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Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

National principles to support streamlined telecommunications planning arrangements

Final Report of the Mobile Telecommunications
Working Group

February 2024



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Executive Summary

Australians expect they will have access to a reliable mobile service much in the same way as they expect they will have access to water and electricity. Consumer research shows that more and more people are relying on mobile services and getting rid of their fixed line telephones, so while mobile connectivity is just as essential as broadband, we need a way of ensuring mobile telecommunications infrastructure is provided in the planning and design of our communities.

The Australian Government's Housing Agenda seeks to ensure there is an 'adequate supply of affordable housing where it is needed – close to jobs, transport and other services.' The importance of affordable housing is readily apparent, but it is only part of the picture – in fixing Australia's housing problem, we do not want to create new, associated problems whereby residents are unable to access mobile telecommunications services from their new homes which would result in diminished digital inclusion outcomes for residents in those areas.

The Mobile Telecommunications Working Group (the Working Group) was established by the Commonwealth, State and Territory Planning Ministers in July 2023 to provide advice on a coherent national framework for prioritising/accelerating planning and approvals for larger communications infrastructure that enable mobile services, such as poles and towers, especially in new developments and growth areas.

Following its establishment, the Working Group sought to better understand the extent of the mobile coverage problem by reviewing state and territory planning frameworks and considering the impacts on deployment from industry's perspective. The Working Group considered the experience of many residents who had moved in to new developments and growth areas and were concerned about the reliability of the mobile service in the area, and discussed with industry opportunities for mobile network operators (MNOs) or mobile network infrastructure providers (MNIPs) to engage earlier in the planning process and deploy mobile telecommunications infrastructure before or at the time people move in to their new homes.

MNOs and MNIPs proposed the introduction of streamlined, national planning arrangements to address inconsistencies at state, territory and local government levels. Streamlining planning and approvals for telecommunications infrastructure is considered to be an incentive for MNOs and MNIPs to deploy earlier in new developments and growth areas.

Key Issues

The Working Group identified five key issues that, if addressed, would form the foundation of a coherent, national framework to prioritise/accelerate approvals of larger telecommunications infrastructure in new developments and growth areas:

- A regulatory lever is needed to prioritise the inclusion and rollout of mobile telecommunications infrastructure in new developments.
- There is a role for all levels of government to put in place streamlined arrangements that provide national consistency for deployments in new developments and growth areas.
- Greater coordination and communication are needed between industry, property developers and jurisdictions in the planning for new developments and growth areas.
- There is a role for local governments where they are the planning decision-maker, however the sector's resource burden could be reduced via a coherent, national framework that considers mobile telecommunications infrastructure earlier in the planning process.
- Industry have indicated that land access costs can be a significant barrier to entry when there is limited commercial incentive (i.e. in the early stages of residential developments).

There are a number of policy approaches or actions that could be taken to address these issues. For example, the Commonwealth has consulted on proposed amendments to the Telecommunications in New

Developments (TIND) policy to expand its scope from fixed services to include the provision of mobile telecommunications infrastructure and coverage in new developments. There are other actions that could be undertaken by state and territory jurisdictions, such as amending planning frameworks to include streamlined approvals for mobile telecommunications infrastructure in certain circumstances.

National Principles

After considering the key issues and possible policy approaches or actions that could be undertaken by jurisdictions and/or the Commonwealth, the Working Group agreed a number of broad principles that, if adopted by all jurisdictions, could set the scene for a national, streamlined framework where intervention in jurisdiction level strategic and statutory land use planning processes would be considered:

- **There is a need for reliable mobile telecommunications connectivity:** Recognising mobile telecommunications as an essential utility in all established and future growth areas, including the community expectation they will have access to a mobile service that has adequate coverage and capacity.
- **Responding to shifting demands on mobile telecommunications networks:** Accepting and recognising demand on telecommunications networks and infrastructure will increase in new developments and growth areas which will need to be met with the deployment of additional telecommunications equipment and infrastructure to provide sufficient coverage and capacity to serve the area.
- **Promoting infrastructure sharing, and its benefits, in deployments:** Acknowledging the benefits of co-location of telecommunications equipment such as reduced deployment and operation costs, network reliability, improved competition, and reduced environmental impacts.
- **Early intervention and appropriate regulatory safeguards where needed:** Ensuring mobile telecommunications coverage and infrastructure are considered in the early stages of land planning and zoning processes to enable streamlined deployment and removal of development approval barriers.
- **Safeguard and support existing and future mobile telecommunications and enabling infrastructure:** Identify existing sites where there are larger telecommunications infrastructure such as poles or towers providing mobile telecommunications services or sites enabling mobile telecommunications infrastructure and make sure development controls safeguard these sites to enable future upgrades. Land use planning should identify and safeguard future sites taking into account proper planning considerations and technical guidelines as they relate to mobile telecommunications infrastructure and enabling infrastructure.
- **Information sharing:** MNOs and MNIPs should be encouraged to share their current and future network deployment plans with relevant planning authorities, and the information should be treated on a commercial in confidence basis. Planning authorities should make information about expected rezoning activities and land releases available to the MNOs and MNIPs with sufficient time for industry to engage in planning processes.

Recommendations – Next Steps

The recommended next steps for this report align with the Working Group's Terms of Reference:

- seek endorsement of this final report and its national principles by the Heads of Planning Senior Officials Group (HoP) at its first meeting in 2024;
- if endorsed, the report will be provided to the Planning Ministers' Meeting for 'noting' and the Minister for Communications for consideration; and
- the Minister for Communications will write to the Minister for Infrastructure, Transport, Regional Development and Local Government and State and Territory Planning and Communications Ministers about next steps, including implementation of the national principles through further detailed work on developing options for their application in practice.

Introduction

At the Planning Ministers' Meeting (PMM) in July 2023, the Commonwealth Minister for Communications, the Hon Michelle Rowland MP, discussed: the escalating national problem of little or no mobile coverage in recently established and new, planned residential developments; the serious consequences of this for residents and local businesses; and that the impacts of limited mobile coverage are likely to quickly grow beyond those currently experienced by the most populous, or larger, states especially with the delivery of new homes under the National Housing Accord¹.

Looking down the planning pipeline for the National Housing Accord, jurisdictions have agreed to deliver up to 1.2 million new social and affordable homes by 2029. The breakdown of the number of homes by state or territory was analysed by Urban Taskforce Australia and is available on its website.² South Australia has committed to rezoning and master planning land for the private development of over 25,000 homes in the outer metropolitan suburbs of Adelaide. Queensland has committed to providing 50,000 residential lots in the Ripley Valley and Greater Flagstone Priority Development Areas. Under the National Housing Accord, Western Australia will have over 129,000 new homes by 2029.

In fixing Australia's housing problem, we do not want to create new, associated problems whereby residents are unable to access mobile telecommunications services from their new homes which would result in diminished digital inclusion outcomes. Against this background, the PMM agreed to form the Mobile Telecommunications Working Group comprising Commonwealth, state and territory communications and planning officials to provide advice on a coherent national framework for prioritising/accelerating planning and approvals for larger communications infrastructure that enable mobile services, especially in new developments and growth areas.

The Working Group, co-chaired by New South Wales and the Commonwealth, met five times since July 2023. The group agreed Terms of Reference and developed an issues paper and an options paper informed by advice from jurisdictions and industry consultation. This report has been prepared in consultation with group members.

Two policy matters are unresolved and may form the basis of future consideration and discussion. As a result, these issues are not detailed in this paper. These matters relate to:

- A coherent approach to prioritise/accelerate planning approvals of mobile telecommunications infrastructure to provide necessary capacity in growth areas generally located in established, populated areas and nominated for 'infill' via housing densification;
- Whether mobile telecommunications should be recognised as an essential utility and treated the same way as a utility.

The jurisdictions acknowledged this Working Group process provided an opportunity to align planning frameworks to prioritise the inclusion of mobile telecommunications infrastructure for new developments and growth areas, supported by Commonwealth regulation, where practical.

The need for a coherent, national approach

The fastest growing States, Victoria and New South Wales, had a substantial number of new or recently completed residential developments with builders and new residents complaining of little or no mobile coverage. Other states were less clear on how the problem impacted their jurisdiction despite evidence, for

¹ Over 25,000 homes will be built on land at Hackham, Sellicks Beach, Dry Creek and Concordia, Noarlunga Downs, Aldinga and Golden Grove.

² The state and territory breakdown of the number of homes to be delivered is available at <https://www.urbantaskforce.com.au/wordpress/wp-content/uploads/230823-National-Housing-Accord-targets-State-by-State-analysis.pdf>

example, from the Telecommunications Industry Ombudsman (TIO) that people routinely complained about poor mobile coverage. Given the Government’s policy priorities linked to the Housing Accord and Agenda, it is also entirely reasonable to expect all States and Territories will need to factor in telecommunications services to its planning for essential services in new developments and growth areas within the next 5 years as outlined below.

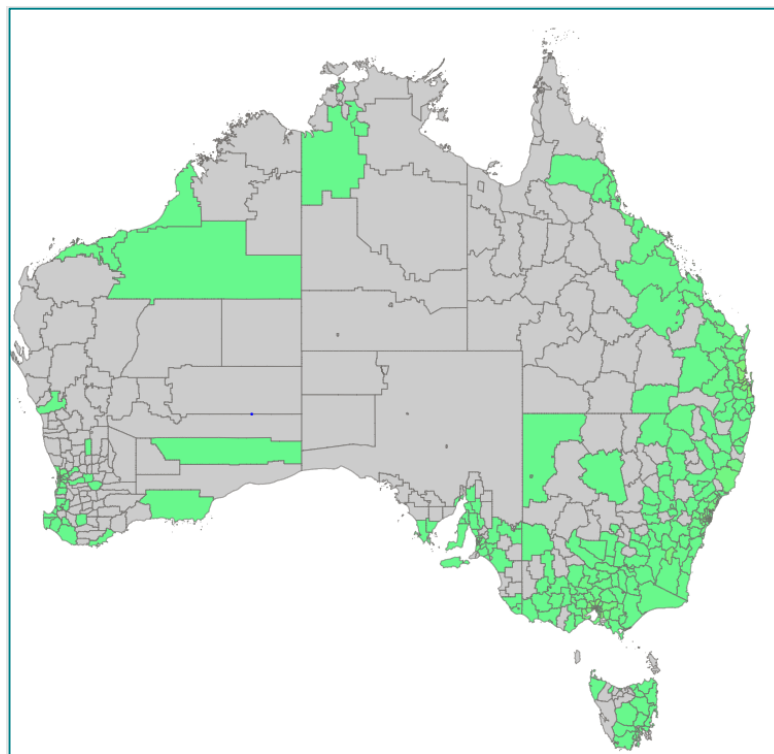
Understanding the mobile coverage problem

Australians expect they will have access to a reliable mobile service regardless of where they live. Mobile connectivity boosts Australia’s productivity and allows more people to stay connected in a meaningful way. Where mobile coverage is not included in the design of new developments or expanding suburbs, there will be diminished digital connectivity and inclusion outcomes for residents in those areas. A lack of mobile coverage can prevent people from operating a business, or accessing digital services such as online banking. It can also limit social participation, including checking up on a loved-one.

The impacts of this are wide ranging for communities. Lives may be at risk during emergencies or natural disasters as a lack of service limits the ability to call Triple Zero. Mobile coverage is often the most useful communications network as it can be accessed from multiple locations and mobile is also by far the most common mechanism for access to Triple Zero services.

The TIO received 3,111 complaints on mobile coverage in FY23 of which 783 were unresolved.³ The majority of complaints were across NSW (981), VIC (873), and QLD (626). However, there were consumer complaints about mobile coverage across all states and territories, with multiple jurisdictions that are considered high-growth areas seeing increases in complaints about mobile services.

Figure 1: LGAs with TIO complaints on mobile coverage



Source: TIO. The local government areas shaded in green in the map above represent 291 local government areas where communities have made complaints to the Telecommunications Industry Ombudsman about the quality of mobile telecommunications coverage.

³ [Report | The Telecommunications Industry Ombudsman](#)

The number of complaints received by the TIO demonstrates the concern present in communities where essential telecommunications infrastructure, particularly mobile services, are not available. The following experiences of Australians provide an indication of the types of complaints that could be exacerbated if the Australian Government's Housing Agenda⁴ proceeds without recognising and putting in place regulatory steps to provide access to essential fixed and mobile communications, in new and growing communities.

Case study: Clyde North, VIC

Clyde North, is a suburb in Melbourne's south-east growth corridor located 46km from the CBD. From 2016 to 2021, the population grew by 388% to 31,681 and the number of private dwellings increased by 338% to 9,910.

In November 2022, A Current Affair (ACA) featured a segment on the mobile coverage in the area and residents' concern the mobile service was unreliable.⁵ Examples included:

- one resident needing to travel 2km to make a phone call
- residents worried about being able to call 000
- residents worried about monitoring ageing relatives living elsewhere by phone
- one resident needing to travel 12km to a shopping centre to access the internet to use online banking.

In statements to ACA:

- Telstra noted the only solution to meet demand and reduce network congestion is to **build more base stations**, and while it had proposed some sites to the City of Casey near some sporting fields, the proposed sites had been rejected as being unsuitable.
- The Council noted there are **no requirements on developers to deliver mobile network coverage, nor any ability for Council to require this**. Any change in planning laws to do so would require the State Government (Minister for Planning) to lead changes to the planning and subdivision requirements via changes to the Planning Scheme.

Industry perspective

Regulatory arrangements are in place so that people across Australia can get access to fixed broadband and voice services. NBN Co is the default wholesale provider of broadband services nationally under statutory infrastructure provider arrangements; and Telstra has regulatory and contractual obligations to provide fixed phone and payphone services nationally. However, mobile telecommunications services are provided on a commercial basis.

MNOs continue to invest considerable resources into maintaining, upgrading and expanding their networks to improve coverage for customers. In metropolitan areas, this investment is driven by strong competition and economic pressures; however, in some cases, the Commonwealth and other jurisdictions subsidise investment in regional and remote areas where commercial incentives are insufficient. The location and timing for the deployment of new telecommunications facilities are commercial decisions determined by the relevant MNO having identified areas which would provide the greatest coverage for use by the community.

Generally, MNOs are reluctant to invest capital and the associated operational expenses of deploying services in new developments until people have moved in and the customer base is established. As a result, a

⁴ The Hon Julie Collins MP, Minister for Housing, Minister for Homelessness, Minister for Small Business and The Hon Jim Chalmers MP Treasurer, [National Housing Accord: working together to help tackle housing challenges](#), 2023, accessed on 8 October 2023

⁵ <https://9now.nine.com.au/a-current-affair/melbourne-suburb-clyde-north-without-mobile-coverage/ba1212d9-9a7d-44e3-b448-a314ae3d2cf1>

significant number of new communities find they have inadequate, or no, mobile coverage when moving into their new homes, and this can remain the case for years until a carrier catches up with customer demand.

MNOs note local government development approval processes can be challenging with inconsistencies across jurisdictions, which can attract high costs associated with delays and prevent mobile infrastructure being built. When an MNO abandons a proposed deployment for these reasons, the MNO will focus on deployments in areas where the development approval process is easier to navigate, resulting in better connectivity outcomes for those communities. The peak body for MNOs, the Australian Mobile Telecommunications Association (AMTA) says that, after an MNO plans its network infrastructure, it then *'...must secure development approval from councils and tenure on freehold and government land, and to do this they must navigate through a complex and sometimes outdated web of rules and regulations in each of Australia's States and Territories, and over five hundred council areas'*.

While MNOs are large, sophisticated organisations with staff focusing on designing networks, consulting with communities and drafting development applications, the complexity and variation between each planning framework does have an impact. For example, MNOs have advised the Commonwealth that the average cost for them to draft, submit and consult on a development application ranges from \$50,000 to \$60,000. The design, approval and build of a new infrastructure is likely to take 18 to 24 months. There are, however, many instances where it can years for applications to be approved.

While it could be argued the cost and time for obtaining a development approval is 'part of doing business' for MNOs, these costs can have a large impact on the economic viability of a site, particularly in new development and growth areas. Given the lack of incentive, this often results in carriers not deploying in these regions until there is either a strong customer base, or they receive funding under a government program.

Retro-fitting mobile coverage solutions in built-up locations is also complex for MNOs and local government as possible sites for mobile towers are often sub-optimal and can lead to community concern. People want mobile services to be readily available in their locations, but they also do not want the necessary infrastructure to be deployed near their residences for reasons that may be linked to visual amenity or perceived health effects of electromagnetic energy (EME) from these services. For new mobile telecommunications infrastructure to be able to appropriately provide coverage to a residential area, the facility needs to be situated near the relevant local area. Infrastructure installed a substantial distance from the area intended to be served may not be able to provide suitable coverage. The Commonwealth provides information about the research, regulation and safety of EME from telecommunications services and infrastructure on its resource hub at www.eme.gov.au.

The Working Group recognised:

- Finding suitable incentives to encourage early deployment by MNOs or MNIPs in new developments and growth areas are likely to be found where regulation or red-tape proving a barrier to deployment are lifted or removed.
- Early intervention in land zoning and planning processes would assist the rollout of a coherent planning approach for approving communications infrastructure, especially in new developments and growth areas.
- Coordination of developers, MNOs and MNIPs would be needed in the early stages of land planning to advise and agree on the location of essential infrastructure.

While planning is generally an issue for States and Territories, the Commonwealth has a constitutional head of power for communications. Solving the connectivity problem is not one that the Commonwealth can face alone when there are so many differences in the planning approval processes not only between states and territories, but within local councils.

A spotlight on inconsistent planning frameworks

To address existing and future need for mobile coverage, the planning and development approval process for deploying large mobile telecommunications infrastructure in jurisdictions needs to be streamlined. Streamlining is intended to reduce the effort, time and cost to deploy large scale infrastructure while retaining the opportunity for communities to have a say about the amenity of a proposed deployment. There are some examples available in current frameworks, such as:

- The **Commonwealth** has arrangements set out in Schedule 3 of the *Telecommunications Act 1997* (the Tel Act) providing MNOs with powers to install specified equipment or infrastructure as low-impact facilities or via a Facility Installation Permit; and immunity from certain State and Territory laws when doing so.
- **NSW** allows large telecommunications infrastructure to be exempted from planning laws or be given express consideration as a complying development.
- **Victoria** offers an approach where a development application for relevant large telecommunications infrastructure is not subject to third party notice or review.
- The **Northern Territory** is proposing to amend its planning rules to exempt telecommunications infrastructure development from government approval where the infrastructure is lower than 40 metres in height and located 150 metres from any residential zone.

In comparison, other jurisdictions group development applications for mobile telecommunications infrastructure with general applications requiring them to meet a wide variety of local government policies and approval processes that have, at times, resulted in outcomes inconsistent with State planning priorities and State planning frameworks.

SUMMARY – TREATMENT OF MOBILE TELECOMMUNICATIONS INFRASTRUCTURE BY JURISDICTION

Commonwealth: Has exclusive powers to make laws relating to telecommunications under section 51(v) of the Constitution. Schedule 3 of the Tel Act provides powers for carriers to inspect land, install and maintain certain types of telecommunications facilities (low-impact facilities) or via the issuing of a Facilities Installation Permit framework; and immunity from some State and Territory laws when undertaking these activities, such as planning.

New South Wales: The *State Environmental Planning Policy (Transport and Infrastructure) 2021* contains provisions exempting MNOs/MNIPs from the need to secure development approval for larger telecommunications infrastructure subject to meeting requirements in three categories: Exempt Developments, Complying Developments and Development Permitted Without Consent. Proposed developments not meeting the criteria require approval from the relevant local council.

Victoria: The *Planning and Environment Act 1987* provides streamlined arrangements exempting specified development applications from third party notice and review requirements in circumstances where Commonwealth or State funding is attached to a site (e.g. Mobile Blackspot Program). All other deployments are subject to local government planning rules.

Northern Territory: The *Planning Act 1999* and the Northern Territory Planning Scheme establish the Territory's planning framework. Planning in the Northern Territory is solely administered by the NT Government with local government councils participating as a referral authority. The Planning Scheme applies Territory-wide and regulates the use and development of land for telecommunications facilities not considered as low impact facilities, and planning consent is required at the impact assessable level in all zones. A proposed planning scheme amendment is currently being progressed that seeks to reduce the assessment level for telecommunications facilities in some zones, and in some instances exempt from planning requirements all together.

Queensland: The Planning Act 2016 (the Planning Act) and State Planning Policy establish the planning framework in Queensland providing three categories of development: Prohibited (DA cannot be applied for), Assessable (DA requires either a specific code or impact assessment) or Accepted (DA not required). Each local council has zones where telecommunications infrastructure is considered either prohibited, assessable or acceptable. This creates the potential for inconsistent application of these rules across the state.

South Australia: The planning system is governed by the *Planning, Development and Infrastructure Act 2016* and the *South Australian Planning and Design Code*. Communications networks are considered essential infrastructure under the Act. The Planning and Design Code establishes another layer of requirements outlining what facilities can be deployed in particular zones throughout South Australia.

Western Australia: The planning system is governed by the *Planning and Development Act 2005* and specific state planning policies, such as the *State Planning Policy 5.2 Telecommunications Infrastructure*. The policy provides a framework for considering new telecommunications infrastructure at local planning, structure planning and development stages, balancing coverage needs and community interests.

Tasmania: The *Land Use Planning and Approvals Act 1993* authorises the preparation, implementation and review of the Tasmanian Planning Policies. The (draft) Tasmanian Planning Policies provide a specific response requiring the availability of connections to telecommunications infrastructure at the time of subdivision. This policy will be implemented through the Tasmanian Planning Scheme, which will inform rezonings and improvements to the current planning requirements for telecommunications infrastructure. The Tasmanian planning system does not contain any mechanism to expedite planning approvals for telecommunications infrastructure but does exempt low impact facilities or works granted an installation permit by the Australian Communications and Media Authority. Where a permit is required, the planning scheme has a specific Telecommunication Infrastructure Code with requirements focusing on visual amenity and minimising clearing of vegetation. This provides a standardised set of planning requirements for approval across all local government areas.

Australian Capital Territory: The planning system in the ACT is governed by the *Planning and Development Act 2023*. No specialised or expedited framework exists for mobile service infrastructure.

Building a coherent, national approach

Following a review of state and territory planning frameworks and associated impacts on deployment explained by industry, there are five key issues that, if addressed, would form the foundations of a coherent, national framework to prioritise/accelerate approvals of larger telecommunications infrastructure in new developments and growth areas:

- A regulatory lever is needed to prioritise the inclusion and rollout of mobile telecommunications infrastructure in new developments.
- There is a role for all levels of government to put in place streamlined arrangements that provide national consistency for deployments in new developments and growth areas.
- Greater coordination and communication are needed between industry, property developers and jurisdictions in the planning for new developments and growth areas.
- There is a role for local governments where they are the planning decision-maker, however the sector's resource burden could be reduced via a coherent, national framework that considers mobile telecommunications infrastructure earlier in the planning process.
- Land access costs are a significant barrier to entry when there is limited commercial incentive.

The need for a regulatory lever

State and Territory jurisdictions have limited levers to compel an MNO to provide mobile telecommunications infrastructure in particular areas such as new developments or growth areas. The Commonwealth is able to use its constitutional head of power to create an obligation for mobile telecommunications infrastructure to be included in planning for new developments and growth areas.

The Telecommunications in New Developments (TIND) Policy

The TIND policy and associated regulations provide a nationally consistent framework for fixed infrastructure to be applied in jurisdiction planning arrangements for developers. The Commonwealth proposes expanding the scope of the TIND policy to include an obligation for developers to:

- consider mobile connectivity as part of the overall development application process, with a similar level of importance as other utilities;
- engage with MNOs and MNIPs as early as possible to ensure mobile coverage is in place prior to the selling or leasing of a building unit;
- identify appropriate sites, or spaces, for mobile infrastructure to be deployed; and
- make all reasonable efforts to reach 'fair terms' in land access agreements.

These changes do not immediately provide a regulatory lever for mobile telecommunications infrastructure to be included in rezoning or planning for land releases, however, regulation could be applied in the future after reviewing the effectiveness of the policy. This approach is also consistent with the previous introduction of the TIND policy for fixed telecommunications infrastructure.

The TIND policy is supported by regulatory levers in Parts 19 and 20A of the Tel Act setting out the statutory infrastructure provider (SIP) regime and the requirement for developers to install fibre-ready facilities in proximity to building lots or units prior to sale or lease.

While these existing levers provide some regulatory precedent for fixed infrastructure, further consideration is needed on what possible regulation could apply for mobile infrastructure noting it requires greater technical analysis of site placement and coverage outcome before deployment and there are fewer players in the market able to deliver mobile services.

Consideration would also need to be given to where the regulatory requirement resides, that is, with a developer or an MNO or MNIP. Requirements could be placed on MNOs or MNIPs to ensure mobile connectivity is available in new developments and growth areas, however this would be a new precedent in Australia and require further detailed consideration.

Another option may be for mutual regulatory obligations to be placed on developers and MNOs or MNIPs to ensure mobile connectivity in new developments. For example, a developer may be responsible for including mobile infrastructure in their early planning, ensuring conduit for backhaul is installed and setting aside appropriate land or spaces identified by the MNO or MNIP for the infrastructure. Under this arrangement, the MNO or MNIP might be responsible for the costs of constructing the tower or pole.

The changes to the TIND policy would align with changes made by jurisdictions in the planning cycle to consider mobile coverage and infrastructure deployment as early in the zoning or design process as possible.

Providing accurate information about mobile coverage

The Working Group recognised the need for improved information sharing from MNOs, MNIPs and councils or planning agencies at this earlier stage. Jurisdictions highlighted the need for accurate information about existing and expected mobile coverage for an area, as well as the timing of any proposed deployments in the

area to be provided by industry; and the need for a mechanism to inform industry about current and planned new developments and growth areas.

The Commonwealth can establish rules requiring MNOs to provide coverage information for an area identified as a new development or growth area. These rules could include requirements to provide accurate coverage information for new developments and growth areas about:

- existing coverage, including quality of service, to inform planning.
- expected coverage, including maps, to be included in planning approval processes.
- the timing of proposed deployments in new developments and growth areas.

Another area where improved information sharing would encourage earlier deployment in these areas by MNOs and MNIPs is in collaboration on the development of guidance material that could be used by each jurisdiction, outlining how infrastructure should be incorporated in new development planning, including on existing infrastructure and in road reserves. It may be possible for this material to be developed by jurisdictions, using examples of existing guidance material currently supported and used by industry.

Streamlined arrangements that provide national consistency

The Australian Competition and Consumer Commission's (ACCC) *Regional Mobile Infrastructure Inquiry* found deployment of telecommunications infrastructure could be significantly affected by differing planning and approval rules across varying levels of government, some of which can be lengthy and costly. Industry stakeholders throughout this inquiry advocated for a range of reforms to improve consistency of regulations to better facilitate infrastructure deployment. While the ACCC's Inquiry examined regional mobile infrastructure issues, the factors are similar in new developments and growth areas. That is, the increased costs and uncertainty for MNOs and MNIPs when seeking development approvals can increase complexity which can make selected sites or locations unviable.

The Working Group acknowledges the complexities for deploying larger telecommunications infrastructure are exacerbated with individual arrangements applied at the local government layer. A coherent, nationally consistent framework is possible via two means – agreement between jurisdictions to align and coordinate amendments to planning arrangements, which could result in delays before benefits of the national approach are able to be realised; or via Commonwealth legislation.

The Commonwealth could legislate in this space to provide possible incentives for carriers to deploy earlier. Initial support for this approach was given by **New South Wales**, which has its own streamlined pathways for mobile telecommunications infrastructure deployments in certain circumstances, but recognised its pathways could not compel carriers to deploy in new developments or growth areas any earlier. **Tasmania** also noted it *'...generally supports Commonwealth legislation to standardise the approach across Australia.'*

Schedule 3 of the Tel Act already provides for streamlined pathways for both small and large mobile telecommunications infrastructure, and have been in place for more than 20 years enabling the efficient construction of telecommunications networks in a nationally consistent way.

It would be the bespoke detail of any legislative approach that would require further consideration. For example, it is possible to separate the treatment of a new development and a growth area in the following way for the purposes of an approach:

- A new development could be an identified area of land that has been planned for development, has some construction activity, however residents are yet to move in.
- A growth area could be an identified area of land planned for further development, has some construction activity, and includes an existing community.

Approach 1: New developments

It is possible this approach could be achieved via a declaration made by the Minister for Communications under the Tel Act, with geographic areas added and removed from a schedule to the declaration.

This approach would implement a bespoke framework in new developments that could, subject to drafting and consultation:

- Specify the new development as a ‘designated area’ where the framework applies, possibly via a register. Designated areas could be identified in consultation with Planning Ministers’ and the Minister for Communications, with agreed locations placed on the register.
- Operate in a similar way to the complying developments framework in NSW in that a formal approval or permit via a development application process is not required.
- Include conditions about dimensions, coordination and consultation for the placement of telecommunications infrastructure. This approach assumes there are no residents living in the new development, so the need for an MNO or MNIP to consult would be limited, accordingly.
- Be able to be ‘turned on’ and ‘turned off’ at certain, agreed points in the new development’s life cycle. For example, MNOs or MNIPs may be able to deploy infrastructure in the new development without the need for development approval up to a point in time, such as when residents begin moving in to the new development. This arrangement is intended to provide an incentive to MNOs or MNIPs in deploying mobile telecommunications infrastructure in new developments earlier than previously anticipated.
- Be subject to certain safeguards ensuring consultation with planning decision-makers, local councils and communities.

Approach 2: Growth areas

If growth areas are assumed to include existing and expanding communities, there will be a need for coverage as well as improving capacity. As mentioned above, retrofitting mobile telecommunications infrastructure in these areas can be complex and costly, with associated delays meaning communities are without the connectivity they need for long periods of time. This approach assumes a ‘safety net’ approach where MNOs or MNIPs could apply to the Commonwealth for a Facilities Installation Permit (FIP) to be provided in specific circumstances.

Circumstances where issuing a FIP to enable deployment may be appropriate include where:

- A statutory timeframe for development approval has lapsed.
- A site has Australian Government funding (e.g. Mobile Black Spot Program (MBSP) or the Peri-urban Mobile Program (PUMP)).
- A development approval is refused by a local council but deployment should proceed as the site meets a ‘public interest’ test.

Greater coordination and communication between stakeholders

Planning for mobile telecommunications infrastructure in new developments is often not integrated into the process of land release, rezoning, approval, and construction of new communities. In addition, there is currently no mechanism to coordinate the site acquisition process in new developments that could assist in co-locating mobile telecommunications infrastructure.

There are multiple stakeholders involved when planning for mobile telecommunications infrastructure in new developments and these stakeholders have limited awareness of each other’s processes and requirements, which can result in missing mutually beneficial outcomes through poorly timed engagement. For example, the

timeframes applicable to a developer seeking development approval are likely to be earlier than the same stage for an MNO or MNIP; however, there would be significant benefit in aligning these processes.

Improved coordination and communication would likely result in reduced costs, improved visual amenity and good coverage outcomes for the community. These benefits are recognized by jurisdictions, and actions to draft appropriate guidance material for use by stakeholders on including mobile telecommunications infrastructure in the planning for new developments is supported.

The role of local government

The Australian Local Government Association (ALGA) has previously noted difficulties local councils face with attracting staff with appropriate skills to undertake the vast amount of work required of the sector. ALGA's 2021 Skills and Capabilities Report noted 91 percent of local government areas had experienced skills shortages in 2021-22, with town planners being the skill with the second highest reported shortage of staff⁶. In the report, 65 per cent of local councils indicated delivery timeframes had been impacted or delayed by vacancies, skill shortages or skills gaps⁷.

The 2021 Regional Telecommunications Review expanded on this issue further, with one of the key findings from the review being that local councils are increasingly expected to facilitate telecommunications service delivery, but are not appropriately resourced to identify connectivity needs and support the deployment of suitable solutions⁸.

Apart from the Australian Capital Territory and the Northern Territory, local councils are often responsible for undertaking public consultation and making decisions about development applications. While this may be appropriate, it also makes councils vulnerable to small but vocal groups. For new telecommunications infrastructure deployments, these groups generally are concerned about two things – perceived health impacts due to new infrastructure and visual amenity concerns. The Commonwealth has observed an increasing trend of local councils writing to the Minister for Communications and passing motions attempting to limit deployments of telecommunications infrastructure as a result of community pressure. Unfortunately, this delays carriers from providing communities with improved mobile connectivity in their local areas.

Putting in place regulatory and other arrangements to support the early deployment of mobile telecommunications infrastructure in new developments before people move in, as well as providing a safeguard arrangement to enable deployment in other, certain situations, will help to improve digital connectivity in communities and reduce the resource and other burdens on local government. The streamlined arrangements may mean the role for local government in the telecommunications planning process will change – no longer the last approval point for a new telecommunications development, local government's role will be needed much earlier in the planning process.

Land access and costs

MNOs engage with private, commercial and government landlords to access land and public (or shared) infrastructure to deploy mobile telecommunications infrastructure, and note the cost of access can be a significant barrier to deployment. The types of land include:

- Freehold land – land that is privately-owned, including under a Crown lease or by First Nations landowners.
- Leasehold – land that is privately leased by an individual or commercial entity to infrastructure providers and MNOs.

⁶ [2022 Local Government Workforce Skills and Capability Survey \(alga.com.au\)](https://www.alga.com.au/research/2022-local-government-workforce-skills-and-capability-survey), page 13

⁷ [2022 Local Government Workforce Skills and Capability Survey \(alga.com.au\)](https://www.alga.com.au/research/2022-local-government-workforce-skills-and-capability-survey), page 59

⁸ 2021 Regional Telecommunications Review, p4

- Non-freehold land – public land, held by federal, state, territory or local government. This includes reserves, National and State parks and forests, as well as native title interests.

The proportion of different types of land and related regulations differ markedly between states and territories. Native title is another relevant and important consideration across Australia. For example, approximately 48 percent of the Northern Territory’s land mass and 80 percent of its coastline is held under native title⁹. The *Native Title Act 1993* allows governments, companies and native title holders to negotiate agreements, including Indigenous Land Use Agreements (ILUAs), about future developments on the land, waters, and sea¹⁰.

While private landlords tend to negotiate land access fees themselves, or through an intermediary, government entities set prices for land access through rental determinations. This results in land access costs varying significantly, depending on size, landlord, tenure type, market conditions, jurisdiction and geographic region. For example:

- In **New South Wales**, Crown Land Management agencies apply a fee schedule established by the Independent Pricing and Regulatory Authority (IPART). The fees are based on a dollars per site mode, rather than a per square metre footprint fee. Fees are based on four population density classifications (Sydney, High, Medium and Low). Local councils in NSW are not bound by the IPART fee schedule for public land use, and are known to seek additional rents when other MNOs co-locate their infrastructure.
- In **Victoria**, all leases for Crown Land are subject to a market evaluation by the Valuer General Victoria or a registered valuer. This valuation determines the market value of the land, considering all restrictions, regulations and conditions specified in leasing documents.
- In **Queensland**, land access fees are set by the Queensland Valuer General¹. This results in land access costs varying significantly, depending on size, landlord, tenure type, market conditions, jurisdiction and geographic region. Ultimately, this extra layer of complexity and cost may result in a carrier deciding either to not deploy in an area, or wait until a strong customer base is established.

There are also instances where government and private landowners seek additional rents when other MNOs co-locate their infrastructure. For example, the NSW Independent Pricing and Regulatory Tribunal (IPART) in its 2018 final report of *‘Rental arrangements of communications towers on Crown Land’*, recommended charging additional co-users of sites for the additional land they occupied.¹ This recommendation came despite strong advocacy from MNOs, and the broader communications sector, for co-user location costs to be abolished. It should be noted, however, that the New South Wales Government did not accept the recommendations of the 2018 IPART review.

It is the Australian Government’s policy that, where technically and physically possible, carriers should co-locate infrastructure where this makes sense from a commercial perspective. Co-location is intended to reduce costs for MNOs, alleviate community concerns about new, standalone sites being built whilst producing better consumer outcomes, including increased competition and improved resilience.

It is also important to note non-discrimination powers found in Schedule 3 of the Tel Act. Clause 44 (1) of Schedule 3 provides that state and territory laws have no effect to the extent that the law discriminates, or would have the effect (directly or indirectly) of discriminating, against a particular carrier, particular class of carriers, or carriers more generally. Some MNOs have historically referred to this provision in the context of setting leasing prices for government land, and argue that land rental prices discriminate against carriers, as other utilities are not required to pay base rental fees.

Some members of the Working Group expressed the view that while industry points to land access costs as a barrier to deployment, further analysis should be undertaken regarding land access fees for

⁹ Northern Territory Government, Northern Territory Aboriginal Land and Sea Action Plan 2022-2024, p 6.

¹⁰ Northern Land Council, ‘Our governing laws’ <[Our governing laws | Northern Land Council \(nlc.org.au\)](https://www.nlc.org.au/our-governing-laws)>

telecommunications infrastructure and possible impacts before considering steps to reduce land access costs such as those outlined below.

Additional proposals jurisdictions could consider regarding land access costs are to provide:

- Tiered discount rates depending on the criticality of the infrastructure. For mobile telecommunications infrastructure deployed in new developments, a tiered approach could make it cheaper to deploy in the initial phases of the new development.
- Discounts for longer lease-terms taken out by MNOs or MNIPs.
- Volume-based discounts where it becomes cheaper to deploy a number of sites (a network) in a new development. This would lead to larger scale deployments in new developments and growth areas.
- Encouragement to all levels of government to make suitable land available for mobile telecommunications infrastructure.

These proposals could be considered and implemented by jurisdictions on an individual basis.

Summary and recommendations

Australians deserve access to reliable, high-quality, and affordable telecommunications. Solving the issue of limited or no mobile coverage or capacity in new developments and growth areas is not the type of connectivity problem the Australian Government can solve alone, with differences in the planning approval processes for larger infrastructure like poles and towers not only between states and territories, but between local councils.

Key Issues

The Working Group identified five key issues that, if addressed, would form the foundation of a coherent, national framework to prioritise/accelerate approvals of larger telecommunications infrastructure in new developments and growth areas:

- A regulatory lever is needed to prioritise the inclusion and rollout of mobile telecommunications infrastructure in new developments.
- There is a role for all levels of government to put in place streamlined arrangements that provide national consistency for deployments in new developments and growth areas.
- Greater coordination and communication are needed between industry, property developers and jurisdictions in the planning for new developments and growth areas.
- There is a role for local governments where they are the planning decision-maker, however the sector's resource burden could be reduced via a coherent, national framework that considers mobile telecommunications infrastructure earlier in the planning process.
- Industry have indicated that land access costs can be a significant barrier to entry when there is limited commercial incentive (i.e. in the early stages of residential developments).

National Principles

After considering these issues and possible policy approaches or actions that could be undertaken by jurisdictions and/or the Commonwealth, the Working Group agreed a number of broad principles that, if adopted by all jurisdictions, could set the scene for a national, streamlined framework where intervention in jurisdiction level strategic and statutory land use planning processes would be considered:

- **There is a need for reliable mobile telecommunications connectivity:** Recognising mobile telecommunications as an essential utility in all established and future growth areas, including the community expectation they will have access to reliable and adequate coverage outside their home.

- **Responding to shifting demands on mobile telecommunications networks:** Accepting and recognising demand on telecommunications networks and infrastructure will increase in new developments and growth areas which will need to be met with the deployment of additional telecommunications equipment and infrastructure to provide sufficient coverage and capacity to serve the area.
- **Promoting infrastructure sharing, and its benefits, in deployments:** Acknowledging the benefits of co-location of telecommunications equipment such as reduced deployment and operation costs, network reliability, improved competition, and reduced environmental impacts.
- **Early intervention and appropriate regulatory safeguards where needed:** Ensuring mobile telecommunications coverage and infrastructure are considered in the early stages of land planning and zoning processes to enable streamlined deployment and removal of development approval barriers.
- **Safeguard and support both existing and future mobile telecommunications infrastructure:** Identify existing sites where there are larger telecommunications infrastructure such as poles or towers providing mobile telecommunications services and make sure development controls safeguard these sites to enable future upgrades. Land use planning should identify and safeguard future sites taking into account proper planning considerations and technical guidelines as they relate to mobile telecommunications infrastructure.
- **Information sharing:** MNOs and MNIPs should be encouraged to share their current and future network deployment plans with relevant planning authorities, and the information should be treated on a commercial in confidence basis. Planning authorities should make information about expected rezoning activities and land releases available to the MNOs and MNIPs with sufficient time for industry to engage in planning processes.

Recommendations – Next Steps

The recommended next steps for this report align with the Working Group’s Terms of Reference:

- seek endorsement of this final report and its national principles from State and Territory Heads of Planning at its first meeting in 2024;
- if endorsed, the report will be provided to the Planning Ministers’ Meeting for ‘noting’ and the Commonwealth Minister for Communications for consideration; and
- the Minister for Communications will write to the Minister for Infrastructure, Transport, Regional Development and Local Government and State and Territory Planning and Communications Ministers about next steps, including implementation of the national principles through further detailed work on developing options for their application in practice.