



The AMTA submission to:
The ACCC Regional Mobile Infrastructure Inquiry

1 September 2022



About AMTA

The Australian Mobile Telecommunications Association (AMTA) is the peak national body representing Australia’s mobile telecommunications industry. It aims to promote an environmentally, socially and economically responsible, successful and sustainable mobile telecommunications industry in Australia. Please see www.amta.org.au

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Introduction

AMTA welcomes the opportunity to provide this submission to the ACCC's *Regional Mobile Infrastructure Inquiry* (the **Inquiry**).

The cover letter to the Telecommunications (ACCC Inquiry into Access and Regional Towers and Associated Infrastructure) Direction 2022¹ notes "... *the inquiry is intended to focus on the real world operating environment ... with a view to supporting future Government policy decisions on regional mobile telecommunications provision, including future initiatives to improve mobile coverage, capacity or competition.*" AMTA recognises the significance of this inquiry and appreciates the importance of establishing sound Government policy to provide affordable, quality mobile services to Australians living and working in regional and remote parts of our country. On behalf of its members, AMTA is pleased to be able to contribute its views to this inquiry.

Our submission addresses four of the many areas canvassed by the Inquiry consultation paper, as follows:

- Land Access Costs, including both initial costs and ongoing leasing costs;
- Opportunities for improving deployment of infrastructure and facilities in regional areas;
- The absence of any impact of disaggregation of the industry (i.e., TowerCos) on the operation of AMTA's Mobile Carriers' Forum (MCF); and
- Matters of concern regarding mobile roaming during natural disasters and emergencies.

The nature of the ACCC's inquiry is such that much of information requested in the Inquiry is commercially sensitive. As such, AMTA's submission is limited to non-commercial matters where a common industry view exists. AMTA also commends individual submissions made by its members to the ACCC, to the extent that such individual submissions are consistent with the AMTA view.

Land Access Costs

3. What costs are involved in accessing land required for the establishment and operation of telecommunications tower infrastructure? Do these fees differ depending on the owner of the land (for example, public v private ownership)?

Affordable access to land is crucial to the supply of mobile telecommunications services. The costs associated with accessing land can broadly be broken into two categories:

- 1) initial costs, including planning applications and permits; and
- 2) ongoing lease costs.

¹ Telecommunications (ACCC Inquiry into Access and Regional Towers and Associated Infrastructure) Direction 2022.
<https://www.legislation.gov.au/Details/F2022L00439>

While AMTA is unable to provide specific cost information (AMTA does not acquire land or deploy mobile infrastructure), AMTA is able to provide broad information on the factors that influence these costs in regional areas.

We consider it would be beneficial to the ability of our members to extend mobile coverage in regional Australia for the Federal Government to attend to land access costs as a policy matter (to the extent the Commonwealth has jurisdiction over state/territory and/or local council planning approval).

Initial costs

The initial costs associated with establishing any new site include: site surveying; permits; planning approval; and the costs associated with notifying interested and affected parties. Planning application costs will vary between locations, and in some cases can be an order of magnitude higher. Part of the reason for this is that a 'desktop' assessment can be conducted in urban areas, whereas rural locations are more likely to require site visits and surveys.

Furthermore, a significant cost associated with establishing rural sites is the need to construct a road and electricity transmission from the closest public road to the site. These costs are generally significant compared to sites in urban areas. These costs are unavoidable as a road is required to safely transport construction materials initially and then facilitate safe access for maintenance activities in the future.

In some instances, there are additional costs associated with heritage or environmental overlays, or with accessing Aboriginal land. These additional costs come in the form of additional search and survey works to ensure compliance with regulation, and in some cases, site reselection. The additional costs may also include travelling to consult with community stakeholders and Traditional Owners. Another factor that may significantly impact time, cost and access to services are objections raised after planning approval has been made. For example, a local council may approve a planning application, to subsequently have objections raised or site construction impeded. When this occurs, it adds delay and requires additional stakeholder engagement and consultation. These delays not only increase the time it takes for a regional community to access improved mobile services or enjoy competitive choice for services, they also add to the cost a network operator incurs in establishing a site.

Finally, aspects of the Mobile Base Station Deployment Code may now be out of date which may add unnecessary costs when notifying Interested and Affected Parties.² AMTA and its members understand the importance of community and stakeholder engagement, and indeed, the Deployment Code was developed by industry members to facilitate full engagement with the community in a timely and efficient manner. However, it is acknowledged that some aspects of the Deployment Code are now dated, for example, advertising in a local newspaper. AMTA and its members consider there may be scope for a review of the Deployment Code, to see if refinements can be made to ensure the community is well engaged on deployment matters in a more efficient manner.

² C564:2020 Mobile Base Station Deployment Code. <https://www.commsalliance.com.au/Documents/all/codes/c564>

Ongoing costs

The other major cost component of accessing land is the ongoing leasing costs. A common experience amongst mobile network operators is that the cost of accessing Crown Land is often several times higher than the cost of accessing private land [in comparable geographic areas].

The NSW Independent Pricing and Regulatory Tribunal (**IPART**) recently released its Report on the *Review of rental arrangements for communication towers on Crown land*.³ The IPART Report found that the rates charged to telecommunications users “...need to be updated to reflect recent market prices for sites on private land.”

The IPART Report makes recommendations regarding the charges for access to Crown land for the purposes of installing telecommunications infrastructure. While these are a step in the right direction they could go further to facilitate efficient mobile infrastructure. The IPART recommendations include:

- Co-users within the same footprint of the original site should pay no annual rental fee and only 50% of the original application fee. For co-users who require an increase in the land access, rent should be based only on their additional land footprint and be calculated using the same per metre squared basis and rates as rents for primary users.
- The current low-density category should be disaggregated into three new categories, Low, Remote and Very Remote. This would, for example, result in a reduction of over 90% (\$8,289 should be reduced to \$508 per annum) for land leasing costs in remote areas.

By disaggregating the single low-density category into the three new categories and implementing the recommended changes to co-user charges, IPART estimates the telecommunications industry would save close to \$4.3m per annum in regional areas in NSW alone.⁴

A significant opportunity also exists for State and Territory Governments, and their respective land agencies, to provide improved guidance to all stakeholders that is specific to leasing of land for telecommunications infrastructure. The Victorian State Government recently released a ‘Telecommunications Infrastructure Provisions Review Action Statement’. It contains a specific action that it will, “Develop and publish a checklist and guidance to create more transparency around processes for Crown Land leases. Develop a checklist to support telecommunications providers to assess leasing requirements for different types of Crown Land sites. This will include guidance material about how to assess items in the checklist.”

Land Aggregators

5. What role do specialist entities such as land aggregators, both commercial and government, play in acquiring access to land or the sites of towers?

³ NSW IPART Report on the Review of rental arrangements for communication towers on Crown land. Available at <https://www.ipart.nsw.gov.au/documents/final-report/final-report-review-rental-arrangements-communication-towers-crown-land-november-2019>

⁴ Ibid, Table on p.7.

Land aggregators such as AP Wireless⁵ and Landmark Dividend⁶ procure land rental contracts through telecom tower buyout schemes.⁷ By taking out options on land where mobile base station towers are built, especially private land, aggregators are tying up land and pushing up costs for both tower companies (Tower Cos) and mobile network operators (MNOs). The impact of this behaviour can be higher in regional and rural locations, where land plot size is larger and there is limited choice of alternative providers of land.

Many land aggregators are well supported, with some major pension funds backing their investments. Low interest rates over recent years have resulted in land aggregators speculating on land in regional and rural communities ahead of towers being built. In this scenario, when a site is identified for a future mobile base station, the land aggregator already has a contract in place with the underlying landowner enabling the land aggregator to negotiate lease arrangements with the Tower Co or MNO. This has the potential to further increase land rental costs in regional and rural locations in the future.

AMTA does not have a recommendation to overcome the effect land aggregators are having on land leasing costs. AMTA simply mentions this activity as a factor which leads to increased leasing costs.

Deployment in Regional and Rural Areas

AMTA notes there is a second tranche of activities looking to review the Powers and Immunities afforded to telecommunications operators under Schedule 3 of the Telecommunications Act. We do not propose to comment on these activities in our submission; we simply note they are occurring. We also do not offer any comment on the ACCC's Facilities Access Code.

State, Territory and local government preparedness will assist in the timely and cost-effective deployment in regional and remote areas. AMTA's *State and Territory 5G Infrastructure Readiness Assessment*⁸ is a resource to help governments and the communities they represent prepare and make provision for timely infrastructure deployment and improvements to mobile service.

- The assessment report contains several best practice examples where State and Territory government planning procedures are effectively and efficiently paving the way for mobile infrastructure deployment through more consistent and streamlined planning processes.
- The assessment report also highlights 21 reform opportunities where planning regulations and processes in each State or Territory could be improved to facilitate better and more efficient infrastructure deployment. These opportunities reflect current regulatory best practice in one or more existing State/Territory jurisdiction.

As the AMTA assessment report notes, planning instruments like A Code of Practice for Telecommunications Facilities in Victoria ('The Victorian Code') and the New South Wales ISEPP

⁵ AP Wireless: <https://www.apwireless.com.au/>

⁶ Landmark Dividend: <https://www.landmarkdividend.com/lump-sum-payment-benefits/>

⁷ A telecom tower buyout scheme is where the Land Aggregator pays a lump-sum to the property owner in exchange for the right to receive the ongoing site rent from the carrier moving forward. For more details, see: <https://www.apwireless.com.au/what-we-do/what-is-a-telecom-tower-lease-buyout/>

⁸ AMTA 5G Readiness Assessment report. <https://amta.org.au/wp-content/uploads/2021/06/AMTA-5G-Readiness-Report-Digital.pdf>

recognise the critical nature of the infrastructure, and that this infrastructure should be dealt with in the same or similar manner as other critical utility infrastructure such as water and electricity. They are designed to ensure there is a consistent approach and regulation state-wide, rather than allowing councils to adopt their own varying regulations and policies. They also recognise that subject to relevant performance criteria, there are telecommunications facilities outside those defined Federally as 'low impact' which do not need to be the subject to the development assessment process.

For example, AMTA recommends that other States and Territories follow the lead of NSW in introducing exemptions akin to those in Division 21⁹ and Schedule 3A¹⁰ of the *NSW State Environmental Planning Policy (Infrastructure) 2007* (which has recently been incorporated into the **SEPP (Transport and Infrastructure) 2021** (TISEPP)). Originally introduced in 2010, the NSW Infrastructure SEPP allows for towers up to 50m high to be built in rural areas as a complying development. There are strict conditions¹¹ which must be met to qualify for the planning exemption, however, where a site meets these conditions, it can save several months of planning process leading to timely and cost-effective deployment of regional and rural mobile coverage.

There are additional 'best practice' examples' in the AMTA State & Territory 5G Infrastructure Readiness Assessment that directly improve the ability of the mobile carriers to cost-effectively deploy network infrastructure in regional areas in a timely manner.

For example, in Victoria, Telecommunications facilities funded, or partly funded, by the Commonwealth through the Mobile Black Spot Program or The State of Victoria were provided with exemptions from the need to provide notice of the application, and the decision of council could not be appealed by 'third-parties'. This approach did not negate the need for councils to assess these proposals against the planning scheme provisions, and the applications were still able to be refused by council. However, when it comes to mobile blackspots, this approach removes the potential for a single objector to appeal a council decision and delay provision of service to a community for up to 9 months. The approach recognises the widespread community benefits from facilities funded under these programs in under-served areas of Victoria.

Functioning of the MCF

Recent divestment of ownership of tower assets by Australia's three mobile carriers has, to date, not had any discernible impact on the operation of the Mobile Carriers Forum (MCF), which is a member funded forum managed by AMTA. The MCF remains primarily a forum for Mobile Carriers to coordinate collocation and planning activities.

⁹ NSW State Environmental Planning Policy (Infrastructure) 2007. <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2007-0641>

¹⁰ Schedule 3A is available at: http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol_reg/sepp2007541/sch3a.html. See Part 2, Clause 5.2.

¹¹ Part 2 Clause 5.2 of Schedule 3A requires: *If the tower is located on land in Zone RU1, RU2, RU3 or RU4 or an equivalent land use zone, the tower must not--*
(a) *be located within 100 metres of a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary, and*
(b) *exceed 25 metres in height (including telecommunications facilities) where located between 100 and 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary, and*
(c) *exceed 50 metres in height (including telecommunications facilities), where located more than 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary.*

Through the MCF, the Mobile Carriers continue to initiate pre-build discussions as well as exploring opportunities for co-location. This includes:

- Carriers meet at least five times each year as members of the MCF. The mobile carriers share plans and invite opportunities for co-location and co-building;
- Carriers consult with local communities and councils under the Mobile Phone Base Station Deployment Code (C564:2020) ahead of decisions to roll out new base stations,
- Carriers publishing details of existing and planned base station sites, as well as contact information and the associated electromagnetic energy levels, on the Radio Frequency National Site Archive (RFNSA) website, managed by AMTA. We note that since being divested by Mobile Carriers, each new Tower Co has established a profile and has been given access to the RFNSA website.

Despite the divestment of ownership of tower assets, the mobile carriers continue to actively engage on sharing opportunities. At present, AMTA is considering how best to provide opportunities for its mobile carrier and Tower Company members to engage on a range of matters including the sharing of infrastructure.

Mobile roaming during natural disasters and emergencies

A key focus area for both the Minister and the Inquiry is temporary roaming during an emergency. AMTA and its members are acutely aware of the important role communications plays in times of crisis. We appreciate the Government's desire to investigate options to improve the ability for the community to access communications during such times of crisis. At the same time, AMTA is concerned about the feasibility of a temporary roaming solution due to a number of technical and operational issues.

A temporary roaming option might pose significant risk to the resilience of any surviving network(s). Mobile roaming (as used in international or domestic roaming functionality) is not designed for temporary duration activation over limited geographies, where base stations within the network experiencing the outage may recover (for example, if a generator is brought to site) to only subsequently disappear several hours later (for example, if fuel cannot be re-supplied because the area has become inaccessible).

Similarly, the surviving network(s) may not be dimensioned to carry all the traffic that would appear on that network. Overwhelming the surviving network with all the users in the area is likely to lead to congestion and a poor user experience, including call dropouts or failures to connect. As such, it is likely that traffic controls will be required to moderate the levels of traffic on the network. Increased traffic equates to increased load on the base station, consuming more power and accelerating the depletion of battery reserves or generator fuel, potentially lessening the duration of the surviving network.

It is also important to recognise that mobile roaming during an emergency will only be of assistance to the community where one network survives while others are disrupted or do not have coverage. During a natural disaster, where physical damage to infrastructure and loss of mains power is

common, one network surviving while others do not is unlikely. Loss of mains power is usually the main reason for loss of service during natural disasters.¹²

AMTA notes new technologies and solutions currently being developed are targeted at specifically identified communications needs or scenarios. For example, programs such as the Government Cell Broadcast Tender or the NSW Telco Authority's PSMB trials are focussed on specific communications issues, such as emergency warning notifications and communications for emergency services personnel. Such work complements measures being undertaken by MNOs to improve the resilience and redundancy of their networks, such as deploying battery backup options or onsite generators to address power loss in the critical hours when a natural disaster occurs or providing COWs or Sat-CATs at central hubs, like evacuation centres, for the days immediately after a natural disaster before regular communications are restored. AMTA is supportive of an approach that clearly identifies specific communications needs or problems that can be addressed by targeted, implementable solutions.

AMTA also wish to make a correction to the perception that the ability to make Triple Zero calls on any network is a form of roaming. The ACCC's consultation faithfully references¹³ our website¹⁴ to observe *"there are special **roaming** arrangements in place to ensure that when a customer is outside their service provider's coverage but in another carrier's mobile phone network coverage area an emergency call to triple zero will be carried on the other carrier's network."* Unfortunately, this is an incorrect characterisation of how **Emergency Sessions** operate on mobile networks. It incorrectly creates the impression there is already a domestic roaming solution in place that "kicks in" when a user calls Triple Zero. The ability for a mobile phone to use any network to make an emergency call is a special Emergency Session capability on the phone that sits outside the normal voice calling capability. It is a standards-based¹⁵ feature built into all mobile devices with a voice call capability. It also explains why it is possible to make a call to Triple Zero even when the phone is locked, does not have a SIM card in the phone, or without any credit (funds) on the phone's account. Changes have been made to the AMTA website Triple Zero page to remove the reference to roaming to avoid any confusion going forward.

AMTA notes that such functionality helps provide confidence that critical Triple Zero calls in life threatening situations will connect to another mobile network if the person's mobile network is not available.

¹² After the 2019-20 bushfires the ACMA found that in 88% of cases, a mobile service outage was caused by loss of mains power. ACMA, Impacts of the 2019–20 bushfires on the telecommunications network, April 2020. <https://www.acma.gov.au/publications/2020-04/report/impacts-2019-20-bushfires-telecommunications-network>

¹³ RMII Consultation, section 5.6, bottom of p.23.

¹⁴ AMTA – Calling Triple Zero from your mobile. <https://amta.org.au/calling-triple-zero-from-your-mobile/>

¹⁵ See 3GPP IP Multimedia Subsystem (IMS) Emergency Sessions, Technical Specification TS 23.167. Available at <https://portal.3gpp.org/desktopmodules/Specifications/SpecificationDetails.aspx?specificationId=799>