

LAND USE MANAGEMENT AND DEMOCRATIC  
GOVERNANCE IN THE CITY OF JOHANNESBURG

# OVERVIEW REPORT:

## LAND MANAGEMENT & DEMOCRATIC GOVERNANCE IN JOHANNESBURG

AUTHORS:

*Susan Parnell  
Felicity Kitchin  
Wendy Ovens  
Amanda Williamson  
Wendy Ovens & Associates*

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# 1 INTRODUCTION

This research exercise seeks to address the problem that, despite the progress that has been made in developing new systems of post-Apartheid planning, there has been little advancement and innovation in thinking and practice around land management, and South Africa's towns and cities continue to develop without an adequate framework for managing land development in a way that supports the goals of democracy, equity, efficiency and sustainability. Through a review of South African trends, and an analysis of the current situation and activities in Johannesburg, dimensions of a new land management system will be suggested, which will highlight the concerns of inclusive citizenship, rights to land, and social vulnerability.

This report is structured into six parts, with an appendix providing a detailed case study of Johannesburg. Section 2 provides a literature review which briefly highlights the main concerns arising from international and South African literature regarding the key land management issues and approaches to their resolution, while section 3 summarises the main points arising from relevant government frameworks in a legislative and policy review. Section 4 then provides an outline of our conceptual approach elaborating on our underlying assumptions, and discusses the five themes that inform the research exercise. In section 5, the methodology is discussed, outlining the process of fieldwork research in the Metropolitan area. These sections together present the conceptual approach and methodology that informs the research exercise. This sets out to define the specific issues and themes that are pertinent to a rethink of the land use management system in order to make it more accessible to the poor. This functions as a conceptual basis for the empirical analysis of the Metropolitan area and developing recommendations, and has been developed through a desk-top review of literature, review of data sources and several team brainstorming sessions. Section 6 provides a summary of our key findings, and a discussion of how the major themes are manifest in Johannesburg. General and city-specific issues are highlighted in this discussion, with particular consideration given to special issues that need specific attention in the treatment of land use management reform. The final section outlines recommendations that could be presented to different stakeholders including the City, the South African Cities Network, provincial departments, national departments, the Treasury, the Presidency and the Municipal Demarcation Board.

## 2 LITERATURE REVIEW

Much of the international literature on land management in developing countries is concerned with analysing and responding to the challenges of access to urban land for the poor. In response to the reality of expanding informal settlements and weak local government in these contexts, the focus of research has lain almost exclusively on the issue of access to land for housing. Suggestions largely deal with flexible forms of security of tenure, such as protection against evictions and incremental provision of property titles (Durand-Lasserve 2006), as well as the integration of formal and informal land markets through recognition of hybrid and neo-traditional systems (Rakodi). Despite the evident similarities with the South African urban context, international literature provides little guidance to address urban land management issues in the metropolitan centres.

In fact, in the international literature South African examples are frequently held up as best practice, such as decentralised land management authority, constitutional protection against forced evictions, and large-scale provision of property titles. Even cutting-edge policies, such as Brazil's "City Statute" seem to echo the White Paper on Local Government and the IDPs. Thus, more appropriate points of departure are likely to emerge from recent South African literature.

Since the early 1990s, South African policy makers have been grappling with land management issues, with the specific intention to reverse the negative spatial, social, economic and political impacts of the Apartheid city. With the work conducted by the National Housing Forum, and thereafter through policies (Reconstruction and Development Programme, Housing White Paper, White Paper on Local Government) and legislation (Development Facilitation Act, the Constitution, Municipal Systems Act) and various urban policy frameworks, a vision of the post-Apartheid city was formulated. These post-Apartheid reforms represent significant achievements in contributing towards the realisation of integrated and sustainable human settlements. However, given the challenges urban areas continue to face, it has become more apparent that they are not sufficient to address current land management challenges. Parnell (2007) argues that removing the obvious barriers to urban citizenship, like race classification and racialised municipal structures are necessary, but not sufficient, steps for building an inclusive city.

Two aspects have arisen in the literature as areas in which further attention should be directed: first, the weaknesses of the existing legislative framework for land use planning, and secondly, the inadequacy of institutional capacity in municipalities to implement the inclusive ideal of redistribution or the utopian notion of integration (Pieterse in Parnell, 2007).

The regulatory framework provides a useful lens through which to observe some of the shortcomings of urban land management. Berrisford argues that there has been very limited change to the legal framework governing urban planning: land use changes and new developments continue to be approved in terms of pre-1994 legislation (except for those approved in terms of the DFA, 1995), much of which is inimical to the objectives of the democratic state (Berrisford, 2006). Parnell (2007) observes that there has been limited understanding of how the existing regulatory regimes, like zoning schemes, have impeded universal access to the city (or indeed reinforced race discrimination despite the removal of formal segregation). The ideological bases of these regulatory systems are based on certain preconceived notions of an ordered city. The social, financial and political values of urban land consequently shape the manner in which the investment value of land is protected, and determine what land uses are considered permissible. The problem is that this may not accord with perspectives of the urban poor on the use and importance of urban land (Kihato and Berrisford in Charlton, 2006). Heed should be taken to the warning issued several years ago by the Development Planning Commission: while land management systems continue to remain incoherent, unclear, cumbersome and contradictory, the private sector is frequently able to develop land without any regard for the needs of the general public (DPC). Regulatory reforms, however, have been effected and should be recognised, but while many tools are available to the State to manage urban land better for the poor, there are a variety of legislative and regulatory issues restricting their access. For example, strategic planning through the IDPs should be able to increase the supply of urban land for the poor, but this is restricted by administrative problems with land use management systems, as well as limited tools through which to translate strategic ideas into day-to-day land use decisions. This hampers the availability of well-located affordable land for socially driven land development. Kihato and Berrisford argue that current tools are either not being used adequately or have not been sufficiently well-developed to be useful, and this highlights the critical need for a focus on the integration of the available regulatory instruments into coherent programmes for managing urban land (Kihato and Berrisford in Charlton, 2006).

The weakness of planning capacity within municipalities has been investigated. Berrisford observes that while the substantive scope of what planners should do, in terms of various policy prescriptions, has grown rapidly, the ability of the profession to respond to this re-definition of its work has been weak (Berrisford, 2006). As skilled professionals, planners are often deployed to other municipal functions, and due to the lack of understanding and importance accorded to land use planning functions, a great deal of planning work is being done by people who do not hold planning qualifications (Berrisford, 2006). Practically this means that planning officials in many municipalities lack appropriate skills, particularly in land use management and spatial development. A lack of understanding means that officials are unable to conduct integrated and strategic planning and often simply attempt to conform to minimum requirements of regulations (Wendy Ovens and Associates,

2006). Berrisford highlights the main institutional problems: the planning profession in South Africa is currently weak. There is uncertainty as to the scope of the skills required of members of the profession, the regulatory system for ensuring a high quality of planning skills and for regulating the profession is in a state of flux, there is very limited knowledge as to the number of people with planning qualifications in the country and there is considerable anecdotal evidence that there is a brain-drain, especially amongst planners with experience and knowledge of land use management and development control (Berrisford, 2006).

The focus of this research is to investigate the gap that exists between policy intention and local action, and to suggest the dimensions of a more appropriate land management system and thereby contribute towards a contemporary progressive urban agenda. Within the context of the literature it represents an attempt to ground the goals of urban justice and sustainability in the fluid institutional realities of the politics and administrative capacity of rapidly urbanizing societies. (Parnell, 2007). The starting points can be taken from Parnell's recent work.

She reasserts the pivotal role of the State, and particularly local government in ensuring universal access to urban rights for the poor. Alert to the limitations of the neo-liberal developmental agenda advanced by many cities and international agencies, she argues for the radical reform of institutional and administrative systems to bring about universal access. This will require a paradigm shift to introduce a more radical form of the neo-welfare local state. A radical programme of State reform should be based on building State capacity to deliver services to all residents, and a restructuring of the way in which these services are delivered to ensure the more sustainable use of available resources. She argues that key sites for negotiating the principle of universalism in practice include land tenure, public housing waiting lists, zoning schemes, and other land use management issues. These 'technical' parameters are the sites where universalising notions of the good city will be defined and resolved (Parnell, 2007).

### 3 LEGISLATIVE AND POLICY BACKGROUND

In order to understand the location of the poor in South African cities it is necessary to remember what form the Apartheid city was designed to take, and how policies and strategies since 1994 have been developed and implemented in order to redress the resulting imbalances and inefficiencies in land allocation and development.

The State of the Cities report in 2004 points out that the Apartheid city was a political economy of space with two central features, one being racially-based planning, and the other a political economy in which development for some occurred at the expense of the majority. Under Apartheid, poor, black residents were forced to live in “sprawling, squalid dormitory townships of undifferentiated ‘matchbox’ houses. In general, these were relatively poorly serviced with infrastructure and urban amenities, and were virtually devoid of work opportunities or shopping and entertainment facilities” (SOCR, 2004). On the other hand, white residents lived in well laid-out and well-serviced suburbs, located conveniently close to employment and major urban facilities, and occupied an area of the city proportionately much larger than their population warranted.

This geographical set up was supported and reinforced by various institutional arrangements that ensured that areas not designated for white residents remained under-developed. These included separate municipal structures for white and black, which enabled white municipalities to “govern areas of concentrated economic activity and small wealthy populations” (SOCR, 2004). Without the burden of responsibility represented by the poor, white municipalities were able to raise their own income from service charges and property taxes, and attract investment and development. In addition, they benefited from black household expenditures in white areas. Black authorities, on the other hand, were faced with responsibility for large populations, almost all poor, and were unable to attract much economic activity to their areas. With a very low tax base they were unable to provide the needed infrastructure and social services.

Since 1994, much has changed around urban development in terms of the legislation, institutional frameworks, policies and strategies. One of the goals of this research is to investigate to what extent these major changes have impacted on the physical form of the city, as evident in land use patterns and management practices. Numerous pieces of national legislation, policy and strategy have been developed since about 1990, which have had as one of their goals the redesign and restructuring of the Apartheid city. In addition, each province and city has developed various policies and strategies that have impacted on land use and development in urban areas.

National policies around urban development include, among others, the repeal of the Group Areas Act (1991), the RDP (1994), the Housing White Paper (1994), the Development Facilitation Act (1995), the Urban Development Strategy (1995) and the White Paper on Urban Development (1997), the draft Green Paper on Development Planning, the White Paper on Local Government (1998), the White Paper on Spatial Policy, the Demarcation Act, and the Municipal Systems Act and Municipal Structures Acts, some of which are discussed below, highlighting aspects that may impact urban land and urban development.

The Reconstruction and Development Programme of the ANC was drawn up as the ANC's policy framework in 1994. Essentially, it "emphasised two aims: the alleviation of poverty, and the reconstruction of the economy" and stated that the government should play a key "enabling role in integrating growth with economic reconstruction and development" (Lodge 1999). The RDP is based on six principles, the first being an integrated and sustainable programme at all spheres of government, and the fifth being linking of reconstruction and development, integrating growth, development, reconstruction and redistribution into a unified programme. The key to this is an "infrastructural programme that will provide access to modern and effective services like electricity, water, telecommunications, transport, health, education and training for all our people. This programme will both meet basic needs and open up previously suppressed economic and human potential in urban and rural areas. ... success in linking reconstruction and development is essential if we are to achieve peace and security for all".

Two of the RDP's key programmes are of particular relevance to the reconstruction of urban areas post Apartheid. These are meeting basic needs, and building the economy. The RDP states that:

*"... land for housing must be suitably located geologically, environmentally and with respect to economic opportunities and social amenities. The democratic government must intervene to facilitate access to such land. Land speculation must be prevented and land monopolies broken up. Land planning must involve the communities affected. Land taxes and zoning should seek to promote urban development patterns consistent with RDP objectives"* (RDP 1994).

It further points out that "we must shape the expansion of the social and economic infrastructure to stimulate industry and agriculture", and that "strategies must address the excessive growth of the largest urban centres". With regard to urban development, the RDP notes that:

*"... ensuring the quality of life, sustainability and efficiency in the urban areas will prove critical for renewing growth and promoting equity. The design of a comprehensive national urban strategy will help serve the cities' rapidly growing populations and address the inequities and structural imbalances caused by the*

*Apartheid system. The urban development strategy must also be aimed at fostering the long-term development and sustainability of urban areas while alleviating poverty and encouraging economic expansion.*

*The urban programme must therefore ... create a functionally integrated, efficient and equitable urban economy, as well as effective and democratic structures of urban governance and management; enhance the position of women in the cities, and initiate a social environment which contributes to a better quality of life.*

*Sustainable economic expansion must redress the imbalances in infrastructure, transportation and basic services in our cities. Housing, transport, electrification and other infrastructure and service programmes should promote access to employment opportunities and urban resources, and the consequent densification and unification of the urban fabric. In particular, sites for industries and services that will not harm the environment should be located near existing townships. New low-income housing should be situated near employment opportunities wherever possible.*

*The environmental impact of urban reconstruction and development must form an integral part of an urban development strategy. This includes the encroachment of urban development on viable agricultural land, air pollution, water pollution and waste management”.*

The Development and Facilitation Act of 1995 (DFA) and the White Paper on Urban Development (1997), intended to guide all physical planning and development, are both premised on the ideal of a compact and integrated city (Todes 2003). Like the RDP and much subsequent legislation, the Urban Development Framework focuses on four key programmes – integrating the city, improving housing and infrastructure, promoting urban economic development and creating institutions for delivery. Similarly, the LUMS Bill (2003) has as its general principle that spatial planning, land development and land use management must promote and enhance equality, efficiency, integration, sustainability and fair and good governance.

The DFA covers several aspects of development planning: land applications and land tenure issues, local government planning, land development and conflict resolution. It provides for efficient, integrated, environmentally sustainable land development, discourages illegal occupation and urban sprawl, and encourages participation. It creates a national Development and Planning Commission to advise the Minister on issues related to planning, land development and tenure matters. The DFA allows for provincial commissions to be appointed to advise provincial MECs on similar issues. It sets up provincial development tribunals that may hear land development applications. These have powers that may speed up applications, compared to applications taken through other laws. In addition, after a local government body has set its Land Development Objectives (LDOs), a tribunal

has to assess every development application in a particular local government area in terms of the LDOs that have been set. A land development application that is inconsistent with the LDOs that have been set may not be approved.

Thus the intentions of the DFA are in line with those of the RDP. However, Todes (2003) points out that these tend to be contradicted by other government policies such as the Housing policy's subsidy schemes, which does not provide sufficient funds for the purchase of better located land or higher density housing. Likewise, spatial decisions at provincial and local level tend not to be informed by the principles of the DFA, despite the fact that Spatial Development Frameworks might make reference to these principles.

The main aim of the DFA is to fast track land release for development. It was seen as being a tool to assist local governments in providing a short-term (five-year) solution to urban and rural development restructuring (Donaldson and Marais, 2002). The principles of the DFA include restructuring of the spatial environment aimed at correcting the racial settlement pattern, general city-building principles that encourage compact cities and prevent further urban sprawl, along with mixed land use and integrated development, promoting the creation of sustainable cities and a transparent process of public participation, and associated capacity building.

However, there have been several unintended consequences of the application of the DFA. It is seen by some as suiting large scale developers, as the development tribunal set up under the auspices of the Act has the power to set aside other legislation such as national building regulations and reportedly often ignores decisions taken by municipalities in terms of the town planning scheme (Wendy Ovens and Associates 2006). The result of DFA hearings in cities such as eThekweni is that it can drain not only planning resources (as planners have to prepare for and attend tribunal hearings), but also other strategic resources in the municipality. If development rights are given to a piece of land, this can foreclose on other uses, often affecting strategic and available national resources (e.g. waste water, transport, housing). In eThekweni and probably other areas of the country, while the DFA was initially appropriately used for RDP related land and housing projects, subsequent to 2000, a number of private applications have been fast-tracked through the DFA to bypass the executive powers of veto of local government hence creating the crisis that undermines the executive authority of municipalities to govern in their own right (Wendy Ovens & Associates 2006).

South Africa's housing policy was developed by the National Housing Forum immediately prior to the elections in 1994. This formed the basis for the White Paper on housing. It promoted construction for home ownership rather than rental stock, and addressed the subsidy issue. In 1994 the subsidy was R15 000 for the lowest income group. Generally, this provided for a serviced site and some form of basic top structure (Donaldson and Marais, 2002). Three types of delivery have

been utilised – a housing project subsidy linked to ownership of a house constructed by a formal contractor, the people’s housing process<sup>1</sup> where the home-owner builds the house themselves or hires a contractor, and the institutional housing subsidy focusing on rental or rent-to-buy housing. As a result of the higher costs of well-located land, subsidised housing (known as RDP housing) tends to have been built away from city centres on cheaper land.

A key objective of the Housing Act (1997) is to provide for the facilitation of a sustainable housing development process. According to the National Housing Code (2004), the “Government’s primary housing objective is to undertake housing development, which section 1 of the Housing Act, No. 107 of 1997 (“the Housing Act”) defines as being “the establishment and maintenance of habitable, stable and sustainable public and private residential environments to ensure viable households and communities in areas allowing convenient access to economic opportunities, and to health, educational and social amenities ...”

National, provincial and local government must give priority to the needs of the poor, consult with communities, ensure that housing development provides a choice, is economical and sustainable, is based on integrated development planning, promotes individual and group initiatives to provide housing, and observes the principles of IGR.

Every municipality must as part of the IDP take all reasonable steps within the framework of national and provincial housing legislation and policy to ensure that residents have access to adequate housing; unhealthy or unsafe conditions are prevented or removed; services in respect of water, sanitation, electricity, roads, stormwater drainage and transport are provided in an economical and efficient manner. Municipalities must set housing delivery goals; designate land for housing development; create a public environment conducive to financially and socially viable housing development; promote the resolution of conflicts in housing development; initiate, plan, co-ordinate, facilitate, promote and enable appropriate housing development; provide bulk engineering services and revenue generating services and plan and manage land use and development.

The National Housing Programme includes a programme to facilitate the upgrading of informal settlements through in situ upgrading. This provides assistance to municipalities in the form of grants to enable them to respond rapidly to informal settlement upgrading needs by means of the provision of land, municipal services infrastructure and social amenities. It includes the possible relocation and

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<sup>1</sup> The People’s Housing Process recognises that if beneficiaries are given the chance either to build houses themselves or to organise the building of houses themselves, they can build better houses for technical, financial, logistical, and administrative assistance.

resettlement of people on a voluntary and co-operative basis in appropriate cases as a result of upgrading projects. Funding is only provided for informal settlements situated on land suitable for permanent residential development and within the municipality's IDP. The Programme "discourages the displacement of households, as this not only creates a relocation burden, but is often a source of conflict, further dividing and fragmenting already vulnerable communities".

Land use planning creates the framework for managing the allocation of land uses among competing development needs. It is therefore a basic precondition for facilitating housing supply and should serve a range of objectives. Those relevant to housing are:

- To redress the spatial inequities and distortions that have resulted from planning according to Apartheid and segregation policies of the past;
- To ensure that housing is developed on well-located land which promotes physical social economic and institutional integration of South African society;
- To translate national and regional reconstruction and development policies into appropriate on-the-ground development;
- To provide the framework of certainty necessary to mobilise investment into development from both government and non-government sectors; and
- To ensure well-located land is allocated specifically for affordable housing alternatives.

The draft **Green Paper on Development Planning** was an early attempt to outline and address the challenges facing land use planning. Its chapter on the management of land development stresses that decisions around land management and land use change should not be taken in a vacuum. They should be informed by a proactive plan that provides sufficient guidance to the decision-makers charged with considering individual applications for land development and land use change. The plan, therefore, while not being able to cover all contingencies, should provide decision-makers with a way of thinking which allows them to deal with the unexpected.

It argues that, in principle, land development opportunities should be available to all citizens and the benefits of land use management systems should be equitably spread. Everyone within the jurisdiction of a municipality should be equally protected from the adverse impacts of land development changes, and should have an opportunity to be heard in relation to these.

The document identifies two key goals for land management. First, that it must provide effective protection to both the natural environment and members of the public from negative impacts of land development and land use change. It should also attempt to ensure a continually improving spatial environment, particularly in

terms of the quality of the public space. Secondly, it must provide a reliable degree of certainty to developers, members of the public and all spheres of government so that there is shared and consistent understanding of the scale, extent and nature of permissible land development and use within a specified time period.

The **White Paper on Spatial Planning** (2001) outlines the two main underlying rationales of land-use management<sup>2</sup>. The first is the widely felt resistance to the idea of uncontrolled land development and the second is the commonly expressed wish by particular sectors in society to promote various types of desirable land development. The resistance to uncontrolled development is motivated by a number of concerns including environmental concerns, health and safety concerns, social control, efficiency of infrastructure provision and traffic management, determination of property values for purposes of rating, and aesthetic concerns. The wish to promote desirable development is also driven by a number of different concerns such as matching the social and political needs of government, or investment promotion.

As the White Paper indicates, “an important conceptual shift is that in the new system the primary role of government – and especially local government – in relation to spatial planning, land use management and land development is no longer merely the control of development (although that remains an essential function). The facilitation of appropriate development is an important new responsibility.”

The White Paper on Local Government defines developmental local government as being the following: “Local government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives.”

The four key developmental outcomes include the provision of household infrastructure and services and the creation of liveable, integrated urban and rural areas, local economic development, and community empowerment and redistribution, all of which re-iterate RDP principles.

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<sup>2</sup> The term land use management is seen as including the following activities:

- The regulation of land-use changes e.g. rezoning of a property from residential to commercial use;
- The regulation of 'green fields' land development, i.e. development of previously undeveloped land;
- The regulation of the subdivision and consolidation of land parcels;
- The regulation of the regularization and upgrading process of informal settlements, neglected city centres and other areas requiring such processes; and
- The facilitation of land development through more active participation of the municipality in the land development process, especially through public-private partnerships. This requires of local government a more proactive approach to land development, beyond that of a regulator or market forces, whereas the first four correspond more closely with the traditional land development regulation role.

A key tool of developmental local government is the emphasis on integrated development planning. Integrated Development Plans (IDPs) are a statutory requirement of the Municipal Systems Act of 2000 for municipalities at district and local level. The IDP process is intended to arrive at decisions on issues such as municipal budgets, land management, promotion of local economic development and institutional transformation in a consultative, systematic and strategic manner. The new developmental role for local government includes provision of basic services, facilitating the creation of jobs, promoting democracy and accountability and eradication of poverty.

As can be seen from the discussion thus far, there is a plethora of legislation, policies and strategies developed since 1994, which have been accompanied by sweeping institutional and geographical changes. However, there is a need to examine to what extent current land management systems (legislation, policy, procedures, practice) meet their objectives of equity, efficiency, and sustainability.

## 4 CONCEPTUAL APPROACH

The paper approaches the issue of land use management in Johannesburg from the general perspective of the challenges of large cities in a middle-income country, where there is a commitment to a liberal democratic constitution based on universal rights. It is also informed by the South African-specific imperatives of identifying and overcoming the residual discriminatory dimensions of urban land management that remain in place from the Apartheid and colonial eras. These imperatives for reforms are necessitated by Constitutional compliance on the commitments to basic needs, non-discrimination and social, economic and environmental rights.

Based on our understanding of the current context, our research is informed by the following assumptions:

- There are major technical problems evident in the current land use system that have not been comprehensively reformed since Apartheid, making for an overburdened State, thus reducing capacity and efficiency in delivery of land based services to the poor.
- In spite of and in some cases because of government's role, the land use opportunities for the poor are currently exclusionary, over-burdensome or dysfunctional to pro-poor sustainable human settlement management.
- The bulk of urban land in South African cities is formal. In other words, most land is recognised and nominally controlled by the State as opposed to being informal, and beyond the control of government and in the hands of illegal land barons. Thus, while there are currently multiple and unequal systems of urban land management, government ultimately controls almost all land management in cities. This 'formality' is not just true of the practices of the former white municipalities over registered privately owned land, but also the management of public land through the State Owned Enterprises, provincial and local government land. Even traditional land structures in the cities are sanctioned by government, who ultimately retain the power to regulate it. We therefore do not draw extensively on the literature on land informality for this study.
- Instead of the current parallel systems of land use management that separate the land use practices applied to the poor from conventional/formal planning practice, a flexible but unitary system of land use management is desirable. Such a system would provide for basic minimum and maximum practices in line with national policy, but allow for local specificity in application.

- Current land use management experience across the cities not only includes major areas of innovation that could be productively shared, but might also highlight local specificity.

The land use framework and the effective management of all urban land provide the key fiscal basis of local government. Establishing a sound relationship between land management and especially local government revenue is essential to ensure that municipalities are able to redistribute resources to the poor in a sustainable manner.

This overview of land use management in Johannesburg intends to show how a more focused attention on land is essential to improving poor people's urban opportunities and to ensuring that ghettos are not created or reinforced.

Land should not be, but is in practice, a fuzzy concept. In South African cities the concepts of land, housing and services are often used interchangeably, by both politicians and professionals. This is not the only confusion. We tend to equate land with residential development and ignore land for commercial, industrial, ecological, transport and recreational purposes. At the same time, the notions of 'access to land', 'housing' and 'ownership' are often conflated. There is also confusion over what the triggers for land use planning reform might be – and there is clearly a dearth in the understanding of the differential and overlapping roles of legislation, regulation and enforcement. In practice over the last decade a sloppy understanding of land has meant that land use practice has been subjected to policy imperatives of other sectors, notably housing, but also water and other bulk service imperatives. Within local government the old fashioned planning functions of zoning, regulation and enforcement have been down graded, become outmoded and are generally considered less important than either strategic planning or service delivery. Tardiness in the Department of Land Affairs to take on the reform of the legislation for urban land compounds the already murky picture of how urban land is currently managed. The result of the quagmire of land use management practice is that the impacts of practice on the poor have been poorly understood.

Against this argument and using literature from current debates in South Africa and abroad, we make the case for focusing on five main issues recognising that this list excludes other critical issues such as the politics of land (corruption, protest etc). Data analysis and questionnaires for stakeholders will be structured around these themes.

1. The conceptual importance of a system that recognises all forms of urban land use by the poor, not just residential land. In the international literature and South African policy and practice, urban land efforts are overwhelming concentrated on improving access to land for housing for low-income groups (particularly freehold title) with little consideration given to the significance of accessing other forms of land for the poor. Kihato and

Berrisford note that there is a disjuncture between conventional assumptions that formal ownership of land is regarded as a primary asset among the poor, and the priorities of the poor themselves. They flag the need to understand better the importance of land “as a place that provides access to employment, income generation through home based industries and rental income, or for purposes of building social networks” (Kihato and Berrisford, in Charlton, 2007). Pro-poor spatial policies and land use interventions should be informed by the multiple requirements of the poor, and specifically their need for access to economic and social opportunities and services.

Data on different land use in the City will be presented to demonstrate the impacts of recent policy and practice, and to consider the extent to which the goal of integrated, sustainable and accessible urban spaces have been achieved.

2. The identification of the role of land management in the urban financial system, including the working of land-based revenue streams and the working of redistributive subsidies and tariffs. Land management systems contribute to the financial sustainability of municipalities, in both direct and indirect ways. The payment of rates by property owners provides a direct source of revenue to the cities. Selling off land or rights to develop and occupy public land are also other revenue generating options, but caution must inform such decisions. Simply regarding public land as an investment asset can have detrimental long-term implications and can run counter to operating in the ‘public interest’. The implementation of effective land management systems can also ensure that cities’ ongoing operational costs are reduced, for example, through the promotion of more compact, multi-use spaces, reducing the ecological footprint of future city development, and explicit targeting of poverty alleviation through spatial planning and development and redistributive measures.
3. The imperative of establishing an integrated unitary system of land use that works for the poor within and across generations and across different cities. To this end, the overlapping planning procedures and systems will be documented. Also, the manner in which all spheres of government play a role in urban land will be detailed, highlighting tensions and contradictions experienced in practice. While some attempts have been made in the major urban areas to standardise and reform their land use system, many of these efforts simply reinforce the inherent assumptions of colonial and Apartheid practices, which thus fail to advance universal access to land. In most instances, however, several types of regulatory procedures are applied in a manner that demonstrates a predominantly ad hoc, opaque and unresolved approach to land management, which fails to reflect the goals of the

integrated and sustainable city, and specifically mainstream the need to ensure access for the poor.

4. The issue of co-operative and streamlined government will be taken further by exploring the different roles and scope of land use legislation zoning and structure plans, regulation and enforcement. Berrisford (2006) observes that the Constitution did not clearly identify an area of legislative competence that adequately described the activities previously regarded as constituting 'town and regional planning'. Consequently, there is no clarity as to which sphere of government should proceed with the revision of this legal framework and the design of one more suited to current needs and conditions. Despite several attempts, we are still faced with a highly inadequate regulatory framework that fails to inform and guide the different spheres of government about their respective roles and relationships.
  
5. Addressing the currently dysfunctional institutional systems of land use management including the overlapping mandates of environmental and planning professionals, the uncertain place of planning in local government bureaucracy, and the onerous compliance requirements of land that stem from the parallel application of past and new legislation. Municipal planning officials are tasked with strategic planning and land use management. The emphasis given to development planning in planning policy and education has meant that spatial skills and particularly the 'nuts and bolts' of land management have been overlooked. Combined with this skills gap, is the ever-demanding context within which these officials are placed. Developmental government places the imperative of planning, implementation and management on municipalities, but officials need to operate within extensive municipal boundaries with limited resources and respond to increasing demands and targets. At a general level, Project Consolidate has highlighted the dysfunctionality of numerous municipalities across the country, but an in-depth investigation of major urban bureaucracies is likely to reveal weaknesses in their ability to respond strategically to the requirements of post-Apartheid city reconstruction.

## 5 METHODOLOGY

The basis of the research exercise is empirical analysis and it is based on an investigation of a case study of Johannesburg. The case study involved an examination of relevant city policies and strategies, collection, analysis and mapping of data, and in-depth interviews with key respondents.

Documents and data sourced included:

- IDP
- SDF
- Land management strategies or documents
- Informal settlement policy
- Data sets:
  - Shape file for their zoning map
  - Capital investment – need to match cadastral information
  - Road centre line
  - Economic Centres/Nodes
  - Land Ownership Rates applied by area/suburb
  - Urban footprint
  - Zoning information

Although a cross-section of respondents was interviewed, there were several problems in securing interviews. A number of officials cancelled appointments, so the final spread of interviewees was not always as comprehensive as was initially hoped. However, in general a fair spread of key respondents was available, and we believe provided a comprehensive picture of the City's land use management practices.

## 6 KEY FINDINGS

The following discussion provides an overview of the case study, selecting key issues that arose. See the attached appendix for the detailed case study. Following this, an analysis and discussion of the key issues emerging is presented.

### 6.1 Summary: Johannesburg

Despite its economic power and influence, Johannesburg has yet to successfully engage with and overcome the spatial legacy of Apartheid. The city's spatial patterns are illustrated in Maps 1-5. They show that the spatial distortions of the Apartheid city remain in place: low-income residential areas are situated largely on the periphery and remain separate from high-income enclaves; and sprawling low-density residential development isolating residents from social and economic opportunities and escalating the costs of urban management. Pockets of poverty remain firmly rooted in certain areas in the city, and are also emerging in new post-Apartheid settlements. While municipal policies indicate a commitment to transformation and a vision for development, they are very recent and will take time to be implemented, and incorporated into provincial approaches. To a large extent, land administration remains rooted in pre-1994 legislation and its parallel systems, and thus fails to create an alternative basis for land development in the post-Apartheid era.

The key issues identified are as follows:

#### 6.1.1 Legislation

As elsewhere in the country, most of the land-related legislation that is applied in Johannesburg originated in the Apartheid era. In the absence of review and transformation, the dualistic regulatory framework that remains in place means that the processes and patterns of land development perpetuate the parallel systems characteristic of the Apartheid period. Thus the City of Johannesburg (CoJ) continues to apply 12 different Town Planning Schemes across the metropolitan area, each of which is rooted in outdated principles and assumptions. The majority of the town planning applications that the CoJ processes are dealt with in terms of the Town Planning and Townships Ordinance (1985), and the remainder are processed in terms of the Less Formal Townships Establishment Act (LFTEA, 1991) and the Development Facilitation Act (DFA, 1995), both of which were designed to expedite low-income housing development in the wake of civil unrest and rapid urbanisation.

Typically LFTEA has been used in applications for subsidised low-income housing projects, and the DFA for large-scale private developments. Their main impact has been the provision of sprawling residential developments on the outskirts of the

urban area with little concern for related services and facilities (such as social, economic and recreational activities), or the carrying capacity of existing infrastructure networks. Until recently ongoing municipal institutional restructuring resulted in chaotic and burdensome bureaucratic procedures, and as a result developers turned to the DFA procedures as it offered an easier alternative to hasten the approval process of their development applications. Not only did it mean that their applications were more easily approved, but also that Municipal policy requirements were circumvented and spatial policies ignored. In this respect, it has meant that many of the City's major land decisions have been taken by the Gauteng Planning Tribunal. With the increasing efficiency of Municipal operations and mounting costs of urban sprawl, the CoJ is currently challenging the DFA's authority over the municipal competence of land use management in a landmark court case.

The operations of property developers are being seriously influenced by the onerous and time-consuming requirements of national environmental legislation, and they are having a far greater impact on the property market and the nature of private development than the CoJ's land policies. They have effectively curbed greenfields development and its encroachment on agricultural land, and developers have shifted their attention to the redevelopment of brownfields sites. These changes have inadvertently facilitated densification and compaction around existing nodal centres, as well as further escalating the price of well-located land and reducing the poor's access to these areas.

### **6.1.2 Planning departments**

The planning function in the CoJ is undertaken by the Development Planning and Urban Management Directorate.

The Development Management Department is responsible for land use management, planning control and enforcement, building plans, legal administration, and outdoor advertising. It employs some 50 town planners, and its current staffing levels represent about 70% of total requirements. The majority have four years' experience or less, which translates into slower processing times of applications, and a limited basis upon which to make professional inputs. Historically, the CoJ had been highly inefficient and slow in dealing with applications, but in recent years there have been concerted efforts to speed up processing times by setting monthly targets. The Department is currently processing 500 applications per month. Of these, approximately 2%-3% are DFA applications; while numerically insignificant, processing them requires a huge effort and takes a disproportionate amount of time. With the pressure to ensure that targets are met, there is little capacity or time to work on changing the legislation, or making progress on creating a single Land Use Management System.

The Development Planning and Facilitation Department is responsible for the strategic spatial planning (SDF and RSDFs). It comprises approximately 20 town planners, most of whom have postgraduate qualifications. The department has sufficient staff and is able to prepare the SDF in-house, unlike most municipalities which lack adequate spatial planning capacity and out-source such work.

### **6.1.3 Nature of Planning**

In the last few years, City departments have concentrated upon reviewing their policy, and the current suite of policies represent a more streamlined and coordinated response to development challenges. These recent policies acknowledge the scale of the problems facing them and aim to take direct action to arrest negative urban trends and restructure the City to curb sprawl and ensure that poor and vulnerable residents access urban opportunities. However, these recent policies have had little chance to be implemented. While they represent an important set of intentions they have yet to be translated into municipal decision-making and operations, and be used to effectively guide the development activity of Province and the private sector. Until this occurs, segregated and unequal spatial patterns will continue to characterise the urban reality of the poor.

Municipal planning policies are nested together in a hierarchy of plans that range from overall strategic vision to local level land use guidelines. The Growth and Development Strategy is the long-term development framework for the CoJ. The Integrated Development Plan interprets the GDS's development approach for the five-year period, 2006-2011. The Spatial Development Framework is a key component of the IDP and it provides a City-wide perspective of spatial challenges and interventions. Through the Capital Investment Framework, the SDF's priorities are included in the Council's budgeting process, and this has been used to allocate a third of the CoJ's capital budget. The Regional Spatial Development Frameworks largely contain development guidelines, which interpret the SDF at the local level. They function largely to motivate and indicate the type of development to be encouraged or discouraged.

There are 12 Town Planning Schemes currently in operation; each has its own procedures and requirements, which were largely inherited from the previous dispensation. The CoJ intends to prepare a single Town Planning Scheme to provide a unified land management system across the entire metropolitan area, but progress is very slow. In the meantime, planning officials consult the RSDFs in conjunction with the Schemes to assess applications in an effort to incorporate new approaches into their decision-making.

#### **6.1.4 Urban growth/expansion**

Over the past twenty years, disinvestment in traditional nodes and capital flight to new centres has dramatically altered the investment profile of the City. While some re-investment is occurring in the CBD, a market-led property boom has led to sprawling suburbanisation to the north. This phenomenon has been characterised by residential security estates, a proliferation of retail nodes, and 'linear creep' along mobility corridors, and it has put extreme pressure upon existing infrastructure and services. This development has also consumed vast tracts of under-utilised or undeveloped agricultural land, which has also had the effect of reducing the extent of land available for low-income settlement development. The role of the DFA in this process cannot be underestimated.

In response to these trends, the CoJ delineated an Urban Development Boundary to curb urban sprawl and manage growth, and it has begun to demonstrate its effectiveness.

Johannesburg is a rapidly growing city, and its population rose by 22% between 1996-2001. Unemployed, unskilled and low-income in-migrants have accounted for much of this growth, which has been concentrated in several settlements located close to the Urban Development Boundary, or in the Inner City. Not only do these poverty pockets lack adequate housing and basic services, but also many are at a considerable distance from economic and social opportunities. Their sustainable incorporation into the urban fabric represents a considerable challenge for municipal planners.

#### **6.1.5 Land and housing**

The CoJ has been slow to respond effectively to the need to house its rapidly growing low-income population, and it faces a backlog in the region of 200 000 units. A new housing policy framework and strategy has been recently approved, but detailed guidelines are still to be formulated. Work has also begun to prepare an informal settlements policy.

There appears to be general agreement that the conventional approach to providing low-income housing on greenfields sites on the periphery is no longer feasible as there is not enough land. Municipal officials are exploring alternative ways of providing low-income housing, such as social housing, infill, and inclusionary housing.

Sourcing land for low-income housing projects is the function of the Johannesburg Property Company (JPC). The agreed process is that the Housing Directorate identifies the area for a housing project, and then, using provincial funds, the JPC purchases the land. However, the JPC is not regarded as highly proactive, and

continues to focus its attention on land disposal and the development of strategic projects rather than on land acquisition.

The Provincial Housing Department also plays a large role in housing delivery, and often this has been done without consultation with the CoJ, or in respect of their policies. However, they are working together on projects on the western edge of the City, and will collaborate on a similar exercise in the south (identification of housing opportunities). However, generally, the CoJ is concerned that the province regards itself as a developer, rather than a supporter of municipal housing efforts. The respective roles are confused and the relationship between the two spheres appears problematic.

#### **6.1.6 State-owned land**

Well-located land needs to be acquired for accommodating the poor in easy access of economic and social opportunities. It has been suggested that State land should be unlocked particularly alongside proposed movement corridors and nodes. These kinds of approaches to acquiring land for housing could make significant inroads into changing City's current urban form. While the provincial housing department has been able to assist, little effort appears to be made by the JPC to acquire state land for low-income housing. By not making this its priority, the CoJ is in danger of losing an opportunity to make direct, deliberate interventions in the urban spatial structure.

#### **6.1.7 Mechanisms for distorting the market**

The CoJ has made some efforts to positively influence the property market, by highlighting development opportunities in strategic areas and offering financial incentives. This has occurred through land identification, packaging and planning at Gautrain stations, strategic projects managed by the Johannesburg Development Agency, as well as through the tax incentives offered in the Urban Development Zones. Property development in these areas, however, has largely targeted its attention on higher-income residents rather than the poor.

Generally, the CoJ has been slow to consider innovative ways of obtaining value from developments for the higher end of the market. For example, it could have extracted a social contribution through taxing the increased value in property as a result of the Gautrain, and in this way, the transport system can be paid for through real estate.

### **6.1.8 Apartheid legacy**

The city's spatial development has largely continued within the overall framework of Apartheid-based plans, and those spatial, social and economic segregation principles underpinning Apartheid city planning are still entrenched in Johannesburg despite some attempts that have been made to address them.

The strong north-south divide remains a key structuring device in the metropolitan area, continuing to divide residents along income and racial lines. Low-income settlements are located in the south and on the urban periphery, although there are some high-density concentrations of poor residents that are better located with respect to economic opportunities.

Some CoJ initiatives are designed to reverse the Apartheid legacy – the rapid bus transit network, Gautrain stations, nodal development, key housing projects – but most of these still need to be implemented, and in the meantime the Apartheid legacy remains intact, and land development is still based on its premises and regulatory systems.

### **6.1.9 Delays**

With the ongoing municipal restructuring after 1994, land administrative systems became highly inefficient, and this impacted seriously on public perceptions of municipal planners. In recent years, there have been concerted efforts to improve efficiency, and speed up processing times by setting monthly targets and time-frames for different types of applications. A Land Information Management System has recently been introduced, which should expedite the process.

Applications that are dealt with at a provincial level however suffer from serious delays. Due to limited capacity the province is unable to process DFA applications expeditiously and there is a two years backlog. Environmental regulations are particularly onerous and Environmental Impact Assessments take approximately four years to process.

### **6.1.10 Role of private sector in development**

Through the mechanism of the DFA, property developers have been responsible for extensive higher-income residential development to the north of the central core, and have contributed to the unsustainable outward sprawl of the city. With the onerous requirements of environmental legislation, their attention is shifting towards infill, densification and redevelopment in developed areas. They have also responded positively to profitable opportunities presented by the public sector in strategic areas such as the Gautrain stations, strategic projects and Urban Development Zones. Generally their interest has focused on higher-income

projects, but models are being developed (inclusionary housing) to facilitate their involvement in lower-income housing.

It appears that planning officials and property developers have not sufficiently engaged constructively with one another to identify their respective roles and expectations. The private sector requires predictability and certainty as a basis for its investment decisions. Planning officials feel that their spatial plans provide adequate parameters, but they have not captured the imagination of property developers, as they are not user-friendly or sufficiently detailed. Communication between these two parties appears hampered because professional/property interests generally fail to express a strategic or unified view on municipal land issues.

#### **6.1.11 Land as a public asset**

The JPC has been criticised for not aligning its thinking to City's vision and principles, and thereby undermining efforts towards more equitable and transformative land development. The JPC's focus lies in land disposal as a source of Municipal revenue. The concern has been raised that it continues to sell off Council assets to the highest bidder if they are deemed surplus to CoJ's requirements. Other departments feel that their focus should lie in land acquisition to fulfil municipal policy imperatives. Its activities appear to run parallel to, and often contradict the intentions of other departments.

### **6.2 Conclusion**

The CoJ has crafted important policy documents, which are increasingly reflecting a concern for the poor and a deliberate focus on re-orientating spatial development. The main problem lies in their translation into implementation. The following are the main issues in this regard:

- Programmes and projects appear to continue in an ad hoc and partial manner, and innovative initiatives have not influenced the norm;
- Policies are not interpreted in sufficient detail to capture the imagination of the private sector, or bring about the necessary changes at the local level (RSDF);
- Internal institutional co-ordination is not yet automatic and different agendas undermine collaborative efforts and overall progress; and
- The projects designed to give effect to the key spatial structuring devices – nodes and transport corridors – appear to reinforce current trends, and it is difficult to see how their implementation will address the poverty and vulnerability experienced in informal settlements.

However, local level concerns are not the main stumbling blocks to implementation. Despite decentralised policy and instruments for local autonomy, the most important determinants of urban form and investment continue to lie with central government. The DFA, environmental legislation and housing subsidies have had a far greater impact on spatial restructuring in the City than local policies and regulation. Planning legislation at national, provincial and local levels remains fragmented and progress in overhauling it are very slow or stalled.

### **6.2.1 Key issues**

Three overarching points emerge from this study, to suggest that we need to change the fundamentals of how we think about urban land use management. First, there is ongoing institutional exclusion of the poor from land in South African cities. Second, this institutional exclusion is a result of both the failure to rid cities of Apartheid land use management and the unintended consequences of the introduction of new land use management practices. Third, the nature of the exclusion stems primarily from the differential treatment of the poor by government in land use management and not from the existence of a parallel informal urban land system. The latter two points are crucial as it means that, with the requisite political will, government has the potential to rectify the situation and improve the access of the poor to urban land through institutional reform. Achieving this change requires a paradigmatic shift in how urban planning is conceptualised, funded and applied.

## 7 MAKING A PARADIGMATIC CHANGE IN URBAN LAND USE MANAGEMENT

In support of our main argument that the fundamentals of the urban land use management system have to change, this section draws out a general picture from the case study.

Our observations on why current urban land use management prejudices the poor makes use of the five organising concepts that were outlined earlier. They include:

- Defining ‘land use management’ not ‘housing’ as a starting point;
- Understanding the role of land management in the urban financial system;
- Moving beyond formality/informality: imperatives for a unitary urban land use system;
- Overregulation: streamlined systems of land use management;
- Removing dysfunctional land use management within government.

### 7.1 Defining ‘land use management’ not ‘housing’

By ignoring the dynamics of land in the city we are following a dysfunctional housing subsidy allocation system that is distorting the opportunities for the poor. This is a case of spending the budget without understanding the long-term social, economic, and environmental impact of the investments we make. Our hearts are in the right place, but we are actually doing the wrong thing, in part because we have such a short-term perspective.

The case studies show evidence of a growing awareness of the importance of land in most cities, largely through the inclusion of the Spatial Development Frameworks in the IDP. However, the strategic importance of land did not always translate into development planning practice. In each case, the actual logic of land acquisition for the poor was still dominated by the Councils’ imperatives of providing low-income housing. In practice this means that:

- Land is identified for housing without consideration to the land use imperatives of access to transport or economic opportunities.
- There is a tendency to rely on State-owned land for subsidy-based housing construction in order to make shelter affordable within the defined financial parameters and to enable the roll out of units at the scale and pace that is politically necessary.
- The use of cheaper peripheral land for subsidy housing to maximise top structure size continues.

- Land use legislation is developed in a manner that facilitates an overall drop in land use planning standards (bulk infrastructure, building regulations, zoning norms etc) so that the size of the top structure can be maximised
- Councillors, not planners, often determine the most appropriate location of land – and this means short- not long-term logic prevails and the next generation of the poor suffer.

Even more worrying than the lack of integrated land use management principles in the setting out of new settlements for the poor, was the almost complete absence of a land use management enforcement strategy in the cities. This is both at the level of the absence of guidelines and regulations for land use management and also in the gap in staffing and other resources required to manage developed land in a poor area. The absence of land use management enforcement in poor black areas of the city is only tolerated because of low expectations by poor people who do not expect state protection, and is racist. Differential practices of enforcement also perpetuate segregation in the quality of life in neighbourhoods and the failure to enforce the public good implied by normal land use management regulations mitigates against both race and class integration and precludes neighbourhood improvement and the development of a positive land market.

In practice the role of municipalities has been defined as finding and servicing land for the roll out of housing delivery based on individual tenure. Once the site is serviced and the house is built, there is no clearly understood further land use enforcement role for the state for poor areas. This is in marked contrast to more affluent areas where government invests in land that it develops for public spaces and where government is expected to uphold bylaws that underpin quality of life issues and contribute to the regulation of spaces in such a way that mediates conflict between economic, industrial and other competing land uses. It is also this form of government intervention that ensures investment by the private sector, the absence of which is a key driver of enduring poverty in disadvantaged sections of town.

## **7.2 The role of land management in the urban financial system**

We would argue that it makes good fiscal sense to address the urban land use lacuna and may be financial suicide for local government not to.

From our interviews, admittedly not with finance officials, there is little overt Council reflection on the link between how land, particularly for the poor, is accessed, distributed, developed or managed – and the sustainability of the finances of the Municipality. The fact that there has been no national action on urban land use reform suggests this is also a gap in national government. Nevertheless the case studies do raise some issues around the longer-term relationship between land use

management and the sustainability of municipal finance – on both the revenue and expenditure sides.

- The poor are excluded from service and rate subsidy receipts because the malfunction of the land use information base makes it impossible for municipalities to reach poor households who are not on the billing system.
- This also means that service consumption by the unbilled poor cannot be restricted.
- Full cost accounting of the location and form of the development of new land for the poor is not currently undertaken. Long-term service subsidies generated by the spatial mismatch of land for housing and work will erode the long-term financial viability of the Municipality. Some of these costs are transferred onto the poor (e.g. in higher transport prices).
- Land for the poor is generally costed to include only the initial servicing of the residential erf.
- Lower bulk service levels provided for residential areas developed under fast track routes for the poor mean that commercial rates can never be applied. The poor who run enterprises from homes developed on inferior zoning platforms may also not qualify for bank finance, a potential factor in scaling up SMME output of the future.
- The City did not cost the long-term implications of the ongoing exclusion of the erven of sub-standard houses from the city rates base of the future, despite evidence that once low income areas like Soweto are now an important part of the rates pool and not just a cost centre.
- Failure to cost land as a non renewable resource in the land use management system privileges the rich who consume large portions of land, reducing its long term availability, increasing price and increasing sprawl at the expense of the poor.

Failure to understand the fiscal implications of land use management in poor areas will turn out to be a major critique of government performance in the first decade and a half of democracy. In the absence of a department with direct responsibility for urban land use management the National Treasury has been negligent in failing to realise the implications of the present practices of LUM in cities, which could not only bankrupt local government, but will ensue the necessity of ongoing welfare support for the urban poor as well as the direct subsidization of services like transport.

### **7.3 Beyond formality/informality: imperatives for a unitary urban land use system**

Whereas since 1994 we have unified and integrated the pension, health and school systems, we are not off first base in thinking about the transformation of the urban land question. We may even have regressed.

Earlier we argued that most urban land in South Africa is actually recognised by the state and has some or other legal status. The case study confirmed that, aside from a few land invasions representing a very tiny proportion of all urban land, government generally held the legal power to regulate and enforce settlement in the urban areas. The problem was not that land fell outside of the control of the State or was informal. Rather, one part of the problem related to how effectively the State could apply its control to land it nominally managed in urban areas more effectively. A second issue related to the ineffective and discriminatory nature of the land use management that the underlying zoning and regulatory frameworks allowed.

What was very clear from the case study is that the management of urban land for the poor is undertaken within a range of complex, ad hoc, poorly understood legal parameters. What the land use management systems applied to the poor have in common is that they present a weak regulatory environment that is also based on lower services levels. A further characteristic is the much weaker enforcement capacity of the state for land use management in poor neighbourhoods.

An increasing proportion of urban land, especially of land occupied by the poor, did not fall under the old white municipal zoning schemes that are typically depicted as 'formal' because the roll out of new low income housing was undertaken using legislation from the political transition that was intended to fast track development and make the State more responsive but had actually left open the question of land use management standards.

#### **7.4 Overregulation: streamlined systems of land use management**

Because there is no big picture on how urban land impacts on the poor or on how urban government functions, ad hoc reforms have been introduced, but they have created a monster and have fed the vested interests of a cadre of highly skilled professionals who navigate its complex pathways. There are competing, overlapping and generally exhausting requirements that govern urban land. And they must be simplified within a transformatory agenda.

There is a plethora of regulation relating to urban land. A simple visual scan of the legislation that applies in cities across the country is intimidating. The problem is not just one of overregulation – though one does feel sorry for young officials and civil society groups advising the poor as they unravel the overlapping and competing legal mandates of land use management. The problem is also one of competing regulations.

- Old legislation and regulation sits alongside new on the statute books.
- Parallel systems of land use management from homelands, towns and townships overlap in a single Council.

- Each of the spheres of government has legislation and regulation and processes pertaining to land.
- There are three competing rationalities to land use planning – environment (driven by the logic of preventing development to preserve ecological integrity); heritage (driven by the logic of freezing development to preserve the built environment and culture of the past) and planning (driven by the logic of mediating conflict, but without a defined common standards base).

### **7.5 Competition: dysfunctional land use management within government**

In addition to the complexities of urban land use management competencies falling across the departments and spheres of government as mentioned above, the City experiences the frustration of not having informed access to the land asset base of other spheres of government, particularly in addressing the needs of the poor. In many cases competition and conflict between government was identified as the single biggest barrier to finding affordable well-located land for the poor. The highest levels of frustration occurred with respect to State Owned Enterprise land (SOE), as not only were there issues of non cooperation but also the SOEs are driven by imperatives of market costing. These mitigate against the effective transformation of land use to benefit the poor.

It is imperative that the SOEs are made to co-operate with local government in order to resolve the urban land crisis in the interests of the cities and of the poor.

## 8 RECOMMENDATIONS

Based on our overview of land use management practices in Johannesburg, particularly with regard to increasing the access of the poor to urban land, the following recommendations are proposed:

1. A conscious rejection of existing urban land use management practice across the spheres of government is essential, as current practice does not serve the interests of the poor.
2. A paradigmatic shift on urban land use needs to be defined that will frame the various reforms that are required to make urban land work better for the poor. This should include both a value-based position, an understanding of what tools are available to manage land differently and an empirically informed understanding of the status quo.
3. Within the increasingly sophisticated strategic planning process that rests on the IDP, the role of land needs to be given greater prominence so that the comprehensive land-linked interests of the poor are presented.
4. Treasury needs to better understand the fiscal implications of the costs associated with differential forms of land development for the poor and the long-term effects on the financial sustainability of municipalities.
5. The land assets of the State Owned Enterprises can be much more effectively harnessed to achieve meaningful urban poverty reduction and integration. Land released for the urban poor may need to be excluded from the imposition of market related pricing by State Owned Enterprises.
6. Co-operation on the State's own land release and development needs to become an intergovernmental priority.
7. The urban land use management system nationally needs to be radically reformed and simplified to ensure a unitary, transparent and implementable system.
8. The integration of heritage, planning and environmental professionals within the unitary land use management process must be addressed.
9. Land use enforcement in poor areas needs to be resourced and capacity needs addressed.

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## Appendix 1: Johannesburg Case Study

### 1. Overview of land issues affecting poor residents in Johannesburg

As South Africa's economic powerhouse and most influential metropolitan area, Johannesburg makes a significant contribution to the country's GDP and strives towards Global City Region status.

Johannesburg is a rapidly growing city. In 2001 its population was estimated at 3,2 million people (or approximately 1 million households), and between 1996-2001 the number of its residents rose by 22% as a result of natural increase and in-migration from surrounding areas, other parts of South Africa and beyond. The population is growing at a rate of between 3%-4% per annum, but the impacts of AIDS will probably halt if not reverse this growth by 2015 (Actuarial Society of SA model, 2002). The nature of this population increase has given rise to considerable land-related problems for the City of Johannesburg (CoJ).

A large proportion of the in-migrant population is poor and unable to access the formal urban economy (formal employment, formal housing and services, formal land market), and they can only enter at the margins (informal economy, informal settlements, CBD rental accommodation). Municipal officials currently estimate that between 150 000 to 220 000 households live in informal dwellings<sup>3</sup>. Until such time as they enter the City's records as account-holders, they remain invisible and unable to access the CoJ's 'social package', which comprises subsidised housing, household services, rates rebate, etc. and amounts to approximately R500 per month. In terms of current arrangements, the only way in which the poor can receive the social package (and be visible to the CoJ) is once they appear on the municipal valuation roll. For poor households, this means that they would need to have accessed subsidised housing. In a situation in which the CoJ has made very slow progress in addressing the housing backlog, the weakness of this approach is evident. It has resulted in a situation in which the support mechanisms designed for the poor cannot be accessed by the very poor or at a scale commensurate with demand, and in so doing deepening their vulnerability.

Population increase is most evident in the CBD and peripheral areas (especially Diepsloot, Ivory Park, Orange Farm as well as Matholeville and Tshepisoong), and

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<sup>3</sup> In 2001, 13.2% of households lived in illegal informal settlements, 18.2% stayed in backyard accommodation, 14.7% lived in Council housing stock, and 53.9% lived in formal housing, of which 13.9% was subsidized housing, 40% was owned/rented accommodation, and under 1% was social housing (SDF, 2006). There is some discrepancy between provincial and CoJ estimates of informal dwellings. In 2002, the CoJ calculated that there were 89 informal settlements, providing shelter to an estimated 170,000 families across the city. Twenty-six of these settlements, comprising an estimated 36,000 stands, will be relocated, 54 consisting of about 111,000 stands, will be upgraded and nine will benefit from the Alexandra Renewal Project.

much of this is pushing up against the City's Urban Development Boundary. Most notably, between 1996-2001, the population of Diepsloot grew by 179%, Midrand/Ivory Park by 69% and Ennerdale/Orange Farm by 44%. Against the backdrop of the State's intolerant stance towards informal settlements, new in-migrants are drawn to these peripheral informal settlements which are experiencing outward expansion as well as very high rates of residential densification, often accompanied by considerable health and safety hazards. Not only do these settlements lack sufficient adequate housing and basic services, but also they are usually at a considerable distance from employment opportunities and other social and community amenities, and are poorly serviced by Municipal buses. As a result, residents spend a disproportionate amount of their money on public transport or their time walking. End-user transport subsidies are only available to learners, pensioners and people with disabilities. These regions are becoming significant growth points for poverty, and they need to be recognised as the new hotspots for urgent Municipal attention. Similarly, the continued pressure on residential accommodation in inner city apartments has also given rise to high levels of overcrowding. Both trends are indicative of latent demand, and the failure of housing delivery processes to provide units at scale.

A related challenge is that of the increase in the number of households through household splitting or decompression. As a result, households are much smaller, but more numerous. As the number of households requiring support continues to increase, the state's efforts to provide subsidised housing and services is not keeping pace with demand for formal housing, and it is making little impact on reducing the backlog.

Lower-income residents continue to be located in dormitory suburbs with no economic base and very limited social facilities. Subsidised housing projects that have been provided have typically been developed on cheaper, usually peripherally located land, which thereby reinforce Apartheid patterns of marginalisation and exclusion of poorer residents. The Growth and Development Strategy has raised concerns that the housing market does not function in these areas (the problem of 'dead capital'), and recent policy thrusts are attempting to catalyse secondary housing markets in these areas. A related problem is the 'gaps in the housing ladder', whereby houses are not being provided for households that do not qualify for the housing subsidy (provided by the public sector) and yet cannot afford entry-level bonded housing (provided by the private sector). While such interventions may take the pressure off the demand for subsidised housing, they do not directly cater for the very poor.

These issues should be seen in the context of 'tenuous urbanisation' (StatsSA, GDS), a phenomenon resulting from ongoing patterns of temporary and circular migration in which rapid in-migration does not necessarily translate into the

presence of permanent urban dwellers<sup>4</sup>. The GDS argues that the temporary nature of rural-to-urban migration in South Africa may have created a population with a reduced willingness to help build liveable urban environments by meeting responsibilities for urban life, most notably by paying for services, and who are hedging their bets by investing in their households of origin instead. Given government's concerns for cost-effective service delivery and functional land markets, this situation translates into less urban capital formation and weaker investment in urban assets (especially residential property).

The CoJ's land challenges not only relate to poor and vulnerable residents. Over the past twenty years, disinvestment in traditional nodes (CBD) and capital flight to new centres (Sandton) have dramatically altered the investment profile of the City. While some re-investment is occurring in the CBD, private sector development has largely turned its attention northwards, and in the last 15 years a market-led property boom has led to sprawling suburbanisation to the north and north-west of the central core. This phenomenon has been characterised by residential security estates, a proliferation of retail nodes, and 'linear creep' along mobility corridors, and it has put extreme pressure upon existing infrastructure and services, many of which are rapidly reaching full capacity and already exhibiting severe strain. This development has also consumed vast tracts of under-utilised or undeveloped agricultural land, which has also had the effect of reducing the extent of land available for low-income settlement development.

The metropolitan area covers 1 644km<sup>2</sup>, and its sprawling urban form is dominated by vast areas of predominantly residential land use, radiating outwards from a series of established and emerging economic nodes. The city's spatial patterns are illustrated in Maps 1-5. In summary they indicate:

- Overwhelming predominance of relatively low-density housing as the key urban spatial element;
- East-west linkages, and centre-north and north-west linkages are strong, but centre-south connections are limited;
- East-west belt of commercial, industrial and mining activity divides the city;
- Formal housing development predominates north of the central core;
- Low-income residential areas (formal and informal) are located in the south (Soweto, Lenasia, Ennerdale/Orange Farm), and on the northern periphery (Diepsloot, Ivory Park);
- Well-located pockets of high-density low-income settlement are found in Alexandra and the Inner City;

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<sup>4</sup> The GDS notes that the high numbers of locked dwellings in informal settlements would indicate a common phenomenon, in which residents leave their informal dwelling to return to their primary dwelling/household of origin. It is estimated that 30% of informal dwellings in Johannesburg do not have a full-time resident.

- Low levels of household income are found in the south (Ennerdale/Orange Farm) and south-east (Soweto/Diepkloof), north (Diepsloot and Ivory Park) and north-east (Alexandra);
- Informal settlements are located on the periphery of the city;
- Areas of economic activity are mostly located in the north, and are typically surrounded by high-income areas. Low-income households are located at some distance from areas of economic activity, and some of the areas of highest density are furthest away from these areas of economic activity (Diepsloot, Orange Farm and parts of Soweto).

The CoJ's Human Development Strategy (HDS) found that the city's spatial development has largely continued within the overall framework of that set by Apartheid-based plans, and that spatial, social and economic segregation principles underpinning Apartheid city planning are still entrenched in Johannesburg despite some attempts that have been made to address them. Thus, the spatial distortions of the Apartheid city remain in place: low-income residential areas remain separate from high-income enclaves, and largely isolated from urban opportunities. Pockets of poverty remain firmly rooted in certain areas in the city (Soweto/Doornkop), and are also emerging in new post-Apartheid settlements, such as Diepsloot, Orange Farm and some inner city areas. The HDS warns that the CoJ cannot afford to maintain the status quo nor be slow to act, because unless direct and urgent interventions are made, poverty levels will worsen and the likelihood of social disruption will increase.

## **2. Policy frameworks**

In the last few years, City departments have concentrated upon reviewing and reconceptualising their policy. From iGoli 2010's focus on institutional reform and Joburg 2030's growth orientation, the recent policies represent a more holistic response to development challenges. These recent policies acknowledge the scale of the problems facing them and aim to take direct action to arrest negative urban trends and restructure the City to curb sprawl and ensure that poor and vulnerable residents access urban opportunities.

### **2.1 Human Development Strategy (2005)**

The HDS is an important document that scrutinised the gaps in the Joburg 2030 policy, which was strongly orientated towards economic growth, and made little mention of the poor and vulnerable and how they would be incorporated into the CoJ's economic growth trajectory. The HDS argues for an explicitly pro-poor agenda with a specific poverty reduction strategy to yield successful development. To this end, the HDS provides "a framework within which the City's policies can accommodate a human development perspective and address conditions such as poverty, inequality and social exclusion at a City-scale" (HDS 2005). It comprises

three strategic directions: safeguarding and supporting poor and vulnerable households, primarily through improving their access to the 'social package' and bringing the poor onto the City's database; championing rights and opportunity by targeting inequality (including spatial inequality); and building prospects from social inclusion through improved social relations and productive partnerships. In order to address the legacy of spatial inequality, the HDS recommends promoting sustainable human settlements through the delivery of a coordinated and integrated approach to the delivery of associated services to housing areas, and reforming urban management functions so that regulations and by-laws support the livelihoods of the poor and vulnerable.

The HDS has had a very significant impact on City policies, and it has been catalytic in re-orientating them towards a greater focus on the poor. Its primary contribution has been in expanding the CoJ's approach to development. However, instead of providing details of how to strategically implement a pro-poor agenda, its generalized, broadbrush approach could undermine the effective mainstreaming of poverty issues into sector strategies and municipal operations.

## **2.2 Growth and Development Strategy (2006)**

The GDS is the long-term development framework for the CoJ, and it is elevated to the status of core City strategy, positioning itself in the context of several other policy documents that it seeks to align and harmonise. It reasserts the key themes of the earlier Joburg 2030 policy, and in response to the HDS acknowledges the need for "balance between city leaders' concerns with 'competitiveness' and residents' concerns with 'liveability issues'", and in particular the "need to be more sensitive to the conditions under which poor households are either absorbed into or excluded from city life and opportunity" (GDS 2006). In response, the GDS is premised upon six development principles:

- Proactive absorption of the poor
- Balanced and shared growth
- Facilitated social mobility and equality
- Settlement restructuring
- Sustainability and environmental justice
- Innovative governance solutions.

Proactive absorption of the poor means that the CoJ will not hope that in-migrants will go elsewhere, and it will not fail to address their needs. The City commits itself to "work to facilitate the transition of the poor into the city [by] helping [them] to access basic livelihoods, start to build a core of assets, master the demands of urban life, gear up for participation in the urban economy and negotiate the costs of urban living" (GDS 2006).

Balanced and shared growth means that the CoJ will continue to keep the cost of doing business in the City as low as possible, but it will also ensure that the benefits of growth are spread more broadly.

Social mobility and equality means assisting people out of poverty, so that they can enter the middle strata of society, which will be critical to “expand the domestic economic market... and create the pool of savers, risk-takers and investors” (GDS 2006).

Settlement restructuring means actively directing the spatial restructuring of the city in order to “bring jobs closer to people and people closer to jobs” to create more liveable neighbourhoods, and to improve urban efficiency (GDS 2006).

A subtle shift from the pro-growth perspective of Joburg 2030 has been achieved: while retaining its neo-liberal/market-friendly stance, the GDS had adopted a pro-poor growth approach which is strongly geared towards assisting the poor to enter the formal urban economy and reducing their dependence on the state by facilitating their passage from welfare-to-work. This approach, however, is at odds with the more nuanced understanding of the HDS.

### 2.3 Integrated Development Plan (2006)

The IDP interprets the GDS’s development approach for the five-year period, 2006-2011. It is designed to ensure alignment between the GDS, Mayoral priorities, the City scorecard (results framework) and business plans of sector departments and Municipal Owned Entities. It comprises a number of sector plans, and highlights the importance of the Spatial Development Framework – a notable emphasis given the limited attention that this component often receives in many municipal IDPs.

Relevant spatial aspects of the sector plans include the following:

- **Economic development:** area-based development to encourage expanded access to opportunities in the Inner City and the Soweto Empowerment Zone. This will include the completion of all Johannesburg Development Agency (JDA) area regeneration projects (Fashion District, Jewel City, NASREC, Braamfontein, Ellis Park, City Deep, etc); the design and roll-out of an intervention strategy within townships and underdeveloped areas (Alexandra, Soweto Development Initiative); and to market and implement the Inner City Urban Development Zone (UDZ).
- **Community development:** implement the City Social Package (after June 2007) and develop an exit strategy to minimise beneficiary dependence; vulnerable household support programme; programmes targeting women, children, people with disabilities, aged, youth and immigrants.

- **Housing:** formalising and upgrading informal settlements and establishing norms and standards for backyard accommodation; promoting sustainable human settlements in formal housing areas; providing mixed income areas in Inner City and older residential area upgrading; upgrading/conversion of hostels; providing new housing for temporary/emergency needs; encourage the entry of developers and banking sector in under-serviced market segments; provide a range of housing types and tenure options to meet diverse needs. The five-year targets include the delivery of:
  - 100 000 housing units
  - 15 000 rental units
  - 30 000 housing units through the Community Builder Programme
  - 50 000 units in mixed income housing
  - 5 000 upgraded hostel units.

Within this period it also aims to formalise (register) all informal settlements located on state land, provide basic services to 50% of them, improve the quality of backyard accommodation and provide special needs housing (aged, child-headed households, people affected by HIV/AIDS and street children).

- **Urban management:** managing urban growth and delineating an urban development boundary through infill and brownfields developments; abatement of urban sprawl on the periphery; and conservation of the rural character of areas beyond the urban development boundary. The five-year targets include developing appropriate built environment regulations, standards and regulations; determining desirable service levels; and preparing regional urban management plans.

## 2.4 Spatial Development Framework and 10 Regional Spatial Development Frameworks

The SDF is a key component of the IDP and provides a City-wide perspective of spatial challenges and interventions. The Regional Spatial Development Frameworks<sup>5</sup> (RSDF) detail the respective strategies and guidelines of the SDF at a local level. Together they aim to “guide, direct and facilitate public and private development, investment and growth within the City in a manner that will expand opportunities and contribute towards the tangible upliftment of all communities in the City” (SDF 2006). The principles of the SDF are the creation of a sustainable

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<sup>5</sup> While there are seven administrative regions in the CoJ, there are 10 RSDFs based on the 11 regional offices. These regions are: Diepsloot, Midrand/Ivory Park, Sandton/Rosebank, Northcliff, Roodepoort, Doornkop/Soweto and Diepkloof/Meadowlands (Regions 6 and 10 have been combined), Alexandra, Central, Johannesburg South, and Ennerdale/Orange Farm.

urban environment, increasing the efficiency of the city, and facilitating access to urban opportunities. Its development strategies are:

- Supporting an efficient movement system;
- Ensuring strong viable nodes;
- Supporting sustainable environmental management;
- Initiating and implementing corridor development;
- Managing urban growth and delineating an Urban Development Boundary;
- Increasing the densification of strategic locations;
- Facilitating sustainable housing environments in appropriate locations.

The current SDF builds on the foundations prepared in the initial SDF (2002). Thus its strategies echo those of the earlier document, demonstrating a consistency of policy over time. It has been updated on the basis of emerging trends, updated information and current realities. Attention has focused upon providing a greater level of detail and precision

The nodal programme prioritises stagnant or declining nodes (Alexandra, Cosmo City, Soweto Development Initiative, Inner City) and promotes development of new precinct plans around five Gautrain stations (Sandton, Rosebank, Marlboro, Inner City and Midrand), 2010 venues (NASREC and Ellis Park), and economic nodes in marginalised areas (Diepsloot, Orlando, Stretford and Jabulani). In these nodes, provision will be made for mixed use and mixed income development, and medium- to high-density residential accommodation will be encouraged. Since the first SDF considerable effort has gone into more detailed planning of the nodes. They are no longer abstracted concepts or “blobs”<sup>6</sup> on a map. Clear delineation of their boundaries has been given and profiles have been prepared on each of them to provide more precise details about their future development.

The densification programme aims to increase densities and promote multi-use activities in nodes and along public transport routes, as well as in areas of focused public sector investment (Kliptown and Alexandra) and in other selected areas (focus areas in RSDFs). Densification will be achieved through the acquisition/holding of land, implementation of land use management guidelines, investing in required infrastructure, and developing detailed urban design parameters for designated areas. The “burning issue” of densification has been given specific attention in this SDF. Its approach has been to establish ground rules and build up implementation guidelines to facilitate densification in prioritised areas (nodes and movement corridors) rather than proceeding in an inefficient and ad hoc manner.

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<sup>6</sup> Unreferenced quotes are drawn from the interviews with key stakeholders and they remain anonymous.

The Corridor Development Programme aims to facilitate the development of the prioritised East-West and North-South corridors.

The Urban Management Programme aims to curb urban sprawl and direct growth towards serviced areas, and extensions of the City's infrastructure beyond the UDB will not be supported. It outlines mechanisms, such as incentives/disincentives, land banking and land release, and land market intelligence system, to assist in growth management.

A Capital Investment Framework is included in the recent SDF, and it lists priority projects and their projected budget. This lays the basis for prioritising projects as part of the Council's budgeting process, and the SDF's CIF has informed the Council's decisions for a third of its R3bn capital budget. While the actual amount is still relatively small, the SDF's inclusion in the municipal budgeting process is of strategic significance.

The RSDFs largely contain development guidelines that interpret the SDF at the local level. They function largely to motivate and indicate the type of development to be encouraged or discouraged, and thereby provide the basis for the Land Management System. In each RSDF, key focus areas are identified that provide overall guidelines for more proactive interventions. It is envisaged that precinct plans for specific areas relating to particular activities (such as the Gautrain stations) will provide the next level of detail for site-specific planning, development and management by the public and private sectors. At this stage, only a few precinct plans have been prepared.

The RSDFs are reviewed and approved each year. In this respect, they can accommodate changes as necessary. For example, the drive towards densification was having a detrimental impact on the residential quality of Houghton, and as residents were willing to pay the higher rates to enjoy this amenity, the density was lowered. RSDFs are evolving, and each year they become more user-friendly and less ambiguous documents. However, there has been criticism that they are not very proactive, and they tend to reflect the status quo rather than pursuing more innovative pro-poor solutions.

It is also not clear how RSDFs relate to Regional Urban Management Plans that are currently being prepared. They are operational plans, designed to keep areas clean, well-maintained and orderly. These plans have been undertaken as a separate exercise to the planning processes and there is little understanding as to how they will be implemented and if they will reinforce existing initiatives.

## 2.5 Housing policy

The CoJ is slowly winding up the roll-out of the RDP housing programme, with the completion of Bram Fischerville and Diepsloot. It is still following many of the elements of the Housing Master Plan (2004), although its ambitious timeframes are no longer relevant. The Master Plan is an implementation plan which identifies a range of action areas, such as upgrading of informal settlements, people's housing processes, hostel redevelopment, sales and transfer of State housing stock, identification of future housing opportunities, and the refurbishment of flats and old age homes.

The SDF outlines the CoJ's housing delivery strategy. Existing housing projects (Alexandra, Johannesburg CBD and Malvern/Jeppeshtown, Cosmo City, Baralink, Kliptown and Ivory Park) will be continued. Housing Focus Areas should also be developed. They include Bram Fischerville, the Inner City and Princess Agricultural Holdings. It also intends to upgrade approximately 125 000 dwelling units in situ. A land procurement programme will also be embarked upon to secure land for housing the poor.

A new housing policy framework and strategy has been recently approved which responds to national Department's Breaking New Ground in the context of the City's specific challenges. It provides an overview of key issues and suggests options of how to address them, but not detailed guidelines, which will be the focus of further investigation. Specific areas that are currently being worked on include:

- An Inner City Summit will be held to develop a vision for its holistic and inclusive redevelopment
- Informal settlement strategy
- Identifying land for low-income housing
- Inclusionary housing
- Rental accommodation
- Gaps in housing ladder

The policies summarised above are all very recent and have had little chance to be implemented. Together they represent an important set of intentions that have yet to be translated into Municipal decision-making and operations, and be used to effectively guide (re-orientate the nature of) development activity of the Province and the private sector. An official explained that with the new post-Apartheid dispensation, the strategic direction of the Municipality had become far clearer and more substantive. However, despite these gains, the CoJ is still battling with implementation of its policy intentions. Until this occurs, the spatial patterns outlined in the previous section continue to determine the urban reality of the poor.

Not all the listed programmes can be implemented simultaneously. The IDP provides some indication of where the CoJ's priorities lie. The following regions will receive over 10% of capital expenditure: Diepkloof/Meadowlands (15%), Doornkop/Soweto (11%), Central Region (13%), Sandton/Rosebank (10%). This expenditure will focus on infrastructure delivery for marginalised areas (Soweto and Diepsloot); regeneration programmes (Inner City, Alexandra); nodal programmes (primarily at Gautrain stations); transport infrastructure; housing programmes (Diepsloot, Ivory Park, Vlaktefontein, Weilers Farm, Golden Triangle, Cosmo City). Thus, addressing service and housing backlogs in marginalised areas, improving transport linkages, and responding to the nodal development opportunities offered by the Gautrain are the City's key thrusts. Working within an established urban form limits the scope of possibilities, and care will need to be taken to ensure that these initiatives do not simply reinforce existing patterns and that they serve to catalyse spatial change.

### **3. Interview findings**

The planning function in the CoJ is undertaken by the Development Planning and Urban Management Directorate. It comprises four departments:

- Development Management, which is responsible for land use management, planning control and enforcement, building plans, legal administration, and outdoor advertising;
- Development Planning and Facilitation, which is responsible for the strategic spatial planning (SDF and RSDFs);
- Corporate GIS; Urban Management Co-ordination, which is responsible for informal settlements;
- Regulatory and Strategic Support Services.

In 2006 the Environment and Transport departments were hived off from the Development Planning Directorate, and while there is still some communication between these different departments, it is sporadic and unstructured. The Directorate has been restructured in order to better coordinate activities between the directorate and the regions and to centralise decision-making away from the regions, which had arisen as an institutional problem. With these shifts, the regions' urban management function has been centralised and its scope re-orientated from a narrow concern with control to one focusing increasingly on informal settlements strategy.

The Directorate has slowly improved its profile within the Municipality. With town planning's close association with the geography of Apartheid, it was not regarded favourably in the post-1994 period. Planning officials have had to work hard to earn the respect of politicians and senior management, and over time they have been

able to build faith in the contribution that they can make to service delivery, poverty alleviation and urban transformation.

Other Municipal departments and agencies that deal with land management include the Housing Directorate, the Johannesburg Property Company (JPC), and the Johannesburg Development Agency (JDA).

According to the JPC, it provides property management, property development and property asset management services in order to maximise the social, economic and financial benefit to the CoJ and supports the CoJ's delivery objectives on a cost-competitive basis ([www.jhbproperty.co.za](http://www.jhbproperty.co.za)). Projects include: Diepsloot, Soweto Business Empowerment Zone, Doornkop, Orlando eKhaya and Jabulani. It is also busy auditing all of its properties as the basis for land regularisation (transferring ownership).

The JDA was established in 2001 as an agency of the City of Johannesburg to stimulate and support area-based economic development initiatives throughout the Johannesburg metropolitan area in support of Johannesburg's economic development strategy. As development manager of these initiatives, the JDA co-ordinates and manages capital investment and other programmes involving both public- and private-sector stakeholders. Projects are located in Newtown, Constitution Hill, Braamfontein, Jeppestown, Faraday Station, the Fashion District and Kiptown.

### **3.1 Land use legislation**

Municipal officials estimate that 80% of town planning applications are dealt with in terms of Town Planning and Townships Ordinance (1985), the relevant Town Planning Scheme and the Removal of Restrictions Act. In assessing applications, close reference is made to the guidelines in the appropriate RSDF, which as part of the SDF and IDP is a statutory document. In the CBD, general zoning allows for a wide variety of uses, and thus building by-laws are used to process applications in this area.

There are 12 Town Planning Schemes<sup>7</sup> currently in operation, and each has its own procedures and requirements. Areas covered by the Schemes do not follow RSDF or ward boundaries. Most of the metropolitan area, save for areas which are not proclaimed townships (e.g. mining land), falls under one of the Schemes. Land use in Soweto is governed in terms of the Black Community Development Act (1984), referred to by Municipal officials as Annexure F. Annexure F areas are included into the areas covered by a Town Planning Scheme. It is not possible to be familiar with

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<sup>7</sup> The Town Planning Schemes are: Johannesburg, Sandton, Peri-Urban, Randburg, Roodepoort, Lenasia South East, Halfway House and Clayville, Edenvale, Southern Johannesburg, Walkerville, Modderfontein and Lethabong.

the details of all of the Schemes, and so officials tend towards specialisation of an area. In each scheme area, officials are required to apply five pieces of legislation (Removal of Restrictions Act, LFTEA, DFA, Black Community Development Act and Division of Land Ordinance), most of which were enacted in the pre-1994 period. Thus, the parallel systems of land management patterns inherited from Apartheid will largely be perpetuated.

In terms of the SDF a unified Land Management System is being prepared which will be based on a single Town Planning Scheme. The new system will focus on simplifying procedures, enabling effective participation and facilitating an efficient urban environment. It will concentrate upon: common and simplified use zones; designation of key areas as Special Development Zones; streamlined advertising procedures; direct linkages to the policy procedures of the City; enabling a single enforcement system; and promoting mixed use and densification incentives.

While there is recognition among officials that parallel land management systems present problems, they are struggling with the complexity of resolving “how first and third world planning regimes can co-exist?” There are concerns that a rigid “one-size-fits-all” system will not be appropriate in a city as diverse as Johannesburg, and applying the same standards across all areas would not be feasible, particularly an insensitive imposition of “first world planning standards such as FAR”. The illustration commonly given was the possibility of a unified scheme allowing taverns in townships and high-income areas, which was regarded as a “recipe for disaster”. Similarly, it is acknowledged that over-regulation is not desirable and could damage the fragile basis of small enterprises and private investment in previously disadvantaged areas. A suggestion from one of the Municipal officials is that the Scheme could provide the basic land uses, and then the relevant RSDF will provide more detailed parameters for desired/permitted land uses in a particular area. It was suggested that the requirements of unified scheme should not be unilaterally imposed without a public participation process, and officials should attempt to compromise with current conditions (“meet halfway”).

Municipal officials estimate that 20% of applications are processed in terms of the Less Formal Township Establishment Act, 1991 (LFTEA) and the Development Facilitation Act, 1995 (DFA). LFTEA has been used for many of the subsidised (RDP) housing projects in Johannesburg, and the DFA has been used for large-scale private sector developments. As most CoJ housing projects were commenced in the earlier period, they were undertaken in terms of LFTEA requirements. More recent housing projects are being processed in terms of the Ordinance as they fall within areas covered by Town Planning Schemes.

The DFA has become a highly contentious piece of legislation in its application in Johannesburg, and its authority over the municipal competence of land use management is the currently the subject of a landmark court case. Originally it was

drafted as interim legislation to expedite the delivery of low-income housing while legislation was being rationalised in terms of the new post-Apartheid dispensation. It provided a mechanism to speed up the approval process, waive unnecessary requirements and thus proceed more quickly and with less expense than otherwise. Its function was to fast-track development projects, and to promote efficient and integrated land development. It is argued by the CoJ that its intention was not to provide an opportunity for private developers to bypass Municipal procedures by obtaining approval from the provincial Development Tribunal. However, the legislation has not been used for low-income housing developments, which have tended to follow LFTEA or Ordinance procedures. Given the CoJ's highly inefficient institutional context at the time, private developers turned to the DFA procedures as it offered an easier alternative to hasten the approval process of their development applications. This led to a situation in which "the province was played off against the City". The legislation allowed for a parallel process to fast-track development projects, but with its application in Johannesburg it created a situation in which private developers ignored Municipal policy requirements to pursue their own interests, which were more easily approved through DFA procedures at the Provincial level. As Municipal requirements were circumvented, it also meant that the CoJ's spatial policies were significantly undermined. As a result, large-scale residential developments have been permitted, leading to outward sprawl and encroachment on agricultural land. Little concern has been paid to facilitating urban integration and sustainable human settlements, or addressing the inevitable consequences of excessive residential development on infrastructure capacity and urban form. With the CoJ's improved administrative efficiency and increased prioritisation of spatial development, particularly curbing urban sprawl and improving urban functionality, the DFA's role is being scrutinised. It is argued that despite the innovative and positive intentions of the DFA, the legislation has been abused by the wrong section of the market, and as a result poor residents of the city are being further marginalised.

While the DFA has given private developers more latitude, their operations are being seriously challenged by the stringent requirements of national environmental legislation (i.e., NEMA and the EIA regulations). Environmental regulations are "very powerful" and are having a far greater impact on the property market and the nature of private development than the CoJ's land policies. Onerous and time-consuming environmental regulations<sup>8</sup> and the risk they represent have effectively curbed greenfields development and its encroachment on agricultural land, and developers have shifted their attention to the redevelopment of brownfields sites, which has inadvertently facilitated densification and compaction around existing nodal centres. It has also had the effect of further escalating the price of well-located land and reducing the poor's access to these areas. Municipal policies, most notably the SDF and the RSDFs, have not adequately engaged with the

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<sup>8</sup> Applications take approximately 4 years to process.

requirements of environmental legislation. Thus, the SDF may indicate the desirability of certain developments/activities in specific areas, but they may not actually be permitted according to environmental requirements.

The Gauteng Planning and Development Act was passed (2003) but it has not yet been enacted and regulations are still being finalised. The Act emphasises the importance of spatial planning, and it calls for a hierarchy of plans to guide physical development (Provincial IDP and SDF, Municipal IDP and Municipal SDF), and they are to be supported by land development policies to implement the municipal SDF and zoning schemes to implement land development policies and regulate land use. Responsibility lies with municipal planning committees and provincial planning tribunals ([www.gauteng.gov.za](http://www.gauteng.gov.za)). While its focus lies on ensuring that development accords with aligned planning frameworks, the provincial Act is however constrained to accommodate the requirements of national legislation, and thus development applications procedures are required to comply with zoning schemes unless the DFA applies. The CoJ are comfortable with the Act as it supports the status of municipal SDFs and follows similar administration processes. However, as Provincial legislation it cannot override the requirements of national legislation, and thus the court case is intended to bring about amendments to permit greater autonomy by municipalities in determining their land use management systems in the face of the DFA.

## **3.2 Municipal land use zoning capacity**

### **3.2.1 Capacity levels**

The Development Management Department is a single, centralised unit and all officials are located in the Metro offices in Braamfontein. Land administration is a highly technical process, and consolidation means that the officials are able to closely adhere to the same system. There are some indications that decentralisation could be a possibility in the future as building plans, which represent most of the land administration processes, could be handled by regional offices. The obstacle, however, lies in the still developing capacity of the planning staff at this stage. Decentralisation would also reduce the pressure of the central department receiving objections to all advertisements made within the metropolitan area, which is highly onerous for applicants, residents and officials.

The Development Management Department employs some 50 town planners, and its current staffing levels represent about 70% of total requirements. In 2006 the Directorate undertook a benchmarking exercise and on the basis of this information, it was able to successfully argue for increased capacity, and recent recruitment has doubled its numbers. The experience of these planners varies considerably, from one to two years' experience to a few having in excess of 20 years, and the majority having four years' experience or less. The relative lack of

experience translates into slower processing times, and a limited basis upon which to make professional inputs. In part, the lower levels of experience are a result of affirmative action appointments, but they also reflect the de-professionalism of town planning, whereby general qualifications (in GIS, geography and economics) are sufficient for appointment as a planning official. As a result managers have become very involved in hands-on mentorship, which is a time-consuming and ongoing process. In order to pool resources, the planners in the land use management section are structured into teams. Ideally, each team would be comprise an experienced town planner, so that they could share their knowledge internally and contribute elsewhere, but this is not the case yet. Municipal officials are confident that over time land administration capacity will mature and then it will be possible to further increase the standards.

The Development Planning and Facilitation Department has approximately 20 town planners. Most of its staff are young professionals with postgraduate qualifications. The department has sufficient staff, but “as usual, would like more people and more budget!” However, it is managing well and takes pride in the fact that it is able to prepare the SDF in-house, unlike most municipalities ,which lack adequate spatial planning capacity and out-source such work.

The Housing Department has also been consolidated, and it now includes the staff of all the regional housing departments. It has recently been able to hire people with appropriate skills (project management, quantity surveying, legal expertise) and off-set the preponderance (70%) of officials dealing with housing management and administrative functions. The Department also hires consultants for specialist work.

### **3.2.2 Land management activities**

Fortnightly meetings are held within the Development Management Department to discuss applications and make joint decisions about them. An official representing the Development Planning and Facilitation Department is present to ensure consistency and keep a record of the discussion. Apart from the benefits of multiple inputs, these meetings contribute to the review of the RSDFs, as new trends and changes are discussed and reflected at these meetings.

Until recently, land management officials were also given projects (e.g., a policy on guest houses) to break the monotony of processing applications. However, with the efficiency imperatives, these projects have been shelved and the section functions as a clinical production line (“pushing files”). At this stage, the measure of a successful land management system is the number of applications processed, and other aspects have been forgotten. However, individual initiatives, such as weekly discussions among land management staff about policy implications of applications, are being suggested.

Historically, the CoJ had been highly inefficient and slow in dealing with applications, but in recent years there have been concerted efforts to increase efficiency, and speed up processing times by setting monthly targets. The Development Management Department is currently processing 500 applications per month. Time frames have been set: township establishment: eight to nine months; rezoning: seven to eight months; and special consents: four months.

Municipal officials estimate that the Department deals with some 100 DFA applications each year, which represents about 2%-3% of their work. However, processing DFA applications requires a huge effort and takes a disproportionate amount of time. They follow a different procedure to ordinary applications and demand adherence to strict timeframes, which consumes existing capacity and impacts on processing of other applications. The administrative system to support DFA requirements is quite different to the existing applications procedure, and because of the relatively small number of DFA applications, a complete overhaul of the system is unwarranted. The DFA, however, does not just create an administrative burden, but because the CoJ cannot make final decisions on these applications and has to deal with the worsening cumulative consequences, the situation has become highly frustrating for officials and policy-makers.

A Land Information Management System has just been introduced, which should expedite the process. It is an interactive, complex system that operates as a single point of information on every erf in the city. Residents can access applications and building plans, officials can update information, and rates and taxes are linked to it.

Planning officials access legal advice in several ways. Internal law enforcement capacity is involved in making assessments of transgressions, such as unapproved building activities, and then handing over cases to lawyers. In this way, 40 to 50 court orders are given out each month, with a 99,7% success rate. Obtaining legal advice on a day-to-day basis, e.g., interpreting regulations, involves liaison with dedicated officials in the CoJ's Legal Services Department. And finally, for high-level cases Council approval is obtained before engaging lawyers to take the matter to court.

Enforcement is increasingly becoming an issue for housing, and they meet with the legal department to obtain the necessary advice.

Despite operational changes, senior officials feel that they are perpetuating old practices, as they do the "absolute bare minimum to satisfy customer demand and management's targets". They are aware that systems need to be entirely overhauled. However, with the pressure to ensure that targets are met, there is little time to consider larger issues. At this stage there is very little capacity or time to work on changing the legislation, and progress on creating a single Land Use Management System is very slow.

### 3.3 Land-related policies

The Development Planning Directorate's relationship with its Provincial counterparts is fraught with tension and frustration with Province's role in development. They feel that it is "outrageous" that the Gauteng Planning Tribunal "blatantly ignores" their Municipal policy frameworks. Not only does it impact on the credibility of their policies and spatial structure of the City, but at an administrative level, the poor communication between the two spheres of government has meant that the land administration system is not updated on Provincial decisions, and thus land information is not always accurate. As land information is the source of property rates and thus Municipal income, inaccurate information has an impact on Municipal revenue.

Municipal planning officials feel that the Province is still treating them as if their administrative systems are as inefficient and burdensome as before. They argue that they are acquiring adequate capacity and that they are far better placed to undertake land administration processes than previously. Further, they point to the fact that the Province lacks sufficient capacity to deal with the volume of work, and they estimate that it has a backlog of two years' worth of applications to process. These issues and conflicts indicate serious weaknesses in the current operation of the land management system in Johannesburg, as well as the unresolved roles of Municipal and Provincial planning departments.

The Provincial housing department plays a large role in housing delivery, and often this has been done without consultation with the CoJ, or in respect of their policies. The City is not directly involved in some of their main projects (eg, Orlando Ekhaya). However, the CoJ is expected to be involved in the allocation process on Provincial housing projects. More recently, they have working together on projects on the western edge of the City, and will collaborate on a similar exercise in the south (identification of housing opportunities). However, generally, the CoJ is concerned that the Province regards itself as a developer, rather than a supporter of Municipal housing efforts. The respective roles are confused and the relationship between the two spheres appears problematic.

The inclusion of the integrated public investment programme in the IDP highlights the problems with the current system, which appears to be characterised by duplication, contradiction and ad hoc operations. The programme calls for an approach for coordination of all public sector investment; developing binding procedures, criteria, etc. for governing how decisions on public infrastructure investment get taken and communicated across all spheres of government; and negotiating reform of duplicate planning authority structures (Provincial and Municipal departments) to ensure decisions are in line with interests of both provincial and local governments.

### 3.4 Land for housing

Increasing collaboration is taking place between the Planning and Housing Directorates, particularly around the issue of informal settlements and the Inner City. Although somewhat ad hoc and partial, there is greater sense of common purpose and strategic intent.

Planning, through its urban management function had historically dealt with informal settlements (enforcement, evictions, etc), and now the focus is shifting towards how to eradicate them, and provide alternative accommodation in well-located parts of the city. A plan for informal settlements will be prepared by Development Planning and Urban Management Directorate, in conjunction with Housing. As a separate exercise, the Development Planning and Facilitation Department has been preparing profiles of informal settlements in the northern areas. These profiles go beyond the Housing Master Plan's list of settlements, and they will provide a variety of information to better understand the specificity of each settlement. Descriptive information includes growth over time, decisions to upgrade or relocate, available services. Each profile should assist in determining the role/significance of each settlement, an appropriate development approach, and how and when to co-ordinate the activities of different departments.

Slow progress in the past has meant that the CoJ is facing a huge backlog for housing the poor. Much of the attention in the past has been focused on historical projects, some of which still need to be proclaimed as townships. Finalising these RDP projects remains problematic, as the service levels that have been provided in site and service schemes (e.g. Mayibuye) are too low for municipal servicing, and thus there are problems in resolving their township establishment. They require upgrading and consolidation, but this raises equity concerns of over-investing in these areas, and neglecting other areas. While discussions with service providers (such as water and sanitation) are ongoing, this situation represents a legacy of poor integration of previous housing projects with City departments, particularly over operations and maintenance costs.

There is general agreement within the Planning and Housing Directorates that the traditional approach to providing low-income housing is no longer feasible. Sourcing greenfields sites is a fast dwindling possibility as there is not enough land to continue to roll-out large scale low density housing projects, and the future social and financial implications of remote residential locations highly undesirable. As their "hand is being forced", officials are exploring "radically different housing typologies" (such as social housing, infill, inclusionary housing) in an attempt to consider alternative ways of providing low-income housing. They aim to build on the innovative projects, such as the following:

- Alexandra, in which densities have been increased, and national Housing programmes have been redefined (private rental accommodation and backyard shacks);
- Cosmo City, which is a public-private initiative that provides mixed income housing;
- Ruimsig/Poortiview, which has incorporated lower-income groups into the planning and development of the area.

Well-located land needs to be identified and acquired. The SDF indicates that future delivery of low-income housing should focus on land adjacent to movement corridors and around nodes. It has been suggested that State land should be unlocked for low-income housing development. It is estimated that approximately 600ha of land lies alongside the proposed bus routes, and much of this is owned by the CoJ or parastatals. Even if only 10% of this land is viable for low-income housing development, and medium-density housing (70-90 dwelling units/ha) is developed, then approximately 4 000 to 5 000 units could be provided. These kinds of approaches to acquiring land for housing could make significant inroads into changing City's current urban form.

The Housing Directorate has been working on a land policy to secure land for housing projects. It has had to liaise with the Johannesburg Property Company (JPC) whose modus operandi is different from that of Housing. The agreed process is that Housing identifies the area for a housing project, and then, using provincial funds, the JPC purchases the land. However, JPC are not regarded as highly proactive, and continue to focus their attention on land disposal and the development of strategic projects rather than on land acquisition. They continue to sell off Council assets to the highest bidder if they are unutilised or deemed surplus to CoJ's requirements. Both Housing and Planning officials have indicated that they like to be involved in consideration of these properties before they are auctioned. While the JPC has indicated that there is a process in place whereby it communicates with departments about the release of land, Housing and Planning officials have "never seen anything". There is doubt raised that the JPC has aligned its thinking to the City's vision and principles in anything other than lip service, "shallow words" and tokenism. It is argued that the JPC is not proactively directing the market through its property transactions. By not making the acquisition of State land for low income housing its priority, it is in danger of losing an opportunity to make direct, deliberate interventions in the urban spatial structure.

In a similar vein, the CoJ has been slow to consider innovative ways of obtaining value from developments for the higher end of the market. For example, securing a social contribution through taxing the increased value in property as a result of the Gautrain, and in this way, the transport system can be paid for through real estate.

Private developers make choices on the basis of “where things are going to happen”. Expediency is determined by certain policy guidelines and the most predictable administrative path. Clearly defined parameters are ideal, and in this regard, the tax incentives underpinning the Urban Development Zones have been very successful in drawing in the participation of developers. The areas are well demarcated, the requirements very clear, the mechanism (the tax form) is user-friendly, and the benefits obvious. As a result, compliance has been good. Conversely, the SDF and RSDFs have not “caught the imagination” of developers, as they are not highly readable (some 400 pages in length) and they are not sufficiently detailed. Detailed precinct planning, providing a clear idea of what is to be achieved, is likely to be more effective in steering private developers’ activities. Planning officials counter these concerns by arguing that they have provided sufficient details about areas for private investment by clearly identifying the Gautrain stations and the Bus Rapid Transit System as priority areas for public investment. It is apparent that planning officials and property developers have not sufficiently engaged constructively with one another to identify their respective roles and expectations.

### **3.5 Politics of land**

The Municipality is asserting its primary role in land management, demonstrated by two recent landmark court cases. The first is the High Court’s judgement upholding the CoJ’s decision to evict residents from inner city buildings, and ensuring that they are relocated to alternative accommodation. As a result of this, the Mayor [held] an Inner City Summit in 2007, and departments are making preparations for developing an Inner City Housing Plan. The second is currently contesting the DFA’s overriding authority in Municipal planning decisions.

There have been a few isolated incidents of corruption and bribery in the land management process (and a departure), but generally the system of applications to approval has many checks and balances to ensure a fair process.

Planning officials are often confronted by vocal and powerful homeowners/residents associations from affluent areas, who have the time and money to pursue matters and hire lawyers. The officials feel poorly equipped to deal with aggressive interactions, and there have been suggestions to build conflict resolution capacity.

The Planning Directorate is keen to extend its interactions with planning consultants, academics and professional bodies, but most meetings thus far have occurred on an ad hoc basis. The SDF, however, was presented to organisations such as the South African Property Owners Association (SAPOA) and the South African Planning Institute (SAPI) for their critical comments. These engagements have been “disappointing” as they did not appear to build common understanding or facilitate constructive discussion about the merits and weaknesses of the policy

document. Private developers have not actively engaged with the CoJ as a specific interest group, although there would seem to be some willingness to do so. Usually their interests are narrowly defined and individually orientated, and it would appear that professional associations and other land-related stakeholder groupings are not yet in a position to express a strategic or unified view on municipal land issues.

Dissatisfied residents of informal settlements can cause disruption and unrest and thereby represent a threat to established political interests and urban management systems. Many of the unrest incidents relate to housing and service delivery issues, and in the absence of an informal settlements strategy, they are addressed in an ad hoc and reactive manner which may be politically expedient, but far from sustainable.

#### **4. Conclusion**

The CoJ has crafted important policy documents which are increasingly reflecting a concern for the poor and a deliberate focus on re-orientating spatial development. The main problem lies in their translation into implementation. The following are the main issues in this regard:

- Programmes and projects appear to continue in an ad hoc and partial manner, and innovative initiatives have not influenced the norm;
- Policies are not interpreted in sufficient detail to capture the imagination of the private sector, or bring about the necessary changes at the local level (RSDF);
- Internal institutional coordination is not yet automatic and different agendas undermine collaborative efforts and overall progress;
- The projects designed to give effect to the key spatial structuring devices – nodes and transport corridors – appear to reinforce current trends, and it is difficult to see how their implementation will address the poverty and vulnerability experienced in informal settlements.

Future efforts will need to concentrate upon strengthening the CoJ's ability to implement policy. These could include:

- Facilitating greater internal coordination, particularly with the land identification, release and packaging with the JPC;
- Preparing precinct plans for all key focus areas;
- Utilising the RSDFs to translate learning from innovative projects across the City, and to experiment with alternative approaches;
- Fast-tracking the preparation of the single Town Planning Scheme;
- Entering marginalised people into the City's databases for access to the 'social package';

- Working more closely with private developers (partnerships, incentives) and developing more innovative ways to obtain social contributions from developments; and
- Releasing state land for development.

However, local level concerns are not the main stumbling blocks to implementation. Despite decentralised policy and instruments for local autonomy, the most important determinants of urban form and investment continue to lie with central government. The DFA, environmental legislation and housing subsidies have had a far greater impact on spatial restructuring in the City than local policies and regulation. The DFA has had an overwhelming influence in facilitating urban sprawl, thereby reducing the opportunity for pro-poor re-organisation and improved efficiency. Environmental legislation has inadvertently reversed this trend, and with the increased redevelopment activity, land costs have risen, further marginalising the poor from central areas. Planning legislation at national, provincial and local levels remains fragmented and progress in overhauling it are very slow or stalled.

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[www.joburg.org.za](http://www.joburg.org.za)

### Interviews<sup>9</sup>

Samantha Naidu, Deputy Director: Policy and Research, Housing Directorate, City of Johannesburg

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<sup>9</sup> Attempts were made to secure interviews with Johannesburg Property Company and provincial officials, but they were not possible during the research period.

Tiaan Ehlers, Director: Development Management, Development Management Department, Development Planning and Urban Management Directorate, City of Johannesburg

Marietjie Reinecke, Assistant Director: Land Use Management System, Development Management Department, Development Planning and Urban Management Directorate, City of Johannesburg

Peter Ahmad, Assistant Director: Metropolitan Planning, Development Planning and Facilitation Department, Development Planning and Urban Management Directorate, City of Johannesburg

Francois Viruly, SAPOA, University of the Witwatersrand

## **Johannesburg Maps**