

**AMTA submission:**

**House of Representatives Standing Committee on  
Infrastructure and Communications**

**Inquiry into Planning and Procurement**



**Background**

The Australian Mobile Telecommunications Association (AMTA) is the peak industry body representing Australia's mobile telecommunications industry. Its mission is to promote an environmentally, socially and economically responsible, successful and sustainable mobile telecommunications industry in Australia, with members including the mobile Carriage Service Providers (CSPs), handset manufacturers, network equipment suppliers, retail outlets and other suppliers to the industry. For more details about AMTA, see <http://www.amta.org.au>.

**Introduction**

The Australian Mobile Telecommunications Association (AMTA) strongly supports the Government's ongoing efforts to reduce regulatory burdens, cut red tape and pursue meaningful, targeted regulatory reform.

AMTA has made several proposals for reform (outlined below) which we believe have the potential to further promote investment in mobile networks by driving efficiencies in planning and deployment activity and also deliver flow-on productivity benefits for Australia.

The demand for mobile telecommunication services continues to increase strongly, particularly with the evolution of mobile broadband services. Global analysts predict that mobile data traffic will increase 10 times between 2013 and 2019 as both smartphone subscription numbers and data use per subscription consistently rises across the world.<sup>1</sup> The mobile industry's commitment to meet this demand is demonstrated by the \$10+ billion investment industry has made in mobile networks, spectrum purchases and spectrum licence re-issue fees over the past two years as well as carriers' current roll-out of next-generation mobile data and broadband services.

In terms of regulatory burden, AMTA considers that there are real opportunities to reform network deployment and planning rules to support more efficient network roll-outs which would be timely given the current phase of extensive deployment activity and expected future deployment initiatives.

Recent research commissioned by AMTA and the Australian Communications and Media Authority (ACMA) found that the current wave of mobile technologies will result in a productivity benefit to

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<sup>1</sup> Ericsson [Mobility Report](#), On the pulse of the networked society, June 2014

the Australian economy of \$11.8 billion over the period to 2025 and that in 2013 mobile broadband led to an estimated increase in Australia's economic activity of \$33.8 billion.<sup>2</sup>

The research also found that the capacity of the mobile sector to enable more productivity growth means that technological developments in the sector and their diffusion throughout the economy has the potential to reverse Australia's declining productivity performance.

Against this background AMTA believes that a number of key changes to the Commonwealth legislative framework that governs mobile network deployment activity are warranted.

These changes would significantly reduce costs associated with network deployment regulatory processes without impacting on the transparent community consultation processes that protect local communities from inappropriate developments.

AMTA has outlined our proposals for regulatory reforms that are needed to support infrastructure deployment by the mobile telecommunications industry and also made some comments specifically on the Inquiry's terms of reference below.

## **Proposals for Regulatory Reform to support infrastructure deployment by Australia's mobile telecommunications industry**

### **1. Extend Schedule 3 powers and exemptions to include Federal Planning laws.**

Amend Schedule 3 of the *Telecommunications Act 1997* to extend the existing exemptions to State and Territory Planning Laws to include Federal planning laws so that mobile facilities in Federal jurisdictions are also treated as an 'exempt development' subject to compliance with the industry [Deployment Code](#).

This amendment would:

- reduce deployment time and costs in areas such as: key transport hubs (for example, airports); defence land; and the parliamentary triangle. These are areas of key business and commerce activity that currently lag behind in the provision of the latest mobile technology infrastructure; and
- retain existing restrictions, for example, the requirement to conduct consultation processes for mobile infrastructure deployments in relation to heritage listed buildings and national parks.

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<sup>2</sup> *The economic impacts of mobile broadband on the Australian economy, from 2006 to 2013*, Research report prepared for the ACMA by the Centre for International Economics, April 2014; and *Mobile Nation, The Economic and Social Impacts of Mobile Technology*, Deloitte Access Economics, 2013

## **2. Extend Schedule 3 Carrier Land Access powers beyond current 'Low Impact' definition.**

The right to enter and occupy land for the purpose of mobile network deployment or maintenance should not be restricted to low impact facilities but apply to all mobile infrastructure deployments including existing facilities and temporary facilities.

This amendment would address the following concerns:

- the time, effort and cost in obtaining both statutory and land owner approval for land access which significantly increases roll-out timeframes and drives costs in environments where there is increasing difficulty in obtaining suitable site locations, especially in built up metropolitan areas;
- the increasing number of property owners demanding excessive rents and holding carriers to ransom due to the artificially inflated value of already established sites (existing facilities) in the absence of suitable 'low impact' alternatives; and
- it would enable carriers to respond effectively to demands for urgently needed service provision including in locations that experience seasonal population influx or for the conduct of a significant sporting, recreational, entertainment or other public event.

## **3. Exclude Heritage overlays in local planning schemes as meeting the definition of 'area relating to Heritage conservation', included in the definition of 'Area of Environmental Significance' in the 'Low Impact Determination'.**

Clarification that 'Heritage Overlays' in local planning schemes do not constitute a "register relating to Heritage conservation" as defined in *Telecommunications (Low-impact Facilities) Determination 1997* is required.

This amendment is needed because:

- local planning schemes may nominate Heritage or 'Urban Conservation' items according to widely varying criteria. Currently, 'Urban Conservation Areas' can apply to entire suburbs or localities and this may include many buildings which do not actually possess heritage value or other merit;
- it is important for carriers to have certainty and consistency in the operation of their 'Carrier Powers' under Schedule 3 of the *Telecommunications Act 1997*. That is, items meeting heritage or urban conservation criteria may only be defined under a law of the Commonwealth, a State or a Territory; and
- it will significantly reduce the cost and delay in submission of Development Applications to Local Councils for what would otherwise be a Low Impact Facility in areas where the property to be used as a site for mobile infrastructure has no genuine heritage or urban conservation significance.

**4. Amend [Telecommunications \(Low-impact Facilities\) Determination 1997 \(LIFD\)](#) to reflect new technologies.**

Adopt language and definitions to ensure LIFD remains technologically relevant and agnostic to future technology change, and encourages the efficient use of new technologies.

Reform to this Determination should include:

- specific reference to ‘small cells’ in the definition of a low impact facility as future deployment configurations are likely to include ‘small cells’;<sup>3</sup>
- the addition of the words “or other similar equipment” wherever “equipment” is listed;
- review the current 25% volume increase restrictions on adding to existing low impact mobile infrastructure and utility installations with the intention of removing this restriction for commercial areas and consider increases to the volume restriction in residential areas. This limit can unduly restrict the implementation of new technologies at existing sites for little apparent benefit in visual or other amenity to the community. If the carrier is required to lodge a DA for a volume increase on an existing site, there is a high potential that it would lodge an application for a new site as an alternative. The costs and risks are much the same and there is little incentive to maximise the utilisation of the existing facility;
- the use of slimline omni-directional antennas should be specifically encouraged as an alternative to panel antennas in low capacity residential and commercial areas;
- one-off five metre tower extensions should be permitted in commercial areas (as well as rural and industrial areas) because they offer an efficient and timely means of increasing coverage without the need for new infrastructure; and
- the range of transmission facilities and related maximum dimensions for items such as radio communications dishes, solar panels and other permitted facility sizes should be made consistent with the exemptions from development consent in the *State Environmental Planning Policy (Infrastructure) 2007 (NSW) (ISEPP)* – the most technologically up to date planning regulations currently in effect in Australia.

**5. Reduce and amend statutory waiting periods in [Telecommunications Code of Practice 1997](#)**

The purpose of this reform is to provide greater certainty in the scheduling of infrastructure deployment works and to place limits on the delays experienced due to dealing with objections.

It is proposed that the Code of Practice be amended to:

- alter the objection period to 7 days from receipt of notice instead of the current 5 days prior to the commencement of the activity. (This would avoid having works scheduled for

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<sup>3</sup> Small Cells are low-powered radio access nodes that operate in licensed and unlicensed spectrum that have a range of 10 meters to 1 or 2 km. They are "small" compared to a mobile macro cell which may have a range of a few tens of km.

commencement suddenly being 'stranded' due the lodgement of a late objection, and also reduces re-mobilisation costs and additional re-applications with other authorities e.g. road closure permits); and

- impose a timeframe for the TIO to determine an unresolved objection for a 'Schedule 3' activity. Currently, the average timeframe for this exceeds 9 months. It is proposed that the Code require the TIO to make a determination within 6 weeks of an objection being referred to his office.

## Comments on Terms of Reference

### 1. **What initiatives are operating around Australia at local and state government levels that might lower the cost of planning approvals and reduce timeframes for delivery of projects?**

AMTA has provided comment on regulatory reforms that will promote investment in mobile networks by driving efficiencies in deployment activity and also deliver flow-on productivity benefits for Australia.

AMTA also notes that the NSW Government introduced a State Environmental Planning Policy (Infrastructure) (ISEPP) in 2007 and an amendment to this ISEPP in 2010 to advance the deployment of Telecommunications facilities. This now enables carriers to deploy some facilities in urban areas as "exempt" activities" and the installation of towers in rural and industrial zones as "complying developments". Complying developments are determined by an independent certifier and not the local council. AMTA is proposing further amendments to this ISEPP to expand the opportunities for complying development to all zones excepting residential, schools and hospitals. AMTA believes that this type of planning policy should be encouraged in other States and Territories to facilitate the efficient and prompt deployment of new telecommunications infrastructure.

In NSW, approximately 40% of the proposed new mobile facilities which previously required Council consent are now complying developments. The number of DA refusals has sharply reduced since 2010 which has resulted in savings of approximately \$150,000 in legal costs for each appeal. Appeal costs in other jurisdictions range from \$50,000 to \$250,000 which could be substantially mitigated with national consistency in State Planning regimes.

### 3. **Are local, state and federal governments adequately considering the infrastructure challenges that they face and do they have long term plans in place to deal with those challenges?**

AMTA notes that planning review processes (e.g. the process for seeking review of a local Council decision to refuse a DA) vary considerably from State to State and that this results in significant costs to the mobile industry.

For example, the planning appeals process in Queensland is a formal judicial process which results in higher costs and longer timeframes. Other States, such as Victoria, rely upon Tribunals where the appeal is heard by an expert in an informal merits based consideration that rarely involves lawyers.

While the cost of an appeal process will always vary depending upon the individual circumstances, AMTA points out the following average costs of an appeal by State:

- Victoria - \$15 000 - \$50 000 per appeal
- NSW - \$100 000 - \$200 000 per appeal
- Queensland – up to \$250- \$470 000 per appeal

AMTA notes that while these costs vary significantly depending on the State processes involved, the costs of installing infrastructure and the potential revenue from installing the infrastructure are basically the same in each State.

The result is that in Queensland, carriers will often choose not to pursue an appeal process with the result that infrastructure is either not built or a less than optimal site for a base stations is chosen due to the higher costs involved.

**5. What is industry seeking to reduce the regulatory and other costs that it faces in competing for infrastructure projects?**

Please see our comments above in relation to proposed regulatory reforms to support infrastructure deployment by the mobile telecommunications industry.

**6. How can Australia increase or deepen the competitive market for infrastructure provision and funding in Australia?**

AMTA notes that the deployment of telecommunications infrastructure on State controlled land (Crown land) and Council owned or controlled land has become increasingly expensive over the last decade. Many State governments have introduced rental regimes which discriminate against carriers with rentals which exceed those charged to other users and in most cases exceed the freehold value of the land. These high rental costs act as a significant impediment to the deployment of new mobile telecommunications facilities and result in unnecessary delay in the provision of essential services to the community or the selection of alternative more cost effective solutions which may be technically inferior.

AMTA believes that improved competitive infrastructure provision can be achieved by regulatory reform of planning processes to provide greater flexibility and reduced costs for the mobile telecommunications industry.

## **Conclusion**

For further information relating to these proposals and comments please contact Ray McKenzie, Mobile Carriers Forum Manager, AMTA at [Ray.McKenzie@amta.org.au](mailto:Ray.McKenzie@amta.org.au) or 03 9380 2291 or Lisa Brown, Policy Manager, AMTA at [Lisa.Brown@amta.org.au](mailto:Lisa.Brown@amta.org.au) or 02 6239 6555.