12th March, 2012

Telecommunications Amendment (Mobile Phone Towers) Bill 2011
Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Committee Members,

As a community member who has experienced first-hand a proposal by a national carrier to install a mobile phone base station facility in their community, I welcome the opportunity to comment on the Telecommunications Amendment (Mobile Phone Towers) Bill 2011.

I strongly recommend to the Committee to give support to this Bill, as it will be a positive step towards establishing comprehensive, accurate, fair and transparent community consultation, something that communities and their political representatives have been calling for, for well over the past 10 years. Based on the Rainworth/Bardon/Telstra experience, it ***is*** *possible for carriers to work with a community to achieve an acceptable outcome for all interested parties, provided genuine negotiations are entered in to. That is without any pre-established threats.*

The statements below highlight how the issue of community consultation and the siting of mobile phone infrastructure are not confined to one or two communities – it is a national issue.

I strongly urge all committee members to read what their learned colleagues have said, in particular their comments on why the current legislation needs to be amended. As members of the Senate committee would appreciate, many community members have full-time jobs, family responsibilities and no staff to assist, making it difficult to write submissions to government inquiries, in addition to the necessary community involvement in respect to these proposals. Therefore, I would urge committee members to read submissions made to the House of Representatives Inquiry, as well as the Senate Inquiry, as those submissions highlight the need to amend current out-dated legislation.

Statements made by members of Parliament to the media and/or as reported in Hansard. *Sitting Member

1999 Hon Wayne Swan* MP, (ALP Lilley) states: “In fact, in 1997 the federal government amended the Telecommunications Act to ensure that there is no federal regulation of high impact telecommunication towers. They deliberately took this matter out of the hands of the federal government and placed it in the hands of local councils, who are simply not qualified to deal with the health and safety aspects
of high-impact telecommunications towers. The zoning of high-impact towers is now entirely in the hands of local councils”.
http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansardr/1999-11-25/0178/hansard_frag.pdf;fileType%3Dapplication%2Fpdf

2005 Hon Anthony Albanese* MP (ALP, Grayndler)
On his website, it is stated that: “Since 2000, he has been calling on the Government to make changes to the *Telecommunications Act 1997* to better protect the interests and concerns of local communities”.

(Link has been disabled)

2007 Hon Kate Ellis* MP (ALP, Adelaide) states: “Upon closer examination I discovered that the laws governing these towers are flawed and in dire need of a rewrite. Far too often the community and indeed the local councils just do not get to have their say and these decisions are made outside of the democratic process. The little guy gets trodden on by the powerful telecommunications companies”.

http://www.kateellis.com.au/files/articles/20070923_Mobile_Phone_Towers.pdf

2011 John Alexander* OAM MP (LIB, Bennelong) states: “This is an issue of great concern to any community, and apparent tactics of intimidation designed to make residents feel helpless, are not in line with a corporate citizen’s responsibilities”.

http://www.johnalexander.net.au/content/parliametary-speech-telstra-tower-mobbs-lane-100211

2009 Hon Tony Abbott* MP (LIB, Warringah) states: “My first big local campaign, as an MP, was to prevent Telstra from installing a mobile phone base station next to a kindergarten”.

http://www.liberal.org.au/Latest-News/2009/12/16/Leader-of-the-Opposition-Address-to-the-Millennium-Forum.aspx

2011 Hon Bob Baldwin* MP (LIB, Paterson) states: “In particular, there were concerns there was a basic conflict of interest, as Port Stephens Council was both the beneficiary and decision maker in this process, since it owned the land on which the tower was proposed”.

http://www.bobbaldwin.com.au/articles/latest-media-releases/paterson-electorate/corlette-phone-tower

2011 Michelle Rowland* MP (ALP, Greenway) states, “Once again, I thank the residents of Quakers Hill for making their voices heard on this issue. I am committed to advocating on their behalf to ensure that Telstra on this occasion—and all other carriers in future—take local residents' concerns into account”.

http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;orderBy=customrank;page=0;query=mobile%20phone%20towers;rec=7;resCount=Default

2000 Hon Steve Gibbons* MP (ALP, Bendigo) states: “As honourable members are only too well aware, most telecommunications carriers have virtually a blank cheque from this government to roll out their infrastructure with no community consultation whatsoever. The councils are not consulted; the people affected are not consulted. The Howard government in 1997 specifically amended the Telecommunications Act 1991 to exempt private carriers from the environment and planning laws of state, territory and local governments. Under this legislation, what is classed as a low impact facility, such as an extension or modification to an existing tower, is exempt from state, territory and local government environment and planning legislation”.

http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;orderBy=customrank;page=2;query=mobile%20phone%20towers;rec=6;resCount=Default

1998 Hon Robert McClelland* MP (ALP, Barton)
Mr McClelland, pursuant to notice, moved—That this House:
(1) notes that there exists significant scientific controversy as to the effects of exposure to electromagnetic radiation emitted from mobile phone towers;
(2) resolves that current legislation should be amended to require that mobile phone towers not be installed within a radius of 300 metres from schools and playgrounds;
(3) resolves that the telecommunications industry be levied to raise funds to conduct research into the health and safety aspects of electromagnetic radiation emitted by mobile telephone towers; and
(4) calls for a review of Australian standard AS2772 which relates to electromagnetic radiation emissions

http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;orderBy=customrank;page=0;query=mobile%20phone%20towers;rec=2;resCount=Default

2006 KelvinThomson* MP (ALP, Wills) states:

“In my view, the local community should have the final say on whether mobile phone towers are installed. At the last election, Labor took a stricter mobile phone tower policy to the electorate. This policy was designed to strengthen the regulatory regime governing mobile phone towers. The focus of the policy was giving local communities a greater say on phone tower planning decisions and closing loopholes in the existing phone tower regulations. Under the policy, Labor committed to: empowering local councils to make planning decisions with respect to all facilities located in close proximity to schools, kindergartens or hospitals; tightening the definition of ‘high-impact facility’ to include the replacement of existing facilities used for other purposes; and requiring the Australian Communications Authority to provide expert advice on requests to local councils on whether or not a proposed facility is high impact.

Of course, we were not elected, and the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan, has, unfortunately, ruled out any legislative change on this issue by the Howard government. By contrast, Labor’s shadow communications minister, Stephen Conroy, has stated that Labor will be reviewing its policy on mobile phone towers and improving it by seeking feedback from interested parties in the lead-up to the next federal election”.

http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;orderBy=customrank;page=1;query=mobile%20phone%20towers;rec=0;resCount=Default

2005 Senator the Hon Helen Coonan (LIB, NSW) The Minister for Communications, Information Technology and the Arts, Senator Helen Coonan, today announced a package of initiatives to improve the way mobile phone towers are deployed. “I am aware that some communities and individuals are concerned about the actions of carriers in installing mobile phone towers ,” Senator Coonan said. “This package of initiatives agreed to by the carriers will help address these concerns, and I welcome the industry’s commitment to be more transparent in its processes,” Senator Coonan said. “The initiatives include improved community notification requirements, increased public education, improving the look and design of towers, independent audits of electromagnetic emissions (EME) from towers, and a new EME reporting framework. “The carriers have also given an undertaking to avoid placing a tower on single residential dwellings without the approval of the landowner. I have asked the Mobile Carriers Forum (representing Hutchison, Optus, Telstra and Vodafone) to consider further initiatives to minimise the impact on residential properties, for example extending this undertaking to multi-storey residential buildings. “I will also be seeking an undertaking to each of these initiatives from other carriers, including wireless broadband providers,” Senator Coonan said. The Telecommunications Act 1997 provides carriers with exemption from State or Territory legislation to install certain specified facilities, primarily those which are defined as low-impact facilities. However, when installing such facilities, carriers must comply with the requirements specified in the Australian Communications Industry Forum code, including strict consultation requirements. “I believe that the current regulatory framework continues to balance carriers’ abilities to meet consumers’ needs to access telecommunications services, while still recognising a community’s interests in its environment,” Senator Coonan said. “Nevertheless, there is scope to fine tune and add clarity to current deployment practices while still enabling carriers to continue to provide access to mobile phone and wireless broadband services in a timely manner.” The package of initiatives was unveiled at a meeting today in Canberra with representatives from the industry, Tower Sanity Alliance, the Australian Communications and Media Authority, and the Australian Radiation Protection and Nuclear Safety Agency. “Today’s meeting was very productive and I understand that the industry will continue to meet with community representatives to examine options for further improvements to existing practices, such as the provision of training to carriers’ contractors on deployment processes,” Senator Coonan said.
http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;orderBy=customrank;page=0;query=mobile%20phone%20tower%20senator;rec=2;resCount=Default

2003 Senator John Cherry (DEM, QLD) Media Release:
Government downplaying risks of mobile phone towers. The Federal Government is continuing to downplay the risk of electromagnetic radiation from mobile phone towers and should be offering active support to the Federal School community in who are opposing a phone tower base station being built near the school, according to the Australian Democrats.
Democrats Communications spokesperson Senator John Cherry, who meets with concerned residents at Federal today, said the relaxing of the national standard on phone tower radiation by the Federal Government last year ignored the precautionary principle, and the most recent research on health effects.
“Standards Australia and the CSIRO warned that there was no case to relax the standards to allow for higher levels of radiation, but the Government proceeded anyway to back industry calls to allow for higher levels of radiation,” Senator Cherry said.
“Yet research collated by biophysicist Neil Cherry, after reviewing over 600 studies, found that the level of radiation needed to impact on health could be as low as 3% of that which current regulators regard as safe.
“The Government will now also have to contend with the groundbreaking NSW Court of Appeal decision last week upholding a council decision to reject the siting of a mobile phone towers on environmental grounds.
“The Democrats believe that the precautionary principle should also apply more emphatically on health as well as environmental grounds.
“The Democrats initiated a major Senate Inquiry into electromagnetic radiation, which recommended a wide-ranging research plan and more sensitive siting of mobile phone towers. In the last year, some of the recommendations of the Inquiry have been accepted including:
- The setting of a Code of Practice discouraging the siting of towers in ‘community sensitive’ places such as schools, hospitals and aged care centres;
- The establishment of a $2.5 million Centre of Research Excellence into Electromagnetic Radiation;
- The establishment last week of a Health Complaints register by ARPANSA (the radiation levels regulator).

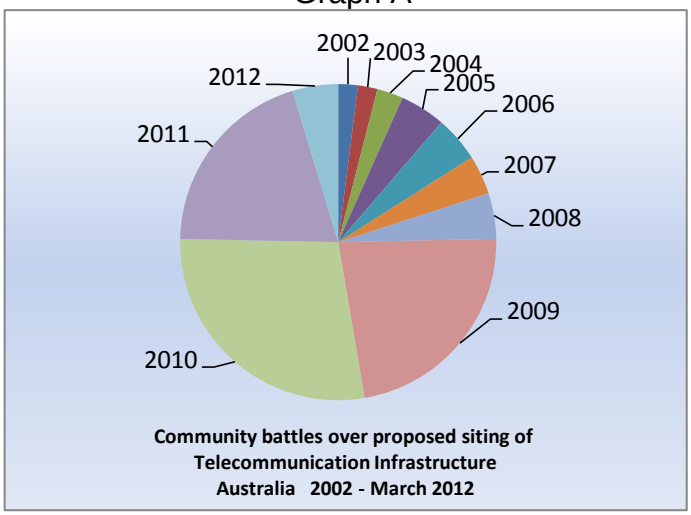
“The Democrats strongly back the efforts of the community of Federal to prevent the inappropriate siting of mobile phone towers. We have led the campaign in Federal Parliament to give the community more rights over tower sittings for five years.
“The Federal Communications Minister needs to start listening to the community and taking account of what the health researchers and the courts are saying, and act to prevent the siting of phone towers in inappropriate places like our schools,” Senator Cherry concluded.
http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;orderBy=customrank;page=1;query=mobile%20phone%20tower%20senator;rec=8;resCount=Default

2000 Senator Trish Crossin* (LAB, NT)
Parap Mobile Phone Tower - Government Should Act Now. Northern Territory Labor Senator Trish Crossin has called on the Federal Government to make urgently needed changes to the local and national planning framework for the construction of mobile telephone towers.
Senator Crossin said the Federal Government and the telecommunications industry needed to work together to significantly improve the planning framework to achieve a better balance between the national development of communications infrastructure and the interests and concerns of local communities across the nation.
"As we have seen recently in Parap, and other places, time and time again the concerns of the local community whom may be affected by the location of telecommunication towers are ignored.
"A number of residents have expressed their concerns to me about the recent installation of a mobile phone tower on top of the Paravista Motel in Parap," Senator Crossin said.
"Often the first thing the community knows about the proposal to locate the towers in their communities is after construction starts. It is clear that the current framework is not working to the satisfaction of local communities and changes needed to be made.
"The problem is not going to go away. The community obviously wants mobile telecommunication devices but the Federal Government, the telecommunications industry and carriers must listen to local community interests and concerns, and must consult and cooperate more with local communities than they are doing at the present," Senator Crossin said.
http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=trish%20crossin%20phone%20tower;rec=0;resCount=Default

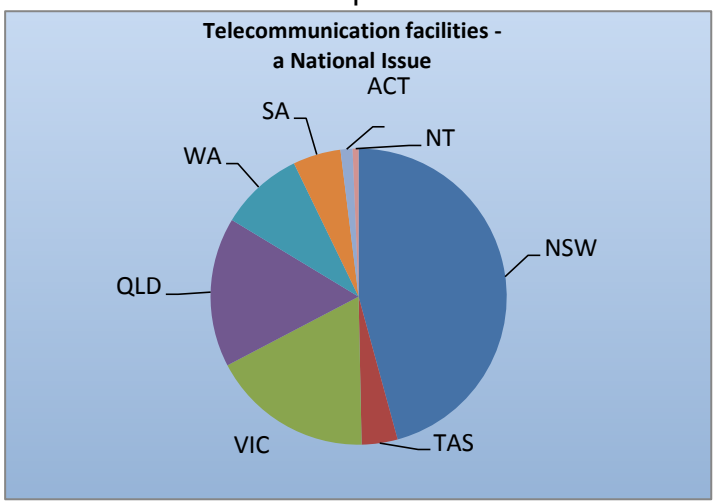
2000 Shadow Minister for Local Government, Senator Sue Mackay (LAB, TAS) has expressed concern about the Government's proposed Code of Conduct for the erection of mobile phone towers.
"The obligation for telecommunication carriers to consult with local communities is a long-awaited development, and is welcomed by the Labor Party. However, there is no mechanism under the current proposal that allows communities to ensure that their concerns are properly considered," Senator Mackay said.
"This could lead to the frustrating position where local communities may have expressed reservations or concerns about the installation of a particular tower , but are powerless to stop the installation going ahead," Senator Mackay said.
Last month the Labor Party proposed a five-point plan to achieve a better balance between the national development of communications infrastructure and the interests and concerns of local communities.
"Local communities and councils must be given a real say. The exact parameters of this role are something that the Labor Party will be exploring in discussions with local government representatives and telecommunications carriers.
"The establishment of the Australian Communications Industry Forum working group, which brings together industry groups and local government bodies, is a move welcomed by the Labor Party.
"Together these groups must work towards the development of an industry code that can address both the needs of the emerging telecommunications industry, as well as incorporating concerns raised by the community.
"The current proposal put forward by the Government is heading in the right direction. However, it does not go far enough to ensure that community concerns are both heard, and then addressed," Senator Mackay said.
http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=sue%20mackay%20mobile%20phone%20towers;rec=0;resCount=Default

Groundswell of Community Concern:
The number of media reports on communities having to battle telecommunication infrastructure proposals by Carriers and their agents has also increased – see Graph A below. The graph represents media articles on community battles relating to proposed sitings of Telecommunication infrastructure. However, it does not represent all community battles, as not all communities have had media reports outlining their community concerns. Graph B represents the state/territory locations of the battles from Graph A.

Graph A



Graph B



Also recently, the House of Representatives Standing Committee on Infrastructure and Communications called for submissions on the Telecommunications Amendment (Enhancing Community Consultation) Bill. More than 80% of submissions were made by those other than Industry. Many submissions were from community members who called for greater consultation and protection. Many stated that they were not against the facilities; however they felt strongly about appropriate siting; open and transparent consultation; the lack of support from government departments and agencies and the need for the current legislation to be amended.

Recommendations

1. I support Schedule 1 – Amendments to the *Australian Radiation Protection and Nuclear Safety Act 1998*, which would provide for a 5 yearly review by the Radiation Health and Safety Advisory Council of the radiofrequency exposure standards. Such a process would ensure best practise and would allow for ARPANSA to be proactive in its review of international research and international best practise.

2. I support the amendments to the Telecommunications Bill that:

a. Recognise carriers, other entities and those agents working on their behalf to install/maintain facilities are required to follow the act.

b. Carriers must notify any owner or occupier of land within 500 metres of an activity on an electromagnetic emitting facility.

c. Allows for the expansion to the time period in which notification must be given before activities commence from 10 business days to 30 business days. Such an expansion would allow for real community feedback to occur. Communities generally have limited or no pre-exposure or knowledge of the ins and outs of telecommunication facilities, along with the legislation and codes relating to installation of facilities. Therefore community members require time to read, absorb, reflect and act on the implications that such a proposal may have in their community.

d. Ensures there is an effective, logical and transparent complaints process run by the ACMA for those landowners/residents within a 500m radius of a proposed facility that emits electromagnetic radiation. In particular, it is important that a complaint can be made in regard to one of more of the following:

- location of the facility;

- compliance with the Code of Practice;
- compliance with any relevant industry standard;

Until a complaint is investigated and determined, no work may commence on the facility.

e. Requires and directs the ACMA to be accountable and productive in their role as they
   - record complaints by communities
   - investigate fully any complaints made with a report tabled on the finding of the investigation.
   - act impartial when fulfilling their role, without regard to commercial, financial or competitive interests of Carriers.

f. That outlines a precautionary principle. With regard to the recommendation involving the siting of mobile phone infrastructure 200m from a school and/or sensitive site, I recognise that this is not always possible or practical. I do however believe that it is possible to have less powerful, yet effective facilities that emit lower electromagnetic radiation emissions. This can be achieved through having multiple sitings. In fact, Telstra were able to do this in Rainworth/Bardon. It may not have been the cheapest option available to Telstra but it was an operationally viable option (as Telstra has proven). Other countries appear to be able to operate at a much lower level than we do in Australia, which would support a precautionary principle, not just in words but in action. I strongly recommend that the Cumulative EMR at community sensitive sites should be less than 0.1microwatts/cm2.

g. One final recommendation that I would like to make is on the grounds of the revised ACIF Code. The revised code does make some small steps in giving the community a better chance of at least receiving information about a mobile phone infrastructure proposal. However, until it becomes enshrined in legislation and replaces such wording as 'should' and 'have regard to' with 'shall', it will still be open to ambiguity.

   I note that on p34 of the House of Representatives hearing on February 17th, 2012 that a Mr Stanton (CEO Communications Alliance Ltd) states:

Mr Stanton: *The process works something like this: firstly, the carrier has to put together a consultation plan; it looks at the site that has been chosen and does a stakeholder analysis—who the carrier thinks will be stakeholders—prepares a consultation plan and presents that first to the local council. The council then has an opportunity to comment on that and say for example: 'Well, actually, you should also be talking to the fishing club. There are people you don't know about around here.' That enables the carrier to tailor that plan before it actually goes out. There are letterbox drops.*

The above is all good and well but what Mr Stanton does not elaborate on is what happens when the Carrier or their agent, has a signed lease to go ahead, prior to council and or community notification/consultation. All the 'information sharing/consultation' can amount to nought as the Carrier only has to acknowledge and consider any community feedback, it does not have to act on it. Even the ACMA'S own site states that 'the Carrier is obliged to consider community comments' but then it goes on to say that 'not all comments must be accepted or acted upon' The revised code (and I stress that it is an industry code), offers communities no protection. Communities can only get protection through legislation.

Recently at the House of Representatives Standing Committee on Infrastructure and Communication Hearing, February 17th 2012, p 17 a Mr Cheah (Authority Member, Australian Communications and Media Authority) stated:

'...we do not have that many complaints that come to us as formal complaints.'

I question the ACMA's process for handling complaints? What is the difference between a complaint and a formal complaint? Have community members been informed of how to make a 'complaint that is counted' eg. a formal complaint?

Another matter I would like to raise with regards to the ACMA, a comment made by Mr Cheah at the House of Representatives hearing, February 17th 2012, p 17:

> *"…In relation to a code of practice, essentially it is enforceable but it is an industry code which is registered with us. The presumption in the legislation is that industry will comply. If they do not comply, we can give them a direction to comply with the code. Once again, from that point on, if there are any further breaches of the code, you can then go straight to court. We, and the industry, take the code process very seriously. Essentially the industry regards it as being enforceable because they know ultimately breaches of it can end up in court."*

In relation to the comment above made by Mr Cheah, may I also say that the presumption is that the pilot of the 747 will put the wheels down before landing, however, if he/she has to be 'directed' to do so by traffic control, is the matter just left at that – I would think not! , There will be an investigation and report by ATSB. Regardless of what the considered outcome is, the ACMA should investigate fully complaints made against carriers. Is that not one of its roles? The ACMA needs to take an active role in ensuring that there are effective procedures and penalties to see that the ACIF Code is adhered to by the Carriers. In my opinion, too many times the Carrier is given a 'second chance' or a verbal warning, as each breach is treated case by case, as a stand-alone matter. Patterns seem to be occurring, such as inaccurate EME reports, low impacts becoming high impacts, poor consultation. It would appear to me that Carriers are not encouraged to change their ways (through the application of penalties by ACMA), they simple move on to a new community and repeat their performance. The penalties need to have a meaningful impact on Carriers and their Agents to encourage best practice.

Again I refer to a comment made by Mr Cheah (ACMA) at the February 17th House of Representatives, Friday, 17 February 2012, p21:

Mr Cheah: Where we have an initial complaint, we will make some kind of initial assessment under that. The way things work under the Telecommunications Act is that when we get a complaint we have to look at it. We make an initial assessment and then decide whether we are going to investigate it or not investigate it. We do have an option not to investigate it. That will be usually an assessment of how the complaint is really looking in a practical kind of sense, what kind of outcomes we are heading towards and things like that. Sometimes we will choose not to formally investigate a complaint. When we do that we will write back to the complainant and tell them the reasons why. I think that is what happened in that Bardon incident as well. I think it was partly because we could see which way the thing was heading. The carrier had obviously heard the community and decided now to adopt a different process.
Mrs PRENTICE: Mainly because it ended up in court, though.
Mr Cheah: Yes. As I said it is under state and territory laws.

Has the ACMA ever investigated a formal complaint that has resulted in it giving a Carrier a direction? If so, how many? And has the ACMA ever taken action against a carrier that has been found to be in breach of schedule 3? And if the ACMA do not formally investigate a complaint, does that mean it's not a formal complaint and is it not recorded as such? Or is there another way that a complaint can be investigated and is that then recorded elsewhere on the public record by the ACMA? Can I just state that the Bardon case had nothing to do with state or territory laws. Telstra at any time could have come on to the site using a Land Access and Activity Notice. I was informed by one senior Telstra employee that they would not do this as they realised then that the proverbial would hit the fan. I was then further informed that the legislation that enables carriers to install low-impact facilities on land without landowners' permission was a privilege and one not to be abused. If Carriers don't want the bad publicity from using their right, then maybe they shouldn't have the right under legislation to install such infrastructure on residential dwellings? I would imagine though that it does make for a wonderful bargaining tool when in negotiations with a landowner who does not want to give permission. Give permission and get paid or refuse and we'll come on to your land anyway, because we can, and you will need to go to the TIO to get compensation and it won't be as much as what we can pay you. I wonder if such a tactic has ever been used.

Background Information on the Rainworth/Bardon/Telstra Experience

The example below highlights how current legislation provides no protection for communities.

The following is an excerpt from Telstra's own website

http://www.telstra.com.au/abouttelstra/advice/eme/wireless-community-consultation/bardon/?red=/eme-bardon#bardon-and-electromagnetic-energy-(eme)

> What Telstra is doing to keep Bardon connected
>
> In order to maintain the level of mobile services to the Bardon area, Telstra has been working on plans for a replacement facility since late 2008.
>
> Last year Telstra proposed to replace the existing Main Avenue facility with a new facility in Gerler Street. This proposal attracted significant community feedback and opposition.
>
> In response to the community's feedback, Telstra now proposes a revised solution to maintain Next G™ services in Bardon. This proposal consists of three Next G™ facilities installed on existing infrastructure in the suburb.
>
> Telstra has named the three proposed new sites:
>
> - Bardon Central
> - Bardon South
> - Bardon East

Telstra also states in their Corporate Citizenship Report 2010; pages 22 & 23: (See Attachment 3)

In 2009/10, a number of communities, including Bardon in Brisbane and Summer Hill in Sydney, expressed concern about EME in response to Telstra's consultation on new mobile base station proposals. Telstra responded to these concerns through extended consultation, proactive community engagement and, where possible, working with the community's feedback on the proposed site location and design.

I believe the above statements from Telstra to be inaccurate and misleading. Feedback included 800+ signed petitions objecting to the proposal, 200 written feedback submissions and a number of letters sent to Telstra CEO and Board. Despite all this significant feedback and opposition (*Telstra's **own** words*), **Telstra lodged a plan to proceed with their proposal with Brisbane City Council on November 11th 2009.** I also note that in a letter to Senator Scott Ludlam (3/11/09 – 18 days after the close of community submissions) that Telstra CEO, Mr Thodey wrote:

For these reasons, Telstra will not be considering an alternative site.

I note our community raised over $20 000 to fight the initial Telstra proposal.
I note that we supported a resident of 27 Gerler Street who decided to challenge the validity of the purported lease between the Body Corporate of Gerler Mews and Telstra.
I note that the resident took their complaint to the Qld Body Corporate and Management Commission.
I note that Telstra was identified as a party to the proceedings.
I note that all submissions to the Qld BCMC were to be received by 4/12/09.
I note that a letter from a leading Australian Law Firm on behalf of Telstra was sent to at least two members of the Body Corporate Committee (dated 25/11/09) instructing them to sign a new lease, with the added information that they could be taken to court if they did not sign the new lease (and be up for court costs etc). I note that they were given approximately 24 hours to sign. I note that this occurred during the period given for the delivery of submissions to the QLD BCMC. No apology for this unwarranted and devious bullying behaviour has ever, to my knowledge, been received by these two unit owners.
I note that Telstra also submitted their case to the Qld BCMC.

I note that on Dec 22 2009, the Adjudicator handed down an interim decision that saw the validity of lease to be believed to be void and ordered that no work be done on the site re: Telstra's telecommunications facility.
I note that on (March 31 2010) the Qld BCMC handed down its final order stating that the validity of the lease to be void.
I note that the Qld BCMC allowed for an appeal period against the decision.
I note that Telstra did not lodge an appeal.
I note that, after the community spending $20 000 and after a community member attaining legal advice from the Qld BCMC, that Telstra did not proceed with their initial proposal at 27 Gerler Street.

Despite what Telstra's website and Corporate Citizenship Report 2010 state, it is clear from the CEO's letter to Senator Ludlam and from their intention spelt out in the Consultation Report for 27 Gerler Street (see insert below), submitted to Brisbane City Council on November 11 2009, that Telstra did not work with community feedback. Telstra completely ignored community and all representations made by elected members of parliament at federal, state and local levels. Current legislation requires that Carriers need only 'tick the boxes' to comply and not require actual consideration.

Intended action regarding proposed work

Telstra has considered and responded to all submissions received during the consultation process and can confirm that the proposed design complies with all the relevant statutory and regulatory requirements. Based on these considerations, Telstra intends to proceed with the proposal as notified.

(By Telstra, November 11 2009)

Conclusion:
The experience had by the Rainworth /Bardon community highlighted the inequalities of resources between the Carrier and the community. On the one hand the Carrier has endless access to finance and manpower whilst the community, from a standing start and with a very tight timeframe, had to rely on its own conscripted talent to find all of what is needed to level the playing field and to give the community a voice. Additionally in our case (and no doubt in many others) it was necessary for us to raise in excess of $20 000 at very short notice to mount a successful challenge to the validity of the alleged lease process. It was this issue and this alone that forced Telstra to look elsewhere. This stands in contrast with Telstra's own words quoted in their Corporate Citizen Report 2010.
Communities across Australia should not have to stop their daily lives, in order to battle Carriers. Communities are not unreasonable; they have a vested interest in the lives of their community.

I will conclude now with an address by MP Tony Piccolo. His address to the South Australian Parliament outlines the nature of this game – a game that at the moment is being played on a most uneven playing field.

Speech made by Tony Piccolo, South Australia, 3rd May 2011 re TELECOMMUNICATIONS TOWERS
Mr PICCOLO (Light) (16:09): I rise today to talk about an issue regarding mobile telephone towers in my electorate. Mobile telephone services have become an integral part of everyday living, and telecommunications towers are a key part of this vital infrastructure. These towers vary in height from 15 to 50 metres and are dotted across the urban and rural landscapes. Telcos have been given widespread power and authority under planning laws to assist them to develop this network.
However, these towers do not exist in isolation and are often built in very close proximity to communities of people. My story today is an example of how a large Australian telecommunications company, namely Telstra, appears to have used its might and legal power to bludgeon a small community into submission rather than engage in a constructive dialogue with a community of responsible and reasonable residents.
Very recently, a 37-metre telecommunications tower has been built in the community of Hillier within my electorate. The community is characterised by a range of small rural allotments of two to four hectares on the flat plains west of Gawler. This is their story, and also mine, because I was very pleased and proud to support them.

In December 2008, Telstra put forward a planning proposal to Gawler council to build a tower at the corner of Winzor and Hillier roads. Telstra had chosen to build the tower in the most densely populated part of Hillier and the visual impact for several families was going to be very high, that is, dominating the nice skyline. After researching the planning laws, establishing what Telstra's technical needs were, working collaboratively with the Gawler council's development assessment panel and holding community information meetings, the residents identified more suitable sites in an area of between 200 and 400 metres to the north-east.

I need to just reinforce what the message of today's grievance is. At this stage, I need to emphasise an important fact. Not, at any stage, did the residents adopt a 'not in my backyard' stance. They went out of their way to achieve a workable solution which would meet the needs of the wider Australian community, the commercial needs of Telstra, and, importantly, reduce the visual impact of the tower for all the Hillier residents. Again, they did not take a 'nimby' stance at all. Delivered achievements included:

the residents were actively surveyed and supported the change;

it was established that Telstra's technical requirements for the tower would not be disadvantaged;

the support of three landowners in the proposed area was gained, who were prepared to volunteer their land, guarantee access and make it available to Telstra at a significantly reduced price. Telstra was free to choose which site it wanted to use; and

it worked closely with Gawler council's DAP who were very supportive of the residents' responsible and reasoned recommendations.

Repeated requests made separately and jointly by the residents, the Gawler DAP and myself for Telstra to work with the Hillier community were not only met with silence but occasionally with denial, legal threats and belligerence. Telstra appears to have treated the residents of Hillier, the local planning authority and myself as the enemy, despite being given a wonderful opportunity to engage with the community and build something that met the needs of all the parties involved. Small communities and councils do not have the financial resources to challenge a huge company like Telstra in the courts—a point emphasised to me by a Telstra lawyer.

I am very proud of the efforts of the Hillier residents and the Gawler council who attempted bravely and persistently, over a long period of time, to act with reason and responsibility in an imposed environment of hostility, belligerence and arrogance. Unfortunately, we lost the fight, despite all our endeavours. Telstra has never shown any willingness to significantly vary its initial proposed site and, in my opinion, used the legislated planning laws as an excuse to impose its will.

The 37-metre tower has now been erected and is operating. The wider community has improved access to mobile technologies and that is a good thing. Telstra has looked after its commercial interests and that is a good thing. The residents of Hillier have a piece of communication infrastructure that dominates their skyline and will do so for a lifetime and that is not a good thing, especially when there were viable alternatives on the table.

Despite the disappointment, there may just be a ray of light emerging for the future. Vodafone (who, I am aware, has other problems in its business at the moment) has recently expressed concern with the conflict created in various communities by the tower construction process. They are showing very strong interest in developing and implementing a panel approach which would see local residents, local councils and Vodafone attempting to work together whenever they plan to build a tower in the community.

I commend Vodafone's proposed approach. It is not necessarily an easy road. I congratulate them and indicate my willingness to work with them to improve the process of citing telecommunication towers.

It is my hope, and I am sure the hope of politicians (past and present) who have voiced their concerns over this issue, along with hundreds of communities across Australia that this inquiry will begin to bring about a fair, effective and positive change for all stakeholders, not just for Carriers and their agents. The Carriers have had enough time to demonstrate their ability to have open and transparent consultation with communities and to be able to self-regulate. There is much evidence to suggest that they are unable or unwilling to do this.

Thank you for your time and efforts in considering my above recommendations and comments. If you require any further information, please do not hesitate to ask.

Yours faithfully,

Anne Tredenick