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NALAO & ALAN

TOGETHER FOR INSPIRING EXCELLENCE IN LOCAL GOVERNMENT
ADMINISTRATION AND GOVERNANCE

**POSITION PAPER ON URBAN LAND IN PREPARATION OF THE SECOND NATIONAL LAND CONFERENCE BY THE
NAMIBIAN ASSOCIATION OF LOCAL AUTHORITY OFFICIALS (NALAO) AND THE ASSOCIATION OF LOCAL
AUTHORITIES IN NAMIBIA (ALAN)**

1. Introduction

The future is urban and urbanization remains by far the most pertinent transformative issue for Africa in the 21st century. It is projected that more than half of Africa's population will live in cities by 2040. There is broad consensus that the fact that Namibia was only 28% urbanized at independence is one of the reasons why the issue of urban land reform was not considered in the First National Land Conference in 1991. However it was already evident in the 2011 National Census that the picture of rural urban balance was rapidly shifting as it showed that Namibia was already 42% urbanized by 2011. Furthermore the recent United Nations World Urbanization Prospects indicates that in 2018 Namibia is crossing a significant threshold as over half of Namibia's population now lives in an urban area.

Many believe that the lack of focus on urbanization in the early years of Namibian independence has largely contributed to unplanned and uncoordinated growth of towns and cities in Namibia. Thus the proliferation of informal settlements in Namibia. A recent (2017) research report (Exploring Ways to make Namibian urban development more socially just and inclusive) by Beat Weber and John Mendelson offers some practical and achievable solutions to help address some of the challenges of informal settlement growth. The report correctly argues that pragmatic and well considered strategic action by local has the best chance of success in responding to the challenges of urbanization and informal settlement growth.

It is clear that the inaccessibility of decent, secure and affordable land is the reason why there are so many informal settlements in Namibia and it is a contributing factor to urban poverty. This is further compounded by the fragmentation of planning and land delivery issues throughout government policy. However we are heartened to note that the urban land issues are becoming more and more central to the discourse at the 2nd National Land Conference. It is imperative that concerted action is needed in the area of land use management in urban localities to make sure that we see a more equitable as well as environmentally and socially sustainable use of limited urban land resources.

In many respects the above cited research is a wake-up call and we need to rise to the occasion as urbanization brings with it increasing demands for urban land, housing, infrastructure and service delivery. Thus there is a need for demonstrated commitment to reform policy and legal frameworks for more inclusive cities and towns, increase the scale of public and private

investment in infrastructure development and strengthening of institutions and systems that deals with land delivery.

2. Contextual Overview

Coming from an apartheid colonialism background urban land use planning over the last 28 years have done very little to stem the tide of spatial segregation. Because of our history of racial segregation and separate development the 2nd National Land Conference need to pave the way for Namibia to address the inefficient structure of urban areas that is known for its fragmented residential settlement patterns, underdeveloped business areas in the townships and long travel distances between home, work, schools and sports facilities. One of the key outcomes therefore needs to be spatial transformation in our towns and cities that should lead to socio-spatial integration, improved access to services and social and economic inclusion of the mass of our people.

So many years after independence we are still having prohibitive building regulations that undermines the use of alternative and affordable building material even after the establishment and operation of the Habitat Research Centre. Furthermore there is the burden of insecure tenure rights (*which at least is now being addressed through Flexible Land Tenure Act which is still being implemented on a pilot basis in Windhoek, Gobabis and Oshakati for now*). In addition there is the ever increasing property tax burden and unaffordable land and housing prices that chokes even the middle class. Even the houses that were built under the Mass Housing Program remains prohibitive to the low income housing group for which this program was meant for.

Land and housing remains prohibitively expensive with no end in sight for speculative pricing. In recent years Namibia's housing and land prices have been compared with the highest in the world, including prices in Dubai. In 2014 both the New Era and The Namibian Newspapers reported that house prices in Windhoek are second only to Dubai. In that report Namene Kalili from the FNB Group was quoted to indicate that in 2014 house prices increase 29% year on year to bring the FNB House Price Index to 234.7 index points. In that same report it was alluded that a median price of N\$ 774 000 households must earn at least N\$ 23 000 per month to afford an average property. This is almost three times the average household income for urban household in Namibia. Even for the lower segment the income requirement came to about N\$ 15 000. This implies that less than 10% of the households in the country can afford a property in the lower price segment. At that time the FNB analysis indicated that land prices were 23% higher and over N\$ 140 000 for 410 square meters.

What makes matters even more difficult is the fact that even 27 years after independence the existing planning schemes, zonings and the cadastral system are in many ways exclusive of the needs of low-income households and communities and seem to result in the disempowerment and alienation of those that they intend to include and empower. In Namibia urban land use management is associated more with inflexible and antiquated modernist notions of planning that have resulted in urban sprawl, growing informal settlements, unequal and environmentally unsustainable urban development.

Consequently what we have at present is a situation where the vast majority of citizens and communities are left out of the planning process or overlooked by the content of urban policies. More often than not such communities are regarded as problems and consequently denied their rights to the city. This leads a many communities and the urban poor being condemned to subserviced, deprived and stigmatized periphery of urban areas. In the Namibian context as in the South Africa that shares a common history because unlike most of Africa the bulk of urban land is part of formal land circuits owned either privately, by the state or by local authorities. Thus most land is recognized and nominally controlled by the state as opposed to being informal and beyond the control of government or in the hands of illegal land barons.

Consequently while it may be true that we have challenges with multiple and unequal systems of urban land management the Namibian government ultimately has control over almost all urban land management issues.

In order for Namibia to attain the shared vision of urban development there is a need for the 2nd National Land Conference to agree on integrated and coordinated interventions to deal with social exclusion, environmental threats, economic inefficiencies, logistical bottlenecks, urban insecurity and decaying infrastructure. There needs to be shared understanding across government, civil society and other stakeholders about how best to manage urbanization in order to create more caring, resilient and inclusive cities and towns in Namibia.

Our contention is that appropriately integrated directive planning and land use management is a vital ingredient of the state's ability to pursue redistributive goals and transformation of city spaces. In this vein it is encouraging to note that the new Regional and Urban Planning Act has the following key principles to progressive land use planning i.e.

- **Decentralization** – to provide a system where planning decisions and tasks can be taken at the lowest level and to combine responsibility for decision-making with accountability for financial, social and environmental consequences.
- **Comprehensive Long-term Spatial Planning** – this should combine the overall land use policies and the more detailed land use regulations into a single spatial planning framework that covers the total jurisdiction. Such planning should also emphasize the political vision of integration and socio-spatial equality and should not just focus on bureaucratic regulations
- **Participation:** There should be broad based participation of local communities and stakeholders in order to create broader shared understanding for planning regulations and it should form the basis for the wider strategy of socio-spatial transformation.

3. Key Conclusions

We have an opportunity at the Second National Conference to respond more proactively to achieve a unified and innovative response to the building of inclusive, resilient, safe and

liveable towns and cities. In other words our towns and cities must become good places to live, work, shop and play.

In doing these there must be recognition that the majority of lower income urban residents prefer to build their homes incrementally as demonstrated by the now openly successful model of the Shack Dwellers Federation (SDFN) in partnership with the National Housing Action Group (NHAG). They generally add rooms or floors as resources permit without building up too much long term indebtedness. They do this because they usually earn irregular incomes from periodic employment and or informal jobs or small scale informal business income. There is therefore a need to look at different kinds of solutions for various households that relates to the different income categories in order to make more land available both for housing and small and medium enterprise development.

However in many ways the urban poor continue to be treated like blocks of colour on a town planning scheme map, to be lifted up here and pasted down there and not like human beings with real needs, real families and real aspirations, living in real communities. Invariably spatial development plans which decide what is going to happen where in a town or city, and land use policies that determine how land is to be used are often regard as technical documents which only technical people can understand and who preparation is purely a technical exercise of arranging roads, zones, drainage and access with the greatest efficiency.

Our position is that while it might be true that some of the aspects of spatial planning have a technical dimension to it, the developmental plans and land use policies are highly political and should be treated as such. That is why one of our key conclusions is that land use and management plans should not be engraved in stone but that every aspect should be negotiable. If we can find ways to allow poor communities to be part of the planning that affects their lives and settlement, our Namibian towns can grow in ways that don't cause displacement, misery and impoverishment for large portions of the urban population. This approach was demonstrated in the Gobabis Planning Studios in partnership with the Shack Dwellers Federation of Namibia (SDFN), National Housing Action Group and the Namibia University of Science and Technology (NUST) and is also being tested in Karibib currently with huge success.

It is our contention that it is possible to develop and implement land management policies that could serve our citizens better and unlock the social, cultural and economic potentials of our towns and cities. The unfortunate reality remains that if one would take a stroll or take a drive around most of our towns in Namibia it appears that we have enough land speaking from a physical point of view. This seems to underscore the notion that many believe and that we also subscribe to that the scarcity of urban land has more to do with ill considered policies and legislative frameworks than from natural physical limitations.

Some of the challenges are compounded by placing strict limits on the height, type and use of buildings that could have put on a lot in a vain effort to discourage both density and further in migration to our towns and cities. Some conversions of land from rural to urban uses are sometimes restricted with good reasons but at the same time speculators both public and private are allowed to sit on vacant parcels of land indefinitely even though such land could be put to good use. It is situations like these that strengthen the argument that it is our

policies and regulations that contribute to a large extent to shortages of affordable land and results in exorbitant land and housing prices in urban areas.

One of the key concerns that has caused tensions in the past and needs to be handled with the sensitivity it deserves is the issue of the interface between traditional leaders and local authority councilors. Especially when town boundaries are expanded or when new local authorities are established in areas adjacent to or that includes traditional authority areas.

Linked to this issue is the whole issue of ancestral land in urban areas as well as what the real value of compensation should be. So often communities are incensed when they see that the same land for which they have been compensated a smaller amount is rezoned and sold at three to five times what they have been compensated. Thus compensation needs to consider those factors.

It is not our intention to address all the comprehensive issues around urban land management through this position paper but to address key policy drivers and strategies that could transform the urban landscape and improve the lives of our citizens for the better. This include amongst others taking a renewed perspective on issues like land regulation, property taxation and private public partnerships, then also to look at some tools that have been used with some level of success in other contexts and mobilizing the political will and urgency to push forward urban land reform in our lifetime.

4. RECOMMENDATIONS

4.1 The Need for a National Urbanization Policy and National Spatial Development Framework

The continued rapid pace of urbanization in Namibia in the context of the diversity of urban settlement types and the apartheid colonial legacy suggest that Namibia need to urgently articulate a clear understanding of our national urban system and how it fits with the overall spatial and land use dynamics in the country. Such an understanding can only be clearly articulated in a national urbanization policy.

Typically a policy of this kind would clearly articulate the governments understanding definition and understanding of the shape of the national spatial system including the network of cities, towns and rural settlements and their respective functions. Such a national spatial policy framework will also articulate the drivers of urbanization and inform how rural urban migration dynamics are understood and managed.

4.2 Improved Regulation can increase access to land

Regulations related to zoning, need and desirability and other town planning and administrative procedures play a key role in determining the pace and direction of how our towns and cities grow and develop. Some of the zoning and land use regulations aims to prevent what is considered as incompatible uses like housing and industry being developed close to each other without considering the social, economic or environmental consequences.

As a consequence by separating commercial and residential areas far from each other it increases the transport costs and time and the poor are more adversely affected because they tend to be at the fringes of the town. In addition the planning and building standards are so high that it becomes an extra barrier for low income groups seeking affordable land and housing. The existing property markets and land continues to undermine access to urban opportunities and reinforces highly inefficient urban sprawl.

4.3 Business Process Review and Re-engineering to improve procedures for development application.

One of the most constraining factors in terms of land delivery in Namibia is administrative procedures and steps to get access to a piece of land. Even business people and the well-off of complain about the duration of time it takes to get access to land for both business and residential purposes, the situation is even worse for the poor. The administrative process is cumbersome, time consuming and expensive and to rub salt into the wound there is also no certainty of a positive outcome. This is one of the reasons that forces many people even some in the middle and high income to develop and modify property without official approval.

The number of steps and the time and cost required to register or transfer land and obtain permission for development deter large numbers of people of all income groups from completing the process. It can take anything from two and a half to four years in Namibia to take a piece of land through the whole regulatory processes of NAMPAB and the Townships Board.

We recommend that in addition to the now passed Regional and Urban Planning Act the government set up a task force to do an audit of standards, regulations approval procedures and staffing practices for urban land management. The purpose of such a process and capacity audit would be to review the existing regulations, standards and administrative processes with the view towards eliminating those regulations and processes that are unnecessary, outdated, unsuitable, inappropriate, obstructionist and that throw up barriers to access land for those who need it most.

As part of the audit such a task force should identify regulations and standards that protect the public interest, especially those that relates to health, safety and the environment and also suggest appropriate revisions to planning and building standards, regulations and administrative procedures relating to the processes of registering land or applications for development with the purpose of identifying and eliminating unnecessary rules and regulations that restricts access to more affordable land and adequate housing. Incentives for staff working in the government and private sector offices and agencies charged with land and housing delivery should also be considered in the same review.

4.4 Explore Better Land and Property Taxation Options

One of the most effective options for regulating land markets can be through land and property taxation regimes. Besides that fact that land and property tax is a good source of revenue such taxes can also be collected on the basis that part of the increases in real estate value could be captured and reinvested for the benefit of the community through social investment. In the same vein progressive tax policies can guide development to areas where it is most needed and generate revenue for a wide range of public needs. Needless to say that this will require the political will to pass the necessary legislation and then to develop the institutional capacity to implement the legislative imperatives. If either of these factors is lacking this issue of progressive property land taxes would obviously be a non-starter in terms of being an effective incentive for development.

Currently the value in property taxation can be calculated on either the annual (rental) value on the capital (market/sales) value or on the actual estimated annual rent, and the latter part being on the value of the property that has recently been sold. This implies that the rental value reflects the value of the property in its current use, while the capital value includes a bigger element of the market's expectations on its future use. With current rate of urbanisation in some of the major urban centres like Oshakati, Walvis Bay and Windhoek it might make sense to use the capital value system in order to link the tax burden closer to urban growth.

Some of the options for a progressive tax regime might include:

- **Site Value Taxation** – also known as land value taxation which is based on charging the landholder a portion of the assessed site only value of the unimproved land. This is slightly different from the normal property tax which includes the value of buildings and improvements on the land.
- **Vacant Land Tax** – this is a direct tax applied to undeveloped idle property as a means to boost supply; bring down construction cost and promote development. If managed well it can actually discourage speculation and encourage more rapid and dense developments of urban areas. This is most likely to get stiff opposition from vested interest holding on to vacant land in the hope of maximising future profits. However this kind of practices only serve narrow interests because by withholding land from supply process will inevitable increase and the rest of the community end up paying the price for it eventually.
- **Betterment Levy** – this is also known as the benefit sharing or land value capture tax and is a sort of a slight variant of the land value tax in which increases in private land values created by new public investment are partially or fully captured to pay for that investment or other public projects. These values can also be captured not only through taxes but also through fees, exactions or other fiscal means.
- **Split rate Property Taxations** – this is a type of two tiered real estate tax which takes the value of a piece of property and splits it into two parts: the value of the land and the value of the improvements to the land. It reduces the tax on the improvements to the land and increases the tax on the land. This can be helpful

especially to encourage historic renovation, building rehabilitation and the development of vacant in existing neighbourhoods. In this type of taxation land is taxed at a higher level than buildings to provide an incentive for owners to maintain and improve their properties

4.5 Private Public Partnerships

Public-private partnerships can be broadly defined as relationships and commitments among public and private institutions and can also include non-profit civil society and community groups to cooperate. In Namibia there is a growing recognition that housing and land issues are simply too enormous to solve with the energies, creativity and productive efficiency of the private sector. However it should also be noted that when bottlenecks occur the problems become too complex the private sector alone cannot solve it that is why this strategy should go hand in hand with regulatory and tax reform. We believe that the private sector would respond well to changes in the regulatory environment particularly through the Regional and Urban Planning Bill as well as the Private Public Partnership Act and those public private partnerships can play an important role in improving access to land in our country.

For the public sector the main issue is primarily to protect the wider public interest and in particular those of the vulnerable groups. The public sector also sets the legal, policy and institutional rules under which all actors can operate on equal terms. Generally for the private sector the primary interest is to maximise returns on investment while minimising cost and risks. For the NGOs, community based groups and the civil society sector the main concerns are social and economic justice.

For public private partnerships to work there is a need to bridge the gap of institutional culture and long held prejudices between the public and private sector. More often than not the private sector views the public sector as incompetent, inflexible and corrupt while many public officials consider private developers as greedy and only interested in short term financial gains.

In the context of both the Procurement Act and the Public Private Partnership Act one could consider some of the following methods.

- **Request for Proposals (RFPs)** - this is an invitation to suitably qualified developers to submit proposals for a specific site. It would normally specify mandatory requirements as well as a number of additional optional elements. Developers who meet all the mandatory requirements as well as most of the optional elements will be the winning proposal. This approach provides an opportunity to identify risks and benefits upfront. The process can be made transparent to facilitate good governance.
- Another possible instrument could be the **Site Development Briefs**. These are clear policy statements by local authorities with the support of the line Ministry and planning oversight bodies like NAMPAB which specifies the minimum social, financial and environmental requirements which need to be included to obtain

planning approval. Such briefs need to be clear in terms of risks, costs, potential profit margins etc. Public benefits and non-profitable elements like public amenities should be balanced with more profitable aspects to avoid scaring off private sector developers. There is also a need to involve key stakeholders especially community in setting the terms for this kind of development.

As a nation we need to be strategic in the way that we manage our urban land assets. This would mean updating the existing land information systems to get a better inventory and assessment of what we have exactly.

4.6 Interface between Local Authorities and Traditional Leaders

The current legislative framework is not helpful in terms of guiding intergovernmental coordination and collaboration at the local level. This is a source of conflict and misunderstanding between local authority councilors and traditional authorities especially when town boundaries are extended for development in areas adjacent to or including the areas where traditional authorities have jurisdiction.

We recommend that there is a need to find joint ways to coordinate and have platforms where traditional authorities and local authorities as well as the regional and central government can find amicable solutions in these cases. This will deal with ongoing imminent tensions and provide win-win solutions where traditional authorities and their communities can be meaningfully involved in the urbanization process in their localities and have an opportunity to negotiate for meaningful benefits and infrastructure to serve their communities.

4.7 Ancestral Land Issues In Urban Areas

There is a need for up to date research for a shared understanding on the actual situation as far as ancestral land issues in urban areas. This is also with the understanding that there has been forced removals in urban areas during apartheid colonialism. Coupled with that is historical issues like the original ownership of urban areas like Windhoek under Jan Jonker Afrikaner. There could possibly be other towns and villages that were originally under local communities and could be the subject of ancestral claims.

There is also a need for comparative review of how ancestral land claims were dealt with in other countries in Southern Africa and internationally for best practices and success stories. However eventually Namibia needs to find its unique solutions to these burning issues.

4.8 Compensation for Town Boundary Expansion

This is one of the emerging areas of concern as urbanization is increasing and the demand for more and more land to expand town boundaries are needed for residential and business purposes. Communities have realized that the same land for which they have been given a paltry compensation is being sold within the same area at prices that are at times ten times what they have been paid in compensation. This has brought about a lot of acrimony and even

recently communities refusing to move out an area of land for which compensation has already been paid.

There is an urgent need to review the current Compensation Policy and practice so that there is consistency, predictability, transparency and a sense of fair play so that communities do not see and experience the whole compensation as another for land dispossession. This would imply considering issues like the like term commercial, productive and cultural value of land when making decisions and policies on compensation for land.

5. POSSIBLE NEW WAYS OF WORKING ON LAND ISSUES

In addition to the above policy levers some practical strategies and lessons from other experiences can be helpful to address urban land issues in innovative ways. Some of these strategies are:

5.1 Community Land Trusts (CLT)

A CLT is a private non-profit corporations created to acquire and hold land for the benefits of a community. This resembles the way that the Shack Dwellers Federation works currently by acquiring a block of land at an affordable rate from the local authority SDFN is able to eliminate or greatly reduce the cost of land for individual households and in this way CLTs are able to meet the needs of residents that are least served by the existing markets. Under this approach the land is owned by the CLT. In the case of SDFN members work together in servicing the land and help each other to build the houses and thus keep the costs low.

5.2 Guided Land Development – This refers to the process which local authorities prepare for anticipated expansion. Guided land development is a technique for guiding the process of converting privately owned land on the urban periphery from rural to urban use to ensure that development occurs less haphazardly and informally. The benefit of GLD to local authorities is generally less expensive than outright land acquisition. By planning ahead local authorities can guide expansion and deter settlement in certain areas that are environmentally too sensitive while those areas that are suitable for human settlement can be prepared in advance.

5.3 Land Pooling

Urban land pooling or readjustment is used for managing and financing the subdivision of selected urban fringe areas for their urban development. In LP projects a group of separate land parcels are consolidated for their unified design, servicing and subdivision into a layout of roads, utility service lines, open spaces and building plots. The sale of some of the plots is then used to recover project costs and the now smaller but higher value lots are distributed back to the land owners in exchange for their rural land. Land owners can benefit from this approach by sharing in the land value gains from urbanization while local authorities can ensure efficient urbanization of land at reduced cost because the project site and infrastructure rights of way do not have to be purchased or compulsorily acquired. The cost of the infrastructure and subdivision can be financed with a short term or medium term loans which may be repaid through the sale of the new building plots.

5.4 Transfer of Development Rights (TDR)

Usually development is regarded as part and parcel of a physical piece of land. However the right to develop land can be separated from the land itself. This separation and transfer of development rights can provide local authorities with an innovative way to meet certain social and economic goals and channel development to specific locations in the process. This mechanism involves purchasing development rights from areas where development is to be discouraged and using them to develop land in another location.

5.5 Land Sharing

Land sharing is an agreement between the unauthorized occupants of a piece of land and a land owner. It involves the occupants moving off the high value portion of land in return for being allowed to either rent or buy a part of the land below its market value. This leads to a win-win situation here the landowner is able to regain control of the site for development purpose to realise higher commercial returns without having to evict the occupants. In return the residents can be re-housed in better quality housing with services, gain legitimate tenure and are able to live close to their established livelihoods.

9. FINAL THOUGHTS

There is a saying that *“the journey of thousand miles start with the first step”*, in the same way the journey to provide access to urban land for the majority of our people is a daunting journey that will require a number of steps like updated regulatory and legislative framework, land taxation and public private partnerships including civil society actors as well as experimenting with less conventional but innovative strategies will need to be explored. Another African proverb posits that *“if you want to go fast - go alone but if you want to go far - go together.”* The reality is that we are all Namibians and we share a common interest to see the welfare of every Namibian improved. There is no reason for public officials and those in the civil society and organised local government sector to work at cross purposes. At the end of the day we will have to work together to navigate a delicate path between powerful vested political and economic interest and the broader concerns of social development and environmental sustainability.

We share a common goal. Our uncompromising aim is to make land and housing choices available to every level of income, provide responsive basic services to all our residents and to reduce the need for future slums and informal settlements. The anticipated outcomes if we are successful will lead to a broadened tax base, increased revenues for our towns and cities and improved economic prospects for all Namibians – the rich, middle class and poor alike.

We have an opportunity during the current administration to be remembered for bold experimentation, knowledge sharing, public private collaboration and bottom up community driven approaches to address the urban land issues. We hope that one day when we look back at the current consultative processes as well as the envisaged Second Land Conference we will be able to proudly say that we have engaged candidly and patriotically, energy, creativity and bold ideas from this process. *We are called for a time such as this!!*