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

21 July 2017

Logo of organisation—if an organisation making this submission

Not supplied.

Name and contact details of person/organisation making submission

SunWater Limited

PO Box 15536 City East Queensland 4002

General comments

SunWater has significant concerns with the public consultation paper on proposed changes to telecommunications carriers' powers and immunities. Generally, the proposed changes transfer costs and risks onto SunWater and potentially create a cost burden for SunWater's customers.

Further details supporting our submission can be provided upon request.

We are assuming that further consultation will occur once all submissions are received. We look forward to being involved in that process.

Engagement

Proposed facilities have the potential to have significant adverse impacts upon SunWater's assets and operations. Those impacts may extend to safety, operational performance, maintenance efficiency and future asset refurbishment, renewals and development. Early engagement and planning with SunWater is critical to ensuring the design of the proposed facilities is mutually agreeable in all respects.

Objection Period

SunWater has numerous unmanned remote sites. Arranging site visits and works can be logistically challenging particularly with short notice. Arranging site visits and works requires significant forward planning. As a consequence, SunWater requires significant advanced notice in order to facilitate important and sometimes mandatory safety and operational activities to support the site visit or works. For example, SunWater may have to arrange site induction, supervision and shut down of operational equipment (such as pump stations). Shut downs can have significant flow on effects such as obligations upon SunWater to give significant notice to customers. Those notice periods likely exceed the current 10 day notice period. Consequently, a 5 business day objection period from receipt of the notice is not adequate and should be increased.

Rights in Perpetuity

From time to time SunWater is required to decommission or modify assets. It should be made clear to telecommunications carriers that the placement of telecommunications facilities on SunWater infrastructure is not a right in perpetuity.

Cost Implications

The proposed amendments will likely lead to a shifting of costs from the telecommunications carriers to SunWater. This will lead to increased cost to SunWater which will ultimately be passed onto SunWater's customers. It would be more appropriate for those costs to be borne by the telecommunications carriers.

Relocation of Telecommunications Infrastructure

From time to time SunWater is required to undertake work on its assets which may require permanent or temporary relocation of telecommunications infrastructure. A framework is required for notifying telecommunications carriers of the need for relocation and for the carrier to relocate its infrastructure within a reasonable time and at the telecommunications carriers cost.

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?

No.

2. Local government heritage overlays

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

No.

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?

Shrouds should be listed as distinct facilities so that due consideration is given to their impacts including visual aesthetics and load transfer to supporting structure.

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?

Each shroud should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate.

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)?

Yes. SunWater has concerns that there could be an increase in electromagnetic radiation which may have adverse health and safety consequences for its operations and maintenance staff and contractors. Installations should be designed and installed not to increase operational health and safety risks or operations and maintenance costs. Each dish should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate.

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)?

Yes. SunWater has concerns that there could be an increase in electromagnetic radiation which may have adverse health and safety consequences for its operations and maintenance staff and contractors. Installations should be designed and installed not to increase operational health and safety risks or operations and maintenance costs. Each dish should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate.

5. Maximum heights of antenna protrusions on buildings

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

Not able to assess. SunWater has concerns that there could be an increase in electromagnetic radiation which may have adverse health and safety consequences for its operations and maintenance staff and contractors. Installations should be designed and installed not to increase operational health and safety risks or operations and maintenance costs. Each installation should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate.

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?

Not able to assess. SunWater has concerns that there could be an increase in electromagnetic radiation which may have adverse health and safety consequences for its operations and maintenance staff and contractors. Installations should be designed and installed not to increase operational health and safety risks or operations and maintenance costs. Each installation should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate.

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 comment

7. Radio communications facilities

7.1 Does the proposed approach raise any issues?

No comment

7.2 Are the proposed dimensions for these facilities appropriate?

Yes.

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?

No comment.

9. Tower extensions in commercial areas

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

Each extension should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate.

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?

Not able to assess. SunWater has concerns that there could be an increase in electromagnetic radiation which may have adverse health and safety consequences for its operations and maintenance staff and contractors. Installations should be designed and installed not to increase operational health and safety risks or operations and maintenance costs. Each installation should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate.

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

Not able to assess. SunWater has concerns that there could be an increase in electromagnetic radiation which may have adverse health and safety consequences for its operations and maintenance staff and contractors. Installations should be designed and installed not to increase operational health and safety risks or operations and maintenance costs. Each installation should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate.

11. Cabinets for tower equipment

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

No.

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?

Each installation should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate. Installations should be designed and installed not to increase operational health and safety risks or operations and maintenance costs.

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?

Yes. Each installation should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate. Installations should be designed and installed not to increase operational and public health and safety risks or operations and maintenance costs.

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?

Yes. Each installation should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate. Installations should be designed and installed not to increase operational and safety risks or operations and maintenance costs.

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. Each installation should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate. Installations should be designed and installed not to increase operational and safety risks or operations and maintenance costs.

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?

No comment.

16. Updates to environmental legislation references in the LIFD

16.1 Are there any issues with the proposed updates?

No comment

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

No.

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?

Yes. The details of all carriers in the joint venture are required for various reasons including but not limited to insurance, induction, safety, security, liability and warranty.

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 the objection period 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?

No. Greater time is required, particularly for remote sites where the logistics of arranging access, induction and supervision are difficult within the context of concurrent operational issues.

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?

Yes. This potentially removes the ability to resolve the objection by agreement between the carrier and the objector. The opportunity to resolve the objection by agreement between the carrier and the objector should be maintained.

20. Updates to references in the Tel Code

20.1 Are there any issues with the proposed changes?

No.

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

No.

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?

This proposed amendment is not supported. SunWater requires assurance that the installation is adequate with respect to location, safety, structural integrity, and impacts on operations and maintenance among other things.

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

As per 21.1.

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

As per 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?

Greater time is required, particularly for remote sites where the logistics of arranging access, induction and supervision are difficult within the context of concurrent operational issues.

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?

Yes. Installations should be designed and installed not to increase operational and safety risks or operations and maintenance costs.

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?

This needs to be assessed on a case by case basis.

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?

As per 22.1.

23. Replacement mobile towers

23.1 Is the proposal reasonable?

The principle is reasonable.

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

The proximity of the new tower to the existing tower should be assessed on a case by case basis.

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?

Not able to assess. SunWater has concerns that there could be an increase in electromagnetic radiation which may have adverse health and safety consequences for its operations and maintenance staff and contractors. Installations should be designed and installed not to increase operational health and safety risks or operations and maintenance costs. Each installation should be structurally certified by the telecommunications carrier including certification that the supporting structure is adequate.