



**WATER SERVICES**  
ASSOCIATION OF AUSTRALIA

# **WATER INDUSTRY SUBMISSION**

Amendments to the Telecommunications  
(Low - Impact Facilities) Determination  
2018 and Telecommunications Code of  
Practice 2021

December 2024

9 December 2024

Attention:

Director, Telecommunications Deployment Policy  
Digital Inclusion & Deployment Policy  
Department of Infrastructure, Transport, Regional Development and Communications  
GPO Box 594  
CANBERRA ACT 2601

**SUBMISSION:** Proposed Amendments to the Powers and Immunities Framework -  
Consultation Paper

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I confirm that this submission can be made available in the public domain.

## About the submission and the submitting organisations

The water industry provides a critical community public safety service through the supply of safe reliable drinking water and wastewater services, along with water for firefighting and interdependent critical infrastructure. The critical nature of water services for maintaining public health, the environment and the economy has resulted in larger water suppliers being identified as Critical Infrastructure by Home Affairs under the Security of Critical Infrastructure (SOCI) Act (Cth) 2018.

A telecommunications installation failure on or adjacent to critical operating water infrastructure directly risks the public safety and health of many thousands of the community and any substantive event will initiate a full public health investigation and inquiry.

Since 2018, the water industry has been an active member in the Powers and Immunity Reference group (PIRG) with the Federal Government and key stakeholders, advocating for improvements to the Telecommunications Powers and Immunities Framework to protect critical infrastructure and the provision of water sector services to the community. This submission is the most recent of a number of submitted documents designed to emphasise to federal regulators that our critical infrastructure cannot be compromised by poorly managed telecommunications installations on or adjacent to infrastructure which has not been specifically designed to safely host those installations. The water sector also refers the department to our previous submission in April 2021 to the department in which the water industry did not support changes to the low impact facilities determination. These concerns remain unaddressed.

### **WSAA**

The Water Services Association of Australia (WSAA) is the peak body that supports the Australian urban water industry. Our 89 water utility members provide water and sewerage services to over 20 million customers in Australia and New Zealand and many of Australia's largest industrial and commercial enterprises. WSAA facilitates collaboration, knowledge sharing, networking and cooperation within the urban and regional water industry. The collegiate approach of its members has led to industry wide advances to national water issues.

### **NSW Water Directorate**

The NSW Water Directorate is an incorporated association representing 89 of 90 local government owned water utilities in regional NSW, serving 1.85 million people. The NSW Water Directorate provides independent technical advice to local government owned water utilities to ensure they deliver high quality water and sewerage services to regional communities in NSW.

NSW Water Directorate works collaboratively with government and non-government organisations to support, advocate for and enable the needs of local water utilities in NSW.

# Summary of the water industry position on the Amendments to the telecommunications carrier powers and immunities framework

The water sector welcomes the opportunity to provide a position to Department of Infrastructure, Transport, Regional Development and Communications on the proposed amendments to the Telecommunications Low Impact Facilities Determination 2018 (LIFD) and the Telecommunications Code of Practice 2021. This submission addresses Part A, B and C of the proposal separately.

## Part A – Proposed amendments in the draft LIFD

The water sector **does not support** the proposed amendments to the LIFD.

When assessing the impact of carrier equipment on landowner infrastructure, consideration must be given to maintaining the security of critical infrastructure that has been designated under the SOCI Act. The LIFD must ensure that carriers do not compromise the security and public safety of the critical water infrastructure in carrying out prescribed activities in a manner that could put the landowner utility in breach of the SOCI Act. This direct contradiction in the Commonwealth legislated and regulatory positions has been represented previously and ignored, with no clear rationale provided for this government position, nor consideration of the additional costs or risks to the water sector and their customers.

The current powers and immunities framework does not adequately allow landowners to safeguard their facilities from carrier equipment installations impacting on operational and maintenance activities. Increasing the allowable size of the infrastructure only worsens this situation. The water industry has previously advocated for a pre-installation certification process and that position remains unchanged. Whilst it is noted that landowners can object during the Land Access and Activity Notice (LAAN) process, the onus is on the landowner to identify a problem rather than the telecommunications carriers to demonstrate adequate safety and structural compliance. Such an onus can be difficult for smaller water utilities to manage, particularly with a large number of requests from carriers.

A major concern for the water sector is carrier equipment installed on drinking water storages. This location is attractive to carriers due to the elevated location of water storages which offers good telecommunication coverage. However water storages are not structurally designed to host telecommunications equipment and require personnel to be able to move safely around the top of the storage for internal access and to undertake detailed asset condition assessments. Increasing the dimensions of carrier equipment on such assets can affect safe access by water utility personnel to water utility owned equipment on the site and can affect the structural integrity of the water storage, putting personnel safety, community safety and drinking water quality at unnecessary risk.

Of particular concern is the inclusion of cabling on bridges. The water industry is concerned that some weirs and dam structures act as bridges. The addition of telecommunication cabling on these critical assets could impact on flood mitigation activities. Also of particular

concern is the change to allow deployment of radiocommunications without a cabinet and consequential potential for theft and vandalism.

The water sector's position is that it should have the first right of refusal and carriers should follow the same approvals process all other infrastructure providers must comply with. This ensures the water utility can effectively control the risk to its regulated responsibilities such as water quality. The process to ensure landowner's conditions are met should require the carrier to receive approval for works rather than the landowner objecting. On this basis the water sector objects to any extension or increase to the size of infrastructure permitted under the LIFD.

## Part B Optional waiver of installation certificate

The water sector **does not support** the optional waiver of the installation certificate.

The water sector was a strong advocate for an engineering certification requirement at the completion of installation to ensure that any installation does not compromise the structural integrity, safety or ability to maintain critical assets owned by the water utility. The retention of the mandatory requirement for an engineering certification remains critical to ensure the installed device meets the requirements of water service providers. The water industry restates the need for the "certifiable assets" definition to include buried equipment due to the potential implications for buried water infrastructure.

The water industry believes this requirement should not be optional to ensure good engineering practice and maintain the safety and security of assets that they own and are ultimately responsible for.

## Part C Other reforms to Powers and Immunities Framework

**The water industry urgently requests further work be completed on facilitating the removal of redundant facilities, for which we have been formally advocating since 2021.**

Currently the water sector has significant issues with redundant carrier equipment. These issues were listed in the department consultation paper (2021) as:

- Increased safety risks in deteriorating equipment
- Diminished visual amenity
- Impairment of landowner usage of land
- Preventing deployment of newer technologies
- There should be a legislative requirement for carriers to remove redundant equipment rather than leaving non-functional or unsafe equipment to deteriorate.

Under Section 474.6 of the Criminal Code Act 1995, it is a criminal offence to interfere with Carrier equipment. Any redundant equipment that remains on land or assets owned by water businesses is still Carrier equipment and therefore cannot be moved and switched off by the

landowner. The Criminal code only defines three groups of people able to remove this equipment, none of these groups includes a water business landowner.

Redundant carrier equipment on landowner assets creates a legacy issue with the potential for significant cost. Possibly the worst case is for a water storage tank where unidentified or redundant telecommunications equipment is left on site, requiring the asset owner to essentially leave the equipment intact whilst trying to maintain or replace the asset. The cost to do this is up to several 100's of thousands of dollars, with no option to recover these costs from the carriers owning this equipment.

The water minister in correspondence dated 23 November 2023 stated the department would facilitate this legislative change. It has now been 12 months and there is little evidence of any progress in this area. The decommissioning of 3G infrastructure has made this reform more imperative.

## Submission conclusion

It is important to balance and consider the critical nature of water infrastructure to the community when determining the carrier's need for an efficient and economic deployment framework.

The location of telecommunication equipment facilities on landowner assets must not impair access, create additional and preventable public safety security risks or place at risk the ability of the asset owner to deliver its services.

WSAA along with the NSW Water Directorate do not support the amendments proposed to ensure the installation of carrier equipment does not adversely impact the safety of workers and the community, security of critical infrastructure and the safe delivery of water services for the community. For further information on this submission please contact [REDACTED]