

Summary of Public Hearing for the Review of Rents for Communications Sites on Crown land

30 July 2024

Overview

IPART has been appointed to undertake a review of rents for communication sites on certain Crown land. As part of this review we held a public hearing on the 30th of July 2024 to hear stakeholder views on the proposed recommendations in our draft report.

Around 50 stakeholders attended our public hearing, including representatives from industry such as mobile network operators, industry associations and infrastructure providers. We were also joined by representatives from NSW Government agencies, including the three Crown land management agencies (i.e. Crown lands and Public Spaces, National Parks and Wildlife Service (NPWS), and the Forestry Corporation of NSW).

The key topics of discussion were:

- Response from land management agencies
- IPART's dataset of private market leases
- Our approach to primary user fees
- Discussion of whether co-user fees should continue
- Fees for small cell communication sites
- Accounting for externalities
- Approach to fees for communication sites in National Parks

Response from land management agencies

Theme	Summary of discussion
Statement from Crown Lands on behalf of the land management agencies	<ul style="list-style-type: none"> • Crown Lands stated they will address the questions raised at the public hearing in their written response to the draft report. • It outlined how rents collected for Crown land are reinvested into improving the Crown Estate and maximising the public value of this land. <ul style="list-style-type: none"> – They emphasised that Crown land also provides economic benefits to the community such as renewable timber production, tourism, and community infrastructure. • Crown Lands noted the environmental and cultural significance of Crown land, and state that they have an important role in its protection and conservation.

IPART's dataset of private market leases

Theme	Summary of discussion
Valuation hierarchy of market evidence	<ul style="list-style-type: none"> • There was broad support from industry for following the hierarchy of market evidence when analysing private market lease data. • Some industry members took the view that the hierarchy required IPART to focus only on newly negotiated private market leases. • Amplitel raised concerns that IPART's market sample did not include only newly negotiated leases. It considered that our proposed fees would be lower if only newly negotiated leases were referenced. • Optus provided further context on the hierarchy of evidence, noting it reflects the <i>Spencer v. Commonwealth (1907)</i> High Court Case. <ul style="list-style-type: none"> – New sites are considered the best evidence because they reflect negotiations between a "willing but not overly anxious landlord and a willing but not overly anxious tenant." – Renegotiations contain an element of anxiousness or compulsion due to the costs for tenants involved with moving.

Our approach to primary user fees

Theme	Summary of discussion
Density categories	<ul style="list-style-type: none"> • Industry finds the current density categories harder to assess than the Australian Bureau of Statistics Australian Statistical Geography Standard. • Amplitel supports the inclusion of remote and very remote density categories as recommend in IPART's 2019 Review. • Amplitel stated that the current definition of Medium density was not appropriate because in most cases 12.5 km out of town is bushland which should be considered Low density.
Rooftop premium	<ul style="list-style-type: none"> • Optus questioned how IPART arrived at such a precise number. • It also asked whether the observed premium for rooftops is due to these sites being located in Sydney and whether it varied between density categories.
Industry supports rents based on freehold value of land	<ul style="list-style-type: none"> • Telstra and Amplitel voiced their support for rents to be charged at 6% of the unimproved freehold value of the land. • Industry notes that in some remote areas they pay more in rent than the purchase value of the freehold land.

Discussion of whether co-user fees should continue

Theme	Summary of discussion
Views on co-user fees	<ul style="list-style-type: none"> Amplitel, Optus and Indara all support removing co-user fees where no additional land is occupied. They stated there is no market evidence to support this approach and did not believe IPART's data included any examples. Amplitel further stated that the same area of land cannot be leased twice simultaneously. Telstra and Optus consider the definition of co-user adopted by IPART and the agencies does not align with industry practice. They stated that industry uses the term co-location to describe where multiple users share a location. There is no objection to co-user fees being charged where additional land is used. Crown Lands stated that co-user fees are in place to ensure that the land management agencies are receiving an adequate return if there is benefit from usage of Crown land.
Effect of co-location on primary rents	<ul style="list-style-type: none"> AMTA submits that co-user fees are not required to capture the intensity of land-use in the private market because rents for tower sites already price this in. Optus further stated that the primary user rents IPART observed in the private market account for subletting. They made the case that if Crown land were to continue the practice of charging co-user fees, then primary rents should be discounted to reflect the fact that they cannot freely sublet. TPG stated that infrastructure providers place no value on, and hence would have no demand for land rentals without the right to sublet.

Fees for small cell sites

Theme	Summary of discussion
Small cell sites to be included in review	<ul style="list-style-type: none"> Crown Lands affirmed that small cells are within the scope of this review.
Rents for small cell sites in private market	<ul style="list-style-type: none"> Industry stated that small cell sites pay lower rents in the private market than the proposed co-user fees. <ul style="list-style-type: none"> Telstra stated that private market rents for small cell sites typically fall in the range of \$1,500 to \$2,000. Optus stated that in many cases rent is only paid to the infrastructure owner that the small cell site is attached to as no land is used. Optus stated that carriers can sometime serve a land access and activity notice to access land where small cell sites are situated on pre-existing infrastructure. Optus stated that small cells are typically not held under leases. Usually, they are held under master access agreements.
Effects of proposed prices on 5G rollout	<ul style="list-style-type: none"> Telstra stated that IPART would have to recommend lower rents for small cell sites to be viable on Crown land. They support the pricing for small cells recommended in our 2019 Review.

Accounting for Externalities

Theme	Summary of discussion
Impacts on coverage in marginal areas	<ul style="list-style-type: none"> Industry stated that the cost of land used for communication sites can affect coverage in regional areas and areas with marginal business cases for coverage.
Subsidies and rebates	<ul style="list-style-type: none"> Industry does not support IPART's approach of ignoring externalities and letting them be addressed by subsidies or rebates
Effect of IPART fee recommendations on the market	<ul style="list-style-type: none"> Optus raised the point that IPART fee recommendations have a cause-and-effect relationship with market prices for communications sites. Optus further stated that IPART's fee schedules are used by "councils and other governments" in setting their own rents. Industry states that IPART recommendations effect the markets for communications sites in other states beyond NSW.

Impact on television broadcasters

- Free TV Australia noted that internet is not a complete substitute for TV broadcasting.
 - Older people and financially disadvantaged people are more reliant on TV.
 - Revenues often may not outweigh costs for TV services in remote areas.
- Free TV requested IPART consider the social welfare implications of our recommendations.
- Free TV shared that they support the recommendation in our [2019 Review](#) that fees for access and road maintenance should reflect efficient costs.

National Parks price uplift

Theme	Summary of discussion
Industry opposes National Parks price uplift	<ul style="list-style-type: none"> • Industry is of the view that the burden of proof falls on IPART and the land management agencies to provide evidence justifying why NPWS should set their fees one density category higher. • Amplitel stated that the higher NPWS fees results in some remote parcels of land with rents similar to those of Sydney metropolitan sites.
Public safety in National Parks	<ul style="list-style-type: none"> • Industry raised that coverage of remote and marginal areas has the positive externality of increasing public safety. This includes but is not limited to National Parks, which are usually in remote areas. • Industry set out how communication infrastructure assists emergency services during bushfires. • Optus outlined a case study to illustrate the impact of the higher national park fees. They stated that the introduction of higher fees has caused the rent for the site to be significantly higher than the revenue it produced. Optus says that this deters them from expanding service to marginal areas even if there is strong public demand for the service.
Environmental externalities	<ul style="list-style-type: none"> • The Australian Mobile Telecommunications Association states that this is already considered in the development application and environmental impact assessment. <ul style="list-style-type: none"> – Planned sites that are not able to mitigate their environmental impact are not permitted to proceed with development. • Indara noted that there are already existing environmental obligations on site holders, noting that in other states they need to plant a tree for every tree cleared in building a site. • Amplitel stated their view that the presence of communication sites added value to NPWS land. • Optus stated their view that there was insufficient evidence to support the NPWS price uplift on the grounds of environmental externalities. • Telstra stated that NPWS personnel also benefit from improved connectivity provided by communication sites on National Parkland.