

PAPER 11

LAND ACQUISITION FOR MUNICIPAL INFRASTRUCTURE PROJECTS – MUNICIPALITIES RIGHTS, LAND OWNERS RIGHTS AND LAND LEGAL PROCESSES TO FOLLOW, WITH TIMEFRAMES

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ABSTRACT

Land acquisition for Municipal Infrastructure and development projects has one primary objective, placing ownership and benefits of land in the hands of previously disadvantaged persons in order to develop and uplift their lives. Unfortunately due to South Africa's history, land ownership is not as easy as it seems on paper.

The acquisition of land in South Africa is a sensitive topic, expropriation and not ring-fencing land under the apartheid regime created unequally balanced land ownership in the favour of the minority. Since 1994 the emphasis has been on remedying this ownership and providing benefits, rights and services to previously disadvantaged people. The unproductivity of this task has essentially lead to the present day "give back our land" movement from some political parties, as well as the sensitivity around land ownership and Title Deeds.

Acquisition is unfortunately not a simple process and different methods of acquisition are utilised in each scenario, i.e. Private property, Public property (Municipal-based projects), Tribal Land (Ingonyama Trust Board) and private land expropriated for the Public Benefit. These processes and their differences will be set out in the paper.

One of the reasons that acquisition processes and development is not straight-forward is the lingering effects of the previous apartheid regime. Land Legal is the term coined that deals with these effects, and can include;

- Ownership impediments e.g. Late Estates; invaded land;
- Rights & Benefits e.g. ULTRA, Land owners rights, State Land rights;
- Planning impediments e.g. Department of Development Aid historical planning;
- Tenure impediments e.g. Tenure insecurity;
- Environmental impediments e.g. Lack of infrastructure;
- and Development impediments e.g. zoning, planning, lack of infrastructure.

In many cases a holistic view of the land is needed. Land audits are a necessary starting point for any Municipal Infrastructure projects and in order to accurately prepare these documents, it is advisable to work with a specialist multidisciplinary team; (i.e. a land surveyor, a GIS technician, town planners, a conveyancer and a planning and development lawyer). Further benefits of the holistic view will be detailed in the paper.

As can be expected from the breakdown of information, the timing for a project that involves land acquisition and especially acquisition of land with complex land legal issues and/or rural land, can be a major hindrance to a project. Our paper will briefly guide members with a rough estimate of tasks and the time associated thereto, as well as typical hurdles and /or impediments. This will assist the implementing agent in time-frames and the avoidance, where possible, of delays.

Municipal infrastructure projects are a vital aspect of development within South Africa. With our biased history which provided services based on the majority and discriminated against the majority, development was stunted. Our current development is therefore delayed by the impositions of the

previous regime which need to be unblocked before significant progress can be made on the development.

BACKGROUND & HISTORICAL LAND

Land acquisition in South Africa is a sensitive topic and land ownership is a fundamental right for South Africans under Section 25 of the Constitution of the Republic of South Africa, 1996. Municipal Infrastructure projects requiring land acquisition are often met with contention from land-owners however, the primary objective for these projects is to ensure the just and fair acquisition of land for the public benefit.

Historically, Municipal Infrastructure projects prejudiced the majority and benefitted the minority, post-1994, many of these projects are for the benefit of the historically disadvantaged. This however can be met with controversy as land rights, as mentioned, is a Constitutional Right for South Africans to own land in the "new South Africa" irrespective of race,

The acquisition phase of a project is often overlooked and this seemingly simple process can result in delays, frustration and unanticipated costs further down the line. A large number of the issues which are faced by a project are related to tenure and to the ownership of the land, this includes tenure conflict, tenure rectifications and deceased estates. These tenure problems are in part due to historical mismanagement and maladministration as well as the repercussions of land-invasion and conflict.

Typically tenure is categorised as:

- **Private land:** Ownership and Rights are in the names of private people or entities e.g. an individual, couple, company or organization;
- **Communal land:** Ownership and Rights belong to a communal entity e.g. Tribal land, Ingonyama Trust Board;
- **State land:** Ownership and Rights belong to an authority in the public sector e.g. Municipal, Provincial or National government.

Municipal Infrastructure projects will need to engage with a variety of owners and users of land, a communications strategy is a necessary task in the beginnings of a project. Depending on the project size and the complexity of the tasks this task may require the speciality of a communications specialist and or a rural/ community facilitator. This communications strategy should be implemented while the initial land legal tasks are fulfilled.

LAND LEGAL

The term "land legal" has no set dictionary definition, however, this term has been coined to describe the legal impediments that affect the acquisition and transfer of land, and the resolution of such impediments.

The impediments that a project face often delay the development of infrastructure and for this reason it is advisable that a land audit is conducted prior to the negotiation or acquisition of properties. A land audit should be conducted by an Attorney with knowledge in development and planning and a registered Land Surveyor. During this exercise various impediments can be identified at a desk-top level, and between the attorney and the surveyor a recommendation can be made for the continuation of the project and the rectification of the impediment. Land Legal impediments can include;

- **Existing restrictive conditions of title:** registered on the title deed concerned and which restricts and or limits development;
- **Tenure Conflict:** Occurs when housing construction is not assembled according to the Historical General Plan. In these cases, an amending General Plan needs to be laid out and registered in order to rectify records in the Surveyor General and Deeds Office;
- **Tenure rectification:** Occurs during the housing beneficiary and distribution stage, when beneficiaries are assigned a different erf and house than what is recorded on the beneficiary listing. E.g. J Shange lives and "owns" Erf 2659 but has the Deed of Grant to Erf 2859;

- **Tenure Insecurity:** Tenure insecurity obstructs the Registered Land Owner's Rights in utilising his/her land as he/she wish. This can be a consequence of several issues; land invasion, corruption or maladministration, lack of information and documentation, ignorance etc.;
 - **Estate Deceased Ownership:** Situations where a Registered Land Owner is deceased and their estate is not reported to the Masters Office including when an heir or family member is unable to be located.
- During the land audit stage, the attorney and the surveyor will identify properties which are necessary for acquisition, this could be complete properties which will require the relocation of the owners and occupiers of the land or a partial sub-division which will require surveying and transfer. These will be communicated to the Municipality and the project team in order to reconcile the project plan. Once the land audit and the communications strategy have been completed, the acquisition process can begin.

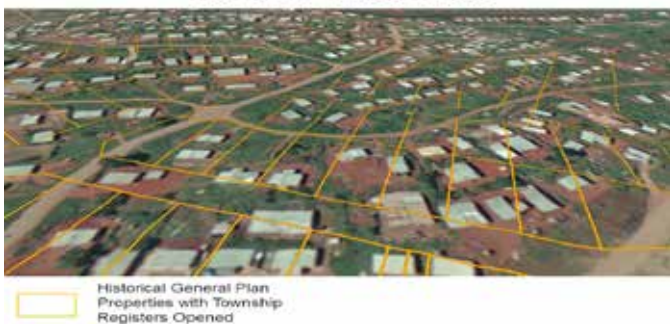
Tenure Conflicts



Historical General Plan Properties with Township Registers Opened (Yellow) and Amending General Plan Properties (Red)

Image 2: Illustrating the Historical General Plan properties layout (in yellow) and the amending General Plan Properties (in Red) in order to rectify the tenure conflict.

Tenure Conflicts



Historical General Plan Properties with Township Registers Opened (Yellow)

Image 1: Illustrating the Historical General Plan properties layout (in yellow).

RIGHTS & LEGISLATION

Given the multitude of matters in an acquisition project, as well as the numerous rights affected by development in an area, decisions taken must be guided by the applicable Legislation. The list below is not exhaustive but provides a basic guideline of Legislation which may be applicable;

- The Constitution of the Republic of South Africa
- SANRAL Act 7 of 1998;
- Spatial Planning and Land Use Management Act 16 of 2013;
- Expropriation Act 63 of 1975;
- Prevention of Illegal Evictions Act 19 of 1998;
- Extension of Security Tenure Act 62 of 1997;
- Land Reform (Labour Tenants) Act 3 of 1996;
- The Interim Protection of Informal Land Rights Act 31 of 1996;
- Restitution of Land Rights Act 22 of 1994;

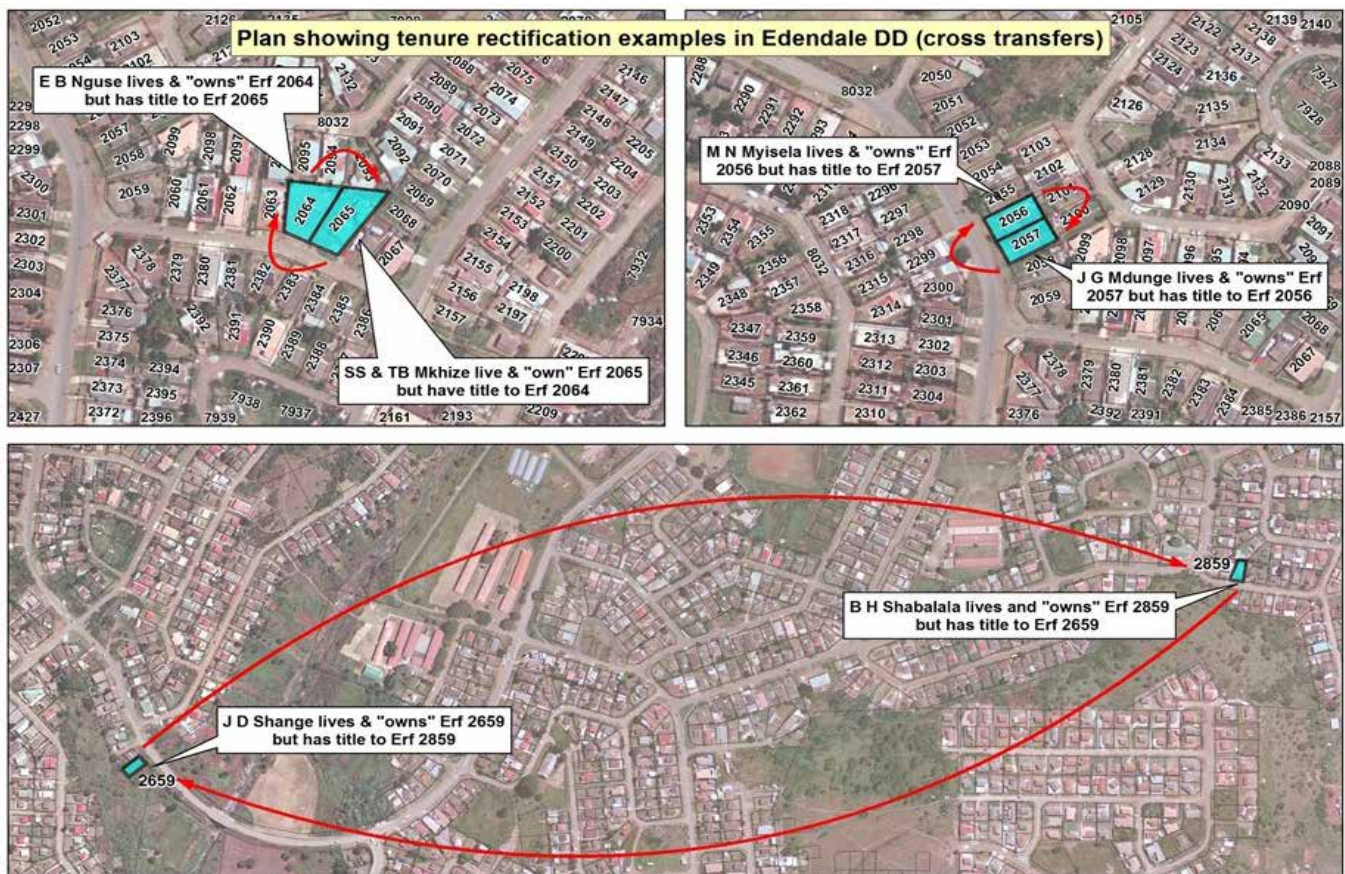


Image 3: Plan showing tenure rectification examples in Edendale DD – Cross Transfers.



Image 4: Plan showing tenure rectification solution in Slangspruit Buffer – Cross Transfers.

- Intergovernmental Relations Framework Act 13 of 2005;
- Promotion of Administrative Justice Act 3 of 2000;
- Promotion of Access to Information Act 2 of 2000;
- The Protection of Personal Information Act 4 of 2013;
- Infrastructure Development Act 23 of 2014;
- Deeds Registries Act 47 of 1937;
- Land Survey Act 8 of 1997;
- Property Valuation Act 17 of 2014;
- Public Finance Management Act 1 of 1999 (as amended by Act 29 of 1999)
- Traditional Leadership And Governance Framework Act 41 OF 2003)
- KwaZulu-Natal Ingonyama Trust Act 3KZ of 1994
- Municipal
 - Municipal Planning Bylaws;
 - Municipal Finance Management Act 56 of 2003;
 - Municipal Systems Act 32 of 2000;
 - Municipal Structures Act 117 of 1998.

ACQUISITION

The acquisition process is based on the ownership of land; privately owned land is acquired privately, State owned land is acquired by the State, Tribal or communal land is acquired through the Tribal authority. Each of these processes require their own steps and these are explained below.

Private Acquisition

The acquisition of private land and or servitude rights between consenting parties is the simplest form of acquisition. The owner of the property is

contacted by a project/community facilitator or communications specialist in order to explain the project and the reason why some or all of the property is required for the development. At this stage it is determined whether this acquisition will follow the “willing-buyer, willing-seller” framework or whether alternate steps will need to be taken.

The “willing-buyer, willing-seller” framework consists entails:

- The communication with the willing seller by the project;
- The valuation of the property being undertaken by a Professional Valuator and a Valuation Report being provided to substantiate the compensation to be offered;
- The agreement of compensation and terms;
- The noting of any special conditions;
- The drafting and signing of the Memorandum of Agreement and/or Servitude Agreement; and
- The appointment of a conveyancer resulting in the transfer of the property, and/or registration of a servitude.



Image 5: Private land acquisition

State Land Acquisition

State land acquisition is primarily conducted through donation agreement between the State entities (Municipal/ Provincial etc.). Chapter 3 of The Constitution necessitates co-operative governance between the spheres of government. The facilitations between parties and the signing of the donation agreement assists with the facilitation of such a relationship for the benefit of the public.

During the land audit stage properties which are owned by the State are noted and these are discussed with the project team. These properties thereafter form negotiations and discussions between the state entities as the acquisition of the properties or the needed portions are facilitated.

Once the donation agreements are signed, the process of transfer is the same as for private acquisition, a conveyancer is appointed who assists with the lodgement and registration as the property is transferred into the Municipal ownership.

Tribal Land Acquisition

Tribal land is land that is mostly owned by the State (un-alienated State Land) but has communities using it within an administrative area under the management of a traditional authority. This means that the individuals or communities using the land do not own the underlying land but have rights to use the land, these rights are protected by law. The Department of Rural Development and Land Reform (DRDLR) is the custodian of the land for and on behalf of the State except in KwaZulu-Natal where communal land is owned by the Ingonyama Land Trust.

Land under the custodianship of DRDLR

DRDLR is tasked with the responsibility of managing the acquisition of tribal land for and on behalf of the State. To acquire the land one has to submit an application to DRDLR, the land required must be clearly defined and normally they will ask for an SG diagram. The compensation offered must be determined and a report on whether or not individual rights will be affected, if so how those affected rights are going to be accommodated.

If DRDLR is satisfied with the information provided they allocate a facilitator to assist the developer with the community engagement process in terms of the Interim Protection of Informal Land Rights Act, 1996 (IPILRA). IPILRA and the Constitution of the Republic provide that no one may be arbitrary deprived of land without compensation so the community is required to agree to the proposed disposal of land and record that in a community resolution. Once a resolution is obtained the compensation is paid to the affected community for the underlying land and to affected individuals where individual rights are affected.

Where the land is required for business purposes DRDLR will require the applicant to provide necessary approvals from other departments and organs of State. This will normally include municipal, environmental and any other applicable approvals.

Tribal Land in KwaZulu-Natal

Most of tribal or communal land in the province is owned by the Ingonyama Land Trust with the king of the Zulu Nation as a sole trustee. The Trust is managed by the Ingonyama Trust Board (ITB). The rights

of individuals using the land under the ownership of the Ingonyama Trust are also protected by IPILRA and the Constitution so the community and affected individuals still need to approve the acquisition as with State land under the custodianship of DRDLR.

The Trust can only alienate land after they have received consent from the affected communities or traditional authorities. ITB has recently taken a stance not to alienate any land under their ownership, however they are willing to negotiate long term leases and servitudes.

Transfer of Tribal Land

The transfer of land from the Ingonyama Trust (before they resolved not to alienate land) is the normal transfer process after community approvals have been obtained and a Deed of Sale has been signed.

The transfer of land under the custodianship of DRDLR is a much longer process. DRDLR cannot dispose of land without the approval of the Minister of the Department. DRDLR makes the submission with the Minister which includes the community resolutions, proof of compensation paid, extend of land required, valuation reports etc. Once the Minister has approved the disposal of land the transfer of State land is then done by DRDLR internally, this is an extremely lengthy process that usually takes over a year.

Expropriation

Expropriation is never a sought after method of acquisition. Unfortunately the phrase "expropriation" inflicts dissension among land owners. A project is to therefore attempt acquisition by negotiation and facilitation before attempting to or suggesting to expropriate.

Expropriation is allowed for in Part 2 of Section 25 of the Constitution, as long as the expropriation is for;

- "(a) for a public purpose or in the public interest; and*
- (b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court."*

This part of the Constitution is the basis for many municipal and government related expropriations, however, expropriation is usually conducted under the Ministry of which the development benefits e.g. housing – Department and Minister of Human Settlements, roads – Department and Minister of Transport, water/ sanitation – Water Act.

'Friendly' Expropriation

Properties where the registered land owner is deceased, resulting in a deceased estate, is a primary cause of stagnation in infrastructure

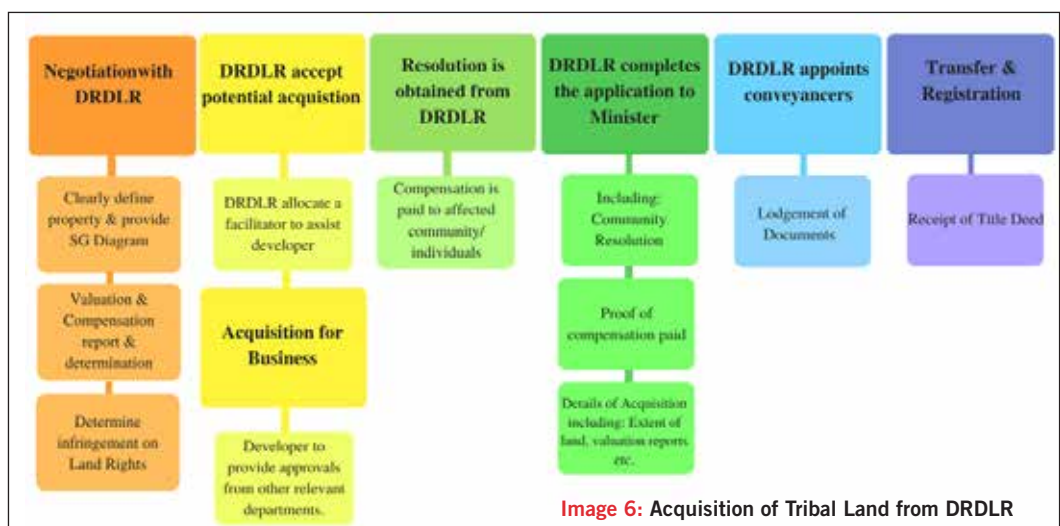


Image 6: Acquisition of Tribal Land from DRDLR

projects. Unfortunately it is common-place within the cultural and informal land sector for land to be “passed on” to a person without a formal transfer taking place in the Deeds Office. Should this be encouraged in your project, your facilitators should advise the heirs to attend upon the Masters Office in order to report and wind up the estate. Unfortunately depending on the value of the estate and the number of heirs this process can further extend the timeframe of the project.

Importantly any negotiation and/or documentation concluded with a deceased estate is null and void unless and until the estate has been reported and a Letter of Authority or Executorship, as the case may be issued.

In such cases, a ‘friendly expropriation’ can be entered into. A friendly expropriation is a written agreement between the heirs of a registered land owner and the Municipality co-operating with the expropriation of the property. The agreement contains the proposed expropriation compensation amount and we advise that a suspensive clause be included basing the agreement on the Masters Office appointment of the heir/s.

Until such time as the estate is duly reported and an estate bank account opened, payment of any compensation in these instances must either be retained in the attorneys trust account or paid to the Guardians Fund.

The expropriation process always begin as a private land acquisition:

- The project communicates with the registered land owner;
- The registered land owner rejects the projects offer for purchasing the land;
- Further facilitation and negotiation with the land owner fail – this can include offers of adjusted compensation and further special conditions that may be presented;
- The land owner further rejects the offer and the special conditions;
- In cases where the property is necessary for the continuation of the project and the development of infrastructure, the property will be suggested to the Municipality for expropriation;
- If the Municipality agrees and the project cannot proceed without the property, the matter will serve before the Municipal Councils in order to attain Full Council approval;
- Once Full Council has approved the expropriation, the Notice of Intention to Expropriate can be placed in the paper, this is advertised in one regional & one local newspaper, in English and one other regionally spoken language;
- Following this advert, there is 30 day objection period to be entertained;
- Once the 30 day period is complete, the objections are correlated and a possible public participation meeting is held – this meeting is dependent on the objections and the basis of the same;
 - If an objector is willing to sell, then negotiations are to proceed;
 - In cases of an heir objecting and being willing to sell, they are requested to attend upon the Masters Office to report the estate and a ‘friendly expropriation’ agreement can be entered into;
- Upon completion of the public participation process above, an application is submitted to the Minister (MEC for Housing/ Transport/ Co-Operative Governance etc.) for approval to expropriate;
- When the appointment of a Land Titles Adjustment Commissioner (“LTAC”) is necessary and in accordance with the Land Titles Adjustment Act 111 of 1993, the Properties to be expropriated must be appointed to the LTAC within 6 months of permission granted by the MEC;

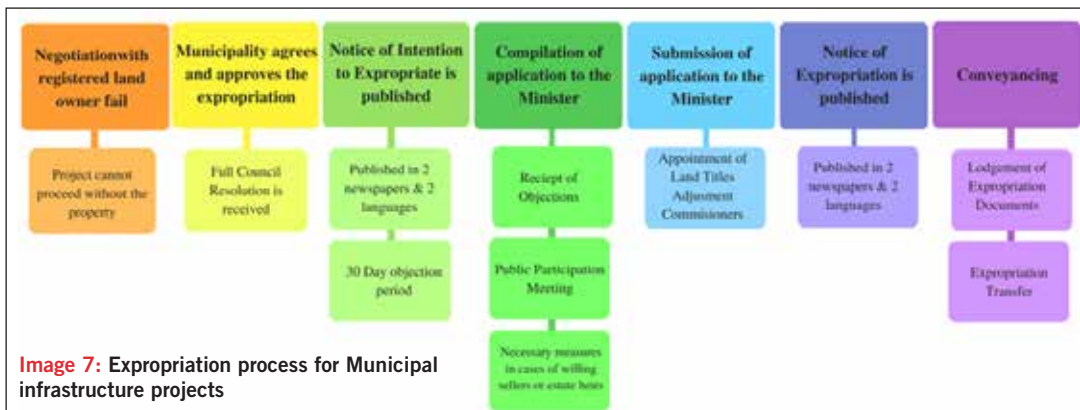


Image 7: Expropriation process for Municipal infrastructure projects

- Once designated, the Notice of Expropriation is to be published in two newspapers, one regional & one local newspaper, in English and one other regionally spoken language;
- The expropriation documents are lodged at the Deeds Office with a schedule of properties expropriated. Together with two SG Expropriation Diagrams of each property and a certified copy of the expropriation notice, on the Municipal Letterhead;
- A conveyancer is thereafter appointed to deal with the expropriation transfer.

At present, in South Africa, the highly debated subject of ‘expropriation without compensation’ has been tabled in Parliament and made headlines in national news. This movement is to provide restitution, redistribution and reform of land tenure throughout the country. A panel of experts have been appointed to review Section 25 of the Constitution and the public have been asked to provide comment of whether they are in favour or against this suggestion.

Expropriation without compensation may assist Municipal Infrastructure projects, nevertheless, one needs to remember that expropriation is a complex legal task and it is unlikely that this will be allowed as a first resort of land acquisition.

MULTIDISCIPLINARY TEAM

Due to the complex matters which a Municipal Infrastructure project encounters it is advisable that the project team be made up of specialist in their field to holistically deal with matters. Having this team appointed prior to the commencement of the project ensures speedy and precise deliverables to be met throughout the project.

These team specialists should include:

- A registered land surveyor;
- A registered town planner;
- A professional valuator;
- A conveyancer with speciality in land legal matters;
- A communications specialist and community/facilitators/negotiators;
- A geographic information system (GIS) specialist;
- A project co-ordinator; and
- A project manager

This formation of this team which, works holistically in dealing with the matters, together with the Municipal team, ensures that the Municipal policies, protocols, procedures, and planning frameworks, are adhered to together with National and Municipal Legislation.

Survey and Planning

- It is advisable to use a Registered Land Surveyor and Town Planner who have dealt with infrastructure projects previously be appointed to the team. We

suggest that a project not rely solely on the input of the Municipal Survey or Town Planning departments in order to provide a specialised and project-focussed result in promoting and guiding the new development. This also assists with the skills transfer between professionals and the Municipality. The appointment of the Town Planner and Land Surveyor assists with the adherence to the:

- Spatial Development Frame Work (SDF);
- Integrated Development Plan (IDP);
- Spatial Land Use Management Act 16 of 2003, (SPLUMA);
- Physical Development Framework;
- Land Use Management; and
- Planning and Design Programme for the specified project.

Conveyancing & Land Legal Attorney

A conveyancer's job does not only consist of the registration and transfer of erven or servitudes within a project, a large number of Municipal Infrastructure projects require the development of historical townships. The legal work of a conveyancer is imperative in these projects for the opening of township registers, the consolidation and sub-division of properties and ensuring that the project is following the correct planning and development legislation.

Communications Specialist & Community Facilitators

As can be seen in the different acquisition processes, a communications specialist communicates the needs and wants of the Municipality and the project to the community and, the concerns of the community to the project team and Municipality. Public Participation is heavily promoted in Legislation within South Africa and therefore the Municipality and project team must ensure that this is represented in their project.

GIS Specialist

An often overlooked component of the team is the GIS specialist and the spatial data that the GIS system contains. We advise that a project utilise aerial photography that is no later than 1 year old in order to ensure an accurate portrayal of the situation on the ground. Using the GIS, the specialist and the surveyor is able to identify properties which may need rectifications; these properties are then checked on the ground to ensure that this is an accurate representation of the matter.

Professional Valuator

A just and equitable method of valuing properties is imperative for the continuation of a project. Each project and their property may need differing values dependant on the situation on the ground; examples of these include properties with land invaders, developed properties, commercial or business properties, green fields and private properties and residences. By having a Professional Valuer on the multidisciplinary team this ensures that the policies and procedures for valuing the land or the land rights over a property adhere to the correct legislation.

Project Manager and Co-Ordinator

The project manager and co-ordinator are the driving force for the project. Aside from general project management and co-ordination of the multi-disciplinary team, the manager and co-ordinator also respond to the queries and instructions from the Municipality and addresses them with the necessary specialist. Some projects may also necessitate a financial administration role-player in order to ensure that the funding is used in respect to the Memorandum of Agreements and the Municipal Finance Act.

It is important for the Municipality provide all relevant policies, procedures and frameworks to the team to ensure compliance. The multidisciplinary team

will work together to view the project holistically in order to meet deliverables and timeframes in order to facilitate development.

TIMEFRAMES & REMEDIES

In any infrastructure project there is an emphasis on the expeditious meeting of deliverables. Regrettably the timeframe for a project is based on the complications which the specific project contains. For projects which do not have tenure rectification matters, the time line is simply the:

Land Audit

The timeframe for the land audit is dependent on several factors; the number of properties within the project, the GIS imagery and availability of land ownership documents. For a project of roughly 50 properties, we estimate that a period of one month would be a suitable period to conduct the land audit.

Acquisition Processes

• Private Land Acquisition

A period of approximately 3 months is allowed for private land acquisition processes of communication and facilitation of the signed agreement.

• State Land Acquisition

State land acquisition requires the co-operation of all state parties involved and very rarely is it necessary for a property in the ownership of the State to be expropriated. We advise that a three month period be sufficient to negotiate, draft donation agreements, have these signed by all parties and appointed to a conveyancer.

• Tribal Land Acquisition

Depending on whether the transfer is from the Ingonyama Trust or the DRDLR, these time frame for this process can vary; After the resolution from the Ingonyama trust the process follows the normal transfer stages and a period of 3 months would be sufficient.

• DRDLR properties follow internal departmental processes and can take up to a year for the transfer and process to be completed.

• Expropriation

The process of expropriation can be affected by a long time frame due to the different approvals and Legislative procedures which are necessary throughout the task. We estimate that excluding the initial acquisition process, and with the co-operation of all entities involved that the expropriation of a batch of properties should take approximately 12-18 months.

• Conveyancing

Depending on the type of transfers can affect the amount of time that the conveyancing tasks take up;

– **Private Acquisition:** approximately 3 months, dependent on the receipt of the rates clearance certificate and the Deeds Office's workflow.

– **Low Cost Housing Projects:** approximately 3 months, dependant on the receipt of the blanket rates clearance certificate and the submission of the accurate beneficiary listing.

– **State Land Transfers:** approximately 2 months which is dependent on the receipt of the rates clearance certificate and the Deeds Office's current work schedule.

– **Tribal Land Transfers -:** approximately 2 months which is dependent on the receipt of the rates clearance certificate and the Deeds Office's current work schedule.

Tenure Rectification Matters

Due to the complexity of tenure matters it could severely prejudice a project to put a time-frame on unseen rectification matters. However, experience suggests that tenure issues and project impediments can result in delays of between three and eighteen months.

EXAMPLE PROJECTS

iLembe Water and Sanitation Pipeline Project

This project focussed on the acquisition of servitude rights in respect of water and sanitation pipelines. Land Acquisition is also required for the acquisition of water reservoirs and pump stations.

The project involved all forms of acquisition mentioned herein above, including expropriation. In addition, the pipelines were required to be constructed over sugar-cane-majority farm land, which required the services of sugar-cane valuers in addition to property valuers. Various deceased estates were identified and, due to lack of a comprehensive land audit being undertaken prior to the appointment of the contractor, these estates lead to substantial delays and damages.

The iLembe water and sanitation pipeline project is both an example of where a project can run smoothly when the processes as listed above are implemented and where a project can suffer significant delays due to the processes listed herein not being implemented.

The Greater Edendale and Vulindlela Land Acquisition Development Initiative (“GEVDI”)

The GEVDI land acquisition project is a joint initiative between the Msunduzi Municipality and the KZN Provincial Department of Human Settlements.

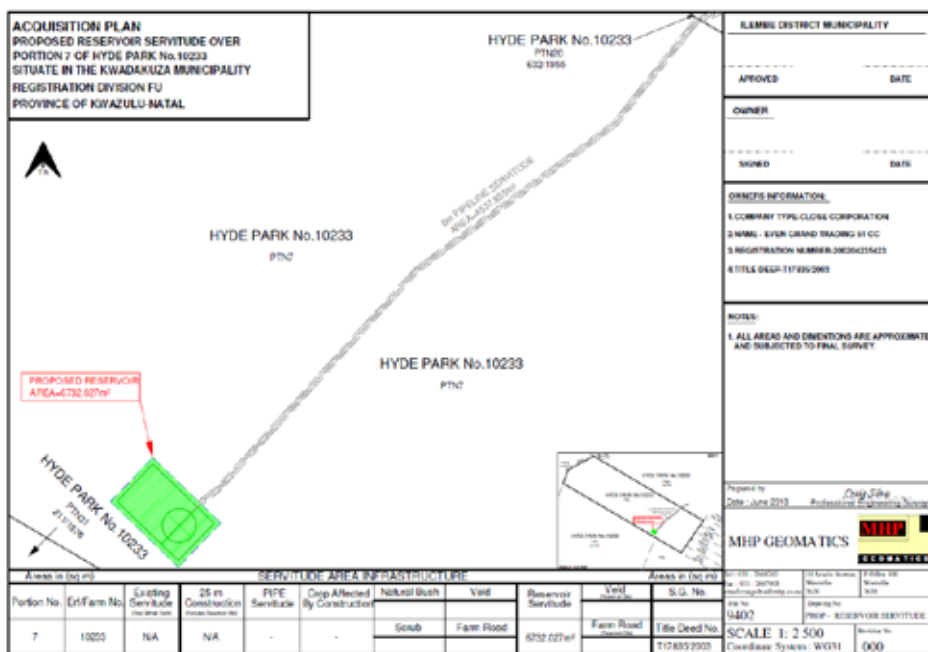


Image 8: Acquisition Plan for proposed reservoir servitude over Portion 7 of Hyde Park No. 10233 as utilised in the iLembe water & sanitation pipeline project.

These entities have provided funding and specialist support in order to facilitate the acquisition and development of housing projects and the redevelopment of the Edendale Town Centre. Edendale as a region has a noteworthy history synonymous with other well-known regions such as, Cato Manor, District 6, Alexandria and others. The Land Legal Committee (“LLC”), formed by the joint initiative above, is an intergovernmental steering committee established in terms of a number of memoranda of agreements which created the

Table 1: Illustrating the achievements of the GEVDI project

Objective	Outcome
Resolve the underlying historical land legal issues inherited from the previous regime and in particular the erstwhile Department of Development Aid (“The DDA”).	The underlying historical land legal issues have been resolved and accordingly the redevelopment of Edendale are now able to take on a dynamic of its own provided there is substantial funding with respect to all aspects relating to integrated development.
Resolve the chaotic Deeds Registry and Cadastral information inherited from The DDA.	The Deeds Registry and Cadastral information inherited from the DDA has been regularized and where the Deeds Registry and the Surveyor Generals offices currently use the Edendale GIS to continuously rectify their records – a unique situation.
Upgrading of historical land tenure rights and the resolution of tenure rectification and tenure conflict in the historical townships created by the DDA.	21,762 of a total of 23,174 historical land tenure rights have been upgraded to full freehold tenure. The remaining 1,412 land tenure rights, which form a single historical township, is currently in the process of being upgraded.
Acquire private land (in ‘black’ ownership and dating back to the late eighteen hundreds) which has been substantially marginalized by the informal settlements thereon and which settlements have a historical origin which includes inter alia the periods of violence pre 1994.	The acquisition of private land has made substantial progress with 183 hectares of land comprising 167 properties, acquired to date. There is still substantial land holdings that must still be acquired – this will be clearly set out in the Business Plan 2020 to be submitted to the DoHS shortly.
Remove land legal blockages to enable the transfer of ownership with respect to housing projects in Edendale;	With respect to the removal of land legal blockages to enable the transfer of ownership with respect to housing projects in Edendale the “Rescue Project” known as Edendale Unit H is well underway. The project has been broken up into 3 phases in accordance with the attached map: Phase 1A, Phase 1B and Phase 2. (Refer Annexure “F” for maps) Survey amendments of the sites that do not conform to the original general plan layouts in Phase 1A and Phase 1B have been made, where possible. The survey of Phase 2 has now commenced. The beneficiary administration has closely followed the land surveying task. Each site in Phase 1A and Phase 1B has been visited and the occupant interviewed in order to verify their status. The original signed sales agreement for each site was validated against the information gathered per site. Where beneficiaries matched with the current occupant, a new sales agreement was signed with the approved beneficiary. 126 beneficiaries in Phase 1A and 1B will be registered and presented with title deeds within 2 months of the underlying land being imminently transferred from the Province of KwaZulu-Natal into the name of Msunduzi Local Municipality provided that the rates clearance certificates are issued timeously by the Municipality.



Image 9: Extract for the GEVDI Geographic Information System illustrating the different stages of acquiring land.

- Land administration and Auditing;
- Legal Consulting Work and Environmental approvals;
- Preparation of Cadastral Key plans based on declarations, existing cadastral parcels and future expansion of the road network;
- Preparation of compensation schedules
- Land acquisition by negotiation (Private, Communal (Tribal) and State);
- Expropriations in cases of failed negotiation
- Land Surveying of new subdivisions;
- Registration and transfer of land;
- Compensation of landowners;
- GIS and Property Management System for the project;
- Design and maintenance for GIS and Property Management System; and
- Property Management.

enabling provisions in relevant legislation pertaining to the redevelopment of Edendale. The LLC instructs a multidisciplinary team, known as the Land Legal Team, which provides specialist skills to the Municipality in order to facilitate the redevelopment of the town centre and the acquisition of land for the development of housing. The achievements of this project have enormous significance for the community of Edendale, the Msunduzi Municipality and the Province of KwaZulu Natal as a whole. Some of the objectives and outcomes of the project are listed in Table 1.

Land Acquisition for South African National Roads Agency SOC Ltd. (SANRAL)

The Land Acquisition project for SANRAL is an expansive project which entails a variety of services from the appointed multidisciplinary project team in procuring and developing the National Road Network.

The Scope of work for this project includes:

- Declaration of the National Road (New projects)
- Road Design and Survey



Image 10: Development of the N2/M41 Interchange and showing the necessary land which was utilised in the upgrade of the interchange facilities - MAJV on behalf of SANRAL.

The objective of this project and the multidisciplinary team is to provide SANRAL with land free from any type of blockage in order to facilitate and develop the national road network.

Each project undertaken by a developer, Municipality or an appointed multidisciplinary team requires a distinct approach, a holistic view and a sufficient timeframe. If these are provided, some of the frustration, complexity and delays can be avoided and the project deliverables may be achieved expeditiously.

CONCLUSION & RECOMMENDATIONS

As described above, a Municipal Infrastructure project may meet several blockages during the land acquisition and development phase. Our main goal is to assist you with identifying these blockages before they impact the project and the future development.

We recommend that:

1. The co-operation of all relevant entities including the project team be confirmed in writing;
2. A multi-disciplinary team of specialists be appointed to assist with the blockages;
3. A land audit be conducted prior to the commencement of a project in order to highlight possible tenure blockages;
4. Tenure Blockages are to be addressed via investigation and recommendations to the Municipality; and
5. Land Acquisition to continue on a phased basis dependant of the blockages which the project encounters;
 - 5.1 Phase 1 -: Properties with no blockages
 - 5.2 Phase 2 -: Properties with tenure blockages, tenure blockage to be rectified prior to acquisition of property

It is our hope that through these recommendations Municipal Infrastructure projects will accomplish their goal of placing ownership and benefits of land in the hands of previously disadvantaged persons in order to develop and uplift their lives.

REFERENCES

Constitution of the Republic of South Africa, 1996.