



# PARTICIPANTS

## Section 3

### South African Upgrading Policies Programmes and Instruments



## SECTION 3: SOUTH AFRICAN UPGRADING POLICIES, PROGRAMMES AND INSTRUMENTS

### Summary

#### From the Constitution to the Upgrading of Informal Settlements Programme (UISP)

This section provides an overview of the legislation and policy that supports and motivates for the upgrading of informal settlements in South Africa. This legislation and policy springs from the Constitution (1996) and Housing Act (1997) which establishes the right of individuals to housing and the basis by which it must be provided by government. This is followed by the Prevention of Illegal Evictions Act (1988) which sets down the basis by which individuals can or cannot be removed from land they have occupied illegally. The Breaking New Ground Policy (2004) was the first policy document that recognised the challenge of informal settlements and provided a directive and financial support so that they could be upgraded. All legislation and policy documents that followed continued to reinforce the need to upgrade informal settlements and provide mechanisms as to how this could be undertaken. Of relevance are the National Housing Code (2004 and 2009), Outcome 8, Delivery Agreement (2010), the National Development Plan (2012) and the Spatial Planning and Land Use Management Act (2013).

For more details see  
Section 3, item 1

The evolution of housing policy through these documents has seen a change in how informal settlements are viewed and should be addressed. While in the past the approach focused on the provision of a formal subsidised house and the eradication and replacement of informal settlements, increasingly the upgrading of such settlements is being specified. The key characteristics of the approach were covered in Section 1 and include:

- Care:**
  - **Work with and not against informality**
  - Ensure that **livelihoods and economic opportunities** are afforded priority
  - **Integrate** and include informal settlements into the planning of cities and towns.
  - **Understand** informal settlements in their spatial and socio-economic context.
- Listen:**
  - **Ensure meaningful community participation**, engagement and local ownership.
- Upgrade:**
  - Give priority to the upgrading and improvement of informal settlements **in situ**; undertake relocations only as a last resort.
  - **Give priority to the provision of basic services and functional tenure**
  - **Maximize the use of scarce land.**
- Act**
  - **Ensure that there is a rapid response at scale**

- swiftly:**
- Consider different responses which are responsive to and appropriate for local conditions.

## Upgrading of Informal Settlements Programme (UISP)

The Upgrading of Informal Settlement Programme (UISP) was introduced through the Breaking New Ground policy document in 2004 and aims to support upgrading on an area-wide basis, maintain fragile community networks, minimise disruption and enhance community participation.

For more details see  
Section 3, item 2.1

The UISP is outlined in Part 3 of the National Housing Code. A four-phase process is recommended, with Phases 1 to 3 focusing on community participation, supply of basic services and tenure security. The four phases are described below:

- **Phase 1: Application:** In this phase municipalities apply annually to provincial human settlements departments for funding for informal settlement upgrading. In the application they need to submit interim business plans.
- **Phase 2: Project initiation:** In this phase municipalities undertake a range of activities including acquiring land, providing a clear socio-economic and demographic profile of the settlement, installing interim services, conducting pre-planning studies to determine geotechnical conditions and environmental impact and developing a business plan.
- **Phase 3: Implementation:** Phase 3 commences with the approval of the business plan. The municipality receives funding for the following activities: establishing project management capacity; establishing housing support services; undertaking the planning processes; formalising land occupational rights and the resolution of disputes; land surveying and pegging; relocation assistance; land rehabilitation; installing permanent municipal engineering infrastructure and constructing social amenities, economic and community facilities.
- **Phase 4: Housing consolidation:** Once the first three phases have been completed, township establishment finalisation, ownership registration (where appropriate) and house construction will take place. Any outstanding social amenities will also be constructed.

The UISP finances the creation of serviced stands, and beneficiaries must apply for housing construction/ownership assistance through other housing programmes in Phase 4 of the programme. Funding under the UISP is linked to the number of persons who qualify for assistance, i.e. it is individual-based as opposed to area-based and the amount is reviewed and set on an annual basis.

For more details see  
Section 3, item 2.2 &  
2.3

The subsidy quantum for the UISP is broken down into funding for the three phases (set out above), and is provided from provincial government's annual allocation from the Integrated

Housing and Human Settlement Development (IHSD) grant administered by the national Department of Human Settlements.

Municipalities are required to make a 10% minimum capital contribution towards the total cost of an upgrading project. Counter-funding requirements are dealt with in a flexible manner to ensure that it does not result in the exclusion of municipalities that are not able to make such contributions. Municipalities are entitled to use MIG funding to finance their counter-funding requirements.

There are a number of fiscal instruments that are available to support the UISP. These are summarised in a document called 'Grant Instruments for Informal Settlement Upgrades', prepared by the Project Preparation Trust (PPT).

Click here to access 'Grant Instruments for Informal Settlement Upgrades'

These fiscal instruments include both subsidies (which are amounts of money directly benefiting individuals for top-structure construction or purchase), and grant funds made available to municipalities to enable them to undertake various programmes.

Community participation is acknowledged as being critically important to the UISP and funding is made available to support social processes. According to the UISP, this participation should

For more details see Section 3, item 2.4

be undertaken through ward committees with ongoing effort in promoting and ensuring the inclusion of key stakeholders and vulnerable groups in the process. The UISP notes that in certain circumstances the assistance of community development workers (CDWs) can be used in collaboration with the ward structures. The municipality can apply for funding to pay for external capacity to assist in the participation processes which lead up to the conclusion of the participation agreement with communities.

Municipalities take on the developer role under the UISP, provided they are accredited and capacitated to do so. Where municipalities are not accredited or lack capacity, the provincial department assists and supervises accordingly.

There are a number of factors that need to be considered within the UISP process:

For more details see Section 3, item 2.5

- **Relocations:** Given the policy and programmatic prioritisation of in situ upgrading, relocations should be as minimal as possible and seen as a very last resort. The detailed conditions under which relocations could be undertaken are detailed in Section 6.
- **Layout and standards:** This will be discussed in full detail in Section 7. It is important to mention that in terms of the UISP both the layout and related standards should be applied in an incremental manner.
- **Project performance:** The upgrade project constantly needs to be monitored by the community and municipality to make sure that milestones are adhered to and the project is kept on track.

## National Upgrading Support Programme (NUSP)

For more details see  
Section 3, item 3

NUSP was established in 2009 following an assessment by the NDHS of the implementation of the UISP and the realisation that without support the targets of eradicating informal settlements would not be achieved. As a consequence, NUSP was set up to:

- Promote incremental upgrading as a major complementary housing programme in line with Part 3 of the National Housing Code (in situ where possible);
- Improve the programmatic approach to upgrading, strengthening co-ordination with other sectors and partners;
- Strengthen the capacity of government and professional practitioners to implement community-based incremental upgrading.

NUSP has a number of areas of support that it offers to municipalities, provinces, practitioners, councillors and community members.

For references and  
resources click here

## Content

# 1. From the Constitution to the Upgrading of Informal Settlements Programme (UISP)

The purpose of this section is to provide an overview of the legislation and policy that supports and motivates for the upgrading of informal settlements in South Africa.

This legislation and policy springs from the Constitution (1996) and Housing Act (1997) which establishes the right of individuals to housing and the basis by which it must be provided by government.

This is followed by the Prevention of Illegal Evictions Act (1988) which sets down the basis by which individuals can or cannot be removed from land they have occupied illegally.

The Breaking New Ground Policy (2004) was the first policy document that recognised the challenge of informal settlements and provided a directive and financial support so that they could be upgraded.

All legislation and policy documents that followed continued to reinforce the need to upgrade informal settlements and provide mechanisms as to how this could be undertaken. Of relevance are the National Housing Code (2004 and 2009), Outcome 8, Delivery Agreement (2010), the National Development Plan (2012) and the Spatial Planning and Land Use Management Act (2013).

Each of the following is outlined in this section:

- The Constitution;
- Legislation;
- Policy documents;
- Performance documents.

## 1.1 The Constitution (1996)

As discussed in Section 1, the Constitution is the supreme law of the country and therefore has a fundamental impact on National Housing Policy, particularly in terms of the following two principles:

- Housing as a Basic Human Right: Section 26 of the Constitution states that all South Africans have the right to access to adequate housing;
- It also states that it is the government's duty to take reasonable legislative and other measures, within its available resources, to achieve the realisation of this right on a progressive basis.

## What this means for informal settlements

As set out in Section 1, this means that the state may not neglect informal settlements. The state is obliged to enact relevant laws, develop programmes and projects, and to make use of tax payers' money to realise the right to adequate housing as quickly as possible for people living in informal settlements.

### 1.2 Legislation

Key legislation in respect of informal settlements includes:

- The Housing Act (1997);
- Prevention of Illegal Evictions Act (1988);
- Spatial Planning and Land Use Management Act (2013).

#### The Housing Act (1997)

The Housing Act upholds section 26 of the Constitution and recognises that housing:

- Fulfils a basic human need;
- Is a product of human endeavour and enterprise;
- Is a vital part of integrated development planning;
- Is a key sector of the national economy;
- Is vital to the socio-economic well-being of the nation.

The Housing Act also outlines the following general principles applicable to housing development, which national and provincial government and municipalities must adhere to:

- The needs of the poor must be prioritised;
- The housing process should provide a wide choice of housing and tenure options, be economically and financially affordable and sustainable and be administered in a transparent and equitable manner;
- Housing development should occur in an integrated manner that creates socially and economically viable communities;
- Government should encourage and support all individuals and community-based bodies in fulfilling their own housing needs, in a way that ensures skills transfer and community empowerment;
- The active participation of all relevant stakeholders in housing development should be facilitated;
- Individuals and communities affected by housing development should be meaningfully consulted;
- The gearing of government investment in housing by additional finance, and other investment by the private sector and individuals should be facilitated;
- The sustained protection of the environment should be promoted.

The Housing Act sets out the roles and responsibilities of each of the three spheres of government in South Africa in relation to housing.

- **National government:** National government is responsible for national housing policy. The primary functions of national government are:
  - To develop national housing policy;
  - To establish a funding framework for housing development and negotiate and secure an allocation from the state budget for housing;
  - Allocate funds from the budget to provincial governments (and municipalities once accredited);
  - Monitor the performance of the national and provincial governments and municipalities.
- **Provincial government:** Provincial government is responsible for provincial housing policy. Housing is an area of concurrent competence for national and provincial government. This means that provincial government can legislate in respect of housing matters that fall within its provincial boundaries, as long as such legislation does not undermine national legislation. The primary role of provincial government is to promote and facilitate the provision of adequate housing in its province. The key functions of provincial government are:
  - Develop provincial housing policy;
  - Support and strengthen the capacity of municipalities in respect of housing development;
  - Assess applications received from municipalities to administer national housing programmes and monitor the performance of accredited municipalities.
- **Municipalities:** The primary role of municipalities is to facilitate the development and management of housing stock within their jurisdictional areas, as part of the process of integrated development planning. To achieve these functions, municipalities must among other things:
  - Initiate, plan, co-ordinate and facilitate appropriate housing development on a progressive basis within its boundaries;
  - Prepare a local housing strategy and set housing delivery goals;
  - Set aside, plan and manage land for housing development;
  - Create a financial and socially viable environment conducive to housing development.

### **The Housing Act: What this means for informal settlements**

- The production of housing is a product of human endeavour, i.e. people's own imagination and effort, and this should be supported and reinforced by the government. This implies that informal settlements should be upgraded where possible and built on what people have already developed.
- There should be meaningful engagement with communities around their housing issues, which should result in empowerment and capacitation of the communities.



- The outcome of the housing or human settlements process should be socially and economically sustainable communities.
- The responsibility for informal settlements, including municipal-wide strategic planning, as well as project planning and upgrading for a specific settlement, is with the local municipality under whose jurisdiction the informal settlement falls. National and provincial government are required to support municipalities in this regard.

## **Prevention of Illegal Evictions Act (1988) (PIE)**

The PIE Act is an important piece of national legislation enacted to give effect to section 26(3) of the Constitution: No-one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions. The PIE Act provides safeguards against the eviction of unlawful occupiers living on both privately- and publicly-owned land. It has been the subject of a number of high profile Constitutional Court cases around evictions including Grootboom, PE Municipality, Olivia Road, Joe Slovo and the Slums Act case. There is other legislation that protects communities and groups from eviction including:

- The Land Reform (Labour Tenants) Act 3 of 1996, which protects labour tenants;
- The Interim Protection of Informal Land Rights Act 31 of 1996, which protects occupiers of communal, native trust or other indigenous land;
- The Extension of Security of Tenure Act 62 of 1997 (ESTA), which protects occupiers of farm land.

PIE protects individuals and communities that are not protected by these pieces of legislation. In order for a community or individual to be protected under the PIE Act they have to prove that they have lived on the land/property for at least six months and are relatively settled.

The Act says that a court must consider whether land is available to which occupiers may be relocated, or whether land can reasonably be made available by the owner or the local municipality. If not, then eviction must be reconsidered. Those who have lived on the land/property for less than six months also have rights under the PIE Act, although they have fewer rights with regard to what the owner or municipality must do regarding the provision of alternative accommodation.

Irrespective of how long the householders/individuals have lived on the property, PIE states that the procedures listed below must be followed so that the eviction is lawful.

- The community must be given notice of the land owner's intention to get an eviction order.
- The land owner must apply to the court to have a written notice served on the occupier/s stating the owner's intention to evict the occupier/s.
- No eviction may take place without a court order, which has taken into consideration the circumstances of the community in question.



## Spatial Planning and Land Use Management Act (2013)

The Spatial Planning and Land Use Management Act (SPLUMA) 16 of 2013 was gazetted on 5 August 2013 and its implementation date is imminent with regulations to be published for comment soon.

**Spatial planning** refers to how the various spheres of government are involved in the preparation of spatial frameworks. These spatial frameworks broadly indicate whether the government would want development to take place or not, the nature and location of the development preferred and finally shows where government is intending to invest money for infrastructure.

**Land-use management** refers to the system of regulating and managing land-use and land rights and is implemented through the mechanism of long-term strategic spatial frameworks as set out at the local/municipal level. It includes land-use management schemes, which define the zoning of each settlement, and stand and registration systems. All informal settlements should be included into local spatial frameworks and into local land use management schemes.

### The legislation: what this means for informal settlements

Municipalities are required by law to know where the informal settlements are in their area of jurisdiction and should have a plan for upgrading each settlement.

### 1.3 Policy documents

Key policy documents in respect of informal settlements include:

- Breaking New Ground (2004);
- The National Housing Code (2004, revised 2009);
- The National Development Plan (NDP) (2012).

### Breaking New Ground (2004)

Breaking New Ground (BNG) is a comprehensive plan for the development of sustainable human settlements and was approved by cabinet and presented to the Minister's Council for Social Development (MINMEC) in September 2004. BNG is a policy document that outlines a shift away from the provision of a house to providing sustainable neighbourhoods with access to social and economic facilities.

SPLUMA is covered in more detail in Sections 7 and 8.

The plan introduces a number of new housing policies and programmes that seek to provide good quality environments that meet the social, economic and environmental needs of beneficiary communities.

BNG is significant in that it is the first policy document that recognises informal settlements and the need to upgrade them. Prior to this, housing policy focused primarily on providing a

formal subsidised house for ownership and to a lesser extent on rental. Informal settlements, while significant, were not addressed in policy.

Within BNG the upgrading of informal settlements is seen as an important mechanism for eradicating poverty in South Africa and consistently makes the case for preferring in situ upgrading where possible. The plan is very clear and states that it supports the eradication of informal settlements through incremental in situ upgrading in desired locations, coupled with the relocation of households where development is not possible or desirable. It also argues for a progressive and phased approach to in situ upgrading and for an approach that is not prescriptive, but rather supports a range of tenure options and housing types.

### **BNG: what this means for informal settlements**

During the initial years of the implementation of BNG it was misinterpreted to mean that informal settlements should be eradicated. Since then the intention of the policy has been clarified to focus on upgrading of informal settlements wherever possible. This is recognised and reinforced in the policy documents and legislation that followed.

### **The National Housing Code (2009)**

The revised National Housing Code of 2009 sets out in one comprehensive document the national housing policy of South Africa and most significantly the rules and regulations pertaining to the national subsidy programmes. Part 3 of the Code promotes the progressive and incremental upgrading of informal settlements and has similar objectives to those outlined in BNG:

- Favouring in situ upgrading over relocation and re-settlement;
- Securing tenure so that the tenure rights of informal settlement dwellers are recognised and formalised;
- Providing basic engineering services and infrastructure that is upgradable, sustainable and affordable to informal settlements to ensure beneficiaries' health and security;
- Empowering communities, households and individuals by:
  - Addressing social and economic exclusion by focusing on community engagement and the promotion of social and economic integration;
  - Building social capital through participative processes;
  - Identifying and addressing broader social needs within communities.

The main instrument for achieving these objectives is the Upgrading of Informal Settlements Programme (UISP), which aims at dealing with the results of rapid, unstructured and unplanned development. Details of this programme are discussed in section 2 of this module.

In the National Housing Code there are a number of programmes, funding mechanisms, and subsidies that can be used to assist and undertake upgrading. As some programmes contain actual funding aspects and others not, this section deals with the intentions of each support

programme or mechanism. The details of their funding aspects are provided in a separate hand-out. As the UISP is the most significant programme for informal settlement upgrading it will be discussed in more detail in section 2 that follows.

- **Emergency Housing Programme (EHP):** The EHP is a programme to respond to emergencies and includes a grant to municipalities to enable them to respond rapidly to housing-related emergencies by providing land, municipal engineering services and shelter. The grant may be used to re-house households both temporarily and permanently as a result of:
  - An in situ informal settlement upgrade;
  - A declared state of disaster, for example after extreme weather events;
  - Dangerous or life threatening conditions such as flooding;
  - Living in the way of engineering services or proposed engineering services;
  - People who are evicted, or threatened with imminent eviction;
  - Situations of exceptional housing need, which constitute an emergency.
- **Housing Chapters of Integrated Development Plans:** This is a grant to municipalities to enable them to compile the Housing Chapter of their Integrated Development Plan (IDP). The funding enables the municipality to compile strategic, realistic housing chapters that are linked to Provincial Housing Sector Plans.
- **Enhanced People's Housing Process (EPHP):** The EPHP aims to facilitate a range of institutional, technical and logistical housing support mechanisms to enable communities to improve their housing circumstances through building or assisting in building their own units. EPHP funding can be used for informal settlement upgrades and especially in the consolidation phase of the UISP to assist in the building of housing units.
- **Provision of Social and Economic Facilities:** This is a funding mechanism to assist municipalities to provide primary municipal community (social and economic) facilities until such time as other dedicated funding for such facilities becomes available. The funding mechanism is only available to those municipalities who do not have sufficient financial resources to provide such facilities. The grant is available for existing and new housing areas, as well as within informal settlement upgrading projects.
- **Individual subsidy programme:** The individual subsidy programme provides state assistance to qualifying households who wish to acquire an existing house or vacant residential serviced stand linked to a house construction contract through an approved mortgage loan. This programme can be used to construct houses in Phase 4 of the UISP (see section 2 below).

There are two programmes in the Housing Code that have implications for informal settlement upgrading although they are not directly relevant to supporting informal settlement upgrading projects.

- **Integrated Residential Development Programme (IRDP):** The IRDP provides for the acquisition of land, the servicing of stands for a variety of land uses, including

commercial, recreational, schools and clinics, as well as residential stands for low-, middle- and high-income groups. The land-use and income group mix is based on local planning and needs assessments. The IRDP can be undertaken in several phases or in one single phase. The first phase could provide serviced stands and the second phase could provide for:

- Housing construction for qualifying low-income beneficiaries;
- The sale of stands to persons who, for various reasons, don't qualify for subsidies; and/or
- The disposal of other stands such as those for commercial uses.

The disadvantages of conventional housing projects were discussed in Section 1.

It is important to note that using the IRDP for in situ informal settlement upgrading is problematic.

- The IRDP may only be used for:
  - **Unoccupied vacant land** developed for an integrated human settlement; or
  - An integrated human settlement project undertaken in an existing township where an **undeveloped parcel of land** is utilised for development purposes.
- The household subsidy qualification criteria in the IRDP are very stringent and in many informal settlements would result in large numbers of occupants not qualifying and therefore being displaced.
- The IRDP comes with a set of minimum norms and standards regarding the dwelling standards and use of the NHBRC, which, in combination, drives any higher density settlement towards a standard RDP project, massively increasing the relocation requirements.

## National norms and standards

In 1999 the national norms and standards for the construction of stand-alone residential dwellings were introduced by the Minister of Housing in terms of section 3(2) (a) of the Housing Act. These provided minimum technical specifications. On 1 April 2007 these standards were revised in the national norms and standards in respect of permanent residential structures (national norms and standards), which are contained in the 2009 National Housing Code. All stand-alone houses constructed through application of the national housing programmes must at least comply with the following norms and standards:

- Minimum gross floor area of 40 m<sup>2</sup>;
- Two bedrooms;
- Separate bathroom with a toilet, a shower and hand basin;
- Combined living area and kitchen with wash basin; and
- Ready-board electrical installation, if electricity is available in the project area.

In addition all residential properties created through the national housing programme must at least comply with the following levels of services, as per the national norms and standards:

- Water – single standpipe per stand (metered);
- Sanitation – ventilated improved pit (VIP) latrine or alternative system agreed to between the community, the municipality and the MEC;
- Roads – graded or gravel paved road access to each stand;
- Storm water – lined open channels;
- Street lighting – high mast security lighting for residential purposes where this is feasible and practicable.

*According to the revised Housing Code, Part 3, section 3.13, the national norms and standards do not apply in the case of the upgrading of informal settlements. However, they are to be used as a guideline, and instead an incremental approach is specified for services that can be interim services and/or final services and the same is true of stand sizes, which also need to be negotiated with the beneficiaries.*

## **The Housing Code: what this means for informal settlements**

The Housing Code sets out a dedicated programme including a funding source under which informal settlement upgrading can be undertaken. In addition there are a number of programmes and grants that can be drawn on by municipalities to support and enhance this process.

## **National Development Plan (2012)**

The National Development Plan (NDP) acknowledges the importance of informal settlement upgrading and stresses the need for experimentation and initiative. It expresses concern at the slow pace of implementation and the frequent return to conventional approaches.

Its analysis of why implementation is slow, provides pointers towards the future, and makes a few specific recommendations:

- Where possible, upgrade in situ (in doing so, however, consider the long-term goal of spatial transformation);
- Seek minimum disruption to existing communities;
- Understand that every settlement is different and adapt an appropriate response to the situation;
- Avoid the easy (conventional) solution – seek the creative response, i.e. think out of the box and don't just apply a standard formal subsidised Greenfields solution e.g. look to unusual case studies for answers if applicable;
- Don't envisage interventions as a housing solution only – it is about building sustainable living environments;
- Ensure that processes are genuinely empowering;
- Build the required capabilities in the state – new skills are needed;
- Develop the appropriate mechanisms and regulatory frameworks;
- Explore social compacting processes to deal with local conflicts.

Specific proposals contained within the NDP, around informal settlement upgrading, include the need to enhance the existing national programme. This is to be done by developing a range of tailored responses, including:

- Significantly expanding the national programme to upgrade informal settlements;
- Encouraging municipalities to introduce local level programmes;
- Undertaking rapid assessment and appraisals of all informal settlements;
- Developing legal mechanisms to recognise rights of residents and allow for incremental upgrading of tenure;
- Utilize minimum health and safety standards, which would be upgraded over time as upgraded informal settlements are incorporated into the formal suburbs of towns and cities;
- Choose funding arrangements that would channel resources into community facilities, public infrastructure and public spaces and not just housing;
- Establishing dedicated capacity at local level for informal settlement upgrading;
- Develop community organisations so that they can support participation of local communities in the upgrading of informal settlements programmes.

## **The NDP: what this means for informal settlements**

The NDP promotes the need to address informal settlements both at a programmatic and project level. In addition, it encourages a people-centred approach that is focused on understanding and responding to the needs of the community living in an informal settlement and creating integrated neighbourhoods. A key element of the NDP is its acceptance of informality.

### **1.4 Measuring performance**

Key performance documents in respect of informal settlements that set out goals and targets for measuring performance include:

- Outcome 8 – Delivery Agreement (2010);
- Medium-Term Strategic Framework (2014 to 2019).

#### **Outcome 8 – Delivery Agreement (2010)**

In January 2010 the cabinet adopted 12 Outcomes for development, which formed part of the national Medium-Term Strategic Framework for the period 2010 to 2014 and represented a shift towards outcomes-based development. In April 2010 a performance agreement was signed by the President and the Minister for Sustainable Human Settlements. The performance agreement required the minister to ensure that the following outputs were produced to achieve Outcome 8: Sustainable human settlements and improved quality of household life:

- Output 1: Upgrading 400 000 households within informal settlements;
- Output 2: Improving access to basic services;



- Output 3: Facilitating the provision of 600 000 accommodation units within the gap market for people earning between R3 500 and R12 800;
- Output 4: Mobilisation of 6 250 ha of well-located public land for low income and affordable housing with increased densities on this land and in general.

The full set of outputs, the rationale and approaches to informal settlement upgrading are located in Annexure A of Outcome 8.

The period for Outcome 8 ended in April 2014 and it is currently being evaluated. New targets have been set in the next Medium-Term Strategic Framework for Human Settlements (2014-2019).

## Medium-Term Strategic Framework 2014 to 2019

The Medium-Term Strategic Framework (MTSF) is government's strategic plan for the 2014 to 2019 electoral term. It reflects the commitments made in the election manifesto of the governing party, including the commitment to implement the National Development Plan. The MTSF sets out the actions government will take and targets to be achieved. It also provides a framework for the other plans of national, provincial and local government.

With respect to informal settlements the MTSF sets the following target:

- Informal settlement upgrading will be expanded to cover 750 000 households, ensuring basic services and infrastructure in some 2 200 informal settlements.

## Performance measures: what this means for informal settlements

Outcome 8 is an extremely important document in that the targets set were a key driver for provinces and municipalities in addressing informal settlement upgrading between 2010 and 2014. Even though the period for the targets has ended the document is still important in terms of its policy component.

The MTSF reinforces government's commitment to address informal settlements and provides a clear target to be achieved over the next five years.

### 1.5 Summing up: Implications of legislation and policy for upgrading of informal settlements



## Summarising: the evolution of housing policy

The evolution of housing policy in South Africa, starting with the Constitution and culminating in the revised Housing Code, Outcome 8, the NDP and MTEF has seen a change in how informal settlements are viewed and should be addressed. While in the past the approach focused on the provision of a formal subsidised house and the eradication and replacement of informal settlements, increasingly the upgrading of such settlements is being specified. The key characteristics of the approach were covered in Section 1.

## Care

- **Work with and not against informality** (and accept that given our constrained economic future, it is likely to persist into the future).
- Ensure that **livelihoods and economic opportunities** are afforded priority (protected or supported).
- **Integrate** and include informal settlements into the planning of cities and towns.
- **Understand** informal settlements in their spatial and socio-economic context.

## Listen

- **Ensure meaningful community participation**, engagement and local ownership.

## Upgrade

- Give priority to the upgrading and improvement of informal settlements **in situ**; undertake relocations only as a last resort.
- **Give priority to the provision of basic services and functional tenure** as a first response and ensure that this is expedited (except in rare cases where relocations are necessary and justified).
- **Maximize the use of scarce land.**

## Act swiftly

- **Ensure** that **there is a rapid response at scale** (i.e. some level of change and improvement occurs in all informal settlements within a short period of time with no informal settlements left on a developmental back-burner).
- **Multi-pronged and flexible** (consider different responses which are responsive to and appropriate for local conditions).

## 2. Upgrading of Informal Settlements Programme (UISP)

The Upgrading of Informal Settlement Programme (UISP) was introduced through the Breaking New Ground policy document in 2004 and aims to:

- Support upgrading on an area-wide basis;
- Maintain fragile community networks; and
- Minimise disruption and enhance community participation through a four-phased process.

The UISP is outlined in Part 3 of the National Housing Code. It is envisaged as an incremental process culminating in the full upgrading of settlements over time. Initial phases, however, involve the installation of interim services, as a short- to medium-term aim of the programme.

### 2.1 The upgrading process: phases of the UISP

The National Housing Code recommends a four-phase process, with Phases 1 to 3 focusing on community participation, supply of basic services and tenure security. The four phases are described below:

#### Phase 1: Application

In this phase municipalities apply annually to provincial human settlements departments for funding for informal settlement upgrading. In the application they need to submit interim business plans, which show how the proposed projects fit into the local authority's IDP and housing development plan.

Phases 1 to 3 are discussed in more detail in Section 10.

The municipality also submits pre-feasibility details of the proposed projects. A pre-feasibility report usually includes a desktop layout sketch of the informal settlement to quantify the number of sites required, a preliminary geotechnical assessment, a land availability agreement and bulk engineering assessment.

The applications are evaluated against the criteria detailed in the guidelines and rules for implementation. The types of activities undertaken during this phase include:

- Survey of the informal settlement participation;
- Registration of households;
- A participation process (see Section 4);
- Dispute resolution if required.

#### Phase 2: Project initiation

This phase is expected to take place over 8 to 12 months. The municipality is expected to undertake a range of activities including:

- Acquiring land where required through negotiation or expropriation;
- Providing a clear socio-economic and demographic profile of the settlement;
- Installing interim services including basic water and sanitation;
- Conducting pre-planning studies to determine geotechnical conditions and environmental impact;
- Developing a business plan which is submitted to the MEC for approval.

### **Phase 3: Implementation**

Phase 3 commences with the approval of the business plan. The municipality receives funding for the following activities:

- Establishing project management capacity;
- Establishing housing support services;
- Undertaking the planning processes;
- Formalising land occupational rights and the resolution of disputes;
- Land surveying and pegging;
- Relocation assistance;
- Land rehabilitation;
- Installing permanent municipal engineering infrastructure; and
- Constructing social amenities, economic and community facilities.

### **Phase 4: Housing consolidation**

Once the first three phases have been completed, township establishment finalisation, ownership registration (where appropriate) and house construction will take place. Any outstanding social amenities, as agreed between the community and the municipality, will also be constructed during this final phase.

More details on Phase 4 are provided in Section 9.

## **How to apply for project registration and funding reservation in respect of the UISP**

An interim business plan must be submitted covering the following information:

- Details of the municipal IDP and the municipal housing development plan. This must outline both the scale and number of informal settlements within the area and the basis for the prioritisation of these settlements for upgrading purposes, as well as a plan to address future land release and securing requirements so as to avoid the establishment of new informal settlements.
- Pre-feasibility details including:
  - The age and history of the settlement;
  - The ownership status of the land including any restitution claims or title deed restrictions affecting the use of the land;
  - The initial scoping of the geotechnical suitability (desktop surveys) of the land insofar as this impacts upon the upgradeability of the settlement;
  - A desktop environmental scoping which should address the environmental suitability of the area for the upgrading of the settlement;
  - The geographic location of the settlement in relation to transportation nodes, employment and social amenities;
  - The estimated number of households within the settlement;
  - The estimated number of households to be relocated (if any), based on an analysis of the suitability of the settlement for upgrading;
  - The identification of illegal immigrants.

## **2.2 The UISP subsidy**

The UISP finances the creation of serviced stands, and beneficiaries must apply for housing construction/ownership assistance through other housing programmes in Phase 4 of the programme.

Funding under the UISP is linked to the number of persons who qualify for assistance, i.e. it is individual-based as opposed to area-based and the amount is reviewed and set on an annual basis.

The subsidy quantum for the UISP is broken down into funding for the three phases (set out above), and is provided from provincial government's annual allocation from the Integrated Housing and Human Settlement Development (IHHS) grant administered by the national Department of Human Settlements.

Once an informal settlement upgrading project has been approved, a grant is made available to the municipality by the province to undertake Phases 1 to 3 (together with a relocation grant if necessary).

The subsidy is made available on a per site basis according to the guidelines in the table below. The figures provided are for financial year 2014/15 (01 April 2014 to 31 March 2015.)

UISP Subsidy	Subsidy per site
<b>Phase 1</b>	
Survey, registration, participation, facilitation, dispute resolution etc. – 3% of project cost	240.63
Geotechnical investigation	114.06
Land acquisition	3 247.66
Pre-planning	978.64
Interim engineering services	3 680.69
<b>Total Phase 1</b>	<b>8 261.68</b>
<b>Phase 2</b>	
Detailed town planning	513.22
Land surveying and pegging	380.17
Contour survey	76.04
Land survey examination fee	117.85
Civil engineer's fee	1 140.50
Site supervision fees	288.90
Permanent engineering services provision	23 513.38
Project management – 8% of total cost	2 082.40
<b>Total Phase 2</b>	<b>28 112.46</b>
<b>Phase 3</b>	
Transportations and loading costs for people and household effects	487.15
Social service support including support for the registration of social benefits, school registration and other welfare support	368.07
Relocation food support to households	606.24
<b>Total max relocation grant per household</b>	<b>1 461.46</b>

What is unique about this subsidy is that all informal settlement residents effectively qualify (irrespective of income level, citizenship, lack of dependents, or past home ownership) and the usual eligibility criteria for other subsidy programmes do not apply.

In terms of the construction of social and economic amenities, e.g. sport fields, community centres, municipalities can apply through the Social and Economic Amenities Programme for funding, however the UISP states that where funding is available from line function departments this should be the first option.

## 2.3 Funding arrangements and fiscal instruments

Currently the funding arrangements are still top-down and flow from national to provincial and then to municipal authorities. Province receives their funding allocation from national and in Phases 1 to 3 of the UISP municipalities applies for funding to be reserved for projects that are included in their IDPs and housing chapters. The MEC conditionally approves funding and ensures that it falls within the Medium-Term Expenditure Framework (MTEF).

The basis by which the funding is allocated is as follows:

[Introduction to Informal Settlement Upgrading](#)

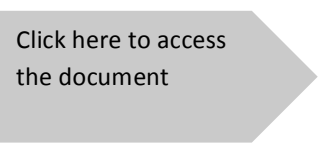
- **Planning co-ordination:** Within the context and process of its multiyear strategic planning, the province agrees with the municipalities in its area of jurisdiction how much finance will be provided for specific informal settlement upgrading projects. Municipalities therefore know which projects will receive funding per financial year of the Medium-Term Expenditure Plan and can undertake project planning accordingly.
- **Progress payments to municipalities:** The approved project funding is released to the relevant municipality as agreed. Payments are made against certification of the achievement of value for money as per agreed milestones or in advance if that was agreed.
- **Progress payments by municipalities:** Municipalities are required to pay their service providers implementing the project only against the actual achievement of value for money and the certification thereof.

Municipalities are required to make a 10% minimum capital contribution towards the total cost of an upgrading project. Municipalities are encouraged to increase these contributions where possible and such contributions are taken into consideration during project selection. Counter-funding requirements are dealt with in a flexible manner to ensure that it does not result in the exclusion of municipalities that are not able to make such contributions. Municipalities are entitled to use MIG funding to finance their counter-funding requirements under the UISP.

Municipalities are required to assume responsibility for the ongoing operational and maintenance costs of all engineering infrastructure developed in respect of an informal settlement upgrading project and are also responsible for the operation and maintenance of social, community and economic facilities. Funding for these activities is provided through the normal municipal budgeting process and these operational contributions are not regarded as part of the capital contribution.

### **Additional funding instruments available to support the UISP**

There are a number of fiscal instruments that are available to support the UISP. These are summarised in a document called ‘Grant Instruments for Informal Settlement Upgrades’, prepared by Project Preparation Trust (PPT).



These fiscal instruments include both subsidies (which are amounts of money directly benefiting individuals for top-structure construction or purchase), and grant funds made available to municipalities to enable them to undertake various programmes. These instruments will be discussed in greater details in Section 11.

	Type of grant and source	What can be funded
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<b>Grants which are relevant for upgrading</b>	Upgrading of Informal Settlements Programme (UISP) grant	Interim basic services. Land acquisition. Permanent engineering services. Top-structures (as a follow-up phase).
	Urban Settlements Development Grant (USDG). (The USDG replaces the previous Municipal Infrastructure Grant (MIG) for Metropolitan municipalities.)	Interim basic services. Emergency basic services.
	Municipal Infrastructure Grant (MIG)	Interim or emergency and basic services.
	Individual subsidy	Top-structures and full tenure for those who qualify for the subsidy quantum.
	Consolidation subsidy	Top-structures.
	Integrated Residential Development Programme (IRDP) grant	Top-structures.
	Emergency Housing grant	Emergency housing and basic infrastructure.
	Social and Economic Facilities	Medical care facilities, community halls, parks and playgrounds, sports facilities, taxi ranks and small business facilities.
<b>Grants which are potentially relevant</b>	New Enhanced People's Housing Process grant (EPHP)	Top-structures and associated PHP social, planning and capacitation processes.



## 2.4 Institutional arrangements

Community participation is acknowledged as being critically important to the UISP and funding is made available to support social processes. According to the UISP, this participation should be undertaken through ward committees with ongoing effort in promoting and ensuring the inclusion of key stakeholders and vulnerable groups in the process. The UISP notes that in certain circumstances the assistance of community development workers (CDWs) can be used in collaboration with the ward structures.

More details on institutional arrangements in Section 12 and on participation in Section 4.

The municipality can apply for funding to pay for external capacity to assist in the participation processes which lead up to the conclusion of the participation agreement with communities. A participatory approach includes the following activities: socio-economic surveying of households, facilitating community participation, project information-sharing and progress reporting, conflict resolution (where applicable), and housing support services.

Municipalities take on the developer role under the UISP, provided they are accredited and capacitated to do so. Where municipalities are not accredited or lack capacity, the provincial department assists and supervises accordingly.

## 2.5 Important considerations

There are a number of factors that need to be considered within the UISP process:

- **Relocations:** Given the policy and programmatic prioritisation of in situ upgrading, relocations should be as minimal as possible and seen as a very last resort. The detailed conditions under which relocations could be undertaken are detailed in Section 6.
- **Layout and standards:** This will be discussed in full detail in Section 7. It is important to mention that in terms of the UISP both the layout and related standards should be applied in an incremental manner.
- **Project performance:** The upgrade project constantly needs to be monitored by the community and municipality to make sure that milestones are adhered to and the project is kept on track. Such performance indicators should be included in the business plan and have a budget attached to each step or phase. The performance indicators require a clear baseline so that what has been achieved can be easily verified. It is also recommended that both quantitative indicators are used, e.g. number of households with secure tenure or access to services, and qualitative indicators such as quality of life. However, it should be remembered that monitoring the project's performance is a long-term commitment that needs to be done throughout the project life-cycle and after its completion.
- **Institutional capacity and knowledge:** The UISP has historically faced many challenges and has gone through a number of revisions. One of the key issues has

been the lack of institutional capacity and knowledge. This has now been addressed through the National Upgrading Support Programme (NUSP) (see section 3 below).

- **Other key challenges:** There are a number of key challenges which occur including difficulties in accessing land and putting land availability agreements in place. There are also concerns about the funding amount for interim services, capacity to undertake participation and the phases of the UISP being too rigid and not sufficiently flexible. These and other challenges are highlighted in the modules that follow.

## 3. National Upgrading Support Programme (NUSP)

NUSP was discussed at the start of Section 1. It was established in 2009 following an assessment by the NDHS of the implementation of the UISP and the realisation that without support the targets of eradicating informal settlements would not be achieved. As a consequence, NUSP was set up to:

- Promote incremental upgrading as a major complementary housing programme in line with Part 3 of the National Housing Code (in situ where possible);
- Improve the programmatic approach to upgrading, strengthening co-ordination with other sectors and partners;
- Strengthen the capacity of government and professional practitioners to implement community-based incremental upgrading.

### 3.1 Strategic areas of support

NUSP has a number of areas of support that it offers to municipalities, provinces, practitioners, councillors and community members including:

- Provision of technical assistance to provinces and municipalities for the development and implementation of upgrading programmes and projects;
- Capacity building and training to practitioners, councillors and community members in the field of informal settlement upgrading;
- Knowledge services and information dissemination to the upgrading community of practice.

### 3.2 Activity streams

The overall goal of the NUSP is to strengthen the capacity of all institutions involved in informal settlement upgrading. In order to achieve this goal, NUSP is currently engaged in a number of activities such as:

- Active engagements with municipalities around informal settlement upgrade plans and projects (45 municipalities including the Mining Towns in Distress Programme);

- Rapid assessments, categorisation, and the development of settlement plans in over 600 settlements;
- Introductory courses on UISP for municipalities.

The NUSP provides technical assistance for municipalities to undertake planning in conjunction with communities and has a range of capacity building programmes that are intended to help municipal and provincial officials understand and meet the range of needs for informal settlement upgrades. The NUSP also provides support to municipalities in project development and to implement more integrated planning. The NUSP has established a panel of experts and has deployed technical teams to 49 priority municipalities. These teams provide support and capacity building to officials within these municipalities to meet the specific requirements of the municipality.

In addition NUSP undertakes workshops, seminars and information sessions, to develop and increase the knowledge base around informal settlement upgrading. This includes highlighting best practices, creating networks of practitioners and undertaking research.

### **3.3 The national upgrading forum**

The national upgrading forum, which is made up of provincial upgrading forums and NUSP partner organisations, has oversight of NUSP and is responsible for monitoring and evaluating the effectiveness of the programme. Similar to the NUSP, its overall aim is to promote co-operation, information sharing and partnerships among upgrading practitioners and NUSP partner organisations.

## **Toolkit**

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You will find the following resources on the Toolkit CD:

- Grant Instruments for Informal Settlement Upgrading (PPT, 2014)
- National Housing Code Volume 4: Incremental Interventions (NDHS 2009)
- National Development Plan Chapter 8 Transforming human settlements

## **References and Resources**

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### **References:**

- National Department of Human Settlements: Project Process Guide (2010)
- National Development Plan, Chapter 8
- SERI (2011): A Resource Guide to Housing in South Africa 1994-2010 – Legislation, Policy, Programmes and Practice
- Outcome 8: Service Agreement, Annexure A

## Useful Links

- Project Preparation Trust: <http://www.pptrust.org.za>
- NUSP Resource Kit: <http://www.upgradingsupport.org/content/page/nusp-resource-kit>