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To whom it may concern,

RE: NDIFUNA UKWAZI SUBMISSION ON THE DRAFT TABLE BAY DISTRICT PLAN

1. Ndifuna Ukwazi is a non-profit activist organisation and law centre that combines research, organising and litigation in campaigns to advance urban land justice in Cape Town. Our primary mission is to expand and protect access to affordable housing towards building a more just and equal city.
2. On 13 April 2021, the City of Cape Town (“the City”) published its draft District Plans, that seek to translate the City’s Municipal Spatial Development Framework (“MSDF”) into development and infrastructure priorities at sub-metropolitan scale, and invited interested parties to comment and/or object to its plans. The publication of the draft District Plans comes after the City published its draft District Plan Baseline and Analysis Reports in 2020 for public comment. Ndifuna Ukwazi participated in that public participation process by submitting a comment on the draft Table Bay District Plan Baseline and Analysis Reports.¹

¹ See Ndifuna Ukwazi, “Ndifuna Ukwazi Comment on Draft Table Bay District Plan Baseline and Analysis Reports” (31 January 2020).

3. On 1 June 2021 we contacted Nigel Titus, Manager of District Planning at the City of Cape Town's Urban Planning and Design Department, for clarification on the deadline for public comment as we had become aware that both 6 June 2021 and 13 June 2021 had been publicly communicated by the City as the deadline. On the same day Nigel Titus confirmed telephonically and via WhatsApp that the official deadline for comment was 6 June 2021 but due to the fact that the deadline of 13 June 2021 had been communicated publicly (although in error) legally we could submit comments on or before 13 June 2021. We attached to this submission the City's communication which indicated the deadline for comment as 13 June 2021 as Annexure 1 for reference.
4. Ndifuna Ukwazi has read and considered the City's invitation to comment, as well as the Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report and Volume 3 - Implementation Plan, and make this submission to the City in accordance with the invitation to submit written comments.
5. Ndifuna Ukwazi welcomes the commitment to spatial transformation, densification and inward growth outlined in the City's draft Table Bay District Plan. We specifically welcome the identification of key parcels of public land, such as Mowbray Golf Course, for the development of affordable housing. However, are concerns centre around the need to prioritise affordable and social housing at the sub-district level, the lack of mechanisms to combat gentrification, the important public sites that have been omitted (including the Tafelberg site) in the identification of 'new development areas', the need to maximise the portion of affordable and/or social housing on these sites, the lack of detail around inclusionary housing and the need for consistency across the City's approach, spatial plans and policies.
6. In summary, Ndifuna Ukwazi's broad recommendations are for the City to;
 - 6.1. Explicitly include development guidelines that encourage and promote the development of social, affordable and inclusionary housing in the areas that make up sub-district 1.
 - 6.2. Include development guidelines that encourage and promote the development of social housing in all of the other sub-districts, but in particular in the areas of the Foreshore, CBD, Tamboerskloof, Oranjezicht, Gardens and District 6 in sub-district 2.

- 6.3. Include clear spatial interventions, regulatory mechanisms and development guidelines at sub-district level that prevent and combat gentrification (in addition to measures that address the effects of gentrification).
- 6.4. Emphasise as a development guideline in all sub-districts that the development of affordable and/or social housing should be prioritised in any development on suitable public land in the Table Bay District, and that vacant or under-utilised public land should, where-ever possible, should proactively be identified, released and developed to maximise the social and/or affordable housing potential.
- 6.5. Amend the Table Bay District Plan to specifically identify further sites for release and potential development of social and/or affordable housing. This includes the Camps Bay Bowling Club and Glen Country Club in Camps Bay; Heritage Square, Harrington Square and the Buitengracht Corridor in the CBD; the Newmarket Street site in Woodstock; the Green Point Bowling Green site in Green Point; and the Tafelberg site and various pieces of land owned by state-owned enterprises, such as Rocklands Villa, in Sea Point.
- 6.6. Focus on truly maximising the public good and transformative potential of the public land identified for development, through prioritising the highest possible portion of social and affordable housing.
- 6.7. Urgently finalise the inclusionary housing policy and update the relevant draft District Plans (as this will apply beyond the Table Bay District) with the necessary detail to ensure consistency and facilitate clear and efficient decision-making. This includes the spatial detail of the actual overlay zones (visually mapped) where inclusionary housing will be a requirement as well as who these units aim to accommodate, including the affordability of such units.
- 6.8. The public land allocated for 'new urban development' must also be clearly allocated for spatially transformative and environmentally sensitive development on the City's

overarching plan (Municipal Spatial Development Framework), which is currently under review.

- 6.9. When the Municipal Spatial Development Framework is released for public comment, the public should have a further chance to make comments on the District Plans in the same period. The City needs to consider an overall programmatic approach to the use of public land to address spatial apartheid.
7. Please see attached our submission to the City's draft Table Bay District Plan (including some general comments applicable to other district plans).

Yours faithfully,

Ndifuna Ukwazi

(Per: Michael Clark, Researcher and Robyn Park-Ross, Researcher)

[Sent electronically]

NDIFUNA UKWAZI SUBMISSION ON THE DRAFT TABLE BAY DISTRICT PLAN

A. INTRODUCTION

1. As mentioned in our cover letter, Ndifuna Ukwazi is a non-profit activist organisation and law centre that campaigns to advance urban land justice in Cape Town through research, organising and litigation. Our primary mission is to expand, promote and protect access to affordable housing towards building a more just and equal city.
2. Over the last six years Ndifuna Ukwazi has been involved in legal, research and organising work around evictions, relocations, rental housing, the allocation of state-subsidised houses, and the promotion of social, transitional and inclusionary housing. We have been involved in a series of important court cases dealing with land occupations, evictions, the provision of alternative accommodation, and the state's constitutional and legislative obligation to combat spatial apartheid and promote spatial, economic and racial justice and equality through expanding access to affordable housing.
3. It is from this perspective that Ndifuna Ukwazi has considered the City of Cape Town's draft Table Bay District Plan and makes this submission.
4. At the outset, we welcome the vision and spatial development strategies underpinning the draft Table Bay District Plan, which prioritise spatial transformation, densification, diversification of land uses, inward growth and investment, and the creation of an inclusive, integrated and vibrant city. We are particularly encouraged by the draft District Plan's acknowledgement that the "legacy of apartheid town planning continues in the expansion of high density, low quality urban development" and that "redevelopment, rising land values and rising rents and rates have changed the urban fabric, particularly in the CBD and surrounding areas, leading to affordability battles for the areas' historic communities".² We also welcome the draft District Plan's prioritisation of spatial transformation by its designation of the urban inner core as a spatial transformation area and

² City of Cape Town, "Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report" (March 2021), p. 16.

identification of discouraged growth areas, which are specifically included to reverse “the impact of the apartheid spatial planning by creating more opportunities for people in highly connected areas” and “counter the creation of new low-income communities on the periphery of the city and need for the poor to spend a disproportional amount of their income on transport”.³ Ndifuna Ukwazi is strongly in support of measures that ensure greater access to decent, safe and genuinely affordable accommodation for low-income and working-class households in well-located areas of the city.

5. We also welcome the draft District Plan’s emphasis on promoting the realisation of an inclusive, integrated and vibrant city by proactively identifying and unlocking under-utilised public land and infill sites for the development of affordable and social housing. The draft District Plan’s recognition that there “are a number of underutilised publicly owned sites in the District that need to be highlighted as opportunity areas for the transformation of the apartheid city” and that a “considered approach to optimising public land for spatial transformation is needed and will require partnerships across government and the private sector to unlock these opportunities” are particularly well-received.⁴ For years we have called on the state - at all levels - to proactively identify and release under-utilised public land in well-located areas for the development of affordable or social housing as a means to redress spatial apartheid.

6. However, despite the potentially progressive intentions of the City’s draft Table Bay District Plan, we have some concerns about the draft District Plan. Experience has taught us that a progressive commitment alone will not advance spatial justice, and that this must be coupled with detailed plans, the necessary mechanisms, financial commitment and political will. In addition, detailed clarity on the sub-district development guidelines and the identification of specific sites for potential future development of affordable housing is essential to advance spatial justice. It is in this vein that Ndifuna Ukwazi’s submission touches on a number of concerns that we have with the specifics of the Table Bay District Plan.

³ City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report”, p. 22.

⁴ City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report”, p. 29.

7. Our submission is therefore structured as follows:

- 7.1. We raise concerns about the draft District Plan's failure to explicitly prioritise and encourage social, affordable and/or inclusionary housing in the Camps Bay, Clifton, Bantry Bay, Sea Point, Mouille Point and Green Point areas in sub-district 1;
- 7.2. We raise concerns about the lack of measures in the draft District Plan aimed at preventing gentrification;
- 7.3. While we express our support of the draft District Plan's identification of vacant or under-utilised public land as potential new development areas or sites for mixed-income or residential infill development, we urge the City to maximise the development of affordable and/or social housing on these sites. We also raise concerns about the various parcels of under-utilised public land that we believe should have been identified for the development of affordable, social and/or inclusionary housing;
- 7.4. We raise various concerns about the draft District Plan's approach to inclusionary housing;
- 7.5. We raise concerns about the lack of consistency and alignment between the draft District Plan and various other spatial plans and frameworks; and
- 7.6. We make various concluding remarks.

B. PRIORITISING AFFORDABLE AND INCLUSIONARY HOUSING AT SUB-DISTRICT LEVEL

8. The draft Table Bay District Plan sets out detailed development guidelines for each sub-district within the Table Bay District, which aim to provide "policy objectives for the defined areas".⁵ We welcome the inclusion of specific guidelines to "encourage affordable housing provision in relevant private developments in accordance with the inclusionary housing policy" in sub-district 2

⁵ City of Cape Town, "Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report", p. 87.

(especially in the Bo-Kaap and De Waterkant, the Foreshore and CBD, Tamboerskloof, Vredehoek, Gardens and Oranjezicht, District 6); sub-district 3 (especially in Woodstock / Salt River, the Two Rivers Precinct, Observatory, Maitland); and sub-district 4 (especially Wingfield).⁶ We are also encouraged by the inclusion of guidelines at sub-district level that encourage the development of affordable housing in other ways, including “encouraging conversion of functionally obsolete building stock to affordable housing through a combination of UDZ incentives (which use adaptive reuse and restoration of historical buildings)” in the Foreshore, CBD, Tamboerskloof, Vredehoek, Gardens and Oranjezicht areas in sub-district 2; and encouraging affordable housing through a range of UDZ incentives, restructuring zones and social housing in the Woodstock, Salt River, Two Rivers Precinct, Maitland and Ndabeni areas in sub-district 3 and Windemere, Kensington, Arcadia Park and Wingfield areas in sub-district 4.

9. The inclusion of guidelines that expressly promote and encourage the development of affordable housing in these well-located areas is a welcome development that will offer important guidance to decision-makers in the context of land use management decisions and potential developers. We hope that the guidelines that encourage the development of affordable housing will be embraced by decision makers in the spatial planning and land use management sector and lead to meaningful spatial transformation.
10. However, we are deeply concerned that there is no express development guideline encouraging the development of affordable housing in the Camps Bay, Clifton, Bantry Bay, Sea Point, Mouille Point and Green Point areas in sub-district 1. This is a significant omission, particularly given the ongoing struggles by social movements and community-based organisations to have certain parcels of under-utilised public land in these areas released for the development of social and/or affordable housing.
11. Without including development guidelines that expressly encourage the development of affordable, inclusionary and social housing in sub-district 1, the areas that make up this sub-district will remain spatial, racially and economically untransformed for decades to come.

⁶ While the precise language used in the guidelines differs slightly, each of these sub-district areas includes a guideline that promotes or encourages the provision of affordable housing through the inclusion of affordable housing in private residential developments in accordance with the inclusionary housing policy. See, for example, City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report”, p. 102 and 109.

12. The areas that make up this sub-district are well-located. Sea Point and Mouille Point, in particular, are exceptionally well-located. These areas are situated in Cape Town's commercial, retail and leisure heartland where work opportunities in many different sectors abound. The areas include various primary schools and high schools (Sea Point High School, Sea Point primary School and Ellerton Primary School are all easily accessible via public transport), social facilities (including the Sea Point public pool and the Sea Point library), the Sea Point Police Station, and a wide variety of publicly accessible green spaces (including the Sea Point promenade, Green Point Park and Signal Hill). Sea Point and Mouille Point are also located less than 5km away from the Cape Town Central Business District (CBD) and the Cape Town Urban Development Zone, an area within which the City has sought to encourage private-sector led development alongside public sector-led transport facilities. The site is also located within an area that enjoys bus and taxi public transit. Densifying in the Cape Town Urban Development Zone is a critical element to the City's transit oriented development plans and would take advantage of the already established public transit backbone and significant economic activity in the CBD. The prime location of these areas therefore make them ideally suitable for the development of social, affordable and inclusionary housing.

13. There are also various parcels of public land that could be utilised as potential new development areas for social and/or affordable housing in the sub-district, mostly notably the land currently used by the Green Point Bowling Green (which the City itself has committed to utilising for the development of social housing), the Tafelberg site along Main Road and various pieces of land owned by state-owned enterprises such as the Rocklands Villa site.

14. The areas that make up sub-district 1 were also historically reserved for White people. In fact, with the exception of isolated suburbs like the Bo-Kaap and District Six, the Atlantic Seaboard, CBD and its immediate surrounding areas have remained predominantly White since the end of apartheid 27 years ago.

15. Explicitly encouraging the development of social, affordable and inclusionary housing in the areas that make up sub-district 1 could offer a vital opportunity to promote social inclusivity between communities that have historically been segregated as a result of race and/or class. If the City were

to prioritise social, affordable housing or mixed-income housing developments in these areas it could encourage and promote spatial transformation in a meaningful way.

16. Ndifuna Ukwazi also views the City's omission of guidelines that specifically promote the development of social, affordable and/or inclusionary housing in sub-district 1 as a significant missed opportunity to capitalise on the Western Cape High Court's affirmation in *Adonisi and Others v Minister for Transport and Public Works: Western Cape; Minister of Human Settlements and Others v Premier of the Western Cape Province and Others* (the *Adonisi* or *Tafelberg* judgment) that the Sea Point area falls within a restructuring zone for the purposes of the Social Housing Act 16 of 2008.⁷ While the High Court judgment is currently subject to an appeal process, the High Court refused the Western Cape Provincial Government and City's applications for leave to appeal its decision that Sea Point constitutes a restructuring zone⁸ and the judgment offers an important opportunity to the City to implement its commitment to social and affordable housing in the sub-district. The court's declaration enables social housing institutions ("SHIs") and government Departments the opportunity to access financing for the development of social housing in the area.
17. Ndifuna Ukwazi therefore urges the City to explicitly include development guidelines that encourage and promote the development of social, affordable and inclusionary housing in the areas that make up sub-district 1. We further recommend that the City to include development guidelines that encourage and promote the development of social housing in all of the other sub-districts, but in particular in the areas of the Foreshore, CBD, Tamboerskloof, Oranjezicht, Gardens and District 6 in sub-district 2.

C. LACK OF MEASURES TO PREVENT GENTRIFICATION

18. One of the primary drivers of spatial inequality in Cape Town is the City's acute housing affordability crisis – with stubbornly high rents and property prices. The City's failure to regulate

⁷ *Adonisi and Others v Minister for Transport and Public Works: Western Cape and Others; Minister of Human Settlements and Others v Premier of the Western Cape Province and Others*, Judgment, Western Cape High Court (31 August 2020), Case Nos 7908/2017 and 12327/2017, paras 318-360. The judgment is available: <http://www.saflii.org/za/cases/ZAWCHC/2020/87.html>.

⁸ See the Western Cape High Court's decision on the application for leave to appeal: <https://jumpshare.com/v/PFx4FBUpNjqk4EvfS16>.

land and property markets has meant that it has remained inaccessible to most poor and working-class families.

19. The overall vision of the draft Table Bay District Plan identifies the need to address gentrification and the economic processes that drive poor and working-class people to the urban periphery, where they are located far from economic opportunities, livelihoods and social amenities such as schools, healthcare services and other facilities. This is an essential element of the City's plans to promote densification, diversified land uses and inward growth, and prevent urban sprawl. As the draft District Plan states, "redevelopment, rising land values and rising rents and rates have changed the urban fabric, particularly in the CBD and surrounding areas, leading to affordability battles for the areas' historic communities".⁹ The draft District Plan also lists as a key spatial intervention under the spatial development strategy of creating inclusive, integrated and vibrant communities that the City should "[t]ake proactive measures to avoid gentrification / mitigate their effects", before outlining how public sites should be used to develop social housing in the Woodstock, Salt River and Maitland areas.¹⁰
20. However, despite this commitment to spatial interventions that "avoid gentrification", the draft District Plan contains no measures that prevent the phenomenon of gentrification from taking place in at-risk areas of the City. Instead, all of the measures associated with gentrification proposed in the draft District Plan (namely the development of social housing and the promotion of inclusionary housing in key areas), are aimed at addressing *the effects of gentrification*. While these measures are a critically important aspect of addressing the housing affordability crisis the City is facing, it is not sufficient to address the effects of gentrification without also adopting measures to *prevent gentrification* from taking place or spreading in other areas of the City. For example, no mechanisms in the draft District Plans are proposed that regulate the property or housing market within the Table Bay District. The result of this omission is that gentrification will continue largely unchanged.

⁹ City of Cape Town, "Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report", p. 16.

¹⁰ City of Cape Town, "Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report", p. 29.

21. It is not enough for the district Plan to make vague commitments to prevent and address the negative effects of gentrification, these commitments have to be backed up by the inclusion of detailed spatial interventions. These spatial interventions should also be articulated in clear regulatory mechanisms in the development guidelines at sub-district level; in particular sub-districts 1 and 2, where spatial interventions have not only failed to prevent gentrification but have actually been responsible for gentrification taking root.
22. Ndifuna Ukwazi therefore strongly recommends that the City include clear spatial interventions, regulatory mechanisms and development guidelines at sub-district level that prevent and combat gentrification (in addition to measures that address the effects of gentrification). Some examples of possible measures that the City could consider could include rent control measures and utilising special zones in terms of the Spatial Planning Land Use Management Act 16 of 2013 (“SPLUMA”) to develop crafted rules for development and land use in specific areas that are under the threat of gentrification. Mechanisms could also be included within the current Heritage Protection Overlay Zones (as outlined in Chapter 20 Part 1 of the Municipal Planning By-law) that exist in areas under threat of gentrification to provide protections of the living heritage of these areas. Considering that living heritage is embodied by the residents of the area, these protections would need to centre on guarding against evictions and displacement in the way that current criteria centres on protecting elements of the built environment.

D. RECOGNITION THAT PUBLIC LAND HAS THE POTENTIAL TO ADDRESS SPATIAL APARTHEID AND THE IDENTIFICATION OF SPECIFIC PARCELS AS POTENTIAL NEW DEVELOPMENT AREAS

23. As noted above, we welcome the inclusion in the draft Table Bay District Plan as a spatial intervention that “a number of underutilised publicly owned sites in the District ... need to be highlighted as opportunity areas for the transformation of the apartheid city” and that a “considered approach to optimising public land for spatial transformation is needed and will require partnerships across government and the private sector to unlock these opportunities”.¹¹

¹¹ City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report”, p. 29.

24. We also support the inclusion as development guidelines the need to “investigate infill developments on small pockets of publicly-owned land” in the Foreshore, CBD, Tamboerskloof, Oranjezicht, Gardens and Vredehoek areas in sub-district 2; the Maitland area in sub-district 3; and the Windemere, Kensington, Acacia Park and Wingfield Areas in sub-district 4.¹² In various sub-district areas, the draft Table Bay District Plan states that vacant or under-utilised public land should also specifically be identified and investigated for new mixed-use and residential infill developments. The development guidelines at sub-district level also specifically identify key parcels of publicly-owned land as potential new development areas, with affordable housing and inclusionary housing expressly mentioned as important components of these new development areas.
25. The recognition of the importance of public land to combat spatial apartheid is a potentially progressive inclusion to the draft Table Bay District Plan and something that we and our community partners have been calling for for years. For years, the City has consistently blamed spatial injustice on a lack of available well-located land that could be used for social and/or affordable housing.¹³ The City is not wrong when it says that suitable land is scarce in central or well-located areas – it is expensive to buy and will only become more so in the future. It is for this reason that we have campaigned for the City to maximise the vast tracts of land it already owns in well-located areas for the development of affordable and/or social housing, especially as a large proportion is unused or under-utilised given its potential.¹⁴ However, despite the potential that this public land holds, to date the City has disposed of large chunks of the public land it owns by selling or leasing this land to private entities (often without including a condition for social and/or affordable housing to be developed).¹⁵

¹² See, for instance, City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 2 – Draft Technical Report”, pp. 101, 108, 122 and 129.

¹³ See, for example, P Grobbelaar, “Cape Town hurts housing”, *Property 24* (6 July 2011).

¹⁴ According to the City’s own policies it owns 87 000 pieces of land, and while not all of that land is not well-located or suited for the development of affordable housing, much of that land will be well-located and suited for housing development. See City of Cape Town, “Management of Certain of the City of Cape Town’s Immovable Property Policy” (26 August 2010), Ref No C54/08/10, cl. 5.2. See also, generally, Ndifuna Ukwazi, *City Leases*, p. 1.

¹⁵ See N Budlender, J Sendin and J Rossouw, *City Leases: Cape Town’s Failure to Redistribute Land*, Ndifuna Ukwazi Research Report (2019), available at: <https://www.dropbox.com/s/c524q5x89yrucc/Ndifuna%20Ukwazi%20%28NU%29%20City-Leases-Cape-Towns-Failure-to-Redistribute-Land.pdf?dl=0>.

26. We are therefore strongly in support of the City's acknowledgement that vacant or under-utilised public land should be identified and investigated for the mixed income and residential infill developments. However, we urge the City to emphasise as a development guideline in all sub-districts that the development of affordable and/or social housing should be prioritised in any development on suitable public land in the Table Bay District, and that vacant or under-utilised public land should, where-ever possible, maximise the social and/or affordable housing that could be developed. By unlocking and releasing well-located state land for the development of social and/or affordable housing, the City has the potential to alleviate the housing affordability crisis and reverse the City's apartheid legacy.¹⁶
27. We also encourage the City to embrace the 'social value' of public land, and adopt a more transparent and socially orientated approach to the portfolio of state assets. This is in line with the recommendations to alleviate poverty and inequality in the context of urban land rights issued by the High Level Panel on the Assessment of Key Legislation and Acceleration of Fundamental Change and the Mandela Initiative.¹⁷
28. Ndifuna Ukwazi also welcomes and supports the draft District Plan's identification of specific parcels of public land as potential new development areas where mixed-income or affordable housing developments will be prioritised. These include the King David Mowbray Golf Course (which we have previously identified as a potential site for the mixed-income development with a significant component of social and/or affordable housing)¹⁸ and the Wingfield site (which we, along with various other civil society organisations, have identified as an important site for the development of social and/or affordable housing).¹⁹

¹⁶ See Ndifuna Ukwazi, *City Leases*. See also M Clark, "Cape Town's course of injustice: Subsidising the rich to exclude the poor", *Daily Maverick* (28 January 2020).

¹⁷ See High Level Panel, *Report of the High Level Panel*; and M Clark and LR Circolia, "Informalisation, Urban Poverty and Spatial Inequality", Mandela Initiative Brief (2018).

¹⁸ See, for example, Ndifuna Ukwazi, "City of Cape Town abandons public participation process for King David Mowbray Golf Course Lease Renewal", Ndifuna Ukwazi Press Release (20 August 2020), available at: <https://jmp.sh/KHwS8Dj>.

¹⁹ See, for example, the joint submission prepared for the Presidency, the National Coronavirus Command Council and the Ministers of Public Works and Infrastructure, Human Settlements, Water and Sanitation, and Defence by a group of civil society organisations calling for the release of three under-utilised parcels of military land, namely Ysterplaat, Wingfield and Youngsfield, available: <https://jmp.sh/n82iYvK>.

Additional public land to be leveraged for spatial transformation

29. However, we are concerned that other parcels of vacant and under-utilised public land in the District with enormous potential for the development of social and/or affordable housing were not explicitly identified as potential new development areas in the draft Table Bay District Plan. These well-located parcels of public land that we believe should be utilised for the development of social and/or affordable housing include the Camps Bay Bowling Club and Glen Country Club in Camps Bay; Heritage Square, Harrington Square and the Buitengracht Corridor in the CBD; the Newmarket Street site in Woodstock; the Green Point Bowling Green site in Green Point; and the Tafelberg site and various pieces of land owned by state-owned enterprises, such as Rocklands Villa, in Sea Point.
30. The failure to explicitly identify these strategically located sites of public land for the development of affordable housing in the development guidelines at sub-district level constitute a significant missed opportunity to signal to the decision-makers responsible for spatial planning and land use management that well-located public land should meaningfully contribute to spatial transformation and social, economic and racial inclusion.
31. Ndifuna Ukwazi therefore recommends that the draft District Plan be amended to specifically identify these sites for release and potential development of social and/or affordable housing, and include as a development guideline for each sub-district that public land that is suitable for the development of social and/or affordable housing in each sub-district should proactively be identified, released and developed.

The need to maximise the transformative potential of the public land identified

32. We are also deeply concerned that the City indicates that a feasibility study must be developed for the mixed-use development of the Mowbray Golf Course which looks only at 30% affordable or social housing. To preempt a study of what is feasible on the land with such a low portion of affordable housing is self-defeating, especially when compared with the Province's Conradie Better Living model which constitutes 50% affordable and social housing. The City needs to focus on truly

maximising the public good of this land through prioritising the highest possible portion of social and affordable housing.

33. In addition there is a concerning lack of clarity around affordable nature some of the projects identified that needs to be rectified, For instance, the development outlining of the Foreshore Freeway project is vague in the nature of the “high-density mixed-use TOD infill development”²⁰ in terms of who this will serve and who will actually be able to live in the homes developed. The District Plan must embed principles that prioritise the maximisation of affordable housing in the development of all public land, including infill development in the Foreshore Freeway project.

Inconsistency in Implementation Plan

34. Concerningly, many of the public sites identified for ‘new urban development’ as well as existing affordable housing projects and commitments have been omitted from the Provincial and City-level Housing Pipelines. The “Provincial project pipeline for Table Bay” lists only the Joe Slovo and Conradie projects, making no reference to the Founders Garden project or the development of the Tafelberg site for affordable housing. The “City of Cape Town Project Pipeline for Table Bay district” does not include any of the 11 sites from the Woodstock, Salt River and inner city affordable housing prospectus, the Mowbray Golf Course, Wingsfield or any other project in the inner-city and surrounds.²¹ Without including these intentions or projects in the Implementation Plan, and specifically in the Housing Pipelines, the City can never expect to see their spatial vision realised.

E. INCLUSIONARY HOUSING

35. Inclusionary housing is outlined as a proposed mechanism which can be approved in 1-2 years under the development incentives outlined in the Implementation Plan. It is outlined as “...a government-driven program to promote mixed-income housing delivery through regulations and/or

²⁰ City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 3 – Implementation Plan”, pp. 31.

²¹ City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 3 – Implementation Plan”, pp. 10.

incentives that require or encourage property developers to include a proportion of housing units for low and moderate-income households.”²²

36. Despite the current drafting of an inclusionary housing policy for Cape Town, the District Plan currently lacks the necessary detail to make inclusionary housing a reality in Cape Town, and specifically to guide the decision makers on land use applications (primarily the Municipal Planning Tribunal).
37. As an example of the lack of clarity, the Implementation Plan outlines ‘Development Incentives’ as an ‘Implementation mechanism’ but completely omits any reference to how incentives such as fast-tracking, up-zoning and density bonuses will be necessary to leverage fair and feasible inclusionary housing contributions from private developers. The District Plan describes these incentives as follows; “Development incentive mechanisms aim to stimulate private sector development and leverage public investment. They are designed to change the behaviour of agents of the development process or influence their decisions in order to achieve specific outcomes. Incentives must be restricted to agents who meet given criteria, such as locating in a TOD precinct and meeting the desired form and composition of land use. Standard incentive packages can involve financial rewards such as discounts, leveraging of city’s property assets, rebates, tax holidays and subsidies or they may involve non-financial inducements in the form of exemptions from certain regulation or reporting standards.”²³ This includes no reference to the criteria for the inclusionary housing. This is deeply concerning as inclusionary housing should be one of the primary applications of these types of development incentives. This type of omission could cause serious fragmentation with the incoming inclusionary housing and is the type of inconsistency that could undermine the effective implementation of inclusionary housing.
38. The Implementation Plan outlines that the Land Assembly Strategy must indicate “identified areas to apply inclusionary housing policies”²⁴ and that inclusionary housing requirements would apply “[i]n areas with appropriate public education, health, social facilities, and near employment

²² City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 3 – Implementation Plan”, pp. 40.

²³ City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 3 – Implementation Plan”, pp. 34.

²⁴ City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 3 – Implementation Plan”, pp. 9.

opportunities,” while “[i]n the rest of the City, an inclusionary housing requirement will be triggered when new rights are granted over a certain threshold (still to be determined).” This is entirely insufficient detail for a plan that will guide private development and the decisions around this for the next 10 years. The City must urgently finalise the inclusionary housing policy and update the relevant draft District Plans (as this will apply beyond the Table Bay District) with the necessary detail to ensure consistency and facilitate clear and efficient decision-making. This includes the spatial detail of the actual overlay zones (visually mapped) where inclusionary housing will be a requirement as well as who these units aim to accommodate, including the affordability of such units.

F. CONSISTENCY ACROSS CITY PLANS AND APPROACH

39. The Implementation Plan notes that “[o]ne of the biggest obstacles to implementing spatial planning policy is misalignment between policy, regulation and public investment prioritisation causing uncertainty to both external public and private sector stakeholders.”²⁵ In order for the transformative vision of the District Plans to be realised, it is essential that there is consistency across the City’s approach, including across spatial plans and policies. This submission has already highlighted the need for consistency between the District Plans and the City’s incoming Inclusionary Housing Policy (in the process of being drafted) but we note below additional consistency needed.
40. In order to achieve the alignment across City plans that is needed to realise the progressive intentions of the District Plans, the public land allocated for ‘new urban development’ must also be clearly allocated for spatially transformative and environmentally sensitive development on the City’s overarching plan (Municipal Spatial Development Framework), which is currently under review. It is for this reason that we also submit that when the Municipal Spatial Development Framework is released for public comment, that the public has a chance to make further comments on the District Plans in the same period. Allowing public participation on the full suite of City plans, at both the municipal and district level, will reduce fragmentation and increase the consistency needed across the plans to ensure swift implementation.

²⁵ City of Cape Town, “Table Bay Integrated District Spatial Development Framework and Environmental Management Framework: Volume 3 – Implementation Plan”, pp. 1.

41. We also note that an ad-hoc site-by-site method is not sufficient, and the City needs to consider an overall programmatic approach to the use of public land to address spatial apartheid. Currently, it is unclear whether the identification of these golf courses and a few other public sites is part of a broader plan for the rationalisation of all well-located public land (as envisioned by the Human Settlement Strategy). Here we reiterate the recommendations made in Ndifuna Ukwazi's leases report that would contribute to the necessary programmatic approach:²⁶
- 41.1. The City of Cape Town must establish or delegate a co-ordinated department responsible for land management with clear powers and responsibilities to proactively manage all its public land, ensure that it meets its broad obligations to redistribute land and balance the competing interests of different departments who need access to land. The City of Cape Town needs additional capacity to rezone, derisk, package and tender land parcels for affordable housing.
 - 41.2. The City of Cape Town should immediately review its largest and most well-located parcels of leased public land, proactively rezone them, negotiate the end of leases, and decline to renew leases where the land is needed for housing.
 - 41.3. Land should be tendered at a nominal fee to social housing companies or private companies who can develop the greatest proportion of affordable housing for families earning between R3,500 and R18,000 per month; and ensure homes are affordable to rent or buy in perpetuity.
 - 41.4. Cross-subsidisation with market rate homes, offices or shops will be required and should be encouraged to ensure that development is feasible and managed sustainably.
 - 41.5. Officials employed in finance and asset management should not be the gatekeepers to decision making on the purchase, use and disposal of public land and National Treasury should urgently clarify how officials should interpret the MFMA to ensure that it is not used to frustrate the redistribution of public land.

²⁶ Ndifuna Ukwazi, *City Leases* (2019)

- 41.6. Communities are currently unable to compel the City of Cape Town to review its land use decisions. Public participation on leases and disposals is ignored. This could include new legislation which obliges the government to review and rationalise its underused public land for redistribution. The onus should be on the City of Cape Town to defend why the status quo should continue and land should not be redistributed. Where the City of Cape Town makes poor land use choices, other spheres of government should be prepared to expropriate the land and develop it for affordable housing.

G. CONCLUSION

42. Ndifuna Ukwazi welcomes the commitment to spatial transformation, densification and inward growth outlined in the City's draft Table Bay District Plan. We specifically welcome the identification of key parcels of public land, such as Mowbray Golf Course, for the development of affordable housing. However, are concerns centre around the need to prioritise affordable and social housing at the sub-district level, the lack of mechanisms to combat gentrification, the important public sites that have been omitted (including the Tafelberg site) in the identification of 'new development areas', the need to maximise the portion of affordable and/or social housing on these sites, the lack of detail around inclusionary housing and the need for consistency across the City's approach, spatial plans and policies.
43. In summary, Ndifuna Ukwazi's broad recommendations are for the City to;
- 43.1. Explicitly include development guidelines that encourage and promote the development of social, affordable and inclusionary housing in the areas that make up sub-district 1.
- 43.2. Include development guidelines that encourage and promote the development of social housing in all of the other sub-districts, but in particular in the areas of the Foreshore, CBD, Tamboerskloof, Oranjezicht, Gardens and District 6 in sub-district 2.

- 43.3. Include clear spatial interventions, regulatory mechanisms and development guidelines at sub-district level that prevent and combat gentrification (in addition to measures that address the effects of gentrification).
- 43.4. Emphasise as a development guideline in all sub-districts that the development of affordable and/or social housing should be prioritised in any development on suitable public land in the Table Bay District, and that vacant or under-utilised public land should, where-ever possible, should proactively be identified, released and developed to maximise the social and/or affordable housing potential.
- 43.5. Amend the Table Bay District Plan to specifically identify further sites for release and potential development of social and/or affordable housing. This includes the Camps Bay Bowling Club and Glen Country Club in Camps Bay; Heritage Square, Harrington Square and the Buitengracht Corridor in the CBD; the Newmarket Street site in Woodstock; the Green Point Bowling Green site in Green Point; and the Tafelberg site and various pieces of land owned by state-owned enterprises, such as Rocklands Villa, in Sea Point.
- 43.6. Focus on truly maximising the public good and transformative potential of the public land identified for development, through prioritising the highest possible portion of social and affordable housing.
- 43.7. Urgently finalise the inclusionary housing policy and update the relevant draft District Plans (as this will apply beyond the Table Bay District) with the necessary detail to ensure consistency and facilitate clear and efficient decision-making. This includes the spatial detail of the actual overlay zones (visually mapped) where inclusionary housing will be a requirement as well as who these units aim to accommodate, including the affordability of such units.
- 43.8. The public land allocated for 'new urban development' must also be clearly allocated for spatially transformative and environmentally sensitive development on the City's

overarching plan (Municipal Spatial Development Framework), which is currently under review.

- 43.9. When the Municipal Spatial Development Framework is released for public comment, the public should have a further chance to make comments on the District Plans in the same period. The City needs to consider an overall programmatic approach to the use of public land to address spatial apartheid.

Yours faithfully,

Ndifuna Ukwazi

(Per: Michael Clark, Researcher and Robyn Park-Ross, Researcher)