



**Australian Mobile
Telecommunications
Association**

Australian Mobile Telecommunications Association

Submission to the Department of Communications and the Arts

**Amendments to the Telecommunications (Low Impact Facilities)
Determination 2018 and Telecommunications Code of Practice
2018: – Exposure Draft**

December 2019

1. Executive Summary

The Australian Mobile Telecommunications Association (AMTA) and Communications Alliance (CA) (the Associations) welcome the opportunity to provide comment on the Department of Communications and the Arts (DoCA) exposure draft of the proposed amendments to the *Telecommunications (Low Impact Facilities Determination) 2018* (LIFD) and the *Telecommunications Code of Practice 2018* (Telco Code).

The Associations commend the Department for their continued efforts in reforming the Telecommunications regulatory framework to facilitate deployment of mobile and wireless network infrastructure to better enable the provision of the latest mobile and wireless communications technology, including 5G, to Australian communities and businesses.

By way of overarching comment, the Associations strongly support the introduction of amendments providing abbreviated planning and statutory requirements for a range of temporary facility installations which are important in delivering services during periods of high demand related to public events such as sporting, musical or cultural events; for seasonal influx at particular locations during holiday periods; and to facilitate maintenance at existing facilities that would otherwise result in a loss of service to the coverage area. Importantly, emergency operations relating to natural and other disaster management is an important role for temporary facilities that the proposed amendments also address.

2. Background

The Department has advised that notwithstanding what comments and issues might arise during the consultation period, there is a strong desire to avoid extensive redrafting of the LIFD and Telco Code, particularly in relation to the overall architecture of the regulations as long as the amendments work to achieve the overall objective of implementing the new provisions for temporary towers permitted by the passage of superior legislation earlier in 2109 and the additional objective of better describing radiocommunications infrastructure that can be deployed under the LIFD, especially relating to small cells.

It is therefore only noted that the drafting is complex and somewhat convoluted, and while this could no doubt be improved in time, it also appears to deliver the Department's intended reforms, checks and balances, and (mostly) also meets the basic requirements related to temporary towers and small cells that the industry originally put to the Department when the Powers and Immunities reform package was originally presented in 2017 and throughout consultations since.

3. Comments on Proposed Amendments

In this section the Associations provide some brief comments on the proposed amendments in the exposure drafts where we feel there can be a useful improvement or clarification and where the drafting to achieve this improvement is not overly involved. Comments are presented in order of appearance by Clause in the exposure drafts.

LIFD – Temporary Facilities Amendments

1.4 - Repeal

- (i) The Associations are concerned that the use of the term ‘free standing’ in relation to temporary towers could be mis-interpreted if not better defined (for example, is a tower which is guyed to the ground or some other structure ‘free standing’?). We would suggest that a better option is to remove the term ‘free standing’ from this section as it is not used elsewhere in the LIFD.
- (ii) For clarity, it is suggested the word ‘permanent’ be inserted into the last sentence of the penultimate paragraph, to make it clear that only “...new permanent telecommunications towers are not low-impact facilities”. New temporary telecommunications towers (with conditions) may therefore be low impact as intended.

1.5 - Definitions

Original Facility (b) – amend to make clear the schedule referred to is the schedule of this LIFD. Also correct referenced part to Part 8 (Co-located facilities)

Schedule to the LIFD - Definitions

Part 1 – Radio facilities

Items 17-19 - Temporary towers, events and holiday periods

It is noted that the LIFD does not impose any limits in relation to duration or frequency of events where these apply to temporary towers as these are applied in the Act (for example for an event at a venue or for high demand holiday periods at a location). However, it would be useful to include a note in the LIFD regarding these limits to help the reader understand overarching requirements without referring to higher regulation. The Associations observe that such notes are included in certain parts of the Telco Code for the same purposes (for example Chapter 4 – Low impact facilities, Part 2 (4.4B and C)). The Associations acknowledge the Department may have drafting guidelines which are not consistent with this suggestion but nonetheless submit it for the Department’s consideration.

Part 6A – Above ground facilities (temporary)

Item 1(b) - The associations are concerned that the prohibition of a tower being incorporated as a part of an aboveground facility could unintentionally impact on the deployment of a number of temporary facilities such as some COWs where the tower is an integral component of the deployed unit and cannot be separated from it for the purposes of undertaking deployment under the temporary provisions of the LIFD. Since the conditions applied in this Part are the same as for temporary towers in Part 1, there is no additional benefit or conditions imposed by this clause in relation to temporary towers (except for height), but it may needlessly delay or frustrate deployment of such units in times of emergency or other circumstances with no benefit to the community or other stakeholder. The Associations therefore suggest this sub-clause [(6A)(Item 1)(b)] be removed.

Item 1(d) – In relation to the height of such above ground facilities, in discussions with the Department it was noted that the proposed 5m limit may be restrictive for some applications once the temporary unit was deployed (where an antenna may extend from the roof of an above ground facility which otherwise meets the height limits, for example). Given other restrictions in regard to antenna height and protrusions already present in the LIFD, it was suggested that including the antenna in the total height for determining compliance with the restriction was not necessary. We would suggest that new amendments to the Exposure Draft (for example (6A)(Item 1)(d)) could include the words ‘excluding any antenna’.

The Department requested Carriers to provide examples and dimensions of typical above ground facilities with towers and antennas included for reconciling with the dimension limits specified in the exposure draft. Two such examples are included in Appendix 1.

Item 1(General)

The associations have concerns that the definition of above ground facilities as drafted did not explicitly include other items necessary for the operation and use of the temporary above ground facility, in particular the provision of electrical power (if required) or the connection of optical fibre for backhaul transmission (either trenched or aerial). While it is acknowledged that these items may be interpreted to fit within the definition of ancillary facilities at Part 3, (3.1)(a), the associations suggest these items should at least be explicitly mentioned in the explanatory statement or a guidance note accompanying the new LIFD.

Part 7 – Emergency facilities

It is noted that the architecture of the amendments for temporary facilities implemented jointly between the Telco Code the LIFD mean that temporary towers are not permitted under the LIFD in areas of environmental significance (AOES) even for emergencies (and it is assumed that this is an intentional restriction rather than an unintended consequence of the drafting). However, it is submitted that this is an overly restrictive provision, and that the use of temporary facilities, whether a tower or some other kind of above ground facility, would assist emergency services. We refer to scenarios that are being experienced in the current bush fire emergencies occurring throughout National Parklands in NSW and Queensland, where the Associations would expect emergency services would fully support the deployment of temporary facilities.

The Associations therefore submit that explicit exception be made at Part 7 Item 2 for temporary towers (i.e. that temporary towers are permitted in AOES, but only for emergencies). This amendment also interacts with LIFD Part 1 (1.4) Repeal, where it is stated that “...a facility in an area of environmental significance cannot be a low-impact facility”. Adding the words “...except in an emergency” would adequately deal with this, or the statement could be deleted altogether without effect on the operation of the LIFD.

Telecommunications Code of Practice – Temporary Facilities Amendments

Chapter 4 – Low Impact Facilities, Part 2, Clause 4.4B – 4.4C – The Associations note that the word ‘Temporary’ is only used in the titles to 4.3A and 4.4A and not in titles to 4.4B and 4.4C. While the intention of these clauses is understood by the Associations, provisions in 4.4B and 4.4C could be construed as not limited to temporary facilities only. For the avoidance of doubt, it is suggested that it be made clear in both 4.4B and 4.4C that the clauses apply to temporary facilities only.

4. Concluding Remarks

The Associations again thank DoCA for the opportunity to provide input and feedback on these very important reforms and look forward to continuing the productive discussions towards a more flexible and fit for purpose regulatory framework that will deliver the many benefits of advanced mobile and wireless telecommunications services, including 5G, to all Australians. In particular, the Associations consider it important that temporary facilities supporting emergency services operating in areas of bushfire, flood and other natural disasters and emergencies, are facilitated to ensure the greatest benefit to affected communities.

In general, the Associations strongly support the introduction of the amendments proposed in the exposure drafts which implement the new provisions introduced in the Telecommunications Legislative Amendment Bill (TLAB) 2019 in the subordinate regulation of the Telecommunications Code of Practice 2018 and the Telecommunications (Low Impact Facilities) Determination 2018, together providing abbreviated planning and statutory requirements for a range of temporary facility installations. The Associations further support the amendments relating to Part 1, Item 8, of the Schedule to the LIFD to better describe recent developments in the deployment of radiocommunications infrastructure.

However, the Associations note a number of concerns regarding some details of the amendments to the LIFD and Telco Code relating to temporary facilities and offer some drafting suggestions to address these. The Associations would also welcome any further opportunity to provide the Department with assistance in completing the draft amendments.

For any questions in relation to this submission, please contact Ray McKenzie, MCF Manager, AMTA at 02 8920 3555 or ray.mckenzie@amta.org.au or Craig Purdon, Project Manager, Communications Alliance at c.purdon@commsalliance.com.au.

Appendix 1 – Example above ground temporary facilities with integral tower

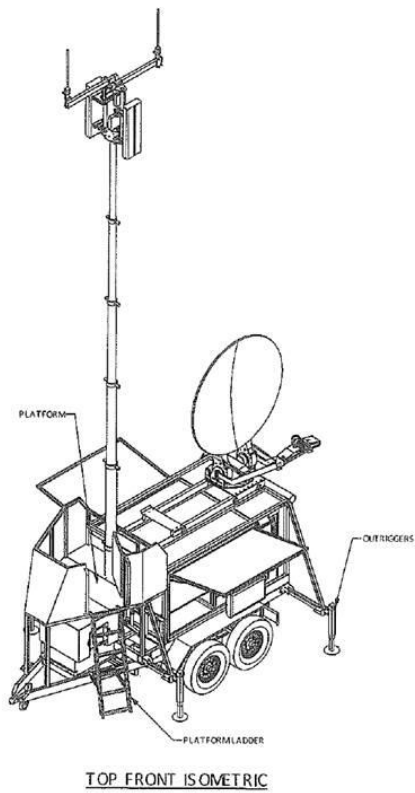


Figure 1. Sat unit - 4.8m H X 4.8m L, tower when extended 11.4m H

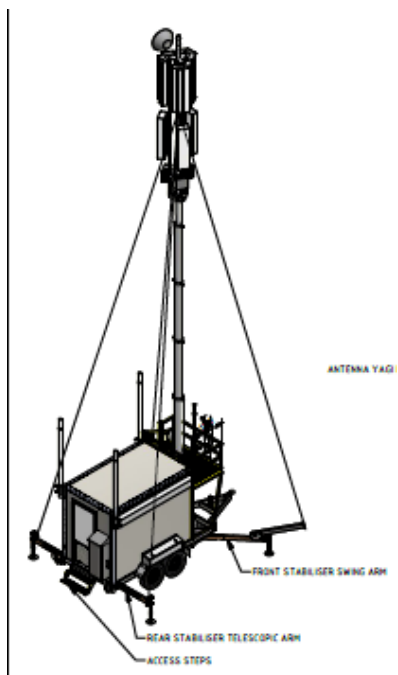


Figure 2. COW – 3.5m h X 6.2m L, when extended 17m H. This unit also has stabiliser arms that connect to guy wires for the tower I've placed image below.