



# Explanatory Notes to the Exposure Drafts

## *Telecommunications (Low-Impact Facilities) Determination 2018* and the *Telecommunications Code of Practice 2018*

### Introduction

This document provides an overview of proposed amendments to the *Telecommunications (Low-impact Facilities) Determination 2018* (LIFD) and the *Telecommunications Code of Practice 2018* (Code of Practice) to assist members of the public to make a submission. The draft legislative instruments have been prepared for the purposes of public consultation and are subject to change.

### Background

There are long-standing powers under Schedule 3 to the *Telecommunications Act 1997* (the Act) that allow carriers to deploy infrastructure in a cost-effective, efficient and nationally consistent way. These laws are generally referred to as ‘powers and immunities’. The LIFD and the Code of Practice are legislative instruments made by the Minister under Schedule 3 to the Act.

The LIFD sets out the types of equipment which can be installed as a low-impact facility under the Act. The types of facilities listed as low-impact are those considered to be essential to the effective and efficient operation of telecommunications networks in providing services to the public, but are considered to have low visual impact and unlikely to cause significant disruption to the community during installation or operation. An example of a low-impact facility include antennae used to deliver mobile communications services to the community.

The Code of Practice sets out specific conditions that carriers must comply with when undertaking an activity under Schedule 3 to the Act. This includes obligations on carriers to advise landowners (and occupiers) of their right to object, the grounds for objection (for example, the use of the land or the location of the facility on the land), the right to have a decision reviewed by the Telecommunications Industry Ombudsman and timeframes for lodging objections. The Code of Practice also requires carriers to adhere to strict requirements, including to act in accordance with good engineering practice and to ensure that the activity interferes as little as practicable with the use of the land.

The *Telecommunications Legislation Amendment Act 2019* (TLAA) received royal assent earlier this year. Schedule 2 of the TLAA amended the Act to give the Minister for Communications power to prescribe a temporary telecommunications tower as a low-impact facility in certain circumstances. These amendments will allow carriers to deploy temporary facilities in certain circumstance such as emergencies, maintenance, peak holiday periods, and major sporting, cultural and other events. Prior to the passage of the TLAA, if a carrier wanted to deploy a temporary tower, they would have to comply with state and territory planning requirements.



## Amendments to the LIFD and Code of Practice

The draft amendments to the LIFD and Code of Practice fall within the following broad categories:

- Strengthening existing provisions that allow carriers to deploy temporary facilities to assist emergency services organisations responding to emergency situations, including national disasters
- prescribing temporary facilities (including temporary towers) as low-impact facilities in certain circumstances, other than emergencies, and specifying conditions in relation to the deployment of those temporary facilities
- clarifying the definition of a radiocommunications facility
- adopting recommendations made by the Senate Standing Committee on Regulations and Ordinances (SSCRO), and
- minor amendments to correct drafting inaccuracies in the current versions of the legislation.

Carriers deploying temporary facilities and towers are subject to the same conditions as other low-impact facilities. The proposed amendments to the Code of Practice will place additional conditions on carriers when installing temporary facilities and temporary towers.

