

ALGA SUBMISSION TO DRAFT CONSULTATION PAPER ON AMENDING CARRIER POWERS AND IMMUNITIES TO SUPPORT MULTI-TECHNOLOGY ROLLOUTS OF HIGH-SPEED BROADBAND (amendments relating to the *Telecommunications (Low-Impact Facilities) Determination 1997* and the *Telecommunications Regulations 2001*), JUNE 2015

Introduction

ALGA appreciates the opportunity to comment on the consultation draft on changes to the Low-Impact Facilities Determination (LIFD). This submission responds to the consultation draft on the proposed amendments to the *Telecommunications (Low-Impact Facilities) Determination 1997* and the *Telecommunications Regulations 2001*, which was released for comment on 12 June 2015.

This submission has been prepared by the Australian Local Government Association (ALGA). ALGA is the national voice of Australia's 560 local councils. Its membership is comprised of the state and territory local government associations across the country.

ALGA's President represents local government as a member of the Council of Australian Governments and several other ministerial councils.

ALGA has consulted its member associations and the comments made in this submission should be read in conjunction with submissions from state and territory associations and individual councils. The comments contained in this paper reflect feedback received from ALGA's members.

Overall, ALGA supports the intention and principle of the proposed technical amendments to the LIFD, which amends definitions and terminology to reflect the multi technology mix (MTM) approach adopted for the remaining rollout of the National Broadband Network. However, ALGA reiterates its earlier concerns about the width of overhead cabling, as well as the size of the associated infrastructure. Under the proposed amendments to facilitate rollout of the MTM, the width of cabling can be up to 48mm, specifically in the Hybrid Fibre-Coaxial (HCF) network. Once a 48mm maximum width is specified in the legislation, there is no imperative for carriers to try and limit their cable to less, despite the consultation paper stating that "carriers are expected to use the smallest cable and cable bundle diameter feasible for above ground line links in an area."

ALGA is pleased that current protections remain in place, including the requirement to notify land owners and occupiers of intended activities, and protections for Commonwealth, State and territory heritage listed sites.

However, there is still concern by councils about the operation of the Low Impact Facilities Determination in terms of adequate consultation and remediation work.

Feedback from state and territory associations and councils also indicates that concern remains on the matter of remediation of works after the NBN completes its installation of facilities. ALGA's 2015 National General Assembly, attended by over 800 representatives of councils from more than 50 per cent of councils, saw two motions passed which asked for this matter to be drawn to the Minister's attention. (See below)

The Federal Government, through the Department of Broadband, Communications and the Digital Economy and NBN Co has consulted with ALGA in the lead up to and during the consultation period. ALGA appreciates the open and transparent consultation process.

Proposed amendments to definitions and terminology

ALGA understands and supports the intention of the proposed amendments to insert new definitions and terminology to reflect the shift to a multi-technology mix and to make those

definitions "technology neutral", to enable the legislation to apply to all technologies used in the NBN rollout. We accept the fact that these changes are necessary to implement the rollout of the multi-technology mix.

ALGA also understands the intention of these changes is to enable the NBN and carriers to deploy the most cost-effective technology as required by specific circumstances. ALGA would hope that lessons learnt for the 12 month trial of these amendments in a number of areas will be used to inform the final changes. However, councils continue to raise concerns over the Low Impact Facilities Determination, specifically adequate consultation with local government, as well as adequate remediation after work has concluded.

Two motions at this year's 2015 National General Assembly again raised the need for consultation with councils and the need for adequate remediation works to minimise impacts or damage by public utilities. Repairs need to be to an acceptable standard.

**Resolution 61
Maribyrnong City Council VIC**

That that the NGA calls upon the Honourable Malcolm Turnbull MP, Minister for Communications, and authorities responsible for the rollout of the National Broadband Network, to require NBN Co to consult directly with Local Governments and communities across Australia on its implementation.

Carried

**Resolution 62
Shoalhaven City Council NSW**

That this NGA calls on the Federal Government to implement legislative change to ensure protection and reinstatement of Local Government assets to minimise impacts or damage by public utilities.

Carried

ALGA stresses the importance of consultation and forward planning with local government in relation to environment and heritage issues, to avoid the possibility of unnecessary delays and complaints.

The Local Government Association of South Australia has advised that in South Australia, councils across the state have called for more consistent time frames and restoration work standards that are adhered to by utility service providers.

ALGA is aware that in some circumstances, carriers have provided councils with money to undertake restitution after NBN installation, rather than making these repairs themselves. Providing funding to councils to make restitution, allows councils to have the option to undertake a larger project to upgrade areas surrounding the NBN construction work using their longer term infrastructure budgets. Local government supports of the concept of funding being provided by carriers to council for remediation. However, if funds are provided to council to undertake restitution, the cost of remediation needs to take into account the quality of the surface disturbed by NBN works (eg sandstone paving vs asphalt footpath). The cost of remediation, if provided by the carrier to council, would need to be negotiated on a case-by-case basis at a rate agreed in advance.

Restoration works can be undertaken either by councils, by the nbn contractor, or by a third party. The main concern expressed by councils is that satisfactory compensation, or remediation work, is carried out. Councils should have the option of negotiating a suitable outcome.

Width of cable to maximum of 48mm (amendment to Regulation 11.2)

Local Government is concerned about the proposal to allow overhead cabling of up to 48mm in diameter as low impact in the LIFD. There was nationwide concern about the initial 30mm width of NBN cables, with communities and councils arguing that both the height and width of the cables detracted from the aesthetics of the neighbourhood and streetscape. Although the discussion paper states that "carriers are expected to use the smallest cable and cable bundle diameter feasible for above ground line links in an area", there is no imperative to abide by this requirement and appears to be no form of monitoring suggested in the proposal, to ensure that carriers do not use wider cable where it is not necessary. Piggy backing new cables on existing cables can also cause aesthetic issues where the ties bundling them together loosen and cables separate, in some cases leaving spaghetti looking strings of cables with gaps of up to 300mm. ALGA reiterates its concerns about the width of overhead cabling, as well as the size of the associated infrastructure.

ALGA notes that the proposed amendments do not permit carriers to install additional structures such as poles to support overhead cabling, without seeking development approval under relevant State and Territory Planning laws. It also specifies that carriers must remove overhead lines in the event that all the non-communications cables (such as electricity) are permanently removed for the poles. ALGA suggests that the government clarify how removal of telecommunications lines would work in practice, as there would be cost and timing implications. ALGA would suggest a coordinated approach to remediation in the event of non-communication overhead cables being permanently removed, so that there are specific timeframes for removal and relocation of the communications lines agreed between nbn and councils. Local government would be concerned if it were to take many months, or years, to relocate cables and remove the poles.

ALGA continues to ask that cabling, wherever possible, be placed underground. New developments generally use underground cables wherever possible. The West Australian Local Government Association and the Local Government Association of the Northern Territory have both argued for the need to place cables underground wherever possible due to the climatic, safety and environmental conditions in northern Australia. This is consistent with the intent of the National Strategy for Disaster Resilience, where mitigating against future risk is a key strategic objective.

ALGA suggests that a review of the extent of the use of the maximum width of overhead cabling be undertaken in 12 months of the operation of the proposed amendments, to ensure carriers are using the smallest cable where feasible. The consultation paper specifies that a review of the amendments would occur in the future, for example once the NBN is built and fully operational, however, ALGA would encourage a review within 12 months from the commencement of the amendments on the extent of use of the maximum width cable, so that action can be taken if requirements are not being met.

Heritage areas

ALGA again takes this opportunity in this submission to reinforce the importance of planning in heritage areas, as they may not necessarily fall under the LIFD. Councils which have dealt with heritage areas in the early rollout considered co-locating infrastructure (Fibre Access Nodes and Fibre Distribution Hubs) with other infrastructure such as bus stops and park benches to minimise visual impact. ALGA stresses the importance of proper consultation in relation to heritage and special environmental areas.

ALGA
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