



# **Local Government Position on Municipal Responses to Backyarders and Backyard Dwellings**

## **Draft Policy Proposal**

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## **1. Introduction**

Backyard dwellings are one of the largest housing sub-sectors in South Africa and make a significant contribution to the provision of rental housing to households whose needs are not addressed by government subsidy programmes or the private market. Largely without any government intervention/support, the sector successfully provides accommodation to non-qualifiers, migrants or temporary workers not seeking home ownership, and any other households wishing to rent but who cannot afford formal rental accommodation available. 25% of all South Africans now rent and informal rental markets create accommodation opportunities for almost two thirds of all households not able to access formal accommodation.

Backyard dwellings are also one of the fastest growing sectors. Between 2007 and 2011, backyard dwellings absorbed two thirds of new households, twice as many as those absorbed into informal settlements. The quality and size of backyard dwellings varies greatly. Many units—although informal—are adequate, but other backyard households have inadequate access to services and safety.

For these reasons, it is imperative that municipalities address the needs of backyarders as part of their urban management and human settlements strategies.

Given this reality, the resolutions of the 2011 SALGA National Conference included the formalisation of basic services to backyard dwellers. Towards this end, SALGA has prepared this document as a draft policy position on the issue.

The overall objective of this document is to capture and reflect a consensus of the local government sphere on the issue of backyarders and backyard dwellings in South Africa. As such, it offers a policy framework which municipalities can use to guide the development of their own individual policies, strategies and projects related to backyarders.

The document has four aims:

1. To describe the backyarding sub-sector—its scope, nature, and role—in the context of the larger human settlements and urban development sectors, from the perspective of local government.
2. To set out principles which local government aims to adhere to in designing and implementing backyarder interventions.
3. To provide a list of possible tools and approaches for intervening in the sub-sector.
4. To indicate what resources are required by municipalities from other spheres of government and stakeholders in order to carry out municipal responsibilities with regard managing and supporting the backyarding sub-sector.

This document is based upon research conducted by SALGA in 2012, which included

14 South African case studies and 4 international case studies on how government has approached the issue of backyard dwellings. The research also provided an overview of the nature and scope of the issue in South Africa, challenges it presents to local government, and recommendations for how SALGA can best support municipalities to address the backyarder issue. That research report serves as the evidence and analysis base for this position paper.

During 2013, consultation workshops will be held in each of the provinces to solicit input from municipalities on this draft document. Those workshops will be conducted in conjunction with the National Department of Human Settlements and include all municipalities and provincial departments of human settlements. The input from the consultation process will be incorporated into a final document which is presented to the Human Settlement MINMEC, following approval by SALGA's national governance structures.

## **2. Current situation**

### **2.2 Nature and extent of backyarding<sup>1</sup>**

#### **2.2.1 Size and significance of the market**

- **More households are renting than in the past.**  
One quarter of all households now rent. In 2001, around 2.4 million (19%) South African households rented their primary accommodation. However, initial data from Census 2011 indicates that the proportion of renters has grown by 32% between 2001 and 2011, to 25% of all households.
- **Informal vs. formal rental**  
Over one third (35%) of these renters (850 000 households) occupied small-scale rental units. This equated to just under 10% of all South African households (SHF, 2008).
- **Backyards are now absorbing more households than informal settlements.**  
South Africa's formal government subsidised housing programme absorbs a large proportion of households every year. However the development of subsidised housing is insufficient to cater for all new households created annually, and the balance find accommodation in formal second dwellings, formal and informal backyard units and informal settlements.

Of all households not absorbed into formal housing, backyarding has absorbed two thirds of new households between 2007 and 2011 (288 000 households), which is exactly double the number absorbed into growing informal settlements (144 000 households).

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<sup>1</sup> Statistics in this section are taken from initial statistical releases for Census 2011, and compared against previous census data. However, the full Census 2011 statistical release is not available yet, so certain detailed analyses and cross-checks cannot be undertaken at this stage. Therefore, information in this section should be viewed as indicative.

- **Compared to government-subsidised housing and informal settlements, the backyarding market delivers a significant share of new affordable accommodation each year.**

The backyarding sub-sector has created an average of 72 000 additional accommodation opportunities per annum between 2007 and 2011, double the number added to informal settlements (36 000). In comparison, subsidised housing has delivered an estimated 120 000 units per annum over this period. This implies that the backyarding markets deliver approximately 30% of all new affordable accommodation opportunities per annum.

- **1.25 million households, or 8.7% of all households, now live in backyarding units or second dwelling units, according to Census 2011.**

This 1.25 million includes the following Census sub-categories of accommodation:

- Flatlets, servants quarters and 'granny flats' (119 000 households or 0,8% of all households in the country);
- Formal houses, flats and rooms in backyards (423 000 / 2,9%); and
- Informal backyard rooms or shacks (713 000 households / 4,9%).

Of this amount, 1,14-million households are considered to be part of the housing backlog because they either live in backyard rooms (423 000 units), or in shacks (713 000 units).<sup>2</sup>

## 2.2.2 Profile of backyard dwellings and backyard dwellers

- **Close to half of all backyard structures are formal dwellings with access to basic services.**

43% of all backyard structures are formally constructed (second dwellings and formally constructed rooms), with the balance (57%) being informally constructed (shacks)<sup>3</sup>. Many of these backyard structures have relatively secure tenure and access to at least basic services (water, sanitation, energy supply).

- **Income profile of backyard tenants.**

A much greater number and proportion of backyarding occupants are in the middle income categories (household incomes from R1600 to R12 000 per month).

- **Backyard households are typically small.**

According to Census 2011, South Africa's average household size has decreased from 4.2 in 2007 to 3.1 in 2011. Older studies (Nurcha, 2006) indicate that on average, households in backyard rental included around one third single-person households, one-third two-person households and one-third three or more member households. Given the overall drop in household size in South Africa, this is likely to have decreased further since 2006.

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<sup>2</sup> Note that this excludes the 119 000 households living in second dwelling units, cottages and 'granny flats'.

<sup>3</sup> It is important to note that the census does not indicate durability or quality of construction. Therefore, only general indications of quality can be ascertained from 'shack' and 'unit/room', which are formally constructed. A conventionally or formally constructed room could be of very poor quality, while a shack (built of wood and corrugated iron) could be very durable and safe.

### 2.2.3 Demand and supply of backyard dwellings

The backyarding sub-market addresses the needs of specific sectors of the population, who are unable or unwilling to access formal accommodation, either because they are on the waiting list for subsidised housing, because they fall into the 'Gap' market and have no effective demand for bonded housing, or because formal housing does not meet their accommodation needs. Demand in the backyard sub-market is therefore increasing because this type of accommodation meets the needs of a growing number of one and two member households, households ineligible for subsidisation, multi-nodal households, the growing preference for rental accommodation, and those requiring temporary or short-term accommodation solutions (including students, traders, contract workers, work seekers).

There are two main factors which drive the supply of backyard accommodation. Firstly, landlords may build and rent accommodation for monetary gain (which is generally formally constructed), or provide space on their properties (generally for the construction of shacks by tenants) for which a regular rental is paid. Secondly, some landlords are motivated for social reasons to provide accommodation to family or friends.

## 2.3 Operational definition of backyarding

There is no generally-agreed upon definition of backyarders or backyard dwellings, and thus there are many different interpretations of the term and perceptions of the sub-sector. However the definition used by government and stakeholder has critical implications for how backyard dwellings are approached, regulated and managed.

Municipalities may define the target group of backyarders or the sub-sector of backyard dwellings in different ways, depending on individual circumstances. However, for the purposes of this document, the core defining elements of backyarding are understood to be the following:

- It is generally a **small-scale activity**, seldom exceeding a few units per property<sup>4</sup>, although it is one of the largest housing sub-sectors in South Africa.
- It is produced on **privately owned and privately held or controlled land**, i.e. this includes privately owned land and land that is state-owned, yet occupied by private individuals<sup>5</sup>.
- Such stock is **procured and managed by private individuals**<sup>6</sup>.

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<sup>4</sup> In certain locations such as Orlando East in Soweto, Johannesburg, densities of up to 18 units per property have been recorded. However, densities of one to three units per property are most common (Gardner, 2004). In addition, if regulated appropriately, prevalence (proportion of properties that have rental rooms) and density (number of units per property) could be maintained at acceptable levels.

<sup>5</sup> This includes privately-held or owned land, with a wide range of tenure types including freehold, leasehold, rental, allocated by traditional authority, or a part of a phased tenure process. It also includes situations of public ownership where occupants of public accommodation control access to backyard accommodation, such as in Municipal housing estates in Cape Town and Johannesburg.

<sup>6</sup> This definition specifically excludes corporate production of housing. However, an applied form of such accommodation could be larger-scale production by small-scale landlords. This is however considered to be a separate delivery system, worthy of separate consideration. Generally this requires some form of corporate entity, the separation of the landlord from the rental

- Accommodation is **generally occupied by separate households**<sup>7</sup>, as well as extended family members and kin-networks through private rental treaty<sup>8</sup>, according to conditions set out in a formal (written) or informal (verbal) agreement.
- Units are **predominantly utilised for residential habitation**, but a proportion are also utilised for retail and commercial activities such as stores, small service activities or manufacturing<sup>9</sup>. (Gardner, 2010).

Backyard accommodation produces different types of residential units:

- Room sharing, generally within the primary dwelling, by a separate household;
- Secondary shacks (constructed from temporary materials, such as corrugated iron, wood, cardboard, plastic, etc) and rooms (constructed from conventional materials such as brick or block and mortar, as well as by less conventional means such as concrete panels and prefabricated systems), having access to external, generally-shared ablutions;
- Self-contained units (basic living units having private access to basic services such as toilet and basin);
- Second dwelling units, such as the “garden cottage” and “granny cottage” often associated with middle and upper-income neighbourhoods, workers’ quarters, converted garages; and
- Small-scale tenements (multi-room structures, generally comprising rooms with shared ablutions, either single or multi-storey constructions, and at times replacing the primary structure on the site) but still controlled and maintained by private individuals.

Finally, backyard structures may be used as commercial and retail spaces, housing a wide range of activities including shops, salons, service providers and small scale commercial operations.

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units, more formal systems and procedures for managing the units and the occupants, and different procurement and financing mechanisms.

<sup>7</sup> This can include any separately identifiable households, including single person households such as students, unmarried people, single parents with one or two children and couples, migrant workers, widows/widowers, people with dread diseases needing proximate care. If such accommodation does not house a separately identifiable household, it should be considered to be an extension of the main house. However, where family members or relations form separate households as described above, this should be seen as a discrete dwelling unit housing that household, although this may not lead to a rental payment for that unit.

<sup>8</sup> While accommodation is often allocated at no cost to family members or bartered for services, this is still subject to clear lease conditions such as period of occupation, basis of occupation, rental charged, services to be rendered in lieu of rental or in addition to rental and house rules (Gardner, 2004). Where this is not the case, such a unit is considered a part of the primary dwelling.

<sup>9</sup> The focus of this report is on residential accommodation. However certain considerations in relation to other uses of backyard accommodation will also be outlined. It is not currently known what proportion of secondary structures are used for retail and commercial operations, and this is also likely to vary from area to area. Shisaka (2006) found that on average 13% of township residents are using their houses for commercial, retail or service provision or production, but did not ascertain whether the primary or secondary structures were used.

## **2.4 Debates around advantages and disadvantages**

There are two main problems related to densification and service provision: on-site access by occupants to adequate services, and over-use of existing infrastructure networks. The number of people utilising toilets, taps, drains and cooking facilities on a specific site and across neighbourhoods can stretch the carrying capacity of the existing infrastructure. Anecdotally there has been a serious concern around the contribution that backyard dwellings make to over-crowding and increasing densities beyond what installed infrastructure can cope with.

With regard to on-site access by occupants: in worst case scenarios there are situations in which backyard households are unable to consistently access formal ablutions and potable water sources. In many circumstances, access by households to basic services is inconsistent. In some cases, where multiple informal units occupy one plot or a single unit is over-crowded, it can also increase the risk of communicable disease and social pathologies (Department of Human settlements, 2010).

However there are also many incidences of suburbs with significant numbers of backyard units where infrastructure is coping with the added pressure.

In other situations, the original infrastructure may have been significantly over-specified and is therefore able to handle significantly higher densities than at present.

There is also a need to take into account the effects of decreasing household sizes on engineering service capacities. Average household size in South Africa has dropped from 4.2 people in 2001 to 3.1 people in 2011 (that is, a reduction of 1.1 people per household, or 25% smaller). This reduction in household size at least, in theory, equates to a reduction in service capacity requirements of the same amount. Notably, average household sizes of people in backyard accommodation are on average significantly smaller than normal households, which would mean increased demand on the services infrastructure would be less than the additional of a normal household to the area.

Retrofitting of the existing infrastructure may be needed. As normal infrastructure networks reach their useful design life, retrofitting often becomes unavoidable, and designing in additional capacity is relatively less expensive than providing new infrastructure networks.

A further infrastructure consideration is that all new settlements should be designed to cater for an expected level of densification upfront. Incurring this additional capital cost up front will create a platform for planned and desirable densification via backyarding processes over time, which will then not require alterations to service capacity over time.

In summary, the addition of backyarder households to an area does not necessarily mean that the service infrastructure network will be stretched beyond capacity. Whether this is true depends upon the particular characteristics of the area: the assumptions underpinning the original specifications for the service infrastructure and average household size in the particular neighbourhood. Without making assumptions, municipalities must determine whether the existing backyard dwellings or additional backyard structures would create demand which exceeds the existing service infrastructure.



Health and safety concerns will also vary between communities. In better managed areas, either through state control or social sanction, these negative effects can be avoided and backyarding can make significant contributions to densification and infill.

## 2.5 Summary of existing municipal responses

Municipal responses to backyarding in South Africa have varied greatly. The range of responses are summarised below:

- **'Laissez-Faire' (Leave Alone):** Many areas are not controlled in any way, leaving market forces of supply and demand to determine the prevalence, number, type and occupancy of backyard structures.
- **Disallowing "Illegal Structures":** zero tolerance approach to unapproved structures in all areas. One of the consequences of this is an upward pressure on informal rentals for the space that does exist, such as cottages, converted garages and the few backyard rooms that do exist.
- **Building Control:** In certain low-income areas (such as Cosmo City in Johannesburg) and many middle and higher income areas, urban management processes have only allowed the development of conventionally constructed, approved backyard structures. Therefore, while there is a high incidence of backyard structures in Cosmo City (between half and three quarters of RDP properties), these are all rooms and cottages approved by the municipality via the developers, conventionally constructed, with access to minimum standards of services.
- **Services Improvement in municipal stock:** The City of Cape Town identified the need to improve conditions in Backyards, and identified its existing Municipal housing stock as a starting point. An on-going project has assessed and invested substantial capital in upgrading infrastructure systems and capacity (thus improving services to the municipal stock as well), extended infrastructure connections to backyarders (shared standpipes with individual 'logins' per household), shared ablutions, prepaid electricity connections and refuse removal.
- **Upgrading of structures and services:** The Alexandra Urban Renewal Programme undertook extensive work intended to upgrade backyard structures and primary residences in areas of Alexandra Township. This entailed a process of mapping the status quo, planning to de-densify areas to reasonable densities to overcome health and safety concerns, investing in infrastructure upgrades and connections, and regularising ownership and rental arrangements. Although the work has not been completed there are indications that the project may start again in the near future.
- **Active Encouragement through zoning tools:** Two South Africa cities, Johannesburg and Cape Town, have both implemented blanket second dwelling unit policies on a city-wide basis. While land use management systems provide for this, it is not widely publicised yet. Ekurhuleni has also created a special land use zone that is intended to create a legal framework within which backyarding can occur and be adequately regulated. This includes relaxed building lines, increased densities, relaxed building norms and standards.

- **Direct Support / Gentrification through subsidised construction of backyard dwellings:** The Gauteng Provincial Housing Department has developed a backyarding (upgrading) programme. The pilot study de-densified backyard structures, and built a 40m<sup>2</sup> structure comprising three rooms with a shared ablution, intended for the owner to rent out.
- **Inclusion in Greenfields Development:** Gauteng Province has taken the step of including backyarding units for rental by beneficiaries in the primary designs of certain developments, including Alexandra and a new phase of Cosmo City's development.

## 2.6 Problem statement from local government perspective

Backyarding is associated with both negative and positive outcomes, at a household and city-wide level. The following are the **most essential problems** which government needs to address with regard to backyarding.

1. **Many structures are illegal.** First, a high proportion of these structures contravene municipal by-laws and/or do not comply with the norms and standards set out in national building regulations and/or municipal by-laws, in relation to acceptability of secondary structures, health, safety and aesthetic considerations specifically.<sup>10</sup> Although these dwelling may meet basic shelter service and health safety requirements accepted internationally, there is a basic problem of illegality and enforcement. Widespread contravention of the legislative framework and inconsistent enforcement is not acceptable. Either the laws must be changed, or they must be enforced consistently.
2. **Backyard accommodation may be unsafe and unhealthy,** due to too many units on a plot, poorly constructed informal dwellings and insufficient space. Backyard structures are often perceived as 'sub-standard' accommodation, and a part of the officially defined 'backlog' for accommodation, rather than an important and very variable accommodation sub-market. Backyard structures often do not comply with current national housing norms and standards, because these relate to average household sizes and not accommodation requirements of smaller households and individuals. These include minimum house size (42m<sup>2</sup>), minimum construction standards (conventional construction methods), minimum property sizes, minimum service provision levels and other requirements set by provinces such as tiled roofs and non-corrosive materials in coastal areas are also considerations.

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<sup>10</sup> Small-scale landlords argue that their units are often extra-legal or irregular because of the difficulties associated with navigating municipal planning applications and the long delays and expense that is associated with gaining planning permission. Furthermore, some of the reasons for the planning regulations are fairly opaque to laypeople that therefore feel that it is easier to ignore regulations such as building lines, coverage and bulk specifications and formal building control procedures. This leads to a situation in many municipalities where dual planning systems are in force: one for middle and higher-income neighbourhoods (which are generally required to meet all formal processes) and another for low-income township areas, where few formal processes are properly implemented and controlled, and limited management capacity exists.

3. **Backyarders may not have access to adequate basic services**, which are a constitutional rights and also vital for adequate health and safety. As backyard occupants generally access services from existing properties, they can create difficulties in metering, service consumption metering and payment, as well as the rollout of basic service packages by municipalities. Service provision (such as electrification and solid waste disposal can also be hampered by high densities of backyard structures.
4. Generally, increased backyarding is associated with an **over-burdening of existing infrastructure carrying capacity**.<sup>11</sup>
5. At city and neighbourhood level, backyarding has a number of positive outcomes for human settlements, densification, and integration. However instead of acknowledging and encouraging these positive outcomes (while controlling the negative impacts), current government policy and approaches tend towards eradication or replacement of backyard structures. Essentially backyarding suffers from a perceptual problem which prohibits government from harnessing its potentially positive impacts. For instance, national responses have at times advocated for removal and disallowing of backyards in subsidised housing areas. In many municipalities, **backyarding is responded to as a negative, rather than potentially a positive urban and housing process**. As a result, responses from municipalities often focus on replacement, removal or remediation rather than support. It is seldom considered as a positive contributor to necessary accommodation requirements within municipalities.

When government attempts to reduce or eliminate these basic problems related to backyarding, it encounters the following **problems with the implementation of backyarding interventions**.

1. **Lack of specific policy or funding framework:** Municipalities largely operate in a policy vacuum in respect of backyarding. There is presently no national policy for rental housing or backyarding, nor is there a national housing subsidy programme designed to support backyarding interventions. As a consequence, responses are piecemeal and vary considerably in the nature of interventions, their purpose and their consequences.
2. **Controlling Norms and Standards:** Given that many backyard units do not meet all conventional building norms and standards, municipalities might take one of three approaches to controlling norms and standards, but each of these approaches encounters implementation issues:
  - Local authorities can either review conventional building and service standards to cater for backyarding, which raises concerns around equity, and dignity; or
  - They can choose to enforce existing standards, which will be very difficult and generally too costly for small-scale landlords to meet at least in the short-term and may result in the need to eradicate a proportion of existing structures and relocate residents; or

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<sup>11</sup> However, on the flip side, the positive aspects of backyarding merit municipalities' consideration of investing in infrastructure capacity upgrades. This can assist to cater for service capacity requirements result from increases in backyarding densities. It can also be more cost effective than other, alternative service provision options such as greenfields development.

- Municipalities can't choose to not control backyarding outcomes in their areas. This in turn can lead to over-burdened services, unregulated urban environments, and at its worst, anarchic and slum-like conditions of high density, fire and health hazards.
3. **Unintended negative outcomes.** The backyarding sub-market operates on quite low economic margins and is often driven by non-financial exchanges and social or family relationships. This informality and flexibility make it particularly sensitive to outside interventions that may result in unintended perverse outcomes. For example, the limited public policy responses to backyarding in South Africa to date have generally favoured approaches that reduce high backyarding densities and upgrade backyard structures. But, while this may lead to improved conditions in a small target area, it generally displaces households to other areas of the city and has at times led to constitutional challenges regarding the need to accommodate displacees. In essence, the main implementation issue with backyarding interventions is that it's very easy to do more harm than good.
  4. **Double subsidies to select beneficiaries.** Projects or initiatives which try to improve the supply or quality of backyard dwellings by providing resources to the landlord, run into the problem of 'double-dipping' if the main home-owner acquired the house through a government subsidy. There have also been initiatives in greenfield developments to add a room for rental to the back of a BNG house in order to provide the owner with a built-in income opportunity. However, again, the issue of a double subsidy arises because the beneficiary receives both the house and the income opportunity (in the form of a rental room) while other beneficiaries only receive a house.
  5. **Adequacy of municipal institutional capacity and resources.** Municipal capacity to implement backyard interventions may be an obstacle to implementation, especially for interventions which take a control or standardisation approach. The alternative is to consider community-based urban management, which in turn needs to be capacitated and supported in some way by the local authorities.
  6. **Insufficient access to finance for landlords.** Small-scale landlords have historically relied on private or family savings, windfalls, such as retrenchment pay-outs or disability pay-outs, incremental building and/or small unsecured loans to build their units. Often the rental income is then used to further resource future development. Lack of access to finance by landlords or homeowners is therefore often a limitation on the ability to capitalise on the positive aspects of backyarding.

### **3. Principles to be followed by local government in responding to backyarders and backyard dwellings**

The preceding sections have described the current situation and articulated a basic problem statement related to backyarding. Based on this understanding of the complex phenomenon of backyard dwellings and the policy and institutional environment which municipalities operate in, the following are key principles which local government must acknowledge and be guided by in addressing the backyarders issue.

1. Backyarding can have **potentially negative outcomes**. If not managed appropriately, backyarding can lead to slum-like conditions and serious urban management difficulties. This includes very high densities that create health and safety concerns, 're-informalisation' of formal housing areas and the over-burdening or even breakdown in service provision.
2. Despite potentially negative outcomes, backyarding is not simply an illegal or criminal activity which must be eradicated. Municipalities should pro-actively engage with backyarding as a **critical and useful, housing delivery submarket**. It assists to address a range of basic needs, which include access to affordable, well-located shelter, access to secure rental tenure, access to basic services, accommodation opportunities for smaller households and households that are overtly excluded from subsidised housing sub-markets and cannot afford formal private housing.
3. Backyarding is a multi-billion Rand sub-market of the rental sector which can play a **positive role in city-building and the development of sustainable human settlements** if municipalities focus their interventions on utilising, guiding and facilitating its inherent energies. The sub-sector is fuelled by private enterprise, and if managed appropriately will require little direct intervention by municipalities. Notably, by definition, all existing and new backyard accommodation occurs within the boundaries of existing urban areas, and can contribute significantly to densification and better utilisation of existing investment in infrastructure.
4. Backyarding provides small-scale and household landlords with complementary and supplementary income. This **economic potential** should be supported, especially for some of the most vulnerable groups (i.e. the elderly and previously disadvantaged women-headed households).
5. Backyarding also has a profound and important **social function**, which allows for social cohesion and mutual support between kin networks and larger social groups, as well as support for vulnerable groups.
6. Given the unique characteristics of this informal sub-market, misguided or heavy-handed municipal responses **can easily negatively rather than positively influence the outcomes** achieved through backyarding. For instance, an anti-backyarding municipal response may simply deflect urban growth into unregulated informal settlement, instead of potentially positive densification of existing areas and provision of necessary and affordable accommodation.
7. Backyarding is a complex and highly differentiated accommodation sub-market. Therefore **no single intervention is appropriate** for all areas where backyarders reside. It is imperative that municipalities first conduct research to understand the specific make-up and needs of backyarders in their municipality, before selecting or developing an appropriate intervention. Backyarding interventions must be area-specific.

#### 4. Available tools and instruments for local government to respond to backyarders issue

In keeping with the principles listed above, municipalities seeking to develop an intervention to address backyarding in their municipality must:

- First conduct **research** to define and categorise the particular backyarding sub-market in their jurisdictions.
- Second, based on an evidence-based understanding of the needs in this area, articulate the **primary problem** it wishes to address/alleviate.

At a high level, the four main policy aims related to backyarding interventions would be:

- To improve the quality of lives of existing tenants.
- To encourage small-scale landlords and household entrepreneurs as a part of a livelihood support and entrepreneur local economic development strategy. Considering the business prospects of backyarding is as important as its shelter implications
- To provide basic shelter by increasing the supply of affordable, adequate accommodation.
- To improve human settlement outcomes in the municipality by encouraging densification/compaction and better utilisation of existing serviced land.

While more than one of these may be achieved through a single project or intervention, no single intervention can accomplish all of them. If a policy or programme tries to achieve too many policy outcomes, it typically delivers poor results on all of them. Instead, municipalities must identify the top one or two policy objectives which they seek to address. Trade-offs and decisions in the design and implementation of the intervention will be guided and facilitated by that clear prioritised policy aim. For example, if the provision of basic affordable accommodation in a particular area is the main objective, then the issue of whether second dwellings are occupied by family members of the main home-owner is irrelevant.

Finally, the tool or approach used to intervene should be selected to match the priority policy objective. The table below provides an example of the decision-making process of a municipality: first, specify the primary policy objective; second, use research conducted in the community to what is causing the problem; and finally, select an intervention which will unblock that obstacle.

Basic problem in this particular area/community which municipality wants to rectify	Which is caused by:	Which is caused by:	Examples of possible govt interventions which would address this problem
1. Poor living conditions of tenants (basic rights infringements)	Inadequate or unreliable access to basic services: water, sanitation, refuse removal, electricity	Poor relationship with landlord	• Dispute resolution mechanisms for informal rental agreements
		No or insufficient service connections	• Install additional connections
		High prices charged by landlord	• Install separate metering
	Poor health due to inadequate shelter	Overcrowding (too many units or too many people per unit)	• De-densification: eradication of some backyard structures and relocation of tenants to another area
		Dilapidated structure	• Upgrade of backyard structures
2. Poor economic situation of existing or potential landlords	Insufficient income	No (or too few) backyard dwellings to rent out as additional income	• Erect backyard structures on landlord's behalf • Enable access to affordable finance for landlords
3. Inadequate supply of housing	Supply of affordable, adequate rental accommodation		• Construct backyard dwellings on landlord's behalf • Facilitate access to affordable finance for landlords
	Lack of basic shelter		• Improve efficiency of waiting list and construct of fully-subsidised houses • Plan or provide for construction of backyard structures in the design of greenfields developments
4. Densify settlements and/or improve utilisation of well-located residential land	Lack of infill development or non-utilisation of space in backyards of well-located homes	Existing home-owners lack finance to build second dwellings in their backyards or encounter too much bureaucracy when they try to get planning approval	• Streamline Facilitate access to affordable finance for landlords • Streamline planning approvals for second dwellings (e.g. blanket approvals)
		Existing home-owners don't want to erect second dwellings	• Plan or provide for construction of backyard structures in the design of greenfields developments • Provide financial incentives for home-owners to erect second dwellings for residential use (tax break or subsidy)
5. Relieve over-stretched public infrastructure	Increased demand for services due to densely populated plots		• Retrofitting of existing bulk capacity • Install additional bulk infrastructure capacity

This section offers potential instruments for municipalities to use in responding to backyarding issues. This 'menu' of responses can be matched to different backyarding situations, such as:

- new, greenfields environments,
- existing, low-density areas that have the opportunity for future backyarding development,
- areas with high backyarding densities and
- areas facing existing slum-like conditions due to unregulated backyarding.

Ultimately the instrument or approach selected must meet the specific needs and the conditions in their specific jurisdictions. The possible actions are grouped into four basic categories:

#### **A. Change the laws or their application**

1. Land Use Management Systems: Pro-actively include backyarding in future land use management systems. Most municipalities are going to need to substantially replace their LUMS approaches in order to meet the requirements of new national and provincial legislation (SPLUMB and provincial frameworks currently being developed or recently promulgated).
2. Town Planning Controls: Zoning controls, densities, planning standards, land size, subsequent dwelling unit allowances could all be used to control growth and direct it in healthier and more acceptable ways.
3. Relax Performance Standards: municipalities can manage backyard accommodation based on what it delivers in terms of spatial standards and its performance in respect to safety, health and access to basic services, rather than against whether it meets a specific minimum overall standard as currently specified in the housing code. Accommodation may not meet current national minimum accommodation standards but may adhere to (internationally accepted) minimum spatial standards, hygiene/sanitary/washing facilities, thermal performance and fire control.
4. Design of Municipal By-laws: These could regulate sub-letting, the enforcement of maintenance standards and allow for a system of penalties if landlords did not follow the rules. These are also relevant to controlling unsuitable uses of backyarding structures, such as polluting industries occurring within residential areas.
5. Capacity and will to enforce by-laws and regulations: enforcement processes for building control, inspection and by-laws are a critical element in ensuring municipal strategies towards backyarding are met. Can be used to control and guide backyarding processes.
6. Facilitate planning Approval Procedures: Facilitative planning and plan approval procedures so that landlords encounter fewer obstacles when trying to formalise second dwellings.

#### **B. Enable and plan for second dwellings in new developments**

7. Pro-active settlement layouts: Future settlements can be designed with sufficiently large stand sizes, and stand layouts appropriate for subsequent construction of secondary dwellings.



8. House Design providing for later extension or addition of second stories.
9. Provide/allow for second dwelling in title deed of new properties: These options could be included in the title deed of the plot and would mean that planning permission is not necessary, thus cutting down on administration whilst still being able to direct and regulate growth.
10. Future Bulk Infrastructure Planning: A proactive capacity planning approach can ensure that facilities are able to cope with this added pressure. In fact, much evidence indicates that households in backyards will generally consume less bulk capacity than those in other types of accommodation.
11. Service specifications for new developments can be designed to include:
  - a. Planning for excess capacity for informal rental growth
  - b. planning for separate water, electricity and sewerage connections for household tenants
  - c. Separate metering for services within multiple rental units and household rental.

#### **C. Improve existing situation for tenants**

12. Improvement of standards of services or accommodation.
13. Replacement of structures with alternative or better accommodation.
14. De-densification, through the removal and relocation of a portion of structures in very dense areas of backyarding;
15. Providing alternative accommodation Given recent legal precedents, the onus will also be on municipalities to ensure all people removed from existing accommodation are given access to alternative, transitional or permanent accommodation.
16. Improving the Rule of law in dispute resolution: Establishing fair approaches for mediating or arbitrating in disputes, and for ensuring timeous evictions (such as rental tribunals).
17. Environmental Improvement Initiatives and investment: Public environment cleanliness, security, etc., specialist business improvement initiatives leverage private investment and improve the overall quality of the environment for tenants and landlords. For example: crime prevention, services installation (water, electricity, sewerage), social services investment (schools, libraries, etc), transport routes and facilities investment.

#### **D. Facilitate supply**

18. Improve rental landlords' access to finance for the procurement and on-going management of rental stock:
  - a. Equity Participation: Assisting landlords by improving their ability to raise equity.
  - b. Long-Term (Institutional) Finance: Provision of medium to long-term financing to rental institutions for their development and growth.

- c. Bridging (Project) Finance: Provision of short or medium-term finance during the procurement, development and commissioning of multiple-unit rental stock developments.
  - d. New financial / credit models & products: Facilitating the availability of finance for non-owned housing.<sup>12</sup>
  - e. End-User Mortgage Finance: Finance linked to the underlying value of the asset constructed (e.g. how the Perm scheme operated).
  - f. End-User Unsecured Credit: Facilitating credit provision to small landlords for the development or purchase of individual accommodation units for rental.
19. Facilitate provision of access to land, buildings, infrastructure & labour
- a. Building stock: identification and release of stock suitable for increased habitation, and densification
  - b. Building materials access: facilitating access to building materials for the construction of rental accommodation.
  - c. Pre-fabrication: construction and marketing of pre-fabricated accommodation units or components (such as integrated wet-cores).
  - d. Technical Support for Product Development: Technical support options aimed at rental landlords could include:
  - e. Professional design and development Support: Targeted technical support to institutions or individuals regarding design, construction, legal procedures, subsidy procurement.
  - f. Generic product design and development support: Product design and establishment 'packs' for generic rental products (this could be applicable to for instance small private landlords' development of tenements in township areas).
20. Capacity Building Support for Institutions: building the capacity of existing landlords in order to enhance their effectiveness as rental managers. These could include:
- a. 'Business Incubator' initiatives to identify new rental entrepreneurs, and grow the capacity of existing or emerging rental businesses.
  - b. Development or improvement of landlords' management capacity to successfully hold and manage housing stock.
  - c. Assisting landlords of all sizes to improve systems and procedures involved in procuring, holding and managing rental stock. This could include the provision of generic systems for small landlords.

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<sup>12</sup> This could include niche products (such as Nedbank's 'Buy to Let' product), new approaches (such as the 'instalment sale' model), business-based finance, small entrepreneur products, etc.