

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

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Logo of organisation—if an organisation making this submission

Australasian Railway Association

Name and contact details of person/organisation making submission

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General comments

The Australasian Railway Association (ARA) welcomes the opportunity to provide comments on possible amendments to telecommunications carrier powers and immunities. The ARA is the national body for the Australasian railway industry, representing passenger and freight operators, track owners and managers, manufacturers of rolling stock, construction companies and all other organisations supplying and contributing to the Australasian rail sector.

This submission reflects the view of the Australian rail industry, and in particular, the above and below rail operators who comprise the ARA Telecommunications Committee.

The ARA understands individual rail companies have provided submissions to the Department addressing specific questions in relation to the proposed amendments to the Telecommunications (Low Impact Facilities) Determination and the Telecommunications Code of Practice 1997. Further, we understand the Office of the National Rail Safety Regulator is providing comments on the proposed changes. ARA respectfully asks that this submission be read in conjunction with their respective contributions on the consultation documents.

ARA would like to highlight and reinforce a number of concerns rail industry members have in relation to the proposed changes to the Determination and Code of Practice. The ARA requests changes to the determination to ensure safety is not compromised in the rail corridor.

These proposed measures impact the way in which rail companies would be able manage their railway obligations. They are resource intensive, time consuming and, consequently, companies would incur significant costs to meet their safety obligations and to keep all workers, either internal or contractors, safe.

Maintaining high safety standards in the rail corridor by meeting and exceeding the legislative obligations contained in both state and federal rail safety legislation is the highest priority of ARA members. It is within this context the ARA requests the following changes to the proposed amendments to telecommunications carrier powers and immunities.

ARA does not support the expansion of telecommunications carriers' powers and immunities to widen the scope of low impact facilities. By its very nature, working in the rail corridor is not 'low impact' as it presents a significant number of risks. Works undertaken on, or around, a railway is inherently dangerous and needs to be treated as such. No telecommunications facilities can be classified as 'low impact' facilities if they are within a rail corridor.

The rail industry understands and accepts the need for reasonable access, however, it must be on terms which comply with national and state rail safety law and do not compromise safety of those undertaking the works, as well as all other affected parties in and around the corridor. This includes passengers, drivers and other track workers.

Access must be consistent with Rail Infrastructure Manager procedures that are established to meet responsibilities under the National Rail Safety Law. A telecommunications worker, by law, is a rail safety worker and therefore must be treated in a consistent manner to any other individual accessing the corridor. It is legislative requirement for all workers undertaking works to be suitably qualified, and to be in possession of a valid Railway Industry Worker Card, as stipulated by the Rail Safety National Law. This requirement applies to all those who access the corridor to ensure, as far as reasonably practicable, an individual's safety (and others within the corridor) is not comprised.

In addition, rail companies require a number of essential measures to be undertaken when works are proposed to be conducted on or near rail corridors. These include the development of Safe Work Method Statements, the undertaking of appropriate assessments and supervision activities and ensuring all relevant safety standards are met.

ARA also has concerns in relation to the Land Access and Activity Notices (LAAN) objection periods. The 10-day notice period carriers need to give to land owners and occupiers to carry out works is unsatisfactory. A sufficient amount of time needs to be afforded to ensure the full implications of the proposed works are considered, and for any preparatory works to be undertaken before work is carried out. This includes, but is not limited to, rail timetabling, safety planning and in some cases possession. ARA members expect this notice period to be no less than 30 days to enable proper consideration of these and other issues.

The ARA also opposes the amendment to change the objection periods in the Telecommunications Code to 5 business days from the receipt of a notice for some types of land entry activities, all low-impact facility installation activities, and all maintenance activities. Five days is unworkable and does not provide a sufficient amount of time to fully consider the notice, assess the proposed work and consult with relevant stakeholders if necessary. This could include, for example, consultation with state governments when there are significant heritage matters to be considered. This period needs to be extended to ensure there is satisfactory time for rail organisations to give due consideration to notices and then to lodge an objection if necessary.

The ARA supports the comments made by rail organisations in respect to the proposed size, location, height, use etc of telecommunications equipment within the rail corridor. More broadly, ARA is of the view that any work in the corridor does not negatively impact on future rail infrastructure opportunities and does not comprise industry's ability to preserve the rail corridor for future rail infrastructure.

The ARA encourages further consideration of the issues outlined in this submission to ensure the proposed changes take full account of the various safety issues at play within the rail corridor.

We look forward to working constructively with the Department to ensure any proposed changes are workable, practical and above all, do not compromise rail safety.

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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 specific comment

2. Local government heritage overlays

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

< No specific comment

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 specific 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 specific 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 specific comment

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 specific comment

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 specific comment

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 specific comment

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 specific comment

7. Radiocommunications facilities

7.1 Does the proposed approach raise any issues?

No specific comment

7.2 Are the proposed dimensions for these facilities appropriate?

No specific comment

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 specific comment

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 specific comment

10. Radiocommunications lens antennas

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

No specific comment

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

No specific comment

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

No specific comment

11. Cabinets for tower equipment

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

No specific comment

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 specific comment

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?

No specific comment

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?

No specific comment

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?

No specific comment

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?

No specific comment

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?

No specific comment

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

No specific comment

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

No specific comment

16. Updates to environmental legislation references in the LIFD

16.1 Are there any issues with the proposed updates?

No specific comment

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

No specific 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?

No specific comment

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?

No specific comment

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 specific comment

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?

No specific comment

20. Updates to references in the Tel Code

20.1 Are there any issues with the proposed changes?

No specific comment

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

No specific comment

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 specific comment

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

< No specific comment

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

< No specific comment

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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 specific comment

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 specific comment

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 specific comment

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 specific comment

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

No specific comment

23. Replacement mobile towers

23.1 Is the proposal reasonable?

No specific comment

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

No specific comment

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

No specific 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?

No specific comment