

# Learning Brief 15

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**When is an informal settlement no longer an informal settlement?**

## When is an informal settlement no longer an informal settlement?

The concept of 'upgrading of informal settlements' has been around for a long time. One question, however, that has not received much attention is, "when is an informal settlement no longer an informal settlement?" In other words, when can one claim that an informal settlement has been upgraded?

In this article,<sup>1</sup> it is proposed that the short answer to this question is "when it becomes a semi-formal settlement". This answer is derived from seeing the upgrading of informal settlements as a process of incremental development. When an informal settlement is being upgraded, it does not suddenly jump from being an informal settlement to a fully upgraded settlement, but rather follows a step-by-step incremental process of being improved over time.

The upgrading of informal settlements is important because pursuing the alternative – relying on the building of RDP fully subsidised houses to address the housing backlog in the country – is not up to the task of providing everyone in need with at least a basic level of water, sanitation and other basic constitutionally guaranteed services. There are just not enough funds in the housing budget to build everyone living in an informal settlement with a formal house within a short timeframe.

At the moment, government is measuring its success in the upgrading of informal settlements by the number of informal settlements that have been upgraded to phase 3 of the upgrading of informal settlements programme (which is the creation of registered erven and the provision of engineering services to each site). These criteria miss out on the fact that to reach phase 3 one needs to pass through phases 1 and 2 of the upgrading of informal settlement process. Government is doing itself no favours by ignoring (in its monitoring and evaluation of the upgrading process) all the work that is involved in navigating and passing all the milestones along this incremental upgrading of informal settlements journey. They are failing to celebrate the significant improvements in living conditions made for people staying in what started off as an informal settlement.

### Distinguishing between an informal house and an informal settlement

Before getting into the details and motivation for the answer to "when is an informal settlement no longer an informal settlement", it is useful to distinguish between an informal house and an informal settlement. An informal house is one that has not been built according to approved building plans. An informal settlement, in contrast, is a settlement (i.e. a group of houses) where the occupants of these houses are living in any form of structure in an area that has not been approved and recognised by government as a settlement.

Over and above informal settlements not being recognised by government as a formal settlement, informal settlements generally display the following characteristics: firstly, there are inadequate services in the settlement including, for example, inadequate water and sanitation services, and poor roads and storm water conditions; secondly, the occupants of the houses in

[1] This article is updated from an earlier version of the same learning brief dated April 2023.

settlement do not have secure tenure, or more specifically, there is no formally recognised data base of who has the right to be living on a particular portion of land within that settlement; and thirdly the informal settlement does not conform to the land use zoning scheme of the municipality. Furthermore, the houses found in an informal settlement are informal houses.

### **Informal-formal continuum**

In order to better understand why an informal settlement is no longer an informal settlement when it is a semi-formal settlement, one needs to understand that the upgrading of informal settlements is an incremental process that happens over time along a continuum from an informal settlement on one end to a formal settlement on the other. There are levels of informality and formality between these two extremes.

It is easy to understand these levels of informality-formality when looking at the continuum for water and sanitation services. For example, at one end of the continuum a settlement could have no water and no toilets. People could be collecting water from streams, or using the water and sanitation services of people living in neighbouring formal settlements. At the 'formal' end of the continuum, people would have water and toilets located on their plots and within their houses. In between these extremes people could share taps and toilets amongst a small cluster of families or government could provide communal water standpipes and communal toilets.

It is also relatively easy to understand these levels of informality-formality when looking at the question of security of tenure. At the 'informal' tenure end of the continuum, households could be living in an area with the threat of eviction always looming, while at the 'formal' end of the continuum people could have title deeds to their houses which implies that the municipality has given their approval for the people to be living in that area. In between these extremes government may recognise that people are living in an area by providing them with some sort of 'certificate', such as a pre-payment electricity card.

The same continuum concept can be used when it comes to the type of settlement layout that is provided and the land use zone that is used. At the informal end of the continuum, one finds informal settlements where there is no formal layout plan that has been approved by government and the residents themselves decide where the plot boundaries and the access routes should be. At the other end of the continuum, one finds general plans that have been approved by the Surveyor General's office. These plans depict, using geo-spatial information, the exact location of portions of land. These survey diagrams are used by the deeds office to create erven and open a township/ deeds register. Conveyancers use these deeds registers to transfer title to those who own the land. In terms of land use management, the informal settlement end of the continuum is where the households are living on land that does not conform to the underlining zoning for the area, while at the formal end of the continuum, households are undertaking land use activities that match the underling zoning.

## **Layout Planning and Land Use Management: Informal vs semi-formal vs formal settlements**

At the moment there are no clear and recognised options for recognising the layout of settlements between the two extremes of informal and formal settlements. The concept of re-blocking provides an example of how this gap in the recognition of settlement layouts along the continuum can be accommodated. This involves the municipality developing a local municipal by-law and adjusting its land use scheme to make provision for the creation and approval of semi-formal (e.g. re-blocked) layouts and incremental settlement zones. Incremental settlement zones (as made possible by section 24.2(c) of the Spatial Planning and Land Use Management Act (SPLUMA) no 16 of 2013) specify what type of land use activities can be accommodated and building line and other development controls are accepted in these semi-formal settlements. In exploring this settlement continuum it is also useful to distinguish between a 'plot' and an 'erf' where a plot is defined as a portion of land within a semi-formal layout, and an erf is a portion of land within a formal layout.

A re-blocked layout is one where the community and the municipality work together to create plot and street/path layouts that are approved by both the community and the municipality. From the municipal perspective, the re-blocked layout makes it possible to bring in communal water and toilets as well as pre-payment electricity meters, and upgrade these services over time. The Roads and Storm Water department also needs to be satisfied with the location and width of roads and paths as well as with the location and type of storm water channels. If there is a need for the shifting of shacks to fit within the updated re-blocked layout every effort needs to be made to minimise the disruption to community members.

### **The settlement formalisation process**

Based on the above discussion, settlement formalisation within the upgrading of informal settlements programme can be conceptualised as going through three distinct stages:

- The first is where one has an informal settlement and there are informal layouts. These layouts are usually developed by the community and are not approved by government in any way.
- In the second stage a semi-formal layout is developed and approved. This could be, for example, a re-blocked layout that has been developed in consultation between the community and the municipality and is approved by both. The layout is recorded in an electronic data base with geo-referenced coordinates for corners of plots and access routes. The layout is not however submitted to the Surveyor General and no General Plan is approved. It is advisable that, as part of the municipal by-law governing the development of re-blocked layouts, special consideration be given to the creation of appropriate zoning categories (such as an incremental settlement overlay zone) that makes it possible for people to live in approved zones within re-blocked layouts.
- The third stage of the layout formalisation process is when land surveyors, town planners, conveyancers and others get involved and convert semi-formal layouts into formal layouts. A formal layout is one that has been approved by the Surveyor General who creates registered

erven and for which a deeds register has been opened in the Deeds Office. Zoning categories are then also attached to each erf indicating what activities can be undertaken on the erf. Each erven also has a clear owner who has the title deeds to the erf. This could be the municipality or the occupier of the land if the land has been transferred, through the conveyancing process, to the person living on the land.

The table below provides a summary comparison between the three settlement types of informal, semi-formal and formal and what implications for layout plans, land use, services, tenure and top structures these settlement types have.

Issue	A. Informal settlement	B. Semi-informal settlement	C. Formal settlement
1. Layout	No layout recognised by government. Could have community layout.	Layout (with plots and access routes, etc.) approved by community and municipality. Not approved by and registered with the Surveyor General.	Layout with erven and roads approved by the municipality with general plan approved by surveyor general's office. A township (or deeds) register opened at the deeds office.
2. Land use	Existing base zone on which the informal settlement is located.	Incremental settlement zone created especially for semi-formal settlements, allowing interim top structures and less restrictive development controls (e.g. building lines only on outer boundaries).	'Normal' residential zone applicable for that area that specifies building line and other development controls per registered erf.
3. Services	No services or very minimal services provided.	At least a interim minimum level of services provided, e.g. communal toilets and standpipes, minimum storm water management, pre-payment electricity per house, regular communal refuse collection, etc.	Water, sanitation, electricity, and refuse collection per plot. Improved roads and storm water.
4. Tenure	No to very little tenure security. Could have local community managed occupation registers.	Interim or administrative tenure recognition (e.g. pre-payment electrical card as 'proof' of occupation).	Individual title deeds, formal rental agreement.
5. House	Temporary structure not approved by anyone.	Either temporary structure not approved by anyone or house built according to building plan approved by the municipality.	Formal house approved by government. Could have an informal house (but this would need to be rectified over time).

## When is an informal settlement no longer an informal settlement?

Based on the above discussion, one now has all the conceptual tools available to answer the question posed in the title of this article: “When is an informal settlement no longer an informal settlement?” A preliminary answer to this question is when people who were living in the informal settlement are now living within a layout with clear plots and access routes that have been approved by the municipality and the community (i.e. they are living in a re-blocked layout). However, it is likely that government and the community themselves would still see themselves as informal settlement residents if they have not also moved from having no basic services to having interim basic services (like communal toilets), having no proof of tenure security or recognition to having some form of administrative tenure security (like having their names recorded against a pre-payment electricity meter linked to their plot), and having an inappropriate underlining base zone to having a recognised incremental settlement zone. So, a proposed more comprehensive answer to when an informal settlement is no longer an informal settlement would be when people in an informal settlement satisfy all four of the following conditions:

1. They are living in a re-blocked layout (i.e. a semi-formal settlement), and
2. The land they are living on is zoned as an incremental settlement area; and
3. They have access to a minimum level of temporary/ emergency basic services; and also
4. Their names are recorded on a data base linking their name to a plot

It needs to be noted that living in a formal house (that has building plan approval and an occupation certificate from the municipality) is not one of the criteria used to determine if an informal settlement is no longer an informal settlement. So, if people are living in an informal house, within a semi-formal settlement, this has no bearing on whether it is an informal settlement or not. The issue of when an informal house is no longer an informal house is a different question and not the subject of this article [2].

### Types of semi-formal settlements

It is useful to distinguish between two types of semi-formal settlements: permanent semi-formal settlements and temporary semi-formal settlements. Permanent semi-formal settlement layouts are developed for settlements that have been categorised as B1 (settlements that will stay into the future), whereas temporary semi-formal settlement layouts are developed for settlements that have been categorised as B2 (settlements that need to be relocated at some point in future) [3]. Temporary semi-formal settlements do not get upgraded to formal settlements whereas permanent semi-formal settlements are able to become formal settlements.

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[2] It may be useful to explore the concept of upgrading from an informal house to a semi-formal house and then from an informal house to a formal house in any subsequent analysis of the upgrading of informal houses.

[3] Categories of informal settlements: A (immediate full upgrade), B1 (temporary services now with full services in situ later), B2 (emergency basic services now with full services on alternative land in future), and C (immediate relocation to full services now) are categories of informal settlements developed by the national Department of Human Settlements.

It does not matter if a settlement is a category B1 or B2 settlement, constitutionally guaranteed basic services still need to be provided to residents in both these types of informal settlements. If the settlement is categorised as a B1 settlement (one that will stay where it is into the future) and a re-blocked (or semi-formal) layout has been approved by the municipality, then the municipality could be in a position to approve formal building plans allowing a formal house to be built within a semi-formal layout plan. However if the house is built within a B2 categorised informal settlement then the municipality should not approve any building plans as the plot with its house would be earmarked for relocation at some point in future.

The concept of semi-formal settlements can also apply to the process of developing new settlements on greenfield land. In such a greenfield situation, one would skip the informal settlement phase and move directly to the semi-formal settlement phase. Government and communities would work together, in advance of people settling on the land without authorisation, to create pre-blocked layouts [4] onto which people who have been allocated are able to move and start to build their own temporary accommodation. This is very similar to site-and-service except that the site would be a plot (i.e. a portion of land approved by the municipality but not yet approved by the Surveyor General), the area would be demarcated as an incremental settlement zone, administrative and alternative tenure would be provided, and services would be communal or interim services. As such, such projects are more correctly called 'plot-and-basic services' and not 'site-and-service'.

## **Conclusion**

Without recognising and accommodating the concept of semi-formal settlements then the answer to the question of when is an informal settlement no longer an informal settlement is when the settlement is a formal settlement. This implies that the settlement is still an informal settlement even if it is on the path to becoming a formal settlement. By accommodating the concept of semi-formal settlements in the upgrading process, one is better able to measure progress as settlements are upgraded from informal to semi-formal and on to formal settlements. Government will be better able to demonstrate and show that they are improving the lives of people living in informal settlements in that they are systematically upgrading them first to semi-formal settlements and then at a later date to formal settlements. By converting informal settlements into semi-formal settlements significantly fewer people will be living in informal settlements and many more will be on the path towards ultimately living in a formal settlement.

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[4] For more information on pre-blocked layouts see <https://afesis.org.za/learning-brief-14-from-re-blocking-to-pre-blocking/>