

OPERATION VULINDLELA

Supporting
the Implementation
of Priority Structural Reforms

May 2022



Draft Model Bylaw for the Deployment of Electronic Communications and Facilities

Department of Cooperative
Governance and Traditional Affairs



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA





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WHY DO WE NEED A MODEL BYLAW?



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STREAMLINING THE ECONOMY IS A NATIONAL PRIORITY



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- Operation Vulindlela supports the President and Cabinet to ensure priority structural reforms are implemented effectively
- Focus is on 26 priority reforms in network industries, which includes 3 digital communications projects:
 - Increase available spectrum
 - Migrate from analogue to digital TV
 - Rapid deployment of electronic communications networks and facilities, including
 - **Streamline approval of wayleave applications at municipal level (covered today)**
 - Finalising policy and policy direction
- Deployment of broadband infrastructure is intended to expand access to affordable, high-quality internet connectivity, in particular to low-income neighbourhoods

AN ENABLING REGULATORY ENVIRONMENT IS THE FIRST STEP TO GREATER ECONOMIC INCLUSIVITY (1)



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- Broadband is key to economic inclusivity and promoting youth employment, which has been significantly amplified by Covid-19
- Currently, access through high-speed fibre is concentrated at upper income levels:
 - 10.4% of South African households had access to fixed-line internet at home (StatsSA 2019)
 - Fixed broadband subscriptions per 100 inhabitants is 2.14 in 2019 (up from 0.95 in 2009) (Statista)
- This slow access due to, for example:
 - Non-standardised, cumbersome and costly municipal wayleave application processes which discourages deployment in lower income areas
 - Aerial and street furniture not fully accommodated by municipalities; yet more cost effective

AN ENABLING REGULATORY ENVIRONMENT IS THE FIRST STEP TO GREATER ECONOMIC INCLUSIVITY (2)



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- Critical first step to rapid roll-out of broadband infrastructure is an enabling regulatory environment at local level. Municipalities make or break the ability of network communications operators to invest. But many municipalities are not prepared:
 - Municipalities lack wayleave bylaws to govern broadband infrastructure investment; and
 - Policy that enables more cost-effective alternative deployment necessary for deployment in low-income areas (i.e. utilising existing ‘street furniture’ or aerial deployment)
- Development of a Model Bylaw for broadband has been identified to get off the starting blocks at the local level
- Once done, the process can proceed to ensuring implementation and use of broadband by low-income residents, and youth in particular
- **The Task Team has developed the Model Bylaw. It is now going into the Section 14 process. The critical first step of the Section 14 process is to brief CoGTA and DCDT**



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PROCESS OF DEVELOPING MODEL BYLAW

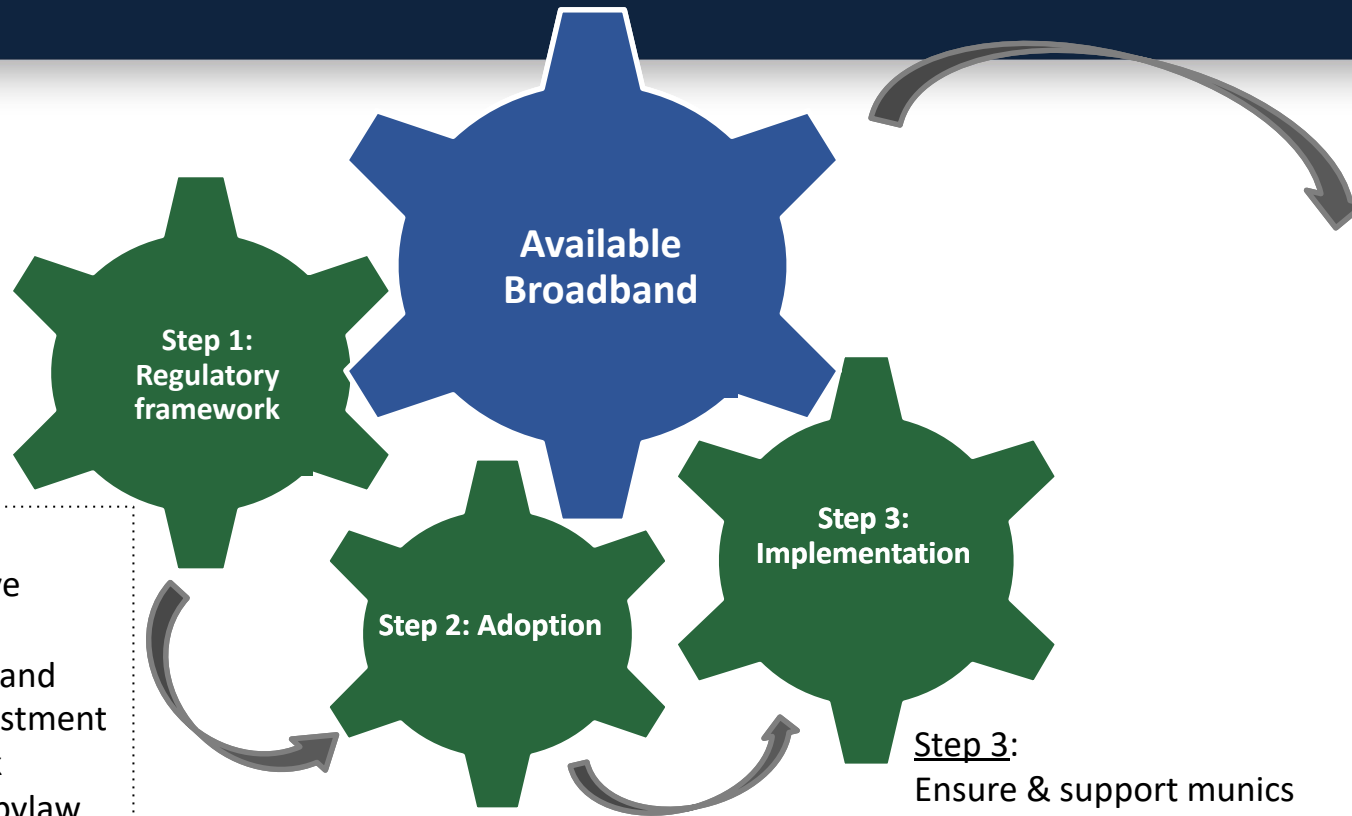


THE MODEL BYLAW PROJECT KICKSTARTS BROADBAND ACCESS TO PEOPLE ON THE GROUND

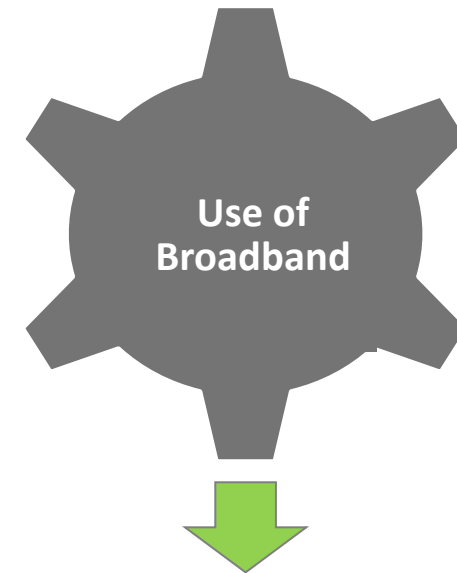


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If Steps 1 to 3 are successful, then access to or use of broadband by low income neighbourhoods becomes possible



Ultimately, having broadband access can unlock economic opportunities for those in low income neighbourhoods, such as employment and new business opportunities

Step 1

Ensure munics have model bylaw to streamline broadband infrastructure investment
- Most munics lack expertise to draft bylaw

Step 1 is the focus of this project

Step 2:

Ensure municipalities adopt draft model bylaw
- Planned DCA project to educate and speed up adoption

Step 3: Implementation

Step 3:

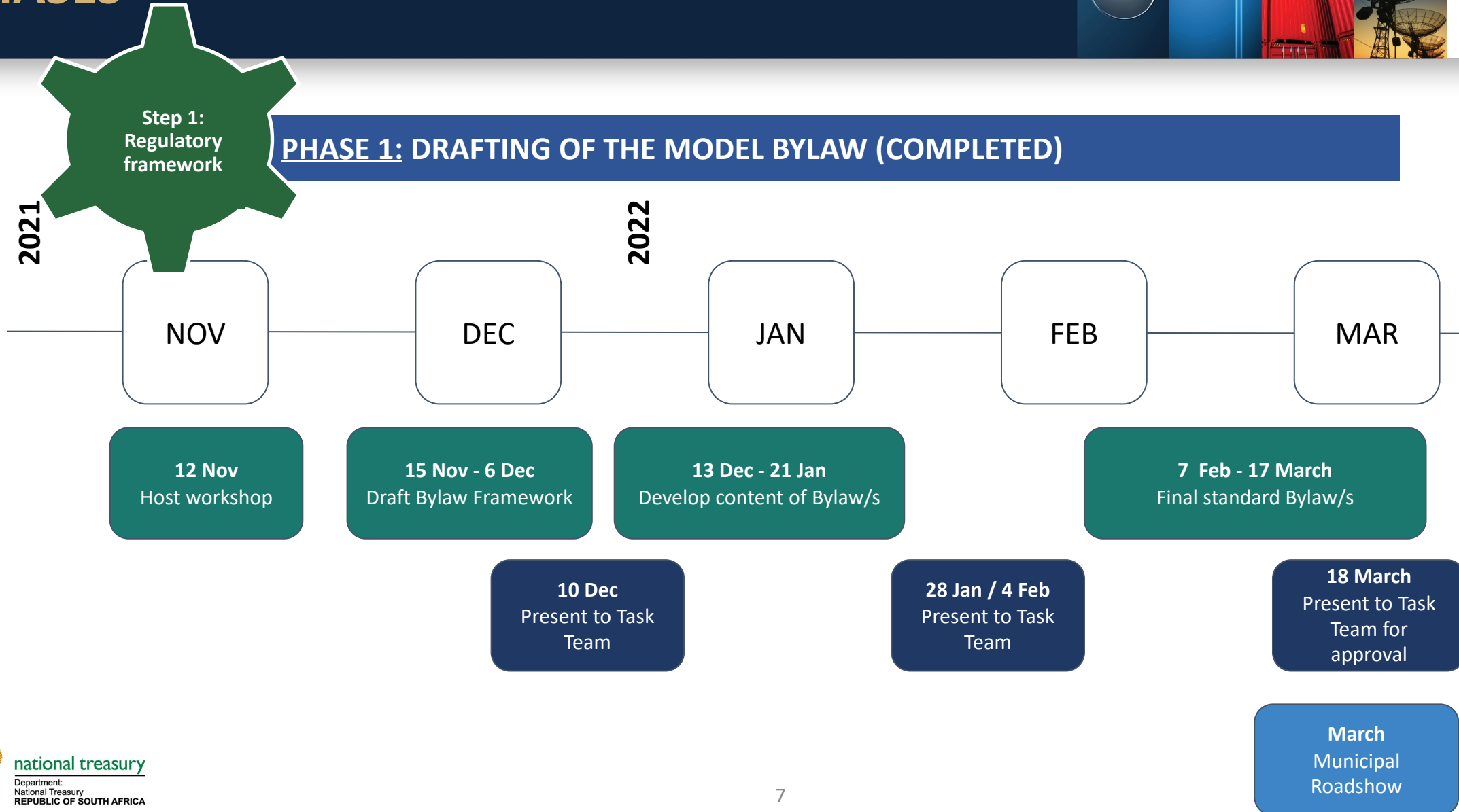
Ensure & support munics to install streamlined systems / processes (on the basis of the model bylaw)
- At this stage there is no specific project to speed up implementation

THE PROCESS IS DIVIDED INTO TWO DISTINCT PHASES



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ENGAGEMENT PROCESS KICKS OFF PHASE 2



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2022

Step 1:
Regulatory
framework

PHASE 2: LEGAL APPROVAL OF MODEL BYLAW (S14 MSA)

MAR

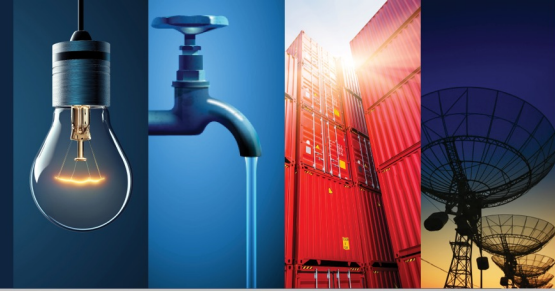
APRIL

MAY

JUNE



PUBLIC COMMENT AND GAZETTING PROCESS



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2022

Step 1:
Regulatory
framework

PHASE 2: LEGAL APPROVAL OF MODEL BYLAW (S14 MSA)

MAY

JUNE

JULY

AUG

SEPT

OCT

Office of the Chief State Law Advisor

CoGTA draft
memo for
public
comment

Memo signed
off by CoGTA
Minister

Request for
comment
published

Public Comment

Present to Task
Team

Draft final bylaw



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INTRODUCTION TO THE MODEL BY LAW



FEATURES OF THE MODEL BYLAW (1)



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- Relationship between municipalities and those seeking to deploy electronic communications facilities and networks
 - Civils contractors
 - Fibre Network Operators (FNOs)
 - Mobile Network Operators (MNOs)
 - Tower companies
- Section 22 of the Electronic Communications Act
 - “due regard must be had to applicable law”
- Start from a prohibition and then set out circumstances in which permissions will be granted and applicable terms and conditions
- Work in the Road Reserve (except Street Furniture):
 - **Wayleave + Municipal Land Use Consent Agreement**
 - **Standard Works vs Emergency Works**
- Work outside the Road Reserve + Street Furniture
 - **Municipal Lease Agreement: Electronic Communications Facilities**

FEATURES OF THE MODEL BYLAW (2)



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- Term of the relationship
 - Wayleave: short-term authorisation to work in the Road Reserve
 - MLUCA: agreement for use of municipal land (Road Reserve) for life time of facility installed
 - MLA: agreement for lease of municipal land or co-location space for life time of facility installed
 - Include obligations relating to disposal, rehabilitation, “good neighbour” rules
 - Minimum provisions for agreements provided
- Applications
 - Application form provided
 - Standard Works vs Emergency Works
 - Initial vetting then process within 30 working days (+ 30 working days on good cause shown)
 - Delays to be reported to the Rapid Deployment Coordinating Committee

FEATURES OF THE MODEL BYLAW (3)



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- Tariffs
 - Important component of facilitating deployment of digital infrastructure and lowering the cost to communicate for all South Africans
 - Non-prescriptive
 - Guidance on tariffs part of a separate process
 - Bank guarantees
 - Remedial work
- Collection of spatial information in digital format

ACTIVITIES COVERED BY THE MODEL BYLAW



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- The Model Bylaw covers the following activities and any combination thereof:
 - i. Trenching and micro trenching and related work in the Municipal Road Reserve.
 - ii. The siting and erection of poles and stringing of optic fibre cable in the Road Reserve or within the Municipal Area.
 - iii. The stringing of optic fibre cable on existing poles in the Road Reserve or within the Municipal Area.
 - iv. The erection of base stations, towers, or masts for the location of radio apparatus within the Municipal Area, including micro-cell deployments on Municipal Street Furniture.
 - v. Maintenance and operational activities related to already deployed electronic communications infrastructure.

PUBLIC CONSULTATION



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- The Municipality may during the Wayleave application processing period consult with the applicant regarding aesthetic considerations and concerns relating to the planned Works and may require that:
 - a) the applicant conduct a public participation process in respect of affected persons; and /or
 - b) terms and conditions relating to the preservation of the aesthetic character of an area are included in a Wayleave issued.

Exceptions:

- Heritage impact assessment with public consultation component
- Environmental impact assessment
- Prior public consultation satisfactory to municipality



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THE WAY FORWARD AND KEY ACTIONS



REQUEST FOR ENGAGEMENT WITH YOUR DEPARTMENT



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- Critical first step of the Section 14 process is to brief CoGTA and DCDT
- The engagement process, as required by Section 14:
 - CoGTA:
 - As the lead department, CoGTA is responsible for Section 14 process
 - An internal briefing memo has been circulated and signed by the DG (TBC Minister)
 - Minister sends requests to MECs and SALGA for comment on the Model Bylaw (which includes engaging with municipalities for their comment)
 - DCDT
 - Minister (CoGTA) will formally request comment from DCDT, through a request to the Minister (DCDT)



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THANK- YOU



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