

**2016-2017-2018**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**Telecommunications Amendment (Giving the Community Rights on Phone Towers) Bill 2018**

**EXPLANATORY MEMORANDUM**

**and**

**STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

Circulated by authority of

Andrew Wilkie MP

# **Telecommunications Amendment (Giving the Community Rights on Phone Towers) Bill 2018**

## **OUTLINE**

This bill seeks to amend the *Telecommunications Act 1997* to give the community greater rights in relation to the placement of mobile phone towers and other telecommunications infrastructure. Specifically, it requires owners and occupiers of land to be notified of a proposal to either build or modify a telecommunications tower within 500 metres of their property; provides that notified owners and occupiers have 30 days in which to respond to the proposed development; provides that new telecommunications towers cannot be declared to be low impact; disallows ACMA from considering commercial interests when determining the importance of a facility in a telecommunications network; requires ACMA, when considering developments near community sensitive sites, to be satisfied that all alternative sites are unfeasible; and enables local communities to appeal the granting of a facility installation permit to the Administrative Appeals Tribunal.

## **FINANCIAL IMPACT**

The bill will have no financial impact.

## **NOTES ON CLAUSES**

### **Clause 1: Short title**

1. This clause is a formal provision and specifies the short title of the Act as the *Telecommunications Amendment (Giving the Community Rights on Phone Towers) Act 2018*.

### **Clause 2: Commencement**

2. This clause provides for the commencement of the Act on the day after it receives Royal Assent.

### **Clause 3: Schedules**

3. This clause establishes that, as the intent of the Bill is to be realised through amendments to another Act, the Schedules of this Bill will amend that Act accordingly.

### **Schedule 1: Amendments**

*Telecommunications Act 1997*

#### **Item 1: Clause 1 of Schedule 3 (fourth dot point, paragraph (g))**

1. Item 1 allows for more than one owner of relevant land to be notified by carriers by altering a singular to a plural.

#### **Item 2: Subclause 6(5) of Schedule 3**

2. Item 2 removes the ability for towers to be specified as low impact under a legislative instrument.

**Item 3: Subclause 6(7) of Schedule 3**

3. Item 3 removes the ability for extensions of towers to be specified as low impact under a legislative instrument.

**Item 4: Paragraph 7(8)(a) of Schedule 3**

4. Item 4 ensures that measurements of towers will include antennae extending from the top of the tower.

**Item 5: Clause 17 of Schedule 3 (heading)**

5. Item 5 changes a singular to a plural in a heading to be consistent with the change made by item 1.

**Item 6: At the end of subclause 17(1) of Schedule 3**

6. Item 6 specifies that carriers must notify any owner or occupier of land within 500 metres of an activity under Division 3 or Division 4 of Schedule 3 of the *Telecommunications Act 1997*.

**Item 7: Subclause 17(4) of Schedule 3**

7. Item 7 extends the time period in which notification must be given before activities commence from 10 business days to 30 business days.

**Item 8: Subparagraph 27(1)(g)(ii) of Schedule 3**

8. Item 8 modifies the criteria for issue of a facility installation permit for proposed facilities near community sensitive sites, mandating that all alternative less sensitive sites must be unfeasible and that any proposed facilities must be at least 100 metres away from the community sensitive site.

**Item 9: After subclause 27(4) of Schedule 3**

9. Item 9 disallows ACMA from having regard to commercial interests of carriers when determining if the proposed facility is an important part of the telecommunications network to which it relates.

**Item 10: After subclause 35(3) of Schedule 3**

10. Item 10 allows for appeals to be made to the Administrative Appeals Tribunal for review of a decision made by ACMA to issue a facility installation permit.

**Item 11: Subclause 48(1) of Schedule 3**

11. Item 11 requires ACMA to notify the public about the kind and location of various telecommunications infrastructure by changing “may inform” to “must inform”.

**Item 12: Paragraph 48(2)(a) of Schedule 3**

12. Item 12 repeals the requirement that ACMA must have regard to the views of associations which it is satisfied represents carriers.

**Item 13: At the end of paragraph 48(2)(b) of Schedule 3**

13. Item 13 restricts ACMA from considering the legitimate business interests of carriers when those interests relate to competition between carriers.

**Item 14: At the end of subclause 48(2) of Schedule 3**

14. Item 14 requires ACMA to consider the impacts of the proposed facility on the public when informing the public about the proposal.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### **Telecommunications Amendment (Giving the Community Rights on Phone Towers) Bill 2018**

This bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the bill**

This bill seeks to amend the *Telecommunications Act 1997* to give the community greater rights in relation to the placement of mobile phone towers and other telecommunications infrastructure. Specifically, it requires owners and occupiers of land to be notified of a proposal to either build or modify a telecommunications tower within 500 metres of their property; provides that notified owners and occupiers have 30 days in which to respond to the proposed development; provides that new telecommunications towers cannot be declared to be low impact; disallows ACMA from considering commercial interests when determining the importance of a facility in a telecommunications network; requires ACMA, when considering developments near community sensitive sites, to be satisfied that all alternative sites are unfeasible; and enables local communities to appeal the granting of a facility installation permit to the Administrative Appeals Tribunal.

#### **Human rights implications**

This bill does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This bill is compatible with human rights because it does not raise any human rights issues.

**Andrew Wilkie MP**