



TELSTRA GROUP LIMITED

Telstra supplementary submission to IPART 'Review of rents for communication sites on certain Crown land'

4 October 2024



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Introduction

Telstra welcomes the opportunity to provide additional information to assist the Independent Pricing and Regulatory Tribunal (IPART) Draft Report entitled 'Review of rents for communication sites on certain Crown land – July 2024' (IPART Draft Report)¹.

Telstra's supplementary submission provides further evidence to support the concerns that we raised in our August 2024 submission to the IPART Draft Report². As per the meeting discussion with IPART on 30 August 2024, Telstra has provided additional information:

- Supporting our submission that the proposed National Parks and Wildlife Services (NPWS) fees are inconsistent with the fees levied in Queensland and Victorian national parks;
- Supporting our submission that the proposed continuation of co-user fees does not align with the private sector;
- Evidencing how small cell fees are levied in the private sector; and
- Supporting our submission that IPART's recommendations should support providing the telecommunications industry with similar access to Crown land as other utilities providers.

Telecommunications infrastructure on Crown land is crucial for the development of all other sectors in the NSW economy both directly and indirectly, and its utilisation is central to business and personal life. Governments can assist in the delivery of telecommunications infrastructure by enabling access to public property for communications infrastructure and setting rental fees that do not hinder the efficient provision of services. 5G technology is expected to bring productivity improvements across various industries, and its deployment relies on access to both public and private land. Telecommunications services are also essential during natural disasters for preparedness, response, recovery, and resilience, with disaster agencies using apps, text messages, and social media platforms to communicate warnings to the community.

¹ IPART, 2024, Draft Report - Review of rents for communication sites on certain Crown land - July 2024, available at <https://www.ipart.nsw.gov.au/documents/draft-report/draft-report-review-rents-communication-sites-certain-crown-land-july-2024>

² Telstra, August 2024, p9, *Telstra submission to IPART "Review of rents for communication sites on certain Crown land"*



NPWS fee rates are inconsistent with Queensland and Victoria

If the IPART Draft Report recommendations are implemented in NSW, there is likely to be a situation where carriers are paying an elevated amount in rent north of the Victorian/NSW border while a carrier site located south of the same border will be paying significantly less³. This scenario will also apply to the Qld/NSW border, whereby crown land rents in Queensland are significantly less than what is proposed in the IPART Draft Report. In Queensland, rent for most Crown leases is determined by taking the unimproved value and multiplying it by a percentage factor rate of return (i.e. 6%).

Table 1 provides some examples of annual rents (c-i-c begins) [REDACTED] (c-i-c ends) at full Cable Modem Termination System (CMTS) and various cabin sites at a number of locations in Queensland owned by Department of Natural Resources, Mines and Energy (DNRME). The sites chosen would all equate to the high category based on the proposed fee structure in the draft IPART report⁴. The comparison between the proposed IPART fee structure and the approach taken in Queensland for the example sites below, would result in higher rental rates for carriers at comparable sites in NSW ranging from between \$9,200 to \$23,000 p.a.⁵.

(c-i-c begins) [REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

(c-i-c ends)

³ Telstra, August 2024, p9, Telstra submission to IPART "Review of rents for communication sites on certain Crown land" - Annexure 1: Valuers letter: IPART Draft Report – July 2024

⁴ IPART, 2024, p5, Draft Report - Review of rents for communication sites on certain Crown land - July 2024, available at <https://www.ipart.nsw.gov.au/documents/draft-report/draft-report-review-rents-communication-sites-certain-crown-land-july-2024>

⁵ (CiC) [REDACTED]



Rental for telecommunications sites in Victorian National Parks is assessed in line with any general market rental primarily based on site location⁶. Park sites located close to urban areas tend to attract a higher rental value, while sites in more remote locations are at lower values.⁷

It should be noted that rents for Victorian National Parks are assessed by the Valuer General of Victoria⁸ who determines the market value of the land. Table 2 below provides some examples of annual rents paid by Amplitel for tower and cabin sites on Department of Energy, Environment and Climate Action sites in Victoria. If Telstra were to lease on these sites, we would pay 50% of the rental fees if a co-user fee were applied, which would equate to a range of between \$1,900 - \$4,500 p.a.⁹.

If this was applied to the proposed IPART fee structure, noting that the IPART Draft Report recommends "that National Parks and Wildlife Service's approach of setting rental fees one category higher should continue"¹⁰ this would result in a rental of \$17,012 p.a. to be paid by Amplitel as the primary tenant, with Telstra paying \$8,506 p.a. using the 50% co-user fee rental fee application.

(c-i-c begins)

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

(c-i-c ends)

⁶ Department of Energy, Environment and Climate Action, 2023, p13, *Leasing policy for Victorian Crown land 2023*, available at https://www.forestsandreserves.vic.gov.au/_data/assets/pdf_file/0021/632046/leasing-policy-DEECA-2023.pdf

⁷ Telstra, August 2024, p9, *Telstra submission to IPART "Review of rents for communication sites on certain Crown land" - Annexure 1: Valuers letter: IPART Draft Report – July 2024*

⁸ Department of Energy, Environment and Climate Action, 2023, p13, *Leasing policy for Victorian Crown land 2023*, available at https://www.forestsandreserves.vic.gov.au/_data/assets/pdf_file/0021/632046/leasing-policy-DEECA-2023.pdf

⁹ (c) [REDACTED]

¹⁰ IPART, 2024, p5, *Draft Report - Review of rents for communication sites on certain Crown land - July 2024*, available at <https://www.ipart.nsw.gov.au/documents/draft-report/draft-report-review-rents-communication-sites-certain-crown-land-july-2024>



Further to the above, Telstra would also note that based on advice (c-i-c begins) [REDACTED] (c-i-c ends) that the following will also impact the differential between Victoria and the IPART Draft Report recommendations¹¹:

- Bushland with no building rights would have inherent values of around \$10,000 per hectares equating to say \$1/m². A cabin site occupying 20m² would have a value of around \$5,000 on a stand-alone basis. Effectively the rent paid for these sites is more than the capital value every year.
- The low category value for NPWS land in NSW is automatically upgraded to a medium category under the IPART proposal, i.e. \$8,506 p.a. for a cabin in a remote area of NSW. A full CMTS site (cabin and pole) is assessed at \$17,012 p.a. Private sector rents on equivalent land range from nominal amounts of between \$1,000 to \$2,000 p.a. for cabins in these same areas and up to \$5,000 p.a. for full sites in these areas. This is well below the fee structure proposed in the IPART Draft Report.
- Both National Parks of NSW and Crown Lands are required to undertake asset valuations of their properties every few years under NSW Treasury guidelines, whereby, it is highly probable the assessed "freehold" amounts are likely to be well below IPART rental assessments on a rate/m² basis.

Co-user fees are not used in the private sector

IPART initially conceived of a model of co-user fees in 2005¹²; however, the concept was not included in the 2019 report handed down by IPART, which recommended that 'no annual rent be payable for co-users wholly located within the primary user's site'¹³. As far as Telstra is aware, the private sector has never used a co-user fees concept; it is a construct developed by IPART in their fee structure from previous recommendations. However, we note that IPART did not introduce co-user fees following the final recommendations resulting in the 2019 report. As far as Telstra understands, the concept is solely based in IPART recommendations¹⁴, which were not supported by evidence. The idea of a co-user fee also runs contrary to valuation principles that the landlord/landowner gets the benefit of the tenant's business/investments in the land¹⁵.

Telstra reiterates, as we set out in our August 2024 submission,¹⁶ that the concept of co-user fees will act as a disincentive to telecommunications investment and the location of telecommunications infrastructure on Crown lands as it:

- Increases the cost for providers.
- Is financially and administratively burdensome.
- Penalises carriers, requiring them to pay twice for one facility.
- Reduces the potential for infrastructure sharing as the co-user fees serve as a disincentive to co-locate.

¹¹ (CiC) [REDACTED]

¹² IPART, July 2005, Review of Rental Arrangements for Crown Land Communication Tower Sites, Final Report, available at https://www.ipart.nsw.gov.au/Home/Industries/Special-Reviews/Reviews/Tower-Sites/Review-of-Rental-for-Crown-Land-Communication-Tower-Sites-in-NSW/29-May-2006-Final-Report/Review-of-Rental-Arrangements-for-Crown-Land-Communication-Tower-Sites?timeline_id=6591

¹³ IPART, November 2019, p11, Review of Rental Arrangements for Communication Towers on Crown Land, Final Report, available at https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Final-Report-Review-of-rental-arrangements-for-communication-towers-on-Crown-land-November-2019.PDF

¹⁴ IPART, July 2013, p6, Review of rental arrangements for communication towers on Crown land, Other Industries — Final Report, available at https://www.ipart.nsw.gov.au/sites/default/files/documents/final_report_-_review_of_rental_arrangements_for_communication_towers_on_crown_land_-_july_13.pdf

¹⁵ Amplitel, 12 August 2024, Amplitel Submission in response to the Draft Report of the Independent Pricing and Regulatory Tribunal, NSW dated July 2024

¹⁶ Telstra, August 2024, p9, Telstra submission to IPART "Review of rents for communication sites on certain Crown land"



- Directly contradicts Australian Government policy and regulation that carriers take all reasonable steps to co-locate telecommunications infrastructure¹⁷.
- Deters new entrants from entering the market due to the additional financial burden, artificially reducing competition among infrastructure owners and in the wider telecommunications market.

To provide some context regarding how the private sector approaches co-location:

- If a vacant industrial site is let by a commercial market participant, and at a later date the site is partially let to other sub-tenants, it would be highly irregular for additional charges to be applied.
- This is also the same with office space, retail and other commercial space, where it is extremely rare for this concept to be applied.
- At this point in time, the ACT Government and other states do not apply co location fees within compound (the area containing our tower and cabin) and recognises the use of a leased area by the tenant as an individual choice¹⁸.
- Telstra also notes that 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 concluded 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'¹⁹.

(c-i-c begins)

[Redacted text block]

[Redacted text line]

[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]

¹⁷ Telecommunications Code of practice 2018 (Cth), available at <https://www.legislation.gov.au/F2021L01524/latest/text>

¹⁸ (CiC) [Redacted]

¹⁹ House of Representatives Standing Committee on Communications and the Arts, 2023 Recommendation 13 at Paragraph 4.135 'Connecting the country: Mission critical - Inquiry into co-investment in multi-carrier regional mobile infrastructure, available at https://www.aph.gov.au/Parliamentary_Business/Committees/House/Communications/Mobileco-investment/Report

²⁰ (CiC) [Redacted]

²¹ Ibid

²² Ibid



(c-i-c ends)

Market prices for small cell leases

As the rental market for small cells has now matured, the private sector price range is approximately \$1,500 p.a., which includes the installation of the telecommunications infrastructure on a site, access to power and any access requirements.

In urban areas, Telstra will typically deploy small cells on an existing utility pole. The rental paid to the utility includes space on the pole to mount antennas, cabling and other infrastructure such as an external cabinet mounted on the pole (if required), power to energise the active components and maintenance access to the pole.

In relation to Crown Lands, National Park sites, for small cell sites to be viable, discounts would need to be applied for remote locations, due to the lack of infrastructure, along with accessibility issues that affect the ability of carriers to deploy in these locations.

As of 1 July 2018, Telstra has deployed around 476 small cells in NSW of which around 60 are installed outside of the Sydney metropolitan area. (c-i-c begins)

Figure 1: Treasurers Direction 469.02 transfer of realty between Government Authorities and States²⁴

TD92/2
469.02 Where Crown lands under the administration of the Minister for Conservation and Land Management are appropriated by a Government Authority, the Authority shall be required to pay compensation on the basis of a valuation determined by the Department of Conservation and Land Management.

If, for example, Essential Energy requires a site on Crown Land or within a National Park to locate poles and transmission towers, it will make an application under the Treasurer's Direction 469.02²⁵ for an easement and make a one-off payment. The valuation methodology applied is based upon the heads of compensation defined under Division 4 Determination of Compensation under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW)²⁶. This is substantially more cost effective than the annual and ongoing rental fees proposed under the IPART Draft Report²⁷.

We illustrate below in Table 5 the cost differential between telecommunications carriers and utility companies, by comparing the cost of an easement under Treasurer's Direction 469.02 of the Land Acquisition (Just Terms Act) 1991 (NSW) and the rental proposed to be charged to a telecommunications carrier over a 20-year period under the IPART Draft Report:

Table 5: Proposed rental fees under IPART Draft Report compared to costs for a utility under Treasurer's Direction 469.02²⁸

	Rent over 20 years by a telecommunications carrier for a nominal regional site on NSW Crown Land based on proposed IPART rent regime.	Easement for equivalent site acquired by an NSW utility under Treasurer's Direction 469.02 of Land Acquisition Just Terms Act of NSW 1991.
Estimated Cost	Low Category for a full CMTS Site over 20 years would equate to \$171,000.	\$5,000 for a remote crown land block freehold, easement cost of \$2,000.
Calculation	Low Category: \$8,550 p.a. x 20 years minimum \$171,000. No adjustment has been allowed for annual escalations.	As per Valuer General of NSW assessment or by agreement under the Land Acquisition Just Terms Act of NSW/Treasury Directions.
Assumptions	Effectively Telstra is purchasing the freehold value of the site twice every year under this regime. If the NPWS category is applied the rent would increase to \$17,012 p.a. and over a 20-year term \$340,000 p.a.	Assumption Telstra is provided opportunity under Just Terms Act of NSW.

²⁴ NSW Treasury, n.d., *Treasurers Direction*, available at <https://arp.nsw.gov.au/assets/ars/attachments/TD-92.2-TD-88.2-TD-89.1.pdf>

²⁵ (CIC) [REDACTED]

²⁶ NSW Government, 2024, Land Acquisition Just Terms Act of NSW 1991, available at <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1991-022>

²⁷ IPART, July 2024, *Draft Report - Review of rents for communication sites on certain Crown land - July 2024*, available at <https://www.ipart.nsw.gov.au/documents/draft-report/draft-report-review-rents-communication-sites-certain-crown-land-july-2024>

²⁸ (CIC) [REDACTED]



Telstra is not seeking that the Treasurer's Direction be applied to the telecommunications sector. We would like however to point out the similarities between telecommunications and utility providers, noting that their land values are assessed using recognised land valuation methods used by the NSW Valuer General (which consider a range of factors in the valuation of land), which is the approach that Telstra has argued for in our previous submissions^{29 30}.

²⁹ Telstra, August 12, 2024, p10, s6.2, *Telstra submission to IPART "Review of rents for communication sites on certain Crown land"*

³⁰ Telstra, April 12, 2024, p6, s4.2, *Telstra submission IPART Review of rents for communication sites on certain Crown Land*