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KWAZULU-NATAL PROVINSIE  
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MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS

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MUNICIPAL NOTICE 6 OF 2019



**MSUNDUZI MUNICIPALITY**

**TELECOMMUNICATION MAST INFRASTRUCTURE**

**BYLAWS**

**MSUNDUZI MUNICIPALITY****TELECOMMUNICATION MAST INFRASTRUCTURE BYLAWS**

The Msunduzi Municipality, acting in terms of section 156 read with schedule 4B of the Constitution and further read with section 12 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes By-laws set forth hereafter which bylaws shall come into effect on the date of publication.

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## 1. DEFINITIONS

In these bylaws:

**Antennae** means any system of wires, poles, rods or devices, used for the transmission or reception of electromagnetic waves and includes satellite dishes with a diameter exceeding 1.5m but shall exclude domestic TV antennae less than 2m in diameter or height and where the associated antennae mounting structure is less than 3m in length.

**Areas of Environmental and Heritage Significance** shall include environmental and heritage resources, as contemplated in section 1 of the National Heritage Resources Act, 25 of 1999 and in section 1 of the KwaZulu Natal Heritage Act 4 of 2008.

**Base telecommunication station (BTS) (Freestanding):** means a freestanding support structure on land or anchored to land and used to accommodate Telecommunication Mast Infrastructure for the transmitting or receiving of electronic communication signals, and may include an access road to such facility.

**Base telecommunication station (BTS) (Rooftop):** means a support structure attached to a roof, side or any other part of a building and used to accommodate site Telecommunication Mast Infrastructure for the transmitting or receiving of electronic communication signals.

**Council** means the Council of the Msunduzi Municipality and includes any body or persons empowered by it to assess and resolve on Telecommunication Mast Infrastructure applications.

**Environmental Control Officer (ECO)** means an independent environmental assessment practitioner appointed by the applicant to monitor compliance with the Environmental Management Plan.

**Environmental Management Plan (EMP)** means a contractually binding guideline document for use with the implementation of the construction on a site to manage and mitigate environmental impacts associated with that construction as contemplated in the National Environmental Management Act 107 of 1998.

**Equipment Room** means a structure to house communication equipment associated with Telecommunication Mast Infrastructure whether or not such structure is a separate building or container used exclusively for the equipment or a room within a building.

**Habitable structure** means any structure where people may reside.

**Modification of Telecommunication Mast Infrastructure** means the modification to the physical structure or radio frequency emissions of telecommunication infrastructure.

**Satellite Dish** means any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shaped as a shallow dish, cone, horn or other and is used to transmit and/or receive electromagnetic signals.

**Support Structure** means any pole, monopole, guyed tower, lattice tower, freestanding tower or any other structure that is designed to accommodate antennae.

**Telecommunication Mast Infrastructure (TI)** means any part of the infrastructure of a telecommunication network for radio / wireless communication including voice, data and video telecommunications that is used in the transmission or reception of electromagnetic waves and shall include:

- a) any base telecommunication station (BTS), whether freestanding or on a rooftop;
- b) any antenna;
- c) any support structure;
- d) any equipment room;
- e) any radio equipment, irrespective of spectrum used; and
- f) any optical communications equipment (laser and infra-red) provided by cellular network TPs and any other telecommunication provider, as well as all ancillary structures and the associated feeder cables between the communication equipment and the antennae, needed for the operation of Telecommunications Infrastructure, provided that any Optic Fibre installations and Point to Point copper (cable) installations shall be excluded from these bylaws.

**Telecommunication Network** means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided and/or unguided electromagnetic energy.

**Telecommunication Provider (TP)** means the holder of a telecommunications licence in terms of the Electronic Communications Act (2005) and shall include any private, commercial or public entity and organ of state.

**The Act** means the Electronic Communications Act, 36 of 2005.

**Unauthorized Person** means any person who is not employed by the operator of the Telecommunication Mast Infrastructure and who is not trained or conversant with the occupational exposure hazards and precautionary measures required to be taken so as to prevent exposure to Radio Frequency levels that could be harmful to health.

## **2. SITE SELECTION AND CO-LOCATION**

- 2.1 An application shall be made to Council for every installation of TI whether on a new site or for co-location on existing TI and no person shall erect, use or operate such a TI without the prior written approval of the Council, provided that any TP who wishes to install a TI, whether on a new site or for co-location on an existing TI, shall in the event and to the extent that the Act may apply, submit an application to the Council at least thirty (30) days prior to the intended exercise of such rights.
- 2.2 The Council may approve such application with or without conditions or may refuse such application, provided that in the event of a refusal, the Council shall provide written reasons for such refusal, and provided further that in the event and to the extent that the Act may apply to the installation of the TI these bylaws shall, notwithstanding anything to the contrary herein, not be interpreted or applied to require the TP to obtain the consent of the Council to exercise any of its rights it may have in terms of Sections 22 and 24 of

the Act, but the Council shall in such event issue the necessary conditions to regulate the manner in which a TP could validly exercise its powers.

- 2.3 The Council shall decide on the application within 30 days of receipt of the application provided that such application has been submitted in accordance with these bylaws, is complete and all additional information required by the Council has been submitted to the Council.
- 2.4 Any applicant may lodge an appeal against the decision by the Council and any conditions imposed by the Council in terms of these bylaws. Such appeal shall be dealt with in accordance with the provisions of section 62 of the Local Government: Municipal Systems Act, 32 of 2000.
- 2.5 An application for the erection use or operation of any TI shall be submitted to the Council in the format approved by the Council for such purpose from time to time and shall include:
- a) The Site Analysis Plan referred to below;
  - b) The report detailing the motivation for the selected site referred to below;
  - c) The Zoning and Land Use Map as referred to below;
  - d) A Report and Map that demonstrates how the proposed site relates to the existing and proposed network telecommunications infrastructure as referred to below;
  - e) Any other information that may be required by the Council in terms of these bylaws, including but not limited to additional documents, maps, photographs, assessments, measurements, other statutory approvals and licenses including the Act, the Hazardous Substances Act, 15 of 1973, the National Environment Management Act 107 of 1998 and the National Building Regulations and Building Standards Act, 103 of 1977.
- 2.6 .Such application form may also require:
- a) Proof of payment of the premiums of public liability insurance cover in an amount determined by the Council for the planned duration of the work,
  - b) Proof of the TP's contractor being possessed of indemnity insurance,
  - c) Proof that the TP has engaged with all other TP's and obtained assurances therefrom that they or any one of them will not be engaged in work at the same vicinity at the same time.
  - d) The provision of the contact numbers and names of all responsible officials who will be managing the work, including the TP's officials delegated project managers and contractors and sub-contractors,
  - e) A safety plan for the work, including the nomination of Safety Representatives and the provision of their personal contact details,
  - f) A detailed planning programme for the work showing the commencement and completion dates for each section of the work provided that once approved, any changes to this programme will require to be approved by the Council;

- g) Advertising of the work in a newspaper circulating in the municipality giving the public warning and detailed notice of the extent of the project and its precise location.
  - h) A physical plan of the work including the intended placement of any wires, cables, pipes, tubes or the like.
  - i) The giving of notice specifically to all residents, businesses and other concerns in the path of or adjacent to the work.
- 2.6 To avoid proliferation of separately located TI's the benefits of co-location shall be assessed by the applicant against any possible negative effects as contemplated below. The Council may refer such assessment for further investigation by the applicant, or where it deems necessary, a person appointed by the Council and at the cost of the applicant.
- 2.7 Antennae shall be located and positioned so that no habitable structures of the same height are within a zone of 50m from the front of the antennae.
- 2.8 Where any proposed TI impacts on the biophysical environment and/or an area of environmental and heritage significance, all possible site location alternatives shall be explored early in the planning process in order to minimize the impact of the TI, rather than relying only on camouflage to reduce the impact.
- 2.9 Subject to these bylaws, and other relevant legislation, the possibility of utilising existing structures to accommodate TI shall be considered in all cases. For the purpose of these bylaws such structures shall include buildings, utility poles, light masts, billboards and other existing structures.
- 2.10 The design and siting of TI and ancillary facilities shall be integrated with existing buildings and structures provided that where it is impractical to do so, they shall be sited and designed so as to minimise any adverse impact on the amenity of the surrounding area.
- 2.11 In any application for co-location the council shall have regard to the following considerations:
- a) any possible increase of support structure height needed to accommodate the other providers that may be visually unacceptable;
  - b) any possible increase of power output from one location;
  - c) the physical and technical limits to the loads that a support structure is able to support;
  - d) whether or not the planned Radio frequency (RF) coverage may be achieved by at a location.
- 2.12 All applications for TI shall be accompanied by a Site Analysis Plan which clearly illustrates the proposal in the context of the existing landscape and receiving environment, drawn to an appropriate scale.
- 2.13 The Site Analysis Plan shall be accompanied by a report detailing the motivation for the selected site, how the siting and design of the facility has responded to the site analysis

and shall, to the satisfaction of the Council, demonstrate that all alternatives on the site itself have been explored in order to address the above requirements.

- 2.14 The details referred to in Schedule 1 shall be included in such a Site Analysis Plan.
- 2.15 In addition to the Site Analysis Plan, a Zoning and Land Use Map to a scale of 1:2000 (A4) indicating the zoning and land use shall be submitted and shall indicate all areas of environmental and heritage significance, if applicable.
- 2.16 A Report and Map that demonstrates how the proposed site relates to the existing and proposed network telecommunications infrastructure and confirming that the applicant has looked at all possible existing options for co-location shall also be submitted containing the following information:
- a) Any existing or proposed TI and other possible support structures within a radius of 1 kilometer around the site;
  - b) Where, in the view of the applicant no other available alternative location is possible, the applicant shall indicate accordingly and provide motivation for this view;
  - c) Details of possible sharing opportunities with other TP's shall be motivated to the satisfaction of Council, which for the purpose of these bylaws shall include making provision in the design of the TI for accommodating infrastructure of all other TP's and / or the accommodation additional TP containers in any equipment room.
- 2.17 The applicant shall demonstrate in the Report that all efforts available to assimilate the structure with its surrounding environment have been made.
- 2.18 Where possible, TI lines or cables shall be located within existing underground conduits or ducts.
- 2.19 On termination of use or decommissioning of TI, the TP shall remove all equipment from the site including any access road that is no longer required, and the area shall be rehabilitated to the satisfaction of Council.
- 2.20 Council shall be competent to evaluate, monitor and approve the post-decommissioning rehabilitation of the site.

### **3. VISUAL IMPACT & LANDSCAPING, PUBLIC AMENITY AND RESIDENTIAL AMENITY**

- 3.1 TI shall be designed and sited to minimise any potential adverse visual impact on the character and amenity of the local environment, in particular, impacts on prominent landscape features, general views in the locality and individual significant views.
- 3.2 The design and siting of TI shall be integrated it as far as possible with the building or support structure to which it relates.

- 3.3 No antenna shall be hung off the side of a building in an unsightly manner, or be attached so as to protrude above the top of the roof / apex of a roof, but shall form an integral part of the building as a design element.
- 3.4 For heritage areas, buildings older than 60 years and other heritage sites, the integrity of the heritage shall prevail in the design and siting of TI.
- 3.5 Techniques which may be used to minimise adverse visual impacts for rooftop BTS shall include:
- a) adjustment to the overall size;
  - b) colour or cladding to match adjacent walls, e.g. complementing facade treatment so as to maintain visual balance;
  - c) creating an architectural feature such as a spire, column or finial and screening to minimise visibility of the facility from adjacent area.
- 3.6 In the case of BTS (free-standing), design measures to mitigate visual impact may include:
- a) adjustment to the overall size;
  - b) colour coding to match the predominant background;
  - c) designing the infrastructure as a work of urban art or as another structure;
  - d) picking up on a fencing style or type of roof pitch and repeating this for the equipment room;
  - e) if there are boulders on site, using stone cladding for the equipment room.
- 3.7 The equipment room or container shall either be walled or fenced as appropriate in the context in metal, stone, wood or brick shall be housed in a specially designed building to match other buildings on the site.
- 3.8 In the event that a container is used as an equipment room on a rooftop, such container shall be set back as far as possible from the edges of the roof so as not to be visible from street level.
- 3.9 Cables shall be placed underground, unless it is impractical to do so and subject to there being no significant effect on visual amenity.
- 3.10 TI shall not be located on ridgelines.
- 3.11 TI support structures shall be located where vegetation, landforms or other features of a site will adequately screen or reduce the impact of the TI from public areas and reduce the visual impact.
- 3.12 Landscaping or tree planting may be requested by the Council as a measure to reduce the visual impact of TI, even if only to screen at least the base of towers and ancillary structures, and to draw attention away from the structure.
- 3.13 Measures such as concealment, colour, appropriate finishes and camouflage shall be used to minimise the visual impact in accordance with Schedule 2.

- 3.14 New tree group plantings and rows away from the base of the support structure may be required to protect views from more distant areas.
- 3.15 Plant species shall be chosen based on the size of the facility and in sympathy with the existing landscape theme (if any) in the locality.
- 3.16 The obstruction of views of significant vistas, significant landmarks or elements of the cultural landscape shall be avoided.
- 3.17 TP's shall motivate their choice of support structure, which shall, as a general rule for new BTS Freestanding site, be a slimline monopole in an urban context and a lattice mast in a rural context.
- 3.18 Newly constructed access roads or other parts of the BTS (freestanding) site, shall be landscaped with plants/trees and/or ground covers to Council's satisfaction, and may be required at areas in and around the site that is not within the BTS (freestanding) itself.
- 3.19 Where power to a base station site is required and excavation works are undertaken, no mature trees or vegetation may be affected, and the required excavation shall be undertaken as required by Council.
- 3.20 Advertising signs of any type, including logos shall not be permitted on TI, except in accordance with a separate application for approval in terms of the Msunduzi Municipality Advertising Signage Bylaws.
- 3.21 Lighting shall be energy efficient, fully shielded and tilted downwards and screens shall be placed around these lights to prevent vandalism. Any such measures shall be indicated on the TI Plan that is submitted on application.
- 3.22 If so required by the Council, the applicant shall supply at least one alternative design option in respect of one or more of the following aspects, namely, height, type, colour and locality.
- 3.23 A photo montage and a schedule of colours and finishes for the proposed TI may be requested by Council.
- 3.24 A visual impact assessment prepared by a suitably qualified independent professional, to Council's satisfaction, may be required by Council. The assessment shall include the visual sensitivity (low, medium, high, very high) at each scale of visibility (local, distant, skyline) and include recommendations on mitigation.
- 3.25 For every new or upgraded BTS (freestanding) site, Council shall consider whether landscaping or the provision of public amenities is appropriate in the context of both enhancing the local environment and benefiting the public amenity.
- 3.26 The Council may also, in its discretion require the submission of a landscape plan which will include the following information:
  - (a) The costs of the proposed landscaping;

(b) Details of how the landscaping will be implemented and maintained on the subject site.

3.27 The Council may request a financial guarantee to the cost of the landscaping to be held by Council until implementation of all approved works.

#### **4. IMPACT ON AREAS OF ENVIRONMENTAL AND HERITAGE SIGNIFICANCE**

4.1 No TI shall be erected in an area of environmental or heritage significance such that it can be viewed to or from the site, with adverse impacts on the environmental or heritage resource. If this is unavoidable for network or technical reasons, the requirements below must be met, to the satisfaction of Council.

4.2 Environmentally sensitive construction methods shall be employed in the construction of a BTS (freestanding) site so that the natural habitat is not disturbed. Any disturbance to the natural habitat shall be rehabilitated as a matter of course and to the satisfaction of the Council.

4.3 Surrounding vegetation shall be retained as far as possible and any proposed removal of trees or vegetation shall be shown on the submission of the site plans and is to be approved by Council prior to removal.

4.4 If TI is situated within or abutting an area of environmental or heritage significance, a Statement of Environmental Effects shall be submitted to Council and shall indicate the environmental impact of the proposal and the measures to be taken to mitigate any likely adverse impacts of the proposal.

4.5 A Construction and Operational phase Environmental Management Plan (EMP) may be requested by Council, to Council's satisfaction, prior to approval. Such EMP may require the appointment of an Environmental Control Officer (ECO) and the construction of any associated works or access roads.

4.6 The applicant shall have regard to the following, and the Council may impose appropriate conditions in the approval, where necessary:

a) Where the proposal impacts on the biophysical environment, all possible location alternatives consistent with minimizing proliferation of antenna shall be explored early in the planning process in order to minimize the impact of antenna support structures, rather than relying only on camouflage to reduce the impact.

b) Sites with high erosion potential due to, steep slopes, dispersive soils, unstructured, sandy or gravelly soil and poor vegetation cover shall have specific erosion control measures put in place to the satisfaction of the Council, including erosion control gabions and contouring.

c) Any access road to a property where cellular communication infrastructure is located, shall not in any way increase the potential for soil erosion. The network provider shall

plant indigenous plants and ground covers at the side of such access road. Should the road no longer be required, the area shall be planted with indigenous plants.

- d) Environmentally sensitive construction methods shall be employed in the construction of base station sites so that the surrounding vegetation is not disturbed.
- e) Any disturbance to soil/vegetation caused shall be rehabilitated.
- f) Any un-vegetated areas around any fenced area shall be re-vegetated with appropriate local indigenous plants, or shall be stabilized with suitable ground cover. In urban areas, planning can be complimentary to local planting patterns.
- g) Areas disturbed during construction shall be rehabilitated and planted with indigenous water-wise plants.
- h) On-going maintenance of the area shall take place by the applicant.
- i) Waste generated during construction shall be disposed of in accordance with the council's waste Management Bylaws.
- j) The location and design of all access roads shall be included in the EIA and or the EMP. Alignments that are too steep, cut across contour lines require multiple stream crossing or which may cut across important ecosystems/microhabitats shall be avoided.

## **5. IMPACT ON EXISTING SERVICES AND UTILITIES**

- 5.1 Electricity supply to TI shall, where practically possible, make use of underground cables. All electrical installations shall be as per Eskom or Msunduzi Municipality Electrical Department requirements and standards. BTS (rooftop) sites shall have cabling placed in a properly sealed metal channelling.
- 5.2 Power supply to TI sites shall not interfere with existing radio equipment installed in the vicinity. If existing electricity supply to the site is not sufficient, the use of solar energy may be considered.
- 5.3 any interference that cellular Telecommunication Mast Infrastructure may have on satellite or television reception, shall be investigated by the applicant, owner and any network provider, and in the event where such interference is caused by the cellular communication infrastructure, the network provider shall rectify the matter at its own cost.
- 5.4 Public access to TI installations shall be restricted in an appropriate manner and the necessary warning signage shall be erected to the satisfaction of Council. Such security measures shall not inhibit emergency exit procedures.

- 5.5 In all cases, advisory and warning signage including a pictogram approved by council will be required on cellular telecommunication infrastructure. Such signage shall identify the property and the network provider and shall warn the general public of such infrastructure. Such shall be to council's satisfaction and may not be larger than 400mm x500mm.
- 5.6 The TP, the land owner and any other person in charge of the land shall indemnify Council against all claims of whatsoever nature, howsoever arising from third parties relating to the approval of and the erection, use, operation and the decommissioning of the TI, as may be approved.

## **6. PUBLIC HEALTH AND SAFETY**

- 6.1 Antennae shall be located and positioned so that no habitable structures of the same height are within a zone of 50m from the front of the antennae.
- 6.2 No TI or combination of such infrastructure may at any time cause the public to be exposed to RF levels that exceed the International Commission on Non-Ionizing Radiation Protection (ICNIRP) public exposure guideline in any occupied space or location to which the public reasonably has access.
- 6.3 No unauthorized person shall be within 5m in front of the antennae and the TP shall accordingly erect clearly marked warning signs, defining this no go zone and take all necessary steps to prevent a contravention of this bylaw.
- 6.4 If the proposed TI elicits community or Council concern, numerical simulations of predicted Radio Frequency and Electromagnetic Energy levels shall be submitted to the Council for verification or assessment, prior to approval.
- 6.5 The Council may request further information or verification from the applicant, which may include numerical simulations of predicted Radio Frequency and Electromagnetic Energy levels done by an independent certified institution with reference to compliance with the latest public exposure limits in terms of the ICNIRP guidelines.
- 6.7 Once a site is operational, Council may request a test report to be carried out by an independent certified institution providing the results of measurements showing the actual RF
- 6.8 EME levels from that site, with necessary detail as determined at that time. The cost of carrying out such tests shall be borne by the applicant.

**7. OPERATIONAL CONTROLS**

- 7.1 The Council may request a Network Plan for each respective TP which enables the Council to establish all existing and planned sites for the Msunduzi Municipality and how the different networks' sites relate to each other.
- 7.2 The Council may at any time, request monitoring by an independent certified expert in the field, to verify any issue, including whether RF EMF levels are within the levels for public exposure limits, and relating to the siting and operation of TI, at the expense of the TP. Alternatively, Council may take its own readings.
- 7.3 In the event of measurements showing that either the RF EME levels exceeds the ICNIRP public exposure guidelines, the NDOH shall be notified and Council or the NDOH may take any appropriate action required at such time in order to further investigate and close or discontinue the TI site, if so required.

**8. GENERAL REQUIREMENTS**

- 8.1 If the TI is in an area of environmental significance an Environmental Management Plan (EMP) shall be submitted to Council for approval prior to final approval.
- 8.2 If the site is decommissioned or any approval granted in terms of these bylaws is revoked, the applicant shall remove all site infrastructure and the site shall be rehabilitated to its former state or to a condition that is in line with the land use and character of the area at the time, as required by Council and at the cost of the TP.
- 8.3 Ongoing maintenance of the entire installation shall be carried out to the Council's satisfaction by the TP.
- 8.4 Conditions of approval shall be made known to any new owner or lessee of the site and shall be binding on the successor in title.
- 8.5 Without detracting from any other bylaw, the TP shall certify that the anticipated combined or weighted RF Exposure of a person will not exceed the public exposure guideline as set by the ICNIRP, prior to the approval of the building plans in respect of the TI.
- 8.6 The land owner, TP or any other person in charge of the land shall grant Council access at all reasonable times to the installation, for the purpose of monitoring, inspection and compliance certification.
- 8.7 Should the ICNIRP review the public exposure guidelines in respect of the link between electromagnetic radiation and health issues, the Council may, subject to relevant legislation, review any approval and any conditions imposed in terms of these bylaws.
- 8.8 No approval granted in terms of these bylaws shall exempt the applicant from any other Bylaws or Legislation that may be applicable.

- 8.9 All applicants shall accept in writing within 30 days of notification thereof, any conditions imposed by the Council.

## **9. MONITORING, CONDITIONS AND COMPLIANCE**

- 9.1 The Council shall have the right to monitor all cellular Telecommunication Mast Infrastructure in the area of jurisdiction of Council to ensure compliance with these bylaws, the conditions of approval, and to verify sharing and co-location considerations as put forward by applicant and any network provider.

- 9.2 Council shall have the right to enter any property and installation at all reasonable times and to carry out such inspections, measurements and testing as may be necessary. Any person who interferes with or obstructs such entry shall be guilty of an offence.

- 9.3 The holder of any approval in terms of these bylaws, any owner and network TP shall, where so required by the Council, provide the Council with such reports and in the format required by the Council to establish compliance with these bylaws or any conditions of approval. Any person who fails to provide such a report shall be guilty of an offence.

- 9.4 The Council may attach conditions to the approval aforesaid including the following :-

9.4.1 the manner of doing the work;

9.4.2 the provision of health and safety requirements of the Municipality;

9.4.3 the provision of signage stating the name of the licensee and its contractor;

9.4.4 the provision of warning signs, barriers and sheeting around the work;

9.4.5 the provision of rubble, sand or soil storage during the work;

9.4.6 the prohibition of any work on Public holidays, Saturdays and / or Sundays and outside of the hours of 07h00 to 16h00 on any day;

9.4.7 the presence of a Project Manager on the site of the work;

9.4.8 the provision of inspections of the work in progress and the results of compaction tests at intervals during the work;

9.4.9 the provisions of measures to ensure that roads are not obstructed and the access of motor vehicles and pedestrians are not unnecessarily impeded;

9.4.10 the conditions relating to re-instatement of municipal property.

- 9.5 In the event of non-compliance with the conditions for approval and imposed in terms of these bylaws, the Council may, after having afforded any person affected by such

intended withdrawal an opportunity to make representations to the Council, withdraw such approval and cause the cellular Telecommunication Mast Infrastructure to be decommissioned and demolished at cost of the network provider, or at its option to approach the High Court for an interdict for an appropriate order prohibiting the continued use thereof and requiring its demolition.

9.6 Section 9.5 shall be embodied in the conditions of the land use approvals granted in terms of KZNPDA and building plan approvals granted in terms of NBR for the erection of cellular telecommunication infrastructure.

9.7 Any person who contravenes or fails to comply with any provision of these bylaws shall be guilty of an offence and shall, upon conviction by a competent Court, be sentenced to a fine imposed by such competent Court.

## **10. COMMENCEMENT OF THESE BYLAWS**

10.1 These bylaws shall come into force on the date of promulgation thereof in the Provincial Gazette.

## **SCHEDULE 1**

### **INFORMATION TO BE SUBMITTED WITH APPLICATIONS FOR TELECOMMUNICATION INFRASTRUCTURE**

Applicants shall ensure that all relevant information is provided with their submission otherwise the application may not be accepted or the process may be delayed.

i. Site Analysis Plan (scale 1:2000) with accompanying Report

A Site Analysis must include a Map and Report that provides sufficient information relating to the site, all structures within a radius of 200m of the site, and its surroundings to assist in the assessment of TI proposals, including providing GPS coordinates of the proposed site, and of all radio sites which connect to any proposed installation. This is to ensure that they are designed and located in the best possible manner so as to minimise visual impact and any concerns over Radio Frequency and Electromagnetic Energy exposure levels.

ii. An application for a BTS (freestanding) shall include the following, to the satisfaction of Council:

zoning, site boundaries and dimensions location and height of the TI, natural landforms and waterflow through the site, surrounding land uses (to a radius of 200m) surrounding areas of environmental & heritage significance, existing vegetation details of any significant environmental constraints and, where relevant, commitments stating how these constraints will be managed to prevent a negative impact on the environment views and vistas to and from the site location of areas of environmental significance, within the exposure area proximity to adjacent or nearby buildings or other tall structures proximity of TI to other existing TI sites (show 1km radius around application site for urban areas) and other information as required by Council.

iii. An application for a BTS (Rooftop) shall include the following, to the satisfaction of Council:

site boundaries and dimensions, location and height of the TI, proximity to adjacent or nearby buildings and use of such buildings, views to and from the site, use of the building and position of such use relative to TI, proximity of TI to other TI and other possible support structures, photographic illustrations of the proposal within its setting and other information as required by Council;

iv. A certified copy of the full Title Deed of the property with all the conditions;

v. A certificate by the owner of the property that the proposal, as applied for, does not conflict in any way with the Title Deeds;

vi. A certified copy of any relevant Town Planning Approval;

vii. A certified copy of the relevant Surveyor General Diagram;

viii. Where applicable a certified copy of the lease agreement between property owner and service provider;

- ix. The original of the owner's consent;
- x. Telecommunication Mast Infrastructure Plan (scale 1:1000 as well as a reduced A4).
- xi. An application for TI shall also include the following, to the satisfaction of Council:
  - a) dimensioned plans showing detail of the TI;
  - b) graphic illustrations (including photographs of similar facilities and/or computer generated simulations) showing the type of facility and its relationship with adjacent development;
  - c) elevations showing the extent, height and appearance of the proposed facility as viewed from any adjacent street, public place and adjacent property;
  - d) proposed materials and colour of the facility, and proposed arrangements for maintenance and/or future modifications in response to changes to any adjacent buildings or structure; any screening or fencing proposed in conjunction with the facility, including arrangements for maintenance;
  - e) any external lighting of the proposed facility and/or the facility site; details of any existing vegetation to be removed and any proposals for landscaping and/or restoration of any disturbed land;
  - f) details of the timing of works involved in establishing the facility and any arrangements for temporary access and/or changes to existing access facilities during the course of construction; how the proposed facility relates to the existing and proposed network of telecommunications infrastructure, and what (if any) additional facilities are known by the proponent to be under consideration to meet projected future increases in demand;
  - g) how the proposed TI facility addresses the requirements as contained in these bylaws;
  - h) Compliance certificate that the site is compliant with the current public exposure guidelines as determined by the National department of Health.
- xii. If the site is leased from Council, a letter of consent / the lease agreement is required.
- xiii. Information that may be required by the Council specifying what radio spectrum or frequency is to be used.
- xiv. Specification and details of the radio equipment that is to be used.
- xv. Specification and details of the number of antennae to be attached to this equipment (gain in dB, polarisation, and coverage i.e. azimuth or elevation).
- xvi. Specification and details of the power levels to be radiated by the antennae (DBM or Watts)
- xvii. If operating in the ISM band, a certified copy of the ICASA license. If not operating in the ISM band, then a certified copy of the applicable and specific spectrum license shall be provided.
- xviii. The maximum power output of the facility and radio frequency electromagnetic energy levels in accordance with ICASA. This statement is to demonstrate that the carrier accepts full responsibility for compliance with the Telecommunications Act.
- xix. Environmental Management Plan (EMP)

An Environmental Management Plan (EMP) shall be included in the submission if the site is within an area of environmental & heritage significance. The Council may request an Environmental Control Officer (ECO) and financial guarantee to ensure compliance

with the EMP. Separate guidelines on a Generic full EMP and a Site EMP are available from Conservation and Environmental Management Branch. Such EMP shall be submitted to the Council's satisfaction prior to final building plan approval.

xx. Basic Assessment and Environmental Authorisation in terms of NEMA Regulations

If the TI is a listed activity in terms of the NEMA Regulations as amended, the Environmental Authorisation from Department of Economic Development, Tourism and Environmental Affairs (DEDTEA) shall be forwarded to Council.

xxi. Comments and Council Approvals

- (a) The written comments, in original form, of the adjacent land owner, or any other land owner who in the opinion of the Council might be affected by the application;
- (b) The comments from the relevant ward councilor who shall provide such comments within 14 (fourteen) days of the applicant's request;
- (c) Where applicable, the written permission of the Council as contemplated in section 14 of the Local Government: Municipal Finance Management Act, 2003 and the Municipal Asset Transfer Regulations, 2008 in cases where the proposed Cellular Telecommunications Infrastructure will be erected any on Municipal property including, road reserves, parks, municipal depots and any conditions imposed pursuant to such written permission.

**SCHEDULE 2: MEASURES TO MINIMISE VISUAL IMPACT**

<b>Site/Property Characteristics</b>	<b>Mitigation Measures</b>
Existing fences with a common style/ predominant colour (that are a positive feature in the environment).	Fence around the base station site shall match the style and colour of the other fences on the property.
Mostly brick walls instead of fences (that are a positive feature in the environment).	Brick wall around the base station site shall match the style of the other walls on the property.
Existing buildings have a single architectural theme	The base station shall carry this theme through.
Open exposed locations where the	Structure shall be left unpainted in a galvanized

background is mostly sky.	finish.
Existing building with one or two predominant colours/ design elements, e.g. brick building with pitched roof.	Structure shall be painted the same colour as the building. House the base station equipment in a similar building with similar roof.
All antenna support structures.	The requirements of the Civil Aviation Authority shall be determined and met.
An open space or natural area dominated by large rocks.	Equipment container may be camouflaged physically e.g. Flintstone containers. Otherwise the equipment room, fence and antenna support structure shall be suitably painted.
Natural, semi-natural or suburban area or an open space area.	Antenna support structure and equipment room shall be suitably painted (dark matt green is visually appropriate).
Trees are an important feature of the residential landscape.	Camouflage antenna support structure as a tree (this shall not include pine trees or palm trees where they are not part of the local landscape). Otherwise the antenna support structure shall be painted a suitable colour (dark matt green is usually visually appropriate).
Sites that have mature trees that could screen the antenna support structure from view.	The antenna support structure shall be placed in between the trees in such a way that it will not cause any long term damage to the trees.
Sites in visually exposed positions with poor screening.	A mixture of fast and slow growing indigenous trees that are suitable for the area shall be planted around the base station site to lessen its long term visual impact.
Industrial area or high-rise areas or where the existing structures have a predominant colour.	Antenna support structure and base station site shall be painted to blend in with the predominant colour.



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