



WATER SERVICES
ASSOCIATION OF AUSTRALIA









WATER INDUSTRY SUBMISSION

Exposure draft: Amendment to the Low Impact
Facilities Determination and Code of Practice

17 January 2020

Attention: Tristan Kathage
Assistant Secretary/Competition Branch
Department of Communications and the Arts
2 Philip Law Street,
CANBERRA ACT 2601

SUBMISSION: Exposure Draft of Proposed Amendments to the Low Impact Facilities Determination and Code of Practices

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

About the submission organisations

WSAA

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

WSAA has been instrumental in the formation of the Powers and Immunities Reference Group (PIRG) led by the Department of Communications and Arts (DoCA). The intent of this group is to improve the relationships and outcomes between the telecommunications carriers and landowners. The work of this group includes addressing some of the current issues and perceived gaps in the regulatory and legislative framework regarding aspects of the Telecommunications (Low Impact Facilities) Act implementation, particularly in regard to addressing risks to drinking water quality, worker safety and water service provider's ability to meet their respective legislative obligations.

In addition, WSAA is jointly working with the Water Directorates in NSW and Qld to support all water service providers nationally in understanding their rights and obligations in relation to telecommunication carriers.

WSAA welcomes the opportunity to provide a submission on the Exposure Draft of Proposed Amendments to the Low Impact Facilities Determination and Code of Practices.

WSAA has previously lodged submissions with the Australian Government (through the Department of Communication and the Arts) in relation to:

- Possible amendments to telecommunications carrier powers and immunities – consultation paper dated June 2017 (Possible amendments).
- Mobile Phone Base Station Deployment Industry Code (C564:2011) (Existing Deployment Code) and set out in Industry Code DR C564:2018 Mobile Phone Base Station Deployment (Proposed Deployment Code).
- Parliamentary Committee for the inquiry into and the deployment, adoption and application of 5G in Australia.

These earlier submissions should also be considered by the DOCA as being relevant to this submission.

NSW Water Directorate

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

NSW Water Directorate works collaboratively with government and non-government organisations to support, advocate for and enable the needs of local water utilities in NSW. There is some work to do in this regard to improve the interaction between essential services such as water and telecommunications to ensure water services aren't adversely impacted.

Queensland Water Directorate

The Queensland Water Directorate (qldwater) is a business unit of the Institute of Public Works Engineering Australasia Queensland. Their members include the majority of councils, other local and state government-owned water and sewerage service providers, and affiliates.

As the central advisory and advocacy body within Queensland's urban water industry, qldwater is a collaborative hub, working with its members to provide safe, secure and sustainable urban water services to Queensland communities. Major programs focus on regional alliances, data management and statutory reporting, industry skills, safe drinking water and environmental stewardship.

Queensland has over 70 water service providers responsible for drinking water to its communities, ranging from very small to very large utilities. There has been significant sector reform since 2008 including local government amalgamations and major change in the south east. Constant change has contributed to challenges in record keeping and asset management and there are increased risks around asset integrity, drinking water quality and worker safety as a result of historical decisions.

Summary of the water industry position on the Exposure Draft

Our sector's interactions with telecommunications carriers are improving, but much remains to be done to ensure decisions made now to support the overwhelming growth in the telecommunications sector do not adversely impact the essential services we provide, and that legacy issues are systematically addressed.

It is imperative that the roll out of temporary facilities should not adversely impact on the operations of a public utility not only during emergency and natural disaster events but also in the routine provision of water and sewerage services. Carriers needed to consult with landowners and agree on site siting/location before deployment or make reasonable endeavours to do so, even during emergency situations.

It appears from the wording that more than one carrier will be able to deploy temporary facilities on the same land at the same time – this could cause overcrowding and access and worker safety concerns – limitations should be provided for in the exposure draft suggesting carriers should be required to co-locate on the same temporary telecommunication facility structures where possible.

There are also Radio Frequency Electro Magnetic Environment (RF EME) concerns for the landowner and users of the land with the deployment of temporary facilities on operational sites of a public utility. There should be a requirement for carriers to update the Radio Frequency National Site Archive (RFNSA) and provide accurate site safety reports that can

be relied upon by the landowner and all site users. If not, the least that should be done is that carriers should have to produce an RF EME site report available for the landowner. It is hoped that these facilities would have a standard specification showing EME levels associated with attached carrier equipment.

Specifically we request:

- Deployed temporary facilities should be clearly labelled with the owner's details (name and contact) as per previous submissions.
- A mechanism clearly outlined for dealing with disputes regarding the deployment of temporary facilities for emergency events (and other temporary events) between carriers and landowners needs to be considered. The landowner should have rights to refer disputes to the Australian Communications and Media Authority (ACMA) for resolution, including breaches of the Telecommunication Act or otherwise (for example, where services cannot be restored after a sufficient/reasonable period of time).
- Section 4.3A (Carrier to remove temporary facility) – as worded the carrier is only obliged to remove a temporary facility within 28 days after the facility ceases to be “needed”. This could lead to misuse if a carrier were to intentionally delay the need. This could cause business interruption, nuisance or inconvenience for a landowner. As per previous comment, landowners need to be given rights to refer disputes to ACMA for determination. Carriers should be required to compensate or pay rental (as per previous submissions) for business interruption etc. to landowners.

In addition, the landowner may need to be compensated if additional works, activities or costs are incurred as a result of a carrier's temporary use of the land or its facilities for example:

- possible connections to landowner's supply of mains power;
 - review of risk and hazards created by the temporary facility;
 - additional security requirements;
 - possible complaints; and
 - potential incompatible use pollution/ contamination of drinking water – (for example, noise and fumes generated if unit is not connected to grid power e.g. diesel generator).
- Section 4.10 – record keeping – in addition to the requirements proposed (which are agreed) carriers should also be required to keep records of:
 - Consultation with landowner.
 - The entity for whom the temporary facility was required for and purpose of the installation. This will ensure the 'original' purpose for installation does not alter.
 - An EME guide for the temporary facility.
 - The amendments are also intended to allow carriers to deploy temporary facilities in certain circumstances around peak holiday periods along with major sporting, cultural and other events without complying with state/territory planning requirements. The inclusion of peak holiday periods and major sporting, cultural and other events with this

amendment is concerning. Particularly when coupled with the requirement that the carrier is only obliged to remove a temporary facility within 28 days after the facility ceases to be “needed”. This creates a possible situation where the carrier could delay removing the temporary facility, particularly if another event is coming up in 28 days. Events of this nature are typically planned well in advance, and so it is suggested that this amendment is not needed and should be removed. If it is not removed then the reference to peak holiday periods and events should be clearly separated from the emergency and maintenance components.

- Items 13 to 19 of Schedule 1, Telecommunication (Low-Impact Facilities) Determination 2018 – None of the facilities listed therein constitute an emergency but are business as usual and can be planned for (for example, maintenance, peak holiday periods, and major sporting, cultural and other events). Therefore they should not be included under the guise of emergency.
- Where a temporary facility requires electrical power, if this is to be sourced from the landowner then it should be clear that the carrier must obtain agreement from the landowner for taking the power. In addition, they must follow landowner conditions when working near public utility infrastructure (for example water assets i.e. excavating for conduits/power).

There have been instances where carriers have laid on top of water assets. Temporary facilities (including buried infrastructure) needs to be removed upon completion of the need (please see previous submission for removal of redundant equipment). Carriers cannot leave the temporary facility in case they have another potential “event”.

- A full set of plans and engineering certification (if impacting on public utility infrastructure) should be provided as per previous submissions (noted previously in this document).
- The overall maximum length of an “event” should be defined.

WSAA along with the NSW and Queensland Water Directorates support the intent of the Exposure Draft but believe that addressing the above points is required to maintain the efficient and equitable delivery of both telecommunications and water services. For further information on this submission please contact Greg Ryan, [REDACTED] or [REDACTED]
[REDACTED]