

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

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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?
No. The notation will more clearly clarify the definition of co-located facilities.

2. Local government heritage overlays

- 2.1 Are there any issues with this clarification in relation to local government heritage overlays?
Yes. The Macedon Ranges Planning Scheme identifies a number of Heritage precincts within the municipality. It is unclear how the amendment to the clarification will impact on heritage

precincts. Additionally, even if the facility is not to be installed directly on a building specifically listed as a heritage place, it is considered that it may still have a detrimental impact on the significance of the heritage place. One option that may address this issue may be to provide specific conditions which must be met, for example, the facility must not be visible from a public place.

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?

Radio shrouds should not be considered to be ancillary facilities to low-impact facilities, unless there are specific requirements that must be met.

- 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. If it is listed as a distinct facility, there should be clear design guidelines, such as size (including height and width), dimensions and colour, as a minimum. There should be a condition that the structure should be colour-matched or of similar materials to the existing building to which it is attached. There should otherwise be a condition that the design should be of a design agreed in writing between the carrier and the relevant local authority.

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)?

No. It is considered that an increase of 0.6 metres in the size of dishes within Industrial and Rural areas should not have a detrimental impact on the surrounding area.

- 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)?

No. However, there should be a limitation on the number of dishes that may be added to an existing telecommunications structure.

5. Maximum heights of antenna protrusions on buildings

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

A 5 metre protrusion height is considered acceptable.

- 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?

A protrusion of up to 5 metres may be suitable within industrial (and possibly within rural) areas, however any height above 5 metres would be excessive, given that the scale of development within the shire is low lying in nature. A protrusion of more than 5 metres may have a substantial impact on the visual amenity of the Shire's industrial and rural 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?

Council is not familiar with this type of facility and would need further clarification to make an informed submission on this proposed amendment.

7. Radiocommunications facilities

7.1 Does the proposed approach raise any issues?

No issues, given that amending the technology-specific term 'micro-cell' to a broader term 'radiocommunications facility' will provide greater flexibility in the installation of such facilities, but will still restrict the size such facilities.

7.2 Are the proposed dimensions for these facilities appropriate?

The maximum volume of such structures is to remain at 1 cubic metre with the height being increased from 1 metres to 1.2 metres. This amendment is minor in nature and is considered appropriate.

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?

Given that carriers will still be required to notify local authorities and nearby residents, and that landowners and occupiers would still have the right to object to the installation of facilities inside structures, this amendment is considered appropriate.

9. Tower extensions in commercial areas

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

No.

10. Radiocommunications lens antennas

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

Council has no concerns with the name of the antenna.

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

The size of such protrusions could be visually detrimental, particularly within the Shire's rural areas.

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

If allowed, this type of antenna should be restricted to only industrial and rural areas.

11. Cabinets for tower equipment

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

Given that the cabinets would be the same height as one type of equipment shelter already in the LIFD, but will have a much smaller base area, this amendment is considered appropriate.

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.

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 foresees no issues with the increase in the length of trench that can be open at any time.

- 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?

Council foresees no issues with any increase in the length, given that carriers will still need to ensure vehicle access to each property is not lost for more than 8 hours in total, and that trenches will still need to be closed before additional trenches are opened.

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?

No.

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?

Given that some of the Shire's commercial areas are located along main roads and gateways, it is important that the Shire's natural setting and attractiveness is protected. A volume limit should be set, even for structures within commercial areas.

- 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?

Whilst this would allow a greater number of facilities to be co-located, a volume limitation rather than a size limitation (height and width) may result in facilities that are excessive in either height or width. It is suggested that there should be a criteria that the co-located facilities are colour-matched to its background, or in a colour agreed in writing between the carrier and the relevant local government authority.

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

No.

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

Size limitations in terms of maximum heights and widths (in relation to the existing structure) may be a more suitable arrangement for co-located facilities to be developed in the LIFD. Additionally, there should be a criteria that the co-located facilities are colour-matched to its background, or in a colour agreed in writing between the carrier and the relevant local government authority.

16. Updates to environmental legislation references in the LIFD

- 16.1 Are there any issues with the proposed updates?

No.

- 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

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?

<response>

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?
If sufficient time is provided to object to the proposed activities, then it appears to be reasonable to end the objection period from when the notice was issued, rather than from the date the work is expected to commence.
- 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. The current timeframe of 9 days should not be amended, to enable sufficient time for the assessment of a notice.

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?
No.

Updates to references in the Tel Code

- 20.1 Are there any issues with the proposed changes?
No.
- 20.2 Are there any further suggestions for updates to the Tel Code?
No.

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?
- 21.2 Should low-impact facility poles be allowed in other areas, or be restricted to rural areas?
- 21.3 Is the proposed size restriction of up to 12 metres high with a diameter of up to 500mm suitable?
- 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?
Council is not familiar with this type of facility and would need further clarification to make an informed submission. However, based on the described measurements, this appears to be reasonable.

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. Given the temporary nature of such facilities, Council does not foresee any issues with portable temporary communications equipment being exempt from state and territory planning approvals under certain conditions.

- 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?

Conditions for the installation of COWs and SatCOWs should include timeframes for their removal, and a requirement that the building or site on which the facility is to be located is not left in a substantially different condition that it was prior to installation.

- 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?

Limited information is provided within the consultation paper to provide an informed response. However, Council would have no issue with amending the Act to allow carriers to temporarily install MEOWs as part of maintenance activities, subject to conditions.

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

Similar to COWs and SatCOWs, conditions should include a requirement that the building or site on which the MEOW is to be located is not left in a substantially different condition that it was prior to installation, and a timeframe for its removal.

23. Replacement mobile towers

- 23.1 Is the proposal reasonable?

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

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

Council considers that any change in the location of replacement towers may be detrimental to the subject site and its surrounds, particularly from an environmental perspective or from a visual perspective. Council would not support an amendment to the Act which would allow replacement towers to be up to 20 metres from the site of the original tower. Whilst the Act may still require carriers to protect the safety of persons and property, and protect the environment, it does not allow for the protection of significant views or other matters. It is suggested that a much smaller distance would be more appropriate for replacement towers. Where a permit was previously approved to locate a tower in a specific spot to address specific concerns, enabling a replacement tower to be up to 20 metres from its original location may conflict with specific outcomes achieved under the original permit.

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?

One-off 10 metre tower height extensions would not be suitable in any of the Shire's areas, particularly given that Council's policies recognise the significance of the environment and landscape throughout the Shire. Significant Landscape Overlays cover parts of the Shire, and the extension of some tower heights within the Shire by up to 10 metres may be detrimental to the landscape significance. Council's industrial and commercial areas are generally low-lying. Council's local policies aim to ensure that development within its industrial and commercial areas is designed to complement the heritage and landscape values of the Shire through measures such as appropriate siting, building form, materials and colours. Where a permit was previously approved to be of a specific height to address any original concerns, enabling an extension of up to 10 metres may conflict with specific outcomes achieved under the original permit. As such, Council would still request to have authority in determining which towers may be suitable to be extended.