

SUBMISSION BY TWEED SHIRE COUNCIL ON

IMPROVING THE TELECOMMUNICATIONS POWERS AND IMMUNITIES FRAMEWORK

Introduction

It is the position of Tweed Shire Council that the location of telecommunications facilities on Council water reservoirs poses an unacceptable risk to the provision of a safe and secure water supply to the residents and businesses of Tweed Shire.

The risk arises:

- due to the roof penetrations used in the installation of equipment, contaminants and some wildlife may enter the water supply posing a significant health risk,
- as the location of telecommunications equipment on reservoir rooves prevents Council staff accessing the roof to undertake repairs or operational activities such as chlorine dosing, and
- as, despite a requirement stipulated in the respective leases, the telecommunications carriers fail to maintain the rooves or make good any damage.

Further, Council (and the Water Industry) has very limited powers available to manage this situation.

A typical roof with telecommunications facilities installed upon it, showing numerous penetrations and holes, is shown below.



In the case of Tweed, leases for the location of telecommunications facilities at reservoir sites have expired. Despite Council providing up to 4 years' notice that the leases would not be renewed, most carriers have been reluctant in taking steps to remove their facilities. Council has no power to "evict" the carriers as would occur in any other occupational commercial lease agreement.

As an example, in the case of one carrier, the lease expired in 2015. Notice has been given to the carrier on numerous occasions, starting in 2014, advising them that the lease would not be renewed and that Council would consider the erection of a monopole at the same site to facilitate the removal of equipment. Notices to vacate were served on the carrier to remove their equipment. A Development Application (DA) to erect a monopole has been approved by Council. The carrier, in the DA, estimated the cost of the monopole at \$150,000.

Council has proposed a lease fee for the monopole leased area. This lease fee is less than the lease fee that the carrier is currently paying on the expired leases for equipment on the reservoirs at the site. The proposed lease fee is consistent with lease fees considered by IPART.

The carrier has claimed that this lease fee, proposed by Council, is unacceptable stating "...

Council are forcing this move at great expense to the carriers and concessions need to be made"

and that the cost of relocating to the monopole is in the vicinity of \$1,000,000; a claim which is contrary to the advice provided in their DA.

The carrier does not want to pay any lease fee to Council for the monopole site. It is difficult for Council, as a public authority with a responsibility to obtain value for money for its residents, to agree to nil rental for the use of Council-owned land.

Within that context Council provides the following responses to the proposals raised in the Issues Paper.

Responses to Issues Paper

Creation of Primary Safety Condition

There is discussion that carriers must do as little damage as practicable and comply with good practice etc but nowhere in the section does it address the issue that the location of telecommunication facilities on other utility's assets poses a risk to that utility being able to fulfil its statutory obligations. The words used are "interfere as little as possible". For example, a telco facility on a road sign could make the sign unsafe or interfere with sight distances. A telco facility on a reservoir places at risk the ability of the utility to provide safe drinking water. The words used "interfere as little as possible" permit the telco's to place at risk other essential services.

The location of telco facilities should not impair or place at risk the ability of the asset owner to deliver its services.

The prompt questions do not lead persons preparing submissions to address the issue of the risk, posed by the location of telecommunication asset on an asset owned by a utility, to services being provided by an asset owner and how present risks are removed.

Standard Notifications

While Council may agree with the proposal, included in the proposal should be “stop the clock provisions” which apply to all other development proposals. The provisions would be used where inadequate information has been provided or further clarification on a proposal is required.

Similarly, a sunset or expiry date should apply to notifications. That is, if a notification is made, that notification expires after a period of one year and a withdrawal notice must be provided.

Provision of Engineering Certification

It has been found in practice that carriers do not accept the liability for loss or damage to assets owned by utility owners. There are numerous examples of this showing holes in reservoir rooves and structural damage to assets. Although proposed, unless there is a simple mechanism to pursue that liability, it will continue to be frustrating for asset owners.

Clarifying the Objection Process

While it is agreed that the process should be clarified, it should also be extended to address issues such as removal of equipment at end of lease, where the utility owner now requires land/structures being used by carriers or where the carriers’ installation poses a risk to the services provided by the utility.

Carriers refer objections to TIO

Agreed.

Removal of Redundant Equipment

Redundant equipment should be removed from utility assets within 3 months of it becoming redundant. The issue is, how will the asset owner become aware that the equipment is redundant?

Advice needs to be given to asset owners, on a periodic basis, on the status of equipment installed on sites.

Improve coverage through better infrastructure

Whilst improved coverage will be achieved through better infrastructure, appropriate approvals / community consultation must also be undertaken (where required).

Improve coverage through tower extensions

Although the extension of towers may be seen as a better alternative (as opposed to new towers), appropriate approvals must be obtained (where required) and community consultation undertaken to identify any possible issues associated with the extension of a tower, including (but not limited to): visual impact; removal of native vegetation; erosion and sediment control for the footprint of the facility as well as access provisions; bushfire prone areas; and EME report.

Allowing Deployment on Poles rather than on Utilities

It is agreed that deployment of carrier facilities should be on poles but there is a reluctance of some carriers to do this as noted above.

In the case of Tweed, leases to occupy sites on reservoirs expired a number of years ago. The carrier was given notice in 2014 that on the expiry of the lease equipment would have to be removed from the reservoir. A DA for the construction of a monopole has been approved. The carrier advised that the cost of the monopole was \$150,000. The lease conditions for the occupation of the site are similar to the lease conditions that existed prior to the expiry of the lease. The carrier refuses to construct the pole and remove assets from the reservoir unless they pay no lease fee for the monopole site.

In this case, although the movement to a pole is viable the carrier refuses to do so. There should be a simple process where carriers are directed to move to a monopole or other assets where such an alternate or alternatives exist.

Encourage the co-location of facilities

This is agreed. In the case of Tweed such discussions have been facilitated resulting in the agreement of carriers to co locate on monopoles when constructed.