



**St George Amateur Radio Society Inc.**

PO Box 530  
Engadine, NSW, 2233

Contact: Paul Howarth

Email: [REDACTED]

25 March 2024

Independent Pricing and Regulatory Tribunal  
PO Box K35  
**Haymarket Post Shop NSW 1240**

Attention: Tribunal Members

**RE: REVIEW OF RENTAL ARRANGEMENTS FOR COMMUNICATION  
SITES ON CERTAIN CROWN LANDS**

We refer to the IPART Issues Paper titled “2023 Review of Rental Arrangements for Communication Sites on Certain Crown Lands” dated 26 February 2024. IPART has been asked by the NSW Government to review the rents for communications sites on Crown lands and recommend a fee schedule.

St George Amateur Radio Society Inc. (SGARS), is a permissive occupancy licence holder for a single parcel of land administered by NSW Forestry (and its successors) in the Mt Bindo (Lithgow) area. SGARS uses the location as a radio repeater communications site.

The following comprises SGARS stakeholder feedback, and is provided in two (2) parts:

1. Specific feedback in response to the review’s stated terms of reference, and
2. Supporting information detailing:
  - a. Background information on Amateur Radio, SGARS and related community engagement,
  - b. The regulatory framework the Australian amateur radio community (including SGARS) operates within – managed by the Australian Communications Media Authority (ACMA),
  - c. Historical and current details of licence/rental arrangement in place between SGARS and Dept of Planning & Environment for SGARS use of the Mt Bindo communications (radio repeater) site near Oberon NSW.

## SGARS Feedback Aligned to the Terms of Reference

### 1. Updating current rents to reflect fair, market-based commercial returns

SGARS agrees in principle that the Crown should obtain a fair market return for “commercial” use of its assets. Specifically, where an occupant can generate commercial revenue (cash, profit, income, competitive advantage etc) from use of a Crown asset that should be reflected in the rent charged for use of the Crown asset.

We make the following observations regarding determining the calculation of “fair market value”:

- a. **Wide Variety of Site Users** - Market value depends on both the characteristics of the communication site on offer (by the seller) and the value it presents to the site user (i.e. the buyer).

These users range from large commercial operators (e.g. telcos) through to smaller service providers (e.g. local councils) and not-for-profit users (such as SGARS).

A simple model based on geographic location and land size risks not adequately accommodating the diverse range of communication site users.

SGARS believes any fees model should specifically recognise the different tiers of users and the commercial value they derive from use of a communications site. In the case of large commercial entities these sites have the potential to generate significant revenue and should be priced accordingly.

In the case of not-for-profit amateur radio organisations (such as SGARS) the commercial value of a communication site is very low because:

- i. A legal prohibition exists on the amateur radio service being used for any commercial activity (including paid advertising, voice telephony, data carriage services or similar). The prohibition is enforced by the Australian Communications Media Authority. There simply is no opportunity for amateur radio licensees, such as SGARS to use a communications site to generate revenue.
- ii. The limited financial capacity of SGARS (and similar community organisations) to pay rents when compared to large commercial entities. If confronted with unaffordable rents organisations such as SGARS will have no choice but to vacate the communication site – resulting in a nett reduction in revenue to the Crown. Where a community organisation is the only user of a site an unaffordable rent increase will result in the loss of all revenue from the site – further compounding the difficulty in determining ‘fair market value’.

- b. **Zero-Demand Sites** - For some sites (particularly in remote and rural locations) a classic 'supply/demand model' is not relevant. Reducing rents will not increase demand where none exists in the first place. An example is the Mt Bindo communications site where SGARS has been the sole occupant for more than 35 years. Fair market value for a site with no commercial usage and "no-demand" should be nominal.
- c. **Fees already recovered** – The Mt Bindo site is managed by NSW Forestry (and its successors). The primary use of the Mt Bindo site is 'commercial logging/forestry' and the value of that site has already been recovered by the Crown through logging fees, licences, rents and royalties. It could be argued that the Crown is charging twice (double dipping) for use of a single Crown resource – particularly where a licence and not a lease is the form of contract.
- d. **Sub-letting Prohibition** - We note that communication site licence/rental terms imposed by the Crown (at least in the case of SGARS) expressly forbid any form of sub-letting. This prevents generation of revenue from co-located parties and any form of cost recovery. The ban on sub-letting also potentially reduces the commercial return to the Crown (where demand does exist). A fee schedule that assumes parties will collocate, and generate significant revenue is fundamentally flawed where sub-letting is expressly forbidden.
- e. **Rent / square metre** - The use of historical rent / square metre data may be misleading as an indicator of "value" in remote locations. Remote licence land sizes have in many cases been set 'for convenience' (e.g. based on prior occupancy, existing fenced area, cleared land size etc) and do not reflect actual current communication usage. In the case of Mt Bindo - SGARS licences a 561m<sup>2</sup> site, however actual usage is only approximately 55m<sup>2</sup>. Introduction of a fee / square metre price model may have the perverse effect of incentivising licensees to renegotiate and minimise their land occupancy - resulting in reduced revenue to the Crown.
- f. **"Small cell" Fees** – The rationale for providing alternate pricing structures to advantage (or disadvantage) a particular technology (e.g. "small cell technology") is unclear. We note there are other similar radio technologies (i.e. technologies with similar equipment size and/or population reach) which could/should be treated similarly. SGARS believes any advantageous rents/fees offered to "small cell technology" should not be at the expense of other communications site users.

## **2. Recent and representative market rentals agreed for similar communication sites, reflective of different site conditions and locations across the State**

Details of SGARS current rental agreement for the Mt Bindo communication site is attached for IPART reference. SGARS has been the sole occupant of the site since approximately 1990. We note some recent site activity by the NSW Government Radio Network (GRN).

The Mt Bindo site has an assessed land value of \$5,600 (2016)

SGARS Annual Licence fee 2022	\$8,726
Less rebate	-\$8,191
Net	<u>\$588 inc GST</u>

We note the annual gross licence fee (excluding rebate) exceeds the assessed value of the land.

## **3. The land management agencies' requirements under legislation as well as any relevant state strategic plans and policies**

No comment.

## **4. Consultations with key stakeholders**

This document.

## Proposal

SGARS are responsible for a significant quantum of costs and fees associated with the Mt Bindo Facility.

Specifically, the annual cost to operate this site to the club approximates (for the year 2022-23)

Dept of Planning (Forestry NSW) Mt Bindo Site Licence Fees	\$635.99
Mt Bindo Council Rates and Taxes*	\$603.30
ACMA Mt Bindo Repeater Licence Fees	\$ 122.00
<b>Total</b>	<b>\$1361.29</b>

In addition to these direct costs, members visit the site at least quarterly overnight at their own expense for maintenance purposes. Maintenance costs include replacement of high-capacity batteries, fuel for lawn-mowing, as well as repair of capital items. Due to its remote location, this site is particularly prone to attacks by vandals including repeated shot-gun damage to the expensive antennae system, fencing repair, rectification of spray-paint “tagging” and destruction of wind generator equipment.

These costs have stretched the ability of the Club to fund, however it is unlikely that any significant increase in costs, including Licence Fees to occupy the site, could be reasonably absorbed in to the Club’s limited finances.

SGARS total income the calendar/financial year of 2022-23 was \$3,051.33 including donations and fund-raising events.

SGARS is seriously concerned that an increase in Licence Fees to occupy the Mt Bindo Facility site could result in the loss of this facility from the Sydney-Country metropolitan linking network.

**We request that the current fee structure for not-for-profit community groups such as ours accessing communications sites such as Mt Bindo be maintained.**

**Conclusion:**

Amateur Radio provides significant community benefits during emergencies, in experimentation and is often the first point of contact to young prospective users of the radio frequency spectrum by the provision of disciplined training.

The Mt Bindo facility repeater system is vital to expanding the disciplined and technical reach of radio experimenters, operators and trainers.

Should you require further information, please do not hesitate to contact me.

Yours Faithfully,



Paul Howarth  
Secretary – St George Amateur Radio Society Inc.

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## **SGARS Supporting Information**

### **Amateur Radio:**

Amateur radio is a radio communications hobby enjoyed by some 6,000 enthusiasts across NSW. There are approximately 15,000 radio amateurs in total throughout Australia, and more than two million worldwide.

Radio amateurs are licensed by the Australian Communications and Media Authority (ACMA) under the Radiocommunications Act 1992.

Amateur radio is a hobby that can be conducted as an activity ancillary to domestic habitation and has no permitted commercial capacity.

The peak national organisation overseeing amateur radio in Australia is the Wireless Institute of Australia, which was founded in 1910 and is the oldest amateur radio organisation in the world.

### **St George Amateur Radio Society Inc:**

St George Amateur Radio Society Inc (SGARS) is an incorporated non-profit, volunteer community organisation catering specifically to its members who are involved in the hobby of amateur radio. The incorporation number is Y08891-44.

SGARS holds monthly technical meetings which deliver technical lectures as well as social interaction, supplemented by contests, training of new radio operators and other activities.

### **Community Benefits of Amateur Radio:**

Highly trained and dedicated amateur radio operators provide radio communications support to the community during emergencies to government and non-government organisations and for community events.

Additionally, amateur radio provides disciplined and technical training for members and the community at minimal cost through organisations such as the Scouts, who often subsequently extend their radio interests to include other non-amateur avenues such as marine radio, broadcasting, datacasting, scientific uses, radio astronomy, aeronautical applications, military radio training and so on.

Many technical breakthroughs, experimentation/adaptions and refinements which utilise the Radio Frequency spectrum including the fields of WiFi, digital television/radio, computer based packet-radio, single-sideband radio and so on, owe their origins and refinements to the enthusiasm and research and development undertaken by Australian amateur radio licence holders and experimenters.

## Australian Communications and Media Authority

The Australian Communications and Media Authority is the Federal body responsible for licencing the amateur radio community. It describes Amateur Radio as:

“The amateur service is designed primarily to facilitate hobby radiocommunications and for technical experimentation and operates on specified frequency bands. Amateur radio operators communicate using transmission modes including, but not limited to, Morse code, telephony and data.

Anyone can listen to the amateur bands using a receiver, but to transmit, operator qualifications and a licence issued by the ACMA are required.

An amateur apparatus licence is issued to authorise a station that:

- is operated for the purposes of self-training in radiocommunications; intercommunication using radiocommunications; and technical investigation into radiocommunications by persons who do so solely with a personal aim, and who have no pecuniary interest in the outcome of the operations of the station;
- is operated on amateur frequencies or amateur frequency bands; and
- may participate in the amateur-satellite service.”<sup>1</sup>

ACMA’s Amateur Radio licensing framework specifically prohibits the use of the amateur service for any and all commercial purposes.

**Amateur radio licensees are not permitted to use the amateur radio service to raise revenue through any means - including the broadcast of advertising, carriage of voice telephony or data services or similar.**

As a result, the operation of all amateur radio equipment and facilities (including those located on crown lands) can only be financed through volunteer fund raising.



## **Mt Bindo Communications Site**

### The Present Situation

At present, SGARS operates a communication facility that was abandoned by commercial television Channel 8 at Orange, some 31 years ago.

SGARS wishes to recognise the importance of the Orange and Districts Amateur Radio Club for their significant contribution to the on-going maintenance of the Mt Bindo site.

### *Legal Description*

Specifically, this site is generally referred to as the “Mt Bindo Facility”, and is legally known as being Lot 7006 in deposited Plan 1028726, being subject to a licence no. 410875. The land is known as being within the Location of Hampton, Parish of Bindo, County of Cumberland and the Local Government Area of Lithgow City. It is Property Number 3626459.

### *Land Area*

The area of the land, according to the Notice of Valuation issued by the Valuer General’s Office dated 01/07/2010 is 561 square metres.

### *Registered Proprietor*

The First Schedule of Folio 7006/1028726 indicates that the registered proprietor is The State of New South Wales.

### *Second Schedule*

The Second Schedule of Folio 7006/1028726 indicates:

1. The land is a reserve within the meaning of Part 5 of the Crown Land Act, 1989 and there are restrictions on transfer and other dealings.
2. Limited Title.
3. The plan defining the land which was prepared for identification purposes is now suitable for title issue.

There are no unregistered dealings on the title.

### *Zoning*

The site appears to be zoned "Rural (General) 1(a)" under the Lithgow local Environmental Plan 1994.

### *Objectives of the Zoning*

Zone No 1 (a) Rural (General)

#### 1 Objective of the zone

The objective of the zone is to promote the proper management and utilisation of natural resources by:

(a) protecting, enhancing and conserving:

- (i) rural land, in particular prime crop and pasture land, in a manner which sustains its efficient and effective agricultural production potential,
- (ii) soil, by controlling and locating development in accordance with soil capability,
- (iii) forests of existing and potential commercial value for timber production,
- (iv) valuable deposits of minerals, coal and extractive materials, by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits,
- (v) trees and other vegetation in environmentally sensitive areas, where the conservation of the vegetation is significant for scenic amenity or natural wildlife habitat or is likely to control land degradation,
- (vi) water resources for use in the public interest, preventing the pollution of water supply catchment and major water storages,
- (vii) localities of significance for nature conservation, including places with rare plants, wetlands and significant wildlife habitat, and
- (viii) items of heritage significance,

(b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,

(c) facilitating farm adjustments,

- (d) minimising the cost to the community of:
  - (i) fragmented and isolated development of rural land, and
  - (ii) providing, extending and maintaining public amenities and services,
- (e) providing land for other non-agricultural purposes, in accordance with the need for that development, and
- (f) providing for the separation of conflicting land uses.

2 Without development consent

Development for the purpose of agriculture (other than intensive livestock keeping establishments or ancillary dwellings); bushfire hazard reduction; forestry (other than ancillary dwellings); home-based child care.

3 Only with development consent

Any development except that permitted without consent or prohibited.

4 Prohibited

Development for the purpose of boarding houses; bulky goods salesrooms or showrooms; commercial premises; home occupation (sex services); motor showrooms; residential units; restricted premises; sex services premises; shops (other than general stores).

### *Land Value*

The land has been assessed as having a Land Value of \$5,600, as at the relevant date, being 01/07/2016.

### *Council Rates*

The Current Council Rates being paid as at 2023, amount to \$603.30 per annum which includes a Waste Disposal levy, for which no waste disposal service is available at the site.

### *Licence Fees*

The licence fee levied on the site by the Department of Industry (Lands) is \$635.99 per annum (after rebates, FY 2023, inclusive of GST).

### *Services Available*

There are NO services available to this site, including water, sewer, electricity, telephone or gas.

**Licence Synopsis - 1990**

		<b>Notes</b>
<b>Licensor:</b>	The Minister for Natural Resources	
<b>Licensee:</b>	St George Amateur Radio Society Incorporated	
<b>Described Premises:</b>	LGA : Lithgow Land District : Lithgow County : Westmoreland Parish : Bindo Area : Abt 561 M <sup>2</sup>	
<b>Permitted Use:</b>	Television microwave link	
<b>Commencement Date:</b>	11 April 1990	
<b>Initial Rent:</b>	\$70.00 pa	Described in the covering letter dated 16 Oct 1990 as being "The prescribed minimum rent for a Licence is \$70.00 per annum."
<b>Rent Reviews:</b>	Market Rent Review Period : 3 years	
<b>Other Comments:</b>	Improvements nil. Holder to remove on Expiry.	

**Licence Synopsis - 2007**

		<b>Notes</b>
<b>Minister's Reference:</b>	Head Licence No. 408183 Head Licence Commencement 1 <sup>st</sup> July 2007 Site Licence No. 410875	
<b>Location of Site</b>		
<b>Parish:</b>	Bindo	
<b>County:</b>	Westmoreland	
<b>LGA:</b>	Lithgow	
<b>Locality:</b>	Hampton	
<b>Deposited Plan:</b>	7006/1028726	
<b>Land Status:</b>	Reserve No. :6784 Reserve Purpose : Public Recreation, Trigonometrical Purposes	
<b>34A Gazette Date:</b>	Date 01 Aug 2008 Additional Purpose: Communications Facilities	
<b>Text Description:</b>	ACMA Id 10492 – Amateur site Mt Bindo	
<b>Rent &amp; Term</b>		
<b>Commencement Date:</b>	1 July 2007	
<b>Terminating Date:</b>	20 years from commencement date of Head Licence	
<b>Initial Rent:</b>	\$376.00	
<b>Market Rent Review Date:</b>	Each period of five (5) years after 1 July 2007	
<b>IPART Density Category:</b>	Medium	
<b>IPART Site Usage Category:</b>	Primary User	
<b>IPART Site User:</b>	Community Based Organisation	

## Most Recent Licence Fees - invoice



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### Account Details

**Registered Holder(s):** St George Amateur Radio Society

**Licence 410875**

( Acma Id 10492 - Amateur Site Mt Bindo) Purpose : Tower Site  
LGA: LITHGOW CITY Folio Identifier: 7006//1028726

**NEW CHARGES**

**RENT**

<b>Current Rent due 01Jul2022</b>	
Rent at \$8,726.00(CPI Adjusted) per year for the period from 01Jul2022 to 30Jun2023	\$8,726.00
less rebate	-\$8,191.00
<b>GST payable as at 01Jul2022</b>	
GST charged on \$535.00 at 10%	\$53.50

**BALANCES**

Balance due on last account notice	\$563.20
Payments received	-\$565.45
Adjustments / Waivers	\$2.25
New Charges (see above)	\$588.50
<b>TOTAL AMOUNT DUE FOR THIS ACCOUNT</b>	<b>\$588.50</b>

## **Site Use**

The Mt Bindo Facility is operated by St George Amateur Radio Society Inc, a non-profit volunteer community organisation.

The Mt Bindo Facility is operated in accordance with the radio licence issued by ACMA which specifies that it must be operated at no-charge.

Accordingly, the facility is operated by a volunteer, non-profit organisation, solely operating within amateur radio frequency bands which are allocated by ACMA specifically for non-commercial purposes and under a licence issued by ACMA which expressly forbids usage charges or commercial use.

The site provides coverage for amateur radio users across the Sydney basin, Lithgow, the Megalong Valley and to regional areas from the Victorian border to Coffs Harbour and west of Orange.

The site is used for community communication purposes, including training of new operators in the disciplined and technical use of radiocommunications equipment. The site is also used in emergency situations, including bushfire and search and rescue, and has been accessed by organisations such as Search and Rescue, Forests NSW, and the NSW Rural Fire Service in association with licenced amateur radio operators, as well as the specialist emergency broadcast arm of amateur radio known as the national Wireless Institute Civil Emergency Network (WICEN).

END.