

10-November-2011

Ms Sharon Bird MP
Chair House of Representatives Standing Committee
Infrastructure and Communications
Email: ic.reps@aph.gov.au

Dear Ms Bird

Submission in support of *Telecommunications Amendment (Enhancing Community Consultation) Bill 2011* – due to experience with Telstra at Tinderbox, Tasmania, site of a proposed high impact tower

One of the purposes of the *Telecommunications Act 1997*, when it was established 15 years ago, was to ensure national coverage for the mobile phone network. Until recently, most mobile phone towers installed to serve that need were sited on hills or other prominent locations, typically away from residential areas, where they provided good coverage. The mobile phone voice network is now near completion, and most new facilities now being installed in residential areas are not for mobile voice coverage, nor for emergency services, but to increase data download speeds (as was the case in our rural residential community at Tinderbox, Tasmania). For this reason, the *Telecommunications Act 1997* no longer serves its purpose; it gives inequitable power to the telecommunications industry to site facilities in residential areas, but provides little recourse for residents who have valid community concerns.

The Tinderbox Mobile Phone Tower Example

We live in Tinderbox, southern Tasmania, next door to a site where Telstra recently proposed (via a local council development application) a high-impact 34.5 m lattice mobile phone tower. This example illustrates how the current *Telecommunications Act 1997* is inadequate and demonstrates how the proposed amendments would have aided our community.

We have also provided additional concerns about the Act that the proposed amendments will not address. It is hoped these will go some way in promoting additional amendments.

Local government support

Local government supports the Bill's amendments. Our Council (Kingborough) has written letters to Tasmania's Federal Politicians in support of the Bill. I am aware that a number of other councils are also supportive, such as the Launceston and Hobart City Councils. This demonstrates that this is an issue that local government believe warrants legislative change at a national level.

Improve public consultation

1. *BILL ITEM 5: Require owners and occupiers of land to be notified of a proposal to either build or modify a telecommunications tower within 500 m of their property.*

In Tinderbox, only four neighbouring property owners were notified in writing by the local council of the development application to install the 34.5 m mobile phone tower, even though there were at least 20 other residential properties within 500 m of the proposed site. Many of these properties would have been exposed to the highest electromagnetic radiation (EMR) exposure levels from the tower and would have also experienced a visual impact. The proposed site also impacted on values important to a large number of stakeholders as construction activities would encroach on a public nature reserve. We and our neighbours informed the broader community about the development application and within the 14 day comment period Kingborough Council received ~200 objection letters.

Objections included letters from:

- Hon David O’Byrne - Tasmanian Labour MP (Minister for Infrastructure)

Objected, noting lack of equity in regards visual impact of the tower upon nearby residents, when a site already approved nearby that received no objections.

- Hon David Wrightman - Tasmanian Labour MP (Minister for Environment)

Objected, noting need for further consideration of threatened species values

- Hon Nick McKim – Leader of the Tasmanian Greens

Objected, noting lack of public consultation

- Birds Tasmania (Tasmanian Branch of Birds Australia)

Objected, identified threats to state and nationally listed threatened wildlife

- Tasmanian Parks & Wildlife Service

Objected, identified encroachment & implication upon TPWS managed reserve

- Tasmanian Aboriginal Land & Sea Council

Objected, no survey or consideration of Aboriginal heritage and community values known to occur in the area.

If our neighbours and we had not informed other residents and stakeholders they would not have been aware of the development until too late – after construction had commenced.

2. *BILL ITEM 6: Provide that notified owners and occupiers have 30 days in which to respond to the proposed development.*

It is outrageous for the telecommunications industry to claim that increasing the response time to 30 days will substantially slow down development decisions. Telco’s have months to prepare development applications (DA) for submission to local councils; residents have just days to respond.

In Tinderbox, residents had only 14 days to respond to Telstra’s DA for a tower near homes. This was insufficient time for residents (many of whom work full-time) to obtain

and interpret detailed technical and scientific information about local planning schemes, health risks from EMR, and telecommunications industry codes of practice, and to seek independent advice. Council DA's cannot be copied to take home and read, and Telstra's consultant reports (prepared over the preceding months) can only be viewed in hard copy at the Council Chambers. This limits meaningful discussion and scrutiny of proposals. In our case, the EMR exposure information accessible by the public on AMTA's 'Radio Frequency National Site Archive' website also had the wrong town name ('Margate') for the proposed tower at Tinderbox, which caused confusion about which site it referred to. Many of us had to take personal leave to make time to gather information and face significant personal expense for expert planning and other advice within the time allocated to lodge a submission. Ten working days is inadequate for genuine and considered community involvement, especially when no broader stakeholder engagement has been undertaken.

3. *BILL ITEMS 2 & 3: Provide that new telecommunications towers cannot be declared to be low impact and limit the size and capacity of telecommunications towers*

The *Telecommunications Act 1997* enables the installation of telecommunication towers and antennae through the use of permits and 'low-impact' classifications – which circumvents local or state government planning processes. In such instances the voluntary *Australian Communications Industry Forum (ACIF) Code* is used, and if public concerns are raised they are not, ultimately, enforceable by the Code.

Moreover, the Code doesn't apply to 'high impact' towers submitted through the DA process, leaving residents with no avenue to lodge objections or concerns other than to the local council. In Tinderbox, our local council was not equipped to handle some of the concerns we raised relating to provision of health information and lack of community consultation.

The following example demonstrates how the ACIF Code failed Tinderbox. We sought health information from Telstra (namely, a Radio-Frequency (RF) EMR exposure map for houses within 500 m of the proposed tower site), which Telstra was not going to provide until after the Council planning decision had been made. This is an ACIF Code breach of conduct, as Telstra was not able to provide timely provision of health information; however, as the proposed tower was 'high impact' the ACIF Code did not apply.

Kingborough Council ultimately extended the assessment period of the Tinderbox development application by four weeks (due to the number of objections), and the extra time enabled us to access the health information from Telstra, but only through a personal meeting with the Telstra Southern General Manager. At this meeting we heard that Telstra had made a \$3.3 billion profit in the last financial year and that they were not afraid to go to the planning tribunal if the Council decision was unfavorable. This is an unsatisfactory and an intimidating way for the community to have to access simple health information. The RF-map had less than 1/2 the maximum EMR exposure at ground level compared to Telstra's environmental report published on the RFNSA

website. This raises a question regards the accuracy of information being made available to the public. Telstra also refused to provide us with a RF-map projecting the estimated radiation increase if other telecommunications carriers were to co-locate at the proposed Tinderbox site. The ACIF, Australian Communications and Media Authority, and Telecommunications Industry Ombudsman were unable to assess our concerns regarding the provision of the health information - because they do not handle issues relating to 'high impact' towers. I doubt that any regulatory body, such as the ACMA, even records the number of high-impact towers installed around the country that have raised community concerns.

Since the *Telecommunications Act 1997* was created there has also been industry advances not captured by the Act, including the emergence of infrastructure development companies to whom the ACIF Code does not apply (e.g., possibly Crown Castle Australia). The major carriers and development companies have also undermined the intention of the height limits in the Act, as the limits do not include antennae and other equipment.

The Bill seeks to improve public consultation. Please support the restoration of balance for community appeal when we have genuine concerns.

4. *BILL ITEMS 3 & 4: Limit the size of telecommunications towers.*

Under the *Telecommunications Act 1997* it is possible for carriers to upgrade and make additions to existing installations (including those originally approved through local government development application processes) that would increase overall EMR output and visual impact. Such additions are installed under the definition of maintenance or 'low-impact' - and are thus exempt from local government and state planning (this was a further fear if the Tinderbox tower was built). Additions to the proposed tower in Tinderbox would have occurred without the need for assessment and public consultation, even though they would not have been part of the initial development application. From a local government perspective, new tower approvals are actually approving 'new infrastructure' envelopes, and establish a precedent for more infrastructure to be co-located on the approved site.

The current Act even gives the telecommunications industry the power to enter properties and place their base stations on the roof of a home against the owners wish; this occurred at least four times in 2009 alone (see <http://www.notowersnearschools.com/theissue.html>). The Bill will remove the exemption for 'low-impact' facilities from local or state government planning processes, and intensify the ACMA's scrutiny of applications for permits. Please support an assessment process that enables the community to participate in discussion as to where this infrastructure is located.

5. *BILL ITEM 8 & 9: Disallow ACMA from considering commercial interests when determining the importance of a facility in a telecommunications network*

The Tinderbox community was further frustrated and annoyed by the fact that Telstra already had a council approved site nearby that had already been through the development application process. The approved site was not near homes, received no objections and provided better mobile coverage – but was subsequently deemed unacceptable to Telstra due to the cost to install power to the site. The proposed site next to residences demonstrated a massive inequity in regards to the financial impact on the value of our homes (our most important asset), due to visual as well as potential and perceived health impacts from the proposed tower, whilst Telstra (which posted a \$3.3 billion profit last year) attempted to save what would be the equivalent to ‘small change’ in their capital works budget on a cheaper power connection. It is essential that tower installations are based upon network needs, not cost saving, as demonstrated in Tinderbox. The current legislation enables industry to make cost-saving based decisions on infrastructure placements, which can have negative financial impacts on residents but then provides residents with little/no genuine avenue for appeal.

6. *BILL ITEM 7: Require ACMA, when considering developments near community sensitive sites, to be satisfied that all alternative sites are unfeasible. Proposed facilities must be at least 100m from a community sensitive site.*

This Bill will introduce a buffer zone around sensitive sites, such as schools and hospitals, but it does not acknowledge the need for a precautionary approach to tower and antennae siting in the absence of evidence that they do not cause harm. This should be considered an additional amendment item. Children, elderly, and the ill are considered to be potentially the group most at risk from EMR exposure related health effects. Please support a precautionary approach to siting of telecommunication infrastructure near sensitive sites.

Perhaps the item should also consider homes as a sensitive site, and industry should make attempts to reduce EMR exposure in residential areas. The inferior coverage from the proposed tower site next to our home in Tinderbox meant that it would produce EMR level several times higher than the approved site that was not near homes and provided better coverage (information sourced from the ‘Radio Frequency National Site Archive’ <http://www.rfnsa.com.au/nsa/index.cgi> website). We do not feel that Telstra attempted to reduce EMR exposure to residents when they proposed the tower near our homes.

7. *BILL ITEM 8: Provide that the Australian Communications and Media Authority (ACMA) can issue installation permits for high impact facilities only in extraordinary circumstances.*

Currently if ACMA issues a permit for a carrier to install a high impact tower on private land, the landowner and neighbours have very limited grounds to object, and local and state government planning approvals are not required. This is not satisfactory. Landowners should have the right to refuse permission for a carrier to install facilities on their private land unless in extraordinary circumstances.

8. *BILL ITEM 9: Enable local communities to appeal a facility installation permit being granted with the Administrative Appeals Tribunal*

This will protect our community's right to have a voice in the future, as Telstra has not confirmed their plans at Tinderbox. Residents do not want a tower forced upon them, via potential permit provisions through the Act, when Telstra already has an alternative site approved in Tinderbox that is not near homes, received no objections and provides superior coverage.

Additional issues not addressed by the Telecommunications Amendment Bill

It must be noted that the current Telecommunications Amendment Bill doesn't address all our concerns, notably a need to review EMR health standards and to adopt a precautionary approach to the siting of towers.

There is currently a lack of scientific consensus as to the health effects from the long-term accumulated exposure to EMR from telecommunication base stations (mobile phone towers and antennae). The *Australian Radiation Protection and Nuclear Safety Agency* (ARPANSA) establish EMR exposure limits (currently set at 450 microwatts/cm²). The Standard only considers short-term thermal effects (to prevent heating of the body by 1° C); it does not consider not long-term athermal risks (such as DNA damage, cancer and other health effects), which are uncertain. The Australian community is losing confidence in ARPANSA, as it does not appear to apply a precautionary approach.

In May 2011 the World Health Organisation (WHO) upgraded the risk from EMR to “possibly carcinogenic to humans” based on the International Agency for Research on Cancer (IARC) advice (see Robert *et al.* 2011, Carcinogenicity of radiofrequency electromagnetic fields, *Lancet Oncology* 12(7), pp 624-626). The EMR cancer risk is most apparent in mobile phone use (≥ 30 minutes per day), but as yet there appears to be insufficient information to assess the risk from long-term EMR exposure from telecommunication base stations (Robert *et al.* 2011). A lack of sufficient data to draw firm conclusions about health effects from long-term low-level EMR exposure from base stations was also a finding in the scientific peer-reviewed study by Roosli *et al.* 2010 (Systematic review on the health effects of exposure to radiofrequency electromagnetic fields from mobile phone base stations, *Bull. World Health Org.* 88, pp 887 - 896G, doi:10.2471/BLT.09.071852). Until sufficient information is obtained, there is uncertainty about health impacts from telecommunication base-stations EMR.

We suggest the Committee looks at recent scientific peer-reviewed research recommending more precautionary limits than currently set by ARPANSA given the health uncertainty.

Recommended precautionary limit of 0.1 microwatts/cm² in Khurana *et al.* (2010)

http://www.brain-surgery.us/Khurana_et_al_IJOEH-Base_Station_RV.pdf

Recommended precautionary limit of 0.17 microwatts/cm² from in the Seletun Scientific Panel Statement (2010) <http://www.helbredssikker-telekommunikation.dk/Seletun.pdf>

Use of these precautionary levels should not alarm the telecommunication industry, as many installations in residential areas already operate below the precautionary 0.1 microwatts/cm² level mentioned above (see RFNSA website). However, much higher levels were proposed from the Tinderbox tower (up to 36 times higher than the precautionary levels stated above). European countries have already taken a more cautious approach than Australia because of the absence of scientific consensus on the long-term effects of EMR exposure (e.g. Switzerland's standard is 4 microwatts/cm² – much less than Australia's standard of 450 microwatts/cm²). The public has lost confidence in ARPANSA's EMR exposure limit, please support regular reviews of the EMR standard and adoption of precautionary principles.

In Tasmania I am aware that some telecommunication companies have been sending their own 'experts' to convince local government and community that there is no health concern from base stations. I am concerned the industry's message and evidence selection is biased, when in reality the health concerns are still being researched and debated. I assume the committee will seek scientific advice from sources other than ARPANSA. It is noteworthy that controversy surrounds some research with claims of bias and conflict of interest, where representation and funding largely provided by the telecommunication industry – for example see: <http://www.magdahavas.com/2011/07/05/conflict-of-interest-the-wireless-industry-and-icnirp/>

The Tinderbox experience brought to our attention the autonomy that carriers have when it comes to siting mobile phone towers, the lack of say that residents have, and the disregard for precautionary principles even though the potential health risks from increased electromagnetic exposure are still being debated. We have learned that other communities nationwide have faced, and continue to face, similar issues. They feel the same sense of powerlessness and frustration that I have experienced. We feel disenchanted with the current telecommunications legislation and have lost faith in lack of precautionary principles within the radiation exposure standard set by ARPANSA.

The Telecommunications Amendment Bill is not 'anti tower' – it will improve deployment practices and community consultation and ensure precautionary measures are applied.

Sincerely,
Dr Jason Whitehead & Dr Fiona Taylor