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**The recognition and enhancement of socially dominated
urban land markets**

Urban Landmark

Report on municipal workshops and proposal selection

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1. INTRODUCTION

Urban LandMark has been in operation for two years, during which time it has focused on building an empirical base on how poor gain access to urban land, and researching how land markets work for the poor. The next phase aims to develop specific proposals which will allow for the development of these research findings for implementation in urban areas.

The core assumption of the ‘making the markets work for the poor’ approach is that “since markets are such powerful and even ubiquitous forces, maximum value in assisting the poor is usually derived from either resolving market failures, or leveraging the operation of existing functioning markets towards the interests of the poor, or enhancing poor people’s effectiveness in participating in markets (or some combination of all three)” (McCarthy, cited in Abrahams, 2008). “A market which *works for the poor* is one which expands the choices available to poor people and produces market outcomes that benefit the poor. These outcomes include job opportunities with attractive wage rates, better returns on goods sold, and greater affordability of important products and services. Over time the participation of the poor in these key markets should increase (DFID, cited in Abrahams, 2008)”.

The “formal” market is generally inaccessible to the poor due to a combination of factors such as high land values, land regulations which protect former white areas and high costs of accessing land (linked to the need for specialist skills and legal costs) (Abrahams, 2008). Research conducted by Urban LandMark has examined land transactions outside the officially recognised system of land management and property ownership. This showed that land markets do operate outside traditional formal areas (such as in informal settlements, RDP projects, backyard shacks and traditional authority areas), but that in these cases social relations are more dominant than financial relations. In addition, the operations of this market are far from disorganized or dysfunctional, and transactions are highly responsive to state action (such as shack registration). Thus there exists a complex system of land transactions, some in which land is regarded as a financial asset, and is formally recognised by the state and law, and others in which this is less the case, and various forms of social and community recognition are more prominent.

This is extremely important as a research finding, as it has implications for policy development and action, particularly in those areas where the socially dominated land market is dominant. For example, the research on how the poor access, hold and trade land proposes a number of areas for policy intervention¹:

¹ How the poor access, hold and trade land, Urban LandMark, October 2007

- i. Recognising socially dominated land markets – through legal reform, reform of practice at a municipal level within existing legal frameworks or awareness raising
- ii. Supporting the role of informal settlements in the urban land market – Informal settlements contribute elasticity in supply to the urban land market which is considered informal settlement eradication risks interrupting
- iii. Developing social interventions that support poor people's access to land – a range of interventions should be developed that are appropriate to specific types of markets and settlements, as opposed to one blanket approach.
- iv. Recognising how the financially dominated land market depends on the socially dominated market – it is important to explore the relationship between these two types of market in order to develop ways of promoting integration between them to increase access of the poor
- v. Public investment should support greater urban land market differentiation.

Other research has highlighted the need for a land audit to identify vacant and underused land, the need to improve access to relevant information to communities, issues around high density inner-city housing, and the need to enhance and expand the housing subsidy scheme.

Indicators of a market that is working for the poor include increasing tenure security, increasing access to livelihoods, increasing access to broader opportunities, increasing scale of supply, increasing equity, decreasing risks and costs of exchange and resolution of disputes (Royston, cited in Abrahams, 2008).

The overall objective of this project is to address the complexities of the urban land market by developing proposals that would incorporate these research findings into more effective **land use management and planning responses** that would improve socially dominated markets through increased recognition (in a legal sense, through municipal policy reform or awareness raising), efficiency, effectiveness and equity, and develop ways of promoting integration across the market (i.e. integrating the financially dominated market and the socially dominated market). That is, to develop proposals that would address the following question: **what land use management and planning responses can be made to make land markets work better for the poor?**

Recognition involves developing proposals for enhancement of this market, building on its strengths and addressing its limitations. An important corollary of this is the need for integration of the two markets (socially dominated market and financially dominated market) which do not operate in a

polarized manner but in a holistic and complex system which has both exclusionary and inclusionary forces throughout. For example, research has shown that, although socially dominated markets tend to work well in the short term, in the longer term the poor tend to become trapped into poor locations, without access to alternatives. An emphasis on integration, rather than eradication, has important policy consequences. Specifically, proposals should recognise socially dominated land markets, achieve better *integration* between financially and socially dominated land markets, achieve *better performing* socially dominated land markets; and implement *other reforms* which address the manner in which the financially dominated land markets operate.

This project builds on some of the research already done by Urban LandMark, focusing on four pieces of research addressing land management in cities and towns, the examination of how the poor access, hold and transact land, and an assessment of how the poor are integrated into the municipality through gaining access to well located land in both urban and rural areas. The land management project conducted for CUBES examined land management thinking and practice in five major urban areas (Johannesburg, eThekweni, Cape Town, Buffalo City and Mangaung), and developed a set of recommendations for the dimensions of a new land management system which would provide a framework for managing land development in a way that supports the goals of democracy, equity, efficiency and sustainability. Research on how the poor access and transact land was conducted in eThekweni, Ekurhuleni and Cape Town, and also came up with a number of findings and recommendations. These included the need to recognise socially dominated land markets, to support the role that informal settlements play in the urban land market, develop social interventions that support poor people's access to land, recognise how the financially dominated market depends on the socially dominated market and ensure that public investment supports greater urban land market differentiation. In addition, research on the land market and land management has been conducted in several smaller towns (Pietermaritzburg, Sasolburg, Ulundi, Lusikisiki, Rustenburg, and Dullstroom), one aspect of which was to examine to what extent the findings of the earlier land management research apply in smaller towns.

This consists of 10 sections. Following this introduction, sections 2 through 7 are intended to guide the development of appropriate proposals to support the land market through land use management and planning processes. A conceptual overview of the way in which land use management and planning, and the land market operate and interact is provided. This extracts from the four projects discussed above the key findings, recommendations and policy implications relating to land use management and planning and the operation of the land market. An international literature review has been conducted to examine issues related to land tenure and the provision of housing. This looks at slum recognition and slum networking, land assembly methods and tenure security. A core set of

principles or themes has then been developed which has been used to form the foundation of concrete proposals to use land use management and planning tools to support all aspects of the land market, in particular improving the ability of the poor to access, hold and transact land.

Following this, in section 8 a report on the workshops held with the municipalities involved in order to gain an understanding of the key relevant issues they would like addressed in this research is provided. Section 9 then develops specific proposals based on the earlier work, which will make urban land markets work better for the poor (and probably, therefore, for all urban residents and municipalities). These proposals include a concrete strategy for piloting projects which could be done in the following year and have been developed in co-operation with local municipal officials. The emphasis in these proposals is on implementation rather than background research, involving developing specific ways in which the recent research can be implemented to impact on the market.

2. LAND USE MANAGEMENT AND PLANNING AND THE LAND MARKET

2.1 Land use management and planning

Land use management and planning creates the framework for managing the allocation of land uses among competing development needs. In this project “land management” refers to the overall system incorporating both land use management and strategic planning, i.e. to the management of land, both immediate and long term. “Land use management is the range of government (local government mostly) activities aimed at conferring, managing and changing the use of land. A Land Use Management System refers to all the laws and institutions that govern the land use management activities” (Abrahams, 2008).

Land use management and planning in South Africa today consists of two inextricably linked components – broad, multi-sectoral and strategic regional issues around land uses and development and the more localized, spatial and development control aspects of planning associated with traditional town planning (such as zoning, town planning schemes etc.). The White paper on Spatial Planning (2001) distinguishes between ‘forward planning’ (focused more towards regional and strategic planning) and ‘development control’ (linked more to the traditional “town” planning function), and suggests that these terms align to the concepts of integrated development planning and land use management respectively used in the Municipal Systems Act (Ovens and Kitchin, 2006). Successful land use management and planning requires the establishment of an effective link between the forward planning and development control functions. In addition, land use management and planning now requires a participatory, consultative and transparent approach, and is directly linked to the performance management and budgeting systems of the municipality. The new developmental role for local government includes provision of basic services, facilitating the creation of jobs, promoting democracy and accountability and eradication of poverty and this needs to be considered both at a strategic planning level and in terms of more day-to-day land use management.

The White Paper on Spatial Planning (2001) indicates that land use management includes the following activities:

- The regulation of land-use changes e.g. rezoning of a property from residential to commercial use;
- The regulation of ‘green fields’ land development, i.e. development of previously undeveloped land;
- The regulation of the subdivision and consolidation of land parcels;

- The regulation of the regularization and upgrading process of informal settlements, neglected city centres and other areas requiring such processes; and
- The facilitation of land development through more active participation of the municipality in the land development process, especially through public-private partnerships. This requires of local government a more proactive approach to land development, beyond that of a regulator or market forces, whereas the first four correspond more closely with the traditional land development regulation role.

There are numerous mechanisms in place to accomplish both aspects of land management. Key to strategic planning are the Integrated Development Planning (IDP) and Spatial Development Framework (SDF), while fundamental to the development control or land use management aspects are town planning schemes, land use management schemes, zoning regulations, by-laws etc. In addition to these, different national or provincial programmes can assist (or hinder) local government in their land management activities.

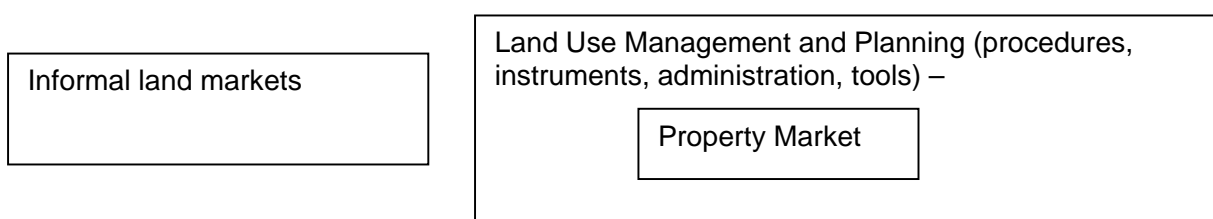
The existing arsenal of such tools for municipal intervention includes the following. However, in many cases these are complicated, contradictory and exclusionary. Some of them such as IDPs and SDFs often pay lip service to planning for the poor, but this needs to be distinguished from pro-poor planning.

- strategic planning – IDPs, SDFs
- township establishment and land development administrative procedures
- zoning regulations
- building standards
- by-laws to address issues such as running a boarding establishment, health and fire regulations
- Land use management schemes and town planning schemes
- national policies and programmes, with associated funding such as Urban Development Zones, neighbourhood precinct development zones
- Rates rebates
- Direct funding of development (commercial, residential etc)
- Transport planning and infrastructure development
- Sale of municipal land
- Grants from the national housing department to assist municipalities with in situ upgrades

However, while many tools are available to manage land better for the poor, a number of legislative and regulatory issues restrict their access. “For example, strategic planning through the IDPs should be able to increase the supply of urban land for the poor, but this is restricted by administrative problems with land use management systems, as well as limited tools through which to translate strategic ideas into day-to-day land use decisions. This hampers the availability of well-located affordable land for socially driven land development. Kihato and Berrisford argue that current tools are either not being used adequately or have not been sufficiently well-developed to be useful, and this highlights the critical need for a focus on the integration of the available regulatory instruments into coherent programmes for managing urban land (Kihato and Berrisford, 2006 cited in Kitchin and Ovens, 2007) . At the same time, land use management has tended to be subjected to the policy imperatives of other sectors such as housing, water and other bulk services. “Within local government the old fashioned planning functions of zoning, regulation and enforcement have been down graded, become outmoded and are generally considered less important than either strategic planning or service delivery” with negative consequences particularly for the poor (Parnell et al, 2007).

The land management study showed that ongoing institutional exclusion of the poor from land in South African cities is a result of the failure to rid cities of apartheid land use management and the unintended consequences of the introduction of new land use management practices. This exclusion is mainly a consequence of the differential treatment of the poor by government in land use management. Thus, with the requisite political will, government has the potential to rectify the situation and improve the access of the poor to urban land through institutional reform. Achieving this change requires a paradigmatic shift in how land use management and planning is conceptualized, funded and applied (Parnell et al, 2007).

2.2 Relationship between the land market and land use management and planning



Research conducted to date has shown that there is often a thriving land market operating beyond the boundaries of the formal market. This is often not recognised by the state but can have serious implications for land use management and planning at local level. Reciprocally, land use

management and planning policies and practices can have an impact on the way in which the land market works.

The diagram above shows the mutual relationship between the informal market and land use management and planning, with most aspects of land use management and planning addressing the formal property market.

The role of land use management and planning in the context of a pro-poor outcome is to ensure that the poor are provided with sufficient opportunities to reduce their vulnerability and expand their options for wealth creation, *while at the same time*, ensuring that the sustainability of the municipality is not compromised. Without a focus on the long term sustainability of the municipality, pro-poor options could reduce vulnerability and possibly increase economic opportunities, but have a detrimental long term affect on the municipality e.g. in terms of provision of services to poorly located settlements. In order to adopt a pro-poor approach, it is important to recognise the operation of a market outside the formal market, to understand how this relates to land use management and planning, and to introduce mechanisms that enhance the overall market and promote greater integration of the poor.

The project can then be seen to have **two core outcomes**:

- *Decreasing the vulnerability of poor households and expanding economic opportunities for wealth creation for the poor, while*
- *ensuring municipal sustainability (financial and environmental)*

3. KEY DIFFERENCES BETWEEN FORMAL AND INFORMAL

There are a number of important differences between properties that operate in the formal or financially dominated market and those that operate in the informal, or socially dominated market, which are summarised in the table below. It is important to note, however, that there is not a clear discrete distinction between formal and informal, but that they tend to operate on a continuum, with some characteristics being more evident than others in different circumstances. They can be seen to “formally co-constitute each other” (Abrahams, 2008). To avoid negative connotations associated with the terms “informal”, “illegal” and “extra-legal” Royston uses the term “local” which “avoids the polarisation problem and highlights diversity by merely asserting that the market or practice is occurring in one particular place, at a particular point in time” (Royston, cited in Abrahams, 2008).

Table : Key differences between the Informal and formal

	Formal	Informal
Enforcement of by-laws etc	Usually stricter and more effective	Usually negligible
Revenue for state	Generates rates revenue and property tax for sales	Generates no revenue for state
Service delivery	Usually higher	Usually lower
Costs of municipal services	Higher, except where residents qualify for free basic services; therefore housing delivery does not necessarily alleviate poverty	Usually none, or lower, except in RDP housing
Standards	Usually higher and more established	Usually not established or lower etc
Maintenance	Usually high	Usually low
Access to information, communication, consumer education	High	Low
Location and access	Usually well located	Usually poorly located
Affordability (purchase price) of property	Relatively high	Relatively low
Costs of transactions, access to land	High	Minimal
Process of accessing of land	Slow and complex, requiring specialist skills, more expensive, processes regulated by statute	Quicker, cheaper and usually less complex, more locally focused
Understanding of how the market works	Little understanding of the formal mechanisms by the poor, or of how to access formal finance	Belief by most poor that the way the informal market operates is the only way the market as a whole operates; little understanding of how the informal market works by

		officials
House prices	Reflect market value, generally increase over time	Reflect purchase price plus improvements; in case of RDP homes, often sold below market value or just below subsidy investment value
Tenure security	Varies - Usually perceived as high but can be quite low if people are evicted due to market pressures	Varies - Usually low (but not traditional authority areas); however it can be quite high, depending on threats to security from the state, middle class, downward raiders, community and family
Rights	Promotes individualized rights	Can also promote extended family, group or communal rights
Perception of home and land	As financial asset which can be used to raise finance and move up property ladder; Usually only one home, in the formal area	As income generating (backyard shacks, renting rooms, urban agriculture, home based enterprise) but not as financial asset, as a base for asset accumulation; Often two homes, one in rural and one in urban area – more investment into rural home
Long term outlook for residents	Land usually meets long term needs of residents	Land does not necessarily meet the long term needs of residents and become “trapped”; Formalisation of informal areas by providing RDO houses there fixes poor people at their point of entry rather than where they may want a permanent home
Vulnerability	Low	Usually high
Gender bias	None in the market in terms of transactions, although individual ownership can be very gender biased	Not clear – research differs; is likely to vary according to housing and transaction type e.g. in traditional authority areas, gender does play a role
Recognition by state	High	Little (some e.g. in form of shack registration)
Dominated by	Financial market and price	Social relations
Planning processes	Usually operate in all non-traditional areas although not necessarily standardized, i.e. different planning policies and processes may operate in different areas; formal processes are slow and costly	Varies; In traditional authority areas it relies on traditional authority, and possibly its relationship with the municipality; can be non-existent
Municipal control over land	Higher, except for SOE land, DFA	In traditional authority areas, very little control, RDP areas

		greater, informal settlements varies
Rates rebates	Less common in formal areas – mainly restricted to township areas - some businesses	None or very little – depending on the form of title
Free basic service	Some – depending on household income	Access to free basic services varies according to type of settlement and household income criteria

4. INTERNATIONAL REVIEW

A review of international case studies was conducted in order to understand what land use management and planning responses have been made to make land markets work better for the poor in other countries. Various different approaches have been developed, addressing different aspects.

4.1 Slum recognition and slum networking

In India, slums are now recognised as integral parts of urban areas, and all informal settlements are seen as needing access to basic services and regularisation of tenure. Planning standards have become more responsive to the needs of the poor, e.g. by reducing the plot size to 15 sq.m (UN Habitat, 2003). Slum networking has been adopted as a means of upgrading the matrix of slums as part of improving the infrastructure of the city as a whole (Dewan, 2000). In Ahmedabad, this relies on community participation, the local municipality and NGOs, and includes provision of a range of services, with 20% of implementation costs being borne by the households themselves and 80% by the local authority. Cost sharing and community participation is seen as important in securing community commitment and instilling a sense of ownership (UN Habitat, 2006). The Ahmedabad municipality used its statutory power to provide health and sanitation facilities to execute the infrastructure networks in informal settlements on privately owned land. It does not support eviction efforts by the private land owners and uses their arrears in taxes as a bargaining tool to persuade the private land owners to sell the land below market price to individual families (UN Habitat, 2003).

A similar slum networking approach has been used in Indore but here state government has given slum dwellers long-term land lease while residents have paid for and built their own private toilets and bathrooms. Services such as street paving and street lighting, and community halls have been installed. Key aspects of infrastructure provision include individual toilets and water connections, roads used as storm water drains used and soft landscaping (ibid).

Key aspects of the slum networking approach are:

- **infrastructure improvement**
- **addressing health issues**
- **providing a range of educational opportunities**
- **community development** such as institution building, gender awareness raising, vocational training and economic support.

- **community participation**, often through the formation of neighbourhood committees for planning, implementation and ongoing maintenance (Urban Futures conference, 2000).

4.2 Land assembly methods

Of particular relevance to this project are the different methods of land assembly that have been adopted elsewhere.

Land readjustment

"Land readjustment is a technique whereby a group of neighbouring landowners in an urban-fringe area are combined in a partnership for the unified planning, servicing and subdivision of their land with the project costs and benefits being shared between the landowners" (http://www.unescap.org/huset/m_land/chapter10a.htm). Land readjustment or consolidation is therefore a form of public private partnership used to pool many small land parcels, redesign, develop and transfer them. It incorporates land sharing, land pooling, re-blocking and the transfer of development rights and occurs across the globe in countries as different as Germany, Taiwan, Korea, Australia, India and Japan (Shisaka Development Management Services).

Land readjustment typically involves municipal or national government in land which is to be converted from agricultural to urban land use. A subdivision plan is developed and infrastructure and services are financed by the sale of some of the plots, often for commercial use. The original land owners are given plots within the reshaped area. Although these may be smaller in size, they now have access to services and infrastructure. It enables a planned development of land and related infrastructure and avoids leapfrog development where different types of land uses and densities are mixed (ibid). It can provide equity in land distribution among the landowners in the area, and can be a way of providing access to land for low-income housing.

Land sharing

Land sharing is an agreement between the illegal occupants of land and the landowner and involves illegal occupants moving off high value land in return for being allowed to rent or buy part of the land below market value. Land sharing has been successful in areas of India where communities are well organised. Private land owners have been encouraged to build apartments for slum dwellers living on their land on a portion of their land. The landowner is then allowed to develop the remaining portion more intensively than would normally be permitted by development control rules. Ironically, the success rates on land owned by central government have not been high as it has proved difficult to get central government to allocate land for low-income residential development. Land sharing benefits

the landowner in that it allows him/her to regain control of the land and realise higher commercial returns without having to resort to eviction, and benefits the illegal residents by providing them with tenure and continued access to well located land.

In government-owned slum lands in India the government is leasing out land to developers for 30 years at relatively low cost with the condition of title being an increased Floor Space Index. Developers are required to build subsidised blocks of flats for members of registered slum cooperatives on part of the land. Land and development rights are used as leverage to encourage the private market to become involved in housing for the poor. The scheme is managed by an organisation established for this purpose, and NGOs and CBOs have facilitated negotiation between stakeholders (UN Habitat, 2003).

In Indonesia a form of land sharing has been proposed that encourages mixed land use to facilitate a more socially integrated urban residential development policy. For each new high income residential unit built, the developer is required to build 3 middle income and 6 lower income units in the same development location. This 1:3:6 programme uses cross-subsidisation to create an environment where low, middle and high income families are able to live close to employment opportunities. This has met with resistance from developers who claim this is too expensive, and from low income residents who claim the small units cannot accommodate their lifestyles which is one dependent on the street and on flexible living arrangements (DFID, 2000).

A successful land sharing agreement has been reached between squatters and the Port Authorities (PAT), who own 65 ha of land in Klong Toey, Bangkok. A local NGO and the local government helped facilitate an agreement whereby PAT leases 10 ha of land to the National Housing Authority (NHA) for 20 years. The NHA then serviced the land and leased it to the squatters. Thus PAT could regain control of 55 ha of land, and the community have locational security for the next 20 years, which is crucial to their livelihoods (DFID, 2000).

Land pooling

Land pooling involves the selection of an urban fringe area suitable for development by a public sector agency. The agency engages the various landowners in a compulsory partnership for the design and servicing of their land as one estate, and prepares plans for servicing and subdivision, financing and reallocation. These plans indicate how costs and benefits of the project are shared between the different landowners. The agency then raises a loan as working capital and develops the area, selling some of the sites to recover costs and passing the remaining sites to the landowners. This process

has simplified the relevant procedures and has reduced disputes over compensation. It has been used in India (UN Habitat, 2003).

4.3 Tenure security

Tenure security has been addressed in a number of ways.

Neighbourhood improvement

A more comprehensive development strategy than is commonly used is combining small loans for housing improvement with land development. For example, in El Salvador, low cost subdivision regulations helped stimulate a low income land development industry of 200 firms. Following developing the area and selling serviced plots to households, developers offer a small loan to build a core unit. This has resulted in affordable secure tenure and has contributed to lower real estate prices due to increased supply.

Local land record and information systems and land registration

Maintaining records at local level, having local para-legals and improving the capacity of local structures, particularly local government, to deal with these can improve tenure security. The outer boundaries of large blocks of land can be registered at central level, with social land tenure options operating within these boundaries. (UN Habitat, 2003).

Land registration can be designed to protect rather than marginalise the poor, for example by using local the local language, reducing registration fees, ensuring geographic accessibility, establishing institutional mechanisms to ensure accountability, and to settle disputes.

In South Africa, registration of informal settlements and their inhabitants by municipalities indicates official acceptance, provides evidence of land rights and can promote a local land market in which written records of registration are traded (Royston).

Perceived or de facto tenure

Perceived or de facto tenure can be based on illegal occupation of a building requiring a court order for eviction, the provision of basic services by the local authority, local political support, customary rituals, land under litigation, high level NGO involvement, religious support and various forms of documentation such as ration cards, electricity bills etc. Anti-eviction laws serve to reinforce perceived

security of tenure. This form of tenure is, however, vulnerable to changes in policy or implementation thereof (Durand-Lasserve, 2006).

Adverse possession

Adverse possession recognises the rights of squatters to acquire land they have lived on unopposed for a certain period of time, and operates in Brazil. It indicates that informal settlements residents are part of the city. It needs supporting regulatory measures that are accessible to the poor and can be strengthened through para-legal assistance and efficient record keeping (UN Habitat, 2003).

Customary lands

Many countries around the world face issues around customary land, many of them similar to those faced in South Africa. These usually arise in more urban areas. Freehold and individualised tenure is not recommended in these areas, but land held securely for the benefit of the group is important.

Group tenure/block system

Legalisation of a large area, village or informal settlement by transferring ownership to the group without giving out individual title deeds provides a form of group tenure. In Namibia three types of tenure exist, the first being a starter title, or certificate which gives the right to occupation of a site within a block. Group tenure protects people from eviction, provides security of tenure and inheritance rights. The certificate can be upgraded to 'landhold title' but is restricted to the occupant's site on the block, has most of the rights of freehold and can be upgraded to freehold. Records of residents within the block are created indicating who has rights within the block, and stored with the local government (UN Habitat, 2003).

In Pakistan the Hyderabad Development Authority (HDA) implemented an incremental development scheme, Khuda-Ki-Basti (KKB). In this people settle on the land first, and develop their housing and the infrastructure incrementally as they have resources. KKB provides plots and tinkered water. In the first 3 years 2800 families settled and many built semi-permanent houses. People are organised at block level and make payments into the block account for infrastructure. The provision of infrastructure in each block is directly related to the effectiveness of its community organisation (ibid).

Special zones

A variation of the group or block system has been the development of special zones in the city for low-income families, as has occurred in Brazil. These are designated for social housing and have been successful in giving security of tenure to informal residents and in fighting evictions (ibid).

Community Land Trusts

In Kenya Community Land Trusts combine the advantages of communal tenure with market-oriented individual ownership. Ownership is retained by the group, with individuals holding long term leases. This facilitates control of property transfers and discourages land speculation. Land trusts use collective strength to obtain permits and infrastructure, keep all land under one simple title, encourage members to invest in their property and environmental improvements and enable communities to remain in areas that might otherwise be too expensive. The lengthy documentation involved, and lack of understanding of the process by administrators remains a challenge (Durban-Lasserve, 2006).

Leases

Leases involve the rental of land or property under contract or statutory conditions for a certain period. A range of different types of leases exists. In Botswana these take the form of a Certificate of Rights (COR) which are for the long term and can be inherited, although land cannot be sold or put up as collateral. In India, a house site patta is usually issued after 5 years of occupation to low income households who generate a certain amount of income. Pattas have certain conditions, one of which is that they are issued in the woman of the house's name as women are less likely to sell. The site can be inherited but not sold. Despite these restrictions, more than half of pattas have, in fact, been sold (UN Habitat, 2003).

In Hong Kong land leasing is practised whereby the state retains the right to own land and lease the right to use, develop and transfer land to individuals. This means that the government is able to capture the future increased land value and to balance capturing surplus land value as revenue to finance public infrastructure and service provision while facilitating private incentives for investment in land and real estate development. It enables government to access revenue to finance the provision of public infrastructure and services (Brown-Luthango).

Temporary land rental

In Bangkok, a mutually beneficial system of land tenure improve the poor's access to employment opportunities by allowing them to live for a short to medium period of time on relatively expensive inner city land until landowners decide to develop the site commercially. Local authorities provide services for the rental period. This process enables the urban poor "to move ahead of the tide of urban expansion without detracting from the efficiency of the formal land market" (Durand-Lasserve, 2006).

5. PROBLEM STATEMENT/ STATUS QUO

A review of the four Urban LandMark studies relevant to this project, and the literature review of international examples highlights the current situation with regard to both land use management and planning, and the operation of the land market, in South Africa. Key aspects of the status quo are described below.

Land Use Management and planning

i. Control of land and land management

In a number of municipalities local government, and in some cases all spheres of government, appear to have little to no control over land management in some areas. This is particularly the case in traditional authority and non-metro areas. However, it also applies to land that is owned by State Owned Enterprises, some private sector land, some land owned or managed by other spheres of government etc. In addition, application of legislation such as housing policy and the implementation of the Development Facilitation Act (DFA) by provincial or national government is usually beyond the realm of control of local government.

ii. Inefficiency of current land use management

Current land use management is generally inefficient and often reinforces apartheid spatial trends.

iii. Fragmentation of planning legislation

Planning legislation is fragmented at all levels and is often contradictory and conflictual.

iv. Exclusionary nature of land use management and planning

Land use management and planning generally does not serve the interests of the poor, and tends to be exclusionary, particularly in terms of access of the poor to well located land (for residential and economic purposes)

v. Loss of revenue as a result of poor land use management and planning

There is a close link between effective and efficient land use management and planning and municipal revenue which is not always understood by municipalities. As a result, some municipalities lose revenue as a result of poor planning and land use management, e.g. exclusion of houses from their rates base, inefficient linkages between the rates department, re-zonings and the finance department.

vi. Poor intergovernmental relations

There is generally competition, conflict and a lack of co-ordination between key role-players especially different spheres of government is still common. Intergovernmental relations and the effective implementation of a co-ordinated approach is needed, as is the need for municipalities to have informed access to land asset base of other spheres of government.

vii. Role of traditional authorities

The role of traditional authorities in land management and the market is confusing, tends to vary across municipalities, and is often not understood by local, provincial or national government. The Land Use Management Bill will introduce wall-to-wall zoning. However, currently communal tenure systems cannot be zoned in the way that surveyed land under freehold tenure is managed. Thus the Land Use Management Bill and the Communal Land Rights Act will need to be closely aligned to take into account the different tenure systems. In KZN communal tenure areas are described as 'mixed use which is not the same as zoning under a land use scheme. Adjustments need to be made to accommodate communal systems (Kingwill, 2003).

viii. Municipal capacity for enforcement

Municipal capacity for enforcement is often low and in many cases there was almost a complete absence of a land use management enforcement strategy. This means that even if there are uniform standards across municipalities, many municipalities are unable to enforce those standards due to insufficient capacity. In cases where capacity is limited, what enforcement does take place tends to be concentrated on wealthier, more formal areas. Thus different land use standards emerge across municipalities. "Differential practices of enforcement also perpetuate segregation in the quality of life in neighborhoods and the failure to enforce the public good implied by normal land use management regulations mitigates against both race and class integration and precludes neighborhood improvement and the development of a positive land market" (Parnell et al, 2007).

ix. Development planning practice

Many of the case studies outlined in these reports show evidence of a growing awareness of the importance of land in most cities, largely through the inclusion of the spatial development frameworks in the IDP. However, the strategic importance of land does not always translate into development planning practice.

Overall, "what was very clear from each of the case studies is that the management of urban land for the poor is undertaken within a range of complex, ad hoc, poorly understood legal parameters. What the land use management systems applied to the poor have in common is that they present a weak regulatory environment that is also based on lower services levels. A further characteristic

is the much weaker enforcement capacity of the state for land use management in poor neighborhoods” (Parnell et al, 2007).

Land market

1. Extent of informal land market

Research shows that every five years, an average of 26% of households in shack settlements exchanged houses. In RDP housing, where there is a state limitation on the resale of houses for five years, some 11% of households were transacting, 6% of these were seen as sales with average house prices of between R5750 and R17000, almost all of these were off-register (i.e. title deeds do not officially change hands and state officials are called in to witness). In one settlement where transactions in backyard shacks were measured, almost 70% of households had moved into their rented accommodation in the last five years.

2. Variation in nature of informal market

The nature of the informal market varies according to factors such as settlement type, and geographic location; so too does the activity in the market e.g. in traditional authority areas there is generally very little market activity.

3. Recognition of informal land market

The formal market does not accommodate needs of the poor or recognise social contracts – the poor access, hold and trade land in a number of ways and the informal land market operates widely yet is generally not recognised or dealt with in policy. This occurs in informal settlements, traditional authority areas and even in RDP areas. For example, there appears to be an informal market in RDP housing despite restrictions; this needs to be recognised and dealt with appropriately.

4. Value of land to the poor

There is a need to understand the importance of land for the poor as being more than just access to residential land or housing, or as a financial asset, but as a place that provides access to employment, income generation through home based industries and rental income or for building social networks.

5. High transaction costs

Many processes and procedures associated with operating in the formal land market are expensive, making such transactions beyond the reach of many of the poorest residents.

6. Presence of market and state

Both the market and the state are present in informal land transactions; therefore there is potential for reform.

7. Impact of state involvement in the market

The state is involved in informal areas in a number of ways such as the registration of shacks which stimulates markets, service provision, identification of criteria for RDP housing and land allocation. Thus areas which first served as entry points to the city become long-term settlements with land having little potential for the accumulation of wealth for households in these areas and thus for the generation of municipal revenue e.g. through property sales and rates.

8. Complexity of the market

The operation of the informal market is complex and co-exists with the financially dominated or formal market. The two are mutually reinforcing but not always in ways that best serve the interests of the poor (or probably the state). The financially dominated market is a social construct that has come to be identified with particular ideological assumptions and reflects specific, but contingent, power relations. Price is the fundamental mediator of supply and demand when people transact. A socially dominated market works through social relations – while money may be exchanged price is not the fundamental ‘frame’ for the exchange. This takes morally inspired transactions into account and is more responsive to the social characteristics of its participants. Social markets do not follow the rules of demand and supply which are guided by price, but are not economically irrational.

9. Role of informal settlements in the market

Informal settlements play a critical role in the urban land market and serve as reception areas for the poor – they display elasticity in housing and land supply which the state and private sector struggle to achieve – therefore eradication of informal settlements would undermine the operation of the land market unless a highly effective system of official land supply was put in place (Isandla and Berrisford, 2007).

10. Titling issues

Recent research into land titling has uncovered a number of clear differences in informal and lower income areas related to titling (Marx and Rubin, 2007). This shows that:

- Not possessing title does not reduce people’s perception of their tenure security
- possessing title deed has little effect on improvements and household investment
- possessing title had little effect on borrowings/accessing credit
- possessing title does not make houses easier to sell
- households do not see their homes as an income generating asset, but more as an urban base for the extended family
- possessing title does not help households to save money
- the title makes little difference to people, whereas the ‘titling system’ that ultimately provides title does as this makes households more visible to government

- titling of low income households is de-linked from important legal, financial and market related processes which means that banks do not regard these in the same light as wealthier homes.

6. KEY PRINCIPLES

Ten guiding principles for planning were presented at the Planning Africa Conference and the World Planning Congress in 2006, in order to promote planning which is “strategic and local, integrative, participatory, creative, embracing cultural diversity and rooted in concerns for equity”, and “must underpin any approach to managing rural, urban and regional development” (Ovens, Kitchin and Williamson, 2006). These principles are of particular relevance to this study and are:

- Sustainability
- Integrated planning
- Integration with budgets
- Planning with partners
- Subsidiarity
- Market responsiveness
- Access to land
- Appropriate tools
- Pro-poor and inclusive
- Cultural variation.

Extracting from the research reviewed and the status quo as outlined earlier, a number of more specific principles relating to land use management and planning, and the land market can be derived:

1. Fiscal basis of local government

Land use framework and effective of municipal land provides key fiscal basis of local government therefore it is critical to establish a sound relationship between land management and local government revenue

2. Need for greater flexibility

Land use management needs to be flexible, simple and adaptive, and to operate more speedily (in terms of decision making etc). Interventions need to be applicable to socially dominated land markets and not adopt a one-size-fits all approach. In this regard, local level approaches are often more effective than centralized (Isandla, 2001).

3. Appropriate standards

It is important that land use management and planning standards are not discriminatory and are equitably enforced. It is therefore necessary that existing standards need to be re-examined, as do by-laws and legislation. A unitary, flexible system of land use management is

desirable, providing for basic minimum and maximum practices, allowing for local specificity in application. Having two separate systems in place is discriminatory while a more incremental approach is possible.

4. Enforcement

In order to ensure that standards are equitably enforced, it is important that local government has sufficient capacity to do so, both in terms of human and budgetary resources, and also in terms of appropriate by-laws and legal framework.

5. Intergovernmental co-ordination

Efficient and equitable land use management and planning processes that do not impact negatively on either the poor or the long term sustainability of the municipality require close co-operation between different spheres of government. Thus intergovernmental relations need to be improved with a clear identification of roles and responsibilities and sharing of information.

6. Service delivery

Service delivery has a direct impact on the quality of life and affects the market. It is important that the poor receive access to services. In addition, the location of settlements can affect the initial and long term costs of service delivery to the municipality. These costs must be considered when allocation land for development.

7. Location of settlement in regard to environmental and financial sustainability of municipalities and access of the poor to economic and social opportunities

It is important to reflect on the indirect costs of development of land and location of settlements, both for the poor themselves and for the municipality as a whole and to incorporate these into the initial costing of land and development.

8. Legal and legislative issues

Research has shown that there are a number of legal and legislative issues which can impede access to land, increase costs and increase vulnerability. For example, confusion over title deeds and related restrictions needs to be addressed.

9. Link between the strategic IDP and management of land

The link between the IDP and land use management needs to be made explicit and implemented, through the adoption of appropriate policy and processes that translate the IDP into practical land use practices.

10. Different perceptions of land

The poor tend to see land as providing access to employment, services and social networks rather than as a financial asset. This needs to be addressed in policy.

11. Role of informal settlements in land market

Informal settlements play an important role in the land market, contributing elasticity in supply. Mechanisms to address such settlements to take this into account.

12. Livelihood diversification

Urban land markets need to be more diverse to enhance income potential (including back yard shacks and second dwellings).

13. Need for innovation

Innovative approaches to land use management can be introduced and have a major impact as is evident in the integration case studies

14. Market related pricing of public land

Land released for the poor may need to be released from market related pricing especially by SOEs. However, the Provincial Finance Management Act (PFMA) has been cited to indicate that this is no longer possible, although the regulations do appear to provide opportunities to release land at values less than market value.

15. Recognition

There is a need for state recognition and accommodation of informal systems with regard to property rights and social practices beyond the 'rule of law' i.e. the progressive incorporation into state law of alternative, residual or popular legal systems (Isandla institute, 2001). Incorporation of the informal or socially dominated market into the formal or financially dominated market is not the issue. The progressive incorporation of the informal into the formal without any adaptation of the formal market will not work as the formal system is generally not pro-poor, but governed by particular class and political interests, and needs itself to be changed.

16. Security of tenure

Security of tenure is critical; this does not necessarily mean freehold title but to ensure freedom of eviction.

17. Traditional authorities

In many cases land use management and planning in traditional authority areas is beyond the reach of the local state. It is important that legally supported mechanisms to ensure effective, fair and sustainable land use that involve both the traditional authority and local government are put into place.

18. Types of municipalities

Municipalities vary tremendously across a broad spectrum of characteristics. It is important that these differences are considered when developing ways in which land use management and planning can be used to support the land market as circumstances differ, and so too will the impact of interventions.

7. THEMES

Several core themes have been extracted in order to inform the development of proposals for appropriate land use management and planning interventions that will support the land market.

1. There is a **need to recognise all forms of urban land use by poor** not just residential (as is particularly evident in the integration case studies conducted in eThekweni). Pro-poor spatial policies and land use interventions should be informed by the multiple requirements of the poor, especially their need for access to economic and social opportunities.
2. **Role of land management in the municipal financial system:** Land management systems contribute to the financial sustainability of municipalities in many ways – rates, selling of municipal land, or rights to develop and occupy public land, reduction in operating costs through improved efficiency in land use etc. It is important that municipalities understand this link and ensure that efficient processes are in place to connect land management and municipal finances and that land-related decisions do not contribute to unforeseen long term costs to the municipality. In addition tools such as free basic services and rates exemptions are a cost to the municipality. Thus, while they may well decrease vulnerability of the poor in the short term they also increase the vulnerability of the municipality in the longer term.
3. There is a **need to establish an integrated unitary system of land use** that works for the poor, is not discriminatory and ensures that the poor are not trapped in a particular situation.
4. There is a **need for greater intergovernmental co-operation and co-ordination.** Local government has the responsibility to deliver services, which includes initial installation and ongoing maintenance. In many cases it has to do this despite the fact that it has little or no control over significant portions of land and the development decisions relating to them. This places an unfair and unsustainable burden on municipalities with detrimental affects, particularly for the poor.

The table below outlines what the implications for land use management and the land market are likely to be, with respect to these themes.

Key theme	Implications for Land use management and the land market
Need to recognise all	Need to incorporate mechanisms of providing access to all

<p>forms of urban land use by poor not just residential</p>	<p>forms of well-located land for poor – e.g. develop ways of incorporating means of livelihood diversification into land use management and planning – improves value of land (which can also end up not being pro-poor as increased land values are often associated with affordability issues and result in the poor having to move off such land), removes illegality of current practices (i.e. formalizes them e.g. tuck shops, backyard shacks) (which is often a double edged sword as it can increase costs), increases the poor’s wealth and ability to survive, reduces vulnerability</p>
<p>Role of land management in the municipal financial system</p>	<p>Increased recognition and registration of land transactions currently operating in informal market can improve revenue to municipality through rates, property sales taxes, rebates, provision of free basic services etc</p>
<p>Need to establish an integrated unitary system of land use that works for the poor</p>	<p>Reduces vulnerability, reduces costs of accessing formal market, promotes inclusion</p>
<p>Need for intergovernmental co-operation and co-ordination</p>	<p>Will improve local municipality’s understanding of, and ability to manage and control, many areas currently operating in informal market. Could reduce transaction costs, improve availability of cheaper land to the poor</p>

8. WORKSHOP REPORT

8.1 Introduction

Workshops were held with each of the three case study municipalities – eThekweni, Ingquza Hill, and Buffalo City. The first of these initially involved a fairly detailed discussion of the earlier research findings, key concepts and thematic areas outlined in the conceptual framework with senior planning and other officials from eThekweni. As eThekweni was a case study in both the land management and land market research, and officials are very familiar with the work of Urban LandMark, this was particularly useful. This was followed by a discussion of those issues that would be most relevant for proposal development in the municipality. The following two workshops in Ingquza Hill and Buffalo City were similar in format, but concentrated more on municipal-specific issues that could be developed into proposals that would be of particular benefit to the municipality.

8.2 Workshop Structure

Workshops consisted of three broad areas, as indicated in the agenda below. For all three workshops municipal officials were sent the agenda and draft conceptual framework several days prior to the workshop. However, the time allocated for discussion of each varied, with the metro workshop concentrating on the first two items. Following the initial presentation, in Buffalo City and Ingquza Hill municipalities greater discussion time was spent on the second and third items.

8.2.1 Agenda

1. Brief overview of land use management and planning, the formal and informal, key principles and themes (i.e. sections 1 – 6 of Conceptual overview), and confirmation of these in the municipality
2. Discussion of potential issues for proposal development (section 7), and selection of between 1 and 3 issues for more detailed proposal development in the municipality (see list of potential topics below)
3. Focus on 1 - 3 issues identified above to develop more specific proposals for possible implementation in the municipality.

8.2.2 Possible areas for proposal development

Although municipalities were provided with a list of possible areas for proposal development (below) to guide their thinking and the discussion, participants seemed to understand the key issues very quickly and did not refer to this extensively.

Legal processes

- **Township proclamation and title deeds** etc – increasing efficiency, control land use practices, different titling options
- **Land-legal section in housing departments** – to wrap up township establishment

Informal settlements

- **Release of land proactively for informal settlement and guided settlement**
- Pilot proper **in-situ upgrading** of an informal settlement and regularizing of tenure

Land use management practices

- **Livelihood diversification** – there is a need to consider how income generating opportunities can be increased within the legal framework e.g. has implications for law enforcement, uniform standards and uniform enforcement (backyard shacks, urban agriculture, home-based enterprises; Implementation of development zones e.g. restriction on enterprises within range of schools).
- **Investigation of use of ‘incentive zoning’** i.e. a development in land use regulation that encourages the creation of certain amenities and land use designs that a community wishes to promote from developers in order to obtain certain benefits for the communities (e.g. using a density bonus in exchange for affordable housing, public space)
- **Upgrading of settlements** – land identification and location
- **Special zoning** for social housing and informal land uses
- **Promotion of Inclusionary housing** (e.g. in golf estates, gated communities)
- **Plot size and operation of market** - role of public space and safety; planning for infrastructure; densification; planning for public space

Forward Planning

- **Spatial planning/visioning** with market perspective – need to incorporate a land market logic into IDPs

- **Cost size to developers** of installation of services etc – how are these incorporated into municipality’s plans, affects land price as rich currently subsidized – cost of peripheral development
- **Increased use of public funds on operation of land and development markets** (such as transport infrastructure) rather than low-income housing developments, and investment in public infrastructure and facilities in RDP areas to increase differentiation from informal settlements
- **Other??**

8.2.3 Template for Proposal development

In all workshops, the presentation included the following template to indicate the levels of detail that would be required for the actual proposal development. However, for most proposals only a few of these details were able to be completed in the time available. The researchers agreed to complete these and e-mail them to key participants for information and any further clarification.

Proposal xxx	
Statement of purpose	
Problem statement	
Objectives	
Narrative description	
Key role players & stakeholders	
Key target groups	
Main activities	
Level of inputs required	
Outputs	
Impact & feasibility assessment	
Cost breakdowns	
Time frames	
Geographical focus	
Risk assessment	
Key assumptions	

8.3 Ethekwini Workshop

The workshop with eThekwini was held on 26th October, 2008. In attendance were key senior planners and relevant officials.

The initial presentation of the key conceptual issues was followed by lengthy discussion. Most officials present were very familiar with Urban LandMark's work and several have worked with researchers on previous or current projects for Urban LandMark.

Key issues raised included the following:

1. While housing and land for the poor are traded socially in many cases, the tools available to address this are legalistic. There is no appropriate legislation to release well located land quickly.
2. A key issue in eThekwini (which is one that mirrors all other case studies) is the need for housing for people earning R3500 – R7500 (termed gap housing by eThekwini officials). An example is a current project in Phoenix.
3. There is a need to increase densities.
4. While the city can put out requests for proposals to developers to provide housing, and individuals can apply for bonds to finance these, what is missing are the internal services. Usually the developer has to put down a guarantee to provide services. Transfer can only happen once services are in, yet the Department of Housing has no funds available for this. Council makes land available and the developer does the construction, with council backing. Thus the developer serves as a vehicle for council for development. This is addressing the gap (middle income) market. The city could only have sold the land by tender. They are undergoing the full subdivision process, and only get money back when services are in. They could also have sold it site and service. The question to be addressed is whether or not there is another model? This problem is similar to that for low income housing, and the process is hampered by delays.

Another land-legal mechanism is needed. What is necessary to release public land for formal housing quicker? What are the banks looking for? Could we use a different system to be

quicker? Using the Development Facilitation Act, it is possible to set up townships without certain regulations – will banks bond on that?

5. Durban had a Section 21 company in an effort to fast-track this type of development, but this proved to be very problematic and officials are still trying to unravel many legal complications associated with it.
6. It would be useful to examine the DFA in the context of providing hope for initial ownership. It could allow access to the bulk of funding upfront.
7. It would be useful to examine to what extent the DFA does help to bypass the lengthy route – for poor and gap housing, using Phoenix as a case in point. A comparison could be made between the DFA and another route.
8. A problem is that all money is frozen until transfer. All processes etc work against each other to achieve quick transfer. It is a lengthy and expensive process.
9. In the Phoenix case the developer takes transfer of all land and has to transfer on to beneficiaries; the transaction is between the developer and the user. However, this model is not financially sustainable for the city. The time frame is about 3 years but the city would like it to be 8 months. Other options include LEFTEA or the DFA. However, with the DFA, once an aspect such as NHBR standards are suspended, it is not possible to obtain bond finance. Health, safety, and amenity issues are compromised because NHBR and town planning regulations won't apply. There is a need to find a middle road; a need for a seamless fit between formal and informal. The key is delivering tenure and ensuring residents have "bankable rights". Then it is possible to re-introduce town planning regulations. For the gap market the DFA should be considered.

Issues to be considered are who are the beneficiaries of the gap market? How stable is that sector in that town? What is the link between social housing and middle income housing?

10. A useful case study would be Conubia, in Phoenix east, opposite Gateway. It would be useful to see how this has unfolded. It is well located land, but the municipality have fallen down on how to make it available to the poor. City intent has been that it's an opportunity for poor to get well located urban land. However, instead developments end up unlocking business and industry in lucrative areas.

There are 2000 ha sites. An important issue is land value and land pricing. Tongaat use their profit margins to provide land value pricing. This is very different if the city wants to price bid for the poorest of the poor.

11. Possible proposals include

- Titling and use of existing legislation – what innovation can we find in existing legal system, land use management and titling (interplay)
- Single land owner, SOE – what happens for inappropriate social responsibility. Has ot be proportion of land for development for the poor – land sharing
- To what extent are existing informal settlements being upgraded, formalized etc e.g. registering owners. Slums clearance project and informal settlement programme – identifies outer footprint of settlement and business in it. City considers suitability of the land – can they do development there, environmental planning and ownership issues

12. A very interesting area to study is Amaoti which will have 10 000 sites eventually. This is near Cotlands, at the back of Phoenix. It is a very dense area with no services, no health services, and high densities. It is situated on an area which involves 128 private land owners. In order to address the problems, the city therefore needs to acquire all that land. PPT has been working on it, trying to develop ways of consolidating it into common ownership. A process is needed to handle those situations where there is a willing owner etc. The city needs to find the owner in order to be in a position to expropriate which is not always possible. It will be a very difficult exercise to get that much land into common ownership.

One possibility is that the initial ownership envisaged in the DFA could be used. Issues to be considered include what vehicle can be used for township establishment, the need to deal with informal land transactions that are happening and where to allocate people (e.g. in Amaoti and Cuba) while upgrading is underway.

13. Another geographical area of interest is the area behind the new airport. Here services will be an issue. The city is looking at social housing and low income housing.

14. There is a need to segment housing further – social, gap, SR400 etc

15. The question was raised as to whether zoning can be used as an instrument to provide greater access for the poor, i.e. zone to force transitional areas, which allows for more players.

The city has established spot zoning, where areas around in situ upgrades are zoned up, e.g. for medium density housing (or social housing). This gives the land user and estate agent the clear notion that this is for gap housing. It allows for mixed areas and is more accepted. This affects land values. Issues to be considered include to what extent this results in a segmentation of housing on the basis of SRS and affordability (class and race).

16. Durban now allows 3 units on one piece of land including a second dwelling and a granny flat.

17. Land for income generating activities by and for the poor e.g. Bridge City is not happening.

Proposals:

The following issues were put forward for further development into proposals:

- 1. Legal/titling – gap housing - Phoenix**
Mechanisms for rapid release of land

- 2. Amaoti – land acquisition**
Innovative land assembly, land readjustment, land pooling, reblocking, land sharing, transfer of development rights

- 3. Land use zoning**
Acknowledge the change in land use – transitional zones

- 4. Land sharing – Conubia**
High income with portion of land set aside for low income housing

It was noted that for all of these you need drivers and champions and capacity issues are very difficult and complex. It is important, nationally, to implement pilot studies which are innovative, in order to try to overcome some of the current difficulties faced at local level.

8.4 Ingquza Hill Workshop

The Ingquza Hill workshop was held in Lusikisiki on 4th March, 2008. In attendance was a range of councilors and officials. The workshop was dominated by councilors, many of whom seemed to have a very clear grasp of the key land use management and planning problems faced by the municipality. Following the initial presentation by the researchers, discussion was lively and it was clear that the presentation addressed many important issues the municipality is currently grappling with.

Key issues raised included the following:

1. All land should be under government control. There is a misunderstanding on the part of government that traditional authorities want to “do their own thing”. A key issue to consider is who owns the land? Government needs to give direction to chiefs on how to use the land.
2. Land invasion in the municipality is a major problem. What mechanisms can be put in place to ensure that government has control over the land and stop invasions? Legislation to deal with this is fragmented and includes the Ordinance 33, DFA, CLARA, and the Protection of Informal Land Rights Act (PILRA). A key issue is who owns land and what triggers land invasions. Linked to land invasion is by-law enforcement and the capacity of municipality to do this (skills and resources), and the role of councilors in this.
3. In coastal areas private capital uses poverty and illiteracy to push through big up-market and environmentally insensitive developments, leading to colonization of another type.
4. One participant raised the issue that it is important to include both chiefs and councilors in meetings of this nature, otherwise there will be no resolution of issues. There is a need for a common understanding of the issues and how to deal with them. It was agreed that chiefs would be involved once the proposals had been developed.
5. What is the solution to the problems of planning towns that were planned with a racial agenda – with the poor placed far away from centre, adversely affecting them? How do we address the imbalance of the past?
6. What do we consider an urban area? The issues of the distinction between urban and rural in the context of this local municipality were raised – what is appropriate land use management and planning in this context?

7. Enforcement issues and lack of planning capacity are major problems. There are only 2 planners, and it is impossible for them to enforce the relevant by-laws that do exist, and to manage land invasions.
8. The roles and responsibilities of traditional authorities vs local government need to be clarified.
9. Invasions are led by someone who knows what they are doing is illegal; however, those who follow may not know this. The municipality needs a tool on how to fast-track land as it is currently taking too long to release and develop land e.g. erf 80. Applications are ready but the land is not developed. There is a need to see concrete results. People are hungry for land, if delays in investors building need to take away development rights. The municipality does not have enough security to look after land and prevent invasions.
10. A related issue in land invasions is that of the commonage, which belongs to the municipality. Other issues are the protection of land invaders by law, e.g. demolitions, which is a problem. In addition, the future aims of the municipality are not communicated to people therefore they feel free to invade vacant land. There are no mechanisms to prevent land invasion
11. One of the problems relates to land allocation by traditional authorities. In many cases, acting headmen are not earning a salary therefore are open to bribes; there is an urgent need to deal with this. Their understanding is that they have the right to give people the land.
12. In dealing with this, it is important to look beyond the two main towns and to consider the rest of the municipality, in particular the areas along the coast, from Mbotyi to Mkombati where private capital is interested in development. For example, CPO and the provincial Department of Agriculture is “conniving with Chinese investors to sign away their land” which raises serious problems. There is a need for precinct plans for that area. The municipality has requested R2 million from province to plan that area. The SDF has just been completed and does protect that area, but needs to be implemented and supported.

Projects:

The following issues were put forward for further development into proposals. It was agreed that the relations between the traditional authority and the municipality and the fragmentation of legislation are over-riding issues that will impact on both of the above.

1. Land invasion

Key issues around this are:

1. Individual with full knowledge of the law is the initial invader
2. Power struggle between traditional authority and the council
3. Land ownership and disputes
4. Land claims issues – power play between traditional authorities, municipalities and province, land on the edge of commonage becomes a grey area, a transition area between state owned land and traditional authority land
5. Corruption
6. Internal political dynamics
7. No capacity for enforcement
8. No mechanism or strategy for land invasions
9. Inability to release land fast enough for urban development – capacity of municipality in terms of land use management and planning; need to fast track land

2. Coastal development

Key issues include CLARA and communities making decisions, investors engaging with communities for so-called investment opportunities

8.5 Buffalo City Workshop

The Buffalo City workshop was held in East London on 5th March, 2008. In attendance were key planning officials. Some of them had engaged with earlier Urban LandMark projects and were familiar with its work. Officials seem well aware of the key problems and issues relating to land use management and planning, and the market, and eager to engage in innovative projects to solve current challenges.

Key issues raised include the following:

1. Illegal land uses – the municipality does not have appropriate legislation to enforce this, and there is a very long process to stop it.
2. A major concern is poor people and trying to suitable land with access to economic and social opportunities.

3. The municipality is not able to maintain existing infrastructure, therefore is not in a position to provide new infrastructure for the poor on the outskirts of the city. In the long term this will be highly problematic.
4. There is a feeling that the municipality is reactive in its approach. There is a need to be proactive e.g. in terms of SDF but the municipality has other challenges.
5. The Land management policy has just been approved by the municipality.
6. The Duncan Village Redevelopment Initiative (DVRI) addresses the issue of sprawl, by looking at land nearer the city.
7. Development in traditional authority areas is problematic. There is a divide between the young and the old in terms of their views – the young are generally in line with the municipality's thinking, whereas the old are very different and do not want the municipality involved in their area. CLARA makes it difficult to address these issues. It is not clear how one addresses development in CPAs without causing problems in other areas such as shareblock and sectional title.
8. The fragmentation of legislation is highly problematic - Different acts – R293, 15 of 1987, 4 of 1984 etc.
9. Settlement planning in rural and peri-urban areas is a challenge. Policy is not grounded and the reality is very different from policy.
10. In terms of integration the existing urban form and new developments need to accommodate the poor.
11. Issues relating to the link between land use management and planning and the fiscal basis of the municipality are extremely important. In Buffalo City, Land Use Management and planning does not always translate into financial systems which leads to a loss of revenue for the municipality.
12. There is a need for increased management and control over more settlements e.g. water standpipe, and a constant cry for land audit.

13. A problem relates to the subsidy envisaging free standing houses on single plots. In Duncan Village a pilot has been initiated for higher densities. 9500 units will be provided in stages. Duncan Village is an inner city informal area with 20 000 households.
14. Infrastructure does not keep up with the growth of the city, and there are no opportunities for investment in infrastructure within the municipality.
15. Land release is very slow and can take 5 years.
16. State owned land is very expensive and often the SOE or other government departments are not prepared to release land to the municipality at any cost, even if they are not using it.
17. Intergovernmental relations are a major problem.
18. The number of informal households is also increasing as a result of individual households splitting to improve access e.g. children in shacks close to schools, while parents live in a different shack close to work.
19. Land in Duncan Village – this will provide individual title. The complexity relates to historical development. People want title and subsidy houses (“Mandela” houses). Some people have benefited before. People are also selling their RDP houses and are therefore not eligible for another subsidy. The Duncan Village project involves moving some people out, densifying inside. There is a problem with back yard shacks in formal parts. This needs to be considered in terms of that family unit, e.g. by indicating that someone will be subsidized by providing support for another unit on the same site. Government needs to consider this as it is a cheaper as people already have the land.
20. A Human settlement plan exercise is under way. R2.5 million has been spent on research over the last 4 years. This also addresses technical issues. 20 000 houses are needed in Duncan Village. Most will have to be outside Duncan Village, only 3 500 can be inside. Best in-fill areas are between East London and Mdantsane. A comprehensive infrastructure study has been completed which identified 200 dwelling units per ha.

Duncan Village serves as a classic reception area. The dilemma is that the municipality could be destroying a reception area to try to get rid of shacks by 2014. In the past, 300 sq m plot size was required. They have now agreed to 75 sq m plots after extensive public participation

and will be trying to do a double storey house. This will allow space for a second dwelling unit and offers the option of rental.

A key aspect of this is the need to recognise that everyone does not need an RDP house. They should be able to come to Duncan Village and live in a formal backyard structure. There is a need for developing mechanisms to formalize and make safer the informal/backyard/rental market which will not destroy the reception area function of Duncan Village.

The shack and population study shows that no one has regular income, but that they augment their income in many ways.

The municipality has advertised for consultants to conduct an informal settlement and upgrading survey. It is important to understand what are the quantitative issues within these informal settlements, considering urbanization policy and different types of settlement. It could be useful to conduct a comparative study. A project is underway considering the role of informal settlements. What is going on in informal settlements within the urban edge? Where are they, who owns, what are the land tenure arrangements, priorities, budget, funding etc. Understanding social and economic dynamics is very important in order to develop a response.

It is important to understand why are people coming in, what are the social relations, who heads households etc and what is the appropriate policy response based on this. If the answer is backyard shacks, how is this implemented?

R1.2 billion is budgeted for infrastructure (of R2 billion) for DVRI. It is difficult to get appropriate national funding. All key things that need policy are unfunded mandates, and there appears to be no policy response or mechanisms to make it work. National officials were initially interested in the project, and providing support through the Breaking New Ground programme, but did not follow through with funding.

Key issues include people who are non-qualifiers, and how to address their needs, as well as people who are multiple qualifiers.

Land management committees have been established in each ward, and they assist in monitoring shack construction.

21. The land use management and planning needs to consider backyard shacks as a second dwelling unit. The problem is funding for the second dwelling.
22. There is also a need for a public transport response to densification.
23. The municipality had a project where they bought back shacks once people had been allocated a formal house, to prevent further construction of shacks, but this was stopped by national government.

Like eThekweni, officials indicated that there is a need to be brave and pilot different projects to address the challenges they face.

Project:

It was agreed that the **Duncan Village Reconstruction Initiative** is the most pressing issue facing the municipality. It encompasses a broad spectrum of challenges faced across the municipality, and could serve as a model for addressing land use management, planning, titling and access issues nationally. The municipality is in urgent need of research and implementation support to ensure that this project is carried out effectively. In addition, there are a number of innovations that could be piloted in this area.

8.6 Conclusion

In all cases participants grasped the concept of an informal or socially dominated market very quickly and did not dispute the research findings or the importance of using land use management and planning tools to address land market issues. This was gratifying, as the researchers had expected that this aspect of the workshop would require greater clarification and awareness raising. This expectation was to some extent informed by the experiences in the earlier project which investigated land use management and the operation of the land market in 6 smaller towns, where some officials and councilors denied any operation of an informal land market and did not appear to be concerned with how to address it in planning terms.

There are fundamental differences in the three municipalities e.g. in Ingquza Hill officials and councilors are still dealing with issues in generalities, and are not yet at the stage of projects whereas

Buffalo City and eThekweni are dealing with issues in terms of specific projects. In eThekweni officials are dealing with the causes of issues or problems, whereas in Ingquza Hill they are dealing with the symptoms and still need to unravel the multiple causes.

Both Buffalo City and eThekweni have relatively high levels of capacity, and are keen to work on specific projects in an innovative manner. In Ingquza Hill, however, capacity levels are abysmally low, and officials and councilors are desperate to address major challenges which could have far-reaching implications for them if not addressed.

9. PROPOSAL DEVELOPMENT

9.1 eThekwini

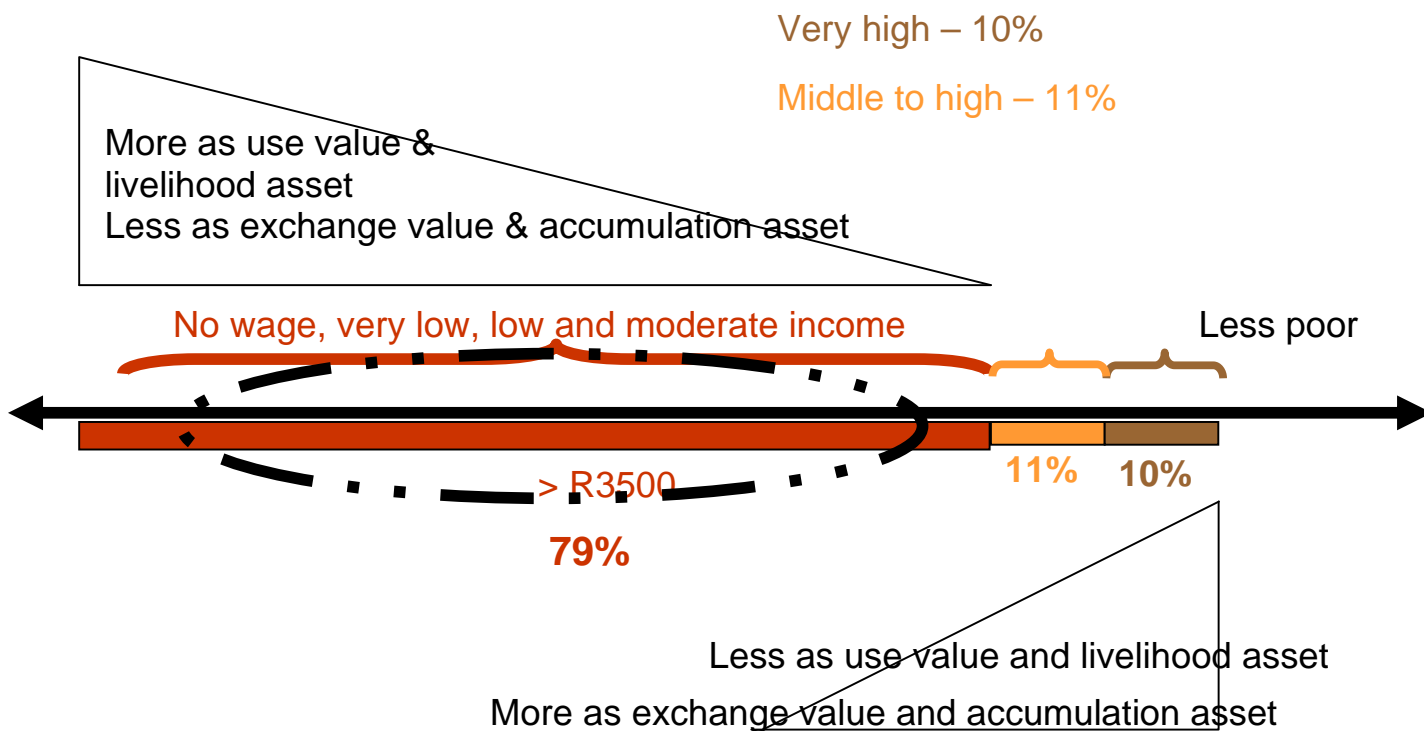
eThekwini municipality is faced with a range of challenges with regard to planning and the provision of housing and land, particularly for lower income groups. These include finding ways of delivering land for development more efficiently and effectively, particularly in well located areas, to speed up the process of delivery, increasing the housing opportunities for middle income earners (“gap” housing), in situ upgrading and greenfields development of well located land to provide inclusionary housing and mixed use development.

eThekwini has probably the highest levels of development planning capacity in the province and a great deal of work is currently underway within the municipality to address these issues. However, existing capacity is extremely stretched, and planners and other officials find that they do not have time to reflect on what they have done, to examine the processes they use for land development, or to explore and pilot alternatives. This relates to alternative mechanisms for the release and development of land, building of housing, and implementation of different tenure options to address varying needs and take into account the existing informal market and plot size. Both planners and housing officials are under extreme pressure to provide low cost and gap housing as soon as possible which limits their ability to think differently to consider different scenarios other than those that have been tried and tested, and in most cases are extremely lengthy.

The area to the north of Durban is growing rapidly in all respects. This includes commercial and retail land use, particularly around Umhlanga, and residential growth of all types, from extremely wealthy to informal settlements. Much of the land in this area was (or still is) owned by Tongaat Hulett Properties and is as yet undeveloped. This project proposes three different types of interventions in neighbouring areas to the north of central Durban, all with very different types of land uses. One examines ways of addressing issues of land assembly associated with in-situ upgrading of Amaoti informal settlement, the other looks at examining the processes followed in releasing land and providing gap housing in Phoenix, while the third considers the different options for the greenfield development of the Cornubia area to provide mixed uses with inclusionary housing, in a well located area adjacent to one of the wealthiest areas in the city. All three are subject to similar market forces operating in this rapidly growing area of Durban, with much investment geared to up-market residential and commercial activities.

The proposed interventions are aimed at different sectors of the market, in areas with different tenure potential. The diagram below provides an indication of the differentiation of the market in South Africa². Only 10% of households earn over R8000, while 79% of households earn less than R3500 per month, with 11% forming the “gap” market of between R3500 and R8000 per month. At the lowest end of the market, land is valued for its use value and as a livelihood asset, and less for its exchange value and as an accumulation asset. At the upper end of the market on the other hand, land is seen less for its use value and livelihood asset, and more for its exchange value and accumulation asset. There is a link to the operating of the market, with properties in the lower end more often than not being transacted in the informal, socially dominated market, while those in the upper segment generally operate in the formal, financially dominated market.

Towards differentiation and focus of (public) effort



Any interventions need to take account of this differentiation. This is particularly the case at the lower end of the market, where it is important that upgrading or new greenfield developments take account of the need to secure livelihoods while providing more secure housing options. It is also important to try to develop mechanisms whereby there can be mobility between the markets, particularly over generations, so that the poor do not find themselves trapped in one particular sector and unable to

² Royston, 2008

move out. This project will consider how the city can deliver housing and other land use options to provide a greater range of opportunities to the poor, and to shape the market to better suit the poor. Possible tools include different legal routes to land release, introducing new tenure options such as group or block tenure, land sharing and land pooling, expropriation of land where existing landowners are reluctant to develop in a manner which increases options for the poor, and the reduction of subdivision and other costs in certain cases.

9.1.1 eThekweni: Amaoti – in – situ upgrade and land assembly

Narrative description

Amaoti is one of the largest informal settlements in Durban. It covers about 700 ha in the far east of the wider Inanda area, stretching from Phoenix in the south to Umhlanga in the east. It includes 14 different communities, namely Nigeria, Cuba, Zimbabwe, Palestine, Moscow, Libya, Namibia, Angola, Mozambique, Tanzania, Zambia, Geneva, Lusaka 1 and 2 (Enumeration exercise).

Most development in Amaoti is informal, with few local supporting facilities and amenities, few formal services and mostly informal and unsurfaced access roads, apart from the main road through the area. The area is densely populated with generally poor housing, poor sanitation, tenure insecurity and the lack of other essential services. Most of the area is very steep, apart from stretches of land along the Ohlanga River valley (ibid).

Some land is owned by the state although most is owned by private individuals. Approximately 14 000 families live in the area, with an estimated population of over 31 000. Most residents have migrated from beyond the city's boundaries (Enumeration exercise).

The Amaoti Development Framework Implementation Framework was produced in 2002. It proposes that the whole area be developed into a high density area through in-situ upgrading. It envisages that this will occur in 5 phases that involve decanting, servicing and developing each area. During this exercise it will be extremely important to take cognisance of the fact that there is a significant level of economic activity within the area, along with social facilities. This is mainly to serve the needs of the residents, and includes shops, schools, churches and other services.

The development framework proposes a major arterial along the valley facilitating access to employment centres developing to the north of the city that include the new international airport. Residential densities are higher near to the corridor and the better services/facilities that are located

there and fall away with distance from it. Minimum site size is 150m². With the installation of access and services some relocations will be effected which will have the effect of homogenising densities to an extent but the basic pattern will remain. It is intended that all sites will have vehicular access (Cities Alliance presentation).

Tenure issues

The enumeration exercise provides a breakdown of the population and average household size by community within Amaoti. Household size ranges from 1.6 in Angola to 3.2 in Lusaka 1 and Palestine. Overall there are more structure owners than tenants in all the areas, with 62.68% being structure owners, 37.17% tenants and 0.09% landowners (Enumeration exercise). There appear to be 3 types of tenants:

- i. 'Structure owner tenants' - tenants who rent the land from private owners and build structures on that land,
- ii. 'Sub-tenants' - those who rent formal structures
- iii. 'Backyard sub-tenants' – those who rent backyard shacks from sub-tenants

Types of housing

The enumeration exercise provides an indication of the different types of housing structure by community. Overall, the following pattern can be found in Amaoti:

- i. Informal structure, built of mud, gum poles, scrap metal and plastic (52.91%)
- ii. Formal structure, built of blocks or stone (i.e. 35.67%)
- iii. Shacks, built of plastics or wood (7.27%)
- iv. Backyard shacks (4.14%)

Sanitation

Levels of sanitation are generally inadequate throughout the area, with Nigeria being the worst off. Approximately one third of the population use communal toilets (31.39%), 38.77% have their own toilets, and 29.84% have no toilets at all (Enumeration exercise).

Unemployment and grant subsidies

Of those who fall into employable ages, 55.29 % are employed either temporarily or permanently, 44.70% are not employed at all and 0.01% are self-employed. Over one quarter of the population receives a child grant (25.05%), 0.27% receive a housing subsidy, 10.42% get a pension every month, 2.64% get a disability grant, and 0.24% get a refugee grant (ibid).

Problem statement

The land in Amaoti is partly owned by the state and partly by private owners. Over 128 land owners have been identified, the land has been valued, and the city has determined the price they are prepared to pay. However, many of these are deceased estates, some even second or third generation. There is a significant portion of black owners, with properties of 5 000 – 20 000 sq m.

Informal land transactions are also occurring and will need to be considered in any plan for the area. In order for upgrading to occur, this land needs to be consolidated into common ownership. The city is currently considering expropriation as an option.

There are international experiences pertinent to this study. For example, in some countries various methods of land assembly have been implemented, such as land readjustment, land sharing, and land pooling, and innovative tenure systems have been put in place, like group/block tenure. These may well be able to be adjusted and implemented in Amaoti.

Objectives

The project will examine mechanisms by which large tracts of different parcels of land can be assembled and released for low income development to facilitate in-situ upgrading of the area, and how this could be applied in Amaoti. For example, the city could identify the outer footprint of the settlement and the land owners within it. It would then need to consider the suitability of the land for development looking at environmental and ownership issues.

A number of issues would need to be considered. These include whether or not a single approach would be appropriate in Amaoti or whether it would be preferable to adopt different approaches for the 14 communities within the broader area, based on characteristics such as the landownership, tenure status, land conditions, nature of the community etc. The legal and policy framework within which the city operates to develop land and upgrade settlements would need to be examined in order to develop a range of possible options. These should take into account the international approaches outlined earlier as potential solutions to be adapted and applied to the particular circumstances facing Amaoti.

Once appropriate alternative mechanisms have been decided, a pilot project will be developed and implemented in association with the relevant city officials.

Geographical focus

Amaoti, an informal settlement north of Durban.

An investigation would need to consider different geographic scales, at the more local, community scale, and at the broader scale of the area as a whole.

Main activities

The following activities are envisaged:

- i. Develop an understanding of the nature of Amaoti, and the communities that comprise it. This includes aspects such as basic demographic and social issues, economic issues including employment patterns, livelihood diversification, access to employment, social, residential and commercial opportunities, service delivery, transportation, tenure patterns, household structures etc. In addition, it is important to take into account the future plans for the area, such as the road network and key services. It is not expected that this will involve lengthy primary research, but will be mainly a desk-top exercise, possibly with interviews to update information with key officials or role-players in the area.
- ii. Investigate the land legal process currently underway through interviews and desk-top research
- iii. Review international experience to identify options for land assembly and tenure related issues linked to in situ upgrades (e.g. land readjustment, land sharing, land pooling, group/block tenure and leasing)
- iv. Develop possible options appropriate for Amaoti, bearing in mind the legislative, policy and budgetary environment within which the city needs to operate and discuss these with key individuals, or workshop it with relevant role-players
- v. Propose final recommendations for development and upgrading of land. This might include an indication of a phased approach, identifying those areas that are more readily secured and moving on to those that are more difficult. This needs to take into account the phased process proposed in the Amaoti Development Framework, and subsequent developments. These recommendations will be workshopped with officials and relevant stakeholders, and a final set of appropriate options developed.
- vi. These options will then be implemented as a pilot project – an implementation strategy will be developed, and the team will work with officials to assist in compiling material for implementation, arranging workshops and providing other logistical assistance as necessary.
- vii. Ongoing monitoring of the implementation process, in conjunction with city officials with report backs to stakeholders as needed.

Key role players & stakeholders

Key role players and stakeholders include, at a municipal level, the development and planning department, the housing department and the INK (Inanda Ntuzuma KwaMashu) area based management team. In addition, it will be necessary to consult with those responsible for the land legal process and possibly with representatives of local communities. Key individuals and groups have been listed below.

eThekweni municipality:

Development planning – Soobs Moonsammy, Head

Housing – Belinda Benson, legal advisor

INK area based management – Linda Mbonambi, Head, INK

Sibusiso Dlamini, Development Planning, Spatial & Land-Use Manager, INK

Land legal process etc:

Project Preparation Trust – Mark Misselhorn, initially project managers

Njabula Maseko – attorney with Randles responsible for the land legal process, packaging for DLA approval and funding

National Department of Housing

Local communities

Inanda Land Owners Association

The residents themselves and Homeless Peoples Federation

Community Organisation Resource Centre

Key target groups

The key target groups for the development itself are the affected community and current landowners. Municipal officials should also benefit from the development of guidelines for such land assembly and in situ upgrades. If this process is successful, there is the possibility that this could serve as a model for similar areas across the city.

Deliverables (outputs)

The final deliverable would be a comprehensive report, outlining the following:

- Key relevant characteristics of Amaoti,
- the land legal process to date,

- the relevant international experience,
- recommended options for Amaoti
- implementation strategy
- report on implementation progress and monitoring of implementation

Cost breakdown

It is estimated that this aspect of the project would cost in the region of R635 000 excluding VAT, broken down as follows:

Research and development of options (3 – 4 months):	
55 days @ R5000 per day	R275 000
Disbursements (travel and subsistence)	R15 000
Implementation and monitoring (6 - 8 months):	
40 days @ R5000 per day	R200 000
Disbursements (travel and subsistence)	R20 000
Total	R510 000

Time frame

It is estimated that the project would take 9 – 12 months.

Impact & feasibility assessment

Providing detailed research, clearly articulated options and recommendations to the city and working with the city to implement some of these, could assist in upgrading efforts across the city and thus impact directly and indirectly on the lives of residents in informal settlements.

Providing people with secure access to property implies increased access to the opportunities offered by an urban environment, including the urban economy, social facilities such as schools and livelihood opportunities. It is important to ensure that productive use of land (such as home based enterprises, urban agriculture, renting etc) is facilitated while at the same time developing mechanisms to promote the participation of the poor in the more financially dominated market i.e. to prevent them from becoming “trapped” in a low income residential area, from generation to generation. Thus mechanisms need to be used to protect the poor from the operation of the formal market which places a high value on well located urban land, while at the same time ensuring that these very mechanisms mean that they are unable to use their property as an asset to move out of such areas into wealthier areas.

Most material necessary for the research is relatively easily available. It needs research expertise to collate it, analyse it and develop recommendations, and technical expertise to assist in implementation and pilot projects. Given the specific nature of Amaoti and the legal framework, some options for land assembly and in situ upgrade will not be feasible. The recommendations will provide an indication of the feasibility of each option, and will highlight those that are feasible.

The development and piloting of an implementations strategy will assist city officials to reflect on alternatives to existing processes, and to develop and test more innovative approaches which could be adapted for use in other areas of the city.

9.1.2 eThekwini - Cornubia - Land sharing

Narrative description

Cornubia is situated in Phoenix East, opposite Gateway shopping centre in Umhlanga. It is a large (1200) ha site, constituting well located land but the process of developing it, and making it more accessible to the poor has been fraught with problems. Although not close to the centre of town, Cornubia is very well located with respect to the major economic node of Umhlanga.

Cornubia is a green field development on land currently owned by one landowner, Tongaat Hulett Properties. Over 5 years have been spent on this project to date. It involves phased housing. Currently a land legal audit is underway with a view to recommending the most appropriate and quickest legislative framework (e.g. DFA or LEFTEA).

In 2004/5 it was proposed that mixed income housing be built, from RDP level to R800 000. Approximately 30 000 units were envisaged, with a spatial spread of income types and house values. Commercial and office space would be developed along the N2. This was initially acceptable to Tongaat Hulett Properties (then Moreland), but they later contracted their own consultants to develop a new plan. This proposed a more than R2.5 billion, mixed use development including social housing, office and retail. It is expected that this could house 30 000 people, and generate more than R300 million annually in rates and taxes (Skyscraper city forums). It is proposed that 20 000 units will be built.

The area of contention was that the city wanted 40 sq m RDP-type houses to be built at a cost of R80 000, whereas Moreland wanted the smallest house to be 80 sq m, R200 000, targeted to a higher

income (Pather interview). Currently, Tongaat Hulett proposes densities of around 60 units per ha, whereas the city would prefer densities of 80 – 90 units per ha (Benjamin interview).

Currently the area is being re-planned. And a land legal audit is underway. There is horse-trading between the city and Tongaat Hulett properties, with the city requiring 20% inclusionary housing, while Moreland wants to provide a similar size piece of land outside the area.

Recent press reports indicate that a formal environmental impact assessment and communication process will be implemented within the next month. Land sales could begin from the end of 2009. It could take over 20 years to complete. However, "it has the potential to be contentious but it also has the potential to be a significant intervention. Cornubia has to yield a substantial volume of new working class and middle-income homes" (Business Report, January 22, 2008 and February 26, 2008). It is expected that Tongaat will provide bulk infrastructure and the framework for development to take place in response to pressure from the council to provide opportunities for low-income earners.

There is low income housing approximately 4 km from Cornubia, in Waterloo near Verulam, consisting of over 1000 RDP houses. Cornubia would therefore serve as an intermediate location between Waterloo and Umhlanga (McCarthy).

Problem statement

Conflict between the city and the landowner, Tongaat Hulett Properties over the nature of development in this area which is close to high income residential and commercial offices has been protracted and the city is anxious for development of mixed, higher density housing to begin. This is in order to ensure that some of this valuable land is made available to lower income groups than the traditional Tongaat Hulett market and that the city is able to use the land to assist in meeting its overall housing delivery needs. The city is keen to explore what institutional models, densities and housing typologies can be used to ensure a mixed use development with inclusionary housing.

Linked to such an investigation is a consideration of the processes and mechanisms involved in releasing land for development. The current processes are lengthy and cumbersome and it would be useful to investigate whether there are appropriate alternatives. For example, in some countries land sharing and land pooling, and innovative tenure systems have been put in place, like group/block tenure which may provide lessons which could be adjusted and implemented in some areas of Cornubia.

Objectives

This project would investigate similar greenfields, mixed use developments that provide a significant portion of lower income housing in order to suggest the nature of the urban form, and what institutional models can be used to deliver such a development. Of particular relevance to this would be an examination of the Cosmo city development in Johannesburg, looking at how it developed, the nature of the current and proposed urban form, and the institutional mechanisms which facilitated this.

The legal and policy framework within which the city operates to develop and release land would need to be examined in order to develop a range of possible options. These should take into account international experience where appropriate and ensure that a range of housing types and tenure options are included. Ideally recommendations should include a comparison of the different legal mechanisms available to the city for this development, indicating the advantages and disadvantages of each (e.g. DFA vs LEFTEA).

Once appropriate alternative mechanisms have been decided, a pilot project will be developed and implemented in association with the relevant city officials.

Geographical focus

Cornubia, across the N2 from Gateway shopping centre, which forms part of the wedge of sugar cane land which served as a buffer strip between Newlands, Kwa Mashu, Phoenix and Inanda and the wealthier white suburbs of Umhlanga and Durban North.

Main activities

The following activities are envisaged:

- viii. Develop an understanding of the background to the Cornubia development, reviewing the various plans that have been developed to date, and gain a thorough understanding of the current status of the development. This would need to include an understanding of the areas surrounding Cornubia, and the overall housing, commercial and economic plans of the city, particularly in the north, in order to contextualise the development. This would mainly be a desk top process, with interviews with key role-players, in particular Tongaat Hulett, the city's development planning unit, and possibly the city's housing department.
- ix. Develop an understanding of the legal mechanisms available to the city for the development of the area, mainly through desk top research with the possibility of several interviews.
- x. Review international and/or national experience to identify options for the development of large scale, mixed use developments of this nature that offer a range of housing options. This would need to include an assessment of the nature of the urban form, and the

institutional mechanisms that have been used to achieve this, options for tenure related issues such as land readjustment, land sharing, land pooling, group/block tenure and leasing.

- xi. Develop possible options appropriate for Cornubia, bearing in mind the legislative, policy and budgetary environment within which the city needs to operate, the needs of the city as a whole and the nature of the surrounding areas, and discuss these with key individuals, or workshop it with relevant role-players.
- xii. Based on the feedback in the preceding phase, propose final recommendations for the development and release of land in Cornubia, and the desired urban form. These recommendations will be workshopped with officials and relevant stakeholders, and a final set of appropriate options developed.
- xiii. These options will then be implemented as a pilot project – an implementation strategy will be developed, and the team will work with officials to assist in compiling material for implementation, arranging workshops and providing other logistical assistance as necessary.
- xiv. Ongoing monitoring of the implementation process, in conjunction with city officials with report backs to stakeholders as needed.

Key role players & stakeholders

Key role players and stakeholders include, at a municipal level, the development and planning department and the housing department. In addition, it will be necessary to consult with Tongaat Hulett properties to gain an understanding of their views, and overall plans for the area. It may be beneficial to consult with those responsible for the various plans that have been developed to date, the most recent being Urban Skywalkers. Key individuals and groups have been listed below.

eThekwini municipality:

Development planning – Soobs Moonsammy, Head

Development and planning – Gavin Benjamin

Tongaat Hulett Properties

T C Chetty

Local communities

Umhlanga Residents Association

Mt Edgecombe Residents Association

Key target groups

The key target groups are the potential landowners and residents. If this process is successful, there is the possibility that this could serve as a model for similar areas across the city.

Deliverables (outputs)

The final deliverable would be a comprehensive report, outlining the following:

- plans and developments to date,
- the relevant national and international experience in similar areas,
- recommended options for Cornubia
- implementation strategy
- report on implementation progress and monitoring of implementation

Cost breakdown

It is estimated that this aspect of the project would cost in the region of R510 000 excluding VAT, broken down as follows:

Research and development of options (3 months)	
55 days @ R5000 per day	R275 000
Disbursements	R15 000
Implementation and monitoring (6 - 8 months):	
40 days @ R5000 per day	R200 000
Disbursements (travel and subsistence)	R20 000
Total	R510 000

Time frame

It is estimated that the project would take 9 – 12 months.

Impact & feasibility assessment

Providing detailed research and clearly articulated options and recommendations to the city could assist in similar developments in the city and thus impact directly and indirectly on the lives of residents of all income groups.

Most material necessary for the research is relatively easily available. It needs research expertise to collate it, analyse it and develop recommendations. Given the specific nature of the area and the legal

framework, some options for development will not be feasible. The recommendations will provide an indication of the feasibility of each option, and will highlight those that are feasible.

9.1.3 eThekweni - Legal/titling – gap housing, Phoenix

Narrative description

Phoenix constitutes a large residential area approximately 20 km north east of Durban. It was developed in 1966 on sugar cane land owned by Natal Estates. The first families moved into the area in 1976. It was developed as a result of the implementation of the Group Areas Act and Slum Clearance Acts moving Indian families into the area, many of whom originated in Cato Manor. The population is estimated at 500 000 (Mahommed, 2002).

The predominant form of development in Phoenix was social housing in apartments rather than stand alone housing. These have recently been upgraded by the municipality at a cost of approximately R6.2 million, and most of the title deeds have been handed over to the flat dwellers to extend home ownership. This constituted phase 1 of the Phoenix upgrade programme, and involved the formation of 90 body corporates (382 flats) (www.durban.gov.za).

In about 1999, the municipality conducted a land audit in Phoenix and identified approximately 800 vacant, undeveloped sites scattered in various built-up areas throughout the suburb. These had full services and were ready for construction of houses (Pather interview).

Initially sites only were sold, but by the end of 2007 less than 10% of the properties sold had actually been developed, with the bulk being kept for speculative purposes, which was against the municipality's intention to provide needed housing to a particular market (Pather interview).

In order to prevent speculative buying of land, it was decided to sell the complete product to beneficiaries (i.e. a completed house) rather than an empty stand and 4 developers were contracted to build these infill houses. Tenure was freehold title, and a racial quota system was put in place to redress the racial concentration in the area (Pather interview).

According to the municipality's website, in 2007 three private housing developers were appointed on an agency basis to build houses on these infill sites. Of these, 25% were to be allocated to those households earning less than R3500 per month, qualifying for a subsidy. The remaining 75% were to be allocated to beneficiaries falling within the middle income group (or gap market) earning between R3501 and R7000 per month. These houses would be eligible for bank loans. In 2007 the

municipality announced that “these serviced sites are currently being sold together with the building contract by the three respective developers. Once the beneficiaries have been identified according to the proposed racial breakdown, developers will then provide detailed plans in terms of specifications, materials and finishes preferred by the buyers. As soon as the property transfers is finalised and the land is registered in favour of the beneficiary, developers should immediately proceed with the building or development of houses within a stipulated period and that such houses should be provided for low income earners or low cost type of houses. The allocation of sites in respect of infill sites will constitute 50% being sold to the African community subject to meeting the stipulated criteria, 35% sold to the local residents especially the Indian community and the remaining 15% to include those who are not mentioned above. The time frame for the project is two years in terms of the contract entered into and between the Municipality and the Developers. Those who are interested should be in a position to secure the purchase price which is payable in cash or may be secured pending transfer by a guarantee in a form acceptable to the Municipality” (www.durban.gov.za).

Research would need to be undertaken to ascertain the current status of this exercise, but it is understood from initial interviews that the process of building on individual sites is complete and now the city is moving towards developing the bulk sites such as unwanted sites zoned for education etc. Where such sites are zoned for housing, the process is relatively straightforward. However, it is very hard to change the town planning scheme in Phoenix, and each application can take years to complete. The city has therefore often selected to sell large sites, rather than to undergo the processes necessary for subdivision.

Once the infill sites had been completed, vacant land on the boundaries of Phoenix was then developed for residential use, also aimed at the “gap” or “bondable” market, i.e. state employees, bank employees. This involved building approximately 1000 houses, constructed by Woodglaze Pty Ltd. The process to release the land for development involved rezoning, subdivision and registration. The developer only receives payment for the property when the bank transfers payment once the houses are completed, and thus bears the financial risk (Pather interview).

Units are being sold at historical costs to first time home owners, earning between R7500 and R8500, with dependants. Houses are not allowed to be sold within 8 years and have to be occupied by the principal occupier (i.e. cannot be rented out). Sites are sold by the city for R21 900 to the developer, and houses built at the developer’s risk as the developer needs to draw up plans, undertake the subdivisions, obtain approval etc. The city provides the developer with approved beneficiaries who fulfill the national housing criteria, the developer submits the bond application to the bank with the beneficiary and the city does not need to disperse funds for the construction of the house as bond

finance is direct from the bank. The bond is registered on the property, the conveyancer pays the city for the cost of the land, and the subsidy is deposited into the bond account of the beneficiary. The developer is paid the cost of the house and the land. There is no risk to the municipality in terms of finance, and aspects such as faulty buildings are the developer's responsibility. The city's costs are the land costs of R21 900 per site.

One of the factors contributing to high costs of developments outlined in initial interviews is that the city requires its own departments to pay the normal subdivision costs it levies. Thus for bulk sites, the city has to pay for subdivision and servicing which need to be recovered from land sales to individual beneficiaries. Once the bond is registered the city recoups its costs. It remains the land owner until the last stage of registration and is therefore not at risk. Transfer occurs once everything has been approved and registered. The funds from this transfer are then used to finance further development (Pather interview). A problem is that the city was hoping to achieve higher densities and has only managed to achieve 10 units per ha rather than 34. Rezoning takes 2 – 3 years which they are currently trying to short circuit by approaching Exco directly. Houses sell for between R129 000 and R200 000 for a 3 bedroom, 2 bath room house with a garage.

MFMA precludes the city from selling by public tender, or to state employees, which is a key reason that the city needs the developer to be the seller (Pather interview).

An alternative legal mechanism would be to use DFA and declare all plans upfront. This approach means that it is possible to establish a township without certain regulations. However, it is not clear whether banks will provide bonds under those circumstances (eThekweni workshop). One area of investigation associated with the DFA is that of initial ownership. This would allow the bulk of funding to be accessed upfront. It would be useful to investigate to what extent this helps to bypass the lengthy route, for both low income and gap housing.

Problem statement

The need for the delivery of gap housing to middle income earners is one that is found across the country. This market is not always eligible for a subsidy but often earns too little to be able to afford a non-subsidy house. The processes involved in releasing this gap housing to the market have proved to be protracted and the city is considering similar developments in other areas (e.g. Newlands, KwaMashu, and Westville). It is keen to find a better legislative model to develop higher density houses aimed at the gap market.

The lessons learned from Phoenix could serve a valuable role in developing alternatives. One option being considered is the establishment of a public housing planning unit within the municipality which might help to fast track land release and development. It is important that more forward planning is undertaken, such as developing effective mechanisms for densification. One of the problems is that it is difficult to develop higher densities suitable for social housing in Phoenix, as the town planning scheme only allows 2 storeys. Planning issues which are problematic in developing infill housing in an established area like Phoenix include the need for a traffic assessment and the high standards of the city for roads, which fly in the face of most compact cities internationally (Pather interview).

The city would like to find a “middle of the road” approach which provides a seamless fit between the formal and informal. Key to this is delivering tenure, bankable rights in an efficient manner.

Objectives

The objective of this project is to examine the legislative and land use management mechanisms used in the delivery of new houses in Phoenix (one of which was the city’s internal subdivision process, DSP, which takes between 18 months and 2 years) to establish what alternatives could have been used, what their advantages and disadvantages are, and what would be most appropriate in similar developments in the eThekweni metro.

Once appropriate alternative mechanisms have been decided, a pilot project will be developed and implemented in association with the relevant city officials.

Geographical focus

The key focus area of this project is Phoenix, situated about 20 km north of the centre of Durban. However, the results of the examination of the Phoenix experience will need to be considered in the light of other similar proposed developments in areas such as Newlands and KwaMashu.

Main activities

The following activities are envisaged:

- i. Develop an understanding of the background to the provision of gap housing in Phoenix, reviewing the different phases, what these entailed and how they were achieved. This would be a desk top process, supplemented with in-depth interviews with key role-players, in particular the developers involved in constructing the houses, the banks that provided bonds, the city’s development planning unit, the city’s housing department and possibly the provincial housing department.

- ii. Develop an understanding of the legal mechanisms available to the city for the development of gap housing in such areas, mainly through desk top research with the possibility of several interviews.
- iii. Review international and/or national experience to identify options for the development of large scale developments of this nature that offer gap housing, including the institutional mechanisms and tenure related issues.
- iv. Based on the analysis of the process as it has evolved in Phoenix and relevant experience elsewhere, extract key lessons learned. These need to identify what has and has not worked, proposing explanations for this.
- v. Develop possible alternative options to succeed in providing such housing in Durban, bearing in mind the legislative, policy and budgetary environment within which the city needs to operate, the needs of the city as a whole and the nature of the surrounding areas, and discuss these with key individuals, or workshop it with relevant role-players.
- vi. Based on the feedback in the preceding phase, propose final recommendations for the development and release of land for gap housing in Durban.
- vii. These recommendations will be workshopped with officials and relevant stakeholders, and a final set of appropriate options developed.
- viii. These options will then be implemented as a pilot project – an implementation strategy will be developed, and the team will work with officials to assist in compiling material for implementation, arranging workshops and providing other logistical assistance as necessary.
- ix. Ongoing monitoring of the implementation process, in conjunction with city officials with report backs to stakeholders as needed.

Key role players & stakeholders

eThekweni municipality

Development Management and Planning department

Housing department

Project Manager: Phoenix Infill Sites

Developers

Woodglaze Pty Ltd, developer

Developers of infill sites

Banks – who provide bonds for gap housing

Residents – it may be useful to interview existing residents of the newly developed gap housing, where possible, although they will not be affected by the outcomes of this project

Key target groups

The key target group would be the future residents and owners of “gap” housing in other areas of the city. In addition, municipal officials also form a target in that the project would assist them in their future work.

Level of inputs required – from ULM

The city currently has a shortage of dedicated research capacity. This means that officials are usually not able to spend time researching alternatives and, given the urgency of development and delivery, need to rely on past practices as much as possible. In order for this project to proceed, it is proposed that research assistance be provided by Urban LandMark.

Deliverables (outputs)

The final deliverable would be a comprehensive report, outlining the following:

- background to the Phoenix gap housing provided,
- the processes and legal mechanisms undertaken to deliver these,
- relevant national and international experience in similar areas
- a clearly articulated set of alternative development paths, with strengths and weaknesses of each outlined
- implementation strategy for pilot project
- report on implementation progress and monitoring of implementation

Cost breakdown

It is estimated that this aspect of the project would cost in the region of R535 000 excluding VAT, broken down as follows:

Research and development of options (3 months)	
60 days @ R5000 per day	R300 000
Disbursements	R15 000
Implementation and monitoring (6 - 8 months):	
40 days @ R5000 per day	R200 000
Disbursements (travel and subsistence)	R20 000

Total

R535 000

Time frame

It is estimated that the project would take 10 – 12 months.

Impact & feasibility assessment

Providing detailed research and clearly articulated options and recommendations to the city could assist in similar developments in the city and thus impact directly and indirectly on the lives of lower middle income groups.

The research will have to rely fairly heavily on interviews with key role players. These role players can be easily identified but in some cases it may be difficult to engage in detailed discussions with them. In order to obtain a comprehensive, in-depth understanding of the processes followed. The recommendations will provide an indication of the feasibility of each option, and will highlight those that are feasible.

Key assumptions

It is assumed that the investigation and associated research will be supported by municipal officials and other key role players and that the research team will be provided with access to relevant documentation and contact details for key individuals.

It is also assumed that role players will be available for relatively in-depth interviews.

Risk assessment

Officials are very stretched in terms of time availability, and there is a risk that they may not be able to provide the level of assistance necessary. It will also be important, during the course of this project, to ensure that the research team acts as a support to, rather than a drain on, municipal staff.

There appears to be some tension between different departments within the municipality that would need to be involved in this exercise, and this would need to be managed.

Level of inputs required – from ULM

The city currently has a shortage of dedicated research and implementation capacity. This means that officials are usually not able to spend time researching and developing alternatives and, given the urgency of development and delivery, need to rely on past practices as much as possible. In order for

this project to proceed, it is proposed that research and implementation assistance be provided by Urban LandMark.

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Interviews

Cogi Pather, Head of Housing, eThekweni
Gavin Benjamin, Development and Planning, eThekweni
Belinda Benson, Housing, eThekweni
Mark Byerley, Housing, eThekweni
Faizal Seedat, Housing, eThekweni

9.2 INGQUZA HILL MUNICIPAL AREA

The Ingquza Hill Municipality is located in the OR Tambo District Municipality in the Eastern Cape. The entire municipal area is located within the former Transkei. There are two formal town areas, Lusikisiki and Flagstaff, and both are surrounded by land known as the municipal commonage. The majority of the residential settlement is located within the extensive traditional authority areas surrounding the commonage. Very little housing development is found within the municipal commonage. As such, the settlement patterns continue to reflect apartheid influences. Moreover, the national housing strategy of providing rural housing continues to perpetuate the current land use patterns as opposed to supporting the development of housing opportunities in close proximity to the towns.

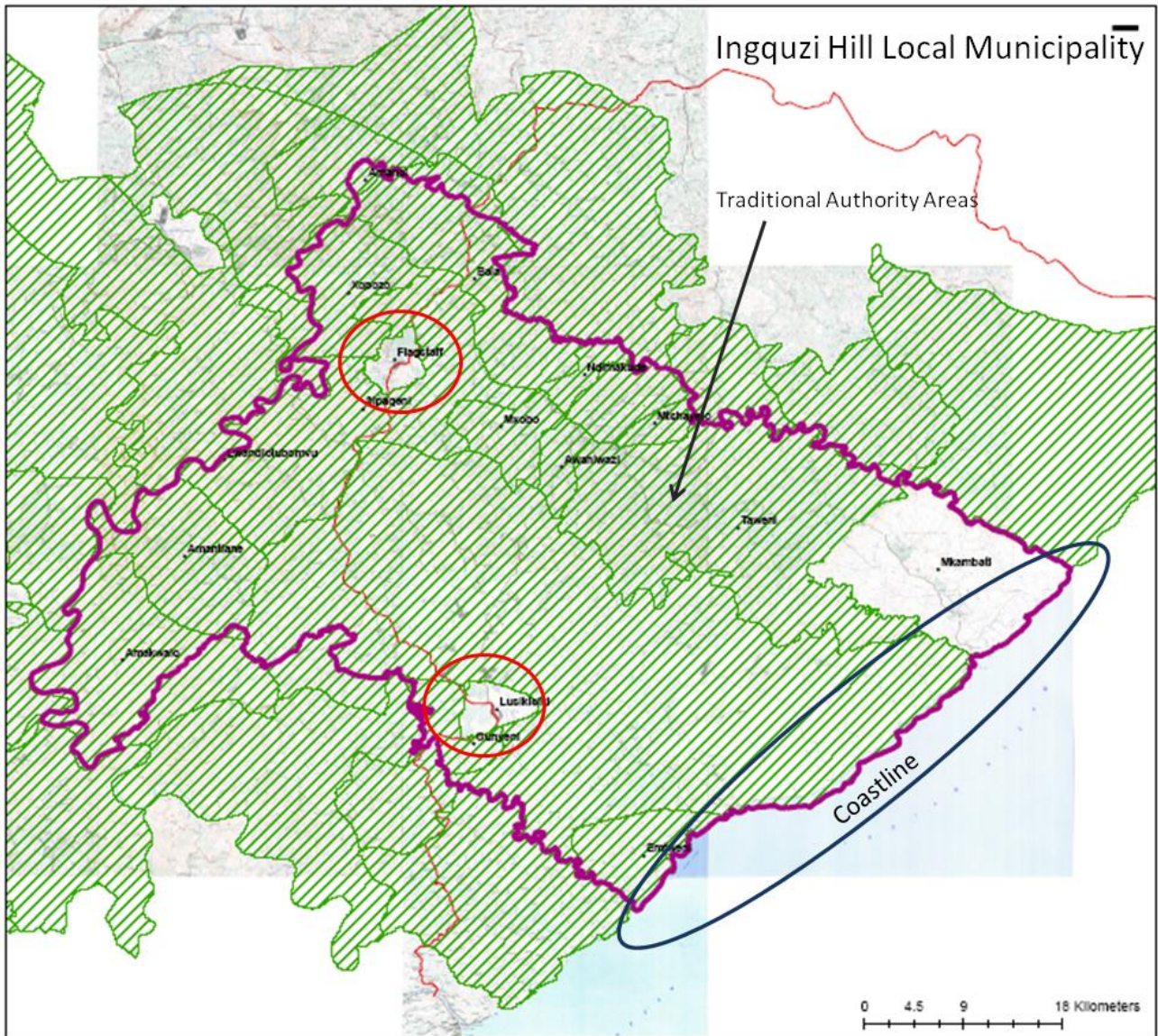
Higher order social facilities such as hospitals and high schools are largely contained in the towns. A weekly migration exists with people moving to settlements within close proximity to the towns during the week and back to their homesteads over the weekends. Consequently, there are more settlements closer to the towns; they are more dense and larger in geographic extent. Recently, both towns have seen an increase in land invasions.

The tensions which exist between the Traditional leaders and the municipal officials and councillors were well articulated during the interviews and workshops with the municipality. Not only are the Traditional leaders continuing to allocate land for settlement purposes within the traditional authority areas, but also appear to be making land available for the construction of illegal cottages along the Wild Coast and orchestrating the land invasions within the commonage. More recently, developers are approaching communities for access to land along the Wild Coast. The purpose is for large coastal developments which will require urban support structures and services. Such developments may result in communities losing access to their land and thereby placing pressure elsewhere within the municipal area and more likely, in close proximity to the towns.

The land issues within the Ingquza Hill are complex. Little urban housing stock is being made available within the towns; land is allocated by traditional leaders in an uncoordinated manner in the traditional authority areas and there is increasing pressure along the coast line for tourist development. In considering issues related to making urban land markets work better for the poor, the interrelationship between the type and the driving forces behind the settlement patterns need to be better understood. Therefore, two projects are proposed, the first addressing the land invasions and

the second the illegal cottages or developments along the coastline. The projects could be done independently or together.

Map showing the Ingquzi Hill Local Municipality



9.2.1 Ingquza Hill – Land Invasions

Narrative description

The Ingquza Hill Local Municipality has two formal urban settlements, Lusikisiki and Flagstaff. Each town is circled by municipal land which is locally referred to as the commonage. With the exception of small portions along the Wild Coast, the remaining land area is covered by traditional authorities. The

municipal commonage mainly contains retail industries, social facilities such as police stations, clinics, hospital (Lusikisiki) and a limited amount of housing stock. The majority of the population located within the municipal area resides within the traditional authority areas.

Both towns act as service centre points for the surrounding rural communities. The commercial development occurs in a strip along the main road of each town which is a continuation of the provincial road.

Based on the findings of previous Urban LandMark research³ and the workshop held with the municipal officials and councilors, land invasions are taking place in Flagstaff and Lusikisiki. All have occurred within the commonage. Land tends to be identified by an individual, often “powerful”, such as a taxi owner, and with the so called permission of the Nkosi, the land is subdivided and sold. Furthermore, Nkosi themselves have reportedly sold municipal land for settlement. Examples are found in the Flagstaff commonage.

A settlement has been established on the vehicle testing site in Lusikisiki. The municipality has also recently received a Court Judgement to demolish the settlement which it is yet to enforce.

Clearly, the challenge of managing and disposing municipal owned land is overwhelming for the municipality. Comments made during the interviews included “unless the municipality acts soon, the rule of law will breakdown” and “the people are ungovernable”.

The UN Habitat Handbook on Best Practices Security of Tenure and Access to Land notes that “there is extensive evidence to indicate that in customary areas adjacent to urban areas, land tenure takes on urban forms. For example, it is privatized and sold, densification takes place through the subdivision of the land into small residential sites, it is transferred to outsiders and urban forms of governance affect the area”⁴. Certainly, there is evidence that settlements in close proximity to Flagstaff and Lusikisiki tend to be larger, more frequent and possibly denser than those found more than 5 – 10 km away. However, what appears to be more relevant in the Ingquza Hill Municipal area is the apparent contestation between the traditional leaders and the municipality over the rights to the land within the commonage. Not only have the Nkosi submitted land claims but now appear to be facilitating land invasions on municipal owned land.

³ Kitchin and Ovens “Developing Integrated Towns” Urban Land Mark Feb 2008

⁴ UN Habitat Handbook “Best Practices Security of Tenure and Access to Land” Land and Tenure Section, Shelter Branch, 2003

Problem statement

A number of land invasions are taking place within the municipal commonage in the Lusikisiki and Flagstaff areas. The municipality, both the officials and the councilors, are unable to determine the cause and or the appropriate response for the management of land invasions.

Objectives

The following are the project objectives:

- To assist the municipality better understand the causes of the land invasions occurring within the commonage area, and
- To assist the municipality, draft a strategy for the management and control of illegal land invasions.

Geographical focus

The geographic focus of the project is the commonage area in Lusikisiki and Flagstaff.

Main activities

The following are the project's main activities:

- The drafting of a scoping report in which the parameters of the project and the roles and responsibilities of the researchers and municipal officials is clearly indicated.
- An assessment of the Spatial Development Framework and Local Spatial Development Frameworks pertaining to Lusikisiki and Flagstaff.
- An assessment of the policy and the rate of disposal of municipal owned land. An examination of the type and the location of the land will also be necessary.
- A spatial examination of the settlements located on the periphery of the two towns for the purposes of:
 - Comparing densities with settlements more than 5kms from the towns
 - The geographic size of the settlements within the 5 km radius and those between 5 and 10 km from the towns
 - Determining the urban pressure on the commonage boundary
- An identification of the key role players such as Traditional Leaders, councillors, municipal officials, private individuals who appear to have a vested interest in obtaining and or controlling the municipal land;
- Interview all the key role players.
- Draft a report outlining the current policy, land pressures and areas of land contestation.
- Based on the outcomes of the report, assist the municipality in drafting the following:

- If applicable, an amendment to the current policy on the disposal of municipal land;
 - Process for the quick release of municipal land for residential development;
 - A process for the management of the intergovernmental relations with respect to land use management, and
 - Policy on the management of illegal land invasions including the determination of the capacity requirements for enforcement.
- Workshop the above with the municipal officials, councillors and other key role players as identified by the municipality.
 - Modification to the policies and or strategies developed based on the outcome of the workshop/s.
 - Drafting a report outlining the strategies/policies and the workshop outcomes
 - Drafting of a final report integrating all reports and drawing out lessons learnt.

Key role players & stakeholders

The municipal officials, councilors, traditional leaders and other major land owners in the area will be the key role players and stakeholders.

Key target groups

The key target groups are the poor residents residing with the Ingquza Hill Local Municipality attempting to gain better located land within the municipal area.

Level of inputs required – from ULM

The Ingquza Hill Municipality has a shortage of capacity within the town planning department. In order for this project proceed, it is recommended that research assistance be provided by Urban LandMark.

Deliverables (outputs)

The following are the deliverables for this project:

- Scoping report
- Report detailing the land invasion problem statement
- Report detailing the amendments required to the current policy on the disposal of municipal land; the strategy for the quick release of municipal land for residential development and the strategy for the management of illegal land invasions.
- Final integrated report indicating lessons learnt.

Cost breakdown

It is estimated that the project would approximately cost R540000 excluding VAT. The breakdown is as follows:

- Professional fee – 100 days at R5000 per day R500000
- Disbursements – R40000

Time frame

It is estimated that the project would take 30 working weeks.

Impact & feasibility assessment

The main impact of this project would be to assist the municipality gain or regain control over its municipal land. The results of this study could be used in similar areas within the Eastern Cape and other areas in South Africa in which the municipal area is largely dominated by traditional authority land.

As long as the contents and the limitations of the project are well understood by the municipal officials and councilors, it should be possible for the project to be successful. However, the management of the tensions between the municipality and the traditional leaders will require careful attention.

Key assumptions

This project brief assumes that the municipality requires the assistance of researchers to fully understand the causes of the land invasions and that assistance is required in developing appropriate strategies for combating the current land challenges.

Risk assessment

The risks associated with this project may be the following:

- Increased tension between the municipality and Traditional leaders and the contestation for the land increases;
- Increased land invasions as a form of protest and/or based on the anticipation of land being released within the commonage for residential development, and
- Lack of support from the officials and or the councillors once the implications of the interventions become apparent.

References

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Kitchin, F and Ovens, W (2008). Developing Integrated Towns. Urban LandMark

UN Habitat Handbook "Best Practices Security of Tenure and Access to Land" Land and Tenure Section, Shelter Branch, 2003

Interviews

Telephonic interview with Mr. O. Pantshwa

9.2.2 Ingquza Hill – Coastal Development

Narrative description

The Wild Coast is part of the Eastern part of the Eastern Cape and includes the South African coastline from Kei Mouth in the south to Port Edward or Umtanvuma River in the north. During the apartheid period, this area fell wholly within the Transkei and was therefore under the legal framework of the Bantustan.

The portion of the coastline found within the Ingquza Hill Local Municipality runs from the Mzintlave River in the south to the northern border of the Mkambati Nature Reserve in the north. The main coastal settlements include Emtweni, Mbotyi, Port Grosvenor, Lambasi and Mkambati.

The communities along the coastline are poor with high levels of unemployment. Education levels tend to be low with many households relying on remittances and a subsistence economy. Local employment is either found in the coastal hotels and/or as domestic labour to the owners of the holiday cottages.

Tenure and Land Issues

With the exception of small land parcels found at Emtweni, Mbotyi, Lambasi and within the Mkambati Nature Reserve, the remaining coastal area falls within a traditional authority. The small land parcels are largely state owned magisterial land.

The area is divided by two traditional authorities. The southern portion is known as the Emtweni – Lusi Traditional Authority under Nkosi M Mditshwa. The authority itself is divided between the Port St Johns Local Municipality and Ingquza Hill Local Municipality. The northern portion is under the Quakeni – Lusi Traditional Authority under Nkosi BZ Sikilimba. This area is wholly contained within the Ingquza Hill Local Municipality. The former area contains the settlements of Emtweni and Mbotyi.

Illegal Cottages

The history of cottage owner rights along the Wild Coast is long and complicated. Some of the initial cottages were established as early as the 1930s. Within this period, the coastline was divided between into communal areas and so called resort areas. The former areas were designated for black

South Africans while the latter reserved for white residents. In 1944, the Department of Bantu Administration and Development established a Seaside Resort Board which then allocated and protected sites.

During the time of the Transkei Administration, those cottages which existed prior to the establishment of the Transkei, were given land rights through a "Permission to Occupy" permit (PTO). Such rights could only be given to a Transkei resident. Consequently, many cottage owners found "friendly" professionals who then held the rights to the land for the period of the establishment of the Transkei Government. Subsequent to the reincorporation of the Transkei back into South Africa, many of the PTOs have now been transferred back into the name of the original owners.

In 1982, the Coastal Development Control Committee produced a Coastal Development Control Plan, indicating the strong demand by South African and overseas holidaymakers for increased holiday facilities along the Wild Coast. Tourism was perceived as a significant source of income. The plan identified a number of development nodes, leaving the rest of the coastline in its natural state. However, during Holomisa's rule, land administration became more chaotic and traditional authorities were implicated in corruption. A number of sites were sold by the Nkosi for a small fee and whisky, mainly to wealthy white South Africans within the traditional authority areas. This practice started in the 1980s and continued well into the 1990s. In response, the Transkei government passed the Transkei (Environmental) Conservation Decree No.2 of 1992 in order to control development within one kilometre of the coast.

Post 1994, National Government was equally concerned about the growth and continued development of illegal cottages. The main issue was that the coastline is both environmentally sensitive and commercially important. Cottages are non commercial operations and therefore contribute little to the local economy. Rather, it was argued that the coastline should be used for either conservation and/or tourism but with a high level of community ownership.

A landmark judgement was taken by the Transkei High Court and later reinforced by the South African Government which ordered the demolition of the illegal cottages along the Wild Coast. Action has been taken by the authorities with many cottages destroyed. This was meant to signal the end of the illegal land seizures along the Wild Coast. Notwithstanding the operations of government, illegal cottages continue to occur. More importantly now, through the introduction of CLARA, power has shifted from the Nkosi to the community with many developers approaching communities wanting to enter into land agreements. It is possible that in the near future the illegal deals made on an individual basis will shift to development consortiums. The power of the latter both in terms of the manipulation of the law and resources for court challenges and/or for kickbacks is immense. Should developers

manage to gain a foothold along the Wild Coast, the devastation both to communities and the environment would be concerning.

Problem statement

Notwithstanding the more recent efforts to eradicate the illegal cottages along coast line, the development has continued. Moreover, unscrupulous developers, both South African and international, have approached community groups to enter into land agreements for the development of coastal resorts. An Ingquza Hill Local Municipality official recently cited a case whereby a Chinese Consortium attempted to enter into an agreement with a coastal community for the development of a resort. With the high levels of illiteracy, the community had little understanding of the content of the agreement and its far reaching implications. It was only through the intervention of the municipal officials that the process of reaching an agreement was stopped and community interests protected. Given the legal framework, the municipality has no control over land transactions along the coast line nor is there any requirement to make the municipality aware of any land use changes. The community approach to the municipal official was due the community perception that the municipality contained people with high levels of literacy who could assist with their understanding of the agreement.

Uncontrolled development along the coast line will place an unnecessary burden on the municipality through the requirement to provide refuse removal facilities, municipal roads, water and sanitation etc. Such services are currently lacking in the settlement areas, leading to serious environmental problems such as estuary contamination, indigenous bush destruction and dune destruction.

The absence of guiding planning regulations, the powers given to local communities for determining and allocating land lends itself to unprecedented abuse by wealth developers. The only manner in which the municipality can have any form of intervention is through the development of the Spatial Development Framework, a Local Spatial Development Framework for the coastal area and the preparation of a Land Use Management System.

Objectives

The following are the objectives for the project:

- To examine the existing Spatial Development Framework, Local Spatial Development Framework and existing planning legislation applicable to the coast line;
- To assist the municipality prepare the framework for the preparation/updating of the Local Spatial Development Framework;

- To assist the municipality prepare the legal framework for the preparation of the land use management system to allow for increased control by the municipality of land use management along the coast line.

Geographical focus

The geographic focus of the project would be the stretch of coastline from the Mzintlave River in the south to the northern border of the Mkambati Nature Reserve.

Main activities

The main activities for this project will include the following:

- The drafting of a scoping report including confirmation from the Ingquza Hill Local Municipality that the project brief meets their requirements, the roles and responsibilities of the research team and the municipal planning officials etc;
- A desk top assessment of the current spatial development framework, the local spatial development framework (if it exists) and the planning legislation applicable to the coastal area;
- A draft report which outlines the possible gaps in the spatial development frameworks and the limitation of the existing legislation;
- In consultation with the municipal planning officials preparation of the framework for the updating and/or the preparation of the local spatial development framework for the coastal area;
- Determination of the legal mechanisms which can be used through the preparation of the Land Use Management Plan to increase the municipality's control over the land use development along the coastal strip while simultaneously protecting the local communities. These provisions should make use of existing legal mechanisms but be set within a framework which would allow compliance with the Land Use Management Bill once enacted;
- Workshop the possible provisions with the municipal officials and the section 57 committee members;
- Workshop the possible provisions with the Traditional Leaders, Headmen etc
- Modify the provisions based on the workshop outcomes;
- Prepare the legal framework for guiding the preparation of the Land Use Management Plan, and
- Draft final report.

Key role players & stakeholders

The key role players and stakeholders will include the municipality planning department, the relevant section 57 committee members, the traditional leaders, headmen and local community groups.

Key target groups

The target groups are the affected local communities living within the traditional authority areas along the coast line.

Level of inputs required – from ULM

The Ingquza Hill Local Municipality has a serious shortage of capacity within its town planning department. In order for this project proceed, it is recommended that research assistance be provided by Urban Land Mark. The team will need to include both development planning and legal expertise in land use management.

Deliverables (outputs)

The key deliverables will include the following:

- A scoping report
- A report providing an analysis of the Spatial Development Framework and Local Spatial Development Framework and the existing planning legislation applicable to the coastline area.
- A report outlining the framework for amending the municipality's Spatial Development Framework, for amending or preparing the Local Spatial Development Framework, the framework for preparing the Land Use Management Plan and the associated legal provisions.

Cost breakdown

It is estimated that the project would approximately cost R540000 excluding VAT. The breakdown is as follows:

- Professional fee – 100 days at R5000 per day R500000
- Disbursements – R40000

Time frame

It is estimated that the project would take 12 working weeks.

Impact & feasibility assessment

No municipalities have attempted to actively engage with the problems associated with the illegal cottages and possible land deals along the coast line. Rather, this has been left to the Provincial and National Departments of Environment. However, the implications of such developments and the

continuation of the emergence of illegal cottages places a demand on the municipality's capacity for the delivery of services in an effective and efficient manner.

Preparing a Land Use Management Plan which takes account of the complex legal framework but puts in place mechanisms which requires municipal participation in the land use decision making, will have a significant impact, not only for the Ingquza Hill Municipality, but all municipalities along the Wild Coast. Moreover, the project could be used to inform developments anywhere along the South African coastline where unscrupulous developers are establishing developments such as golf estates with far reaching negative implications for local communities, the environment, municipal infrastructure etc.

In addition, through the creative use of existing legal mechanisms, this project should create the conditions for increased levels of protection for poor, traditionally based communities with high level of illiteracy. This will be of relevance to all communities as they engage with CLARA.

As long as the project receives the support from the municipal officials and the relevant councilors, it would be possible to draft provisions for the preparation of the Land Use Management Plan in support of the municipality and for the protection of the local community.

Key assumptions

The following are the key assumptions:

- The municipal officials and councillors will actively participate in the project;
- It is possible to determine legal provisions to be included in the Land Use Management Plan to improve the municipality's control over land use management along the coastline, and
- There will be some cooperation and integration with the Nkosi, headmen and affected communities.

Risk assessment

The relationship between the political structures of the Municipality and the traditional leaders is often a precarious one. Some of the traditional leaders and headmen continue to allocate land in a manner which is in violation of the CLARA and against the community's wishes. It is possible that the outcome of this project which should offer greater protection to the local community both against the decisions of the Traditional leaders and the unscrupulous local and international developers, will further exacerbate the already tense relationship between the Leaders and the Municipality.

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9.3 Buffalo City

The Buffalo City Municipality has an active history in attempting to support and find better located land for the urban poor. This is reflected in the municipality's support for social housing initiatives and the selling off of buffer strip land for low income residential development.

Duncan Village is a well located residential area for the urban poor. Not only was it established in the late 1800s but it also has a long history of community resistance and struggle. Extensive informal settlements are found within the area and these house some of the poorest of the poor in East London. The area has for a long time served the role as a reception area for people moving into the city in search of better life opportunities.

The municipality is in the process of upgrading Duncan Village into formal dwellings with individual title. In undertaking the redevelopment of the area, the municipal officials wish to support the retention of the reception area status but more importantly recognise and support the socially dominated markets.

This project would then provide technical support to the municipality in terms of developing suitable strategies for the integration of the financially dominated and socially dominated markets.

9.3.1 Duncan Village – Integrating the Financially and Socially Dominated Markets

Narrative description

Duncan Village is located approximately 5kms north-west of the Central Business district in the city of East London. The majority of the area included in Duncan Village was originally established as an African location in 1890 and known then as the East Bank. The population has grown from approximately 12000 in the early 1920s to the current estimates which vary between 70000 and 100 000.⁵ Duncan Village is regarded as being fairly unique in the South African urban landscape as it accommodates an economically diverse group of residents, although predominately poor and marginalised, in an area that is relatively close to social and economic opportunities.

⁵ Buffalo City Municipality, Directorate of Planning and Economic Development "Duncan Village Redevelopment Initiative – Local Spatial Development Framework" November 2007

The Duncan Village community has a long history of political and social activism, having strongly resisted repeated forced removal attempts and or relocation. Its location and long history of well established networks has meant that Duncan Village remains the most important reception area in East London. The area tends absorb newcomers from rural areas, those searching for temporary lodging in East London and many of those coming into the city hoping for a better life. Duncan Village also provides shelter to the poorest of the poor within the Buffalo City Municipal Area. It is the densest human settlement in the Municipality with most residents living in informal settlements or in backyard shacks (DVRI, Local Spatial Development Initiative).

Duncan Village is divided into a number of different communities which include, Bebelele, Diphini, Duncan Village, Duncan Village C, Duncan Village SP, Ford and Msimango, Gesini, Gompo Town Section C, Gompo Town SP, Pefferville, Pefferville SP and Cc Lloyd. Duncan Village C and Bebelele appear to have the highest levels of informal settlement development.

Types of housing

Based on information contained in the Duncan Village Redevelopment Initiative, there is an estimated total of 21325 formal and informal dwellings in Duncan Village. Approximately 18400 dwellings are regarded as informal, approximately 15000 are free standing and the remaining 3400 dwellings are regarded as backyard shacks. The densities in the free standing area are extremely high, ranging from 55 units per hectare to 193 units per hectare.⁶

Current Development Proposals

In accordance with the Duncan Village Redevelopment Initiative, more than 20 000 dwellings are to be developed in an integrated manner. This will include the provision of the supportive facilities such as schools, health facilities and adequate public transport to ensure the mobility of the beneficiary population to be able to reach all areas of social and economic opportunity within the city⁷

The development proposals have attempted to accommodate as many of the existing residents within the new Duncan Village Redevelopment Initiative. Notwithstanding that the upgrading and redevelopment of Duncan Village will be undertaken at a higher density than the RDP housing standards, the current housing densities will result in some people having to be relocated away from

⁶ IBID Pg 25

⁷ IBID Pg

Duncan Village. There is strong support for block relocations rather than on an individual basis to prevent other households simply taking the place of those who have moved.

A range of housing typologies have been proposed which include double storey row units, double storey semi detached units and single storey units.

Tenure and Land Issues

The Duncan Village C-Section is plagued with extreme overcrowding, grime, lack of services and where shack fires are common. Duncan Village is characterized as an area which largely falls outside the legal zoning parameters.

Currently, there is limited scope for making land use planning applications, which, as a result of the settlement's history of resistance, have generally become obsolete.

In Duncan Village, there is a lack of private ownership and formal rental system making security of tenure an issue of major concern in the community. This especially applies to residents who informally rent backyard shacks within the municipal housing stock. These shacks are often rented out by the resident of the house without any contractual agreement. Consequently, the backyard tenant can, at anytime, be evicted. It is noted in the Duncan Village Redevelopment Initiative that the lack of tenure is a major reason for disinvestment in the sub region.

In line with the Duncan Village Redevelopment Initiative, the eradication of the Duncan Village informal settlements could result in the destruction of the area acting as a reception area for the poor. It would also undermine the operation of the land market. For example, the in-situ upgrading of the area is likely to disturb the sub-economies such as those derived from the rental of backyard shacks. Moreover, the formal development is likely to increase the value of the land and housing resulting in the dominance of the financially related market. This may result in a number of the poor, currently residing in the area, having to leave due to a lack of affordability.

Problem statement

Duncan Village is well a located area for the urban poor living within East London. It is regarded as being part of the inner city with residents having easy access to social and economic opportunities in the City. The area has a long history as a key reception area for new arrivals and also one of resistance and struggle. Other residential areas housing the urban poor, such as Mdantsane, are

some way from the city centre. Transport and related costs reduce Mdantsane probability of being an effective reception area for East London. The Municipal Planning officials are concerned that the destruction of Duncan Village as a reception area will result in the further marginalisation and peripheralisation of the urban poor. It may also increase the number of spontaneous and illegal land invasions within the inner city as people attempt to find better located land.

Duncan Village is currently dominated by the socially dominated market. The upgrading of the area will result in a shift away from this market type toward a financially dominated market. Not only will this reduce a number of household livelihoods but will also undermine its reception area role.

Objectives

The project objectives would be as follows:

- Within the framework of the existing development initiatives and housing options proposed in the Duncan Redevelopment Initiative, determine a mechanism for allowing for the continuation of the socially dominated market within the confines of individual or communal land title.
- Examine the proposed town planning restrictions to permit multiple outbuildings to allow for backyard rentals in support of retaining the reception area status of Duncan Village.
- Explore options for the preparation of a standard community determined agreement between landlords and tenants to improve the levels of tenure security.

Geographical focus

The area demarcated as the Duncan Village Redevelopment Initiative area would form the geographic focus of the project.

Main activities

The main activities would include the following:

- Prepare a brief socio economic profile of the areas within Duncan Village and examine the results in relation to the proposed plans for redevelopment;
- Determine the possible impact of the current proposals on the extent of the socially dominated market and Duncan Village's role as a reception area;
- Prepare a brief profile of the development related community based organisations in Duncan Village;
- Workshop the parameters of the project with the municipality;
- Identify the areas within proposed redevelopment of Duncan Village in which the options for integrating the socially and financially dominated markets would be possible. It is likely that

only sites with single dwellings and those which occur within lower density areas would be selected;

- Examine the township establishment or development provisions to determine the existing land use restrictions;
- Literature search for possible alternatives for facilitating the inclusion of backyard dwellings;
- Propose alternative restrictions such as the number and use for external buildings, types of building material/building standards permissible. These restrictions must take into account health and safety considerations;
- Determine the possible legal implications for the modifications;
- Identify total number of sites for which the modified restrictions would apply in order to recalculate densities, the possible implications for physical and social infrastructure development and municipal billing;
- Examine possible options for enforcement;
- Workshop the proposals/options with the municipal planning and housing officials;
- Modify the proposals based on the workshop outcomes;
- Based on the outcome of the workshop, prepare a demonstration modified land use management plan for the affected areas;
- International literature search on possible simple agreements for landlord and tenants for operation within a socially dominated market – this would need to link to the restrictions and provisions made in the land use management plan;
- Workshop options and proposals with community based organisations within Duncan Village, and
- Draft report and tools for possible implementation by the Buffalo City Municipality.

Key role players & stakeholders

The key role players and stakeholders would include the municipal officials in both the housing and planning departments, the ward councilors and key community organizations in Duncan Village.

Key target groups

The possible target group would be the residents on single dwelling properties within Duncan Village.

Level of inputs required – from ULM

The Buffalo City Municipality has a shortage of capacity within its town planning and housing departments. In order for this project proceed, it is recommended that research assistance be provided by Urban LandMark.

Deliverables (outputs)

The final deliverable will be a comprehensive report addressing the following:

- The process followed in determining the amended planning restrictions, procedures and processes;
- Description of how the proposed amendments would integrate the financially and socially dominated market and support the retention of the reception area;
- Demonstration land use management plans for the affected areas, and
- Tools such as a draft agreement for future use by landowners and tenants once the redevelopment has occurred.

Cost breakdown

It is estimated that the project would approximately cost R530000 excluding VAT. The breakdown is as follows:

- Professional fee – 100 days at R500000
- Disbursements – R30000

Time frame

It is estimated that the project would take 30 working weeks.

Impact & feasibility assessment

Based on the interviews held with the municipal officials in Buffalo City, the Duncan Village Redevelopment Initiative has a high priority status within the municipality. Moreover, the implications of losing Duncan Village as the city's reception area, appears to be well understood and articulated by the Duncan Village project staff. Moreover, the request for support for examining options for integrating the socially dominated market and the financially dominated market was made by the officials during the project workshop.

If successful, the project could be used as a model for other developments in similar areas and more importantly, possibly shape the Department of Housing's policy on housing delivery. The provisions proposed for the township establishment could also be used for other developments in and around Buffalo City and other areas in South Africa.

Key assumptions

The following are the key assumptions:

- The Buffalo City Municipality Departments of Town Planning and Housing will actively participate in the project;
- There is scope for modifying the provisions of the township establishment restrictions;
- Community based organisations will support the modification to the restrictions and agree to the provision for a standard agreement to be used between landlords and tenants

Risk assessment

The main risk may be that the proposals are seen as too threatening to the community based organisations. The existing legal framework and housing policy may also restrict the extent of the amendments that can be made to the township establishment restrictions. There also may be the lack of political support for the initiatives.

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10. CONCLUSION

Based on research conducted by Urban LandMark and international experience, a set of proposals for implementation of research at municipal level has been proposed. These focus on the use of land use management and planning and related tools to address problems or blockages in providing land opportunities, particularly to lower income groups. The municipalities concerned have been selected as a result of their involvement in previous research by Urban LandMark, and in order to address issues at a range of scales and in very different contexts - eThekweni, a metro, Buffalo City, a smaller city, and Ingquza Hill, a rural municipality. Workshops held with the relevant officials in the earlier stages of this project identified those areas in which they felt they needed assistance in order to research and implement innovative ways of addressing key problems.

In eThekweni these all relate to the release of land for development - in Amaoti using innovative methods of land assembly and release to fast track an in situ upgrade of a large informal settlement, in Cornubia providing inclusionary housing and a mixed use, green field development on a large tract of land currently owned by one land owner, in Phoenix using immediate past experience to develop more effective and efficient ways of releasing land and providing houses to the gap market. In Ingquza Hill these relate to addressing the problems associated with land invasions, particularly round the commonage, and to considering ways of dealing with the illegal coastal developments that are occurring. In Buffalo City, Duncan Village is considered as a pilot in terms of developing ways of integrating the financially and socially dominated markets.

In assessing the different proposals it is suggested that one from each municipality be prioritised, as in eThekweni and Ingquza Hill the same set of officials is likely to be involved in all projects taking place in their municipality. In eThekweni, this is particularly the case, and all three proposals relate to different aspects of increasing the speed at which land is released, and to the land-legal mechanisms of land delivery, particularly for housing.

Ranking the proposals in terms of the likelihood of their making an impact on the land market and providing opportunities to lower income groups, capacitating municipal officials and providing potential models for similar developments elsewhere in the country, we would recommend the following:

1. Buffalo City - Duncan Village
2. Ingquza Hill - coastal development
3. eThekweni - Amaoti land assembly and in situ upgrading

4. Ingquza Hill - land invasion
5. eThekweni - mixed use development and land sharing, Cornubia
6. eThekweni - gap housing, Phoenix

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