

Submission: Better delivery of universal services



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Executive summary

The Council of the City of Sydney ('City') appreciates the opportunity to provide a submission as part of the Australian Government's consultation process to consider options for better delivery of telecommunications universal voice services.

The City is the local government authority in New South Wales with responsibility for an area that includes the Sydney Central Business District ('CBD') and inner-city suburbs.

Our submission is **specific to the payphone component** of the telecommunications universal service arrangements. The provision and location of payphones is of particular relevance to the City given that we:

1. are the statutory authority responsible for developing and applying planning controls that govern how best to use and develop the land in our local government area (some of the most densely populated land in Australia),
2. often own, and/or are the consent authority for, land (including footpaths) on which payphones are located,
3. have had considerable dealings with the statutory primary universal service provider, Telstra, in relation to the siting and relocation of payphones over many years,
4. understand the needs of our particular local government area, including the needs of residents, businesses, and visitors; and
5. are experienced providing services to the community, including specific groups such as people experiencing homelessness, new migrants, and First Nations Australians.

The City's submission is informed by these functions and experiences and addresses the key questions for stakeholders in the *Better delivery of universal services Discussion Paper* of October 2023 published by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

In summary, the City supports the ongoing provision of publicly accessible fixed phone services as part of a universal service framework. However, the City is of the view that the framework needs to be revised to:

- **Service levels that are targeted and reflect actual need** for payphones, accounting for changed community needs and technological developments in recent years, the differing requirements of urban, rural and remote areas, with a focus on providing access for vulnerable members of the community and to act as a telecommunications safety-net,
- **Include greater transparency** in the delivery of payphones, including established and public criteria to determine the location and retention of assets, open access to usage data and government agreements for the provision of the service, and
- **Improve monitoring and oversight** of payphone service delivery, with a focus on comprehensively and regularly assessing performance and all aspects of the service against required outcomes, by an independent third party, with suitable enforcement mechanisms.

The City would welcome the opportunity to participate in further consultation in relation to the delivery of the payphones as part of the universal service framework.

The City consents to its submission being made public and published.

Responses to key questions

Key outcomes for the framework

Q. What do you consider are the key outcomes that a modern universal service framework should deliver?

The City considers that a modern universal service framework should include the provision of publicly accessible fixed line telephones (payphones) to:

1. Ensure vulnerable members of the community have access to telecommunications services, and
2. Provide a safety-net for all members of the community to access telecommunications services in the event of coverage, device or network issues.

To deliver these key outcomes, the framework should:

- determine service levels (e.g. number and location of payphones, functionality, fees) based on the actual need of the community and consumers, informed by data;
- take into account other communication and digital services that are available to, and increasingly used by, consumers (e.g. mobile networks, digital and online services);
- account for the differing requirements for urban, rural and remote areas, as well as the specific needs of particular community groups (e.g. First Nations Australians);
- require payphone assets be designed and located in a manner that minimises impact on the surrounding area (e.g. attached to existing structures, no advertising);
- ensure payphone assets comply with accessibility standards, are designed in consultation with people with disability, and the design and placement of assets do not create a hazard for people who are blind or have low vision;
- have established and published criteria against which service provision is transparently assessed (e.g. minimum calls per year to retain a payphone, minimum distancing between payphones);
- publish usage data for all payphones and the agreements with universal service providers, in line with the federal government's public data policy,ⁱ and the objects of FOI laws;ⁱⁱ
- include mechanisms to allow for changes to service levels and criteria over time, as community and consumer needs, demand, behaviours, and technologies change;
- regularly assess and measure the performance of both the payphone service and universal service providers against delivery of the key outcomes;
- provide for monitoring and oversight of all aspects of the service and service delivery by an independent third party, with suitable enforcement mechanisms; and
- involve a full review of existing service levels against actual need and any new criteria, including the rationalisation and relocation of existing assets.

This would provide a targeted, objective, and transparent approach to the delivery of payphones as a universal public service that reflects the actual needs of the community, as it changes over time. Whilst acknowledging it would require an initial investment to review and revise existing payphone assets, we believe it would provide greater community confidence that the service was achieving value for money and optimising the use of public land, both now and into the future.

Required safety-net services

Q. What safety-net services does a modern universal service framework need to address?

The City is of the view that a modern universal service framework should effectively treat payphones as a safety-net service, with a focus on ensuring vulnerable members of the community have access to telecommunications services, and to provide contingency in the event of coverage, device or network issues for the broader community (refer *Role of payphones* section below).

Complementary mobile services

Q. To what extent do you consider mobile services are important to complement fixed services supported under the existing framework?

Mobile services should be an important consideration in the provision of payphones under the existing framework given the increased network coverage, reliability, uptake, and use of mobile telephony by Australians. It has a direct bearing on what constitutes reasonable and equitable access to payphones, which is currently the primary objective of the existing framework.ⁱⁱⁱ

We note the high reliance and preference for mobile use over payphones is largely universal within the Australian community, including amongst vulnerable social groups. Research in 2020 found that within these social groups, mobiles were preferred and accessible, payphones used only rarely and for ad hoc reasons, and most payphone use was for social and person reasons.^{iv} This included victims of family and domestic violence and people experiencing homelessness.

As such, mobile services should be an increasingly important consideration to the provision of payphones under any universal service framework, whether that be the existing framework or a framework that adopts the key outcomes we propose that focus on access for vulnerable members of the community plus a broader safety-net for the community in the event of coverage, device or network issues (refer *Role of payphones* section below).

Retention of existing requirements

Q. Which existing requirements under the current universal service framework should be retained, or changed?

The City is of the view that publicly accessible fixed line telephones should continue to form part of a universal service framework. However, we believe the key outcomes, scope and nature of such services should be revised given the changes over time to community need, technology, service delivery, land use, and consumer expectations since the obligation was enshrined in legislation in 1999 and the Telstra Universal Service Obligation Performance Agreement ('TUSOPA') in 2012.

Changes to key outcomes, scope and nature of the service

The City believes the following requirements of the payphone component of the universal service framework should be changed:

1. The key outcomes should be to ensure free telecommunications access for vulnerable members of the community, and to provide a safety-net for members of the community in the event of other telecommunications service coverage, device or network issues.
2. The scope of the service (e.g. location and number of payphones) should be based on actual need, taking into account such things as population data, usage data, other services (e.g. mobile coverage), and the differing requirements of urban, rural and remote areas, assessed against defined and published criteria (e.g. minimum calls per year and

distances between payphones), and applied retrospectively to existing payphones. Currently there is no real incentive for removal of under-utilised payphones given the fixed annual fee structure of TUSOPA and minimal ongoing operating costs.

3. The nature of the service should be limited to achieving the key outcomes, with an express obligation to minimise the size, footprint and impact of payphone infrastructure on other land uses and users (including people with disability). Currently, the ability to include advertising or other commercial services on payphone structures creates a perverse incentive to maximise the size of payphone infrastructure and influences its placement (often prompting unnecessary relocations, and siting decisions being driven by factors such as visibility from vehicle traffic). Additionally, the design of some payphone assets do not adequately consider the needs of people with disability (e.g. pedestal payphones are not cane detectable for people who are blind or have low vision).

Changes to transparency, oversight and enforcement

In addition, we believe that the level of transparency, and processes for monitoring, oversight, and enforcement should be changed to include:

1. Government department or agency oversight of all aspects of service delivery. Currently, oversight of the framework is largely limited to monitoring payphone performance in terms of compliance with repair/outage rectification timeframes,^v investigating complaints about Telstra's process for removing a specific payphone (but not to consider complaints about Telstra's decision to install, not install, or relocate a payphone),^{vi} and contract management of TUSOPA.
2. Publication of data (e.g. call volumes, types and faults/outages per payphone, cost to install/maintain/remove), decisions and supporting information, and agreements. Currently, despite payphones being a public service and location decisions needing to consider "net social benefit",^{vii} no details of any net social benefit analysis for a payphone is published, nor any data available beyond general statistics for marketing purposes in Telstra media releases,^{viii} or aggregate figures in annual agency reporting.^{ix} TUSOPA is also not publicly available and not considered suitable for release under freedom of information laws on the basis it includes confidential material and trade secrets.^x
3. Mechanisms for enforcement to ensure both service delivery and accountability. Currently, unless there is a contractual mechanism in TUSOPA (which is not publicly available) or tied to Telstra's licence conditions, there appears to be no such mechanisms in the legislation relating to payphones, nor any body with comprehensive oversight powers or responsibilities (e.g. ACMA can only consider complaints about payphone removals,^{xi} the TIO has no powers in relation to the number or location of payphones^{xii}).

Issues with the current universal service framework

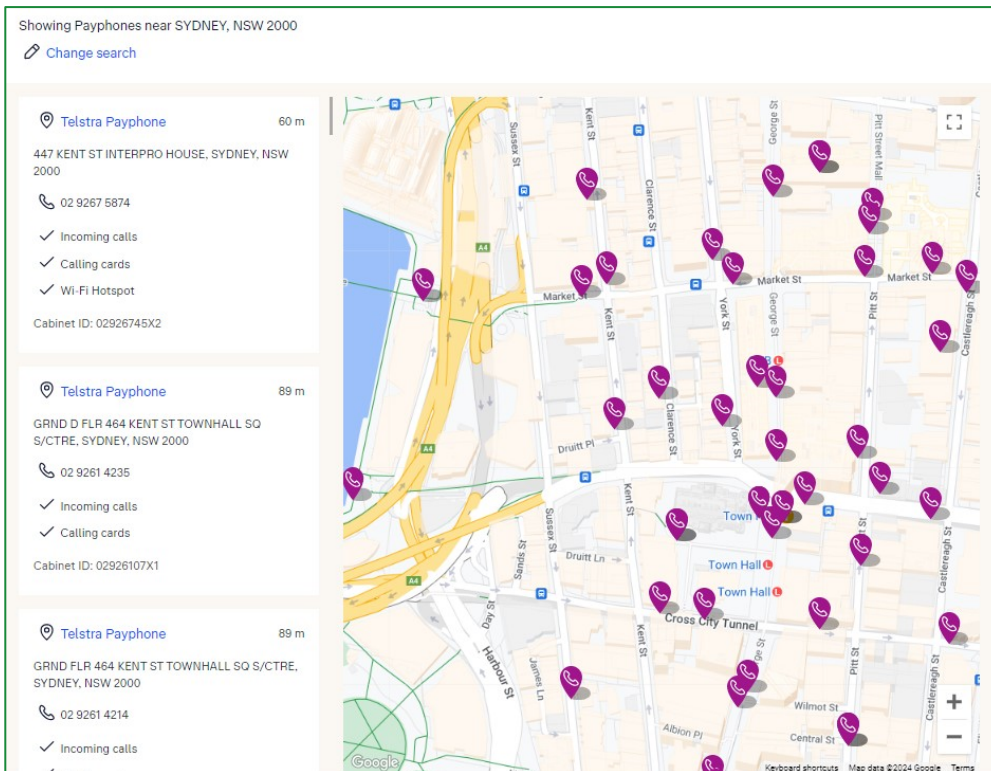
The current universal service framework requires payphones be "reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business".^{xiii} However, this has been given statutory and contractual effect in a way that effectively enshrines the status quo that was in place when TUSOPA took effect in 2012 by requiring payphones to continue to be located at all sites that existed at that time,^{xiv} and limiting options for removal of payphones.^{xv} Only new payphone installations consider proximity to existing payphones (a 1 kilometre radius is the smallest specified for urban areas, yet existing installations are in much closer proximity).^{xvi}

As a result, the current provision of payphones – at least in the City of Sydney's area – vastly exceeds the community need, especially in the context of the changes over time. In addition to the cost of this over-servicing, it also has a significant impact on the public domain, contributing to clutter, visual pollution, and the inability to use these locations to provide other community services (e.g. bins, seating, EV charging, bike parking, greening, directional signage).

Case study: over-servicing of city areas

Figure 1 is a map from the Telstra website showing the location of payphones in an 850 metre by 850 metre area of the Sydney CBD near Sydney Town Hall. It indicates there are 38 Telstra payphones in just this area alone. This area is well serviced by multiple mobile networks and other services (e.g. police stations, hospitals, public libraries, commercial payphones).

Figure 1. Telstra payphone locations for a section of Sydney^{xvii}



The City has no visibility of usage patterns of these 38 payphones (or the payphones in our local government area generally) as this data is not available nor required to be published. However, it is difficult to imagine that the level of community need or use (even on the current standard of “reasonably accessible... on an equitable basis”) justifies this service level. This example is not unique, and similar examples could be provided from across our local government area.

Despite the absence of specific data, all publicly available reporting indicates a downward trend in the usage of payphones, both in Australia and worldwide.^{xviii} The only anomaly is the recent increase in call numbers that followed Telstra’s decision to make calls from payphones free from August 2021 (a commercial decision by Telstra on the basis the cost of emptying and repairing coin collection mechanisms cost more than call revenue,^{xix} despite the service being funded on a \$44 million per year fixed lump sum basis under TUSOPA,^{xx} and the very definition of ‘payphone’ in the universal service legislation referring to payphone calls requiring payment^{xxi}).

However, it appears this increase is in respect of the number of calls, not the number of users. Whilst calls from payphones increased from 11 million in 2020 to 23 million in 2023, the number of Australian adults using a payphone remained at 2%, which has been the case since 2017.^{xxii}

Publicly available reporting also indicates that most payphones have relatively low use, with only some payphones in major cities and remote Indigenous communities having comparatively high use.^{xxiii} Analysis has shown the top 3% of payphones account for nearly 17% of all payphone calls, demonstrating payphone usage data is “heavily skewed by a small number of very high usage payphones”,^{xxiv} and suggesting some payphones may not be used for calls at all.

The over-servicing in this case does not simply raise issues of the cost to the community in dollar terms in paying for the unnecessarily high number of payphones, it also unfairly and unnecessarily

burdens the community in other ways through the inability to use the public domain (e.g. footpaths) for other purposes (e.g. seating, bins, greening), impeding pedestrian traffic and accessibility.

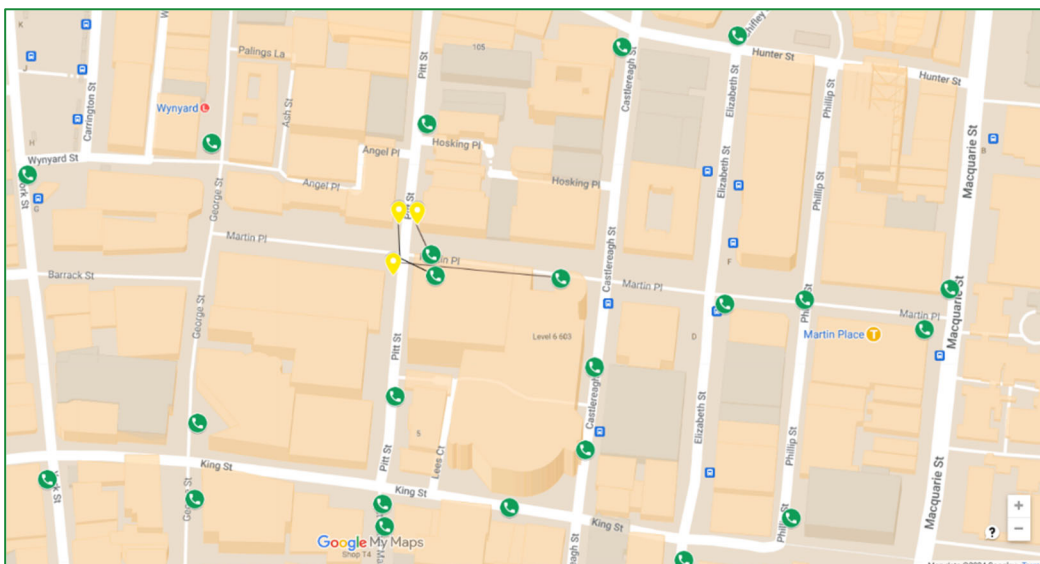
This case study illustrates the need for the provision of publicly accessible phone services to be targeted and based on actual need, informed by accurate and specific data, and considering the factors relevant to the population and geographic area in question.

Case study: relocations compound the problem

Martin Place is a busy pedestrian mall located in the centre of the Sydney CBD, within the City's local government area. It features an underground train stations, a war memorial, a public amphitheatre and the Sydney General Post Office.

In November 2021, the City received three separate payphone relocation proposals from Telstra to relocate three payphones within Martin Place less than 100 metres for their current locations (one moving just 16 metres) to three locations around a single intersection within 35 metres of each other (with two other payphones less than 100 metres away). Each payphone would be housed in its own freestanding structure, and the proposed relocations moved each payphone closer to cross walks and traffic noise (contrary to payphone siting accessibility guidelines^{xxv}).

Figure 2. Proposed Martin Place payphone relocations



Green icons are payphone locations.

The three proposed relocations are shown in yellow.

The total length of Martin Place is less than 500 metres. It has good mobile coverage and is close to other services.

Despite the notices being sent on the same date and relating to the same area, none of the proposed relocations indicated other nearby payphones were also proposed to be relocated. Instead, each relocation notice listed the current location of one of the other payphones as the nearest payphone that would exist following the relocation, failing to account for that other payphone also being the subject of a simultaneous relocation proposal.

The City submitted an objection to Telstra, proposing that just one payphone be relocated to the intersection with the other two payphones being removed. In our objection we pointed to the availability of existing services, the limited public space and need for it to serve multiple purposes, public safety concerns given its proximity to a busy crossing, and questioned the net social benefit and commercial viability of the payphones.

Telstra's final determinations were to proceed with two of the relocations, and relocate the third to a slightly different locations (effectively retaining all three payphones in the area). The reasons given were general statements, with no supporting evidence, such that the sites provided a social benefit, were commercially viable, payphone demand was commercial in confidence, and the payphones "cannot be removed" due to the USO and its "complex set of regulations". Telstra also claimed that the City's objections did not amount to community support for payphone removal.

Consistent with the complaints process under the Payphone Determinations in place at the time, the City made a complaint to Telstra. We alleged Telstra had failed to take into account the City's submissions, its final decision was based on several invalid reasons, and raised concerns that the approach to consultation was one of minimum compliance rather than genuine engagement. We also pointed to the lack of connection between the three relocation proposals noted above.

Telstra's response rejected the City's complaint. Telstra provided no further information or substantive response to the points raised by the City in either our initial objection or complaint. Instead, Telstra maintained the payphones were not able to be removed, that it was not under any obligation to demonstrate net social benefit, and that a local government authority was not itself a member of a community, pointing to a US dictionary definition of "community".

The City's efforts to escalate the complaint to ACMA were unsuccessful. ACMA advised that it did not have jurisdiction to review Telstra decisions to relocate (or install) payphones; only payphone removals. ACMA further advised that its responsibility for enforcing Telstra's compliance with the public consultation obligations for payphones was essentially compliance with the procedural aspects; it had no powers to determine whether Telstra's decision should be changed based on submissions or whether Telstra adequately responds to the merits in the submissions received.

This case study illustrates many of the shortcomings with the current framework:

- prioritising the retention of the existing number and location of payphones, with no real consideration of actual community need or required service levels;
- service levels in many areas far exceed the universal service obligation (if Martin Place had no payphones, compliance with the current framework would require the installation of only one payphone);^{xxvi}
- seemingly arbitrary relocations of payphones, often into high pedestrian traffic areas with competing needs for many services, having a greater impact on the area than necessary;
- payphones are required to be considered in isolation, failing to account for other nearby payphones and other relevant services, or the needs of the particular area or community;
- lack of publicly available data to support the maintenance or relocation of services, or even enable the community to meaningfully participate in a consultation on proposed changes;
- absolute discretion for the universal service provider, Telstra, to make decisions on the locations of payphones, with no obligation to provide reasons;
- arguably false claims of complexity (of the USO) and commercial in confidence (e.g. payphone usage data) to resist objections to proposed relocations; and
- no merits or administrative review processes for decisions made by the universal service provider, Telstra, in relation to its provision of a public service.

Role of payphones

Q. What role do you consider payphones should play in a modern universal service framework?

The City believes publicly accessible fixed line telephones should form part of a modern universal service framework for the purposes of:

1. Ensuring vulnerable members of the community have access to telecommunications services, and
2. Providing a safety-net for all members of the community to access telecommunications services in the event of coverage, device or network issues.

To achieve these purposes, the provision of payphones should be based on genuine and actual need (informed by data and research), reflect the differing requirements of urban, rural and remote areas, consider the specific requirements of First Nations communities and vulnerable social groups, provide free national and mobile calls, and be designed and located in a manner that minimises impact on the surrounding area.

This should include established and published criteria and service levels for the provision (and retention) of payphones, such as the minimum number of calls over a 12-month period, minimum distances between payphones, minimum number of payphones in certain areas (e.g. remote First Nations communities), as well as a mandatory obligation to install payphones on existing structures (e.g. buildings) and minimise the size, footprint and impact of payphone infrastructure.

Such an approach would modernise the universal service framework to reflect the changes to demand and community need for publicly accessible fixed line telephones as a result of the increased use of mobile services and the availability and use of digital services (e.g. myGov, online banking). It would also recognise that payphones, whilst important, are one of many critical services that need to be provided for the community within the available public domain.

Proposed criteria and service levels

Criteria and service levels for payphones in urban areas (e.g. Sydney) could include:

- payphones must provide standard national and mobile calls and access to emergency services '000' free of charge 24 hours per day;
- payphones must provide access to international and premium national calls for a fee (ideally using a standard credit card);
- faults or service difficulties must be rectified within 1 business day;
- payphones must be capable of operating in the event of a power outage;
- an enforceable minimum distance of 500 metres between payphones, equating to a 3-minute walk;
- payphones used for less than 52 calls in a year are removed, provided an existing payphone remains available within a 1-kilometre radius of the location;
- payphones and payphone structures must not feature or display any advertising or branding (including for telecommunications services or the universal service provider);
- payphones must be installed on existing structures (e.g. external building wall), if it is reasonably possible to do so in the location and accessibility requirements can be achieved;
- where community need requires more than one payphone in a location, the assets should be co-located on the same structure (e.g. immediately adjacent or back-to-back);
- payphones must comply with the Communications Alliance accessibility guidelines, be designed in consultation with people with disability, and located so as to not create hazards for people who are blind or have low vision;
- where a payphone structure is used for other commercial purposes (e.g. provision of wi-fi), the other purpose cannot provide a justification for retention where the payphone itself does not meet the minimum use per year requirements; and
- installation of payphones should be mandated in areas with no or low mobile coverage, retail centres, entertainment venues, transport hubs, health and community facilities, and residential areas with low home phone connections (subject to minimum distancing and minimum use per year requirements).

Affordability

Q. How should affordability be considered?

In line with the City's proposal that payphones be principally directed to ensuring vulnerable members of the community have access to telecommunications services, and to act as a safety-net more broadly in the event of issues, we believe publicly accessible phones under the universal service framework should provide free standard national and mobile calls.

The notion of 'payphones' in the universal service framework and telecommunications legislation should be replaced with 'public phones', emphasising that the framework is directed to ensuring public access rather than the provision of a paid service (the current definition of 'payphone' requires payment for a call to be made or collected in order for it to be used to make a call).^{xxvii}

Telstra's commercial decision of August 2021 to make most calls from payphones free indicates this is a viable option. Further, should the scope and nature of publicly accessible telephones be revised in line with the City's proposal to be targeted and based on actual need, and the size of payphone infrastructure reduced, the number of telephones would likely reduce, with an associated reduction in the cost of service delivery.

First Nations Australians

Q. How can a modern universal service framework deliver better outcomes and meet digital inclusion needs of First Nations Australians?

The City acknowledges the need for the delivery of services to account for differing needs within the community, including the needs of First Nations Australians. To ensure services meet the needs of specific communities, the City believes consultation with those communities is essential to understand their needs, and ensure the service design will achieve the best outcomes.

In relation to First Nations Australians, the City notes that there are likely to be differing needs in relation to the provision of publicly accessible telephones as a result of factors such as geographic location, age, and socioeconomic variables.

As such, any approach to ensuring a modern universal service framework delivers better outcomes and meets the digital inclusion needs of First Nations Australians needs to account for such differences, and, in addition to being based on actual need (as we suggest is the case for the universal service framework generally), should be informed by relevant community consultation.

References

- ⁱ Refer to the *Australian Government Public Data Policy Statement* published by the Department of the Prime Minister and Cabinet of 7 December 2015.
- ⁱⁱ Refer to section 3 of the *Freedom of Information Act 1982* (Cth).
- ⁱⁱⁱ Refer section 9(1)(b) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth) ('TCPSS Act').
- ^{iv} Refer page 7 of the *Review of sunseting payphone instruments consultation paper December 2021* from the Department of Infrastructure, Transport, Regional Development and Communications.
- ^v Refer to the performance standards and benchmarks standards in Parts 2 and 3 of the TCPSS Act.
- ^{vi} See, for example, the Australian Communications and Media Authority website about payphones and the associated payphone complaint form at <https://www.acma.gov.au/payphones>.
- ^{vii} Refer to Part 4, and the definition of 'social benefit factors' in section 5, of the *Telecommunications (Payphones) Determination 2022* (Cth) ('Payphone Determination').
- ^{viii} See, for example, *Free payphones have become a lifeline for Australians in need* published on the Telstra website on 10 August 2023 at <https://www.telstra.com.au/exchange/payphone-usage-is-surging-with-nearly-two-million-free-calls-bei>.
- ^{ix} See, for example, *Communications and media in Australia: Trends and developments in telecommunications 2022-23* report from the Australian Communications and Media Authority dated December 2023.
- ^x The City sought a copy of TUSOPA from the Department of Infrastructure, Transport, Regional Development and Communications in 2021 under the *Freedom of Information Act 1982* (Cth) ('FOI Act'). The request was initially declined, with a heavily redacted extract of Module 3 (Payphones USO) provided following internal review. The Department's decision to exempt almost all of TUSOPA, and all attachments to TUSOPA, was on the basis of section 45 (material obtained in confidence) and section 47 (trade secrets of commercially valuable information) of the FOI Act. Media reports from 2023 suggest the Information Commissioner had rejected these grounds in relation to an FOI request for TUSOPA from Vodafone Hutchison Australia, refer <https://www.itnews.com.au/news/telstras-20-year-uso-agreement-with-gov-can-be-given-to-vodafone-599477>.
- ^{xi} See, for example, section 12EI of the TCPSS Act.
- ^{xii} Refer to the Telecommunications Industry Ombudsman website at <https://www.tio.com.au/complaints/what-we-can-help-with>.
- ^{xiii} Refer section 9(1)(b) of the TCPSS Act.
- ^{xiv} See section 15 of the Payphone Determination.
- ^{xv} In addition to the limitations in section 21 of the Payphone Determination, we understand Telstra is limited under the terms of TUSOPA by the number of payphone removals over a 5-year period: refer page 23 of the *Regulation Impact Statement – Establishing a telecommunications Universal Service Guarantee* by the Department of Communications and the Arts dated November 2018.
- ^{xvi} Refer definitions of 'category 1 payphone location', 'category 2 payphone location' and 'category 3 payphone location' and the places and areas with specified radiuses in Schedule 1 of the Payphone Determination.
- ^{xvii} Refer <https://www.telstra.com.au/find-us?search=payphone>.
- ^{xviii} See, for example, *Telecommunications Universal Service Obligation Inquiry Report No. 83, 28 April 2017* from the Productivity Commission, *Development of the Universal Service Guarantee Summary Report November 2018* from the Department of Communications and the Arts, *Review of sunseting payphone*

instruments consultation paper December 2021 from the Department of Infrastructure, Transport, Regional Development and Communications.

^{xxix} Refer page 8 of the *Communications and media in Australia: Trends and developments in telecommunications 2022-23* report from the Australian Communications and Media Authority dated December 2023.

^{xxx} Refer, for example, the *Universal Service Guarantee – fact sheet – update – 3 September 2021* by the Department of Infrastructure, Transport, Regional Development and Communications.

^{xxxi} Refer section 9(1)(b) of the TCPSS Act.

^{xxxii} Refer page 8 of the *Communications and media in Australia: Trends and developments in telecommunications 2022-23* report from the Australian Communications and Media Authority dated December 2023.

^{xxxiii} Refer page 7 of the *Review of sunseting payphone instruments consultation paper December 2021* from the Department of Infrastructure, Transport, Regional Development and Communications.

^{xxxiv} Refer page 13 of the *Development of the Universal Service Guarantee Summary Report November 2018* from the Department of Communications and the Arts.

^{xxxv} Refer section 3.1.1 of the *Industry Guideline G630:2020 Accessibility of Payphones* from the Communications Alliance published in 2020.

^{xxxvi} Refer sections 15(a)(ii) and 16, and Division 1 of Schedule 1, of the Payphone Determination.

^{xxxvii} Refer, for example, to section 9C of the TCPSS Act.

