

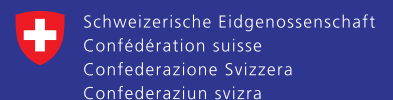
A PROGRAMME MANAGEMENT TOOLKIT FOR METROS:

# Preparing To Scale Up Informal Settlement Upgrading in South African Cities

## A City-Wide Approach



November 2017



Swiss Confederation



# Programme Management Upgrading Toolkit:

**Preparing To Scale Up  
Informal Settlement  
Upgrading In South Africa**

**A City-Wide Approach**

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## FOREWORD

It gives me great pleasure to be launching this Programme Management Upgrading Toolkit, which is the product of a long interactive engagement between the metropolitan municipalities and human settlements sector dating back to 2015.

The Toolkit is aimed at addressing key barriers inhibiting the scaling up of city wide and programmatic upgrading in metros. The Toolkit is our contribution to the metros and the sector in general, and it demonstrates our total commitment to making our cities inclusive, safe and sustainable through participatory and city wide informal settlements upgrading. We are hoping that through this support metros will be better equipped to prioritise and effectively implement in situ upgrading including: community participation and empowerment; the progressive realisation of tenure security; and radically improving the provision of basic services (such as water, sanitation, electricity, fire protection and refuse services) along with essential social services (such as early childhood development and clinics).

The Toolkit will not be implemented as a stand-alone resource to support metros, but as an integral part of the National Upgrading Support Programme (NUSP). In fact, the institutionalisation and incorporation of the Toolkit into NUSP Capacity Building is already accomplished. This programme will be implemented over the next three years, starting in February 2020.

It is envisaged that the metros will, through direct technical support, take full ownership of the Toolkit and thus use it as a dynamic and practical tool in planning and managing their informal settlements in a city wide and programmatic manner to improve the quality of lives of poor and vulnerable households.

The use of the Toolkit is will not be confined to the metros only, but the sector as whole including CBOs, NGOs, and academic institutions so as to strengthen their partnerships with metros in support city wide upgrading and to make our cities more inclusive, stable and sustainable in response to the challenges and opportunities of ongoing urbanisation.

I would like to thank all partners that have made this endeavour a success such as the World Bank, SECO, NUSP and metros, as well our service provider, the Project Partnership Trust (PPT). The real work is now ready to start at an opportune time when we are designing and piloting the new Informal Settlements Upgrading Grant.

Deputy Director General National Treasury IGR

Ms Malijeng Ngqaleni

# QUICK USER GUIDE

**WHO IS IT FOR?** This Toolkit is for metro officials and decision-makers involved in informal settlement upgrading, as well as those within provincial and national government departments which play important roles in upgrading. The Toolkit will also be useful to those partnering with or supporting metros in upgrading, including community leadership, support NGOs and CSOs, and private sector service providers.

**WHAT IS IT FOR?** The Toolkit has been **designed to assist metros to develop a programmatic, city-wide approach to scaling up their informal settlements upgrading programmes, through consolidating existing good practices and addressing the most critical barriers** which metros themselves have identified in scaling up city-wide, incremental, partnership-based upgrading. The focus of this Toolkit is at the programme level. There is already a large array of existing upgrading tools and resources, most of which are focused at the project level (refer to Annexures and Resource Library).

**HOW DO I USE IT?** The best way to utilise this guide is to:

1. **Identify the main barriers and constraints in your metro** and operating environment;
2. **Refer to those parts of the Toolkit which address these barriers;**
3. **Refer to relevant tools and resources in the Toolkit Resource Library** (utilising the smart-reference Excel reference list contained at Annexure A—you will need the electronic copy to make use of the filter and sort functions and you will need access to the library itself (over 300 selected documents) which will initially be made available on Dropbox and eventually on the NUSP or NDHS website.

In the event that your challenges are not directly addressed, then please refer to the Toolkit Resource Library which contains a large number of carefully selected and 'smart-referenced' South African and International resources, tools and precedent studies (again, it will be most effective if you make use of the electronic [Excel] version of the Toolkit Library List contained at Annexure A).

**HOW DO I USE THE RESOURCE LIBRARY?** The Resource Library is 'smart-referenced' and contains more than 340 carefully selected documents and resources. Whilst some of the smart-referencing can be utilised in the hard copy or pdf format, more functionality is available if you use the 'filter' and 'find' functions available in Excel which means you will need the electronic copy. It is emphasised that the resource library is a work-in-progress and not all cells are yet populated. It would help if you can insert any additional information (e.g. keywords or author names etc.), shade the edited cell red and save the updated toolkit spreadsheet AS A NEW REVISION in the Dropbox folder (or email it to NUSP/NDHS). Here are some of the ways you can search for the resources you need:

1. **Subject 'filter':** Click on the filter tabs for any of the subject filter themes (there are 22 selected themes). That will display (select) all toolkit items which are relevant to that theme. The filter tab is a small square with upside down triangle directly under the heading row.
2. **Keyword 'filter':** Use the filter tab—the dropdown menu of keywords will appear alphabetically.
3. **Keyword 'find':** Click on 'find and select' (top right on toolbar) and enter any keyword or words and then scroll through the results returned.
4. **Author/organisation:** Use the filter function to select from 'author abbreviation', or any of the 'author' sub-columns.
5. **Origin:** Use the 'Int. vs SA or 'country' tabs to select resources of different origins.
6. **Priority SA Metro tool:** Using filter tab, filter all the selected priority tools (click 'y').

**WHAT KIND OF BARRIERS?** Here are examples (A-N) of some of the key barriers identified by metros (arising from the 2016 national stakeholder workshop and meetings with metros early in 2017). These questions will help you identify specific issues, find relevant tools and solutions, and thereby overcome barriers to scaling up.



**A. CITY-WIDE, INCREMENTAL UPGRADING NOT YET PRIORITISED—perhaps more focused on conventional housing projects?**

*Can these conventional housing projects rapidly address the full informal settlement ‘backlog’ in the municipality—can they transform the city on their own? How are catalytic projects conceptualised and what is their scale of impact? Can city-wide incremental upgrading not be positioned as a catalytic project given its scale of impact? Have city decision-makers been adequately briefed on the city-wide approach to upgrading (refer to 1.2, 1.3 and 1.10) and the limitations of traditional approaches in moving to scale (refer to 1.6)? Is upgrading seen as a strategic city programme for city-building, spatial transformation, inclusion and resilience (refer to 1.2, 1.6 and 1.11)? Are leaders and decision-makers realistic about constraints to conventional approaches such as funding, land and capacity? Refer also to examples B and C which follow below.*

**B. UPGRADING PROJECT PIPELINE MOVING TOO SLOWLY—too many settlements not being sufficiently assisted?**

*Have all settlements been assessed and categorised using the standard rapid assessment and categorisation (RAC) methodology (refer to 2.2, 2.3 and 2.6)? Is there a city-wide upgrading plan which includes ALL settlements (refer to 2.3, 2.10 and 2.13)? Is incremental upgrading with essential services provision a key component of the plan or is there an over-reliance on conventional, formalisation upgrading and relocations? Are all settlements provided with a sufficient package of essential services (refer to 1.22) and example C)? Is this essential services delivery recorded and reported as a key upgrading milestone? What makes the pipeline move slowly (e.g. funding, suitable land, delivery capacity, settlement densities)? Can incremental upgrading with essential services provision help mitigate these constraints? Is the upgrading focus programmatic (city-wide) or on individual stand-alone projects? Are the necessary capacity and enabling partnerships being brought into play (refer to 4).*

**C. ESSENTIAL SERVICES INADEQUATE IN INFORMAL SETTLEMENTS—‘binary’ approach as either full upgrade or only very limited basic services?**

*For permanent settlements (B1 category): a) Is the package of essential services comprehensive<sup>1</sup> or is it seen only as a temporary measure?; b) Are key access roads upgraded/established before settlement densification leaves no space to make this possible; c) Is there provision for key social facilities (e.g. education, health care, ECD)?; d) Can essential services be provided in advance of land acquisition and formal planning approvals (refer to 6.3); e) Are residents permitted/empowered to undertake their own housing improvements or are they uncertain/insecure about doing so (refer to 3.12 and 3.13)? For relocations settlements (B2 category), is there adequate mitigation of health and safety threats?*

**D. TOO MANY SETTLEMENTS to be relocated, but not enough housing stock to serve them - many settlements are left waiting?**

*Is there a clear and realistic distinction between settlements which are permanent (B1 in-situ upgrades) and those which must be relocated (B2)? How long will relocation settlements have to wait and is relocation definitely the best solution? Have land suitability studies been undertaken to confirm the constraints and understand them (refer to toolkit library items 75 and 76)? Has mitigation of on-site constraints been considered as an alternative to relocation? Have these issues been discussed with the affected communities and what are their views on in-situ mitigation versus relocation? How do the impacts of relocation compare with those of on-site mitigation? What role can residents play in helping to address constraints, either short or long-term? Is there an understanding of the difficulties and risks associated with relocations (e.g. re-invasion of land, high costs of alternative formal housing solutions, TRAs becoming permanent less formal settlements etc.)? If relocation is unavailable, has managed land settlement/site and service been considered as a way of expediting the relocation, by establishing a municipal-community partnership and leveraging residents own resources and investments?*

<sup>1</sup> I.e. water, sanitation, roads and footpaths, electricity, fire protection, waste removal, key social services

### **E. INSUFFICIENT BUDGET for the upgrading pipeline?**

*Is the bulk of the budget for upgrading allocated to a small number of costly, full upgrade projects, or is there an appropriate mix of full and incremental upgrade projects (refer to 2.7 and 2.12)? Do the MTEF and BEPP budgetary provisions reflect this appropriate mix? Is the city-wide upgrading plan realistic in respect of budget availability? Is at least 50% of the USDG allocation utilised for incremental upgrading including participative planning and essential services? Does upgrading receive sufficient budgetary priority relative to other initiatives such as catalytic projects?*

### **F. INSUFFICIENT CAPACITY to deal with the large numbers of communities, settlements and projects—including enabling intergovernmental relations and partnerships?**

*Is there effective institutional coordination with assigned personnel: a) between municipal line departments?; b) within informal settlement precincts including adequate technical support to ward councillors?; c) with key provincial departments? d) with communities and support NGOs (refer to section 5)? Is there a central coordinating structure for upgrading involving key municipal and provincial departments and other key role-players (refer to 4.5, 4.6 and 4.11)? Are there area-level coordinating structures with assigned personnel (refer to 4.11)? Is data and information pertaining to informal settlements effectively managed, including a centralised database for planning, monitoring and reporting (refer to toolkit library 352 and 353)? Are there enabling partnerships with local support NGOs with specialist skills and expertise in upgrading (refer to 4.9 and 4.10)? Are communities involved effectively as partners which play an active role in the upgrading process or are they positioned as passive beneficiaries (refer to 5.2, 5.8 and 5.15)? Is there effective procurement which taps into specialised skills from the NGO and private sector (refer to 4.10 and 3.16)?*

### **G. UNSURE HOW TO PROCEED with planning and implementing upgrading—does it seem too complex and uncertain?**

*Have appropriate planning tools been utilised (including settlement categorisation, developing a city-wide upgrading plan, and prioritising essential services provision and public realm investment (refer to 2.1, 2.3, 2.10, 2.12, 2.13)? Have the Built Environment Performance Plan (BEPP) guidelines for upgrading planning been utilised (toolkit library item 53 and 54)? Has this Toolkit and related upgrading toolkits (NUSP, HDA etc.) been utilised? Is there a gap in understanding and communication between city officials and political leadership in respect of plans, priorities and budget allocations? Is this creating some of the uncertainty about how to proceed? Have the necessary capacity and partnerships for upgrading been tapped into (refer to 4)? Is there sufficient buy-in and support from key provincial departments and support organisations necessary for successful upgrading?*

### **H. FORMAL PLANNING AND ENVIRONMENTAL APPROVAL PROCESSES slow and bogging down upgrading projects?**

*Is there a clear understanding, including amongst city leadership, of the lengthy timeframes associated with these formal processes (see 1.6)? Does the municipality feel empowered to commence with the provision of certain essential services, in a planned fashion, in advance of formal planning and approval processes being completed (see 6.3 and 0)? Is there a provincial structure/communication channel which can expedite agreement on the types of planning and regulatory flexibility which may be appropriate and necessary to unblock incremental upgrading? Has the use of special zones been considered for transitional/incremental development in order to unlock some of the necessary flexibility (see 7.2, 7.3 and 6.13)?*

### **I. LAND ACQUISITION is too slow and costly?**

*Are essential services provided on land not (yet) acquired by the municipality (including private land and SOEs)? Is there an understanding of the obligation on the state to provide essential services, even on land it does not own (refer to 1.10, 6.3, 6.4, 6.5)? Does the city-wide upgrading plan provide sufficient budget and time for land acquisition? Are the costs and timeframes for land acquisition (including expropriation) realistically estimated? Does the municipality feel empowered to provide substantial essential services for permanent settlements (category B1) in advance of land acquisition and formal planning processes being finalised? How much of the land required is already*

settled (in-situ upgrade) versus for new projects/relocations (greenfields) and is this mix realistic and appropriate (see 1.4, 2.3, 2.13)?

**J. SETTLED LAND IS NOT SUITABLE for human settlements but alternative land is not yet available?**

Have site constraints been fully understood and mitigation measures considered as an alternative to relocation, taking into account alternative land availability, negative relocations impacts and the views of residents etc. (2.3, 2.6, 5.15 and toolkit library items 75 and 76)?

**K. COMMUNITY TRUST is hard to secure—difficult to deliver on the promise?**

Has there been effective communication with communities over upgrading plans and options? Has this engagement been sustained over time or is it ad hoc, piecemeal and reactive (instead of proactive)? Is there capacity to engage at area-level (across different sectors)? Does the ward councillor have technical support from officials to ensure that promises made to communities are realistic and achievable within prevailing financial and other constraints? Is there effective communication and coordination between officials involved in planning and delivery, and politicians? Are community expectations realistic? Is there transparency over city-wide upgrading plans including the categorisation and intended responses for each settlement? Are social compacts being utilised to define and agree upgrading priorities as well as mutual roles and responsibilities of the municipality and community? Are there specialist upgrading support NGOs which could assist the municipality with social process and facilitation? Is there sufficient funding/budget allocation for the necessary social processes and facilitation?

**L. TRAPPED IN A 'ONE-WAY' SERVICE DELIVERY MODE—hard to establish active partnerships with communities and leverage their upgrading contributions?**

Is there full political commitment to a partnership-based approach to upgrading (refer to 1.1, 1.2, 1.4, 1.5 and example A)? Is there effective and sustained community engagement leading to a relationship of trust over a realistic development agenda with mutual roles and responsibilities as confirmed in social compact agreements (refer to 5.15)? Are the required capacity and partnerships in place for the necessary participation and social process (refer to 4.9, 4.10)? Is there transparency over upgrading plans, timeframes and budgetary commitments (i.e. the city-wide upgrading plan)?

**M. LAND INVASIONS AND URBAN MIGRATION are overwhelming?**

Is the urban migration seen as a shared challenge (and opportunity) for all spheres of government or only a metro responsibility? Are there realistic projections for future migration and settlement expansion as part of the city-wide upgrading plan and is there a plan to 'get ahead of the game' (refer to 9)? Has this plan been informed by an understanding of the livelihood strategies of the urban poor, including possible circular migration and dual household bases? Has this plan been developed collaboratively with the provincial sphere of government and is there an understanding at the provincial and national levels of the implications for cities in dealing with significant and ongoing rural-urban migration? Does the plan provide for the increased operational costs of essential services over time (refer to 10)? Does the municipal plan include agreement on the roles and contributions from the provincial and national spheres of government? Is there alignment with provincial and national plans (e.g. pertaining to education, health care, ECD, social grants etc.)?

**N. OPERATING AND MAINTENANCE costs are unsustainable for the city?**

Have ongoing operating and maintenance costs been factored into the planning and budgeting (e.g. high cost of temporary chemical toilets compared to permanent ventilated improved pit toilets [VIPs]) (refer to 10)? Are payments towards certain essential services and operating and maintenance of services included in social compacts (refer to 10, 5.15)? Have community-based maintenance solutions been considered (refer to 10)? Is there a long-term view on payment for services, as settlements consolidate and income levels increase over time (refer to 10)?



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# ABBREVIATIONS

<b>AAPS</b>	Association of African Planning Schools	<b>EHP</b>	Emergency Housing Programme/ Policy
<b>ACHR</b>	Asian Coalition for Housing Rights	<b>EPHP</b>	Enhanced Peoples Housing Process
<b>ABM</b>	Area Based Management	<b>EPWP</b>	Expanded Public Works Programme
<b>IA</b>	Implementing Agent	<b>ESTA</b>	Establishment of Security of Tenure Act
<b>BEPP</b>	Built Environment Performance Plan	<b>EU</b>	European Union
<b>BESG</b>	Built Environment Support Group	<b>FBO</b>	Faith Based Organisation
<b>BEVC</b>	Built Environment Value Chain	<b>FEDUP</b>	Federation of the Urban Poor
<b>BNG</b>	Breaking New Ground	<b>FLTS</b>	Flexible Land Tenure Act
<b>CBO</b>	Community-Based Organisation	<b>GIS</b>	Geographic Information System
<b>CBP</b>	Community-Based Partners	<b>GPS</b>	Global Positioning System
<b>CDC</b>	Community Development Committee	<b>HDA</b>	Housing Development Agency
<b>CFW</b>	Competitive Funding Window	<b>HSDG</b>	Human Settlements Development Grant
<b>CoCT</b>	City of Cape Town	<b>HSG</b>	Housing
<b>CODI</b>	Community Organizations Development Institute	<b>HSP</b>	Housing Sector Plans
<b>COGTA</b>	Department of Cooperative Governance & Traditional Affairs	<b>ICDG</b>	Integrated City Development Grant
<b>COJ</b>	City of Johannesburg	<b>IDP</b>	Integrated Development Plan
<b>CORC</b>	Community Organization Resource Centre	<b>IGR</b>	Intra-Governmental Relationships
<b>CRO</b>	Community Resource Organisation	<b>INEP</b>	Integrated National Electrification Grant
<b>CRU</b>	Community Residential Units	<b>IRDP</b>	Integrated Residential Development Programme
<b>CSO</b>	Civil Society Organisations	<b>ISN</b>	Informal Settlement Network
<b>CSP</b>	Cities Support Programme	<b>ISU</b>	Informal Settlement Upgrading
<b>CUF</b>	Community Upgrading Fund	<b>IZ</b>	Integration Zone
<b>CV</b>	Curriculum Vitae	<b>KZN</b>	KwaZulu-Natal
<b>CW</b>	Competitive Window	<b>LA</b>	Local Authority
<b>DAG</b>	Development Action Group	<b>LED</b>	Local Economic Development
<b>DHS</b>	Department of Human Settlements	<b>LRO</b>	Land Rights Office
<b>DOE</b>	Department of Education	<b>MFA</b>	Municipal Finance Act
<b>DOH</b>	DEPARTMENT OF HOUSING	<b>MFMA</b>	Municipal Finance Management Act
<b>DORA</b>	Division of Revenue Act	<b>MIG</b>	Municipal Infrastructure Grant
<b>DPME</b>	Department of Planning Monitoring & Evaluation	<b>MOA</b>	Memorandum of Agreement
<b>DP&amp;UM</b>	Development Planning & Land Use Management	<b>MSTF</b>	Medium Term Spatial Framework
<b>DSD</b>	Department of Social Development	<b>MTEF</b>	Medium Term Expenditure Framework
<b>DW</b>	Development Workshop	<b>NDHS</b>	National Department of Human Settlements
<b>ECD</b>	Early Childhood Development	<b>NDPG</b>	Neighbourhood Development Partnership Grant
<b>EH</b>	Emergency Housing		



<b>NGO</b>	Non-Governmental Organisation	<b>SERI</b>	Socio-Economic Rights Institute of South Africa
<b>NHBRC</b>	National Home Builders Registration Council	<b>SHP</b>	Social Housing Programme
<b>NPO</b>	Non-Profit Organisation	<b>SNDP</b>	Second National Development Plan
<b>NUSP</b>	National Upgrade Support Programme	<b>SOE</b>	State Owned Enterprise
<b>NT</b>	National Treasury	<b>SPLUMA</b>	Spatial Planning & Land Use Management Act
<b>PCAP</b>	Participative Community Action Plan	<b>SR2</b>	Single Residential 2
<b>PD</b>	Provincial Department	<b>SUN</b>	Sustainable Urban Neighbourhoods
<b>PHP</b>	Peoples Housing Process	<b>TOR</b>	Terms of reference
<b>PIE</b>	Prevention of Illegal Eviction & Unlawful Occupation of Land Act	<b>TRA</b>	Temporary Relocations Area
<b>PFMA</b>	Public Finance Management Act	<b>TRSA</b>	Transitional Residential Settlement Areas
<b>PPT</b>	Project Preparation Trust	<b>UISP</b>	Upgrading of Informal Settlement Programme
<b>PTIG</b>	Public Transport Infrastructure Grant	<b>UNOPS</b>	United Nations Office for Project Services
<b>PTO</b>	Permission TO Occupy	<b>USDG</b>	Urban Settlements Development Grant
<b>RAC</b>	RAPID ASSESSMENT & CATEGORISATION	<b>VIP</b>	Ventilated Improved
<b>RDP</b>	Reconstruction and Development Programme	<b>VPPU</b>	Violence Prevention through Public Upgrading
<b>RFP</b>	Request for proposal	<b>WC</b>	Western Cape
<b>SA</b>	South Africa	<b>WDC</b>	Ward Development Committees
<b>SAHPF</b>	South African Homeless Peoples Federation	<b>WPI</b>	Worcester Polytechnic Institute
<b>SDBIP</b>	Service Delivery and Budget Implementation Plan	<b>ZEIS</b>	Zones of Special Interest
<b>SDI</b>	Shack Dwellers International		
<b>SDF</b>	Spatial Development Framework		



# INTRODUCTION

**Purpose:** The purpose of this Programme Management Upgrading Toolkit is to assist metros in South Africa to overcome barriers which prevent a scaled-up, city-wide upgrading approach which is incremental, in-situ, participative and partnership-orientated. It is recognised that such an approach, whilst having been policy in South Africa since at least 2008, has yet to be successfully implemented at scale. The Toolkit's focus is at the overall programme level since there are already various project-level upgrading tools and resources available. This initiative forms an important part of strengthening the service delivery, management capacity and systems of South African cities. Whilst it was developed for metros, the Toolkit content will be equally useful to other municipalities which have significant informal settlement populations.

**Origin:** This Toolkit forms part of the knowledge resources provided by the National Upgrading Support Programme (NUSP) through its various strategic partners, which include the Cities Support Programme (CSP) of the National Treasury (refer to resource library items 2-29 for other NUSP resources). The objective is, through collaboration, to further realise the objectives of the national Upgrading of Informal Settlements Programme (UISP). The Toolkit forms part of the CSP work pertaining to the framework for scaling up informal settlement upgrading, which is being implemented in partnership with the National Department of Human Settlements (NDHS) and NUSP. The World Bank is accessed via the National Treasury to provide technical support to the CSP (as one of the service providers).

**Analysis of barriers and gaps:** This Toolkit is structured around an analysis of barriers and constraints to achieving a city-wide upgrading approach (refer to resource library item 43 for detail on these barriers). This analysis of barriers began with processes of engagement with metros and other stakeholders in 2015 and 2016 and was significantly strengthened by means of meetings with all eight South African metros early in 2017 as part of the Toolkit development process. The Toolkit is also structured around an analysis of gaps in that it focuses mainly on providing or referencing tools and resources which did not formerly exist or which were not generally accessible. One of the gaps identified was a lack of programme-level tools and the tendency for many existing tools to be project or 'depth'-orientated as opposed to being programme-orientated (i.e. focusing on how to move to scale and achieve 'breadth' and inclusion). In addition, many historical tools were premised on moving towards formality as continuous or rapid progression; such tools tend to be premised on regularisation and formalisation and few grappled meaningfully with how to work with informality in an incremental and inclusive fashion.

**Acknowledgements:** Funding for this Toolkit was provided by the Swiss State Secretariat for Economic Affairs (SECO), administered through the World Bank and National Treasury (Inter Governmental Relations department) under the CSP. The valued inputs from the following stakeholders are also acknowledged: all those serving on the steering committee for the assignment, including Seth Maqetuka (CSP), Yan Zhang (World Bank), Thando Madonsela (HDA), David Morema (NUSP), Mala Ramanna (NUSP) and David Savage (CSP), in their capacities as representatives of respective institution. All eight metros in South Africa who participated in bilateral meetings and provided feedback on challenges and shared information; all those who developed content which is either directly included or contained in the resource library; South African Shack Dwellers International (SDI) Alliance and Project Preparation Trust (PPT) for providing photographs; PPT for availing its CEO, Mark Misselhorn, to develop the Toolkit and for providing various materials; the World Bank's Qingyun Shen and Swati Sachdeva for reviewing earlier drafts, and Debra Malovany for doing the layout and design work; and the authors of all the materials in the Toolkit's resource library, some of which have been directly referred to or quoted within the Toolkit itself.









# 1 BUILDING CONSENSUS — THE UPGRADING APPROACH

<b>Purpose of this tool:</b>	To assist in building understanding and consensus in respect of operationalising a programmatic, city-wide approach to upgrading which is incremental, participative and partnership-based. This approach has been envisaged in national policy/programmes dating back to 2004 (via the UISP, NUSP, Outcome 8, NDP, NDHS MTSF 2014-19, current Housing White Paper).
<b>Rationale:</b>	Despite significant housing delivery, informal settlement backlogs have increased since 1994 (backlog > 1.2million households, the bulk in metros; 11.7% of households reside in informal settlements; now 2,700 informal settlements in S.A., up from 300 in 1994). Incremental upgrading policies have been insufficiently implemented. Conventional, formal housing delivery dominates budget allocation and programme focus. Essential services provision is faster and cost effective (achieving > 10 times the population coverage for equivalent state investment). Most informal settlements remain outside of the national housing programme. Often there is insufficient political will and consensus to operationalise and scale up the incremental upgrading approach.
<b>Key principles:</b>	<ul style="list-style-type: none"> <li>▪ Move away from reliance on conventional, formal housing delivery as the principal means of upgrading and addressing informal settlement backlogs.</li> <li>▪ Prioritise and fast-track a comprehensive essential services package (rather than the minimum) including water, sanitation, roads and footpaths, electricity, education, health care, ECD, fire protection etc.</li> <li>▪ Provide these essential services in advance of land acquisition and formal planning approvals - which usually delays the overall process</li> <li>▪ Utilise a programmatic approach and include all settlements—categorise all settlements using established national 'RAC' method of NUSP/HDA to determine appropriate developmental pathways for every settlement.</li> <li>▪ Ensure effective community participation and sustain this over time.</li> <li>▪ Build enabling upgrading capacity, intergovernmental relations (IGR), partnerships and collaborations.</li> <li>▪ Move away from service delivery to a partnership model of response—leverage community 'self-help' and 'social capital' to improve sustainability and reduce dependency.</li> <li>▪ Optimise limited available fiscal resources utilising a city-wide upgrading plan and BEPP budget tools.</li> </ul>
<b>Key tools/ references:</b>	<ul style="list-style-type: none"> <li>▪ NUSP Training Modules 1 and 2 (Case for Upgrading &amp; Social Dimensions) and PowerPoint for Module 1 (Library 4, 5 &amp; 17).</li> <li>▪ UISP and PHP policies (Library 1 &amp; 33).</li> <li>▪ CSP Scoping Report (Library 41).</li> </ul>



## 1.1 INFORMAL SETTLEMENT STATUS QUO IN SOUTH AFRICA

### INFORMALLY SETTLED HOUSEHOLDS BY PROVINCE, 2007 (FROM NUSP WEBSITE)

Province	Total Households	% Households in informal settlements	Number Households in informal settlements
Eastern Cape	1 586 739	6.4	101 551
Free State	802 872	13.6	109 191
Gauteng	3 175 579	14.3	454 108
KwaZulu-Natal	2 234 129	6.3	140 750
Limpopo	1 215 935	3.6	43 774
Mpumalanga	940 403	9.2	86 517
Northern Cape	264 653	8.9	23 554
North West	911 120	16.0	145 779
Western Cape	1 360 180	8.0	108 814
<b>Total</b>			<b>1 214 038</b>

National and provincial calculations of number of households in informal settlements based on data from Community Survey Key Municipal Data (2007). Variation of 1 479 between provincial and national totals is due to rounding of figures in the provincial calculation, as well as the overall Community Survey methodology. Source: Statistics South Africa, Community Survey Key Municipal Data 2007

### COMPARATIVE METRO INFORMAL SETTLEMENT DATA (CSP UPDATE 2017)

	2017 update (with Metro data)		Census 2011	Community Survey 2007
	Informal dwellings	Settlements	Informal dwellings	Informal dwellings
eThekweni	238 000	569	111 221	142 589
Tshwane	184 019	178	112 013	184 019
Cape Town	162 428	232	143 765	139 853
Ekurhuleni	156 594	114	137 922	220 830
Johannesburg	125 506	181	125 506	214 362
Buffalo City	46 079	288	38 844	51 055
Mangaung	36 902	34	24 408	36 902
Nelson Mandela	32 298	42	29 930	37 937
	981 826	1 638	723 609	1 027 547

Notes: 1) Where full data was provided to CSP by metros during 2017, these figures have been utilised. Where there are gaps, census 2011 figures have been utilised. 2) Cape Town: No lists were provided, however in a meeting with CSP they indicated these figures which have therefore been utilised. 3) Johannesburg: census 2011 data was utilised because list from COJ was only for 50 settlements/55089hh. 4) Tshwane: Their 2013 figure excludes another 14 settlements and they estimate that the total has grown to 178, thus census 2011 utilised for total HH. 5) Differences in figures between Census 2011 and Community Survey 2007 are probably the result of the different survey methods utilised.

## 1.2 WHY DO WE NEED AN INCREMENTAL, CITY-WIDE UPGRADING APPROACH?

This toolkit Initiative takes place against the backdrop of an urgent need to operationalise an incremental approach to informal settlement upgrading which is city-wide (rapidly including all informal settlements), participative, and more partnership-based. Such an approach would also more effectively support inclusive city-building, optimise limited fiscal resources, and build stronger and more functional relationships between the state, urban poor and other formations of civil society.

The historical approach to upgrading, premised on formalisation and 'RDP'-type housing delivery, has proved ineffective because it is too slow, costly and inflexible. The past approach has also failed to build effective partnerships between communities and government and has not leveraged the inherent social capital in informal settlement communities.

Despite significant housing delivery, informal settlement backlogs have increased since 1994 (current backlog exceeds 1.2million households, the bulk of which is in metros. 11.7% of households reside in informal settlements and there are now 2,700 informal

settlements in S.A., up from 300 in 1994). Incremental upgrading policies (as outlined in section 1.10) have not been sufficiently implemented. Most informal settlements still remain outside of the national housing programme. Essential services provision is much faster and cost effective (achieving more than 10 times the population coverage for equivalent state investment). Without effective community participation and enabling partnerships, government on its own cannot meet the challenge. In addition, there is often insufficient political will and consensus to operationalise and scale up the incremental upgrading approach. Conventional, formal housing delivery and catalytic projects tend to enjoy greater priority and therefore continue to dominate in respect of budget allocation and programme focus.

### 1.3 KEY PRINCIPLES OF THE INCREMENTAL, CITY-WIDE APPROACH

The following key principles emerge both from South African Policy (refer to section 1.10) as well as from international experience and precedent (refer to 1.17):

- › **Move away from reliance on conventional, formal housing** delivery as the principal means of upgrading and addressing informal settlement backlogs.
- › **Prioritise and fast-track comprehensive essential services** (rather than the minimum) including water, sanitation, roads and footpaths, electricity, education, health care, ECD, fire protection etc. Provide these essential services as rapidly as possible and in advance of land acquisition and formal planning approvals where delays will otherwise result. This approach entails prioritising public-realm investments as the main priority for the state (as opposed to individual tenure and housing assets which are slow and costly to delivery).
- › **Introduce Rapid Health & Safety Mitigation** as the first phase of essential services provision and the first priority, to rapidly address health and safety threats in ALL informal settlements (e.g. sanitation, water supply, fire protection etc.).
- › **Ensure & sustain effective community participation** that is not a once-off project planning event, but a sustained process of building a relationship of trust, partnership and understanding over time, as this is the foundation of effective and sustained upgrading.
- › **Move from service delivery ONLY to A partnership model** of response that leverages community 'self-help' and 'social capital' to improve sustainability and reduce dependency. This approach requires building enabling upgrading capacity, IGR and partnerships - involving municipality, communities, support NGOs, universities etc. Communities are co-drivers instead of passive beneficiaries, engagement is sustained over time (as part of long-term urban management), restoring a relationship of cooperation and trust between the state, urban poor and other development agencies to create a realistic, 'negotiated' developmental agenda.
- › **Include all settlements in a city-wide programme** as opposed to only a select few; provide meaningful responses/improvements for all settlements within a short period of time (instead of most settlements remaining on a waiting list for protracted periods); and be programmatic and area-based as opposed to focussing on one settlement at a time (e.g. essential services delivered across multiple settlements within a precinct). This principle entails categorising all settlements using established national 'RAC' method of NUSP/HDA to determine an appropriate developmental pathway for every settlement.
- › **Upgrade in-situ & incrementally** to improve settlements where they are, wherever possible, with relocations only undertaken as a last resort, due to the shortage of suitable, alternative land and funding for greenfields projects, the well-established nature of many settlements, and the high risk of debilitating livelihood disruptions arising from relocation. In-situ upgrading entails a range of improvements over time as opposed to once-off formalisation and housing delivery, and it is responsive to the local situation by addressing local priorities (not only basic services) as opposed to a 'one-size-fits-all' approach.
- › **Recognise functional tenure** which can be conferred through a range of mechanisms (including administrative recognition of settlements as a first step); and accepting that conventional, formal tenure (title deeds) can only be put in place, when and if formalisation occurs, and even then often revert to informal tenure over time due to unregistered property transactions.
- › **Encourage flexibility**—both statutory and regulatory flexibility—to work with, not against, informality (e.g. with respect to town planning and building norms, tenure, land ownership etc.). This flexibility may require collaboration between different spheres of government, as prevailing frameworks were

developed for formal suburbs and are not workable in informal settlements.

- › **Owner-driven housing**—accepting that housing in informal settlements is, and will continue to be, mainly resident-built, with limited state subsidy. Also accept the importance of creating a more enabling environment for this to occur (e.g. via essential services provision, functional tenure, flexibility in terms of town planning and building regulations, and potentially housing support centres and materials supply support).
- › **Optimise limited available fiscal resources** by utilising a city-wide upgrading plan and Built Environment Performance Plan (BEPP) budget tools. Focusing on the public realm and essential services is the best way to achieve this, since it provides the most important benefits of living in the City to as many informal residents in the shortest possible time (whereas conventional housing delivery is

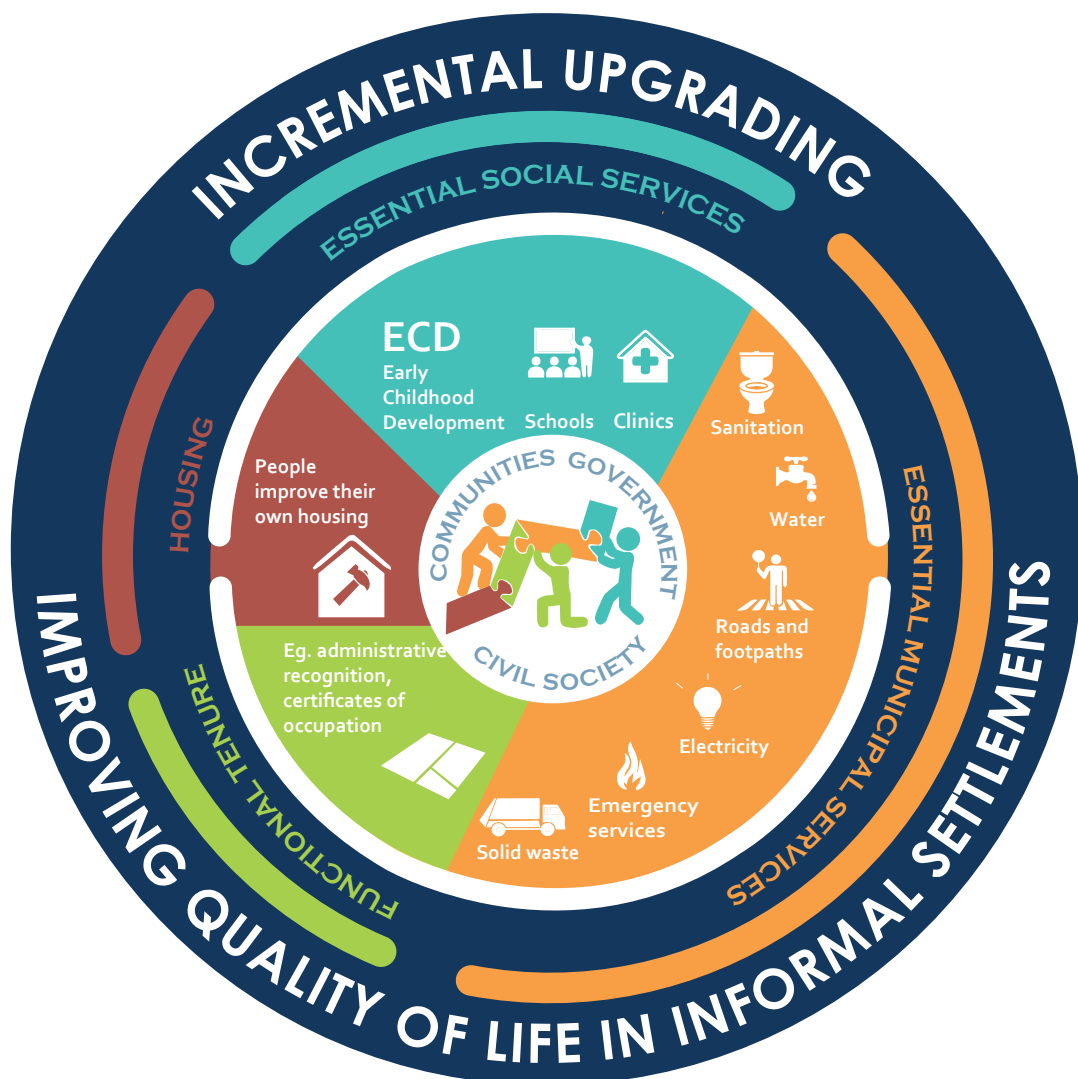
inherently slow, costly and benefits only a select few).

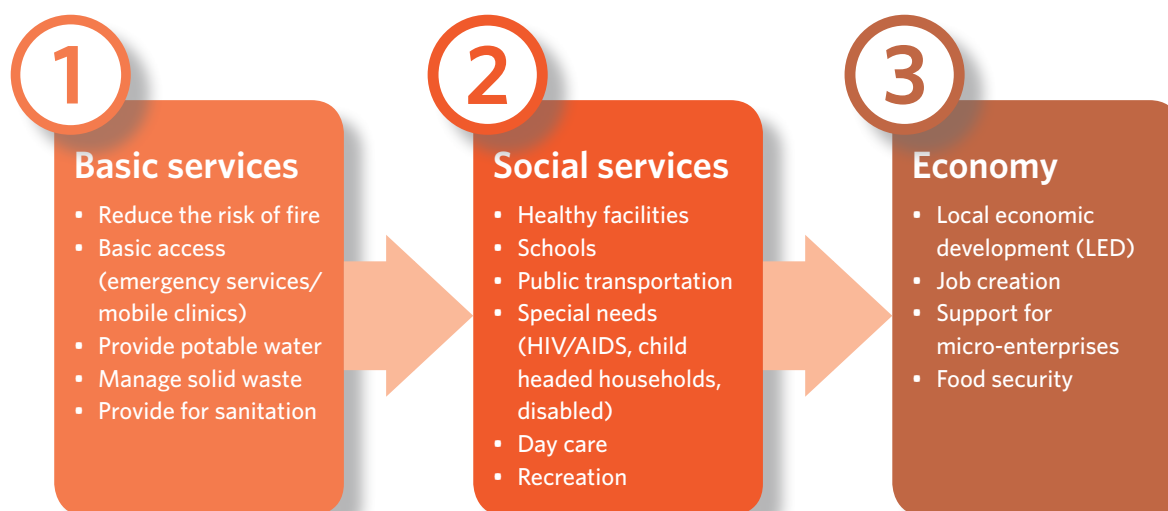
### 1.4. WHAT IS INCREMENTAL UPGRADING?

Incremental upgrading focuses principally on the provision of essential services (municipal infrastructure, operational services and social services) and functional tenure security. The provision of formal, state-funded housing is not the immediate priority, although incremental upgrading provides a more enabling environment for residents to make their own housing improvements.

The manner in which incremental upgrading is achieved may vary significantly from one site and municipality to another, depending on the variability factors (e.g. density, locality etc.) that will be discussed later.

“The underlying philosophy of incremental informal settlement upgrading is as follows:



**FIGURE 1: INCREMENTALLY IMPROVING SERVICES (NUSP)**

“Interim arrangements comprise a continuum of interventions ranging from emergency services to agreed standards of interim services, mainly but not exclusively engineering services. They must also include the provision of social facilities and economic interventions.” (NUSP, 2015, p2)

\*adapted from NUSP diagram

- Informal settlement residents have nowhere else to go and have found a way to make a living where they currently are.
- It is best to incrementally build on what they have already done themselves.
- By building on what people have done and listening to what they need, people’s lives can best be improved.
- In this way, they can be better integrated into the town or city.
- This means residents are partners in the upgrading process and stakeholders in the town or city.”<sup>2</sup>

Three key crosscutting principles of all incremental upgrading responses include:

1. Effective **community participation and partnership**, which is central to success (refer to sections 1.9 and 5) for more information.
2. Prioritisation of **public realm investment** for government investment (rather than individual housing assets). This includes essential municipal services as well as key social services (refer to section 1.4 and 1.22)
3. Addressing **health and safety threats** as rapidly as possible, mainly as part of the public realm investment, but potentially also extending to

addressing the threats arising from flammable shack materials.

4. Accepting **informal processes and flexibility** in respect of the statutory and regulatory frameworks associated with conventional, formal upgrading.

Please refer to section 1.23 below for examples of how South African Cities are already implementing incremental upgrading.

## 1.5. WHAT IS A PROGRAMMATIC APPROACH?

The National Upgrading Support Programme (NUSP) describes a programmatic approach to upgrading in the following way (emphasis added):

“It is now well recognised that there needs to be a radically different approach to addressing the informal settlement challenge in South Africa. The historical approach characterised by a philosophy of eradicating informal settlements and giving preference to formalisation and the delivery of RDP-style housing is now recognised as being unworkable on any large scale and unsustainable. **The new approach to upgrading informal settlements starts with formulating a programmatic approach within a municipality or province.** This



acknowledges that addressing the informal settlement challenge cannot be achieved by responding to informal settlements in an ad hoc, reactive, and unsystematic fashion.

**A programmatic approach to upgrading is one that simultaneously focuses on a number of projects or upgrading initiatives, usually within a specific geographic area** (typically a municipality, district or province). Using simple and rapid evaluation techniques an understanding is obtained of the circumstances of each settlement in the area and on the basis of this **each settlement is categorised** in terms of how it will be addressed in the future. An overall plan for addressing all of the settlements in the area is formulated. Simultaneously every settlement in the area is provided with basic or emergency services. Upgrading of the settlements in the area is then undertaken in terms of the plan formulated and budget availability.

**The imperative is to rapidly deliver meaningful responses to all informal settlements** and to avoid leaving certain settlements on a developmental back-burner. In order to meet this objective, the bulk of informal settlement responses will need to be interim and incremental in nature.

In the short-term, **typically many features of informality will remain, but meaningful improvements in terms of quality of life will need to be achieved**. Examples of this type of improvement include access to clean water, safe sanitation, improved road and footpath access, improved fire protection, improved security, improved access to key social services such as education and health care, informal economy, job creation.”

## 1.6. LIMITATIONS OF CONVENTIONAL UPGRADING

The key limitations of conventional upgrading include budget and land availability constraints, the protracted timeframes associated with formal processes, bulk services availability, and negative livelihood impacts (both on-site and in terms of relocations).

1. **BUDGET:** There is insufficient funding in the fiscus to upgrade all informal settlement by means of conventional housing delivery (full services, title deeds and state-funded top-structures). It would cost at least R240 billion to address the current backlog using conventional upgrading methods (not taking into account future settlement growth). This would take 26 years from

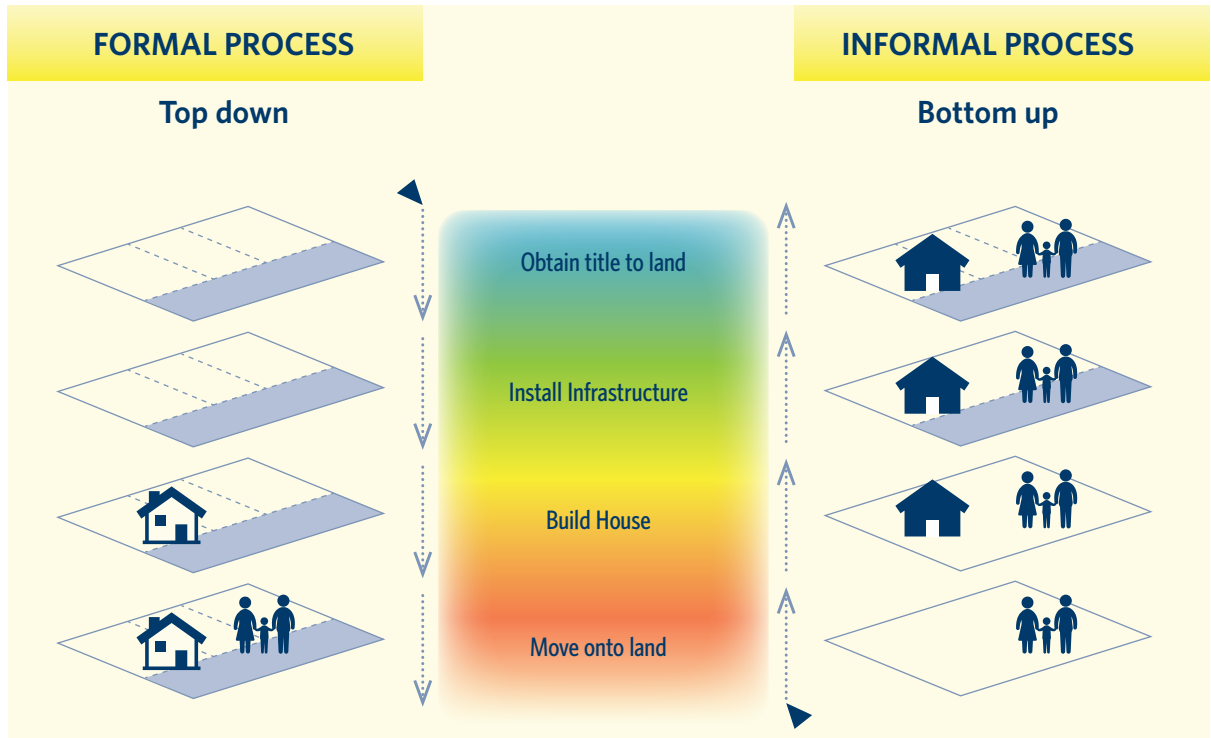
a budgetary point of view, notwithstanding other limitations outlined below. Please refer to illustrative budget model in section 1.7.

2. **TIMEFRAMES:** Conventional upgrading is inherently slow, taking between six and ten years from the commencement of planning to closeout. Processes such as land acquisition, funding approvals, environmental authorisations, planning approvals, procurement and roll-over construction are all time-consuming.
3. **LAND:** There is a severe shortage of suitable, well-located land in most cities, notwithstanding the high costs of acquisition. Even when suitable land can be identified, the process for acquisition is typically slow. Transfers between different spheres of government typically take more than a year, and acquisition by private treaty or expropriation is typically slower.
4. **BULK SERVICES:** Conventional housing with full services requires a high level of bulk services access (connector roads, water connectors and bulk supply, trunk sewers and pump stations, electricity supply etc.). Often these services need to be upgraded first, before the formal housing can be delivered.
5. **LIVELIHOOD DISRUPTIONS:** Even when settlements are upgraded in-situ using conventional methods, there are inevitably significant livelihood disruptions. Residents need to be temporarily relocated, usually in phases (roll-over upgrade method) and the final settlement pattern, especially in dense settlements, is significantly different. Residents often no longer occupy their previous plot/site, and end up having different neighbors.
6. **RELOCATIONS:** In the case of dense settlements, partial relocations are usually necessary. This typically has significant negative livelihood impacts for the relocatees. The only alternative, a densified upgrade (multi-story, attached units with pedestrianised layout) is extremely costly (usually more than R300,000 per unit) and typically requires that the entire community is relocated temporarily for the duration of the upgrade.
7. **INELIGIBILITY FOR A HOUSING SUBSIDY:** Not all residents of informal settlements are eligible for a state housing subsidy, either because they have already received a subsidy elsewhere (in another province or elsewhere in the City) or because they are not South African citizens. The UISP policy however makes it clear that all residents of informal settlements, irrespective of

### 1.7 BUDGETARY IMPLICATIONS OF CONVENTIONAL VERSUS INCREMENTAL UPGRADING

<b>Illustrative Model: Budget requirements to address informal settlement backlog in South Africa over 10 years</b> <i>(Backlog of 1.2million households of which at least 0.9million are in Metros)</i>													
											Total		
											Per annum		
<b>Budget required using mix of responses with emphasis on incremental upgrading:</b>											86 100 000 000		
<b>Budget required using conventional upgrading:</b>											240 000 000 000		
Response category (as per NUSP RAC)	Funding requirements	Delivery mix			Delivery cost			UISP/HSG split			UISP split		
		No. units	%age of delivery	Unit cost	Grants	10 year budget allocation	Av. Annual allocation	Unit cost UISP/HSG	UISP/HSG total	Av. Annual UISP/HSG	Unit cost USDG	USDG total	Av. Annual USDG
A: Conventional upgrade	Land, township est., full services, topstructures	120 000	10%	200 000	UISP/HSG, USDG	24 000 000 000	2 400 000 000	135 000	16 200 000 000	1 620 000 000	65 000	7 800 000 000	780 000 000
B1: Incremental upgrade	Essential services, functional tenure	780 000	65%	40 000	USDG	31 200 000 000	3 120 000 000	0	0	0	40 000	31 200 000 000	3 120 000 000
B2: Deferred relocation	Essential emergency services on settled site	180 000	15%	25 000	USDG	4 500 000 000	450 000 000	0	0	0	25 000	4 500 000 000	450 000 000
	Relocation site - land, essential services, functional tenure												
C: Imminent relocation	Conventional housing -land, full services, topstructures	60 000	5%	200 000	UISP/HSG, USDG	10 800 000 000	1 080 000 000	24 000	4 320 000 000	432 000 000	36 000	6 480 000 000	648 000 000
	Site & service- Land, essential services, functional tenure	60 000	5%	60 000	UISP/HSG, USDG	3 600 000 000	360 000 000	24 000	1 440 000 000	144 000 000	36 000	2 160 000 000	216 000 000
			1 200 000	100%			86 100 000 000	8 610 000 000		30 060 000 000	3 066 000 000		56 040 000 000
Comparison - using only conventional upgrades>		1 200 000	100%	200 000	UISP/HSG, USDG	240 000 000 000	24 000 000 000	135 000	162 000 000 000	16 200 000 000	65 000	78 000 000 000	7 800 000 000
<b>Notes &amp; Assumptions:</b>													
1) The above is affordable to the fiscus - There is approximately R9.2 billion available for upgrading based on 2016/7 DORA allocations (assuming 25% of the R20b HSG and 35% of the R12b USDG)													
2) HSG R135k per unit breakdown: UISP ph1&2 of R24k + Topstructure phase ofR111k.													
3) State investment priority is the public realm. Most housing is owner-built - limited financial support for this could be beneficial but is not factored in (e.g. housing support centres & materials supply)													
4) The full cost of a Metro upgrade significantly exceeds the HSG allocation of R135k. The actual cost is at least R200k per unit (& usually more - including land and top-ups for infrastructure and housing)													

### 1.8 FORMAL VERSUS INFORMAL PROCESSES



Informal settlements arise through informal processes and continue to develop and evolve through such processes. The key to successful incremental upgrading is to work with, not against, these informal processes.<sup>4</sup>

### 1.9. WHY IS COMMUNITY PARTICIPATION AND PARTNERSHIP ESSENTIAL?

There is a strong recognition that informal settlement upgrading is a social process, involving people who already inhabit the land and who therefore have to be partners in the upgrading process. This aspect is called co-production. This means that informal settlement communities need to be actively engaged at key levels in the formulation of a strategy and project plans.<sup>5</sup> Refer to section 5 for more information.<sup>6</sup> Historically, weak or ineffective community participation and partnership has posed a major barrier to effective upgrading.

### 1.10.S.A. POLICY ALIGNMENT

**SUMMARY**  
The city-wide, incremental, participative approach to upgrading is strongly supported

- by many different policy and strategy frameworks in South Africa. Key principles enshrined in these include the following:
- Addressing informal settlements is a strategic, national priority. Informal settlements are important in that they provide a first point of access to the city for the poor and they are home to large and concentrated populations.
  - In-situ upgrading is preferred in order to minimise livelihood disruptions - relocations are a last resort.
  - Upgrading needs to be incremental – a process of change over time, with initial priority on addressing health and safety, essential services and functional tenure. Land tenure solutions need to be simplified.
  - Capacity at local-level is essential for successful upgrading.
  - Partnerships with communities and civil society are critical.

4. NUSP Training Manual, Chapter 9, pg2. Toolkit item 12.  
5. NUSP Training Manual Chapter 1: The Case for Upgrading. Toolkit item 4.  
6. NUSP Toolkit Part 1 – The Case for Upgrading pg. 2. Toolkit item 4.

**This as National Development Plan (NDP) – Vision 2030:** The NDP prioritises the importance of incremental, in-situ upgrading and provides important clarity beyond that which is provided in the UISP, as the following extracts indicate. For the full NDP please refer to Resource library item number 268.

*“Upgrading all informal settlements on suitably located land by 2030”* emerges as one of the main objectives arising from Chapter 8 (Transforming Human Settlements). The Plan recognises that *“Most job-seeking migrants moving to cities first live in informal settlements, which are an affordable entry to the city”*. It also recognises that *“More diverse housing forms by structuring new programmes, including tackling informal settlement upgrading as a recognition of entry into the incremental housing-delivery process”* (page 268). The NDP confirms *“The commitment to upgrade 400 000 households in well-located informal settlements with the assistance of the National Upgrading Support Programme by 2015”* (page 269). It also recognises that *“The National Upgrading Support Programme, which aims to upgrade informal settlements, has made slow progress due to rigid local regulations, ambivalent attitudes towards informal settlements in parts of government, and a lack of capacity to upgrade such settlements (see box below on informal settlements and livelihoods)”* (page 270).

The NDP recognises that *“Informal settlements provide new migrants and the urban poor an affordable point of access into towns and cities, although they are also associated with high degrees of physical and social vulnerability...Wherever possible, upgrades should happen in-situ, or at least with minimum disruption to existing communities. In South Africa, many provinces and local authorities still revert to conventional approaches to land development. Decisions on where upgrading should happen is often contentious. In many cases relocations happen where more creative solutions to land rehabilitation could be found...Informal settlements are highly differentiated in terms of history, location, levels of vulnerability and social structures, and so generalised solutions should be avoided. There is, however, a general lack of adequate information about the nature and conditions of each of the informal settlements, which would allow for tailored solutions, and would enable a more strategic use of resources.”* (page 273).

The NDP prioritises upgrading as one of the key elements necessary to achieve *“substantive spatial vision for towns and cities”*. It indicates the need to *“Recognise that informal settlements provide the poor with affordable access to urban land and housing markets. Well-located informal settlements should be upgraded in-situ”* (page 285).

In respect of ‘Sharpening the Instruments’, the NDP indicates the need to: *“Recognise the role played by informal settlements and enhance the existing national programme for upgrading informal settlements by developing a range of tailored responses, including:*

- › *Rapid assessment and appraisal* of all informal settlements
- › *Mechanisms to recognise rights of residence* and allow for incremental upgrade of tenure rights
- › *Minimum health and safety standards* which would be progressively upgraded as regularised informal settlements are brought into the mainstream urban fabric
- › *Funding arrangements and programmes* that would channel resources into community facilities, public infrastructure and public spaces, and not just into housing
- › *Dedicated capacity at local level* for informal settlement upgrading” (page 289).

**Integrated Urban Development Framework (IUDF) 2016:** The (draft) IUDF 2016 strongly supports incremental, participative, and partnership-based upgrading at scale, as the following extracts indicate. For the full draft IUDF please refer to Resource library item number 271.

*“Accelerate the upgrading of informal settlements: Informal settlements are important areas of access to the city, especially for the very poor, including migrants from rural areas. Informal settlements are generally located in areas that promote access, but are also often found in locations that are unsafe for human settlement and environmentally poor areas. Upgrading would help to deal with the various risks and vulnerability to shocks. The NUSP should be accelerated, and provinces and municipalities should play a central role in ensuring that targets are met. Priority must be given to identifying safe land, upgrading tenure, and providing basic services, social services, spaces for economic activities and*



*alternative delivery models.* This will assist in protecting low-income citizens, who are often the most severely affected by disasters. Furthermore, where implemented, this *programme should be a priority in the municipality's IDP and budgets.* Provincial departments of human settlements should also provide sufficient budgets for the upgrading of informal settlements. *Partnerships with civil society and communities are critical* for developing sustainable models, and so municipalities should work together with civil society and locals to identify and implement innovative and relevant solutions (see Lever 7)" (Page 64).

*"Municipalities also need to build stronger relations with communities and civil society in order to foster collaborative 'place-shaping' decisions that improve liveability, especially within informal settlements (see Lever 7)" (Page 73).*

*"Speed up security of land tenure: Land tenure for the urban poor needs to be simplified, clarified and speeded up.* For example, in informal settlements, municipalities should develop and implement an incremental approach to land tenure, which would include options such as the recognition of limited tenure, leading to legally secure tenure and later freehold tenure" (Page 79).

*"The majority of urban dwellers live in townships and informal settlements, which are characterised by insecurity, inadequate and insufficient public infrastructure, and low-end economic services, with minimal industrial activity. This locational disadvantage, coupled with the lack of resources, prevents them from fully participating in civic, social, economic and other decision-making processes" (Page 92).*

There is a consensus in national policy and programmes as to the need to shift to an in-situ, incremental upgrading approach which is participative, partnership-based and at scale.

**Breaking New Ground - Upgrading of Informal Settlements Programme (UISP - 2004):** The UISP explains that the key objective of the UISP is to *"facilitate the structured in-situ upgrading of informal settlements as opposed to relocation"* and that *"settlement relocation is to be only considered as a last resort in exceptional circumstances"*. It also outlines the "process and procedure for the in-situ upgrading of informal settlements as it relates to the provision of grants to a municipality

to carry out the upgrading of informal settlements within its jurisdiction in a structured manner. The grant funding provided will assist the municipality in *fast tracking the provision of security of tenure, basic municipal services, social and economic amenities and the empowerment of residents in informal settlements to take control of housing development directly applicable to them.* The Programme *includes, as a last resort, in exceptional circumstances, the possible relocation and resettlement of people on a voluntary and co-operative basis* as a result of the implementation of upgrading projects" (Part A, Sections 1 and 2 of UISP Policy, 2004).

**Outcome 8:** Outcome 8 (dating back to 2010) set a target to improve *"the standard of services and tenure security to 400 000 households in well-located informal settlements" along with "improved access to basic services"* by March 2014. In addition, Outcome 8 sought to *accredit a number of municipalities (namely the metros), to perform housing functions.* Outcome 8 has been replaced with new targets in the Medium Term Strategic Framework, but is still often referred to.

**National Upgrading Support Programme (NUSP):** To support this incremental upgrading focus, the National Department of Human Settlements developed a support programme during 2009 with assistance provided by The Cities Alliance and the World Bank Institute. The NUSP was launched in 2010. It *provides policy, technical and some financial support to municipalities that implement UISP projects.* The initial focus was on providing support to 48 municipalities (which included about 600 informal settlements) but this increased in subsequent years to 51 municipalities.

**New/Enhanced People's Housing Process (PHP - 2009):** PHP is an important instrument for informal settlement upgrading, although it is typically under-utilised and its full potential in leveraging community participation, social capital and partnerships has not yet been realised. PHP is Part 3, Volume 4, of the National Housing Code (Social and Rental Interventions). An improved PHP policy framework was introduced in 2009 which replaces the PHP policy of September 2005 (as of April 2009) – it is often referred to as 'Enhanced' PHP. This updating arose from a recognition that the original framework was too narrow in its focus and did not redefine PHP in a way that community-driven initiatives could be included. "The strategy

recognised that a number of different approaches to community development needed to be accommodated with community involvement in the decision making processes, community empowerment and the leveraging of additional resources being the determining factors for making it a project. *This broadening of the scope of the PHP, with a focus on the outcomes of the housing process as a whole rather than just how the housing product is delivered, informed the development of the Enhanced People's Housing Process policy and programme.* The (enhanced) PHP therefore replaces the PHP and should be seen as a new housing programme, with dedicated support and funding for harnessing community initiative, community empowerment and building community partnerships.<sup>7</sup> Refer to section 3.4 and 3.5 for more information.

#### **NDHS Medium Term Expenditure Framework (MTSF)**

**2014-2019:** The MTSF sets the target of *providing basic services to 750,000 informal settlement households by 2019 and upgrading 447,780hh* (cumulatively since 2010).

**Housing White Paper (2016):** The draft White Paper indicates that there should be *greater resource allocation for informal settlements with priority on particular infrastructure, basic services, community facilities and other public realm investment.* "Greater resources shall be shifted to support informal settlements upgrading on condition that they are located in areas close to jobs. *Therefore, the upgrading of informal settlements shall remain one of the vital instruments in achieving this objective. Given the resource and capacity constraints, it is considered appropriate to prioritise security of tenure and provision of infrastructure in informal settlements.* In the development of infrastructure, an area-based approach will be adopted. Some requirements might include bulk water and sanitation, informal trading places, community centres, parks, safety and security, emergency services, community structures, sport and recreation, skills development, environment management, welfare, street lighting, and institutional facilities" (Draft Housing White Paper 2016 "TOWARDS A POLICY FOUNDATION FOR THE DEVELOPMENT OF HUMAN SETTLEMENTS LEGISLATION" - Chapter 3, subsection 35 of section I).

#### **Municipal Systems and Structures Acts (2000/1998):**

The importance and key principles for community participation as well as mutual roles and responsibilities/duties (communities and municipalities) are substantially outlined in the Municipal Systems Acts (Act 32 of 2000). Amongst other things, the Act intended to "provide for the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the *social and economic upliftment of local communities, and ensure universal access to essential services that are affordable* to all; to define the legal nature of a municipality as including the local community within the municipal area... *to provide for community participation;*... *to empower the poor* and ensure that municipalities put in place *service tariffs and credit control policies that take their needs into account* by providing a framework for the provision of services, service delivery agreements and municipal service districts". The Municipal Structures Act (Act 117 of 1998), aside from providing for the "establishment of municipalities in accordance with the requirements relating to categories and types of municipality" also provides for the *establishment of Ward Development Committees*, which include representation of the relevant Ward Councillor. For more information refer to sections 5.4 and 5.5.

**SPLUMA (2013):** The Spatial Planning and Land Use Management Act (SPLUMA) of 2013 strongly promotes incrementalism in relation to informal settlement upgrading, describing it as "the progressive introduction of administration, management, engineering services and land tenure rights to an area that is established outside existing planning legislation..." SPLUMA further outlines that land use management systems need to include provisions that are flexible and appropriate for the management of informal settlements, which points to the acknowledgement of the complex nature of informality in formal planning legislation. Settlement upgrading needs to be guided by the principles of spatial justice, spatial sustainability, efficiency, spatial resilience and good administration (as outlined in the Act).<sup>8</sup>

7. PHP Policy 2008 (Part 3 of the Housing Code)

8. Taken from Western Cape Informal Settlements Strategic Framework 2016 - Resource Library Ref xxxx.

### 1.11. THE IMPORTANT ROLE OF INFORMAL SETTLEMENTS - ACCESS TO THE CITY<sup>9</sup>

“Whilst informal settlements are all different, and sweeping generalisations are risky, one recurring factor in their formation is that they **typically provide an initial point of access into the urban environment for incoming migrants, or for those moving from other parts of the city.** More importantly, informal settlements **afford access to urban opportunities at a very low financial cost and the barriers to entry are low** (relative to other options such as being allocated a site or a house in a subsidised housing project).

“The nature of this access can be further unpacked into a number of elements such as:

- › **Access to employment and other economic/livelihood opportunities** (which are often modest or survivalist in nature);
- › **Access to social services** (e.g. education and health care);
- › **Access to the political system** (access to ward councillors and the space to vote and lobby);
- › **Access to the legal system** (or improved access to it); and
- › **Potential access to housing and infrastructure** (e.g. through waiting lists for housing projects or through rudimentary/illegal services and connections available).

“**Informal settlements thus serve a critical function as ‘holding places’ where people can access the urban environment at extremely low cost and piece together various livelihood strategies.** Some might remain

permanently and even ultimately gain access to formal housing, whilst others might reside temporarily for specific purposes which, once fulfilled, result in them moving elsewhere in the city or returning from whence they came.

“This view does not mean that all informal settlements are well located, but in many cases they are, and where they are not, they typically still afford better access opportunities than the next best option (e.g. continuing to remain at a traditional rural homestead or at a more peripheral location on an urban boundary).”

### 1.12. ACCOMMODATING DIVERSE INFORMAL SETTLEMENT TYPES

The term ‘informal settlement’ in South African policy and legislation, stems from planning terminology. Formal settlements are settlements that are formally planned according to planning norms and standards. Informal settlements do not comply with norms and standards and are therefore called informal. This term does not refer to a development where the planning laws and regulations have been bypassed intentionally, but rather the focus is on settlements where non-compliance is by poor households who have occupied the land for a range of reasons including that affordable land and housing products are scarce and complying with planning regulations is expensive.<sup>10</sup>

There is a significant variation in informal settlement typologies which have significant implications for how they are responded to. Some of the key variability factors include those outlined in the following section.

9. Content for this section taken from: Position paper on informal settlement upgrading, part of the strategy for the second economy for the office of the South African Presidency, Mark Misselhorn, April 2008

10. NUSP Training Manual Chapter 1: The Case for Upgrading

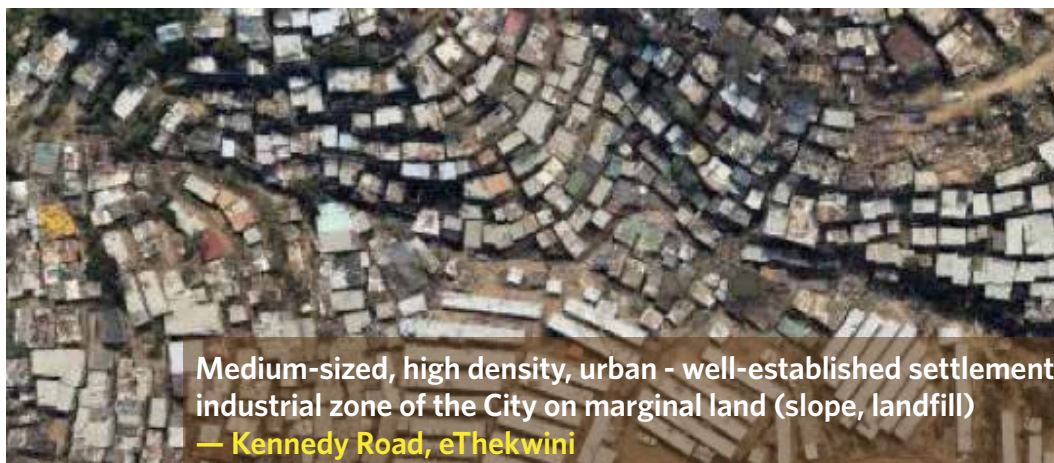
### 1.13. INFORMAL SETTLEMENT VARIABILITY FACTORS

	Description
<b>Density:</b>	These can vary massively from over 300 dwelling units (shacks) per hectare in dense urban shack settlements ('slums' such as Umshini Wami) to around 15 units per hectare in peri-urban settlements (e.g. Botshabelo). Implications include the challenges in upgrading dense settlements (e.g. installation of services, creating services lanes/access ways etc.) on the one hand, and the converse implication of a high service cost per site ratio in very low density settlements.
<b>Size:</b>	Settlements may vary from as few at ten shacks to several thousand. Settlement size has many implications, including the significant diseconomies of scale associated with upgrading very small settlements (unless they can be 'batched' together).
<b>Age:</b>	Typically, older settlements (many of which date back more than 20 years) are on better located land and their deprivation/vulnerability index is lower than more recent settlements, typically on more marginal land, which sometimes get higher priority, even though they have not been waiting as long for government assistance.
<b>Function:</b>	Whilst all settlements function to provide residents affordable access to the city, the specific reasons and livelihood strategies may vary, e.g. 'circular' unmarried migrants from rural communities who will return home (often to be replaced by others) versus permanent migrants such as parents with children who intend to remain permanently in the City due to greater educational and other opportunities for their children.
<b>Location:</b>	a) urban - either within the centre of the City (inner city) or adjacent to existing residential/commercial zones; b) peri-urban - on the outskirts of the City; or c) within or adjacent to historical townships separate from the main City (e.g. Botshabelo, in Mangaung). It is noted that rural settlements are not regarded as informal settlements and are dealt with via other programmes of government.
<b>Site:</b>	a) land developable and suitable for permanent human settlement; b) land marginal and not optimal for permanent human settlement, but lacking imminent health and safety threats; or c) land undesirable and subject to health and safety threats (e.g. regular flooding, toxic waste, slope instability etc.).

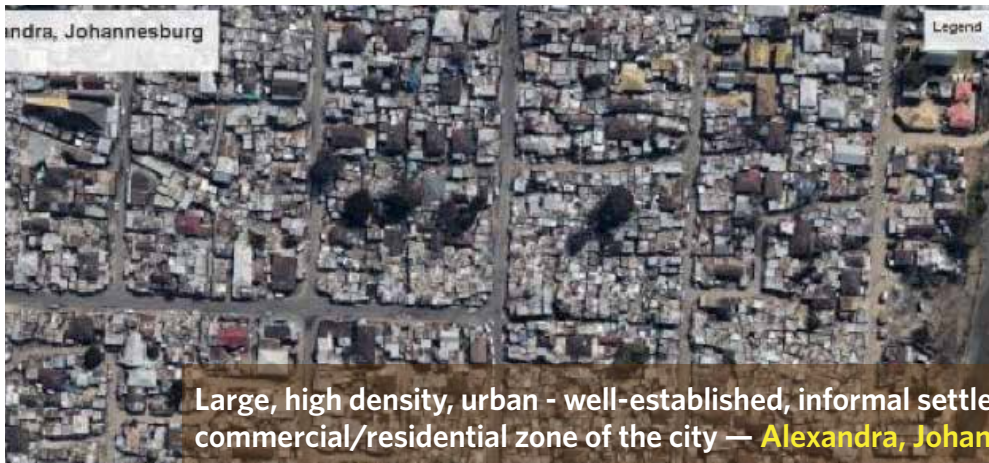
### 1.14. INFORMAL SETTLEMENT TYPOLOGIES

Due to the wide range of informal settlement typologies, settlements need to be upgraded in ways that are responsive to their particular characteristics, functions and histories. Examples of some of the common settlement typologies follow.

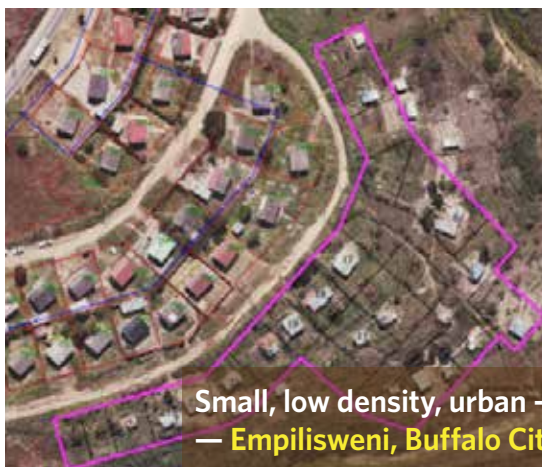








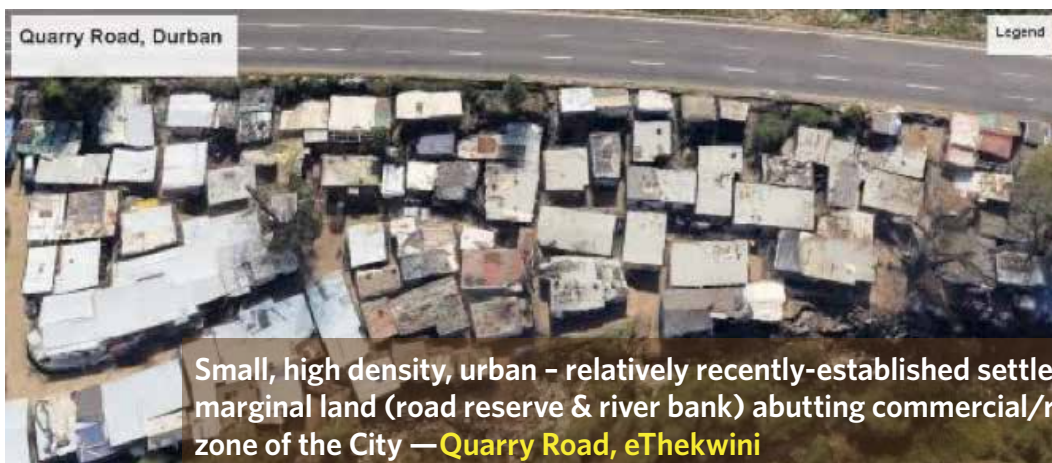
Large, high density, urban - well-established, informal settlement abutting commercial/residential zone of the city — **Alexandra, Johannesburg**



Small, low density, urban - settlement abutting residential zone of the City — **Empilisweni, Buffalo City**



Medium-sized, medium to high density, urban - settlement abutting commercial/residential zone of the City — **Jadhu Place, eThekweni**



Small, high density, urban - relatively recently-established settlement on marginal land (road reserve & river bank) abutting commercial/residential zone of the City — **Quarry Road, eThekweni**

### 1.15. COMPARISON OF THE CITY-WIDE VERSUS CONVENTIONAL UPGRADING APPROACHES

	Conventional	City-wide, incremental
<b>Housing</b>	High cost, high quality, state-funded housing provided to a select few.	<u>Housing is mainly owner-driven</u> with state-funded housing only provided on a strategic and prioritised basis due to the high cost.
<b>Essential municipal services</b>	Full package typically only provided to a SELECT few benefiting from housing delivery, otherwise limited services provided.	<u>Comprehensive package of essential services</u> provided as rapidly as possible to ALL communities.
<b>Key social services/facilities</b>	Typically, under-prioritised relative to housing and municipal services on conventional housing projects. Typically entirely neglected in other informal settlements.	<u>Key social services are prioritised</u> (over housing provision) as a key element of upgrading and social inclusion for as many communities as possible.
<b>Tenure</b>	High cost, conventional tenure (title deeds) provided to a select few benefiting from conventional housing. Functional tenure options for other informal settlements are typically neglected.	<u>All settlements benefit from some form of functional tenure security</u> (administrative recognition at a minimum).
<b>Participation</b>	Typically, minimal participation as part of conventional housing process which is usually state-driven with communities being substantially passive. Limited mobilisation of social capital and 'self-help'. Settlements falling outside of the conventional housing programme usually experience minimal or no participative processes.	<u>Participation recognised as a key success factor and driver</u> of successful, city-wide upgrading. It is accepted that government cannot deliver on its own.
<b>Inclusion</b>	Only a select few benefiting from housing delivery are meaningfully included. Most other settlements remain neglected, under-serviced or under-prioritised.	<u>ALL informal settlements are included</u> , receiving, at a minimum, key essential municipal and social services, being regarded as co-drivers and decision-makers, and being engaged on a sustained basis as settlement transformation (upgrading) occurs over time.
<b>Partnerships</b>	Limited partnerships with communities, support NGOs/CSOs and key line departments (city and provincial) because the priority is conventional housing delivery, which requires substantial financial & human resources.	<u>Partnerships become a priority</u> in order to move to scale and shift the focus away from a state-driven upgrading paradigm (with communities, support NGOs/CSOs, key line departments – city and provincial).

## 1.16. WHAT IS PREVENTING A CITY-WIDE APPROACH?

CSP meetings and engagements with all eight metros in 2017 showed that all metros are in fact taking active steps to address informal settlements in various ways. Most metros have assessed and categorised their settlements in various ways and most also attempt to provide interim services to settlements which won't receive formal housing in the near term. Some, such as eThekweni, City of Cape Town, Nelson Mandela Bay and Johannesburg Metros already have varying but structured incremental services programmes aimed at reaching all settlements (refer to toolkit library items 98, 168, 247, 327, 355 and 356).

However, all metros have a range of serious barriers in scaling up their incremental upgrading programmes. These barriers are outlined in some detail in toolkit library 43. The following is a summary of some of the most critical, cross-cutting barriers which have emerged, as expressed by metros themselves, and which have informed the structure and content of this toolkit:

### KEY UPGRADING BARRIERS IDENTIFIED BY METROS:

1. Political will (champions) and momentum of conventional housing delivery programmes.
2. Capacity and institutional constraints.
3. Funding/grant instruments (greater flexibility, insufficient allocations for incremental upgrading).
4. Statutory and regulatory inflexibility.
5. Project instead of programmatic (city-wide) orientation.
6. Service-delivery instead of partnership mode of response.
7. Land - ownership, availability, invasions.
8. Rapid urbanisation pressures - need to get 'ahead of the game'.
9. Participation, facilitation and social compacts.
10. Project planning and preparation.
11. Managing settlement data.
12. Spatial issues - high densities, urban sprawl.
13. Long-term operating and maintenance.
14. Procurement - slow, cumbersome, rigid.

## 1.17. LEARNING FROM INTERNATIONAL EXPERIENCE

Although in many respects, South Africa is well-advanced in terms of upgrading, specifically in relation to effective policies, well-developed funding instruments, an enabling constitution and legislative environment, and several well-established metro-level upgrading programmes, there is also much that can be learned from international experience. The following are some of the key areas of such learning:

1. **Participation, partnership and 'co-production' are important in moving to scale**, achieving more sustainable urban change outcomes, and establishing a more functional relationship between government and the urban poor; this includes partnership-based planning, decision making on how funding is utilised, re-blocking, construction, operating and maintenance, and ongoing urban management. It is difficult to move to scale and sustain change, if the upgrading model is top down and premised mainly on state-driven service delivery. Refer to sections 5.8 and 5.9.
2. **Decentralised finance models are empowering for communities and can deliver better value** than top-down, centralised funding models. The new People's Housing Process (PHP) Policy (of 2009) already creates an enabling framework for this to occur, but has not yet been sufficiently operationalised within the context of upgrading. International models such as Community Upgrading Funds (CUFs) can offer a useful precedent in this regard (e.g. experiences from Baan Mankong in Thailand, as well as Ghana, and Uganda<sup>11</sup>). Refer to sections 3.4, 3.9, 3.10 and 3.6.
3. **Community savings can play an important role in funding upgrading**, especially in respect of owner-driven housing improvements/consolidation. South Africa is unusual in that it has a major programme which provides free housing (as distinct from essential services). Whilst there had been some progress in this regard (e.g. via the Federation of the Urban and Rural Poor), on the whole there has been limited mobilisation and leveraging of people's own money and savings. A key success factor from international experience is that there is matching or leverage of communities own funding, using state and donor investments. This means that

11. Refer to toolkit items 237, 165, 301, 302 (pertaining to community upgrading funds in SA, Baan Mankong, Ghana & Uganda)



the state does not fund everything, in particular the housing product itself. Refer to sections 3.6 and 3.13.

**4. Flexible and locally-responsive upgrading is necessary** and is premised mainly on what can be practically achieved on-the-ground, as opposed to having to conform to existing (often rigid) town planning and building norms and standards. It is usually accepted that there will be compromises in order to optimise scarce land, accommodate settlement densities and deliver outcomes which work for communities within prevailing funding constraints. Such compromises include tenure options (e.g. functional or collective tenure), levels of services and building methods (e.g. less formal building methods). For example, Baan Mankong (Thailand) "...imposes as few conditions as possible, in order to give urban poor communities, networks and stakeholders in each city the freedom to design their own programme. The challenge is to support upgrading in ways that allow urban poor communities to lead the process and generate local partnerships, so that the whole city contributes to the solution". Refer to Library Toolkit items 165 and 237 (Baan Mankong).

### 1.18. SHIFTING MUNICIPAL DELIVERY EMPHASIS<sup>12</sup>

"Cities should shift their delivery emphasis away from informal settlement projects that promise the provision of formal give-away houses to **progressively providing improved access to good quality municipal services, secure tenure and improving the public environment, and then enabling households to build their own houses incrementally**. This should be undertaken in a framework wheret"

What this means is that Cities need to recognise and incorporate larger proportion of their current informal settlements as possible, and focus initially on proactively providing minimum services (generally of a shared or communal nature) to secure minimum health requirements. **Over time and against milestones met by the individual**

**informal settlement communities, incorporated informal settlements are incrementally upgraded.**

This should be done simultaneously and progressively over all settlements and in a manner that maximises the use of the existing land and infrastructure.

**"Delivery would therefore shift from a pipeline of individual comprehensive upgrade projects to a broad based (all settlements) ongoing improvement of services, public space and tenure provision,** while households formalise their top structures incrementally over an extensive period. Densities must be sufficient to minimise the need to relocate households."

### 1.19. UISP PHASING OPTIMISATION

The UISP (part 3 of the National Housing Code) is the main national policy framework for incremental upgrading. It identifies the key principles and processes such as incrementalism, participation, essential services, social and economic facilities, and the inclusion of non-qualifying beneficiaries.

However, experience over the past eight years has shown that the phasing anticipated by the UISP is often not achievable exactly as envisaged, principally because of the substantial challenges and delays associated with formalisation (land acquisition, township establishment, planning and environmental approvals etc.). The UISP envisions a steady and rapid progression to formalisation with only limited interim measures during phase 1, whereas in practice, most settlements are unable to progress past phase 1 for long periods due to a range of constraints, not only associated with formalisation but also related to insufficient funding, high settlement densities, site constraints, land scarcity, and difficulties with partial relocations, amongst others.

Please refer to the table on the following page which outlines possible optimisation of UISP phasing for purposes of incremental upgrading. The optimisation outlined is for Category B1 (incremental upgrade) and B2 (deferred relocation) settlements. Please refer to next section 1.20, for an outline of how settlements are categorised (using the NUSP Rapid Assessment and Categorisation method), as well as sections 2.6 and 2.7.

12. Content from 'Concept note on informal settlement upgrading' by Matthew Nel, Shisaka July 2014.

**FIGURE 2: UISP PHASING OPTIMISATION**

UISP Phasing (Part 3 of Housing Code):	Commentary on current phasing	Optimised phasing for Category B1 (Incremental upgrade with essential services)	Optimised phasing for Category B2 (deferred relocation with essential services)
<p><b>Phase 1 (initiation)</b> with interim services Survey, registration, participation, facilitation, dispute resolution</p> <p>Geotechnical investigation</p> <p>Land acquisition</p> <p>Pre-Planning</p> <p>Interim engineering services</p>	<p>A) Many settlements are unable to move to phase 2 &amp; 3 due to constraints with formalisation, density, land, site funding etc.; B)</p> <p>Insufficient UISP budgetary provision (R3.6k) in phase 1 for adequate essential services and participation (USDG thus often utilised by metros instead due to greater flexibility).</p> <p>C) Land acquisition often not rapidly achievable for technical and funding reasons.</p>	<p><b>Phase 1 &amp; 2 (initiation &amp; incremental upgrading)</b> Survey, registration, participation, dispute resolution, <i>partnerships (CBOs, NGOs etc.)</i></p> <p>Geotechnical investigation</p> <p><i>Zoning for incremental development (with regulatory flexibility)</i></p> <p>Pre-Planning</p> <p><i>Re-blocking where necessary/appropriate</i></p> <p>Interim engineering services and other essential social services (<i>substantial essential services package</i>)</p> <p>Incremental tenure solutions (minimum of administrative recognition) (<i>Land acquisition – optional</i>)</p> <p><i>Owner-driven housing consolidation</i></p> <p><i>Ongoing operating and maintenance</i></p>	<p><b>Phase 1 &amp; 2 (initiation &amp; emergency services)</b> Survey, registration, participation, <i>partnerships (CBOs, NGOs etc.)</i></p> <p>Facilitation, dispute resolution</p> <p>Emergency engineering services and other essential social services (<i>basic essential services package only</i>)</p> <p><i>Ongoing operating and maintenance</i></p>
<p><b>Phases 2 &amp; 3 (implementation)</b> with permanent services and formalisation</p> <p>Detailed town planning</p> <p>Land surveying and pegging</p> <p>Contour survey</p> <p>Civil engineer’s fee</p> <p>Site supervision fees</p> <p>Permanent engineering services</p> <p>Project management</p> <p>Relocations and related social support</p>		<p><b>Phases 3 (formalisation – where appropriate)</b> <i>Land acquisition (if not done in phase 1)</i> and all usual phase 3 items (detailed town planning etc.)</p>	<p><b>Phases 3 (relocations to another site)</b> Relocations and related social support – <i>either to a formal site or else an incremental development area (e.g. site and service provided)</i></p> <p><i>Ongoing operating and maintenance</i></p>
<p><b>Phase 4 (housing consolidation)</b> Via other housing programmes e.g. IRDP or PHP.</p>		<p><b>Phase 4 (housing consolidation) – only if and when budgets permit.</b> Via other housing programmes e.g. IRDP or PHP <i>on any other owner-built initiatives.</i></p>	<p><b>Phase 4 (housing consolidation) – when budgets permit</b> Via other housing programmes e.g. IRDP or PHP <i>on other owner-built initiatives.</i></p>

## 1.20. CATEGORISATION OF SETTLEMENTS TO IDENTIFY DEVELOPMENTAL PATHWAY

The NUSP process for Rapid Assessment and Categorisation is outlined in some detail in sections 2.6, 2.7 and 2.8. This method and the associated categorisation is as per the NUSP Training Manuals and has already been utilised in several provinces/metros.

There are four main categories of developmental response which are summarised on the following page. The protocol of categorisation is largely informed by whether or not the settlement is regarded as permanent (either through eventual formalisation or other permanent, 'less formal', settlement solutions). Site suitability and developability are therefore key determining factors, although it should also be recognised that, even though some sites are not ideal, there may be no better alternative available.

- › Category A: Full conventional upgrade (formalisation and formal housing delivery).

- › Category B1: Incremental upgrade with essential services (leading to formalisation or other solutions).
- › Category B2: Deferred relocation with emergency services.
- › Category C: Immediate relocation.

Each of the four categories can be aligned with specific responses falling under the four major sub-categories of human settlements development, namely: essential municipal services; essential social services; tenure; and housing. Refer to sections 1.21 and 1.22 for more information on 'integration alignment'. It is noted that, whilst the economy and economic development are of critical importance, they cannot be directly dealt with through human settlement programmes and responses. They are hence omitted as a specific response category, although alignment with economic development programmes and initiatives should be ensured through normal municipal planning, sector co-ordination and IDP processes.

### SUMMARISED CATEGORISATION GUIDELINE

#### 1. FULL CONVENTIONAL UPGRADE (category 'A'):

- a. *Developmental pathway:* Rapid formalisation consisting of full services, formal housing and formal tenure (e.g. title deeds), requiring prior land acquisition and formal town planning and environmental approvals.
- b. *Rationale:* 1) Site is viable (developable) and appropriate for purposes of formalisation AND 2) project is implementation-ready (full upgrading can commence rapidly - land is secured, feasibilities complete, plans approved etc.) AND 3) formalisation is appropriate and will not result in significant adverse consequences (e.g. significant partial relocations or other livelihood impacts).

#### 2. INCREMENTAL UPGRADE WITH ESSENTIAL SERVICES (category 'B1'):

- a. *Developmental pathway:* Provision of essential services<sup>13</sup> and other incremental upgrading arrangements leading over time either to eventual formalisation or other permanent 'less formal' settlement solutions.
- b. *Rationale:* 1) Site is viable and appropriate for purposes of permanent settlement AND 2) project is NOT implementation-ready for formalisation (there will be delays due to such factors as land acquisition, de-densification or bulk services provision).

#### 3. DEFERRED RELOCATION WITH EMERGENCY BASIC SERVICES (category 'B2'):

- a. *Developmental pathway:* Provision of emergency basic services<sup>14</sup> but NOT leading to eventual formalisation - more likely leading to eventual relocation (when and if a suitable relocation site is obtained and developed).

13. Such essential services (also known as 'interim services') will usually consist of improved road and footpath access, standpipes, and some form of improved sanitation (e.g. VIPs or communal sanitation blocks), electricity, fire protection and solid waste removal. In addition, key social services (schools, ECD and primary health care) should also receive attention. Sufficient preliminary planning is desirable to maximise the extent to which interim services can be incorporated into the final settlement solution.

14. Such 'emergency services' may be at a similar or at a lesser level to category B2 interim services. Because the settlement will eventually be relocated, it is not essential to undertake preliminary planning work (although it may in some cases be beneficial). The purpose is not only to alleviate an 'emergency' situation, but also to provide quality of live improvements where settlements are unlikely to be relocated for some time to come.

- b. Rationale:* 1) Site is NOT viable or appropriate for purposes of formalisation or permanent settlement BUT 2) there is NO urgent need for relocation (absence of serious health and safety threats<sup>15</sup> which cannot be mitigated in the short-term through basic services provision).

#### 4. IMMEDIATE RELOCATION (category 'C'):

- a. Developmental pathway:* Rapid relocation to a site which is already or imminently ready and available.
- b. Rationale:* 1) Site is NOT viable or appropriate for purposes of permanent settlement or formalisation AND 2) there is an urgent need for relocation due to serious health and safety threats which cannot be adequately mitigated in the short-term through basic services provision AND 3) an appropriate relocations destination is currently or imminently ready and available.

15. E.g. serious flooding, slope instability, toxic waste exposure.

1.21 WHAT IS AN INTEGRATED UPGRADING APPROACH?

<b>DELIVERABLES&gt;</b>	<b>Essential Municipal infrastructural services</b> (water, sanitation, electricity, roads & footpaths)	<b>Essential Municipal operational services</b> (fire protection, solid waste, disaster management)	<b>Essential Social Services</b> (schools, primary health care, ECD etc.)	<b>Tenure rights</b> (interim e.g. via administrative recognition, municipal register; permanent via title deeds or alternative)	<b>Housing</b> (owner-driven or state-supply or mixed model)
	Municipality leads in close partnership with community in respect of planning, operating and maintenance, and local employment.	Municipality facilitates with relevant provincial line departments (Education, Social Development, Health) in close partnership with community and local NPOs	Municipality leads in close partnership with community	Ideally, community-led with support from municipality (e.g. housing support/materials supply) and with support from NGOs/CROs where available (e.g. PHP)	Owner-driven ongoing State-funded when resources permit
<b>ROLES&gt;</b>	6-18 months	12-24 months	6-12 months (for interim) 1-5years+ (for permanent)	Municipality/UISP HSG	Mainly residents' savings, HSG where budget permits
<b>TIMING&gt;</b>	USDG, UISP HSG, ICDG	DSD ECD grants, DOE, DOH			
<b>FUNDING&gt;</b>	Municipality, EPWP				
<b>PROCESSES&gt;</b>	Urban management (sustained); Community participation (sustained); Settlement planning via community partnerships; Social compacts; CSO/NGO Partnerships; IGR (intra-governmental relations) and multi-sector co-ordination; strategic land acquisitions; Spatial planning (precinct/city level); IDP/MTEF/BEPP.				



1.22 WHAT IS THE ESSENTIAL, MINIMUM CORE OF UPGRADING?

	MINIMUM, ESSENTIAL CORE OF UPGRADING (UISP PH1&2)	EXPANDED UPGRADING (UISP PH3&4)
<b>Priorities&gt;</b>	<p>First priority – health, safety &amp; vulnerability mitigation (including emergency essential services)</p> <p>A, B1, B2, C. (i.e. ALL settlements)</p>	<p>When resources permit – formal housing, formal planning, formal tenure, or alternative ‘less formal’ solutions</p> <p>A, B1. (i.e. selected , prioritised settlements)</p>
<b>Categorisation alignment&gt;</b>	<p>Within 18 months maximum</p>	<p>Long-term and resource dependent (5 years +)</p>
<b>Timeframes&gt;</b>	<p>Within 5 years maximum</p>	<p>Long-term and resource dependent (5 years +)</p>
<b>Essential municipal infrastructure&gt;</b>	<p>Basic water supply (e.g. standpipes), sanitation (e.g. VIPs, communal waterborne), emergency vehicle access, drainage controls, electricity, street/high-mast lighting.</p>	<p>Improved services where necessary e.g. additional roads &amp; footpaths, on-site flush toilets and water supply (wet-cores).</p> <p>Formal/full level of services, where these have not been delivered in prior phases.</p>
<b>Other essential municipal services&gt;</b>	<p>Fire protection, solid waste management, disaster management including advance planning for severe weather events (all with community involvement).</p>	<p>Fire protection, solid waste management, disaster management including advance planning for severe weather events</p>
<b>Essential social services&gt;</b>	<p>Mobile clinics, home-based care for sick/old, support to ECD centres and vulnerable children.</p>	<p>Schools (new or transport to existing), permanent clinics; further ECD support including infrastructure improvements &amp; DSD registration, special needs housing via NPOs (e.g. disability, foster care, older persons), public transport. Where possible, recreational space/facilities (e.g. sports-fields/community halls).</p>

<b>Tenure</b> >	<p>Administrative recognition (based on categorisation) - non-individual</p>	<p>Individual functional tenure only where no social risk (e.g. municipal register, shack numbers, GPS point)</p>	<p>Title deeds or alternative solution (e.g. transferable municipal certificate of occupancy)</p>
<b>Housing</b> >	<p>Where necessary - materials replacement for flammable or unstable shacks (e.g. those made of plastic/planks) - possible use of emergency housing where necessary.</p>	<p>Owner-driven housing consolidation, possibly with limited municipal support e.g. materials supply, housing support centres</p>	<p>Either conventional state-built (on a selective &amp; prioritised basis) - freestanding or densified (e.g. double story attached) or PHP type - community-driven via CRO.</p>
<b>Planning</b> >	<p>Possible re-blocking to enable access/reduce fire risk</p>	<p>Incremental development zone proclamation (SPLUMA). Block layout. Preliminary town planning layout for B1 type 1 (eventual formalisation).</p>	<p>For B1 type 1 (formalisation): approved town plans; township establishment. For B1 type 2: alternative 'less formal' permanent planning solution to be developed by municipality with community.</p>
<b>Enabling processes</b> >	<p>Urban management (sustained); Community participation (sustained); Settlement planning via community partnerships; Social compacts; CSO/NGO Partnerships; IGR (intra-governmental relations) and multi-sector co-ordination; strategic land acquisitions; Spatial planning (precinct/city level); IDP/MTEF/BEPP.</p>		

Notes: 1) The standard NUSP categorisation is as follows: A = full conventional upgrade, B1 = incremental upgrade with essential services, B2 = deferred relocation with emergency services, C = imminent relocation. Refer to section 2.5 for details. 2) Economic development, micro-enterprise and livelihoods support has been excluded from the above human settlements frameworks since it needs to be dealt with via other supporting programmes and it is a complex and multi-faceted subject matter in its own right. Refer also to the Housing Development Agency/PPT Livelihoods and Informal Economy Guide (item 51), as well as other toolkit library resources.

### 1.23. INCREMENTAL UPGRADING IN PRACTICE - SA CITY EXAMPLES

There are already many good examples of incremental upgrading in South African Cities including examples where:

- › Municipalities proactively deliver essential basic services (water, sanitation, roads and footpaths, electricity);
- › Municipalities work in partnership with local community organisations and support NGOs to achieve more participative upgrading methods such as re-blocking;
- › Essential social services such as Early Childhood Development (ECD) receive support via existing NPO-operated centres in settlements; and
- › The informal economy and micro and informal enterprises are supported in various ways.

Some examples of these are covered in the following pages in order to help establish the local context better. These have been drawn from a limited number of examples readily available at the time of writing from only a few metros. It is suggested that future updates of this toolkit include an expansion of these examples so they are more representative. It is recognised that all S.A. cities have different kinds of incremental services programmes. Additional PowerPoint materials will become available at future CSP workshops pertaining to this Toolkit, where metros will be presenting their upgrading programmes.



eThekweni municipality

Communal sanitation & stormwater controls



eThekweni municipality

Communal sanitation flush toilets



eThekweni municipality

Communal sanitation & community-based maintenance/local employment



eThekweni municipality

Communal sanitation washing facilities





eThekweni municipality

Footpath access with local employment creation



eThekweni municipality

Road access — public transport & emergency vehicle access



eThekweni municipality

Foot path access — construction in progress



eThekweni municipality

Footpath stairs — construction in progress





eThekweni municipality

Electricity supply, footpaths & vips



eThekweni municipality

Electrical connections



eThekweni municipality

Prepaid electricity connection



eThekweni municipality

Electricity & footpaths in progress





Community-driven reblocking using participative methods, NGO partnerships and rebuilding improved 'less-formal' topstructures (credit: SA SDI, Umshini Wam, Cape Town)



Results of reblocking, noting high densities, multi-story buildings and mixed housing typologies in blocks







**Participative settlement planning**  
(credit: PPT, eThekwin)



**Micro-enterprise and informal economy — a key driver of employment, livelihoods and a more inclusive economy**  
(credit: ppt, ethekwin)





Essential social services example — early childhood development. Support & improvements to existing NPP-operated ECD centres is a key priority. Infrastructure improvements can unlock registration with DSD & access to DSD grants and oversight (credit- ppt, ethekwini)



## 1.24. KEY PRE-REQUISITES FOR THE CITY-WIDE APPROACH TO SUCCEED

### Effective institutional co-ordination within the municipality and with other spheres of government.

- › *Central city level* – e.g. City Steering Committee or Forum (including key City Departments such as Human Settlements, Engineering Services, Planning Environmental, Environmental Health, Disaster Management, Fire etc.). This may be extended to also include community representation.
- › *Local/precinct level* – which requires local facilitation and communication capacity to co-ordinate different sectors.
- › *Structured channels of engagement with key provincial departments* - IGR (e.g. Departments of Social Development, Education, Health, Recreation) both at provincial and district office level (e.g. to address ECD, education, health care etc.)
- › *Structured channels of engagement with National Government* - IGR (e.g. National Dept. Human Settlements, Housing Development Agency, National Upgrading Support Programme, Cities Support Programme/Treasury etc.).

### Effective and sustained community participation and social capital formation:

- › *Sustained community participation* and negotiation between state-urban poor around realistic deliverables.
- › *Participative planning* related to the above, including social compacts indicating agreed developmental priorities and roles of government and community.
- › *Stronger community self-help and reduced dependency* e.g. owner driven and funded housing improvements with limited/defined state support such as utilisation of a Community Resource Organisation, material supply, and housing support centres.

### Capacity to deliver including partnerships:

- › Internally within the municipality as well as via collaborations with non-governmental/civil society organisations, private sector procurement, and partnerships with communities themselves. A key issue is developing improved and more 'fit for purpose' professional skills for upgrading. The

capacity to deliver city-wide, incremental upgrading often does not yet exist or has not been tapped and new partnerships, collaborations and different funding mechanisms and procurement strategies will often be necessary. In addition, mobilising the capacity and resources within communities themselves is essential, to move away from a purely service-delivery mode of upgrading. Communities have significant capacity to improve their own communities if there is a more empowering and supportive environment for them to do so.

### Grant instruments:

- › Additional grant instruments may be required and/or existing ones may need to be optimised. The Urban Settlement Development Grant (USDG) and Integrated Cities Development Grant (ICDG) are currently the most viable for incremental services. Emergency Housing subsidies are potentially usable for basic top-structure improvements. The UISP subsidy instrument is not currently optimal for incremental upgrading given the entrenchment of formal upgrading processes in the early phases (e.g. land acquisition and formal planning) and optimisation would be beneficial (refer to sections 1.19 and 3).

### Statutory and regulatory flexibility

- › Informal processes of settlement formation are very different to formal ones. Prevailing frameworks were developed for formal suburbs and are often not workable in informal settlements. Flexibility is essential, e.g. state investment in essential services in advance of land acquisition and town planning approvals; flexibility in terms of town planning and building norms; functional forms of tenure instead of title deeds; flexibility in terms of normal environmental authorisations and approvals (noting that the land is already settled) etc. Achieving the necessary flexibility may require collaboration and engagement between different spheres of government.

### Effective planning and preparation:

- › Effective and systematic planning of upgrading projects at both the programme and project levels



is essential. A key factor is to ensure that ALL settlements are planned for and none are left out or left on a waiting list for a protracted period. Refer to section 2 of the toolkit for more information in this regard as well as various other existing toolkits including the NUSP toolkits Parts 5 and 10 (toolkit library 8 and 13), as well as numerous other tools in the resources library.

Refer also to section 1.3 'Key principles of the incremental, city-wide approach'.





## 2 PROGRAMMATIC 'PIPELINE' PLANNING & BUDGETING

<b>Purpose of this tool:</b>	To enable officials and decision makers to effectively plan for and implement a city-wide upgrading programme which includes and assists all settlements in an appropriate, situationally responsive and cost-effective fashion.
<b>Rationale:</b>	<p>Rationale: Responding programmatically to informal settlements is necessary for many important reasons including:</p> <ul style="list-style-type: none"> <li>▪ Proactive instead of reactive mode of response.</li> <li>▪ Inclusion of all settlements.</li> <li>▪ Rapid responses/benefits for most settlements.</li> <li>▪ Optimal and rational use of limited fiscal resources.</li> <li>▪ Effective multi-year budgeting.</li> <li>▪ Diversified project pipeline (instead of a one-size-fits all).</li> <li>▪ Realistic and achievable developmental pathways for each settlement.</li> <li>▪ Improved institutional coordination and communication (including IGR).</li> <li>▪ Multi-sector responses.</li> <li>▪ Multiple stakeholder skills and resources mobilised (Departments, support organisations etc.).</li> <li>▪ Improved/functional relationship between the state and urban poor.</li> </ul>
<b>Key principles:</b>	<ul style="list-style-type: none"> <li>▪ City-wide upgrading plan (rapid, differentiated response plan) including ALL informal settlements as informed by categorisation with priority on essential services provision.</li> <li>▪ Establish community participation, communication and trust.</li> <li>▪ MTEF/BEPP budget driven by categorisation and with community buy-in.</li> <li>▪ Enabling capacity to deliver – effective partnerships and procurement</li> <li>▪ Enabling institutional relationships and IGR.</li> </ul>
<b>Key tools/ references:</b>	<ul style="list-style-type: none"> <li>▪ NUSP Training Manual – Module 5: Programmatic Approach to Municipal Informal Settlement Upgrading (Library 8), Module 10: Planning upgrade projects (Library 13), Module 11 Financing for Upgrading (Library 14).</li> <li>▪ Rapid Assessment and Categorisation (RAC) Guide – (Library 48)</li> </ul>



## 2.1 DEVELOPING A CITY-WIDE UPGRADING PLAN

Every metro should have a city-wide upgrading plan which includes each and every settlement, and which forms a key part of the Human Settlements (Housing) chapter of the IDP. This is central to adopting a programmatic approach. The capital funding to implement the plan should be budgeted via the MTEF and as per the Built Environmental Performance Plan (BEPP).

The key building block of a city-wide upgrading plan is the Rapid Assessment and Categorisation (RAC) process outlined in section 2.3.

### Key steps in developing and implementing a city-wide upgrading plan

1. **IDENTIFY, UNDERSTAND, ENGAGE** and document ALL settlements and capture in an informal settlement database. Conduct an initial engagement meeting with communities to establish trust and communication.
2. **CATEGORISE** all settlements (differentiated response model with priority on partnerships, participation and the rapid provision of essential services provision for ALL settlements). Use RAC methodology (see sections 2.2, 2.3, 2.7)
3. **PRIORITISE** responses for first MTEF period for a full range of settlement categories to achieve maximum population coverage and equitable budgetary spread (refer to section 2.4) and taking into account MTEF/MTSF performance indicators (see section 2.13).
4. **BUDGET** first MTEF period including via the BEPP.
5. **CITY-WIDE PLAN** – based on the above (see sections 2.1 and 2.3).
6. **PROCURE & PARTNER** - smart procurement and partnership strategies to put in place the necessary, specialised skills and capacity required for upgrading (see sections 4 and 5).
7. **IMPLEMENT** a range of responses as per the plan in collaboration with communities and other stakeholders.
8. **MONITOR & REPORT** - document and report services delivery and other upgrading outputs/outcomes (including effective data management and reporting of key indicators/metrics to National Government – NDHS, NT, DPME).
9. **EVALUATE & ADAPT** so as to refine the city-wide upgrading plan and related strategies, collaborations and institutional arrangements.

### Content of a city-wide upgrading plan

- › **Municipal context and trends** including overall demographics, settlement patterns and typologies, the local economy, land ownership patterns, engineering and bulk services, and the housing sector plan status. Crosscutting issues or trends should also be identified e.g. dense settlements, high water tables, steep topography, settlements falling under traditional authorities, land ownership patterns etc.
- › **Schedule of all informal settlements with categorisation, development pathway and intended responses.** The standard categorisation is: A = full conventional upgrade, B1 = incremental upgrade with essential services, B2 = deferred relocation with emergency services, C = imminent relocation. For each settlement, the rationale/basis for the categorisation should be indicated, as well as the priority developmental interventions and investments required. Key settlement information should also be included (name, number of households, ward, land ownership, extent etc.). It is also beneficial to also record other key information such as the status quo of essential services and planning.
- › **A timetable (schedule/Gantt chart)** showing when ALL settlements will be responded to, with priority on the rapid provision of essential services and community partnership formation, preferably within a maximum of 5 years.
- › **An BEPP-aligned MTEF budget for informal settlement upgrading** indicating the funding requirements from different grant sources (e.g. HSDG, USDG), key deliverables, settlements and households benefiting, and percent of total grant allocations going to informal settlement upgrading (as opposed to other programmes).
- › **A base plan showing the locality of all informal settlements** that is clearly referenced to the list, and showing spatial issues such as key nodes, movement corridors, economic hubs, urban edge etc.
- › **Plan for establishing upgrading capacity and partnerships** including identification of local support NGOs, academic institutions and private entities

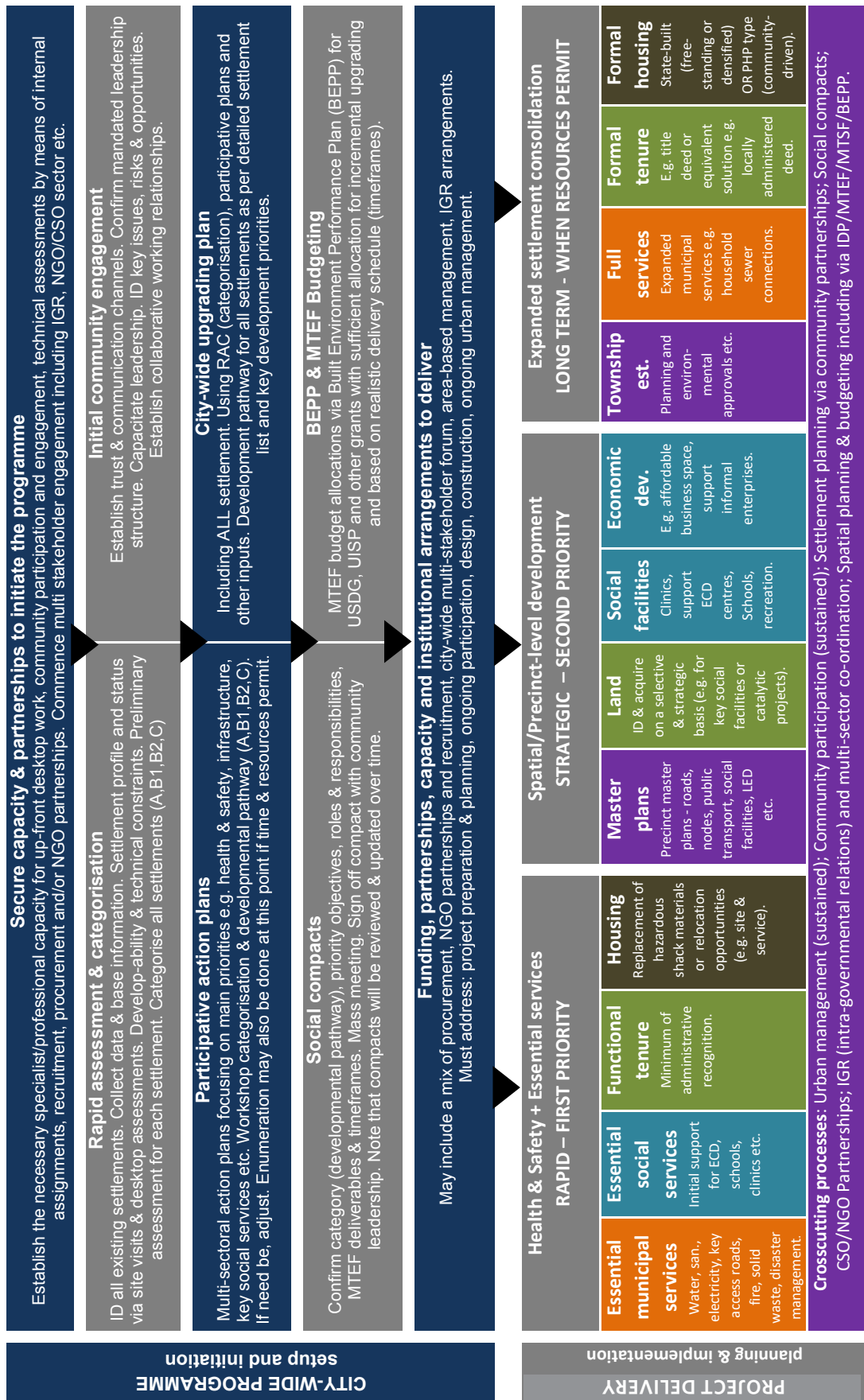


with specialist upgrading capacity. The output should include a list of local service providers with the specific skills and local experience (and current upgrading involvement) of each. Whilst some of this capacity can be brought into play via procurement (see below), in the case of NGOs and academic institutions, collaborative MOAs may also be beneficial (e.g. using section 67 of the MFMA for non-profit organisations – often where there is also a joint funding arrangement and/or an organisation with a substantial existing role and historical investment). Refer to section 4 for more information.

- › **Procurement plan** which provides realistic and appropriate procurement strategies for city-wide upgrading. This needs to address the full range of capacities and skills required (technical and social) and needs to factor in both private and NGO sectors. Such procurement strategies need to have a programmatic orientation. It is often not viable to procure services/capacity for individual projects and in addition, certain functions need to occur over more than a three year MTEF period. In addition, it is often necessary to bring capacity into play quickly, whereas conventional procurement is very slow. Refer to sections 2.16, 4.9, 4.10 for more information on procurement for upgrading.
- › **Key programmatic interventions** required. For example: upgrading water treatment works or raw water supply, building additional schools, improving and sustaining community participation, increasing access to clinics, improving public transport infrastructure, and strategic land acquisitions.
- › **Plan for dealing with future migration/influx** including estimation of scale of future migration, assessment of possible sources of supply (formal and less formal), plan for stimulating supply or directly providing solutions (e.g. serviced land release – refer to sections 6.14 and 9).

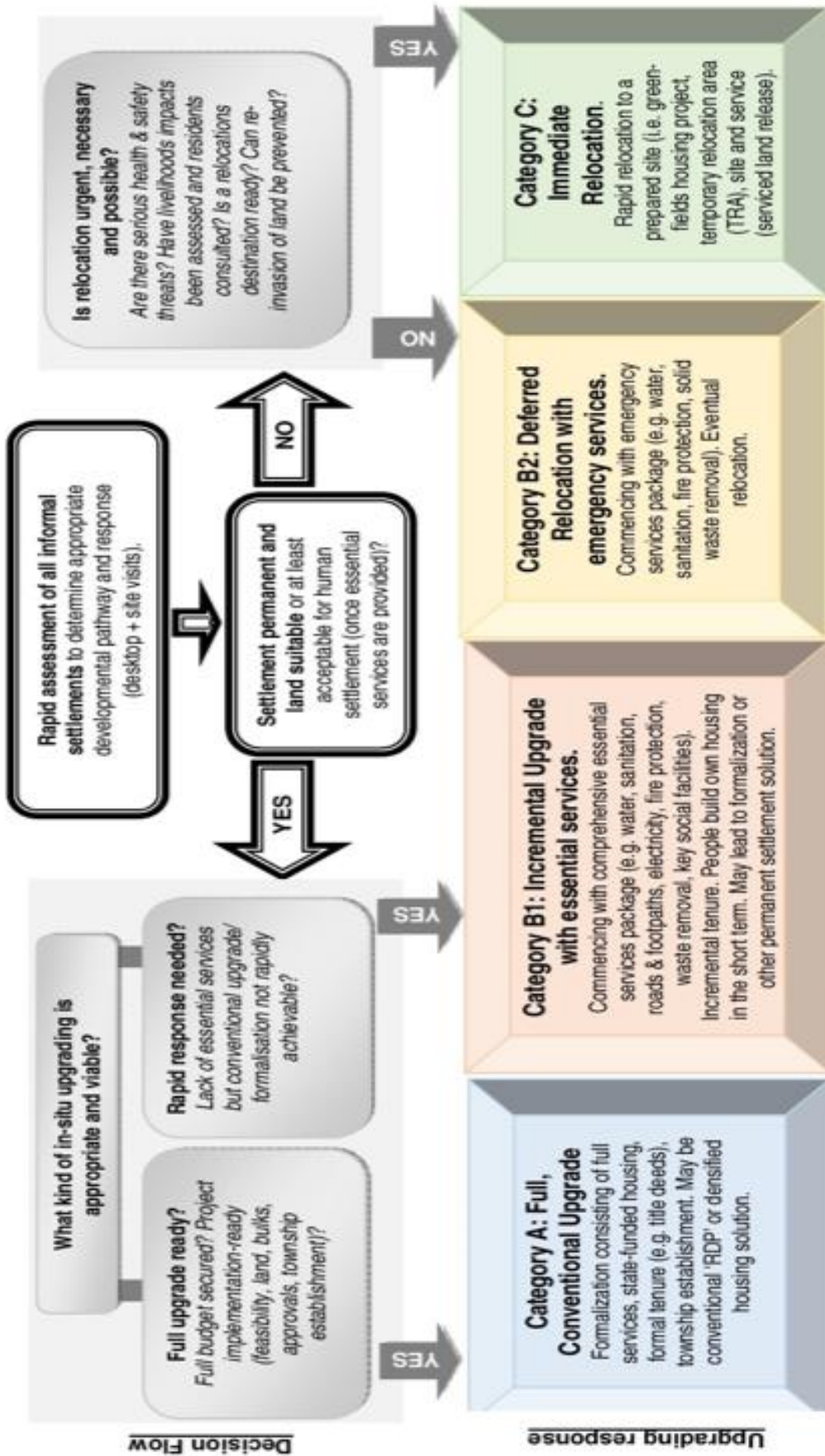
- › **Assessment of available vacant land (or buildings)** within the municipality for potential relocations and also for potential serviced land release/'managed land settlement', 'temporary relocation areas' for future urban influx (see above).
- › **Where available, a summarised upgrading plan for each settlement** (noting that most of this information is contained in the schedule/database of settlements). For each settlement, a summary should be provided based on preliminary assessment work for that settlement (usually undertaken as part of the RAC process) and including information such as:
  - › Settlement profile (e.g. name, households, extent, age);
  - › Settlement history (year of establishment and impetus for establishment, if known);
  - › Settlement categorisation and the rationale for it;
  - › Developability assessment (indicating how much of the site can potentially be developed);
  - › Key priorities and needs including imminent health and safety threats;
  - › Priority responses regarding infrastructure, tenure and housing;
  - › Other developmental priorities (e.g. education, health care);
  - › Key investigations and technical studies required; and
  - › Appended base plans.

2.2. PROCESS FRAMEWORK FOR ESTABLISHING A CITY-WIDE UPGRADING PROGRAMME<sup>16</sup>



16. Refer also to sections 1.21 and 1.22.

2.3. USING CATEGORISATION TO DEVELOP A CITY-WIDE UPGRADING PLAN



## 2.4. BASIS FOR PRIORITISING SETTLEMENTS AND RESPONSES

Inherent in a city-wide upgrading plan is prioritisation. Given finite resources and the timeframes associated with development processes (procurement, planning, approvals etc.), not all projects or interventions can be undertaken simultaneously. However, it is emphasised that a diversified upgrading pipeline (A, B1, B2, C) as opposed to a monolithic conventional housing delivery programme, enables more rapid inclusion of all settlements. It is also emphasised that there are two types of prioritisation which come into play: a) prioritising the allocation of budget across different response categories, taking into consideration the need to more adequately balance incremental upgrading with conventional housing delivery; and b) prioritisation of different settlements within a particular response category. The criteria suggested in this section apply mainly to the latter form of prioritisation.

**What prioritisation SHOULD NOT be:** Prioritisation should not have the effect of creating a queue in which communities wait for many years for a response, whilst only a fortunate few benefit. The primary rationale of a differentiated (categorised) mode of response is to prevent this from happening. Therefore, there needs to be a balance of so-called 'breadth' and 'depth' responses (rapid, cost efficient responses such as essential services which benefit many households versus costly, slow responses which benefit comparatively few, such as conventional housing delivery).

**What prioritisation SHOULD be:** Prioritisation should rather be a way of ensuring equitable and rational allocation of resources to PREVENT a scenario where certain communities 'get lucky' whilst others are forced to wait for long periods. Prioritisation takes place against the backdrop of settlement categorisation and may indeed result in some adjustments to categorisation (e.g. where a settlement is initially categorised as 'A' but then it emerges that there won't be funding for the project for a long period of time in which case it may need to be re-categorised as 'B1' to ensure that essential services are not unduly delayed).

**Prioritisation criteria:** In practice the prioritisation criteria may vary across municipalities and the emphasis laid on specific criteria may also vary. However, the following are suggested as being the main criteria which need to be taken into consideration and balanced:

1. **Political priority and social pressures:** Whilst political and social pressures are a reality and need to be taken into account, they are insufficient on their own as a basis for prioritisation. The tendency to prioritise in this way is one of the deficiencies in the current housing delivery and informal settlement upgrading programmes in South African cities.
2. **Vulnerability index** - imminent health and safety threat mitigation: Once these threats are identified in the city-wide upgrading plan, they need to receive the highest priority, even if the mitigation measures in some instances may need to be rudimentary and short-term (especially for B2 settlements). For B1 settlements and to the extent possible, mitigation measures should contribute to longer term upgrading plans.
3. **Settlement size** - number of people benefiting: Achieving maximum population coverage and return on investment is an important consideration. For example, it is comparatively inefficient to provide comprehensive essential services in multiple, scattered small infill settlements compared to extensive, concentrated informal settlements. In order to scale up responses, larger settlements may therefore warrant some level of priority (provided addressing health and safety threats in smaller settlements are also receiving sufficient priority). Refer also to the example cited under 'spatial or locational value' below.
4. **Settlement age** - how long people have been waiting: This is a challenging issue and different cities may have different thinking. On the one hand, those who have been waiting longest (the oldest settlements) can be seen to enjoy priority. On the other, more recent settlements, which typically occupy more marginal land, usually face greater vulnerabilities (e.g. health and safety threats arising from flooding or slope instability). It is not uncommon for such new settlements to achieve significant political pressure whilst older, better established informal settlements continue to wait. This also applies to accessing formal housing opportunities on greenfield projects.
5. **Spatial or locational value:** For more substantial investments and responses (especially A but to some extent B1), some priority for well-located land which supports spatial strategies and urban restructuring is appropriate. As an extreme example, densified, formal upgrading (double



story attached units) are very costly to delivery (typically more than R300,000 per unit delivered, including land and services). Given these very high costs, such investments may only be warranted as part of urban restructuring projects at nodes or along key public transport routes. Even then, such projects need to be undertaken with caution given the opportunity cost (i.e. the large number of less fortunate beneficiaries who will have to wait for many more years). It is noted that there is a tendency to prioritise such 'catalytic projects', even though their impact in terms of addressing backlogs and transforming the city as a whole can be limited.

6. **Project readiness:** Some projects/responses may be more ready to implement. When budget needs to be spent in a particular MTEF, this can be an important factor. However there also needs to be realism on how long processes such as procurement, municipal approvals and planning processes usually take. Ideally, metros need to get themselves into a position where the capacitation, partnership and procurement strategies in their city-wide upgrading plan enable them to respond much faster so that all project interventions, especially those of associated with essential services provision, can be implemented far more rapidly than is currently the case.

**Prioritisation matrix:** It is common to use a prioritisation matrix to assist or guide decision making. This entails tabulating and scoring all candidate projects against specified criteria. For this to be useful in the context of city-wide informal settlement planning, there would first need to be some differentiation between various types of response and budget limits set for them. For example, a B2 emergency services response should not be scored against a category A full upgrade.

**How prioritisation can work in practice:** Given that currently there are already established conventional housing project pipelines which utilise the bulk of the human settlements (HSG and USDG) budgets, a realistic starting point is to set budgetary limits for the City taking into account existing project commitments and categorisation. For example, a City with a large informal settlement backlog of B1 and B2 settlements (a typical scenario) might opt to cap formal housing allocation in a forthcoming MTEF period at 75% of

HSG and 50% of USDG and then apply two sets of prioritisation matrixes: firstly, one for addressing health and safety threats (criterion 2) on most vulnerable settlements (B1, B2) using available USDG funding and then, with the balance of funding, prioritising the remaining B1 settlements using the criteria 3,4&5).

## 2.5. COUNCIL RESOLUTIONS REQUIRED

The city-wide upgrading plan should be adopted by Council. The following are the key resolutions required:

1. Adoption of differentiated city-wide upgrading plan using RAC protocol. This would need to reflect a commitment to shift budget allocations over time so that the city-wide plan can be operationalised (this will typically necessitate budget reductions for conventional/formal housing and increases for incremental upgrading). It would also need to reflect the standard settlement categories (as defined by NUSP).
2. Adoption of MTEF budget aligned to the city-wide upgrading plan and BEPP, and meeting all BEPP requirements. The MTEF budget should cover the various grant instruments relevant to upgrading (e.g. UISP, USDG, EH etc.).

## 2.6. RAPID ASSESSMENT AND CATEGORISATION (RAC)<sup>17</sup>

RAC is a key input and pre-requisite for the formulation of a city-wide upgrading plan. Without RAC, it will be difficult, if not impossible, to develop a viable city-wide upgrading plan.

**What is rapid assessment and categorisation?** **Rapid Assessment and Categorization (RAC) is an activity undertaken at the 'programme level' in order to identify and better understand informal settlements within a particular province or municipality and to thereby, categorise them in terms of the broad types of developmental responses which are appropriate and achievable.** RAC is quite distinct from pre-feasibility, feasibility and project-level planning work which would follow (e.g. pertaining to the delivery of interim services or low-income housing). RAC makes use of readily available information sources and does not entail the initiation of detailed technical studies.

17. The content of this section is derived from NUSP Training Manuals and the Housing Development Agency's Rapid Assessment and Categorisation Guideline (with some refinements).

RAC should inform municipal and provincial MTEF budget allocations and BEPP for infrastructure, housing, land acquisition, making use principally of housing and infrastructure grants (please refer to section 2.10 for more information on grant types). RAC should also help to inform municipal (and provincial) budgets for related key social services (e.g. education and health care). RAC should also result in the updating of Municipal Housing Sector Plans (HSPs) (e.g. by the addition or strengthening of an informal settlement upgrading chapter).

#### Why undertake rapid assessment and categorisation?

- › To **obtain a rapid overview of the locality, scale and nature of informal settlements in a municipality** and to better understand the priority needs, constraints and developability of the site.
- › To **determine an initial categorisation of all informal settlements** in a municipality, indicating the appropriate type of developmental response for each one.
- › To **enable strategic prioritisation of informal settlements for different developmental responses**.
- › To **enable the allocation of budgets for professional services and capital expenditure on multi-year medium-term expenditure frameworks (MTEF/BEPP)**.
- › To provide an essential input necessary to **strengthen and/or update the municipality's housing sector plan (HSP) in respect of informal settlements**.
- › To **identify priority settlement improvement actions** pertaining to basic infrastructure, tenure and housing improvements, as well as broader socioeconomic improvements.

#### What is the categorisation?

There are **four main categories of developmental response**. The protocol of categorisation is informed largely by whether or not the settlement is regarded as permanent (either through eventual formalisation or other permanent, 'less formal', settlement solution). Site suitability and developability are therefore key determining factors, although it should also be recognised that, even though some sites are not ideal, there may be no better alternative available. For categorisation guideline and response options refer to sections 2.7 and 2.8.

- › Category A: Full conventional upgrade (formalisation and formal housing delivery).
- › Category B1: Incremental upgrade with essential services (leading to formalisation or other solution).
- › Category B2: Deferred relocation with emergency services.
- › Category C: Immediate relocation.

#### What are the outputs of conducting rapid assessment and categorisation?

**A list of all informal settlements showing broad categorisation of each one** (i.e. A = full conventional upgrade, B1 = incremental upgrade with essential services, B2 = deferred relocation with emergency services, C = imminent relocation). For each settlement, the rationale/basis for the categorisation should be indicated, as well as the priority developmental interventions and investments required.

**A base plan showing locality of all informal settlements**, that is clearly referenced to the list. This information should preferably be spatially referenced so that it can be included in the municipal and provincial geographic information system (GIS).

**A preliminary assessment for each informal settlement** that should consist of a short narrative report for each settlement with appended base plans addressing the following aspects:

- › *Settlement name, location and size* (estimated number of households/structures) and approximate age of settlement.
- › *Contact details* - name and contact details of community leadership, ward councillor and ward development committees.
- › *Categorisation* - specific categorisation for the settlement and main rationale/reasons for the categorisation given.
- › *'Developability' assessment summary* (preliminary in nature).
- › *Priority settlement improvement actions* (short and medium-term).
- › *Preliminary technical assessment* covering existing structures, visible infrastructure and social services, estimated settlement density, immediate challenges/needs, obvious emergency threats, land ownership and number of properties, bulk services availability and capacity issues, and list of any prior professional work.

**Multi-year expenditure projections for informal settlement upgrading** showing the rough budgetary requirements for settlements in different categories, the expected grant mechanism, the total cost for each settlement and the disaggregated projection for each over the next three to five years.

**Available vacant land (or buildings)** within the municipality for potential relocations.

### Rapid assessment and categorisation – the phases

#### Phase 1: Initial engagement, confirm settlement list and collect base information

- › Collect base information, especially GIS data sets.
- › Engagement (at a municipal level) with key officials/line departments and others to obtain existing base information.

#### Phase 2: GIS plans, site visit and community engagement

- › Site visits to every settlement to observe and assess (at a preliminary level) visible information pertaining to geotechnical conditions, environmental constraints, bulk services, social services,

topography, land (legal and tenure issues) and the local economy.

- › Meetings/interviews with community leadership.

#### Phase 3: Settlement-level assessments and categorisation

- › Assessment base plans for each settlement showing settlement boundaries, slope analysis based on existing contours, constraints, land legal, development potential plan, services etc.
- › Municipal base plan showing location and boundaries of all identified informal settlements and other key features such as town centre, movement corridors etc.
- › List of categorised settlements.

#### Phase 4: Prioritisation and cash-flows (for MTEF/BEPP/HSP)

- › Draft prioritisation of the settlements, specifying for each one the factors that might suggest prioritisation.
- › Cash-flow projections (multi-year) for each project based on categorisation and presumed grant funding sources to be utilised.

## 2.7: CATEGORISATION GUIDELINE

### 1. FULL CONVENTIONAL UPGRADE (category 'A'):

- a. *Developmental pathway:* Rapid formalisation consisting of full services, formal housing and formal tenure (e.g. title deeds), requiring prior land acquisition and formal town planning and environmental approvals
- b. *Rationale:* 1) **Site is viable** (developable) and appropriate for purposes of formalisation AND 2) **full upgrade project is implementation-ready** (full upgrading can commence rapidly - land secured, feasibilities complete, plans approved etc.) AND 3) formalisation is appropriate and will not result in significant adverse consequences (e.g. significant partial relocations or other livelihood impacts).

### 2. INCREMENTAL UPGRADE WITH ESSENTIAL SERVICES (category 'B1'):

- a. *Developmental pathway:* Provision of essential services<sup>18</sup> and other incremental upgrading arrangements leading over time either to eventual formalisation or other permanent 'less formal' settlement solutions.
- b. *Rationale:* 1) **Site is viable** and appropriate for purposes of permanent settlement AND 2) project is **NOT implementation-ready for formalisation** (there will be delays due to such factors as land acquisition, de-densification or bulk services provision).

18. Such essential services (also known as 'interim services') will usually consist of improved road and footpath access, standpipes, and some form of improved sanitation (e.g. VIPs or communal sanitation blocks), electricity, fire protection and solid waste removal. In addition, key social services (schools, ECD and primary health care) should also receive attention. Sufficient preliminary planning is desirable to maximise the extent to which interim services can be incorporated into the final settlement solution.

### 3. DEFERRED RELOCATION WITH EMERGENCY BASIC SERVICES (category 'B2'):

- a. *Developmental pathway:* Provision of emergency basic services<sup>19</sup> but **NOT** leading to eventual formalisation – more likely leading to eventual relocation (when and if a suitable relocation site is obtained and developed).
- b. *Rationale:* 1) **Site is NOT** viable or appropriate for purposes of formalisation or permanent settlement **BUT** 2) there is **NO urgent need for relocation** (absence of serious health and safety threats<sup>20</sup> which cannot be mitigated in the short-term through basic services provision).

### 4. IMMEDIATE RELOCATION (category 'C'):

- a. *Developmental pathway:* Rapid relocation is imminent to a site which is already available or is almost ready (site & service or greenfields housing or temporary relocation area).
- b. *Rationale:* 1) **Site is NOT viable or appropriate** for purposes of permanent settlement or formalisation **AND** 2) there is an **urgent need for relocation** due to serious health and safety threats which cannot be adequately mitigated in the short-term through basic services provision **AND** 3) an **appropriate relocations destination is ready and available** or this is imminent.

## 2.8. SETTLEMENT CATEGORIES WITH DEVELOPMENT RESPONSES, GRANTS AND TENURE OPTIONS<sup>21</sup>

	Developmental Responses & conditional grants	Tenure	Scale
<b>A. Full conventional upgrade</b>	Full municipal services (water, sanitation, roads & footpaths, electricity), formal housing and formal tenure (including formal planning and environmental approvals and township establishment). Other municipal services (fire protection, solid waste & disaster management). Integrated local spatial planning. Key social services/facilities such as schools, ECD and primary health care. Where land is scarce, it is important to promote densification. PHP for both planning and housing delivery phases should be encouraged where possible. <b>Optimal grants: HSG UISP and PHP, USDG for infrastructure top ups.</b>	Individual & formal tenure (either a title deed OR locally administered alternative which is transferable & upgrade-able to full title)	Costly, depth-orientated response. Delivery is slow.
<b>B1. Incremental upgrade with essential services</b>	<i>Initially:</i> Essential municipal services appropriate to the needs of the settlement and conforming with long-term upgrading plans/layout to the extent possible (water, sanitation, roads & footpaths, electricity). Priority on rapidly addressing health and safety threats. Other municipal services (fire protection, solid waste & disaster management). Key social services/facilities such as schools, ECD and primary health care. Where appropriate, owner-driven housing consolidation/improvement should be encouraged or supported. <b>Optimal grants: USDG.</b>  <i>Eventually:</i> Formalisation (as for category A) or other less formal settlement solutions. Integrated local spatial planning. <b>Optimal grants: HSG UISP and PHP, USDG for infrastructure top ups.</b>	<i>Initially:</i> non-individual & functional tenure (administrative recognition)  <i>Eventually:</i> As for category A or alternative options.	Cost-effective, breadth-orientated response. Can easily be scaled up.

19. Such 'emergency services' may be at a similar or at a lesser level to category B2 interim services. Because the settlement will eventually be relocated, it is not essential to undertake preliminary planning work (although it may in some cases be beneficial). The purpose is not only to alleviate an 'emergency' situation, but also to provide quality of live improvements where settlements are unlikely to be relocated for some time to come.

20. E.g. serious flooding, slope instability, and toxic waste exposure.

21. HSG = Human Settlements Grant; EH = Emergency Housing, UISP = Upgrading Informal Settlements Programme; IRSP - Integrated Residential Suburbs Programme; USDG = Urban Settlement Development Grant.



<p><b>B2.</b> <b>Deferred relocation with emergency basic services</b></p>	<p><i>Initially:</i> Emergency services appropriate to the needs of the settlement but typically at a lower level than for B1 and not needing to conform with a long-term layout plan. Essential municipal and social services should both be addressed to the extent possible. Imminent health and safety threats should be rapidly mitigated given that these settlements are often the most precarious and vulnerable. This may include shack material replacement. <b>Optimal grants USDG and HSG EH</b> (for shack improvement).</p> <p><i>Eventually:</i> Relocation to another suitable site in close consultation with the community and as per category C below. <b>Optimal grants as for category C.</b></p>	<p>Non-individual &amp; functional tenure (via Municipal classification &amp; recognition)</p>	<p>Cost-effective, breadth-orientated response. Can easily be scaled up.</p>
<p><b>C.</b> <b>Immediate relocation</b></p>	<p>No action on the site in question since relocation is imminent (or re-categorise as B1). Thorough participative/consultative process required with community, including site visits to potential relocation destination. Locational suitability of new site is critical. A key factor is to limit livelihood disruptions. The new site may be: A) an incremental development area (with site and service provided); B) a greenfields (formal) housing development (slow and costly); or C) a temporary relocation area (TRA) (transit camp) which should only be considered as a last resort given that these typically become permanent settlements with numerous challenges in their own right. <b>Optimal grants: A) HSG UISP and PHP; B) HSG UISP or IRDP; C) HSG EH. USDG for infrastructure top ups.</b></p>	<p>Variable. If site &amp; service, then as for category A or alternative tenure solution. If greenfields then as for category A. If TRA then temporary and functional.</p>	<p>Costly, depth-orientated. Delivery is slow unless site &amp; service utilised.</p>

## 2.9. UPGRADING RESPONSE CATEGORIES - COMPARATIVE OUTCOMES & PROCESSES

	Category	Outcomes/ Deliverables	Key Processes
<p><b>A</b></p>	<p><b>Full conventional upgrade</b></p>	<ul style="list-style-type: none"> <li>Access to essential municipal and social services.</li> <li>Formal tenure.</li> <li>High quality formal housing.</li> </ul>	<p>Participation. Social compact. Technical studies. Layout planning &amp; design. Temporary relocations. Formal planning &amp; environmental approvals. Sub-divisional layout. Township establishment. Construction of services &amp; housing. Conveyancing.</p>
<p><b>B1a</b></p>	<p><b>Incremental upgrade with essential services - leading to formalisation</b></p>	<ul style="list-style-type: none"> <li>Access to essential municipal and social services.</li> <li>Functional tenure.</li> <li>Eventually, high quality formal housing &amp; formal tenure.</li> </ul>	<p><i>Initially:</i> Participation. Social compact. Preliminary planning. Incremental development zone. Interim essential services.</p> <p><i>Eventually:</i> All remaining processes for category A above.</p>
<p><b>B1b</b></p>	<p><b>Incremental upgrade with essential services - leading to 'less formal' settlement solution</b></p>	<ul style="list-style-type: none"> <li>Access to essential municipal and social services.</li> <li>Functional tenure.</li> <li>Eventually, improved, less formal housing &amp; improved individual tenure.</li> </ul>	<p><i>Initially:</i> Participation. Social compact. Preliminary layout planning. Incremental development zone. Essential services (preferably a comprehensive package).</p> <p><i>Eventually:</i> Alternative planning and approval processes as agreed with community and respective authorities. May not include sub-divisional layout or township establishment. Construction of additional services. Owner-driven housing consolidation, potentially with limited state support (e.g. housing support &amp; materials supply). Alternative improved individual tenure solution (e.g. transferable municipal deed of occupation).</p>

<p><b>B2</b></p>	<p><b>Deferred relocation with emergency basic services</b></p>	<ul style="list-style-type: none"> <li>▪ Access to essential municipal and social services.</li> <li>▪ Functional tenure.</li> <li>▪ Eventually improved housing (either formal or less formal depending on relocations solution), along with functional or formal tenure.</li> </ul>	<p><i>Initially:</i> Participation. Social compact. Interim/emergency essential services. <i>Eventually:</i> As for category C below.</p>
<p><b>C</b></p>	<p><b>Immediate relocation</b></p>	<ul style="list-style-type: none"> <li>▪ Access to essential municipal and social services.</li> <li>▪ Functional or formal tenure.</li> <li>▪ Improved or formal housing.</li> </ul>	<p>Relocation to site and service project or greenfield housing project. Temporary relocation areas (TRAs) to be avoided if possible since they usually become permanent settlements. At a minimum, technical studies, layout planning and design, planning and environmental authorisations and essential services provision, and functional tenure should be provided at the new site.</p>

### 2.10. BEPP PURPOSE AND REQUIREMENTS<sup>22</sup>

The requirement for all metropolitan municipalities (metros) to develop a Built Environment Performance Plan (BEPP) is a cornerstone of the support provided by national government to drive an outcomes-led, spatially targeted and implementation-focussed planning approach in South Africa’s metropolitan cities. A defined set of built environment outcomes of more productive, sustainable, inclusive and well governed cities, lead the formulation of this plan and programme to ensure that our metropolitan cities’ urban form contributes to reducing poverty and inequality and enables faster, more inclusive urban economic growth. The categorisation of all informal settlements and development of a city-wide upgrading plan need to be done before the BEPP can be effectively utilised to enable programmatic, city-wide upgrading.

#### The purpose and role of the BEPP

**The BEPP is a plan to achieve urban transformation.** This is a long-term process. Once the outcomes-led spatial planning and inter-governmental catalytic urban development programme is in place, to an acceptable standard, these should not be the subject of frequent review but should remain stable, in order that the focus is oriented to implementation of this focused programme, and progress in this regard can be tracked

year on year. Clearly, regular BEPP reviews should identify any critical shifts in planning and programming and the reasons for these, where these occur.

**The BEPP is a requirement of the DORA** in respect of infrastructure grants related to the built environment of metropolitan municipalities. It remains one of the eligibility requirements for the Integrated City Development Grant (ICDG). The ICDG is an incentive grant that rewards the application of infrastructure grants, as part of the total capital budget, toward catalysing spatial transformation through a spatial targeting approach at a sub-metropolitan level. The BEPP is thus also an instrument for compliance and submission purposes for the following infrastructure grants:

- **ICDG** – Integrated City Development Grant, Schedule 4B (supplements municipal budgets);
- **USDG** – Urban Settlements Development Grant, Schedule 4B (supplements municipal budgets);
- **HSDG** – Human Settlements Development Grant, Schedule 5A (specific purpose allocations to provinces);
- **PTIG** – Public Transport Infrastructure Grant, Schedule 5B (specific purpose allocations to municipalities);
- **NDPG** – Neighbourhood Development Partnership Grant: a) Schedule 5B (specific purpose allocations

22. Content in this section taken from 2016/17 and 2018/19 BEPP Guidelines from National Treasury, as well as from the ‘Planning & Assessment Guidelines for Informal Settlement Upgrading in the context of the Integrated Human Settlements Plan (IHSP) and Built Environment Performance Plan (BEPP)’. Toolkit items 53, 54 and 52.

to municipalities) Capital Grant; b) Schedule 6B (allocation-in-kind to municipalities for designated special programmes);

- **INEP** – Integrated National Electrification Grant, Schedule 5B (specific purpose allocations to municipalities).

It should be noted that the BEPP is intended to contribute to and enhance existing statutory planning instruments and that it does not duplicate or replace them – see Diagram 1.

**The Municipal Systems Act set out the requirements for the IDPs.** The IDPs cover functional and institutional planning, as well as the Spatial Development Framework as regulated by SPLUMA. The Budget and SDBIP are requirements of the MFMA. The linkages between the plans are generally weak and the results of all of this planning seldom yields the outcomes and/or impacts that we seek as a nation or at the city level. The BEPP is a response to this challenge.

**BEPP Requirements and Priorities for Informal Settlements<sup>23</sup>:**

The 2018/19 BEPP Guidelines clearly articulate the BEPP requirements as far as informal settlement upgrading is concerned and confirm the approach outlined in this section and in section 1 of this toolkit:

*“Knowledge of, categorisation and planning of informal settlements upgrading at metropolitan level seems to be improving, but delivery and scaling up remains a big challenge. Performance across the 2017/18 BEPPs was uneven, with two Metros meeting the standard and the remainder partially fulfilling expectations.”*

In the 2018/19 BEPP the content expectations have not changed in order to support progression and consolidation in this area of planning work and to enable a focus on implementation.

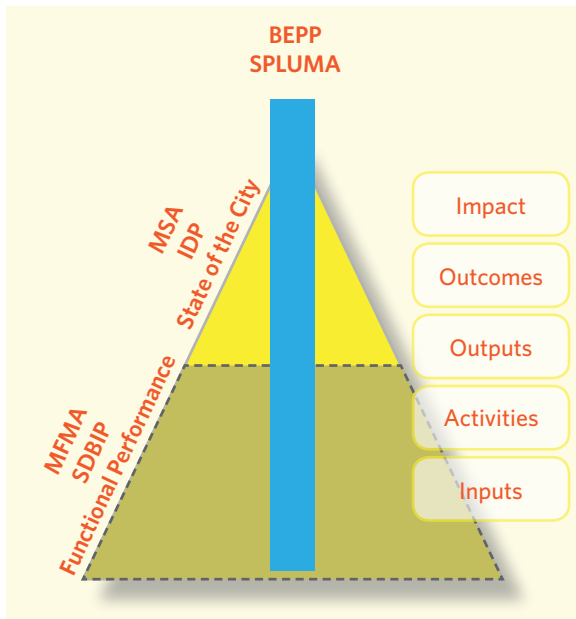
**FIGURE 3: MINIMUM BEPP EXPECTATIONS**

***“Minimum expectations***

<p>The following minimum expectations have been established for the 2018/19 BEPP: <b>Draft BEPP</b></p>	<p><b>a) Table indicating status of detailed planning/development of prioritised informal settlements</b> (Name of settlement, map reference number, UISP Phase, Key issues to be resolved)</p> <p><b>b) Development of a draft strategy for informal settlement upgrading</b> that that is based on a citizen-led planning and development approach that links the MTSF targets for the city to projects, funding and an implementation plan incorporating work done by NUSP.</p>
<p><b>Approved BEPP</b></p>	<p><b>c) Table indicating status of detailed planning/development of prioritised informal settlements</b> (Name of settlement, map reference number, UISP Phase, Key issues to be resolved)</p> <p><b>d) Incorporate the approved strategy, plan and programme for informal settlement upgrading</b> clearly showing the prioritised upgrading projects and related allocations of funding for the medium term.</p> <p><b>e) Clearly identify priority informal settlements within the Integration Zones</b> and those outside of the Integration Zone(s) and the rationale for the prioritisation of those outside of the Integration Zone(s)</p>
<p><b>This content should appear as Section B1, B2 and B3 in the BEPP.”</b></p>	

23. This section is a direct extract from the 2018/9 BEPP Guidelines – toolkit item 54 (page 8 and 9)

**FIGURE 4: BEPP IN RELATION TO STATUTORY PLANNING INSTRUMENTS<sup>24</sup>**



**Key concepts in the Spatial Planning Method**

The **spatial planning** method adopted by the BEPP is based on integrated, transit-oriented development, as articulated in the Urban Network Strategy. Four key concepts are critical to this approach: (i) outcomes-led planning; (ii) the Built Environment Value Chain; (iii) Prioritisation and Preparation; and (iv) Progression.

**Outcome-led planning:**

The BEPP planning process is “**outcome-led**”, responding to agreed indicators of and targets for improved

built environment performance. Built environment performance will be assessed through **reporting and evaluation** of urban transformation outcome and impact indicators. These indicators are subject to ongoing refinement, as part of broader reforms to the reporting system being introduced by the National Treasury.

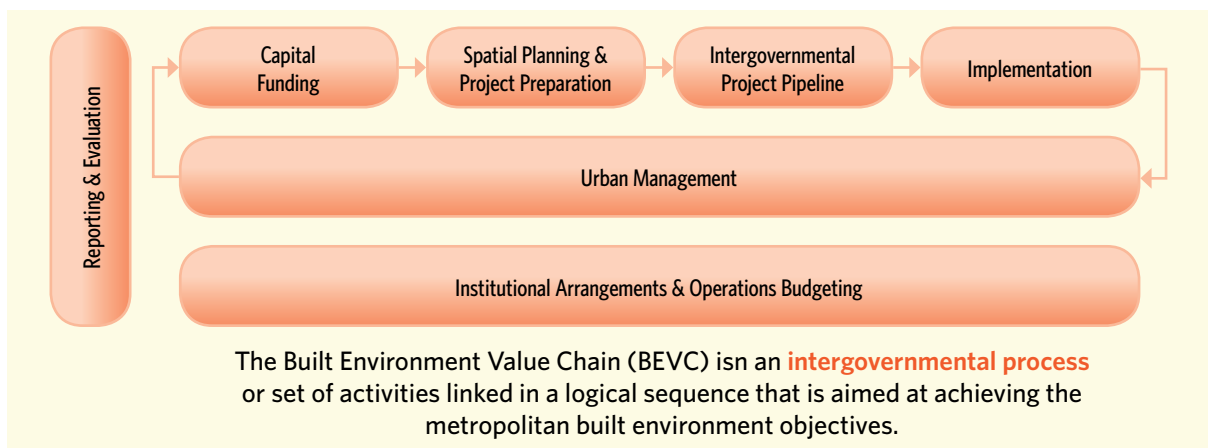
**The Built Environment Value Chain:**

The BEPP is the plan and process that is informed by the Built Environment Value Chain (BEVC), as depicted in Diagram 2 below. The BEVC is an **inter-governmental process** or set of activities aimed at achieving the built environment objectives in cities. The BEVC activities are linked together in a logical sequence, and form part of a cyclical process rather than a linear process. *Please note that the built environment activities depicted in Diagram 2 link to the text in bold letters in this section. The format for the BEPP in Section 6 of these guidelines follows the logical sequence of the BEVC.*

These BEPP guidelines and previous iterations have consistently required effort from cities to adopt a results-based approach, to work in terms of a specific intervention logic (BEVC), and to be guided by a specific planning method which requires a behavioural change at the institutional level. Committing to how results are measured is intrinsic to the planning approach.

The product of the planning approach is the identification and planning of Integration Zones that

**FIGURE 5: BUILT ENVIRONMENT VALUE CHAIN (BEVC)<sup>25</sup>**



24. BEPP Guidelines 2016/7 to 2018/9 page 4. Toolkit library item 102.

25. From 'Planning & Assessment Guidelines for Informal Settlement Upgrading in the context of the Integrated Human Settlements Plan (IHSP) and Built Environment Performance Plan (BEPP)' - Toolkit item 52.



include an **intergovernmental project pipeline** (catalytic metro, provincial, national and SOC urban development projects) within the following targeted spaces:

- › Integration Zones;
- › Marginalised areas (informal settlements, townships and inner-city areas);
- › Growth nodes (commercial and industrial nodes).

This planning approach should clearly influence the allocation of **capital funding**, and result in service delivery implementation, which in turn requires **urban management** to protect and sustain public and private investment. The successful implementation of BEPPs relies on effective **institutional arrangements and budgeting for ongoing operational expenditures**. Sustained implementation and urban management should result in service delivery and spatial transformation that positively contributes to inclusive economic growth and the reduction of poverty and inequality over the long-term.

### Prioritisation and preparation:

The **prioritisation of Integration Zones, informal settlements, marginalised areas and areas for growth** relative to other areas within the metro, and the resultant intergovernmental project pipeline will collectively support the achievement of targets associated with building more productive, inclusive and sustainable cities. The prioritisation of particular areas mentioned above does not translate into an exclusion of allocation of resources to other areas, although a substantial portion of resources should be allocated to the three categories of targeted spaces and this allocation should increase year on year.

## 2.11. ALIGNING THE CITY-WIDE UPGRADING PROGRAMME TO THE BEPP

The Municipality's city-wide upgrading plan needs to be linked to its Built Environment Performance Plan (BEPP) and the two plans need to be congruent with each other (as outlined in the preceding section). Whilst the detail of city-wide upgrading will be contained in the city-wide plan, the budgetary implications and spatial/strategic rationale for the investment mix

would need to be reflected in the BEPP. Please refer to toolkit items 54 for guidance on developing the BEPP and item 52 for the specifics pertaining to informal settlements. Whilst the latest BEPP guidelines were not available at the time of writing, the following are key items that should be included in or attached to the BEPP pertaining to city-wide upgrading:

1. An integrated MTEF project pipeline for upgrading reflecting the various sources of funding (for essential municipal and social services).
2. A schedule of all informal settlements with categorisation and key data and status of upgrading (refer to toolkit library items 352 and 353).
3. Spatial rationale for the prioritisation of settlements in various upgrading categories.
4. Progress with key BEPP/MTEF indicators. Whilst these are yet to be finalised, an illustration of what these might look like is contained in section 2.13.

A key objective is for the BEPP to incentive more rationale and effective budgeting and expenditure in city-wide upgrading, including shifts towards a more programmatic, inclusive, integrated and spatially coherent approach.

Examples of some of the shifts which the BEPP can help incentive include: an increase in the percentage of the HSG and USDG grants which are utilised for upgrading; national sharing of data (list) of all informal settlements to establish a national baseline; linking budget and expenditure to meaningful result/performance indicators.

It is noted that the settlement upgrading plans described in section 5.14 would be 'rolled-up' into the BEPP and city-wide upgrading plan. Any adjustments to these settlement-level upgrading plans over time would need to be reflected into updates the BEPP. Similarly, the commitments made to communities via these settlement level upgrading plans need to be realistic in terms of the overall budget availability and allocations in the BEPP.

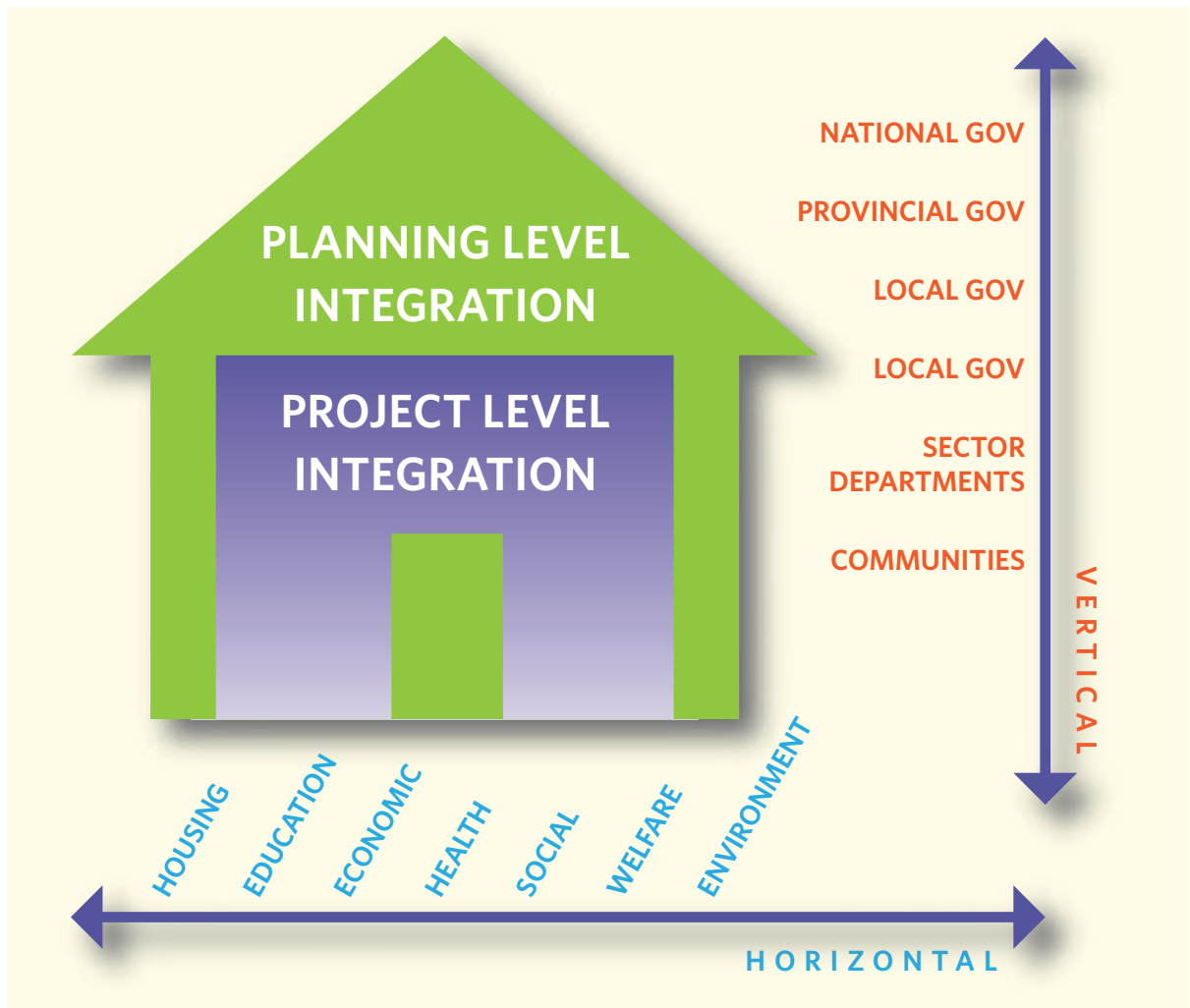
## 2.12. INTEGRATED, INTERGOVERNMENTAL PROJECT PIPELINE

It is anticipated that a format or guidance for how to present the integrated, intergovernmental project

pipeline for upgrading will be provided in forthcoming versions of the BEPP Guideline. It is however also recognised that Municipality’s already face a high reporting burden and the requirements need to be kept streamlined. The outcomes any such format or set of requirements should achieve include: A) upgrading plans, as reflected in the BEPP, incentivising and enabling monitoring and measurement of an integrated response to upgrading which extends beyond essential infrastructure to include essential social services; B) incentivising improved IGR (cooperation

between municipalities and provincial/national spheres of government) and transversal coordination (between departments within a municipality entity). The term ‘vertical integration’ refers to the coordination and integration between different spheres of government or at different scales within a municipality (e.g. community to area to city-level). The term horizontal integration refers to the coordination and integration between functions at a particular level or within a particular entity.

**FIGURE 6: PLANNING VERSUS PROJECT LEVEL INTEGRATION** <sup>26</sup>



26. Sourced from Toolkit Ref 81 – KZN Informal Settlement Upgrading Strategy.

The following table extracted from the KZN Informal Settlement Upgrading Strategy of 2010<sup>27</sup>, provides some guidance as to the kind of integration which is required. Please refer also to sections 4.3, 4.5 and 4.8 for more on transversal integration and IGR.

**FIGURE 7: PLANNING ALIGNMENTS AND INTEGRATION**

Sphere of Government	Alignment Objective	Responsibility	Alignment action required	Comment
<p><i>Vertical Alignment:</i></p> <p><i>National &amp; Provincial Policies</i></p>	Ensure alignment with national policies & guidelines	National and Provincial Policy Manager/s	<p>Ensure alignment of National Policies i.e. National Spatial Development Perspective, PIE, BNG, Acts etc.</p> <p>Ensure alignment of district and local municipalities</p> <p>Ensure alignment between local municipalities</p>	<p>National and Provincial Policy Managers are responsible for the alignment of the various national policies and guidelines.</p> <p>District and Municipal IDP managers are responsible for the alignment of districts and local municipalities as well as between adjoining or affected local municipalities.</p>
<p><i>Horizontal Alignment:</i></p> <p><i>Sector Planning</i></p>	<p>Align various sectors with each other and overall IDP</p> <p>Spatial alignment of projects through the Spatial Development Framework (SDF)</p>	Planners, IDP Managers, Sector Managers & Sector Specialists	<p>Ensure inter-sectoral alignment between the following:</p> <ul style="list-style-type: none"> <li>- Housing Sector Plan</li> <li>- LED Plan</li> <li>- Transport Plan</li> <li>- Water Services Development Plan</li> <li>- Environmental Management Plan</li> <li>- Other relevant sector departments and plans (e.g. Social Development, Education, Health)</li> </ul>	<p>Alignment of Sector departments is the responsibility of the IDP manager, sector departments and sector specialists who should use the IDP document as the alignment vehicle.</p> <p>Spatial alignment of sector projects is coordinated through the Spatial Development Framework (SDF).</p> <p>This is a dynamic process with ongoing adjustment and alignment between various sectors, through the SDF and IDP.</p>
<p><i>Horizontal Alignment:</i></p> <p><i>Project Level Intergration</i></p> <p><i>(Planning &amp; Implementation)</i></p>	Manage integration of projects being planned and/or implemented	Project Manager (appointed or internal) & appointed professionals and sector specialists	<p>Ensure coordination and alignment of the following feasibility studies and processes:</p> <ul style="list-style-type: none"> <li>• Land assembly process</li> <li>• Socio-Economic Surveys</li> <li>• Environmental Management</li> <li>• Bulk Services Feasibility</li> <li>• Engineering Services</li> <li>• Local Level Transport Planning</li> <li>• Town Planning</li> <li>• Internal &amp; External Social Stakeholders (<i>Development Committee, community, professional team, municipality etc.</i>)</li> </ul>	<p>It is the project manager's responsibility to manage and coordinate the project's implementation process.</p> <p>Apart from general project management activities such as securing the land, town planning, environmental management, managing social issues and relevant project stakeholders, the project managers should also manage the involvement of various external stakeholders such as neighbouring residential communities, the local business community, NGOs and social services throughout the project's implementation.</p>

27. Sourced from Toolkit Ref 81 - KZN Informal Settlement Upgrading Strategy.

Sphere of Government	Alignment Objective	Responsibility	Alignment action required	Comment
<p><i>Horizontal Alignment:</i></p> <p><i>Project Level Integration</i></p> <p><i>(Operational &amp; Maintenance)</i></p>	Ongoing alignment and integration to ensure long-term sustainability and settlement management	Project Manager (appointed or internal) & appointed professionals and sector specialists	<p>Ensure inter-sectoral alignment between the following:</p> <ul style="list-style-type: none"> <li>- Fire &amp; emergency Services</li> <li>- Education</li> <li>- Social Welfare</li> <li>- Health</li> <li>- Protection Services</li> <li>- Relevant Civil Society organisations in the area</li> <li>- Energy (Eskom)</li> <li>- Telecoms (Telkom)</li> <li>- Specific projects i.e. food security, water security, local economic development etc.</li> </ul>	<p>It's critical that the long-term sustainability of each settlement is effectively managed.</p> <p>Services required by residents (e.g. fire, police, clinics, hospitals, schools, transport) must be integrated into the area and develop a plan of assistance to the resident community.</p> <p>Furthermore, and based on the needs identified in the initial socio-economic survey, ongoing community upliftment programs such as local economic development initiatives, food security projects etc. should be implemented in the settlement in order to ensure that residents have the means to develop sustainable livelihood strategies.</p>



### 2.13.MTEF AND MSTF UPGRADING INDICATOR TARGETS (ILLUSTRATIVE)

In order to realise a shift towards programmatic, city-wide upgrading, there need to be clear performance measures which are linked to budget allocations. This is necessary in order to establish the necessary performance incentives for change. Whilst Medium

Term Expenditure (MTEF) and Medium Term Spatial Framework (MTSF) targets have not yet been finalised for incremental upgrading. The following are therefore offered for illustrative purposes. Indicative numbers have been inserted, assuming a notional 400 settlements and a total informal settlement population of 100,000. These targets align with the key upgrading deliverables outlined in sections 2.2, 1.21 and 1.22.

**FIGURE 8: ILLUSTRATIVE MTEF PERFORMANCE MEASURES**

INDICATOR	BASELINE	FINAL TARGET	MTEF TARGET	completion timeline
<b>City-wide plan:</b> %age and number of informal settlements assessed, categorised and included in city wide upgrading plan.	25%	100%	100%	1 year
	100	400	400	
<b>Health &amp; safety:</b> %age and number of informal households with serious health and safety threats that have been fully mitigated.	5%	100%	80%	3 years
	5 000	100 000	80 000	
<b>Essential municipal services provision:</b> %age and number of informal households where a full package of essential municipal services has been provided.	12,50%	100%	25%	5 years
	12 500	100 000	25 000	
<b>Essential social services provision:</b> %age and number of informal households with full package of essential social services provided (health, ECD, education).	2%	100%	25%	7 years
	2 000	100 000	25 000	
<b>Functional tenure:</b> %age and number of informal households where a minimum of functional tenure is established (i.e. administrative recognition).	2%	100%	100%	1 year
	2 000	100 000	100 000	
<b>Zoning &amp; SPLUMA alignment:</b> %age and number of settlements with incremental zone proclaimed enabling incremental & flexible dev. & land use man.	0%	100%	100%	3 years
	0	100 000	100 000	
<b>Improved housing:</b> %age and number of informal households where housing has been improved, even if remaining less formal.	5%	85%	50%	5 years
	20	340	200	
<b>Formal housing:</b> %age and number of informal households in spatially-prioritised localities with formal housing opportunities created.	5%	15%	2%	25 years
	5 000	15 000	2 000	
<b>Budget allocation for upgrading:</b> %age of USDG and %age of HSG allocated to incremental upgrading (as opposed to conventional housing delivery).	15%	50%	40%	3 years
	10%	35%	20%	

## 2.14. SPATIAL ISSUES, MTSF AND DENSIFICATION

It is expected that the next version of the BEPP Guidelines will contain further guidance to municipalities pertaining to spatial issues and densification. Once available municipalities need to refer carefully to this latest guide.

## 2.15. DATABASE AND DATA MANAGEMENT

Effective collection, management and maintenance of informal settlement data has emerged as a key success factor in achieving city-wide upgrading, not only for municipalities, but also for provincial and national spheres of government in terms of better understanding the national picture (in terms of backlogs, delivery progress, fiscal/grant funding requirements etc.).

Two specimens for a database are contained in the toolkit library. One is a NDHS draft for stakeholder comment (item 352) and the other a draft produced as part of this toolkit (item 353), also for stakeholder comment. Further engagement involving the NDHS, NT and municipalities is required in order to finalise what can hopefully become a standard national dataset for informal settlements. Obviously metros will need to hold and manage a greater amount of data than that which is shared nationally. At this stage, each metro has its own data tool. Most appear to be excel-based. Most have indicated that managing this data is challenging given the extent of data involved (e.g. pertaining to settlement status/profile, budget, historical expenditure, historical delivery etc.). Until there is stakeholder consensus on data requirements, it is suggested that each metro collect and maintain the minimum amount of data (i.e. that which is contained in toolkit item 352 and 353 (at least the data fields tagged as being essential).

## 2.16. EFFECTIVE PROCUREMENT

Metros have identified the timeframes associated with procurement as a significant barrier to scaling up incremental upgrading. In some instances, the slow timeframes result in allocated budget cannot be utilised in the financial year in which it was meant to be spent. In other instances, the inflexibility inherent in traditional procurement makes it difficult to accommodate changes

necessitated during upgrading implementation. Whilst there is no easy solution to municipal procurement challenges, the following guidance is offered:

1. Include a procurement strategy as part of the city-wide upgrading plan (refer to sections 2.1, 2.2 and 2.3 for city-wide upgrading plan requirements).
2. Plan procurement programmatically as much as possible (instead of one project/settlement at a time) – e.g. by means of framework contracts or competitive funding windows (see section 3.16).
3. Ensure effective up-front project planning and project packaging so that an effective procurement demand management plan can be formulated.
4. Leverage enabling partnerships via the upgrading procurement strategy [see sections 3.16 (competitive funding windows); 4.10 (support organisations); 5.17 (NGO partnerships)]
5. Refer to and understand the National Treasury Standard for Infrastructure Procurement and Delivery Management SIPDM (toolkit library 56).

## 2.17. DEFINING FUNCTIONAL PRECINCTS - UNITS OF URBAN MANAGEMENT

The urban management requirements for precincts populated by informal settlement are fundamentally different to other, formal, precincts which are already effectively covered by existing mechanisms (e.g. town planning, zoning, rates etc.). Informal settlements are also typically scattered across various parts of a city, though often with some being concentrated in a specific, local areas. This context can make it challenging to manage informal settlement upgrading in a coherent and effective fashion.

It may therefore be beneficial for a metro to define functional informal settlement precincts for purposes of effective area-based management. Reference can be made to toolkit item 359. This relates to the definition of informal settlement precincts in eThekweni Municipality for purposes of Participative Economic Action Planning (PEAP) in 2012. However, the request for proposal (item 360) will be useful precedent for municipalities wanting to commission or else undertake in-house the

definition of functional informal settlement precincts for purposes of more effective, area-based urban management.

Please also refer to sections 4.11 (area based management) and 4.6 (institutional arrangements within Metros).







# 3 FUNDING INSTRUMENTS

<b>Purpose of this tool:</b>	A) <i>To enable Municipalities to understand and optimise various sources of funding for city-wide, incremental upgrading - both existing state grants and other sources.</i> B) <i>To assist national government in strengthening grant instruments for upgrading - either via refining and optimising existing grants, in particular HSDG (UISP, PHP and EH) and USDG, or potentially developing new ones.</i>
<b>Rationale:</b>	Upgrading is costly from both capital and operational point of view. There are significant fiscal constraints. Optimising available funding is essential for achieving city-wide, incremental upgrading. Currently the bulk of grant funding is allocated to a relatively small number of costly, conventional upgrade/housing projects benefiting a small proportion of the total informal settlement backlog. Most settlements in the urban areas receive minimal investments or are excluded.
<b>Key principles:</b>	<ul style="list-style-type: none"> <li>▪ <i>Funding allocation &amp; utilisation must be linked to a city-wide upgrading plan &amp; BEPP - thus achieving a rational mix of upgrading project types, as informed by categorisation, with a high priority on ensuring that the minimum core of upgrading (including a comprehensive basket of essential services) is provided to all settlements rapidly (within a period of 5 years or 10 years maximum).</i></li> <li>▪ <i>Grant instruments for upgrading need to be programmatic in their orientation (rather than project-based). It is inefficient to deliver city-wide upgrading one settlement/project at a time. Interventions need to be made at area-level in order to achieve scale. The USDG is orientated in this way whereas HSDGs are project-based. This needs to be addressed within HSDGs.</i></li> <li>▪ <i>Grant instruments need to be flexible.</i> This is consistent with a more decentralised and locally responsive funding model. The USDG is flexible, whereas HSDGs tend to be less flexible and prescriptive, including in respect of the funding formula.</li> <li>▪ <i>Reduce red tape - the process of applying for HSDGs is slow and burdensome with an extra sphere of provincial government involved in the process. USDG is more streamlined.</i></li> <li>▪ <i>Accredit metros - Metros with the necessary capacity need to be fully and directly empowered to undertake upgrading. This is consistent with a more decentralised, efficient and locally-responsive funding model.</i></li> <li>▪ <i>Decentralise funding - as noted above, this is an important principle.</i></li> <li>▪ <i>Mobilise community investments and social capital - see sections 1.9, 5.2, 5.3, 5.8</i></li> <li>▪ <i>Effective state procurement, capacity and institutional arrangements - these are all key to effective use of funding - refer to sections 2.16 and 4.</i></li> </ul>
<b>Key tools/ references:</b>	<ul style="list-style-type: none"> <li>▪ There are numerous relevant tools (utilise the 'funding' &amp; 'CUF' subject filters on the library resource list (Annexure A). Key tools include: 1 (UISP), 14 &amp; 27 (NUSP finance module), 31 (housing finance), 33 (PHP), 312 (housing subsidy quantum), 119 (Baan Mankong); 138 (financing upgrading, 170 (community upgrading fund), 171 (upgrading finance) CUF tools; 277 (USDG), 293 and 294 (decentralised finance).</li> </ul>

### 3.1. EXISTING GRANT INSTRUMENTS

#### Grants which are critical or very relevant:

- › **HSDG<sup>28</sup> - Upgrading of Informal Settlement Programme (UISP)** – for services, land, housing – premised on moving continuously towards formalisation – category A, B2 settlements.
- › **Urban Settlement Development Grant (USDG)** – for essential municipal infrastructural services for metro municipalities – category B1, B2 settlements.
- › **HSDG - Enhanced People's Housing Process (EPHP)** – for participative, partnership-based upgrading – noting the limited activation of EPHP but the important alignment and significant potential, if it can be more effectively channelled) – category A, B1, C settlements.
- › **HSDG - Emergency Housing Assistance** – for emergency services and housing, temporary relocation areas etc. – category A, B1, B2, C settlements (depending on relocations and need for emergency on site responses).
- › **Municipal Infrastructure Grant (MIG)** – COGTA – for essential municipal infrastructural services for non-metro municipalities – category B1, B2 settlements (mainly).
- › **HSDG - Consolidation Subsidies** (for top-structure phase) – category A, B1 settlements.
- › **HSDG - Social and Economic Facilities** (community halls, sports facilities, taxi ranks etc.) – category A, B1, B2 settlements.
- › **HSDG - Integrated Residential Development Programme (IRDP)** (for greenfield relocation sites) – category A, B1 settlements.

#### Grants which are potentially relevant but with significant limitations or only on a limited basis:

- › HSDG - Rural Housing Subsidy: Informal Land Rights – may be relevant for certain peri-urban informal settlements on traditional land – category A settlements.
- › HSDG - Community Rental Units (CRU) – may be relevant in certain cases where there is capacity and affordability and where densified solutions are appropriate – category A and C settlements.

#### Grants which are unlikely to be relevant in practice but may apply in very isolated cases:

- › HSDG - Social Housing Programme (SHP) – may be relevant in rare cases for relocations where there are higher earning informal residents who can afford social housing rentals.
- › HSDG - Individual Housing Subsidies - Non-Credit Linked - e.g. for individual residents who may previously not have qualified when mass housing consolidation was delivered, but now do.

28. HSDG = Human Settlements Development Grant of the National Department of Human Settlements.

**FIGURE 9: SUMMARY OF KEY FUNDING INSTRUMENTS FOR UPGRADING AND THEIR RELEVANCE**

Grant mechanism and funding source	Application/relevance by settlement category
Upgrading of Informal Settlements Programme (HSDG-UISP) - DHS (2004)	<ul style="list-style-type: none"> <li>• <b>Full conventional upgrading (A)</b> - permanent engineering services, formal tenure and housing.</li> <li>• <b>Incremental upgrading (B1)</b>, in particular where it will be a continuous upgrading process leading directly to formalisation and housing delivery, where land can be easily acquired and where only limited investments are needed for interim basic services (noting R3.8k limit). These preconditions will not be in place in many/most settlements in which case USDG will be more appropriate.</li> <li>• <b>Relocations arrangements (B2, C)</b> (where necessary - last resort).</li> </ul>
Urban Settlements Development Grant (USDG) - NDHS/Treasury (2011)	<ul style="list-style-type: none"> <li>• <b>Essential municipal services (typically B1, B2)</b> - for metros and especially where land is not readily available and/or where there will be a hiatus before land acquisition and formalisation/housing delivery can occur and/or where there is a need to deliver rapidly, programmatically and at scale across multiple settlements.</li> </ul>
Enhanced People's Housing Process (EPHP) - DHS (2009)	<ul style="list-style-type: none"> <li>• <b>Full conventional or incremental upgrading which is co-driven and partnership-based (A, B1)</b> - emphasises participative planning and community-driven processes including various forms of community contribution (e.g. co-planning, knowledge, savings, land, materials etc.) <b>BUT</b> EPHP not yet activated (e.g. guidelines not yet released; conventional municipal/contractor-driven PHP still the norm, no project pipeline established).</li> </ul>
HSDG-Emergency Housing- DHS	<ul style="list-style-type: none"> <li>• <b>Emergency basic services or emergency shelter</b> (typically B2 but potentially also for B1 where there are health and safety threats) - e.g. VIPs, standpipes, emergency access roads and possible in situ top-structure improvements.</li> <li>• <b>Temporary Relocations Area (TRA) (C)</b> (and relocations assistance) - as a last resort, but noting that TRAs tend to become permanent settlements in their own right.</li> </ul>
Integrated Residential Development Programme (HSDG-IRDP) - DHS	<ul style="list-style-type: none"> <li>• <b>Full conventional upgrading (A)</b> - especially where interim services are not required and where there are no relocations but noting that UISP is the preferred mechanism for upgrading.</li> <li>• <b>Greenfield project</b> as relocations destination (for C) or decanting from B2 upgrades.</li> </ul>
Municipal Infrastructure Grant (MIG) - COGTA	<ul style="list-style-type: none"> <li>• <b>Essential services (A, B1 or B2)</b> - e.g. VIPs, standpipes, basic access roads for non-metros where land is not readily available or where there is likely to be a hiatus before formalisation and housing delivery can occur. MIG likely to be more rapid than UISP (noting that MIG grant and project processes are more streamlined than HSG).</li> </ul>
HSDG-Consolidation subsidy - DHS	<ul style="list-style-type: none"> <li>• <b>Full conventional or incremental upgrading (A, B1)</b> - top-structure phase of UISP.</li> </ul>

**FIGURE 10: GRANT FUNDING INSTRUMENTS RELEVANT TO UPGRADING, THEIR APPLICATION AND LIMITATIONS**

	Type of grant & source	Relevance for Category	What can be funded	Benefits/limitations
Grants which are relevant for upgrading	Upgrading of Informal Settlements Programme (UISP) grant <sup>29</sup> - DHS	<ul style="list-style-type: none"> <li>➤ <b>Full upgrading (A).</b></li> <li>➤ <b>Essential municipal services (A, B1)</b> in particular where upgrading will be a continuous process, leading directly into formalisation and land is rapidly available.</li> </ul> <p><i>NOTE: Less appropriate where upgrading will be less-formal or where there will be a hiatus between interim services and/or formalisation and where land cannot be rapidly acquired and/or where more than R3.8k per site is required for essential services provision.</i></p>	<ul style="list-style-type: none"> <li>➤ Interim essential municipal engineering services.</li> <li>➤ Land acquisition.</li> <li>➤ Permanent engineering services.</li> <li>➤ Top-structures (as a final phase funded by another housing subsidy mechanism e.g. PHP, consolidation subsidy).</li> </ul>	<ul style="list-style-type: none"> <li>➤ <b>UISP (like other housing subsidy processes) is likely to be slow and administratively burdensome</b> (involving applications and approvals via provincial DHS).</li> <li>➤ <b>UISP is premised on early land acquisition and incremental formalisation</b> (moving continuously in that direction). Land acquisition is intended in ph1 (interim services). DHS likely to expect that land can be rapidly acquired (e.g. land agreements in place) even before releasing interim services funding. Land acquisition however is inherently slow, challenging and costly.</li> <li>➤ <b>The value of funding for interim engineering services is very limited</b> - as per subsidy formula, the R3.6k available in ph1 (prior to land acquisition) will often be insufficient.</li> <li>➤ <b>Many municipalities will prefer to install permanent engineering services at the outset</b> (yet will not be able to access sufficient funding up-front until land is acquired).</li> <li>➤ <b>UISP represents limited benefits over IRDP</b> especially if interim services are not envisaged or required (unless UISP is 'optimised').</li> <li>➤ <b>Value of engineering services for UISP is pegged well below that of greenfield IRDP developments</b> (stipulated B grade instead of A Grade services) - R9k less (noting that in provinces such as KZN, DHS only pay for B Grade).</li> </ul>
	Urban Settlements Development Grant (USDG) <sup>30</sup> - Treasury	<ul style="list-style-type: none"> <li>➤ <b>Basic services (mainly B1, B2)</b> - but currently only for metros - especially useful where land not readily available &amp; where there will be a hiatus before full upgrading can occur and/or where programmatic delivery across multiple settlements is necessary.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Principally for essential municipal engineering services (e.g. water supply, roads, sanitation etc.).</li> </ul>	<ul style="list-style-type: none"> <li>➤ <b>Flexible, decentralised grant with significant MTEF allocation ideal for rapid provision of essential municipal services.</b></li> <li>➤ <b>Does not require up front land acquisition and rapid move towards formalisation.</b></li> <li>➤ <b>Far more streamlined application and project delivery process</b> (compared to HSGs e.g. UISP/IRDP)</li> <li>➤ <b>Programmatic orientation</b> - can be readily applied programmatically across multiple projects (separate application for each project not required).</li> <li>➤ <b>Currently only available to metros.</b></li> </ul>
	Municipal Infrastructure Grant (MIG) <sup>31</sup> - COGTA	<ul style="list-style-type: none"> <li>➤ <b>Basic services (mainly B1, B2, potentially C)</b> - especially for non-metros (municipalities who can't access USDG) and/or where land is not readily available and/or where there is likely to be a hiatus before full upgrading and housing delivery can occur.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Principally for essential municipal engineering services (e.g. water supply, roads, sanitation etc.).</li> </ul>	<ul style="list-style-type: none"> <li>➤ <b>Accessible to and relevant for small municipalities</b> and in particular for peri-urban settlements (in the absence of another suitable, streamlined grant instrument).</li> <li>➤ <b>Does not require up-front land acquisition and rapid move towards formalisation.</b></li> <li>➤ <b>Far more streamlined application and project delivery process</b> (compared to UISP/IRDP).</li> </ul>

29. Provided by provincial DHS as well as directly from the National DHS to accredited municipalities

30. Currently provided directly to certain accredited or high capacity municipalities/metros

31. Though intended for non-urban infrastructure, MIG is relevant for small municipalities (which cannot access the USDG and noting the inherently slow process to access housing grants). It is especially relevant peri-urban settlements and/or where basic services need to be rapidly delivered.



<p>New 'enhanced' People's Housing Process grant (EHPH) - DHS</p>	<ul style="list-style-type: none"> <li>➤ <b>Full upgrading (A, B1)</b> - top-structure phase and associated participative planning and community-driven processes including community planning and possible community savings or other equity.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Top-structures and associated PHP social, planning and capacitation processes</li> </ul>	<ul style="list-style-type: none"> <li>➤ <b>New, enhanced 2009 policy not yet fully activated</b> - e.g. PHP implementation guidelines not yet completed and, no significant project pipeline, municipal/contractor-driven PHP still utilised but not in the spirit of the new policy (co-driven with a CRO) and not at any scale.</li> <li>➤ <b>PHP typically only kicks in for top-structure phase</b> and not during all-important planning stages of projects - due to being municipal-driven.</li> <li>➤ <b>PHP still premised on formalisation</b> - may not be suitable for less-formal incremental full upgrades (e.g. where land is not yet acquired, township establishment has not occurred, and individual title is not being provided) - unless PHP is 'optimised'.</li> </ul>
<p>Emergency Housing grant - DHS</p>	<ul style="list-style-type: none"> <li>➤ <b>Category B2, C</b> for emergency basic services and top-structures (potentially also for interim arrangements on <b>B1</b>)</li> <li>➤ <b>Category C</b> for the establishment of a temporary relocation area (TRA) as a last resort - potentially also for other categories where a partial relocation is urgent.</li> <li>➤ <b>Category A, B1</b> for a TRA in cases of a 'rollover' upgrade (temporary relocations) or where there are permanent relocations (e.g. from road reserves).</li> </ul>	<ul style="list-style-type: none"> <li>➤ Emergency housing and basic infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>➤ <b>Essential in the case of providing temporary relocation areas (TRAs)</b> which are transitional relocation facilities. This is the most common utilisation of this grant.</li> <li>➤ <b>TRAs are problematic</b> and typically become permanent settlements in their own right. They should be regarded as a last resort and preferably avoided.</li> <li>➤ <b>Emergency housing has typically been underutilised</b> for proactive, in situ emergency improvements (whether infrastructure or temporary housing).</li> </ul>
<p>Consolidation subsidy - DHS</p>	<ul style="list-style-type: none"> <li>➤ <b>Category A</b> for top-structure phase.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Top-structures</li> </ul>	<ul style="list-style-type: none"> <li>➤ <b>Usual subsidy eligibility criteria apply.</b> Informal settlement residents such as non-residents, transient migrants, or those having benefited from subsidies elsewhere, would not qualify.</li> <li>➤ <b>Only viable for full formal upgrades</b> - not for alternative, incremental or less formal upgrades (e.g. land acquisition, township establishment and individual title deeds are the presumed platform).</li> </ul>
<p>Integrated Residential Development Programme (IRDP) grant - DHS</p>	<ul style="list-style-type: none"> <li>➤ <b>Category A</b> for top-structure phase (see Consolidation Subsidy above). Note that UISP is the preferred to IRDP for full upgrading.</li> <li>➤ <b>Category B2, C</b> (eventual relocation) for the development of a permanent relocation site (greenfield housing development).</li> <li>➤ <b>Category A, B1, B2, C</b> for partial relocations (as a last resort).</li> </ul>	<ul style="list-style-type: none"> <li>➤ Engineering services, land acquisition, top-structures, etc.</li> </ul>	<ul style="list-style-type: none"> <li>➤ <b>The development of a full IRDP greenfield project is a slow process</b> - though typically quicker than an in situ upgrade, it would still usually exceed 5 years from commencement of concept and feasibility until final top-structure construction was completed.</li> <li>➤ <b>Extensive relocations would be required</b> for IRDP to assist informal settlement residents. As per UISP policy, relocations are a last resort and typically have a range of negative consequences.</li> </ul>

	Social & Economic Facilities - DHS	Principally for category A, B1. Also category C (permanent relocations sites developed using IRDP or other programmes).	Medical care facilities, community halls, parks and playgrounds, sports facilities, taxi ranks and small business facilities.	Only addresses supplementary types of facilities. Core social facilities (e.g. schools, ECD, health care) must be achieved via collaboration with relevant provincial line departments. Accessibility across all provinces not known.
Grants which are potentially relevant	Community Rental Units (CRU) - DHS	<ul style="list-style-type: none"> <li>➤ Full upgrading (A, B1) - potentially for rental housing solutions on densified upgrades (e.g. rollover).</li> <li>➤ Relocations housing provision (mainly B2, C but also potentially others) - for alternative rental housing on relocations sites.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Housing - typically medium density (e.g. double story/attached)</li> </ul>	<ul style="list-style-type: none"> <li>➤ There are significant affordability limitations. The costs of operating and maintaining rental housing usually necessitate rentals above the affordability of the urban poor.</li> <li>➤ There are significant difficulties in collecting rentals from the urban poor.</li> <li>➤ There are limitations in terms of entities with the requisite capacity and skills to effectively manage rental housing stock for the poor.</li> </ul>
	Rural Housing - DHS	<ul style="list-style-type: none"> <li>➤ Category A, B1 in cases of peri-urban informal settlements located on traditional land.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Services, housing &amp; associated professional services.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Most informal settlements are distinct from rural settlements and rural housing subsidies would not apply.</li> <li>➤ There may however be relevance for certain peri-urban informal settlements residing on traditional land - i.e. land which falls under traditional authorities, since rural housing accommodates traditional forms of tenure and does not require conventional town planning.</li> <li>➤ Rural housing is typically quicker to deliver than urban housing (traditional tenure, no town planning approvals etc.).</li> </ul>

NOTES: 1) All DHS grants are provided by the provincial DHS and potentially directly from the National DHS to level 3 accredited municipalities. 2) USDG is provided directly to accredited or high capacity municipalities by means of a DORA transfer. 3) MIG - Though intended for non-urban infrastructure, MIG is relevant for small municipalities (which cannot access the USDG and noting the inherently slow process to access housing grants). It is especially relevant to peri-urban settlements and/or where basic services need to be rapidly delivered. ABBREVIATIONS: COGTA = Cooperative Governance and Traditional Affairs (the Department of). DHS = Department of Human Settlements.

### 3.2. UISP GRANT OPTIMISATION

Optimisation of the UISP (both in terms of the phasing and the HSG allocations) is important in order to achieve more effective, inclusive, city-wide upgrading. Please refer to section 1.19 for optimisation pertaining the UISP phasing. The most important effect of this phasing optimisation is to create an expanded, combined phase 1 and 2 which provides essential services in advance of land acquisition and formal town planning, and other approval processes.

However, this phasing optimisation needs to be accompanied by a revision of the UISP budget formula. In particular, the allocation for interim/essential services needs to be substantially increased, preferably right up to the maximum usually provided for full engineering services (it being noted that the costs of an adequate interim/essential engineering services package in metros already often exceeds the R25k per site (this is based on eThekweni precedent where the package includes standpipes, communal ablutions, essential access roads and footpaths, and electricity).

**FIGURE 11: UISP GRANT ALLOCATIONS - CURRENT**

<b>Informal settlement upgrading programme: Grant amounts available with effect from 01 April 2018</b>	<b>Grant per site</b>
<b>Phase 1</b>	
Survey, registration, participation, facilitation, dispute resolution etc at 3% of project cost	253,63
Geotechnical investigation	120,22
Land acquisition	3 423,03
Pre-Planning	1 031,49
Interim engineering services	3 879,45
<i>subtotal</i>	<b>8 454,19</b>
total including survey etc.	<b>8 707,81</b>
<b>Phases 2 and 3</b>	
Detailed town planning	540,93
land surveying and pegging	400,70
Contour survey	80,15
Land survey examination fee	124,21
Civil engineer's fee	1 202,09
Site supervision fees	304,50
Permanent engineering services provision	24 783,10
<i>subtotal</i>	<b>27 435,68</b>
Project management at 8% of total cost	2 194,85
total	<b>29 630,54</b>
<b>Relocation grants</b>	
Transportations and loading costs for people and household effects	513,46
Social service support including support for the registration of social benefits, school registration and other welfare support	387,95
Relocation food support to households	638,98
Maximum cost per household	<b>1 540,38</b>

**FIGURE 12: BUDGET REQUIREMENTS SHOWING UISP GAPS, BUDGET DEFICITS & POTENTIAL OPTIMISATION**  
(ILLUSTRATIVE REFINEMENTS AND GRANT VALUES SHADED IN GREY FOR POLICY CONSIDERATION)

<b>Phase 1 &amp; 2 (initiation &amp; incremental upgrading) - for Category B2 settlements (incremental upgrade)</b>	<b>Grant per site</b>	<b>Per 500 sites</b>	<b>Notes</b>
Initial engagement, survey, registration, participation, facilitation, partnerships, dispute resolution, capacitate CBP etc.	1 000	500 000	<i>expanded scope and budget - Facilitation and participation are a key upgrading success factor requiring significant, specialist capacity and inputs</i>
Geotechnical investigation	114	57 030	<i>original quantum</i>
Pre-Planning including participative planning, additional technical site suitability studies (e.g. land legal, desktop environmental, bulks etc) and zoning for incremental development (with regulatory flexibility) and re-blocking where necessary/appropriate	979	489 320	<i>original quantum with added scope</i>
Interim engineering services (Other essential social services (substantial essential services package) - to be funded by other funding sources)	27 194	13 597 035	<i>increased quantum with added scope to enable comprehensive package of essential services</i>
Owner-driven housing consolidation (PHP-type) - materials supply & housing support (optional, especially where there are hazardous materials and/or where community is prepared to co-invest and drive their own housing consolidation)	7 500	3 750 000	<i>new item - owner driven housing consolidation is important given the typical long term delays in providing formal, state-funded housing</i>
PHP-type CRO support for owner-driven housing consolidation	1 000	500 000	<i>new item - note PHP alignment</i>
Land acquisition - optional, more likely to occur in phase 3 given protracted timeframes and high costs			
subtotal	37 787	18 893 385	
Project management at 8% of total cost	3 023	1 511 471	<i>original quantum</i>
total	<b>40 810</b>	<b>20 404 856</b>	
<b>Phases 3 (formalisation – where appropriate)</b>			
Detailed town planning	513	256 610	<i>original quantum</i>
Land acquisition - optional, may alternatively acquire in phase 3	3 248	1 623 830	<i>original quantum - however this allocation will typically be insufficient given prevailing metro land prices</i>
land surveying and pegging	380	190 085	<i>original quantum</i>
Contour survey	76	38 020	<i>original quantum</i>
Land survey examination fee	118	58 925	<i>original quantum</i>
Civil engineer's fee	1 141	570 250	<i>original quantum</i>
Site supervision fees	289	144 450	<i>original quantum</i>
Permanent engineering services provision (balance of what is not utilised in phase1 & 2)	0	0	<i>shifted to phase 1&amp;2 - balance in phase 3 only if necessary/allocation remaining</i>
subtotal	5 764	2 882 170	<i>original quantum</i>
Project management at 8% of total cost	461	230 574	<i>original quantum</i>
total	<b>6 225</b>	<b>3 112 744</b>	
<b>Relocation grants</b>			
Transportations and loading costs for people and household effects	487	243 575	<i>original quantum</i>
Social service support including support for the registration of social	368	184 035	<i>original quantum</i>
benefits, school registration and other welfare support		0	<i>original quantum</i>
Relocation food support to households	606	303 120	<i>original quantum</i>
Maximum cost per household	<b>1 461</b>	<b>730 730</b>	



### 3.3. DECENTRALISED FUNDING AND ITS ADVANTAGES

Based both on international and local precedents, decentralised finance models have the potential to be empowering for communities (and their municipalities) and can deliver better value than top-down, centralised funding models. The new enhanced People's Housing (ePHP) Policy (of 2009) already creates an enabling framework for this to occur, but it has not yet been sufficiently operationalised within the context of upgrading. International models such as Community Upgrading Funds (CUFs) can offer useful precedents in this regard (e.g. experiences from Baan Mankong in Thailand, as well as Ghana, and Uganda<sup>32</sup>).

Decentralised funding models are characterised by flexibility and local decision making. Decisions about how funding is utilised (funding 'rules' and norms) are not defined centrally in a rigid fashion (as is the current situation with HSGs). Instead, only broad, enabling principles are defined centrally (as for example with the USDG) with decision making on how funding can be best utilised being decentralised to local level (typically down to community-level or area-level), based on a process of engagement and negotiation between the municipality, communities and other actors (such as support NGOs).

### 3.4. THE NEW PEOPLE HOUSING PROCESS (PHP) MODEL

**The new and enhanced People's Housing Process (adopted in 2009) creates an important opportunity for achieving a decentralised funding model for upgrading, which leverages greater community participation and contribution, and social capital formation whilst at the same time addressing some of the institutional constraints associated with upgrading.**

This kind of approach adds significant value relative to conventional, state-driven upgrading methods and is consistent with international upgrading best practice and learning (e.g. Baan Mankong, Thailand).

The new policy adopts a broader definition of PHP, allowing for greater flexibility and choice while maintaining the central principles of people-centred development. The DHS recognised that a number of different approaches to community development needed to be accommodated with "**community involvement in the decision-making processes, community empowerment and the leveraging of additional resources** being the determining factors for making it a project". The broadening of the scope of the PHP, with a focus on the outcomes of the housing process as a whole rather than just how the housing product is delivered, informed the development of the ePHP.<sup>33</sup>

However, as previously outlined, **the new PHP policy has not yet been implemented and a municipal/contractor-driven PHP still prevails** (development is not co-driven and there is typically no meaningful involvement of communities in the planning of projects, no significant mobilisation of community contributions, and limited involvement of community resource organisations [CROs]). PHP guidelines have not yet been released and there is not yet a viable PHP project pipeline in South Africa.

#### PHP Policy intention

The main aim of the PHP programme is to deliver better human settlement outcomes (at household and at the community level) based on community contribution, partnerships and the leveraging of additional resources through partnerships. This aim is achieved by **developing livelihoods interventions which lead to outcomes such as job creation, developing a culture of savings, skills transfer, community empowerment, building of community assets and social security and cohesion.** The PHP enables/encourages communities to actively contribute and participate in the housing development process so that communities take ownership of the process and not just act as passive recipients of housing.<sup>34</sup>

32. Refer to toolkit library items 238, 165, 301, 302 (pertaining to community upgrading funds in S.A., Baan Mankong, Ghana, Uganda).

33. SERI Housing Guide 2011, Kate Tissington, Resource Library Item

34. PHP Policy 2009, National Housing Code Part 3, Vol 4.

## Two PHP models – demand and supply-led

1. **Demand-led: An existing, organised community want to participate.** This requires pre-development support. This model is particularly relevant to informal settlement upgrading.
2. **Supply-led: Local authorities introducing PHP** where they have allocated land or wish to introduce PHP into the top-structure phase of a conventional housing project.

## PHP Funding arrangements

1. **Capital funding** – Including land purchase, infrastructure funding and housing subsidy.
2. **Capacity building fund** – Including:
  - › **Pre-project** consumer education;
  - › **Project specific** capacity building (project facilitation for participation, feasibility, savings, and business plan, and organisational development to build capacity and systems within the community);
  - › **Housing resource centre** – funding for a physical structure;
  - › **Sector networking** and information sharing including best practice and capacity building materials for PHP sector (useful in establishing a PHP programme e.g. at metro level); and
  - › Funding for **unblocking** blocked projects (typically historical PHP projects).

## PHP Community contributions

The PHP Policy outlines a number of community contributions/equity that should also be incorporated into an PHP project, both pre- and during the project (at least four need to be incorporated into the project).

### Compulsory community contributions

1. **Time, leadership, participation and ownership** of the project by the community, by participating in community meetings and setting up a project steering committee.
2. **Selecting a Community Resource Organisation (CRO)** to work on the project with the community.

## Other community contributions

3. **Land** (e.g. collectively owned).
4. **Savings** contributions.
5. **Top-up funding through various partnerships** forged by the community with other stakeholders.
6. **Demonstrated knowledge/skills/expertise.**
7. **Labour** (not necessarily free).
8. **Materials** contribution (e.g. through setting up of brick-making yards, recycled material or through a donation from a supplier).
9. **Special community initiatives** related to and connected to the housing (e.g. food gardens, community care etc.).
10. **Bringing in community volunteers** or employers (e.g. student internships, employer volunteers etc.).

## PHP Institutional arrangements

- › **Community:** Control, leadership and choice of communities is central – see above.
- › **CBO:** An effective and competent Community-Based Organisation must be established and/or capacitated.
- › **CRO:** A Community Resource Organisation (usually a suitable support NGO) plays a vital role in capacitating and supporting the CBO and community.
- › **LA:** The Local Authority plays a supportive role and creates an enabling environment for PHP at local level. The LA also plays a key role in respect of assisting with ring-fencing grant funding, land acquisition, town planning, infrastructure/essential services provision etc.
- › **DHS:** Provincial Human Departments ensure provincial planning frameworks support PHP, set targets for budget allocations, build provincial PHP capacity etc.

## PHP Guidelines

PHP Guidelines for the new and enhanced PHP policy were drafted in 2010/11 and are available in the Toolkit Library (item 332 and 333).

## National PHP Workshop August 2010

A National PHP Workshop two-day PHP workshop held in Pretoria on 25th/26th August 2010 in order to

disseminate and operationalise the new PHP Policy. The minutes of this workshop are contained in the resource library (Item 334). At the workshop, it became clear from the municipalities represented, that they were unsupportive of communities play a co-driving role in the planning of projects. The municipalities preferred to retain control of all planning aspects of housing and utilise PHP only for community involvement in the top-structure phase.

**Extract from Minutes of National PHP Workshop August 2010 (Conclusion):**

*“The issue of the implementation of PHP as one of the human settlements delivery programmes requires political intervention more especially at the Provincial as well as at the Local level. The implementation of PHP since 1998 has yielded positive results though the impact in relation to housing delivery could not be assessed as PHP was implemented under other housing delivery instruments.*

*“The enhanced PHP Policy Framework has provided the sector with an opportunity to address the failures of the Programme from the past, **but due to the fact that Provinces are reluctant to implement PHP, the new Policy cannot be tested fully. Currently only two Provinces are implementing the traditional PHP, namely Mpumalanga and Limpopo and the rest of the Provinces are implementing the “managed/contractor-driven PHP”.** It is on these bases that participants at the workshop took it upon themselves to robustly debate issues impacting on the up-scaling of PHP, developed agreed upon the outlined resolutions which need to be communicated to Provinces, Municipalities and all the other key stakeholders with the aim of bringing PHP to its rightful place.*

*“In conclusion, **SA is faced with a myriad of challenges, homelessness and unemployment are at the top of the list, PHP is therefore the only sustainable Programme to ensure that these two issues are addressed provided all spheres of Government jointly reach a consensus and support the implementation of the Programme by planning and budgeting for PHP and build capacity of communities so that they can build homes, families and communities at large and in the process develop themselves.**”*

### 3.5. PHP OPTIMISATION AND UISP ALIGNMENT FOR CITY-WIDE UPGRADING

PHP creates an important opportunity for activating and mainstreaming upgrading which is more participative, partnership-based, and which more effectively leverages and strengthens the social capital within low income, informal settlement communities. Suggestions for optimisation and alignment:

1. **Mainstream PHP in upgrading projects:** For all upgrading projects where communities are willing to play an active role and co-drive upgrading (PHP ‘demand-led’ model), working in partnership with the municipality and support NGOs, a blended PHP-UISP approach should be the normal and preferred method (using the optimised UISP phasing as per section 1.19).
2. **Identify upgrading projects where communities can be co-drivers:** In order to achieve the above objective, select suitable communities as part of initial engagement and participative action planning.
3. **Tap PHP funding for much stronger up-front participation, planning and preparation:** The funding available via UISP for up-front participation, capacity building, planning and cross learning is limited. The kind of additional participative methods enshrined in PHP are important and enabling, including the utilisation of a Community Resource Organisation (e.g. support NGO) to provide the kind of specialist support necessary for the expanded role and responsibilities of the Community-Based Organisation – without dedicated funding they will not be possible.
4. **PHP funding to support initial owner-driven housing consolidation:** There are significant opportunities to incentivise and leverage owner-driven housing improvements as part of the initial/incremental phases of upgrading (optimised UISP phases 1 & 2 focusing on essential, minimum core of upgrading). Subsequent formalisation and other comprehensive forms of upgrading are typically delayed by many years due to budgetary and other constraints previously addressed in sections 1.2, 1.3 and 1.4. UISP does not currently provide top-structure funding, and this is also not the focus of the USDG. In order to leverage improving housing at scale, the provision of a partial top-structure

grant/subsidy (e.g. in the form of rudimentary materials supply linked to PHP-type housing support and capacitation) affords a significant opportunity. This opportunity would require either use of PHP together with UISP HSG, or else combining these into one funding instrument for PHP type upgrading.

5. **Making PHP more programmatic in orientation:** Given the need for upgrading to be delivered in a programmatic fashion (at an area rather than project-level) and given the need to gear up the resources and partnerships necessary for effective PHP (including for NGO/CRO support), dealing with PHP in a project-by-project fashion is not optimal. Creating the space for batched PHP applications would therefore be beneficial. For example, these could be submitted by a collaboration of communities, municipalities and support NGOs/CROs for a batch of projects.
6. **Up-front capacitation and preparation for viable PHP projects:** Viable PHP projects need to be supported and stimulated in the all-important planning and preparation stages or no viable PHP project pipeline will be possible. PHP projects require significant up-front participation, capacitation and preparation (as envisaged in the design of the PHP 'capacity building fund'

elements such as pre-project consumer education, facilitation and participation, feasibility, savings mobilisation and business plan). This funding needs to be easily accessible, which is not currently the case.

### 3.6. GRANT ALIGNMENT FOR ESSENTIAL CORE OF UPGRADING

It is evident that a range of different existing grant instruments are relevant for upgrading and that different municipalities will use a differing mix of grant instruments. The following tables summarises the four best aligned instruments and how they relate/align to particular elements of the essential core of upgrading (optimised UISP phases 1 & 2). The utilisation of multiple grants for a single upgrading project obviously adds complexity and is not optimal. Given the current hybrid funding implications, solutions are to either: A) create greater flexibility in the existing grant instruments ('optimisation') along the lines suggested below - especially those pertaining to UISP and PHP; B) develop a new grant (as the NDHS is currently contemplating) in which case extreme care should be taken to ensure that the design requirements outlined in section 3.7 are met.

**FIGURE 13:** ALIGNMENT OF GRANTS TO UPGRADING ACTIVITIES

<i>Phase 1 &amp; 2 (initiation &amp; incremental upgrading) - for Category B2 settlements (incremental upgrade)</i>	<i>Grant alignments</i>				<i>Commentary</i>
	<i>USDG</i>	<i>HSG - UISP</i>	<i>HSG - PHP</i>	<i>HSG - EH</i>	
<b>Community participation</b> - Initial engagement, survey, registration, participation, facilitation, partnerships, dispute resolution, capacitate CBP etc.	Y	Y	Y	N	<b>PHP</b> is best aligned. UISP and USDG are usable but funding for this purpose is limited.
<b>Pre-Planning</b> including participative planning, geotech & other technical site suitability studies (e.g. land legal, desktop environmental, bulks etc.) and zoning for incremental development (with regulatory flexibility) and re-blocking where necessary/appropriate	Y	Y	Y	N	<b>Both UISP and PHP</b> are well aligned (although they are slow to acquire and non-programmatic in orientation). USDG can also be used if needed.



<p><b>Essential municipal infrastructural services</b> both interim/emergency and more comprehensive - water supply, sanitation, emergency vehicle access, roads &amp; footpaths, drainage controls, electricity, street/high-mast lighting.</p>	<p>Y</p>	<p>Y</p>	<p>Y</p>	<p>Y</p>	<p><b>USDG</b> is best aligned due to larger and more flexible funding provision. UISP can be used if needed, as can EH in emergency situations - but budget amounts are limited (and are slow to acquire and non-programmatic in orientation).</p>
<p><b>Other essential municipal services</b> (operational/non-capital) - fire protection, solid waste management, disaster management including advance planning for severe weather events (all with community involvement).</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>Ongoing, operational essential municipal services are not funded from conditional grant instruments. They are however a major cost to Metros. More effective participation, community ownership and partnerships can significantly reduce these costs and reduce related risk.</p>
<p><b>Essential social services</b> - Initially: Mobile clinics, home-based care for sick/old, support to ECD centres and vulnerable children. Ultimately: schools (new or transport to existing), permanent clinics, further ECD support incl. infrastructure improvements &amp; DSD reg., special needs housing via NPOs (e.g. disability, foster care, older persons), public transport. Where possible, recreational space/facilities (e.g. sports-fields/community halls).</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>These should be funded mainly by relevant provincial line departments (Social Development, Health, Education etc.) although municipalities may in some instances use other funding sources e.g. ICDG.</p>
<p><b>Owner-driven housing consolidation</b> (PHP-type) - materials supply &amp; housing support (optional, especially where there are hazardous materials and/or where community is prepared to co-invest and drive their own housing consolidation).</p>	<p>N</p>	<p>Y</p>	<p>Y</p>	<p>Y</p>	<p><b>PHP</b> is best aligned (though it is currently not being utilised in the upgrading context, but is slow to acquire and non-programmatic in orientation). UISP could be used if it is optimised (the phasing is adjusted, and top-structure funding made more flexible). EH is well suited for emergency improvements to address imminent health and safety issues.</p>

PHP-type CRO support for owner-driven housing consolidation and other PHP-type processes	N	N	Y	N	PHP is best aligned and is the only grant instrument which recognises and provides for specialist NGOs to support and empower communities for more community-driven upgrading.
Functional tenure – at least administrative recognition (based on categorisation). Individual functional tenure when viable & only where no social risk (e.g. municipal register, shack numbers, GPS point)	Y	Y	Y	N	USDG – or UISP & PHP if they are optimised – all can provide functional tenure as part of the minimum core of upgrading since the minimum form of tenure does not require any specific investment but flows from categorisation and essential services provision.
Land acquisition - optional, more likely to occur in phase 3 given protracted timeframes and high costs	N	Y	Y	N	UISP is best aligned (in cases where land acquisition is desirable or necessary) given that it envisages land being acquired in the early stages. PHP could also be used.

Project management	Y	Y	Y	N	PHP is best aligned because it can link project management to the necessary participative and community empowerment which can reduce risk and enable more effective project delivery.
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Note: USDG = Urban Settlement Development Grant; HSG = Human Settlement Grant; UISP = Upgrading of Informal Settlements Programme; PHP = People's Housing Process; EH = Emergency Housing

### 3.7. KEY DESIGN PRINCIPLES FOR EFFECTIVE, CITY-WIDE UPGRADING GRANTS:

It is apparent that the way in which upgrading grants are configured has a major impact on their usability and effectiveness. The USDG stands out in stark contrast to Human Settlement Grants (HSGs) in that it is more decentralised, flexible and programmatic in orientation. HSGs tend to suffer from severe limitations in all or most of the areas outlined below, making it difficult to utilise them efficiently and at scale, especially in rapid delivery – the essential core of upgrading (which is outlined in section 1.22).

➤ **Decentralised** – as previously indicated, both international and local precedents clearly demonstrate the need for more decentralised finance models in order to enable more locally-responsive solutions, empower municipal-community partnerships, and deliver better value when compared to top-down, centralised funding models. The current human settlement grants (HSGs) tend to be centralised, inflexible (especially in terms of the phasing, formalisation and funding formula) and project-based in their design which pose a range of significant challenges to scaling up city-wide upgrading. The USDG by contrast is more decentralised, programmatic in orientation, flexible and streamlined – which is why it is proving successful in supporting more programmatic city-wide upgrading, and this poses

serious questions about the need for refinement, optimisation or revision of the existing HSGs for upgrading (mainly UISP and PHP).

- **Flexible** – in terms of quantum and what they can fund, which is consistent with a more decentralised and locally responsive funding model. (See above for difference between the USDG and HSG in this regard. USDG has the kind of enabling flexibility required).
- **Programmatic orientation** (rather than project-based) – it is inefficient to deliver city-wide upgrading one settlement/project at a time. Interventions need to be made at area-level in order to move to scale. The USDG is orientated in this way whereas HSDGs are project-based. This principle needs to be addressed or HSGs will remain difficult to implement at scale. The project orientation of HSGs has at least three negative impacts: a) multiple, detailed project-based applications are required which is slow and administratively burdensome; b) procurement needs to be project-based which can

make it fragmented and cost-inefficient (especially for delivery of essential municipal infrastructure across an entire precinct which includes multiple settlements); c) funding cannot be moved sideways from non performing (blocked) projects to those which can perform – funding can thus easily become ‘sterilised’.

- **Streamlined/reduce red tape** – the current process of applying for HSDGs is slow and burdensome with an extra sphere of provincial government involved in the process. By contrast, the USDG is more streamlined, reduces red-tape and is more decentralised and empowering of metros.
- **Provide for enabling participation and partnerships** – upgrading is not just a technical process of services provision but must, as per UISP and PHP, be built on to establish effective participation, partnerships and ‘co-production’ – refer to sections 4.1, 4.9, 5.2, 5.3 and 5.8. Currently neither the USDG nor UISP provide adequately for this

### 3.8 GRANT OPTIMISATION AND CONSOLIDATION FOR THE ESSENTIAL CORE OF UPGRADING

**FIGURE 14:** POTENTIAL FULFILMENT OF CURRENT GRANTS MOST RELEVANT TO THE ESSENTIAL CORE OF UPGRADING

<i>Grant</i>	<i>Potential - design</i>	<i>Achievement - realisation</i>	<i>Potential fulfilment</i>
<b>USDG</b>	Rapid provision of essential municipal infrastructure and associated planning, basic participation, and design.	Substantial achievement, though significantly less than the target 50% of USDG is being used for upgrading.	<b>MODERATE</b>
<b>UISP (HSDG)</b>	Incremental upgrading including participation, essential services & housing (but constrained in being premised on progression to formalisation + limited budget for initial stages + land acquisition required early).	Limited rollout at scale – conventional, non-incremental upgrading premised on formalisation and conventional housing continues to dominate.	<b>LOW</b>
<b>PHP (HSDG)</b>	Community-driven upgrading – participation + essential services + housing (though constrained in being premised on steady progression to formalisation)	No rollout at scale – Municipal, contractor-driven PHP tends to dominate. Political intervention required.	<b>LOW</b>

<p><b>EH</b> (HSDG)</p>	<p>Rapid redress of emergency infrastructure or temporary housing (with significant potential for addressing emergency housing challenges in informal settlements).</p>	<p>EH is being used to some extent for rebuilding interim structures after shack fires and other disasters, but is not yet being used proactively to any significant extent. Mainly used for temporary relocation areas (TRAs) and housing damaged by disasters such as severe storms and fires).</p>	<p><b>MODERATE</b></p>
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**FIGURE 15:** OPTIONS/SUGGESTIONS FOR OPTIMISING EXISTING GRANTS:

<i>Grant</i>	<i>How can potential be optimised?</i>	<i>Comparative advantages &amp; disadvantages of implementing optimisation</i>
<p><b>USDG</b></p>	<ol style="list-style-type: none"> <li>1) Increase provision for participation</li> <li>2) Require municipalities to implement upgrading using UISP and PHP as policy guidance.</li> <li>3) Enforce minimum utilisation for upgrading (e.g. 50% or 35%).</li> <li>4) Enforce linkage to city-wide upgrading plan and BEPP.</li> </ol>	<p><b>PROS:</b> USDG is an up-and-running, decentralised, flexible upgrading grant. Adjusting it would be quick and easy (i.e. via DORA provisions); this should be considered at least as an interim measure given that Human Settlements policy changes are likely to take some time.</p> <p><b>CONS:</b> USDG lacks the qualitative dimensions of UISP and PHP and, in particular, those pertaining to effective participation and social capital formation – although this can be addressed to some degree by ensuring USDG projects align with UISP and PHP policy intentions via a city-wide upgrading plan.</p>



<p><b>UISP</b> (HSDG)</p>	<ol style="list-style-type: none"> <li>1) Optimise phasing as per sections <b>Error! Reference source not found.</b> and <b>Error! Reference source not found.</b></li> <li>2) Adjust grant formula and quantum as per section <b>Error! Reference source not found.</b> to include PHP-type participation, expanded essential services package etc.</li> <li>3) Enable programmatic utilisation – funding allocated for batches of upgrading projects instead of stand-alone projects.</li> <li>4) Enforce minimum portion of total HSG at provincial and metro levels which is utilised for upgrading (based on updated backlog data and categorisation provided by municipalities).</li> <li>5) Enforce linkage to city-wide upgrading plan and BEPP.</li> </ol>	<p><b>PROS:</b> UISP grant is designed for informal settlement upgrading and is intended to accompany and realise the UISP policy which remains the primary policy for upgrading in S.A.</p> <p><b>CONS:</b> UISP remains centralised and relatively inflexible – even if optimised. In addition, optimisation may take time and require extensive stakeholder engagement and consensus. May not be rapidly achievable.</p>
<p><b>PHP</b> (HSG)</p>	<ol style="list-style-type: none"> <li>1) Operationalise the new (2009) policy in respect of the ‘demand-led’ model including releasing PHP guidelines, activation/approval of CROs. This has effectively been on hold since 2009.</li> <li>2) Finalise and release PHP guidelines (drafted in 2009).</li> <li>3) Enable programmatic utilisation – funding allocated for batches of upgrading projects instead of stand-alone projects.</li> </ol>	<p><b>PROS:</b> PHP is the only human settlements policy which gives substantial effect to community ownership, community-driven planning and delivery, co-investment by communities and government, co-production, and decentralised funding.</p> <p><b>CONS:</b> Implementation of the new PHP remains contested. Many municipalities desire to retain the control of decision making and funding utilisation, and are reticent to relinquish any significant control to communities; it is for this reason that the new 2009 PHP policy has still not been implemented. This municipal position was clear at the national two-day PHP workshop held in Pretoria on 25<sup>th</sup>/26<sup>th</sup> August 2010 at which municipalities strongly expressed their desire to retain control of all planning aspects of housing</p>
<p><b>EH</b> (HSG)</p>	<ol style="list-style-type: none"> <li>1) Rapid redress of emergency infrastructure or temporary housing (with significant potential for proactive redress of emergency housing challenges in informal settlements e.g. through materials replacement).</li> <li>2) Enable programmatic utilisation – funding allocated for batches of upgrading projects instead of stand-alone projects.</li> </ol>	<p><b>PROS:</b> EH has the potential to be proactively utilised to rapidly address hazards, top-structure materials and other imminent health and safety threats in informal settlements.</p> <p><b>CONS:</b> None. PHP should be mainstreamed for this purpose, potentially alongside USDG (in order to effect rapid mitigation responses).</p>

### Options/suggestions for a new upgrading grant:

The National Department of Human Settlements is in the process of considering a new grant which is dedicated to incremental upgrading. Any new grant should, as far as possible, meet the performance criteria outlined in section 3.7. In particular, it would need to be more decentralised, flexible, programmatic in orientation (instead of project-based), streamlined (in terms of reducing red tape) and provide adequately for community participation and enabling partnership formation (including in the critical planning and preparatory stages of the project cycle). Such a new grant would also need to take into consideration: a) the UISP phasing and budgetary optimisations outlined in section 3.2 so that it can function effectively and provide a 'one-stop-shop' for all the funding necessary for the essential, minimum core of upgrading (excluding key social facilities and operational costs); b) key elements of the new PHP policy (e.g. community contributions, up-front community engagement and capacity building; and role for a support NGO/CRO); c) key elements of the Emergency Housing policy – and in particular the provision of improved and safer building materials as an initial, emergency intervention to mitigate health and safety threats (e.g. fire).

It is strongly recommended that any such new grant enables metros to tap such funding directly, as is the case for the USDG, instead of having to go via provincial departments on a project-by-project basis since this adds another tier of government and red tape into the process. In this regard, it would assimilate some of the precedents and learning arising from the USDG which, of all four key upgrading grants, has rapidly shown itself to be the most fit-for-purpose, adaptable and scaleable for city-wide incremental upgrading (especially for providing essential municipal engineering services, which are a key component of the minimum core of upgrading).

### 3.9. FUNDING INNOVATIONS - COMMUNITY UPGRADING FUNDS

*Note – For useful precedent, please refer to Resource library, including: 119 Baan Mankong, 302 Uganda, 301 Ghana, 165 SDI S.A., 349 Vietnam. Please also make use of the 'CUF' subject filter on the toolkit library list (Annexure A)*

Community upgrading funds (CUFs) or similar arrangements are useful international precedents which South African Cities can consider. **The defining characteristic of these arrangements is that they place development funding under greater and more direct control of local communities. There is typically a collaborative structure for decision making and coordination which involves not only community leaders, but also representatives from government, donors, support NGOs, key government line departments etc.** This structure would usually be at metro level. Refer to section 4.6 (pertaining to city-level multi-stakeholder platforms) for more information on these institutional arrangements. As previously noted, there is a significant overlap between CUF-type arrangements and many principles of PHP. This means that combining key elements of PHP and UISP policies can achieve similar arrangements and outcomes.

Some of the benefits may can be achieved using these funding arrangements include:

- **Greater local accountability, active engagement and decreased dependency** – because decision making is localized, there is also greater accountability and shared responsibility at local level, including when there are challenges. Communities are more inclined to solve problems themselves, rather than turning to government to solve all problems. Communities become more active and involved in development activities. They become the key drivers and agents of local change. This is very empowering for communities and usually results in better inclusion.
- **Better funding efficiency** – e.g. more funding utilised for improvements and less for professional fees. In a CUF-type model, whilst professional services are still required (often provided by a support NGO), they are more facilitative and supportive in nature. The total cost of professional and subcontractor services (and associated profit margins) can be greatly reduced. Communities have a direct interest in ensuring that money is effectively utilised and are right there to make sure this occurs.
- **Leveraging community's own funding** – CUF arrangements are typically associated with, and help to leverage, residents' own money, such as savings or even micro-finance. Residents are more inclined to put in their own money when they have a direct say in how funding is being utilised and

can see what additional value/outcomes can be achieved if they co-invest.

- › **Leveraging social capital formation** – the aforementioned empowerment helps trigger and sustain social capital formation communities. This includes increased local cooperation and communication in respect of developmental issues and improvements and strengthened social networks<sup>35</sup>. Increased responsibility, learning, and skills contribute significantly, as does the inclusion of a broad range of local stakeholder grouping/interest groups in upgrading plans.
- › **Improved operating and maintenance** – communities typically take greater ownership of built assets and have a greater vested interest in caring for them and playing a constructive role in ensuring they are operated and maintained well.
- › **Improved ongoing urban management** – the co-governance arrangements which result from the process are important. Active and empowered residents become a significant asset in ongoing urban management, not only in respect of operating and maintenance, but also in respect of payment for rates and services, and future urban planning.

*“And change can only be possible if people change themselves. This is why upgrading is a powerful intervention to spark this kind of change, because it is so active and because it involves changing the status of these poor communities. It involves a lot of doing, a lot of management, a lot of pulling, a lot of communal decision-making, a lot of physical change being done right in front of your eyes. It’s not talk, it’s change. And so many experiences in Baan Mankong show that people can create something new and beautiful out of a very dilapidated settlement. They make change themselves. Upgrading is a powerful way to create space, so that poor people come back to believing in their power. This is upgrading – and it is crucial that government agencies, NGOs and municipal authorities understand this.”<sup>36</sup>*

### 3.10. BAAN MANKONG CODI PRECEDENT - THAILAND

*“In 1992, the Thai government set up the Urban Community Development Office to support community organizations with loans for new housing, housing improvement/upgrading and income generation. In 2000, the Urban Community Development Office was merged with the Rural Development Fund to form the Community Organizations Development Institute (CODI), which is now implementing Baan Mankong,(3) an ambitious national programme for upgrading and secure tenure... The programme has set a target of improving housing, living and security of tenure for 300,000 households in 2,000 poor communities in 200 Thai cities within five years.*

*“Baan Mankong has set a target of improving housing, living and tenure security for 300,000 households in 2,000 poor communities in 200 Thai cities within five years. This represents at least half the urban poor communities in Thailand. The programme involves:*

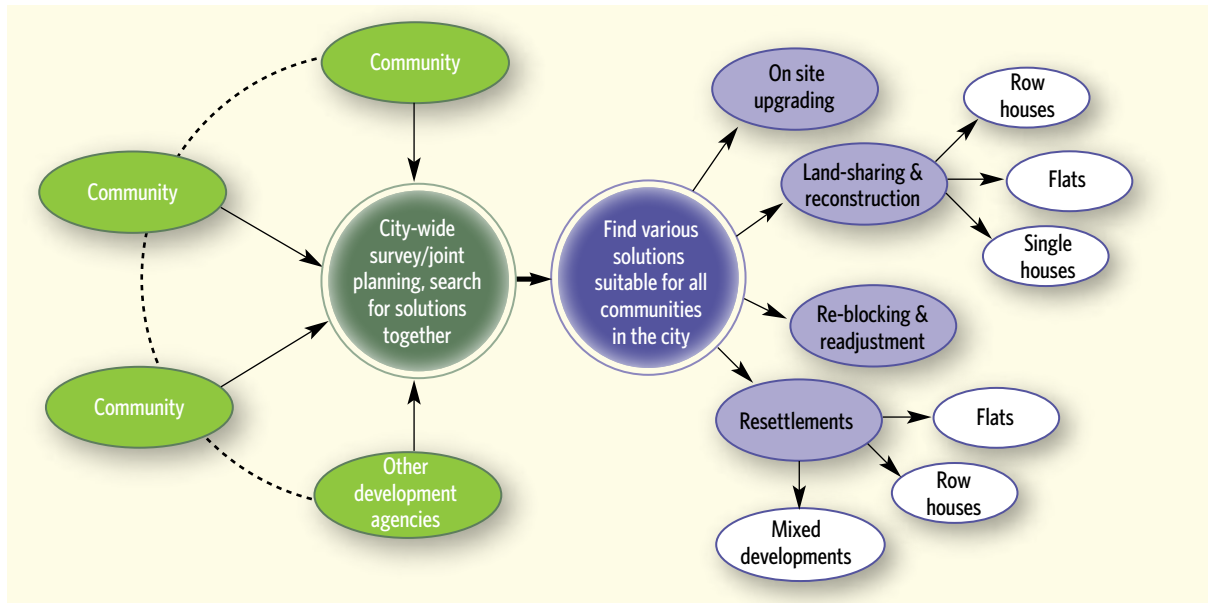
- › 2003: upgrading ten pilot communities (1,500 units) and preparations in 20 cities;
- › 2004: upgrading 174 slum communities (15,000 units) in 42 cities and preparations in 50 more; also support for learning, the demonstration of different options, and developing links between communities and city authorities;
- › 2005–2007: upgrading 285,000 units in 200 cities.

*“This programme imposes as few conditions as possible, in order to give urban poor communities, networks and stakeholders in each city the freedom to design their own programme. The challenge is to support upgrading in ways that allow urban poor communities to lead the process and generate local partnerships, so that the whole city contributes to the solution.*

35. These are usually characterised by: a) social relationships and ‘transactions’ which are characterised by reciprocity, trust, cooperation and; b) the production of goods and services not only for own use, but also for use for others and the common good.

36. Baan Mankong: going to scale with “slum” and squatter upgrading in Thailand, Somsook Boonyabancha – Toolkit Library Ref 237.

**FIGURE 16: THE LINKAGES FOR A LOCAL HOUSING DEVELOPMENT PARTNERSHIP BY CITY-WIDE NETWORKS WITH COMMUNITIES AND LOCAL AUTHORITIES<sup>37</sup>**



**“How this differs from conventional approaches**

- › **Urban poor community organizations and their networks are the key actors**, and they control the funding and the management. They (rather than contractors) also undertake most of the building, which makes funding go much further and brings in their own contributions.
- › It is **“demand-driven by communities” rather than supply-driven**, as it supports communities who are ready to implement improvement projects and allows a great variety of responses, tailored to each community’s needs, priorities and possibilities (for instance, communities choose how to use the infrastructure subsidy).
- › **The programme does not specify physical outputs, but provides flexible finance** to allow community organizations and local partnerships to plan, implement and manage directly. Government agencies are no longer the planners, implementers and construction managers delivering to beneficiaries.
- › **It promotes more than physical upgrading.** As communities design and manage their own physical improvements, this helps stimulate deeper but less tangible changes in social structures, managerial systems and confidence among poor communities. It also changes their relationships with local government and other key actors.

- › **It helps trigger acceptance of low-income communities as legitimate parts of the city** and as partners in the city’s larger development process. It works to develop urban poor communities as an integrated part of the city. People plan their upgrading within the city’s development framework, so their local housing development plan is integrated within city planning and city development strategies.
- › **Secure tenure is negotiated in each instance, but locally** – and this could be through a variety of means such as cooperative land purchase, longterm lease contracts, land swaps or user rights. But in all cases, the emphasis is on communal (rather than individual) tenure.
- › **Its focus is city-wide development with a commitment to reaching all low-income communities within a three- to four-year period**, drawing on local resources.

**“SUPPORTING DECENTRALIZED ACTIONS WITHIN CITIES**

**“MOST CITIZENS STILL think that the municipality should manage the city – but city authorities do not have much power and governance systems need to be opened up so that citizens feel that it is their city and that they are part of the development.** Responsibility for different aspects of city management can be

37. Baan Mankong precedent, toolkit library 237.



decentralized to communities – for instance, for public parks and markets, maintenance of drainage canals, solid waste collection and recycling, and community welfare programmes. Opening up more room for people to become involved in such tasks is the new frontier for urban management – and real decentralization. Upgrading is a powerful way to spark off this kind of decentralization. When low income households and their community organizations do the upgrading, and their work is accepted by other city actors, this enhances their status within the city as key partners in solving city-wide problems.”<sup>38</sup>

### 3.11. THE IMPORTANCE OF LEVERAGING COMMUNITY SAVINGS AND INVESTMENT

Whilst community investments (including savings) for upgrading may be regarded as an innovation in South Africa, in other parts of the world, they are regarded as normal and necessary. The failure to effectively mobilise community savings and ‘own-contributions’ in upgrading represents a significant constraint in upgrading. An important funding principle is that both communities and government fund the upgrading process, with government typically focussing more on the public realm or, where government funding is

provided for housing, that there should be significant community contributions. The broader principle is that upgrading is collaborative, and government needs to stimulate and ‘leverage’ partnerships with communities through its investments and interventions since it cannot fund and manage upgrading on its own.

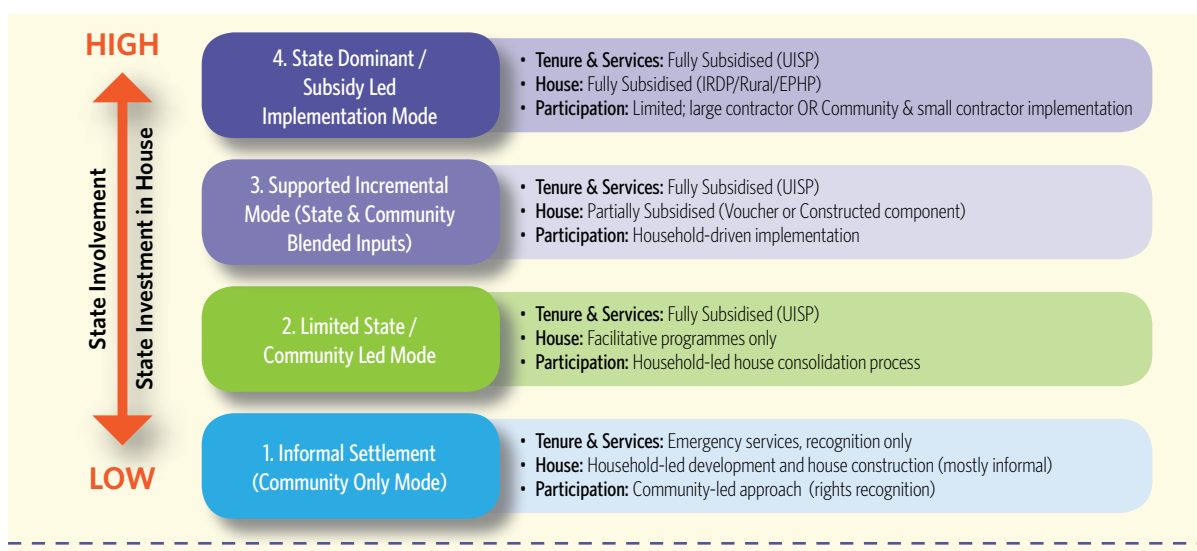
### 3.12. STRATEGIES TO FUND TOP-STRUCTURES (HOUSING PRODUCT)<sup>39</sup>

“Four broad scenarios of state intervention in housing development can be identified in relation to the responsibility for house construction or consolidation, on a continuum from no state support to provision of fully-subsidized accommodation in ISU projects. These are illustrated in Figure 10.

“The four main modes are discussed below:

- › **Mode 1-** Informal Settlement Community Only Mode: This scenario considers how house consolidation occurs if no state investment occurs in an informal settlement. Essentially, all house consolidation activity in this first wave of house consolidation is solely undertaken by the household, using whatever private resources they can muster.

FIGURE 17: UPGRADING DEVELOPMENT MODES<sup>40</sup>



38. Baan Mankong: going to scale with “slum” and squatter upgrading in Thailand, Somsook Boonyabanha – Toolkit Library Ref 237

39. This section is taken directly from, “Financing Housing Consolidation in In-Situ Informal Settlement Upgrading Programmes in South Africa” – NUSP/National Treasury/World Bank 2014, by Clive Forster & David Gardner – Toolkit Library Ref. 31.

40. Toolkit library reference 31.

- › **Mode 2-** Limited State/Community-Led Mode: Households are responsible for mobilizing resources and managing the development of their own shelters, with little state support. This occurs during and after state investment in regularizing and servicing the settlement. This is the norm in most developing nations, and is likely to become more common in South Africa in the future.
- › **Mode 3-** Supported Incremental Model: A level of subsidy is provided to provide a kick-start to settlement planning and servicing, and to households’ development of their own houses. This mode has been used in developing nations, but has not yet been used in South Africa. The subsidy assistance can take a number of forms, such as:

  - **Partial House Construction:** Development of one or more components of a house, such as a slab, party walls, wet core, core house or framework.
  - **House Construction Voucher:** Provision of a credit or voucher to the homeowner for purchasing accommodation-related needs, including design, materials, contractor costs or specialist inputs to accommodation.
- › **Mode 4-** State Dominant/Subsidy-Led Development Mode: Subsidised housing is provided, predominantly or totally through existing project-based

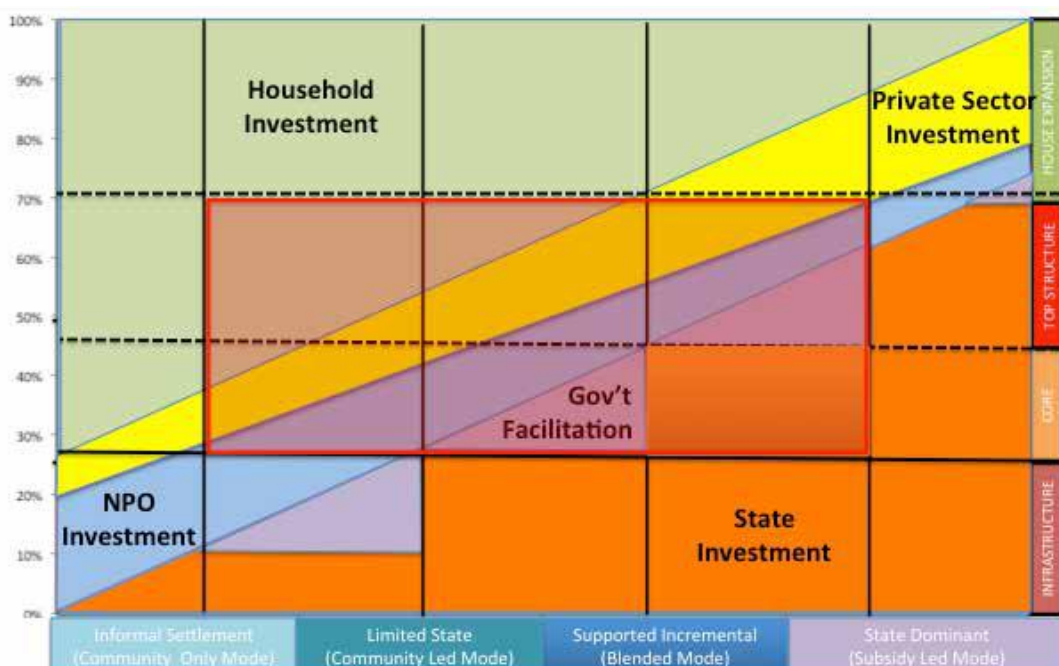
subsidy approaches. This option is premised on the approval of subsidies for all or most of the beneficiaries in an upgrading programme. This is the current norm in UISP projects.

- These two sets of parameters, namely the types of actors engaged in house consolidation and the house consolidation scenarios, enable the development of a conceptual framework for understanding how shelter consolidation occurs. This framework is illustrated in Figure 11. Firstly, the framework identifies five house consolidation scenarios (or streams), which relate to the level of state investment in houses in ISU developments. Secondly, as a consequence of this, it illustrates the relative importance of the role played by actors identified above in house consolidation.

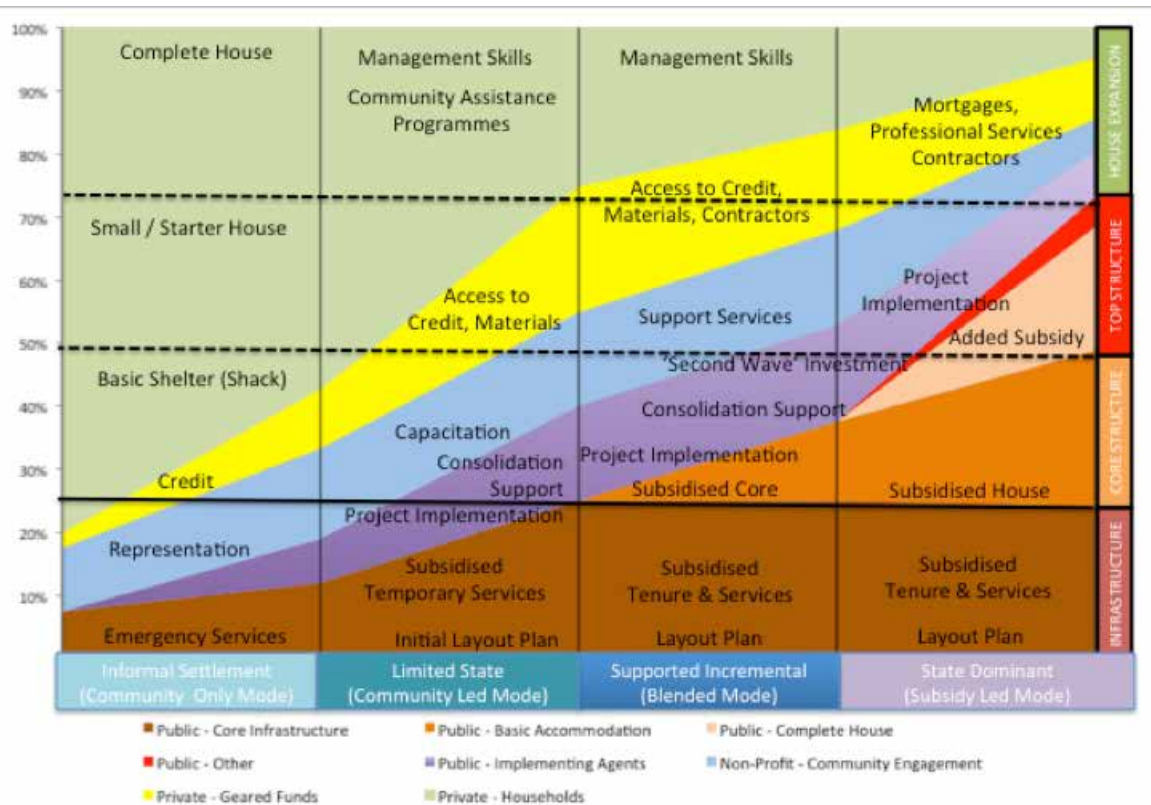
“These five streams are normally applied discretely (as a housing strategy). Greene and Rojas (2008, p90) discuss the international experience with these approaches:

*“...government programmes geared to build and finance finished homes directly for low-income households [Stream 5] cannot solve the housing*

**FIGURE 18: CONCEPTUAL FRAMEWORK - HOUSE CONSOLIDATION SCENARIOS AND ROLES**



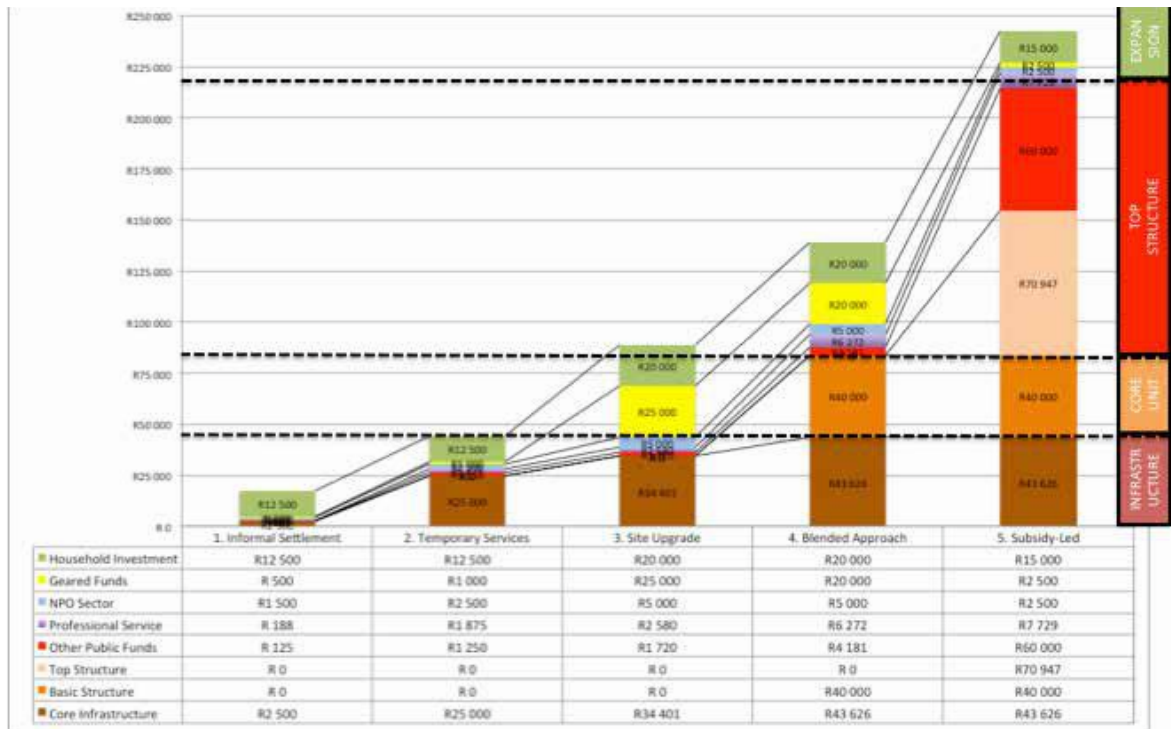
**FIGURE 19: CONCEPTUAL FRAMEWORK - NATURE OF SUPPORT INPUTS PER SCENARIO, PER ROLE**



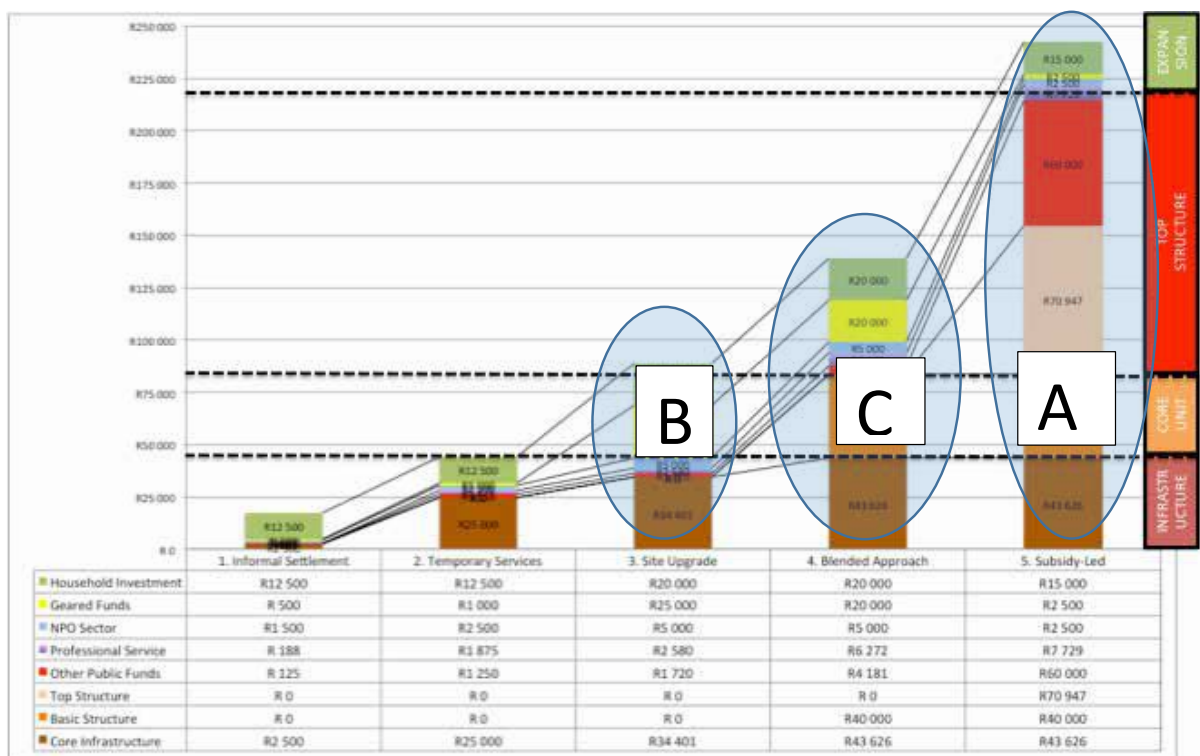
*problem as a whole, as they offer a limited number of high-quality homes to few families, leaving most poor households without assistance. Even low-standard and low-cost programmes, such as sites-and-services [Stream 3]... have proven incapable of solving the problems of all families in need... The goal is to stimulate private entrepreneurs and civil society organizations to develop programmes to construct and finance houses that are accessible to all segments of the population (Stream 2)"*

“However, in South Africa two streams run concurrently: the Subsidy-led stream (via UISP projects in tandem with projects delivering complete top structures), and the Site Upgrade stream (as stand-alone UISP projects, with little or no shelter development support.

**FIGURE 20: RELATIVE FINANCIAL CONTRIBUTIONS OF DIFFERENT ACTORS IN SA UISP PROJECTS (SUBSIDY DETERMINATION, 2013)**



**FIGURE 21: HOUSE CONSOLIDATION IN RELATION TO UISP CONCEPTUAL FRAMEWORK**





“This Figure provides a clear graphic depiction of the large difference between the cost to the state between an UISP project that does not provide subsidized top structures through any another subsidy programme (i.e. does not go further than Phase 3) (see centre of diagram) and that of a dual-project, fully subsidized UISP serviced site in addition to a fully subsidized RDP/BNG specification unit (right of diagram). The difference in cost provides strong motivation for considering the introduction of an intermediate top structure support subsidy (illustrated here as a ‘core subsidy’) as part of the ‘Blended Approach’. To not do so would raise equity concerns as the level of state assistance provided to those receiving serviced sites only, at less than a quarter of the value of a complete subsidized site plus top structure, which currently costs in the region of R230 000 per unit (including direct and indirect subsidies and other inputs).”

- › **A = State Led:** Top structure consolidation is driven principally through the direct state provision of subsidized housing. This may be followed by individual initiative in expanding and improving the provided dwelling over time.
- › **B= Site and service only:** Subsidized site and basic tenure only, with no public involvement thereafter. House consolidation is a household endeavour.
- › **C= Blended Mode:** Top structures are built and consolidated by involving a mix of private and group initiative, state capital investment and state and Non-Profit Organization facilitation support.”

“This selection needs to be made early in the upgrading programme and not at the end of Phase 3, (the site servicing stage) because the mode

selected has a bearing on how the services are designed, layouts configured, community communications undertaken and the organizational development and capacity building programmes are designed and implements.

“In making a conscious selection between the basic consolidation options a set of feasibility questions should be interrogated, viz:

› **“Fiscal:**

- Will the state funds required to implement the top structure consolidation mode be available at the time required?

› **“Socio-political:**

- Can the political support, commitments and leadership needed to make the consolidation mode viable be obtained?
- Community cohesion and support - will the consolidation mode envisaged be able to accommodate the interests of all segments of the community or will some segments be marginalized / excluded or displaced?

› **“Technical:**

- Will the top structure consolidation mode envisaged be able to achieve the tenure and standards required by the subsidy funding programmes? E.g. minimum norms and standards?
- Do technical housing solutions that allow the housing component of the ISU to accommodate the target populace exist, and are these solutions viable within the available funding instruments?”

### 3.13. BLENDED FINANCE APPROACH TO HOUSING CONSOLIDATION

“What is clear from this approach is that while the state still plays a critical foundation role of regularising settlements, formalising tenure and providing basic

services, as well as providing facilitative support for top structure development, this investment is used as a platform on which households need to mobilise resources to construct or improve their housing over time. To do this, a coordinated effort is required, which takes a greater level institutional alignment to achieve.”

FIGURE 22: : BLENDED APPROACH TO HOUSE CONSOLIDATION - THE INCREMENTAL HOUSING SUPPORT FRAMEWORK<sup>41</sup>

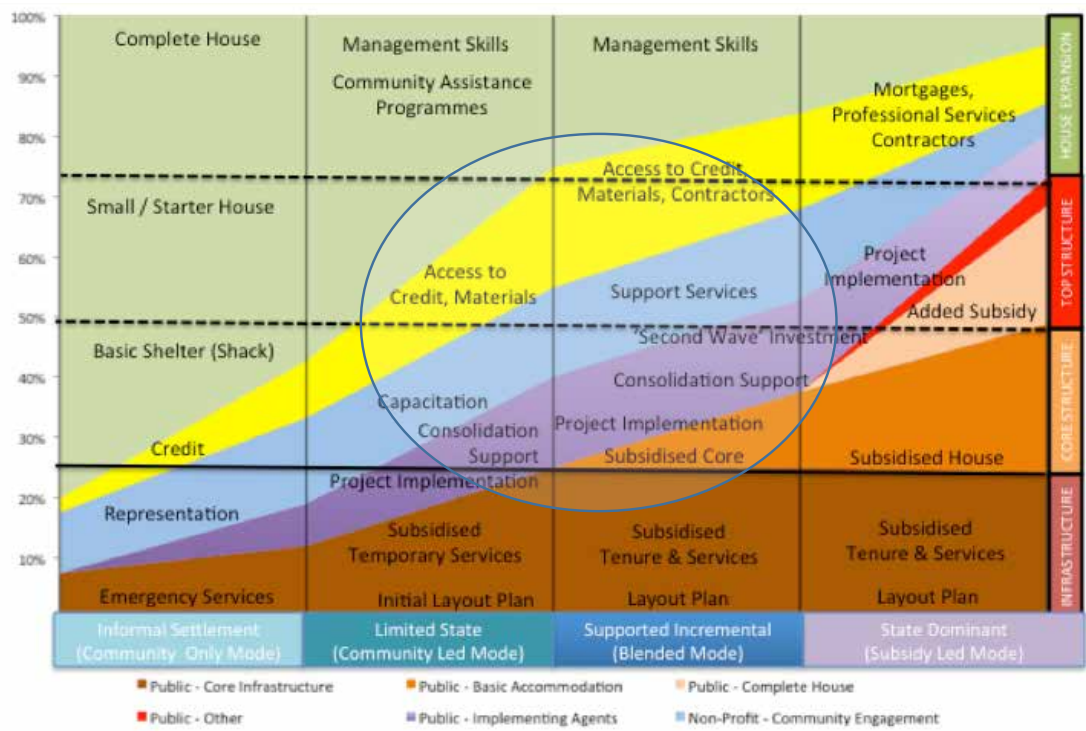
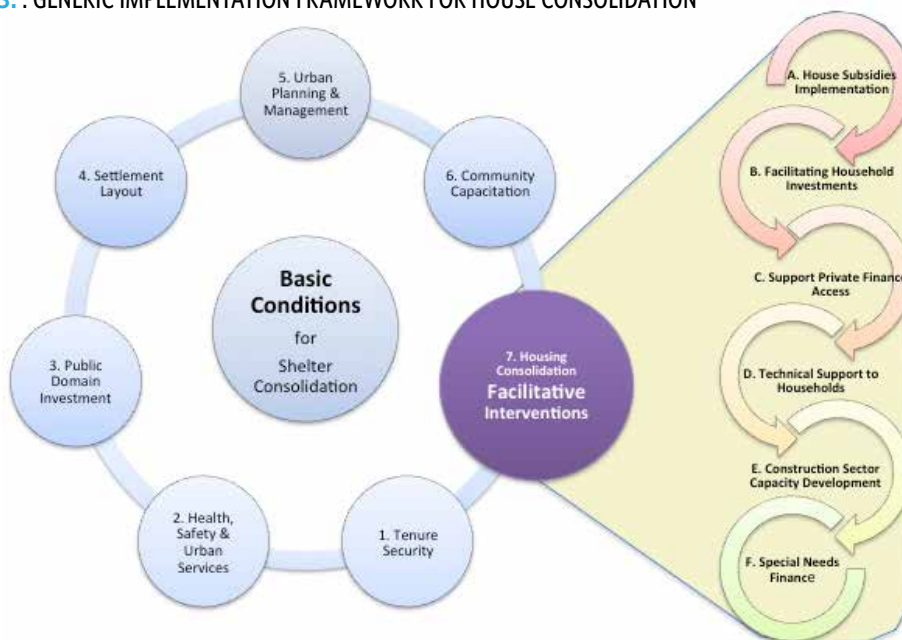


FIGURE 23: : GENERIC IMPLEMENTATION FRAMEWORK FOR HOUSE CONSOLIDATION



41. This section is taken directly from, “Financing Housing Consolidation in In-Situ Informal Settlement Upgrading Programmes in South Africa” - NUSP/National Treasury/World Bank 2014, by Clive Forster & David Gardner - Toolkit Library Ref. 131.

“The following basic conditions will determine the success of shelter consolidation.

1. Land Tenure Security
2. Health, Safety and Urban Services
3. Public Domain Investment
4. Urban Planning Layouts
5. Urban Planning and Management Control
6. Community Capacitation and Participation

#### “Elements of a Support Framework for Incremental Housing:

“Drawing from the conceptual framework in Chapter 3 it becomes evident that the following set of six elements, or work streams, or areas of facilitation, form the framework for an enablement approach for incremental house consolidation through the blended consolidation mode:

- i. **House Subsidy Assistance:** Provision of a subsidy support to households sufficient to create the basic platforms required for safe and healthy house consolidation that enables appropriate accommodation design paradigms for each upgrading context.
- ii. **Facilitating Household Investment in Housing:** Facilitating private or household investment in their own house development process.
- iii. **Supporting Private Finance Market Access for Households:** Implementing approaches to extend the access frontier for locally appropriate financial services suited to household consolidation.
- iv. **Home Building Technical support:** Providing support to households regarding the home building processes that they may not be sufficiently skilled to understand or access.
- v. **Construction Sector Capacity Development:** Facilitating the development and availability of suitably skilled, efficient and cost competitive contractors and building materials suppliers.
- vi. **Special Needs Supplementary Financial Support:** Specific targeted assistance to those

households or individuals who are unable to participate in the consolidation mode (such as the aged and child headed households.

“The way in which each of these elements are established or facilitated needs to be given equal prominence whilst still noting that the blended incremental mode places co-production at its centre.”

#### 3.14. SOURCES OF HOUSING FINANCE AND SUPPORT<sup>42</sup>

“All initiatives that assist households to mobilise resources (in finance and in kind) for house construction are considered here. Finance for consolidation can take the following forms:

- › **Borrowing from family:** The close financial ties that operate between extended family in low income communities is described in many publications (Fin-Scope, etc). Raising loans from family and friends is one important source of capital for consolidation.
- › **Revolving Credit ‘Stokvel’ Finance:** Many low-income households contribute regularly to revolving savings clubs, through which regular savings results in a periodic payout of a lump sum of money that may be applied to housing upgrading. Certain stokvels are specifically housing focused, and may also blend in other support aspects such as access to materials.
- › **Materials Supplier Credit:** One of the most readily available forms of credit for house consolidation is credit provided on building materials purchases. Several large building materials merchants, such as Cashbuild and Builders Warehouse either have in-house finance departments, or partner with registered credit providers to provide in-store credit facilities. This type of finance has the benefit of being directly related to the procurement of necessary supplies (and many building materials companies assist with design and bill of quantities questions). Furthermore, in most cases materials are delivered directly on-site.
- › **Informal Money Lenders:** ‘Mashonisas’ are widespread throughout South Africa, offering small loans at extremely high interest rates. While many of

42. This section is taken directly from, “Financing Housing Consolidation in In-Situ Informal Settlement Upgrading Programmes in South Africa” - NUSP/National Treasury/World Bank 2014, by Clive Forster & David Gardner - Toolkit Library Ref. 131.

these loans are of the 'payday bridging' type (less than 30 days), some offer longer terms, which may be used by households to procure materials or services required for incremental upgrading.

- › **Unspecified Small Loans / Credit:** Small loans are widely available through non-bank financial institutions (such as African Bank, Blue, and Letsatsi) and registered banks (including the 'Big Four' banks, namely ABSA, FNB, Standard and Nedbank). People with relatively low incomes are able to access credit cards, overdrafts or designated, non-specific small loans.
- › **Employer Loans:** Some employers offer employees loans (and other housing supports such as guarantees or access to materials).
- › **Specified Use Microloans:** There are a limited number of companies and organizations that offer microloan financing for specified housing purposes, such as an extension, rebuild or improvement.
- › **Savings-Backed Microloans:** Households are required to contribute regular savings into an account that is then linked to a loan account. A good savings record is a prerequisite of accessing credit for home construction. Such schemes are not widespread, but some have been very successful in assisting property owners to build formal homes, such as the Kuyasa Fund (see Box 2).
- › **Pension-Backed Housing Loans:** Many pension funds allow contributors to access loans against the

accumulated withdrawal benefits in their personal pension portfolios. These loans are secured against the pension, yet repaid with interest so as not to erode ultimate withdrawal benefits of the client. Certain pension schemes specify such loans are only available for specific uses, such as house purchase or construction.

- › **Subsidy-Linked Credit:** Some subsidy instruments (Finance-Linked Individual Subsidy Programme and Individual Credit-Linked Subsidy) require access to credit, linked to the subsidy, for households to afford to purchase accommodation. These are likely to only be options for households that cannot access any other type of subsidy programme, yet are still eligible for these instruments probably due to income levels.
- › **Mortgage Finance:** Theoretically mortgage, or asset-backed finance could be applied in ISU areas. However, the high transaction costs (and therefore relatively high minimum mortgage banks will grant), as well as difficulties in claiming properties in the event of defaulted payments, make this finance option unlikely.

"Each category of finance has different providers, conditions, and therefore different applications to house consolidation in ISU programme. Table 6 overleaf summarises the key features of each one, with respect to the ISU context."



**FIGURE 24: AVAILABILITY OF FINANCE FOR HOUSE CONSOLIDATION IN ISU PROJECTS<sup>43</sup>**

Category / Type	Description, Size, Terms	Examples of Providers	Applicability to House Consolidation
<b>1. Non-Financial Assistance</b>			
1.1 Self-Help Activity	Household members engage in direct home building activity.	Household members	Given generally limited resources and long consolidation time frame this is an important home construction mode.
1.2 Mutual Assistance Building Programmes	Groups of households engage in mutual help, contributing labour money and/or materials to complete houses for the group.	Certain NPOs assist to foster programmes in informal settlements (e.g. Habitat for Humanity);	Amongst low income communities where many households have limited affordability or savings, mutual help can be the best mechanism to obtain housing.
1.3 Materials Stockpiles	Households stockpiling building materials for house improvement.	Generally sourced from local materials outlets, often building materials recyclers.	Provides important source of affordable materials. Enables 'monetisation' of first wave shack investment materials where houses are being improved and materials are not required.
<b>2. Community Finance</b>			
2.1 Household Savings	Monetary savings to be applied for materials purchase or contracting builders. Given that an average small loan of R20 000 over 36 months will accrue around R13 000 in fees and interest, savings can limit high charges on finance.	Households themselves.	Important source of capital for house investment. Also provides 'track record' for certain other forms of financing.
2.2 Personal Loans	Cash loans from family or friends. Often provided interest free, for short periods (say, 30 to 90 days).	Family and friends.	Provides safe and potentially low-interest mechanism to raise capital for house consolidation.
2.3 Credit Unions / Co-Operative Schemes ('Stokvels')	Rotational peer group savings schemes whereby fixed periodic monetary contributions are allocated to a member on a rotational basis. Typical scheme comprises twelve or more individuals	Mutually established peer groups. Estimated 89 000 stokvels constituted in South Africa (Wikipedia).	Very important source of accruing lump sums of capital to undertake steps in the house upgrading process.

43. "Financing Housing Consolidation in In-Situ Informal Settlement Upgrading Programmes in South Africa" - NUSP/National Treasury/World Bank 2014, by Clive Forster & David Gardner - Toolkit Library Ref. 31.

Category / Type	Description, Size, Terms	Examples of Providers	Applicability to House Consolidation
<b>3. Home Building-Specific Microfinance</b>			
3.1 Building Materials Credit	Credit provided through in-store providers at building materials outlets, up to R40 000. May be bundled with insurance products (retrenchment and disability cover).	Cashbuild offers 'HomeAccount' credit from R2000 to R75 000, through Nedbank, at terms of up to 48 months. Builders Warehouse 'Builders Card' offers up to R40 000 credit on 'straight revolving', 24 or 36 months term. Build-It provides in-store financial services through financial services providers such as Nedbank@home, RCS, Lendcor & Real People).	Important form of credit as it is specifically tailored for the purchase of building materials. These chains often provide an element of consumer assistance (quantities, etc.) and deliver goods directly to site. Revolving credit plans can assist households to keep momentum of building activities going.
3.2 Specified Housing Use Microfinance	Microfinance provided to households for a specified house building related purpose, such as purchase of building materials or payment for house construction contract.	Lendcor provides finance at point of sale at building materials suppliers including Build-it, Hardware Warehouse, Boxer and Cashbuild. Bayport	Specified use loans provide a greater level of certainty that finance obtained by households will be applied to this use, although leakage into other uses does occur.
2.2 Savings-Backed Home Improvement Microfinance	Small loans granted to households that are partially backed by savings accrued via linked savings programmes.	Kuyasa Fund provides home improvement loans, for which use is verified. Training, consumer education and savings mobilisation form the cornerstone of this successful approach to home improvement financing.	This initiative has not been replicated, but has shown the ability to provide large numbers of loans for households to improve their housing conditions, with very low leakage and high levels of repayment. Coupling the loan with training and consumer education further improve the risk profile of the product.
<b>2. Retail Finance</b>			
2.1 Unregistered Finance providers ('Mashonisas')	Unregistered, illegal moneylenders providing small loans at very high interest rates over short periods of time.	Most communities have known 'Mashonisas', many of whom provide small size, very high interest loans. Most are 'payday loans', being	Generally exploitative terms and conditions, and periods too short to be meaningful for house consolidation.

Category / Type	Description, Size, Terms	Examples of Providers	Applicability to House Consolidation
<b>2. Retail Finance</b>			
2.1 Unregistered Finance providers ('Mashonisas')	Unregistered, illegal moneylenders providing small loans at very high interest rates over short periods of time.	Most communities have known 'Mashonisas', many of whom provide small size, very high interest loans. Most are 'payday loans', being repayable in less than 30 days at up to 100% interest.	Generally exploitative terms and conditions, and periods too short to be meaningful for house consolidation.
2.2 Microfinance (Unspecified use)	Unsecured microfinance loans to individuals for unspecified uses including household needs, debt consolidation and house building. Provided by non-bank financial institutions and banks. Generally between R2000 and R150 000, repaid over up to 60 months.	African Bank offers 'short term' loans up to R10 000 with up to 12 months term, and 'long term' loans between R10 000 and R180 000 with up to 84 months repayment period.  Bayport Financial Services, who has a 'medium term loan' with up to 24 months repayment, and a 'long term' loan up to 60 months repayment period.  Real People Holdings  Banks.	Can provide important sources of capital to assist households to undertake one-step home building that ensures at least a house that can be occupied, even if only in stages.
2.3 Secured Microfinance	Microloans partially or fully backed by value of underlying asset. Only possible where asset is recoverable (e.g. prefabricated dwelling).	Not common in housing sphere.	May offer an opportunity to provide finance for specific housing products, such as prefabricated housing units or components that may be reclaimed in the event of loan default.
2.4 Guaranteed Loans	Loans backed by one or more insured risks, such as HIV-Aids cover or loss of employment.	Financial Institutions and specialist insurers providing risk cover for unemployment, dread disease, disablement or death.	Guaranteed loans may be more expensive due to guarantee costs, but may offer households with impaired credit records an opportunity to access loans.

Category / Type	Description, Size, Terms	Examples of Providers	Applicability to House Consolidation
2.5 Pension-Backed Loans	Home loans granted to employees of participating employers, guaranteed against accrued pension or provident fund withdrawal benefits until repaid.	ABSA offers a 'Pension-powered home loan' scheme to employers Old Mutual and Standard Bank offer 'pension backed home loans'.	Requires sufficient accrued pension value to secure loan to employee. However, enables employees to access substantial sources of credit for home building. May not require formal house purchase, and also does not require expensive bond registration procedures
2.6 Mortgage Finance	Mortgage-backed loans collateralised by underlying property values.	Registered Formal financial institutions, including ABSA, FNB, Standard Bank. However few banks actively operating in the low income house sector.	Small loan sizes often required in ISU programmes not compatible with mortgage instruments due to transaction costs & limited underlying asset value.

### 3.15. FUNDING INNOVATIONS - COMMUNITY SAVINGS

Against the above backdrop, it is evident that supporting, encouraging or enabling community savings, mainly for purposes of housing consolidation, represents an opportunity for making upgrading more sustainable, community-driven and scale-able. Residents in informal settlements already make ongoing investments (mainly from personal savings) in informal housing. In older, better established settlements, these investments can often be substantial, in particular when residents feel that the settlement is accepted as being permanent and they will not be relocated.

There are two broad models in terms of which community (individual) savings can be mobilised:

- **Organic savings:** Government can stimulate and encourage organic savings-based investments in informal housing by providing an enabling environment (e.g. functional tenure security and public realm investment in essential services as per the 'minimum core of upgrading' already outlined in section 1.22. Achieving this platform for such organic savings and personal investment should be regarded as a primary objective of city-wide upgrading, irrespective of whether or not organised savings can be achieved.
- **Facilitated/organised savings:** Once the above preconditions for organic saving (individual investment) are established, there may be a further opportunity to stimulate more organised savings provided certain additional preconditions are in place (e.g. community cohesion, local trust, and a support organisation which can play a facilitative role). It is however emphasised that these additional methods of savings stimulation typically require a support organisation with the necessary skills, capacity and funding.

#### SDI/FEDUP savings model

The Federation of the Urban and Rural Poor (FEDUP) has a community based savings model which dates back more than two decades. FEDUP, formerly known as the South African Homeless People's Federation, is a women's led, member-based social movement that organises through savings collectives. FEDUP is the South African affiliate of Shack Dwellers International



(SDI) and together with the Informal Settlement Network (ISN) and support organisations CORC and uTshani Fund, forms the South African SDI Alliance.

Since 1990, FEDUP has made use of savings and other practices associated with SDI to acquire land, build houses, upgrade informal settlements and create income-generating opportunities. FEDUP is active in 8 South African provinces with over 40 000 savers.

Each day groups of women in low income neighbourhoods and informal settlements walk from home to home, and gather small change from each other in order to collectively address the livelihood struggles they share. Through daily interactions, and weekly group gatherings, savings group members begin to articulate what problems exist within their community, creating a sense of shared identity amongst women living in urban poor communities. These interactions are also spaces in which alternative leadership and accountability bases are developed and organising strategies and skills are acquired. As FEDUP's saying goes, "we do not collect money, we collect people." By saving together, individuals learn to trust one another; and this trust forms a basis for collective action.

While FEDUP has a national presence, decision making is decentralised and located at the individual savings group level. Every savings group consists of savers, treasurers and collectors. The latter two are responsible for collecting daily savings from group members' homes, making deposits and withdrawals and for facilitating weekly group meetings. Five savings groups make up a network, whereby group representatives meet once a month to report on activities, share challenges and knowledge and jointly build relationships with councillors and municipal officials. Multiple networks come together in sub-regions, which together form a FEDUP region within a province. Jointly, the region builds partnerships with various actors, including local and provincial government. On a national level, FEDUP also engages national government departments.

The structure of savings groups allows members to access short-term loans, which are otherwise largely unavailable to the urban poor. This system of savings & credit prepares communities for medium and large-scale financial management necessary in informal settlement upgrading projects. In such projects, FEDUP and the SA SDI Alliance emphasise the importance of savings contributions from residents as a means of

measuring the level of commitment for an upgrading initiative in a settlement. Ideally, these community savings contributions should go hand in hand with establishing daily savings groups that continue meeting and supporting one another, after project implementation has been completed.

### CODI/Baan Mankong savings model

Promoting community savings and providing finance (often combined with low interest loans) was a key element of the Baan Mankong upgrading model in Thailand (refer also to section 3.10 and resource library items 119, 120 and 121).

"The **cornerstone of the programme is the principle of community-based financial mobilisation enabled by savings groups**. To obtain Baan Mankong loans communities develop housing in a collective way, and **must save 10% of the amount they borrow in a community savings account** in order for the community cooperative to qualify for a loan.

"The Community Organisations Development Institute (CODI), the agency managing Baan Mankong, **provides housing loans to community cooperatives at 4% annual interest** and allocates a grant to each community of 20,000 baht (\$570) per family. **Cooperatives then on-lend to members, usually adding a margin on the interest rate to create a fund to cover cases of unsteady loan repayments** and to fund other community activities, expenses and some welfare programmes.

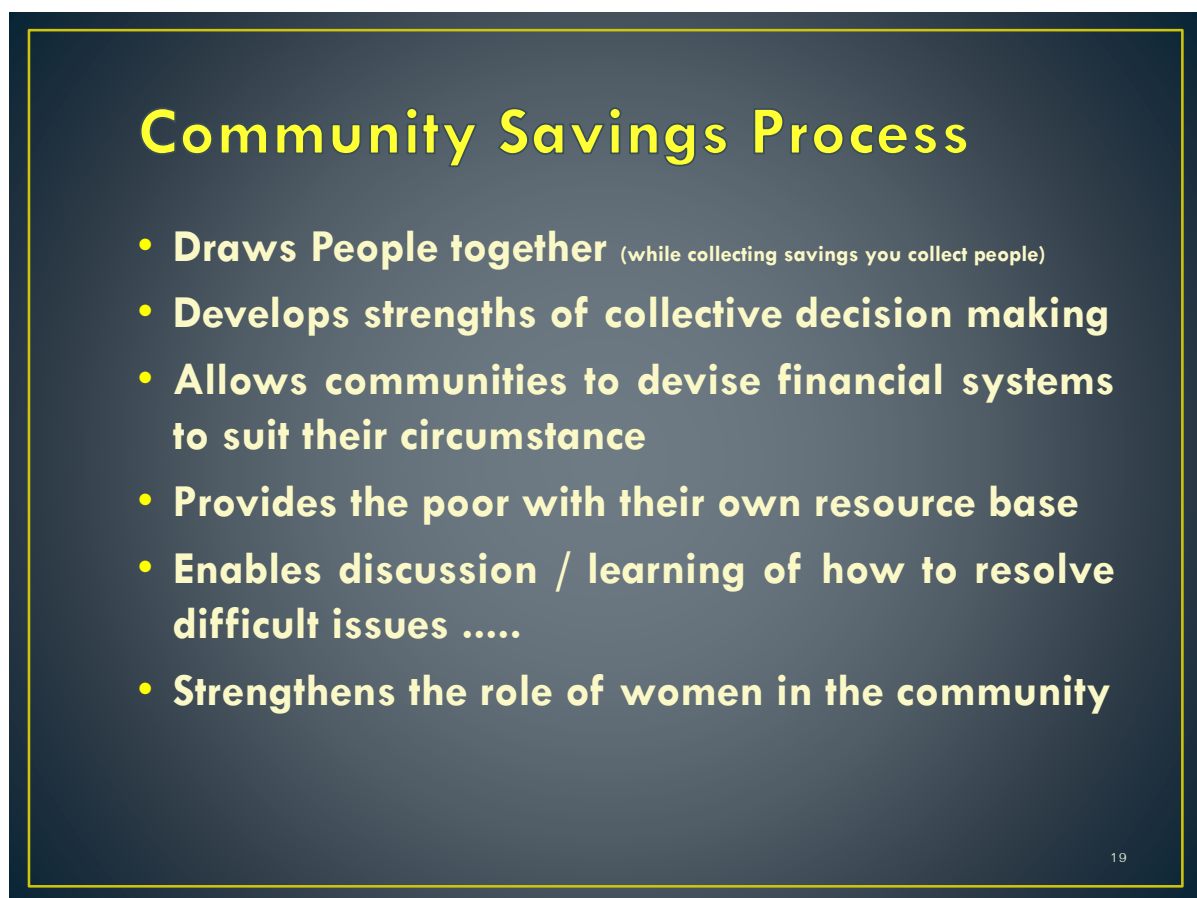
"Baan Mankong has struggled to address challenges relating to inclusion both in terms of the communities that can obtain access to funds and the households that are included in upgrading. The qualifying requirement that a community first needs to establish a savings network and prove its saving capacity fails to recognise the heterogeneous nature of people living in informal settlements. **There may be considerable differences in sub-groups' ability to save and in their preferences for tenure or upgrading options**. The programme acknowledges disparities by encouraging households within a community to safeguard poorer and more vulnerable members,

but, despite these provisions, it may be difficult for the poorest to obtain long-term secure housing.”<sup>44</sup>

**“To join the Baan Mankong program, communities have to have fairly well-established savings groups. These savings groups act as a crucial stabilizing force when the upgrading project begins, so that the flexible finance can link with people’s collective financial base and to the money**

management skills they have already developed through their internal community savings and credit activities. When you put people’s own collective resources and these collective management capacities together with this flexible external finance, it gives people a new power to change things.”<sup>45</sup>

**FIGURE 25:** COMMUNITY SAVINGS PROCESS



44. Baan Mankong Case Study by Development Progress pages 2 and 3 – Resource Library Ref 120.

45. CODI Update 05 March 2008 – Toolkit library ref. 236.

**FIGURE 26:** GRANTS AND LOANS FROM CODI TO COMMUNITY COOPERATIVES



**3.16. FUNDING INNOVATIONS - COMPETITIVE FUNDING WINDOWS**

*Note: Refer to examples in toolkit library: 303, 304, 305, 306, 30,308.*

The use of competitive funding windows (CFW, also referred to as requests for proposals – RFPs) is a well-established method utilised by donors and governments alike in order to:

- stimulate **innovation**; and
- secure and stimulate optimal **skills and capacity**;
- leverage **more effective development outcomes**.

**What is a competitive funding window?**

A competitive funding window elicits competitive responses from the marketplace in order to achieve specific objectives via specified performance criteria (in addition to minimum threshold or compliance criteria). The methods used by different bidders will

typically vary significantly, and indeed it is this variation or innovation which a competitive window seeks to stimulate, along with the necessary skills and capacity to deliver outcomes. Whilst price may also vary substantially, it is no longer the primary or only selection factor, since various additional performance criteria also come into play. Cost-effectiveness or value for money is thus seen in a more qualitative fashion in respect of the overall value-proposition of a particular bid.

**How is it different to conventional government procurement?**

This is very different to a conventional 80/20 or 90/10 government tender which is mainly price-driven against a pre-defined scope of work. This conventional procurement method tends to favour threshold quality, with minimum innovation, and creates limited space for innovation and qualitative outcomes.

**Why can it help achieve the city-wide upgrading approach?**

Upgrading requires specialist skills and capacities and a qualitative approach, especially in respect of participation. Competitive bids or RFPs are optimal in this context. They may need to be utilised on conjunction with other, conventional procurement methods (e.g. for certain infrastructure delivery).

### How does it align with the MFMA?

Whilst the use of CFWs and RFPs is common within national and provincial spheres of government<sup>47</sup>, no metro precedent was available at the time of writing. Clarity from National Treasury is required, but it is assumed that the municipality's Supply Chain Management Policy would ideally need to be amended to make provision for the use of CFWs or RFPs (including the types of services that are envisaged and the procurement method which needs to be followed) since no direct provision for this kind of procurement is made.

**A CFW is however entirely consistent with the scope of procurement envisaged in section 112 of the MFA** (pertaining to supply chain management policy) in that this section makes provision for a **'range of supply chain management processes, including tenders, quotations, auctions and other types of competitive bidding'**, provided the 'procedures and mechanisms' for each are defined and noting that provision is made for 'competitive bidding processes in which only pre-qualified persons may participate'. As an alternative, it is also possible for a CFW for municipal-level upgrading to be issued via a provincial or national sphere of government (e.g. via a NUSP-supported procurement process).

### How does a competitive funding window work in practice?

#### STEP 1: DEFINE OBJECTIVES

The starting point of any CW or RFP is to clearly define the OUTCOMES (i.e. impact) you are aiming to achieve. This outcome is normally a response to a particular problem or challenge facing the municipality. It is important to succinctly describe this context and the strategic objectives (outcomes) which you wish bidders to help you achieve. *Example: The Municipality seeks*

*to strengthen community participation in development planning and implementation and to form more effective partnerships with communities within the targeted informal settlement communities. Specific outcomes include: a) developmentally capacitated and empowered local community leadership structures; b) practical MTEF-aligned incremental upgrading plans which are linked to a city-wide upgrading plan; c) viable social compacts involving the community, municipality and other key actors; and d) implementation of more effective upgrading development solutions such as community-based maintenance, PHP-type construction of essential services, and owner-driven housing consolidation.*

#### STEP 2: DEFINE THRESHOLD/ELIGIBILITY CRITERIA

As for any tender process, the minimum eligibility or compliance criteria needs to be specified. These typically include:

- › funding value of bids (lower and upper limit);
- › contract period (e.g. three years);
- › relevant experience and track record (proven experience in similar upgrading work);
- › SA tax clearance certificate.

Additional criteria may include the type of organisation which is eligible (e.g. an NGO with NPO registration) or matched funding (if applicable).

#### STEP 2: DEFINE PERFORMANCE/IMPACT CRITERIA

These criteria may be empirical or qualitative (non-empirical) in nature. In the context of an incremental upgrading initiative such as the example outlined under step 1, these might include the following:

- › Methodology:
  - Understanding of assignment
  - Innovation
  - Approach to partnerships
  - Approach to risk management
- › Capacity:

47. E.g. 1) Jobs Fund via National Treasury (most recent in 2017 pertaining to 'industry change for scaling inclusive job creation models' Nov 2016 – see Resource Library item 306); 2) EU Call via National Dept. of Monitoring and Evaluation for 'enhancing municipalities' capacity for development' Sept 2016 – see Resource Library item 305; 3) KZN Dept. Economic Development's Community Economic Development Initiative (2013) - Library item 307.



- Specialist skills in participative planning and capacity building
- Local knowledge (within municipality and, in particular, its informal settlement communities)
- Experience in working with municipal, provincial and national sphere of government in upgrading
- Experience as an intermediary (between communities and government)
- **Additionality** (activities or outcomes which would not have taken place without the intervention).
- **Sustainability** (extent to which outcomes are likely to continue post-intervention).
- **Cost-effectiveness** (value for money based on total basket of activities and outcomes relative to cost).

### STEP 3: DECIDE ON PROCESS

**Phasing:** Single-phase versus two-phase application process. Single-phase is quicker but more administratively burdensome if there are large numbers of applications compared to two-phase (concept and full application). Two-phase is most common with CFWs or RFPs. **Adjudication:** Process to be followed e.g. adjudication committee and who should sit on it and how they should be selected. Is any additional, external specialist capacity required on the committee? **Evaluation grids:** These are useful to develop prior to issuing the call for both phases<sup>48</sup>. **Timeframes:** How soon does the work need to commence? How long should each step in the process take? What is the urgency? How do delivery timeframes align with MTEF budget periods?

### STEP 4: DEVELOP AND ISSUE CALL FOR CONCEPT PROPOSALS

The format for a call for proposals can vary significantly – refer to the list of examples at the end of this section (all of which are also contained in the Toolkit Resource Library). The suggested structure for a CFW call or RFP is as follows:

1. Objectives of call
2. Who can apply
3. Funding criteria:
  - a. Eligibility
  - b. Performance/impact
  - c. Eligible/ineligible costs
4. Application process – including format for proposal, timelines, phasing (if concept then full application), scoring/evaluation grid to be utilised.
5. Annexures – specify any annexures which must be submitted such as:
  - a. Budget (summary and detailed breakdown)
  - b. Logical framework (showing outcomes, outputs, activities, indicators, means of verification and assumptions).
  - c. CVs of project team.
  - d. Organisational founding documents.
  - e. Tax clearance certificate.

### STEP 5: ADJUDICATE CONCEPT PROPOSALS AND SHORTLIST

Adjudicate using the agreed process mapped out under step 3. Advise successful/non-successful applicants. If the process is single-phase, then move directly to contracting. If its two-phase then move to step 6.

### STEP 6: INVITE FULL TECHNICAL AND FINANCIAL PROPOSALS

If applicable, proceed with inviting shortlisted applicants to submit full technical and financial proposals.

### STEP 7: ADJUDICATE PROPOSALS, SELECT AND CONTRACT

Adjudicate using the agreed process mapped out under step 3. Advise successful/non-successful applicant(s). Contract with successful applicant(s).

48. E.g. refer to grid in KZNDEDT CEDI EOI call 2013 – Library Ref 307

**FIGURE 27:** SOUTH AFRICAN CFW/RFP EXAMPLES

Call example	Key characteristics
<b>Jobs Fund via National Treasury - 'Industry change for scaling inclusive job creation models' Nov 2016 – see Resource Library item 306</b>	<p><u>Purpose:</u> access to competitive, skilled intermediary organisations to undertake industry change and scaling up job creation.</p> <p><u>Phasing:</u> two-phase application process: 1. Concept note. 2. Business Case Application/Contracting.</p> <p><u>Target applicants:</u> specialist intermediaries.</p> <p><u>Windows:</u> Multiple funding windows in one call. Specified funding deadline for concept notes and thereafter only approved applicants move forward for assessment in this window.</p>
<b>EU Call via National Dept. of Monitoring and Evaluation for 'Enhancing municipalities' capacity for development' Sept 2016 – see Resource Library item 305</b>	<p><u>Purpose:</u> improving capacities of local authorities for community development.</p> <p><u>Phasing:</u> two-phase application process: 1. Concept note. 2. Full Application/Contracting.</p> <p><u>Target applicants:</u> NGOs and private sector organisations.</p> <p><u>Windows:</u> Specified funding deadline for concept notes and thereafter only approved applicants move forward for assessment in this window.</p>
<b>KZN Dept. Economic Development's Community Economic Development Initiative (2013) - Library item 307/308</b>	<p><u>Purpose:</u> Develop NGO-led risk sharing partnerships for LED.</p> <p><u>Phasing:</u> two phases: A. Project identification and packaging, and B. Implementation support (only successful applicants in the first window are eligible for the second).</p> <p><u>Target applicants:</u> NGOs.</p> <p><u>Windows:</u> Specified funding deadline for concept notes and thereafter only approved applicants move forward for assessment in this window.</p>
<b>Indo-Global Social Service Society Urban Poverty Programme in India 2015-17 - Library item 303</b>	<p><u>Purpose:</u> Seeking implementing partners in specific districts.</p> <p><u>Phasing:</u> not applicable.</p> <p><u>Target applicants:</u> Indian NGOs.</p> <p><u>Windows:</u> One window and specified funding deadline for full application.</p>
<b>UNOPS, 2016 Request for Proposals for the Supply of Services for the Design and Management of the Community Upgrading Fund for Greater Monrovia, Liberia - Library item 304</b>	<p><u>Purpose:</u> Establishment and management support for a Community Upgrading Fund in Liberia with active local government partnerships.</p> <p><u>Phasing:</u> two stage procedure.</p> <p><u>Target applicants:</u> not specified.</p> <p><u>Windows:</u> One window and specified funding deadline for full application.</p>

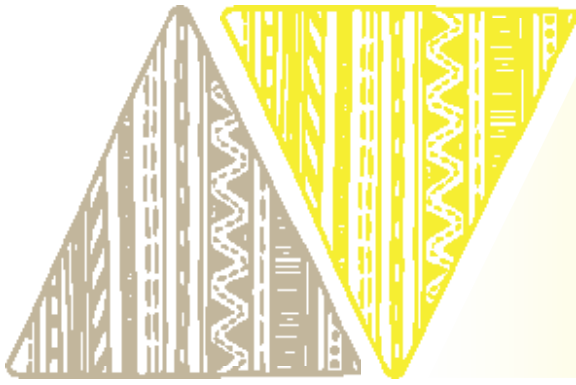






MATRAMBO SETTLEMENT  
ON ERF-  
Informal settlement





# 4 CAPACITY AND INSTITUTIONAL ARRANGEMENTS

<b>Purpose of this tool:</b>	<i>To enable Municipalities to: A) strengthen internal institutional arrangements and those involving other spheres of government as well as; B) establish more effective, enabling partnerships with support NGOs and other non-state actors.</i>
<b>Rationale:</b>	Upgrading is an intensive process, requiring a range of specialist skills and capacities which need to be sustained over long periods of time. Most municipalities currently do not have sufficient capacity. In addition, upgrading entails multiple sectors and developmental responses (e.g. infrastructure, education, health care etc.) which involve multiple departments and spheres of government. The coordination between these departments/actors/actors has proven challenging and this has posed significant barrier to effective, integrated and sustained upgrading.
<b>Key principles:</b>	<ul style="list-style-type: none"> <li>▪ <i>Effective intergovernmental co-ordination (IGR) and communication.</i></li> <li>▪ <i>Effective institutional arrangements at metro, area and settlement levels involving all key departments and actors.</i></li> <li>▪ <i>Forging partnerships with support organisations such as specialist NGOs.</i></li> <li>▪ <i>Effective funding and procurement strategies in order to leverage the right kind of enabling capacity and partnerships.</i></li> </ul>
<b>Key tools/ references:</b>	A significant portion of the toolkit library is devoted to partnerships, institutional arrangements and participation. Please make use of the subject filter tabs ('partnerships', 'institutional' and 'participation') to identify the relevant resources in these areas. Some of the most useful toolkit resources include the following (toolkit reference numbers inserted): UISP Policy (1), PHP Policy (33), NUSP Training Manual Part 12 Institutional Arrangements (15), eThekwini's 100RC Strategy (272), City of Cape Town's policy w.r.t section 67 of the MFMA (350), eThekwin ABM experience (319, 320), CODI Baan Mankong Thailand experience (35, 119), Brazil & other international experience (110, 351), decentralised finance resources (293 and 294).

Sufficient capacity and functional institutional arrangements are key enabling prerequisites for effective and sustained upgrading. Upgrading is an inherently collaborative endeavour involving multiple actors. It also not a once-off project, but rather an ongoing and collaborative process of urban change management. Institutional arrangements need to take this into account.

A key success factor is for municipality to be able to SUSTAIN effective community engagement as well as effective collaboration with provincial government departments and support NGOs over time.

#### 4.1. PARTNERSHIP-BASED APPROACH TO UPGRADING

The UISP and PHP policies emphasise the need for effective partnerships in upgrading with three types of partnerships being identified:

- a. **partnerships between spheres of government** necessitating effective intra-governmental relationship (IGR);
- b. **partnerships with communities;**
- c. **partnerships with support organisations** - NGOs/CROs with specialist upgrading capacity.

“The roles and functions of national, provincial and local government are based on the principles of co-operative governance and subsidiary and the creation of partnerships between the different spheres of government. This thus implies that normally a role or function should be performed at the level most suitable for the circumstances... The projects are undertaken on the basis of a partnership of cooperative governance between the relevant municipality, the PD, and the National Department...

**“Public to public partnership:** This Programme is premised on the provisions of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005) that provides for the establishment of co-operative governance structures and systems, as well as alignment mechanisms. Local government is the main implementing agency. To counter the lack of capacity at local government level, a focused capacity building programme to support municipalities must be established by provincial housing authorities...

**“Community Partnership:** The Programme is premised upon extensive and active community participation. Funding is accordingly made available to support the social processes. Community participation should be undertaken through Ward Committees with ongoing effort in promoting and ensuring the inclusion of

key stakeholders and vulnerable groups in the process. The municipality must demonstrate effective interactive community participation.”<sup>49</sup>

**Support Organisations:** The PHP policy highlights the need to “Rebuild the relationship with the Non-Governmental Organisations (NGOs)/ Community Based Organisations (CBOs)/ and the Faith Based Organisations (FBOs) as partners in the housing delivery process... Partnerships between the community and the various NGOs and FBOs working in the sector are critical for making PHP work as they ensure the transfer of skills (including management, administration as well as the technical aspects of building) and expertise to the community. This requires strong social facilitation skills as well as project management skills.”<sup>50</sup>

49. Extracts taken from the UISP Policy Resource Library Ref. 1.

50. National PHP Policy Resource Library Ref. 33.

## 4.2: STAKEHOLDERS AND THEIR ROLES

Stakeholder	Roles
<b>Metro government -</b> <i>line departments dealing with human settlements, planning, engineering services, health, disaster management etc.</i>	Plan and co-ordinate city-wide upgrading including ensuring effective partnerships with communities and other key stakeholders. Make budgetary provision from conditional grants, own funding and secure allocations from relevant provincial line departments. Deliver essential municipal engineering services (water, sanitation, roads, electricity etc.) and operational services (e.g. fire protection, disaster management, solid waste etc.). Co-ordinate IGR with provincial government RE essential social services (schools, clinics, ECD, hospitals etc.).
<b>Provincial government -</b> <i>Departments dealing with key social services (Health, Education, Social Development) as well as Environmental Affairs, Human Settlements etc.</i>	Work closely with metro in respect of essential social services as well as relevant environmental/planning approvals e.g. <ul style="list-style-type: none"> <li>• ECD: social workers inspect centres (mainly NPO-operated), facilitate conditional registration and ECD operational grants, and work closely with municipal EHPs.</li> <li>• Clinics: collaborate with metro w.r.t optimisation of existing provincial clinics in the metro &amp; possible new clinics where there are deficits relative to population demand.</li> <li>• Schools &amp; Hospitals: collaborate with metro w.r.t optimisation of existing provincial facilities in the metro &amp; possible transport solutions where learner access is poor &amp; assessing where there are deficits relative to population demand.</li> <li>• Provincial roads: collaborate with metro where there are implications for provincial road planning arising from city-wide informal settlement planning.</li> </ul>
<b>Communities/CBPs -</b> <i>Community-Based Partners, other community groupings</i>	Work collaboratively with metro line departments, ward development committee and other metro structures. Co-develop upgrading plans. Secure community participation and inputs. Help organise the community. Sign social compact agreements. Ensure community responsibilities are upheld (e.g. RE planning, community contributions and O&M).
<b>Ward Development Committees</b>	Engage closely with communities and CBPs (community-based partners/organisations) in respect of upgrading issues. Facilitate improved communication and collaboration with upgrading structures (forums) in the city and metro line departments. Help overcome blockages. Help recommend and prioritise RE prioritisation.
<b>Support NGOs</b> <i>e.g. PPT, Planact, BESG, DAG, VPPU, Isandla, CORC etc. Many are also registered NPOs.</i>	Support communities and government with upgrading projects (e.g. participative planning, PHP-type processes, community asset mobilisation, feasibilities and project preparation etc.). Make inputs w.r.t policy, innovation, partnerships etc.
<b>Social services NPOs</b> <i>e.g. ECD centres, foster care homes, homes for disability, older persons, victims of domestic abuse etc.</i>	Provision of essential social services in social welfare, health and education working closely with relevant oversight Departments (Social Welfare, Health, Education etc.) and the municipality and often receiving government grants and sometimes also municipal grants.
<b>CSOs/FBOs</b> <i>e.g. Churches, social movements e.g. FEDUP, Abahlali etc. Note - NGOs are a particular type of CSO - covered previously.</i>	Help organise and mobilise communities in development. Provide direct support and relief (e.g. home-based care, assistance with disasters etc.). Help mobilise funding. Make inputs into policy.

### 4.3. INTERGOVERNMENTAL COOPERATION - IGR

“An informal settlement upgrading initiative at a municipal level needs to involve and organise a number of different actors, each doing different things at different times. Effective organisation and management of these actors is needed to ensure that the initiative achieves its purpose on time, within budget, and delivers the service to the standard agreed. Institutional arrangements are particularly important because provincial governments and municipalities are structured in departments such as human settlements, health, education, social services, etc. Each of these departments has their own processes and systems. Very often these departments do not communicate with each other – this is often called working in ‘silos’. Institutional arrangements are important to encourage and enable these departments to work co-operatively with each other to upgrade an informal settlement.

“In larger municipalities, with a number of informal settlements to upgrade, and where new informal settlements can be expected to emerge over time, it is more efficient and effective to tackle the management of an informal settlement upgrading initiative at two levels simultaneously, namely at the municipality-wide programme level (informal settlement upgrading strategy and programme) and at the individual project level (municipal informal settlement upgrading plan).”<sup>51</sup>

Refer also to toolkit item 150 (Transversal Management for ‘Sustainable Communities’ Synopsis Report for City of Cape Town but including reference to international precedent).

### 4.4. MUNICIPAL VERSUS PROVINCIAL COMPETENCIES & ROLES

Section 7 of the Constitution pertaining to Local Government sets out the broad powers and functions of municipalities in reference to Schedule 4 and 5 of the Constitution. It also specifies the three categories of municipalities (Category A [metros], B and C). Refer to Toolkit Library Ref. 314 and 315.

It is evident that aside from municipal and essential services, the bulk of essential social services (e.g. health, education, welfare), as well as housing and disaster management are concurrent functions which necessitate effective coordination, communication

and agreement on roles and funding responsibilities between the municipal and provincial sphere.

**Exclusive municipal competencies** specified relevant to upgrading:

- › Local sport facilities
- › Markets
- › Municipal parks and recreation
- › Municipal roads
- › Municipal planning
- › Municipal health services
- › Municipal public transport
- › Municipal public works
- › Public places
- › Refuse removal, refuse dumps and solid waste disposal
- › Street trading
- › Street lighting
- › Traffic and parking
- › Storm-water management systems in built-up areas
- › Trading regulations
- › Water and sanitation services limited to potable water supply systems and domestic waste-water and sewage disposal systems

**Concurrent competencies** (municipal-provincial) specified relevant to upgrading:

- › Disaster management
- › Education at all levels, excluding tertiary education
- › Environment
- › Health services
- › Housing
- › Property transfer fees
- › Public transport
- › Public works only in respect of the needs of provincial government departments in the discharge of their responsibilities to administer functions specifically assigned to them in terms of the Constitution or any other law
- › Regional planning and development
- › Road traffic regulation
- › Soil conservation
- › Urban and rural development
- › Welfare services

**Exclusive provincial competencies** specified relevant to upgrading:

- › Provincial planning
- › Provincial roads and traffic

51. NUSP Training Manual Part 12 - Institutional Arrangements – Toolkit Resource Library Ref. 15.



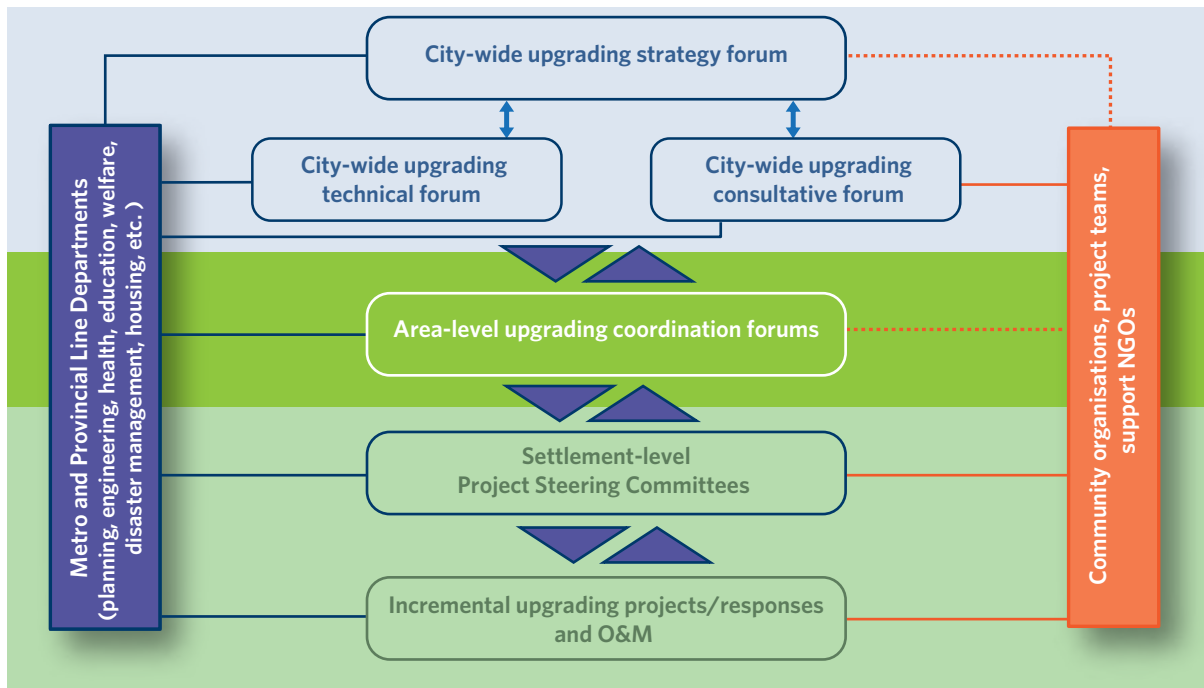
FIGURE 4.5: GOVERNMENT ROLES AND IGR

<p><b>Essential Municipal infrastructural services</b> (water, sanitation, electricity, roads &amp; footpaths)</p>	<p><b>METRO SPHERE:</b></p> <ul style="list-style-type: none"> <li>• <b>Engineering Department(s)</b> dealing with roads &amp; storm-water, water, sanitation, electricity.</li> <li>• <b>Human Settlements Department</b> in respect of settlement planning and participation.</li> </ul> <p><b>PROVINCIAL/NATIONAL SPHERES:</b></p> <ul style="list-style-type: none"> <li>• <b>Prov. Human Settlements</b> – in respect of approving business plans for HSG/USDG and supporting flexibility in respect of upgrading approach.</li> <li>• <b>Prov. Environmental Affairs</b> – in respect of environmental exemptions or authorisations/RODs for infrastructure – noting that conditions in informal settlements do not permit compliance with all environmental regulations and that land is already settled and interventions to mitigate existing threats are necessary.</li> <li>• <b>Prov. Roads</b> – where these intersect with informal settlement precincts.</li> </ul>
<p><b>Essential Municipal operational services</b> (fire protection, solid waste, disaster man.)</p>	<p><b>METRO SPHERE:</b></p> <ul style="list-style-type: none"> <li>• <b>Engineering Department(s)</b> dealing with roads &amp; storm-water, water, sanitation, electricity.</li> <li>• <b>Human Settlements Department</b> - in respect of settlement planning.</li> </ul> <p><b>PROVINCIAL/NATIONAL SPHERES:</b></p> <ul style="list-style-type: none"> <li>• <b>Prov. Human Settlements</b> – in respect of disaster management when there are severe events (e.g. fire or flooding).</li> <li>• <b>Prov. Environmental Affairs</b> – in respect of regulatory flexibility – see previous comments.</li> </ul>
<p><b>Essential Social Services</b> (schools, primary health care, ECD etc.)</p>	<p><b>METRO SPHERE:</b></p> <ul style="list-style-type: none"> <li>• <b>Health</b> – Develop and implement health strategies working closely with provincial government. Implement health and safety bylaws. Inspect NPO facilities (e.g. ECD, foster care homes etc.) for health and safety compliance. Define protocols on appropriate flexibility in informal settlements.</li> <li>• <b>Social services</b> – Develop and implement social services strategies working closely with, and supportively of, grassroots NPOs, provincial government and communities.</li> </ul>

<p><b>Essential Social Services</b> (schools, primary health care, ECD etc.)</p>	<p><b>PROVINCIAL/NATIONAL SPHERES:</b></p> <ul style="list-style-type: none"> <li>• <b>Prov. Social Development</b> – Work closely and supportively with grassroots NPOs providing services (formal and less formal/unregistered) and municipality to improve services, and include NPOs in the systems of registration, support and social grants access. ECD: visit and assess existing centres which are mostly less formal and unregistered, support conditional registration, work closely with Municipal EHPs, and process social grants. Special needs housing: work closely with local NPOs to ensure adequate care and social grants access e.g. foster care, disability care, victims of domestic abuse etc.). Work closely with other NPOs providing essential social services e.g. places of safety, home based care etc.</li> <li>• <b>Prov. Health</b> – Work closely with municipality to optimise existing clinics and hospitals in respect of their access to the urban poor. As for Social Development in respect of NPOs providing essential health services (support, improve, include in system of registration and access to grants).</li> <li>• <b>Prov. Education</b> – Work closely with municipality and local schools to optimise services and access for the urban poor. Assess demand/supply in respect of need for new schools or solutions in improving transport access to existing schools.</li> </ul>
<p><b>Tenure rights</b> (interim e.g. via administrative recognition, municipal register; permanent via title deeds or alternative)</p>	<p><b>METRO SPHERE:</b></p> <ul style="list-style-type: none"> <li>• <b>Human Settlements</b> – rapid assessment of settlements, categorisation, city-wide plan, proposals for incremental development zones or equivalent</li> <li>• <b>Planning</b> – Approval of incremental development zones which confer functional tenure security.</li> </ul> <p><b>PROVINCIAL/NATIONAL SPHERES:</b></p> <ul style="list-style-type: none"> <li>• <b>Prov. &amp; Nat. Human Settlements</b> – Support flexible, incremental approach with emphasis on functional tenure as the first level (based on administrative recognition and an incremental development zone).</li> <li>• <b>Environmental affairs</b> – See comments under essential services and need for flexibility w.r.t. regulations.</li> </ul>

<p><b>Housing</b> (owner-driven or state-supply or mixed model)</p>	<p><b>METRO SPHERE:</b></p> <ul style="list-style-type: none"> <li>• <b>Human Settlements</b> – Develop viable mixed-delivery model (state supply, mixed model, owner-driven) noting limitations with state supply model, need for appropriate combination of mixed and owner-driven model, and mechanisms to stimulate and support this. <p><b>PROVINCIAL/NATIONAL SPHERES:</b></p> <ul style="list-style-type: none"> <li>• <b>Prov. &amp; Nat. Human Settlements</b> – Support flexible approach to housing provision using a mixed delivery model as outlined above.</li> </ul> </li></ul>
<p><b>Urban management processes</b> <i>Community participation;</i> <i>Settlement planning;</i> <i>Social compacts;</i> <i>CSO/NGO Partnerships; IGR and multi-sector coordination; strategic land acquisitions;</i> <i>Spatial planning (precinct/city level);</i> <i>IDP/MTEF/BEPP.</i></p>	<p><b>METRO SPHERE:</b></p> <ul style="list-style-type: none"> <li>• <b>Human Settlements</b> – Develop city-wide upgrading plans. Work closely and collaboratively with provincial sphere of government, and support NGOs/CSOs etc. Put in place the necessary institutional coordination and IGR arrangements, as outlined in sections <b>Error! Reference source not found.</b>, <b>Error! Reference source not found.</b> and <b>Error! Reference source not found.</b>.</li> <li>• <b>Area-based management function</b> – In most metros it is beneficial to have better capacitated and coordinated area-based management, facilitation and coordination capacity which also enables lateral integration of different functions section <b>Error! Reference source not found.</b>.</li> <li>• <b>Upgrading strategy and technical forums</b> – Structures which ensure IGR, collaboration, coordination and lateral integration are essential. Refer to sections <b>Error! Reference source not found.</b> and <b>Error! Reference source not found.</b>. This requires commitment from all spheres of government and other stakeholders. Metros cannot do it alone.</li> </ul> <p><b>PROVINCIAL/NATIONAL SPHERES:</b></p> <p>All key provincial departments need to be involved in the upgrading as per institutional arrangements and structures outlined in section <b>Error! Reference source not found.</b>, at the appropriate level of delegation (e.g. Heads/Directors at city-wide strategy forms versus service office level at area-based and community levels).</p>

## 4.6: INSTITUTIONAL ARRANGEMENTS WITHIN METROS



### City-wide upgrading strategy forum

- › **Function:** Plan and integrate city-wide upgrading project pipeline via city-wide upgrading plan. Co-ordinate policy, strategy and funding with provincial sphere (IGR). City budgeting including BEPP priorities. Innovation solutions e.g. flexible planning zones, incremental tenure options, and flexible building standards.
- › **Representation:** Senior metro and provincial officials: Heads of key metro departments (housing, engineering services, planning, health, disaster management etc.); responsible Directors/Heads of key provincial departments (Health, Education, Social Development, Environmental Affairs etc.); and CSO/NGO/Private Sector representation as and when required.

metro departments; managers/officials (district office level) from key aforementioned provincial departments; CSO/NGO/Private Sector contractors involved in delivery as and when required.

### City-wide upgrading consultative forum

- › **Function:** Advisory and feedback role in respect of strengthening city-wide upgrading strategies, response options, partnerships, innovation, troubleshooting etc. Information sharing.
- › **Representation:** Representatives of key support NGOs/CROs/CSOs and community formations; selected metro and provincial representatives of strategic forum and technical working group; academic institutions and private sector as and when required.

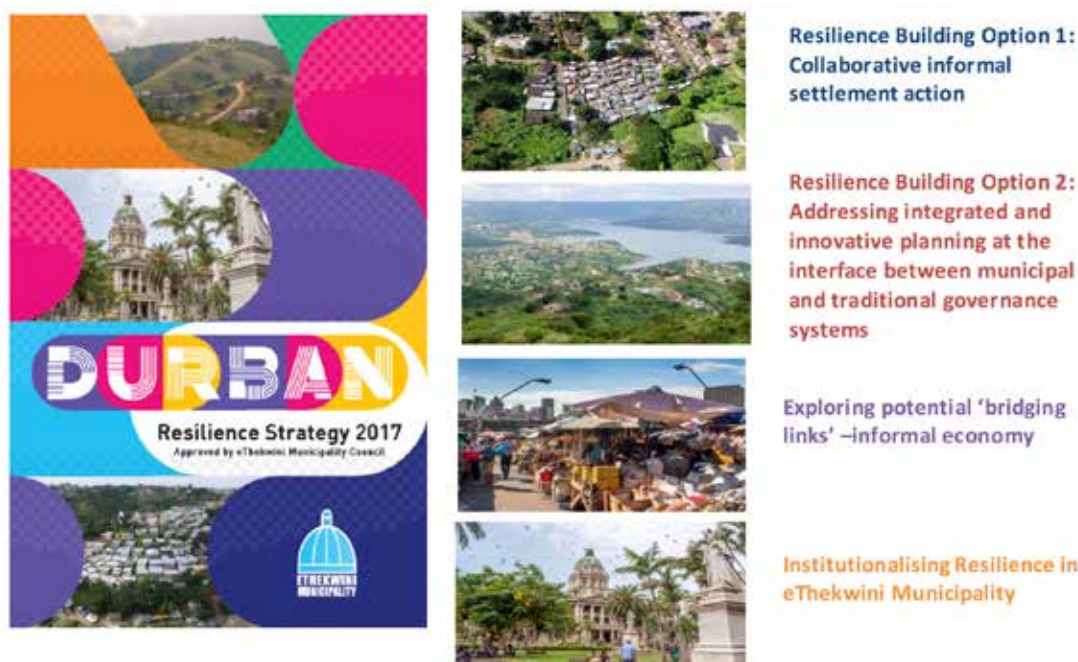
### City-wide upgrading technical forum

- › **Function:** Implementation planning, co-ordination and delivery monitoring for upgrading pipeline. Technical issues including procurement, contracting, project blockages, expenditure and cash-flow, identification of challenges/issues and escalation to strategy forum where necessary.
- › **Representation:** Metro and provincial officials: managers/officials from key aforementioned

### Area-level upgrading coordination forum

- › **Function:** Area-level urban management including communications with local communities. Communication conduit between project and communities and city-wide structures. Monitoring of delivery. Coordinate and monitor operating and maintenance.
- › **Representation:** Area-level municipal officials with the necessary facilitation and technical skills



4.7: DURBAN'S RESILIENCE STRATEGY - EXAMPLE OF UPGRADING INSTITUTIONAL ARRANGEMENTS<sup>52</sup>**Resilience Building Option 1: Collaborative informal settlement action: An overview of RBO 1 outcomes**

**Outcome 1:** EThekweni Municipality has a committed team of **champions** that are supported by **co-ordinating institutional structures** to ensure collaborative informal settlement action

**Outcome 2:** Consolidated quantitative and qualitative community and municipal-collected **data, information and knowledge** on all informal settlements in Durban is accessible to all and updated regularly

**Outcome 3:** EThekweni Municipality facilitates the establishment of proactive, innovative and municipal-wide **partnerships** to develop and execute collaborative, climate-smart and sustainable informal settlement

**Outcome 4:** EThekweni Municipality secures the **human and financial resources** required to undertake collaborative, municipal-wide informal settlement upgrading

**Outcome 5:** EThekweni Municipality has enabling and **integrated administrative systems and simplified regulatory procedures** that facilitate the accelerated implementation of municipal-wide, collaborative informal settlement upgrading and partnerships

**Outcome 6:** Collaborative **monitoring and evaluation** of informal settlement upgrading interventions is institutionalized in eThekweni Municipality

**Outcome 7:** The **use of land for informal settlements** is proactively managed in Durban

**Outcome 8:** All informal settlements in Durban exhibit **improved social, economic and environmental well-being**, which in turn enhances Durban's resilience.

(preferably based at an area-level office); ward development committee representatives; representatives of project teams and PSCs (project steering committees) as and when necessary.

**Project-level Project Steering Committees**

- **Function:** Coordination and oversight of project delivery processes in line with social compact agreements and participative upgrading plans.
- **Representation:** Community-based partners (CBP), support NGOs/CROs, key members of project teams such as project managers, planners, engineers.

52. Taken from Toolkit Library item 368.

Focus of the Resilience Strategy	Outcome	Roles/ Responsibilities	Estimated timeframe	Interventions
<p><b>Resilience Building Option 1: Collaborative informal settlement action.</b></p>	<p><b>Outcome 1:</b> eThekweni Municipality has a committed team of champions that are supported by coordinating institutional structures to ensure collaborative informal settlement action</p>	<p>Local Government</p>	<p>Short Term (0 to 3 Years)</p>	<ul style="list-style-type: none"> <li>Identify and secure a political champion and relevant administrative champions within eThekweni Municipality.</li> <li>Undertake a review of existing eThekweni Municipality co-ordinating structures and establish new structures or expand existing structures as required.</li> <li>Establish a multi-sectoral advisory forum that can lead the debate regarding informal settlement upgrading.</li> <li>Establish a clear policy statement regarding collaborative informal settlement action.</li> <li>Develop an appropriate brand for the 'Collaborative Informal Settlements Action' work and a range of appropriate communication materials explaining policy positions and statements.</li> </ul>
	<p><b>Outcome 2:</b> Consolidated quantitative and qualitative community and municipal-collected data, information and knowledge on all informal settlements in Durban are accessible to all and updated regularly</p>	<p>Local Government, NGO/ CBO Sector, Research Sector</p>	<p>Short Term (0 to 3 Years)</p>	<ul style="list-style-type: none"> <li>Review and understand existing information sources and other initiatives to collect information.</li> <li>Collaboratively prioritise the type of data and knowledge required from informal settlements.</li> <li>Support the development of a city-wide informal settlement profile and mapping exercise in which residents of each informal settlement develop their own profile and undertake digital mapping of boundaries and services, with appropriate support.</li> <li>Undertake community and local government dialogues to jointly co-produce knowledge to identify development priorities for each settlement.</li> <li>Establish a relevant platform to consolidate and share information regarding informal settlements.</li> <li>Develop, in collaboration with communities, a range of accessible communication products in both English and isiZulu to share the results of the data collection process.</li> </ul>

Focus of the Resilience Strategy	Outcome	Roles/ Responsibilities	Estimated timeframe	Interventions
<p><b>Resilience Building Option 1: Collaborative informal settlement action. (cont.)</b></p>	<p><b>Outcome 3:</b> EThekweni Municipality facilitates the establishment of proactive, innovative and city-wide partnerships to develop and execute collaborative, climate-smart and sustainable informal settlement upgrading.</p>	<p>Local Government, NGO/CBO Sector, Provincial and National government departments may also have a role to play.</p>	<p>Medium Term (3 to 7 Years)</p>	<ul style="list-style-type: none"> <li>Research relevant best practice in Durban and internationally, promote the management and dissemination of knowledge and use this to inform implementation.</li> <li>Explore innovative climate-smart approaches to informal settlement upgrading.</li> <li>Identify where city-wide partnerships are needed and the potential for various partners to contribute to implementation priorities. Possible partners include NGOs, CBOs, communities, researchers, private sector and neighbouring formal communities.</li> <li>Establish partnerships, using relevant mechanisms, to co-produce and execute interventions that respond to the priorities identified by informal settlement communities.</li> <li>Establish systems and funding to support and finance relevant partnerships.</li> <li>Create public spaces that allow for the convening of community and local government meetings.</li> <li>Explore relevant mechanisms to facilitate mutual learning and improved relationships between eThekweni Municipality and informal settlement communities.</li> </ul>
	<p><b>Outcome 4:</b> EThekweni Municipality secures the human and financial resources required to undertake collaborative, city-wide informal settlement upgrading</p>	<p>Local, Provincial and National Government, NGO/CBO Sector, Research Sector</p>	<p>Medium Term (3 to 7 Years)</p>	<ul style="list-style-type: none"> <li>Identify the specific skills and human resources needed to implement and sustain priority interventions.</li> <li>Develop programmes to build the skills of local government and other stakeholders to execute collaborative, climate-smart and sustainable informal settlement upgrading.</li> <li>Estimate the financial costs associated with the implementation of priority interventions.</li> <li>Review the existing resources of eThekweni Municipality, informal settlement communities, civil society, non-governmental organisations, the private sector and research institutions and how these could be more effectively utilised, and then identify critical resource gaps.</li> <li>Identify opportunities for funding and work to secure these funds.</li> <li>Facilitate the introduction of a range of community finance facilities to leverage resources from communities and development partners.</li> </ul>
	<p><b>Outcome 5:</b> EThekweni Municipality has enabled and integrated administrative systems and simplified regulatory procedures that facilitate the accelerated implementation of city-wide, collaborative informal settlement upgrading and partnerships</p>	<p>Local, Provincial and National Government, NGO/CBO Sector, Research Sector</p>	<p>Short Term (0 to 3 Years)</p>	<ul style="list-style-type: none"> <li>Create a transversal local government working group that promotes appropriate statutory and regulatory flexibility and revision.</li> <li>Identify current or potential bottlenecks created by the existing statutory and regulatory context and undertake steps to address these.</li> <li>Identify innovative procedures to upgrading and service delivery for informal settlements within the existing legislative and policy context.</li> <li>Identify local government systems that may need to change in order to facilitate alternative and innovative approaches to collaborative informal settlement action.</li> </ul>

Focus of the Resilience Strategy	Outcome	Roles/ Responsibilities	Estimated timeframe	Interventions
<p><b>Resilience Building Option 1: Collaborative informal settlement action. (cont.)</b></p>	<p><b>Outcome 6:</b> Collaborative monitoring and evaluation of informal settlement upgrading interventions is institutionalized in eThekweni Municipality</p>	<p>Local Government, NGO/ CBO Sector, Research Sector. Provincial and National government departments may also have a role to play.</p>	<p>Ongoing (to be initiated in the short term)</p>	<ul style="list-style-type: none"> <li>Establish a collaborative monitoring and evaluation system for the 'Collaborative informal settlement action' resilience building option.</li> <li>Develop and implement a collaborative monitoring and evaluation system that involves eThekweni Municipality, communities, civil society, private sector, non-governmental organisations and research organisations.</li> </ul>
	<p><b>Outcome 7:</b> The use of land for informal settlements is proactively managed in Durban</p>	<p>Local Government, NGO/ CBO Sector, Research Sector. Provincial and National government departments may also have a role to play.</p>	<p>Short Term (0 to 3 Years)</p>	<ul style="list-style-type: none"> <li>Explore and develop appropriate governance approaches to proactively manage the emergence and location of new informal settlements in Durban.</li> <li>Develop and support appropriate community approaches to proactively manage the expansion of informal settlements in Durban.</li> </ul>
	<p><b>Outcome 8:</b> All informal settlements in Durban exhibit improved social, economic and environmental well-being, which in turn enhances Durban's resilience</p>	<p>Local Government, NGO/ CBO Sector, Research Sector</p>	<p>Long Term (More than 7 Years)</p>	<ul style="list-style-type: none"> <li>Co-production by eThekweni Municipality, communities, civil society, non-governmental organisations, private sector and research institutions of climate-smart and sustainable settlement upgrading plans at an area level.</li> <li>Strengthen partnerships with other spheres of government to facilitate improved access to services that support more holistic human wellbeing e.g. health care and education.</li> <li>Implement collaborative, climate-smart and sustainable pilot upgrading approaches to address priorities raised in community-led profiling</li> <li>Upscale the implementation of pilot projects to ensure city-wide coverage.</li> <li>Create employment opportunities and skills development in informal settlements linked to upgrading.</li> </ul>



#### 4.8. TRANSVERSAL INTEGRATION AND IGR

Transversal integration and effective inter-governmental relations (IGR) are essential in upgrading given the focus on a range of essential infrastructural and social services and the multiple spheres of government, departments, NPOs, support NGOs and other stakeholders involved in their provision.

Please refer to sections 4.2, 4.3 and 4.5 for stakeholder roles and 4.6 as to suggested institutional arrangements in a metro in order to ensure lateral/transversal integration.

Each metro will need to determine what institutional arrangements and structures for coordination are most appropriate in its context. However, in all cases, the full range of stakeholders involved in upgrading need to be involved, and there needs to be effective co-ordination both laterally between different metro departments, as well as with key provincial departments.

#### 4.9. FORGING PARTNERSHIPS WITH SUPPORT ORGANISATIONS

International upgrading practice as well as South African policy, both reinforce the importance of partnerships with upgrading support organisations (typically support NGOs) in scaling up upgrading and achieving more effective participation and social capital formation.

##### Tapping support organisations' specialist skills and capacity:

The primary reason why municipalities should collaborate with upgrading support organisations (such as NGOs) is to mobilise their extensive, specialist skills and experiences in a range of different areas which are key to successful upgrading (e.g. participation and participative planning, community and CBP training and capacity building, social compacts, re-blocking, mobilising community investments and contributions, owner-driven housing consolidation, PHP etc.).

##### Donor funding:

Support NGOs may or may not be able to mobilise donor funding and even when they can, their ability to do so will fluctuate over time. Donor co-funding should thus be regarded as a secondary, not primary,

reason to partner with support NGOs. Although NGOs, over time, have leveraged significant donor funding into upgrading processes in South Africa, it is also recognised that donor funding is currently in short supply due to the constrained global economy. Whilst there may be occasions where support NGOs are able to leverage such funding and therefore co-fund certain upgrading processes, this will not always be the case.

##### Stimulating support NGO capacity via state funding:

In the above context, state funding can play a deciding role in activating support organisations, and this is clearly envisaged in the national PHP policy – refer to sections 1.10, 3.4 and 3.5. Most support NGOs are under significant financial pressure and can only access donor funding on an ad hoc basis, and typically for limited time periods.

##### Examples of municipal-NGO partnerships:

Some examples pertaining to such partnerships are outlined below:

- › **Community Organisations Development Institute (CODI)**, Baan Mankong, Thailand, <http://www.codi.or.th/housing/aboutCODI.html>
- › **Community Organisation Resource Centre (CORC)**: with City of Cape Town (and other municipalities), South Africa, [www.sasdialliance.org.za/about/corc](http://www.sasdialliance.org.za/about/corc).
- › **Violence Prevention through Urban Upgrading (VPPU)**: City of Cape Town – South Africa <http://vpuu.org.za>.
- › **Project Preparation Trust of KZN (PPT)** with eThekweni Metro (and other municipalities), South Africa, [www.pptrust.org.za](http://www.pptrust.org.za).
- › **Planact**: with City of Johannesburg and other Gauteng Metros, South Africa, [www.planact.org.za](http://www.planact.org.za).
- › **Afesis Corplan**, Nelson Mandela and other municipalities, South Africa, [www.afesis.org.za](http://www.afesis.org.za).

#### 4.10. FUNDING/PROCUREMENT OF SUPPORT ORGANISATIONS

The procurement of support NGOs can be achieved in various different ways. It is noted that many support NGOs are also registered non-profit organisations (NPOs) which means that they are eligible to provide support to government on a different basis to commercial, for-profit companies and private sector service

providers (e.g. using section 67 of the MFMA). Some of these methods are outlined below:

### Section 67 of the MFMA:

Section 67 of the MFA provides for municipalities to transfer funds to organisations for non-commercial or non-business transactions. These typically relate to community development or welfare activities, and are usually provided to registered NPOs, including support NGOs and welfare NPOs, or other institutions which do work for the public good (e.g. universities, institutes or research organisations). Section 67 is often used to make small grants in aid to NPOs providing direct welfare services at grassroots level. However, it is also utilised to transfer large amounts to enable NGOs to

support municipalities on larger initiatives which are usually strategic and developmental in nature. In some (but not all) instances, the support NGO mobilises co-funding from donors or other sources. This may be in response to a proposal submitted by the NGO to the municipality (usually after there has been substantial historical collaboration and engagement). A Council Resolution authorising a section 67 MOA is necessary. The various prescripts of section 67 also need to be complied with (see below). Payments are typically made on a milestone basis with an up-front tranche. Some municipalities have policies pertaining to section 67 (e.g. refer to City of Cape Town Policy – resource library Ref 350).

## SECTION 67 OF THE MFMA:

### Funds transferred to organisations and bodies outside government

#### 67.

1. Before transferring funds of the municipality to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction, the accounting officer must be satisfied that the organisation or body—
  - a. has the capacity and has agreed—
    - i. to comply with any agreement with the municipality;
    - ii. for the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;
    - iii. to report at least monthly to the accounting officer on actual expenditure against such Transfer; and
    - iv. to submit its audited financial statements for its financial year to the accounting officer promptly;
  - b. implements effective, efficient and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement; and
  - c. has in respect of previous similar transfers complied with all the requirements of this section.
2. If there has been a failure by an organisation or body to comply with the requirements of subsection (1) in respect of a previous transfer, the municipality may despite subsection (1)(c) make a further transfer to that organisation or body provided that—
  - a. subsection (1)(a) and (b) is complied with; and
  - b. the relevant provincial treasury has approved the transfer.
3. The accounting officer must through contractual and other appropriate mechanisms enforce compliance with subsection (1).
4. Subsection (1)(a) does not apply to an organisation or body serving the poor or used by government as an agency to serve the poor, provided—
  - a. that the transfer does not exceed a prescribed limit; and
  - b. that the accounting officer—
    - i. takes all reasonable steps to ensure that the targeted beneficiaries receive the benefit of the transferred funds; and
    - ii. certifies to the Auditor-General that compliance by that organisation or body with subsection (1)(a) is uneconomical or unreasonable.

### People's Housing Process - Community Resource Organisation (CRO):

The PHP policy of 2009 envisages an essential and pivotal role for support organisations, such as NGOs (referred to as Community Resource Organisations - CROs) in the policy. The community selects a CRO which it would like to work with. "CROs play a vital role in the capacitation of CBOs to implement PHP and ensure the realisation of such projects. Their role is extensive but should diminish as the CBOs become more capacitated and the projects reach conclusion. CROs can include NGOs, FBOs and/or a consortium of different stakeholders to make up the skills required."<sup>54</sup> The role of the CRO includes capacity building, organisational development participation, enumeration, PHP business plan, setting up a contractual relationship with the municipality and province, ongoing technical support including NHBCRC, cash flow administration, progress reporting and M&E. Due to the PHP process not having been scaled up, the number of CROs which have been brought into play is limited. As yet, it is not clear if there is a process for accreditation of CROs or how support NGOs can become a PHP CRO. Further clarity has been sought from the National PHP Directorate. However, in principle, a municipality should be able to collaborate with well capacitated and credible support organisations in respect of PHP-type upgrading project, emphasising again that PHP is not just about top-structures, but about a participative planning process and mobilising community contributions. Refer to sections 3.4 and 3.5 on PHP for more information.

### Competitive bid for support NGOs:

Making use of the procurement and bid processes outlined in section 3.16 (competitive funding windows), municipalities can stimulate involvement of experienced, well-capacitated support NGOs by means of a competitive call for proposals which is only open to support organisations which meet particular eligibility criteria in (e.g. demonstrated upgrading track record, demonstrated current skills and expertise, local knowledge and experience, non-profit status etc.) over and above the typical performance/scoring criteria. Refer also to examples of competitive bids in Toolkit Library (Refs. 303 to 308).

### Competitive funding window for support NGOs:

A competitive funding window would be similar to a competitive bid. Under a competitive window however, it would be possible to have several 'windows' or opportunities (categories) under one bid call. This could either open up opportunities for different types of support NGOs, supporting different types of upgrading activity (e.g. participative planning, capacity building and community empowerment, feasibilities and upgrading business plans) and/or support a mix of NGO and private company bids under different categories of services (e.g. NGOs focussing on the aforementioned types of activities and private sector companies being involved in activities such as engineering design, geotechnical and environmental assessments etc.).

54. PHP Policy 2009 page 11 - Toolkit Library Ref. 33.

FIGURE 28: SUMMARY

Procurement option	Application
Section 67 of MFMA	Relevant to support NGOs (with necessary experience and capacity) already involved locally and municipality and organisation wish to collaborate in respect of a next-phase of work which is developmentally beneficial and aligned with municipal strategic plans and priorities. The NGO may have secured some co-funding which usually makes the process of Committee approval easier. It is beneficial if the NGO is a registered NPO, since this proves that the transaction is non-commercial in nature. For city-wide upgrading, is it optimal that the scope of the collaboration should be programmatic (i.e. addressing multiple settlements).
PHP CRO	<p><i>Option 1:</i> Accreditation of CROs either via national or provincial DHS. This accreditation could also be undertaken by a metro working with a provincial DHS. Accreditation is likely to be a slow process.</p> <p><i>Option 2:</i> Develop a package of PHP-type upgrading projects collaboratively with a support NGO and put this forward via a business plan to the provincial DHS. Because the CRO can access the funding directly, no municipal procurement process is necessary (PHP already provides for a CRO role). Because this would require some upfront preparation funding, it may be necessary to first submit an initial application (collaboratively) for preparing the project (i.e. pre-project funding for facilitation, participation, enumeration, capacitation and PHP business plan etc.)<sup>55</sup>. This application could be dovetailed with a competitive bid for support NGOs to prequalify as support NGOs for participative and PHP-type upgrading projects which would effectively result in a shortlist or 'panel' of suitable NGOs (effectively addressing option 1).</p>
Competitive bid for support NGOs	This procurement mechanism can be beneficial in order to tap the specialist skills, experience and capacity of support NGOs in order to support the realisation of the municipality's city-wide upgrading plan. This could be configured in many different ways (e.g. focussing on: a particular area or grouping of settlements, participative planning and processes etc.).
Competitive funding window for NGOs	As above - except that the possibility of multiple 'windows' (categories upgrading activities/objectives/modes of support or types of organisations) is created. This may be a cost efficient way for municipalities of mobilising a fuller suite of skills and expertise necessary for upgrading (e.g. including certain skills most available in the private sector e.g. engineering design, geotechnical and environmental assessments etc.).

55. "This includes facilitating the community participation, setting up the community structures and providing organisational development support, setting up of savings groups, project enumeration, preparing the Project feasibility and Business Plan (templates included as an appendix to the implementation strategy), and submitting it for approval." - PHP Policy page 8.

## 4.11. AREA-BASED MANAGEMENT

Effective area-level coordination and communication is essential in achieving and sustaining city-wide upgrading. This is consistent with a programmatic approach. Typically, multiple projects, interventions or services are required across an area or precinct in which multiple informal settlements are located. Coordinating upgrading, participation, partnerships and urban management change at area-level require dedicated area-based management (ABM) capacity. Amongst other things, this capacity is necessary to ensure lateral integration between various different types of sectoral responses and different actors, departments and spheres of government, as well as effective vertical integration from settlement level issues to central municipal structures. It is also necessary to ensure continuity, stability and sustainability in respect of the various processes mentioned, especially when it comes to community participation and communications. For example, it is problematic to have different points of contact with the community for different line departments with no lateral communication and coordination. Without ABM-type capacity, multiple personnel engage separately in respect of different development issues at different points in time, none of whom spend sufficient time to establish a relationship of trust and understanding and none of whom are able to support integrated planning at a settlement and area level.

### Key lessons and principles for effective ABM establishment

1. **Demarcate functional urban management areas/precincts** – The functional management area needs to be small enough for a small team to establish and retain contact with all local informal settlement communities and local project initiatives whilst also facilitating lateral and vertical integration.
2. **Include ALL informal settlement precincts** – not only a few priority areas. Upgrading needs to be inclusive and city-wide. Area-based capacity is required in all areas/precincts in which there are informal settlements.
3. **Right-size the area-based capacity – keep it streamlined & sustainable** – It is important not to duplicate central metro capacity (e.g. pertaining to planning, engineering, environmental etc.). Avoid creating large decentralised offices with large numbers of personnel and high operating overheads. Given that there is already typical substantial central capacity in a metro and/or at regional level, area-based capacity needs to be streamlined and ‘fit for purpose’ for the medium to long-term (as opposed to a short-term, high intensity intervention). At a minimum, an experienced and skilled facilitator (with strong facilitation/participation skills), as well as someone with strong technical skills (e.g. planning or engineering) would need to be assigned or recruited. Urban change management is a slow process. It is important that whatever area-based capacity is established can be sustained over time.
4. **Ensure lateral and vertical integration – ‘plugging in’** – Area-level personnel need to be represented in the relevant institutional structures and arrangements, as outlined in sections 4.11 and 4.6. Area-level officials need to be ‘heard’ both vertically up the management chain as well as laterally, including by representatives of provincial line departments – this includes being able to escalate and seek remedy on barriers and blockages being experienced at local or area-level. A key function is to support both the initial development, implementation and ongoing refinement/redevelopment of the city-wide upgrading plan.
5. **Area-based mandate and authority** – The mandates and authorities of the area-level personnel and office needs to be clear. If a streamlined structure is pursued (as recommended), then it is unlikely that budget and procurement mandates would be devolved, however roles (lead or supportive) in process/project design, project management, monitoring and reporting would be necessary.
6. **Setting a balanced development agenda** – Area-based personnel need to understand and support a realistic, incremental developmental agenda (refer to sections 1.4, 1.22 and 1.21) and help ensure that unrealistic expectations do not build up. A key factor to success is to build improved communication and trust around a realistic developmental agenda over each MTEF period (which is aligned to social compacts, budgets and to the city-wide upgrading plan and BEPP).
7. **Balance infrastructure and human development** – Effective area-based management is largely



about building stronger, area- and local-level human capital, capacity and partnerships. Effective infrastructure development is insufficient on its own. ABM capacity should be locally embedded and part of long-term urban change management, not only about expediting capital spend projects.

### Learning from eThekweni ABM Programme

- › **ABM history & learning:** The above has taken into consideration learning from the eThekweni ABM Programme. Please refer to the toolkit library for more information about the five ABMs in eThekweni (items 319 and 320). The eThekweni model was that of intensive, strategic ABMs which were not 'wall to wall' and which were not specifically or only focussed on informal settlements and poverty reduction. Their principle focus was to achieve strategic/catalytic change in five key geographic focus areas. The eThekweni ABM experience does however offer useful precedent and learning. Amongst other things, it was recognised that there were other geographic areas which were also priorities which the ABMs could not directly address, and that ABM-type capability and functionality has much broader relevance. The eThekweni ABM model was also a resource-intensive model (established with significant EU funding dating back to 2003). Such a model can't easily be replicated in other parts of the City or in other cities. It does, however, show the enormous benefits in an area-based approach and offer useful learning as to how ABM-type functionality could be replicated for informal settlement upgrading. Amongst other things, ABMs strengthened contact with local communities, made planning more locally driven and responsive, and enabled better lateral integration both internally between city departments and with other spheres of government.
- › **New ABM role in upgrading:** Plans are now underway to strengthen eThekweni's area-based upgrading capacity. This upgrading is occurring on the back of a collaborative eThekweni-PPT initiative which has secured EU-funding and which will commence in 2018, up until 2020. The focus is to strengthen and expand eThekweni's area-based upgrading capacity through enabling partnerships and by means of piloting upgrading initiatives in several areas which are more incremental, participative

and partnership based. The intention is to use this as a platform for scaling and mainstreaming such an upgrading approach within eThekweni (which has already commenced via the City's Incremental Services Programme; this includes putting in place the necessary institutional arrangements which will enable effective vertical and horizontal integration. Learning from this initiative will be disseminated at regular intervals during its rollout.

### 4.12. CITY-LEVEL MULTI-STAKEHOLDER PARTICIPATIVE PLATFORMS

The institutional arrangements outlined in sections 4.2 to 4.6 necessitate institutional arrangements which enable effective stakeholder engagement and coordination at city-level (e.g. via a city-wide upgrading forum). Without such high-level arrangements, effective city-wide upgrading will not be possible. Reasons for this include the following:

1. **Integration** – upgrading is an integrated process requiring a mix of essential infrastructural and social services which are provided by a range of different departments and spheres of government and whose effective provision requires the involvement and support of multiple actors and stakeholders (refer to sections 1.4 and 1.21).
2. **Decision maker buy-in** – this kind of integration requires real commitments from senior officials (decision makers) within metro and provincial line departments. It is not typically possible to achieve this integration at the settlement/project level, especially when decisions such as budgeting and regulatory flexibility may be required. For example, early childhood development in informal settlements (a key and crosscutting upgrading issue and essential social service) is a shared function and unfunded mandate between the municipal and provincial spheres of government. Provincial social workers and municipal environmental health practitioners both have to visit and assess centres to enable conditional registration with the DSD. Funding for infrastructure improvements requires negotiation between the municipality and province, and flexibility in respect of the prevailing norms and standards needs to be agreed (given the informal environment).

The inclusion of civil society organisations (CSOs) including community formations and support NGOs has emerged as a good practice arising from both local and international experience. Local precedent includes eThekweni's 100 Resilient Cities Resilience Strategy (refer to resource library item 272) and international experience includes that of both Sao Paulo in Brazil (refer to resource library item 110, 351) and Baan Mankong in Thailand (refer to resource library item 35, 119). Refer also to section 5.16 pertaining to 'city-wide upgrading forums' and their role in upgrading.

For this reason, the suggested institutional arrangements outlined in section 4.6 make provision for a 'city-wide upgrading consultative forum' or similar structure.





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# 5 PARTICIPATION AND PARTNERSHIPS

<b>Purpose of this tool:</b>	<i>A) To assist Municipalities in understanding and establishing the participation and partnerships which are recognised as being essential in order to achieve city-wide upgrading. B) To assist community organisations and support NGOs to understand how to collaborate and partner more effectively with municipalities.</i>
<b>Rationale:</b>	Upgrading cannot be achieved by municipalities (and other spheres of government) who are acting in isolation in a top-down mode of response. This is as per both South African policy (e.g. the UISP) as well as international best practice. Over and above achieving and sustaining effective participation of local communities (co-driven development), upgrading takes place over long time periods, is complex, multi-faceted and requires extensive specialist skills and capacity (social and technical). Few, if any, municipalities have sufficient capacity.
<b>Key principles:</b>	<ul style="list-style-type: none"> <li>▪ Participation needs to be effective and sustained over time as a process of co-driven development.</li> <li>▪ Such participation is government policy and is required by law in South Africa (Municipal Systems and Structures Acts).</li> <li>▪ Trust based on transparency, realism and 'delivering to promise' is an essential building block.</li> <li>▪ Participative and municipal processes need to be in sync with each other.</li> <li>▪ Specialist skills and capacity are required for upgrading, not only to achieve and sustain participation, but also for other social and technical work.</li> <li>▪ Participative action planning and social compacts are critical processes which link city-wide plans and settlement-level upgrading.</li> <li>▪ NGO partnerships are important and can play a significant role in strengthening upgrading capacity and achieving a city-wide approach.</li> <li>▪ Effective procurement is key to unlocking partnerships.</li> </ul>
<b>Key tools/ references:</b>	A significant portion of the toolkit library is devoted to participation and related partnerships and institutional arrangements. See also preceding section. Please make use of the subject filter tabs ('participation', CUF, 'partnerships', 'institutional') to identify the relevant resources in these areas. Some of the most useful toolkit resources include the following (toolkit reference numbers inserted): UISP Policy (1), PHP Policy (33), NUSP Training Manual Part 2 Social Dimensions (5) and Part 12 Institutional Arrangements (15), CODI Baan Mankong Thailand experience (35, 119, 165, 192), Brazil & other international experience (110, 351), Community Upgrading Facility SDI (265),



### 5.1. WHAT IS PARTICIPATION?

“Participation comprises **building common ground between institutions and communities**. In the case of informal settlement upgrading, the fact that different parties bring different things must be recognised and harnessed to ensure that the proposals developed best satisfy the actual needs and preferences of the specific targeted community. This process **requires that participants develop respect for each other** and the various strengths and contributions that each can bring.

“Sometimes politicians and officials see participation as something they are forced to do, rather than something that will benefit them. But these fears and resistance to meaningful participation hide the full creative potential of a constant and deep collaboration between government and communities. **Participation is essential in making an informal settlement upgrading process effective and has equal benefits for politicians, officials and communities**. The involvement of informal settlement communities and the need to give them a voice at key stages of the process is a basic principle of the UISP.”

“For informal settlement upgrading international agencies such as the World Bank, UNHabitat and The Cities Alliance tend to recommend community-level or community-based planning methods. Action planning is one of the methods that has been used successfully in informal settlement situations.”<sup>56</sup>

### 5.2. KEY PRINCIPLES OF PARTICIPATION - ‘WHY’?

Key principles of effective participation in the context of informal settlement upgrading are:

1. **Build common ground and knowledge:** Participation comprises building common ground between institutions and communities. This includes bringing together:
  - a. *Internal knowledge*, which is the knowledge, experiences and skills of the community, and
  - b. *External knowledge*, which is technical, specialised knowledge brought into the process by specialists and municipalities.
2. **Build trust and deliver to promise:** For participation to be meaningful it must develop reciprocal trust and produce creative, collaborative solutions. Without a meaningful, truthful and deep participation process, the following issues may arise during the upgrading of an informal settlement. For example:
  - a. *Lack of alignment between institutional/governmental goals and community needs*. This can result in the absence of a sense of ownership by the community for the interventions, ultimately leading to these being ineffective. This is because any project realised without the full engagement of the community may be viewed as an external element, which does not stimulate either a caring attitude or a sense of belonging in the users/targeted community.

FIGURE 29: A CONTINUUM FOR PARTICIPATION



56. NUSP Training Manual Chapter 4 'Participatory Approaches' pg. 20. Toolkit library item 7



- b. *Strong opposition/protest from the community concerning particular aspects of the upgrading process.* If a decision-making process is not transparent and/or participative, communities will feel deprived of their right to influence their own life trajectory. This can lead to suspicion and mistrust and accusations of corruption. This in turn can lead to opposition and protests.
3. **Sustain engagement and communication:** In the context of informal settlement upgrading, participation is not a once-off or temporary endeavour linked to specific project deliverables. Instead, participation must be seen as a process of ongoing urban management, especially because upgrading (whether conventional or incremental) is a slow process. Even when construction ('delivery' of built infrastructure) is completed, there are still ongoing operating, maintenance and urban management issues to attend to.
  4. **Transparency:** In the long run, a lack of transparency invariably results in even bigger problems later on, even if, in the short-term, it may appear expedient and useful. It is better to share problems, obstacles and challenges (e.g. delays with funding or development approvals) as they arise and deal with them collaboratively (have them 'on the table') rather than defer dealing with issues until a later time when frustration and resentments will have built up.
  5. **Realism:** There is a tendency to commit to unrealistic and unachievable timelines, especially when there is political pressure coming into play. Ensuring that all stakeholders (community representatives, politicians and senior officials) have all the necessary technical and social information, is a key factor. It is also important to avoid making rushed and unrealistic promises, which is especially tempting in pre-election periods. In the long run, it is best to make realistic promises and achieve them, even if they are more modest. In the long run this will build trust, respect of effective collaboration.
  6. **Effective community representation:** As outlined in section 5.7, an effective, stable and representative Community Development Committee (community-based partner) is a key success factor.

5.3: SUMMARISED PROCESS FLOW & ALIGNMENT

Participative processes	Municipal processes/decisions
<b>Initial community engagement</b> - make contact, identify key issues, identify local organisations	<b>Rapid assessment and categorisation (RAC)</b> including upgrading plans & preliminary MTEF allocations for USDG/UISP
<b>Community Development Committee</b> - Identify (or establish), confirm representivity, train & capacitate to co-produce and organise	
<b>Participative Action Planning</b> - Identify key issues, needs, assets, and opportunities. Define priority action	<b>City-wide upgrading plan</b> Develop
<b>Social compact</b> - between community & municipality confirming development objectives, roles etc.	<b>City-wide upgrading plan</b> Adopt
<b>Confirm Categorisation &amp; Developmental Pathway</b> - Confirm settlement category (A, B1, B2, C) and implications	<b>MTEF approvals, BEPP update</b> <b>Procurement/partnerships for implementation</b>
<b>Collaboratively implement first phase of development interventions/incremental upgrading</b> e.g. essential municipal services, health & safety mitigation	
<b>Participative planning for next phase</b> Review progress of upgrading <b>Update Participative Action Plan</b> Confirm/adjust developmental pathway Confirm priorities for next MTEF term Updated social compact	<b>Update City-Wide Upgrading Plan</b>  <b>MTEF approvals/BEPP update</b> <b>Procurement/partnerships for next phase of implementation</b>
<b>Collaboratively implement second phase of development interventions/incremental upgrading</b> e.g. key social services, housing consolidation, tenure improvement	

### 5.4. MUNICIPAL SYSTEMS AND STRUCTURES ACTS

The importance and key principles for community participation as well as mutual roles and responsibilities/duties (communities and municipalities) are substantially outlined in the Municipal Systems Acts (Act 32 of 2000).

Amongst other things the Act to “provide for the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities, and ensure universal access to essential services that are affordable to all; to define the legal nature of a municipality as including the local community within the municipal area... to provide for community participation;... to empower the poor and ensure that municipalities put in place service tariffs and credit control policies that take their needs into account by providing a framework for the provision of services, service delivery agreements and municipal service districts...to establish a framework for support, monitoring and standard setting by other spheres of government in order to progressively build local government into an efficient, frontline development agency capable of integrating the activities of all spheres of government for the overall social and economic upliftment of communities...”

The Municipal Structures Act (Act 117 of 1998), aside from providing for the “establishment of municipalities in accordance with the requirements relating to categories and types of municipality” also provides for the establishment of Ward Development Committees, which include representation of the relevant ward councillor. Whilst the Act does not define specific roles and functions, these are delegated by the relevant Municipal Council and are typically significant and wide-ranging in respect of guiding and overseeing development. As outlined in sections 5.6 and 5.7 however, the WDC is typically not sufficient on its own as a conduit for effective participation at the local, community level and typically the local development committee needs to be directly engaged and regarded as the primary local partner.

### 5.5. HOW ARE MUNICIPALITIES AND COMMUNITIES REQUIRED TO WORK TOGETHER?<sup>57</sup>

“Municipalities and communities should work together in an attempt to boost economic and social upliftment in their areas, and the Act makes a number of provisions for co-operation between municipalities and communities. Firstly, it sets out the rights and responsibilities of each party, as summarised in the table below:

**FIGURE 30: THE RIGHTS AND DUTIES OF MUNICIPAL COUNCILS AND ADMINISTRATION AND LOCAL COMMUNITIES**

	Municipal Councils	Local Community	Municipal Administration
Rights	Has the right to <b>govern its own affairs</b> without interference Has the right to <b>charge fees for services</b> and to impose surcharges on fees and rates on property (in line with national legislation) Must <b>act in the best interests of the community</b> and <b>encourage community participation</b>	Has the right to <b>contribute to decisions</b> made by municipalities and to be informed of any decisions affecting their interests Has the right to <b>submit recommendations and complaints</b> and to prompt responses to these Has the <b>right to access information</b> on a municipality’s state of affairs (including financial details) Has the right to the <b>use public facilities</b>	

57. This section is taken directly from the summary of the Municipal Systems Act provided by the Department of Public Service and Administration as part of the Know Your Service Rights Campaign, Batho Pele initiative at [http://www.ossafrika.com/esst/index.php?title=Summary\\_of\\_the\\_Municipal\\_Systems\\_Act%2C\\_no.\\_32\\_of\\_2000](http://www.ossafrika.com/esst/index.php?title=Summary_of_the_Municipal_Systems_Act%2C_no._32_of_2000)

<p><b>Duties</b></p>	<p>Must provide democratic and accountable government and provide <b>equitable access to services</b>                  Must promote <b>gender equity and financial and environmental sustainability</b> of services                  Must promote the progressive realisation of <b>fundamental rights</b>.</p>	<p>Must obey the procedures of the municipality and comply with any municipal by-laws                  Must pay service fees, rates, taxes and levies on time (with some exceptions)                  Must respect the municipal rights of other community members                  Must allow municipal officers reasonable access to their property in order to perform their work</p>	<p>Must establish a <b>relationship with the local community</b> and be responsive to its needs                  Must inform the local community of how it is managed and indicate the costs of services                  Must promote a <b>culture of public service</b> amongst staff and take measures to <b>prevent corruption</b>                  Must provide the community with any information that they have the right to access</p>
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“Municipalities **must promote community participation in the preparation of its integrated development plans**, budgets performance management system and decisions about municipal services.

“**Municipalities must make a special effort to involve vulnerable members of its community**, including people who cannot read or write, people with disabilities and women.

“Each municipality has a duty to receive and process petitions, complaints and recommendations from the community and **must enter into dialogue with community members by holding consultative sessions** and observing public comment procedures.”

### 5.6. ROLE OF WARD DEVELOPMENT COMMITTEES

The Ward Development Committee is an important stakeholder who should be involved and engaged in upgrading processes. As outlined previously, the Ward Development Committee (WDC), typically plays a significant and wide-ranging role in respect of guiding and overseeing development at ward level. However, as also noted, the WDC is typically not sufficient on its own as a conduit for effective participation at the local, community level and typically the local development committee therefore needs to be directly engaged and regarded as the primary local upgrading partner.

Although the WDC certainly has varied and important roles to play, it is usually not ideally suited to directly represent the local community in an upgrading project because it usually has broader responsibilities and its members may not be familiar with the day-to-day issues within the settlement. There may also be cases where there is a weak or poor relationship between the WDC and the local committee/structure.

### 5.7. ROLE OF LOCAL DEVELOPMENT COMMITTEES

There are de facto local development communities or leadership structures in most informal settlement communities. These structures may play differing roles, may reflect differing interest groups and may or may not always be functional in terms of a sustained upgrading developmental process; they may at times only reflect a particular grouping, typically those with the greatest power. It is emphasised that there will often be multiple groupings in a community and some will enjoy less power and thus be easily excluded (e.g. vulnerable women and children, the elderly etc.). The de facto structure may also not have significant developmental experience (e.g. in terms of participative and planning processes etc.) and may need capacitation. There is also the risk of changes in leadership over time, resulting in prior agreements being rescinded on, if the structure is not stable and mandated.

Ensuring that a viable, representative and stable Community Development Committee (CDC) is in place is therefore a very important initial step in any upgrading process; this may entail a mere confirmation of the legitimacy of the existing structure and capacitating it, or it may entail some up-front work to ensure that the structure is made more representative and inclusive.

The following process is therefore suggested. It may be necessary to secure additional capacity for these and other participative processes (refer also to sections 4.9 and 4.10):

1. **Scope local structures:** As part of initial engagement with the community, identify the leadership structure, as well as any other structures or subgroupings. Engage with them. Before directly engaging, scope the ward councillor and any other stakeholders with prior working knowledge of the area (e.g. municipal services personnel, DSD social workers, community development workers etc.) in order to get an idea of the issues and local dynamics.
2. **Mass meeting (if need be):** If there is doubt over issues of representivity and inclusiveness, then a mass meeting is one way to confirm the support/credibility which the leadership enjoys and to help make things more transparent and accountable. The ward councillor can often assist with this process.
3. **Confirm CDC:** Including who the representatives are, and identifying the positions they occupy.
4. **Capacitate CDC:** Including in respect of: a) how to communicate with the community and ensure effective two-way feedback; b) developmental processes such as essential services provision, site suitability, technical studies and planning/ environmental approvals; c) municipal processes and related timeframes such as those pertaining to committee approvals and procurement; and d) state funding instruments and related requirements and processes.

## 5.8. CO-PRODUCTION - MOVING BEYOND MERE PARTICIPATION

Coproduction means moving beyond a minimum level of participation (in order to meet conditions of compliance for grant funding instruments or to ensure community support as part of what remains an essentially top-down process of development) to a functional partnership with communities, where decision making and power is shared, and where citizens are empowered to achieve ongoing change beyond the delivery of physical infrastructure. Co-production also helps 'rewire' the relationship between the state and urban poor so that it more functional, trust-based and sustainable – this is a key building block of democratisation and urban inclusion.

It is recognised by NUSP that: “There is a strong recognition that informal settlement upgrading is a social process, involving people who already inhabit the land and who therefore have to be partners in the upgrading process. This aspect is called co-production. This means that informal settlement communities need to be actively engaged at key levels in the formulation of a strategy and project plans.”<sup>58</sup>

“True public participation in the design and roll out of services and development projects recognizes the empowerment of ordinary citizens and the democratization of government functions. The Municipal System Act of 2000 refers to government establishing “community participation where the community has a direct interest and influence on the design of governance arrangements.”<sup>59</sup>

“If it is just physical upgrading you are doing then the project can be finished in a few days, You don't need to do much work. You can just send a contractor to do it. But the people won't be changed. Their capacities won't be changed. Their relationships won't be changed. They will still be poor, vulnerable marginalised and unorganised group of people who happen to live together in the same slightly improved informal settlement”.<sup>60</sup>

58. NUSP Training Manual Chapter 1: The Case for Upgrading

59. CUFF Community Upgrading Facility Project Report, SDI South African Alliance, Resource Library item 165.

60. Somsook Boonchaba, Asian Coalition for Housing Rights (ACHR) Thailand - in Toolkit Library item 165



### 5.9. WHY DO WE NEED ORGANISED COMMUNITIES?

Communities need to be organised, not only to play an effective partnership role in upgrading in the short-term, but also to establish a functional working relationship with the municipality in the longer term in respect of urban management and ongoing operating and maintenance of essential services. An organised community is an asset to the municipality in respect of helping to drive urban change more effectively.

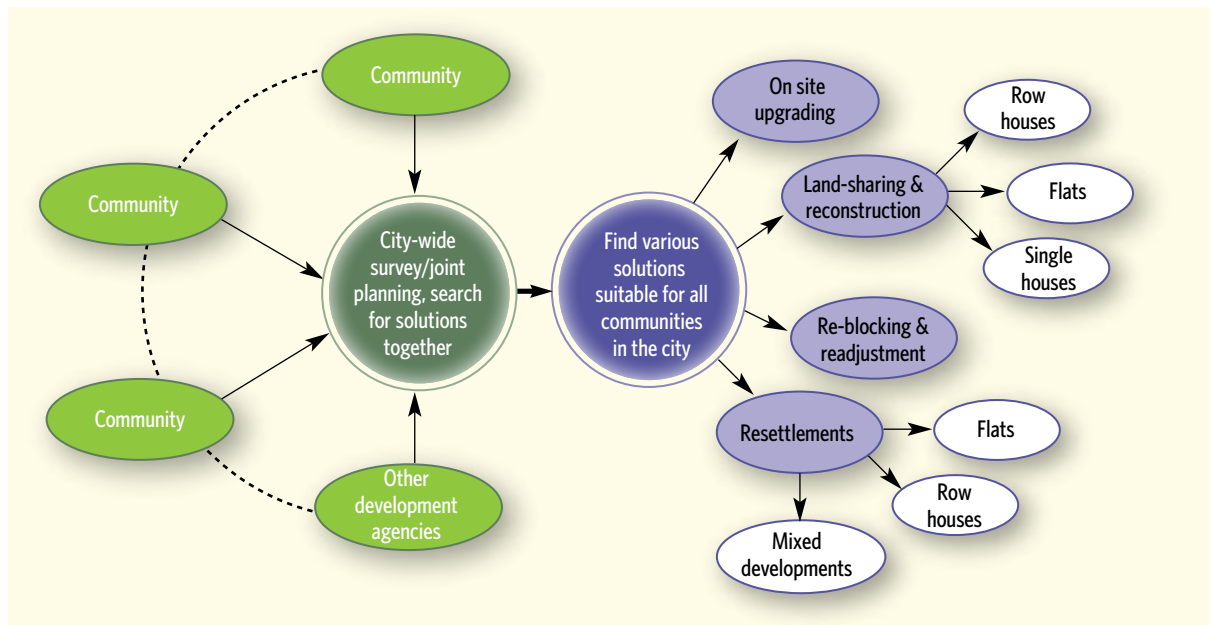
An empowered and effective Community Development Committee can play an important role in this process of organisation and sustaining the upgrade over time.

An organised community is necessary in order for effective, participative planning to occur and for various upgrading initiatives to succeed, not only in respect of essential municipal infrastructural services, but more importantly in respect of municipal operational services (e.g. fire protection), re-blocking, housing consolidation, community savings, and essential social services provision.

A social compact (agreement between municipality and community over development) is only 'bankable' if there is sufficient community organisation.

***“The importance of city-wide programmes in which urban poor organizations are fully involved:*** The city-wide scale that Baan Man-kong supports is critical for the new kind of slum upgrading – by people. Working on a city-wide scale suddenly makes apparent the differences between all the slums within the same constituency. And if this is done properly, people start to understand these differences – for instance, differences in land ownership and in legal status, differences in the availability of infrastructure and in housing and environmental conditions, differences in people, and differences in degrees of vulnerability. If the process is managed properly, suddenly all of these differences become a kind of university, where people learn about their own city.”<sup>61</sup>

**FIGURE 31: THE LINKAGE FOR A LOCAL HOUSING DEVELOPMENT PARTNERSHIP BY CITY-WIDE NETWORKS WITH COMMUNITIES AND LOCAL AUTHORITIES**



61. Baan Mankong: going to scale with 'slum' and squatter upgrading in Thailand by Somsook Boonyabanha, Resource Library item 119.

### 5.10. IMPORTANCE OF COMMUNITY ORGANISATION IN ACHIEVING A CITY-WIDE APPROACH

Community organisation and empowerment is important in achieving a scale-able city-wide approach to upgrading – initiatives such as Baan Mankong in Thailand demonstrate this. Refer also to section 3.10.

### 5.11. THE NEED FOR SPECIALIST SKILLS FOR PARTICIPATION AND FACILITATION

Facilitating participative processes requires specialist skills and experience. Failure to assign personnel with sufficient skill, experience and seniority right from the start, usually results in risks and problems at a later stage. Whilst the ward councillor usually plays a supportive role, he/she often does not have the necessary skills nor time to fulfil this role in a comprehensive fashion, or at the least will require significant support. Most municipalities do not have sufficient existing specialist facilitation capacity in-house (which they can dedicate to specific upgrading projects) and they will therefore need to either recruit and thereby expand this capacity, or else secure the capacity through NGO partnerships, or even procure it from the private sector.

### 5.12. PARTICIPATIVE ACTION PLANNING<sup>62</sup>

Action planning is a term used for the participatory process of identifying key issues and agreeing on priority projects in a community. There are many techniques which can be used to encourage people to participate, identify and record what people express, review what has emerged and collectively prioritise and identify action steps. This planning is normally a facilitated process that takes place over a period of time in a series of participatory forums; it is a project-linked method that focuses on the planning phase of a project where a number of key decisions are generally made.

For informal settlement upgrading international agencies such as the World Bank, UN-Habitat and The Cities Alliance tend to recommend community-level or

community-based planning methods. Action planning is one of the methods that has been used successfully in informal settlement situations.

Action planning aims at empowering communities to design, implement and manage their own upgrading projects. It is community-based, problem-driven and designed to create policies from the grassroots level.

For more information, refer to: a) NUSP Manual Part 4 (Participatory Approaches) – Library 6; b) Housing Development Agency Participative Planning Manual – Library 49; c) PPT Participative Community Action Planning Method – Library 69).

### 5.13. PARTICIPATIVE UPGRADING PLANS

Upgrading plans need to be developed through effective participation of local communities. This is consistent with the UISP, the prescripts of the BEPP (see 2.10 and 2.11) and international practice. Such co-driven upgrading plans (developed jointly by communities and the municipality) should be ‘rolled up’ into the municipality’s city-wide upgrading plan (see section 2.1 and 2.2). The processes outlined in section 5.12 should be utilised to develop such plans. They should result in and be attached to social compact agreements (see 5.15).

A suggested template for the outcomes of a participative upgrading plan is provided on the following page. This would form an annexure to a social compact agreement. It would also align with and populate a city-wide upgrading plan. The development of these plans (and in particular the timeframes associated with intended outcomes) should take into consideration the availability of resources (e.g. funding) for operationalisation of the city-wide plan. There will need to be prioritisation of settlements and upgrading interventions (see section 2.4). The critical factor is to ensure that the participative upgrading plans agreed with local communities are realistic and achievable (in respect of municipal commitments over any MTEF period).

62. Content for this section taken mainly from NUSP Training Manual Chapter 4, page 25 and others

5.14: SIMPLIFIED UPGRADING PLAN TEMPLATE

Incremental Upgrading Response Plan Template									
With indicative examples filled in									
Date: 20th October 2017 Name of Settlement: YZ Municipality: XX Ward: 55 Households: 1250 Year of establishment: 1996 MTEF Period: July 2017 to June 2020									
Response category	Status quo (with examples)	Adequacy?	upgrading requirements/actions	Priority	Est. timeframe (months)	Prelim. Cost estimate if available			
							Urgent?	Next MTEF?	
<b>ESSENTIAL MUNICIPAL INFRASTRUCTURAL SERVICES</b>									
Sanitation	informal VIP. Six poraloo.	n	6xCommunal sanitation blocks with wash facilities	Y	Y	24			
Water supply	four standpipes. Stream	n	approx 8x standpipes with drainage	Y	Y	12			
Stormwater/drainage	none	n	stormwater drainage channels	Y	Y	18			
Electricity	informal connections	n	regularise. Formal connections + pay meters.	Y	Y	24			
Street lighting	none	n	possible high mast lighting	?	?	18			
Roads & footpaths	all informal and inadequate access	n	three main access roads + paved footpaths with steps & stormwater controls - alignments to be agreed with community	Y	Y	24			
Reblocking/access	none has occurred. Settlement tightly packed. Insufficient access	n	clear three main access ways for emergency vehicles - partial reblocking	Y	Y	12			
<b>ESSENTIAL MUNICIPAL OPERATIONAL SERVICES</b>									
Solid waste	none/ad hoc	n	municipal tips at 4 collection points. Assign EPWP community litter pickers.	Y	Y	6			
Fire protection	none/ad hoc	n	Assign local fire marshalls Clear drag lines for fire hoses.	Y	Y	6			
Disaster management	none/ad hoc. Significant problems with shacks being damaged in high winds and leaking and partial flooding when there are high rains. Shack fires are also a problem	n	assign fire marshalls to also assist with disaster management. Setup municipal advance weather warning for severe weather events and associated proactive measures.	Y	Y	6			

ESSENTIAL SOCIAL SERVICES						
ECD	there are at least 6 existing ECD centres of which one has conditional registration with the DSD	n	Get DSD on board. survey existing centres, ID those with potential, improve infrastructure, secure DSD registration Consider ECD hub for materials and support of existing centres	y	y	12
Schools	community makes use of schools in neighboring formal suburbs and townships which are reportedly coping	?	Assess measures to improve learner transport/safe conveyance to schools	y	y	12
Clinics	one mobile clinic visits twice a month XXX permanent clinic approx. 5km away XXX provincial hospital located 15km away	n	Engage with Dept. Health RE increase frequency of mobile clinic visits and establish visits to ECD centres.	y	y	12
Special needs	reportedly there are older, sick and disabled persons who require home based care	n	Engage with DSD, community development workers and support NGOs to seek additional support.	y	y	12
Other						
TENURE						
Functional	No tenure security yet. Land partially public works, partially privately owned	n	confer functional tenure via administrative recognition via notice to community of categorisation and as per social compact to be signed.	y	y	4
Individual	Not in place yet.	n	assess budget availability and likely timeframe for land acquisition (noting competing priorities). assess potential for possible municipal certificate of occupation	n	n	?
HOUSING						
Informal	housing of variable quality. Older parts use formal materials e.g. blocks, roof sheeting. Other more recent parts use hazardous materials including planks and plastic.	n	work with community via social compact for residents to improve the quality of their shacks using improved materials which are less flammable and more durable. Consider possible assistance with materials supply on a limited basis.	y	y	18 months
Formal	none. No subdivisions. No individual tenure.	n	Not a current priority given that land has not yet been acquired.	n	n	n/a
OTHER						
Micro-enterprises	Large numbers of home enterprises including steel manufacturing, clothing manufacture, spazas and shebeens	?	Further assessment needed to determine if any supportive actions can be taken e.g. creating basic/affordable manufacturing or retail space or providing business development support to enterprises	?	?	n/a
Specify						
Specify						

## 5.15. SOCIAL COMPACTS - WHY AND HOW?

*Effective planning and preparation is relatively inexpensive compared to implementation, and ensures that a viable and appropriate concept is developed, which is accepted by key stakeholders. It can thus be used as the basis for a signed social compact between the community and municipality once consensus has been reached. An upgrading plan, which has not been negotiated and does not have buy-in from key stakeholders, cannot be successfully implemented.<sup>63</sup>*

### Purpose:

- › The purpose of a social compact is support and operationalise a functional working relationship between the community and municipality (and potentially other key actors involved in the development process) in respect of upgrading. A social compact reflects the spirit of the social contract between the state and civil society in terms of which citizens mandate the state to play certain key roles, including the provision of certain essential services, and in terms of which the state enjoys certain legitimate authority and there are various rights, freedoms and obligations on citizens (such as those reflected in the South African Constitution). A social compact is thus distinct from a normal legal agreement (such as for the purchase of goods and services). It should rather be seen within the context of the broader social contract between state and civil society.

### The three key functions/elements of the social compact are:

- i. **Categorisation and developmental pathway:** The categorisation of the settlement (A, B1, B2, C) should be referenced along with the description of the overall developmental pathway (along the lines of the categorisation framework outlined in section 2.7 (i.e. A1 full conventional upgrade, B1 incremental upgrading with essential services

provision, B2 deferred relocation with emergency services; C imminent relocation).

- ii. **Roles & responsibilities/duties:** The respective roles and responsibilities/duties of the primary signatories (municipality and community) need to be specified including broadly how communication and collaboration will occur (e.g. use of a steering committee).
- iii. **MTEF priorities:** It is important that specific, achievable development actions/deliverables are specified for the next three-year MTEF period. One way to do this is for these to be described in an annexure to the social compact which can then be updated periodically for forthcoming MTEF periods (e.g. every two or three years). This can a form along the lines of the upgrading plan contained in section 5.14

### Relationship with city-wide upgrading plan:

- › Ideally, a social compact should support and be aligned with a municipality's city-wide upgrading plan (see sections 2.1 and 2.2. Where social compacts for particular settlements are not yet in place at the time of developing a city-wide upgrading plan, it is suggested that the plan still be developed (e.g. in respect of providing for essential services provision), but that such social compacts be finalised as soon as possible and if need be the city-wide upgrading plan adjusted accordingly.

### Form:

- › The form of a social compact should be a simple, easy-to read document. It should be regarded as a living agreement which is updated from time-to-time. Given its role in supporting the aforementioned social contract (between state and civil society), it should not be seen a normal legal contract with the purpose of legal enforcement, but rather to build trust and effective collaboration around a defined developmental agenda. An agreement with all of the usual legal terminology and clauses (e.g. pertaining to definitions, disputes, domiciles, confidentiality, breach, domicilium) is not optimal. Not only do these make the document long and difficult to read, but they also suggest that the primary way



in which the compact will be enforced will be via legal methods (e.g. the courts) which is not the intention. It is noted that there is already statute and legislation in place which outlines the service delivery and other responsibilities of municipalities and other spheres of government.

### Primary/essential signatories:

The primary signatories of a social compact are:

1. The **local community** (via the local community development committee). As outlined in sections 5.6 and 5.7, the role of this committee is typically distinct from the ward development committee which is a higher-level structure.
2. The **municipality** (either via the head of the human settlements or other department responsible for upgrading, or the municipal manager).

### Secondary/optional signatories:

3. **Support NGOs** – where such organisations are playing a core support role (e.g. a Community Resource Organisation [CRO] in a PHP project), then it would be appropriate for them to be a signatory.
4. **Ward Development Committee** – because the ward councillor and WDC have automatic roles and obligations (as per the Municipal Systems and Structures Acts), it should not be essential for them to sign the social compact. However, provided there is a constructive working relationship between the WDC and local development committee, then there may be benefits in the WDC also signing the social compact.
5. **Responsible Provincial departments** – where key departments have a specific and agreed role, then it may be useful for them to co-sign the social compact at particular points in time – MTEF periods (e.g. Department of Social Development supporting ECD centres and home-based carers, or the Department of Education building a school), as they will, in any event, participate in the steering committee.
6. **Implementing agent (IA)**: Where an IA has been contracted (e.g. by the municipality) to deliver a project, then it may be appropriate that they sign the social compact, given that they have

a commitment to deliver certain services and collaborate/communicate in a particular way; this is not essential given that they will already have a contract with the municipality and will participate in the steering committee.

### Non-signatories:

7. **Landowners** – land owners should not normally be considered signatories. The municipality would normally deal directly with landowners via separate land negotiation processes, land agreements or even via expropriation where necessary.
8. **Municipal line-departments** – it is undesirable that each and every affected municipal line department is signatory. The municipal department which is mandated, or signs, would normally ensure this lateral alignment and communication and such departments would be represented on the steering committee.
9. **Ward councillor** – although the councillor may sign in his/her capacity as the chair of the WDC, it is not recommended that they sign in their role as councillor.
10. **Professionals working on the project** – professionals provided services on the project are usually contracted by the municipality and are accountable to them via professional services contracts. Certain professionals would however need to engage with the steering committee (e.g. project manager, design engineer, town planner etc.).

### Content:

The specific content of social compact (in terms of upgrading objectives and deliverables) will vary significantly depending on: a) the category of the settlement; and b) the stage of upgrading achieved. Whilst the roles and responsibilities, communication arrangements and overall development trajectory may be fairly similar (across settlements in the same category), the specific MTEF actions and deliverables may vary significantly. It is therefore suggested that these deliverables be attached to the social compact as an annexure and updated from time to time – this can take the form of the upgrading action plan contained in section 5.14.

**Specimens:**

A suggested social compact template has been included in the Upgrading Resource Library (item 309). Whilst there are numerous other examples of social compacts in various municipalities, these tend to be either too complex, standardised or legal in their orientation.

**Additional guidance notes:**

- › **Keep it simple:** It is important that the social compact is simple, practical and enables a ‘meeting of the minds’ between the primary signatories (community and municipality). If it gets too technical and detailed, it is unlikely to achieve the desired outcomes. It is better for it to reflect an agreement over a few key, practical outcomes, than for it to be over-ambitious.
- › **Update over time:** It is important that the compact is a living document which is regularly reviewed and updated (e.g. every two or at most every three years). It is not viable to map the long-term trajectory in detail, but it is possible to map the

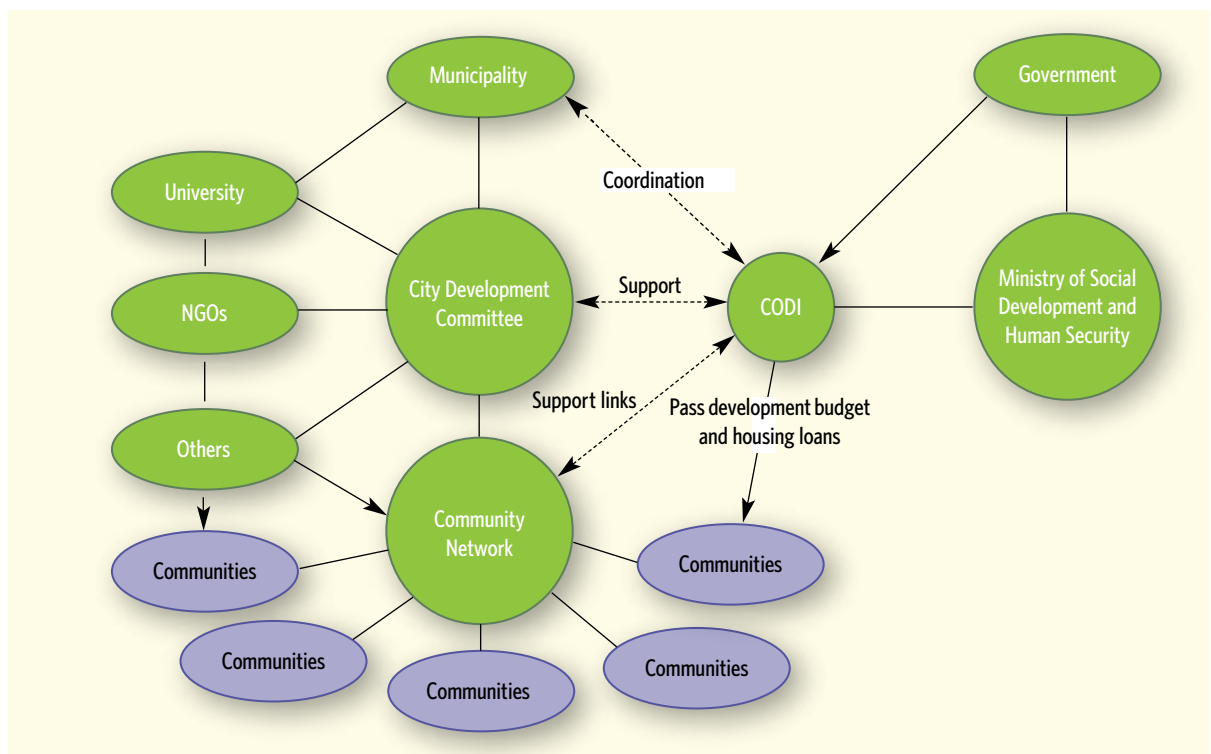
next three-year MTEF term against a broader developmental pathway or trajectory.

- › **Participation, partnership and trust:** The principles and processes outlined under sections 0, 5.2, 5.5 and 5.7 (pertaining to participation, role of community-based partner etc.) need to be adhered to. A social compact cannot occur in a vacuum of effective participation and an effective and collaborative working relationship between municipality and community is required.
- › **Viable CBP:** As outlined in section 5.7, it is important that a viable, representative, capacitated and relatively stable community-based partner (local community organisation) is in place.
- › **Not project-based:** In the context of upgrading, it is preferable that the social compact is not confined to a particular project or intervention, but rather lays the platform for ongoing and sustained upgrading, urban management and partnership.

**5.16. CITY-WIDE UPGRADING FORUMS**

Creating a city-wide forum which includes representatives of the urban poor (along with the metro, key provincial departments and support NGOs) is an

**FIGURE 32:** XX<sup>64</sup>



64. Baan Mankong precedent – Toolkit Library reference 119, page 32.

idea that is receiving increasing prominence in South Africa due, in large measure, to its success in other parts of the world in establishing more participative and partnership-orientated upgrading programmes. For example, in eThekweni Municipality, a reference group involving a multiple municipal line-departments, a cross section of local support NGOs and academic roleplayers, was established during the formulation of the informal settlement upgrading component of eThekweni’s 10ORC Strategy. It is envisaged that this

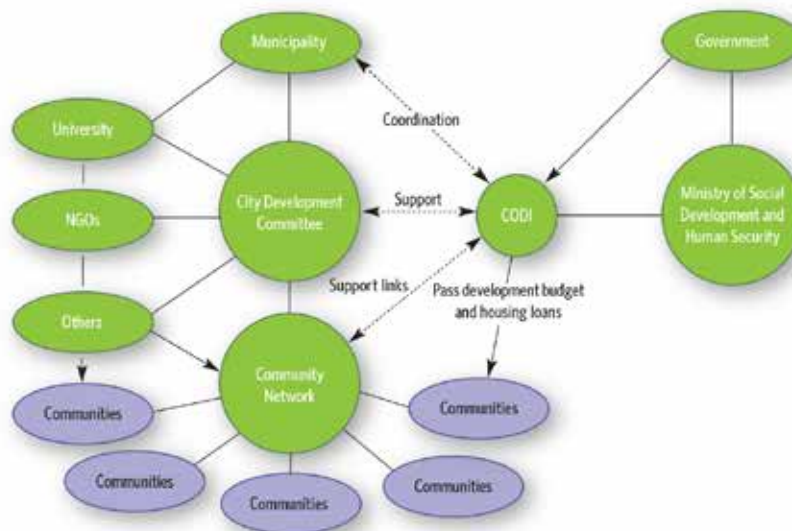
reference group will be continued and potentially expanded, as the Strategy is implemented.

There is significant international precedent for such city-wide forums. The following examples are taken from Baan Mankong precedent in Thailand.

“At the national cycle, Picture 1 presents the mechanism of BMK program designed to coordinate with diverse stakeholders, especially the grassroots, in slum upgrading delivery and the national

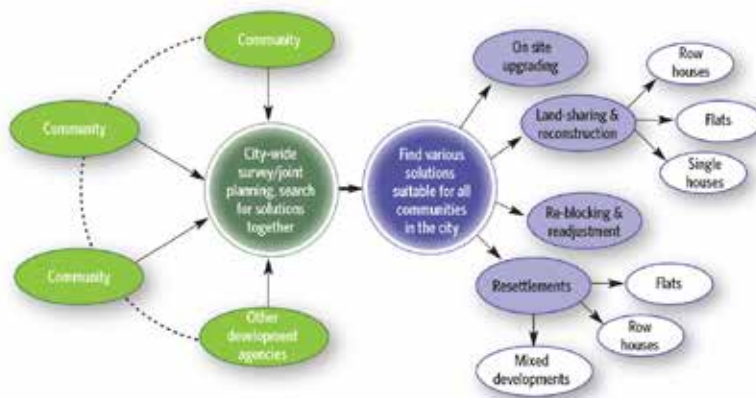
“Successful Approaches to National Slum Upgrading and Prevention, Thailand” 65

Picture 1 BMK’s program mechanism (Boonyabanha 2005)<sup>78</sup>



At the local cycle, Picture 2 presents BMK citywide network toward quantified housing delivery by slums improvement in diverse technical-spatial arrangements and emphasizes on community involvement. **Citywide mechanisms – surveys, planning, and participation – has been a core platform which links to pertinent stakeholders in slum upgrading and informal settlement improvement.** On one hand, by bridging horizontally with in situ community networks for mutual learning process, the platform on the other hand connects vertically to local authorities, landowners, NGOs, and academia. In term of spatial outcomes, the platform contextually seeks for the most appropriate shelter and land tenure solutions. Conventionally, the targeted groups alter among four approaches – on-site upgrading, land sharing/reconstruction, reblocking, and resettlement/relocation – by the aforementioned shelter types.

Picture 2 Mechanism of BMK’s citywide network (Boonyabanha 2005)<sup>79</sup>



65. Baan Mankong precedent, Thailand, Toolkit Library item 238, page 22

government in budget allocation. At the ground, accumulating via projected-based implementation, CODI has set up the BMK program unit within its regional offices by embracing and creating platform with pertinent agencies, particularly with local authorities, university, NGOs, and community networks via city development committee (see Section 5.1). Meanwhile, at the top, CODIBMK program bridges the shelter demand for improvement/secure tenure to the national government to **directly bypass supports to communities.**

“At the local cycle, Picture 2 presents BMK citywide network toward quantified housing delivery by slums improvement in diverse technical-spatial arrangements and emphasizes on community involvement. **Citywide mechanisms - surveys, planning, and participation - has been a core platform which links to pertinent stakeholders in slum upgrading and informal settlement improvement.** On one hand, by bridging horizontally with in community networks for mutual learning process, the platform on the other hand connects vertically to local authorities, landowners, NGOs, and academia. In term of spatial outcomes, the platform contextually seeks for the most appropriate shelter and land tenure solutions. Conventionally, the targeted groups alter among four approaches - on-site upgrading, land sharing/reconstruction, reblocking, and resettlement/relocation - by the aforementioned shelter types.”<sup>66</sup>

## 5.17. NGO PARTNERSHIPS

Partnerships with support NGOs are important in achieving city-wide upgrading, as evidenced by both local and international experience. The importance is not only in moving to scale, but also in terms of improved participation and upgrading methodologies (e.g. participative planning, enumeration, re-blocking, PHP etc.). For more information refer to section 4.9.

In order to tap into the specialist capacity and expertise of upgrading support NGOs, various partnerships and procurement arrangements can be considered as outlined in section 4.10.

66. Toolkit library 119 - Boonyabancha, Baan Mankong.











# 6 LAND AND TENURE

## 6.1. WHY ARE LAND AND TENURE SOLUTIONS KEY FOR CITY-WIDE UPGRADING?

Secure tenure is recognised as being an important element of upgrading, but conventional, formal tenure solutions (title deeds) are typically not scale-able for various reasons including:

- i. Timeframes: Formal tenure requires up-front land acquisition, which is typically a slow process taking many years and often constituting a project intervention in its own right. Many factors affect how long land takes to acquire such as: a) land ownership (e.g. private, provincial/national sphere of government, state-owned entity, municipal land); b) number of properties involved; c) willingness of owner to dispose of land; and d) cost of land which in turn can be affected by many different factors. Even once land is acquired, all formal town planning, environmental and other approval processes must be followed so that a township can be established with a sub-divisional layout and the transfer of individual erf's to beneficiaries via conveyancing and title deeds.
- ii. Cost: Over and above the cost of up-front land acquisition, the costs associated with all formal planning processes are also considerable.
- iii. Reversion to unregistered: There is a significant risk of title deeds reverting to informal, unregistered tenure (by means of unregistered transfers), as evidenced by this trend on low income housing projects. Reasons for reversion appear to include: a) high costs of formal property transactions through the Surveyor General's office; b) unfamiliarity of such transactions to people more familiar with traditional forms of tenure (including associated 'red tape'); and c) informal building extensions, boundary encroachments and backyard shacks which do not comply with formal building and town planning norms.

**FIGURE 33: EXAMPLES OF LAND OWNERSHIP SCENARIOS AND IMPLICATIONS FOR ACQUISITION:**

Land ownership	Issues and implications
Private - Single property/owner	Rapid acquisition possible if landowner is willing and there are not impediments such as rates arrears on settled (which is often the case). If owner is unwilling, then expropriation in the public interest may become necessary (this has the advantage of separating processes of acquisition from those of compensation. Expropriation is nonetheless a relatively slow process, usually taking 6 months to a year.
Private - multiple owners	As above, except made slower and more complex due to multiple owners/land parcels.
Private - deceased estates	Winding up deceased estates is inherently slow. Consensual expropriation may be necessary in order to accelerate land transfers.

State-owned entity/Vvparastatal E.g. Transnet, Eskom	Transfers from state-owned entities is a slow process. There is currently no mechanism to expedite such transfers which typically required lengthy engagement, including in respect of whether or not the land is still required and the availability of alternative land. They typically take 6 months and more often more than a year.
Dept. Public Works	Transfers from state departments to municipalities are similarly slow processes (see above). There is currently no mechanism to expedite such transfers which typically required lengthy engagement. They also typically take 6 months and more often more than a year.
Dept. Land Affairs	
Dept. Education	
Dept. Transport	
Other Department	
Municipality	If land is already owned by the municipality this obviously makes upgrading more straight forward and expands the tenure options available.

### 6.2. TIMING OF LAND ACQUISITION

It is government practice, as per its constitutional obligation, to provide essential services to communities in advance of land acquisition, where a human settlement is regarded as permanent and the provision of the services is necessary (refer to Toolkit Library item number 298 “Preliminary Briefing Document: State Investment in Essential Services for Informal Settlements on land it does not own”). This practice is clearly envisaged in and supported in the UISP, where phase 1 (interim services) occurs prior to land acquisition. The optimised UISP phasing outlined in section 1.19 envisages ensuring that the provision of such essential services is more comprehensive in nature given that land acquisition and formal tenure otherwise result in profound blockages to achieving an inclusive and transformative upgrading and urbanisation agenda. Essential services, in the context of a developmental state, needs to be defined more broadly and inclusively than only basic and sanitation (as is often the case). It is evident that a fuller basket of essential services, including essential social services, is necessary, appropriate and envisaged in the constitution and other policies of government.

### 6.3. STATE INVESTMENT PRIOR TO LAND ACQUISITION

Government has both the right and obligation to fund the provision of essential services on privately own land (in advance of land acquisition) subject to there being

a structured and transparent planning process in place including settlement categorization designation in the SDF, notification of landowners and the development of a bylaw for incremental development areas as a parallel process (refer to toolkit library item 369 for more information). There is supported by multiple Constitutional and High Court precedents (refer to toolkit library item 298) as well as various legal opinions provided by senior councils to certain metros. There is in addition copious precedent for municipalities and government departments funding essential services provision in advance of land acquisition. It is regarded as necessary and appropriate that government does so, even though, at times, this necessity gives rise to some ambivalence and uncertainty which is driven mainly by a concern for the respect of property rights and a desire to protect the state’s investment (i.e. to avoid a situation of wasteful expenditure). It is accepted that government needs to balance different rights and obligations.

#### Precedent for state investment in essential services prior to land acquisition

- *Interim services provided by metros within informal settlements.* Based on meetings with metros, it is evident that most if not all metros accept their obligation to provide at least a minimum level of essential services (e.g. basic water and sanitation), even when they do not yet own the underlying land.
- *eThekweni’s Incremental Services Programme* is one specific example of the above. The City adopts a developmental position and provides services in

advance of land acquisition (given that most settled land in the City is privately owned); historically it did so on the basis of various notifications to landowners. The nature of these notifications varied, but the net effects were typically to: a) advise the landowner of the municipality's need to provide certain essential services which often addressed health and safety threats (e.g. illegal electrical connections); and b) defer the issue of land acquisition and compensation until a future point in time and typically subject to such formalisation processes as town planning and environmental approvals. In addition, in some instances, the landowners were notified of their obligation in terms of the municipal ordinance (i.e. the Local Authorities Ordinance of 1974 – sections such as 225 and 229 which relate to the obligation of a landowner to take necessary steps to address sources of 'danger' and 'nuisance').

➤ ***Rural services programmes of government*** including those pertaining to water, sanitation and electrification on rural/traditional land have typically been provided without the responsible state department or municipality acquiring either the land or formal land rights.

### Legal basis for state investment prior to land acquisition

There is a clear legal basis for the state to make these investments in essential services, subject to the municipality having satisfied itself that the settlement is indeed permanent and that the investment is aligned with long-term planning intentions (as reflected in a city-wide upgrading plan and IDP). A briefing document has been compiled which summarises the legal rights and obligations in this regard (refer to Toolkit Library item number 298 "Preliminary Briefing Document: State Investment in Essential Services for Informal Settlements on land it does not own"). The legal basis includes the following (extracted from the aforementioned briefing document):

i. The Constitution enshrines a range of basic rights which are relevant to informal settlements including the rights pertaining to essential services, a safe living environment and human dignity. There are additional, special rights pertaining to children, noting the high levels of child vulnerability within informal settlements. E.g. Section 27(2) of constitution: "The state must

take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights."

- ii. The obligation of municipalities (and the state more generally) to address these rights is not confined to land which it owns. This obligation includes residents of informal settlements. The deprivation of essential services represents a violation of basic human rights. There is also precedent for the provision of essential services by the state on land which it does not own including private land, within other state programmes. For example:
- i. Municipal Systems Act sections 4(2), 73 which imposes an (undefined) minimum core on municipalities, and it expects the prioritisation of basic municipal services), 23-27.
  - ii. Establishment of Security of Tenure Act (ESTA e.g. section 6 - Farm occupiers have the right not be denied access to water or health (including sanitation).
  - iii. Rural electrification, roads, water and sanitation programmes e.g. Water Services Act sections 3(2), 11(1), 11(2), 11(3).
  - iv. Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 ('PIE').
- iii. The obligations of the state extend to privately owned land as demonstrated by Constitutional Court precedents: The aforementioned obligation is already evident from many existing pieces of legislation and state programmes noted in the preceding section (which clearly envisage or include scenarios of privately owned land). However, in addition, there are also several Constitutional and High Court precedents which confirm that the state's constitutional obligations extend to private land. Cases such as *Blue Moonlight* (Constitutional Court in 2011), *Modderklip* (Constitutional Court 2005) and *Odvest* (Western Cape High Court in 2016) amongst others clearly demonstrate this. Such cases show that the state's obligations are not limited to land which it owns. In *Blue Moonlight* the court found that the state should balance the rights of property owners under the Constitution with those of indigents and occupiers. Whilst none of these cases specifically addressed the issue of the provision of essential services on an

occupied site, it is instructive that, in the Odvest case, the only solution open to the municipality was to acquire the land in question for purposes of human settlement. In the Port Elizabeth Municipality vs Various Occupiers (Constitutional Court, 2004), the municipality eviction from informally settled land was prevented, taking into consideration a lack of alternative, available land. The PIE Act was relied upon, requiring the courts to “infuse elements of grace and compassion into the formal structures of the law”. The courts are “called upon to balance competing interests in a principled way and promote the constitutional vision of a caring society based on good neighbourliness and shared concern”. It is noted that, in terms of the Constitution, private parties generally have negative obligations not to interfere with the provision of socio-economic rights.

- iv. The state is empowered to expropriate private land for the public good as per the Expropriation Act of 1975 and also as per the section 9.3b of the Housing Act 9 (although typically a slow and costly process).
- v. Certain ‘core’ Constitutional rights (basic human rights) may enjoy a higher precedence than property rights in some instances as evidenced by the various existing legal provisions (e.g. Expropriation and Housing Acts, Land Restitution etc.). There are clearly limitations in respect of private property rights, especially when public interest, historical injustices and socio-economic transformation is at stake. There is a particular case to be made in respect of the access to land by previously disenfranchised persons. Whilst the Constitution certainly upholds private property rights, these rights need to be balanced with other rights, including those which confer an obligation on the state to provide essential services for poor and vulnerable citizens. As previously indicated, withholding the provision of essential services represents a violation of basic human rights enshrined in the Constitution. Such rights are separate rights to those pertaining to private property and are not linked, dependent or conditional on them. These conflicting and competing rights clearly need to be appropriately balanced.
- vi. Private land owners have a responsibility in respect of the illegal occupation of their land, including seeking eviction orders and calling on the municipality for assistance. Landowners who have not reacted in this way have failed to exercise due care as property owners. Even if they have not permitted or encouraged the occupation of their land, they are complicit in permitting a change of de facto land use of the property in question. Landowners may also bear a responsibility to provide certain essential services to residents on their land, even if they are not collecting rental. In the event that landowners have permitted or encouraged occupation or are collecting rentals, then they may have acted illegally, and may be regarded as having already tacitly agreed to their land being used for purposes of human settlement. This situation does not mean that they do not have a right to fair compensation for such land in the event that the state opts to purchase or expropriate it or that land should in fact be utilised for such purposes.

### Senior Council Legal Opinions

Over and above the legal precedent outlined above, there is reportedly at least two senior council opinions, the most recent of which was commissioned in 2018 (but neither are yet in the public domain due to protocol issues). Both of these indicate that metros are both obliged and empowered to provide essential services for residents of informal settlements, in advance of land acquisition (and even on privately owned land), subject to certain provisos. In general, these relate to: there being a rational planning framework (such as categorisation and designation in the municipality’s Spatial Development Framework (SDF) which establish SPLUMA compliance); the level of investments being appropriate and reasonable in respect of cost-effectively addressing the health, safety and essential services requirements of residents; and there being transparency as land rights and future land acquisition intentions (e.g. notifications to landowners of settlements status, planned municipal service delivery and indication that land acquisition will be dealt with in due course taking into account policy guidance from national government and funding availability). The latter opinion forms the basis of the planning and land rights framework proposed under sections 7.1 and 7.2 and as also contained in toolkit item 369.



#### 6.4. ADDRESSING STATE UNCERTAINTY OVER FUNDING SERVICES ON LAND NOT YET OWNED<sup>67</sup>

In respect of the three key concerns of the state over investing on private land or land not owned by the government entity/department making the investment, the following are noted in order to demonstrate that all three can be addressed and need not prevent the provision of essential services:

1. **Concern over undermining or transgressing the property ownership rights of landowners (state or other):**
  - i. Municipalities are obliged to provide essential services for residents of informal settlements even when they do not own the land in question.
  - ii. Core Constitutional rights (basic human rights) are not linked, conditional or dependent on property rights. Essential services address these core Constitutional rights.
  - iii. Municipalities can plan and exercise control over land they do not own, including land they may plan to acquire. This includes categorizing informal settlements in respect of their developmental pathway.
  - iv. The state can expropriate land in the public interest and pay fair compensation.
2. **Concern that improvements (essential services) may increase the value of a private property at the state's expense:** The state is not necessarily obliged to compensate for improvements which it has made:
  - i. The value of compensation paid when expropriating land must factor in, amongst other things, "direct state investment and subsidy in the acquisition and beneficial capital improvement of the property" (Expropriation Bill 2015, section 12).
  - ii. The state is obliged to pay compensation which is "just and equitable, reflecting an equitable balance between the public interest and interests of those affected, having to regard to all relevant circumstances"

(Memorandum to Expropriation Bill 2015, 12.1).

- iii. Municipalities should advise landowners that they will not be compensated for improvements pertaining to essential community services as part of their incremental upgrading processes and as per their municipal planning, including settlement categorisation and possible transitional zoning.
3. **Concern to avoid fruitless and wasteful state expenditure:** Given that municipalities have planned appropriately, including having categorised settlements to determine their developmental pathway, investments in essential services cannot be regarded as fruitless and wasteful because:
    - i. They provide essential and beneficial services to the urban poor which are tangible and necessary for residents of informal settlements and which are often the only services available for a significant period of time before full upgrading/formalisation becomes possible.
    - ii. They assist the state in meeting certain core Constitutional obligations (addressing basic human rights) and withholding these would constitute a violation of basic human rights.
    - iii. In the case of category B1 settlements, some of the services can form part of the eventual full upgrade/formalised development (e.g. main access roads).

#### 6.5. IMPLICATIONS FOR INFORMAL SETTLEMENT PLANNING PROCESSES<sup>68</sup>

1. **Municipalities are required to categorize all of their informal settlements in respect of their developmental 'pathway'.** This is required by the National Department of Human Settlements via the National Upgrading Support Programme (and in KZN, the 2011 Upgrading Strategy of the KZN Department of Human Settlements). This categorisation has already been done in most metros and large municipalities, and forms the

67. Extracted/adapted from CSP Briefing Document pertaining to state investment on land it does not own – Toolkit Resource Library Ref. 310.

68. Extracted/adapted from CSP Briefing Document pertaining to state investment on land it does not own – Resource Library Ref. 310.

basis for the planning of upgrading and becomes the basis for Housing Sector Plans and related IDP, MTEF, MTSF and BEPP budget frameworks. The categorisation framework is as follows:

- i. FULL CONVENTIONAL UPGRADING consisting of full services, top-structures and formal tenure (i.e. formalisation) where appropriate, affordable and viable (category 'A').
  - ii. INCREMENTAL UPGRADING WITH ESSENTIAL SERVICES for settlements which are regarded as permanent and leading to eventual formalisation or other permanent settlement solutions where full upgrading is not imminent (a situation which often prevails) (category 'B1').
  - iii. DEFERRED RELOCATION WITH EMERGENCY SERVICES for informal settlements which are not permanent (i.e. the site is not viable or appropriate) but relocation is not urgent or possible (a situation which also often prevails) (category 'B2').
  - iv. IMMEDIATE RELOCATIONS as a last resort for settlements where there are urgent health or safety threats which cannot be mitigated and an alternative relocation destination is readily available (category 'C').
2. **Municipalities thus know, from a planning point of view:**
- i. Which settlements are permanent and need to be fully incorporated, on an incremental basis, into the city and what the timeframes for this will be, taking into consideration resources availability (funding, bulk services etc.).
  - ii. Which settlements need to be treated on a transitional basis, and based on available resources (alternative land, funding, bulk services etc.), how long they are likely to remain in-situ until relocation can occur.
3. **In terms of national policy, upgrading in-situ is preferred over relocating.** This means that, where possible, municipalities should upgrade settlements where they are, recognising that relocations are typically disruptive and destructive from various points of view (e.g. in respect of livelihoods, income earning opportunities, social networks and cohesion etc.). Whilst it is

accepted that the locality of some settlements may be unviable from a spatial point of view, in many instances there is no better-located land available. Many settlements are acceptably located and well established. Historically, relocations have met with variable success. Residents sometimes return to the land from which they were relocated, or other people move in to replace them, or people sell their RDP house and move back to an informal settlement in a more favourable locality. Often greenfield housing projects to which residents are relocated have a poorer locality than the informal settlement from which they were removed.

4. **Municipalities can make use of transitional forms of zoning in order to provide informal settlements with an appropriate town planning status whilst incremental upgrading occurs.** For example, the City of Johannesburg has piloted 'Transitional Residential Settlement Areas' in terms of their Town Planning Scheme in order to grant settlements a legal status which allows investment and upgrading to occur and provides residents with secure occupation rights. This allows for continuing improvement during that period between settlement and township establishment.

## 6.6. LIMITATIONS OF FORMAL TENURE RIGHTS

As outlined in the table in the following section, there are a range of different tenure options along what can be regarded as a tenure 'continuum'. More advanced forms of tenure, whilst affording greater tenure security, are also most costly, complex and difficult (slow) to scale up. There are also a range of other trade-offs which need to be considered. As can be seen, conventional, formal tenure (in the form of title deeds) is heavily constrained for a range of reasons. Administrative recognition of settlements should be regarded as the minimum, 'across-the-board' form of tenure since it has a significant tenure benefit and can rapidly be conferred on all settlements without prior land acquisition or other formal planning processes. Please note the importance and role of this minimum form of tenure in respect of settlement categorisation and a city-wide upgrading plan.

6.7: TENURE OPTIONS - TENURE 'CONTINUUM'<sup>69</sup>

Increasing tenure security, difficulty, complexity & cost



Form of tenure	Characteristics	Functionality & commentary	Viable for Delivery at Scale?
<p><b>1. Administrative recognition*</b> e.g. List of categorised settlements approved via a council resolution - including B1 (permanent settlement), B2 (incremental upgrade) and B2 (deferred relocation with emergency services). Preferably linked to an adopted city-wide upgrading plan.</p>	<p>Non-individual (settlement-level) &amp; unregulated*</p>	<ul style="list-style-type: none"> <li>Confers: Functional security of tenure (basic) - confers freedom from fear of arbitrary eviction, and for B1 settlements, an incentive for owner-driven housing improvements.</li> <li>Enables: Essential municipal services provision (e.g. water, sanitation, road access, solid waste collection, fire protection etc.) and essential social services (e.g. clinics, ECD support, schools etc.).</li> <li>Commentary: Enabling, cost effective and streamlined. Should be regarded as the minimum, essential form of functional tenure to be provided to all settlements. Provides a basis for essential services provision on land not yet owned by the municipality. Lays a solid foundation for more advanced tenure responses.</li> </ul>	<p>Yes. Enables rapid rollout of essential/incremental services to informal settlements in a structured and rational fashion.</p>
<p><b>2. Informal Settlement special incremental development zone</b> e.g. City of Johannesburg 'Transitional Residential Settlement Areas' and City of Cape Town's Single Residential 2 (SR2) zone.</p>	<p>Non-individual (settlement level) &amp; partially regulated</p>	<ul style="list-style-type: none"> <li>Confers: As for administrative recognition, but in addition significantly improves the platform for a more comprehensive package of essential services provision + includes settlements into municipal town planning processes (including via SPLUMA) + assists with securing buyin from other spheres of government for essential social services + makes municipal land acquisition at a later time better supported.</li> <li>Enables: See above. Also provides a strengthened basis for essential services provision on land not yet owned by the municipality.</li> <li>Commentary: A key success factor is to keep the extent of regulation at a minimum and focused, in the early stages of upgrading, on most-essential issues. The scalability of the Johannesburg and Cape Town examples remains to be seen.</li> </ul>	<p>Yes - <b>potentially</b>. Further assessment of monitoring and assessment of Jhb. and CT precedent required.</p>
<p><b>3. Community administered register***</b> Does not require zoning as a pre-requisite. Could flow directly from administrative recognition. No known S.A. precedent, but likely that there is international precedent.</p>	<p>Individual &amp; informally regulated</p>	<ul style="list-style-type: none"> <li>Confers: Additional, individual tenure security to residents <i>provided</i> the local administering structure is relatively accountable and acts fairly.</li> <li>Enables: A community register may assist in various ways:                             <ul style="list-style-type: none"> <li>reducing uncontrolled additional influx into a settlement;</li> <li>thereby limiting problematic densification;</li> <li>facilitating allocation/re-allocation of sites.</li> <li>enabling residents to get a municipal letter (e.g. from councillor) confirming their residence in the settlement - this can assist in gaining access to employment, schools, and health care.</li> </ul> </li> <li>Commentary: Limited enforceability. Unlikely to be strongly supported by municipalities (except perhaps on PHP projects). Could be a pre-cursor to a Municipal register.</li> </ul>	<p><b>Uncertain</b> - potentially in PHP type projects. Consider testing via pilot projects where municipalities have interest.</p>

69. Adapted from PPT's Tenure Continuum - Toolkit Library Ref. 73.

**Increasing tenure security, difficulty, complexity & cost**

<p><b>4. Municipal/state administered register****</b> Does not require zoning as a pre-requisite but municipalities may regard this as preferable. Could flow directly from administrative recognition. E.g. Johannesburg TRSA, Cape Town SR2, Decentralised Zambian and Namibian precedent - see section <b>Error! Reference source not found.</b><b>Error! Reference source not found..</b></p>	<p>Individual &amp; formally regulated</p>	<ul style="list-style-type: none"> <li>○ <i>Confers:</i> A relatively high level of individualised tenure security.</li> <li>○ <i>Enables:</i> A municipal register may be a sufficient, long-term (permanent) form of individual tenure within some informal settlements. It is significantly more flexible and less costly than title deeds, but still affords a high level of security. It can lay the platform for further optimisation (e.g. certificates of occupation upon request/as and when the need arises). It can be a pre-cursor/intermediate step to a locally-administered tenure certificate.</li> <li>○ <i>Commentary:</i> Any state intervention at the level of individual tenure requires significant capacity and has a range of implications and may not be viable/easy within many settlements (e.g. due to informal business activities, sub-rental, illegal migrants etc.). There is however significant merit in testing this form of tenure. It may not always be possible to include everyone on the register which may need to be populated and strengthened over time.</li> </ul>	<p><b>Yes - potentially.</b> Worth testing via pilot projects – refer to ‘comments’. Municipalities may already have numbered shacks and lists of residents.</p>
<p><b>5. Locally administered government tenure certificate</b> e.g. <i>Municipal certificate of occupation/PTO/Deed of grant****. This could be upgradeable to full title when and if a resident desires, subject to the relevant sub-divisional layout having been finalised.</i></p>	<p>Individual &amp; formally regulated</p>	<ul style="list-style-type: none"> <li>○ <i>Confers:</i> A very high level of tenure security – more or less equivalent to a title deed in most respects. It is important that certificates can be generated quickly and accurately for residents as and when necessary. This obviously imposes an additional administrative burden on the municipality. The Deeds of Grant administered via the Township Manager’s Offices on certain townships pre-1994 is a useful precedent.</li> <li>○ <i>Enables:</i> <ul style="list-style-type: none"> <li>○ <i>Top-structures:</i> Subject to policy refinement, should be sufficient for state-funded top-structures (although a local register may also suffice).</li> <li>○ <i>Transactions:</i> Streamlined and cost effective property transactions (versus title deed). Likely to reduce informal transactions (unregistered transfers).</li> <li>○ <i>Upgrade to full title:</i> subject to the relevant sub-divisional layout having been finalised.</li> <li>○ <i>Finance:</i> should be sufficient to enable residents to raise bond or other housing finance (noting precedent on traditional land).</li> </ul> </li> <li>○ <i>Commentary:</i> Has potential in the long-term as a more flexible, cost effective and appropriate alternative to title deeds.</li> </ul>	<p><b>Uncertain.</b> But needs to be tested via pilot projects, especially as an alternative to title deeds.</p>

<p><b>5. Title deed</b></p>	<p>Individual &amp; formally regulated</p>	<ul style="list-style-type: none"> <li>○ <i>Confers:</i> A very high level of tenure security.</li> <li>○ <i>Enables:</i> Residents to raise bond finance for consolidation/extension of top-structures. Property transactions via deeds office. Residents can easily use their house as collateral or security.</li> <li>○ <i>Commentary:</i> There is a significant incidence of title deeds in low income communities (e.g. low income housing) reverting to unregistered tenure. This may be due in part to the 5 year moratorium on selling an 'RDP' house but may also be because transferring title is costly, foreign (compared to traditional forms of tenure which are un-documented but locally witnessed) and because various on-site improvements made by the owner (e.g. extensions, second dwelling unit) may be non-compliant with town planning and building regulations (e.g. building lines, lack of approved plans, informal building methods etc.). It is noted that title deeds are costly due to the need for up-front land acquisition and formal planning approvals.</li> </ul>	<p><b>No – Title deeds</b> should be provided on a 'demand' rather than supply basis, for reasons noted under 'commentary'.</p>
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Notes:

\* As informed by an assessment and categorisation of informal settlements. It would need to communicate: a) that the municipality recognises the settlements in question; b) that residents will not be relocated unless there is another housing solution provided; and c) that the municipality commits to work together with the settlements in question regarding the provision of certain basic services.

\*\* This means that the community has a right to remain in the settlement, and also the right to the provision of certain essential services. However, no attempt is made to intervene or exert control at the individual tenure level, nor would such interventions be realistic or advisable at the initial stages of upgrading.

\*\*\*\*1) In this scenario, the state does not attempt to record, regulate or control individual tenure, since this is not regarded as being necessary or functional (e.g. due to the risks of disrupting or threatening local power bases). In the event that the municipality feels that it needs to exert such control, then a municipal register would probably be a better means of achieving this. 2) It may be an option for a municipality to recognise such a register where it, and the local community structure have general community recognition (and perhaps also recognition by the ward councillor). It would however probably be unwise for the municipality to take the additional step of obtaining or utilising the community's register because: a) this would expose the identities of residents, including illegal migrants or those involved in illegal activities, and therefore have the potential for generating conflict and fear; b) this may create the expectation of a higher level of government response (e.g. provision of a housing subsidy); c) this would tend to confer an unintended level of legitimacy or authority on the community register. 4) In cases where no register exists it may be inadvisable for the municipality to initiate or facilitate a community administered register for a range of reasons.

\*\*\*\*\*) A key issue which the municipality needs to consider is whether or not it is functional, necessary or realistic to either: a) have a record of residents (e.g. a community register); b) go further and exercise regulation and control over individual tenure. This decision will no doubt be in large part determined by specific circumstances (both within a settlement as well as in respect of particular municipal dynamics and aspirations). 2) 'Locally administered' means that there is a local/area level person/office that is accessible to residents on a day-to-day basis. 3) Reasons for a municipality considering this form of individual tenure might include: a) situations where there are obvious and problematic abuses of people's functional tenure rights which cannot be tolerated; b) instances where the municipality needs to know more about individual residents (e.g. their immigrant status; whether or not they have received/are receiving other grants; gender and age profile etc.); c) instances where the municipality considers it unacceptable or problematic to provide basic service delivery to non-citizens or illegal immigrants.

\*\*\*\*\*) Consideration could be given to the local tenure registration office charging a small handling fee for formalising property transactions.



### 6.8. INCREMENTAL TENURE IMPROVEMENTS

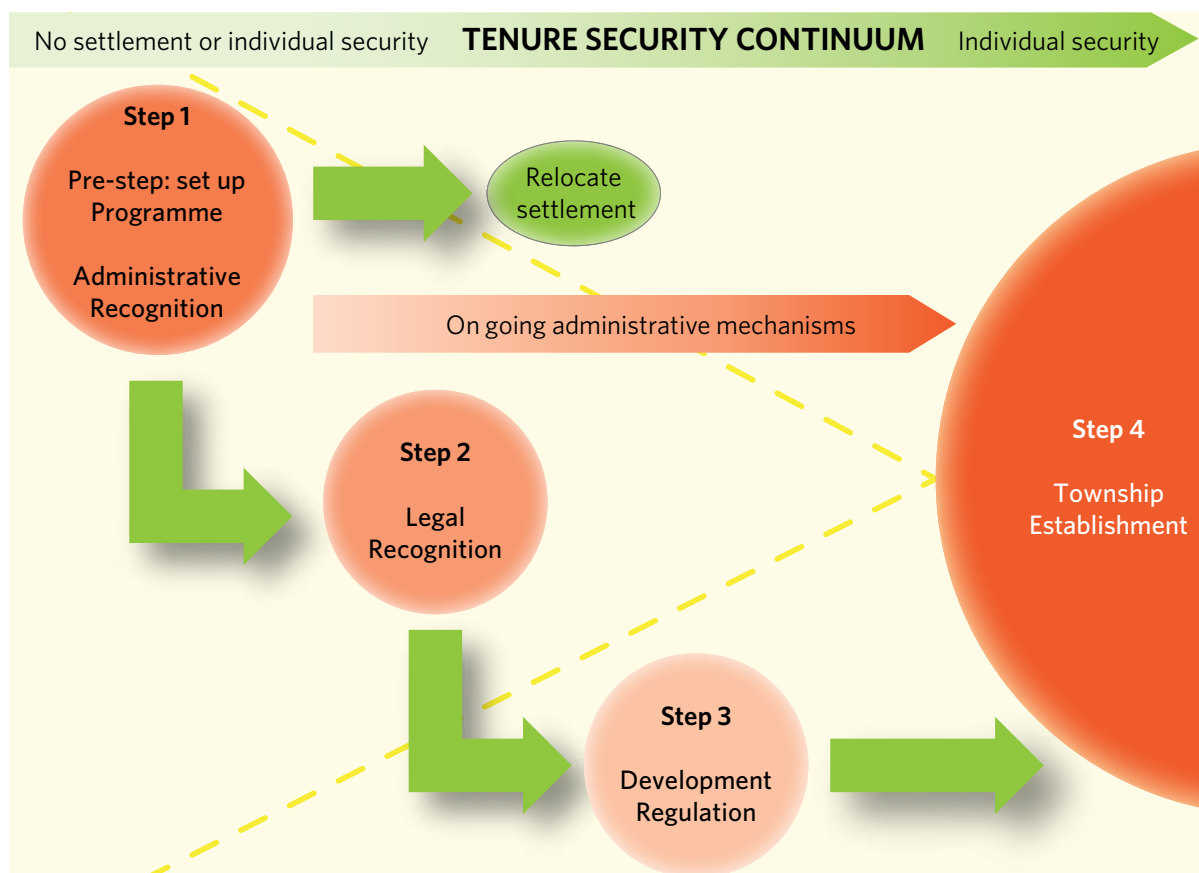
Urban LandMark put forward an incremental, step-by-step tenure improvement model in 2010 which is consistent with the approach outlined in the preceding sections<sup>70</sup>. They distinguish between administrative and legal recognition and position ‘administrative recognition’ of a settlement as the first step in the tenure process, linked to settlement categorisation, which is sufficient for the provision of initial upgrading interventions, including the provision of basic services. Whilst they identify township establishment as step four in their model, it must be emphasised that township establishment and related formalisation, as it is currently conceived, will be very slow and sometimes impossible to achieve within many informal settlements and should thus not be regarded necessarily as the final objective. This is consistent with the NUSP categorisation framework which indicates that, for category B1 settlements, the final outcome can be either formalisation, or another permanent settlement solution (refer also to sections 1.20 and 2.7.).

#### Key Urban LandMark and related References:

Toolkit Library Ref 200 - Development of an approach for the recognition of informal settlements and tenure security in South Africa – Urban LandMark, Smit, Abrahams, von Riesen et al.

- Library Ref 184 – PowerPoint - Incrementally Securing Tenure: An approach for informal Settlement Upgrading in South Africa (Urban LandMark2010)
- Toolkit Library Ref 189 - PowerPoint - Development of an approach for the recognition of informal settlements and tenure security in South Africa, with potential regional applicability Lauren Royston (ULM)
- Toolkit Library Ref 190 - PowerPoint - Scoping study: Local Land Registration Practices in Five Settlements in South Africa Lauren Royston, Margot Rubin.
- Toolkit Library Ref 187 - PowerPoint - SPECIAL ZONING: JOHANNESBURG’S APPROACH – Clark and Royston.

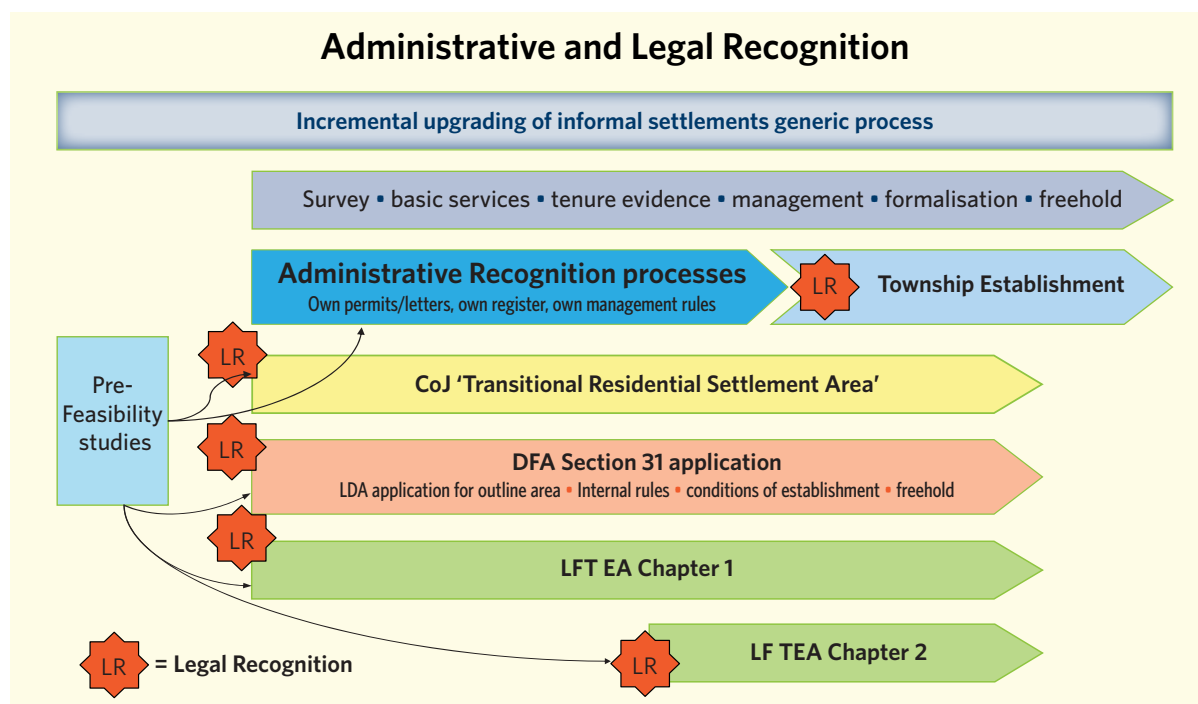
FIGURE 34: XX<sup>71</sup>



70. “Development of an approach for the recognition of informal settlements and tenure security in South Africa – Urban LandMark, Smit, Abrahams, von Riesen et al. Toolkit Library Ref 200.

71. Urban LandMark Powerpoint – Securing Tenure in Informal Settlements – Toolkit Library Ref 184.

FIGURE 35: ADMINISTRATIVE AND LEGAL RECOGNITION<sup>72</sup>



Urban LandMark’s tenure improvement model includes the following steps:

1. **Step 1** involves making a decision about the long-term future of the settlement. It also involves a review and possibly enhancement of current administrative regulation/control/recognition (emergency services, health and safety, control, registers). Furthermore, a review of community management and recognition/processes needs to be undertaken in this step. The philosophy of the Technical Proposal is to acknowledge and build off the historical trajectory of the settlement.
2. **Step 2** involves the blanket Legal Recognition of the Settlement. The reason that this step is necessary is because municipalities often cannot conduct more developmental (as opposed to control-orientated) regulation of the settlement without contravening their own laws.
3. **Step 3** involves the Developmental Regulation of the settlement. This involves developing a system to confer additional rights inter alia use, improvement, trading/transactions, and inheritance.
4. **Step 4** involves the implementation of formal township establishment processes and the award of title.

### 6.9. INCREMENTAL TENURE & LAND USE EXAMPLES FROM AFRICA

Within the above context, finding practical incremental tenure solutions becomes a key element of successful incremental upgrading, especially if the stimulation of resident’s own investment (e.g. in housing) is to be stimulated. Fortunately, there is substantial local and international precedent to draw on. Some of this precedent is provided in this section.

- *Note 1: The material for this section is extracted from a Mini Literature Review pertaining to Innovative informal and incremental land development processes and tenure by Gemey Abrahams for the African Centre for Cities (Toolkit Library Ref 325) which draws heavily on work done by Urban LandMark and a wide range of other development professionals both within and outside of South Africa.*
- *Note 2: Due to the close connection and overlap between tenure and planning interventions, the material contained in this (and other parts of section 6) are also directly relevant to section 7 (pertaining to planning and regulatory, and associated flexibility solutions).*

72. Development of an approach for the recognition of informal settlements and tenure security in South Africa - Urban LandMark, Smit, Abrahams, von Riesen et al. Toolkit Library Ref 200,.

**Examples in this section courtesy of a Mini Literature Review pertaining to innovative informal and incremental land development processes and tenure – by G Abrahams for African Centre for Cities and also drawing on work by Urban LandMark <sup>73</sup>**

#### **EXAMPLE 1: LEGAL DECLARATION OF STATUTORY IMPROVEMENT AREAS IN ZAMBIA<sup>74</sup>**

While land development and land use management in urban, local authority areas, is governed by the Town and Country Planning Act CAP 283 in Zambia (Simposya, 2010, p. 12), this legislation was initially used largely to demolish unplanned or informal settlements because they were illegal. Instead of amending this law to accommodate informal settlement upgrading and land use management, the government of Zambia introduced a new law that enabled unplanned settlements to be upgraded. This is the **Housing (Statutory and Improvement Areas) Act 1974, CAP 194** (Government of Zambia, 1974). It heralded in a departure in government's approach to informal settlement upgrading as up to that time the dominant approach was to demolish informal settlements (Simposya, 2010, p. 6). Its promulgation fell squarely within the Second National Development Plan period (SNDP 1972 - 1976), **ten years after independence was gained in 1964 and at a time when urbanisation was creating significant housing shortages and the number of unplanned settlements was on the rise** (Simposya, 2010, p. 2).

The Housing (Statutory and Improvement Areas) Act, introduced as long ago as 1974, was very innovative in its approach to providing legal mechanisms to upgrade settlements by providing secure tenure, planning and services in designated areas (Van Asperen, 2012, p. 12). It does this through the Ministerial declaration of Statutory and Improvement areas. It is based on providing **more simplified forms of tenure that are managed at local authority level** rather than the national formal survey office and deeds registration requirements necessary to issue formal leasehold forms of tenure. The **tenure forms include simple Occupancy Licences in Housing Improvement Areas and Certificates of Title in Housing Statutory Areas (Government of Zambia, 1974)**.

A Statutory Housing Area is **declared through a statutory order by the Minister** if it falls within a local authority area, is mostly owned by the local authority and a plan of the area, called a Statutory Housing Area Plan, is prepared and the areas surveyed and the plan sent to the Surveyor General, the Commissioner of Land and the Registrar of Lands and Deeds (Sichone, 2012, p. 126)<sup>75</sup>. **Statutory Housing Areas are gazetted** in a schedule in terms of the Housing (Statutory and Improvement Areas) Act and are intended for site and service development (i.e. the land is planned and services installed before occupation of the area) and a more secure form of tenure which is a form of (renewable) 99-year leasehold Certificate of Title is issued to residents (Sichone, 2012, p. 127). **The issuing and management of the certificates is undertaken by the local authority (decentralised) and it must establish a registry with a registrar and keep records of the leasehold certificates** (Sichone, 2012, p. 127).

In similar fashion, **Housing Improvement Areas are declared for areas that are already settled and in need of upgrading**. The **development requirements for Improvement Areas are less onerous and the local authority prepares a sketch plan that is lodged with the Commissioner of Lands and the Registrar of Land and Deeds. Instead of Certificates of Title, occupants in Improvement Areas are issued with**

73. Mini Literature Review – Regulatory interventions to implement planned development – innovative mechanisms that recognise informal and incremental land development processes, land tenure and land use regulation” 03 May 2015 – Gemey Abrahams for African Centre for Cities funded by UKAid. Toolkit Library Ref 325

74. Extract from: Mini Literature Review pertaining to Innovative informal and incremental land development processes and tenure – by G Abrahams for African Centre for Cities – Toolkit Library Ref 325.

75. Dissertation by F. Sichone titled “the System of Land Alienation in Zambia” completed in 2012

**30-year Occupancy Licences.** An Occupancy Licence relates to the right to occupy the land under and immediately surrounding the house, identified by a serial number on an aerial photograph rather than an identified plot of land (Sichone, 2012, p. 129). The nature of the occupancy rights that the holder obtains includes occupation for the holder and immediate family, but also includes obligations such as paying for services and land rates and the holder may not sub-let without permission (Sichone, 2012, p. 130).

In Zambia where there was **little government subsidy for the upgrading of informal settlements, a key rationale for declaring areas as Statutory or Improvement Areas was to introduce obligations for residents to contribute to the upgrading and maintenance costs through service charges and land rates** (Sichone, 2012, p. 130). Studies of Improvement Areas show that there has been some improvement to services but housing structures remain informal and even hazardous (Simposya, 2010, p. 16). The lack of funds for upgrading services, providing educational and other community facilities and weak institutional structures at local authority level are all seen as contributing factors to hindering implementation of upgrading (Simposya, 2010, p. 2), despite the declaration of Improvement Areas.

The Housing (Statutory and Improvement Areas) **makes the National Housing Authority or the local authority the planning authority for declared areas rather than the planning authorities created by the Town and Country Planning Act.** This has raised a concern about who does the planning of these areas due to the dislocation between the housing and planning aspects of upgrading (Sichone, 2012, p. 135). However, as a separate, autonomous law, like Namibia's Flexible Land Tenure Act, **it was able to exclude the provision of other laws that would normally apply to the development of land**, such as the Town and Country Planning Act, the Land Survey Act and the Land and Deeds Act. **This approach, which was echoed in the now repealed South African Development Facilitation Act of 1995, enabled less onerous measures to apply in the declared areas and released them from the bureaucratic and more costly requirements of development required by those laws.** Additionally, the Land Act which prevents illegal occupation of land does not apply (Sichone, 2012, p. 138) preventing the removal of occupants from Improvement Areas and providing increased tenure security.

The declaration of Statutory and Improvement Areas is also innovative in the context of the legal framework of Zambia in that it **allows for both the introduction of alternative evidentiary forms of secure tenure and the decentralised management of the tenure rights.** Improvement Areas allow secure tenure to be granted prior to the development process, securing occupation and removing the threat of eviction of occupants from the settlement.

## EXAMPLE 2: FLEXIBLE LAND TENURE LAW REFORMS IN NAMIBIA<sup>76</sup>

Namibia has a formal land development and planning system in urban areas that is based on land development laws such as the Township and Division of Land Ordinance, 11 of 1963 or the Town Planning Ordinance, 60 of 1954 (Lewis, 2007, p. 1) to demarcate land parcels which are then serviced, surveyed and owners receive freehold title that is registered in the Deeds Registry Office. This is very similar to how land development in formal areas of municipalities occurs in South Africa.

However, this is a **cumbersome and expensive process and excludes the majority of the population, especially the poor, preventing them from obtaining freehold title** (Mandimika & Matthaei, 2014, p. 14). In Namibia most Namibians were denied access to freehold land and consequently informal settlements were growing in all the cities and towns. It is estimated that there are 135 000 families, consisting of at least 540 000 individuals, living in more than 230 informal settlements across Namibia (Nakale, 2013). The government of Namibia, through a very long process beginning in the 1990's **developed an innovative, new system of land registration and title that can over time result in freehold title for owners, to address this growing chasm between formal and informal systems.**

This was embodied in the **Flexible Land Tenure Act, 4 of 2012** (Government of Namibia, 2012)...The Act is now in place and regulations are being finalised<sup>77</sup>.

The objectives of the Act are to:

- › create **alternative forms of land title that are simpler and cheaper to administer than existing forms of land title;**
- › provide **security of title for persons who live in informal settlements or who are provided with low income housing;**
- › **empower the persons concerned economically by means of these rights** (Government of Namibia, 2012, p. 3)

Essentially, the Flexible Land Tenure Act 4 of 2012 (FLTA) introduces a mechanism to designate two types of areas or schemes – Starter Title Scheme areas and Land Hold Title Scheme areas where more informal forms of development and secure tenure can be implemented.

What makes the mechanisms proposed in the FLTS innovative is that it:

- › Links to the formal Land Survey and Deeds Registration of the country and operates within that overarching land registration framework – it is a **parallel but complementary system;**
- › It introduces **new forms of land title that are recorded and registrable, group-based but individual and hence secure;**
- › Provides **secure tenure that is recorded and managed by a land rights registrar in a register within the local land rights office;**
- › It takes an **incremental approach where an illegal, informal settlement can be upgraded** to offer starter title, then land hold titles through to freehold title;
- › It introduces **land use management through community involvement and the establishment of community associations that are tailored to the needs of the particular type of scheme.**

76. Extract from: Mini Literature Review pertaining to Innovative informal and incremental land development processes and tenure – by G Abrahams for African Centre for Cities – Toolkit Library Ref xxxx.

77. Discussion with Mr Peter Rutsch, consultant to the Namibia government responsible for drafting the regulations, 16 April 2015



The FLTA does this by creating these two new schemes where new forms of land title are provided. What is important to note is that **the concept underpinning the system is to ensure that the schemes and administration of tenure at the local level still links to the national survey and registration system of the country.** Hence, when a starter title scheme or a land hold scheme is approved, both the national Registrar of Deeds and the local Land Rights Registrar are notified of the scheme. **The Registrar of Deeds is then responsible for making an endorsement on the title deed of the blockerf in the national Deeds Office, to the effect that either a starter title scheme or a land hold scheme has been established on that blockerf.** The local Land Rights Registrar is then responsible for opening the local register and recording all the relevant information in a register, issuing proof of tenure (the titles) and managing all transactions going forward. In this way the integrity of the overarching survey and registration system of the county is not undermined, while secure tenure on land that can be upgraded is delivered to the poor. Inside each block scheme, more or less formal arrangements can apply, depending on the type of scheme.

Two schemes are available – Starter Title Scheme and a Land Hold Title Scheme (Mandimika & Matthaei, 2014).

**Starter title rights are entry level rights** (Mooya & Cloete, 2005, p. 17) **and are not registered in the formal Deeds Office but instead are recorded in a register by a Land Rights Registrar at a local land rights office.** Starter title grants the holder rights to erect a dwelling within the block, to reside there (occupation) in perpetuity, to bequeath the site and to lease it. It is therefore a secure form of title but is not necessarily based on defined plots within the starter scheme. Importantly, Mooya and Cloete observe that **starter title rights provide security of tenure in perpetuity to holders who are occupying land that does not legally belong to them** (Mooya & Cloete, 2005, p. 17). **The rules that apply within the scheme to all who reside there are determined by the association of the scheme and it includes land use conditions such as the nature of the building, how and where services will be laid and payment for services** (Government of Namibia, 2012).

A Land Hold Title Scheme **provides tenure that is more secure in that individual plots within the scheme are surveyed, but to a less exacting standard by land measurers and not professional land surveyors and the plots are registered by the Land Rights Registrar in a land hold title register held in the local land rights office (LRO).** **This is secure enough to obtain a mortgage against the plot** (Mandimika & Matthaei, 2014, p. 22). The Land Hold Title Scheme will also have conditions that relate to land use (including side and rear spaces), building control (including height of buildings) which set the management rules for the area (Government of Namibia, 2012).

While the FLTA was only recently promulgated, because of the long history and ongoing consultation on the new law, **three pilot projects** were established in Windhoek and Oshakati and **lessons** are being drawn from these that Matthaei and Mandimika have articulated (Mandimika & Matthaei, 2014, p. 25), including that:

- › the **capacity to implement the schemes is limited**, especially in smaller local authorities;
- › the **cost of establishing the (local) Land Rights Offices and training of staff may be high**;
- › **land hold schemes may never be fully upgraded to freehold due to the high cost of formalising the development and titles**<sup>78</sup>;
- › **the typical size of a scheme, around 100 households, is difficult to manage** and sizes of 10 – 30 households seem more suitable from the Windhoek experience;

78. According to the FLTA, at least 75% of occupants in a Starter Title Scheme must agree to upgrading from starter title to land hold title and 100% of land hold title holders in a Land Hold Title Scheme must agree to upgrade to freehold (Government of Namibia, 2012).

- **municipal planning and plans are weak** or lacking in many local authorities and in the absence of integrated planning these schemes may promote urban sprawl or inappropriately located settlements.

### EXAMPLE 3: LAND READJUSTMENT IN ANGOLA - LAND READJUSTMENT OR POOLING<sup>79</sup>

Even though Angola has also undergone land reform and introduced new land laws, unlike Namibia, it has not introduced laws that specifically address incremental tenure upgrading. Instead the pilot programmes on land readjustment are innovative mechanisms to tackle informal settlement upgrading that have worked within the existing laws and also introduced additional administrative mechanisms to secure tenure and incrementally upgrade settlements. The **land pooling or land readjustment approach is innovative** and a UN-Habitat report on Huambo Land Readjustment study in Angola argues that it has the **potential to become an important tool for urban planning and, more specifically, urban development and urban upgrading and that while there is no legal framework for land readjustment, factors such as growing land markets, effective non-government organizational (NGO) support and strong private sector partners can make land readjustment a viable option for local governments** (UN-Habitat, 2013, p. 4).

Land readjustment or land pooling is not a new concept and is used in countries like Colombia, Turkey and India, amongst others (Haile, 2012). It can **achieve many development goals including access to urban areas, the provision of infrastructure services, providing secure tenure to occupants, increasing property values for land value capture and formalising development to generate revenue for local governments (Haile, 2012, p. 11). It is therefore an important tool for upgrading of informal settlements.** As the Urban LandMark study for the Tenure Security Facility Southern Africa Project spells out (Urban LandMark & Development Workshop, 2013, p. 82):

*“the concept of land readjustment is to assemble small peri-urban or peri-rural land parcels into a large land parcel, provide it with infrastructure in a planned manner, and return a portion of the reconstituted land to the owners, after deducting the cost of the provision of infrastructure and public spaces from the sale of some of the now-serviced land.”*

They further note that

*“It is an appropriate solution to the problem of land distribution in areas located on the margins of existing urban areas, and where there is scattered settlement, and where large tracts of land are unavailable for private sector subdivision-type land development. Since many of peripheral settlement plots are not for sale, it is often difficult to find a sufficient number of plots next to each other to develop a rational building development plan. It is also appropriate in older urban settlement areas that need to be reorganized in order to provide access to infrastructure and services.” (Urban LandMark & Development Workshop, 2013, p. 82)*

In Huambo, Angola, the NGO Development Workshop (DW) piloted a land readjustment project just to the south of Bairro Fátima. Bairro Fátima is a large informal settlement characterised by uncertain and contested land rights. The land was largely unoccupied and used for agriculture by

79. Extract from: Mini Literature Review pertaining to Innovative informal and incremental land development processes and tenure – by G Abrahams for African Centre for Cities – Toolkit Library

many families who had been there for a long time even though they had no formal documented forms of title. Their claims were registered and a development plan for the land was created and the land holdings pooled. The claimants received smaller developed plots, the number being determined in proportion to the size of the land they originally pooled which were also registered and had secure title and services. Many were able to sell their additional plots at a higher value than their larger, untitled, un-serviced plots. Additional plots were created, some for commercial uses that could be sold by the local authority or the entity developing the project, to pay for the services. **The development plan was laid out using simple technology such as GPS and wooden pegs, rather than expensive land surveying** (UN-Habitat, 2013, p. 33).

The land readjustment project resulted in a formalised settlement with a mix of income groups, improved services and recognised occupation rights for occupants. **It required considerable effort by DW to mobilise the community and involve them fully in the process, in addition to the technical aspects of layout planning and opening registers and registering titles**, which they did on behalf of the Provincial Department of Urbanism and Environment (UN-Habitat, 2013, p. 33). Based on the success of the Bairro Fátima land pooling project, DW were invited to undertake three more pilot projects.

In terms of innovation, the authorities recognised local practices<sup>80</sup> to gain tenure and developed this into a Licence of Occupation that was not provided for in the Land Law of 2004. Essentially the Land law does not make provision for incremental forms of title but it does not prohibit it either (Urban LandMark & Development Workshop, 2013, p. 51), creating space for innovation in incremental tenure. **The Licence of Occupation is therefore more of an administrative mechanism that allows occupants three years to obtain legal title (called surface rights that are registered in a Land Registry). These Licences of Occupation, issued and administered by the Huambo Local Authority** (Urban LandMark, Development Workshop, 2013, p. 3) **have become popular and are the only tenure document the municipality issues so they have, in practical terms, given holders of the licence similar legal protection to that afforded by formal title** (Urban LandMark & Development Workshop, Practice Note: Gaining administrative recognition for local land management practices: The case of Huambo, Angola, 2013, p. 3). Hence a new mechanism was created to grant interim tenure security to fill the gap that existed in the current land law but that is linked into the existing land titling system.

Significantly, the land readjustment projects in Huambo have also **resulted in the extension of a cadastre, has supported the land titling system and has brought planned settlement to informal areas. Additionally, local communities, through associations have worked out their own land use rules to manage the area and services have been provided in instances where a fund was established** (a Trust was established) for this from the sale of additional re-adjusted plots (Urban LandMark & Development Workshop, 2013, pp. 82-85).

80. Often including customary practices where the traditional chief or soba witnesses the transaction and local representatives of the Bairro approve transactions.

#### EXAMPLE 4: CITY OF JOHANNESBURG TRSA – SOUTH AFRICA<sup>81</sup>

Land use management and regulation has not generally been a focus of innovation as more attention has been given to land administration and land law reform as a means to increase access to land and secure tenure for the urban poor. **However, the City of Johannesburg was able to use land use regulation effectively to secure legal recognition of tenure and undertake incremental upgrading through a land use management approach.**

The City of Johannesburg (the City), working with Urban LandMark, **developed an approach to securing tenure during incremental informal settlement upgrading that was based on a land use management approach** (Urban LandMark, 2010, p. 17). **It is innovative in that it is not common for land use management approaches to be adapted to include security of tenure.** This new approach formed the cornerstone of the City's regularisation approach and was an interim measure (City of Johannesburg, 2011, p. 21) prior to full formal land and housing delivery through the housing subsidy programme financed by the national government.

The City planners in the Johannesburg Department of the Development Planning and Land Use Management (DP&UM) developed an approach **that declared land parcels upon which informal settlements were established as "Transitional Residential Settlement Areas (TRSA)"** by using the Provincial planning legislation that governed town planning (zoning) schemes (City of Johannesburg, 2008, p. 4). **The approach borrowed from mechanisms used in Brazil where Zones of Special Interest (ZEIS) were declared over areas where favela upgrading took place** (City of Johannesburg, 2011, p. 15). The philosophy of social justice and rights to the city that underpinned the Brazilian City Statute (UN Habitat, 2002) struck a chord with the then mayor Amos Masondo, which led to the city proposing this new approach (City of Johannesburg, 2011). The mechanism **uses the town planning legislation to amend the town planning schemes that applied in the areas where the informal settlements were located to include TRSAs and provide a definition of such areas and the rules that would apply in TRSA. It then listed the land portions with informal settlements (on municipal-owned land) and declared that such areas would become TRSAs.** The amendment to the town planning schemes was called (Amendment Scheme 9999) and the development rules we set out in Annexure 9999 (Provincial Gazette Notice 143, 2009). The effect of this was that a **TRSA became a legal land use, and the land use of 'informal settlement' was no longer illegal.**

The **City of Johannesburg called this approach 'regularisation' as distinct from full formalisation where land development laws were used to formalise the settlements. The declaration of TRSAs brought the informal settlements into the land use management regulatory system, allowed public funds to be allocated for servicing the areas and is a means of providing legal recognition to such settlements** (Urban LandMark Practice Note, 2013, p. 2). **It is not a full land development procedure which in South Africa is a lengthy and expensive process requiring several authorisations, such as environmental authorisation but is rather a management approach that legalises the settlement prior to full development. It was seen as an incremental stage that could be used to recognise and manage informal settlements until such time as they could be formalised.**

The development rules set out in Annexure 9999 included several important aspects that relate to the physical upgrading of TRSAs as well as securing tenure for occupants. It included:

81. Extract from: Mini Literature Review pertaining to Innovative informal and incremental land development processes and tenure – by G Abrahams for African Centre for Cities – Toolkit Library Ref 325.

- › The **introduction of planning through a basic layout plan using aerial photography**, that includes roads and road access (to provide a street address for the settlement) **and the identification of sites for social facilities;**
- › The identification of **individual structures and recording their location with a hand held GPS** instrument;
- › The **provision of basic services** and later more permanent services when the basic layout plan is approved;
- › **Community participation** in all the steps of upgrading;
- › An incremental approach that allows the initial informality to exist until the basic layout plan is approved by the municipality, thereafter individual sites can be identified and land use management and building rules in the Annexure then apply;
- › Land use **management rules include the density of the structures, the number of dwellings on a plot, building lines, the height of buildings and the coverage of the plot and procedures to change a land use or apply for building approval;**
- › **The issuing of “occupant permits for a residential unit” as a form of tenure security and recording these permits in a register, held by the municipality** (Provincial Gazette Notice 143, 2009, p. 4).

The **City actually declared 20 settlements<sup>82</sup> this way and proceeded to prepare basic layout plans for several of them (City of Johannesburg, 2011, p. 29) but progress was slower with implementation after the Steering Committee was abandoned and the approach was moved the City’s Housing Department** (Abrahams & Mogotsi, 2013, p. 11). However, up to 35 000 families benefited from increased tenure security and improved services when more standpipes were installed, toilets provided and refuse removal services introduced (Abrahams & Mogotsi, 2013, p. 12).

#### **EXAMPLE 6: CITY OF CAPE TOWN SR2 ZONING FOR INFORMAL SETTLEMENTS<sup>83</sup>**

While the regularisation approach used in the City of Johannesburg relied on an area being legally declared as a TRSA through a general town planning scheme amendment, the City of Cape Town (CoCT), South Africa, **introduced a zoning category to rezone areas with informal settlements in their revised, integrated Zoning Scheme Regulations in 2013.**

While this approach has its **origins back in the early 1990’s when the Provincial government in the Cape introduced a new zoning category called “Informal Residential Zone”** to all town planning schemes in 1992, by doing an amendment to the Land Use Planning Ordinance, 15 of 1985 (Cape Provincial Gazette 465, 1992), the City built on this concept and developed it as an instrument to facilitate informal settlement upgrading. The City of Cape Town has been grappling with the increase of informal settlements in its metropolitan jurisdiction and estimates in 2012 indicated that there could be as many as 141 765 informal dwellings in 378 informal settlements (Housing Development Agency, 2013, p. 35).....

82. Some reports indicate that 23 settlements were declared. To provide context, the City of Johannesburg identified 180 informal settlements in their municipality at that time.

83. Extract from: Mini Literature Review pertaining to Innovative informal and incremental land development processes and tenure – by G Abrahams for African Centre for Cities – Toolkit Library Ref 325.



With the reforms at local government sphere in the late 1990's in South Africa, new municipalities were created that were made up of many towns in some instances, each with their own town planning scheme. The CoCT embarked on an exercise to integrate all existing town planning schemes and promulgate a single amalgamated Zoning Scheme Regulation which was passed in 2013 (City of Cape Town, 2013). Included in the new Zoning Scheme Regulation is a zoning category called "Single Residential 2: Incremental Housing (SR2)"<sup>84</sup>. The SR2 zoning according to the CoCT Zoning Scheme Regulations (City of Cape Town, 2013, p. 34) has the following purpose:

*"The SR2 zone facilitates upgrading and incremental housing from an informal settlement to a formal settlement. SR2 may apply to individual land units or to blocks containing an informal settlement. In recognition of the realities of poor and marginalised communities, development rules are not very restrictive and local employment generation is encouraged within this zone. Once upgrading of an area has reached an appropriate stage, as determined by Council, it is contemplated that the area may be rezoned to SR1 or another appropriate zone."*

**What is important is that the SR2 zoning can apply to an area that does not have defined internal plots and provides more of a 'blanket' zoning over the informal settlement but when individual plots are identified the zoning will then also apply to all plots, implying its application in an incremental upgrading process. It is also seen as a form of zoning that can be 'upgraded' or rezoned to the more conventional residential SR1 zoning when the development of the informal settlement has reached a more formal (or "appropriate stage" as indicated above) developmental state. It is therefore conceptualised as a zoning category that can be used specifically to assist in the incremental upgrading of informal settlements (City of Cape Town, 2013, p. 34). This implies that the zoning category can apply to land before full township establishment (formal land development) has taken place and used to regulate the land uses within the settlement even before the area is formally developed.**

**This is innovative in that it is the zoning or land use management instrument that gives the settlement a legal status and hence legal recognition and legalises the land use "informal settlement" all prior to embarking on the formal land development process.** Where SR2 is applied to land that has not been formally developed it allows for multiple uses on the land area of the settlement to accommodate the informal activities and hence provide legality to the area (City of Cape Town, 2013, p. 34).

**The SR2 zoning includes a set of development rules for the zone (City of Cape Town, 2013, p. 34). These development rules apply to a situation where the settlement has not undergone formal development as well as rules that apply once more formal development occurs. For settlements that are not formally developed, informal house structures (called shelters) are permitted but are not subject to building regulations and remain the responsibility of the house owner, no parking restrictions apply and less onerous building lines and spaces between buildings (for health and safety) apply. Informal trading can occur so long as it does not occur in permanent structures.** Later when the area becomes more formalised, permanent houses can be built that need Council approval in terms of building regulations, stricter site development conditions apply and informal trading structures can be upgraded to house shops that have basic health, safety and nuisance rules that must be adhered to (City of Cape Town, 2013, p. 34).

**What this SR2 zoning therefore does is provide a mechanism to legally recognise an informal settlement and begin upgrading interventions prior to embarking on a formal development process.**

84. There is also a Single Residential Zone 1 which is for predominantly single-family dwelling houses or what is also called conventional housing in the Zoning Scheme.

**Formal procedures can take several years and this zoning provides a level of blanket tenure security for the settlement while the formal process is underway** (Royston, 2014, p. 19).

However, while blanket tenure is provided, **what SR2 does not do is provide individual forms of tenure security to occupants. Being a land use management instrument it does not explicitly address the provision of individual, recorded forms of land tenure. It is therefore different from the City of Johannesburg's Amendment Scheme approach to transitional residential settlement areas which allowed for certificates of occupation to be issued as a requirement of the zoning.** However, during the upgrading of Monwabisi Park in Khayelitsha, the CoCT was requested to consider issuing forms of tenure such as Occupation Agreements to occupants in the settlement (Abrahams G. , 2013, p. 36). The CoCT was not entirely opposed to this as in the past they had issued registration cards in certain informal settlements (Western Cape Provincial Government and City of Cape Town, 2005, p. 122) and draft occupation agreements were prepared for consideration by the City.

The **Monwabisi Park** upgrading process provided considerable learnings to Urban LandMark and Sustainable Urban Neighbourhoods (SUN) Development<sup>85</sup> who were involved in its upgrading (Abrahams G. , 2013, p. 7). The learnings encompassed aspects of securing tenure incrementally in informal settlements but also provided important new ideas on how land use management mechanisms can provide legal recognition to settlements and open up new routes to securing legally-recognised forms of tenure.... SUN Development had invested considerable time and expertise in developing a **workable layout plan** (they called it the Spatial Reconfiguration Plan) of the settlement that divided the area into smaller neighbourhood blocks. In order to accommodate an incremental development process the CoCT planners suggested developing a **set of neighbourhood block rules and including them in the Precinct Plan** that once approved would be used to manage the neighbourhood blocks (Urban LandMark Practice Note, 2013, p. 3). .....The City of Cape Town has therefore displayed the ability to adapt existing laws for application in informal settlements, through expanding on the concept of the old informal settlement zone and including it in the new Zoning Regulations and secondly **by being open to including occupation agreements that could be linked to the SR2 zoning to provide residents with proof of occupation of their sites** and thirdly by being creative about using block layout plans as an interim stage in the formal development process and linking the management of these blocks to development rules in a Precinct Plan. All these innovative measures illustrate that the current land development and land use management laws are not specifically geared towards in-situ upgrading but through adaptation and modification they can find application in informal settlement upgrading.

85. In 2012 and 2013 Urban LandMark and the Tenure Security Facility Southern Africa provided support to Sustainable Urban Neighbourhood (SUN) Development in the upgrading of Monwabisi Park in Khayelitsha, in particular to develop incremental tenure mechanisms.

## 6.10. SCALE-ABLE TENURE OPTIONS

Emerging from the above South African and African precedents, as well as the tenure continuums contained in sections 6.7 and 6.8, the following main conclusions can be drawn:

1. **Administrative recognition is the minimum and essential tenure intervention** for informal settlements. This recognition is based on settlement categorisation and preferably contained in an approved city-wide upgrading plan and linked to the BEPP and MTEF budgets. Administrative recognition should be rapidly conferred on ALL informal settlements. Settlement residents need to know how their settlement has been categorised (i.e. what is the development pathway, e.g. incremental upgrading with essential services provision versus deferred relocation with only emergency services). Knowing their category affords significant tenure security in that residents are free from the uncertainty of possible unexpected eviction.
2. **A designation in the SDF or special incremental zone (land use scheme) for informal settlements is a desirable next step** because this establishes a planning status for the settlement in terms of SPLUMA, confers a legality, facilitates easier state funding of essential services, and paves the way for a formal type of zoning when and if the settlement is formalised (e.g. CoJ TRSA; CoCT SR2).
3. **Any form of initial individual tenure is likely to be administratively burdensome** for the municipality and needs to be approached with realism in respect of the potential for scaling up (i.e. decentralised forms of locally administered tenure such as occupation certificates).
4. **A municipal certificate of occupation should be regarded as the preferred form of individual tenure** in cases where this may be appropriate because: a) it is decentralised and therefore more accessible and locally responsive; b) township establishment and erf subdivisions are not required – a GPS point can be utilised; c) it can be optimised over time including affording possible access to bond/bank finance; and d) it

can be upgraded to a more formal type of tenure when and if formalisation occurs.

5. **All tenure interventions need to be linked to participation, partnership and social compact agreements.** These agreements confirm the roles and responsibilities, including those pertaining to land use which are directly relevant to safety and tenure security (e.g. pertaining to densities, open access ways, unsafe building materials etc.). Refer to section 5.15. Tenure solutions need to have local buy-in and need to be linked to a broader development and land use management agenda (plan).

## 6.11. LINKING TENURE RESPONSES TO CATEGORISATION<sup>86</sup>

**For permanent informal settlements (B1 category):**

- i. **Land acquisition should not be a pre-requisite to the provision of essential state services, but should rather be seen as a parallel process**, the timing of which should be determined by a range of factors including municipal spatial planning, the developmental pathway of a particular settlement (as per afore-mentioned categorisation), the availability of funding and land, and site suitability. For these settlements, a robust suite of essential services should be provided, not just the bare minimum. Establishing the main road network ('frame') of the settlement should not be delayed, due to difficulties in establishing it later once further settlement densification has occurred. Over and above water, sanitation, electricity and access roads/footpaths, key social services should also be addressed (e.g. education, healthcare, ECD).
- ii. **Land owners should be advised of the municipality's intentions in respect of in-situ upgrading**, the provision of essential services and that, at some future time, the municipality intends to acquire the land, when funding is available to do so. The landowner should also be advised that any state investments in essential services will not be regarded as an improvement to the property and will not be compensated for at the time of purchase by the state.

86. Content taken from CSP Briefing Document Resource Library Ref. 310.

- iii. **Municipalities should preferably declare the settlement as a transitional residential zone** (or similar zoning) whilst incremental upgrading occurs and in advance of eventual land acquisition and formal township proclamation.

#### **For temporary informal settlements (B2/C category):**

- i. **Land acquisition should not be a pre-requisite to the provision of essential state services and should not be acquired at all.** Only basic essential services are appropriate with a minimum level of investment necessary to address basic rights and mitigate imminent health and safety threats. However, care should be taken to ensure that such settlements do not remain for protracted periods on such land. If relocations cannot be achieved within a reasonable time frame, then the categorisation of the settlement should be revisited with a view to possible in-situ upgrading and land acquisition. Settlements should not be left in limbo for protracted periods.
- ii. **Land owners should be advised of the municipality's intentions to provide temporary essential services** and eventually relocate the settlement when land and funding permit this to occur. The landowner should be afforded the opportunity to provide these services himself or to provide or help facilitate the provision of alternative land/accommodation, provided this is acceptable to the community and municipality. This may give rise to a collaborative effort.

## **6.12. SUPPORTIVE ACTIONS REQUIRED TO EMPOWER METROS**

Notwithstanding the contents of section 6.3, there remains uncertainty in metros as to their legal mandate in respect of providing essential services on land they do not own. Municipalities sometimes indicate that they are prevented from investing state funding on land which is privately owned, although the specific legal provision which precludes this (e.g. MFMA, PMFA,

supply chain regulations) has not yet been forthcoming and it appears that the concern arises from a general concern and accepted practice in respect of prudent use of state funding. The concern appears three-fold: a) a concern over undermining or transgressing the property ownership rights of landowners (state or other); b) concern over providing a landowner with improvements on his land which may increase the value of his land at the state's expense; and c) avoiding fruitless and wasteful state expenditure. It is therefore suggested that the following enabling actions should be taken by the national sphere of government in South Africa:

- I. **National Treasury should issue an enabling directive or practice note to municipalities** along the above lines after it has considered the matter further.
- II. **Legal opinion:** In tandem with the above, a formal legal opinion (senior council or state law advisor) should be obtained or commissioned. If this is required, then the briefing document contained in the resource library (ref 298) can be utilised in the briefing for such a legal opinion. **Government should define appropriate flexibility and relaxation of environmental and other regulations and controls** pertaining to the provision of essential services on such land for both permanent and non-permanent informal settlements. This flexibility could be linked to the establishment of an appropriate incremental zone (refer to sections 6.9, 6.13 and 7.3). The de facto status of the settlements and the opportunity to mitigate and reduce existing settlement impacts through essential services provision should be taken into consideration (e.g. improved storm-water controls, reduced water contamination, reduced safety threats etc.). This can largely be achieved at municipal level by means of an incremental development zone (refer to sections 6.13 and 7.3 for details). However, in some respects engagement and consensus between various spheres of government is necessary (e.g. in respect of relaxed environmental or building regulations).

### 6.13. ZONING, LAND USE, LAND RIGHTS & FLEXIBILITY

**Extracts by courtesy of a Mini Literature Review pertaining to innovative informal and incremental land development processes and tenure – by G Abrahams for African Centre for Cities and also drawing on work by Urban LandMark<sup>87</sup> – Toolkit Library Ref 325**

“Land use is conventionally regulated both internationally and in Africa through laws that determine and establish the land use zoning of land. **Zoning instruments typically include zoning schemes<sup>88</sup> that are documents that determine what the land may and may not be used for, the density and intensity of the use of the land, position of buildings on the land, the height and amount of building that can be developed** (City of Johannesburg, 2009, p. 47).

“Land use management is seen as the product or activity that is carried out after land has been developed using land development laws and therefore is often included in land development laws. For example, in South Africa, there are provincial land development laws that set out the land development process and requirements which incorporate provisions for zoning schemes to be imposed on the developed land to regulate the ongoing use and development of the legally developed land. Land use management is therefore usually seen as the mechanism to ensure that the development achieves the outcome of the initial development concept and plan that was approved for development. **Land use management and regulation therefore mostly follows development rather than being a leader of development.**

“However, **more recent reforms to planning legislation in countries such as South Africa are explicitly linking strategic and spatial planning and plans to land use schemes in order to ensure that development is guided within the broader development policies of government. The Spatial Planning and Land Use Management Act, 16 of 2013 (SPLUMA) is one such new law.** Also agencies such as UN-Habitat are increasingly promoting the role of spatial planning in integrating a range of public sector plans (such as infrastructure, transport, environment) (UN-Habitat - UN Human Settlements Programme, 2009), a position that is very much embedded in the approach to SPLUMA in South Africa.

“The **land development laws that land use management derives from are often seen as too formal, rigid in their application, have onerous requirements and therefore take a long time to obtain official approval and are costly to implement** (South African Cities Network, 2011, p. 2) The UN-Habitat report on Planning Sustainable Cities therefore poses the conundrum:

*‘that city governments themselves are producing social and spatial exclusion, and environmental hazards, as a result of the inappropriate laws and regulations which they adopt. The problem is an obsession with the physical appearance of cities rather than valuing and building on the social capital that is frequently created in poor or low-income communities’ (UN-Habitat - UN Human Settlements Programme, 2009).*

“This is a widespread phenomenon of urbanisation in developing nations and **has resulted in governments and development agencies adopting different approaches to managing informality. There are approaches that range from supporting regularisation using formal laws to those that build on**

87. Mini Literature Review – Regulatory interventions to implement planned development – innovative mechanisms that recognise informal and incremental land development processes, land tenure and land use regulation” 03 May 2015 – Gemey Abrahams for African Centre for Cities funded by UKAid. Toolkit Library Ref 325.

88. May also be called Town Planning Schemes (South Africa and Namibia) or land use management schemes or Zoning Schemes.



**recognising informal systems.** The growing discourse on how to handle informality has also spilled over to planning education and training curriculae and there are now several calls for mainstreaming new approaches that are innovative and recognise how the poor access and develop land<sup>89</sup>. Importantly, Watson and Agbola (Agbola & Watson, 2013, p. 3) note

*“that **conventional planning practices and systems that are trapped in the past are failing**...and that planning is the single most important tool that governments have at their disposal for managing rapid urban population growth and expansion’ and that change depends on planners who are innovative problem solvers”.*

“Land use management and regulation has not generally been a focus of innovation as more attention has been given to land administration and land law reform as a means to increase access to land and secure tenure for the urban poor. **However, the City of Johannesburg was able to use land use regulation effectively to secure legal recognition of tenure and undertake incremental upgrading through a land use management approach.**”<sup>90</sup>

#### 6.14. LAND ACCESS - PROACTIVE VERSUS REACTIVE THINKING

Access to land and the city is the fundamental driver of informal settlement formation (whether on a permanent or transitory basis). A failure to adequately plan ahead and anticipate urban migration and settlement formation has been a crosscutting challenge across most municipalities in South Africa. Most historical responses to upgrading have focussed on dealing with existing settlement and backlogs, rather than anticipating future influx. This is understandable given the scale of the pressures under which municipalities find themselves. In addition, there has been a tendency to discount the land access which informal settlements already provide to residents and a failure to optimise this access.

In respect of thinking differently, more incrementally and proactively about land access, the following guidance is offered:

1. **Optimise land access via existing informal settlements:** Existing settlements already provide

land access. They represent the way that the urban poor find and occupy land for themselves in the absence of other choices. Informal settlements should thus be seen in the context of land access and access to the city as outlined in previous sections. Once categorisation has been done (and preferably approved as part of a city-wide upgrading plan), all category A and B1 settlements represent ‘bankable’ land access to the urban poor, even if improvements in tenure security, land use management and essential services may still be required. Improving this ‘level 1’, ‘administrative’ planning and tenure security via ‘level 2’, incremental zoning (land use management scheme) is important. Refer also to sections 6.13 and 6.10.

2. **Consider site and service for future demand:** Given the scale of existing informal settlements and the high costs and timeframes associated with formal (greenfields) housing to address future demand, site and services (also known as ‘management land settlement’), affords a significant opportunity to metros in order to

89. See Watson and Agbola’s article ‘Who will Plan Africa’s Cities in Africa Research Institute’ and Tapela’s article ‘Mainstreaming informality and access to land through collaborative design and teaching of aspects of a responsive planning curriculum at the Cape Peninsula University of Technology’, UNHabitat’s Global Report on human settlements ‘Planning Sustainable Cities, 2009 and the work of the Association of Africa Planning Schools (AAPS)’.

90. Mini Literature Review pertaining to Innovative informal and incremental land development processes and tenure - by G Abrahams for African Centre for Cities - Toolkit Library Ref 325.

more proactively and effectively address future demand. A range of practical actions can be taken in order to achieve this outcome, as is outlined in more detail in the managed land settlement example contained later in this section. Refer also to the following Afesis Corplan toolkit items contained in the resource library:

- Urban Land Access Manual in three parts - Toolkit Library Ref. 99, 100 and 101.
  - The Managed Land Settlement Process - Toolkit Library Ref. 275.
  - Incremental Settlement - Toolkit Library Ref 276.
3. **Land readjustment and pooling:** The precedent of 'land pooling' in Angola is also relevant and regarded as an important tool for upgrading settlements. As outlined in the Angola example 3 in section 6.9 "the concept of land readjustment is to assemble small peri-urban or peri-rural

land parcels into a large land parcel, provide it with infrastructure in a planned manner, and return a portion of the reconstituted land to the owners, after deducting the cost of the provision of infrastructure and public spaces from the sale of some of the now-serviced land".... *"It is an appropriate solution to the problem of land distribution in areas located on the margins of existing urban areas, and where there is scattered settlement, and where large tracts of land are unavailable for private sector subdivision-type land development. Since many of peripheral settlement plots are not for sale, it is often difficult to find a sufficient number of plots next to each other to develop a rational building development plan. It is also appropriate in older urban settlement areas that need to be reorganized in order to provide access to infrastructure and services."*<sup>91</sup>

## CONTENT EXTRACTS FROM AFESIS CORPLAN LAND ACCESS MANUAL ABOUT THIS MANUAL

The target group for this manual is the leadership of organised groups of homeless in need of land for housing development. The aim of this manual is to describe briefly how to get land for a house.

Land access in this manual is understood to mean:

- Land purchase:** buying land and getting ownership papers changed into your name.
- Land development:** planning for and getting approvals to put roads, water, sewerage pipes and other services into the ground as well as building services and houses on the land.
- Land occupation:** moving onto the land or into the house and starting to live there.

This manual starts with an introduction to the land access process:

- Land and the Law
- The Land Development Journey
- The Five Main Stages in the Land Access Process
- The Steps in the Land Access Process.

91. Urban LandMark & Development Workshop, 2013, p82 in Mini Literature Review pertaining to Innovative informal and incremental land development processes and tenure - by G Abrahams for African Centre for Cities - Toolkit Library Ref 325.

The manual then outlines the five stages involved in land access:

- STAGE A: **Organising**
- STAGE B: **Deciding**
- STAGE C: **Planning**
- STAGE D: **Approvals**
- STAGE E: **Implementing.**

Each of the five stages:

- Starts with a summary of what is involved in that stage - **AIMS**
- Provides a diagram showing the steps involved - **ACTIONS**
- Concludes with the implications of buying land at that stage of the land access journey - **ADVICE.**





SDI



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# 7 APPROPRIATE SETTLEMENT PLANNING & REGULATORY FLEXIBILITY

## 7.1. SPLUMA REQUIREMENTS FOR UPGRADING

In terms of SPLUMA, municipalities are required to integrate informal settlements into their spatial systems and land use management. Incremental upgrading of informal areas receives special priority and principles of flexibility and incrementalism are emphasized. Municipalities are required to make provisions that permit the incremental introduction of land use management and regulation for 'informal settlements, slums and areas not previously subject to a land use scheme'. The following extracts from SPLUMA are provided for reference purposes (with emphasis added) and to demonstrate the substantial emphasis on including informal settlements in an incremental and flexible fashion, amongst other things to enable the provision of services and more secure tenure:

- » **Preamble:** "AND WHEREAS informal and traditional land use development processes are poorly integrated into formal systems of spatial planning and land use management".
- » **Definitions:** "incremental upgrading of informal areas" means the progressive introduction of administration, management, engineering services and land tenure rights to an area that is established outside existing planning legislation, and may include any settlement or area under traditional tenure".
- » **Development principles:** 7.(a) (ii) spatial development frameworks and policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterized by widespread poverty and deprivation;"
  - (iv) "land use management systems must include all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas;"(v) "land development procedures must include provisions that accommodate access to secure tenure and the incremental upgrading of informal areas."
- » **Preparation of spatial development frameworks:** 12. (1) (h) "include previously disadvantaged areas, areas under traditional leadership, rural areas, informal settlements, slums and land holdings of state-owned enterprises and government agencies and address their inclusion and integration into the spatial, economic, social and environmental objectives of the relevant sphere."
- » **Content of municipal spatial development framework:** 21 (k) "identify the designation of areas in the municipality where incremental upgrading approaches to development and regulation will be applicable."
- » **Land use scheme:** 24.1) "A municipality must, after public consultation, adopt and approve a single land use scheme for its entire area within five years from the commencement of this Act". The land use scheme adopted must amongst other things "include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use scheme".



» **Amendment of land use scheme and rezoning:** 28. (1) “A municipality may amend its land use scheme by rezoning any land considered necessary by the municipality to achieve the development goals and objectives of the municipal spatial development framework. (2) Where a municipality intends to amend its land use scheme in terms of subsection (1), a public participation process must be undertaken to ensure that all affected parties have the opportunity to make representations on, object to and appeal the decision.” (4) “Despite sections 35 and 41, any change to the land use scheme of a municipality affecting the scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone in terms of section 25(2)(a) may only be authorized by the Municipal Council.”

## 7.2. INTERIM PLANNING AND LAND RIGHTS SOLUTIONS

Given the need to commence with incremental upgrading in advance of land acquisition and formal town planning processes, including the provision of essential services and functional tenure, the following initial (phase 1) solution for planning, land access and property rights is suggested (at least until such time as land has been acquired by the municipality). This solution is necessitated by a recognition: A) of the need to include informal settlements within municipal planning frameworks (as dictated by SPLUMA) but also; B) that the timeframes, costs and resource implications associated with municipal land acquisition, even by expropriation, are considerable and prohibitive in terms of expediting land acquisition at scale across several hundred informal settlements and potentially thousands of land parcels.

### PHASE 1: INITIAL, MINIMUM RESPONSE FOR ALL SETTLEMENTS

Response	Purpose	Description
Informal settlement layer within SDF.	To establish a planning framework for informal settlements and incremental upgrading which fulfils SPLUMA requirements in respect of such principles as the inclusion of informal settlement which are outside of current land use frameworks, incrementalism and flexibility.	All informal settlements are spatially defined as a layer which is approved as part of the SDF and uploaded on municipal GIS (in the same way as DMOSS). The categories of settlement should be as per the standard categorization (full upgrades, incremental upgrades, deferred relocations and imminent relocations).
Municipal informal settlement bylaw.	To establish the ‘rules’ and responsibilities of various parties (municipality, residents and landowners) in respect of informal settlement areas and to provide a legal basis for intervention on land not (yet) owned by the municipality.	A gazetted bylaw, by means of a public notice with a period for public comment. Amongst other things, this would establish; a) The nature of the services which may be provided (including essential municipal and social services); b) the criteria which must be satisfied before an informal settlement will be considered for such services (i.e. the categorization framework); c) a requirement that prior to the installation of services the owner of the property be given notice of

		<p>Municipality be given a right of access to install and maintain the services on the property; f) the basic ‘rules’ for the municipality, residents and other stakeholders so as to reduce health and safety threats and improve urban management (e.g. in respect of utilizing non-flammable building materials, desisting from illegal connections, solid waste management, care of municipal infrastructure etc.) it being recognized that the existing statutory and regulatory frameworks (e.g. building regulations) will not be achievable. Refer also to the ‘notice to landowners’ below.</p>
<p>Notice to landowners.</p>	<p>To take reasonable steps in respect of land and property rights, within prevailing resource constraints, and thereby enable incremental upgrading to occur in advance of land acquisition by the municipality.</p>	<p>All landowners on which settlements are located are advised of the settlements status, municipal planning intentions, implications and afforded the opportunity to respond. For example, in the case of all incremental upgrades (category B1 settlements) the owner would be notified that the settlement is permanent, that the municipality requires access for purposes of providing and maintaining essential services, that although the municipality is not in a position to immediately acquire the property it is initiating a programme to deal with the issue of land acquisition across all permanent settlements, that the municipality recognizes the functional tenure of the residents, and that the owner has 60 days in which to respond. Ideally owners should receive a substantial if not full rates rebate given that the municipality is deferring compensation and the landowner no longer enjoys beneficial occupation.</p>
<p>Functional tenure security.</p>	<p>To strengthen tenure security in order to better unlock residents own investments in housing and to take the first step in transferring urban land into the hands of the urban poor.</p>	<p>This may be achieved in one or more of the ways in advance of land acquisition and formal planning approval processes outlined elsewhere in this toolkit. At a minimum, there should be administrative recognition of settlements. Depending on categorization, a municipal list of residents referenced to numbered shacks and/or a municipal certificate of occupation could also be considered.</p>

Developmental planning	To ensure that appropriate developmental planning occurs within all informal settlements within the context of their categorization, but with an emphasis on addressing health and safety threats and ensuring access to essential services within as many settlements as possible	Development of participative upgrading plans. Formation of social compact agreements. The nature and extent of developmental responses will vary depending on the categorization of the settlements, the social and environmental factors within each settlement, and available municipal budget.
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## PHASE 2: INCREMENTAL DEVELOPMENT ZONES

For incremental upgrades (category B1, permanent settlements) the introduction of an incremental development zone should be explored once the municipality has acquired the land or land use rights or else has resolved to implement an overlay zone. Such a zone can also potentially be linked to improved forms of incremental tenure (e.g. an upgradeable municipal tenure certificate linked to a demarcated residential site boundary). The municipality might also explore the merits of implementing such a zone unilaterally if there are particular reasons to do so (e.g. extended delays with land acquisition/expropriation and the need to introduce more structured planning controls due to extensive owner-driven housing consolidation). Refer to the following section for more detail and precedent.

### 7.3. INCREMENTAL DEVELOPMENT ZONES

The use of various types of special, incremental development zones has already been substantially outlined in sections 6.8, 6.9, and 6.10.

#### Zones for full, conventional upgrades - category A

Although the use of formal township establishment, town planning and zoning/land use processes is anticipated for most conventional upgrades, it is suggested that municipalities consider a special zone for these settlements with greater flexibility (including tenure flexibility), in close consultation with the beneficiary community, for various reasons: A) Many low income housing projects are 'consolidated' through less formal building methods over time including extensions or outbuildings with no building plans, backyard rental accommodation, and encroachment on building lines. Some low-income housing projects a decade after

construction and occupation no longer look like formal housing anymore due to the extent of such less formal consolidation. B) Many residents sell their properties via unregistered transactions and a more local flexible type of zone along with a decentralised, locally administered form of tenure, could have significant merits.

#### Zones for permanent settlements, incremental upgrades - category B1

The establishment of an appropriate special, incremental development zone (land use) for ALL permanent informal settlements (category B1) should be regarded as an essential second step (from a tenure and planning point of view) following the first step of categorisation and settlement recognition. The establishment of such a 'blanket zone' not only significantly improves tenure security, but also makes the settlement legal, includes it in municipal planning schemes, facilitates easier state investment in essential services, and paves the way for a formal type of zoning when and if the settlement is formalised.

Each city will need to consider, taking into consideration local and international precedents (including City of Johannesburg's Transitional Residential Settlement Area [TRSA] scheme and City of Cape Town's Single Residential 2 [SR2] scheme), how they define such a zone (land use), including the 'rules' that should apply (e.g. pertaining to building materials, access ways etc.). In determining this, the following resources are relevant - toolkit library reference numbers are utilised:

- 321 - City Johannesburg Transitional Residential Settlement Area zone Notice 9999
- 322 - Dept. Rural Development and Land Reform Land Use Guide
- 323 - SPLUMA guide SA Cities Network

- 324 – Urban Land and SPLUMA – SERI/Royston
- 325 – Incremental Development and Tenure – African Centre for Cities and Abrahams
- 326 – SERI Submission on CoJ Land Use Scheme
- 327 – Johannesburg Land Use Scheme (TRSA)
- 328 – Comments on City of Johannesburg Land Use System - Huchzermeyer
- 341-345: Incremental tenure practice notes and technical reports for Johannesburg and Monwabisi Park (Cape Town) by Cities Alliance and Urban LandMark.

Taking into consideration the above precedents and learning, the **following guiding principles for such zones are offered:**

- **Keep development rules simple** – Focus on main priorities which affect health and safety and which are realistically achievable and relatively ‘enforceable’ with community buy-in and support. Examples of some of the key priorities include:
  - *Building materials* – no flammable building materials such as plastic and cardboard.
  - *Access ways* – agreed access roads and foot-paths should be kept open for emergency access e.g. medical, fire protection etc.
- **Local buy-in and enforcement** – It is unviable for the municipality to enforce and regulate controls or ‘development rules’ in settlements unless there is local buy-in. This means that any incremental zoning process and resultant rules or controls need to be negotiated and based on participation and partnership.
- **Link to social compacts** – The best way to achieve the above buy-in and enforcement is via a social compact which confirms broader roles, responsibilities and developmental priorities – refer to section 5.15.
- **Flexibility** – The scheme needs to avoid excessive detail and prescription and rather create the space for specific local solutions with a broad enabling framework (e.g. specifying ‘agreed minimum access ways’ rather than exactly how many and how wide, given the great variation in settlement densities and typologies).
- **Don’t wait for land acquisition** unless it is imminent, or the beneficial effects of zoning (land use management and tenure) will be lost or greatly reduced due to delayed zoning implementation.

There is copious precedent for municipalities creating zoning over land it does not own (e.g. environmentally sensitive land such as wetlands or open space system). Provided the zoning is based on settlement categorisation and linked to a city-wide upgrading plan, then an incremental zone should be considered viable. Notice to landowners should form part of the process.

### Zones for non-permanent settlements, deferred relocations - category B2

It is suggested that municipalities also consider an interim zone for deferred relocations settlements requiring emergency services (category B2), especially where the expected delays will be several years (which is often the case given the lack of viable and readily available relocation destinations).

## 7.4. TIMING OF TOWNSHIP ESTABLISHMENT

As outlined in preceding sections, including sections 7.1 and 6.13, township establishment is only possible once land has been acquired and all formal town planning and other approval processes have been finalised. The use of incremental zones as outlined in the preceding section become important in establishing a town planning status during the all-important incremental phase of development during which a range of essential municipal and social services are provided. The UISP phasing optimisation referred to in section 1.19 should also be referred to. In the case of category A settlements, it may often be viable to establish township establishment fairly rapidly, especially where land has already been acquired and a formal/conventional housing ‘BNG’ housing project is implementation-ready. However, in most category B1 settlements this will only be possible at a later point in time (i.e. once land has been acquired, funding is available, settlement planning and approval processes have been completed and issues of density can be resolved). In the case of category B2 settlements, it is usually not envisaged at all (at least not for human settlement purposes since, by definition, the land in question, for whatever reason, is not suitable or viable for residential use. Please refer also to the categorisation framework outlined in sections 1.20 and 2.3.

## 7.5. ENVIRONMENTAL PROCESSES AND APPROVALS

Whilst the environmental processes and regulations pertaining to formal developments are well-established, it is recognised that these processes and regulations are poorly aligned with the reality in most informal settlements and that some flexibility is necessary. The provision of essential services (e.g. roads and stormwater controls and sanitation) typically impact positively on what is often a somewhat degraded environment within informal settlements. The full range of environmental regulations should not be applicable to incremental zones and incremental upgrading provided the services provided result in an improvement in respect of the environmental impacts and threats. Further engagement between the metro and provincial/national spheres of government in respect of the environmental regulations pertaining to incremental development zones would be beneficial with the objective of agreeing principles which are appropriate for the incremental/interim phase of upgrading in informal settlements. It is understood that, in respect of the precedents of incremental zones from City of Johannesburg and City of Cape Town (as outlined in section 7.1 and related toolkit items), environmental approval was not a required for the establishment of the incremental zones utilised by these Cities.

## 7.6. BUILDING CONTROLS

The building controls which are appropriate for incremental upgrading should be formulated as part of the process of establishing incremental development zones (see 7.1) and should be confirmed/developed through processes of participative planning and social compact formation (sections 5.12 and 5.15). The precedents outlined in 7.1 pertaining to City of Johannesburg's Transitional Residential Settlement Areas (TRSA) and the City of Cape Town's Single Residential 2 (SR2) should be referred to. The 'rules' should be kept as practical and realistic as possible so that residents can comply. They should be locally negotiated and agreed. They are likely to pertain to such issues as not using flammable building materials and leaving ways open for emergency access including for fire protection etc.. It is emphasised that owner-driven housing consolidation and less formal building methods are the norm in most informal settlements as part of incremental upgrading. Optimisation of owner-driven housing consolidation can be achieved by making use of the PHP-type developmental process including housing support centres

and support from a CRO (refer to sections 3.4, 3.5, 3.13 and 3.14). With such support, the 'bar' can easily be raised in respect of owner-driven housing quality and therefore in respect of the building 'rules' which can be applied as part of an incremental development zone. As for building controls, these should be dealt with through the process of establishing an incremental zone with appropriate local rules (refer to 7.1 and 7.4).

## 7.7. PEDESTRIANISED LAYOUTS

Although the bylaws of many municipalities require road access to every house and a specific number of parking bays, such norms are not appropriate for dense informal settlements. These norms usually date back many years and related to medium density suburbs. They are also out of step with the trend towards more compact cities, both in South Africa and internationally. It is already practice for some municipalities to make use of partially pedestrianised layouts in informal settlements in order to minimise relocations and maximise the use of scarce land. Please refer to the precedent pertaining to eThekwin's Incremental Services Programme (see section 1.23 and toolkit item 98). In cases where land is scarce and densities high, the provision of essential access roads (sufficient for public transport, emergency vehicles such as fire engines and ambulances, electrical transformer and key social facilities access) should be accompanied by footpath access. Road access to individual homes should not be regarded as the minimum. Where settlements are clustered together in a single precinct, then the provision of road access can be optimised in terms of achieving spatial coherence and cost, but delivering them at precinct-level against a road master plan. Refer again to eThekwin Incremental Services Precedent (toolkit item 98 and 362).

## 7.8. AREA-BASED PLANNING AND PRECINCTS

Area-based planning, especially where informal settlements area clustered together in a single precinct(s), is highly desirable. Refer also to section 4.11 (pertaining to area-based management). Defining such precincts in an effective fashion across a city is also important, where it has not yet been done (refer to toolkit item 359 and 360).



A useful tool/method in respect of area-based planning for informal settlements is the development precinct-level master plans. Please refer to toolkit item 362 for an example of the required scope of work. Such master plans would, amongst other things, identify key nodes and movement corridors and develop a hierarchy for access roads and footpaths based on a range of criteria and spatial considerations. Refer also to preceding section 7.5.

**7.9. ENUMERATION**

Enumeration is a locally-driven process whereby a community profile, in particular household-level information, is collected. This serves not only to provide socio-economic and demographic data for settlement planning purposes, but also to mobilise community involvement as part of a broader developmental

process. Whilst similar data may be collected as for a normal socio-economic household survey, the difference lies in the extent to which the process is locally-driven and builds social capital. Even though conventional socio-economic surveys usually make use of local fieldworkers to collect data, the classic enumeration method (e.g. as practiced by CORC/SDI/FEDUP/ISN), goes much further than this (typically linked with community profiling, mapping, re-blocking etc.). Pre-requisites for such enumeration include sufficient social capital and cohesion within the community and usually also that a support organisation in some shape or form can play a supportive role. This could be achieved through a PHP-type developmental process (refer to 3.4, 3.5 and 4.9).

Refer to toolkit item 103 for more information about enumeration (WPI/CORC tool) and to toolkit item 84 (PPT socio-economic survey tool).

**FIGURE 36<sup>92</sup>**

<b>What is Enumeration?</b>	Enumeration is the process of collecting information from each shack in the settlement. This is done by going door to door and asking specific questions from each family. These questions range from information regarding the family and their education to information concerning their living environment.		
<b>Why Enumerate?</b>	The process of enumerating the settlement allows for important information about the people living there and their needs to be collected. This information gives all partners an idea of the population and what issues need to be addressed. For reblocking, this information identifies how many people live in the different sections that would be reblocked in addition to services that would need to be improved in these sections.		
<b>Tasks</b> <small>This is what each partner has to do for enumeration</small>	<b>Community</b>	<b>CORC/ISN</b>	<b>Municipality</b>
	Gather several enumerators to work on the settlement	Train leadership and enumerators on how to conduct process	Support community throughout the process
	Keep proper organisation of all the data collected	Assist in consolidating and compiling the collected data	
Organise settlement with shack numbers and sectional divisions			

92. All items on this page extracted from 'A handbook to support the reblocking of informal settlements...' by CORC and WPI - see toolkit library item 103.

## 7.8. RE-BLOCKING

Key resources pertaining to re-blocking include the following (Toolkit resource library references used):

- 103 – Reblocking Guidebook – WPI and CORC
- 104 – Reblocking at Flamingo Park – WPI
- 119 – Baan Mankong – Going to scale by S Boonyabancha
- 183 – Community mobilisation through reblocking at Flamingo Crescent - CORC & others, S Antolick
- 197 – Blockout out at Rumsig CORC/SDI
- 206 – Reblocking Mshini Wam – CORC/SDI
- 211 – City of Cape Town adopts reblocking policy – CORC
- 330 – Reblocking examples - before and after aerial photographs – CORC/SDI
- 331 – Reblocking as part of Informal Settlement Upgrading – SDI/CORC.

### On-site REBLOCKING<sup>93</sup>

Reblocking is a **more systematic way of improving the infrastructure and physical conditions in existing communities by making some adjustments to the layout** of houses and roads to install sewers, drains, walkways and roads, but doing so in ways which ensure the continuity of the community. Communities can then develop their housing gradually, at their own pace. **When communities opt for reblocking, some houses usually have to be moved and partially or entirely reconstructed to improve access.** Some lanes may also have to be re-aligned to enable drainage lines, water supply systems or sewers to be constructed. Reblocking is often undertaken in cases where communities have negotiated to buy or obtain long-term leases for the land they already occupy. **In both cases, the process of reblocking is an important step in the progress towards land tenure security and improved housing.**



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Although re-blocking it is usually regarded as a community-driven process (typically with a support organisation and necessary PHP-type capacity available), it can also be achieved in a more conventional, municipal-driven fashion (though still with community

consultation) in order to open lanes for essential services where there is no PHP-type support capacity readily available (e.g. for the delivery of essential road and footpath access as in the case of eThekweni Municipality's incremental services programme).

93. CODI Update No. 5 March 2008. Toolkit Library Ref. 236.







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## 8 SPATIAL CONSIDERATIONS AND DENSIFICATION

Spatial considerations and the closely related issue of densification were key issues identified by metros during the process of engagement prior to the development of this toolkit.

As far as spatial considerations are concerned, the city-wide upgrading plan (see sections 2.1, 2.2 and 2.3, needs to reflect and take into consideration spatial factors. The spatial dimension of the upgrading plan also need to be reflected in the municipality's Built Environment Performance Plan (BEPP) (refer to section 2.10). In addition, there needs to be congruency with the municipality's Spatial Development Framework (SDF), which forms a key element of its Integrated Development Plan (IDP). The SDF may often make reference to priority zones for concentrating high value investment and service provision (e.g. via an urban development line or integrated development zone). The BEPP Guidelines should be referred to as well as the (see toolkit items 52, 53, 57). Through the process of engagement with metros, spatial equity in terms of social facilities and economic access were highlighted as well as addressing historical spatial imbalances. It was recognised that sometimes informal settlements are well located relative to urban opportunities but are often on land which is constrained from a developability point of view. It was also recognised that relocating informal settlements is often problematic from a spatial point of view, because the only land available for relocations is often further from opportunities. It was also noted that, in some cases, peri-urban informal settlements (e.g. Mangaung) expand and consolidate over time and become so well established that it is no longer viable to relocate them due to the level of investment and local economies and social facilities which become established over time.

As far as densification is concerned, the guidance notes which follow address the key issues which should be taken into consideration. Issues of densification and spatial coherence are closely related (e.g. in respect of promoting more compact and spatially-efficient cities).

In the light of the above, and in addition to the key guidelines and toolkit sections already referenced, the following guidance notes are provided to assist municipalities in addressing spatial consideration and densification effectively and realistically within the prevailing financial, land, bulk services and other constraints:

- › **Informal settlements are often already moderately to very dense** – far denser than middle income suburbs and townships. If upgraded incrementally and in-situ with significant pedestrianised access (some re-blocking to achieve emergency vehicular access) and retaining as many structures as possible (which will necessitate the kind of planning flexibility outlined in sections 6.8, 6.10, 7.2, 7.3, 7.6 and 7.7 including incremental development zones with flexible land use management and building controls) then high densities can be achieved without reverting to formal, densified housing solutions which are exceedingly costly, require complete redevelopment of the site (and temporary relocations) and which also raise challenges in respect of how to equitably allocate ownership of the high value housing asset or else how to sustainably operate and manage rental solutions which are not affordable for the urban poor. There is also both potential and precedent for residents of informal settlements building double story structures, especially where functional tenure security and essential services are provided. Re-blocking can also help to stimulate this (e.g. Umshini Wami settlement in Cape Town).
- › **Spatial planning and densification priorities (arising from City plans) can sometimes be exclusionary** in that: a) they divert resources and priorities away from the poor towards other types of 'flagship' projects (often propelled by a modernist development agenda); b) they sometimes define the city as having one main centre (as opposed to being polycentric as most Cities actually are). Often the urban development lines (or equivalent) exclude many informal settlements, even



though the locality of many populous settlements may actually be favourable in terms of access to employment opportunities and key social services. Spatial targeting therefore needs to be 'smart' and 'inclusive'. There are both macro and micro spatial issues at play. A different way to conceive of spatial priorities is to consider the agenda of inclusion, services, public transport and cost of access. This may give rise to a different spatial transformation agenda and set of priorities. Again, conceiving of the city as being polycentric may be helpful.

› **Conceiving of spatial planning as a way of responding proactively and practically to (and positively influencing) a de facto process of city-building (which is largely informal) may also be helpful.**

This is in contrast to a 'blue-print' or 'master-plan' mode of spatial planning (a modernist approach which assumes authorities can fully plan and control city building which is clearly not the case). Spatial planning can instead be seen as an important tool in urban change management, which takes into account prevailing urban formation processes (driven largely by the extra-legal choices poor people take within the limited options available to them), settlement patterns and, most importantly, prevailing resource constraints (including funding, land etc.). Often spatial planning is very vision-orientated and sometimes over ambitious and not cognizant of prevailing constraints and possibilities.





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# 9 LAND INVASIONS & URBAN MIGRATION - GETTING AHEAD OF THE GAME

## 9.1. UNDERSTANDING THE CHALLENGE

Metros strongly expressed the issues of urban migration and land invasions/grabbing as major challenges facing them and ones which they are unable to deal with on their own. In some respects, they find these challenges overwhelming and ones which they are unable to address within their own resources. Failure to find better future solutions so that we can 'get ahead of the game' will mean that informal settlements and urban poverty will continue into the future. Informal settlement upgrading tends to be focused on the current reality, but it is also necessary to look forward and anticipate and address future informal settlement which have not yet occurred. The good news is that many of the principles, tools and methods contained (or referenced) in this Toolkit can be applied proactively in order to 'get ahead of the game'.

- › **Urban migration is a national issue** - Metros can't deal with it alone. Greater communication and cooperation between different spheres of government is needed. Upgrading, in all its facets (including the provision of a range of essential social services) is not only the responsibility of the municipal sphere of government. Many provincial/national departments need to be involved (e.g. Education, Health, Social Welfare, Environmental Affairs etc.).
- › **Common understanding between spheres of government** - Urban migration is a reality and can't be prevented, irrespective of whether one regards it as a positive or negative phenomenon - this is consistent with international experience. Whilst municipalities tend to regard urban migration as a problem and something to be reduced or prevented, provincial and national spheres of government more often regard urbanisation as a necessary and normal part of a developing country with significant socio-economic benefits. It is imperative that there is a common understanding between spheres of government as to urban migration so that viable strategies and plans (multi-sector) can be formulated and implemented.
- › **Quantifying the scale of future migration** - There does not appear to be adequate predicative modelling on future urban migration based on current and past trends and other demographic and census information. There is also insufficient consensus on this between spheres of government. Municipalities, working with the other spheres of government, need to know what scale of urban migration they need to plan for.
- › **Understanding the migration choices people make** - It is important not only to understand the scale but also the nature of migration, including the kind of choices migrants make and what drives those choices.

  - **Why?** It is important to understand why migrants come to the city. Typically, the main drivers are: a) access to employment and livelihood opportunities; and b) access to essential services especially education and health care. A better future is what most migrants are hoping for.
  - **Where?** Where migrants move to live will be determined in part by access to the aforementioned employment opportunities and essential services, but also by what kind of housing supply is available, since these are heavily constrained. By far the biggest available housing supply is informal or 'organic' in nature (see below).
  - **Supply?** The current 'supply' of housing opportunities for low income migrants include:
    - *Existing informal settlements* - densification (new shacks, or sub-rental/sharing or backyard renting);
    - *Existing townships* - backyard rental;
    - *New land invasions* - usually initiated by a particular event and involving an initial group;
    - *State-funded housing* - this is unlikely to make any significant supply contribution when compared with the above 'organic'

supply types given the scale of migration, long housing waiting lists and comparatively slow rate of formal housing provision. This is clearly evidenced by the increase in informal settlements despite significant low income housing delivery since 1993. This inadequacy also applies to formal rental housing supply – not only in respect of the volume of supply but also in respect of the affordability (the breakeven rentals for any formal rental housing whether CRU or social housing in nature will significantly exceed what low income migrants can afford to pay, noting that most will not yet have any stable employment or livelihood).

- **Understanding migration/demand drivers** – It is often stated that state housing supply has ‘artificially’ stimulated urban migration, but its impact is unknown. Due to the inability of housing supply to meet demand and large housing ‘backlogs’, it is unlikely that this is the primary driver, even if it may have played a significant role in the early years of democracy. Another argument that is sometimes made is that the provision of essential services also ‘artificially’ stimulates urban migration. However, this argument is fundamentally problematic because it confirms that services can be accessed more easily and at a higher quality in urban areas (due to such factors as better funding, capacity and more viable settlement densities). This is an argument for and not against urbanisation. It may however mean, over time, that metros and other urban municipalities, may need additional fiscal allocation in order to meet the demand for such services created by urban migration.

## 9.2. ADDRESSING THE CHALLENGE PROACTIVELY AND EFFECTIVELY

### Housing Development Agency Guidelines

The Housing Development Agency have developed a guideline (compiled by Afesis Corplan) titled “Managing and Curbing Unauthorised Land Occupation” (toolkit item 364). This includes case study experience as well as details on, how to deal both this land already occupied as well as pre-emptive measures and strategies. Key principles arising from this guideline include:

- Prioritising the provision serviced land so that people do not have to resort to illegal land occupation.

- Where possible upgrade in-situ in order to minimise displacement and relocations.
- Consider evictions as a last resort when land has been illegally occupied.

As far as pre-emptive measures are concerned, the guideline identified the following key recommendations which are outlined in more detail in the document:

#### 1. Acquire and prepare more land for housing development

- a. Buy or acquire new land
- b. Encourage existing land owners to sell or make land available for development
- c. Reduce the holding costs of land (so that Municipalities and Government will be more willing to bank and access land in advance of need)

#### 2. Develop and implement clear land and housing subsidy allocation procedures

- a. National government needs to lead a process to review all national, provincial and local land and housing allocation policies and systems
- b. National government needs to incorporate land and housing subsidy allocation into national human settlement policy
- c. National government needs to develop an updated land and housing subsidy allocation framework
- d. National government must support Municipalities to develop a municipal land and housing subsidy allocation policy as per the national framework policy.

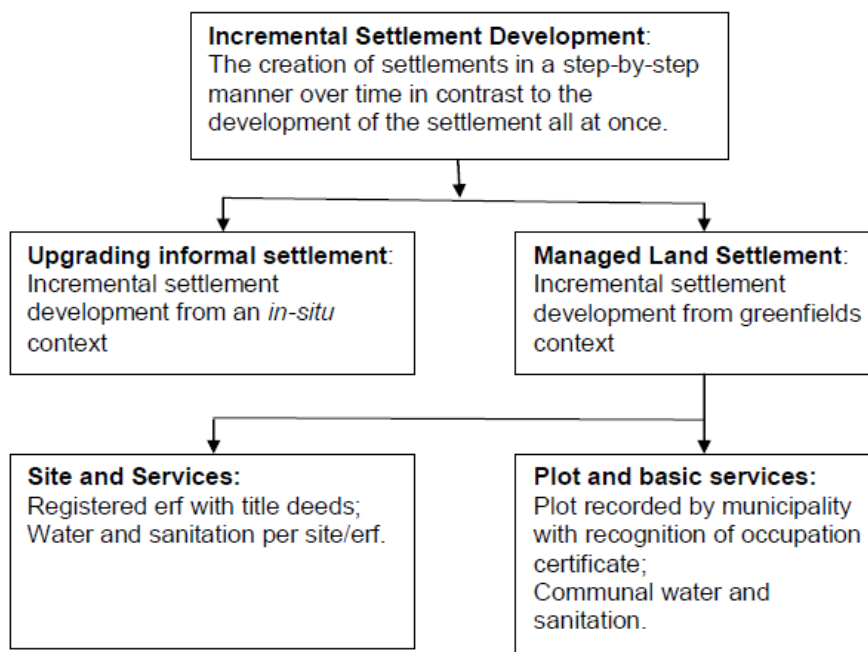
#### 3. Accommodate Incremental Settlement Areas

- a. Municipalities need to designate Incremental settlement areas within their Spatial Development Frameworks,
- b. Municipalities need to incorporate appropriate land use purposes (or zones) within their land use management systems
- c. Develop National guidelines for Incremental settlement areas and appropriate incremental land use purpose zoning regulations
- d. Encourage and support Municipalities to pilot and learn from implementing incremental provision under SPLUMA.

#### 4. Support Managed Land Settlement



**FIGURE 37: MANAGED LAND SETTLEMENT<sup>94</sup>**



- a. Recognise Managed Land Settlement as a form of incremental settlement within national Policy
- b. Municipalities need to develop and implement MLS policies and programmes and pilot, learn and share their experiences with other municipalities
- c. Municipalities need to structure themselves to adopt more of an area based programme approach to incremental settlement development
- d. Municipalities need to coordinate their incremental settlement approaches with their land and housing subsidy allocation policy
- e. All national, provincial and local spheres of government need to set MLS targets.

and will merely cause the ‘problem’ (migrants) to go somewhere else? What joint plans and strategies are there in order to anticipate and address future migration?

➤ **Preventing land invasions** - Whilst municipalities need to protect land and prevent invasions, this should be seen as a purely reactive measure and does not constitute a real solution in the face of urban migration. It merely pushes the ‘problem’ (i.e. migrants) somewhere else (either onto another invasion site or into existing informal settlements or backyard accommodation). Migrants have a right to access the city, and municipalities need to find practical ways to deal with the influx more proactively, realistically and developmentally. It is emphasised that municipalities need to find alternative accommodation for people evicted from land (refer to section 9.4 for details). It is also noted that the costs of ‘policing’ land are high and can result in conflict with migrants. The only viable solution to prevent illegal land invasions is to proactively identify, service and release land on a planned and structured basis.

➤ **Planning and servicing vacant land (reception areas)** - One of the only ways in which a municipality can ‘get ahead of the game’ is to identify, plan and, at the appropriate time, service vacant land (reception areas). This has the obvious risk of stimulating increased urban migration.

**Additional Guidance Notes**

➤ **Joint cooperation and planning between spheres of government** - Based on the above understanding, there need to be common/shared plans and strategies between the spheres of government. There needs to be a shared ‘game plan’. Key questions to ask include: Is it possible and even desirable to prevent further migration? Is preventing land invasions really the solution or is this purely reactive

94. Toolkit item 364.

- › **Avoiding relocations** – Relocations are a last resort as outlined above, as per various relevant pieces of legislation, policies and court precedents, and as also outlined in several other parts of this toolkit.
- › **Dealing effectively with invasions which have already happened** – Once land has been occupied, the municipality needs to assess and categorise the settlement and underlying land to determine if an in-situ upgrade is possible (category B1) or if relocation is required and if so whether it is urgent and possible (category C) or deferred (B2). The categorisation will determine the next steps. It should not be assumed that evicting residents is the appropriate response. If, however, relocation is appropriate (as a last resort), then the municipality, working closely with the community, landowner and other spheres of government, becomes responsible for finding alternative accommodation. It is noted that the provision of serviced land and emergency

housing solutions are amongst the options available. In all instances, the provision of essential services is a priority and any relocation needs to be undertaken in close consultation with the community.

### 9.3. PREVENTION OF OCCUPATION OF VACANT LAND

In addition to the content already available in the HDA's aforementioned land occupation guideline (see section 9.2 and toolkit item 364), the following additional content is provided by courtesy of the KZN Department of Human Settlements' Informal Settlement Upgrading Strategy of 2010 – produced by Project Preparation Trust.

#### EXTRACT FROM KZN INFORMAL SETTLEMENT UPGRADING STRATEGY 2010

– Toolkit Ref. 81. Section 19 (bold and color-coded emphasis added)

Pro-active measures to prevent illegal occupation: Proactive acquisition and planning of land (Please refer also to Module 6 in the Detailed Toolkits contained in Annexure H).

**The primary means of pro-actively addressing the challenge of illegal occupation is to 'get ahead of the game' by acquiring suitable land and, where appropriate, providing basic planning of and interim basic services on such land.** This will enable more appropriate and sustainable human settlement patterns and will make the process formalization and conventional housing delivery much easier when it eventually comes on stream (refer also to section 21.1 and 21.3 above).

Pro-active measures to prevent illegal occupation: Monitoring & control

**Proactive community consultation in relation to vacant land and planned projects is critical in ensuring community support both for the projects as well as securing community involvement in protecting identified land from possible future invasion.**

The municipality should in consultation with communities, **proactively identify well-located land with a high potential for land invasions and the establishment of informal settlements.** Where development on such land is not suitable these land-parcels should be actively monitored both by the municipal officials and the resident community and affected stakeholders. **Where development on such land is suitable they should be added to the strategic plan for the delivery of housing opportunities in the municipality, and their development should be proactively pursued.** Based on the two assessments detailed above each municipality should establish a database consisting of land parcels for development and areas of potential invasion.

**This land database should be actively monitored by the municipal housing official. This official should also enlist the assistance of ward councillors and communities to assist with the regular physically monitoring of such land.** Regular monitoring of these land parcels to ensure that firstly and if possible

any illegal occupation is prevented and where prevention is not possible, illegally occupied areas should be reported immediately to the municipality.

**Regular meetings between the municipality, community, Ward Councillors and affected stakeholders should be held to update stakeholders on progress with the implementation of the municipal housing strategy and the monitoring of the land database process**, and to identify any further measures that can be implemented to assist in the creation of housing opportunities for the affected communities.

Where illegal occupation has occurred

The illegal occupation of any property within the boundaries of the municipal area should be reported immediately to the relevant official dealing with housing delivery at the municipality.

**A rapid assessment of the reasons for the invasion and some engagement with the invading community should then be rapidly expedited, in order to reach a better understanding of the situation. Where possible, the situation should be addressed without resorting to evictions (e.g. through negotiations).**

It is accepted that there may be cases where there is no other land available to which the Municipality can relocate the community. In such cases, the **Municipality will need to weigh up the pros and cons of commencing with evictions**. It will also need to assess the implications of its own constitutional obligations to provide its citizens with basic services and housing.

**In the event that, having taken stock of the situation and engaged with the community, eviction is determined an appropriate course of action, then the following courses of action will apply:**

- If the property is owned by the municipality, the Legal Services Department should apply to court for an eviction order as well as for the prosecution of those who initiated the land invasion process. The court will grant an order of eviction if it is of the opinion that it is just and equitable to do so, after considering all the relevant circumstances. The court will place greater responsibility on the municipality, the longer the illegal occupants have been on the land, in this regard PIE distinguishing between less than or more than 6 months of illegal occupation.... ***[Refer to section 0 of this toolkit for a more up to date position on legal obligations and process implications arising from SERI work - and in particular in respect of the municipality's obligations to provide alternative accommodation/land]<sup>95</sup>***.
- If the property is not owned by the municipality the Legal Services Department shall give notice to the owner of the land, 14 days in advance before instituting procedures outlined above, i.e. to apply to court for an eviction order as well as for the prosecution of those who initiated the land invasion process. The procedures set out in the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 19 of 1998 will then apply. ***[It is emphasised that the municipality needs to work very closely with private and other state department/SOE landowners in respect of land invasions. It is emphasised that, in the event that a landowners seeks assistance from the municipality in respect of a land invasion and the municipality does not respond proactively, that the municipality will be held responsible - refer to WC High Court Odvest ruling 2016 - see Toolkit Library Ref 298).***

95. Content deleted as follows – with more recent ConCourt precedent – this assertion is probably no longer true: “This implies that after 6 months of illegal occupation, the court will add the additional condition on the municipality that, where reasonably possible, occupants be provided with alternative land for relocation and this will be incorporated into the judgment on the proposed order of eviction.”

## 9.4. DEALING APPROPRIATELY WITH EVICTIONS AND RELOCATIONS

**Key references** – Toolkit Library reference numbers utilised:

- › 9 - NUSP Module 6 – Interim Arrangements and Relocations
- › 281 - SERI Relocation Guideline<sup>96</sup> – Toolkit Library Ref.
- › 346 – SERI Evictions and Alternative Accommodation Jurisprudence 2016
- › 81 - KZN Informal Settlement Upgrading Strategy 2011 section 19.
- › 298 – Briefing document pertaining to state Investment on land it does not own – this references many of the High and Constitutional Court precedents relevant to evictions, relocations and the state's obligations.
- › NOTE: The Housing Development Agency has commissioned a Relocation Manual for which

Project Preparation Trust (PPT) is appointed. It is expected to be finalised by February 2018 – refer to toolkit item 348.

**Key legislation and policies:**

- › Prevention of Illegal Eviction, and Unlawful Occupation of Land, Act 19 of 1998 (the PIE Act)
- › Emergency Housing Programme (EHP).
- › Various Constitutional and High Court judgements including Poor Flat Occupiers CC2017, Blue Moonlight 2016, Modderklip SCA2005, Grootboom CC2001 and others (refer to SERI item 346 in resource library and CC judgement item 347).

The SERI relocations guideline is a recent and very useful guide which municipalities should refer to in respect of managing land invasions and relocations. The guidelines include, amongst other things, the legal principles, practical guidelines (step by step process for relocation) and includes practical examples (which show that each relocation is different). Extracts from this guide are contained below.

### EXTRACTS FROM SERI RELOCATION GUIDE 2017

*(bold and colour font emphasis added, footnote references removed – refer to original document in resource library for details)*

**Section 26 of the Constitution** protects the right of access to adequate housing and provides that **no one may be evicted from their home without a court order made after considering “all the relevant circumstances”**. **The South African courts have found that these provisions require the government to provide alternative accommodation to unlawful occupiers who would become homeless as a result of an eviction.** This means that planning for relocations has become an important component of housing and eviction law, as well as the work of legal practitioners in non-governmental organisations (NGOs), community advice offices and law clinics.

Evictions or relocations should not be pursued by default. Various **South African laws and policies create a strong preference for allowing occupiers to remain on the land or in the building that they occupy. These laws and policies provide that relocations should only be carried out as a last resort once other alternatives have been exhausted. When it is not possible for people to remain on the land they occupy or when a court orders the relocation of people to alternative accommodation, the relocation should be carefully planned and safeguards should be put in place to ensure that the affected community is better off, or at least, no worse off after the relocation.**

... The right of access to adequate housing is closely related to a number of other fundamental rights contained in the Constitution. As a result, evictions – and relocations – do not only negatively affect the right to housing, but could also affect multiple other rights, including the rights to human dignity, security of the person, privacy, and health.

96. “Relocating to Alternative Accommodation: Legal and Practical Guidelines” by the Socio-economic Rights Institute June 2017. Toolkit library 281.

97. A

... **the PIE Act require that the eviction of an unlawful occupier should be “just and equitable”** in the circumstances and lists a number of factors that a court must take into account when determining whether an eviction order should be granted. **These factors include whether the occupiers include vulnerable categories of persons (the elderly, persons with disabilities, children and female-headed households), the duration of occupation and the availability of alternative accommodation or the state provision of alternative accommodation** in instances where occupiers are unable to obtain accommodation without assistance.

#### ...Case law

The South African courts have also developed a number of **important legal principles** in relation to the right to housing, evictions and the provision of alternative accommodation through case law...

- › **The nature of the duty to provide alternative accommodation: The government is legally obliged to make alternative accommodation or alternative land available to occupiers who would otherwise become homeless as a result of eviction. This principle is applicable whether the occupiers are being evicted from public or private land.** The courts have also said that it would be “contrary to the public interest” to allow the state to evict unlawful occupiers if the state does not provide the evicted occupiers with alternative accommodation and secure tenure in that accommodation. This suggests that **occupiers should be allowed to remain in the alternative accommodation or on the alternative land provided until permanent housing is provided** or the occupiers find alternative accommodation for themselves.
- › **Local government responsibility: Local government (or municipalities) is the primary duty-bearer in relation to the provision of alternative accommodation in instances of eviction.** This is due to the fact that local government is best suited to “react to, engage with and prospectively plan around the needs of local communities”.
- › **Proactive local government planning and budgeting: Local government is required to proactively plan and budget for the provision of alternative accommodation for those rendered homeless as a result of an eviction or relocation.**
- › **Reasonable housing: Local government must develop a reasonable housing programme that makes provision for permanent housing solutions, as well as the provision of temporary alternative accommodation in instances of eviction.**
- › **Access to basic services: The alternative accommodation provided by the municipality for resettlement should have access to basic services, including access to water, sanitation services, electricity and refuse removal.**
- › **Tenure security: Tenure should be secure in the alternative accommodation provided in the wake of an eviction. The courts have found that it would be unfair to evict occupiers only to render them at risk of being evicted again. This means that, at the very least, occupiers should be granted a guarantee against eviction** when they are moved to the alternative accommodation site.
- › **Proximity: The alternative accommodation provided in the wake of an eviction should, overall, not be less favourable than the occupiers’ previous accommodation. This means that the alternative accommodation provided should be as close as reasonably possible to the location from where occupiers were evicted, and should be in close proximity to schools, social amenities and employment opportunities.**
- › **Meaningful engagement: Meaningful engagement requires the government (and government entities), property owners and unlawful occupiers to “meaningfully engage” with each other to make sure that the unlawful occupiers do not become homeless as a result of an eviction. The courts have described meaningful engagement as a two way process where those involved in**



**eviction proceedings negotiate with each other in order to reach agreement about a number of important issues related to the eviction and the provision of alternative accommodation.**

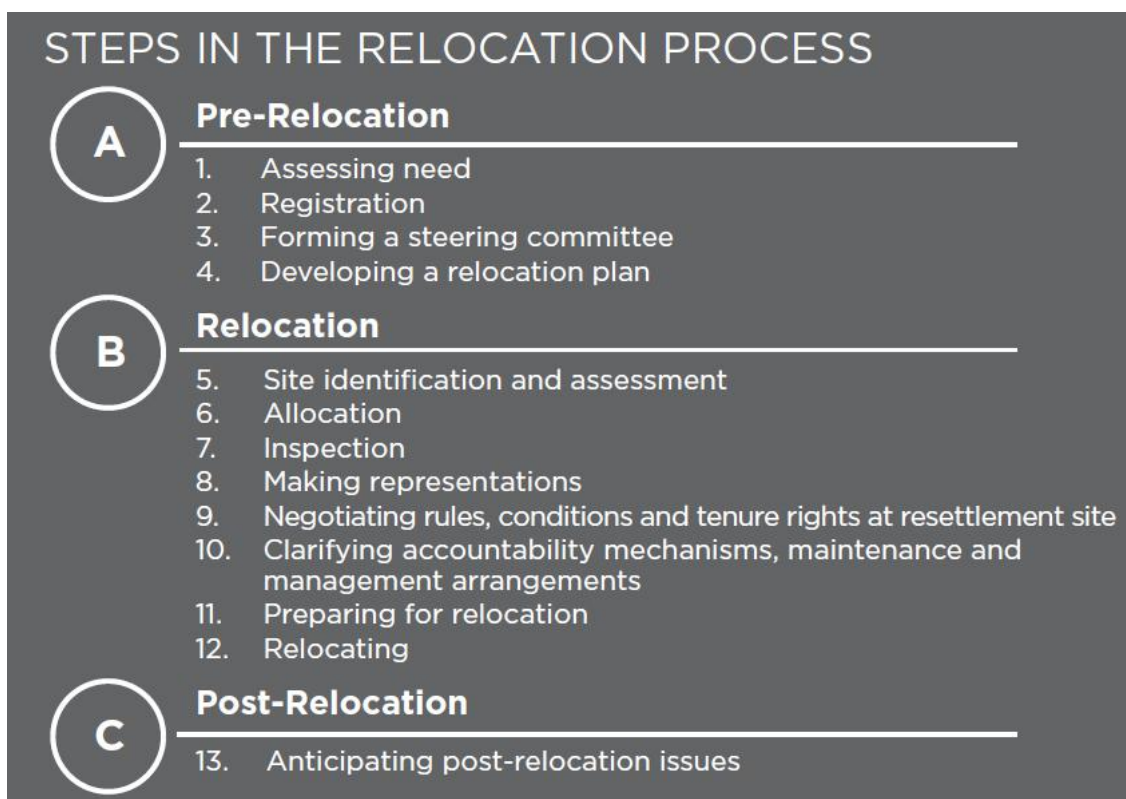
Meaningful engagement is discussed in more detail later in this guide.

**...Guiding principles**

A number of guiding principles should underpin the relocation process. These principles are informed by the experiences of government authorities, development agencies and international human rights organisations in planning for and implementing relocations in the context of evacuations, development-based displacements and resettlement, the provision of housing and evictions. Some of these principles are legally required (engaging meaningfully, adopting a participatory approach, respecting constitutional rights and respecting the needs of vulnerable groups). Others may not be legally required, but are largely accepted as the foundational elements of a successful relocation process. The guiding principles are:

- > **Establishing and maintaining relationships with key stakeholders**
- > **Communicating effectively**
- > **Engaging meaningfully**
- > **Adopting a participatory approach**
- > **Adopting a settlement focus**
- > **Developing a permanent housing solution**
- > **Respecting constitutional rights**
- > **Focusing on the needs of vulnerable groups.**

**FIGURE 38:** STEPS IN THE RELOCATION PROCESS



“These steps make up an ideal relocation process. Ordinarily, all of these steps should be followed. However, relocations in the wake of evictions or emergency situations are context sensitive and may differ on a case-by-case basis. For this reason, the guidelines should be flexibly applied to accommodate the specific circumstances of the relocation. Some contextual factors that may influence how the steps in the process are applied include:

- › how much pressure there is to relocate;
- › the timeframe within which the relocation needs to take place;
- › the scope for what can be done in relation to negotiating an agreement between the parties; and
- › how many people need to relocate.”

“Experience shows that **government officials may try to limit the number of people who can access temporary alternative accommodation in various ways.** Government officials may do this by making the provision of temporary alternative accommodation dependent on occupiers registering for social assistance or a housing subsidy.

“The officials then introduce qualification criteria that limit the number of people permitted to register in the

course of those registration processes. In these cases, practitioners should negotiate to ensure that alternative accommodation is offered to all occupiers who are at risk of becoming homeless as a result of an eviction, whatever the conditions the government attempts to impose during the registration process.

“The government is, of course, entitled to place reasonable conditions on the provision of alternative accommodation, including a registration process. **However, those processes should not be so cumbersome and onerous that they effectively disqualify those in genuine need of accommodation.** Housing policy supports a more inclusive approach.

**“For example, the Emergency Housing Policy (EHP) provides that the ordinary qualifying criteria for permanent housing do not apply in relation to occupiers who require emergency housing. All that matters is that a person will be homeless without alternative accommodation.** This means that the EHP can be used to provide temporary alternative accommodation to any person affected by an eviction or emergency (the policy says it can be used to benefit “all affected persons”), even if they would not normally qualify for assistance under the government’s other housing programmes.”<sup>98</sup>

#### EXTRACT FROM CONCLUSION OF SERI REPORT ON EVICTIONS AND ALTERNATIVE ACCOMMODATION JURISPRUDENCE<sup>99</sup>

Below is a summary of the obligations of the various parties to eviction proceedings, including private property owners, occupiers and municipalities, as developed through the jurisprudence.

##### *The rights and obligations of private property owners*

- › At the outset, it is important for private property owners to recognise that their **rights to property and ownership are not necessarily paramount.** The constitutional scheme has instilled a new paradigm in housing and eviction relations which effectively balances the right to immovable property with the equally relevant right of access to adequate housing.
- › **Although housing rights do not trump private property rights in all instances, there are cases where this right will supersede property rights.** This will usually occur when the interests of the occupiers that are sought to be evicted outweigh the interests of the private property owner. For example, in cases where a property owner aims to use a property for commercial purposes, her commercial interests may be counter-posed by the need to starve off homelessness for occupiers that reside in the property.

- › Any limitation of property rights is predominantly temporary in nature and limited in scope. This means that the infringement will continue until the state takes steps to remedy the limitation, usually by providing alternative accommodation to occupiers who could face homelessness if evicted. As the Constitutional Court stated in *Blue Moonlight*, private property owners cannot be “expected to be burdened with providing accommodation to [occupiers] indefinitely” but a “degree of patience should reasonable be expected”.
- › **In instances where the state unreasonably fails to fulfil its obligations to provide alternative accommodation to those who are unable to provide for themselves, a property owner is entitled to claim constitutional damages for the infringement of her property rights.**
- › Property owners are obliged to meaningfully engage with the occupiers prior to instituting evictions proceedings.
- › Property owners are also required to place sufficient information before a court for it to be able to make a just and equitable decision having regard to all the relevant circumstances.

#### *The rights and obligations of unlawful occupiers*

- › Unlawful occupiers are granted significant substantive and procedural protections. **Most importantly, they may not be evicted without first obtaining a court order that deems such eviction “just and equitable”** after having regard to all the relevant circumstances. The availability or likely provision of adequate alternative accommodation would be a crucial consideration in whether an eviction would be just and equitable in the circumstances.
- › Occupiers are required to provide sufficient information before a court in respect of their personal circumstances, how they came to occupy the property and why they would be rendered homeless as a result of an eviction.

#### *The obligations of municipalities*

- › **Municipalities must adopt a reasonable housing policy, which provides not only for permanent housing solutions, but also provides for the provision of adequate alternative accommodation for persons who face homelessness due to an eviction.**
- › **Municipalities are required to meaningfully engage with the parties prior to eviction proceedings.**
- › **Municipalities may be joined to eviction proceedings in instances where the occupiers that face eviction could be rendered homeless due to an eviction.**
- › Municipalities are required to place sufficient information before a court for it to be able to make a just and equitable decision having regard to all the relevant circumstances. A municipality is specifically obliged to provide information about its housing policy and how it would provide alternative accommodation to those who require it upon eviction.
- › **Municipalities are constitutionally obliged to provide access to adequate alternative accommodation to occupiers who are evicted from their home and would otherwise be rendered homeless due to such eviction.**
- › In light of the *Blue Moonlight* judgment, it is also clear that **municipalities are obliged to budget for all categories of persons in desperate or emergency need of housing and, if necessary, municipalities must leverage provincial and/or national funding to do so.**







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# 10 OPERATING, MAINTENANCE & SUSTAINABILITY

The escalating costs associated with long term operating and maintenance of essential services within informal settlements and other low income communities has been highlighted as a significant challenge for metros in South Africa. Ongoing urbanisation and informal settlement growth makes the issue of particular importance since the size of the population requiring fee or heavily subsidised services is continually growing. In addition, the fiscus is under pressure given contracted economic growth. Whilst there is no easy solution to these challenges, the following guidance notes are offered to assist metros in finding solutions:

1. **Establish a culture of payment by instituting some level of payment for services in informal settlements as part of incremental upgrading, even if the level of payments (initially) is modest:** If this is not established as a principle right from the start, then it becomes difficult if not impossible to institute later. Payment for services only is it important for municipalities to increase cost recovery in order to ensure sustainable services provision, but is equally important so that residents appreciate the value of services and so that a sense of local 'ownership' of such services is instilled. It is also noted that the income levels in settlements will tend to increase over time. It is problematic if a tradition of non-payment or free services in perpetuity is established. Over time, as the urban poor become less poor, they should also start to be in a position to pay more towards services. All of this is a key element of establishing a more functional and sustainable relationship between municipalities (the state) and the urban poor which in turn is a critical success factor for democracy-building and effective urbanisation management. Practical examples of how this can be given effect include:
  - **Electricity:** Electrifying shacks with prepaid meters and at the same time eliminating illegal connections.
  - **Water:** Agreeing with communities that any water connections to an individual home need to be legal and accompanied by the installation of water meters and payment for water in excess of the free basic allowance.
  - **Rates:** Agreeing with communities a sunset clause on there being zero rates E.g. By having a city-wide protocol which is agreed with communities to the effect that, whilst rates may not initially apply, once a settlement has been formalised or fully upgraded, individual tenure and a full level of service provided (household connections), then some level of rates need to kick in at which time these will be negotiated (even if they are modest in value).
2. **Use social compacts as a key point of leverage:** Social compacts play a key role in securing a functional working relationship between the community and municipality (with mutual obligations and responsibilities). Measures such as those outlined, resulting from participative planning processes, above can only be achieved if there is such a relationship of trust and if the community and its leadership can help hold residents accountable for 'playing by the (agreed) rules' (including those pertaining to possible incremental development zones established). Payment for certain services (and related issues such as eliminating illegal electricity connections) form an important part of these compacts. Arrangements for community-based maintenance (which can improve cost-efficiency and reduce asset vandalism) can also be included. More effective agreed arrangements for fire protection, owner-driven construction and solid waste removal can all help significantly in reducing costs (e.g. pertaining to reducing the incidence of fires and rebuilding after fires

as well as more cost-efficient management of them when they occur).

3. **Build robust services with a low total lifecycle**

**/ maintenance cost:** It is critical that the design of services provided takes into consideration not only up front capital investment, but also: a) potential future abortive costs; as well as b) product lifespan and ongoing operating and maintenance costs. A shift to total life-cycle costing therefore needs to be made. More affordable services may cost more in the long run. Sometimes it may be rational to provide a more rudimentary service at a more durable specification than trying to stretch a limited capital budget too far. Examples of the kinds of trade-offs which might arise are outlined below:

- **Road and footpath access:** Ensuring that the main access roads are aligned with a viable block layout for the settlement will mean that these costs will not be abortive. It may be cost-effective for these main access roads to be of a good quality and with adequate stormwater controls. The costs of resurfacing or rebuilding should be assessed against the cost of a cheaper grade of road. A partially pedestrianised layout is space efficient and reduces costs. Prioritising the most important roads and building them at an acceptable quality needs to be assessed against the long term costs of building more roads at a lower quality.
- **Storm-water controls:** Inadequate stormwater controls can result in significant damage to roads, bridges, pipelines and other infrastructure. Cost-cutting in this area may not be cost-efficient long-term.
- **Communal sanitation:** Communal sanitation blocks experience heavy use. In eThekweni, containers for such services were initially utilised, but proved much higher to maintain than modular units which are now replacing them. Some recapitalisation was required (replacement of container units with new modular types). In addition, blocked toilets due to the use of newspaper instead of toilet paper is another challenge which significantly increases maintenance costs. Effective local management is essential in overcoming these sorts of problems.

4. **Leverage community based maintenance:**

It is difficult for the municipality to maintain control over services within multiple informal settlements. The more the community can take 'ownership' for this, the better. There are many examples for how this can be achieved (e.g. refer to Toolkit items 213, 214, 212, 216). These arrangements should be negotiated as part of participative planning and social compact formation.

5. **Not just a Metro problem:** As outlined in section 9, dealing with the challenges associated with rapid urbanisation is not only a Metro problem, but requires concerted action by all spheres of government working together as an increasing portion of the (low income) population come to reside in cities. Whilst national government regards it as important that Metros commit some of their own funding for informal settlement upgrading and associated services provision, all the metros currently face significant financial constraints.



