To the Department of Communications and the Arts
GPO Box 2154
Canberra ACT 2601

Submission response—Possible amendments to telecommunications powers and immunities

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Yes.

Date of submission

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Logo of organisation—if an organisation making this submission

Name and contact details of person/organisation making submission

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General comments

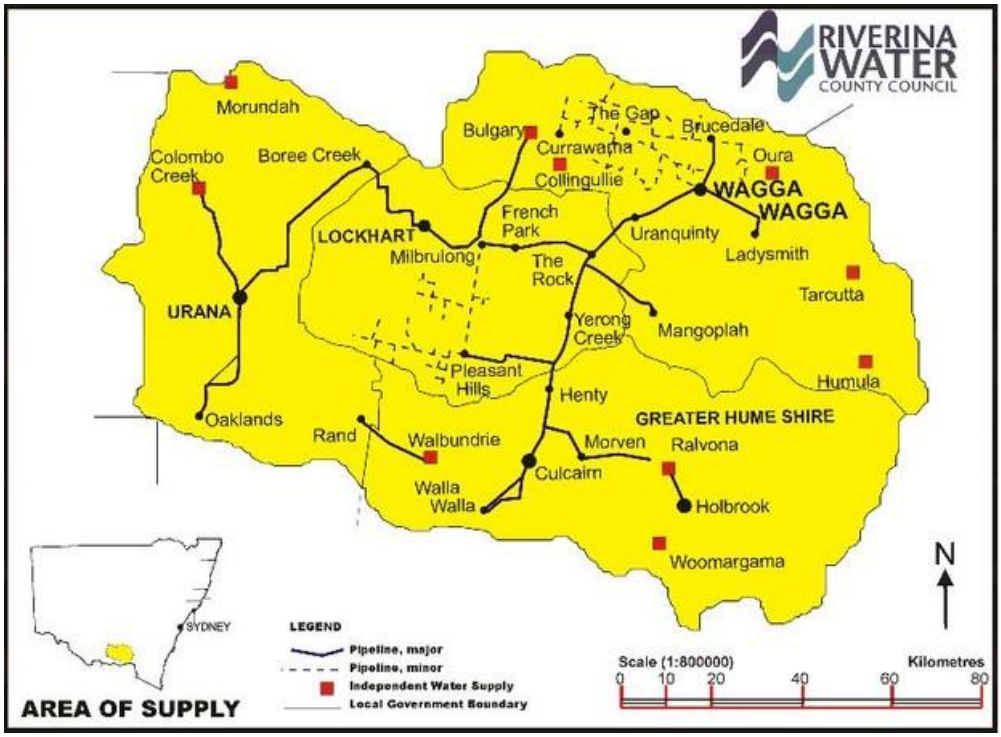
Riverina Water County Council (RWCC) is a NSW Local Government water utility that operate under the provisions of NSW Local Government Act 1993. RWCC is based in Wagga Wagga, NSW, and treats and supplies potable water to approximately 31,000 connections over 15,000 square kilometres.

Originally formed as a water and electricity county council in 1938, the county council was reformed solely as a water supply county council in 1996 maintaining its original areas of water supply operations. The supply areas includes: Wagga Wagga LGA, Lockhart LGA, parts of Federation LGA (ie. previously known as Urana Shire LGA) and Greater Hume Shire LGA.

Our infrastructure includes:

- 84 service tanks and reservoirs

- 30 groundwater bores
- 37 pump stations
- 17 water treatment plants
- Approximately 1,775 kilometres of water mains



RWCC provides an essential service of supplying potable water under its own statutory obligations, including: NSW Local Government Act (1993), NSW Health Act (2010), NSW Protection of the Environment Operations Act (2011), NSW Water Management Act (2000), as well as directions regularly issued by NSW Health and NSW Department of Primary Industry – Water.

While the proposed changes to the telecommunications carrier's powers and immunities emphasise the benefits of de-regulation including reduced costs to consumers, in Riverina Water's submission, these changes should not be as the expense of local water utilities (LWUs) associated with:

- WHS risks to employees
- Impacts to essential water supply operations
- Increase risk of affecting water quality and reliability of supply
- Managing structural integrity of infrastructure
- Increased difficulty in meeting statutory and community obligations
- Impacts to our options to cater for infrastructure's changing operational requirements

Any proposed amendments that may affect LWU's infrastructure must consider a local water utility's obligations to operate, maintain and repair its facilities, and to manage water quality and reliability of its supply.

It is uncertain how this can be achieved if by and large unfettered site access is given to a carrier's staff and/or contractors with the resultant loss of control over a site, or if a blanket approval is given for the installation of equipment without the proper capacity for a local water utility to object with respect to its own obligations.

Whilst the regulatory framework attempts to provide some balancing of control over these matters, in practice that is not always observed in practice and LWUs bear the costs involved in rectifying these problems.

It is our submission that the proposed amendments:

- Do not properly consider the cost implications for a local water utility
- Do not address deficient coordination and efficiencies between telecommunication carriers (themselves) as to where telecommunication equipment might be best placed, and inconsistent work standards
- Do not encourage a more collaborative approach for telecommunications carriers to install their equipment on LWU's infrastructure, and for them to recognised (or appreciate) the risks to LWU's essential service operations and the health and safety of your employees
- Do not give suitable time or opportunity for LWU's to assess the impacts of telecommunications equipment on LWU's infrastructure (as previously listed), including LWU's legislative responsibilities and accountabilities.

We also support the NSW Water Directorate and QLD Water Directorate submission (in full) regarding these proposed changes to the Telecommunications legislation.

Responses

The Australian Government seeks views on possible amendments to telecommunications carrier powers and immunities. In particular, the Government seeks views on:

Proposed amendments to the Telecommunications (Low-impact Facilities) Determination 1997

1. Definition of co-located facilities

1.1 Are there any issues with this proposed clarification to the definition of co-location?

It is our preference that water supply infrastructures should be considered as 'sensitive buildings' due to their functions of treating, storing and protecting potable water supplies for communities, with respect to ensuring water quality and reliability of water supply.

If telecommunications equipment is required to be installed on water infrastructure, it should be done so not to risk to our operations, site security, health and safety of our employees, asset structural integrity, our governance obligations and communities' expectations for a safe and reliable water supply.

Greater opportunity is required to conduct detailed assessment of potential impacts of telecommunications equipment on our infrastructure, including a more balanced approached for us and telecommunication carriers to mutually work together compared to allowing telecommunication carriers to dictate the terms under these proposed changes to legislation.

We support the use of a memorandum of understanding (MoU) between carriers and LWUs to assist providing a mutually satisfying regime with respect to the use and management of the whole facility. If this cannot be achieved, we would like for us to have right of refusal to allow telecommunication equipment to be installed on our sensitive water supply structures based on issues listed above.

2. Local government heritage overlays

2.1 Are there any issues with this clarification in relation to local government heritage overlays?

No comment as this does not impact on a local water utility's core functions.

3. Radio shrouds as an ancillary facility

3.1 Should radio shrouds be considered ancillary facilities to low-impact facilities, or should radio shrouds be listed as distinct facilities in the Schedule of the LIFD?

Any additional structure on a water supply tank/reservoir roof may promotes habitats for birds and other pests and vermin. Riverina Water is supportive of any means to reduce these types of habits for pests and vermin which will assist reducing animal defecation onto roofs.

Notwithstanding, Riverina Water would also like to raise associated issues such as:

- structural adequacy of the installation with respect to the host structure
- increased management and operational issues and costs associated with the telecommunications installation
- eliminating or managing risks to water quality and reliability of supply
- health and safety of our staff and contractors
- consolidation of multiple telecommunications equipment and placement of such equipment that doesn't affect water supply operations, access, structural integrity of the host structure, and minimising visual impacts of the facility in general

We support the use of a MoU between carriers and LWUs to assist providing a mutually satisfying regime with respect to the use and management of the whole facility. If this cannot be achieved, we would like for us to have right of refusal to allow telecommunication equipment to be installed on our sensitive water supply structures based on issues listed above.

3.2 If listed as distinct facilities in the Schedule of the LIFD, should there be any criteria for radio shrouds, for example in terms of size and dimensions?

As above

4. Size of radiocommunications and satellite dishes

4.1 Are there any issues with permitting 2.4 metre subscriber radiocommunications dishes (or terminal antennas) in rural and industrial areas (LIFD Schedule, Part 1, Item 1A)?

RWCC has concerns of permitting higher EME on our structures than what is permitted elsewhere (ie. metropolitan areas). That is, our employees should not be exposed to higher EME than what is considered the 'norm' in metropolitan areas and should not have greater limitations/restriction to access any part of our structure due to EME.

Please refer to our comments in Section 1.1 regarding the telecommunications installation on LWU's infrastructure at the first instance.

No doubt the size and power of the telecommunications equipment relates to the critical importance of the installation that would impact on the readiness for carrier to 'turn off' the installation to permit our staff from safely entering the EME 'danger zone'. This may be unacceptable with respect to issues listed in Section 1.1

4.2 Are there any issues with permitting other 2.4 metre radiocommunications dishes in rural and industrial areas, including those located on telecommunications structures (LIFD Schedule, Part 1, Item 5A)?

As above

5. Maximum heights of antenna protrusions on buildings

5.1 Is a 5 metre protrusion height acceptable, or is there a more appropriate height?

Increasing antenna height also increases the load placed on structures, especially factoring in wind impacts. Drinking water reservoirs are constructed from a range of materials and using different designs, the majority of which did not contemplate the future installation of antennae. A blanket increase allowing a height increase is inappropriate, with each installation requiring careful consideration on a case by case basis.

With regards to whether there's a more appropriate height, please refer to our comments in Section 1.1 regarding the telecommunications installation on LWU's infrastructure at the first instance.

Other issues regarding heights of antennas include:

- Shadowing affects onto solar panels (existing or future installations)
- Increase of bird, pest and vermin habitats that may result in increased defecation onto roof areas, which increases the risk of faecal contamination in the drinking water
- If the antenna(s) are supported by steel guy ropes, access will be restricted in adjacent roof areas. This issues will be accentuated if multiple antennae masts use the same system of steel guy ropes on the same roof.
- Increased risk of loss of water tightness of roof structure due to increased roof penetrations of mounting guy ropes, resulting in increased water quality risks and loss of structural integrity (ie. rust/corrosion) of the roof structure

There are many examples of poor antennae installations document in the NSW Water Directorate's and QLD Water Directorate Guideline's *"3rd Party Infrastructure on Water Supply Reservoirs Guidelines".* We would like to raise the issue of remedial works required on existing installations to bring matters back to a mutually agreed standard regarding safety, operations, and maintenance requirements, and also agreed standards of future installations.

5.2 Are higher protrusions more acceptable in some areas than others? Could protrusions higher than 5 metres be allowed in industrial and rural areas?

As above

6. Use of omnidirectional antennas in residential and commercial areas

6.1 Are there any issues with permitting omnidirectional antennas in residential and commercial areas, in addition to industrial and rural areas?

As above

Omnidirectional antennae are cited as "less visually intrusive as panel or yagi antennas, which can already be used in such areas." This assumes that established practice is appropriate, when many existing installations are problematic. These types of antenna also create more health risks and greater exclusion zones for water supply staff working around the roof area of a reservoir.

7. Radiocommunications facilities

7.1 Does the proposed approach raise any issues?

This change appears reasonable but the consultation paper states that the change "would give carriers the ability to attach facilities up to a certain size to existing structures". Cumulative impact issues raised in this submission need to be considered in terms of health and safety and coordination between carriers. This is because numerous carriers might seek to employ with smaller radio communication facilities within the proposed location. While the individual impact of one such facility is of less concern, it is the cumulative impact which is of concern. In this regard, site access security and coordination between numbers of carriers is an issue as set out in this submission. Depending on the load induced by these radio communications facilities, there may also be an effect on the load-bearing capacity of the structure that they are installed onto, and the persons directing the infrastructure such as within a roof cavity may not be aware of risks within that space.

The regime for the removal of obsolete radio communications facilities (if that occurs) needs to be regulated.

To the extent a concentrated number of facilities are located on a piece of infrastructure, it also raises questions about health and safety in and around the concentrated number of radio communications facilities. There may also be town planning issues regarding aesthetics and adverse visual impacts.7.2

7.2 Are the proposed dimensions for these facilities appropriate?

As above

8. Equipment installed inside a non-residential structure in residential areas

8.1 Should carriers be able to enter land (including buildings) to install facilities in existing structures not used for residential purposes in residential areas?

Riverina Water have no principal objection to making it easier for carriers to reduce a visual impact of facilities installed at non-residential buildings in residential areas by concealing them inside existing structures, but is concerned about the possible health and safety, and security, issues this raises with respect to water supply buildings and structures, such as:

- Security of the site - would the contractors carrying out the work satisfy a "fit and proper person" check, how will the site be properly secured after access to prevent trespassers and vandalism and compromised security of water supply, will it be over secured with more locks (for example) after access impeding the local water utilities access to its own site?;
- Safety inductions requirements eg. Chlorine and other chemical dosing equipment, automatic (ie. no prior warning) pump operations, electrical isolation points, confined/restricted space areas
- Electrical and structural work/alterations that are consistent/compatible with the host structure ie. common electrical earthing systems, local electrical isolation points not to affect water supply operations
- Knowledge of who has entered into/onto the premises and what work was performed with respect to safety issues, incidents, accidents and impacts to water supply operations
- Safe EME zoning requirements and impacts to water supply operations
- Multiple carriers maintaining the same rights and entering the same premises for the same purpose creating a coordination and business interruption issue; and

- Compounding issues associated with multiple carrier's communication equipment affecting water supply operations and safety
- Depending on where the infrastructure is located, health and safety of those entering the premises and of staff particularly if a large concentrated number of these pieces of infrastructure are located in a particular area;
- The need for a register or control document which our members possess setting out precisely where the infrastructure is located.

Therefore, it is our preference that carrier access to water supply buildings and infrastructure for telecommunications purposes be considered via a MoU between carriers and to assist providing a mutually satisfying regime with respect to the use and management of the whole facility. If this cannot be achieved, we would like for us to have right of refusal to allow telecommunication equipment to be installed on our sensitive water supply structures based on issues listed above.

9. Tower extensions in commercial areas

9.1 Are there any issues permitting tower height extensions of up to five metres in commercial areas?

As above

With respect to impacts to our water supply operations, health and safety of employees, impacts to the structural integrity of our water supply building and infrastructure, impacts to our future use and modifications to the structure (ie. installation of solar panels, upgrading reservoir entry hatches, etc), impacts to general access caused by possible steel guys supporting the structure.

10. Radiocommunications lens antennas

10.1 Is lens antenna the best term to describe this type of antenna?

No comment

10.2 Are 4 cubic metres in volume and 5 metres of protrusion from structures appropriate?

No, please refer to our comments in previous sections, in particular:

- Section 1.1 regarding the telecommunications installation on LWU's infrastructure at the first instance; and
- Sections 3, 4, 5, 6,7 & 9.

10.3 Should this type of antenna be allowed in all areas, or restricted to only industrial and rural areas?

As above, with particular reference to Section 4

11. Cabinets for tower equipment

11.1 Are there any issues with the proposed new cabinet type?

It's worthwhile to emphasise that water supply storages have been designed and operated to protect the quality of water and ensure its reliability, anything affecting or restricting our requirements to meet our obligations as a NSW local water utility will not be supported.

Cabinets that are up to 3 metres high and are required to be located adjacent to the antenna(s) may make our operations and our safety systems difficult to manage, let alone multiple communication installations on the same structure. A coordinated approach to the use of any cabinets is required such that a cabinet could be used by multiple carriers or the location should be

coordinated if more than one are required. These cabinets should be also assessed on a case by case basis by the LWU.

12. Size of solar panels used to power telecommunications facilities

12.1 Are there any issues with permitting 12.5 square metre solar panels for telecommunications facilities in rural areas?

As well as issues identified in previous sections of our submission, RWCC wish to emphasise the following foreseeable issues:

- load (can the structure accommodate the solar panels given wind and other load on the tower?);
- retrofitting an existing piece of infrastructure - will it diminish the asset's life, or will it increase risks to safety of staff of local water utilities)?;
- Cumulative impact and coordination issues. This is because yet another piece of infrastructure would be located on the local water utilities asset potentially generating more people entering into the site. It also means additional infrastructure being erected on our member's property which may impact asset protection if not located suitably.
- Further restrictions to the use of the infrastructure by local water utilities. This allowance for carriers may prohibit local water utilities from utilising their own structure to install solar panels for their own purposes. This issue gains significance with increasing energy costs and changes in the business case to warrant alternative energy options.
- The regime for the removal of obsolete solar panels (if that occurs) needs to be regulated.

13. Amount of trench that can be open to install a conduit or cable

13.1 Are there reasons not to increase the length of trench that can be open at any time from 100m to 200m in residential areas?

In principle, open trenching could be supported by RWCC on our property, if:

- Communication carriers provide safe work method statements that indicate:
    - Construction staff are be present and the open trench is not left unattended
    - Trench backfilling occur at the end of the working day and/or when there's no construction staff in the vicinity. RWCC would oppose to have open trench exposed at any time as a blanket allowance with respect to safety of our staff and public, access our water supply infrastructure and maintaining our operations requirements.

13.2 Is 200m an appropriate length, or should the length be higher if more than 200m of conduit or cabling can be laid per day and the trench closed?

As above

14. Cable & conduit installation on or under bridges

14.1 Are there any issues with allowing cable and conduit on bridges to be low-impact facilities?

RWCC does not have any bridge infrastructure assets under its control.

15. Volume restrictions on co-located facilities

15.1 Are there any issues with removing volume limits for adding co-located facilities to existing facilities and public utility structures in commercial areas?

It is our submission that the less control local water utilities have over the property (regardless of adjacent land use zoning), the more susceptible it becomes to breaches in security and compromised water supply quality and reliability – also refer previous comments in Section 1.

As observed on other LWU structures, requirements for carriers to perform work in accordance with good engineering practice has not satisfactorily addressed load issues on existing structures. For example, carriers do not properly consider the cumulative impact of the infrastructure being placed on an existing structure and whether the load is sustainable and safe. Whilst some local water utilities manage and control structures well, this is not always possible due to resource in constraints.

Accordingly this proposal needs to be more carefully considered. Removing volume restrictions will in any case potentially increase the number of carriers using the infrastructure of local water utilities, thereby increasing the problems mentioned in this submission. For example, problems currently arise due to a lack of coordination between carriers, a lack of consistency in the quality of work, potential business interruption, and administrative costs in trying to maintain some control over what is going on.

15.2 Are there any issues with permitting new co-located facilities that are up to 50 per cent of the volume of the original facility or public utility structure in residential areas?

In our submission, the consultation paper is very thin on how the carriers would ensure the load bearing capacity of the infrastructure is achieved if carriers proposed to add facilities (other than saying carriers need to act in accordance with good engineering practice). A more robust approach is required. We submit that certified engineering plans with 'Work as Executed' drawings be required, to ensure that all work has been completed in accordance with engineering specification.

In addition, in our submission, this raises a coordination issue as numerous carriers would be able to install facilities on existing water infrastructure. The more players, the more difficult this is to coordinate. Again, the less control local water utilities have over the property, the more susceptible it becomes to breaches in security and compromised water quality.

15.3 Is another volume limit more appropriate in commercial or residential areas?

This must be considered on a site by site and case by case basis. This should be subject to a MoU and ongoing consultation.

15.4 Should alternative arrangements for co-located facilities be developed in the LIFD?

This must be considered on a site by site and case by case basis. This could be subject to a Memorandum of Understanding and encouraging better collaboration between carriers themselves to consider a standalone communication facility separate to utilising other structures that have non-compatible functions.

16. Updates to environmental legislation references in the LIFD

16.1 Are there any issues with the proposed updates?

RWCC would like to include reference to the *NSW Public Health Act* and *Public Health Regulation* into the LIFD especially if water supply infrastructure is going to be capitalised by communication carriers.

16.2 Are there any further suggestions for updates to terms and references in the LIFD?

Similarly, RWCC would like the telecommunication carriers recognised other legislation and regulations that NSW local government water authorities work under, including the *NSW Local Government Act 1993*, the *Water Management Act 2000,* especially if our essential service of providing safe and reliable water supply is compromised.

Proposed amendments to the Telecommunications Code of Practice 1997

17. Clarify requirements for joint venture arrangements

17.1 Are there any issues with making it clear in the Tel Code that only one carrier's signature is required on documents for facilities being installed as part of a carrier joint venture arrangement?

RWCC don't envisage this will be a concern.

18. LAAN objection periods

18.1 Is it reasonable to end the objection period for low-impact facility activities and maintenance work according to when the notice was issued, rather than the date work is expected to commence?

No.

A 5 day period is not sufficient for the local water utilities vested with important statutory and community responsibilities for the provision of safe drinking water and the maintenance of its assets. Local water authorities (like ourselves) are resourced appropriately to meet our core operations and are not resourced for the purposes of responding to carriers request with insufficient notice.

A reduced period may also create difficulties where people are away on leave and the existing provisions strike a better balance of enabling both access to occur and the landowner's ability to properly respond.

If faster turnaround times are required, then it imposes a cost on local water utilities, as we prioritise the response to the notice as to whether an objection is required, and if so to prepare a proper objection detailing our reasonable concerns. A faster turnaround time may lead to objections being prepared simply to buy more time or to "reserve the authority's rights". The status quo allows authorities to at least consider their position and to properly consider whether one actually needs to be prepared.

The notice provided will not necessarily specify the full details for the type of work that might be carried out, and with only 5 days to object, this could have a considerable impact on the operations of a local water utility and flow on of costs.

The time for when a notice sent by post to an address in Australia is deemed to be given to, and received by, the addressee is to be determined in accordance with the table at Regulation 6 of the Australian Postal Corporation (Performance Standards) Regulations 1998 as in force from time to time.

Finally, considerable disruption can be caused to a local water utility's day to day operations and potentially significant costs incurred for labour and equipment if a carrier gives late notice that work will be carried out, or is to be prolonged. An issue that should be considered is whether carriers will compensate local water utilities for any disruption to their day to day operations or costs associated with maintaining and operating water storage sites where this is impacted by short notice, rather than passing these costs onto local water utilities.

18.2 Is 5 business days from the receipt of a notice a sufficient time period for land owners and occupiers to object to carrier activities where carriers have given more than 10 days' notice about planned activities?

No. This is referred to above

19. Allow carriers to refer land owner and occupier objections to the TIO

19.1 Are there any issues with allowing carriers to refer objections to the TIO before land owners and occupiers have requested them to?

This potentially increases the workload of the TIO and our members are concerned already about its resourcing and responsiveness. It appears that the consultation paper and proposed reform agenda is predominantly focused on efficiency to carriers, but in our member's submission this focus on efficiency is balanced when it comes to other aspects of the system controlling the conduct of carriers.

If complaints are more readily forwarded to the TIO then it is in the interests of local water utilities to ensure that responses from the TIO are responded to in a timely manner so that proper complaints are resolved efficiently. Our member's concern is that the TIO might not be resourced by the carriers to do this properly especially if there is any increase in the number of complaints referred to them so that the carriers "get them off the books".

In addition, although somewhat beyond the scope of what has been asked, as per our above comments, the potential for inconsistent directions between the relevant industry ombudsman needs to be addressed.

20. Updates to references in the Tel Code

20.1 Are there any issues with the proposed changes?

As above – refer Section 16.1

Are there any further suggestions for updates to the Tel Code?

As above

Possible amendments to the *Telecommunications Act 1997*

21. Allowing some types of poles to be low-impact facilities

21.1 Is it reasonable for poles in rural areas for telecommunications and electricity cabling for telecommunications networks to be low-impact facilities?

RWCC does not have an in principle objection to 12 m high poles 500 mm in diameter being designated low-impact facilities, but in accordance with the points and issues raised in this submission, if such a pole were to be erected the impacts to water supply operations and infrastructure needs to be assessed and considered, to ensure safety and security of the water supply is not compromised.

21.2 Should low-impact facility poles be allowed in other areas, or be restricted to rural areas?

As above

21.3 Is the proposed size restriction of up to 12 metres high with a diameter of up to 500mm suitable?

As above

21.4 Would the existing notification and objection processes for land owners and occupiers in the Tel Code be sufficient, or should there be additional consultation requirements?

The existing processes would be sufficient.

22. Portable temporary communications facilities

22.1 - Are there any issues with making portable temporary communications equipment exempt from state and territory planning approvals under certain conditions?

No objection is principle as long as safety and security of the water supply is not compromised, including any adverse impacts to water supply operations.

22.2 - Are there any suggestions for appropriate conditions for the installation of COWs and SatCOWs, such as circumstances in which they can be used and timeframes for their removal?

No Comment

22.3 - Should the Act be amended to remove any doubt that MEOWs can be installed using the maintenance powers or another power under Schedule 3 of the Act?

No Comment

22.4 - Are there any suggestions for appropriate conditions for the installation of MEOWs if the maintenance powers are amended?

No Comment

23. Replacement mobile towers

23.1 Is the proposal reasonable?

As previously mentioned in our submission, any replacement of telecommunication equipment hosted on water supply infrastructure (including towers) should not affect or jeopardise water supply operations and the quality of water.

Consultation is required between multiple carriers if multiple carriers are present on the same site, as well as consultation with LWU, and to consider decommission of equipment and its replacement. At all stages of works (construction and decommission), no activities should affect or jeopardise water supply operations and the quality of water without the LWU approval.

As previously stated, RWCC support the use of a memorandum of understanding between carriers and LWUs to assist providing a mutually satisfying regime with respect to the use and management of the whole facility. It would be appropriate for the MoU to include decommission of communication equipment and communication infrastructure. If this cannot be achieved, we would like for us to have right of refusal to allow telecommunication equipment to be installed on our sensitive water supply structures at the first instance.

23.2 Is 20 metres a suitable distance restriction for replacement towers?

The 20 m needs to be made subject to a proper site assessment taking into account among other things environmental sensitivities, other utilities affected, and the practicality of the new location for the owner of the site. In other words, 20m may not be a suitable distance restriction for replacement of towers

23.3 Is 12 weeks a reasonable maximum time period for installation of replacement towers?

No comment

24. Tower height extensions

24.1 Are one-off 10 metre tower height extensions suitable in commercial, industrial and rural areas, or only some of these areas? If they are only suitable in some areas, which are they and why?

As previously discussed, if the tower is hosted on LWU's infrastructure then the following issues are raised:

- Structural integrity ie. load capacity
- Adoption of certified workmanship and standards
- Increase maintenance and inspections of the host structure
- Site security
- Cumulative impact and coordination issues
- Risk to water quality and water supply reliability
- Safety of LWU's employees
- Restriction of future modification, additions and alterations for water supply by the LWU eg. Shadows on solar panels, steel guy ropes, additional walkways affecting access onto/into reservoirs.