

Australian Local Government Association – 2017 National General Assembly

Theme: Building Tomorrow's Communities

Motion:

Sample motion: *That this National General Assembly call on the Federal Government to restore indexation to local government financial assistance grants.*

That this National General Assembly call on the Federal Government to amend Schedule 3A of the Telecommunications Act 1997 to facilitate the consideration of a request from the Sunshine Coast Council to seek the declaration of a submarine cable protection zone, given the national interest associated with establishing an alternative landing site on the eastern seaboard for Australia's international data connectivity.

Sub-themes (select all applicable):

- Governance – community driven planning and development**
 (Question for consideration eg, what support do you need from the Commonwealth to improve the governance arrangements in your community?)
- Innovation – identifying and harnessing the key pillars of growth**
 (Question for consideration eg, what support do you need from the Commonwealth to improve innovation within your community?)
- Liveability – maximising amenity, design and community cohesion**
 (Question for consideration eg, what support do you need from the Commonwealth to enhance the liveability of your community?)
- Data driven public policy – using high quality data to grow the evidence base**
 (Question for consideration eg, what support do you need from the Commonwealth to tap into big data and data analytics to provide greater insights into your community and to enhance decision making?)
- Social capital – improving the capacity of citizens and optimising workforce trends**
 (Question for consideration eg, what support do you need from the Commonwealth to strengthen the social capital in your community?)
- Technology & infrastructure – identifying and investing in tomorrow's foundations**
 (Question for consideration eg, what support do you need from the Commonwealth to allow your community to benefit from the smart cities agenda?)

Background:

- Schedule 3A of the *Telecommunications Act 1997* provides the statutory regime for the protection of international submarine telecommunications cables.
- It provides the Australian Communications and Media Authority (ACMA) with the authority to declare protection zones over international submarine telecommunication cables considered to be of national significance.
- Activities within the protection zones that are likely to cause damage to cables may be prohibited and/or restricted and are subject to heavy criminal penalties. Under Schedule 3A, certain activities, including exploring for resources and mining and certain fishing activities are prohibited or restricted in protection zones.
- Only five international submarine cables provide data connectivity from Australia to the rest of the world. Four of these cables land at two sites approximately 20 kilometres apart in Sydney and the fifth cable lands in Perth.
- The close proximity of the four existing international cables in Sydney poses a significant, national security risk for most of Australia's existing commercial data centre capacity. The very real risk that an internet blackout could occur due to damage or disruption to all of these cables simultaneously cannot be overlooked (which has been publicly acknowledged by the Prime Minister).
- Since 21 July 2015, the Sunshine Coast Council in Queensland has been seeking a decision from ACMA to commence the process for declaring a submarine cable protection zone off-shore from the Sunshine Coast.
- The approach was also supported by the Prime Minister when he was Minister for Communications.
- This approach has bi-partisan support from the Queensland Premier, the Queensland Leader of the Opposition. The project is also supported by the Local Government Association of Queensland and the Council of Mayors South East Queensland.
- ACMA has not agreed to commence the submarine cable protection zone declaration process – a process that can take up to 12 months to complete.
- ACMA's principal concern with proceeding to commence the declaration process relates to its interpretation of Schedule 3A of the *Telecommunications Act 1997*. ACMA has taken the view that Schedule 3A contemplates a protection zone being declared over a proposed cable and that the purpose of these provisions is to enable a protection zone to be established where the commencement of a cable installation project is reasonably assured.
- ACMA appears to be seeking commercial certainty prior to even being prepared to consider whether it will start a process that may provide some regulatory certainty. This is not reflective of commercial practice – particularly in relation to the provision of infrastructure.
- Based on advice that Council has received from a number of cable proponents, securing the private sector investment required to deliver the cable infrastructure could be achieved if the project were "de-risked" through the provision of a greater level of regulatory certainty, namely the declaration of a cable protection zone.

National Objective:

- To seek amendments to Schedule 3A of the *Telecommunications Act 1997* to put beyond doubt that ACMA may proceed to commence the process to declare a submarine cable protection zone where it can be demonstrated that the cable protection zone would facilitate investment in cable infrastructure that would be in the national interest.
- The intention would be that the Federal Government would work with the Queensland Government and the Sunshine Coast Council to develop appropriate amendments to Schedule 3A that would enable ACMA to commence the consideration of the declaration of a cable protection zone.

Summary of arguments:

- The three marine corridors within which these cables lie are protected by cable protection zones which were declared by the ACMA after the cables were installed.
- TPG, Telstra and Sing-Tel Optus own or have interests in all four cables landing in Sydney. With 80% of Australian internet traffic directed offshore to the USA alone and with data pricing and bandwidth controlled by this small group of participants, data charges for Australia are comparatively high.
- Market research agency Gartner, has forecast a continued exponential rise in data traffic demand from Australian consumers, driven by increased video usage and the continued uptake of cloud computing services.
- Potentially, the Sunshine Coast is the first viable landing point on the eastern seaboard (travelling south from Cape York) for a cable that could link directly to Guam and/or on to the United States and Asian destinations.
- The delivery of the cable infrastructure on the Sunshine Coast will also mitigate a significant national security risk (previously acknowledged by the Prime Minister). It would provide the eastern seaboard of Australia with an alternative entry point for its international data connectivity – with that entry point over 1000 kilometres distant from the existing cable landings in Sydney.
- AEC Group has independently estimated the cable and associated facilities would deliver potential value of \$700M annually to the economy of the Sunshine Coast and \$1.1BN annually to the Queensland economy.
- Council's submission to ACMA was not a short form proposal conveying an idea. It was the product of detailed and comprehensive research around marine environments, topography, route identification, economic modelling etc. The submission included extensive research of the seabed and territorial waters to define a clear cable protection zone that would have minimal impact on other users of the seabed.
- It is understood there are no other cable protection zone proposals before ACMA for consideration at this time. The declaration process is paid for by Council through the application lodgment and management fee.
- To this point, all that Council has sought from ACMA is a decision to commence the declaration process for a cable protection zone off-shore from the Sunshine Coast

