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

Submission response—Possible amendments to telecommunications powers and immunities

This submission can be published on the World Wide Web

Yes

Date of submission

31 July 2017

Logo of organisation

Name and contact details of person/organisation making submission

Jim Pruss, Chief Executive Officer
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Ipswich Q 4305

General comments

Seqwater is a:

1. Statutory Authority of the Queensland Government established under the *South East Queensland Water (Restructuring) Act 2007*[1]; and
2. a 'public utility' as that term is defined in Schedule 3 of the *Telecommunications Act 1997* (**the Telco Act**).

Seqwater is one of Australia's largest water businesses with the most geographically spread and diverse asset base of any capital city water authority in Australia. Our operations extend from the New South Wales border, to the Toowoomba ranges and north to Gympie. We manage up to $12 billion of bulk water supply infrastructure and natural catchments of the region's water supply sources to ensure a reliable, quality water supply for more than 3 million consumers. Seqwater has an extensive network of dams, plans, pipelines and associated infrastructure across South East Queensland.

[1] Seqwater was formed on 1 January 2013 through a merger of three State-owned water businesses, the SEQ Water Grid Manager, LinkWater and the former Seqwater.

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Pursuant to *Water Supply (Safety and Reliability) Act 2008 (Qld) (**Water Supply Act**)* and the *Australian Drinking Water Guidelines*[2], Seqwater has a legislative obligation to provide (at all times) safe, secure, resilient and reliable bulk drinking water for South East Queensland. Seqwater also provides essential flood mitigation services and supplies water for irrigation to rural customers, manages catchment health and offers community recreation facilities. Seqwater is also responsible for the long term planning of the region's future water needs, a function that was formerly undertaken by the Queensland Water Commission[3].

The provision of a safe and reliable drinking water supply is critical for the health and wellbeing of Queenslanders. A cost effective bulk water supply is also essential for Queensland's strong economic development. A key principle for Seqwater is protecting public health, it must be the paramount objective for managing drinking water systems, which must not be compromised for any other objective.

Introduction

Thank you for this opportunity to provide feedback on the *Possible amendments to telecommunications carrier powers and immunities – consultation paper* dated June 2017 (*Possible amendments*). For the reasons set out in this letter, we are not supportive of a number of proposed amendments. We set out in Part A of the submission our general concerns with Schedule 3 to the *Telco Act* and the installation of low-impact facilities by carriers impacting on the operations of Seqwater as a public utility. Part A also makes recommendations (a summary is provided below) for updates to the telecommunication regularity regimes. Part B contains Seqwater's Responses to the *Proposed amendments*.

By way of summary, Seqwater seeks the following updates (refer to section 20.2 of Part B of this submission) to the telecommunication regulatory regime:

1. amendment to section 37(f) of Schedule 3 to the *Telco Act* to provide an express exclusion for "*interfering with public utility infrastructure*";
2. add new subclauses to sections 2.30, 4.31 and 6.30 of the Code to give effect to a new reason for objection which relates to '*public utility infrastructure'* and '*interfering with the operations of a public utility*';
3. add new subclause (c) to sections 2.26, 4.26 and 6.26 to the effect "*details of the actions taken by the carrier to co-locate with another carrier established on the land affected by a land entry activity.*";
4. add new clause to give effect to requiring carriers to formally notify public utilities when a LAAN is being withdrawn by the carrier and where the notification has not occurred any new LAAN (relating to the same activity/land) delivered by the carrier is deemed to be invalid;
5. add new clause to give effect to allowing public utilities to be able to directly refer objections to the TIO at the end of the consultation period if a carrier refuses to make reasonable efforts to entering into an agreement with a public utility where the proposed activity is likely to affect the operation of the public utility;
6. add new clause to give effect to:

[2] Refer to Queensland Water Directorate & NSW Water Directorate – June 2017, version 4.0. Hereinafter referred to as the '*Guidelines*'. Seqwater acknowledges permission from Qldwater to cite the *Guidelines* in this submission. Seqwater understand that a copy of these *Guidelines* have been provided by Qldwater to the Australia Government undercover of Qldwater, '*Response to the Possible amendments to telecommunications carrier powers and immunities consultation paper'* dated 21 July 2017.
[3] Further information can be obtained in Seqwater's '*Water for Life*' document (version 2) located at http://www.seqwater.com.au/sites/default/files/PDF%20Documents/Publications/Water%20Security%20Program%20-%20Regulated%20Document%20-%20WEB%20version%20with%20clickable%20links.pdf.

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i. that the placement of telecommunication facilities and cables and other infrastructure by a carrier is not a right in perpetuity (for example, refusal by a carrier to remove telecommunication facilities that have reached end of life and must be demolished/removed from the land at the carrier's cost);
ii. requiring telecommunication mandatory removal of redundant telecommunication equipment within a prescribed period of time (for example, within 25 business days);

7. provide legislative framework to require carries to:
   i. have a LAAN accompanied by certification endorsed by a registered engineer; and
   ii. provide engineering certification post completion of the installation of low impact facilities to ensure its structural integrity;
8. provide legislative framework which requires carriers to engage in forward planning sessions with public utilities;
9. provide a legislative framework for public utilities to notify carriers that it requires relocation of its telecommunication facilities to accommodate water infrastructure upgrades/operational works; and
10. provide a legislative framework for the TIO to undertake mandatory and regular audits of installation of telecommunication equipment to ensure carriers are complying with the requirements of telecommunication regulatory regime.

Lack of notification

It should be noted that Seqwater was not formally notified by the Australian Government of the *Possible amendments* and opportunity to make submissions. Seqwater is concerned by the lack of direct notification given its public utility status. If not done so already, we recommend that all public utilities across Australia be directly invited to consider the *Proposed amendments* and be given the opportunity to lodge submissions so that the Australian Government receives effective feedback.

PART A – Seqwater's concerns with low impact facilities

Lack of protection of public utility infrastructure under the Telco Act

Seqwater enjoys statutory protection of its infrastructure under section 192 (Interfering with service provider's infrastructure without approval) of the *Water Supply Act*, where it is an offence for a person to interfere with a service provider's infrastructure without the written consent of the service provider. Seqwater ordinarily requires an application for consent for all proposals involving works near Seqwater infrastructure. The nature of the consent required is dependent on the scale of proposed works and tenure of the land upon which Seqwater's infrastructure is located[4]. This same protection is not afforded by the *Telco Act*, in particular clause 37 of the Schedule 3 to the *Telco Act* allows a carrier to engage in low-impact facility activities despite a law of a State "*about the use of the land*". As a result of a decision by the Federal Court of Australia in *Gold Coast City Council v Satellite & Wireless Pty Ltd (2014) 143 ALD 19* (*Satellite's Case*)[5], Seqwater cannot refuse a carrier access in relation to a low-impact facility activity on the grounds of section 192 of the *Water Supply Act*. This is considered below.

Although Seqwater can object (in limited circumstances) to the carrier's proposed Land Access and Activity Notice (**LAAN**) under *Telecommunications Code of Practice 1997* (**the Code**), there is no express

[4] Refer to '*Seqwater Network Consent Guidelines*' June 2014 located at http://www.seqwater.com.au/sites/default/files/PDF%20Documents/Publications/Seqwater%20Consent%20Guidelines%20June%202014.pdf.
[5] A copy of the *Satellite's Case* is attached to this submission.

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right under the telecommunication regulatory regime for Seqwater to refuse carrier access to land it owns or occupies on the grounds that such access would interfere with Seqwater's infrastructure (for example, water supply reservoirs). There is an inconsistency between section 192 of *Water Supply Act* and section 37 of Schedule 3 to the *Telco Act*. In *Satellite's Case*, the Federal Court held that whilst there was an inconsistency between section 192 of the *Water Supply Act* and section 37 of Schedule 3 to the *Telco Act*, the carrier was (in any event) permitted to install the low impact facility under the exemption that applies to State laws that are "*about land*".

Seqwater has experienced that section 192 of the *Water Supply Act* cannot operate concurrently with the *Telco Act* despite the provision of section 38 of Schedule 3 to the *Telco Act*. This view appears to be supported by other water utilities in Queensland[6]. In our view, an amendment is urgently required to section 37(f) of Schedule 3 to the *Telco Act* to overcome the determination of *Satellite's Case* to exclude interference with public utility infrastructure from the ambit of its operation.

Reasons for objection under the Telco Act

The telecommunication regulatory regime provides for limited reasons for objection. Sections 2.30, 4.31 and 6.30(a) of the Code relates solely to the "*objector's land*". There is no express ground to cover:

- public utility infrastructure; or
- interfering with the operations of a public utility,

as a reason for objecting to a carrier's notification.

Without this protection, critical water infrastructure is compromised and is likely to impact on the operations of Seqwater. The expanding and evolving nature of low impact facilities/telecommunication equipment can detrimentally impact on current and future operations of Seqwater as it is difficult for our stakeholders to gauge the full impact of the proposed changes before they are implemented. Seqwater considers that it is important that there are sufficient safeguards embedded in the telecommunications regulatory regime to protect public utility assets. Seqwater recommends new reasons for objection be added to sections 2.30, 4.31 and 6.30 of the Code to include public utility infrastructure and interfering with the operations of a public utility.

Carriers should bear all risk

Seqwater is concerned by the scale of legislative amendments which are proposed for low impact facilities. Seqwater is not financially funded for, and should not have to financially absorb, the additional maintenance, repair and operating costs the proposed changes would require. Therefore, Seqwater would have to require telecommunications carriers absorb the additional costs (in full) associated with these proposed changes. Otherwise, Seqwater may be forced to pass these costs on; ultimately consumers would absorb these additional costs. This is contrary to the intended "*savings… to the community*" contemplated by the *Proposed amendments*[7]. Further, Seqwater is potentially exposed to increased drinking water quality contamination risk. This is outlined further below in Part A of this submission.

Seqwater has inherited assets via a machinery of government changes in Queensland. As such, many exiting telecommunication facilities/low impact facilities were transferred to Seqwater from various local governments. Seqwater does not have the full circumstances/background for some of these existing

[6] Refer to Guidelines, at p9.
[7] Australian Government, Department of Communities and the Arts, '*Possible amendments to telecommunications carrier powers and immunities, Consultation Paper June 2014*', at p4.

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telecommunications facilities (for example, when they were installed). In some circumstances, Seqwater has not been able to identify ownership of some low impact facilities attached to its infrastructure due to there being no statutory notices (displaying details of the asset owner) affixed to the telecommunication equipment. This is a real security/safety risk for Seqwater because it is difficult to identify modification to our infrastructure including our control of infrastructure (in particular relating to Radio Frequency equipment).

Photographs No. 1 and 2 showing unidentified telecommunication facilities (boxed in red outline) at RFNSA Site No. 4161001 located at Alexandra Hills Reservoir located at 36A Alexandra Circuit, Alexandra Hills Queensland.

Seqwater requires that the telecommunications carriers take full responsibility for all risks the proposed changes would precipitate including:

- mechanical failure from telecommunication equipment which impacts on Seqwater's water infrastructure;
- mandatory removal of existing old/redundant telecommunication equipment associated with low impact facilities and requirements to make good.

Seqwater has observed that some carriers have not removed redundant telecommunication facilities from its water infrastructure (and made good) despite the telecommunication regulatory regime requiring the carrier to restore land. Currently, the *Telco Act* does not provide for mandatory timeframes for the removal of redundant telecommunications facilities. In our view, a carrier should be required to remove redundant telecommunication facilities within a requisite period of time (say within 25 business days) of the equipment becoming redundant, end of life or no longer required by the carrier. Seqwater recommends an amendment be proposed to the *Telco Act* introducing mandatory timeframes for the removal of redundant equipment by carriers at their cost.

Further, Seqwater is experiencing difficulties with the following:

- carriers tapping into Seqwater's electrical supply to run telecommunication equipment instead of making provisions for separate and independent electrical supply. This impacts on Seqwater's operations by drawing on power needed to run water treatment plants. This has the potential for Seqwater to lose the ability to operate water supply infrastructure in the event of electrical power failure if too much power is drawn from the use of telecommunication equipment. For a number of Seqwater sites, power is from a single source network which is likely to impact on water supply. The costs associated with these power failures have been at the expense of Seqwater, not carriers. These costs should be met (in full) by carriers;

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- risk allocation - a common behaviour from the carriers is not to accept the reasonable transfer of the associated financial risks to them. Seqwater's requirements are typically challenged with carriers often citing administrative reasons (rather than the business risk quantification) for being unable to comply with Seqwater's requirements. The issues commonly revolve around indemnities and insurance requirements. This behaviour is held to be unreasonable; and

- access to critical infrastructure being blocked in particular by the volume of low impact facilities on a single structure, for example to water supply reservoirs[8]. This undermines Seqwater's ability to access and manage our water supply structures (including carrying out required operations and maintenance, for example, sending in reservoir divers) and has the potential to impact on the loss of control over water quality. It is also a safety risk for Seqwater personnel and other users of Seqwater sites including carrier personnel and personnel from government agencies (state emergency services, police, ambulance and fire brigade).

Photograph No. 3 showing blocked access hutch to water reservoir at RFNSA Site No. 4161001 located at Alexandra Hills Reservoir located at 36A Alexandra Circuit, Alexandra Hills Queensland.

Any proposed telecommunication upgrades to original telecommunication facilities (as envisaged by the *Proposed amendments*) will have a detrimental impact on Seqwater's operations. Seqwater seeks amendments to the *Telco Act* to require carriers to have telecommunication equipment fitted to separate and independent structures sourced with its own independent electrical supply as opposed to affixing equipment onto Seqwater's water reservoir supply structures.

Additionally, many of Seqwater's assets were:

- constructed before 1960s and are approaching their end of infrastructure life. Planned water supply upgrades of our dams and water infrastructure are required to meet increasing population growth in South East Queensland. These required upgrades may be hindered by limited access associated with the placement and extent of installed telecommunication facilities (size and quantum considerations);

[8] Seqwater has experienced carriers particularly favouring Seqwater's water supply reservoirs due to elevation of these facilities and costs saving as the carrier does not have the expense of erecting separate telecommunication towers to house its telecommunications equipment.

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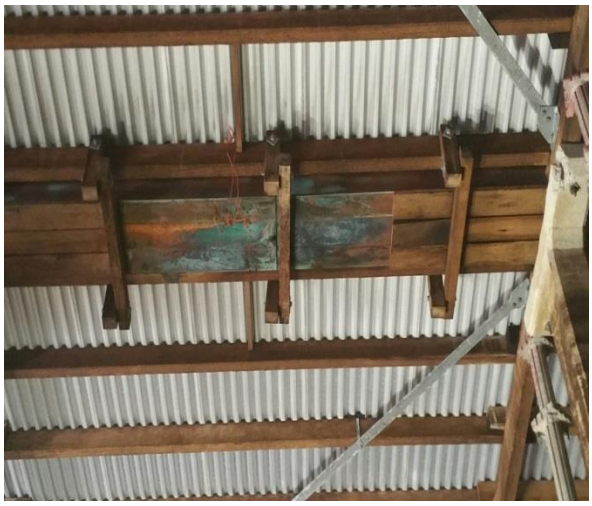
- not designed for additional structures/host loads. For example, the roof of Seqwater's water supply reservoirs were not designed to carry loads but to provide a roof cover from the elements such as weather run-off and vermin control (refer to Photograph 4 below).



Photograph No. 4 showing roof timber trusses of the reservoir at RFNSA Site No. 4211019 located at Molendinar Water Treatment Plant at Jacobs Road, Molendinar, Queensland.

Seqwater has seen workmanship issues from the installation of low impact facilities by carriers and lack of maintenance/upkeep (refer to Photographs No. 5, 6 and 7). There have been gaps from probes to feed Seqwater's Supervisory Control and Data Acquisition (**SCADA**) which over time wears from weather impacts. There has been vermin ingress to our water supply reservoirs at these points which can also impact drinking water quality.

Photograph No. 5 showing weathering (including rust deposit) associated with installation of low impact facility attached to rooftop of Seqwater water supply reservoir at Wivenhoe High Level Reservoir, Queensland. The conduit across roof has caused corrosion. Rust has the potential to ingress water supply and increase lead levels.

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Photograph No. 6 showing poorly installed telecommunication conduits/cables through water reservoir at RFNSA Site No. 4161001 located at Alexandra Hills Reservoir located at 36A Alexandra Circuit, Alexandra Hills Queensland.

Photograph No. 7A showing a carrier's air-conditioning units attached to the exterior of the water supply reservoir at RFNSA Site No. 4161001 at Alexandra Hills Reservoir located at 36A Alexandra Circuit, Alexandra Hills Queensland. The photograph also shows core cables have been core drilled through the wall of the reservoir.

Photograph No. 7B. showing a carrier's air-conditioning cables (related to Photograph 7A) within the water supply reservoir at RFNSA Site No. 4161001 at Alexandra Hills Reservoir located at 36A Alexandra Circuit, Alexandra Hills Queensland.

Photograph No. 7C showing a carrier's air-conditioning cables (related to Photograph 7A) within the water supply reservoir at RFNSA Site No. 4161001 at Alexandra Hills Reservoir located at 36A Alexandra Circuit, Alexandra Hills Queensland.

Land access and security

Seqwater is concerned about supervision and access of its sites by carriers because our rights to object are limited in the event that telecommunication practices are poor.

There are security risks[9] (such as the potential for unlawful interference) associated with carriers accessing Seqwater sites as enabled by Schedule 3 of the *Telco Act* to install telecommunication facilities. In many instances carriers are seeking uncontrolled 24 hour access. On many occasions carriers have failed to lock up and make sites secure (refer to Photograph No. 8).

[9] Queensland Audit Office, Security of critical water infrastructure Report 19: 2016-17 (**QAO Report**).

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Photograph No. 8 showing lock not installed correctly by a carrier and door able to be opened at RFNSA Site No. 4161001 located at Alexandra Hills Reservoir located at 36A Alexandra Circuit, Alexandra Hills Queensland.

Seqwater has critical infrastructure such as dam walls and weirs that act as bridges (and roadways). Seqwater also has bulk water pipelines attached to bridge structures. It is concerned with any proposed telecommunication facilities being attached to its bridges which are likely to interfere with operations of Seqwater. Many of our bridges have load restrictions and are prone to flooding in heavy rain events. Therefore, placing telecommunication facilities on bridge structures is a safety and security risk for Seqwater. Seqwater opposes any telecommunication facilities to be installed on it bridge structures.

Photograph No. 9 showing Mount Crosby Weir Bridge, Queensland. The photograph also shows Seqwater's water pipeline along bridge structure. The weir bridge acts a dam wall and roadway.

Seqwater also requires legislative safeguards be embedded into the *Telco Act* to protect public utility assets from unlawful interference.

Conduits & cables

The telecommunication regulatory regime:

- puts an onus on the landowner/occupier/public utility if they require their assets to be relocated. In Seqwater's experience, carriers have been reluctant to participate in the relocation of their telecommunication facilities in a timely and cost effective manner; and
- prevents persons tampering with carrier infrastructure however how can the owner verify if these low impact facilities have been installed in accordance with (and authorised under) the *Telco Act*.

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Seqwater recommends that where a low impact facility exists carriers be require to lodge with the title's/land's office a notice (with relevant documentation) for registration on title (for example, similar to a vegetation notice).

Telecommunication infrastructure can impede Seqwater's operations within easements and on Seqwater property. The impact is often not realised until Seqwater is required to undertake operational works.

Seqwater has experienced that there are additional ongoing costs every time Seqwater needs to undertake operational works near a carrier's infrastructure. Fees are charged by carriers to:

- obtain details of their installation; and
- relocate telecommunication infrastructure.

For this reason, Seqwater recommends that the Australian Government implement a legislative framework for public utilities to notify carriers that it requires relocation of its telecommunication facilities to accommodate water infrastructure upgrades/works.

Safety of drinking water supply & personnel

Seqwater is required to operate, maintain and repair its water supply infrastructure and also ensure the safety of drinking water quality is maintained at all times in accordance with the *Guidelines* and the *Queensland Water Supply*. As the owner of water supply reservoirs, Seqwater is also obliged to meet work, health and safety requirements.

The *Guidelines* state, "*Water supply reservoirs represent an important barrier preventing the contamination of drinking water quality and an operational monitoring location for the ongoing verification of drinking water quality. Any breach of reservoir integrity can allow the potential for the contamination of the drinking water supply to occur and un-impeded site access is required by water utilities at all times in order to conduct regular surveillance and monitoring activities.*"[10]

The *Guidelines* also provide that the "*potential negative impact* [associated with the installation of telecommunication facilities] *upon drinking water quality and the ability of water utilities being able to meet their ongoing legislative obligations to protect community health in this regard has not been understood or well appreciated by the wider telecommunications industry*".[11]

It is noted that the Consultation Paper or the *Proposed amendments* have not been accompanied by any expert findings/considerations as to the potential hazards associated with increasing the size of radiocommunciation and satellite dishes, signal strengths and zone of influences (for example, the potential for exposure to maximum radiation exposure levels) as sought by carriers. This is a safety risk for Seqwater personnel and other personnel accessing and working in and around Seqwater sites.

Further, all persons accessing public utility infrastructure within the zone of influence (within Radio Frequency (RF) Hazard Area or areas of public/occupational limits/exclusion zones) must be appropriately trained and hold accreditation from National Association of Testing Authorities, Australia (**NATA**). This causes delays to, and in some instances has prevented maintenance works being carried out by Seqwater. This adds further unnecessary safety risks and financial expense for Seqwater and impacts on the operations of Seqwater as a public utility.

[10] Refer to Guidelines, at p8.
[11] Id at p9.

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Notification requirements under clause 17 of Schedule 3 of the Telco Act

Seqwater understands that carriers only have to deliver one LAAN for its proposed activities which may impact on more than one parcel of land under the control of Seqwater. In some circumstances it is unclear to which parcel of land the LAAN relates. Seqwater requests that the notification provisions be amended to require carriers to issue to a land owner/occupier/public utility a separate LAAN with respect to each parcel of land impacted by a proposed activity irrespective of ownership. A LAAN should also be accompanied with a site overlay plan showing the proposed location of the low-impact facility so that there is sufficient information for public utilities to assess the LAAN.

LAAN to be accompanied by engineering certification

When dealing with public utilities, Seqwater recommends that a carrier's LAAN should be accompanied with:

- certification from a registered engineer (within the jurisdiction the land is situated) confirming:
    - that a carrier's proposed installation does not impede a public utilities ability to use the water infrastructure (for example, water supply reservoir) for its purpose or interfere with other equipment including telemetry equipment ;
    - public utilities infrastructure is not structurally impacted by telecommunication installation; and
- a full set of construction and engineering drawings relating to the low-impact facility.

From an engineering perspective, it is difficult for Seqwater to consider and assess engineering impacts and whether a carrier's proposed activities can be structurally supported and meets good design and build requirements in particular in relation to telecommunication structures attached to water infrastructure in the absence of such certification. Seqwater is concerned with taking on any engineering/construction risk when it should be the responsibility of the carrier not that of the land owner/occupier/public utility. For these reasons Seqwater recommends that a LAAN is accompanied by certification endorsed by a registered engineer to allow Seqwater to properly assess the LAAN within the limited legislated timeframes. Seqwater also recommends legislative amendments be made which require carriers to provide engineering certification post completion of the installation of low impact facilities to ensure its structural integrity.

A further concern for Seqwater is the potential for shear forces to impact on certain water infrastructure due to number of low impact facilities surrounding the perimeter of reservoir wall. This has the potential to cause a failure of the roof line. For this reason, Seqwater recommends that the number of low impact facilities installed on water infrastructure be capped at any point in time. Seqwater's preference is for carriers to be required to provide for separate/independent structures to house telecommunication facilities.

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Fig 1. Aerial photo showing the 2 proposed locations.

Fig 2. Location A as viewed from the NW

Photographs No. 9 and 10 showing more than 40 low impact facilities crowding the tower at RFNSA Site No. 4161001 located at Alexandra Hills Reservoir located at 36A Alexandra Circuit, Alexandra Hills, Queensland. The photographs also show a carrier's proposed location under a recently delivered LAAN for a further low-impact structure on top of the reservoir and alongside Seqwater's access hutch to the water supply reservoir.

Seqwater further request that LAANs should contain a statement by the carrier which outlines what steps a carrier has taken to co-locate with existing carrier/carriers on the land where there is an alternative carrier telecommunication facility on the land. In Seqwater's experience carriers have made little effort to provide such information despite requests. This behaviour is unreasonable.

The telecommunication regulatory regime does not require the carrier to consider existing and future other users of land/public utility infrastructure when issuing a LAAN on a public utility. It should also be noted that other government agencies (including state emergency services) also use Seqwater land/infrastructure) and the proposed amendments are likely to impact on the operations of these government agencies to carry out their functions. Seqwater recommends that existing and other future users of land are taken into consideration for the purposes of issuing a LAAN with respect to public utilities.

Withdrawal of a LAAN

In some instances, Seqwater has had multiple LAANs issued by the same carrier (or related entity) with respect to the same type of activity without the carrier delivering formal notification of withdrawal of prior a LAAN. This can impact on the operations of Seqwater having to unnecessary use additional resources to deal with multiple LAANs. It also causes confusion as to which LAAN is operating. For these reasons, Seqwater recommends that the legislation be amended to require a carrier to formally notify owner/occupier/public utilities when a LAAN is being withdrawn and where the notification has not occurred any new LAAN (relating to the same activity/land) is deemed to be invalid.

Referral of objection to TIO

Under the current telecommunication regulatory regime, a referral to the TIO is unilateral by the carrier only. A public utility should be able to refer an objection directly to the TIO at the end of the consultation period if a carrier refuses to make reasonable efforts to enter into an agreement with a public utility where the proposed activity is likely to affect the operation of the public utility. Currently, the TIO does not have jurisdiction to deal with an objection until the carrier refers the dispute to the TIO. This has been

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problematic for Seqwater when carriers have not referred objections to the TIO (despite requests) and instead have issued multiple consecutive LAANs with respect to the same activity impacting on Seqwater's ability to make valid objections for consideration of the TIO. Submissions are made by Seqwater in relation to time for objection under Proposal 19 in Part B of this submission.

Agreement with public utilities

In Seqwater's experience, carriers have made little effort to negotiate and enter into agreements with Seqwater. Some have claimed that any impact would not be evident until after the installation of the low impact facility.

The requirement for the carrier to make "*reasonable efforts*" to enter into an agreement with a public utility where the proposed activity is likely to affect the operation of the public utility needs to be more robust. Seqwater recommends the legislation provide for minimum requirements as to what constitutes "*reasonable efforts*".

Audits of telecommunication facilities

Given the concerns raised by Seqwater in these submissions it is recommended that the Australian Government at its cost undertake mandatory and regular audits of installation of telecommunication equipment to ensure carriers are complying with the requirements of telecommunication regulatory regime.

Part B - Responses

Seqwater sets out below its views on *Possible amendments* as per the Consultation Paper.

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

1. Definition of co-located facilities – Proposal – LIFD Part 1, Section 1.3

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

Yes, this proposed change will likely increase the amount of low impact facilities (including design limits) installed by carriers on Seqwater land and water supply infrastructure.

This amendment is likely to exacerbate issues Seqwater has in regard to the quantum of facilities attached to water reservoirs and promotes the concept of a public utility structure being considered as an original facility, i.e. having the ability to provide co-location opportunities. There are several examples where public utility structures are heavily overcrowded with low impact facilities that their use as public utility structures can no longer be supported (see photographs 9 and 10 above), thereby interfering with Seqwater's operation as a public utility (refer to examples provided in Part A of this submission).

The amendment further erodes the ability of Seqwater to undertake its public utility functions and can impede future functions of Seqwater using the asset and impacting on water security and quality and future upgrades.

In addition to concerns raised in Part A of this submission, other engineering concerns for Seqwater include:

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- the distance defining this co-location rule is not specified in the *Proposed amendment*;
- maintenance costs for Seqwater would likely be made significantly more expensive, by having one or more telecommunications assets installed;
- increased compliance costs would be likely for Seqwater, for example, ensuring safety requirements are met due to potential exposure to radiation hazards;
- the integrity of the infrastructure being used to support telecommunications assets has not been scoped and therefore there is an un-scoped risk that these structures would not safely accommodate the load;
- structural certification undertaken by the telecommunications carrier would be required for each installation (refer to Part A of the submission). This would delay telecommunications works, be difficult to resource, and costly to both the telecommunications carriers paying for the structural certification, and Seqwater's due diligence checking of structural assessment for each installation.

2. Local government heritage overlays– Proposal – LIFD Part 2, Section 2.5 (7A)

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

Yes, there may be a risk that matters listed in a heritage overlay or other kind of heritage map list or other document (however described) relating to heritage under a local government by-law, rule or conservation for an area of environmental significance will be excluded and jeopardised.

3. Radio shrouds as an ancillary facility – Proposal – LIFD Part 3, Section 3.1(4)

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?

a. No, shrouds should not be considered ancillary in the LIFD. They should be considered distinct facilities in the Schedule of the LIFD.
b. Shrouds will be large in size as per increase in size of low impact facilities (infrastructure and antennas heights) proposed in LIFD Part 3, Section 3.1(4)(aa) and will take up space/footprint.
c. A lot of Seqwater's structures were built before 1960s and were not designed for additional host structures/loads (refer to Part A of this submission).
d. Where shrouds are proposed for public utility structures, they should not be considered the same as low-impact facilities, due to their size as they increase the impacts on Seqwater's ability to access and maintain its public utility structures. Design implications for loading and wind rating further demonstrate, that these are not suited to Seqwater public utility structures. Additionally, new designs for Seqwater infrastructure have not been designed to consider host loads/wind ratings of low impact facilities.

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?

Yes, Seqwater submits that structural certification (pre and post construction) undertaken by the telecommunications carrier (at their cost) should be a criteria for each shroud installation to determine impact on water infrastructure and build and design compliance.

4. Size of radiocommunications and satellite dishes– Proposal – LIFD Schedule, Part 1, Items 1A and 5A

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)?

a. Yes, Seqwater is concerned with the consequences of a 0.6m increase in diameter which increases the footprint from a safety and engineering perspective. Increase of 1.8 to 2.4 almost doubles the size (area) of a dish i.e. 2.5 m^2 to 4.5 $m^{2.}$

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b. Additionally, the integrity of the public utility infrastructure being used to host telecommunications facilities has not been scoped nor the impacts for wind shear load considered. There is the potential for unscoped risks to Seqwater on the safety of structures once the telecommunications facilities are installed.
c. Seqwater is concerned with the proposed increase in circumstances where there is a high volume of low-impact facilities attached to water supply reservoirs (refer to Photographs 9 and 10);
d. Seqwater sites are predominately located a high growth regions with a dense population which may be zone rural/industrial. Seqwater is not supportive of these size increases as there is demand pressure for upgrading Seqwater's water infrastructure for drinking water supply purposes.
e. Proposed future upgrades of Seqwater's water infrastructure may be impacted by the proposed increase having the potential to impact water quality and supply.

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)?

a. Yes, as mentioned above in paragraph 3.1, increasing the size of telecommunication equipment directly impacts on Seqwater's ability to access and maintain our public utility structures. Design implications from weight loading and wind rating further demonstrates these are not suited to public utility structures, i.e. the public utility structures were not built to accommodate loads from telecommunications facilities.
b. An increase in size, reduces space/footprint for Seqwater to adequately maintain our water infrastructure and comply with legislative requirements to provide safe, secure, resilient and reliable bulk drinking water for South East Queensland. Seqwater has limited access as it has to consult with the RFNSA to ascertain access requirements for certain water asset impacted with telecommunication facilities. These restrictions can impact on Seqwater's ability to maintain our sites and there is the potential for exposure to telecommunication hazards from carrier assets (refer to Part A of this submission).
c. Seqwater has had carriers install their tower bracket directly across our access manhole/hutch preventing access to the reservoir for maintenance works (refer to Photograph No. 3 above). Refurbishment/maintenance works are almost impossible with the amount of low impact facilities in place (refer to Photographs 9 and 10). Seqwater has been impacted on certain reservoirs because of the installation of carrier facilities on them.

5. Maximum heights of antenna protrusions on buildings (LIFD Schedule, Part 1, Item 3)

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

a. No because many of Seqwater structures were built before 1960s and were not designed for additional structures/host loads (refer to Part A of this submission).
b. Where these are proposed for public utility structures, they should not be considered the same as low-impact facilities, due to their size, increasing the impacts on Seqwater's ability to access and maintain its public utility structures. Design implications for loading and wind rating further demonstrate these are not suited to public utility structures. Structural certification should be undertaken by the telecommunications carrier for each installation (pre and post construction).

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?

No for the same reasons provided at paragraphs 5.1.

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6. Use of omnidirectional antennas in residential and commercial areas (LIFD Schedule, Part 1, Item 4)

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

a. Yes, because there are currently Radiofrequency Electromagnetic Energy (RF EME) assurances that devices are pointed away from areas accessed by site personnel. Seqwater is concerned about safety implications from omnidirectional antennas to Seqwater personnel and other users of its sites and resident neighbours.
b. Omnidirectional antennas should not be attached to public utility structures as it does not take into account access and maintenance requirements as part of the operations of a public utility.
c. Engineering concerns include:
    i. maintenance and operational costs for Seqwater would likely be made significantly more expensive, by having one or more telecommunications assets installed;
    ii. increased compliance costs for Seqwater would be likely, for example, ensuring safety requirements are met due to exposure to radiation hazards.
d. The integrity of the water infrastructure being used to support telecommunications facilities has not been scoped and therefore there is an un-scoped risk for Seqwater that these structures would not safely accommodate host loads.
e. Wind shear and impacts on the structure has not been scoped.
f. Structural certification undertaken by the telecommunications carrier would be required for each telecommunication installation. This would delay telecommunications works, be difficult to resource, and costly to both the telecommunications carriers paying for the structural certification, and the Seqwater's due diligence checking of structural assessment for each installation.

7. Radiocommunications facilities (LIFD Schedule, Part 1, Items 6 and 6A)

7.1 Does the proposed approach raise any issues?

Yes because the placement of the cabinet on water supply infrastructure is important as Seqwater needs to access critical infrastructure. There is also a concern that this may raise the number of cabinets installed on the same infrastructure causing congestion (for example, there is limited space on rooftops of Seqwater's reservoirs) and load considerations.

7.2 Are the proposed dimensions for these facilities appropriate?

Although a $0.2m^3$ increase is not visible, the potential impacts associated with weight and emissions are unknown. Seqwater is of the view that these facilities should only be located where operationally viable to do so for reasons canvassed at paragraph 5.1.

8. Equipment installed inside a non-residential structure in residential areas (LIFD Schedule, Part 1, Item 8A)

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?

a. Seqwater is not supportive of this proposed amendment because some of Seqwater's existing structures are located in residential areas (for example, water reservoirs).
b. No internal roof space exists within the shell of water reservoirs and other structures.
c. There is a security risk to Seqwater if this is occurring inside buildings in the water treatment plant on the basis that there is potential for a loss of control over drinking water quality. There is a security risk (such as the potential for unlawful interference) identified the QAO Report. The QAO Report found, Seqwater did not have adequate processes in place to

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maintain water supply in the event of their systems being hacked. The report made several recommendations to upgrade cyber security and emergency processes.

d. This may have implications for Seqwater's residential housing stock where dwellings, (previously used for worker accommodation) are sited adjacent reservoir and water treatment plant facilities. In these instances proposed facilities should be required to have development approval. This would provide Seqwater an opportunity to assess the telecommunication facility and impacts more appropriately.
e. Implications for Seqwater include increased compliance costs, for example, ensuring safety requirements are met due to potential of exposure to radiation hazards (refer to Part A of this submission). Electrical safety, could be compromised if the telecommunications carriers use different fuses and cut-outs from the standards used by Seqwater, this has the potential to cause risk of heat/spontaneous ignition/fire risks.
f. A lot of Seqwater structures were built before 1960s and roof spaces were not designed to host services/telecommunication facilities as outline in Part A of this submission. Scheduling of maintenance of structures would be complicated by needing to arrange access with telecommunications carriers, which may delay critical repairs or reduce the ability of Seqwater to carry out its functions as a public utility.

9. Tower extensions in commercial areas (LIFD Schedule, Part 1, Item 9)

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

a. No objections for extensions for purpose built towers which are independent of Seqwater infrastructure on the basis that it is limited to one extension for the life of the telecommunication asset.
b. Structural certification undertaken by the telecommunications carrier should be required for each tower (pre and post construction).

10. Radiocommunications lens antennas (LIFD Schedule, Part 1, Item 10)

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?

a. No, it is not appropriate for the same reasons canvassed under paragraph 8.1 above.
b. It is also dependant on the structure it is being installed on. Seqwater considers a 4m3 protusion a substantial structure especially when it is located on sites with existing water infrastructure.
c. A facility of this size is definitely not suited to be attached to a public utility structure. Design implications for weight loading (many of Seqwater's roof trusses for water supply reservoirs are constructed of timber as depicted in Photograph No. 4) and wind shear impacts further demonstrate these are not suited to public utility structures, i.e. the public utility structures were not built to accommodate telecommunications facilities. This is also the potential cause access and safety issues for Seqwater as outlined in Part A of this submission.
d. This lens antenna is a significant increase in the footprint for the telecommunications infrastructure. Increased compliance costs would be likely for Seqwater, for example, ensuring safety requirements are met due to the potential for exposure to radiation hazards.
e. The integrity of the infrastructure being used to support telecommunications assets has not been scoped and therefore there is an un-scoped risk that these structures would not safely accommodate the load.
f. Structural certification undertaken by the telecommunications carrier would be required for each installation (pre and post construction) as canvassed in Part A of this submission. This would delay telecommunications works, be difficult to resource, and costly to both the

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telecommunications carriers paying for the structural certification, and the Seqwater's due diligence checking of structural assessment for each installation.

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

From a public utility perspective, no. This type of antenna should only be allowed in areas where operationally practicable, subject to development approval and not interfering with the operations of a public utility.

11. Cabinets for tower equipment (LIFD Schedule, Part 1, Item 11)

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

Yes, it should only occur where operationally practicable. Electrical safety could be compromised if the telecommunications carriers use different fuses and cut-outs from the standards used by Seqwater. Additionally it depends on the availability of space. See also concerns raised in Part A of the submission relating to electrical safety.

12. Size of solar panels used to power telecommunications facilities (LIFD Schedule, Part 3, Item 7)

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

a. Seqwater is not supportive of 12.5m2 size of solar panels proposed as they could not be considered low-impact, i.e. they would impede access and prevent maintenance/upgrade activities and add to the existing problems with restrictive power connections.
b. There is insufficient room on existing Seqwater water towers for solar panels. Any augmentation to reservoir roof to be borne by telecommunications carriers. If installed on the ground, this would likely create a hazard when vegetation clearing occurred in the corridor. If installed on a reservoir wind shear and impacts on structure by these extended telecommunications assets has not been scoped. There is an un-scoped risk that the safety of the structure the telecommunications assets is installed.
c. Structural certification undertaken by the telecommunications carrier would be required for each installation (pre and post construction). The integrity of the infrastructure being used to support telecommunications assets has not been scoped and therefore there is an un-scoped risk that these structures would not safely accommodate the load.
d. Implications for Seqwater include increased compliance costs, for example, ensuring solar accreditation is met and addressing reflectivity.

13. Amount of trench that can be open to install a conduit or cable (LIFD Schedule, Part 4, Item 1)

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?

The trenching and laying operations need to take into account all safety requirements inside Seqwater land and facilities and not just the possibility that telecommunications work to be carried out more quickly in the short term. This extension could not be supported within our water structures or on our land unless it was assessed on a case by case basis.

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?

a. It is not acceptable for Seqwater to lose access to our sites for up to 8 hours at a time along 200m of trenching. Seqwater requires emergency access 24/7 for operational needs due to

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access critical infrastructure (this can be resolved by developing emergency access plans and providing temporary trafficable plates bridging on sites).

b. Additionally, this is a WHS issue and needs to be assessed for each site by a WHS advisor paid for by the telecommunications carrier.

14. Cable & conduit installation on or under bridges (LIFD Schedule, Part 4, Item 2)

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

a. Seqwater is not supportive of this proposal. Seqwater has bridges that act as dam walls and weirs. Seqwater recommends dams and weirs are excluded (these are not to be considered with the ambit of bridges), refer to Part A of this submission. Other proposed carrier installations must be considered on an individual basis.

b. Low impact installations do not require site inductions to manage any of these risks and there is minimal scope to object to low impact installation requests. Seqwater has approximately 50 bridges and some have heritage protection.

c. Seqwater believes, carriers must provide their own conduits rather than utilising existing conduit space which has the potential to impact of future site water infrastructure upgrades. New installation on structures must be certified by a registered engineer (pre and post construction), considering the likelihood of flooding damage, overtopping and safety. Damage to bridges can occur if not correctly installed which can impact drinking water supply.

d. There is sensitive infrastructure already installed on our bridges that should be protected. Additionally lead paint, asbestos, workmanship can pose a serious health risk.

e. There is a security risk (such as the potential for unlawful interference) identified in the QAO Report which found, Seqwater did not have adequate processes in place to maintain water supply in the event of their systems being hacked. The report made several recommendations to upgrade cyber security and emergency processes.

f. The engineering concerns regarding bridges include damage done during installations, and the costs involved in protecting or relocating conduits (and cables) during bridge maintenance or replacement, or in the case of flood damage. This is not an insignificant or isolated issue.

15. Volume restrictions on co-located facilities (LIFD Section 1.3 and Schedule, Part 7, Items 2 and 3)

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?

a. Yes, there are issues for Seqwater associated with removing volume limits because it is likely to negatively impact site access and operations of a public utility. Seqwater has future operational requirements for its sites and requires telecommunication remove telecommunication facilities from Seqwater structures onto separate telecommunication towers (refer to Part A of this submission).

b. Section 4.13 of the Code is not stringent enough for co-location. There has been backlash from carriers about negotiating with other carriers on Seqwater sites. Seqwater recommends for public utility sites, co-location should occur on a separate telecommunications tower independent of Seqwater infrastructure (limit this to one per site).

c. There are several examples of where our water towers can no longer function in accordance with their stated purpose (public utility), due to the restrictions imposed by a proliferation of telecommunications facilities. A lot of these are due to legacy issues where Seqwater has no information about the facilities. Seqwater has been denied access to it's own assets by the placement of low impact facilities. This includes a hatch being blocked on a reservoir with no alternative access options.

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d. At present the LIFD and the telecommunication regulatory regime does not define public utility structures in terms of their ability to provide co-location opportunities, and capacity and therefore volume cannot be assessed at all. There are several examples of where our water towers can no longer function in accordance with their stated purpose (public utility), due to the restrictions imposed by a proliferation of telecommunications facilities.
e. Structural certification undertaken by the telecommunications carrier would be required for each installation. The integrity of the infrastructure being used to support telecommunications assets has not been scoped and therefore there is an un-scoped risk that these structures would not safely accommodate the load.

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?

Yes, as stated above public utility structures are unable to be assessed in terms of volume, in addition to this, there are no regulatory bodies with oversight of this issue. This is resulting in degraded infrastructure assets that are so covered in telecommunications facilities they are not able to be accessed safely to undergo maintenance as required with original facilities. Co-located facilities should only be located on towers not on Seqwater infrastructure, refer to paragraph 15.1.

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

Yes, an appropriate volume limit and siting design requirements (directed by the public utility only) should be included within LIFD (Part 7). The capacity and volume criteria as they relate to public utility structures should be reflected through the legislation to ensure the safe use and maintenance of these structures are the paramount concern and the attachment of low-impact facilities are able to be refused without referral to the TIO.

Structural certification undertaken by the telecommunications carrier would be required for each installation (refer to Part A of this submission). The integrity of the infrastructure being used to support telecommunications assets has not been scoped and therefore there is an un-scoped risk that these structures would not safely accommodate the load.

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

Public utility structures should not be considered as suitable structures for location and co-location of telecommunications facilities unless by express permission of the public utility.

To demonstrate this more clearly, a public utility structure is not designed and built in accordance with specifications for housing telecommunications facilities, and where requirements for safety and structural checks are placed on original facilities (telco poles/towers), these same checks are not imposed with the same rigour on public utility structures.

Further some structures are old and at risk of degrading beyond their capacity to perform public utility functions and are simply not appropriate for housing telecommunications facilities. The responsibility for the structural integrity of the public utility structure cannot be deferred to the carrier, who holds no level of responsibility for the structural integrity of the public utility structure. This is not an equitable or sustainable outcome.

Seqwater is concerned about supervision and access on site, our rights to object are limited if telecommunication practise are poor. Seqwater has seen workmanship issues from installation of low impact facilities, there have been gaps from probes to feed electronic SCADA which over time wears from weather impacts. There has been vermin ingress to our reservoirs at these points which can impact drinking water quality (refer to Photograph 7).

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16. Updates to environmental legislation references in the LIFD (LIFD, various)

16.1 Are there any issues with the proposed updates?

The telecommunication regulatory regime itself does not define what a law about "the use of land" or "tenancy" or "planning is" is.

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

No comment.

Proposed amendments to the Telecommunications Code of Practice 1997

17. Clarify requirements for joint venture arrangements (Tel Code, Section 1.4(4))

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?

Yes, there are issues associated with security and other unacceptable risks for Seqwater. Seqwater is concerned about the implications of having only one signatory regarding insurances, liabilities and warranties and how these are shared/operate amongst the carriers involved in the joint-venture arrangement, in particular if the carrier parties are in dispute or in the absence of any formal joint-venture agreement in place or the legislation not providing for joint-several liability and requirement for adequate insurance arrangements. Seqwater recommends that if this proposal proceeds, then:

- a definition of "*joint-venture arrangement*" be included in Schedule Dictionary of the Code; and
- any joint-venture arrangement should require all carrier parties to the joint-venture to enter into a formal joint-venture agreement which contain joint-several liability provisions and adequate insurance arrangements.

18. LAAN objection periods (Tel Code, Sections 2.31, 4.32 and 6.31)

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, it is not reasonable because there can be uncertainty when a notice is deemed to be received whereas the date work is expected to commence is fixed creating more certainty of timeframes. There could be a risk that work is commenced before a landowner/occupier/public utility is in receipt of a LAAN. There is also a risk if a LAAN is subsequently deemed invalid then work may be incorrectly commenced by a carrier. For these reasons, Seqwater opposes the proposed amendments to sections 2.31, 4.32 and 6.31 of the Code.

The proposal has the effect of reducing timeframes from "*at least 5 business days*" to "*within 5 business days*" this thereby reducing the period by 1 business day for Seqwater to assess and respond to a LAAN. This reduction impacts on the internal operations of Seqwater as it is required to consult with internal and external stakeholders including obtaining operational and engineering advice on a carrier's proposal (installation of telecommunication facilities in particular low-impact facilities proposed by a carrier to be attached to Seqwater infrastructure). Seqwater is likely to encounter difficulties operating in this proposed reduced timeframe. Seqwater recommend increased timeframes be given to public utilities say 10 days to respond to a LAAN.

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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 time period for land owners and occupiers to object to carrier activities is deficient in particular, for public utilities. It can be difficult to develop an informed business position and consult with stakeholders, and potentially prepare reasons for objection/s, under the current provisions. There are also delegation considerations for a public utility that need to be taken into account. Seqwater expects to experience the same difficulties with the proposed amendment of "*5 business days from receipt of a notice*". In our view, the proposed amendment is not an equitable arrangement as it places the onus on Seqwater, not the telecommunications carriers regarding planned activities specified in a LAAN.

Seqwater has experienced with the receipt of some LAANs, carriers have provided very poor description of proposed activities. For the reasons canvassed in Part A of the submissions, Seqwater recommends that LAANs should require better quality information detailing the method for attachment of low impact facilities to public utility structures, not just the carrier's standard/generic design drawings and a photomontage.

19. Allow carriers to refer land owner and occupier objections to the TIO (Tel Code, Sections 2.32, 2.36, 4.32, 4.37, 6.32 and 6.36)

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

Yes, there are issues because it potentially shortcuts the process for meaningful feedback and pre-empts the basis for a land owner's/occupier's reasons for objection to a LAAN. It is also likely to cause confusion between the parties (the carrier/land owner/public utility) as to who will be lodging the objection with the TIO and may also cause:

- multiple and potentially inconsistent objections being lodged by each party with the TIO; or
- failure to lodge an objection (within the prescribed time period) because a party anticipates the other party will be lodging the objection but does not do so.

Seqwater also recommends it should not be at the carrier's "*own discretion*" as any discretion could be exercised by carriers to circumvent the requirements under clause 4.6 of the Code which require carriers to make "*reasonable efforts*" to enter into agreements with public utilities if a low-impact facility activity of a carrier is likely to effect the operations of a public utility.

20. Updates to references in the Tel Code (Tel Code, various section)

20.1 Are there any issues with the proposed changes?

Yes, Seqwater has the following concerns with the proposed changes:

a. Proposed sections 2.32, 4.33 and 6.32 of the Tel Code - The amended proposal for situation 2 is opposed for the same reasons canvassed at paragraph 19 above.

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

Yes, Seqwater makes the suggestions outlined in Part A of this submission.

Seqwater seeks the following updates to the telecommunication regulatory regime:

a. amendment to section 37(f) of Schedule 3 to the *Telco Act* to provide an express exclusion for "*interfering with public utility infrastructure*";

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b. add new subclauses to sections 2.30, 4.31 and 6.30 of the Code to give effect to a new reason for objection which relates to '*public utility infrastructure'* and '*interfering with the operations of a public utility*';
c. add new subclause (c) to sections 2.26, 4.26 and 6.26 to the effect "*details of the actions taken by the carrier to co-locate with another carrier established on the land affected by a land entry activity.*";
d. add new clause to give effect to requiring carriers to formally notify public utilities when a LAAN is being withdrawn by the carrier and where the notification has not occurred any new LAAN (relating to the same activity/land) delivered by the carrier is deemed to be invalid;
e. add new clause to give effect to allowing public utilities to be able to directly refer objections to the TIO at the end of the consultation period if a carrier refuses to make reasonable efforts to entering into an agreement with a public utility where the proposed activity is likely to affect the operation of the public utility;
f. add new clause to give effect to:
    i. that the placement of telecommunication facilities and cables and other infrastructure by a carrier is not a right in perpetuity (for example, refusal by a carrier to remove telecommunication facilities that have reached end of life and must be demolished/removed from the land at the carrier's cost);
    ii. requiring telecommunication mandatory removal of redundant telecommunication equipment within a prescribed period of time (for example, within 25 business days);
g. provide legislative framework to require carries to:
    i. have a LAAN accompanied by certification endorsed by a registered engineer; and
    ii. provide engineering certification post completion of the installation of low impact facilities to ensure its structural integrity;
h. provide legislative framework which requires carriers to engage in forward planning sessions with public utilities;
i. provide a legislative framework for public utilities to notify carriers that it requires relocation of its telecommunication facilities to accommodate water infrastructure upgrades/operational works; and
j. provide a legislative framework for the TIO to undertake mandatory and regular audits of installation of telecommunication equipment to ensure carriers are complying with the requirements of telecommunication regulatory regime.

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?

No, Seqwater does not think it is reasonable for poles in rural areas for telecommunications and electricity cabling for telecommunications networks to be low-impact facilities because this amendment will allow carriers to erect multiple poles without any development approval (co-location opportunities), refer to concerns raised by Seqwater in Part A of the submission.

The telecommunication poles are used to support telecommunications and electricity cabling. The majority of Seqwater infrastructure is located in rural growth regions.

In regard to public utility land in rural areas, this amendment will allow a pole to be a low-impact facility requiring no development approval and being available as a co-location opportunity. Effectively removing all development approval requirements and not providing the public utility an

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opportunity in regard to siting or design and likely to effect the operations of a public utility including future upgrades of dams and water infrastructure.

Electrical safety could be compromised if the telecommunications carriers use different fuses and cut-outs from the standards used by Seqwater (refer to safety risk concerns outline in Part A of this submission).

Visual impacts of these towers could impact neighbours adjoining Seqwater sites and our many recreational users. There is a reputational risk to Seqwater. Seqwater needs involvement in siting and design.

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

No, low-impact facility poles should not be allowed in other areas for the same reasons mentioned above in paragraph 21.1.

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

No, Seqwater does not agree that the proposed size restriction is suitable as it would not negate from the reasons mentioned above in paragraph 21.1.

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?

Seqwater believes that there should be additional consultation requirements to ensure poles are located in the right location on the land and are not likely to effect the operations of a public utility (including future upgrades). There is the possibility that additional/other telecommunications infrastructure will be located on these poles in the future and for this reason development approval should be required for all proposed telecommunications towers/poles.

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?

In regard to public utility land and facilities, these COWS and MEOWS should be assessed for design and siting on the land to protect public utility assets and employees and reduce impacts to public utility functions. The Consultation Paper does not provide for any safety concerns as to any potential hazards associated with radiation exposure levels with temporary communications facilities.

Seqwater is concerned with the definition of "*emergency*" is limited to "installation of a facility" does not refer to natural disasters, rather the loss of communications. This proposed change should occur for declared natural disasters.

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?

The timeframe for how long they would remain is not currently defined. It should be assessed on an individual basis where proposed for public utility land and facilities.

Seqwater recommends the use similar provisions to NSW under Schedule 3A, item 17 of the NSW *State Environment Planning Policy Infrastructure 2007*.

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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?

The Act should include provision for these facilities to be assessed on an individual basis where proposed for public utility land and facilities.

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

See above.

23. Replacement mobile towers

23.1 Is the proposal reasonable?

No, Seqwater does not accept that the proposal is reasonable because the definition of maintenance is being extended from its ordinary meaning – maintenance is the care or upkeep of existing assets, not the addition of new assets and the decommissioning and demolition of an existing structure.

Seqwater submits any new replacement should be viewed as a new structure and should not be considered a low-impact facility. It should be assessed for design and siting on the land to protect public utility assets and reduce impacts to public utility functions. A public utility should be able to assess any new proposal to ensure it does not affect its operations including future expansion.

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

No, Seqwater does not consider 20 metres is a suitable distance restriction for replacement towers. This is a new tower, even if the old one is being decommissioned, and should be treated as such. Should be assessed on an individual basis where proposed for public utility land and facilities.

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

12 weeks is suitable

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?

No, an up to 20m (<10m plus 10m) height extensions of tower, can have a scenic amenity impact, which should be considered.

Who is monitoring these extensions? Structural certification undertaken by the telecommunications carrier would be required for each installation. The integrity of the infrastructure being used to support telecommunications assets has not been scoped and therefore there is an un-scoped risk that these structures would not safely accommodate the load.

There are electricity supply implications, as this would potentially draw more power if additional telecommunications infrastructure is located on the tower.

Increased compliance costs would be likely, for example, ensuring safety requirements are met due to radiation hazards.