

21 July 2017

Director, Construction Policy
Department of Communications and the Arts
GPO Box 2154
CANBERRA ACT 2615

Dear Sir/Madam

City of Boroondara submission - Possible amendments to telecommunications carrier powers and immunities

This submission from the City of Boroondara is in response to the consultation paper issued by the Department of Communications and Arts (the Department) on 9 June 2017. Although the discussion paper was issued some six weeks ago, we are concerned notification of the possible amendments and opportunity to make a submission has been insufficient. We have been advised by the Department that its method of disseminating the consultation materials was via the Australian Local Government Association and through it to State associations, rather than the Department making an effort to contact councils directly. While this may have been an expedient process for the Department, we consider direct contact with councils should also have been undertaken, given the nature of the proposals and the potential impact of these on local communities. Given the process undertaken, we were not aware of the proposals until relatively late in the consultation process. Accordingly, the comments in this submission reflect initial feedback in order to meet the consultation closing date and may be followed by additional information based on further detailed review of the proposals. The comments are also made by senior council officers, with insufficient time to date for Council to formally endorse this submission.

By way of background, the City of Boroondara is located in inner eastern Melbourne and includes the suburbs of Ashburton, Balwyn, Balwyn North, Camberwell, Canterbury, Deepdene, Hawthorn, Hawthorn East, Kew and Kew East, and parts of Glen Iris, Surrey Hills and Mont Albert. Boroondara has an estimated residential population of 174,787 people (as at 30 June 2015).

We note the desire by telecommunication carriers to reduce the level of regulation with which they must comply. While agreeing with the principle of removing unnecessary red tape, we strongly believe the desire of carriers needs to be balanced with appropriate regulation to protect the amenity and liveability that local communities enjoy, particularly in residential areas.

As a general comment, we believe many of the proposals made in the consultation paper unreasonably put the carriers' commercial interests ahead of the needs and interests of local communities. These proposals shut local governments out of the decision making process and override important planning and consultation provisions. Boroondara Council represents its local community and has an important role in assessing developments and proposals for infrastructure that will impact the local community, including telecommunications facilities. Specific examples of proposals in the consultation paper with which we are particularly concerned are set out as follows:

- Allowing low impact facilities to be installed in an area subject to a local government heritage overlay or urban conservation map, provided the area or building directly being used is not itself listed on a heritage register. The Low Impact Facilities Determination (LFID) should not override Council's own heritage provisions and planning requirements, which are determined through a detailed investigative and community engagement process.
- Increasing the amount to which antennas and their mounts can protrude above a building or structure to 5 metres, a 67% increase in protrusion height from the current 3 metre requirement. This is a significant increase which could detrimentally impact amenity, particularly in residential areas.
- Allowing equipment installed inside a structure located in residential areas to be low-impact if the building or structure is not used for residential purposes, and granting carriers the right to enter land (including public areas of buildings) for this purpose.
- Allowing tower height extensions of up to five metres in commercial areas. While noting it is not proposed to extend this requirement to residential areas, there can nonetheless be amenity impacts from such extensions in commercial areas depending on their siting and location.
- Adding radiocommunications lens antennas, with a substantive volume of up to 4 cubic metres, to the LFID in residential and commercial areas. Such facilities could have a significant amenity impact depending on their location.
- Adding to the LFID cabinets for tower equipment up to 3 metres high with a base area of up to 2 metres. Again, these could have a significant and intrusive impact.
- Increasing the length of trench that can be open at any time to install conduit or cable from 100 to 200 metres. While wanting to ensure that work can be conducted efficiently, there is nonetheless a real disturbance and inconvenience to the public that comes from closure of roads and footpaths associated with trench openings, particularly in high traffic areas. We believe this needs further assessment of the impacts.
- Removing the current volume restrictions on co-located facilities in commercial areas and increasing the volume limit in residential areas. While generally supportive of co-locating facilities rather than building new towers to house facilities, Council approval should still be required if new facilities are added to Council assets.



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- Reducing the objection period in the Tel Code to 5 business days for some land entry activities and all low impact facility installation and maintenance activities. We consider the 5 day period is not adequate, given the time required to properly assess proposals for these activities.
- Allowing poles up to 12 metres high and up to 500 mm in diameter supporting cabling for the National Broadband Network (NBN) to be specified as a low impact facility in all areas. We strongly disagree with this proposal. Boroondara has previously argued strongly that NBN rollout activities within the street should use underground cabling rather than running additional overhead cabling (and poles). Additional overhead cabling detracts significantly from the streetscape and can create conflict with important street trees. It is not reasonable for poles for telecommunications and electricity cabling for telecommunications networks to be classified as low impact facilities.
- Allowing installation of replacement mobile towers within 20 metres of the original tower, rather than the current requirement for replacement towers to be in the same location. We strongly disagree with this proposal. There can be significant impacts from even a small change in location. Any tower proposed for a site different from the original site should require an assessment and approval process as if it were a new tower.
- Allowing existing towers to be extended by up to 10 metres in commercial industrial and rural areas without the need for planning approvals. 10 metres is a significant increase in size. We consider proposed changes of this magnitude should be subject to normal planning assessment and approval processes.

In summary, we consider many of the proposals outlined in the consultation paper could have a significant impact on local communities and would inappropriately remove the ability for Council to assess the impact of activities on the local community. We also consider further consultation should be undertaken with regard the proposed changes to ensure all stakeholders are directly informed of the proposed changes and providing the ability for all comments to be heard in the consultation process.

Should you require any further information on our submission please contact me on 9278 4500.

Yours sincerely

Bruce Dobson
Director Environment and Infrastructure