



**Telco
Authority**

McKell Building
2-24 Rawson Place
Sydney NSW 2000
Tel: 02 9372 7088 Fax: 02 9372 7954
TTY: 1300 301 181 ABN 85 430 594 829
www.telco.nsw.gov.au

Ref: BN13/1588

Review of Rental Arrangements for
Communications Towers on Crown Lands
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB POST OFFICE NSW 1230

Dear Sir/Madam,

I refer to the Independent Pricing and Regulatory Tribunal (IPART) draft report on the review of rental arrangements for communications towers on Crown lands and the request for submissions.

Please find attached the Telco Authority response. This response builds on the earlier advice provided in connection with the Issues Paper that first explored many of the issues addressed in the draft report.

The Telco Authority has provided comment on all of the draft recommendations, however, our commentary has been impacted by the level of detail in respect of a number of the proposals. In these situations, the Telco Authority would welcome further advice from IPART on how the proposal will be implemented in practice.

I note that IPART intends to hold a second roundtable meeting to discuss the draft report. It is hoped that this will provide an opportunity for all stakeholders to provide feedback on the how the scheme will operate and its likely impacts. In this context, the roundtable discussion is welcomed.

Should you wish to discuss this submission further, I invite you to contact Mr Norman Cossey, Principal Policy Officer on telephone 9372 8522 or via email at norman.cossey@services.nsw.gov.au

Thank you for the opportunity to comment on this matter.

Yours sincerely,


Shaun Smith
Director

11/6/2013

RESPONSE TO IPART DRAFT REPORT

*Review of rental arrangements for
communication towers on Crown
land*

June 2013

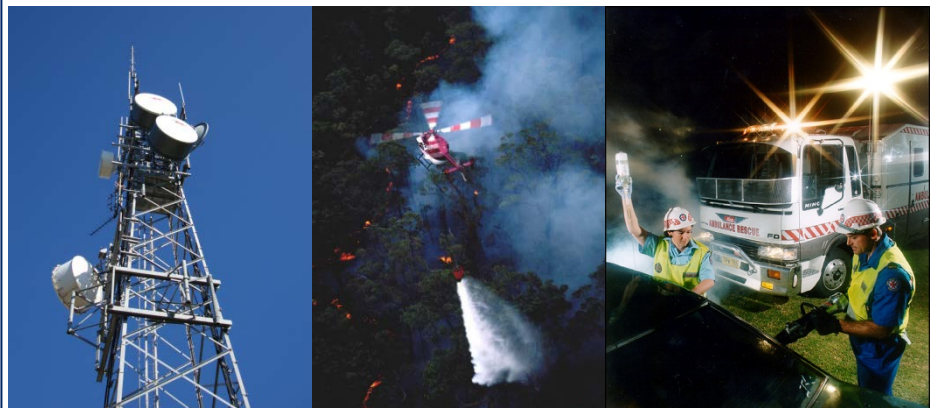


TABLE OF CONTENTS

1. EXECUTIVE SUMMARY.....	1
2. GENERAL COMMENT.....	2
2.1 Consistency with Terms of Reference.....	2
2.2 Impact of IPART determination on rents across the board.....	2
2.3 Definition of budget dependent and rebates.....	3
2.4 Infrastructure owners.....	5
3. SPECIFIC COMMENT ON RECOMMENDATIONS.....	6

1. EXECUTIVE SUMMARY

The Telco Authority has reviewed the IPART draft recommendations, particularly in the context of the impact on the Authority itself, as well as other government land users and regional and remote communities.

The Telco Authority analysis of the draft report and its proposed recommendations has identified a number of matters that may require further consideration and clarification in order to fully understand their potential impact.

The creation of a 'high value' category and the use of market based approaches to determine rents contains a number of new proposals that depart somewhat from those touched on in the 2005 review. It is hoped that further details on the proposals, including how they will be implemented will assist site users in determining the direct effects and allow them to assess if they will act as an incentive to invest at such locations.

The Telco Authority is also concerned to ensure that its status as a budget funded user is continued. Even with this status and the accompanying rebates, the Telco Authority faces a 7% rise in costs over the longer term. Without the rebate, costs are expected to rise by 52% over the longer term. Such a rise may result in the imposition of further charges on those budget funded front line service agencies that make up our clientele.

The Telco Authority welcomes further discussion of the proposals at the Roundtable in June 2013 where outstanding issues can be canvassed and solutions devised.

2. GENERAL COMMENT

2.1 Need for consistency with the Terms of Reference and transparency

The Terms of Reference for the IPART review require the Tribunal to consider:

- The policy objective of the NSW Government to achieve **fair** market-based commercial returns on publicly owned land occupied for the purposes of telecommunications, data transmission or broadcasting; **and**
- The Government's preference for a fee schedule that is as **simple, transparent, and cost effective** as practicable.

It is important to note that while the Terms of Reference seek a scheme that derives market-based commercial terms, it must also be fair, simple, transparent and cost effective.

The Telco Authority is concerned that further information on how the various proposals will operate in practice, particularly for high value sites, where 'characteristics' are used to loosely describe a site rather than a meaningful definition of what constitutes a high value site, is required to determine if they meet the requirements of the Terms of Reference. The characteristics for high value sites are sufficiently broad that they are open to subjective interpretation. For example, what aspects of a highway make it more desirable, is it location, is it the level of development along the highway, is the level of traffic along the highway? In the case of the Pacific Highway and F1 freeway along the east coast of NSW, where one road is heavily used, travels through high population areas and is accessed by a variety of services, and the other is now treated more as a scenic route with limited vehicle usage, will both roads be treated as high value, will they attract the same level of rents, is the fact that they are located in the same vicinity a factor in determining prices, will different land management agencies along the path of the highway and freeway classify them differently, including in adjoining areas?

Further, the decision to leave many decisions to Ministerial discretion also may present challenges in ensuring that the scheme achieves the requirements of the Terms of Reference. The various land management agencies are not administered by a single Minister, or under the control of a single Cluster Minister. To address this, the Telco Authority would recommend clear guidelines for agencies and to assist Ministers, or a right of review, to ensure consistency.

2.2 Impact of IPART determination on rents across the board

As noted by BEM Property Consultants Pty Ltd, whether it was an intended consequence of the IPART 2005 Review and framework or not, the prices set as part of that process became an important informer for prices across the sector. There is nothing to suggest that this situation will not be repeated in 2013.

While it could be argued that the Terms of Reference for the Review do not specifically require that such issues be considered by IPART, this issue has been raised by many stakeholders in their responses to the Issues Paper. IPART itself has acknowledged that such issues are important and need to be considered as demonstrated by its inclusion of a principle of external benefits. The true impact of the 2005 IPART determination and the subsequent scheme introduced could be assessed through an assessment on how it affected prices. It is the Telco Authority's view that a proper and full assessment of the impact will be able to properly inform IPART and the Government of the true effect on services.

2.3 Definition of budget dependent and rebates

The Telco Authority became the owner and/or operator of the Government Radio Network and the Mobile Data Radio Network in 2011 (ie after the last IPART report on site rentals for communications towers on Crown land). Prior to that, both networks were managed by the Department of Services, Technology and Administration with significant funding from consolidated revenue.

Under the Telco Authority arrangements, funding for the Mobile Data Radio Network, which is used by the Ambulance Service of NSW, is sourced from consolidated revenue. Separately, the Government Radio Network is now funded on a non commercial cost recovery basis with core users of the network, namely Fire and Rescue NSW, NSW Rural Fire Service, NSW State Emergency Service and the Ambulance Service of NSW, covering the majority of costs through a flat fee payment arrangement. The remainder of costs are levied on smaller agencies and bodies that use the Government Radio Network in order to carry out their essential, community or public safety services.

Under the existing rental arrangements for communication sites on Crown land the Telco Authority is treated as a budget funded agency. Given that any change to user costs for the Authority's clients will have a direct impact on the NSW Budget this approach is correct.

The definition of 'budget funded' user for the purposes of rebates under the 2013 proposed IPART rental arrangements for communications infrastructure on Crown land is as follows:

"NSW Government agencies or authorities that deliver core services to the public and typically cannot fully recover the value they create through user fees"

The Telco Authority considers that its network management activities fall within the definition of a budget funded user. The following attributes of the Telco Authority clearly demonstrate this:

- A core activity of the Authority is the provision of radio services to front line public safety agency staff as well as public servants engaged in the provision of essential, emergency and community services
- The Telco Authority operates the Government Radio Network on a cost recovery basis only. Any operating surpluses are used to improve services for the sector
- The Mobile Data Radio Network is funded exclusively through direct and indirect allocations from consolidated revenue
- A significant portion of the users of the two networks are either fully budget funded or include budget allocation in their revenue sources
- The community benefit derived from the activities of the Telco Authority far exceed the cost of the service

Should IPART or the relevant Minister, using recommendations proposed by IPART for guidance, determine that the Telco Authority is not budget funded (something that the Telco Authority does not support) this will have a significant impact on our clients who will be required to increase their own contributions to cover the increased network management costs associated with higher site rentals.

The Telco Authority has undertaken modelling of the likely impact of the IPART proposals including where the Authority is eligible for the rebate and where it is not. The Telco Authority's analysis takes into account a five year phase in period as the various sites reach their cyclical rent review window. The analysis also takes into consideration both the direct and indirect costs associated with a site rental and provides a global impact on rents for all sites.

The financial analysis estimates the following effects of the IPART proposals:

*Impact **including** rebate:*

Time Period	% increase in total costs (including direct and indirect costs)
July 2019 (approx. mid-implementation point)	6%
July 2021 (full implementation point)	7%

*Impact **without** rebate:*

Time Period	% increase in total costs (including direct and indirect costs)
July 2019 (approx. mid-implementation point)	30%
July 2021 (full implementation point)	52%

In addition to the Telco Authority owned and operated networks, public safety agencies (NSW Police, NSW Rural Fire Service, NSW State Emergency Service and Fire and Rescue NSW) also all operate their own private mobile radio networks and all receive budget funding for some or all of their activities. While the Telco Authority analysis cannot be directly imposed on the likely experiences of these agencies, a similar result would be experienced by each if their own status as budget funded were affected should their own funding model changes as a result of the current review of funding arrangements for fire and emergency services.

In order to assist the Telco Authority and the above agencies plan for the changes set out in the IPART draft recommendations, clear advice from IPART confirming that the status of these agencies are budget funded would be welcome.

2.4 Infrastructure Owners

In our previous response to the IPART Review the Telco Authority raised the issue of how any changes to the scheme for setting rents for communications infrastructure on Crown land may affect investment, particularly for regional and remote communities. A removal of the 30% reduction for infrastructure owners may have this effect. It is noted that IPART's own consultant supported the continuation of the infrastructure discount. It is further noted that the principal reason given by IPART for its position to remove the discount relates to the benefits this would provide to the open tender process proposed for high value sites. The Telco Authority in its commentary on Recommendation 4 has outlined a number of challenges associated with the tender process and the benefits it offers in lieu of a 30% infrastructure discount.

Telco Authority as an infrastructure owner

Premier's Memorandum M2010-16 specifically mandates that the Telco Authority is responsible for the establishment of strategies to manage the State's radio related infrastructure, including equipment located on communication towers. The Telco Authority has commenced a project to vest infrastructure assets of agencies to the Authority, in accordance with M2010-16. This project is still in the pilot stage, however, over the next 12 months will increase significantly.

A unique outcome from the vesting program will be that the Telco Authority will own the tower, antenna and hut that comprise the private mobile radio network of another agency, with those assets still being used by the agency to operate the network. In such cases, the Telco Authority would be the infrastructure owner, with the radio services that rely on that infrastructure being provided by another agency.

It is noted in section 6.4.2 of the draft report IPART has indicated that for broadcast services, where an infrastructure provider's customers do not have their own equipment broadcasting from the site, no co-user fees will be payable and that the infrastructure provider will be treated as a primary user.

The purpose of section 6.4.2 is to deal with a unique situation involving Broadcast Australia. As noted above, a similar situation is likely to eventuate in relation to the Telco Authority as the Government radio sector undergoes reform. The Telco Authority is of the view that given the similarities between the experiences of Broadcast Australia and the circumstances that may eventuate in relation to the Telco Authority's vesting program, the provision should be extended to cover the Authority and its services as well.

Otherwise, the Telco Authority is concerned that the changes to the infrastructure provider discount arrangement will mean that for some sites, the change in ownership of the infrastructure will result in the Authority being considered an infrastructure owner and charged an infrastructure licence fee. In addition, the agency using that infrastructure will be charged a user fee. This situation will be further affected when the 30% discount for infrastructure owners is progressively removed, adding further costs.

The Telco Authority operates on a cost recovery model. The vesting of assets in the Telco Authority is essential to ensure the consolidation and/or integration of the various government owned radio assets resulting in savings to government and improved service delivery to front line staff. It also presents benefits to land management agencies as infrastructure consolidation will eventually lead to reduced congestion at sites, the removal of out-dated and unnecessary equipment and an overall reduction in the Government's radio footprint on Crown land sites.

3. SPECIFIC COMMENT ON RECOMMENDATIONS

3.1 Recommendation 1

The land management agencies should publish a list of existing sites that they consider are high value sites and would be subject to a negotiation process at the next rent review date. The land management agencies should review and update the list of high value sites every 5 years. The potential list of sites is at Appendix C and is subject to consultation as part of this review.

Response

As noted in the Telco Authority's response to the original IPART Issues Paper, the ability of land management agencies to determine a site to be 'high value' (or previously 'strategic site') can affect infrastructure development, particularly for regional and remote communities. In addition, a change in status of a site from standard to high value after a lessee has spent considerable amounts of money installing equipment may place them in a commercially challenging situation.

In relation to the specific proposal in the draft report, it is noted that the proposed qualities of a high value site differ from those for strategic sites set out in 2005, and that there will be a rebate for certain users who lack the capacity to pay the high market rents a high value site would naturally attract.

The proposed characteristics include:

- good accessibility
- good topography
- good line of site (for example, to the user's customer base)
- close proximity to major highways
- lack of alternative sites.

The Telco Authority considers that the use of characteristics rather than a clear and easily applied definition of what is a high value site may present some implementation issues. A list of characteristics is open to subjective interpretation and may lead to uncertainty and therefore act as a disincentive to investment, and could result in increased costs and make site rental arrangements more complex and time consuming. The need for increased resources to administer the scheme may impact the benefits the introduction of high value sites will realise.

More generally, on the proposal that land management agencies develop a list of high value sites which is subject to a cyclical five-year review, a delay in introduction until the next rent review period will assist lessees in planning. The Telco Authority would recommend that the five-yearly review of the list be opened to consultation, particularly in relation to the inclusion of sites that had not been previously designated high value and to allow land users to make a case why a change in circumstances may mean a site no longer has the characteristics of a high value site. It is further recommended that land management agencies take into consideration the views expressed in the consultation. Any increased costs for land management agencies associated with the review process would eventually be offset by the likely higher rental income in relation to the high value sites.

The Telco Authority also recommends that where the status of a site does change that sufficient lead time be provided to lessees to adjust to the new arrangements.

3.2 Recommendation 2

Factors considered in determining if a site is high value include: elevation, ease of transport access, good line of site, proximity to major highways, and availability of alternative sites.

Response

The proposed characteristics include:

- good accessibility
- good topography
- good line of site (for example, to the user's customer base)
- close proximity to major highways
- lack of alternative sites.

As has already been noted, the Telco Authority has reservations over the use of characteristics rather than a clear and easily applied definition of what is a high value site is unworkable. A list of characteristics is open to subjective interpretation and may lead to uncertainty and therefore act as a disincentive to investment and could increase costs and make site rental arrangements more complex and time consuming.

If it is the intention of IPART to proceed with high value sites in some form, it is recommended that a clear definition is used. However, caution is also required to ensure that the definition takes into account the different nuances of individual sites. It is not clear for example what framework was used to generate the list of sites attached at Appendix C of the IPART report and what consideration was given to the above characteristics. The development of a clear framework that can be applied on a cyclical basis will help to ensure certainty.

In the absence of a clear definition of high value sites the costs of determining sites, reviewing them and consulting on them may exceed what the market can or will bear.

3.3 Recommendation 3

For existing sites that are subject to ongoing rental reviews and that have characteristics of a high value site, the Minister could nominate an amount that reflects their view of the market value of the site and which takes into account the characteristics that make the site high value. The parties may seek an independent expert valuation to support the re-determined amount.

Response

The Telco Authority seeks clarification on how this proposal will be implemented on a consistent and fair basis. In the absence of clear guidelines, decisions on these types of matters are subjective and non-reviewable, increasing uncertainty adversely affecting planning. In addition there are multiple Ministers responsible for the three land management agencies leading to further uncertainty and a scenario where one user may be dealt with differently depending on the land management agency.

It is recommended that consideration be given to developing guidelines that can be used by land management agencies (which advise the Minister) and the Minister to guide them in their decision making processes. A clear and agreed upon decision-making framework will ensure that unilateral decisions are not made and will provide a level of transparency to the process. Land users should be consulted in the development of the guidelines.

It is also advisable that a review mechanism be put in place (such as to the Administrative Decision Tribunal or some other body) and/or that the take into consideration the advice of any third party external valuation report.

3.4 Recommendation 4

The relevant land management agency should put out to tender any proposed new site which is considered to be of high value.

Response

This proposal would only apply to greenfield sites. Under this arrangement, a high value greenfield site would be released for tender, with a head licence agreement between a primary user or infrastructure owner and the land management agency the preferred outcome.

The normal course of events in the sector would see an interested user seeking access to a greenfield site owned by a land management agency for the purposes of developing the site based on need. The introduction of a tender process for greenfield sites at this point is likely to delay the selection of a lessee by up to 6 months as the tender proceeds. There are less costly and time consuming methods of obtaining market based rents for a site than this type of process. For this reason the tender approach is not recommended.

The Telco Authority also considers this proposal may present a number of issues when implemented. In most instances where a greenfield site is developed by an infrastructure owner or user the site has only that one user for a considerable length of time. This is because the existence of established infrastructure and services at the site is often a considerable factor in co-users taking up the site and these take time to develop. In any case, it would be financially imprudent of a potential user who does not require immediate use of a site to participate in the tender process against another user and driving up prices when in a few months a more commercially attractive opportunity to be a co-user or sub-licensee will become available.

The use of standard rates as a floor price for the tender process requires further clarification. The Telco Authority is concerned that it may result in land management agencies determining as many sites as possible as high value on the basis that they will be no worse off than if the site were declared a standard site if the tender process does not provide a better outcome.

Where a land management agency wishes to use the market to determine a rent value for a site (through tender and a negotiation process) rather than using the prescribed fees for a standard site, the land management agency should also bear the risk that the market price may be lower than the amount set for a standard site. See also comments in relation to recommendation 5.

3.5 Recommendation 5

Under the tender system, the fee schedule should act as a minimum 'floor price'.

Response

The use of standard rates as a floor price for the tender process may not be suitable in practice. The Telco Authority is concerned that it may lead to multiple sites being classed as high value on the basis that a land management agency will be no worse off than if the site were declared a standard site where the tender process does not provide a better outcome.

The Telco Authority considers that where a land management agency wishes to use the market to determine a rent value for a site (through tender and a negotiation process) rather than using the prescribed fees for a standard sites, the land management agency should also bear the risk that the market price may be lower than the amount set for a standard site. In such circumstances, land management agencies would not be able to rely on the use of standard site rates as a 'floor price'. This would ensure that land management agencies consider the potential value of a site before deciding how to classify it.

An example of where this may be relevant is for the NBN rollout. The NBN will be rolled out differently to commercial telephony networks as the NBN is required to provide services in areas that are not commercially viable to mobile phone companies. As a result, the NBN is likely to use a number of greenfield sites which have little value to commercial operators. While the sites may not be of use to commercial operators or other users, their characteristics may lend to their being classified as being high value sites (such as good topography, good line of site to the NBN's customers and lack of alternative sites for the NBN to use). In those circumstances, the NBN may not be willing to pay even the standard prices for the site.

3.6 Recommendation 6

Land management agencies should consider the following when entering into negotiations or an open tender process for licences over high value sites:

- *the characteristics of the site, such as ease of access, topography, line of sight, proximity to major highways and availability of alternative sites*
- *recent market rentals agreed for similar sites*
- *relative costs and benefits from negotiations*
- *any additional requirements the land management agency should take into account under applicable legislations.*

Response

As noted in the Telco Authority's response to the Issues Paper, the ability of land management agencies to determine a site to be 'high value' may impact infrastructure development, particularly for regional and remote communities. In addition, a change in status of a site from standard to high value after a lessee has spent considerable amounts of money installing equipment may have an unexpected outcome.

Having said that, if this proposal proceeds, clear definitions of what constitutes a high value site and how market rents are to be settled between the parties are recommended in the interests of transparency and fairness. As noted in the responses to Recommendations 1 and 2, the use of 'characteristics' may not achieve this, with the use of such subjective quasi-criteria leaving the determination of high value sites and their market rent levels open to interpretation.

3.7 Recommendation 7

In the event that disputes over the rent amount occur for high value sites, the matter should be referred to a third part independent valuer in the first instance as discussed in recommendation 3. If the parties cannot agree on the rent amount following an independent valuation process, then the parties should seek to resolve their dispute through mediation and arbitration.

Response

A third party dispute resolution process or a dispute resolution process included in any rental agreement is both welcome and necessary. The Telco Authority supports this approach. In the case of a third party dispute resolution process, the Telco Authority considers that the cost of such a service should be borne by the relevant land management agency which is the beneficiary of the financial benefits of the leasing arrangement.

3.8 Recommendation 8

We recommend land management agencies adopt a head licence arrangement for high value sites going forward. However, if a head licence arrangement is excessively costly to negotiate, land management agencies should negotiate with individual co-users or charge co-users 50% of the rent agreed between the land management agency and the primary user.

Response

The impact of this recommendation on the Telco Authority is two-fold. Firstly, the Telco Authority as a site user for its radio networks is directly impacted by higher prices associated with head licence agreements.

Secondly, as the government radiocommunications sector continues to go through a period of consolidation and increased integration of the various networks, the Authority has the potential to become the head licensee for a number of sites.

The costs associated with negotiating a head licence and sub-tenancy arrangement will be significant. In many cases, it may not be in the interests of the Telco Authority to engage in a head licence agreement. This is due to the costs of entering into the agreement as well as the risks and costs associated with managing a number of co-users who would be the responsibility of the head licensee rather than the current co-user arrangement where such burdens are borne by the land management agency which is the most significant beneficiary of the rental scheme.

As set out in recommendation 9, users of high value sites who are eligible for a standard site rebate are also eligible for a high value site rebate. However, no indication is made if or how this will apply to head licence agreements. If not, then the impact on the Telco Authority would be significant.

3.9 Recommendation 9

Users eligible for a rebate from the standard site fee schedule should also be eligible for a rebate at high value sites, to be granted at the relevant Minister's discretion, based on the individual circumstances of the particular user. The effect of the rebate should be that eligible users would pay the same rent as for a standard site.

Response

The Telco Authority welcomes the recommendation that a rebate apply to certain categories of user, including budget funded agencies. Without the introduction and appropriate application of the rebate costs associated with high value sites would be prohibitive for these groups.

Further clarification is required on how land management agencies intend to provide guidance to the Minister on the intention of the IPART recommendation, when the rebate should be applied and how it should be applied (for example confirmation that it will apply to head licence arrangements as well as those high value sites where the use of co-user agreements are preferable due to the costs of negotiating an alternative head licence lease). Given that there are three Minister's administering Crown lands legislation, guidelines would ensure greater transparency and consistency.

See further comments on rebates under section 2.1 of this response.

3.10 Recommendation 10

Fee schedule for standard sites

Response

It is noted that the number of categories of users has been reduced from 9 to 1 reducing complexity and streamlining the overall arrangements. This combined with the new rebate provisions is welcomed.

The Telco Authority considers that it, as well as most public safety and essential service agencies as well as the Government radiocommunications sector more generally, will be eligible for the rebate that will apply to the budget funded category of users.

If the rebate is applied to the Telco Authority it is expected that the cost of the new fee structure will result in increases that will more or less be manageable over the longer term. Having said this, it is noted that the Telco Authority's modelling predicts that there will be an increase in costs for the Authority, and by extension the budget funded sector, of up to 7% in comparison to the current scheme over the longer term once the full effects of the new pricing arrangements have come into force following the completion of the five yearly rent reviews for each site. This represents an increase significantly above the Consumer Price Index levels and will result in increased user fees being levied on Telco Authority network clients such as emergency services and essential services agencies.

The increase should the rebate not be applied will result in rent cost increases of up to 52% in comparison to the current scheme once the changes are fully implemented following rent reviews for all sites. Such an increase would present significant financial pressure on budget funded agencies and nearly double the rental costs per annum for Crown land sites for the Telco Authority over the next 10 years.

3.11 Recommendation 11

Location category definitions

Response

As noted in the Telco Authority's response to the Issues Paper, the Authority supports the introduction of category definitions that are clear and easily applied. The categories, as proposed, are definitive and so therefore can be considered clear. There are a number of questions on their application, however, that need to be addressed. These include:

- how often changes to local government boundaries, or population centre changes are calculated by the Australian Bureau of Statistics and the Boundaries Commission of NSW and how those changes will be monitored.
- how any changes to boundaries, particularly changes resulting in a site moving from a higher density category to a lower one, will be applied including what lead in time will be allowed for and how the changes will be relayed to licensees and sub-licensees.

3.12 Recommendation 12

Rebates

Response

See comments under section 2.1 above.

3.13 Recommendation 13

Users eligible for rebates are defined as:

- *community groups: special community interest groups that are run on a not for profit basis*
- *budget funded: NSW Government agencies or authorities that deliver core services to the public and typically cannot fully recover the value they create through user fees*
- *local service providers: users that operate or provide a service to communities in the low location category as defined in this review.*

Response

See comments under section 2.1 above.

3.14 Recommendation 14

The fee schedule and accompanying schedule of rebates should be adjusted annually on 1 July, by the change in the Consumer Price Index (All Group Index number) for Sydney as published by the Australian Bureau of Statistics for the year ending the March quarter each year.

Response

The Telco Authority generally offers no objection to this recommendation. It is recommended, however, that consideration be given to allowing for a review of appropriateness of using the Sydney CPI as the annualised increased mechanism for maintaining market levels across the entire state as the economic environment changes, with possible flow effects to the variations in prices in urban and non-urban areas.

3.15 Recommendation 15

For small country automatic exchanges sites, apply the current rent for the low density location category. The new rent should be phased in over the next 5 years beginning July 2013.

Response

The Telco Authority re-iterates its earlier comment in its response to the IPART Issues Paper that increasing the cost of providing SCAX sites to isolated and remote communities may discourage investment in such facilities and have a negative effect on the provision of telecommunication services to these locations.

3.16 Recommendation 16

For users with existing licence agreements, the new fee schedule should be phased in over 5 years from the next rent review date. Taking into account the impact of inflation, this means rents will increase by 20% of the difference between the inflation adjusted 2012/13 fee schedule and the new fee schedule each year, on a cumulative basis.

Response

The phased introduction approach is supported. This will allow users time to adapt to the new pricing arrangements, which in many circumstances be significantly more than the current fees charged.

3.17 Recommendation 17

The fees and rebates recommended above should be adjusted each year (beginning 1 July 2014) by the change in the Consumer Price Index (All Groups Index number) for Sydney as published by the Australian Bureau of Statistics for the year ending the March quarter of each year.

Response

The Telco Authority generally offers no objection to this recommendation. It is recommended, however, that consideration be given to allowing for a review of appropriateness of using the Sydney CPI as the annualised increased mechanism for maintaining market levels across the entire state as the economic environment changes, with possible flow effects to the variations in prices in urban and non-urban areas.

3.18 Recommendation 18

In the case of disputes between users and land management agencies on implementation of the fee schedule for standard sites, the land management agency should seek the services of a mediator or an arbitrator.

Response

A third party dispute resolution process or a dispute resolution process included in any rental agreement is both welcome and necessary. The Telco Authority supports this approach. In the case of a third party resolution process, the Telco Authority considers that the cost of such a service should be borne by the relevant land management agency which is the beneficiary of the financial benefits of the leasing arrangement.

3.19 Recommendation 19

The published fee schedule should be subject to an independent review every 5 years to ensure it reflects fair market-based rental returns.

Response

The Telco Authority supports this recommendation. It is assumed that all stakeholders will have input in the setting of the terms of reference for each five year cyclical review.

3.20 Recommendation 20

The implementation of the rental arrangement should be subject to a review by the Audit Office of NSW twice in every 5 years. The review by the Audit Office of NSW should be to report on whether the rental arrangements have been implemented in accordance with the Government's decisions in response to this review.

Response

The Telco Authority supports this recommendation, noting the transparency and fairness benefits afforded to the scheme by the introduction of an independent oversight function. It is recommended that the final principles of the IPART review including transparency and consistency be considered as part of the Audit Office review and that these be considered across the agencies and not just on an agency by agency basis.

Any costs for the work of the Audit Office should be borne by the various land management agencies who are the beneficiaries of the financial benefits of the leasing arrangements for communications towers on Crown land.

3.21 Recommendation 21

For standard sites, land management agencies should continue to grant separate licences to primary users and co-users.

Response

The Telco Authority notes that this is a continuation of the existing arrangements already in place for primary and co-users on standard sites. However, as noted in section 2.4 of this response, the ownership arrangements for Government radio networks are undergoing a period of reform that will need to be taken into consideration by IPART or any body undertaking the proposed five-year review.

3.22 Recommendation 22

Co-users should continue to receive a discount of 50% from the fee schedule relative to primary users.

Response

It is noted that this is a continuation of the existing arrangements. However, as noted in section 2.3 of this response, any decision to no longer consider the Telco Authority as a budget funded agency and therefore eligible for a rebate would result in an unsustainable increase in costs.

3.23 Recommendation 23

Infrastructure providers should pay the same rent under fee schedule as primary users. For infrastructure providers with existing licence agreements, the current discount of 30% should be gradually removed over 5 years, to start after the end of the next rent review period. For instance, for infrastructure providers with licences that have July 2013 as the next rent review date, the 30% discount will be removed on a straight line basis from July 2018 to July 2023.

Response

See comments under section 2.4 above.

3.24 Recommendation 24

Where multiple users share the same equipment located on a tower, these users will be considered as 1 co-user and pay 1 rent.

Response

It is noted in section 6.4.2 of the draft report IPART has indicated that for broadcast services, where an infrastructure provider's customers do not have their own equipment broadcasting from the site, no co-user fees will be payable and that the infrastructure provider will be treated as a primary user.

The purpose of section 6.4.2 is to deal with a unique situation involving Broadcast Australia. As in section 2.4 of this response, a similar situation is likely to eventuate in relation to the Telco Authority as the Government radio sector undergoes reform. The Telco Authority is of the review that given the similarities between the experiences of Broadcast Australia and the circumstances that may eventuate in relation to the Telco Authority's vesting program, the provision should be extended to cover this body and its services as well. Further comment is made in section 2.4.

NSW Government Telecommunications Authority

Level 17, McKell Building

2-24 Rawson Place

Sydney NSW 2000

T: 02 9372 7088

www.services.nsw.gov.au