

Department of Infrastructure, Transport, Regional Development and Communications

**IMPROVING THE TELECOMMUNICATIONS POWERS AND
IMMUNITIES FRAMEWORK –
CONSULTATION OUTCOMES PAPER**

Axicom Submission



INTRODUCTION

Axicom welcomes the opportunity to respond to the Department of Infrastructure, Transport, Regional Development and Communications (**Department**) Tranche 1 consultation on the outcomes paper *Improving the telecommunications powers and immunities framework* released in March 2021 (**Consultation Paper**).

As noted in Axicom’s original submission dated 30 October 2020, Axicom is a strong advocate for co-location and the shared use of telecommunications infrastructure. The proposed amendments to the Low Impact Facilities Determination 2018 (**LIFD**) and the proposed Telecommunications Code of Practice 2020 (**Code**) by the Department is a welcome step towards creating a regulatory framework that will facilitate the timely, efficient and affordable deployment of telecommunications infrastructure in the 5G era. However, Axicom does have some concerns regarding some of the proposed reforms.

As a member of the Australian Mobile Telecommunications Association (**AMTA**), Axicom supports the AMTA and Communications Alliance submission. Axicom also makes the below additional comments on its own behalf with respect to the proposed Exposure Draft amendments to the LIFD and Code relating to the procurement of an engineering certificate for the installation of a certifiable facility (**Engineering Certificate Amendments**).

ENGINEERING CERTIFICATE AMENDMENTS

On review of the Engineering Certificate Amendments Axicom believes that not enough detail is offered to enable consistency in application or compliance across the industry. Axicom believes that the imposition of a requirement for an engineering certification in the circumstances set out in the Code with respect to the installation of a certifiable facility will significantly increase the cost and time for the carriers to deploy under the LIFD. Axicom raises the below points relating to the imposition of this new requirement:

(A) LIFD - DEFINITION OF “CERTIFIABLE FACILITY”

The industry is committed to maintaining the highest safety standards in relation to its installations and ensures compliance with the current framework of legislative requirements and engineering standards. As Axicom mentioned in its previous submission, it is not practical to try and codify different circumstances when an engineering certificate may need to be provided for an installation. The draft definition of a “certifiable facility” in the LIFD is very broad. It will result in certificates being provided in circumstances where it may not be reasonable to expect such a certificate to be provided as there is no material impact on the structure itself. Certification obligations should not be imposed when only minor works are taking place.

Axicom remains of the belief that the requirement to provide a certification should be limited to circumstances where:

1. a landowner reasonably requests such a certification; and
2. there is a reasonable expectation that the activity being undertaken by the carrier will affect the structural integrity of infrastructure owned by the landowner.

(B) CODE - COMPLIANCE REQUIREMENTS

Whilst Axicom is a strong advocate of the paramount importance of safety in telecommunications installations, the requirement to comply with the safety requirements at Part 2 of the Code (**Primary**

Carrier Safety Conditions) is very different to a requirement to certify compliance with the Primary Carrier Safety Conditions. The broad wording of the Primary Carrier Safety Conditions is not easily quantifiable or certifiable. Given the broad obligation to certify compliance with ‘the standards and codes the carrier has complied with in installing the facility’ a carrier may have to seek certifications from various types of engineers, for example, an electrical engineer as well as structural engineer, and also potentially from other disciplines such as EME, adding significant time and cost to a process originally designed to assist with minimising both.

In addition, due to the broad wording associated with the Primary Carrier Safety Conditions and the associated certification requirements, an engineer certifying the installation will likely have increased professional risk when providing the engineering certification. With increased professional risk comes increased cost, which would have to be borne by the carrier and ultimately passed on to the consumer. Given the broad compliance requirements specified with the Primary Carrier Safety Conditions, it is likely that any such engineering certificate would be highly qualified. Axicom therefore questions the benefit, practicality and utility of the engineering certificate to the landowner.

The broad obligation to provide certifications may result in duplicative and unnecessary certifications being provided. In many instances the carriers will already have commercial agreements in place with the owners of the infrastructure, such as Axicom, but a LAAN may have to be served on the landowner in some instances if Axicom is unable to provide the carrier with access to the land. In these circumstances, the carrier will have met Axicom’s requirements for the installations on its tower but a further certification will have to be undertaken for the owner of the land who has no interest in the actual infrastructure. This further certification will add to the cost burden of the carrier.

As a landowner and occupier dealing daily with co-location and installation on our towers, Axicom has worked hard over the years to implement processes to ensure the safety of its sites. Axicom’s current processes when dealing with carrier installations which impact the structural integrity of its towers is to obtain:

1. pre-installation:
 - (a) a structural certificate signed off by qualified engineers which includes the mounts, foundations and the structure itself. The pre-installation structural certificate certifies the structural adequacy of the pole or tower, foundation and proposed mounting steelwork to support the load bearing equipment; and
 - (b) for construction drawings, which show a detailed design of the plant and equipment being installed, identifying site access considerations, cabling routes etc; and
2. post installation:
 - (a) as built drawings together with a certification to confirm that the equipment has been installed in accordance with the engineer certified designs.

The post installation certification is not necessarily undertaken by an engineer. It may be undertaken by an engineer, a suitably qualified person who works for the carrier or the contractor who carried out the construction work in accordance with the engineer certified designs.

In line with the above, Axicom requests that the Department reconsiders its proposal and instead considers a process similar to Axicom’s current process noted above whereby the landowner or occupier may request the carrier to provide:

1. pre-installation: a design of the proposed installation, certified by a structural engineer; and

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2. post installation: within 30 days of the carrier receiving the documents from their contractor, as built drawings together with a compliance certificate from a suitably qualified person that the equipment has been installed in accordance with the certified design.

The above proposal should not add considerable cost and delay to the carriers, as this is a process that is followed in the industry today when the installation is going to affect the structural integrity of the infrastructure. However, as mentioned above, Axicom is of the view that such a process is not appropriate in every case, and it is only appropriate when:

1. requested by the landowner or occupier; and
2. there is a reasonable expectation that the activity being undertaken will affect the structural integrity of infrastructure owned by the landowner.

The Department should note that it is possible that as built drawings may not be available to the carrier until some time after the equipment has been commissioned and the proposed 30 day timeframe from installation is not sufficient.

Axicom believes the above process should be adequate to provide the landowners and occupiers comfort that the design and installation complies with engineering good practice.

CONCLUDING REMARKS

Axicom thanks the Department for the opportunity to respond to the Tranche 1 consultation on the outcomes paper *Improving the telecommunications powers and immunities framework* released in March 2021.

Yours sincerely

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