



KWAZULU-NATAL PROVINCE

HUMAN SETTLEMENTS
REPUBLIC OF SOUTH AFRICA

**REVISED POLICY DIRECTIVE LIMITING THE PROJECT SCOPE TO
A MAXIMUM OF 500 HOUSING UNITS**

SEPTEMBER 2024

TABLE OF CONTENTS

| | | |
|-----|--|---|
| 1. | INTRODUCTION | 3 |
| 2. | PROBLEM STATEMENT | 3 |
| 3. | LEGISLATIVE FRAMEWORK | 4 |
| 3.1 | The Constitution of the Republic of South Africa..... | 4 |
| 3.2 | Division of Revenue Act 2, 2013..... | 4 |
| 3.3 | Public Finance Management Act 1 of 1999: | 4 |
| 3.4 | Housing Act 107 of 1997 | 5 |
| 3.5 | KZN Housing Act, No.12 of 1998 | 6 |
| 4. | PURPOSE | 6 |
| 5. | LIMITING THE NUMBER OF THE PROJECT SCOPE TO 500 HOUSING UNITS PER PROJECT PHASE | 7 |
| 6 | APPLICATION OF THE POLICY DIRECTIVE | 7 |
| 7 | EXEMPTIONS | 7 |
| 8 | VARIATIONS | 7 |
| 9 | ROLES AND RESPONSIBILITIES | 8 |
| 10 | THE HOUSING SUBSIDY SYSTEM | 8 |
| 11 | MONITORING AND EVALUATION..... | 9 |

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|--------------------------------|----------|
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| | |

1. INTRODUCTION

The KwaZulu-Natal Department of Human Settlements has encountered numerous challenges in meeting its delivery targets. One of the major challenges relates to the number of projects being stalled. This has a huge impact on the Department's targets and budget as the majority of projects continuously request subsidy alignments.

The Department identified a need to limit the number of units to 500 per project at stage 2 and/or stage 3 as the solution to the abovementioned challenges. This led to the then MEC in August 2016 approving the policy directive limiting the project scope to a maximum of 500 housing units excluding the catalytic and/or mega projects undertaken in KwaZulu-Natal.

2. PROBLEM STATEMENT

2.1 When a project is finalized over an extended period, this results into the following challenges:

- a) A record of slow-moving projects in the Province.
- b) Projects with more than 500 units have resulted to unintended multi-year projects, which impacts largely on contract administration whereby expansion of contractual period/time and escalations become a norm.
- c) Having a large number of units per project also results to limited project distributions and thus few service providers would get the contracts.
- d) The requests for subsidy alignments become unavoidable in case of multi-year projects and if these requests are refused the Department faces court litigations.
- e) Delays in the completion of projects expose the Department and Municipalities to public protests.

2.2 The Department is providing funding in the form of the Human Settlements Development Grant (HSDG), to municipalities and service providers thus if there is underspending or delays in the delivery of projects, the Department remains accountable.

2.3 Section 7(3) of the National Housing Act, 1997, as amended, mandates the MEC responsible for Human Settlements portfolio in the province to:

- a) Administer every national housing programme and every provincial housing programme which is constant with national housing policy and section 3(2)(b), and for this purpose may, in accordance with that programme and the prescripts contained in the Code, approve -
 - i. Any projects in respect thereof; and
 - ii. The financing thereof out of money paid into the provincial housing development fund as complemented in section 12(2);
 - iii. Determine provincial housing development priorities in accordance with national housing policy.

Furthermore, section 15(a) of the KZN Housing Act, No.12 of 1998 mandates the MEC to:

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- b) Establish norms, standards, frameworks and provincial policies which are not inconsistent with the Housing Act, in order to deal effectively with matters pertaining to housing development that requires to be dealt with uniformly across the Province.
- 2.4 It is on this basis that the Executing Authority and the Management of the KZN Human Settlements took an informed decision in 2016 that the packaging of the Stage two (2) construction projects should be limited to 500 units per project.
- 2.5 A project that has 500 units will be concluded in a shorter timeframe in comparison to a larger project; this will also minimize interference of external factors that may cause delays or disrupt the project time frame.
- 2.6 Furthermore, in view of the nationally imposed budget cuts for human settlements, funding of projects has to be based on mindful planning of the delivery process

3. LEGISLATIVE FRAMEWORK

3.1 The Constitution of the Republic of South Africa

Section 214(1) of the Constitution of the Republic of South Africa, 1996, requires an Act of Parliament to provide for

- (a) the equitable division of revenue raised nationally among the national, provincial and local spheres of government;
- (b) the determination of each province's equitable share of the provincial share of that revenue; and
- (c) any other allocations to provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations may be made

3.2 Division of Revenue Act 2, 2013

Section 2. The objects of this Act are to

- (a) provide for the equitable division of revenue raised nationally among the three spheres of government;
- (b) promote predictability and certainty in respect of all allocations to provinces and municipalities, in order that provinces and municipalities may plan their budgets over a multi-year period and thereby promote better coordination between policy, planning and budgeting; and
- (c) promote transparency and accountability in the resource allocation process, by ensuring that all allocations are reflected on the budgets of provinces and municipalities and by ensuring that the expenditure of conditional allocations is reported on by the receiving provincial departments and municipalities.

3.3 Public Finance Management Act 1 of 1999:

Chapter 7; Financial responsibilities of executive authorities

- (1) (a) Executive authorities of departments must perform their statutory functions within the limits of the funds authorized for the relevant vote.

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(b) In performing their statutory functions executive authorities must consider the monthly reports submitted to them in terms of section 39 (2) (b) and 40 (4) (c).

(2) The executive authority responsible for a public entity under the ownership control of the national or a provincial executive must exercise that executive's ownership control powers to ensure that that public entity complies with this Act and the financial policies of that executive.

Section 38 (1) The accounting officer for a department, trading entity or constitutional institution

- (a) must ensure that that department, trading entity or constitutional institution has and maintains
 - (i) effective, efficient and transparent systems of financial and risk management and internal control;
 - (ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of sections 76 & 77;
 - (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; (iv) a system for properly evaluating all major capital projects prior to a final decision on the project;
- (b) is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution;
- (c) must take effective and appropriate steps
 - (i) collect all money due to the department, trading entity or constitutional institution;
 - (ii) prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; and
 - (iii) manage available working capital efficiently and economically

3.4 Housing Act 107 of 1997

Part 3, Section 7: Functions of provincial governments

- (1) Every provincial government, through its MEC, must, after consultation with the provincial organizations representing municipalities as contemplated in section 163 (a) of the Constitution, do everything in its power to promote and facilitate the provision of adequate housing in its province within the framework of national housing policy.
- (2) For the purposes of subsection (1) every provincial government must through its MEC, **amongst others-**
 - a) determine provincial policy in respect of housing development;
 - b) promote the adoption of provincial legislation to ensure effective housing delivery.
 - c) co-ordinate housing development in the province;

Part 12 Section 1(a) states that:

"The Minister may allocate money out of the Fund for the purposes of financing the implementation in a province of any national housing programme and any provincial housing programme, which is consistent with national housing policy and section 3 (2) (b)".

Section 2(a) states that

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Any money allocated under subsection (1) (a) must, subject to subsection (3), be paid into a provincial housing development fund to be established by provincial legislation, which legislation must provide for-

- (a) the money so paid to be withdrawn from such fund only for the purposes of the implementation in the province of national housing programmes and provincial housing programmes, which are consistent with national housing policy and section 3 (2) (b);".

3.5 KZN Housing Act, No.12 of 1998

Section 7: Functions of provincial governments

(1) Every provincial government, through its MEC, must, after consultation with the provincial organizations representing municipalities as contemplated in section 163 (a) of the Constitution, do everything in its power to promote and facilitate the provision of adequate housing in its province within the framework of national housing policy.

(2) For the purposes of subsection (1) every provincial government must through its MEC-

- (a) determine provincial policy in respect of housing development;
- (b) promote the adoption of provincial legislation to ensure effective housing delivery;
- (c) take all reasonable and necessary steps to support and strengthen the capacity of municipalities to effectively exercise their powers and perform their duties in respect of housing development;
- (d) co-ordinate housing development in the province;
- (e) take all reasonable and necessary steps to support municipalities in the exercise of their powers and the performance of their duties in respect of housing development;
- (f) when a municipality cannot or does not perform a duty imposed by this Act, intervene by taking any appropriate steps in accordance with section 139 of the Constitution to ensure the performance of such duty; and
- (g) prepare and maintain a multi-year plan in respect of the execution in the province of every national housing programme and every provincial housing programme, which is consistent with national housing policy and section 3 (2) (b), in accordance with the guidelines that the Minister approves for the financing of such a plan with money from the Fund.

4. PURPOSE

4.1 The purpose of this directive is to limit the number of housing units per project phase to 500. The implementation of this directive aims to bring about improvements in the financial management, project management as well as contract administration processes.

4.2 The following areas are highlighted as positive outcomes:

- a) More projects would be constructed and finished within a specific financial year;
- b) Project costs escalations maybe avoided and there will be less or no requests for subsidy alignments;

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- c) Project management and contract administration processes will be improved;
- d) More contractors will get projects, and thus improvement in the distribution of work and economic benefits, especially to the emerging youth, women and military veterans' entrepreneurs within the construction sector; and housing allocations process will be improved as it will happen as soon as 500 units are completed.

5. LIMITING THE NUMBER OF THE PROJECT SCOPE TO 500 HOUSING UNITS PER PROJECT PHASE

- 5.1 This policy directive is applicable to all projects specifically in Stage 2 and/or Stage 3.
- 5.2 The implementation of this policy directive is applicable to projects under the following housing programmes:
 - a) Integrated Residential Development Programme;
 - b) Enhanced People's Housing Process;
 - c) Informal Settlements Upgrade Programme;
 - d) Rural Housing Subsidy Programme
- 5.3 Therefore, in the case of stage two (2), submissions requesting the approval of funds from the Executing Authority in terms of Section 7(3)(a)(i) and (ii) of the National Housing Act, 1997, as amended, the number of units should be limited to 500 units per project phase.
- 5.4 All Developers and their respective supply chain management units have to adjust their supply chain management processes (including the bid documents), in line with the requirements of this policy directive.
- 5.5 Any variations to the above limitation must be as per Section 8 below or will result in non-compliance of this policy directive. Should there be a need for deviation from this norm; the responsible programme is required to provide motivation outlining substantial and compelling reasons for such deviation for consideration and approval by the Executing Authority responsible for this Department.

6 APPLICATION OF THE POLICY DIRECTIVE

The directive is applicable to all Stage 2 and Stage 3 of KwaZulu-Natal human settlements projects.

7 EXEMPTIONS

This policy directive is **not applicable** to the following:

- 7.1 The directive will not be applicable to Stage 1 of the project which relates to Planning activities. Therefore, area-based planning would be implemented as usual in line with applicable prescripts to ensure that suitable and serviced sites are made available.
- 7.2 All catalytic and/or mega projects

8 VARIATIONS

Variations to the application of the policy directive may be applicable as follows:

- 8.1 The MEC may allow for deviations from this directive at his/her discretion.

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- 8.2 A phase may exceed the 500 units by 50% i.e. 500 + 250, in exceptional circumstances such as, projects where the total yield does not allow for a second phase or would not be financially sound to split the project.
- 8.3 Variations must be based on the availability of funding within the MTEF period.

9 ROLES AND RESPONSIBILITIES

9.1 Developers, Implementing Agents and Project Managers

- a) The packaging of projects in line with this policy directive would be the concurrent responsibility of the above-mentioned entities;
- b) These entities would collectively ensure that submissions for funds approval are compliant with this directive;
- c) These entities are responsible to ensure that proper and effective programme and project implementation plans are in place to manage the performance of various contractors;
- d) That the project close outs are performed accordingly per each project phase.

9.2 Supply Chain Management (SCM)

- a) To ensure that the bid documents are adjusted in line with this policy directive;
- b) To ensure that the contract administration processes are adhered to in every project.

9.3 Technical Evaluation Committee (TEC) Stage 2 and Stage 3

The responsibility of the above-mentioned committee is to ensure that:

- a) The submissions reflect correct project packaging, which is limited to 500 units;
- b) The submission reflects correct economic empowerment and transformation targets in terms of Youth, Women and Military Veterans within the construction sector;
- c) Proper recommendations, advice and guidance are provided to the Accounting Officer and the Executing Authority with regard to non-compliance with prescripts regulating human settlements programmes as well as supply chain management processes.

9.4 Member of Executive Council (MEC)

- a) As per Section 7(2) of the Housing Act 107 of 1997, the MEC must determine provincial policy in respect of housing development and promote the adoption of provincial legislation to ensure effective housing delivery.
- b) Further Section 15(a) of the KZN Housing Act, No.12 of 1998 mandates the MEC to: Establish norms, standards, frameworks and provincial policies which are not inconsistent with the Housing Act, in order to deal effectively with matters pertaining to housing development that requires to be dealt with uniformly across the Province.
- c) The MEC may allow for deviations from this directive at his/her discretion.

10 THE HOUSING SUBSIDY SYSTEM

The Housing Subsidy System (HSS) allows to effectively phase projects, this means that a Project "K" number will be issued and then the second phase will be given the same "K" number with /2/3/4

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(etcetera), per phase. Each phase has to be closed out and ultimately the entire project will be closed out.

11 MONITORING AND EVALUATION

The Policy, Research and Product Development Component will undertake the monitoring and evaluation of this policy directive implementation. The directive will be reviewed after five years from the date of approval or as required.

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