

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

Wyndham City Council

Geoffrey Youla – Coordinator Asset Rehabilitation: 8734 2769

Geoffrey.youla@wyndham.vic.gov.au

### General comments

Wyndham City appreciates the opportunity to submit our input regarding the proposed amendments to telecommunications powers and immunities. Council received notice of the proposed changes document on Thursday, 13 July 2017. We had limited time to review the proposed changes and have adequate internal discussions with various departments to get comments from representatives on respective proposed changes. Some items have not been addressed due to time constraints.

Itemised responses on each proposed change is below the respective item.

### 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?**

*Wyndham City does not have any comment on this item.*

### **2. Local government heritage overlays**

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

Wyndham City opposes this proposal. Local Government takes an active interest and role in developing heritage overlays and protecting assets (buildings, trees, etc.) that are highly valued by the community. These assets are not always listed on a federal or state register however are significant the community. applications to be included on the relevant register may be planned or pending. This proposal will result in detrimental impacts on these areas. Requiring telecommunications to consult with Local Government in these matters is therefore necessary to protect these significant community assets. This should go through a planning approval process.

### **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?**

*Wyndham City does not have any comment on this item.*

#### **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?**

*Wyndham City does not have any comment on this item.*

### **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)?**

Wyndham City do not oppose the proposed increase in size of radiocommunication and satellite dishes in rural and industrial areas except at any interface with residential or commercial areas. Wyndham City submits that the facility size restriction should remain where the facilities are visible from any adjacent residential or commercial area, owing to the negative impact the proposed change would have on visual amenity.

#### **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)?**

Wyndham City does not oppose the proposed increase in size of radiocommunication and satellite dishes in rural and industrial areas except at any interface with residential or commercial areas. Wyndham City submits that the facility size restriction should remain where the facilities are visible from any adjacent residential or commercial area address negative impacts the proposed change would have on visual amenity.

### **5. Maximum heights of antenna protrusions on buildings**

Wyndham City does not support the proposed changes

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

To increase the maximum height of antenna protrusions due to resident concerns regarding the considerable negative impact this proposal will have on visual amenity. Topography and terrain are known issues, therefore telecommunications companies can be expected to have sufficient advanced knowledge to allow reasonable dialogue with Local Government to obtain mutually satisfactory agreement.

Wyndham City is concerned about this change and would prefer the protrusion heights to remain at 3m. Protrusions higher than 5m could be a concern as Wyndham has a number of flight paths within the municipality that are not covered by an overlay. However, this could be overcome if the carrier is required to ensure that they obtain consent from the aviation authority (or have looked into this matter). Suggestion could be that certain building heights can have specified protrusion heights rather than a blanket 5m.

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?

Permitting higher protrusions in areas where the facilities are visible from an adjacent residential area would have a negative impact on visual amenity. Wyndham City has concerns that increasing protrusion limits in any area without adequate planning controls may have a detrimental impact on flight paths over the facility.

**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?

Wyndham City does not oppose the proposal to permit omnidirectional antennas in residential and commercial areas provided they are no greater than 3metres in length when placed in or visible from any residential area due to the negative impact the proposal could have on visual amenity.

**7. Radiocommunications facilities**

7.1 Does the proposed approach raise any issues?

*Wyndham City does not have any comment on this item.*

7.2 Are the proposed dimensions for these facilities appropriate?

*Wyndham City does not have any comment on this item.*

**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?

*Carriers should have approval from landowners before entering structures.*

*Carriers should negotiate with landowners prior to installing equipment.*

**9. Tower extensions in commercial areas**

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

Wyndham City opposes permitting tower height extensions of up to 5 metres in commercial areas. Commercial area development that incorporates residential development is becoming common. The delineation between commercial and residential is less clear in these cases and this proposal would impact negatively on visual amenity in more situations. Commercial areas can be visible on multiple frontages from residential areas and can be co-located with a residential use, e.g.

Werribee City Centre is zoned as an Activity Centre and this allows both commercial and residential uses to exist next to or within the same building structure. How is a Commercial area going to be defined, given issues like this? Allowing height extensions without adequate assessment by Local Government is likely to produce detrimental outcomes for the community.

## **10. Radiocommunications lens antennas**

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

*Wyndham City does not have any comment on this item.*

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

*Wyndham City does not have any comment on this item.*

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

*Wyndham City does not have any comment on this item.*

## **11. Cabinets for tower equipment**

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

Treatments/buffer zones to address any noise issues presented by the operation of equipment within the cabinets should form part of the determination.

## **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?**

*Wyndham City does not have any comment on this item*

## **13. Amount of trench that can be open to install a conduit or cable**

Wyndham City opposes the proposal

### **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?**

Wyndham City opposes any increase the length of trench that can be open at any time due to the significant detrimental impact on local resident safety, visual amenity, land use, street parking and vehicle movements as well as likely impact on street trees.

Council preference is to install infrastructure by boring to minimise detriment to street trees, street furniture and paths and exposure to public safety risk.

### **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?**

As above. If the trench is not closed at the end of the business day, what recourse is available to Local Government to protect the interests of the community?

Council preference is to install infrastructure by boring to minimise detriment to street trees, street furniture and paths and exposure to public safety risk.

## **14. Cable & conduit installation on or under bridges**

Wyndham City opposes the proposal

### **14.1 Are there any issues with allowing cable and conduit on bridges to be low-impact facilities?**

Third Party assets attached to or under bridges presents risk to bridge owners in terms of potential effect on the bridge structure, maintenance of the bridge or the asset that has been attached to the bridge, bridge works including renewal, upgrade or replacement of the bridge. Licensing agreements, or similar, allow a formal agreement to be reached between the bridge owner and the third party regarding management of both parties assets and responsibility for costs incurred in the normal and foreseeable operations of the bridge.

## **15. Volume restrictions on co-located facilities**

Wyndham City does have concerns regarding this proposal

### **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?**

Wyndham City is concerned that removing volume limits in commercial areas will negatively impact visual amenity where the facilities are visible from any adjacent residential area.

### **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?**

Wyndham City is concerned that increasing volume limits for adding to existing facilities and public utility structures in residential areas will negatively affect the visual amenity enjoyed by the community. What impacts would there be to Council regarding response times to issues with its assets in the event of damage or failure that impacts on the service levels stipulated for carriers servicing their customers?

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

Council prefers the limit remains as it currently is.

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

The carriers must enter into an agreement with the asset owner in regards to extra costs associated with reinstatement and maintenance of the assets. This may also require interim site safety measures which comes at a cost.

## **16. Updates to environmental legislation references in the LIFD**

### **16.1 Are there any issues with the proposed updates?**

*Wyndham City does not have any comment on this item*

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

*Wyndham City does not have any comment on this item*

## **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?**

Wyndham City does not oppose this proposal provided that the signing carrier is deemed by the landowner to be authorised to sign by other parties in the joint venture arrangement.

## **18. LAAN objection periods**

Wyndham City opposes any proposal to reduce objection periods. Wyndham City Council endeavours to respond to LAAN submissions in a prompt/ swift manner. Council understands carriers concerns regarding “likelihood of late objections”, however Wyndham City finds the proposed reduction in times to object to LAAN submissions to 5 business days as unreasonable and against the basics of “good engineering practice” per the telecommunications act. The high volume of LAAN submissions to council does not provide sufficient timing to thoroughly assess LAAN submissions made to council and increases the risk of relocating carrier assets in upcoming road widening works. As the fastest growing municipality in Victoria and third largest in Australia, Council requires sufficient time to ensure LAAN submissions are assessed thoroughly and avoid ratepayers monies to be used on relocating carrier assets for any upcoming civil works projects.

### **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?**

Wyndham City supports retaining the current arrangements to enable meaningful assessment and negotiation regarding notifications.

### **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?**

Wyndham City supports retaining the current time period to object to carrier activities. Wyndham is one of the fastest growing municipalities in Australia. The volume of notices received for all types of activities requiring assessment and responses is proportionate to our growth.

## **19. Allow carriers to refer land owner and occupier objections to the TIO**

Wyndham City opposes the proposal

### **19.1 Are there any issues with allowing carriers to refer objections to the TIO before land owners and occupiers have requested them to?**

Wyndham City is concerned that this proposal will reduce the incentive to carriers to engage in reasonable discussions with landowners to reach agreement before issues are referred to the TIO for resolution. Positive engagement between landowners and carriers is critical to the success of managing conflicting needs of stakeholders and deliver the best outcomes to communities and infrastructure users.

Wyndham City supports the objective of early consultation with carriers to ensure issues are resolved in early design stages of projects to avoid disputes nearer to mobilisation.

## **20. Updates to references in the Tel Code**

### **20.1 Are there any issues with the proposed changes?**

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

Wyndham City has no further suggestions.

## 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?

Wyndham City has no objection to this.

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

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?

Yes, subject to current objection timelines.

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?

Wyndham City supports retaining the current processes.

### 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?

Wyndham City does not oppose this proposal.

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?

Wyndham City has not had sufficient time to fully consider this item.

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?

Wyndham City has not had sufficient time to fully consider this item.

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

Wyndham City has not had sufficient time to fully consider this item.

### 23. Replacement mobile towers

23.1 Is the proposal reasonable?

Wyndham City opposes the proposal to allow replacement towers to be installed in any location other than in the existing approved location. Land use in the vicinity of towers is widely varied and plans for land use including active open spaces may have current plans for development that could be negatively impacted by uncontrolled tower installation. Temporary communications facilities could be utilised to eliminate the impact of telecommunication company works on their customers.

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

Wyndham City opposes the proposal to allow replacement towers to be installed in any location other than in the existing approved location.

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

Wyndham City has not had sufficient time to fully consider this item.

**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?**

Wyndham City opposes the proposal to allow 10 metre height extensions in commercial areas, particularly where the tower or proposed extension will be visible from any residential area and can be co-located with a residential use, e.g. Werribee City Centre is zoned as an Activity Centre and this allows both commercial and residential uses to exist next to or within the same building structure. How is a Commercial area going to be defined, given issues like this? Allowing height extensions without adequate assessment by Local Government is likely to produce detrimental outcomes for our community. Wyndham City holds concerns that increasing tower height extension limits in any area without adequate planning safeguards may have a detrimental impact on flight paths over the structure. Wyndham City does not oppose one-off 10 metre tower height extensions in industrial and rural areas.