Kai ! Garib Municipality - Informal Housing Settlement and Squatter Control Policy Guidelines

1. Introduction
The Kai ! Garib area has become an attractive settlement area for people from all walks of life, including
those who do not have access to housing due to factors such as unemployment, poverty and housing shortages.
The only shelter option open to most of them will be a shack in an informal settlement / transitional area.
The demand for housing is growing at a faster rate than the municipality's ability to deliver new housing for a number of years yet.
 This policy is intended for the municipality to understand and address the issues presented by informal settlements and squatter control.

2. Informal Settlements
Informal settlements are residential areas that do not comply with local requirements for conventional(formal) townships.
Informal settlements tend to be characterized by the following:
° Infrastructure that is inadequate
° Environments that are unsuitable]
° Population densities that are uncontrolled and unhealthy high
° Poor access to health and education facilities and employment opportunities
° Lack of effective governance and management
° Dwellings that are inadequate

They are consequently areas of increasingly high risk with regard to health, fire and crime.
However, informal settlements are also often characterized by the following:

° Strong linkages with the more formally housed community
° Strong social infrastructure
° Significant personal investment in structures
° Effective community leadership

There above factors, linked with insufficient land and finance dictate that informal settlements be regarded
as places of vitality, vibrancy and opportunity and not simply as places to be eradicated. We need to acknowledge, accept and improve informal settlements and their communities.

3. Responsibility for Housing

The identification and release of land must form an integral part of National, Provincial and Municipal programmes. Whatever legislation is in place, it is of paramount importance to make land available for properly co-ordinated land informal settlement.

Legislation that may have an impact:
° The Constitution of the Republic of South Africa, Act 108/1996
° National Building Regulations and Standards Act, Act 103/1977
° Land use Planning Ordinance (LUPO), 15/1985
° Health Act, Act 63/1977
° National Environmental Management Act (NEMA), Act 107/1998
° Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (PIE)
Act 19 of 1998

° Removal of Restrictions Act, Act 84/1967
° Environment Conservation Act (ECA), Act 73/1989 (Regulations)
° The less Formal Township Establishment Act (LFTE), Act 113/1991 amended by
Proclamation R159 of 1994 / Development Facilitation Act, no 67 of 1995
° Provision of Certain Land for Settlement Act, Act 126/1993
° Restitution of Land Rights Act, Act 22 of 1994
° Western Cape Land Administration Act, Act 6/1998
° Housing Act, Act 107/1997 plus the Housing Amendment Act, Act 4/2001
° Land Titles Adjustment Act, 1993 (Act 111/1993)
° Distribution and Transfer of Certain Land Act, 1993 (Act 119/1993)
° Upgrading of Tenure Rights Act, 1991 (Act 112/1991)
° Cape Outspans Act, 1937 (Act 17/1937)
° National Roads Act, 1971
° Communal Property Associations Act, 1996 (Act 28/1996)
° Interim Protection of informal Land Rights Act, Act 31/1966
° Extension of Security of Tenure Act, Act 62/1997 (ESTA) see 11.13.1.4
° Housing Consumer Protection Measures Act, Act 95/1998 (NHBRC)
° Western Cape Planning and Development Act, Act 7/1999
° Land Use Act (6 April 2002) National Legislation

4. Informal Settlement Policy

Broad Strategy

The Municipality is faced with a situation where the number of people in of housing is increasing at a faster rate than the production of new housing. We intend address this challenge with appropriate positive action. A strategy that will range formal development of housing, incremental housing process, introduction of ' services and also non-housing elements. The programme will be based upon the range of needs that exist within the area of the municipality and upon a set of principles that will guide the
prioritisation of responses in accordance with available resources.

4.1. Components

The basic intent of this incremental approach is that each exercise is clearly part of a greater project, and increasingly involves the community in decision-making about their neighbourhood. It also aims to provide a transitional/informal settlement with basic services that its inhabitants are prepared to pay the charges that will be levied in order to kick-start the process of beneficiary identification.
The first component will be the provision of essential basic services such as water and sanitation. Access roads will be introduced in a phased manner and the provision of electricity, formal plots and starter houses will follow.

4.2. Goals and Guiding Principles

4.2.1. Goals

The Provincial Housing Plan incorporates four goals to be achieved. All policies with regard to planning, financing and implementation will have these goals in mind. They will therefore be integrated into all projects and programmes from the beginning.
The goals are:
Incorporation
Improvement
Betterment
Forward Planning
Incorporation
° Incorporation: the achievement of this goal requires the recognition of some fundamental rights – of movement, of creating shelter, organising, of access to water, etc., and accepts
that one consequence of exercising these rights will be the establishment of informal settlements.
° Informal settlements are creative, sensible endeavours to address basic human needs in an environment that is somewhat hostile.
° It also requires that inhabitants of an informal settlement be recognized as full citizens of the town. This implies that informal settlement will be part of the whole and that everything

be done whatever may be necessary to legitimise and integrate the community or to establish the community in conditions that would be acceptable.

Improvement

° This is the achievement of an integrated approach to development that seeks to meet the most important needs of the whole community. All the stakeholders will be involved in determining needs and priorities. The choice of strategies also requires an inclusive process that takes into account all factors.
° Implied in this goal is a creative approach to the resolving of issues – informal settlement should be viewed as creating opportunities rather that causing problems.

Betterment:

° This goal must be related to all residents, seeking real results in all sectors of the community.
° In addressing this goal it requires perspective that seeks more of a process than a product. A vital element of this goal is the provision of opportunities and encouragement.
° This creates appropriate opportunities, encouraging participation and involvement, and then doing everything possible to ensure that the resources are applied to good effect a success indicator will be the creation of community based initiatives.
° Vitally important is to involve community members in decision-making roles in real projects and business initiatives.

Forward Planning

° The future must be anticipated and all of the implications for informal settlements identified and addressed in a comprehensive way.
° Future realities should be regarded as current challenges. To understand the future we must understand the present - it is vital to be kept well informed about trends and initiatives.
° Forward Planning creates proactive responses. Lack of it necessitates reactive responses which is too late and inadequate.
° Forward Planning is not optional it is a vital component of the process.

4.2.2. Guideline Principles

There are four guiding principles to be followed to address the informal sector issues effectively.
The four Guiding Principles are:
Integration
Participation
Communication
Minimum Relocation
Integration:
To integrate is to combine a number of parts into a whole - Inclusive, complete, whole
Addressing the following can do this:
Of the town as a whole
Is the informal settlement community excluded in any way?
Of representative structures
Have any groups within the informal settlement been excluded?
Of the Development plan
Does it contain all the components that the community requires?
Project committees
Has anyone 'who can help or hinder the project been left out?
The beneficiaries
Has everyone had a fair chance of obtaining a benefit?

Communication strategies

Is everyone kept informed?
Participation:
Participants are people and groups of people who are included in a process, in which they each play an
essential role. Participation can be applied by asking the following questions:
Do both the community and the municipality participate effectively:
In the management of an informal settlement?

In the formulation of policies?
In the formulation of strategies?
In the planning of any project or programme?
In the implementation of any project programme?
In considering how to finance projects or programmes?
In monitoring and evaluating any project or programme?
In ensuring local employment?

Communication

Communicators must give clear messages but most important to really listen to others. This can be applied by asking the following:
Is there a message to be sent?
How is the content of the message decided upon?
Who should be listened to?
Who should be spoken to?
What is the most effective medium for listening?
What is the most effective medium for sending a message?
Who should communicate?
Should there be a communications programme and budget?
Is the community receiving the message?

Minimum Relocation:

The clear intention is to provide people with opportunities to stay and settle in informal settlements, and not require them to move. Every move is disruptive and costly.
Minimum relocation can be applied by asking the following questions:
Is there a positive, reassuring attitude towards informal settlements?
Is there respect and appreciation for what people have invested and achieved in informal settlements?
Is every person and household in the town valued equally?
Who decides where infrastructure should be laid in the upgrading of an informal settlement?
Who decides whether any homes will have to be moved, and how would such a decided be communicated?

What are the technical possibilities and constrains?

4.3. Preparation 1

Preparation phase provides the tools that can be used in a particular context for involving the appropriate people, defining problems, identifying and prioritising needs and planning strategically.

Institutional Arrangements:

Ways need to be design of sharing in decision-making - this is called making institution arrangements. Five aspects to be considered:
° How should management be structured?
° Who should be involved?
° What should be their function?
° In what kind of a structure?
° What should be its function?

Management Structure

Participants
Roles and Responsibilities
Structures
Terms of Reference
Participants/ Roles and Responsibility/ Structures and Terms of Reference

A Housing Development Committee will be established to share in decision-making Participants will be chosen according to the principles outlined below:

a) Those who must be involved in decision-making because they represent majority parties in the exercise or have another important role to play.

b) Those who cannot be excluded from the decision-making processes - otherwise they could destroy the process. Flexibility will be maintained to adapt the process to accommodate at least some of their needs.

c) Those who would like to be involved in decision-making, because they must live with the project. It is participants who represent people or communities that are not going to benefit directly from the process, but could be affected indirectly.

d) Those who need not be decision-makers, but who should be present to playa supportive role by informing and serving the decision makers. This could be from specialist NGO's, which can be in attendance as required through the process and playa very helpful role.

The participants/role-players are invited to a meeting and through a process of public participation a Housing Development Committee is established.

The role of the Housing Development Committee:

Its role is to assess the housing need, to make recommendations to the municipality in how to address the housing need and to monitor implementation.

The role of the Municipality

The municipality will include the process in its Integrated Development Plan. A business plan will be drafted after considering the proposals of the Housing Development Committee.
On approval of the project the municipality will lodge an application for funding.

4.4. Preparation 2

Audit:
An understanding of the local context and the growth and change dynamics within the municipality is essential for good strategic planning. The following issues will be taken into consideration:

° Understanding the town's context and trends
° Base maps and aerial photography
° Preliminary survey settlement profile
° Settlement parameters
° Needs
° Perceptions
° Obligations
° Opportunities
° Constraints
° Resources
° A socio-economic survey

4.5. Preparation 3

Analysis:

The audits conducted in terms of preparation 2 should produce a lot of information. Preparation 3 considers how this information can be combined, sorted and presented in a way that can help in the making of choices and decisions. The following needs to be reflected on:
° Town monitor
° Sanitation status
° Public facilities availability
° Essential resources
° Wish list
° SWOT analysis
° Scenarios
° Political will
° Community skills
° Forward planning

4.6. Implementation

Forward Planning:

Municipal officials must anticipate the settlement challenges flowing from emigration flows and local housing needs. The following three approaches will be used to assist with the successful implementation process:
° Anticipating town settlement needs
° Researching demands
° Pro-active strategies

4.7. Beneficiary Identification

Beneficiary Identification is a separate process from Allocation. Beneficiary Identification produces a list
of potential beneficiaries from the community.

Principles for Prioritising Applicants for Housing:

The municipality in relation to its housing waiting list will also take in to account the following principles for prioritizing applicants for housing.
° Length of residence
Priority will be given to people who lived in the area the longest. The principle may be extended to accommodate the potential beneficiary's age, state of health and the number of
their dependents.

° Circumstance

Some areas are unsuitable for residential purposes and some families may be subject to intolerable living conditions. This may affect a certain portion of the community, prompting
consensus in the general public to alleviate the suffering of the adversely affected residents by prioritizing them during the compilation of a list of beneficiaries.
The Housing Development Committee and the general public will be asked to endorse the principles and the procedures to be used before identifying the beneficiaries. All housing application forms will be captured to collect as much detail about the potential beneficiary. This will be converted into a list of
names with identity document and addresses. This will be verified against the community waiting list and then copied onto A3 size paper sheets and posted in public places like clinics, community halls libraries etc.
A seven-day return period will be allowed during which grievances may be forwarded to the site allocation committee and addressed.

4.8. Allocation

The allocation process begins with receipt of the list, goes through a range of procedures and ends with the allocation and occupation of a property to each qualified person.

The procedures are:

a) Receipt of list of potential beneficiaries from the community structure.
b) The municipality endorses that the list has been properly compiled.
c) Potential beneficiaries are sent an invitation to attend a workshop at which they are informed about the nature of the project, the project schedule/programme, the opportunities available to them and the conditions attached to that (including financial contribution to be made by the beneficiary),
and the requirements of the national Housing Subsidy policy, if that is how the project is being financed.
In the invitations potential beneficiaries must be told to bring the following:
° Identity documents for the head of household and spouse/partner if any.
° In the case of applicants who are, or have been, married: marriage certificate and if
relevant, divorce and/or death certificates.
° Birth or baptism certificates of dependents.
° Latest pay notification or proof of income (for both beneficiaries)
Applicants who are eligible to apply for a housing subsidy are invited to complete a housing subsidy application form, to which all documents are attached.
d) Housing subsidy applications are submitted to the Provincial Housing Department for
approval. Each application must relate to a specific erf number.

e) Consideration of the subsidy application by the Department includes a check of the national database and the records of the Deeds Office to ensure that the applicant has not previously owned property and/ or has not previously benefited from government subsidised housing aid of any kind and is eligible to receive a subsidy. The Department advises the project developer/municipality which applications have been approved and the size of each subsidy.

f) Approved applicants are sent a letter informing them of the subsidy approval, and any contribution or shortfall of the cost of the property that they must pay themselves, and inviting them to a workshop where they will learn more about property ownership, be allocated a specific site and house type, sign a Deed of Sale and be given either immediate occupation of the property, or an approximate date of completion of the specific house if the house is still to be constructed.

g) The Deed of Sale and a copy of the identity document is then submitted to a conveyancer for transfer.

h) When transfer has been passed and the ownership of the property registered in the beneficiary's name the Deeds Office issues a Title Deed, which must then be given to the beneficiary. The municipality will keep copies of the Title Deeds as part of its records.

4.9. Procedure for dealing with non-qualifiers

Applicants that do not qualify for housing subsidies would be encouraged to seek alternative accommodation elsewhere. In most cases people move in with another family as a rent-paying backyard shack dweller. Some might even move to other areas where they continue to live as lodgers in other people's backyards.

4.10. Options for families affected by de-densifying

The municipality may need to establish a temporary settlement area with basic infrastructure for the affected families. The municipality will service plots in an area to be developed for permanent settlement.

All families will be listed and allocated to well defined temporary plots. The plots will have plot numbers which may later be used as addresses. The onus of policing the transit settlement should be shared equally between the municipality and the residents.

5. Finance

5.1. Sources of Project Finance

a) Housing Subsidies - The Northern Cape Department of Housing allocates funding to various municipalities in advance in order to finance housing development. Currently municipalities are allocated budgets for a three-year period so as to enable them to plan housing development well in advance. Housing Subsidies: Emergency Funds - Applications for use of emergency funds for projects that are of a critical nature (due to flooding or any other health hazard) must be submitted to the provincial Department of Housing.

b) Consolidated Municipal Infrastructure Programme (CMIP) - Makes available capital grants to municipalities to provide services and facilities such as water, roads, storm water, solid waste disposal, community lighting, clinics, cemeteries and multipurpose community and sports facilities to the needy.

c) Municipal Funds - Section 15(5) of the Housing Act, 1997, Act No 107 of 1997 requires that municipalities establish a separate operating account for housing into which the net proceeds of the sale and rental of property as well as any funds to the credit of the Community Facility Account Reserve and Maintenance and renewal Fund should be deposited.

d) Development Bank of South Africa (DBSA) - The Development Bank of South Africa Provides loans to municipalities to finance infrastructure costs. The repayment period is flexible and there are three alternatives in terms of interest rates, namely fixed, floating or one linked to prime overdraft interest rates. DBSA also offers a grace period exempting borrowers from capital repayment during the construction phase of the project.

e) World Bank - submitting a proposal to the World Bank in soliciting funding for a housing project.

5.2. Sources for Bridging Finance

a) Development Bank of South Africa:
° Bridging Finance for the Provision of Infrastructure
° Bridging Finance for Top-Structures

b) Commercial Banks - Municipality apply for loans from commercial banks to finance the capital cost of development until funds become available either from the Department of Housing or another

source. National Urban Reconstruction and Housing Agency can be approach to provide guarantee to banks.
 c) Municipal Funds - until such time as funding from the Department of Housing becomes available.

6. Dealing with Land Invasions

Land Invasions refers to the illegal occupation of land, with the intention of establishing dwellings/ a settlement upon it.
The owner of the land must be identified as soon as the invasion is discovered. Where the land is privately
owned, the owner should be notified. Where the municipality is the owner, urgent action must be taken.

Prevention:

It is crucial that pro-active steps are taken to prevent land invasions and secure properties. Fencing of properties and monitoring thereof will be employed to ensure that unlawful
occupation is prevented or observed. Signage, where appropriate will also be used to assist as a deterrent or asserting the municipality's rights. Forging of alliances against land invasions will be taken between spheres of government, community structures/ civil society, councillors and officials.

Action:

a) In the event of someone is in the process of occupying the land and erecting a structure the municipality will remove the structures only partially complete or complete but not yet occupied.
b) In the event if people are in the process of erecting structures, which are not yet occupied or have shown an intention to do so the municipality will in this event sought an urgent interdict to interdicting them from occupying the property.
c) In the event if persons are already occupying the structure the municipality will urgently approach the court for an eviction order. Ordinarily, the municipality will give the squatters fourteen working days notice of intention to launch an application for their eviction.

Programme for Settlement

Milestones Description of Milestone Activities Time Frame

Land Acquisitioning
- Land acquisitioning agreement.
- Rezoning of land.
- The lodgement of transfer document for registration in deeds office.

Planning and Land Surveying
- Finalisation of Base, site investigations (EIA, Geotechnical),
layout planning, township establishment and approval.
- On submission of general plan for approval.
- On approval of general plan, pegging of stands.
Engineering services design
- Research/access to bulk infrastructure.
- Submission and approval of final engineering services design and specification.
- Installation: construction of sanitation – water and storm water supply and roads.
Community Participation Municipality and Community participate effectively;
- Establish an appropriate structure for decision-making and consultation
(Housing Development Committee)
- Support from neighbouring communities.
Social surveys and beneficiary registration
- Compiling beneficiary list and gather textual data.
- Access to housing subsidies
- Access to other finance for capital works.
- Site allocation and compilation of property register
Mediation and conflict resolution
- Conduct mediation and resolve conflict Shelter provision
- Procurement
- Construction of shelter
- Supervision
- Handover certificates

Funds for betterment programmes

- The creation of community based initiatives.