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Chairperson: Rapid Deployment Council Committee

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Attention: Mr Phillip Ramalata

Per email to: RapidDeployment@icasa.org.za and pramalata@icasa.org.za

RE: SUBMISSION OF COMMENTS ON THE DRAFT REGULATIONS ON RAPID DEPLOYMENT OF ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES, 2026

I refer to the invitation to provide comment on the Draft Regulations on Rapid Deployment of Electronic Communications Networks and Facilities, 2026, and would like to submit the following comments on behalf of the City of Cape Town ("the City").

1 GENERAL COMMENTS

- 1.1 The Draft Regulations, although supportive in principle, do not yet fully protect municipal infrastructure or adequately preserve municipal operational authority. There is also a concern that municipal controls contained in the City's By-law are potentially weakened by the Draft Regulations.
- 1.2 The Draft Regulations acknowledge municipal wayleave approval, but they do not sufficiently protect the full operational ecosystem that municipalities require to safely manage infrastructure-intensive metropolitan environments like that of Cape Town. Municipalities play a vital role in legislating this space for their communities.

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1.3 The Draft Regulations require approvals but omit protections for municipal powers and standards. The Explanatory Memorandum also fails to consider the legislative and policy framework within which municipalities operate, not to mention municipal legislation that is likely to impact on the implementation of this policy. Both the Municipal Systems Act and the Municipal Asset Transfer Regulations (in the context of leasing municipal property for the deployment of networks and facilities) prescribe minimum standards for public participation and governance processes that affect the time it takes to approve the deployment of ECA facilities, which in turn are reflected in municipal bylaws. While the City is seized with reducing timeframes for approval of wayleave, building plan and land use applications through its Ease-of-Doing-Business Mayoral Priority Programme, this can only be done within the constraints of the current legislative framework, and it appears that ICASA has not interrogated that framework adequately in drafting these regulations.

The Draft Regulations require approvals from relevant authorities but do not clearly preserve:

- Municipal discretion,
- Municipal technical standards,
- Municipal construction conditions,
- Municipal supervision powers, or
- Municipal enforcement authority.

2 SPECIFIC COMMENTS

#	Reference	Title	Relevant text	Comment
1.	Regulation 3.3	REGULATION 3: RESPONSIBILITIES OF LICENSEES	3.3.1 Regulation 3 provides for the general duty of care that accompanies the statutory right of entry under section 22 of the ECA. 3.3.2. The responsibilities of licensees while deploying electronic communication networks and facilities include licensees exercising due diligence, care, and taking reasonable measures to prevent and mitigate damage to land and property during deployment, maintenance, alteration or removal activities, and to restore property and repair damages after such activities.	These obligations are principle-based only. The regulations must provide that the municipality will prescribe and operationalise infrastructure protection through considerations such as: ▪ supervision ▪ inspections ▪ as-built drawings ▪ security deposits ▪ repair obligations to the standards of the local government in question. Without explicit municipal technical authority, infrastructure quality control may weaken, and disputes over acceptable reinstatement standards may arise.
2.	Regulation 3.4	REGULATION 4: THE PROCESS AND PROCEDURE FOR ENTRY ONTO LAND OR PROPERTY	3.4.1 ...challenges raised in stakeholder consultations relating to inconsistent notice periods, fragmented municipal processes, and uncertainty in engagements. 3.4.4 The notice periods reflect a balance between operational needs and the legitimate expectations of affected parties. These timeframes are consistent with international experience showing that predictable and standardised approval processes are essential to reducing deployment delays.	The clauses strongly frame municipalities primarily as potential sources of delay. This does not equally recognise that: ▪ municipal review processes protect critical infrastructure, ▪ complex metropolitan environments require technical scrutiny, ▪ infrastructure risk management sometimes necessitates longer review periods. This framing may later support pressure for: ▪ deemed approvals (this carries high-risk consequences), ▪ reduced municipal discretion,

				- constrained review periods, - weakened technical review. The clause lacks balancing language around infrastructure protection.
3.	Regulation 4(1) (Page 9)	Process and Procedure for Entry onto Land or Property	<i>A Licensee must obtain all necessary approvals from the relevant local authorities, national authorities, and affected parties, including but not limited to: wayleave certificate obtained following the by-laws of the relevant authority.</i>	Although this clause recognises municipal wayleave approval, it only refers to obtaining a wayleave certificate. It does not explicitly recognise or preserve: - municipal permit-to-work systems, - municipal construction supervision, - technical engineering standards, - municipal inspection authority, - defect liability periods, - suspension powers. Significant operational governance gap: Whereas 4(1)(e) provides for a 'wayleave certificate obtained in accordance with the bylaws of the relevant authority', there is no explicit reference to municipal operational controls. This omission or broad framing creates room for misinterpretation that once a municipal wayleave is issued, municipalities may not impose further operational requirements.
4.	Regulation 4(7)	Notice of entry for deployment and construction	<i>A Licensee must give at least thirty (30) days' notice, in writing, of its proposed access activity to the landowner and/or affected parties, specifying:</i> 	It is not clear if this is referring to a wayleave application? Or is it referring to notice after wayleave approval has been granted (In the City's case, this would be Permit to Work), if so. If it refers to wayleave application, the statement should be added to include "specifying all other details as required by the municipality/authority". The clause is not clear as to whether this is just a notification (for information purposes) after both the

				wayleave and the permit have been acquired or if this is the notice of intent to apply, or the application itself.
5.	Regulation 4(8)	Notice of entry for deployment and construction	<i>If a Licensee changes the planned location of the electronic communications networks and facilities, a Licensee must:</i> <i>(a) update the location of its electronic communications network on its plans; and (b) notify the affected land/property owner of the changes within fourteen (14) days.</i>	A change in the planned location necessitates a re-application for the wayleave or, at a minimum, a request for review of existing wayleave. It is highly risky to assume that conditions of wayleave or permit-to-work will not be affected. Notification within 14 days would not suffice. What is required is to cease work, notify AND await approval (to avoid damaging essential services). This clause in its current form is vague and misleading.
6.	Regulation 4(9)	Notice of entry for scheduled maintenance, or alteration of an electronic communications network and facilities	<i>A Licensee must provide fourteen (14) days' written notice for maintenance, repair or alteration of the electronic communications network and facilities.</i>	Scheduled maintenance requires a new wayleave. Conditions on ground may have changed since original wayleave conditions. Applications to be submitted 30 days in advance. Emergency maintenance to follow an expedited process. Priority cannot be granted for scheduled maintenance.
7.	Regulation 4(10)		<i>Where the land/property belongs to a local authority or utility providers' prior written notice must include: (a) Detailed plans of proposed works (e.g. location, depth, duration); (b) Traffic management plans; (c) Emergency contact information; and (d) Proposed restoration methods.</i>	Include "additional information as required by the municipality/authority".
8.	Regulation 4(14)		<i>The Licensee must ensure that all employees and/or contractors entering the premises have: (a) a letter of authorisation from the Licensee; and (b) valid identification.</i>	The supervisor/senior team member on site should also have a copy of wayleave and permit.

9.	Regulation 5	REMOVAL OF ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES Cost Recovery for Alterations or Deviations	Cost Recovery for Alterations or Deviations	Note: Where services were not installed in accordance with agreed plans or in agreed location, costs are to be carried by licensee. This must be explicitly stated. See extract from CCT Roads Infrastructure Management Wayleave Standards (below) which sets out how this provision is managed by the City. 3.13 Relocation of services Where services were not installed in accordance with approved plans, the relocation of such services (to correct positions) must be done by the Permit Holder at their cost. Where telecommunication services/infrastructure (cables, ducts, manholes, etc.) are installed outside the 1.0m space (directly next to the road reserve boundary, as detailed in Section 3.8.1 above), any relocation required to install/construct municipal services must be done by the Permit Holder within a reasonable time and for their account, on written request by the municipality.
10.	Regulation 5(5)	Removal of Obsolete and Redundant Facilities	<i>(5) A Licensee must decommission and remove electronic communications networks or facilities that have been formally decommissioned and removed from its operational network records, within sixty (60) days of such decommissioning.</i>	Add - Wayleave, permit and final as-builts required.
11.	3.6 of the Explanatory Memorandum and	REGULATION 6: COMPENSATION	<i>3.6.4 This regulation requires the parties to determine compensation through good-faith negotiations aimed at achieving a just and equitable balance of interests.</i>	The Regulations focus primarily on landowner compensation and property rights. They do not clearly address: ▪ municipal infrastructure reinstatement costs, ▪ supervision cost recovery, ▪ municipal asset deterioration risks.

	1.5 of the Explanatory Memorandum			There is no mention of security deposits and public asset cost recovery methods. Page 25, section 1.5 of the explanatory memorandum mentions the research done to ascertain barriers to rapid deployment, with excessive, non-cost-based application fees and deposits (1.5.2) stated as one of these barriers. This view, along with Regulation 6, may later be interpreted against municipal infrastructure protection measures.
12.	3.7 of the Explanatory Memorandum	REGULATION 7: RAPID DEPLOYMENT GIS DATABASE	3.7.2. <i>Regulation 7 requires licensees to submit accurate and complete GIS data to the Authority on a bi-annual basis, or as requested, in accordance with the technical specifications set out in the Draft Regulations and Appendix A.</i>	The GIS obligations are directed primarily toward ICASA. The Regulations do not expressly require: ▪ direct sharing with municipalities, ▪ integration into municipal GIS systems, ▪ municipal access protocols, ▪ submission of as-built records to municipalities. This is a major omission, because municipalities are custodians of road reserves, operators of underground services and first responders to infrastructure failures. The Authority could become the central data repository while municipalities remain operationally dependent on incomplete or delayed information (countering the goal of rapid deployment). Obliging the licensees to provide GIS data and as-builts to the municipality establishes a means to provide expediated decisions on wayleave and permit applications.

13.	3.8 of the Explanatory Memorandum	REGULATION 8: DISPUTE RESOLUTION	3.8.1. <i>Regulation 8 gives effect to section 21 (2)(b) of the ECA by establishing a structured dispute-resolution pathway for disputes arising during the exercise of section 22 rights.</i>	The dispute framework does not clearly define: ▪ municipal standing, ▪ municipal enforcement authority, ▪ technical dispute adjudication, ▪ urgent operational intervention rights. It focuses broadly on disputes arising from section 22 rights (access) of the ECA. Municipal enforcement actions could become subject to external challenge or regulatory escalation without clear recognition of municipal constitutional powers.
14.	3.9 of Explanatory Memorandum	REGULATION 9: CONTRAVENTION AND PENALTIES	3.9.2. <i>These provisions are intended to support regulatory effectiveness by creating consequences for non-compliance with requirements that are material to rapid deployment, coordination and lawful access to electronic communication networks and facilities deployment.</i>	The penalties framework is generic and nationally administered. It does not expressly support municipal powers to: ▪ suspend works (due to non-compliance or unsafe works) ▪ issue compliance notices, ▪ recover repair costs directly.
15.	Regulation 9	CONTRAVENTION AND PENALTIES	(1) A Licensee that contravenes regulations 3 and 4 is liable to a fine not exceeding R150 000.00 (One Hundred and Fifty Thousand Rand). (2) A Licensee that contravenes regulation 6 and 7 is liable to a fine not exceeding R1 000 000.00 (One million Rands).	These powers are central to the City's operational enforcement model. There could be mention, in this section, to the validity/applicability of municipal by-laws in this regard.
16.	1.5 and 3.2	Explanatory Memorandum And	<i>The findings highlighted several recurring challenges:</i> 1.5.1. <i>inconsistent and unpredictable municipal wayleave processes;</i>	These clauses frame municipalities primarily as regulatory obstacles rather than infrastructure

	Explanatory Memorandum	REGULATION PURPOSE OF REGULATIONS (3.2.3.1)	2: THE <i>1.5.2. excessive, non-cost-based application fees and deposits;</i> <i>1.5.3. long approval timelines across state entities;</i> <i>1.5.4. difficulties accessing state-owned servitudes and infrastructure;</i> <i>1.5.6. lack of visibility of existing infrastructure, contributing to duplication and accidental damage;</i> And <i>3.2.3.1. delays caused by inconsistent municipal and governmental approvals,</i>	custodians, constitutional authorities and engineering risk managers. There is insufficient balancing language recognising that municipal controls exist to protect critical public infrastructure; metropolitan infrastructure environments are highly complex; and technical reviews safeguard public safety and service continuity. This policy framing may later influence: ▪ judicial interpretation, ▪ future amendments, ▪ industry expectations, ▪ pressure for reduced municipal authority. These effects have already been felt in the 4 years that the City has designed, developed and launched the digital Wayleave Management System. The core objective of the platform is to significantly streamline operations and reduce wayleave approval timeframes. The City has been highly successful in achieving this goal but it has not been without extensive change management, collaboration, and re-framing of what industry believes is the municipality's role as custodians of essential service infrastructure. There is a constant need to remind industry that local government has the same ambition for rapid economic and technological advancement; however, municipalities cannot achieve that at the expense of essential service delivery.
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3 CONCLUSION

The City welcomes the opportunity to provide comments on these draft regulations, and trusts that the comments as provided will be duly considered.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'G Hill-Lewis', with a stylized flourish at the end.

GEORDIN HILL-LEWIS
EXECUTIVE MAYOR