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**YAKWAZULU-NATALI**

**Land Invasion in Greater Edendale, proposed  
Urban Hub Precinct: Scope and Impacts  
Imposed to Town Planning Processes.**

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A Short Dissertation Submitted in Partial Fulfilment of the Degree-  
Master of Town and Regional Planning (MTRP) at the School of  
Built Environment and Development Studies (SOBEDS), University  
of KwaZulu Natal: Howard College, Durban.

August 2017

**Declaration**

I Mthiyane, Thandeka hereby declare the following:

1. The work contained in this document is my original work;
2. It has not been submitted to any other university;
3. All the information contained in this document has been obtained, presented in accordance with academic rules and ethical conduct set by the University of KwaZulu-Natal; and
4. All the documents and books used are cited in the references section at the end.

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**DATE**

## **Dedication**

Bazali bami, *MaMnguni* no*Skhangane*, ngezimfundiso zenu nothando olumangalisayo, bodadewethu nabafowethu *BaThiyane, Khonzile, Gqamile, Mkhonto weSizwe, Freedom* and *Yoliswa*.

Lomyezane ngowenu!!!

## **Acknowledgements**

I am honoured for this opportunity; I wish to thank all who lent me their hands, their hearts and their souls in the process of doing my Master's Degree. I wish to especially acknowledge the following:

- I am grateful to my supervisor, Ms. D. Ntlhe for the guidance and support she offered me from the preliminary stages of building a logical flow of this research to the completion of this dissertation.
- I wish also to thank the UKZN School of Built Environment and Development Studies Staff members: Dr. Sithembiso Myeni, Ms. Annette von Riesen, Dr. Koyi Mchunu and Professor Mathew Dayomi for the foundational teachings in Town Planning;
- I wish to thank the Msunduzi Ward 22 Councillor, Mr. Xolani Ngongoma and his ward committee members; and
- The entire Msunduzi Town Planning Department team. Special thanks to Mthobisi Khumalo, George Lebelo, Rhadha Gounden, Shannon Farnsworth, Ramburran Esmeralda and Narain Singh for the demonstration of unbelievable passion for planning and for their insights about the land invasion challenge in Greater Edendale;
- I wish also to thank my colleagues from the uMgungundlovu DM staff who lent a hand in the process, Simphiwe Zuma, Bheki Mdunjana and Siyabonga Makhathini;
- Words cannot do justice of expressing my gratitude to my mentor, 'my brother from another mother', Riaz Jogiat for encouraging me to enrol for MTRP, the undeserved support he offered during the course of this degree, for his valuable contributions and guidance;
- It would be an injustice to leave my dearest friends whom I shared so many ideas with, for the love and the much needed emotional support: Andile Dlamini; Simphiwe Lushozi, Inga Mlonyeni; Nolwazi Ndlovu; Nomfundo Mabanga and Phumla Nyathikazi;
- Hope and Aso, your presence in my life sheds a sharper meaning, it gives me a reason to wake up every morning.

Kini nonke ngidlulisa ukubonga okusuka ekujuleni kwenhliziyo yami ephuphuma injabulo.

## **Abbreviations**

ABM	Area Based Management
ANC	African National Congress
CLLR	Ward Councillor
GEDI	Greater Edendale Development Initiative
GELA	Greater Edendale Landowners' Association
GETPS	Greater Edendale Town Planning Scheme
GEUH	Greater Edendale Urban Hub
GIS	Geographic Information Systems
IDP	Integrated Development Plan
MLM	Msunduzi Local Municipality
MLMED	Msunduzi Environmental Division
MLMLMO	Msunduzi Town Planning Dept. Land Management Office
MLMSP	Msunduzi Town Planning Dept. Spatial Planning
MSA	Municipal Systems Act
NDHS	National Department of Human Settlements
NDP	National Development Plan
NDPG	Neighbourhood Development Partnership Grant
PDA	Planning Development Act
PIE	Prevention of Illegal Eviction Act
RSA	Republic Of South Africa
SCASA	Supreme Court of Appeal of South Africa
SONA	State of the Nation Address
SPLUMA	Spatial Planning Land Use Management Act
UMDM	uMgungundlovu District Municipality
UMDM-DM	uMgungundlovu District Municipality, (Msunduzi) Disaster Management
W22WCM	Ward 22 Ward Committee- Msunduzi

## **Abstract**

This dissertation intends to investigate the impacts imposed by land invasion on town planning processes. This was done with special reference to an area earmarked for the establishment of the Greater Edendale Urban Hub (GEUH), an informally developed area located 10km from the Pietermaritzburg City. Data collection was done through interviews and focus group discussions with purposively selected samples inclusive of local leadership and government officials involved in land management, spatial and environmental planning within the Greater Edendale area.

Findings insinuate that land invasion cannot be regarded a sustainable method of land distribution because it has far-reaching negative impacts not only to planning processes but also to the social wellbeing of residents and to the environment. However, the perennial existence of the problem and its underpinnings within the Greater Edendale area exposes firstly the imperfections and failures of the existing land protection mechanisms, urban land and housing markets to distribute land sufficiently to the poor. Secondly, it also becomes clear that transformation to reverse the skewed patterns of land ownership inherited from apartheid has been slow. These two factors cultivate an environment that encourages a culture of accessing and using urban land through methods that are inconsiderate of standards set by Town Planning mechanisms.

This dissertation argues, the current patterns of land distribution are untenable and unsustainable, and while the treatment of symptoms can bring relief from time to time it is clear that South Africa needs to decisively rectify these challenges through finding a long-term solution. Continued neglect in this regard may have further far-reaching impacts to planning that have the potential to render the planning processes futile.

Finally, the establishment of the GEUH is a necessary development that has great potential of transforming the socio-economic scenarios of the residents. Therefore, the issues of relocation for households situated within the land earmarked for the GEUH becomes inevitable while the settlements unaffected should be considered for community-led land regularisation. These two planning processes can bear a significant impact on the lives of Greater Edendale residents if they employ socially just, decolonised and community-driven methods.

**Keywords:** *Land Invasion, Town Planning, Urban Hub Precinct, Informal Settlements.*

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# CHAPTER 1

## INTRODUCTION AND BACKGROUND

---

### **1.1.Introduction**

Land invasion processes accompanied by the formation of informal settlements within urban areas are an internationally known problem. The challenge dates back to the days of booming industrialisation of the 18th century that saw hyperactive demographic migration patterns with people drawn to cities in the search of improvement of life circumstances promised by cities. The National Department of Human Settlements (NDHS) of the Republic of South Africa (RSA) in 2010 acknowledged these developments as ‘*irreversible and growing*’ (Tissington, 2011:34).

The living conditions prevailing in areas of land invasion and informal settlements create profound social and environmental pressures (Turok & Borel-Saladin, 2014). Urban planning was then born in the 18th century to address among other issues the squalid living conditions that were prevalent in the informally developed areas within cities. Planning involves spatial processes, plans, legislation and policy involved in the transformation of public urban space (Yiftchafel, 1998). Although the planning discipline was initially concerned with the physical conception of urban spaces, planning has undergone massive evolution over time to adapt to the ever-changing urban scenarios.

In the recent years, South Africa has seen an increase in land invasion events accompanied by very flawed response that is sometimes characterised as violent. With the increase of such events planning is often put in a compromised position and a great deal of effort still needs to go towards understanding in greater detail the juxtaposition of the two concepts; urban planning and land invasion.

### **1.2.Research Problem**

Cities indisputably remain significant spaces of opportunities throughout the world. According to a report on the state of cities compiled by the UN-Habitat (2016), over half of the global population resides in urban areas. In 2013, Kalan (2013) indicated that at least 62% of that 54% urbanised global population is living in informal settlements. While the problem exists in many cities across the globe, Third World countries are experiencing more urbanisation trends than other parts of the world particularly African countries. As urban populations grow, so does the

need for housing in areas well located within cities, the increase in urban population inevitably creates a demand for well-located housing or land within the cities.

Although the RSA experiences urbanisation trends slightly lower in comparison to other parts of Africa, estimates indicate that at least close to 8 million people will be urban dwellers by 2030 and 13 million by 2050 (NPC: National Planning Commission, 2011). South Africa is one of the most unequal countries in the world in many respects and land distribution is not an exception in this regard. Despite the outcry about the scarcity of information about informal settlements in South Africa, there's evidence indicating there is a substantial growth in the number of households residing in informal settlements Huchzermeyer 2010 cited by (Tissington, 2011). She continues to raise a concern about the response to illegally occupied urban land that tends to be brutally violent against the poor. The increasing urban population simultaneously takes place in the context of slow land reform programme and housing delivery system insufficient to supply adequate housing to all urban dwellers currently and other chronic deficiencies in the delivery of basic services.

Despite numerous interventions in place such as policy and legislation reform to redress land-related challenges since 1994, events of land invasion have continued to grow. In the recent years, political formations and socialist movements have also played an active role in encouraging illegal land occupations among informal settlement dwellers and the landless. Planning is therefore constantly under pressure as it continues to address the problem. The intent of this dissertation is to investigate in detail the implications for the town planning discipline as these challenges unfold.

### **1.2.1. Research Aim(s) and Objectives**

The main aim of this research is to analyse the extent to which land invasion has taken place within the area earmarked for the establishment of the Greater Edendale Urban Hub (GEUH) and further to investigate how land invasion impacts on the town planning processes in place. The following objectives have been set out to achieve this aim:

- To analyse the scope of land invasion within the study area;
- To investigate the impacts of land invasion on the social wellbeing of the residents and the environment within the study area;
- To investigate the impacts imposed by land invasion on the town planning process within the study area; and

- To recommend possible interventions that can be employed to discourage land invasion in the study area.

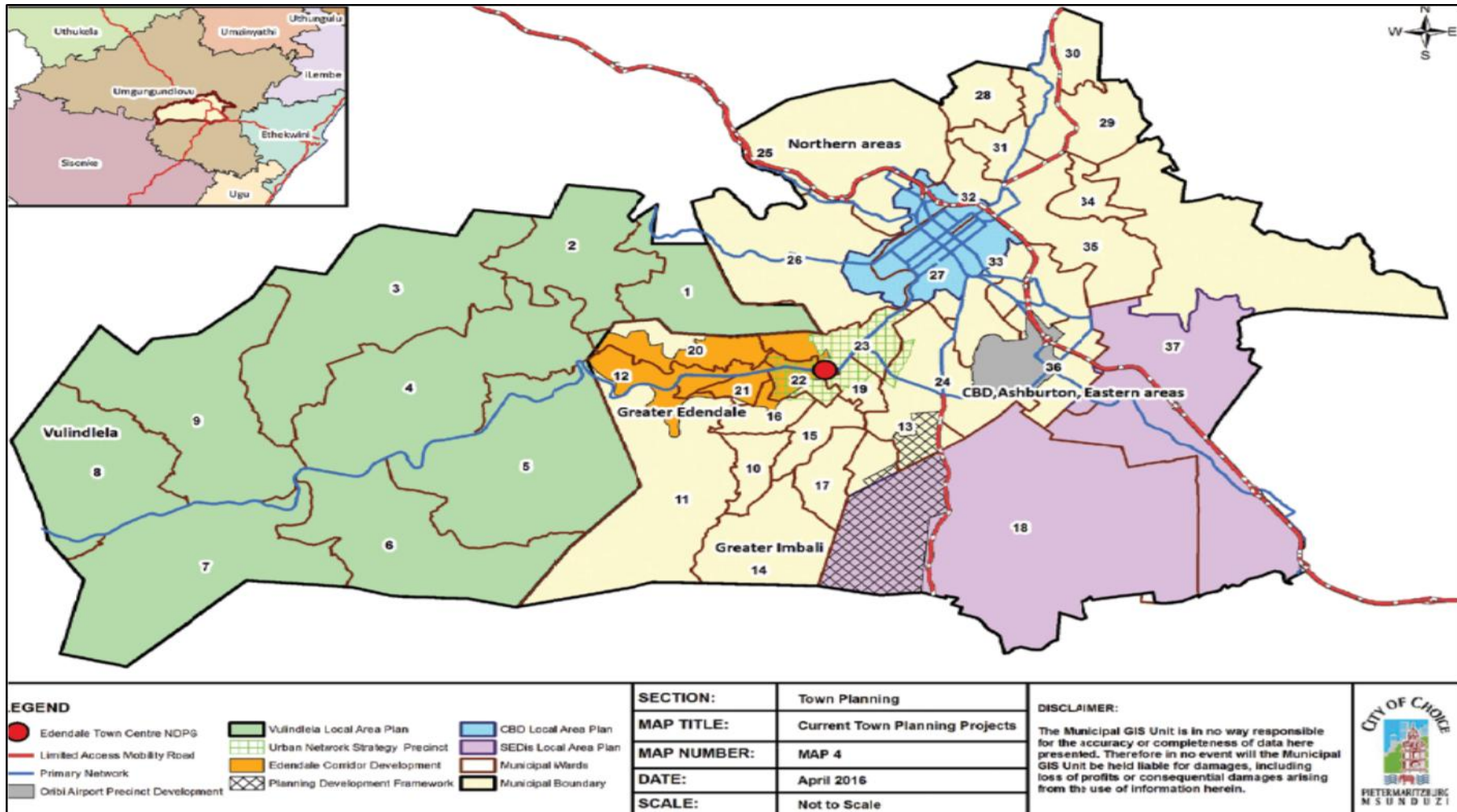
### **1.2.2. Research Main Question and Subsidiary Questions**

To what extent has land invasion taken place within the area earmarked for the establishment of the GEUH and how does this impact on the town planning processes? The following subsidiary questions will help in answering the main question:

- To what extent has land invasion occurred within the study area?
- What are the impacts of land invasion on the social wellbeing of the residents and to the environment within the study area?
- What are the impacts of land invasion on the town planning process within the study area?
- What are possible interventions that can assist in discouraging further land invasion within the study area?

### **1.3. Locality of the proposed Greater Edendale Urban Hub**

This research was conducted within an area that is earmarked for the establishment of the GEUH; it is located approximately 10 kilometres south-west of the Pietermaritzburg Central Business District (CBD), which is the second largest city after Durban in KwaZulu-Natal. The Greater Edendale area falls on the outskirts of the formal township known as Imbali Township with GPS coordinates ‘-29.66 29’ 84”; ‘30, 31.49’ 64”. In order to sharpen the focus of this study, the study area is limited to pay greater attention to a one-kilometre radius starting from the crossroads of the Selby Msimang Road and the Thwala Road. The area is commonly known as the Plessislaer and it was recently demarcated as Ward 22 following local government elections held on 3 August 2016. The study area falls within the jurisdiction of the Msunduzi Local Municipality (MLM), which forms part of the greater uMgungundlovu District Municipality (uMDM) family of municipalities.



Map 1: Locality Map of the Greater Edendale Urban Hub within Msunduzi LM

Source: (MLM 1, 2016)

This study area was chosen based on the preliminary information obtained through the MLM which firstly indicated the urgent need for socio-spatial transformation of the area, the town planning efforts employed as part of the transformation agenda over many years which had largely remained futile and the resources injected by multiple parties in that regard. While the Neighbourhood Partnership Development Grant (NPDG) funding intending to implement the GEUH has taken the precaution of a number of issues previously contributing to failures of the transformation vision laid by the MLM land dynamics prevalent in Greater Edendale, it had a large role to play in such failures.

#### **1.4.Rationale of the Research**

The recent years have seen increased media coverage on the number of reported events of land invasion across the RSA which undoubtedly requires attention. The MLM has equally had its share of the problem as the municipality has been reporting its concerns about the increase of the problem within its area of jurisdiction. The Msunduzi City Development Strategy released in 2015 indicated the state-owned land's vulnerability to land invasion and thus aggravates the plight (MLM 3, 2015).

Firstly, these concerns pose significant challenges that force us to understand in detail the essence of land invasion in order to make informed decisions in dealing with it. Secondly, this dissertation really begins to interrogate the fundamental relevance of planning action in a country that has been for over four decades subjected to spatial marginalisation. This is informed by the failures of planning to transform urban spaces despite the interventions, evolution of the discipline, capital injection and other resource investments that have been employed in many parts of the RSA.

#### **1.5.Research Structure**

This dissertation is divided into eight chapters presented in the following technique:

**Chapter One: Research Introduction:** The intent of the first chapter is to introduce the reader to the entire research and lay a foundation through the presentation of the research problem and research questions, rationale of the study and the study area's location.

**Chapter Two: Conceptual and Theoretical Framework:** The first section of this dissertation begins by unpacking a theoretical framework that provides a lens within which the research problem ought to be understood. The second section provides an index of the key concepts that

are frequently used in the course of this dissertation in order to establish a common ground for understanding.

**Chapter Three: Literature Review:** This chapter provides a review of precedent studies previously conducted internationally and in South Africa to sharpen the understanding of the research problem and draw lessons that can be learnt from other practices.

**Chapter Four: Legislative Framework:** This chapter intends to explain and give further analysis of the research problem through a review of the South African legislation and policy framework in order to understand how it has shaped the contemporary South Africa and analyse its comprehension of the research problem.

**Chapter Five: Research Methodology:** The aim of this chapter is to define the research design as informed by the study's paradigm, methodologies used to collect data, select sample, analyse and interpret data.

**Chapter Six: The Case Study of Greater Edendale:** This chapter deals with an analysis of the local area. This analysis presents a number of issues that seek to contextualise the problem.

**Chapter Seven: Research Findings and Analysis:** This section unpacks key findings obtained during the data collection process that speak directly to the research questions.

**Chapter Eight: Discussions, Recommendations and Conclusions:** The final chapter begins by drawing a summary of the key issues that emerged in the earlier chapters for further discussion. This sets a scene for proposing recommendations and conclusions for the study.

## **1.6. Summary**

The intent of this chapter was to introduce the study, the research problem and the rationale for which the research was conducted. The study area was briefly introduced and the reasons for which the area was chosen. The chapter was then concluded by an outline of the research structure. The following chapter is two-dimensional; the first section theoretically contextualises a frame of reference from which the research problem must be understood. The second section provides a framework from which land invasion, town planning and other critical concepts commonly discussed in this dissertation must be understood in the context of this study.

# CHAPTER 2

## THEORETICAL & CONCEPTUAL FRAMEWORK

---

### 2.1.Introduction

The intent of this chapter is twofold, firstly, it provides a theoretical framework within which land invasion impacts imposed to town planning processes should be understood. Secondly, the chapter intends to provide an index of detailed terminology definitions frequently used in this dissertation. This is done with an aim of beginning the research with a common understanding of the key concepts used in this dissertation.

### 2.2.Modernisation Theory

This theory has its origins in the European political and intellectual revolution of the 18th century, which led to a sweeping transformation in society. The modernists' philosophy is founded upon a positivist approach shaped by the understanding that valid knowledge is dependent on rationality obtained through objective science (Harper & Stein, 1995). It was therefore believed that a society's development depended on its participation in modern practices. Hudson (1999) noted that modernization is one of the critical theories that have dominated theories of development and social sciences during the 20th and 21st centuries and urban planning was no exception in that regard.

#### 2.2.1. Modernism and Urban Planning

The extraordinary urbanisation trends underpinned by the booming industrialization and the end of the Second World War had severe undesirable impacts on both the physical and social fabric of the European cities. Baeten (2000) notes, the cities of this era were characterised as disorderly with high levels of poverty, spreading of diseases, shortages of housing and these impacts were severely felt by the poor. In the words of Yiftchafel (1998:397), these conditions were '*unacceptable and inhumane*'.

Yiftchafel (1998) continues saying that the middle class of the day revolted against the situation, raising concerns about the possibility of the spreading of diseases. The situation confronting urban planners of the day called for the reconfiguration of urban spaces into functional, efficient, physically orderly and safe cities. In the hope that efficient cities would ultimately reproduce orderly societies and improve living conditions for urban dwellers planners, adopted urban planning principles that sought to affirm modernist principles. Using

the key principles of modernism as devised by Njoh (2008) cited by (Todes, Karam, Klug & Malaza, 2010) the ensuing discussion intends to unpack their application into spatial planning processes.

Firstly, it is already mentioned earlier that modernism is a theory that is highly sympathetic towards positivism. Therefore, modern planning also views good spatial planning as practices that are informed by proven scientific facts (Klosterman, 1978). Science is a positivist and rational exercise that follows principles of linear progress and absolute truths. According to (Todes, et al., 2010) in the modern planning lens there is a singular, universally acceptable solution available for dealing with planning problems. It is for that reason that the modern planning project continues to solve urban problems through the manipulation of urban space using modern and scientific models.

Secondly, modernists believed that urban planning was effectuated in the best interests of the public. Planners therefore proclaimed themselves as '*priests of rationality*' informed by an understanding that their expertise enabled them to distantly envision objective and singularly defined public good (Allmendinger, 2002). Consequent to this understanding, planning began to offer a comprehensive prescription of how to pursue common public goods in an effort to achieve equality, freedom and social justice.

Lastly, modernist movements therefore prescribed the principle of functionalisation as a key doctrine that dictated the normative use of urban space. Urban land was therefore separated into functional zones that imposed restrictions and rights applicable to the use of land in an effort to maintain orderly cities (Todes, et al., 2010). The functionalisation approach to planning led to the emergence of rational comprehensive planning models that were considered grand scale layouts reflecting spatial visions of a country or town.

Master planning, zoning and town planning schemes became significant tools to drive long-term planning for physical development, infrastructure, services and other public investments (Todes, et al., 2010). In the next section, the discussion reviews the application of the modern planning principles in South Africa in order to analyse the research problem within a defined context.

### **2.2.2. The Modern Planning Project in South Africa**

The official adoption of modern planning principles in South Africa took place at an Architectural Conference held at the University of Witwatersrand in June 1938 (Haarhoff, 2011). However, there is evidence showing that prior to this formal adoption of the modern

planning principles they already had been a prevalent feature in the South African town planning terrain. Parnell (1993) states that by 1910 upon the establishment of the Union of South Africa, a number of planning regulations and administrative structures existed to control urban spaces supported by a series of pieces of legislation.

With colonization in South Africa came massive economic and societal transformation that led to an increased need for accommodation in urban areas, increasing illegal squatting, land invasion and the increase in slums. The conference listed the unprecedented growth of slums erected by the African majority in urban areas as one of the key challenges confronting the South African urban fabric (Haarhoff, 2011).

In response to these challenges and the urge to retain European control like most parts of the world, modern town planning principles of rationality became appealing to South African planners (Haarhoff, 2011). Unfortunately, under the apartheid regime with the adoption of these modern planning principles, government adopted an urban racial framework that embedded planning regulations (Parnell, 1993). The victorious emergence of the conservative National Party in 1948 reinforced by the key doctrine of racial segregation imprinted a dramatic change in the urban fabric with the strengthening of brutal political controls.

The functionalist approach became a significant feature of modern planning with its obsession of achieving city efficiency, order and control (Huchzermeyer, 2003; Todes, 2011). These modern ‘*rational*’ planning mechanisms were conventionally used to mimic and justify the immorality of racial segregation. Quoted in a speech dated 8 September 1948, (Verwoerd, 1948) during the outlining of the apartheid policy, Dr. Verwoerd of the Nationalist Party stated:

*‘...as far as ‘territorial segregation’ is concerned, we have adopted as a policy mainly the following:*

- *That Natives should not be allowed to own land among white people, but that so far as the ownership of land is concerned they should be confined to the various Native reserves;*
- *That Natives and coloured people in our towns and villages should not live in European residential areas, but that there should be separate residential areas for them, that is to say separate Native and coloured villages...’.*

Although not unique to South Africa but common in most colonial countries, in theoretical terms the patterns of urban development in South Africa were largely shaped by the influence of political ideas of racial exclusion and European domination. Derived from assumptions of rational modern planning and urban design the following technical tools were used to carry out the apartheid idea of a functional city in South Africa:

***Master or Comprehensive Planning:*** According to Watson (2008) as cited by Todes et al, (2010:415) master plans refer to a ‘*spatial or physical plans which depict on a map the state and form of an urban area at a future point in time when the plan is ‘realized’’*. This tool was largely used during apartheid to map the structure of the cities as per the prescriptions of the apartheid ideal and has continued to be a key tool in driving spatial planning.

***Slums Clearance through the Bulldozer Approach and Standardized Public Mass Housing:*** Planners adopted the model ‘*Native Townships*’ using modern planning principles (Demisse, 2004). The implementation followed rational comprehensive model that was guided by rationalisation, linear layouts, standardisation, master planning and zoning. The model led to the building of townships on the edges of towns to house Africans supplying their labour in the formal sector within urban areas.

***Land Use Regulations and Control (Zoning and Town Planning Scheme):*** According to Kidd (2008), zoning ordinances are important sets of laws that are legally binding. Their role includes defining the uses of land, regulating density, creating standards for development, and offering incentives for different development types or patterns, the zoning ordinance offers clear direction on where and how development should occur. While town-planning schemes specified in detail, the provisions for which the land in question should be used. The principle of zoning was adopted as a way of creating a new spatial order that helped to implement the racial segregation and social engineering desired by apartheid (Parnell, 1993).

### **2.2.3. The Modernist’s Conception of the Research Problem**

The unprecedented growth of slums erected by the African majority in urban areas was listed at the conference as the key challenge confronting the South African urban fabric (Haarhoff, 2011). Firstly, this early disputation of urban informal settlements’ growth points to an important understanding of urban informality, which was clearly viewed as undesirable, and negative in the town planning lens.

Secondly, the persistent existence of slums in urban areas had a huge impact on urban planning. The realisation of its existence as an unwelcome phenomenon that was inconsistent with modern planning practices led to a massive spatial reform. The rectification process had huge financial implications for government. Therefore, it is clear that land invasion and its intertwined informal processes pose a threat to the ideals of modern planning.

Thirdly, the application of modern planning principles underpinned by political doctrines had a huge impact on the production of the contemporary South African urban fabric. These

political ideals were consequently mirrored spatially. Under apartheid-driven planning practice urban areas were subject to racially differentiated town planning restrictions (Van Wyk, 2013), a concept coined as '*spatial dual fix*' by Moore (2005:84).

According to Van Wyk (2013), white areas had sophisticated planning mechanisms that maintained maximum town planning goals of urban efficiency. On the contrary, town planning restrictions were more flexible in the areas occupied by black counterparts and basic service and infrastructural provision was of inferior standard (Van Wyk, 2013). These flexible restrictions may have had an impact in the informal growth outside the formal black townships as opposed to the areas where their white counterparts had their suburbs.

Lastly, the application of the slums clearance through the bulldozer approach had a huge impact in perpetuating the problem of land invasion. This approach authorised millions of evictions on urban dwellers in the 1930s (Olufemi, 2004) and this was intensified further with the racial reshuffling during apartheid. The high levels of insecure tenure for black urban dwellers, forbidden rights of land ownership and the short supply of land created a sense of urban land occupation as a temporal occurrence for the majority population in South Africa.

### **2.3. Post-Modernisation Theory**

The post-modern movement in town planning emerged in the late 1950s and early 1960s as a social constructivist critique to the positivist perspective that had largely influenced the urban planning practice of the late 19th century (Harper & Stein, 1995; Allmendinger, 2002; Todes, et al., 2010). The use of the post-modernisation theory in this section provides an alternative theoretical perspective to the understanding of the research problem. Through the analysis of the post-modern planning principles, this section intends to address the question of land invasion impacts imposed towards town planning practices.

Harper and Stein (1995) state the post-modernist movement in planning is characterised as anti-foundationalist, rejects dualism of truth and reason and acknowledges plurality and difference and incommensurability. This was underpinned by the recognition of the two basic fundamental limitations of science and rationality advocated for by the modernist movement. The post-modernists therefore began to question the relationships between the societal power dynamics and the use of truth, knowledge and rationality. Nietzsche's and Foucault's analysis showed that the use of science rationality concealed a great deal of power dynamics that had become an apparatus of repression. The concept of rationality was also critiqued for its

exclusivity that failed to incorporate other epistemologies falling outside of western modernity.

Lane (2001:6) states:

*“Rationality” is a culturally bounded concept and one that has not been readily extended to include the values and concerns of non-Europeans, particularly indigenous people’.*

This disregarded contextualised knowledge of urban spaces and ignored organic human patterns, spontaneity and social dynamics, which were already shaping city growth. Organic patterns of city growth that were inconsistent with standardisation and homogeneity preferred by modernists was viewed as a threat that must be wiped away. Consequently, rational planning has subjected non-Europeans to a great deal of exclusions in the planning process of space production. Post-modernity also began to question the legitimacy of the master planning approach.

In the context of South Africa, the application of the modern planning principles also did not escape criticism. At the fall of the apartheid state in the late 80s, (Todes, et al., 2010) stated there was a need to reinvent planning. Therefore, with the post-modern critique urban planning in South Africa began to change its themes of development race-class based planning to sustainable through enforcing integration, inclusiveness and participatory development. According to Healey (1997), the post-modernist theory therefore has tended to redirect its efforts towards social construction, human interaction and the communicative nature of planning.

Harper and Stein (1995) argue, the post-modernist’s theories are fatally flawed due to their ambiguity and failure to provide prescriptive rationalisation, which urban planning processes must follow. Informed by this understanding of post-modernist thinking as ambiguous the following sections will analyse the research problem using the post-modern planning paradigms that have been influential in contemporary South African planning practices:

### **2.3.1. Integrated Development Planning Approach**

The integrated development planning has been a predominant approach to spatial planning in the post-apartheid South Africa. The sympathy towards this approach was influenced by the critiques and the acknowledgments of the scars inflicted by apartheid planning on urban spaces (Beall & Todes, 2004). Therefore, the integrated development planning approach has called for urban spaces to be mixed-race, densified, compact with mixed-use land uses in order to achieve efficiency. This post-modern thinking also began to surface in policy and was later

encapsulated post 1994 through the piece of legislation such as the Development Facilitation Act of 1995.

This type of planning therefore has called for improved community involvement in shaping their own plans. According to Beall and Todes (2004), this approach intends to heal issues of socio-economic exclusion through allowing a crosscutting approach to planning that is more in-depth and multi-dimensional. This approach has helped ensure to include especially the voices of the marginalised including women and children.

The key tenet of this approach is to ensure there are joint efforts and that they integrate multi-sectoral planning efforts within the different government departments, private sector and the civil society. This is done to ensure that all planning including infrastructural, environmental and strategic and investment planning inform long-term planning (Todes, et al., 2010). This is also intended to ensure that the planning process was flexible as opposed to the master planning approach.

The integrated development planning approach to planning presented itself as new wheels for urban planning. Todes (2011:110) notes the post-apartheid planning process began to emphasise the following issues:

- *'Sustainability;*
- *Social justice: participatory processes involving open dialogue; inclusive, pro-poor planning; gender sensitivity; responsiveness to diversity;*
- *Responsiveness to markets, promotion of access to land for the poor, and an acceptance of the role of informality;*
- *Integrated development, policy alignment, and the role of planning in the spatial coordination of policies; and*
- *Seeing planning and implementation as linked processes.'*

While modern planning had rejected the co-existence of informal settlements within the cities calling for them to be wiped away, the integrated development plan has taken a divergent view. According to Beall and Todes (2004), the integrated development planning approach calls for planning to be locally based and plan for inclusion of informal settlements as part of the urban system. This has given rise to numerous policies that encourage slums upgrade efforts, improvement of slums security of tenure, slums regularisation and more provision of basic services as opposed to slums clearance. The integration development planning approach has therefore taken a positive outlook on informal settlements and has allowed planning to be flexible enough to cater for ever-changing contexts.

## **2.4. Conceptual Framework**

This section provides the definition of key concepts that are frequently used in this study to demonstrate how they ought to be understood in the context of this research. This is done to generate a common understanding with the reader:

### **2.4.1. Land Invasion**

Land invasion is an act whereby privately or publicly owned land is occupied outside of the country's legal planning framework (Western Cape Provincial Government, 2003). The seizure and subdivision of land often occurs on pieces of land that are underdeveloped and accompanied by the erection of shelter and basic infrastructure that is substandard to the official standards required by planning, health and safety standards.

Spontaneity (Turner, 1967) and illegality are common characteristics that indicate the portion of land has been invaded. The spontaneous nature of the settlement growth often leads to the cluttering of physical conditions. The illegality of the land invasion process takes places in multiple forms and the ownership rights are not recognized by the legal system, erected housing structures are inconsistent with the required planning standards and building regulations.

### **2.4.2. Informal Settlements**

Informal settlements refer to informal human settlements built haphazardly on land that occupants have no legal claim to. '*Informal*' denotes properties are not protected due to lack of formal titles (Macedo, 2000). As a result, informal settlements lack infrastructure and basic human services because of the physical and legal contestations of their locations (Huchzermeyer, 2006).

Among the predominant features of informal settlements is the poor physique of the built environment that has minimal infrastructure and basic services' provision, and often they are established on land not surveyed and pre-approved by authorities as suitable for the establishment of human settlements (Macedo, 2000; Huchzermeyer, 2003; UN-Habitat, 2016). Their interrogation and significance in this study emanates from their relationship and a predominant logic for which land is invaded. Informal settlements concurrently share the same meaning as slums, shantytowns, squatter settlements and shacks.

### **2.4.3. Urban Hub Precinct**

According to (Iyer Urban Studio 2, 2013) an urban hub is a node identified in townships where town centres are to be established in order to transform the current situation of polarisation faced by South African townships. The urban hub precinct refers to the site located at the

Greater Edendale, Plessislaer in the Pietermaritzburg outskirts that has been identified by the MLM and National Treasury as the area that is suitable for the development of a town centre. The proposed development consists of a number land uses, which have been designed to regenerate the neglected economy of Greater Edendale, Imbali Township and Vulindlela Area.

#### **2.4.4. Urban/ Town Planning**

Urban planning refers to practice that seeks to transform urban society by means of an orderly process. It constitutes the spatial processes, plans, legislation and policy involved in the transformation of public urban space (Yiftchafel, 1998). The planning activity has undergone a remarkable evolution since its inception in the late 19th century; this is caused by persistent interrogation of the field, with results, which lead to consistent realisation of the elements that should be constituted in the planning process. While at its inception during the late 19th century, planning was purely concerned with physical space to achieve order, homogeneous and symmetry urban spaces, that understanding has changed (Todes, 2011).

#### **2.5. Summary**

This chapter was initiated by a discussion of the modernisation theory and its conception of the research problem. The modernisation theory clearly points to the land invasion and informal settlements as a process that is detrimental to planning processes. The second phase of the discussion presents an alternative perspective, through the post-modernisation theory with a focus on the integrated development planning approach and insurgent planning approach. An index of the definition of key terms used in this dissertation conclude this chapter.

The following chapter intends to look at the existing body of knowledge through a review of precedent studies similar to this research problem. The chapter will begin by looking at international studies then reflect on lessons learnt and then proceed to look at the South African case studies with regard to land and urban planning issues.

# **CHAPTER 3**

## **LITERATURE REVIEW**

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### **1.1. Introduction**

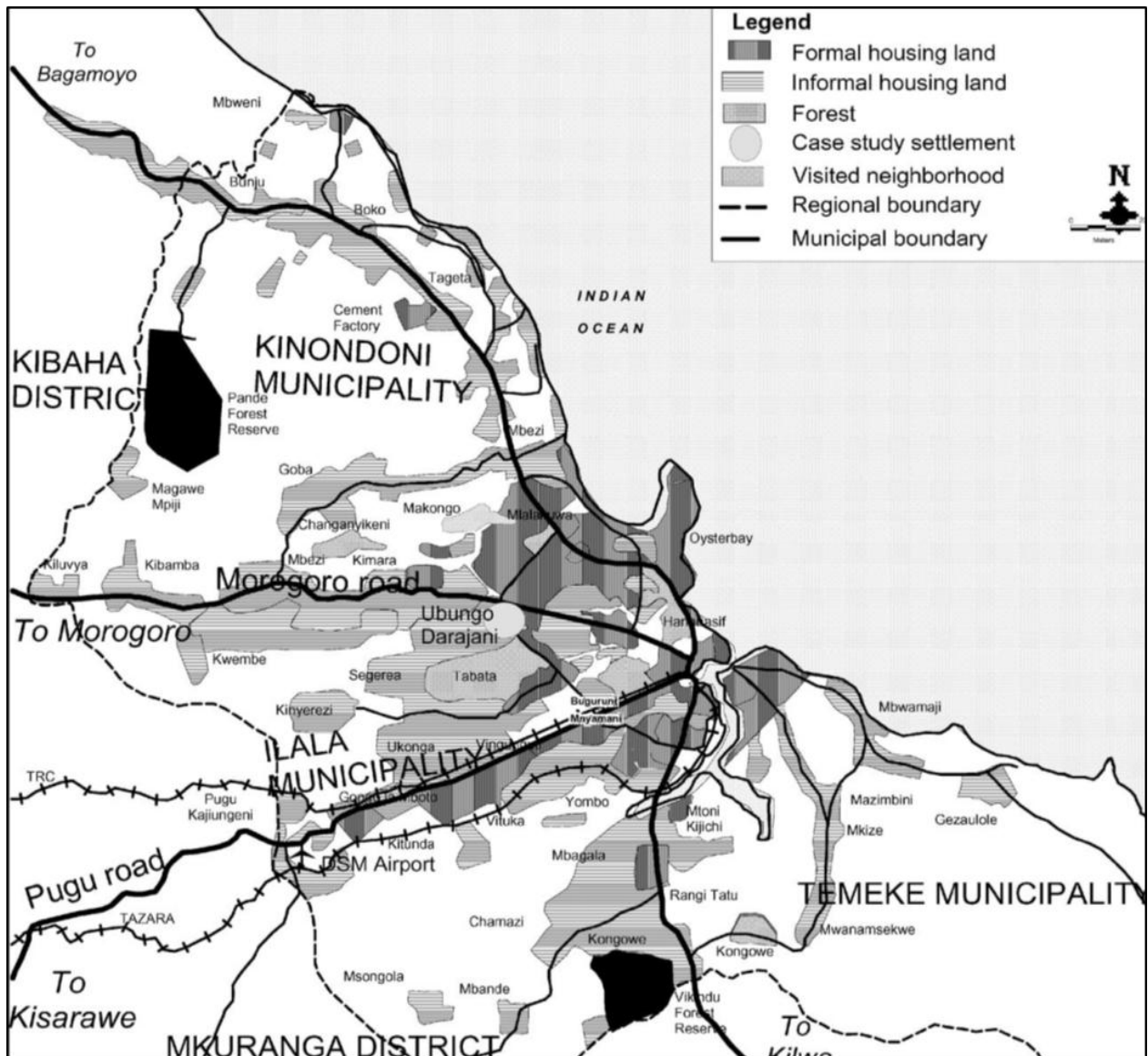
This chapter interrogates the existing body of knowledge through a review of the three international precedent case studies; Ubungo Darajani in Tanzania, Umoja Village in Miami and Cameron Highlands in Malaysia. The three case studies shed light not only on a global perspective of the understanding of land invasion and its impact on town planning processes but it also sought to draw lessons that can be learnt in the quest to discourage land invasion. A discussion of the South African studies surfaces with the aim of painting a picture about the South African scenario with respect to land invasion.

### **3.2. International Experience**

#### **3.2.1. Ubungo Darajani, Dar es Salaam, Tanzania**

Ubungo Darajani is an informally developed settlement located nearly ten (10) kilometres from the Dar es Salaam, the largest city in Tanzania with a total urban population above 80% living in formal settlements. Similar to South Africa, Tanzania is a post colony, that inherited western planning systems, faces substantial urbanisation patterns particularly more increased with the collapse of the stringent colonial policies controlling urban populations post-independence in 1961 in Tanzania, and post-apartheid in South Africa (UN-Habitat, 2003). While in Africa western principles of planning have continued to form part of the contemporary planning, there has been a wide acknowledgement that western planning principles are becoming redundant to the unique circumstances of urban transformation in African cities.

The city has been experiencing an increase in the growth of informal settlements, which is a trend consistent with developing countries. At least one hundred and fifty (150) informal settlements are located within the city this has increased from fifteen (15) since the 1980s (Magigi & Wajani., 2006). The settlement is located within the jurisdiction of the Kinondoni Municipality and it consists of 850 households and a population of 4245 people. The area has residents who are ethnically, culturally, economically and socially diverse in character.



Map 2: Locality Map, Ubungo Darajani informal settlements

Source: Magigi & Wajani (2006)

What renders the case study of Ubungo Darajani community to be special and worth studying is the areas' (through its land owners) ability to establish and successfully carry out a process of regularising their space for attaining formal land property rights using their own funds and with no external funding (Magigi & Wajani 2006). The members of the community prepared a land use plan and a joint cadastral survey extending to the entire settlement.

Nurul Amin (1997) cited by Magigi & Wajani (2006:1065) defines the land regularisation process as:

*'Processes and procedures involving land use planning, cadastral surveying and land registration i.e. upgrading and land legalization processes. In this context conceived as settlements, which inhabitants*

*do not enjoy rights to an adequate standard of living and legal rights to access occupation and use of land and therefore exposed to risks of being evicted, inadequate basic services, informal land transaction and haphazard housing development’.*

The regularisation of informally developed land helps improve security of tenure, installation of infrastructural services and preventing irregular developments.

Magigi & Wajani (2006) place the country’s legislation governing land in place as a barrier limiting the realisation of a successful community-led land regularisation process. They are citing both the Land Policy promulgated in 1995 and the Land Act of 1999 subsections 56 to 60 for their silence and failure to demonstrate the roles of a grass roots community in the process and for concentrating the power in the Minister of Land. *‘The situation points out the need to decentralize land regularization powers from central to local government, training the same and putting in place power of local community to initiate and implement land regularization scheme’* (Magigi & Wajani, 2006). The second challenge noted was the length of the bureaucratic processes particularly the process of approvals, having taken them over a period of five years. They warned against the possibility to demoralise grassroots communities.

### **3.2.2. UMoja Village, Miami, Florida.**

The uMoja Shantytown Village is an informal settlement that was located on the edge of Miami City in Liberty City between NW 62nd street in Florida, United States of America through a process of land invasion by a poor and homeless group of people. The settlement arose in 2006 in response to governments’ continued failure to provide housing for the poor and its gentrification (Rameau, 2008).

The community leaders then opted to establish a community organisation aiming at social change founded upon embracing their inner strengths by identifying capacity and different skills that community members possess. The name of the movement is *‘Take Back the Land’* (Wright Austin & Laurenceau, n.d.). The movement wanted to offer viable alternatives for providing land and housing for the poor and needy. The movement along with the needy community members (in terms of housing) seized a piece of land where they built shacks. However, six months into having illegally occupied the land there was a fire outbreak that destroyed the settlement. The application of this case study in this dissertation intends to demonstrate the impacts to human life associated with land invasion.

### 3.2.3. Cameron Highlands, Pahang, Malaysia

Zin & Ahmed conducted a study in 2014 on a number of forest reserves located on the Cameron Highlands in Pahang, Malaysia. Following newspaper articles and different reports showing that portions of government-owned land were subject to land invasion with by local farmers with the hope to increase their yield, there was a need to establish models of monitoring these endangered portions of land. Governments' fears were mainly concerning the environmental sensitivity of the area as some forests that were being encroached were environmentally sensitive areas for preservation due to their geographic location being in an important water catchment (Zin & Ahmed, 2014).

The use of the study by Zin and Ahmed in this dissertation aims to demonstrate the significance and role played by the technology interface in monitoring and possibly discouraging land invasion through promptly acting on land invasion. The image below shows the study methodology and the technologies used to detect changes associated with the forest illegal use in the area.

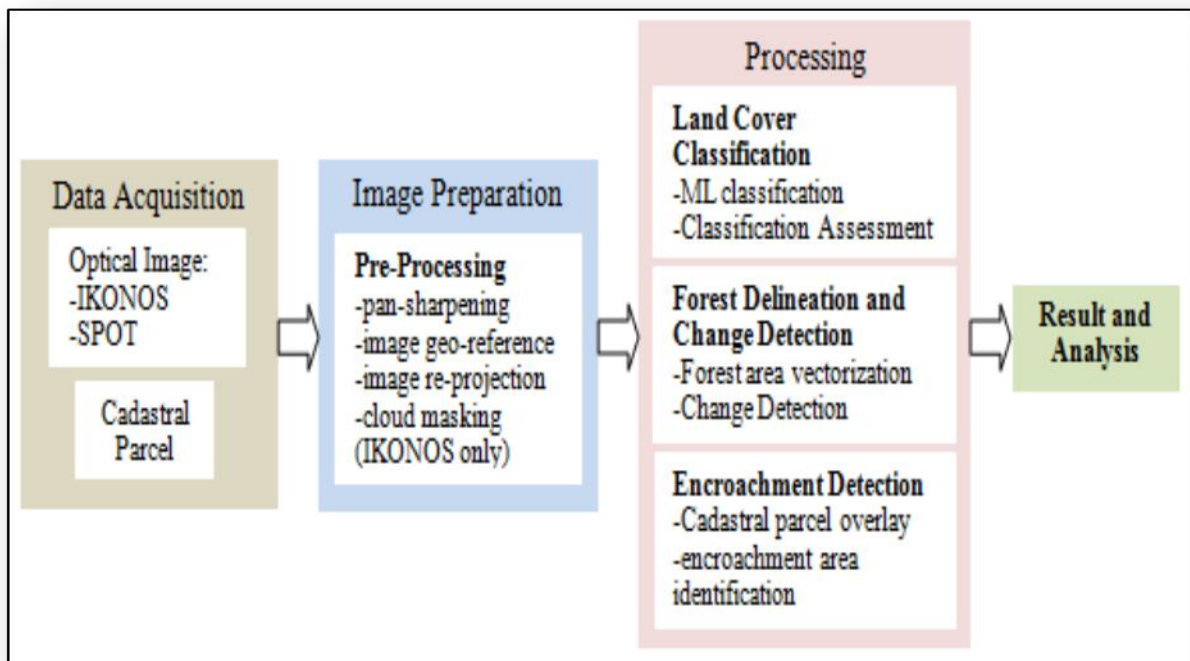


Figure 1: Imagery technologies used to trace land invasion

Source: Zin & Ahmad (2014)

The image above shows that the study used two Multi-spectrum Remote Sensing Satellite Images (2001 IKONOS data and SPOT5) to track changes that had occurred resulting from the illegal use of land over a ten-year period, between 2001 and 2011. The use of the Cadastral Parcel Data containing land ownership rights for the area was up-to-date hence was able to provide information about the illegality of the encroachment.

The study findings indicated the following:

- The use of technologies that enable manipulation of vector format data was able to help detect and trace the changes that were occurring on forest boundaries because of encroachment. This detection indicated that over a period of 9 years, at least 3141,195 hectares of government land had been illegally tampered with;
- The use of classified imagery was able to indicate that most areas that affected by encroachment were done for agricultural purposes; and
- The cadastral overlay was able to show areas where encroachment was increasing. It was also able to pick areas where the encroachment was illegal based on the cadastral data.

### **3.3. Lessons Learnt**

The notion of illegal occupation of land in the quest to establish informal settlements is a common feature in urban areas across the globe. Institutional weaknesses and a poor culture of prevention remain key aspects that encourage urban illegal occupation. Poor enforcement of any regulations allow informal settlements to arise in high-risk areas (Correa, 2011). This is prevalent with all the case studies discussed above which show that response to land invasion is always reactionary.

Land invasion is a common urban feature that is prevalent in different parts of the world including the countries considered as the developed world. There are varied reasons that underpin this trend, however drawing a conclusion from the studies discussed above it is clear that land invasion is done deliberately by people who need to utilise land for different purposes. Rameau (2010) stated '*we acknowledge what we're doing is illegal, but it is necessary*'. It is clear that there is a sense of '*desperation*' that is attached to the need for land. While in the case of uMoja Village and Ubungo Darajani it was underpinned by the need for housing in well-located pieces of land within the urban areas, in the case of Cameron land it was invaded for increasing agricultural yield. Nonetheless, this trend suggests that land invasion is

underpinned by socio-economic circumstances, which is something consistent with the views echoed by Soliman (2007) and Olufemi (2004).

The uMoja Village case demonstrates how the execution of a poorly communicated gentrification process had an immense impact on the lives of the urban dwellers. Gentrification refers to the revamp of the inner decaying building structures through private investment (Wright-Austin & Laurenceau, n.d.). Gentrification is a common method of urban renewal in the neoliberal era. This process of gentrification contributed dramatically to increases in the housing values, increasing market prices and people then failed to pay rent and rates and thus became homeless.

### **3.3.1. Impacts to Social Wellbeing, the Environment and Planning**

The greatest threat to human life and the social wellbeing of the invaders is exacerbated by the unsuitability of land occupied. The poor have a tendency of locating themselves in very disaster-prone pieces of land and the building materials they use (cupboards and wood for instance) are vulnerable to disasters (Kalan, 2013). The possible disasters that often affect informal settlements, not limited to, include flood risk erosion, because of their proximity to riverbanks, and rising socio-economic stress for the community because of frequent disasters.

In the case of Ubungo Darajani informal settlement, the land in which the settlements were developed is characterised as a low-lying terrain, which increased the vulnerability of residents to flood risks. While in the case of uMoja Village six months after the establishment of the settlement, the informal settlement was subjected to a fire outbreak destroying all their households, hence the residents were again left homeless (Rameau, 2010). Although there were, no fatalities reported resulting from the uMoja Village fire outbreak; however, the event was detrimental to the lives of the residents.

Fire outbreaks are one of the most frequent disasters threatening informally developed settlements, often due to materials used to build shacks, illegal electricity connection; sources of energy such as candles and proximity of shacks are all factors that make informal settlements susceptible to fire outbreaks. Planning is constantly under pressure to deal with land invasion because of these gross impacts imposed on human life.

Land invasion compromises plans to protect environmentally sensitive land through town planning mechanisms. As Zin & Ahmad (2014) state the Malaysian government's fears were mainly concerning the environmental sensitivity of the invaded land as some forests that were being encroached because of their proximity to an important water catchment area.

The greatest challenge imposed on town planning processes presented by the case studies shows that illegally occupied land is not investigated prior to the human settlement establishment. As a result, human settlements are often incompatible with the land use zoning existing in the area. For instance, in the case of the Ubungo informal settlement the land invaded was reserved for the development of an industrial zone while in the case of Cameron Highlands, land had been reserved for preservation. This points out how the land invasion is inconsistent and incompatible with the intentions of the planning processes.

### **3.3.2. International Response to Land Invasion**

The Ubungo Darajani's case study demonstrates the successes of a decolonised method in which people take the lead in the process of the rectification of the disorderly developments associated with informally developed land, driven by the urge to formalise land occupied by Ubungo Dajarani and improve the security of tenure. Magigi & Wajani (2006) acknowledge the crucial need for policy to provide an enabling environment for community involvement to occur in programmes that seek to influence urban space. Policies of such a nature encourage an environment where policy becomes the key driver that helps with urban land development of urban spaces and bringing in the element of accountability to governance. The human settlements' policy provided the division of duties for community participants. Policy plays a huge role as it encourages and calls for updated residence registers that protect the rights of the residents as well as their property.

There is no doubt that the introduction and the advancement in technology play a critical role in the monitoring of land invasion. Conroy & Berke (2005) state, the inclusion of technology into planning tends to improve state and citizen relationships. The use of technology can also encourage a safe space of effective participation and democracy; it allows more people to participate electronically without any fear.

The New Urban Agenda has also recognised this and one of its key principles to achieve mass transformation of cities is through the promotion of smart, green cities that invest in technology that intends to improve relations between science, governance and urban development processes (UN-Habitat, 2016). Technology provides opportunities that fast track better service delivery, but most importantly, they are able to increase the capability of government to be alert and hence more responsive to problems of this nature. This is inclusive of technologies such as cell phones and improved quality imagery that not only monitors land invasion but also assists in creating safe cities through prompt crime response.

Zin & Ahmad (2014) used the remote sensing tool for mapping land use and land cover. With advancements in technology and with improved various other remote sensing techniques used to monitor land use it has become easier to trace changes on a very large scale, which monitors up to several kilometres. The use of multi-temporal data acquisition is able to acquire data at different time intervals allowing for quicker response. This contributes significantly to the culture of prevention rather than being merely reactive to problems that have already occurred. For municipalities to operate such technologies they require human capacity and municipal capacity. Nevertheless, to what extent can smaller municipalities really have access to these technologies given the price tag attached to them?

### **3.4. The South African Perspective**

#### **3.4.1. Marikana Village, Philippi East, Cape Town, South Africa**

Marikana Village is located on a strip-like of piece of land, which lies, between Nyanga and Mitchell's Plain in Philippi East, Khayelisha in Cape Town. The new village was named by the invaders in honour of the 2012 Marikana Massacre that occurred to mine workers killed during a strike against low wages. One invader said, *'Like them too, we too are organizing ourselves peacefully and are willing to die for our struggle'* (Sacks, 2013). This piece of land owned by NTWA Dumela Investments and Company land invasion was first reported to the City of Cape Town and the South African Police Services (SAPS) by the landowners in May 2013.

No court order was issued by the City to invaders prior to evictions hence the action of eviction was regarded as unconstitutional (Knoetze, 2014; Sacks, 2013). Was this the City disregarding the Supreme Law and the Prevention of Illegal Evictions Act provisions, in defence of the landowners? Leadership representing the community of invaders' outcry is that their efforts to engage the government for their needs had been a consistent failure and hence the seizure of land was the last option available to them. In response to this, the community showed resistance through barricading streets with burning tyres and placing rocks. These acts of resistance and fights led to serious violence between the SAPS and invaders. Houses were re-built the following weekend (Sacks, 2013). This act of eviction done by the City of Cape Town was critiqued by the Legal Body, Legal Resource Centre for its illegality but called the City to rethink its decision by stopping the evictions (Knoetze, 2014).

### **3.4.2. Grootboom versus the City of Cape Town**

The Grootboom Case is an internationally acclaimed socio-economic landmark case for its groundbreaking perspective on the general duties of the state with respect to section 26 of the constitution shed by the South African Constitutional Court (ConCourt) in year 2000. The case began with the municipality authorising the eviction of 900 people who had illegally occupied privately owned land in Cape Town and then demanding that the municipality made provisions for temporary accommodation upon their eviction (Tissington, 2011).

The Cape Town High Court ordered the municipality to oblige with the request made by the community, unsatisfied with the High Court's decision; the municipality took the case to ConCourt. In interpreting section 25 of the constitution, the ConCourt clarified that the constitution does not entitle those without housing to any goods; instead, the Constitution obliged the organs of state to make reasonable policy within its available resources, to ensure the realisation of section 25(1) of the Constitution. The judgment further noted the policy implemented by the municipality was insufficient for its failure to ensure all the citizens had access to adequate housing. The ConCourt mandated the municipality to provide temporary accommodation for the residents, within the means available to the municipality.

## **3.5. Lessons Learnt**

### **3.5.1. The Essence of Land invasion and its Underpinnings in South Africa**

Firstly, land invasion events are highly common in the RSA urban context. Historically, in the recent years and including during the course of writing this dissertation a number of land invasions continued to be reported frequently across the country. Tissington, Munshi, Mirugi-Mukundi & Durojaye (2013) argue that the South African community has attached their socio-economic well-being to acquiring decent houses and this places a huge burden on municipalities. These attachments and entitlements have intensified community protests and unrest that unfortunately accompanies incidences of violence, burning of properties, barricading of streets and including land invasion events witnessed across the country for the demand of service delivery and houses.

It is also true that not only the poor who are desperate for land engage in land invasion. In support of this view Soliman (2007) using AlSayyad's (2004) argument, states urban informality should be understood not just as an activity that is connected with socio-economic status but as a natural process that materialises as a result of the economic direction the world has opted for, capitalism. This thus accounts for land invasion events that seek profits through

shacklordism, which has also been a prevalent feature of the South African community. Although Huchzermeyer (2006) argues in the case of RSA it has not taken place to large extents. Further stating:

*‘Unlike the illegal, exploitative and extremely profitable informal landlordism and corrupt land allocation practices that shape informal settlements or ‘slums’ in Kenya, informal land occupation in South Africa takes a relatively benign and uncommodified form. Shacklordism, or the informal supply of rooms to rent, while re-emerging since its eradication by the civic movement in the early 1990s, is as yet not dominant in South African informal settlements’.*

That *‘flexibility’* undermines planning processes but it also allows the poor to reclaim forbidden spaces within the cities due to the price attachment. Invading vacant land to live for free and cheaply becomes the option for the urban poor. Geddes (1915) cited by Turner (1969) stated *‘...The essential need of a house and family is room and that the essential improvement of a house and family is more room’*. The urban land consists of highly regulated spaces through a number of town planning tools, and often the poor cannot conform to those tools. These issues point to a sense of mismatch and some kind of failure by planners to grasp this concept. As a result, slum dwellers consistently ignore planning tools of enforcing urban order.

### **3.5.2. Impacts of Land invasion on Social Wellbeing, Environment and Planning**

The greatest impact imposed to the social wellbeing of the land invaders is their vulnerability to eviction. In the Marikana Informal Settlement, case study City of Cape Town Anti-Land Invasion Unit working with the South African Police Services (SAPS) evicted and dismantled housing structures of all the illegal land occupants. Invaders were given a period less than 24 hours to evacuate their houses, *‘in the morning they were spray painted with a red X, indicating they’d be removed later that day’* (Sacks, 2013). Huchzermeyer (2006) states informal settlements are subjected to substantial critiques for their physical and legal status. The NPC (2011) further states that informal settlements are highly vulnerable physically, environmentally and socially.

Natural disasters hinder the development of cities throughout the world. The unplanned nature of homes built on invaded land make those households vulnerable to disasters. Land invasion takes place in a sprawling fashion, which is contradictory to the growth and planning ideals of the country. Urban sprawl causes major losses of agricultural land and wildlife habitat, higher commuting time and costs, an increase in greenhouse gas emissions, as well exacerbating socio-spatial segregation and segmentation (UN-Habitat, 2016).

The City has a general duty to plan, in co-operation with other spheres of government, for the progression of the right to housing in an ordered and systematic manner, which includes the power to plan and manage land use and development (SCASA, 2014). In the Cape Town High Court, case between the City of Cape Town and Iris Arillda Fischer the City listed the following as the impacts of land invasion to the plans in place that were for the realisation of housing rights for the people:

SCASA (2014) stated the land invasion imposed challenges for well-planned housing provision tactics set by government. The City indicated as per provisions of the Constitution to provide alternative accommodation to the invaders, particularly in cases where people have to be evicted land invasion poses challenges. This has significant negative fiscal implications such as funding diversion from other projects because having not planned for such an eventuality forces quick action. If land invaders retain privately owned land illegally occupied, the City has a responsibility of compensating the landowner. Further to that, the city has to ensure the area the provision of basic services such as water and waste management services and these financial burdens become worse if the invaders require relocation intervention to a new area.

In cases where the city decides invaders will stay, and the land in question belongs to a private party, the city has to buy land for those invaders and also make sure that settlements becomes sufficiently provided with basic services such as water and waste management services and these financial burdens become worse if the invaders have to be relocated to a new area. The invasion of land *'poses a significant threat to the ordinary planning and development of land by the City, as well as the execution of its housing programs, by virtue of the resources which have to be diverted to provide such services and alternative accommodation to occupiers'* (SCASA, 2014:30).

### **3.6. Challenges**

Worldwide there have been myriad interventions to address the challenges, however land-related challenges continue to persist and the following challenges prevent the success of the planning:

Firstly, the process of rectifying urban socio-spatial issues undoubtedly requires huge financial muscles and as governments continue to function with underfunded budgets subject to competing needs of the community, the realisation of such reform is highly compromised. Kidd (2008) states the process of rectifying these spatial problems will be very difficult due to the fiscal prerequisites attached to the process of rectification. With the adoption of neoliberal

policies, government has significantly decreased expenditure on social issues embracing the use of “fiscal constraint rhetoric” in defence of reduced responsibilities (Bond, 2000)

Secondly, municipalities’ and responsible authorities’ response to land invasion is not usually sufficiently proactive to promptly communicate planning processes with communities. Visible in the case studies of Ubungo and Pahang there is ignorance by people about the plans in place pertaining the use of land. This leads to the assumption that land left idle will not be used and as a result, they take opportunity to invade it.

Thirdly, town planning continuously fails to match the spontaneity of human actions and experiences and respond at that pace. Turner (1967:70) states:

*‘The greater the gap between the nature of the officially recognized supply of housing and the nature of the popular demand, and the greater the demand in relation to the police power exercised by the authorities, the greater is the proportion of uncontrolled settlement’*

The absence of alternative methods available to bridge this mismatch continuously poses challenges to the planning response to land invasion issues. The convenience that comes with occupation of land illegally cannot be ignored because planning processes tend to take too long sometimes it is irrational for parents to sit and do nothing.

The issue of spatial inequalities (rural and urban skewed development), is a known challenge that affects many parts of the world. This challenge consistently forces people from the rural areas to move to cities for many reasons and for opportunities offered by cities. In the absence of shelter, they opt to invade whichever land is available or vacant for housing (UN-Habitat, 2016). This shows how planning and other fields have not been able to fully appreciate and understand urbanisation holistically.

### **3.7. Summary**

The intent of this chapter was to offer a review of literature through an analysis of international studies from Tanzania, Miami and Malaysia. The discussion cascaded to the discussion of South African case studies. In concluding this chapter, it is very clear that land invasion is a common phenomenon in the urban areas across the globe including in cities of the First World such as Miami in the United States.

The following chapter reviews the South African legislative and policy framework in order to analyse its conception of the research problem.

# CHAPTER 4

## LEGISLATIVE FRAMEWORK

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### **4.1.Introduction**

The aim of this chapter is to unpack a brief overview of the legislative and policy framework that governs land and planning administration in the Republic of South Africa (RSA). The discussion is initiated by an analysis of the historical legislative framework in order to appreciate its nature and understand how it has shaped the contemporary South Africa. The discussion continues to discuss key components of law and policy that currently govern planning and land in the RSA.

### **4.2.A Historical Perspective: Land, Legislation and Labour**

South African land dynamics, urban planning and legislation issues have a deep history cemented on injustice, subjugation and exclusion. The fundamental objectives of the pre-1994 government which according to Parnell (1993) included the need to confine wealth to Europeans, protect land ownership patterns. This was achieved through enforcing urban order through controlling Africans' urbanisation patterns. The intent of this section is to review the operational legislations pre-1994 in order to analyse how land invasion and informal settlements were viewed in relation to town planning.

Although it is common knowledge that prior to the official formation of the Union of South Africa in 1910, African Native people were subject to limited rights in terms of access to urban areas and had already witnessed land dispossession. However, in 1913 there was a turning point in the South African terrain with the official promulgation of the Native Land Act of 1913, which intended to clarify issues of dealing with conformity in terms of land rights between the European and the Native. The Native Land Act prohibited urban land ownership by people of African descent, confining them to rural reserves accounting for 7% of the total South African land. The Act was later updated through the Development Trust and Land Act 18 of 1936 extending African owned land to 13% and the remaining 87% to European people (Van Wyk, 2015). The implementation of this Act led to massive evictions of the African people who were staying in areas now considered white areas.

Map 2 indicates a geographic representation of land allocation for African reserves as per the provisions of the 1913 Land Act. According to Maylam (1995), this destroyed systems of

livelihood for natives, confining them to overcrowded hostels, forced to pay taxes at the time of their stay in urban areas through the Migrant Labour Act No. 21 of 1923. A set of stringent systems of individual registration was further designed to control and restrict movements of Africans particularly in urban areas through the Pass Laws Act of 1952.



Map 3: A geographic representation land allocated to black through Land Act 1913

Source: Van Wyk (2013)

The extremity with which the anti-slum laws and African urban influx controls were enacted points to the clear legislation intolerance and condemnation with which illegal urban land occupation was understood pre-1994. According to Maylam (1995), the Slums Act of 1934 expressed health-related concerns about the spreading of diseases in slums, which was a threat to the overall healthiness of the city populations. The Private Townships and Town Planning Ordinance Act of 1931 and later in the Physical Planning Act of 1967 also expressed the need to produce orderly urban environments. Therefore, these Acts viewed the growth of slums as a threat to the planning ideals of ensuring orderly urban growth and safety to human health in cities.

The application of this legislative framework was intertwined with the political visions of racial segregation. Consequently South African cities inherited urban areas that are largely segregated along the lines of race with patterns of urban land ownership that are skewed along the lines of race. The land restrictions and evictions imposed by law were inconsiderate of the prevalent social dynamics such as poverty and therefore people moving into the cities therefore relied on illegal means of settlement, which resulted in the burgeoning of informal settlements.

#### **4.3. New Dawn for Urban Land and Planning: The Democratic Dispensation Era**

The planning fraternity therefore began to interrogate options that would remedy the socio-spatial damages inflicted by apartheid planning. In response to the anti-apartheid revolt and other international anti-apartheid pressures the RSA saw a number of laws being amended, relaxed and repealed by the apartheid government in the hope of retaining power and order even before democracy came. The following laws are among those affected: Prevention of Illegal Squatting Amendment Act of 1980, Physical Planning Amendment Act of 1983, Group Areas Amendment Act of 1984, Abolition of Influx Control Act of 1986, Abolition of Racially Based Land Measures Act 108 of 1991 and many others.

Todes (2003) states that the collapse of apartheid's stringent urban laws had a huge impact on urban spaces as it led to a loss of administrative control over urban settlement. She further states, relaxation of racially based laws and other stringent urban controls led to burgeoning land invasion and informal settlements growth. Post-apartheid numerous pieces of legislation, policy and planning mechanisms have been established and continue to advance in an effort to address the character of the racially, socially and economically polarised cities deliberately created by the apartheid planning.

##### **4.3.1. The Constitution of the Republic of South Africa**

In 1996, the RSA adopted the constitution as the supreme law of the country, any law that is inconsistent with it is regarded as unlawful. The first important value, which the South African Republic under the democratic dispensation is founded upon, is human dignity and ensuring the achievement of equality, advancement of human rights and freedoms. The Bill of Rights serves as the key document that affirms the democratic values enshrined in Chapter One.

Chapter Two, Section 24 of the Constitution states that all South African citizens are entitled to the right of living in an environment not detrimental to their health. This section calls for the protection of the environment and reiterates the significance of government to make means of ensuring people live in environments that are safe and not harmful to their wellbeing. The

Constitution seeks to enforce human dignity through preventing unlawful evictions of the invaders through S25 (1), and enforcement of land redress through S25 (5). The Constitution allows for expropriation of land/ property subject to the rationale for expropriation of property being in the interest of the public and with a mutually acceptable compensation (RSA 1, 1996).

The Constitution does not explicitly stipulate how urban planning and land invasion should be dealt with. However, the Constitution acknowledges the challenges of differentiation entrenched in the RSA society including on land, and calls for rectification through principles of citizenship justice and social transformation. By that, the Constitution accepts the existence of informal settlements as part of the output of the apartheid mechanism that needs to be treated fundamentally.

It is important to note that the Constitution is highly sensitised to the previous laws enacted under apartheid and its impact on the people of the RSA. Therefore, the Constitution forbids evictions that do not affirm the will of the affected people. My personal interpretation of the Constitution in this regard is that land invasion and informal settlements should only be seen as negative to the society as a whole (including to town planning) if its existence threatens the realisation of the rights set out in Chapter Two. This includes the cases where the land invasion may negatively affect the lives of invaders and the environment.

The constitutional court has become a significant battlefield between South Africans and government where clarity on the provisions of the Constitution has been sought on the matter of housing and land. Huchzermeyer (2006) notes, often courts have acknowledged informal settlements as a normal output that emerged out of apartheid planning challenges. Despite this acknowledgement by the courts, post-apartheid, response to land invasion has continued to protect the apartheid spatial pattern (Huchzermeyer, 2003).

The implementation of sections 25 2(b) and 3(c) is problematic in two ways respectively. Firstly, while the Constitution is sensitised to the inclusion of the affected this section gives effect to planning processes that stimulate the increase of land invasion through encouraging lengthy processes because community engagements may take very long and that comes with a price attached to it. Secondly, it imposes a significant financial barrier that creates stress and exacerbates the problem as government fails to buy land at market price.

The RSA Constitution has been subject to severe criticism with respect to the issue of land and recently there have been a number of calls in parliament and the public to rectify Section 25 for its role of protecting private property rights, making it very difficult to transform apartheid

inherited land relation. This has been well captured by Shivhambu (ed. 2014:38) in the Economic Freedom Fighters manifesto calling for the *'Amendment of Section 25 of the Constitution... to make provision for the expropriation without compensation of property, particularly land, for equitable distribution in the public interest and for public purposes'*. Ntshebeza (2007) notes the Constitution is contradictory to the African National Congress's (ANC) commitment to the land redistribution to the African majority.

Despite the powers given to authorities to redistribute land to the needy through land expropriation for the realisation of land reform, Turok (2016) argues government has not sufficiently used its constitutionally guaranteed rights to redistribute land. Deputy Chief Justice Moseneke reiterated these remarks in 2014, where he expressed his astonishment with government's underuse of its powers to expropriate privately owned land for land reform. He continued, between 1994 and 2014 there had not been a single case brought before court challenging expropriation of privately owned land and as a result apartheid inherited land dynamics had remained largely unchanged.

Section 25 (7) goes to an extent of mentioning the need for remedial action against land dispossession due to the Native Land Act of 1913, calling for the parliament to establish acts that will unpack these subsections further and ensure reversal. This section has been subject to criticism and discourse as it is inconsiderate of dispossessions that took effect prior to 1913 and as a result, some land claims have not been successful or reimbursed to the right people due to this technical restriction.

Numerous efforts have also gone towards rectifying these challenges noted in the Constitution. In 2016, the Department of Public Works released the Land Expropriation without Compensation Bill for public comment, which was later declared by the Constitutional Court as unconstitutional for its inconsistency with Section 25(subsection 2b and 3). Therefore, with all its limitations (Section 25 of the Constitution), rectification of land issues will still remain within the constitutional provisions which over the past 23 years of democracy have proved to be a failed project. As a result, illegal land occupation continues to intensify with minimal town planning interventions.

While local government may be considered the best state organ to carry out planning because it is situated at ground level close to communities, the impact made by local government has not been as effective as initially anticipated, particularly with the issue of addressing land invasion. The Auditor-General (2014) cited by Turok (2016) stated municipalities across the

country have been subjected to operational deficiencies and underperformance due to severe budget constraints and limited human resource in some instances leading to underspent capital budgets.

#### **4.3.2. Prevention of Illegal Eviction (PIE) Act of 1998**

In South Africa, land invaders are protected from illegal evictions by the Prevention of Illegal Eviction (PIE) Act of 1998. The PIE Act was enacted as a detailed response to Section 26 (3) of the RSA constitution which illegitimizes and prohibits considerations for unlawful eviction by landowners (or parties acting on behalf of the land owner such as state organs) without the consent from the courts (Western Cape Provincial Government, 2003) including the South African Police Services (SAPS) (SCASA: Supreme Court of Appeal of South Africa, 2014).

Only a competent court of law has authority to establish the illegality of land occupation (Knoetze, 2014). Hence any eviction in the absence of the court verdict instructing eviction is rendered illegal, for its inconsistency with the PIE Act and hence the Constitution. This poses a significant barrier for planning to promptly respond to land invasion challenges as court procedures are known to be lengthy and costly.

Unfortunately as state organs or private land owners apply for court granted eviction illegal land subdivisions within illegally occupied land often continue to grow and relocation of the invaders becomes more and more expensive or even impossible. This Act is a protective measure for anyone who has illegally occupied land without the consent of the landowner and it is sensitised by the apartheid laws such as the Prevention of Illegal Squatting Act, which had granted evictions without court orders leading to massive evictions subjecting people to human rights violations.

On the Grootboom Case, the Constitutional Court instructed the municipality that the decision to evict invaders should be taken as the last resort, when all the alternative options have been opted and deemed unsuccessful. The outcomes of evictions are immeasurable on the lives of the evictees and may require a portion of compensation (Knoetze, 2014). Following of the due legislative processes prior to eviction is necessary and the ethical and right thing to do. That is a legislative requirement by the PIE Act, as it states, '*The city has a duty to act according to the Constitution in upholding the rule of law*'. This includes the duty to '*take measures to prevent unlawful land invasions of privately-owned or State-owned land...*' (Knoetze, 2014) but this duty is not limited to this. The city equally has a role of protecting rights enshrined by

the Constitution for the landless people of its jurisdiction, rights that promise human dignity for all people.

The PIE Act permits organs of states authority to conduct evictions for the expropriation of land for public use subject to meeting the two conditions set as prerequisites; eviction should be subject to a verdict granted by the court of law and considerations of all the negative impacts to the evictees should be fully known and reasonably compensated (Western Cape Provincial Government, 2003). A significant barrier to town planning is again imposed in this regard as state organs often operate within limited budgets and as they raise funding for relocation and compensation land invasion often continues to intensify.

The PIE Act procedures come across as very stringent as it gives the courts more authority to refuse granting an eviction order in situations, which come across as unjust. This is manifested through the provisions of the Act, which call for institutions responsible for land invasion to take a pro-active approach as well as the establishment of responsive structures to monitor land invasion on a day-to-day basis (RSA 6, 1998).

This poses a great barrier to planning activities that may be planned for the area, however acknowledging this challenge in his 2017 Budget Speech, the MEC of the KwaZulu-Natal Human Settlements indicated that the National Department of Human Settlements (NDHS) is currently planning to amend the PIE act (Pillay, 2017). This will be done to ensure that a more effective legislative framework exists for dealing with land invasion that gives more power to the state.

The PIE Act has significant impacts on planning processes and while its intentions aim to prevent the repetition of the injustices carried out before 1994, it makes it very hard for planning to achieve its goals. For instance, in cases where the land subjected to land invasion is already earmarked for housing and land reform and due to the PIE Act preventing eviction these plans may never materialize and therefore deserving people are denied land and housing (SCASA:2014).

#### **4.3.3. Spatial Planning and Land Use Management Act No.16 of 2013 (SPLUMA)**

The SPLUMA is a newly effected Act that was promulgated in August 2013, effective from July 2015 as a national legislation used to guide effective and efficient spatial planning and land use development in South Africa. The primary aims of SPLUMA are to drive spatial transformation, ensure consistency and uniformity in planning action in an effort to redress spatial imbalances created by apartheid planning (Padarath, 2015).

The promulgation of SPLUMA became an important step in the planning fraternity because it was firstly effectuated to supersede and repeal laws that operated post-apartheid despite their inconsistency with the RSA constitution such as sections of the Development Facilitation Act No. 67 of 1995. According to Van Wyk (2015), SPLUMA sought to give recognition to spatial justice as a normative principle driving spatial development. Further to that, SPLUMA commands municipalities to:

*'...apply it in its spatial development frameworks, land use schemes and, most importantly, in decision-making on development applications SPLUMA lays the foundation for an inclusive spatial planning and land use management system in terms of which integrated housing development is facilitated and the housing rights of disadvantaged communities in South Africa are addressed'.*

The Act has five principles defined in Section 7, which should be central to spatial development in South Africa, namely, spatial sustainability; spatial justice; spatial resilience; efficiency; and good administration. SPLUMA is an important law for the analysis of this dissertation; firstly, it explicitly acknowledges informal settlements as an output of apartheid that should be incorporated into contemporary planning. Section 7 (a) IV and V encourages flexibility in the planning processes to effectively manage informal settlements. This flexibility gives planners the ability to use their skills, experience, phronesis and negative capability to rectify the legislative shortfalls noted above such as dealing with the financial barriers and lengthy community engagement processes that prevent prompt response to land invasion.

The SPLUMA has a role of transforming our society, in a research conducted by South African Cities Network (Padarath, 2015) stated that the land use management systems recommended by the Act are insufficient to assist people to access the formal property markets but in actual fact they exist for classes that are already in the market. This unfortunately does not help to transform the current property markets. Consequently, perennial challenges confronting the urban poor such as the inaccessibility of funds to enter the property markets barring the poor from being landowners fast-tracking land claims and improving security of tenure remain a mystery for authorities responsible for such.

#### **4.3.4. Municipal Systems Act 32 of 2000: Integrated Development Planning**

The years 2000 saw a major shift in the in the local government fraternity in the RSA with the promulgation of the Municipal Systems Act (MSA) and the year 2000 local government elections. The MSA sought to redefine the role of the local government calling for infrastructural and development planning to be more integrated in its approach through the development of Integrated Development Plans (IDP). The MSA defines the IDP as a strategic

tool that must be adopted by an elected municipal council with an intention of demonstrating an integrated and inclusive plan for which development will take place in a particular municipality. At the centre of the IDP is the principle of community participation. IDPs have further called for the establishment of the Spatial Development Framework in which the IDPs are spatially articulated. The MSA S26 (e) states that:

*“A spatial development framework which must include the provision of basic guidelines for a land use management system for the municipality.”*

Subsequent to these changes, the country has seen improved relations between communities and their local government and the IDPs have incorporated infrastructural and development needs including land related needs. The IDP has also improved municipal budgeting, accountability and service delivery for communities.

#### **4.4.National Policy Governing Land and Urban Planning In RSA**

The South African post-apartheid policy framework has sought to reverse the spatial injustices inherited from apartheid through the adoption of the new principles that would be consistent with the ideals of the new South Africa. These principles according to Todes (2003) were influenced by Jane Jacobs’ ideals of city building such as compaction, social and racial integration, mixed land-use and inclusion. The South African policy framework does not exist in isolation it is also in line with the globally binding laws with respect to human rights (Tissington & Vartark, 2009). The South African policy framework has taken great cognisance of the international laws such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights, and Article 16 of the Protocol to the African Charter, which have significantly critiqued the eviction of people and advocating for governments to find alternative policies that discourage evictions. This according to the UN-Habitat (2014:5) is necessary because *‘forced evictions constitute a violation of human rights’*.

In 2011, the National Development Plan (NDP), Vision 2030 was approved by the office of the presidency as a compass plan that would drive policy with respect to many aspects of development and growth in the RSA. More specifically Section 8 of the NDP calls for the planning process to transform itself with an attempt of improving coordination. The NDP acknowledges the impact has been minimal with respect to reversing apartheid spatial inefficiencies and the rise in property rates has been a significant barrier to the realisation of the reversal of the apartheid ideal (NPC, 2011). It further acknowledges that as a country, we

have not been fully able to comprehend adaptive strategies that shape informal activities and that ‘misunderstanding’ has a negative impact on the making of the policy. With respect to informal settlement intervention, Huchzermeyer (2003) had already echoed, that the interventions to eradicate informal settlements were faulty and informed by the definition of informal settlements that was misleading. Further to that, the NPC (2011:271) noted:

*‘bureaucratic delays in approval of new development applications that increase the holding cost of land; high demand for well-located land pushes up the price; availability of bulk and link infrastructure often also leads to delays in implementation and present high costs to developers if additional services need to be installed to unlock development’ had all posed a challenge to the effective access to urban land’.*

The NDP gives recognition to the persistent spatial injustices and calls for a number of interventions calling for all development practices to conform to a set of normative principles that later came into being through the promulgation of SPLUMA (Van Wyk, 2015). The NDP retains its support for access to land through neoliberal forms such as markets and unfortunately, the challenges of inaccessible markets for the poor remain.

On an annual basis, the state president holds a joint sitting called the State of the Nation Address (SONA) where the vision of the country is re-sharpened. Despite the existence of these policies and laws to address apartheid-induced inefficiencies and transform urban form, overwhelming evidence suggests that the effect of post-apartheid urban spatial and housing policies have led to the entrenchment of spatial divides (Huchzermeyer, 2003).

Evidence in the trends of South African case studies indicates that land invaded for the establishment of informal settlements continues to run along the lines of race. Put the high unemployment rate that makes it hard for people to access the formal housing and land markets; the structural poverty inherited from apartheid planning and failure of post-apartheid policies and legislation to reverse such can among other things on a pedestal as reasons for the occurrences of urban spatial deformities such as land invasion (Moore, 2005). There are insufficient urban policies to deal with the land invasion; activism against evictions of land invaders has played a significant role in shaping the phenomenon.

#### **4.5. Summary**

The post-apartheid legislative framework must be commended for its positive role in creating a new society that no longer recognised apartheid ideals. The creation of new spaces through the planning process is one aspect that was directly affected by the legislative transition in the

society. The constitution effected the setting up of new institutions, structures and systems that were designed to defend the democracy such as municipalities that have been mandated to undo apartheid planning. That has really improved the functionality of spaces created and that is an important role in shaping a society where human dignity is central to the planning process.

There is a clear distinction with the understanding of urban informality between the pre- and post-1994 as post-apartheid laws and policy. Post-apartheid acknowledges the legislation has sought to acknowledge the existence of slums as part of the urban system that need to be effectively incorporated into the planning processes. Although these attempts have not been sufficient to redress urban challenges, some progress has been made. Failures of the legislative framework to unlock more land to the needy have created further frustration and anger that exacerbate land challenges. In the absence of a clear policy and legislative framework defining solutions as to how land invasion should be dealt with planning cannot sufficiently perform its duties.

The interventions practised by municipalities to address land invasion therefore vary for different municipalities. Other interventions include the use of private securities to protect vacant land, through informants. This is undesirable; municipalities have executed evictions outside of the law i.e. the case of Marikana and Grootboom in Cape Town through the use of violent evictions by private security. From this discussion, it is clear that, the silence of the South African legislative and policy framework about methods of addressing land invasion in urban settings has led to scattered interventions by responsible bodies and planning is directly compromised.

The following chapter will provide clarity about the research methodology followed during the course of this research.

# CHAPTER 5

## RESEARCH METHODOLOGY

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### 5.1.Introduction

The primary aim of this chapter is to provide the methodology that was used in the process of conducting this research. The contents of this chapter include the research paradigm, research process, sampling procedure, selected sample(s), data collection and data analysis used in the process of carrying out this research. The chapter is concluded by a discussion of other important issues such as the presentation and storage of data and how validity, reliability and ethical considerations were successfully carried out in the research process.

### 5.2.Research Process

The research process unfolded in the fashion unpacked below:

***Literature Review and Conceptualisation:*** The initial stage of the dissertation began by an intense consultation of existing literature on urban planning, land issues, land invasion in the country and in the MLM. The literature review enabled the conceptualisation in which the problem was identified within the study area. It is at this stage that the research problem and topic formulation was coined.

***Study Design:*** Marais (1990) quoted by Durrheim (2006:37) states that:

“The aim of the research design is to plan and structure a given research project in such a manner that the eventual validity of the research findings is maximised.”

Therefore, the design stage of this research entailed a process of carefully selecting the research paradigm and its aligned research methodology that would be best suitable to answer the key research questions.

***Data Collection:*** in the data collection stage the interviews and focus group discussions were conducted with the relevant selected samples. Five site visits were carried out for observation purposes. Data collection was done simultaneously with secondary sources to verify data collection and ensure reliability.

***Data Analysis:*** the data analysis process included the sorting, coding and interpretation of the data collected and later set into themes to prepare for the writing process.

**Thesis Writing:** Intense reflections on the study were carried out largely in the stage of thesis writing

The Figure 2 below is a diagram, which demonstrates the sequence of events that took place as the process of conducting this study progressed.

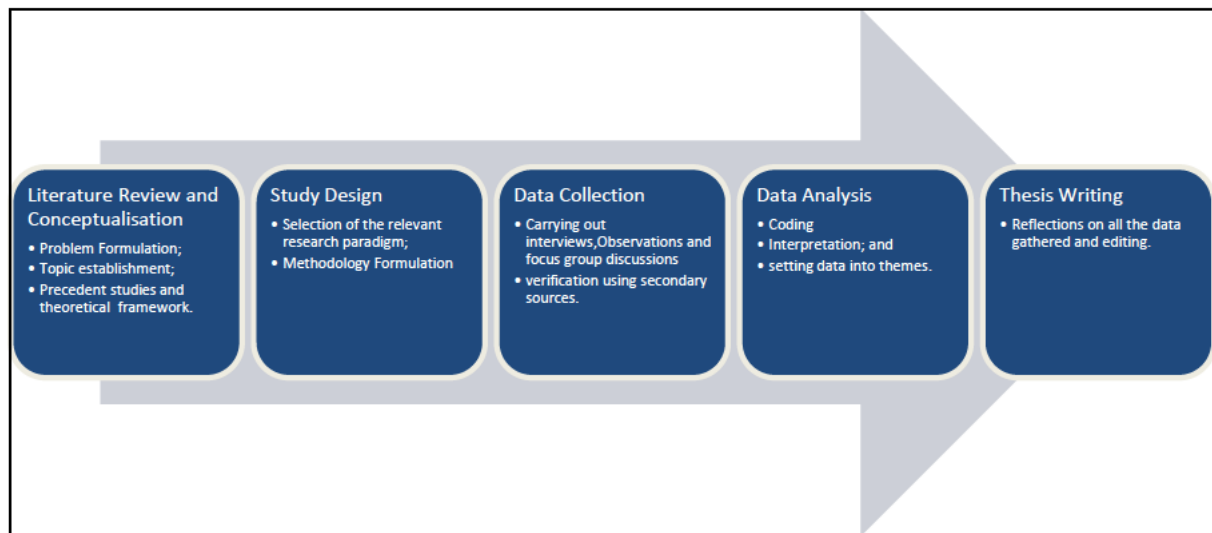


Figure 2: Research process

Source: Author (2016)

### 5.3. The Interpretive Paradigm

Rubin & Babbie (2010) stress that; all research should be informed by a research paradigm. Terreblanche & Durrheim (2006:6) define research paradigms as ‘...*all-encompassing systems of interrelated practice and thinking that define for researchers the nature of their enquiry along three dimensions: ontology, epistemology, and methodology*’. A research paradigm therefore unveils crucial aspects of the research that provide a perspective from which a particular phenomenon can be understood. This dissertation is underpinned by the interpretive paradigm, which constitutes a fundamental philosophical foundation in social science research.

The interpretive paradigm is founded upon a frame reference of post-modernist thinkers who embrace and understand the creation of knowledge as something that is fundamentally founded upon the pluralities of the modern society (Rubin & Babbie, 2010). This paradigm acknowledges that the nature of reality is subjective to histories and experience that people have been exposed to and people are custodians of that reality and epistemology which is therefore generated by ontology. Informed by the understanding of the interpretive philosophy,

Table 1 summarises how the interpretive paradigm materialised in the research methodology of this dissertation.

Table 1: Summary of the application of the interpretive paradigm in the research methodology

Methodology Components	Provisions of the Interpretive Paradigm	Application to this Study
1. Sample selection	Knowledge is constructed from personal interactions, subjective. People are custodians of epistemology (Yanow, 2006).	Purposive sampling procedure to select people directly affected and involved in the land invasion challenge in Plessislaer.
2. Empirical data collection	Semi-structured interviews and observations (Rodwell, 2015).	One-on-One Interviews; Focus Group Discussions; & Observations
3. Validity	“Research should be sufficiently based on naturalistic indicators,” Conrad & Serlin (eds. 2006).	Grounded and informed by the interpretive paradigm
4. Reliability	Research should avoid bias, should be relevant and address research questions (Conrad & Serlin, eds. 2006).	<ul style="list-style-type: none"> <li>Purposively selected sample based on involvement and relevance to the study problem.</li> </ul>
5. Rigour	Trustworthiness (Rubin & Babbie, 2010).	Trustworthiness, authenticity, typicality and transferability
6. Ethics		Guided and complied with the UKZN REC, (see appendix 1).

Source: Author (2016)

#### 5.4. The Sampling Procedure and the Sample

The process of selecting the study sample was done through the purposive non-random sampling method. Singh & Singh-Mangat (1996) define the purposive sampling method as a non-probability method of selecting a sample where key informants are subjectively selected based on their knowledge about the question at hand. Informants selected for inclusion were selected based on the relevance and involvement to the challenge of land invasion, in-depth knowledge and understanding of the problems that are being interrogated by this dissertation

and authoritative power and influence with regard to decision-making processes in this particular problem.

A study population is defined as a total of all the individuals who have certain characteristics and are of interest to a study whereas a sample is defined as a subset of a population that has been narrowed for inclusion in the study (Creswell & Plano-Clark, 2011). The total population in this case includes all the parties affected by the land invasion prevalent in Greater Edendale while the sample refers to the sub groups of people that will be selected for the purpose of inclusion in the data collection process. This study consists of two sets of different groups that were selected for participation in the study: Sample 1: Community Members (identified as groupings) and Sample 2: Community Leadership and Government Officials

Sample 1: draws different stakeholders representing different community interests within the Greater Edendale area. Above that, these groups were selected because of their involvement and their knowledgeability about issues of land invasion and the proposed Urban Hub Precinct within the study area. Table 2 below provides a list of groups that were included for focus group discussions and the specific roles, which informed the rationale for which they were selected.

*Table 2: Selected Sample 1 and reasons for their selection*

FOCUS GROUPS	RATIONALE FOR INCLUSION
1. Greater Edendale Ward 22 Committee	<ul style="list-style-type: none"> <li>Deals with crosscutting issues within the community and consists of ordinary community members and community leadership.</li> </ul>
2. Greater Edendale Landowners' Association	<ul style="list-style-type: none"> <li>The only known existing structure that has been vibrant in issues of land ownership within the study area.</li> </ul>

Source: Author (2016)

Sample 2: The Government Officials and Leadership: Table 3 describes the key informants that were included as part of sample 2 and further describes the rationale for which they were chosen.

Table 3: Selected Sample 2 and reasons for theirs selection

#	INSTITUTION	POSITION	INVOLVEMENT IN THE AREA/ PROBLEM
1	Msunduzi Municipality Local	Town Planner (Spatial Planning)	Actively involved in the planning processes of the Municipality and of the Greater Edendale proposed Urban Hub Precinct.
1	Msunduzi Municipality Local	Town Planner (Land Management)	Actively involved in the issues of land management within the study area.
1	Msunduzi Municipality Local	Geographic Information Systems Officer	Assistance with the mapping work, also timeously included in the planning work within the Greater Edendale proposed Urban Hub Precinct.
1	Msunduzi Municipality Local	Ward Councillor	Democratically elected Ward 22 leader, he represents the interests of the residents
1	Msunduzi Municipality Local	Disaster Management Practitioner	Actively involved in the disaster and risk management within the area.
1	Msunduzi Municipality Local	Environmental Planner	Actively involved in environmental planning programmes in Greater Edendale.
1	Department Of Human Settlements (Inlands Region)	Project Manager (Greater Edendale Planning: Land)	Actively involved in the rectification of land issues and planning issues from the DHS perspective.

Source: Author (2016)

### 5.5.Data Collection

Maxwel (2012) defines data collection as a systematic procedure, which researchers use to gather and measure data on variables of interest, which enables the answering of the questions set and evaluates outcomes of the research in question.

#### 5.5.1. Primary Data

*Focus Group Discussions:* The researcher chaired the discussion sessions and played a role of facilitating through asking questions enlisted in the written interview guide attached as

Appendix 7 and 8. The same written interview guide, consisting of a list of questions was used to direct the sequence of the discussions with focus groups listed in Table 2.

**One-on-one Interviews:** were carried out for interviewing the key informants listed as Sample 2. The interviews were guided by a written interview guide that comprised of a set of questions to be asked to the key informants (attached as Appendix 4). The written interview guide consisted of semi-structured questions. A written interview guide serves as a checklist of ensuring that all the necessary questions are covered in the interview once without any comebacks.

**Mapping:** Objective one, in particular, intended to analyse the scope of land invasion occurrence within the delineated study area. Geographic Information System (GIS) Software and Google Earth Pro software was used to measure the degree to which land invasion has occurred in the study area through highlighting informally developed areas through GIS digitising. Mapping tools were used to measure land invasion against the land ownership map with cadastral available to the municipality, to trace not just how much land has been invaded but to also establish whose land has been largely affected. The following steps were taken:

- **Step 1:** The overlay of the study area's aerial imagery on to the cadastral GIS shapefile;
- **Step 2:** Digitising and mapping areas that have been informally developed;
- **Step 3:** Measurement of the land size and number of structures in order to quantify the scope of land invasion; and
- **Step 4:** Analysis of the cadastral overlaid map in order to establish whose land has been affected by land invasion.

**Observations:** The researcher conducted five site visits as part of the observation process. These site visits were used to supplement data gathered from respondents and through the Geographic Information System Mapping process to ensure and verify accuracy of the responses. As part of the data collection process, there was a written observation guide attached as Appendix 9, filled in by the author addressing among others the following questions:

- Is land allocation still taking place?
- What are land-use patterns within the area?
- What complexities can be physically witnessed on site due to the invasion?; and
- Are there any visible signs showing or forbidding land invasion in the area?

This activity was done with the help of a community leader who constantly ensured that local people are not disturbed by the researcher's presence and to ensure safety for taking pictures.

### **5.5.2. Secondary Data**

A large number of information sources that already exist were used to effectively provide, compare, analyse and verify empirical data obtained. Data sources for data collection included reviews of the 1996, 2001 and 2011 South African census data and the 2016 Community Survey, which is readily available through the Statistics South Africa (StatSA), educational and previous action researches done in the past, government documents and archives such as legislative acts, internet, newspapers and academic journals. All of these documents are listed in the bibliography at the end of this dissertation.

### **5.6. Data Analysis, Presentation and Storage**

*Data Analysis:* is a process where data obtained from the data collection process is evaluated logically to rationalise and examine information gathered (Terre-Blanche, et al., 2006). The data analysis of this research began with the consolidation and scrutinising of all the data obtained. It was then categorised, sorted and organised so as to generate knowledge not just about the research questions but also about analysing relationships between concepts that emerged. This helped in ensuring all data was completely understood and cleaned before going into the chapters of thesis writing.

*Data Storage:* Lewis (2003) outlines that it is important for the researcher to save or store results to ensure that they are available at a later stage for different purposes. Responses provided by the key informants and focus groups were jotted down and then stored in a safe place both electronically and as hard copy. These results from both the supervisor and the author will be stored for five years after the submission date of this dissertation.

### **5.7. Research Validity, Reliability & Rigour**

Good research validity and reliability serve as indicators that tell the quality of the paper produced (Baumgarten, 2010). This study ought to abide by the UKZN standards of ensuring that it is valid and reliable in an effort to ensure that the thesis is of high quality:

*Research Validity:* refers to ensuring that the research is sensible (Baumgarten, 2010). Validity is achieved through ensuring that the data collection instrument addresses all the necessary questions as set out in research questions. The study's relationship to the interpretive paradigm has ensured that the study is sufficiently based on naturalistic indicators (Conrad & Serlin,

2006). Research validity helps to ensure that the results obtained from fieldwork depict the true reflection of what is occurring in the society. Prior to going into the field for data collection, both the supervisor and the UKZN Research Ethics Committee to ensure that all questions asked were in line with the purpose of the research and ethical validated it.

**Reliability:** is also one of the tools, which is used to ensure the quality of the research. In explaining reliability Baumgarten (2010) states that this tool assists in ensuring that the tools which are used to collect data are relevant. To ensure this study is reliable, the samples chosen were purposively selected based on their ability to make significant contributions to the outputs of the research; no other bias rationale informed their selection. The quality of responses therefore added a lot of weight to the research outputs.

**Rigour:** the study was carried out with great trustworthiness, authenticity, typicality and transferability. Rubin and Babbie (2010) state that in any research the first most important tool that is used to ensure the research rigour is “trustworthiness”. The sample for this study was selected based on their involvement in the planning process of the establishment of the proposed urban Hub Precinct and for no other reason. This was guided by the UKZN REC and was granted full approval for conducting the research.

### **5.8.Ethical Considerations**

This dissertation was guided by the ethics standards set by the University of KwaZulu-Natal Research Ethics Committee for conducting an academic research. It was submitted for ethical clearance to the University of KwaZulu-Natal Research Ethics Committee and fully complied with all the University of KwaZulu-Natal Research Ethics Committee’s ethical standards. Full approval for research to be conducted was granted by the University of KwaZulu-Natal Research Ethics Committee in July 2016, with reference number HSS/0990/016M (Attached as Appendix 1). Considering the sensitivities of these issues, the researcher acknowledged the significance of carrying herself out with the greatest humility and respect. The interview guides made provision for Zulu speakers and English speakers with discussions carried out in isiZulu.

### **5.9.Research Limitations**

The nature of this research, which is a mini thesis, conducted with limited financial resources and time could not be able to sufficiently include all the affected stakeholders such as households. The issue of uncertainty around the issue of safety within the area at the time of the research being conducted also prevented the inclusion of the households as a sample during

research collection, which would have shed a different understanding with regard to the research questions.

### **5.10. Summary**

The methodology chapter began by a discussion of the interpretive paradigm and how it shaped this research. The second section dealt with the selection of the sample, sampling procedure, data collection and data analysis. The last section discussed how the study ensured to keep the dissertation process valid, reliable, rigorous and ethical.

The following chapter will unpack the area of Greater Edendale to make the reader understand the context in which the research problem is located.

# CHAPTER 6

## THE CASE STUDY OF GREATER EDENDALE

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### 6.1. Introduction

The intent of this chapter is to provide an analysis of the study area in order to contextualise the research problem. It begins by unpacking a historical background of the Greater Edendale area in order to appreciate how it has shaped the contemporary dynamics of the area. The chapter progresses to provide a brief situational analysis of the area with special attention to the structuring elements, the area's demographics and its economy and socio-economic dynamics, infrastructural provision, the area's social character and the town planning system operational in the Greater Edendale area. The information contained in this chapter that is not cited was obtained through personal observation guided by the observation guide (attached as Appendix 9) during the data collection process.

### 6.2. Historical Background of the Plessislaer

The earliest history of the Greater Edendale settlement available dates back to the mid-19th century. As history of the early 19th century indicates the country saw great advancements towards urban growth and segregation, the Pietermaritzburg was no exception from these advancements. Maylam (1995:27) states:

*'The Pietermaritzburg City Council had inserted anti-Asiatic clauses in title deeds since 1898. Departments of state devised other mechanisms for implementing segregation. For instance, the Central Housing Board, set up under the 1920 Housing Act, only approved grants for housing projects that were racially defined. In East London in 1927 a housing scheme for exclusive coloured occupancy was initiated'.*

Entrenched in many other supporting legislation and policies urban racial segregation became an important factor that shaped Pietermaritzburg planning processes. The change in policy by the apartheid regime accompanied by strict laws led to massive restructuring of many South African communities through the Group Areas Act promulgated in 1952. The implementation of the Act led to the removal of Indian families to Northdale Suburbs in the northern regions of the Pietermaritzburg City. The Edendale area was therefore declared an area to be inhabited by people of African descent.

The government of the time planned the area to be a dormitory township, which would house the black labourers employed in the formal sector. This had numerous impacts for planning

processes; for instance like most African townships the area was subjected to inferior planning standards, received inferior housing and infrastructure and social facilities. Consequently, the impacts of the 'dual spatial fix' mechanisms applied, in the absence of proper enforcement of land controls township residents continuously occupied unoccupied pieces of land and also built informally.

Maylam (1995) states that by the 1950s Pietermaritzburg City is considered to have been one of the most segregated cities in the country. Figure 3 below shows the inherent structure of the Pietermaritzburg City that was produced by the processes of urban planning guided by racial segregation.

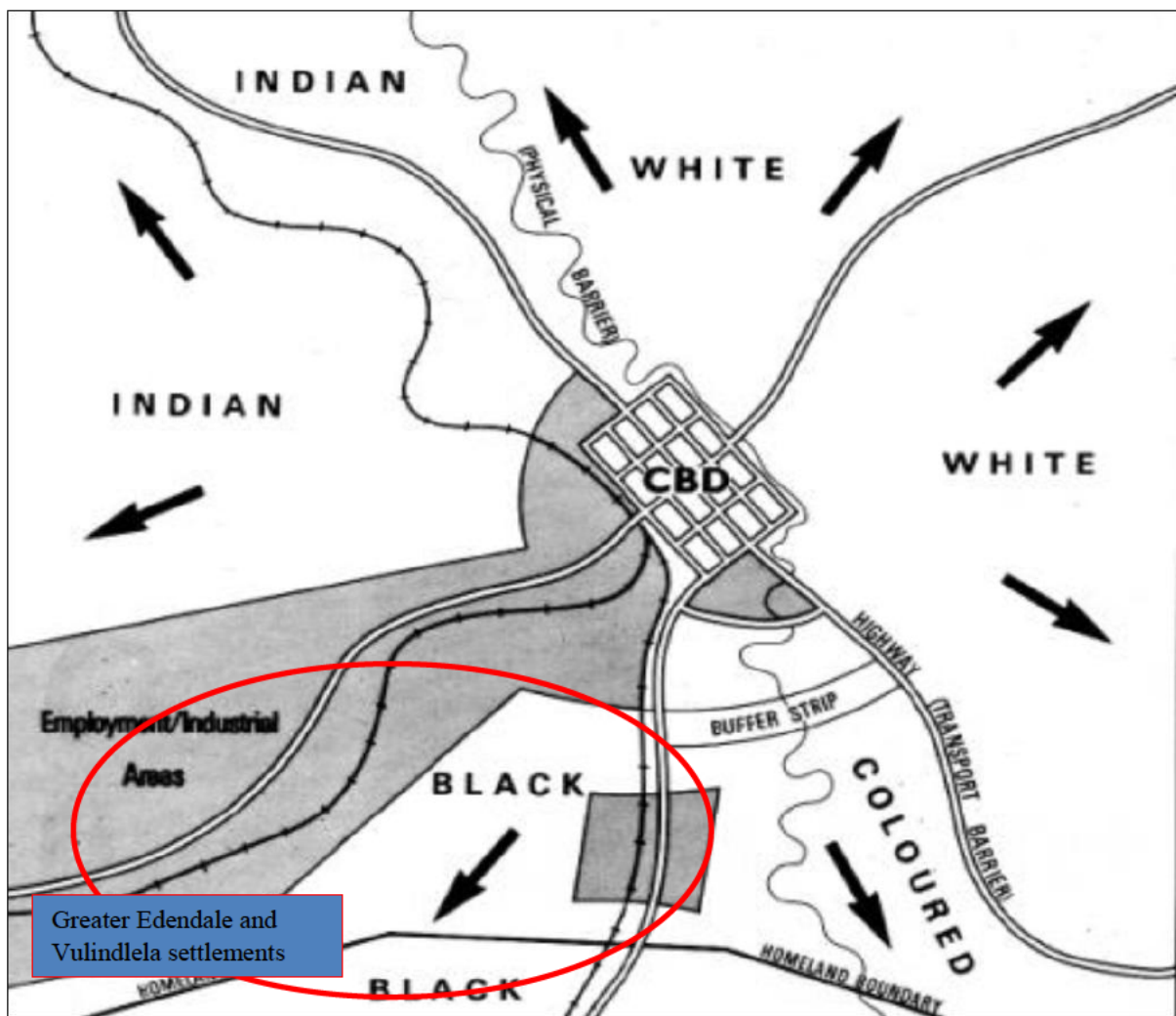


Figure 3: A spatial translation of the apartheid -planning model in the Pietermaritzburg City

Source: Gounden (2014)

Like most South African, African Townships, the area became the battleground of the politically motivated violence underpinned by apartheid resistance and other political conflicts. The Greater Edendale did not escape these political unrests, and its' most prominent and impactful was the '1990 Seven Days War' which was a political conflict between the biggest KZN political rivals, the Inkatha Freedom Party and the African National Congress. Discussions with the ward councillor (Cllr, Personal Communication, 02 November 2016) and the ward committee (W22WCM, focus group discussion, 02 May 2017) reveal, after the Seven Day War people were forced to leave their places of origin to relocate to safer places as their political affiliations permitted. A member of the ward committee said of people moving into the Greater Edendale area:

*'Were largely members of the ANC faction and although they came from all walks of life they were largely people from areas/ districts such as Richmond, Mooi River and Howick'.*

Within the Greater Edendale, particularly the Machibiza Area and KwaDambuza Areas saw large numbers of people moving into the area accommodated in tents, churches, community halls, schools and to homes of comrades. Consequent to these changes the ward-committee member notes, there was common consensus reached among community members on informal platforms on two issues:

*'Firstly, the KwaDambuza was highly overpopulated giving rise to squalid living conditions and high housing shortages, secondly having obtained freedom associated with the democratic dispensation led by the ANC (it) was going to ensure the realisation of the 1955 Freedom Charter which had promised under the ANC leadership, 'All shall have the right to occupy land wherever they choose', people therefore had that sense of entitlement that guaranteed they were now free to live wherever they wished to live without fear of eviction as it had happened under Apartheid rule'(W22WCM, Focus Group Discussion, 02 May 2017).*

The ward councillor noted:

*'The circumstances different from one individual to another had rendered a lot of KwaDambuza squatters homeless; there were deeply unenviable issues unresolved with communities of origin, homes burnt to ashes, some left without family members and some having been sources of conflict in their communities of origin. Because of the above reasons, returning back to their communities of origin was not a possibility for many' (Cllr, Personal Communication, 02 November 2016).*

In 1994 at the fall of the apartheid, a political decision was taken, on informal platforms granting the occupation of the land in question, which included a large number of families. The ward committee member stated:

*'A number of indigenous "town planning" measures were taken into consideration to the best of our knowledge, people could only build in a manner that would allow for sufficient passages for cars to travel within the settlement and to ensure there wouldn't be too much clutter between the houses'*(W22WCM, Focus Group Discussion, 02 May 2017).

He continued to confirm, *'no municipal consultation occurred upon this process and the municipality never opposed the allocation of land'* (W22WCM, Focus Group Discussion, 02 May 2017). It is in these historical events that the land invasion question of Greater Edendale is rooted upon. Settlements like Azalea, KwaHhaza and Plessislaer were ultimately established due to those land invasion events.

In the year 2000 government promulgated the Municipal Systems Act of 2000 calling for the extension of municipal areas to cover areas that had previously not been included in urban municipalities. In 2014, the Greater Edendale area was consolidated to form part of the MLM per the requirements of the Municipal Systems Act, which is tasked, with the role of municipal planning for its entire area of jurisdiction. According to a municipal official, the area continues to be constrained with apartheid-inherited inefficiencies such as high levels of informal growth, limited infrastructure and high poverty levels (MLMSP, personal communication, 30 April). Despite the efforts employed, land invasion and the growth of informal settlements have continued to be a prevalent feature in the Greater Edendale area.

### **6.3. Geographic Context: Locality, Natural and Built Environment**

Within the study area, there are a number of phenomenal natural and built environment features that structure the area. This section is discussed with an intention of analysing how they shape and contribute to the research problem:

#### **6.3.1. Locality: Regional Context**

The Greater Edendale area is located on the edge of the Pietermaritzburg City *'The City of Choice, Second to None'*, which is the legislative and administrative capital city of the KZN province. The city is the key economic hub in the Midlands Region and remains the prime absorbent area of most populations within the province and other parts of the country for its world-class educational facilities and dynamic employment opportunities.

The Greater Edendale area remains largely appealing for the majority of the population requiring cheap accommodation within the city. The NPC (2011) reiterates townships act as gateways to the cities for African populations migrating to the cities from rural areas. The Greater Edendale is therefore a significant gateway in to the Pietermaritzburg City and a fertile

ground for cheap and unregulated accommodation. This is also an opportunity, which opportunists use, to their advantage as the area has largely been bought in recent years to build rental housing.

### **6.3.2. The Natural Environment**

The area in which the study area is set is located on land, which is generally flat; its topography has rendered the area a good spot for both formal and informal developments. The use of natural buffer zones such as rivers, mountains and forests or sugarcane farms was important for apartheid planning. These formed physical barriers that would ensure restrictions to any form of growth and expansion that would undermine the apartheid spatial planning ideals. The Greater Edendale area is therefore buffered through the Msunduzi River, which is fed, by a number of river systems including wetlands present within the study area. The rivers found within the study area are important water sources for different purposes of use by residents including subsistence livestock and crop farming, business activities such as brick businesses and other household activities including building housing structures. Therefore, the area's proximity to the rivers is influential in the decision to settle and occupy land within the area.

It has been indicated earlier that land invaders who intend to establish informal settlements consider largely the cheapness of the building materials and expenses attached to the area they occupy. That is also very clear with the building materials used in the study area which are predominantly shacks built from mud.

The areas' soil typology therefore makes it highly suitable for the construction of mud houses and within the area, a large number of households area constructed using mud, which implies building materials are readily found on site with transport costs attached. As a result, there are areas that have been experiencing soil erosion.

The Msunduzi River is one of the most important water sources available for the entire municipality. The MLM 2 (2016) states that the Greater Edendale environment and its people have been severely compromised by the existence of informal settlements. Firstly, the dampness of the area leads to a number of problems such as attracting mosquitos, damp household structures leading to cracking walls and odours. All these issues jeopardise the social fabric and the social wellbeing of the area. Secondly, the study area falls within areas of endangered flora and fauna and riparian buffers that should be preserved which have been alternatively severely destroyed (MLMED, personal communication, 04 November 2016).

Consequently, the environment can no longer provide the ecosystems services that would otherwise be yielded from it.

### **6.3.3. Built Environment**

One of the important reasons that informed apartheid planning for native townships was the need for government to be able to control social and geographic mobility of African people (Demissie, 2004). One of the prominent features in the township design is seen through the design of a singular road infrastructure for both exiting and entrance usually connecting the CBD and the township. This feature is also prevalent in the Greater Edendale planning. This was done to reduce township permeability and ensure mobility would be easily traced.

The study area is located ten (10) kilometres from the Central Business District (CBD), connected through the Edendale Road now called Moses Mabhida Road which is the only road connecting the CBD-Greater Edendale-Vulindlela rural areas. Nonetheless, the road provides direct access to the CBD making daily commuting to and from the city easy at a time of barely twenty minutes. Mostly the minibuses are available in abundance at R12 per single trip provide the daily commuting to and from town. This contributing factor influences the suitability of the area as an area of choice. This trend is not unique to the study area; it is a common trend across the country's townships.

The Edendale Road is host to a number of structuring elements such as the Durban University of Technology Indumiso Campus, Greater Edendale Shopping Mall, Edendale Crossing Shopping Complex, Greater Edendale Hospital and the Imbali Further Education College. These structuring elements provide a sizable number of employment opportunities therefore again; the question of affordable housing becomes inevitable. This becomes an opportunity for landowners and landholders to provide cheap and convenient rental accommodation, which sustains their household income. The Edendale Road is characterised by a vibrant informal economy that is obviously underpinned by all the activities happening in the area. Figure 4 shows a supermarket located within the study area, which is one type of the informal businesses contributing to the area's dynamic economy.



Figure 4: Businesses located within the study area

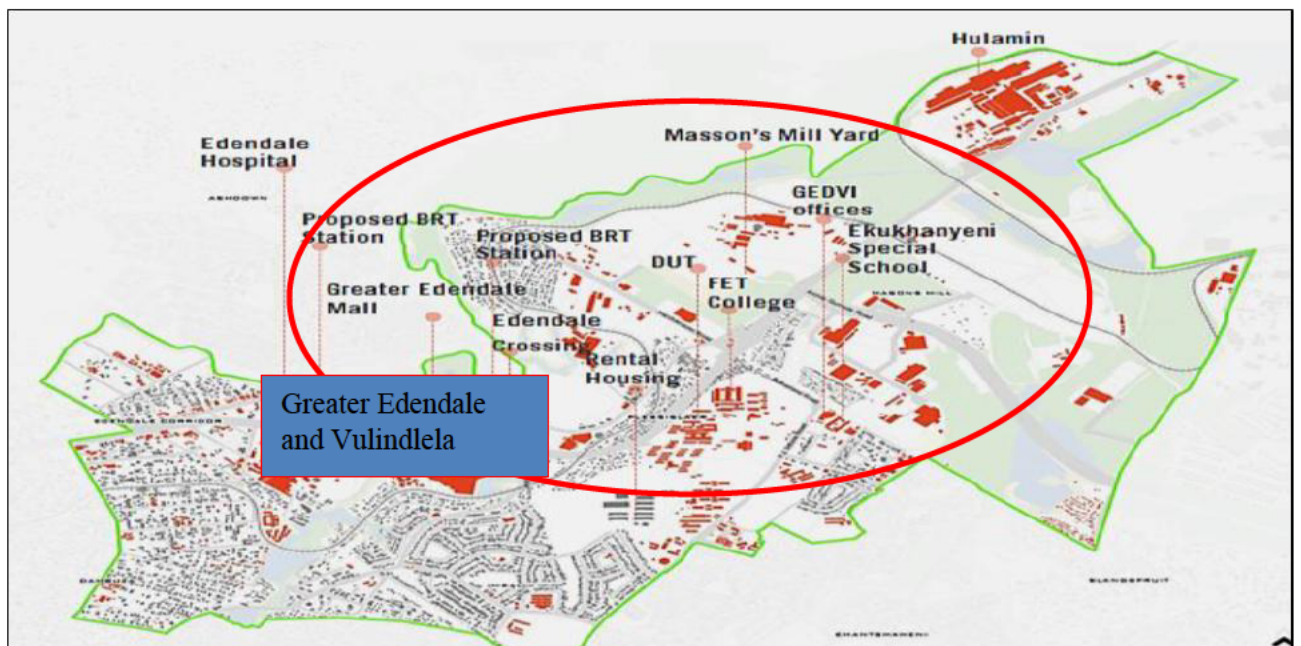
Source: Google Earth Pro 2017

The informally developed areas around Greater Edendale have largely influenced its growth. The study area's proximity to the formal township has a number of benefits, which informal dwellers exploit such as proximity to schools, social facilities including the Greater Edendale Hospital and cheap connection to services whether illegal or legal such as water and electricity. Because the area is not monitored with strict planning tools, there is much flexibility within the area and there are numerous activities taking place as a result including urban agriculture.



Figure 5: Urban agriculture taking place within the study area

Source: Author, 2016



Map 4: Greater Edendale structuring elements

Source: Adapted from Gounden (2014)

The Msunduzi Local Municipality City Development Strategy (MLM 3, 2015) indicates the municipality will be implementing the Bus Route Transit (BRT), currently the extension of the Edendale Road into six lanes, expansion of the Thwala Road and the GEUH. The researcher

anticipates this may further lead to increases in the Edendale population as these projects stand to enhance the Edendale areas as a preferred area for accommodation for low wage earners who require cheap accommodation and commuting costs within the city.

#### **6.4.Socio-demographic Profile**

The latest population statistics available through the community survey conducted by the StatsSA in 2016 indicate the MLM has a total population of 679 039 people. The 2011 census had concluded the municipality was home to 618 536 people, therefore the municipality saw a population growth totalling 8.9% which is the second largest figure in the uMgungundlovu District Municipality (uMDM) after uMngeni Municipality which has positioned itself as an emerging destination for retirees. Available statistics conducted by the StatsSA since 1996 indicate in essence that the municipality has consistently seen an increase in its population since 1996.

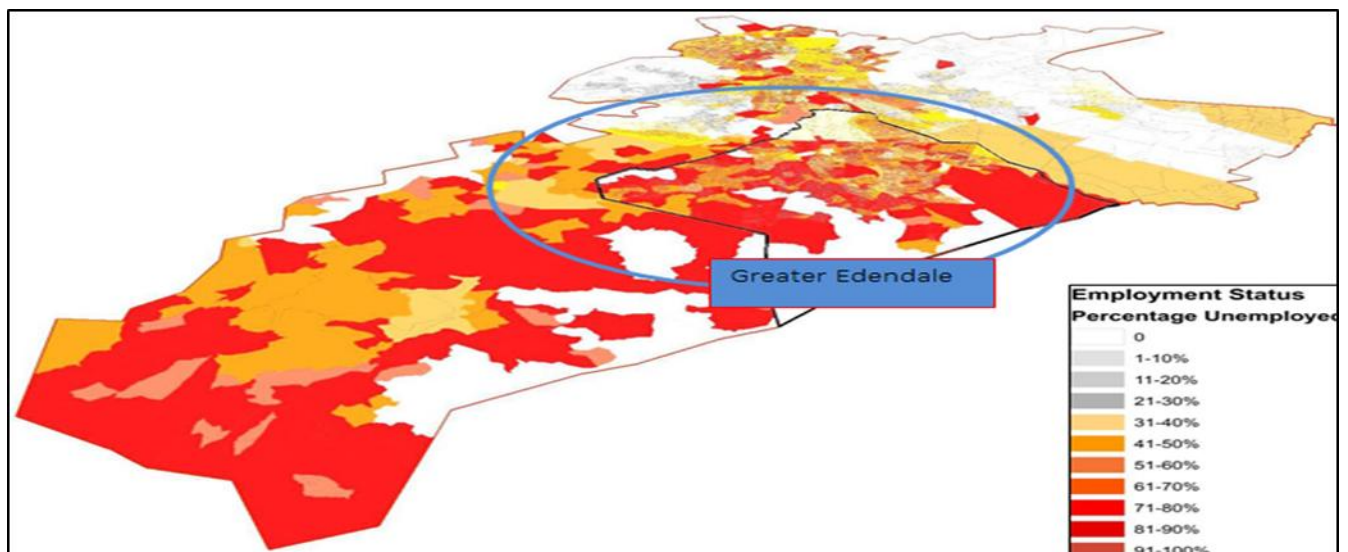
The Msunduzi is the host of the second largest population in KwaZulu-Natal totalling 10% after eThekweni Metropolitan Municipality. The MLM/ Pietermaritzburg City remain the central economic engine for the uMgungundlovu District/ Midlands Region and as a result remains a magnet area of choice for people to reside. The 2016 Community Survey revealed at least 62% of the population that lives within the uMDM resides within the MLM. Simultaneously that the family of municipalities located within the uMgungundlovu District Municipality (uMDM) such as the iMpindle Local Municipality (1%) and Mpofana Local Municipality (1.7%) experienced declines in their population in 2016. There is a strong possibility, people who leave the surrounding rural municipalities move largely to the Msunduzi as the nearest economic hub. This trend is no different to that of the rest of the country, the phenomenon of urbanisation and in-migration from rural areas still pretty much prevails even in the 21st century.

The Msunduzi also experienced an increase in its households from 163 993 in 2011 to 180 193 households in 2016. The most interesting thing about this is that over 60% of the MLM population and households inhabits Greater Edendale, while the rest of the 40% is distributed across the other municipal areas. This immediately stresses the need for more attention to be given to Greater Edendale.

### 6.5.Socio-economic Profile

The Greater Edendale area is generally the geographic area of high concentration of poverty within the Msunduzi. The socio-economic conditions of the Greater Edendale population statistics indicate that the majority of the area’s population cannot access land and housing through formal means such as urban land markets. A report consolidated by Gounden (2014) for the MLM shows only 30% of the Greater Edendale population is employed while 46% of the Greater Edendale population remains unemployed with 24% of the population earning a living through means available outside formal employment. Within the study area, there are numerous economic activities taking place that are both formal and informal in character. Over the past decade, the Greater Edendale area has seen huge developments through the introduction of government, education, training facilities, industrial developments and retail.

Despite the introduction of these prestigious facilities, employment patterns have remained largely low. This was acknowledged by the President in the 2017 State of the Nation Address as a significant challenge confronting South African society.



Map 5: A geographic representation of employment patterns within the Msunduzi LM

Source: Gounden (2014)

According to Gounden (2014), this part of the MLM has the highest levels of unemployment in the municipality totalling over 70%. Map 5 shows the geographic distribution of unemployment levels within the Msunduzi Local Municipality, which reflects the high concentrations of unemployment along the areas previously earmarked for Africans as opposed to other parts of the municipality. Gounden (2014) also indicates that the area’s majority lives

on earnings less than R1600 per month, which loosely means the majority of the Greater Edendale population lives relatively poorly. This poses a significant challenge to the municipality and the country as a whole.

## **6.6. Response to Planning, Housing & Land Challenges in Greater Edendale**

The planning processes of the Greater Edendale Area are carried out by the Msunduzi Local Municipality as per the constitutional provisions set out in Schedule 4 Part B, which mandates local government to carry out all the municipal planning activities. The municipality has subdivided its municipal area into four Area-Based Management (ABMs) namely Vulindlela, Greater Edendale & Imbali, Northern Areas and the CBD, Ashburton & Eastern areas. The planning function for the Greater Edendale area is carried out with the help of the Greater Edendale Development Initiative (GEDI) which is an institution assigned by the municipality to carry out specifically the municipal functions in terms of municipal planning and development in the Greater Edendale area (MLM 1: 2016).

According to the MLM 1 (2016), the Greater Edendale is significantly challenged with typical apartheid inefficiencies, which contribute to the area's socio-economic marginalisation. The municipality has since its formation worked tirelessly to reverse these impacts and despite these efforts, the following strategic challenges continue to disadvantage the area:

### **6.6.1. Infrastructural Planning**

The Msunduzi City Development Strategy (MLM 2, 2015) indicates that the municipality faces substantial service delivery and infrastructural backlogs. This is largely because the infrastructure that is in place has mostly exceeded its lifespan and there are shortages in funding mechanisms available to unlock the delivery of services. Because the Greater Edendale is overpopulated, it received inferior services pre-1994 and this continues to be the situation in the post-apartheid era, thus the Greater Edendale residents suffer greatly. The 2016 IDP further states that despite the largest distribution of human settlements being located in the Greater Edendale the area remains largely underserved.

### **6.6.2. Solid Waste Management**

The study area is significantly challenged with a poor waste management facility, which is one of the key problems visible upon visits. The community indicated there is a collection system in place conducted by the municipality on a weekly basis, however, the (collecting truck) drives through on the tarred roads, which are major roads within the settlements, which are

advantageous for families residing along the road and disadvantageous for families centrally located within the settlement.



Figure 6: Ill-disposed waste within the study area

Source: Author 2017

The control of waste is an individual family responsibility; the community relies largely on waste burying and burning solutions to control their own waste. In some parts of the area there are communally established disposal areas, which are, open, uncontrolled and are unpleasantly odorous. Despite the burying and burning waste in the area is all over the place and there is a challenge with regard to the disposal of disposable nappies. Apparently, municipal officials do not collect any plastic that is seen to contain disposable nappies, because the municipality does not have a facility to either dispose of, store or recycle disposable nappies.

The open spaces surrounding the railway line have been turned into waste disposal sites and unfortunately these portions of land are within the 100-metre radius of the two primary schools located within the study area and this poses significant challenges to the health of community members particularly the children. Figure 6 shows two things, first how young children are exposed to waste disposed along the road and secondly the dumping area's proximity to the primary school. The dangers associated with uncontrolled waste are not only limited to humans but to the animals and water resources inundated within the study area.

### 6.6.3. Housing Provision

The Greater Edendale area is predominantly used for residential purposes with a composite of informal, traditional, semi-formal and formal housing structures. In the absence of a formal layout and subdivision plan for housing the area appears unplanned, irregular and haphazard in nature. Within the study area, housing typologies are predominantly informal structures that have no cadastral layout at household level. A great number of housing structures located within the study area are built from mud, corrugated iron and wood. The figures below (Figure 7, 8 and 9) show some of the housing typologies available in the area.



Figure 7: Rental-housing blocks located within the study area

Source: Author 2017



Figure 8: Mud houses located within the study area

Source: Author 2017



Figure 9: A high-class house located within the study area

Source: Author 2016

#### 6.6.4. The Greater Edendale Town Planning Scheme

In 2014, the MLM completed the Greater Edendale Town Planning Scheme (GETPS) that incorporated all the functional areas located within the Greater Edendale ABM. As defined earlier in this dissertation through the work of Kidd (2008), a town-planning scheme is a finely detailed planning tool that defines how land ought to be used. In South Africa, the preparation of town planning schemes is a legislative requirement set out in the KwaZulu-Natal Provincial Development Act (PDA). The PDA section states all municipalities should establish wall-to-wall town planning schemes that cover all areas located within the municipality (Isibuko seAfrika, 2013). The MSA part 2, section 26 (e) places emphasis on the fact that the municipal Spatial Development Framework (SDF) and the Integrated Development Plan (IDP) must be informed by or must reflect the area's town planning scheme. The study area falls within the Greater Edendale Corridor functional area. Consequently, it called for the establishment of the following zones:

Table 4: Greater Edendale Town Planning Scheme land-use zones and their description

PARENT ZONE	DESCRIPTION
Business	Low Impact Mixed Use, Medium Impact Mixed Use, Petrol Filling Station
Community	Crèche, Education, Health And Welfare Institution, Municipal And Government, Worship
Industrial	General Industry and Noxious Industry
Open Space	Active Open Space, Environmental Services and Passive Open Space
Residential	Rapid Urbanisation Management Areas and Residential
Transportation	Existing Road And Lane, Proposed New Road, Railways and Road Closure
Utilities	Cemetery and Utilities And Services

Source: Adapted from Isibuko SeAfrika (2013)

The implementation of the town-planning scheme promises a great deal of benefits for the community. The regularisation of space may enhance the protection of the environment within the area, which seems to have been significantly undermined by the haphazard developments found within the area. However, local people indicated to have no knowledge about the scheme in place, which may be problematic because the community may disregard it. That may be very negative for the intended planning process put in place by the municipality.

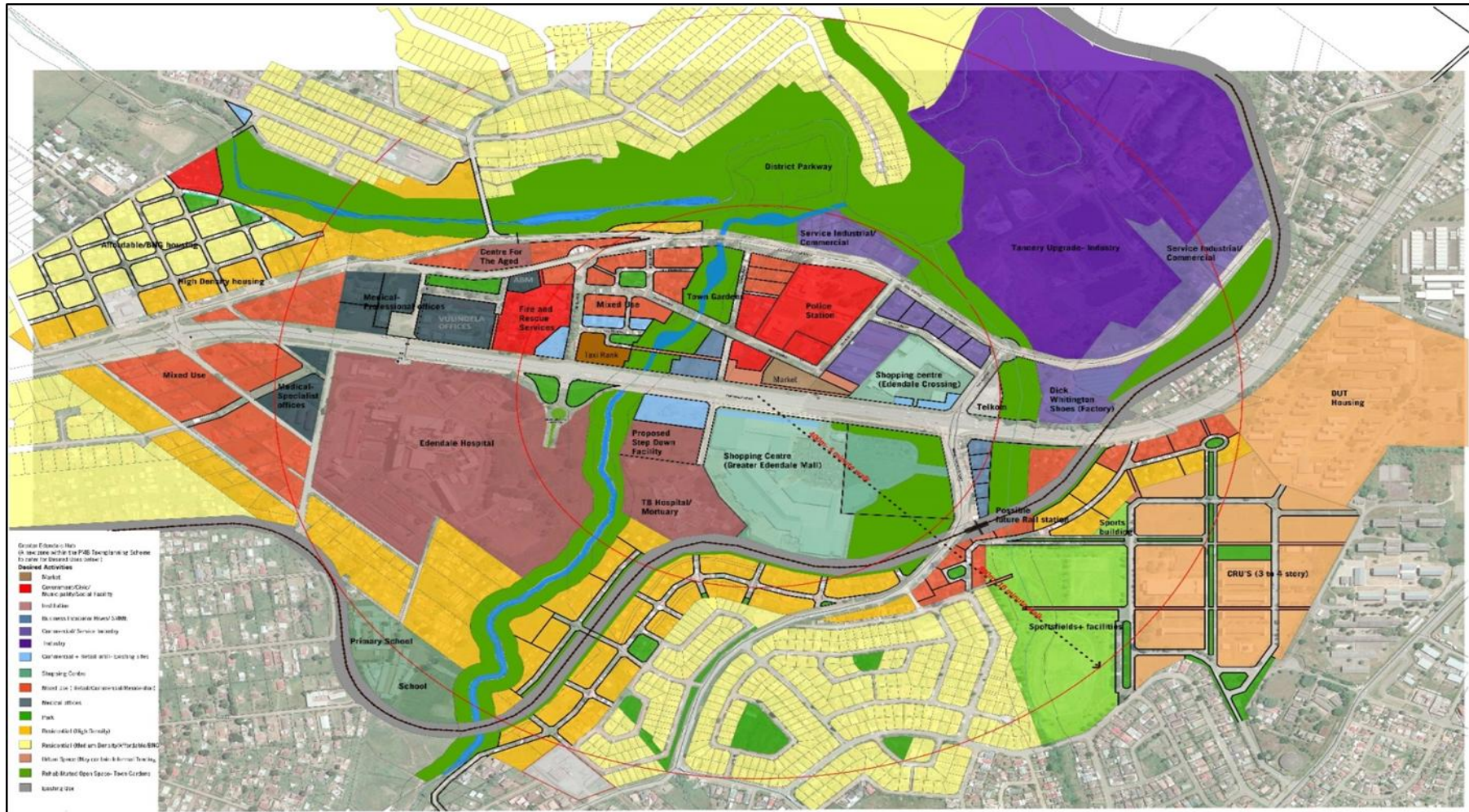
#### **6.6.5. The Greater Edendale Urban Hub Precinct**

In response to the pressing demand to treat spatial injustices created by the apartheid planning, on 15 February 2006, in his annual budget speech the honourable Minister, Trevor Manuel announced the MLM had been awarded with funding through the Neighbourhood Development Partnership Grant (NDPG) to enhance its Urban Network Plan and Urban Hub (Iyer Urban Studio 1, 2013). The Neighbourhood Development Programme specifically chose the Greater Edendale for this township regeneration/ gentrification intervention.

Firstly, the Neighbourhood Development Programme by the South African National Treasury Department aimed at injecting capital grant funding through the NDPG to the areas considered to have been previously disadvantaged by the Apartheid planning (Akanya Development Solutions, 2013). The Msunduzi Local Municipality was selected as one of the 13 municipalities in KwaZulu-Natal and 56 others in the country to benefit from the programme. The Greater Edendale area has been chosen by the Neighbourhood Development Programme for the preparation of an Urban Network Plan and the Urban Hub at the Edendale Hospital node including the preparation of project specific plan for implementation (Iyer Urban Studio 1, 2013).

A decade has passed since the announcement of the MLMs' inclusion in the selected municipalities to be granted funding, hundreds of thousands, if not millions have already been injected into planning and into preparation of studies for the success of the establishment of the Urban Network Hub in Greater Edendale. The municipality has reached a stage where it has complete concept plan designed for implementation in the central parts of the Greater Edendale part. Despite the Urban Hub Precinct and other adjacent and supporting plans in place to develop the area, Greater Edendale has consistently experienced substantial infills of informal developments on municipal land. An official indicated, the GEUH' implementation should have taken place in 2016. Over the years, despite the plans in place land invasion has continued to be reported as growing in the area as a result implementation is currently on hold

as the municipality is engaging with landowners and land occupants to find a solution to the problem.



Map 6: Proposal land-use design of the GEUH

Source: MLM 1 (2016:62)

The proposed hub is intended to reduce environmental impacts of development and improve economic opportunities, which will ultimately improve the social fabric for the Greater Edendale community. There are serious concerns about the project to intensify land and housing challenges already present in the area. Firstly, the municipality indicated during the interviews that a process of identifying private landowners in order to purchase the land in question was already underway. The MLM (n.d.:40) confirmed:

*'To facilitate the development of the Greater Edendale Area and unlock the development of privately owned land, the Executive Committee resolved that the Program for the Acquisition of Private Land be resumed on an urgent basis...'*

This response is problematic in a number of ways because it seeks to take the land ownership rights from ordinary citizens in exchange for money and therefore this means there is not a plan to work with landowners through co-ownership of the GEUH. David Harvey (2008:36) states:

*'The problem is that the poor, beset with income insecurity and frequent financial difficulties, can easily be persuaded to trade in that asset for a relatively low cash payment'.*

The Honourable President in the 2017 SONA warned against this response saying it undermines land reform programmes, as money cannot be equated for the social role played by land in the end. He further urged South Africans to refuse payment through financial means in exchange for money.

The implementation of the GEUH appears to be typical urban renewal and gentrification strategy that has received huge criticism for its role in exacerbating land and housing problems (Newton, 2009). The GEUH project is largely focused on the physical aspects of the beautification of the area and lacks concrete mechanisms of integrating the Greater Edendale community although it does include the business incubation section in the design the plan is still silent about the long- term plan of integration. A member of the ward committee expressed concern and dissatisfaction with the existing mall:

*'Before the Greater Edendale Mall was erected we were promised heaven and earth, we bought it and our lives have not changed since, the jobs offered are not secured for community members and there is absolutely no plan at all for emancipating the community. "Sesifisa sengathi ingahamba" (we wish it would just disappear from us). The shopping mall has merely benefited the elite and its existence has been meaningless in a true sense to us as the Greater Edendale community'.*

In the absence of a concrete solution to address the land problem, by destroying the consumerist character of the economy the implementation of the GEUH stands to wipe away the community leading to the intensification of more land problems in the area.

Secondly, the GEUH Design Report (Iyer Urban Studio 2, 2013) states:

*'Edendale workforce employment to be increased from 30% in 2011 to 50% by 2020 –this translates to an additional 28 965 people to be employed... The target is thus for 45 061 additional employment opportunities to be created in the Imbali catchment'.*

The plan for the GEUH places a strong emphasis on employment creation, with the targets made by the design report more pressures and demand for urban land should be expected, as potential employees will be flocking into the area for opportunities promised by the urban hub.

### **6.7.Summary**

The chapter intended to introduce the case study of greater Edendale with the intention of contextualising and localising the extent of the research problem. A brief history of planning, land issues of the area initiate this chapter, and it then continues to its geographic context, which includes the area's structuring elements. The second section deals with exposing the area's socio- demographic, socio-economic profile and the infrastructural and service provision profile. The final section provides an analysis of the area's planning system.

The following chapter will unpack the findings that seek to answer the research questions. This will be done with the information obtained from the data collection processes, which include observations, one-on-one interviews and focus group discussions.

# CHAPTER 7

## RESEARCH FINDINGS AND ANALYSIS

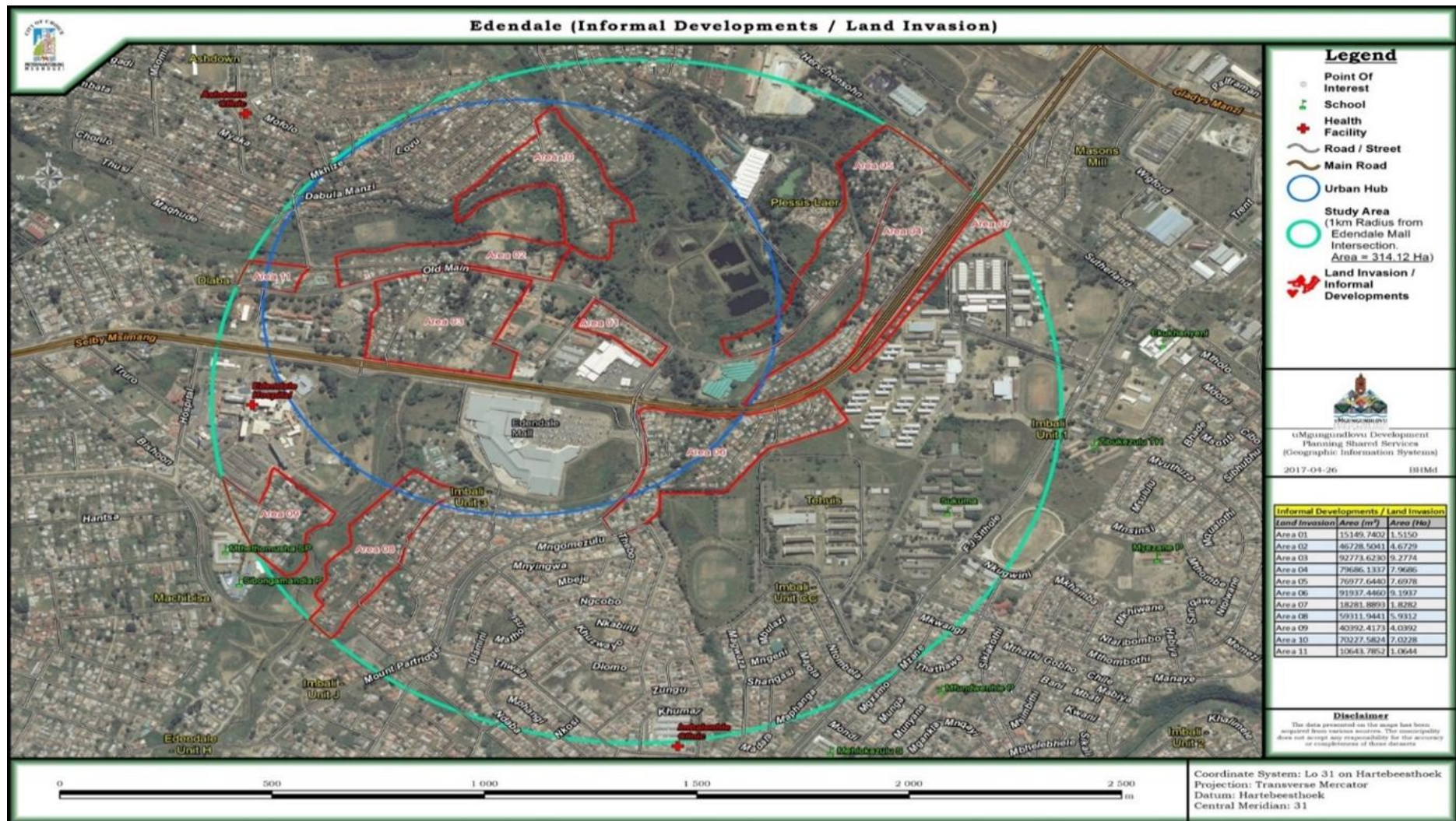
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### **7.1.Introduction**

The intent of this chapter is to provide answers to the research questions posed in the first chapter. As already defined in the research methodology these findings are based on the fieldwork, which included observations, interviews and focus group discussions conducted with the non-random purposively selected samples. The samples comprised of municipal officials in the Msunduzi Local Municipality (MLM) Land Management, Spatial and Environmental Planning sections, the ward councillor and ward committee members. As per the provisions of the ethical clearance, no names of the respondents will be used in this chapter respondents are only referred to as acronyms.

### **7.2.Scope of Land Invasion in the Study Area**

Map 7 intends to geographically show the mapped locations of areas that have been informally developed within the study area. Eleven portions of land (defined as Area 1 to Area 11 for the sake of ease during the analysis) have been subjected to land invasion and it is largely occupied by informal human settlements. However, a number of other land uses occur within the study area and within the informally developed areas.



Map 7: Areas of land invasion within the study area

Source: Author (2017)

Table 5 indicates that the total size of the study area and accounts for 314, 12 hectares (ha). Table 5 further shows that land invaded within the study area accounts for 19, 16% of the total area which is 60, 21ha. The remaining 253, 91 ha of land is largely land that is used for formal activities which include social and educational facilities, the formal township, the shopping malls, roads, rivers and industrial facilities.

Table 5: Land invasion per area and the number of structures

	<b>Land Invasion Size (Ha)</b>	<b>%</b>	<b>No of Structures/ HH</b>
Area 01	1.51	0,48	60
Area 02	4.67	1,49	70
Area 03	9.28	2,95	179
Area 04	7.97	2,53	312
Area 05	7.70	2,45	152
Area 06	9.19	2,93	219
Area 07	1.83	0,58	66
Area 08	5.93	1,89	106
Area 09	4.04	1,29	76
Area 10	7.02	2,23	171
Area 11	1.06	0,34	25
Total	60.21	19,16	1436
<b>Greater Edendale Urban Hub Area (Area 2 +Area 3+ Area 11)</b>	<b>15.01</b>	<b>4,78</b>	<b>274</b>

Source: Author (2017)

The physical count of structures located within the informally developed portions of land marked Area 1 to 11 indicates that a total of 1436 structures have been established within the study areas. Only Area 1, Area 3 and Area 11 fall within tracts of land required for the extension of the Greater Edendale Urban Hub (GEUH). These informally developed portions of land account for 15, 01 ha which is only 4, 78% of the total area and hosts 274 informally developed structures. A range of small to medium informal businesses, which include brick manufacturing, rental houses, barbershops, spaza shops and vending, building materials sales and small-scale manufacturing, also occupies the land in question.



Figure 10: A brick manufacturing business found within the GEUB earmarked area

Source: Google Earth Pro (2017)

While a small portion of land is affected, the structures established in the areas is a sizeable figure that been erected due to land invasion. That directly affects the land in which the National Treasury and the MLM intend to establish the GEUH. This may present a challenge to the municipality during the process of community engagement due to the varied nature of interests.

Figure 11 shows an incomplete structure that is newly built and under construction within the study area. Upon visits to site, there was an indication that land allocation and erection of new structures within the areas in question continue to take place despite the municipal plans in place to use the land for the establishment of the GEUH. Unfortunately, the new homes (shown on figure 12) are built along the Msunduzi River, which impose significant threats to human lives and the environment.

The greatest cause for this is the lack of communication between the community and the municipality; there have not been sufficient means in place to discourage the notion on land invasion. Currently there are no physical signs notifying the community of the challenges, and perhaps informing them not to invade the land. This lack of communication between the

community and the municipality poses challenges as some people unknowingly continue to purchase land within the study area. Land invasion has been an opportunistic use of underused land that sprawls immediately out from the tips of the formal townships for example in Area 6, Area 8 and Area 10 and crawls outwards following an organic pattern of growth that has no layout design or plan.



Figure 11: A newly built and complete structure within the study area

Source: Google Earth Pro (2017)



Figure 12: Newly built informal houses located along the Msunduzi River

Source: Google Earth Pro (2017)

Area 6 has the largest number structures informally built with 219 structures and it is one of the areas that were allocated during the 1994 land invasion. According to the Greater Edendale Town Planning Scheme (GETPS), significant portions of Area 6 are zoned for commercial activities. Land invasion is currently a very huge burning issue taking different shapes in different parts of the MLM including the rural areas. A sizeable number of settlements have been established in recent years through land invasion and land grabs within the municipality including but not limited to:

*'Nkululeko, Regina Road, Ezinketheni, Nhlalakahle, Ottos Bluff, Beacon Hill Farm, Tamboville, Glenwood, Bishopstowe and Noordsberg Road, Peace Valley, Signal Hill, Harewood, Ashdown, Marikane, Mkhondeni, Unit H, Water Works, Sinathing Forest, Azalea Cemetery, EE Extension and Ambleton areas'* (Mtolo, 2016).

The article further indicated that the municipality made an outcry about the booming of the land invasion scenarios within the municipality particularly municipal-owned land. The municipal official was quoted saying,

*'Formal invasions are created by izinduma (tribal chiefs). By the time we want development we will be left with nothing. It's going to be a difficult one because we will be expected to provide basic services,*

*no matter where they reside. Once you have a settlement, formal or informal, you have to provide services while dealing with issues of urban planning'* (Mtolo, 2016).

Further stating,

*'We need to engage with them in terms of the Spatial Planning and Land Use Management Act. In Vulindlela they allocate land as they wish. We have already had three meetings with amakhosi on the Vulindlela local area plan'* (Mtolo, 2016).

In closing this section, it is clear that the scope of land invasion within the area is not static but it continues to grow and the area is becoming more and more compactly developed. The rate at which land invasion continues to grow is problematic and response to control the problem has been minimal.

### **7.3.Land Invasion Impacts on Human Lives and the Environment**

#### **7.3.1. The Environment**

According to MLMSP (personal communication, 30 April 2017) allowing land invasion to occur is a direct violation of the Constitution Section 24, which states every South African citizen is entitled to an environment that is not harmful to his or her wellbeing and continues to call for environmental protection. He continued to say, *'Land invaders pay no cognizance to the environment'* and that puts the environment in a severely compromised position. The Msunduzi environmentalists (MLMED, personal communication, 04 November 2016) shared similar sentiments, further stating that Greater Edendale had been one of the areas characterised with a rich biodiversity but that has been highly compromised by the nature of development that is unplanned occurring within the study area.



Figure 13: A house built on a wetland area

Source: Author (2016).

The area is severely constrained with the challenge of poor waste collection. The engagements with the community indicated the municipality has a system of waste collection that takes place on a weekly basis; however, waste remains uncollected lying around the area. Not only does the situation create an unpleasant environment generally for residents as well as the public but also it remains a significant challenge for the area's environment. An environmental scientist outlined how this poses a greater challenge for the Msunduzi River as this ends up in the river (MLMED, personal communication, 04 November 2016).



Figure 14: Waste disposal taking place along the edge of the Msunduzi River

Source: Google Earth Pro (2017)

*‘Water purification processes become more and more expensive’*, waste uncollected leads to underground water contamination and the destruction of critical water sources and environmental assets that should be protected (MLMED, personal communication, 04 November 2016).

The councillor said the ill-disposed waste is a threat to human life through the spreading of disease, uncontrolled waste management contributes to climate change and environmental degradation in general. The community relies on household VIP toilets that were provided for most households by the MLM. According to the Disaster Management Officer, this further threatens the underground water and eco-life.

### **7.3.2. Social Wellbeing**

According to the MLMSP (personal communication, 30 April 2017), *‘There is no way land invasions can occur without potential threat to human lives through disasters’*. This is largely because informal settlements occur and grow in the absence of the necessary investigation to ensure the suitability of the area for the establishment of human settlements.

The uMgungundlovu District Municipality (uMDM) conducted a climate change study within its region that intended to establish how the anticipated changes in climate would affect the districts' vulnerability for poor communities. The report indicated that the uMDM is situated within one of the greatest climate change hotspots within the RSA that will be experiencing significant rainfall and heat patterns in the future. Challenges associated with the food security especially for subsistence crop farmers, an increase in water-borne diseases and heat stress are all conditions, which should be anticipated as changes in climate increase (Allan, 2013). It should be noted that the area is located in a close proximity to a number of wetlands, KwaPata and the Msunduzi Rivers and that further increases their vulnerability to human lives because it exposes invaders to water-borne disease and increased mosquitos. The focus group discussions (W22WC, focus group discussion, 02 May 2017) revealed the community is challenged with mosquitoes, which is a problem they are already perennially confronted with.

Unfortunately, the report continues that the most vulnerable people within the district are settlements located within informal settlements and those located within the 1:50 and 1:100 year floodline threshold. Speculations and engagement with all the key informants of the study confirmed these changes are already being experienced within the district. Table 6 provides a summary of the key findings applicable within the MLM:

Table 6: uMgungundlovu District climate vulnerability analysis summary

<b>Climate Attribute</b>	<b>Key Findings</b>
Mean Annual Rainfall	The entire uMDM areas will be experiencing an increase in its mean annual rainfall.
Patterns in the Month of Highest Rainfall	Centrally located parts of the uMDM, including the MLM are expected to experience significant increases in the summer rainfall pattern with January receiving peak rainfall. Although there are benefits to derive from these changes, challenges like the increase in flash floods may occur.
Extreme Short-Term rainfall events	The entire district is expected to experience severe storms and flash flooding that will be induced by projected intense 30-minute rainfall and other related storms.

Source: Adapted from the Allan (2013)

The projected climate change patterns place significant risk to the social wellbeing of the people residing within the study area. A sizeable number of structures located within the study

area are located within a 1:50 and 1:100 year floodline vicinity. Chapter 14 Section 144 National Water Act states that no development may take place within an area declared to be falling within the 1:100 year floodline without meaningfully informing the developer about the risks associated with such development (RSA 2:1998). The potential threats include flooding which leads to significant negative impacts for human lives including fatalities and for their assets through property damage.



Figure 15: Slums located in a close proximity to the KwaPata River

Source: Google Earth Pro (2017)

The Floodline report prepared by the MLM (Scott Wilson, 2002) drew conclusions that where houses are located within 1:50 year floodline no development should occur and further recommends people residing within such spots should be immediately removed. The MLMSP (personal communication, 30 April 2017) further stated, '*the municipality can be held liable for such disasters for having failed to avoid the problem because the role of municipal planning is vested in Schedule B Part 4 of the Constitution*'.

Within the study area, there are homes located immediately under the high voltage electricity pylons. There is accumulating evidence that frequent exposure to the electricity pylons imposes vulnerability to cancer for people (Olufemi, 2004). Jay (2007:428) further notes:

*‘this centres on the possible cancerous effects of the electromagnetic fields that they emit, especially for people who are subjected to prolonged exposure; these anxieties have manifested themselves around the world since the 1980s, and have sometimes reached considerable levels of alarm’.*

The National Building Regulations and Building Standards Act 8 of 2008 Section 10 emphasises the importance of avoiding any developments from being built in areas, which may be detrimental to human health.



Figure 16: Homes sharing the same space with high voltage electricity pylons

Source: Google Earth Pro (2017)

There are shortages of services in the community and that poses challenges to enjoying wellbeing benefits enjoyed by other well-serviced neighbourhoods (Cllr, personal communication, 02 November 2016). As a result, people always resort to making their own means to access the services such as illegal connections to water and electricity. Illegal electricity cables pose a significant threat to human lives and may lead to fire outbreaks and possible fatalities.

According to the Cllr (personal communication, 02 November 2016), land invaders cannot get support for housing subsidies; this is due to two things, first, land ownership complexities discussed earlier and the unsuitability of the land for human settlement development. He further

stated that the majority occupants of the study area's informal settlements are not landowners but they occupy land as tenants. A further investigation through a series of informal settlements reports conducted by the MLM in partnership with the Department of Human Settlement and the 2016 MLM Integrated Development Plan shows that none of the housing projects are earmarked to be built within the study area. This is a significant setback for residents as they wait in the hope that they will be able to access low-cost housing to escape the poverty they are trapped and fully restore their dignity.

Because the area is characterised with unpleasant foulness the MLMSP (personal communication, 30 April 2017) reiterated the area is not conducive for raising children, due to the living conditions associated with living in informal settlements and mud house structures. There was a very interesting opposing view to this stance when a ward committee member dismissed this understanding as an unfound myth in the case of the study area. He said, *'government does not understand our lives, our circumstances are not the same as those of a typical informal settlement. Using mud to build houses has been a working method used by Africans for decades and we love them'*. He furthermore gave an example by stating that a mud house he was raised in had stood for over five decades without any renovations.

*'There are shortages of services in the community and that poses challenges to enjoying wellbeing benefits enjoyed by other well-serviced neighbourhoods, that is where municipal focus should be directed to'* (W22WC, focus group discussion, 02 May 2017).

The MLMSP (personal communication, 30 April 2017) stressed other impacts to social wellbeing of the residents include issues like the lack of parking spaces, no space for growth which creates frustration for invaders as they hope to expand their homes.

#### **7.4.Land Invasion Impacts to Planning Processes**

All the respondents of the study shared common view about land invasion saying it is an act that is detrimental to the planning processes. This section unpacks the impacts of land invasion on planning processes:

##### **7.4.1. Spatial and Forward Planning**

The process of land invasion is a highly frustrating process to the planning process, *'it undermines planning processes'* (MLMSP personal communication, 30 April 2017). This frustration is manifested in many aspects of planning consequently planning fails to achieve its spatial transformation targets. Land invasion creates queue jumping; it is also a threat to the

delivery of housing (MLM 1:2016). A municipal official in a newspaper article also expressed these sentiments:

*'Land invasion undermines proper planning processes, prejudices rightful beneficiaries of housing opportunities, impacts negatively on housing delivery and sometimes interrupts service delivery'* (Mtolo, 2016).

The Cllr (personal communication, 02 November 2016) and MLMSP (personal communication, 30 April 2017) stated land invasion hinders spatial articulation and the realisation of the plans made because the process of rectifying land invasion issues is highly tedious and dirty. Where there is prevalent land invasion planning processes can never be implemented within the timeframes set by planning. Land invasion prolongs the planning processes as authorities engage invaders about relocation terms and in many instances planning processes end up never materialising.

A great deal of expenditure is required in the process of engagement to relocation and often leads to the derailing of funding intended for other things which would alternatively be used to advance the development in place. The Msunduzi official *'This consequently hinders investment, because the process of engaging communities can take too long, confirmed this. Consequently, developers are hesitant to invest in areas with complex and uncertain land ownership issues'* (MLMSP, personal communication, 30 April 2017).

#### **7.4.2. Development Controls**

Land invasion and informal settlements grow in areas that are non-compliant with the planning and building standards. According to uMDM-DM (personal communication, 20 October 2016) this places the public health and safety at risk as human lives are often consequently threatened. Some of the households have been established within areas unsuitable for the establishment of human settlements, the councillor notes although there have not been extreme cases where houses fall apart completely; the community is faced with a common challenge of cracks and humidity in houses. Largely that happens because houses are not built according to the appropriate standards. While these challenges are unfavourable for the social fabric and to the environment of the study area, planning strategies such as the GETPS are confronted with bigger problems as it consistently has to change to suit the changes.

The Cllr (personal communication, 02 November 2016) indicated the area is by principle mostly allocated for business development, for its locality supported by the already existing structural elements. Having to change the long- term plans for adapting to land invasion is a

serious constraint for planning and development. The Cllr (personal communication, 02 November 2016) stated, life is generally very hard in the area, the area is an extreme poverty trap and the fact that houses are built without any house plans which is detrimental to human life contributes to that significantly.

#### **7.4.3. Infrastructure Planning**

Informal settlements across the globe are characterised by insufficient provision of basic services and infrastructure (Macedo, 2000; Huchzermeyer, 2003; UN-Habitat, 2016). This trend is also a common feature in the Plessislaer informal settlement, the area is under resourced, under developed and under provided with the basic infrastructure. By nature of its informality, it is often not included in the municipal planning process, at least until at a later stage. The respondent who is a municipal official in the Msunduzi Town Planning Department confirmed that at least 50% of the households situated within the Plessislaer informal settlement had not been provided by an authorised institution like Eskom or the municipality with electricity service. However, informal settlements often find a way to provide themselves with the necessary services and the Plessislaer informal settlement is no exception. Upon walking through the settlement on an observation mission, it becomes obvious that the settlement has had a number illegal connection that occur from household to household.

The municipal official confirmed that this places significant challenges to the infrastructure due to pressures and unplanned demand for services. Turok (2016) stated the illegal connections create a sense of frustration not only for municipal planning but for neighbouring communities as well. Consequent to illegal connections made by the Nhlalakahle informal settlements located in the northern parts of the MLM, the Northdale Suburb experienced challenges with electricity.

#### **7.4.4. Built Form and Aesthetics of the Area**

The Cllr (personal communication, 02 November 2016) notes that people cannot invest in building homes even under economic conditions allowing for them because of fear of eviction hence he states *'the area is built largely on a temporary basis'*. This trend directly affects the area's visual perception because its fabric follows an informal and uncoordinated spatial growth. This trend affects the area's quality of life and an overall low quality of sense of place. This goes hand in hand with the poor provision of services, which with poor solid waste management and overhead electrical poles and illegally connected cables combine to give a negative sense of place. Because the settlement has developed informally, its built environment

lacks robustness and the due palette of materials used for building is largely mud. This compromises the area's physical character and its aesthetics (MLMED, personal communication, 04 November 2016).



Figure 17: The common physical character of the study area

Source: Author (2016)

The MLMSP (personal communication, 30 April 2017) notes that the public realm is given minimal consideration because the area has not made sufficient provision for sidewalks for pedestrians to safely walk on, no adequate vehicular access to private plots, no parking space, no street lights and pedestrians are susceptible to criminal activities at night. The settlement has grown informally and therefore very little attention has been paid to planning principles. Gounden (2014) had already reiterated that the informal settlements found within the study area are not designed to promote healthy living or the preservation of the environment.

#### **7.4.5. The Future of Planning**

Guided by an interesting statement made by some respondents there is a sense of failure of planning processes to adapt to local circumstances. The W22WCM (focus group discussion,

02 May 2017) continuously raised an outcry about how the planning process within the Msunduzi LM continues to be top-down in character, with solutions based on what one member called '*empty and unfound assumptions*' imposed on them without meaningful consultation.

The continued failure by the planning system to promptly deal with land invasion demands that an interrogation be made in order for new knowledge of how the situation can be reversed and in that way, planning may reshape itself. These processes include township establishment, formal land transfer and land regularisation processes, and because they take too long people opt for land invasion. The MLMSP (personal communication, 30 April 2017) further boldly stipulated:

*'planning processes and planning education is not for poor black communities, it has over the years proved to be unresponsive and has failed to sufficiently address problems confronting such problems. This challenge is largely entrenched in the mismatch and disjuncture of policy and practicalities'.*

The challenge posed by land invasion is not just limited to the planning fraternity alone, but the challenge extends to the education system within which planning knowledge is transferred. The challenge touches on a number of other aspects of the society. '*The planning process remains rigid and not flexible enough to promptly deal with land invasion challenges*'. The MLMSP (personal communication, 30 April 2017) constantly referred to what he calls the '*policy versus practice mismatch*' as the barrier to addressing land invasion.

### **7.5.Challenges of Promptly Dealing with Land Invasion in Msunduzi LM**

The following issues were identified as key challenges that act as obstacles to dealing with land invasion:

- The absence of a Land Invasion Strategy/ Policy and the absence of the specific department and personnel to deal with land invasion on daily basis. The MLM town planning department stated, '*Land invasion is an orphan, it has no father*'. This is largely due to the sensitivity of the issue. He further said '*you can be killed for questioning issues around land invasion*';
- There are serious financial constraints that prevent progress of the plans in place. For example, the municipality has had a number of good documents which have remained on their shelves unimplemented about transformation that can be achieved for Edendale but according to the town planning department, '*no single plan has materialised spatially from those plans (and )these plans include the iMbalu Mixed-use Corridor Plan 2005*' (MLMSP, personal communication, 30 April 2017). This creates a sense of frustration on the side of

planning business and residential areas, people remain with no alternatives. Townships have remained hubs of cheap labour, under resourced, under developed and degraded hubs that are a breeding ground for social ills as it was historically intended:

- Priority has not been given to issues of spatial transformation in townships, despite, the country's commitment to reversing apartheid impacts on space, largely through township regeneration strategies like suggested by the Development Facilitation Act of 1995 (DFA), Urban Development Framework (UDF) and the Neighbourhood Partnership Grant (NPG). Instead, priority has been given largely to service delivery and that is where municipal budgets mainly are being spent; and
- The Cllr (personal communication, 02 November 2016) indicated that there is a variation in terms of housing typologies and the reasons for which land in the area is being used. This suggests the complexity of the negotiation process for relocation, creates challenges in the process of compensation and may consequently come pricey to the authority relocating the community and create a situation of unhappiness due to dissatisfaction with the compensation. The constitution, section 25 subsection 2(b) states the use of the property should be considered when relocating and compensating those being evicted.

### **7.6. Response to Discourage Land Invasion in the Study Area**

The municipality is currently in a process of developing a land invasion strategy, which will establish a methodology/ direction of how to deal with land invasion in the area. Among other things, the municipality intends to invest in technology that will enable it to fly the area quarterly in an attempt to promptly respond to land invasion. This will help the municipality to monitor and analyse its area in order to respond promptly to land invasion. However, technology poses a challenge to municipalities; they are pricey and require frequent maintenance and personnel to operate them.

According to the Cllr (personal communication, 02 November 2016) the local leadership, plays an active role in observation of land invasion issues and that forms part of the monitoring strategy. However, to advance in that regard, the municipality has established an anti-land invasion task team comprising of the municipal security, town planners, community leadership and South African Police Services (SAPS) members (MLMSP, personal communication, 30 April 2017 & MLMLMO, personal communication, 04 August 2016). This response is consistent with the problematic responses, which have resulted in violence, imprisonment and even fatalities; this cannot be regarded as a sustainable solution to the problems of land invasion.

According to the Cllr (personal communication, 02 November 2016) *'the Department of Human Settlements (DHS) conducted a household survey in which they were numbering each house with which communication was made with community members about possibility of relocation of the community, a lot of other work has been done by the DHS beyond that'*. The DHS would have been able to share critical findings that would have sharpened the understanding of certain issues but unfortunately, they appeared to be disinterested in participating in the study. Numerous attempts to invite the DHS Inland Region to participate in the study via e-mails, telephonically and by means of physical visits to their offices since April 2016, were unsuccessful.

In response to the pressing demand for rental housing for lower income groups the Department of Human Settlements has attempted to bridge this gap by introducing the concept of Community Rental Units (CRU) and Social Housing for the gap market, which intends to provide decent rental accommodation for people earning between R0- R5500 and R3501- R15000 respectively. The MLM has taken good advantage of this programme, it is the biggest beneficiary in the entire country of this programme through the Social Housing through the Signal Hill located in Napierville, Westgate in Grange and Aloe Ridge located in the CBD. The Westgate Social Housing facility is located five kilometres away from the study area and it is expected to house 4000 people rendering it the largest Social Housing project in the country (Pillay, 2017).

According to MLMSP (personal communication, 30 April 2017), this is expected to bring much relief for those who need decent rental accommodation in Pietermaritzburg urban areas. The greatest critique received by the concept of Social Housing and Community Rental Units is the category designed for, which caters for people earning between R3501 and R7500. It should be noted that the low-cost housing subsidy income category is for people earning between R0 to R3500, against that background the Social Housing and CRU has a further gap of an invisible group created which is of people earning between R7501 and R15001. While the impact of the project will be major for the informal dwellers, residing within the study area the CRU remains unsustainable for people working on temporary jobs and it does not solve the key issue of ownership.

## **7.7.Summary**

This chapter intended to answer the research questions initially set in Chapter One. In the logical flow of the research questions, this chapter has provided answers to the research

questions addressing the scope of land invasion in the study area, the impact of land invasion on human wellbeing, to the environment and to planning processes and responses to discourage land invasion in the area.

The chapter revealed that, indeed there are sizeable portions of land accounting for almost 20% of the study area that have been affected by land invasion within the study area and the settlement continues to grow as people continue to allocate, subdivide and sell land illegally. The impacts of land invasion are far-reaching to the social wellbeing of the residents, the environment and to planning processes. This therefore establishes a strong need for close monitoring of the land invasion problem and the need to promptly respond to the land invasion challenge. While the municipality and other organs of state have employed a number of interventions to discourage land invasion incidences within the area, land invasion remains and continues to grow.

The following chapter will wrap up the study through a discussion of the key issues that emerged in the course of this research. The second section intends to propose policy and recommendations for the study area that should be considered as the municipality attempts to rectify land challenges.

# **CHAPTER 8**

## **DISCUSSION, RECOMMENDATIONS AND CONCLUSIONS**

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### **8.1. Introduction**

The intent of this chapter is to provide a summation of the key findings that emerged in the earlier chapters of this dissertation. This is done in order to set a scene for proposing possible recommendations that may be employed to address the land invasion challenge confronting the Msunduzi Local Municipality (MLM). The chapter then proceeds to discuss recommendations for important crosscutting issues that will cultivate for an enabling environment for the proposed recommendations for Greater Edendale to work successfully in the long term. The chapter closes with a discussion of future research and conclusions of the study.

### **8.2. Discussion: Summary of Key Findings**

The aim of this research, as outlined in Chapter One was to investigate the degree to which land invasion had taken place within the study area and further analyse the impact of land invasion on town planning processes in place within an area earmarked for the establishment of the Greater Edendale Urban Hub (GEUH).

#### **8.3.1. Scope of Land Invasion in Plessislaer**

Empirical research revealed that indeed, eleven portions of land taking up 60.21 hectares had been subjected to illegal occupation summing up to almost 20% of the total land within the study area. Within the land illegally occupied only 4.5% of the land included land required for the implementation of the GEUH. Within these portions of illegally developed land at least 1436, households have been established and 274 households fall within the land earmarked for the establishment of the GEUH. Given that the settlement has existed for a period above two decades, it is not surprising that the informal settlements have grown to reach these figures.

#### **8.3.2. Impacts Imposed by Land Invasion of the Social Wellbeing and the Environment**

Findings emerging from theoretical & legislative framework, literature review and empirical research all prove that land invasion is a complex phenomenon, which is immensely detrimental to planning processes, human lives and to the environment. Firstly, while it is necessary to acknowledge the positive and intangible impacts of illegally occupying land for the social fabric of the invaders the process carries with it substantial negative effects for

invaders. Illegally occupied land often guarantees free or cheap land for housing for the poor that are too rich and too poor for the urban housing land market places they can call home.

However, land invaders are vulnerable to eviction, multiple forms of disasters often induced by the illegality and unsuitability of land occupied. Beyond that, settlements developed on invaded land have often become hubs of squalid living conditions accompanied by extreme poverty and dilapidated environments which encourages a great deal of social distress, hopelessness and a sense of defeat for land invaders. Therefore land invasion constitutes a violation and poses a significant threat and a barrier to the realisation of the very first founding value of the South African Constitution Chapter 1(a) which entitles its people to '*human dignity, the achievement of equality and advancement of human rights and freedoms*'.

Secondly, land invasion processes take little or no cognisance of the environmental impacts and they have therefore ignored the precautionary measures emphasised by town planning processes, which encourage the protection of the environment. In the Greater Edendale area wetlands, the Msunduzi & KwaPata River and delicate vegetation have been significantly endangered by the existence and growth of informal settlements.

### **8.3.3. Impacts of Land Invasion on Town Planning Processes**

Land invasion has a significant impact on town planning processes, both positive and negative. Land invasion forces the character of planning to continuously change itself to accommodate the problems of land invasion and be sensitive to unique places and scenarios rather than its principles of orderly development. Land invasion also creates a significant predicament for planners, as the processes of rectifying land invasion require ample financial, human and time resources, which often becomes barriers to the realisation of the spatial articulation of town planning desires.

Lastly, numerous efforts and injection of financial resources have been put in place by the MLM and other state organs to discourage further land invasions and improve the housing conditions for the people of Greater Edendale and the urban poor in general. However, the continued existence of the land invasion challenge points to the poor culture of prevention consistently present in institutions responsible for planning & land management and reactive response to problems, which is often subject to defeat. For instance, it is clear that despite the fact that the MLM had known for over two decades about the land invasion taking place within the study area, very little or next to nothing has been done to effectively engage the community occupying land on options to protect the land in question or discourage land invasion. As a

result, the magnitude of the problem has intensified greatly, the community has densified and more land has been sold to more people.

#### **8.3.4. The Essence of Land Invasion in the Greater Edendale Area**

The Greater Edendale land invasion, its underpinnings and its impact are not unique to the area only but it in fact is consistent with the trends of illegal occupation of land in many parts of the world. The first events of land invasion in Greater Edendale took place as a community decision to rectify a problem that had been inherited from the apartheid and a political war. This is also not unique to Greater Edendale and as a result these land-related challenges are well known in South Africa, however only the bare minimum has been done to rectify the challenge. The 2017 State of the Nation Address (SONA) presented by the Honourable President Jacob Zuma acknowledged that transformation in this regard has been slow further stating, *'it will be difficult if not impossible, to achieve true reconciliation until the land question is resolved'*. This statement suggests that there is an urgent need to rectify this challenge systematically for planning to realise its full potential. Turok (2016) warns that South Africa has a deeply entrenched culture of violent resistance to unattended issues. The current pattern of land ownership prevalent in the country is unjustifiable, untenable, indefensible and unsustainable and that cannot go unchanged forever.

Land invasion taking place in Greater Edendale constitute a sense of criminal activity whereby people deliberately take the opportunity to illegally occupy, subdivide, sell and use land for economic gains such as shacklordism. This dimension is prevalent in Greater Edendale, as largely well off prominent members, who deliberately perpetuate land invasion for personal enrichment, have intensified land invasion. The second dimension shows a sense of desperation for land by the poor who need land as a means and an end for their social wellbeing. In the context of the Greater Edendale area, this dimension of land demand predominantly influences land invasion.

While the rationale and moral behind land invasion differs, the goal is common; all these groups intend to change their socio-economic conditions through either seeking profits or social security. This analysis brings forth AlSayyad's (2004) argument cited by Soliman (2007) which suggests that informal activities must not only be understood as activities carried out by the poor, but in fact they should be understood as inevitable natural outcomes of the liberalisation of the economy. Conceptually, land invasion is therefore a materially driven process, which is

tied to the need for the improvement of individuals and communities' socio-economic conditions.

#### **8.4. Recommendations and Policy Implications**

First, it is important to state that the problems noted in the earlier chapters have no singular blanket quick-fix solution. However, the continued existence of the land invasion and the complexity associated with resolving the problem necessitates a need for a reform in the planning practice and other crosscutting sectors influential to planning. Addressing land invasion and its associated problems requires collective dedication; each individual in society has a role to play in the process in the spirit of the Constitution's preamble which states: '*South Africa belongs to all who live in it*', calls for unity and shared duties and responsibility.

With that being said, the researcher personally believes that violent methods of dealing with land invasion should be totally rejected instead, the response to land invasion should at all times attempt to support desperate land invaders improve their living conditions. David Harvey (2006:153) notes: '*The state, with its monopoly of violence and definitions of legality, plays a crucial role both in backing and promoting these processes, and in many instances has resorted to violence*'. Clearly violent response does not help solve the problem of land invasion instead, it intensifies it. It is for that reason that this dissertation seeks to find alternative planning measures that can be employed to address the land invasion challenge. These recommendations find inspiration in the postmodern planning approaches discussed in Chapter Two which state that communities should be agents of their own planning processes.

##### **8.4.1. Cross-cutting Policy Issues**

###### **8.4.1.1. Decolonisation of Planning, Planning Education and Institutional Reform**

A reform in the planning processes to a more transactive approach that allows for innovation through the embodiment of insurgency into formal planning channels and enhanced community participation is the approach that is highly necessary in the process of resolving land invasion challenges. Decolonised planning action is sensitive to local indigenous knowledge and language, more inclusion that leads to improved relations between planners and communities and improves the transfer of knowledge ultimately leading to a decolonised institutional reform is the way to go. According to Lane (2001), insurgent planning is necessary for its ability to shift and decentralise power relations through collective participation defined by community terms. Affected communities should always be included in issues of land ownership, land tenure, land protection, regularising urban space, environmental protection and

land allocation. This is an essential process because not only does it allow the planning authorities to build strong relations with communities but it also facilitates a strong network through which a culture of knowledge sharing can be nourished.

The problems confronting the municipality are well known but there has not been a sufficient supply of innovative ideas and models enabling transformation and as a result, the MLM has highly relied on traditional planning mechanisms. Universities have a huge role to play in that regard because they are spaces of planning knowledge transfer. Decolonisation of the university curriculum systems can be achieved through strengthening relations that allow for practical knowledge transfer between local, African and other international universities, traditional authorities and other organisations and organs of states that deal with practical programmes. Policy has a large role to play in reinforcing these relationships. Municipalities and other state organs therefore have to fund and monitor academic research (must be careful not to influence findings) up to PhD level. In order to develop new Afrocentric theoretical positions and new theoretical models and templates (including how to deal with a disaster management system) that are highly informed by African experiences, in order to establish the interconnected aspects that we keep on missing in the decision-making process. This ought to be understood as a long-term process and in order to succeed, we must expect to make mistakes, learn, and grow from them, while there is no certainty about the future decolonisation promises a completely new perspective to planning which is refreshing.

#### **8.4.1.2. Political Buy-in and Enhanced Public Discourse**

The issue of urban land is highly politicised and dialectical in nature; it is highly contested and in South Africa, it has formed a basis of the political struggles for centuries now. Therefore, politics have a large role to play in dealing with issues of land and land invasion to ensure planning processes run smoothly. There is a greater need to enhance more public discourse for the South African community to debate these issues in the hope that a solution for large-scale redistribution may emerge. It is necessary that political heads learn about the significance of decolonising planning practice and policy to provide unconditional support for the implementation processes to be supported.

#### **8.4.1.3. Institutional Reform and an Enhanced Culture of Sharing**

Within the government sector alone, there is a wealth of knowledge, information and interventions being carried out by different organs of state, Non-governmental Organisations and Community-Based Organisations, including Geographic Information System (GIS) data

that is stored individually. In some instances, the different state organs duplicate this information unknowingly and that suggests there is a poor integration and a culture of working in silos prevalent in society. That is undesirable because in some instances there is an outcry about the shortages in human and financial resources and yet some of the information that is already available, could just be shared among the different sectors to avoid duplication of efforts and improve working relations that help one to arrive easily at the common goal. Either it is necessary to establish a singular network physically or electronically that allows for storage and sharing of information where every institution has to tag along and contribute accordingly. This prevalent disintegrated culture contributes significantly to administrative planning failures and it should be avoided.

While there is a recently established Anti-Land Invasion Committee to deal with land invasion issues within the MLM, which comprises of the South African Police, Msunduzi and other law enforcement private security and municipal officials, the municipality still does not have a precise unit, official or specific policy or land invasion plan/ strategy to assist in dealing with land invasion issues on a daily basis. Consequently, insufficient attention has been paid to the problem over time. This challenge confronting the MLM is not unique; it is common in smaller municipalities. This becomes obvious with the silence of the municipality or its failure to promptly respond to the Plessislaer land invasion for over two decades, which led to a sense of neglect and the intensification of the problem. It also suggests a sense of neglect to the land invasion issues, however the municipal official attempted to provide clarity in this regard, he said:

*'Land invasion is an orphan, it has no father because it is a highly sensitive issue which directly involves the social wellbeing of people and you can be killed for it if you deal with it unprepared'.*

### **8.5. Interventions for the Study Area**

Firstly, the MLM must to be commended for the initiatives that implemented since the municipality's establishment in year 2000, with an attempt to reverse apartheid planning impacts and revive the dull economy of the Greater Edendale area. However, its response to land invasion is consistent with many other parts of the country, and it has largely been proactively violent. With that being said, there is currently inadequacy in terms of policy and mechanisms employed to address and discourage land invasion proactively.

Firstly, for the GEUH to work efficiently, have the maximum impact, and achieve its intended purposes the MLM, the residents of Plessislaer need to establish a radical method in which the

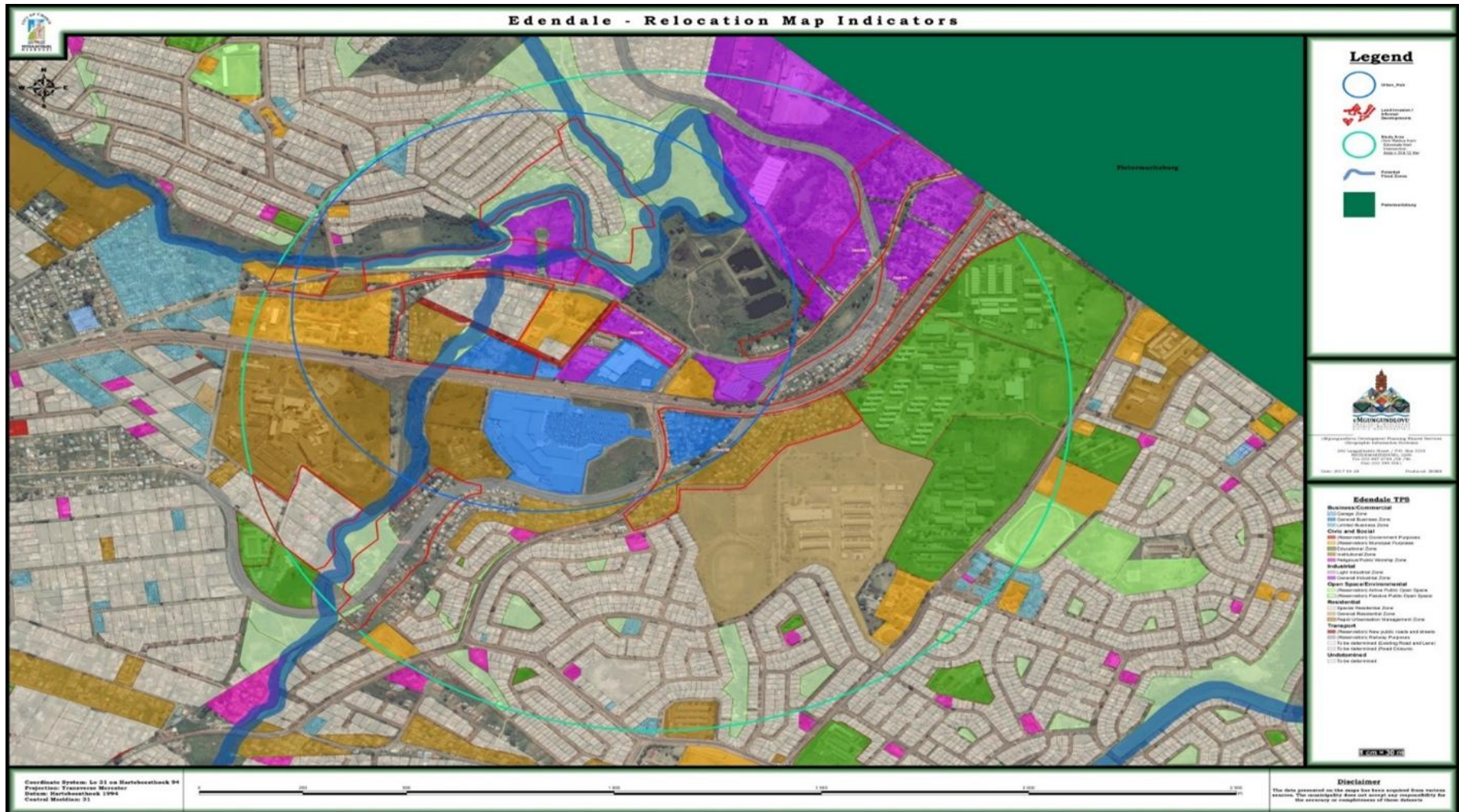
GEUH will work. However, in the absence of a radical, decolonised and inclusive programme in place that seeks to integrate local people into the GEUH. That exclusion disintegrates them through a long-term intervention policy which will address how the community representation in terms of ownership will be dealt with, the GEUH may remain just another capitalist stunt with sophisticated buildings that will wipe away a thriving community for capital accumulation for the benefit of a few. The following issues have been identified as possible interventions that need to be implemented within the study area to address the key challenges:

### **8.5.1. Relocation**

The discussions emerging from the empirically collected data prove relocation is inevitable for the study area's residents on both scenarios, whether the GEUH is implemented or not. This is largely due to the less than desirable conditions in which the people of Plessislaer live largely influenced by the area's unsuitability with regard to the land itself. The hydro-meteorological hazards increase the community's vulnerability to flooding due its proximity to the Msunduzi River, the unsuitability of area for human settlement development and the pressing need for the implementation of the GEUH are crucial factors that strengthen a case for some residents of Plessislaer to be relocated from the area. Additional risks include safety issues as some homes share yards with high voltage electricity pylons, in wetlands thus prone to water-borne diseases and face challenges with regard to the provision of emergency services due to the lack of infrastructure such as roads. Other challenging issues include problems such as rising damp, cracking walls and mosquitoes.

Consequent to this, the MLM indicated that the National Treasury had already made funding available for the appointment of a consultant to start facilitating the starting of relocation negotiations. Relocating communities can have far-reaching and negative effects on future life, social fabric and the livelihoods of those affected. The differentiated use of land and investments may give rise to complexity of the relocation program due to differentiated interests and compensation routes with regard to the land in question. The success of a relocation programme is therefore dependent on comprehensive planning guided by the best practice to alleviate risks, which are highly grounded in communication routes between authorities and communities. Relocation is a complex process hence it is a stressful and an emotional process for households as they move to new places. To minimise this challenge it may be important to ensure that not all households are relocated, some well-established homes should be assisted to integrate their activities to the proposed GEUH.

Map 8 shows an overlay of the approved Greater Edendale Town Planning Scheme (GETPS) on an aerial photograph with GIS depicting the current land suitability analysis against the current land use. The GETPS is able to show a number of land development constraints existing within the study area, which enables drawing a conclusion on structures built on unsuitable land and hence qualifying for relocation.



Map 8: Relocation Map

Source: Adapted from MLM GIS work (2017)

Table 7 seeks to provide a summary of a relocation analysis, which shows housing structures that may be subjected to relocation and the rationale for which their relocation is necessary:

Table 7: A summary of the relocation analysis

	<b>Affected Land Invasion Areas</b>	<b>Number of HH</b>
Situated within the 1:50 and 1:100 year floodline	• Area 2	70
To be affected by expansion of the GEUH	• Area 3	179
Located within environmentally sensitive areas/ areas earmarked for environmental protection	• Portions of Area 8	32
Located to pieces of land obstructive to future developments such as road reserves	• Portions of Area 6	70
	• Area 7	66
Located within other incompatible land-uses (such as houses in close proximity to undesirable industrial activities).	• Area 4	312
	• Area 1	60
Total		<b>779</b>

Source: Author (2017)

A physical count of housing structure indicates, at least 779 structures qualify for relocation within the study area. This is a significant figure accounting for at least 54, 25% of the housing structures erected through land invasion. Area 2 is more vulnerable to flooding due its proximity to KwaPata and Msunduzi River and hence a sensitive environment while Area 1 is built in an area earmarked for general industry. There are visible land constraints and land shortages within the study area as there is no area earmarked as land available for possible relocation sites. However, the areas zoned as Special Residential Zone, General Residential Zone and Rapid Urbanisation Management Zone can be innovatively developed to accommodate people requiring alternative land to ensure relocation does not move people too far from the opportunities centred in the study area.

Paying close attention to Cernea's (2003) contentions which conscientise about the possibility of relocation programmes inflicting more social distress than relieving it through increasing the vulnerability of a region to disasters that have negative social and economic outcomes, the following is suggested. The Greater Edendale Relocation Programme must be designed to reduce adverse impacts and minimise susceptibility to future disasters. Cernea continues by

stating that properly planned for and managed, disasters provide considerable opportunities to initiate valuable new development initiatives.

The study therefore proposes the MLM subscribes to the best planning practices in carrying out the relocation programme through facilitating a transactive and people-centric planning process of meaningful engagement with the community with the intention of including as many people as possible. Through that process, the stakeholders will have to collectively draft a Relocation Implementation Plan (RIP) that will give direction to how the relocation process should be carried out. It is of crucial importance that it should be led and championed by community members and prioritises community demands. The RIP should act as a community development strategy that acknowledges that people hold land as an essential asset and should hold on to it for maximum beneficiation. It should also aim to achieve the sustainability of the relocation programme through the establishment of clear guidelines defining how the implementation process should be carried out. The guidelines must reflect a long-term plan for rehabilitation and beneficiation on the part of the GEUH, guaranteeing that residents will be relocated within Ward 22 or alternatively within 1km radius of the study area and it must clearly establish how the existing businesses will either be integrated into the GEUH or retain their functioning.

### **8.5.2. Community-led Land Regularisation, In-situ Upgrades and Re-blocking**

Against all odds which have prevented the planning process from achieving its objectives of reforming urban society, through pulling them out of the shackles of urban poverty Mabin (2000) cited by Todes (2011) states '*we need to rescue the positive from the modernist agenda, its ambition to change cities in the direction of social justice and sustainability*'. This must go hand in hand with the rejection and the unlearning of the modern planning practices that have inflicted negativity on the urban society.

Modern planning places strong emphasis on the production of orderly and regularised physical urban space. Empirical research really shows a number of significant challenges confronting the Greater Edendale community that are associated with the area's haphazard nature. It is important to avoid by all means the complete wiping out of the existing homes and therefore homes situated within developable areas not to be affected by the physical extension of the GEUH must be regularised through a process of land reconfiguration and re-blocking of homes.

In decolonised planning practice, this process allows a fertile ground for innovations to emerge through an opportunity for scientific practices of configuring space to be merged with

indigenous knowledge and practice. The community-led regularisation process insists on the reconfiguration of space through a process of land registration, cadastral surveying to swiftly transfer land ownership to the invaders to improve their security of tenure. Regularised settlements promise many other benefits such as improved security of tenure for land invaders, environmental protection through the re-blocking of homes and improved installation of infrastructure services.

Drawing inspiration from the Ubungo Darajani case study, community-led land regularisation has the potential to minimise the influence of foreign western concepts carried by modern planning by accommodating indigenous knowledge and merging the two. Policy has therefore a large role to play in support of the community-led land regularisation process through supporting the decentralisation of the planner's role and give the community an active role to play in decisions that affect them. The fact that the municipality owns most land within the study area makes it easier to transfer it to people under circumstances of favourable political will. However, there may be a challenge with regard to privately owned land as there may be limited interest in the process of regularisation.

#### **8.6. Future Research**

The nature of this research, being an academic research study was challenged with the shortages of financial and time resources, which limited its capacity to exhaust all the issues of land invasion in the area. There is undoubtedly further research needed with regard to a number of issues; however, a deeper insight is required with regard to the following aspects within the Greater Edendale:

- Ways of facilitating community-centric methods of land monitoring, regulation and distribution;
- Systematic methodologies of disposing land especially for addressing the social role with regard to human settlements;
- A long-term plan to integrate local and informal businesses into the formal economy through the GEUH; and
- Social and business impacts to be imposed by the implementation of the GEUH.

#### **8.7. Conclusions**

It has been noted without an inch of doubt from the discussion and findings emerging from this dissertation that land invasion poses a serious problem, not only to South African society alone

but also to the entire global urban community. The problem is rooted in structural, economic and institutionalised problems underpinned by the economy and the known South African land question, which has produced uneven urban spaces and land ownership patterns.

Therefore, there is nothing extreme or surprising about the problem of land invasion being manifested in the Greater Edendale area; in fact, it forms part of the bigger narrative that is consistent with the patterns of urban growth in any unequal society. Addressing the land ownership patterns remains central to the redress of these patterns. In the quest to discourage further land invasion it is therefore highly imperative that South Africa finds a systematic method of addressing the issues of skewed patterns of land which have largely remained polarised post-apartheid and thus allowing for continued failure and the perpetuation of urban land pressures. As a country governed by a constitutional democracy, legislation remains an important vehicle towards realising and rectifying this challenge.

While there has been great acknowledgement about the persistence and the extent of the problem, both politically and in the planning fraternity no sufficient programme or solution whether nationally, provincially or locally exists to rectify the problem on a large scale. In the absence of solutions to rectify this challenge, problems will not solve themselves instead they will only intensify further. The growth of informal settlements through land invasion should no longer be viewed as an abnormal activity but instead as a spatial reflection of the nature of our society which is highly divided in terms of economic status.

There's a clear discrepancy between the planning demands and the reality of urban land in South African urban areas. With that understanding in mind, the detriments and risks imposed by the creation of informal settlements through land invasion with regard to planning, human lives and to the environment make it very hard to objectively support land invasion. This study proves beyond any reasonable doubt that land invasion is an inimical process to the planning process, defies strategic and long-term planning, statutory planning, infrastructure planning, built form and standard aesthetic set by responsible authorities. It is a financial obstacle to municipalities, creates queue jumping, and promotes ghettoisation which hosts squalid living conditions and it is an opportunity for some people in society to make money through illegal means. This establishes a strong reason for which land invasion cannot be adopted or supported as a model for land redistribution.

However, the positive call made by land invasion to planning is too loud to ignore. The increase in the rates of the mushrooming settlements emerging through land invasion pose significant

challenges to the planning fraternity, which exposes planning's limitations and failure to keep up with the challenge. It is clear, like Olufemi (2004) suggests that the notion of land invasion is still going to grow and this dissertation echoes the same sentiments. The challenge is not limited to urban planning alone but it cuts across a number of issues that need reinvention such as law, economics, development and the environment. All these fields need to relook and unlearn (where necessary) at strategies previously employed to deal with land invasion and learn from ordinary lessons at grassroots level in order to relearn new ways of addressing land invasion. However, while we wait for that, a number of interventions can be employed to rectify these challenges at local scale as pilot projects that can generate lessons to learn from and replicate. That way, planning will successfully thrive in its objectives.

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# APPENDICES

## 10. Appendices

### Appendix 1: UKZN Ethical Clearance Certificate

 **UNIVERSITY OF  
KWAZULU-NATAL**  
INYUVESI  
YAKWAZULU-NATALI

21 July 2016

Ms Thandeka N Mthiyane 215078494  
School of Built Environment & Development Studies  
Howard College Campus

Dear Ms Mthiyane

Protocol reference number: HSS/0990/016M  
Project title: Land Invasion in Greater Edendale, Unit H: Scope and Impacts on Town Planning Processes.


**Expedited Approval**

In response to your application dated 07 July 2016, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol have been granted **FULL APPROVAL**.

Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment/modification prior to its implementation. In case you have further queries, please quote the above reference number. Please note: Research data should be securely stored in the discipline/department for a period of 5 years.

The ethical clearance certificate is only valid for a period of 3 years from the date of issue. Thereafter Recertification must be applied for on an annual basis.

I take this opportunity of wishing you everything of the best with your study.

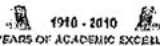
Yours faithfully  
  
.....  
(Deputy Chair)

/px

cc Supervisor: Dr HH Magidimisha  
cc Academic Leader Research: Prof O Mtapuri  
cc School Administrator: Ms Nolundi Mzolo

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**Humanities & Social Sciences Research Ethics Committee**  
Dr Shonuka Singh (Chair)  
Westville Campus, Govan Mbeki Building  
Postal Address: Private Bag X64001, Durban 4000  
Telephone: +27 (0) 31 260 3587/3380/4557 Facsimile: +27 (0) 31 260 4608 Email: [shonuka@ukzn.ac.za](mailto:shonuka@ukzn.ac.za) / [swinnann@ukzn.ac.za](mailto:swinnann@ukzn.ac.za) / [mohrmp@ukzn.ac.za](mailto:mohrmp@ukzn.ac.za)  
Website: [www.ukzn.ac.za](http://www.ukzn.ac.za)

  
1910 - 2010  
100 YEARS OF ACADEMIC EXCELLENCE

Fourty Campus: 10 Edgewood 41 Howard College 42 Medical School 43 Pietermaritzburg 44 Westville

## Appendix 2: Approval to conduct research by the Msunduzi LM

### ***The Msunduzi Municipality***

Private Bag X 321  
Pietermaritzburg  
3200  
☎ (033) 392 3000

333 Church Street  
Pietermaritzburg  
3200  
[www.msunduzi.gov.za](http://www.msunduzi.gov.za)



---

Enq: N. Madonda      Tel: 033-3922245      E-mail: [Nqobile.madonda@msunduzi.gov.za](mailto:Nqobile.madonda@msunduzi.gov.za)

---

Ms Thandeka Mthiyane  
School of Built Environment and Development Studies  
Howard College Campus

15 September 2016

Email : [Thandeka.mthiyane@gmail.com](mailto:Thandeka.mthiyane@gmail.com)

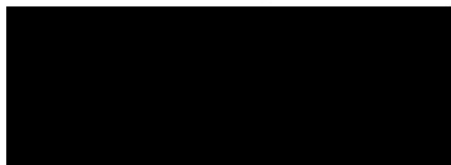
Dear Madam

#### **RE : UNDERTAKING OF RESEARCH**

Please be advised that you hereby granted permission to conduct your research within Msunduzi Municipality, subject to the following conditions:

- (i) You will forward a copy of the completed research report to the Office of the Municipal Manager, as per the above contact details;
- (ii) None of the information and/or findings obtained during the research project will be used to construe the Municipality in a negative light and/or against the Municipality in any court of law.

I trust the above is in order



**MR S. HADEBE**  
**MUNICIPAL MANAGER (ACTING)**

---

#### **OFFICE OF THE MUNICIPAL MANAGER**

Telephone/uCingo: 033 3922002  
Facsimile/iFekisi: 0868047309

Private Bag / Isikhwama: X321  
Pietermaritzburg/ePietermaritzburg 3201

### Appendix 3: Consent form for oral interviews

#### CONSENT FORM FOR THE ORAL INTERVIEW

Hi, I am Thandeka N Mthiyane. I am a Masters student in the School of Built Environment and Development Studies, Department of Town Planning. As part of my thesis I am inviting you to participate in my study. The purpose of this study is to examine the scope of land invasion that is occurring in Greater Edendale within the area that is earmarked for the establishment of the urban hub. The second tier of the research intends to unpack the impacts imposed on planning processes.

All the information obtained from this will be kept strictly confidential and anonymous unless permission is given by the interviewee to the interviewer for a specific context. The results of the study will be presented collectively and no individual participants will be identified without their permission.

Acknowledgement of the study and consent:

1. I have been informed of the purpose and procedure of this interview (yes/no);
2. I understand that I am free to withdraw my consent and discontinue my participation in the interview of the study at any time (yes/no); and
3. I understand that I can choose to answer only the questions that I wish to answer (yes/no)

Permission to quote:

I may wish to quote your words directly resulting from this. With this regard please tick the appropriate answer.

1. I wish to review the notes collected during my interview (yes/ no)

By signing this consent form, you are acknowledging that you fully understand the above information and agree to participate in this study

Participant

Date

\_\_\_\_\_

\_\_\_\_\_

Researcher

Date

\_\_\_\_\_

\_\_\_\_\_

Should you have any queries about this study please feel free to contact me Thandeka on 0733916345/ [thahmthiyane@gmail.com](mailto:thahmthiyane@gmail.com) . Or contact my supervisor as well Ms. [NTLHED@ukzn.ac.za](mailto:NTLHED@ukzn.ac.za).

## Appendix 4: Interview guide

### INTERVIEW GUIDE

- Briefly discuss the Msunduzi LM spatial planning system with special attention to the response to land invasion and informal settlements in Greater Edendale.
- What is the MLM vision, regarding the area earmarked for the Greater Edendale Urban Hub?
- How are human lives and the environment impacted by the land invasions taking place in the area?
- How are land invasions impacting on planning processes?
- What system is currently used to discourage land invasion?
- What do you suggest should be done to discourage and solve land invasion in the area?

**Appendix 5: Consent form for focus groups (English version)**

**PARTICIPANTS RESEARCH CONSENT FORM FOR FOCUS GROUPS**

Hi, my name is Thandeka 'Hle' Mthiyane. I am a student at the University of KwaZulu Natal registered for Masters in Town and Regional Planning. As part of my Masters I am required to conduct a research.

I am inviting you to participate in the focus groups interviews for the study entitled: Land Invasion in Greater Edendale proposed Urban Hub Precinct: Scope and Impacts to Town Planning Processes. This research is important for the assessment for my studies. Your contribution to this study is an essential part of my data collection process. Results obtained from this study will be compiled into a detailed document. This study has potential for helping professionals strengthen their understanding of different factors that encourage land encroachment in Greater Edendale that will enable them to be in a better position to solve many problems affecting residents.

Your participation to this study is voluntary; you are free to withdraw at any stage, should you wish to do so. You are given assurance that this is a confidential exercise. Your name will not be implicated in the final dissertation.

Your contribution will be highly appreciated.

PLEASE TICK THE APPROPRIATE BOX

I Confirm That I Have Read And Understand The Information And I Have Had An Opportunity To Ask Questions Where I Do Not Understand	<input type="checkbox"/>
I Understand That My Participation Is Voluntary And That I Am Free To Withdraw At Any Time, Without Giving A Reason	<input type="checkbox"/>
I Agree To Participate In The Above Study	<input type="checkbox"/>

\_\_\_\_\_  
PARTICIPANT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
RESEARCHER

\_\_\_\_\_  
DATE

## Appendix 6: Consent form (Zulu version)

### IMVUME YOKUBA INXENYE YOCWANINGO

Sawubona, igama lami ngingu Thandeka Hle Mthiyane. Ngingumfundi eNyuvesi yaKwaZulu Natali. Ngibhalisele izifundo ezibizwa nge-Masters kweze Town and Regional Planning. Njengenxenyane yeMasters, ngilindeleke ukuba ngenze ucwaningo.

Ngiyakumema ukuba ube inxenyane yamaqembu azophendula imibuzo emayelana nalolucwaningo olusihloko salo sithi: Land Invasion in Greater Edendale proposed Urban Hub Precinct: Scope and Impacts to Town Planning Processes. Ukuzibandakanya kwakho kulolucwaningo kuyinxenyane ebaluleke kakhulu kulolucwaningo. Imiphumela yalolucwaningo izogcinwa kusomqulu webhuku. Lolucwaningo lungalekelela osolwazi bakhulise ulwazi lwabo ngokuqonda izingqinamba kanye nezinto ezibhebhethekisa inkinga yokuphazamiseka komhlaba endaweni yase Greater Edendale. Lokhu kungasiza abaphathi ukuba bakwazi ukuthatha izinqumo ezizolekelela ukulapha izinkinga ezihlasele umphakathi.

Ukuba inxenyane yalolucwaningo kuyintando yakho, unemvume yokuyeka lapho ungasafisi ukuqhubeka ngaphandle kokunikeza izizathu zalokho. Unikezwa isiqinisekiso sokuthi lolucwaningo luzothatha izinkulumo zethu njengeziyimfihlo kanti negama lakho angeke lisetshenziswe ephepheni eliwumqulu.

Ukuba yinxenyane yalolucwaningo kwakho ngiyakuthakasela kakhulu.

KHETHA IBHOKISI ELIHAMBISANA NAWE NGEZANSI:

Ngiaqinisekisa ukuthi ngiyazi futhi nginemininingwane eyanele ngalolucwaningo. Ngilitholile ithuba lokubiza imibuzo lapho bengingaqondi khona.	
Ngiaqonda ukuthi ukuba inxenyane kwami kulolucwaningo kuyintando yami futhi nginelungelo lokushiya nganoma yisiphi iskhathi, ngaphandle kokunikeza izizathu	
Ngiyavuma ukuba inxenyane yalolucwaningo	

\_\_\_\_\_  
OPHENDULAYO

\_\_\_\_\_  
USUKU

\_\_\_\_\_  
UMCWANINGI

\_\_\_\_\_  
USUKU

## Appendix 7: Discussion guide (English version)

### FOCUS GROUP DISCUSSION GUIDE

- Briefly discuss your understanding of the proposed Greater Edendale Urban Hub and the land invasion problem.
- How is the social fabric and the environment impacted by the illegal settlements?
- What are impacts imposed to planning activities by illegal informal settlements?
- What are strategies in place by government to discourage land invasion in the area?
- What are possible interventions to the problem?

## Appendix 8: Discussion guide (IsiZulu)

### FOCUS GROUP DISCUSSION GUIDE

- Chaza kafushane ukuqonda kwakho ngohlelo lomaspala uMsunduzi, ugxile olwazini lwakho mayelana nodaba lomhlaba, imikhukhu,
- Chaza kafushane ngokuqonda kwakho ngohlelo lukamaspala lwe Greater Edendale Town Centre.
- Iziphi izinqinamba ezimelene nemvelo nempilo enhle yabantu abahlala endaweni eyakiwe ngokungekho emthethweni?
- Yiziphi izinqinamba ezidalwa ukuhlala ngokungekho emthethweni kwizinhlelo zentuthuko?
- Yiziphi izinhlelo ezibekwe uhulumeni ukuba kunciphe isimo sokukhula kwemizingokungekho emthethweni?
- Ubona ukuthi lezizimo zingaxazululeka kanjani?

**Appendix 9: Observation guide**

**OBSERVATION GUIDE**

			Commentary	
General Area	Land	Topography		
		Natural environment	Soil characteristics and capability, soil erosion, tipped materials	
			Vegetation type, extant and physical environment quality	
	Ecology			
	Land uses	Residential		
		Commercial		
		Open spaces		
	Infrastructure and service provisions	Water		
		Sanitation		
		Solid waste management		
		Roads		
		Energy		
	Structural and social environment	Transportation and circulation		
		Public facilities		
		Private Facilities		
Social Character				
Research Themes	Scope of Land Invasion	Where are land invasion occurring?		
		Types of land invasion		
	Land Allocation	Is land allocation still taking place?		
Efforts to discourage land invasion	Are there any visible signs that seek to discourage land invasion?			

Appendix 10: Attendance Register for one on one interviews



School of Built Environment and Development Studies

Thandeka Mthiyane  
Land Invasion in Greater Edendale: Scope & Impacts to Town Planning Processes

ATTENDANCE REGISTER FOR THE INTERVIEWEES

Land Invasion in Greater Edendale: Scope and Impacts to Town Planning Processes

#	NAME AND SURNAME	DESIGNATION/ POSITION	INSTITUTION	DATE	CONTACT DETAILS			SIGNATURE
					CELL NUMBER	OFFICE NUMBER	EMAIL ADDRESS	
1	Mthobisi Khumalo	Manager: Land Management	Msunduzi	4/3/2016	0716074499	083 372 266	mthobisi.khumalo@insenduzi.gov.za	[Redacted]
2	Sophonis Mpahla	DISASTER MANAGEMENT	MSUNDUZI		016086592	083 8716100	msunduzi.gov.za	[Redacted]
3	Xolani Ngoyeni	WARD CCLER	Msunduzi		08380857			[Redacted]
4	Shannon Ramsonathi	Env. Scientist	Msunduzi	4/11/2016	0714701804	0838022048	shannon.ramsonathi@msunduzi.gov.za	[Redacted]
5	Esmeralda Ramburana	" "	"	4/11/2016	071 644 75044	033 392 3625	esmeralda.ramburana@msunduzi.gov.za	[Redacted]
6	George Lebele	Chief Planner Spatial Planning	Msunduzi	30/05/2017	08333407	3627	george.lebele@msunduzi.gov.za	[Redacted]
7								[Redacted]
8								[Redacted]
9								[Redacted]
10								[Redacted]

**Appendix 11: Attendance Register for focus group discussions**

ATTENDANCE REGISTER FOR THE FOCUS GROUPS

Land Invasion in Greater Edendale, Proposed Urban Hub Precinct: Scope and Impacts to Town Planning Processes.

COMMITTEE: ward 22, ward committee

DATE: \_\_\_\_\_

#	NAME AND SURNAME	REPRESENTING?	CONTACT DETAILS			SIGNATURE
			CELL NUMBER	OFFICE NUMBER	EMAIL ADDRESS	
1	stheophile mchunu	WARD 22	0734345588		N/A	[REDACTED]
2	MKOSIKHONA Mgcobo	WARD 22	0726628639		Mycobomgshumi1010@gmail.com	[REDACTED]
3	MKHATI Molefe	WARD 22	0734345588		Mkhatomolefe@gmail.com	[REDACTED]
4	THOBILE Dlamini	WARD 22	079293559			[REDACTED]
5	THELH RANCIKHELE	WARD 22	076764482		N/A	[REDACTED]
6						[REDACTED]
7						[REDACTED]
8						[REDACTED]
9						[REDACTED]
10						[REDACTED]

## Appendix 12: Editors Report

250 Troye St

Muckleneuk

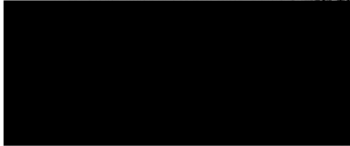
Pretoria 0002

Date: 4 August 2017

### TO WHOM IT MAY CONCERN

This is to certify that I have duly edited a Masters dissertation in Town and Regional Planning (MTRP) in the School of Built Environment and Development Studies (SOBEDS) at the University of KwaZulu-Natal, Howard College, Durban – *Land Invasion in Greater Edendale, proposed Urban Hub Precinct. Scope and Impacts Imposed to Town Planning Processes* by Thandeka Ntombenhle Mthiyane.

I have a BA majoring in Latin and English from the University of Pretoria, Honours in English Language and Literature from Unisa and Troisième Degré in French from the Alliance Française. Throughout my 37-year fulltime career and the twenty years since, I have been involved with the process of writing English, editing English or lecturing in the field of Media Studies, English for Journalism and Business English at various tertiary institutions (Tshwane University of Technology, Boston College, Damelin College, Rosebank College and College Campus) as well as editing documents and theses for students at universities throughout the country. I have also served as a judge for the annual competition of the Publications Forum of South Africa for the past eight years.

  
Joan Ann Hetteema (née Thies) 072-126-5174/ 012-440-4753

jhettema@absamail.co.za