

Legislation Review Committee



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NEW SOUTH WALES

Correspondence received in response  
to the Legislation Review Committee  
Digest No. 43 – 17 May 2022



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**The Hon. Victor Dominello MP**  
Minister for Customer Service and Digital Government

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Our reference: COR-02758-2022  
Your reference: D22/23397

Mr David Layzell MP  
Chair  
Legislation Review Committee  
By email: [legislation.review@parliament.nsw.gov.au](mailto:legislation.review@parliament.nsw.gov.au)

Dear Mr Layzell MP

Thank you for your correspondence about the *Government Telecommunications Amendment Bill 2022* (Bill).

As you would be aware, the purpose of the Bill is to expedite the roll out of the Public Safety Network (PSN) via the Critical Communications Enhancement Program (CCEP). Expansion of the network through the CCEP is crucial to ensuring NSW Emergency Services Organisations have the critical infrastructure required to respond effectively to emergencies and natural disasters, such as bushfires and floods.

The NSW Telco Authority (the 'Authority') and emergency telecommunications network operators (ETNOs) always negotiate property access with the landowner. Lease agreements are developed in consultation with the landowner, which include details of the agreed access terms, including how property will be accessed in an emergency when contact is not possible with the landowner or occupier.

The powers of access provided with the Bill are derived from provisions in the *Electricity Supply Act 1995* and are similar to access provisions for telecommunications carriers under Division 3 of the *Telecommunications Act 1997*. Access powers are awarded to authorised officers in the Bill to ensure that PSN coverage is available to our emergency services organisations as soon as possible.

An emergency referenced in Division 3 of the Bill generally relates to a situation where there is a loss of coverage and the infrastructure must be urgently repaired or maintained. Loss of coverage of the PSN can mean risk to lives and property due to a reduced capacity of emergency services organisations to respond to emergencies and natural disasters.

The Authority and ETNOs negotiate the location of telecommunications infrastructure, such as towers, with the landowner. In the case of section 34E of the Bill, if a structure were interfering with the infrastructure or the functioning of the infrastructure, the structure would likely have been built after the telecommunications infrastructure. The Authority or an ETNO will not place infrastructure where there is an existing obstruction, unless it was agreed to be removed. Notably, 34F (3) does not allow the Authority or an ETNO to recover costs from the removal of a structure if it was in place either before the installation of the telecommunications infrastructure or the structure was built with agreement of the Authority or ETNO.

Section 34P of the Bill prevents entry to residential premises without consent unless there is a warrant issued under section 34Q. An authorised officer is not permitted to enter a residence under section 34H and the reference to 'private premises' in that section usually relates to

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land. In an emergency, authorised officers would only enter premises without notice in accordance with the lease agreement and when contact was not achievable.

Telecommunications infrastructure commonly refers to telecommunications towers and accompanying huts where supporting electrical equipment is housed. Typically, residential premises are not appropriate locations for telecommunications infrastructure. Authorised officers are unlikely to need to enter someone's home and are not permitted to enter any residential premises without a warrant, where the urgency of entry would be validated by a judge.

As noted above, authorised officers enter property in accordance with agreed terms that are detailed in a lease agreement with the landowner. Section 43B could apply to someone that was not the landowner. This section ensures that authorised officers are not unnecessarily hindered in carrying out their critical functions in keeping the PSN operational and expanding to improve coverage.

Authorised officers are appointed to carry out functions of the *Government Telecommunications Act 2018*, including the amendments of the Bill. A 'public health official' or 'other civilian' would only be appointed as an authorised officer if they had the capacity to carry out those functions. Authorised officers are always employed due to their experience and skill with telecommunications and are officers of the NSW Telco Authority and its partners or of an ETNO.

For further information regarding the *Government Telecommunications Amendment Bill 2022*, please contact Alanna Linn, Director Whole of Government Connectivity Leadership, NSW Telco Authority at [REDACTED] or on [REDACTED]

Yours sincerely



**The Hon. Victor Dominello MP**  
Minister for Customer Service and Digital Government

Date: 10/06/22