

#7 LAND ACQUISITION AND DEVELOPMENT FOR HUMAN SETTLEMENT DEVELOPMENT

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As a country we need to prioritise the acquisition and development of land for settlement purposes if we are to make any impact on the demand for housing. Between 1994 and 2014 the South African government provided more than 2.5 million houses and some 1.2 million serviced sites, but the housing backlog nevertheless increased over this same period from 1.5 million to 2.1 million units, while the number of informal settlements went up from 300 to 2 225¹. The United Nations estimates that 71.3% of South Africa's population will live in urban areas by 2030 and nearly 80% by 2050².

In order to address this housing backlog and anticipated future housing demand, government cannot carry on with business as usual trying to '*build its way out of the problem*' by building RDP houses for everyone. One new approach that could help address this challenge, as proposed by Afesis-corplan and others, is Managed Land Settlement (MLS). This model and approach suggests that land be identified for settlement purposes and made available to a selected group of beneficiaries (depending on government's criteria) with basic services;

¹ South Africa's Housing Conundrum, SAIRR, @liberty, No 4, 2015/6 October 2015/Issue 20
<http://irr.org.za/reports-and-publications/atLiberty/files/liberty-2013-south-africas-housing-conundrum>

² South Africa plans for mass urban migration, available at:
http://www.southafrica.info/about/government/iudf-270515.htm#.VtmIO_I97IU#ixzz41wHzPK5z

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once given access and tenure recognition to this land, these households would start to build and in time improve their houses³.

Government presently uses about R160,000 to build one serviced site with a top structure (RDP house)⁴. If government adopts a MLS approach it will be able to build about 5 (at least basic) serviced sites with the same amount of funds (assuming a cost of R32,000 per site for land and services). This means that in any given time period government needs to find 4 times more land than they needed to find if they were using the same money to provide RDP houses on serviced sites. In short, if government adopts a MLS approach they need to rapidly increase the pace at which land is accessed and developed.

The present system for the development of RDP houses is not geared up to identifying, acquiring and developing land for settlement development at a scale that will be required following the MLS approach. Government will need to improve its systems and mechanisms for the acquisition and development of land for settlement purposes.

This learning brief looks at three questions relating to how government can improve the process through which land can be acquired and developed:

1. How does land acquisition and development fit into the broader spatial planning process?
2. Where will the funds come from to acquire and develop the land?
3. Who will be responsible for managing the land acquisition and development process?

What follows is an attempt to respond to these questions:

1. How does land acquisition and development fit into the broader spatial planning process?



One of the reasons for the slow pace of land acquisition and development in our view, is that municipal Integrated Development Plans (IDPs) and Spatial Development Framework (SDF) plans do not give enough attention to making sure that municipalities are identifying land and putting processes in place that outline how the municipality plans to acquire and develop the identified land for settlement development purposes.

In general terms, at the broad level, municipal SDF's identify where the municipality would like to see development occurring; and at the more local level, housing development plans are produced for specific projects on land that the municipality is able to develop. More attention needs to be given to the steps

³ For more information on incremental settlement see: <http://www.incrementalsettlement.org.za/>

⁴ For subsidy breakdown see <http://greencape.co.za/assets/Uploads/WC.pdf>

between these more broad municipal wide plans and the more local project plans; these are the steps involved in the actual process of acquiring and getting the land that is identified for development in the SDF, so that this land can be used for settlement purposes.

- Municipalities must be required, as part of their SDF, to produce a land acquisition and development strategy and programme. This strategy and programme must be based on a clear analysis of the land and housing demand in the area, as well as an understanding of where, spatially, the municipality would like to see future development happening.

The land acquisition and development process includes deciding which land to acquire, following the process of acquiring this land (through purchase, expropriation, land swaps, land readjustment, or any other appropriate method), outlining where the finances for this land acquisition process will be obtained, deciding what to do with the land once it is obtained, deciding who should be allocated the land, making sure that the necessary bulk servicing requirements are in place, and outlining how the land will be developed for settlement, agricultural or other appropriate purpose.

- The municipality must identify what land they need for housing and settlement development that forms part of their SDF, and not just use land for settlement that is readily available or they just happen to own. The land identified for low income housing must form part of a planned expansion of the city.

Land development includes both development through upgrading, densification and infill as well as the development of well located 'peripheral' land that forms part of a future development corridor or zone. Settlement development should happen on public and state land⁵ as well as on private land.

The land acquisition and development strategy should outline what tools the municipality will be using to acquire and develop the land they have identified for settlement purposes, including for example, tools to 'nudge' people to sell any underused land they own through the vacant land tax (that has been used in the City of Johannesburg), negotiate for and buy the land, and even expropriate the land where necessary.

- It will be much easier to expropriate land if the municipality is able to show the courts that there is a demand for land development, and that the land identified forms part of a clear SDF that has been developed following the legislated processes for developing an IDP and SDF.

There is no specific clause in any legislation calling on municipalities to include reference to the development of land acquisition and development strategies in municipal IDPs.⁶ The one clause that comes close is section 2(4)(g) of the *"Local Government: Municipal Planning & Performance Management Regulations, R.796 of 2001"* which requires a SDF to *"identify programs and projects for the development of land within the municipality."*

The *Spatial Planning and Land Use Management Act (SPLUMA) no 16 of 2013*, section 21, also lists a number of requirements that need to be included in a municipal SDF such as:

- include estimates of the demand for housing units across different socio-economic categories and the planned location and density of future housing developments;
- identify the designation of areas in the municipality where incremental upgrading approaches to development and regulation will be applicable; and
- include an implementation plan that outlines how the SDF will be implemented and funded.

⁵ According to the South African National Government (1997), *White Paper on South African Land Policy*, Department of Land Affairs, public land includes land held by provincial and national governments, as well as land owned by local authorities and land belonging to parastatals or other enterprises wholly owned by government. State land is land which is held by the national and provincial governments, but excludes local authority and parastatal land. State land includes former South African Development Trust land and land already allocated to communities and individuals in the former homelands and former coloured reserves.

⁶ The insights of Antony Meuleman (through personal communication) are acknowledged in this section, but any errors are the authors.

- Municipal SPLUMA by-laws may also stipulate the content of SDFs but as far as we are aware no by-laws at the moment explicitly call on municipalities to include land acquisition and development strategies and programmes in their SDFs.

National government has also developed guidelines for the development of SDFs. Guidelines from 2011 have been published and were revised in 2014 (the 2014 guidelines have not officially been published). These guidelines also do not make specific reference to the need for land acquisition and development strategies to be developed, but they do include the suggestion that the SDF includes an implementation section that is part of a capital investment framework, that outlines how the spatial proposals will be implemented, including who will do what and when with what budget. The guidelines for the development of precinct plans also recommends that detailed implementation plans should be included in the precinct plans (or what could also be called a local SDF).

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Section 2(4)(g) of Regulations 796 of 2001, that requires SDFs to identify programmes and projects for the development of land within the municipality, are sufficient as they stand to require municipalities to develop, what could be termed a land acquisition and development strategy. However, consideration should be given to adding an additional clause to section 2(4) of regulations 796 of 2001 explicitly requiring municipalities to include a land acquisition and development strategy into their SDF. Additionally, or as an alternative, rather than keeping such a clause 'hidden' away in some obscure regulations, the SPLUMA should be amended (in section 21, for municipal SDF's, and sections 19, 17, and 14 for district, provincial and national SDF's respectively) to more specifically require such land acquisition and development plans to be included in SDF's.

It is also strongly recommended that legislation and laws that have not yet been finalized such as municipal land use management by-laws (as required by SPLUMA), and future provincial SPLUM legislation should more explicitly require municipalities to develop land acquisition and development strategies.

2. Where will the funds come from to acquire and develop the land?



Changes to legislation alone however will not make a big difference to speeding up the acquisition and development of land for human settlements. Another reason for the slow pace of land acquisition and development is that there is no one department (with access to specific funds) that is taking full responsibility for ensuring that the issue of land for settlement development purposes is prioritised. The Department of Rural Development and Land Reform (DRDLR) appears to be chasing agricultural land hectare number targets

while the Department of Human Settlements (DHS) appears to be focused on chasing the top structure (housing) numbers and targets⁷.

Funding is needed both for 1) the planning and land acquisition process (e.g. paying town planners, conveyancers and property valuers to negotiate for and arrange for land purchase and expropriation where necessary), as well as 2) for the actual purchase of the land.

In relation to planning for land acquisition and development, the national Department of Human Settlements has a programme to fund the 'housing chapters' of the Integrated Development Plan (IDP)⁸. This fund could be used by municipalities to prepare housing plans that could include land acquisition and development strategies. However, our research reveals that no municipalities have ever applied and therefore the fund has never been used⁹. This is a wasted opportunity.

Funding for the purchase of land from the Department of Rural Development and Land Reform is mainly used for the acquisition of land for agricultural and not for settlement purposes.

The various housing subsidy programmes under the Human Settlement Development Grant make provision for land purchase¹⁰, but only as a last resort. Well located land tends to be expensive and it is not clear exactly how much money can actually be spent on land acquisition. The Urban Settlement Development Grant (USDG), available from national Treasury for Metropolitan Municipalities, was specifically designed such that it could be used to plan for and acquire land for settlement purposes. However, the USDG has to also be used to pay for the development of most of the bulk and connector infrastructure projects relating to roads, storm water, water and sanitation - with the result that municipalities are pressured to prioritise the use of these USDG funds for infrastructure projects to the detriment of land acquisition initiatives.

Funding for land acquisition should not be part of general funds that municipalities are tempted to use for other purposes. Government needs to establish a dedicated fund that municipalities can access for land acquisition and development. Municipalities must however be required to motivate for access to these funds based on sound SDF plans and as per settlement and land acquisition strategies that are reflected in these SDF plans. This fund would be similar to the Settlement/ Land Acquisition Grant (SLAG)¹¹ that used to be available under the former Department of Land Affairs.

⁷ Although to be fair to the DHS, there are land acquisition targets in Outcome 8 on Sustainable Human Settlements and Improved Quality of Household Life, under the Medium Term Strategic Framework for 2014-2019, that set government the target of releasing and rezoning 10 000 hectares of well located land for new developments targeting poor and lower middle income households

(<http://www.poa.gov.za/humansettlements/Delivery%20Agreement/Outcome%208%20Human%20Settlements%20MTSF%20Chapter.pdf>)

⁸ The programme called "Integrated Development plans part 1 and part 2" is available on:

<http://www.dhs.gov.za/content/national-housing-code-2009>

⁹ Personal communication with senior official within the national Department of Human Settlement. 27 October 2016

¹⁰ In 2014 the budget for land was R6.000 per site; services about R44,000 per site; and top structure R110,000 per site for a total of R160,000 per site.

¹¹ <http://www.ruraldevelopment.gov.za/phocadownload/Policies/grants%20and%20services-approved%20version%207.pdf>

3. Who will be responsible for managing the land acquisition and development process?



A big challenge at the moment in relation to rapidly making land available for settlement purposes is that there is uncertainty as to who is responsible for providing and administering funds for urban land acquisition and development.

National government needs to finally put an end to turf battles between different departments in relation to which department should be responsible for urban land related matters. The following departments could be considered: Rural Development and Land Reform, Cooperative Governance and Traditional Affairs (CoGTA), and Human Settlements.

Providing the Department of Human Settlements (DHS) with responsibility for managing a new land acquisition and development grant will go a long way to shifting the focus of this department away from a predominant housing top structure focus to a broader human settlement focus. The DHS will be able to play a more meaningful role in promoting true intergraded and sustainable human settlements, where residents have physical access to a full range of opportunities from jobs, to education, health, recreation and public transport to name just a few. The DHS will have to work very closely with CoGTA so as to ensure that land acquisition and development follows on from and is coordinated with IDP and SDF planning.

A second option would be for the DRDLR, in the same manner that the Department of Land Affairs did in the past, assume responsibility for all land related matters - be they rural or urban¹². If this is the case then it would make sense for this rebranded department to be responsible for managing a land acquisition and development grant. More consultation and analysis is needed before an informed recommendation could be made as to the appropriate department to take responsibility for a new land acquisition and development grant.

Conclusion

In summary, this learning brief makes the following recommendations:

- Municipalities should be required to include land acquisition and development strategies and programmes into their SDFs and IDPs. There are clauses tucked away in more obscure regulations¹³ that require municipalities to develop what could be interpreted to mean land acquisition and development strategies, but it would be much clearer if SPLUMA was amended to more explicitly call on municipalities to develop

¹² The functions of rural development could be allocated back to responsible departments (e.g. agriculture, small business development and CoGTA) depending on which aspect of rural development is being considered.

¹³ section 2.(4)(g) of the "Local Government: Municipal Planning & Performance Management Regulations, R.796 of 2001"

such plans. This requirement can then also be reflected in municipal land use management bye-laws and provincial spatial planning and land use management legislation.

- Government needs to introduce a new dedicated land acquisition and development fund, similar to the Settlement/ Land Acquisition Grant of the past, that municipalities can access to plan for and actually acquire and develop land for human settlement.
- Allocate responsibility for the administration of this new fund to either the Department of Human Settlements that is given the mandate to promote integrated human settlement development; or to a rebranded Department of Land Affairs, and ensure that this fund is coordinated with other funding for the development of SDFs and IDPs. Which department is ultimately responsible for the land acquisition and development fund is not so important, as long as there is one department responsible for this fund and responsibility is not split across departments.

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