
From: [REDACTED]
Sent: Friday, 28 February 2020 7:07 AM
To: DPTI:Planning Reform Submissions
Subject: MCF Submission on Phase 3
Attachments: MCF_SA Phase 3 Response_ 28Feb2020_FINAL.pdf; MCF submission_Appendix A_Phase 3 table.pdf

Please find attached the Mobile Carriers Forum's submission on Phase 3 (including appendix).

As can be seen, there are some serious concerns over the impacts and workability of the historic and character area overlays in particular, as well as some confusion and inconsistency with Schedule 4 of the Regulations.

The MCF would like to urgently meet (during March) with DPTI and the Commissioner to discuss these matters so they can either be properly addressed or, if there is actually less of an issue than appears, DPTI can provide some comfort as to how it will work once operational.

I will be in contact in the next short while with DPTI staff to organise such a meeting.

If there are any questions in the meantime, please do not hesitate to contact me.

Kind Regards

MARK BAADE

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CLAYFIELD QLD 4011

28 February 2020

State Planning Commission
P O Box 1815
ADELAIDE SA 5001

By email: DPTI.PlanningReformSubmissions@sa.gov.au

Dear Commissioner

Re: Planning and Design Code – Phase 3 – MCF Response

The Mobile Carriers Forum (MCF) is a division of the Australian Mobile Telecommunications Association (AMTA). AMTA is the peak industry body representing Australia's mobile telecommunications industry. MCF members include Telstra, Optus, Vodafone Hutchison Australia and TPG.

Our members have a keen interest in the regulatory and planning frameworks within which they deploy their networks as these have a material impact on the efficiency and timeliness of bringing the significant benefits of mobile telecommunications to the businesses and communities of Australia. As such, the MCF has been closely watching the South Australian planning system reforms over the last couple of years and has made a number of submissions during that time on behalf of our members.

This submission relates specifically to the Planning and Design Code ('P&D Code') **Phase 3** consultation. The MCF has reviewed the consultation material, including the 'update' report and zoning tables, along with the consultation documents relating to Historic and Character Area Statements and Practice Guideline.

The MCF has previously made a submission on Phase 2 (dated 29 November 2019) and this Phase 3 submission builds on the issues and themes raised there, but also new issues that have been identified since November. This submission has also had the benefit of a number of subsequent discussions with DPTI staff.

Two additional matters of key concern (presumably unintended) which have been identified are:

- the apparent exclusion of telecommunications facility development within ALL overlay areas for all minor activities as listed in Schedule 4 of the Development Regulations; and
- a significant increase in uncertainty and burden on the carriers with respect to the ability to deploy low-impact and other facilities (not just mobile telephone infrastructure) pursuant to the *Telecommunications (Low-Impact Facilities) Determination 2018* (Cth), due to the introduction of historic and character area overlays and character statements.

The impact of these outcomes will mean that essential infrastructure cannot be provided in any form across the majority of the State's land area, particularly in metropolitan Adelaide. In addition, the time and cost burden on the industry in additional development application processes alone will be very significant. The State also runs the risk of such laws and rules being inconsistent with the Commonwealth on such matters and risk invalidation.

Both of these matters are discussed in detail below but the MCF is of the view an urgent meeting is required to discuss the necessary changes to prevent these concerning outcomes from occurring.

Previous Submissions

As well as commenting on Phase 2, the MCF has made a number of submissions on the new planning system including detailed submissions on the *Productive Economy* policy and the draft Development Regulations (both submissions dated February 2019).

In October 2018, the MCF made a lengthy submission to DPTI highlighting a range of issues affecting the industry and how the existing system might be improved. All of these previous submissions are still relevant to a proper understanding of the issues confronted by the telecommunications industry.

The Phase 2 submission revisited the key messages and concerns of the previous submissions, so it is not intended to rehash them here to a great extent, but the following points are noteworthy:

- The MCF believes it is necessary to capture telecommunications within the definition of 'essential infrastructure', which is consistent with numerous previous findings by the Courts. A simplified way of making this link within the current legislative setting is set out below;
- In Phase 2 only seven (7) out of forty zones specifically mentioned telecommunications facilities in the zoning tables, which in the MCF's view is too few and excludes zones which are not only clearly appropriate but are treated as 'preferred' under the existing Development Plan regime. Phase 3 adds only one (1) additional zone where telecommunications facilities are specifically mentioned, despite adding an additional fifteen zones overall (including zones which would be treated as 'preferred' under the existing regime);
- Whilst telecommunications facilities were not a restricted form of development in any zone listed in the Phase 2 document, they are listed as restricted in the Phase 3 document when in the *Hills Face Zone*. This is inconsistent with the recognition that, just like electricity and other services, telecommunications are very much required in the *Hills Face Zone* (especially for community and bushfire safety), this approach is inconsistent with the ERD Court's judgment in *Alessandrini & Ors v The Corp of the City of Campbelltown and Ors* [2018] SAERDC 4;
- There continue to be potential problems with policies and/or overlays relating to building height limits that might unintentionally capture telecommunications facilities. A simplified way of avoiding this is set out below; and

- The use of terms such as ‘communication networks’ and ‘public infrastructure’ (which are presumably intended to be broadly interchangeable) that not defined at any level of the legislative framework and the potential for challenge. A simplified way of avoiding this is set out below.

Effective and timely delivery of services are critical imperatives to ensure State-wide access to reliable and high-quality telecommunications service, which are important for business and the State to ensure competitiveness and to foster hi-tech industries. Meeting ever-increasing demand for wireless telecommunications services and providing widespread and reliable access to telecommunications across Adelaide and South Australia will be a key part of achieving economic and social outcomes desired by the State.

The desired objectives and outcomes set out in the *Productive Economy* discussion paper also bear repeating, with many of those outcomes relying on reliable, robust and generally ubiquitous access to telecommunications. In fact, one of the central tenets of the discussion paper is the provision of the necessary infrastructure to enable the continuing growth and diversification of the South Australian economy and allow it to attract and take advantage of new opportunities and emerging technologies.

The discussion paper recognises:

“Evolving technology and communications continue to change the way business is conducted, how we live our lives, and how our urban and regional environments are shaped.”

It also touches briefly on ‘Smart Cities’ where it is noted *“the emphasis is on the integration of public infrastructure, data technology and the internet to improve the quality of life for people living, visiting and working in the area.”*

Other key messages from the MCF submissions include:

- The economic impact of telecommunications in today’s modern economy cannot be disputed or ignored. The on-going evolution of services, which at the moment are focussed around the roll-out of 5G, requires a nimble and responsive policy regime that recognises the essential nature of mobile telecommunications infrastructure and the on-going improvements to technology which allow new ways for services to be delivered.
- Although the Courts have, over many years, treated mobile telecommunications as essential forms of infrastructure, the importance of using the P&D Code to formalise that as the State’s position should not be understated, as it will allow more timely and efficient provision of telecommunication services in South Australia.
- It is necessary to recognise the key role mobile telecommunications play in the international education and tourism sectors – two incredibly important sectors for the future of the South Australian economy - as well as most of the others listed in the discussion paper including defence industries, health and medical, knowledge and creative industries and professional and IT services.

- Mobile telecommunications are also extremely important to regional South Australia and good access to a similar level of service to that experienced by the metropolitan population is critical if the regions are to stay competitive and connected, despite shrinking populations.
- With the globalisation of the world's economy, changes in work practices (particularly working from home, hot-desking and working 'out of the office' generally) require reliable and ubiquitous access to high-quality telecommunications and data services is essential. However, such access is only available where the necessary infrastructure can be deployed. This must, by definition, include areas where more sensitive uses are present such as residential areas and areas with heritage values. An inability to deploy services in 'sensitive' areas places pressure on surrounding network facilities, lack of effective service levels and leads to user frustration and dissatisfaction.

The MCF submission also contained a number of considered suggestions on specific types of telecommunications infrastructure that would be considered 'exempt' or 'complying' either by regulation or in the Code itself (to be termed 'accepted' and 'deemed to comply'), which would be similar with existing legislation provisions in other States. However, no such approach has been reflected in either Phase 2 or 3 of the Code.

Also in February 2019 the MCF made a submission on the draft *Planning, Development and Infrastructure (General) (Development Assessment) Variation Regulations 2019*.

A key issue raised by the MCF in that submission was that of inconsistent terminology – in particular the use of the words 'telecommunications facility' (which is not defined in the draft regulations), the term 'communications networks' (which appears but is not defined in the draft regulations nor does it appear in the Commonwealth *Telecommunications Act 1997*), and other variations such as 'telecommunications system' and 'telecommunications infrastructure'. A suggested way forward on this that might remove the need to amend the Regulations is set out below for the Commission's consideration.

Planning and Design Code – Phase 3

In the context of all the previous submissions made by the MCF on the planning reforms, as briefly set out above, the MCF has carefully reviewed the Phase 3 consultation documents (including the update documents and the historic and character area statements, practice direction and guidelines) and had an opportunity to use the mapping tool.

Part 2 – Zones

As part of the Phase 2 submissions, the MCF prepared a table of all zones contained in the Phase 2 and appended it to the Phase 2 submission. The table set out the assessment pathway and notification requirements as proposed by the consultation document at that time, which revealed the following:

- In the forty (40) zones listed in the Phase 2 document, a 'telecommunications facility' is intended to follow the 'performance based' assessment pathway (Table 3), meaning it was not a land use which appeared in any 'Accepted' or 'Deemed to Satisfy' table;

- Only eight (8) zones specifically listed '*telecommunications facility*' in Table 3;
- Only one zone out of the forty – the Employment Zone - specifically listed telecommunications facility in the Assessment Provisions as an envisaged/desired form of development;
- There were a number of inconsistent approaches across the same type of zones (such as the Employment, Suburban and Township Zones), as well as the same class of zones (broadly, residential and non-residential)

In other words, this important and essential piece of infrastructure goes completely unmentioned in 80% of the zones in Phase 2, which is not appropriate nor consistent with the State's high level statements relating to the need for infrastructure (such as the Productive Economy policy).

A check of the 'updated' zoning tables (published at some point since 29 November 2019) does not reveal any changes to the dot point summary above.

Therefore, due to the mechanics of the Code, the contents of that Phase 2 table also apply to Phase 3.

A similar exercise was undertaken for Phase 3, which introduced a further fifteen (15) zones. This analysis revealed:

- The *Hills Face Zone* is introduced as the only zone within the Code where a '*telecommunications facility*' is a restricted form of development (i.e. listed in Table 4);
- Due to lack of a definition in Part 7 of the Code for '*public infrastructure*', it's possible a '*telecommunications facility*' is also a restricted form of development within the *City Park Lands Zone*. (Telecommunications facilities are currently a non-complying use within the Park
- Of the remaining thirteen (13) zones, all intend for a '*telecommunications facility*' to be subject to a 'performance based' assessment (Table 3), but only the *Innovation Zone* is the only zone in which a '*telecommunications facility*' is specifically mentioned in Table 3; and
- It seems no approval pursuant to the Code would be required for a '*telecommunication facility*' in the Commonwealth Facility Zone, regardless of the proposed assessment pathway. As such, telecommunication facilities could be moved into the 'Accepted' table.

The updated table (with noteworthy components of Phase 2 marked in yellow and Phase 3 in blue), is attached (**Appendix A**).

This analysis reveals the total number of zones where telecommunications is specifically mentioned down to only **16%** and those where telecommunications is specifically mentioned in the assessment provisions down to just **2%** - see table below.

Phase	Total Number of Zones	Zones where TF captured by Table 3	Zones where TF specifically mentioned in Table 3	Zones where TF specifically mentioned in assessment provisions	Zones where TF is a restricted form of development
2	40	40 (100%)	8 (20%)	1 (3%)	0
3	55 (15 additional)	54* (98%)	9 (16%) (1 additional)	1 (2%) (0 additional)	1*

* Assumes the intention is for 'telecommunications facility' NOT to be captured by the term 'public infrastructure' as it is used in the City Park Lands Zone

For an item of essential infrastructure which not only contributes significantly to the economy as a matter of course but is a critical enabler of a productive economy this is simply not an acceptable level of recognition or guidance and is inconsistent with the State's Productive Economy policy.

As with Phase 2, the presumably unintentional application of building heights to telecommunications facilities (captured through overlays and the like) remains an issue in Phase 3 and needs to be clarified, particularly where building height triggers public notification (see discussion below).

The notion of such structures being '*sited unobtrusively*' and '*below hilltops and ridgelines*' is common throughout the document, which is not a realistic requirement for telecommunications facilities, particularly in rural areas;

The policy contained within some overlays (generally heritage/character protection type overlays) runs contrary to the notion of telecommunications facilities being essential infrastructure needing to be provided and is complicated further by the more recent release of historic and character area statements.

More generally (as with Phase 2):

- there is an over-reliance on the 'catch all' at the bottom of Table 3 in too many zones, which does not assist in certainty of outcomes or policy intent nor is it consistent with the notion of the timely and efficient provision of essential infrastructure. This is particularly so in zones where it is clear the provision of infrastructure will be very important (and consistent with the Desired Outcomes), such as city, urban corridor, employment, infrastructure and rural zones;
- Overall, there is a low level of emphasis on infrastructure and how it will be provided – as noted above only two zones (namely the *Innovation Zone* and the *Employment Zone*) actually mention telecommunication facilities in the Assessment Provisions; even the Infrastructure Zone doesn't include them.

As such, the following zones – which are of types under the current Development Plan regime would be considered as 'preferred' zones for such infrastructure – should always have telecommunications facilities specifically listed (at a minimum in Table 3 but consideration could be given to using Table 2

in some zones where certain conditions are met) and should avoid notification of an application wherever logical to do so:

Zone Name/Type	Suggested listing	Suggested Notification
Business Neighbourhood Zone	Specifically list in Table 3 and mentioned in Assessment Provisions as an envisaged use	No notification
Caravan and Tourist Park Zone	Specifically list in Table 3	No notification
All City zones (5 of)	Specifically list in Table 3 (and in particular clarifying the City Park Lands Zone provisions relating to public infrastructure). Should be specifically mentioned in the Assessment Provisions as an envisaged use given the primacy of these types of zones	No notification, perhaps with the exception of the City Park Lands Zone
All Employment zones (2 of)	Generally speaking these were previously industrial zones or similar and as such TF should be in Table 2 or Table 3. Should be specifically mentioned in the Assessment Provisions as an envisaged use (already included in Employment Zone)	No notification
Hills Face Zone	Specifically list in Table 3 (remove from Table 4)	None or by a specific trigger
Home Industry Zone	Specifically list in Table 3	None or by a specific trigger
All infrastructure zones (3 of)	These are zones where this infrastructure should be explicitly encouraged (and anticipated) and therefore Table 2 should be used. Should be specifically mentioned in the Assessment Provisions as an envisaged use	No notification
Master-planned Suburban Neighbourhood Zone	Specifically list in Table 3. A master-planned zone/community gives the ideal opportunity to plan for and appropriately site infrastructure	No notification (instead rely on consistency with master plan)
Motorsport Park Zone	Specifically list in Table 3 Should be specifically mentioned in the Assessment Provisions as an envisaged use	No notification

Zone Name/Type	Suggested listing	Suggested Notification
Open Space Zone	Open Space zones are often very useful areas to consider infrastructure. The zone should specifically list TF in Table 3.	None or by a specific trigger
Peri-Urban	Specifically mention in Table 3. Consider including in Assessment Provisions as an envisaged use in some areas.	No notification – consistent with the zone policy that windfarms are exempt from notification
Recreation Zone	Similar to Open Space Zones, Recreation Zones are often very useful areas to consider this type of infrastructure (sporting ovals and the like). The zone should specifically list TF in Table 3.	None or by specific trigger
All rural zones (7 of)	Should be listed in Table 3 as a minimum but several of the zones could consider Table 2. Should be specifically mentioned in the Assessment Provisions as an envisaged use in most.	No notification
All suburban zones (5 of)	Specifically list in Table 3. Should be specifically mentioned in the Assessment Provisions as an envisaged use otherwise provision of services will become increasingly difficult.	No notification, or by specific zone
All township zones (3 of)	Specifically list in Table 3. Should be specifically mentioned in the Assessment Provisions as an envisaged use.	None or by specific trigger
All Urban Corridor Zone (5 of)	Specifically list in Table 3. Should also be specifically mentioned in the Assessment Provisions as an envisaged use given the intended land use and population density of such zones.	No notification.

As with Phase 2, the remainder of the zones not listed above should all have telecommunications facility specifically mentioned in Table 3 with careful consideration to be given as to whether notification is required absolutely or only in certain circumstances.

In some zones it will also be appropriate to specifically mention telecommunications facility in the Assessment Provisions as an envisaged use.

In short, no zone should rely on the Table 3 catch-all statement of ‘All other Code Assessed Development’ as the importance of the provision of infrastructure should not be understated and the applicable policy regime and assessment pathway should be as clear and certain as possible. The key non-residential zones should make assessment much more straightforward whilst within residential zones the need for infrastructure means the assessment pathway requires more careful consideration than it appears to have given.

Refinement of Definition in Part 7

To ensure a consistent application of the definition of a telecommunications facility (which although is now tied to the Commonwealth definition in Part 7 of the Code), there remains the potential for other seemingly interchangeable terms (such as ‘communications network’) to confuse the intent of this.

As such, it is suggested that the definition for *telecommunications facility* contained in Part 7 of the Code be amended as per the table below:

Land Use Term	Definition	Includes	Excludes
Telecommunications facility	Means a facility within the meaning of the <i>Telecommunications Act 1997</i> of the Commonwealth, including the <i>Telecommunications (Low-Impact Facilities) Determination 2018</i>	Communications Network Telecommunications System Telecommunications Infrastructure	

Building Height Limits

Building height limits are used extensively throughout the consultation document and are also used in some areas by the relevant technical and numeric overlay in the mapping portal.

Building heights are sometimes discussed in conjunction with wall heights and are no doubt intended to apply to buildings in the traditional sense of the word. This is obvious where the term ‘storey’ is used to limit building height but less so where a metre measurement is used.

Building heights are also often a trigger in various zones for public notification to occur. Often this trigger height is only around 9 metres. In the Open Space Zone and Recreation Zone the height limits are set at between 3 and 5 metres for some types of development.

It is unrealistic to have such a provision relate strictly to infrastructure which requires height as a key characteristic – this applies equally in urban and regional areas.

Although it’s quite possible this building height limit was not intended to capture infrastructure such as telecommunication facilities, the consultation document does not make this clear and this will undoubtedly lead to confusion and argument.

In *Telstra Corporation Limited v City of Marion (SAERDC 69 [2000])*, the ERD Court was asked to consider whether a provision in the City of Marion Development Plan that deemed a building greater than two-storeys or ten metres in height as non-complying was applicable to a 25m-high telecommunications facility.

Her Honour Judge Trenorden concluded at paragraph 11:

The proposed 25 metre high tower is a structure, but not a "building" as that term is used in the phrase "buildings with a height greater than two storeys or ten metres", expressed to be a non-complying kind of development in the provisions for Commercial (South Road) Zone in the relevant Development Plan. It follows that the proposed development is not a non-complying kind of development, on account of its height.

Accordingly, the MCF is concerned that, as currently written, the building height limitations imposed throughout the consultation document and in most (if not all) of the zones will undo this legal precedent, which has been long held.

To overcome this problem it is suggested that Part 8 of the Code, which contains the Administrative Definitions, include telecommunications as set out in the table below:

Term	Definition	Illustrations
Telecommunications Facility	Essential Infrastructure Not affected by any policy relating to building height (including notification triggers) Low-Impact Facilities are acceptable in all Zone, Sub-Zones and Overlays Includes Communications Networks	

Overlays, Historic and Character Area Statements

The Phase 2 submission dealt generally with a range of issues relating to overlays within the Code.

However, an issue that was not raised at the time was that of the impact of overlays on the ability of carriers to continue using Commonwealth powers to build, maintain, replace and operate facilities that would otherwise not need approval (and also increase the difficulty for facilities that do require approval). These are extensive powers and widely-used by the carriers to ensure continuation of service.

It appears that some overlays within the Code, particularly those relating to historic and heritage matters (along with the relevant character statements), may conflict with the relevant Commonwealth legislation, putting the State at odds with that paramount regime and potentially invalidating the new policy.

The Commonwealth's *Telecommunications (Low-Impact Facilities) Determination 2018* states at Section 2.5(5):

'An area is an area of environmental significance if, under a law of the Commonwealth, a State or a Territory, it consists of a place, building or thing that is entered into a register relating to heritage conservation.'

This provision intends to limit low-impact facilities (which are not just limited to mobile telephone infrastructure) in such areas, which generally subjects them to the development application process.

The risk with the Code's proposed overlays, particularly the historic and character area statements and overlays (which are noted as impacting a greater number of individual properties than the current regime), is they create greater uncertainty for these previously exempt facilities.

There is some further confusion introduced by way of Schedule 4 (specifically Clause 13) of the Regulations, and its inconsistency when compared with the railway infrastructure exemptions listed in Clause 14 (which are more wide-ranging, despite telecommunications arguably being of much more relevance and benefit to the community).

For example, in clause 14, which allows the installation of '*infrastructure associated with a railway*' in any location (apart from an area affected by State Heritage or a local heritage place).

Clause 14 then goes on to define *infrastructure* in this clause as:

(c) any structure or equipment associated with any power, signalling, control or communications system (including signalling boxes, huts, gantries, masts, towers, poles and frames);

(g) other infrastructure related to the operation or maintenance of railway, tramway or light railway activities;

A plain reading of Clause 14 indicates this is a wide-ranging exemption with no desire to hold back structure heights or have any regard for the zoning in which it occurs or any overlays that would otherwise apply. The MCF would argue, as important as railway infrastructure is, access to high-quality telecommunications services is a more vital day-to-day proposition for most people in South Australia, but the clause 13 exemptions are much more limited and therefore less useful.

Further, whilst a railway line's primary function is to go from A to B, telecommunications must attempt to service all the areas in between, regardless of zoning, topography or land uses – areas railways can avoid by taking a different route.

The key point of this comparison is the Clause 14 exemptions came about due to the handover of railways from the Commonwealth to the State, with the State needing to ensure railways could continue to build, operate and maintain infrastructure in a relatively unfettered way.

Telecommunications and its essential nature and importance should be similarly considered.

Introducing restrictions on minor or previously exempt facilities and works is potentially a very serious problem for the telecommunications industry and one which needs to be properly discussed and resolved, as it both unnecessary and unrealistic to expect a development application to be lodged for what are minor, uncontroversial and/or (most importantly) previously exempted works.

However, it also seems there may be a legal question as to whether practice directions and guidelines can overcome any problems caused – unintentionally or otherwise - by the Regulations (rather than rely on changes to the Regulations themselves), which is another matter the MCF is concerned about.

With respect to facilities that do require approval under the Code, the MCF is concerned that the previously unworkable policy within the City of Port Adelaide Enfield (set out in the MCF's October 2018 submission), which effectively excluded vast swathes of residential and commercial/centre areas from telecommunications facilities by making them non-complying, has been carried over into

the new overlays and statements (for example see PAdE1 and PAdE3, which are the effectively the same areas impacted under the existing Development Plan regime).

In the MCF's view, the changes now proposed have made matters worse and carries the problems previously identified in City of Port Adelaide Enfield over into other previously unaffected Council areas.

Unsurprisingly, given the scope of the changes to be brought about by the Code and the number of intersecting documents, it's also not clear exactly how all of these different components fit together and are intended to work under the new system. The MCF is of the view these concerns should be the subject of an urgent meeting to allow the Commission to demonstrate the intent and practical outcomes so the MCF can allay the concerns of its members or, alternatively, assist in ensuring the new legislation does not cause the difficulties identified in this submission.

Other Matters

As has occurred in other states, it would be appropriate for the Commission to consider whether a telecommunication and/or infrastructure Practice Direction and Practice Guideline document as a useful and appropriate mechanism by which to better set out the State's position on telecommunications infrastructure.

This would allow the opportunity, as has occurred in Victoria, for the State to be clear on its position that:

- 1) Telecommunications facilities are essential infrastructure
- 2) Telecommunications facilities cannot be a restricted form of development in any zone
- 3) Telecommunications facilities that currently enjoy Commonwealth exemption under the existing Development Plan regime will continue to enjoy that exemption regardless of any new overlays, historic or character statements

The MCF would be pleased to work with the Commission to develop a suitable framework for such a guideline, which could be along similar lines to the changes to the *Development Regulations* made to ensure railways could continue to function properly when the State assumed control from the Commonwealth (this was discussed in some detail in the MCF's October 2018 submission). As such, the Commission can be comfortable that such an approach and the changes that follow are by no means unprecedented in South Australia and will greatly increase certainty now and reduce the need for complicated or extensive rework at a later date.

In addition, Design Standards for Telecommunications Facilities could also be developed to ensure consistent service provision (including those currently relying on the Low Impact Determination 2018).

It is noted that policy anticipated for infrastructure included:

Design Standards may be prepared for both the public realm and infrastructure. Under the new system, there are three main opportunities for Design Standards to be applied. These include:

- Off-setting Contributions Schemes: applying to development contributions for public realm works.
- Infrastructure Delivery Schemes : applying to the provision of basic infrastructure in designated growth areas.
- Specific spatial layers or locations: applying to strategic and priority areas as specified by the Planning and Design Code, such as urban renewal precincts.

Design Standards may include:

- design principles
- minimum design requirements (standards)
- design guidance with respect to any other matter.

Design Standards may also be accompanied by advisory material in the form of design manuals or guidelines.

The MCF requests that these matters be the subject of an urgent meeting with the Commission to discuss how best they might be dealt with, as amendments to the Regulations post commencement of the Code phases is likely to be very difficult and time consuming, as it has been in the past.

Of particular importance is consideration to maintaining a consistent within Schedule 4 of the Regulations between clauses 13 and 14 and introducing an exemption for minor and low-impact facilities, which will need to be more carefully considered for all but the most sensitive overlay areas (most likely those of a heritage/historic nature).

As always, the MCF welcomes engagement with government on these important issues and encourages careful consideration of this submission and all previous submissions. The October 2018 submission in particular meticulously sets out all of the relevant issues and provides a clear pathway forward, which is developed further in the MCF's subsequent submissions (including Phase 2) and this one.

Community expectations for the provision of a reliable next generation mobile telecommunications service may be partially unrealised or significantly delayed without regard to the matters contained in this and other MCF submissions.

The Planning and Design Code is a great opportunity to get this important policy regime right and ensure South Australia and its communities have access to the latest and most reliable mobile telecommunications networks available.

Please don't hesitate to contact me on [REDACTED] or Mark Baade (planning consultant) on [REDACTED] [REDACTED] should you have any immediate questions about these important issues so the State can ensure the new planning system responds appropriately.

Yours sincerely,



Ray McKenzie

Manager, Mobile Carriers Forum

Australian Mobile Telecommunications Association

Attached:

Appendix A – Comparison of Zones Assessment Pathways and Notification (Phase 3)

APPENDIX A - PHASE 3 CODE CONSULTATION

Part 2 – Zones and Sub-Zones

Yellow – previously submitted notes on zones introduced in Phase 2

Blue – additional zones introduced in Phase 3

Zone	Assessment pathway	Notification/other comments
Business Neighbourhood Zone	Performance assessed – not specifically mentioned	DPF 3.1 12m height limit triggers public notification Should be specifically listed in Table 3
Caravan and Tourist Park Zone	Performance assessed – not specifically mentioned	Notified by default Could be specifically listed in Table 3
Commonwealth Facility Zone	Performance assessed – not specifically mentioned	No notification requirements. Probably doesn't require approval in any event.
Community Facilities Zone	Performance assessed – not specifically mentioned	DTS/DPF 2.1 Building height overlay? Notified by default
Conservation Zone	Performance assessed – not specifically mentioned	Notified by default
City Living Zone	Performance assessed – not specifically mentioned	Notified by default
City Main Street Zone	Performance assessed – not specifically mentioned	Notified by default
Capital City Zone	Performance assessed – not specifically mentioned	Notified by default Should be specifically listed in Table 3 or could be considered for inclusion in Table 2 given the nature of the zone
City Park Lands Zone	Appears to be performance assessed as not specifically mentioned, HOWEVER 'public infrastructure' is listed in Table 4 as 'restricted'. Public Infrastructure is NOT defined in Part 7 of the Code.	Probably intended to be notified by default (ie. supposed to be captured by Table 3) but unclear due to Table 4 inclusion of 'public infrastructure'. Needs to be clarified to ensure TFs are listed in Table 3 and notification is required. Allowing TFs in the Park Lands will often provide a better solution in terms of location.
City Riverbank Zone	Performance assessed – not specifically mentioned	Notified by default Should be specifically listed in Table 3 and in the Innovation Subzone should be exempt from notification.
Coastal Waters and Offshore Islands Zone	Performance assessed – specifically mentioned	Specifically requires public notification Part 4 requirements

Deferred Urban Zone	Performance assessed – not specifically mentioned	Notified by default
Employment Zone	Performance assessed – <i>specifically mentioned</i> Telecommunications facility is a ‘desired’ use (not the term used)	Excluded from notification (unless adjacent different zone) Extensive overlays, some seem irrelevant or onerous for an employment zone and inconsistent with PO1.1 Buffer to residential introduced in PO1.2
Employment (Bulk Handling) Zone	Performance assessed – not specifically mentioned	Notified by default Should be consistent with Employment Zone given nature of BH zone
General Neighbourhood Zone	Performance assessed – not specifically mentioned	Notified by default <i>and</i> potentially captured by building height DTS4.1 PO1.3 expands on previous policy about “range of services to the local community” that works to specifically exclude TF PO1.4 continues this theme
Greenfield Suburban Neighbourhood Zone	Performance assessed – not specifically mentioned	Notified by default <i>and</i> potentially captured by building height DTS/DPF8.1 Conflicting policy about form of development and supply of infrastructure
Hills Face Zone	Restricted Not an acceptable outcome	Would be notified if restricted. However, should be listed in Table 3 and subject to notification.
Home Industry Zone	Performance assessed – not specifically mentioned	Notified by default <i>and</i> potentially captured by building height DTS/DPF2.1
Housing Diversity Neighbourhood Zone	Performance assessed – not specifically mentioned	Notified by default and potentially captured by building height. Also captured by ‘non-residential development’ exclusion. PO1.3 expands on previous policy about “range of services to the local community” that works to specifically exclude TF PO1.4 continues this theme
Infrastructure Zone	Performance assessed – not specifically mentioned	Notified by default TF not listed in PO1.1/DTS/DPF 1.1 Should be either ‘deemed to satisfy’ or specifically listed in table 3.

		Should not be subject to public notification. Makes no sense
Infrastructure (Airfield) Zone	Performance assessed – not specifically mentioned	Notified by default Should be specifically mentioned in Table 3 – it's infrastructure but airfield requires greater scrutiny Should not be notified
Infrastructure (Ferry and Marina)	Performance assessed – not specifically mentioned	Notified by default Should be specifically mentioned in Table 3 – it's infrastructure Should not be notified
Innovation Zone	Performance assessed – specifically mentioned	No notification.
Master-planned Suburban Neighbourhood Zone	Performance assessed – not specifically mentioned	Notified by default Given the 'master planned' intent of this zone, TFs need to be specifically listed in Table 3.
Motorsport Park Zone	Performance assessed – not specifically mentioned	Notified by default Much of this zone is infrastructure-related, with a big range DTS Should be specifically mentioned at least in Table 3 – it's infrastructure, but could easily fit into Table 2 Should not be notified
Open Space Zone	Performance assessed – not specifically mentioned	Notified by default Severe building height restriction and other policy impacting on ability to place TFs in this zone. In the past this zone/type of land has been suitable. Should be specifically mentioned in Table 3 – could still be notified
Peri-Urban Zone	Performance assessed – not specifically mentioned	Notified by default, but wind farm is NOT notifiable. TFs are important in a zone such as this and should be specifically listed in Table 3 and exempt from notification.
Recreation Zone	Performance assessed – not specifically mentioned	Notified by default Severe building height restriction and other policy impacting on ability to place TFs in this zone. In the past this zone/type of land has been suitable. Should be specifically mentioned in Table 3 – could still be notified
Remote Areas Zone	Performance assessed – not specifically mentioned	Notified by default. This zone recognises infrastructure is required to service this area – but TF not listed/included.

		Should be specifically listed in at least in Table 3 and excluded from notification or considered for listing in Table 2
Residential Park Zone	Performance assessed – not specifically mentioned	Notified by default. TFs unnecessarily excluded. PO1.2 limits consideration of such land, which will often be owned by Council
Residential Neighbourhood Zone	Performance assessed – not specifically mentioned	Notified by default Possibly captured by other notification requirements This zone doesn't have much by way of policy for non-residential development but doesn't mention the restrictions listed in the General Neighbourhood Zone (even though it's more 'sensitive'). If TFs are to be effectively excluded from this zone they must be more easily permitted in the General Neighbourhood Zone.
Resource Extraction Zone	Performance assessed – not specifically mentioned	Notified by default Should be specifically listed in at least in Table 3 and excluded from notification or considered for listing in Table 2
Rural Aquaculture Zone	Performance assessed – not specifically mentioned	Notified by default TF could be considered for inclusion given infrastructure nature
Rural Zone	Performance assessed – not specifically mentioned	Notified by default Makes no sense given DOs for the zone Should be specifically listed in at least in Table 3 and excluded from notification or considered for listing in Table 2
Rural Horticulture Zone	Performance assessed – not specifically mentioned	Notified by default Makes no sense given DOs for the zone Should be specifically listed in at least in Table 3 and excluded from notification or considered for listing in Table 2 – should be consistent with Rural Zone
Rural Intensive Enterprise Zone	Performance assessed – not specifically mentioned	Notified by default Makes no sense given DOs for the zone Should be specifically listed in at least in Table 3 and excluded from notification but suitable for listing in Table 2
Rural Shack Settlement Zone	Performance assessed – not specifically mentioned	Notified by default

Rural Living Zone	Performance assessed – not specifically mentioned	Specifically exempt from notification Could be specifically listed in Table 3 to give clearer assessment path given exemption from notification
Rural Settlement Zone	Performance assessed – not specifically mentioned	Notified by default and potentially by building height limit (9m) Should be listed in Table 3 as infrastructure to this zone is important
Suburban Employment Zone	Performance assessed – <i>specifically mentioned</i>	Exempt from notification absolutely Extensive overlays, some seem irrelevant or onerous Potential issues in interpretation of building height provisions
Suburban Activity Centre Zone	Performance assessed – <i>specifically mentioned</i>	May be caught by notification requirements (related to setback/building height) Extensive overlays, some seem irrelevant or onerous Potential issues in interpretation of building height provisions
Suburban Business and Innovation Zone	Performance assessed – not specifically mentioned	Notified by default and potentially by building height limit (12m) Should be listed in Table 3 as infrastructure to this zone is important. Inconsistent with other 'suburban' zones where TF is specifically mentioned
Suburban Main Street Zone	Performance assessed – <i>specifically mentioned</i>	May be caught by notification requirements (related to setback/building height) Extensive overlays, some seem irrelevant or onerous Potential issues in interpretation of building height provisions
Suburban Neighbourhood Zone	Performance assessed – not specifically mentioned	Notified by default and potentially by building height limit (not specified in text) Should be listed in Table 3 otherwise inconsistent with other 'suburban' zones where TF is specifically mentioned
Township Zone	Performance assessed – not specifically mentioned	Notified by default and potentially by building height limit (9m) Should be listed in Table 3 as infrastructure to this zone is important, plus listed in other 'township' zones
Township Main Street Zone	Performance assessed – <i>specifically mentioned</i>	May be caught by notification requirements (related to setback/building height) Extensive overlays, some seem irrelevant or onerous

		Potential issues in interpretation of building height provisions
Township Activity Centre Zone	Performance assessed – <i>specifically mentioned</i>	May be caught by notification requirements (12m) Extensive overlays, some seem irrelevant or onerous Potential issues in interpretation of building height provisions
Tourism Development Zone	Performance assessed – not specifically mentioned	Notified by default Should be listed in Table 3 as infrastructure to this zone is important
Urban Activity Centre Zone	Performance assessed – <i>specifically mentioned</i>	Notification triggered due to a specific provision relating to height of facility (>30m) and distance from neighbourhood zone (<100m) – otherwise exempt from notification
Urban Corridor (Boulevard) Zone	Performance assessed – not specifically mentioned	Notified by default TF should be listed in Table 3.
Urban Corridor (Business) Zone	Performance assessed – not specifically mentioned	Notified by default TF should be listed in Table 3 and EXEMPT from notification
Urban Corridor (Living) Zone	Performance assessed – not specifically mentioned	Notified by default TF should be listed in Table 3.
Urban Corridor (Main Street) Zone	Performance assessed – not specifically mentioned	Notified by default TF should be listed in Table 3 and EXEMPT from notification
Urban Neighbourhood Zone	Performance assessed – not specifically mentioned	Notified by default TF should be listed in Table 3.
Urban Renewal Neighbourhood Zone	Performance assessed – not specifically mentioned	Notified by default Should be listed in Table 3