

24 August 2015

Director - Assessment Policy  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Our Ref: 2015/248214

To the Director of Assessment Policy

**Re: Poles and Wires Development Protections Exhibition**

Warringah Council welcomes the opportunity afforded to provide comments on the *NSW Code of Practice for Authorised Network Operators* (Code). Council appreciates the Department of Planning and Environment's efforts in codifying the roles and responsibilities of Authorised Network Operators (ANOs). However, Council wishes to express its concern regarding the level of consultation, self-assessment and oversight that the Code will formalise.

**Codification of consultation with local councils**

Prior to the Code, the existing state owned operators have regularly notified Council of activities which may affect environmentally sensitive areas and sought input from Council. Some of these activities have been relatively minor in nature. This notification process has, in some cases, resulted in the provision of environmental data (e.g. threatened species records) of which the network operator was not aware. This has resulted in positive outcomes for all parties with issues resolved early and at low cost.

The Code does not, in itself, formalise the consultation process with local government. As such, Council is concerned that ANOs will not engage beyond minimum requirements, with local knowledge not being used in the decision making process. It is recommended that the current process of consultation with Council be codified. This will help ensure that the private network operators avoid significant environmental impacts, costs and delays in development.

**Self-assessment Protocols and Oversight**

The Code describes the process of assessment and approval for environmental impacts associated with activities undertaken by ANOs. It is understood that preliminary assessments will form the groundwork for how they are assessed under a class based system. These classes will determine the assessment process for the activities. However, the Code does not provide any descriptions or examples of what activities would fall under the different classes. It is difficult to comment on the framework without examples of activities or development which fall into the specified classes.



This raises concerns regarding the classification system and the level of impacts associated with development. Council has some concern that activities or developments may inappropriately attributed to a lower class when further assessment (e.g. an REF, EIS or SIS) should be undertaken.

#### **Probity of 'authorised persons'**

Further concerns are raised with 'authorised persons' undertaking the final determination tasks. The Code states that the authorised person must not be the same person who conducted the assessment. It is expected that the authorised person will be employed by the same ANO as the assessor. No provisions for probity are explicitly stated in the Code. While audit provisions are included within the Code, it is recommended that more robust transparency measures be implemented to ensure proper handling of assessments.

#### **Conclusion**

Council understands the importance of providing clear guidelines to ANOs and appreciates issues in translating internal policies and procedures into a Code of Practice for the private sector. I hope that this submission aids the Department in modifying the Code in a way that allows for flexibility for ANOs while ensuring transparency, accountability and consultation with local government stakeholders.

Yours faithfully

Peter Robinson  
Group Manager, Strategic Planning