



Submission response – Possible amendments to telecommunications powers and immunities

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ORGANISATION LOGOS



GENERAL COMMENTS

This response has been drafted to address the potential issues faced by water utilities when they have their infrastructure utilised by telecommunications carriers. The primary purpose of the water infrastructure must not be adversely impacted or diluted when used as a co-location facility by telecommunications carriers.

The provision of water is an essential service with its own statutory obligations. Whilst the proposed changes to the telecommunications carriers' powers and immunities emphasise the benefits of deregulation, these changes should not be at the expense of local water utilities. In particular, efficiency gains for telecommunications carriers should not come at the expense of local water utilities.

This submission requests that the changes to the act acknowledges that the provision of clean, safe drinking water and safe waste water treatment not be prevented or threatened by the use of the public utility's infrastructure by telecommunications carriers.

The proposed amendments increase already significant powers for the carriers to enter water utility property, and install and maintain equipment and infrastructure in ways that impose a number of challenges to the ability of local water utilities to:

- meet obligations to provide a consistent clean and safe water supply;
- meet obligations under the Work Health and Safety Act;
- guarantee the structural integrity of buildings and other infrastructure; and
- maintain equipment and other assets

In particular, the mounting of antennas, feeders and other infrastructure on to water tanks and other water and wastewater supply infrastructure should only be undertaken without compromising the ability of the water authority to operate the site. Antennas must not be placed on roofs of water reservoirs where there will be penetrations to the roofs, potentially contaminating the water supply by allowing the ingress of contaminated water and materials. Access hatches and ladders should always remain accessible, and not present any safety hazard to workers operating the water supply.

Placement of communications huts, shelters, solar panels and other ground-based components of the system should be decided under consultation with the utility, taking into account operational requirements and the locations of underground as well as above-ground assets. Access to the reservoirs / water tanks must not be impeded, including access by cranes and other maintenance vehicles.

Telecommunications carriers should enter into a licence or lease agreement with the water authority, including rental payments for the use of the site.

Access to the site by the telecommunications carrier should not jeopardize security of the site – particularly the location of the equipment should not provide an access opportunity to potential vandals. Telecommunications carriers should provide notice to the water authority when works on site are being done – this is for the work health and safety of both telecommunications workers and water authority workers.

Provision of certificates of currency for public liability insurance to be provided to the water authority when a water authority site is used by a telecommunications carrier. This includes sites where the water authority's infrastructure is used, and sites where the carrier has built their own structure on operational land.

Where a carrier installs equipment on a tower, reservoir, water tank or other structure belonging to a public utility, they must supply an engineering structural analysis to demonstrate that the structure will not be overloaded by the equipment. Use of the structure should be approved by the public utility.

The primary purpose of the structure should not be compromised by its use by carriers as a telecommunications site.

Carriers are to ensure the water authority has access to the RFNSA so that safe areas for workers are identifiable by the water authority. In instances where a power reduction is required to allow water authority workers to access the site a contact with the carrier must be provided so that this can be arranged. Emergency access to ensure safe water supply or other health and safety issues should be addressed on the same day.

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?

The co-location definition includes a public utility structure such as a water tank.

Use of a water tank as a co-location facility should not impede the structure's primary purpose of providing clean, safe drinking water to the community, nor should it impede the ability of the water authority to provide a safe workplace for its employees. As such, location of antennas on a water tank should only be permissible with the agreement of the water authority that any concerns impacting on either of these items (being safe drinking water and a safe workplace) have been satisfactorily addressed.

2 Local government heritage overlays

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

No comments

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?

No response

- 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?

No response

4 Size of radio communications and satellite dishes

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

Installation of larger dishes on existing public utility structures such as water tanks should be dependent upon a structural analysis demonstrating that the structure can support the dish. Additionally, the dish should not impede access to any access hatches, ladders or other areas of the water tank that would prevent the water authority from providing a safe drinking water supply.

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

When the dish is to be installed on a structure owned by a public utility such as a water authority or local council, the telecommunications carrier must provide a satisfactory structural analysis demonstrating that the increased load on the structure is within an acceptable safety margin.

5 Maximum heights of antenna protrusions on buildings

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

Height protrusion of 5m only acceptable if structurally sound, not interfering with existing infrastructure. Some water tanks are in residential areas, and these should be more sensitive to height increases, with a 3m protrusion being more appropriate in those areas.

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?

A 5m protrusion is a reasonable maximum if the structural analysis is able to demonstrate that this is safe. The greater the protrusion, the greater the increase in structural load on the tank or tower.

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?

No response

7 Radio communications facilities

7.1 Does the proposed approach raise any issues?

No comments

7.2 Are the proposed dimensions for these facilities appropriate?

No comments

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?

Agreement from the structure owner should be sought, and reasonable commercial arrangements for use of the structure to be entered into.

9 Tower extensions in commercial areas

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

Approval for the extension from the tower owner should be obtained, where the owner is not a telecommunications carrier. The telecommunications carrier should obtain a structural analysis to demonstrate that the tower is able to support the increased load. Where the tower is not owned by a carrier, permission from the owner should be obtained, including rental agreements as required.

10 Radio communications 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?

Increase in structural load for these levels of protrusion may be high – structural analysis should be provided to demonstrate that this will be within allowable levels should be provided to structure owners.

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

No comment

11 Cabinets for tower equipment

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

Location of the cabinets on operational land to be placed so as not to interfere with the operations of the primary user of the land. In particular, cabinets should be located so as not to interfere with the ability of a water utility to provide safe drinking water or safe operation of waste water treatment facilities.

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?

Solar panels in rural areas should not block or interfere with access by water authorities to water infrastructure.

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?

No comment

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?

No comment

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?

No comment

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?

Removing the volume restriction potentially overloads structures. Adding volume to structures not owned by carriers should be subject to a structural analysis showing that the structure will not be overloaded, and subject to commercial arrangements being entered into between the carrier and the structure owner.

Public utilities should be able to operate their business – removing volume limits should not prevent a water utility from being able to provide clean safe drinking water and a safe workplace for its workers.

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?

Increasing the volume restriction potentially overloads structures. Adding volume to structures not owned by carriers should be subject to a structural analysis showing that the structure will not be overloaded, and subject to commercial arrangements being entered into between the carrier and the structure owner.

Public utilities should be able to operate their business – removing volume limits should not prevent a water utility from being able to provide clean safe drinking water and a safe workplace for its workers.

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

No comment

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

Co-located facilities where the co-location is a public utility structure should allow for the provision of the original intention of the structure to be given primary importance. The co-location should not prevent the utility from providing the original purpose of the structure to the original standard. In particular, provision of a safe supply of drinking water should not be compromised by the addition of a co-located telecommunications facility or increase in size of a co-located facility.

16 Updates to environmental legislation references in the LIFD

16.1 Are there any issues with the proposed updates?

No comments

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

No comments

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?

Joint venture arrangements should indicate the carriers involved, even although only one signature may be required. In instances where the installation is on a public utility's structure, this allows transparency to the public utility, for instances of knowing who may be potentially accessing operational sites.

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?

Yes, as long as sufficient notice is given. A period of at least 20 business days before the work commences is reasonable.

- 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?

5 business days is not enough time to lodge objections. A minimum of 15 business days is necessary.

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?

No issues with allowing carriers to refer objections to the TIO. However, land owners and occupiers should still have the right to request objections be referred to the TIO.

20 Updates to references in the Tel Code

- 20.1 Are there any issues with the proposed changes?

No comments

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

No comments

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 comment from a planning perspective.

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

No comment from a planning perspective.

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

No comment from a planning perspective.

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 suggested notification and objection period is too short. A minimum of 15 business days from notification would be more reasonable.

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?

Location of portable temporary communications equipment should not interfere with the primary operational use of land.

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?

Timeframes for their removal should remain within 28 days from the end of the need for the facility.

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?

The proposal is reasonable as long as the land owner and/or occupier has agreed to the new tower being constructed. In the case of public utility's land, the location of the new tower must be agreed to by the public utility, in a location that does not adversely impact on operations.

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

Yes, as long as the property ownership clause remains as per the proposal.

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

Yes

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 comment on the planning aspect.

In the case where the tower is not owned by the telecommunications carrier, agreement from the tower owner must be obtained, and the carrier must demonstrate that the increased height and load on the tower is able to be supported via an engineering structural analysis.