Telecommunications Amendment (Mobile Phone Towers) Bill 2011

Submission to Senate Standing Committees on Environment and Communications

From Robert C Coughlin,

Introduction

This submission is made following the experience of residents near a mobile-phone antenna installation erected in Cherrybrook, NSW, in 2005 by Hutchison 3G Australia Pty Ltd (Site ID 206072). Our experience clearly demonstrated the unfettered power given to carriers under the *Telecommunications Act 1997* and the *Telecommunications (Low-impact Facilities) Determination 1997* as they currently stand.

The facility was erected against the strong objections of Hornsby Council which owns the site and the residents of the surrounding houses (the electricity transmission tower on which the antennas are installed is within a few metres of houses). People objected principally on the basis of the unknown long-term health effects.

The day after Council unanimously resolved not to negotiate with Hutchison over access to the site, Hutchison issued a notification that it was entering the land to commence the installation of the antennas facility. This showed a level of contempt for both government and citizens rarely seen in an open society.

As noted, the company is given the right to install the equipment under the Telecommunications Act 1997 and the Telecommunications (Low-impact Facilities) Determination 1997.

The *Telecommunications Amendment (Mobile Phone Towers) Bill 2011* being examined by the Committee would not in itself impact upon the above rights because Schedule 3 of the Bill is concerned with restrictions on ACMA issuing a facility installation permit. Under Clause 6 of Schedule 3 of the Telecommunications Act, a carrier does not need a permit if the facility is a low-impact facility.

Hence, the very desirable amendment to subparagraph 27(1)(g)(ii) of Schedule 3 of the Act (a facility must not be within 200 metres of a community-sensitive site) would not have any bearing on situations where a facility met the definition of a low-impact facility. In particular where an antenna installation is to be erected on an existing structure.

The purpose of this submission is

1. ***To request that the Committee recommend amending the definition of "low-impact facility" in the Telecommunications (Low-impact Facilities) Determination 1997 to restrict the areas where the term applies to existing structures.***

   Certain provisions of the Determination might have served some purpose in 1997 when companies were still installing the basic mobile phone infrastructure. However in 2012, it is surely unnecessary to retain provisions which deny to people their democratic rights and give to private companies powers greater even than governments.

   In particular, it makes no sense that a small antenna on a light pole probably requires a facility installation permit and development consent while a very large installation on a convenient existing structure is exempt from such requirements. Accordingly, it is submitted that for mobile-phone installations such as that mentioned above, carriers should be required to follow the normal planning processes and be required to obtain an installation permit under the Telecommunications Act.

It seems that for this to happen would require an amendment to the Telecommunications (Low-impact Facilities) Determination 1997. Specifically, it could be amended to remove some of the references to "Residential" in the Schedule to section 3.1. In particular, Part 1—Radio Facilities (Items 2, 3 and 5) and Part 3—Above Ground Housing (especially Item 5).

The effect of such amendment would be that carriers wishing to install antennas on an existing structure in residential areas would need to apply for an installation permit under the Telecommunications Act and submit a development application to the local authority as they must do for other proposed facilities.

We believe the action requested is most reasonable and consistent with the intent of the Telecommunications Amendment (Mobile Phone Towers) Bill 2011, and respectfully seek the Committee's support.

and

2. ***To request that if the first request is accepted, existing installations which are grossly in conflict with subparagraph 27(1)(g) of Schedule 3 of the Telecommunications Act be required to be removed within say 2 years of the amendments to the Telecommunications (Low-impact Facilities) Determination 1997.***

   Such facilities would not have been permitted if they had not met the definition of low-impact facility at the time of their installation, and would not be permitted under amended definitions, so it is only fair to the community that consistent standards are required to apply within a reasonable timeframe.

   Moreover, the antennas on many of the facilities such as the one described in the Introduction, transmit signals at very short distances direct into children's bedrooms – a situation which no government should tolerate.

and

3. ***To support the provisions of the Telecommunications Amendment (Mobile Phone Towers) Bill 2011.***