartheid system, resulting in the resistance from communities for the traditional authority system to be replaced. However, du Plessis (1999:311) argues that rural communities should be "granted the opportunity to either proceed with the traditional land system or revert to other systems...as it might also be that the community want to grant individual ownership to some parts of communal land," possibly due to the multiple land uses that exist within communal areas.

The traditional land system is structured on the basis that the traditional authority administers the land on behalf of the community and "rights of exclusion to arable land are held by individuals in perpetuity" (Baber, 1996:285). The traditional authority system comprises of a paramount chief (nkosi, hosi,kgosi,morena) that controls the entire tribal territory, which is subsequently divided into sub-districts that are administered by sub-chiefs and headman (nduna,isibonda,dikgosana). Zulu (1996:243) indicates that traditional authorities "act as gate keepers of development programmes, which cannot be introduced in areas under their jurisdiction without their permission," this has implications for the IDP, SDF and general development within rural areas.

Decisions on residential land and arable land for newcomers are made in consultation with the community or immediate neighbours as key decision-makers with the oversight of the traditional leader (Claassens and Cousins, 2008). Land allocation to outsiders requires an application fee or khonza which is considered either as the; chief's dues, indication of acceptance or an administrative fee (Alcock, Hornby and Kepe in Claassens and Cousins, 2008). Zulu (1996:242) indicates that "prices fluctuate between areas...the closer the location is to towns and cities the more expensive land becomes". However, it is worth noting that in some communities annual tribal levies are paid by all community members but in other communities the system has eroded (Claassens and Cousins,2008).Table 4.1 provides a

typical example of the administration fees within rural areas with a specific focus on municipalities in Mpumalanga Province.

Once land has been allocated to a family, the family owns the land, administers the land and also deals with the disposal thereof for the benefit of dependents in consultation with spouses and children (ibid). Baber (1996:285) indicates that:

> "rights pass from one generation to the next within the household most typically from a man to his sons, although land can also be inherited by daughters. In the past all sons received an allotment on marriage to establish their own homes.upon the father's passing the landholding would be directly transferred to the youngest son....As pressure on land has increased, households have been forced to divide their holdings into smaller and smaller plots, making it increasingly difficult to allocate arable land to all sons. In theory unufust rights are secure, such that an arable holding can remain uncultivated for an indefinite period without the household losing their rights to it".

Table 4.1: Example of Khonza fees/administration fees applicable in Mpumalanga Province

Local Municipality	**Khonza Fees for**		**Tribal/Annual Levy**
	Residential site	**Business site**	
Nkomazi	R850 – R1500	R2500 – R5000	R50 – R150
Thaba Chweu	R250 – R4500	R1500 – R5000	R50 – R150
Mbombela	R180 – R350	R1000 – R1300	R12 – R25
Bushbuckridge	R250 – R750	R2500 – R5000	R50 – R100
Chief Albert Luthuli	R60 – R550	R200 – R5000	R20 – R50
Thembisile Hani	R77 – R850	R1200 – R1700	R40 –R60
Dr JS Moroka	R40 – R560	R1000 – R2000	R0 – R20

Source: DRDLR, 2016

Schapera (in Claassens and Cousins, 2008) states that in the Tswana land system, a man will firstly request residential land and fields to plough from his father, if there is nothing available a request will be made to a relative or friend secondly and thirdly to the headman. The headman will take the applicant to the chief for land allocation. Hunter (in Claassens and

Cousins, 2008:123) on the other hand indicates that in the Pondoland “land administration is largely decentralised to the level of groups of homesteads (imizi) and the petty headman. Minor disputes are dealt with at local level but could move upwards if not resolved; major disputes are heard in the courts of district chiefs or that of the paramount chief. Some district chiefs pay no dues to the paramount and do not allow appeals to be heard by the paramount and thus become independent”. Claassens and Cousins (2008) indicate that the chief has the ability to ratify the land allocations undertaken by the sub-chiefs and headmen and also collect a share of the tribal levies/administration or allegiance fees. The funds are either utilised as either personal payment or contribute to community projects.

Traditionally a married woman could select land for cultivation; once the harvest has been reaped the land reverted to common pasture. The woman and her family could utilise the land if the family continued to live in that district (Claassens and Cousins,2008). The fields of a deceased woman were inherited by the younger son. Cousins (2008) states that the common property within the rural area is administered based on community rules and management enforced by the traditional authorities or elected committees. Community members have access to use resources belonging to the common property such as: grazing, water and a variety of natural resources in the form of but not restricted to wood, clay, sand and medicinal plants without restricted access. However, “outsiders are expected to request permission or sometimes to pay for the right to utilise the common property” (Claassens and Cousins, 2008:122).

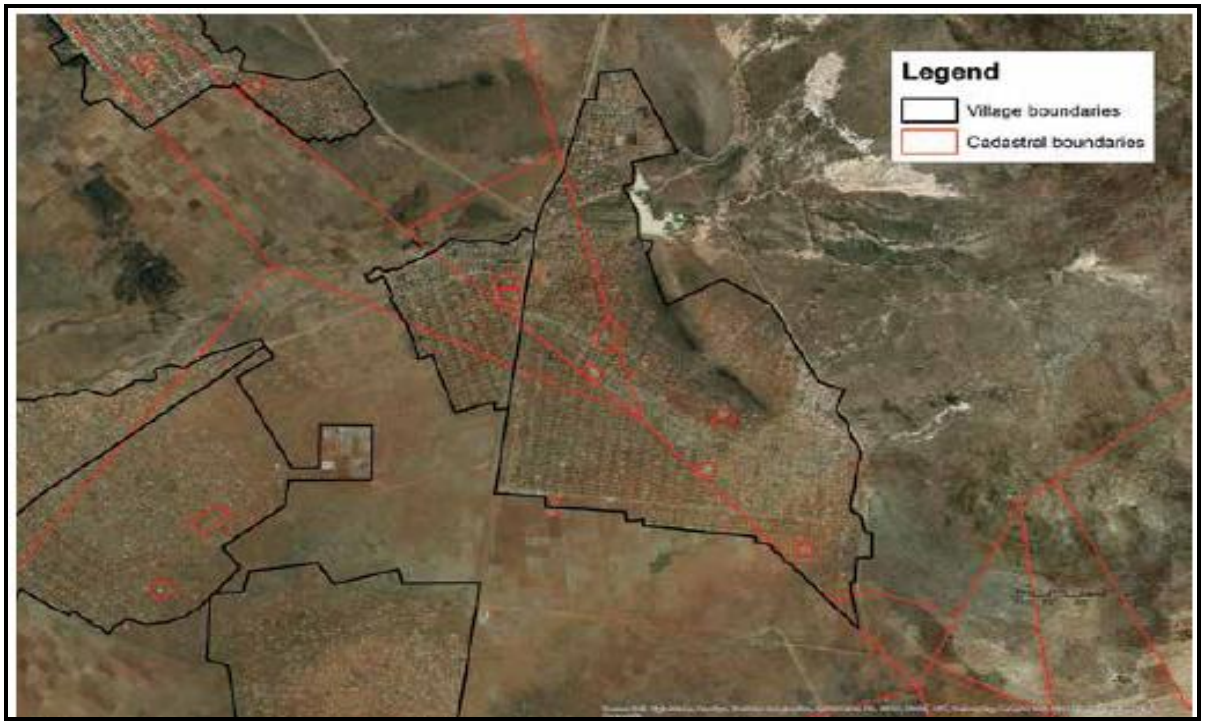
Despite this form of land use management to regulate the use of common property and its resources, there are elements of exploitation that occurs with outsiders having unauthorised access to access and transport large quantities of the resources for their own entrepreneurial schemes to the detriment of the environment. Within the polygamous structure the homestead is divided into “houses founded by different wives” (ibid:120), with each house comprising of “its own property in the form of dwellings, livestock, fields,a granary, utensils and so on” (Cousins,2008:120). Despite this Cousins (2008) argues that with the apartheid and colonial eras the allocation of PTO’s and quitrent titles were only allocated to men and with unmarried women only attaining access to land through their fathers or other male relatives. However, with the democratic era women whether they are married, unmarried or widows have access to land allocation despite it being restricted to residential land only in certain instances.

“Access to communal land is open and free to any person who approaches tribal authorities and presents himself or herself as a willing settler in the area,” (Zulu,1996:242). However,

Zulu cautions that the amount of land available in not unlimited, as land has become a "scarce commodity and tribal authorities are quick to seize on this advantage for personal financial gain" (ibid).According to Cross et al. (1996) indigenous planning ensured that once land was settled and fields and grazing areas were laid out, there was a system which designated land for family expansion generations ahead. In a feasibility study on land use management and land use practices in traditional authority areas conducted by the Department of Rural Development and Land Reform (DRDLR,2016) established that in the colonial and apartheid eras traditional authorities were assisted by the government with the elementary planning of settlements, demarcation and numbering despite the fact that there were no formal general and layout plans that were registered and drawn out. With changes to land use management in rural areas Cross (ibid:145) indicates that "in African communities, land use is expected to change as the area fills up, due to demarcated arable fields and also areas under light use as grazing and natural resources commonage, gradually come under housing as areas are becoming more crowded and residential priorities come to dominate". Findings from the feasibility study substantiate Cross's argument that there is a dominance for land to be utilised for residential purposes and a much lesser degree for uses such as: business, cemeteries, agriculture and grazing purposes (DRDLR, 2016).

The allocation of land is not structured according to the family line in order to sustain existing family networks and provide support to the parent household (ibid). Therefore the settlement system is changed and unsustainable, as land use planning has not taken cognisance of densification and the manner in which "systematic changes to land use can also create a balance in planning for "future security through both production and settlement" (ibid:147). Cross's argument of unsustainability is substantiated by the findings from the DRDLR study which illustrates the unstructured allocation of land for the establishment of new settlements and expansion of existing settlements does not take cognisance of environmental and geotechnical conditions but moreso the installation of bulk services, as traditional villages are allocated in unstructured settlements across multiple farm portions as illustrated by figure 4.1 (DRDLR,2016). Thus, the upgrading of the rural settlements through the installation of bulk services, surveying and township establishment proclamation becomes challenging.

Figure 4.1: Traditional villages located on farm portions



Source: DRDLR Land Use Scheme Guidelines,2017

4.3. INTRODUCTION TO INCREMENTAL LAND USE MANAGEMENT IN TERMS OF SPLUMA

Section 7(a) of SPLUMA requires municipalities to ensure spatial justice through means of (SPLUMA, 2013:15):

(iii) spatial planning mechanisms, including land use schemes must incorporate provisions that enable redress in access to land by disadvantaged communities and persons;

(iv) land use management systems must include all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homelands;

(v) land development procedures must include provisions that accommodate access to secure tenure and the incremental upgrading of informal areas

Interestingly spatial justice alludes to incremental upgrading of informal areas which is defined as "the progressive introduction of administration, management, engineering

services and land tenure rights to an area that is established outside existing planning legislation, and may include any settlement or area under traditional tenure" (SPLUMA,2013:8). The definition illustrates that the introduction of incrementalism in terms of SPLUMA focuses not only land use management and administration but also takes cognisance of the progressive introduction of engineering services and land tenure rights (SPLUMA, 2013). Academics have varying views about the incremental land use management in rural areas partly because legislation post-apartheid favoured traditional leaders as opposed to the communities which the traditional authorities represent and serve. Despite the definition outlined in SPLUMA there is no clarity on the manner in which incrementalism can be undertaken and achieved.

4.4. KWAZULU-NATAL APPROACH TO INCREMENTAL LAND USE MANAGEMENT

As alluded to in the introduction, KwaZulu-Natal is currently the only Province in the country that had commissioned documented work regarding land use management within rural areas. The KwaZulu-Natal Planning and Development Commission (2010:73) states that "spatial planning decisions are not about tools or plans themselves but are about people". Therefore, as planners endeavour to apply planning knowledge to rural areas we need to take cognisance of the indigenous knowledge of rural communities and the uniqueness of rural areas (KwaZulu-Natal Planning and Development Commission,2010) as communities have varied belief systems that influence the types of land uses which are permitted and accommodated within their areas. Thus, planners cannot be "naive to assume that rural areas will be incorporated into municipal schemes without carefully understanding the unique local and/or indigenous knowledge" (ibid:8). The KwaZulu-Natal Planning and Development Commission report (2010) on land use management systems in rural areas states that land use planning and management is too restrictive, as it does not cater for the unique land use typologies and the manner in which these land uses are managed traditionally. The Commission indicates that for effective land use planning and management, municipalities should encourage and ensure the sustenance of community participation (ibid).

The current land use typologies that exist within rural areas based on the KwaZulu-Natal provincial findings that need to be included within land use schemes are but not limited to: "livestock related uses that are seasonal in nature (amakhaphelo – winter grazing land,amadlelo-summer grazing land and izinkambu-all seasons grazing land), agricultural uses (amasimu and izivande etc), environmentally sensitive uses (amahlathi emvelo – indigenous forest, iziphethu, imithombo and amagquma), recreational uses (izigcawu), lightening-prone areas (izishozi), and indigenous minerals (imicako, ubumba and ibomvu)"

(ibid:70). The Commission states that the above mentioned land uses need to be properly identified and geo-referenced by maximising on the usage and linkage between Spatial Development Frameworks, Land Use Schemes and Geographical Information Systems as currently most rural areas are not surveyed and lack cadastral[13] data (ibid).

The KwaZulu-Natal Planning and Development Commission (2010:20) highlights that rural areas were "incorporated into municipal wards as part of wall-to-wall arrangements" in accordance with the Municipal Demarcation Act (Act No.27 of 1998). The challenge posed by the Commission is that "rural areas have their own izigodi which are traditional wards that have existed over time...without formally demarcated boundaries" (KwaZulu-Natal Planning and Development Commission,2010:20). The izigodi comprise of "traditional settlements with areas for traditional rituals, the settlements are monitored by an elderly person referred to as isibonda and governed by induna who provides leadership on behalf of the senior traditional leader" (ibid:20). Therefore, the request for land for residential purposes is submitted to the induna, subsequently the application is assessed through a meeting is convened with local residents to make the decision collectively. The applicant is also granted land for cultivation and access to grazing land of their application is approved (ibid). The Commission proposes that a land use management system in rural areas can be attained if (ibid):

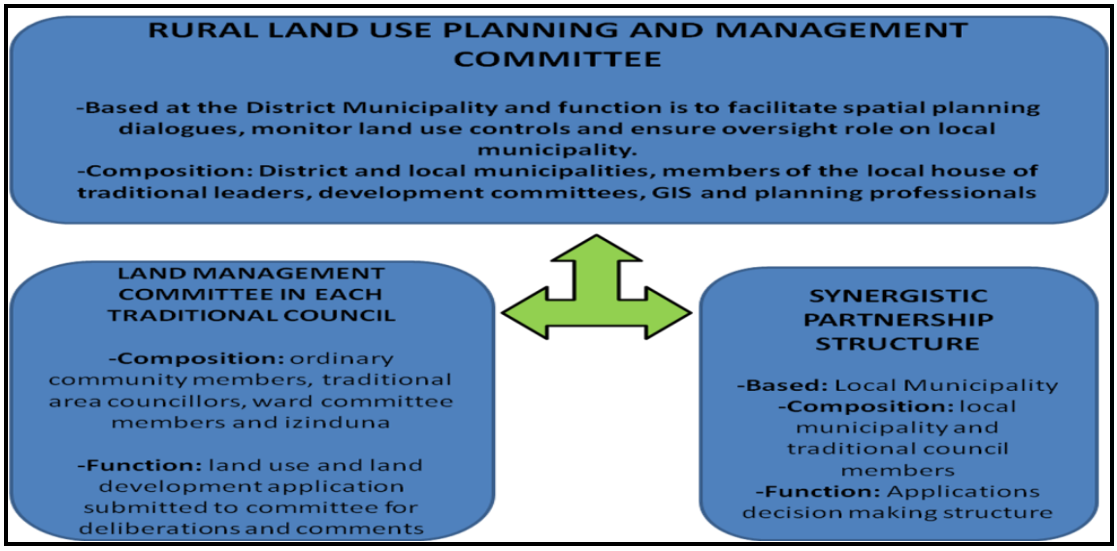
- The unique characteristics of rural areas are incorporated into land use schemes.
- Partnerships between municipalities and traditional councils are created with a clear understanding of the land use management system procedures.
- Development of a land management committee in each traditional council comprising of ordinary community members, traditional area councillors, ward committee members and izinduna.
- Development of Rural Land Use Planning and Management Committee based at the district level comprising of local municipalities, members of the Local House of Traditional Leaders, Ingonyama Trust Board, development committees, GIS and planning professionals. Dubazane (2015:56) argues "the involvement of traditional leaders in the development of municipal land use policies is crucial, irrespective of the associated tendencies and adverse history because they seem to have significant control over land in rural areas".

[13] Cadastral system defines property ownership rights and forms the basis for land valuation, land taxation, development planning, local authority demarcation and land administration (Kitchin and Ovens,2013:9)

- Maximise the usage of Geographical Information System with the use of indigenous knowledge through systems such as the Community-Integrated Geographical Information System. Various uses need to be geo-referenced and a forum needs to be established to address GIS data.

- Department of Cooperative Governance and Traditional Affairs to review existing community participation platforms in order to take cognisance of community voices and further ensure user-friendly documents on procedures of land allocation in traditional council areas.

Figure 4.2: Institutional linkages



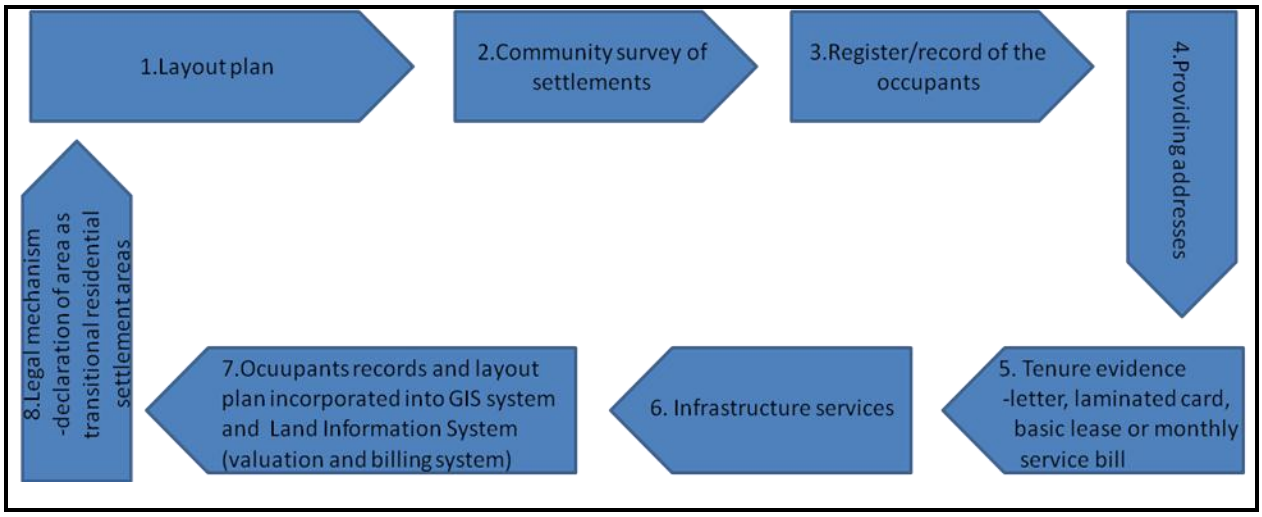
Source: Developed on information derived from KwaZulu-Natal Planning and Development Commission, 2010

4.5. METROPOLITAN APPROACH TO INCREMENTAL LAND USE MANAGEMENT

Metropolitan municipalities such as the City of Johannesburg and the City of Cape Town are utilising the regularisation approach in order to recognise and incorporate informal settlements into the land use management system. This regularisation approach is based on international experience from Brazil and Zambia with the establishment of Special Zones of Social Interest (ZEIS) and Improvement Areas respectively to ensure flexible land use regulation and incorporate informal residents into the city (Abrahams, 2008). Abrahams (2008:12) states that the ZEIS is “both a land management and zoning instrument” as it is incorporated into the master plan and is not applicable once an area has been upgraded and integrated into suburb. The City of Johannesburg approach to recognising informal settlements is achieved through the establishment of a special zone category in its municipal

schemes, referred to as the Special for Transitional Residential Settlements which became a legal land use (African Centre for Cities,2015). Thus, the process of incorporating the informal areas into the land use management system enabled “public fund to be allocated for servicing the areas” (ibid:49). Abrahams (2011) indicates that the City of Joburg regularisation of informal settlements entailed as depicted in figure 4.3 the following; establishing a programme and introducing administrative recognition, legal recognition, development and regulation and formal township establishment. According to Abrahams (2011) the process of establishing the transitional residential settlement areas was an incremental but transitional approach, as the process does not undertake the normal township establishment route of developing formalised townships.

Figure 4.3: City of Joburg regularisation



Source: Derived from Abrahams (2011) and City of Joburg Annexure 9999

The City of Cape Town on the other hand introduced the Single Residential 2: Incremental Housing zoning category to rezone areas with informal settlements to formal settlements in its Zoning Scheme Regulation (2013) (African Centre for Cities,2015). The African Centre for Cities report (2015:53) indicates that the zoning can be considered to be an incremental upgrading process as it applies to areas that do not have “defined internal plots and provides more of a blanket zoning over the informal settlement”. Furthermore, if the Single Residential 2 zoning can be “applied to land that has not been formally developed it allows for multiple uses on the land area of the settlement to accommodate the informal activities and hence provide legality to the area” (ibid:53). Abrahams (2008:15) argues that the upgrading of an informal area requires the application of “flexible zoning and land use requirements”. This notion is supported by Watson (in Gorgens and Denoon-Stevens,2012) that land use

management cannot be informed by a blanket approach but requires flexibility and inclusion where it is required. The incremental techniques undertaken by the metropolitan municipalities illustrate that there are ways in which land use management systems can be flexible and adopt to the needs and challenges of both urban and rural areas. In light of this Enemark and McLaren(ibid:4) state that there are three fundamental principles to a land use management system which are able to address informality and these are:

- Decentralisation: Solve the task at the lowest possible level in order to combine decision-making with the accountability for financial, social and environmental consequences.

- Comprehensive planning: Integration of all land use policies and detailed land-use regulations into one document for the entire municipal jurisdiction. Places emphasis that planning is politics and not just bureaucratic regulations.

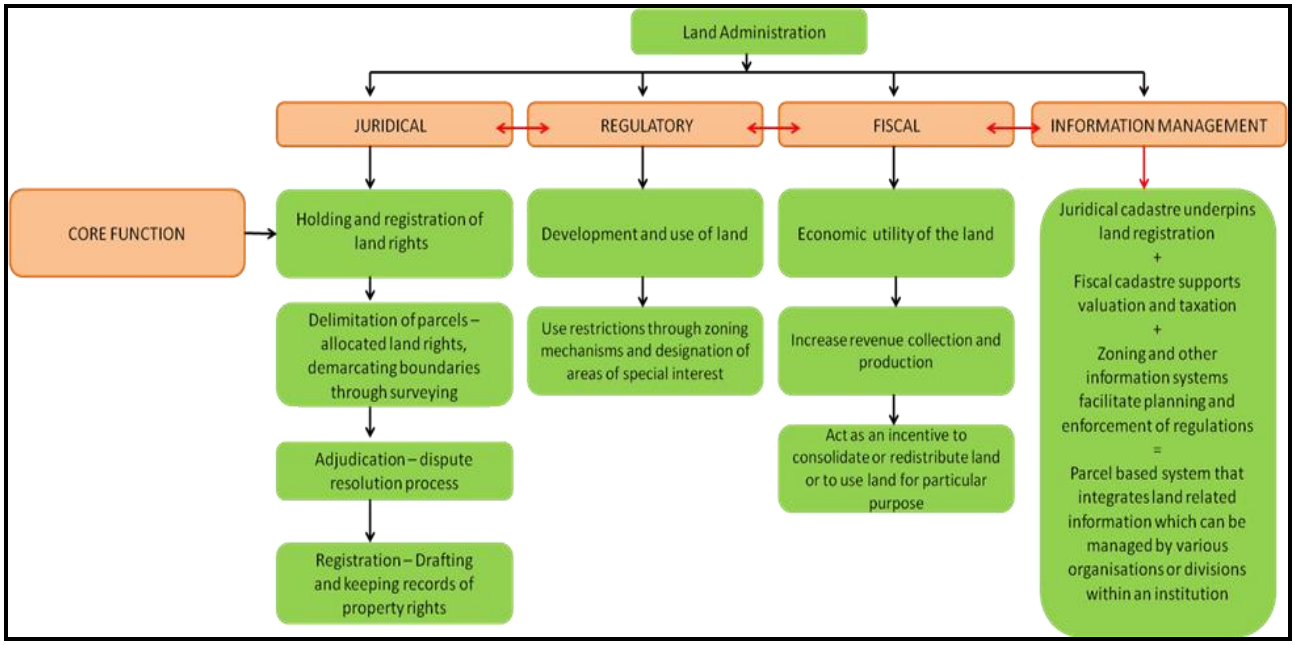
- Participation: Create a broader understanding of the need for planning regulations and enable a locally based dialogue between government and citizens around development opportunities and the need for development control.

4.6. INTERNATIONAL APPROACH TO INCREMENTAL LAND USE MANAGEMENT

The international approach to incremental land use management focuses on work commissioned by the UN Habitat and the Australian governments' policy on land use planning in rural areas (2013). Nel (2016) argues that the traditional processes of land use schemes do not cater for what SPLUMA seeks to achieve through its development principles and thus asks the question as to what other alternative exists within planning in order to attain spatial justice. Dale and McLaughlin (1999:28) state that the traditional manner of formalising property usually ignores "local property rules" and opts for the "individualisation of private property" in titling and registration projects". Dale and McLaughlin (1999:10) further indicate that traditionally the building block of land administration is structured on a cadastral parcel that is a "uniquely delimited tract of land within which a coherent set of definable property interests are recognised". The identification of the cadastral parcel allows the a land administration system to be developed with a core focus on; regulating use of land and property development, ensuring land conservation, collection of revenue through rates and taxes and tenure (ibid). Simpson (in Dale and McLaughlin, 1999:28) argues that the "formalisation of property rights should not change the customary property system, as the formalising of property does not necessarily necessitate accelerated financing from the

banking system. Figure 4.4 below breaks down the components of land administration in terms of the components core functions and the linkages thereof.

Figure 4.4: Components of land administration



Source: Dale and McLaughlin, 1999

Lemmen (2013) states that the land administration system has limitations as informal and customary tenure cannot be executed in the normal registration processes. The UN-HABITAT developed the social tenure domain model a pro-poor land tool aimed at bridging the gap by introducing unconventional approaches to land administration (Lemmen, 2013). As Lemmen (2013:7) argues “where there is little land information, there is little or no land management,” thus planners need to understand and have “complete map of people-land relationships” (ibid). This can be achieved through community based mapping processes of land and property rights.

Australia on the other hand published a Land Use Planning in Rural Areas state planning policy (2013) in accordance with the governments Planning and Development Act (2005), aimed at dealing with land classified for rural or agricultural purposes. The overarching requirement of the policy is that “land use change from rural to all other uses is planned and provided for in a planning strategy or scheme” (Land Use Planning in rural areas state planning policy, 2013:3) in order to avoid adhoc and unplanned subdivisions and developments. The strategies or schemes developed by the regions are required to continue to “promote rural zones in schemes as highly flexible zones that cater for a wide range of

rural land uses that can support primary production and value adding small-scale tourism, environmental protection and biodiversity conservation" (ibid:4). Despite the development of rural zones the policy acknowledges that regions have varying characteristics and thus grants exemptions for regional variations to be considered but must be aligned to the policy objectives and supported by the regions strategies and schemes.

In light of the above international practices Kaiser and Godschalk (in Dale and McLaughlin,1999:76,78) state that there are four major land use planning and control strategies within planning respectively:

- Land use design which entails a detailed mapping of future land use arrangements with the inclusion of environmental processes and linkages to a community's fiscal capacity.
- Land classification plan which provides a more general map of potential growth areas rather than a detailed land use analysis.
- Verbal policy plan which focuses on written statements of goals and policies rather than mapping specific land use patterns or implementation strategies.
- Development management plan which provides a specific action programme for guiding development (public investment strategies, development codes, programmes for extending infrastructure and services etc).

4.7. CONCLUSION

The concept of incremental land use management is introduced in SPLUMA though the principle on spatial justice in which there is redress in access to land but also the development of flexible land use management systems which can adapt to the realities in practice (SPLUMA,2013). As Todes (2011) and Coetzee (2012) outline that land use management can only be improved through planning systems that are flexible and underpin traditions and customs that reflect people's communities, in order to create land use management systems based on: a culture on learning, research, benchmarking, experience and innovation. The concept of incremental upgrading of informal areas is defined as "the progressive introduction of administration, management, engineering services and land tenure rights to an area that is established outside existing planning legislation, and may include any settlement or area under traditional tenure" (SPLUMA,2013:8). The definition

illustrates that the introduction of incrementalism in terms of SPLUMA focuses not only on land use management and administration but also takes cognisance of the progressive introduction of engineering services and land tenure rights (SPLUMA, 2013).

Minimal research has been undertaken to understand the incremental introduction of land use management within the rural context in South Africa and internationally, with the exception of work undertaken by the KwaZulu-Natal Planning and Development Commission and the Australian Land Use Planning in Rural Areas. Therefore, the research also draws insight from research undertaken in urban areas. However, the inaccessibility of information on rural areas should not be a stumbling block but an opportunity and willingness to learn from modern and indigenous knowledge. As Chavunduka in Dubazane (2015:74) "cautions that modern policies are bound to fail because they do not make use of other kinds of knowledge particularly indigenous knowledge that is embedded in local experience". Coetzee (2012:20) concurs with this argument on the basis that "indigenous knowledge systems are important in planning generally and in spatial planning in particular...as activities and daily relationships that are part of the systems are expressed in the spatial requirements for land allocations...the spatial relationships are deeply rooted in the survival strategies that rural people use to sustain their way of life".

du Plessis (1999) argues that incrementalism should grant rural communities the ability to choose between traditional land systems of the traditional authority administering the land on behalf of the community or modern systems in which communities have the option of attaining individual ownership to some parts of the communal land. Therefore, incrementalism should provide flexibility but rooted in encouraging participation and spatial sustainability. The KwaZulu-Natal Planning and Development Commission (2010) identifies that indigenous land uses need to be incorporated into planning tools and systems by means of being properly identified and geo-referenced by maximising on the usage and linkage between Spatial Development Frameworks, Land Use Schemes and Geographical Information Systems.

Incrementalism from a metropolitan approach illustrates the development of flexible special zones to deal with the shortcomings of schemes. However, the process is underpinned by comprehensive planning and participation. Internationally academics such as Lemmen (2013) argue that the existing land administration systems has limitations as informal and customary tenure cannot be executed in the normal registration processes, partly due to unsurveyed land and a lack of understanding by planners on the relationships that exists between people and land. Thus, incrementalism requires a community based mapping

processes of land and property rights. In light of the above, the process of incrementalism is complex and requires practical understanding and implementation plans of how to address various elements ranging from; community needs to institutionalized processes of land administration. The subsequent chapter provides a detailed case study review of Bushbuckridge Local Municipality in which the realities of incremental planning are assessed.

CHAPTER 5: BUSHBUCKRIDGE LOCAL MUNICIPALITY CASE STUDY REVIEW

5.1. INTRODUCTION

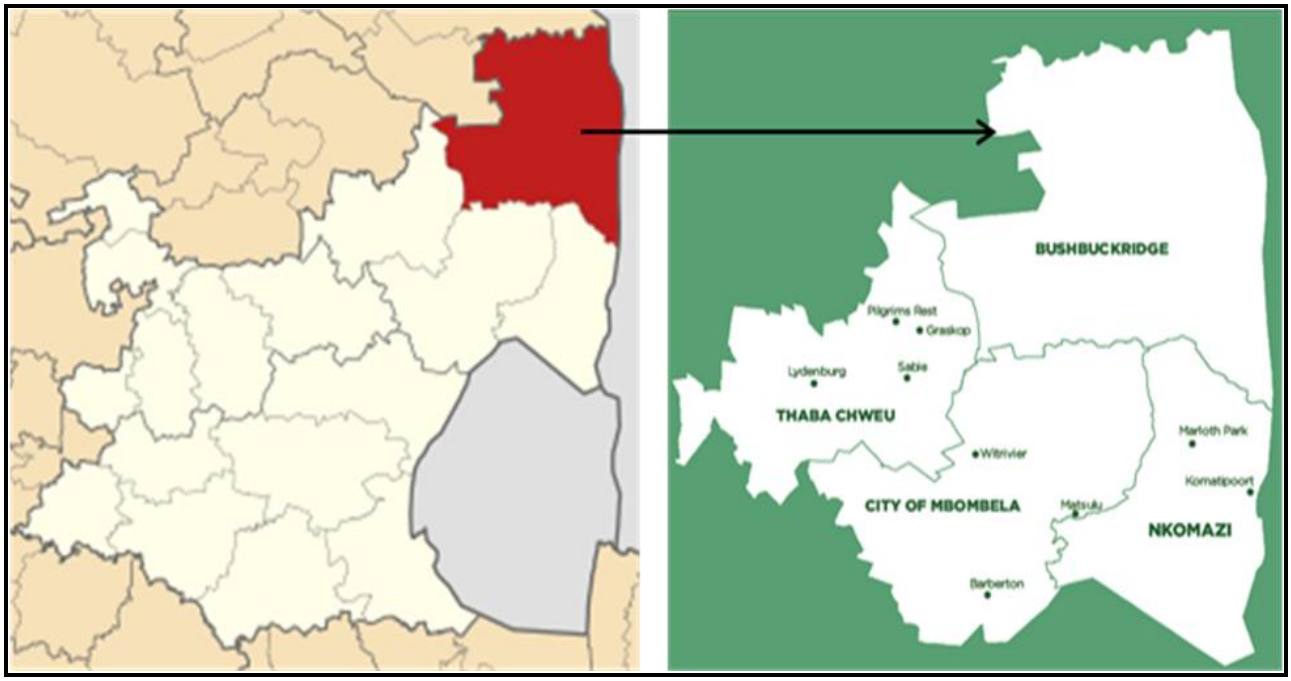
"*A case study is an empirical inquiry that investigates a contemporary phenomenon within its real-life context when the boundaries between phenomenon and context are not clearly evident; and in which multiple sources of evidence are used" (Sarantakos, 2005:211).*

The case study review of Bushbuckridge Local Municipality focuses on highlighting aspects that contributed to the areas current realities. The review is informed by a process aimed at outlining the former homelands established through the Black Authorities Act 1951 which were dissolutioned and incorporated into the current municipal jurisdictions in accordance with the Municipal Demarcation Act (Act 27 of 1998) and the 1996 Constitution of the Republic of South Africa. The review further outlines the number and location of traditional councils that exists within the municipality and the roles the councils have in the land use management system. In accordance with Sarantakos (2005) notion on case studies, various sources of evidence are utilised in order to understand the chosen case study.

5.2. BUSHBUCKRIDGE LOCAL MUNICIPALITY GENERAL STATUS

Bushbuckridge Local Municipality is a category B municipality located in the north-eastern region of Ehlanzeni District in Mpumalanga Province (Bushbuckridge Local Municipality IDP,2015-2016) in accordance with Figure 5.1 below. According to the Bushbuckridge SDF (2010) the Municipality covers 25586.76 hectares of land area, of which 255.74 hectares are agricultural land, 207.82 hectares residential area and 3.9 hectares of waterbodies. However, the Bushbuckridge Local Municipality IDP (2015-2016) indicates that the municipal land area has increased to approximately more than 1 000 000 hectares, due to a portion of the Kruger National Park being incorporated into the municipal jurisdiction by the Municipal Demarcation Board.

Figure 5.1: Location of Bushbuckridge Local Municipality



Source:https://municipalities.co.za/img/districts/MP_EhlanzeniDM.png?1470139389and https://www.google.co.za/search?q=map+of+bushbuckridge+area&tbm=isch&tbs=rimg

The Bushbuckridge SDF has identified the following features depicting the development pattern of the municipality respectively (Bushbuckridge SDF, 2010:11;Bushbuckridge Local Municipality IDP,2015-2016; Bushbuckridge Urban Renewal Project,2010):

- Areas developed far from places of economic, cultural, recreational and educational opportunities. Thus, the municipality is characterised by high unemployment and poverty rate.
- Severely overcrowded former homelands which are forced to depend on limited agricultural land. This process is in turn leading to severe environmental degradation.
- Wide disparities in the provision of infrastructure and services.
- Fragmented built environment with little tax base.

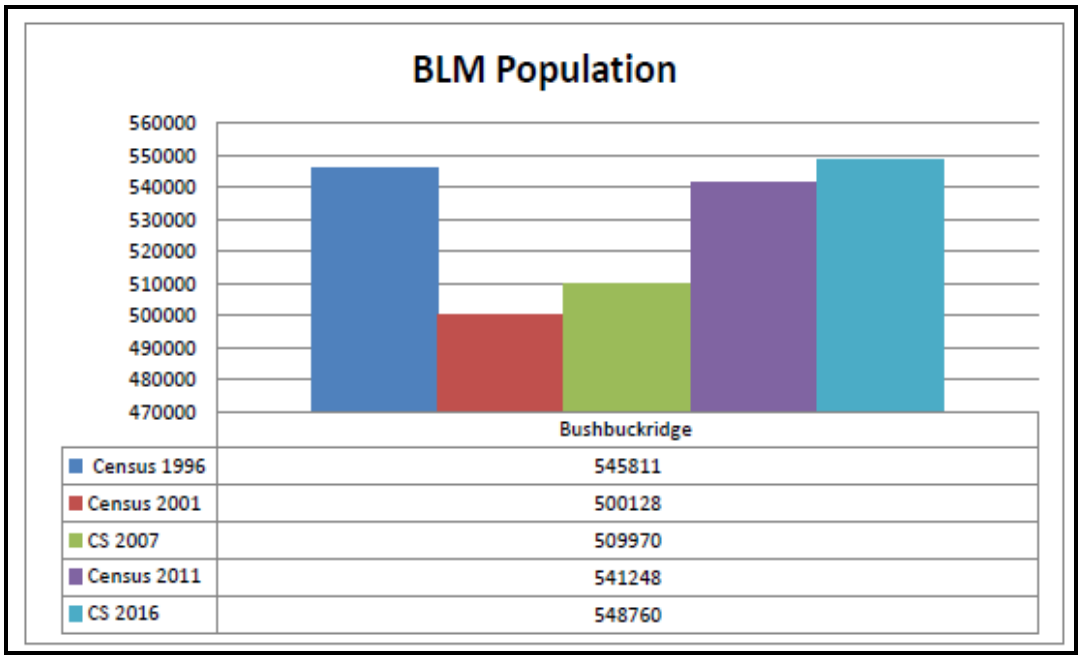
The above mentioned development pattern features are aligned to the Environmental Development Agency findings mentioned earlier (Butler,2002). The municipality's development plan features illustrate the severe impact in which colonial and apartheid legislative provisions still impact on the physical typology of the area. The Bushbuckridge Local Municipality IDP 2017/22 outlines that the main problem in terms of land use

management is that “the municipality claims about 5% with the remainder 95% is controlled by the Traditional Authority. The control of land use is still a major problem as there are continuous and uncoordinated settlements which affect the provision of services. The occupation of 95% of land which is under the custodianship of traditional leaders has permission to occupy (PTO) which does not give full ownership. This form of ownership affects revenue collection and makes planning difficult as a result of sprawl, housing allocation becomes difficult as beneficiaries are located far from serviced areas and most businesses operate without licencing and impact negatively on revenue collection” (Bushbuckridge Local Municipality IDP 2017/22:54). Thus, in light of the above the municipalities priorities in terms of spatial planning and land use management is to ensure; formalisation of land tenure upgrading, servicing of sites and fast-tracking of land claims.

5.2.1 Social Trends

Bushbuckridge Local Municipality is characterised and dominated by the Mapulana tribe (dialect from Sepedi), VaTsonga and to a less extent, Swati speaking people as indigenous inhabitants (Bushbuckridge Local Municipality IDP,2015-2016). According to Statistics South Africa Bushbuckridge Local Municipality in 2011 had a total population of 541248 people with 99,5% being black African, with the other population groups making up the remaining 0,5%, as depicted in Chart 5.1. The latest population statistics according to a community survey conducted by Statistics South Africa in 2016 indicated that the total municipal population is 548 760 people, as a resultant of;” fertility & mortality rates, migration and influx to increase residential and business development in the municipality as a result of neighbouring countries such as Mozambique and Zimbabwe” (Bushbuckridge Local Municipality IDP,2017/22:29). Statistics South Africa (2011) ranked Bushbuckridge in the 2011 Census as the seventh highest population density category B municipality in the country. In terms of Mpumalanga Province, the municipality is ranked second subsequent to Mbombela Local Municipality with a total population of 588794.

Chart 5.1: Bushbuckridge Local Municipality Population Statistics



Source: Statistics South Africa census and community survey

According to Statistics South Africa (2011) Bushbuckridge Local Municipality has 134 197 households, with an average household size of 4,0 persons per household. The municipality has an unemployment rate of 52.1% and is regarded to be highest unemployment rate in the Province, with the youth unemployment rate estimated to be 64.6% and a poverty rate of 45.4% (Statistics South Africa,2011;Mpumalanga Province Finance Department,2012). The municipality comprises of 95.9% of formal dwellings, however there is minimal access to essential services with only 11,9%of households have access to piped water inside dwelling,6.8% of households have a flushing toilet connected to the municipal sewerage system and only 7.5% of households have access to refuse removal services (Statistics South Africa,2011). Whilst access to electrical services increased from 79% in 2001 to 93.9% in 2011, table 5.1 below outlines the municipal social trends based on the 2001 and 2011 census.

Table 5.1: Bushbuckridge Local Municipality key statistics 2001 and 2011

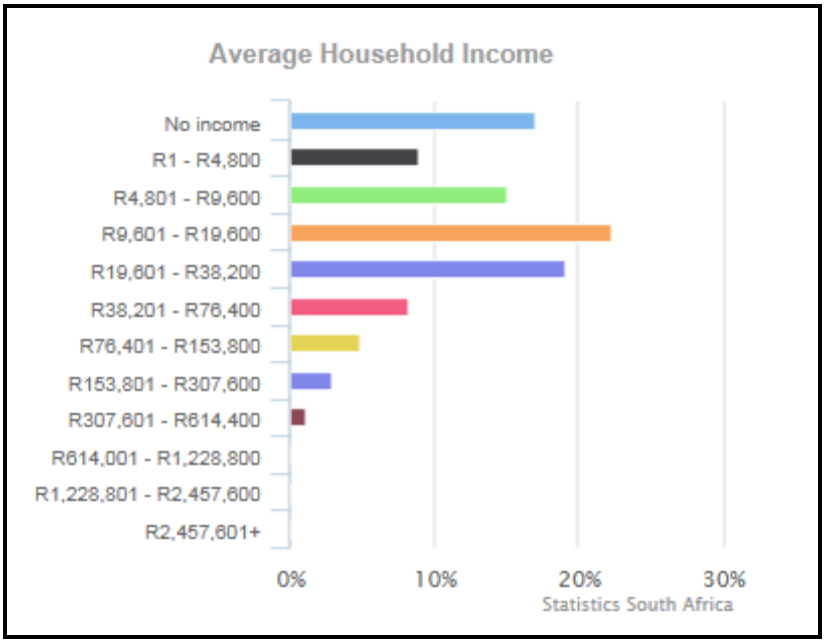
Key Statistics	**2001**	**Key Statistics**	**2011**
Total population	500 128	Total population	541 248
Young (0-14)	42%	Young (0-14)	37%
Working age (15-64)	57.7%	Working age (15-64)	57.7%
Elderly (65+)	4.9%	Elderly (65+)	5.3%
Dependency ratio	88.2%	Dependency ratio	73.4%
Sex ratio	81.9%	Sex ratio	83.3
Growth rate	-1.75% (2001-2011)	Growth rate	0.79% (2001-2011)
Unemployment rate	62.6%	Unemployment rate	52.1%
Youth unemployment rate	74.7%	Youth unemployment rate	64.6%
No schooling aged 20+	39.6%	No schooling aged 20+	18.6%
Higher education aged 20+	6.1%	Higher education aged 20+	7.4%
Matric aged 20+	12.4%	Matric aged 20+	25.7%
Number of households	108 500	Number of households	134 197
Average household size	4.5	Average household size	4
Female headed households	55.3%	Female headed households	53.3%
Formal dwellings	83.3%	Formal dwelling	95.9%
Housing owned/paying off	77.9%	Housing owned/paying off	72.9%
Flush toilet connected to sewerage	7.1%	Flush toilet connect to sewerage	6.8%

Weekly refuse removal	6.4%	Weekly refuse removal	7.5%
Piped water inside dwelling	5.2%	Piped water inside dwelling	11.9%
Electricity for lighting	79%	Electricity for lighting	93.9%

Source: Statistics South Africa,2011

The above mentioned statistics illustrate that the provision of infrastructural services is the main critial backlog that persists in the municipality. This is possibly a resultant of the municipality having limited tax base to fund bulk infrastructure, for settlements developed in the apartheid and democratic era as a resulted of low household income. In relation to the study the lack or delayed implementation of land use management could also be a contributing factor, as settlements are unstructured and unsurveyed. Therefore, there might be no layout plans for the settlements which would assist in registering the infrastructure services.

Chart 5.2: Bushbuckridge Local Municipality Household Income Statistics 2011

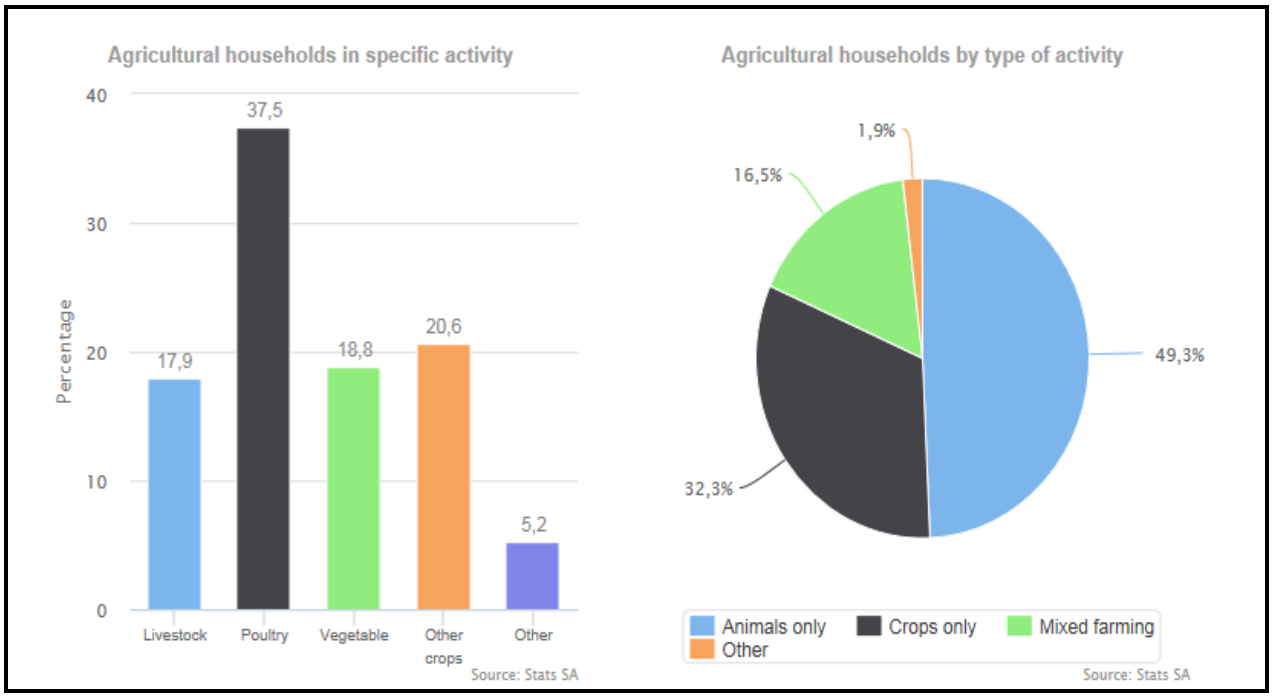


Source: Statistics South Africa,2011

5.2.2 Economic Trends

Bushbuckridge Local Municipality is classified as rural municipality and was identified as a Comprehensive Rural Development Programme (CRDP) area. The municipality contributes 3.4% to the Gross Value Added(GVA) economy and is considered to be the highest contributor of the seven CRDP municipalities in Mpumalanga Province (Mpumalanga Province Finance Department,2012). The main economic sectors in Bushbuckridge are community services (48.3%), trade (18.0%),finance (12.5%) and agriculture only contributes 6% (Mpumalanga Province Finance Department,2012). The municipal area has no major mining activities, only stone aggregate sand which is utilised for the construction of residential dwellings (Bushbuckridge SDF,2010). According to Statistics South Africa (2011) the municipality had 53,204 agricultural households with the main production being poultry and other crops as illustrated in charts 5.3 and 5.4.

Chart 5.3 and 5.4: Bushbuckridge Local Municipality Agricultural households by activity type



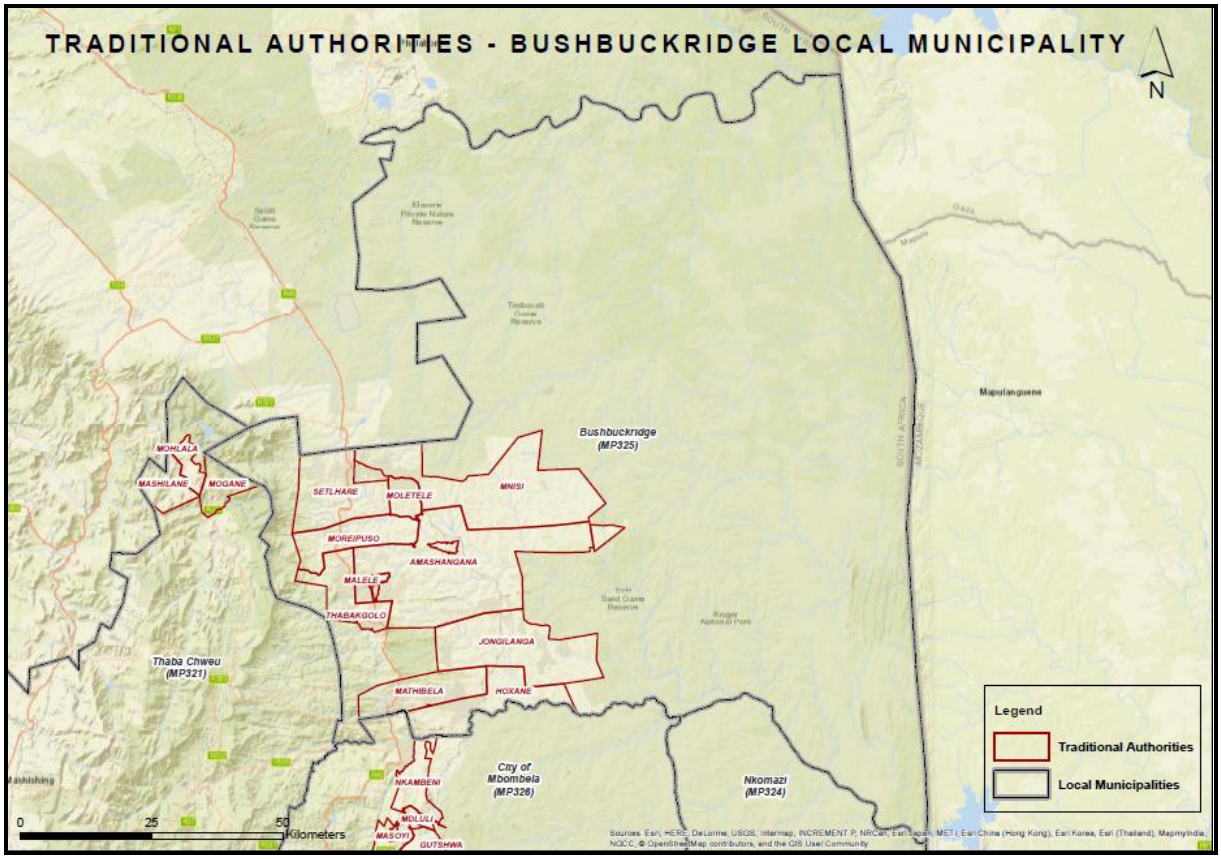
Source: Statistics South Africa,2011

Thus, the development of the municipality on unviable agricultural land has limited the municipality's economic base and resulted in environmental degradation. In relation to the study the incremental introduction of land use management requires the municipality to understand the manner in which it can transform the unviable land to maximise the municipality's socio-economic base.

5.2.3 Spatial Analysis

Bushbuckridge Local Municipality comprises of five urban nodes respectively; Bushbuckridge, Acornhoek, Thulamahashe, Mkhuhlu and Hazyview (Bushbuckridge SDF,2010). According to Statistics South Africa (2011) the municipal area comprises of 96.2% of tribal/traditional land, whilst the remaining 3.2% is classified as urban and 0.6% is farm land as illustrated by chart 5.5. The municipal area in 2010 had approximately 121327 ha representing 46, 83% of the land area subjected to land claims. However, updated information on existing and lodged land claims is not available since the re-opening and closing of the land claims process in terms of the Restitution of Land Rights Amendment Act,2014. The municipal area comprises of ten traditional authorities respectively; Amashangana, Hoxani, Jongilanga, Malele, Mathibela, Moreipuso, Mnisi, Moletele, Setlhare and Thabakgolo, figure 5.2 below illustrates the location of the traditional authorities in the municipal area.

Figure 5.2: Location of Traditional Authorities in Bushbuckridge Local Municipality



Source: DRDLR, 2018

The R293 townships are registered in name of the Provincial Government of Limpopo (Bushbuckridge SDF, 2010), as the municipal area formed part of Limpopo and comprised of three homelands respectively; Gazankulu, Lebowa and KaNgwane. The Bushbuckridge SDF (2010:60) has identified that rural residential settlements keep cattle within their yards and that “vacant open spaces and communal land are grazed extensively”. According to the Bushbuckridge SDF (2010:65) “some parcels of land are allocated by chiefs and many of the residents have no security of tenure”. This process has resulted in: spatial segregation of towns and township areas, uncontrolled sprawl of residential settlements, poor accessibility and lack of integration (Bushbuckridge SDF, 2010:68). This is an illustration of modernism, from a Marxism perspective there is conflict particularly regarding for the use of land.

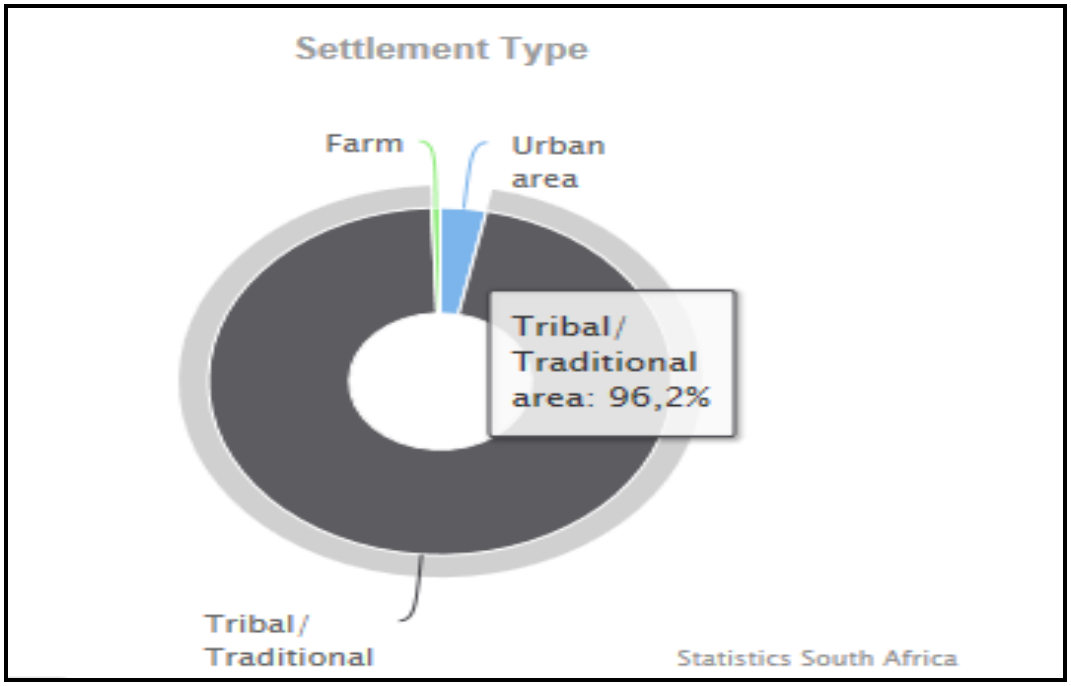
Despite, the above mentioned challenges the municipality is establishing working relations with the traditional authorities, through the Office of the Executive Mayor and accommodating the Bohlabela House of Traditional Leaders within the municipal office premises (Bushbuckridge SDF, 2010). This process has enabled the establishment of the Traditional mayors’ forum which is aimed at “discussing issues of land matters, Local Economic Development, social issues and Infrastructure backlog” (Bushbuckridge SDF, 2010:31). The Bushbuckridge Local Municipality has also worked with the Department of Cooperative Governance and Traditional Affairs in consultation with traditional authorities for the development of township establishments for the implementation of human settlements in the following areas;

Table 5.2: Bushbuckridge township establishment projects

Township Establishment Areas	Tribal Authority	Number of sites
Lilydale A	Jongilanga	655
Lehumo	Moreipuso	607
Burlington A	Mnisi	652
Kumana	Amashangana	517
Rooyboklaagte C	Setlare	654

Source: Bushbuckridge Local Municipality IDP 2017/22

Chart 5.5: Settlement type



Source: Statistics South Africa,2011

In terms of the Bushbuckridge SDF it is evident that the municipality has insight into the form of land use activity occurring within the settlements. However, it is not evident whether the various land uses are geo-referenced and incorporated into the municipal land use scheme. In accordance with the KwaZulu-Natal Planning and Development Commission (2010) findings it is evident that rural planning is not only dependent on the municipality but other stakeholders such as traditional authorities and provincial and national government in terms of the neo-liberalism approach of achieving the NDP's mandate of differentiated planning approaches (ditto).

5.2.4 Existing tools related to spatial planning and land use management

The Bushbuckridge Spatial Development Framework was approved in 2010 and still needs to be aligned to the Spatial Planning and Land Use Management Act (Act 16 of 2013) prescripts on the content and process of reviewing a municipal spatial development framework. The municipality also adopted the Land Use Management System in 2013, Council Resolution BLM/33/01/11/13/2013/14. The Bushbuckridge Local Municipality Spatial Planning by-law was adopted in 2014.

5.2.5 Municipal projects related to spatial planning and land use management

The Bushbuckridge Local Municipality Integrated Development Plan 2015-2016 projects related to spatial planning and land use management outlined in table 5.3 below are;

Priority Issue	**Project Objective**	**Target/Milestone**	**Date/ Timeframe**	**Programme Budget**
				Total Projects Allocation
Land tenure and land use management	Ensure lawful security of tenure	100% compliance of land tenure legislation	2016	R117million
Land tenure upgrading	*To provide full title deeds *To create well planned settlements *To provide proper and planned services	Formalisation through township layout and establishment		
Land use management	*To provide well planned and secure human settlements. *To enforce adherence to processes and procedures of development	*Use of land use management scheme and spatial development framework to process town planning applications *Awareness and enforcement of development by-laws.		

Urban renewal programme	To facilitate and create well planned and sustainable towns	Implementation of urban renewal projects		
Development of GIS strategy	Maximise usage of GIS	Realisation of corporate GIS		R265 000

The Bushbuckridge Local Municipality Integrated Development Plan 2017/22 projects related to spatial planning and land use management outlined in table 5.4 below are;

Priority Issue	**Project Objective**	**Target/Milestone**	**Date/ Timeframe**	**Programme Budget**
				Total Projects Allocation
Aerial photography of municipal area	Effective and efficient administration	Aerial photography with 1 metre contours	2017/2018	R1 500 000
Geo-referencing and mapping of social facilities	Effective and efficient administration	Social facility datasets	2017/2018	R500 000
Development of GIS strategy	Maximise usage of GIS	Realisation of corporate GIS	2017/2018	R500 000
Establishment of townships/formalisation/land tenure upgrading	Improve security of tenure	Tenure security	various areas 2017-2020	Varied budget projects from 2017-2020

In light of the above municipal tools and projects on spatial planning and land use management, it is evident that Bushbuckridge Local Municipality is making strides towards implementation of land use management particularly through the spatial planning and land use management (SPLUM) by-law and Geographical Information System (GIS). Furthermore, the tools and projects outline that issues pertaining to the establishment of new

townships and tenure security are pivotal. This illustrates that settlement planning is essential in order execute land use management.

5.3 BUSHBUCKRIDGE LOCAL MUNICIPALITY THOUGHTS AND VOICES OF THE PEOPLE

Insight into Bushbuckridge Local Municipality as a case study for this research was informed by a one-on-one interview with one of the municipal Town Planners respectively Mlambu (2017) and an observation meeting facilitated by the Department of Cooperative Governance and Traditional Affairs, Bushbuckridge Local Municipality together with the traditional authorities.

Bushbuckridge Local Municipality introduced land use management to the rural areas in 2010 with the adoption of a wall-to-wall land use scheme (Mlambu[14], 2017). This process enabled the municipality to establish a working relationship with the traditional authorities and community leaders (Mlambu, 2017). However, with the implementation of SPLUMA the municipality believes that the directorates' responsibilities might change with "the involvement of ward councillors in the application process, furthermore with the final wall to wall scheme coming to effect, traditional authorities will no longer have the luxury of allocating land uses to people, as much as they remain the custodians of land and have rights to allocating land such allocations will have to be done in relation to the scheme administered by the municipality" (Mlambu,2017), as the municipality being the authority of first instance in accordance with SPLUMA Section 33(1).

The challenges and conflicts associated with land use management within the rural context are related to; traditional authorities allocating land and land uses to the community with developments not being aligned to municipal plans such as the spatial development framework and the land use scheme (Mlambu, 2017). Furthermore, unsurveyed land creates complexities as there is no proper geo-referencing (Mlambu, 2017). The Bushbuckridge SDF outlines that the fragmented spatial developments has resulted in the municipality having a low tax base and exposure to environmental degradation. Therefore, in order to deal with some of these challenges and track the municipal spatial form trends the municipality reviews its SDF every five years, maintains a land use application register and has "flown over the municipal area to get the latest aerial photograph in January 2017" (Mlambu,2017). Thus, the municipality has prioritised projects on; aerial photography with 1 metre contours, geo-referencing and mapping of social facilities and development of a GIS strategy for

[14] Interviewee: Mlambu (2017) Bushbuckridge Local Municipality, 29 September 2017

2017/2018 financial year (Bushbuckridge Local Municipality Integrated Development Plan 2017/22).

The key stakeholders who deal with land use management within the rural context are:

Table 5.5: Bushbuckridge key stakeholders in land use management

STAKEHOLDERS	**ROLES AND RESPONSIBILITIES**
Municipality: Town Planning Division	- Evaluating and processing land use application, ensuring alignment, providing land information to the public, giving assistance to tribal authorities and politicians. -Capacitating tribal authorities, advising and consultation with tribal authorities, evaluating land use applications in rural areas
Municipality: Finance Division	- Provide tax clearance, contracts for outdoor advertising, processing of service contribution payments etc.
Municipal Council	- Council is the appeal body, which deals with tribunal decisions that are appealed.
Traditional Authorities	- Traditional authorities allocate land and give tribal resolutions to that effect.

The town planning directorate engages stakeholders on the alignment and effectiveness of sector plans and also land use management matters through mostly workshops with tribal authorities and community representatives four times annual through planned engagements and on an adhoc basis (Mlambu,2017).One of the *ad hoc* engagements was initiated by the Department of Cooperative Governance and Traditional Affairs (COGTA) directorate responsible for the Ehlanzeni House of Traditional Leaders in conjunction with Bushbuckridge Local municipality on the 27 June 2017. There are annual meetings arranged by COGTA to inform traditional leaders about policy matters. The aim of the engagement was to inform the traditional authorities about the Bushbuckridge Local Municipality policies that may affect directly or indirectly the governance by traditional authorities, in the form of

the Bushbuckridge spatial planning and land use management by-law and business licencing by-law.

The engagement comprised of:

- Ten Traditional Leaders and representatives thereof from the various Traditional Councils which also serve on the Ehlanzeni Local House of Traditional Leaders.
- COGTA – Officials from the Traditional Affairs directorate
- Bushbuckridge Local Municipality -Town Planning Unit with town planners, building inspectors and business licencing officials

The engagement session was conducted in SiSwati and XiTsonga in order to ensure thorough understanding, this decision was resolved by all three parties present at the session. Another advantage that aided the engagement between the traditional leaders and the municipality was that some of the municipal officials are individuals that were raised within Bushbuckridge and the presence of senior municipal officials such as the Chief Town Planner was essential based on the working relationship the traditional leaders have had. This process created a sense of trust and enabled thorough engagement which emphasised that traditional leaders and the municipality need each other to plan the use of the land more effectively. Bushbuckridge Local Municipality presented on the following matters (Mlambu,2017 ;Bushbuckridge Local Municipality IDP 2017/2022):

- National planning legislative process in relation to the municipal Spatial Planning and Land Use Management (SPLUM) By-law gazetted in 2014.
- The municipality requires a letter of consent from the traditional leaders for all applications submitted by the public. The letter of consent is in the form of either deed of grant, power of attorney or tribal resolution letter.
- The municipality is receiving more applications on township establishment. Thus, the township establishment process was outlined as it has been identified by the municipality that some of the land allocations granted by the traditional authorities are exorbitant and there is misallocation of land uses in the form of taverns being developed near schools. Bushbuckridge Local Municipality has assisted the traditional authorities to develop five township establishments as outlined in table 5.6 respectively:

Table 5.6: Township establishments in Bushbuckridge Local Municipality

Township Establishment Areas	Tribal Authority	Number of sites
Lillydale -A	Jongilanga	655
Lehumo	Moreipuso	607
Burlington - A	Mnisi	652
Kumana	Amashangana	517
Rooyboklaagte _C	Setlare	654

Source: Bushbuckridge Local Municipality IDP

- The municipal spatial development framework that it is developed in terms of the MSA and SPLUMA and reviewed every five years. The municipality explained the importance of the SDF in identifying primary nodes and service delivery nodes through the assessment of socio-economic matters impacting and influencing the municipal space. Furthermore, the importance of understanding which areas are environmentally sensitive, areas prone to disasters such as flooding and population growth in relation to development. The traditional authority's SDF general plan and localised map plans for Casteel, Thulamahashe, Mkhulu and Acornhoek were presented and also given to the traditional authorities subsequent to the meeting. However, the municipality has noted and also conveyed a level of concern regarding minimal attendance by traditional authorities to SDF meetings, even if the meetings were arranged through COGTA.

- Land use scheme and the importance thereof. The municipality also has a law enforcement unit that will deal with illegal land uses and illegal constructions which will be facilitated by the town planning and business units.

- The SDF and land use scheme have incorporated traditional practices by accommodating concepts such as: grazing land, rural residential and rural settlements.

Draft by-law on trading business licenses which deals with; informal traders, environmental health and safety in relation to business trades, areas prohibited for trading, Application process for business operations which require; tribal resolution recommendation,

recommendation letter from the councillor, consent application form from the municipal regional offices, ID copy and application fees per the business trade.

The traditional authorities' thoughts on the engagement session were:

- Planning is essential and accepted by the Traditional Councils. However, there has to be some form of education for communities on the importance of the SDF and its implications as communities do not understand wetlands, floodlines and hazardous areas. Therefore, there must be awareness campaigns on spatial planning and land use management and this can be achieved through a joint venture between the municipality and traditional authorities by maximising education on radio stations, izimbizo etc.

- Concerns on what rights the municipality has to minimise the number of hectares allocated to persons, as land allocations and guiding development are deemed to be the traditional authorities function. Therefore, the municipality wants to take the traditional authorities powers and functions.

- Consultation with the traditional authorities should start with the development of the by-law and not in the implementation thereof. SPLUMA and the SDF is a good initiative, but other areas have been excluded from the SDF and this needs to be clarified together with the traditional authority boundaries of which traditional authorities exist within Ehlanzeni District.

- Poor planning by municipalities to demarcate areas for township establishment results in land being illegally subdivided and land invasions. COGTA and municipality must convene a meeting with traditional leaders and provide them with the gazetted boundary maps to avoid the land disputes and illegal land invasions that are occurring.

The relationship that the municipality has with both the traditional authorities and the community has not changed with the implementation of SPLUMA, as a change management system was not instituted by the municipality to deal with the implementation. Despite, the engagements the municipality has with the community, there is no clear tool to assess if communities understand the roles and responsibilities of both the municipality and traditional authority in terms of land use management (Mlambu,2017). Furthermore, the municipality has not drafting and instituted a Service Level Agreement between itself and the traditional authorities in terms of Regulation 19 of SPLUMA.

According to Bushbuckridge Local Municipality land use management system is considered to be a fairly new concept for the traditional authorities, therefore it is quite difficult to implement what they really understand and consider to be a threat to their power (Mlambu,2017). Mlambu (2017) indicates that the concept of incremental land use management becomes prudent, even though it's considered not to realistic but has the potential "to provide spatial direction for development and possibly the collection of rates is also another factor. For the traditional authorities it means loss of power on the allocation of rights and for the community it means the possible attainment freehold title, proper rights and zonings and increased chances of getting loans from financial institutions".

5.4 CONCLUSION

Bushbuckridge Local Municipality comprises of ten traditional authorities, which administer 95% of the land. In terms of the 2016 community survey the municipality had a population density of 548760 people, the second highest population in the Province with the average household size being 4.0 persons per household (Statistics South Africa,2011). The municipality has an unemployment rate of 52.11% and receives the highest division of revenue from National Treasury. The municipality's statistics illustrate the disparities which a rural municipality deals with. The key land challenges highlighted in the Bushbuckridge SDF (2010) are related to: overgrazed land, security of tenure through the R293 townships and permission to occupy system, settlement sprawl and lack of revenue collection. The municipality's IDP 2017/22 projects are structured around geo-referencing of rural settlements, maximising the usage of GIS and improving security of tenure. The general status of Bushbuckridge Local Municipality as outlined above, is also evident in the interview with Mlambu (2017) that land allocation and land uses are not aligned to the municipality's spatial planning tools and systems. The subsequent chapter provides a detailed case study review of Dr JS Moroka Local Municipality in which the realities of incremental planning are assessed.

CHAPTER 6: DR JS MOROKA LOCAL MUNICIPALITY CASE STUDY REVIEW

6.1. INTRODUCTION

The case study review of Dr JS Moroka Local Municipality focuses on highlighting aspects that contributed to the areas current realities. The chapter is structured into two sections. The first section focuses on the general status of Dr JS Moroka Local Municipality with a specific focus on: social trends, economic trends, spatial analysis and tools and projects related to spatial planning and land use management. The review is informed by a process aimed at outlining the former homelands and the roles the traditional councils have in the land use management system. The second section outlines the thoughts and voices of Dr JS Moroka Local Municipality on the existing challenges pertaining to land use management in the rural context and interpretation on incremental land use management.

6.2. DR JS MOROKA LOCAL MUNICIPALITY GENERAL STATUS

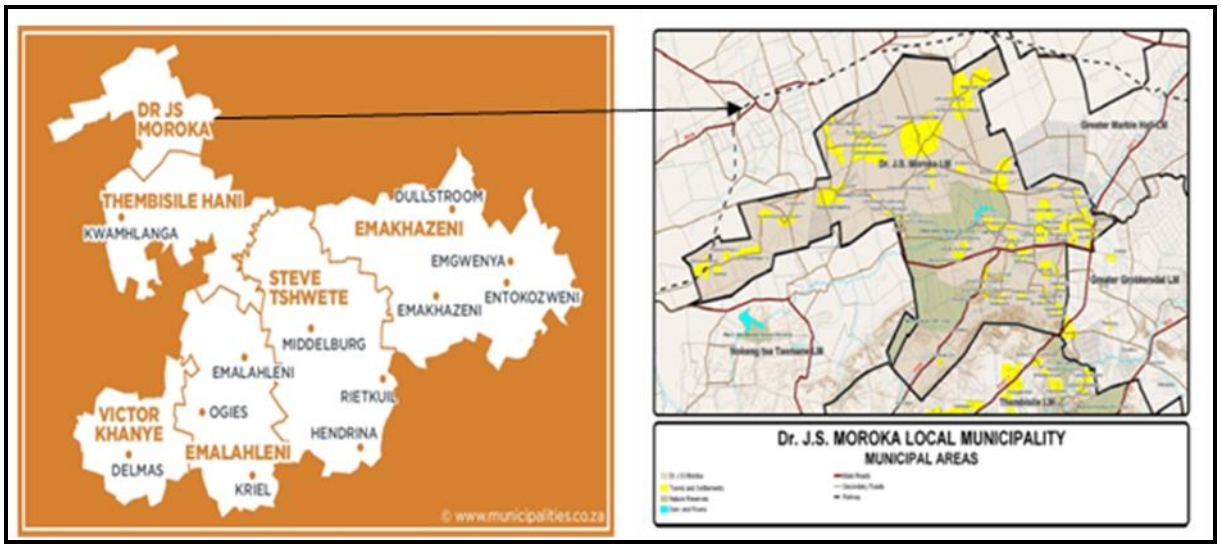
Dr JS Moroka Local Municipality formed part of the then Bophuthatswana and KwaNdebele homelands and is currently located in the north-western region of Nkangala District Municipality as illustrated in Figure 6.1 and 6.2. The municipality is classified as a category B municipality with a total land area of 1416, 4240 km². The municipal area comprises of 31 wards and is very rural in nature with a combination of urban, peri-urban and agricultural settlements. Two provincial roads, route R573 (Moloto Road) and route R568 connect the eastern parts of the Municipality to neighbouring municipalities, whilst the western regions of the municipality are fairly isolated due to a lack of regional linkages (Dr JS Moroka IDP,2017/18-2021/22:184). According to the Dr JS Moroka IDP 2016-2017 the municipal planning function was entrusted to Nkangala District Municipality in accordance with the Province of Mpumalanga Provincial Gazette Volume 10 No. 959 date 26 May 2003. The gazette was issued due to the lack of town planning capacity within the municipality, thus all land use and development applications and final approvals of the Spatial Development Framework and the Schemes are first approved by the District (Dr JS Moroka IDP, 2016-2017). The Dr JS Moroka IDP (2016-2017:85) states that the following features depict the challenges the municipality has with the municipal development pattern:

- Development in the municipality in most instances is occurring without the Town Planning Division being consulted.

- The municipality experiences difficulties in addressing land tenure upgrading for all villages within the municipality, due to the slow processes within the province.
- Transfer of land from the state departments to the municipality is a slow process partly due to the changing boundaries affected by the demarcation board where some portions have been demarcated to two differing municipal jurisdictions.
- Delays in concluding land claims is hampering on development.
- Recurrence of land allocation for residential purposes in villages by the Tribal Authorities without first consulting the Municipality and providing basic services.
- The process of submitting all applications for land use rights to the district delays service delivery or response time of the municipality.
- The R293 proclaimed townships are still affected by old infrastructure which requires refurbishment.
- Lack of economic opportunities within the municipal area has resulted in people community daily to areas such as Johannesburg and Pretoria.

In terms of the Dr JS Moroka IDP 2017/18 – 2021/22 the priority land development needs are; land tenure upgrading, site allocation, town planning, new stand developments, township establishment, renaming of features, land survey, proclamation of villages and allocation of site. Dr JS Moroka Local Municipality has a similar development features as Bushbuckridge Local Municipality, particularly on the inability of the municipalities to provide economic opportunities.

Figure 6.1 and 6.2: Location of Dr JS Moroka Local Municipality

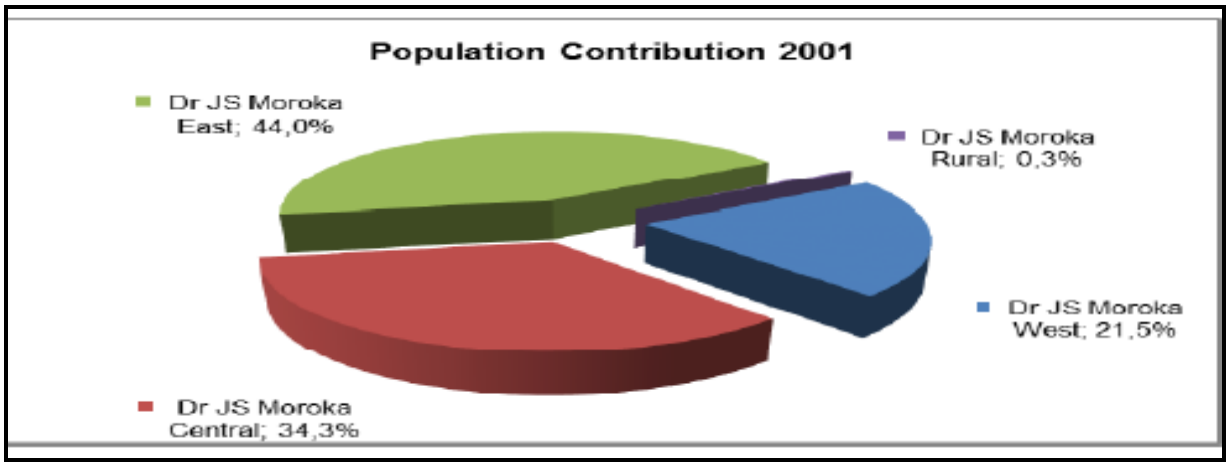


Source: The Local Government Handbook,2012-2016 and Dr JS Moroka IDP, 2016-2017

6.2.1 Social Trends

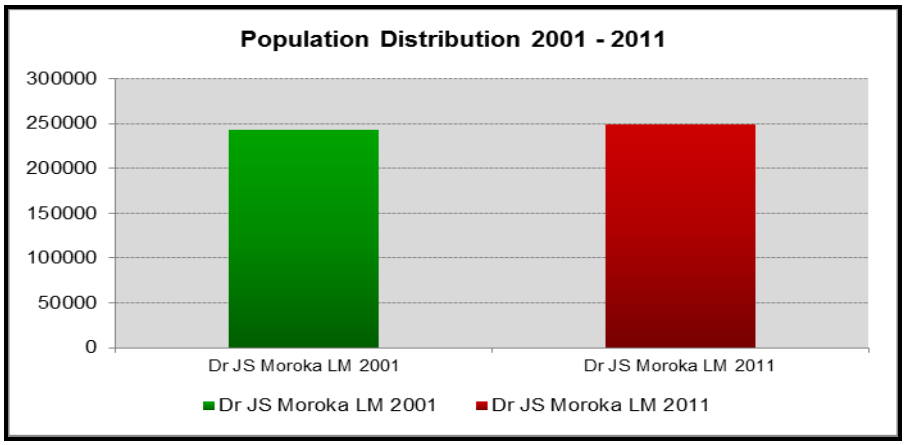
According to Statistics South Africa (2011) Dr JS Moroka Local Municipality has a total population of 249 705 and 62162 households, as illustrated in Chart 6.2**.** Dr JS Moroka Local Municipality contributed 19.1% to the total population of Nkangala District in 2011. However, with the 2016 Community survey statistics the municipal population declined to 246 016 (Dr JS Moroka Local Municipality IDP 2017/18-2021/22). The municipality is constituted of 62 villages, 31 wards which are dominated by two major language groups in the region respectively; Tswana and Ndebele-speaking people (Dr JS Moroka IDP, 2016-2017). According to the Dr JS Moroka Local Municipality IDP (2017/18-2021/22) outlines that majority of the population is concentrated within the eastern section (44.0%) of the local municipality respectively Klipplaatdrift and Siyabuswa, compared to the western area (21.5%) which has the lowest population concentration respectively; Masobe, Phake, Magareng, Majaneng and Leseleseleng/ Phomolong. The rural area of Dr JS Moroka has no significant points of concentration as the population is dispersed throughout the rural area (0.3%) as depicted in Chart 6.1.

Chart 6.1: Dr JS Moroka Local Municipality population contribution 2011 census



Source: Dr JS Moroka Local Municipality IDP,2017/18-2021/22

Chart 6.2: Dr JS Moroka Local Municipality population distribution based on the 2001 and 2011 census

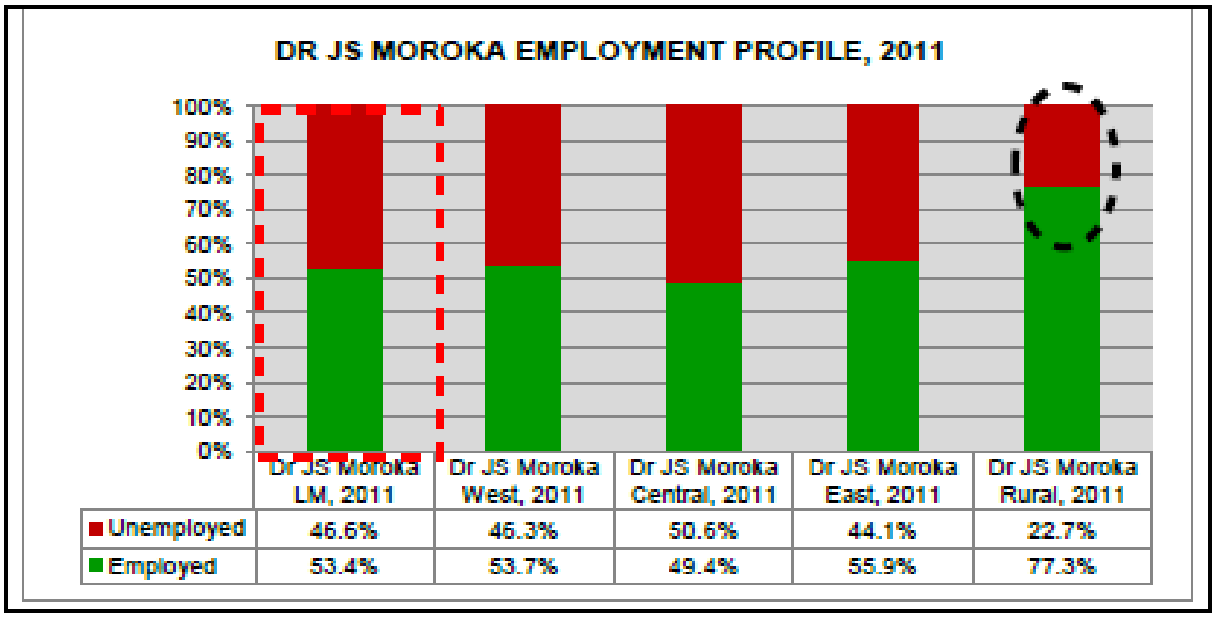


Source: Dr JS Moroka SDF, 2015

The Municipality is predominantly rural with limited economic activities, thus there are only 63 383 economically active people. This has resulted with the high unemployment rate of 46.6% as illustrated in Chart 4.8. Thus, the City of Tshwane and City of Johannesburg are the main employment nodal areas for people residing in the municipality (Dr JS Moroka IDP, 2016-2017). According to the Dr JS Moroka Local Municipality IDP (2017/18-2021/22) outlines that the Western, Central and Eastern section of Dr JS Moroka has similar employment levels as compared to the Local Municipality. It is noted that the rural area of Dr JS Moroka has significantly higher employment rate (77.3%) as depicted in chart 6.3. The highest number of people living on a monthly income of R1 – R400 is 64 515 compared to

those living on a monthly income of R204 801 and more being 45, as depicted in table 4.5. In 2015/16 financial year the municipality had 4700 households on the indigent register receiving free basic services from the municipality. These findings illustrate that the location and establishment of the homelands continue to have a negative socio-economic impact on the functionality of the municipality, particularly due to settlements being located on poorly located land.

Chart 6.3: Dr JS Moroka Local Municipality Employment profile,2011



Source: Dr JS Moroka Local Municipality IDP,2017/18-2021/22

Table 6.1: Monthly individual income

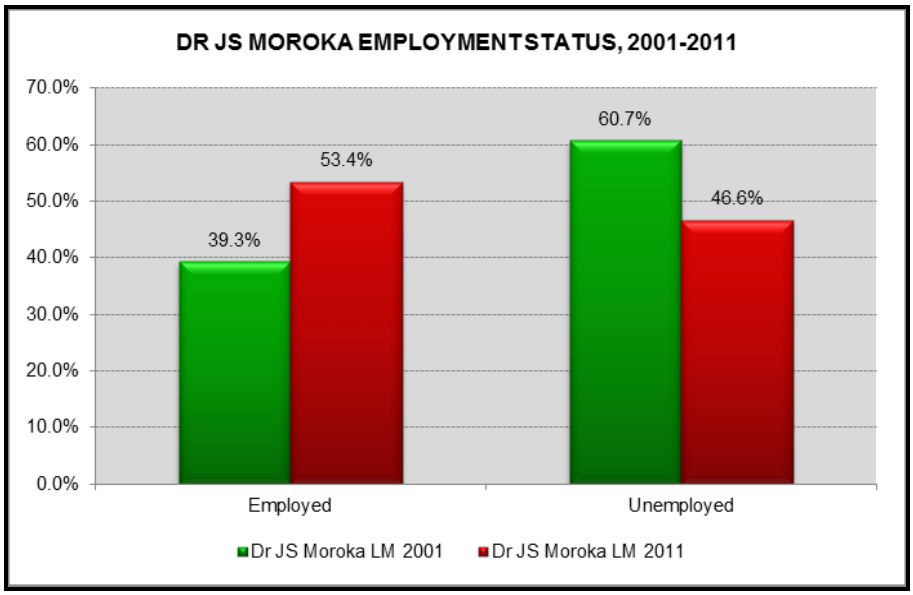
Income	**Person**
R1 – R400	64 515
R401 – R800	6837
R801 – R1600	35 931
R1601 – R3200	8547
R3201 – R6400	5523
R6401 – R12 800	3966

R12 801 – R25 600	1890
R25 600 – R51 200	258
R51 201 – R102 400	42
R102 401 – R204 800	42
R204 801 or more	45
Unspecified	7311

Source: Dr JS Moroka Local Municipality IDP, 2017/18-2021/22

The poverty rate has decreased from 56% in the 2001 census to an estimated at 37.9% in accordance with the 2011 census (Statistics South Africa,2011). The Dr JS Moroka IDP (2016-2017:22) indicates that the municipality has “a slight dominance of female at 53% as in comparison to 47% male presence, the population remains fairly young with people between the age of 15-64 constituting 59.45 % and African communities still dominate the area with 99, 44%”. According to Statistics South Africa census 2011, 90.9% of households have formal dwellings. However, similarly to Bushbuckridge Local Municipality these households have minimal access to basic services with the exception of electricity being supplied to 96.7% of households. Despite obtaining from National Treasury a division of revenue bill 2012/2013 total allocation of R368 million, which is 7.7% of the provincial allocation. According to the Mpumalanga Province Finance Department (2012) Dr JS Moroka Local Municipality achieved 92.4% blue drop score, which was the highest score for the seven identified CRDP municipalities in Mpumalanga Province. Table 6.2 below illustrates the percentage of municipal services being provided by the municipality:

Chart 6.4: Dr JS Moroka Local Municipality employment status, 2001-2011



Source: Dr JS Moroka SDF, 2015

Table 6.2: Census 2011 municipal services provision

Municipal Services	**Census 2011 percentage**
Households in formal dwellings	90.9%
Households with access to piped water inside the dwelling	14.2%
Blue drop score (water quality)	92.4%
Households that use electricity for lighting	96.7%
Households with access to flush toilets	13.3%
Green drop score	70%
Households with refuse removed weekly	13.6%

Source: Statistics South Africa,2011

Similar to Bushbuckridge Local Municipality, Dr JS Moroka Local Municipality provides minimal infrastructural services which could be the resultant of sprawl and unplanned settlements.

6.2.2 Economic Trends

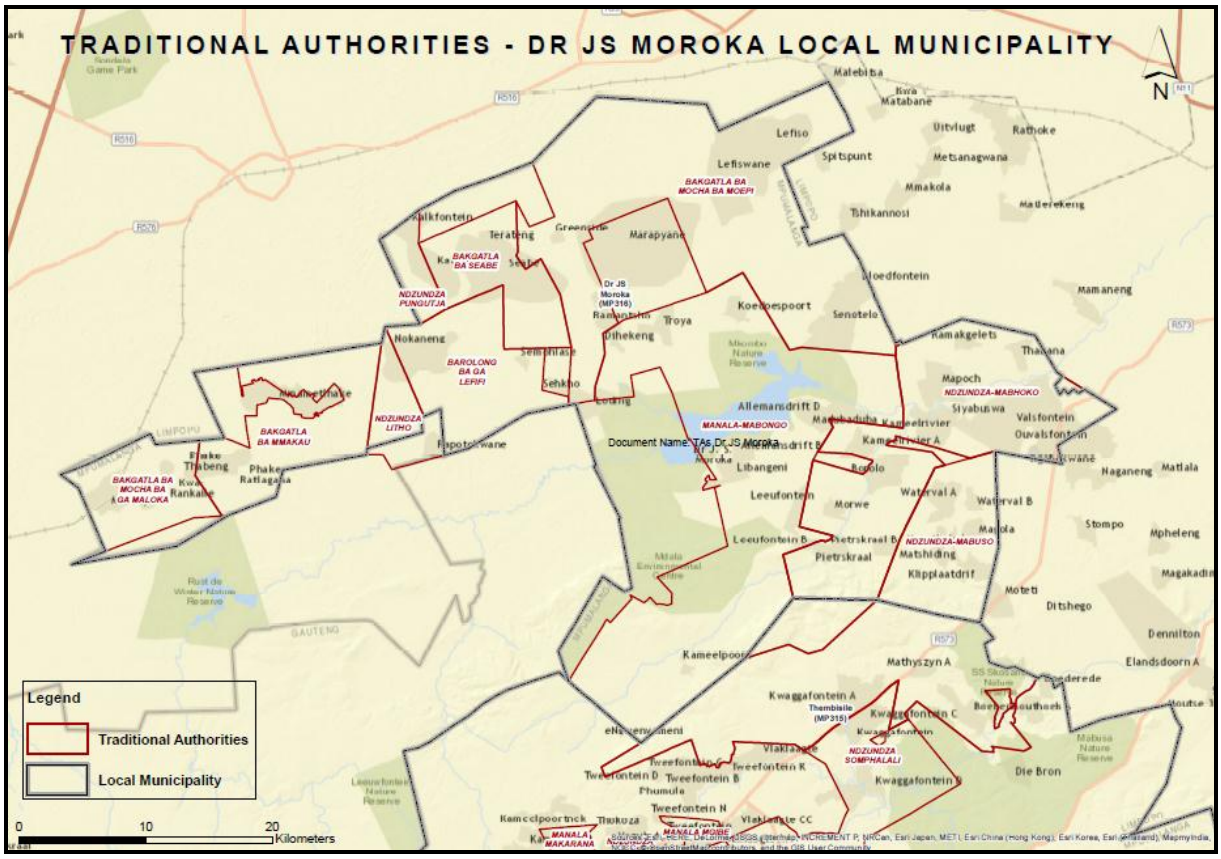
Dr JS Moroka Local Municipality is classified as rural municipality and was identified as a Comprehensive Rural Development Programme (CRDP) area. The municipality contributes 1.3% to the Gross Value Added(GVA) and has the third smallest economy in Mpumalanga Province (Mpumalanga Province Finance Department,2012). The leading economic sectors are community services 60.2%, trade 12.1% and transport 7.7% (Mpumalanga Province Finance Department,2012).According to the Nkangala District Municipality Land Audit, the "land claimed within the Dr JS Moroka municipal area is mainly associated with cattle and game farming and some crop farming" (Dr JS Moroka IDP, 2016-2017:256). The municipality is working on developing the Moloto Rail Corridor in order to encourage economic spin-offs and tourism potential.

6.2.3 Spatial Analysis

Dr JS Moroka Local Municipality formed part of the Bophuthatswana and KwaNdebele homelands and comprises of significant cultural heritage sites in the form of; historic fountain in Siyabuswa, royal graves, ethnic art, royal tribal, religious and struggle history sites (Dr JS Moroka IDP, 2016-2017). The municipality comprises of 62 villages and only two proclaimed townships in terms of Proclamation R293 respectively; Siyabuswa and Libangeni. The western region of the municipality respectively; Masobe to Marapyane "has poor development patterns as a result of Settlements established in terms of proclamation R188.PTO (Permission To Occupy) certificates or quitrent certificates issued to heads of households recognizing these rights" (Dr JS Moroka IDP, 2017/18-2021/22:291). According to the Dr JS Moroka IDP (2016-2017:253) the "municipal area is characterized by flat to gently sloping Bushveld/ Savannah vegetation in the north and central parts, and a mountainous area to the south with cultivated areas (permanent and temporary dry and irrigated land) covering less than 15% of the municipality and urban areas covering 14% of the municipality". Thus, the municipality has high agricultural potential, due to stable soil and geological conditions. However, the "western side (Masobe to Marapyane) of the municipality has poor development patterns as a result of settlements established in terms of proclamation R188 (Permission To Occupy) certificates or quitrent certificates issued to heads of households recognizing these rights" (Dr JS Moroka IDP, 2016-2017,253). The municipal IDP (Dr JS Moroka IDP, 2016-2017) outlines that most villages fall under the jurisdiction of traditional authorities; however the land is registered to National government. The municipality comprises of six traditional authorities respectively; Ndzundza Mabhoko Tribal Authority, Manala (Mbongo) Tribal Authority, Bakgatla Ba Maloka Tribal Authority,

Bakgatla Ba Mmakau Tribal Authority, Amandebele Bochebela Traditional Authority and Phaahlamohlaka Tribal Authority (Dr JS Moroka IDP, 2016-2017:254). Despite, the existence of the traditional authorities within the municipal area, no government gazette notices can be obtained about the demarcated boundaries for the following traditional authorities; Bakgatla Ba Maloka, Bakgatla Ba Mmakau Amandebele Bochebela and Phaahlamohlaka (Dr JS Moroka IDP, 2016-2017). Figure 6.3 below illustrates the current locations of the traditional authorities within the municipal area.

Figure 6.3: Location of Traditional Authorities in Dr JS Moroka Local Municipality



Source: DRDLR,2018

The municipality through the assistance of the Department of Agriculture, Rural Development and Land Affairs has implemented the Land Tenure Upgrading to enable individuals to have formal ownership. However, despite the efforts aimed at land management, “most of the land within the municipal area is allocated by traditional authorities with no systematic record keeping resulting in overlapping and conflict land rights/uses” (Dr JS Moroka IDP, 2016-2017:254). The municipal are has sixty-seven (67) land claims distributed across 23 individual properties, however only three land claims have been successful within the municipal jurisdiction (Dr JS Moroka IDP, 2016-2017). The process is impeding development

since “land reform is considered to be the key to the social and economic emancipation of the people of Dr JS Moroka (Dr JS Moroka IDP, 2016-2017:254). The eastern region of the municipality respectively; Siyabuswa and Libangeni have gone through a tenure upgrading process to clarify land rights and enable residents to get freehold titles to their properties (Dr JS Moroka IDP 2017/18-2021/22).

6.2.4 Existing tools related to spatial planning and land use management

The Dr JS Moroka Municipality adopted its wall-to-wall Land Use Management Scheme (LUMS) in 2010 in accordance with Section 18 of the Town planning and Township ordinance 15 of 1986(Dr JS Moroka IDP, 2016-2017). However, the municipality “experiences great difficulty in implementing the land use management scheme due to the traditional nature of the former homeland system that needs to be addressed through workshops and community involvement. This notion illustrates that the implementation of neo-liberal approach of land use management, also requires functionalism and constructivism particularly based on participatory engagements between the municipality, traditional leaders and community. The current land use management system and its regulations also make the change of land use rights a cumbersome process with a lot of people being stopped at the point of land ownership” (Dr JS Moroka IDP,2016-2017:258). The municipality has identified that the “current LUMS only allows the registered owner to apply for a change of land use rights and as stated in the previous section the majority of the land in the municipality is vested with the national or provincial government. Therefore, the occupants of the land cannot apply for a change in land use because they do not have a title deed or deed of grant” (Dr JS Moroka IDP,2016-2017:258). In relation to the study in the instance of Dr JS Moroka Local Municipality, land use management is greatly linked to land ownership. Therefore, usage of land is enabled by ownership in this instance.

The municipality has established a municipal planning tribunal in terms of SPLUMA to deal with certain categories of development applications, the tribunal is administered by Nkangala District Municipality which has the town planning function for the local municipality (Dr JS Moroka IDP,2017/18-2021/22). The municipality also adopted the Dr JS Moroka Spatial Planning and Land Use Management by-law on the 23 November 2015. In order to address the challenge of ownership in implementing the scheme, the by-law has incorporated the right for beneficial owners to apply for change in land use rights in accordance with SPLUMA. The term beneficial owner is defined as “a person who is not the registered owner of the land, but a person who holds a lawful right in or to land” (Dr JS Moroka SDF, 2015:36). The Dr JS Moroka Spatial Development Framework was approved in 2015. In light of the

above municipal tools and projects below on spatial planning and land use management, it's evident that Dr JS Moroka Local Municipality is making strides towards implementation of land use management in one form or another.

6.3 Municipal projects related to spatial planning and land use management

The Dr JS Moroka Integrated Development Plan 2016-2017 projects related to spatial planning and land use management outlined in table 6.3 below are:

Key Focus Area	**Description of capital project**	**Key performance indicator**	**Date/Timeframe**	**Budget**	**Funding Source**
Land development and human settlement	Land audit for Dr JS Moroka	Reviewed audit report on ownership of land	2016/17	R500 000	Nkangala District Municipality
Town and Regional Planning	Township establishment	6 township establishments opened register	2016/17-2018/19	R600 000	Nkangala District Municipality

The Dr JS Moroka Integrated Development Plan 2017/18-2021/22 projects related to spatial planning and land use management outlined in table 6.4 below are;

Key Focus Area	**Date/Timeframe**	**Budget**	**Funding Source**
Feasibility study integrated human settlements	2017/2018	R600 000	
Land Surveying	2017/2018 – 2018/2019	R300 000 annually	
Opening township	2018/2019	R650 000	

register	2019/2020	R700 000	
Review of Land Use Scheme	2017/2018 2019/2020	R800 000 R1 000 000	Nkangala District Municipality
Property evaluation for procure of land integrated human settlements	2018/2019	R600 000	
State land release integrated human settlements	2018-2019	R500 000	
Township establishment integrated human settlements	2019-2020	R1 000 000	

The Dr JS Moroka Local Municipality spatial planning and land use management projects similarly to Bushbuckridge Local Municipality are structured around the establishment of townships and land surveying. Therefore, in terms of SPLUMA the municipalities are undertaking various forms of upgrading and developing of settlements.

6.3 DR JS MOROKA LOCAL MUNICIPALITY THOUGHTS AND VOICES OF THE PEOPLE

Insight into Dr JS Moroka Local Municipality as a case study for this research was informed by a one-on-one interview with the Town Planning Manager referred hereto as Mabunda (2017). Dr JS Moroka Local Municipality town planning function was entrusted to Nkangala District Municipality in accordance with the Province of Mpumalanga Provincial Gazette Volume 10 No. 959 date 26 May 2003. The gazette was issued due to the lack of town planning capacity within the municipality, thus all land use and development applications and

final approvals of the Spatial Development Framework and the Schemes are first approved by the District (Dr JS Moroka IDP, 2016-2017). Currently, the municipality has three town planners, with one being the Assistant Manager reporting directly to the Municipal Manager (Dr JS Moroka IDP,2017/18 -2021/22).

The municipality comprises of 62 villages and only two proclaimed townships in terms of Proclamation R293 respectively; Siyabuswa and Libangeni. The western region of the municipality respectively; Masobe to Marapyane "has poor development patterns as a result of settlements established in terms of proclamation R188.PTO certificates or quitrent certificates issued to heads of households recognizing these rights" (Dr JS Moroka IDP, 2017/18-2021/22:291). The municipality believes the enactment of SPLUMA is positive as rural areas are also being considered in planning as opposed to the Town Planning and Townships Ordinance 15 of 1986 (Mabunda[15],2017).

Land use management within the rural context is constituted in terms of wall-to-wall land use scheme developed in 2010 in terms of the Town Planning and Townships Ordinance which has loopholes "as there are no erven in tribal areas, sometimes consent is granted but it is issued for the entire farm" (Mabunda,2017). Therefore, there are no formal subdivisions being undertaken and registered with the Office of the Surveyor General and Registrar of Deeds. The "traditional authorities when providing a piece of land for business the traditional authorities also refer people to the municipality to finalise the process of issuing land use rights in terms of the land use scheme" (Mabunda,2017). According to Mabunda (2017) "businesses which are operated are in a form of spazas cannot do the formal subdivision and rezoning as the normal town planning processes are costly and cannot be afforded," as the income generated from the businesses is only for sustainment as opposed to major commercial/retail activities.

In light of the above the challenges and conflicts associated with land use management in the rural context is that traditional authorities do not understand the municipal town planning processes as incompatible land uses are being clustered together without cognisance of both health and environmental provisions (Mabunda, 2017). This is partly due to traditional authorities allocating both land and land use rights and the municipality is only involved if activities are identified by either the building inspectors or town planners during site inspections and people are forced to comply (Mabunda,2017). The "municipality has a role but it's not functional, as the municipality itself also not complying with its own policies" (Mabunda, 2017). The municipality only reacts once illegal developments have occurred and

[15] Interviewee: Mabunda (2017) Dr JS Moroka Local Municipality, 23 August 2017

there is a need for infrastructural services. Therefore distorting the spatial pattern in terms of what is required according to the land use scheme and spatial development framework. In terms of the Integrated Development Plan 2017/18-2021/22, the municipality is developing a land use scheme in terms of SPLUMA through the assistance of Nkangala District and also planning on undertaking land use surveys.

The key stakeholders who deal with land use management within the rural context are:

Table 6.5: Dr JS Moroka Local Municipality key stakeholders in land use management

STAKEHOLDERS	**ROLES AND RESPONSIBILITIES**
Municipality (Dr JS Moroka and Nkangala District): Town Planning Division	-Ensure procedures for land development applications are followed in proclaimed areas. - There are 12 proclaimed townships and 58 unproclaimed settlements however it's worth noting that within these 58 settlements there are areas which have general plans but not proclaimed as the township registers are not opened. There are approximately 20 of these settlements, which were surveyed pre 1994 but township establishment process was not completed. Currently the municipality is busy with the process of registration through the assistance of Nkangala District Municipality. - The process works as follows since the District has the planning function but there is also a Town Planning Directorate at the local municipality; • The public enquires at the local municipality on the procedures for submitting an application. The applicant is provided with the checklist based on the enquiry. The application is submitted to the local municipality and tariff also paid to the local municipality. The local municipality certifies that the application is in order. • Subsequently the local municipality submits the application to the District Municipality. • Subsequently the application is accessed by the

	Authorised Official or the Municipal Planning Tribunal. • Subsequently Nkangala District will prepare a letter with their letterhead outlining the outcomes of the application. This letter is given to Dr JS Moroka, which subsequently writes a letter to the applicant informing them whether their application was successful or not successful.
Municipality: Finance Division	- Revenue collection in the form of changing rates being charged for rezoning a property.
Municipal Council	- Council takes note of developments occurring in the municipal area with the Town Planning Division submitting a report, irrespective of the fact that the planning function is with the District Municipality.
Traditional Authorities	- Traditional authorities allocate land and approve land use rights through indigenous practices without consideration for the length and width of roads.
Community	- Support the tribal authorities more than the local municipality. The community opts to seek recommendation letters from the traditional authorities than to follow the municipal procedures.

In order to clarify the roles and responsibilities of stakeholders in terms of land use management a Memorandum of Understanding (MOU) was signed between COGTA, SALGA, traditional authorities in order outline each ones roles and responsibilities. The "traditional authorities know their roles but there is no adherence to the signed MOU. The traditional authority and the municipality only work together where there will be benefits for both parties. For example where township establishment is undertaken on land that is either owned by provincial or national government, the traditional authority must provide the tribal resolution whilst the municipality will finalise the formalisation process" (Mabunda,2017). However, the municipality acknowledges that problems regarding land use management are not created by the chief but by personnel working for the traditional council. The municipality seeks to develop a Service Level Agreement with the traditional authorities subsequent to the land summit.

The town planning directorate engages stakeholders through meetings and consultation sessions on a monthly basis. The community only consults the municipality “if they are not winning, in the form of obtaining loans from the banks as formal documentation is usually required from the municipality. However, if you convene a community meeting or workshops, the sessions are not fruitful as the community does not understand how town planners work. The community only recognises the municipality/town planners when they have problems” (Mabunda,2017). Furthermore, engagements with stakeholders deals with obtaining buy-in from the municipality if there is documentation that is required from the municipality for example a transfer or donation from the state, there will be a need from the municipality to provide consent. Insurance companies also require the municipality to confirm the settlements existence, as the insurance companies need conformation that settlements are in existence. Municipality also issues letters for people who might require housing allowance but need letters from the municipality” (Mabunda, 2017).

The challenge municipalities are faced with in incorporating traditional authorities in the land use management system is that traditional authorities do not understand the concept and the manner in which it can be beneficial. The municipality does not know how to teach and provide traditional authorities with full information on land use management systems (Mabunda, 2017). Furthermore, “the other challenge is that with politicians and traditional authorities who addresses whom in terms of land governance, as both entities both provide directives and issues of existence are raised which results in clashes based on politics and tribalism being at play” (Mabunda,2017). The municipality has proposed a land summit for 2017/2018 financial year, subsequent to which individual engagements will be held with the respective traditional authorities based on individual sessions to discuss their respective areas. The municipality hopes the land summit will assist in addressing other matters such as urban sprawl and traditional authority boundaries as land allocations being issued in Limpopo Province by the traditional authorities but services being required in Dr JS Moroka Local Municipality (Mabunda, 2017). The land summit had not taken place by the time this research report was written, in order for the researcher to attend the summit as an observer.

The notion of incremental land use management has varied ideologies for various stakeholders respectively (Mabunda, 2017):

- Traditional authorities’ notion might be that the municipality wants to take control of its powers and people.
- For the municipality the concept means increased revenue collection, planning for services and ensuring the safety of the community through the regulation of

businesses in order not to sell for example rotten food. In order to introduce incremental land use management, “the municipality aims to involve the Department of Health, fire department and the Department of Water and Sanitation at the land summit. These things complement each other; if you do not have policies you do not have systems. Thus, the involvement of sector departments is to inform the traditional authorities and the community about land management” (ibid).

Dr JS Moroka Local Municipality similarly to Bushbuckridge Local Municipality does not believe that incremental land use management can resolve all land related matters within rural areas. However, the concept can cater for communities needs as the municipality acknowledges that “people are transforming and want better services, which can only be provided through good systems that start with planning” (Mabunda, 2017). Despite the introduction of “incremental land use management, traditional customs should not be tampered with as it’s our culture but there should be mutual consensus between the traditional authorities and the municipality on the manner in which land use management should be regulated whilst providing services to communities” (ibid).

The municipality’s change management system in dealing with the implementation of SPLUMA has included the appointment of personnel registered with SACPLAN and management being encouraged to undertake planning qualifications, in order to continue practicing planning (ibid). This is a resultant of SACPLAN issuing communication to municipalities outlining that engineers and other equivalent qualifications other than planning personnel should not be appointed as Town Planning Managers (SACPLAN,2017).In order to incorporate the traditional authorities in the municipal change management system the municipality has intentions to allocate one town planner dedicated to each of the three districts within the municipality be responsible for communicating with the traditional authorities and dealing with all town planning related matters. According to the Assistant Manager this decision is a resultant of the tribal authorities complaining that the municipality was not supporting them (Mabunda,2017).

6.4 CONCLUSION

The chosen case studies for this research report Bushbuckridge Local Municipality and Dr JS Moroka Local Municipalities have commonalities and also differences despite the base point derivative of both being former homeland areas. However in the democratic era, the former has managed to develop a functional town planning directorate, whilst the latter is dependent upon the assistance of the district municipality. Implementation of Marxism approach evident in the grain of former homelands particularly based on the development features of the two local municipalities. Thus, it is evident that there was no sense of liberalism and neo-functionalism by the traditional authorities as minimal focus was on human need but moreso on law, politics and capitalism (Carson,2011;Jessop,2014; Chen,2011;Ozen,1998). In terms of the case studies it is evident that both municipalities are making strides to implement land use management, but this is fundamentally based on partnerships being structured between the municipality and traditional authorities. Ntsebenza in Musitha (2012) states that traditional authorities have major political force in local government, which the municipalities have taken note of but education regarding municipal planning process is also fundamental. Musitha (2012) argues that "some bureaucrats are still embedded in the traditional way of operating, where traditional leaders should be approached first and approve some documents – before they are processed by the modern bureaucrats," therefore traditional leaders do influence or have a role to play in public administration processes of government. Leedy and Ormrod (2013:143) has highlighted in Chapter 1 that such similarities and differences enable the researcher to "make comparisons, build theory or propose generalisations," which is utilised in analysing research data discussed in Chapter 7.

CHAPTER 7: ANALYTICAL REFLECTION ON RESEARCH FINDINGS

7.1 INTRODUCTION

> *"The most beneficial path to be taken when considering a new land management system would be the "conscious rejection of existing land use practise across the spheres of government" (Ovens et.al,2007). There is also the acknowledgement that some of the systems are functional and do provide workable, if not perfect, ways of managing land" (Rubin,2008:26).*

The aim of this chapter is to analyse the research findings from municipalities, government departments and other institutions/organisations in relation to: the literature review, case study review and existing land use management systems as Rubin (2008) highlights in the above statement that some land use management systems are functional in managing land. The chapter concludes with that the implementation of SPLUMA in the democratic era requires the gap between modernist and postmodernist theories to be bridged.

7.2 PLANNING LAW AND ITS LEGISLATIVE MANDATE

Berrisford (2011:247) argues that "fundamental to effective planning law reform is a constitutional framework that clearly delineates the legislative powers to regulate planning and land use". Berrisford's argument was written in 2011 before SPLUMA was enacted in 2013 and assented into operation in 2015. SPLUMA in terms of Berrisford's notions delineates planning legislative powers to the three spheres of government in order to regulate planning and land use. In accordance with Hagemeier (2005) this system of governance seeks to create a functionalist state by creating stability and balance in planning law as a resultant of the vacuum cased in planning in 2010.In conducting the research interviews and observation sessions it was evident municipalities and COGTA has a fundamental role in both educating and interacting with traditional leaders, regarding spatial planning and land use management through either quarterly or adhoc meetings and establishing platforms for engagement. However, interestingly in terms of the views outlined by Interviewee 1[16](2017) some traditional authorities prefer to engage with COGTA first as a starting point before engaging with municipalities as a resultant of issues based on trust. This was also evident in the Bushbuckridge Local Municipality policies on land engagement session arrange by COGTA together with the local municipality. One can assume that traditional leader's relationship with COGTA possibly functions well due to the department

[16] Interviewee 1, Nkangala District Municipality, 28 August 2017

having the mandate to oversee matters on traditional affairs. Therefore, COGTA's co-operative governance mandate bridges the gap between traditional authorities and municipalities but also with the national sphere of government.

Mxakaza (2016:1) indicates that "managing and administering communal land under the custodianship of traditional leaders is not an easy task," as the challenge lies in the fact that "land is a national competence" and the Ministry responsible for traditional leaders has no relationship and authority to legislate on issues pertaining to land. According to Mxakaza (2016) the separation between land and traditional leaders creates conflict as "there is no legislation setting out powers of traditional leaders over land," yet "traditional leadership and governance is channelled at land and people management". The Ministry of Cooperative Governance and Traditional Affairs at a National Indaba for traditional leaders with government (2017:12) stated that "in order to streamline and strengthen the spatial planning and land use management in traditional and rural areas, government has taken a decision to streamline some of the functions and move them to the Department of Planning, Monitoring and Evaluation (DPME) and the Department of Cooperative Governance (DCOG). It will therefore be easier to deal with issues raised by traditional leaders if some of the functions are located within the Ministry of Cooperative Governance and Traditional Affairs". The decision to streamline spatial planning and land use management function from DRDLR to DPME and DCOG illustrates that the legislative mandate of planning law and the department which administers the function, directly influences the manner in which incremental land use management will be introduced in rural areas under the custodianship of traditional authorities. However, what is clear from the above arguments and statements is that planning law is influenced by other legislations, but Interviewee 3[17] (2017) indicates that SPLUMA cannot be expected to deal with all land related matters as its legislative mandate is not to delineate over land powers. Despite this SPLUMA "needs to be taken further on the role in which traditional authorities can have say in the preparation of land use schemes and spatial development frameworks". Berrisford (2011:247) also cautions that "a clear and shared understanding of what planning can and cannot achieve is also important, as is an effective alignment of planning law reforms with those of other sectoral laws".

The above illustrates that there are power dynamics that influence planning law from a national perspective between government departments but also at a local level between municipalities and traditional authorities. Boudon's (1975) argument is relevant in this context as it illustrates that in modernist planning change is achieved through Marxist approach of

[17] Interviewee 3, Department of Cooperative Governance and Traditional Affairs, 25 August 2017

conflict rather than the functionalist approach of consensus, as a point of departure. Nationally the adoption of liberalism approach by the government is to ensure legislative policies that function in terms of the Constitution but also achieve the NDP mandate of pro-poor development through encouraging differentiated planning responses. Abrahams (2017) argues that "from a hierarchy perspective the NDP is the countries vision; however at a practical level the vision is informing the structure of policy and legislations such as SPLUMA, in order to ensure alignment". Locally, the adoption of neo-liberalism approach of instituting tools such as planning by-laws and schemes is aimed at ensuring that municipalities achieve their mandate in terms of the Constitution. According to Interviewee 4[18] (2017) all local municipalities have the same mandate in terms of Section 152 of the Constitution of providing service delivery and there is no differentiation between urban and rural municipalities. Therefore, beyond Marxist approach of conflict and Neo-Marxist capitalist state there needs to be progress towards consensus building through functionalism and neo-functionalism.

7.3 SPATIAL JUSTICE THROUGH INCREMENTAL UPGRADING OF INFORMAL AREAS

SPLUMA (2013:8) indicates that incremental upgrading of informal areas "means the progressive introduction of administration, management, engineering services and land tenure rights to an area that is established outside existing planning legislation, and may include any settlement or area under traditional tenure". Therefore, in this "context the rationale of SPLUMA is to deal with tenure, land use rights and formalisation thus, all the systems are formal" (Abrahams[19], 2017). This illustrates Coetzee's (2012) notion that liberal forms of planning are being instituted by the democratic government; however liberalism does not entirely mean unification. Yiftachel (1994) cautions that modernist planning instruments aimed at social reform and improvement can result in being instruments of control and separation instead, since Abrahams (2017) indicates that the basis for SPLUMA is formalisation.

According to Abrahams (2017) "planners know that planning and land use often does not explicitly mention tenure, as ownership is taken as a given when planners start the planning process". Therefore, the inclusion of tenure as part of the incremental upgrading of areas is considered to be complex and controversial. Thus, planners need to "focus on how one can upgrade tenure incrementally and utilise planning instruments as traditional authorities deal

[18] Interviewee 4, Department of Cooperative Governance and Traditional Affairs, 25 August 2017
[19] Interviewee: Abrahams (2017) Urban LandMark, 13 October 2017

with land use allocations and tenure concurrently, therefore in practice tenure and land use are interwoven" (ibid). The allocation of both land use rights and tenure rights were articulated by the municipalities as being a problem as normal planning processes were not being adhered to, which impacts on both the municipal spatial development framework and inhibits the enforcement of the scheme. SALGA also reiterates that "municipalities have minimal role associated with land allocation but they need to budget and provide services for areas that are not formally planned for, within the compounds of the SDF" (Mchunu[20], 2017).

The research aim outlined that the research report would focus on understanding land use management within the rural context and exclude matters pertaining to ownership. However, with conducting the research interview it became evident that land use management and tenure are linked. Abrahams (2017) and Interviewee 3 (2017) indicate that rural areas also do not focus entirely on tenure security but moreso sense of security of occupation, through access to land in terms of the Interim Protection of Informal Land Rights Act of 1996. Interviewee 3 (2017) argues that the complexity of land and the application of town planning systems within the rural areas is complicated by state land release for developments, being a lengthy cumbersome process which results in land invasions and illegal land use activities. In order to deal with these complexities SALGA conducted land invasion workshops with traditional authorities and also joined forces with COGTA and other stakeholders to draft a MOU. However, there seems to be no monitoring on the implementation of the MOU and DRDLR as the state land owner did not sign the memorandum. Furthermore, none of the municipalities have drafted a SLA between themselves and the traditional authorities to introduce and structure a working relationship regarding spatial planning and land use management. The municipalities do not have structured change management systems in place in order to deal with the transition which is occurring within planning. However, the municipalities are undertaking various aspects of SPLUMA based on the varying degree of importance. For example Bushbuckridge Local Municipality has already established a working relationship with the traditional authorities through political intervention prior to SPLUMA. Furthermore, as a point of departure Bushbuckridge Local Municipality has entered into a Memorandum of Understanding with one of the Traditional Authorities for the establishment and formalisation of township. Whilst Dr JS Moroka Local Municipality has not established a solid working relationship and seeks to undertake a land summit as a starting point and town planners will be allocated various districts within the municipality in order to build relations with the traditional authorities through means of attending to any town planning issues. For the latter municipality it has been difficult to utilise political intervention

[20] Interviewee: Mchunu (2017) South African Local Government Association, 21 August 2017

to bridge the gap with traditional authorities partly due to power and governance, as Mabunda (2017) states “with political and traditional authorities who address whom in terms of land governance, as both entities both provide directives and issues of existence are raised which results in clashes. Thus, there is politics and tribalism at play”. Therefore, for the two municipalities the process of introducing SPLUMA is executed through phased approached accompanied with trial and error process of learning based on challenges and experiences experienced with both the traditional authorities and the state being the land owner. The municipalities are implementing constructivism approach to planning by learning to construct and learn new forms of governance.

7.4 CHALLENGES FACING INCREMENTAL UPGRADING OF RURAL AREAS

In order to understand the implications of SPLUMA on rural areas and the manner in which incremental land use management can be attained it is imperative to understand the challenges within rural areas governed by traditional authorities. According to the municipalities, COGTA and SALGA there is commonality regarding the challenges facing rural areas, with major emphasis being placed on the following matters outlined in Table 7.1 below:

Table 7.1: Challenges impacting on the incremental upgrading of rural areas

	Identified challenges	**Key factors**	**Theoretical Framework within the democratic era**	**Possible responsible resolution agent**
1.	Awareness on the importance of land use management by traditional authorities. Whilst for the traditional authorities on the other hand it's their communities that do not have awareness and understanding of land use management, in accordance with the Bushbuckridge Local Municipality observation sessions. The general opinion regarding awareness is that there is no structured manner of educating both the traditional authorities and also the community. Partly due to the municipalities not being sure on how to start the educational process and also that the municipalities are also at fault	Educational awareness on land use management policies, tools and frameworks initiated by municipalities for traditional authorities and communities	Constructivism underpinned by mutual learning	Local and District Municipalities

	for not adhering to their own municipal policies and frameworks (Mabunda, 2017).			
2.	Conflict between the traditional authorities and municipalities. This is considered to be more about power and trust, instigated by not understanding each entities roles and responsibilities in terms of land use management. However, the municipalities have tried to bridge the gap by ensuring that land use and land development application submitted to the municipality have a traditional authority resolution letter. Furthermore, the process of state land release executed by DRDLR requires a traditional authority council resolution and also a letter from the municipality. Therefore, through this process both parties are forced to work together (Mabunda, 2017).	Cooperation between traditional authorities and municipalities hindered by conflict as a resultant of trust and power dynamics.	Marxism	Municipalities and traditional authorities

3.	Decline in support and respect from communities for traditional authorities based on the survey conducted by COGTA. However, Interviewee 2[21] (2017) indicates that the decline in support for traditional authorities cannot be taken as a blanket approach as some communities still regard the services and guidance being provided by traditional councils as important for social cohesion and order.	Decline in support for traditional authorities		Traditional authorities Department of Cooperative Governance and Traditional Affairs
4.	Power dynamics within the traditional authority structures, as nduna's/headmen are considered to be the main instigators in the development of distorted settlements.	Power dynamics within the traditional authority structures	Marxism	Traditional authorities Department of Cooperative Governance and Traditional Affairs
5.	Unsurveyed land and difficulties with geo-referencing areas. The lack of surveyed and unregistered land means	Lack of cadastre and proclamation of settlements, which affects the security of tenure and collection of	Emulation of Neo-Marxism through capitalist	Municipalities Department of Cooperative

[21] Interviewee 2, Nkangala District Municipality, 28 August 2017

	that municipalities are not able to bill communities in terms of the Property Rates Act as only owners can be billed (Mabunda, 2017). Therefore, communities are inhabiting the land and investing on it but without tenure security but simultaneously the municipality is losing revenue collection as a high percentage of the communities are on the indigent list. According to Kubheka[22] (2017) the municipality charges rates to either the parent farm or farm portions, whilst in reality there are functional settlements on the farm portions. According to the DRDLR land use scheme guidelines (2017) the settlements do not conform to the farm portions cadastre, as one settlement can be developed across several farm portions.	rates by the municipality.	approaches of formalising cadastre to generate municipal revenue in the form of property rates.	Governance and Traditional Affairs Department of Rural Development and Land Reform

[22] Interviewee: Kubheka (2017) Nkangala District Municipality, 28 August 2017

6.	Planners consider indigenous uses as informal and illegal activities. Furthermore, legislation does not accommodate indigenous uses, as there are no land uses that define the uses/practices.	Incorporation of indigenous land use into planning policy, tools and frameworks.	Constructivism underpinned by mutual learning	Municipalities Department of Cooperative Governance and Traditional Affairs Department of Rural Development and Land Reform
7.	In provincial sector departments there is silo approach to development without cognisance of planning processes. Thus there is minimal consultation on the needs for development in relation to the spatial rationale of the municipality.	Lack of integrated planning	Neo-functionalism	Provincial sector departments

The resolutions and recommendations for the identified challenges are discussed in Chapter 8 of the research report in relation to the general findings and proposals.

7.5 STAKEHOLDERS OF LAND USE MANAGEMENT IN THE RURAL CONTEXT

According to the municipalities the general stakeholders involved with land use management in the rural context are; municipalities with specific focus on the Council, Finance division and Town Planning division, communities and traditional authorities. The stakeholders all perform a critical part in administering land use management, in both proclaimed and unproclaimed settlements.

The engagements which the Town Planning division has with the various stakeholders are usually planned meetings in the form of IDP forums or workshops in accordance with the municipal annual calendar. Whilst other meetings and workshops are adhoc, however one of the critical pointers highlighted by Nkangala District that perhaps there is a need to develop quarterly reports or quarterly engagement sessions with "amakhosi about the developments within their areas" (Mangani[23], 2017). Dr JS Moroka Local Municipality first aims to undertake a land summit together with other relevant sector departments that deal with health, safety and the environment. Subsequent to which individual consultations will be undertaken with the traditional authorities in terms of the areas which they govern. This is relevant in order to bridge the awareness gap on the importance of land use management, but moreso traditional leaders can become more active participants on aspects pertaining to spatial planning and land use management. Structures such as the IDP forums and Council meetings deal with broader municipal activities which limit interactive participation from the traditional authorities. What was evident from the Bushbuckridge Local Municipality engagement session with the traditional authorities was that there was a huge plea from the traditional authorities on being consulted at the beginning of spatial planning and land use management projects such as the; SDF, land use scheme and by-law development. This notion is supported by Dubazane (2015) and Bikam and Chakwizira (2014) that outline that there is minimal interactions between the municipality and traditional authorities, yet there is a huge outcry for meaningful and concrete participation in spatial planning and land use management.

The community as a stakeholder in spatial planning and land use management is also engaged through the IDP forums. According to Nkangala District the responsibility of educating communities about planning is considered to be a local municipality task. Dr JS Moroka Local Municipality however indicates that communities do not attend meetings aimed at dealing with planning and the municipality is only recognised when communities are in need to documents required by various institutions and sector departments. None of the

[23] Interviewee: Mangani (2017) Nkangala District Municipality, 28 August 2017

municipalities have tools or systems in place to assess whether various stakeholders in land use management understand what the municipalities seek to achieve with planning.

A fundamental aspect emanating from the Bushbuckridge Local Municipality engagement session with the traditional authorities was the importance of language and culture. As the municipal officials had to communicate in SiSwati and XiTsonga and not utilise planning jargon but practical daily experiences within the municipal area. Furthermore, the female municipal planner was wearing a dress as opposed to pants as a sign of respect but also an added advantage was that the municipal planners grew up within the municipality which illustrated the desire to improve their environments. Therefore, the engagement session illustrated that the implementation of planning needs to confirm to the various cultural practices and also deal with gender politics of a municipal area in order to ensure not only meaningful participation but also result in addressing spatial planning and land use management challenges.

7.6 UNDERSTANDING INCREMENTAL LAND USE MANAGEMENT

7.6.1 Understanding the concept of incremental land use management

Incremental land use management is considered to be a complex and vague notion partly on the basis that SPLUMA only refers to the concept but does not provide detail and the practical implementation thereof. Abrahams (2017) states “I don’t think they applied their mind on how SPLUMA could work in traditional areas and informal areas, except that the Act allows for provision of planning in areas that were excluded previously”. According to COGTA incremental land use management is a periodical introduction of land use management in rural areas, with the municipality implementing the wall-to-wall land use scheme through management and control being commissioned in phases for example the municipality may decide on the types of applications it wants the public to submit to be processed in the form of high impact developments as a starting point (Interviewee 4 COGTA,2017). SALGA on the other hand indicates that incremental land use management ideally means two matters for rural areas respectively (Mchunu, 2017):

- Firstly attaining access to land by means of obtaining permission to occupy the land.
- Secondly, improvements on the land can generate value and ensure security of tenure. Current risk as there is no tenure security for the individual. Thus, there should be security of tenure and legal recourse to appeal against evictions. There

should be some form of acceptable security that safeguards the improvements which people make on the land.

Nkangala District Municipality also concurs with SALGA's opinion, which also reverts to earlier arguments by COGTA and Abrahams that land use management cannot be isolated from tenure by any means, as it is always an underlying factor. Dr JS Moroka Local Municipality alludes to the fact that the incremental introduction of land use management cannot be only viewed from the municipal perspective of collecting revenue but needs to be a holistic analysis. In the sense that the concept of incrementalism to traditional authorities will be viewed as a means of taking control of their powers and people, whilst the views from sector departments will consider the process as a means of ensuring environmental and safety precautions and the understanding of land management by communities (Mabunda,2017). A critical point outlined by Bushbuckridge Local Municipality is that communities will benefit by having opportunities to attain "full title to their properties, proper rights and zonings and increased chances of getting loans from financial institutions" (Mlambu,2017). Therefore, the introduction of incremental land use management affects and impacts not only the municipality but various stakeholders. COGTA and Nkangala District Municipality however cautions that incrementalism should not result in the "creation of the same typology of places and spaces" (Interviewee 3 COGTA,2017) partly due to utilising Eurocentric ideologies and theories of planning which favour western principles as opposed to also accommodating indigenous practices or African practices as there are reasons why people opt to live in rural areas as opposed to urban areas (Mangani and Interviewee 1 NDM,2017).

Abrahams (2017) argues that incremental land use management can only be achieved if there is political intervention and consensus between the municipal mayors and Provincial House of Traditional Leaders to work together and sign a Service Level Agreement (SLA) "which should govern the relationship in terms of who is responsible for what, as the scheme will be more of the technical part". According to Abrahams (2017) the SLA "creates a basis on which to execute land use management, protection, health and safety which are fundamentals on which one wants land use management". Thus, the SLA should entail the following according to Abrahams (2017):

- Applications must be submitted to the traditional authority and the municipality.
- Outline the types of documentation which must be submitted by the applicant.
- Permission is granted by the municipality once a letter of consent has been received from the traditional authority.

- Deal with issues of negotiation with traditional leaders, education and exchange of ideas.

However, Nkangala District Municipality argues that the above content alluded to by Abrahams should be included within the land use schemes instead, as "this will bridge the power dynamics as respect will still be given to the traditional authorities" (Interviewee 1, 2017) by communities and ensure mutual consensus.

In terms of the research it was evident that COGTA has made the means to establish a general provincial Memorundum of Understanding (MOU) between stakeholders affecting and impacting on land use management and land administration, by seeking to create the neo-functionalism theory of cooperation and regional integration introduced incrementally in pursuit of spillovers (Dunn,2012; Lee,2007; Schmitter,2015). However, from the research interviewees (Mchunu,2017;Interviewee 3) it was evident that the practical implementation and monitoring of the MOU is not being monitored by either COGTA, SALGA, South African Police Service and the Mpumalanga House of Traditional Leaders. Furthermore, the addendum to the MOU which incorporates the incremental introduction of land use management has not been signed. Despite, the provincial challenges Bushbuckridge Local Municipality has made strides to enter into a SLA/MOU with the Amashangana Traditional Council. In relation to Abrahams (2017) components for a SLA/MOU, the Bushbuckridge Local Municipality and the Amashangana Traditional Council SLA/MOU is structured in the following manner[24]:

- The Spatial Planning and Land Use Management Act, Act 16 of 2013 (SPLUMA) is not mentioned as one of the key legislative provisions to deal with land use and land management for the proposed Rolle/Kumana Township Establishment.

- Bushbuckridge Local Municipality obtains 10% sale of a site, whilst the Traditional Council obtains 90% of the proceeds of the sale.

- Bushbuckridge Local Municipality obtains 80% for property rates collected in accordance with the Municipal Property Rates Act, Act 6 of 2004, whilst the Traditional Council obtains 20%.

- Agreement to collaborative partnership in achieving the objectives of the MOU. The Traditional Council deals with land allocations but should utilise the municipality's town planning expertise. This includes the involvement of the Traditional Council in

[24] Memorandum of Understanding between Bushbuckridge Local Municipality and Amashangana Traditional Council, December 2017

the development and review of the Municipal Spatial Development Framework and development of layout plans

- COGTA is required to provide support and address disputes which may occur between Bushbuckridge Local Municipality and the Traditional Council.

7.6.2 Realism in incremental land use management

In understanding the concept of incremental land use management it is also imperative to understand the manner in which the concept can be administered and the practical steps thereof. In order to ensure that it is realistic, achieves its intended outcomes and addresses the challenges experienced within rural areas in terms of land use management. COGTA, SALGA, Bushbuckridge Local Municipality and Dr JS Moroka Local Municipality have consensus that incremental land use management can assist to resolve certain of the challenges being experienced in rural areas. Interviewee 4 (2017) indicates that full implementation could be administered by the municipalities if there was understanding by traditional authorities and communities about the importance of land use management. However, the current situations require the municipality to undertake proper consultation with the traditional authorities to understand land use management through policy first, and build capacity before the concept is subsequently introduced to the public (Interviewee 4 COGTA,2017). Interviewee 3 (2017) also reiterates that “the concept of incremental land use management is realistic, as long as planners do not aim to create urban areas within the rural context and planners simply need to formalise the basics by creating other systems of formalising in the form of; planned sites, allocation of uses and have a decision making structure or an advisory body on land use and land development, as now it is not there”.

Nkangala District Municipality on the other hand believes that incremental land use management will create more problems as community members residing in proclaimed townships with title deeds “might no longer need the services of the traditional authority, on the basis that the scheme of the municipality does not say that the individual must have a letter from the traditional authority for rezoning or any other land use and land development application” (Interviewee 1 NDM, 2017). Furthermore, “rates will be paid to the municipality and communities might not be obligated to pay the lotsha/khonza fee to the traditional authorities” (Interviewee 1 NDM, 2017). Interviewee 1 (2017) further argues that incrementalism “might make things easier for certain individuals but it might also create conflict on the basis of the traditional authorities losing its power”. Hence, policy should make it legal for communities to still obtain consent for developments from traditional

authorities before applications are processed by the municipalities (Interviewee 1 NDM, 2017); this matter was also substantiated by Abrahams (2017) earlier.

The spatial implications that incremental land use management will have on planning will result in orderly planning in accordance with the municipal spatial development framework and uncoordinated developments can be monitored (Interviewee 3 COGTA,2017). According to Mlambu (2017) there will also be proper georeferencing with time and proper servicing. Mchunu (2017) concurs with Mlambu (2017) on the basis that servicing will be attained through “better planning for infrastructure programmes, budgeting and understanding of population dynamics”. Therefore, there will be compliance to policies and there will be compactable land uses (Interviewee 4 COGTA, 2017). Interviewee 4 (2017) argues that if planners “assess the concept of incremental land use management from a greater extent there will be capacity building and awareness of on understanding land use management”. Mabunda (2017) concurs with Interviewee 4 on policy compliance as tools such as the “scheme and by-laws will allow the municipality when communicating with the traditional authorities to advise them to first verify the spatial implications through means of feasibility studies, in order to ensure that areas are feasible for development or not”. Hence, “incrementalism allows a sense of predictability about areas of growth and development and planning” (Mlambu,2017).

Interestingly Nkangala District Municipality has completely different view point from the rest of the research interviewees. Nkangala District Municipality argues that “in terms of land use management, the layout plans being developed are more urban, thus planners are just super-imposing urban layout plans on rural areas which is destroying the sense of place, authenticity and nature and identity of the rural areas” (Interviewee 1 NDM, 2017). Thus, planners are considered to be creating more problems as opposed to addressing existing challenges by automatically changing the way of living in the name of development and legalisation without considering ways of improving services without losing the nature and identity of rural areas (Interviewee 1 NDM, 2017; Kubheka,2017).

7.7 INCREMENTAL LAND USE MANAGEMENT PROPOSALS

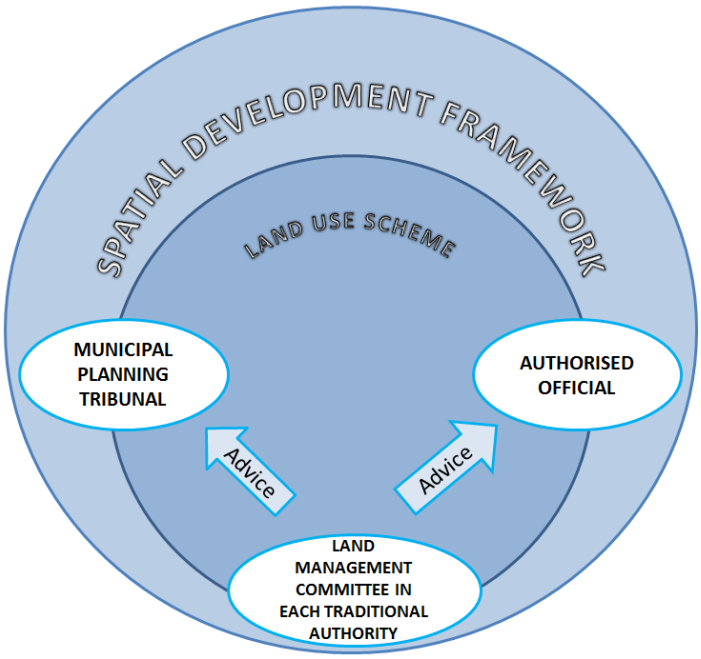
7.7.1 Legislation proposals

In terms of SPLUMA Schedule 1 Provinces are required to develop a Provincial Act which makes provisions on incremental land use management. Therefore, Limpopo Province in its draft bill grants traditional leaders the opportunity to form part of the municipal planning tribunal and also provide comments on land development applications within their areas of

jurisdiction. Bushbuckridge Local Municipality has also instituted the similar provisions in Section 26 (3) of the municipal by-law which states*; "a representative or a member of a Traditional Council may participate in the proceedings of the Municipal Planning Tribunal as an adviser, when the tribunal considers any land development applications affecting land under the jurisdiction of that traditional council subject to section 81 of the Local Government: Municipal Structures Act, 1998 and the Traditional Leadership and Governance Framework Act, 2003".*

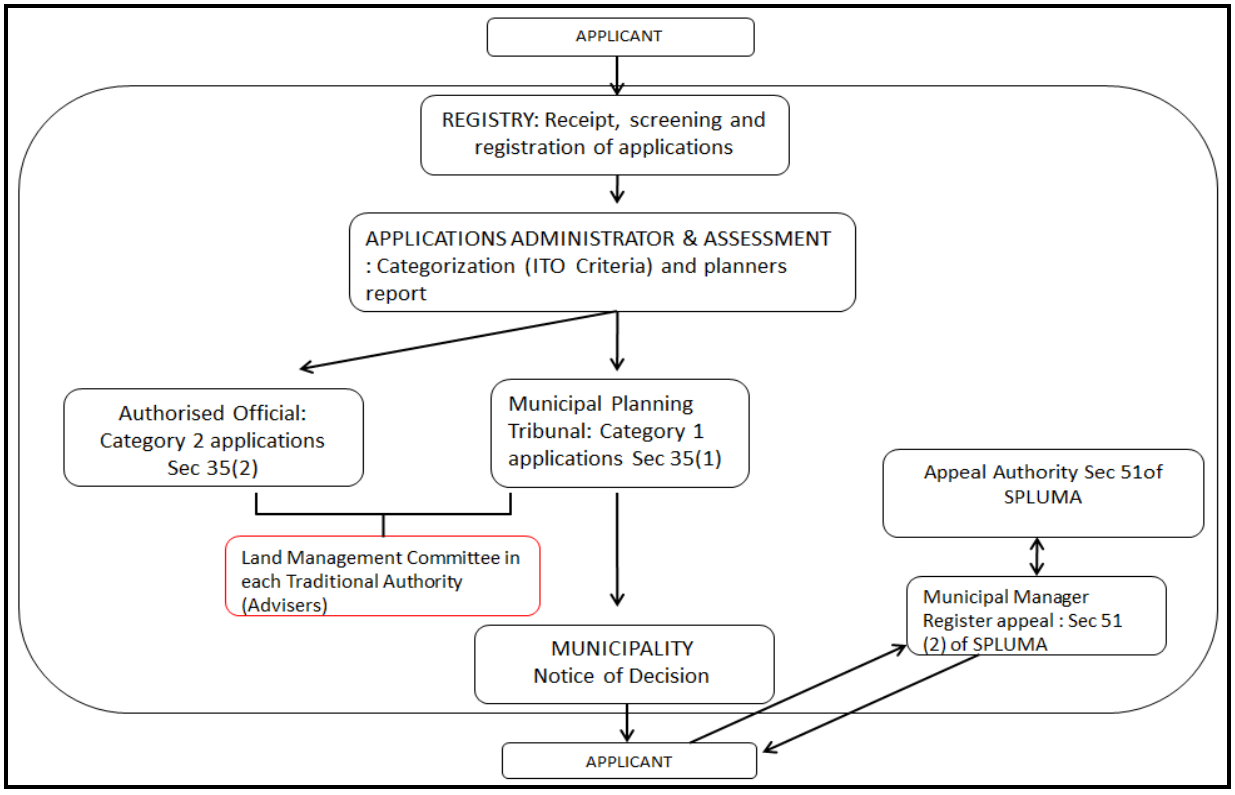
Thus, "this gives the traditional leaders a decision making role as opposed to SPLUMA's initial thoughts of treating traditional leaders as interested and affected parties" (Abrahams,2017). SALGA concurs with the incorporation of the concept in municipal by-laws on the basis that the concept is more structured to deal with specific municipal circumstances (Mchunu, 2017). COGTA also agrees with this notion by indicating that national and/or provincial legislation should legislate the formation of a "committee on land use management for proclaimed and rural settlements areas, comprising of municipal administrators (town planners) and traditional authority administrators working at the traditional authority offices, as SPLUMA does not restrict the use of traditional authority administrators. This committee will act as an advisory body to either the Authorised Official or Municipal Planning Tribunal on issues affecting land use management within the rural context of that specific settlement or township" (Interviewee 3 COGTA, 2017) within the ambit of the municipal SDF and land use scheme, as illustrated in Figures 7.1. Therefore, the advice provided by the committee to the Municipal Planning Tribunal and Authorised Official is guided by the SDF and land use scheme, as the traditional authorities would have an active participative role in the development of the spatial tools. Figure 7.2 below illustrates how the land use management committee would be structured within the normal application process flow. COGTA further indicates that the Provincial legislation needs to provide clear guidance on incremental land use management by having "sections on the how about scenarios" within the land use scheme chapter (Interviewee 4 COGTA, 2017).

Figure 7.1: Land Use Management Committee structure



Source: Sambo, 2018

Figure 7.2: Application process flow in relation to Land Use Management Committee



Source: Ditto

COGTA however indicates that more needs to be done at a national level to unpack the “how and what the concept of incremental land use management is through the development of a guideline/framework which outlines” (Interviewee 4 COGTA, 2017):

- How municipalities can introduce incremental land use management in traditional areas?

- Whether the concept is introduced in phases or implemented in full and the types of land use applications. Therefore, the municipality will decide on the land use rights it will grant properties, either the municipality can grant basket rights where some of the rights will be free. However, if the property owner wants to conduct some other activities on the property they will have to apply.

COGTA further argues that “SPLUMA needs to be taken further on the role in which traditional authorities can have say in the preparation of land use schemes and spatial development frameworks” (Interviewee 3 COGTA,2017). Nkangala District Municipality argues that policy should outline the types of documents which should be issued by traditional councils for individuals that seek to submit applications (Interviewee 1 NDM, 2017). Dr JS Moroka Local Municipality on the other hand indicates that “the law must have limitations on issuing of stands; this should be a municipal function as the municipality is a competent authority” (Mabunda, 2017).

7.7.2 Proposals on the process of incremental land use management entail within municipalities/traditional authority areas

The research interviewees have highlighted that the concept of incremental land use management needs to be taken further. Thus, the following proposals were highlighted by the research interviewees. COGTA proposes that incremental land use management should entail the following (Interviewee 3 COGTA, 2017; Interviewee 4 COGTA,2017):

- The municipalities must develop strategies and approaches which can be utilised to mobilise the traditional leaders.

- The strategies and approach development stage should be preceded by the process of sectorial participation, with the municipality empowering the traditional leaders with knowledge on spatial planning and land use management before telling the traditional authorities what the municipality wants to do.

- SALGA indicates that the municipality should conduct an assessment on the status of land uses and also assess the demand for land within the area based on pressures such as population dynamics (Mchunu,2017).

- Develop an implementation strategy post the empowering, education and assessment process. This should entail the municipality having engagements with the traditional authorities in order to ensure mutual consensus and collaboration in terms of what can be done in terms of land use management. The platform should be about engagement and not a passive participation process where the municipality is just informing the traditional authorities. However, the platform should be a two way collaboration process where the traditional leaders are made to understand what the municipality is intending on doing and also providing on what the traditional leaders are prepared to allow and also not allow. Therefore, there must be mutual agreement between the municipality and the traditional leaders on what will be prioritised and phased and this can be instituted in the SLA.

- Engage the leaders and public in order to understand land use pattern and mix thereof in terms of dominance uses within the traditional area. Understanding of specific customs being practiced in areas thereof understanding indigenous African practices/customs. Bottom-up planning on understanding the roots of an area and its people (Mchunu, 2017).

- Development of mini-schemes for the traditional authority areas and acceptance by municipality on concepts that have been discussed with the traditional authorities and incorporate them into the broader land use scheme. Decisions must be made on the procedures of dealing with major developments such as mines, malls etc. as opposed to the ordinary residential and business developments. Furthermore, the land use scheme should classify how land use management will be dealt with in areas that are densely populated compared to areas where the settlements are dispersed (Abrahams, 2017).

- In terms of governance there should be structures and committee within the traditional authority offices to advise the Municipal Planning Tribunal and the Authorised Official.

- Areas should be surveyed to ensure that settlements are captured and allocations occur within a planned sites and registration takes place based on the occupation

thereof. There should be a records system in order to avoid multiple allocations on the same site.

- There should be two systems of land allocation in order to ensure options but adherence to municipal SDF respectively:

  First areas are surveyed and general plans are drawn-up and registered with the Office of the Surveyor General but the land remains under the custodianship of the traditional authorities. Community members will either obtain PTO's or communal title similar to the apartheid era.

  Second areas are surveyed and general plans are drawn-up and registered with the Office of the Surveyor General and also the Registrar of Deeds in order for individuals to attain freehold title. Individuals should still pay the Khonza/lotsha fee since the land is not being sold as with customary systems land is allocated to a family and not an individual. Mabunda (2017) agrees with Interviewee 3 (2017) that "the lotsha fee is given to the traditional authorities as thanksgiving and it is not the buying of property, as property is not for sale. The municipality we will not interfere with the payment of the lotsha fee, but the municipality will require that the community pays for services". Nkangala District Municipality also argues that the SLA should address how money should be paid to the traditional authorities in order to substitute the revenue which traditional leaders were receiving, as this should be done in accordance with the municipal payroll.

7.8. CONCLUSION

A qualitative research method was applied in this research, with primary focus being on case studies aided by research interviews based on questionnaires outlined in the list of appendices. The research interviews focused on municipalities, provincial sector departments and organisations that have either written or undertaken incremental planning in one form or another. The research sample changed from eleven to twelve research participants, with interviews being conducted as one-on-one interviews or group interview setting. The research applied the flexible qualitative design method (Sarantakos,2005) in order to be able to adapt to challenging research conditions such as the unavailability of senior municipal officials. The researcher opted not to interview traditional authorities on the basis that Traditional councils contested the implementation of SPLUMA (Clark,2015). Therefore, in order to obtain insight into the traditional authorities understanding of spatial

planning and land use management, the researcher attended a meeting facilitated by COGTA and Bushbuckridge Local Municipality with the traditional authorities as an observer[25].

The findings from the various interviewees from the public and private sector set the foundation for the analytical analysis, in relation to theory from the preceding chapters. The purpose of illustrating the interview findings is to illustrate the varied opinions and perspectives regarding the complexities surrounding land use management within the rural context. Therefore, these opinions and perspectives enable a better understanding of land use management within rural areas.

The proposals by the research interviewees concur with the NDP's statement that differentiated planning systems are required. However, these systems require consensus and mutual agreements between municipalities and traditional authorities with directives from both provincial and national government through policy. The research interviewees' views and arguments illustrate post-modernism traits with planning law embracing diversity. However, bridging the gap between modernism and post-modernism requires the functionalist approach of consensus but also the constructivism approach of learning and flexibility. The subsequent chapter deals with the research report findings and recommendations.

[25] Municipal policies and legislations workshop for Senior Traditional Leaders in Bushbuckridge Local Municipality on the 27 June 2017 in Thulamahashe

CHAPTER 8: PLANNING FOR AFRICANS, BY AFRICANS

8.1. INTRODUCTION

> *It must be remembered that we are in Africa, we are of Africa and the government we produce must also be of Africa. Our future political dispensation shall fail if it does not reflect who we are and where we come from. Our history must not begin from 1652 or 1910, it goes beyond that. The truth is that the people who were robbed of their land and their authority to rule were none other than traditional authorities (Bizana-Tutu,2008:20)*

The quote by Bizana-Tutu (2008) seeks to draw attention to two notions firstly; that planners need to plan according to challenges and solutions crafted based on African lessons and literature. That Africans need "to return to their roots, to extract from the past what was good, and to use that to (re) built a new Africa" (Oranje, 2003:176).Secondly, that traditional authorities lost their land, authority and were excluded through means of legislative prescripts of the colonial and apartheid-era. Despite Bizana-Tutu (2008) argument, Oranje (2003:176) argues that "retraditionalisation is on the rise both in Africa and in South Africa, or rather, that many aspects of what was regarded as traditional just never went away...as traditional leaders continue to play a major role in land allocation and dispute settlement in many of the more rural provinces in the country". Thus, retraditionalisation or the "political leaders calling for an African Renaissance" (Oranje, 2003:176) has seen post-apartheid planning requiring traditional authorities to be included in the development of rural areas but also develop African solutions to spatial disparities caused by colonialism. Friend (1997:1) states that "there are many possible ways in which to approach the challenge of planning in an uncertain world". However, these need to deal with the realities of policy making, strategic decision making and conjure towards making progress within both urban and rural spaces.

In the South African context, the challenge of planning has transformed over the past two decades through means of evolving "from the typical modernist planning system to a more postmodern, democratic, strategic and developmental type of planning system...associated with the Integrated Development Planning System, Strategic Planning, Spatial Development Frameworks and a new more flexible type of Land Use Management System" (Coetzee,2012:10). Despite the liberal transformation in planning, Coetzee (2012:11) argues that "the planning system in South Africa appears very good on paper, but still finds it difficult to facilitate and spearhead the change and transformation that is required in the South African urban, regional and rural spaces".

The NDP (2009:195) states that rural areas are “characterised by greater poverty and inequality than urban areas”. Thus, in order to address this challenge the NDP 2030 vision seeks to establish a spatially, socially, economically integrated and inclusive rural economy that deals with the fragmented development planning systems of the apartheid era. In order to achieve the above the NDP objective of the South African government has ensured that rural development becomes a key prerogative in developing the country. This was highlighted in the 2010 Presidential Outcomes and the Medium-Term Strategic Framework (MTSF 2014-2019) with one of its key objectives being Outcome 7 which is aimed at the creation of; vibrant, equitable and sustainable rural communities with effective spatial integration, land use planning and regulatory systems to promote optimal land utilisation, production and effective land administration (Communal Land Tenure Policy, 2013). Gorgens and Denoon-Stevens (2012:1) argue that “land use management is one of the most powerful tools in planning that has the ability to transform the urban form, yet despite its potential it has been “neglected both in terms of academic enquiry and in terms of legislative reform”.

The aim of this chapter is to provide the research findings on the manner in which incremental introduction of land use management in rural areas can be administered and the general implications of SPLUMA in areas administered by traditional authorities. The research findings are presented through referring back to the research question and subsidiary questions posed in Chapter 1. To end off the research report this chapter provides recommendations and conclusion.

8.2. ANSWERS TO RESEARCH QUESTION

The intention of the research report was to understand the implications SPLUMA will have on rural areas administered by traditional authorities, partly due to the planning transition occurring in the democratic era. The focus on rural areas under the governance of traditional authorities was of particular interest to the researcher in order to understand the manner in which traditional authorities adapt their roles and responsibilities in accordance with municipalities being granted the municipal planning authority. The main aim of the research report was to:

- Identifying the practical working relationship that may exist between municipalities and traditional councils with the proposed incremental approach to land use management.

The purpose of referring back to the initial aim of this research report is to determine whether the set outcomes of this research have been attained. In order to determine whether the research aim was achieved it is critical to refer back to the research question and subsidiary questions, in order to understand the processes that were undertaken in order to get to this point. Prior to answering the research question, the subsidiary questions will be answered first.

The subsidiary questions posed in the research:

8.2.1 What were the land use management practices in rural areas prior to the enactment of SPLUMA?

According to Mlambu (2017) the land use management practices in rural areas involved land allocations being undertaken by the traditional authorities subsequently the municipality would issue the land rights. Mabunda (2017) partially differs by indicating that in certain instances the traditional authorities were undertaking the roles of both land allocation and land rights. Nkangala District Municipality (Mangani, 2017; Kubheka, 2017; and Interviewee 1 NDM, 2017) argues that land use management practices have always been in existence in rural areas, even though in terms of planning the practices will not be deemed to be formal.

The main challenge that was identified by the municipalities and also the DRDLR land use scheme guidelines was that settlements in rural areas do not have cadastre. Thus, settlements are developing on multiple farm portions; simultaneously if the municipality issues consent it is usually for the entire farm as opposed to a specific geo-referenced area within the settlement. According to COGTA (Interviewee 3 COGTA, 2017) land use management practices were only instituted by municipalities on either existing proclaimed townships or on major developments such as township establishments and construction of commercial/retail centres. Land use management practices on unproclaimed settlements is partly due to the lack of cadastre but also the inability for the municipalities to implement and enforce its own policies in order to ensure structure spatial development (Mabunda,2017).

8.2.2 What land use management practices are introduced by SPLUMA?

In terms of Section 33(1) SPLUMA pronounces municipalities as the authority of first instance in dealing with land use management practices. The land use management practices introduced by SPLUMA aim to ensure spatial justice for former homeland areas previously excluded from planning processes. The Act requires land use management practices that are flexible and appropriate for former homeland areas but also requires the

provision of incremental upgrading which is informed by “administration, management, engineering services and land tenure rights” (SPLUMA,2013:8). In terms of Section 23(2) SPLUMA requires municipalities to allow the participation of traditional authorities in land use management. However, the Act has been critiqued for not outlining the roles and responsibilities of the traditional authorities in terms of land use management and leaving the onus on municipalities to develop SLA with traditional authorities.

In terms of the research findings it was noted that none of the municipalities have developed a SLA, but other systems are being utilised to bridge the gap with traditional leaders within the land use management context. Furthermore, initiatives by COGTA in developing a MOU between municipalities, traditional authorities and other stakeholders with a role in land use management within the rural context has not been successful, partly due to the lack of monitoring but also as a resultant of the link between land use management and land tenure. This has resulted in conflict with SPLUMA being perceived as policy which excludes traditional authorities from decision making in areas under their governance. Nationally, this has resulted in the SPLUMA mandate being re-allocated from DRDLR to DPME and DCOG, possible to bridge the gap of intergovernmental relations. In terms of the research findings it was noted that in Limpopo Province traditional leaders “are allowed to be on the municipal planning tribunal and also provide comments on land development applications” (Abrahams,2017) in order to minimise conflict and existing power dynamics. Bushbuckridge Local Municipality in terms of its planning by-law has also included the traditional authorities as advisers.

8.2.3 What are the implications of these land use management practices on rural local municipalities’ daily municipal functions?

The implications of the land use management practices introduced by SPLUMA on local municipalities’ functions mean that municipalities must firstly develop planning by-laws and land use schemes that take cognisance of former homeland areas. The by-laws and land use schemes should find common ground between the modernist planning approach of controlled complex rigid planning (Harrison,1996) and post-modernist planning approach of flexible liberal planning (Coetzee,2012) which acknowledges indigenous knowledge (KwaZulu-Natal Planning and Development Commission,2010). Secondly, municipalities have to educate traditional authorities and communities about the importance and relevance of land use management. This requires the municipality to be willing to educate but also to be educated by the traditional authorities and traditional communities. In terms of the research findings it was evident that municipalities interact with the traditional authorities

mainly through IDP engagements or when sector plans and policies are developed and public participation processes are being adhered to for compliance purposes.

It was evident from the municipalities that there is uncertainty about the manner in which to undertake educating traditional authorities first about land use management without increasing the divisions which exist. Furthermore, municipalities will find it challenging to develop the flexible land use schemes as there is no research on indigenous practices within rural areas. Bushbuckridge Local Municipality has tried to establish working relationship with the traditional authorities through political support and assistance from COGTA. Thus, the land use management implications on local municipalities mean applying the constructivism theoretical theory of continuous learning in order to achieve the SPLUMA objects.

8.2.4 What will the changes to land use management practices mean for Traditional Authorities daily functions?

The implications of the land use management practices for traditional authorities means that traditional authorities will only deal with land allocation and not land rights (Mlambu,2017). However, according to COGTA (Interviewee 3 COGTA, 2017) the changes in planning law means that traditional authorities have to work together with local municipalities. This is through land allocation only occurring on planned site in accordance with town planning principles. This process is already happening in Bushbuckridge Local Municipality, in which the municipality undertakes the township establishment process on behalf of the traditional authorities.

However, during the observation sessions Bushbuckridge Local Municipality noted that in certain instances traditional authorities were allocating large land parcels for township establishments, yet the traditional authority indicated it cannot be dictated to by the municipality on the manner in which land allocations should be undertaken. Nkangala District Municipality agrees with the processes being executed by Bushbuckridge Local Municipality but also at the same time acknowledges the sentiments of the traditional authorities. On the basis that processes of township establishment or formalisation utilises Eurocentric planning ideologies of minimum erf sizes and zonings without taking into consideration that with African customs a stand has multiple uses which need to cater for family customs (Mangani, 2017). As land in African custom is for the family and not the individual (Interviewee 3 COGTA,2017). Mabunda (2017) has argued that with the development of wall-to-wall land use schemes and the implementation of land use management Africans should not lose their culture and customs. However, Interviewee 1 (2017) questions as to where do planners have

to draw the line between modernist and post-modernist planning because the reality is that land is a scarce commodity.

Therefore, traditional authorities will need to understand land use management and have active participation in the development of SDF's and land use schemes. Hence, traditional authorities will have to play an active role in planning the areas under their governance in order to deal with the traditional communities needs and adapt to change in order to maintain respect from the communities which they serve. Furthermore, the traditional authorities will have to institute systems of recording land allocations and documentation required by municipalities to decide on land use and land development applications within their areas of governance.

8.2.5 How can Traditional Authorities participate in aspects of land use management in rural areas?

All the research interviewees concur that traditional authorities can participant in aspects of land use management by firstly expressing willingness to understand the concept and its importance in ensuring functional, safe and healthy environments. According to SALGA (Mchunu, 2017) traditional authorities should guide land use assessment research on indigenous uses, as these are unknown to municipal planners. In order to deal with challenges are experienced as Interviewee 1 (2017) indicates "we do not have full knowledge on traditional customs, processes and procedures and how do we plan for something we have no knowledge of based on traditional customs not being spoken about and certain provisions not being discussed with women". Abrahams (2017) on the other hand indicates that traditional authorities can participate in aspects of land use management by entering into SLA with municipalities in accordance with SPLUMA and the TLGF.

In terms of the SLA Abrahams (2017) indicates that the traditional authorities and municipalities can reach agreements on governance and implementation strategy of facilitating land use management. COGTA (Interviewee 4 COGTA,2017) also concurs by indicating that the development of the SLA should be a collaboration process where the traditional leaders are made to understand what the municipality is intending on doing and also providing on what the traditional leaders are prepared to allow and also not allow. Therefore, this process will guide how implementation of land use management is phased out and prioritised.

8.2.6 How different will traditional authorities' participation in land use management practices differ from their roles in the colonial and apartheid era?

In the pre-colonial era traditional authorities represented a traditionalist approach of ensuring rural governance and political stability, through providing land for community needs and encouraging community participation (Dlungwana,2012)(Rugege,2009) (Claassens in Sithole and Mbele,2008). In the colonial and apartheid era traditional authorities aided the process of separate development which resulted in capitalism in the form of territorial rights (Harrison et al,2007)(Yiftachel,1994)(Nine,2008). Thus, traditional authorities reported to the colonial government as opposed to their communities as modernism was informed by top-down planning approach. In the democratic era the neo-liberal approach to policy means that traditional authorities are regarded as key participants in land use management. In terms of the democratic era traditional authorities are regarded as key instigators in ensuring governance. Therefore, in the democratic era it can be assumed that traditional authority are aiming to work with government to drive the Constitutional mandate as opposed to the colonial and apartheid era in which the traditional authorities worked for the government in order to make segregation policies to work.

8.2.7 What are the theoretical explanations for the various approaches to rural development?

Theoretical arguments influencing planning evolved from the functionalism in the pre-colonial era, to Marxist modernist theory in the colonial and apartheid era to neo-liberalism and functionalism theory in the earlier years of the democratic era. The process of planning is evolving again with the enactment and implementation of SPLUMA to a post-modernist approach grounded on constructivism theory of consensus. The changes in planning can be explained theoretically through Marxist modernist planning approach. In the sense that each era has been faced with policy dynamics that instigated conflict and change to occur in society. The changes in society have either sought to encourage capitalism for the minority or embrace diversity in understanding the requirement for balance between constructivism, neo-liberalism and neo-functionalism. However, in both modernist and post-modernist theoretical approaches the process of instituting change for social reform and improvement has the ability to enforce control which can either be desirable and non-desirable (Yiftachel, 1994). Therefore, the varied approaches to rural development have been based fundamentally on power dynamics and what can be achieved by those that have power.

8.2.8 What does the notion of incremental land use management mean for rural areas and its' communities with a specific refer to the attainment of freehold title and payment of property rates and taxes?

According to the municipalities incremental land use management can result in the attainment of freehold title should settlements be surveyed and proclaimed and include the various components of land administration. However, the main concern by municipalities about the attainment of freehold title will result in communities having minimal respect for traditional authorities (Mabunda, 2017). Yet, traditional authorities some form of governance that create functional rural areas (Interviewee 2, 2017). On the other hand the attainment of freehold title would guarantee security of tenure for communities as opposed PTO system, furthermore communities can be able to attain buying power by having access to assistance from financial institutions (Mabunda, 2017; Mlambu, 2017). SALGA (Mchunu, 2017) argues that the attainment of freehold title will only be viable for communities that are closer to socio-economic activities and infrastructure. COGTA however argues that incremental land use management should not develop predetermined ideologies on how functional rural areas should be perceived as. Yet, the process of incrementalism should provide communities with various tenure typologies to choose from whether it be freehold title or communal title (Interviewee 3 COGTA,2017).

In terms of the collection of property rates and taxes, the municipalities acknowledge that this will ensure improved revenue collection and less dependence on provincial and national spheres of government to execute the municipal mandate in terms of the Constitution. As Narsiah (2008) indicates that with democratic era neoliberal policies were adopted, which meant that municipalities have had to rethink service delivery and ensure that revenue is generated from the services provided by the municipality. Interviewee 3 (2017) argues that "property rates will be lower in areas under traditional authorities than modern areas and this will also affect the property value because it will not be tradable or marketable entity". SALGA (Mchunu, 2017) on the other hand indicates that the payment of rates will be subject to a cost-benefit ratio for communities, meaning that communities will only pay if they see value in the services being provided and received from the municipality.

However, in light of Interviewee 4 (2017) argues that the attainment of freehold title and the payment of rates and taxes in rural areas through the incremental introduction of land use management is "a long term thing or better yet a dream until there is political will, as there are processes of; land disposal and upgrading of tenure rights which includes the registration of towns and open a deeds registry in terms of the Deeds Act and this process is lengthy".

Interviewee 4 (2017) further argues the communities living in proclaimed townships still under the administration of traditional authorities are not paying for water which is a basic service, thus what would result in communities paying for rates.

8.2.9 How can land use management in urban and rural areas have the same planning principles, if not, what needs to be changed?

COGTA (Interviewee 4 COGTA,2017) argues that urban and rural areas have the same planning principles on the basis that Section 152 of the Constitution provides all municipalities with the mandate to ensure service delivery and does not distinguish between urban and rural. Furthermore, the "principles must be the same to promote equity and sustainability" and deviate from the stereotypical mentality that rural areas only equate agriculture (Interviewee 4 COGTA,2017). Interviewee 3 (2017) concurs that same principles should be applied, however indicates that norms and standards are essential and need to adapt to varied circumstances in the sense that "spatial justice to a person in a town is different to a person in a rural area".

This sentiment is also echoed by the local municipalities, as Abrahams (2017) indicates principles relate to what humanity needs therefore principles' are guided by execution. SALGA (Mchunu, 2017) has a different opinion in the sense that planning principles in urban and rural areas cannot be the same as "planning principles in rural areas harmonise what is existing" on the basis that rural areas have sustained functionality based on indigenous knowledge. Whilst "current planning principles create a generic copy and paste system" without learning the history of land use management and how it has evolved though the years (Mchunu, 2017). SALGA's sentiments are echoed by Nkangala District Municipality that changes in planning distort traditional systems to modern system systems. Abrahams (2017) argues that commonality needs to be reached between modern and traditional systems, as principles are about ensuring spatial sustainability and the protection of the environment to meet socio-economic needs.

In light of the above research findings the research question can be answered in the following manner in accordance with the case study areas:

What are the implications of incremental land use management in terms of SPLUMA in areas under rural traditional leadership in South Africa?

i. The incremental introduction of land use management means the merging of modernist and post-modernist planning systems, through the acknowledgement and

incorporation of indigenous knowledge in policy and tools such as land use schemes. As planning laws currently favour western principles, Eurocentric ideologies and theories of planning which do not embrace and accommodate indigenous practices or African practices (Mangani, 2017; Kubheka, 2017; and Interviewee 1 NDM, 2017). Lindblom (in Stiftel,2000:7) argues that incrementalism has three meanings respectively:

a) strategic analysis, or any attempt to simplify complex policy problems,

b) disjointed incrementalism, or analysis carried out without the advance determination of goals, with few alternatives considered, and modest complexity of data and

c) simple incrementalism, where the alternatives considered are only marginally different from the status quo

In relation to the study Lindblom's analogy on disjointed incrementalism is applicable, as the implementation of incremental land use management in areas under rural traditional leadership have complex issues. Hudson (1979:393) argues that "mainstream theories of planning are principally concerned with procedural techniques". Therefore, merging of modernist and post-modernist planning systems will have its limitations but various forms of planning approaches will have to be tested and implemented in order to deviate from the systematic procedures of planning.

ii. The development of collaborative and consensus driven partnership between municipalities and traditional authorities will have to be established and strengthened, with increased involvement from both parties on matters pertaining to land use management. Therefore, there should be inclusive participation with the establishment of a joint committee between the two entities that discusses and works on inclusive planning for rural areas. The process of inclusive planning can possibly be attained through linking incremental planning to; communicative planning, strategic planning and transactive planning. Hudson's (1979:394) critic of incremental planning is that it has limitations on the basis that it has "hidden agendas and bargaining processes which encourage participants to keep their motives and means to themselves". In relation to the research findings it was highlighted that power dynamics and elements of mistrust exist between municipalities and traditional authorities. Therefore, the process of incrementally introducing planning in terms of

SPLUMA will require “dialogue and the development of trusting interpersonal relationships” (Hudson, 1979:394) through means of transactive planning. Friedmann’s theory on transactive planning requires citizens to utilise social knowledge to guide planning processes rather than planners in order to “enhance mutual learning between the planner and the client” (Schaban-Maurer, 2015:56). Thus, the introduction of transactive planning might alleviate the notion that planners will be creating more problems than solutions with the introduction of incremental land use management, partly due to not understanding rural spaces and the functionality thereof. Hence, in terms of SPLUMA the attainment of spatial justice through the development of wall-to-wall land use schemes and the incremental upgrading of informal areas should ensure that “plans are evaluated not merely in terms of what they do for people through delivery of goods and services, but in terms of the plans’ effect on people – on their dignity and sense of effectiveness, their values and behaviour, their capacity for growth through cooperation, their spirit of generosity” (Hudson,1979:389).

iii. The process of incremental land use management means that planners, traditional authorities and traditional communities need to be willing to learning about both traditional and modern forms of land use management. The process of learning will be continuous in order to find systems and tools that function efficiently and effectively within the rural context.

iv. Incrementalism goes beyond land use management but is also linked to other land administration processes, thus the involvement of provincial and national government is critical.

8.3. RESEARCH RECOMMENDATIONS FOR MUNICIPALITIES

8.3.1. Political support

During the course of the research it became evident that municipal town planners need to gain political support in order to be able to implement and attain the SPLUMA objects within their municipalities. Therefore, if politicians understand the importance of planning and its impact of the general functionality of the municipality, the process of liaising with traditional authorities should be easier in spite of the power dynamics which exist.

8.3.2 Education on land use management an empowerment tool

The research findings have illustrated that there is a gap which municipalities need to bridge with both traditional authorities and traditional communities, through education programmes focused on land use management.

8.3.3 Future Research

SALGA in the research proceedings have highlighted the need for municipalities to undertake research in understanding indigenous knowledge, which entails the types of land uses that exist within rural areas and where the uses are undertaken in space, as understanding of indigenous knowledge will enable planners to link traditional and modern systems. Firstly municipalities should capitalise of the capabilities of GIS to capture and geo-reference land uses. Secondly municipalities should incorporate the research findings into municipal planning by-laws, SDF's and land use scheme. Municipalities should consider varied systems of implementing land use management in order to avoid the process of superimposing urban typologies on rural areas.

8.3.4 Inclusion of traditional authorities in land use management

The research findings have illustrated the municipalities need to consider developing land use structures/committees that operate within the traditional authority offices. The committees should comprise of members of the traditional council and municipal planners, in order to provide advice to the municipal planning tribunals and municipal authorised officials.

8.4 RECOMMENDATIONS FOR PROVINCIAL AND NATIONAL GOVERNMENT

8.4.1 Research on incremental land use management

The research findings have illustrated there is a huge gap in practice regarding the manner in which incremental land use management should be undertaken. Therefore, proposals from both local and provincial government is that national government should facilitate detailed research which unpacks "the concept of incremental land use management with representation from the following DRDLR Branches; Surveyor General, Registrar of Deeds, Property Management dealing with state land matters, Spatial Planning and Land Use Management. As DRDLR has developed a spatial planning legislation but it is affected directly by other legislations regulating tenure which have been promulgated within the

Department of Rural Development and Land Reform that impede and influence the realities of spatial planning and land use management" (Interviewee 3 COGTA,2017).

8.4.2 Development of service level agreement

The research findings have illustrated that municipalities require assistance from provincial and national government to develop a service level agreement with traditional authorities. Partly due to the fact that traditional authorities seem to trust and respect COGTA compared to municipalities. The key matters that need to be considered in the service level agreements are but not limited to:

- Process of administering land use and land development applications in accordance with the provisions of SPLUMA and the municipal spatial planning and land use management by-laws.
- The establishment of land management committees/structures based at the traditional authority offices.
- The conflict management strategies in accordance with the provisions of intergovernmental relations.
- The percentage ratio allocated to the municipality and the traditional authority for municipal property rates.
- The percentage ratio allocated to the municipality and the traditional authority for the sale of sites, in terms of approved township establishment applications.
- Enforcement of land use management and the process of dealing with land invasions.
- Learning and knowledge exchange educational programmes and platforms
- Political support structures

8.5 CONCLUSION

The research report explores the implications of SPLUMA in areas under rural traditional leadership with focus on two case studies respectively Bushbuckridge Local Municipality and Dr JS Moroka Local Municipality in Mpumalanga Province. The research report aims to understand the manner in which land use management can be incrementally introduced to

rural areas from a modernism and post-modernism theoretical framework. The framing theory was also informed by social theoretical analysis from different approaches of dealing with traditional leadership, since traditional authorities continue to be influenced by planning law directly and indirectly. The research report utilised experiences and insight from planning professionals in the both the public and private sector. Subsequently the case study findings are analysed against framing theories in order to determine the outcomes of the research report.

The research report illustrates that further insight is required by municipalities and provincial government professionals on the manner in which incremental land use management can be executed. The implementation of SPLUMA expands the traditional planning scope from focusing on urban areas but also to focus on rural areas. However, the research report highlights the requirement for planning professionals to undertake research on indigenous knowledge in order to be able to merge traditional and modern planning approaches in policy, tools and systems. The research report has established that spatial justice within rural areas cannot solely be attained through land use management but that issues of tenure also play a fundamental role. Thus, planning within the rural context continues to be faced with conflict influenced by power dynamics. Therefore, huge strides still need to be undertaken to reach consensus between municipalities and traditional authorities on their roles and responsibilities of administering land use management within rural areas.

The research report findings in relation to the research hypothesis illustrate that there is minimal interaction between municipalities and traditional authorities regarding land use management. Therefore, a process of inclusive participation is required, which could possibly be attained through transactive planning. This process will be accompanied by constructivism theory of learning modern ways of governance in ensuring social reform and spatial justice. The municipalities' desire regarding the incremental introduction of land use management in rural areas is to ultimately ensure the attainment of some form of tenure and the payment of property rates. However, the prospect of this in reality seems minimal due issues of power, lack of political will and Marxist theory of conflict. The research report findings have illustrated that land use management in both urban and rural areas have the same planning principles, particularly due to the mandate instituted by Section 152 of the Constitution in the democratic era. Therefore, planners should also be concerned about the development of rural areas in order to redress the injustices that resulted with the development of homelands.

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LIST OF APPENDICES

1. LEGISLATIVE PROVISIONS

Legislative provisions for independent homelands

Independent Homelands	Legislative Provisions
Bophuthatswana	Black Communities Development Act No. 4 of 1984 Black Administration Act No.38 of 1927
Transkei	Black Communities Development Act No. 4 of 1984 Black Administration Act No.38 of 1927 Proclamation R26 of 1936 Location districts
Ciskei	Black Communities Development Act No. 4 of 1984 Black Administration Act No.38 of 1927 Ciskei Land Regulation Act 14 of 1982 Ciskei Land Use Regulations Act 15 of 1987 Ciskei Township Amendment Decree No.44 of 1990 Ciskei Township Amendment Decree No.17 of 1993 Ciskei Township Regulations: Proclamation R293 of 1962
Venda	Black Administration Act No.38 of 1927 and Land Use Planning Regulations Homeland laws: Venda Land Control Act 16 of 1986 Venda Proclamation No. 45 of 1990

Source: South African Cities Network Report (2012)

Legislative provisions for self-governing territories

Self-Governing Territories	Legislative Provisions
KwaNdebele	Black Communities Development Act No. 4 of 1984 Black Administration Act No.38 of 1927 KwaNdebele Town Planning Act No.10 of 1992
Lebowa	Black Communities Development Act No. 4 of 1984 Black Administration Act No.38 of 1927 Homeland laws: Lebowa
Gazankulu	Black Communities Development Act No. 4 of 1984 Black Administration Act No.38 of 1927
QwaQwa	Black Communities Development Act No. 4 of 1984 Black Administration Act No.38 of 1927
Kangwane	Black Communities Development Act No. 4 of 1984 Black Administration Act No.38 of 1927

	Homeland laws: Kangwane
KwaZulu	Natal Town Planning Ordinance No. 27 of 1949

Source: South African Cities Network Report (2012)

Legislative provisions of older legislations assigned to the Province which will be repealed in terms of the Mpumalanga Town Planning and Land Related Laws Repeal Act, 2016 (Act No. 2 of 2016). The Act was gazetted on the 24 February 2017; however the act has not been assented into operation by the Premier.

Year and number of Act	Short title of Act	Extent of repeal
Proclamation No.R.293 of 1962	Regulations for the Administration and Control of Townships in Black Areas	To the extent assigned
Act No. 84 of 1967	Removal of Restrictions	To the extent assigned
Act No. 88 of 1967	Physical Planning	To the extent assigned
Act No. 4 of 1984	Black Communities Development	To the extent assigned
Ordinance No.15 of 1986	Town Planning and Townships Ordinance	To the extent assigned
Ordinance No. 20 of 1986	Division of Land Ordinance	To the extent assigned
Government Notice No. R.1897 of 1986	Regulations relating to townships establishment and land use	To the extent assigned
Act No. 108 of 1991	Abolition of racially based land measures	To the extent assigned
Act No. 113 of 1991	Less formal township establishment	To the extent assigned

Source: Mpumalanga Town Planning and Land Related Laws Repeal Act, 2016 (Act No. 2 of 2016)

2. INTERVIEW QUESTIONS

Municipalities Questionnaire

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1. What position do you occupy within the Municipality?
2. How long have you been occupying your current position within the Municipality?
3. What are your responsibilities in terms of land use management?
4. How do you think your responsibilities will change with the incremental introduction of land use management in rural areas of the Municipality as per the prescripts of SPLUMA?
5. What constitutes land use management within the rural context?
6. What are the challenges and conflicts associated with land use management within the rural context?
7. Who deals with land use management within the rural context and what roles do they play?
8. How is land use management administered by the following stakeholders; municipality (Council, Finance Directorate, Town Planning Directorate), traditional authorities/councils and community?
9. How do the above mentioned different stakeholders play a role in terms of land use management?
10. How do the stakeholders roles affect current town planning municipal operations?
11. How does the town planning directorate engage these different stakeholders on land use management matters (meetings, workshops/educational forums, consultation sessions etc)?
12. How often do these interactions take place?
13. What do these interactions entail? [eg: obtaining buy-in from Council, Finance Directorate relationship between land use management and property valuation roll, traditional authorities roles and responsibilities, communities roles and responsibilities etc]
14. How do these liaisoning engagements influence the municipal land use management system and in what way?

15. How does the municipality assess if communities understand the roles and responsibilities of both the municipality and traditional authority in terms of land use management [manner in which the roles and responsibilities differ and merge]?

16. What working relationship did the municipality have with the traditional authorities/councils prior to SPLUMA in addressing land use management practices?

17. How has the working relationship with traditional authorities changed post SPLUMA implementation in addressing land use management practices?

18. How are traditional customs of land use management [process of accessing land, governance of land use, use of communal land and individual title] accommodated in the process of introducing incremental land use management in accordance with SPLUMA?

19. What type of role do traditional authorities have in administering land use management, which can be incorporated in legislation and policy?

20. What challenges is the municipality faced with in incorporating traditional authorities in the land use management system?

21. What mechanisms and tools has the municipality undertaken to incorporate traditional customs of land use management in relation to modernist town planning customs?

22. What has been incorporated within the municipal systems?

23. In what ways are these tools used and how effective are they?

24. How does the municipality track the municipal spatial form in order to update its land use register and influence the outcomes of the SDF [eg: types of land uses, use of communal areas, densities, areas affected by sprawl, direction of growth and development etc]?

25. What does the notion of incremental land use management mean for rural areas [municipality, traditional authority and community – attainment of tenure security, rates payments and collections etc]?

26. How realistic is the concept of incremental land use management and can it address the existing challenges faced within rural areas in terms of land use management?

27. What are the spatial implications that incremental land use management can have on planning?

28. How did your municipality develop a change management system in order to deal with the implementation of the SPLUMA?

29. What does your change management system entail and how does it incorporate traditional authorities and impact on the municipal land use management system?

30. How different will the land use scheme implemented in rural areas differ from urban areas?

31. In the case of Bushbuckridge Local Municipality, does your municipality classify itself as rural,considering that there is a 8.07% population difference between itself and Mbombela Local Municipality?

COGTA and SALGA Questionnaire

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1. What position do you occupy within the Department/Association?
2. How long have you been occupying your current position within the Department/Association?
3. What are your responsibilities in terms of land use management?
4. How do you think your responsibilities will change with the incremental introduction of land use management in rural areas as per the prescripts of SPLUMA?
5. What constitutes land use management within the rural context?
6. What are the challenges and conflicts associated with land use management within the rural context?
7. Who deals with land use management within the rural context and what roles do they play?
8. How is land use management administered by the following stakeholders; municipality (Council, Finance Directorate, Town Planning Directorate), traditional authorities/councils, community and provincial sector departments?
9. How do these different stakeholders play a role in terms of land use management?
10. How do the stakeholders roles affect current town planning municipal and provincial operations?
11. What relationship does the Department/Association have with the traditional authorities/councils/Provincial House of traditional leaders prior and post SPLUMA?
12. In what ways has the Department/Association utilised its relations with the House of Traditional Leaders in order to address land use management practices?
13. How have the engagements with the House of Traditional Leaders been beneficial in addressing land use management?
14. How have municipalities been included in the process as administrators of spatial planning and land use management?

15. Is the Department/Association drafting a Service Level Agreement between municipalities and traditional authorities as per Regulation 19 of SPLUMA?

16. What does the Service Level Agreement entail?

17. How does the Service Level Agreement bridge the gap in terms of existing challenges with land use management and the proposed incremental introduction thereof?

18. What steps/actions need to be taken by the Province, House of Traditional Leaders and municipalities in order for the Service Level Agreement to be implementable?

19. How are traditional customs of land use management [process of accessing land, governance of land use, use of communal land and individual title] accommodated in the process of introducing incremental land use management in accordance with SPLUMA?

20. What type of role should traditional authorities have in administering land use management, which can be incorporated in national and provincial legislation and municipal by-laws?

21. What mechanisms and tools has the Department/Association undertaken to understand traditional town planning customs in relation to modernist town planning customs?

22. In what ways are these tools used and how effective are they?

23. What trends have emanated from rural areas in terms of land use management from the apartheid to the democratic era?

24. How does the Department/Association track the spatial form of the Province in order to influence the Provincial Spatial Development Framework (PSDF) and the manner in which schemes are drafted by municipalities [eg: types of land uses, densities, areas affected by sprawl, direction of growth and development etc]?

25. What does the notion of incremental land use management mean for rural areas [municipality, traditional authority and community – attainment of tenure security, rates payments and collections etc]?

26. How realistic is the concept of incremental land use management and can it address the existing challenges faced within rural areas in terms of land use management?

27. What are the spatial implications that incremental land use management can have on planning?

28. How will the concept on incremental land use management be incorporated into the provincial legislation?

29. Ideally what would the process of incremental land use management entail within municipalities/traditional authority areas?

30. Would the incremental introduction of land use management in rural areas result in the Property Rates Act being enforced by municipalities and result in the attainment of freehold titles?

31. How would the Department/Association administer the conflict between municipalities and traditional authorities in terms of the Property Rates Act and tenure security being implemented in rural areas?

32. How would the Department/Association monitor that the incremental introduction of land use management is occurring in order to bridge the gap between apartheid planning and post-democratic planning?

33. What mechanisms have been developed to address the differences between urban and rural municipalities to implement SPLUMA within the Province?

34. Can land use management in urban and rural areas have the same planning principles, if not, what needs to be changed?

35. What planning mechanisms can be introduced to deal with this?

Urban Landmark Questionnaire

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1. What position do you occupy within your organisation?

2. How long have you been occupying your current position?

3. What are your responsibilities in terms of land use management?

4. What constitutes land use management within the rural context?

5. What are the challenges and conflicts associated with land use management within the rural context?

6. How is land use management administered by the following stakeholders; municipality (Council, Finance Directorate, Town Planning Directorate), traditional authorities/councils, community and provincial sector departments?

7. Have you been involved in the implementation of incremental land use management?

8. How have you dealt with incremental land use?

9. What does the implementation of incremental land use management entail within areas governed by traditional authorities?

10. How can it address the existing challenges faced within rural areas in terms of land use management?

11. Ideally what would the process of incremental land use management entail within municipalities?

12. How can incremental land use be incorporated and implemented into provincial legislation, and municipal by-laws?

13. How can traditional land use practices be incorporated into legislation?

14. Would the incremental introduction of land use management in rural areas result in communities paying rates?

15. Would the incremental introduction of land use management in rural areas result in freehold titles or communal titles?

16. How can COGTA/SALGA deal with the conflict between municipalities and traditional authorities in terms of tenure security, allocation of land use rights and implementation of the Property Rates Act in rural areas?

17. Should incremental planning favour the municipality's role in terms of providing services only or should it also acknowledge the socio-economic factors of the municipality and to what extent?

18. What should the government do in order to ensure that incremental planning empowers communities to the use and ownership of land?

19. What are the spatial implications that incremental land use management can have on planning?

20. What mechanisms and tools can national, provincial and local government consider in addressing land use management in rural areas?

21. How can planning acknowledge modern and traditional land use customs in both practice and policy?

22. Can land use management in urban and rural areas have the same planning principles, if not, what needs to be changed?

23. What planning mechanisms can be introduced to deal with this?

3. SACPLAN LETTER TO MUNICIPALITIES

SOUTH AFRICAN COUNCIL FOR PLANNERS

P O Box 1094, Halfway House, MIDRAND, 1685
International Business Gateway Office Park, Cnr New Road & 6th Road,
Midridge Office Park -Block G, 1st Floor.
Tel: 011-318 0460/ 318 0437 Fax: 011-318 0405
E-Mail: planner@sacplan.co.za
Website: www.sacplan.org.za

The South African Council for Planners
SACPLAN

Our Reference : PV/001/2017
Your Reference :

16 May 2017

The Municipal Manager
Dr JS Moroka Local Municipality
Private Bag X4012
Siyabuswa
472

Fax no:013 973 0974/2463
E-mail:admin@moroka.gov.za

Sir/Madam

ADVERTISEMENTS IN RESPECT OF URBAN / TOWN AND REGIONAL PLANNING / SPATIAL PLANNING POSTS AT MUNICIPALITY'S

We refer to notices which often appear in the press inviting applicants to submit applications with a view to filling Urban / Town and Regional Planning / Spatial Planning positions.

In the requirements stipulated in such notices it is often made clear that the person in responsible charge, once appointed in the post will, inter alia, attend to and be responsible for urban, regional and spatial planning matters, etc. on behalf of the Municipality. The required qualifications and competencies set out in these notices are often incorrect.

In terms of the Planning Profession Act, 2002 (Act 36 of 2002), administered by the South African Council for Planners (SACPLAN), appointed by the Minister of Rural Development and Land Reform, work related to spatial planning and land use management (town planning and land use management) is the province of a registered Professional Planner, as well as a registered Technical Planner as contemplated in the aforesaid Act. In turn, the Act specifies the minimum tertiary qualifications required to meet the registration requirements and also regulates the postgraduate experience that a registered Professional Planner and a registered Technical Planner is required to undergo (under the supervision of an accredited supervisor). Qualifications in Building Sciences or Architecture or Development Studies or Engineering cannot qualify for registration with the SACPLAN.

The SACPLAN has developed a Competency Framework for Local Government Occupational Streams specifically pertaining to Planning Professionals. The said information had also been provided to the National Department of Cooperative Governance (DCOG).

The said Competency Framework, inter alia, addresses the different levels, minimum qualification, requirements, knowledge areas per level, and minimum experience requirements. The Competency Framework further addresses competency level per occupational (planning professionals) stream in

Council Members:
Chairperson: Ms Nonsundu Ndonga* **Deputy Chairperson:** Mr Tshisanphiri Madima* **Alternate Chairperson:** Prof Mfaniseni Sibiya*
Prof Matthew Dayomi*; Prof Verna Nel*; Ms Penelope Beck; Mr Peter Decomb*; Mr Peter Gilmore*;
Mr Rajesh Makan*; Ms Mosa Molapo*; Dr Wangeci Karuri-Sebina.
Chief Executive Officer: Mr Martin Lewis*
* Professional Planner * Technical Planner

respect of professional (core) competencies, functional competencies, public service orientation, and management.

The said document can also be used to identify training requirements for existing employees within the Urban / Town and Regional Planning / Spatial Planning field.

As a responsible Municipality, serving the interests of the public (and ratepayers) in your jurisdiction, you are required to ensure that persons in your employ are appropriately registered and held professionally accountable where controlling legislation so decrees.

The said document can be accessed on the SACPLAN website at:
http://www.sacplan.org.za/documents/Job%20profiling.pdf.

Yours faithfully

South African Council For Planners
P. O. Box 1084
Halfway House
MIDRAND 1685
Tel: 011 315 0460 / 3437
Fax: 011 315 0465
Email: planner@sacplan.co.za

MP LEWIS Pr.Pln MRTPI
A/795/1994
CHIEF EXECUTIVE OFFICER
REGISTRAR

cc. The Director: Human Resources

The South African Council for Planners
SACPLAN

4. MEMORANDUM OF UNDERSTANDING: DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS AND OTHER PROVINCIAL STAKEHOLDERS

MEMORANDUM OF UNDERSTANDING

Entered into by and between the

DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

Established in terms of the Constitution of the Republic of South Africa, 1996

(Hereinafter referred to as "the **COGTA**")

and the

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

(Hereinafter referred to as "the **MUNICIPALITY**")

and the

MPUMALANGA PROVINCIAL HOUSE OF TRADITIONAL LEADERS

(hereinafter referred to as "**HOUSE**")

SOUTH AFRICAN POLICE SERVICES

(Hereinafter referred as **"SAPS")**

(And collectively referred to as "the **Parties**")

PREAMBLE

WHEREAS COGTA the Department is tasked with the support, monitoring and strengthening the institution of traditional leadership as set out more fully in the Mpumalanga Traditional Leadership and Governance Act, 2003 (Act No. 3 of 2005) and Traditional Leadership and Governance and Framework Act, 2003 (Act No. 41 of 2003);

WHEREAS Department is tasked with the support, monitoring, strengthening the Municipalities as set out more fully in the Constitution, 1996, Local Government: Municipal

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Systems Act, 2000, Structures Act, 1998, Municipal Finance, 1998, Municipal Property Rate Act, 2005 and other relevant and applicable legislation.

AND WHEREAS the **Municipality** is established in terms of the Constitution of the Republic of South Africa, 1996, with the mission to ensure responsive, integrated and sustainable service delivery to communities within its area of jurisdiction through strategic leadership, critical interventions and effective co-ordination of service delivery.

AND WHEREAS the Constitution recognized the institution, the role and the status of institution traditional leadership and the Traditional Council have the responsibility to plan for land use and land management its area of jurisdiction.

AND WHEREAS South African Police Services have a constitutional mandate to prevent combats and investigate crime and to maintain public order, protector and secure the inhabitants of the Republic and their property and enforce the law.

AND WHEREAS house of traditional leaders

THEREFORE THE PARTIES hereto have decided to formalize their co-operation in attaining the above-mentioned goals by entering into this Memorandum of Understanding ("**MOU**").

1.

INTERPRETATION

1.1 The Parties to this **MOU** will, in interpreting and applying this **MOU**, do so in full compliance with, and adherence to all applicable legal requirements, with specific reference to the relevant provisions of the Constitution, 1996, Mpumalanga Traditional Leadership Governance Act, 2005 (Act No. 03 of 2005), the Traditional Leadership and Governance Framework, 2003 (Act No. 41 of 2003) and Local Government: municipal Systems Act, 2000.

1.2 Differences in the interpretation of this **MOU** shall be settled by mutual consultation in the spirit of successful future co-operation between the **Parties**.

1.3 Neither **Party** is or may act as an agent of the other **Party** and cannot bind the other **Party** in any agreement or undertaking.

Sman

2.

OBJECTIVES OF THE MOU

This **MOU** seeks to formalize the cooperation between the **Parties** by determining the scope and extent of such cooperation in respect of those areas of cooperation as contained in this **MOU**, in order to ensure that the **Parties** derive mutual benefit and advantages from such cooperation, in order to achieve the following objectives:

- To enhance the capacity of the parties to deliver the identified and agreed upon land use and land management planning.
- To ensure that the **Traditional Council**, after consultation with the **Municipality,** identifies and planned land use and land management schemes;
- To ensure the transfer of the relevant skills from **Municipality** to the headmen of the Traditional council.
- To ensure that the **Department** support the **municipality** and the **traditional council** in the manner that is compatible with relevant applicable legislation.
- To ensure that the **Department** facilitate the effective and efficient implementation of this **MOU**
- To ensure that **SAPS** enforce law and order in areas of jurisdiction of traditional leaders
- to ensure that **SAPS** assist with the process of combating unlawful land invasion
- Ensure that **SAPS** assist with the enforcement of court orders sought by Traditional leader and the Municipality with regard to land invasion

3.

POSITIVE UNDERTAKINGS AND STATUS OF MOU

3.1 The **Parties** hereto confirm their distinct complementary and respective Constitutional and legal roles in the implementation of this **MOU**.

3.2 The **Parties** further commit themselves to collaborate in promoting the objectives of this **MOU**.

3.3 Nothing in this **MOU** shall have the effect of, or be interpreted as -

3.4.1 affecting any statutory mandate of any Party; or

3.4.2 requiring any Party to do or refrain from doing, anything that would be in conflict with the legal mandate of that Party.

4.

PRINCIPLES OF COLLABORATION

The **Parties** to this **MOU** –

4.1 recognize that the **Municipality** has the mandate to develop strategic priorities and plans for the development of the Municipality within the Municipal area of jurisdiction and that **TRADITIONAL COUNCIL** have the right to decide how and the extent to which land should be distributed within its areas of jurisdiction and that the Traditional Council is located within the Municipal area of jurisdiction;

4.2 recognize that the **Department** has a legislative mandate to support and monitor the **Municipality** and the **Traditional Council**

5.

DURATION OF THE MOU

This **MOU** commences on the date of signature hereof by all **Parties** and shall terminate by mutual agreement.

6.

ROLE OF THE PARTIES

6.1 The **Municipality** shall, in consultation with **Traditional Council**, with due regard to the approved Spatial Framework, and the approved budgets -

6.1.1 Involve the Traditional Council in the development and reviews of Municipal Spatial Development Frameworks to ensure effective land management and proper

utilization of land i.e. protection of environmentally sensitive areas, proper utilization of high potential agricultural land, good management of disaster prone areas etc.

6.1.2 **The Municipality** and the **Traditional Councils** shall develop detailed layout plans of tribal / communal lands to guide the allocation of land / stands for residential and other land uses for easy settlements upgrades / formalization. (Assistance)

6.1.3 **The Traditional Council** after consultation **Municipality** shall facilitate the coordination of primary land use changes and rezoning in tribal / communal lands.

6.1.4 **Traditional Council** shall after proper planning on primary land use issue letters of confirmation of the land owner; confirmation that application is in compliance with the prepared layout plan.

6.1.5 Traditional Council shall make available to **SAPS** copies of their gazette of areas of jurisdiction, whichever is applicable

6.1.6 The **Municipality** to ensure that the **Traditional Councils** is represented in the Municipal Land Use Committee.

6.1.7 The Department shall liaise with the **Municipality** and the **Traditional Council** on the implementation of this **MOU**

6.1.8 The Department shall mediate and conciliate disputes between the **Municipality** and the **Traditional Council**

6.1.9 That **SAPS** undertake to investigate, act on cases reported by traditional council or duly authorized representatives with respect to illegal demarcation and selling of land or stands

6.1.10 Where court orders and interdict regarding the restriction or restraining illegal and criminal activities were served, **SAPS** undertakes to ensure law enforcement against any person subsequently found carrying on or involved with the similar illegal activity

MANAGEMENT COMMITTEE

The **Parties** shall, establish a Management Committee; the function of the management committee shall be to oversee the implementation of this **MOU,** each party shall designate a maximum of 2 officials to be part of the Management Committee. On the first meeting of the Management Committee the **Parties** shall determine the schedule of meeting of the Management Committee. **COGTA** shall provide administrative support to the Management Committee and Chair meetings of the Management. The Management Committee shall report on quarterly basis to the parties.

8.

COMMUNICATION AND LIAISON

The **Parties** agree that:

9.1 It is necessary to keep the channels of communication open between the **Parties** at all times and on all aspects of this **MOU** and to consult each other in respect of the specific implementation of this **MOU**.

9.2 For purposes of the implementation of this **MOU** the contact persons in respect of all communication between the Parties shall be the following persons:

The **COGTA:** Mr. / Ms. _____ (Designation: _____ and contact details: _____.

SALGA: ~~Mr~~ Ms. GUGU LANGA (Designation: P.E.O. and contact details: 082 800 8030.

MPHTL: Mr. / Ms. _____ (Designation: _____) and contact details: _____.

SAPS: Mr. / Ms. _____ (Designation: _____ and contact details: _____.

10.

DISPUTE RESOLUTION

Should any difference of interpretation or dispute at any time arise between the **Parties**, the **Department** shall attempt to settle the dispute within fourteen (14) days, or within such shorter period as the **Parties** may agree on, from the date on which the dispute arose to resolve such dispute amicably.

11.

AMENDMENTS

No amendments or consensual termination of this **MOU** will be binding unless reduced to writing and signed by the **Parties**.

12.

GOOD FAITH

The **Parties** undertake to act in good faith at all times in pursuance of their respective roles in terms of this **MOU** as well as to give effect to the spirit and intent of this **MOU**.

13.

CONFIDENTIALITY

13.1 Any information shared pursuant to this **MOU** shall be used only for purposes of giving effect to the **MOU**.

13.2 To the extent permitted by applicable legislation, the **Parties** shall hold confidential all information received from each other pursuant to this **MOU** and shall not otherwise disclose such information than is necessary to carry out their regulatory or statutory responsibilities or otherwise in accordance with applicable legislation.

13.2 The **Parties** shall, prior to disclosing such confidential information or any part thereof, consult each other for direction and advice on such disclosure.

14.

SIGNATURES OF PARTIES

THUS SIGNED AT MELSBRUK THIS 14 DAY OF MARCH 2014.

FOR COGTA:

Duly authorized hereto

Name: SB SIKHOSANA

Designation: MEC

THUS SIGNED AT Melsbruk THIS 19 DAY OF March 2014.

FOR SALGA:

Duly authorized hereto

Name: SM MKOSI

Designation: Chairperson

THUS SIGNED AT NELSPRUIT THIS 18 DAY OF MARCH 2014.

FOR MPHTL:

Duly authorized hereto

Name: KGOSHI · A M · MOKOENA

Designation: CHAIRPERSON

THUS SIGNED AT Nelspruit THIS 1st DAY OF APRIL 2014.

FOR SAPS:

Duly authorized hereto

Name: Thulani Reymond Ntosh

Designation: Provincial Commissioner.

9

ADDENDUM

MEMORANDUM OF UNDERSTANDING

Entered into by and between the

DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

Established in terms of the Constitution of the Republic of South Africa, 1996

(Hereinafter referred to as "the **COGTA**")

and the

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

(Hereinafter referred to as "the **SALGA**")

and the

MPUMALANGA PROVINCIAL HOUSE OF TRADITIONAL LEADERS

(hereinafter referred to as "**MPHTL**")

And the

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

AND

SOUTH AFRICAN POLICE SERVICES

(Hereinafter referred as **"SAPS")**

(And collectively referred to as "the **Parties**")

WHEREAS the Department Rural Development is the owner of the state land, that includes land under the jurisdiction of traditional leaders, and the Department is tasked with the mandate of monitoring, transfer and the management of land are the jurisdiction of traditional leaders.

WHEREAS the parties have now agreed to amend the principal agreement so as to make provision for the inclusion of the Department of Rural Development.

AND WHEREAS the Parties wish to record their agreement in writing.

1. AMENDEMENT OF CLAUSE 2 - OBJECTIVES OF THE MOU

(BULLET 2)
"To ensure that the Traditional Council take part in Spatial Planning and Land Use Management to support the Municipality. "

2. AMENDEMENT OF CLAUSE 6 ROLE OF THE PARTIES

The **Municipality** shall, in consultation with **Traditional Council**, with due regard to the approved Spatial Framework, and the approved budgets -

sdf

6.1.1 Involve the Traditional Council and the Department of Rural Development and Land Reform in the ~~development~~ preparation and reviews of Municipal Spatial Development Frameworks to ensure effective land management and proper utilization of land in rural areas in line with development policies of various sectors and spheres of government i.e. protection of environmentally sensitive areas, proper utilization of high potential agricultural land, good management of disaster prone areas etc

.

6.1.2 Include the Traditional Councils in the intergovernmental steering committee that will make input and advice on the content of the Municipal Spatial Development Framework to be prepared or reviewed.

Incremental approach

6.1.3 Allow for the participation of a Traditional Council in land use management including the preparation of land use schemes, subject to section 23(2) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013).

6.1.4 To allow for the incremental introduction of land use management and regulation in areas under Traditional Leadership, **The Municipality**, **Traditional Councils and Department of Rural Development and Land Reform** shall, develop settlement plans ~~detailed layout plans~~ of tribal / communal lands to guide the allocation of land / stands for residential and other land uses ~~for easy~~ and to assist in settlements upgrades / formalization. ~~(Assistance)~~

Lum

6.1.5 Determine the use and development of land within its area by accommodating cultural customs and practices of traditional communities in land use management.

~~6.1.6 **The Traditional Council** after consultation **Municipality** shall facilitate the coordination of primary land use changes and rezoning in tribal / communal lands.~~

6.1.7 Conclude a service level agreement with the Traditional Council subject to legislation, in terms of which the Traditional Council may perform such functions as agreed upon, provided that the Traditional Council may not make a land development or land use decision. (Regulation 19 of Spluma)

The service level agreement may include representation of the Triditional Council through an official or member of the Tribe on the Municipal Planning Tribunal or assisting the Land Development Officer in taking a decision provided that such a representative meets the criteria for appointment in terms of legislation.

6.1.8 If no service level agreement exists, the Traditional Council must provide proof of the allocation of land in terms of customary law and that the application is in compliance with the prepared settlement plan, to an applicant in a land development or land use application prior to a decision being made by a land development officer or Tribunal.

~~6.1.9 **Traditional Council** shall after proper planning on primary land use issue letters of confirmation of the land owner; confirmation that application is in compliance with the prepared layout plan.~~

6.1.10 **Traditional Council** shall make available to **SAPS** copies of their gazette of areas of jurisdiction, whichever is applicable

6.1.11 **The Department of Rural Development and Land Reform shall make settlement plans ~~layout maps~~ and maps on areas of jurisdiction available to the parties;**

6.1.12 **The Department of Rural Development and Land Reform, Cogta and the Municipality may make budget available as when requested for litigation by the concerned traditional councils;**

6.1.13 **The Department of Rural Development and Land Reform shall develop a draft policy to be used as legal framework for the development of by law**

~~6.1.14 The **Municipality** to ensure that the **Traditional Councils and Department of Rural Development and Land Reform are** represented in the Municipal Land Use Committee.~~

6.1.15 **COGTA, the Department of Rural Development and Land Reform** and **SALGA** shall liaise with the **Municipality** and the **Traditional Council** on the implementation of this **MOU**

6.1.16 **COGTA, Department of Rural Development** and Land Reform and **SALGA** shall mediate and conciliate disputes between the **Municipality** and the **Traditional Council**

6.1.17 That **SAPS** undertake to investigate, act on cases reported by traditional council or duly authorized representatives with respect to illegal demarcation and selling of land or stands

6.1.18 Where court orders and interdict regarding the restriction or restraining illegal and criminal activities were served, **SAPS** undertakes to ensure law enforcement against any person subsequently found carrying on or involved with the similar illegal activity.

AMENDMENT OF CLAUSE 7 MANAGEMENT COMMITTEE

AMENDMENT OF CLAUSE 9 COMMUNICATION AND LIAISON

The **Department of Rural Development:** Mr. / Ms. _____ (Designation: _____ and contact details: _____.

Signed at _____ on this _____ day of _____ 2014

As witnesses:

1. _____
2. _____

_____
MS R.M. MTSHWENI for
and on behalf the **COGTA**

Signed at _____ on this _____ day of _____ 2014

3. _____
4. _____

_____
Inkosi L MOKEONA for and
and on behalf of the **MPHTL**

Signed at _____ on this _____ day of _____ 2014

As witnesses:

3. _____
4. _____

_____
MR. M. NKOSI for
and on behalf the **SALGA**

Signed at _____ on this _____ day of _____ 2014

3. _____
4. _____

_____
MR. NTOBELA for and
and on behalf of the **SAPS**

Signed at _____ on this _____ day of _____ 2014

3. _____

4. _____

_____
MS Z foand on behalf of the **DEPARTMENT OF RURAL DEVELOPMENT**
)

5. MEMORANDUM OF UNDERSTANDING: BUSHBUCKRIDGE LOCAL MUNICIPALITY AND AMASHANGANA TRADITIONAL COUNCIL

MEMORANDUM OF UNDERSTANDING

Entered into by and between the

BUSHBUCKRIDGE LOCAL MUNICIPALITY

Established in terms of the Constitution of the Republic of South Africa, 1996 (Hereinafter referred to as the" **MUNICIPALITY**")

and the

Amashangana Traditional Council

(Hereinafter referred to as the "**TRADITIONAL COUNCIL**")

(And collectively referred to as "the **Parties**")

PREAMBLE

WHEREAS COGTA, the Department is tasked with the support, monitoring and strengthening the institution of traditional leadership as set up more fully in the Mpumalanga Traditional Leadership and Governance Act, 2003 (Act No. 41 of 2005) and Traditional Leadership and Governance and Framework Act, 2003 (Act No. 41 of 2003);

AND WHEREAS Department is tasked with the support, monitoring and strengthening the Municipality as set out more fully in the Constitution , 1996, Local Government: Municipal Systems Act, 2000, Structure Act, 1998 Municipal Finance, 1998 , Municipal Property Rate Act, 2005 and other relevant and applicable legislation;

AND WHEREAS the Municipality is established in terms of the Constitution of the Republic of South Africa, 1996, with the mission to ensure responsive, integrated and sustainable service delivery to communities within its area of jurisdictions through strategic leadership, critical intervention and effective co-operation of service delivery;

AND WHEREAS the constitution recognized the Tribal institutions, The role of the status of institution, Traditional Leadership and Traditional Council have the responsibility to plan for land use and land management in its area of jurisdiction;

Therefore the parties hereto formalize their co-operation in attaining the above mentioned goals by entering into this Memorandum of Understanding (**MOU**)

1. INTERPRETATION

1.1 Parties of **MOU** interpreting and applying this **MOU**, do so in full compliance with and adherence to all applicable legal requirements with specific reference to the relevant provision of the South African Constitution of 1996, Mpumalanga Traditional Leadership Governance Act, 2005 (Act No. 03 of 2005), the Traditional Leadership and Governance Framework , 2003 (Act No. 41 of 2003) and Local Government: Municipal Systems Act, 200.

1.2 Differences in the interpretation of this **MOU** shall be settled by mutual consultation in the spirit of successful future co-operation between the parties

1.3 Neither party is or may act as an agent of the other party and cannot bind the other party in any agreement or undertaking.

1.4 The demarcated area (Proposed Township Establishment Rolle/Kumana) in principle is attached as **ANNEXURE A**.

2. OBJECTIVES OF THE MOU

This **MOU** seeks to formalize the cooperation between the parties by determining the scope and extent of such cooperation in respect of those areas of cooperation as contained in this **MOU** in order to ensure that the parties derive mutual benefit and advantages from such cooperation, to achieve the following objectives:

2.1. To enhance the capacity of the parties to deliver the identified and agreed upon land use and the construction of agreed houses as per commitment by the Department of Human Settlements.

2.2. To ensure that Bushbuckridge Local Municipality, after consultation with the Traditional Council identifies and plan land use and land management schemes.

2.3. To ensure that parties support each other in the manner that is compatible with relevant applicable legislation and mutual relationship in respect of common interest.

2.4. To ensure the effective and efficient implementation of this **MOU** in order to achieve the objectives of integrated housing project in respect of role and future involvement as per the obligations **(Act No. 108 of 1996).**

2.5. To jointly facilitate the issuing of title deeds of home owners where parties continue with the permanent relationship until such time that the setup is affected by future political development in consultation with Traditional Councils.

2.6. To ensure the implementation of the project and the mutual beneficiation in terms of project on property rates.

2

3.1. POSITIVE UNDERTAKINGS AND STATUS OF MOU

3.1. 1. The parties hereto confirm their distinct complementary and respective constitutional and legal roles in the implementation of this **MOU**.

3.1.2. The parties further commit themselves to collaborate in promoting the objectives of this MOU.

3.1.3. Nothing in this **MOU** shall have the effect of, or be interpreted as :

3.1.3.1. Affecting any statutory mandate of any party, or
3.1.3.2. Requiring any party to do or refrain from executing its constitutional mandate or doing anything that would be in conflict with the legal mandate of that party.

3.2. SHARE STRUCTURE

3.2.1. Parties if this MOU hereby agree to share as follows on a sale of a site:
BLM shall take 10% of the proceeds of the sale.
Amashangana Tribal Council shall take 90% of the proceeds of the sale.

3.2.2. On property rates collected:
BLM shall be entitled to 80% of the rate collected.
Amashangana Tribal Council shall be entitled to the remaining 20%

3.2.3. Both parties will form Board of Directors with equal representative of two each for proper management of the project. The Board will sit at least once per quarter.

3.2.4. There shall be no compensation or re-imbursement for attending Board meetings.

4. PRINCIPLES OF COLLABORATION

The parties to this **MOU:**

4.1. Recognize that the **Municipality** has the mandate to develop strategic priorities and plans for development of the Municipality within the Municipal area of jurisdiction and that **Traditional Council** has the right to decide how and the extent to which land should be distributed within its area of jurisdiction.

4.2. The Traditional will use the Municipal expertise on town planning for future development.

4.3. Recognize that the Department (**COGTA**) has a legislative mandate to support and monitor the Municipal and the Traditional Council.

4.4. Parties further commit to develop common jurisdiction on same share principle in all future development.

4.5. Parties agree to finalize title deeds for home owners for the purpose of property rates collection.

5. DURATION OF THE MOU

5.1. This **MOU** commences on the date of signature hereof by all parties and shall terminate by the mutual agreement.

6. ROLE OF THE PARTIES

6.1. The municipality shall, in consultation with the Traditional Council, with due regards to the approved Spatial Development Framework and approved budgets:

6.1.1. Involved the Traditional Council in the development and reviews of Municipal Spatial Development Framework to ensure effective land management and proper utilization of land i.e. protection of environmentally sensitive areas, proper utilization of high potential agricultural land and good management of disaster prone areas etc.

6.1.2. The municipality and the Traditional Council shall develop detailed layout plans of tribal/ communal land to guide the allocation of land/stands for residential and other land users for easy settlements upgrades/ formalization. (Assistance)

6.1.3. The Traditional Council after consultation with the municipality shall facilitate the coordination of primary land use charges and rezoning in tribal / communal lands and the municipality can as well do.

6.1.4. Bushbuckridge Local Municipality shall after proper planning on primary land use issue letters of confirmation of land owner; confirmation that application is in compliance with the letters of confirmation of the land owner; confirmation that application is in compliance with the prepared layout plan and with concurrence of the Tribal Authority.

6.1.5. The municipality to unsure that the Traditional Council is represented in the Municipal Land Use Committee as per the objectives of the **MOU**.

6.1.6. The **Department (COGTA)** shall mediate and conciliate disputes between the Municipality and Traditional Council as an when they arise.

7. MANAGEMENT COMMITTEE

The **Parties** agreed that:

7.1. It is necessary to keep the channels of communication open between the parties at all times and on all aspect of this **MOU** and to consult each other in respect of the specific implementation of this **MOU**.

7.2. For purpose of this implementation of this **MOU** the contact persons in respect of all communication between the parties shall be the following :

Bushbuckridge Local Municipality: Mr. C.M. Mamela

Designation: Man. Human Settlements

Contact Details: 072 421 0965

Amashangana Traditional Council Mr. / ~~Ms:~~ M.E NKUMALO

Designation: CHIEF

Contact Details: 072 239 7500

Witness Mr / ~~Ms:~~ M.A. MATHABELA **Designation:** P.A

Contact Details: 072 239 7500

8. DISPUTE RESOLUTION

Should any difference of interpretation or disputes at any time arise between the parties , The **Department Human Settlements** shall in consultation with **COGTA** attempt to settle the dispute with fourteen (14) days, or within such shorter period as the parties may agree on , from the date on which the dispute arose to resolve such dispute amicable.

9. AMENDMENTS

No amendments or consensual termination of this **MOU** will be binding unless reduced to in writing and signed by the arties.

10. GOOD FAITH

10.1. Any information shared to this **MOU** shall be used only for the purpose of giving effect to this **MOU**.

10.2. To extent permitted by applicable legislation, the parties shall hold confidential of all information received from each other pursuant to this **MOU** and shall not otherwise disclose such information than is necessary to carry out their regulatory or statutory responsibilities or otherwise in accordance with applicable legislation.

10.3. The Parties shall, prior to disclosing such confidential information or any part thereof, consult each other for direction and advice on such disclosure.

11. SIGNATURES OF PARTIES

Thus signed at Bushbuckridge this 03 day of November 2017

Bushbuckridge Local Municipality:

Duly Authorised:

Name: C. Lisa

Designation: Municipal Manager

Witness 1:_____

Witness 2:_____

Thus Signed at _____ this ____ day of _____2017

Amashangana Traditional Council

Duly Authorised:_____

Name: M E NXUMALO

Designation: _____

Witness 1_____

Witness 2_____

Thus signed at AMASHANGANA this 06 day of DECEMBER 2017

Provincial Department of Human Settlements

Duly Authorised: _____

Name:_____

Designation:_____

Witness 1 _____

Witness 2 _____

AMASHANGANA TRADITIONAL COUNCIL
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