

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.

Date of submission

21 July 2017

Logo of organisation—if an organisation making this submission



Name and contact details of person/organisation making submission

Phil Smith, Chief Regulatory Officer
Email: psmith@opticomm.net.au
Phone: (02) 8252 3602 or 0414 478 996

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?

We consider that the proposed amendment is acceptable.

2. Local government heritage overlays

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

We consider that the proposed amendment is sensible.

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?

We consider that shrouds should be listed as an ancillary facility.

- 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?

We do not consider that it is necessary to specify additional criteria as it could reduce the effectiveness of the shroud in meeting the purpose of reducing the visual impact of facilities.

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)?

We consider that the proposed amendment is acceptable.

- 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)?

We consider that the proposed amendment is acceptable.

5. Maximum heights of antenna protrusions on buildings

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

We consider that the proposed amendment to allow a 5 metre protrusion is 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?

The visual impact of larger facilities in industrial areas is of less concern to the community than in other areas, as such we consider that it would be acceptable to have higher protrusions in industrial areas.

Though the level of community concern about larger facilities is higher in rural areas than industrial areas, we consider it is considerably lower than the community concern in commercial and residential areas. Rural communities have a higher level of acceptance of facilities as they recognise the advantages of better telecommunications services. If higher protrusions result in better coverage and more access to services then we expect that they will be accepted in 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?

We consider that the proposed amendment is acceptable.

7. Radiocommunications facilities

- 7.1 Does the proposed approach raise any issues?

We consider that the proposed amendment is acceptable.

- 7.2 Are the proposed dimensions for these facilities appropriate?

We consider that the proposed amendment is acceptable.

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?

We consider that the proposed amendment is acceptable.

9. Tower extensions in commercial areas

- 9.1 Are there any issues permitting tower height extensions of up to five metres in commercial areas?
We consider that the proposed amendment is acceptable.

10. Radiocommunications lens antennas

- 10.1 Is lens antenna the best term to describe this type of antenna?
Yes, this term is suitable.
- 10.2 Are 4 cubic metres in volume and 5 metres of protrusion from structures appropriate?
We consider that the proposed amendment is acceptable.
- 10.3 Should this type of antenna be allowed in all areas, or restricted to only industrial and rural areas?
We consider that it is acceptable for this type of antenna to be allowed in all areas.

11. Cabinets for tower equipment

- 11.1 Are there any issues with the proposed new cabinet type?
We consider that the proposed amendment is acceptable.

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?
We consider that the proposed amendment is acceptable.

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?
We consider that the proposed amendment is acceptable.
- 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?
It would be preferable to facilitate the rapid installation of facilities, but this needs to be balanced against the need to minimise community disruption. We consider that in established or occupied areas, 200m is sufficient as a longer length may result in difficulties in adequately reinstating the trench.

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?
We agree that this amendment is sensible. The amendment should state that the cable and conduit can be secured or attached to the structure of the bridge.

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?
We consider that the proposed amendment is acceptable.
- 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?
We consider that the proposed amendment is acceptable.

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

We consider that the proposed amendment is acceptable.

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

No, we consider that the proposed amendments and current arrangements are sufficient.

16. Updates to environmental legislation references in the LIFD

16.1 Are there any issues with the proposed updates?

We consider that the proposed amendment is acceptable.

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

1. All carriers should be able to install the facilities currently limited to nbn Co

The LIFD currently includes a range of facilities that only nbn Co is authorised to install as low-impact facilities. We consider that the restrictions on these facilities should be removed to allow all carriers to install them pursuant to their carrier powers. It is not reasonable for nbn Co to be given this competitive advantage over other carriers. If the facilities are deemed to be low-impact with regard to their impact on the community when installed by one carrier then there is no reasonable justification to say that they are not low-impact when installed by another carrier.

2. Radiocommunications dish in residential areas

We consider that Item No 5 in Part 1 of the Schedule to the LIFD should be amended to increase the allowable size of the radiocommunications dish from 1.2 metres in diameter to 1.5 metres in diameter. This increase will accommodate changes that may be specified by satellite subscription TV providers such as Foxtel.

3. There should be no difference in the size of equipment shelters used for radiocommunications and fixed line networks.

Currently, there is a difference in the size of equipment shelters specified in Items 4 and 5 of Part 3 of the Schedule to the LIFD. Item 4 allows equipment shelters with a maximum height of 2.5m and a maximum base of 5m², with no limitation on the type of equipment that the shelter houses or the network it is related to. In comparison, Item 5 allows larger equipment shelters with a maximum height of 3m and a maximum base of 7.5m², but only where it is used to house equipment used in relation to radiocommunications facilities listed in Part 1 of the LIFD. We do not consider that there is any reasonable explanation for equipment shelter used to house equipment used for (essentially) fixed line networks being restricted to a substantially smaller size. In both cases, the equipment is hidden from public view and used in relation to telecommunications networks.

It would be very useful for the larger size equipment shelter to be available for non-radiocommunications networks. We have experienced difficulties in using the smaller shelter for our fixed line network.

We submit that the Items 4 and 5 be replaced by a single type of low-impact equipment shelter of the dimensions in Item 5 but not limited to housing radiocommunications equipment.

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?

We consider that the proposed amendment is acceptable.

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?

We consider that the proposed amendment is acceptable and will allow carriers to plan projects more efficiently.

- 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?

Yes. We consider that the time frame is sufficient.

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?

We consider that the proposed amendment is acceptable.

20. Updates to references in the Tel Code

- 20.1 Are there any issues with the proposed changes?

We consider that the proposed amendments are acceptable.

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

Referral of objections to the TIO and appropriate timeframes

The Tel Code imposes strict mandatory time frames on carriers and landowners throughout the process of issuing LAANs, making objections and consultation about the objection. However, there is no time frame in relation to the finalisation of an unresolved objection that is referred to the TIO. This appears contrary to intention of Schedule 3 and the Act as it creates an impediment to the installation of low-impact facilities and the efficient handling of objections.

We consider that a time frame should be imposed on the TIO, during which the TIO is required to consider a carrier's LAANs, the landowner's objection, the parties' consultation and to issue a direction to the carrier or alternatively state that it will not issue a direction, which allows the carrier to proceed with the activity described in the LAAN.

The TIO has considerable experience in handling land access objections. We consider that a period of three to four weeks is sufficient time for the TIO to finalise its views and to make a decision. This period could be extended in certain circumstances, for example:

- To account for days lost because of public holidays; and
- Where the TIO considers that the carrier or landowner must provide further information to enable the TIO to make a decision. In this situation, the TIO should be required to state the

period in which the information must be provided and that the mandatory timeframe is extended by that period.

If the TIO does not comply with the mandatory time frame or extend the time frame because further information is required, then the objection process should automatically end and the carrier should be entitled to proceed with the activity set out in its LANN.

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. We do not consider that this is appropriate. The proposed poles are likely to have an adverse visual impact and they should not be considered low-impact.

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

They should be not allowed in any areas.

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

We do not consider the poles should be defined as low-impact.

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?

We do not consider the poles should be defined as low-impact.

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?

We consider that the proposed amendments are acceptable.

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?

We consider that it is acceptable to use the NSW and Victorian planning laws as the basis for a template to set the conditions for the installation of these facilities.

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?

Yes. We agree that this amendment is sensible.

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

The conditions included in the NSW and Victorian planning laws are acceptable.

23. Replacement mobile towers

23.1 Is the proposal reasonable?

Yes.

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

Yes.

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

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?

This is acceptable in all commercial, industrial and rural areas.