

11 November 2011

Ms Sharon Bird MP  
Chair House of Representatives Standing Committee,  
Infrastructure and Communications  
Telecommunications Amendment (Enhancing Community Consultation) Bill 2011

Dear Ms Bird,

**Submission: Telecommunications Amendment (Enhancing Community Consultation) Bill 2011 – Bawley Point Tower Fight**

**Summary:**

1. **Inappropriate Site Selection**
2. **So-called ‘community consultation’**
3. **Tower Emissions and Health Concerns**
4. **ACMA interests and ACIF’s ineffectual code**
5. **No effective arena in which to be heard**
6. **Not in the spirit of ‘Community Consultation’**

1. **Inappropriate Site Selection**

The community of Kioloa/Bawley Point is fighting a proposed ‘high impact’ 63.8 metre mobile phone tower which is to be constructed within close proximity of residential homes. The proposed site is in on private land and although it is zoned rural is within the village boundaries. This area is surrounded by National Park, State Forest and Crown Land where the proposed tower would be better placed and would not affect residents either with its physical or visual intrusion nor its Electromagnetic Emissions.

2. **So-called ‘community consultation’**

Although many residents and our local council, Shoalhaven City Council are opposed to this site, the developer Crown Castle is determined to go ahead with the proposed tower on this particular site. Our community has been hoodwinked by Crown; we are aware that a mobile phone tower in our area is inevitable however; we were led to believe that by working with the developer to find an appropriate site would result in a solution that suited everyone. However while this so-called ‘community consultation’ was going on, Crown independently approached a non-resident land owner, struck a deal and by using loopholes in NSW State Planning legislation have lodged a Complying Development with our local council. It was only by chance that a member of the community noticed the white surveyors pegs onsite and found the CD lodged on the councils website.

3. **Tower Emissions and Health Concerns**

Council had no option but to accept the CD for the tower in accordance with state government legislation (SEPP (Infrastructure) 2007). Although this state legislation states the following,

**Clause 116B Complying development certificates—additional conditions.**

A complying development certificate for development that is complying development under this Division is subject to the following conditions:

- (i) in the case of development that will produce electromagnetic radiation—a report in the format required by the Australian Radiation Protection and Nuclear Safety Agency that shows the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and
- (ii) a report showing compliance with the Mobile Phone Networks Code.

An EME report was not included in the documentation received by council even though this tower is to co-locate two sets of telecommunications carriers equipment and even if the estimated emissions from the tower are at the ARPANSA's EMR limit but we believe this limit is far too high and we are supported in our belief by eminent health and research professionals worldwide. Telecommunications Industry Code urges community consultation in site selection however, since the telecommunications industry is self-regulating we believe this is an ineffectual code. Community concerns about the long-term potential health impacts of living under towers, particularly for children, are dismissed by the industry. This is despite the recent World Health Organisations rating of tower emissions as "possibly carcinogenic to humans", in May of this year.

**4. ACMA interests and ACIF's ineffectual code**

Our communities fight has been all-consuming, disillusioning and demoralising because of the lack of support and inherent difficulties of a system which seems designed for community failure. Crown Castle claim in the Complying Development Assessment – PCA (see copy of document below), that as they are not a "Carrier" they are exempt from obligations of the ACIF Code. Regardless, it is clear that this is a telecommunications facility development and should comply with the Code. Complaints to the Minister for Broadband are referred to "relevant state, territory and local governments". Complaints to the ombudsman are referred to the regulatory body, the ACMA. Complaints to ACMA however, are superfluous since telecommunications carriers are self-regulating and have never once been sanctioned in the ACMA's history. Further, the ACMA is completely conflicted as it collects substantial revenue through telecommunications carrier licence fees and charges. Or in our case as this is a 'high impact' rather than 'low impact' facility most of the information and advice we received from them was in fact totally incorrect. We eventually feel we are in a black comedy as all roads effectively lead nowhere.

**5. No effective arena in which to be heard**

By the time communities have endured the drain on time, money and resources to no avail, they are generally sufficiently beaten and give up. Very few communities have the considerable resources necessary to appeal to the Supreme Court, which is the only legal avenue remaining. There is no effective arena anywhere which is able to hear let alone act upon a community's concerns, there can never be a classic David and Goliath ending.

**6. Not in the spirit of 'Community Consultation'**

The Kioloa/Bawley Point community has endured more than twelve months of banging our heads against a brick wall in trying to work with Crown Castle in finding an acceptable site for which to locate their telecommunications tower on only to have them play us and our local council for fools by going behind our backs and securing a completely inappropriate site then lodging a CD which allowed them to furtively get approval for their development. In our opinion, this is not consistent with the spirit of 'community consultation' as cited in the Telecommunications Industry Code.

We know we are not unique and that many communities feel disempowered by this process. The regulations were originally designed to fast track the beginnings of the mobile phone industry and have not been updated since 1997 even though there has been an explosion of mobile technologies since that time. It is time to adopt a precautionary approach with the sighting of telecommunications facilities and bring Australia's telecommunications industry regulations and control systems in line with the world's best practice. We firmly support new legislation to give communities a greater say in the installation of mobile phone towers, reduce the amount of high impact facility installations, eliminate self-regulation by telecommunication providers and reduce the ARPANSA standard.

Yours sincerely,

Sharon Adlam  
Bawley Point resident

*Communications  
Planning*

Proposed Development must meet the relevant provisions of the <i>Building Code of Australia</i> (BCA)	YES	Structural certification confirms this
Must pay Section 94 Contribution if applicable.		Shoalhaven Council does not charge this.
(e) in the case of development that is development of a kind to which the Mobile Phone Networks Code applies—must: (i) comply with that Code, and (ii) be designed, installed and operated so that the maximum human exposure levels to radio frequency emissions comply with the Radiation Protection Standard, and	Not Applicable.	Crown Castle is developing the tower and is not subject to the provisions of the ACIF Code
Must be designed and sites to minimise visual impact	YES	
Application for Complying Development Certificate must have consent of Land Owner	YES	