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Possibilities for a Hybrid Approach to Planning and Governance at the Interface of the Administrative and Traditional Authority Systems in Durban

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Abstract

This paper focuses on the planning implications of a dual governance system in Durban, where just over a third of municipal land is under the governance of both the traditional authority and the eThekwini Municipality. These challenges are common in many African cities where western administrative governance and planning systems overlay traditional systems. Under traditional governance, access to land, economic opportunities and "rural lifestyles" have resulted in the rapid densification of large areas of the periphery of Durban. Here, local traditional leaders allocate land based on the traditional land tenure system. eThekwini Municipality is mandated to provide services and facilities to all its residents, to develop spatial development plans and land use schemes, and to protect its ecological infrastructure. However, in traditional authority areas, the municipality struggles to fulfil these mandates, as it does not have control over land allocation and management. This paper reflects on the learning process that is taking place as the municipality begins to shift its approach to planning to address the complexities of planning in dual governance areas. The paper argues that new hybrid forms of governance and planning can help to address these challenges and ensure sustainable development in areas under dual governance.

Keywords Urban planning · Dual governance · Traditional governance · Hybrid planning

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Introduction

Despite the contestations around what planning means and what it aims to achieve, Bhan et al. (2018, p 1) argue that it contains one clear thread: "that it is possible and desirable to initiate and direct processes of change towards goals such as social and spatial justice and sustainability". However, well-established systems and norms of planning are being challenged by increasing uncertainty, as well as social and environmental change. Society is facing critical global and local choices around social justice (particularly in relation to poverty and inequality), forms of economic growth and the environmental health of the planet. Land, and hence planning, is fundamental in these choices. In some places, planning is being re-imagined and reconceptualised, to respond to changing contexts and challenges. However, institutional inertia is ever present, with powerful actors preserving the status quo, resulting in "global best practice" systems of planning remaining dominant.

In South Africa, the Spatial Planning and Land Use Management Act (SPLUMA) (2013) is the overarching legal framework for planning policy, spatial planning and land use management in South Africa. SPLUMA supports a planning system based on spatial plans and land use schemes, reflecting the normative principles of northern systems of planning (Nel 2015). This legislation is the outcome of significant learning opportunities, as the early post-apartheid era enabled planners to question the values, nature and purpose of planning; its role and scope in particular contexts; planning's relationship to changing governance structures; and the tools, practices and processes that should be employed to transform South Africa's spatial landscape (Harrison et al. 2008). SPLUMA is administered in a somewhat complex land environment reflecting past and current political imperatives and social realities. Land is owned by the state, private individuals or organisations; it is held in trust by traditional authorities; and it is occupied by those who claim "the right to land" outside of formal processes, including informal settlers.

Planning is further complicated in South Africa by the presence of dual systems of land governance. The Traditional Leadership and Governance Framework Act 42 of 2003 (Amended Act 23 of 2009) (TLGFA) guides the allocation and use of land in traditional authority areas. The TLGFA provides for the establishment of traditional councils (TCs) and the recognition of traditional communities and traditional leaders, a critical element of the negotiations for the new political dispensation in South Africa, post 1994. This Act has particular relevance in KwaZulu-Natal, as 32% of the province's land is under traditional governance. The Ingonyama Trust (IT) was established in 1994, with its sole trustee, the Zulu monarch, King Goodwill Zwelithini. Legally, IT land is state land.[1] While much of this land is located in rural areas of the province, through the national municipal demarcation process in 2000, large areas of IT land were combined with urban areas to create wall-to-wall municipalities, to address development and resource inequalities between rural and urban areas. Through this process, the then Durban Metropolitan Area expanded by 68% to form the eThekwini Municipality, the administrative entity of Durban, incorporating IT areas. This resulted in 38% of the municipality's land area falling under the administration of both the IT, with its traditional councils, and eThekwini Municipality.

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[1] As determined by the Supreme Court of Appeal in *Ingonyama Trust v eThekwini Municipality (149/2011) [2012] ZASCA 104 (1 June 2012)*.

In November 2017, South Africa's High Level Panel on the Assessment of Legislation and the Acceleration of Fundamental Change, chaired by Kgalema Motlanthe, published its report on the contribution of post-apartheid legislation to the ongoing socio-economic transformation of South Africa. Two of the recommendations of the report were that the TLGFA should be amended to protect land rights and ensure accountability in the allocation and administration of land, and that the entrenchment of the spatial geography of apartheid, through the tribal boundaries as defined by Section 28 of the TLGFA, be addressed (Parliament of South Africa 2017). The Motlanthe report has resulted in intense political debate about the power, role and rights of the IT. It is perceived by King Zwelithini as a direct challenge to the rights of the Zulu nation, with the King and the Ingonyama Trust Board (ITB) declaring "'hands off' to anyone who assumes they have a mandate to investigate what is happening to people's land rights, or how the Trust spends its money" (Claasens 2018, p 1).

The planning complexities around, and contestations over land that is "owned" and administered by the IT, but which is also under the governance of a municipal authority, have been evident in Durban since the formation of the eThekwini Municipality. This paper analyses the approaches being developed in municipal planning to address the challenges of this dual governance system and the social learning that is taking place. This is a common challenge in many African cities, and hence this paper contributes to knowledge on the development of hybrid planning systems in contexts of dual governance (Njoh 2017; Emankhu and Ubangari 2015; Gough and Yankson 2000). It suggests that in the current context, a hybrid form of planning that draws on both mainstream "western" and traditional systems of planning may lead to greater resilience and sustainability of the peripheries of cities, where dual governance systems are usually in place. Hybridity does not simply mean the mixing of two systems; it also refers to culture as a process of contestation in linguistic studies. Here language can contain two belief systems, revealing the power of one voice over another or the emergence of multi-vocal narratives, or to post-colonial reflections of an emerging third space, which, although critiqued, reveals cross cultural exchange or transcultural forms (Ashcroft et al. 2007).

Planning in the Global South

Planning initiates and directs processes of change and therefore has normative outcomes. When these outcomes are not achieved, this is perceived as planning as "failure" and planning as "exception" (Mitra 2018). However, as Mitra (2018) reveals in her analysis of planning in Kolkata and Hyderabad in India, planning needs to be reconceptualised so as to break away from "static imaginations of territorial state power and absolute spatial control, embedded in planning instruments such as master plans" (Mitra 2018, p 79). Planning needs to be considered in terms of new uneven geographies, new scales, new actors, new negotiations and imperatives, which are emerging as the powers of the state, and the formal processes or ways of doing things are disrupted (Mitra 2018). When new approaches are adopted, planning becomes a relational practice, shaped by a diverse array of actors, rationalities, discourses and interests. This leads to emergent competencies amongst planners as they learn from new settings, thereby challenging mainstream approaches to creating spatial order. Mitra (2018, p 88)

supports a relational approach to planning as she argues that "producing more equitable urban spaces requires higher levels of dynamism in planning processes" and greater negotiation to reduce the colonisation of planning by powerful interest groups.

These shifts in planning are only possible where "learning from and within the city" through grounded experience takes place (McFarlane 2018; Myers 2011; Mbembe and Nuttall 2004). Planners need to both know the city and "unknow" familiar practices to enable new approaches to planning to emerge (Pile 2001; Roy 2009). More collaborative and socially and ecologically just forms of planning are enabled where there is committed dialogue between different actors, including policy makers, planners, researchers, civil society groups and ordinary citizens, producing a new pedagogy of the city through different forms of urban knowledge (McFarlane 2018; Marcuse 2009). This paper reflects on the approaches that are emerging in Durban in areas where the system of planning does not conform to normative principles and practices or mainstream planning ideals. Here, learning is occurring through "practical immersion in urban space-times" (McFarlane 2018, p 325), which reflects the entanglement of modernity and tradition. Formal planning processes are unravelling in the complexity and heterogeneity of the city and new approaches to planning are being created in incremental ways, as this paper will show.

Traces of colonial influence are found everywhere in planning as normative planning principles and practices have evolved and been translated from the north to the south (Bhan et al. 2018). Bhan et al's (2018) edited volume *The Routledge Companion to Planning in the Global South*, along with Parnell and Oldfield's (2017) compilation *The Routledge Handbook of Cities of the Global South*, provide critical and rich accounts of new theory and forms of urbanism and planning in the global south. However, these volumes do not address the case where two systems of formal governance overlap, producing the urban and planning controversies that are evident and so critical in Durban, and many other African cities. This paper seeks to address this gap. It reveals how urban citizens across different socio-economic groups act as agents of change, deftly navigating a dual governance system that opens up opportunities for "city building from below". Within this dual governance system, the local state delivers infrastructure and services in response to the land allocation processes of the traditional authority and the creative urbanism of ordinary citizens, usually on the spatial peripheries of cities. However, it also raises significant challenges for planning and urban management, as well as opportunities for new ways of thinking about planning (Sim and Sutherland 2017; Sim et al. 2016).

Methodology

Researchers from the School of Built Environment and Development Studies, University of KwaZulu-Natal (UKZN) (including all the authors of this paper), conducted research on water governance, megaprojects, sub-standard housing and spatial knowledge production in Durban as part of an EU 7th Framework research programme, Chance2Sustain (2010 to 2014). This research revealed the rapid transformation taking place in the periphery of eThekwini Municipality and the need to explore the planning instruments employed and forms of governance in place where land is administered by both the municipal and traditional authorities (Sutherland et al.
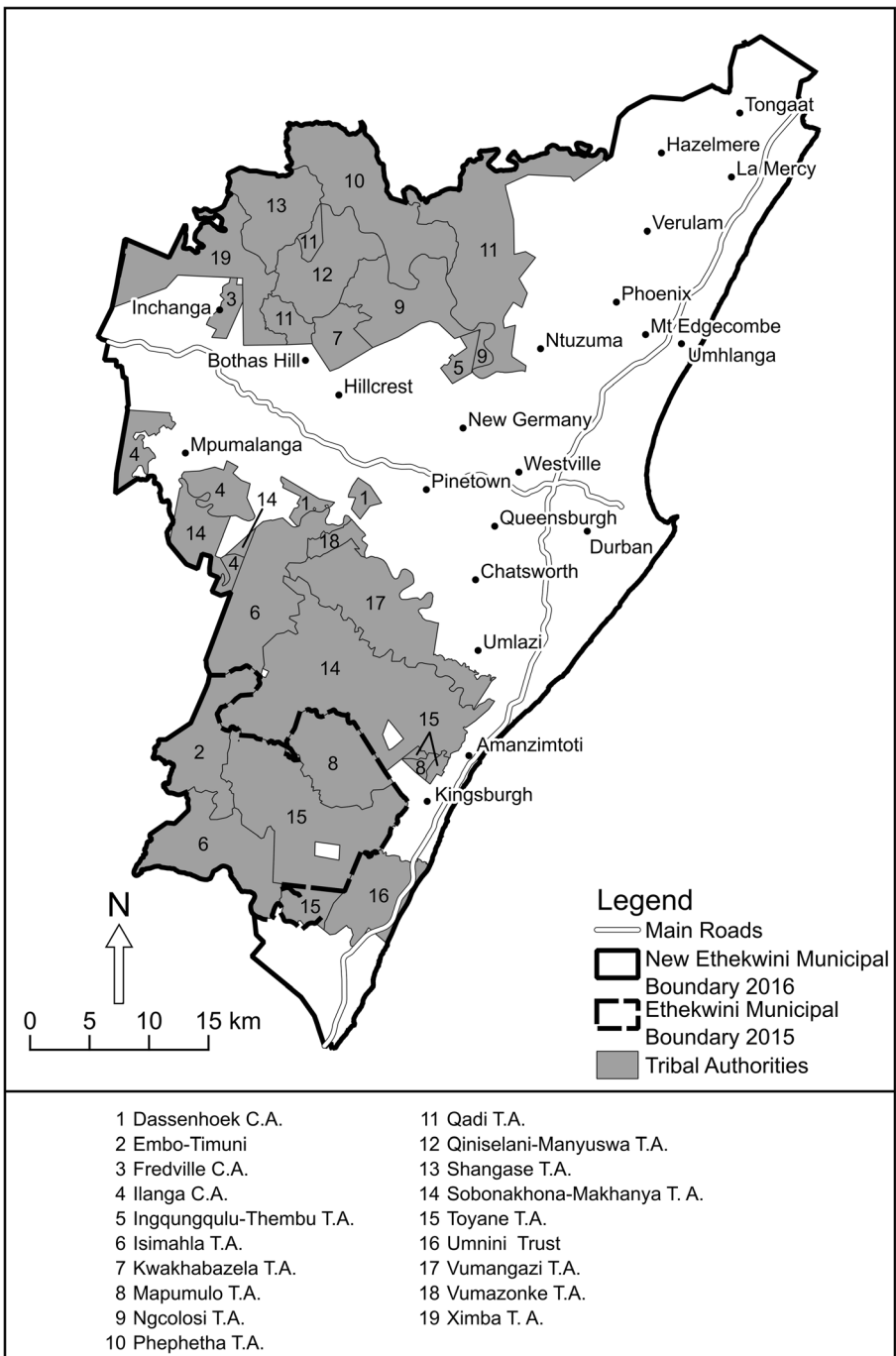
Fig. 1 Traditional council areas in the eThekwini Municipality (source: eThekwini Municipality, 2017a). The legend of this map still uses the old apartheid term of Tribal Authorities when referring to the Traditional Councils as per the TLGFA
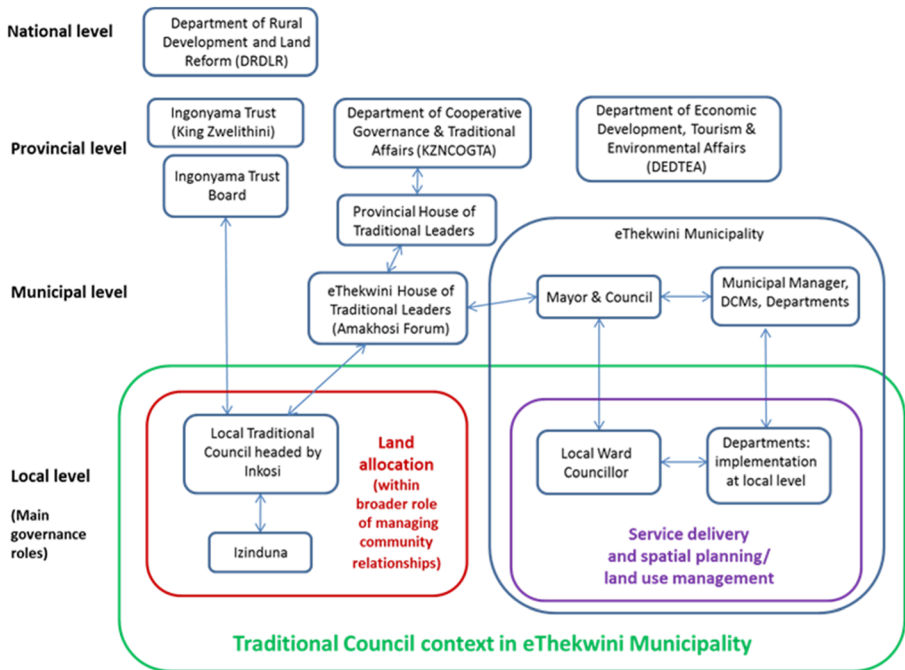
Fig. 2 Governance stakeholders in eThekwini Municipality (Sim and Sutherland 2017: 3)

2014; Sim et al. 2016). This research continued through the South Africa-Norway Research Co-operation on Climate Change (SANCOOP) Climways project (2014–2017) which focused on the convergence of water and climate governance in Durban. Here, the shifting socio-ecological relations in the rural periphery of the municipality were explored in the Qadi TC (Sutherland et al. 2016). These research processes revealed the need to identify and document land allocation, management and planning practices occurring in areas of dual governance. Research was conducted using a range of research methods including document analysis, interviews with municipal and provincial government officials including planners, the ITB, the Qadi TC and planning consultants, and participatory engagement in action research. This paper draws on this research, suggesting possibilities for a hybrid planning system in spaces under dual governance.

The eThekwini Municipality's Dual Governance System

The eThekwini Municipality governs the rural periphery of the city with the ITB and 18 TCs, each with their own *inkosi* and *izinduna*[2] (Fig. 1). Other provincial departments also govern this space, including the KwaZulu-Natal provincial government's Department of Cooperative Governance and Traditional Affairs (KZNCOGTA), which oversees and supports traditional governance structures in accordance with legislation, and the

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[2] An *inkosi* is a traditional leader of his tribe under the Zulu King. It is a birth right. An *induna* is a headman who is selected by the *inkosi* to govern a neighbourhood within the traditional authority area.
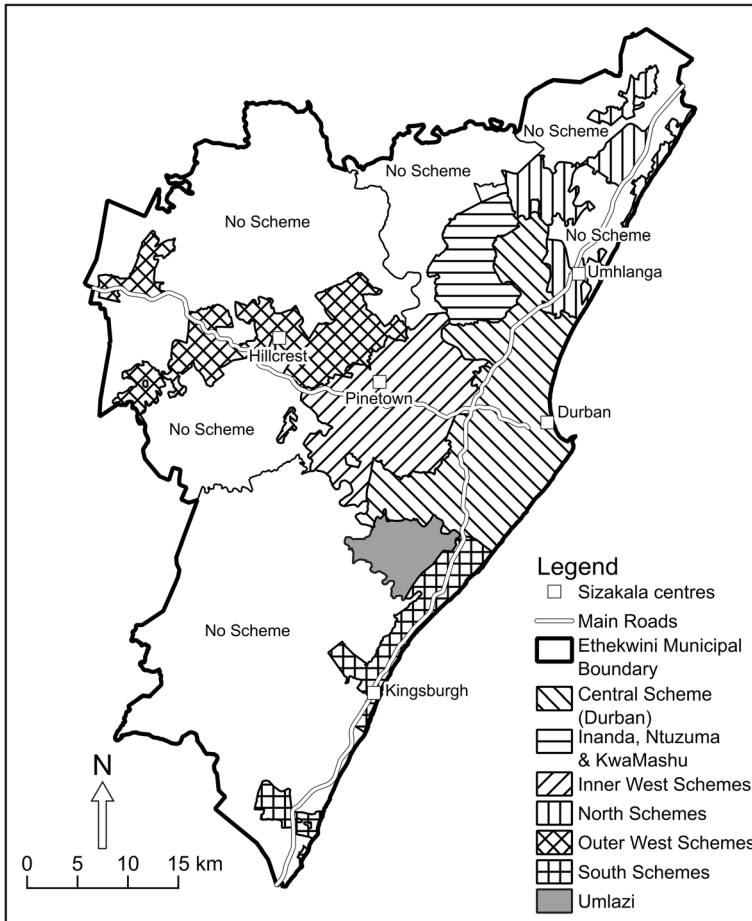
Fig. 3 eThekwini Municipality schemes coverage (source: eThekwini Municipality 2013 cited in World Bank Group 2016)

Department of Economic Development, Tourism and Environmental Affairs (DEDTEA) that provides guidance on social, economic and environmental development (Fig. 2).

Customary law, upheld in Chapter 12 of the South African Constitution, governs the traditional system. Land is allocated by TCs to individuals for their use, predominantly for residential and subsistence purposes, without a transfer of ownership. Ownership of land remains vested in the state. Land allocation is predominantly an oral process whereby an individual makes application for land to the relevant TC through the local *induna*, with the final boundaries witnessed by neighbours (Sutherland et al. 2016). Although the process, principles and "rules" for land allocation are markedly similar across traditional communities in the province, this "living law of the land" (Cousins et al. 2010: 30) is fluid, flexible and contextual, with practices dependent on varying local conditions, relationships and histories (Cousins et al. 2010; KZNPDC 2010a). Apart from recording land allocations in a register, there is no technical record of land allocations such as land survey cadastre or any form of mapping. Residents are issued with a receipt from the TC, which certifies their right to occupy the land.

In contrast, the municipal land use management system is based on freehold land ownership underpinned by Roman Dutch law, a legal land registration system, and supported by a complex technical planning system to manage where and how land development takes place. As outlined in the Constitution and in SPLUMA, spatial planning is a municipal competency. The municipality has developed a hierarchy of plans to guide land use in the city, including the municipal Spatial Development Framework, regional Spatial Development Plans, different types of local level plans and land use schemes. SPLUMA requires that by 1 July 2020, all municipalities must have prepared "wall-to-wall" land use schemes for the management of land use across the full extent of their areas, including IT land. Schemes consist of land use zoning maps and associated guidelines to direct what type of development is permitted in specific land use zones.

The municipality has encountered a number of legal, technical, political and governance challenges in the preparation of land use schemes for TC areas (eThekwini Municipality, 2016a), and hence land use schemes have not been extended into the periphery of the city, as shown in Fig. 3.

Land Use Management Challenges in the Dual Governance Space

Following the incorporation of IT land into the municipal area, the municipality set up the Amakhosi Support Office (ASO) in 2004 to assist traditional leaders to "redefine their roles in a changed political environment and to facilitate working relationships with the municipality" (McNulty 2013). The ASO emerged from the Rural Area-Based Management (ABM) Programme initiated in 2003 to promote integrated service delivery, economic development and governance in the rural/traditional areas of the municipality (Planner, EED, 19/02/2016). The efforts of the Rural ABM also led to the establishment of the eThekwini Amakhosi Forum, through which the municipality informs traditional leaders of its projects in TC areas. The municipality has therefore strategically shaped its relationship with traditional leaders. Beall et al. (2015: 395) argue that the Rural ABM used a managerial approach to accommodate the "divergent interests of potentially competing and hostile elites", namely the Municipal Council, its elected councillors and the traditional leaders.

According to municipal officials, the dual governance "institutional arrangement presents a number of challenges, particularly with respect to land and urban management, service provision and the financial sustainability of the municipality" (eThekwini Municipality, 2016b: 106). This has become more problematic over the past decade due to the rapid increase in residential allocations on IT land and densification in "development hotspots". While these development trends offer financial benefits to TCs and community members,[3] and stimulate economic development (e.g. construction jobs, sale of building materials), they come with a number of environmental, health and safety risks and impacts which are not adequately managed through the customary land allocation process (Sutherland et al. 2016).

Since the majority of land allocations are not subject to review by city planners or infrastructure services departments,[4] they are not able to manage this rapid and dense residential growth (Sim and Sutherland 2017), nor are they able to strategically plan for the delivery of infrastructure services and social facilities, such as schools and clinics. The

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[3] Through payment of a "khonsa" fee to the TC and an "open secret" fee to existing residents who "sell" a portion of their original land allocation to newcomers.
[4] With the exception of land allocations subject to lease applications to the ITB, e.g. non-residential uses.

provision of water and sanitation services is also proving challenging due to rapid densification and the installation of unregulated sanitation systems by residents (Sutherland et al. 2016). As the demand for well-located land increases, allocations on more marginal and environmentally sensitive land are becoming widespread, including on steep slopes, in floodplains, forests and wetlands and in the coastal zone. This impacts the municipality's core ecological infrastructure and the ecosystem services it provides, which residents previously depended on (Sutherland et al. 2016).

Another infrastructure challenge is the allocation of land in road reserves, despite TCs being informed by KZNCOGTA of the "road reserve setbacks … set by the Road Transport Act" (Land surveyor, KZNCOGTA, 02/11/2016). The allocation of land without a layout plan for the whole area means that an expanded road network within traditional communities cannot be planned for. This will become more of an issue as the socio-economic status of residents in these areas improves and the demand for direct vehicular access to individual sites increases (Planning consultant, 09/11/2016).

Financial sustainability is of deep concern to the municipality. Despite improved services provision in TC areas, residents have not been required to pay municipal rates due to the difficulties of property valuation in a traditional context. The municipality is legally entitled to claim rates from the IT as owner of the land effective from 1 July 2005 onwards.[5] The ITB stance on the matter is that the individual holding the land right (i.e. land allocation and/or lease) is responsible for rates payments, not the Trust (Broughton, IOL 2012). The challenge for the municipality is rating the value of these structures in comparison with freehold properties in the municipal area, in the absence of cadastral information, site allocation information and the fact that the land is not owned by the "land right" recipient.

Despite the limitations of customary versus freehold land rights in a democratic society, there is considerable appreciation of the value of the "rural" traditional system among those living on IT land (Sutherland et al. 2016). Currently, these households are not required to pay municipal rates or go through the costly and time-consuming building plan submission process, for residential use. Access to free basic services that are provided by the municipality also lower the costs of living in these areas (Planner, EED, 19/02/2016).

In some TCs, citizens trust traditional leaders more than councillors, due to their hands-on role in the community, their longevity compared to the five-year term of councillors and their involvement in community affairs (Sutherland et al. 2016; Senior Manager: LUM, eThekwini, 01/12/2016; Project Manager, EPCPD, 01/12/2016; Sim and Sutherland 2017). Another factor, according to a local *induna*, is that "(u) nlike the ward councillors, the traditional council works with all the people. The traditional council doesn't look at political affiliation" (Induna M, Qadi TC, 23/04/2016).

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[5] When the Local Government: Municipal Property Rates Act, 6 of 2004 came into effect.

Attempts to Cross the Divide

South Africa has a unique system of cooperative governance as defined in the Constitution requiring that each sphere of government respects the powers and functions of other spheres, cooperates with each other and coordinates actions and legislation (s. 41, RSA 1996; Heller 2018). Since 2015, provincial regulations govern the relationship between municipalities and traditional leadership.[6] Most of the municipal interaction with TCs has been through the structures set up by the Rural ABM. The role of traditional leaders in Council meetings is limited to the submission of motions and asking questions, but they may not vote (s. 2(2), KZN 2015a). Generally, relationships between councillors and traditional leaders are fair at best but in some areas, there is limited communication between the two authorities (Induna M, Qadi TC, 23/04/2015; Planner, EED, 19/02/2016). This can make it more challenging for municipal officials to run projects in TC areas. A communication protocol has been set up in the municipality to manage how the administration works with traditional leaders, such that municipal officials need to go through the Council and Amakhosi Forum before engaging with traditional leaders. This protocol has constrained engagement between certain departments and TCs, including Development Planning that has a more strategic policy role.

Furthermore, the political relationship between Council and TCs that promotes a "hands-off" approach to confronting the impacts of densification on IT land also constrains officials' influence. This political dimension is at the heart of the municipality's challenge of adequately responding to the urbanisation of TC areas and reflects the uneasy relationship between the national democratic government and the traditional system. As noted by a Project Executive in eThekwini Water and Sanitation (EWS) (02/03/2015),

> EWS is hoping for a legal avenue to work with the TA. At the moment it is at a political level, and the politicians are not keen on upsetting their rural support base. And their rural support is growing with the influx of middle income residents.

SPLUMA's requirement for a wall-to-wall scheme is such a legal avenue, but previous attempts to implement spatial plans and schemes in TC areas in the municipality have done little to influence traditional processes. For example, the Mnini Trust Local Area Development Plan, prepared by the municipality in 2006 in consultation with traditional leadership, is not being used by traditional leaders to guide their land allocation decisions (Ndebele 2016). Ndebele (2016) compares aerial photographs from 2006 and 2013 in the Mnini Trust TC (see Fig. 4), which shows that the LADP's prohibition of development in the coastal zone has not been complied with in-land allocation decisions. The coastal management zone, which is meant to control development in the coastal buffer, is shown on the map, but by 2013, new structures had been built in this zone within the dune vegetation, under the traditional local allocation system. Ndebele (2016) suggests that insufficient community engagement with the LADP and suspicions on the part of the TC that it would lead to rates collection or loss of power are the main reasons for their non-compliance. The local councillor was also of the view that "TCs did not want to be seen to

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[6] KwaZulu-Natal Regulations on the Participation and Role of Traditional Leaders in Municipal Councils and Municipalities (KZNCOGTA 2015a).

Fig. 4 Comparison between 2006 and 2013 development in coastal zone, Mnini Trust (adapted from Ndebele 2016: 53 and 55)

have abandoned cultural practices by relying on spatial plans or town planning schemes based on British colonial planning" (Ndebele 2016: 51).

eThekwini Municipality and provincial government have also embarked on several exercises to build capacity in traditional leadership to improve decision-making in the land allocation process. The Rural ABM ran skills workshops with TCs to enable them to participate meaningfully in planning processes, "about what planning is and the benefits", as well as discussing development limitations such as environmental and servitude setbacks (Planner, EED, 19/02/2016). The Rural ABM's Land Use Management (LUM) section also compiled site allocation guidelines (DPEM n.d.) and the Environmental Planning and Climate Protection Department published environmental guidelines aimed at traditional leaders, with a focus on areas of high biodiversity value on IT land (EPCPD 2013).

KZNCOGTA provides training to traditional leaders concerning land allocation, record keeping and the ITB's lease application procedure (KZNCOGTA 2015b). The Provincial Planning and Development Commission (KZNPDC), which falls under KZNCOGTA, has prepared a toolkit for land allocation practices for TCs (KZNPDC 2010b). DEDTEA's environmental branch also runs training workshops with traditional leaders relating to environmental compliance (Manager: Environmental education, DEDTEA, 09/05/2016).

The main shortcoming of these efforts to influence the TC land allocation process is that they are "one-way" efforts focused on training and capacity building TCs, rather than bilateral engagements. Although the municipality is meeting the legal requirements of promoting an environment of cooperative governance, in reality it exerts the most power in this dual governance relationship. McNulty (2013) describes how the municipality's requirements for traditional leaders to develop administrative processes and record keeping is perceived by traditional leaders as removing their autonomy. As one eThekwini traditional leader noted, "the power of the amakhosi comes from tradition. The power of the amakhosi is now controlled by the government" (Inkosi KM in McNulty 2013).

In an attempt to address the municipality's concerns regarding the rapid densification of TC areas, the municipality's Strategic Spatial Planning Branch prepared the eThekwini Rural Development Strategy (RDS), approved by Council in June 2016 (Petterson 2016). The RDS recommends a suite of local-level spatial plans for IT land to be prepared within a "sound institutional framework which is … able to take cognisance of the territorial and institutional overlaps between indigenous governance and planning systems … and the municipal planning and governance system" (EM 2016c: 201). However, considering the current lack of TC support for spatial plans, the RDS does not go far enough in considering more innovative approaches to land use management on IT land. In 2016, the municipality's LUM Branch embarked on a process to comply with SPLUMA's requirement for wall-to-wall schemes. It is exploring more innovative ways of developing a LUM framework with traditional leadership through a steering committee that will "engage, through the ITB with the traditional leadership" (Senior Manager: LUM, 01/12/2016). Durban's Resilience Strategy (eThekwini Municipality 2017b) identifies "integrated and innovative planning at the interface between municipal and traditional governance systems" as one of two main pillars of resilience for the city, reflecting the importance of this issue to the city.

In 2015 and 2016, Ikusasa ran a programme in partnership with KZNCOGTA and UKZN to "dialogue" issues facing traditional leadership in KZN, under the umbrella of environmental management and climate change (Project Manager, Ikusasa, 21/
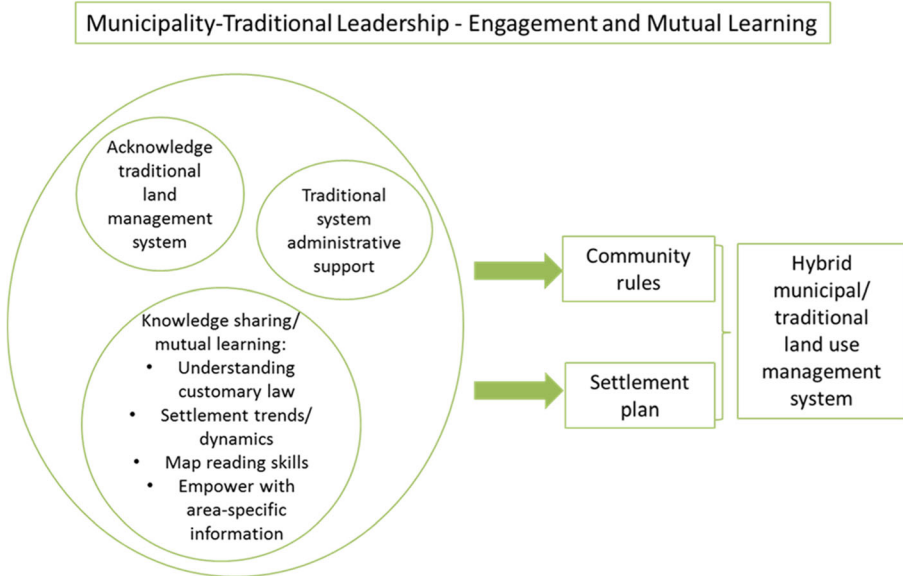
Fig. 5 Key elements of a hybrid approach to land use management in traditional areas (source: authors)

10/2016). Attended by 120 *amakhosi*, the programme covered land use management and environmental issues. The dialogues enabled a discussion of planning legislation and scheme requirements and illuminated the fears of *amakhosi* that these will undermine their traditional role. According to Ikusasa, the programme was successful because it gave traditional leaders an opportunity to share their indigenous knowledge and the challenges they are facing. Through this process, learning about and from each other has taken place which opens up more opportunity for innovation in planning approaches.

Possibilities for a Hybrid Planning Approach

A range of stakeholders involved in planning and development in traditional areas in KZN indicate that, despite the challenges, an alternate approach to conventional land use management is possible. Such an approach would acknowledge both customary law in relation to land and the objectives of SPLUMA and legislation concerned with environmental resource management. The most critical element would be to create an environment of engagement and mutual learning, drawing on multiple knowledges (McFarlane 2018; Marcuse 2009). Based on the research conducted, an approach to hybrid planning is presented (Fig. 5) and discussed below.

Acknowledge Traditional Land Management System

For municipalities and other governance stakeholders to make meaningful progress in working with traditional leadership, it is critical that any engagement is premised on the acknowledgement that customary law in relation to land, as mandated in the

Constitution, is effectively a land use management system which is legally valid (Senior Manager: LUM, 01/12/2016). According to a planning consultant (09/11/2016)

> … what has gone on in those areas is a form of planning. We may not necessarily see it as planning in this Westminster approach to planning … , but it's planning. … because there are factors that are considered before land is allocated. … Do we understand those factors, … do we accept those factors as part of the planning process? … We have to be practical about it. It is a system.

From this perspective, meeting SPLUMA's requirements for a wall-to-wall scheme should focus on how

> from an institutional point of view … to bring the Traditional Authorities and … local government structures together around a common vision for Land Use Management. The application of a Scheme in Traditional Areas requires a gradual blending of Traditional and municipal technical structures (Provincial Planning and Development Commission (PPDC), 2004: 12).

Engagement Based on Knowledge Sharing and Mutual Learning

Historically, planning processes involve a one-way engagement directed by the municipality where citizen input is fairly limited. However, meaningful engagement with traditional leadership requires a step-by-step process of relationship-building where the municipality and traditional leadership are more equal partners in building a land use management system through knowledge sharing (Mitra 2018; McFarlane 2018). Whether this is in fact possible within the current political framework will need to be tested. Municipal officials, councillors and other government stakeholders need to understand customary law generally, but also specific to each TC area that they work in, particularly in terms of how traditional leaders are making land allocation decisions.

Traditional leadership should be given the opportunity to explain how they are dealing with their changing environment and challenges such as land availability, climate change, economic trends, densification and the changing socio-economic profiles of their communities (Project Manager, Ikusasa, 21/10/2016). Related to this, the settlement trends and dynamics for each area need to be researched (Planning Consultant, 09/11/2016). A critical aspect of this mutual learning process is for government to share information with traditional leaders to enable them to make better decisions (ibid), such as sharing the extensive GIS-based database of provincial and local government, including aerial photography, environmental information, high-value agricultural land and infrastructure servitudes. These practical aspects of information sharing and mutual learning are only possible if an appropriate environment of engagement is established.

Technical and Administrative Support for TCs

Unlike the municipal council that has a vast administrative institution to support it in carrying out its mandate, TCs have very limited administrative and technical support.

The validity of their customary law functions should be acknowledged by the provision of support staff with technical skills. This could include planners being located in TC offices (Planner, EED, 19/02/2016) to provide technical support within the land allocation process, and land clerks who collect land allocation information to feed into the municipality's GIS system.

A Hybrid Land Use Management System

Neither the traditional land allocation system nor the conventional land use scheme can achieve optimal land use management in traditional areas. As argued by the Manager: TC Land Administration Support, KZNCOGTA (02/11/2015), the best approach is to focus on enhancing the traditional system:

> Indigenous law is common sense … . If we can only enhance the indigenous application. Isn't that what town planning is in its best and simplest form? Local rules, local action, local agreements. That is what we need to get back to, I believe. It can't be "the city hall has to tell us what to do".

Two main aspects of a potential hybrid approach have emerged during our research: some form of *community rules or development guidelines* to guide land allocations and *a community settlement plan*. KZNCOGTA encourages TCs to document their community rules including land allocation practices. These could be enhanced by area-specific guidelines reflecting a merging of indigenous and technical knowledge relating to wise land use. The municipality's Senior Manager: LUM (01/12/2016) notes that the anticipated outcome of the municipality's engagement process with TCs will not be a typical scheme with land use zones but some form of development guidelines. This aligns with the perspective of the PPDC LUMS guidelines (PPDC 2004) that propose a policy approach to schemes in traditional areas compared with the more complex, prescriptive and detailed approach used in official planning systems, thereby "building on good practices and approaches that have evolved over many years" (PPDC 2004: 13).

The second main element of a potential hybrid system is a community settlement plan. Initially, this could entail capturing the GPS coordinates of each homestead/land allocation, as is already being done by both EWS and planning consultants undertaking rural housing projects (Manager: TC Land Administration Support, KZNCOGTA, 02/11/2015; Planning consultant, 09/11/2016). This would provide a critical base layer of data that is currently lacking. From this starting point, a community settlement plan could be developed: "single point coordinates first, then create blocks, then layout plan level" (Manager: TC Land Administration Support, KZNCOGTA, 02/11/2015). A community settlement plan could provide the basis for a local area plan that provides strategic guidelines for land use management to address the infrastructure services and environmental challenges raised earlier, without prescriptively zoning the land. This could minimise the mistrust of traditional leaders concerning zoning because of its perceived link to the payment of rates. However, the rates issue will still need to be resolved by the municipality in order to fund service delivery in TC areas.

Conclusion

The Motlanthe Report (Parliament of South Africa 2017) has raised important questions about traditional governance and the allocation and management of land by TCs in the context of ongoing transformation and democratisation of South African society. This has produced significant contestation in KZN where the IT seeks to maintain its customary powers. As our research reveals, this contestation is evident in the entanglement between the traditional and municipal governance systems in the rapidly densifying periphery of eThekwini Municipality, as both seek to manage the use of land in TC areas. Such challenges are not unique to Durban, but are experienced in many African cities whose boundaries are expanding to include peri-urban and rural areas under traditional governance.

The eThekwini Municipality has taken the first steps in recognising that the current "official" planning system is not able to govern and manage land in the dual governance space. The possibilities for a hybrid approach requires an openness on the part of conventional planning to recognise, engage with and respect different forms of knowledge and practices, leading to a reconceptualization of planning. This process of developing new systems of governance, law and planning is emerging elsewhere in society, as conventional legislative and governance systems are no longer able to address emerging challenges, such as in the governance of climate change in the coasts and oceans (Prakash et al. 2018; Sowman et al. 2016) and informality (Mitra 2018). Lessons learnt from the development of hybrid planning approaches in Durban may be useful for developing planning systems and governance structures both in cities in Africa facing similar challenges, and in other settings where existing systems are no longer able to govern the wicked problems emerging in the relations between society, space and the environment.

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