



AUSTRALIAN LOCAL
GOVERNMENT ASSOCIATION

Dr Imogen Colton
Manager, Carrier Powers and Immunities
NBN Implementation Division
Department of Broadband Communications and the Digital Economy
Via email to LIFD@dbcde.gov.au

6 September 2011

Dear Dr Colton

The Australian Local Government Association (ALGA) appreciates the opportunity to make a submission to the consultation draft on the proposed amendments to the *Telecommunications (Low-Impact Facilities) Determination 1997* and the *Telecommunications Regulations 2001*.

ALGA has consulted with its state and territory associations in preparing this submission. Comments in this paper should be read in conjunction with submissions made by state and territory associations and councils.

Should you require any further information in relation to the matters raised in this submission, please contact Ms Monica Telesny on telephone (02) 6122 9433 or email monica.telesny@alga.asn.au.

Yours sincerely

A handwritten signature in blue ink that reads "Adrian Beresford-Wylie".

Adrian Beresford-Wylie
Chief Executive

ALGA SUBMISSION TO DRAFT CONSULTATION PAPER ON THE LOW IMPACT FACILITIES DETERMINATION, SEPTEMBER 2011

Introduction

This submission follows the invitation of the Minister for Broadband, Communications and the Digital Economy to respond to the consultation draft on the proposed amendments to the *Telecommunications (Low-Impact Facilities) Determination 1997* and the *Telecommunications Regulations 2001* (released on 10 August 2011).

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, with the Government of the ACT being a direct member of ALGA, reflecting its unique combination of municipal and territory functions.

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

ALGA appreciates the opportunity to comment on the consultation draft on the Low-Impact Facilities Determination (LIFD).

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 LIFD to streamline the rollout to minimise the burden on councils and NBN Co, so that new approvals are not required at various stages of the process, in particular as the rollout reaches its peak and connects up to 6,000 premises per day. ALGA is pleased that current protections are still in place, but in order to facilitate a streamlined process, multiple state and territory regulations would be replaced by one Commonwealth provision.

The Federal Government, through the Department of Broadband, Communications and the Digital Economy and NBN Co has consulted with ALGA and the Department has made itself available in the lead up to, and during, the consultation period to brief state and territory associations and to answer questions. ALGA appreciates the open and transparent consultation process.

Need to streamline the process

Local government understands the need to streamline the rollout of the national broadband network, particularly as the rollout reaches its peak of connecting up to 6,000 premises per day, and supports the need for practical measures to facilitate the rollout.

ALGA, in principle, supports the proposed expansion of the range of facilities that NBN Co could install under the amendment to the LIFD. We accept the government's position that the changes are necessary to implement the long-term economic and social benefits of access to high speed broadband.

Advice from the Department has assured ALGA that the proposed legislation increases the range of facilities which fall under the LIFD, but does not increase the power of the carriers, which must continue to adhere to the requirements relating to installation as set out in the Telecommunications

Act. Local government remains concerned, however, that the extension of the definition may result in adverse impacts on the local amenity and that carriers should be required to consult with local government on the nature of the installations.

Requirements of carriers under the LIFD

The assurance received by ALGA from the Department is that current powers afforded to carriers will not increase. Although carriers may install low-impact facilities without being subject to a number of state and territory laws, the owner or occupier must be notified and has the opportunity to make an objection.

Provided that the requirements of the Telecommunications Act continue to apply, namely the notification and objection processes for landowners and occupiers where a facility is proposed to be installed, as well as a number of other requirements, such as doing as little damage as practicable and restoring work sites, ALGA supports the proposed amendments. There is also provision for compensation if a person suffers loss or damage as a result of activities carried out under the Determination.

ALGA also understands that the Minister may make further amendments, by written instrument, to specify additional low impact facilities. If further amendments are proposed, ALGA would expect to be part of the consultation process and, in turn, consult with its state and territory associations on the impacts of such an extension.

As the rollout increases in intensity, carriers will need to ensure that they continue to comply with the LIFD requirements. When rollout reaches peak volume, and carriers are connecting many thousands of properties each day, greater coordination and organization will be required to ensure that adequate notification is given to local government, owners and occupiers, to ensure public awareness and to recognize community sensitivities. Experience of the rollout in the first release site councils has been at a far lower intensity and ALGA is concerned that carriers maintain their responsibilities in terms of consultation, notification and restoration. ALGA recommends that the government monitor carriers to ensure that adequate consultation, notification and restoration continue to be provided as the rollout intensifies. ALGA believes it is very important that open and transparent processes are maintained throughout the rollout.

Legal obligations

ALGA would encourage the government to publicise the obligations that carriers are required to adhere to in the rollout, namely liaison, notification, to cause as little damage as practicable when rolling out its facilities, and to restore work sites within reasonable timeframes. Similarly, ALGA would encourage the government and NBN Co to publicise the processes available to resolve any concerns on the part of affected authorities and property owners. Understanding of the processes and obligations will help to alleviate local community concerns and apprehension.

Cabling diameter measurements

Under the proposed amendments, overhead cable diameter measurement will be increased from 13mm to a maximum of 30mm. Technical advice received from the Department is that the diameter in most instances will be less than the 30mm maximum. Single dwelling units will be able to have a drop cable of up to 13mm in diameter, which in multi-unit developments can be up to 30mm diameter.

ALGA has consulted with state and territory associations about the maximum diameter specifications. Where cables are required to be overhead, they will be co-located with existing electricity cabling. ALGA accepts that these specifications are necessary for achieving nationwide rollout at the broadband capabilities desired.

However, ALGA has continued to ask that cabling, wherever possible, should 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.

Extension of 'in-building' definition

The current Determination includes a facility known as "in-building network equipment" to enable connection in multi-unit buildings.

The proposed amendment will expand that definition to assist the rollout where facilities need to be installed before a retail service provider has a subscriber in the building. The expanded definition will apply to subscribers in surrounding buildings and to service adjacent equipment (non-premises), such as traffic lights, ATM terminals, alarm systems, CCTV etc. ALGA understands that these facilities could either be housed together with the cabling for domestic and business use, and co-located in the Multiple Dwelling Unit (MDU) or could require a separate unit on the street, but that requirements are somewhat discretionary. ALGA suggests that as the new arrangements are implemented and trialed, the government and NBN Co reassess and codify the most effective way to implement the non-premises connections.

A maximum size has been set for 'building connection equipment' and 'in-building network equipment', however NBN Co would be able to install multiple facilities in the one location. NBN Co has advised that the largest facility being considered is capable of serving 90 end users.

The operation of these extended provisions may need some refinement based on early experience during the rollout. ALGA understands that these are practical measures to assist and facilitate the rollout, however, it is important to monitor and reassess the impact and ramifications of the new provisions and have the flexibility to revise them if necessary.

The need for further amendments by the Minister

While ALGA has no specific concerns with the proposed amendments at this time, we believe that once the amendments and expanded provisions are "road tested" there may need to be modifications and further amendments. ALGA understands that such amendments may be made through a further determination under subclause 6(3) of Schedule 3 to the Telecommunications Act 1997, which determines which facilities are low-impact facilities.

Environment and heritage considerations

The proposed amendments refer to minor housekeeping to update references to environment and heritage protection legislation. ALGA understands these are still being drafted, and will be minor amendments to update regulations which have been superseded by recent legislation.

ALGA notes that NBN Co deployment guidelines outline a six-step approach to environmental planning and assessment, and state that environmental assessment is a key element of a successful

rollout of the NBN. The NBN Co Information Pack specifies identification of all areas of environmental significance (as identified by LIFD) and that subsequent siting and design of NBN infrastructure be provided in consultation with local authorities and be sympathetic to local areas of environmental and heritage significance. 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.

Based on the experiences and learnings of the first release NBN Co trial sites, ALGA and NBN Co produced a *Best Practice Guide for Councils when initially dealing with NBN Co* which was released in June 2011. The Guide reinforces 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 consultation in relation to heritage and environmental areas.

ALGA
6 September 2011