

DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

The MEC of The Department of Cooperative Governance and Traditional Affairs hereby publishes the Draft Consultation Paper and Draft Norms and Standards for Spatial Imperatives for Public Service Infrastructure for public comment in terms of the KZN Planning and Development Act No.6 of 2008.

Members of the public are invited to submit written comments within 30 calendar days of the publication of this notice to the following address:

**By Post to : Assistant Director: Norms and Standards
 Attention: Mrs Melissa Pillay
 7 Buro Crescent
 Mayville, Durban
 4001**

By e-mail to: Melissa.Pillay@kzncogta.gov.za

Comments received after the closing date will not be considered.

KWAZULU-NATAL

**PROVINCIAL PLANNING AND DEVELOPMENT NORMS AND
STANDARDS FOR TELECOMUNICATION INFRASTRUCTURE**

DRAFT NORMS AND STANDARDS

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1. EXECUTIVE SUMMARY

- 1.1 Telecommunication has revolutionised the manner in which we communicate. Telecommunication facilities connect phones, computers, and other communication appliances. Along with the benefits brought about by telecommunication technology, there has been the concern over the impact of telecommunication facilities. Telecommunication facilities needs to be planned and managed to ensure sustainable development.
- 1.2 A municipality must consider the following matters when it considers an application for municipal approval for a telecommunication facility –
- 1.2.1 site selection;
 - 1.2.2 visual impact and landscaping;
 - 1.2.3 noise;
 - 1.2.4 public health and safety; and
 - 1.2.5 interference with other services.

2. DEFINITIONS

"application" includes a proposal by a municipality;

"application for building plan approval" means an application for building plan approval contemplated in section 4(1) of read with paragraph (1)(iii) of the definition of "building" of the National Building Regulations;

"application for municipal approval" means –

- (a) an application for building plan approval; or
- (b) an application for municipal planning approval;

"application for municipal planning approval" means –

- (a) a proposal by a municipality to zone land for telecommunication facility in terms of section 9(1) of the PDA;
- (b) an application to rezone land for telecommunication facility in terms of section 9(2) of the PDA;
- (c) an application for a municipality's special consent to construct telecommunication facility in terms of section 67*bis*(1)(a) of the Ordinance;
- (d) an application for the subdivision or consolidation of land to accommodate telecommunication facility in terms of section 21(1) of the PDA;

- (e) an application for the construction of telecommunication facility outside the area of a land use scheme in terms of section 38(1) of the PDA; and
- (f) an application for an amendment to a municipality's decision contemplated in paragraphs (a) to (e) in terms of section 60(1) of the PDA;

"electronic communications" means the emission, transmission or reception of information, including, voice, sound, data, text, video, animation, visual images, moving images and pictures, signals or by means of magnetism, radio or other electromagnetic waves, optical, electromagnetic systems or any other similar means;

"EMR" means electromagnetic radiation;

"ICNIRP" means the International Commission on Non-Ionizing Radiation Protection;

"landscape character" means a distinct and recognisable pattern of elements that occur consistently in particular landscape as a result of geology, landform, soils, vegetation, land use, field patterns or human settlement;

"National Building Regulations" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

"Ordinance" means the Town Planning Ordinance, 1949 (Ordinance No. 27 of 1949);

"PDA" means the KwaZulu-Natal Planning and Development Act, 2008 (Act No. 6 of 2008);

"subscriber equipment" means devices used by a subscriber to access, use or receive electronic communications from a service provider, including –

- (a) a telephone;
- (b) a mobile phone;
- (c) a modem;
- (d) a satellite dish;
- (e) television aerial;
- (f) a decoder;
- (g) a television; and
- (h) a radio;

"telecommunication facility" means –

- (a) an antenna;
- (b) a supporting mast or tower;
- (c) a satellite transponder;

- (d) an equipment room;
- (e) an exchange building;
- (f) an earth-based communications station; or
- (g) a cable landing station;

used for electronic communications, excluding subscriber equipment;

"telecommunication facility operator" means a person, including a legal person or an organ of state, that is responsible for the construction, operation and maintenance of a telecommunication facility;

"vista" means a panoramic view of a large area of land or water.

3. NORMS AND STANDARDS FOR TELECOMMUNICATION FACILITIES

3.1 Site selection

- 3.1.1 The number of sites for telecommunication facilities should be kept to a minimum to reduce the impact of telecommunication facilities on surrounding land uses and the environment.
- 3.1.2 Existing sites for telecommunication facilities should be optimised or shared.
- 3.1.3 A municipality may only approve a new site to accommodate a telecommunication facility, if –
 - 3.1.3.1 the desired coverage cannot be achieved at an existing site;
 - 3.1.3.2 the increase in the height of a support structure to accommodate an additional telecommunication facility at an existing site will result in a telecommunication facility that is visually unacceptable;
 - 3.1.3.2 an existing site –
 - 3.1.3.2.1 is unable to support an additional telecommunication facility due to its physical and technical limitations; and
 - 3.1.3.2.2 it is not economically viable upgrade it to accommodate the additional telecommunication facility;
 - 3.1.3.3 the cumulative radiation at an existing site will exceed the maximum EMR level permitted by the ICNIRP.
- 3.1.4 Existing structures must be used to accommodate telecommunication facilities, including rooftops, water towers, highway overpasses, bridges, tall buildings, utility poles, light masts, and billboards.

- 3.1.5 The location of a telecommunication facility within a protected area, an estuary, or an area of environmental or biodiversity sensitivity or heritage significance should be avoided (see Appendix 2). Alternative site locations must be explored during the feasibility stage of the planning process to minimise the impact of a telecommunication facility on a sensitive environment.
- 3.1.6 Natural habitats disturbed during construction must be rehabilitated by the telecommunication facility operator at its own cost and to the satisfaction of the municipality and the KwaZulu-Natal Department of Environmental Affairs and Agriculture.
- 3.1.7 Ezemvelo KZN Wildlife must be consulted before any trees are removed from a site. There may be a need to relocate trees to alternative sites.
- 3.1.8 Natural vegetation must be restored post construction of a telecommunication facility.
- 3.1.9 The design and location of a telecommunication facility must be integrated with the surrounding land uses.
- 3.1.10 If it is not possible to integrate a telecommunication facility with the surrounding land uses, measures must be taken to minimise the negative impact thereof on the amenity of the surrounding area.

3.2 Visual impact and landscaping

- 3.2.1 The design and location of a telecommunication facility must minimise the visual impact thereof on the character and amenity of the area in which it is located, including the local landscape character and vistas.
- 3.2.2 Unless unavoidable for technical reasons, a telecommunication facility may not interfere with a public viewing point or landscape view that is open to the public.
- 3.2.3 A telecommunication facility that is attached to a historic building or building of architectural significance must be designed and located in a manner that preserves the integrity of the building.
- 3.2.4 The design and attachment of a new telecommunication facility to an existing building or support structure must be integrated with the building or support structure.

- 3.2.5 The following techniques must be employed to mitigate the visual impact of a telecommunication facility –
- 3.2.5.1 locating a telecommunication facility below ridgelines to prevent skylines being spoiled;
 - 3.2.5.2 the use of trees and other vegetation that complements the natural vegetation, biodiversity, landforms and manmade features to screen telecommunication facilities, including service roads to telecommunication facilities;
 - 3.2.5.3 avoiding the removal of indigenous mature trees or vegetation when excavating to construct a telecommunication facility or to provide telecommunication facility with road access or power;
 - 3.2.5.4 ensuring that the height and scale of a telecommunication facility matches that of the building to which it is attached or the natural and manmade features surrounding it;
 - 3.2.5.5 adopting a design for a telecommunication facility that matches the prevailing architecture or natural features found in the area, for example, using a rooftop in the same architectural style for the equipment room or using stone cladding for the equipment room in an area with big boulders;
 - 3.2.5.6 making a telecommunication facility an integral part of a building's structure by matching it to the building's design and colour scheme;
 - 3.2.5.7 using colour and cladding materials to match a telecommunication facility with adjacent walls, a building's facade or a predominant background (e.g. a building, sky or vegetation);
 - 3.2.5.8 using architectural features such as spires, columns, finials and screening to minimise visibility of a telecommunication facility;
 - 3.2.5.9 integrating a telecommunication facility that protrudes above the top or apex of a roof with the surrounding area (e.g. urban environment, sky or vegetation);
 - 3.2.5.10 using stealth camouflage to disguise a telecommunication facility as another structure (e.g. a light pole, flagpole, signpost, tree or urban art);
 - 3.2.5.11 making use of underground cables, unless it is impractical to do so and there is no significant effect on visual amenity;

- 3.2.5.12 prohibiting commercial advertising or signage on telecommunication facilities, unless it is regulated by a municipality' in its by-laws;
- 3.2.5.13 allowing only lighting that is screened, tilted downwards and energy efficient on telecommunication facilities, unless the lighting is required for aviation safety;
- 3.2.5.14 enclosing an equipment room with a wall or fence that blends in with the surrounding environment, if the equipment room is not specifically designed to match other buildings in the area; and
- 3.2.5.15 setting an equipment room that is located on a rooftop as far back as possible from the edges of the roof to make it invisible from street level.

3.3 Noise

- 3.3.1 Solar or wind energy must be used to power a telecommunication facility which cannot be connected cost effectively to an existing source of energy.
- 3.3.2 If telecommunication facility cannot be connected cost effectively to an existing source of energy and the use of solar or wind energy is not feasible, measures must be taken to mitigate the negative impact of noise generated by the power source by opting for a power source that generates the least amount of noise and sound proofing the power source.

3.4 Public health and safety

- 3.4.1 The EMR level of a telecommunication facility may not exceed the maximum level of exposure prescribed by the ICNIRP or the maximum level of exposure prescribed in any national law or policy.
- 3.4.2 A municipality may request written confirmation from an independent authority that a telecommunication facility does not exceed the maximum level of exposure prescribed by the ICNIRP.
- 3.4.3 A municipality may appoint an independent service provider at the cost of the telecommunication facility operator, to test if a telecommunication facility is compliant with the permissible level of EMR.
- 3.4.4 A municipality may not refuse an application for municipal planning approval or building plan approval for a telecommunication facility in the interest of public

health and safety, if a telecommunication facility does not exceed the maximum level of exposure prescribed by the ICNIRP or the maximum level of exposure prescribed in any national law or policy.

- 3.4.5 Unauthorised persons should not be able to gain access to rooftop antennae or come within 5 meters thereof.
- 3.4.6 The following techniques must be employed to promote public health and safety –
 - 3.4.6.1 preventing unauthorised access to the telecommunication facilities by requiring safety doors, fencing, secured access points and warning notices;
 - 3.4.6.2 requiring a notice not larger than 400 mm x 500 mm to be displayed on a telecommunication facility site warning the general public in writing and pictogram format;
 - 3.4.6.3 requiring electrical cabling of telecommunication facility located on roof tops to be in a sealed metal channelling.

3.5 Interference with other services

- 3.5.1 Interference of a telecommunication facility with television or satellite reception must be avoided. If interference occurs, it must be investigated to establish the cause of the problem. If the telecommunication facility is the cause of the interference, remedial action must be undertaken at the cost of the telecommunication facility operator.
- 3.5.2 Interference of a telecommunication facility with aviation must be avoided. If the telecommunication facility interferes with aviation, remedial action must be undertaken at the cost of the telecommunication facility operator.

4. INFORMATION ACCOMPANYING AN APPLICATION FOR PLANNING APPROVAL FOR COMMUNICATION INFRASTRUCTURE

- 4.1 A person who applies for planning approval for telecommunication facility must demonstrate compliance with these norms and standards in the written motivation accompanying the application as contemplated in item 1(2) of Schedule 1 of the PDA.

- 4.2 An application for planning approval for telecommunication facility must be accompanied by –
- 4.2.1 a safety zone plan showing –
 - 4.2.1.1 the central and side EMR radiation beams; and
 - 4.2.1.2 the full extent of EMR from all the antennae for a delineated area of 50 to 500 meters;
 - 4.2.2 a declaration of conformity with ICNIRP Public Exposure Guidelines as contemplated in Appendix 2.
- 4.3 A municipality may require a telecommunication facility operator to include the following documents in an application for planning approval –
- 4.3.1 a locality plan showing –
 - 4.3.1.1 adjacent land uses;
 - 4.3.1.2 the proximity of the site to sensitive environment areas, including national protected areas, wilderness areas, estuaries, areas of biodiversity sensitivity significance, nature reserves, and ecotourism destinations; or
 - 4.3.1.3 the proximity of the site to air fields and airports;
 - 4.3.2 a visual impact assessment, including photographic modelling;
 - 4.3.3 a landscaping plan to demonstrate how the impact on the visual amenity will be addressed;
 - 4.3.4 a natural rehabilitation and maintenance plan for the post construction phase of the site and surrounding area;
 - 4.3.5 an agreement signed by the telecommunication facility operator for the removal of the telecommunication facility once it is redundant and the restoration of the site to its original condition;
 - 4.3.6 proof of compliance with other legislation, including –
 - 4.3.6.1 approval in terms of the Subdivision of Agricultural Land Act (Act No. 70 of 1970), for telecommunication facility will be constructed on agricultural land that may not be leased or subdivided without approval in terms of the Act;
 - 4.3.6.2 approval in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) for telecommunication facility that are listed as activities that may have a detrimental effect on the environment; and

- 4.3.6.3 approval in terms of the KwaZulu-Natal Heritage Act (KwaZulu-Natal Act No. 4 of 2008), to attach telecommunication facility to buildings that are older than 60 years.

5. LEGAL EFFECT

5.1 Persons to whom these norms and standards apply

These norms and standards are binding on –

- 5.1.1 all persons who construct telecommunication facilities, including the state and municipalities; and
- 5.1.2 all municipalities that consider applications for municipal approval for telecommunication facilities.

5.2 How these norms and standards must be applied

- 5.2.1 A municipality must consider the matters contemplated in item 3 of these Provincial Norms and Standards, when it considers an application for municipal approval for the construction of telecommunication facility.
- 5.2.2 If land is to be used exclusively for the accommodation of telecommunication facilities, a municipality must zone the land accordingly.
- 5.2.3 Land that is to be used exclusively for the accommodation of telecommunication facilities must be zoned in accordance with the intended thereof, not the ownership thereof.
- 5.2.4 Telecommunication facilities must be freely permitted in all zones, except if –
 - 5.2.4.1 the telecommunication facility is to be erected on land is exempted from the National Building Regulations as contemplated in section 2(2) of the Regulations;
 - 5.2.4.2 the telecommunication facility is to be erected by or on behalf of the state as contemplated in section 2(4) of the Regulations which means that it is effectively exempted from building plan approval and a municipality must therefore require planning approval instead; or
 - 5.2.4.3 the telecommunication facility is to be erected in a zone in which no buildings or structures of any kind are permitted.

- 5.2.5 Telecommunication facilities must be freely permitted in all zones because it is seldom practical to zone land for telecommunication facility.
- 5.2.6 It is seldom practical to zone land for telecommunication facility because –
- 5.2.6.1 a telecommunication facility is seldom located on a property dedicated for that purpose;
 - 5.2.6.2 a telecommunication facility is seldom the dominant use on the property on which it is located;
 - 5.2.6.3 most telecommunication facilities have a small footprint relative to other land uses on the same property.
- 5.2.7 A municipality should require building plan approval without the need for special consent in terms of section 67bis(1)(a) of the Ordinance for the erection of a telecommunication facility, except in the circumstances contemplated in clause 5.2.8.
- 5.2.8 A municipality should only require an application for special consent in terms of section 67bis(1)(a) of the Ordinance for the erection of a telecommunication facility if –
- 5.2.8.1 (a) the land is not used exclusively for the accommodation of telecommunication facilities; and
(b) the land is exempted from the National Building Regulations as contemplated in section 2(2) of the Regulations; or
 - 5.2.8.2 (a) the land is not used exclusively for the accommodation of telecommunication facilities; and
(b) the telecommunication facility is to be erected by or on behalf of the state as contemplated in section 2(4) of the National Building Regulations which means that it is effectively exempted from building plan approval and a municipality must therefore require planning approval instead.

- 5.2.9 Except in the circumstances contemplated in clause 5.2.8., building plan approval without the need for special consent in terms of section 67bis(1)(a) of the Ordinance should be required for the erection of a telecommunication facility because –
- 5.2.9.1 unlike activities that do require planning approval, telecommunication facilities are not habitable structures, do not require water and sanitation services, do not require solid waste removal, do not generate vehicle or pedestrian traffic etc.;
 - 5.2.9.2 the site selection, visual impact and landscaping, noise, public health and safety and interference with other services of a telecommunication facility that is situated inside the area of a land use scheme can be controlled effectively through building plan approval;
 - 5.2.9.3 special consent approval in terms of the Ordinance for a telecommunication facility will in all probability be identical to the building plan approval in terms of the National Building Regulations for the same facility;
 - 5.2.9.4 requiring both special consent approval in terms of the Ordinance and building plan approval in terms of the National Building Regulations for the erection of a telecommunication facility causes unnecessary duplication of effort, unduly delays the provision of communication services to communities and unnecessarily increases the cost of providing telecommunication services to communities.
- 5.2.10 See Appendix 3 for templates for the accommodation of telecommunication facilities in a land use scheme.
- 5.2.11 Outside the area of a land use scheme, planning approval is required in terms of section 38(1) of the PDA for the erection of a telecommunication facility as defined in clause 2.
- 5.2.12 Whenever possible, a municipality should incorporate a telecommunication facility into its land use scheme by zoning the land on which the facility is situated rather than requiring an application for the development of land situated outside a land use scheme.

5.2.3 Area to which these norms and standards apply

These norms and standards apply to the whole Province of KwaZulu-Natal.

5.2.4 More stringent norms and standards

A municipality may impose requirements for telecommunication facility that are more stringent than these norms and standards.

6. RELATED PROVINCIAL NORMS AND STANDARDS

There are no related provincial norms and standards at this stage.

7. OTHER DOCUMENTS THAT MAY ASSIST WITH THE INTERPRETATION OF THESE PROVINCIAL NORMS AND STANDARDS

8. COMMENCEMENT

8.1 These Norms and Standards will come into effect on _____ 2018.

8.2 This is the original version of these Norms and Standards.

9. COPIES

Copies of these norms and standards can be obtained from the office of the Director Land Use Management, Department of Cooperative Governance and Traditional Affairs. First Floor, Southern Life Plaza. 271 Church Street, Pietermaritzburg. 3200.

TYPICAL AREAS OF ENVIRONMENTAL AND HERITAGE SIGNIFICANCE¹

1. Land zoned Public Open Space or Conservation
2. Large boulders or rocky outcrops
3. Site abutting vacant land or a public passage
4. Site within or abutting a conservation area or place with protected status
5. Site within 32 metres or less from a river, stream or drainage channel
6. Site within 32 metres or less from a wetland, dam, water body, marshy area or a high water table
7. A site that naturally stays filled with water in wintertime
8. A floodplain of a river or wetland (within 1:50 year flood line)
9. A site within 100m of the high water mark of the sea
10. A site comprising of coastal dunes or covered by coastal forests or thickets
11. Estuaries
12. A site outside or abutting the urban edge or constituting the last row of properties on a mountainside, rural or smallholding edge or a horticultural area
13. Steep slopes (>1:3)
14. Site within or abutting a scenic drive
15. Significant tourism gateways, viewing platforms, vantage points or vistas
16. Tree or hedge lined avenues or similar historical plantings used on farmlands to delineate boundaries and road servitudes
17. Mature indigenous and alien trees on site with a trunk circumference of both of an adult's arm's length
18. Cultural landscapes, historic farms, historical plantings on site
19. Existing Buildings or any part of a structure older than 60 years

¹ Sourced from the Draft Telecommunication facility Policy prepared by the City of Cape Town in 2002 and revised 2011 with additions

20. Existing building or site which is an old National monument or a provincial heritage site identified in terms of the KwaZulu-Natal Heritage Act, 2008 (Act No. 4 of 2008)
21. A declared or proposed urban conservation area or heritage area
22. Surveyed heritage areas e.g. battle grounds
23. Graves, burial grounds or cemeteries
24. A place of known social or cultural significance, for example, places of worship, a male initiation site, rain making sites, a place of oral traditions, stories or legends, or struggle history

DECLARATION OF CONFORMITY WITH ICNIRP PUBLIC EXPOSURE GUIDELINES

Operators Name: _____

Operator Address: _____

Operator's Telephone: _____

Declares that the proposed equipment and installation as detailed in the attached planning application for the new installation of/upgrading of telecommunication facility has been submitted in terms of chapters 3 and 4 of the KwaZulu-Natal Planning and Development Act (No 6 of 2008).

(Address): _____

Such telecommunication facility is designed to be in full compliance with the requirements of the radiofrequency (RF) public exposure guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP), as expressed in EU Council recommendation of 12 July 1999 * "on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)".

Reference: 1999/519/EC

Name: _____

Date: _____

Signed : _____

Position: _____

LAND USE SCHEME TEMPLATES

1. DEFINITIONS

"National Building Regulations" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

"subscriber equipment" means devices used by a subscriber to access, use or receive electronic communications from a service provider, including –

- (a) a telephone;
- (b) a mobile phone;
- (c) a modem;
- (d) a satellite dish;
- (e) television aerial;
- (f) a decoder;
- (g) a television; and
- (h) a radio;

"telecommunication facility" means –

- (a) an antenna;
- (b) a supporting mast or tower;
- (c) a satellite transponder;
- (d) an equipment room;
- (e) an exchange building;
- (f) an earth-based communications station; or
- (g) a cable landing station;

used for electronic communications.

2. DEDICATED TELECOMMUNICATION ZONE

TELECOMMUNICATIONS ZONE

PERMITTED LAND USES	LAND USES PERMITTED WITH SPECIAL CONSENT	PROHIBITED LAND USES
Telecommunication Facility	None	All land uses not permitted or permitted with special consent

3. **PERMITTING TELECOMMUNICATION FACILITIES IN ALL ZONES**

"TELECOMMUNICATION FACILITIES

1. A telecommunication facility may be erected in any zone subject to the following conditions –

- (a) the municipality may require building plan approval for a telecommunication facility that is not subscriber equipment; and
- (b) special consent in terms of section 67*bis*(1)(a) of the Town planning Ordinance, 1949 (Ordinance No. 27 of 1949) is required for the erection of a telecommunication facility that is not subscriber equipment –
 - (i) on the land is exempted from the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) as contemplated in section 2(2) of the Regulations; or
 - (ii) by or on behalf of the state as contemplated in section 2(4) of the National Building Regulations."

4. **PROHIBITING THE ERECTION OF TELECOMMUNICATION FACILITIES IN SOME ZONES**

"TELECOMMUNICATION FACILITIES

1. A telecommunication facility may be erected in any zone, except for the following zones –

- (a) ...

2. The erection of a telecommunication facility is subject to the following conditions –

- (a) the municipality may require building plan approval for a telecommunication facility that is not subscriber equipment; and
- (b) special consent in terms of section 67*bis*(1)(a) of the Town planning Ordinance, 1949 (Ordinance No. 27 of 1949) is required for the erection of a telecommunication facility that is not subscriber equipment –
 - (i) on the land is exempted from the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) as contemplated in section 2(2) of the Regulations; or
 - (ii) by or on behalf of the state as contemplated in section 2(4) of the National Building Regulations."