



23 October 2020

**LAA Review Project Team**

Property and Construction Division, Department of Finance  
One Canberra Avenue  
FORREST ACT 2603

By email: [LAAreview@finance.gov.au](mailto:LAAreview@finance.gov.au)

Dear LAA Review Project Team,

**RE: Department of Finance review of the Lands Acquisition Act 1989 (Cth) (LAA).**

The Australian Mobile Telecommunications Association (AMTA) and Communications Alliance (CA) (the Associations) welcome the opportunity to comment on the Department of Finance's review of the Lands Acquisition Act 1989 (Cth) (LAA).

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 [www.amta.org.au](http://www.amta.org.au).

Communications Alliance is the primary telecommunications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, equipment vendors, IT companies, consultants and business groups. Its vision is to provide a unified voice for the telecommunications industry and to lead it into the next generation of converging networks, technologies and services. The prime mission of Communications Alliance is to promote the growth of the Australian communications industry and the protection of consumer interests by fostering the highest standards of business ethics and behaviour through industry self-governance. For more details about Communications Alliance, see <http://www.commsalliance.com.au>. Note - nbn™ is a member of Communications Alliance but has not been involved in the preparation of this submission.

Mobile and wireless broadband continues to play a key role in stimulating Australia's economic growth and productivity. The "*Mobile Nation 2019 – The 5G Future*"<sup>1</sup> report by Deloitte Access Economics found that the mobile industry alone continues to make a significant contribution to Australia's economy. Deloitte Access Economics estimates that the mobile industry contributed \$22.9 billion of value added to GDP in 2017-18 with a forecast uplift to GDP of \$65 billion by 2023.

As the world starts to recover from the impacts of COVID-19, we expect that mobile and wireless connectivity will continue to be an even more significant driver of economic growth and play a key role in Australia's recovery as it enables service providers to offer cost-effective technology to meet consumer demand for data and new advanced mobile and fixed 5G services.<sup>2</sup>

During the COVID-19 crisis, Australia's mobile and wireless network operators have continued to invest in the deployment of 4G, and increasingly 5G, networks and we note that the pace of deployment has not slowed during this time.<sup>3</sup> Indeed, the role mobile and wireless connectivity plays has become even more important given the current COVID-19 emergency where telecommunications in general, and mobile connectivity in particular, has become such a critical element of managing flexible working arrangements and maintaining important social contact in times of extraordinary isolation from social and work environments. This has followed the summer bushfire crisis, which again demonstrated that mobile and wireless sites are critical infrastructure consistent with power lines, roads and water pipes. The Australian Government has recognised following both these emergencies that mobile and wireless telecommunications assets are key pieces of critical infrastructure.<sup>4</sup>

The industry's contribution to the Australian community includes its significant long-term investment in the deployment of network infrastructure to support mobile and wireless services, central to which is the acquisition of land, or rights to access land, to build and develop network facilities. Most usually, our members seek to achieve such access through commercial arrangements with landowners and property managers, however this can make members subject to unreasonable demands on rental and other arrangements from landowners where no other remedy for obtaining such access is available.

The Associations' carrier members invest considerable resources in developing and maintaining infrastructure at many thousands of sites throughout Australia. Mobile and wireless infrastructure at such sites can easily exceed \$1 million in capital works, making our members effectively captive tenants due to the high relocation costs when renegotiating existing leases upon renewal. Additionally, landowners may utilise our members' investments to claim improved value of the land which they advocate must be reflected in rental increases. This can significantly disadvantage our members and may discourage further investment, particularly in rural and remote areas (where, ironically, the need for such services is most critical) since annual land rents may exceed the freehold value of the land.

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<sup>1</sup> Deloitte Access Economics, [Mobile Nation 2019- The 5G Future](#), commissioned by AMTA 2019.

<sup>2</sup> Ericsson and Arthur D. Little, [5G for business: a 2030 market compass](#), Oct 2019, page 3

<sup>3</sup> ChannelNews, [Telstra 5G rollout undeterred by coronavirus](#), 26 May 2020

<sup>4</sup> <https://minister.infrastructure.gov.au/fletcher/media-release/acma-report-highlights-ways-improve-telecommunications-network-resilience-during-bushfires>

What has been highlighted by the recent Covid-19 and bushfire events, is that dependable, long term and robust telecommunications networks are in the public interest and that the above concerns regarding landholders' potential to frustrate Carriers' ability to establish or renew suitable tenure pose significant risks to Carriers being able to deliver these services across the country, irrespective of technology. Minimising avoidable service disruption and outages to Carrier services (sometimes affecting whole towns) and maximising the public benefits of Carrier investments in new technology and expanded geographical infrastructure footprints will better serve the needs of Australians and the Australian economy in its accelerated transformation coming out of Covid-19.

To address this unsatisfactory situation, the Associations propose that compulsory land acquisition powers for Carriers be instituted in the LAA review. It is suggested that it would be unlikely Carriers would regularly exercise such powers, but rather the availability of this remedy as a last resort would enable Carriers to negotiate reasonable commercial rates since landowners would not have the comfort of knowing that the Carriers' only other remedy was relocation at uneconomic cost.

The Associations note that the provision of land acquisition powers to Carriers would be in accord with similar powers already available to State based utilities for essential services such as electricity, water and gas, and that mobile and wireless communications and connectivity is now recognised as an essential service in the same way as those utilities and should therefore enjoy similar powers.

The discretion to utilise such powers responsibly is already demonstrated by the Associations' members in their deployment of 'low impact' facilities under Division 3 of Schedule 3 of the Telecommunications Act 1997 Cth (Telco Act). Carriers normally use these powers to install cables under roads and within buildings and also to deploy small antennas on existing infrastructure such as buildings and other public utility structures. Carriers issue many tens of thousands of LAANs annually but attract only a very few unresolved statutory objections which are requested by the landowner to be referred to the TIO for determination. Moreover, where low impact mobile facilities are deployed, our members almost always successfully enter into commercial agreements for tenure at sites, illustrating the success of having an alternative remedy (i.e. issuing a compulsory LAAN in lieu of reaching a commercial agreement whereby the landowner receives no associated rental) in bringing landowners to reasonable commercial terms.

However, the low impact installation powers can only be used for new low impact installations (captured by the Low Impact Facilities Determination 2018 Cth) and cannot be used to provide ongoing rights of occupancy for the new or existing and more substantial facilities subject of commercial tenure (such as towers and aggregated network sites providing mobiles, fixed wireless and fixed line networks) In this case, land acquisition powers would serve the similar role where Carriers are unable to secure or renew tenure on reasonable terms.

The Associations further note that facilitating network deployment, particularly in rural and remote areas where typically such land acquisition would have little impact on communities, could have a significant beneficial impact in the provision of services under the Government's Mobile Blackspot Program, thereby leveraging the investment the Government has already made in recognition of the critical need for these services in such areas.

The Associations believe there is therefore significant public benefit in the proposal to institute compulsory land acquisition powers for Carriers in the LAA review, providing the necessary certainty for Carriers to continue to invest in mobile network infrastructure so that all Australians have access to affordable telecommunications services. Compulsory land acquisition powers would bring greater balance to Carriers' negotiations with private and State landholders for new and renewing leases, with the benefits passed onto consumers in the form of cheaper and more available mobile and wireless connectivity.

Finally, as our members' networks evolve to 5G technologies for both mobile and fixed wireless services with all the benefits this brings to society, industry and the economy, there has never been more intense competitive pressure to roll out network infrastructure quickly, efficiently and cost effectively. 5G technology requires a more dense infrastructure deployment and attendant costs, including a larger number and variety of potential lessors with which to negotiate. The unreasonable demands of landholders will more than ever put 5G deployment timelines at risk so that the Government's favourable consideration of the proposed land acquisition powers is critical to delivering the full benefit of this technological revolution to all Australians.

Please don't hesitate to contact us to discuss these perspectives or if you need any clarification and/or additional information.

Yours sincerely,



Chris Althaus  
**AMTA CEO**



John Stanton  
**Communications Alliance CEO**