

# **Environment Protection and Biodiversity Conservation Amendment Regulations 2001 (No. 2) 2001 No. 306**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 2001 No. 306**

Issued by the Authority of the Minister for the Environment and Heritage

*Environment Protection and Biodiversity Conservation Act 1999*

Environment Protection and Biodiversity Conservation Amendment Regulations 2001 (No. 2)

Subsection 520(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act) provides that the Governor-General may make regulations prescribing all matters: (a) required or permitted by the Act to be prescribed; or (b) necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the amending regulations is to remove Telstra Corporation Limited (Telstra) and its subsidiaries from the definition of 'Commonwealth agency' for the purposes of the Act. Telstra, due to its current status as a Commonwealth agency, is subject to a greater number of requirements under the Act than other telecommunication carriers.

Paragraph (j) of the definition of 'Commonwealth Agency' in section 528 of the Act allows a regulation to be made to remove a company from that definition for the purposes of the Act. Telstra and its subsidiaries are companies by virtue of their being incorporated under the former Corporations Law. Telstra's incorporation as a company is also dealt with in the *Telstra Corporation Act 1991*.

The amending regulations will have the effect of making Telstra's obligations under the Act equivalent to those of its private industry competitors. Telstra, along with other carriers, shall be required to meet the provisions of the Act relating to protecting matters of national environmental significance, and in relation to the undertaking of actions on Commonwealth land (as defined under the Act). The proposed regulations will not alter Telstra's environmental obligations under the Commonwealth's *Telecommunications Act 1997*, *Telecommunications (Low-impact Facilities) Determination 1997*, or the *Telecommunications Code of Practice 1997*. Telstra's obligations under these pieces of legislation will continue to be the same as for all other telecommunication carriers operating in Australia. These obligations include requiring approval from Environment Australia for the development of low-impact facilities where they may have an impact on, or are near, an environmentally sensitive area or matter identified in the Code, and compliance with State and Territory environment and planning laws for non-low impact facility developments. The combination of the Act, the above mentioned Telecommunications controls, and the application of State and Territory environment and planning laws will provide an appropriate environmental protection regime for activities undertaken by Telstra.

Details of the amending Regulations are set out in the Attachment.

The amending Regulations commence on gazettal.

## **Attachment**

### **Environment Protection and Biodiversity Conservation Amendment Regulations 2001 (No. 2)**

### **Regulations 1 - 3**

Provides the name and commencement date of the regulations and that Schedule 1 contains the amendments to the Environment Protection and Biodiversity Conservation Regulations 2000. The Regulations commence on gazettal.

#### **Item 1 Schedule 1 Amendment Regulation 19.02**

This amendment by virtue of paragraph (j) of the definition of 'Commonwealth Agency' in section 528 of the *Environment Protection and Biodiversity Conservation Act 1999* removes Telstra Corporation Limited and its subsidiary companies from that definition for the purposes of the Act.