A NEW HUMAN SETTLEMENTS PROGRAMME

What could an alternative human settlement programme look like that would be more up to the task of achieving the progressive realisation of the right to housing within a more reasonable period of time?

The Constitution of South Africa at S26.1 and S26.2 calls on the state to take reasonable legislative and other measures within its available resources to achieve the progressive realisation of the right to adequate housing for all.

Since the dawn of our democracy in the early to mid 1990’s, the state has pinned its hopes on the RDP housing programme to realise this right. Generally the RDP housing approach is one where government provides, for those that qualify, 45 square meter houses on fully serviced sites and where beneficiaries receive individual title deeds. Qualification criteria to benefit from this subsidy are, amongst other criteria, that the beneficiary must be 21 years or older and must be part of a household that has a combined income of less than R3,500 per month (Department of Human Settlements, no date).

The reality on the ground however shows that the RDP housing programme may not be up to the task of addressing the right to adequate housing within a reasonable period of time. According to an Urbanization Review for South Africa report (Gardner & Graham, 2018), government has estimated the present housing backlog for the country at 2.2 million housing units (page 15), and it is estimated that over the last three years delivery of new RDP houses has dropped to below 100,000 houses a year (page 18). This means that it will take about 22 years to address the housing backlog, without taking into account new household formation over this period.

In the Eastern Cape Province it will take more than 46 years at present average annual housing delivery rates of just over 13,000 houses per year to address the provincial housing backlog of 606,676 units (Auditor General of South Africa, 2018). This again does not include new household formation over this period. Based on statistics gleaned from the Buffalo City Metropolitan Municipality it will take up to 100 years for the metro to address its housing backlog and anticipated future 20 year housing demand at its current RDP housing delivery rates.

Given this reality, what could an alternative human settlement programme look like that would be more up to the task of achieving the progressive realisation of the right to housing within a more reasonable period of time? It is proposed in this paper that the core of a possible new human settlement programme would involve three things: firstly we need to find appropriate land for where people can live; secondly we need to service this land so people have at least access to basic services and some form of basic tenure recognition; and thirdly we need to put in place mechanisms to help people to house themselves. The following three sections look at each of these actions in more detail.

Action 1: Find the land

Land for human settlement development can either be land that people have already occupied that is suitable for development or it can be new land that has been identified for this purpose (Umhlaba Consulting Group, 2013; Eglin, 2017a). In the upgrading context, government needs to conduct a feasibility analysis to determine if the land that people have occupied is suitable for upgrading (e.g. it is not too step, it is not in a flood plain, and it can relatively easily and affordably be accessed and serviced, etc.). Consideration also needs to be taken of the
municipalities Integrated Development Plans (IDPs) and Spatial Development Frameworks (SDFs) plan when making a determination of the suitability of land for upgrading. A land audit needs to be conducted as part of this analysis to determine who owns the land. If the land is owned by government (be it state land, municipal land, or land owned by a government department or state owned entity) or the land is privately owned then government needs to follow the appropriate procedures to get the land transferred to the municipality (Umhlaba Consulting Group, 2013).

For the development of new land, the starting point when deciding which land to acquire is once again the municipality’s IDP, SDF and Human Settlements sector plan. Generally new land should not be identified because it is already owned by the state or because the land owner wants to sell it, but it should rather be identified because it fits within a longer term development trajectory of the municipality and its acquisition contributes to the spatial restructuring of the municipal settlement area including reversing/ correcting apartheid spatial planning (Eglin, 2016).

There are broadly two ways that government can arrange the transfer of land from the original land owner to the end users. The first approach involves the municipality first acquiring the land themselves, developing the land and then transferring it to the end user. The second approach involves the municipality entering into a land availability agreement with the present land owner in which it is agreed that the present land owner will retain ownership of the land while it is developed and the land is then transferred directly from the original owner to the end user with government just facilitating this process (Umhlaba Consulting Group, 2013).

No matter which of these two approaches are used government still needs to arrange with the present land owner to acquire the land for low income housing and settlement development purposes. The following provide examples of procedures for how the land could be acquired by government:

- Obtain the land through donation.
- Negotiate a land swap arrangement where the state agrees to swap another piece of land it already owns, in an area not suitable for low income housing, that the seller is willing to swap for the more suitable land.
- Negotiate a discount on the land price, especially if the land is owned by a government department or state owned entity.
- Negotiate with the present land owner to purchase the land through the open market, reaching a purchase price that is agreeable to the seller.
- Expropriate the land using the “just and equitable” clause in the Constitution to determine the compensation amount. This just and equitable compensation amount, depending on the unique circumstances associated with the land in question, could even be calculated to be at or close to zero compensation (Afesis-corplan, 2018). If there are changes to section 24 of the Constitution dealing with land, this may give more clarity on the circumstances when zero compensation is justified.
- Enter into a land readjustment agreement with the land owner (or group of owners if it is part of a land pooling arrangement) where it is agreed that government will develop the land, and once developed use a portion of this land for low income housing leaving the remaining portion of land for the original land owner or owners to use (Santos, Alorro & Goliath, 2017). The original land owner may be willing to accept this arrangement if they feel that the value of the smaller, but now serviced portion of land, is similar to the larger un-serviced portion of land they originally owned.

**In all these land acquisition mechanisms human and financial capacity and resources are needed to determine which land to acquire and to follow the land acquisition processes that have been identified for the land in question.**

**Action 2: Service the land**

Once it is decided which land should be developed this land then needs to be serviced. Servicing the land involves marking out sites on the identified land that are allocated to identified households. These sites could be registered as formal erven and title deeds can be issued or they could be plots that are shown on a plan approved by the municipality for which no general plan is approved and no township register is opened (Eglin, 2017c; Afesis-corplan, no date). As a minimum this land can be serviced with communal water taps and communal toilets within an agreed distance for an agreed
The municipality agrees to the layout plan for the area and they agree to the rezoning of the land from, for example, public open space or agriculture to residential development. It also involves the municipality agreeing to the engineering services designed for the area. The process described above applies in both the in-situ and greenfield context, where for the in-situ context the services and tenure security is provided after people have settled on the land, and in the greenfield context the services and tenure arrangements are developed before people move onto the land. This process of providing (semi) serviced sites (or plots) and (at least basic) tenure security is referred to as managed land settlement (Afesis-corplan, no date; Eglin, 2014; Eglin & Kenyon, 2017). The more that we are able to move towards servicing land prior to people occupying the land the better it is for the people (as they have somewhere to live), for government (in that they are able to direct settlement to those areas more suitable for development), and for existing land owners (in that their land is not unlawfully occupied by people in desperate need of land for settlement).

For those in-situ situations where it is determined for one reason or another that the settlement cannot be developed for permanent settlement but needs to be relocated, then some form of basic services and tenure recognition should be provided while people are occupying the land. This is because it may take some time for government to find and develop alternative land for these people. In situations where informal settlements are in very dangerous positions then this needs to be treated as an emergency situation.

Prior to the municipality or the developer undertaking the above mentioned activities they will need to conduct various studies and obtain the necessary approvals for development to proceed (Department of Human Settlements, 2009). This includes, for example, conducting geotechnical investigations, traffic impact studies, heritage impact studies, environment impact analysis etc. and obtaining environmental authorisation from the Department of Environmental Affairs. Some of this work may be conducted as part of the feasibility investigations during the previous land acquisition phase. It also involves obtaining municipal town planning approval, where the municipality agrees to the layout plan for the area and they agree to the rezoning of the land from, for example, public open space or agriculture to residential development. It also involves the municipality agreeing to the engineering services designed for the area.

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Anyone that lives in an informal settlement, no matter what their income status and subsidy qualifying status is, should be able to access basic services and some form of basic tenure recognition (but not necessarily individual ownership). This could be on the land they already occupy if it is agreed by government and the land owner and others that they can stay, or it could be on the alternative new land that is identified for where these people are to be relocated.

When it comes to the further upgrading of these informal settlements, or the upgrading of the settlements developed on the alternative land to which people have been relocated, then those people that are, for example, older than 21 years of age and earn an income of less than R7,500 per month should be entitled to receive free access to services per site and to individual title deeds. Those people who do not fall into this category (or do not qualify for some minimum number of households. Services also include the provision of a basic storm water management system and a road network allowing people to move around the site even in bad weather conditions (Centre for Scientific and Industrial Research [CSIR], 2005). Access to playground, recreation, education, health, police and other public services and facilities should also be provided as part of the basic services package (CSIR, 2015). These services can be located within basic facilities (like temporary and emergency buildings or rudimentary structures that can be upgraded over time) and fenced areas with basic equipment and halls etc.
other reason) should pay government for any subsequent service connections to the individual site and they should pay for the land purchase (this includes, for example, the costs associated with town planning, land surveying, conveyancing and actual land costs). If they do not want to pay these costs they can continue to live in the area but will have to continue to use communal services and they will not receive title deeds.

In greenfield situations (excluding those where people are relocated from an informal settlement that is discussed in the previous upgrading context) the land should only be made available, for example, to those people that are older than 21 and earn less than R7,500 per month. Government and developers of this land can either start by providing semi-serviced sites without title deeds or they can skip this stage and start by providing individually serviced sites and title deeds from the start.

**Action 3: Help people to help themselves**

All those people who receive at least basic serviced sites and tenure security (whether through upgrading of informal settlements or managed land settlement) should also qualify to participate in a housing support programme (Eglin, 2017d). They should not receive any direct funding from government to build a house, but rather indirect support in the form of access to housing advice services such as information on how to build one’s own house and referrals to suppliers of construction goods and services as well as training in construction and/or how to manage a local building contractor. Support services that households can receive should also include access to bulk buying schemes where government’s role is to support the establishment and operation of these schemes and assist in negotiation of bulk material supply contracts. Government should also support the establishment and management of savings and loan schemes by provide training to the organisers of these schemes and provide access to cheap loans that these schemes can on-lend to their members (KuyasaHousing Finance Company, no date; Federation of the Urban and Rural Poor, no date).

Those people who have received land and, for example, are also above 35 years of age and have an income below R3,500 per month should also then be entitled to participate in a modified version of the Peoples’ Housing Process. In addition to the indirect support they are able to receive they should also be able to receive direct support (to the value of, for example, R60,000 per household) to build some form of incremental starter house. The beneficiary of the starter house should then be able to decide what the contents of this starter house could be. Note this starter house is not the same as a full RDP house people are used to up to now. This starter house could be a shell house where the roof and outer walls are built or an elemental houses where only certain elements of a houses are provided like a roof-on-poles, shared walls, wet core or front façade of a house (Reek, 2000; Eglin, 2017; Napier, 2002). The beneficiary should also be able to decide how this house can be built such as using material vouchers to buy material and arranging their own labour or participating in a starter house construction scheme where government builds starter houses for a group of people.

For those that are above 60 years old and earn less than R7,500 per month, as an example, they should still be able to receive a more substantial subsidised core house (to the value of, for example, R120,000 per house) where government arranges the building of the house and pays for the construction management, purchase of building material and labour costs.

**Summary of a possible new human settlement programme**

Table 1 provides a summary of the types of support that government would provide different beneficiary groups within a new housing programme as described in the three action sections above. All households receive a basic level of services and tenure security, but as ones household income decreases the more one is able to obtain additional support and products from government. Put another way, the more reliant a beneficiary group is on government support the more they are able to access from government.
Table 1: Level of government support for different beneficiary groups

<table>
<thead>
<tr>
<th>‘Beneficiaries’</th>
<th>All people</th>
<th>Earn &lt; R7,500</th>
<th>Earn &lt; R3,500</th>
<th>Destitute &amp; aged</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level of government support</td>
<td>Plot and basic services</td>
<td>Plot and basic services</td>
<td>Plot and basic services</td>
<td>Site and services</td>
</tr>
<tr>
<td></td>
<td>Indirect housing support</td>
<td>Indirect housing support</td>
<td>Indirect housing support</td>
<td>Indirect housing support</td>
</tr>
<tr>
<td></td>
<td>Site and services</td>
<td>Site and services</td>
<td>Site and services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Core house</td>
<td></td>
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</tr>
</tbody>
</table>

Table 2 provides a summary of the potential human settlement programmes that have been suggested in the preceding three action areas. Some of these programmes are a continuation or enhancement of existing human settlement programmes while others are new.

Table 2: Summary of potential human settlement programmes

<table>
<thead>
<tr>
<th>Potential programme</th>
<th>Description of programme</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Get the land</strong></td>
<td></td>
</tr>
<tr>
<td>Land feasibility studies and approvals programme</td>
<td>For municipalities to conduct the necessary studies and research investigations, and obtain any relevant approvals needed to develop the land. These studies will help determine which land needs to be acquired.</td>
</tr>
<tr>
<td>Land acquisition facilitation programme</td>
<td>To pay for the human capacity needed to negotiate for and acquire the land following the agreed land acquisition mechanism.</td>
</tr>
<tr>
<td>Land acquisition programme</td>
<td>For government to buy private land (and possibly also state/public owned land) needed for low income settlement development.</td>
</tr>
<tr>
<td>Bulk servicing programme</td>
<td>For various government departments to design and install adequate bulk water, sanitation, electricity, roads and other bulk services.</td>
</tr>
<tr>
<td><strong>2. Service the land</strong></td>
<td></td>
</tr>
<tr>
<td>Informal settlement upgrading programme</td>
<td>To pay for at least basic services and tenure recognition for all informal settlements and also the upgrading to full services per site and individual title deeds in those informal settlements that have been identified to be upgraded in-situ.</td>
</tr>
<tr>
<td>Managed land settlement programme</td>
<td>To pay for at least basic services and tenure recognition and also upgrading to full services per site and individual title deeds where appropriate. Beneficiaries could include, for example, people over 21 years of age earning less than R7,500 per month.</td>
</tr>
<tr>
<td>Socio-economic facilities programme</td>
<td>To pay for at least a basic community hall, recreation facility, small business support hub, etc. in informal settlements and managed land settlement areas and the upgrading of these facilities over time.</td>
</tr>
<tr>
<td><strong>3. Help people help themselves</strong></td>
<td></td>
</tr>
<tr>
<td>Housing support programme</td>
<td>To provide a range of housing support services (e.g. access to building training and information, bulk buying schemes, cheap construction loans, etc.) to all people living in informal settlements being upgraded and managed land settlement areas.</td>
</tr>
<tr>
<td>Basic starter house programme</td>
<td>To provide a basic starter house package for those people that, for example, earn below R3,500 per month and are above 35 years of age.</td>
</tr>
<tr>
<td>Core House programme</td>
<td>To build a complete house for those that, for example, earn below R7,500 per month and are older than 60 years of age.</td>
</tr>
</tbody>
</table>
Other housing programmes

This article does not provide a comprehensive list of all the possible human settlement programmes that could be part of any future human settlement policy: it only focuses on a few of the programmes that would be needed to accommodate a more incremental approach to settlement development. Some future programmes that could form part of a more comprehensive set of human settlements programmes could be a continuation or slight modification of existing human settlement programmes while others could be new programmes.

For example there may be a need to introduce a new programme for backyard shacks (Gardner & Rubin, 2017). One interesting option worth pursuing is to consider conceptualising such a programme as a small business development programme rather than a human settlements programme, supporting households who want to provide entrepreneurial back yard rental accommodation (Hartmann, 2018).

There will still be a need for an emergency housing programme to deal with people affected by natural disasters (like floods and fires etc.) as well as people facing eviction. This programme could be closely aligned with the Managed Land Settlement programme so that land is prepared in advance of need, and when emergencies happen there is already space for where these people can be accommodated. There will also still be a need for a Social Housing programme providing affordable and higher density not-for-profit rental accommodation in designated restructuring zones16; and there may also be a need for some form of public rental accommodation (maybe as part of some modified Community Residential Unit programme).

A Special Needs Group Housing programme will also need to be introduced to accommodate people with disabilities, orphans, the chronically ill, victims of domestic violence, those people under substance rehabilitation, parolees, ex-offenders and juvenile offenders, etc. (Project Preparation Trust, no date).This programme will need to be coordinated with the Department of Social Development to ensure the on-going costs of running these institutions are adequately covered.

The Finance Linked Individual Subsidy Programme, or FLISP as it is called, will also likely play an important role in any future comprehensive housing subsidy programme (Suttnet, 2019). This programme is however not investigated further in this article. More research is also needed to determine the need for programmes dealing with people living on farms and for people living in communal land areas. There may also need to be a new human subsidy programme introduced, in consultation with the Department of Rural Development and Land Reform, to address the smallholder farming sector, so that appropriately located and serviced smallholder plots can be provided to small scale farmers (Eglin, 2017e).

Changing mindssets

As shown in the introduction section of this article, the present RDP housing delivery approach is not up to the task of building sufficient houses rapidly enough for those that need land, services and housing. Further, as argued elsewhere (Eglin, 2017), the present RDP housing approach is also not creating quality environments that meet people's needs and aspirations.

The new human settlement programme that is proposed in this article requires a change in mindset of those responsible for planning and implementing a human settlements policy in the country. The message that government is sending to its citizens at the moment is that “government will build a house for all who need it”. If we, as a country, are to shift towards a more incremental approach to settlement development we now need a much more nuanced message that goes something like: “government will provide at least basic serviced and tenure secure land and help people to arrange to build their own houses, providing houses directly only to those most in need”.

Changing this messaging and changing mindsets is not easy. Much more work is needed to embed upgrading of informal settlements and managed land settlements into practice and get people to think beyond just the building of RDP houses. People need to see for themselves and understand what the challenges are with the past approach and what the advantages are of the proposed new approach (Eglin, 2014). This will require much more dialogue and awareness raising amongst all those involved in human settlement development. Communities and people affected by the failings of the present housing delivery approach also need to recognise that there are alternatives to business as usual, and they need to be organised to make claims for and demand new ways of thinking about housing and settlement development. Finally, in pursuit of changing mindsets, government as a whole needs to introduce new programmes and legislation in support of more incremental approaches.

There are some promising signs that government is working towards the change in mindset that is still needed. For example, in the 2019 South African budget vote speech by Minister Mboweni, government has recommitted itself to the upgrading of informal settlements, with the introduction of two new dedicated informal settlements upgrading grants coming into effect in the 2020/21 financial year16 (Division of Revenue Bill, 2019). This will put much more pressure on provinces and municipalities to implement and account for these upgrading funds. Another indication of the emerging shift in mindsets is that the President, in his 2019 State of the Nation Address, stated that “[w]e will also be expanding the People’s Housing Programme, where households are allocated serviced stands to build their own houses, either individually or through community-led housing cooperatives”. Furthermore the ruling party, the ANC, stated in its political manifesto for the 2019 national elections (ANC, 2019) that it will “[r]elease land at the disposal of the state for site and service to affordable households the opportunity to build and own their own homes”.

The recent focus on the issue of expropriation of land without compensation has also reignited the debate around how government can improve its land redistribution programme, with a recognition that urban land redistribution for settlement development needs to be part of any future land redistribution target. Royston as quoted by Bateman (2018) thinks that “we’re seeing an opening for a conversation about urban land reform in a way that hasn’t been present before”.

16
Conclusions

There is an opportunity with government’s commitment to the development of a new human settlements white paper (Department of Human Settlements [DHS], 2018: 14) and to reviewing the housing code (DHS, 2018: 14) for us as a country to modify some of the existing programmes (like the Upgrading of Informal Settlements Programme) and to introduce new human settlement programmes like the Land Acquisition Facilitation Programme, a Managed Land Settlement Programme and the Housing Support Programme as described in this article.

There is also an opportunity to articulate new human settlement development targets in the new Medium Term Strategic Framework (MTSF) for the period 2019 to 2024. For example the introduction of upgrading of informal settlement targets in the 2014 to 2019 MTSF (Department of Planning Monitoring and Evaluation, no date: 6) went some way towards shifting thinking away from just building RDP houses towards implementing the upgrading of informal settlements programme. The introduction of further upgrading of informal settlement targets, together with new managed land settlement targets, housing support targets and land acquisition facilitation targets in the 2019-2024 MTSF will similarly go a long way towards nudging future human settlement development away from simply building RDP houses towards more incremental approaches to settlement development.

We are at a crossroads as a country. We can continue along the existing path where it is mistakenly assumed that building RDP houses will result in all people of our country gaining access to land, water, sanitation, waste disposal, energy, housing and other needs within a short period of time, or we can take another more pragmatic and realistic path, one that embraces the new more incremental settlement approaches as proposed in this article.
Promoting active citizenship and good governance

¹ RDP stands for Reconstruction and Development Programme, a programme of the first democratic government after the general elections in 1994 that promised to build 1 million houses within 5 years. Some people now call these houses BNG or Breaking New Ground houses, referring to the title of the new Human Settlements policy of 2004.

² The full list of qualification criteria are that one must: be a South African citizen; be contractually capable; be married or habitually cohabit with a partner; be single and have financial dependants; earn less than R3500.01 per month per household; be a first time government subsidy recipient; be a first time home owner; be a single military veteran without financial dependant; or a single aged person without financial dependants.

³ Note however that this backlog includes 476,285 traditional dwellings which could be argued do not constitute a housing demand.

⁴ Housing backlog of 57,000 households (BCMM BEPP 2015/6) plus anticipated future 20 year housing need (69,000 households assuming current population growth rates) divided by average of 1,244 houses built per year (between 2007/8 and 2014/15 as per BCMM annual reports).

⁵ These examples are provided to stimulate discussion. The exact categories here and elsewhere in this article will need to be further discussed and agreed by all involved.

⁶ This income amount (and other references to income levels in the report) refers to the combined income of spouses and cohabiters.

⁷ It may be advisable to also provide basic services and basic land tenure (not title deeds) to non land and services subsidy qualifiers on new land but this needs further investigation.

⁸ A plot can be a piece of land shown on a map but that is not registered with the surveyor general or for which a township register has not been opened. Basic services can be communal ablutions and taps and basic gravel paths and storm water management systems.

⁹ Indirect support includes training in building one’s own house, access to bulk material buying schemes, etc.

¹⁰ Site and service includes sites registered in deeds registers (possibly with title deeds issued) and with water and sanitation per site.

¹¹ Direct support includes provision of funding from government that goes into the actual construction of an incremental starter house.

¹² Core house involves government arranging to build a complete core house that the occupants can start using immediately.

¹³ This will also need to cover town planning, land surveying, conveyancing, and engineering costs and it may also include geotechnical investigations and environmental studies etc. if they are required and have not been done as part of the feasibility studies.

¹⁴ See the previous footnote for what expenses need to be included.

¹⁵ A restructuring zone is an area identified by the municipality for higher density accommodation and where government is able to provide social housing subsidies (for rental or cooperative housing).

¹⁶ These two grants will be resourced by taking funding from the Urban Settlement Development Grant and the Human Settlement Development Grant. These two upgrading informal settlement programmes will also be piloted in the 2019/20 financial year by ring fencing funding from the two grants.

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