

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

29.6.17

### Logo of organisation—if an organisation making this submission

<response>

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

Lyn McLean

### General comments

By reducing the requirements on carriers to consult with the community, as in the proposed amendments, the Government stifles the community's voice and reduces its opportunities for meaningful dialogue with the industry.

It is inappropriate, and contrary to planning practice, to classify 'low impact facilities' on the basis of size or height. Rather, they should be classified according to emissions of radiofrequency radiation.

There are divergent views in the community about what services are 'essential' and on what basis carriers should be allowed to enter property and install radiating infrastructure without planning permission or the agreement of the affected community. Might infrastructure that commonly used for the taking of photos or internet of everything be classified as 'essential', for example?

The government needs to consider that there are conflicting rights and privileges at stake. For example, the community's right to health and well-being, as defined by the World Health Organisation, may be in conflict with the right of others to take photos and send text messages. Which rights are more important? What about the rights of individuals with symptoms consistent with electromagnetic hypersensitivity? How is the Government addressing their rights?

There has been no debate, at government level, about the needs of different sectors of the community and whether disempowering communities by classifying radiating infrastructure at 'low-impact' is either appropriate or moral. This is a debate that needs to be had before legislation is changed in favour of the industry and the expense of the community.

The emotive and euphemistic language of the Consultation paper, makes clear the Government's biases. Sadly, as ever, it favours industry and not the community.

The ARPANSA standard is no longer a credible guideline for protecting the public from the effects of radiofrequency radiation. Thousands of studies show adverse biological effects at levels well below the heating threshold, as ARPANSA is aware. Thus, the community can have no confidence in legislation designed that requires carriers merely to comply with its limits.

Please see my specific comments below.

## 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?  
<response>

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

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

#### **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?  
<response>
- 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?  
<response>

#### **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)?  
Equipment should not be classified as a 'low impact facility' on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation.
- 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)?  
Equipment should not be classified as a 'low impact facility' on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation.

The proposal states that the change is to ‘increase coverage areas, reducing the number of new towers needed’ – which really means they will emit more radiation. On this basis, they should not be classified as ‘low impact facilities’.

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

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

Equipment should not be classified as a ‘low impact facility’ on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation.

### **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?**

Equipment should not be classified as a ‘low impact facility’ on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation.

## **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?**

Equipment should not be classified as a ‘low impact facility’ on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation.

Omnidirectional antennas will, by definition, result in greater exposures in certain locations. Such proposed changes must be notified to the community and these antennas should not be classified as ‘low impact’.

It is inappropriate to expose individuals, in residential or commercial areas, to radiofrequency radiation from any source, that could impact on their health and wellbeing. Compliance with the ARPANSA standard does not guarantee protection from harmful biological effects at athermal levels of exposure.

## **7. Radiocommunications facilities**

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

It is absolutely inappropriate to classify WIFI radiation-emitting infrastructure as low impact. The consultation paper states ‘This amendment is intended to ensure all small radiocommunications facilities are covered by the LIFD, regardless of the size of their wireless coverage footprints.’ On the contrary, they should be classified *only* on the basis of their wireless coverage footprints – in other words the area they bathe in radiation.

The paper further states, this ‘would give carriers greater flexibility to improve mobile and wireless broadband coverage [in other words, send out more radiation] ... without the need for state and territory planning approvals [without any controls]. This is vastly inappropriate, favours the industry and disempowers the community.

WiFi equipment must NOT be classified as ‘low impact’.

People working, living inside buildings in which in-building antennas are proposed must be consulted about the proposal and notified about the amount of radiation the transmitters will emit, as must owners of the building.

This notification must include information about who bears legal liability in the event that individuals develop health problems consistent with electromagnetic hypersensitivity after the antennas are installed.

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

Equipment should not be classified as a 'low impact facility' on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation.

**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?**

Absolutely not! This entirely disempowers communities. People have the right to be informed about and to have a say about radiation-emitting infrastructure proposed to be installed near their person!

Equipment should not be classified as low impact if it is concealed inside other equipment. Such concealment does not negate the impact of the radiation it emits.

**9. Tower extensions in commercial areas**

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

Equipment should not be classified as a 'low impact facility' on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation. Planning permission should be required for *all* radiating infrastructure.

**10. Radiocommunications lens antennas**

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

<response>

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

Equipment should not be classified as a 'low impact facility' on the basis of size or height, colour or amount of protrusion, but rather on the basis of emissions of radiofrequency radiation.

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

The community is concerned about the installation of radiation-emitting infrastructure in industrial, residential and rural areas. If this antenna has the ability to focus radiation, the community needs to be informed about it in every case. It should not be exempted from planning controls.

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

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

<response>

## **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?

Equipment should not be classified as a 'low impact facility' on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation.

## **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?

<response>

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?

<response>

## **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?

<response>

## **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?

Yes! Installing additional (co-located) facilities increases the level of radiofrequency radiation to which workers and the general public may be exposed. The community must be consulted about *all* planned changes to infrastructure, including planned collocation of additional transmitting antennas.

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?

The volume of facilities is less important than the radiation they emit. No radiation-emitting infrastructure should be exempted from planning regulations.

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

The volume of facilities is less important than the radiation they emit. No radiation-emitting infrastructure should be exempted from planning regulations.

It is inappropriate to allow carriers to install a greater volume of radiating antennas because it suits their business model. The health and well-being of the public is of far greater importance than the carriers' annual income!

- 15.4 Should alternative arrangements for co-located facilities be developed in the LIFD?  
As for 15.3

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

- 16.1 Are there any issues with the proposed updates?

<response>

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

<response>

## **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?

### **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?

Greater time needs to be allowed for communities to engage in public consultation.

- 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?

No. At least 30 days are needed.

### **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?

<response>

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

- 20.1 Are there any issues with the proposed changes?

<response>

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

- Carriers must not be allowed to enter private land to undertake any actions in relation to the installation of radiating infrastructure without the permission of the landowner.

- The code must specify who bears legal liability in the event of health problems, consistent with electromagnetic hypersensitivity, that develop after radiation-emitting infrastructure is installed.

- Communities must have the power to prevent the installation of radiating infrastructure on or near private land, especially sensitive-use land.

## 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?

Poles for equipment that emits radiofrequency radiation should not be classified as 'low impact'.

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

Poles for equipment that emits radiofrequency radiation should not be classified as 'low impact'.

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

Equipment should not be classified as a 'low impact facility' on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation.

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?

<response>

### 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?

<response>

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?

<response>

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?

Notification must be required to advise the public that equipment of this sort emits radiofrequency radiation so that they can elect to distance themselves from it if they desire.

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

Notification must be required to advise the public that equipment of this sort emits radiofrequency radiation so that they can elect to distance themselves from it if they desire.

### 23. Replacement mobile towers

23.1 Is the proposal reasonable?

Carriers must be required to engage in a full consultation process if they intend to install a replacement mobile phone towers. The public must be engaged in the process of considering the new location of the tower. The original and replacement tower must NOT emit radiofrequency radiation simultaneously.

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

Carriers must be required to engage in a full consultation process if they intend to install a replacement mobile phone towers. The public must be engaged in the process of considering the new location of the tower. The original and replacement tower must NOT emit radiofrequency radiation simultaneously.

It is not appropriate to specify an arbitrary distance for a replacement tower from the original tower, as many factors must be considered, including proximity to dwellings and other sensitive areas.

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

The original and replacement tower must NOT emit radiofrequency radiation simultaneously.

**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?**

Equipment should not be classified as a 'low impact facility' on the basis of size or height, but rather on the basis of emissions of radiofrequency radiation.