



Office of the
Director-General

Department of
National Parks,
Sport and Racing

Our Ref: CTS 20323/17

Dr Heather Smith PSM
Secretary
Department of Communications and the Arts
GPO Box 2154
CANBERRA ACT 2615

Dear Dr Smith

Thank you for the opportunity to make a submission on proposed amendments to telecommunications carrier powers and immunities under the *Telecommunications Act 1997* (Cth) (Telecommunications Act) outlined in the Department of Communications and the Arts' recent consultation paper.

The Department of National Parks, Sport and Racing (NPSR) manages over 12 million hectares of Queensland terrestrial protected area (such as national parks) and forests (such as State forests) and has regular interaction with telecommunications carriers regarding the inspection, installation and maintenance of telecommunications infrastructure on these lands. We therefore have a strong interest in the framework under which the carrier powers and immunities operate and welcome the opportunity to provide input into the Commonwealth's consideration of the proposals put forward by the telecommunications industry.

NPSR's specific responses to the proposals are contained in the attached consultation feedback template, however, I would also like to take this opportunity to raise a number of observations regarding the operation of the Telecommunications Act as it relates to the management of infrastructure development on Queensland parks and forests.

Given the extensive land owned and managed on behalf the community by NPSR, there are frequent interactions with infrastructure providers which occur when there is an intersection of infrastructure needs and parks and forest land. NPSR has a dedicated estate management unit established to manage such interactions, and this group works with wholesale and retail electricity providers, mining and coal seam gas companies, road and rail contractors and telecommunication carriers and infrastructure owners.

Level 34
1 William Street Brisbane
PO Box 15187 City East
Queensland 4002 Australia
Telephone + 61 7 3338 9301
Website www.npsr.qld.gov.au
ABN 11 322 391 452

Over time, the working relationships developed between NPSR and a number of these sectors has resulted in significant improvements in the planning and management of access to NPSR lands for infrastructure development purposes and greater operational understanding of each party's business requirements/environment and legislative obligations. For example, NPSR has met with electricity infrastructure providers quarterly to review annual infrastructure programs scheduled for construction on parks and forests. This approach has streamlined the process of planning site access and managing necessary approvals and ensuring that construction timing is not constrained by other land management activities, such as fire management being undertaken on the land within the same window of time.

I believe similar benefits could be achieved in the telecommunications field. Unfortunately in some areas of the sector an adversarial, rather than cooperative, approach has developed in relation to land access, infrastructure development and maintenance. This approach is not discouraged by the existing carrier powers and immunities in the Telecommunications Act.

I believe there are valid reasons for requiring proper planning and assessment of infrastructure development on lands this department manages, which I expand on below. It is worth noting that carriers themselves often require extensive and costly processes for assessing applications from NPSR to locate telecommunications equipment on industry owned towers.

I believe the current consideration of the proposals from industry also provides a timely opportunity for your department to undertake a broader examination of the rationale and necessity for carrier powers and immunities now that the telecommunication industry has evolved from a single government-owned monopoly into multiple fully privatised businesses operating in a competitive market. Perspectives from large land managers such as NPSR would be important to inform this process.

For instance, NPSR manages lands which are frequently the subject of planned burns, pests management involving firearms, commercial forestry operations, events such as car rallies, world mountain bike championships or charity trail walks which can attract thousands of people and require restricted access or closure of the sites where these activities are occurring to ensure suitable management and public safety.

In recent times, Queensland has also experienced a series of cyclones and related rainfall events, which result in significant damage to parks and forests, the road networks within them and the infrastructure contained within these lands.

Without engaging with NPSR to plan its work in advance, or allowing for sufficient notice periods for on ground advice to be provided, carriers or their contractors could easily organise resources and arrive at a location, only for access to be restricted as a consequence of an activity or event such as those discussed above. Separately, parks and forests also have a range of other occupiers, such as graziers and beekeepers whose interests carriers are unlikely to be aware of, and similarly other entities infrastructure can also be located in parks and forests which may also constrain planned installation activities, particularly if not identified from site inspections. The needs of NPSR should be considered in the siting of infrastructure to ensure that carriers do not build infrastructure in locations important to the management or protection of a forest.

As outlined, I believe there are a number of existing telecommunication carriers powers and immunities that require a review to better consider the needs of public land managers to provide greater consistency in processes across these lands and to align with contemporary processes in place for other infrastructure and resource extraction companies. I strongly urge you to consider the matters raised in this letter and the attached submission, and would welcome the opportunity for further dialogue.

Should your officers have any further enquiries, please have them contact Mr Geoff Clare, Senior Executive Director, Queensland Parks and Wildlife Service on (07) 3199 7523 or via email geoff.clare@npsr.qld.gov.au.

Yours sincerely

Tamara O'Shea

Tamara O'Shea
Director-General

27.07.17.
Encl

cc **Mr Dave Stewart**
Director-General
Department of the Premier and Cabinet
PO Box 15185
CITY EAST QLD 4002

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

20/7/2017

Logo of organisation—if an organisation making this submission



Name and contact details of person/organisation making submission

Department of National Parks, Sport and Racing

General comments

Nil.

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 issues of concern, noting the need to ensure the change does not result in an increase of proliferation of installations outside of existing facilities.

2. Local government heritage overlays

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

Nil.

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?

Nil.

- 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?

Nil.

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)?

Over 3 million hectares of State forest in Queensland is categorised as rural land under the LIFD, with this land used by the general community for a wide range of general outdoor recreational purposes and managed by the Department for forestry and other commercial purposes (such as grazing). There are no issues identified with the proposed increase in diameter of the dish where they would be co-located on an existing piece of telecommunications infrastructure, however if installation required a new mast, the Department would require engagement to determine appropriate location and conditioning of the new infrastructure to ensure it did not interfere with the existing rights, uses or management on the forest.

- 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)?

Refer response under 4.1 above.

5. Maximum heights of antenna protrusions on buildings

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

Nil.

- 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?

As outlined above, forests are popular locations in which community members spend time away from urban environments to recreate and relax. Visual amenity in forests is an important element in people's experiences in a natural environment, therefore wherever possible infrastructure located in forests is designed to be unobtrusive and therefore we would prefer that higher protrusions from buildings be avoided as a general rule in rural areas under the LIFD. However, this doesn't rule out the Department being amendable to increasing the height on a case by case basis depending on the site circumstances.

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?

Nil

7. Radiocommunications facilities

- 7.1 Does the proposed approach raise any issues?

Nil

7.2 Are the proposed dimensions for these facilities appropriate?
Nil.

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. Any installations on Departmental infrastructure in residential areas should first be approved by the Department.

9. Tower extensions in commercial areas

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

10. Radiocommunications lens antennas

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

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

10.3 Should this type of antenna be allowed in all areas, or restricted to only industrial and rural areas?
There would be benefit in providing NPSR with the opportunity to assess proposals on a case by case basis given the potential for impacts on visual amenity in forest areas. It appears that in the majority of cases this infrastructure would be located on existing towers, and is therefore unlikely to add significantly to existing visual amenity impacts.

11. Cabinets for tower equipment

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

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?

Over 3 million hectares of State forest in Queensland is categorised as rural land under the LIFD, with this land used by the general community for a wide range of general outdoor recreational purposes and managed by the Department for forestry and other commercial purposes (such as grazing). Other than visual amenity impacts, there are no issues identified with the proposed increase in area of solar panels where they would be co-located on an existing piece of telecommunications infrastructure, however if installation required a new mast, the Department would require engagement to determine appropriate location and conditioning of the new infrastructure to manage the existing rights, uses or management on the forest.

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?
Nil. Provided it is limited to residential areas.

- 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?

Nil. Provided it is limited to residential areas.

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?

If infrastructure such as bridges are owned by the Department and subsequently closed/decommissioned/relocated, any relocation and associated costs of the cabling etc must be borne by the carrier, not the State.

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?

Nil.

- 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?

Nil.

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

Nil.

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

Nil.

16. Updates to environmental legislation references in the LIFD

- 16.1 Are there any issues with the proposed updates?

Nil.

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

Given that the nature environment and the issues associated with management of forest lands (predominantly State forests) are in many cases essentially the same as those on protected areas in Queensland, consideration should be given to either including forests in the definition of 'areas of environmental significance' to allow a consistent approach for both the industry and government to telecommunication infrastructure development across lands management by NPSR.

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?

Nil.

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?

While it is reasonable to reframe the objection period from the time when notice is given, there are serious deficiencies in the notice period framework that fail to reflect the practicalities of managing

such notices within large organisations such as State Government Departments, which are articulated further under 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?

Lands managed by NPSR are generally public lands with multiple uses occurring on them. These uses include free and independent recreation, commercial tourism, organised events such as car rallies, adventure racing events, fund raising walks such as the Oxfam challenge, and mountain biking world championships. Some of these events can attract thousands of participants, result in road closures and restricted access to the lands for the duration of the event.

Also land management activities are regularly conducted which can pose a risk to any individuals in the area. For example, NPSR regularly conducts controlled burns of its lands to reduce wildfire risk and achieve ecological outcomes, and also undertakes pest management programs, involving aerial and ground shooting programs. Commercial forestry operations also occur, during which times entire areas of forest will be closed to the public.

Furthermore, following periods of rainfall, vehicle track conditions in locations can become impassable, or roads are closed during and following periods of wet weather to prevent damage from vehicle use.

In this context, it is NPSR's view that the current framework for providing notice needs to be reviewed to ensure organisations are provided with a genuine opportunity to consider notices, and respond with current information about the state of the land that the carrier is seeking to access and also ensure sufficient time is provided to inform carriers of activities which may impact on the safety of telecommunication carriers operating on lands owned by NPSR.

While NPSR supports the introduction of changes to allow the objection time to be measured from receipt of the carrier notice, providing objections or advice to a carrier notice within 5 days of receipt is considered to be insufficient time for NPSR to review the notice and provide suitable advice back to a carrier given the extent of activities that can be occurring on lands at any time which may impact of carriers ability to conduct their work. This timing also fails to reflect current Australia Post delivery standards, as outlined in the *Australian Postal Corporation (Performance Standards) Regulation 1998* which indicate a delivery standard of 5 days for a regular letter posted from a capital city in one State to a capital city in another State.

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?

Nil, however for transparency, notification of the referral should be provided to the land owner or occupier at the same time.

20. Updates to references in the Tel Code

- 20.1 Are there any issues with the proposed changes?

Refer below.

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

In addition to the comments raised in response to section 18.2, NPSR considers the notification framework in Division 2 of the *Telecommunications Code of Practice 1997* (the Code) requires

review in the context of ensuring landholders have a genuine opportunity to consider notices and provide accurate advice to carriers in relation to their proposed entry, in particular to ensure safety of carrier employees and contractors and prevent costs being incurred by access to lands being closed or impractical due to other activities occurring or the condition of the land/access tracks.

For example, Section 2.23 (4) which provides the option of 2 days notice of entry is impractical for lands managed by NPSR for the reasons already identified. It is recognised that these updates reflect existing provisions in Schedule 3, Section 17 (4A) of the Telecommunications Act 1997, and these comments should be considered in the context of any proposed future Act amendments.

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. As already described, NPSR manages extensive forest areas classified within the rural land zoning of the *Telecommunications Act 1997*. Currently NPSR has effective consultative mechanisms in place for managing circumstances where electricity infrastructure providers seek to install similar poles on forest lands, and we would expect that the same process would apply for such infrastructure installed by telecommunication carriers. This will ensure infrastructure installed cognoscente of existing forest management arrangements and will not interfere with fire management and forestry operations.

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

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

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?
Refer existing comments regarding notification

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?

Refer to previous comments regarding the benefits to carriers of consulting with NPSR in relation to placement of carrier infrastructure on lands under the department's management.

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?

Nil.

22.3 - Should the Act be amended to remove any doubt that MEOs can be installed using the maintenance powers or another power under Schedule 3 of the Act?

Refer to previous comments regarding the benefits to carriers of consulting with NPSR in relation to placement of carrier infrastructure on lands under the department's management.

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

Refer to previous comments regarding the benefits to carriers of consulting with NPSR in relation to placement of carrier infrastructure on lands under the department's management.

23. Replacement mobile towers

23.1 Is the proposal reasonable?

Given that towers on NPSR lands are generally located in small cleared areas established for the specific purpose of the installation of the infrastructure, the department's preference is generally be for an existing tower to be decommissioned and the new tower constructed in the same location to minimise any expansion of the existing footprint. As an asset manager, NPSR has well developed asset replacement planning processes, and considers that in the circumstances where tower replacement is required, appropriate planning by the carrier could ensure no loss of communications capability during the replacement process through the use of temporary communications equipment such as cells-on-wheels or Satcells-on-wheels.

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

Refer response to 23.1 above.

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

No comment.

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 tower extensions are likely to be preferable to proliferation of new towers, however site specific factors may require an alternate approach. The benefits of early engagement with NPSR in the planning stages would assist carriers in these situations.