



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)*

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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.

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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

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- 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.

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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.

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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.

Section 2.1

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.

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- (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.

Section 3.1

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 relevant local government authority	Industrial Rural
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;	Residential Commercial Industrial Rural

Column 1 Item no.	Column 2 Facility	Column 3 Areas
	or (ii) in a colour agreed in writing between the carrier and the relevant local authority	
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 (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	Industrial Rural
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

Column 1 Item no.	Column 2 Facility	Column 3 Areas
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

Column 1 Item no.	Column 2 Facility	Column 3 Areas
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</p> <p>Commercial</p> <p>Industrial</p> <p>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</p> <p>Commercial</p> <p>Industrial</p> <p>Rural</p>
3	Cable location marking post or sign	<p>Residential</p> <p>Commercial</p> <p>Industrial</p> <p>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

Table of Instruments

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**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
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Part 5.....	am. 1999 No. 1
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Part 7.....	am. 1999 No. 1