

Ms Christine McDonald  
Committee Secretary  
Environment and Communications Legislation and References Committees  
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22 August 2018

Dear Ms McDonald

### **Inquiry into the Telecommunications Legislation Amendment Bill 2018**

The Australian Local Government Association (ALGA) welcomes the opportunity to make this submission to the Inquiry into the Telecommunications Legislation Amendment Bill 2018. ALGA is the national voice of local government in Australia, representing 537 councils across the country. In structure, ALGA is a federation of state and territory Local Government associations. This submission should be read in conjunction with any separate submissions received from state and territory associations as well as individual councils.

#### *General Comments*

- The amendments proposed in the bill have caused serious concern for local government in so far as they override important planning, consultation and safety assessment provisions
- ALGA and the associations view are that temporary communication equipment should be exempt from state and territory planning and council approvals only in the case of emergencies or natural disasters. In other cases, it should be subject to approvals to ensure that there is no interference with other infrastructure or services, heritage, environmentally significant areas, or no increase in the local risk profile.
- The bill proposes that a telecommunications tower is low impact when used to:
  - o Maintain coverage during the maintenance of an existing facility or the construction or installation of a replacement facility. Local governments view is that we should support this only for emergency maintenance (e.g. for events that take out access to the network for extended lengths of time or access to OOO) not for routine maintenance or planned replacement
  - o Provide additional coverage for:
    - an event (such as a concert festival or sporting event) – local government would not support and event unless it was truly one off e.g. celebrating the 100-year anniversary of something on the day itself. Clause 8(B)1 states that the carrier must ensure that the total number of days in calendar year on which these facilities remain does not exceed 183 (applies to facilities installed to service one or more events). This is half a year and would cover the entire winter or summer sporting season, festival seasons etc
    - a peak holiday (school holiday or public holiday) – local government would not support this as these occur annually /are recurring – Clause 8 (c) annual limits of no more than 90 days in a calendar year in that 'place' apply. The bill does not define 'place' so what is to stop the carrier just moving the temporary facility from one street to another. Also 90 days is the entire summer period (longer than the school holidays only) and the majority (or all) of the ski season. Again, this is not temporary but seasonal.
    - Provide services to an emergency services organisation so that the ESO can deal with an emergency or natural disaster – local government would support this.
- Clause 9 requires carriers to restore land. However, they have an appalling track record when it comes to restoring sites that they have accessed in the past and there are no penalties in the bill to enforce the restoration of land.

*Comments in relation to specific Inquiry questions*

**Please outline any risks and concerns in relation to bypassing of current approvals processes for temporary mobile infrastructure deployment?**

Local Government plays an important role in land use planning and development approvals systems in all State and Territories in Australia. Local Governments work closely with their local communities to plan and manage development, while considering a complex array of issues, to deliver liveable communities now and into the future.

Local Governments administer the development assessment process and are able to grant approval, grant approval with conditions, or refuse an application. The controls regulate densities, height, external design and siting, building materials, open space provisions, and in some jurisdictions the level of developer contribution required to cover physical and/or community infrastructure costs arising from the proposed development. Local Governments also have control over the demolition of buildings. Development control also seeks to address a wide range of environmental, social and economic issues. This includes heritage and environmental protection issues. It also considers safety aspects of proposed developments.

Schedule 2 of the Telecommunications Legislation Amendment Bill 2018 should not be able to override Local Government's Heritage provisions or precincts. These areas have been identified to protect the integrity of an area. The fact that a Local Government Heritage overlay is not listed on a heritage register must not lead to the assumption that it has less heritage, cultural or environmental significance. Local Government has heritage provisions under its local planning scheme and the heritage sites have been identified and recognised through an extensive investigation and community engagement process. Uncontrolled access within heritage areas and precincts could adversely impact the integrity of the area.

Similarly, temporary telecommunications infrastructure should not be allowed in areas identified by local governments to be of special cultural, landscape, or environmental value without development approval that has considered the potential impacts and the mitigation and amelioration of those impacts. ALGA stresses the importance of proper community consultation in relation to heritage and areas of special cultural, landscape, or environmental value.

**In your experience, what are the key risks and issues that the current approval processes manage? Or put another way, what types of issues could occur in the absence of the current approvals requirements? Who would they potentially impact? And who would incur the potentially costs?**

Installation of temporary mobile infrastructure without due consideration of safety, heritage and areas of special cultural, landscape, or environmental value as would occur during development assessment could potentially have significant consequences. These would vary depending upon location and type of mobile infrastructure. For example:

- large pieces of infrastructure could obscure sight lines of drivers if placed in the wrong area adjacent to a road or equipment placed adjacent to the coast line may be at risk of being inundated or washed away during storm surges. They can also cause interference with other infrastructure or services, and may increase the local risk profile.
- placement of temporary infrastructure may permanently damage or destroy items of Aboriginal and Torres Strait Islander cultural heritage such as materials deposited on land e.g. middens, scarred trees, and other physical

objects such as stone tools that have been left in situ. In some locations the existence of these artefacts is not known until development assessment processes identify them.

- areas of landscape value can be negatively impacted if the value is related visual amenity e.g. vistas with no made structures, or where vegetation is crushed by vehicle access or the placement of heavy equipment.
- areas of environmental value for example the location of threatened or keystone species can also be damaged by 'development' such as the temporary installation of telecommunications equipment, without planning due diligence being undertaken. In the worst case scenario this could include loss of important species at the local level.

As with the type of impact, the person and/or groups impacted who vary depending on location. Consequently, this would need to be determined on a case by case basis as occurs during the development assessment process.

Who would incur the costs is complex and depending upon the causes and impact would need to be determined legally. Local government and local communities should not bare the costs of any issues or incidence that arise due to the establishment of temporary telecommunications facilities that have not been subject of development approval and community consultation.

**What is the estimated average approval timeframe to requests from mobile carriers to deploy temporary mobile infrastructure?**

Planning systems vary across state and territory boundaries and at present there is no national governance model such as the Local Government and Planning Ministers' Council which used to sit under COAG. Consequently, there is no current data on planning approval timeframes available nationally. There may be available at a state or territory government level but ALGA do not currently have access to this data.

There are potentially opportunities to streamline approval systems for temporary mobile infrastructure for example where the infrastructure is used in a specific location on a seasonal basis and then removed and returned the following season e.g. temporary telecommunications specifically used for the ski season. Potentially one approval would be able to cover the return of the equipment to the same spot for a number of years. This however would need to be negotiated on a state by state basis as each state has different planning legislation and regulatory requirements.

**In your experience, what are the most common reasons for carriers seeking to deploy temporary mobile infrastructure?**

**Please rank the below where possible**

- **sporting events • music festivals • emergency situations • peak holiday demand • to minimise disruption during maintenance of existing facilities**

There are 537 local governments in Australia. ALGA do not have access to this information for each council or indeed on a state by state basis. Anecdotally we have heard that sporting events, music festivals, peak holiday demand and maintenance are the most common.

- **Are there any environmental, land, or health and safety concerns in relation to Schedule 2? If yes, explain how the current processes seek to manage those.**

These have been detailed above.

- **Do you agree that Schedule 2 is appropriate for the purposes of deploying temporary infrastructure in response to an emergency situation or event?**

ALGA and the State and Territory Local Government Associations are of the view that deploying temporary infrastructure without development consent is only appropriate in response to an emergency situation or event.

Please do not hesitate to contact me if you wish to discuss any aspect of our submission or have any questions.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized initial 'R' followed by a series of loops and a long horizontal stroke.

Roz Chivers

Executive Director, Policy and Research