Confidentiality Requested: yes

Submitted by a Planner: no

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Content:

I am writing in relation to proposed amendments to two clauses (as below) of the NSW State Environmental Planning Policy (Infrastructure) 2007 (SEPPI). My comments reflect my experiences of dealing with NBN Co and their subcontractors (NBN Co) in connection with a proposed 45m nbn tower. I understand NBNs activities are a particular focus of these specific clauses.

My very strong general point would be that greater control, transparency and accountability should be required of NBN Co (not less!). While I appreciate the need for efficiency and understand NBN is an important national project, that should not be achieved by evading due process â€" checks and balances are important in an open democratic society. In my experience, the current planning law is too generous, contributing to a situation where neither Federal government, NSW State government or council will intervene.

This current amendment project needs to assign rights and responsibilities, and make sure NBN Co is properly transparent and accountable to local communities.

Specific amendments:

Schedule 19, item 8, page 48

Schedule 3A Exempt and complying development in relation to telecommunications facilities

Insert after paragraph (a) wherever occurring in Column 2 of the matter relating to item 5 in the table to Part 2:

(a1) be located within 100 metres of a dwelling, or

Although I am pleased with this proposed amendment and should apply to all towers being proposed NOW. I do not think that the minimum distance away from dwellings is adequate. The towers under consideration are up to 50m tall, are not in keeping with the rural and agricultural nature of the zones that you permit them to be in, are not low impact, are visually intrusive (almost double the height of a large, mature, eucalyptus trees!), five times the height of maximum allowable buildings, ignore nearby considerations - heritage and history of the area, environmental conservation, bush fire and can be placed in inappropriate locations for line of sight - in a low-lying water course rather than nearby on the hill! Additionally, the principles set out 2010 broadband guidelines are being ignored.

Accordingly, the minimum distance from a tower up to 50m in height to a dwelling should be no less than the existing requirement of a minimum distance of 150m to a residential zone. Taking into account potential distance between boundaries, this infers that in reality there will be at least 200m between a tower and a dwelling and should be no less than this.

My preference would be a minimum distance of 500m based on the follow:

- visual impairment as described above and taking into account that nbn prefers not to site towers where there is a requirement for vegetation clearing - as this requires council approval. In our case and probably many more, this then leads to siting of towers on cleared vegetation and farmland - which has no established or mature trees to screen from the intrusive visual impairment. Any trees planted after the fact will take many years, if ever, to effectively screen and this is not effective protection of community interests particularly neighbours who do not have input into the design process and who suffer potential property devaluation and are not remuneration like the hosting landowner;

- Importantly, I understand that the Department of Education has issued guidance that the minimum distance preferred is 500m from schools, as many residences contain families with children - this seems like the most prudent decision.

Finally, two additional factors to consider: the definition of a dwelling should be defined in the Act to avoid any misinterpretation; and current towers proposed as complying developments that are less than 100m from ANY dwelling should NOT be certified until the outcome of the consultation and amendments have been made.

Schedule 2, item 5, page

[5] Clause 20B General requirements for exempt development

Omit clause 20B (2) (b). Insert instead:

(b) be permissible, with consent, under an environmental planning instrument applying to the land on which the development is carried out, and

Note. Accordingly, development that is permitted to be carried out without consent is not complying development.

While I understand that this amendment clarifies the original intention of the Department when Schedule 3A was introduced, I do not agree with the change. Leaving permitted use to be interpreted in accordance with the LEP still allows for Council power to approve or modify a development that is not listed in the permitted use of the land zone, but with the huge added benefit that Council involvement introduces the appropriate level of local (and independent) oversight.

My major concern with this amendment follows from my introductory remarks of striking the appropriate balance between telecommunications facilities and the community. There has been several years of practical application of the requirements in Schedule 3A and I feel now is the right time to suggest some modifications to Schedule 3A as a result of these two changes.

Firstly, I don't think its clear from schedule 3A, which merely describes the conditions required for communication towers, that this is (in NBNs application, at least) a presumptive permission for the siting of towers use in the affected zones. The 2010 Broadband guidelines do not add any clarity on this matter. It should be a priority to be explicitly clear, in both law and guidelines, on whether or not new towers being constructed in certain zones qualify as 'complying development' without council consent. I guarantee a majority of the general public are NOT aware that this is the case.

The fact that an independent certifier can sign off on the certificate rather than requiring an independent or government body, adds to the lack of transparency.

In light of these facts, the allowances in the SEPPI are too generous. RU4 large lot primary production zoning should be removed from schedule 3A, and proposed Communications Facilities in

these zones should instead be assessed by Councils on a case-by-case basis. This is because RU4 is increasingly residential - minimum lot size is 5 acres (1 acre for cluster developments), and with street facing widths of as little as 50m, are little different from normal residential areas.

Also, there seems to be a case of 'postcode' lottery and inconsistency - nbn are submitting development applications in the nearby Hills Shire for towers in RU6 transition zone, with plot sizes up to 25 acres. There does not appear to be a RU4 classification and RU6 has similar permitted uses as RU4. Is this fair?

Further, I consider the 'step up' in tower height from 25m to 50m at a distance of 150m from a dwelling to be a huge increase. Do drafters have any idea of the difference in scale of a 50m versus a 25m tower (the latter mostly obscured by trees, the former twice the height of many trees; and 150m is not far enough away from residences. Since 50m towers seem to be available, with no council consent or oversight, NBN Co is taking advantage of maximum heights and it is this maximum height that often causes community concerns. Such towers are similar heights to HV stanchions, which I think undertake a more rigorous approval process.

If the Department decides no change is needed, then I would still urge that certain elements of the broadband guidelines should be added into the legislation (eg 116A). For example:

- mandating co-location with other infrastructure (new towers are being built next to or nearby existing towers rather than co-locating in the majority of cases);

- reduction of visual impairment for closet neighbours (siting towers behind mature visual screening for the closest neighbours being affected);

- limiting towers allowable under complying development to a maximum height of 35m - and above that must obtain Council approval.

Thank you for consideration of my comments and recommendations.

IP Address: [redacted]

Submission: Online Submission from [redacted] (comments)

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