



Ashfield Interim Development Assessment Policy

Telecommunications

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1.0 INTRODUCTION

Telecommunication facilities including mobile phone towers, roof top antennae and broadband aerial cabling are increasingly a part of modern life. However, they have the potential for significant adverse impacts on Ashfield's amenity and streetscapes. Under the Telecommunications Act 1997, it is now necessary that carriers lodge a development application and, depending on the structural characteristics, a construction certificate application for such facilities. The purpose of this policy is to provide interim guidelines for the design and siting of the facilities, pending the finalisation of the State Government's own legislation in response to the new Act.

There are however a number of minor telecommunications facilities which do not require development consent, and these are identified in the "Telecommunications (Low Impact Facilities) Determination 1997" which is included as an appendix to this policy.

Clause 3.1 (2) of the Telecommunications (Low Impact Facilities) Determination 1997 provides that a facility will not be a low-impact facility when it is installed in a area listed on the Register of the National Estate. This means that there cannot be any low-impact facilities in the Haberfield Conservation Area, and all such facilities will require the submission of a development application and will be subject to the same requirements as major facilities.

2.0 LAND TO WHICH THIS POLICY APPLIES

This policy applies to all land within the Municipality of Ashfield.

3.0 OBJECTIVES

The objectives of this policy are to:-

- 3.1 provide controls and guidelines for the design and siting of telecommunication facilities, so as to minimise their impacts on both the streetscape and the health of residents.
- 3.2 promote the placement of broad band cable underground and where not possible, provide appropriate guidelines
- 3.3 minimise the number and clutter of towers and roof top antennas by providing for co-location where ever possible.

4.0 PUBLIC CONSULTATION

Development applications for communication facilities will be subject to Council's notification policy. This requires notification to residents likely to be effected by the facility for a period of 14 days. A longer notification period may be adopted if in the opinion of Council, the proposed facility is of such significance or scale to warrant it.

5.0 CO-LOCATION

Telecommunication towers and broad band cabling is to be co-located with other telecommunication facilities whenever possible.

In this regard a carrier is required to either co-locate antennas on an existing tower that has been established by a previous carrier, or as close as practicable to an existing tower that facilitates telecommunications services.

Carriers are to co-locate their broad band cable services in one cable.

This principle is reinforced as a fundamental requirement and efforts made to co-locate must be demonstrated by the carrier in their submission to Council. Details of the process employed in identifying opportunities for co-locating and any reasons why this is unsuitable or inappropriate should also be included in the submission.

The erection of a new tower facility will be strongly opposed unless the carrier can clearly establish that existing infrastructure in the locality is unsuitable or unavailable.

6.0 TELECOMMUNICATIONS TOWERS

6.1 Proximity to sensitive land-uses – requirements for approval

Council will apply the following locational criteria to applications for telecommunications towers when development consent is required:-

- 300 metres from any dwelling, boarding house or residential land unless Annual Average Exposure at nearest item listed is less than 0.2 +/- 0.02uw/cm²; and
- 300 metres from any school, childcare centre, hospital or aged care centre.
- 300 metres from any trees covered by Council's Tree Preservation order.

The carrier will be responsible for providing details of the electromagnetic radiation level (EMR) emitted by the facility and how the EMR levels compare to the relevant industry and Australian Standards.

6.2 Heritage and environmental issues

In considering potential locations consideration must be given to local attributes and sensitive environmental areas within the Council area. They should avoid where possible the location of towers and associated facilities within or at the termination of a significant vista or focal point of a streetscape. Further, they should avoid visually sensitive areas or a streetscape or landscape dominated by any heritage significance and identified as such in the Ashfield LEP.

The aesthetics and visual impacts of large pole or lattice towers are always difficult aspects to manage successfully. Locating towers in areas screened from surrounding view by buildings and existing tree stands will often not meet carriers' operational requirements.

Submissions from carriers need to deal with these issues carefully, and propose measures to minimise visual problems which can emerge with these installations. This can incorporate painting of towers and ground level structures, site landscaping and other screening measures, such as at the rear of buildings or as well-designed roof features rather than in street frontage positions.

The Telecommunications Act 1997 and The Telecommunications Code of Practice 1997 have specific requirements for areas on the Register of the National Estate, and accordingly, apply to the Haberfield Conservation Area. Clause 55 to Schedule 3 of the Telecommunications Act 1997, provides that, in addition to lodging a development application for any telecommunication facility in any area listed on the Register of the National Estate, it will be necessary to notify the Federal Environmental Secretary of the proposal. The Australian Communication Authority may direct a carrier to amend the proposal after consulting the Australian Heritage Commission.

6.3 Design issues

- preference is given to a slimline pole rather than a “lattice” tower due to its lesser visual impact
- provision of suitable landscaping if possible to soften the appearance of the tower
- ancillary buildings to be of a compatible colour and design for the area

7.0 ROOFTOP ANTENNAE

These are generally more acceptable than towers as they tend to be less obtrusive and have less visual impact on the streetscape, providing there is not excessive clutter of the skyline. The following design controls apply to rooftop antennas that are not identified as low impact facilities in the Telecommunications (Low Impact Facilities) Determination 1997¹:-

Carrier to submit an overall plan showing all such facilities to be placed on roof, and details of the impact on the skyline. Proposals which result in excessive clutter of the skyline will not be permitted

- preferably to be screened by other design features on the building
- appropriate screening devices to be used where feasible to improve visual impact
- colour to be compatible with colour of building

8.0 BROAD BAND CABLES

Cable installation should, unless economically, physically or environmentally impractical, be underground and follow common installation practices of other underground services. Installation shall be undergrounded and employ non-trenching techniques (such as “directional drilling”, “soil displacement” or similar methods) to ensure minimal disturbance to nature strips and tree roots, Under no circumstances will overhead cabling be endorsed in Heritage Conservation Areas.

Where significant trees may be affected, Council’s Tree Management Officer should be consulted in order to determine the most appropriate measures to minimise disturbance to roots, and to determine whether restrictions on proposed cable

¹ Made by the Minister for Communication and the Arts under subclause 6(3) of Schedule 3 of the Telecommunications Act 1997.

locations exist. Where overhead cabling is permitted, cables should be grey or green in colour and not black

9.0 CONSTRUCTION CERTIFICATES

A construction certificate will be required for any structure. Compliance with the Local Government (Approvals) Regulation 1993 and the Building Code of Australia 1996 will need to be achieved.

10.0 DEVELOPMENT APPLICATIONS

Carriers are required to submit the following information with their development application:-

- A GENERAL
 - 1 A written statement of environmental effects detailing the anticipated impacts of the proposal on its surrounds, all of the following:-
 - (a) a description of the proposal;
 - (b) the carrier's analysis of the demand by the public and participants in the Australian telecommunications industry for the service;
 - (c) a summary of the planning and work undertaken by the carrier in relation to the proposal;
 - (d) a description of the environment in the area that is likely to be affected by the proposal;
 - (e) a description of:
 - (i) each alternative to the proposal that is economically and technically feasible,
 - (ii) the environment in the area that is likely to be affected by the alternative;
 - (f) a summary of the investigations that the carrier has made, to identify the effect that the proposal is likely to have on the environment;
 - (g) a description of the design changes and safeguards that the carrier is using, or proposes to use, to minimise the effect that the proposed is likely to have on the environment.
 - 2 Plans and elevations of the proposal drawn to scale with details of external finishes, colour, and any landscaping proposed.
- B. MOBILE PHONE TOWERS/ROOFTOP INSTALLATION

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Details of electromagnetic radiation (EMR) levels emitted by the facility and how the EMR levels compare to the relevant industry and Australian standards.

- If a new tower is proposed, details are to be provided on alternate sites available or considered for the facility. Wherever possible, existing infrastructure is to be used on a 'shared' basis by the carriers as required under the National Code.
- A detailed plan of the location of other towers and installations in the locality. The erection of a new tower facility will be strongly opposed unless the carrier can clearly establish that existing infrastructure in the locality is unsuitable or unavailable.

C. BROAD BAND CABLING

- Detailed plans of the location of proposed cabling including the location and size of all transformers and the like;
- Details on the height of any aerial cabling above ground level;
- Details on the thickness (diameter) and colour of cabling;
- An assessment of the location and number of trees that will require pruning/lopping or removal to facilitate the cabling;
- A written assessment of the opportunities to locate (including co-location) cabling underground. The erection of overhead cabling will
- be strongly opposed unless it can be clearly demonstrated that the provision of underground cabling is economically, physically or environmentally impractical.

Appendix:

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Communications and the Arts

Telecommunications Act 1997

Telecommunications (Low-Impact Facilities)
Determination 1997

Part 1 of Schedule 3 to the *Telecommunications Act 1997* (the Act) provides authority for carriers to inspect land, maintain facilities, connect subscribers to an existing network or install any declared 'low-impact facilities' or temporary defence facilities. Other installation of facilities will be regulated under State or Territory law (and also will be subject to some special requirements for environmentally sensitive projects provided for at clause 55).

Clause 6 of Schedule 3 to the Act provides that the Minister for Communications and the Arts may, by disallowable instrument, determine a facility to be a 'low-impact facility' (see clauses 6(3) to 6(8)).

- The instrument may provide for a particular class of facility to be determined for the purpose of this Part. For example, a determination could be made by reference to the type of facility, the type of location at which it is installed, whether it is co-located with an existing facility or any other basis of classification. The fact that a particular type of facility may also be a temporary defence facility or a subscriber connection authorised by the Act does not prevent it also being determined to be a low-impact facility.
- Section 4 of the *Acts Interpretation Act 1901* allowed the Minister to make a determination before 1 July 1997 so that the determination was in force when Schedule 3 commenced operation on that date. It was open to the Minister before 1 July 1997 to direct AUSTEL under s.327(b) of the 1991 Act to inquire into further issues relevant to the making of a determination.

On 23 December 1996 the Minister for Communications and the Arts directed AUSTEL to hold a public inquiry into:

- . the declaration of facilities to be "low-impact facilities"; and
- . matters to be included in a Code of Practice.

The new instruments were drafted following the public inquiry by AUSTEL (now the Australian Communications Authority) lasting several months and a short

period of public comment on exposure drafts by the Department of Communications and the Arts.

The Minister for Communications and the Arts made the Telecommunications (Low-Impact Facilities) Determination 1997 (the Determination) on 29 June 1997, and this instrument came into effect on 1 July 1997.

Relationship to the Telecommunications Code of Practice 1997

Clause 15 of Schedule 3 to the Act provides that the Minister for Communications and the Arts may, by written instrument, make a Code of Practice setting out conditions that are to be complied with by carriers in relation to any or all of the activities covered in Division 2, 3, or 4 (other than activities covered by a facility installation permit). Subclause 15(2) of Schedule 3 to the Act requires that a carrier comply with the Code of Practice.

The list of 'low-impact telecommunications facilities' contained in the Determination is regulated under the Code.

Overview of the Telecommunications (Low-Impact Facilities) Determination 1997

The Determination contains the list of telecommunications facilities which the Commonwealth will continue to regulate. The 'low-impact' list does not include any aerial cabling nor telecommunications towers, meaning that installation of these new facilities, which have caused the greatest controversy and concern for local communities, are now governed by State and Territory laws.

The Determination continues the "zoning of land" approach that was adopted in the Telecommunications National Code 1996. However the Heritage category has been replaced with an "area of environmental significance" as the "highest" possible "zoning" and a facility installed in this "zone" cannot be a low-impact facility.

The Determination has 3 Parts:

- . Part 1 contains the citation, commencement, definitions and principal designated use (for the purposes of clarifying the zoning category);
- . Part 2 identifies the areas in which a facility may be installed, by reference to zoning arrangements under State and Territory planning laws;
- . Part 3 and the Schedule identify the circumstances under which named facilities are to be taken to be "low-impact".

PART 1 - PRELIMINARY

This Part deals with the title, commencement, and interpretation of the Determination.

Clause 1.1: Citation

This provides that the determination may be referred to as the Telecommunications (Low-Impact Facilities) Determination 1997.

Clause 1.2: Commencement

The determination commences on 1 July 1997.

Clause 1.3: Definitions

This clause defines terms used in the Determination. These are principally drawn from the Act, and from previous legislation, including the Telecommunications National Code 1996. Some key definitions are contained in clause 1.4 (principal designated use), and in Part 2.

Clause 1.4: Principal Designated Use

Principal designated use (PDU) is a key concept in the Determination. It is used in Part 2 to determine whether an area in which a facility is to be installed is to be treated as a residential, commercial, industrial or rural area. In turn, the status of an area in some cases helps determine whether a facility mentioned in the schedule is 'low-impact'.

The clause sets out a procedure which is intended to have the effect of determining one PDU for any given area. A deterministic procedure is

necessary because State and Territory planning laws may vary widely in the way they describe permitted land uses and the effects of those uses. Some laws, for example, use the term 'zoning' while others do not. Some laws allow multiple uses of land, even where one use predominates.

Subclause (1) deals with the most straightforward case - where a planning law describes only one sole, or on its face, principal use.

Subclause (2) deals with the next easiest case - where a planning law allows for several uses, but it is possible by examining the law in context to see that one of the uses is somehow preferred over the others. One example would be an area which was located within a wider area which was clearly being targeted (within the broader context of the planning law) primarily for commercial use, but nevertheless allowed for residential uses.

Subclause (3) deals with the situation where it is not possible to glean from the planning law any preferred use among multiple uses of the land - ie all of the potential uses are treated completely equally. In that case, the subclause sets out a hierarchy by which the PDU is to be determined. In descending order, these are:

- residential
- commercial
- industrial.

(Note: if a use cannot be classified as residential, commercial or industrial, then clauses 2.3(2) and 2.4(2) will take over.)

Subclause (4) deals with the important issue of timing of PDU. This may be relevant if the description of land uses changes under a planning law while a carrier is in the process of installing a low-impact facility. The provision makes it clear that the time when PDU is to be determined is the time at which a carrier proposes to issue the first notice to the owner or occupier of land in the area under Part 5 of the Telecommunications Code of Practice 1997.

PART 2 - AREAS

In the Schedule, the location of a facility in a particular kind of area can in some cases determine whether or not it is to be regarded as a low-impact facility. This Part sets out the rules for determining the status of such “areas”.

In effect, the Part establishes a hierarchy of such areas which, in descending order of sensitivity are:

- residential
- commercial
- industrial
- rural

The Part relies on the concept of “principal designated use” set out in clause 1.4. The “safety net” provided by subclauses 2.3(2) and 2.4(2) mean that any area must be capable of falling into one of these four categories.

There is, however, a further category which can cut across any of these four categories. If a facility is in area which is an “area of environmental significance” under clause 2.5, then because of subclause 3.1(2), a facility can never be regarded as of “low-impact”, irrespective of its status under clauses 2.1-2.4.

Clause 2.1: Commercial area

This clause provides that an area is a commercial area if its PDU is for commercial purposes.

Clause 2.2: Industrial area

This clause provides that an area is an industrial area if its PDU is for industrial purposes.

Clause 2.3: Residential area

Subclause (1) provides that an area is an residential area if its PDU is for residential purposes.

Subclause (2) provides that an area which is part of a built-up area is a residential area if it cannot otherwise be described as a commercial, industrial or rural area. “Built-up area” is a commonly understood planning term.

Clause 2.4: Rural area

Subclause (1) provides that an area is an rural area if its PDU is for rural purposes.

Subclause (2) provides that an area which is not part of a built-up area is a rural area if it cannot otherwise be described as a commercial, industrial or residential area. “Built-up area” is a commonly understood planning term.

Clause 2.5: Area of environmental significance

This clause sets out an exhaustive list of the areas which are to be taken as being areas of environmental significance for the purposes of the Determination. These are

- an area is an area of environmental significance if it is identified property for section 3A of the *World Heritage Properties Conservation Act 1983*
- an area is an area of environmental significance if it is an identified property (within the meaning of section 3A of the *World Heritage Properties Conservation Act 1983*)
- an area is an area of environmental significance if it is a place that Australia is required to protect by the terms of a listed international agreement
- an area is an area of environmental significance if it is an area that, under a law of the Commonwealth, or a State or Territory, is reserved wholly or principally for nature conservation purposes (however described)
- an area is an area of environmental significance if it is an area that, under a law of the Commonwealth, or a State or Territory, is protected from significant environmental disturbance
- an area is an area of environmental significance if it is entered in the Register of the National Estate or the Interim List for that Register
- an area is an area of environmental significance if it is registered under a law of a State or a Territory relating to heritage conservation
- an area is an area of environmental significance if it is of particular significance to Aboriginal persons, or Torres Strait Islanders, in accordance with their traditions.

PART 3 - LOW-IMPACT FACILITIES

This Part sets out the rules for interpreting the Schedule. The Schedule contains a list of facilities and the circumstances under which they are to be regarded as being "low- impact".

Clause 3.1: Facilities

Subclause (1) describes the operation of the Schedule which is a matrix with 2 operative columns. Column 2 contains a list of facilities. Column 3 sets out the normal circumstances in which those facilities are to be taken to be low-impact.

Subclause (2) sets out the exception to the rules in subclause (1) - which is that if the facility is in an area of environmental significance, then it is not low-impact.

Subclause (3) establishes a 'de minimis' rule for the dimensions and other measurements set out in the Schedule. It requires that trivial variations for a facility mentioned in the Schedule are to be ignored.

DETERMINATION FOLLOWS.

Preamble

Carriers have the power to install low-impact facilities without seeking state, territory or local government planning approval. Low impact facilities are specified in the *Telecommunications (Low-impact Facilities) Determination 1997*, and include small radiocommunications antennae and dishes that are erected on existing towers and buildings. Underground and overhead optical fibre installations undertaken by NBN Co are identified as being low-impact facilities. All low-impact facilities must be installed in accordance with the *Telecommunications Act 1997* and the *Telecommunications Code of Practice 1997*.

Facilities such as freestanding mobile phone towers are not classified as low-impact facilities and their installation requires local council approval. However, the determination identifies certain equipment as low impact when it is mounted on existing structures such as buildings, poles or towers. It also classifies an extension of up to five metres on an existing tower as low impact, provided the tower has not previously been extended.

As a carrier, NBN Co is generally able to install a low-impact facility, such as its underground fibre network, without obtaining prior approval from landowners/occupiers. However, NBN Co is required to notify a landowner of its intention to install a low-impact facility. If a landowner or occupier objects to the installation of a low-impact facility, the landowner/occupier can raise the matter first with the carrier. If unable to resolve the matter directly with the carrier, the matter may be referred to the Telecommunications Industry Ombudsman (TIO). The TIO may investigate any low-impact facility installation proposal following a complaint from a landowner and can issue a direction to the carrier about the installation. Carriers must comply with any TIO direction.

The ACMA has the power to enforce compliance and may investigate complaints and/or instances of systemic non-compliance by a carrier,



Telecommunications (Low-impact Facilities) Determination 1997

as amended

made under subclause 6 (3) of Schedule 3 of the

Telecommunications Act 1997

This compilation was prepared on 14 July 2004
taking into account amendments up to *Telecommunications (Low-impact
Facilities) Determination 1997 (Amendment No. 1 of 1999)*

Prepared by the Office of Legislative Drafting,
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Part 1 **Preliminary**

1.1 **Citation** [see Note 1]

This determination may be cited as the *Telecommunications (Low-impact Facilities) Determination 1997*.

1.2 **Commencement**

This determination commences on 1 July 1997.

Background to determination

Part 1 of Schedule 3 to the *Telecommunications Act 1997* authorises a carrier to enter on land and install a facility if the facility is a low-impact facility.

Under subclause 6 (3) of Part 1, the Minister may, by written instrument, determine that a specified facility is a low-impact facility.

Under subclauses 6 (4), (5) and (7), certain facilities cannot be low-impact facilities:

- designated overhead lines
- a tower that is not attached to a building
- a tower attached to a building and more than 5 metres high
- an extension to a tower that has previously been extended
- an extension to a tower, if the extension is more than 5 metres high.

A facility cannot be a low-impact facility unless it is specified in this determination. Therefore, overhead cabling and new mobile telecommunications towers are not low-impact facilities.

Also, a facility will be a low-impact facility only if it is installed in particular areas identified in this determination. The areas have an order of importance, based on zoning under State or Territory laws, so that any area only has its “highest” possible zoning. The order of priority is:

- area of environmental significance
- residential areas
- commercial areas
- industrial areas
- rural areas.

One effect of this determination is that a facility in an area of environmental significance cannot be a low-impact facility.

Rules for the installation and maintenance of a low-impact facility can be found in Schedule 3 to the Telecommunications Act and the Telecommunications Code of Practice 1997.

Simplified outline of determination

The determination has 3 Parts.

Part 2 identifies areas in which a facility may be installed, by reference to zoning arrangements under State and Territory planning laws.

Part 3 and the Schedule identify the low-impact facilities.

Definitions for words and expressions used in this determination are to be found in section 1.3.

1.3 Definitions

In this determination:

Aboriginal person has the same meaning as in Schedule 3 to the Act.

Act means the *Telecommunications Act 1997*.

area of environmental significance has the meaning given by section 2.5.

co-located facilities means one or more facilities installed on or within:

- (a) an original facility; or
- (b) a public utility structure.

commercial area has the meaning given by section 2.1.

emergency, for the installation of a facility, means circumstances in which the facility must be installed without delay to protect:

- (a) the integrity of a telecommunications network or a facility; or
- (b) the health or safety of persons; or
- (c) the environment; or
- (d) property; or
- (e) the maintenance of an adequate level of service.

emergency services organisation has the same meaning as in subsection 265 (11) of the Act.

Note At the commencement of this determination, the emergency service organisations were:

- a police force or service
- a fire service
- an ambulance service
- a service specified in the numbering plan (see Act, s 455) as an emergency services organisation
- a service for despatching the force or service.

in-building subscriber connection equipment means a facility installed within a building with the aim of managing and maintaining the supply of carriage services to a customer of a carrier.

industrial area has the meaning given by section 2.2.

installation, for a facility, has the same meaning as in Part 1 of Schedule 3 to the Act.

Note Installation includes:

- construction of the facility
- attachment of the facility to a building or other structure
- any activity ancillary to installation.

listed international agreement has the same meaning as in Schedule 3 to the Act.

Note Listed international agreements are agreements specified in the regulations.

Nature Conservation Director means the Director of National Parks and Wildlife under the *National Parks and Wildlife Conservation Act 1975*.

original facility means the original structure that is currently used, or intended to be used, for connection to a telecommunications network where the original structure was:

- (a) in place on the date on which the *Telecommunications (Low-impact Facilities) Determination 1997 (Amendment No. 1 of 1999)* took effect; or
- (b) installed after that date by means other than in accordance with Part 7 of the Schedule.

planning law, for an area, means a law of the State or Territory where the area is located dealing with land use, planning or zoning.

principal designated use, for an area, has the meaning given by section 1.4.

public utility has the same meaning as in Schedule 3 to the Act.

public utility structure means a structure used, or for use, by a public utility, for the provision to the public of:

- (a) reticulated products or services, such as electricity, gas, water, sewerage or drainage; or
- (b) carriage services (other than carriage services supplied by a carriage service provider); or
- (c) transport services; or
- (d) a product or service of a kind that is similar to a product or service covered by paragraph (a), (b) or (c).

relevant local government authority, for land in a State or Territory, means an authority of the State or Territory responsible for the local government of the area where the land is located.

residential area has the meaning given by section 2.3.

rural area has the meaning given by section 2.4.

significant environmental disturbance means significant interference with the relationship between a species or community and its immediate

environment or habitat and includes, for example, significant interference with identified flora and fauna, ecological communities, geological features, wilderness values or scientific values within an area.

subscriber connection means an installation for the sole purpose of connecting premises to a telecommunications network.

Torres Strait Islander has the same meaning as in Schedule 3 to the Act.

tower means a tower, pole or mast.

Note A number of other words and expressions used in this determination are defined in the *Telecommunications Act 1997* (see s 7), including 'carrier' and 'facility'.

volume means the apparent volume of materials that constitute:

- (a) co-located facilities; or
- (b) an original facility; or
- (c) a public utility structure;

where the materials are visible from a point outside the co-located facilities, original facility or public utility structure.

1.4 Principal designated use

- (1) If an area is described, under a planning law, as having a sole or principal use, the use is the **principal designated use** of the area.
- (2) If an area is described, under a planning law, as having 2 or more uses, in terms that show that 1 of the uses is the predominant, preferred or most likely use, the use is the **principal designated use** of the area.
- (3) If an area is described, under a planning law, as having 2 or more principal uses, without any indication of the predominant, preferred or most likely use, the **principal designated use** of the area is determined on the following basis:
 - (a) if the uses include residential purposes, the principal designated use is for residential purposes;
 - (b) if the uses include commercial purposes, but not residential purposes, the principal designated use is for commercial purposes;
 - (c) if the uses include industrial purposes, but neither residential nor commercial purposes, the principal designated use is for industrial purposes.
- (4) If a carrier proposes to engage in a low-impact facility activity in an area under Chapter 4 of the *Telecommunications Code of Practice 1997*, the principal designated use of the area is to be determined by reference to the time when the carrier proposes to issue the first notice to the owner or occupier of land in the area under Part 5 of that Chapter.

Note Areas of environmental significance are identified in accordance with section 2.5, not by reference to planning laws.

The effect of this determination is that an area may be an area of environmental significance, and also a residential, commercial, industrial or rural area identified by reference to planning laws. However, the area's status as an area of environmental significance is more important for the identification of low-impact facilities.

Part 2 **Areas**

2.1 **Commercial area**

An area is a commercial area if its principal designated use is for commercial purposes.

Note The use of an area is to be assessed at the time mentioned in subsection 1.4 (4).

2.2 **Industrial area**

An area is an industrial area if its principal designated use is for industrial purposes.

Note The use of an area is to be assessed at the time mentioned in subsection 1.4 (4).

2.3 **Residential area**

- (1) An area is a residential area if its principal designated use is for residential purposes.
- (2) A part of a built-up area is a residential area if it cannot otherwise be described as a commercial, industrial or rural area.

Note The use of an area is to be assessed at the time mentioned in subsection 1.4 (4).

2.4 **Rural area**

- (1) An area is a rural area if its principal designated use is for rural purposes.
- (2) An area that is not part of a built-up area is a rural area if it cannot otherwise be described as a commercial, industrial or residential area.

Note The use of an area is to be assessed at the time mentioned in subsection 1.4 (4).

2.5 **Area of environmental significance**

- (1) An area is an area of environmental significance if it is identified property for section 3A of the *World Heritage Properties Conservation Act 1983*.
- (2) An area is an area of environmental significance if it is an identified property (within the meaning of section 3A of the *World Heritage Properties Conservation Act 1983*).
- (3) An area is an area of environmental significance if it is a place that Australia is required to protect by the terms of a listed international agreement.
- (4) An area is an area of environmental significance if, under a law of the Commonwealth, a State or a Territory:
 - (a) it is designated as a reserve for nature conservation purposes; and

-
- (b) the principal purpose of the designated reserve is for nature conservation.
- (5) An area is an area of environmental significance if it is an area that, under a law of the Commonwealth, or a State or Territory, is protected from significant environmental disturbance.
- (6) An area is an area of environmental significance if it is entered in the Register of the National Estate or the Interim List for that Register.
- (7) An area is an area of environmental significance if, under a law of the Commonwealth, a State or a Territory, it consists of a place, building or thing that is entered in a register relating to heritage conservation.
- (8) An area is an area of environmental significance if, under a law of the Commonwealth, a State or a Territory, it is:
- (a) entered in a register; or
 - (b) otherwise identified;
- as being of significance to Aboriginal persons or Torres Strait Islanders, in accordance with their traditions.

Part 3 Low-impact facilities

3.1 Facilities

- (1) A facility described in column 2 of an item in the Schedule is a low-impact facility only if it is installed, or to be installed, in an area mentioned in column 3 of the item.
- (2) However, the facility is not a low-impact facility if the area is also an area of environmental significance.
- (3) For subsection (1), trivial variations for a facility mentioned in column 2 are to be disregarded.
- (4) A facility that is ancillary to a facility covered by subsection (1) is also a low-impact facility only if it is installed, or to be installed, solely to ensure the protection or safety of:
 - (a) the low-impact facility; or
 - (b) persons or property in close proximity to the low-impact facility.

Schedule Facilities and areas
(section 3.1)

Part 1 Radio facilities

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	Subscriber connection deployed by radio or satellite terminal antenna or dish: (a) not more than 1.2 metres in diameter; and (b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local authority	Residential Commercial Industrial Rural
1A	Subscriber connection deployed by radio or satellite terminal antenna or dish: (a) not more than 1.8 metres in diameter; and (b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the	Industrial Rural

Column 1 Item no.	Column 2 Facility	Column 3 Areas
	relevant local government authority	
2	Panel, yagi or other like antenna: (a) flush mounted to an existing structure; and (b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local authority	Residential Commercial Industrial Rural
3	Panel, yagi or other like antenna: (a) not more than 2.8 metres long; and (b) if the antenna is attached to a structure — protruding from the structure by not more than 3 metres; and (c) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local authority	Residential Commercial Industrial Rural
4	An omnidirectional antenna or an array of omnidirectional antennas: (a) not more than 4.5 metres long; and (b) not more than 5 metres apart; and (c) if the array is attached to a structure — protruding from the structure by not more than 2 metres	Industrial Rural
5	Radiocommunications dish: (a) not more than 1.2 metres in diameter; and (b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local government authority; and (c) if attached to a supporting structure, the total protrusion from the structure is not more than 2 metres	Residential Commercial Industrial Rural
5A	Radiocommunications dish: (a) not more than 1.8 metres in diameter; and	Industrial Rural

Column 1 Item no.	Column 2 Facility	Column 3 Areas
	(b) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local government authority	
6	Microcell installation with: (a) a cabinet not more than 1 cubic metre in volume; and (b) a separate antenna not more than 1 metre long	Residential Commercial Industrial Rural
7	In-building coverage installation: (a) to improve cellular coverage to mobile phone users operating inside a building; and (b) wholly contained and concealed in a building	Residential Commercial Industrial Rural
8	Equipment installed inside a structure, including an antenna concealed in an existing structure	Commercial Industrial Rural
9	An extension to a tower if: (a) the height of the extension does not exceed 5 metres; and (b) there have been no previous extensions to the tower	Industrial Rural

Part 2 Underground housing

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	Pit with surface area of not more than 2 square metres	Residential Commercial Industrial Rural
2	Manhole with surface area of not more than 2 square metres	Residential Commercial Industrial Rural
3	Underground equipment shelter or housing with surface area of not more than 2 square metres	Residential Commercial Industrial Rural

Part 3 Above ground housing

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	Pillar: (a) not more than 2 metres high; and (b) with a base area of not more than 2 square metres	Residential Commercial Industrial Rural
2	Roadside cabinet: (a) not more than 2 metres high; and (b) with a base area of not more than 2 square metres	Residential Commercial Industrial Rural
3	Pedestal: (a) not more than 2 metres high; and (b) with a base area of not more than 2 square metres	Residential Commercial Industrial Rural
4	equipment shelter: (a) not more than 2.5 metres high; and (b) with a base area of not more than 5 square metres; and (c) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local authority	Residential Commercial Industrial Rural
5	equipment shelter: (a) used solely to house equipment used to assist in providing a service by means of a facility mentioned in Part 1; and (b) not more than 3 metres high; and (c) with a base area of not more than 7.5 square metres; and (d) either: (i) colour-matched to its background; or (ii) in a colour agreed in writing between the carrier and the relevant local authority	Residential Commercial Industrial Rural
6	In-building subscriber connection equipment	Residential Commercial Industrial Rural
7	Solar panel with a base area of not more than 7.5 square metres	Rural

Part 4 Underground cable facilities

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	<p>Underground conduit or cable deployed by:</p> <p>(a) narrow trench not more than:</p> <p style="padding-left: 20px;">(i) 450 millimetres wide; or</p> <p style="padding-left: 20px;">(ii) 650 millimetres wide if intended to be used by more than one carrier; or</p> <p>(b) direct burial; or</p> <p>(c) bore or directional drill hole at least 600 millimetres below the surface;</p> <p>where:</p> <p>(d) access to business premises is not restricted between the hours of 8 am and 6 pm, Monday to Friday, or such other hours agreed to by the relevant local government authority; and</p> <p>(e) in relation to residential areas, not more than 100 metres of excavation is left open at any time and vehicle access to each property is not lost for more than 8 hours in total</p>	<p>Residential Commercial Industrial Rural</p>
2	<p>Conduit or cabling to be laid in:</p> <p>(a) an existing trench; or</p> <p>(b) a trench created by a developer, relevant local government authority, public utility or carrier.</p>	<p>Residential Commercial Industrial Rural</p>
3	<p>Cable location marking post or sign</p>	<p>Residential Commercial Industrial Rural</p>

Part 5 Public payphones

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	Public payphone cabinet or booth: (a) used solely for carriage and content services; and (b) not designed for other uses (for example, as a vending machine); and (c) not fitted with devices or facilities for other uses; and (d) not used to display commercial advertising other than advertising related to the supply of standard telephone services	Residential Commercial Industrial Rural
2	Public payphone instrument: (a) used solely for carriage and content services; and (b) not designed for other uses (for example, as a vending machine); and (c) not fitted with devices or facilities for other uses; and (d) not used to display commercial advertising other than advertising related to the supply of standard telephone services or displayed as part of the supply of a content service	Residential Commercial Industrial Rural

Part 6 Emergency facilities

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	A temporary facility installed: (a) in an emergency; and (b) to provide assistance to an emergency services organisation	Residential Commercial Industrial Rural

Part 7 Co-located facilities

Column 1 Item no.	Column 2 Facility	Column 3 Areas
1	Facility mentioned in: (a) Part 1, 5 or 6; or (b) item 3 of Part 4; installed on or within: (c) an original facility; or (d) a public utility structure	Industrial Rural
2	Facility mentioned in: (a) Part 1, 5 or 6; or (b) item 3 of Part 4; installed on or within: (c) an original facility; or (d) a public utility structure; where: (e) the total volume of the co-located facilities is no more than 25 per cent greater than the volume of the original facility or the original infrastructure; and (f) the levels of noise that are likely to result from the operation of the co-located facilities are less than or equal to the levels of noise that resulted from the operation of the original facility or the public utility structure	Residential Commercial

Notes to the



Telecommunications (Low-impact Facilities) Determination 1997

Note 1.

The



*Telecommunications (Low-impact **Facilities**) Determination 1997* (in force under subclause 6 (3) of the *Telecommunications Act 1997*) as shown in this compilation is amended as indicated in the Tables below.

Table of Instruments

Title	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Telecommunications (Low-impact Facilities) Determination 1997</i>	30 June 1997 (see <i>Gazette</i> 1997, No. S250)	1 July 1997	
<i>Telecommunications (Low-impact Facilities) Determination 1997 (Amendment No. 1 of 1999)</i>	17 Aug 1999 (see <i>Gazette</i> 1999, No. S377)	17 Aug 1999	—

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. =
repealed and substituted

Provision affected	How affected
Part 1	
S. 1.3.....	am. 1999 No. 1
Part 2	
S. 2.5.....	am. 1999 No. 1
Part 3	
S. 3.1.....	am. 1999 No. 1
Schedule	
Part 1	
Part 1	am. 1999 No. 1
Part 3	
Part 3	am. 1999 No. 1
Part 4	
Part 4	am. 1999 No. 1
Part 5	
Part 5	am. 1999 No. 1
Part 7	
Part 7	am. 1999 No. 1