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15<sup>th</sup> October 2024

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**Subject: Submission to IPART's review of rental arrangements for communication sites on certain Crown Land – NSW National Parks & Wildlife Service response to the potential recommendation to not allow NPWS to change one category higher or co-user fees.**

Dear Mr Nicholls

Thank you for the opportunity to make an additional submission on the IPART Draft Report for the above review.

NPWS supports the draft findings and recommendations presented by IPART in the Draft Report, in particular condition 2 and 3 relating to the NSW National Parks and Wildlife Service's (NPWS) approach to setting rental fees one category higher and the continuation of Co-user fee at 50% of the primary user's rental fee.

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## Management of NPWS Reserved Land

NPWS reserved land is classified as 'environmentally sensitive land' and is therefore managed differently from other Crown or private land. Governed under the *National Parks and Wildlife Act 1974* (NPW Act), NPWS reserved land ensures the protection and management of NSW's precious biodiversity, landscapes and landforms to protect and preserve natural and cultural values and provide social benefits in the public's best interest. Consequently, any impacts on this land should be discouraged and avoided. If an impact is unavoidable due to the absence of feasible alternatives, it must be compensated.

NPWS manages 895 national parks and reserves, covering 8.3 million hectares, which is 10% of NSW and is required by the objectives and obligations of NPW Act, to manage this land to a higher environmental standards than other Crown Lands.

National Parks management supports 85% of all threatened species in NSW and NPWS manages 40,000 km of roads and trails, including 31,000 km of fire trails. Over 24,500 km of these are strategic and tactical trails that must be maintained to meet NSW Government and Rural Fire Service (RFS) statutory obligations. As a registered firefighting authority, NPWS is responsible for 90% of fire-prone land in NSW and conducts 75-80% of all hazard reduction (HRs) in the state. The remoteness of NPWS reserved land increases management costs, including road maintenance, vegetation and weed management, fire management, regulatory and compliance activities.

The presence of third-party infrastructure, such as telecommunication sites, on NPWS reserved land increases management costs. This is due to the remoteness of activities within NPWS reserved land and the higher standards and management requirements that NPWS must meet under the NPW Act and the *Rural Fires Act 1997*. These increased costs include:

- **Additional protection during bushfire events and hazard reduction burns (HRs):** The deployment of aviation assets (water bombers) and remote firefighter trained ground crews is often required when third-party infrastructure is within proximity to a bushfire or HR. Additional resources for protection are at the NSW Government's expense. The presence of third-party infrastructure increases the complexity and risk to firefighting, necessitating specific planning, specialised equipment and staff. Deploying an aviation asset to protect a third-party infrastructure, excluding air and ground crew wages and equipment, on average could cost \$36,000/day. HRs are frequent and significant activities that become more complex and costly if third-party infrastructure is within the burn zone.

- **Staff capability and training:** NPWS firefighters are highly trained and require re-accreditation annually to operate in remote locations and around third-party infrastructure such as telecommunication sites and powerlines due to the increased risks to life and property when operating in proximity.
- **Additional road maintenance and resource diversion:** NPWS maintains an extensive road and trail network, 95% of which are unsealed. This requires a higher degree of maintenance and management, including regular vegetation management, grading, and surface profiling to manage drainage and run-off, and replenishment of road surface material. The presence of additional trails or roads to access third-party infrastructure requires NPWS to divert resources to maintain and manage these assets, particularly following wind or rain events where access to third-party infrastructure may be severed.
- **Maintenance of non-strategic fire trails:** The presence of additional trails or roads requires NPWS to divert resources away from priority, strategic fire trail management, all at additional cost to the NSW Government.
- **Increased insurance premiums:** The presence of additional assets associated with third-party infrastructure, such as trails, and/or roads, results in an increase in claims, increasing the NPWS annual insurance premium.
- **Additional monitoring and compliance activities:** NPWS must undertake compliance inspections and oversight of third-party infrastructure and activities, such as vegetation and weed management or activities close to or within Aboriginal culturally sensitive areas. This is required to meet NPWS's obligations under the NPW Act and often requires two staff to be deployed to the site due to remote safety requirements, all at additional cost to NPWS.
- **Additional management activities:** The presence of third-party infrastructure results in increased ease of access to NPWS reserved land, which can lead to increased illegal activities such as trail bike riding, four-wheel driving (4WD), hunting, firewood collecting, and rubbish dumping. This exacerbates the impact and disturbance to NPWS reserved land and increases costs incurred to the NSW Government through NPWS management activities.
- **Increased invasive species risk:** The presence and access to third-party infrastructure increase the likelihood of invasive species (weeds and pathogens) being introduced and spread to previously undisturbed areas. NPWS incurs additional costs for monitoring and mitigation of invasives species around third-party infrastructure.
- **Loss of biodiversity, habitat fragmentation, and irreversible impacts:** The presence of third-party infrastructure leads to a loss of biodiversity within the site footprint, the Asset Protection Zone (APZ), and along access trails or roads. This occurs through direct habitat removal, habitat fragmentation, and the potential introduction of pathogens and invasive species, which can cause irreversible impacts on local biodiversity. Consequently, NPWS incurs additional costs for monitoring, management and mitigation activities.
- **Loss of amenity:** The presence of third-party infrastructure results in a decrease in visual amenity and changes the landscape from its intended reservation purpose under the NPW Act. This is an intangible cost that is passed onto future generations and goes against the principles and objectives of NPWS reserved land.
- **Increased administrative and consultation costs:** The application to install and operate telecommunication sites on NPWS reserved land comes with additional costs to NPWS compared to other land managers. Due to the obligations of the NPW Act, NPWS must have a dedicated team to review and manage applications, coordinate public consultation processes with stakeholders, and consult with Aboriginal communities. Contentious applications also need to be submitted to the advisory committee for review and consultation and NPWS must allocated resource to respond to and address any public scrutiny or concerns.
- **Future liability:** The installation and presence of third-party infrastructure adds additional liability to the NSW Government in the form of compensation for any successful future Aboriginal land claims. This is

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compounding future debt onto the NSW Government, that will have to be paid by the Government as part of the settlement process to any Aboriginal community following a successful claim.

The reallocation of funding and resources from essential management activities and commitments to the public of NSW comes at a cost to the NSW Government (i.e., the taxpayer). The NPWS has an extensive list of Service Delivery Commitment Targets that must be met as part of its commitment to the people of NSW who fund it. These targets include weed control over 40,000 ha, hazard reduction over 135,000 ha, maintenance of over 30,000 kms of visitor access and fire trails to a satisfactory condition, and the management and maintenance of visitor infrastructure such as walking tracks and amenities. The reallocation of staff and resources to maintain and manage the impact of third-party infrastructure affects NPWS's ability to meet its core responsibilities for the people of NSW.

### Environmental Assessment Process

The *Environmental Assessment and Planning Act 1979* and the *State Environmental Planning Policy (Transport and Infrastructure) 2021* dictate the planning approval and assessment pathway for installing third-party infrastructure on NPWS reserved land. This process provides a framework to assess the proposal's impacts on biodiversity, social, or cultural values and aims to reduce these impacts where possible. However, it does not eliminate impacts, account for long-term impacts passed on to future generations, or prevent future costs in funding and resource allocation to manage these impacts. While it serves as a planning approval pathway, it is not a tool to eliminate all impacts and is applied uniformly across all land in NSW.

However, not all land is equal and is designated for different purposes. NPWS reserved land is set aside to preserve biodiversity, social, and cultural values for future generations, not for development. Therefore, the installation of third-party infrastructure on NPWS reserved land should incur a higher cost compared to land designated for different values, as it will result in ongoing impacts that come at a cost to future generations.

### Telecommunication Sites on NPWS Reserved Land

Telecommunication sites on NPWS reserved land must be treated differently from those on other Crown or private land, as their presence does not align with the primary statutory objectives of the NPW Act, which include the conservation of nature, cultural values, and public enjoyment. Simply put, NPWS reserved land has a higher value due to its biodiversity, social, and cultural significance compared to other Crown or private land and is therefore managed under stricter legislative requirements. Impacts need to be avoided, and if not possible, they must be compensated. Setting a premium for this land helps to discourage the installation of telecommunication sites, and if unavoidable, helps NPWS meet the above statutory obligations and manage impacts on NPWS reserve land values, which would otherwise be subsidised by the public (taxpayer).

### Setting Rental Fees One Category Higher

Setting rental fees one category higher provides a straightforward method to address the above matter. This aligns with the requirement in the terms of reference sent to the Independent Pricing and Regulatory Tribunal (IPART), which calls for a fee schedule that is simple and easy to implement.

If it is recommended that NPWS does not apply the above method, it will look to implement other methods currently applied to infrastructure on reserved land. These include:

1. The Biodiversity Assessment Method (BAM) calculator, which can be used to calculate offsets for biodiversity. The BAM calculator provides a method for assessing the impact on biodiversity for proposed

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developments or clearing of sites. Additional calculations would need to be made for intangible social and cultural impacts via evaluation methods, such as relevance preference and stated preference methods.

2. The land valuation multiplier applied to power and water utility infrastructure on NPWS reserved land. This involves calculating a rental fee based on land valuation adjusted by a multiplier. This multiplier is necessary because land valuations do not account for the full range of values on NPWS reserved land, including natural, cultural, and social (e.g., visual amenity) values. This multiplier ranges from five to ten times the land valuation. As easement payments are one-off, this multiplier deters the installation of infrastructure, but if unavoidable, helps fund NPWS's management objectives and compensate for the ongoing impacts on values into the future.

Both these methods are time-consuming, place additional administrative burdens on both organisations involved, require the preparation of specialised reports via accredited people, and will end up costing telecommunication companies more money. Based on a recent calculation undertaken on a telecommunication site on NPWS reserved land, the estimated compensation value for the installation of a new site with APZ is \$216,000. This number could increase significantly on certain mountain tops due to impacts on threatened species and processes. Additional compensation would also need to be calculated and included for intangible social and cultural impacts.

### Market Implications and Co-user Fees

NPWS recognises and supports Crown Land's submission and the associated SiteXCell report regarding the co-user fee recommendation. While NPWS will not reiterate the content of these documents, it is important to highlight that all telecommunication companies operating on NPWS reserved land must obtain a legal right to do so, in the form of a licence issued under the NPW Act. The issuance of a co-user licence with a fee ensures that administrative and compliance costs, as well as the increased intensity of use, are compensated for. Intensification of use leads to greater impacts on NPWS reserved land. Co-users should not be allowed to operate on NPWS reserved land at the public's (taxpayers') expense, meaning the NSW Government and public would be subsidising private telecommunication company activities in NPWS reserved land. Additionally, the shift in the telecommunications market towards vertical real estate companies like Amplitel and Waveconn is likely to increase the number of co-users at sites, as their business model is based on renting space to as many co-users as possible. This will result in increased costs for NPWS.

In addition to the evidence provided by Crown Land, it is important to highlight that co-user fees are significantly lower on NPWS reserved land compared to the private market. This contradicts NPWS's core objectives of discouraging impacts on reserved land and distorts the overall market. NPWS reserved land is public land, and the public are entitled to a fair market rate, that is not distorted or undervalued and that adequately compensates for the use and impact to public land.

IPART reports on fees for communication sites on Crown Land are commonly used as reference points in both the private and public sectors. Therefore, drastic changes in pricing schedules will distort the market. Telecommunication companies and other government bodies, such as councils, use the IPART report to negotiate fees in the private sector. This has been evident with telecommunication companies using the draft 2019 IPART report for negotiations. Essentially, this means the IPART report can distort the market and impact prices in both the public and private sectors.

### Concerns Regarding Removal of the One Category Higher and Co-User Fee Recommendations

NPWS has serious concerns about the potential removal of the recommendations to set rental fees one category higher or charge co-user fees. These straightforward methods that help to discourage telecommunication sites on

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reserved land and fund NPWS's ability to meet its statutory obligations. The removal of these recommendations will result in a reduction in revenue of [REDACTED] which the public will bear the cost of through the NSW Government funding the difference, effectively meaning that taxpayers are subsidising private telecommunication companies.

Simply put, NPWS land holds higher value compared to other Crown and private land. The one-category-higher and co-user fee methods are simple approaches that acknowledge that NPWS reserved land must be held to a higher value, taking into account both tangible and intangible benefits to the broader community and environment. The higher value and fees deter the installation of third-party infrastructure on NPWS reserved land, and if unavoidable, help to ensure that the public does not bear the cost of the installation and operation of telecommunication sites by private companies.

Yours sincerely,

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