

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

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Logo of organisation—if an organisation making this submission



CITY OF
Port Adelaide Enfield

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General comments

The City of Port Adelaide Enfield appreciates that since the current legislative regime for Low Impact Facilities came into effect there have been further advances in telecommunications technology and significant increases in demand for the services enabled by this technology. It appreciates that technological advances will continue and that consumer demand will continue to grow. It therefore accepts as a matter of principle that from time to time the review and modest adjustment of this legislative regime will be warranted.

It has been the City of Port Adelaide Enfield's consistent experience in dealing with development applications for telecommunications infrastructure that currently falls outside the ambit of the Low

Impact Facilities Determination (LIFD) that the community is prepared to trade off enhanced telecommunication service and cost minimisation for the protection of visual amenity and character. Only a month or so ago 150 representors lodged written objections to a development application for a 26 metre telecommunications tower in a commercial and residential heritage conservation area. 41 of the representors specifically requested to appear before the assessment panel to further support their concerns. The arguments of the applicant telecommunications carrier about improved services and cost effectiveness were understood by the community, many of whom were business people in the commercial area. However, they also placed great importance on heritage, character, visual amenity and impact on property values.

Whilst carriers have generally argued that the community's demand for improved and cost effective telecommunications services supports the expansion of the LIFD, it is clear that the community's demand for these services comes with caveats. These caveats reveal the community's ability to discriminate and question the difference between what is essential and what is desirable.

The City of Port Adelaide Enfield considers that any amendments to the LIFD or the Act should only be used to grant immunity to facilities that are genuinely low impact and should not be used to confer de-facto essential infrastructure status on infrastructure that is not truly essential despite improving performance and cost effectiveness for carriers and their consumers.

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?

This proposal is not opposed.

2. Local government heritage overlays

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

This proposal is opposed.

The City of Port Adelaide Enfield contains a number of dedicated historic conservation areas that specifically rely on the heritage and character controls afforded by legislation to all places in these areas without having to rely on individual listings.

They are also strong heritage character areas where existing planning legislation requires greater scrutiny of built form and structures than other areas.

The legislation should be amended to clarify that these areas are in fact areas of environmental significance under the LIFD.

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?

They should be listed as distinct facilities as they are not technically required for operational purposes and notwithstanding their intent to lessen amenity impacts, may add to these impacts if their size, shape, materials and finish are not appropriate to the locality in which they are located.

- 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?

Yes, there should be criteria to address size, shape, materials and finish and they should not be treated as Low Impact Facilities in residential areas.

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)?

This proposal is not opposed

- 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)?

This proposal is not opposed

5. Maximum heights of antenna protrusions on buildings

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

Only in industrial and rural areas

- 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?

The current 3 metre limit should remain for residential and commercial areas.

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?

The use of an omnidirectional antenna of an appropriate size in residential and commercial areas is not opposed but an array of omnidirectional antennas is not considered suitable in these areas.

7. Radiocommunications facilities

- 7.1 Does the proposed approach raise any issues?

This proposal is not opposed.

- 7.2 Are the proposed dimensions for these facilities appropriate?

The proposed dimensions are not opposed.

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?

As an owner of such structures eg community halls in residential areas, there should not be an as of right power to enter and use the land without land owner consent.

9. Tower extensions in commercial areas

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

This proposal is opposed.

In a suburban context such as the City of Port Adelaide Enfield, the scope of commercial areas includes land zoned for small shops, main streets, local shopping centres and various community facilities. Much of this is small in scale and intimately associated with immediately surrounding residential areas. The impact on such areas would essentially be the same as the impact on residential areas, which the proposal implicitly acknowledges should not be included.

10. Radiocommunications lens antennas

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

The use of this term is not opposed

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

This is a large structure that when tower mounted, will be prominent and significantly add to the volume of antennas.

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

This type of antenna should not be allowed in residential or commercial areas due to visual impact. It is also queried that with a narrow (albeit powerful) projection, whether in a suburban context, more than one or a number of lens antennas may need to be located on each tower to provide multi directional service.

11. Cabinets for tower equipment

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

This proposal is not opposed.

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?

This proposal is not opposed.

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?

This proposal is not opposed.

The lowest impact facilities are those that are not seen. Measures that maximise the undergrounding of infrastructure are strongly supported. It is noted that the disruption associated with undergrounding, whilst inconvenient, is transient and relatively quickly forgotten compared to above ground infrastructure.

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?

This proposal is not opposed.

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?

This proposal is not opposed.

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?

As alluded to in the response to item 9 in this submission, commercial areas in a suburban context are in many cases practically the same as residential areas and a doubling of the existing additional volume immunity would have reasonably significant impact.

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?

This proposal is opposed. The current restriction of 25 percent in residential areas is considered appropriate.

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

The current volume increase limit of 25% for both commercial and residential areas is considered appropriate

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

Yes

16. Updates to environmental legislation references in the LIFD

16.1 Are there any issues with the proposed updates?

This proposal is not opposed.

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

No

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?

This proposal is not opposed.

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?

This proposal is not opposed.

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?

This proposal is not opposed.

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?

This proposal is not opposed.

20. Updates to references in the Tel Code

20.1 Are there any issues with the proposed changes?

This proposal is not opposed.

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

This proposal is not opposed.

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?

This proposal is opposed.

Whilst it is possible to locate poles and cables in rural areas so that they have an acceptable impact, this requires careful planning and assessment processes undertaken on a case by case basis. This would not be able to be equivalently addressed via inclusion in the LIFD.

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

The notion of Low Impact Facility poles is not a concept consistent with the current legislative regime for Low Impact Facilities.

The height and width of contemporary poles tends to inherently rule them out from being able to reasonably be considered minor or low impact. In a suburban context in the City of Port Adelaide Enfield, the prevailing height of buildings and structures typically does not exceed much above 10 metres. A typical pole over 20 metres in height and 500mm wide, adorned with a collection of antennas and maybe a shroud is so notably outside much of the prevailing character that it cannot avoid having an impact that is not low.

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

The notion of a Low Impact Facility pole is opposed.

12 metres is still a significant height and could not reasonably be construed to be low impact - firstly, in terms of the scale and nature of typically surrounding development and secondly, when compared to the size limits of accepted Low Impact Facilities in the LIFD.

It is also of concern that depending on the way this was to be written, the existing immunity for tower extensions may allow a 5 metre extension and therefore an eventual height up to 17 metres. Further, if the suggested amendment to the Act to allow one off extensions of up to 10 metres were to be enacted, these same poles could end up at 22 metres.

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?

Whilst strongly opposed to this proposal, if this were to be enacted, additional consultation processes including consultation with the broader community would be appropriate.

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?

This proposal is not opposed.

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?

The NSW and Victorian approaches would provide useful references.

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?

This proposal is not opposed.

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

The NSW and Victorian approaches would provide useful references.

23. Replacement mobile towers

23.1 Is the proposal reasonable?

This proposal is considered to be reasonable in principle

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

The location of towers is often underpinned by very careful consideration of sight lines, vistas and backgrounds. An as of right, 20 metre relocation could notably change the visibility and impact of towers.

It is unclear if a lesser distance would automatically address this concern. As an alternative or an augmentation, conditions about careful siting and visual outcomes could potentially be written into the LIFD.

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

This question could perhaps be restated as what is the maximum period of time that the original tower and its replacement can co-exist. The period of time should be as short as possible. However, what that period is would require clearer understanding about the installation and commissioning requirements for replacement towers and the decommissioning and removal requirements for original towers.

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?

Allowing 10 metre tower extensions in commercial or industrial areas to be included in the LIFD is not supported.

Many commercial areas in the suburban context have similar features to residential areas. Similarly, many industrial areas are small, light industrial areas in close proximity to residential areas.