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

21 July 2017

Logo of organisation—if an organisation making this submission

OPTUS

Name and contact details of person/organisation making submission

Optus

(Contact details provided separately)

General comments

Optus appreciates the opportunity to provide comments on this consultation paper. Optus, as a major telecommunications provider with extensive fixed and mobile network infrastructure, has a keen interest in the proposed amendments set out in this paper and strongly supports these amendments.

The flexibility and certainty in which facilities can be installed has a major impact on Optus’ network rollout and its ability to provide better and more advanced telecommunications services to its customers Australia-wide. A fit for purpose deployment framework is also critical to Optus’ ability to develop mobile and fixed investment strategies.

Optus relies heavily on the carrier powers and immunities contained in the suite of legislative instruments being considered by the Department in their discussion paper.

Optus commends the Department for undertaking such an important consultation, and looks forward to working with the Department to progress any changes resulting from the consultation.

Optus’ comments have been inserted into the template below. Where relevant, we have provided a case study to help illustrate the issues experienced as a result of the current regulatory restrictions where some scenarios are not deemed to be low-impact facility installations.
In addition, Optus notes that in the current Telecommunications (Low-impact Facilities) Determination 1997 (LIFD), numerous exemptions or special circumstances have been granted to the National Broadband Network (NBN), whilst other fixed infrastructure providers are excluded. This severely restricts the type of facilities that the majority of carriers can install as low-impact facilities, and therefore Optus requests that the Department consider whether those aspects can be extended to other carriers, ensuring a consistent and equitable approach to the rollout of networks for all infrastructure providers.

As a member of both the Australian Mobile Telecommunications Association (AMTA) and the Communications Alliance (“the Associations”), Optus supports the submission being made by the Associations to this consultation process.

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?
   Optus supports the proposed clarification to the definition of co-location.

2. Local government heritage overlays
   2.1 Are there any issues with this clarification in relation to local government heritage overlays?
   Optus supports the proposed clarification in relation to local government heritage overlays, and notes that there are many benefits to this proposal, both for telecommunications carriers and local councils.

   In Optus’ opinion, there are numerous structural elements in conservation areas listed on heritage registers which have no heritage or conservation value (for example asphalt footpaths, concrete kerbs, contemporary landscaping and footpaths). However, for Optus to install a facility in such a road or footpath, it is required to lodge a Development Application with the relevant Council in addition to obtaining a specialist heritage consultant’s report. Further to the cost that Optus incurs for those items, there is also the delay in obtaining approval which can be over eight weeks.

   From the perspective of local councils, if they do not have to consider such unnecessary Development Applications, their workload will be reduced and thus the time delay for them to consider other Development Applications lodged by other parties will also be reduced. The benefit should also manifest in a general cost saving to the council’s ratepayers by this overall reduction in workload and delay.

   Another issue that Optus would like to draw the Department’s attention to is the case where the transmission cable access point occurs via a new addition to a heritage building. In such a case Optus has to lodge a Development Application even though the cable connections occur via a small aperture located below ground level and via the new addition.
**Case Study 1**
Optus received a customer order (late 2016) to connect cable to a business at Hickson Road, Walsh Bay, Sydney. Optus was to extend its cable network 66m to connect the business with a transmission cable. The entire transmission build area was within the road reserve, which had no heritage value given it was an asphalt road and footpath and concrete kerb.

Further, Optus undertook mandatory checks and found that a Telstra duct, electrical ducts (6) and Sydney water pipes were already installed under the footpath.

As the area was within the Walsh Bay heritage conservation area, Optus was required to lodge a Development Application with supporting documentation as follows:
- 34 page Heritage Impact Assessment, costing $2960
- Statement of Environment Effects, costing $450
- Development Application, fee $250

Due to a number of issues, the Development Approval was delayed by five months which resulted in the customer cancelling the order. Therefore, Optus not only lost that business opportunity, but was also unable to recover the costs and resources expended over the many months it attempted to extend its network under a footpath containing existing ducts, with no heritage value.

**Case Study 2**
Optus was making an internet/transmission connection to 6 Semaphore Road, Semaphore, Adelaide. The building was on Council’s heritage register, having once been a police station. The cable was to enter into the building via a new addition to the building, built some 25 years ago, and without any heritage value.

Regardless, a Development Application was required by Council before Optus could install the service, which took eight weeks to approve, at a cost of approximately $2,000 to Optus.

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?
   Optus supports radio shrouds being considered ancillary facilities to low-impact facilities.

   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?
   Optus does not believe there is a need to list radio shrouds as distinct facilities, nor to set criteria as to the size and dimensions for radio shrouds. However, we note that the proposed amendment to the LIFD includes a requirement to colour-match the shroud to its background.
   Occasionally shrouds are painted to match other structures on the roof of a building, or to blend with surrounding tree foliage, therefore Optus recommends that this requirement be removed, or amended as per the proposal in the submission by the Associations, to enable the decision as to which approach to take for each individual circumstance to be agreed between the carrier and the building owner (or local authority, as relevant).

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)?
   Optus supports this change.
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)?

Optus has no concerns with this proposal.

5. Maximum heights of antenna protrusions on buildings

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

Optus believes that a 5 metre protrusion height 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?

Optus believes that there may be cases where a higher protrusion would be acceptable in industrial or rural areas, but this should be determined in consultation with the property owner and local authority.

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?

Optus does not see any issues with this proposal.

7. Radiocommunications facilities

7.1 Does the proposed approach raise any issues?

Optus does not have any issues with the proposed approach. Optus agrees that replacing the definition of the term micro-cell with the defined term ‘radiocommunications facility’ will provide greater flexibility to carriers.

7.2 Are the proposed dimensions for these facilities appropriate?

Optus agrees that the proposed dimensions for these radiocommunications facilities are appropriate.

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?

Optus believes that enabling carriers to enter land, including buildings, for this purpose will be a great benefit to carriers in expanding their network. This change will assist to reduce both the cost and complexity of deployment activity, and also help ensure new services can be rolled out faster.

While this proposal is certainly a positive step, we also support the proposal in the submission from the Associations about the additional benefits that could be gained for residential communities by allowing equipment to be installed within residential buildings as well.

9. Tower extensions in commercial areas

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

Optus believes that extending the allowed tower heights to up to five metres in commercial areas is a reasonable proposal.
10. Radiocommunications lens antennas

10.1 Is lens antenna the best term to describe this type of antenna?
Optus believes that the term lens antenna adequately describes this type of antenna.

10.2 Are 4 cubic metres in volume and 5 metres of protrusion from structures appropriate?
Optus agrees that the proposed volume and protrusion measures are appropriate for lens antennas.

10.3 Should this type of antenna be allowed in all areas, or restricted to only industrial and rural areas?
Optus’ view is that these types of antennas should be allowed in all areas.

In addition, whilst it is primarily NBN that uses such antennas currently, it is important to ensure that the use of such antennas and the installation of those under the LIFD are subject to consistent obligations for all carriers, as opposed to special criteria or exemptions applicable only to NBN.

11. Cabinets for tower equipment

11.1 Are there any issues with the proposed new cabinet type?
Optus does not have any concerns in relation to the proposed new cabinet type. In fact, Optus believes that this amendment will be particularly valuable for the rollout of small cell and 5G networks.

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?
Optus supports this proposal, however notes that for remote locations, transmission regeneration sites may require larger solar panel installations.

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?
Optus does not see any reasons why this proposal would cause concerns and agrees with the Department’s rationale in that there is a significant benefit to the public, being the reduction of disruption to the community as well as providing the carriers with efficiency both in construction time and cost.

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?
Optus’ view is that the length of the trench should not be restricted, as long as the trench is appropriately covered at the end of day.

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?
Optus strongly agrees with the proposal to allow cabling and conduit on bridges to be low-impact facilities, however Optus recommends that the wording in the Determination refer to “Conduit or cabling to be laid in, on, under or attached to a bridge”, for clarity. Such wording would better reflect the various scenarios that Optus deals with in relation to bridges.

This amendment is critical to the continued successful and efficient rollout of Optus’ network, with no impact on the structural integrity of bridges. The majority of bridges have dedicated cable trays...
or areas to contain conduits built into the bridge structure at the time of construction, in which additional cables or conduits can be laid as required over time with minimal, if any, disruption to the passage of persons or vehicles over the bridge. Further, as these dedicated areas are mostly away from the bridge’s carriageway, the possibility of injury to persons working in these dedicated areas is significantly reduced.

Below we provide a case study demonstrating the current impact to carriers such as Optus due to bridges not being included in the definition of a low-impact facility.

**Case Study 3**

Due to confidentiality requirements, Optus cannot provide full particulars of this matter except to say that in 2015 Optus proposed to install an optical fibre cable (12mm in diameter) across a bridge to connect with existing underground cabling at each end of the bridge. This installation was to occur inside existing conduits and within the walkway adjacent to the pedestrian/cycleway lane. The cabling on the bridge was to be connected to underground cabling installed at each end of the bridge. Being underground, that cabling was, in accordance with the LIFD, a low impact facility whilst the connecting section of the cabling that was to be laid on the bridge was not. The bridge owner objected to Optus’ proposal which eventually resulted in Optus having to find an alternative route for the cabling. This resulted in Optus incurring considerable delay and expense in completing the cable connection.

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?*

Optus supports the removal of volume limits for adding co-located facilities to existing facilities and public utility structures.

By allowing higher volumes, co-location of facilities is encouraged. This is surely a positive outcome for the public, local councils and carriers alike.

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?*

As above, Optus supports increased volume limits, as they will promote further co-location of facilities.

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

Optus supports higher volumes, or no limits, as described above.

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

Optus does not believe that alternative arrangements are currently required in the LIFD, especially if the proposed change to increase volumes or remove volume limits is successfully implemented as a result of this consultation.

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

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

Optus has no concerns with the proposed updates.

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

Optus has no additional suggestions for 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?

Optus supports this amendment, which will assist in reducing timeframes to progress joint venture projects.

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?

Optus supports the proposed amendments as it enables carriers to plan construction activities with confidence.

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?

Optus considers that five business days is a sufficient time period for land owners and occupiers to object.

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?

Optus agrees that carriers should also be able to refer objections to the TIO, before land owners and occupiers have requested this.

20. Updates to references in the Tel Code

20.1 Are there any issues with the proposed changes?

Optus has no concerns with the proposed changes.

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

Optus has no further suggestions for updates to the Tel Code.

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?

Optus believes that it is a reasonable approach for poles in rural areas for telecommunications and electricity cabling for telecommunications networks to be classed as low-impact facilities. However, as noted earlier, Optus does not support exemptions being made solely for the NBN. Carving out exemptions for the NBN severely restricts the type of facilities that the majority of carriers can install as low-impact facilities, and therefore Optus requests that the Department consider whether these amendments can be extended to other carriers, ensuring a consistent and equitable approach to the rollout of networks for all infrastructure providers.
21.2 Should low-impact facility poles be allowed in other areas, or be restricted to rural areas?
It is Optus’ view that low-impact facility poles should be allowed in areas other than rural areas, and that the ability to use this newly classified infrastructure be afforded to all carriers, not just the NBN.

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

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?
Optus’ view is that the existing notification and objection processes are sufficient.

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?
Optus sees no concerns with this proposal, and supports this change.

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?
Optus believes that the current conditions are adequate.

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?
Optus does not have a view on this proposed amendment.

22.4 Are there any suggestions for appropriate conditions for the installation of MEOWs if the maintenance powers are amended?
As above, Optus does not have a view on this proposal.

23. Replacement mobile towers
23.1 Is the proposal reasonable?
Yes, in Optus’ view the proposal around replacement mobile towers is reasonable.

23.2 Is 20 metres a suitable distance restriction for replacement towers?
Optus agrees that this is a suitable distance restriction.

23.3 Is 12 weeks a reasonable maximum time period for installation of replacement towers?
Optus considers that 12 weeks is a sufficient timeframe.

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?
Optus is of the view that this height extension would be suitable in commercial, industrial and rural areas.