

To the Department of Communications and the Arts  
GPO Box 2154  
Canberra ACT 2601

## Submission response—Possible amendments to telecommunications powers and immunities

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Yes.

### Date of submission

20 July 2017

Logo of organisation—if an organisation making this submission



### Name and contact details of person/organisation making submission

Evan Fritz, Manager Strategic Planning  
Bundaberg Regional Council  
T 1300 883 699  
E [evan.fritz@bundaberg.qld.gov.au](mailto:evan.fritz@bundaberg.qld.gov.au)

### General comments

Nil

### Responses

The Australian Government seeks views on possible amendments to telecommunications carrier powers and immunities. In particular, the Government seeks views on:

#### **Proposed amendments to the Telecommunications (Low-impact Facilities) Determination 1997**

##### **1. Definition of co-located facilities**

###### **1.1 Are there any issues with this proposed clarification to the definition of co-location?**

Council has no concerns with the proposed changes to clarify the definition for co-located facilities.

## **2. Local government heritage overlays**

### **2.1 Are there any issues with this clarification in relation to local government heritage overlays?**

It is accepted that Low impact facilities could have some impact on neighbourhood character areas. However, these impacts are arguably no greater than other urban infrastructure. Council has no concerns with the changes to avoid approval requirements for low impact facilities in heritage overlay areas such as neighbourhood character areas. It is understood that approval would still be required if the low impact facility is proposed on land or a building specifically listed on a heritage register.

## **3. Radio shrouds as an ancillary facility**

### **3.1 Should radio shrouds be considered ancillary facilities to low-impact facilities, or should radio shrouds be listed as distinct facilities in the Schedule of the LIFD?**

Council has no objection with the broader intent to allow greater use of shrouds to screen/improve the visual amenity of radiocommunications facilities. Radio shrouds should be listed as distinct facilities if this is necessary to incorporate criteria within the LIFD.

### **3.2 If listed as distinct facilities in the Schedule of the LIFD, should there be any criteria for radio shrouds, for example in terms of size and dimensions?**

Concerns are raised that shrouds could result in buildings/structures exceeding height limits in the planning scheme. Shrouding should not be used for other purposes (e.g. quasi advertising, etc), unless appropriate development approvals have been issued for this other use or development.

## **4. Size of radiocommunications and satellite dishes**

### **4.1 Are there any issues with permitting 2.4 metre subscriber radiocommunications dishes (or terminal antennas) in rural and industrial areas (LIFD Schedule, Part 1, Item 1A)?**

Council does not object to the proposed changes to increase the permitted maximum size of radiocommunications and satellite dishes in rural and industrial areas from 1.8 to 2.4 metres in diameter. This change is not expected to significantly impact on the amenity of rural or industrial areas.

### **4.2 Are there any issues with permitting other 2.4 metre radiocommunications dishes in rural and industrial areas, including those located on telecommunications structures (LIFD Schedule, Part 1, Item 5A)?**

See response at 4.1 above.

## **5. Maximum heights of antenna protrusions on buildings**

### **5.1 Is a 5 metre protrusion height acceptable, or is there a more appropriate height?**

The proposed changes to allow antennas and their mounts to protrude up to 5 metres above the building or structure to which they are attached (an increase from 3 metres) could raise amenity issues on lower buildings (1 to 3 storey buildings) typical in regional areas. On taller buildings, the increased height from 3 to 5 metres is unlikely to have a significant impact on visual amenity. Consideration could be given to retaining the existing 3 metre height limit on buildings of 3 storeys or less in height. Alternatively (or additionally), controls could be included that require antennas to be setback a specified distance (e.g. 3 metres) from the edge of the roof or parapet.

### **5.2 Are higher protrusions more acceptable in some areas than others? Could protrusions higher than 5 metres be allowed in industrial and rural areas?**

Council accepts that protrusions (up to 5 metres) may be more acceptable in industrial and rural areas, but expresses concerns with allowing protrusions higher than 5 metres.

## **6. Use of omnidirectional antennas in residential and commercial areas**

### **6.1 Are there any issues with permitting omnidirectional antennas in residential and commercial areas, in addition to industrial and rural areas?**

Council raises no concerns with the proposed changes to allow omnidirectional antennas to be low-impact facilities in residential and commercial areas. It is considered that omnidirectional antennas are arguably no more visually intrusive than other antennas that are already allowed in such areas.

## **7. Radiocommunications facilities**

### **7.1 Does the proposed approach raise any issues?**

No concerns are raised with the proposed changes to allow small radiocommunications facilities as low-impact facilities. This assumes the carrier will liaise with and seek agreement from Council (even though they are only required to give Council notice). Further, the cost of relocating such infrastructure should be met by the carrier, including for example where Council is doing roadworks.

### **7.2 Are the proposed dimensions for these facilities appropriate?**

See response at 7.1 above.

## **8. Equipment installed inside a non-residential structure in residential areas**

### **8.1 Should carriers be able to enter land (including buildings) to install facilities in existing structures not used for residential purposes in residential areas?**

No objection is raised to allowing equipment to be installed inside non-residential buildings in residential areas, although it would be appropriate for carriers to only install infrastructure internally where agreement is reached with the landowner/s.

## **9. Tower extensions in commercial areas**

### **9.1 Are there any issues permitting tower height extensions of up to five metres in commercial areas?**

Council raises concerns with the proposed change to allow tower height extensions of up to 5 metres in commercial areas (from the original tower height). Additional tower height could have some impact on visual amenity in commercial areas. Ideally this should be proposed and be able to be considered as part of the assessment of the initial development application for the tower. Concerns are raised over further height extensions proposed at Item 24 (see below).

## **10. Radiocommunications lens antennas**

### **10.1 Is lens antenna the best term to describe this type of antenna?**

Council has no objection with the new type of antenna being referred to as a 'lens antenna'.

### **10.2 Are 4 cubic metres in volume and 5 metres of protrusion from structures appropriate?**

Concerns are raised with the extent of protrusion from the supporting structure (up to 5 metres). Consideration should be given to limiting the extent of protrusion to not more than 3 metres, similar to other types of antenna. Further, concerns are raised with significant increase in the volume of facilities, particularly in commercial and residential areas as proposed at item 15 (see response to item 15 below).

### **10.3 Should this type of antenna be allowed in all areas, or restricted to only industrial and rural areas?**

No concerns are raised with location, subject to consideration of issues raised re: volume and protrusion at item 10.2 above.

## **11. Cabinets for tower equipment**

### **11.1 Are there any issues with the proposed new cabinet type?**

No objection is raised to the new type of cabinet. However, concerns are raised with the potential for conflicts between low-impact facility rights and the conditions of a development approval which may control the siting and design, or specify screening of an equipment shelter or cabinet (which may be in response to community objection to a development application).

## **12. Size of solar panels used to power telecommunications facilities**

### **12.1 Are there any issues with permitting 12.5 square metre solar panels for telecommunications facilities in rural areas?**

No objection is raised to the proposal to allow an increase to the size of solar panels (as low impact facilities) in rural areas. The increased size of solar panels from 7.5m<sup>2</sup> to 12.5m<sup>2</sup> is not expected to impact on visual amenity in rural areas.

## **13. Amount of trench that can be open to install a conduit or cable**

### **13.1 Are there reasons not to increase the length of trench that can be open at any time from 100m to 200m in residential areas?**

Council does not object to the proposed change to allow 200 metres of trench to be open at any time for the installation of conduit or cable in residential areas.

### **13.2 Is 200m an appropriate length, or should the length be higher if more than 200m of conduit or cabling can be laid per day and the trench closed?**

No objection is raised to allowing a greater length of trench to be open at any time if more than 200m of conduit or cabling can be laid and the trench closed.

## **14. Cable & conduit installation on or under bridges**

### **14.1 Are there any issues with allowing cable and conduit on bridges to be low-impact facilities?**

Council has no objection to the changes to allow carriers to install cable and conduit on or under bridges as low-impact facilities. However, the carrier should be required to liaise with and seek agreement from the asset owner/manager (even though they are only required to give notice), and ensure that the conduit and cabling does not impact on the integrity, capacity or amenity of structure.

## **15. Volume restrictions on co-located facilities**

### **15.1 Are there any issues with removing volume limits for adding co-located facilities to existing facilities and public utility structures in commercial areas?**

Removing restrictions on increasing the volume of facilities in commercial areas could exacerbate visual amenity concerns.

### **15.2 Are there any issues with permitting new co-located facilities that are up to 50 per cent of the volume of the original facility or public utility structure in residential areas?**

Significant concerns are raised with increasing volume limits for facilities in residential areas.

### **15.3 Is another volume limit more appropriate in commercial or residential areas?**

The current volume limit in commercial areas could be raised from 25% to 50%. The current 25% volume increase limit for residential areas should remain unchanged.

15.4 Should alternative arrangements for co-located facilities be developed in the LIFD?

No comment.

## **16. Updates to environmental legislation references in the LIFD**

16.1 Are there any issues with the proposed updates?

Council does not have any issues with the proposed updates to reflect changes to references to environmental legislation.

16.2 Are there any further suggestions for updates to terms and references in the LIFD?

No, Council does not have any further suggestions for updates to terms and references in the LIFD.

## **Proposed amendments to the Telecommunications Code of Practice 1997**

### **17. Clarify requirements for joint venture arrangements**

17.1 Are there any issues with making it clear in the Tel Code that only one carrier's signature is required on documents for facilities being installed as part of a carrier joint venture arrangement?

Council does not object to the proposed changes to clarify requirements for joint venture arrangements, i.e. to require only one carrier's signature (typically the 'lead' carrier) when two or more carriers are installing or upgrading facilities in partnership.

### **18. LAAN objection periods**

18.1 Is it reasonable to end the objection period for low-impact facility activities and maintenance work according to when the notice was issued, rather than the date work is expected to commence?

Concerns are raised in relation to the proposed changes to the objection period for landowners and occupiers. It is considered that 5 business days is insufficient time to object.

18.2 Is 5 business days from the receipt of a notice a sufficient time period for land owners and occupiers to object to carrier activities where carriers have given more than 10 days' notice about planned activities?

It is considered that 5 business days is insufficient time to object. Carriers should be encouraged to give longer notice periods, which should include longer periods for objection (where appropriate depending on the nature and location of the facility).

### **19. Allow carriers to refer land owner and occupier objections to the TIO**

19.1 Are there any issues with allowing carriers to refer objections to the TIO before land owners and occupiers have requested them to?

Council does not have any issues with the proposed changes to allow carriers to refer objections to the TIO at the carrier's discretion (i.e. not just at the request of land owners and occupiers).

### **20. Updates to references in the Tel Code**

20.1 Are there any issues with the proposed changes?

No issues are raised with the proposed updates to references in the Telecommunications Code to reflect changes to legislation, standards and organisations.

20.2 Are there any further suggestions for updates to the Tel Code?

Council does not have any further suggestions for updates to the Telecommunications Code.

## Possible amendments to the *Telecommunications Act 1997*

### 21. Allowing some types of poles to be low-impact facilities

21.1 Is it reasonable for poles in rural areas for telecommunications and electricity cabling for telecommunications networks to be low-impact facilities?

No objection is raised to specifying poles up to 12m high and 500mm in diameter (to support telecommunications and electricity cabling for the NBN) as low impact facilities. This assumes that this exemption is intended to provide for additional poles where existing electricity poles can't handle the load, etc. Clearly overhead cabling would not be appropriate in locations that currently have underground services.

21.2 Should low-impact facility poles be allowed in other areas, or be restricted to rural areas?

See response at item 21.1 above.

21.3 Is the proposed size restriction of up to 12 metres high with a diameter of up to 500mm suitable?

See response at item 21.1 above.

21.4 Would the existing notification and objection processes for land owners and occupiers in the Tel Code be sufficient, or should there be additional consultation requirements?

See response at item 21.1 above.

### 22. Portable temporary communications facilities

22.1 - Are there any issues with making portable temporary communications equipment exempt from state and territory planning approvals under certain conditions?

No objection is raised to the proposed changes to provide for temporary facilities to be installed during maintenance of existing facilities, and at events such as sporting events and music festivals.

22.2 - Are there any suggestions for appropriate conditions for the installation of COWs and SatCOWs, such as circumstances in which they can be used and timeframes for their removal?

There should be some parameters around maximum duration for temporary facilities, e.g. 6 weeks. The period for removal (proposed at 28 days) should also be reduced or included as part of the overall timeframe.

22.3 - Should the Act be amended to remove any doubt that MEOWs can be installed using the maintenance powers or another power under Schedule 3 of the Act?

No objection is raised to clarifying that MEOWs can be installed during maintenance, repair or replacement of existing facilities.

22.4 - Are there any suggestions for appropriate conditions for the installation of MEOWs if the maintenance powers are amended?

There should be some parameters around maximum duration for temporary facilities, e.g. 6 weeks. The period for removal (proposed at 28 days) should also be reduced or included as part of the overall timeframe.

### 23. Replacement mobile towers

23.1 Is the proposal reasonable?

Given the sensitivity in the community regarding the location and height of towers, significant concerns are raised in relation to the proposed changes to allow replacement mobile towers to be installed within 20 metres of the original tower (on the same lot or adjoining lot in the same

ownership). It is considered that the changes proposed under item 22 above would appropriately provide for continuity of service while a tower is being replaced.

**23.2 Is 20 metres a suitable distance restriction for replacement towers?**

See response at item 23.1 above.

**23.3 Is 12 weeks a reasonable maximum time period for installation of replacement towers?**

See response at item 23.1 above.

**24. Tower height extensions**

**24.1 Are one-off 10 metre tower height extensions suitable in commercial, industrial and rural areas, or only some of these areas? If they are only suitable in some areas, which are they and why?**

Changes to allow extensions to existing towers by up to 10 metres (from their original height) in commercial, industrial and rural areas represents a significant increase from the current provisions that allow extensions up to 5 metres. Given the sensitivity in the community regarding the location and height of towers, significant concerns are raised with this proposed change. Concerns are also raised with the potential for conflicts between low-impact facility rights and the conditions of a development approval which may limit the height of a tower (which may be in response to community objection to a development application). Extensions to a tower should not be allowed as low impact facilities where a development approval specifically conditions a height limit for the tower.