



ICASA's DRAFT RAPID DEPLOYMENT REGULATIONS 2026

14 JULY 2026



ABOUT THE DIGITAL COUNCIL AFRICA

- The **Digital Council Africa (DCA)** is a leading independent, non-profit organisation driving digital infrastructure development in Africa
- Membership spans:
 - Fibre network operators (FNOs)
 - Mobile network operators (MNOs)
 - Tower companies
 - Data centre providers and cloud service providers
 - Submarine cable operators
 - Platform providers, and
 - Original Equipment Manufacturers (OEMs).
- DCA **members are at the forefront of deploying broadband infrastructure** and have a direct interest in the process to develop a workable regulatory framework that facilitates rapid deployment

GENERAL COMMENTS

- The Draft Regulations **add obligations without providing solutions** to rapid deployment obstacles

Inconsistent and unpredictable municipal wayleave processes	No
Excessive, non-cost-based application fees and deposits	No
Long approval timelines across state entities	No
Difficulties accessing state-owned servitudes and infrastructure	No
Wayleave “hoarding” or speculative applications	Partially
Lack of visibility of existing infrastructure, contributing to duplication and accidental damage	Yes
Unclear expectations around landowner engagement	Yes
Absence of a structured dispute-resolution pathway for property-related conflicts.	Yes

Table: Do the Draft Regulations address obstacles to rapid deployment identified by DCA members?

GENERAL COMMENTS

The Authority's position and powers to facilitate rapid deployment

- The DCA is very aware of the constraints faced by the Authority in drafting regulations relating to rapid deployment and that it cannot contribute through regulation to meeting the rapid deployment bottlenecks raised by industry
 - The scope of rapid deployment regulation is limited by the language of section 21 of the ECA. This section and Chapter 4 in general was enacted in 2006 for a different reality which did not foresee the explosion in deployment of fibre networks in particular by multiple licensees
 - The DCA cannot see what the Authority could usefully contribute to these improving these interactions through its regulations
 - Government authorities have their own processes and procedures for permits, authorisations and approvals relating to access to their land and they also stipulate the qualification criteria for these permits, authorisations and approvals
 - Where the Draft Regulations purport to add or vary some of the requirements or qualification criteria set by government authorities, by requiring, for example, mandatory consultations, this may conflict with existing frameworks
 - The courts have also stepped in to provide comprehensive guidance on the exercise of ECA Chapter 4 rights.
 - It should also be recognised that there are very few instances in which section 22 of the ECA is relied on in practice. Typically, access to private land is negotiated while access to public land is obtained after following a mandatory process (such as when applying for a wayleave).
 - Reliance on section 22 by a licensee generally indicates a failure to obtain consent from a private landowner or material delays in processing an application by a government authority.

GENERAL COMMENTS

Interaction with the Ministerial policy direction process on rapid deployment matters

- The DCA is not privy to communications between the Authority and the Ministry/Department, but it appears that a policy direction is being finalised which is intended to provide a further framework for the development of rapid deployment regulations and a regulatory framework for a GIS database
- If the policy direction process proceeds to finalisation, the Authority will be required to consider the content of the final policy direction before finalising its own regulations on rapid deployment and GIS mapping
- DCA would have thought this process would be paused pending finalisation of further policy guidance but believes this will nevertheless be a constructive engagement on both rapid deployment and broadband infrastructure mapping

GENERAL COMMENTS

- **Licensees vs non-licensees**
 - Chapter 4 of the ECA applies only to holders of ECNS licences
 - Has the Authority considered the competitive and general impact of imposing obligations on licensees in circumstances where non-licensees such as tower companies also deploy electronic communications facilities?
- **“land” vs “property”**
 - “land” and “property” are distinguishable concepts – section 22 only deals with land
 - The Draft Regulations also refer to “property”.
 - This is overly broad and should be deleted

Concept	Status under section 22 of the ECA
Immovable land (private, municipal, public, including streets, roads, footpaths, railways, waterways)	Within the section 22 access and use right, subject to <i>Link Africa</i> constraints and <i>Telkom v Cape Town</i> regulatory compliance.
Buildings and structures on land	Not directly within section 22 itself; ancillary rights (e.g. attachment of supports, treatment of fences and trees) are conferred by sections 23 to 29 in specified terms
Movable property	Outside section 22

GENERAL COMMENTS

- **Access to public land vs access to private land**

- The Draft Regulations should clearly distinguish between exercise of section 22 rights relating to:
 - Access to public land, and
 - Access to private land.
- In practice, there are very different circumstances and considerations facing licensees when accessing public as opposed to private land.
 - Access to public land will generally be governed by an existing process, set out in municipal bylaws or in provincial or national legislation.
 - Access to private land is a matter of negotiation and is almost always consent based (i.e. it does not rely on section 22 rights).
- There are numerous instances in the Draft Regulations where:
 - It is not clear whether an obligation applies to access to public or private land or both.
 - An obligation explicitly or implicitly applies to access to public land, but the obligation varies or adds to existing obligations imposed on responsible government authorities.

PROCESSES & PROCEDURES FOR RAPID DEPLOYMENT (REG 4)

- Sub-paragraphs (3) – (6) need to be redrafted to clearly distinguish between consultation requirements in respect of access to public as opposed to private land.
 - The Draft Regulations should not interfere with processes and procedures – including those relating to consultation – conducted by other government authorities.
 - To the extent that the Draft Regulations add further obligations for licensees to observe, over and above those of the relevant government authority, these are unnecessary and will delay deployment.
- Sub-paragraph (7) should only apply to access to private land. The DCA requests the Authority to consider allowing an access activity to commence within the 30-day period where this has been agreed to in the access agreement by the landowner.
- The DCA requests that the Authority amend sub-paragraph (9) to allow for scheduled (and emergency) maintenance to be regulated by the duly executed access agreement. A licensee should be able to commence within the 14-day period where this has been agreed to.
- Sub-paragraphs (10) and (11) interfere with processes and procedures conducted by other government authorities or utility providers and should be deleted.
- Sub-paragraph (16) contemplates a situation where a licensee can be directed to participate in a trench-sharing or co-build arrangement on reasonable terms and subject to technical feasibility and safety considerations. The DCA wishes to emphasise that it remains at all times in the discretion of the licensee as to whether to enter into such arrangements and, if it chooses to, the terms that can be regarded as reasonable.



PROCESSES & PROCEDURES FOR RAPID DEPLOYMENT (REGS 5-8)

Removal of electronic communications networks and facilities

- The DCA submits that sub-paragraphs (1) – (4) unduly interfere with commercial relationships alternatively potentially conflict with existing processes conducted by government authorities.
- Sub-paragraphs (5) – (7) are supported.

Ad paragraph 6 – Compensation

- The DCA has noted the content of this paragraph, which generally restates the existing position regarding compensation for deprivation of use of land and for damage caused by deployment, alteration or maintenance activities.
- The requirement to use the services of a “registered and independent valuer” adds cost and delay to deployment processes. The DCA requests that the Authority consider allowing alternative valuation mechanisms subject to the agreement of the parties.
- The term “injurious affection” in sub-paragraph 6(3)(b) is not part of South African law and should be used with caution.

Ad paragraph 8 – Dispute resolution

- The DCA has noted the basic dispute resolution framework proposed by the Draft Regulations vs the detailed nature of the draft Ministerial policy direction as it relates to dispute resolution.
- When finalising this provision, the Authority is requested to bear in mind that it is critical to industry and to achieving rapid deployment that clear timelines are provided for dispute resolution, particularly where a matter is brought to the Authority or CCC.

- **Statement of qualified support**

- The DCA broadly supports the drive towards establishing a GIS database of broadband infrastructure in South Africa. This includes the imposition on licensees of a more detailed obligation to submit GIS data.
- Members are, however, concerned about the scope of the information requested, which is far broader than just data relating to physical broadband infrastructure. Members are particularly resistant to revealing commercially and competitively sensitive information relating to future network deployments.
- Notwithstanding these reservations, this is something that must happen as soon as possible.

GIS MAPPING AND DATA SUBMISSION REQUIREMENTS

- **Implementation**

- GIS mapping should be implemented in a phased manner
- Critical for trust to be built in the relevant processes and for questions relating to the security of and access to the database to be resolved
- Requires a great deal more interaction between the Authority and industry to determine the data which is to be submitted and how this will be handled
- The DCA requests that the Authority consider separating the GIS mapping provisions from the regulations relating to rapid deployment.
- The utility of a broadband infrastructure database is far broader than just rapid deployment, it is a necessity for planning, co-ordination of deployment across infrastructure classes, protection of infrastructure and improved design of universal service and access obligations, spectrum-related obligations and measures to address the access gap



Digital Council

Juanita Clark
CEO

juanita@digitalcouncil.africa

Reesha Iyer
Member Services

reesha@digitalcouncil.africa