

Integrated Land Management Institute (ILMI) Land, Livelihoods and Housing Programme 2015-18

The Integrated Land Management Institute is a centre of the Faculty of Natural Resources and Spatial Sciences (FN RSS) at the Namibia University of Science and Technology (NUST) committed to develop reputable and multidisciplinary research and public outreach activities in the field of land, administration, property, architecture and spatial planning.

The Land, Livelihoods and Housing Programme 2015-18 aims at deepening and expanding the focus on these three key issues in Namibia. The programme was developed to guide ILMI's activities by organising it in four aspects: institutional, environmental, fiscal and spatial processes.

The proposed new Urban and Regional Planning Bill: an appraisal.

Summary

The Bill aimed at overriding old ordinances that dated back to the 1950s and 60s. The main objective of the Bill is that of decentralisation, and has three main points: the establishment of "authorized planning authorities" (APA); the consolidation of the Townships Board and the Namibia Planning Advisory Board (NAMPAB) into one Urban and Regional Planning Board; and long term spatial development frameworks by means of a structure plan at all levels: national, regional, and urban.

Some questions remain on whether it will be synchronised with the Flexible Land Tenure (FLT) bill; whether there is no duplication and over-regulation with the inclusion of the existing Land Boards; whether there was sufficient consultation; whether the concept of 'Land Use Schemes' means something different than the currently-existing Structure Plans; and the crucial fact that the term 'rural land' is defined but the term 'urban land' is not

This is the document of a Brown bag meeting that took place on 15 October 2015; 12h30-14h00 at the Seminar room, Department of Architecture and Spatial Planning, NUST.

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Background

When arriving at the now Ministry of Urban and Regional Development (MURD) twenty years ago, proclamation of towns took place in a rather arbitrary manner and with little consultation or environmental impact assessment.

There was the Regional Council Act in 1992 that regulated planning and development in the regions, but in 1996 the Association of Regional Councils plead for a move to decentralise the planning process.

During 1997-2000 the decentralisation and reform of the planning legislation process started. During the same time, some, structure plans (longer-term spatial development frameworks) were put in place at. Particularly the one of Rundu was a good document; however at that time structure plans had no statutory requirement for implementation.

The 2004 Namibian Association of Local Authority Officers (NALAO) document on land delivery and management policies for local authorities advised town councils to become “authorised planning authorities” by introducing the compilation of structure plans and hiring of planning professionals to reduce the time of delivery.

Currently, to put an example, decisions on town establishment, land subdivision and zoning in the City of Windhoek can take up to two years.

The National Land Policy of 1998 already reflected the need for legislative review and had a focus on reducing time of planning, addressing the issues of land rights of the urban poor, the environmental implications of urbanization, as well as the issue of sprawl and density; it also opened the possibility of flexibility in planning schemes.

The National Land Use Planning Policy of 2002 stopped short of becoming the comprehensive document that would give guidance to national spatial development, although it promoted the principle of integration at regional land use planning level.

The current proposed Land Use Planning Policy clearly states that the Bill (once enacted), *“will provide for a uniform, effective, efficient and integrated regulatory framework for planning, land use and land use management which promotes public interest”* – this statement is also in line with the Vision 2030 objectives of integrated urban and rural development, improved access to land and inclusion of livelihood activities in planned areas.

On the Bill

The Bill aimed at overriding old ordinances that dated back to the 1950s and 60s. These ordinances provide for two statutory planning bodies considering and advising on matters of town and regional planning policy, town establishment, town planning schemes, subdivision & consolidation of land and objections & appeals on land development matters. These ordinances, however, are out-dated, difficult to administer and were contradictory, resulting in planning objectives becoming secondary to legal procedures.

The main objective of the Bill is that of decentralisation (this implies improved decision-making, shorter processes and poverty alleviation), and has three main points:

1. Establishment of “authorized planning authorities” (APA), under the criteria of having approved structure plans and requiring the services of a town planner involved in the process – these criteria, enable entities like Regional Councils and Local Authorities to become APA’s.

2. The Bill continues to deal with the above-mentioned matters of the old ordinances (with the additional provision for structure plans) and consolidates the current statutory boards, namely the Townships Board and the Namibia Planning Advisory Board (NAMPAB) into one Urban and Regional Planning Board, but by doing so it grows the number of members, therefore increasing the risk of not reaching quorum for taking decisions.

3. It also envisions long term spatial development frameworks by means of a structure plan at all levels: national, regional, and urban.

The idea of decentralising functions was that it would enable each APA to interpret Vision 2030 in spatial terms, and act accordingly.

One of the challenges in the process was the coordination between ministries, more specifically MURD and the Ministry of Lands and Resettlement (MLR).

Some of the previous concerns were the overlaps with existing plans (regional structure plans and integrated regional land use plans), and the fact that the so-called 'communal areas' were excluded from the Bill. A task team was appointed to address these concerns.

This year, new amendments to the Bill will be re-submitted after consideration of the main aspects still to be addressed by the Bill: to incorporate rural planning aspects, address the issue of informal settlements, and synchronize the Bill with the new Flexible Land Tenure (FLT) bill.

Questions that remain are whether there is no duplication and over-regulation with the inclusion of the existing Land Boards, whether there was sufficient consultation, whether the concept of 'Land Use Schemes' means something different than the currently-existing Structure Plans, and the crucial fact that the term 'rural land' is defined but the term 'urban land' is not.

The bill is currently with the legal drafters, and implementation is expected soon thereafter.

Discussion

It is good that Universities take initiative in triggering such discussions like the current one, but it would be relevant to formulate a clear position on the matter and put it forward.

A lot of time has passed since this bill started to be discussed, so it is pertinent to ask whether it is still relevant after so much time. The cumbersome process of land titling discourages investors.

Decentralisation is a good objective, but we need to ask whether there is political commitment behind this.

The discussions on decentralisation started with the Land Conference in 1992, which is a long time back. If the Bill is also indeed about decentralisation, why does every plan continue to be signed by the Minister (MURD)? (Reply: not all plans are approved by the Minister as was the case with the ordinances)

It is important to ask whether this law allows for a broader level to manoeuvre at the local level; if it doesn't, then it doesn't actually de-centralise. It is also worth asking what happens if there are two different APA's that deal with the same jurisdiction area? An example could be what happens if a plan developed by a Regional Council conflicts with one developed by a Municipal authority falling within its boundaries. (Reply: jurisdiction is defined in other legislation and provision is made in the Bill for plans to conform to higher-level plans)

Planning has moved on towards mixed-use zoning, an aspect that is neglected in the Bill. (Reply: the Bill provide for zoning schemes, which are the planning tools to affect mix-use development)

It is also relevant to mention that the term “space” is taking a centre point in the general current development framework.

If the Bill needs more consultation but at the same time it is being indicated that the discussions on the Bill took too long, then there seems to be an impasse in the way regulations are developed.

The process has taken longer than fifteen years, and yet there is no value system reflected in the document. There is no clarity on what the emphasis is: is it on mobility, aesthetics, and inclusion? (Reply: the main values are reflected in the title of the Bill – “...in such a way as will most effectively promote health, safety, order, amenity, convenience and environmental and economic sustainability in the process of development.”

There seems to be a need for a more thorough reform on urban and regional planning, we need to start imagining a new spatial planning system for Namibia.

It's worth asking whether urban social movements like Affirmative Repositioning might have given the processing of this an increased sense of urgency.

The average citizen is largely not aware of planning, its relevance, or its procedures. This will not only be solved through consultation.

There is also the question on whether discussing the Bill is only ‘half of the story’, while much is in fact depending on implementation, where capacity can also be limited and need to be addressed simultaneously.

The cooperation between entities, both at the Ministerial level and between the institutions involved are still too little, which causes fragmentation.

It is important to ask whether funding will also be decentralised, not only the drafting of planning and drafting documents.

It will be important to make sure that legal drafter of the Bill is acquainted with the policy issues; otherwise there will be gaps that will hinder implementation.

On the question of the way forward, action to be taken (e.g. open letters and letters to the relevant actors) can be discussed and acted upon by each organisation.

ILMI will explore the possibility of weaving positions and eventually arriving to common efforts and discussions.

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