



REPORT TO: HUMAN SETTLEMENTS PORTFOLIO COMMITTEE

1. ITEM NUMBER: HS 12/10/20

2. SUBJECT

**OUTCOME OF THE RE-OPENING OF THE PUBLIC PARTICIPATION PROCESS
ON THE REVISED DRAFT ALLOCATION POLICY: HOUSING OPPORTUNITIES**

ONDERWERP

**UITKOMS VAN DIE HEROPENING VAN DIE OPENBAREDEELNAMEPROSES
OOR DIE HERSIENE KONSEPTOEWYSINGSBELEID:
BEHUISINGSGELEENTHEDE**

ISIHLOKO

**ISIPHUMO SOKUVULWA KWAKHONA KWENKQUBO ENGENTATHO-
NXAXHEBA NGOKUMALUNGA NOMGAQO-NKQUBO ONGOLWABELO
LWEZINDLU OLUYILO OHLAZIYIWEYO: AMATHUBA ANGEZEZINDLU**

3. DELEGATED AUTHORITY

In terms of delegation

This report is FOR NOTING BY

- Committee name** : Human Settlements
- The Executive Mayor together with the Mayoral Committee (MAYCO)
- Council

4. DISCUSSION

4.1 Background

The selection and allocation of beneficiaries for state subsidised housing opportunities is the responsibility of the City. In order to ensure that a transparent and equitable

process is followed in this regard, the former Human Settlements Directorate within the City developed the Allocation Policy. This policy sets out the criteria, processes and procedures for selecting beneficiaries for state subsidised housing and tenants when vacancies occur in existing and new rental housing properties of the City. The latest review of the Allocation Policy was approved by Council on 25 March 2015.

Subsequent to the approval of this Policy by Council in March 2015 various operational challenges and policy gaps were identified which only become apparent through the implementation of the policy. It was therefore imperative to review the Policy to ensure a fair, transparent, equitable allocation of housing opportunities to qualifying applicants from the City's Housing Demand Database.

On 7 November 2019 the Human Settlements Portfolio Committee approved the public participation plan on the revised Housing Allocation Policy for the period 11 November 2019 – 10 December 2019. An extensive public participation process was conducted as per the original public participation plan (attached hereto as Annexure A) and outlines in the attached report (attached hereto as Annexure B). As part of the extensive stakeholder engagements during the public participation process, the draft revised policy was presented to the Urban Management Portfolio Committee. During this process the Urban Management Portfolio Committee requested the Human Settlements Portfolio Committee to extend the public participation period until 28 February 2020. The request was acknowledged by the Human Settlements Directorate and approval for the re-opening of the public participation period is hereby requested. This document therefore sets out the public participation plan for the re-opening of the revised draft Housing Allocation Policy for public comment.

4.2 Purpose

The purpose of this report is to provide the Human Settlements Portfolio Committee with the outcome on the re-opening of the public participation process on the revised draft Allocation Policy: Housing Opportunities by highlight the key comments received via this process.

4.3 Public Participation Plan

A public participation plan was drafted for the second round of public participation on the draft revised Allocation Policy and was supported by the Human Settlements Portfolio Committee at their meeting which took place on 4 June 2020. The second round of public participation commenced on 22 June 2020 until 21 July 2020.

Guided by the Public Participation Unit and the covid-19 restrictions, the following platforms were utilised to communicate the draft policy, executive summary (in three languages) and the Frequently Asked Questions (FAQs) on the policy:

- City of Cape Town “have your say” website
- Report served at all sub-councils
- Advert was placed in local newspapers
- City of Cape Town Facebook page
- Media release

4.4 Comments received

Comments were received via the following mediums:

- Written submissions received via email
- “Have your say” website
- Dedicated Human Settlements WhatsApp number
- Sub-council engagements

The input received from the general public mainly focused on enquiries regarding an individual’s status on the Housing Needs Register and the timeframe for when they will receive their housing opportunity. Despite the various housing enquiries that were submitted, a number of comments of significance we received for the City to consider in the process of refining the policy. Some of the key points made are summarised in the table below:

Provision in draft policy	Comment received
<p>General Comment</p>	<p>Place greater emphasis on the allocation of housing for the elderly and persons with disabilities.</p>
<p>Definition:</p> <p>“Anti-social behaviour” means acting in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons including alcohol abuse, drug and substance misuse and dealing, possession of drugs, illegal possession of firearms, intimidation, harassment, gangsterism, vandalism, abuse and sexual harassment.</p>	<ul style="list-style-type: none"> • “Anti-social behaviour” The definition section of the policy defines “anti-social behaviour” as acting in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons including alcohol abuse, drug and substance misuse and dealing, possession of drugs, illegal possession of firearms, intimidation, harassment, gangsterism, vandalism, abuse and sexual harassment. The use of the words ‘likely to cause’ and ‘including’ confer a wide mandate on the City to determine whether a tenant’s behaviour (past or current) meets this definition. The policy does not define ‘harassment’, ‘alarm’ or ‘distress’, which leaves the ambit of the provision too wide to be rational and reasonable. For example, let us assume we have A and B, who are neighbours. This provision allows A’s subjective response to B to be the ultimate determinant on whether B’s behaviour is harassment. If A is overly sensitive, B will be barred from a multitude of the policy’s provisions on the basis that A subjectively felt harassed or distressed. • Who decides what action will be likely to cause such outcomes and how does it get decided? And what constitutes alcohol abuse? Is it whether you have been arrested for drunkenness (and had a blood alcohol test) or simply somebody believes you’re a drunk? In the absence of clear criteria for an “anti-social” characterisation, or any detail of a fair and transparent process that will arbitrate who is anti-social, this may result in patent unfairness in housing allocation.
<p>Definition:</p> <p>“Target areas” means a specific suburb, a portion thereof or the immediate suburb(s) surrounding the housing project as recommended and approved by the Human Settlements Directorate.</p>	<ul style="list-style-type: none"> • The definition of “target areas” in the draft policy should be reformulated to clearly explain what each of the constituent parts of the definition mean in the context of the allocation policy (this includes the word “suburbs”, “portion thereof” and “surrounding”).

<p>Paragraph 2.1.1.3: The Human Settlements Implementation Department must recommend the target area for the housing development they were assigned to as well as the beneficiary quotas as determined in terms of this policy. The recommendation will be based on an analysis of the context and housing demand within the suburb(s) surrounding the location of the housing development.¹ The latter recommendation will be presented to the relevant Project Engagement Committee for their comment before final submission to obtain approval by the Executive Director Human Settlements.</p> <p>¹ The analyses should as a minimum requirement take the following variables into consideration: a) housing need as reflected on the City's Housing Database; b) past and planned projects within the respective sub-council or surrounding areas; c) age and disability profile within the respective sub-council or surrounding areas; d) income profile within the respective sub-council or surrounding areas if available.</p>	<ul style="list-style-type: none"> • The City to consider an alternative formulation of the definition that might offers more flexibility when determining the target area. An alternative formulation might define a target area as including any suburb or part of the suburb falling within a certain radius of the housing project, or including the suburbs that are physically bordering the suburb in which the housing project is located (whichever includes more housing beneficiaries). Such a formulation would offer the City much needed clarity and also offer a measure of flexibility. • The definition of the target area needs to be expanded and clearly attributed. A lack of clarity on the target area will make the selection of beneficiaries much more complicate Mitchells Plain, Khayelitsha and DuNoon, there are several suburbs which are very high density with significant housing demand. Also in some instances, more than one ward • councillor might be involved in the PEC, which will make the prioritisation unclear. • The City to conduct comprehensive metropolitan wide analysis of how housing need has been addressed spatially in historical and current projects as evidence for target area and target area weighting. Recommended target area and target weighting should promote social integration/inclusion (one of the principles of the policy).
<p>Paragraph 1.4.2: This policy is therefore applicable to categories of housing opportunities developed/managed/facilitated by the City or the Western Cape Department of Human Settlements or any development by other statutory body or a private developer where state funds are used within the geographic boundaries of the City as set out in table 1 below.</p>	<ul style="list-style-type: none"> • City and Province to re-establish Intergovernmental (IGR) Forum - use this platform to co-ordinate the identification of housing project and selection of beneficiaries for projects across the City. • Both City and Provincial housing projects – within the City - to be tabled at the Housing Allocation Oversight Committee to ensure that the principles of the policy are adhere to.
<p>Paragraph 1.4.7:</p>	<ul style="list-style-type: none"> • The current housing allocation policy of 2015 allows for 10% of allocations to be granted to people not on the housing waiting list. The

<p>Only names registered on the City's Housing Database may be utilised to source prospective beneficiaries for state subsidised housing within the City as listed in this policy, as these names are also linked to the National Housing Needs Register. Persons registered on the City's Housing Database will include persons residing in backyards, in overcrowded conditions, informal settlements or any other inadequate living conditions.</p>	<p>revised draft policy (2019) says that only names registered on the City's Housing Database will be considered. Many backyarders are not registered on the database. While these residents can still register themselves on the database, section 2.3.1 (a) says that houses will be allocated based on 'date of registration'. We feel that this places citizens especially the elderly living in backyards at a great disadvantage if they only decide to register on the database now. This would mean that their names are at the tail-end of the list, and it could take years before there is any chance of owning a house.</p>
<p>Paragraph 2.2.2.1: The City must adhere to provisions as stipulated in the Western Cape Department of Human Settlements Circular C 2 of 2019</p>	<ul style="list-style-type: none"> • The Circular also refers to striking a balance between persons living in overcrowded formal conditions (backyarders) and those living in informal settlements. • This must be considered during the project planning phase as well as beneficiary selection phase of a housing project. The Circular refers to a 50/50 split in this regard. • The Western Cape Department of Human Settlements should reconsider the age-prioritization model.
<p>Paragraph 1.4.5: Allocations in respect of the Emergency Housing Programme and Enhanced Peoples Housing Programme are excluded from this policy since these beneficiaries are either on site or are targeted for relocation and allocation. The prescripts of the applicable National Housing Programme will apply and any City policies and guidelines related to these programmes.</p>	<ul style="list-style-type: none"> • The City must be cautious that Enhanced People Housing Programme (EHP) is not seen as a mechanism for queue jumping – thus circumvent registration date ordering principle. Therefore the policy must define the pathways for selection of beneficiaries for serviced sites which ultimately receive EHP subsidies.
<p>Paragraph 2.1.2 Project Engagement Committee</p>	<ul style="list-style-type: none"> • Clear guidelines on who will be part of the Project Engagement Committees (PEC) and active engagement with beneficiaries themselves in the process. PECs must represent beneficiaries' needs. We believe that beneficiaries "should feel that they have been given a real opportunity to have their say, that they are taken seriously as citizens and that their views matter and will receive due

	<p>consideration at the moments when they could possibly influence decisions in a meaningful fashion</p>
<p>Paragraph 2.1.7.1: The Mayor, together with the MAYCO approves the request for deviation from this policy as supported by the Mayoral Committee member responsible for Human Settlements.</p>	<ul style="list-style-type: none"> • The role of the MMC within the policy must be in accordance with the functions prescribed within the Municipal Structures Act and Municipal Systems Act.
<p>Paragraph 2.1.11.2 All applicants registered must inform the HIB on any changes in personal information such as address, marital status, income, or special needs and disabilities;</p>	<ul style="list-style-type: none"> • The onus of updating the ‘beneficiary’ information with the City of Cape Town cannot be left to the poor and vulnerable. Often such ‘beneficiaries’ do not have access to cellphones or addresses (in informal settlements). As such, the City should make provision every two years for this data to be updated in various regions and wards.
<p>Paragraph 2.3.3: A qualifying applicant who is a tenant or spouse of the tenant in City rental units will only be allocated an opportunity to a serviced site and/or top structure on condition that –</p> <p>(a) the tenant has no arrears, (b) the tenant has no record of anti-social behaviour; (c) the tenant ensures that no other persons will remain behind in the rental property including front and backyards.</p>	<ul style="list-style-type: none"> • Concerned about the legality and constitutionally of the inclusion of ‘a record of anti-social behaviour’ as a criteria that affects eligibility for the purposes of housing allocation. Strongly urge the City to remove all provision relating to ‘anti-social behaviour.’
<p>Paragraph 2.3.2: To achieve the desired integration of the different communities in Cape Town, the following principle must be adhered to:</p> <p>(a) Between 0 to 80 percent of the total number of housing opportunities the project will deliver must be allocated to qualifying persons within the identified target area.</p>	<p>We acknowledge the City’s proposal for an 80/20 split on the housing allocations based on the idea that some suburbs will not receive a housing project and this can extend the waiting period for residents in those suburbs. However, we are concerned of the following:</p> <ul style="list-style-type: none"> • Impractical: In the past there are clear precedents that neighborhoods and ‘target areas’ are often completely against beneficiaries from other areas. Often this has led to projects being blocked indefinitely due to resistance; • Location: If a housing project is in the ‘target area’ of Atlantis – The policy prescribes that 80% of beneficiaries should be from Atlantis and the remaining 20% from outside the target

	<p>area – in this case, most likely, the Cape Town area. Certain beneficiaries who form part of the 20% maybe disadvantaged by the location of Atlantis being outside of Cape Town – especially when work and education opportunities are located in the Southern Suburbs or Mitchell’s Plain/Khayelitsha;</p> <ul style="list-style-type: none"> • Racial Tensions: If the target area is a predominantly ‘black’ neighbourhood, and remaining 20% is allocated to coloured beneficiaries, this could provoke tensions in the target area. How will the City navigate this?
<p>Paragraph 3.4.3 TRANSFER OF TENANCY</p>	<ul style="list-style-type: none"> • Consideration should be given to occupants with disability in terms of transfer of tenancy
<p>Paragraph 3.4.3.7 TRANSFER OF TENANCY</p> <p>Occupants who have a record of anti-social behaviour (12 months prior to a transfer of tenancy application) will not be considered for the tenancy.</p>	<ul style="list-style-type: none"> • The policy should be clear on the action to be taken by City in terms of paragraph 3.4.3.7 • Clarify what constitutes a proven record of anti-social behaviour.
<p>Paragraph 3.4.3.7:</p> <p>Occupants who have a record of anti-social behaviour (12 months prior to a transfer of tenancy application) will not be considered for the tenancy.</p>	<ul style="list-style-type: none"> • The length of time a person determined “anti-social” is barred from certain entitlements under the policy is also worrying. For example, Section 3.4.3.7 states an occupant who has a record of anti-social behaviour 12 months prior to a transfer of tenancy application, will not be considered for the tenancy. Submit that this is far too long a period for such prohibition. • Provide more clarity on what constitutes a record of anti-social behaviour.
<p>Paragraph 5.2.1:</p> <p>Any deviation from this policy must be submitted to the Mayor together with MAYCO for final approval.</p>	<ul style="list-style-type: none"> • Any deviation from this policy, other than what may be provided for within the policy must be supported by the Mayoral Committee and approved by full Council.

A list of all the comments received from various stakeholders has been compiled and can be made available on request by the Human Settlements Portfolio Committee.

4.5 WAY FORWARD

The table below illustrates the final steps within the policy development process and the proposed timeframe for the submission to Council to seek approval of the policy. These dates might be subject to change as we are reliant on various stakeholders input and approval at each step during this process.

Action	Proposed deadline
Analyse all comments received	25 September 2020
Workshop comments with relevant line departments to determine impact of proposed amendments on implementation and institutional arrangements	16 October 2020
Present proposed amendments to the policy to Human Settlements MANCOM – based on comments received	26 October 2020
Amend policy where necessary	30 October 2020
Submit amended draft policy to Policy and Strategy Department for comment	6 November 2020
Submit amended draft policy to Legislative Development (Legal Services Department) for comment and legal vetting	25 November 2020
Submit amended draft policy to Human Settlements PC for onward recommendation of the Policy to Council for approval, via the Mayco	December 2020

Financial Implications

None Opex Capex

Capex: New Projects

Capex: Existing projects requiring additional funding

Capex: Existing projects with no additional funding requirements

Policy and Strategy Yes No

Legislative Vetting Yes No

Legal Compliance

Staff Implications Yes No

Risk Implications Yes No

5. RECOMMENDATIONS

It is recommended that the committee note the content of this report

AANBEVELINGS

Dit word aanbeveel dat die komitee kennis neem aan die inhoud van hierdie verslag

IZINDULULO

Kundululwe ukuba iKomiti mayiqwalasele okuqulathwe yile ngxelo.

FOR FURTHER DETAILS CONTACT

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SIGNATURE : DIRECTOR			

EXECUTIVE DIRECTOR

NAME	Nolwandle Gqiba	COMMENT:
DATE		
SIGNATURE		

LEGAL COMPLIANCE

- REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.
- NON-COMPLIANT

NAME		COMMENT:
DATE		
SIGNATURE		

Approval Form

Supported for inclusion on the agenda



OUTCOME OF THE RE-OPENING OF THE PUBLIC PARTICIPATION PROCESS ON THE REVISED DRAFT ALLOCATION POLICY: HOUSING OPPORTUNITIES

Report Reference: 515773
Meeting: Section 79 Portfolio Committee - Human Settlements
Meeting Date: 08.10.2020
Meeting Venue: Meeting Room A 5TH Floor Podium

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Item	Section	Approver	Approval	Approved Date	Approver Comments
01	Author	Lwazi Nobaza	Approved	23.09.2020 10:45:32	
02	Director	HERMANUS JURGENS	Approved	23.09.2020 11:07:33	
03	Executive Director	Nolwandle Gqiba	Approved	23.09.2020 12:26:19	
04	Legal Compliance	Joan Mari Holt	Approved with Comments	25.09.2020 12:26:24	For information.
05	Chairperson	BEVERLEY VAN REENEN	Approved	28.09.2020 09:40:35	

ECS Officer: C Minnaar