In situ formalisation of informal settlements: the process in practice

by Karl van Rensburg, Land Tenure Services

Introduction

In South Africa, as in many countries in the world, land has always been a sensitive issue. Issues of land ownership, distribution and use still give rise to strong emotions.

The mandate of the Department of Rural Development and Land Reform (DRDLR) has been to develop a comprehensive land reform programme. Land reform in South Africa consists of three major programmes:

Redistribution: Aims to provide the disadvantaged and the poor with access to land for residential and productive purposes. Its scope includes the urban and rural poor.
Land restitution: Covers cases of forced removals which took place after 1913.
Land tenure reform: Land tenure describes the way in which people own or occupy land. In essence, tenure reform deals with people who currently occupy and use the land and all other conditions related to that. Tenure reform aims to provide security of tenure to all South Africans.

While all three programmes are part of a broader land reform programme, each one is aimed at addressing certain specific problems.

Until 1994, apartheid laws made it impossible for non-whites to get registered ownership rights to land in most parts of the country. This created a severe land shortage and many people established homes on nominally state-owned land without any formal rights. It is estimated that in South Africa the cadastral system covers 80 – 90% of the country (Augustinus, 2003:3). Figures for those living outside the system are about 2,4-million households or about 12,7-million people (Adams et al., 1999:7). Presented with this large number of people, many academic papers have been written on proposals for various alternative cadastral systems. However the status of land rights on land which is nominally state-owned and the provision of legally enforceable rights (tenure reform) to the occupants of such areas are clear. Consider the following:

The White paper on South African Land policy, 1997 sets out the principles of tenure reform as:

“Tenure reform must move towards rights and away from permits. This entails a commitment to the transformation of all ..... ‘subservient forms of land rights into legally enforceable rights to land” (Department of Land Affairs 1997 a:60)

It also states that:

“Tenure reform processes must recognise and accommodate the de facto vested rights which exist on the ground ... (including).... interests which have come to exist without formal legal recognition” (Department of Land Affairs 1997 a:61)

Section 25(6) of the Constitution of the RSA, Act 108, 1996 states:

“A person or community whose tenure of land is legally insecure as the result of past racially discriminatory laws or practices is entitled to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress. ”

Even though long term occupants of land which is nominally owned by the state have clear legally enforceable rights to the land they occupy, a tendency exists for them to be ignored in decision making processes concerning land. All too often this results in decisions being taken which erode their land rights, or deprive them of land which they may have occupied or used for decades.

Ironically, the greatest threat to land rights may come from provincial and elected local governments, continuing in the tradition of failing to recognise underlying land rights. They proceed for example with the preparations of Integrated Development Plans (IDP) and “developments” as if the land is terra nullius (empty) belonging to the state, and that the people living on the land have no rights or say in the development, justifying the development in the interest of “development” as conceived and pursued by people other than the “beneficiaries”.

Essentially all levels of government and tribal authorities should deal with rights holders on nominally state-owned land as they would with any other owners of land.
Meaning of formalisation

Formalisation of informal settlements as referred to in this paper means tenure upgrading to secured title i.e. the formalisation of the rights of people in and to land. It does not mean the formalisation of a township layout plan or township establishment (although township establishment is indeed a step in the process). Within the context of this paper the ultimate goal is to give the beneficiaries secure title (title deeds).

Challenge

In many cases communities living on land held in trust by the state are demanding that the minister transfer the land to them in direct ownership. Entrepreneurial farmers within communal areas are demanding that they be given title to areas which they currently cultivate. Traditional leaders are demanding that the land be transferred from the state to the tribal authorities or to the communities. Individuals within communities are demanding stronger individual rights both in order to be able to access state housing subsidies and loans and because, in some areas, they complain of human rights abuse by land allocators.

What the demands have in common is that the people want a transfer of rights from the state, and they want rights which are documented and secure so that they cannot be denied or interfered with in the future as they were in the past.

The challenge and the opportunity is to find a way of elevating the status of land rights in these areas into property rights, so that they, like other land rights, come within the ambit of protection of the constitution and can never again be ignored or abused.

Assumption and strategy

No two informal settlements are the same. Each settlement has its own character and variations relating to the age of the settlement, their de jure-de facto status, the different community values, norms, needs and aspirations. The paper does not attempt to address all the different approaches for different land ownership models.

The aim of the paper is to demonstrate how to achieve tenure security based on a freehold land ownership model (as opposed to communal tenure). This implies certain assumptions being that the informal settlements have originated over a long period – at least in excess of five years but normally longer than 20 years. Such settlements are therefore normally characterised by housing structures which suit the occupant’s needs and which were developed over time by the occupant using his/her own money and basic infrastructure as are evident in many settlements in the former homeland areas. This assumption is in contrast to spontaneous- or squatter settlements, which are normally characterised by shanties or inferior shelters where people have settled abruptly.

The rationale behind this approach is that it is unlikely that the formal housing system will ever catch up with the demand for housing in the “traditional housing project” sense, due to financial constraints. Furthermore, over time occupiers improve their dwellings to such an extent that it makes a mockery of the 35 to 45 m² houses provided by the project-linked housing programme. Many more beneficiaries can be assisted faster through this approach.

Benefits of tenure reform by way of formalisation

The manner in which to evaluate the benefits of tenure reform by way of formalisation is to mirror the way in which problems are addressed in relation to constitutional obligations, legislative requirements and policies. Please note Table 1 which reflects same.

Tenure reform process

In the tenure reform or formalisation and upgrading process contemporary legislation and policy documentation need to be kept in mind.

The specific legislation and policy documentation to be kept in mind are:

The Development Facilitation Act, Act 67 of 1995 (DFA) and the Spatial Planning and Land Use Management Bill, 2011 (SPLUMB);

- Section 152 and 153 of the Constitution of the RSA (Act 108 of 1996) which commit local government to take reasonable measures, within its financial and administrative capacity to achieve certain objectives; and
In relation to the Spatial Planning and Land Use Management Bill, 2011 and the Development Facilitation Act, 1995 with its similar principles

Both the Bill and the Act bear testimony to the government's intention to guide land planning and development of informal settlements.

The principle aims of SPLUMB are clear, referring to the preamble:

- “The state must respect, protect, promote and fulfill the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities”
- “Informal and traditional land use development processes are poorly integrated into formal systems of spatial planning and land use management”
- “It is the state’s obligation to realize the constitutional promises in Section 25(5) of the Constitution, to take measures designed to foster conditions that enable citizens to gain access to land on an equitable basis”

Section 6 which relates to development principles reads:

“6(a) the principle of spatial justice, whereby-

(i) past spatial and other development imbalances are redressed through improved access to and use of land;
(ii) policies at all spheres of government address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterized by widespread poverty and deprivation;
(iii) Spatial planning mechanisms, including land use schemes, include provisions that enable redress in access to land and property by disadvantaged communities and persons;
(v) Land development procedures will include provisions that accommodate access to secure tenure and the incremental upgrading of informal area”.

6(b) the principle of spatial sustainability, whereby spatial planning and land use management systems must-

(iii)  Promote and stimulate the effective and equitable functioning of land markets;
6(e) the principle of good administration whereby-
(i) All spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act”

Similarly, the Chapter 1 principles of the DFA and its resource document also stand central to guide land development in South Africa to the extent that it is stated in the resource document in paragraph 2.1

“The principles apply to all forms of planning which affect land development including:

developments of all public authorities affecting land development under any law, ...
all legislation, including all land control systems and instruments affecting the development of land.

The principles are also binding on all future actions of legislatures at national, provincial and local government levels. This means all laws, regulations, by-laws (and policy) which are passed or changed must conform to the principles”

Therefore, any development, policy or future change in policy have to take into account the DFA principles and must conform to the principles.

The following specific principles amongst others need be kept in mind in the formalisation approach:

Principle 3(1)(a):
Which relates to “... urban and rural land development of formal and informal, existing and new settlements.”

In Paragraph 4.2.1.2 of the resource document it is stated;

“It requires that equal weight be given to both formal and informal land development processes. Historically, South African legal systems have favoured conventional step-by-step development processes: ...

In reality, however, a large amount of settlement formation in South Africa occurs through informal processes which are almost the reverse of the conventional step-by-step process ...
The principle demands that both forms of process be accorded equal weight and status before the law and that both types of processes should be facilitated in a positive way.”

Principle 3(1)(b):

Which relates to “.....the illegal occupation of land, with due recognition of informal land development processes”

In Paragraphs 4.2.2.1 and 4.2.2.2 of the resource document it is stated;

“This principle seeks to balance two potentially competing considerations. On the one hand, it is a clear injunction to discourage the illegal occupation of land. ....

“On the other hand, it recognises that, historically, informal settlement processes may well have been illegal initially but have now gained permanence.”

Principle 3(1)(k):

Which relates to security of tenure reads as follows:

“Land development should result in security of tenure, provide for the widest possible range of tenure options, including individual and communal tenure and, in cases where land development takes the form of upgrading an existing settlement, not deprive beneficial occupiers of homes or land, or where it is necessary for homes or land occupied by them to be utilised for other purposes, their interests in such land or homes should be reasonably accommodated in some other manner”

The constitutional objectives of local authorities

The constitution in terms of Section 152 commits local government to take reasonable measures, within its financial and administrative capacity to achieve the following objectives:

- To ensure the provision of services to communities in a sustainable manner
- To promote a safe and healthy environment
- To promote social and economic development
- To provide democratic and accountable government for local communities
- To encourage the involvement of communities and community organisations in the matters of local government.

Section 153 of the Constitution places further specific responsibility on local authorities to manage its administration, budgeting and planning processes to promote the social and economic development of the community.

The crux of the South African land policy

The third policy document to be kept in mind is the white paper on South African land policy:

Executive summary page xv reads:

“Land reform is a national competency. It is the responsibility of the national government to ensure a more equitable distribution of land ownership ........and to ensure that a programme of land tenure and land administration reform is implemented. It is the responsibility of provincial governments to provide complementary development support to beneficiaries of land reform.”

Executive Summary page v

“Land policy must deal with the following in both urban and rural environments:

- The injustices of racial-based land dispossession
- The inequitable distribution of land ownership
- The need for security of tenure for all
- The need for sustainable use of land
- The need for rapid release of land for development
- The need to record and register all rights in property
- The need to administer public land in an effective manner”
Methodology

Project management

One of the most crucial aspects of a tenure upgrading project is the project management component which considers the project as a whole. Typically, there are four phases in any project. They are the concept phase, development phase, implementation phase and the finish. While it is convenient to separate the project into phases and activities, at no stage should any of these activities be viewed in isolation. This separation into activities should always consider the project holistically including the preceding and succeeding activities. The breaking up of the project into isolated activities and the sub-contracting out of these to different professional service providers is a very risky process. Knowledge and preferably experience in each of the above, a holistic view and appreciation of project management are essential. A common mistake is to place more emphasis on visible deliverables in the implementation phase of the project while, for example, neglecting community participation and community education as an on-going and essential process. The multi-disciplinary nature of a tenure upgrade project should also be noted. There must be effective hands on participation by all service providers from the social component to the conveyancer.

Community participation

Community participation is the single most critical success factor in carrying out a project of this nature. Community participation is the factor which makes the difference between unacceptable social engineering and acceptable successful tenure reform.

Community participation should promote a high level of participation in all areas: analysis, consultation and decision making. Community participation is important because:

- It introduces local grassroots knowledge and understanding of local needs.
- It leads to more satisfaction with outcomes: if people have been involved in the process they are more likely to be satisfied with the result.
- It contributes to capacity building and reducing dependency when people have participated in the formulation of decisions.

It must be stressed that community participation is not a substitute for planning. The primary role of planning is to mobilise knowledge, skills and understanding of procedures, to place before people a better sense of possibilities and to seek resolutions to, and compromises around, conflicts.

Both the SPLUMBS and the DFA principles require active participation by those affected by a development. Community participation cannot only be limited to involving the community in the decision making process, but must also include utilising community resources as far as possible in carrying out the work. In this way it can be ensured not only that the end product meets the actual needs of the community but also that the community is empowered by the planning process.

Community participation will therefore have the following facets:

- Community inputs into the planning process and community approval of the final product. This can best be achieved by using the steering committee/representative forum established for a project.
- The use of community resources to carry out the work as far as possible. This implies both the development of skills within the community and employment opportunities.
- Community empowerment in regard to both the planning process and land ownership.
- The employment and training of the local community members from within the community. It is the function of the community facilitation members firstly to make the project known to the community and then to keep the community informed of developments throughout. The community facilitation members will also act as a channel for communication between individuals in the community at large.
- In the verification of ownership, community knowledge will as far as possible be utilised to augment non-official records. This can best be accomplished by the creation of local committees made of long term residents of good standing who can verify information provided by residents concerning the occupancy of properties.
- Maintenance is a very important aspect of the property registration system and any reform program, once established, will not maintain itself without the support of the community. If landholders are not reporting dealings in land, the program will become a mere snapshot of the tenure situation at a point in time, and never reflect the current status. An educational component can therefore not be over-emphasised and it is the educational component that points out that advantages such as a dynamic property market, access to credit, tenure security etc., far outweigh costs such as conveyancing, surveying and taxes.
Pre-planning investigations

As part of the formalisation process, pre-planning studies need to be undertaken in respect of the project area. These studies entail:

- Initial consultation with interest groups/stakeholders
- Project funding
- Geological surveys
- Engineering services report
- Environmental impact evaluation
- Photographical aerial mapping
- Research, searching and obtaining of relevant data and information in connecting with rights, titles, maps and related legal and registration documents.

Planning of project area

The main purpose of planning is to foster positive human development and to improve the quality of life of all people. Particular attention should be paid to achieving social justice by assisting the poorest members of society to meet their needs and requirements.

Land development processes may relate to new development or to the upgrading of existing settlements, either formal or informal, and both require equal consideration. Settlement formation and upgrading occurs, in reality, through a wide range of processes, only one of which is the conventional step-by-step process, and these are very different in different contexts. Historically, South African legal systems have favoured conventional step-by-step development processes.

In reality, however, a large amount of settlement formation in South Africa occurs through informal processes which are almost the reverse of the conventional step-by-step process:

- Land is occupied
- Structures are erected; and other processes are then initiated to regularise and legalise the event, after the fact.

All of the processes which lead to the general improvement in physical living conditions should be regularised. There is a need to learn to work positively with these less conventional processes, something which has largely been ignored by property professionals in the past.

Layout planning taking into account structuring elements (e.g. geotechnical considerations, flood lines, future road and rail planning, cadastral restrictions, environmental concerns, sound planning principles and existing informal property boundaries) informs the preparation of a layout plan. A township establishment application is then lodged and approved in terms of the relevant planning legislation.

Surveying and beaconing of project area

Before any project is undertaken there has to be a large-scale map of the intended project area. An aerial photography survey offers the best method of providing these maps.

As there is no substitute for actually walking over the ground, site evaluation is part and parcel of the service of the land surveyor. In the normal course of the survey the land surveyor will also directly interact with the community and will be thoroughly conversant with the needs of the community.

Feedback regarding physical aspects, which boundaries should be kept, wishes of the inhabitants, whether a land parcel is one or two erven, the best positions for open spaces and their current use, facilitate on-site creative design and planning.

Beaconing of the layout is undertaken, attempting to adhere to the planned layout and making on-site alterations where necessary. After the last beacon of the township has been placed, the land surveyor completes his task by preparing a general plan of the development.
Land rights enquiry

The land rights enquiry process will take place in six steps which are outlined below.

- **Data collection:** Relevant data regarding the occupant of each stand is collected. Occupants will be requested to visit a site office in order to have the necessary documents made and certified. Where there is no dispute as to the ownership of the property the tenant will receive the title deed in due course. In this manner a one-stop-service will be offered.

- **Verification of data against informal records:** Where there are informal records, the collected data will be verified against existing informal records. The verification process will not simply be a formalisation of existing rights, but effect will be given to the evolution of ownership guidelines developed during consultation with the community. In other words attention will be given to issues such as inheritance, informal sales and also to the rights of women. This process will result in the development of a list of *prima facie* owners. *Prima facie* owners will eventually become full owners should their ownership not be challenged during the remainder of the process.

- **Publicise names of *prima facie* owners:** If the process of transferring the properties is to have any legitimacy, transparency will have to be maintained at all times. It is therefore imperative that the names of the prospective/*prima facie* owners be made known to the community to provide the opportunity to raise objections or counter claims.

- **Objections and competing claims:** Due to the disorganised condition of land rights, other parties, in addition to those living on the property may have some claim to the property. Such parties must be given the opportunity to make their objections or submit competing claims.

- **Community verification:** At this stage it will be possible to make a distinction between two categories of properties, namely:
  - Undisputed properties: where there has been no objection or counter claim to the *prima facie* owner.
  - Disputed properties: where there has either been an objection or competing claim to the *prima facie* owner.

Community verification, by way of local committees will take place in both categories. The community will only verify that the property is indeed disputed or undisputed. It will not resolve disputes. However, in the case of disputes, the community will assist the adjudicator to resolve the dispute.

- **Dispute resolution:** The disputed cases will be resolved by way of independent adjudicators drawn from the legal fraternity or from officials of the local authority.

Activities regarding the land rights enquiry

The professional absolutely indispensable in this activity is again the land surveyor. In our experience should a surveyor not be in control of the following activities the end result is usually chaos.

- Planning of field titling campaign
- Visiting sites for the gathering of textual and geo-referenced data
- Issuing of erf identification name plates
- Collecting and identifying proof of title, liaison and conferring with informal owners
- Reporting on contradictions
- Examining and verifying of information
- Preparation of a data base and handling of information;

Transfer of land parcels

As soon as the township has been registered title deeds must be transferred into the names of the beneficial occupiers to whom the erven has been allocated.

The deeds will be prepared using the database and lodged in the Deeds Office.

Obstacles and constraints

It is my opinion that in general the following obstacles are standing in the way of tenure upgrade of informal settlements:

**Policy inflexibility**

Effective strategies for upgrading informal settlements demand policy flexibility and possibly dedicated legislation. An inflexible approach premised on a certain services standard, or certain planning models are doomed to failure. This only
loads people with unaffordable commitments and cumbersome procedures. Flexibility requires an enabling policy framework recognising what the people in a settlement want and need. Of course, policy must also address the needs of local authorities to stabilise settlements and deliver sustainable services.

The implicit problems associated with formalising the informal

This relates to the harmonisation of the layout plan with service planning, public facilities, efficiency of the layout, street hierarchy, street frontages, stand sizes and policies which impose a formal township model on informal settlements which may lead to reallocation of sites (due to de-densification and boundary and site definition).

Integration

This obstacle relates to the interface between policy makers at different administrative levels and across different tiers of government and government departments. For example, municipalities are not in control of budgetary allocations from the Department of Rural Development and Land Reform and same is critical for the municipality’s integrated planning and delivery at local level. Integration will ensure vertical alignment between national and local government.

The hesitant understanding of tenure reform in general

The ambivalent understanding of land tenure issues by officials, councillors, tribal authorities and other policy formulators.

Conclusion

The Constitution commits the government to protect and assert human rights. The direst need for intervention is where people are most vulnerable, as they are in informal settlements on nominally state-owned land. It will be ironic if, instead of intervening to protect and assert rights, the government itself, whether national, provincial, or local due to policy inflexibility and inability to solve obstacles, contributes to the above.

<table>
<thead>
<tr>
<th>Problem identification</th>
<th>Description of circumstances</th>
<th>Formalisation benefit/contribution to solution</th>
<th>Supporting policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vulnerability of women</td>
<td>Single women with young children may often only obtain residence under highly prejudicial arrangements.</td>
<td>A most significant advantage is gender equality. Access to land empowers women and creates opportunities for women due to land ownership. The key to creating a safe and healthy environment, free of uncertainty and threat, is through the formalisation of informal settlements.</td>
<td>See: Footnote1 Footnote2</td>
</tr>
<tr>
<td>Criminal elements</td>
<td>Criminal elements are dependent on the invisibility and un-traceability of informal settlements. Criminal elements have vested interests in the current situation.</td>
<td>The social conditions of existence within an informal settlement which is not under control of the local authority (LA) is a breeding place for such activities. Formalisation brings settlements within the control of local authorities.</td>
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</table>

1 ‘A key contributing factor to woman’s inability to overcome poverty is lack of access to, and rights in land. Discriminatory customary and social practices are largely responsible for these inequities’. ... Section 9 of the Constitution ... states further that equality includes the full and equal enjoyment of all rights and freedoms. In relation to land matters, ... this requires positive action by government.’ [Extract from the White Paper on South African Land Policy 1997:17]

2 ‘Until such areas are brought within the ambit of the law and functional land administration systems are established, they remain vulnerable to exploitation by unscrupulous individuals.’ [Extract from the White Paper on South African Land Policy 1997: 33]
<table>
<thead>
<tr>
<th>Coercive shack lords</th>
<th>Shack lords have control over social existence and informal property.</th>
<th>Land ownership allows people more control over their lives and their property free from bullying shack lords or stake holders with interest to control access to land and regulate its disposal.</th>
<th>See: Footnote 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal systems providing access to land and regulating its disposal</td>
<td>From a spatial planning perspective, informal systems (community members) controlled land allocations and thus effectively the subdivision into erven. This was done without any reference to planning principles relating to stand size, efficiency or indeed, to any larger spatial organisational system.</td>
<td>The current settlement pattern will not correct itself by its own accord, nor will it be addressed by itself. It is important that a better organised settlement form be developed, ensuring that there is a real potential to provide for a better quality of life and a better living environment in these areas. Planning by means of the process of formalisation remains the only alternative for the proper and orderly development of this settlement.</td>
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**Economic environment**

| Land and housing not used as an economic asset | Land and housing cannot be used as an economic asset and finances locked in land cannot be gained access to, which leads amongst others to the lack of investment in property and cash flow problems for business. | Ownership of land improves the way in which land and housing can be used as a financial asset to, for example, obtain loans as well as to get access to subsidies and credit. It also improves the potential to sell the land and to combat poverty. The property market can only develop by way of safe, predictable and legally accepted transfer of land. With formalisation finances locked in land can now be released and personal wealth, in the form of land, grows and business investment in land increases. | See: Footnote 4 |

**Institutional environment**

| Land management and land use management | Local authorities are challenged by a situation where they have insufficient information to manage land in informal settlements. In such circumstances efficient and effective spatial planning and land management is not possible. | The unique nature of land and the need for socio-economic development requires the proper management of land. Formalisation provides the basis for suitable land management (that is land administration, budgeting and development planning) and provides needed knowledge of land occupation and land ownership. | See: Footnote 5, Footnote 6 |

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3 *To the extent that systems are informal and there is no administrative and policing backup they are vulnerable to powerful individuals moving in and establishing their own private system of extortion* ... [Extract from the White Paper on South African Land Policy 1997: 33]

4 *Housing represents the most significant investment that most families make and is often their only provision for long term security. Currently, the secondary property market is dysfunctional at the lower end of the market. A dysfunctional secondary market undermines the realizable value on properties and consequently the value underpinning security for mortgage loans. Mechanisms must accordingly be introduced to support the development of a functioning residential property market and to enhance the linkages between the primary and secondary residential property market.* [Extract from ‘Breaking New Ground’ A Comprehensive Plan for The Development of Sustainable Human Settlements 2004:10]

5 *Local government ... play the most direct role in spatial planning, land use management and land development. This sphere of government (is) ... responsible for formulating the planning frameworks on which all the decisions on land development should be based.* [Extract from ‘White Paper on Spatial Planning and Land Use Management’]

6 *A municipality must- (a) structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community* [Extract from Section 153 of the Constitution of the Republic of South Africa]
| Budgeting and administration | Rural municipalities are in many cases characterised by the existence of many rural informal settlements. These settlements are mostly situated on South African Development Trust land and/or tribal land over which the municipalities have very little control. Service charge revenue and property taxation is very inefficient. | Land tenure reform will contribute to better collection of service charge revenue, property taxation and land administration. Municipalities realise that taking control of informal settlements by way of formalisation is essential for the development of an economic revenue base. The implementation of municipal town planning schemes, land management systems and the provision of essential services will help build the municipal capacity. This in turn will place the municipality in a better position to better fulfill their responsibilities to wards and settlements. | See: Footnote 7 |
| Record and register all rights in property | Land parcels in informal settlements are not included in the current cadastre at the Surveyor General and Deeds Office. Local authorities are confronted by a situation where they have insufficient information to manage land in informal settlements. In such circumstances efficient and effective land management is not possible. | Tenure reform provides accurate, up to date and available land information, which is essential for a local authority to carry out its management of land administration and planning processes. | See: Footnote 8 |
| Planning and good land governance by local government | In informal settlements it is not possible to administer land in an effective manner due to a lack of planning and governance by local authorities. | Municipal planning need be supported by good land governance. Without land management it is not possible to deliver good land governance and sustainable development. | See: Footnote 9 |
| Integrated Development Plans (IDP) | Formalisation projects are identified as priorities in the IDP, but without support due to a lack of vertical alignment between national government and local government. | Formalisation supports the municipality’s IDPs and Spatial Development Frameworks and creates confidence in financial support in line with the national departments’ policies. Support will lead to the wider recognition of informal settlements. | See: Footnote 10 |

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7. "...stated that there was no reason in principle why a rural land tax should not be given serious consideration, primarily as a source of revenue for rural local authorities ... proposes that all land (ie privately owned land, state-owned land and tribal land ...) within the jurisdiction of the local council be included in the tax base..." [Extract from the White Paper on South African Land Policy 1997: 20]

8. "A recurring problem in land reform ... has been the inadequacy of survey and land tenure records and a lack of information on what exists on the ground and how land is utilised" [Extract from the White Paper on South African Land Policy 1997: 106]

9. "The objects of local government are—(a) to provide democratic and accountable government for local communities;" [Extract from Section 152 of the Constitution of the Republic of South Africa]

10. "There is a need to coordinate the functions of the different spheres of government ... in order to achieve effective government" [Extract from the White Paper on South African Land Policy 1997: 106]
**Insecure tenure**

People who have lived on the land for generations may find that they have no legal right to the land. Residents who live on the land can find it sold by others who illegally claim to own it.

Formalisation extends security of tenure to the occupants of informal settlements and changes informal attachments to land into formal land rights which enable beneficiaries to hold and enjoy all advantages in land, without fear or uninformed action by the state, private landowners or others.

See: Footnote 11

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**Physical environment**

<table>
<thead>
<tr>
<th>Provision of essential services, social facilities and ancillary land uses.</th>
<th>It is not possible to install services and social facilities sustainably and sensibly, without layout planning and beaconing of land parcels</th>
<th>Formalisation builds the capacity of a Local Authority and in so doing enables them to deal with the considerable challenges they face, particularly the demands for access to basic services, infrastructure and social facilities. Council will be better positioned to compete for funding after formalisation for the reason that the LA will have approved layout plans, development approval and general plans as approved by the Surveyor-General in their possession.</th>
<th>See: Footnote 12 Footnote 13</th>
</tr>
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</table>

People have few assets and minimal control over their surroundings.  
Health conditions and natural resource degradation occurs around informal settlements  
Tenure reform allows people more control over their lives and their environment, and brings settlements within the control of local authorities

See: Footnote 14

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**Table 1: Benefits of tenure reform by way of formalisation**

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<th>References</th>
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11 'A person or community whose tenure of land is legally insecure .... is entitled, .... either to tenure which is legally secure, or to comparable redress'[Extract from Section 152 of the Constitution of the Republic of South Africa]

12 *The objects of local government are- (b) to ensure the provision of services to communities in a sustainable manner;’ [Extract from Section 25(6) of the Constitution of the Republic of South Africa]

13 *Government departments and development agencies are reluctant to finance community schemes when communities do not have legally secure rights to land on which the development takes place.’ [Extract from the White Paper on South African Land Policy 1997: 34]

14 *The objects of local government are- (b) to promote a safe and healthy environment;’ [Extract from Section 152 of the Constitution of the Republic of South Africa]