30 October 2020

Rachel Blackwood
Assistant Secretary
Spectrum & Telecommunications Deployment Branch
Department of Infrastructure, Transport, Regional Development and Communications
BY EMAIL

Dear Ms Blackwood

Subject: **Submission – Improving the telecommunications powers and immunities framework paper**

Thank you for the opportunity to make a submission to the Department's paper, *Improving the telecommunications powers and immunities framework*. This submission has been prepared by staff from Lake Macquarie City Council.

Council staff understand the potential opportunities 5G presents for our community and local businesses. However, staff are concerned about the potential impact of the 5G rollout on the public domain. 5G requires an increase in telecommunications equipment deployment and the cumulative visual impact of this could affect the amenity of public places and spaces and undermine broader community confidence in distributed communications systems. Public confidence is a critical issue in its own right and Council staff encourage the Commonwealth to not only consider providing consistent information in the form of fact sheets for those in the community concerned about communications infrastructure but also develop proactive community education campaigns.

Staff encourage improved engagement around the delivery of 5G between carriers and local government to deliver the best outcomes for the public.

Staff would welcome the opportunity to participate in any further engagement undertaken in relation to improving the telecommunications powers and immunities framework.

[redacted]

Should you have any questions in relation to the enclosed information, please contact [redacted]

Yours sincerely

[redacted]

[redacted]

1. Safety and Notification

A. Creation of a primary safety condition

Council staff view the safe installation and ongoing maintenance of carrier equipment as paramount given the increase in equipment being deployed as part of the 5G rollout. Of particular concern in the protection of public safety in relation to equipment deployed in the public realm on existing assets and infrastructure. This equipment should never compromise the structural integrity of these assets and infrastructure.

Council staff support further highlighting safety via the creation of a primary safety condition in the Code of Practice. Reaffirmation of the importance of safety in the Code would help assure carrier compliance.

B. Standard notifications across industry

Council staff support having standard notifications across the industry. Standardisation via a notification template will make it easier to understand notifications from different carriers, and this is of particular importance as the number of notifications will likely rise with the rollout of 5G equipment.

Instead of developing a new separate industry code to set the format for standardising notifications, a condition prescribing the format of a notification letter could be included in the Code of Practice.

Council staff suggest that local government should be treated the same as public utilities and other road authorities when it comes to providing information as part of the notification process. As an asset/infrastructure owner receiving the technical drawings or plans, and the standards applicable to the activity is important for local government to assess the impacts.

Having to request this information, given the short notification period for an objection to be lodged, may lead to information not being received on time. There is a risk that, without access to sufficient information to assess impacts, it will lead to assumptions being relied upon, which in turn makes it difficult for the Council to formalise its position and be accurate in its assessments.

C. Withdrawal of notifications

Council staff believe withdrawals will support greater interaction and engagement between carriers and land/asset owners. Staff support requiring carriers to issue a withdrawal notice for works they are not going ahead with or work that is indefinitely delayed and that a formal requirement for a carrier to withdraw a notice should be added to the Code of Practice.

With the pending increase of equipment deployment due to the 5G rollout and the proposed use of poles as low-impact facilities, the withdrawal of notifications for work will be important to reduce confusion avoid impact on activity planning for Council, and minimise service growth restrictions between competing providers.

Withdrawal notices should be issued as soon as a carrier knows that the work is not going ahead or will be indefinitely delayed.

D. Requirement for engineering certification

The majority of the deployments will require some form of engineering certification prior to their operation. Council staff do not consider issuing a copy of this certificate to the landowner to be a burdensome process.

Staff support formally requiring carriers to provide engineering certificates. Engineering certificates should be regulated by the Code of Practice, which will ensure the deployment of carrier equipment does not impact the structural integrity of existing assets/infrastructure.

The increasing amount of equipment being deployed due to the 5G rollout brings with it risks that can be mitigated with engineering certification before and after installation. In the case of the proposed poles being specified as low-impact facilities, it would be vital for new poles to have engineering certification before they are installed, in particular around ensuring adequate footings are provided. Baseline information about the engineering limits of poles will be critical to protecting community safety as poles accommodate additional or replacement devices.

E. Extension of notification timeframes

Council staff support encouraging early engagement by carriers before formal notification. Further, staff suggest that a new industry code registered by the ACMA should include a commitment to greater engagement and regular meetings with local government as well as public utilities and road authorities.

The proposed amendment to Schedule 3 of the Telecommunications Act to extend the minimum notification timeframe to 20 days for public utilities and road authorities should extend to local government to give sufficient time for local governments to evaluate the impact of the proposed activity.

It is important that notifications contain sufficient information to support local governments in their evaluation of the proposed activity, including technical drawings or plans, and the standards applicable to the activity. Having to request this information, given the short notification period for an objection to be lodged, could lead to information not being received on time. There is a risk that, without access to sufficient information to assess impacts, it will lead to assumptions being relied upon, which in turn makes it difficult for the Council to formalise its position.

As part of the notification and objection process a request for additional information should allow sufficient time for the carrier to provide the information and the landowner/occupier sufficient time to assess impact based on that information. Council staff suggest that if additional information is requested that the activity be paused until the carrier delivers the requested additional information and that the landowner/occupier is then given 10 days from receipt of that additional information to place an objection.

2. Objections and protections

A. Clarifying objections processes for landowners

Council staff support providing more clarity around the objections process for landowners/occupiers and the development of factsheets for different audiences, including the general public.

Council is often contacted by residents concerned with works being undertaken by carriers, and it would be helpful to have a set of standardised plain English factsheets to distribute. Standardised factsheets could also ensure consistent information is disseminated by different stakeholders.

B. Allowing carriers to refer objections to the TIO

Council staff are concerned that by allowing carriers to refer objections to the TIO that carriers may exit negotiations to resolve disputes with landowners/occupiers early.

Staff support having a deadline for carriers to submit a request to the TIO when a landowner requests that the dispute be taken to the TIO. This will make the process clear for all parties and provide consistency across the industry. Staff suggest that the carrier must refer the objection to the TIO within 5 business days of the request being received by the carrier.

C. Removal of redundant equipment

Redundant equipment will be a growing problem as more equipment is deployed as part of the 5G rollout and the rapid introduction of new technologies. Council staff suggest that measures be taken to avoid ageing, redundant, visual clutter affecting local amenity. It is also desirable to encourage recycling or reuse of poles if they must be removed. Promoting circular economy principles and sovereign manufacturing capability is in the national interest.

Carriers should be required to notify landowners when equipment has become redundant, and the removal of redundant equipment that is above ground should be done within a reasonable timeframe of a request by a landowner to reduce visual amenity impact. Staff suggest that a maximum timeframe for removal of redundant equipment be set, such as within six months of a request being made to the carrier.

Staff would encourage carriers to look to install new equipment in the same place as redundant equipment, thus creating a single activity by which redundant equipment is removed and replaced by new. Engineering certificates, as discussed earlier, will be useful in situations where a pole is intended for re-use.

3. Services in line with community expectations

A. Improving coverage through better facilities, where safe

Council staff support the rollout of technologies that bring better coverage to rural and regional areas.

Staff support the proposed extension of antenna protrusions from a structure from 3m to 5m in industrial and rural areas only and that they are required to be colour-matched

to their background, or in a colour agreed in writing between the carrier and the relevant local government authority.

Staff do not support the proposed extension of antenna protrusions from a structure from 3m to 5m in residential or commercial areas due to the potential visual amenity impact.

The proposed increase of satellite dish diameter in industrial and rural areas from 1.8m to 2.4m is a 33% increase in size, resulting in greater visual bulk and potential for impacting visual amenity. Not all industrial lands are buffered from residential developments. Visual context of the site should be considered, and there should be conditions to ensure minimum separation from residential uses if this increase is specified as a low-impact facility. Likewise, staff are concerned about the negative visual impact in scenic rural areas and the need for the visual context of the site to be considered.

Staff support the proposed specification of radiocommunications lens antennae as a new low-impact facility in industrial and rural areas provided that a limit is set on the dimensions of the antennae and that they are required to be colour-matched to their background, or in a colour agreed in writing between the carrier and the relevant local government authority.

B. Improving coverage through tower extensions

Tower extensions in commercial areas should be assessed against their visual impact on a site by site basis given commercial areas often adjoin residential areas. Council staff do not support the proposed allowance of an extension up to 5m to existing towers in commercial areas.

C. Allow small cell deployments on poles rather than on utilities

Council staff do not support smart/slim poles being specified as low-impact facilities, for the following reasons:

- Poles are a significant piece of infrastructure
- Poles will usually require significant construction work to be undertaken to install footings, conduits for services etc. potentially impacting their surrounds and existing underground services
- Construction and ongoing maintenance activities may have an environmental impact and should not occur in or near sensitive environments such as in endangered or threatened ecological communities
- Incorrectly located poles can impact the usability and safety of a space
- Poles have a visual impact and can negatively impact scenic amenity. Installations need to be carefully considered before being installed in visually sensitive locations such as foreshore areas, parks, heritage areas, ridgelines, bushland reserves etc.
- From an urban design perspective, staff are concerned that poles with not aesthetically match the existing poles in the area and that areas disturbed by the pole installation (such as due to conduit trenching) will not be remediated to look the same as what was there before, impacting the visual amenity and the careful design of and investment that has been made in public places and spaces

- Poles could be clustered together due to different carriers not co-locating their equipment on the same pole, possibly leading to an excess in poles being installed
- Equipment cabinets at ground level next to/near poles may impact the amenity, usability and safety of public spaces
- In the case of replacing existing public infrastructure, staff are concerned that:
    - existing uses such as lighting will not be replaced
    - the original infrastructure owner will not be compensated for the loss of the use of the infrastructure they have invested in
    - the original infrastructure owner will lose access to be able to use that infrastructure for things such as installing smart city sensors
- Equipment installed on poles in addition to small cell telecommunications facilities could be used by the carrier or third parties to collect data on the public. Staff are concerned about the ethics, security and privacy implications of data collected about the public on public land.
- Redundant poles left in situ on Council land could become a public liability as they age

In addition to the above, Council staff are concerned about poles being installed on or near Council land that is bushfire prone. This may require the need for an asset protection zone to be established and maintained, for example the NSW Rural Fire Service practice note "Telecommunication Towers in Bush Fire Prone Areas" requires telecommunications towers to have a 10m asset protection zone. Staff are concerned that councils may end up having to establish and maintain these asset protection zones.

While staff do not support it, if the Federal Government does decide to go through with specifying smart/slim poles as low-impact facilities, staff suggest the following conditions be applied:

Subject	**Proposed condition(s)**

Pole location	• a pole can only be installed on public land
	• a pole cannot be located:
	  • within a heritage conservation area
	  • in close proximity to heritage significant items
	  • in a foreshore area
	  • in locations with high visual sensitivity as identified by the relevant local government authority
	  • in or near sensitive environments including endangered/threatened ecological communities
	  • in a place where it will disrupt the existing use of that place
	  • in a place where it would pose a risk to public safety
	  • in close proximity to another carrier's pole (co-location of small cells should be encouraged)
	  • in close proximity to existing public infrastructure (the distance will need to vary based on the type of infrastructure)

Subject	Proposed condition(s)
Pole design	• a pole cannot exceed the height of the tallest existing light pole in the area (for clarification, a light pole does not include sports field flood lights) • if no light poles exist close by, the height should be limited to 7 meters, unless agreed in writing between the carrier and the relevant local government authority • the outside diameter of the pole cannot exceed 400mm • the equipment cabinet must be incorporated into the pole to reduce visual impact and take up of public space • a pole must be of a design aesthetic agreed in writing between the carrier and the relevant local government authority

Pole use	• a carrier can only use the pole to support small cell telecommunications facilities, unless otherwise agreed in writing between the carrier and the relevant local government authority
	• another party can only use the pole to support small cell telecommunications facilities, unless that party is
	  • the relevant local government authority, or
	  • the original public infrastructure owner where the public infrastructure has been replaced, or
	  • as otherwise agreed in writing by the relevant local government authority
	• the relevant local government authority can direct the carrier to include lighting in the pole
	• the carrier must allow the relevant local government authority to install their own equipment on the pole e.g. smart city sensors and only charge the local government authority the cost of powering that equipment if the equipment draws power from the pole

Pole construction/ engineering	• areas disturbed as a result of the pole installation shall be remediated to look the same as what was there before pole installation • engineering certification must be provided to the relevant local government authority as part of the notification process prior to installation, it must include the maximum weight of equipment that can be installed on/in the pole in addition to the equipment to be installed by the carrier on/in the pole (this includes small cell, lighting etc.) • post installation engineering certification must be provided to the relevant local government authority within 15 business days of the installation

Subject	Proposed condition(s)

Existing public infrastructure	• a pole cannot be installed in close proximity to existing public infrastructure (the distance will need to vary based on the type of infrastructure)
	• a pole cannot impact upon the use of the existing public infrastructure it is near
	• a pole can replace existing public infrastructure where;
	  • the owner of that infrastructure agrees in writing and;
	  • the functionality of the original infrastructure, including future potential uses, is retained in the new pole e.g. street lighting, unless agreed otherwise by the owner and;
	  • the owner of the original infrastructure is given the right to install their own equipment on/in the pole e.g. smart city sensors, the carrier may only charge them for the cost of powering that equipment if the equipment draws power from the pole and;
	  • in the case where the owner is not a local government authority, the owner must agree to allow the relevant local government authority to install their own equipment on the pole, the carrier may only charge the local government authority the cost of powering that equipment if the equipment draws power from the pole

Other	• if a pole is installed on bushfire prone land, it is the sole responsibility of the carrier to establish and maintain an asset protection zone, if an asset protection zone is required by the relevant rural fire service
	• when a pole becomes redundant the carrier must;
	  • notify the relevant local government authority and;
	  • if requested in writing by the local government authority, remove the pole within 6 months of the request being received and;
	  • when removing the pole undertake any rectification works required to return the site back to what it was before the pole was installed, unless the redundant pole is being replaced by a new pole or the relevant local government authority agrees in writing that rectification works do not need to take place
	• the installation of a pole is subject to consultation in accordance with industry codes and standards, as recognised by the ACMA
	• for large scale deployments carriers are encouraged and able to enter into an agreement with the relevant local government authority (this will lead to reduced work for both parties and better engagement, coordination and outcomes for the public)

D. Encourage co-location of facilities

Co-location should be encouraged to reduce the number of installations of new towers and facilities, in particular in light of the increased amount of equipment required for 5G. However, the structural integrity of assets/infrastructure should not be impacted by the additional co-location of equipment.

Council staff support having a consistent, mandated approach across carriers to measure co-location in order to avoid confusion and ensure that visual amenity is

maintained. Staff suggest that the approach to measuring co-location be added to the Code of Practice to ensure carrier compliance.

Council staff support the proposed co-location volume increase from 25% to 50% in residential and commercial areas, noting that conditions should be put in place to prevent negatively impacting visual amenity and that a mandated approach to measuring co-location be put in place.