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KWAZULU-NATAL

PROVINCIAL PLANNING AND DEVELOPMENT NORMS AND STANDARDS FOR ELECTRONIC COMMUNICATION FACILITIES

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1. EXECUTIVE SUMMARY

Telecommunication has revolutionised the manner in which we communicate. Telecommunication facilities connect phones, computers and other devices. Along with the benefits brought about by telecommunication technology, there has been the concern over the impact of telecommunication facilities, particularly on our health, the environment and our surroundings. Telecommunication facilities need to be planned and managed to optimise our ability to communicate without unduly compromising our health, our amenity or the environment. These norms and standards are binding on all municipalities and on all persons, companies and other entities, including the state, that intends to use land for the purpose of operating a telecommunication facility. A municipality must as far as possible use its land use scheme to plan and regulate the use of land for telecommunication purposes and must consider all relevant factors when it zones land for telecommunication purposes or determines a land development application for a telecommunication facility. A municipality may apply to the MEC for Cooperative Governance and Traditional Affairs for exemption from the norms and standards. Unless a municipality has obtained exemption from the norms and standards, they will prevail over a municipality's own norms and standards or a policy or other official document on telecommunication facilities in the event of an irreconcilable conflict. The norms and standards apply to the whole Province of KwaZulu-Natal, except for any municipality or area that the MEC has exempted from the norms and standards.

2. DEFINITIONS

In these norms and standards, unless the context clearly gives it another meaning—

"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;

"land development application" means—

- (a) an application to zone or rezone land for a telecommunication facility;
 - (b) an application for the municipality's consent in terms of its land use scheme for a telecommunication facility;
 - (c) an application to use land for a telecommunication facility on land that is situated outside the area of a municipality's land use scheme, if an application is required in terms of the municipality's by-law to use land that is situated outside the area of the municipality's land use scheme to operate a telecommunication facility;
 - (d) an application to subdivide, consolidate or notarial tie adjacent land in order to use the subdivided, consolidated or notorially tied land to operate a telecommunication facility;
- and

(e) an application for the cancellation of a municipality's decision on a land development application as contemplated in paragraphs (a) to (d);

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

"licensee" means a person issued with a licence to provide services in terms of Chapter 3 or to use the radio frequency spectrum in terms of Chapter 5 of the Electronic Communications Act, 2005 (Act No. 36 Of 2005);

"MEC" means the MEC for Cooperative Governance and Traditional Affairs;

"Subdivision of Agricultural Land Act" means the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970);

"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 router;
- (d) a modem;
- (e) a network switch;
- (f) a decoder;
- (g) a satellite dish with a diameter of 100cm or smaller;
- (h) a television;
- (i) a television aerial;
- (j) 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 telecommunication facilities that are located under land or under a waterway, distribution cabinets and subscriber equipment;

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

3. LAND DEVELOPMENT APPROVAL FOR A TELECOMMUNICATION FACILITY

3.1 *Defining telecommunication facility in a land use scheme*

3.1.1 Telecommunication facilities include equipment that should not require land development approval, like computers, routers, domestic satellite dishes, television antenna, underground cables and distribution cabinets. It is recommended that a municipality defines "telecommunication facility" in its land use scheme to exclude equipment that should not require land development approval. In order to define "telecommunication facility", the terms "electronic communications" and "subscriber equipment" also needs to be defined.

3.1.1.16 "electronic communications" can be defined as following—

“**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;”

3.1.1.2 "subscriber equipment" can be defined as following—

“**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 router;
- (d) a modem;
- (e) a network switch;
- (f) a decoder;
- (g) a satellite dish with a diameter of 100cm or smaller;
- (h) a television;
- (i) a television aerial;
- (j) a radio;”.

3.1.1.3 "telecommunication facility" can be defined as following—

“**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 telecommunication facilities that are located under land or under a waterway, distribution cabinets and subscriber equipment;".

3.1.2 Some of the equipment that have been excluded from the definition of “telecommunication facility” may require other approvals from the municipality, for example a distribution cabinet within a road reserve may require approval from the municipal department that is responsible for the construction and maintenance of municipal roads.

3.2 *Defining the person or entity that is responsible for the erection and maintenance of a telecommunication facility in a land use scheme or a record of decision*

Telecommunication facilities are often located on land that is owned by a person who is not involved in the erection, operation or maintenance of the telecommunication facility and they are often operated by a different entity to the person or entity that applied for land development approval. A municipality can use the term "licensee" in its land use scheme or record of decision to ensure that it is able to hold the right entity accountable for making a land development application or to comply with the conditions of approval in its record of decision on a land development application. "licensee" can be defined as following—

“**licensee**” means a person issued with a licence to provide services in terms of Chapter 3 or to use the radio frequency spectrum in terms of Chapter 5 of the Electronic Communications Act, 2005 (Act No. 36 of 2005)”.

3.3 *Zoning land for telecommunication facilities*

3.3.1 Land that will be used exclusively for telecommunication facilities must be zoned for telecommunication, infrastructure or a similar purpose. Land that is used exclusively for telecommunication facilities can be zoned as following—

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

- 3.3.2 Land that will be used exclusively for telecommunication facilities must be zoned in accordance with the intended use thereof, not the ownership of the land.
- 3.3.3 In most cases it is not possible to zone land for a telecommunication facility because—
- 3.3.3.1 a telecommunication facility is seldom located on a property that is dedicated for that purpose;
 - 3.3.3.2 a telecommunication facility is seldom the dominant use on the land on which it is located; and
 - 3.3.3.3 most telecommunication facilities have a small footprint relative to other land uses on the same land.
- 3.4 *Consent in terms of the municipality's land use scheme for a telecommunication facility*
- 3.4.1 It is usually not possible to permit a telecommunication facility in a zone without requiring land development approval due to the impact of telecommunication facilities on public health, public safety, the environment, our heritage, the landscape and noise levels, the risk of interference of telecommunication facilities with other services and the need to integrate telecommunication infrastructure with the surroundings.
- 3.4.2 Telecommunication facilities can be permitted with the municipality's consent in terms of its land use scheme in most zones. Requiring an application for consent has the advantage that the municipality can impose conditions of approval that are specific to that communication facility.
- 3.4.3 The zones in which telecommunication facilities are permitted by consent must be recorded in the municipality's land use scheme by defining "telecommunication facility" in the land use scheme and adding "telecommunication facility" to the consent column of the relevant zones.
- 3.4.4 Environment authorisation is not an effective method of controlling the impact of telecommunication facilities because most telecommunication facilities do not trigger an application for environmental authorisation.
- 3.4.5 Building plan approval is not an effective method of controlling the impact of telecommunication facilities because building plan approval is primarily concerned with the structural soundness of a structure.
- 3.5 *Telecommunication facilities that are situated outside a municipality's land use scheme*
- 3.5.1 Most municipal by-laws only require land development approval outside the area of the municipality's land use scheme for a telecommunication mast that is 15 metres or taller.

- 3.5.2 The purpose of requiring land development approval for activities outside the municipality's land use scheme is to incorporate them into the municipality's land use scheme, not to perpetuate a dual system whereby some land uses are regulated by the municipality's land use scheme and others are regulated by a system of ad hoc land development approvals that are independent from the land use scheme.
- 3.5.3 Unless a municipality does not have a land use scheme for any part of the municipality or the Minister responsible for the administration of the Subdivision of Agricultural Land Act has refused an application in terms of section 3(g) read with section 4(2) of the Act to subject the land to a land use scheme Act, the municipality must either—
- 3.5.3.1 zone the land on which a telecommunication mast is to be located for telecommunication purposes; or
 - 3.5.3.2 zone the land for another purpose in accordance with the intended use of the land and simultaneously approve an application for consent in terms of its land use scheme to use the land for a telecommunication facility.
- 3.5.4 Section 24 of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) (SPLUMA) requires that all municipalities must adopt a single land use scheme for their entire area of jurisdiction by 1 July 2020. Regulation 18(1)(a) of the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 (Government Notice NO. R. 239 of 2015) provides that if a municipality does have a land use scheme for any part of the municipality, it must incorporate any change of land use that requires an application for land development approval in its land use scheme. With the exception of the eThekweni Municipality, each municipality now only has one land use scheme. A municipality may cover several towns or areas that each used to have its own town planning scheme or land use scheme. Town planning schemes were converted to land use schemes in terms of item 4 of Schedule 4 of the KwaZulu-Natal Planning and Development Act, 2008 (Act No. 6 of 2008). Land use schemes in terms of the KwaZulu-Natal Planning and Development Act, including town planning schemes that were converted to land use schemes, were in turn converted to parts of a single land use in terms of the municipal planning by-laws. The different parts of the single land use scheme may have different names, definitions and provisions and there may be areas within the municipality that have not yet been included in the land use scheme, but that does not make the parts separate independent land use schemes or town planning schemes like they used to be. Since a municipality now only has a single land use scheme, a telecommunication facility can be incorporated into the municipality's land use scheme, even if the land use scheme currently only covers a town which is different

to the town in which the telecommunication facility is proposed or if the town that is covered by the land use scheme is not near the area where the telecommunication facility is proposed.

4. INFORMATION THAT MUST ACCOMPANY AN APPLICATION FOR LAND DEVELOPMENT APPROVAL FOR A TELECOMMUNICATION FACILITY

- 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 an application for municipal planning approval.
- 4.2 A municipality must require an applicant to include the following documents in a land development application—
- 4.2.1 if the applicant is not a licensee, confirmation by the licensee that it intends to use the land to operate a telecommunication facility in order to avoid the creation of unnecessary and potentially poorly located new sites;
 - 4.2.2 a locality plan showing—
 - 4.2.2.1 adjacent land uses;
 - 4.2.2.2 the proximity of the site to sensitive environment areas, in any, including national protected areas, wilderness areas, estuaries, areas of biodiversity sensitivity significance, nature reserves, and ecotourism destinations; or
 - 4.2.2.3 the proximity of the site to an air field or airport, if it is in the vicinity of an air field or airport;
 - 4.2.3 a visual impact assessment, which may include photographic modelling;
 - 4.2.4 a landscaping plan to demonstrate how the impact on the visual amenity will be addressed;
 - 4.2.5 an agreement signed by the telecommunication licensee for the removal of the telecommunication facility once it is redundant and the restoration of the site to its original condition;
 - 4.2.6 a safety zone plan showing—
 - 4.2.6.1 the central and side EMR radiation beams; and
 - 4.2.6.2 the full extent of EMR from all the antennae for a delineated area of 50 to 500 meters.
 - 4.2.7 proof of compliance with other legislation, including—
 - 4.2.7.1 approval in terms of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970) for telecommunication facility that will be constructed on agricultural land that may not be leased or subdivided without approval in terms of the Act;

4.2.7.2 approval in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) for telecommunication facilities that are listed as activities that may have a detrimental effect on the environment; and

4.2.7.3 approval in terms of the KwaZulu-Natal Heritage Act (KwaZulu-Natal Act No. 4 of 2008), if the telecommunication facility will be attach to a building that is older than 60 years or of cultural significance.

4.3 A municipality may require an applicant to include a natural rehabilitation and maintenance plan for the post construction phase of the site and surrounding area in a land development application for a communication facility.

5. FACTORS THAT A MUNICIPALITY MUST CONSIDER WHEN IT DECIDES A LAND DEVELOPMENT APPLICATION FOR A TELECOMMUNICATION FACILITY

5.1 *Optimising the number of sites for telecommunication facilities*

5.1.1 When determining the number and location of sites for telecommunication facilities a municipality should balance the impact of telecommunication facilities on surrounding land uses, amenity and the environment against the need to create strong connections between devices and the communication network in order to decrease exposure to electromagnetic radiation¹.

5.1.2 Existing sites for telecommunication facilities should be optimised or shared.

5.1.3 A municipality may only approve a new site to accommodate a telecommunication facility, if—

5.1.3.1 the desired coverage cannot be achieved at an existing site;

5.1.3.2 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;

5.1.3.3 an existing site is unable to support an additional telecommunication facility due to its physical and technical limitations and it is not economically viable to upgrade it to accommodate the additional telecommunication facility; or

5.1.3.4 the cumulative radiation will exceed the maximum permitted level of electromagnetic radiation as determined by the ICNIRP, or any other standard that South Africa may endorse, if the telecommunication facility is to be accommodated at an existing site.

5.1.4 A new site for a telecommunication facility should be approved subject to a short validity period—

¹ A device with poor reception has to work harder to stay connected to the network than a device with good reception which increases EMR exposure.

- 5.1.4.1 to ensure that telecommunication facilities are located in the optimal location given current technology; and
- 5.1.4.2 to discourage a licensee from utilising a site for a telecommunication facility that is in a poor location instead of applying for land development approval to locate the telecommunication facility in the optimal location.
- 5.1.5 A municipality must approve a new site for a telecommunication facility subject to a condition that it may withdraw its approval for the site—
 - 5.1.5.1 if the site has not yet been utilised for the installation of a telecommunication facility; and
 - 5.1.5.1 if it can be proven on a balance of probability that it is not the optimal location for the intended telecommunication facility.
- 5.2 *Reducing the impact of telecommunication facilities on public health*
 - 5.2.1 The level of EMR of a new telecommunication facility may not exceed $10 \mu\text{W}/\text{cm}^2$ [²]:
 - 5.2.2 A municipality may refer an application for land development to the National Research Foundation³, another organ of state or a service provider appointed by the municipality as a technical adviser in terms of section 39(1) of SPLUMA or the municipality's planning By-law to determine compliance with clause 5.2.2.
 - 5.2.3 The National Research Foundation, organ of state or service provider appointed by the municipality as a technical adviser may use modelling to determine compliance with clause 5.2.2.
 - 5.2.4 Existing telecommunication facilities should be optimised reduce EMR.
 - 5.2.5 The cumulative EMR of the telecommunication facilities must be considered when telecommunication facilities are sharing the same site.
 - 5.2.6 The location of sites for telecommunication facilities that transmits EMR in close proximity to schools, old age homes, medical facilities and other places where there is a high concentration of persons who are vulnerable to exposure to electromagnetic

² Maximum permissible EMR recommended by the Russian National Committee of Non-Ionizing Radiation Protection (RNCNIRP). It is a 100th of the maximum permissible EMR recommended by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). South Africa has endorsed the higher threshold recommended ICNIRP. However, many organisations and persons, including European Parliament and the Council of Europe are critical of the maximum permissible EMR recommended by ICNIRP as it covers all sources of EMR, not only telecommunication infrastructure, and it is mainly concerned with the thermal effect of EMR.

³ The Director: Human and Infrastructure Capacity Development (HICD) Tel: 012 481 4396

radiation should be avoided. Typically, telecommunication facilities must be located 150m or more away from such places.

- 5.2.7 Preference should be given to sites that are located away from high concentrations of persons and sites where the high concentrations of people are of a temporary or intermitted nature.
- 5.2.8 If it isn't possible to locate a telecommunication facility that transmits electromagnetic radiation in close proximity to a high concentration of persons who are vulnerable to exposure to electromagnetic radiation, the telecommunication facility should be located as far away as possible from the concentration of persons.
- 5.2.9 A municipality should consider measures to reduce the level of electromagnetic radiation in places where there is a high concentration of persons who are vulnerable to exposure to electromagnetic radiation including—
 - 5.2.9.1 the use of alternative technology that does not cause electromagnetic radiation, including the use of telecommunication infrastructure that operate on line of sight, optical fibre cable or copper cable;
 - 5.2.9.2 shielding the telecommunication facility to block undue radiation;
 - 5.2.9.3 using a telecommunication facility that is directional; and
 - 5.2.9.4 avoid locating a telecommunication facility in a place where a building that is occupied by a high concentration of persons who are vulnerable to exposure to electromagnetic radiation ends up being located in the primary lobe where the radiation intensity is at its highest.

5.3 *Public safety*

The following techniques must be employed to promote public health and safety—

- 5.3.1 preventing unauthorised access to the telecommunication facilities by requiring safety doors, fencing, secured access points and warning notices;
- 5.3.2 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; and
- 5.3.3 requiring electrical cabling of telecommunication facility located on roof tops to be in a sealed metal channelling.

5.4 *Reducing the impact of telecommunication facilities on the environment*

- 5.4.1 The location of a telecommunication facility within an environmentally sensitive area should be avoided. 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.

- 5.4.2 Land that might be environmentally sensitive includes—
- 5.4.2.1 land that has been declared an international heritage site, a nature reserve, a conservation area or a protected area;
 - 5.4.2.2 land zoned Public Open Space or Conservation;
 - 5.4.2.3 land that consists of large boulders or rocky outcrops;
 - 5.4.2.4 land abutting vacant land or a public passage;
 - 5.4.2.5 land within or abutting a conservation area or place with protected status;
 - 5.4.2.6 land within 32 metres or less from a river, stream or drainage channel;
 - 5.4.2.7 land within 32 metres or less from a wetland, dam, water body, marshy area or a high water table;
 - 5.4.2.8 land that naturally stays filled with water in winter time;
 - 5.4.2.9 a floodplain of a river or wetland (within 1:50 year flood line);
 - 5.4.2.10 land within 100m of the high water mark of the sea;
 - 5.4.2.11 land comprising of coastal dunes or covered by coastal forests or thickets;
 - 5.4.2.12 an estuary;
 - 5.4.2.13 land outside or abutting the urban edge or constituting the last row of properties on a mountainside, rural or smallholding edge or a horticultural area;
 - 5.4.2.14 land on steep slopes (>1:3);
 - 5.4.2.15 land within or abutting a scenic drive; AND
 - 5.4.2.16 land that forms part of significant tourism gateways, viewing platforms, vantage points or vistas.
- 5.4.3 If a telecommunication facility does not require environmental authorisation in terms of section 24 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), Ezemvelo KZN Wildlife must be consulted before any trees are removed from a site.
- 5.4.4 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.

5.5 *Reducing the impact of telecommunication facilities on our heritage*

- 5.5.1 The location of a telecommunication facility within an area that is of cultural significance should be avoided. Alternative site locations must be explored during the feasibility stage of the planning process to minimise the impact of a telecommunication facility on our heritage.
- 5.5.2 Land that might be of cultural significance includes—
- 5.5.2.1 land that has been declared an international heritage site, a nature reserve, a conservation area or a protected area;
 - 5.5.2.1 land zoned Public Open Space or Conservation;
 - 5.5.2.1 cultural landscapes, historic farms, historical plantings on site
 - 5.5.2.1 buildings and structures that are older than 60 years;
 - 5.5.2.1 land on which a building or structure is situated that has been declared a national monument;
 - 5.5.2.1 land that has been declared a provincial heritage site in terms of the KwaZulu-Natal Heritage Act, 2008 (Act No. 4 of 2008);
 - 5.5.2.1 surveyed heritage areas e.g. battle grounds;
 - 5.5.2.1 graves, burial grounds or cemeteries; AND
 - 5.5.2.1 places of known social or cultural significance, for example, places of worship, male initiation sites, rain making sites, a place of oral traditions, stories or legends, or struggle history.

5.6 *Reducing the visual impact of telecommunication facilities*

- 5.6.1 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.
- 5.6.2 Existing structures may be used to accommodate telecommunication facilities, including rooftops, water towers, highway overpasses, bridges, tall buildings, utility poles, light masts, and billboards.
- 5.6.3 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.
- 5.6.4 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.
- 5.6.5 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.
- 5.6.6 The following techniques must be employed to mitigate the visual impact of a telecommunication facility—

- 5.6.6.1 locating a telecommunication facility below ridgelines to prevent skylines being spoiled
- 5.6.6.2 using trees and other vegetation that complements the natural vegetation, biodiversity, landforms and manmade features to screen telecommunication facilities, including service roads to telecommunication facilities
- 5.6.6.3 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
- 5.6.6.4 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
- 5.6.6.5 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
- 5.6.6.6 making a telecommunication facility an integral part of a building's structure by matching it to the building's design and colour scheme
- 5.6.6.7 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)
- 5.6.6.8 using architectural features such as spires, columns, finials and screening to minimise visibility of a telecommunication facility
- 5.6.6.9 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)
- 5.6.6.10 using stealth camouflage to disguise a telecommunication facility as another structure (e.g. a light pole, flagpole, signpost, tree or urban art)
- 5.6.6.11 making use of underground cables, unless it is impractical to do so and there is no significant effect on visual amenity
- 5.6.6.12 prohibiting commercial advertising or signage on telecommunication facilities, unless it is regulated by a municipality in its by-laws
- 5.6.6.13 allowing only lighting that is screened, tilted downwards and energy efficient on telecommunication facilities, unless the lighting is required for aviation safety

5.6.6.14 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

5.6.6.15 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.

5.7 *Reducing the generation of noise associated with telecommunication facilities*

Fixed or mobile power generators that are used to power telecommunication facilities in times of power outages must be contained in a sound dampening enclosure.

5.8 *Reducing interference of telecommunication facilities with other services*

5.8.1 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.

5.8.2 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.

5.9 *Integrating telecommunication infrastructure with the surroundings*

5.9.1 The design and location of a telecommunication facility must be integrated with the surrounding land uses.

5.9.2 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 area.

6. LEGAL EFFECT

6.1 *Organs of state and persons to whom these norms and standards apply*

These norms and standards are binding on—

6.1.1 all telecommunication facility operators, including the state and municipalities; and

6.1.2 all municipalities that must decide applications for land development approval for telecommunication facilities.

6.2 *How these norms and standards must be applied*

- 6.2.1 A municipality must consider defining "electronic communications"; "subscriber equipment"; "telecommunication facility" and "telecommunication facility operator" in its land use scheme.
- 6.2.2 A municipality must zone land that will be used exclusively for telecommunication facilities for telecommunication, infrastructure or a similar purpose.
- 6.2.3 A municipality must consider requiring consent for telecommunication facilities.
- 6.2.4 A municipality must list "telecommunication facility" as a land use that requires its consent in zones where telecommunication facilities are permitted with its consent.
- 6.2.5 A municipality must guard against the creation of a system of ad hoc land development approvals that are unrelated to its land use scheme. Telecommunication facilities must be incorporated into the municipality's land use scheme, even if the land on which the telecommunication facility is to be situated is situated outside the municipality's land use scheme and if the telecommunication facility has to be incorporated into a part of the municipality's land use scheme that covers a different part of the municipality.
- 6.2.6 A municipality must consider the matters contemplated in clause 5 of these norms and standards when it considers an application for land development for a telecommunication facility.

6.2 *Conflict between these norms and standards a municipality's own norms and standards or a policy on telecommunication facilities*

- 6.2.1 If a municipality has its own norms and standards, policy or other official document on telecommunication facilities, these norms and standards will apply together with the municipality's own norms and standards or a policy.
- 6.2.2 These norms and standards will prevail in the event of an irreconcilable difference between these norms and standards and a municipality's own norms and standards, policy or other official document on telecommunication facilities.

7. AREA TO WHICH THE NORMS AND STANDARDS APPLY

These norms and standards apply to the whole Province of KwaZulu-Natal, except any area that has been exempted by the MEC in terms of Clause 8.

8. EXEMPTION FROM THE NORMS AND STANDARDS

- 8.1 The MEC may exempt or partially exempt a municipality from these norms and standards.

- 8.2 A municipality that has its own norms and standards, policy or other official document on telecommunication facilities may apply to the MEC for exemption or partial exemption from these norms and standards.
- 8.3 The MEC must consider the following criteria when she considers an application for exemption or partial exemption from these norms and standards—
- 8.3.1 whether the municipality's own norms and standards, policy or other official document on telecommunication facilities are reconcilable or in conflict with these norms and standards;
 - 8.3.2 whether an irreconcilable conflict between these norms and standards and the municipality's own norms and standards, policy or other official document on telecommunication facilities can be justified;
 - 8.3.3 whether the municipality's own norms and standards, policy or other official document on telecommunication facilities are more stringent or less stringent than these norms and standards;
 - 8.3.4 whether the municipality's own more stringent or less stringent norms and standards, policy or other official document on telecommunication facilities can be justified;
 - 8.3.5 whether the municipality has consulted the public and telecommunication facility operators when it drafted its own norms and standards, policy or other official document on telecommunication facilities;
 - 8.3.6 the comment received by the municipality from the public and telecommunication facility operators on its own draft norms and standards, policy or other official document on telecommunication facilities; and
 - 8.3.7 whether the municipality's own norms and standards, policy or other official document on telecommunication facilities strikes a fair balance between the interests of the province, municipalities, the public and telecommunication facility operators.
 - 8.3.8 The MEC may exempt or partially exempt a municipality from these norms and standards subject to conditions.
 - 8.3.9 The MEC must give written reasons for exempting or partially exempting a municipality from these norms and standards or refusing to exempt or partially exempt a municipality from these norms and standards.
 - 8.3.10 The MEC must publish a decision to exempt or partially exempt a municipality from these norms and standards in the Provincial Gazette.
 - 8.3.10 A decision by the MEC to exempt or partially exempt a municipality from these norms and standards shall come into effect upon publication of the MEC's decision in the Provincial Gazette.
 - 8.3.12 The MEC may review and withdraw a decision to exempt or partially exempt a municipality from these norms and standards.

- 8.3.13 The MEC must publish a decision to withdraw an exemption or partial exemption of a municipality from these norms and standards in the Provincial Gazette.
- 8.3.14 A decision by the MEC to withdraw an exemption or partial exemption of a municipality from these norms and standards shall come into effect upon publication of the MEC's decision in the Provincial Gazette.

9. RELATED PROVINCIAL NORMS AND STANDARDS

There were no related provincial norms and standards at the time that these norms and standards were promulgated.

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

The Consultation Paper on provincial norms and standards on telecommunication facilities may assist with the interpretation of these norms and standards.

11. COMMENCEMENT AND VERSION OF THE NORMS AND STANDARDS

- 11.1 These Norms and Standards will come into effect on 7 January 2020.
- 11.2 This is the original version of these norms and standards.

12. COPIES OF NORMS AND STANDARDS

Copies of the latest version of these norms and standards can be obtained from—

- 12.1 the Department's website www.kzncogta.gov.za;
- 12.2 the South African Council for Planners' website www.sacplan.org.za;
- 12.3 South African Geomatics Council's website www.sagc.org.za; and
- 12.4 The Director: Land Use Management
Department of Cooperative Governance and Traditional Affairs
(033) 355 6100