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Assistant Secretary

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Dear Rachel

**Re: Improving the Telecommunications Powers and Immunities Framework**

VicTrack owns Victoria's rail transport land and assets on behalf of the Victorian Government. We work to ensure those assets, including land, infrastructure, trams, trains and telecommunications networks, serve Victorians now and well into the future.

We are a state-owned organisation that works alongside transport partners such as the Victorian Department of Transport, Metro Trains Melbourne, Yarra Trams and V/Line. Not only do we manage a large portfolio of land in Victoria we also hold a Telecommunications Carrier Licence.

In 2018, the Victorian Minister for Public Transport designated VicTrack's Telecommunications Network 'vital critical infrastructure' pursuant to S74E of the Emergency Management Act 2013. Vital critical infrastructure is of state significance and therefore critical to the continuity of the supply of essential services to the state.

As an owner and operator of vital critical infrastructure, VicTrack recognises its obligations through a business resilience orientated approach in preparing for, responding to and recovering from disruptions that may significantly impact its ability to deliver telecommunication services that support public transport.

Therefore, VicTrack has a unique perspective on the proposed changes to the Telecommunications Powers & Immunities, as we have the ability to utilise the Telecommunications Act and as a large land holder, we have the Telecommunications Act utilised on us.

We currently receive between two and six LAAN (notices) per week. We review and consult with the applicant with regards to scope, validity and requirements. As a transport provider and more importantly an accredited provider under ONSR we have a duty of care when any applicant wants to conduct work on our land.

It should be noted that VicTrack takes a very serious approach when we are served with a LAAN. In the last 12 months we have rejected many notices on the basis of validity, the way in which it was served and general lack of professionalism when

serving these documents. We have, recently, provided feedback to ACMA with regards to these issues.

With regards to the document in question we have reviewed the proposed changes and below is our formal response:

#### **Section 1A**

- VicTrack supports the proposal to make the existing safety obligations more explicit. In most cases the facilities to which the carriers deploy on our land are in and around the rail corridor or in the public space of train stations and the such.
- In most cases when a new facility is deployed VicTrack inspects the new facility for compliance to certain safety obligations. We do this as we have the necessary expertise to be able to understand and investigate the obligations of the carriers. However, it is apparent that the wider community does not have this same level of expertise and that a stricter interpretation of the enforcement of these safety obligations would benefit the community.

#### **Section 1B**

- The standard of LAAN notices being issued on behalf of the carriers has declined greatly since the rollout of the NBN network. It is seldom found that a carrier would directly serve a LAAN, instead using contractors and sub-contractors to issue them on their behalf. We have found over the years the decline in the quality and professionalism that the notices are served are directly attributed to the lack of training the carriers give to their contractors. It is our opinion that only carriers with carrier licences should have the ability to serve LAANs and that they cannot contract out these services.
- We have also found a severe lack of detail in the scope of work described in these notices, often the notice very vaguely describes the prescribed works. In some extreme cases it seems that the notice has been copied and pasted from a previous one. We believe the industry would benefit from a template notification and that steps are published on the correct way to serve these notifications.

#### **Section 1C**

- Generally, VicTrack will require the applicant who has served the LAAN to submit an application for a Permit to Work, so that we can accurately account for people accessing the land/rail corridor, therefore the withdrawal of notifications isn't something we are specifically concerned about.
- However, in general, we support the proposal to have the carriers withdraw their LAAN notices if the works are not going to commence by the prescribed date.
- It is apparent that the process the carriers utilise, by using contractors and sub-contractors, exacerbates this issue. The contractor is engaged to serve the notice and they do so with no regards to the actual construction start date. Often the notice will have a six-month time frame and the works won't start until well after the proposed commencement date.

## **Section 1D**

- It is of paramount concern to VicTrack to make sure that any facility being deployed on VicTrack land and assets complies to not only Australian Standards but with VicTrack specific standards.
- We generally have to follow up with the carriers for engineering certificates and associated reports.
- We support the proposal for engineering certificates to be supplied to the landowner within a prescribed time frame.

## **Section 1E**

- Large public utilities and similar landowners have struggled with a 10-business day objection window.
- VicTrack also has this issue, for the notice to be issued, processed internally and then sent to relevant stakeholders for review and comment within the 10-business day time frame can become difficult to achieve.
- We would support any proposal that increases the timeframes in which the carrier would have to give the public utility landowners.
- We also suggest in a post COVID-19 environment where many people are working from home, issuing notices via mail may not make it into the correct stakeholders at these large utilities in a timely fashion. Could ACMA create a database of contact details of public utilities including relevant email addresses that applicants could reference?

## **Section 2A**

- VicTrack has a relatively good understanding of the objection process, however we understand that for the general public who have these notifications served on them the understanding of the process can be overwhelming.
- The carriers have shielded themselves behind the confusing nature of these notices with respect to the objection process and the general rights the entity has that has had the notice served on them.
- We propose that a comprehensive website be linked into these notices, where the recipient of the LAAN can go on to for advice.

## **Section 2B**

- No objections to the proposal to allow the carriers to refer objections to the TIO.

## **Section 2C**

- VicTrack has continued concern over the safe and effective removal of underground assets originally deployed by the carrier.
- It is seldom that VicTrack is aware if a carrier has abandoned their infrastructure on site, specifically underground.
- We build into our tenure agreements with the carriers strict make good clauses that they need to adhere to. However, as infrastructure deployed under a LAAN we have no visibility over if it is still in use and or if it has been removed.

- We support a proposal in which the enforcement of the removal of redundant/abandoned infrastructure is regulated in some form.

### **Section 3A**

- VicTrack has serious concerns with this proposal. By increasing the height from three metres to five metres for antenna protrusions, only serves for the over engineering by the carriers on site. Over the last 10 years we have seen dramatic advancements in the mobile telecommunications equipment and development. The ever increasing size of antennas and different types of equipment for mobile coverage have saturated the facilities with many facilities cluttered with equipment. Extending the height to five metres only serves the purpose of increased clutter and decreased visual aesthetics.
- This proposal also doesn't allow the landowner rights to increased revenue derived from site. As the site will still only take up the same ground area, there isn't the protection of three metres for the landowner. This would be a concern on all existing sites that the carriers have deployed on, they could issue LAAN and go up two metres extra, creating an unappealing visual spectacle with no way for the landowner to accrue extra rent.

### **Section 3B**

- VicTrack doesn't have any specific concerns with this proposal, however we would caution that this be reviewed, and certain structural factors be considered.
- In most cases existing towers have been engineered to account for the height and equipment that was originally deployed, extending the towers to five metres is for two reasons. 1) to gain extra height for coverage reasons 2) to give extra aperture on the pole for extra equipment deployment. This then creates an issue of overloaded structures. Carriers have been rolling out structural strengthening designs on existing towers for many years, but we have seen a shift to a very unappealing 'steel jacket' design. This basically doubles the radius of the pole and creates a very unappealing visual appearance of the facilities.
- This proposal coupled with the proposals in Section 3D create the opportunity for these very unappealing designs to be rolled out as a standard. I implore you to review both 3B & 3D with respect to structural strengthening situations of existing facilities.

### **Section 3C**

- VicTrack does not support the proposal to include smart poles & slim poles as a classified low-impact facility. These small cell facilities would generally be rolled out in high density locations, for example large sporting precincts, CBDs and heavily trafficked parkland.
- These smart poles will be an added structure to the street scape, along with their ground cabinet component, this will drastically increase the street furniture that already clutters our cities.
- Smart poles are also very light weight and generally can only accommodate one carrier, therefore they don't encourage the deployment of co-locating facilities.

- We would only support this proposal if certain protections are written into the determination, stating that this option should be a last resort after investigating existing infrastructure, and negotiating with the relevant landowner or utility.
- If the proposal does get added and amended, we would like to see certain protections put in place so that the smart poles/slim poles cannot and will not affect any other structure/infrastructure in the general vicinity, specifically with regards to access, RF/EME concerns.

### **Section 3D**

- As described in our response on Section 3B we are wary of any change to the existing restrictions with concern over the over engineering of existing facilities.
- However, VicTrack does strongly support a further push to encourage carriers to co-locate where possible.
- We would support an increase to 50% in commercial areas and no change to the existing 25% rule in residential areas, along with a prescribed distance barrier between the commercial and residential areas. There are many examples of facilities being deployed in commercial areas that abut residential areas.

Yours sincerely

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