

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

21 July, 2017

Logo of organisation—if an organisation making this submission

Name and contact details of person/organisation making submission

Grant Thorne, Director City Infrastructure

General comments

It is advised that Moreland City Council submits this response to your consultation process, disappointingly by chance, having only been made aware informally by VicRoads staff. Local government is a stakeholder in many communication installations, as both a Responsible Authority and a significant land owner. Moreland Council is disappointed that consultation has not been undertaken directly with local government, its governing bodies (MAV in Victoria), or via other government channels.

Moreland Council notes that many (if not all) of the revisions proposed by the telecommunications carriers are based on economic savings to the carriers themselves, and do not consider whole of life costs, or cost shifting to other individuals or organisations.

Furthermore, it is imperative that any amendments consider more than just cost implications. Many of the amendments may result in other impacts, such as aesthetic or amenity impacts (ie. impact on public open space if towers can be reconstructed within a radius of an existing tower).

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 response

2. Local government heritage overlays

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

Response: We have concern that allowing exemptions undermines the importance of the work conducted by Council designed to ensure that heritage areas are appropriately managed with regard to built form. This includes heritage precincts and not just individually significant buildings. We disagree with the proposal to exempt the need for a permit where a local government heritage overlay applies.

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: They should be listed as distinct facilities. Due to the nature of a shroud there is significant potential for these to increase the visual bulk and appearance of these facilities.

- 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: No. For the above reasons and the need to ensure that the design of such facilities is appropriate for the area no dimensions exemptions are required.

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 response

- 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 response

5. Maximum heights of antenna protrusions on buildings

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

Response: 5m is considered too high for a blanket exemption, some areas would be significantly impacted by a 5m protrusion.

- 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?

Response: Yes. In industrial and rural areas this may be appropriate.

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?

Response: Yes, allowing these as of right within residential areas and commercial areas is considered unreasonable due to the potential visual impacts. They should be assessed on their merits.

7. Radiocommunications facilities

- 7.1 Does the proposed approach raise any issues?

No Response

- 7.2 Are the proposed dimensions for these facilities appropriate?

No Response

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 Response

9. Tower extensions in commercial areas

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

Response: Yes. We have concerns regarding the visual impact of the towers in commercial areas where height of structures is already a contentious issue. Where these towers are placed and designed appropriately additional height can be acceptable however allowing 5m extensions without notice is unreasonable.

10. Radiocommunications lens antennas

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

No Response

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

Response: No. These dimensions have high potential for detrimental visual impact.

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

Response: Yes, they should be allowed but subject to consideration for affected parties.

11. Cabinets for tower equipment

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

No 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?

No Response

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: Whilst it is recognised that this change is proposed based on a length of works that can be achieved in one day (and that all trenches are to be backfilled at the end of the working day), consideration still needs to be given to the local community. Particularly with regard to available space for on street parking whilst private property access is restricted, and walkability issues for the more vulnerable members of the community.

Increasing the length of open trench will require consideration of operator's ability to respond to emergencies and sudden work abandonment events in a safe, responsible and prompt manner requiring urgent backfilling of trench to be undertaken.

It is considered that revised construction methodologies could better address any concerns that carriers may have with regard to the length of works achievable in a day.

- 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: The restriction does not restrict the length of conduit/cable that can be installed in one day, it restricts the length of open trench at any time. Appropriate work methodologies would still allow more than 100m of installation to occur in one day.

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: Yes. Bridges are not considered to be low-impact facilities due to the complex features and deterioration profiles. Drilling into pre-tensioned concrete or into steel bridges may cause stresses or deterioration leading to bridge failure.

Council recommends that prior to installation of cabling and conduit on or under bridges, carriers seek agreement through the relevant agencies who will approve the fixing methodology and fixing points.

Amenity impacts of installations on bridges need to be considered (Councils and other bridge owners spend considerable funds making bridge structures aesthetically pleasing). In addition, structural and maintenance impacts to pedestrians, cyclists and vehicle operators during installation and maintenance of the infrastructure must be measured.

End of life (for either the bridge or the communication infrastructure) responsibilities and costs need to be considered and agreed to, to avoid any cost shifting onto the owner of the bridge.

This can only be achieved through collaboration and agreement, and given the scale of potential impacts, this should not be considered low-impact.

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?

Response: Yes. 50% is considered an appropriate figure however it should be applied to both the commercial and residential areas. Having no limit in Commercial areas is not appropriate. There are significant impacts and visual bulk which could reasonably occur if this were removed.

- 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?

No Response

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

No Response

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

No Response

16. Updates to environmental legislation references in the LIFD

- 16.1 Are there any issues with the proposed updates?

No Response

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

No 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?

No Response

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?

Response: Yes, as long as sufficient notice is given. Most other consultation/objection processes would work this way.

- 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?

Response: No. The proposal to reduce the time for response to each Land Access and Activity Notice (LAAN) will not reduce costs. Five business days is unreasonable and inconsistent with other legislation.

The existing timelines for Notice are already too short, given the essential services such as electricity and water supply companies are required to give 15 business days' notice in Victoria. Providing only 10 days' notice does not allow sufficient time for large organisations such as a Council to coordinate internally and consolidate an appropriate response.

Carriers require sufficient time (at least 10 business days) to consider and negotiate reasonable objections, and therefore should give notice at least 20 business days (minimum) in advance of any proposed works.

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?

No Response

20. Updates to references in the Tel Code

20.1 Are there any issues with the proposed changes?

No Response

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

No Response

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 Response

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

Response: No. This could have huge aesthetic and amenity impacts in residential and urban areas. The proposed amendment is purely on an economic impact, and other impacts could be far greater. There are existing processes (planning approvals) to allow for such works if and where considered appropriate.

This proposal would be in complete contradiction to current development practices and requirements imposed on other service authorities and developers.

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

Response: Yes but for rural areas only. Not appropriate for commercial or residential areas.

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?

No 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?

No 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?

No 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?

No Response

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

No Response

23. Replacement mobile towers

23.1 Is the proposal reasonable?

Response: Moreland Council has a number of existing towers located within public reserves or open space. The location of these towers have been determined in the past with consideration to the active and recreational use of these open space areas, as well as the telecommunications infrastructure requirements.

Relocation of an existing tower, even a short distance, may impact significantly on the current use of that land, or future planned use by the land owner.

Existing controls provide a reasonable level of control for a Responsible Authority to balance these potentially competing uses, and it is not considered appropriate to short-cut these controls.

A better alternative would be to allow greater or easier use of 'temporary communications facilities' (the subject of Item 22 above) in these circumstances.

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

Response: 20m is not acceptable in residential or commercial areas.

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

No Response

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?

Response: No. this is a significant visual impact. It may be acceptable in industrial rural areas.