Executive Summary

Buffalo City Metropolitan Municipality

Informal Settlement Upgrading Policy and Strategy 2014
Produced by CS Consulting and Afesis-corplan for the National Department of Human Settlements, the National Upgrading Support Programme and Buffalo City Metropolitan Municipality

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1.5.1 Introduction

The National Department of Human Settlements (NDOHS) with the support of the National Upgrading Support Programme (NUSP) appointed CS Consulting to 1) develop a Policy and Strategy for the upgrading of informal settlements in Buffalo City Metropolitan Municipality (BCMM) and 2) develop upgrading plans for 32 identified informal settlements following a participative planning processes.

This report outlines the Policy and Strategy component of this work. Three workshops were held with Councillors and community representatives in June and July 2014 in East London, King Williams Town and Mdantsane to present the draft Policy and Strategy and obtain further input from participants on what the Policy and Strategy should include. A first draft of the Policy and Strategy was presented to the Municipality through the project steering committee in August 2014 and a final presentation was made in December 2014.

The Policy section outlines what is upgrading and why it is being promoted; while the Strategy section outlines how the upgrading of informal settlements can be done. The last section summarises the institutional arrangements required for the BCMM to implement the strategy.

1.5.2 The Policy

The BCMM defines an informal settlement as areas where groups of housing units have been constructed on land that the occupants have no legal claim to, or occupy illegally; and unplanned settlements and areas where housing is not in compliance with current planning and building regulations (unauthorized housing). (Informal Settlement Study, 2010)

The need for upgrading of informal settlements is being driven from two sides. From the bottom, it can be seen that the existing housing delivery rates of the municipality will not be able to address the demand for housing. Based on 2008 aerial photos for urban areas, as reported in the Built Environment Performance Plan (BEPP) of 2011, there are 40,500 free standing shacks and 15,000 back yard shacks in Buffalo City Metro (urban areas) creating a total backlog of 55,500 units. From 2001 to 2008 the number of shacks in BCMM grew by 8%.

According to an Informal settlement study that was approved in July 2012, it was estimated that 12,982 informal structures, would require full relocation; 15,285 informal structures would require partial relocation and 2,592 informal structures could be part of a full in-situ upgrade.

The average number of government subsidised houses build per year between 2007 and 2012 was 1,438 houses a year (based on BCMM annual reports).

From the above statistics it can be concluded that it will take more than 50 years to build houses for the backlog and future need. This is equivalent to building about two settlements the size of Mdantsane at present Mdantsane densities.

Municipalities are also being pushed towards upgrading of informal settlements from the top by policy pronouncements from national and provincial government. For example the constitution states that the state must, within its available resources, progressively (i.e. incrementally) realise the right to housing, as well as the right to land, water, and a healthy environment. The Comprehensive Housing Plan for the Development of Integrated Sustainable Human Settlements of 2004 (known as Breaking New Ground or BNG) specifically commits government to the upgrading of informal settlements. The National Development Plan (2011) recognises the role played by informal settlements and seeks to enhance the existing national programme for informal settlement upgrading by developing a range of tailored responses to support their upgrading.

More recently, in September 2014, government adopted the Medium Term Expenditure Framework 2014-2019 which includes a new Outcome 8 target for government to assess the upgrading potential of 2,200 informal
settlements, and upgrade at least 750 000 households in informal settlements to Phase 2 of the Informal Settlements Upgrading Programme by 2019.

The BCMM’s response to this call for informal settlement upgrading from the bottom and the top has been to recognise informal settlements as a reality that will not go away quickly. The 2014/15 Integrated Development Plan calls for a combination of relocation and in-situ upgrading to address these settlements.

The Built Environment Performance Plan of 2013 introduces the concept of Regularisation, where the municipality provides assistance in the form of basic services, access to emergency vehicles, tenure security and an address to informal settlements. The Land Management Policy(2007) of the Metro also sets out procedures to deal with evictions; and the electrification Council resolution 131 of 2012 calls for the electrification of informal settlements in Duncan Village, Mdantsane and elsewhere.

The vision for informal settlements is that:

“By 2035, all informal settlements in Buffalo City Metropolitan Municipality that have been categorized to remain in their existing locations, have been upgraded and received the necessary developmental support from all three spheres of government”

The following Outcomes are identified as part of this upgrading vision:

- Promote health and safety
- Promote economic development
- Reduce socio economic inequality

In order to achieve this vision and these outcomes the following process principles will be followed:

1. Accommodate incremental development
2. Support community participation
3. Engage in partnerships
4. Build capacity and empower stakeholders
5. Adopt a human rights focus addressing basic needs first

The BCMM will follow a broad three pronged approach to respond to and address informal settlements:

- Build on the current regularisation approach – by expanding the existing regularisation approach
- Make serviced sites available – by modifying housing policy to include a (fully and/or semi) serviced sites programme
- Control new land invasion – by using the existing land management policy of the Municipality.

The following Policy Guidelines will guide the upgrading strategy:

1. Provide a package of basic services to all informal settlements
2. Accommodate alternative land tenure arrangements
3. Adopt a multi-sectoral approach to informal settlement upgrading
4. Protect and enhance social capital and assets and respond to development priorities
5. Accommodate flexible standards and regulations for planning, land, services and housing
6. Incorporate an element of community management and control
7. Integrate and include areas being upgraded into the wider city
8. Identify and mitigate against known and probable risks
1.5.3 The Strategy

In order to implement the policy above the municipality will focus on the following four priority interventions:

1. Introduce Incremental Settlement Areas – so as to acknowledge that informal settlements exist, and put in place the legal base from which further upgrading development interventions can follow.

2. Implement a Locally Administered Land Tenure system – so that households’ basic tenure rights are recognised and to recognise the citizenship of households; as well as to facilitate the administration of the upgrading process.

3. Implement planning and basic development - so as to address households’ basic needs and their dignity as a first step towards longer term upgrading.

4. Implement a development support programme – so that the broad developmental needs (e.g. education, health and safety, employment, etc.) can be met for people living in incremental settlement areas.

The upgrading of informal settlements strategy will be implemented at two scales:

1. The scale of the Municipality
2. The scale of each settlement

At the scale of the Municipality as a whole the Municipality will conduct a rapid review of all informal settlements (building on similar reviews done in the recent past), and designate all informal settlements that are identified to be upgraded or have a combination of in-situ upgrade and relocation as Incremental Settlement Areas (ISA’s) as provided for in the Spatial Planning and Land Use Management Act (SPLUMA act 16 of 2013). People living in these areas can then have some form of land tenure security and this will also lay the foundation for all future upgrading processes. ISA’s will be allocated to rounds (or years) within which the phased upgrading process (as described below) will be followed; with those settlements allocated to round one starting their upgrading planning in year one, and those allocated to round two starting planning in year two, etc. until all settlements have been allocated to a round.

The BCMM will start to provide basic tenure recognition and basic services to each informal settlement in the year after the planning takes place. This will continue until all informal settlements have undergone planning, and received basic tenure and basic services, at which stage the municipality will be able to go back to round one settlements to provide additional upgrading consolidation support.

In order to determine which settlements are allocated to which round the municipality will aim for a spread of settlements from different areas (wards) in each round, using a pro-rata formula to determine how many settlements from an area (ward) can be allocated to a round. Within an area (ward) older settlements will be prioritised for earlier rounds.

At the scale of each informal settlement, each settlement will follow a step by step set of upgrading phases depending on the upgrading path that the settlement finds itself on, where:

- Upgrading phases refers to the phased step by step process that will be followed to upgrade the area; and
- Upgrading options refers to the upgrading path that the informal settlement or a part of the settlement finds itself on depending on the local context, ranging from those areas that can be upgraded where they are to those that have to be relocated.

In relation to the upgrading phases the following set of activities will be undertaken within the five phases of the upgrading process:

- Phase 1: Preparing for development
  - Conduct a technical and a community based situation analysis exercise
Develop upgrading informal settlement concept plans by following a participatory planning process.

- Phase 2: Basic development
  - Provide basic tenure through the provision of Recognition of Occupation certificates and Permission to Occupy certificates.
  - Install basic services and facilities where:
    - Primary (priority) services include: the provision of communal ablution facilities for clusters of about 25 households; the construction of basic access roads for fire and other emergency services; the construction of basic pedestrian paths and storm water management systems; the provision of communal refuse collection services; and the installation of pre-payment electricity and area lighting; and
    - Secondary services includes (for example): fire hydrants, lockable storage facilities, traffic calming furniture, communal post boxes, notice boards and signage, child play areas, multi-purpose community halls, fencing, and other services and facilities as determined by the community.

- Phase 3: Development support
  - Support households to build or organise the building of their own houses by providing training in how to build or organise the building of people’s own houses, providing examples of house plans, information of where to access building material and builders, advice in establishment of bulk buying schemes, support in organising or accessing local savings and loan schemes, etc.
  - Support businesses to start or expand by providing training in how to run a business or providing appropriate skills related to the type of business (e.g. plumbing, sewing, marketing, etc.), providing access to cheap loans, and developing locations from where businesses can be run at cheap rates, etc.
  - Support social groups such as children (by supporting early childhood development groups), the youth (by providing recreational facilities and after school youth development programmes), the aged, the infirm and people with disabilities (through home based care programmes and improving the accessibility of various government services), women’s groups (through targeted training and mentorship programmes), neighbourhood residents (through support to safety and security patrols), orphans (through orphan support programmes), cultural groups like choirs, art clubs etc. (through training and access to space and equipment for them to undertake their activities) and many other sectors and activities as identified.
  - Support community leadership through, for example, provision of leadership and organisation training, the provision of mediation and conflict resolution services, and space from which to conduct meetings.

- Phase 4: Consolidation
  - Upgrade tenure from basic tenure to ‘full’ tenure, which would normally be individual title deeds, but could also include rental, communal property association or cooperative ownership amongst others.
  - Upgrade services and facilities from: communal ablution facilities to water and sanitation per house; basic access roads and paths to internal surfaced road and storm water; basic ‘roof on poles’ community halls to fully equipped multi-purpose halls; basic play areas to fully equipped multi-purpose recreation centres.
  - Upgrade top structure from self-built interim shelter to subsidised and approved formal dwelling.

- Phase 5: On-going development
  - Households will continue to use their own resources to maintain and improve their own houses.
  - Government will use its rates and service income as well as other grants and loans from national government to maintain and improve the neighbourhood (e.g. fixing pot holes, maintaining electrical distribution systems, etc.)
  - Government and other stakeholders will, throughout the whole upgrading process, conduct research so as to learn from past experiences and improve future actions, and share these lessons with other communities and role-players.
The following table (Figure 1) compares the similarity and overlap between the above mentioned phases in this BCMM strategy and the phases as described in the Housing Code.

**Figure 1: comparison between BCMM and Housing Code phases**

<table>
<thead>
<tr>
<th>BCMM Upgrading phases</th>
<th>Housing Code phases</th>
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<tbody>
<tr>
<td>Phase 1: Prepare for development</td>
<td>Phase 1: Application</td>
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<tr>
<td>Collect community and technical data</td>
<td>Motivation and apply for funding</td>
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<tr>
<td>Conduct socio economic survey</td>
<td>Phase 2: Project initiation</td>
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<tr>
<td>Develop upgrading plans</td>
<td>Acquisition of land</td>
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<tr>
<td>Conduct detailed studies and designs</td>
<td>Socio economic survey</td>
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<td>Phase 2: Basic development</td>
<td>Conduct geo-tech and environmental impact studies</td>
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<tr>
<td>Install basic services</td>
<td>Provision basic services</td>
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<tr>
<td>Provide basic tenure recognition</td>
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<tr>
<td>Phase 3: Development support</td>
<td>Phase 3: Project implementation:</td>
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<tr>
<td>Provide housing support services</td>
<td>Housing support services</td>
</tr>
<tr>
<td>Start to provide social, economic and community services and facilities</td>
<td>Construct social, economic and community amenities and facilities</td>
</tr>
<tr>
<td>Phase 4: Consolidation</td>
<td>Formalisation of land occupational rights</td>
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<tr>
<td>Provide tenure upgrade</td>
<td>Install permanent municipal services</td>
</tr>
<tr>
<td>Provide services upgrade</td>
<td>Phase 4: House consolidation</td>
</tr>
<tr>
<td>Build subsidised houses</td>
<td>Build subsidised houses</td>
</tr>
<tr>
<td>Phase 5: On-going development</td>
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In relation to the **upgrading options or path** the municipality will consider the following three (or four) upgrading options depending on the local circumstances, where the:

1. **Stay/ shift option** is used in situations where the municipality is able to bring roads, water and sanitation services into the existing settlement without having to move the existing shacks (stay); or where shacks may need to be moved a little bit without having to move anyone onto a completely new piece of land (shift).

2. **Two step option** is used in situations, usually at higher densities, where it is difficult for government to bring in roads, water and other services without having to significantly redesign the layout of plots and roads. In this situation government moves people to a Temporary Relocation Area (TRA) as the first step while they then create and develop plots and put in services in the original area so that people can move back (as the second step) when this land is ready.

3. **Move option** is used when the land is not suitable for people to permanently remain in that area, as it is too steep, close to a river, on top of water or sewer mains, under power lines, within future road reserves, or on land that is earmarked for some other land use. In this situation the municipality finds and prepares alternative land and arranges to move people onto this land.

In all of the above options - at the start while government identifies and arranges alternative land and/or obtains the necessary environmental and town planning approvals - the municipality will ensue that all households have access to interim or emergency services no matter into which upgrading path or option they fall. (However, in situations where peoples’ immediate health and safety is at risk the municipality will arrange to move such people and not provide basic services to them in this situation). A set of guidelines is provided to guide how such initial basic services should be provided.

See diagram on the next page (Figure 2) for a diagrammatic summary of these Upgrading Options.
1.5.4 Institutional Arrangements

In order to implement the above policy and strategy the municipality will prioritise the following institutional arrangements:

1. Designate incremental settlement champions within the municipality to coordinate incremental settlement development interventions, where:
   - Within the municipality as a whole the Informal Settlements Upgrading Programme Manager within the Housing Planning and Strategy Department of the Human Settlements Directorate, will be the municipal champion for upgrading of informal settlements.
   - Each department will nominate an incremental settlement champion to act as the link between that department and the upgrading of informal settlements programme.

2. Establish a rapid review team to allocate informal settlements to Incremental Settlement Areas (ISA’s) and Rounds of upgrading, so as to kick start the upgrading process.

3. Arrange for projects emerging from the plans to Upgrade Informal Settlements to be incorporated as a sub programme within the Community Work Programme (CWP) stakeholder coordinating committee of the municipality so that these projects can access funding from the CWP.

4. Align informal settlement upgrading with the Municipalities ward and IDP planning systems so that each of the informal settlement upgrading concept plans is informed by and can in turn inform municipal plans. Sector departments will then be responsible for implementing the associated projects.

The main funding sources for the implementation of the upgrading of informal settlement programme of the municipality are the:
• Upgrading of Informal Settlements Programme (UISP) within the Human Settlements Development Grant (HSDG) where the municipality applies to provincial Department of Human Settlements for project funding. These funds can be used for:
  ○ In the short term:
    ◦ Layout planning and obtaining the necessary planning and environmental approvals
    ◦ Communal toilets
    ◦ Basic access roads
  ○ In the medium and longer term
    ◦ Water and toilets per plot
    ◦ Improved roads and storm water
    ◦ Title deeds

• Urban Settlement Development Grant (USDG) where the Municipality decides how to spend funds it receives from National Treasury. These funds can be used for:
  ○ Pedestrian bridges
  ○ Pre-payment electricity and area lighting

• Community Works Programme (CWP) where the National Department of Co-operative Government and Traditional Affairs (working with its provincial counterpart) allocates funds to a ‘site’ (a municipal area) to be managed by a Non-Governmental Organisation (NGO) Implementing Agent for social, physical, environmental and other work opportunities as determined by a local site stakeholder coordinating committee. These funds can be used for:
  ○ Basic paths and storm water
  ○ Shack surveys
  ○ Removal of weeds and cleaning
  ○ Maintenance of facilities and services
  ○ Home based care
  ○ Community patrols

• Social & Economic Facilities Grant (SEFG) where the Municipality applies to the provincial Department of Human Settlements for specific social and economic facility projects. These funds can be used for:
  ○ Community halls
  ○ Play areas

• Enhanced People’s Housing process (ePHP) where the municipality applies to the provincial Department of Human Settlements for project funding for the:
  ○ Construction of top structures during phase 4 – the consolidation phase.

The following table (Figure 3) provides an example of how the rounds and phases could be implemented at the scale of the municipality over time.

*Figure 3: Programme for upgrading of informal settlements at municipal scale*
1.5.5 Conclusion

The Policy and Strategy on Informal Settlement Upgrading in BCMM represents a fundamental shift in the way that the Municipality plans to respond to the approximately 154 informal settlements within its boundary, moving from an approach which sought to eradicate informal settlements by moving these residents into new RDP houses to an approach where the municipality will upgrade, where possible, these settlements where they are. The final responsibility now rests with the Council of the BCMM to adopt the Policy and Strategy and to implement the recommendations emanating from it.