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**Development Action Group (DAG)**



**SUBMISSION TO THE NATIONAL DEPARTMENT OF  
HUMAN SETTLEMENTS ON THE HUMAN  
SETTLEMENTS WHITE PAPER, NOVEMBER 2023**

**28 FEBRUARY 2024**

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## **1. THE DEVELOPMENT ACTION GROUP / DAG**

Established in 1986, the Development Action Group (DAG) is a leading non-profit, nongovernmental organisation working throughout South Africa to fight poverty and inequality and promote integrated urban environments.

DAG supports communities in need of adequate housing by enhancing their capacity to engage with and lead their own development. DAG's strategies support pro-poor urban development practices using community-based development to foster social cohesion and strengthen citizenship and democracy.

DAG influences state policy and practice through four functional areas: research, advocacy and lobbying, partnerships, and demonstration (projects). Critical partnerships with government are central to DAG's strategies and take place through a combination of policy advocacy and demonstration projects.

### **OUR VISION**

To create sustainable human settlements through development processes that enable human rights, dignity and equity.

### **OUR MISSION**

To facilitate the creation of resilient, diverse, equitable and democratic cities through the proactive participation of civil society, government, and the private sector to address spatial, social and economic inequalities.

### **OUR STRATEGIC OBJECTIVE**

To demonstrate how working in partnership with citizens and other groups who share a pro-poor agenda can lead to creative and sustainable solutions that redress social, economic, and spatial inequalities.

### **IMPACT STATEMENT**

Inclusive and equitable cities realised for dispossessed communities through active citizenry.

## 2. INTRODUCTION

On 18 December 2023, the National Department of Human Settlements (NDHS) gazetted the White Paper for Human Settlements, November 2023 (White Paper / WP 2023).<sup>1</sup> The policy comes close to two decades after the last significant national policy on housing delivery: *Breaking New Ground: A Comprehensive Plan for the Development of Sustainable Human Settlements (September 2004) (Breaking New Ground or BNG)*. Although brief reference is made to a subsequent national housing policy entitled, 'Towards a policy foundation for the development of human settlements (2015<sup>2</sup>)' in the White Paper, the 2015 policy remains a draft. The White Paper is therefore a key development in the national housing and human settlements context; it sets the country's future housing and human settlements development trajectory. Moreover, it outlines the NDHS's "new vision, objectives, theory of change, key policy statements, policy position, roles, and responsibilities of stakeholders" for the development of sustainable human settlements.<sup>3</sup>

This White Paper is significant because it marks a fundamental turning point in the government's approach to housing delivery. The policy ushers in an, albeit not entirely new, but considerably different approach to what the state will deliver in terms of housing and what those in line to benefit from state-subsidised housing, i.e., the landless, homeless, and low-income families, can expect from the state going forward. Additionally, the White Paper sheds light on various housing policies and programmes and how each will contribute towards shaping the country's urban form over the foreseeable future.

We are cognisant that the national government's intention is to finalise the White Paper by April 31<sup>st</sup>, 2024. That leaves little time between the deadline for submissions (28 February) and finalisation. DAG believes that this is not nearly enough time to incorporate all comments and inputs submitted to the government on the contents of the White Paper. Additionally, DAG strongly believes that given the national importance of the White Paper, we, and anyone else that submits inputs should have an opportunity to review and consider the revised policy to assess whether their contributions have been adequately incorporated into the document. We therefore urge the NDHS to reconsider the timeframes related to the finalisation of this key policy.

DAG is a signatory to the letter submitted to Minister Kubayi, dated 16 February 2024, in which a wide range of organisations and experts express concern about the Draft White Paper and argue in favour of a comprehensive recast, as the incorporation of specific issues or concerns raised in individual submissions will not produce the strategic guidance needed in the human settlements sector. This is still the position we hold, but we hope that this individual submission will add texture, depth, and detail to specific aspects of the new human settlements policy.

The next section comprises our key concerns and recommendations on select elements of the national government's policy guidelines and proposals encapsulated in the White Paper.

## 3. KEY CONCERNS AND RECOMMENDATIONS

### 3.1. MAJOR SHIFTS IN HOUSING & HUMAN SETTLEMENTS DEVELOPMENT

DAG welcomes the introduction of this crucial policy document, and we recognise its potential to provide policy guidance and certainty on key aspects of housing delivery and human settlements development. It is our contention, however, that the policy in some ways produces more questions than answers and unfortunately, does not demonstrate the extent of innovative forward-thinking

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<sup>1</sup> National Department of Human Settlements (NDHS), *White Paper for Human Settlements*, November 2023.

<sup>2</sup> White Paper 2023, pp. 11

<sup>3</sup> National Department of Human Settlements (NDHS), Presentation to Human Settlements Sector Stakeholders and Partners, *Draft White Paper for Human Settlements*, 14 December 2023.

and planning one may reasonably expect from a document of its stature. For instance, the White Paper reaffirms the state's commitment to sustainable human settlements development, intending to further entrench this foundational undertaking in forthcoming policy and legislation. Notwithstanding this admirable commitment, and while recognising that past housing policy and legislation fails in this regard<sup>4</sup>, the White Paper continues to fall short in clearly articulating what exactly is meant by human settlements. While rightly identifying the need for complete modification of existing methodologies and measurements, including options such as site-and-services, high densities, etc., not much clarity is given on what the full spectrum of elements are that signify a sustainable human settlement. Moreover, mechanisms and strategies necessary to successfully deliver on each of these options are not provided.

The White Paper describes in detail how national housing policy has shifted over time, starting from the promises made in the Reconstruction and Development Programme (RDP), through to BNG, and ending with the rather obscure 2015<sup>5</sup> draft White Paper. The policy then alludes to a shift away from the RDP promise of a free house to poor and low-income families and instead speaks of a diminished government role: that of an enabler or facilitator in the housing and human settlements development space. It appears that top structures will be delivered almost exclusively to vulnerable groups (which the White Paper defines as pensioners, women- and child-headed families, and people living with disabilities - military veterans should fall into this category, but are not explicitly mentioned in the White Paper) while everyone else on the waiting list, regardless of income levels, may receive a serviced site or any of the other housing elements<sup>6</sup> listed in the Policy. Rather than explicitly stating it, this key development is implied by drawing on the National Development Plan 2012 (NDP) and the 2015 draft White Paper.

The challenge is that many indigent families, who are not considered part of vulnerable groups by the White Paper, still have the expectation that at some point, a free fully constructed house will be delivered to them by the state. Given, however, the concomitant prioritisation of vulnerable groups for top structure delivery the implied outcome is that those falling outside of these categories can no longer reasonably expect a free RDP-type house from government. Added to that, on February 12<sup>th</sup>, 2024, at a Human Settlements White Paper Consultation with NGOs and CBOs, the National Human Settlements Minister, Mmamoloko Kubayi, spoke on the Department's intended outcomes for the White Paper. The Minister expressed that the [constitution](#)<sup>7</sup> does not obligate her to deliver a house to everyone in need, only to vulnerable groups. We strongly oppose this approach to housing delivery.

We firmly believe that a household's inability to afford access to adequate shelter also constitutes a vulnerability and that this is confirmed by the constitution<sup>8</sup>, previous court [judgments](#)<sup>9</sup> and the [international laws](#)<sup>10</sup> that South Africa is a signatory to. Many people are poor, homeless and/or landless and are unable to construct their own homes using their own funds. Further, to this point, if serviced sites are to be the preferred "housing deliverable", much more support than what is suggested in the White Paper will be needed for citizens who want to self-build. It will be important for the White Paper to outline how government and the private sector (banks, construction sector) will be restructured to support self-build?

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<sup>4</sup> White Paper 2023, pp. 14.

<sup>5</sup> Despite the significance attached to the 2015 White Paper in terms of redefining the role of the state in housing delivery, no explanation or justification for the delay in finalising this policy is provided. Greater accountability for this delay, considering that it left an eight-year policy vacuum, is needed.

<sup>6</sup> White Paper 2023, pp. 29-30.

<sup>7</sup> Constitution of the Republic of South Africa, 1996.

<sup>8</sup> Constitution of the Republic of South Africa, 1996.

<sup>9</sup> See for example: Government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169 (4 October 2000).

<sup>10</sup> See for example the International Covenant on Economic, Social and Cultural Rights (ICESCR) UN. 3 January 1976 and its related General Comments and Fact Sheets.

Furthermore, the shift in the state's role from direct housing provider of last resort to a housing facilitator requires explication. The state's ever-evolving role in housing and human settlements delivery is described parallel to the key housing shifts. The government, we are to deduce, will play a support role going forward, providing guidance and assistance to various players, including beneficiaries, the construction sector, the private sector, etc. Instead, much emphasis seems to be placed on the role that households and the private sector is set to play in developing sustainable human settlements.

Indeed, the "increased responsibility by the household for developing the house", is far from accepted dogma among indigent and low-income families. This momentous change, which holds potentially far-reaching consequences for a great majority of households ought to be explicitly articulated, along with concrete and pragmatic programmes and mechanisms to support successful implementation of alternate modalities.

## **RECOMMENDATIONS**

- ❖ We acknowledge the government's policy position that market-based strategies fail to adequately address poor households' needs, and that the state therefore must continue to support such families. We still, however, caution against the extent to which the private sector will be able to address housing issues, particularly for those that are most vulnerable and subject to displacement through either climate change or market forces.
- ❖ If the government is planning to implement a national shift from delivering top structures to all, to delivering top structures exclusively to vulnerable groups, then the policy should state this clearly so that there is no confusion among beneficiaries and officials about the country's approach to housing and human settlements development. Similarly, this message must be shared clearly and simply to all persons on government housing waiting lists before the White Paper is finalised so that those who will be most affected by the change can give inputs.
- ❖ The White Paper should clearly outline the government's approach and plan to implement the site-and-services model across all provinces, in both cities and rural areas. The Policy should clearly state what measures and mechanisms will be put in place; what the roles and responsibilities of the different role-players will be; what the institutional arrangements will be; where the financing for this programme will come from and how subsidies will be allocated; how well-located land will be accessed; and what support will be provided to beneficiaries, including with construction, financing, etc. Moreover, a public education programme, including capacitation of officials and politicians should be implemented before rolling out site-and-services at scale. Many questions remain and the bits and pieces mentioned in the White Paper related to site-and-services do not give clear direction about what can be expected and what beneficiaries' responsibilities will be in implementing this programme.
- ❖ Moreover, the White Paper must explicitly recognise the key role that small-scale developers and the backyard rental sector play in delivering affordable rental housing. The Policy must outline the government's plans to create mechanisms to support this sector, particularly if the state intends to increase its reliance on this sector to provide affordable housing. Similarly, the provision of basic services to traditional backyarders, especially those living on private land, is key and this must be addressed in the Policy.

### **3.2. SPATIAL PLANNING AND DEMAND MANAGEMENT**

We commend the national government for adding a section on spatial planning and related matters to the White Paper (pp. 40 – 43). This signifies a concerted attempt to link spatial justice imperatives to housing and human settlements development in national housing policy. Notwithstanding this, the White Paper falls short in providing a clear policy direction with regards to the intersection

between spatial planning and human settlements. Consequently, it is our view that the White Paper could be bolder in recognising spatial planning as a lever to deliver human settlements. Doing this would mean acknowledging the powerful role that land use and spatial planning play in determining the price of land, in particular through the awarding of development rights. There are many cities that are struggling to deliver either public or private affordable housing in well-located (often exclusive) parts of the city. This is due to high land prices resulting from excessive awarding of development rights through proactive rezoning. To mitigate this, alignment between Human Settlements and Spatial Planning is critical – ensuring that local land use planning functions do not work counter to the objectives of Human Settlements by inadvertently creating distortions in land prices.

Furthermore, the White Paper alludes to the need for regulatory reforms including bylaw amendments. However, the Policy falls short in clearly outlining which amendments are required. Part of addressing this is clearly outlining how the proposals and recommendations<sup>11</sup> included in the White Paper will be aligned with the requirements within the Spatial Planning and Land Use Management Act 16 of 2013 ([SPLUMA](#)). This omission further holds significant implications for land use planning applications and therefore must be addressed. Equally, alignments between Human Settlements, Spatial Planning and Infrastructure must be further emphasised, and the role of strong intergovernmental relations (IGR) in facilitating successful implementation must be highlighted.

## RECOMMENDATIONS

- ❖ We recommend that the White Paper provide clear guidance for cities to assess the long term projected residential growth demand and to match this with land requirements to accommodate future demand. Clear policy positions and data on density and inclusive densification, functional availability of vacant land for development, and the functioning of urban land and property markets and transport should inform this. We also propose that these guidelines reflect a long-term land use model, aligned with long term infrastructure plans, which should then be translated into local Municipal Spatial Development Frameworks (MSDF) that are aligned with Integrated Development Plans (IDPs). In this way, the government will ensure that implementation is guided by a clear long term spatial vision.
- ❖ The White Paper should give clear guidance as to what aspects of the regulatory framework, pertaining to spatial planning and land use management, should be amended. In the absence of this, we recommend that the national government give clear direction to cities to reconsider the bylaw on residential zoning (in particular, allowing for small-scale rental housing as a part of single residential zoning).
- ❖ We recommend that clear guidelines are provided with regards to SPLUMA and Human Settlements, particularly when it comes to using inclusionary zoning as a land use planning tool to achieve the delivery of affordable well-located housing.

### 3.3. LAND FOR HOUSING AND HUMAN SETTLEMENTS

The White Paper states that unequal spatial patterns are exacerbated by existing land release and land assembly practices for housing delivery. To respond to this and other land related challenges therefore, various mechanisms to increase access to affordable well-located land are proposed.<sup>12</sup> Additional measures include a coherent approach to land acquisition and development, a 10–15-year infrastructure plan (which includes land), creation of a Land Acquisition and Assembly Strategy, and extending the Housing Development Agency's (HDA) mandate to provide direct land management support to municipalities among others.

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<sup>11</sup> White Paper 2023, pp. 42.

<sup>12</sup> White Paper 2023, pp. 44-45.

We contend that land release/ land assembly needs to be guided by a decision-making framework with clear mechanisms to ensure greater success of medium-density, well-located social and affordable housing projects. In 2023, DAG in partnership with the Human Sciences Research Council (HSRC) and the National Association of Social Housing Organisations (NASHO) conducted research<sup>13</sup> into land acquisition and assembly for affordable housing practices in four metros across the country. Findings from the research indicate that land identification needs to be guided by a process of prioritisation, supplemented with land banking, land discounts, etc.

Furthermore, the process of de-risking land is critical and cannot be underemphasised. Our research indicated that the lack of property packing, and preparation (before release) is a key factor in preventing the delivery of social housing on state land. The findings showed that the packing and preparing of land earmarked for release, to ensure that it is developable, is key to later success. Clearly even though this part of the land release process is not obligatory or covered under the Local Government: Municipal Finance Management Act, 2003, (Act No. 56 of 2003) ([MFMA](#)) and the Municipal Asset Transfer Regulations ([MATR](#)) processes, it is critical to facilitate land acquisition and assembly. Moreover, acquiring and aligning the necessary land use rights along with the bulk services to support these land use rights (before the land is either sold or leased for human settlements development) is key. Systematically including this in the municipal land release/land assembly process will make it far more likely that sites will be successfully developed after disposal.

Regarding public land transfers, a much bolder stance than what is offered in the White Paper is required, particularly when it comes to streamlining related processes and creating accountability and transparency. The White Paper must reflect on this and give clear policy guidance. Finally, we feel that the White Paper's reference to expropriation of public land is a commendable move in the right direction, however, we caution against land being expropriated at current or potential use value, as our above-mentioned research showed that discounted land values will be critical to the delivery of well-located affordable housing.

## RECOMMENDATIONS

- ❖ We further recommend that the White Paper explicitly articulate that public land transfers to municipalities for instance, are encumbered due to the principle of highest and best use which makes public land (owned by state-owned entities (SOEs) for instance) unaffordable.
- ❖ We strongly recommend that the White Paper makes use of clear mechanisms to set the basis for a decision-making framework on land identification for medium density well-located social and mixed-market housing.
- ❖ The White Paper needs to make the process of de-risking, packing and preparation of public land very explicit. This needs to include developing a clear concept, soliciting buy-in from stakeholders and communities, and conducting the necessary pre-feasibility studies.

### 3.4. SOCIAL HOUSING

The White Paper predicts that affordable rental housing demand will continue to increase alongside population growth and urbanisation.<sup>14</sup> However, while rental housing comprises only one third of the housing market, social housing contributes a mere 1% (37 517 units) to the total rental housing

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<sup>13</sup> The research on *Municipal Land Release for Affordable Housing* is being undertaken by DAG in partnership with the Human Sciences Research Council (HSRC) and the National Association of Social Housing Organisations (NASHO) and will be published in March 2024. The report aims to improve understanding of the intricate process involved in releasing municipal property for affordable housing in well-located areas. The report focuses on case studies of four metropolitan municipalities—Johannesburg, Cape Town, eThekweni (Durban), and Tshwane (Pretoria)— and documents their experiences of disposing land for affordable housing.

<sup>14</sup> WP 2023, pp.52.



market. Clearly, the sub-sector's housing yield needs to be upscaled significantly if it is to effectively respond to the growing demand for affordable housing. Several systemic constraints hamper effective implementation of the state's social housing programme, including inadequate grant funding (subsidy quantum), delays in land approval processes, high land and input costs, inadequate municipal bulk infrastructure, etc.<sup>15</sup> We believe that mechanisms to bolster social and affordable housing delivery, especially at higher densities, should be clearly articulated in the White Paper.

One such mechanism, incentives, for instance play a key role in maximizing the number of affordable units achievable. Subsidies are not able to cover the construction or operational costs in full. In instances where land is well located or where higher densities are required, additional incentives will be critical to ensuring affordability. The White Paper needs to provide greater clarity around the mechanisms and strategies to be used by municipalities and metros when it comes to the direct and indirect incentives available/needed. This could range from planning and construction incentives like discounted land prices (not mentioned in the White Paper), reduced rates, and the exemption of developer charges (DC's), to operation and management incentives such as a rental indigence grant. The NDHS may also consider incentives that directly reduce costs by reducing risk and efficiencies, such as parameters for supporting partnerships with private parties, community centered planning (brings the community on board which reduces objections etc.) or urban development tax incentives.

In relation to the grant funding, like other grants, the subsidy should be better aligned to inflation increases and should be updated more regularly. Moreover, it may also be useful to tie the subsidy quantum to a specific location. This is because social housing construction in certain areas (flat area like Midrand, Gauteng) will cost much less when compared to other areas (inner-city of Cape Town) where land parcels are expensive and carry severe geotechnical constraints due to the topography.

The White Paper should recognise that lengthy land-use processes are one of the major barriers to affordable housing delivery. Fast-tracking processes and eliminating cumbersome red tape could go some way in facilitating faster delivery. Also, while the Local Government: Municipal Finance Management Act 56 of 2003 (MFMA) requires all municipalities to have a Supply Chain Management (SCM) policy for land, where this exists it does not adequately address social housing.

The White Paper notes that smaller units at higher densities will largely serve the affordable rental housing need of those migrating to cities in 2030. However, we must caution that reduced unit sizes do not always translate to affordability in all contexts when delivered by the private sector, especially when it comes to reaching vulnerable family units. In fact, anecdotal findings show that whilst smaller units are typically more affordable, their price per m<sup>2</sup> is, however, higher.

## RECOMMENDATIONS

- ❖ DAG recommends that the social housing subsidy-quantum be reviewed to ensure that it is better aligned to inflation increases; it should also be more regularly updated. Further consideration should be given to tying the subsidy to a specific location.
- ❖ There is a need to review the qualification criteria for social housing to ensure that exclusion, especially for the majority of those in need of housing, is minimised.
- ❖ A comprehensive SCM policy that addresses key issues around social housing is required. Issues that should be covered include, valuation and discounting of value for social benefit in social housing processes; and procurement methodologies that consider preference for Social Housing Institutions (SHIs), non-financial value criteria, and required outputs of projects that are not too onerous.

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<sup>15</sup> [Social housing in South Africa is in trouble - here's why | GroundUp](#)

- ❖ Provision for a wide-scale public education drive around social housing, its intent and purpose, the qualification criteria, and its maintenance and management by social housing institutions is necessary.

### **3.5. TRANSITIONAL HOUSING**

The White Paper makes no mention of [Transitional Housing](#), a very necessary and key part of delivering affordable rental housing. This form of housing can be used to complement social housing and mixed market projects in well-located areas. It also ensures greater inclusivity and can safeguard households against displacement to the periphery.

#### **RECOMMENDATIONS**

- ❖ The White Paper must include a section on transitional housing. There needs to be clear policy at a national level on Transitional Housing, including pragmatic, innovative thinking around the use and implementation of this housing option so that it enables increased affordable housing options.
- ❖ Also, both funding and institutional arrangements need to be put in place to support the management, maintenance and social development programmes needed to ensure the success of transitional housing.

### **3.6. INCLUSIONARY HOUSING**

Inclusionary Housing provides an important opportunity to promote spatial integration and aligns well with several national core objectives such as the densification of well-located and strategic spatial nodes/ precincts. DAG's understanding of the purpose of inclusionary housing is three pronged. DAG believes inclusionary housing should foster (i) Spatial justice in our cities and towns by promoting social inclusion – delivering racially, socially and economically integrated neighbourhoods in well located areas closer to employment opportunities; (ii) Spatial transformation by addressing the spatial inequities of the past that continue to exclude people from enjoying the best of what is offered in our urban centres, entrenching spatial poverty traps; and (iii) Partnerships with the property development sector to ensure the supply of affordable housing stock over the long term in these well-located areas in our cities and towns.

#### **RECOMMENDATIONS**

- ❖ We appreciate the references to inclusionary housing / zoning in the White Paper; however, clarity is urgently required to indicate that this form of housing delivery falls under land-use policy and not housing / human settlements as intimated in the policy document. This necessitates urgent political clarity to avoid the pitfalls of the mandate for inclusionary housing being in the Human Settlements departments.
- ❖ Moreover, it is imperative that the national government provide guidance on the institutional arrangements for the Inclusionary Housing policy development process, including the potential role and expectations of the departments involved.

### **3.7. UPGRADING OF INFORMAL SETTLEMENTS**

The White Paper reaffirms the government's commitment to prioritise upgrading of informal settlements, as well as the integration of these into urban areas. In situ incremental upgrading is

preferred, with relocations as a last resort.<sup>16</sup> In principle, DAG supports these underlying policy precepts. However, the White Paper goes on to state that the “...current informal settlements upgrading instrument shall continue to be utilised by government as a proactive attempt to manage informality”<sup>17</sup>. The current instrument, the Upgrading Informal Settlements Programme (UISP), may be appropriate in terms of managing informality but in our view, offers little in terms of a proactive approach to stymie its growth.

Moreover, the White Paper suggests a militaristic approach to informal settlement residents/occupations. The use of language in the policy is indicative of this, for example, the phrase “dealing with the poor decisively” frames informal settlement residents as a threat and promotes violence as an appropriate response to attempts by these residents to procure shelter for themselves. This kind of language is unacceptable and is likely to lead to increased levels of violence and political instability.

The White Paper further states that the review of the Prevention of Illegal Eviction from and Unlawful Occupation of Land (PIE) Act No. 19 of 1998, specifically because it obligates the state to provide alternative accommodation in cases of evictions from unlawful land occupations, as one way of addressing informality. Depending on its outcomes, the review could exacerbate the issue of ‘mushrooming’ informal settlements. We contend that the intended review and how its reasoning is framed in the White Paper shows a lack of understanding of the drivers behind the proliferation of informal settlements, as upgrading some informal settlements while destroying others will result in the continued establishment of new informal communities. Evidently, clarity is needed on what criteria will be used to approve settlements for in situ-upgrading, i.e. does approval depend on the number of years that the settlement has been in existence; whether municipalities have a pipeline for settlements set to be upgraded or relocated? The White Paper should also explore how these criteria can be shared with communities to establish and affirm trust as part of the social contract.

Additionally, nothing is said about the improvement of temporary relocation areas (TRAs); government should provide clarity on their plans for these settlements. TRAs have become permanent slums, with high unemployment rates, rampant crime, and widespread poverty.

Finally, DAG welcomes the state’s commitment to allocate greater resources to finance informal settlement upgrading projects, although the proviso that this be limited to ‘suitable areas’ is somewhat concerning.<sup>18</sup>

## RECOMMENDATIONS

- ❖ Government should have clear timeframes to guide provinces and municipalities’ development and management of informal settlements. They should not take a blanket approach, and their interventions should be informed by constant engagements with the individuals who stand to be affected. Moreover, the principles, plan, associated timeframes, and budgets should be expressed in the White Paper and should be widely shared so that everyone knows what government’s priorities and general approach to informal settlements will be.
- ❖ The policy must include timeframes to assist people to exit out of TRAs and move up the housing ladder and should include plans for TRAs to either be demolished or upgraded to accommodations more comparable to permanent (formal) housing.
- ❖ The provision of services in informal settlements should be gender responsive and should speak to the realities on the ground.

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<sup>16</sup> White Paper 2023, pp. 49.

<sup>17</sup> White Paper 2023, pp. 49.

<sup>18</sup> White Paper 2023, pp. 47-54.

- ❖ Government must consider alternative housing opportunities for informal settlement residents, such as reusing/repurposing old buildings owned by the state.

### 3.8. SMALL-SCALE DEVELOPERS AND BACKYARDER SUPPORT

The White Paper importantly recognises the need to support the whole spectrum of the rental housing market, with all its sub-sectors, including *inter alia* the emerging (small-scale) and informal backyard private rental housing subsectors. While the private rental market contributes to 92% of housing options in the overall rental market, small-scale rental housing and backyarding contribute to a total of 24% of affordable rental housing options. Despite these subsectors' obvious significant role and contribution, the White Paper offers very little insights around government plans, policies, and mechanisms to support the small-scale rental housing sector and unlock the township residential market.

A comprehensive understanding of the fundamental role that these subsectors play in meeting the country's need for affordable housing options is paramount. To this end, it is worth noting two typologies within the small-scale rental housing sector. The first are homeowners who develop small to medium-sized rental units on their properties in township areas to supplement their incomes. The second are micro-developers with the necessary resources to build medium-sized rental units at scale.

The Backyard Matters project (BYM), initiated by DAG and Isandla Institute, has shed light on the [important nuances within this subsector](#). These include the variation of landlord and tenant households, how social relations influence where backyard communities can be found, and the different economic challenges faced by both parties.

Over the past five years, DAG has worked alongside small-scale rental developers and small-scale developers to advocate for the creation of an enabling legislative framework to support the subsectors' delivery agents. Due to this work, [municipalities such as Cape Town and Johannesburg](#) have responded positively, and have facilitated the creation of an enabling environment for the small-scale rental housing sector to grow.

One thing that has become clear is that these subsectors can elevate their current contributions to the rental housing sector and hugely impact the national government's goal to realise affordable, safe, and spatially just rental housing if they are supported with the appropriate technical, planning, and regulatory framework, and sufficient financial support.

Demonstrating that some thought was given to supporting small-scale developers, the White Paper proposes the establishment of Transactional Support Centres (TSC).<sup>19</sup> The TSCs, broadly speaking, will guide interactions between home buyers and the state.<sup>20</sup> We commend this proposal and its admirable intended outcomes. However, the White Paper is unclear on the mechanisms that will be used to facilitate effective implementation of the TSCs. It also is unclear what the financing model for these centres will be. Could municipalities, for instance, tap into "capacity grants" and "social facilities grants" to fund the functions of these proposed centres? Moreover, it is not clear whether the TSCs will be linked to any housing or site-and-services projects.

This year, DAG and our partners will pilot our [Housing Support Centres \(HSC\)](#) via the BYM project. Through the HSCs, we aim to achieve the following objectives:

- ❖ Offer property transactional support services – transfer of properties, etc.

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<sup>19</sup> White Paper 2023, pp. 62-67.

<sup>20</sup> White Paper 2023, pp. 62-67.

- ❖ Provide information on government housing support options and programmes (including information about financing options).
- ❖ Provide support with title deed backlogs.
- ❖ Provide technical support and training relating to planning and construction.
- ❖ Provide skills training, targeting emerging contractors.

DAG avails itself to support the Department in thinking through the practical elements of establishing and managing its Transactional Support Centres and we are willing to draw on our knowledge and experience gained through this pilot to chart a clear pathway for effective and efficient implementation of the TSCs.

As it relates to planning and regulatory frameworks, we welcome the White Paper's commitment to create policy and legislative reforms built on "... alignment and harmonisation of policies, laws and programmes within the human settlements' subsectors responsible for rental housing...".<sup>21</sup> A key part of this will be to clearly delineate the roles and responsibilities of the different spheres of government, and relevant state entities – to enable municipalities to play a supportive and facilitative role in these subsectors. More specific to backyarders, the White Paper makes no mention of the [Norms and Standards](#) for Rental Housing, September 2022. It consequently fails to articulate how the norms and standards complement or align with the broader policy precepts related to affordable rental housing. We urge the national government to rectify this omission.

Regarding financial support, challenges exist at the level of the municipality and the level of the small-scale developers. Municipalities across the board face challenges in accessing capital funds for developing or upgrading bulk infrastructure and internal services. For instance, in our experience, municipalities tend to prioritise funds set aside for bulk infrastructure to develop new neighbourhoods rather than upgrading existing bulk infrastructure and internal reticulation within existing neighbourhoods. Secondly, municipalities primarily rely on DC (Development Charges) for infrastructure co-funding and upgrading. However, high costs of DC charges can be prohibitive because small-scale developers often struggle to pay this upfront fee.

Further to the above, we support the intention to involve provincial and local governments in decision-making processes related to fiscal resources. Doing this will facilitate collaboration among the different spheres of government, ultimately prioritising infrastructure improvements and removing stumbling blocks for small scale and micro-developers, enabling the growth of the rental sector.

## RECOMMENDATIONS

- ❖ The national government must issue a policy directive that supports and provides guidance to municipalities about how to enable and support the growth of more acceptable small-scale rental outcomes.
- ❖ Clear guidance around the mechanisms that will enable effective implementation of the TSCs is needed. Clarity about the extent to which TSCs will be linked to housing or site-and-services projects and what shape and form this will take must also be provided.
- ❖ In terms of planning and regulatory reforms, the White Paper must provide a clear understanding of the foundational aspects around which alignment between relevant policies for the sector will be based. Specific to the backyarding sector, the document must clearly articulate how policy proposals related to support for (traditional) backyarders are aligned with the rental housing Norms and Standards.
- ❖ The White Paper must make provision for support to municipalities facing challenges in accessing capital funds for upgrading and maintaining bulk infrastructure.

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<sup>21</sup> White Paper 2023, pp. 53.

- ❖ To address small-scale developers' inability to pay high DC charges upfront, DAG proposes a deferral approach to DC payment, as small-scale developers are willing to pay but are better placed to do so in increments.

### **3.9. ENSURING TENURE SECURITY**

While the White Paper acknowledges administrative rights, it does not go far enough in terms of taking the process of incremental tenure and regularisation forward. Administrative rights unfortunately, fall short of legal recognition, which is a critical factor in unlocking finance. This is not to say that full tenure is the only viable option as it relates to title deeds. Instead, a key principle in implementing processes to provide tenure security is to work with tenure arrangements that already exist at the local level. That means broadening the scope of formal recognition to include informal forms of title. Although the White Paper indicates that tenure will have to reach beyond formal title, it is unclear what, if any, mechanisms the City will put in place towards creating a basket of options for tenure security. Moreover, it is not stated what exactly the different elements contained in the basket of tenure options will be.

The ability of implementers, particularly at municipal level, to overcome current challenges related to title deed registrations and administration, and the more efficient management of related processes is paramount. However, our experience shows that municipalities are reluctant to inculcate various forms of Administrative Recognition, i.e., letters of occupancy, lease agreements or certificates of occupation.

Furthermore, administrative rights and the establishment of land registers require strong local partnerships, most notably with communities and civil society – currently there is no indication of what the role of partners will be in the White Paper. The White Paper also does not go far enough in proposing the actual mechanisms and strategies needed to manage/administer dynamic land rights. Most metros in South Africa have static registers which are then time bound and are not useful in either securing the rights of households over time or enabling strategic planning. This demonstrates a lack of innovation in a critical area of urban land and housing reform in South Africa.

## **RECOMMENDATIONS**

- ❖ Ensuring that the necessary support mechanisms are created to administer differentiated forms of Administrative Recognition is key. The Policy should provide some legal and policy principles to inform the development of the preferred basket of tenure options. Even identifying the basic rights and necessary protections that would inform the development of tenure options would be helpful.
- ❖ The White Paper should also outline the forms of tenure that could be utilised in the context of site-and-services.

### **3.10. PUBLIC PARTICIPATION IN POLICY DEVELOPMENT**

Although we appreciate that the Minister saw fit to extend the deadline for submissions, it is our view that there is a need for more public participation <sup>22</sup>ahead of drafting and publishing new policies or laws. We noted the Minister's comments, at the White Paper Consultation engagement, that existing legislation does not obligate her to implement a public participation process on the road to finalising the White Paper. Instead, she's initiated this process based on a recognition of the far-reaching impact that this policy could have on a large part of South African society.

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<sup>22</sup> White Paper 2023, pp. 23 -26, 50, 62-63.

Ensuring effective and meaningful community engagement is especially important because the White Paper speaks of social compacts in the informal context. How effective and inclusive engagements are, will impact the success or failure of social compacts<sup>23</sup>. Finally, the White Paper is dense and written in highly technical language and jargon, making it very difficult for communities to meaningfully engage with the substance of the document. This often places a burden on civil society organisations to bridge the gap, translate complex policies into accessible formats and create space for community engagement with these policies. We strongly urge the government to be much more intentional in making provision (financial and otherwise) to aid civil society organisations in filling this gap.

## RECOMMENDATIONS

- ❖ DAG contends that those most affected by policy should co-create solutions alongside government. This necessitates sufficient time and varied additional government initiatives, (i.e. announcements on community radio stations or in local newspapers) to inform communities about draft policies, along with opportunities to ask questions and give meaningful inputs into draft policy documents.
- ❖ It is imperative that going forward, clearer, more accessible language is used in draft policies. If this is not possible, the government must condense the information into a summary or other easily accessible formats that should be distributed widely so that communities remain informed and are able to engage with key policy developments. Ensuring that policy documents are translated into languages other than English is an obvious first step in this direction. Additionally, translation should happen with enough time for citizens to engage with these versions and submit comments.

### 3.11. GOVERNANCE AND FINANCE

The White Paper's policy proposals lack detail and clarity, which will negatively impact on financing and implementation. This is partly a result of insufficient use of the existing body of knowledge in relation to housing and human settlements development. The Policy, we contend, does not reflect an in-depth review and application of the wealth of research and knowledge, demonstrating good practices, lessons learnt and cautionary measures, developed over time by civil society, academia, international organisations and even the government itself. Moreover, it shows little evidence of benchmarking and incorporating best practices from countries similar to South Africa. Addressing this shortcoming may go some ways in ensuring that the final policy is much richer in detail and clarity.

The proposal to establish a Human Settlements Ombudsman, however, is a positive step in the right direction (pp. 72-80). The National government has a responsibility to monitor policies that are implemented at a lower level so that there are no contradictions. At present, this is not happening effectively. The policy rightly outlines what is stated in applicable legislation and policies but falls short of addressing the practice, and its many related challenges.

## RECOMMENDATIONS

- ❖ Clearer timelines and tangible programmes are needed. The document must give more clarity on the budget and the funding of proposed actions.<sup>24</sup> Moreover, the White Paper must

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<sup>23</sup> White Paper 2023, pp. 48-50.

<sup>24</sup> White Paper 2023, pp. 60.

indicate how exactly government will ensure the measurability of stated objectives and outcomes and should outline mechanisms through which we can hold them accountable for their plans.

- ❖ Clear guidelines and measures are necessary to implement effective monitoring and evaluation. These guidelines should demonstrate in-depth reflection on why existing laws and processes are not happening as prescribed and what can be done to improve this.
  - ❖ The White Paper must demonstrate a concerted effort to draw on the wealth of national and international research and knowledge on housing and human settlements development.
  - ❖ Finally, the White Paper must have practical solutions to address livelihood issues such as skills development and the provision of social amenities. Basic services are not enough to ensure sustainable livelihoods – socio-economic opportunities are needed.
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