



Review of rents for communication sites on certain Crown land

Revised Draft Report

December 2024

Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders both past and present.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

Tribunal Members

The Tribunal members for this review are:

Carmel Donnelly PSM, Chair
Jonathan Coppel
Sharon Henrick
Dr Darryl Biggar

Enquiries regarding this document should be directed to a staff member:

Matthew Tsikrikas (02) 9019 1996
Mike Smart (02) 9113 7728

Invitation for submissions

IPART invites comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by Wednesday, 15 January 2025

We prefer to receive them electronically via our [online submission form](#).

You can also send comments by mail to:

Review of rents for communication sites on Crown land
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop, Sydney NSW 1240

If you require assistance to make a submission (for example, if you would like to make a verbal submission) please contact one of the staff members listed above.

Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our [website](#) as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed above.

We may decide not to publish a submission, for example, if we consider it contains offensive or potentially defamatory information. We generally do not publish sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please let us know when you make the submission. However, it could be disclosed under the *Government Information (Public Access) Act 2009* (NSW) or the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART's [submission policy](#) is available on our website.

The Independent Pricing and Regulatory Tribunal

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

Executive Summary

In December 2023, the Minister for Lands and Property asked us to conduct a review under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992*. The Terms of Reference (Appendix A) asked us to recommend a fee schedule which:

- is simple and able to be easily implemented by the responsible land management agencies, and
- results in a dollars per site charge that varies by location.

We are asked to update current rents to reflect commercial returns in the market, based on a statistically significant sample of a minimum of 500 data points that are representative of the geographic diversity of Crown land sites. We are asked to consult with stakeholders, including the land management agencies and communication tenure holders. The Terms of Reference also indicates that rebates are outside the scope of our review.

IPART last reviewed rental arrangements for communication towers on Crown Land in 2019. Our recommendations from that review were not adopted. The Government advised that it had concerns about the market data we relied on. The current rental pricing for communication sites is based on our 2013 review, indexed for inflation.¹

This review has required us to balance diverse considerations. We are required by the terms of reference to recommend a fee schedule which is simple and easily implementable. We are also required to base our recommendations on current practice in the private market. However, we understand that the land management agencies may find some current market practices are not easily implementable, given limitations in their current record-keeping systems.

Also, the terms of reference do not set out the policy intent of engaging an independent regulator to recommend fees. Typically, a price regulator's role is to protect consumers from the abuse of monopoly power. However, this referral to IPART may provide protections to the land management agencies. Objections to a rent redetermination are not available to customers if the IPART recommended rent is applied.^a

The review was also constrained by limitations in the records of the land management agencies, who advised they were unable to provide records of the parcels of land licensed to each customer. The referral is under section 9 rather than section 12A of the IPART Act. Referrals under section 12A of the IPART Act give us strong information gathering powers, which we do not have available for section 9 reviews.

However, we have been able to obtain a much larger data set of private market rents for communication sites than we had in 2019. We obtained publicly available data on leases from the NSW Land Registry Service (LRS). We also sought rental data from communication companies.

^a Division 6.3 clause 6.8 of the *Crown Land Management Act 2016*.

We published our Draft Report on 15 July 2024 and received submissions from 12 organisations.² We also held a public hearing on 30 July 2024. Many of the submissions from the communications industry raised concerns that our approach may be discriminatory against telecommunications carriers. We heard similar concerns during our public hearing. Some industry stakeholders also raised concerns with the data we have used to estimate our recommended fee schedule. They consider it does not align with valuation practice as it includes renewed and sequential leases for communication sites.

We remain of the view that our approach is not discriminatory. It treats all communication site users in the same manner, whether they are carriers or not.

We do not agree that current renewed and sequential leases should be excluded from our data set. These leases represent current rents. Had we excluded renewed and sequential leases from our data set, far fewer than the 500 sites required by our Terms of Reference would have been available. We discuss these submissions and our responses in Chapter 2.

In submissions to the Draft Report, we received additional and new information on recent private market rentals for communication towers and associated leases conditions. We carefully reviewed this additional information on recently agreed leases.

Our sample represents a significant proportion of identified leases in NSW that are used for a communication purpose and had commencement dates from 2020-21 onwards. We analysed the data (using statistical regression analysis) to consider the effect of density classification (i.e. Low, Medium, High density or Sydney), other key characteristics of the site (i.e. airspace, rooftop) and whether the lessee was a primary or co-user. We used the results from our regression to recommend the proposed fee schedule shown in Table 1 below, which also shows the current fees. We have found that market prices are lower than the current fees in all density categories but are slightly higher than the fees we proposed in our draft report.

The pricing schedule that Crown Lands presently applies to communication sites is based on the recommendations of a 2013 review by IPART, with CPI adjustments applied over the intervening 11 years.

Over the past 11-year period there have been changes in the market, which are analysed in this report. Since 2013, more information has become available. We have concluded that the views expressed in the Tribunal's 2013 review do not reflect the views or recommendations of the current Tribunal. We would expect the recommendations of this review to supersede any prior IPART recommendations, including those made in 2019 and in 2013.

Table 1 Revised draft recommended vs current and draft rental fees (\$2023-24 per annum, excluding GST)

	Sydney	High	Medium	Low
Revised draft recommended fees	\$36,915	\$31,012	\$17,251	\$8,793
Draft report (July 2024) fees	\$36,340	\$30,156	\$17,012	\$8,545
Current fees	\$42,132	\$35,109	\$19,505	\$9,362

Source: Department of Planning, Housing and Infrastructure, [Communication licence rent fact sheet](#), February 2023, NSW Land Registry Services and IPART analysis.

Our revised draft report continues to recommend that the density classifications (Box 1) remain the same from our 2013 review of rental arrangements for communication towers on Crown land (see section 2.4). We consider that there are benefits to updating the density categories but understand the land management agencies would not find it simple or easy to implement any changes.

Box 1 Current density classifications

Sydney: local council areas in metropolitan Sydney with a population density of greater than 1,800 people per square kilometre.

High: local council areas in metropolitan Sydney with a population density of less than or equal to 1,800 people per square kilometre as well as the greater metropolitan area of the Central Coast, Newcastle and Wollongong.

Medium: areas within 12.5 kilometre of the centre of the 37 Urban Centres and Localities (UCLs) defined by the Australian Bureau of Statistics (ABS) as having a population of 10,000 or more based on the 2011 census.

Low: rest of NSW.

Source: IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), July 2013, pp. 28-29.

We consider that NPWS has demonstrated that communication sites in national parks create higher management costs for NPWS than for other land management agencies. These sites also lead to ongoing environmental costs that are not compensated for outside of the communication site rental payment. On balance, our revised draft recommendation is that the category uplift to the standard rental schedule would apply to sites in national parks. However, we expect for the next review, NPWS should provide quantitative analysis on the additional costs of hosting communication towers in national parks.

Our revised recommendation is that each rooftop site pay the full primary user fee and an additional \$3,380 if they are located in the Sydney density category (section 7.4). We reached this revised draft decision because rooftop sites are valuable to users and do not warrant a discount. We have also quantified through our regression analysis the additional value attributed to rooftop sites only located in the Sydney density category.

Our revised draft recommendation is that the land management agencies continue to charge co-user fees, but only where additional land is licensed. The land management agencies and industry have provided private market evidence that demonstrate co-users do pay rent where they lease land outside the primary user's compound. We also propose to recommend co-users do not pay a rental fee if they only licence land wholly located in the primary user's compound. This is a change from our July 2024 draft report and reflects additional market evidence.

We note, however, that the recent emergence of specialised tower-owning firms that sublet space to carriers has changed the way that the industry uses and leases private land. When rents are next reviewed, co-user agreements may be rare in the private market. If that happens, the applicability of co-user fees within the Crown Land portfolio may need to be re-examined.

For primary users deploying small cell technology, our revised draft recommendation is a reduced price of \$2,000 based on new market survey data for this type of deployment (Chapter 6). This recognises deploying small cell technology typically requires little additional land, if any.

We continue to propose recommending that the fees in Table 1 are to be escalated by 3% per year for new licences. (Chapter 8). These draft decisions reflect our market evidence and the feedback we have received from stakeholders.

We continue to propose to recommend that the published fee schedule be independently reviewed every 5 years to ensure it continues to reflect market conditions. We have observed that private market leases have a typical term of 5 years with options to renew. We consider a similar review period is suitable for the published fee schedule as it provides communication licence holders with some certainty of their rents, while ensuring fees continue to align with market conditions.

We propose to recommend that if IPART is to be provided a future referral to recommend rents the:

- reason for referring the review to IPART be included to assist stakeholders understand the objectives of the referral
- referral be under section 12A of the IPART Act so that our information gathering powers are available
- scope of any referral is broadened to include investigating the range of fees and charges imposed by the land management agencies in addition to rents
- the land management agencies improve their records, so they have information on whether co-users rent additional land and the additional costs associated with telecommunications towers in national parks.

We estimate that the impact of the revised draft pricing schedule would be to reduce the combined annual revenue to the Crown lands agencies by approximately \$2.4m per annum before rebates and the impact of the revised draft recommendation for co-user fees.

The revised draft recommendations on co-user fees would reduce revenue for sites where the co-user does not rent additional land. We requested information from the Crown land agencies on how many co-user sites rent additional land. The agencies were unable to provide that information. They noted:

IPART has not adequately acknowledged the financial impact to Government. If the land management agencies were to implement the proposed recommendation to change co-user fees, the total loss of revenue could be as high as \$7.45m per annum (excluding implementation costs noted above):

- \$6m for Crown Lands
- 650k for National Parks and Wildlife Service (NPWS)
- 800k for Forestry Corporation of NSW³.

This appears to be an upper bound estimate based on the assumption that all co-users do not rent additional land.

Review process

On 16 October 2024 the Department of Planning Housing and Infrastructure provided information in response to questions raised at our public hearing. They also provided a report they commissioned from siteXcell to review co-user agreements in the private market. We published these documents on 21 October 2024. We subsequently received several further submissions from industry raising issues with the siteXcell report.

We are committed to following a fair and transparent process. We have decided to publish a revised draft report and invite submissions from all stakeholders. Releasing our revised draft report and seeking feedback enables stakeholders to:

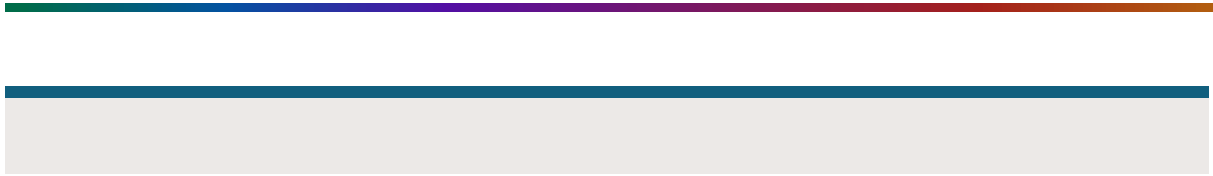
- understand and provide feedback on how we responded to submissions and other material received since the first draft report, and
- have a fair and equal opportunity to provide submissions before IPART makes its final recommendations.

We have also published all late submissions we received on [our website](#) to provide transparency. A timeline for the review including when submissions were received is provided in Appendix C.

We invite submissions on our revised draft recommendations. Submissions are due by Wednesday 15 January 2025.

Revised draft recommendations

1.	That we continue to use the approach of benchmarking against the private market for our recommended fee schedule	25
2.	The existing density classifications continue to be used to minimise the costs of implementing the updated fee schedule.	25
3.	The category uplift to the standard rental schedule would apply to sites in national parks.	33
4.	The NPWS rental fee approach not be adopted by the other land management agencies.	33
5.	Co-users are no longer to pay a co-user fee where the land they licence is located wholly within the primary user's compound.	47
6.	Co-users are to pay a co-user fee that is set at 50% of the primary user's rental fee where they licence additional land outside of the primary user's compound.	47
7.	The co-user discount rate be considered as part of the next rental review.	47
8.	Primary users deploying small cell and other similar technology on existing, non-communication infrastructure are to pay rent of \$2,000 per annum where:	54
	a. the infrastructure is owned by the land management agencies; or	54
	b. the small cell is deployed on another entity's infrastructure, but a small amount of additional land (not more than 7.5 square meters) is required.	54
9.	Communication sites located on a rooftop are to pay:	58
	a. the relevant density category rental fee	58
	b. plus an additional charge of \$3,380 per annum if they are in the Sydney density category.	58
10.	The following primary user fees per annum be adopted for communication sites in each density classification:	61
	Sydney High Medium Low	61
	\$36,915 \$31,012 \$17,251 \$8,793	61
11.	The published fee schedule is to be independently reviewed every 5 years to ensure it continues to reflect market conditions.	61
12.	If IPART is to be provided a future referral to recommend rents for communication towers on crown land the referral should:	61
	a. Explicitly state the reason for referring the review to IPART.	61
	b. Be under section 12A of the IPART Act so that our information gathering powers are available	62
	c. Broaden the scope to include investigating the range of fees and charges imposed by the land management agencies	62
	d. That the 3 land management agencies improve their records, so they have information on whether co-users rent additional land and the additional costs associated with telecommunications towers in national parks.	62
13.	The rental fees set out in recommendation 10 are to be escalated by 3% per year in line with current private market practice. Existing licences are to adopt the escalator as they are renegotiated.	62
14.	The rental escalator is to be reviewed as part of the next rental review.	62



Contents

Executive Summary

Chapter 1

Context	12
1.1 Current rental arrangements	13
1.2 Current users of Crown land sites	14
1.3 Recent developments in the communications industry	15

Chapter 2

Approach to setting rents	17
2.1 Our draft recommended rents use private market benchmarks	18
2.2 Industry maintains that our approach may be discriminatory	19
2.3 Industry recommends excluding renewed and sequential leases	20
2.4 Communication network externalities	22
2.5 Industry conditionally supports updating the density categories	23
2.6 Stakeholders are concerned by the evidence presented to this review	24
2.7 Summary of our approach	24

Chapter 3

Approach to national parks and environmentally sensitive land	26
3.1 History of NPWS rental approaches	28
3.2 NPWS's current approach	29
3.3 Our proposed approach in the Draft Report	29
3.4 Industry does not support the category uplift	29
3.5 NPWS advocated maintaining the category uplift	30
3.6 Planning instruments regulate communication sites locating in national parks	31
3.7 The options for pricing in national parks	31

Chapter 4

How we measured market rents	34
4.1 Choice of method for identifying relevant leases	36
4.2 Lease data obtained from communication companies	39
4.3 Results from regression analysis	39
4.4 Price escalation factors used in leases	40

Chapter 5

Approach to co-user fees	41
5.1 Current approach to co-user rental fees	42
5.2 Our proposed approach to co-user rental fees	42
5.3 Industry continues to seek the removal of co-user rental fees	43
5.4 A co-user discount rate of 50% remains appropriate	45
5.5 Co-users to pay a rental fee only where they occupy additional land	45

Chapter 6

Approach to small cell technology	49
6.1 Current approach and draft position on small cell technology	50

Chapter 7

Approach to rooftops	55
7.1 Current approach to rooftop sites	56
7.2 Our proposed approach	56
7.3 Industry does not support our proposed approach	56
7.4 Our revised draft recommendation for rooftop sites	57

Chapter 8

Proposed rental schedule	59
8.1 Updated rental fees	60
8.2 Price escalation factors for rents	62

Appendix A

Terms of Reference	64
---------------------------	-----------

Appendix B

Technical details of regression analysis	66
B.1 Selecting our sample of leases to determine market rents	67
B.2 Issues encountered with lease data	67
B.3 Identification of rooftops	67
B.4 Regression method and results	68
B.5 Regression on new leases for new sites only	69

Appendix C

Review timeline	70
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Chapter 1 >>

Context

Current arrangements and recent developments in the communications industry

01

We have been asked by the NSW Government to recommend a fee schedule for communication sites that is simple and easy to implement by the responsible land management agencies. These agencies are:

- the Department of Planning, Housing and Infrastructure – Crown Lands and Public Spaces (Crown Lands)
- NSW NPWS (NPWS), which is part of the Environment and Heritage Group in the Department of Climate Change, Energy, the Environment and Water
- Forestry Corporation of NSW (Forestry Corporation) – a state-owned corporation.

The fee schedule is to result in a dollars per site charge that varies by location. In setting the fee schedule we are required by our Terms of Reference (Appendix A) to have regard to:

- updating current rents to reflect fair, market-based commercial returns
- recent and representative market rentals agreed for similar communication sites, reflective of different site conditions and locations across the State
- the land management agencies' requirements under legislation as well as any relevant state strategic plans and policies
- consultations with key stakeholders.

We are also to take all reasonable steps to use a minimum of 500 data points when recommending a fee schedule for communication sites. Our Terms of Reference also clarifies that the definition of communication sites includes:

- communication towers
- communication facilities (such as antennas and shelters)
- communication equipment co-located on other structures.

Unlike our previous reviews, we are not reviewing rebates provided for communication sites as it is outside of scope for this review.

1.1 Current rental arrangements

The current rental arrangements are set out in the 2023 communication licence rent fact sheet from the Department of Planning, Housing and Infrastructure.⁴ The rental arrangements reflect the recommendations of our 2013 Review of rental arrangements for communication towers on Crown lands. There is a different rental fee for each of the four density classifications. These fees have been adjusted for inflation and a 50% discount is applied for co-users (Table 1.1).

Table 1.1 Current rents for communication licences for standard sites (\$2023-24 per annum, excluding GST)

Financial year	Sydney	High	Medium	Low
2023-24	\$42,132	\$35,109	\$19,505	\$9,362

Note: Sydney refers to local council areas in metropolitan Sydney with a population density of greater than 1,800 people per square kilometre. High are those local council areas with a population density of less than or equal to 1,800 people per square kilometre. Medium refers to areas within 12.5 km of the centre of the 37 Urban Centres and Localities (UCLs) defined by the ABS as having a population of 10,000 people or more based on the 2011 census. Low is the remainder of NSW.

Source: Department of Planning, Housing and Infrastructure, [Communication licence rent fact sheet](#), February 2023.

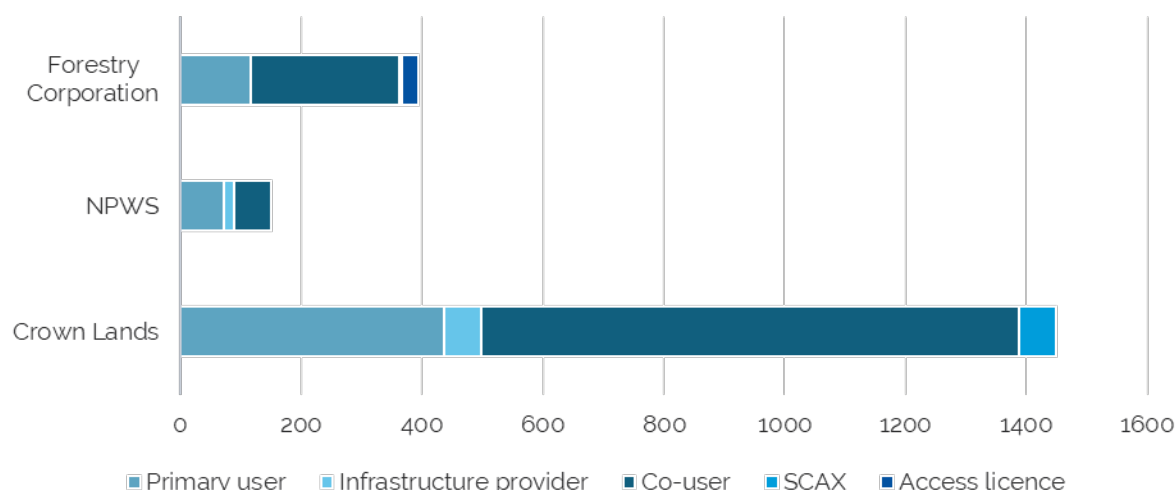
1.2 Current users of Crown land sites

Tenure of Crown land for communication sites is managed through a licence, which provides a right to occupy Crown land. A licence is required for each site a communication provider occupies, whether it is the primary user of the site or a co-user.^b

There are currently 1,995 licences for communication facilities on Crown land. Figure 1.1 shows the number of licences by agency and user type. There are more co-users than primary users on land managed by Crown Lands and Forestry Corporation. This is not the case for land managed by NPWS where there are more primary users, though there are fewer licenses overall as well. There are also 62 licences for communication infrastructure providers on land managed by Crown Lands and another 18 for land managed by NPWS. There is also a small number of licences for small country automated exchange (SCAX) sites, which are owned by Telstra and used to meet its Universal Service Obligations (section 1.3.3).

The Forestry Corporation also issues access licences to mobile phone carriers so that they can use Forestry Corporation roads to access sites not on State Forests. We understand prices for access licences are set as a percentage of the relevant licence fee for standard sites.

Figure 1.1 Number of licences by agency and user type as at March 2024



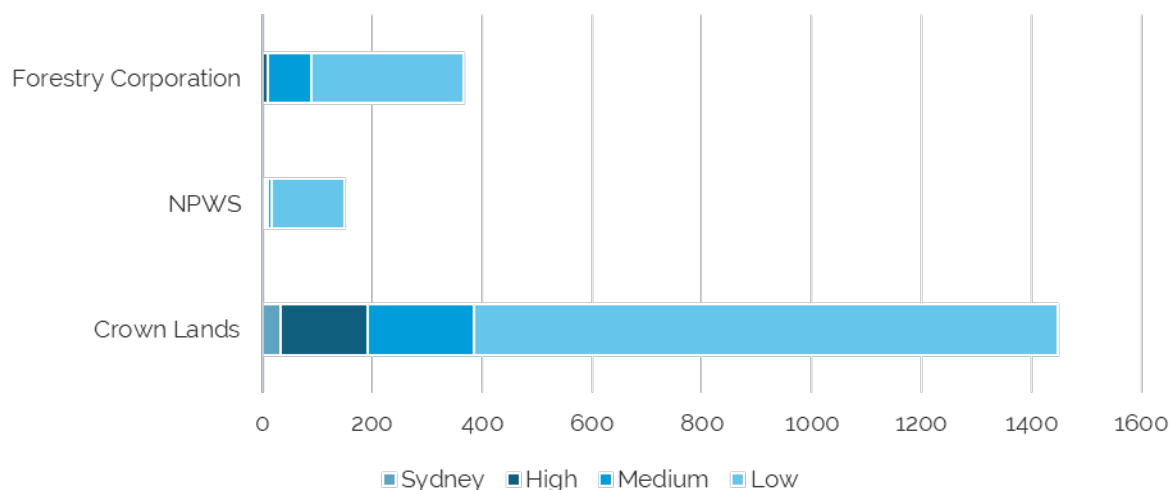
Note: For NPWS the category Infrastructure Provider includes 12 primary users and 1 co-user.

Source: The Department of Planning, Housing and Infrastructure, the Forestry Corporation and the NPWS.

^b A co-user is a communication provider that co-locates their equipment on an existing communication site. For example, a co-user may attach their equipment to an existing communication tower. This can be more cost effective for the co-user than building their own tower.

Figure 1.2 provides a breakdown of communication licences by land management agency and density classification. It indicates that most licences are for communication sites that are located in the Low or Medium classification. There are also proportionally less sites in the Sydney and High classifications, particularly for land managed by Forestry Corporation and NPSW.

Figure 1.2 Number of licences by agency and density classification as at March 2024



Source: The Department of Planning, Housing and Infrastructure, the Forestry Corporation and the NPWS.

1.3 Recent developments in the communications industry

The communications industry refers to a wide range of businesses that provide very different services, such as radio broadcasters, mobile network operators and infrastructure providers. While many of these are for-profit businesses, there are also not-for-profit providers and community organisations. Since our last review, these segments have experienced distinct changes. Of particular note is the change in ownership of mobile infrastructure, such as towers and some rooftops.

1.3.1 Mobile network operators have divested their towers

Mobile network operators in Australia previously owned and managed their own tower and rooftop assets. This changed in 2021 and 2022 when mobile network operators sold or transferred most of their tower and rooftop assets to mobile network infrastructure providers.⁵ Mobile network operators continue to retain control of their active assets that are attached to these assets.

In the case of the Telstra Corporation, the change in ownership has not removed the assets from the Telstra group. They were instead transferred into a new subsidiary called Amplitel, which was established as a mobile network infrastructure provider.⁶ Singapore Telecommunications Limited (Singtel), the parent company of Optus, similarly established the Australian Tower Network (ATN) to hold its telecommunication assets.⁷ ATN has since integrated with Axicom (another mobile network infrastructure provider), resulting in the creation of Indara and reducing Singtel's investment to 18%.⁸

We understand from stakeholders that these ownership changes have not necessarily had a lasting impact on rents in the private market. However, they have nominally increased the number of co-users on communication sites on Crown land without necessarily increasing land usage. We have observed an increase in co-users since our [2019 Review](#) and it is likely there will be a further increase as the new infrastructure owners deploy more sites.

1.3.2 Free-to-air TV broadcasters may have reduced capacity to pay

Commercial free-to-air TV broadcasters rely on advertising revenue to fund their activities, as there are no consumer charges for viewing free-to-air TV. Changed viewing preferences are leading to declining revenue over time, with metro area TV revenue declining by 6% between 2014 and 2018, and 17% for regional TV broadcasters.⁹ Revenues also declined by 10% between December 2022 and December 2023.¹⁰

Declining revenue places commercial pressure on free-to-air TV broadcasters and may impact the viability of transmitters in less commercial locations. These are typically in remote and regional areas.¹¹ The transmitters do not provide a significant increase in viewership and consequently do not improve advertising revenue.¹² This may reduce the demand for communication sites by TV broadcasters in regional and remote areas in future, potentially placing downwards pressure on rents in these locations.

1.3.3 The Federal Government is currently reviewing subsidies

Currently a Universal Service Obligation (USO) is in place for telecommunication services. It provides a subsidy to telecommunications carriers who provide services to areas that would otherwise be uneconomic to serve. The USO is intended to ensure all Australians are able to access fixed phone services and payphones regardless of where they live or work.¹³ Telstra is currently the primary provider for the USO and provides the majority of USO services over the National Broadband Network.¹⁴ It also delivers the USO services over copper and other networks in regional and remote areas.¹⁵

The Federal Government announced in October 2023 that it is consulting on the delivery of a modern and more fit-for-purpose USO, in light of changes in available technology and consumer preferences over recent years.¹⁶ Consultations have since closed and responses are being considered by the Federal Government.¹⁷ The Federal Government has also completed consultations on funding for universal telecommunication services.¹⁸ Changes to the USO may impact the deployment of infrastructure by Telstra, such as the use of SCAX sites and consequently the use of Crown land for communication sites. However, the impact will depend on how the USO is modernised and cannot be forecast at this point in time.

Chapter 2

Approach to setting rents

We explain our method and discuss stakeholder submissions about it



02

Our Draft Report set out our proposed approach to estimating our recommended fee schedule by benchmarking against rents paid in the private market. We consider that this approach best meets our Terms of Reference (Appendix A).

However, submissions from the communications industry expressed a view that this approach may be discriminatory against telecommunication carriers. Some industry stakeholders also raised concerns with the data we have used to estimate our recommended fee schedule. They consider it does not align with valuation practice as it includes renewed and sequential leases for communication sites.

We remain of the view that our approach is not discriminatory. It treats all communication site users in the same manner, whether they are carriers or not.

We do not agree that current renewed and sequential leases should be excluded from our data set. These leases represent current rents. Excluding them would greatly reduce our sample of leases, preventing us from reliably estimating rents for all density categories.

We have also made a draft recommendation to retain the location categories from our 2013 review.

2.1 Our draft recommended rents use private market benchmarks

We set out in our Draft Report (July 2024) how we would estimate our recommended rents by benchmarking against the private market. We set out how we obtained a statistically significant data set of private market leases and then analysed them to determine our proposed recommended fee schedule (Chapter 4). We considered this to be the most efficient way to set rents, as the private market is workably competitive, while also meeting our Terms of Reference.

We also proposed to retain the previous 2013 density categories, which are based on the Australian Bureau of Statistics' (ABS') Australian Statistical Geography Standard. We considered this would reduce the costs of implementing our recommended fee schedule. We sought further views on the costs and benefits of this approach.

We also noted the positive externalities created by communication sites but did not consider them when estimating our revised draft recommended fee schedule. We set out how our Terms of Reference prevents us from considering other policy instruments, such as rebates, which are provided in acknowledgement of these benefits. We considered the inclusion of positive externalities in our rental model would be distortionary without consideration of these policy instruments. We also considered that this may result in overcompensation to communication site users for the benefits provided.

2.2 Industry maintains that our approach may be discriminatory

Several industry submissions again raised the issue of discrimination for the purposes of the *Telecommunications Act 1997* (Cth). They remain of the view that a land valuation approach is the appropriate method for setting rental fees for communication sites on Crown land. They contend that setting fees for communications sites by comparing against the private market disadvantages communication site users, including carriers, compared to other users of Crown land. For example, Amplitel submits:

Amplitel remains firmly of the view that private market evidence is not the correct comparator to use when setting rents for communications infrastructure on Crown land. ... It is Amplitel's submission that the current regime in NSW (and the approach recommended in the Draft Report) is discriminatory against communications tenants (including carriers) on Crown land.¹⁹

Both Amplitel and Telstra further argue that we have mischaracterised the arguments set out in *Bayside City Council v Telstra*. Telstra submits that:

IPART has put forward the view that the rentals proposed in the Draft Report do not discriminate against carriers ... on the basis that the relevant comparator when assessing discrimination is between the rent being charged to carriers and that being charged to other communications users. Telstra disagrees that this is how discrimination is to be assessed. We consider this an incorrect characterisation of the *Bayside City Council v Telstra* decision. While the treatment of other users of communications leases is not wholly irrelevant, the relevant question is not how other communications users are treated but:

*... the subjection of carriers, in that capacity, to a burden of a kind to which others in a similar situation are generally not subject, and that a similar situation includes the use of public space for the installation and maintenance of facilities ...*²⁰

We do not agree that we have mischaracterised the *Bayside City Council v Telstra* decision. We agree with stakeholders that assessing discrimination requires considering the rent charged to carriers and others in a similar situation. We consider that the approach we have adopted is consistent with this principle.

We have previously considered other users of Crown land in our 2019 Review and formed the view that only other communication site users are relevant comparators to carriers who use Crown land for communication sites. We set out how other users of Crown land were different to communication site users.²¹ We remain of this view for the reasons given in our 2019 report, and consider our approach is not discriminatory as it treats carriers the same as other communication site users.

In this review, we are limited to recommending rents for communications sites only, and have no ability to recommend rents for other types of users. For all Crown land users within our Terms of Reference – carriers and non-carriers alike – we have recommended the same rents.

2.3 Industry recommends excluding renewed and sequential leases

2.3.1 Hierarchy of evidence

Some industry stakeholders have raised concerns with the data set we used to estimate our recommended fee schedule. They argue that it does not reflect valuation practice as it incorporates sequential and renewed leases rather than only new leases on new sites. For example, Amplitel submits:

If IPART's approach to benchmarking Crown land rents against private market rents prevails, we agree with IPART that the evidence must be limited to "negotiations for new sites (i.e. not roll-over leases or renegotiations on existing sites)".

International Valuation Standards also confirm this in that they direct valuers to utilise a hierarchy of evidence in assessing market rents. The hierarchy states that the most reliable/best evidence is "new lease to new tenant" data. Evidence of renewal leases to sitting tenants and rents paid by sitting tenants at mid-term market rent reviews should not be used where there is sufficient "new lease to new tenant" evidence.²²

Bai Communications similarly submits:

... there are consecutive leases where the rent is escalated from a historical rent agreed at least 5 years ago and there are new leases that have been entered into at existing sites. In relying on this poor and incorrect data set IPART has determined rental valuations that are well above those we would typically expect. We submit that the data sets used are inherently flawed and do not provide supporting evidence to the position that should be adopted.²³

Amplitel and Telstra have also provided letters from a registered valuer in support of their position. The valuer submits we have made a fundamental error in our approach that has resulted in inflated rental recommendations.²⁴ The valuer cites the hierarchy of evidence contained in the Australian Property Institute's Guidance Paper AVGP 301 – Assessing Rent and Rent Determinations to support their view. The registered valuer contends, in particular, that we have not given due weight to new leases as recommended by the guidance paper.²⁵

Crown Lands expressed a different perspective on the use of the hierarchy of evidence:

Valuation principles lay out a hierarchy of evidence for market valuations. While 'new' or 'recent' agreements are at the top of this hierarchy, older agreements are perfectly valid for consideration when assessing market rents, provided that they are still current.

Using older agreements or rollover leases is especially valid where there is an insufficient number of new agreements to create a statistically significant dataset that represents the entire market. It is also valid where 'new' agreements are not representative of geographical diversity or submarkets, i.e. where new agreements relate only to metropolitan areas or only apply to rooftop sites.

It is the land management agencies' view that if older/rollover agreements were drastically out of line with the market, parties to these agreements would be seeking to renegotiate them. That these agreements have not been renegotiated suggests they are generally in line with the current market.

It is the land management agencies' view that IPART's usage of older/rollover communication site agreements is aligned with general valuation principles and provides a fair assessment of communication site rents in the private market²⁶

2.3.2 IPART consideration of those arguments

The price agreed for a new lease on a new site represents good quality information because:

- it reflects the state of information in the market at the time of agreement
- it represents a price struck between a willing buyer and seller acting without compulsion.

This situation may be contrasted with a new lease on an existing site, where the landowner is at a negotiating advantage to the lessee. The lessee, who is probably a tower owner, cannot easily walk away from negotiations if the result is unsatisfactory because of the substantial sunk costs in building the tower and the substantial prospective costs of relocating. We refer to this situation as a "holdup" of the lessee by the landowner.

It is important to recognise, however, that the rollover leases that we included in our LRS data set are not examples of the holdup phenomenon. Private market leases often provide for one or more renewals. Importantly, the terms of these renewed leases, including price at renewal, are established at the time of signing the original lease. The lessee does not face the risk of unpredictable price increases in a coercive situation, because the price increases were known and agreed in advance. Therefore, a holdup situation rarely arises in practice.

Price information from rollover leases is of somewhat lower quality than price information from new leases, but the quality issue arises because the renewal prices represent the state of information in the market 5 or 10 years ago when the original lease was agreed. This quality issue is not so serious that the price data from rollover leases should be disregarded entirely, as Amplitel and others suggest.

In light of these points, we consider that the choice of a data set involves a trade-off between currency (emphasising new leases on new sites) and statistical robustness (using all the available pricing data).

Current leases, including renewed and sequential leases, represent prices that are being paid in the market. They are therefore still evidence of recent and representative market rents, as required by our Terms of Reference (Appendix A), even if they were negotiated in the past.

There is also a limited number of new private market leases for communication sites. For example, Amplitel has provided information on 38 leases, representing all of their leases for new sites on private land in NSW.²⁷ These leases cover a period from as early as the 2017-18 financial year through to 2023-24. That is the only non-confidential information that has been provided to us on new sites. This data set is not sufficient to produce a statistically reliable estimate of rents for all density categories. More information is provided on this point in Appendix B.5, which notes that we would be unable to determine prices for the High density category if we relied only on that data.

Such a small sample also raises questions about the representativeness of those prices. For example, siteXcell stated that:

New site deployment has not been significant in recent years and has tended to focus on urban sprawl, regional and rural areas. Many of these deployment programs have been co-funded by government agencies (i.e. Mobile Phone Blackspot program, Regional Connectivity Program). ... Given this context, we believe many newly negotiated leases are not representative of true market conditions.²⁸

We re-estimated the price table based on a data set that combines our Draft Report's LRS data with the new site data from Amplitel and data submitted by Indara on recently renewed leases. Our revised draft recommendations are based on this updated dataset. These revised draft recommended rents are similar to those we recommended in our Draft Report's price table. We have therefore maintained our proposed approach when estimating the revised draft recommended fee schedule in Chapter 8.

2.4 Communication network externalities

Stakeholders again raised the positive benefits of communication sites in their submissions. For example, nbn co. provided research from Accenture that attempted to quantify the benefit created by its communication sites.²⁹ We note the benefits created by communication sites and note that Accenture's research found the nbn network supported 4% of aggregate GDP growth in 2012-2022.³⁰

We remain of the view that our Terms of Reference prevents us from fully considering these benefits in setting our recommended fee schedule. Free TV has acknowledged this in their submission but has asked when and how these positive benefits will be considered by the NSW Government. It submits:

While acknowledging the limited terms of reference IPART was given for the work, the TV industry would be interested to understand when and how, if not as part of this process, the NSW Government proposes to consider the issue of offsetting concessions for commercial TV transmitters in remote sites and 'black spot areas,' also for self-help community re-transmission facilities. To date, the NSW Government has simply not been involved in the discussion of the risks to smaller regional and remote TV re-transmission sites.³¹

We note this as a matter for consideration by the NSW Government.

2.5 Industry conditionally supports updating the density categories

As noted above, we sought further views on the costs and benefits of updating the density classifications for our recommended fee schedule as part of updating our proposed approach. Updating the density categories to reflect the current version of the ABS' Australian Statistical Geography Standard (ASGS) would align the categories with NSW's current population density. It may also increase the number of density categories in our fee schedule if the ASGS' Remote and Very Remote categories are included.

We heard from industry that there were benefits from updating the density categories, though this was caveated against their continued support for a land valuation approach. Some industry stakeholders supported incorporating additional density categories for this reason. They considered that Remote and Very Remote density categories would better align with the underlying land value of more remote Crown land. For example, Indara submits:

If the density classifications are to remain, Indara supports the 2019 recommendation to introduce the Remote and Very Remote classifications, which would also be more aligned with the unimproved land value methodology (multiplied by 6%) that Indara and our peers have previously lobbied for.³²

nbn co. also submits:

We support this draft recommendation in the absence of a more appropriate methodology such as a land valuation approach setting rentals as a percentage of the unimproved land value.³³

In comparison, Telstra has objected entirely to the use of density classifications and maintains that a land valuation approach should be adopted. It also remains concerned that the ABS' remoteness areas are dynamic and this will create uncertainty. It submits:

... the ABS defines the Remoteness Areas as 'dynamic' and notes that 'changes may occur over time.' A dynamic system of categorisation may impact a carrier's ability to forecast, plan for rental costs and accurately consider the viability of Crown land sites.³⁴

There could theoretically be merit in updating the density categories to reflect the current version of the ASGS. However, we have heard from the land management agencies that they do not support a substantial change to the density categories. They note only a limited update could be implemented. They submit:

Updating the Urban Centre Localities (UCLs) to align with the current ABS demographic data would be straightforward for the land management agencies to implement. There are no objections to the proposed update

... complex changes and additional categories would necessitate system enhancements and create an increased administrative burden for agencies during implementation, which are contrary to the review's terms of reference for this review and not supported.³⁵

We note the possibility of benefits from updating the density categories but are proposing not to amend them given the mixed views received in submissions. However, we encourage the land management agencies to include the ability to amend the fee schedule, such as adding density categories, in any future system enhancements. This would allow the fee schedule to be comprehensively updated in future so it better reflects the population density of NSW.

2.6 Stakeholders are concerned by the evidence presented to this review

Industry members and the land management agencies have expressed concerns about the evidence provided to this review. The land management agencies are of the view that any removal of or reconstruction of co-user fees, irrespective of where equipment is located, is not substantiated by evidence.³⁶ They consider that the siteXcell report supports retention of the existing co-user fee practice.³⁷

However, several industry members have expressed concerns with siteXcell's report. For example, TPG submits that it believes the siteXcell report presents an overall inaccurate view of the landscape for private market leases for communications infrastructure.³⁸ Optus states that the report is not supported by market evidence and considers it does not adhere to accepted property principles around sub-leasing.³⁹ These industry members also raised concerns that siteXcell had not disclosed it is a wholly owned subsidiary of a lease aggregator that is active in the rental market for communication sites.⁴⁰

The Secretary of the Department of Planning, Housing and Infrastructure stated that the Department has reviewed the information provided by siteXcell⁴¹ and is satisfied an actual conflict of interest does not exist and that appropriate controls were in place to manage any perceived conflicts of interest.⁴²

We have decided to consult on our revised draft recommendations to allow all stakeholders a fair and equal opportunity to submit views on our revised findings and draft recommendations. We consider this approach provides transparency. It also allows stakeholders to provide feedback on how we responded to submissions and other material received since the first draft report.

2.7 Summary of our approach

Our approach to use private market evidence to recommend rents addresses all the requirements of our Terms of Reference and does not result in discriminatory pricing. Our proposed fee schedule, as set out in Chapter 8:

- is simple and should be able to be easily implemented by the land management agencies with appropriate records
- would result in a dollars per site charge that varies by location
- reflects fair, market-based commercial returns
- is based on a sample of more than 500 recent and representative market rentals for comparable communication sites

- meets the requirements of relevant state and federal legislation
- reflects our consideration of the submissions we received in response to our Issues Paper and Draft Report as well as the views expressed during our public hearing.

We remain of the view that alternative approaches do not meet all these requirements. We understand the land management agencies do not consider a land valuation approach to be simple and able to be easily implemented. This is because valuing a site requires consideration of relevant characteristics, including its land size. The land management agencies do not consider any approach that is based on area footprint to be simple and easy to implement. They submit:

The terms of reference for this review are for IPART to recommend a fee schedule that is easy and straight forward to implement. A schedule that is based on area footprint calculations to determine rental values could be costly to implement, both for the land management agencies who would need to establish new systems and processes to administer the schedule (which would also take time to develop and implement), and to telecommunications licences holders who would need to organise land surveys to support applications for licences.⁴³

Revised draft recommendations



1. That we continue to use the approach of benchmarking against the private market for our recommended fee schedule
2. The existing density classifications continue to be used to minimise the costs of implementing the updated fee schedule.

Chapter 3

Approach to national parks and environmentally sensitive land

NPWS applies a price uplift for sites in national parks. This chapter considers the arguments for and against this approach.

03

We have also considered the approach to setting rents for communication sites in national parks and other sensitive land. There are additional considerations for these lands that are not necessarily captured in private market rents. For example, communication sites on these lands may:

1. damage ecosystems
2. lead to higher costs than on other land
3. lead to a loss of visual amenity
4. be situated in places where network coverage is poor.

These outcomes may then require adjustments to any proposed rental schedule, including potentially higher fees.

The National Parks and Wildlife Service (NPWS) currently sets rents for communication sites higher than the rents set by the other two land management agencies for each density category. NPWS assigns sites to one price category higher than the one that would apply if it were not located in a national park.

We have heard from some industry stakeholders that this approach is unnecessary and undesirable. These stakeholders note there is an existing planning approval process that must be undertaken before any communication facility can be located in a national park. They say that this process gives proper weight to the negative environmental externalities created, for example, biodiversity loss or visual amenity. They submit that no further disincentive in the form of price uplifts for national park sites is appropriate and that these price uplifts are inefficient. While this point was not explicitly noted by industry submissions, the planning approval process would also create an opportunity to consider any positive communication externalities that might offset the environmental harms.

NPWS provided further information in support of its claim that communication sites in national parks lead to higher costs than communication sites on other Crown Land. They noted, in particular that:

- Managing NPWS reserved land is more expensive due to its remoteness, which increases the costs of various activities, including:
 - road maintenance
 - vegetation and weed management
 - fire management
 - inspection and compliance.
- The presence of communication sites on NPWS reserved land further increases management costs through:
 - protection of infrastructure during bushfires and hazard reduction burns
 - maintenance of non-strategic fire trails (to service the communication infrastructure, which would not need to be maintained otherwise)
 - increased insurance premiums
 - compliance and inspection activities

- oversight of activities in areas of Aboriginal cultural significance
- biodiversity loss and impacts on threatened species/processes.

We consider that these additional costs could potentially warrant a higher rental fee than other communication sites on Crown land. However, NPWS is currently unable to quantify all these costs for each communication site. We encourage NPWS to quantify these additional costs and this data be available before the next review.

3.1 History of NPWS rental approaches

IPART's 2013 review of Crown rents for communication sites proposed that rents for 'high value sites' should be established by negotiation, with the floor price set at the standard schedule rent for that location category.⁴⁴ It was expected at that time that a number of high value sites would be located in national parks.⁴⁵ When deciding if a site is 'high value', the following factors were to be taken into account:

- Site characteristics, such as ease of access, topography, line of sight, proximity to major highways and availability of alternative sites.
- Recent market rentals for similar sites.
- Any additional requirements that the land management agency should take into account under applicable legislation.⁴⁶

The 2013 report noted that the land management agencies preferred not to negotiate and wished to set the price for high value sites one category higher (the "category uplift"), but this was not recommended by IPART at the time.⁴⁷

We first considered this approach as part out of our 2019 Review of rental arrangements for communication sites on Crown land. We recommended that National Parks continue to set rental fees for communication sites at one category higher than the relevant density classification.⁴⁸ We considered this recommendation was appropriate to reflect the social, environmental and cultural values of national park land.⁴⁹ We also noted that our recommended rent schedule was based on recent market rents for similar sites on private land so our standard rent schedule at the time did not necessarily reflect these non-monetary values.⁵⁰

In 2019 we found that negotiations had not been widely adopted and, where they have, they have not been used as intended. Consequently, that review recommended that rent for all communication tower sites on Crown land be set according to the rent schedule, removing the arrangements that allow for site-by-site negotiation of high value sites.⁵¹

The 2019 report noted that NPWS then set rents for all its sites using the rent schedule, but applying the category uplift. The 2019 IPART report recommended codifying that category uplift practice.⁵²

3.2 NPWS's current approach

We understand that since our 2013 review, NPWS has adopted the approach of increasing the rents for communication sites on land they manage by one density classification. For example, a site in a low location managed by NPWS would pay the rental fee of a site in a medium location. We understand this approach was adopted to reflect the unique environmental, social and cultural characteristics of the land they manage.

3.3 Our proposed approach in the Draft Report

We proposed in our Draft Report to recommend NPWS continue setting fees one category higher for communication sites located in national parks. We considered that this was one possible method to balance the unquantified additional costs to land management against any potential social benefit created by the communication sites, but it was a very inexact method. We also proposed to recommend that NPWS's fee setting approach not be extended to other similar Crown land managed by the other two agencies.

3.4 Industry does not support the category uplift

Communications industry members remain of the view that there is no justification for setting fees one category higher. They consider it is not needed to reflect environmental costs and it will also reduce coverage for regional communities. For example, Free TV submits:

Imposing opportunistic increases in site rental at smaller broadcasting sites that are already commercially marginal – this includes dozens of sites servicing smaller communities in NSW – is likely to have real-world consequences for NSW residents as commercial TV services may simply be turned off.⁵³

nbn co. also considers that the higher fee is likely in excess of any additional costs incurred by NPWS. It submits:

The practice of applying pricing that is one level higher would equate to an additional \$8,476, \$13,144 and \$6,144 to be in paid in rent annually for a site in a low, medium and high density area respectively based on the proposed fee schedule. This additional cost seems excessive when compared to the nature of any additional costs likely to be incurred by NPWS.⁵⁴

Some industry stakeholders also reiterated that the environmental impact of communication sites is managed through other processes, such as development applications. They argue that charging higher fees does not improve environmental outcomes. For example, Telstra submits:

In the context of our role in delivering a critical service, and one which is requested and relied on by governments and communities in and around National Parks, it does not stand up to scrutiny that a higher classification of rent for communications sites is the right or a required means of protection.

Telstra again notes that significant mechanisms already exist to protect and enhance National Parks and consider their environmental and visual sensitivity with respect to new development.⁵⁵

Indara similarly submits:

NPWS already have very exacting requirements in their licences to ensure that carriers and infrastructure providers adhere to and are responsible for the care and preservation of the areas they occupy including the immediate surrounding areas.⁵⁶

3.5 NPWS advocated maintaining the category uplift

In contrast, NPWS maintains that the environmental impacts cannot be eliminated even if there are mitigants in place. It has also provided evidence of the additional land management costs it faces due to communication sites. For example, NPWS submits:

The presence of third-party infrastructure, such as telecommunication sites, on NPWS reserved land increases management costs. This is due to the remoteness of activities within NPWS reserved land and the higher standards and management requirements that NPWS must meet under the NPW Act and the Rural Fires Act 1997.⁵⁷

Examples of the costs in NPWS submission include:

- Maintenance of non-strategic fire trails which divert resources away from priority, strategic fire trail management, all at additional cost to the NSW Government.
- Increased insurance premiums as results in an increase in claims, increasing the NPWS annual insurance premium.
- Additional management activities as the presence of third-party infrastructure results in increased ease of access to NPWS reserved land, which can lead to increased illegal activities.⁵⁸

NPWS has not provided quantitative evidence of the size of these costs, either overall or on a site-specific basis. However, this qualitative evidence does make a plausible case that NPWS faces higher management costs than the other land management agencies and this should be reflected in the rents charged.

3.6 Planning instruments regulate communication sites locating in national parks

NPWS has also stated it considers our report should be a mechanism that deters and provides barriers to the installation of communication sites.⁵⁹ We consider that our report and recommendations are not needed to deter and create further barriers to the installation of communication sites. We consider that the existing legislative requirements and planning processes create sufficient deterrence.

Currently communication sites cannot be located in national parks unless there is no feasible alternative site.⁶⁰ This is intended to balance the benefits created by communication sites, especially for regional and remote areas with the need to conserve national park land.⁶¹ We have heard that such benefits include the:

- the social benefits afforded to visitors via the ability to connect to social media, and access educational material
- the ability for users of the park to make calls in emergency situations.⁶²

IPART also recognises that these communication sites create a range of external communication benefits. We understand that NPWS also acknowledges some of these benefits as it provides discounts for communication sites that benefit visitors of national parks or NPWS staff.

For these reasons, we do not consider that the rental fee is a suitable policy instrument to create a deterrent to the location of communication sites in national parks. Existing legislative and planning requirements, which carefully weigh up the competing environmental and communication externalities on a site-specific basis create the efficient level of deterrent. We therefore do not accept the deterrent rationale for a NPWS price uplift.

3.7 The options for pricing in national parks

Past pricing arrangements for communication sites in national parks were:

- negotiate by site, or
- price from a schedule.

The 2019 IPART review found that in practice the Crown land agencies had not negotiated rents for any high valued sites and as a consequence we recommended that rents not be negotiated.⁶³ As part of this current review we have further considered these issues including stakeholder submissions around the time involved and the costs of negotiating site specific rents. Our Terms of Reference require us to recommend a fees schedule which is simple and easily implemented. Negotiating site specific fees is not consistent with our Terms of Reference.

We have further considered two options for pricing from a schedule which we have previously canvassed with stakeholders:

- price from the standard schedule (no category uplift) or
- price from the standard schedule but add a category uplift.

In assessing these two options we have considered the potential additional costs associated with having communication towers located within national parks and also the need to protect communications firms from any potential monopoly power that NPWS might hold.

Communication towers can only locate in a national park where there is no other alternative. In their submission to the Draft Report, NPWS has advised that communication towers in national parks increase their management costs.

Where there are legitimate additional costs which arise because of both direct costs (such as firefighting, trails etc) as well as indirect costs (harm to the natural environment, sightlines in parks for visitors etc) that would not exist if the communication site was not there, we agree that there is a case for some form of uplift.

We consider that NPWS has demonstrated that communication sites in national parks create higher management costs for NPWS than for other land management agencies. These sites also lead to ongoing environmental costs that are not compensated for outside of the communication site rental payment. For example, biodiversity loss associated with the presence and servicing of communication sites.

We are conscious that NPWS has not yet been able to provide sufficient quantitative estimates of these additional costs. Any such cost estimates may be site-specific as each location in a national park has unique characteristics. We recognise the real possibility of an extra cost burden for NPWS, but also the difficulty in establishing a reasonable average cost for sites that are each unique.

We also note that, while some stakeholders consider that NPWS exploits monopoly power,⁶⁴ no specific evidence has been provided to IPART. As NPWS has submitted, it is not motivated by profit but rather by the preservation of the natural environment. This is supported by NPWS' legislative functions under the *National Parks and Wildlife Act 1974* and the objectives of the Act, which are principally focussed on conservation and the sustainable use of reserved land.⁶⁵ It is different from State Owned Corporations, whose principal objectives include operating as successful businesses and maximising the net worth of the State's investment.⁶⁶

The larger national parks situated along the Great Dividing Range could be said to create a physical barrier to communication networks from coastal cities to inland centres. Taking the Blue Mountains National Park as an example, there are very few transport or communication corridors through it from Sydney to the West. The most notable of these corridors is the Great Western Highway and railway line from Penrith to Lithgow. The communities along that route would be in the Medium density category for Crown land pricing purposes.

However, any hypothetical communication route through the Blue Mountains National Park that was more than 12.5km to the North or South of the Great Western Highway would involve sites that are in the Low density category.

The NPWS category uplift pricing rule would ensure that communication firms pay no less rent to use those National Park sites than they would to use sites along the Great Western Highway. However, if the category uplift did not apply, then there would be a perverse incentive for communication firms to seek to locate their facilities in the National Park.

On balance, our revised draft recommendation is that the category uplift to the standard rental schedule would apply to sites in national parks. However, we expect for the next review of rents for communications on Crown lands NPWS to provide quantitative analysis on the additional costs of hosting communication towers in national parks.

We also remain of the view that this approach should not be extended to other similar land managed by either Crown Lands & Public Spaces or the NSW Forestry Corporation. The evidence provided is limited to national parks and does not demonstrate there are higher management costs for other similar land.

Revised draft recommendations

- 3. The category uplift to the standard rental schedule would apply to sites in national parks.
- 4. The NPWS rental fee approach not be adopted by the other land management agencies.

Chapter 4 >>

How we measured market rents

This chapter explains our data sources and the process we applied to determine our proposed schedule of market-based rents.

04

This chapter sets out how we procured the sample of private market rental data that is required by our Terms of Reference (Appendix A), and how we analysed that data to obtain our recommended schedule of rents, together with our recommended price escalation factors.

Since our Draft Report, Amplitel and Indara provided further information on their leases on private land for new and recently renewed communication sites. In total, they provided 63 new data points (38 new sites from Amplitel and 25 recently renewed sites from Indara). We have expanded our data set to include these leases and re-run the regression analysis. The updated regression analysis has resulted in only minor changes to the proposed pricing schedule, and our revised draft recommendation is to use these updated prices (Chapter 8).

Several stakeholders objected to our inclusion of a surcharge for rooftop sites, noting that rooftop sites were not prevalent outside of the Sydney density category.⁶⁷ We have re-run the regression analysis with a new Sydney rooftop variable which only applies for sites in the Sydney category. This has resulted in a moderate reduction in the proposed recommended rooftop surcharge (from \$3,820 to \$3,380).

Amplitel submitted that only new leases for new communication sites should be included in the data set used to generate the price schedule. We do not agree that current renewed and sequential leases should be excluded from our data set. These leases represent current rents. Excluding these leases would also reduce the available number of data points for our analysis from 613 to 38, and make it infeasible to estimate prices for the High density category. There were no high density sites in the 38 leases provided by Amplitel.

Apart from those changes, we have used the same LRS-sourced data set that we used for the Draft Report (July 2024). The summary of our process below is taken from the Draft Report (July 2024) and included here for completeness.

We obtained a list from the NSW Land Registry Services of all leases for which the lessee was a communications provider. There were approximately 3,000 leases in this sample that met our criteria (site used for communications equipment and prices agreed recently). From that list we randomly selected 1,300 (roughly one third of the total sample) ensuring adequate representation of sites in all population density categories (i.e. Low, Medium, High density and Sydney).

We obtained copies of these leases from public data sources and extracted rental price and other pertinent data from them. In doing this, we noticed that a significant number of leases did not contain prices. In most cases, that was because the lease price field referred to a previous lease. Our revised data set contains over 600 leases with prices.

We are interested in understanding the effect on rental prices of various characteristics of the site, including population density category, whether the lessee is a primary user or co-user, and whether the lease is for a tower or rooftop installation. We determined the relative effect on price of these characteristics by conducting linear regression on the lease prices, using these characteristics as explanatory variables.

Separately, we examined the statistical distribution of price escalation provisions within the leases. We have used this information to inform our proposed recommendations about future price escalation.

4.1 Choice of method for identifying relevant leases

We considered two approaches for identifying registered leases for communication sites:

1. Identify registered leases for all radiocommunication sites that are registered with the Australian Communications and Media Authority (ACMA) in NSW.
2. Conduct a bulk data request of the NSW Land Registry Services (LRS) to identify registered leases of telecommunications carriers.

We chose the second approach because the first was not practical. It would have required us to:

- identify the property information (e.g. lot information) for each site based on latitude and longitude data from the ACMA database
- conduct a title search for each property to identify any leases registered on the title
- conduct a dealing search using the lease number, where available.

In this review, we were able to compile a large list of potentially relevant leases by requesting from LRS all the lease numbers for sites where the lessee was a communications company. They conducted a search of their data base using a list of companies that included:

- mobile network operators
- mobile infrastructure providers
- other providers of communications infrastructure such as for radio and television.

While not all these leases were for communication sites, we were able to eliminate unsuitable leases by focusing on the particulars provided in the LRS bulk data.

Our bulk data request returned a significant number of potential registered leases for communication sites. We identified over 3,000 potential leases in which a communications company was a lessee. We further reviewed the results of the bulk data request to limit it to leases that:

- commenced from the 2020-21 financial year or later
- were for communication sites.

We then chose a representative sample of the leases based on their geographic locations. We selected a minimum number of leases within each local government area, subject to availability. Our initial download request contained 1,300 leases from the pool of 3,000. We selected these at random subject to constraints that ensured a wide geographic coverage (done through local government area quotas).

Some of the leases we initially obtained did not contain prices, so we were not able to use them. We identified that prices were more often omitted in sequential or renewed leases. We recalibrated our approach to focus our analysis on the 1,300 leases that were more likely to have price information. We then made a supplementary request for a further 200 leases to ensure we had sufficient price information for our analysis.

Our final LRS sample consists of 610 leases for communication sites across NSW with prices. The full distributions of these rents are shown in Figure 4.1, Figure 4.2 and Figure 4.3 below. These figures depict the range of data points using box and whisker plots, which are explained in Box 4.1 below.

Box 4.1 Box and whisker plot – quick guide

Box and whisker plots tell us how a series of data is spread out. The different components of the plot signify key features of our dataset.

These are:

The **box** is the range which the middle half of our data falls into. The remaining half of our data will be found outside of our box, either above or below.

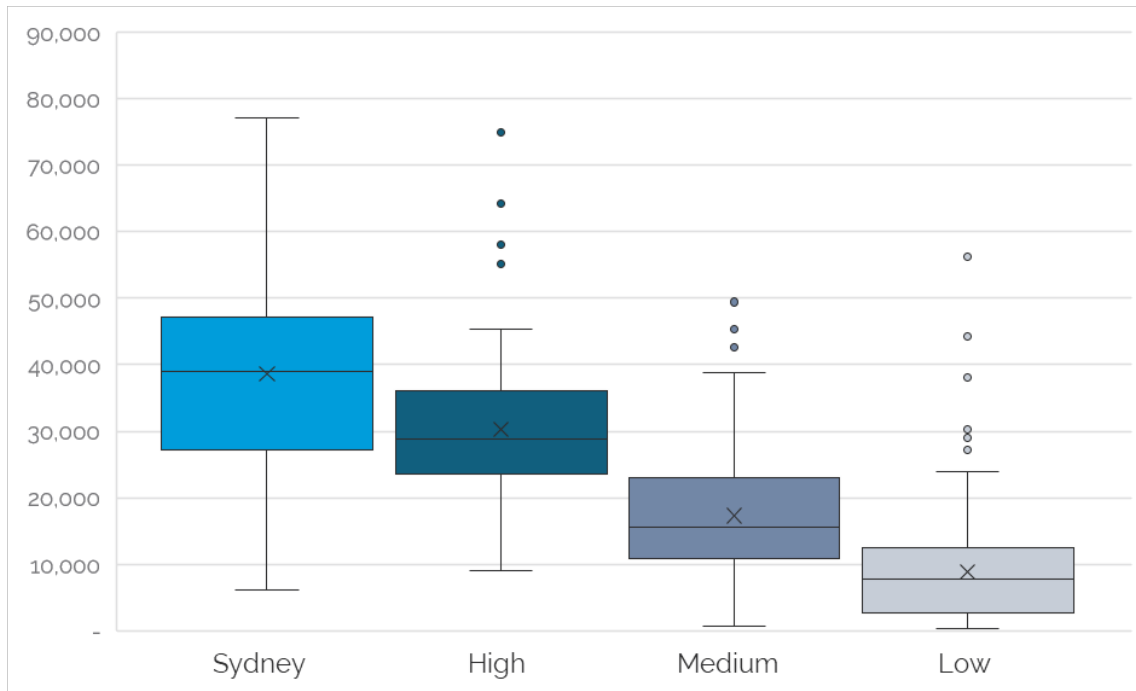
The **whiskers** are the upper and lower limits for what can be considered normal variation in the data.

The **outliers** are points which fall above the upper whisker or below the lower whisker. Outliers are usually considered to be the extremes of the dataset.

The **median** is the point above which the highest 50% of our data sits, and below which the lowest 50% sits. It can be thought of as the middle point and reflects what can be considered 'typical' for our data.

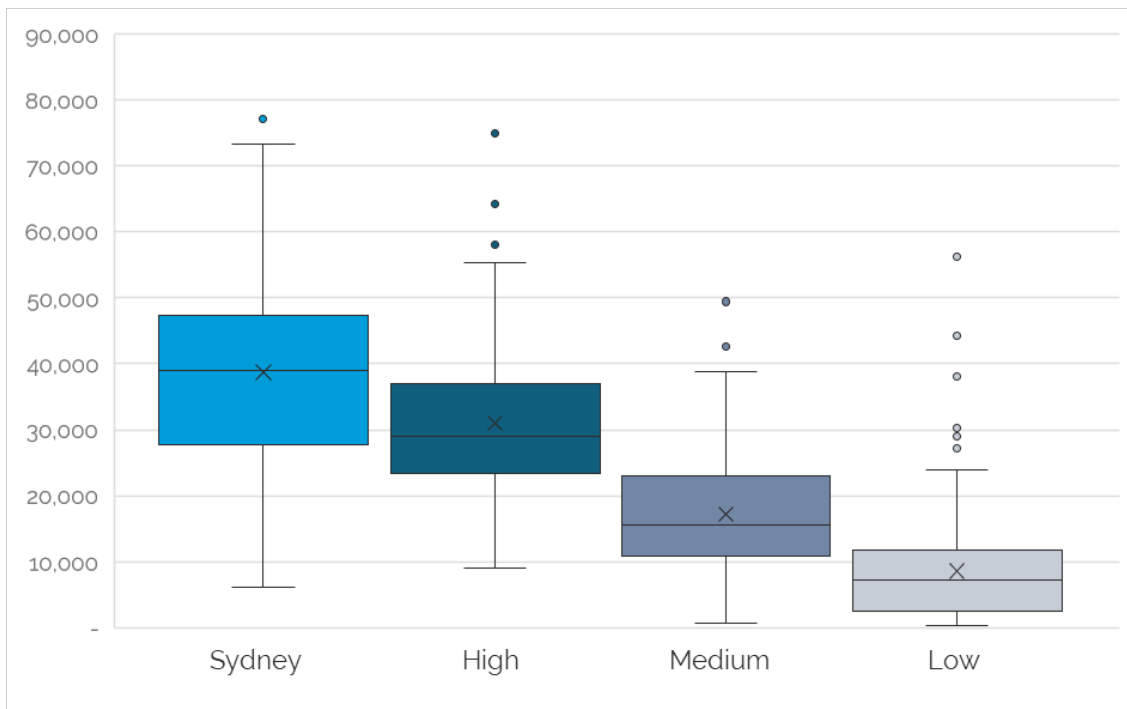
The **average** value is shown with an X.

Figure 4.1 Distribution of private market rents by density classification (\$2023-24)



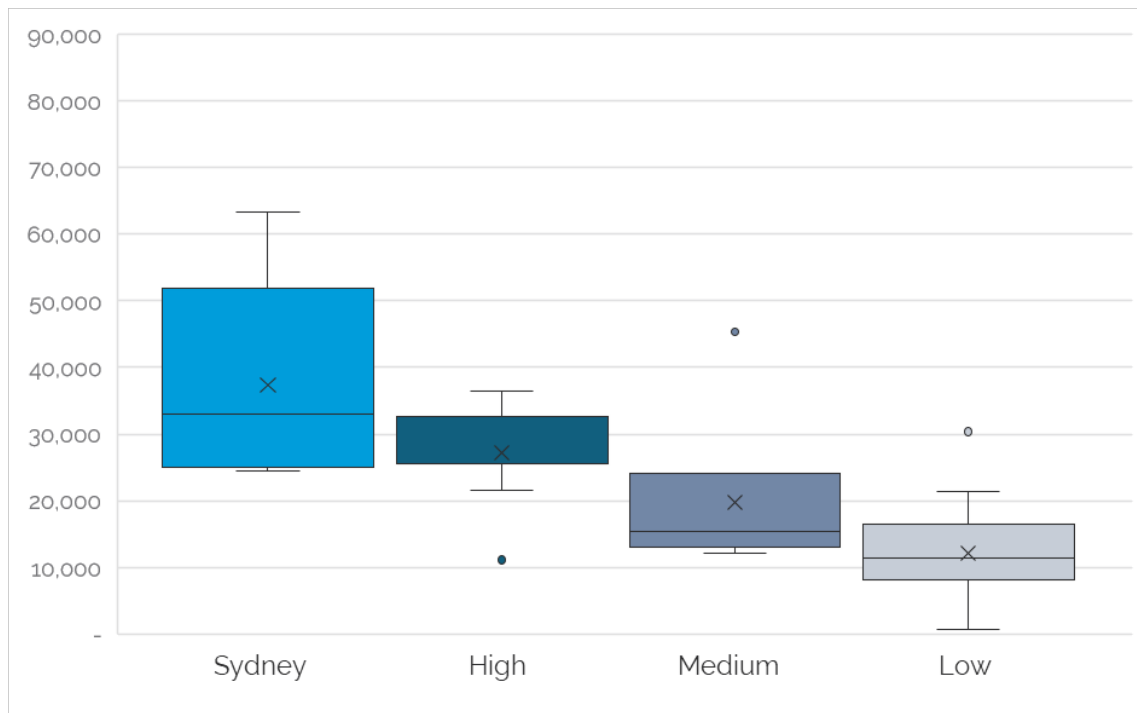
Source: NSW Land Registry Services and IPART analysis.

Figure 4.2 Distribution of rents paid by primary users by density classification (\$2023-24)



Source: NSW Land Registry Services and IPART analysis.

Figure 4.3 Distribution of rents paid by co-users by density classification (\$2023-24)



Source: NSW Land Registry Services and IPART analysis.

4.2 Lease data obtained from communication companies

For our Draft Report (July 2024), we requested a representative sample of lease data from 6 communication companies. We received price data from 4 of these companies, but 2 of them asked us to treat their information as confidential.

For our revised Draft Report, we received non-confidential pricing data for new leases for new communication sites from Amplitel and recently renewed sites from Indara. We have carefully considered this data set and decided to add it to our existing data set from LRS (after removing 6 Amplitel sites that were already in our LRS data set).

4.3 Results from regression analysis

The details of the random sampling and regression analysis are contained in Appendix B. We found that co-users typically pay less rent than primary users but we were not able to quantify this price difference statistically. We also found that primary users pay a higher fee when they rent additional airspace, but we were also unable to quantify that effect.

Given these results we decided to run our regression analysis while excluding co-users from our data sample and did not consider airspace. We considered this appropriate as we are using this analysis to estimate the appropriate primary user fee for each density classification. We found removing these elements did not significantly impact our regression analysis, while maintaining a sample of over 500 leases.

Our further analysis has led us to the following observations about market prices:

1. Communication sites located in higher density classifications attract a higher fee, with fees ranging between \$8,793 for Low density sites to \$36,915 for Sydney sites.
2. Communication sites located on rooftops tend to pay more rent. We have estimated that this warrants a further \$3,380 in rent per year in addition to the relevant density classification.

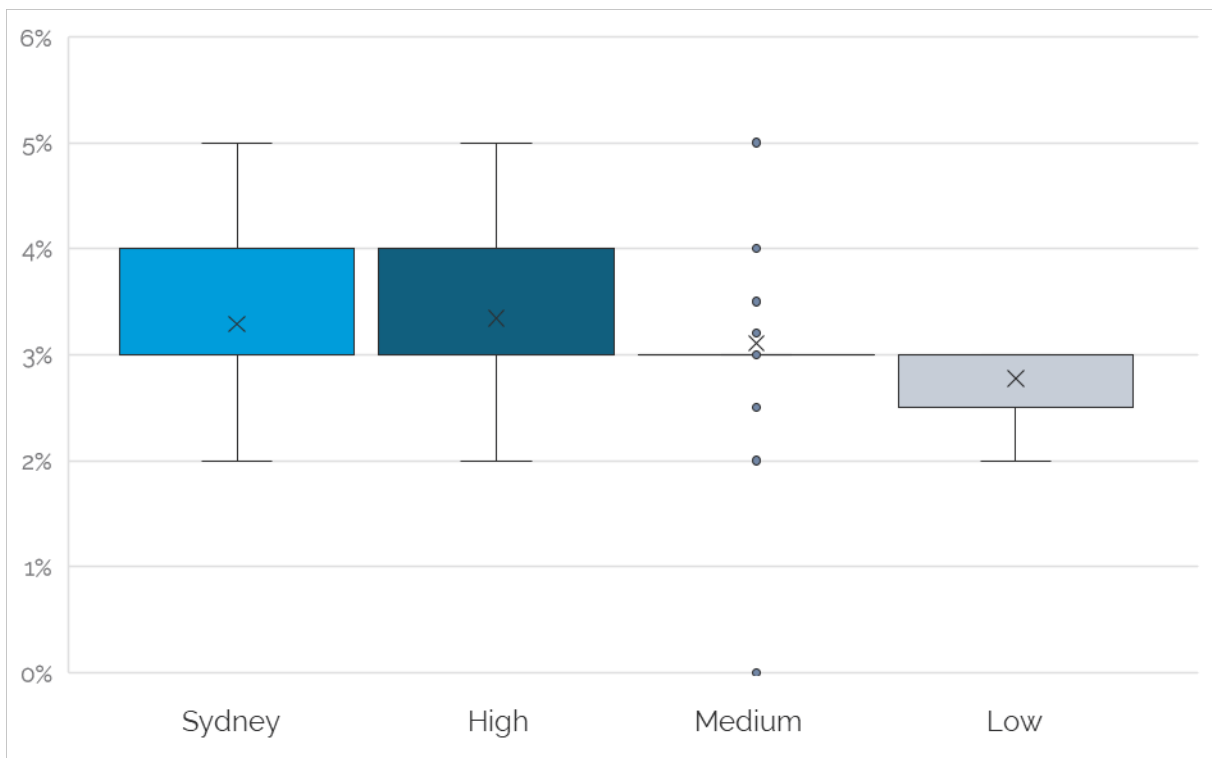
4.4 Price escalation factors used in leases

We compiled statistical information on the distribution of escalation factors set out in lease documents. The results are shown in the box and whiskers plot below (Figure 4.4).

This plot indicates that median escalation factors are around 3% per annum, except for the Low density category, which has lower escalation factors. These figures are specified numerically in the leases, rather than referenced to inflation of the day.

We consider that this market evidence suggests escalation for the Crown land rentals should also be based on these private market benchmarks, rather than on CPI.

Figure 4.4 Distribution of rental escalation factors by density category



Source: NSW Land Registry Services and IPART analysis.

Chapter 5

Approach to co-user fees

Co-users are proposed to receive a discount of 50% of the rental fee where they require additional land, otherwise no co-user charge is payable

05

Our proposed recommended fee schedule in Chapter 8 reflects private market rentals for the 'primary users' of each site. That is, the party that holds the lease for the land that is used to construct a communications tower. However, these are not the only users of the land. There are also parties that co-use the land. It has been the practice of the land management agencies to also charge rentals to co-users at a reduced rate to reflect the increased use of Crown land.

Our revised draft recommendation is that the land management agencies continue to charge co-user fees, but only where additional land is licensed. The land management agencies and industry have provided private market evidence that demonstrates co-users do pay rent where they lease land outside the primary user's compound.

We note, however, that the recent emergence of specialised tower-owning firms that sublet space to carriers has changed the way that the industry uses and leases private land. By the time that Crown Land rentals are next reviewed, co-user agreements may be rare in the private market. If that happens, the applicability of co-user fees within the Crown Land portfolio may need to be re-examined.

5.1 Current approach to co-user rental fees

Co-users are communication providers that co-locate their equipment on a primary user's infrastructure. Co-users typically locate within the same compound as the primary user, though they may rent additional land, for example, to house an equipment shed. Co-users require a licence to locate on Crown land even when located solely within the primary user's compound as they are unable to sublet from the primary user (i.e. licences for Crown land are non-exclusive). As such, they do not have a right to occupy Crown land without a licence. This also allows the land management agencies to meet their legislative requirements to ensure all occupiers of Crown land are authorised.⁶⁸

Co-users are currently charged 50% of the primary user rental fee, as recommended by our 2013 Review of rental arrangements for communication sites on Crown land.⁶⁹ We recommended this fee to ensure that the total rent charged by land management agencies reflects the intensity of land use by all users.⁷⁰ We considered this fee was warranted in the absence of subletting by the primary user.⁷¹

5.2 Our proposed approach to co-user rental fees

We proposed in our Draft Report (July 2024) to recommend the land management agencies continue to charge co-users a discounted fee of 50% of the primary user fee. We proposed this approach as we could not accurately estimate the price effect of being a co-user. We did however find that co-users typically pay lower rents than primary users. This is consistent with the rights of co-users being less valuable than primary users.

5.3 Industry continues to seek the removal of co-user rental fees

The industry has maintained its objection to co-user fees, reiterating that they are not typical of private market practice. For example, TPG Telecom submits

Private site rentals almost exclusively involve a tower company leasing a site from a landlord, and TPG Telecom leasing tower space from the tower owner. There is no financial relationship between TPG Telecom and the landlord, except where additional land is required.⁷²

Free TV similarly submits:

Free TV's members share the strong concern of telecommunications industry submitters at the proposal to retain the 50% ongoing additional rent for second and additional co-sited licensees at a communications site in circumstances where the additional services are wholly within the primary user's site.⁷³

Optus similarly considered that we were unable to reliably estimate a co-user coefficient because co-user fees are not private market practice. It submits:

This result is because there is no market evidence to support this analysis let alone produce statistically reliable results. Making a recommendation that something continue in the clear absence of any evidence to support that it exists in private market leases is fundamentally flawed logic, especially in view of the stated goal of the IPART Terms of Reference rents to reflect fair market based commercial returns.⁷⁴

In contrast the land management agencies maintain that co-user fees are private market practice. They submit:

In 2021, a general review of telecommunications sites on Crown land was undertaken by the land management agencies that indicated co-user agreements also exist in the private telecommunications market.⁷⁵

The land management agencies engaged siteXcell to investigate when co-user fees are charged. The siteXcell report indicates:

- The vast majority of tenure agreements for tower installations on private land do allow subletting and sharing of possession.⁷⁶
- Co-locating communication site users do establish a separate lease with the landowner for additional land, typically for the location of their ground equipment.⁷⁷
- Co-users may still establish a lease even if land is not needed so that they have security of tenure with the landowner should the primary user vacate or end their own lease early.⁷⁸

This is consistent with the evidence provided by the industry. The additional land may be in the form of a sliver lease, to allow the co-user to establish rights with the primary user's landlord. For example, a right for the co-user to take over the primary user's lease should the primary user decide not to renew.

In response to our request for a fact check, the Department of Planning, Housing and Infrastructure presented a different interpretation of siteXcell's report. They noted:

"[siteXcell] state that there is sufficient and clear evidence that co-users are still paying rent to private landowners irrespective of whether their equipment is located within a primary user's leased area."

We note that in all the examples given by siteXcell, co-users paying rent to a private landowner do so in connection with a sliver lease. The sliver lease represents rental arrangements for an additional piece of land (the "sliver"). This observation by siteXcell is consistent with what we heard from the communications industry and with our revised draft recommendation.

We requested the communications industry stakeholders to provide further evidence of their experience with co user fees. We requested this additional information be provided by 15 November. We received replies from Indara, Amplitel, Optus, TPG and AMTA. These responses to our request for information provided comprehensive evidence that in the private market, co-user fees are only payable to the landlord where the tenant leases additional land.

These responses to our request for information also stated that siteXcell is a wholly-owned subsidiary of Everest Infrastructure ANZ Pty Ltd, which is a lease aggregator with a commercial interest in rental prices. Several responses provided company search results identifying the relationship between siteXcell and Everest.

The Secretary of the Department of Planning, Housing and Infrastructure stated that the Department has reviewed the information provided by siteXcell⁷⁹ and is satisfied an actual conflict of interest does not exist and that appropriate controls were in place to manage any perceived conflicts of interest.⁸⁰

The Tribunal has considered the siteXcell report as a submission from an interested stakeholder, rather than as evidence from an independent expert.

5.3.1 Industry stakeholders support paying rent for additional land

Industry stakeholders also do not object to paying co-user fees where additional land is required. Most submissions acknowledged that a rental fee is warranted where land outside the primary user's compound is required. For example, Bai Communication submits:

It's therefore BAI's view that co-use fees should not apply to any equipment located within the primary user's compound but should additional land be required by a collocating carer or broadcaster a licence should be entered into for that land.⁸¹

nbn co. similarly submits:

The revenue that is provided by a co-user to NSW Crown should be proportionate to the value that is directly provided by NSW Crown to the co-users... That is, NSW Crown is providing additional footprint to the co-user directly above and beyond that provided by the primary user.⁸²

We agree that a rental fee is warranted for any additional land that a co-user occupies. The rental fee should compensate the land management agencies for use of the land, as no rent has previously been paid, and cover any additional costs. This also aligns with the evidence provided, as noted above.

5.4 A co-user discount rate of 50% remains appropriate

The land management agencies have also provided evidence that a 50% co-user discount remains appropriate. The data they have provided from siteXcell has shown that discount rates may be as little as 30% for leases in the Low density category in the private market.⁸³ The discount may be even lower for sliver leases, though the sample used is small (13 leases).⁸⁴ We consider that these findings are not based on a sufficiently large sample to allow a new discount rate to be recommended.

We did not propose changing the discount rate in our Issues Paper or Draft Report (July 2024).⁸⁵ We consider that in these circumstances it is prudent to propose to retain the current discount rate of 50% until it can be considered as part of a future review.

5.5 Co-users to pay a rental fee only where they occupy additional land

We consider that the evidence provided supports the ongoing payment of co-user fees where additional land is occupied by the co-user. This fee should continue to be set at 50% of the primary user's rental fee. We have found that co-users typically do not occupy as much land as primary users. They also do not have a right to build infrastructure, such as a tower or monopole, on the land. As such a lower rent is warranted to reflect the lower value and ongoing costs of these co-user licences.

We are also proposing to recommend that co-users no longer pay a rental fee where the land they licence is wholly located within the primary user's compound. Seven of the communications firms have made written submissions that when they are co-users in the private market, they do not pay rent to the landlord unless they lease additional land beyond the primary user's compound. The information provided on 15 November contained detailed and comprehensive evidence to support the viewpoint of the communications industry.

For example, Telstra notes the following:

We have reviewed our records, and we confirm that of the over 7,000 sites we have outside Telstra-owned property (i.e., where the tower or facility is on land/premises owned by a third-party), we have not had to pay a co-user fee to a private-land landlord. The only exceptions are where we required the facility to be augmented or increased (hence attracting greater fees from the landlord), or the third-party landlord is the Government. Otherwise, we have not had to pay a co-user fee.

Of course, where we are seeking access to a facility owned by another network operator, facility access fees will be paid to the facility owner, but that is not a co-user fee to the landlord.⁸⁶

Amplitel's additional submission notes that:

- Out of compound leases do not represent co-user fees.
- Out of compound leases are for additional land outside of the leased area. We repeat the fundamental property principle that the same land cannot be leased twice.

- No additional rental (co-user fee) is payable for users located within the tower lease compound on private land. ...

Notably, no additional rental or co-user fees are payable by the anchor tenant in the private market e.g. Telstra as the co-locator on an Amplitel tower. ...

The ample recent private market evidence provided by Amplitel to IPART clearly demonstrates that co-user fees are not payable for colocation within the primary user's leased area.⁸⁷

Optus notes in their additional submission that:

The broader market treats Co-locating users at a site in one of two ways:

1. In Compound – when located wholly within the tower owner's leased area with no separate tenure agreement and as a sub-tenant of the tower owner, in accordance with accepted property principles of sub-leasing, the property owner is not entitled to any additional fees or rent.
2. Adjoining Ground Lease – where the co-locating carrier or user has its ground equipment located outside of the tower owners leased area and enters a direct tenure agreement with the underlying property owner, typically of a smaller leased area than tower lease area with equipment in the adjoining ground lease area being limited to the co-locating party's equipment shelter only and in some cases back up power generator. ...

In the private market the sharing Carrier typically has no direct relationship with the property owner.⁸⁸

Optus also provided analysis of their October 2024 rent records, covering 19,074 sites in Australia. It notes that:

The above analysis demonstrates that in the Optus network portfolio, at least, Co-User fees are neither highly valued or commonplace as siteXcell and the land management agencies claim, with only 2 co-user agreements that could be considered as having landlords from the private market.⁸⁹

These submissions are available on the [IPART website](#).

Our approach to estimating rents also likely captures the benefits of subletting in the primary user fee as we have based our rents on private market leases. As noted by siteXcell:

It is correct to say that the vast majority of tenure agreements for tower installations on private land do allow subletting and sharing of possession as of right or with non-withholding consent, but not all.⁹⁰

The land management agencies are therefore compensated for the use of the land, regardless of whether co-users are present in the compound.

Revised draft recommendations

5. Co-users are no longer to pay a co-user fee where the land they licence is located wholly within the primary user's compound.
6. Co-users are to pay a co-user fee that is set at 50% of the primary user's rental fee where they licence additional land outside of the primary user's compound.
7. The co-user discount rate be considered as part of the next rental review.

5.5.1 Incentives for co-location

Stakeholders again raised concerns that our proposed approach to co-user fees would disincentivise communication site users from co-locating. For example, the Australian Mobile Telecommunications Association submits:

It is unfortunate then that IPART's draft recommendations undermine co-location of 'co-users' and therefore the network end user's choice of provider in areas that are often underserved and/or have a marginal business case.⁹¹

We consider that our revised draft recommendation creates stronger incentives for co-location than our previously proposed draft approach. Co-users will no longer pay rent where they only licence land located in the primary user's compound, reducing the cost of co-location. Co-users will still be required to pay a fee where additional land is required, however at the discounted rate of 50% of the primary user fee. This ensures that the land management agencies are able to receive a fair, market-based return when more Crown land is occupied.

5.5.2 Co-users without additional land

Under our revised draft recommendation, co-users that do not licence land additional to the primary user's compound would not pay a co-user fee. The logic behind this recommendation is that a party should not have to pay land rent when they do not rent any land. Nevertheless, we expect that such co-users would continue to be licensed by Crown land agencies. Such a licence would clearly establish rights and responsibilities between that co-user and the Crown land agency, and may potentially allow for certain fees that recover discrete costs imposed on the landlord.

There is evidence that Crown land agencies already recover discrete costs through fees that are additional to the rentals. In our 2019 final report, we noted that the land management agencies charge other fees in addition to rents.⁹² For example:

- Forestry Corporation charges an additional 10% of rent to cover road maintenance. In limited circumstances, Forestry Corporation may charge rents for investigation into environment and cultural heritage issues.
- Crown Lands charges a minimum \$547 for access over a parcel of Crown land to a communication site on adjoining freehold land and \$498 licence application fee.

- National Parks and Wildlife Service charges additional fees for legal and administrative costs of preparing the lease. National Parks and Wildlife Services' leases may require users to contribute to track maintenance and weed control costs.

5.5.3 Implementation issues

In an 11 November 2024 letter responding to a request for fact-checking, Crown lands stated that IPART had not adequately considered the costs or complexity of reviewing current co-user agreements. They noted that, in their view, this does not comply with the terms of reference, which require recommendations that are straightforward to implement.

The agencies noted that our revised draft co-user recommendation would be complex to implement given challenges with data availability. Specifically,

- the licence regime does not rely on a primary user compound definition
- historical records are not easily accessible
- the rapid advancements in the telecommunications industry are not fully captured in existing records.

Crown Lands estimated that the cost to implement the revised draft recommended co-user change would be \$5.5m and that it would take 8+ years. This estimate was produced by applying estimated unit costs to 823 co-user licences. In addition, NPWS and Forestry estimate a similar cost/time per licence for their estates. We would expect a land management agency would have records of land usage by its licensees.

Our revised draft recommendation reflects private market practice and best meets the terms of reference requirement that rents reflect a fair, market-based commercial return. We also consider that our revised draft recommendation should be simple and easily implementable. However, we are advised by the land management agencies that they consider implementing our revised draft recommendation would be costly and take many years.

We note that it would be open to the Minister to put in place transitional arrangements to provide the land management agencies time to implement improved record-keeping systems.

Chapter 6

Approach to small cell technology

We are proposing small cell technology sites pay a reduced rental fee as they use existing, non-communication infrastructure and little or no land



Small cell technology has grown in importance with the roll out of the 5G mobile phone network. While it is typically deployed in urban areas, there are relatively few instances of small cell technology being deployed on Crown land. Before the Draft Report, we had observed limited market evidence of fees for small cell technology in the private market. We therefore proposed in our Draft Report that the current practice of small cell technology sites paying 50% of the primary user fee would continue.

We have since heard from stakeholders that our proposed fees (50% discount) are still significantly higher than typical market rates. We received some information from communications industry participants about the small cell rents they pay outside of Crown Lands and found further information in the public domain. That information suggested a much lower small cell rental.

We commissioned K&T Property Consultants to gather market evidence on rents for small cell technology. The evidence provided by K&T Property Consultants supports our proposed recommendation for a reduced fee of \$2,000.

Crown Lands asked for a clear specification of the circumstances where the small cell rental would apply so that primary users with conventional deployments could not use it to circumvent the standard pricing schedule. We have clarified that this reduced fee is only intended to apply where small cell technology is deployed on existing, non-communication infrastructure. Primary users deploying infrastructure, such as a monopole, to support their use of small cell technology should continue to pay the primary user fee.

6.1 Current approach and draft position on small cell technology

Small cell technology is not new and has been an essential part of telecommunications infrastructure for more than a decade.⁹³ It has become more popular with the ongoing roll out of the 5G mobile phone network.⁹⁴ Small cell technology is different from macro cell technology as it:

- uses less power
- has smaller antennas – never longer than 1.2 metres
- can be placed inside buildings
- gives coverage of 50 to 200 metres.⁹⁵

Communication sites with small cell technology currently have the same licencing requirements as other technology. They pay the same primary and co-user fees as relevant, along with any relevant discounts. However, we understand that primary users deploying small cells pay the co-user fee instead when their site is on existing infrastructure, such as a light post.

In the Draft Report (July 2024), we proposed to maintain the land management agencies' current practice of extending the co-user discount to primary users deploying small cell technology on existing infrastructure. We proposed this approach as it more accurately reflects the land use of small cell and other similar technology than the full primary user fee. We also lacked market evidence to support an alternative approach or fee.

6.1.1 Industry stakeholders support significantly reducing fees for small cell technology

We heard from stakeholders that our proposed approach does not align with current market practice and would disincentivise the deployment of small cell technology. For example, TPG Telecom submits:

A fee of 50 per cent of the primary user fee vastly exceeds market rates. Such a fee would render deployment of small cells financially unviable.⁹⁶

Optus similarly submits:

Agreements or Licences to use land to install equipment are limited. The only agreements we have in the Optus NSW portfolio are with two metropolitan Councils located within the Sydney density category as defined in the IPART Draft Report. This clearly demonstrates that the agreed rents in the market are substantially lower than the rents recommended by IPART.⁹⁷

It further submits:

The impact this will have on the rollout of small cells (which may be transmitting both 4G and 5G technologies) is that they will simply not be viable to deploy. This will limit deployment of networks particularly in built up, environmentally or other sensitive areas where macro cell deployment may not be possible and where small cells would have provided a more sympathetic network deployment when it comes to visual impact.⁹⁸

We also heard from Telstra during the public hearing that private market rents for small cell sites typically fall in the range of \$1,500 to \$2,000.⁹⁹ This is significantly less than the fees proposed in our Draft Report. In contrast, the land management agencies considered co-user fees to be appropriate for primary user's deploying small cell technology.¹⁰⁰ The agencies also considered it was unlikely that the proposed fee would impact the rollout of 5G mobile phone networks. They submit:

Due to the limited range of small cell technology, the technology is likely used more often in urban and highly populated areas. NSW Government land agencies have a much smaller footprint in densely populated regions in comparison to their estates at large. It is unlikely the proposed pricing method for small cells on Crown lands would materially affect the rollout of 5G networks, as only a small portion of these 5G networks will be based on Crown land.¹⁰¹

We understand that there are currently less than 50 instances where a primary user has deployed small cell technology on existing, non-communication infrastructure on Crown land. As such, any change to the fee for small cell technology on existing sites would be limited. However, we acknowledge the industry's concerns that the proposed fees are higher than market rates and may disincentivise the future use of Crown land for small cell technology.

6.1.2 Industry stakeholders only support small cell fees where an asset is provided

Industry stakeholders also clarified that they typically only pay a fee to the owner of the infrastructure when they deploy small cell technology. For example, to a local council if the small cell is located on a smart pole. They would not pay a fee to the landowner unless they had to occupy land. For example, Telstra submits:

In terms of the current commercial arrangements Telstra has with infrastructure owners for the installation of small cells:

- Telstra will generally execute a master access agreement with a utility owner and compensate that utility owner for the real-estate Telstra uses on the utility's poles.
- Telstra does not compensate the landowner on whose land an existing utility pole/SCAX/tower is sited (i.e., by way of co-payments or additional fees).¹⁰²

Optus also submits:

It is also worth highlighting that the rents paid under the agreements only apply where the small cell installation includes an outdoor unit, (roadside cabinet), located on Council land. If the outdoor unit, in addition to the antennas etc, is located on an electricity supplier owned distribution and/or lighting pole, then no rent is paid to the Council.¹⁰³

We note the industry's view that rent is generally paid for the use of, or access to property. We have reflected this in our revised draft recommendation.

In contrast, the land management agencies supported our approach but sought clarity on the definition of small cell technology. They submit:

However, where there is no supporting structure in place and an organisation must establish the structure (such as a lattice tower, monopole, or other structure), to attach 'small cell' technologies, the organisation would be charged a primary user fee.

Clarification is needed regarding the intent of this recommendation and how 'small cell' technology is defined.¹⁰⁴

We acknowledge the land management agencies' concerns and have provided further clarification in our revised draft recommendation below. We note that the draft recommendation is not intended to apply where primary users must establish a structure such as a lattice tower. These larger structures use more land than small cell technology deployed on existing, non-communication infrastructure. The small cell fee we are proposing to recommend would not fully compensate the land management agencies in these instances. Instead, the primary user fee should apply to provide a fair, market-based return to the relevant agency.

6.1.3 Further market research supports lower fees

We have conducted further research to identify evidence of small cell fees in the private market. There is limited publicly available information as the deployment of small cell sites are typically managed through licences and other similar agreements, which do not have to be registered. We understand that they may also include non-disclosure clauses, further limiting their publication.¹⁰⁵

We have addressed this issue by commissioning K&T Property Consultants to conduct market research. They have previously undertaken similar research for North Sydney Council in 2018 and found fees ranged between \$2,000 to \$5,000 at that time.¹⁰⁶ K&T found that current fees are lower and typically range between \$1,000 to \$4,258.¹⁰⁷ This is based on a sample of 11 entities, such as local councils, government agencies and electricity networks.¹⁰⁸ The report also notes that the location of the site does impact the fee, with higher fees paid for sites located in places considered to be high use, inner urban areas.¹⁰⁹ For example, North Sydney Council has a published rate of \$7,000 for the installation of 5G infrastructure on its multi-purpose poles.¹¹⁰

We have reviewed the location of small cell sites on Crown land and have found most locations would not be comparable to high use, inner urban areas like North Sydney Council. While small cell sites on Crown land are predominantly in the Sydney metropolitan area, they are typically in more suburban areas. There are also a small number of sites located in the Medium and Low density categories. We consider these differences warrant a lower fee for small cell sites on Crown land than the fees paid for access to highly urbanised, inner city areas.

We consider the fees charged by larger entities with locations across suburban Sydney are informative for setting a small cell fee on Crown land. Entities such as Ausgrid would provide access to a similar large number of locations across the Sydney area. Its fees have been found to range between \$2,000 to \$4,000, depending on factors such as location and the equipment being deployed.¹¹¹

6.1.4 Small cell sites to pay a reduced fee

The evidence we have observed supports the introduction of a lower fee for primary users deploying small cell and other similar technology on existing, non-communication infrastructure (e.g. a road sign or utility pole). We are proposing to recommend a flat fee of \$2,000 per annum for each small cell deployed by a primary user regardless of density category. This fee is only to apply where the:

- primary user deploys their equipment on the land management agencies' infrastructure; or
- small cell is deployed on another entity's infrastructure (such as a utility pole) and a small amount (not more than 7.5 square meters) of additional land is required.^c

^c Part 3 of the *Telecommunications (Low-impact Facilities) Determination 2018* sets out the requirements for above ground housing to be considered a low-impact facility. Permissible base areas range from 2 square meters for a pillar, pedestal or roadside cabinet through to 7.5 square meters for an equipment shelter.

We consider that adopting this approach is administratively simple for the land management agencies. It provides a fair, market based commercial return, as it reflects the fees charged for similar locations in the private market. We consider adopting this fee will result in greater encouragement of the use of small cell technology across the State, compared to the current approach. It is also consistent with the views in industry submissions that rent is typically paid to access or use an asset.

Revised draft recommendation

8. Primary users deploying small cell and other similar technology on existing, non-communication infrastructure are to pay rent of \$2,000 per annum where:
 - a. the infrastructure is owned by the land management agencies; or
 - b. the small cell is deployed on another entity's infrastructure, but a small amount of additional land (not more than 7.5 square meters) is required.

Chapter 7 >>

Approach to rooftops

Rooftop sites are more valuable hence we are proposing a price uplift derived from our analysis of market data



07

In our Draft Report (July 2024), we proposed rooftop sites would pay a premium charge on top of the rent for the relevant density category. Our proposed approach reflected our analysis of private market data, which indicated that rooftop sites are typically charged higher rents than other communication sites.

We heard that industry stakeholders are concerned this will act as a precedent for such charges in other jurisdictions. We also heard again that industry stakeholders believe rooftops should be treated the same as other communication sites or have their rents set through negotiation. The land management agencies sought clarity on how the charge was intended to operate. We remain of the view that the charge is supported by our analysis of private market data. We have provided further clarity on how we intend for it to operate.

Rooftop sites are common in the Sydney density category, but very uncommon in the other density categories. We did further statistical analysis to estimate a price premium for rooftop sites that were located only in Sydney. We are now proposing to recommend a lower rooftop premium that would only apply to the Sydney density category.

7.1 Current approach to rooftop sites

The deployment of communication equipment on a building's rooftop is most common in metropolitan areas. There are currently only 12 rooftop sites on Crown land. Only 5 of these sites are located in the Sydney and High density locations, with the others located in Medium and Low density locations.

We recommended that high value sites be negotiated in our 2013 and 2019 Review of rental arrangements for communication sites on Crown land. We understand that the land management agencies have chosen not to implement this recommendation. As such, the licence holders for the 12 rooftop sites are charged the relevant co-user fee.¹¹²

7.2 Our proposed approach

We found in our Draft Report (July 2024) that leases for communication sites on rooftops generally attract higher rentals than other sites. Given this, our draft recommendation was to charge rooftop sites on Crown land the standard rental for the density category plus a rooftop premium. We considered this approach to be administratively simple while providing the land management agencies with a fair, market-based commercial return.

7.3 Industry does not support our proposed approach

There was limited support from stakeholders for our draft recommendation. The industry stakeholders that commented on our proposed approach expressed concerns with the additional charge. They also called for rooftop sites to be excluded from our recommendations. For example, the Australian Mobile Telecommunications Association submits:

We find this approach to be disappointing as it may preclude the use of well-positioned buildings on Crown Land due to price. We note that many rooftops have no alternative use.¹¹³

It further submits:

It is important to also acknowledge that IPART pricing such as in this rooftop category can and has influenced the pricing of NSW government agencies, other States agencies and local government authorities - taking the IPART regime well beyond its intended application to free standing sites administered by the three land agencies.¹¹⁴

Some industry stakeholders also questioned if it was valid to set a standard fee for all rooftop sites, regardless of its density category. For example, Indara submits:

We submit that this charge is arbitrary and flawed and it is hard to imagine a qualified professional valuer would use such a specific figure across all density classifications. Indara does agree that rooftops can attract a higher rent, but the underlying land value differs depending on the location (urban vs remote).¹¹⁵

In contrast, the land management agencies sought clarity on the application of the fee in their submission. They noted their current practice is to apply a 50% discount and questioned if this approach is intended to be replaced by our recommendation.¹¹⁶ The NSW Telco Authority also sought clarity on whether the additional fee is intended to apply to functionally similar sites, such as communication sites located on the side of a building.¹¹⁷

We do not agree with the industry that rooftops should not be included as part of our review. Our Terms of Reference defines communication sites broadly and includes communication facilities, which would include rooftops. It is also supported by our underlying data set and model, which demonstrates that rooftop sites generally attract higher rents than other communication sites. However, we do acknowledge the industry's concerns that a flat fee may not be appropriate for all location categories.

7.4 Our revised draft recommendation for rooftop sites


We remain of the view that rooftop sites, especially in the Sydney CBD area, are valuable to communication tenants because their elevated position gives antennae wider coverage and the communications provider is saved the expense of building a large tower. We also note, as a practical matter, that the rooftop premium would only apply to buildings on Crown Land that are owned by the Crown. This situation may be rare in practice.

We have decided to review our approach following feedback from stakeholders who objected to the concept of a rooftop premium in low, Medium and High density areas. We now consider that only rooftop sites in Sydney should pay a premium. The estimates for the other density categories were not statistically significant. We are therefore proposing to recommend that rents for rooftop sites on Crown land are set as:

- the relevant density category rental fee
- plus an additional charge of \$3,380 for the Sydney density category only

This would replace the land management agencies' existing approach to rooftop sites. That is, we are not proposing to recommend extending the co-user discount to rooftop sites. It would also only apply to communication sites located on rooftops. We remain of the view that this approach is administratively simple and provides the land management agencies with a fair, market-based commercial return.

Revised draft recommendations

- 9.  Communication sites located on a rooftop are to pay:
 - a. the relevant density category rental fee
 - b. plus an additional charge of \$3,380 per annum if they are in the Sydney density category.

Chapter 8 >>

Proposed rental schedule

Our draft price recommendations are summarised here



The pricing schedule that Crown Lands presently applies to communication sites is based on the recommendations of a 2013 review by IPART, with CPI adjustments applied over the intervening 11 years.

Over that 11 year period there have been important changes in the market, which are thoroughly analysed in this report. Since 2013, much more information has become available. We have concluded that the views expressed in our 2013 review do not reflect the views or recommendations of the current Tribunal. We would expect the recommendations of this review to supersede any prior IPART recommendations, including those made in 2019 and in 2013.

We have used our data set to estimate updated rental fees for communication sites on Crown land. We have found that market prices are lower than the current fees in all density categories.

We have continued to set the fees for primary users as this aligns with the approach in the private market of primary users negotiating rents with landowners. We have maintained the existing location categories as updated categories would be costly to implement (section 2.5).

We are proposing to recommend maintaining the co-user category (section 5.5) and that co-users only pay a fee where additional land is required. We are proposing to recommend primary users that are deploying small cell and other similar technology on existing, non-communication infrastructure pay a fee of \$2,000 (section 6.1.4).

We have not considered positive externalities in proposing our recommended rental schedule (section 2.4). Accounting for positive externalities would require us to consider existing arrangements that have been put in place to encourage communication sites, such as the size and availability of rebates. This is outside the scope of our review, as set out in our Terms of Reference (Appendix A).

8.1 Updated rental fees

We have reviewed rents for similar communication sites in the private market and have found that market rents are lower than current Crown rents in 2023-24 (Table 8.1 and Table 8.2). As set out below, while the Crown land agencies employ CPI indexation, CPI is not a common escalator in the private market.

Table 8.1 Revised draft recommended rental fees by density classification (\$2023-24 per annum, excluding GST)

	Sydney	High	Medium	Low
Primary users	\$36,915	\$31,012	\$17,251	\$8,793

Source: NSW Land Registry Services and IPART analysis.

Table 8.2 Current rents for Crown communication licences for standard sites (\$2023-24 per annum, excluding GST)

Financial year	Sydney	High	Medium	Low
2023-24	\$42,132	\$35,109	\$19,505	\$9,362

Note: Sydney refers to local council areas in metropolitan Sydney with a population density of greater than 1,800 people per square kilometre. High are those local council areas with a population density of less than or equal to 1,800 people per square kilometre. Medium refers to areas within 12.5 km of the centre of the 37 Urban Centres and Localities (UCLs) defined by the ABS as having a population of 10,000 people or more based on the 2011 census. Low is the remainder of NSW.

Source: Department of Planning, Housing and Infrastructure, [Communication licence rent fact sheet](#), February 2023.

We are proposing to recommend that the existing fee schedule be updated to reflect the changes in the private market. This will ensure that the land management agencies continue to receive fair, market-based commercial returns for the use of their land for communication sites.

We estimate that the impact of this new pricing schedule would be to reduce the combined annual revenue to the Crown lands agencies before rebates by approximately \$2.4m per annum though this does not account for changes to co-user fees.^d

We are proposing to recommend that the published fee schedule be independently reviewed every 5 years to ensure it continues to reflect market conditions. We have observed that private market leases have a median term of 5 years. We consider a similar review period is suitable for the published fee schedule as it provides communication licence holders with some certainty of their rents, while ensuring fees continue to align with market conditions.

This has been a complex review. It would have assisted the Tribunal and stakeholders if the Terms of Reference had been clearer about the reasons for referring the review to IPART, if we had been able to utilise stronger information-gathering powers and if the terms of reference were not so narrow. Therefore, we propose a draft recommendation that if IPART is to be provided a future referral to recommend rents that the:

- reason for referring the review to IPART be explicit
- referral be under section 12A of the IPART Act so that our information gathering powers are available
- scope of any referral is broadened to include investigating the range of fees and charges imposed by the land management agencies in addition to rents
- three land management agencies improve their records, so they have information on whether co-users rent additional land and the additional costs associated with telecommunications towers in national parks.

Revised draft recommendations

10. The following primary user fees per annum be adopted for communication sites in each density classification:

Sydney	High	Medium	Low
\$36,915	\$31,012	\$17,251	\$8,793

11. The published fee schedule is to be independently reviewed every 5 years to ensure it continues to reflect market conditions.
12. If IPART is to be provided a future referral to recommend rents for communication towers on crown land the referral should:
- a. Explicitly state the reason for referring the review to IPART.

^d Our proposed recommendation would only reduce revenue where co-users licence land that is wholly located in the primary user's compound. However, the land management agencies have not been able to provide a comprehensive list of these co-users as it requires a manual review of communication site maps. This prevents us from accurately estimating the revenue impact from limiting co-user fees for the use of additional land.

- b. Be under section 12A of the IPART Act so that our information gathering powers are available
- c. Broaden the scope to include investigating the range of fees and charges imposed by the land management agencies
- d. That the 3 land management agencies improve their records, so they have information on whether co-users rent additional land and the additional costs associated with telecommunications towers in national parks.

8.2 Price escalation factors for rents

We recommended in our 2013 review that the rental fee be escalated by the Consumer Price Index (CPI) for Sydney for the year ending 31 March.¹¹⁸ This continues to apply as the current fee schedule reflects our 2013 recommendations.

We have considered whether CPI continues to be an appropriate escalator for rents for communication sites by examining current private market practice. We tested this using information in our sample of private market leases (section 4.4). We found rental fees in private market leases tend to be escalated, though CPI was not the most common approach. The median rental escalator was instead a fixed rate of 3% per year (section 4.4).

Given this evidence we are proposing to recommend that our rental fee be escalated by 3% per year and that CPI no longer be used for new leases. We understand that existing communication site licences stipulate that they are to be escalated by CPI.¹¹⁹ As such, we are proposing to recommend that the new escalator be adopted as the licences are renegotiated. We are also proposing to recommend that the escalation factor be reviewed in 5 years' time to ensure it continues to align with private market practice.

Revised draft recommendations

- 13.  The rental fees set out in recommendation 10 are to be escalated by 3% per year in line with current private market practice. Existing licences are to adopt the escalator as they are renegotiated.
- 14. The rental escalator is to be reviewed as part of the next rental review.

Appendices

Appendix A >>

Terms of Reference



TERMS OF REFERENCE
REVIEW OF RENTS FOR COMMUNICATION SITES ON CERTAIN LANDS OF THE CROWN

I, Stephen Kamper, Minister for Lands and Property, with the approval of the Premier, have entered an arrangement for the provision of services by the Independent Pricing and Regulatory Tribunal (the Tribunal) under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992*.

The Tribunal is to review the rents for communication sites on lands administered under the *Crown Land Management Act 2016*, the *National Parks and Wildlife Act 1974* and the *Forestry Act 2012*.

The Tribunal's report on the review is to recommend a fee schedule which:

- is simple and able to be easily implemented by the responsible land management agencies, and
- results in a dollars per site charge that varies by location.

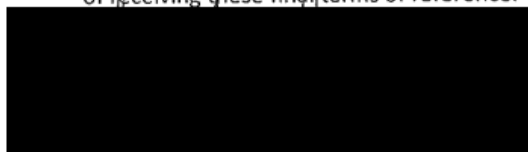
In recommending this fee schedule, the Tribunal is to have regard to:

- a) updating current rents to reflect fair, market-based commercial returns
- b) recent and representative market rentals agreed for comparable communication sites drawing on a statistically significant sample size (taking all reasonable steps to use a minimum of 500 data points) reflective of different site conditions and representative locations across the State
- c) requirements and objectives under relevant state and federal legislation, and under any relevant state strategic plans and policies, and
- d) consultations with key stakeholders including the responsible land management agencies and communication tenure holders.

For the avoidance of doubt:

- the definition of communication sites includes communication towers, communication facilities (such as antennas and shelters) and communication equipment co-located on other structures
- comparable communication sites are those where rents have not been discounted in return for some community or other benefit, and
- reviewing rebates provided in respect of communications sites is outside the scope of the review referred to the Tribunal (the NSW Government will consider appropriate concessions balancing the benefits that the revenues collected via rents support and the need for digital connectivity in rural and regional areas).

The Tribunal is to provide the final report to the Minister for Lands and Property within nine months of receiving these final terms of reference.



12/12/23

The Hon. Stephen Kamper MP
Minister for Lands and Property

Appendix B 

Technical details of
regression analysis

B

B.1 Selecting our sample of leases to determine market rents

We developed an algorithm to randomly select 1,300 leases from the pool of leases we received from LRS. The algorithm was designed to ensure a broad coverage of all local government areas (LGAs) in NSW. To achieve this, it took a random sample of leases from each LGA. A target was set for each sample of either 10 leases or 30% of available leases, whichever was greater. LGAs with less than 10 available samples had their sample pools combined with those of neighbouring LGAs.

We also decided to aggregate all the LGAs within the Greater Sydney Region (excluding the Blue Mountains) into a combined Greater Sydney sample. We capped this combined sample at 144 leases. We made this decision to ensure our sample was evenly distributed across NSW. This helped ensure that the communication sites in our sample would reflect a variety of conditions and locations as required by the Terms of Reference (Appendix A).

Since the Draft Report, we received lease data for a further 63 leases from Amplitel and Indara, representing new leases for new sites. We identified 6 leases from the Amplitel set that appeared to refer to leases already in our LRS data set, so we removed them to avoid double-counting. We then included the remaining new data in our data set and re-ran the regression analysis.

B.2 Issues encountered with lease data

We discovered that some leases did not contain a rental figure as a term in their lease. They instead referred to a previous lease and indicated that the previously agreed (unstated) rental figure should be escalated for the relevant year. This problem was most common for leases that were rolled over (i.e. renewed after expiry of the initial term).

We developed a method of detecting rollover leases from other data contained in the initial LRS bulk download. We requested a supplementary download of a further 200 leases, taking care to avoid requesting rollover leases. The supplementary data allowed us to enlarge our data set beyond the target of 500 points.

B.3 Identification of rooftops

We also examined the leases to determine which leases referred to co-users (as opposed to primary users) and which were for rooftop sites.

We determined that a lease was for a **rooftop** site when the lease terms or site plan indicated the leased area was located on a building's roof.

Since the Draft Report we have decided not to calculate a rooftop premium for sites in the Low, Medium or High density categories. In fact, there were very few rooftop sites in these density categories. We now recommend the rooftop premium only apply to sites in the Sydney density category (Chapter 7).

B.4 Regression method and results

To quantify the effect on market rental prices of the site characteristics we have identified as important, we applied linear regression to the combined data set derived from LRS and the supplementary rental data provided by Amplitel and Indara. The Y variable was annual site rental.

The regression model uses binary variables for the different density categories and excludes all entries flagged as co-users from the sample. The results are shown below in Table B.1.

Table B.1 Results of regression analysis of primary user lease data

Summary Output						
Regression Statistics						
Multiple R	0.76	Y = rent		(\$ March 2024, exc. GST)		
R Square	0.58					
Adjusted R Square	0.58					
Standard Error	10501.498					
Observations	613					
ANOVA						
	df	SS	MS	F	Significance F	
Regression	4	9.2E+10	2.3E+10	208.5353	1.64E-112	
Residual	608	6.71E+10	1.1E+08			
Total	612	1.59E+11				
	Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%
Intercept (Low)	8,793.34	596.45	14.74	0.00	7,622.00	9,964.69
Medium	8,458.13	1,153.99	7.33	0.00	6,191.84	10,724.42
High	22,218.46	1,414.83	15.70	0.00	19,439.92	24,997.01
Sydney	28,121.80	1,659.27	16.95	0.00	24,863.21	31,380.39
Sydney Rooftop	3,384.68	1,956.95	1.73	0.08	- 458.52	7,227.88

Source: NSW Land Registry Services and IPART analysis.

This model assesses prices directly for each of the density categories individually, by adding the intercept value to the coefficient that corresponds to the density category. The primary prices by location category are:

1. The model's intercept is \$8,793. This is the rent for primary users in the Low density category.
2. Rent for Medium density is the intercept plus the Medium coefficient of \$8,458. The total rent for Medium is \$17,251.
3. Rent for High density is the intercept plus the High coefficient of \$22,218. The total rent for High is equal to \$31,012.
4. Rent for Sydney density is the intercept plus the Sydney coefficient of \$28,122. The total rent for Sydney is equal to \$36,915.

- Sydney Rooftop sites attract a premium of \$3,380, which is added on top of the price that would otherwise apply to the Sydney density category only.

We note that these values are only slightly different than the regression results presented in the Draft Report. Apart from the Sydney Rooftop premium, which is lower than the Draft Report rooftop premium, they are higher than the corresponding Draft Report rentals.

B.5 Regression on new leases for new sites only

Amplitel submitted that, in light of the hierarchy of evidence principle that they espoused, IPART's regression analysis should only have regard to new leases for new sites. The data that they submitted to us represented the complete set of such leases in NSW for Amplitel.

Responding to that request, we have also performed regression on the 38 leases that they provided to us. The results are shown below.

Summary Output		AMPLITEL new sites only				
Regression Statistics		Y = rent				
Multiple R	0.61					
R Square	0.37					
Adjusted R Square	0.34	AMPLITEL rents WERE corrected for				
Standard Error	5543.3275	escalation to FY24				
Observations	38					
ANOVA						
	df	SS	MS	F	Significance F	
Regression	2	6.38E+08	3.19E+08	10.37685	0.000289	
Residual	35	1.08E+09	30728480			
Total	37	1.71E+09				
	Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%
Intercept (Low)	8,889.89	1,047.59	8.49	0.00	6,763.17	11,016.62
Medium	5,685.47	2,222.27	2.56	0.01	1,174.01	10,196.93
Sydney	16,443.27	4,057.30	4.05	0.00	8,206.51	24,680.03

This regression uses a much smaller data set than our main model (38 observations versus 613 observations). None of the 38 observations in this set were for the High density category, so this analysis is unable to determine a rent for the High category.

While it was possible to estimate coefficient values for Low, Medium and Sydney density categories, the statistical properties of this regression were poor. In particular, the r squared value was below 40%, indicating that more than 60% of the price variation in this data set was unexplained by this model.

Such a small sample also raises questions about the representativeness of these sites for the state as a whole.

Overall, we conclude that the use of this smaller data set yields less satisfactory results because of the insufficiency of data for robust statistics

Appendix C 

Review timeline



Date	Event
12 December 2023	IPART receives Terms of Reference.
25 January 2024	IPART Secretariat meets with Crown Lands, as the policy department, to discuss initiation of the review.
26 February	IPART releases Issues Paper for consultation. IPART Secretariat meets with Crown Lands to discuss IPART's proposed request for information to the land management agencies.
2 April	Formal consultations on Issues Paper close.
5 April	IPART Secretariat meets with Crown Lands to discuss land management agencies data
10 April	Submission received from TPG Telecom within their extended submission deadline.
11 April	Submissions received from Australian Mobile Telecommunications Association, Bai Communications and an organisation (confidential and name suppressed) within their extended submission deadline.
12 April	Submission received from Telstra Group within their extended submission deadline.
23 April	IPART Secretariat meets with Crown Lands to provide a progress update on the review.
10 May	All submissions to Issues Paper published
25 May	IPART Secretariat meets with Crown Lands to provide a progress update on the review.
15 July	IPART releases Draft Report for consultation.
25 July	IPART Secretariat meets with Amplitel to discuss how their data was treated in the Draft Report.
30 July	IPART conducts a public hearing on the Draft Report.
12 August	Submissions to the Draft Report formally closed. IPART Secretariat meets with the land management agencies to discuss the issues raised at the Public Hearing.
13 to 16 August	Submission received from Telstra, Indara and nbn co within their extended submission deadline.
19 August	Submissions received from the land management agencies and an organisation (confidential and name suppressed) within their extended submission deadline.
30 August	IPART Secretariat meets with Telstra Group to discuss their submission.
5 September	The review completion date is extended to 7 November 2024.
4 October	IPART Secretariat meets with land management agencies, The agencies provide further information in response to consultations questions on national parks.
14 October	siteXcell presents its report to IPART Secretariat. Staff from Crown Lands also attend. IPART asks some clarifying questions on the report.
16 October	Late submissions received from the land management agencies, including the siteXcell report.
18 October	Late submission received from Telstra.
21 October	All submissions received to the Draft Report are published.
4 November	IPART Secretariat requests the land management agencies conduct a fact check of the draft Final Report.
5 November	IPART Secretariat meets with Crown Lands, to brief them on the Report
6 November	The review completion date is extended to 21 November 2024.
11 November	Land management agencies provided a response to the request for fact check as well as a further document that IPART is treating as a submission. IPART Secretariat requests further information on co-user fees from the industry by 15 November 2024.
14 November	Indara writes to IPART concerned about the process for the review.
15 November	Industry stakeholders provide additional information/submissions on co-user fees.
20 November	Tribunal decides to conduct a further round of public consultation on a revised draft Report.

13 December

Revised Draft Report released for consultation.

- ¹ Department of Planning, Housing and Infrastructure, [Communication licence rent fact sheet](#), February 2023, p 1.
- ² IPART, [Draft Report – Review of rents for communication sites on certain Crown land](#), July 2024.
- ³ Correspondence from the Department of Planning, Housing and Infrastructure, 11 November 2024
- ⁴ Department of Planning, Housing and Infrastructure, [Communication licence rent fact sheet](#), February 2023.
- ⁵ Australian Competition and Consumer Commission, [Regional mobile infrastructure inquiry 2022-23 – Final Report](#), July 2023, pp 18-23.
- ⁶ Australian Competition and Consumer Commission, [Regional mobile infrastructure inquiry 2022-23 – Final Report](#), July 2023, p 19.
- ⁷ Australian Competition and Consumer Commission, [Regional mobile infrastructure inquiry 2022-23 – Final Report](#), July 2023, p 19.
- ⁸ Australian Competition and Consumer Commission, [Regional mobile infrastructure inquiry 2022-23 – Final Report](#), July 2023, p 19.
- ⁹ Free TV Australia, [submission to IPART's Issues Paper – Review of rents for communication sites on certain crown land](#), 28 March 2024, p 8.
- ¹⁰ Free TV Australia, [submission to IPART's Issues Paper – Review of rents for communication sites on certain crown land](#), 28 March 2024, pp 8-9.
- ¹¹ Free TV Australia, [submission to IPART's Issues Paper – Review of rents for communication sites on certain crown land](#), 28 March 2024, p 9.
- ¹² Free TV Australia, [submission to IPART's Issues Paper – Review of rents for communication sites on certain crown land](#), 28 March 2024, p 9.
- ¹³ Department of Infrastructure, Transport, Regional Development, Communications and the Arts, [Modernising universal telecommunications services](#), accessed on 6 June 2024.
- ¹⁴ Department of Infrastructure, Transport, Regional Development, Communications and the Arts, [Modernising universal telecommunications services](#), accessed on 6 June 2024.
- ¹⁵ Department of Infrastructure, Transport, Regional Development, Communications and the Arts, [Modernising universal telecommunications services](#), accessed on 6 June 2024.
- ¹⁶ Minister for Communications, [Media Release – Albanese Government launches consultation to modernise the Universal Service Obligation](#), 30 October 2024.
- ¹⁷ Department of Infrastructure, Transport, Regional Development, Communications and the Arts, [Better delivery of universal services](#), accessed on 6 June 2024.
- ¹⁸ Department of Infrastructure, Transport, Regional Development, Communications and the Arts, [Funding of universal telecommunications services \(RBS Review\)](#), accessed on 6 June 2024.
- ¹⁹ Amplitel, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, p 3.
- ²⁰ Telstra, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 13 August 2024, p 5.
- ²¹ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), November 2019, pp 28-34.
- ²² Amplitel, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, p 4.
- ²³ Bai Communications, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, pp 1-2.
- ²⁴ Telstra, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 13 August 2024, p 15.
- ²⁵ Telstra, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 13 August 2024, pp 15-16.
- ²⁶ Letter from Deputy Secretary Melanie Hawyres, 16 October 2024.
- ²⁷ Amplitel, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, p 5.
- ²⁸ siteXcell, [Intelligence Report on Co-User Practices in the Private Sector](#), 30 September 2024, p 16.
- ²⁹ nbn co., [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 16 August 2024, pp 7-30.
- ³⁰ nbn co., [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 16 August 2024, p 3.
- ³¹ Free TV, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, p 7.
- ³² Indara, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 14 August 2024, p 19.
- ³³ nbn co., [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 16 August 2024, p 4.
- ³⁴ Telstra, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 13 August 2024, p 11.
- ³⁵ NSW Department of Planning, Housing and Infrastructure – Crown Lands & Public Spaces, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 21 August 2024, p 2.

- ³⁶ NSW Department of Planning, Housing and Infrastructure – Crown Lands & Public Spaces, response to IPART request to a fact check – Review of rents for communication sites on certain Crown land, 11 November 2024, p 1.
- ³⁷ NSW Department of Planning, Housing and Infrastructure – Crown Lands & Public Spaces, response to IPART request to a fact check – Review of rents for communication sites on certain Crown land, 11 November 2024, p 1.
- ³⁸ TPG Telecom, additional submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land, 15 November 2024, p 1.
- ³⁹ Optus, additional submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land, 15 November 2024, p 1.
- ⁴⁰ See for example Amplitel, additional submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land, 15 November 2024, p 4 and Australian Mobile Telecommunications Association, supplementary submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land, 15 November 2024, p 1.
- ⁴¹ Correspondence from siteXcell to Ms Claudia Huertas, DPHI, 3 December 2024.
- ⁴² Correspondence from Secretary DPHI to Chair IPART, 6 December 2024.
- ⁴³ NSW Department of Planning, Housing and Infrastructure, [submission to IPART's Issues Paper – Review of rents for communication sites on certain crown land](#), 2 April 2024, p 2.
- ⁴⁴ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), April 2013, pp 20-21.
- ⁴⁵ IPART, [Draft Report – Review of rental arrangements for communication towers on Crown land](#), July 2013, pp 62-63.
- ⁴⁶ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), April 2013, pp 20-21.
- ⁴⁷ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), April 2013, p 22.
- ⁴⁸ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), November 2019, p 90.
- ⁴⁹ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), November 2019, p 93.
- ⁵⁰ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), November 2019, p 93.
- ⁵¹ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), November 2019, p 89.
- ⁵² IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), November 2019, pp 89-90.
- ⁵³ Free TV, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, p 5.
- ⁵⁴ nbn co., [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 16 August 2024, p 5.
- ⁵⁵ Telstra, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 13 August 2024, pp 7-8.
- ⁵⁶ Indara, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 14 August 2024, p 29.
- ⁵⁷ National Parks and Wildlife Service, [additional submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 15 October 2024, p 1.
- ⁵⁸ National Parks and Wildlife Service, [additional submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 15 October 2024, p 2.
- ⁵⁹ National Parks and Wildlife Service, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 21 August 2024, p 4.
- ⁶⁰ *National Parks and Wildlife Act 1974*, section 153D Leases, licences and easements for broadcasting or telecommunications facilities.
- ⁶¹ The Hon. Bob Debus, [Second reading speech, National Parks and Wildlife \(Telecommunications Facilities\) Bill 2003](#), June 2003.
- ⁶² Amplitel, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, p 10.
- ⁶³ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), November 2019, pp 89-90.
- ⁶⁴ Indara, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 14 August 2024, p 9 and Amplitel, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, p 24.
- ⁶⁵ *National Parks and Wildlife Act 1974* s 2A, 7, 8 and 12.
- ⁶⁶ *State Owned Corporations Act 1989* s 8 (Principle objective company SOCs) and s 20E (Principal objectives of statutory SOCs).
- ⁶⁷ Indara, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 14 August 2024, pp. 24-25 and Amplitel, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, p 10.
- ⁶⁸ NSW Department of Planning, Housing and Infrastructure – Crown Lands & Public Spaces, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 21 August 2024, p 3.
- ⁶⁹ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), July 2013, pp 49-50.
- ⁷⁰ IPART, [Final Report – Review of rental arrangements for communication towers on Crown land](#), July 2013, p 51.
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- ⁷³ Free TV, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 12 August 2024, p 4.
- ⁷⁴ Optus, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 9 August 2024, p 7.
- ⁷⁵ NSW Department of Planning, Housing and Infrastructure – Crown Lands & Public Spaces, [submission to IPART's Draft Report – Review of rents for communication sites on certain Crown land](#), 21 August 2024, p 3.

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- 78 siteXcell, [Intelligence Report on Co-User Practices in the Private Sector](#), 30 September 2024, pp 11-12.
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