

6th April 2017

Director Industry and Infrastructure Policy
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Attention: Felicity Greenway

Dear Felicity,



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Re: MCF Submission on draft Infrastructure State Environmental Planning Policy – (ISEPP)

Introduction

The Mobile Carriers Forum (MCF) is grateful for the opportunity to again comment on the Department's review of the Infrastructure State Environment Planning Policy (ISEPP).

The Mobile Carriers Forum (MCF) is an industry group representing the three mobile phone carriers deploying networks in Australia, namely Telstra, Optus and Vodafone Hutchison Australia Pty Limited.

As you would appreciate, the MCF has a major interest in the operation of the ISEPP, in particular the exempt and complying development provisions of Division 21 – Telecommunications and

Other Communication Facilities and the associated Schedule 3A. These have been operating since July 2010 and the industry has found that they provide a much improved, efficient and more streamlined regulatory pathway for the consideration of telecommunication proposals in New South Wales.

Background

By way of general background, the MCF brings to your attention the significant economic and social productivity benefits brought to New South Wales communities through the provision of advanced mobile services such as mobile broadband, which depends on the ongoing development and deployment of Carriers' mobile network infrastructure.

Recent research commissioned by AMTA and the Australian Communications and Media Authority (ACMA) found that the current wave of mobile technologies will result in a productivity benefit to the Australian economy of \$11.8 billion over the period to 2025¹ and that in 2015 mobile services led to an estimated increase in Australia's economic activity of \$43 billion, representing about 2.6% of GDP.²

The research also found that the capacity of the mobile sector to enable more productivity growth means that technological developments in the sector and their diffusion throughout the economy has the potential to reverse Australia's declining productivity performance.³

¹ ACMA Centre for International Economics – [The economic impacts of mobile broadband on the Australian economy from 2006 to 2013](#); *Mobile Nation*, Deloitte Access Economics, 2013

² Deloitte Access Economics, [Mobile Nation – Driving workforce participation and productivity](#), p39

³ Peter Harris, Chairman of Productivity Commission, *Australia's productivity performance*, Media Release, 29 April 2014

Therefore, any delay or frustration in the deployment of mobile network infrastructure denies these benefits to the local community, which can be significant, even for a single site or local area. In addition, especially for rural communities, mobile telecommunications can play an important role in emergency and disaster management.

For this reason, it is important the proposed draft ISEPP facilitates ongoing deployment of mobile services while still respecting communities' sensitivity in regard to the minimal impact of this infrastructure on amenity. In no way should the new ISEPP introduce any additional or unreasonable constraints on the provision of what has become an essential service, especially to rural communities.

Specific Comments on State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016

In regard to the changes proposed to Division 21 – Telecommunications and other communication facilities and the associated Schedule 3A in the draft ISEPP, the MCF makes the following comments:

1. **“Further qualify the complying development provisions in Schedule 3A Item 5 such that the location of a new tower is to be located more than 100 m from a dwelling. The amendment is to ensure that a proposed tower, if located on the same lot as a dwelling or if located in specified zones, is at least 100 m from a dwelling.”**

Comment: From our meeting with the Department on 2nd March at your offices in Sydney, the MCF understands this provision arises from two concerns:

- a. Visual Impact – in regard to visual impact, the MCF understands the Department's intention is to protect the visual amenity of those residences in the immediate vicinity of the development. Notwithstanding the subjective nature of this assessment, the MCF believes that it is important to restrict this consideration to adjoining or neighbouring lots only. Owners of dwellings on the same lot have implicitly provided consent for the development by entering into a lease with the Carriers to host the development. Further, as owners of the lot, they are best placed to determine where to place the development within their lot so as to minimise its impact on their own amenity.

The MCF therefore suggests that wording to the effect that the provision only applies to dwellings on adjoining or neighbouring lots be explicitly stated in the amendment.

- b. EME and Health Concerns – in regard to exposure of the public to electromagnetic energy (EME) from mobile telecommunications infrastructure, all such infrastructure must meet the safety limits prescribed in the Australian safety standard published by the Australian Radiation and Nuclear Safety Agency (ARPANSA) and which are based on international standards supported by the World Health Organisation (WHO). In relation to exposure from mobile technology which meets these standards, ARPANSA have said:

Health authorities around the world, including ARPANSA and the World Health Organization, have examined the scientific evidence regarding possible health effects from base stations. Current research indicates that there are no established health effects from the low exposure to the RF EME from mobile phone base station antennas.⁴

• ⁴ ARPANSA Statement on Mobile Phone Base Stations (Fact Sheet, 2015)

Typically, exposure to the general public from mobile telecommunications infrastructure is hundreds of times below the Australian safety standard. In regard to precautionary approaches which nonetheless seek to reduce exposure even further below the Australian safety standards by mandating additional separations from mobile infrastructure, the Federal government regulator, the Australian Communications and Media Authority (ACMA) has said

“While carriers must consider the implications of community sensitive locations, they may still place infrastructure at such sites or nearby. The code does not specify a distance at which infrastructure must be sited from community sensitive locations.

All mobile phone base stations must comply with the mandatory regulations for EME. In some instances, locating the infrastructure away from a sensitive area can mean that it has to operate at greater power to meet service requirements, which may result in higher exposure levels in the sensitive location.”⁵

The position of the ACMA on buffer zones is entirely consistent with that expressed by other health agencies and so it should be noted that the Federal regulator, which has jurisdictional superiority on this issue, considers buffer zones ineffective and in fact adverse to any stated policy aim of risk avoidance or precautionary approach.

The MCF thus submits, in the strongest possible terms, that issues of EME and health be explicitly excluded from any planning policy considerations in this or any other state based planning legislation review or amendments.

- c. Definition of a “dwelling” – One further issue of concern for the MCF in regard to the proposed 100 m separation is the definition of a “dwelling”, which does not appear to have been explicitly stated in the amendments. The MCF notes that it is possible to consider quite temporary structures, even including mobile homes such as caravans or portable huts, as a dwelling. It is not unreasonable to envision the situation where a caravan or similar temporary dwelling could accidentally or deliberately frustrate the deployment of mobile network infrastructure on a nearby property due to the lack of clarity on this provision.

The MCF suggests that an explicit definition of a dwelling be included in the amendments, where such a definition would refer to a permanent structure meeting local government requirements for permits of occupancy, and noting that it does not include surrounding gardens or lands (so that the 100 m requirement is measured from an external wall of the permanent structure in question). The MCF would be pleased to assist in the further drafting of this definition if required.

- 2. **Clause 113, definition of “Mobile Phone Networks Code” (Updates a reference to a standard.) - Omit “ACIF C564:2004 Deployment of Mobile Phone Network Infrastructure”. Insert instead “ACIF C564:2011 Mobile Phone Base Station Deployment”**

Comment: The MCF notes that the industry code for mobile phone deployment has been incorrectly cited. The correct citation is:

Communications Alliance (CA) C564:2011 *Mobile Phone Base Station Deployment*

⁵ <http://www.acma.gov.au/theACMA/placement-of-mobile-phone-towers>

Noting that this code is soon to be reviewed and a revised version is likely to be published in the next year or so, it is suggested that the citation refer to the "...currently published version of the industry code as cited and amended from time to time..." or words to similar affect.

Concluding Remarks

While this submission is confined to those matters specifically amended under the current ISEPP review process, the MCF again draws your attention to a wider range of matters that we have outlined in previous submissions to this and other processes seeking to broaden the application of the ISEPP provisions. In brief summary, these matters include:

- Expansion of the land use zones within which new towers can be erected as complying development – recognising the increased value of this essential infrastructure to communities
- Broadening the definition of co-location purpose – so that a single carrier be permitted to co-locate with itself for the purposes of technology upgrade and reducing the need to deploy additional infrastructure for this purpose
- Increased flexibility to determine heritage impacts – to ensure heritage impacts are appropriately assessed through an independent statement of heritage impact
- Use of solar panel arrays as an alternative power source – recognising the need for larger solar arrays and wind turbines required to power modern network equipment and the substantially less significant impact on environment and amenity that these are likely to have over other alternatives
- Ancillary facilities – adopting a definition which is consistent with the Federal governments interpretation of such facilities under the Low Impact Facilities Determination as amended (2012)

While disappointed that these matters have not been incorporated in the current review, the MCF believes there is still a strong case for the adoption of these amendments and will continue our dialogue with the Department to argue for these changes.

We note in our discussions with the Department that clarity of industry consultation processes when operating under the ISEPP provisions is a concern expressed by some, and that the MCF's members' obligations to operate under the industry code for mobile base station deployment (as cited above), and the provisions within, are not well understood by some within the Department. Additionally, in those discussions, we noted that past experience may not be a good indicator of future expectations in this regard, as the MCF has recently significantly reviewed some of its risk assessment model and its supporting consultation tools in relation to the deployment code, and is actively undertaking the provision of additional training and information to its consultants to achieve more satisfactory consultation outcomes for affected communities.

The MCF will therefore actively work with the Department in coming months to inform you regarding our further proposed amendments, our improved processes for meeting our obligations under the deployment code and the increasing urgency of regulatory reform to facilitate the deployment of advanced mobile telecommunications facilities to communities throughout New South Wales, thereby providing the very significant social, economic and safety benefits of this technology, which the people of New South Wales both demand and deserve.

In the meantime, we urge the Department to consider the matters we have raised in regard to the current State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016 and adopt the suggestions we have proposed.

Please get in touch with me on 03 9380 2291 or at ray.mckenzie@amta.gov.au if you require any additional information or wish to discuss any of the above matters further.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Ray McKenzie', with a stylized, cursive script.

Ray McKenzie
Manager
Mobile Carriers Forum
Australian Mobile Telecommunications Association