

# Submission to the *Improving the telecommunications powers and immunities framework consultation*

## About Vocus

Vocus is a specialist fibre and network solutions provider operating Australia's second-largest intercapital network. In total, the Vocus terrestrial network is ~30,000km of high-performance, high-availability fibre optic cable supported by the 4,600km Australia Singapore Cable and the 2,100km North West Cable System between Darwin and Port Hedland. Vocus owns a portfolio of brands catering to enterprise, Government, wholesale, small business and residential customers across Australia and New Zealand.

## Executive Summary

Vocus owns and operates a national fibre optic network which will support the rollout of 5G by providing backhaul services. While Vocus does not operate a mobile network (so will not be directly involved in the deployment of 5G technology such as Radio Access Network equipment, towers, etc.), Vocus is concerned that many of the proposals in the consultation paper will impede the deployment of *all* telecommunications infrastructure by adding unnecessary complexity to the existing regime – resulting in costs which will ultimately be passed on to end users.

Vocus appreciates that the original legislation conferring carrier powers and immunities was not drafted with 5G infrastructure requirements in mind. But by reforming the carrier powers and immunities regime to account for 5G deployments, Vocus is concerned that proposed changes – if applied to all low impact facilities – would result in delays and costs in deploying all telecommunications infrastructure. Equally, if the proposals in the paper were limited to apply solely to 5G infrastructure, this could result in an additional sub-classification of '5G low impact facilities' – which would add further complexity to the scheme.

Overall, Vocus proposes that any amendments to the existing carrier powers and immunities framework should be approached with caution to avoid slowing the deployment of both 5G networks and telecommunications infrastructure more broadly.

## 1. Safety and notification

### a. Creation of a primary safety condition

Vocus is satisfied with the current safety obligation.

### b. Standard notifications across industry

The Code already specifies the information that must be included in a notice for the notice to be valid. This includes specifications of the activity and the purpose of the activity. This has led to major carriers having similar notice templates already.

While not specifically stated in the Code, it is implied that a proposed start date for the activity must be included in any notice for the calculation of the statutory timetable to object. An indicative timeframe for the activity could be included for minor activities but it would be pure speculation, at best, for major civil works.

A requirement to provide technical plans and standards should not be a requirement across all low impact installation and maintenance activities. 'For Construction' plans should be submitted for facilities such as in-building subscriber connection equipment and underground facilities, but these can be subject to change depending on the prevailing conditions which can only be determined once construction commences.

A standardised notice template would only have a limited benefit to a landowner, as each notice should include information specific to the activity proposed.

### c. Withdrawal of notifications

If these proposals were to apply to all low impact facilities, Vocus would only support an industry commitment to withdrawing notices if a carrier were to change its intention to proceed with proposed works. In Vocus' experience, a

notice is more likely to become 'stale' because the proposed window of time for the activity has passed while a carrier is trying to resolve a landowner's objection (whether valid or not) or the landowner does not respond in a timely manner.

#### d. Requirement to provide engineering certification

This is not applicable to all low impact facilities, and should not be a general requirement.

#### e. Extending notification timeframes

For the low impact facilities that Vocus routinely deploys in land controlled by public utilities and road authorities (in particular underground conduit, telecommunications pits and telecommunications cabling) we have not experienced a situation where the public utility or the roads authority have been unable to respond within the current statutory timeframe. Such entities are experienced in dealing with such proposals. If they raise any genuine concerns about the proposed activity, then this starts the 20 business days objection resolution period.

Having different regulatory timeframes for different classes of landowner for essentially the same activity would be confusing and could lead to the provision of invalid notices – an inefficient use of time and resources for all parties.

Extending the notification timeframes for non-5G low impact facilities, particularly in-building subscriber connection equipment, would mean the unnecessary delay in delivering routine telecommunications services in multi-tenanted buildings.

## 2. Objections and protections

### a. Clarifying the objections process for landowners

It should not be a requirement on a carrier to provide advice to landowners and occupiers – only to provide the facts about the proposed activity so that the recipient of a notice can make an assessment. Councils and road authorities have the experience and expertise to respond to notices if they have genuine objections. Private landowners and occupiers can refer to the existing fact sheets provided by the ACMA. Vocus provides the link to the ACMA website as a matter of course in the cover letter/email when issuing a notice.

### b. Allowing carriers to refer objections to the TIO

The cost of referring a dispute to the TIO is a major incentive to a carrier to make every attempt to resolve the issue without going to the TIO. However, the TIO does not have the power to give direction to a landowner – so even if the TIO gives no direction to the carrier, this does not mean that the landowner has to accept the finding.

Vocus would have no objection to allowing a carrier to refer an objection to the TIO and also the inclusion of a statutory time for an objection to be referred if requested by a landowner, but Vocus views this as a costly 'last resort' and with no guaranteed outcome other than to show a court that all possible steps had been taken when seeking an injunction.

### c. Removal of redundant equipment

A key consideration which must be taken into account regarding 'redundant' equipment is: who determines if equipment is redundant, and will its removal cause greater detriment and inconvenience than leaving the equipment in situ (provided that it is safe to do so)?

Customer connection cabling in multi-tenanted buildings may be no longer in use if a tenant moves out, but it could be re-used when the new tenant moves in (or be re-directed to another customer in the building). Removing the cable immediately and then re-installing a new cable later would cause greater inconvenience to the landowner and tenants, as well as adding an unnecessary cost to the carrier.

Redundant equipment may be protected under the Crimes Act, but is it still a low impact facility if it is not delivering carriage services? If it is no longer low impact, then a carrier cannot rely on its powers to maintain the facility and so would have to remove the facility or enter into an arrangement with the landowner.

## 3. Facilitating services in line with community expectations and to support economic growth

Section 3 of the consultation paper primarily concerns the deployment of towers, poles, dishes and co-location of facilities. As Vocus is not a mobile network operator, Vocus has no position on the issues raised in this section.

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Please direct any questions regarding this submission to:

