

DETERMINING HOW THE MDB'S WORK CAN ENHANCE THE REALISATION OF THE OBJECTIVES OF THE NATIONAL SPATIAL DEVELOPMENT FRAMEWORK (NSDF), INTEGRATED URBAN DEVELOPMENT FRAMEWORK (IUDF) AND SPATIAL PLANNING AND LAND USE MANAGEMENT ACT (SPLUMA) AND VICE VERSA

RESEARCH REPORT

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ABSTRACT

The Municipal Demarcation Board (MDB) plays a vital role in advancing constitutional democracy by creating municipalities with the capacity to operate effectively and fulfil their constitutional responsibilities. The MDB fulfils its constitutional obligations through the redetermination of municipal boundaries, the demarcation of municipal ward boundaries, the classification of qualifying municipal areas as metropolitan municipalities, the evaluation of municipalities' capacity to fulfil their powers and functions and the provision of advisory services within its defined mandate. The work of the MDB is also guided by the National Development Plan (NDP), the National Spatial Development Framework (NSDF) and the recently developed Integrated Urban Development Framework (IUDF) as it addresses the reduction of spatial injustice, inequality and inefficiencies. The MDB's objective in line with the NDP, NSDF and IUDF is to bring about a profound transformation of South Africa's spatial history by directing urban growth towards a sustainable model characterised by compact, connected and coordinated cities and towns.

Since the relationship between the MDB's work and the SPLUMA, IUDF and NSDF is not well defined, the study seeks to assess how the work of the MDB can contribute to the realisation of SPLUMA, IUDF and NSDF objectives and vice versa. The study focuses on two main objectives which are; identifying how the MDB can contribute to the realisation of SPLUMA, IUDF and NSDF objectives and vice versa; and explore critical areas/key issues to consider from SPLUMA, IUDF and NSDF when conducting demarcations. The study used a qualitative research approach using primary and secondary data. Results revealed that the MDB is able to realise the objectives of SPLUMA through conducting public consultation meetings. Working closely with planners and geographic information management officials being guided by them when configuring draft wards. The MDB provides cooperative governance and intergovernmental relations among the three spheres of government by conducting capacity assessments of municipalities and through the categorisation of municipalities.

The MDB is further able to realise the objectives of the IUDF by considering access to basic services and resources in its redetermination decisions. It recognises that this access serves as an important social determinant of well-being with important economic and social gains

associated with equitable access. The MDB also realises the objectives of the NSDF by carefully considering the spatial implications of boundary changes and strives to adhere to the principles of the Local Government: Municipal Demarcation Act (No. 27 of 1998) in making decisions that affect spatial resilience. Ultimately, the MDB needs to consider all SPLUMA principles as well as its objectives and the IUDF goals and policy levers in conjunction with the demarcation criteria outlined in sections 24 and 25 of the Municipal Demarcation Act. The study concluded by recommending that the MDB should also consider consulting with other departments such as the department of community services and the department of finance to ensure that the creation of municipalities that are inclusive and are able to generate their own revenue. When a municipality makes a proposal for a demarcation the municipality should provide a business plan and should argue their case in terms of the principles of SPLUMA and the goals of the IUDF and how these will be achieved. The MDB and the Department of Cooperative Governance should work together in ensuring the success of the District Development Model (DDM). Lastly, the MDB should consider working with municipalities when they are drafting their Spatial Development Frameworks (SDF's), this will ease the municipal redetermination and ward delimitation process and will ensure that the MDB is able to understand the development trends of the area in question.

1 INTRODUCTION

The municipal landscape of South Africa displays significant disparities with some regions experiencing significant economic growth and relative prosperity while other regions show little to no economic activity but have substantial social welfare needs (Municipal Demarcation Board, 2021). In this context, the Municipal Demarcation Board (MDB) plays a vital role in advancing constitutional democracy by creating municipalities with the capacity to operate effectively and fulfil their constitutional responsibilities. Upon its transformation into a democratic country in 1994, South Africa found itself with a new constitution that mandated the establishment of an autonomous body responsible for determining and redetermining municipal boundaries (Khowa, 2022). To adhere to the provisions of section 155 of the Constitution, which calls for the establishment of the Municipal Demarcation Board (MDB), South Africa adopted the Local Government: Municipal Demarcation Act (No. 27 of 1998). The MDB fulfils its constitutional obligations through the redetermination of municipal boundaries, the demarcation of municipal ward boundaries, the classification of qualifying municipal areas as metropolitan municipalities, the evaluation of municipalities' capacity to fulfil their powers and functions and the provision of advisory services within its defined mandate (Municipal Demarcation Board, 2015).

The work of the MDB is also guided by the National Development Plan (NDP), the National Spatial Development Framework (NSDF) and the recently developed Integrated Urban Development Framework (IUDF) as it addresses the reduction of spatial injustice, inequality and inefficiencies (Municipal Demarcation Board, 2021). The MDB's objective in line with the NDP, NSDF and IUDF is to bring about a profound transformation of South Africa's spatial history by directing urban growth towards a sustainable model characterised by compact, connected and coordinated cities and towns (Municipal Demarcation Board, 2021). The NSDF is a strategic long-term spatial plan and is legally mandated by SPLUMA. SPLUMA provides a framework for spatial planning and land use management. The IUDF is a policy initiative of the government of South Africa coordinated by the Department of Cooperative Governance and Traditional Affairs (COGTA). The IUDF informs how the South African urban system can be re-organised so that our cities and towns are more inclusive, resource efficient and good places to live, play or work. The MDB is responsible for the determination of

municipal outer boundaries, delimitation of municipal ward boundaries, the assessment of municipal capacity and the rendering of advisory services to stakeholders. The relationship between the MDB's work and the SPLUMA, IUDF and NSDF is not well defined and understood. Therefore, this study seeks to assess how the work of the MDB can contribute to the realisation of SPLUMA, IUDF and NSDF objectives and vice versa. Against this backdrop, the objectives of this study are to:

- Identify how the MDB can contribute to the realisation of SPLUMA , IUDF and NSDF objectives and vice versa.
- Explore critical areas/key issues to consider from the SPLUMA , IUDF and NSDF when conducting demarcations.

2 LITERATURE REVIEW

Prior to 1994, the landscape of South African cities were shaped by planning practices and regulations that were guided by a government's determination to enforce its apartheid agenda (van der Berg, 2017). The country's planning laws were designed to conform with apartheid policies, resulting in a situation where the urban layout of towns and cities were deeply rooted in racial discrimination and inequality; which led to the creation of cities characterised by low population density and fragmentation, necessitating extensive commuting for black and coloured residents. Black and coloured residents were compelled to travel from underprivileged and poorly serviced township areas to the parts of the city and town where substantial economic opportunities and advanced social amenities were clustered (Harrison et al., 2008). The democratic South African government needed a restructured governance framework focused on transformation in order to address the lingering vestiges of apartheid (Khowa, 2022). Consequently, urban planners maintained the belief that they could effectively promote the idea of cities that embraced inclusivity, equity and environmental sustainability. Moreover, their goal was to redress the spatial disparities that had arisen as a result of the apartheid period (van der Berg, 2017). Several legislative acts have played a prominent role in efforts to reform the South African governmental system. This study focuses on only a selected few of these legislative acts, as conducting a comprehensive examination of all legislation and policies that have influenced the current governmental system goes beyond the scope of this study.

The new Constitution of the Republic of South Africa stipulated that the first phase of transformation would entail re-adjusting and re-drawing the spatial frameworks and as a result, the Local Government: Municipal Demarcation Act (No. 27 of 1998) was adopted to give effect to section 155 of the Constitution which established the MDB. The primary responsibility of the MDB would involve reconfiguring and restructuring the spatial setting of the country with the goal of promoting transformation (Khowa, 2022). Municipal demarcations primarily focused on addressing historical disparities (which encompassed spatial inequalities and the enduring effects of apartheid), the aim was to establish municipal areas that are not racially biased which would enable historically marginalised populations to attain greater access to both land and influence (Griggs, 1998; Nxumalo & Whittal, 2013). Since the dawn of democracy, the government has developed several laws and policy programmes with the objective of remedying the country's apartheid spatial planning legacy. Attention will now be given to the Acts and policies/frameworks which are intended to remedy the apartheid spatial planning.

2.1 Spatial Planning and Land Use Management Act (No. 16 of 2013)

SPLUMA was initially introduced in 2013 (but came into effect in 2015) as a response to the legal disputes surrounding the Development Facilitations Act (DFA) (No. 67 of 1995) concerning the allocation of powers and responsibilities between the different spheres of government (Western Cape Government, 2015). The implementation of SPLUMA initiated the repeal of several laws that were part of the fragmented planning system such as the Removal of Restrictions Act (No. 84 of 1967), Less Formal Township Establishment Act (No. 113 of 1991), Planning Professions Act (No.125 of 1991) and Development Facilitations Act (No. 67 of 1995) (Joscelyne, 2015). SPLUMA (No.16 of 2013) was developed to establish a single and comprehensive planning system nationwide, in response to the planning related challenges encountered. This act aims to provide an overarching framework for spatial planning, policy and land use management for the whole country. It additionally advocates the need to promote and stimulate the efficient and fair operation of land markets, encourage land development in areas that curtail urban sprawl and guarantee sustainable livelihoods for communities that are susceptible to the consequences of economic and environmental disruptions (Western Cape Government, 2015). SPLUMA (No.16 of 2013) aims to close the spatial gap related to race and aims to reshape the country's settlement patterns in a way

that fully implements the important constitutional principles. It aims to do so through its six objectives stated in section 3 of SPLUMA (No. 16 of 2013):

- a. Provide for a uniform, effective and comprehensive system of spatial planning and land use management for the Republic;
- b. Ensure that the system of spatial planning and land use management promotes social and economic inclusion;
- c. Provide for development principles and norms and standards;
- d. Provide for the sustainable and efficient use of land;
- e. Provide for cooperative government and intergovernmental relations amongst the national, provincial and local spheres of government; and
- f. Redress the imbalances of the past and to ensure that there is equity in the application of spatial development planning and land use management systems (Government of South Africa, 2015).

The implementation of SPLUMA (No. 16 of 2013) has according to the South African Cities Network (2015), introduced seven significant alterations to spatial planning and land use management. These modifications include:

1. Emphasising the primary role of municipalities in matters related to municipal planning, which includes land development and land use management, establishes municipalities as the primary authorities. This invalidates any conflicting parallel mechanisms, systems, measures, or institutions that previously existed to handle land development applications.
2. The establishment and configuration of municipal planning tribunals and appeal structures by municipalities for the purpose of evaluating and rendering decisions on land development applications. Granting municipalities with alternatives for tribunals and appeals structures to be formed based on capacity.
3. Development of a single and comprehensive land use scheme encompassing the entire municipality, with particular attention to adopting differentiated approach at the municipal level.

4. The development of Spatial Development Frameworks (SDF's) by all spheres of government, in accordance with established norms and standards and guided by principles of development.
5. Formulation of Regional Spatial Development Frameworks as needed.
6. Enhanced intergovernmental support via the enforcement, compliance and monitoring procedures.
7. Ensuring the synchronisation of authorisation procedures, as needed with policies and legislation that influence land development applications and decision-making processes.

In contrast to the laws of the apartheid era, SPLUMA (No. 16 of 2013) contains normative principles which apply to spatial plans and applications designed to tackle the inequalities inherent in the South African geographical landscape (Nel, 2015; Nel, 2016). These principles along with a set of norms are focused on inclusivity, equity, justice and redress. In brief, according to the Government of South Africa (2015), the principles are:

- i) Spatial Justice
- ii) Spatial sustainability
- iii) Efficiency
- iv) Spatial resilience
- v) Good administration

The above-mentioned principles apply equally to spatial planning, land use management and land development, serving as the foundation for the formulation of any future planning laws and policies under the Act (van der Berg, 2017). In accordance with this Act, the spatial planning system in the country has been formalised to include (1) development principles, norms and standards; (2) spatial development frameworks; (3) land development applications and (4) land use schemes. This Act demands that a land use scheme (LUS) must give effect to and be consistent with the municipal spatial development framework as well as other policies (Fourie, 2019). SPLUMA (No. 16 of 2013) is not exclusively centred on urban matters. The Act envisions that its principles and provisions should uniformly influence the planning and land use management of both urban and rural areas, aiming to address the historical injustices of apartheid-era planning and ensure the sustainability of the country's cities. This,

coupled with the government's ongoing commitment to rectify apartheid-era planning disparities and secure a sustainable future for its cities, prompted the creation of the IUDF (van der Berg, 2017).

2.2 Integrated Urban Development Framework

South Africa's urban landscape is often described as "intricate" due to the varied effects of apartheid-era planning on elements such as urban layout, economic engagement, governance systems, capabilities and the presence of natural resources. As a result, on April 26, 2016, Cabinet granted approval of the IUDF (van der Berg, 2017). The IUDF emerged as a response to the urbanisation patterns observed in South Africa and in accordance with the National Development Plan's (NDP) instruction (notably Chapter 8 of the NDP) to formulate an urban development strategy capable of accommodating the rising population. This involves meticulous planning and essential infrastructure to sustain this expansion (Department: Cooperative Governance and Traditional Affairs, 2016). The IUDF establishes the policy structure for the renovation and reorganisation of urban areas in the country. It supersedes all prior sector-specific strategies for urban development, including the Department of Housing's 1997 Urban Development Framework. Any current and upcoming policies and legal frameworks that could influence urban areas in South Africa must consider and align with the objectives and principles laid out in the IUDF (Department: Cooperative Governance and Traditional Affairs, 2016).

The primary goal of the IUDF is to provide direction for the creation of urban communities that are inclusive, resilient and conducive to living. This involves directly tackling the distinct circumstances and obstacles encountered by cities and towns across South Africa (Department: Cooperative Governance and Traditional Affairs, 2016). The IUDF presents four strategic goals¹ for all urban areas (see Figure 1), in a quest to achieve its transformative vision. According to the Department: Cooperative Governance and Traditional Affairs (2016), the IUDF's four overarching strategic goals are introduced as follows:

- Spatial integration- To forge new spatial forms in settlement, transport, social and economic areas.

¹ For the sake of this study, the word goals also refers to objectives.

- Inclusion and access- To ensure people have access to social and economic services, opportunities and choices.
- Growth- To harness urban dynamism for inclusive, sustainable economic growth and development.
- Governance- To enhance the capacity of the state and its citizens to work together to achieve spatial and social integration.

These overarching strategic goals guide the primary aim of the nine policy levers which are base of the underlying principle that;

(1) Integrated urban planning forms the basis for achieving integrated urban development, which follows a specific sequence of urban policy actions: (2) integrated transport that informs (3) targeted investments into integrated human settlements, underpinned by (4) integrated infrastructure network systems and (5) efficient land governance, which all together can trigger (6) economic diversification and inclusion, and (7) empowered communities; all of the above will demand effective (8) governance and (9) financial reform to enable and sustain these policy actions. (Department: Cooperative Governance and Traditional Affairs, 2016, p. 8).

Therefore, these levers aim to collectively tackle the underlying factors that perpetuate the existing situation.

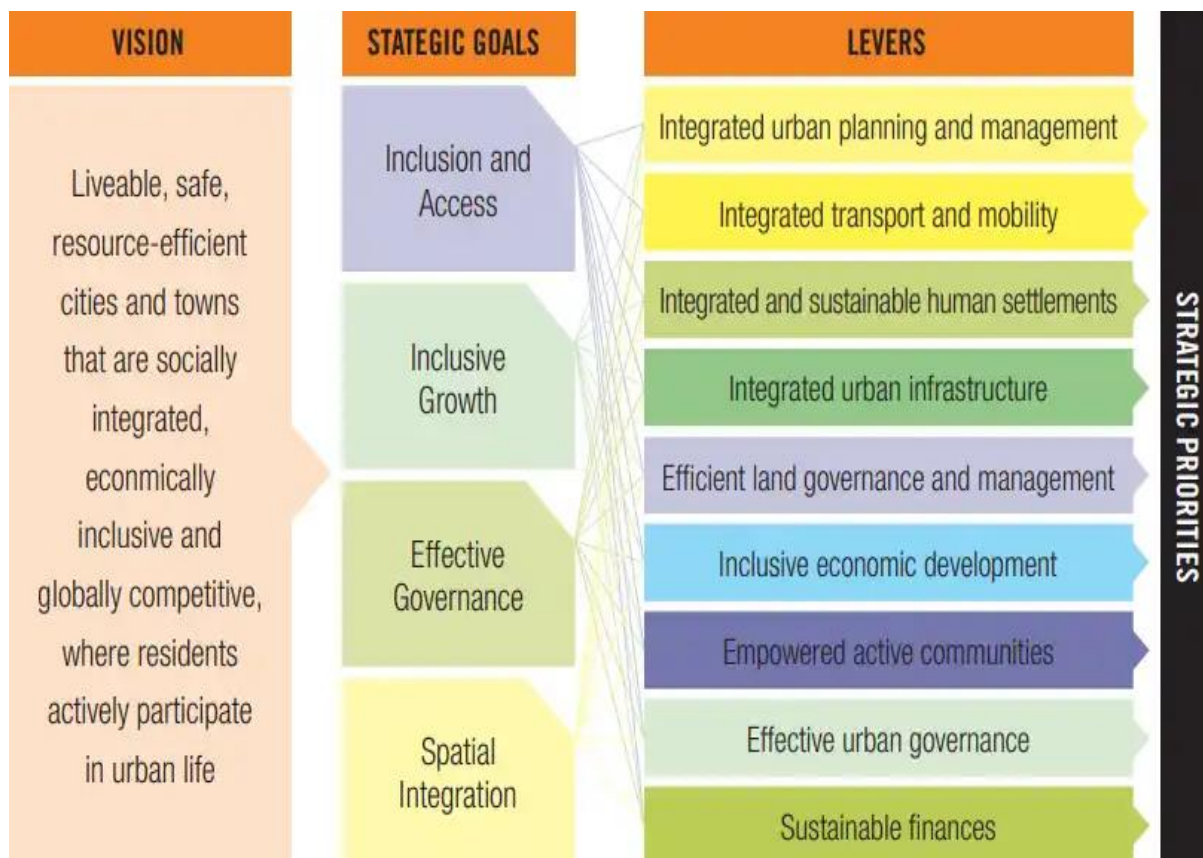


Figure 1: IUDF vision, strategic goals and levers. (Source: Department: Cooperative Governance and Traditional Affairs, 2016).

Moreover, the IUDF introduces three “overarching priorities” to guide the conception and execution of the nine policy mechanisms. These are:

- a) Rural-urban interdependency
- b) Urban resilience
- c) Urban safety

The IUDF further acknowledges that within South Africa, there exist various categories of cities and towns, each serving distinct functions and possessing diverse needs (van der Berg, 2017). The IUDF has a multi-dimensional implementation strategy, encompassing immediate interventions. These necessitate proactive engagement from a diverse array of stakeholders, encompassing all three spheres of government, as well as various sectors like the private industry, non-governmental organisations (NGO’s) and local community groups (Department of Planning, Monitoring and Evaluation, 2018).

2.3 National Spatial Development Framework

South African landscapes bear the imprints of historical spatial segregation and unequal development, which has prompted the National Development Plan 2023 to advocate for the formulation of the NSDF. The NSDF is compiled in terms of SPLUMA (No. 16 of 2013) section 4(a),3(a), Part B and Chapter 8 of the National Development Plan. Section 5(3)(a) of SPLUMA (No. 16 of 2013), provides for the compilation of an NSDF and section 13(1) and (2) mandates the minister to “after consultation with other organs of state and with the public, compile and publish a NSDF” and review it at least once every five years. The NSDF is a fresh inclusion in the category of Spatial Development Frameworks (SDF’s) within the country. Its objective is to formulate an overarching vision for nationwide spatial development. It is characterised by its spatial nature, as it charts the allocation and intended use of land (South African National Biodiversity Institute, 2021). Its objectives are to realise the five principles outlined in SPLUMA (No. 16 of 2013) to be used and observed in all spatial planning processes at all levels, the subsequent guidance and instruction are derived from these principles:

a) Spatial Justice

- i) Secure equitable access to economic opportunities and the advantages of various locations within the nation, encompassing well-situated, productive land, as a means of addressing historical disparities.
- ii) Incorporate previously marginalised regions into the country’s national economic landscape.
- iii) Strive for intergenerational fairness in (1) the planning and arrangement of residential development and (2) the utilisation of natural resources.

b) Spatial Sustainability

- i) Guarantee that national spatial development aligns with the available natural resource capacity of the nation, both in the present and for future generations;
- ii) Advance the establishment of thriving communities and sustainable economic systems;
- iii) Strive for a more consolidated, interconnected and efficient national presence aimed at enhancing access to opportunities for everyone while reducing (1) the

consumption and squandering of natural resources and government funds, as well as (2) the dependence on motorised transportation.

c) Spatial Resilience

- i) Take proactive measures to mitigate risks to communities by thoughtfully choosing the location and arrangement of settlement development;
- ii) Design settlements in manners that decrease their reliance on fossil fuels and centralised energy distribution networks, whenever feasible to alleviate and diminish their environmental impact.

d) Efficiency

- i) Maximise the utilisation of both government and non-government resources while minimising the adverse impacts of settlement expansion, regardless of its location or spatial configuration;
- ii) Broaden and intensify residential areas to lower transactional expenses and the necessity for motorised transportation.

e) Good administration

- i) Seek to achieve coherence, consolidation and harmonisation in all aspects of government spatial planning, financial allocation and investment;
- ii) Guarantee extensive involvement and enthusiastic involvement in spatial planning and community construction to foster local economic development, increase the tax revenue base and promote social unity; and
- iii) Ensure compliance with the law, particularly Spatial Development Frameworks (SDFs) and municipal Land Use Schemes, to realise the social, spatial and economic advantages of sound spatial planning (Department of Planning, Monitoring and Evaluation, 2018).

As a strategic transformation tool, section 12(3) of SPLUMA specifies that the NSDF must:

“Contribute to and give spatial expression to national development policy and plans as well as integrate and give spatial expression to policies and plans emanating from the various

sectors of national government and may include any regional spatial development framework” (Government of South Africa, 2015).

Section 14 specifies the content that the NSDF must have which is as follows:

- a) Give effect to the development principles and norms and standards set out in Chapter 2;
- b) Give effect to relevant national policies, priorities, plans and legislation;
- c) Coordinate and integrate provincial and municipal spatial development frameworks;
- d) Enhance spatial coordination of land development and land use management activities at national level;
- e) Indicate desired patterns of land use in the Republic; and
- f) Take cognisance of any environmental management instrument adopted by the relevant environmental management authority (Government of South Africa, 2015).

The NSDF acknowledges the complexities associated with instigating the necessary changes in planning, budgeting and execution across the three tiers of government. It also underscores their significance in collaboratively shaping the future we desire and share (Department of Cooperative Governance and Traditional Affairs, 2022). It provides a collection of five necessary national spatial goals aimed at fulfilling the national development goals articulated in the NDP and bringing to life the national spatial development vision and the preferred national spatial development pattern outlined in the NSDF (Department of Cooperative Governance and Traditional Affairs, 2022).

2.4 THE RELATIONSHIP BETWEEN MDB’S WORK, THE NSDF, IUDF AND SPLUMA

The aims and objectives of the MDB align directly with the objectives of the NSDF, IUDF and SPLUMA; emphasising a clear connection to the objectives set forth for local government (Municipal Demarcation Board, 2019). In a broader context, the MDB’s vision is to enhance the country’s constitutional democracy by fostering the establishment of effective and sustainable municipalities, facilitating development through the strategic demarcation of municipal boundaries and wards across the entire territory of the country. The MDB is further responsible for identifying and officially designating eligible municipal regions as metropolitan municipalities, evaluating the municipalities’ capacity to fulfil their constitutional duties and

providing recommendations to authorities overseeing local governance regarding the allocation of powers and functions between district and local municipalities. Additionally, it extends advisory and supportive services, within its defined scope, to promote the establishment of a robust local government system (Municipal Demarcation Board, 2019).

Substantial alignment exists between the objectives of the MDB as set out in Section 24 and 25 of the Local Government: Municipal Demarcation Act (No. 27 of 1998) and the objectives of SPLUMA, IUDF and the NSDF. In other words, the work of the MDB is influenced by SPLUMA, IUDF and the NSDF. The MDB naturally focuses its efforts on its three main functions, which emphasise the significant role played by the MDB in gathering, certifying and offering crucial spatial and demarcation information that is not intended solely for demarcation purposes but also serves to support the country's aspirations for spatial and economic integration across all spheres of governance (Municipal Demarcation Board, 2019). The IUDF in line with the MDB's work responds to urbanisation and involves the careful strategic planning and crucial infrastructure development to ensure the sustainability of a rising population (Department: Cooperative Governance and Traditional Affairs, 2016).

In line with the objectives of the three above mentioned policies, the MDB contributes to spatial transformation by creating clearly defined municipal areas that will foster social equality and economic efficiency through the determination of municipal boundaries (Municipal Demarcation Board, 2021). Through its responsive research the MDB contributes to demarcation to redress apartheid spatial planning, SPLUMA also aims to redress apartheid spatial planning through spatial justice, through enhanced accessibility to and utilisation of land resources with land use management systems encompassing all areas within a municipality (Government of South Africa, 2015). Since community participation is a vital aspect of constitutional democracy, the MDB ensures public and stakeholder participation through annual public awareness and education activities to strengthen awareness and education of demarcation processes (Municipal Demarcation Board, 2021). Through its principle of good administration, SPLUMA encourages transparent processes of public participation during the formulation and modification of spatial plans, policies, land use schemes and development application processes (Government of South Africa, 2015).

3 METHODS AND DATA COLLECTION

Since the purpose of this study is to assess how the work of the MDB can contribute to the realisation of SPLUMA, IUDF and NSDF objectives and vice versa, the study used a qualitative research approach using primary and secondary data. Primary data was collected through structured interviews, interviews were conducted virtually via teams as per the request of the interview participant. Secondary data was collected mainly through the analysis of legislation (mainly from SPLUMA, IUDF and NSDF) and the review of books, research papers, scholarly literature, media articles, policy documents and frameworks. Results presented in this paper were mainly based on the analysis of legislation and interviews carried out with a total of eight purposively selected interview participants from various organisations. Purposive sampling was chosen as the sampling method because it is a time and cost-effective method which leads to precisely identifying and contacting specific individuals, thereby streamlining the process. The original goal was to interview two COGTA senior officials, unfortunately efforts to secure the participation of two senior officials from COGTA did not succeed. Instead, two former COGTA senior officials were interviewed. The list of interviewees is shown in Appendix 1.

4 DISCUSSION AND RESULTS

There is a strong alignment between the objectives of the MDB as outlined in Sections 24 and 25 of the Local Government: Municipal Demarcation Act (No. 27 of 1998), and the objectives of SPLUMA, the IUDF and the NSDF. The relationship between the above forementioned policies and the work of the MDB are discussed as follows;

4.1 SPLUMA

South Africa's adoption of a constitutional democracy in the 1990s sparked a wave of legislative reforms intended to address the ingrained social inequalities in the country. Significantly, this included the establishment of a constitution that established equal rights for all as a cornerstone and mandated that all laws align with its principles (Joscelyne, 2015). A crucial change initiated by the constitution was the establishment of a three-tier government structure and the demarcation of South Africa into nine provinces. To dismantle the legacy of apartheid, all planning regulations that were based on racial discrimination were rectified, rescinded, and removed from the legislative corpus. In addition, a national reform initiative materialised in 1995 with the promulgation of the Development Facilitation Act (DFA) (No. 67

of 1995), aiming to consolidate the diverse planning systems under a unified legal framework aligned with the Constitution's ethos (Todes et al., 2010). The DFA was intended as a stopgap measure and the Land Use Management Bill of 2001 was meant to supersede it. However, the bill was never enacted. Instead, chapters 5 and 6 of the DFA were declared to be unconstitutional by the Constitutional Court in 2010 and the DFA was overhauled and ultimately rescinded and superseded by SPLUMA (Raoshakga & Fuo, 2020; Joscelyne, 2015). The enactment of SPLUMA led to the repeal of various laws that were part of the fragmented planning system; these include the Development Facilitations Act (No. 67 of 1995), the Removal of Restrictions Act (No. 84 of 1967), Planning Professions Act (No. 125 of 1991) and the Less formal Townships Establishment Act (No. 113 of 1991) (Joscelyne, 2015).

4.2 The purpose of SPLUMA

SPLUMA, a national framework for spatial planning and land use management, was enacted on July 1, 2015, and applies to all South Africa with the specific goal of avoiding or discouraging parallel planning systems (Swanepoel, 2020). During interviews conducted, interview participants stated that the purpose of SPLUMA as a framework is to provide for spatial planning and land use management in the country. To provide for inclusive development, equitable and efficient spatial planning at different spheres of government and to address past spatial and regulatory imbalances as previous spatial planning focused on urban areas. To promote greater consistency and uniformity in the application procedures and decision making by authorities responsible for land use decisions. SPLUMA has introduced the establishment of Municipal Planning Tribunals where land development applications are dealt with by the municipality through the Municipal Planning Tribunal (MPT) and the authorised officials. Senior Official A from the DALRRD further stated that:

Previously, the land use schemes were not for the entire municipal area, they were only for towns, and they were called town planning schemes. Now section 24 of SPLUMA states that it is very clear that a municipality needs to develop a single land use scheme for the entire municipal area. In other words, from corner to corner, the area must be covered in the land use scheme.

Prior to SPLUMA, spatial planning legislation was highly fragmented, comprising of multiple and overlapping layers of complex and conflicting laws. The introduction of SPLUMA has seen the introduction of a single land use scheme for the entire municipal area. Section 24 (1) of SPLUMA states that municipalities are legally obligated to adopt and approve a single land use scheme for their entire area within five years of the introduction of this Act, following public consultation (Government of South Africa, 2015). In the past, land use schemes were often not reviewed for many years or even decades.

Senior Official B from the DALRRD added that the purpose of SPLUMA was:

To also ensure that there is more authority, or it provided municipalities to be what they term 'decision makers' in the first instance. So, applications are submitted there, those specific municipalities must take those decisions pertaining to any application within the jurisdictional space.

Pre-SPLUMA, the DFA empowered provincial governments to establish tribunals to adjudicate on rezoning and township development applications, effectively stripping authorised municipalities in Gauteng of their final decision-making authority in such matters (Raoshakga & Fuo, 2020). In line with Senior Official B's statement, since the implementation of SPLUMA, this act vests the power to decide on rezoning and township development applications on a MPT staffed by municipal officials and external experts. The authority to hear internal appeals resides with the executive authority of the relevant municipality, but this power can also be delegated to another body (Raoshakga & Fuo, 2020).

4.3 Realising SPLUMA objectives through MDB's work

According to section 3 of SPLUMA, this act has 6 objectives. The realisation of 5 of these objectives through the work of the MDB are discussed below as follows;

4.3.1 Promote social and economic inclusion

The apartheid era was characterised by pervasive social and economic exclusions. Even though apartheid has ended, socio-economic segregation in spatial planning persists, perpetuated by historical planning policies and practices that concentrate marginalised

communities in peripheral areas. These communities were located far away from social infrastructure, public transportation, and economic opportunities which were concentrated in the city centre; necessitating legislative and other measures such as SPLUMA to address the legacy of spatial injustices (Swanepoel, 2020). On the question of how the MDB through its work can realise SPLUMA objective, to ensure the system of spatial planning and land use management promotes social and economic inclusion; Senior Official A from the DALRRD said:

You go to section 25 of the MDA, which talks about when the MDB determines the municipal boundary, they also check the transport pattern, how are the people travelling between one area to the next. So, it comes back to the preamble of SPLUMA. In other words, they've got the very same objective to try and correct and redress the past as per section 25 of the MDA.

Section 25 of the MDA stresses the factors that must be considered when determining municipal boundaries such as (a) the interdependence of people, communities, and economics, which is in line with the statement made by Senior Official A from the DALRRD. The restructuring and redrawing of municipal boundaries by the MDB has in the past resulted in numerous disputes by community members who opposed the approaches and boundary results. In many cases, regions were split between two municipalities, while other municipalities were separated between two district municipalities and occasionally spanned two provinces (Mokgopo, 2017). Thus, the Board member of the MDB stated that the MDB can realise this objective through “integrating split communities, especially tribal authorities; solving land disputes by providing clear boundaries; and ensuring that municipalities can levy proper taxation on properties in their jurisdiction and increasing revenue bases of the municipalities”. Ultimately, socio-economic inclusion and exclusion are not about resource scarcity but about inaccessibility, especially when this inaccessibility prevents full participation in the economic, political, social, and cultural spheres of mainstream society (Hofer et al., 2022). Interview participants also mentioned that the MDB should ensure that it consults the public and that different departments such as the department of community services and the department of finance are consulted during the redetermination process to ensure the creation of municipalities that are inclusive and are able to generate their own revenue.

Inclusive cities require more than spatial integration. People must also be included in the decision-making, design and implementation of urban policies and planning. To achieve this, social and economic inclusion in planning entails that everyone needs to be given the opportunity to take part in and have their say on the political and social structures that shape the places where they live (Shortall, 2008). The issue of public participation has featured a lot in the research previously conducted by the MDB, and although the MDB is not legally required to hold public meetings, the MDB usually conducts public consultation meetings before demarcating municipal boundaries and delimiting wards.

4.3.2 Provide for development principles and norms and standards

Section 3(c) of SPLUMA confirms that detailed development principles, norms and standards will be provided by the Act. The SPLUMA development principles as alluded to earlier are spatial justice, spatial sustainability, efficiency, spatial resilience and good administration. Since the objectives of the NSDF is to realise the principles set out in SPLUMA, these development principles are discussed in section 4.8 to avoid a duplication of work presented. However, the norms and standards are defined as a set of prescribed criteria, methods and procedures that must be adhered to in order to achieve a benchmark of compliance (Parliamentary Monitoring Group, 2023). Under section 8(1) of SPLUMA, the minister is mandated to establish norms and standards for land use management and land development that align with the provisions of SPLUMA, the Promotion of Administrative Justice Act, and the Intergovernmental Relations Framework Act. The norms and standards must according to SPLUMA section (2)(a) “reflect the national policy priorities and programmes relating to land use management and land development” (Government of South Africa, 2015, p. 21). The norms and standards must be consistent with pertinent national policy documents as intergovernmental relations are strongly emphasised (Swanepoel, 2020). The norms and standards² must further, (2)(b) promote social inclusion, spatial equity, desirable settlements patterns, rural revitalisation, urban management and land development (Government of South Africa, 2015, p. 21). These norms and standards are in line with section 24 and 25 of

² For more information on SPLUMA norms and standards please refer to the government gazette no. 49303 (on the norms and standards for spatial planning and land use management in terms of section 8 of SPLUMA), volume 699 of 13 September 2023, available online at www.gpwonline.co.za

the MDA which guides the MDB on the objectives and factors to consider when redetermining municipal boundaries and when delimiting wards.

4.3.3 Provide for the sustainable and efficient use of land

The fourth objective of SPLUMA is connected to spatial sustainability and efficiency and is linked to the second and third development principles listed under section 7(b) and (c) of SPLUMA. Spatial sustainability and efficiency are in line with section 25 of the MDA. Spatial sustainability requires planners to consider infrastructure costs, create sustainable settlements, improve food security, and conserve the environment. Whereby the principle of efficiency calls for accountable and effective governance in making the most of existing resources and reducing the negative environmental impact of human activities. It calls for new and creative ways to manage the performance of spatial planning and development. On how the MDB through its work can realise this objective, Senior Official B from the DALRRD said:

The MDB must guide municipalities and the work of planners to ensure that the principles of SPLUMA are met and also ensure that allocation of sustainable land is across all wards, so that it's delimited in such a way whereby at least every ward inside the municipality has a fair share of suitable and sustainable land for various development...when ward proposals are put together by municipalities, perhaps there should also be a business plan attached whereby an economic assessment and social assessment based on past apartheid spatial planning responds to apartheid planning, maybe you could ask for something like that from the municipality.

Currently, when delimiting wards, the MDB works closely with planners and geographic information management officials from various municipalities. Usually, the MDB sets up a technical meeting with planners and geographic information management officials to be guided by them in configuring draft wards in the respective municipal areas. The MDB releases the draft ward boundaries to municipalities for public consultation and community members will have an opportunity to review and provide feedback on the proposed ward alignments. The MDB and the municipality will then organise an open public consultation meeting where all residents can express their views on the proposed ward boundaries

(Municipal Demarcation Board, 2020). It should be noted though that public consultation meetings are often met with various challenges such as bussing, meeting venue located far in an attempt to exclude certain members of the public; chaos and violent outbursts. Before the commencement of municipal redeterminations, the MDB usually conducts feasibility studies of the proposed municipal redetermination. Once feasibility studies are completed, the MDB makes the final recommendation. In this regard, the Senior Official from the MDB on this objective said, “It’s not about how the boundary has been redetermined but it’s about how these policies of land use management are implemented in a municipality”.

All spatial plans developed by all spheres of government and state entities must conform to the requirements of the SPLUMA principles (Municipal Demarcation Board, 2019). Through their Spatial Development Frameworks, municipalities can advocate for sustainable consumption and production patterns, and lifestyles that are in harmony with nature. Spatial efficiency could be achieved through supporting business productivity and job creation and minimising regulatory burdens on businesses. Efficient commuting patterns and the circulation of goods and services, with regulations that do not impose unnecessary costs on development, should be encouraged through policies such as the SDF in line with SPLUMA and the MDB can give realisation to this objective. (Municipal Demarcation Board, 2019).

4.3.4 Provide for cooperative government and intergovernmental relations amongst the three (3) spheres of government

This objective is the fifth objective of SPLUMA in section 3(e), it calls for the three spheres of government to work together to provide a comprehensive package of services to citizens. The principles of cooperative government and intergovernmental relations in South Africa recognise that the three spheres of government are interdependent, distinct, and interrelated. This principle requires that the three spheres of government respect each other’s powers, functions, and institutions, and inform each other of new policies. Cooperative governance focuses on the institutional, political, and financial frameworks that enable interaction between the different spheres of government (Malan, 2005). On the other hand, intergovernmental relations serve as a mechanism for translating the principles of cooperative governance found in the constitution into both institutional and statutory structures, encompassing both executive and legislative functions of government

(Department of Provincial and Local Government , 1999). Chapter three of the constitution establishes cooperative governance as the overarching framework for fostering a development-oriented state (Malan, 2005). Senior Official B from the DALRRD on this objective and its relation to the work of the MDB said: “When demarcating, there needs to be active engagement from the start to ensure provinces and municipalities lead and perhaps using the District Development Model (DDM) as an avenue to facilitate this engagement”.

The DDM as suggested by Senior Official B from DALRRD is a tool that has been recently implemented across the country, it is used to address service delivery issues through integrated planning, budgeting, and implementation by the three spheres of government and state entities. SPLUMA on the other hand has given municipalities their own planning powers and encourages municipalities to make rules on how to use those powers, the MDB is also responsible for the categorisation of municipalities into metropolitan (category A), district (category C) and local (category B) municipalities; as well as assessing the capacity of municipalities to perform their powers and functions in line with the above forementioned SPLUMA principle. Thus, cooperative governance and intergovernmental relations play a pivotal role in guaranteeing the efficient and effective realisation of municipal demarcation outcomes throughout the entire process (Municipal Demarcation Board, 2021).

4.3.5 Redress the imbalances of the past

This final object of SPLUMA relates to the development principle of spatial justice as set out in section 7(a) of the Act. This principle states that there is a need in 7 (a)(i) to redress past spatial and other developmental imbalances through improved access to and use of land. Spatial justice is a cornerstone of the spatial planning system, as outlined in section 4 and 5 of the Act (Government of South Africa, 2015). These sections define the components of spatial planning system and the different categories of spatial planning, specifying the requirements for municipal, provincial, and national planning (Swanepoel, 2020). Municipalities are mandated to consider spatial justice principles when designating land uses through spatial development frameworks and land schemes.

The MDB has been “able to redress the imbalances of the past through what is referred to as wall to wall system through demarcation, which was aimed at integrating, amongst

others, diverse races and ethnic groups and displaced areas. For example, Buffalo City in the Eastern Cape is a conurbation that includes towns that were in the former Republic of South Africa, villages in the former Ciskei Bantustan and its capital Bisho. Three categories of municipalities that were introduced post-apartheid have provided a measure of reaching vast numbers of communities with the appropriate service delivery at the right level” (MDB Board member).

SPLUMA states that Traditional Authority (TA) areas need to be included in the wall-to-wall scheme and that municipalities are to ensure that both informal settlements and TA areas are included in a land use scheme.

4.4 Integrated Urban Development Framework (IUDF)

The IUDF was developed in response to the call by the United Nations (which is the organiser of the World Urban Forum) to address the spatial injustices associated with the country’s past apartheid planning legacy and to respond to the rapid rate of urbanisation in the country. The IUDF was also developed to respond to the National Development Plan, specifically chapter 8 which calls for the transformation of human settlements and the national space economy.

4.5 The purpose of the IUDF

The IUDF serves as a roadmap for creating inclusive, resilient and liveable urban settlements, specifically tailored to address the unique circumstances and challenges³ confronting South Africa’s cities and towns (Department: Cooperative Governance and Traditional Affairs, 2016). On what the purpose of the IUDF is, Former COGTA Senior Official A said:

The purpose of the IUDF was to respond to the global phenomenon that is urbanisation. It was also to respond to the Sustainable Development Goals (SDG), goal number 11 in particular, the one that talks about making cities and human settlements inclusive, which then touches exactly to chapter 8 of the NDP which also talks about transforming human

³ These challenges include poverty, corruption, service delivery backlogs, degrading infrastructure, financial constraints, and political inertia (van der Berg, 2017).

settlements...it's also seeking to address some of the challenges that are unique to South Africa.

SDG 11 is regarded as groundbreaking for recognising the crucial role of subnational governments in sustainable development. It also represents a pragmatic shift in global urban policy, acknowledging that cities are essential drivers of sustainable development in an increasingly urbanised world (van der Berg, 2017). SDG 11 in line with the IUDF, aims to create cities that are inclusive, safe, resilient and sustainable. While the NDP chapter 8's emphasis is on transforming human settlement's, the IUDF's goals and policy levers (see Figure 1) are informed by chapter 8 of the NDP. Furthermore, on the question of what the purpose of the IUDF is, Former COGTA Senior Official B said:

Its purpose is to manage and facilitate development in urban spaces but more critically...so you have spaces that are well managed, that promotes social and economic development but you also then benefit from a concentration of people in your urban spaces.

The IUDF is used as a mechanism that addresses urbanisation trends, enabling us to harness the benefits of urbanisation while mitigating the negative consequences of poorly managed urbanisation. It further promotes effective management of urbanisation, ensuring that the growing concentration of an economically active population translates into elevated levels of economic activity, enhanced productivity, and accelerated growth, thus transforming cities within South Africa into engines of economic progress (Department: Cooperative Governance and Traditional Affairs, 2016).

4.6 IUDF's four strategic goals

The IUDF introduces 4 overall strategic goals which form part of the key policy priorities for the countries urban agenda, these are discussed next in relation to the work of the MDB.

4.6.1 Spatial integration

Spatial integration has been a central tenet of post-apartheid spatial planning with policies such as densification and compaction of the urban fabric aimed at achieving this goal. Despite repeated emphasis in policies, legislation and plans; the precise definition and purpose of

spatial integration remains elusive (Harrison & Todes, 2013). Spatial integration is viewed as a constructive and progressive approach to addressing the historical fragmentation of traditional structures. It can be facilitated by minimising the cost-of-service delivery, improving connectivity (accessibility), increasing population density (densification) along transportation corridors and economic hubs, and locating human settlements in close proximity to economic opportunities (Fernandez, 2020). Spatial integration is further understood as consisting of four components namely spatial, social, economic and functional; their relationship to one another with the ultimate goal of advancing responsible land management for sustainable development and environmental preservation (Van Schalkwyk, 2012) which are in line with the MDB's vision of reducing spatial injustice, inequality and inefficiency (Municipal Demarcation Board, 2021). There is great interaction between this IUDF goal and demarcation objectives and factors outlined in sections 24(a)(ii), 24(a)(iii), 24(c), 25(a)(i), 25(a)(iii), 25 (a)(v), 25(b) and 25(f) of the Local Government: Municipal Demarcation Act (No. 27 of 1998). Former COGTA Senior Official B stated that the MDB realises the above-mentioned goal through its work by:

Demarcating municipal boundaries in such a way that it strengthens the linkages between your primarily rural and primarily urban spaces. I would say that when you do your work or demarcations, keep those in mind that this [the 4 strategic goals] is what the IUDF seeks to do. For instance, if we talk about spatial integration I'm reminded of a case , I think it was uMhlathuze local municipality, I can't remember the year, being merged with Ntambanana local municipality, which is quite rural, which added about 50% of the population of uMhlathuze and it was largely rural. So, if you are talking about spatial integration the rural areas are disintegrated, they are sparsely laid out and that then directly affects the cost to spatial integration, the settlement pattern of certain municipalities, how services are rendered and the rate base because if they are rural they are not necessarily paying the rates to the municipality.

Spatial integration reflects the degree of opportunities for social and economic interactions between and within regions, serving as a gauge of the willingness to collaborate and cooperate. The Former COGTA Senior Official B, makes a good example of Ntambanana Local Municipality which was disestablished and had its municipal area merged into the City of uMhlathuze Local Municipality, Mthonjaneni Local Municipality and uMfolozi Local

Municipality in 2016. In cases such as these the MDB takes into account the settlement patterns and would need to further take into account the spatial urban interaction, which is the relationship between society and space as well as the well-organised authority (Fernandez, 2020) which facilitates the forging of new spatial forms in settlements, transport, social and economic areas (Department: Cooperative Governance and Traditional Affairs, 2016). The redetermination of municipal boundaries in the past with specific reference to the cases of Malamulele and Vuwani, as well as Tlokwe and Ventersdorp mergers; in an attempt to promote social integration have resulted in violent protests with Vuwani community members refusing to be part of the new municipality (Collins Chabane of which they referred to as a predominantly Tsonga speaking municipality). Concerns over economic insecurity and marginalisation fuelled strong opposition to the merger among Ventersdorp residents, wary of the consequences of a Tlokwe-led administration (Ntswera,2023). The above-mentioned cases highlight some of the challenges the MDB has experienced following the 2016 demarcations of municipal boundaries.

4.6.2 Inclusion and access

Inclusion aims to tackle disparities in access to urban services and inequities in the socio-economic structure of cities by guaranteeing that all individuals have equal access to services and opportunities (Lemaire & Kerr, 2017). Inclusion and access guarantee equitable access to social and economic services, opportunities and choices (Department: Cooperative Governance and Traditional Affairs, 2016). Social cohesion is an integral aspect of inclusion and access, rooted in the concepts of community building, cooperation and fostering social connections among individuals from diverse socio-economic and ethnic backgrounds (Schreiber & Carius, 2016). This often involves incorporating the rights of marginalised or previously excluded groups into planning policies and modifying plans that may exclude these groups to ensure their equitable participation (Lemaire & Kerr, 2017). On how the MDB through its work could realise this goal, Former COGTA Senior Official A said that:

If we talk about inclusion and access sometimes demarcations would affect this, you find now that maybe people now travel longer distances to places of economic opportunities. So, those are the things that as you go about the work of the Demarcation Board, have those in mind, issues of inclusive growth.

Issues of inclusive growth and access are not new to the MDB, as scarcity of resources in Vuwani and Malamulele has in the past exacerbated ethnic tensions among Tsonga and Venda groups, leading to community mobilisation as they compete for access to limited opportunities. To try and tackle these issues when delimiting wards and demarcating municipal boundaries, the MDB takes into consideration the objectives set out in section 24 and the factors in section 25 of the MDA. Section 24 (a)(iii) of the MDA, states that when the MDB determines a municipal boundary its objective must be to establish an area that would promote social and economic development. Section 25 of the MDA states the factors to consider in order to attain the objectives set out in section 24 of the Act, section 25(a) considers the interdependence of people, communities and economies which focuses on the pattern of human settlements, employment, travel movements, spending , infrastructure and linkages. While section 25(b) states the need for cohesive, integrated and unfragmented areas, including metropolitan areas. Ultimately, when the MDB delimits wards and demarcates municipal boundaries, in line with the IUDF, it considers access to basic services and resources and recognises that these serve as a crucial social determinant of well-being, with significant economic and social gains associated with equitable access (Mirzoev et al., 2022).

4.6.3 Inclusive growth

Inclusive growth can be defined as both the speed and pattern of growth (Lee, 2019). It is a sustained economic expansion that fosters opportunities for all segments of the population to participate and share equitably in the economic gains both monetary and non-monetary (Trullén & Galletto, 2018). Inclusive growth can also be seen as a meaningful and enduring urban expansion in output and employment that concurrently fosters improvements in the distribution of income and living standards among individuals. It is a shared responsibility between governments, businesses and citizens. It is crucial to ensure that improvements in living standards benefit all residents, preventing urban strategies from disproportionately disadvantaging the most vulnerable members of society (Trullén & Galletto, 2018). On how the MDB through its work can realise inclusive growth, Former COGTA Senior Official B stated:

For me, it will then be to kind of understand the linkages that happened between the municipalities [when you merge them] for purposes of inclusive growth and inclusion

generally, because if we understand how a certain group of people or economic activities in one municipality link to the other...it will then facilitate that sort of growth without necessarily hindering the growth that is possible considering that you have two different administrative centres.

In line with Former COGTA Senior Official B's statement, before the process of municipal boundary redeterminations begins, feasibility studies of the proposed municipal redeterminations are carried out by the MDB and recommendations are made based on the results of the studies conducted. The studies consider the objectives and factors found in sections 24 and 25 of the MDA which also focuses on issues of financial viability, functional boundaries, socio-economic factors, settlement patterns, and the need to rationalise municipalities. Former COGTA Senior Official A, during an interview made an example of the merger between Mbombela Local Municipality and Umjindi Local Municipality, and said:

Mbombela was one of the municipalities that were earmarked for the intermediate city support grant and part of that program there is an Integrated Urban Development grant that comes with the program. When the merger happened Mbombela was just submitting the application to COGTA for the grant and it couldn't get it because there were issues of audit opinions that did not match...so when demarcating I think look into those because they do affect other positivities.

Merging municipalities is an intricate process that is done for various reasons. Umjindi Local Municipality and Mbombela Local Municipality were merged with the view to optimising the financial viability, improving service delivery and sound municipal governance of the new municipality in line with the IUDF goals and policy levers. The approval of this merger was guided by section 24 and 25 of the MDA and section 2 of the Local Government: Municipal Structures Act (No. 117 of 1998). The Municipal Demarcation Transitional Grant was provided to the municipality to facilitate the integration of systems (Parliamentary Monitoring Group, 2020). However, the merger did not achieve the desired results. When one considers the merger of Mbombela with Umjindi Municipality and the timeframe in which Mbombela Municipality applied for the Integrated Urban Development Grant it is clear that the municipality applying for this grant had not yet waited for a transitional period for the new

municipality to stabilise before applying for this grant. Thus, post-merger municipalities need to be supported and closely monitored by COGTA.

4.6.4 Effective governance

Governance encompasses the decision-making process and the mechanisms by which those decisions are carried out or not. Effective governance aims to maximise the use of resources through the implementation of robust internal control systems (Motubatse et al., 2017). It is further driven by the quality of public administration, serves as a cornerstone for sustainable economic growth and development (Masuku, 2019). It also includes the enhancing of the capacity of the state and its citizens to work together to achieve spatial and social integration (Department: Cooperative Governance and Traditional Affairs, 2016). This goal links to the IUDF's policy lever 8 which states that, effective urban governance requires navigating the intricate web of intergovernmental relations within the city, with national government, provinces, and neighbouring municipalities. Successful urban governance fosters the development of well-functioning, accountable, transparent, and capable institutions that effectively fulfil their mandates and responsibilities. (Department: Cooperative Governance and Traditional Affairs, 2016). The enhancement of capacity of the state, as mentioned earlier on in this paragraph leads to effective governance.

As a result,

The MDB has been doing very good work on its capacity assessments of municipalities...but what I think could still happen in the MDB, you could look at what are the key elements of governance that were identified in the IUDF as being key to ensure so that we attain the objectives of the IUDF and factor them in those that might not have necessarily been part of the indicators that were used previously and bring them in (Former COGTA Senior Official A).

Section 85 of the Local Government: Municipal Structures Act (No.117 of 1998) includes provisions for the MDB to conduct an assessment of municipalities' capacity to carry out their functions. Aligned with these powers, municipalities serve as implementation centres for national plans and aspirations. In line with the above statement by the Former COGTA Senior Official A, municipalities are responsible for the implementation of national plans such as the

IUDF. Consequently, the MDB is entrusted with the responsibility of monitoring municipal capacity to execute these powers and functions and would then need to ensure that these include the IUDF. Thus, the MDB is the only body that is legally enabled to conduct municipal capacity assessments, these capacity assessments are important and assist in identifying where local government has the ability and capacity to deliver on its mandate, thus ensuring effective governance (Municipal Demarcation Board, 2021).

MDB Senior Official:

We [the MDB] delimit wards to ensure that people elect leaders who are accountable to them, and those leaders are sort of in a way used by people to hold that administrative part of the municipality accountable to communities and to ensure that there are systems in place that are there to ensure... that the municipality functions efficiently.

From the above statement it is clear that effective governance also means a municipality that functions efficiently. It encompasses the interplay of people, institutions and financing mechanisms in determining how resources are acquired, produced, utilised and distributed (Australian Agency for International Development, 2011). Furthermore, “the intensive public participation and engagement in demarcation processes has resulted in driving and shaping communities, as they are intrinsically involved in how their spaces are transformed” (Board member of the MDB). During the process of ward delimitations and municipal boundary redeterminations, the MDB always utilises extensive public participation initiatives (these include public consultation meetings) throughout the country before finalising wards and municipal boundaries where citizens in their respective communities are given a chance to be part of the planning process for their desired ward or municipal boundary.

4.7 National Spatial Development Framework (NSDF)

The NSDF was adopted by cabinet in March 2022; it was prepared in accordance with chapter 8 of the NDP which calls for the preparation of a National Spatial Development Framework. While section(5)(3)(a) of SPLUMA provides for and section 13(1) and (2) of the Act mandate the minister to “...after consultation with other organs of state and with the public, compile and publish a national spatial development framework” and review it at least once every five years (Government of South Africa, 2015, p. 17).

4.8 The purpose of the NSDF

The purpose of the NSDF is to establish a central body responsible for overseeing and coordinating infrastructure investment decisions across all national sector departments and state-owned entities (SOEs). This body should have the authority to approve or reject infrastructure projects based on their alignment with the national infrastructure strategy and their potential impact on the economy and society. “We’ve never had an instrument that in a spatial level will coordinate the different plans, policies and programs of government...we have been planning in silos for a long time” (Senior Official C from DALRRD). The NSDF establishes and strengthens intergovernmental coordination mechanisms to facilitate collaboration and information sharing between the three spheres of government and between various sectors (Department of Agriculture, Land Reform and Rural Development, Monitoring and Evaluation, 2022). These mechanisms can help to identify and address cross-cutting issues and ensure that plans, budgets and implementation strategies are aligned. On what the purpose of the NSDF is, the Senior Official D from DALRRD said:

It has been to identify key action areas that the country can take spatially to ensure that it achieves the objectives of the NDP. It is to give effect to development objectives of the National Development Plan in space to ensure that we achieve our 2030 vision.

It also aims to frame, guide and coordinate SDFs of the three spheres of government. In collaboration with relevant stakeholders, including the Department of Forestry, Fisheries and Environment (DFFE) and representatives from coastal provinces and municipalities, the NSDF clearly defines the intersection between spatial planning and marine planning and draws upon and guides marine spatial planning processes and outcomes (Department of Agriculture, Land Reform and Rural Development, Monitoring and Evaluation, 2022).

The objective of the NSDF is to realise the principles set out in SPLUMA, these principles and their realisation through the work of the MDB are discussed as follows:

4.8.1 Spatial Justice

Spatial justice is a concept that examines the relationship between geography and social justice. It focuses on the fair and equitable distribution of socially valued resources and

opportunities across different geographical spaces (Soja, 2012). The NDP 2030 recognises spatial justice as one of its overarching principles for spatial development. This means that the plan aims to create a more just and equitable spatial distribution of resources, opportunities and access to services (Adegeyea & Coetzee, 2018).

Where it's possible, the MDB in considering SPLUMA must try by all means that they don't divide a particular Traditional Council (TC) into two local municipalities because it creates an administrative challenge for a TC and also for municipalities, especially in former homeland areas which are administered by the chiefs (Senior Official C from the DALRRD).

In line with Senior Official C's statement, although the MDB has experienced various challenges of split communities in addressing spatial injustices of the past, when redetermining municipal boundaries the MDB also takes section 25(b) of the MDA into account, which states "the need for cohesive, integrated and unfragmented areas, including metropolitan areas" (Government of South Africa, 1998, p. 23).

South Africa exhibits significant economic disparities, with some municipalities experiencing robust economic growth and relative prosperity while others struggle with limited formal sector activity and persistent poverty. The MDB plays a crucial role in promoting spatial justice and constitutional democracy by ensuring that municipal boundaries and ward delimitation are conducted in a fair, transparent and accountable manner. By creating functional municipalities that can effectively deliver services and represent their communities (Municipal Demarcation Board, 2020). "So, I think, in a way, the MDB integrating different communities also plays some role in achieving spatial justice" (MDB Senior Official). To achieve equitable development, it is imperative to distribute public resources fairly across different regions, prioritising the needs of underserved communities and ensuring that their development is not relegated to an afterthought (Municipal Demarcation Board, 2019).

4.8.2 Spatial Sustainability

Sustainability embodies a development approach that caters to the needs and aspirations of the present generation without compromising the ability of the future generations to fulfil their own. It entails safeguarding environmental quality and preserving ecosystems for the benefit of all (Prasad & Bansal, 2015). It revolves around the harmonious interplay of three interconnected urban subsystems: social, economic and physical. This synergy aligns social well-being with economic development and environmental quality (Brito et al., 2019).

Because you have planned your spaces properly, your communities have access to services and economic opportunities, their situation improves, then they're able to pay for their services then your finances as a municipality becomes sustainable because we have a good revenue base, but you also have communities that can afford to pay for services that a municipality renders (Former COGTA Senior Official D).

Thus, when the MDB redetermines municipal boundaries and when it delimits wards within a municipality the MDB makes sure that these are done in accordance with the MDA sections 24 and 25 which also considers the spatial sustainability of communities and municipalities. The MDB considers the ability of the municipality to adapt, self-sustain and self-generate; it also focuses on the human needs and aspirations within the municipality in the context of sustainable development (Turcu, 2013).

4.8.3 Spatial Resilience

Resilience serves as a framework for understanding how cities can effectively adapt to evolving circumstances and disruptive events. Section 7(d) of the SPLUMA describes the principle of spatial resilience as “flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks” (Government of South Africa, 2015, p. 20). While sustainability and resilience are sometimes used interchangeably, they have distinct meanings. Sustainability is defined as the management of resources to ensure well-being and equity for current and future generation; which should be the overarching goal of development. Resilience, encompassing a broader scope, serves as a means to achieve this goal (Barnes & Nel, 2017). Resilience and sustainability are two synergistic concepts that

work together to support the development of thriving communities. Resilience is the ability of a system to adapt and recover from shocks and stresses, while sustainability focuses on maintaining long-term well-being and environmental balance. When a city or region is highly resilient, it is better equipped to withstand disruptions caused by natural disasters, economic downturns or social unrest. This resilience creates a foundation upon which sustainable development can flourish (Barnes & Nel, 2017). Resilience from an urban planning view centres on the ability of a city, town or settlement to restore the functionality of its population, infrastructure and institutions following a disruptive event (De Weijer, 2013). “How you demarcate has a major impact on the budget of municipality, the IDP, the Spatial Development...” (Senior Official D from the DALRRD). The MDB understands the spatial implications of changing municipal boundaries and aligns to the MDA when making decisions that will have an impact on spatial resilience.

4.8.4 Efficiency

Efficiency as a governing principle emphasises responsible and efficient management of existing resources to minimise environmental impact. It involves the pursuit of innovative approaches to enhance spatial performance management, it also focuses on effective decision making. To ensure that municipalities have a reasonable opportunity to fulfil their constitutional obligations within the boundaries assigned to them, the demarcation process takes careful consideration and assessment of various factors (Bekink, 2006). The MDA plays a central role in safeguarding the efficiency, fairness and procedural integrity of the demarcation process. The MDB through redeterminations of municipalities and ward delimitations promotes efficient commuting patterns and the seamless flow of goods and services by implementing regulatory procedures that do not hinder development unnecessarily (Municipal Demarcation Board, 2019).

4.8.5 Good administration

Good administration promotes coherence, synergy and spatial compatibility across all forms of government spatial planning, budgeting and investment. It fosters maximum participation and active engagement in spatial planning and settlement building, cultivates local economic growth and tax revenue and nurture, expand and deepens social cohesion. It lastly upholds legal compliance, particularly with SDF’s and municipal land use schemes (LUSs), to

safeguard the realisation of social, spatial, ecological and economic benefits stemming from sound spatial planning (Department of Agriculture, Land Reform and Rural Development, Monitoring and Evaluation, 2022). Prior to making any decisions regarding municipal boundary redeterminations, the MDB usually publishes a notice in a relevant local newspaper outlining its intentions and inviting public input in the form of written representations and views. Interested parties are required to submit written representations or views within a specified time frame, which must not be less than 21 days. In addition to publishing the notice, the MDB communicates its intention to redetermine municipal boundary/ies via radio or another suitable means of communication within the affected area. The MDB sends a copy of the notice to relevant stakeholders and once the written representations period has ended and the MDB has considered all representations submitted, it decides on the redetermination. The MDB also conducts public meetings, formal investigations or both before making the final decision to redetermine a municipal boundary. The MDB's municipal redetermination process is in line with the principle of good administration and ensures that procedures incorporate transparent public participation mechanisms that allow all parties affected an opportunity to contribute to the proposed redetermination affecting them (Swanepoel, 2020).

5 CRITICAL AREAS/KEY ISSUES TO BE CONSIDERED FROM THE SPLUMA, IUDF AND NSDF WHEN DOING MDB'S WORK

The demarcation of municipal boundaries remains an integral aspect of the ongoing transformation of local government. While the redetermination of municipal boundaries has not resolved all the challenges faced by municipalities, it has laid a solid foundation upon which other essential processes for transforming and developing local government could take root (Bekink, 2006). On the key issues the MDB should consider from the SPLUMA, Senior Official A from the DALRRD said: The MDB needs to consider the development principles, norms, and standards...the SPLUMA preamble is of significance to the process, read together with your section on the MDA on factors to be considered and its very, very important.

A senior official from DALRRD also expressed similar sentiments and emphasised that the MDB's focus should be on SPLUMA's five principles and their interrelationship with the section 25 criteria in the MDA. All proposals sent to the MDB should, according to this participant, consider these five SPLUMA principles. The SPLUMA does not focus solely on urban areas. Instead, it aims to provide a unified framework for guiding spatial planning and

land use management in the development of human settlements, regardless of whether they are in urban or rural settings (van der Berg, 2017). The MDB fosters constitutional democracy by establishing functional municipalities capable of fulfilling their obligations through the strategic configuration of municipal and ward boundaries (Municipal Demarcation Board, 2021). The MDB achieves the above through considering the objectives and factors set out in section 24 and 25 of the MDA which are also aligned to the SPLUMA principles. On the key issues that the MDB should consider from the IUDF, Former COGTA Senior Official A said:

Just make sure that when you do demarcations you are taking cognisance of what the strategic goals and the policy levers seek to achieve and if you are within those, you should then be fine...ensure that you don't disadvantage the other when you're demarcating and ensure there is access to your economic opportunities, these links are linked in terms of your mobility transport, your issues of settlements, those are taken into consideration, issues of governance.

In line with the above statement the MDB is dedicated to realising the national spatial vision outlined in the NDP, NSDF and IUDF, striving to fundamentally reshape South Africa's spatial legacy by guiding urban development towards a sustainable growth model characterised by compact, interconnected and coordinated cities and towns (Municipal Demarcation Board, 2021). To realise this vision, the MDB has assumed a pivotal and transformative role in integrated transport and mobility, integrated infrastructure, and inclusive economic development, thereby fostering robust linkages between rural and urban spaces (Municipal Demarcation Board, 2023). However, considering the IUDF strategic goals and policy levers when demarcating municipal boundaries and delimiting wards will allow the MDB the opportunity to realise the IUDF vision on a grander scale than it currently does. "At its core the IUDF is an instrument to manage urbanisation and the MDB should consider determining the extent to which demarcation, if any has contributed towards managing urbanisation and what tools it can foster in that respect" (MDB Board member). On the key critical issues, the MDB should consider from the NSDF, Senior Official C from the DALRRD said:

I think a rationalisation of the number of municipalities will probably help...I know it's not as easy as it seems, but we need to get functional planning and look at areas and

traditional areas not as just administrative boundaries. I think if we can get a better understanding of those functional areas and link it to municipal demarcations, we probably will take five steps forward.

Since the advent of democracy, South Africa has witnessed a significant reduction in the number of municipalities. The rationalisation process, initiated in 1996, consolidated the number of municipalities from 1262 to 843. Municipal demarcations were primarily driven by the need to address historical injustices, including spatial inequalities and the legacy of apartheid. By creating non-racial municipal boundaries, these efforts sought to expand access to land and power by previously marginalised communities (Griggs, 1998; Nxumalo & Whittal, 2013). The MDB undertook municipal boundary redeterminations in 2000, culminating in the establishment of 284 municipalities. This was followed by a second wave of redeterminations initiated after 2002 (Ncube & Monnakgotla, 2016). South Africa currently has 257 municipalities, comprising 8 metropolitan municipalities, 44 district municipalities and 205 local municipalities (Municipal Demarcation Board, 2015). Despite the rationalisation of municipalities since the dawn of democracy, past experiences such as the case of the 2011 merger between Kagisano Molopo and the incorporation of Naledi Local Municipality into Mangaung Metropolitan Municipality have proven that amalgamations are not always the effective solution for addressing challenges within municipalities.

6 CONCLUSION

It is clear from this study that within the realm of constitutional democracy, the MDB assumes a critical role in establishing municipalities equipped to function effectively and uphold their constitutional obligations. The MDB plays a pivotal role in ensuring that municipal and ward boundaries are drawn in a way that promotes equity, efficiency and sustainable development. The NDP, NSDF and IUDF provide a framework for the MDB's work by setting out national goals for spatial development. Whereas SPLUMA also provides a framework for spatial planning and land use management. The MDB fulfils its constitutional obligations through the redetermination of municipal boundaries, the delimitation of municipal ward boundaries, the classification of qualifying municipal areas as metropolitan municipalities, the evaluation of municipalities' capacity to fulfil their powers and functions and the provision of advisory services within its defined mandate . (Municipal Demarcation Board, 2015). Therefore, this

study's aim was to assess how the work of the MDB contributes to the realisation of the SPLUMA, IUDF and NSDF objectives and vice versa. The study mainly focused on the SPLUMA, IUDF and NSDF objectives.

The six objectives of SPLUMA were considered, along with how the work of the MDB can realise these objectives. On promoting social and economic inclusion, the MDB is able to realise this objective through conducting public consultation meetings before demarcating municipal boundaries and delimiting wards. The development norms and standards of SPLUMA are in line with section 24 and 25 of the MDA which guides the MDB on objectives and factors to consider when redetermining municipal boundaries and delimiting wards. When delimiting wards, the MDB works closely with planners and geographic information management officials to be guided by them when configuring draft wards, this is followed by public consultation meetings with members of the public in order to provide for the sustainable and efficient use of land. The MDB is able to provide cooperative governance and intergovernmental relations amongst the three spheres of government by conducting capacity assessments of municipalities and through the categorisation of municipalities. In an effort to redress the imbalances of the past, the MDB considers spatial justice principles when demarcating municipal boundaries and delimiting wards.

The IUDF serves as a roadmap for creating inclusive, resilient and liveable urban settlements. The four strategic goals of the IUDF were considered. It was found that as far as spatial integration is concerned, the MDB also considers the settlement patterns and spatial urban interaction when demarcating municipal boundaries. The MDB in line with the IUDF's goal of inclusion and access; considers access to basic services, resources and it recognises that these serve as an important social determinant of well-being with important economic and social gains associated with equitable access. The MDB is able to realise the goal of inclusive growth by always conducting feasibility studies ahead of municipal boundary redeterminations. These studies focus on issues of financial viability, functional boundaries, socio-economic factors, settlement patterns, and the need to rationalise municipalities. The IUDF's goal of effective governance links with the SPLUMA objective of cooperative government and intergovernmental relations amongst the three spheres of government. The MDB realises this objective by conducting municipal capacity assessments which assist in

identifying where municipalities have the ability or lack of thereof, to deliver on their constitutional mandate, thus ensuring effective governance. The MDB also realises this objective through conducting public consultation meetings giving community members a chance to be part of the planning process for their desired ward or municipal boundary.

The objective of the NSDF is to realise the five principles set out in SPLUMA, and these principles are closely linked to those of the IUDF. Spatial justice, in addressing the spatial injustices of the past, the MDB takes section 25 (b) of the MDA into account, which states “the need for cohesive, integrated and unfragmented areas, including metropolitan areas” (Government of South Africa, 1998, p. 23). Through its work, the MDB ensures that there is a harmonious interaction of these three urban subsystems: social, economic and physical which lead to spatial sustainability. During the process of municipal boundary redetermination, the MDB carefully considers the spatial implications of boundary changes and strives to adhere to the principles of the MDA in making decisions that affect spatial resilience. Through municipal boundary redeterminations and ward delimitations the MDB is able to foster efficient commuting patterns, ensure the unhindered flow of goods and services, and minimises unnecessary hurdles to development by implementing well-considered regulatory procedures, thus realising the principle of efficiency. The MDB’s municipal redetermination processes are aligned with the principle of good administration, which ensures that procedures incorporate transparent public participation mechanisms. These mechanisms provide all parties affected by the proposed redeterminations with an opportunity to make their voices heard.

Lastly, on the critical areas/ key issues to be considered from the SPLUMA, IUDF and NSDF when doing MDB work, officials that were interviewed said that the MDB would need to consider all five SPLUMA principles, the SPLUMA objectives and the IUDF goals and policy levers in conjunction with section 25 of the MDA, this will assist in managing urbanisation while the MDB will be able to realise its transformative vision.

7 RECOMMENDATIONS

- a) **Proposed municipal redeterminations/ ward delimitation:** When the applicant for the delimitation of a ward or the redetermination of a municipal boundary is a

municipality, the municipality posing as the applicant should be required by the MDB to provide a business plan with an economic assessment and social assessment specifying how the proposed change will respond to redressing the past apartheid spatial planning. The applicants should also argue their case in terms of the principles of SPLUMA and the goals of the IUDF and how these will be achieved.

- b) **The District Development Model and Consultations:** The consultations that the MDB ought to undertake with various government departments should form part of all stakeholders working together to ensure the success of the District Development Model. This is due to the fact that the DDM entails integration, engagement and consultation.

- c) **Spatial Development Frameworks:** The MDB's involvement in the drafting of municipal spatial development frameworks is feasible given the MDB's capacity challenges. A more feasible approach is one where the MDB would participate in Integrated Development Plan (IDP) reviews while also engaging municipalities at various forums on spatial development issues rather than dealing with each of the country's 257 municipalities.

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APPENDIX

APPENDIX 1: LIST OF INTERVIEW PARTICIPANTS

- a) 2 SPLUMA experts (2 senior officials from the DALRRD)
- b) 2 IUDF experts (2 former COGTA senior officials)
- c) 2 NDSF experts (2 senior officials from the DALRRD)
- d) 1 MDB Board member, 1 MDB Senior official