



**Appendix E – Telecommunications
Amendment (Enhancing Community
Consultation) Bill 2011 and Explanatory
Memorandum**

2010-2011

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Telecommunications Amendment
(Enhancing Community Consultation)
Bill 2011**

No. , 2011

(Mr Wilkie)

**A Bill for an Act to enhance community
consultation in relation to the development of
certain telecommunications facilities, and for
related purposes**

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1 **A Bill for an Act to enhance community**
2 **consultation in relation to the development of**
3 **certain telecommunications facilities, and for**
4 **related purposes**

5 The Parliament of Australia enacts:

6 **1 Short title**

7 This Act may be cited as the *Telecommunications Amendment*
8 *(Enhancing Community Consultation) Act 2011*.

9 **2 Commencement**

10 This Act commences on the day after this Act receives the Royal
11 Assent.

1 **3 Schedule(s)**

2 Each Act that is specified in a Schedule to this Act is amended or
3 repealed as set out in the applicable items in the Schedule
4 concerned, and any other item in a Schedule to this Act has effect
5 according to its terms.
6

Schedule 1—Amendments

Telecommunications Act 1997

1 Clause 1 of Schedule 3 (fourth dot point, paragraph (g))

Omit “the owner”, substitute “owners”.

2 Subclause 6(5) of Schedule 3

Omit all the words after “subclause (3)”.

3 Paragraph 6(7)(a) of Schedule 3

Omit “5 metres”, substitute “1 metre”.

4 Paragraph 7(8)(a) of Schedule 3

Omit “not”.

5 At the end of subclause 17(1) of Schedule 3

Add:

; and (c) in relation to an activity under Division 3 or 4—the owner and occupier of any land within 500 metres of the facility or proposed facility concerned.

Note: The heading to clause 17 is altered by omitting “owner” and substituting “owners”.

6 Subclause 17(4) of Schedule 3

Omit “10”, substitute “30”.

7 Subparagraph 27(1)(g)(ii) of Schedule 3

Repeal the subparagraph, substitute:

- (ii) all alternative less sensitive sites are not feasible; and
- (iii) the proposed location is not within 100 metres of the community sensitive site; and

8 After subclause 27(4) of Schedule 3

Insert:

- 1 (4A) For the purposes of subclause (4), the ACMA must not have regard
2 to the revenue, profit, market share or any other financial interest
3 of the carrier.

4 **9 After subclause 35(3) of Schedule 3**

5 Insert:

- 6 (3A) Applications may be made to the Administrative Appeals Tribunal
7 for review of a decision of the ACMA under clause 25 to issue a
8 facility installation permit.

9 **10 Paragraph 48(2)(a) of Schedule 3**

10 Repeal the paragraph.

11 **11 At the end of paragraph 48(2)(b) of Schedule 3**

12 Add “, other than interests relating to competition between carriers”.

13 **12 At the end of subclause 48(2) of Schedule 3**

14 Add:

15 ; (e) the impact of such facilities on members of the public.

2010-11

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Telecommunications Amendment (Enhancing Community Consultation) Bill 2011

EXPLANATORY MEMORANDUM

Circulated by authority of
Andrew Wilkie MP

Telecommunications Amendment (Enhancing Community Consultation) Bill 2011

Clause 1: Short Title

1. This clause is a formal provision and specifies the short title of the Bill, once enacted, as the *Telecommunications Amendment (Enhancing Community Consultation) Act 2011*.

Clause 2: Commencement

2. This clause provides for the commencement of all Sections of the Act the day after the Act receives the Royal Assent

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.

Item 2: Subclause 6(5) of Schedule 3

2. Item 2 removes the ability for any kind of tower to be specified under a legislative instrument, such as the *Telecommunications (Low-impact Facilities) Determination 1997*.

Item 3: Paragraph 6(7)(a) of Schedule 3

3. Item 3 limits the specification of extensions to towers under a legislative instrument such as the *Telecommunications (Low-impact Facilities) Determination 1997* to 1 metre, from 5 metres.

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

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

Item 5: At the end of subclause 17(1) of Schedule 3

5. Item 5 specifies that carriers must notify any owner or occupier of land within 500 metres of an activity under Schedule 3 or Schedule 4 of the *Telecommunications Act 1997*.

Item 6: Subclause 17(4) of Schedule 3

6. Item 6 expands the time period in which notification must be given before activities commence from 10 business days to 30 business days.

Item 7: Subparagraph 27(1)(g)(ii) of Schedule 3

7. Item 7 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 any community sensitive site.

Item 8: After subclause 27(4) of Schedule 3

8. Item 8 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 9: After subclause 35(3) of Schedule 3

9. Item 9 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 10: Paragraph 48(2)(a) of Schedule 3

10. Item 10 repeals the requirement that ACMA must have regard to the views of associations which it is satisfied represents carriers.

Item 11 At the end of paragraph 48(2)(b) of Schedule 3

11. Item 11 restricts ACMA from considering the legitimate business interests of carriers when those interests relate to competition between carriers.

Item 12 At the end of paragraph 48(2)(b) of Schedule 3

12. Item 12 requires ACMA to consider the impacts of the proposed facility on the public when informing the public about the proposal.