

EXPLANATORY STATEMENT

National Transmission Network Sale (Exemption from Restrictions on Transfer of Assets—Liverpool) Amendment Notice 2018

Issued by the Authority of the Minister for Communications

National Transmission Network Sale Act 1998

The purpose of this instrument is to amend the *National Transmission Network Sale (Exemption from Restrictions on Transfer of Assets—Liverpool) Notice 2018* (the Notice) to correct a technical error.

The *National Transmission Network Sale Act 1998* ('the Act') regulates the ownership and management of particular assets that were formerly part of the national transmission network. The network was privatised in 1998. The network is used to provide a range of analog transmission services and incidental services (nominated services) to the Australian Broadcasting Corporation (ABC), the Special Broadcasting Service Corporation, and particular community broadcasting services (collectively, the nominated customers).

Section 18 of the Act regulates the transfer of particular national transmission assets.

Subsection 18(1) of the Act provides that the Minister for Communications must give written approval to transfer an original asset or replacement asset before the time of transfer, otherwise the transfer will be of no effect.

Subsection 18(5) of the Act provides that section 18 of the Act does not apply to an asset that the Minister exempts from the operation of this section under an instrument made under subsection 18(6).

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that a power to make an instrument of a legislative character shall be construed as including a power, exercisable in the like manner and subject to the like conditions (if any), to repeal, rescind, revoke, amend, or vary any such instrument.

The Notice was made in April 2018 under subsection 18(6) of the Act. The Notice contains a technical error. The Notice exempted a parcel of land situated at Wonga Road, Prestons, New South Wales from the operation of section 18 of the Act.

Paragraph 5(a) of the Notice erroneously refers to 'the land described as Lot 1 on Deposited Plan 740573 in Volume 740573 Folio 1'. The correct manner in which to reference the parcel of land is 'Folio Identifier: 1/740573 being Lot 1 in Deposited Plan 740573, County of Cumberland, Parish of St Luke'.

This instrument amends the Notice to correct the error by omitting ‘the land described as Lot 1 on Deposited Plan 740573 in Volume 740573 Folio 1’ and substituting ‘Folio Identifier: 1/740573 being Lot 1 in Deposited Plan 740573, County of Cumberland, Parish of St Luke’ in paragraph 5(a).

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*. Once made, the instrument is subject to Parliamentary scrutiny and disallowance.

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at Attachment 1.

Consultation

Before making the instrument, Broadcast Australia (the owner of the asset) was consulted in relation to the technical error in the Notice and the proposal to amend the Notice to correct the error.

Notes on Sections

Section 1 provides that the name of the instrument is the *National Transmission Network Sale (Exemption from Restrictions on Transfer of Assets—Liverpool) Amendment Notice 2018*.

Section 2 provides that the instrument will take effect on the day after it is registered.

Section 3 provides that the instrument is made under subsection 18(6) of the Act.

Section 4 provides that the each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1

Item 1 of Schedule 1 amends paragraph 5(a) of the *National Transmission Network Sale (Exemption from Restrictions on Transfer of Assets—Liverpool) Notice 2018* by omitting ‘the land described as Lot 1 on Deposited Plan 740573 in Volume 740573 Folio 1’ and substituting ‘Folio Identifier: 1/740573 being Lot 1 in Deposited Plan 740573, County of Cumberland, Parish of St Luke’.

Attachment 1: Statement of Compatibility with Human Rights

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

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This Declaration 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 Disallowable Legislative Instrument

The purpose of the *National Transmission Network Sale (Exemption from Restrictions on Transfer of Assets—Liverpool) Amendment Notice 2018* is to amend the *National Transmission Network Sale (Exemption from Restrictions on Transfer of Assets—Liverpool) Notice 2018* to correct a technical error.

Human rights implications

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

Conclusion

This Declaration is compatible with human rights as it does not raise any human rights issues.