Allocation Thought Piece for Managed Land Settlement

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Purpose
This paper provides some thoughts on allocation in vacant land, or Greenfield, development situations with particular application to managed land settlement (MLS). It is intended to inform MLS model development, but also to have a broader applicability to municipalities and communities. It aims to provide:

- a thinking framework within which to understand allocation perspectives
- some of the key issues that need to be considered

It could make recommendations on which options to consider in different situations, but its leaves it up to the reader to decide which route would be best in each unique circumstance.

The two perspectives it considers are community and municipal led development.

Introduction
Allocation is a component of land tenure administration. Allocation ends once people have occupied land, and other aspects of land tenure administration kick in, such as conferring rights, managing land use, managing changes and so on. Allocation is about the process by which someone or some group obtain land access. The line between gaining access (a procedural issue) and the content of that access (something more substantive) is a thin, but useful, line for the purposes of this paper. It is unlikely that the allocation process would be divorced from the process of conferring rights as people would be gaining access to land as well as to their rights associated with such land access. The process of conferring rights (of occupation, of transfer, of use etc) would have already begun in the allocation process as people are not participating merely in a land access process but with some awareness about rights they are getting access to.

Land Allocators
Allocation can be understood as the process by which people obtain access to land. Allocation is therefore a means to an end, not an end in itself. Or, allocation is a mechanism or instrument for land access. This is helpful to bear in mind when focusing on allocation, so that we keep in mind what the purpose is.

This process is configured differently depending on what drives allocation. In this paper I cover two perspectives – government and community allocation – which are important for MLS. Before focusing in on these two allocators it is important to understand the range of different ways in which land is allocated in practice, so that these two routes can be seen in context.

Even although this paper focuses on the state and the community as allocators (and considers these as different perspectives on allocation), there are other allocation actors or institutions notably the market, and in an unorganised or truly informal system, self allocation can also take place.

The following institutions are involved in land allocation and the characteristics of the allocation process vary depending on the allocator.
**Market allocation**

Property is allocated through “market forces” and this depends on ability to pay, underpinned by the idea of a willing seller and a willing buyer. The key requirement in market allocation is ability to pay. Land owners (sellers) and the buyers are key role-players in a market transaction but there are always intermediaries of some sort such as estate agents and banks. The market seldom operates in isolation and there are various ways in which market allocation is facilitated through for example, advertising, estate agents and lending. Access to information, intermediaries and access to finance are important aspects of market allocation. You don’t need to know the people you are transacting with and this allocation system is financially driven. In this allocation system property is treated as an investment, as an asset for accumulation, so resale is important.

**Self allocation**

This is where either individuals or communities access land through squatting or invasion. This can be organised or less systematic. Sometimes the word “encroachment” is used to distinguish a smaller scale, more household led occupation process from an organised group invasion. This is an opportunistic approach as people will be taking matters into their own hands, using what opportunities are available. These are often quite limited – the land that is available might be beneath power lines, in flood lines, on rubbish dumps, or dolomite. This is a system that is usually survivalist in nature.

**Traditional authority allocation**

In a rural context traditional leaders allocate land in terms of communal law and practice. Membership is an important criterion. This is not discussed much in this paper but it’s important to note as many urban informal situations have adapted communal practices to urban settings.

**Community allocation**

A community organisation drives the allocation process based on principles and criteria that may or may not be explicit. In an MLS context there is some kind of official consent so the approval of the government for community allocation is usually needed to make the allocation more secure. The basis of allocation may vary but in often the principle of membership applies in adapted form, often being expressed as participation. Length of stay could be important too.

**State allocation**

Government drives allocation according to public policy. Where the state is involved in land allocation it generally does so to address the constraints poor people have in accessing land through market allocation. Public policy generally prioritises people on a first come first serve basis.

It is useful to consider these categories of allocators but equally important to be aware that there can be gaps or disjuncture between the normative and practice, between what policy (in government allocation) and people (in community allocation) say about allocation and how it actually happens in practice. As with any laws (whether local or legislated), the gap between normative and practice helps to understand the extent to which normative rules are appropriate, accessible and so forth; as well the nature of authority in the allocation system. By understanding authority it is easier to assess issues of power, equality and access. Authority in community allocation is sometimes contested terrain. Generally there are local leaders in whom authority vests. In many communities these authorities are socially legitimate but in others authority can be more or
less pernicious. Much the same can be said of authority in state allocation systems and increasingly there is a sense of corruption in allocation.

Principles and criteria for allocation

Different allocation methods are likely to use different criteria. For example the market allocates according to ability to pay, whereas the state might allocate according to affordability criteria that advantage the poor, filling in a gap where the market allocation mechanism does not reach. Community allocation might preference length of stay. These are starting PRINCIPLES which any allocation process needs to clarify at the outset.

CRITERIA are the next level of consideration – developed on the basis of the principles. For example if a principle is to be pro-poor, a criterion could be people are eligible if they earn less than R3500 per month. If participation is a principle then attendance at meetings or regularity of savings would be criteria based on this participation principle.

Housing subsidy qualification criteria:
- SA citizen
- Married or co-habitat
- Have dependents
- Not owned property before
- Not received housing subsidy before
- Earn less than a defined amount per household (note, household is defined as both parties in a married and co-habiting situation, and it is income after/ before tax???)
  - Earn less than R3 5000: Qualify for full subsidy for the house
  - Earn between 3500 to R7000: qualify for less and less subsidy for the house as the income of the household increases. (note that this is for top structure funding, for services funding income may not come into it, depending on the subsidy type.)

There are a few modifications to the above depending on what subsidy is being used.

In both municipal and community perspectives on allocation the normative ideal and practice are likely to be distinct. There may be gaps between principles and criteria in policy, or verbally communicated by community leaders, and what happens in practice. These are important to monitor as they show weaknesses in implementation or applicability and in an adaptive and responsive system, the gaps should shorten.

For municipal led MLS I imagine that the housing subsidy qualification criteria would dominate in the normative version of what happens. Public policy, and its political and ideological links, is primary, underpinning these criteria; being South African, falling within a specified income band, etc. In my experience with more community generated initiative officials tend to argue for equity considerations; not rewarding queue jumpers (land invaders); etc. Beneath the normative ideal other criteria are likely to prevail such as identifying people for home affairs (an intelligence kind of function), payment and revenue generation as well as political patronage (rewarding loyalists or encouraging prospective voters). In municipal MLS there is little scope for participation in principles and criteria as policy is already set or “received”. On the contrary the issues of flexibility and accommodating community initiative come into play. For example, if an organised community takes
initiative, or wins a court case, then the public system is not very adept at being responsive to a departure from the “waiting patiently” (for your name to come up on a waiting list) mentality. It could be said that this mindset has actually disempowered people over the last fifteen years or so, as it has undermined some community’s ability or will power to get on with it themselves. In contrast, some of the social movements stand in contrast to this (“nothing for us without us... “ etc).

For community driven MLS I see more scope for participation in setting up the normative ideal (“community policy”) but so too is there scope for the gaps between that norm and actual practice. In my experience length of stay is important (akin to the first come first served approach in the waiting list ideal) but so too is participation / allegiance which is similar to patronage in the municipal version as it can be a reward for accepting the authority of the local leadership.

I see allocation as being about access to resources and inherently about relations of power and this applies in both perspectives – as this point about two different kinds of patronage shows.

This means that transparency, openness and clarity are important principles across the different versions of MLS.

From a community perspective access to information about a planned project, to which they would essentially be relocated in the municipally driven MLS, would be vital. Being informed about the plan, clarity concerning logistics, standards (stand sizes, water access, toilets, any compensation for materials etc), meetings for consultation and so forth, all constitute important aspects of information. Agreement concerning the existing demographics – number of households, shacks, people etc – is important to reach and often managed via a process of municipal run registration.

Verification is often required – either for the community at the start, or as the process unfolds, due to changes and quite often settlement growth. The list or register then becomes an important official mechanism, and a mutually agreed one, by which to manage the process. Generally a community will want to relocate together, as there has been strength in the collective endeavour to date and a strong sense of community identity develops with time and in shared struggle. Also, it can be very divisive only some households not all can be accommodated in an identified site. However, it is not unusual that the greenfield site cannot accommodate all households in the existing community and then prioritisation needs to take place. This needs to be a community run process, backed up by the authority of the municipality, as it can create division within communities and weaken local institutions considerably. Generally, an additional site for accommodating remaining people will be required. Managing the insider/outside dynamic requires careful consideration and some kind of partnership between community organisation and state. Too often the complex issues of settlement growth and priority access are left to community organisations to handle alone.

**Conceptualising Allocation and MLS**

Allocation can be conceptualised at different scales, presented in the table below. The first step is almost a pre-allocation step in which prospective beneficiaries qualify for consideration or are recognised in some way as being eligible for access to the process. The criteria (whether normative or in practice) will differ depending on whether or not the project is a municipal or community driven managed land settlement.
The second is a more project specific step in which people gain access to an actual and specific prospect. The third aspect is about site or plot specific access. In the managed land settlement context it may constitute block allocation first followed by individually demarcated sites. I don’t think the block and plot allocation process – what happens within the project opportunity – is particularly well observed or conceptualised, but make some assertions about it in the table.

In practice the requirements for subsidy allocation can be dominant right from the beginning but in this more idealised conceptual version, housing subsidy allocation is a later phase in the process as it addresses top-structure, whereas the preceding phases concern project and plot/block access. I address the issues concerning housing subsidy allocation in the proceeding section.

<table>
<thead>
<tr>
<th>Conceptual steps or stages</th>
<th>For municipal led MLS</th>
<th>For community driven MLS</th>
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| **1: Eligibility:** how people become considered for allocation to a project. | Linked to housing subsidy processes  
Waiting lists  
Pre-screening (for housing subsidisation)  
Shack numbering, registers | More varied: membership, social networks, getting recorded in enumeration processes, community lists, joining a savings scheme and saving, invading land and getting shacks numbered by municipality, etc. |
| **2: Project allocation:** This is a project scale step in which beneficiaries are linked to a project though not yet blocks or sites within it. | For government allocation from ‘queue’ / list or ‘shack area’ to a project is through a first come first served processes from an approved waiting list, or being relocated from a flooded shack area to a new piece of land, etc.  
Could be that a community is earmarked due to crisis, or politician’s promise. Could also be part of programmatic approach of municipality – identifies which informal settlements are to be formalised and which are to be relocated and so forth. | For communities it’s about being moved from a community waiting list or register or savings scheme to a piece of land. Community beneficiaries already exist in the current settlement where the Greenfield development is being led from, although the alternative site might not be large enough to accommodate everyone. If so, some community criteria need to be used to determine who allocated to the project. |
| **3: Block or Site allocation:** | In a government process it may be quite arbitrary – in principle anyway names are drawn from the top of a list and linked to erf numbers sequentially. The layout plan with individual erf numbers is important here. Or in a block subdivided project – where the layout consists of a few super blocks and so forth - to which groups will be allocated | In community processes that I am aware of the process is likely to be guided by principles whether these are explicit or not, especially if what’s available is differentiated in some way (size, proximity to facilities and so forth). Also, it isn’t unusual that the number of erven in the new area is less than the number of households in the existing community so some kind of prioritisation is generally at work. Retaining social networks in close proximity to each other might be an important consideration too.  
It’s conceivable that this aspect of allocation could happen in situ i.e. as people collectively mark out or block the area. |
For state driven allocation eligibility tends to be driven by things like people being on the municipal waiting list. There may be criteria for getting your name onto this like having an income below a certain threshold, being a citizen, etc. For community driven allocation eligibility would be things like being a member of the savings scheme, having saved a minimum target savings amount, living in a certain informal settlement, etc.

For state driven MLS, allocation to a project could be driven by qualifying for a subsidy, being on top of the waiting list, coming from a particular informal settlement, etc. For community driven MLS, it could be things like having more savings points, attendance at community meetings, being on the list the longest, etc. Note that the term waiting/ weighting list has two meanings:

- Waiting list is based on who put their name on the list earlier.
- Weighting list takes other criteria also into account like size of family, length of stay in the area and gives points that are weighted relative to other points.

**MLS Allocation and housing subsidy qualification**

In practice, housing subsidy qualification is considered a necessary pre-condition for land access, thus qualification is an important part of government allocation even in a MLS context in which housing subsidies are not immediately being accessed. Eligibility in MLS allocation and housing subsidy allocation are not the same thing, although they are linked; sometimes in unfortunate ways. Housing subsidy allocation is about allocating subsidies to people – either once they are on the land or before they get onto the land. For housing subsidy allocation there is a pre-screening process which is likely to affect government approaches to allocation and acceptance of whose names are on the list. This would be likely to influence the attitudes of officials to community guided MLS. For examples, in iCwili, the municipal officials are very engaged by the pre-screening process that they have requested, perhaps more so than the unusual settlement approach they appear to be consenting to. For them the pre-screening process will ensure that subsidy non-qualifiers will be identified. Including non-qualifiers (whether by income, prior receipt of subsidy or nationality) is likely to present a challenge for the project.

There are many circumstances imaginable in which people in a MLS project might not qualify for housing subsidies, thus pre-screening could exclude people from a project altogether instead of excluding them form subsidy access when and if it is accessed. More creative ways need to be explored in which officials are willing to consider inclusion of other people in the beginning who will not be entitled to housing subsidisation later.

Pre screening exercises generally (I think) only look at if the person is a SA citizen and whether the person or his/ her married partner/ cohabitant have owned property before or received a housing subsidy before. It does not look at the income of the household as people do not submit housing subsidy forms with signed affidavits of income etc. It would also not make sense to require proof of income at pre screening phase as there may be a long period – in years in some MLS cases - between pre screening and when the formal screening will take place when the formal housing subsidy application is made (and people fill out formal forms with signed affidavits of income etc.).

The messages (perception not formal) that government has been giving out is that government only wants to allocate people that qualify for a subsidy to any new project (be it a serviced site project or a full RDP housing project) where government money is involved, as they argue that any support
from government must be for people who deserve support (i.e. SA citizen, dependents, earn low income, never owned property before, not received subsidy before, etc.). This may have made sense in the context where the land, service and house were all paid from the same subsidy money, but makes less sense where the land and services stage and top structure phase are separated. In situations where the land and services phase is even further broken into a basic services and tenure phase and a full service and tenure phase, it makes even less sense.

MLS potentially makes it possible for anyone in need to be allocated even if in future they do not qualify for a subsidy. Housing subsidy qualification need not be a pre-requisite in MLS.

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Disadvantages</th>
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<tr>
<td>• Administrative ease: do not have to pre-screen</td>
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<tr>
<td>• Inclusive: accommodates whole settlement as non-qualifiers in need of housing are included</td>
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<tr>
<td>• Encourages household contributions / investments: people who potentially don’t qualify for a subsidy use their own money to improve the house, and/or purchase land</td>
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<tr>
<td>• Accommodates change in eligibility status: life circumstances may change in the course of a development process - some people may not qualify when the allocation is done and vice versa but life circumstances may change this status by the time subsidies are applied.</td>
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<tr>
<td>• People who do not really deserve to get a plot get a plot before someone who really does deserve to get a plot</td>
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<tr>
<td>• Makes it more complicated in future to differentiate between those that have subsidies and those that don’t.</td>
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<tr>
<td>• Fear of non-qualifiers obtaining access to subsidies for which they do not qualify</td>
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<tr>
<td>• Prospect of advantaging people who may not have access to land but whose income may be higher than the subsidy band – thus prioritising less deserving people.</td>
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**MLS and the origin of demand**

The figure below shows graphically the different kinds of “lists” that are used for access to projects, blocks, sites (the conceptual framework that we unpacked earlier).

In practice housing subsidy beneficiaries are derived from a variety of different sources, not simply the waiting list or demand data base. This is because in a programmatic development approach certain informal settlements may be identified for upgrading and their occupants may not be high on the list or might not be on it at all. The impetus for development is not always the next name on a waiting list, even although this is the perception that exists among people who have waited decades for their name to come up. The notion of waiting patiently is also reinforced politically. Access might equally be driven by an upgrading agenda which would prioritise certain informal settlements in an area. Alexandra township is Johannesburg is a good example. People who have been on the waiting list for decades – the “bona fides” - have organised themselves in opposition to the way allocation often happens. My understanding is that there are conflicts in approach here – what has driven development in Alex is an upgrading agenda so identified informal settlements have had to be relocated (in flood plains, or in road reserves etc). This has brought the “bona-fides” into conflict with the authorities over who gets access to opportunities. The conflict has at times also had xenophobic overtones as the occupants of identified informal settlements are perceived to be, or actually are, not South African nationals. This is an example of how an allocation system driven by a first come first serve principle can come into conflict with an area-specific upgrading agenda.

We often encounter the perception that informal settlement residents get prioritised for new housing opportunities. In fact, ULM research identified that people sometimes move into informal settlements in order to increase their chances of subsidisation, describing the perception as “owning a right to future development”. This “prioritisation” highlights the same point made in the previous paragraph – that municipal development plans will influence allocation to new projects, in addition to waiting lists and housing demand data bases. In the City of Cape Town some years ago there was a kind of corrective reaction to this as backyard shack dwellers were identified as being equally important areas to identify subsidy beneficiaries from. This does not necessarily imply that waiting
lists or demand data bases are inappropriate but that they are managed in a more complex manner than first come first serve (or next name on the list) implies.

These anecdotes are intended to describe how the normative and practice may collide – in the sense that in practice subsidy beneficiaries are identified in a variety of different ways. Policy and political messages are not clear enough that housing demand data bases and development plans are both determinants of allocation, nor that in practice the demand data bases are used in more creative or responsive ways than a first come first served principle suggests. It is important to understand the political and patronage motivations of a message that asks people to wait patiently for their subsidy. These anecdotes also serve as a basis for the proceeding description of the different possible origins of demand in MLS.

**Where demand for MLS could come from**

- Relocation from an informal settlement that is being removed (note that is an option of last resort in terms of policy contained in part 3 of the housing code where in situ upgrade is given preference).

- Relocation from an informal settlement that is being upgraded (only those that can’t be accommodated in upgrade area – e.g. in power line or on land for road widening.)

- From municipal waiting list. When it comes to choosing who to allocate from the list a number of criteria can be considered including for example:
  - Being on the waiting list the longest
  - Having lived in the area without a house for the longest period of time
  - Coming from certain suburbs of town
  - Coming from certain type of accommodation (e.g. (backyard shacks, freestanding, renting room in house, living in overcrowded conditions with other family members)
  - Having special features./circumstances/needs (disability, child headed household)
  - Having an income within a specified band (e.g. below R3 500/ month, able to afford rent of 20% of income, etc)
  - Having over a certain number of dependents.

- From a special quota group
  - % from back yard shacks
  - % from informal settlements
  - % from waiting list
  - % from special quota category (child headed households, single parents, aged, disabled, military veterans, foreign nationals? etc.)

- From a savings scheme membership, and other community groups lists

- From a community scheme membership, from special group

- From a special list prepared by business (e.g. from big factories), employees (domestic servants), social groups (e.g. churches, welfare organisations)

- From emergency situation (if some land is set aside to be able to urgently address people affected by an emergency in future)
• From another temporary relocation area that was established in the past as an interim arrangement before the land of the MLS project was ready.

Note that these options all assume that people are being allocated to a MLS on a permanent basis. Some of the concepts described in this report can apply to allocation of people to a piece of land in a non permanent basis where it is expected or planned that the person will be reallocated back to the original area or to another piece of land.

• From anyone that wants a house on a first come first serve basis. This links with the idea of reception centres, where the state makes land available for people to occupy. In many reception centre projects there are rules like:
  o People must move onto the land and build something within say a week
  o People will only be able to temporary ‘rent’ this space for a period of say a year while they look for alternative accommodation. If they leave they have to give the plot back to the ‘organisers’ who then allocate it to another temporary occupant on first come first serve basis.
  o Only after say 2 years are people given a more permanent long term recognition of occupation, which gives them more rights to for example ‘sell’ their rights of occupation.

Guiding questions

• Is allocation a demand driven or a reactive process? In other words, is the onus on people in need to identify themselves? Or does it depend on supply – so that once a project comes up then beneficiaries are identified? Do people apply?
• Who is responsible for allocation? Are people aware of this and do they agree to it?
• What process will they follow? Is this process clear and understood?
• What principles and criteria will be used to guide allocation? Are these derived consultatively and is there buy in?
• Who is allocated (is it head household/family, etc)?
• What happens if someone moves in the interim? Can the claim be transferred? (It might be even if this is not supposed to happen).
• What plot or block can they occupy (is it marked on ground and paper, etc)
• Do households understand what they are getting into? This is particularly important for MLS/LANDfirst type approaches?
• What happens if there is a dispute or disagreement? Is recourse clear, and do people accept it? Will they use it?
• How will non government subsidy qualifiers be dealt with?

Summarising some of the Challenges

Corruption: people don’t believe in waiting list as the allocation mechanism in practice – views are widely held that they are corrupt and that people can pay and jump to the front of the queue

Influx/settlement growth: once an indication is given of a project possibility and matched to beneficiaries then the area of origin tends to grow – new people arrive or people bring families – this can be challenging to manage and can influence the success of the project
Non-qualifying members of existing community: can foreign nationals be accommodated and if so how; can people who have already received a subsidy be accommodated and not be eligible for subsidisation? How to develop projects that contain a mix of people, not just a one size fits all where everyone is a subsidy recipient. We can anticipate that government will be concerned about non-qualifiers on the allocation list. These could be people who are already on the housing data base because they have already received a subsidy. They could be people who do not qualify because their income exceeds the subsidy cap or they might not be South African. Although as far as I am aware there is limited practice in this regard, we need to negotiate for more mixed approaches. Non-qualifiers can rent or make their own contributions.

Buy in to MLS project: this will be important to achieve as the approach is new and can be seen as offering less because it is incremental; it could be seen as a second class option – people may still buy in but then opt out later