

**Government Response to**  
**Report of the Local Government and Environment**  
**Committee**  
**on**  
**Petition 2005/179 of Sarah Allen and 3,100 others,**  
  
**Petition 2008/8 of Andrew Crawford and 704 others,**  
  
**Petition 2008/32 of Sharon Stewart, David Collings and**  
**1,451 others**

**Presented to the House of Representatives In**  
**accordance with Standing Order 248**

# **Government Response to the Report of the Local Government and Environment Committee on Petition 2005/179 of Sarah Allen and 3,100 others and two other petitions of a similar nature**

## **Introduction**

The Government has carefully considered the Committee's report on three petitions relating to the location of new telecommunications infrastructure and their effects. The Government has thoroughly considered the recommendations of the Committee and herewith provides its response to those recommendations.

The Government responds to the report in accordance with Standing Order 248.

## **Summary of the response of the Committee**

The Government acknowledges the frank and thoughtful report of the Local Government and Environment Committee in relation to the issues raised by the petitioners.

After considering a range of information on the Petitions, the Committee has provided analysis, comments and recommendations in relation to three main requests of petitioners:

- preventing the construction by Telecom of a cellphone tower at the Atawhai exchange (Nelson)
- prohibiting cellphone towers and similar transmission devices from being erected within a certain distance of educational (and other specified) facilities
- legislating to require community consultation, and notified consent, prior to the erection of cellphone towers and similar transmission devices in residential areas.

The first issue relates solely to the petition of Sarah Allen and others while the second and third issues are generic to all three petitions considered by the committee.

The committee concluded:

We note the progress being made towards finding an outcome that is acceptable to Telecom and the petitioners in the specific case at Atawhai. We are encouraged that the parties continue to work to find a suitable solution and make no recommendation in that regard.

We have not specifically discussed in our report the important role of cellphone towers (and similar facilities) in access to telecommunications technology. We note, however, that any consideration of a ban on erecting such facilities within a certain radius of specific sites would raise implications for the growing demand for infrastructural development. The majority of us consider that setting an arbitrary limit on the location of such facilities is not an appropriate response given New Zealand's infrastructural needs. We believe the issue is best managed by developing good consultation practices, reviewing the current regulatory environment with a view to improving them in this regard, and a thorough understanding of the underlying science.

We nevertheless acknowledge that there remains some uncertainty about the appropriate safety limits and restrictions in the light of some recent scientific research into the long-term chronic health effects from exposure to electromagnetic fields. We therefore consider there may well be a case for reviewing NZS 2772:Part 1:1999 to ensure that it remains consistent with world's best practice, and we recommend accordingly.

On the matter of community consultation, we agree with the petitioner that telecommunications companies should consult local communities on the location of cellphone towers, cellphone sites, cabinets and other EMR equipment in an area, and seek to come up with sites that have the least impact on nearby residential dwellings and schools. We also consider that there is a need for more consistency between telecommunications providers, and endorse the development of detailed guidelines for operators.

Finally, we note the petitioners' concern that the Government's Interagency Committee on the Health Effects of Non-Ionising Fields does not provide adequate representation of community interests and expertise in risk assessment. We recommend that membership of that committee be reviewed.

## **Recommendations and government response**

### **Recommendation 1**

*That it [the Government] consider whether a review of the New Zealand Standard for Radiofrequency Fields (NZS 2772:Part 1:1999) is necessary to ensure that it is still in line with world's best practice.*

### **Response**

The Government does not consider that a review of the New Zealand Standard for Radiofrequency Fields (NZS 2772.1:1999) is necessary. New Zealand has a comprehensive and robust framework in place for managing the risks associated with radiofrequency fields that reflects current international best practice.

NZS 2772.1:1999 is based on the Guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) in 1998. ICNIRP is an international scientific body recognised by the World Health Organisation for its expertise in the area of possible adverse effects on human health of exposure to non-ionising radiation. Its 1998 Guidelines were based on a review of the published research on the health effects of radiofrequency fields current at the time.

ICNIRP has maintained its surveillance of research published since then. It published a detailed review of this research in July 2009. (This review is mentioned in the Select Committee report.) In September 2009, ICNIRP published a statement<sup>1</sup> presenting its opinion that:

... the scientific literature published since the 1998 guidelines has provided no evidence of any adverse effects below the basic restrictions and does not necessitate an immediate revision of its guidance on limiting exposure to high frequency

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<sup>1</sup> ICNIRP. ICNIRP statement on the "Guidelines for limiting exposure to time-varying electric, magnetic, and electromagnetic fields (up to 300 GHz)". Health Physics 97 (3): 257-258, 2009.

electromagnetic fields. The biological basis of such guidance remains the avoidance of adverse effects ... caused by mild whole-body heat stress and/or tissue damage caused by excessive localised heating .... With regard to non-thermal interactions, it is in principle impossible to disprove their possible existence but the plausibility of the various non-thermal mechanisms that have been proposed is very low. In addition, the recent in vitro and animal genotoxicity and carcinogenicity studies are rather consistent overall and indicate that such effects are unlikely at low levels of exposure.

The Select Committee report mentions (on page 11) a recent resolution from the European Union Parliament expressing concerns about safety and calling for a review of the scientific basis and adequacy of electromagnetic field limits. The European Commission has responded to this resolution<sup>2</sup> and notes (amongst other things) the fact that:

The Commission, supported by the SCENIHR [Scientific Committee on Emerging and Newly Identified Health Risks], already reviews the scientific basis and, thereby, the adequacy of the limits on a regular basis as testified by the latest opinion from the SCENIHR, adopted on January 19, 2009 and updating the 2007 opinion of the SCENIHR. Further updates will come in due time.

The European SCENIHR has not recommended any changes to existing European exposure recommendations (which are based on the ICNIRP Guidelines).

Other recent reviews of the health research commissioned or undertaken by national/international health agencies have also concluded that there is no clear evidence of risks arising from exposures which comply with current guidelines. Exposure Standards recently developed independently of ICNIRP (for example, by Health Canada and the IEEE International Committee on Electromagnetic Safety) have limits, and a rationale for those limits, very similar to those of ICNIRP.

## **Recommendation 2**

*That it [the Government] review the membership of the Government's Interagency Committee on the Health Effects of Non-Ionising Fields to ensure better community representation and expertise in risk assessment.*

## **Response**

The Government does not consider a review of the membership of the Interagency Committee on the Health Effects of Non-Ionising Fields (the Interagency Committee) is necessary. The Interagency Committee reports to the Director-General of Health, not the Government. Interagency Committee is tasked with providing the Director-General of Health with high quality, independent scientific and technical advice on any potential health effects from exposures to extremely low or radiofrequency fields.

The Interagency Committee was included in the recent review of Ministry of Health Committees undertaken by the Ministerial Review Group, chaired by Dr Murray Horn. The Ministerial Review Group did not make any recommendations related to the Interagency Committee.

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<sup>2</sup> [http://www.europarl.europa.eu/oeil/DownloadSP.do?id=16799&num\\_rep=7886&language=en](http://www.europarl.europa.eu/oeil/DownloadSP.do?id=16799&num_rep=7886&language=en)

The Interagency Committee does not include community representation as it is a technical advisory committee. It does, however, include two participants who represent the interests of consumers. The Interagency Committee already includes a number of members with expertise and experience in health impact assessment, including risk assessment. The Interagency Committee is not the only avenue of advice for the Director-General and Ministry of Health, who are free to consult other experts in the field as necessary. The Director-General of Health, and health officials, are also informed by national/international scientific reviews and policy developments in the field, including the work of the World Health Organization's EMF project and the International Commission on Non-Ionizing Radiation Protection (ICNIRP).

Consultation is undertaken with stakeholders, including non-government organisations, public interest groups, professional and other organisations when appropriate (particularly when public policy is developed). The Government has a commitment to consultation and recognises that it is a process that permits and promotes the two-way flow of ideas and information among all sectors of society, and between them and the Government. Effective consultation is based on principles of openness, transparency, integrity, and mutual respect. However, the Government also notes that consultation is not synonymous with consensus.

### **Recommendation 3**

*That it [the Government] consider how the regulatory environment might be improved so that the development of infrastructure can proceed in a way that safeguards community interests.*

### **Response**

The Government welcomes the recommendation of the Committee. Improving planning for infrastructure is a major focus for the Government. The Government's programme for economic recovery includes an ambitious programme of infrastructure investment covering roading, public transport, broadband, electricity grid upgrades, new renewable generation and water infrastructure.

Good infrastructure is vital to a well-running economy. Good infrastructure enables the movement of people, goods, energy, ideas and information around our country and around the world.

Balancing the need for new and improved infrastructure against the ability for communities to have a say and a make a meaningful contribution to infrastructure development proposals is at the heart of the Resource Management Act.

The amendments to the Resource Management Act in 2009 provide for greater central government direction to improve the processing of applications for proposals of national significance, including infrastructure. The ability of communities to participate in the decision making process has been preserved through the amendments.

In April 2009 the Government agreed to commence a second phase of resource management reforms (RMII). RMII comprises a complex array of issues contained

within a set of 10 discrete but inter-related work streams, including one specifically dedicated to infrastructure.

Early this year, the Minister for the Environment will be reporting to Cabinet on the progress of the full RMII package. It is anticipated that this progress report will outline the next steps in the policy development process, including the nature and extent of future engagement on possible policy responses relating to specific RMII work streams including infrastructure.

Many of the concerns raised by petitioners relate to the placement of physical infrastructure authorised by district and city councils through their district plans and resource consents. The Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 already provide national standards for levels of radio frequency fields and for cellular infrastructure using the road reserve, while cell sites on private land are subject to the zoning controls in District Plans.

Where infrastructure proposals are not of national significance, then the Government considers that decisions on these proposals, including the appropriate level of community consultation, should continue to be managed at a level closer to the communities they serve. This can be achieved through existing processes including resource consents, designations, plan changes or plan reviews. The review of district plan provisions, for example, requires specific and extensive public consultation to be undertaken. The Government considers that local councils and the communities they serve should continue to decide the level of consultation they consider is appropriate.

#### **Recommendation 4**

*That it [the Government] explore with the telecommunications industry how better incentives can be provided to encourage shared use of telecommunication sites and towers, such as co-siting and co-location arrangements, while safeguarding community interests.*

#### **Response**

The Government welcomes the recommendation of the committee and will continue to engage with the telecommunications industry to explore incentives to encourage co-location or co-siting of infrastructure.

The Telecommunications Act includes requirements for regulated telecommunications services which enable the supply of particular telecommunications services to access seekers on certain terms and conditions. Co-location of equipment on cellphone towers is a regulated service under the Act and the Commerce Commission (as the responsible administrative authority) has determined standard terms for supply of co-location service to an access seeker by access providers.

Recent regulatory developments have been introduced to facilitate joint site use, but also to continue to recognise that take up of co-siting or co-location requires commercial agreements both between cellular network providers and with site owners. There are no coercive powers available at present in the regulatory

framework and it is not evident that the costs of any such intervention would be warranted. The current regulatory environment therefore does not attempt to mandate co-location, but clearly there are economic factors which could give incentives to co-locate sites where appropriate.

The Government will also continue to review potential initiatives to facilitate joint use of telecommunication sites. It will consider what options are most appropriate for implementation of future technology through both spectrum planning and incentives for operators to share a single set of infrastructure. The Minister of Information and Communication Technologies (ICT) will take suitable proposals to Cabinet as appropriate if and when greater opportunities for joint site use emerge.

The level of community input into decisions on sites on private land is determined at a local level through community input into district plans and on individual resource consent applications. We consider that, subject to any changes to the Resource Management Act these decisions should continue to be made at the local level.

## **Conclusion**

The Government welcomes the Local Government and Environment Committee's report on its consideration of Petition 2005/179 of Sarah Allen and 3,100 others, Petition 2008/8 of Andrew Crawford and 704 others, and Petition 2008/32 of Sharon Stewart, David Collings and 1,451 others regarding issues of safety and consultation in relation to the siting of telecommunications infrastructure.

The recommendations of the Local Government and Environment Committee have been considered and while the Government does not support all of the recommendations it has considered those recommendations and has responded accordingly. The Government believes that recent regulatory changes and ongoing work by the Ministry for the Environment, the Ministry of Health and the Ministry of Economic Development (including the Commerce Commission) address all of the recommendations raised by the Local Government and Environment Committee.