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## **TELSTRA CORPORATION LIMITED**

### **Telstra Submission - Amendments to the telecommunications carrier powers and immunities framework—Tranche One**

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## EXECUTIVE SUMMARY

Telstra welcomes the opportunity to provide this response to the Department of Infrastructure, Transport, Regional Development and Communications on the proposed amendments to the telecommunications carrier powers and immunities framework, as set out in the exposure drafts of the amendments to the Telecommunications Code of Practice 2018 (Code of Practice) and Telecommunications (Low-impact Facilities) Determination 2018 (LIFD).

Reforms to carrier powers and immunities are necessary to reduce infrastructure rollout costs and timeframes. This is increasingly important for Telstra as we roll out 5G and small cell networks to continue delivering the largest and most reliable network for Australians. We understand this is also a priority for the Government as the growth of the economy becomes increasingly dependent on reliable and ubiquitous telecommunications services, and as consumers expect to access more data anywhere and at any time.

We recognise that as with any reform, the Department is considering a range of stakeholders, both within and outside the telecommunications industry. Given the importance of telecommunications to the stability and growth of the Australian economy, it is imperative that the reforms should support the rollout of telecommunications infrastructure, while also balancing the need to address the concerns of communities regarding the visual and safety aspects of infrastructure deployment.

Most of the proposed amendments are helpful and welcomed for meeting the objective of reducing rollout costs and timeframes for telecommunications infrastructure, for example:

- Allowing antenna height protrusions of up to 5m, tower extensions of up to 5m in commercial areas, and co-located facilities to expand the volume of existing facilities by up to 50% in commercial areas, are all valuable for enabling the addition of 5G to existing mobile sites and supporting the co-location of facilities;
- Allowing satellite dish diameters of up to 2.4m in rural and industrial areas to be treated as low impact activity will be beneficial for fixed network deployments, especially in regional areas; and
- Allowing carriers to refer objections to the TIO will provide a more cost effective and timely pathway to resolve objections in lieu of going to court.

However, we have concerns that a number of the proposed amendments will add unnecessary material cost and delay to the rollout of telecommunications infrastructure, leading to poor outcomes for consumers, businesses, and communities. We also have concerns that some of them are not practicable to implement, especially the provisions requiring carriers to provide landowners and occupiers with engineering certificates, requiring carriers to record and maintain depth records for underground facilities, and the proposed introduction of a timeframe for carriers to refer an objection to the TIO after being requested to do so by a landowner or occupier.

We recognise that some stakeholders will have concerns about the amendments and the changes they may bring to the local landscape. We will be working closely with local government and communities to help us understand and address those concerns.

Telstra supports the Australian Mobile Telecommunications Association and Communications Alliance (the Associations) submission, and has also contributed to the development of their submission.



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## Engineering Certificates – Installations

Telstra supports the principle of providing an engineering certificate to a landowner in situations where engineering certification would reasonably be expected. However, we are concerned that the requirements in the exposure drafts of the amendments to the Code of Practice and LIFD go too far and will simply add unnecessary cost, complication and delays to the rollout of 5G and other telecommunications infrastructure, to the detriment of customers and the Australian economy.

The amendments to the Code of Practice do not clarify what needs to be certified and what type of certificate needs to be provided to the landowner. Is the intention to confirm that the infrastructure has been built in compliance with regulations, standards, and codes? If so, we consider this to be a compliance verification requirement rather than a requirement to provide an engineering certificate which would not be the appropriate mechanism. Professional engineering advice and certificates are generally only required in situations where existing building standards and codes are not adequate or require interpretation.

The proposed requirement would likely require carriers to source additional engineering certification and certificates which are superfluous and unnecessary. For example, would an engineering certificate need to be provided for roadside cabinets, even though normally there may be no requirement for a professional engineer to provide advice on their installation? If so, what aspects of the cabinet would need to be certified? Would it be the plinth/footing design, the cabinet design, and/or the installation work?

It is unclear what is meant by a 'suitably qualified engineer'. If this refers to professional engineers then we note there are different registration arrangements between States and Territories. There is also lack of clarity about which engineering practise areas would need to be involved in delivering the certification requirements. A single engineer may not be able to cover the full list of potentially certifiable items so multiple engineers may have to be engaged at significant cost to the carrier.

Telstra also considers that the 30-day timeframe to provide an engineering certificate or certification to the landowner is insufficient. Carriers often do not receive certificates from suppliers until 60-90 days after an installation is completed and commissioned. The timeframe proposed in the current version of the draft cannot be met in these situations. A more realistic timeframe would be 90 days.

The certification requirement, as currently framed, is likely to compromise the small cell infrastructure deployment required to successfully rollout 5G, potentially adding thousands of dollars of cost to each impacted site and delaying the benefits of 5G technology for Australians.

Short of fully understanding what the current concerns are and what gap in knowledge this new provision is seeking to address, we suggest the following approach be considered to minimise any unnecessary additional cost, complication, and delay to the rollout of telecommunications infrastructure:

- Carriers are only required to provide compliance and engineering certificates for certifiable facilities that they would reasonably be expected to obtain as part of standard installation practices. This information only needs to be made available in response to a request from the landowner.
- The compliance and engineering certificates are to be prepared by suitably qualified persons determined by the carrier.
- Land Access Activity Notices (LAANs) are to include information informing the landowner they may request compliance and engineering certificates that a carrier would reasonably be expected to obtain as part of standard installation practices.



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## **Records for certain facilities - carriers to keep and maintain records of depth for underground facilities**

Regardless of the intent, benefits, or problem this reform is seeking to solve, this requirement cannot be reasonably delivered. Carriers will not be able to keep and maintain records of the depth for underground facilities that they own or operate. There are no practical ways for such records to be sourced and recorded retrospectively, and maintenance of depth records by carriers over time is not realistic.

Finished ground levels can change over time due to non-carrier civil works or environmental factors such as subsidence, flooding and erosion, resulting in the depth of facilities varying over time. These are outside the control of carriers, and in most cases unknown.

For these reasons, it would also be unwise to rely on the historical recording of depth for underground facilities, as this can change after installation due to environmental factors or third party works beyond the control of carriers.

Carriers often use pits and pipes transferred from third parties such as developers. Other than undertaking a superficial inspection of the third party's infrastructure, carriers are dependent on the information provided by the third party and carriers cannot be held responsible for inaccurate information supplied by a third party.

It is also unclear what consequence would apply if a facility's depth at a future date is measured to be different from that initially recorded. We are concerned this will create unhelpful legal risk for carriers that also adds unnecessary additional cost and complication for the rollout of telecommunications infrastructure.

## **Telecommunications Industry Ombudsman referral**

Telstra understands that a 'TIO referral' requires the carrier to compile all relevant documentation, history and supporting arguments. If the Department intends that all of this information be prepared before the request is forwarded to the TIO, Telstra considers that the 10 business day timeframe is insufficient, given the volume of work typically involved in preparing this material.

It is normal for a 'TIO referral' to contain many documents and reference materials. This requires a carrier to identify which documents and reference materials are relevant to be included in the 'TIO referral', source those documents and reference materials, and then collate them in a chronological order. Below is an example of the information typically attached to a 'TIO referral' and this can amount to a total of 50 pages of material:

- Attachment 1 Telstra LAAN
- Attachment 2 Plans associated with LAAN
- Attachment 3 Letter from Objector to Telstra objecting to proposed installation
- Attachment 4 Letter from Telstra to Objector acknowledging the objection
- Attachment 5 Email from Telstra's Contractor to Objector
- Attachment 6 Letter from Telstra's Contractor to Objector
- Attachment 7 Email from Telstra's Contractor to Objector
- Attachment 8 Email from Objector to Telstra's Contractor
- Attachment 9 Letter from Objector to Telstra
- Attachment 10 Email from Telstra to Objector
- Attachment 11 Email from Telstra to Objector
- Attachment 12 Letter from Telstra to Objector
- Attachment 13 Letter from Objector requesting referral to the TIO

Telstra recommends that the 10 business day timeframe be limited to the time required for carriers to initially notify the TIO of referral of a dispute, and then allow parties 25 business days (beyond the 10 day deadline) in which to prepare and submit supporting documentation concerning the dispute.