

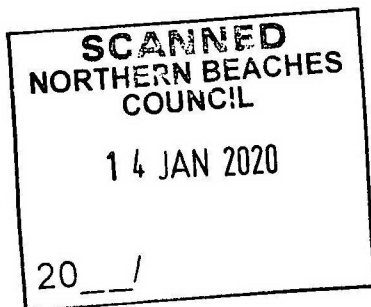


Office of the Hon Paul Fletcher MP

Minister for Communications, Cyber Safety and the Arts
Federal Member for Bradfield

MC19-008644

Mr Ray Brownlee
Chief Executive Officer
Northern Beaches Council
PO Box 82
Manly NSW 1655



Dear Mr Brownlee

Thank you for your letter of 25 November 2019 to the Hon Paul Fletcher MP, Minister for Communications, Cyber Safety and the Arts, concerning Mobile Phone Radio Communications Infrastructure (Notice of Motion No. 67/2018). The Minister has asked me to reply to you on his behalf.

I note that you wrote to your local member, Mr Jason Falinski MP on 12 December 2019, regarding this matter also.

The Australian Government appreciates that people sometimes have concerns about the rollout of telecommunications infrastructure and that the operation of deployment laws. These concerns need to be balanced against the community's need for modern communications services. The Government's firm view is that carriers should engage meaningfully and sensitively with stakeholders, including the community and local council, when deploying infrastructure under Commonwealth laws.

Carriers can choose whether to use either the Commonwealth laws or state and territory planning laws when deploying telecommunications equipment. I am advised that in New South Wales (NSW), carriers can choose to deploy telecommunications infrastructure either in accordance with the *State Environmental Planning Policy (Infrastructure) 2007* (SEPPi) and regularly do so. Concerns about the operation of the SEPPi and the policy itself is best raised with the NSW government.

As you have noted, at the Commonwealth level, telecommunications carriers have certain specific legal powers under the *Telecommunications Act 1997* (the Act) to deploy certain types of telecommunications equipment, and are provided with immunities from some state and territory laws, such as planning laws, when doing so. The powers and immunities framework importantly provides a nationally consistent framework for carriers to deploy telecommunications infrastructure more effectively and cost-efficiently and ultimately deliver modern services to the community.

Carrier powers primarily relate to low-impact facilities which are specified in the *Telecommunications (Low-impact Facilities) Determination 2018*. The types of facilities that are listed as low-impact are those considered to be essential to the effective and efficient operation of telecommunications networks in providing services to the public, but are considered to be of low visual impact and unlikely to cause significant disruption to the community during installation or operation.

The Act and the *Telecommunications Code of Practice 2018* (the Code) also set out obligations on carriers to notify landowners and land occupiers of their intention to install telecommunications infrastructure on land and the timing of such notifications. In many instances, the landowner is often the relevant local council. For example, a notice should be sent to the landowner or land occupier at least 10 business days before the carrier begins to engage in the activity.

The Act, and more specifically the Code, detail further obligations on carriers to advise landholders of their right to object, the grounds for objection (for example, the use of the land or the location of the facility on the land), the right to have a decision reviewed by the Telecommunications Industry Ombudsman (TIO) and timeframes for lodging objections. Carriers must also comply with good engineering practice and consider noise limits, the environment, and obstruction of essential services when installing or maintaining facilities. Obligations on carriers under the Act and Code of Practice also apply to contractors acting on behalf of carriers.

Telecommunications carriers installing facilities for mobile phone networks without development approval, such as low-impact facilities, must also comply with the *Industry Code for Mobile Phone Base Station Deployment C564:2018* (the Industry Code). The Industry Code was developed by the Communications Alliance, and is registered with the Australian Communications and Media Authority (ACMA). The Industry Code sets out additional processes that mobile carriers are to follow when they are installing low-impact facilities. The notification and consultation processes set out in the Industry Code provide an appropriate mechanism for the local community and relevant councils to present their views and raise concerns about proposed installation or maintenance activities for mobile phone networks.

If the Council is concerned that a carrier may not have met its mandatory obligations under the Industry Code, the Council can contact the ACMA to make a complaint. ACMA can be contacted on 1300 850 115 and at info@acma.gov.au.

I hope the information in this letter is of some help.

A copy of this letter has been provided to Mr Jason Falinski MP, Member for Mackellar for his information.

Yours sincerely



Ryan Bloxsom
Chief of Staff

23 / 12 / 2019