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**DEVELOPMENT OF AN APPROACH
FOR THE RECOGNITION OF INFORMAL
SETTLEMENTS AND TENURE IN
SOUTH AFRICA WITH THE POTENTIAL
FOR REGIONAL APPLICABILITY**

February 2010

MAKING URBAN LAND MARKETS WORK FOR THE POOR

Recognition of Informal Settlements

This work has been commissioned by Urban LandMark (ULM). The focus of ULM's tenure security theme area:

- Securing land tenure in informal settlements;
- Improving access to land
- Local recognition and management of land rights

WHY?

To open up more officially recognised channels of land supply to increase poor people's access to infrastructure, social facilities and micro finance in a practical and incremental way



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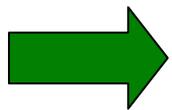
Recognition of Informal Settlements

Broad Context for a New Approach -

Why we need a new approach

- Significant that many informal settlements are old - 25 - 30 years for some, means a long period of exclusion
- Growing discontent being expressed around service delivery which translates into housing delivery
- Financial / budget constraints and shortage of subsidies
- Local government elections not far away (2011)
- Government moving away from relocation approaches
- Development of National Upgrading Support Programme (NUSP)

Hence, there is space and a need to respond in a new way



- We need a governmental response that addresses informal settlements during that period before they are allocated subsidies



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Recognition of Informal Settlements

This presentation sets out an approach to recognising informal settlements and securing tenure in an incremental way in the period before subsidies or full township (formalisation) establishment occurs.

The approach draws on a number of research inputs, which are summarised in the next slide. The main lessons from each of the inputs that have informed the approach are highlighted



Recognition of Informal Settlements

Key Informants from Research

CoJ Support	Literature	Regional scoping	Testing with LMs	Team Members
You can work with and modify existing mechanisms (such as Town Planning Schemes)	The two approaches of Tenure security vs formal title both have good aspects to use	Some countries have legislation to effect tenure recognition, Zambia, Namibia	Some reluctance to address informal settlements outside of the subsidy scheme	Experience in many areas with upgrading so broad inputs on policy and implementation
The importance of a legal framework	Using Incremental approaches to upgrading	They legally declare areas for upgrading	Municipalities not very innovative	Wrote up cameo pieces of their experiences
Commitment, co-ordination and co-operation from officials	Social justice, rights to the city are important for residents	Settlement security precedes individual security	Housing officials more likely to want to go subsidy route	The importance of building from local community experiences
Taking an urban management approach rather than a housing approach	In situ upgrading must be considered	Basic layout (site) plans Certificates Management rules - community	Planning officials were more open to new approaches	



Recognition of Informal Settlements

In a nutshell, what is the new approach?

An approach that incorporates a range of existing (legal and administrative) mechanisms that will allow informal settlements to be recognised, to allow services to be improved, residents' occupation to be recognised and for them to become legal citizens of a city/town in a managed settlement that will unlock investment in an incremental and developmental way in that period before formal township establishment

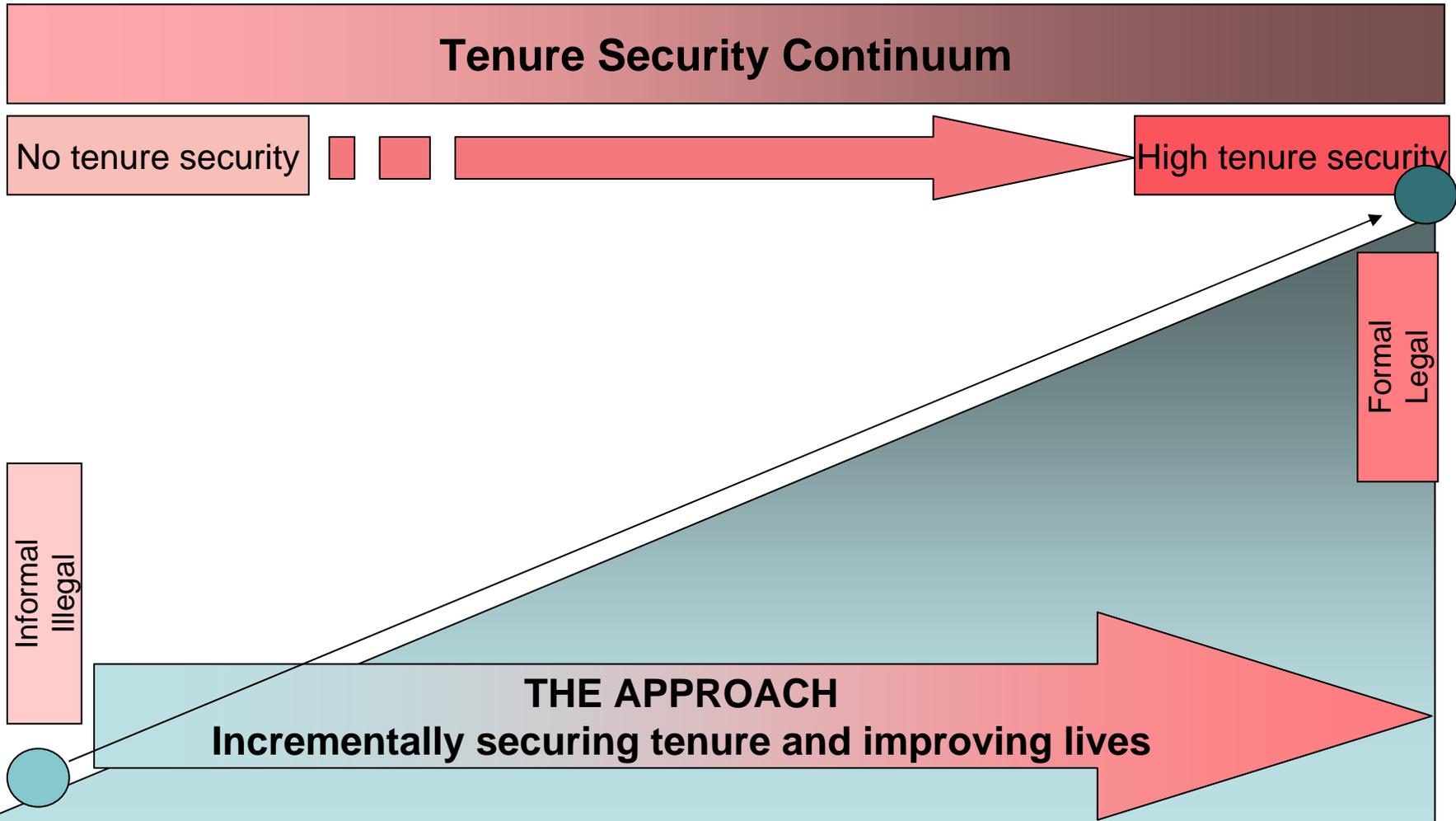


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Placing the Broad Approach



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Recognition of Informal Settlements

What does this Approach Need?

- An understanding of existing social dynamics (tenure relations) in the informal settlement;
- Basic physical information on the settlement;
- Government (municipal or provincial) to make a commitment (political, administrative and budgetary) to informal settlement recognition and develop a **Programme for Informal Settlements**;
- Government officials who are flexible and creative in working with their existing systems and mechanisms.



Recognition of Informal Settlements

What does the Approach try to do?

It provides a range of interventions, tackled in phases, aimed at:

- Providing overall settlement (blanket) security (no evictions, occupation rights, legal recognition) in a way that can be upgraded to individual tenure forms in time;
- Incorporating the settlement into the administrative systems of the municipality:
 - cadastral/spatial (Land Information Systems): identify the area, do simple block layout and then more detailed layout plans
 - infrastructure services: provide basic services and/or improve services
 - social services: community facilities, grants



Recognition of Informal Settlements

What does the Approach try to do? contd

- Improving tenure security via a range of interventions aimed at:
 - Enabling individual / household recognition in municipal systems (addresses, certificate and a basic site plan)
Providing tenure security and enabling transactions (a record of occupation, certificates, municipal bill, local land office)
 - Providing settlement urban management (land use and building management)

By providing a menu of options or tools to achieve some or all of the above in a programmatic way

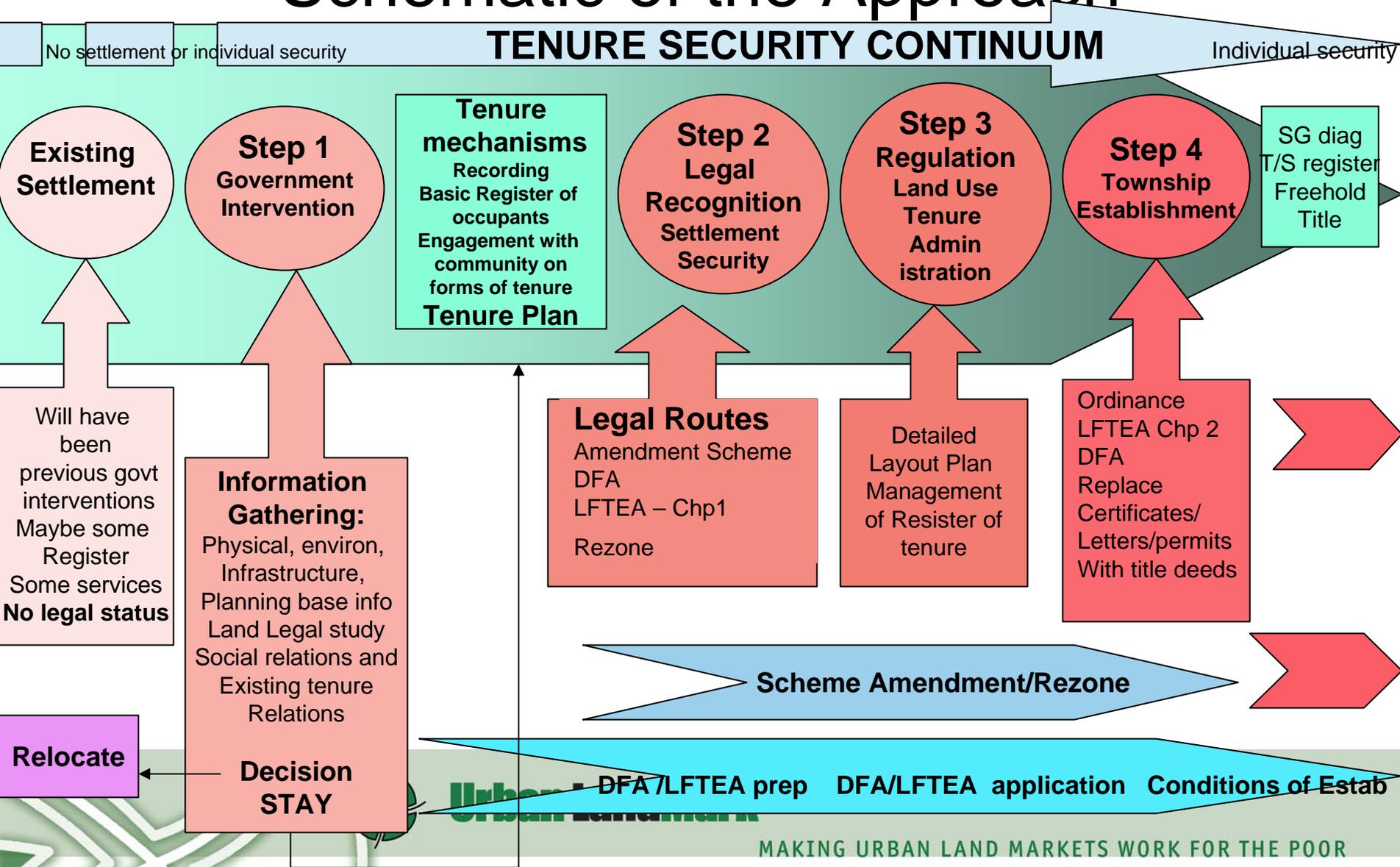


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Schematic of the Approach



Regularisation of Informal Settlements

Who can use this Approach?

It is aimed at Municipalities and Provincial authorities and Community Organisations:

- It recommends that municipalities develop an Informal Settlement Programme and create multi-disciplinary teams (planning/urban management, housing and infrastructure and finance officials chiefly) to implement it
- It can also guide community organisations or community structures in initiating and partnering with municipalities for upgrading.



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Regularisation of Informal Settlements

Where would you use this Approach?

It should inform the **Overall Programme approach** of a municipality with emphases placed on different components of the approach for different categories of informal settlements, for example:

- **Full approach:** settlements that are unlikely to be relocated;
- **Components of the approach:** settlements that might be relocated but not for some 3 - 5 years **and** those that will be relocated but only in 3 - 5 years time;

AND

- Are on municipal and government owned land;
- On privately owned land, with consent with owner.



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Regularisation of Informal Settlements

Explaining some of the Concepts in the Approach

Recognition = The acceptance of an informal settlement through a range of administrative and legal interventions

ADMINISTRATIVE RECOGNITION

This uses normative instruments that may arise from policies or administrative practices to give residents a form of tenure security. They may not have a firm legal basis but rather derive security through commitment by authorities in the form of council resolutions or administrative systems.

LEGAL RECOGNITION

This uses a legal procedure, in terms of some recognised law, to grant secure legal status to an area. It usually results in declaring the area in terms of this law (a settlement area, an area zoned for informal housing, etc) which then permits certain other actions to occur legally.



Regularisation of Informal Settlements

What do you need to get “Kick started”?

Political buy in - need support from highest level in Council to champion the approach and support a Programme

Commitment from officials - need dedicated officials to champion, develop and implement an Informal Settlement Programme (ISP)

Institutional home - need the Programme to be located in a department with influence

Multi-disciplinary team - need a team of skilled officials from planning, housing, infrastructure, social development and other departments



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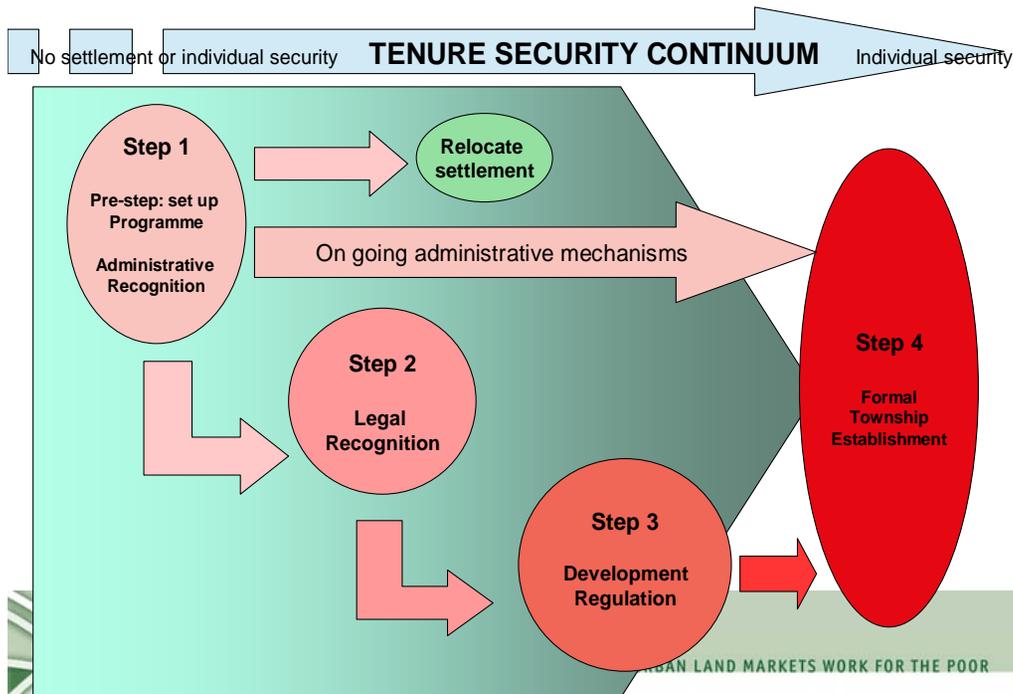
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Regularisation of Informal Settlements

Understanding the Approach

The approach is incremental and tackled in stages:

Simplified Schematic of Approach



Step 1: Establishing a programme and introducing Administrative Recognition

Step 2: Legal Recognition

Step 3: Development and Regulation

Step 4: Formal Township Establishment



Regularisation of Informal Settlements

Components (or Tenure Instruments) that make up the Approach:

- Vision
- Programme
- Business Plan for individual settlements
- Information on the site and the community
- Legal instrument for legal recognition
- Register/record
- Site/Layout Plan
- Tenure Evidence - proof of occupancy, leases, certificates
- Land Use and building structures Regulation
- Infrastructure Services
- Local Land Office
- Joint community / municipal structures
- Integration into Municipal administration systems



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Step 1 – Administrative Recognition

No settlement or individual security

TENURE SECURITY CONTINUUM

Individual security

Step 1

**Administrative
Recognition**

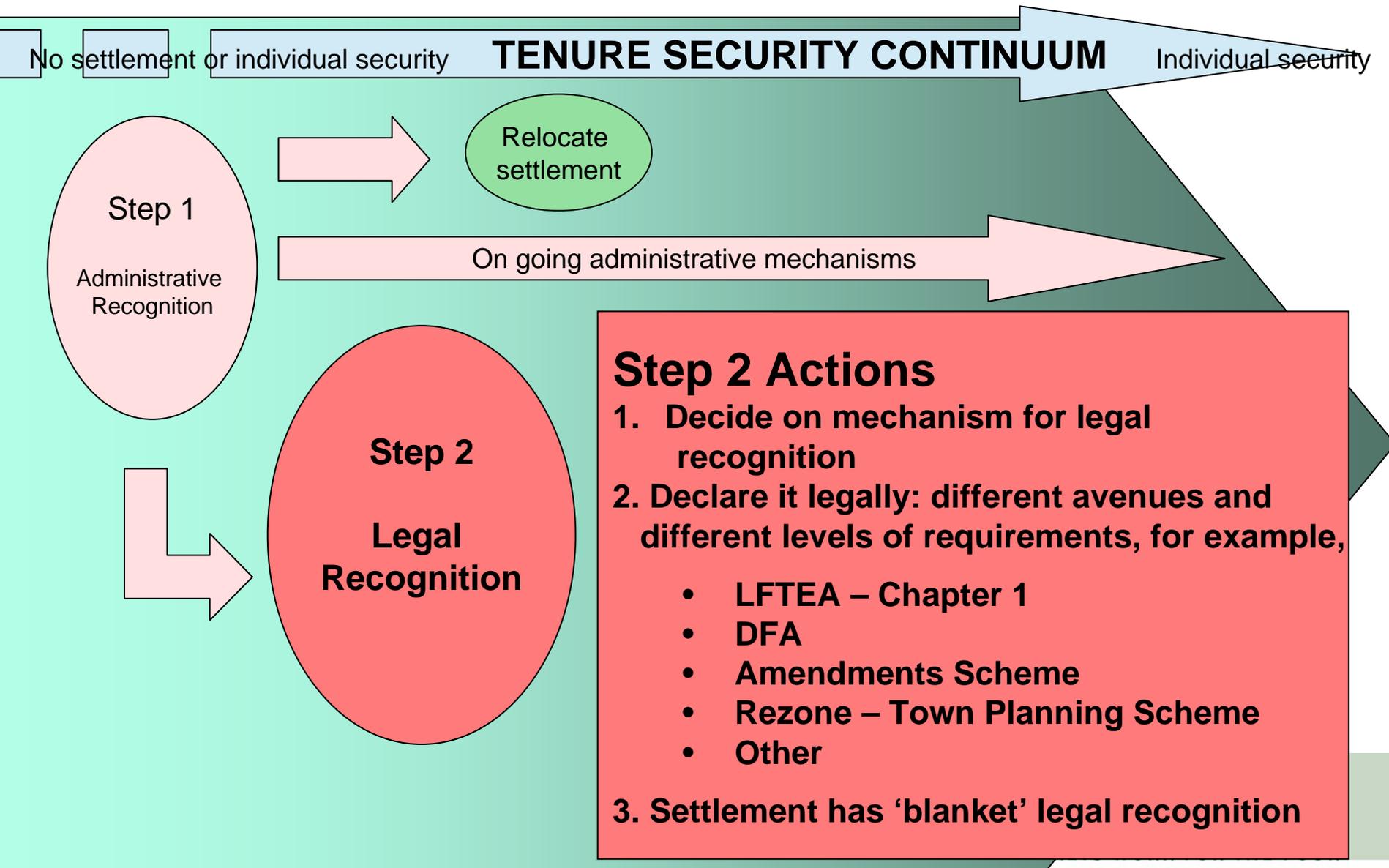
**Relocate
settlement**

On going administrative mechanisms

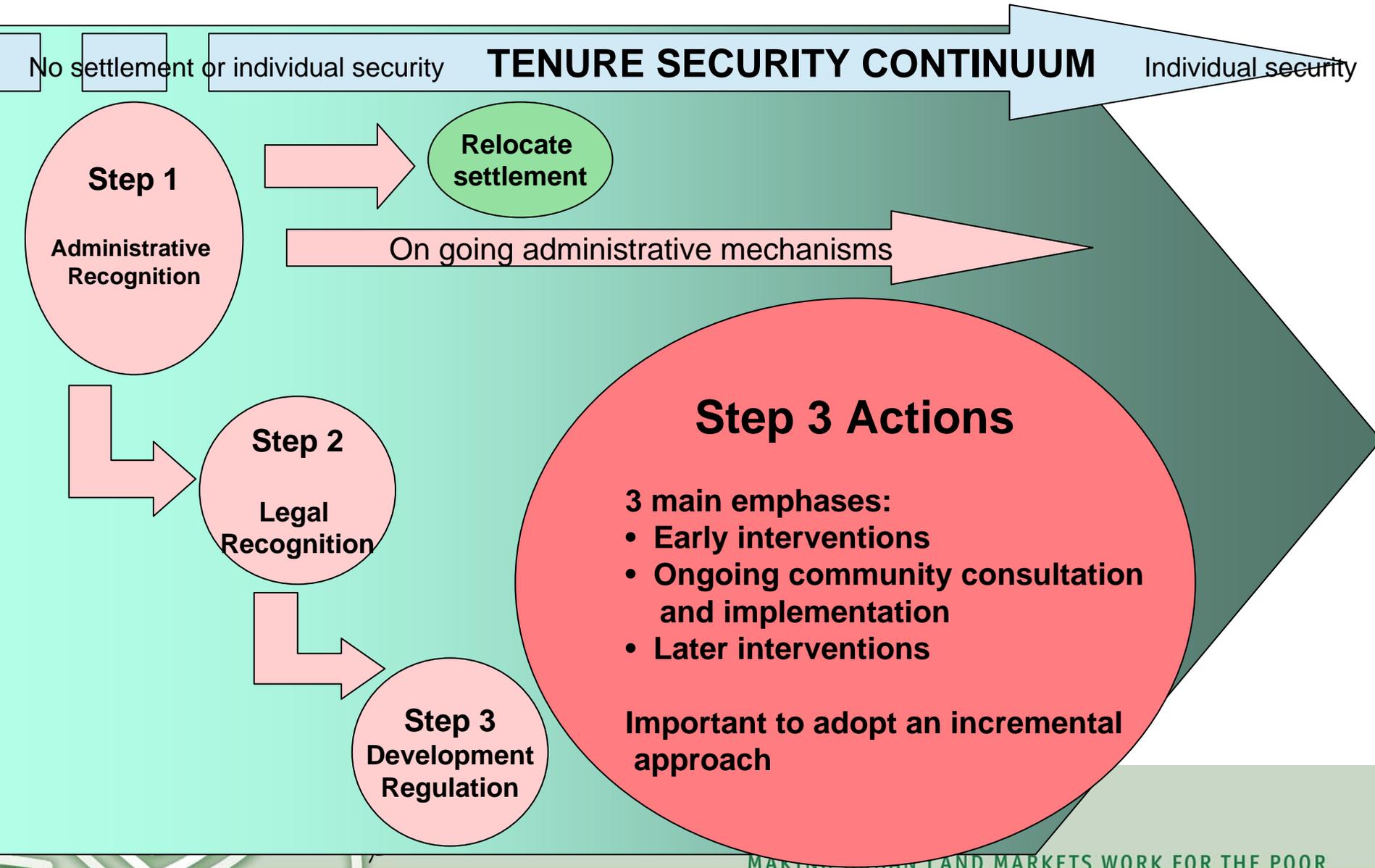
Step 1 Actions

1. **Pre Step:** Obtain high level Council support for interventions in informal settlements; develop an overall Informal Settlements Programme (ISP); get approval for ISP; find a clear institutional 'home' for the ISP
2. **Decisive decision to Intervene in informal settlements**
3. **Information gathering on informal settlements (physical, planning, legal, infrastructure, tenure, social)**
4. **Prepare status quo reports**
5. **Categorisation of settlements and definition of future actions (stay or relocate)**
6. **Administrative interventions - name settlement, base mapping, household enumeration, acknowledgement of occupation, emergency services**

Step 2 – Legal Recognition



Step 3 – Development and Regulation



Step 3 - Development and Regulation

Early Interventions	Ongoing Community Consultation on:	Later Interventions
Basic layout plan – site plan, blocking	Forms of tenure evidence	Layout plan – individual erven
Block addresses, entry into municipal data bases per block	The nature of the record and its role. Possible land office	Leases or individual certificates or bills
Incrementally improve services	Building advice and management	Register to record transactions
Open record/register of households per block	Boundary definition for individual sites	Establish land office. Ongoing land management of area

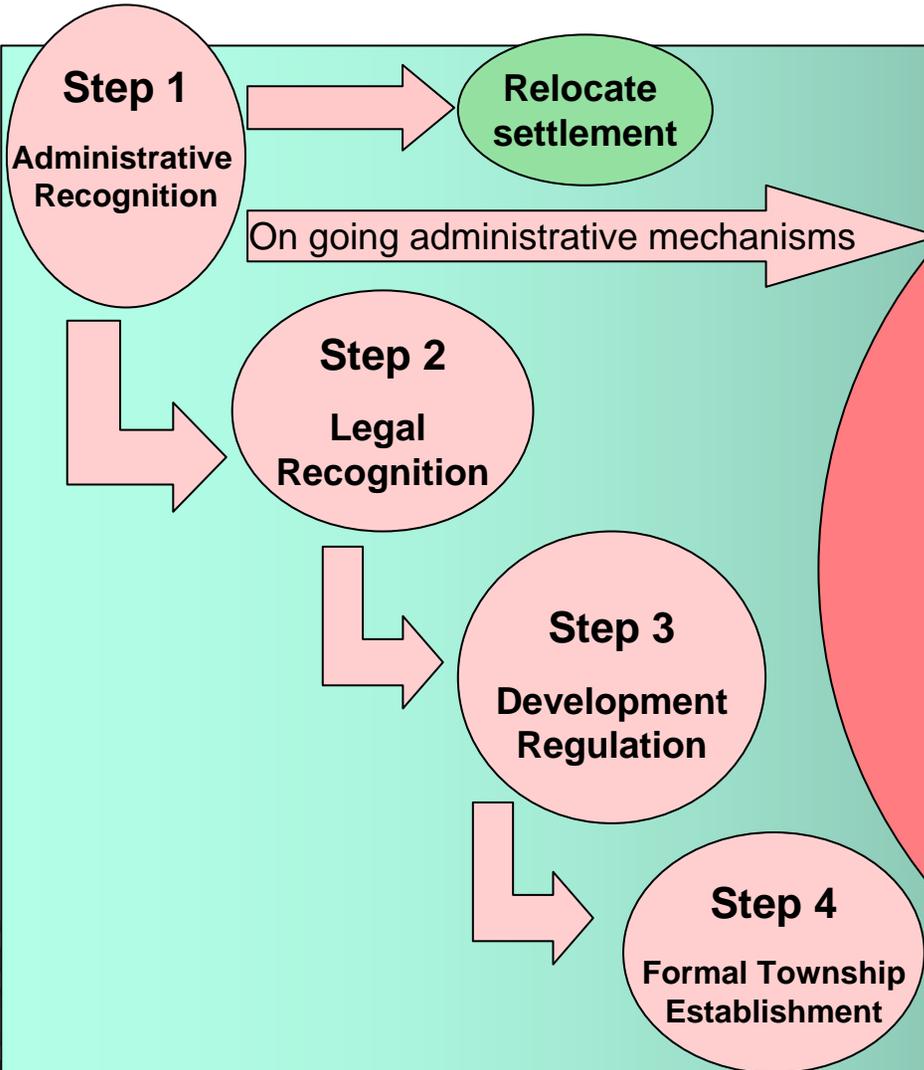


Step 4 - Formal Township Establishment

No settlement or individual security

TENURE SECURITY CONTINUUM

Individual security



Step 4 – Actions

Depending on the route used to grant legal recognition, need to formalise the settlement using planning legislation:

- Prepare application
- Secure undertakings to move households to implement layout plan, if necessary
- Approval of township by authorities
- Handover of register information, approval of GP and opening of register
- Implementation – pegs, roads, other services
- Individual title deeds

Step 4 - Township Establishment

Step 2 Status	Requirements to get to Step 4	Step 4 Legal Route Options
Amendment Scheme (Transitional Residential Settlement Area)	Need to do full township establishment	Ordinance LFTEA Chapter 2 DFA application
Rezoned Special Residential Area/Informal settlement Area ito TPS	Need to do full township establishment	Ordinance LFTEA Chapter 2 DFA application
By Law	Need to do full township establishment	Ordinance LFTEA Chapter 2 DFA application
DFA Land Development Area	Do not need another application – must satisfy conditions of establishment to open register	DFA compliance with Conditions of establishment (especially Deeds Register and General Plan)
Less Formal Settlement ito LFTEA Chapter 1	Will need to comply with Land Survey and Deeds Registry Acts to open township registers	Conversion of settlement to a township. Can do a Chp 2 application



Conclusions on Recognition Approach

By adopting this recognition approach, the following will be achieved in informal settlements:

- All settlements will be identified, their status investigated, categorised, and programmatic interventions identified;
- Settlements that can remain *in situ* and be upgraded can benefit from the entire approach and eventually become formalised townships;
- Settlements that do not need to be relocated immediately, will be recognised and have interventions defined to improve lives;
- Even settlements that will be relocated in the near future will be identified, recognised and limited, appropriate interventions identified;
- Settlement will be incorporated into a range of municipal systems, occupation will be secured.

