

To the Department of Communications and the Arts
GPO Box 2154
Canberra ACT 2601

Submission response—Possible amendments to telecommunications powers and immunities

This submission can be published on the World Wide Web

Yes / ~~No~~.

Date of submission

21 July 2017

Logo of organisation—if an organisation making this submission



Name and contact details of person/organisation making submission

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General comments

Roads and Maritime Services do **not** support the proposed amendments relating to:

1. the inclusion of installations on or under its bridge infrastructure as a Low Impact Facility. Proposals on sensitive infrastructure such as this could affect the operation, efficiency and safety of roads and maritime networks and any proposed activity on these types of structures require a higher level of assessment than that which is proposed. The current requirement that a Licence Agreement between Roads and Maritime Services and the carrier for proposed installations be entered into for installations on sensitive infrastructure such as bridges must be maintained.

The proposal will severely limit the ability of RMS to protect and preserve bridges. RMS bridges have been identified as Critical Infrastructure and, as the proposal does not consider potential terrorism issues, will severely limit RMS capability to verify which individuals will carry out works/maintenance or operation on these assets;

2. the proposed period of time to object to the carrier after notice is served for Land Access Activity Notices is insufficient. Five days is too short a time to allow for Roads and Maritime Services to assess the proposed activity and to provide an objection if one is warranted. The rationale justifying this change being that carriers are incurring “*significant last minute stand down costs*” associated with objections being received regarding scheduled works. This is not a problem that should be rectified by amending legislation. This is a problem created by the carrier not providing sufficient allowance in its works schedules to allow for potential objections. A fixed time period of 10 business days is considered reasonable;

Roads and Maritime Services generally supports the following proposed amendments, but makes comment regarding:

1. the extended length of trench which can be excavated to install a conduit or cable. Roads and Maritime Services have instances where restoration of roads and other infrastructure which has been opened by carriers has not been restored to its previous condition. Roads and Maritime Services recommend requirement that any trenches opened on its infrastructure including Roads and Road Reserves, must be restored to its previous condition before further trenches are opened. It is also important that carriers comply with relevant Roads Authority requirements and standards regarding minimum depth of cover for roads, verges and footways. Information regarding the relevant standards that the carriers will be meeting and any other additional information relating to activities which will require underbore should include:
 - a. The geotechnical investigation (ground condition) within the vicinity of the underbore location;
 - b. Typical longitudinal and cross sections of the proposed underbore (including things such as, diameter and depth of the proposed underbore);
 - c. Detailed analysis and predicted surface settlement of the underbore works; and
 - d. Proposed monitoring plan that required, during the underbore work.

Roads and Maritime Services would also recommend a general requirement that the carrier has a duty to avoid conflict with planned Roads and Maritime Maintenance Works at or in the vicinity of the proposed activity;

2. Increases to volume on co-location facilities from 25% to 50%. Roads and Maritime Services are concerned that if additional volume of telecommunication facilities on its infrastructure such as Road and Traffic Signs are approved, this may cause a traffic hazard. Roads and Maritime Services recommend a requirement that if a telecommunication facility is proposed on its infrastructure beyond the current 25% threshold, this should be included in the Notice to allow for the consideration of a traffic hazard assessment for that facility. Increases in volume should not be permitted within the vicinity of a classified road, or if it is located near an intersection unless it has been assessed to not be a traffic hazard.

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

2. Local government heritage overlays

- 2.1 Are there any issues with this clarification in relation to local government heritage overlays?
No

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?
No comment
- 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?
No comment

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, so long as they will not pose a traffic hazard
- 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, so long as they will not pose a traffic hazard

5. Maximum heights of antenna protrusions on buildings

- 5.1 Is a 5 metre protrusion height acceptable, or is there a more appropriate height?
No comment, so long as they will not pose a traffic hazard
- 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?
No comment, so long as they will not pose a traffic hazard

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?

No comment, so long as they will not pose a traffic hazard

7. Radiocommunications facilities

7.1 Does the proposed approach raise any issues?

No, so long as they will not pose a traffic hazard

7.2 Are the proposed dimensions for these facilities appropriate?

No comment, so long as they will not pose a traffic hazard

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 comment, so long as they will not pose a traffic hazard or interfere with the operations of Roads and Maritime Services.

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 comment, so long as they will not pose a traffic hazard

10. Radiocommunications lens antennas

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

No comment

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

No comment, so long as they will not pose a traffic hazard

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

No comment, so long as they will not pose a traffic hazard

11. Cabinets for tower equipment

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

No comment, so long as they will not pose a traffic hazard

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 comment, so long as they will not pose a traffic hazard

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?

Roads and Maritime Services have instances where restoration of roads and other infrastructure which has been opened by carriers has not been restored to its previous condition. If the length is to be increased, Roads and Maritime Services recommend a requirement that any trenches opened on its infrastructure including Roads and Road Reserves, must be restored to its previous condition before further trenches are opened. It is also important that carriers comply with relevant Roads Authority requirements and standards regarding minimum depth of cover for roads, verges and footways.

Information regarding the relevant standards that the carriers will be meeting and any other additional information relating to activities which will require underbore should include:

- a. The geotechnical investigation (ground condition) within the vicinity of the underbore location;
- b. Typical longitudinal and cross sections of the proposed underbore (including things such as, diameter and depth of the proposed underbore);
- c. Detailed analysis and predicted surface settlement of the underbore works; and
- d. Proposed monitoring plan that required, during the underbore work.

Roads and Maritime Services would also like to see a general requirement that the carrier has a duty to avoid conflict with planned Roads and Maritime Maintenance Works at or in the vicinity of the proposed activity;

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?

Anything beyond 200m should be subject to a higher level of assessment of its impacts.

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?

Roads and Maritime Services do **not** support the proposed amendments relating to the inclusion of installations on or under its bridge infrastructure as a Low Impact Facility. Proposals on sensitive infrastructure such as this could affect the operation, efficiency and safety of roads and maritime networks and activities on these types of infrastructure require a higher level of assessment than that which is proposed. The current requirement that a Licence Agreement between Roads and Maritime Services and the carrier for proposed installations be entered into for installations on sensitive infrastructure such as bridges must be maintained.

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, see below.

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?

Yes. Roads and Maritime Services are concerned that if additional volume of telecommunication facilities on its infrastructure such as Road and Traffic Signs are approved, this may cause a traffic hazard. Roads and Maritime Services recommend a requirement that if a telecommunication facility is proposed on its infrastructure beyond the current 25% threshold, this should be included in the Notice to see whether a traffic hazard assessment needs to be undertaken for that facility.

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

Another volume limit may be more appropriate particularly if the increase in volume is located near intersections and on or near traffic control signs and traffic lights.

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

If the proposed facility is located within a particular distance of a classified road, or located near an intersection, the volume should not be increased if it were to pose a traffic hazard.

16. Updates to environmental legislation references in the LIFD

16.1 Are there any issues with the proposed updates?

No comment

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

No comment

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?

It should still be clear in the event of a joint venture arrangement who all of the parties are to the land owner.

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?

Yes. However, this is subject to our comments at 18.2 below.

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. This timeframe is too short to allow for Roads and Maritime Services to assess the proposed activity and to provide an objection if one is warranted. The rational justifying this change being that carriers are incurring "*significant last minute stand down costs*" associated with objections being received regarding scheduled works. This is not a problem

that should be rectified by amending legislation. This is a problem created by the carrier not providing sufficient allowance in its works schedules to allow for potential objections. A fixed time period is reasonable, but it must be of a time frame not shorter than currently allowed.

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?

Only if the issue cannot be resolved within a certain period after which objection to the LAAN is given by the landowner. A reasonable referral period might be not earlier than 10 business days after the carrier receives an objection from the landowner, or after notice from the landowner that no further negotiation regarding their objection will be entertained.

20. Updates to references in the Tel Code

20.1 Are there any issues with the proposed changes?

No, subject to our comments regarding notification periods at 18 above.

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?

No comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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

No comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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

No comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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 comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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 comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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 comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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 comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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

No comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

23. Replacement mobile towers

23.1 Is the proposal reasonable?

No comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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

No comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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

No comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.

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?

No comment, so long as they will not pose a traffic hazard or interfere with Roads and Maritime Services operations.