

SUBMISSION

TO : THE HOUSING ADVISORY COMMITTEE FOR APPROVAL BY THE MEC OF HOUSING

SUBJECT : ADDITIONAL RURAL GUIDELINES

1. PURPOSE

The purpose of this submission is to approve additional rural guidelines for housing in rural areas.

2 BACKGROUND

2.1 The National Department of Housing developed guidelines for housing in rural areas in January 2000.

2.2 Rural development could occur on various categories of land. It is possible that such development could take place on land owned by a tribe or on land acquired by a farmer. In these instances, various options would be available with respect to the issue of subsidies, obtaining development approval and the transfer of tenure. It is quite conceivable that in such cases, project linked subsidies could be granted and freehold tenure could be issued.

2.3 Since rural development in this province largely takes place on tribal land and due to uniqueness and sensitive tenure problems in tribal areas the National policy could not be implemented in this Province in the format prescribed. Some of the main problems which restricted this department from implementing the National policy were :

- , Tenure issues on tribal land. Traditional Authority concern re land alienation.
- , Since there were no wall to wall municipalities at the time sustainability of services and maintenance thereof was a concern.
- , The Rural Subsidy Mechanism is a subsidy of last resort and will only be approved on good cause being shown why this mechanism is preferred as opposed to any other subsidy mechanism such as PLS or the Institutional subsidy mechanism.

2.4 This province rather than ignoring development on tribal land, developed a Provincial policy framework to introduce housing subsidies into tribal areas. These guidelines outlined in this document are not meant to deal with rural development of the type referred to in point 2.2 as the manner in which development should be dealt with is already known,

2.5 The Provincial guidelines seek rather to deal with development on tribal or communal land and more specifically land registered in favour of the Ingonyama Trust Board.

2.6 The Institutional Subsidy Mechanism was adopted as the most appropriate mechanism for housing delivery in tribal areas. The usual requirements for Institutional subsidies had to be complied with. The establishment of rural housing projects in traditional areas was still delayed by concerns, which the traditional leaders had with certain of the Provincial guidelines and how such issues would affect their authority.

The principal concerns are :

- , The possibility the housing development would result in the alienation of their land should the policy require the establishment of full ownership rights to the beneficiaries as is the case with urban housing projects;
- , Ownership of the project and the role that the Tribal Authority would have in the project;
- , The requirement for the establishment of a Section 21 Company in order to be able to establish the project in terms of the Institutional Subsidy Mechanism.
- , Confusion regarding the purpose of leases.

2.7 This document seeks to provide additional guidelines in order to cater for the main concerns of some traditional authorities with respect to:

- , the use of a Section 21 company as a development vehicle for tribal land;
- , the registration in the Deeds Office of long term common law leases.

2.8 These guidelines are not intended to substitute the national or current guidelines, but are aimed at enhancing delivery of housing in these areas. *The existing guidelines for the use of institutional subsidies or PLS projects will remain applicable to rural development where the Amakhosi are not opposed to the Section 21 company being used as developer or wishes to establish a town in terms of the PLS policy. The Amakhosi would be allowed to make a project application for a housing project using any of the available subsidy instruments.*

3. **IMPORTANT FACTORS**

The following factors, dealt with in the existing guidelines, continue to be applicable to the approach proposed in this document :

3.1. *The Expenditure of Public Monies*

Rural subsidies are public monies and the expenditure thereof must take place in compliance with the principles of the Public Finance Management Act, Act 1 of 1999.

3.2. *Planned and Integrated Development*

All development, including rural development must take place in accordance with the relevant municipality's Integrated Development Plans.

3.3. *Support of the Municipality*

3.3.1 All development, including rural development, must be supported by the municipality having jurisdiction over the project area.

3.3.2. In order to ensure that development proceeds in a co-ordinated, sustainable and integrated basis, the Department of Housing requires housing developments to be driven by municipalities.

3.3.3. This aspect is dealt with further below.

4. **SUBSIDY POLICY MECHANISM**

It is proposed that projects be established using the guidelines and business plan format of the amended Project Linked Subsidy mechanism, in conjunction with the provisions provided for in the Rural Housing policy for the establishment of a system of Functional Tenure, as set out in Part 3, Chapter 11 of the housing code. For the purposes of the rural subsidy guidelines, "functional security of tenure" refers to the special circumstances prevailing in traditional authority areas in Kwazulu-Natal where formal tenure of land, in the form of title deeds are currently not possible, but where beneficiaries are permitted to reside and use the land, in accordance with traditional arrangements. *See attached flow chart outlining process and glossary of terms.*

4.1 *Social compact agreement*

4.1.1 Any housing development undertaken in terms of these guidelines must be preceded by an agreement between the municipality and Traditional Authority in which the respective roles and responsibilities are defined.

4.1.2 The Traditional Authority must consent to the development in terms of Section 2(5) of the KwaZulu-Natal Ingonyama Trust Act, 3 of 1994.

4.2 *Developer*

The municipality, with the support of the District Council where required:

- , Act as a developer. Where the municipality does not have the capacity the department will fulfill the role as developer.
- , Manage the project funds in terms of the PLS Agreement;
- , Appoint any implementing agent/specialists or contractors as may be required to implement the project;
- , Administer a trust account in conjunction with the implementation agent, through which subsidies will be controlled.
- , Provide the bulk services to the project with funding that it would receive from the Consolidated Municipal Infrastructure Programme;
- , Provide technical assistance in the planning and control of the installation of any services in the project;
- , Manage the provision of water supply to the project in terms of arrangements to be agreed between the municipality and the Tribal Authority;
- , Manage the technical and planning functions required for the establishment of the project.
- , Obtain statutory approval for all or any development.

4.3 *Traditional Authority*

The Traditional Authority would, with the assistance of the Department of Traditional Affairs where required:

- , Allocate the sites to be occupied and administer a system whereby Functional Tenure will be given to the beneficiaries of the project.
- , Ensure the involvement of the community in the implementation arrangements for the project.
- , Reach agreement with the Municipality on the level of services to be installed in the project and the administrative mechanisms where applicable for the collection of any service charges or payable by beneficiaries.
- , Protect the development area and prevent any unlawful occupation thereof.

4.4 *Tenure*

4.4.1 The Form of functional tenure that is currently in existence in a specific traditional community may be used. The developer, ie the municipality in consultation with the Traditional Authority will provide the Department of Housing with the following information :

- (a) the details of the beneficiary.
- (b) tenure that the beneficiary currently holds
- (c) the GPS (Global Positioning System) co-ordinates per beneficiary site.
- (d) the consent/signature of the Traditional Authority confirming that the beneficiary has been allocated a plot that exists in the GPS./ Certificate of allocation
- (e) the GPS fixed co-ordinates for the outer boundary of the Isigodi area.

4.4.2 Consent from the Ingonyama Trust Board in the form of a Land Availability agreement should also be submitted to the Department of Housing.

4.4.3 If the beneficiary vacates the property occupied by him for any reason whatsoever, his or her name will be removed from the National Housing Database so that he or she will once again qualify for a subsidy. The Developer must that the Amakhosi re-allocates the property to another qualifying beneficiary. This provision must be contained in the Social Compact agreement between the Developer and the Traditional Authority.

4.5 *Products norms and standards*

4.5.1 Norms and standards need not apply to the levels of services(water, roads and sanitation) in Rural areas, but may serve as a guide.

4.5.2 The top-structure must comply to Norms and Standards, it must be 30 square meters or more and of sound quality. Any savings in the services cost must materialize in an increase in the top structure. The Department of Housing's Regional Office staff must peruse specifications and costs and confirm value for money.

4.5.3 National Home Builder Registration Council(NHBRC) registration is currently not applicable in respect of rural subsidies. Beneficiaries will therefore not be required to make any contribution.

4.6 *Milestone payments*

4.6.1 The milestones must be clearly defined and must not be inconsistent with the Progress Payment Milestone for Project Linked Subsidies and/ or Institutional Subsidy milestones. It is acknowledged that minor variations may be required to the department's pro-forma documents. This needs to be negotiated through the Regional Office, in conjunction with staff from the relevant legal and subsidy administration components and recorded in the agreement through revision of the relevant clauses .

4.6.2 Payments must be made against certification of invoices in terms of contracts prepared in accordance with standardized procurement documents.

4.7 *Procurement principles*

Since the land is already identified for development in these projects, tenders need not be invited for land. The implementing agent, contractors or specialists must however be appointed in terms of Procurement principles, and as required in terms of the Municipal Systems Act. The Department's procurement process documents for green field projects may be used as a guide.

4.8 *Application procedure*

4.8.1 The normal interaction, facilitation, evaluation, checks and controls that take place between the department and the municipality in conventional projects must take place.

4.8.2 The application must be submitted via the Departments of Housing's regional office, through the normal project approval route (i.e. for recommendation by the Housing Advisory Committee (HAC), for approval by the MEC of Housing).

4.8.3 An agreement will be entered into between the department and the municipality. The agreement must include time frames of the expected milestones, as defined in the business plan.

5. OTHER DEPARTMENTS/ BODIES CONSULTED

This policy has been done in consultation with the Department of Traditional and Local Government Affairs, The Ingonyama Trust Board and will be work shopped with all Amakhosi in the Province.

MRS. M. GODLIMAN
Chief Director : Strategic Housing Support

Date

Mr. C. Ntsele
Chairperson : KZNHAC

Date

Approved/ approved as amended/ not approved

REV.W.M.NGCOBO
MEC FOR HOUSING

DATE

GLOSSARY OF TERMS

1. **PLS** - (Project Linked Subsidies) Subsidies that are given to individuals that are part of one big project to provide housing to low-income groups.
2. **Traditional/Tribal Authority**- means a Tribal Authority established in terms of Section 5(1) of the Kwazulu Amakhosi and Iziphakanyiswa Act, no. 90 of 1990.
3. **Developer** - The person, institution or body who initiates, designs and undertakes housing development projects. In this instance the developer will be the municipality who will be in consultation with the Traditional Authority.
4. **Beneficiaries** - People who qualify for a housing subsidy.
5. **Social compact** - An agreement between stakeholders about commitment to undertake a housing project according to an agreed development vision.
6. **Functional tenure** - Refers to special circumstances prevailing in traditional authority areas in Kwazulu-Natal where formal tenure of land in the form of title deeds are currently not possible, but where beneficiaries are permitted to reside on the land, in accordance with traditional arrangements.
7. **Global Positioning System** - This is technology using satellites to determine one's position on the earth's surface, rather than using conventional survey equipment and methods. The result is a number which represents the grid reference at the point at which the reading is taken. The advantage of using this technology is that the time taken to determine an accurate position is substantially reduced therefore is more cost effective. The high resolution machines can give an accuracy level sufficient for cadastral survey work.

ADDITIONAL RURAL GUIDELINES PROCESS & RELATIONSHIPS

