

10 July 2015

Director
Construction Policy
Market Structure Branch
Department of Communications
GPO Box 2154
CANBERRA ACT 2615

powersandimmunities@communications.gov.au

cc: Philip.Mason@communications.gov.au

Dear Sir/Madam

Re: Consultation Paper – Amending carrier powers & immunities to support multi-technology rollouts of high-speed broadband

Telstra welcomes the opportunity to comment on proposed amendments to the Telecommunications Regulations 2001 and the Telecommunications (Low-impact) Facilities Determination 1997 outlined in the Department's consultation paper "Amending Carrier Powers & Immunities to Support Multi-Technology Rollouts of High-Speed Broadband" to support the rollout of high-speed broadband to all Australians.

As a telecommunications industry infrastructure provider with Universal Service Obligations and as infrastructure provider of last resort for certain developments, Telstra sees no difficulty with the proposed changes.

Telstra also considers that the proposed changes align with the Department's policy objectives set out in the "Telecommunications Infrastructure in New Developments, A New Approach to Competition" dated 1 March 2015 and the broader wire-line brownfield works program of the NBN.

Telstra is committed to providing its customers with high quality services as they migrate onto the NBN. The proposed changes will benefit consumers by allowing services to be delivered in a more timely and cost effective manner.

Telstra is recommending one minor addition to the proposed changes. The Department's proposal to treat technology neutral aerial cabling as a low-impact facility is not workable in the context of bridges unless provision is also made for conduit to be installed to facilitate the cable traversing the bridge. Consequently, Telstra recommends that the proposal be expanded to clarify that telecommunications conduit on bridges also be treated as a low-impact facility and that the Determination be amended to include a new Item 10 in Schedule Facilities and areas – Part 3, Above Ground Housing to make it explicitly clear that conduit which is attached to, on or under a bridge is a low-impact facility.

Telstra submits that this amendment warrants favourable consideration by the Department because it would deliver substantial consumer benefits through more efficient network deployment, including the NBN, with minimal or no environmental or amenity impacts. Telstra also considers this change would remove ambiguity and substantially improve

efficiency in the rollout of high-speed broadband and would also assist other Carriers, including Telstra, with network deployment which would ultimately benefit customers. Further detail is provided below.

Proposed amendment

The *Telecommunications Act 1997* (Cth) (the Act) contemplates a Carrier having the power to install a low-impact facility on, over or under a bridge, provided written notice is given to the responsible authority (Schedule 3, clause 19(1)(b)). However, the Determination makes no specific provision for the installation of a telecommunications conduit on a bridge and the Department's proposed amendment only references technology neutral above ground cabling. In the situation of bridges, cable cannot be installed without conduit and therefore the Department's proposed change, which only refers to cabling, may not assist Carriers.

Telstra submits that the installation of a telecommunications conduit on a bridge should be explicitly within the definition of a low-impact facility in all areas (other than an area of environmental significance) for the following reasons:

- a) Having to apply a different approval regime for bridge crossings is extremely inefficient. Telstra submits that it is necessary for a Carrier to engage with bridge owners as to the practicalities of the proposed installation, as is provided for in the Act. However, the requirement to obtain the bridge owner's consent to access the bridge is contrary to the aim of efficient and environmentally sensitive network deployment, particularly in its application to the NBN;
- b) Carriers often experience long delays in obtaining the necessary bridge owner's consent and, at times, Carriers are asked to pay a considerable sum for that permission;
- c) There is no community advantage to the exclusion of the installation of a conduit on a bridge from the Determination;
- d) The community is disadvantaged by the delay caused to the completion of an otherwise simple cable deployment project while a Carrier manages bridge crossing approvals; and
- e) The inclusion of such an activity in the Determination appears to have been intended by Parliament at the time the Act was enacted.

Whilst the Department's proposed Amendment 23 provides a technology neutral wire line cable application to the Determination Part 4A generally, this amendment does not specifically capture the installation of telecommunications conduit that is attached to a bridge as a low-impact facility. Whilst it may be argued that the application of the Ancillary Facilities provision under the Determination Part 3 Section 3.1 clause (4)(b)(1) applies to the installation of telecommunications conduit attached to a bridge in this context, in Telstra's view, the current drafting is ambiguous. The determination should be modified to clarify that a telecommunications conduit on bridges is also treated as a low-impact facility.

Telstra submits that the following minor amendment to the Determination would bring about both broader legislative clarity and material benefit to the delivery of the NBN:

Schedule Facilities and areas – Part 3, Above Ground Housing:

“Insert new Item 10:

10	Conduit attached to, on or under a bridge.	Residential
		Commercial
		Industrial
		Rural”

Telstra notes this particular amendment is supported by the broader industry. It was briefly mentioned as one of a range of amendments recently submitted to the Department in April 2015 by the Australian Mobiles Telecommunications Association (AMTA) in relation to targeted regulatory reform of Schedule 3 of the Act and the Telecommunications Code of Practice 1997 (Cth) to further promote efficient rollout of telecommunications infrastructure in Australia, including the NBN.

Conclusion

Telstra has extensive experience in giving effect to the provisions of the existing Telecommunications land access scheme. Through this experience, Telstra is proposing one minor change as set out in this submission. If this change is made, it would contribute towards reducing the cost and increasing the speed of the NBN rollout, including giving Telstra the ability to efficiently provision conduit over bridges in situations where the conduit may be required for the housing of transitional cabling to deliver Multi-Technology Mix NBN services. This approach maintains the objective of deploying infrastructure which is sensitive to the community and the environment while also providing benefits for the rollout of high-speed broadband across Australia.

Telstra would welcome the opportunity to further discuss the details of this submission with the Department.

If you wish to discuss any aspect of this submission please contact Dale Maher, National Team Manager, Land Access Governance Group either by email to dale.e.maher@team.telstra.com or by telephone on (07) 3455 2979.

Yours sincerely



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