

TELSTRA CORPORATION LIMITED

Telstra Submission - Improving the telecommunications powers and immunities framework

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EXECUTIVE SUMMARY

Telstra welcomes the opportunity to provide this response to the Department of Infrastructure, Transport, Regional Development and Communications on the consultation paper 'Improving the telecommunications powers and immunities framework' and associated reforms. A number of the proposed reforms to the carrier powers and immunities will reduce infrastructure rollout costs and timeframes for the ongoing deployment of telecommunications networks and especially 5G networks. This is important for supporting the growth of the Australian economy as it becomes increasingly dependent on reliable and ubiquitous access to the latest telecommunications technologies and services, including faster broadband speeds at lower prices.

Given the importance of telecommunications to the growth of the Australian economy, it is imperative that the reforms should support the efficient rollout of telecommunications infrastructure, and any reforms that could potentially delay or complicate the infrastructure rollout need to be well justified.

Many of the proposals in the position paper are helpful for meeting the objective of reducing rollout costs and timeframes for telecommunications infrastructure. In particular, the following reforms are most critical for advancing the deployment of 5G and mobile networks more generally:

- Allowing the installation of short slim poles of up to 12m height to be treated as low impact facilities is important for supporting 5G small cell rollouts;
- Allowing antenna height protrusions of up to 5m, tower extensions of up to 5m in commercial areas, and co-located facilities to expand the volume of existing facilities by up to 50% in residential areas and no limit in commercial areas, are all valuable for enabling the addition of 5G to existing sites and supporting the co-location of facilities;
- Allowing satellite dish diameters of up to 2.4m in rural and industrial areas to be treated as low impact activity will be beneficial for fixed network deployments, especially in regional areas.

We do have concerns that some of the other proposals will likely add material costs and delays to the rollout of telecommunications infrastructure. In particular:

A primary safety condition in the Telecommunication Code of Practice

The introduction of a new primary safety condition into the Telecommunications Code of Practice 2018 (**Code**) would be duplicitous to the existing safety requirements already in place under existing state, territory and Commonwealth laws. Managing the safety and structural integrity of infrastructure or assets on which telecommunications equipment is to be installed is best achieved by requiring the carrier to provide an engineering certificate (Proposal D in the consultation paper).

Extending notification and objection timeframes

The proposed extension to double the notification and objection timeframes for utilities and road authorities will add substantial delays and cost to the rollout of telecommunications infrastructure. Telstra issues approximately 80,000 LAANs each year, the majority of which are issued with the minimum notice period and for customer related purposes. The existing timeframes strike an appropriate balance in supporting the prompt provision of communication services to the public and providing a reasonable period of notice to landowners and occupiers. Both carriers and landowners and occupiers are familiar with these timeframes, which have been in place for approximately 30 years without any ongoing issues arising.

Removal of redundant equipment by carriers

Telstra is generally supportive of the proposal to remove redundant equipment that is not in use where it is economical and practical. However, carriers require the flexibility to re-utilise redundant equipment in order to minimise future disturbances and/or costs should the equipment become useable in the future. Telstra recommends that an industry guideline be developed to facilitate this policy position and any requirement to consider removing equipment should only be triggered upon the request of the property owner.



01 INTRODUCTION

The Australian Government has sought views on proposed amendments to telecommunications carrier powers and immunities. The proposed amendments are detailed in the "Telecommunications carrier powers and immunities — Consultation" paper and our responses below generally follow the questions in that paper.

02 Safety and notification

A. Creation of a primary safety condition

1. Do the current safety arrangements provide assurance for the safe and effective implementation of telecommunications equipment?

The current safety arrangements provide adequate assurance for the safe and effective implementation of telecommunications equipment. Safety of infrastructure is regulated by a separate framework under the respective Federal, state and territory governments. It is not appropriate or necessary to include additional safety conditions in the existing telecommunications regulatory framework. This would be duplicitous and may cause confusion for the parties in respect of compliance if the same or similar safety requirements were to be documented in multiple sources.

As noted in the paper, there are existing provisions that require a carrier to act in accordance with good engineering practice, as well as ensuring that the activity interferes as little as practicable with the operations of public utilities, roads, traffic and the use of the land. However, this is followed by a subsequent statement in the Paper that states "it is particularly important that Carriers deploy facilities in a way that does not interfere with the operation of essential utilities." This appears to be a material shift which we seek the Department's further clarification, as an expectation of absolutely no interference is not reasonable.

Additionally, the following existing requirements to take reasonable steps to protect the safety of persons and property under section 2.5(b) of the Code, and comply with industry standards that are likely to reduce a risk to the safety of the public under section 2.7 of the Code, already provide assurance for the safe and effective implementation of telecommunications equipment.

2.5 Management of activities

A carrier must, in connection with carrying out a land entry activity, take all reasonable steps:

- (a) to act in accordance with good engineering practice; and
- (b) to protect the **safety** of persons and property; and
- (c) to ensure that the activity interferes as little as practicable with:
 - (i) the operations of a public utility; and
 - (ii) public roads and paths; and
 - (iii) the movement of traffic; and
 - (iv) the use of land; and
- (d) to protect the environment.¹ (emphasis added)

2.7 Compliance with industry standards

A carrier must engage in a land entry activity in accordance with any standard that: (a) relates to the activity; and

(b) is recognised by the ACMA as a standard for use in that industry; and

¹ This section is mirrored in clause 10 of Schedule 3 of the *Telecommunications act 1997 (Cth)*.



(c) is likely to **reduce a risk to the safety of the public** if the carrier complies with the standard.² (emphasis added)

In addition, Telstra notes that neither the statutory notification regime nor the exemptions under Schedule 3 of the Telecommunications act 1997 (Cth) (the Act) reduce a carrier's obligations to comply with laws related to safety. Recipients of statutory notifications also have rights of objection if concerned about safety aspects of a carrier's notified works. For example, the reasons for the objection may relate to the carrier's proposal to minimise detriment and inconvenience, and to do as little damage as practicable, to the objector's land.³

2. If no, what additional regulatory mechanisms may provide that assurance?

As explained in the response above to question A1, we do not consider that additional regulatory mechanisms are required to provide this assurance.

3. Would the addition of a primary safety condition to the Code of Practice provide that assurance?

As already explained, there would be little value in the addition of a primary safety condition to the Code. Telstra and other carriers are obligated to meet a wide range of health and safety obligations which are regulated outside the Act and the Code. For instance, Telstra is a non-government subscriber to Comcare and we follow the relevant standards prescribed under the Comcare scheme.

The proposal is also likely to create the potential for confusion and regulatory overlap with existing health and safety obligations already in place, which may become misaligned over time or lead to the unintended consequence of being used as a consent-based mechanism for authorised works under Schedule 3 of the Act to be conducted.

As noted in the paper, the key identified focus of this proposal is maintaining the safety and structural integrity of infrastructure or assets on which telecommunications equipment may be installed. This is best achieved through the provision of an engineering certificate under proposal D in this consultation.

B. Standard notifications across industry

1. Is there any other information that could be included on a notice would provide clarity on the installation process and timeframes?

Telstra supports the proposal for a standard form LAAN. Telstra acknowledges that the information included in a LAAN may differ significantly between carriers. Telstra recommends this is managed through the creation of a new Communications Alliance industry code to standardise notifications across the industry to assist landholders. Telstra would be keen to participate in any working group or sub-committee. Telstra's prefers an industry driven approach rather than the approach adopted in the UK where the regulator prescribes the form of notice to be given by carriers as the latter would be too prescriptive and inflexible. This is also consistent with the requirement in the Telecommunication Act 1997 to promote industry self-regulation, and provide stakeholders the opportunity to adequately shape industry code so as not to impose undue financial and administrative burdens on participants.⁴

Telstra supports the inclusion of a statement that the facility will be constructed in accordance with recognised construction and other applicable standards, but considers it is not practicable to comprehensively list all of the standards that apply to that facility. There are a large range of standards which may apply to telecommunications activities. While some standards may be common to facilities of a particular type (e.g. a tower), the application of other standards will vary depending on the particular

² This section is mirrored in clause 12 of Schedule 3 of the *Telecommunications act 1997 (Cth)*

³ Clause 6.29 of the Telecommunications Code of Practice 2018 (Cth)

⁴ Part 1, Section 4, Telecommunications act 1997 (Cth)



design characteristics, location or the presence of existing facilities at the same site. Identifying and listing all the standards which might apply for each LAAN and including a statement explaining the proposed activity supplemented with technical drawings or plans, will substantially increase the administrative burden involved at the preparatory stage and is unlikely to be beneficial to most recipients. It would be more practical and appropriate for the relevant parties to liaise and seek clarification on additional detail during the notice period, in circumstances where further details are sought by a landowner.

2. What benefits, either financial or non-financial would additional notice and information bring to landowners?

As explained in the answer above to question B1, including any additional notice or information, to what is already required by the Code, would not provide any additional financial or non-financial benefits. It would be more practical and appropriate for the relevant parties to liaise and seek clarification on additional detail during the notice period, in circumstances where further details are sought by a landowner.

3. If possible, to what extent would the inclusion of a standardised notification process increase or decrease regulatory burden, and at what cost per notification?

As mentioned above, the inclusion of a standardised notification process could increase regulatory burden if there is a material expansion in scope between the standardised LAAN and the industry practice. Given the high volume of LAAN documentation required and the preparatory time involved, any additional information required in LAANs needs to strike a balance between the administrative burden involved and the utility of that information to the recipient.

Telstra notes that most of the information outlined in the paper is typically provided in Telstra's LAAN documentation. There would be some increase in IT, process and training costs to implement a standard LAAN template. It is not possible to estimate the costs as these will depend on the exact form of the standardised LAAN template. However, there would be some increase in IT, process and training costs to implement the new template.

C. Withdrawal of notifications

Telstra supports the proposal that withdrawal notices should be provided to landowners and occupiers, in the event that a proposed activity is cancelled. Telstra already has a system in place to issue withdrawal notices in these circumstances.

However, delays to the works should be treated differently. Telstra would prefer flexibility in managing delays through regular communications with the landowner on the expected timeframes to keep the existing LAAN valid, rather than withdrawing the LAAN with the possibility of needing to issue a new LAAN at future point in time. This reduces the duplication of paperwork by avoiding the need to recommence the statutory notification process.

Telstra's preferred mechanism is Option 1, being an industry commitment to withdraw a notice. However, if the Department is minded to pursue Option 2, being a formal requirement for a carrier to withdraw a notice under a code, then Telstra recommends that the requirement to withdraw notices is limited to cancellation of the proposed activity only and not for indefinite delays to the proposed activity, and to not impose additional regulatory burdens on carriers, such as needing to include information explaining why the notice is withdrawn.

1. How often has a lack of withdrawal of notice created a financial, or non-financial burden to a landowner?

Telstra does not have any evidence to comment on this.

2. To what extent would a notice of withdrawal, provided in a timely manner, reduce this burden?



Telstra does not have any evidence to comment on this.

3. What methods have carriers used to notify landowners that a proposed activity would not take place, or was cancelled? How effective are these methods?

Telstra has a standard withdrawal letter as part of its suite of documents, which it uses to notify landowners and occupiers in the event that a proposed activity is cancelled. This method has been effective in delivering certainty to both parties regarding a proposed activity's status.

4. How often would a withdrawal notice be required, and to what extent would this create an additional regulatory burden? If so, what is the anticipated financial regulatory burden each year?

Telstra does not often cancel work so does not issue many withdrawal notices and does not believe that this creates significant additional regulatory burden. Delays are addressed by Telstra communicating with the landowner on alterations to the start date (rather than withdrawing the notice and then reissuing it to restart the statutory notification process).

D. Requirement to provide engineering certification

Telstra supports the proposal for an industry commitment to provide an engineering certificate to a landowner but only for new installations or modification to an existing site. Also, the requirement to produce an engineering certificate should only apply to those activities where engineering certification would reasonably be expected. For example, a landowner should not reasonably request engineering certificate would only be provided upon the request of the landowner.

1. What benefits would landowner or occupiers see in the provision of an engineering certificate within 30 business days after the certification has been received?

There is benefit as the landowner or occupiers will have confidence that an installation has been performed in a compliant manner and has been certified accordingly.

2. Would the provision of an engineering certificate to landowners increase the regulatory burden on carriers? If so, what is the estimated regulatory financial impact per year?

This proposal could result in significant regulatory burden on carriers. To minimise this additional burden, Telstra recommends that the requirement to provide an engineering certificate only apply upon the request of the landowner, and for an industry guideline to be developed that sets out the specific types of activity where it would be reasonable for an engineering certificate to provided. At this stage, Telstra is unable to provide an estimated financial impact without understanding the nature of the activities that the engineering certificate would apply to and the volume of certificates to be generated.

E. Extending notification timeframes

Telstra strongly opposes the proposal to extend the notification period from 10 to 20 business days and the objection timeframes from 5 to 10 business days for utilities and road authorities. There are a number of adverse consequences associated with extending the minimum notification timeframes, the most significant of which is the consumer detriment resulting from delayed provision of services to customers. In an environment where end users expect to receive services from their retailers within short periods of time after placing their orders, the proposed extended timeframes will introduce delays to the provision of services in situations where some form of physical work is required. Extending the notification timeframes that carriers have to meet to install infrastructure is at odds with consumer protection regulation (e.g. the Customer Service Guarantee) which seeks to limit the time customers are waiting to receive services.



Telstra issues approximately 80,000 LAANs per year – most of which relate to customer order fulfilment. Telstra operates an order-to-activate process which seeks to minimise timeframes while still allowing for the preparation of network designs that need to be annexed to its LAAN documentation. To ensure a quick turnaround time, 99% of Telstra's LAANs are issued with the minimum 10 business days. Telstra uses this process to provide consumers with services as quickly as possible, including meeting any applicable Customer Service Guarantee timeframes. The lengthening of the minimum statutory timeframes in the manner proposed will effectively impose a minimum of a one month period from the time of placing of an order to the time Telstra would be in a position to physically commence work, assuming no objections are received. Telstra expects that other carriers operate with similar processes. Accordingly, Telstra considers that this change would not be in the public interest as it would significantly disrupt the provision of telecommunication services to consumers and businesses.

The existing minimum timeframes for a LAAN strike an appropriate balance between supporting the prompt provision of communication services to the public and providing a reasonable period of notice to landowners and occupiers. Both carriers and landowners are familiar with these timeframes, which have been in place for approximately 30 years without any ongoing issues arising.

Additionally, the proposal treats utilities and road authorities differently to other landowners which leads to inconsistency in the process and adds to the administrative burden of managing two different timeframes within the statutory process.

1. What are the benefits (financial and non-financial) of a non-regulatory approach in providing a longer notification timeframes?

There will be no benefit in providing longer notification timeframes. Proposal B (Standard notifications across industry) which addresses concerns of inadequate information supplied by carriers, negates the need for longer notification timeframes.

2. What are the benefits (financial and non-financial) of a regulatory approach in providing a longer notification timeframe?

As noted above, there will be no benefit in providing longer notification timeframes.

3. Should longer notification timeframes apply to all landowners, and not be limited to landowners that are public utilities and road authorities?

The current notification timeframes are adequate, strike an appropriate balance between supporting the prompt provision of communication services to the public and providing a reasonable period of notice to landowners and occupiers.

4. What would be the benefits (financial and non-financial) of providing a longer timeframe for objections to be made to carriers about proposed activities?

There will be no benefit in providing a longer timeframe for objections.

5. What other factors should be considered when considering whether to extend notification or objection timeframes?

As mentioned above, the proposed extension to notification and objection timeframes will add material delays and cost to the rollout of telecommunications infrastructure. Additional costs imposed on carriers are ultimately passed onto customers.

03 Objections and protections

A. Clarifying the objections process for landowners



1. Is the objections process as set out in the Code of Practice clear and easily understood by landowners and occupiers? If no, what parts of the process need further explanation?

The objection process under the Code is clear. The Code currently mandates a requirement for a carrier to include a statement explaining the process for making objections to an activity.

2. Does the information provided by carriers when giving notice of a proposed activity outline the objections process, or only the first step, that is, to make the objection in writing to the carrier?

The information provided by Telstra gives a broad outline of the entire objection process, including statutory objection criteria, processes and timeframes.

3. How could the objection process be better communicated to landowners and occupiers?

Telstra recommends that the TIO Public Land Access Guideline web link be included in a standard LAAN template, if it were developed.

B. Allowing carriers to refer objections to the TIO

Telstra supports this proposal. Further, Telstra notes that in order to provide carriers and customers with greater certainty about timeframes for provisioning services, the TIO should have mandated timeframes within which to assess matters and make determinations in these circumstances.

1. What benefits or disadvantages are there in including a carrier as a party that can initiate dispute resolution with the TIO?

Allowing carriers to refer objections directly to the TIO will enable the resolution of longstanding objections where the landowner is not willing to request the carrier to make the referral to the TIO. Currently, the only objection pathway for carriers is to go to the courts to seek an order, which is costly and inefficient.

2. To what extent would this inclusion increase, or decrease, the financial and non-financial burden on carriers or landowners during a dispute?

The proposal will provide a more cost effective and timely pathway to resolve objections in lieu of going to court. This will provide both carriers and the landowners more certainty and avoids the need for carriers to go to the courts to seek an order, which is costly and inefficient.

3. What financial or non-financial burden, if any, would the inclusion of a deadline on carriers to lodge an objection with the TIO have?

The inclusion of a deadline on carriers to lodge an objection with the TIO is not appropriate as the inclusion of a deadline could inadvertently result in a high volume of ambit objections by landowners.

It should be incumbent on both the carrier and landowner or occupier to work together to resolve an objection as efficiently as possible, and it should be an option for either party to refer to the TIO as they see fit if continues to be unresolved.

4. If there is support for the proposal to include a deadline on carriers to lodge an objection with the TIO, what timeframe should apply?

Telstra does not support the inclusion of a deadline as each case is different and carriers would typically explore all other options before referring an objection to the TIO.

C. Removal of redundant equipment



Telstra generally supports the proposal for carriers to remove redundant equipment where it is economical and practical. However, the need to consider removing equipment should only be required after receiving a request from the landowner.

Removing equipment involves consideration of many factors, including whether equipment not currently in use may have a future use and avoiding multiple site visits by scheduling removal activity to coincide with other work at the site. Weather conditions also dictate when infrastructure can reasonably and safely be removed, especially for remote sites.

In some cases, the act of removal and reinstatement may cause undue disturbance to the landowner, neighbours, environment or the landscape and it may be more beneficial leaving some items in situ. The removal of electronic radio communications equipment and componentry by the carrier would normally be appropriate, however the removal of passive elements such as cable trenched through a field, or the removal and reinstatement of a cable duct or pit, would in most situations be more disruptive to all parties and may have unacceptable environmental impacts. Thus, it may be desirable by all parties to leave the passive equipment in situ and remove just the electronics and componentry. Moreover, the removal of passive redundant equipment will often be more appropriately undertaken at the time of any redevelopment works by the party undertaking the redevelopment, rather than the carrier.

It appears that some industry participants are concerned about redundant cabling within building communications core risers. Telstra has previously clarified that the removal of redundant customer cabling within building communications core risers is the responsibility of the tenant who own such cabling rather than the carrier.

Telstra considers that it is not appropriate to provide specific direction about what types of equipment must be removed (and thus any limitations on the types of equipment that carriers must remove). There are many scenarios involving different types of technologies and use cases, and it would be difficult to generalise guidance for all of them.

For these reasons, any requirement to remove redundant equipment should be flexible and not prescriptive. It would be most appropriate for the industry to develop a set of guidelines (rather than inclusion of the requirement in a code as set out in Option 1 and Option 2 in the paper) which can be facilitated by the Communications Alliance.

1. What level of enforcement would provide the best solution to the issue of redundant equipment?

Telstra's preference is for provisions to be made in an industry guideline, and the industry be actively involved in developing these provisions. Such provisions would need to be carefully considered so they do not drive uneconomical outcomes for carriers and allow for a degree of negotiation between landowner and carrier.

Any requirement should be limited to equipment installed using carrier powers and immunities. Equipment installed under commercial agreements (i.e. lease or licence) should not be subject to the provisions of the proposed guideline or code, but rather should be incorporated in the commercial agreement.

2. What regulatory burden (financial or non-financial) would occur if these options were enacted?

There is a significant risk of unnecessary increased cost being imposed on carriers depending on the detail captured under either option. Telstra generally supports the proposal for carriers to remove redundant equipment where it is practical or economic. However, carriers require discretion to consider factors other than "economical, practical and reasonable" and the possibility that not all equipment could be removed, or that equipment not currently in use may have a future use.

3. Are there other non-regulatory ways to better enforce the policy position that equipment is removed if not used?



The development of an industry guideline would be appropriate to promote the policy position that equipment is removed if not used.

04 Facilitating services in line with community expectations and to support economic growth

A. Improve coverage outcomes through better infrastructure, where safe

Allow antenna protrusions to be extended to a height of 5 meters

Telstra strongly supports the proposed amendment to increase the maximum protrusion of antennas and mounts above a building or structure from 3m to 5m.

Increasing the height of protrusion above a building or structure allows the provision of additional technologies such as 5G, and increases the coverage achieved utilising the same infrastructure. In many instances these provisions will negate the need to build new infrastructure (such as poles/towers), which impose additional costs and delays on industry, and further visual impact on communities. An increase to 5m also allows smaller 5G antennas to be installed above existing antennas to maximise coverage and eliminate the need for additional antenna mounts.

The increase in height is an important measure to manage worker safety on roof tops by reducing EME at the rooftop level, thereby reducing access restriction areas on the roof which may impede building operations and maintenance works. Reducing EME on rooftops also reduces the need for network outages to facilitate host building works.

Allow satellite dishes of 2.4 meters in diameter to be deployed in industrial and rural areas Telstra strongly supports the proposal.

Increasing the size of satellite dishes to 2.4m in rural or industrial areas predominantly occurs on purpose-built telecommunications structures. The nature of these installations on existing structures has not caused any systemic issues. The minor increase in size will have the desired effect of improving the reliability and service availability in those areas, with negligible impacts on the public's visual amenity. Larger satellite dishes allow for improved grade of data services. Achieving this service with smaller dishes is sometimes possible but have large EME exclusion zones which are difficult to achieve with ground based dishes such as those in industrial and rural areas.

As 5G demands greater bandwidth, the ability to install larger dishes will enable rural customers to benefit from a better 5G experience.

Specify radiocommunications lens antennas as a new low-impact facility

Telstra supports this proposal. Whilst Telstra are not currently using this technology, it is being used overseas and is being considered for future 5G networks. A lens antenna provides the capability to extend focussed coverage on specific areas such as highways which would enable greater performance in rural areas.

B. Improve coverage outcomes through tower extensions

Telstra supports the proposal to allow height extensions up to 5 meters in commercial areas. Increasing the height extensions up to 5 meters in commercial areas is consistent with current legislation for industrial areas. Having the ability to extend an existing tower encourages colocation and reduces EME



on neighbouring buildings. This negates the need to build new towers in some cases, which impose additional costs and delays on industry, and can have a detrimental visual impact on communities.

As communities grow and building density increases, Telstra often requires an increase in the height of its facility to continue to provide network services above the built up environment.

Telstra notes that the ability to extend towers in commercial areas would also be caught by the volumetric restrictions on existing facilities. This issue needs to be addressed in the proposed changes.

C. Allowing deployment on poles rather than on utilities

Telstra strongly supports the proposal to allow smart or slim poles to be specified as low-impact facilities.

As 5G matures and 5G traffic grows the need for 5G small cells will gradually increase and we will begin small cell deployments in areas where 5G traffic is greatest. The mm-wave spectrum used for 5G is limited in terms of its reach and inbuilding penetration. The range is more like that delivered by public Wi-Fi hotspots. For this reason, small cell technology is likely to become increasingly important and more numerous in 5G rollouts once mm-wave band spectrum becomes available.

Small cells for mm-wave band 5G will also be physically smaller again than previous generations of small cell technology. Complete cells will approach the size of a briefcase and will be able to be embedded in a range of street furniture making them visually undetectable.

Future 5G technology will require more infrastructure than previous generations. This is partly due to the higher frequencies being deployed, and due to the ever-increasing demand for mobile broadband data. This denser framework will also see an increase in the use of small cells. Currently, Telstra works with existing infrastructure providers such as electricity utilities to deploy small cells. However, in situations where the existing infrastructure is inappropriate (for technical or commercial reasons) or not available, another option must be found. Being able to use the slim pole option will be critical for enabling economic deployments in these situations.

Telstra often has difficulty in providing all types of mobile network infrastructure to new housing estates or commercial developments. In instances where there is no existing infrastructure, Telstra must lodge a Development Application with state government or local council to even install a simple 'street' pole. The time and cost involved in this process does not scale economically for 5G where a large number of low power and low visual impact small cells will be required.

Telstra compares the ability to install these poles as telecommunication infrastructure to be similar to other infrastructure providers such as electricity and transportation. This infrastructure has the ability to deploy its requirements without significant interruption and costs applied by local government. Telstra considers these legislative changes crucial to enabling telecommunications as key community infrastructure.

D. Encourage the co-location of facilities

Telstra strongly supports allowing co-located facilities to expand the volume of existing facilities by up to 50% in residential areas (the current limit is 25%) and no limit in commercial areas.

Telstra notes that many small cell solutions have been unable to meet the requirements of the 25% limit. There are often better visual outcomes (such as shrouding and mounting above the existing pole) that are currently unable to be deployed without a formal development application to local government. The costs and time associated with these approvals make the projects unfeasible.

Co-location of macro facilities allows new infrastructure and services such as 5G to be provided to communities without the need to build additional structures or towers, reducing the impact on



communities. Any co-location deployment would be required to meet the safety condition and engineering certificate requirements (if adopted) as proposed elsewhere in this discussion paper.

05 Additional proposed reforms

Telstra also believes the following additional reforms related to the Powers and Immunities regime should be pursued as they would significantly benefit the deployment and operation of mobile, wireless and fixed networks. Such benefits ultimately flow onto consumers, businesses and the broader economy in allowing us to provide a more reliable, lower cost and higher performing communications network.

Sustainable commercial arrangements for accessing land or property

Telstra and other carriers invest, and have invested, billions of dollars in developing and maintaining infrastructure on thousands of sites including on sites obtained from State government and private landowners. Telstra is one of the largest leaseholders in terms of the number of public and private leases. The significant capital investment that Telstra often makes for a single site means that, during rental negotiations, Telstra must often agree to higher rents than other commercial entities would pay in order to avoid relocation costs. This is even the case when the land is unimproved, remote, and has no other productive use. It is also not unusual that Telstra must pay annual land rents exceeding the freehold value of the land.

Telstra considers that the existing protections under the Telecommunications Act have proved ineffective at maintaining commercial land prices for telecommunications. Accordingly, Telstra is asking that these protections be reviewed to find a solution which allows carriers to be better positioned to continue investing in world leading telecommunications networks in an economically sustainable way.

Local government heritage overlays

Areas subject to a local government heritage overlay or urban conservation maps where the item or place or thing is not demonstrably of genuine heritage value need not be clarified as being excluded from the Area of Environmental Significance (AOES) definition in the Low-impact Facilities Determination 2018 Cth (LIFD). If heritage values genuinely apply, the item, place or thing should specifically qualify for entry on a Commonwealth or state or local register.

Interpretation of Areas of Environmental Significance (AoES) in regard to heritage varies from state to state, as local council environment plans (LEP's) are created by state based planning legislation and State Heritage laws. Some councils have set aside whole suburbs and precincts as being of heritage significance and require Development Approval to be obtained in those areas regardless of the type of proposal or proximity to heritage items. Deployment of 5G small cell infrastructure will increasingly be required in or near established suburbs and historic premises, but these will not be viable if not permitted under the LIFD, even though impact is minimal. If a location where a site is proposed is deemed to be an AoES due to an Heritage Conservation Overlay, then this precludes use of a Land Access and Activity Notice to secure timely access and occupation.

Telstra seeks clarification in the powers and immunities legislation that low-impact facilities can be installed in an area subject to a local government heritage overlay or urban conservation map, provided that there is no material impact on an item, place or thing that is specifically listed in a heritage register made under Commonwealth, state or territory law.

Cabling / conduit on or under bridges

Telstra also seeks clarification in legislation that the installation of telecommunications conduits on, in or under bridges be classified as low-impact facilities, including installing cable within existing conduits on bridges which is currently allowable under Division 4 of Schedule 3 of the Telecommunications Act 1997 Cth (the Act). Currently the LIFD is ambiguous as to the rights of a Carrier to install telecommunications conduit in, on or under a bridge as a low-impact facility. However, the drafting of both the Act and the



Telecommunications Code of Practice 2018 Cth (Code) contemplate (in multiple sections) the installation of low impact facilities in, on or under a bridge as being an allowable activity.

Such clarification sought would still require carriers to notify bridge owners about planned activities, comply with existing statutory obligations under the Code, and bridge owners would still have the opportunity to object to these installations, in accordance with the Act and the Code.

Telstra is very concerned that any requirement to seek the agreement of road transport agencies installation of telecommunications conduits on, in or under bridges, unnecessarily delays the deployment of telecommunications conduit and cabling and adds to the costs of infrastructure deployment.

Aerial Fibre Backhaul Cabling

In some circumstances (such as rocky ground or minimising detriment to public utilities) the provision of telecommunications fibre backhaul cabling to service mobile installations requires aerial fibre to be installed on existing non-telecommunications poles, on the basis of cost, timing, public impact considerations.

There are numerous fibre related facilities throughout Part 5 of the Schedule of the LIFD which are listed as Low Impact Facilities subject to various requirements or constraints. LIFD conditions related to the installation of aerial fibre cable requires that such facilities "is, or is to be, part of a national network used, or for use, for the high speed carriage of communications, on a wholesale–only and non-discriminatory basis".

Telstra understands that the original policy intent of these conditions was to facilitate the efficient deployment of the NBN. However, with the NBN now largely completed, and the focus now being on investing in 5G and other carrier networks (including optical fibre roll-out), Telstra considers there is a strong policy case for extending such rights within the LIFD to mobile carriers.

Electronic Delivery of Land Access & Activity Notices (LAAN)

The Code of Practice currently prescribes the methods and procedures for issuance of a LAAN via postal medium (Subject to the Australian Postal Corporation (Performance Standards) Regulations 1998 as in force from time to time and a LAAN left at a residence.

With the changes to Australia Post delivery schedules following changes to their regular business practice, as well as additional changes introduced to manage delivery during the COVID-19 crisis, this method of delivery is now well out of step with the nature of the public's expectations for both the form, and timeliness, of the delivery of such notices and associated information. In addition, the timeframes involved can introduce significant delays (easily up to a week or more) compared to the notification timeframe within which the Carriers normally conduct the notification (10 working days) for what can be a quite minor activity (laying a cable for customer connection which may take less than one day).

Electronic communication now features prominently in today's society and is the normal method that the public, business and public organisations utilise to communicate with each other on a daily basis.

For these reasons, Telstra recommends that the Code be amended to include this form of communication for the issuing of a LAAN.