



## KWAZULU-NATAL PROVINCE

HUMAN SETTLEMENTS  
REPUBLIC OF SOUTH AFRICA

# Policy Communiqué

**Circular No.5/2023**

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353-363 Dr Pixley Ka Seme Street, Room No: 2022, 20<sup>th</sup> Floor, Eagle Building, Durban. Tel: +27 31 336 5363, E-mail: [Dlaine.Duval@kzndhs.gov.za](mailto:Dlaine.Duval@kzndhs.gov.za) Web: [www.kzndhs.gov.za](http://www.kzndhs.gov.za) Copies obtainable from [www.kzndhs.gov.za/index.php/policy-communiques](http://www.kzndhs.gov.za/index.php/policy-communiques)

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## ALIGNMENT OF THE STAND INPUT COST OF A SERVICED SITE

In terms of the Policy for the Disposal of Serviced Sites, the selling price of the stands has to be aligned to the adjustment of the stand input cost as approved by MINMEC from time to time.

The MEC for Human Settlements and Public Works approved the alignment of the stand input cost of a serviced site to the adjusted 29.7% increase as per the National Subsidy Quantum for 2023/24. The alignment of the stand input cost of a serviced site is effective from 01 April 2023.

### 1. INTEGRATED RESIDENTIAL DEVELOPMENT PROGRAMME (IRDP) SITES

The selling price for the serviced site based on the stand input costs in 2018 was R55 000. In terms of the adjustment of the subsidy quantum effective from 1 April 2023, the input cost for the most cost-effective stand with A-Grade services is R72 107 (R61 271 for Direct Costs + R10 836 for Indirect Costs). The aligned selling price for a serviced site in an IRDP project will also include Land Costs which amount to R6 000 resulting in a total cost of R78107 i.e., R72 107 + R6 000. The amount is rounded off to **R78 107** per site.

### 2. INSTALLATION OF MUNICIPAL ENGINEERING SERVICES FOR UNSERVICED VACANT SITES OF 400M<sup>2</sup> AND ABOVE

In an effort to establish a fair alignment of the serviced stand cost for un-serviced vacant sites of R400m<sup>2</sup> and above, the percentage increase of 29,7% used by the National Department of Human Settlements for the adjustment of the subsidy quantum for 2023/24 is applied. The installation of municipal engineering services for sites ranging from 400m<sup>2</sup> and above will therefore increase from R72 337 to **R93 821** i.e., R72 337 + R21 484 (29,7%).

**NB!** *The input cost of serviced sites must be aligned to the adjustment of the stand input cost or applicable percentage as approved by the National Minister from time to time.*

The new input cost of serviced sites are as follows:

Integrated Residential Development Programme (IRDP) Sites	R78 107.00
Serviced Stand for Un-serviced Vacant Sites Ranging from 400m <sup>2</sup> and above	R93 821.00

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# REVISED POLICY AND PROCEDURE ON THE PRE-EMPTIVE RIGHT CLAUSE

The Restriction of Sale on State Subsidized Housing commonly referred to as the pre-emptive right clause was introduced into law by means of the Housing Amendment Act 4 of 2001, which came into operation on February 1, 2002. Section 10A and 10B of Act 107 of 1997, contains a restriction on the voluntary and involuntary sale of state subsidized housing within a period of eight years from the date on which the property was acquired. The Kwazulu-Natal Provincial Housing Act, Act 12 of 1998 was thereafter amended to include the pre-emptive right clause. The intended outcome of this legislation was to put an end to the unlawful sale of subsidised houses by beneficiaries as such sales aggravate the housing backlog. Thus, it is unlawful for the recipient of a government subsidized house to sell the house before they have lived in it for a minimum period of eight (8) years. However, experience shows that in many instances the houses are used to make quick money by unscrupulous individuals who sell them within the 8-year period. Alternatively, recipients rent out the houses to be used as business premises, while the beneficiaries return to live in informal settlements.

In view of the above, the KZN Department of Human Settlements developed the Policy and Procedure on the Pre-emptive Right Clause in 2006. Due to the changes in the human settlements policy and legislative environment and implementation challenges since then, the policy had to be reviewed. The Revised Policy and Procedure on the Pre-Emptive Right Clause was approved by the MEC for implementation with effect from 24 March 2023.

## 1. POLICY OBJECTIVES

**The objective of the policy is to:**

- a) Ensure transparency and uniformity in terms of the implementation of the terms and conditions of sale agreements.
- b) Alleviate and manage the problem associated with illegal sales of housing units prior to the completion of the 8-year pre-emptive right period.
- c) Adopt a standard procedure when addressing requests to waive the pre-emptive right clause.

## 2. KEY FACTORS IN RESPECT OF THE PRE-EMPTIVE RIGHT CLAUSE

- a) The deed of sale for all subsidized properties must include a pre-emptive right clause.
- b) The policy and procedure having had regard to the relevant legislation currently support waivers of the pre-emptive right only on involuntary sales.
- c) In cases of voluntary sale, the Department through the Head of Department (HoD) will consider each case based on its merit and thereafter decide if the waiver of the pre-emptive right clause should be granted or not.
- d) Any beneficiary, executor or creditor who intends to sell a subsidized property must, in writing, inform the Department of his/her intentions and offer the housing unit to the Department.
- e) The KwaZulu-Natal Housing Act states that the offer of the property for sale must firstly be made to the Department. Once such an offer is accepted, the Department will be required to appoint a valuer, consider compensation in respect of any improvements made to the property, and thereafter negotiate and conclude the sale. This will pose a challenge for the Department and is time consuming, resulting in possible delays and additional costs. The KwaZulu-Natal Housing Act is however inconsistent with the National Act, which was amended to include the restrictive condition. The National Act was amended after the KwaZulu-Natal Act was passed, hence the inconsistency.
- f) The revised policy is drafted in terms of the National Housing Act 107 of 1997. The National Act does not support the rejection of offers as the clause provides that no purchase price or remuneration will be paid to the beneficiary. However, the beneficiary will be removed from the

housing database and be allowed to qualify for future assistance. This means that the beneficiary will not be compensated for any improvements made to the house which may be viewed as expropriation without compensation. The National Act is currently under review.

- g) In view of 2.5 and 2.6 above, the province will not exercise the option to purchase subsidized units but will only consider requests to waiver of the pre-emptive right clause.
- h) In respect of the Finance Linked Individual Subsidy Programme (FLISP): The FLISP applicant should complete and sign the Acknowledgement of the Pre-Emptive Right Clause (Addendum A of the application). A pro forma is attached as **Annexure 1**. The FLISP information sheet and undertaking compiled by the conveyancer must clearly include full refund of the FLISP subsidy by the beneficiary should he/she request a waiver on the pre-emptive right clause.
- i) Beneficiaries are not allowed to alienate their subsidized property through subletting prior to the completion of the 8-year pre-emptive right clause. The Handover Certificate (Happy Letter) for low income BNG housing units will now include a clause whereby the beneficiary is made aware that he/she cannot alienate the housing unit through subletting or sale of the property. A pro forma Handover Certificate (Happy Letter) is attached as **Annexure 2**.

### **3. REVISED POLICY AND PROCEDURE ON THE PRE-EMPTIVE RIGHT CLAUSE**

In order for the Department to effectively attend to requests in respect of waivers or offers related to the pre-emptive right clause, the following policy and procedure must be adhered to:

#### **3.1. Consent to Mortgage**

Where only a bond is registered over the property, a consent to mortgage should be granted. The financial institution should draw up the consent. This will assist beneficiaries to source funding to undertake improvements to their home and use their property as an asset.

#### **3.2. Criteria for Accepting Waivers in respect of involuntary sales**

This form of involuntary sales includes the following circumstances whereby an application for waiver maybe considered by the Department, namely deceased estates, pronouncement of insolvency and divorce matters. The following procedure is applicable:

- a) Department receives a written request to waiver the pre-emptive right clause from the relevant authority.
- b) Department will consider the request based on the outlined reasons and ensure that the beneficiary is not being defrauded and request all relevant and supporting documents.
- c) Once the Head of Department (HoD) is satisfied that the beneficiary is not being defrauded he/she accepts the request to waive the clause. The relevant authority may then proceed with the alternate sale or distribution of the property as deemed necessary.
- d) It must be noted that the beneficiary will remain on the national housing database and thus not be able to receive a housing subsidy in the future.

#### **3.3 Criteria for Accepting Waivers in respect of voluntary sales**

The following procedure is applicable:

- a) The Department receives a request to waiver on the pre-emptive right clause on a subsidized property.
- b) The HoD will then consider the request based on the outlined reasons may opt to accept the request to waiver the pre-emptive right clause thus allowing the beneficiary to sell the subsidized housing unit. The onus rests with the beneficiary to show good and justifiable reason as to why the request for waiver should be accepted by the Department.
- c) Once the HoD is satisfied that the beneficiary has reasonable grounds for waiver request he/she will then accept the request to waiver the pre-emptive right clause, thus allowing the beneficiary to

sell the subsidized property.

- d) The HoD will request the beneficiary of a FLISP subsidy to repay the full subsidy amount to the Department.
- e) Once the Department receives the subsidy amount the beneficiary will be removed from the National Housing Database to allow him/her to qualify for future assistance.

**3.3.1 The following are examples whereby a waiver or option to purchase by the Department may be considered:**

**a) Nuisance Neighbors:**

The following relevant documents must be submitted in such cases:

- A peace order/restraining order that has been issued against the neighbor.
- Case number/s together with a copy of the court docket indicating that a pending case exists between the beneficiary and neighbor.
- Supporting affidavits from family members and community members indicating and confirming the ongoing problem.

**b) Crime:**

The following relevant documents must be submitted in such cases:

- A case number/s together with a copy of the court docket indicating that the beneficiary has been a victim as a result of the crime rate in the area
- Statistics from the local police station indicating the levels of crime within the area
- Supporting affidavits from family members and community members confirming that the beneficiary has been a victim of crime

**c) Relocation:**

The following relevant documents must be submitted in such cases:

- Affidavit confirming the reasons for relocation.
- Appointment letter if related to new employment.
- Rental agreement if applicable.

**d) Bond Repayment:**

The following relevant documents must be submitted in such cases:

- Bank statement.
- Letter from bank confirming that the beneficiary has either defaulted or is unable to pay the bond amount.
- Affidavit highlighting and confirming the beneficiary's current financial dilemma.

***NB:*** The above mentioned are examples. Reasons may vary and each case should be dealt with based on its merits supported by all relevant documents.

**3.4 Criteria for requests of subletting subsidized properties**

Alienation of property via subletting is not allowed. However, requests made to the Department may be considered under the following circumstances:

- a) The Department receives a written request from the beneficiary requesting that he/she be allowed to sublet the subsidized property.
- b) The onus rests on the beneficiary to show that the subletting is justifiable together with all the relevant supporting documents and further indicate the duration of the proposed subletting.
- c) The HoD will only consider the request if the beneficiary is:
  - Relocating to another area for medical reasons. The required documents must be a letter from

a registered medical practitioner confirming the medical issue as well as the duration and area where treatment will commence.

- Relocating for job opportunity. The required documents must be a letter from employee confirming the appointment.

d) Once the HoD is satisfied that the subletting is reasonable, the beneficiary will be informed that the request has been accepted and he/she can then proceed with subletting the property.

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# REVISED POLICY TO CATER FOR THE LOCATION OF THE DEVELOPMENT SITE

A policy to identify major centres in the KZN Province and to allow for the application of the location allowance based on distance was approved by the MEC in 2009 and reviewed in 2012. Although the guideline has been implemented since its approval, difficulties are consistently experienced in respect of the Implementing Agents not sourcing materials from the major centres where housing projects are located. The National Variation Policy calculator suggested major centres and their percentage for each province, but it did not limit provinces in their application thereof. Currently the increase in material percentage is not applicable in KwaZulu Natal as it was not considered feasible due to the vastly differing price of materials across the Province.

Since the implementation of this policy guideline in 2009, the delivery cost has continued to escalate due to rising fuel prices and overall inflation. As a result, the Revised Policy to Cater for the Location of the Development Site was approved by the MEC with effect from 06 April 2023.

The purpose of the revised policy is :

- a) To re-assess and confirm the identified KZN major centres.
- b) To enforce the Implementation by stakeholders to source materials from the identified major centres.
- c) The major centres must be used to inform the calculation of the locational allowance for projects in excess of 20km from their centers to allow for the application of the location allowance based on distance. The major centres and optional major centres listed must be used to determine the adjustment of the subsidy to allow for additional costs relating to the delivery of materials.

## 1. ASSESSMENT OF MAJOR CENTRES

In an effort to update the major centres identified in KZN, a research exercise was conducted whereby material suppliers in districts were identified and visited to confirm the ability to supply the required materials. The Bill of Quantities required to build a 40m<sup>2</sup> house was used to compile the list which was used to confirm the ability of material suppliers to supply the required material. The detailed list of materials and the 91 hardware supply stores consulted in the 10 districts (excluding eThekweni) may be accessed in the policy document.

## 2. METHODOLOGY

The following methodology was used to determine the major centers:

- a) Identify suppliers:
  - Identification of the existing and new major suppliers who supply the basic material to construct a house;
  - A Desktop study was conducted to verify if the suppliers still exist and have the required materials;
  - A Desktop study was conducted to verify if the new suppliers have the required basic materials;



- Conducted internet research of the details of known and new leading suppliers;
  - Fieldwork was undertaken whereby the major suppliers were consulted to verify that the required materials as the compiled list was stocked/provided
- b) An analysis of suppliers was done whereby the suppliers are grouped by town and categories identified to indicate how many were within the municipal boundary.
- c) Municipal areas with 3 suppliers are considered a good option for a major centre as there is likely to be a continued availability should there be an economic downturn.

### 3. FINALISATION OF THE MAJOR CENTRES

The finalization of the major centres took into account the following:

- a) Suppliers that did not have a minimum of 4 or more of the items on the list were considered to not have the capacity to be a recognized supplier.
- b) Irrespective of 4 or more items not available, those suppliers in major centres who did not have the main required material e.g., sand, stone, cement, blocks, corrugated iron roof sheeting and capacity for delivery of material were also not recognized as suppliers.
- c) Each district municipality must have at least one major centre.
- d) The major centre must be accessible with reasonably well-developed road infrastructure within the town.
- e) The pricing for these materials must be in terms of the subsidy quantum and should include cement, sand, stone, blocks, cranked roof sheeting and transport costs based on the bill of quantities.
- f) In districts where hardware supply stores do not have the capacity to provide critical items such as concrete, blocks, roof trusses, and steel, the closest Major Centre or Optional Major Centre which falls out of the jurisdiction of the municipal boundary may be used to source these item

### 4. REVISED MAJOR CENTRES

The following major centres have been identified based on research conducted and consultation with implementers in 2022/23 as having recognized suppliers.

DISTRICT	MAJOR CENTRE	OPTIONAL MAJOR CENTRE
Amajuba	Newcastle	
uGu	Port Shepstone	
uMgungundlovu	Pietermaritzburg, Howick	
Harry Gwala (Sisonke)	Ixopo, Kokstad	Port Shepstone, Howick, Pietermaritzburg
<b>Eastern Cape</b>	<b>Matatiele (cross border supplier for Harry Gwala)</b>	
uMkhanyakude	Mtubatuba, Jozini	Richardsbay, Mkhuze* Hluhluwe*
iLembe	Mandeni, Stanger (KwaDukuza)	Durban*
uThukela	Ladysmith, Estcourt, Bergville	
uMzinyathi	Dundee, Nqutu, Tugela Ferry, Greytown	Pietermaritzburg
King Cetshwayo	Richardsbay, Empangeni, Eshowe, Melmoth, Nkandla	
Zululand	Paulpietersburg, Nongoma, Pongola, Vryheid, Ulundi	Hluhluwe*
<b>Mpumalanga</b>	<b>Piet Retief* (cross border supplier for Zululand)</b>	
eThekweni Metro	Amanzimtoti, Ballito, Bluff, Durban central, Kwamashu, Isipingo, Pinetown, Umlazi	

1. \*These were identified as new major centres based on a consultation meeting with the implementers held in 2023.

2. The Optional Major Centres may only be used to source **concrete, blocks, roof trusses and steel**.

- a) Some areas where there are 2 major suppliers have been included to ensure a more equitable geographic spread (especially in larger district municipalities), and to ensure that there would be at least one major centre per district.
- b) Cross border suppliers were evaluated and may be used to source materials by the Harry Gwala and Zululand Districts.
- c) Optional major centres have been identified and may be used to source critical items namely, concrete, blocks, roof trusses and steel.
- d) Projects falling within the 20km radius of the above Major Centres may not qualify for the locational allowance however they may be considered based on the following:
  - Where critical items such as concrete, blocks, roof trusses and steel cannot be sourced from suppliers within 20km radius, the **CLOSEST** Optional Major Centre may be used to source these items.
  - Written confirmation must be provided from the suppliers within the 20km radius of the major centre that the material cannot be supplied by them as and when required. In addition, a brief motivation from the district manager must be provided verifying the non-availability of these materials in order to qualify for the locational allowance.

## 5. LOCATION ALLOWANCE CALCULATION

Based on the research findings the following should be noted:

- a) Quotations received in 2022 from the same suppliers in 4 districts reflect vastly differing costs on the same materials quoted.
- b) In the research undertaken in 2009, the price difference in material was similarly found to be differing in the province. It was thus determined that the option to calculate the percentage on material costs for the locational allowance was not feasible. In view thereof, the province retains the position to not utilize the option of the percentage of material costs.
- c) The determination of a variation based on a distance to be travelled for delivery of materials would still be a more practical approach as it can be measured and controlled more effectively.

### The distance to be determined as follows:

- a) The 20km inclusive distance of the development site from a major center as defined in the national housing variation manual, will be a radius of 20km from the city/town hall (or nearest Police Station in the case of a suburb).
- b) The distance beyond the 20km radius must be measured in one direction along a road from the major supplier to the development site that can accommodate a 10-ton truck. The reason for this is that the electronic calculator already contains a factor that multiplies the distance by 2 to account for the return trip.

### This factor was derived as follows:

*Ten (10) companies were phoned at random in to establish the cost per kilometer for a ten-ton truck to make 2 trips (in excess of 20 km) to deliver materials, in one direction. The average cost was then determined (at the time of finalizing the calculator in 2007 it was approximately R7.45/kilometer).*

**The calculator can thus be summarised as:**

- a) Map areas with a 20km-metre radius. The maps detailing the major centres 20km buffer and optional major centres are included as Annexure 3.
- b) Application for the locational allowance (material delivery costs) to be considered only for areas outside the periphery.
- c) The kilometer distance to be measured from the location of the site office to the closest major centre supplier (or where applicable, nearest municipality or suburb boundary).
- d) This can be done by using electronic means such as “Google Maps” or GIS.
- e) Where critical items such as concrete, blocks, roof trusses, and steel cannot be sourced from suppliers within the 20km radius, the **CLOSEST** Optional Major Centre may be used to source these items. The distance must be measured from the development site office to the supplier in the Optional Major Centre.

**6. HOW TO CLAIM FOR THE LOCATION ALLOWANCE**

- a) The National Department of Human Settlements Variation calculator will be used to calculate the location allowance.
- b) The distance measured from the development site must be captured under section 12 (location adjustment) of the calculator questionnaire
- c) The calculation sheet will automatically calculate the allowance based on the information captured on the calculator questionnaire.
- d) Should there be no suppliers within the 20km radius, proof thereof must be provided, and the Variation calculator must be used to determine the delivery cost payable.
- e) The Implementing Agent must submit a map showing the distance of the development site from the major centre. This should be verified by the Region by using electronic means such as “Google Maps”, or GIS.



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## ANNEXURE 1

### “ADDENDUM A”

## ACKNOWLEDGEMENT OF THE PRE-EMPTIVE RIGHT CLAUSE

I, the undersigned applicant hereby acknowledges and confirms that:

1. I am aware of and understand the pre-emptive right clause. Should my application for the subsidy be successful, I cannot sell or otherwise alienate the property or site within a period of eight-years from the date on which the property or site was acquired unless the property or site has first been offered to the Department.
2. Should I intend to sell the property or site prior to the completion of the agreed eight-year period, I will firstly offer the property or site to the Department. In the event that the Department considers my application and opts to waive the pre-emptive right clause I will then be liable to pay the full subsidy amount as received upon approval of the Finance Linked Individual Subsidy Program (Help me Buy a Home Scheme) application.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
NAME OF APPLICANT

\_\_\_\_\_  
IDENTITY NUMBER

\_\_\_\_\_  
SIGNATURE

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
NAME OF DEPARTMENT OFFICIAL

\_\_\_\_\_  
SIGNATURE



# (D4) HANDOVER CERTIFICATE

(Happy Letter)

Project Name: \_\_\_\_\_

Project Number: \_\_\_\_\_ Site Number: \_\_\_\_\_

Developer: \_\_\_\_\_

1. I, the undersigned \_\_\_\_\_ beneficiary, hereby declare that I accept and take possession of the above property and that the structure has been completed in accordance with the specifications stipulated in the agreement of sale between myself and the seller/developer.
2. I further confirm that I understand the 8-year pre-emptive right clause which is implemented in terms of the National Housing Act 107 of 1997 and as per the said clause I will not alienate the above-mentioned property either by way of subletting or sale.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
PURCHASER/BENEFICIARY

\_\_\_\_\_  
IDENTITY NUMBER

\_\_\_\_\_  
SIGNATURE

LEFT THUMB PRINT

RIGHT THUMB PRINT

(IF SIGNATURE IS NOT PROVIDED)

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
NAME OF DEVELOPER'S REPRESENTATIVE

\_\_\_\_\_  
SIGNATURE



