

**Submission 052**  
**Received 11/11/11**

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building **communities.**

11 November 2011

Committee Secretary  
House of Representatives Standing Committee on  
Infrastructure and Communications  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Dear Sir/Madam

**Inquiry Into Telecommunications Amendment  
(Enhancing Community Consultation) Bill**

I thank you for the opportunity to comment on the proposed Bill.

I am the Member of Parliament for the State seat of Light in South Australia. Please find attached at *Appendix A* a copy of a speech I made in State Parliament in May of this year in which I outlined the experiences of a responsible community who attempted unsuccessfully to negotiate a compromise with Telstra over the location of a proposed tower.

In a nutshell the residents' action group were asking that the tower be built approximately 300 metres from the proposed site. All the residents in the community agreed that moving the tower a short distance would significantly lessen the visual impact.



tonypiccolo.org

**Communities within Light** Angle Vale (part) Buchfelde Concordia Evanston Evanston Gardens Evanston Park Evanston South  
Gawler Gawler Belt Gawler East Gawler River Gawler South Gawler West Hamley Bridge (part) Hewett Hillier Kalbeeba  
Kangaroo Flat Kingsford Kudla Magdalla Munno Para Munno Para Downs Munno Para West Pinkerton Plains Reid  
Reeves Plains (part) Roseworthy Smithfield Plains Templers Ward Belt Wasleys Willaston Woolsheds

Despite the fact that:

- They had the agreement of all the residents in the area
- They had the agreement of three property owners who were prepared to make their land available at reduced cost .i.e. Telstra were free to choose whichever property they wanted.
- They had verified that the technical requirements of the tower would not be compromised
- They had the support of the local Development Assessment Panel who agreed with them over the visual impact issue
- They had my support because I was impressed by their willingness to try and arrive at a solution which met the business needs of Telstra, their own needs, and the infrastructure needs of the wider community.

Telstra persistently refused to discuss the matter with the residents and, strangely, continued to argue that the change would not improve the visual impact despite clear statements from the DAP, the residents, and myself to the contrary.

Eventually Telstra commenced court proceedings against Gawler Council over the issue. Council could not afford to spend ratepayer's money over this and consequently had no choice but to "cave in" to Telstra's desires.

Consequently, given the Carriers obvious reluctance to consult with the community in this case and apparently many others around the nation, I do have a great deal of sympathy and support for the core principles and elements of this Bill. However, it disappoints me that we should need to resort to legislation at this stage. Clearly the Telco's are starting to recognise that there are problems and that these continued confrontations around Australia are just simply .... Bad Business .... for everyone.

It has always been my view that with guidance we should expect the Telecommunication Industry to develop a comprehensive Code of Conduct/Memorandum of Understanding which covers all tower proposals and, has as its key foundation .... community and council consultation.

If they either show an unwillingness to develop this and/or adhere to it then we should actively use the legislative option. But we should give them a chance. I have some recommendations that I wish to put to the Committee which I think will help make the process of constructing this important national infrastructure a lot fairer and more business- like for all concerned.

However, before I discuss those I want to make a few observations about the tower construction process.

1. Telco's currently invest a significant level of time, energy, and resources in determining a specific base station site. This all happens prior to the local council or community having any knowledge of the Telco's intentions. I think it quite likely that the passage of time from strategic planning through to detailed site research and planning could be well in excess of 6 months and possibly closer to 12. Consequently, it does not surprise me that by the time the planning proposal arrives at the local Council office Telco's tend to display behaviour which indicates a general reluctance to listen, negotiate and compromise. I have attached a process flow chart at Appendix B which illustrates this point.
2. The majority of tower constructions are classified as high impact facilities and consequently require the Development Approval Process.
3. Communications Alliance Ltd has released a draft Industry Code on Mobile Base Station Deployment which essentially makes significant improvements to the community and council consultation requirements for low impact communication facilities. This new code appears to be widely supported by the Telco's and I think they need to be commended for this development.
4. However, in relation to high impact facilities, I am puzzled and angered that they "duck shoved" the responsibility and management of consultation straight through to Councils. Their note in the new draft code;  
*"The consultation requirements of this code do not apply to infrastructure that requires Development Approval. In such cases it is expected that public consultation will occur through the Development Application process."*

I would have thought and expected, given the public perceptions around:

- lack of consultation
- inability to influence, and
- the apparent tension/friction between Telco's and councils

that Communications Alliance Ltd would have accepted the responsibility for improving communication and consultation standards for all base station deployment and variation. After all, from my observations, it is the high impact facilities which appear most frequently to create the greatest level of confrontation.

5. I do wonder about the Telco's unwillingness to collaborate with each other and local government associations. I accept that they are business competitors. But there appears to be frequent instances where the construction of this important highly visible communication infrastructure seems to occur "piecemeal" and without joint strategic planning. Consequently, I suspect we end up with many more towers than we really need to deliver the same service.

## **RECOMMENDATIONS**

- a) **JOINT FORWARD STRATEGIC PLANNING AND COLLABORATION WITH COUNCILS: Telecommunication companies to advise and collaborate with relevant Councils of their needs and plans for towers in the specific council area 12 months in advance.**

This is essential. Enables the Council to include these in their own forward plans and gives them sufficient notice to get on top of issues, work with Telco's well in advance of construction, ensure Telco's are maximising the sharing of base stations ..... well before the Telco's reach a point in their investigations where inertia colours their reason. This is just plain good business.

From my point of view the crux of the issue is..... collaboration between the Telco's and Councils. This requires shared knowledge. Infrastructure development based on a spirit of collaboration is far more likely to result in better outcomes for all.

Telco's may argue that releasing and discussing forward plans is not a business practicality. I don't believe it, especially given the progress on this very issue being made in various States of the USA.

- b) **COMMUNICATION AND CONSULTATION PLANS: Telecommunication companies to develop and implement consultation plans for high impact sites .... as per the Draft Industry Code for low impact sites.**

This ensures we have a consistent consultation and communication methodology. This ensures relevant communities have access to information well in advance. This ensures relevant stakeholders and the affected community have sufficient time to respond.

These plans must include reasonable time for community stakeholders to access information and respond. I would think this would be at least 20 working days.

The low impact draft industry code is good. It just needs some clarification on the "vagueness" surrounding stakeholder notification and in this regard I would expect that any living or owning land within a radius of 250metres would qualify as a relevant stakeholder.

**c) DO WE NEED THE DEVELOPMENT APPLICATION PROCESS?**

It is my view that if Telco's are prepared to develop a Code of Operation which is consistent with the above two points then we do not need a full blown DAP. It is essentially replaced by the better and fairer process above.

It is based on the premise that if Telco's (and Councils) spend more time initially planning jointly and engaging with the community then we do not need a DAP.

**d) PENALTIES FOR NON COMPLIANCE**

The Industry self imposes its own penalties for non compliance with codes of conduct. I am not convinced on the effectiveness of these. However there needs to be a review process which would enable sufficient penalty and public exposure of breaches of the Code.

**e) TELECOMMUNICATION INDUSTRY TO KEEP GOVERNMENT INFORMED OF LATEST TECHNOLOGY**

The current rapid growth in communications developments across the planet may see products emerging that will reduce our need for large towers. We need to keep abreast of these.

For example there are numerous stories on the web relating to "light cube" technology and trials taking place in China and the United States. Apparently there are claims that it does away with the need for towers. I am in no position to make judgements on these stories and have no idea if they are "pie in sky", or have some reality to them.

## **CONCLUSION**

I think we should give our Telecommunications industry an opportunity to develop and implement a Code of Practice based on the above. I would expect that it would need a little effort to put it in place.

As I said previously, ..... if they are unwilling to put it in place then I would actively support the Legislative solution proposed.

**Yours sincerely**

**Tony Piccolo MP**  
Member for Light

## TELECOMMUNICATION TOWER PLANNING AND APPROVAL PROCESS FOR HIGH IMPACT FACILITY.

### FLOW CHART

Telecommunication Company (Telco), through their own internal business strategic planning process, decide to expand mobile communication capacity and capability in a given area.



Telco carries out detailed technical data analysis to determine an "area envelope" in which a tower would need to be placed.



Technical and cost analysis carried out on expected tower specifications and associated infrastructure ..... eg exchange updates and cable installation.



Telco identifies specific sites within the "area envelope" which would provide optimal mobile coverage and least cost access and development.



Telco identifies, targets and contacts specific property owners.



Telco negotiates with and develops in principle agreement with land owner.



Telco prepares Development Application for Local Council.  
Lodges Development Application.



*The Telco invests a great deal of time in their initial planning process.*

*A period of 6 – 9 months may elapse before the local Council and community here anything of the proposed development.*

*The Telco is unlikely, after such an investment of time, energy and money to be flexible should the LGA ask the Telco to consider alternatives.*

*It is unlikely the land owner and/or Telco will advise neighbours and community of their intention.*

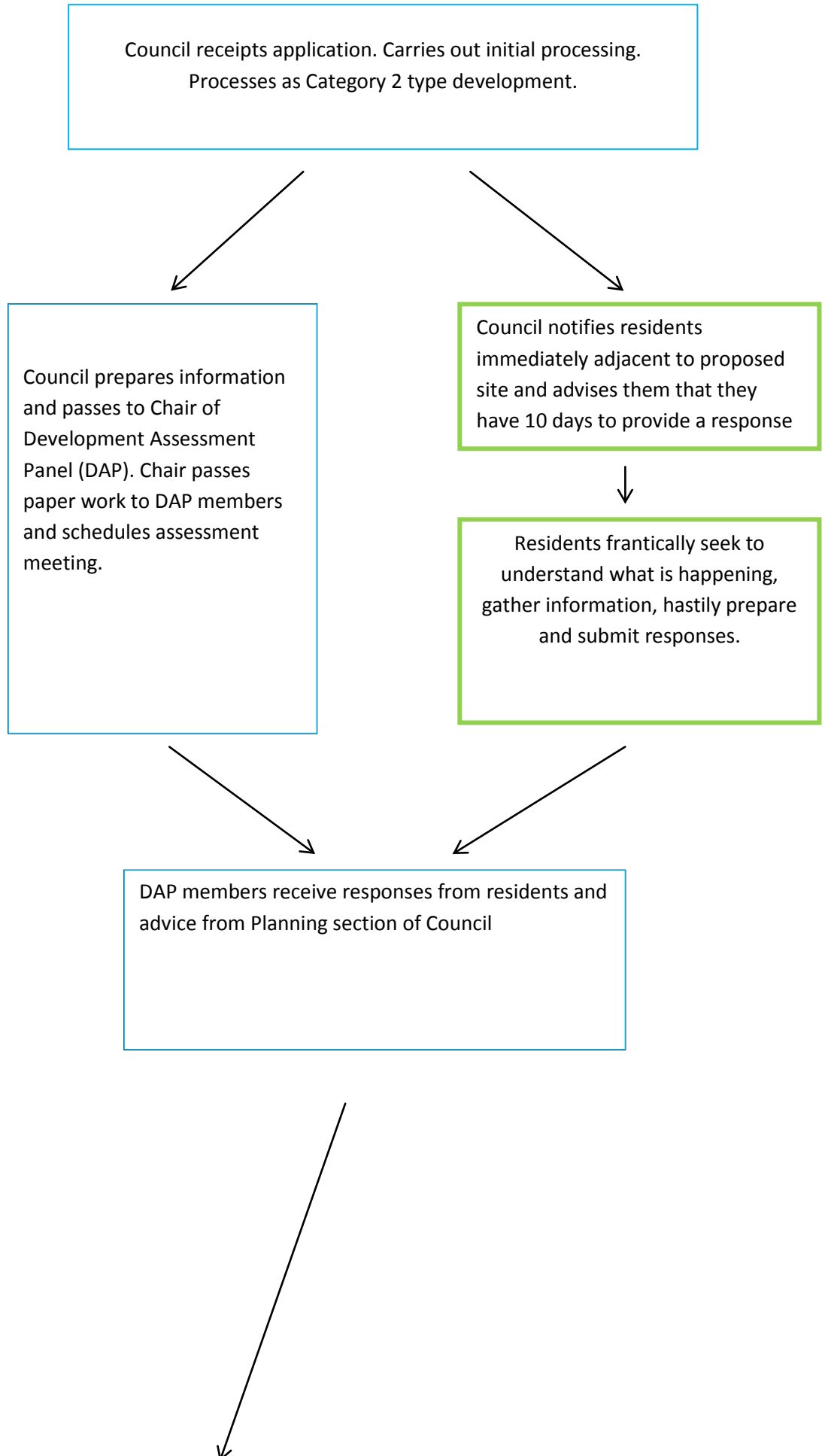
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*This is possibly the first time the LGA becomes aware of the proposed development. Most Councils will process as Category 2 which will give very limited opportunity for community consultation.*

*The local community has very limited time to get across the plans and marshal a community response*

*NB. If the LGA categorises as Type 1 development then there is no community consultation.*

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*This cycle of activity within the DAP may take from a few weeks to several months as the relevant DAP weighs the arguments and views coming from the Telco, residents, and the LGA planning section.*

*The flow chart in relation to the rejection of the application is not meant to be flippant. It essentially reflects reality. DAP's may request the Telco to consider other options. However if the Telco refuses then many councils have to "cave in" to the pressure ..... because they do not have the human, legal and financial resources to effectively challenge them and seek a compromise.*

