LAND ASSEMBLY POLICY FOR THE HUMAN SETTLEMENTS SECTOR

Final

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EXECUTIVE SUMMARY

Purpose of and rationale for the Human Settlement Land Assembly Policy

The purpose of the Human Settlement Land Assembly Policy is to transform the basis by which land is assembled for low income and affordable housing in South Africa to:

• Enable housing delivery by all sectors of society at the required scale, that contributes positively to building cities which are progressively more equitable, integrated and inclusive of the poor, more compact (effective and efficient to administer) and financially and environmentally sustainable; and

• Increase access to residential land for individual households so that they have secure tenure (ownership or rental) and live in good quality accommodation (healthy and safe with access to utility services) with access to urban economic and social opportunity.

The policy focuses on urban land, including private, public and land under customary administration (LUCA) that is in or proximate to urban areas.

The rationale for the Policy is found in the 1996 Constitution, the 1997 Housing Act and SPLUMA, 2013, as well as other key policy and legislative documents. These legal and policy prescripts underpin a normative framework developed for the human settlement sector and the function of land assembly within that sector.

Land assembly defined

Conventionally land assembly is referred to as the process of preparing vacant undeveloped land for greenfield development. Once assembled, the developer then proceeds with township establishment and development. However land assembly in this policy is viewed more broadly. It includes the following activities:

• Identifying and acquiring land for housing development;
• the cadastral preparation of that land;
• the planning of the land, as well as obtaining the necessary planning approvals; and
• the necessary township proclamation and/or subdivision procedures.

These elements of land assembly support all the different housing delivery interventions, by different actors, both inside and outside of the formal legal process.

Human settlement land assembly problem statement

Since 1994, the South African Government has delivered over 4.5 million housing opportunities to qualifying beneficiaries thereby making a major contribution to alleviating the shortage of housing in South Africa. **However, the current use and ownership patterns of urban land, especially land used for residential purposes, still starkly reflects South Africa's historic legacy. It is distributed unequally** and is a mirror of centuries-long colonial and apartheid oppression, with **race and class** remaining the main determinants of who holds the best located and most valuable land. **The operation of the land market has entrenched this trend.** Past state interventions have failed to be more inclusive and achieve a more equitable distribution of urban residential land and in many cases have exacerbated these patterns. **Substantial well-located urban land, held both by the private and public sectors remains undeveloped** after decades of targeting for human settlements transformation objectives, due to complexities in assembling public land and the costs of acquiring private land.

The current emphasis on greenfield delivery cannot meet the projected housing need because the scale of required land assembly is practically not implementable. Moreover, current practice relating to land assembly and management for housing delivery is increasing spatial inequality and worsening long term municipal financial sustainability. This is especially in respect of the tendency to develop lower priced and poorly located land which limits access for the poor to economic and social opportunities and enables ongoing urban sprawl. This increases municipal operating costs and constrains municipal revenue-raising potential. Failure to deliver at scale is negatively impacting on the housing outcomes of the poor in terms of downward raiding, land invasions and poor quality accommodation. Currently 60% of home owners' (mainly low and medium income) homes are not registered in the deeds register, resulting in reduced security of tenure and an inability to realise capital value. This also undermines the ability to transact effectively in the low and affordable housing market.

Vision, goal, objectives and principles of the Policy

The **vision of the policy** is that:
1. Human settlements in South Africa are progressively more integrated, sustainable and equitable;
2. Individual households have secure tenure (ownership and rental) in good quality accommodation (healthy and safe with access to utility services) with access to urban economic and social opportunity; and
3. Housing delivery is enabled at the required scale and contributes positively to building cities which are more:
   - Compact (effective and efficient to administer);
   - Financially and environmentally sustainable; and

- Equitable for the poor.

The key **principles of the Human Settlement Land Assembly Policy** are:
1. **Reduce** the quantity of greenfield land to be assembled by mobilising all current delivery interventions at scale;
2. **Expedite** scale delivery by supporting local government to develop a medium to long term land assembly schedule which identifies where and at what scale different delivery interventions will be implemented. This should, where practical, be aligned with the gazetted Priority Human Settlements and Housing Development Areas (PHSHDAs);
3. **Focus** land assembly on well located land and existing areas and buildings with access to social and engineering infrastructure;
4. **Enhance** the land assembly process for Greenfield and Brownfield development and informal settlements upgrading;
5. **Expedite** immediate housing delivery opportunities such as site and service and densification of existing areas; and
6. **Promote** secure residential tenure broadly, based on incremental improvements.

The goal of the Policy is to increase access to well-located urban land for low income and affordable housing in South Africa by transforming current approaches to land assembly by all actors in the Human Settlement sector and by supporting and expediting a diverse range of housing delivery options for low income and affordable housing.

The objectives of the Policy are:
- **To require that every municipality develops a Human Settlement Municipal Land Assembly Schedule (LAS)** that sets out the amount, nature and location of land assembly that must be achieved across the whole municipal area in order to meet short, medium and long term municipal housing needs (initially with a focus on the PHSHDAs).
- **To expedite land assembly in respect of the full range of delivery interventions** so as to support scaled-up and more efficient housing delivery, including:
  - **the assembly of greenfield land** efficiently for low income and affordable housing delivery.
  - **the redevelopment or conversion of existing land and buildings**;
  - **the densification of targeted existing residential areas**; and
  - **the in situ upgrading** (including the provision of tenure) **of informal settlements**.
- **To streamline land acquisition and planning approval processes** so as to expedite housing delivery at scale.

- **To strengthen land tenure** for low income and affordable households by recognising a range of tenure forms and improving land administration.

Strategic Pillars

In line with the Human Settlement Land Assembly Policy principles there are four strategic pillars:

1. **Pillar 1: Municipal Land Assembly Schedule:** Every municipality should develop a Human Settlement Municipal Land Assembly Schedule (LAS) that sets out the amount, nature and location of land assembly that must be achieved across the whole municipal areas in order to meet short, medium and long term municipal housing needs (where practical with a focus on the currently gazetted PHSHDAs). The key purpose of this instrument will be to implement the policy principles at the local scale.
2. **Pillar 2: Expedite land assembly over the range of delivery options:** This comprises four sub-pillars as follows:
    - **Pillar 2.1: Greenfield development:** New processes are proposed to assemble well located greenfield land efficiently for low income and affordable housing delivery. The type of projects envisaged include both greenfield projects and site and service/rapid land release projects. The processes include designating well located land with access to bulk services for this form of development and then requiring land owners to develop the land or to sell the land to the local municipality. Expropriation is proposed if owners are not willing to participate.
    - **Pillar 2.2: Brownfield development:** Refined land assembly processes are proposed to support and expedite redevelopment or conversion of existing land/buildings efficiently for low income and affordable housing.

    - **Pillar 2.3: Residential densification:** Refined land assembly processes are proposed to support and expedite densification of targeted existing residential areas effectively for low income and affordable housing delivery.
    - **Pillar 2.4: Informal settlement:** Enhancements to the existing programme are proposed to improve the recognition and categorisation, in situ upgrading and provision of tenure in informal settlements
3. **Pillar 3: Streamlining land acquisition and planning approval processes:** Mechanisms to streamline land acquisition and planning approval to expedite housing delivery at scale.

4. **Pillar 4: Strengthen Land Tenure:** Mechanisms to strengthen land tenure of low income and affordable households by recognising a range of tenure forms and improving land administration

Institutional and Funding Arrangements

The responsibility for the LAS should be with the municipal Strategic and Spatial Planning officials. The relevant departments should be supported in this by the municipality's Human Settlement and the relevant Engineering Departments.

As with the Built Environment Performance Plan (BEPP) compiled by some Metros, the development and monitoring of performance against the LAS should be a specific condition of the relevant Human Settlement conditional grants (e.g. Urban Settlement Development Grant (USDG), the Integrated Cities Development Grant (ICDG) and the Integrated Urban Development Grant (IUDG)).

The LAS must be an integral part of the Spatial Development Framework (SDF) and Integrated Development Plan (IDP) of all municipalities and, where relevant, the BEPP.

Existing support programmes[1] to municipalities must be expanded to support the formulation, implementation and monitoring of LAS's. The LAS process should be incorporated fully into the monitoring, review and adjustment processes of the SDF's, BEPP's and budgets. Provincial Human Settlements Departments will continue to allocate funds to projects and oversee compliance to the Housing Code.

The NDHS will establish and oversee the policy framework in respect of requiring the LAS to be developed and incorporated into key municipal planning and budgeting frameworks and management processes. This will require amendments to the grant frameworks, which finance human settlement delivery, as well as revisions to the Housing Code in respect of allocating subsidy funding to enable bulk services development and a new subsidy mechanism focused on site and service schemes/rapid land release. In close collaboration with the DARDLR, NDHS must develop the policy and regulatory changes necessary to enable access to land tenure and land administration, to ensure inclusion and ongoing, efficient transactions in land at the lower end of the housing affordability sector.

The HDA's mandate should be expanded (and funding increased) so that it can directly support municipalities to develop their LAS's; acquire land and buildings

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[1] These programmes include National Treasury's City Support Programme to the Metros and the Department of Cooperative Government and Traditional Affairs' Intermediate City Municipalities programme to other Cities.

within the parameters of the LAS and make revisions to the required planning, land use and development control frameworks.

Funding Frameworks

Overall, the NDHS's National Housing Code and the National Treasury's Conditional Grants Frameworks should be revised and adjusted to provide for the Human Settlement Land Assembly Policy as follows:

1) **Bulk infrastructure funding should be aligned with the priorities established in the LAS.** A review should be undertaken of specific spatial development and infrastructure grants so they directly support densification and efficient spatial outcomes.

2) The determination of **funds for land acquisition in the conditional grant frameworks should be amended** to enable the assembly of well-located land. This should be independent from an approved subsidized housing project.

3) **Funding should provide for the upfront assembly of land** (including planning and planning approvals) and bulk infrastructure installation or upgrades on an 'area basis' in accordance with identified areas for new greenfield development, brownfield development and residential densification, set out in the relevant municipal LAS and capital project plans.

4) **The Title Deeds Restoration Grant** comes to an end soon and will be incorporated into the Human Settlements Development Grant from 2021/22. It is important that this component of the **HSDG** is redirected and repositioned to support the amendments that must be made to the Land Titles Adjustment Act to scale up dispute adjudication over subsidised houses where the underlying land right in the title deed does not match the de facto land ownership.

5) **Funding for social housing** should be expanded so that SHIs can also accommodate holding a portfolio of rental units across a range of rental buildings without owning or managing the buildings and managing emergency housing at scale.

6) **For Brownfield or Densification housing** the current Grant Frameworks should be amended to enable municipalities to access grant funding so as to be reimbursed for the development of bulk infrastructure and the rehabilitation/upgrading of local infrastructure reticulation and discounts or waivers in respect of development contributions, bulk infrastructure contributions and connection fees.

7) **Where necessary the relevant provisions of the Housing Code should be amended** to support the proposed amendments to the conditional grant frameworks.

ABBREVIATIONS AND ACRONYMS

BEPP	Built Environment Performance Plan
CLARA	Communal Land Rights Act
DRDLR	Department of Rural Development and Land Reform
EIA	Environmental Impact Assessment
GIAMA	Government Immovable Asset Management Act
FLISP	Finance Linked Individual Support Programme
HDA	Housing Development Agency
IDP	Integrated Development Plan
IPILRA	Interim Protection of Informal Land Rights Act, 1996
IRDP	Integrated Residential Development Programme
LUCA	Land under customary administration
LAS	Land Assembly Schedule
MTEF	Medium Term Expenditure Framework
MPT	Municipal Planning Tribunal
MFMA	Municipal Finance Management Act, Act 56 of 2003
NDHS	National Department of Human Settlements
NHBRC	National Home Builders Registration Council
NEMA	National Environmental Management Act, 1998
PHSHDA	Priority Human Settlements and Housing Development Areas
PFMA	Public Finance Management Act
SALA	Subdivision of Agricultural Land Act
SDBIP	Service Delivery and Budget Implementation Plan
SOE	State Owned Entity
SDF	Spatial Development Framework
SPLUMA	Spatial Planning and Land Use Management Act
ULTRA	Upgrading of Land Tenure Rights Act
WULA	Water Use Licensing Applications

1 CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE POLICY

1.1 The Purpose of the Human Settlement Land Assembly Policy

The Presidential Advisory Panel on Land Reform and Agriculture, 2018 recommended an overhaul of the current fractured and unintegrated way decisions in relation to land generally, and more specifically with regard to where urban housing developments are located, are made. The Panel recommended that reforms are undertaken in respect of three key areas:

- **Equitable Access to Land (redistribution):** Well-located vacant, underutilised or inefficiently used urban land and buildings (including state-owned and state-leased land) should be audited and redistributed.
- **Tenure Reform:** In order to deliver security of tenure, a rights-based approach should be adopted. A mixed tenure model is proposed, accommodating a continuum of rights from freehold and communal, as well as multilevel ownership arrangements.
- **Land administration:** A revitalised, integrated and unified Land Administration system should be created.

In response to this recommendation the Department of Human Settlements has developed this **Human Settlement Land Assembly Policy**. The Policy is based on an extensive South African based document review, covering relevant material relating to land assembly, management, tenure and residential property transactions relevant to the human settlement sector, as well as a review of international case studies and mega trends. This was been tested in several forums and then updated.

The purpose of the Human Settlement Land Assembly Policy is to transform the basis by which land is assembled for low income and affordable housing in South Africa to:

- Enable housing delivery by all sectors of society at the required scale in a manner that contributes positively to building cities which are progressively more equitable, integrated and inclusive of the poor, more compact (effective and efficient to administer) and financially and environmentally sustainable; and

- Increase access to residential land for individual households so that they have secure tenure (ownership and rental) and live in good quality accommodation (healthy and safe with access to utility services) with access to urban economic and social opportunity.

The policy focuses on urban land, including private, public and land under customary administration (LUCA) that is in or proximate to urban areas.

1.2 Need for a Human Settlement Land Assembly Policy

The current use and ownership patterns of urban land, especially land used for residential purposes, starkly reflects South Africa's historic legacy. It is distributed unequally and is a mirror of centuries-long colonial and apartheid oppression, with race and class remaining the main determinants of who holds the best located and most valuable land.

State interventions since 1994 have generally failed to be more inclusive and achieve a more equitable distribution of urban residential land. In many cases they have exacerbated these inequitable land patterns. Much well-located urban land held both by the private and public sectors remains undeveloped after decades of being targeted for human settlements development, due to complexities in assembling public land and the costs of acquiring private land. There is a disjuncture between the formal land ownership and administration systems and how poor people hold and transact land and/or housing. While some 60% of all households in South Africa view themselves as home owners, a significant portion (estimated at least 60% of all homeowners) do not have access to registered tenure and do not or are unable to process housing transactions through the formal deeds registry system[i].

Currently there is a confluence of opportunities that support the actions needed to achieve scaled-up delivery of urban land for low income and affordable housing. These include:

1) **Political: The land question is firmly on the national agenda and is at the forefront of the most high-profile public processes.** It has been the subject of a Presidential Commission, a parliamentary joint committee on state land and an inter-ministerial committee on land reform. The Draft Constitution Eighteenth Amendment Bill of 2019 sets out the conditions under which the expropriation of land without compensation will apply and confirms that land reform will be a valid trigger for expropriation.

2) **Legal:** The Constitutional underpinning of land reform was set in 1996 but provided a relatively weak legislative backing for far-reaching urban land reform interventions. Overtime this has been strengthened by the enactment of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) which firmly establishes the principles that land use and land development decisions must be taken by local government, that apartheid land use patterns must be addressed, and that informal land and customary tenure arrangements must be recognized.

Constitutional Court cases generally favour the interests of the landless and the poor when land and property-based conflicts have been decided. The Housing Development Agency (HDA) Act, no 23 of 2008 establishes a clear legal mandate for the agency to acquire, assemble and dispose of public, private and traditionally held land for sustainable human settlements purposes.

3) **Practice: Land markets are active across all income levels, including both formal and informal transactions.** While significant numbers of properties are transacted regularly, not all of these are formally registered, but together they represent substantial land supply and market activity.

1.3 Rationale Underpinning the Policy

This section outlines key legislation and policy that underpins the Human Settlement Land Assembly Policy. On the basis of this a **normative framework is outlined that sets out South Africa's intention in respect of land for human settlements** as specified in the 1996 Constitution, the 1997 Housing Act and SPLUMA, 2013, as well as other key policy and legislative documents.

The Constitution of South Africa, 1996 (Act No 108 of 1996), Section 25 specifies three land reform requirements:
- **Redistribution** in respect of enabling 'citizens to gain access to land on an equitable basis', an obligation on the State (s25(5))
- **Tenure security** in that citizens are 'entitled to … tenure which is legally secure or to comparable redress' (s25(6))
- **Restitution** in that citizens are 'entitled to …. restitution of that property or to equitable redress' (s25(7)

Further the Constitution in Section 26 indicates that:
- Everyone has the right to have access to adequate housing.
- The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.
- No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

The Housing Act, 1997 (Act No 107 of 1997 as amended in 1999 and 2001) upholds Section 26 of the Constitution. In the Preamble to the Act the following is indicated: *Everyone has the right to have access to adequate housing, and the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right; and whereas the Parliament of the Republic of South Africa recognises that—housing, as adequate shelter, fulfills a basic human need; housing is both a product and a process; housing is a product*

of human endeavor and enterprise; housing is a vital part of integrated developmental planning; housing is a key sector of the national economy; housing is vital to the socio-economic well-being of the nation'. The Act further recognizes in Part 4, section (3)(a) and (b) that a municipality may by notice in the Provincial Gazette expropriate any land required by it for the purposes of housing development in terms of any national housing programme, in terms of the Expropriation Act.

The Presidential Advisory Panel on Land Reform and Agriculture, 2018[ii] recommends an overhaul of the current fractured and unintegrated way decisions in relation to land generally, and more specifically with regard to where housing developments are located, are made. The Panel recommends the following:

- **Equitable Access to Land (redistribution):** Well-located vacant, underutilised or inefficiently used urban land and buildings (including state-owned and state-leased land) should be audited and redistributed. Public land should be audited to identify parcels and buildings for affordable housing. Capacity building of officials should be undertaken to enable them to release public land more efficiently and effectively.
- **Tenure Reform**: In order to deliver security of tenure, a rights-based approach must be adopted. A mixed tenure model is proposed, accommodating a continuum of rights from freehold and communal, as well as multilevel ownership arrangements.
- **Land administration**: A revitalised, integrated and unified Land Administration system should be created.

The Spatial Planning and Land Use Management Act, 2013 (SPLUMA). Chapter 2 of SPLUMA sets out five key principles to be applied to all spatial planning, land development and land use management including:

- **Spatial justice**, which includes inclusion of the previously excluded, flexible/adaptive land use management, promotion of incremental tenure security and informal settlement upgrading;
- **Spatial sustainability**, which requires financial and environmental sustainability, effective and equitable functioning of land markets and limits to urban sprawl;
- **Efficiency**, which requires optimal use of existing resources and infrastructure, efficient and streamlined decision-making;
- **Spatial resilience**, which includes flexibility in planning to ensure sustainable livelihoods for most vulnerable communities; and
- **Good administration**, which includes integration across spheres of government, compliance with the law, transparency and openness.

Other key legislation is shown in the table below.

Table 1: Key legislation pertaining to urban land

Name	Implications for the Human Settlement Land Assembly Policy
Land Titles Adjustment Act, 111 of 1993	Where title is disputed or has not been issued there is a legislated process in place for this to be addressed
The Comprehensive Plan for the Development of Sustainable Human Settlements, 2004	Expands the scope of the housing mandate to include the entire residential housing market. Housing is to be used as an instrument for the development of sustainable human settlements and to support spatial restructuring and a non-racial integrated society.
Public Finance Management Act (PFMA), No 1 of 1999 & Treasury Regulations, 2005	The Regulations indicate that state property must be sold at a market related value
The Housing Code, part 2, the policy context, 2009	Promotes integrated and non – racial communities with access to economic and social opportunities. Promotes permanent residential structures with secure tenure, privacy and access to basic services.
Local Municipal Finance Management Act, Act 56 of 2003 (MFMA), including the Municipal Asset Transfer Regulations	A municipality may dispose of land at a fair market value if it is not needed to provide basic municipal services. The disposal of land must be fair equitable, transparent and competitive. It covers the disposal of municipal land to other organs of state, and sets conditions under which there is no requirement for compensation.
Government Immovable Asset Management Act (GIAMA), No 19 of 200	When an immovable asset is acquired or disposed of, best value for money must be realized.
The Social Housing Act, 2008, (Act 16 of 2008)	Social housing should be responsive to market demands. Housing to be provided close to jobs, markets and transport.
Housing Development Agency Act, No 23 of 2008	The HDA may identify, acquire, develop and release state, LUCA and privately owned land for the creation of sustainable human settlements and project manage housing development services
National Upgrading Support Programme (2009)	The upgrading of informal settlements is actively supported as a major housing programme with a focus on in situ upgrading
The National Development Plan, 2030 (2012)	A more coherent and inclusive approach to land should be developed Land markets to work more effectively for the poor
The Integrated Urban Development Framework, 2014	Spatial transformation through integration and improved urban form. Compact, coordinated & connected cities & increasing densities
The Medium Term Strategic Framework, 2014 – 2019	Breaking apartheid spatial patters. Integrating residential and commercial hubs. Title deeds to be transferred
National Spatial Planning Framework for Human Settlements (Draft 2017)	Promotes multi sectoral and governmental collaboration, spatial transformation and catalytic Projects

On the basis of the above legislation and policy the figure below sets out a normative framework for the human settlement sector overall and then land within it.

Figure 1: Normative framework

LAND	HUMAN SETTLEMENTS
Land assembly provides, from the perspective of the individual: • **Tenure**, which provides social and livelihood security from which people can improve their livelihoods and a financial asset from which they can build wealth, especially for those historically denied the benefits of secure land tenure • **Access to the city's space economy including economic and social opportunities**, as well as public transport, through proximity and location, addressing historical exclusion and marginalisation • **Quality of accommodation including safety** (personal, fire etc) **and health** (access to utility services) **Land assembly provides at the level of the urban node/human settlement:** • **Efficiency and effectiveness** of the settlement, through compact and integrated land use **Sustainability** – land underpins all the main city-building processes which determine both environmental and economic outcomes **Equity** - contributing to a more equitable distribution of wealth and opportunity, transforming apartheid land ownership and spatial patterns.	**Human settlements are:** • **Integrated** so that citizens live in at least formal housing with secure tenure and basic services and can access economic and commercial opportunities, as well as social amenity and public transport. • **Sustainable** on a basis that is affordable to the city or town and the citizens. • **Equitable and support spatial restructuring** (addressing the legacy of apartheid), densification and social integration.

2 CHAPTER 2: CRITICAL REVIEW OF URBAN LAND ASSEMBLY FOR RESIDENTIAL DEVELOPMENT IN SOUTH AFRICA

2.1 Land assembly defined

Conventionally land assembly in the human settlement sector is referred to as the process of preparing vacant land for greenfield development. Once assembled, the developer then proceeds with Township Establishment and Development and the building of houses, town houses etc.

However land assembly in this Policy is viewed more broadly. It includes the following activities:

- Identifying and acquiring land for housing development;
- the cadastral preparation of that land;
- the planning of the land as well as obtaining the necessary planning approvals; and
- the necessary township proclamation and/or subdivision procedures.

These elements of land assembly support all the different housing delivery interventions, by different actors, both inside and outside of the formal legal process.

The range of delivery methods and the land assembly processes related to them are shown in the figure below.

Figure 2: Delivery methods considered and the land assembly processes related to them

Greenfield Development (Conventional, Site & Service, etc.)	Brownfield Development & Infill (Conversion, Redevelopment)	Densification (Corridors & nodes, existing residential)	Informal settlement upgrading
• Land acquisition • Planning approvals & layout plan • Township establishment • Open township register (Deeds Registry) • Development	• Land acquisition • Consolidation (if required) • Rezoning (if required) • Open sectional title register (if required) • Planning/Building approval • Development	• Sub-division / consolidation • Rezoning (if required) • Planning/Building approval • Register in Deeds Registry (if required) • Development	• Land occupation • Municipal recognition & categorisation • Enumeration & informal register • Planning & Title recognition

2.2 Housing delivery

2.2.1 Housing delivery interventions

Interventions that deliver land and/or housing include:

- **Greenfield** (including conventional development, mega/catalytic projects, infill development and site and service);

- **Brownfield developments** (including conversion and redevelopment);
- **Targeted densification of corridors and nodes**;
- **Densification of existing residential areas**; and
- **Informal settlements upgrading**.

A description of each delivery intervention is set out below.

1. **Greenfield:**

Conventional development[iii]: Conventional greenfield development comprises medium to large (> 200 units) greenfield township development undertaken by private developers. Tenure provided includes both formal ownership and rental. Developments are generally located either within or as a natural extension to established urban areas. Various unit typologies are provided from low density single residential (res 1) units to higher density multi-storey attached (res 3) units). The target market is medium to higher income households, including affordable market (properties valued at R300,000 and above). Developments focus on areas where sufficient finance supported demand is demonstrated and end-user finance (home loans) are available.

Mega/Catalytic projects[iv]: Mega/Catalytic projects are a form of conventional development and comprise extremely large mixed income developments between 5,000 and 15,000 units. The developments are generally undertaken through a partnership arrangement between government and a private developer. The developments are generally poorly located on the urban periphery where large parcels of well-priced land can be assembled. This results in these projects being poorly integrated into the municipal spatial development framework with poor access to economic opportunities. Various unit typologies are developed including low density single residential (res 1) units to higher density multi-storey attached (res 3) units). The target market is low to medium income households.
Developments will only proceed subject to evidence of sufficient finance supported demand and availability of housing subsidies.
Infill: Infill developments are undertaken on medium to small infill sites (< 200 units) generally on existing vacant land within the urban area. Developments are undertaken by private developers or owners. Units are often offered either on sectional title or a rental basis and make use of existing bulk infrastructure. Such developments also access existing social amenities. Various unit typologies occur but this form of development lends itself to higher density type units, generally 60 to 80 units plus per hectare, so as to maximise the high land costs. The target market is medium to higher income households

including the affordable market (properties valued at R300,000 plus). Developments will be subject to evidence of sufficient finance supported demand and of end-user finance (home loans) available from financial institutions.

Site and service: This form of development comprises small and medium to large sites with access to services. Developments comprise serviced sites provided by a private developer or government. Developments could include a wet core. The building of the top structure is managed by the individual households acting as owner builders and using contractors. The delivery intervention is closely aligned to an approach being put forward called "Managed Land Settlement" which argues for a programmatic approach to land release at scale to pre-empt informal settlement. Developments are generally located either within the urban area, as a natural extension to or on the periphery of established urban areas. The target market includes both low and high income households and includes high-end residential estates or subsidised housing initiatives utilising the People's Housing Process.

2. **Brownfield:**

Conversion: This form of development comprises conversion of abandoned, idle or underutilized (mainly industrial and commercial) buildings to residential use, undertaken by a private developer. There are also collaborations between the public and private sector aimed at revitalizing degraded neighborhoods. Developments generally occur in inner cities or in well located areas close to work opportunities where there is a market need.
The typology comprises generally medium to high rise buildings offering apartments and includes student accommodation. Developments will often comprise mixed uses incorporating offices, restaurants and shops. The target market is medium to higher income households, as well as the affordable market. Developments will be subject to evidence of sufficient finance supported demand and of end-user finance (home loans) available from financial institutions. In depressed markets, opportunities are created for lower and affordable households to secure tenure and accommodation in these developments.

Redevelopment: This form of development comprises redevelopment of abandoned, idle or underutilized mainly industrial and commercial land and property that is converted to residential use, undertaken by private developers. There is collaboration between the public and private sector

aimed at revitalizing these neighborhoods. Developments are generally found in highly developed urban areas which are undergoing a land use or economic change. Key characteristics are that the area was previously developed, is no longer utilized for its intended use and may be abandoned or deteriorating and comprises land and/or buildings. The land or buildings may be occupied by lower income households, legally or illegally. Industrial contamination may be an issue. The types of units include generally medium to high rise buildings offering apartments and includes student accommodation. Developments will often comprise mixed uses incorporating offices, restaurants and shops. The target market is medium to higher income households, including the affordable market (properties valued at R300,000). Developments will be subject to evidence of sufficient finance supported demand and of end-user finance (home loans) available from financial institutions. At the early stages of the area redevelopment process opportunities are created for lower and affordable households to secure tenure and accommodation in these redevelopments.

3. **Targeted densification of corridors and nodes[v]:** This form of development comprises increasing the density of areas within corridors and nodes of urban areas through policies that enable higher densities than in the past and greater land use mix.

   Generally driven by the cities Spatial Development Framework (SDF), mechanisms used include defining an urban edge; defining areas of investment priority, rezoning, relaxing planning requirements, infrastructural investment for example Bus Rapid Transit routes and bulk infrastructure development. Developments are undertaken by a private developer. There are initiatives between the public and private sector aimed at enhancing these corridors and nodes. Various unit typologies are developed from low density single residential (res 1) units to higher density walk up or multi-storey attached (res 3) units of medium to high level of finish, depending on the targeted market profile. The target market includes all income categories.

4. **General densification of existing residential[vi]:** This form of development includes the sub-division of existing residential properties (generally with a single detached house (Res 1)) or the development of additional units for rental (backyard rental). Development is undertaken by private micro developers and existing home owners. Developments are located within existing residential areas and are found in high, middle- and low-income proclaimed urban areas, across old and new subsidised and unsubsidised housing estates and in informal settlements. Typologies include rental units ranging from single rooms with dedicated or shared ablution facilities to small

flats. The accommodation is provided through the dividing of the existing house into rooms or constructing backyard single story and two story structures. Rental units vary greatly in terms of quality of construction materials. Units are built from wood, tin, plastic, cardboard and prefabricated panels or using more conventional brick or block construction. The focus here is on formal block or brick structures. The target market includes all income categories.

5. **Informal settlements:** Informal settlements are areas where households have occupied un-proclaimed and un-serviced land without permission. The households in the settlement generally do not have any registered title to the land on which they have built their houses and generally lack access to basic services and city infrastructure. The houses generally do not comply with building regulations and are often built with informal materials. Settlements often have strong local community structures who oversee tenure arrangements and undertake settlement management functions. Informal settlements are either capable of upgrading over time or households will need to be relocated to a safe location.

   The upgrading or relocation of informal settlements is undertaken by government with funding from the Upgrading Informal Settlement Programme and technical support from the National Upgrading Support Programme (NUSP). Informal settlements are generally located either within the urban areas or as a natural extension to established urban areas.

Challenges, opportunities and key land issue pertaining to each intervention type are shown in the table below.

Table 2: Analysis of housing delivery intervention types

Type	Challenges	Opportunities	Land issues
Conventional development[vii]	1) New housing delivery has declined across all markets but most significantly in respect of the affordable market (i.e. households earning between R10,000 – R30,000)*. 2) Access to credit for households is declining, particularly in the affordable markets mainly as a result of credit worthiness constraints. 3) Access to development funding is limited, particularly in respect of the affordable market. 4) The cost of construction has increased significantly over the last 10 years making it difficult to provide housing products at affordable prices. 5) Well located land is more expensive resulting in 'affordable' housing being developed in more peripheral locations. 6) Time frames for township establishment and top structure approval are extensive with delays resulting in higher holding costs. This further increases the cost of the houses. 7) The building and servicing standards required by lenders of mortgage backed loans are high resulting in high selling prices for new affordable housing. 8) Pricing pressure on affordable housing often results in cost cutting which negatively impacts house quality.	1) Addressing creditworthiness issues would increase the proportion of households able to participate in the affordable market 2) If standards applied by lenders to qualify for mortgage backed loans are reduced new houses for sale will be more affordable. 3) Well priced well located land needs to be made available.	• Supply of well-located land generally too expensive for affordable housing • Red tape and long timeframes for township establishment • Limited capacity at local government level to identify and assembly public land for affordable housing
Mega/Catalytic project[viii]	1) Generally projects are poorly located on the urban periphery due to better located land being expensive and limitations on large enough well located land parcels to accommodate developments of this scale. 2) Projects frequently exacerbate spatial inequalities, with poor households living on the periphery with high transport costs to access economic and social	1) If undertaken within a context of cities spatial development frameworks, can contribute significantly to city building 2) Potential positive for providing access to formal tenure and for	1) Dependent on acquisition of large, vacant land parcels (higher risks and normally peripheral) 2) Land development at this scale is time-consuming, higher risk and costly

Type	Challenges	Opportunities	Land issues
	opportunity. Creating new urban centers with enough jobs for the people who live there is extremely difficult. 3) Generally the municipal operating costs of these developments are high because of their lower density peripheral locations. 4) Peripheral locations are often not able to access the existing municipal bulk infrastructure. Large new bulk installations are often required with consequential high costs and extensive time delays. 5) Mega projects almost always over-inflate promises, run over budgets and take longer than anticipated 6) Pricing pressure on affordable housing often results in cost cutting, negatively impacting house quality.	social integration if well executed. 3) If standards applied by lenders to qualify for mortgage backed loans are reduced new houses for sale will be more affordable	3) Undermines national and municipal land use policy objectives, of compact, integrated urban development
Infill development	1) The costs of the infill sites, particularly if well located, can be prohibitive, particularly for affordable housing. 2) There is declining access to credit for households particularly in the affordable market as a result of credit worthiness constraints. 3) The cost of construction has increased significantly over the last 10 years making it difficult to provide housing at affordable prices. 4) Access to development funding is limited particularly in respect of the affordable market 5) Time frames for township establishment and top structure approval are extensive with delays resulting in high holding costs. This further increases the cost of the houses. 6) The building and servicing standards required by lenders of mortgage backed loans are high resulting in high selling prices for new affordable housing.	1) Addressing creditworthiness issues would increase the proportion of households able participate in the affordable market 2) If standards applied by lenders to qualify for mortgage backed loans are reduced, new houses for sale will be more affordable. 3) Well priced well located land for infill development needs to be made available.	• Cost benefit assessments are important – do benefits of integrated, compact land use justify high land acquisition costs? • Justify residential development rather than social amenity where general area is densifying. • Subsidization of land costs are needed to achieve income-level integration. • Red tape and long timeframes for township establishment.

Type	Challenges	Opportunities	Land issues
Site and service (Rapid Land Release)	1) In recent years there has been an increasing focus on site and service. Currently there is no policy or subsidies in place (other than through the Peoples Housing Process). 2) The costs of land, particularly if well located can be prohibitive 3) There is limited access to credit. Banks will not provide mortgage backed loans to lower income owner builders. This limits loans for affordable and lower income households to either pension backed loans, personal savings or high interest unsecured credit. 4) Site and service does not lend itself to higher density development. 5) Time frames for township establishment and top structure approval are extensive with delays common resulting in high holding costs. This further increases the cost of the stands.	1) Owner-building is an extremely cost effective and affordable delivery option 2) If this form of delivery is implemented owner-builders could purchase serviced sites and then undertake the development of the top structure incrementally over time as their resources allow it. 3) The application of the FLISP to the purchase of the serviced stand could assist affordability. 4) Where access to serviced stands have been made available in traditional areas, good housing has been built by households acting as owner-builders. 5) Support to households with access to house plans, cost effective plan approval processes and builders would enable this form of delivery	• Site and service projects generally in peripheral locations - well located land expensive. • If well located then imposes an opportunity cost as no longer available for higher density development • Red tape and long time frames on township establishment.
Conversion	1) A growth of demand for conversions can have a negative impact on the property values of unconverted properties undermining their ability to be developed for the affordable market. 2) Slow land-use planning and development control approval processes can increase the cost of the development thereby further undermining the ability to use the development for affordable housing. 3) Poor levels of municipal service provision and maintenance often make managing the resultant	1) Potential for accommodating affordable and low income market at scale in well located areas (social integration). 2) Potential to provide residential accommodation in already dense mixed use existing areas 3) Potential for asset value growth and yield across all markets. 4) Improve the efficiency, effectiveness and sustainability	• Depressed land prices can be an opportunity to enable low income households access to areas of future value growth • Intense conversion could displace resident low-income households from well located areas • Change in land use zoning & rights on an individual project basis is time consuming

Type	Challenges	Opportunities	Land issues
	buildings expensive as the developer has to take on some of these municipal responsibilities. 4) Despite the adoption of SPLUMA, there is weak application of land-use management instruments. Several municipalities have failed to implement important SPLUMA provisions on inclusionary housing and or urban land market interventions to curb speculative tendencies and downward raiding. 5) Not all office or industrial space is easily converted. Many offices have inappropriate floor plans and access arrangements to support residential conversions. This impacts the viability of conversions of specific buildings that can become a negative in the overall rehabilitation of an area.	of municipalities where accompanied by sound urban management.	
Redevelopment	1) A growth of conventional market demand for residential units in the redevelopment area can increase the prices, inhibiting the ability to accommodate affordable housing. 2) Slow land-use planning and development management approval processes can increase the cost of the development thereby further undermining the ability to use the development for affordable housing. 3) Poor levels of municipal service provision and maintenance often make managing the resultant buildings expensive as the developer has to take on some of these municipal responsibilities. 4) Despite the adoption of SPLUMA, there is weak application of land-use management instruments. Several municipalities have failed to implement important SPLUMA provisions on inclusionary housing and or urban land market interventions to curb speculative tendencies and downward raiding.	1) Potential for accommodating affordable and low income market at scale in well located areas at least in initial stages (social integration). 2) Potential to provide dense residential development in existing areas 3) Potential for capital asset growth and social integration is positive if well executed 4) Improve the efficiency, effectiveness and sustainability of municipalities where accompanied by sound urban management.	• Depressed land prices enables low income households access to well located areas. • Intense redevelopment could displace resident low-income households • Change in land use zoning and rights on an individual project basis is time consuming • Land rehabilitation costs can preclude affordable housing • Requires policy instrument to capture and redistribute land value

Type	Challenges	Opportunities	Land issues
Targeted densification of corridors and nodes[ix]	1) Lack of bulk infrastructure capacity, as well as the state of the local engineering reticulation. 2) Inadequate or unclear enabling land use zoning and development conditions. 3) Insufficient functional and attractive communal open spaces and recreational facilities in strategic areas to support the higher density housing and number of households. 4) Inefficient public transport systems. 5) Large parking areas around commercial developments and pedestrian unfriendly nodal areas. 6) Lack of incentives for developers to increase densities 7) A low emphasis on redevelopment and regeneration within the municipality, with a strong emphasis on Greenfield developments.	1) The relevance of densification of corridors and nodes has substantially grown in importance and it is increasingly being used as a policy initiative by metropolitan cities 2) Mechanisms that can be used to enable better implementation of this policy include: – Fast-tracking land development applications in areas close to the urban center – Improving town planning application and approval processes to make them faster and less costly – Transferring Development Rights (TDR) in conjunction with a set of incentives such as reduced rates, discounted development contribution fees and relaxing land use controls in specified areas	• Change in land use zoning and rights on an individual project basis is time consuming. • Planned high densities emphasizes the need to retain land for social, economic uses. • Intense conversion could displace resident low-income households.
General densification of existing residential	1) With respect to sub-divisions of a property for ownership the process of obtaining approval is disproportionately slow and expensive 2) With respect to the development of backyard rental units: – Many structures are illegal and accommodation may be unsafe & unhealthy.	1) Government could create an appropriate regulatory framework conducive to sub-division of properties and the development of backyard rental units. 2) Funding support to municipalities could be	• Higher densities increase need for land for social, economic uses • Development places pressure on existing bulk infrastructure and reticulation. • Current planning and development control

Type	Challenges	Opportunities	Land issues
	– Backyarders may not have access to adequate basic services. – In many municipalities, backyarding is responded to as a negative resulting in municipalities focusing on replacement rather than support for upgrading. – Backyarding can place pressure on existing infrastructure capacity in areas of high prevalence. – The lack of a guiding policy, appropriate regulation and funding framework affects municipalities' ability to adequately regulate & manage backyarding as a positive city-building force. 3) Access to loan well priced finance to households and micro developers to develop small scale rental housing developments is generally not available.	provided that will assist Municipalities to support and regulate the Small Scale Landlords sector, incentivise existing Small Scale Landlords to improve the quality of their stock and encourage new Small Scale Landlords to enter the sector. 3) New financial products that are appropriate to the sub-market, to be made available by lenders could be encouraged. 4) Any finance provided by Government should occur in a manner that encourages and supports the municipalities to accommodate and support this delivery approach. Direct housing subsidies should be avoided.	compliance inappropriate and costly • Planned high densities - need to retain land for social and economic uses. • Intense conversion could displace resident low income households.
Informal settlement	1) Only a limited number of informal settlements have to date been upgraded. In the cases where settlements have been upgraded this has typically taken between 7 and 12 years. In particular: • Community dynamics and vested interests often result in an inability to gain community consensus on the planned informal settlement upgrading process; • Extensive social engagement and agreement with local residents is required in order to upgrade services and allocate land;	1) A new grant framework has been established fully focused on informal settlements upgrading. This will provide some guidance and focus to the process to both Provinces and municipalities. 2) The NUSP is available to assist with the development of provincial and municipal wide Informal Settlement Strategies, individual settlement plans and	• When well located and with access to bulk infrastructure and economic opportunities - In situ upgrade • When poorly located or on unsafe or inappropriate land - relocation • Requires land assembly & progressive tenure upgrading • Requires regularization of land tenure

Type	Challenges	Opportunities	Land issues
	• Capacity constraints within municipalities to deal with informal settlement upgrading are severe. 2) Many settlements require relocation or de-densification placing pressure on assembling vacant land. The availability of well priced, well located land is a problem (as discussed in Greenfield earlier). To limit the disruption of households and the need for additional vacant land, substantial effort is required to retain as many residents on site as possible – this is a very challenging because of the high densities in many informal settlements. 3) Grant frameworks around informal settlement upgrading are rigid and make it difficult to partner with communities and other interested parties. 4) Uncertainty around the future of settlements. While the categorization process has assisted in clarifying each settlements route to upgrading, not all settlements have been assessed and communities are not always informed of their categorization.	to grow programme management capacity. 3) Informal settlements upgrading remains a national priority.	

2.2.2 Housing market profile

The figure below provides an overview of the delivery interventions as they apply to different income categories in South Africa. As indicated in the figure, **households earning above R22,000 per month comprise only 6,9%[x] of South Africa's population** and are supplied by the private sector with supply being generally sufficient to meet demand in respect of both rental and ownership.

Households earning between R10,000 and R22,000 per month comprise 17,3% of South Africa's population. These households are generally supplied by the private sector with some public sector subsidies in respect of the Social Housing and Finance Linked Individual Subsidy (FLISP) programmes. Generally there is failure to supply to this income bracket (i.e. households earning below R10,000 per month) and much of the accommodation provided is informal.

Households earning between R 3,500 and R 10,000 per month comprise 28,8% of South Africa's population. These households are supplied by the private sector with limited public subsidy support from the FLISP. Supply of rental accommodation is generally in line with demand but there is significant undersupply to this income bracket in respect of ownership.

Households earning below R3,500 per month comprise 46,9% of South Africa's population. These households are eligible for support by government. The main delivery mode to date is premised on each household receiving a fully subsidised serviced site and top structure through greenfield development or the upgrading of informal settlements. However fully subsidised government provided housing supply is inadequate to meet the scale of need. Shortages in housing delivery are met through overcrowding of existing accommodation, informal settlements and private sector delivery including backyard and inner city rental. The quality of the stock provided is often extremely poor.

The target market for Conventional Development, Infill Development, Conversion and Redevelopment is generally households earning above R10,000 per month. The target market for site and service, densification of corridors and nodes and existing residential areas is all income categories. The target market for mega/catalytic projects (including a significant proportion of fully subsidised houses for households earning below R 3,500 per month) and informal settlement upgrading is generally households earning below R15,000 per month.

Figure 3: Current practice and current supply by income groups

| Generally supply is private sector driven and is sufficient to meet demand iro both rental and ownership | 6.9% earn >R22,000/month | Target market for Conventional Development, Infill Development, Conversion, Redevelopment. |

(figure content)

Generally supply is private sector driven and is sufficient to meet demand iro both rental and ownership

Generally supply is private sector driven with some public sector (social housing & FLISP). Supply is sufficient to meet demand iro rental but there is significant under supply in respect of ownership. Generally fails to supply at the lower end of this income bracket

Generally supply is by the public sector (subsidised housing programme) but at inadequate scale to meet need. Shortages are met though overcrowding, informal settlements and private sector delivery (backyard rental, inner city rental) often providing stock of poor quality

6.9% earn >R22,000/month
17.3% earn >R10,000 - 22,000/month
28.8% earn R3,500 – R10,000/month
46.9% earn <R3,500/month

Households in South Africa – Census 2011

Target market for Conventional Development, Infill Development, Conversion, Redevelopment.

Target market for Site and Service, Densification of Corridors and Nodes and Existing Residential Areas.

Target market for Mega/Catalytic Projects and Informal Settlement Upgrading.

Source for figure: Rust Kecia May 2018

2.2.3 Current and projected housing need in South Africa

The Community Survey of 2016 (StatsSA) indicates that of the 16,9 million households in the country at that time, some 2,4 million (14%) are living in sub-optimal conditions characterised by poor quality top structures and/or poor access to basic services. The majority of households, some 10,1 million (61%) are living in metropolitan and secondary cities with approximately 46% (7,6 million) living in the eight metropolitan cities and approximately 15% (2,6 million) living in the Secondary Cities (see table below).

Of the 7,55 million households (46%) living in the metropolitan cities in 2016:
- 46% live in owned single detached (res1) units (i.e. low residential density areas);
- 14% live in rented single detached dwellings on a res1 property (i.e. low residential density areas);
- 10% live in informal settlements; and
- 8% live in formal or informal dwellings in existing backyards (i.e. lower to medium residential density areas).

Of the 2,58 million households (15%) living in the secondary cities in 2016:
- 50% live in owned single detached (res1) units (i.e. low residential density areas);
- 16% live in rented single detached dwellings on a res1 property (i.e. low residential density areas);
- 9% live in informal settlements; and
- 8% live in formal or informal dwellings in existing backyards (i.e. lower to medium residential density areas).

Table 3: Housing circumstances of households in South Africa, 2016[xi]

	Metros		Secondary Cities		Other urban areas		Non-urban areas		Total	
	No	%	No	%	No	%	No	%	No	%
Formal owned detached single stand	3,505,389	46	1,283,269	50	634,344	46	2,651,805	49	**8,074,807**	**48**
Formal owned apartment, townhouse, cluster, semi-detached	285,328	4	37,983	1	16,099	1	73,250	1	**412,660**	**2**
Formal rented detached on single stand – rented from private indiv	909,431	12	355,007	14	202,606	15	631,311	12	**2,098,355**	**12**
Formal rented detached on single stand – rented from other (govt, SHI)	172,283	2	46,109	2	29,774	2	57,913	1	**306,079**	**2**
Formal rented apartment, townhouse, cluster or semi-detached – private individual	340,293	5	60,313	2	33,303	2	48,551	1	**482,460**	**3**
Formal rented apartment, townhouse, cluster or semi-detached – rented from other (govt, SHI)	58,500	1	7,940	0	6,175	0	4,002	0	**76,617**	**0**
Backyard rental formal	331,997	4	109,507	4	46,948	3	99,444	2	**587,896**	**3**
Backyard rental informal	311,073	4	97,343	4	34,420	3	52,287	1	**495,123**	**3**
Informal settlement	740,465	10	239,783	9	100,151	7	194,680	4	**1,275,079**	**8**
Traditional dwelling	70,784	1	44,746	2	113,164	8	952,051	18	**1,180,745**	**7**
Other	820,752	11	299,357	12	155,621	11	657,758	12	**1,933,488**	**11**
Total	**7,546,295**	100	**2,581,356**	100	**1,372,606**	100	**5,423,052**	100	**16,923,309**	**100**
Assumed growth rate pa*	**2,8%**		**2,4%**		**2,3%**		**1,7%**			
Projected hh growth to 2045	**8,804,580**		**2,553,717**		**1,281,628**		**3,418,966**		**16,058,891**	
Total estimated hh in 2045	**16,350,875**		**5,135,073**		**2,654,234**		**8,842,018**		**32,982,200**	

* The growth rate has been assumed by determining growth between 2011 and 2016 for each category.

As indicated in the above table, and based on an assumed average annual growth in the number of households, the projected increase in households (additional units required) to be accommodated from 2016 to 2045 is some 16 million in total for South Africa. Added to this is the current housing need related to those living in substandard accommodation (informal backyard rental and informal settlements) of 1,8 million households. This would result in an overall national additional need for housing by 2045 of 17,8 million units.

The concentration of growth in households is in the metropolitan cities (8,8 million) and in secondary cities (2,6 million). The table below provides an estimate of land required to house households currently living in substandard conditions and new projected households by 2045.

Table 4: Implications of current and projected housing need to 2045 in terms of land requirements

	Metros	Secondary Cities	Other urban areas	Non-urban areas	Total
Estimated Land assembly Requirements to 2045					
Households currently living in substandard housing conditions — Backyard rental informal	311,073	97,343	34,420	52,287	495,123
Households currently living in substandard housing conditions — 50% of households in Informal settlements (assumed to be relocated)	370,233	119,892	50,076	97,340	637,540
Households currently living in substandard housing conditions — **Total**	**681,306**	**217,235**	**84,496**	**149,627**	**1,132,663**
Projected hh growth to 2045	8,804,580	2,553,717	1,281,628	3,418,966	16,058,891
Estimated need for additional housing by 2045	**9,485,886**	**2,770,952**	**1,366,124**	**3,568,593**	**17,191,554**
Land Requirements: Greenfield development only					
Land required assuming greenfield development only — Hectares of land required (assuming 30 units per hectare)	316,196	92,365	45,537	118,953	573,052
Land required assuming greenfield development only — KM squared of land required	3,162	924	455	1,190	5,731
Funding required (Rand trillion)*					
Land Requirements: Greenfield with reasonable level of densification of existing residential areas					
Reduced land required assuming densification development is applied — 40% of total freehold properties**	1,834,841	673,754	346,690	1,336,412	4,191,696
Reduced land required assuming densification development is applied — Total units that can be delivered via densification***	6,513,686	2,391,827	1,230,748	4,744,261	14,880,522
Reduced land required assuming densification development is applied — Land required in hectares	99,073	12,638	4,513	0	77,034
Reduced land required assuming densification development is applied — Land required in KM squared	991	126	45	0	770
% reduction of required greenfield land if densification undertaken	**69%**	**86%**	**90%**	**100%**	**87%**

* Assume 70% of housing need are subsidy units at R250,000 per unit.

** This comprises 40% of formal owned detached single houses on a stand, formal rented detached on a single stand rented from a private individual and formal rented detached on a single stand rented from other (govt, SHI)

*** This assumes that 15% of freehold property owners sub-divide their property to generate one additional unit and 85% develop 4 flatlets or rooms on their property

Should the land required to meet current need and projected housing growth be delivered through new greenfield developments only (applying a typical 'subsidy housing/mixed income development" at a gross density of 30 units per hectare) some 573,000 hectares of additional land will be required. The vast majority of the land required will be in the metros (316 000 hectares) and secondary cities (92,000 hectares). In respect of the metros alone, this equates to 3,170 km2, almost double the size of the Johannesburg metro's current total jurisdictional area[xii].

Should the emerging phenomenon of densification of existing areas also be applied as a seriously pursued and supported delivery option, the amount of greenfield land required would be significantly reduced. While it is conceivable that there could be densification in all areas of the city, for quantification purposes, the following conservative assumptions have been adopted:

I.   Only the low density residential areas (Res1 residential properties) have been targeted.

II. Only 40% of these home owners would over time pursue the densification of their properties; and

III.   Of these 15% would sub-divide their property and sell and 85% would develop an average of four flatlets or rooms on their properties for rental purposes.

This would yield some 14,9 million additional units nationally without any requirement for additional greenfield development. Therefore, such densification would substantially reduce the land required for new greenfield developments from 316,000 hectares in the metros to a more realistic estimate of approximately 99,000 hectares (100 km2). Simply, the extent of greenfield land required reduces by about 69%. In the secondary cities the amount of land required would be reduced by 86% from 92,000 to 12,000 hectares.

Financially, a purely greenfield approach is also not sustainable. If 70% of all 9,5 million units (in metros) are subsidy housing units on serviced stands this would require R2,33 trillion in subsidies or, if only serviced stands, then this would require just under R1 trillion (at current prices). This drastically exceeds the likely fiscal funding capacity. Current Human Settlements budget votes would be entirely allocated to this if just serviced land and, if land and housing units are both provided, then the budget vote would need to more than double.

2.2.4 Critical review of current housing delivery interventions

This section outlines a critical analysis of the delivery interventions set out in section 2.2 against the Normative Framework (see section 1.3). Key assessment criteria, directly linked to the normative framework, were formulated and consistently applied (see table below).

Table 5: Normative framework: Criteria

	Criteria	**Sub-criteria**
Household Perspective	Tenure	• Social security • Asset value/yield
	Access	• Economic opportunities • Social opportunities • Affordability/ownership
	Quality	• Building quality • Access to services
Urban Node/ Human Settlement Perspective	Efficiency & Effectiveness	• Compact integrated city • Municipal operating efficiency
	Sustain-ability	• Financial sustainability • Environmental sustainability
	Equity	• Economic & spatial transformation • Social integration

The detailed analysis is set out in the sections that follow.

2.2.4.1 Greenfields: Conventional development

As indicated in the table conventional development meets the criteria of the normative framework from the high and conventional market households' perspective in respect of tenure, access and quality. However from the perspective of the low and affordable household market access and quality are poor. In addition this form of delivery only partially meets the criteria from an urban node/human settlement perspective.

Table 6: Conventional development: Analysis against the normative framework

	Criteria	Sub-criteria	Score	Commentary
Household Perspective *(high & conventional market)*	**Tenure**	• Social security • Asset value/yield	🟢	Secure registered title of property which supports loan security and rental income. Generally no informal property transactions. Formal rental options available.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Generally good access to economic opportunities and social amenities. Affordable to high and conventional markets.
	Quality	• Building quality • Access to services	🟢	Good quality housing with access to high quality engineering services.
Household Perspective *(low & affordable market)*	**Tenure**	• Social security • Asset value/yield	🟢	Secure registered title of property which supports loan security and rental income. Formal rental options can be included.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🔴	Projects generally located on periphery due to the high cost of well located land resulting in poor access to economic and social opportunities and high household transport costs. The price of housing delivered is generally expensive and unaffordable limiting access to ownership. FLISP subsidy insufficient and difficult to access.
	Quality	• Building quality • Access to services	🟡	Quality of houses often compromised by cost cutting pressures on developer. Engineering service levels generally good.
Urban Node/ Human Settlement Perspective	**Efficiency & Effectiveness**	• Compact integrated city • Municipal operating efficiency	🟡	Performs well for the conventional to high end markets - projects generally well located. Does not perform well for the low to affordable markets - projects generally on periphery. Peripheral projects increase urban sprawl and municipal operating costs.
	Sustainability	• Financial sustainability • Environmental sustainability*	🟡	Contributes to financial sustainability of the municipality (good source of rates and taxes). If peripheral, resultant urban sprawl generally negative for environmental sustainability.
	Equity	• Economic & spatial transformation • Social integration	🔴	Does not support fundamental economic transformation other than via home ownership. Negative for social integration as affordable projects generally peripheral with poor urban opportunity access.

2.2.4.2 Greenfields: Mega/Catalytic projects

As indicated in the table mega catalytic projects do not apply to the high and conventional market. In addition they do not meet the criteria of the normative framework from the low and affordable market perspective in respect of tenure, access and quality. In addition this form of delivery fails to meet the criteria from an urban node/human settlement perspective.

Table 7: Mega/Catalytic projects: Analysis against the normative framework

	Criteria	Sub-criteria	Score	Commentary
Household Perspective *(high & conventional market)*	**Tenure**	• Social security • Asset Value/Yield		n/a
	Access	• Economic opportunities • Social opportunities • Affordability/ownership		n/a
	Quality	• Building quality • Access to services		n/a
Household Perspective *(low & affordable market)*	**Tenure**	• Social security • Asset Value/Yield	🟡	Secure registered title of property which supports loan security and rental income. Given the peripheral locations growth of and yield from the asset is uncertain
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🔴	Projects generally located on periphery due to the high cost of well located land resulting in poor access to economic and social opportunities and high household transport costs. The price of housing delivered is generally expensive and unaffordable limiting access to ownership. FLISP subsidy insufficient and difficult to access.
	Quality	• Building quality • Access to services	🟡	Quality of houses often compromised by cost cutting pressures on developer. Engineering service levels generally good.
Urban Node/ Human Settlement Perspective	**Efficiency & Effectiveness**	• Compact integrated city • Municipal operating efficiency	🔴	Projects generally on the periphery which increases urban sprawl and municipal operating costs.
	Sustain-ability	• Financial sustainability • Environmental sustainability*	🔴	Poor municipal revenue collection & higher municipal servicing and administration costs. Urban sprawl generally increases reliance on transport and negative for environmental sustainability.
	Equity	• Economic& Spatial transformation • Social integration	🔴	Does not support fundamental economic transformation other than via home ownership. Negative for both spatial transformation and social integration as Mega projects generally peripheral with poor urban opportunity access and fail to attract middle income households

2.2.4.3 Greenfields: Infill

As indicated in the table infill development meets the criteria of the normative framework from the high and conventional market households' perspective in respect of tenure, access and quality. The criteria are met for the low and affordable market but to a lesser extent in respect of access and quality. From an urban node/human settlement perspective, this form of delivery meets the criteria in respect of efficiency and effectiveness and to a lesser extent sustainability, but only partially meets the criteria in respect of equity.

Table 8: Infill: Analysis against the normative framework

	Criteria	Sub-criteria	Score	Commentary
Household Perspective (high & conventional market)	Tenure	• Social security • Asset Value/Yield	🟢	Secure registered title of property available that supports housing as a capital asset. Formal rental options available.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Generally good access to economic opportunities and social amenities. Affordable to high and conventional markets.
	Quality	• Building quality • Access to services	🟢	Good quality housing with access to high quality engineering services.
Household Perspective (low & affordable market)	Tenure	• Social security • Asset Value/Yield	🟢	Secure registered title of property which supports loan security and rental income. Formal rental options can be included. .
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟡	The location is generally good offering access to social amenities and work opportunities However the price of housing delivered is generally expensive and unaffordable limiting access to ownership. FLISP subsidy insufficient and difficult to access.
	Quality	• Building quality • Access to services	🟡	Quality of houses often compromised by cost cutting pressures on developer. Quality of services accessed are good.
Urban Node/ Human Settlement Perspective	Efficiency & Effectiveness	• Compact integrated city • Municipal operating efficiency	🟢	Performs well as the land parcels developed well located and generally higher densities. Municipal operating efficiencies generally enhanced by the contribution to a compact city
	Sustain-ability	• Financial sustainability • Environmental sustainability*	🟡	Contributes to municipality iro financial sustainability (good source of rates and taxes - if conventional market plus) and to improved municipal operating efficiencies -compactness. Well located development relies less on transport & is environmentally more sustainable.
	Equity	• Economic & Spatial transformation • Social integration	🔴	Does not support fundamental economic transformation other than via home ownership. Limited ability for low and affordable income households to afford houses developed (initial & ongoing downward raiding). Consequently limited spatial transformation.

2.2.4.4 Greenfields: Site and service (Rapid land release)

As indicated in the table site and service development meets the criteria of the normative framework from the high and conventional market households' perspective in respect of tenure, access and quality. From the perspective of the low and affordable household market the criteria are met but to a lesser extent. This form of delivery fails to meet the criteria from an urban node/human settlement perspective.

Table 9: Site and service: Analysis against the normative framework

	Criteria	Sub-criteria	Score	Commentary
Household Perspective (high & conventional market)	Tenure	• Social security • Asset Value/Yield	🟢	Secure title available that supports value creation through building a house. Limited initial opportunity to secure a yield from the asset.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Generally good access to economic opportunities and social amenities. Affordable to high and conventional markets.
	Quality	• Building quality • Access to services	🟢	Good quality housing with access to high quality engineering services.
Household Perspective (low & affordable market)	Tenure	• Social security • Asset Value/Yield	🟡	Secure title available that supports value creation through building a house. Limited initial opportunity to secure a yield from the asset. Titling backlogs could be a concern.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟡	The location of projects is likely to be on the periphery due to the high cost of well located land. Consequently access to economic and social opportunities are generally poor. Projects are affordable to low to middle income households.
	Quality	• Building quality • Access to services	🟢	Building quality is less controlled than with NHBRC builders but in practice generally good. Access to medium to high levels of engineering services is provided.
Urban Node/ Human Settlement Perspective	Efficiency & Effectiveness	• Compact integrated city • Municipal operating efficiency	🔴	Projects generally on periphery which increases urban sprawl & municipal operating costs. Developments are generally low density. New methodologies required including smaller sites, party walls and walk-ups frame to be completed by the owner builder.
	Sustain-ability	• Financial sustainability • Environmental sustainability*	🔴	Poor municipal revenue collection & higher cost to muni. of servicing and administration. Urban sprawl generally increases reliance on transport and negative for environmental sustainability.
	Equity	• Economic & Spatial transformation • Social integration	🟡	Does not support fundamental economic transformation other than via home ownership. If peripheral, these developments negative for spatial transformation and spatial integration. Potential to attract middle income households but only if reasonably well located.

2.2.4.5 Brownfields: Conversion

As indicated in the table conversions meets the criteria of the normative framework from the high and conventional market households' perspective in respect of tenure, access and quality. Conversions also meet the criteria from the perspective of the low and affordable household market in respect of quality but less in respect of tenure and access. This form of delivery generally meets the criteria from an urban node/human settlement perspective.

Table 10: Conversion: Analysis against the normative framework

	Criteria	Sub-criteria	Score	Commentary
Household Perspective *(high & conventional market)*	**Tenure**	• Social security • Asset Value/Yield	🟢	Most housing units are available for rental or sectional title. Formal rentals generally apply. The value of sectional title asset will depend on the effectiveness of Body Corporates.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Good access to economic opportunities and social amenities Affordable to high and conventional markets.
	Quality	• Building quality • Access to services	🟢	Good quality housing. Access to high levels of municipal services.
Household Perspective *(low & affordable market)*	**Tenure**	• Social security • Asset Value/Yield	🟡	Most housing units are available for rental. There will also be substantially subletting (mainly informal) to improve rental affordability. Opportunities will exist to acquire ownership of assets that provide opportunities for both asset value growth and yield.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟡	Good access to economic opportunities and social amenities. Opportunities will exist to access units for the affordable and low income markets but over time these may reduce as the cost of formal conversions may be unaffordable thereby limiting ownership. FLISP subsidy insufficient and difficult to access.
	Quality	• Building quality • Access to services	🟢	Quality of converted building is generally good and compliant. Risks of hijacked or abandoned buildings exist.
Urban Node/ Human Settlement Perspective	**Efficiency & Effectiveness**	• Compact integrated city • Municipal operating efficiency	🟢	The conversions are generally well located and conversions are at higher densities. Subject to reasonable municipal urban management service delivery and administrative efficiencies will result.
	Sustain-ability	• Financial sustainability • Environmental sustainability*	🟢	Contributes to financial sustainability of the municipality (improved collection of rates and taxes from landlord and body corporates). Reduced reliance on transport will contribute to improved environmental sustainability.
	Equity	• Economic & Spatial transformation • Social integration	🟡	Does enable economic transformation with opportunities for asset value and yield growth by previously excluded groups. Will enable spatial transformation and social integration provide the conversions do not result in downward raiding.

2.2.4.6 Brownfields: Redevelopment

As indicated in the table redevelopment meets the criteria of the normative framework from the high and conventional market households' perspective in respect of tenure, access and quality. Conversions also meet the criteria from the perspective of the low and affordable household market in respect of quality, but less in respect of tenure and access. This form of delivery generally meets the criteria from an urban node/human settlement perspective.

Table 11: Redevelopment: Analysis against the normative framework

	Criteria	Sub-criteria	Score	Commentary
Household Perspective *(high & conventional market)*	Tenure	• Social security • Asset Value/Yield	🟢	Most housing units are available for rental or sectional title. Formal rentals generally apply. The value of sectional title asset will depend on the effectiveness of Body Corporates.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Good access to economic opportunities and social amenities Affordable to high and conventional markets.
	Quality	• Building quality • Access to services	🟢	Good quality housing. Access to high levels of municipal services.
Household Perspective *(low & affordable market)*	Tenure	• Social security • Asset Value/Yield	🟡	Most housing units are available for rental. There will also be substantially subletting (mainly informal) to improve rental affordability. Opportunities will exist to acquire rental stock that provide opportunities for both asset value growth and yield.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟡	Good access to economic opportunities and social amenities. Opportunities exist to access affordable and low income units but over time as the redevelopment proceeds these may reduce as the formal redevelopment will be likely be unaffordable thereby limiting ownership. FLISP subsidy insufficient and difficult to access.
	Quality	• Building quality • Access to services	🟢	Quality of redevelopments are generally good and compliant with access to a high level of services. Risks of hijacked or abandoned buildings exist.
Urban Node/ Human Settlement Perspective	Efficiency & Effectiveness	• Compact integrated city • Municipal operating efficiency	🟢	Redevelopments are generally well located and at higher densities. Subject to reasonable municipal urban management service delivery and administrative efficiencies will result.
	Sustain-ability	• Financial sustainability • Environmental sustainability*	🟢	Contributes to financial sustainability of the municipality (improved collection of rates and taxes from landlord and body corporates). Reduced reliance on transport will contribute to improved environmental sustainability.
	Equity	• Economic & Spatial transformation • Social integration	🟡	Does enable economic transformation with opportunities for asset value and yield growth by previously excluded groups. Will enable social integration and spatial transformation provide the conversions do not result in downward raiding.

2.2.4.7 Targeted densification of corridors and nodes

As indicated in the table targeted densification of corridors and nodes meets the criteria of the normative framework from the high and conventional market households' perspective in respect of tenure, access and quality. Conversions also meet the criteria from the perspective of the low and affordable household market in respect of tenure and access but not in respect of quality. This form of delivery generally meets the criteria from an urban node/human settlement perspective.

Table 12: Targeted densification of corridors and nodes: Analysis against the normative framework

	Criteria	Sub-criteria	Score	Commentary
Household Perspective *(high & conventional market)*	Tenure	• Social security • Asset Value/Yield	🟢	Most housing units are available for rental or on sectional title. Formal rentals will apply. The value of sectional title asset ownership will depend on the effective Body Corporates.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Good access to economic opportunities and social amenities Affordable to high and conventional markets.
	Quality	• Building quality • Access to services	🟢	Good quality housing. Access to high levels of municipal services.
Household Perspective *(low & affordable market)*	Tenure	• Social security • Asset Value/Yield	🟢	Developers generally own their properties and develop rental accommodation. The properties are used significantly as income generating economic assets. Rental leases are often informal but are generally secure and non conflictual. There may also be sub letting.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Good access to economic opportunities and social amenities. Opportunities exist to access affordable and low income units. Depending on the overall scale of development of such units these are likely to withstand downward raiding.
	Quality	• Building quality • Access to services	🔴	Generally buildings are not compliant with planning and building standards. There is a view that compliance requirements are inappropriate to the micro development process. Appropriate financing mechanisms and municipal processes could enhance standards.
Urban Node/ Human Settlement Perspective	Efficiency & Effectiveness	• Compact integrated city • Municipal operating efficiency	🟢	Corridors and nodes are prioritised in the municipal SDF and developments increase densities. Subject to reasonable municipal urban management service delivery and administrative efficiencies will result.
	Sustain-ability	• Financial sustainability • Environmental sustainability*	🟡	High and conventional market densification contributes to financial sustainability of the municipality (good source of rates and taxes). Low and affordable market developments contribution undermined by inappropriate compliance requirements. The alignment with the SDF generally enhances its contribution to environmental sustainability.
	Equity	• Economic & Spatial transformation • Social integration	🟢	Does enable economic and spatial transformation with opportunities for asset value and yield growth by previously excluded groups. . Contributes significantly to social inclusion mainly through rental accommodation.

2.2.4.8 General densification of existing residential

As indicated in the table general densification of existing residential meets the criteria of the normative framework from the high and conventional market households' perspective in respect of tenure, access and quality. Conversions also meet the criteria from the perspective of the low and affordable household market in respect of access but less in respect of tenure and quality. This form of delivery generally meets the criteria from an urban node/human settlement perspective.

Table 13: General densification of existing residential: Analysis against the normative framework

	Criteria	Sub-criteria	Score	Commentary
Household Perspective (high & conventional market)	Tenure	• Social security • Asset Value/Yield	🟢	Sub-division of properties provides access to registered title. Asset value and yield enhancement definitely occurs. Granny flats are generally regulated with informal leases.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Good access to economic opportunities and social amenities Affordable to high and conventional markets.
	Quality	• Building quality • Access to services	🟢	Generally good quality housing. Access to high levels of municipal services.
Household Perspective (low & affordable market)	Tenure	• Social security • Asset Value/Yield	🟡	Sub-division of properties provides access to tenure. Informal title can become an issue. Backyard rental is generally regulated with informal leases. Asset value and yield enhanced.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Good access to economic opportunities and social amenities. Opportunities exist to access affordable and low income units. Depending on the overall scale of development of such units these are likely to withstand downward raiding.
	Quality	• Building quality • Access to services	🔴	Generally buildings are not compliant with planning and building standards. Municipal compliance requirements are generally inappropriate to the micro development process. Appropriate financing mechanisms and municipal processes could enhance standards. Access to basic services is variable but generally relies on shared ablution facilities.
Urban Node/ Human Settlement Perspective	Efficiency & Effectiveness	• Compact integrated city • Municipal operating efficiency	🟢	Generally increases densities significantly in existing residential areas and contributes to a compact integrated city. Subject to reasonable municipal urban management service delivery and administrative efficiencies will result.
	Sustain-ability	• Financial sustainability • Environmental sustainability*	🟡	Places pressure on city resources due to unplanned higher density in existing areas. Likely to improve the collection of rates and taxes in existing areas. Contribution could be undermined by in appropriate compliance requirements. Well located densification reduces transport footprint & enhances environmental sustainability
	Equity	• Economic & Spatial transformation • Social integration	🟢	Does enable economic and spatial transformation with opportunities for asset value and yield growth by previously excluded groups. . Contributes significantly to social inclusion through both rental accommodation & ownership.

2.2.4.9 Informal settlements

As indicated in the table informal settlements do not apply to the high and conventional market. From the low and affordable market they do meet the criteria in respect of access but not in respect of tenure and quality. This form of delivery generally fails to meet the criteria from an urban node/human settlement perspective.

Table 14: Informal settlements: Analysis against the normative framework

	Criteria	Sub-criteria	Score	Commentary
Household Perspective (high & conventional market)	Tenure	• Social security • Asset Value/Yield		n/a
	Access	• Economic opportunities • Social opportunities • Affordability/ownership		n/a
	Quality	• Building quality • Access to services		n/a
Household Perspective (low & affordable market)	Tenure	• Social security • Asset Value/Yield	🔴	Categorisation of settlements provides some certainty as to the upgrade process but timing remains uncertain. Upgrading will eventually provide improved security. Where settlements are upgraded asset value and yield growth can occur.
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	Most informal settlements are well located with good access to economic opportunities and social facilities. This varies from settlement to settlement. Affordability is generally good.
	Quality	• Building quality • Access to services	🔴	Quality of the accommodation is generally poor and often unsafe (fire and flooding) Reliance on emergency/interim services remain until the settlement is upgraded.
Urban Node/ Human Settlement Perspective	Efficiency & Effectiveness	• Compact integrated city • Municipal operating efficiency	🟡	If upgraded, accommodates low income households in generally good locations at higher densities. Subject to upgrading municipal service efficiencies enhanced. Where relocated generally peripheral and lower density with poorer municipal efficiencies.
	Sustain-ability	• Financial sustainability • Environmental sustainability*	🟡	Households living in informal settlements generally do not pay for services or rates and such settlements generally have negative impacts on environmental sustainability. Upgraded informal settlements improve the efficiency of service delivery and reduce negative environmental impact. Generally upgrading does not improve revenue collection.
	Equity	• Economic & Spatial transformation • Social integration	🟡	Generally does not enhance asset value or yield other than through improved tenure. If upgraded will integrated low income households into the urban area and municipality. However very few informal settlements are successfully upgraded.

2.2.4.10 Summary

The table below shows a consolidation of the assessment of the delivery interventions against the normative framework criteria.

Table 15: Summary of the review of delivery systems

	Criteria	Sub-criteria	Greenfields				Brownfields		Targeted Densifiica-ion of Corridors & Nodes	Gen Densificat-ion of Existing Res	Informal settle-ment
			Conven-tional	Mega projects	Infill	Site and Service	Con-version	Re-develop-ment			
Household Perspective (high & conventional market)	Tenure	• Social security • Asset Value/Yield	🟢	-	🟢	🟢	🟢	🟢	🟢	🟢	-
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🟢	-	🟢	🟢	🟢	🟢	🟢	🟢	-
	Quality	• Building quality • Access to services	🟢	-	🟢	🟢	🟢	🟢	🟢	🟢	-
Household Perspective (low & affordable market)	Tenure	• Social security • Asset Value/Yield	🟢	🟡	🟢	🟡	🟡	🟡	🟢	🟡	🔴
	Access	• Economic opportunities • Social opportunities • Affordability/ownership	🔴	🔴	🟢	🟡	🟡	🟡	🟢	🟢	🔴
	Quality	• Building quality • Access to services	🟡	🟡	🟡	🟢	🟢	🟢	🔴	🔴	🔴
Urban Node/ Human Settlement Perspective	Efficiency & Effectiveness	• Compact integrated city • Municipal operating efficiency	🟡	🔴	🟢	🔴	🟢	🟢	🟢	🟢	🟡
	Sustain-ability	• Financial sustainability • Environmental sustainability*	🟡	🔴	🟡	🔴	🟢	🟢	🟡	🟡	🟡
	Equity	• Economic & Spatial transformation • Social integration	🔴	🔴	🔴	🟡	🟡	🟡	🟢	🟢	🟡

From the table the following is evident:

1. **Greenfield and brownfield projects, as well as targeted densification and general densification,** operate effectively in meeting the housing needs of households in the high to conventional market segments.

2. **However, current practice is not effective in meeting the housing needs of households in the low to affordable segments.** In particular the benefits of tenure (social security and asset value and/or yield) and access to social and economic opportunities in urban nodes are limited (peripheral locations and affordability barriers).

3. **Greenfield delivery systems perform extremely negatively from the urban settlement perspective** mainly due to these projects normally being located on the periphery of urban nodes leading to urban sprawl and unsustainably high operating costs for municipalities. **For greenfield development to contribute at both the settlement and household level, projects must be well located within the urban spatial framework.**

4. **Brownfield, targeted densification and general densification perform well in respect of urban settlements** (areas are well located and contribute to municipal efficiencies and sustainability).

5. **However, households in the low income and affordable market segments either live in poor quality accommodation or are at risk of being squeezed out of these areas** should the quality of the area and the accommodation upgrade (downward raiding).

6. **Informal settlements, if upgraded** provide poor households with improved tenure and access to municipal services and potentially good access to urban opportunity. **However the current upgrade process is proving difficult to implement and only a few in situ upgrading projects are being successfully completed.**

2.3 Land assembly

2.3.1 Acquiring land

There are four categories of land namely public land, private land, land owned by State Owned Entities (SOE's) and Land Under Customary Administration (LUCA). Set out below are the key challenges pertaining to acquiring each of these categories of land[xiii].

2.3.1.1 Public land

Public land comprises land owned by State Departments, Provinces and Municipalities.

National and Provincial Land

Land held by national and provincial departments can be acquired using the framework provided by GIAMA. The recipient of the land must be another national or provincial department. In the case of this land two laws are primarily important: the Public Finance Management Act ('the PFMA'), 1 of 1999, and the Government

Immoveable Asset Management Act ('GIAMA'), 19 of 2007. The relevant provisions of each of the PFMA and GIAMA are discussed below.

- **The PFMA**: While the Act commits the State broadly to transparency and accountability in relation to financial and asset management it does not specifically deal with the question of asset management. The Treasury Regulations, 2005, in terms of the PFMA, do raise this issue, albeit fleetingly. Regulation 16A.7.3 requires that "*any sale of immovable state property must be at market-related value, unless the relevant treasury approves otherwise.*" This, importantly, only relates to the sale of immovable property, not the transfer between two national departments.

  Furthermore, the PFMA regulations in this regard are superseded by the much more detailed provisions of GIAMA, which are described below.

- **GIAMA:** This Act fills many of the gaps left by the PFMA in relation to public land. It also elaborates on the long-established principles set out in the State Land Disposal Act, 1961. The GIAMA divides government entities into two categories in relation to land that they hold: **custodians** and **users**:
  - **Custodians** are a) the Minister of Public Works or b) the Minister of Rural Development & Land Reform, unless the custodial responsibility was assigned to another minister in terms of pre-2007 legislation, as well as provincial Premiers.
  - **Users** are national or provincial departments that need the land to perform service delivery functions, represented by either the relevant Minister, Premier or MEC as the case may be. The Housing Development Agency (HDA) which is the entity established to acquire land in the human settlement sector (see section 2.4.2) is not a department and so does not match the GIAMA definition of user.

  Section 5(1)(e) of GIAMA prescribes that where an '*immovable asset is … disposed of, best value for money must be realised*' (emphasis added). This requirement is however qualified by three important provisos:

  1. 'Best value for money' is defined in the Act as "the optimisation of the return on investment in respect of an immovable asset in relation to functional, financial, economic and social return, wherever possible';
  2. Section 5(1)(f) which prescribes further in relation to land disposal that the department doing the disposal 'must consider whether the immovable asset concerned can be used – by another user [i.e. national or provincial department] or jointly by different users;
     i. *in relation to social development objectives of government; and*
     ii. *in relation to government's socio-economic objectives, including land reform, black economic empowerment, alleviation of poverty, job creation and the redistribution of wealth'.*

3. Section 13(3) specifically empowers a department to 'dispose of a surplus immovable asset - ... by the allocation of that immovable asset to another user [i.e. another national or provincial department]'.

GIAMA thus provides more than enough scope for a national or provincial department to transfer land to the Department of Human Settlements.

The requirement that '*best value for money*' must be obtained is easily met where the purpose of the land transfer is for housing the poor as that will clearly optimise at least one of the four required returns prescribed in section 5(1)(e): "**functional, financial, economic** and **social**" returns. Sections 5(1)(f) and 13(3) go on to make it even clearer that a transfer of land to a body such as the HDA, for a purpose such as housing the poor will meet the requirements of GIAMA.

The difficulty that arises however is that these two sections apply only to transfers of land to a *user* as defined in the Act and, as the HDA is not itself a department, it does not fall within the Act's definition of a user. Consequently the transfer has to be to the Department of Human Settlements, or a provincial department responsible for human settlements or housing, rather than to the HDA directly.

GIAMA also requires national and provincial departments that hold land to draw up Immovable Asset Management Plans (section 6(1)). This plan should be binding on all land disposals that that department carries out. This suggests that there could be a time delay in accessing land that has not already been identified for disposal in the relevant Immovable Asset Management Plan.

Finally, it is important to remember that each province has its own land administration legislation. This legislation provides a general power to provinces to dispose of land held by the provincial government and obliges the provincial governments to maintain registers of their land.

Municipal land

Municipal land can be acquired and used as set out in the Municipal Financial Management Act ('MFMA'), 56 of 2003 and Municipal Asset Transfer Regulations. There are clear procedural steps to be followed. The central piece of legislation is the Municipal Financial Management Act ('MFMA'), 56 of 2003. The MFMA has two sets of rules that apply to the disposal of municipal assets. The first set of rules, which we will not discuss here, concerns the disposal of assets outside of the public sector, i.e. to a private entity. In these cases, there is a higher level of scrutiny so, for example, the full council has to approve the transfer and consider the market value

of the land. The second set of rules applies to the disposal of assets to other organs of state. These are set out in the Asset Transfer Regulations issued in 2008 in terms of the MFMA and are described below. These regulations constitute the 'prescribed framework' described in section 14(6) of the MFMA, which section allows for a special set of rules to govern the disposal of municipal property to public entities.

The Asset Transfer Regulations set out six criteria (in regulation 20), at least one of which has to be met before the rules for intergovernmental transfer of an asset apply. These include, among others, where:
- the municipality has outsourced the provision of a municipal service to another organ of state (regulation 20(1)(a)) ; or
- land or housing is transferred to a national or provincial organ of state for housing the poor in terms of a government housing policy (regulation 201(1)(d).

Regulation 20(1)(d) sets out a list of requirements that must be met where land is transferred in terms of that section to an organ of state:
- The council must, by resolution, confirm that the land is not needed and is surplus to requirements;
- If compensation to be paid (and there is, in terms of regulation 28(1), no obligation to pay compensation) the municipality has to take into account a number of factors (possible future need for the land, the expected loss or gain that will arise from the transfer, the extent of any significant financial cost or benefit to the municipality, the risks and rewards associated with the land to be transferred, the effect of the transfer on the municipality's capacity to raise borrowings in the future, etc).

There is thus no bar on transfer of land from a municipality but there are a number of steps that have to be followed if the transfer is to stand scrutiny. Significantly, from the perspective of a compensation framework, there is no requirement that compensation has to be paid.

2.3.1.2 Private land

Private land comprises Land owned by Private Individuals and Corporations (and religious bodies). With private land there are essentially two options for land acquisition, either purchase on the open market or expropriation. In the case of purchase the price is reached through agreement between the buyer and the seller. It will generally reflect the market value for similar land in the same area. In exceptional cases such as, for example, where the land is already unlawfully occupied by other persons, the price that the seller can ask will be sufficiently lower than the market value and may even be negligible. However, the fundamental principle is that the price is determined by agreement between the two parties.

Where the state wishes to acquire land that the owner is not willing to sell then the alternative route of expropriation could be followed. The Expropriation Act, 63 of 1975, is the legislation that governs expropriation. This legislation is long overdue for amendment and an amendment bill is currently in circulation.

The most important requirement is that it has to be brought in line with the provisions of the 1996 Constitution (Act 108 of 1996), especially the provisions dealing with the calculation of compensation in cases of expropriation. Section 12(1) of the Expropriation Act requires that compensation in the case of expropriation is determined as follows:

"[t]he aggregate of—the amount which the property would have realized if sold on the date of notice in the open market by a willing seller to a willing buyer; and; an amount to make good any actual financial loss caused by the expropriation…".

The Constitution however has a broader set of circumstances that have to be taken into account when calculating compensation in the case of expropriation. In terms of section 25(3):

"[t]he amount of compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interest of those affected, having regard to all relevant circumstances, including –

i.   the current use of the property;
ii.   the history and the acquisition and use of the property;
iii. the market value of the property;
iv.   the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
v.   the purpose of the expropriation."

Section 2 of the Constitution confirms that:

"law or conduct inconsistent with it is invalid and the obligations imposed by it must be fulfilled'.

It is thus evident that when interpreting the Expropriation Act a court must do so in a way that is consistent with the Constitution. In this case it means that the factors to be taken into account when determining whether or not compensation is "just and equitable" go beyond the Expropriation Act's concern with what a willing buyer and willing seller might have agreed.

In deciding what is just and equitable the court will also have to look at the current use of the property, the history of the property, the extent to which state investment may have improved the value of the property and purpose of the expropriation.

These four factors are weighted equally with the market value of the property to be expropriated.

There is thus considerable scope for the State to explore and develop a new body of legal precedent in this area. There are a number of cases where the Constitution's criteria for determining compensation will lead to a lower amount to be paid than would have been the case if looking purely at what a willing buyer and willing seller might have decided upon. This is especially so where the land is to be used for providing housing to the very poor and where the land is currently held by State-owned companies.

When the Constitution was introduced in 1996 it provided in the property clause (section 25) an overarching set of rules guiding the calculation of compensation in the case of expropriation. Firstly, the compensation should be either agreed by the parties or determined by a court. Secondly, the compensation should be 'just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances'. Thirdly, 'all relevant circumstances' included five factors, only one of which is market value, with the others being the current land use, the history of the property, the extent to which the owner has benefitted from past state investment in the property and the purpose of the expropriation. This final criterion – the purpose – is important because the overall tone of section 25 is supportive of the need to limit property rights in favour of redistribution and social redress.

The Expropriation Act should thus be interpreted in a way that is consistent with section 25. In practice however this appears to be the exception rather than the rule. This situation is likely to change with the progress through parliament of the new legislation, which is expected to set out the conditions in terms of which no compensation at all is payable. Thus we have a situation in which the 1975 criteria for determining compensation in the case of expropriation are no longer in line with a much wider set of concerns entrenched in the 1996 Constitution, and expressed prominently in parliamentary and ruling party policy-making processes. Despite much debate on the topic there has been little progress in amending the Expropriation Act to bring it in line with the Constitution (notwithstanding the draft amendment bill in circulation).
It is too early to evaluate the effect of this proposed amendment but it does underline the importance attached to this issue by the national government. All the current trends thus suggest that the state's capacity and appetite to acquire private land on more favourable terms than the current Expropriation Act provides is growing stronger.

Expropriation is the power of the state to take land from an owner who does not wish to sell it. It is an extraordinary power that should not be wielded indiscriminately. It is a last resort, to be employed once other approaches have failed. Compensation typically must be paid and very strict procedures have to be followed. The criteria for calculating compensation are important because they represent the final bargaining position of both parties. Even where the parties agree to a voluntary transaction the compensation criteria that could arise in the case of expropriation focus their minds on agreeing on a price. As we move towards a scenario in which the State can adopt a more deliberate, confident and efficient process of expropriation, including one in which compensation below market value can be payable in certain circumstance, so the capacity of the state agencies responsible for expropriation need to be strengthened. Expropriation is inevitably challenged in court, hence it is very important for expropriation rules to be followed very strictly and carefully.

2.3.1.3 State Owned Entities Land

Land from SOE's is dependent on the legal frameworks governing each of the companies. Generally the requirement is that market-related compensation must be paid. State-owned companies depend on their balance sheets to raise finance, so are reluctant to dispose of land assets. In the case of state-owned companies there are two overarching statutes – the PFMA and the Companies Act, 71 of 2008 – as well as individual statutes enacted to give legal status to each of the state-owned companies. In practice, GIAMA does not apply to state-owned companies. In relation to the PFMA, regulation 16A.7.3 is applicable, which requires any sale of land to be at '*market-related value*'.

The main issue in relation to acquiring land from state-owned companies is the set of fiduciary obligations on the companies' boards to run sustainable businesses. These obligations arise both in the companies' own legislation and in the Companies Act. In essence, from a legal perspective, the state-owned companies can only transfer land without compensation, or for reduced compensation, in exceptional circumstances.
Where exceptional circumstances do not apply and where the state-owned company is thus unable to transfer the land without compensation, or with reduced compensation, then the only recourse would be to request the Minister to expropriate the land. In that case the Minister would have to use the Expropriation Act, discussed above.

In relation to acquiring private land there is a gap between the provisions of the Expropriation Act and section 25 of the Constitution, especially in relation to the determination of compensation to be paid when carrying out an expropriation.

Where the party wanting to acquire a property is able to invoke the threat of expropriation then that will inevitably focus the negotiations on price, as most owners would prefer to negotiate a price than have it determined through a compensation process. This pressure however is only effective when there is a real prospect that the threat of expropriation will in fact be carried out. In the case of a state-owned company political factors may well reduce the level of threat and so weaken prospects of negotiating an affordable price.

2.3.1.4 LUCA land

LUCA land comprises land administered by Traditional Authorities under customary law. Acquisition of land in LUCA areas is reliant on multiple pieces of legislation which are often embedded with contradictions. Families that live on or use land under customary administration have rights protected by the Interim Protection of Informal Land Rights Act, 1996 (IPILRA) which provides protection to people against deprivation of their informal rights to land, without their consent, even though their rights are not formally registered. After the striking down by the Constitutional Court of the Communal Land Rights Act ('CLARA'), 2004, in 2010 there is considerable uncertainty as to how land under customary administration might be acquired by any outside body.

The main mechanism available is section 3 of the Upgrading of Land Tenure Rights Act ('ULTRA'), 112 of 1991. This provision enables the owner of land held by traditional authorities, which is the state represented by the Department of Rural Development and Land Reform, to convert the customary right to hold that land to individual ownership provided that the Minister is satisfied that the rights of people living on the land will be protected and that there is a supporting 'community or tribal resolution'. Once this process has been completed the new owner of that land, which will probably be a traditional authority, will be in a position to transfer the land.

Prior to the ULTRA process however there first has to be a process in terms of section 2 of the Interim Protection of Informal Land Rights Act ('IPILRA'), 31 of 1996 which requires at least a community meeting and the payment of compensation to people whose land rights are removed by the process of disposing of land.

In practice this system appears to have broken down and there is no generally accepted procedure for acquiring land under customary administration.

There is widespread agreement that the legal framework for developing land and securing household tenure on LUCA is inadequate, that it does not work as intended and in many cases is circumvented. This is an area in which important legal reform is essential to reduce confusion and promote an appropriate, equitable solution to the current difficulties.

2.3.2 Obtaining land use rights

Legislation typically described as planning legislation dominates the regulation of land use and land development. The legislation that currently applies is in respect of the 2013 national Spatial Planning and Land Use Management Act (SPLUMA) and municipal by-laws dealing with various aspects of municipal planning (developed in the last five years)

To obtain approval for the sub division of a portion of greenfield land for residential purposes the following process steps are required to be followed:

i. **Submission of an application:** This requires an extensive amount of documentation (see Annexure A).

ii. **Collation of information:** The information has to be read and collated for a public participation process (see below), as well as external and internal circulation for comment.

iii. **Public Participation:** The application is provided to interested parties via various media in order to elicit their comment.

iv. **External circulation:** the application is circulated to provincial and national authorities as well as parastatal utilities (such as Eskom) in order to elicit their comments.

v. **Internal comment:** The application is circulated within the municipality, according to standard operating procedures, in order to elicit any comments.

vi. **Decision making:** Either a Municipal Planning Tribunal ('MPT') or an authorised official makes a decision.

vii. **Appeals process:** The outcome of a land use change application can be appealed to the municipality's appeal authority, which is generally the Executive Mayor or Executive Committee.

viii. **Satisfaction of conditions:** Whenever an application is approved conditions are imposed.

ix. **General plan approval:** Wherever a land use application requires the subdivision of land then a general plan must be submitted to and approved by the Surveyor General.

x. **Open township register:** The township register has to be submitted to and approved by the Registrar of Deeds before erven can be sold or otherwise transferred.

xi. **Building plan approval:** The National Building Regulations require that all building plans are approved by the municipality before construction can commence.

xii. **Rates clearance:** Application must be made to the municipality to ensure that all property rates are paid in relation to the site of a land use application before erven can be sold or otherwise transferred

This process consists of many steps, is time consuming and expensive. This delays and increases the extent to which land assembly occurs and undermines the transfer of formal title and in resolving current titling backlogs in greenfield developments. This results in a growing proportion of housing transactions being concluded on an informal basis without registration in the formal deeds registration system.

Brownfield Development and Densification of existing residential areas land assembly requirements, while less complex, are also time consuming and costly. This results in discouraging compliance particularly in respect of smaller developments and household investment; and increasing the cost of such developments.

The upgrading of informal settlements often is unable to meet full township proclamation requirements, thus delaying the issuing of title. Alternative land assembly and titling options are required to expedite informal settlement upgrading processes.

2.3.3 Land transaction processes

Four categories of housing/land transactions are practiced:
- **Formal ownership**: Comprises the sale and transfer of existing property (land only or land and house) by a willing seller to a willing buyer. A mortgage backed loan may be accessed. The sale and/or mortgage is recorded in the SA Deeds Registry.
- **Informal ownership**: Comprises the sale of already existing land or housing by a willing seller to a willing buyer where the sale is not recorded in the Deeds Registry. This category does not enable access to mortgage backed loans.
- **Communal tenure**: Communal tenure occurs on land under customary administration (LUCA) and provides for different people or groups to hold varying degrees of rights and interests over land.
  Communal tenure practices require decision-making about land to take place at various levels and with various people or groups, including individuals, households, kinship networks and wider communities
- **Rental (formal and informal):** Rental is where a property is occupied by someone other than the owner, for which the occupant (the Tenant) pays a periodic and mutually agreed rent to the owner (the Landlord). The leases that regulate such rental arrangements may be formal or informal.

The table below sets out challenges and opportunities in respect of each of these transaction types.

Table 16: Challenges and opportunities of transaction types

TRANSACTION TYPE	CHALLENGES	OPPORTUNITIES
Formal ownership[xiv]	• Higher income earners utilize formal ownership as the transaction costs are reasonable in relation to the size of transaction and the need to access mortgage backed finance. Households in the entry and affordable markets are increasingly not effecting formal transfer as the compliance requirements & costs are disproportional. • Statutory risks and costs in the process are significant and relate to property transfer linked compliance requirements including required proof of approved building plans, municipal, electricity and tax clearance certificates and relatively high transfer costs	• The secondary market provides an untapped supply and also can provide better value for money particularly in the entry and affordable markets. • However these markets are increasingly plagued by title informality, particularly in the entry and affordable markets
Informal ownership[xv]	• Informal cash sales are risky especially if undertaken using an affidavit approach, as it is not clear how much weight this affidavit would carry in court, in the event of an ownership dispute. Informal cash sales prevent the buyer from using the house as collateral as the title deeds would need to be in the buyer's name. The informal system is also undermining the Deeds Registry in South Africa	• Support to buyers in the affordable market with more simplified and accessible processes could improve formal secondary sales & reduce risk. • The Centre for Affordable Housing Finance (CAHF) is piloting a Transaction Support Centre (TSC) in Cape Town, to facilitate formal residential property market transactions in the affordable housing market.
Communal tenure	• The South African government has been unable to develop laws and policies that sufficiently capture the nuanced ways in which people experience and regulate relations in respect of communal tenure. • Layered systems of decision-making occur with different role players making decisions that vary by area. Such decision makers include Ward Councilors,	• Communal tenure is extremely affordable and there are less restrictions and requirements in terms of building and planning compliance and contributions to municipalities

TRANSACTION TYPE	CHALLENGES	OPPORTUNITIES
	traditional leaders and community structures. • The type of tenure is typically a Permission to Occupy provided in the form of a letter or certificate. This is currently insufficient to secure a mortgage loan.	
Rental (formal and informal)	• Supply in the lower and affordable markets generally does not meet the demand although this varies by area • Managing formal rental stock for lower to affordable income tenants can be challenging with respect to collecting rentals, evicting non paying tenants, managing sub-letting and overcrowding and managing buildings. • Finance to develop stock, particular for low income tenants, is limited. • Informal rental stock generally relies on verbal rather than formal signed leases. While relationships are generally cordial however verbal lease agreements are in contravention of legislation and undermines rights. • The quality of the stock varies considerably and can be of very poor quality and a safety risk to tenants.	• Rental offers a viable alternative to individuals who cannot afford home ownership, are not able to access a mortgage loan or who want a more flexible housing option. • Substantial rental for low income tenant is being delivered through micro developers and households via the densification of existing areas. • The middle to upper end of the market is effective in that supply generally meets demand and there is access to development finance.

2.3.4 Tenure

Land tenure is the way in which a person holds land. South Africa has a world-class formal land tenure system, administered through the South African Deeds Registry. However, the deeds registry system only serves a fraction of the population. Based on 2011 estimates by Cousins et al[xvi], about 60% of the population hold land outside of the deeds registry system. This estimate includes:
- 1.5 million in government subsidised houses,
- 1.9 million living in informal settlements and backyard shacks,
- 17 million on LUCA,
- 2 million living on farms owned by others.

Cousins et al's estimate of 60% is widely considered to be conservatively low. There is also a significant titling backlog on previous public sector low income housing delivery. Different forms of tenure rights exist[xvii].

A range of land tenure rights exist as shown in the figure below.

Figure 4: Forms of land tenure rights

Local Recognition	Administrative Recognition	Legal Recognition
Includes: • Land transfer being witnessed by a local leader • Neighbours verifying authenticity in the case of a dispute • A receipt being recognised as a legitimate proof of a land sale • An affidavit signed by a local police officer • Having your name on a locally-maintained register of occupants	**Includes:** • Land Registers/lists of residents in an area • Shack numbers (linked to the above names) in the case of informal settlements • Household surveys or enumeration. • Municipal certificates of occupation	**Includes:** • By law or zoning through designation of areas usually informal settlements in the municipality's SDF • Title deed registered in the Deeds Register

The problems with the land tenure system at the lower end of the market include[xviii]:
- **Providing formal title is costly** - people opt out because of compliance costs.
- **Regularising** situations where land is occupied without title deeds is **even costlier** and very time-consuming.
- **Transacting** where the ownership transfer is registered at the deeds office is **costly and administratively complex** – again people opt out.

More flexible tenure options, are essential to recognize most housing land in development processes. There is a need for a comprehensive recognition of the different types of land tenure rights. The land administration system has to be fundamentally changed to narrow the gap between tenure and title. Incremental system improvements will be key, building on the recognition of existing land tenure rights with a view to their future strengthening and, where appropriate, transition to formal, registered title.

2.4 Roles and responsibilities

2.4.1 Overall roles and responsibilities

The table below provides an overview of the stakeholders that have a role in respect of residential urban land. Most significant are the National Department of Human Settlements, the Department of Rural Development and Land Reform and the Housing Development Agency which is a state owned entity formed for the purpose of identifying, acquiring, developing and releasing land for human settlements. More details on the HDA are set out in section 2.4.2 below.

Table 17: Roles and responsibilities of stakeholders

Stakeholder		Role and responsibilities
National Department of Human Settlements	**National Department**	• Develops national human settlement policy and provide guidelines to provinces and municipalities. • Prepares and maintains a multi-year national plan that sets broad national housing delivery and budgetary goals. • Secures funding from the state budget for human settlements, makes allocations to Provinces and National Institutions and monitors the implementation of funds spent.
	Housing Development Agency	• The purpose of the HDA is to identify, acquire, develop and release state, LUCA and privately owned land for residential and community purposes and for the creation of sustainable human settlements. In addition to project manage housing developments on behalf of provinces and municipalities.
	Social Housing Regulatory Authority	• Responsible for regulating and investing in the delivery of affordable rental housing • Support provincial governments the designation of restructuring zones and with the project approval
National Department of Rural Development and Land Reform (DRDLR)	**National Department**	• Responsible for land reform, deeds registration through the Deeds Registries, cadastral surveying through the Chief Surveyor-General and topographic mapping.
	Surveyor General	• General Plan approval authority so that individual erven can be registered in the Deeds Office
	Deeds Registrar	• Registration authority for approved townships and individual erven so that sub-divisions can be proclaimed and transfer of title/ownership registered
National Department of Public Works & Infrastructure	• The mandate of the National Department of Public Works and Infrastructure is to be the custodian and manager of all national governments' fixed assets. To this end the Department has a vast portfolio of properties some of which would be appropriate for development for low income and affordable housing.	
Provincial Government	• Approval and compliance authority in respect to environmental, heritage, agricultural and human settlement aspects of a development • Acts as the developer in a number of instances for example informal settlement upgrading, development of subsidy housing, mega projects etc	
Local Government	• Approval and compliance authority (SPLUMA and Municipal Management Systems Act) • Responsible for spatial planning and land use management in which the development is located. In this regard, municipalities may also adopt their own specific policies pertinent to housing and development, such as the City of Johannesburg's 'Inclusionary Housing' policy which would then need to be adhered to by the developer • Responsible for the ongoing supply of municipal services to the development • Acts as the developer in a number of instances for example informal settlement upgrading, development of subsidy housing, mega projects etc.	

Stakeholder	Role and responsibilities
	• Responsible for the provision of local social & transport amenities and services.
Traditional authorities	• Administer land, under customary laws and local norms rules • The role of traditional authorities especially in areas where there is an overlap with local municipalities is complicated
Informal land holders & local CBOs	• Individuals who hold and transact land and housing outside the formal system through local arrangements • Community-based civic organizations facilitate land holdings and off-register transactions in informal settlements and state-subsidised housing projects
Formal land owners	• Individuals who hold and transact land and housing within the formal system through the Deeds Registry
Developers	• Own or secure land purchase • Undertake/manage the development and ensures that it complies to the relevant • land use and management approvals as well as the relevant building regulations • Provide part or all of the required development funding • Market and sell the completed units and ensure transfer of ownership to end-user • Accrue all proceeds from the sale of units.
Professional teams	• Provide professional services necessary for land assembly, planning and servicing as well as surveying and proclamation in line with proclaimed norms and standards. • Professional teams would include planners, surveyors, engineers, conveyancers, as well as specialists such as geologists, environmentalists, hydrologists, etc.
Contractors	• Developers will employ contractors to undertake the physical work of installing services and building housing. Contractors generally work on a quoted price basis and only take on the risk of delivering on time, to quality and within their budget. They do not take on the commercial risk of selling serviced stands or houses to the market. • House contractors must register with the National Home Builders Registration Council (NHBRC) and must enroll all houses they build, securing the statutory risk cover against building failure or defective quality.
Owner builder	• Secure funding for purchasing the site and the development of the top structure • Secure a house plan • Submit and obtain plan approval • Appoint builder/contractor and oversee development
Financial institutions (banks)	• Applies housing product specifications and values benchmarks in order for end-user loans to be granted • Provides end-user loans to qualifying households – • Provides, in most cases, development loans provided that the development demonstrates 'bankable' feasibility

2.4.2 The Housing Development Agency

The HDA was established in 2009 in terms of the Housing Development Agency Act No 23 of 2008 (the HDA Act) as a juristic person operating as a national public entity which has been classified in terms of Schedule 3A of the Public Finance Management Act. The HDA is an agent of the National Department of Human Settlements (NDHS), exercising powers given to it every five years in its mandate from the Minister, and thus extends the Department's and the sector's capability for the identification, planning, acquisition, holding and disposal of well-located land and buildings for the development of human settlements. It extends the Department's capability with respect to associated project management and development services.

The Housing Development Agency Act No. 23 of 2008 outlines the purpose or object of the HDA as:
- Identify, acquire, develop and release state, communal and privately owned land for residential and community purposes and for the creation of sustainable human settlements (clause 4(a))
- Project manage housing development services for the purposes of the creation of sustainable human settlements(clause 4(b))
- Ensure and monitor that there is centrally coordinated planning and budgeting of all infrastructure required for housing development (clause 4(c))
- Monitor the provision of all infrastructure required for housing development (clause 4(d))

In terms of the Act the role of HDA is to:
- **Identify, acquire, hold, develop and release state, privately and communal owned land** for residential and community purposes for the creation of sustainable human settlements (clause 5(1)).
- **Ensure that there is funding for the provision of all infrastructure** that is required for housing development in which it is involved (clause 5(2)).
- **Offer assistance to an organ of state in order to fulfil its objects.** In addition the Minister may, in consultation with the relevant MEC, where there is lack of capacity in any organ of state to identify, acquire, hold, develop and release land for residential and community purposes for the creation of sustainable human settlements advise the organ of state to conclude an agreement with the Agency to offer assistance in terms of the Agency's skill and expertise; or direct the Agency to engage with the organ of state with a view to concluding an agreement (clause 5(3)).

The key elements of the HDA's current role include:

- **Project management of two Section 29 projects (N2 Gateway and Zanemvula):** This entailed all activities to ensure the effective implementation of these projects within a defined budget and time frame. To support this activity HDA established project offices.
- **Providing implementation support to Provinces and Municipalities:** This entails a range of support activities aimed primarily at assisting Provinces or Municipalities to undertake land identification, development and release. Activities are only undertaken through agreements (either Medium Term Operational Plans or Implementation Protocols) and in response to requests made. In order to provide the support the HDA has set up regional offices
- **National sector-wide land assembly strategy**: The HDA is developing a national sector wide land assembly strategy. The HDA has also developed geospatial tools, namely Land and Property Spatial Information System (LAPSIS) and National Human Settlement Land Index (NaHSLI), as well as a master spatial plan for human settlements which is intended to guide the sector.
- **National strategic projects :** The HDA is providing support to three strategic projects as follows:
    - **Informal settlement upgrading:** A range of support is provided both as part of the National Upgrading Support Programme (NUSP) programme and as part of agreements with the various provinces.
    - **Catalytic projects**: Catalytic projects can range from mega scale inclusionary neighbourhoods to small but high impact interventions.   The underlying principle of all of these is that they are all spatially targeted interventions whose main objective is to *intervene to deliberately restructure settlement patterns and impact on the environment*.
    - **Mining towns**: Mining Towns is a special presidential project that emerged out of a process when an Inter-ministerial Committee (IMC) for the Revitalisation of Distressed Mining Communities was established in late 2012. The HDA was requested to support the process by the Minister of Human Settlements. The work being undertaken includes the following: i**nformal settlement upgrading,** implementation of human settlements projects and partnerships with private sector mining companies to both access land and undertake projects.

The HDA is currently reviewing the above role to include acting as a developer, actively purchasing land and undertaking developments[xix].

Revenue to fund the HDA expenditure is derived from various revenue sources as follows:
- **Operational grant from the NDHS:** Grant from DHS to cover operational expenses. In the 2018/19 financial year this amounted to R222-million

- **Section 29 Project management fee from the NDoHS:** A project management service fee is charged for this activity paid for by the NDoHS.
- **Conditional provincial grant:** Funding from provincial departments in terms of MTOP agreements in support of the HDA regional offices directly servicing them.
- **Management fees:** This comprises revenue from management fees charged as a percentage of expenditure incurred, approximating the stage of completion of capital projects managed in terms of funding agreements with provinces and municipalities. In 2018, more management fee-linked projects were taken on as some provinces opted for them instead of MTOP agreements.
- **Interest and other income:** Other revenue sources included interest income from invested funds and other income comprising rental income received from properties owned and tender fees.

The HDA does not receive any funding related to the purchasing of land.

2.4.3 Priority Human Settlements and Housing Development Areas

On the 15 May 2020, 136 Priority Human Settlements and Housing Development Areas (PHSHDA's) were gazetted with the intention of advancing human settlement spatial transformation and consolidation by focusing investment into these specific areas (see table below). **PHSHDA's represent an opportunity to prioritise land assembly.**

Table 18: PHSHDA's gazetted

Province	Number of PHSHDAs	Number of District Muni's with PHSHDAs	Number of Metropolitan Muni's with PHSHDAs	Number of Local Muni's with PHSHDAs
Eastern Cape	12	4	2	6
Free State	10	3	1	5
Gauteng	26	2	3	4
Kwa Zulu Natal	22	9	1	9
Limpopo	11	5	-	8
Mpumalanga	16	3	-	10
Norther West	14	4	-	9
Northern Cape	6	4	-	5
Western Cape	19	4	1	11

2.4.4 Inclusionary housing

SPLUMA alludes indirectly to the concept of inclusionary housing (see sections 21(i) and 24(2)(d)). However, it is not defined. There is no inclusionary housing programme in the Housing Code, nor is it a term used in the Housing Act. Nevertheless the

internationally understood concept of inclusionary housing, is a mandatory condition that developers of higher income housing also make a contribution towards affordable housing, has gained significant traction in South Africa. The City of Johannesburg approved an inclusionary housing policy in 2019 and the City of Cape Town has a draft policy. eThekwini is also working on one. In the absence of national policy guidance the Cities are attempting to design an inherently complex instrument. Key elements of the City of Johannesburg's policy framework are outlined below.

The Inclusionary Housing policy introduced by the City of Johannesburg (21 February 2019) is aimed at enhancing housing supply in the entry and affordable markets. The policy is mandatory for any development application that includes 20 dwelling units or more. Different options (and associated incentives) are given for inclusionary housing that developers may choose from. In each option, at least 30% of the total units must be for inclusionary housing.

Further as part of the policy the City has introduced a number of initiatives and incentives to support the implementation of the policy including:
- Faster plan approval processes
- Decreasing the time it takes to connect a development to bulk services infrastructure
- Offering a bulk services payment holiday whereby the contribution to bulk can be paid after an agreed period of time
- Decreasing the bulk and parks contribution
- Offering a rates rebate on municipal rates similar to that offered in the Corridors of Freedom (a 50 to 75% rebate in the first two years)
- Awarding a density bonus so as to allow the developer to provide the affordable units without decreasing the number of market oriented units

There are concerns with the way in which the policy is currently structured:
- It may reduce private developer appetite for residential development and may stifle investment. The larger the developer profit and rate of return, the more financially feasible it is for private revenue to be partially channeled towards low income housing, regardless of the inherent opportunity cost. However, with economic down turns, the pressure on development margins to accommodate the inclusionary housing policy requirements may well render certain developments not feasible.
- The fact that there is no clear process as to who accesses the properties developed means that there is likely to be downward raiding and the properties may not reach the targeted market. Currently the policy indicates that affordable properties can be sold or rented – however there is no limitation on income or

process in place. Requiring that only a household who is eligible for FLISP can access the property and making the FLISP subsidy available or that the units become part of a Social Housing portfolio could overcome this problem.

- Finally, given the proportion of households comprising the conventional higher income housing sector (say above R 22 000 per month) is only 7% of all households and that the majority of these households already own a house, the potential supply impact of these inclusionary housing policies is likely to be nominal.

2.5 Conclusion – Human settlement land assembly problem statement

Current housing delivery systems operate effectively in meeting the housing needs of households in the higher end conventional market segments. However, delivery in these markets is not socially inclusive. Further these systems are not as effective in meeting the housing needs of households in the low to affordable market segments. In particular:

- **Security of tenure** and the benefits of asset ownership are not being secured for many households;
- **Access to social and economic opportunities** in urban nodes is limited either because of the poor location of housing or the inability of households to afford housing in well located developments. An exception is where housing is accessed through the densification of existing residential areas.
- **The quality of housing and municipal services,** while generally good in greenfields and brownfields developments, is poor in areas which offer better access to urban opportunities (mainly where existing areas are densifying).

Current land policy and regulation contribute to poor performance in respect of housing delivery for households in the low and affordable housing sectors as follows:

- **The weakness or practical difficulties of mechanisms (subsidization, expropriation, etc.) for acquiring well located land** at a reasonable cost results in low and affordable housing projects being poorly located;
- **Red tape and long timeframes for township establishment** results in delays and significant holding costs;
- **Current planning and development control compliance** is inappropriate and costly for both redevelopment / conversion projects and the densification of nodes/corridors and existing residential areas;
- **Insufficient effective inclusive housing mechanisms** limit access of the poor to well located good quality projects.

In addition, the current housing delivery practice and housing markets contribute to the poor performance of urban centres because:

- **Peripherally located and low density residential areas** negatively affect the efficiency, effectiveness and sustainability of urban centers and municipalities;

- **The poor are mainly directed towards poorly located developments** (mega projects and informal settlement upgrading) with high transport costs or, where better located, access poor quality of housing and services;
- **When well located areas upgrade through redevelopment, conversion of good quality densification,** the poor are generally unable to afford the improved accommodation and are squeezed out through downward raiding.

Given the above it is evident that the current emphasis on greenfield delivery cannot meet the projected housing need as the scale of required land assembly is unmanageable and the cost of development is not affordable.   Current practice relating to land assembly and management for housing delivery is increasing spatial inequality and worsening long-term municipal financial sustainability.   This is especially in respect of peripherally located land which limits access for the poor to economic and social opportunities and contributes to ongoing urban sprawl which increases municipal operating costs and limits revenue.

Failure to deliver at scale is also negatively impacting on the housing outcomes of the poor both in terms of downward raiding and the poor quality accommodation accessed.

Currently 60% of home owners (mainly low and medium income) are not registered in the deeds register, resulting in reduced security of tenure and an inability to realise capital value. This also undermines the ability to transact in the low and affordable housing market.

To date the main tool developed to promote inclusivity in housing land markets are the inclusionary housing policies developed and being developed in some Metros (primarily the City of Johannesburg and Cape Town). However, these policies are inadequate because, firstly they only deliver a relatively small number of housing units to lower income households and, secondly, they do not alter the current underlying patterns of racially skewed urban land ownership.

Accordingly, the key principles of a Human Settlement Land Assembly Policy are as follows:
- **Reduce** the amount of greenfield land required to be acquired by mobilizing all current delivery interventions at scale:
- **Expedite** scale delivery across a range of delivery interventions by supporting local municipalities to develop a medium to long term schedule of where and when such interventions should occur. This should initially be within the PHSHDA's;
- **Focus** acquisition on well located land and buildings with access to bulk infrastructure;

- **Enhance** the land assembly process for Greenfield and Brownfield development and informal settlements upgrading, as well as enable increasing impact by expediting immediate housing delivery opportunities such as site and service and densification of existing areas; and
- **Promote secure residential tenure broadly**, based on incremental improvements.

3 CHAPTER 3: INTERNATIONAL REVIEW OF URBAN LAND ASSEMBLY

In assessing the relevance of international experience the following factors should be considered:

- **Legal framework:** what powers does the State have to acquire land, to promote alternative land-use patterns and to coordinate the activities of different levels of government?
- **Delivery capability:** what is the country's capability to design and implement strategies for land assembly and land delivery?
- **Land market:** how does the urban land market operate in the country, is it dominated by small groups of powerful landowners, does market demand result in very high land prices?
- **Land ownership patterns:** is the country made up primarily of land-owners or do households mainly hold residential land by lease or informally, how much land is held by the state in relation to land held by households/firms?
- **Planning and land administration framework:** where does the country's land use planning and land administration frameworks sit on the continuum between one that is highly rigid and prescriptive and one that is more flexible and able to accommodate changing demographic, environmental and social conditions?
- **Economic context:** is the country's economy in a growth phase or in decline?

South Africa has a unique mix of the factors listed above and one that is not replicated in any other country. Accordingly any learning from international experience has to be framed by an understanding that different aspects of land assembly and delivery would apply, but there is no model that can be lifted in its entirety into South Africa's context.

In order to identify relevant international experience a scan was undertaken of selected countries in similar contexts, facing similar challenges. The following areas were focused on:

- **Greenfields / Infill:** Where is there innovation in assembling undeveloped land outside of, or in between, the urban fabric?
- **Brownfields:** Which countries show innovation in the redevelopment of urban land already used and developed?
- **Land use management reform:** Where is there useful experience in reforming the land use management system to promote land supply?
- **Land administration:** Which countries have relevant experience in rolling out land administration systems to increase the efficiency of land transactions?

3.1 Greenfields / infill – India

India had limitations of land acquisition similar to South Africa in that processes were too slow, difficult, expensive and often politically driven. Different states in India have different legal, institutional and planning contexts, so no one model applied across the whole country. Models were pursued based on partnerships between landowners and public entities. Win-win solutions were sought to unblock impasses to achieving both public and private sector goals. Some form of compensation, either in cash or a share in the development was always provided (but often disputed).

There was a focus on integration into land use planning frameworks. A key starting point was ensuring that bulk infrastructure provision was in place to ensure that the land development potential could be realized.

Some examples of the initiatives undertaken include the following:

1. **The Town Planning Scheme (TPS), Gujarat State:** 90% of developments in the local municipal areas was developed through a TPS which was approved for the area as a whole. Greenfield projects of up to 10 00ha were undertaken, as well as infill projects. The initiative was premised on principles of land readjustment. Land owners were required to pay a Development Levy for infrastructure, but land value increments in excess of that were not required.

2. **The Land Pooling Scheme (LPS), Amravati, Andhra Pradesh State**: This initiative was also based on land readjustment where there was a sharing of development profits between the private and public sectors. A fund was created from land sales to provide 10-year pensions to displaced non-owners. The treatment of non-owners thus reduced resistance to projects which were implemented quickly and at scale (13 000 sites pooled in 2 months).

3. **The Navi Mumbai Airport Influence Notified Area (NAINA), Navi Mumbai, Maharashtra State**: This initiative was also based on land readjustment, with the proviso that owners forfeit half their land but keep the balance with enhanced development rights. A mandatory provision was included that if affordable housing was provided enhanced development rights were allowed.

4. **The Joint Development Model (JDM), Haryana State:** This initiative adopted a Public Private Partnership (PPP) mode. Developers assembled land for development in accordance with an approved plan. Developers largely paid for infrastructure and all profits over 15% were returned to the state.

5. **Accommodation Reservation and Transferable Development Rights (AR- TDR), Mumbai, Maharashtra State:** In this initiative government earmarked land for acquisition in return for transferable development rights to develop elsewhere

in the city at 2 or 2,5 times the permitted land use intensity. Rights could be sold to other landowners.

3.2 Brownfields: Lideta sub-city, Addis Ababa, Ethiopia

This initiative commenced in 2008 and is ongoing and focuses on 24 hectares of state owned land in the inner city. The land was divided into sites which were auctioned to developers to lease long-term, with the proviso that a prescribed number of units would be for be affordable housing. The units were accessed through a city lottery. Existing residents who were non-owners were compensated with alternative accommodation.

During implementation the auction prices far exceeded expectations (x10) and developers failed to provide the prescribed numbers of affordable units. The affordable units that were provided were bought up by wealthier households. Administrative problems also reduced property tax revenues from the initiative but lease prices added to the City's overall budget.

Key lessons learnt are that there is the potential for land value capture in well-located sites but this needs to be carefully assessed in terms of market conditions. Affordable housing provided should be on a rental basis to reduce downward raiding. State institutions must have the capacity and resources to maximise opportunities for revenue-raising to ensure that costs of project are covered.

Figure 5: Lideta: Before and after pictures

Before

Source: Bimora and Mulat, Lideta Project 1 Public investment /cost on Land Development Redevelopment, 2012, Addis Ababa (Amharic Version)

After

Source: Authors

3.3 Brownfields : Água Espraiada Joint Urban Operation Project, São Paulo, Brazil

This project commenced in 2004 and is ongoing. The project was undertaken on 1,400 ha in central São Paulo on private and public land. The objective was to revitalise the area through infrastructure provision and promotion of affordable housing. The best located sites were targeted for commercial investment. Development rights were sold for prime areas and the revenue used to invest in infrastructure and affordable housing.

In practice the sale of development rights was undertaken on the stock exchange and substantial revenue was raised to upgrade infrastructure (including key access roads and bridges). This unlocked the potential of the area. However despite 20+% being spent on affordable housing, 8000 poor households displaced.

The success of project led to increased prices so land prices were too high for affordable housing. It can therefore be concluded that innovative commercial treatment of development rights has potential, but brings risks.
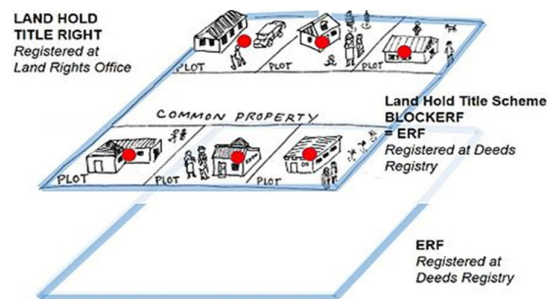
3.4 Innovative land administration: Namibia

This initiative was undertaken to address the problem that large areas of land on the urban edge of towns and in townships, including informal settlements were outside of the formal land administration system. It was too costly and slow to absorb them into the land administration system piece by piece. As a result households were unable to benefit from tenure security and the local municipality was unable to incorporate the land into the city management billing systems.

To address this problem, new national legislation namely the Flexible Land Tenure Act (FLTA, 2012) was promulgated to secure tenure of individual land holdings (starter title) within a 'block erf'. Two new forms of title introduced:
- Block erf surveyed and registered with Deeds Registry ('land hold title right')
- Starter titles surveyed at local level, and registered at local Land Rights Offices which were established ('starter title right')

Starter titles can be transferred, inherited and leased – subject to some limitations that may be imposed by the Association elected by all holders of starter titles on a block. Starter title can be upgraded to land hold title if 75% of Association members consent. Land hold title can be converted to freehold title once all formal procedures followed and complied with. 7

Figure 6: Example of block erf titling

3.5 Innovative land administration: Rwanda titling

This initiative was implemented between 2008 and 2012 so as to stabilise Rwanda post genocide. The initiative had high level political commitment from President Kagame and was influenced by De Soto. The initiative comprised Land Tenure Regularisation with a focus on issuing title deeds for every land parcel (urban and rural) in the country. The initiative had UK government donor support.

As a result of the initiative, 10,4 million parcels were registered. There was a heavy reliance on para-land surveyors from local communities (1% of the entire population served as para-land surveyors). Local 'cell committee' structures were charged with dispute resolution and were largely effective. However only 50% of households have collected title deeds, mainly because this triggers a requirement to pay property tax. Annual 'Land Weeks' were held in each town/village/neighbourhood where Land Administration officials come to answer questions and encourage issuing of title deeds and registering of transfers. The total cost of the initiative is estimated at USD 25 per parcel (USD 260 million in total). Rwanda now ranks fourth in the world for Ease of Registering property.

3.6 International lessons

There is no formulaic response and one-size does not fit all. Strategies need to fit the country's capacity and context. There are many dimensions to urban land, and any strategy must be multi-pronged, it cannot focus only on one aspect of land delivery. Understanding the market, formal and informal, and the forces that drive supply and demand of land is the foundation; this is how value is created, from where impetus comes to develop and use land for housing. Incrementalism is key, at all scales, from the City to the home. Tackling multiple types of land delivery, with a view to long term improvement and strengthening is key.

The following key lessons are learnt from the case studies reviewed:

- Upfront land acquisition, subdivision and transfer is risky, slow and expensive
- Innovative partnerships are crucial, drawing on public sector, private sector and civil society.
- Land assembly and redistribution has transaction costs, so land value capture is key.
- Incremental approaches are essential and sustainable.
- Investing in land administration yields ongoing, positive results.
- Using, community-level, local resources, mobilised at scale, has multiple benefits.

4 CHAPTER 4: THE PURPOSE VISION AND PRINCIPLES OF THE HUMAN SETTLEMENT LAND ASSEMBLY POLICY

4.1 Purpose of the policy

The purpose of the Human Settlement Land Assembly Policy is to transform the basis by which land is assembled for low income and affordable housing in South Africa to:

- **Enable housing delivery by all sectors of society** at the required scale in a manner that contributes positively to building cities which are progressively more equitable, integrated and inclusive of the poor, more compact (effective and efficient to administer) and financially and environmentally sustainable; and
- **Increase access to residential land for individual households** so that they have secure tenure (ownership and rental) and live in good quality accommodation (healthy and safe with access to utility services) with access to urban economic and social opportunity.

4.2 Vision of the policy

The vision of the policy is that:

1. Human settlements in South Africa are progressively more integrated, sustainable and equitable;
2. Individual households have secure tenure (ownership and rental) in good quality accommodation (healthy and safe with access to utility services) with access to urban economic and social opportunity; and
3. Housing delivery is enabled at the required scale and contributes positively to building cities which are more:
   - Compact (effective and efficient to administer);
   - Financially and environmentally sustainable; and
   - Equitable for the poor

4.3 Policy principles

The key principles of the Human Settlement Land Assembly Policy are:
1. **Reduce** the quantity of greenfield land to be acquired by mobilising all current delivery interventions at scale;
2. **Expedite** scale delivery by supporting local government to develop a medium to long term land assembly schedule which identifies where and at what scale different delivery interventions will be implemented, in line with the gazetted PHSHDAs;
3. **Focus** land assembly on well located land and buildings with access to social and engineering infrastructure;

4. **Enhance** the land assembly process for Greenfield and Brownfield development and informal settlements upgrading, as well as enable increasing impact by expediting immediate housing delivery opportunities such as site and service and densification of existing areas; and
5. **Promote** secure residential tenure broadly, based on incremental improvements.

4.4 Policy goals and objectives

The goal of the Policy is increase access to well-located land for low income and affordable housing in South Africa by transforming current approaches to land assembly in the Human Settlement sector, so as to support and expedite a diverse range of housing delivery options.

The objectives of the Policy are:
- **To require that every municipality develops a Human Settlement Municipal Land Assembly Schedule** that sets out the amount, nature and location of land assembly that must be achieved across the whole municipal area in order to meet short, medium and long term municipal housing needs (initially with a focus on the PHSHDAs.
- **To expedite land assembly in respect of the full range of delivery interventions** so as to support scaled-up and more efficient housing delivery including:
  - **the assembly of greenfield land** efficiently for low income and affordable housing delivery.
  - **the redevelopment or conversion of existing land and buildings;**
  - **the densification of targeted existing residential areas**; and
  - **the in situ upgrading (including the provision of tenure) of informal settlements.**
- **To streamline land acquisition and planning approval processes** so as to expedite housing delivery at scale.
- **To strengthen land tenure** for low income and affordable households by recognising a range of tenure forms and improving land administration.

5 CHAPTER 5: POLICY STRATEGY AND IMPLEMENTATION

In line with the Human Settlement Land Assembly Policy principles there are four strategic pillars (see figure below):

- **Pillar 1:** A Municipal Land Assembly Schedule for each municipality
- **Pillar 2:** Expedited land assembly over the range of delivery options
- **Pillar 3:** Streamlined land acquisition and planning approval processes
- **Pillar 4:** Strengthened Land Tenure and improved Land Administration

An overview of each of the pillars is set out in the sections that follow.

Figure 7: Proposed Human Settlement Land Assembly Strategy

Pillar 1: Municipal Land Assembly Schedule		Every municipality to develop a Municipal Land Assembly Schedule (LAS) that sets out the amount, nature and location of land assembly that must be achieved across the whole municipal areas in order to meet short, medium and long term municipal housing needs (initially with a focus on the PHSHDAs)
Pillar 2: Expedite land assembly over the range of delivery options	Pillar 2.1: Greenfield Development	New processes to assemble greenfield land efficiently for low income and affordable housing delivery
	Pillar 2.2: Brownfield Development	Refined land assembly processes to support and expedite redevelopment or conversion of existing land/buildings efficiently for low income & affordable housing
	Pillar 2.3: Residential Densification	Refined land assembly processes to support and expedite densification of targeted existing residential areas effectively for low income and affordable housing delivery
	Pillar 2.4: Informal Settlement	Enhancements to existing programme to improve the recognition and categorisation, insitu upgrading and provision of tenure in informal settlements
Pillar 3: Streamlining land acquisition and planning approval processes		Mechanisms to streamline land acquisition and planning approval processes to expedite housing delivery at scale
Pillar 4: Strengthen Land Tenure		Mechanisms to strengthen land tenure of low income and affordable households by recognising a range of tenure forms and improving land administration

5.1 Pillar 1: Municipal Land Assembly Schedule (LAS)

Every municipality must prepare and promote a Land Assembly Schedule ('LAS'). The LAS must be a section of the municipal Spatial Development Framework (SDF) as specified in SPLUMA which indicates that municipalities must:

- '*estimate demand for housing across income groups, plan location and density of housing interventions' (s.21(f));*
- '*identify areas to apply inclusionary housing policies' (s21(i));*
- '*identify areas for incremental upgrading' (s21(k)); and*
- '*designate areas for shortened land development procedures' (s21 (l)).*

In addition the LAS must be incorporated into the Built Environment Performance Plan (BEPP) in the case of metros, as well as the Medium Term Expenditure Framework (MTEF) and Service Delivery and Budget Implementation Plan (SDBIP).

The LAS should set out a municipal wide, long term plan to expedite land assembly necessary to achieve housing delivery at the scale required and in locations in the municipality that improve access by low income households to urban opportunity and amenities and the efficiency and effectiveness of the municipality.

The LAS should be a clear schedule of where and how many low income and affordable households are to be enabled in specifically identified areas (greenfield and existing) **across the municipality**, so as to be able to meet current and projected housing need. In addition the LAS should define where land assembly interventions, as well as investments in the refurbishment/expansion of existing **bulk and link infrastructure** or new bulk capacity are needed.

Municipalities should be supported to introduce the LAS into the above strategic, planning and budgeting instruments through the provision of funding and support.

In most instances there will be strong alignment between the PHSHDA initiative and the proposed LASs. With respect to the normative framework both align and commit strongly to SPLUMA and its spatial justice and equity objectives. Both initiatives are focused on expediting scale housing delivery, PHSHDA through the concentration of human settlement grant funding into priority spatially defined areas and LASs through strengthening and streamlining land assembly on an area-based approach, across all delivery interventions. Both focus on strengthening the municipal SDF. PHSHDA's are identified within municipal SDF's as priority areas and supports their development, while the LASs define housing and land need and thereby the PHSHDA's would constitute a priority focus for the LAS. Accordingly it is proposed that the LASs are implemented through a phased approach with an initial focus on the land assembly for the gazetted PHSHDA's (see section 5).

5.2 Pillar 2: Expedite land assembly over the range of delivery options

5.2.1 Pillar 2.1: Greenfield Development

As specified in SPLUMA specific areas should be designated for the development of low income and affordable housing as greenfield projects. The LAS should proactively identify such land for greenfield projects in the SDF. It is critical both to household wellbeing and municipal sustainability that these areas should be well located and where bulk infrastructure is available or can be provided in the required timeframes.

Two types of greenfield projects are intended namely Conventional Residential Development Projects (IRDP) and Site and Service/Rapid Land Release Projects.

- **Conventional Residential Developments**, particularly where these are larger projects, are intended as mixed income, mixed use housing projects. This would envisage a mix of housing types focused on ownership and rental, as well as fully subsidised through to affordable housing (some with access FLISP).

- **Site and Service/Rapid Land Release Projects**, focus on providing serviced sites for owner builders to build their own houses. The priority is to make land available urgently so as to pre-empt land invasion. **These areas can be serviced in advance or progressively over time. Provision should be made in the zoning of the area to enable incremental servicing and house construction. Further, provision should be made to enable the site owner to densify over time by developing further rental units on their site.**

Land identification

1) **Greenfield Projects**: Land owners in these designated areas for greenfield development should be informed and be given an opportunity (either themselves directly, or through a private developer) to submit a development proposal for their land for low income and affordable housing to the municipality within a specified period of time. Should proposals be accepted, the municipality should incentivise such developments through discounted development contributions and support to access housing subsidies. The municipalities should be able to offset the discounted rates through grant funding that is provided in this regard.
   Where land owners are not willing to develop the land as low income and affordable housing, the land should be acquired (via purchase or expropriation) by the municipality for such development.

2) **Site and service/Rapid Land Release Projects:** Substantial greenfield land should be set aside for the development of serviced sites for owner builders to build their own houses. These areas can be serviced in advance or progressively over time. Provision should be made in the zoning of the area to enable incremental development. Provision should be made to enable the site owner to densify over time by developing further rental units on their site.

Land acquisition, planning and land use approvals

Land should only be acquired for greenfield development where the sites have been identified in the LAS. Processes appropriate to the acquisition of private, public, State Owned Entity (SOE), LUCA land should be applied. Similarly, an area based approach to development planning applications and approvals should be adopted. These are set out in Pillar 3 below.

The current planning and land use approval processes should be streamlined so as to reduce holding costs and expedite delivery at scale (see Pillar 3).

5.2.2 Pillar 2.2: Brownfield Development

Land identification

The LAS will identify broad areas with significant potential for conversion and redevelopment of existing buildings and land into low income and affordable housing.

The municipality should ensure there is sufficient bulk to accommodate the planned changes in use and increased density. This should include identifying land for the additional social infrastructure capacity and expanded public transport. The municipality should publicly state its intent and commitment up front to support changes in land use and densification for designated areas. Land owners in these designated areas should be informed and encouraged to submit development proposals for their land to the municipality. Developments should be further incentivised with pre-agreed reduced or waived development contributions and possible rates holidays or reductions for an initial period.

Land acquisition, planning and land use approvals

Where buildings or areas are dysfunctional (high-jacked buildings or absentee owners) or where there are strategic parcels needed to enable integration with neighbouring parcels these should be purchased or expropriated (or where there are substantial municipal service charge and/or rates arrears owed, be foreclosed on) by the municipalities and recycled back into development for low and affordable housing. The municipality, in partnership with Social Housing Institutions, should put in place arrangements to accommodate residents in dysfunctional buildings in emergency housing to enable buildings to be recycled.
Land adjustment interventions where adjacent parcels are consolidated and developed should be facilitated where these will result in increased delivery of low income and affordable housing. Public land can also be included in such land assembly processes either where owned by the municipality, by agreement with the public entity or through expropriating by the municipality.

The current land assembly process should be streamlined so as to reduce holding costs and expedite delivery at scale (see Pillar 3).

5.2.3 Pillar 2.3: Residential Densification

Land identification

As specified in SPLUMA, existing residential areas should be identified for densification. The LAS will identify broad areas with significant potential for residential densification of existing well located residential areas. Areas for residential densification should be prioritised either because they have the infrastructural capacity to absorb the increased density or because such densification justifies much needed upgrading of the existing infrastructure reticulation. Arrangements for additional social infrastructure capacity and access to public transport should be resolved.

The densification of identified existing areas to be expedited through publically stating municipal support and committing to streamlined land use and development control approvals for the whole area. Incentives (reducing/waiving of development contributions, providing access to additional service connections at no or low cost) should be provided.

Where the densification is focused on subdivisions rather than building additional units for rental, the municipality could initiate a programme to buy and recycle the subdivided stands to low income households.

Land acquisition, planning and land use approvals

Residential densification is generally undertaken by private small scale developers (SSME) who acquire stands privately or households who own a detached house in an existing residential area. Consequently land acquisition is normally small scale and a private transaction.

Land acquisition by the municipality will often be required to enable social infrastructure and open space to be developed to accommodate the planned higher densities. Streamlining necessary land acquisition processes are dealt with in Pillar 3.

The current land assembly process **(mainly in respect of land use rezoning and sub divisions, building plan approvals and access to additional service connections)** should be streamlined so as to reduce costs and expedite delivery at scale **(see Pillar 3).**

5.2.4 Pillar 2.4: Informal Settlement

The current process of assessing and categorising all informal settlements in a municipality in terms of their suitability for in situ upgrading or relocation is fully

aligned with the LAS approach. Settlements requiring relocation will mainly rely on greenfield development to accommodate the affected households. The current basis of individual settlement assessment and upgrading should continue and be formalised as part of the overall municipal land management system.

Consequently, all informal settlements should be recognised as an existing land use and be required to be assessed and provisionally categorised by the municipality. Such categorisation should be advertised and subject to comment. Any dispute as to the categorisation should be subject to a hearing and ruling by a municipal land use tribunal. The provisional zoning, tribunal hearing and ruling should be subject to prescribed timelines.

The land use zoning should set out the required processes and procedures to give effect to the settlement upgrading or relocation. The process should require that:
- **A duly constituted settlement community committee be empowered** to initiate the required steps and submit the required applications for the upgrading of their informal settlement.
- **Professional and community organisation capacity support be provided** to informal settlement communities to enable them to effectively drive their upgrade/relocation process.
- **A range of tenure rights should be offered based on the unique circumstances of the settlement.** A key principle in implementing processes to provide tenure security is to work with tenure arrangements that already exist at a local level in an informal settlement.

5.3 Pillar 3: Streamlining and scaling up delivery

5.3.1.1 Overall approach

Critical to scaling up delivery, the practice of processing approvals for specific types of residential development for designated areas, rather than for each individual land parcels, be introduced. SPLUMA should be used to identify areas for speeded up development for low income and affordable residential development. Such areas should be as designated in the LAS and incorporated with the SDF and IDP.

5.3.1.2 Area wide planning

An area wide planning approach initiated early in the land assembly process will expedite planning approvals and avoid the time delays and cost of undertaking such studies and securing such approvals for each individual land parcel.

In this regard the following is proposed:

1) **Planning investigations and studies for specific designated areas**: Upfront investigations and studies, together with a market demand survey, should be undertaken for specific designated areas (as defined in the LAS) rather than in respect of each property in the area. **Where appropriate planning approval should also be secured on an area basis.**

2) **Area specific municipal infrastructure plans:** On the basis of the investigations undertaken in (1) above, area specific municipal infrastructure plans should be developed for each area proposed for greenfield, brownfield, densification or informal settlement upgrading in the city-wide LAS. Short, medium and long term time frames for when bulk capacity will be available to be clearly specified. All further developments in the designated area would then not be required to undertake any additional bulk infrastructure investigations.

3) **Area specific bulk infrastructure financial plan**: In parallel to the municipal infrastructure development plan for a designated area there should also be an area specific bulk infrastructure financial plan that links planned development for an area with the required bulk infrastructure investments to be secured and planned funding streams and confirms what is included in the municipal budget.

4) **Building plan approvals**: Where areas are targeted for densification or greenfield development, processes should be introduced to expedite building plan approval. Such processes could specify the parameters to be complied with in respect of the building plans and then allow plans to be submitted for the municipal record on an as built basis.

5) **Initial Recording of Land Rights: The system of recording initial land rights to be improved.** These systems must be sufficiently detailed and reliable to form the first step on the incremental journey to increasingly strengthened land tenure.

6) **Basis for land acquisition**. Area wide plans will identify land for development for affordable housing or, if that does not occur, acquisition by expropriation/purchase.

5.3.1.3 *Proposals in respect of the planning regulatory framework*

The following reforms should be implemented so as to rationalise and align the various environmental and land use approval processes[xx]:

- **Rezoning and subdivision**: Exploiting the new opportunities provided by SPLUMA (section 30) for the alignment of land use with other authorisations – environmental, water, heritage –must be encouraged. Significant potential for cutting the time and financial costs of regulating land development lies in the rationalisation of these requirements. In practice, many municipalities will not process land use applications before the range of environmental approvals has been obtained. This is to avoid a situation in which the

municipal resources are expended on processing an application for land use change that is then turned down by provincial or national government in terms of, for example, the Subdivision of Agricultural Land Act 70 of 1970 (SALA), the National Environmental Management Act, 1998 (NEMA) or the National Water Act of 1998.

There is however, no legal impediment to different spheres of government processing applications simultaneously. This could result in significant time savings. The existence of a LAS provides a structure for coordinating the simultaneous efforts of all spheres of government to process such approvals on an area rather than for individual properties. Moreover this could be done up front as part of enabling the scale delivery of housing. It is thus recommended that municipalities and the relevant provincial and national authorities are encouraged to identify opportunities for closer coordination in the processing of applications, in order to reduce the risk of the different spheres' decision-making processes conflicting with each other.

- **Environmental regulations**: A primary reason for the long times taken in processing Environmental Impact Assessments (EIAs) is regulation 45 of the EIA regulations that stipulates that where the prescribed timeframes are exceeded by an applicant the application lapses and a new application has to be submitted. This requirement was inserted as a result of the widespread unhappiness with the time taken to process EIAs, and was intended to speed up applications and reduce compliance costs.

  In practice, however, this often entails substantial delays and adds significantly to the financial costs as multiple applications have to be submitted for the same project. The prescribed time frames should either be extended or better provision made for exemptions from this rule in specified circumstances. Regulation 3(7) already provides a process for extending timeframes on request of the applicant, where the scope of work is expanded for legitimate reasons. It appears that there may well be other valid reasons for extending EIA timeframes, beyond the expansion of the scope of work. These reasons should be identified and used as the basis for allowing condonation or exemption where an application might otherwise lapse.

- **Water Use Licensing Applications (WULA):** This is a major cause of time delays. In order to address this the WULA, NEMA and EIA processes needs to be integrated. The suggested approach is to use the Basic Assessment risk matrix introduced in the 2016 General Authorisation. Then, depending on the risk level that emerges, a WULA may or may not have to be submitted.

5.3.1.4 Proposals in respect of land acquisition

Underlying the approach to land acquisition is the imperative that the total amount of greenfield land that must be acquired to support affordable housing delivery can

be substantially reduced by also relying on substantial delivery of houses through the conversion, redevelopment and densification of existing areas and informal settlement upgrading.

Nevertheless land will still have to be acquired, primarily in four situations:
- **Greenfield development** where the sites have been identified in the relevant municipal plans as appropriate for affordable housing development;
- **Brownfield development** where land and/or buildings have been deserted by their owners or are otherwise rendered dysfunctional;
- **Small, strategic parcels** needed to integrate with neighbouring parcels to achieve optimal cadastral arrangements for the delivery of affordable housing; and
- **Land occupied by informal settlements.**

This land falls into different underlying ownership categories:
- Private ownership ('private land');
- Ownership by a national or provincial government department or agency ('national and provincial land');
- Ownership by a State-owned entity ('SOE land');
- Ownership by a municipality ('municipal land'); and
- Ownership by the State but under customary administration ('LUCA').

Different legal parameters apply to each of these ownership categories and these are set out in Annexure I. The key legal and institutional concerns in relation to each of the ownership categories are summarised below. In addition, the strategic interventions that must be made by the NDHS and the HDA to address these concerns and enable easier, more efficient and more sustainable land acquisition are also set out. It is stressed that land should not be acquired unless it is specified in the LAS for low income and affordable residential use and there is a clear idea how and when the land will be developed.

i. **Private Land:** Private land can either be acquired on a willing-buyer, willing-seller basis where the state makes an offer and the land owner decides whether or not to accept the offered price. Or the state can expropriate the land. In relation to the land purchase on the open market, the primary obstacle has been price, mainly that the state has not been able or willing to pay the prices expected by owners of well-located land and hence land has been purchased in less well-located areas, because it's cheaper.

In relation to expropriation, the primary obstacle has been the demanding set of procedural requirements and the tendency for landowners to resist and litigate.

In this case, state actors struggle to match the legal capacity of the landowners and so the result is often unsatisfactory. Because of the state's difficulties in expropriating land, the stated intent to proceed with expropriation is often ignored by the land owner. If the landowners want to retain ownership of the land they can confidently invest in the professional services needed to head off the expropriation. This also means that when landowners are approached by the state to sell their land, they will not offer discounted prices but will hold out for the highest price that the market can bear, as they do not believe that expropriation will succeed.

In response to this situation there are proposals under consideration to amend the Expropriation Act to make it easier for the state to acquire land at less than market value and even without any compensation at all in certain cases. If this legislation succeeds it will make it substantially easier to acquire land for affordable housing.

Three key actions are recommended:
- **Close engagement with the Expropriation Amendment Bill process,** to ensure that the specific concerns of the human settlements sectors are addressed.
- **Municipalities already have the power and processes to expropriate land.** It is envisaged that these will be further enabled with the enactment of the Expropriation Amendment Bill.
- **The HDA should provide technical and funding support to municipalities to expedite municipal land acquisitions.**

ii. **National and Provincial Land:** A key difficulty faced by the municipality (or the HDA on its behalf) in acquiring surplus national and provincial government land from the respective departments is the argument that the department must receive 'best value for money', which is often understood to be market value. This is clearly not the case and the Government Immoveable Asset Management Act (GIAMA) expressly provides that 'best value for money' has to be understood in terms of the potential "*functional, financial, economic and social*" returns.

To overcome this obstacle to the acquisition of surplus national and provincial land the National Department of Human Settlements and the HDA need to engage with the Departments of Public Works and Rural Development and Land Reform to agree on a set of guidelines for defining 'best value for money' in the context of land acquisition for human settlements purposes.

Each provincial and national department is required to compile an Immoveable Asset Management Plan. The NDHS and HDA need to identify the departments with well-located surplus land and engage directly and deliberately with the officials responsible for drawing up their Immovable Asset Management Plans.

In addition the exclusion of the HDA from the category of state land 'users' in GIAMA makes it impossible for national and provincial land to be transferred directly to the HDA, but rather it has to be through the NDHS or the relevant municipality. **To address this the Department of Public Works and Infrastructure must be engaged to either consider an amendment to the Act or to consider an exemption from the provisions of the Act to enable the HDA to benefit from the legal status of a state land 'user'.**

iii. **SOE Land:** While it is theoretically possible for State Owned Companies to allocate land to the HDA without the payment of compensation, this has only occurred in a few, exceptional cases. The legal frameworks governing the operation of State-Owned Companies emphasise the companies' directors' fiduciary responsibility to their shareholder to realise the maximum financial value from their assets.

Given that land assets of SOE's are a key balance sheet component, the land owned by SOE's should be considered to be of the same status as private land. **Should land owned by a SOE be designated for low income and affordable housing in the LAS and the SOE is not willing to transfer it, then expropriation should be considered on the same basis as for private land.**

iv. **Municipal Land:** Municipalities currently have the required powers to acquire or expropriate land. However, often they lack the capacity to apply such powers. **HDA should assist municipalities to acquire land including funding such acquisition until the land cost can be funded as a project related cost.**

v. **LUCA:** There is currently no available or legitimate route for the HDA or NDHS to acquire LUCA land. The Department of Rural Development and Land Reform is engaged in an ongoing and protracted process to develop legislation to provide a pathway to the transfer of LUCA land. The HDA is well aware of the limitations imposed by having to operate under the current framework, and has also developed valuable experience in making this framework work for human settlement purposes.

It is proposed that the NDHS and the HDA engage with the legislative process in the Department of Rural Development and Land Reform. The focus should be to ensure

that there is recognition in the new legislation for the need for agencies such as the HDA to acquire land that is held under customary law, in communal areas, for the development of housing and human settlements.

The NDHS and HDA thus should lobby for provisions in the new law that ensure:
- **an efficient process of consultation with both traditional leaders and the people living on the land;**
- **integration of the land development process with the local municipality's programmes of infrastructure and services delivery;**
- **securing an effective delineation of individual erven and an appropriate form of tenure for housing finance purposes; and**
- **the provision for fair compensation where people living on the land do not benefit from the consequent housing development.**

5.4 Pillar 4: Strengthen Land Tenure

Once land has been acquired or developed for affordable housing it is important to ensure that the beneficiaries of that housing enjoy secure tenure. This need not mean that they have a title deed, but that they are, as a minimum, protected from eviction and, when they no longer require the property they are able to transfer it to a person of their choice. It also means that where the tenure is a form of rental that the terms are fair and just, and that the tenants cannot be unreasonably evicted.

Land assembly and ultimate proclamation for affordable housing is an expensive process and the value of that investment is nullified if the resulting tenures are insecure and uncertain. Going forward, to ensure that the gains achieved through improved land assembly for affordable housing are consolidated, fundamental reforms to the land administration systems are needed to ensure that land transactions are easier, cheaper and more transparent.

In particular:
- Anyone that holds rights to land or a house, as a result of participating in a housing intervention must be able to transact on that land (or the rights that they hold to that land) efficiently and cheaply;
- Where land is held via a title deed registered in the Deeds office, there must be improvements made to the rules applicable to the transfer of ownership so as to lower the complexity and the costs of such transfer; and
- Where land is not held by the same person as the person or entity registered on the relevant title deed, there must be a basis for recognition and recordal of such right and an incremental pathway defined for that right to be transferred or strengthened over time.

In addition, even where housing is delivered to beneficiaries on the basis of freehold title, the underlying administrative systems have often not provided certainty. The systems have been rendered ineffective in many cases by the failure to issue a title deed to the actual beneficiary, with the result that there are often mismatches between the registered owner, the listed beneficiary and the occupant. These mismatches grow exponentially with each additional unregistered transaction over the property. Where title deeds have been issued to the correct beneficiary and that person has taken occupation of the house the overwhelming trend has been for subsequent transactions to be unregistered and informal. The importance and challenge of rectifying the ownership situation in relation to many of the subsidised houses delivered is thus immense, and grows exponentially daily as the number of potential claimants on any one property grow. Local level land recording systems will play a key role in achieving this goal, especially where land tenure is not reflected in a title deed in the name of the occupant of the land. In addition, the Deeds Registry system, as well as the systems for adjudicating conflicting claims over a title deed, must be significantly streamlined to ensure that transactions are more likely to be registered than carried out informally. Going forward, improved land administration systems are thus essential to avoid replicating the mistakes made in the past.

In relation to this strategic pillar two primary interventions are needed:
1. **Recognition of tenure forms.** As housing delivery is scaled up the delivery systems will be hobbled if they all aim to deliver an individualised title deed registered in the deeds office. **Instead there must be a range of land tenure rights to be recognised in different ways. This recognition of land rights should occur in the context of an incremental strengthening of tenure and be recorded in local level land registers.**

   Clear procedures and criteria must be established for providing different forms of tenure. Axiomatic to this recognition is that higher costs are likely to be associated with different tenure forms. Nonetheless, sufficiently strong forms of recognition must be **established** and **recorded** for those with very low affordability thresholds. This is especially relevant in the case of informal settlement upgrading and in 'site and service' types of greenfield development.

2. **Improved land administration**. Upward of 60% of South African households live on land that is either not part of the formal land administration system or, where it is, the land is recorded incorrectly. This is unsustainable, and the situation is worsening. Three key elements of land administration have to be improved:

- The procedures and rules applicable to a broader set of recognised tenure types needs to be reflected in law and in institutional arrangements. This is especially relevant in relation to local level land registers that should be developed and supported in cases of informal settlement upgrading and 'site and service' types of greenfield development.
- Reforms are needed to the Deeds Registries Act and related regulations to simplify processes, limit pre-conditions for transfer, lower costs and broaden affordability.
- The Land Titles Adjustment Act must be amended to provide a low-cost, practical and scalable systems of adjudicating competing claims on properties.

It is also important to address the many situations where low-income households currently occupy land under weak or informal tenure forms that can be incrementally strengthened. These situations, reflecting many years of backlog that has accrued through inaction and unwillingness to secure tenure, include:
- Informal settlement on private land;
- Informal 2nd dwelling on a residential erf in an established township;
- Informal settlement on municipal land;
- Informal settlement on National departments and Provincial land;
- Informal settlement on LUCA;
- Conventional settlement on LUCA;
- Informal settlement on Department of Agriculture, Rural Development and Land Reform (DARDLR) land;
- Informal occupation of an inner city apartment;
- Normal settlement of LUCA land
- Occupation of unregistered RDP house; and
- Occupation of a house where the de iure and de facto owners are different.

An incremental roadmap to more secure tenure has to be identified for each of these scenarios. Each one will require the application of relevant legislation and active participation of applicable public sector actors.

If the reforms proposed above, under this strategic pillar, are implemented they will make it much easier to tackle the current backlogs of insecure, unrecorded and contested land title in the human settlement sector. In addition, simplification and the introduction of incremental options to provide tenure security in housing projects will support a dramatic scaling up of the supply of affordable housing.

A strategic priority for the NDHS and the HDA is thus to initiate and lead an intergovernmental process with the Department of Rural Development and Land

Reform, the Department of Cooperative Governance and Traditional Affairs and the National Treasury to set up the mechanisms, processes and resources to substantially reform land tenure security for low-income households.

6 CHAPTER 6: RESPONSIBLE ROLE PLAYERS

Roles and responsibilities of entities and stakeholders in the human settlement sector with respect to implementing the Human Settlement Land Assembly Policy is set out in the table below.

Table 19: Human Settlement Land Assembly Policy: Overall roles and responsibilities

Strategic Pillars		Roles and responsibilities
Pillar 1: Municipal Land Assembly Schedule		• The development, promotion and implementation of the LAS is the responsibility of the Local Municipality's strategic & planning functions. • Local Municipalities should be supported and provided with funding to do this by the NDoHS, DCoGTA and DARDLR • Provinces should directly engage with the Local Municipalities in their jurisdiction to ensure that they have the support and funding needed to develop and implement the LAS and should monitor that this is undertaken.
Pillar 2: Expedite land assembly	**Pillar 2.1: Greenfield Development**	• Greenfield Development is undertaken by the Human Settlement Departments of Local Municipalities and Provinces in respect of implementing national programmes and by Developers and the HDA (in its role as a developer) in respect of private developments. • Local Municipalities strategic and planning function is responsible for ensuring that this development is undertaken in alignment with PHSHDA's and LAS's
	Pillar 2.2: Brownfield Development	• Brownfield Development is undertaken by the Human Settlement Departments of Local Municipalities and Provinces in respect of implementing national programmes and by Developers and the HDA (in its role as a developer) in respect of private developments. • Local Municipalities strategic and planning functions are responsible for ensuring that sufficient bulk infrastructure is available and that land owners are informed of the areas designated for this form of development and further that developments are undertaken in alignment with PHSHDA's and LAS's
	Pillar 2.3: Residential Densification	• Residential densification is undertaken by private small scale developers or owners of existing properties. • Local Municipalities strategic ad planning functions are responsible for ensuring that sufficient bulk infrastructure is available and that land owners are informed of the areas designated for this form of development and further that developments are undertaken in alignment with PHSHDA's and LAS's • Provinces should provide funding as per the requirements of the Housing Code (as revised see Chapter 8) • Civil society, non-governmental organisations and the private sector can provide support services to private small scale developers or owners of existing properties to access funding and plans for the densification of their properties.
	Pillar 2.4: Informal Settlement	• Informal settlement upgrading is undertaken by the Human Settlement Departments of Local Municipalities and Provincial Government. The process is supported by the National

Strategic Pillars	Roles and responsibilities
	Upgrading Support Programme (NUSP) programme and the HDA. • Local Municipalities' strategic and planning functions are responsible for ensuring that appropriate bulk infrastructure is available and that settlement categorisation is fully aligned with the LAS and that land use zoning enables the upgrading or relocation to be undertaken. • Civil society, non-governmental organisations and the private sector can provide support services to private small scale developers or owners of existing properties to access funding and plans for the development of the top structure.
Pillar 3: Streamlining land acquisition and planning approval processes	• Local municipalities' strategic and planning functions are responsible for identifying designated areas in respect of the LAS and in phase 1 within PHSHDA's. Within the designated area the local municipality should develop the area specific municipal infrastructure and bulk infrastructure financial plan and should then enable that build plan approvals occur speedily taking into account these plans. Provinces should provide funding as per the requirements of the Housing Code (as revised see Chapter 8) • The Department of Rural Development and Land Reform is responsible for revising requirements in respect of the rezoning, subdivision and heritage requirements, environmental regulations and WULA as set out in Section 4.2.6.2 and issuing guidelines to Local Municipalities in this regard. • The National Department of Human Settlements supported by the HDA should actively implement the proposals regarding land acquisition as set out in section 4.2.6.3. • The HDA must be provided with additional funding to assist municipalities to acquire or expropriate land required for human settlement development. This should be done based on a loan which is repaid once the project related costs are available.
Pillar 4: Strengthen Land Tenure	• The NDHS should lead an intergovernmental process with the Department of Rural Development and Land Reform, the Department of Cooperative Governance and Traditional Affairs and National Treasury to set up the mechanisms, processes and resources to substantially reform land tenure security for low income households

The specific role of the NDHS and HDA in respect of the pillars is further detailed in the table below.

Table 20: Human Settlement Land Assembly Policy: NDHS and HDA, specific roles

Land Assembly Strategy Key Pillars		NDHS	HDA
1. Introduce Municipal Land Assembly Schedules (LASs)		• **Scope the LAS and the process of developing municipal wide LASs in the Housing Code;** • **Ensure alignment of LASs with the PHSDA;** • **With NT, amend grant frameworks** to support establishment & use of LASs to implement municipal wide land assembly.	• **Support municipalities' roll out of the LAS (technical assistance)** • **Facilitate alignment between LAS and PHSDA's interventions (intergovernmental coordination and planning).**

2. Expedite land assembly	**2.1. Greenfield Development**	• **Amend Housing Code as required to enable:**
		  - Assembly of well-located land for greenfield development (incl. Rapid Land release);
		  - Acquisition of dysfunctional buildings for recycling;
		  - Expediting of informal settlement upgrading;
		  - Funding of expanded bulk capacity and rehabilitation of existing infrastructure reticulation;
		  - Funding of area wide studies and approvals undertaken upfront and across the needs of individual projects
			• **Assist municipalities assemble and develop greenfield land** (technical support / developer)

	2.2. Brownfield Development		• **Assist Municipalities recycle dysfunctional buildings** for emergency or social housing
	2.3. Residential Densification		Nil
	2.4. Informal Settlement		• **Assist municipalities manage informal settlement upgrading programmes** (NUSP).
3. Streamline Land Acquisition & Planning Approval Processes		• **Develop procedures to submit applications and secure approvals at an area wide level** (as designated in the LAS) for planning, EIA's, water licenses, etc.; • **Lead intergovernmental arrangements to streamline both public and private land acquisition processes for HS development.**	• **Support municipality to acquire land for HS development;** • **Support municipalities commission and secure area based planning, EIA and Water approvals to expedite land assembly** (technical support or project management)
4. Strengthen Land Tenure and reform land administration		• **Lead intergovernmental arrangements to introduce human settlement related land tenure reform** to recognize current land rights and to incrementally upgrade title; **introduce new forms of land administration to accommodate low-income households.**	• **Technical assistance to municipalities to recognise current land rights and to incrementally upgrade title.**

7 CHAPTER 7: LEADERSHIP AND COORDINATION OF THE HUMAN SETTLEMENT LAND ASSEMBLY POLICY

7.1 Establishing a Human Settlement Municipal Land Delivery Schedule (LAS)

The responsibility for the LAS should be with a Local Municipalities Strategic and Spatial Planning officials. They should be supported in this by the Local Municipalities Human Settlement Department, as well as the relevant Engineering Department.

As with the BEPP (for some Metros), the development of and monitoring of performance against the LAS should be a specific condition of the relevant Human Settlement conditional grants including the Urban Settlement Development Grant (USDG), the Integrated Cities Development Grant (ICDG) and the Integrated Urban Development Grant (IUDG). The LAS must be an integral part of the SDF, the IDP and municipal budget processes.
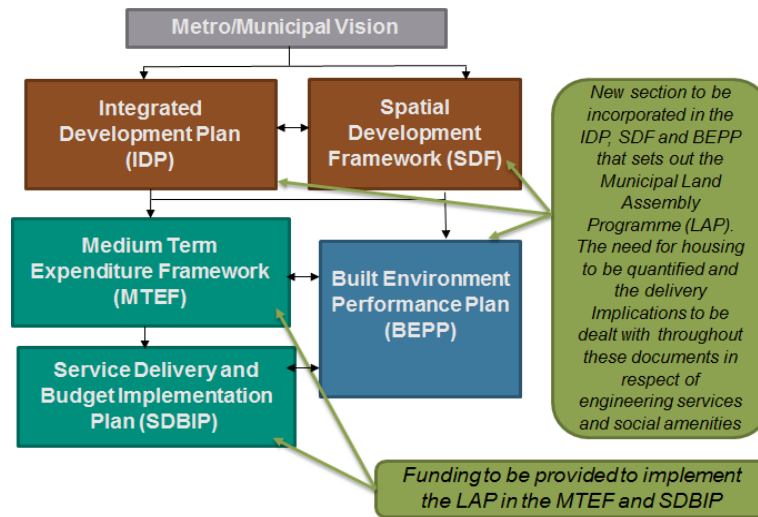
This requirement is an addition to the current roles and responsibilities of Local Municipalities. Some do not have capacity in this regard. For this reason both support and additional funding is proposed to enable Local Municipalities to develop effectively LAS's. With respect to support the mandates of existing local municipality support programmes should be expanded to provide support for the establishment and monitoring of the performance of the LAS including:

- **The City Support Programme (CSP)** which is implemented by National Treasury to support Metro municipalities
- **The Intermediate City Municipalities Programme (ICMP)** which is implemented by the Department of Cooperative Government and Traditional Affairs to support Secondary Cities.

With respect to funding an amendments should be made to the Housing Code to provide Local Municipalities with additional funding to develop a LAS (see Chapter 8 below). The LAS process should be incorporated fully into the monitoring, review and adjustment processes of the SDFs, BEPPs and budgets for the Metros and Secondary cities.

Provincial Human Settlements Departments will continue to allocate funds to human settlement projects and oversee compliance to the Housing Code.

Figure 8: Relation of LAS to Metro and Municipal planning processes

7.2 Land assembly and land use interventions as set out in the LAS

The municipality's responsibility for the implementation of the LAS relies on the coordinated efforts of the Human Settlement, Spatial Planning and Engineering functions. Consequently the co-ordination of the detailed planning, budgeting and implementation of the LAS should be located within an existing infrastructure investment forum (e.g. BEPP in the case of metros) or if such a forum does not exist then one specifically created for this purpose (i.e. an LAS Coordination and Management Forum). The responsibility of coordinating this forum should sit with the city or town's spatial planning directorate.

In addition, Municipalities should be supported in implementing the land assembly and land use functions of the LAS as follows:

- **Greenfield development:** HDA should provide support to Local Municipalities to assemble greenfield land identified via the LAS. HDA funding should be strengthened to be able to undertake such support. The NDHS should develop a clear set of guidelines and intergovernmental agreements for the acquisition of land held by national and provincial governments and state-owned entities. These guidelines need to set out the procedures to be followed, the criteria to be met (in terms of GIAMA, the Public Finance Management Act (PFMA) and each SOE's founding statute) for acquisition and the protocols to be followed in the transfer and development of the land.

- **Brownfield developments:** Most cities have internal focused special project or urban development project management functions. These units should also be responsible for supporting and enabling existing land and building owners to undertake housing related conversions and redevelopments in agreed areas. The 'Development Unit' should report to the LAS Coordination and Management Forum in respect of these projects. There currently is no existing support function to develop and share expertise on municipal enablement of residential conversions and redevelopments – the possibility of such a forum should be discussed with existing city and town support programmes. Alternatively a support programme from within the NDHS similar to the NUSP could be established to support municipalities with brownfield housing interventions. Support should also be provided through the CSP and ICMP. The HDA should also provide support to municipalities to acquire and hold dysfunctional buildings and recycle these to SHI's.

- **Densification of existing residential areas:** The responsibility for the initiation and management of such densification programmes should be located within the municipalities' development control functions (responsible for land use and building control). Again this directorate should report to the LAS Coordination and Management Forum on the planning and implementation of the densification programmes. There currently is no existing support function to develop and share expertise on municipal enablement of residential conversions and redevelopments – the possibility of such support should be discussed with existing city and town support programmes. Alternatively a support programme from within the NDHS similar to the NUSP could be established to support municipalities with residential densification interventions. Support should also be provided through the CSP and ICMP.

- **Informal settlement upgrading:** The responsibility of coordinating and implementing the informal settlement upgrading programme currently is located in the municipalities Human Settlement Department. This overall programme responsibility should remain as is. However the informal settlement programme should also report to and align with the planning and coordination of the LAS Coordination and Management Forum. Currently municipalities are supported by the NDHS's NUSP and also by the CSP and ICMP. This support is well established and should remain as is.

7.3 Land Tenure and Administration Arrangements

SPLUMA's provides a key opportunity to insert measures to recognize informal or insecure tenure as the overall system for land use management is overhauled (see

sections 7(a)(iv) and (v)) as the underlying basis on which land tenure recognition systems need to be designed, supported and implemented, including local land record-keeping and local land registers, to achieve sustained, incremental improvements in land tenure for affordable housing.

Where the recognition of informal or insecure tenure requires the issue of a title deed where the underlying land ownership would otherwise not allow it, the Land Titles Adjustment Act has to be invoked. The DARDLR is the custodian of this Act. The current mechanisms in the Act are insufficient to support a titling programme at scale. The Gauteng Housing Act provides an example of provincially led legislation that can fill this gap. A key step will thus be the identification of the necessary steps to either amend the Land Titles Adjustment Act or develop provincial Housing Acts to emulate the Gauteng example. Urgent steps to engage the DARDLR in driving the revision of this Act are essential.

Recognising tenure on LUCA is currently very difficult, without any clear legislative framework. A priority here will be the identification of workable processes to do this, using available legislation such as the Interim Protection of Informal Land Rights Act, 1996 (IPILRA) and the Upgrading of Land Tenure Rights Act (ULTRA), 1991, supported by the umbrella provisions of SPLUMA and, ultimately, reflected in municipal-wide land registers, or land registers held at a ward level. Close collaboration with the Department of Rural Development and Land Reform is crucial here.

Land tenure security is a cross-cutting issue, hence the recommendation that an intergovernmental process, including the NDHS, the Departments of Rural Development and Land Reform and Cooperative Governance and Traditional Affairs, and the National Treasury, **is convened to design, prepare for and resource a programme of land tenure reform in South Africa.**

Alignment with the mandate and scope of the Inter-ministerial Committee's subcommittee on land will be key.

8   CHAPTER 8: FUNDING

It is not possible to quantify with accuracy the reduction in required government spending that the adoption of the new Human Settlements Land Assembly Policy would achieve. This would vary depending on the actual mix of the alternative delivery interventions adopted to meet the projected housing need to 2045. In the normal course this will be quantified through the application of the new policy into the medium term strategic framework.

A shift from government funded greenfield development of fully subsidised houses or serviced stands towards more support towards optimising existing delivery systems would significantly reduce the fiscal funding requirements. This is because much less of the accommodation developed through the densification of existing residential areas will be directly subsidised. The government funding required would mainly focus on financial grants to municipalities for the upgrading of existing bulk and local infrastructure reticulation to meet the projected increase in densities, reimbursing municipalities for development charges and connection fees waived for such developments and providing municipalities with programme support to implement the new policy effectively.

Similarly, a new emphasis on rapid land release which only provides serviced stands to households as opposed to fully subsidised houses would result in significant savings in required government funding.

In addition the NDHS's National Housing Code and the National Treasury's Conditional Grants Frameworks would need to be revised and adjusted so as to realign with the approach and broader range of delivery interventions envisaged in the Human Settlements Land Assembly Policy. This does not imply additional funding required but rather adjustments to how existing funding is allocated.

Key adjustments to the existing funding frameworks are as follows:

1) **Bulk infrastructure funding should be aligned with the priorities established in the LAS.** A review should be undertaken of specific spatial development and infrastructure grants so they directly support densification and spatial efficiency outcomes.
2) The determination of **funds for land acquisition in the conditional grant frameworks should be amended to** enable the assembly of well-located land. This should be independent from an approved subsidized housing project.
3) **Funding should provide for the upfront assembly of land including area wide planning and planning approvals and bulk infrastructure installation or upgrades**

on an 'area basis' in accordance with identified areas for new greenfield development, brownfield development and residential densification, set out in the relevant municipal capital project planning.

4) **The Title Deeds Restoration Grant** comes to an end soon and will be incorporated into the Human Settlements Development Grant from 2021/22. It is important that this component of the **HSDG** is redirected and repositioned to support the amendments that must be made to the Land Titles Adjustment Act to scale up dispute adjudication over subsidised houses where the underlying land right in the title deed does not match the de facto land ownership.

5) **Funding for social housing** should be expanded so that SHI's can also accommodate holding a portfolio of rental units across a range of rental buildings without owning or managing the buildings and manage emergency housing at scale.

6) **For Brownfield or Densification housing the current Grant Frameworks should be amended** to enable municipalities to access grant funding to reimburse it for the development of bulk infrastructure and the rehabilitation/upgrading of local infrastructure reticulation and discounts or waivers in respect of development contributions, bulk infrastructure contributions and connection fees.

7) **Where necessary the relevant provisions of the Housing Code should be amended to support the proposed amendments to the conditional grant frameworks.** Proposed revisions are shown in the table below.

Table 21: Proposed amendments to the conditional grant framework

Funding mechanism	Description	Proposed revisions
Individual subsidy programme	Can be used to acquire an existing house (secondary market) or a vacant residential serviced stand linked to a house construction contract	**Should be revised to be applied for the purchase of a stand or house in existing areas undergoing general densification**
Integrated Residential Development Programme (IRDP)	Provides for planning and developing an integrated project, providing for the housing, social and economic needs of different income categories. It does away with the requirement found in other policy programmes to identify subsidised housing recipients up front and provides for both subsidised, as well as finance linked housing, social and rental housing, commercial, institutional and other land uses to be developed. Replaces the project linked subsidy programme.	**Needs to be revised to incorporate densification of existing areas and brownfield. Should also enable site and service and rapid land release programmes**
Upgrading informal settlements programme (UISP)	Purpose is to facilitate the structured in situ upgrading of informal settlements as opposed to relocation. Provides funding for all activities to provide households with a serviced site. UISP allows serviced provision for households that	**Needs to be revised to incorporate proposals relating to informal settlement upgrading**

Funding mechanism	Description	Proposed revisions
	do not qualify for other subsidies but does not allow the transfer of the property to non-qualifying households on an ownership basis. Does not include a top structure.	
Social housing	Provision of rental stock in designated restructuring zones with a focus on restructuring and creation of affordable rental units	**Needs to be revised to incorporate the densification of existing residential areas and brownfield and a portfolio approach**
FLISP	Acquire ownership of an existing residential property or vacant serviced residential stand or build a new house with the assistance of a homebuilder registered with the National Home Builders Registration Council (NHBRC).	**Needs to be revised to incorporate rapid land release, brownfield and densification proposals**
Urban Settlements Development Grant (USDG) (only for metros)	Supports the development of sustainable human settlements and improved quality of life for households through supplementing municipal resources including prioritizing residential infrastructure for water, sanitation, refuse removal, streets lighting, solid waste, connector and bulk infrastructure, and roads and the planning, funding and development of human settlements	**Needs to be revised to incorporate rapid land release, brownfield and densification proposals**
Integrated Cities Development Grant (ICDG)	Funding for public investment in infrastructure for the poor and to promote increased access to municipal own sources of capital finance in order to increase funding for investment in economic infrastructure.	**Needs to be revised to incorporate rapid land release, brownfield and densification proposals**
Integrated Urban Development Grant (IUDG)	Provides funding for improved access to municipal infrastructure, improved quality of municipal services through infrastructure that is in a better condition, and improved spatial integration.	**Needs to be revised to incorporate rapid land release, brownfield and densification proposals**
Municipal Infrastructure Grant	The Municipal Infrastructure Grant (MIG) is a municipal infrastructure funding arrangement. It combines all the previous existing capital grants for municipal infrastructure into a single consolidated grant.	**Needs to be revised to incorporate rapid land release, brownfield and densification proposals**

9 CHAPTER 9: MONITORING AND EVALUATION

The National Department of Human Settlements is responsible for monitoring and evaluating the implementation of the Human Settlement Land Assembly Policy. This should be undertaken in alignment with the requirements of governments monitoring and evaluation framework.

To this end the following should be undertaken:

1) A monitoring and evaluation framework for the Human Settlement Land Assembly Policy should be developed setting clear targets for the NDHS, HDA, Human Settlement Departments in Provinces and Local Municipalities

2) Progress on the achievement of the targets should be incorporated into the normal reports used by the NDHS to monitor progress of the national human settlements programme.

3) On a two yearly basis an independent evaluation of the implementation of policy should be undertaken to review progress. Revisions should be made to the policy on the basis of the findings.

10 CONCLUSION

This Human Settlement Land Assembly Policy sets out adjustments to the basis of land assemble to support delivery of low income and affordable housing in South Africa. This is aligned with the Priority Human Settlement Delivery Areas.

It requires revisions to the way in which local municipalities currently operate. If the normative imperatives as set out in legislation and particularly SPLUMA are to be achieved, it cannot be 'business as usual'. **The emphasis should be on reducing the requirement for greenfield land to be assembled by also relying on substantial redevelopment and densification of existing areas of the cities and towns**. Consequently, current processes must be revised to enable land assembly across the full range of appropriate housing delivery interventions based on a municipal Land Assembly Schedule (LAS).

To be effective the LASs must enable land assembly for human settlement delivery at the required scale and with speed. This requires land assembly to be:
- Across the entire municipal area focusing on the full range of possible delivery interventions;
- Expedited at the scale required to meet short, medium and longer term needs for housing for low to medium income families;
- On an area rather than an individual property basis to ensure economies of scale and shorter timeframes for development.

Improvements to land tenure recognition and land administration are urgently needed so that the gains made in improved, more inclusionary acquisition, assembly and redevelopment of land translate into sustained, pro-poor transformation of the urban land market.

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ANNEXURE A: DOCUMENTATION REQUIRED IN RESPECT OF TOWNSHIP ESTABLISHMENT

Documents	Description
General Application Information & Documentation Requirements	(1) The prescribed application fee. (2) Full name of the owner of the land, including telephone- and facsimile details. (3) Postal-, residential- and e-mail address of the owner of the land. (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent. (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf. (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application. (7) Copy of registered title deed relevant to the land. (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application.
Information & Documentation of Current Status of the Land/Property	(9) Information regarding the existing zoning on the land in terms of which land use scheme or any other town planning scheme that might still be applicable. (10) Information on the existing development on the land and current use. (11) Cadastral information and SG plans of the land – *essentially, needs a <u>cadastral survey</u> done initially*

Information & Documentation of the Proposed Township	(12) A **<u>layout plan</u>** of the proposed township indicating or containing-
	    (a) contour lines, the values of which shall be based on a datum plane required by the municipality – *essentially, needs a <u>contour survey</u> done initially*.
	    (b) existing buildings in the proposed township.
	    (c) streets and open spaces in the proposed township.
	    (d) the widths and names of streets.
	    (e) all adjoining existing and adjoining proposed streets and roads with their names as well as erven in existing or proposed adjoining townships.
	    (f) watercourses, railways, pipelines, power lines, existing public roads and all servitudes in or abutting the proposed township (that is not included in (11) above).
	    (g) details of the proposed land use or zonings of the sites/erven in the proposed township.
	    (h) the boundaries of the proposed township.
	    (i) a table indicating the total number of erven in the proposed township, the number of erven for specific purposes and their numbers, the minimum size of the erven, the ruling size of the erven, the minimum and maximum gradient of the streets as a percentage of the total area of the township and the area of the parks and open spaces, if any, as a percentage of the total area of the township;
	    (j) the erven in the proposed township accurately drawn to a scale and numbered consecutively in each 'block'.

Documents	Description
	(l) if the township is to be established on two or more farm portions or agricultural holdings, the boundaries and description of such farm portions or holdings.
	(m) each registered servitude over the land in the proposed township with a reference to the notarial deed or approved diagram relating to such servitude and, where an alteration in the route of such servitude is contemplated, the proposed new route – essentially a deeds search for servitude diagrams required initially.
	(n) Grid co-ordinates and a reference to the geodetic system used (part of the cadastral survey).
	(o) if the proposed township is subject to flooding, the 1:50 and 1:100 year flood lines or, if the land is not subject to flooding, a certificate by a qualified engineer to the effect that the land is not so subject, where required – essentially, a topographical survey and floodline report is required initially.
	(12) A locality plan, as an inset on the lay-out plan of the proposed township, accurately drawn to a scale acceptable to the municipality indicating-
	(a) the situation of the proposed township on the farm portion or agricultural holding.
	(b) the routes giving access to the nearest main road and the road network in the vicinity of the proposed township.
	(c) the boundaries of the farm portion or agricultural holding on which the proposed township is to be established.
	(d) a bar scale in respect of the locality plan.
	(13) An outline engineering scheme report in relation to any engineering service – *essentially, a consulting engineers' investigation into the availability of bulk and link services and high level upgrading solutions if required needs to be done initially.*
	(14) A traffic impact study – *essentially an upfront traffic engineer's report on the impact that the proposed development will have on additional traffic and ability of existing roads and intersections to cope with this and any upgrades needed to keep congestion to acceptable norms.*
	(15) A ROD on any environmental impact assessment issued by the relevant authority – *essentially an initial environmental scoping is done which identifies environmental issues which usually require further detailed studies eg specific fauna & flora study which combined result in an overall EIA which then also provides the way the development is to be implemented and environmental protection management & mitigation measures. These are assessed by Dept of Environmental Affairs which issues a Record of Decision which may also include further conditions which in turn may require planning & design changes.*
	(16) A geotechnical report submitted by a professional Geotechnical Engineer – *while the geotechnical report can also be used by the engineers for the later detailed engineering designs, the geotechnical report is required upfront.*
	(17) A Radon report by a qualified engineer – *similar to the above, also required upfront.*
	(18) A comprehensive motivational report in support of the application.
	(19) A detailed water use & stormwater engineering investigation to meet the requirements of WULA
	(20) An agricultural potential investigation and report to meet the requirements of SALA

END NOTES

[i] StatsSA,2016 Community Survey; Cousins et al, 2017

[ii] Advisory Panel on Land Reform and Agriculture, 2019

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[x] Income data is from SA Census 2011

[xi] Source: Community Survey, 2016 (StatsSA)

[xii] The current average population density of the Johannesburg Metro over its total jurisdictional area is about 3,550 people per km2.

[xiii] This section draws heavily on the 2013 Report to the HDA on a *Review of the Regulatory Environment to enable land compensation*, authored by Stephen Berrisford for Rode & Associates.

[xiv] Rust Kecia (May 2018).

[xv] Rust Kecia (May 2018).

[xvi] Cousins et al, 2017

[xvii] Department of Human Settlements and National Upgrading Support Programme, 2019

[xviii] Department of Human Settlements and National Upgrading Support Programme, 2019

[xix] HDA, 2020

[xx] SBC, December, 2016