

Memorandum

17 November 2022

To: Mayor Wayne Brown

Subject: Telecommunications Infrastructure: Triggers for Auckland Council and Auckland Transport Approvals

From: Ian Smallburn, General Manager, Resource Consents

CC: Craig Hobbs, Director Regulatory Services

Contact information: ian.smallburn@aucklandcouncil.govt.nz

1. Purpose

To provide information on:

- The national and local regulatory framework that manages the installation and operation of telecommunication infrastructure.
- Other support currently provided to telecommunication companies by Auckland Council (AC).

2. Summary

- 2.1. Telecommunication activities are largely managed by *The National Environmental Standards for Telecommunication Facilities, 2016* (NES:TF).
- 2.2. AC and ATs primary function relating to telecommunications is to consider approvals for the construction and operation of telecommunication infrastructure under the Resource Management Act (RMA), Building Act 2004 (BA), or to provide approvals as a road controlling authority or as an owner of public land or buildings.
- 2.3. Where telecommunication companies comply with the NES:TF, no resource consent is required (i.e., it is a permitted activity). Many telecommunication activities within the road corridor are permitted activities. Resource consents are required where they trigger a rule in the Auckland Unitary Plan (AUP). 27% of RMA approvals applied for by telecommunication companies are for resource consent. 73% of approvals are for a Certificate of Compliance (CoC) for permitted activities. Average statutory processing days for RMA approvals is 21 statutory days (2019-2022 period).
- 2.4. Where telecommunication infrastructure consists of a standalone structure, or is installed on streetlights, the work is exempt from the need to obtain building consent.
- 2.5. Landowner Approval from Auckland Council may be required for telecommunication infrastructure on publicly owned land or buildings.
- 2.6. Telecommunication companies need to apply to AT for a “Telco Act Notice” to mount antenna on a streetlight. A Corridor Access Request (CAR) is required from AT for works in a road corridor.
- 2.7. The Regulatory Directorate provides ‘Key Account’ support to Two Degrees, Spark and One (Vodafone) providing a single point of contact to help navigate the required regulatory approvals.

3. Discussion

National framework

3.1. The National Environmental Standards for Telecommunication Facilities (NES:TF) was introduced in 2016. The NES:TF provides:

- national consistency in the rules managing the installation and operation of telecommunication infrastructure across New Zealand, whilst ensuring the effects on the environment are minimized and managed appropriately, and
- rules that allow network operators to install a wide range of low impact telecommunication infrastructure such as cell phone towers, antenna, telecommunication lines and associated cabinets in public road reserve, private land, urban and rural areas and on buildings without the need to apply for resource consent (provided they meet the NES:TF permitted standards and comply with the Auckland Council Unitary Plan).

3.2. Where a proposal is not a permitted activity under the NES:TF, then resource consent is required.

Local regulatory framework

Resource Management Act (RMA) approvals

3.3. If the NES:TF standards are met and restrictions complied with, telecommunication providers can install infrastructure without a resource consent. Where standards are met, telecommunication providers can apply to AC for a “Certificate of Compliance” (CoC) under s139 of the RMA (noting this is not mandatory requirement). All CoC applications are processed by the AC streamline resource consent team which aims to achieve a 10-working day statutory processing timeframe. Over the 2020-2022 three-year period approximately 73% (or 171) of RMA approvals applied for by Two Degrees, One (Vodafone) and Spark were CoCs for permitted activities under the NS:TF.

3.4. Where a proposal is not a permitted activity under the NES:TF, then a resource consent is required. Over the 2020-2022 three-year period, approximately 27% (or 55) of RMA approvals applied for by Two Degrees, One (Vodafone) and Spark were for land use resource consents.

3.5. Over the 2019-2022 period, the average statutory processing days for RMA approvals is 21 statutory days.

3.6. The majority of resource consent approvals required tend to be where there is an increase in height or width of poles, or antennas above that permitted by the NES: TF. Telecommunication infrastructure that is proposed to be in a more sensitive areas also require resource consent. Triggers may include:

- Historic heritage values
- Landscape features identified as having special visual amenity values, outstanding natural landscapes or features
- Significant habitat for indigenous vegetation or fauna
- Rules to protect the adjoining coastal marine area.
- Work within the dripline of a tree or other vegetation in the road reserve, or work within the dripline of a tree, group of trees, or other vegetation identified as of special significance

3.7. It should be noted that AT supports AC's regulatory role in RMA applications. Utilities are generally permitted in the road corridor in the Unitary Plan, however, in terms of subdivision applications which propose to vest new public roads, AT will assess the proposed street design to ensure that there is sufficient space in the road corridor for the provision of infrastructure such as utilities. The Auckland Code of Practice for Land Development and Subdivision, (Chapter 3 Transport) and associated Transport Design Manual outlines relevant standards.

Building Consent approvals

- 3.8. Where telecommunication infrastructure consists of a standalone structure or is installed on streetlights, the work is exempt from the need to obtain building consent (Refer Exemption 29 under Schedule 1 of the Building Act 2004).
- 3.9. If telecommunication infrastructure is installed on an existing building and it has an impact on the structural or weatherproof performance of the building, a building consent may be required.

Auckland Transport (AT) approvals

- 3.10. For antenna that are to be mounted on an existing AT streetlight, telecommunication firms submit a "Telco Act Notice" to the AT lighting team.
- 3.11. A Corridor Access Request (CAR) is required for installation work that needs to occur within the road corridor (including installation of antenna on streetlights).
- 3.12. An encroachment approval is required if there were no statutory rights for the proposed telecommunications infrastructure to be in the road corridor (noting this is rarely required).
- 3.13. AT is required to review and approve applications within 15 working days, as per the legislative requirements. If there are urgent requests, these can be prioritised.
- 3.14. AT works to find solutions with providers in relation to road controlling authority approvals and the access of telecommunications providers wherever possible.

Telecommunication infrastructure on publicly owned land or buildings

- 3.15. If a telecommunication provider wishes to install telecommunications equipment on public land or buildings, Landowner Approval (LOA) is required (in addition to any resource or building consent approval). Landowner Approvals for:
- Work in a reserve, park or public open space would be sought through Parks and Community Facilities and approved by the relevant Local Board (or by officer delegation); or
 - Installation of telecommunication infrastructure on a building owned by Auckland Council would require landowner approval from Auckland Council Property, Customer & Community Services, Eke Panuku or that part of Council responsible for the management or operation of the asset.

Other approvals

- 3.16. There are no additional Bylaws adopted by Auckland Council that manage or control the installation and operation of telecommunications infrastructure.

Other Support

- 3.17. The AC Regulatory Directorate provides a Key Account service to support Two Degrees, Spark and One (Vodafone). Through the Key Account programme additional support is provided to these companies to assist them with any regulatory approval requirements. This includes understanding their work programmes and resourcing requirements, through to interpretations and “unblocking” applications, if required.
- 3.18. The Resource Consent Department also regularly receives and responds to complaints from members of the public about concerns of the installation of facilities in their neighbourhood.

4. Next steps

This memo is for information purposes. If you have any other questions, please feel free to contact Ian Smallburn, General Manager, Resource Consents.