



**KWAZULU-NATAL PROVINCE**

**HUMAN SETTLEMENTS**  
REPUBLIC OF SOUTH AFRICA

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# **REVISED GUIDELINES FOR PROJECT APPROVAL AND NHBRC ENROLMENT PROCEDURE**

**FEBRUARY 2023**

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## **ACRONYMS**

<b>COGTA</b>	Cooperative Governance and Traditional Affairs
<b>DoHS</b>	Department of Human Settlements
<b>EIA</b>	Environmental Impact Assessment
<b>EPWP</b>	Expanded Public Works Programme
<b>FUR</b>	Final Unit Report
<b>GFSH</b>	Greenfield Subsidy Housing
<b>IA</b>	Implementing Agent
<b>IDP</b>	Integrated Development Plan
<b>KZN</b>	KwaZulu-Natal
<b>MEC</b>	Member of the Executive Council
<b>NHBRC</b>	National Home Builder's Registration Council

## **1. INTRODUCTION**

The National Home Builders Registration Council (NHBRC) warranty scheme was introduced in terms of the Housing Consumers Protection Measures Act 95 of 1998. In August 2001 the then Housing MINMEC approved that the NHBRC's warranty scheme shall apply to houses constructed as part of projects approved on, or after 01 April 2002 and was implemented in 2002. In view of there being no formalised procedure to address the stages and numbers of enrolments required. The Department developed a guideline which was approved by the MEC in 2009 on project approval and NHBRC procedure for implementation in the province to formalise and advise on NHBRC enrolment procedure and risks assessment requirements.

The National Home Builders Registration Council (NHBRC) is a regulatory body of the home building industry. It was established in 1998 in accordance with the provisions of the Housing Consumers Protection Measures Act, 1998 (Act No. 95 of 1998) to protect the interests of housing consumers and to ensure that builders comply with the prescribed building industry standards as contained in the Home Building Manual. The NHBRC represent the interests of housing consumers by providing warranty protection against defects in new homes. Ideally all new homes are to be enrolled with the NHBRC 15 days prior to construction.

The warranty scheme of the NHBRC in respect of the subsidised housing market was implemented with effect from 1<sup>st</sup> April 2002 to Greenfield housing projects only. In September 2005, the warranty scheme was extended to cover the following subsidy programmes:

- Relocation Subsidy Projects;
- Project Linked Subsidy Projects;
- Developer Driven Individual Subsidies;
- Non-credit Linked Individual Subsidies;
- Consolidation Subsidy Projects;
- People's Housing Process.

Since then, the NHBRC enrolment has been extended to various Housing programmes as per the National Housing Code 2009, where new units are being constructed, these include the following:

- Integrated Residential Development Programme (IRDP);
- Finance Linked Individual Subsidy Programme (FLISP);
- Consolidation Subsidy Programme;
- Enhanced People's Housing Process Programme;
- Farm Residents Housing Assistance Programme;
- Individual Subsidy;
- Upgrading of Informal Settlement Programme;
- Rural Subsidy Projects;
- Institutional Subsidy Projects;
- Social Housing Programme;
- Community Residential Units Programme;

- Social and Economic Amenities Programme.

Furthermore, in terms of Section 2 of the Housing Consumer Protection Measures Amendment Act, Act 17 of 2007, all home builders must be registered with the NHBRC with the exception of a person who uses his or her own labour to build a home for his or her occupation if the home is part of an approved EPHP Project. According to Section 4 of Housing Consumer Protection Measures Amendment Act, an owner builder may, in terms of Section 29, apply to the NHBRC for exemption from Sections 10 (registration) or 14 (enrolment). These amendments necessitated a review of current approval processes to include NHBRC enrolment and risk assessment requirements.

## **2. LEGISLATIVE FRAMEWORK**

The Policy is informed by the following Legislation:

### **2.1 Section 26 of the Constitution of the Republic of South Africa of 1996 provides that:**

- (1) Everyone has the right to have access to adequate housing;
- (2) The State must take reasonable legislative and other measures, within its available resources to achieve the progressive realisation of this right.

### **2.2 Section 36 of the Constitution of the Republic of South Africa of 1996 provides that:**

- (1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality, and freedom, taking into account all relevant factors, including:
  - a) the nature of the right;
  - b) the importance of the purpose of the limitation;
  - c) the nature and extent of the limitation;
  - d) the relation between the limitation and its purpose; and
  - e) less restrictive means to achieve the purpose.
- (2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

### **2.3 The National housing Act 107 of 1997, Republic of South Africa provides for:**

The facilitation of a sustainable housing process and thus outlines the general principles applicable to housing development in all spheres of government. This Act further defines the functions of national, provincial and local governments in respect of housing development.

#### **2.4 The National Housing code, 2009 provides for:**

The underlying policy principles, guidelines and norms and standards which apply to Government's various housing assistance programmes introduced since 1994 and updated. The National Housing Code provides an overview of the various housing subsidy instruments available to assist low-income households to access adequate housing.

#### **2.5 The Housing Consumer Protection Measures Act 95 of 98 provides for:**

The provision for the protection of housing consumers; and to provide for the establishment and functions of the National Home Builders Registration Council; and to provide for matters connected therewith.

### **3. OBJECTIVES**

These guidelines aim to ensure the compliance with the Department's project process and inform the enrolment of housing programmes projects with the NHBRC as required in terms of the Act, to enhance the housing product by addressing the quality of housing delivered.

### **4. GUIDING PRINCIPLES**

- 4.1** Risk assessment must be undertaken irrespective of the subsidy instrument used. Practice has demonstrated that proper upfront risk management in the preplanning and packaging stage reduce the number of blocked and/or slow-moving projects in the implementation stage. This reduces wasteful and fruitless expenditure in having to address critical issues that should have been identified upfront.
- 4.2** Risk assessment should be phased to be cost effective; hence, the first risk assessment should comprise of a desktop exercise which includes review of existing documents, plans, reports and site walkover (scoping) to verify development potential. Projects should not proceed if risks cannot be adequately mitigated.
- 4.3** There must be quality housing for all. The standard patent and latent defects warranty for house construction must be included in all sale agreements and occupational certificates or (D4 "happy letters").
- 4.4** All housing developments must ensure sustainable human settlements.
- 4.5** Effective and efficient processes need to be improved to ensure speedy delivery.

- 4.6** Compliance with legislation in terms of NHBRC enrolment and the comprehensive Plan for Housing Delivery is required.
- 4.7** All projects need to be enrolled prior to the construction of any house subsidized by government i.e., project and home enrolment.

## 5. NHBRC APPLICABILITY

The NHBRC warranty currently extends to subsidy programmes as outlined in Table 1, below:

Table 1 : NHBRC Applicability

HOUSING PROGRAMME	EXTENT OF ENROLMENT AND APPLICABLE FEES				
	PROJECT ENROLMENT	HOME ENROLMENT	PROJECT ENROLMENT FEE PER UNIT	HOME ENROLMENT FEE PER UNIT	TYPE OF PROJECT
Integrated Residential Development Programme	Yes	Yes	R2,028.88	R1,521.66	Greenfield
				R4,078.05	Brownfield
Enhanced People's Housing Process programme	Yes	Yes	R2,028.88	R1,521.66	Greenfield
				R4,078.05	Brownfield
Consolidation Subsidy Programme	No	Yes		R3,696.79	Brownfield
Individual Subsidy	Yes	Yes	R2,028.88	R1,521.66	Greenfield
				R4,078.05	Brownfield
Rural Subsidy Projects: Informal Land Rights programme	No	Yes		R3,696.79	Brownfield

HOUSING PROGRAMME	EXTENT OF ENROLMENT AND APPLICABLE FEES				
	PROJECT ENROLMENT	HOME ENROLMENT	PROJECT ENROLMENT FEE PER UNIT	HOME ENROLMENT FEE PER UNIT	TYPE OF PROJECT
Disable Wheelchair House	Yes	Yes	R2,706.66	R2,030.30	Greenfield
				R5,440.39	Brownfield
Military Vets House	Yes	Yes	R3,022.02	R2,266.52	Greenfield
				R6,074.26	Brownfield
Upgrading of Informal Settlement Programme	No	Yes		R3,696.79	Brownfield
Farm Residents Housing Assistance Programme	Yes	Yes	Depends on the applicable subsidy quantum		Brownfield
Institutional Subsidy Projects	Yes	Yes	Value of the property + Land cost = 1.2% of the market value		Greenfield
Finance Linked Individual Subsidy Programme (FLISP)	Yes	Yes	Value of the property + Land cost = 1.2% of the market value		Greenfield
Community Residential Units programme (CRU)	Yes	Yes	Value of the property + Land cost = 1.2% of the market value		Greenfield

## **6. PROJECT PROCESS**

The project process is generally made up of 4 stages. Risk Assessment and Planning is done in stage 1 and the 2<sup>nd</sup> stage is feasibility and services Implementation stage. The third stage of the project process is top structure construction and the final stage is concluded by the project close-out. (Refer to the project process flow diagram on page 19)

### **6.1. STAGE 1 RISK ASSESSMENT / PLANNING**

#### **6.1.1 General Issues**

The following must be done in terms of the KZN Project Process approved by the MEC in 2022.

- a) The MEC receives Provincial Housing Subsidy allocation from the National Department of Housing according to the housing needs/projects identified in the Municipal Integrated Development Plan. Allocation of funds according to different programmes takes place;
- b) Municipalities apply for reservation of project funding in terms of Spatial Development framework/Housing Sector plan/Council Resolution/approved IDP and agreed project priorities;
- c) Province/Municipality calls for land availability proposals where required;
- d) Adjudication/consideration of land proposals in relation to IDP's and selection of priority land;
- e) Procurement method: pre-planned project commences and only the town planning part of the project is done. Development project commences and only the development part of the project is done. A Municipality will normally appoint a project team to assist with the delivery of housing programmes. The choice of a project team is crucial and could affect the timely completion of the project and quality of the product. Hence, it is suggested that careful consideration be given to the appointment of the said project team. Factors like local knowledge, capacity, experience and track records are of utmost importance;
- f) Developer undertakes prefeasibility assessment/risks, prepares project descriptions and compiles acquisition agreements/Land Availability Agreement where applicable. The key risks i.e. Land Audit, Planning, Geotechnical Conditions, Environmental Impact Assessment (EIA), Social Issues and Bulk Services must be identified and assessed to determine if the project is viable before submission for Stage 1 approval. The provision of bulk services must be prioritized within the District Municipality for the project. Then the Municipality secures the land;
- g) A Municipality finalises the acquisition of the Land in respect of agreements etc;
- h) Implementing agent/supporting organization prepare and submit project application to MEC via Regional/District Office. Ensure all required supporting documents are included;

- i) PDoHS, Integrated Planning Component will assess application by municipality to determine if all risks have been addressed;
- j) Regional/District Office evaluates project application and if compliant with policy prescripts submit to PDoHS Assessment Committee for recommendation to MEC;
- k) Project application is recommended by PDoHS Evaluation Committee, approved by MEC;
- l) PDoHS records project on HSS and inform municipality of decision and the project Agreement is concluded;
- m) The PDoHS appoints a Service Provider to undertake detailed planning;
- n) Payment of subsidies commences in accordance with milestones achieved within Stage 1;
- o) Project is enrolled with the NHBRC. Building contractors to be enrolled with the CIDB;
- p) NHBRC issues a Project Enrolment Certificate.

PLEASE NOTE that:

The Subsidy Quantum as issued by National provides for actual expenses incurred in relation to planning of professional fees to be paid. Once this stage is finalised, service providers can be paid for the value of work done. The critical determination is whether the work done was to the required standard. This would be determined by the scope of works and the signed contract. The Department and NHBRC have developed specifications to guide the nature and extent of work to be done, e.g GFSH2 for detailed geotechnical report; GFSH3 for town planning and land assessment work; and GFSH4 for Environmental assessments. These are attached for ease of reference as **Annexures 1(a)-(c)**.

#### 6.1.2Rural (Informal Land Rights) Projects) and Insitu Upgrades

The principles outlined above will also apply to rural (informal land rights projects). Similar risk assessment and processes are required as those outlined above including the desktop analysis to be conducted.

**The following should be noted:**

- a) The geotechnical requirements may be less stringent, depending on the densities and number of units to be constructed in any particular area. The NHBRC is in the process of reviewing the geotechnical requirements in the context of rural (informal land rights) and would accept a minimum of eight (8) soil test pits per hectare of project house construction area for the stage 1 geotech investigation. In the context of rural projects with dispersed targeted areas for house construction, the project house construction area is the total extent of the allocated piece of land, per household, upon which a house is to be constructed.
- b) More soil test pits may be required in areas with higher densities, such as Ingonyama Trust land/ peri-urban in eThekweni etc. In other cases, the number may be reduced depending on the nature of the project, and noting that this would draw on the professional integrity and indemnity of the geotechnical engineer. The NHBRC should be contacted upfront to determine the exact requirements as far as trial pits are concerned to avoid delays with home enrolment processes.

Copies of the NHBRC checklists are attached as **Annexures 2(a)-(c)**.

- c) Environmental Impact Assessments are not automatically waived. Where infrastructure services such as roads are to be provided, the environmental impact would need to be assessed. Some rural areas are also within heritage sites or have historic importance which might have to be addressed. The Department of Environmental Affairs responsible for Environmental Impact Assessments (EIA) must be contacted upfront to assess the nature of the application required.
- d) The assessment of bulk services must be done in the context of the nature and extent of services to be provided.

## **6.2 STAGE 2**

### **6.2.1 FEASIBILITY PROCESS**

This stage involves more detailed work to address outstanding risks and to finalise the project concept, design and cost. More detailed reports are required in terms of the land, bulks, geotechnical conditions (including topography) environmental conditions and social issues. The attached specifications should be used to guide the minimum work required at this stage in respect of each of the key activities, see **Annexures 1(a)-(c)**. The more detailed Geotechnical report is required at this stage, and in the context of the variations in respect of rural and insitu upgrade projects. Also note that in most cases where consolidation subsidies are used, the geotechnical investigation might not be required.

The output documents for this stage substantially informs the approval processes in the implementation and top structure stage, e.g., development and town planning approvals.

Once these issues are clarified and evaluated then submission is made for final project approval. The project is approved, based on a development programme and implementation phases are aligned to the subsidy applicable at the time. The first stage payment amount for planning and design is aligned to the subsidy applicable at the time of signing the contract, whilst the balance is aligned to the prevailing subsidy applicable at the time of implementation.

The project agreement between the relevant parties is signed. NHBRC project enrolment should occur at this stage, alternatively, depending on the nature of the project, the project and home enrolment should occur prior to the approval of building plans by the relevant authority, and approval of funding for top structure construction.

**The following should be noted:**

- a) Project application is recommended by PDoHS assessment committee for recommendation to the MEC. Confirmation of Memoranda of Understanding, SLA/ DRA/ undertakings/contracts are concluded. The relevant stakeholders ensure that land claimants/graves are accommodated in the project and that any conditions of the agreements have been complied with.
- b) Beneficiary profile, existing top-structure information, landownership details, economic and social facilities, community needs etc. are established.
- c) Drawings of prelim town plan layout, township establishment route, zoning as well as comments on relevant planning issues, community and economic facilities, etc. take place. A Settlement plan with GPS coordinates/ survey certificates should be provided. Municipality must provide planning approvals in terms of SPLUMA.
- d) The relevant stakeholders must undertake engineering layouts and estimates. They must liaise with other key service Departments to determine level of water, sewer, road, etc. Stakeholders must start to comment on the level of internal and bulk services to be provided with consideration to the DoHS prescribed norms and standards. There should be confirmation of bulk services by the District Municipalities. The Service Level Agreement (SLA) must be in place from the relevant district authorities.
- e) A detailed geotechnical report is required for the motivation of the variation allowance. Locational allowance requests can be motivated for in terms of PDoHS policy.
- f) Details of the impact of the development on the environment should be considered as well as an EIA application and Record of Decisions where applicable.
- g) Facilitation of community workshops should take place with the PDoHS, Municipality and professional team to address the housing process and top- structure solutions as well Facilitation of signing of social compact agreement including rates and services agreement. Social facilitation should be a continuous process throughout the project lifespan. The relevant stakeholders must indicate tenure options, delivery method, subsidy types, top-structure designs and cost estimates.

- h) NHBRC issues the Home Enrolment Certificate.
- i) EPWP compliance in respect of reporting/brandings/designs.

## **6.2.2 IMPLEMENTATION**

- a) Town planner, Urban designer and engineer undertakes the layout of the township settlement plan/survey certificate subdivision in consultation with the environmental consultant. Town Planner prepares and submits an application to the relevant authority/tribunal.
- b) Authority/Tribunal to whom the application was submitted, approves the application, layout and conditions of establishment / conditions of approval. Appeals to Cooperative Governance and Traditional Affairs MEC.
- c) Calculate approved layout and obtain approved general plan/Subdivision plan approved by Surveyor General.
- d) Project application is recommended by the Evaluation Committee, for approval by MEC. The Project contract signed.
- e) Payment of subsidies commences in accordance with milestones achieved within Stage 2.
- f) The civil/electrical/traffic engineers will use the services agreement and approved layout plan for preliminary engineering services design and the approved general plan as well as the town planning layout to finalise the design of the services for the development. The designs must be approved by the Municipality.
- g) Prior to the commencement of any construction related activity the following documentation must be available. These can include, but not limited to approved land use rights, a positive geo-technical report, a positive Record of Decision (EIA) and an approved occupational health and safety plan. The necessary earthworks are conducted, and services installed under the supervision of a site engineer. EPWP labour intensive trainees are used for services installation. On completion of and after testing the services installed and constructed, the hand-over of services to the relevant municipality will take place.
- h) The relevant stakeholders submit beneficiary subsidy application to PDoHS (urban process).
- i) Issue of certificates by custodian of the service e.g. transport take place.
- j) The Department and the municipality ensure that conditions of SPLUMA are complied with.
- k) The surveyor/IA makes a submission to the Deeds office to open the township register.

Project implementation begins after final project approval is granted, and typically construes three phases: Town Planning and Engineering Design and services construction.

The preliminary and Phase 1 geotechnical reports prepared in the planning and feasibility stages will substantially inform the town planning and engineering designs. Whereas aspects such as storm water control impart on the NHBRC warranty, engineering designs and layouts should be done in consultation with the NHBRC.

During services infrastructure construction, site by site classification of geotechnical conditions are confirmed (thus concluding the Phase 2 geotechnical investigation report). The home enrolment application and approval of building plans must be submitted at the end of this stage, before top structure construction activities commence.

Warranty certificates will be released once the final quality check requirements in the house construction stage have been met.

### **6.3 STAGE 3: TOP STRUCTURE CONSTRUCTION**

- a) Submit beneficiary subsidy application to PDoHS (urban process).
- b) The architect will compile and submit building plans to the Municipality for approval prior to the commencement of construction. Beneficiary Committee and Municipality has to support plans.
- c) Application by IA to regional/district office for top-structure funding. Stage 3 application is recommended by Evaluation Committee, for approval by MEC. Project Stage 3 agreements signed.
- d) Enrolment of houses with NHBRC commences.
- e) The top structures are completed, completion certificates issued. Upon completion of the top structure an engineer will certify that foundations and structural elements of the house are satisfactory for human occupation. NHBRC issues FUR.
- f) Payment of subsidies commences in accordance with milestones achieved within Stage3.
- g) Registration of transfer of individual erven is complete. Compile and handover of deeds to beneficiaries.
- h) Occupational certificate “happy letter” signed by beneficiary.
- i) Project is completed.

### **6.4 STAGE 4: CLOSE-OUT**

- a) Project close-out is an ongoing administrative process during which compliance, variations and other key aspects are recorded. It will include verification that all reports

have been received, payments have been made for work done (including NHBRC enrolment fees), and warranty certificates have been issued.

- b) The NHBRC warranty liability starts at the issuance of the NHBRC Final Unit Reports (FUR). Therefore, NHBRC liability may be contained only to the units that have received FUR's. The project is closed out ensuring completion of all relevant certification.

## **7. NHBRC PROJECT APPLICATION PROCESS**

The project application process must be in line with the project process guidelines and must comply with NHBRC checklist prior to submission to NHBRC for enrolment. (Refer to the NHBRC flow diagram on page 24) The 2 stages of enrolments must be undertaken by the developer and the Department of Human Settlements must be simultaneously informed of this enrolment in writing to enable payment.

### **7.1 Stage 1: Project enrolment:**

Applications must contain the following:

- a) Details of Developer and Developer's NHBRC Registration Number;
- b) Name of MEC;
- c) Unique KR approval number;
- d) A copy of the project descriptions including the preliminary geotechnical report;
- e) Schedule of proposed subsidy variations for project in the form of the subsidy variation formula for the project issued by the MEC;
- f) An indicative project programme;
- g) Proof of Scheduled payment to NHBRC;
- h) A copy of the feasibility report and all reports referenced in the feasibility report;
- i) Phase 1 geotechnical investigation.

### **7.2 Stage 2: Home enrolment:**

Applications must contain the following:

- a) NHBRC project enrolment number;
- b) MEC name and unique confirmed approval number;
- c) Developer name and NHBRC Registration Number;
- d) Project name, location and phase;
- e) Number of units covered by the application;
- f) Home enrolment report;
- g) Site details and erf numbers based on approved Surveyor General's Layout;
- h) Phasing details and estimated start and completion dates of each phase;
- i) Plot numbers with type of subsidy applying in each case;

- j) Names and NHBRC registration numbers of any subcontracting home builders to be used in the construction of specific homes and the erf numbers of the homes that they are to build;
- k) The names, ID details and experience of the project manager and key staff;
- l) Proof of Scheduled payment to NHBRC;
- m) Phase 2 detailed geotechnical report.

## 8. APPLICATION

All new projects must follow the above procedure from date of approval of this policy and as summarised in the table below. New rural projects enrolling for Stage 1: Project enrolment, must in the interim be done in consultation with officials from the NHBRC who will deal with each project on its own merit until the appropriate procedure and documentation is designed and adopted for such projects.

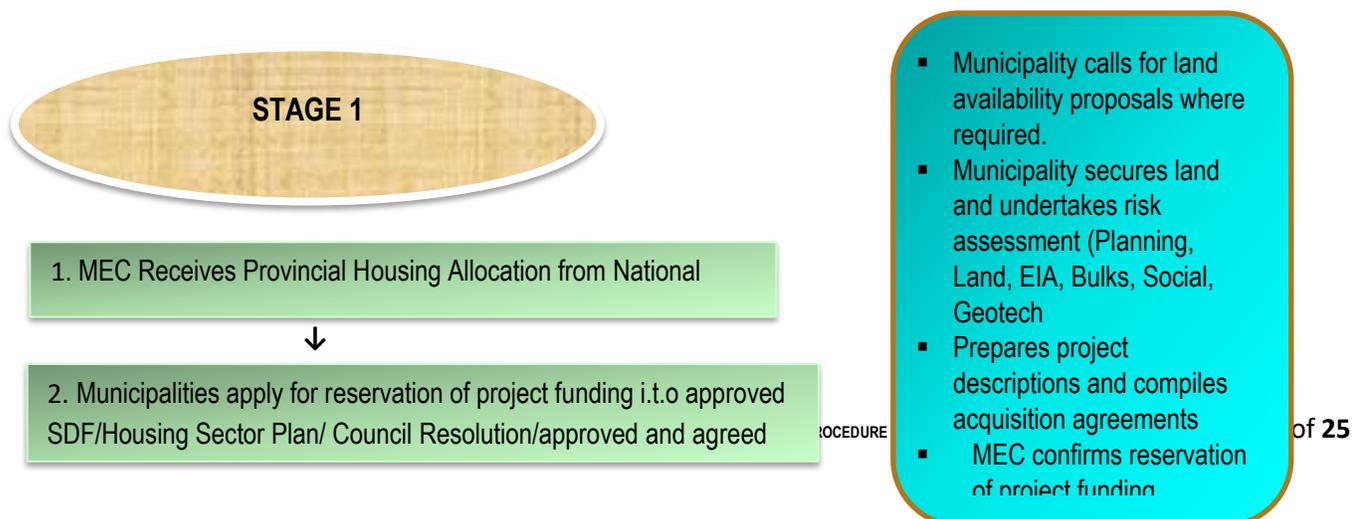
Table 2: Summary of Project packaging, geotechnical investigations and project application

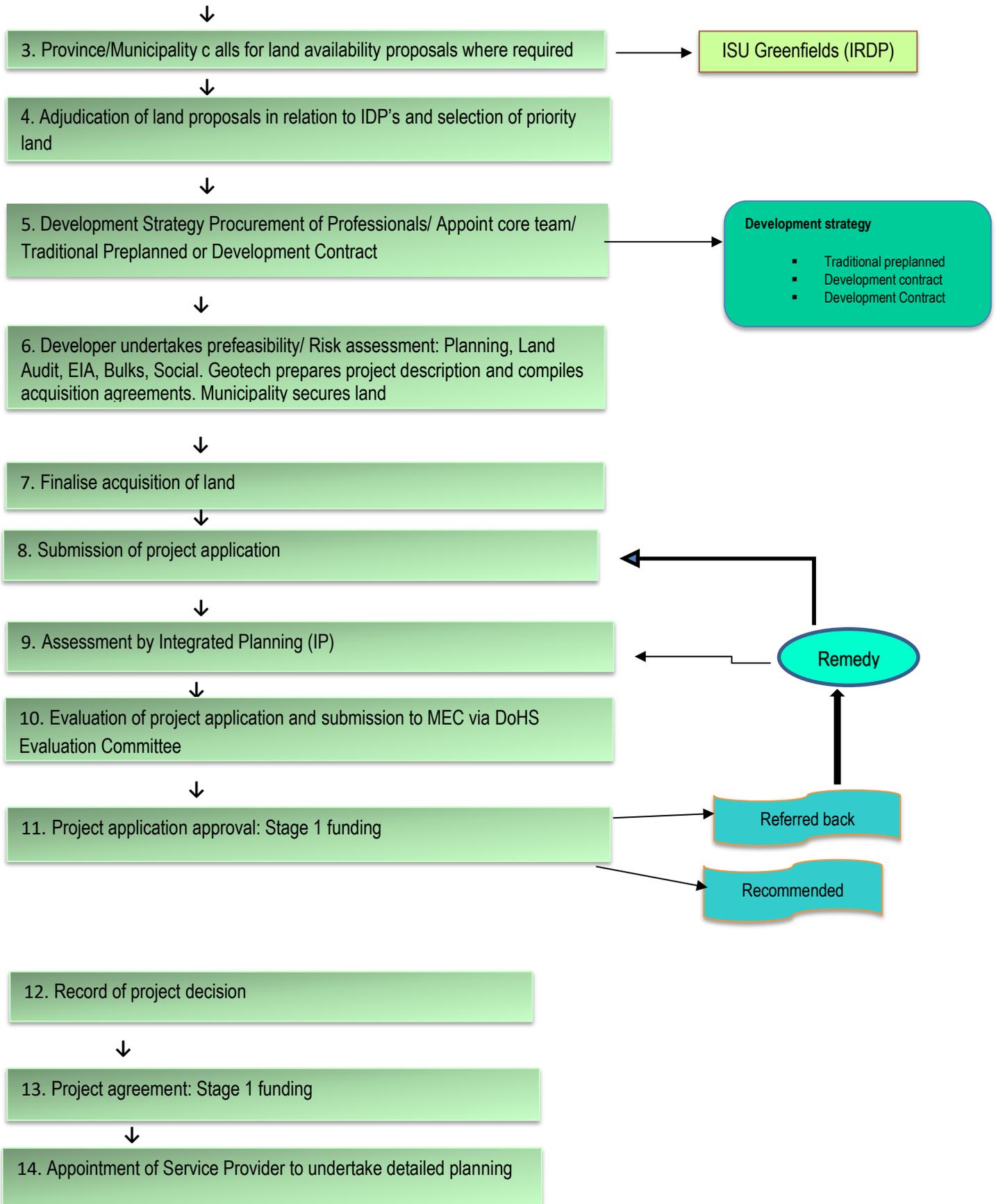
Packaging stage		Geotechnical Investigation		PHD Payment milestones	NHBRC Enrolment
Stage 1	Planning	Prefeasibility/Risk assessment		<b>Stage 1</b> R8353.00	Project enrolment Contractor enrolment
Stage 2	(a) Feasibility Stage	Preliminary Town planning layout, Settlement plan layout and report Detailed geotech report	House Construction (rural)	<b>Stage 2</b> R47 241.00 (Urban)  Rainwater Harvesting (Rural)	Home enrolment (rural)
	(b) Implementation	Town planning and Engineering Design General Plan			
Stage 3	Top structure	House construction (urban)		<b>Stage 3</b> R141 294.00 (Urban)  R140 085 (Rural)	Home enrolment (urban) Warranty Certificates
Stage 4	Close-out	Completion of all relevant certificates.			

## 9. MONITORING and EVALUATION

The Policy, Research and Product Development component will undertake a policy review after three years or when the need arises. The Integrated Planning and Project Management's District offices must ensure that implementation complies with this document.

## 10. KZN DEPARTMENT OF HUMAN SETTLEMENTS HOUSING PROJECT PROCESS







15. Payment of subsidies i.t.o. milestones achieved



16. Project and Contractor enrolment with NHBRC and CIDB



17. NHBRC project enrolment



## STAGE 2: FEASIBILITY PROCESS

1. Submission of stage 2 application pack



2. Confirmation of land acquisition



3. Land claims (where applicable)



4. Socio-survey



5. Preliminary town planning layout/  
settlement plan layout and report



6. Preliminary engineering design and costs  
Bulk Services/Service level Agreement



7. Geotechnical Report/Location Allowance



8. Environmental impact Assessment



9. Social facilitation

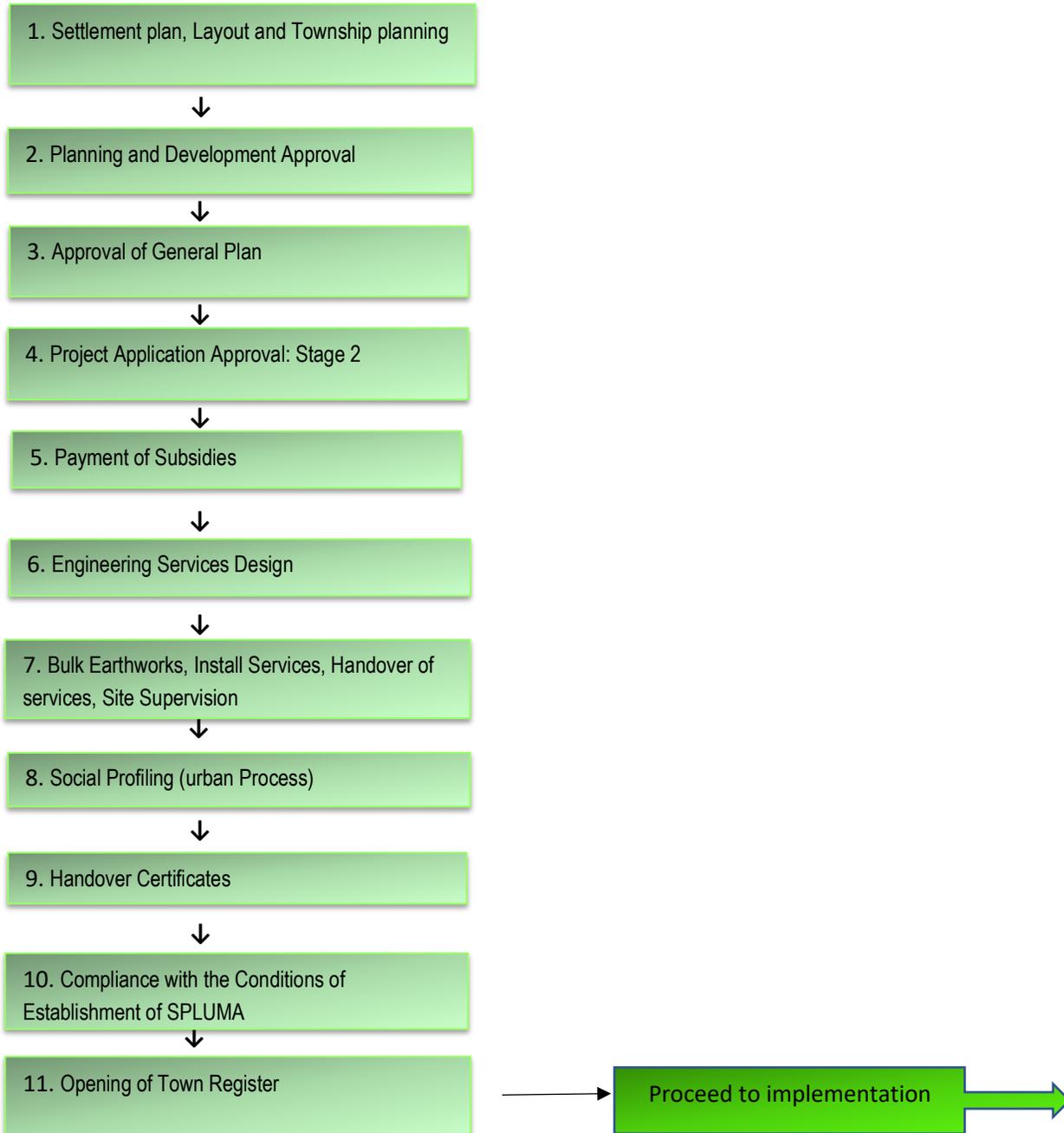


10. NHBR home enrolment for Rural Projects



11. EPWP labor intensive /construction

## STAGE 2: IMPLEMENTATION



### STAGE 3: TOP STRUCTURE CONSTRUCTION

1. Social Profiling



2. House Construction: Stage 3 Application



3. NHBRC Home Enrolment for Urban projects



4. Submit Building Plans, Approved Building Plans, Top Structure Construction



5. Payment of Subsidies



6. Completed Top Structures, Building Inspection, Foundation Certificates, Structural Certificates, Occupation Certificate and NHBRC issues FUR



7. Conveyancing (of Individual Erven)



8. Occupation Takes Place



9. Project Completion



Final project Close-out

# 11. NHBRC PROCESS

## NHBRC PROCESS

