

**AMTA Submission**

Regional Telecommunications Independent  
Review Committee

**5 August 2024**

**2024 Regional  
Telecommunications  
Independent Review**



## 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](http://www.amta.org.au)

# Executive Summary

AMTA welcomes the opportunity to participate in the Committee’s Review process and to respond to several mobile telecommunications related issues in the 2024 Regional Telecommunications Independent Review Issues Paper (the Issues Paper).

Mobile connectivity is fundamental to the Australian economy and society, and expectations continue to grow across government, business and the community about the coverage, performance and availability of mobile services. However, the economics of continuously investing in regional network infrastructure and radiofrequency spectrum to meet these expectations continue to present challenges. Government expectations around the essential nature of mobile services must also include discussions of how revenue can grow to sustain future investment in regional Australia.

AMTA’s members, which include mobile network operators and mobile network infrastructure providers must navigate a complex multi-jurisdictional regulatory framework of planning and environmental approvals and land tenure to deploy and maintain infrastructure in rural, regional and remote Australia, and AMTA has consistently called for intervention from all levels of government to streamline this.

In relation to spectrum, the continued access to sufficient spectrum is critical to maintaining and evolving the service provided to rural and regional mobile network customers. In particular, the renewal of spectrum licences that are due to expire in the coming years is vital for existing customers. As mobile network investment decisions are long term, having early certainty about the renewal arrangements, and no later than mid-2025, is critical to ensure that network investment isn’t impacted.<sup>1</sup>

The mobile sector has experienced long-term declines in returns on invested capital (ROIC). This is highlighted by the fact that mobile sector capital expenditure has remained constant at around \$5.4bn each year for the past four years, despite operating profits decreasing by 24% over the same period.<sup>2</sup> With long term declines in revenue, industry ROIC is now below the cost of capital creating the real prospect of a “digital investment gap”.<sup>3</sup> Improving access, affordability, reliability and redundancy of regional telecommunications requires a financially sustainable mobile sector.

A high premium for spectrum renewal will draw considerably from the available mobile network capital funds and impact the capital available for network augmentation and expansion. Understandably the return on investment (on a site basis) is impacted by customer utilization and the cost to deploy and then operate. In lower populated areas the revenue from a base station site will not cover the cost to operate a site, e.g., power, site lease, backhaul transmission, equipment

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<sup>1</sup> Renewal of spectrum is the view from the AMTA Expiring Spectrum Licence (ESL) Working Group comprising ESL holders, it is not necessarily the view of members not holding ESLs.

<sup>2</sup> JPMorgan Australian Telecommunications Analyst note, 4 October, 2023.

<sup>3</sup> Venture Insights State of the Australian Telecommunications Industry, 13 June 2023

depreciation, and maintenance. Any measures that reduce the cost and time to deploy and operate rural and regional base-station sites will improve the economics for expanding the coverage and capacity of mobile networks in these areas.

AMTA provides its response to the Issues Paper below, with a focus on the key issues of infrastructure deployment regulation and spectrum, including recommendations for government.

### **Summary Initiatives for Consideration**

AMTA encourages the Regional Telecommunications Independent Review Committee to consider the following initiatives to lower the barriers for investment in mobile network infrastructure and enable the efficient use of spectrum in regional Australia:

1. Encourage all jurisdictions to implement outcomes (as a priority) from the Mobile Telecommunications Working Group (MTWG) established by the 2023 Planning Ministers' Meeting (PMM). These recommendations and principles in the report should be extended to ensuring consistency and efficiency of planning frameworks in regional Australia. Progress should be monitored by the Minister for Communications.
2. Create an expectation on State Crown Land Agencies to consider the availability of Crown land for telecommunications infrastructure within regional areas and prioritise these opportunities.
3. Encourage the State and Territories to consider 'in-kind' support for provision of mobile network infrastructure on crown land in regional areas by minimising or waiving rents. At the very least rents should be the same as for other users of Crown land.
4. Where blackspot funding is made available then Crown Land should be assigned at subsidised rates with fast tracked approvals and power connection.
5. Planning policy should encourage provision of mobile network infrastructure in areas that are prone to outages in the case of natural disasters, including flood prone areas and areas of bushfire risk.
6. The price for renewing spectrum licences must be affordable and support industry sustainability. This is because demand for data continues to grow, ARPUs remain relatively flat, and more spectrum is acquired to meet data demand.
7. That ESL spectrum should be offered for renewal to incumbent spectrum holders and clear intentions about that renewal need to be communicated by mid-2025.
8. Ensure co-investment programs need to be well designed and targeted to delivering competitive and high-quality services, particularly to areas with otherwise marginal investment cases.

## Mobile

### **8. How can we achieve equity with respect to mobile services (voice, data and SMS) in regional, rural and remote communities and on regional and remote roads?**

The economics of mobile network deployments are often marginal in regional Australia. However, “despite ongoing challenges, new opportunities are emerging in regional Australian telecommunications”.<sup>4</sup> Mobile Network Operators (MNOs) continue to invest in upgrading their networks to 5G and are exploring sharing opportunities in regional Australia to enable more cost-effective deployment.

AMTA submits that if the cost of deployment of infrastructure were to be lowered and the regulatory burden reduced, then this could have a measurable impact on the business case to deploy and provide improved services to more regional communities. To that end, AMTA has been advocating for reforms to streamline planning and environmental approvals and improve access to Crown Land to make it easier to upgrade and deploy new telecommunications infrastructure. These are further expanded upon in our response to question 9 of the issues paper below.

### **9. How can we ensure regional, rural and remote areas have access to the networks, equipment and capacity they need for improved household connectivity and to foster innovation and efficiency across regional industries, including for IoT applications?**

When it comes to ensuring regional, rural and remote areas have access to network infrastructure, AMTA submits that there are two important factors – a supportive investment environment, including well designed co-investment programs and streamlined processes to facilitate network deployment.

Industry has for some time raised concerns about physical access to land and site approvals as an impediment to timely network deployment. AMTA’s concerns relate to both (i) access to land with appropriate tenure, including rent levels; and (ii) planning approvals for construction. While there is an expectation that telecommunications services are essential, like electricity, water or gas; carriers do not have the same corresponding rights to install infrastructure. It was recently revealed that 176 mobile blackspot builds were delayed last year, largely because of local and state government planning processes.<sup>5</sup>

#### Streamline planning approvals

One of AMTA’s top priorities is seeking to ensure that Government policies and regulations provide for the efficient and effective deployment of new and augmented mobile network infrastructure in regional, rural and remote areas.

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<sup>4</sup> Issues paper, p.6

<sup>5</sup> Communications Day, 1 August 2024

Whilst some of Australia’s mobile telecommunications infrastructure is established using the Federal Government’s Powers and Immunities framework (including ‘Low impact’ exemptions)<sup>6</sup>, there remains a substantial proportion that requires development approval from local government, which means navigating State, Territory and local planning rules and regulations.

AMTA submits that the time has never been better for Australia’s State and Territory Governments to review and recalibrate their policy settings and planning rules to cater for improved mobile connectivity. With the encouragement of the Communications Minister, the Mobile Telecommunications Working Group (MTWG) was established by the Commonwealth, State and Territory Planning Ministers in July 2023 to develop a national framework for prioritising and accelerating planning and approvals for larger communications infrastructure that enable mobile services, including towers and poles. The Federal Government, together with all State and Territory Governments have participated in this process including in the Heads of Planning Senior Officials Group (HoP) and in the Planning Ministers’ Meeting.

The Final report of the MTWG was delivered in February 2024 and was endorsed by Commonwealth, state and territory Ministers for Planning. It outlined a suite of agreed national principles for planning reform. Whilst these focused on improving mobile coverage in new developments and growth areas, this has formed the foundation of a coherent, national framework to prioritise and accelerate approvals of larger telecommunications infrastructure, which could significantly benefit rural, regional and remote areas.

There is much work to be done. For example, Western Australia has a State Planning Policy for telecommunications infrastructure, titled ‘State Planning Policy 5.2 – Telecommunications Infrastructure, 2nd February 2022’. In theory, the policy applies throughout Western Australia in respect to above and below ground telecommunications infrastructure other than those facilities exempted under the Commonwealth Telecommunications Act 1997. It outlines the State’s position with respect to the importance and role of telecommunications infrastructure, which is intended to provide direction to local government for incorporation into local planning schemes and council policy documents. Unfortunately, it stops short of including state-wide exemptions like those found in New South Wales, which would allow deployment in regional Western Australia of certain non-obtrusive telecommunications facilities without an application for development approval, if conditions are met. It also does not compel Councils to follow the policy.

AMTA continues to work in each State and Territory on various planning reform initiatives that are consistent with the MTWG report. Priorities for industry include those in the [2021 AMTA 5G State and Territory Readiness Assessment](#), and [AMTA’s Model Framework for State and Territory reform](#). The AMTA Model Framework presents a best practice guide of pre-existing best practice regulation in the States and Territories that could be applied in other jurisdictions.

#### Streamline Land Access on Crown Land

Telecommunications network and infrastructure providers are often treated differently by States and Territories (and by extension local government) to other critical infrastructure providers when it comes to utilising public roads and land – particularly on Crown Land, in that no rent is often

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<sup>6</sup> Telecommunications carriers have powers under Schedule 3 of the Telecommunications Act 1997 to inspect land, install facilities specified as ‘low-impact’ or authorised via a facility installation permit, and to maintain any kind of telecommunications facility. They also have immunity from some state and territory laws when carrying out these activities, such as planning laws

charged to electricity, water and other traditional utilities, and the pricing and terms for tenure are not onerous.

The actions of the Government as landlord can cause the business case for tower locations to become marginal or negative in regional areas. For example, in States like New South Wales where approx. 53% of land is Crown Land and Western Australia where Crown land owned and managed by the Government accounts for over approx. 90% of all land in the State, Government is in a unique position to reduce the cost of providing telecommunications infrastructure by minimising rents on Crown lands.

At a minimum, rental or licence arrangements should be minimised, non-discriminatory, and promote site sharing by not imposing unreasonable charges. Protracted pre-approval assessment processes could also be streamlined along with the need for planning approvals.

This would have the additional benefit that the effects of co-funding from all levels of Government would be more effective as grants would not be undermined by unreasonable Crown rents.

AMTA continues to advocate for fairer and more efficient land access arrangements on Crown Land, because at present some States' pricing arrangements and terms for access are prohibitive. For example, at present NSW IPART is conducting its review of rental arrangements for communication sites on lands managed under the Crown Land Management Act 2016, National Parks and Wildlife Act 1974 Forestry Act 2012.

The rental arrangements for communication tower sites on Crown land in NSW were last reviewed ten years ago in 2013. AMTA contends that the previous and current rental arrangements are and have always been discriminatory, and over the past 10 years the breadth of this discrimination has widened. At present in NSW when co-location occurs on a tower, these 'co-users' are charged more, even if they are not using any additional land outside the area licensed by the Crown to the tower owner.

These 'Co-users' should only be charged for the additional land occupied by their own infrastructure outside the existing compound. There is no justification for additional rental charges where the co-user is effectively charged a rental to occupy assets built by the primary user, who in turn pays a rental to the State or Territory for the land associated with those assets.

This approach is consistent with Recommendation 13 in the House of Representatives Standing Committee on Communications and the Arts's Inquiry into co-investment in multi-carrier regional mobile infrastructure, which formed the conclusion that *'The Committee recommends the Australian Government prohibit its agencies from charging additional co-user rental fees above the rent a principal tenant pays to lease Commonwealth crown land for the purpose of providing telecommunications services.'*<sup>7</sup>

AMTA recommends that IPART have regard to this when considering its recommendations.

Whilst the IPART review process is ongoing at the time of writing this submission, IPART's draft report represents a deterrence to investment in essential mobile telecommunications infrastructure

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<sup>7</sup> House of Representatives Standing Committee on Communications and the Arts, Nov 2023 Recommendation 13 at Paragraph 4.135 'Connecting the country: Mission critical - Inquiry into co-investment in multi-carrier regional mobile infrastructure

of all kinds on Crown Land in NSW – including towers, co-user equipment and small cells in areas vulnerable to natural disasters, and in underserved areas with a marginal economic case for additional service, and this will be to the detriment of end users of mobile networks in NSW, including Crown Land agencies themselves.

### Power connections

Power connections to telecommunications infrastructure forms a critical part of the delivery of telecommunications services as without it, carriers are unable to deliver critical telecommunications services to customers.

In extreme cases connection times can be in excess of 24 months from the date of an application to the connection being complete regardless of the location of the proposed telecommunications infrastructure. This can include connections to sites that have been funded as a blackspot.

AMTA would like to see Power Authorities develop a framework to prioritise and streamline engagement with mobile carriers for connecting power for all telecommunications sites.

Such a framework should include mandated service level agreements to help industry complete its power connections to telecommunications sites in a safe and timely manner that satisfies public expectations to have reliable access to telecommunication services.

## **12. What can be done to maximise access to multiple connectivity options in case of outages?**

AMTA notes the challenges associated with provision of mobile network infrastructure in some areas that are prone to outages in the case of natural disasters, including flood prone areas and areas of bushfire risk. In several cases, the balancing of State, Territory and local planning policies is skewed towards protection of amenity and gives insufficient weight to the need for service in these areas.

AMTA submits that there is a need for planning policy that gives priority to provision of telecommunications infrastructure in these areas. Such policy is not necessarily at odds with protection of landscapes and amenity. For example, in the Victorian Planning system, a 'Planning Permit Application' must be assessed against a standard clause in each of the Council Planning Schemes (71.02-3 Integrated decision making) that requires, *"Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations"*. Such a Clause provides tangible support and should be replicated in State and Territory planning policies in other jurisdictions.

Whilst AMTA accepts that there are other constraints and limitations to the provision of mobile network coverage in areas prone to natural disasters, policy should provide greater support for provision of infrastructure where it is proposed.



## 20. What other matters should the Committee consider in its review and why are they important?

### Spectrum<sup>8</sup>

The Committee should be aware that a process is underway with the ACMA related to expiring spectrum licences (ESLs) that are expiring between 2028 and 2032. This impacts approximately 80% of the spectrum in use by the mobile networks in providing mobile services.

Spectrum is a vital element in providing mobile services to customers. Continued access to this spectrum is under threat. Changes to arrangements that govern ESLs threaten to undermine the investment environment that has delivered considerable public benefit and the continuity of supply of services essential to Australians' daily lives.

In the last AMTA ESL Working Group submission to the ACMA<sup>9</sup> on ESLs, the Working Group made the following key points:

- *Mobile networks make vital contributions to Australia's social wellbeing and economic prosperity. Mobile networks are also efficient and effective users of the spectrum, and mobile network operators (MNOs) are good stewards of spectrum as they continually re-farm spectrum to the latest and most efficient mobile generation.*
- *Service continuity, as cited in the Ministerial Policy Statement<sup>10</sup>, relies on continued access to spectrum. Even partial removal of in-use spectrum will have a deleterious effect on mobile network users. As such, incumbent licensees must be afforded the opportunity to renew all their existing licence holdings.*
- *Incumbent MNO licensees manifestly and completely satisfy the public interest criteria, and we demonstrate this against each of the five Public Interest Criteria established by the ACMA.*
- *The earliest possible advice on licence renewal is required to underpin ongoing investment. We appreciate the ACMA cannot provide certainty of renewal, but we stress that the earliest possible timing for a decision on renewal is essential for investment certainty.*
- *The benefits arising from allowing incumbent ESL licensees to renew their spectrum are predictable and likely to occur based on the MNOs' track record. In contrast, the potential benefits from new entrants and / or alternative uses are much less certain.*

The continued access to spectrum and the early knowledge of the ACMA's intentions regarding renewal is important to ensure continuity of service to rural and regional customers. Without certainty around the intentions to renew spectrum by mid-2025 the impact could be to dampen investment that uses ESLs to provide mobile services.

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<sup>8</sup> This section reflects the views of the AMTA Expiring Spectrum Licence (ESL) Working Group comprising ESL holders, it is not necessarily the view of members not holding ESLs.

<sup>9</sup> [AMTA Submission to ACMA Stage 2 Consultation on ESLs](#), 5 June 2024

<sup>10</sup> [Ministerial Policy Statement \(ESLs\), 30 April 2024](#)

## Financial Sustainability

As stated previously, the sector has experienced long-term declines in returns on invested capital (ROIC). This is highlighted by the fact that mobile sector capital expenditure has remained constant at around \$5.4bn each year for the past four years, despite operating profits decreasing by 24% over the same period.<sup>11</sup> With the sector's ROIC in decline and the cost of capital increasing this is creating a digital investment gap. This is further illustrated by the real costs of telecommunications services dropping, with the CPI index for Telecommunications Hardware and Service falling by 24.6% since June 2012, while the overall CPI index rose by 32.6% over the same period<sup>12</sup>.

However, there is a perception within the market, by the suppliers of land and other assets, such as spectrum, that the mobile industry is a cash cow and there is the ability to extract exorbitant rents for access to these assets. Industry sustainability must be a key consideration of the Government to support the investment required to deliver advanced networks and services for the long-term benefit of regional Australians.

AMTA notes that while claims from advocates and Government around mobile services as "essential" are often reflected in calls for more regulatory intervention in the supply of services; there seems less focus on the revenue needed to ensure ongoing supply and investment. Discussions around the essential nature of mobile service should also include discussions on how revenue can grow to support the increasing expectations and regulatory burden imposed on an industry recognised as essential to Australia.

## Contact:

AMTA looks forward to further engagement in the Committee's review process and would be happy to meet with the Committee in relation to this submission.

To arrange a meeting or for any questions in relation to our submission, please contact [REDACTED], AMTA Head of Spectrum and Network Infrastructure, [REDACTED]

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<sup>11</sup>JPMorgan Australian Telecommunications Analyst note, 4 Oct 2023

<sup>12</sup>Venture Insights State of the Australian Telecommunications Industry, 13 June 2023

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