

Pushy Telcos and Owners Corporations

Owners corporations are increasingly encountering aggressive behaviour by some telecommunications providers who say they are acting under powers granted to them pursuant to the *Telecommunications Act*.

Preserving the owners corporation's rights and negotiating position can come down to whether the owners corporation responds in a timely fashion, and in accordance with the relevant legislation.

Failure to do these things may mean the owners corporation is stuck with a proposal to install infrastructure and technology which the owners do not want.

It is important that you understand the steps which your owners corporation needs to take in dealing with such telecommunications providers.

The Rise of “Low Impact” Telecommunications Infrastructure

Once upon a time, the only occasion on which an owners corporation would hear from a telecommunications provider was if that telecommunications provider wished to install a mobile telephone tower on top of the building comprising the strata scheme.

In most instances this would lead to negotiations between the owners corporation and the relevant telecommunications provider as to the nature of the leasing arrangement which would be put in place to enable that mobile telephone tower to be erected and maintained and almost always the owners

corporation would receive rental income as a result of allowing such installation to take place.

Under the *Telecommunications Code of Practice 2021*, telecommunications providers can give notices to an owners corporation in relation to their intention to use owners corporation's property for various purposes. Typically, these notices include:

- *The Inspection Notice* – this notice provides the owners corporation with notice of the telecommunications provider's intention to enter the strata scheme carry out an inspection of the building or buildings comprising the strata scheme to enable the telecommunications provider to consider whether it wishes to proceed with any further proposals; and/or
- *The Installation Notice* – typically, a notice of this kind provides the owners corporation with written notice of the telecommunication provider's intention to install certain "low impact" telecommunications infrastructure and systems – the notion of what is "low impact" is defined by the relevant legislation.

The Importance of Responding

The relevant legislation requires that an owners corporation receiving a notice from a telecommunications provider under the relevant legislation must respond:

- in writing;
- within a certain limited timeframe; and
- in a specified manner,

otherwise the telecommunications provider may automatically have rights to do certain things pursuant to the relevant legislation. For example, if the owners corporation fails to properly respond and/or fails to respond within the timeframes governed by the legislation, then the owners corporation may

find itself without any basis to argue against a telecommunications provider installing certain equipment and infrastructure on the building, including certain forms of antennas, cabling etc.

“Pushing Back” Against Telecommunications Providers

Over the last 12 months we have seen a rise in the instances of such proposals, and specifically, of inspection notices or installation notices being given to owners corporations.

Normally the manner in which an owners corporation can respond is extremely limited, as is the time in which an owners corporation can respond.

Interestingly, when we have been engaged to object to those notices (in accordance with the relevant parts of the telecommunications legislation) then the telecommunications providers have, almost in every instance, withdrawn their notices and decided not to further engage with that particular owners corporation.

Therefore , even if the situation appears to have been “lost”, where the owners corporation has failed to take any steps to deal with an inspection notice or installation notice, it is still worth engaging legal advisors to formally object to those notices, as it appears that telecommunications providers may not be willing to take on a “hostile” owners corporation, properly engaged.

Timing is Everything!

Should your owners corporation receive a notice from a telecommunications provider, then it is critical that you seek advice promptly, as some of the timeframes in which the owners corporation is entitled to respond are only 10 days in length.

Under the relevant legislation, any objection must deal with certain specified matters.

[Need assistance with a proposal from a telecommunications service provider, we are experienced in the processes under the telecommunications legislation including drafting 'Notices of Objection' in compliance with that legislation. CLICK HERE!](#)



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Since 1990, Warwick has specialised in strata law, property law and litigation. Recognised for his expertise, he is also a NSW Law Society Accredited Specialist in Property Law. In 2021 he was selected to serve on the Property Law Committee of the Law Society of NSW. [Profile](#) I [LinkedIn](#)

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