

Explanatory Statement

Issued by the Authority of the Minister for Communications.

Telecommunications Act 1997

Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Amendment Declaration (No. 4) 2022

Authority

The *Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Amendment Declaration (No. 4) 2022* (the Amending Declaration) is made under section 360L of the *Telecommunications Act 1997* (the Act) and subsection 33(3) of the *Acts Interpretation Act 1901*.

Purpose

The purpose of the Amending Declaration is to amend the *Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Declaration (No. 1) 2020* (the Principal Declaration) to add two new schedules that will designate two carriers and their specific service areas under the statutory infrastructure provider (SIP) regime. New Schedule 3A will designate eleven service areas, with Commsco Pty Ltd as the SIP, and new Schedule 16 will designate one service area with Taipan Network Pty Ltd as the SIP.

The Amending Declaration also amends Schedule 8 (LBN Co Pty Ltd), to correct the geographic coordinates for an LBN Co service area in the Australian Capital Territory.

Background

The statutory infrastructure provider (SIP) regime is set out in Part 19 of the Act and commenced on 1 July 2020. It aims to ensure that all people in Australia can access high speed broadband services. Under the Act, NBN Co is the default SIP for Australia, reflecting its role in the market. However, the SIP regime provides for alternative carriers to be the SIPs for the geographic areas where they deploy telecommunications networks. This recognises that there is a competitive market in Australia for the provision of telecommunications networks.

There are three main routes by which alternative carriers become the SIPs for service areas:

- First, a small number of geographic areas reflecting carrier licence conditions made during 2013-14, were deemed as SIP areas in the statute (section 360J of the Act).
- Second, the Minister may declare that a geographic area is a ‘designated service area’ and that a specified carrier is the SIP for that designated service area (see section 360L of the Act). Eighteen SIPs have been designated previously, responsible for around 1,770 service areas.
- Third, from 1 July 2020, carriers must declare nominated service areas where they have installed telecommunications network infrastructure in a real estate development project, or a building redevelopment project, under a contract (see section 360H of the Act). Carriers must provide a copy of the declaration to the Australian

Communications and Media Authority (ACMA). Six carriers have become SIPs through this process, responsible for about 500 service areas.

The key obligations of SIPs are to connect premises in their service areas to their telecommunications networks, and supply wholesale services, on reasonable request from a carriage service provider acting on behalf of an end-user within the designated SIP area. The wholesale services must allow the retail provider to supply ‘qualifying carriage services’, which are broadband services with peak download and upload speeds of at least 25/5 Mbps. On fixed-line or fixed wireless networks, the wholesale services SIPs supply must also enable retail providers to supply voice services. SIPs must also publish the terms and conditions on which they offer to connect premises and supply eligible services to carriage service providers.

Under section 360Z of the Act, the ACMA is required to maintain a register which, amongst other things, must contain the name of each SIP and, for each of those SIPs, the relevant service area or areas. The names and geographical boundaries of the designated service areas declared in the Amending Declaration and the name of the relevant SIP will be made publicly viewable by the ACMA on its register. The data will also be available for display on the National Map: nationalmap.gov.au.

Commsco designations

Commsco is a carrier that services retirement and lifestyle villages and aged care facilities operating under the ‘Palm Lake’ brand. Commsco obtained a carrier licence on 8 April 2022, and requested the designation of 11 these villages and facilities under the SIP regime. The Minister has decided to designate these eleven areas as SIP service areas.

Taipan Networkx designation

Taipan Networkx is a small carrier that has requested SIP designation for the Gateway Business and Industry Park at Yeppoon in Queensland.

Both the designations will provide certainty to end-users in these areas that they can access high-speed broadband services and voice services.

LBN Co amendment

LBN Co provided corrected coordinates for one of its designated service areas at ‘The Mark’, Founders Lane, Braddon, ACT 2612. The corrected coordinates are provided in the Amending Declaration.

Summary of the Amending Declaration

Schedule 1 to the Amending Declaration provides the amendments to the Principal Declaration. The amendments consist of:

- new definitions of Commsco and Taipan Networkx
- addition of Schedule 3A and Schedule 16, covering Commsco Pty Ltd and Taipan Networkx Pty Ltd respectively, and

- corrected coordinates for LBN Co service area

The Amending Declaration is a legislative instrument for the purposes of the *Legislation Act 2003* and is subject to the default sunseting requirements and disallowance. The Amending Declaration commences the day after it is registered.

Details of the Amending Declaration are set out in [Attachment A](#).

Consultation

The Department consulted NBN Co, as the default SIP for Australia, on the proposed area designations and also consulted Commsco, LBN Co, Taipan Networx, the Australian Communications Consumer Action Network, Communications Alliance and the ACMA on the draft Amending Declaration. No concerns were raised about the draft Amending Declaration.

The Amending Declaration is covered by a standing Regulatory Impact Statement (RIS) exemption issued by the Office of Best Practice Regulation (OBPR), as the regulatory impacts of the Amending Declaration are minor and/or machinery in nature, and were considered and costed as part of the implementation of the wider SIP regime (OBPR ID: 44338).

Statement of Compatibility with Human Rights

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at [Attachment B](#).

Details of the *Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Amendment Declaration (No. 4) 2022*

Section 1 – *Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Amendment Declaration (No. 4) 2022*

This section provides that the name of the instrument is the *Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Amendment Declaration (No. 4) 2022* (the Amending Declaration).

Section 2 – Commencement

This section provides for the Amending Declaration to commence on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Amending Declaration is made under section 360L of the *Telecommunications Act 1997* (the Act) and subsection 33(3) of the *Acts Interpretation Act 1901*.

Section 4 – Schedules

This section provides that each instrument specified in the Schedule to the Amending Declaration is amended or repealed as set out in the applicable item in the Schedule concerned, and that any other item in a Schedule to the instrument has effect according to its terms.

Schedule 1 – Amendments

Schedule 1 to the Amending Declaration sets out amendments to the *Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Declaration (No. 1) 2020* (the Principal Declaration).

Item 1 in Schedule 1 inserts the definition of Commsco Pty Ltd.

Item 2 in Schedule 1 inserts the definition of Taipan Network Pty Ltd.

Item 3 in Schedule 1 inserts Schedule 3A (Commsco Pty Ltd), designating 11 service areas.

Item 4 in Schedule 1 repeals and replaces item 542 in Schedule 8 (LBN Co Pty Ltd), amending the coordinates for an LBN Co service area.

Item 5 in Schedule 1 inserts Schedule 16 (Taipan Network Pty Ltd), designating one service area.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Amendment Declaration (No. 4) 2022

Overview

The purpose of the *Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Amendment Declaration (No. 4) 2022* (the Amending Declaration) is to amend the *Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Declaration (No. 1) 2020* (the Principal Declaration) to specify new designated service areas and statutory infrastructure providers (SIPs) for those areas, and amend an existing designated service area.

The SIP regime provides a framework for people in Australia to access high-speed broadband wherever they live or work. The key obligations of SIPs are to connect premises in their service areas to their telecommunications networks, and supply wholesale services, on reasonable request from a carriage service provider acting on behalf of an end-user within the designated SIP area. The wholesale services must allow the retail provider to supply ‘qualifying carriage services’, which are broadband services with peak download and upload speeds of at least 25/5 Mbps. On fixed-line or fixed wireless networks, the wholesale services SIPs supply must also enable retail providers to supply voice services. SIPs must also publish the terms and conditions on which they offer to connect premises and supply eligible services to carriage service providers.

The Amending Declaration adds a new Schedule 3A to the Principal Declaration, specifying 11 designated service areas with Commsco Pty Ltd as the SIP, and a new Schedule 16 which specifies a single designated service area with Taipan Networx Pty Ltd as the SIP. The Amending Declaration also corrects the geographic coordinates for a single designated service area in Schedule 8, for which LBN Co Pty Ltd is the SIP.

Designated service areas are geographic areas in which telecommunications networks have been built by carriers other than NBN Co and the Minister has determined that those carriers, rather than NBN Co, should fulfil SIP obligations. Once a service area is designated, end-users living or working in such areas have certainty that they will have access to infrastructure that supports the delivery of superfast broadband services, as well as voice services (where fixed-line or fixed wireless networks are used). Access to telecommunications services is important for social, economic, political and cultural participation.

The Amending Declaration does not include personal information about any end-user residing or working within a designated service area.

Human rights implications

The Amending Declaration is compatible with the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia. The Amending Declaration does not engage any of the applicable rights or freedoms.

Conclusion

The Amending Declaration is compatible with human rights as it does not raise any human rights issues.