

OPTU5G

Submission in response to
the Department of
Communications and the
Arts

**Proposed temporary
facilities and other
amendments**

Public Version

December 2019

SUBMISSION

1. Optus welcomes the opportunity to provide a short submission on the Government's proposed amendments to carrier powers and immunities laws set out in the Telecommunications (Low-Impact Facilities) Determination 2018 (LIFD or Determination), including changes that will allow temporary facilities to be deployed as low-impact facilities.
2. Optus supports a regulatory environment that delivers an appropriate balance between community protections and the efficient deployment of infrastructure. To this end, Optus welcomes the proposed changes that provide greater certainty for the deployment of small cell equipment – specifically the linguistic amendment to Part 1 of the Schedule "Facilities and Areas" that will allow for the deployment of multiple antennas in certain circumstances.
3. Optus is also supportive of the proposed changes regarding the installation of temporary facilities to support maintenance and replacement of existing facilities as well as deployment for events, high demand periods and for assisting emergency service agencies.
4. Whilst the proposed amendments are welcome, Optus does support more extensive amendments to the LIFD which would ensure the efficient deployment of small cell 4G and 5G infrastructure. As the telecommunications industry has noted for some time, there is a critical need a more common-sense and modernised approach to be instilled within the LIFD, which would reduce the existing impractical impediments that exist and limit the deployment of small-cell infrastructure that is critical for a successful 5G rollout.
5. Short-term reform initiatives that have been previously proposed, and would maintain the balance between community safeguards and efficient deployment include:
 - (a) Adjustment to Area of Environmental Significance and local government heritage overlays, to allow facilities to be installed on infrastructure or buildings not listed on a heritage register. We point to the inconsistency in state based planning legislation around Heritage Overlays and Urban Conservation areas which have the impact of creating uncertainty for carriers, council and communities.
 - (b) Increase the maximum protrusion of antennas and mounts above a building or structure from 3m to 5m.
 - (c) Relax the volume restrictions on co-located facilities in residential areas from 25% to 50% of the original facility and remove the restriction altogether in commercial areas.
 - (d) Permit visually-sensitive smart poles of up to 12m to be deemed low-impact in all planning areas.
6. As outlined in our submission to the House of Representatives 5G Inquiry, Optus has also proposed consideration of longer term measures to ensure the more efficient deployment of 5G assets, In particular we have recommended reform of federal legislation aimed at aligning the rights of the communications industry to deploy assets to the rights of other essential services – utility companies (i.e., water, gas, electricity) – in order to more efficiently deploy assets.
 - (a) Communications is now regarded as the fourth utility; and is no longer considered a luxury but a key utility for all businesses and consumers in the modern-day world. Indeed, telecommunications is viewed as being a critical and essential service by and for consumers and governments that increasingly fund or co-fund

mobile infrastructure projects. Telecommunications has also been increasingly acknowledged by Government to be critical infrastructure provider from a national security perspective, with numerous regulatory obligations imposed over the years.

- (b) However, we note that there are no corresponding rights of deployment.
 - (c) We also note that telecommunications assets are viewed by many utility companies, local and state governments as a potential income stream rather than a facilitator of vital community services. Optus submits that telecommunications should be treated in a manner consistent with the other utilities with regard to access to property, just as we are seen as vital infrastructure in national security matters and by consumers and businesses alike.
7. Optus welcomes the Government's continued engagement in this process to ensure that deployment regulation is fit for purpose.
 8. Optus would welcome the opportunity to discuss any aspect of this submission in further detail.