

29 June 2007

Waitakere Central, 6 Henderson Valley Road
Ref.CPW

Mr Oliver Suri
Adviser
Ministry of Transport
PO Box 3175
WELLINGTON 6140

Dear Oliver

MINISTRY OF TRANSPORT REVIEW OF THE TRANSPORT ACT 1962.

Local Authority Enforcement Activity.

Introduction

1. The Waitakere City Council (**Waitakere City**) appreciates the opportunity to make submissions on the consultation paper.
2. Waitakere City's strategic transport direction is to reduce congestion in parts of the network and to encourage people to walk, cycle use passenger transport and to car pool. The flow of goods and people is vital to any economy and to the functioning of the City. This strategic direction is a balanced approach to investment in roads, passenger transport and travel demand management. Parking Enforcement is an integral part of the transport management structure of the City and without consistent and regular enforcement encouraging kerb side turnover (of parked vehicles), the minimising of radical and illegal parking and ensuring special parking areas are used only by those entitled, contributes to the efficient and equitable use of the roads. Travel by motor vehicle is growing faster than the rate of increase in population growth

Powers of Local Authorities to enforce traffic offences.

1. Waitakere City contends that any Territorial Local Authority that appoints parking wardens in accordance with section 7 of the Transport Act 1962 is obliged to enforce all those offences able to be enforced by said parking wardens.
2. As above, all offences able to be enforced by parking wardens should be enforced by said parking wardens
3. There are a considerable number of 'public good' offences that the NZ Police neither has the time nor in many cases the inclination or the immediate ability to enforce. Waitakere City accepts tasking must be prioritised and the majority of these offences are at the lower end of the enforcement scale. These offences are observed countless times daily by Local Authority parking enforcement staff and while complaints are made to the Police via the Road Watch complaint process little is done other than a standard letter to the complainant. Territorial Local Authorities' who support an increase in their powers of enforcement neither have the need nor want the ability to 'pull vehicles over' or have red lights affixed to their enforcement vehicles. Section 67 of the Transport Act 1962 provides the ability to obtain the details of the offending driver and if the s67 request is ignored the owner liability provisions of the Act should apply Please refer to Annex A for offences that should also be able to be enforced by TLA staff.

AI

4. Waitakere City would support new categories of Parking Enforcement Officer able with suitable training and ongoing assessment to enforce a broader range of offences.

Special Vehicle Lanes

5. At some future point the majority of Territorial Local Authorities will be required to adopt some form of special vehicle lane.
6. Waitakere City is actively planning to introduce special vehicle lanes in the immediate future.
7. Special vehicle lane enforcement was initially introduced to suit the needs of one City within the Auckland region and was done in an ad hoc matter of political expediency that suited that particular City. Since then the same process has been used to introduce special vehicle lane enforcement for other Territorial Local Authorities unfortunately using the same template. To facilitate 2006 legal advice from the NZ Police, that stated the Commissioner was not legally empowered to issue warrants of appointment to TLA parking wardens, a legislative fix was driven through however this arrangement expires 30 June 2009 along with the repeal of the Transport Act 1962.
8. The initial template is flawed both in law and in practice and needs to be revisited and correctly legislated so that the same training, enforcement and procedural practices are able to be used equally by all Territorial Local Authorities who may wish to introduce special vehicle lane enforcement. The owner liability provisions of the Transport Act 1962 should also apply to special vehicle lane enforcement.

Infringement fees.

1. The infringement fee's set for both parking and regulatory type offences enforced by parking wardens are set too low and offer little financial or salutary warning as to the implications of their offending. The current infringement fee structure does not encourage compliance nor at the lower end of the dollar scale, recover the cost of the enforcement.
2. The fee's set in legislation bear little resemblance to the actual costs of towage and storage.
3. In 1989, the 50:50 'revenue sharing' setting was made by the Hon Ruth Richardson when she was the Minister of Finance and in today's environment does not adequately compensate the majority of Territorial Local Authorities for the cost of both enforcement and collection.
4. This 50:50 setting has already been identified by the Hon Rick Barker, Minister for Courts who has identified this as being a disincentive for Local Authorities to make an effort to collect their own debt. If an outstanding infringement fee is lodged with the Ministry of Justice (MoJ), when the MoJ do collect the outstanding debt only 10% of the sum is deducted allowing a 40% positive return to the TLA.

Bylaws as to the use of roads

1. The provisions of the Transport Act 1962 have evolved over time with substantial Case Law being apportioned to most of the sections applicable to parking enforcement.
2. At Waitakere City, currently bylaws introduced and resolved using the provisions of the Local Government Act 1974 are under review
3. There is not an issue at this stage with the traffic bylaws.

4. No. All legislation that affects 'parking' enforcement should be in transport legislation. All parking offences should be subject to the Owner Liability provisions as they now stand in the Transport Act 1962.
5. Rationalised and consolidated into a single piece of legislation. This would also include sections taken from the Local Government Act 1974 such as the abandoned vehicle process and the ability to set aside areas as parking spaces or places etc.
6. No however as stated in paragraph 2, the bylaw process is under review.
7. Not yet but may do so in the future.

While this submission is necessarily brief, there will need to be considerable consultation and debate regarding parking enforcement and the role and function of parking wardens. This is the opportunity to revise, rework and revitalize legislation that has been in place for 3 decades without major review. Training, standards and ongoing assessment leading to the warranting of staff by the Commissioner of Police will necessarily form part of the review.

In addition to the repeal of the Transport Act 1962, Waitakere City suggests that an Infringement Notice Act is created in tandem, containing the relevant material from the Summary Offences Act 1957 regarding infringement notices then becoming subject to regulation falling from the Land Transport Act 1998. As part of that process, Waitakere City suggests that additional offences are added to the transport infringement notices regime (Annex A).

Waitakere City requests the opportunity to work through the detail of the powers in Annex A and provide input into the drafting of any legislation or regulations.

Yours faithfully

Harry O'Rourke, MNZM, JP, ANZIM
CHIEF EXECUTIVE OFFICER

Annex A. Power of local authorities to enforce traffic offences: Additional Offences

Annex A. Additional Offences

- Ability to install and enforce red light camera offences
- Ability to install and enforce speed (fixed and static) camera offences
- Road User Charges offences
- Failure to stop at compulsory stops
- Offences relating to pedestrian crossings
- Overtaking offences relating to no overtaking lines
- Overtaking offences
- Failing to give way at give way signs
- Driving on footpaths and grass verges
- Driving wrong way on one way roads
- School patrol offences
- Seat belt offences
- Child restraint offences
- Entering blocked intersection/failure to keep intersection clear offences
- Flush median (driving) offences
- Require the ability to order a vehicle off the road
- Legal right to carry out points duty and direct traffic
- Use of parking enforcement staff at NZ Police check points
- Requirement for name and address to be provided to parking enforcement staff on request and legislative sanction for failure to do so
- Such other offences that may be from time to time created by statute
- Ability to fix speed limits
- Ability to establish 40 kph zones near schools

ANIMAL WELFARE: WAITAKERE

To:
Secretary of Internal Affairs
Department of Internal Affairs
WELLINGTON

**Annual report for
year ended
30 June 2006**

**Dog Control Act 1996
Section 10A**

AS

1. Introduction

This report is made under section 10A of the Dog Control Act 1996 for the year ended 30 June 2006.

2. Strategic Fit

In 2006 Waitakere City Council endorsed the principle of the animal welfare model in its LTCCP deliberations.

The following is an extract from the Long Term Council Community Plan. Some of the statistics will be repeated in other sections of this report.

“What we do

“The services provided by the Animal Welfare section include —

- Dog control enforcement
- Animal welfare enforcement
- Stock control enforcement
- Impoundment and Animal Care – accommodation
- Adoptions
- Education – dog owner licensing, school groups, general public
- Registrations

“Animal Welfare aims to ensure that animal welfare standards and regulatory requirements are delivered to the community in a fair and equitable manner.

“The goals of the section are to:

- Reduce errant dog owner behaviour
- Minimise animal related problems
- Find safe homes for animals left in care
- Promote animal welfare.

“Why we do it

- Green Network – He tuituitanga kakariki — Animal control
- Strong Communities – He iwi kaha — Animal control
- Sustainable Environment – Kauneke Tauwhiro Taiao — Education of animal owners and the general public in relation to animal welfare
- Environmental Protection – Waiora – Animal control — The Council is legally obliged to ensure facilities are provided in Waitakere City to enforce the dog control and stock impoundment legislation. This facility has been confirmed by the Council as an animal welfare facility and therefore must comply with the requirements protecting animals in general which are complementary with dog control requirements.

“Managing the impacts of Council activities

“This activity works positively to minimise the social impacts of errant dog behaviour together with maximising efforts to re-home animals left in their care. The facility is located in an industrial area minimising the impact of noise from animals staying in the kennels.

“The substantial amendments to the Dog Control Act 1999 in 2003 and 2004 to meet perceived public concerns have placed a greater responsibility on all dog owners and given wider powers of enforcement to dog control officers.

“Levels of service

“Standards of service are set by the Biosecurity New Zealand and the Animal Welfare institute of NZ (an approved organisation under the Animal Welfare Act 1999), which regulate and audit the activities of Animal Welfare: Waitakere.

“To offset the regulatory side of our service, work continues strongly in the field of education, welfare and re-homing initiatives. These service levels will remain largely unchanged. New legislation dealing with dog micro chipping will not impact on levels of service except perhaps for dangerous dogs, menacing dogs and new dog owners.

“Impounded animals must generally be held for a minimum of seven days.

“Maintenance and operations

“Animal Welfare operates from Council owned premises in an industrial area of Henderson. The facility includes the kennel block, livestock barn, education room and administration buildings which are managed and maintained by the Council. All equipment used in the provision of the service is owned by the Council.

“Accommodation must be provided for dogs that have been seized or impounded. Accommodation is also provided for animals brought to and left at the facility. Kennels are provided and daily care is provided.

“Re-homing /adoption services result in approximately 70-75% of animals being returned to homes.

“A fleet of vehicles are used by field officers operating 7 days a week, 24 hours a day patrolling the city and responding to requests and complaints from the community.

“Annual dog registration is administered by staff. 100% identification of all non registered dogs is not achievable even through house-to-house investigative work by field officers. 80% of the dogs that are impounded by the Field Officers are unregistered.

“It is estimated that between 45-50% of dogs in the city are not known to Council and are therefore unregistered. Current numbers of registered dogs are 12,549.

“A shared services contract with the North Shore City Council means that dog control enforcement services are performed by our staff, using our vehicles, accommodation facilities, processes and systems. The intention is for the Council to share fixed costs such as administration and accommodation incurred in delivering this service, it is not intended that the Council makes a profit. A three-yearly contract means that the Council is able to reassess the impact of changing costs and ensure the benefits of sharing the cost are realised.

“Future demand

“It is difficult to predict how the demographics of the projected population increase will relate to dog ownership. Given that the growth is largely in the form of intensification, into situations such as apartments where dog ownership is less frequent, it is assumed that the population of dogs will remain more or less the same in the foreseeable future and the percentage of dogs unregistered will remain at 45-50%. The current facility will be adequate. It is possible that growth and intensification may lead to increased complaints regarding dogs, and also greater pressure on off leash dog exercise areas. Future reviews of the Dog Control Bylaw will address these issues should they arise.

“What we are planning for the future

“These services are assumed to remain largely unchanged with a focus on enforcement of animal welfare and dog control legislation. The new legislation dealing with dog micro

chipping is considered to have minimal impact on operations as is it complementary to existing processes.

"The Council will continue to support animal welfare education programmes that are designed to promote owners' responsibilities in health, safety and registration of their pets.

"Funding the cost – who pays?"

"Revenue from dog registrations can only be used for the activities that are legislated by the Dog Control Act – i.e. dog control enforcement. Rates funding is used to supplement both dog control enforcement and the animal welfare components.

"Dog registration fees will increase to cover additional cost increases due to inflation and changing legislation.

"This activity provides a direct benefit to people who own animals, while the entire community benefits from animal welfare by the contribution to safety in public areas and to the environment. User charges are levied on dog owners while general rates support the animal welfare function as opposed to the control function.

"New capital expenditure is funded from loan as this is considered to benefit both the current and future community."

3. Dog Control in Waitakere City

Total number of dogs and their use

As at 30 June 2006 there were 13,276 known dog owners in Waitakere City of which 12,549 were currently registered. A majority of dogs are urban pets. There are no more than a few working dogs and they are more likely to be disability assist dogs.

Waitakere Animal Welfare Staff

Staff comprises —

- Manager: Animal Welfare
- Field Services Team Leader and 7 full time animal welfare officers.
- Accommodation Services Team Leader and 8 kennel staff
- Customer Services Team Leader and 5 customer service officers.

Animal Welfare: Waitakere operates in-house rather than by outside contractor and that is unlikely to change. The purpose of the Animal Welfare team is to enforce and educate in regards to the Dog Control Act 1996 and the Animal Welfare Act 1999, carry out beach patrols, visit pet-shops and provide community education.

Stakeholders

Animal Welfare: Waitakere maintains contact with all other animal related agencies within the greater Auckland area. This includes (SPCA, Biosecurity New Zealand, veterinarians, rescue clubs, and other animal shelters/boarding kennels.

Highlights

Education of young people and the community in general was highlighted during the 2005 – 2006 year, with 53 school talks given to 1,600 children of all ages. They were educated on animal awareness, to behave around dogs and the care of domestic animals. Dog Bite Prevention talks and training is becoming more common within industry and the development of this program has had great importance.

In addition Officers provided education and licensing sessions for persons wishing to become Responsible Dog Owners.

4. Dog Control / Animal Welfare Practice

Complaint categories and process

Complaints are categorised in Pathways, the Councils database, as follows —

- Animal Welfare - Emergency
- Animal Welfare
- Dog Barking
- Dog Attack - Emergency
- Dog Attack
- Dog Challenge
- Dog Straying
- Dog Fouling
- Dog into Rubbish
- Dog Unmuzzled
- Dog or Animal Pick Up - Emergency
- Dog or Stock Wandering - Emergency
- Dog Or Stock Wandering
- Miscellaneous (including dog traps)
- Request for Information
- Request for Advise
- Property Check
- Pick Up – Stock - Emergency
- Pick Up - Stock
- Animal Welfare - Priority

A member of public will call through on the dedicated Council phone line to request a service. This number is available for all Waitakere City residents 24 hours a day 7 days a week. A customer services representative will note the details of the complaint, as well as the customer's details. The service request is assigned with a system generated job number and title from one of the categories above, and issued to an officer according to location of the job and its priority. The officer undertakes the appropriate actions and measures for the job. This may include, education of the animal owner, making recommendations, establishing network, infringements, or possible seizure of animal, and follow up.

Issuing of infringement notices

The main focus is to educate dog owners. infringements are seen as a last resort (for statistical figures see attached table)

Prosecutions under the Dog Control Act 1996

For the period of July 2005 to June 2006 four prosecutions were commenced, all of which were resolved before the court hearing started.

5. Dogs Prohibited, Leash Only and Dog Exercise Areas

Dog prohibited and exercise areas

Waitakere City Council By-law No. 29 provides that dogs are prohibited from —

- Public buildings
- Any developed or marked out sport fields (not including spectator area), outdoor courts, skateboard park and cycle park
- On or within 10 metres of any developed or marked out playground or children's play equipment or fitness apparatus

- Any area marked as prohibited to dogs for the purpose of protecting wildlife
- Piha Beach from Piha Stream (Lion Rock) to the southern most end of South Piha Beach
- On specified areas in the Waitakere Ranges Regional Park including grassed areas of Cornwallis Beach.

Leashed Areas,

- Any public place that is not a prohibited area
- Waikumete Cemetery,
- Harbourview -Orangihina walkway & coastal area.
- Piha north of South Piha Beach but excluding marked off-leash areas
- All other beaches

Off leash areas

- Bethells Beach within marked poles
- Cornwallis Beach sand areas till 9.00 am
- All Council Reserves

Dog exercise areas

There are no specified dog exercise areas.

Compliance and effectiveness

Waitakere City Council By-law No. 29 provides that every dog owner must ensure that his or her dog does not enter or remain in any public place or private way designated as a leashed area unless the dog is led by a chain, strap or other sufficient contrivance by the person for the time being in charge of the dog.

The use of designated exercise areas for dogs in Waitakere City have proven to be a success with the number of complaints in these areas reducing substantially. There has been an increased use of these areas due to the publicity undertaken by Council.

These areas are patrolled on a regular basis. Over the summer months and an additional part-time staff member is employed to monitor these areas.

6. Dog Registration and other Fees

Fees

There was a minor increase in registration fees from the year 2005 to 2006 to provide for the National Dog Database levy.

Enforcement of Dog Registration fees

Penalties can be associated with non-registration of a dog. These include infringements, seizure and possible re-homing of a dog. Waitakere City Council where possible endeavours to assist the dog owner to keep the dog and pay the fees.

It is important to ensure that there is a set standard throughout the community in order to offer all residents fair treatment and consistency. Registration fees contribute to the dog control account; it allows the Council to provide for Animal Welfare staff that are responsible for a range of tasks (as listed paragraph 3 above).

Where a dog is found unregistered by an officer during patrols the owner is given a verbal warning and educated on the importance of registration. In cases where the owner has received previous notice about registration an infringement is issued. Failure to pay the infringement and register the dog can lead to the dog being seized under the Dog Control Act 1996.

7. Dog Education and Dog Obedience Courses

Owner Education Programmes

Dog owner licence testing is undertaken throughout the year. Classes consist of 10 people per class with a qualified Animal Welfare Officer educating the customers in relation to the Dog Control Act 1996 and dog welfare needs.

Dog safety education programme

A Bite Prevention programme is offered to members of the public. More utility agencies are investing in this type of training to keep their door-knocking staff safe.

Junior schools are sent letters offering the services of an Animal Welfare Officer and their dogs for the purpose of promoting safety around dogs and treatment of their animals. This has been very successful with over 25 schools visited with some additional pre-schools taking up the offer. We have included other groups in a similar education programme which include postal service, plunket nurses, rotary, and civil defence as well as other units of Council.

The Council does not offer dog obedience course. These are well catered for by community groups.

8. Disqualified and Probationary Dog Owners

No dog owners were disqualified or declared probationary owners.

9. Menacing and Dangerous Dogs

The classification of dogs as menacing or dangerous based on reported aggressive behaviour is a valuable tool used to protect the public from potential threats.

10. Other information

Enforcing minimum standards

Over the past 11 years Waitakere City Council has employed officers that have been warranted under the Animal Welfare Act 1999. This has allowed the officers to work with the well-being of the animals as well as enforcement of the Dog Control Act 1996 and Codes of Welfare issued under the Animal Welfare Act 1999.

Curfews on dogs

Currently, there is nothing that specifically caters for a curfew on dogs. However, when issuing a noise abatement notice to a dog owner Council may instruct the owner to confine the dog indoors or similar facilities as part of the abatement order.

Dogs fouling in public areas

Waitakere City By-law No. 29 requires the owner of a dog that defecates to immediately remove the faeces.

Impounding of dogs

As a first step officers and customer service staff try to reunite pet owners with their pets without the need for impounding. In most cases where correct identification (e.g. current registration tag) is displayed on the dog, the dog will be returned home, or the owner requested to pick the dog up from where it was found. In cases of repeat offending, or where there is no identification of the dog, impounding is inevitable.

11. Statistical Information

Category	As at 1 July 2005	As at 30 June 2006
Total registered dogs	11,419	12,549
Total Probationary Owners	1	0
Total Disqualified Owners	0	0
Total Dangerous Dogs <ul style="list-style-type: none"> • Dangerous by Owner Conviction Under s31(1)(a) • Dangerous by Sworn Evidence s31(1)(b) • Dangerous by Owner Admittance in Writing s31(1)(c) 	1	0
Total Menacing Dogs <ul style="list-style-type: none"> • Menacing under s33A(1)(b)(i) – i.e. by Behaviour • Menacing under s33 (A(1)(b)(i)) - by Breed Characteristics • Menacing under s33C(1) by Schedule 4 Breed 	2	20
Total Infringement Notices	662	640
Total Complaints Received <ul style="list-style-type: none"> • TA Complaint Category 1 • TA Complaint Category 2 	26,485	29,253
Total Prosecutions Taken	Not available	Not available
	Not available	Not available
	Not required	4

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**Proposed National Environmental
Standards for
Telecommunications Facilities**

Discussion Document

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Note: inclusion in the list of acknowledgements does not imply that all persons named are in full agreement with all the clauses of these proposed standards.

Executive Summary

In this document the Ministry for the Environment proposes for consultation new national environmental standards for radio-frequency fields and low-impact telecommunications facilities in the road reserve.¹

A national environmental standard is a legally enforceable regulation. The exact wording of any standards will be legally drafted after government decision following this consultation. In essence, the proposed standards will say that:

- an activity (such as a mobile phone transmitter) that emits radio-frequency fields will be a permitted activity provided it complies with the existing New Zealand Standard²
- the installation of telecommunications equipment cabinets alongside roads or in the road reserve will be a permitted activity, subject to specified limitations on their size and location
- noise emitting from telecommunications equipment cabinets located alongside roads or in the road reserve will be a permitted activity, subject to specified noise limits
- the installation of masts and antennas alongside roads or in the road reserve will be a permitted activity, subject to specified limitations to height and size.

This discussion document provides more detail on the proposed standards to help people prepare formal submissions. Any person can make a submission on the proposed standards. Submissions must be received by the Ministry for the Environment no later than **5.00 pm on 10 August 2007**. Further details on making a submission are included in section 6.

¹ Please see the Glossary for definitions of 'road reserve' and other technical terms.

² NZS2772.1: 1999. *Radio-frequency Fields Part 1: Maximum Exposure Levels 3 kHz – 300 GHz*.

1 Introduction

1.1 Background

In September 2004 the Government approved a comprehensive package of measures designed to improve the working of the Resource Management Act 1991 (RMA). Part of this review led to the decision to explore greater use of national policy statements and national environmental standards to help local government decide how competing national benefits and local costs should be balanced.

In June 2005 the Ministry of Economic Development completed a stocktake and analysis of regional and district plans and policy statements prepared under the RMA. The aim of the study was to determine the extent to which existing planning documents consider the national benefits of network infrastructure. The study found that such benefits are not always provided for, and that national environmental standards have the potential to improve planning consistency.

The following month, the Government approved an industry-led approach to scoping national environmental standards for telecommunications. A Telecommunications Industry Reference Group was convened, with representatives from Telecom, Vodafone and TelstraClear, Local Government New Zealand, and the Ministry for the Environment, Ministry of Health and Ministry of Economic Development. After considering several options for national instruments, the reference group proposed four national environmental standards for radio-frequency fields and low-impact telecommunications facilities.

These proposals were submitted to the Ministry for the Environment, which is now leading the process for developing the proposed standards for telecommunications facilities. This discussion document contains the Ministry for the Environment's perspective on the industry proposals.

Before preparing this discussion document, the Ministry for the Environment undertook a review of all district plans. The aim was to examine how district plans currently provide for radio-frequency fields and the telecommunications facilities identified by the Industry Reference Group as being suitable for national environmental standards. The review found that:

- provisions for telecommunications facilities in existing district plans are inconsistent across the country
- many district plans do not have clear provisions relating to infrastructure within the road reserve
- some district plans do not contain any rules for radio-frequency fields or rely on out-of-date standards.

The Ministry for the Environment also completed an initial economic appraisal of the proposed standards to provide an indication of the costs and benefits of implementing the standards. The results of this appraisal are summarised in section 4.

What are national environmental standards?

National environmental standards are regulations made under **sections 43 and 44** of the Resource Management Act 1991. Standards can be numerical limits, narrative statements or methodologies that are in a legally enforceable form. These may include (but are not limited to) standards relating to:

- land-use
- noise
- contaminants
- water quality, level or flow
- air quality
- soil quality in relation to the discharge of contaminants
- prescribing the methods of implementing such standards.

A national environmental standard may allow an activity. If an activity has significant adverse effects on the environment, a national environmental standard must not state that the activity is a permitted activity.

What are low-impact telecommunications facilities?

For the purpose of these standards, 'low-impact telecommunications facilities' refers to small-scale equipment, routinely deployed in the road reserve, of a size that is considered to have minimal adverse effects on the road or adjoining properties.

Further definitions are provided in the Glossary of this document.

1.2 Purpose of this document

This discussion document has been prepared to:

- help you understand the proposal and its potential costs and benefits
- help you prepare questions and feedback for the consultation workshops (see section 6)
- guide you in making a submission.

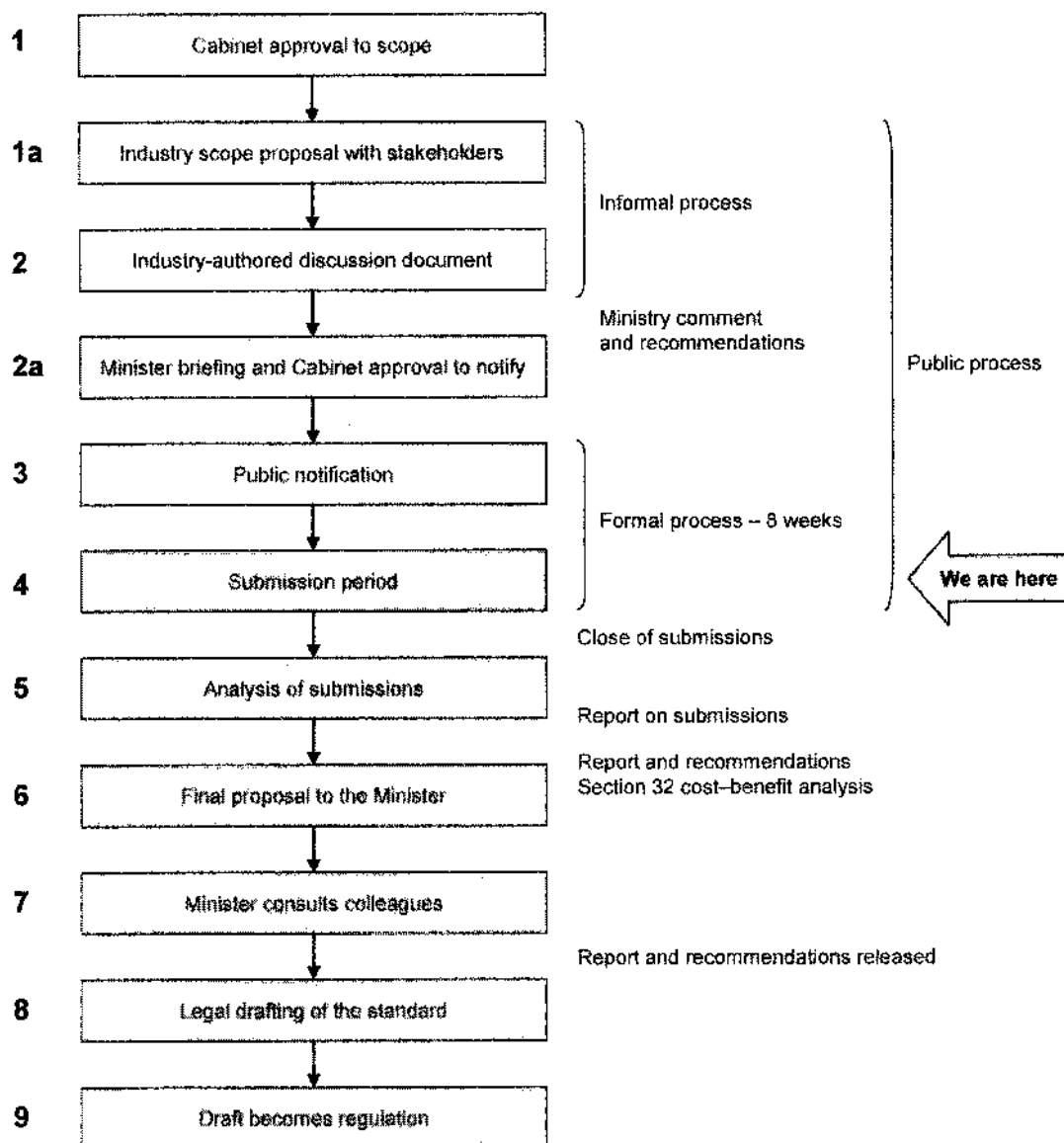
To help you put together a submission, questions are posed on various aspects of the proposed standard that we specifically want you to consider, but you are welcome to provide feedback on any aspect of the standard that has not been covered by a specific question.

1.3 The process for developing national environmental standards

An outline of the process for developing a standard, including the informal and formal submission process, is shown in Figure 1.

Following Cabinet approval, the Telecommunications Industry Reference Group scoped the proposed standards. The Ministry for the Environment received the industry proposals in June 2006 and has analysed them to prepare this discussion document. Cabinet approval to initiate public consultation was received in December 2006. We are now in the formal public submission period, as indicated in Figure 1.

Figure 1: Developing a national environmental standard



The public consultation period is your opportunity to make a formal submission on the standards. An eight-week submission period is provided to enable people to have formal submissions approved by committees or boards, if required.³ Details on how to make a submission are included in section 6. A summary of submissions will be published by the Ministry after the closing date.

1.4 When should a national environmental standard be developed?

The great majority of decisions made under the RMA are made at a local level (which is entirely appropriate), and deal with environmental effects (both positive and negative) that are experienced locally. However, local decision-making may not give appropriate weight to effects experienced more widely.

National environmental standards are instruments that can apply nationally in circumstances where it is considered that national positive or negative environmental effects are not being fully addressed by local decision-makers. National environmental standards can capture those wider benefits that may not be fully internalised in decision-making at a regional or local level. Such benefits include providing consistency of controls across the country, providing more certainty, and simplifying the process of policy formulation, monitoring and review. It is more likely that decisions about significant investments – particularly those that occur across several local authority boundaries – will be made when there is the certainty provided by national regulation at a national level.

Network infrastructure such as telecommunications is considered to be appropriate for considering the application of national environmental standards. A characteristic of network infrastructure is that the benefits conferred by the network are more widely dispersed than the costs. By capturing the wider benefits, the full implications of infrastructure development proposals for promoting sustainable management can be taken into account.

The case for developing national environmental standards for telecommunications infrastructure is made in the following section.

³ Note that developing a national environmental standard differs from other processes under the RMA (such as preparing statutory plans or processing resource consents) in that there are no hearings or appeal provisions.

2 Why Do We Need National Environmental Standards for Telecommunications?

2.1 Infrastructure and economic transformation

Effective infrastructure, such as telecommunications, is crucial to New Zealand's productive capacity and growth. Shortages in supply or volatility in prices have major economic and social effects, which can be exacerbated by our challenging geography and widely dispersed population.

In May 2005 the Government released the Digital Strategy (New Zealand Government, 2005), which sets out the Government's aspirations and priorities for ensuring all New Zealanders get the benefits of telecommunications. Through the Digital Strategy, the Government has recognised not only the direct benefits of better access to modern telecommunications, but also broader indirect environmental benefits that will assist sustainable development, such as improving the efficiency of energy use and supply (eg, flexible working styles, such as working from home, which result in reduced dependence on private motor vehicles to travel to places of employment).

In March 2006 the Government agreed that economic transformation would be one of the key priorities for the next decade. Two sub-themes of economic transformation relevant to telecommunications are world-class infrastructure and environmental sustainability. The Government's objective is to ensure telecommunications services (including broadband) are in the top half of OECD performance by 2010.

The critical issues for telecommunications are limited competition and investment in telecommunications infrastructure, low levels of telecommunications capability, and the lack of affordable high-speed telecommunications infrastructure, all of which are constraining the development and introduction of advanced technology and business applications.

2.2 Legislative and policy context

The RMA is not the only legislation applicable to the deployment of telecommunications infrastructure. When considering whether to establish a national environmental standard, the effect of other relevant legislation needs to be taken into account. In particular, where a national environmental standard is being proposed to facilitate the erection of structures alongside roads, there are several statutes that need to be considered (Simpson Grierson, 2003).

Telecommunications Act 2001

The Telecommunications Act 2001 provides a right of tenure for certain infrastructure in roads, subject to a process being undertaken with the relevant road-controlling authority. Telecommunications service providers have a statutory right to install lines and cabinets in roads pursuant to sections 135 and 142 of the Telecommunications Act. What is not clear is the full range of structures that telecommunications service providers are entitled to install. There are legal opinions suggesting that antennas and supporting poles (structures that are the subject of the proposed national environmental standards) can be installed alongside roads pursuant to the Telecommunications Act.

Despite the Telecommunications Act providing for telecommunications structures alongside roads, such structures can still be required to obtain resource consents under RMA planning instruments. The scope of the Telecommunications Act, which deals with rights of access, is different from the scope of the RMA, which deals with managing the environmental effects of establishing the structures. Consequently, there is scope for establishing national environmental standards that do not duplicate the purpose and functions of provisions under the Telecommunications Act.

Local Government Act 1974 and 2002

The majority of statutory powers and rights relating to the ownership and control of local roads continue to be those set out in Part XXI of the Local Government Act (LGA) 1974, which have been carried over by the LGA 2002. For the purposes of allowing access to roads for utilities, however, it is *control* of the road rather than *ownership* that is important. Section 317 of the LGA 1974 prescribes control over roads, and states that all roads in a district shall be under the control of the council, except state highways, which are under the control of Transit New Zealand.

Section 319 of the LGA 1974 sets out the general powers of local authorities relating to roads under their control. This section has the potential to influence the access to and operation of utilities within roading corridors, but such matters are typically dealt with under the relevant utilities legislation (eg, the Telecommunications Act 2001).

There are no provisions in the LGA 2002 that offer an alternative way to addressing the matters which are proposed to be addressed by the national environmental standards for telecommunications equipment.

Building Act 2004

The Building Act 2004 introduced the term 'network utility operator' (NUO). Under the Building Act, in specified circumstances NUOs are not required to obtain building consents. However, the Building Act does not exempt such structures from any requirement for consents under the RMA. Consequently, although the Building Act has helped simplify the deployment of network infrastructure, including some telecommunications structures, it does not offer an alternative means of dealing with the matters the national environmental standards for telecommunications equipment is intended to address.

2.3 Providing for telecommunications infrastructure through the RMA

Telecommunications infrastructure affects – or potentially affects – more than one region: it may involve the introduction or use of a new technology or process that affects the environment generally. In June 2005 the Ministry of Economic Development completed a stocktake and analysis of regional and district plans and policy statements (Beca Carter Hollings and Ferner, 2005). The study examined all district and regional plans and policy statements to determine the extent to which these documents have regard for the national benefits of network infrastructure. The analysis identified some key trends:

- benefits at a local and regional level are more commonly noted than that at a national level
- network infrastructure is often considered generically
- there is a high degree of consistency in the general approach of existing planning documents, but the detail differs in its emphasis and approach to regulation
- avoiding, remedying and mitigating any adverse effects of network infrastructure is a key concern in existing planning documents.

The stocktake completed by the Ministry of Economic Development found that the extent to which telecommunications activities are specifically referred to in any issues, objectives and policies in planning documents is extremely limited. The majority of planning documents rely on the generic network utility provisions in their issues, objectives and policies for telecommunications. In district and regional plans, telecommunication activities are most commonly provided for by either designation or by activity-based rules. In total, 66 (77%) regional and district plans contain rules relating to telecommunication facilities, with activity classifications ranging from permitted to discretionary.

The 2005 Ministry of Economic Development stocktake report considered that national environmental standards have the potential to add significant value by providing for consistency among planning documents. Shortly after this analysis was completed, and as part of the wider RMA review process, the Government approved a work programme for scoping potential national policy statements and national environmental standards for telecommunications infrastructure.

A Telecommunications Industry Reference Group was convened in July 2005, which was tasked with scoping possible national environmental standards for telecommunications. The Group delivered the final industry proposals to the Ministry for the Environment in June 2006 (Telecommunications Industry Reference Group, 2006). The report stated that the desire of the major telecommunications network providers is to roll out services using standardised equipment across the country, but that the considerable variation between territorial local authority district plans in how they address and control telecommunications infrastructure makes the deployment process time-consuming, expensive and inconsistent.

The Ministry for the Environment undertook a review of every district plan from across the country to examine how they currently provide for radio-frequency fields and telecommunications facilities (Incite, 2006). This review confirmed that provisions for telecommunications facilities in existing district plans are inconsistent, many do not have clear provisions relating to infrastructure within the road reserve, and some do not contain any rules for radio-frequency fields or rely on out-of-date standards.

The Telecommunications Industry Reference Group considered a range of possible policy options to address these inconsistencies in district plans, including doing nothing, legislative change, non-statutory methods, national policy statements and national environmental standards. After considering the various options, the Industry Reference Group considered that national environmental standards would be the most appropriate RMA-based mechanism to address the problem currently being faced, because they would be able to achieve national consistency and a greater level of certainty for both local government and the telecommunications industry.

The Industry Reference Group recommended developing a suite of four standards to provide for specific elements of the telecommunications infrastructure. The following section describes the four proposed standards in more detail.

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3 The Proposed Standards

This section details the proposed content of the standards and what the standards would require in practice. The Ministry for the Environment is investigating a supporting package to help implement any standards. This is outlined in section 5.

3.1 Objective of the standards

The objective for the telecommunications industry, as expressed in the Industry Reference Group report,⁴ is:

To provide for consistent and certain regulatory planning provisions that apply on a national basis, to assist in network and equipment design and equipment sourcing for roll outs, and a reduction in compliance costs and timeframes.

3.2 Detail of the standard

Proposed subject matter of the proposal

A national environmental standard is a legally enforceable regulation. The exact wording of these standards will be legally drafted after government decision following this consultation. A national environmental standard may allow an activity. However, if an activity has significant adverse effects on the environment, a national environmental standard must not state that the activity is a permitted activity.

In essence, the proposed standards say:

- an activity (such as a mobile phone transmitter) that emits radio-frequency fields will be a permitted activity provided it complies with the existing New Zealand Standard⁵
- the installation of telecommunications equipment cabinets alongside roads or in the road reserve will be a permitted activity, subject to specified limitations on their size and location
- noise emitting from telecommunications equipment cabinets located alongside roads or in the road reserve will be a permitted activity, subject to specified noise limits
- the installation of masts and antennas alongside roads or in the road reserve will be a permitted activity, subject to specified limitations to height and size.

⁴ *Proposed National Environmental Standard for Radio-frequency Exposure and Low Impact Telecommunications Structures in Road Reserves - An Industry Perspective* (Telecommunications Industry Reference Group, June 2006).

⁵ NZS2772.1: 1999 *Radio-frequency Fields Part 1: Maximum Exposure Levels 3 kHz - 300 GHz*.

The RMA details the relationship between national environmental standards and rules in plans, resource consents and bylaws. For all of the above standards, the Ministry for the Environment proposes that they be 'absolute' standards, whereby rules in plans, resource consents and bylaws may not be more stringent than the standards.

3.3 Exposure to radio-frequency fields from wireless telecommunications infrastructure

Industry proposal for radio-frequency fields exposure

The Industry Reference Group recommends a standard for radio-frequency field exposure from wireless telecommunications infrastructure based on a permitted activity rule.

Permitted activity

An activity that emits radio-frequency fields is a permitted activity provided the following conditions are met.

1. Exposures comply with NZS2772.1: 1999 *Radio-frequency Fields Part 1: Maximum Exposure Levels 3 kHz – 300 GHz* ("the New Zealand Standard").
2. Prior to commencing any radio-frequency emissions, the following are sent to and reviewed by the [XXX Department of the] Council:
 - a. written notice of the location of the facility or proposed facility; and
 - b. a report prepared by a radio engineer/technician or physical scientist containing a prediction of whether the New Zealand Standard will be complied with.
3. If the report provided to the Council under condition 2(b) predicts that exposures will exceed 25 percent of the exposure limit set for the general public in the New Zealand Standard, then, within three months of radio-frequency emissions commencing, a report from the National Radiation Laboratory [or XXX being an appropriately qualified person/organisation specifically identified in this rule] certifying compliance with the New Zealand Standard, based on measurements at the site will be provided to the [XXX Department of the] Council.

Ministry for the Environment comments

The Ministry for the Environment supports the industry proposal for a national environmental standard for exposure to radio-frequency fields.

What are radio-frequency fields?

Like television and AM and FM radio, wireless telecommunications infrastructure for mobile phones uses radio waves, formed from radio-frequency electric and magnetic fields. Unlike the fixed-wire systems used for conventional phones, wireless telecommunication technologies need no physical link (eg, a wire or fibre-optic cable) between the sending and receiving points. All these systems need transmitters, from which the radio waves are transmitted to the receiving equipment. (Source: Ministry for the Environment and Ministry of Health, 2000.)

The industry proposal for a permitted activity rule is reproduced from the existing national guidelines for radio-frequency fields (Ministry for the Environment and Ministry of Health, 2000). The national guidelines were issued to provide direction for local authorities, the public and resource consent applicants on how the effects of radio-frequency transmission facilities can be appropriately addressed under the RMA.

The national guidelines are based on the relevant New Zealand Standard, NZS2772.1: 1999 *Radio-frequency Fields Part 1: Maximum Exposure Levels 3 kHz – 300 GHz*. The New Zealand Standard is based on international guidelines produced by the International Council for Non-Ionising Radiation Protection (ICNIRP). The New Zealand Standard has been confirmed through case law as being relevant to the RMA.

The proposed permitted activity rule allows councils to maintain a record of the location of radio-frequency transmitters. Where exposures are predicted to exceed 25% of the New Zealand Standard limit, the requirement through the permitted activity rule for an additional report of actual exposures after construction provides certainty that the transmitter complies with the New Zealand Standard.

The national guidelines recommend that where a facility does not meet the requirements of the New Zealand Standard, the activity should be treated as a non-complying activity under the resource consent process. A national environmental standard would need to clarify how non-compliant activities are to be addressed.

What would this standard mean for district plans?

The proposed standard would introduce more restrictive provisions for exposure to radio-frequency fields for approximately 51% of district plans. Approximately 25% of the district plans refer to the out-of-date New Zealand Standard for radio-frequency fields (NZS6609 rather than NZS2772). A number of district plans do not contain any rules relating to radio-frequency fields at all.

Auckland and Christchurch City Councils have more restrictive district plan provisions than are proposed by the standard. Auckland City Council also has a bylaw for radio-frequency that is more conservative than the New Zealand Standard. This bylaw is due for review in accordance with the Local Government Act 2002; if not renewed, it will expire on 1 July 2008.

No plans refer explicitly to the national guidelines. This is to be expected given that almost all district plans were developed before the guidelines were introduced in 2000. However, some plans have used the national guidelines as a base for preparing their provisions (eg, Christchurch City Council uses similar wording to the national guidelines, but with some additional constraints).

The proposed standard would enable exposure to radio-frequency fields to be controlled in a manner consistent with the national guidelines and the most recent New Zealand Standard. There would be no immediate need for plans to be reviewed as a result of the standards being introduced because a national environmental standard overrides existing plan rules. However, over time councils may choose to alter their plans to reflect the existence of the standards when going through their next plan review.

A comparison of the national environmental standard provisions with existing district plan provisions for radio-frequency emissions shows that the national environmental standard is:

- less restrictive than 22% of plans
- consistent with 27% of plans
- more restrictive than 51% of plans.

Potential health effects from exposure to radio-frequency fields

Potential health effects from exposure to radio-frequency fields have been extensively researched by organisations such as the International Council for Non-Ionising Radiation Protection (ICNIRP). International guidelines developed by the ICNIRP are based on a careful analysis of the scientific literature and offer protection against all identified hazards of radio-frequency energy, with large safety margins. Both measurements and calculations show that radio-frequency signal levels in areas of public access from base stations are far below international guidelines, typically by a factor of 100 or more. Radio-frequency exposure levels to a user from mobile phones are considerably larger, but still below international guidelines (World Health Organisation, 2000).

The World Health Organisation advises that none of the recent reviews have concluded that exposure to the radio-frequency fields from mobile phones or their base stations cause any adverse health consequence. However, there are gaps in knowledge that have been identified for further research to better assess health risks (World Health Organisation, 2000). Ongoing studies relating to health effects include the World Health Organisation international electromagnetic fields project (note that this study covers electromagnetic fields, of which radio-frequency fields are only a small part).

The New Zealand Standard (NZS2772:1999) was adopted after a comprehensive investigation, including an international review of other standards and guidelines. The New Zealand Standard sets limits for public exposure that are 50 times lower than the level at which health effects may start to occur. The Environment Court has concluded that there are no adverse health effects arising from radio-frequency fields that comply with the New Zealand Standard. The Environment Court has also rejected arguments relating to psychological effects.

Leading RMA case law on the effects of radio-frequency transmitters includes:

- *North Shore City Council v Vodafone*, A206/03 (October 2003)
- *Shirley Primary School v Christchurch City Council*, C136/98 (December 1998)
- *McIntyre v Christchurch City Council*, A015/96 (March 1996).

It was acknowledged in the *Shirley* case that this decision may be referred to by communities elsewhere in New Zealand.

3.4 Telecommunications equipment cabinets within road reserves

Industry proposal for cabinets

The Industry Reference Group recommends a standard for equipment cabinets within the roads or in the road reserve based on a permitted activity rule.

Permitted activities	
Telecommunication cabinets in road reserves shall be permitted activities subject to the following restrictions.	
Limitations on cabinet size and location (above ground level)	Adjacent area type
Maximum height: 1.8m Maximum volume: 2.5m ³ Road lay position restriction: nil Maximum number of cabinets per separate property frontage exceeding 900mm in height: 1	Residential, open space/ reserve
Maximum height: 2m Maximum volume: 3.5m ³ Road lay position restriction: nil	Rural, business, mixed-use
Provided that any rule in a district plan shall take precedence over this standard in the following circumstances:	
<ul style="list-style-type: none"> • where the cabinet is located in a road reserve directly adjoining a site containing a building listed as having heritage value (this provision shall apply where a site containing the heritage building is located on the same side of the road reserve centre line as the cabinet) • where a cabinet is located in a road reserve contained within or directly adjacent to any heritage precinct or area of landscape importance identified in a district plan (where the road reserve itself is not contained within the identified precinct or area, this provision shall apply where a site identified as being within a heritage precinct or area of landscape importance is located on the same side of the road reserve centre line as the cabinet) • where any excavation work to install the cabinet is undertaken within the drip line or branch spread of any tree or vegetation, where a resource consent would otherwise be required by a district plan to undertake such excavation. 	

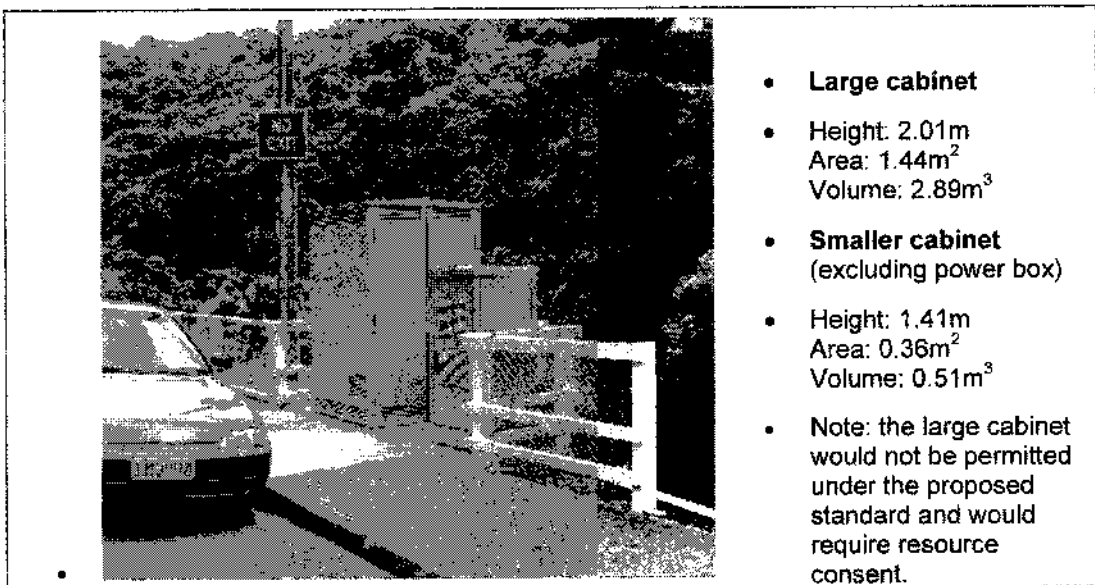
A31

It is important to note that the above standard is the recommendation of the Industry Reference Group. If approval is given to continue developing the proposed standards, the above wording may be altered as a result of submissions and the drafting process.

The industry report describes what an equipment cabinet is (see text box below), and Figure 2 provides an example of cabinets in the road reserve.

Cabinet – means an equipment casing, usually set on a concrete foundation plinth, that may contain telecommunications equipment, batteries, line terminals, and cooling systems such as heat exchangers and fans, and other such devices and equipment that are required to operate a telecommunications network (Source: Telecommunications Industry Reference Group, 2006).

Figure 2: Telecommunications equipment cabinets in the road reserve



Ministry for the Environment comments

The Ministry for the Environment would be interested in hearing your views on the industry proposal.

Appropriate siting and location will be vital to the effective implementation of the proposed standard (eg, avoiding areas of high amenity value). The proposal has addressed siting in relation to heritage, landscape and trees. However, waahi tapu and areas of high amenity or design control that are not specifically identified in plans may also need to be included in any standards (eg, pedestrian malls in business areas).

However, the industry report has not addressed the potential conflicts between telecommunications cabinets and other equipment cabinets (eg, gas and electricity) in the road reserve and associated potential clustering. Also, the proposal does not promote the appropriate use of screening, colour or other ways to avoid potential adverse effects on visual amenity. The Ministry for the Environment is interested in your views on appropriate heights, volumes (or areas) and locations for cabinets in residential and other areas.

Although the proposal addresses district plan restrictions, it does not affect processes under the Telecommunications Act 2001, such as road-opening notices.

Broadband and unbundling of the local loop

Broadband is a high-capacity, high-speed telecommunications service with a greater bandwidth (capacity) than a standard telephone call connection. Broadband access links, depending on the speed, can carry one or more services such as video, voice and data simultaneously. In May 2006 the Government announced a telecommunications package that included unbundling of the local loop (copper circuit access) and sub-loop copper-wire lines between telephone exchanges and homes and businesses, allowing other internet service providers to compete fully with Telecom to provide faster, cheaper broadband.⁶

The unbundling decision was made after the Ministry for the Environment received the industry proposals for telecommunications facilities, so the Ministry sought advice from the Telecommunications Industry Reference Group on the implications of unbundling on the proposals. Members of the Group advised that there is likely to be increased demand for cabinets in the road reserve. Telecom advised that with its move towards a "Next Generation Network", it will become increasingly important to have equipment cabinets closer to customers. Space in Telecom's existing cabinets is constrained, meaning that other operators will need to install new cabinets for their networks.

No problems are anticipated for rural, business and mixed-use areas given the maximum size of cabinets and no limit on the number of cabinets per property frontage. However, the proposal for residential areas limits the number of cabinets (over 900mm in height) to one per separate property frontage. It has been suggested that this could be amended to allow more than one cabinet to be installed as a permitted activity provided that:

- a) the combined height and volume dimensions of the cabinets do not exceed the dimensions of a single cabinet (ie, height 1.8m and volume 2.5m³)
- b) the cabinets are only separated by 50mm from each other.

The Ministry for the Environment is interested in views on this suggestion.

In some locations, the volume and height might need to be allocated carefully among all possible service providers to ensure the standard does not act as a barrier to new providers entering the market. The Ministry for the Environment is interested in your views on how the standard could include a process for allocating maximum height and volume dimensions among all service providers and encourage co-location.

⁶ Source: www.beehive.govt.nz/ViewDocument.aspx?DocumentID=25636

Hardened DSLAMS

A DSLAM (digital subscriber line access multiplexer) is a device located in a cabinet (or a telephone exchange) which allows telephone lines to make faster connections to the internet. Smaller service providers, in particular, may want to employ hardened DSLAMS, which can be buried in the ground, or attached to lampposts or other freestanding structures. It might be useful for the standard to include hardened DSLAMS, which are inherently less intrusive than cabinets. Likewise, smaller providers in particular may want to use small pedestal cabinets, and it may be useful for the standard to specifically mention such cabinets.

The Ministry for the Environment is interested in your views on whether it should refer to small pedestal cabinets, and if so, how.

Roadside cabinets and traffic safety

Network utility operators have statutory rights to use the road corridor (or road reserve) to locate and maintain network utilities, subject to the ability of the road-controlling authority to impose reasonable conditions to protect the safe and efficient functioning of the road and the assets invested in it. These rights are also subject to common law rights and Resource Management Act controls (New Zealand Utilities Advisory Group, 2004).

When it comes to telecommunications infrastructure, the rights of network utility operators are specified in the Telecommunications Act 2001. The Ministry for the Environment notes that under that Act, road-controlling authorities (such as the local authority or Transit New Zealand) can set reasonable conditions on works on the road relating to, for example, the safe and efficient flow of traffic (whether pedestrian or vehicular), and the need to lessen the damage that is likely to be caused to property (including structural integrity of the roads) as a result of work on the road. The proposed standards will not affect any of the processes under the Telecommunications Act.

What would this standard mean for district plans?

The vast majority of district plans (82%) are more permissive with respect to cabinet size when compared with the proposed standard. However, some of the larger cities are currently more restrictive, such as Waitakere City (1.5m high, 2m² area) or have proposed plan changes that would be more restrictive (eg, Auckland City Isthmus Section, 0.9m high, 0.4m² area).

Most plans restrict cabinets to a maximum height and gross floor area. Although the proposed standard also restricts cabinets to a maximum height (which is more restrictive in most respects), it controls dimension via a maximum volume rather than gross floor area.

In many cases it is difficult to determine whether district plan setback/location requirements ('yards' and recession planes) apply specifically to structures within the road reserve. The proposed standard does not prescribe any setbacks.

There would be no immediate need for plans to be reviewed as a result of the standards being introduced, because a national environmental standard overrides existing plan rules. However, over time councils may choose to alter their plans to reflect the existence of the standards when going through their next plan review.

A comparison of the national environmental standard provisions with existing district plan provisions for cabinets shows that the national environmental standard is:

- less restrictive than 9% of plans.
- consistent with 8% of plans.
- more restrictive than 82% of plans.

3.5 Noise from telecommunications equipment located within road reserves

Industry proposal for cabinet noise

The Industry Reference Group recommends a standard for noise from equipment cabinets alongside roads or in the road reserve based on a permitted activity rule.

Permitted activities

Noise from telecommunication cabinets located in road reserves shall be a permitted activity provided that the following noise limits are not exceeded.

Assessment point

For the purposes of this standard, the measurement point shall be located 3m inside the boundary of the site under consideration (ie, the site adjacent to the road reserve in which the cabinet is located).

Residential, mixed-use, rural and open space/reserve areas

All days	Noise limit
Daytime (07.00–22.00)	50dBA L_{Aeq} (5 min)
Night-time (22.00–07.00)	40dBA L_{Aeq} (5 min) 65dBA L_{max}

Business and industrial areas (and any other non-residential zones)

All days	Noise limit
Daytime (07.00–22.00)	60dBA L_{Aeq} (5 min)
Night-time (22.00–07.00)	60dBA L_{Aeq} (5 min)

Noise shall be measured in accordance with NZS 6801:1999 *Acoustics – Measurement of Environmental Sound*, and the basis for assessment shall be NZS 6802:1991 – *Assessment of Environmental Sound*. This includes provision for averaging during daytime such that a maximum daytime noise level of 55dBA L_{Aeq} (5 min) in residential, mixed-use and rural zones at the measurement point is allowed, provided that the average noise level over the full day (07.00 to 22.00) does not exceed 50dBA L_{Aeq} . No averaging is allowed at night-time.

Definition of terms

L_{eq} is the energy equivalent noise level. It is a time-averaged sound level, a single-number value that expresses the time-varying sound level for the specified period as though it were a constant sound level with the same total sound energy as the time-varying level. It is expressed over a set period of time (eg, 5 minutes, 8 hours, 24 hours etc), known as the 'time base'. (Source: Quality Planning website www.qualityplanning.org.nz)

L_{max} is the maximum noise level measured with a sound-level meter having a 'fast' response, or an equivalent method. L_{max} noise limits are normally only set where sleep protection is an issue and therefore usually only apply during night-time. (Source: Standards New Zealand)

Ministry for the Environment comments

The proposal is largely based on the voluntary New Zealand Standards for noise (NZS 6801:1999 *Acoustics – Measurement of Environmental Sound* and NZS 6802:1991 – *Assessment of Environmental Sound*). The New Zealand Standards were commissioned by the Ministry of Health and prepared by a committee of noise experts and representatives of key organisations.

NZS 6802:1991 was revised in 1999 to become NZS 6802:1999 *Acoustics – Assessment of Environmental Noise*; however, the 1991 version is still widely used. NZS 6802:1991 uses the acoustical metric L_{10} , whereas 6802:1999 uses L_{eq} . The Ministry of Health advises that referring to 6802:1991 and L_{eq} without reference to L_{10} is incorrect. The wording of the proposal could be amended to allow for averaging and ensure that the two different metrics (L_{10} and L_{eq}) can be referenced accurately, without changing the general concepts or noise limits.

The Ministry for the Environment supports the general intent of those aspects of the proposal that are based on the New Zealand Standards. The New Zealand Standards give a range of noise levels as a guideline for the reasonable protection of health and amenity for land used for residential purposes. The proposal is within the recommended range of noise limits for residentially zoned sites. Noise limits for less sensitive areas (business and industrial) are typically less stringent, as reflected by the proposal.

It should be noted, however, that the proposed assessment point for measuring noise varies from the New Zealand Standards and existing district planning approaches. NZS 6802:1999 recommends that the noise limits not be exceeded at any point within the boundary required to be protected. The proposed assessment point of 3m inside the boundary would not be appropriate for buildings that are not set back from the road boundary. An appropriate assessment method may be to set an assessment point that can be altered if the dwelling on the adjoining property is located closer than 3m to the road boundary. Alternatively, noise may be measured indoors, according to NZS 6802:1999 indoor noise limits.

Measuring noise at the property boundary is also used for traffic noise. The Ministry of Transport and Standards New Zealand are developing a New Zealand Standard for noise emissions from roads. Officials note that any standards for noise from telecommunications equipment cabinets should be consistent with any standards for traffic noise.

The Ministry for the Environment is interested in your views on the most appropriate assessment point, and associated noise limits, for measuring noise from equipment cabinets.

What would this standard mean for district plans?

The proposal is generally more restrictive than 51% of district plans. This is due to the differing assessment points for existing district plans and the proposal, with district plans typically requiring noise to be measured at the property boundary or notional boundary. Noise levels in some district plans, however, are more restrictive than the New Zealand Standards and set very low limits (eg, 40dBA at night-time in commercial areas).

The two key differences between existing district plans and the proposed standard are the assessment point and the acoustical metric (L_{eq} or L_{10}). These differences make it difficult to describe what adjacent landowners may experience.

There would be no immediate need for plans to be reviewed as a result of the standards being introduced, because a national environmental standard overrides existing plan rules. However, over time councils may choose to alter their plans to reflect the existence of the standards when going through their next plan review.

A comparison of the national environmental standard provisions with existing district plan provisions for noise shows that the national environmental standard is:

- less restrictive than 30% of plans
- consistent with 19% of plans
- more restrictive than 51% of plans.

3.6 Masts and antennas for wireless telecommunications networks within road reserves

Industry proposal for antennas and masts

The Industry Reference Group recommends a standard for masts and antennas alongside roads or in the road reserve based on a permitted activity rule.

Permitted activities	
Antennas and their associated support structures in road reserves shall be permitted activities subject to the following restrictions.	
Road reserve support structures and antennas	Adjacent area type
The replacement of, or addition to, any existing utility structure in the road reserve, for telecommunication purposes, whereby the new or altered structure does not exceed the maximum diameter of the structure it replaces or modifies by more than 50%, and in the case of antennas or any associated covering shroud, the antennas and/or shroud do not extend more than 3m above the highest point of the existing structure.	Residential, business, mixed-use, rural, open space/reserve
Panel antennas to maximum dimensions of 2.3m (l) x 450mm (w) x 200mm (d).	Residential, business mixed-use, rural open space/reserve
<p>Provided that any rule in a district plan shall take precedence over this standard in the following circumstances:</p> <ul style="list-style-type: none"> • where the support structure or antenna(s) is/are located in a road reserve directly adjoining a site containing a building listed as having heritage value (this provision shall apply where a site containing the heritage building is located on the same side of the road reserve centre line as the support structure or antenna(s)) • where the support structure or antenna(s) is/are located in a road reserve contained within or directly adjacent to any heritage precinct or area of landscape importance identified in a district plan (where the road reserve itself is not contained within the identified precinct or area, this provision shall apply where a site identified as being within a heritage precinct or area of landscape importance is located on the same side of the road reserve centre line as the support structure or antenna(s)). 	

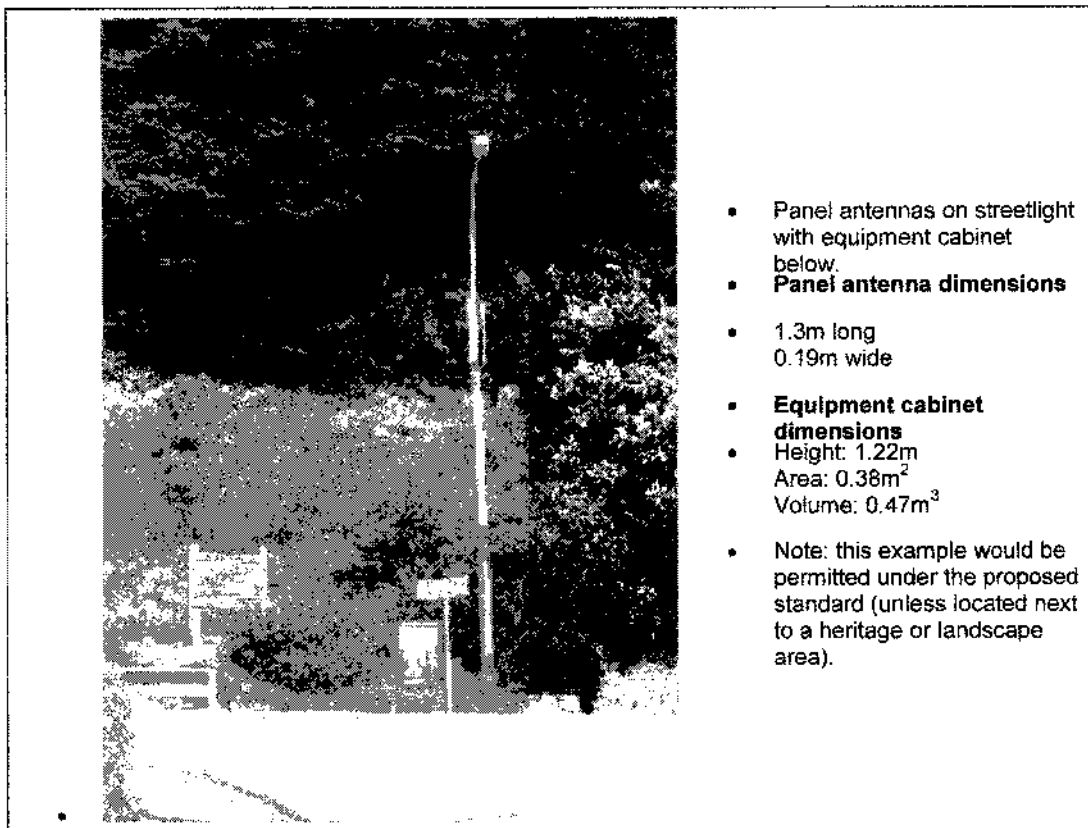
Antenna means any device that receives or transmits radio-communication or telecommunication signals. (Source: Telecommunications Industry Reference Group, 2006)

Mast means any pole, tower or similar structure designed to support antennas to facilitate telecommunications, radio communications and broadcasting. (Source: Telecommunications Industry Reference Group, 2006)

It is important to note that the above standard is the recommendation of the Industry Reference Group. If approval is given to continue developing the proposed standards, the above wording may be altered as a result of submissions and the drafting process.

Figure 3 illustrates an example of panel antennas attached to an existing streetlight.

Figure 3: An example of panel antennas attached to an existing street light



Ministry for the Environment comments

The Ministry for the Environment generally supports the intent of this proposed standard, and would be interested in hearing your views.

The Industry Reference Group report notes that the main concern in placing masts and antennas is when this occurs within residential areas or areas of high amenity value. The proposed standard addresses areas of landscape and heritage, and should also include waahi tapu. Large antennas can have visual effects when situated on prominent sites such as a ridge. In contrast, small panel antennas may have minimal visual effects when situated on, or attached to, existing structures (ie, co-located). The proposed standard for antennas promotes co-locating with existing structures within the road reserve (eg, traffic light pole, streetlight) as a potential solution to amenity concerns. New freestanding masts are not included in the proposal, and the Industry Reference Group report notes that additional new masts may create additional clutter in the road reserve, resulting in effects that are more than minor.

A number of Environment Court cases relating to amenity effects (see, for example, *Telecom New Zealand Limited v Christchurch City Council* W165/96) show that masts and antennas can, potentially, have effects on visual amenity. These effects will vary according to the type, height and design of the antenna or mast, its location, and the characteristics of the surrounding environment.

The Ministry for the Environment notes that the proposed maximum size for panel antennas as permitted activities is the largest size currently used by telecommunications companies. Antennas of the maximum size proposed are usually only required where it is very hard to get a signal (eg, in hilly terrain) or where the antenna is required to transmit over large distances, such as in rural areas. A smaller maximum antenna size may be more appropriate as a permitted activity to ensure there are no significant adverse effects on the environment.

The proposed additional mast height of 3m above an existing structure may not be appropriate in all areas, and a lesser height may be more appropriate to ensure that any effects are minimised. The proposal does not appear to have a maximum height limit for additions to existing structures; an overall maximum height limit would be required as part of any standard. Furthermore, an antenna mast should be no higher than is required to be effective for transmitting in a specific location, provided it is within the maximum height specified in the standard.

The Ministry for the Environment sought comments from the Industry Reference Group on dish antennas, which are not specified in the proposals but appear in many district plans. Members of the Group supported the inclusion of dish antennas located on structures in the road reserve, with a suggested maximum diameter of 300mm. Group members noted that, depending on where a dish antenna is being installed, it may protrude approximately 450mm from the side of the support structure. This protrusion would need to be taken into account if any standard were to include dish antennas.

To support the deployment of wireless broadband it may also be desirable to have the flexibility for service providers to attach antennas up to a certain size onto cabinets.