

FISH HOEK VALLEY RATEPAYERS & RESIDENTS ASSOCIATION

(Incorporating Fish Hoek, Clovelly and Sun Valley)

Central Circle, Fish Hoek 7975

Web: <https://www.fishhoekratepayers.com/> Facebook: www.facebook.com/FHVRRA/

Heritage Western Cape: Conservation Body

TO: MR. A WILTZ, CHIEF DIRECTOR, TELECOMMUNICATIONS AND IT POLICY
VIA: MR. L MOTLATLA, rapid@dtps.gov.za
FOR: MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES STELLA NDABENI-ABRAHAMS

**SUBJECT: COMMENTS ON PROPOSED POLICY AND POLICY DIRECTION ON
RAPID DEPLOYMENT OF ELECTRONIC COMMUNICATIONS NETWORKS
AND FACILITIES ¹**

DUE DATE: 2 SEPTEMBER 2020 (22 JULY 2020 PLUS 30 WORKING DAYS)

1. DISCUSSION

Thank you for this opportunity to comment on this important policy.

We agree that modern electronic communication networks and facilities could and probably should be deployed more rapidly in order to lower the costs of data consumption and facilitate e-commerce (digital society and economy). We acknowledge that disputes do arise between landowners and electronic communications network service licensees. However, being a civic organisation, we are concerned for the rights of the private landowner as often the backhaul is a fibre cable connecting wireless transmitters to a POP (section 1.3). As we have recently experienced, it took local fibre installers more than six months between multiple installers trenching, retrenching, destroying bricked driveways and planted verges before pavements only were finally reinstated. We do not look forward to any repeats of this. Also, electric cables are required to supply or in some cases, noisy generators running during load shedding periods, which are a source of visual and noise (generators) nuisances.

We note that Sections 2.1 and 2.5 make no provision for an independent body to impartially arbitrate when Section 2.5 (a) (iii) objections are raised or the "consultation" process turns out to just be the electronic communications network service licensee giving their opinion then proceeding without due consideration of the landowner's concerns. Also, Section 2.8's and 2.11's "Authority" needs to be defined and must include the local City's official in charge of enforcing their local relevant by-laws. We note that Section 2.12 "Disputes may be resolved by the Complaints and Compliance Committee established by the Authority in terms of section 17A of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) since such role is contemplated in section 25(8) of the ECA." We best think that this problem can be resolved with changing "may" to "must" in Section 2.13 where the Authority "must" appoint "independent and impartial" adjudicators.

Furthermore, Section 2.5 states the obligations of the electronic communications network service licensee, but once this tick-box exercise is completed, this policy implicitly gives de facto approval that the electronic communications network service licensee can then ignore the Constitutional (Section 25) rights of the landowner.

Section 2.4 should stop at the first sentence, "Property owners must exercise due care and diligence to avoid damage to electronic communications networks or facilities deployed on its property". It is unfair to expect the landowner to look after someone else's equipment placed on their property. This is what insurance is for or the electronic communications network service licensee must provide off-site guards to provide surveillance of their equipment. It is too prone to fraud by and convenience for the electronic communications network service licensee to require the landowner to prevent damage to their equipment.

¹ Government Gazette 43537

We think that Section 2.6 should be reviewed and a standard access fee per hour should be granted the landowner as often, whenever a service provider employs labour, there is usually an increase in break-in attempts of those properties. This fee would act in partial compensation, but also be a warning to electronic communications network service licensee to employ trustworthy and properly supervised personnel. Also, overhead cabling is ugly and blocks the view of the landowners and especially, photographers. Trenching for underground installations should be done for all supporting infrastructural requirements and fibre installations. It should be noted that the City of Cape Town's tariff for micro-trenching along the roads that it maintains, but in areas without pavement / sidewalks, is a non-refundable R6 000 / meter.

Section 2.9 must include "health" damages ^{2 3 4} (in violation of Section 24 of our Constitution) caused by the 5G (LTE and WOAN ⁵) transmissions that have not been properly tested over long periods of time. Otherwise, Section 2.15 will be invoked with many letters flowing to the Minister of Environment, Forestry and Fisheries, Member of the Executive Council or a Municipal Council seeking redress.

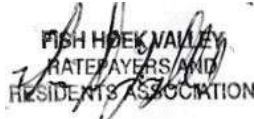
Section 2.10 must be re-worded for clarity that the electronic communications network service licensee is still obligated to pay the local City's associated way-leave and application tariff.

Section 2.11 needs to identify the dispute resolution process for when the local government objects.

2. SUMMARY OF RECOMMENDATIONS

- Change Section 2.13 to include where the Authority "must" appoint "independent and impartial" adjudicators;
- Delete "If such electronic communications networks or facilities are damaged due to the fault of a property owner, reasonable compensation agreed to between the property owner and the electronic communications network service licensee is payable." in Section 2.4;
- Expand Section 2.6 to include that all electronic communications network service licensees must trench for all of their infrastructural requirements and fibre installations and pay a municipal related fee to the landowner to compensate for damages due to trenching and property invasion for placement of equipment;
- Amend Section 2.9 to explicitly include "health" damages;
- Re-word Section 2.10 for clarity that the electronic communications network service licensee is still obligated to pay the local City's associated way-leave and application tariff; and
- Expand Section 2.11 to identify the dispute resolution process for when the local government objects.

Basically, we object to this proposed policy as it violates the Constitution's Section 25 property rights of the landowner.

NAME & SURNAME	Brian Youngblood, Chair: Fish Hoek Valley Residents and Ratepayers Association (FHVRRRA)
CONTACT NUMBER	Cell: 084 3 99 99 33
E-MAIL ADDRESS	bdyoungblood@gmail.com or FishHoekRRA@gmail.com
SIGNATURE	
DATE	31 July 2020

2 <https://ehtrust.org/scientific-research-on-5g-and-health/>

3 <https://link.springer.com/article/10.1007/s12243-018-0680-1>

4 <https://www.sciencedirect.com/science/article/pii/S016041201731485X>

5 <https://mybroadband.co.za/news/wireless/360981-new-government-policy-will-let-mobile-networks-build-a-5g-tower-on-your-property.html>