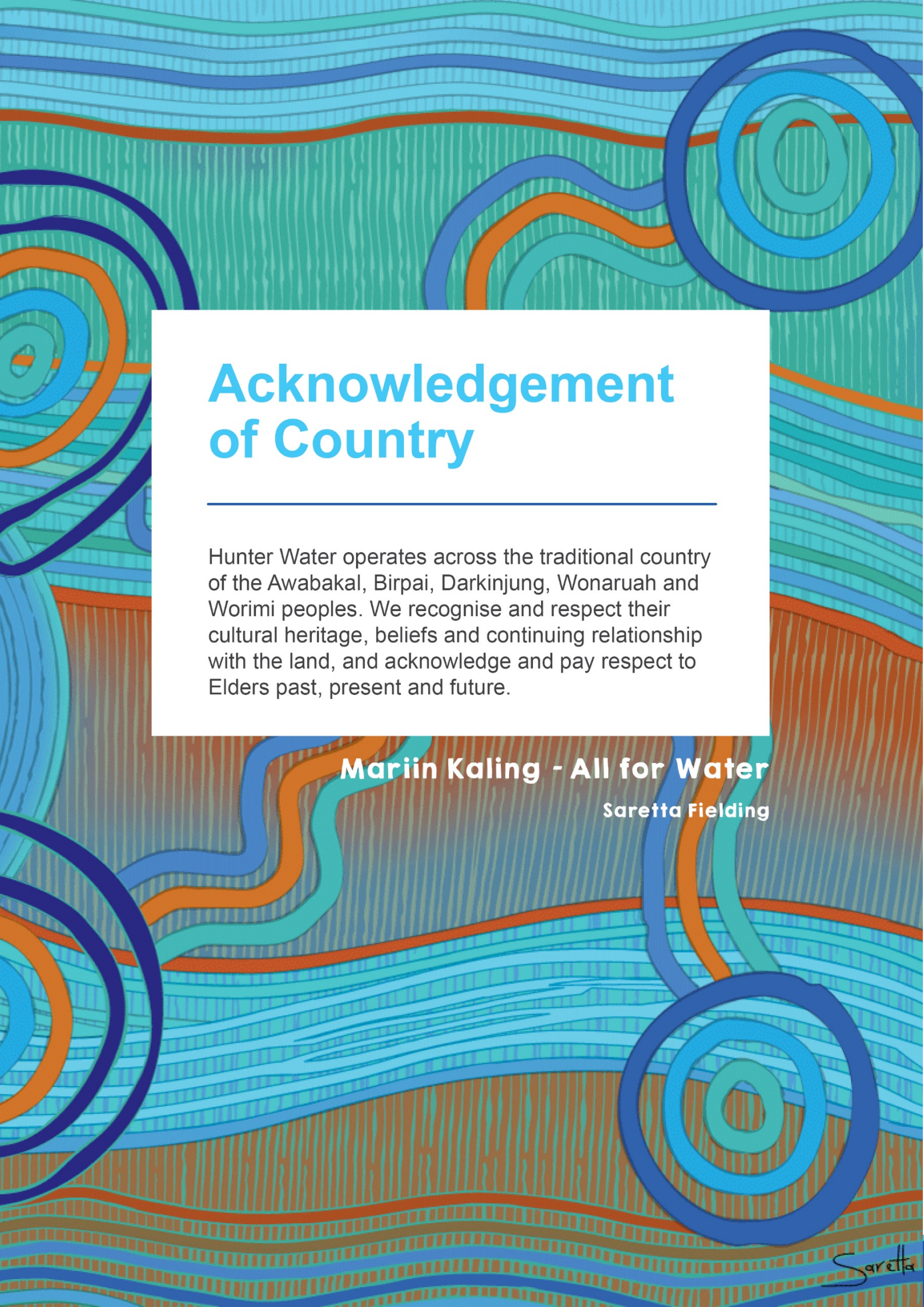
RESPONSE TO SUBMISSIONS

September 2021

MEREWETHER HIGH LEVEL TANK DEMOLITION AND NEW COMMUNICATIONS TOWER REF

Acknowledgement of Country

Hunter Water operates across the traditional country of the Awabakal, Birpai, Darkinjung, Wonaruah and Worimi peoples. We recognise and respect their cultural heritage, beliefs and continuing relationship with the land, and acknowledge and pay respect to Elders past, present and future.



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1 INTRODUCTION

Hunter Water Corporation proposes to demolish the Merewether 2 High Level Tank (HLT) located at 129 Scenic Drive, Merewether (off Hickson Street) as part of a project to reduce ongoing maintenance requirements and maintain water supply to customers (The Proposal). The Proposal would include the construction of a communications tower at the site of the demolished HLT to allow the relocation of essential communication installations from the tank structure, as well as the addition of one new microwave dish to improve communications within the water and wastewater network.

To facilitate this a Review of Environmental Factors (REF) was prepared to assess the environmental impacts of the Proposal and determine the need for mitigation measures and any additional approvals or investigations.

Targeted consultation took place with key stakeholders and landholders in accordance with requirements of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP). In addition, the REF was placed on public exhibition and the community given the opportunity to provide submissions. This report outlines the results of that consultation and Hunter Water's position or proposal for further action.

2 ANALYSIS OF SUBMISSIONS

2.1 Submissions received

The REF was placed on exhibition on 2nd August 2021 for 28 days. The REF was made available on the Hunter Water Your Voice page https://yourvoice.hunterwater.com.au/hicksonst.

A total of 6 submissions was received by Hunter Water, 3 were received within the exhibition period. A breakdown of the source of submissions is given in Table 1 and the categories of issues raised in Table 2.

Table 1: Number of submissions received

Source	Object	Support	Comment	Total
Community	4	-	-	4
Government Agency or Council	-	-	2	2
Total	**4**	**0**	**2**	**6**

Table 2: Themes identified to categorise submissions

Category	Subcategories/matters raised
Environmental assessment and approvals process	• Approval pathway • Consideration of Telecommunications Facilities Guidelines • Need for Road Occupancy Permit • Approval required for removal of Trig Station • Overall need for removal not justified
Heritage	• Consideration of Newcastle City Wide Heritage Study 1996 not given. • Considered to have heritage value
Bushfire	• Potential use as firefighting reservoir
Amenity	• Disagrees that HLT is visually intrusive
Continuity of supply	• Does HLT provide continuity of supply in the event of extended power outage or cyber attack

2.2 Responses to issues raised

Table 3: Hunter Water responses to specific issues

Assessment and Approval Pathway	

The REF has not satisfactorily demonstrated the project is development without consent under the provisions of *State Environmental Planning Policy (SEPP) (Infrastructure)* 2007 (ISEPP).	• The proposed works are:
	  ○ the demolition of high level water tank
	  ○ installation of a pole and relocating and upgrading communication equipment from the HLT to the pole for the sole purpose of operation of Hunter Water's wastewater and water systems
	• Section 1.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) defines a public authority. For the purpose of the EP&A Act Hunter Water is a public authority as it is a statutory State owned corporation within the meaning of the *State Owned Corporations Act* 1989.
	• As Hunter Water is a public authority, in accordance with the definition under the EP&A Act, development without consent can be undertaken for water reticulation, sewerage reticulation and telecommunication facilities on any land by a public authority. All components of the proposal are development without consent under the provisions of *State Environmental Planning Policy (SEPP) (Infrastructure) 2007* (ISEPP).
	• The proposal is for the exclusive purpose of supporting the safe and efficient operation of the Hunter Water sewerage and water supply systems. It has no other purpose independent of the water/sewerage system. In this context, the proposal is clearly within the scope of clause 106 and/or clause 125.
	• Development for the purpose of water reticulation systems may be carried out by or on behalf of a public authority without consent on any land under clause 125(1) of the ISEPP. The HLT is a water reservoir. It falls under the definition of a water reticulation system under Clause 124 of the ISEPP. Clause 5(3) of the ISEPP provides an interpretation of construction works. This includes demolition and relocation or removal of infrastructure. Clause 125(5) of the ISEPP lists construction works as development for the purpose of water supply systems.
	• Development for the purpose of sewage reticulation systems may be carried out without consent on any land in the prescribed circumstances under clause 106(3B). The prescribed circumstances in this case is that the development would be carried out by or on behalf of a public authority.
	• Clause 106(5) and 125(5) each provide guidance as to the types of development that might be regarded as being for the purposes of a sewerage system or water reticulation system, respectively. The drafting of each

	provision indicates, through the use of the word 'includes', that these lists are not exhaustive. Therefore the fact that communications infrastructure is not specifically listed in clauses 106(5) or 125(5), does not exclude such infrastructure from the application of clause 106 and/or clause 125. • In addition to clause106(5) and 125(5),Clause 114 of the ISEPP enables development for the purposes of telecommunications facilities (including radio facilities) may be carried out by a public authority without consent on any land.
According to Section 4.2 of the REF, consideration has been given to the NSW Telecommunications Facilities Guidelines in Section 3.2. However, no such consideration is provided.	• We recognise that the full details of the consideration given to the Guidelines was not clear. The relevant principles were discussed throughout the REF however Appendix A has been compiled to outline the specific considerations given.
The proposed use of the Hickson Street road reserve will require a Road Occupancy Permit from City of Newcastle	• Schedule 2 cl 5 (1) of the *Roads Act* specifies that Section 138 does not require a public authority to obtain a roads authority's consent to the exercise of the public authority's functions in, on or over an unclassified road other than a Crown road. As Hunter Water is a Public Authority and Hickson Street is an unclassified road, S138 approval is not required. • Notwithstanding this, the *Hunter Water Act* 1991 requires that reasonable notice of the works be given (Section 23(1)); and that the Corporation should comply with the conditions of Council where they have control and management of the public road such as for restoration of the surface and removal of rubbish (Section 23(2)). Reasonable notice has been provided and no conditions have been specified by CoN. Any conditions received prior to the start of works will be considered, where they are relevant to the proposal.
The HLT hosts Trigonometrical Station Hickson (TS10023). Has an application been made to remove this infrastructure?	• Approval to remove the mark was granted by Spatial Services on 4 March 2020 (Reference R 20/057). It was further noted in correspondence dated 3 September 2021 that following removal, the mark does not need to be returned to Spatial Services but they should be notified of its removal.
Why not maintain the existing infrastructure and add a tower and dish to provide communication needs?	• Hunter Water considered maintaining the existing tank as part of our initial options analysis. The tank has low capacity and would require a major upgrade to ensure continuity of supply into the future. It is also highly susceptible to corrosion, given its material and location. Demolishing the HLT and implementing operational changes was our preferred option, as it removes the ongoing need to maintain the tank and improves the reliability of supply to our customers. It also eliminates the safety risks for personnel who need to access the structure to maintain it. Continuing to maintain the ageing tank would be an added cost burden on our customers in the long term. • The preferred location of the new tower was selected following consideration of existing site constraints, constructability, space availability, operational access,

	and feedback received from adjoining landholders during our early consultation. The most suitable location for the new tower is where the HLT is currently located. Given the limited space on the site and existing infrastructure, it is not possible to safely construct a permanent communications tower behind the HLT.
Heritage	
The water tower is listed as ITEM No. MERE.020 in the Newcastle City Wide Heritage Study 1996 - 97. Vol 4. However, under section 5.5 "Non - Aboriginal Heritage" on p28 of the REF, this is not acknowledged. In the Heritage Study, it is stated that further research is necessary to establish the heritage significance of this structure.	• Preparation of the REF included searches of the relevant heritage databases. The database searches confirmed that the HLT is not listed as a Local, Regional, s170 or State heritage item. • The entry within the 1997 City Wide Heritage study for the HLT states "*Rarity, value could be ascertained from the Hunter Water Board*". • In 2009 Hunter Water engaged a suitably qualified heritage consultant to prepare a s.170 Heritage and Conservation Register, which involved reviewing assets in line with Heritage Council guidelines. The review noted that the Merewether No.2 (Hickson St) High level Tank *"..has been assessed as not significant. This item is a typical example of mid-twentieth century utilitarian water supply infrastructure with no particular unique or defining characteristics. It has been excluded from the s170 register*". As such while no follow up investigation was done by CoN it is likely that the advice they would have been given by Hunter Water is as above.
Has the heritage adviser at NCC been consulted regarding this proposal and what are their views on this matter?	• City of Newcastle were consulted, no response was received in regard to the heritage values of the HLT.
Bushfire	
Has the Rural Fire Service been consulted?	• Hunter Water is responsible for providing residential firefighting capability only, not bush firefighting, therefore there is no specific requirement for consultation with the RFS for the changes to the water supply system. The RFS were consulted regarding the potential need for hot works during demolition. A hot works management plan will be provided to the RFS prior to works starting.
Does it currently serve as a RFS water supply or can it be used as a water holding tank in case of potential bush fires starting in the surrounding areas?	• Hunter Water is responsible for providing residential firefighting capability only, and although the Hunter Water network includes hydrants that tankers can fill from we do not provide the designated source for bush firefighting. The realigned network without the HLT will have sufficient capacity to meet the required residential firefighting capability.
Amenity	
Seen as a Newcastle landmark, not visually intrusive	• Noted that amenity is subjective and that while some will see the removal as a positive for the skyline this is not universal.

The water tower has long been a landmark and acts as a reference point for the immediate and surrounding community. The significance and rarity of Hickson Street's water tower has recently been heightened by the removal of the Strzelecki water tower.	• Noted that amenity is subjective, and that while some will see the removal as a positive for the skyline this is not universal. • A suitably qualified heritage consultant determined that the HLT was neither significant nor rare, in accordance with the relevant Heritage Council guidelines. The investigation to determine the significance was undertaken after the removal of the Strzelecki water tower (Newcastle 1 HLT) in 1994.
Continuity of Supply	
Is there a documented risk analysis for the tank removal?	• A technical change review was undertaken and documented to reach the recommendation to remove the tank. The tank needs major refurbishment to meet current safety standards. • Safety risks associated with tank removal have been identified. A safety management plan and safe work method statements will be further developed during the demolition contract stage.
Is water supply guaranteed in a blackout (particularly extended event due to large storm) or hacking event and the pumps go down?	• The new water supply configuration improves service continuity during long power outage events. The HLT only provides up to 4hrs of storage. • In the event of a prolonged power failure the pump station that replaces the HLT to supply water can be powered by a generator. In the event of a control systems failure the pumps could be operated manually.

3 UPDATED EVALUATION AND CONCLUSION

Hunter Water has considered all of the comments provided during the consultation process as outlined above. While we recognise the demolition of the HLT is not the preferred option of the residents represented in the four community submissions, it is our position that the removal of the HLT and replacement with a single pole structure is demonstrably in the public interest and will have minimal environmental impact.

The Proposal will now be subject to Green Slip, which is the final step in Hunter Water's process under Part 5 of the EP&A Act. It ensures that all environmental impacts and mitigation measures have been fully considered and are captured in an approval document that is signed under the appropriate delegated authority within Hunter Water (The Manager of the Business Case owner). Once Green Slipped the Proposal will proceed to construction.

APPENDIX A – CONSIDERATION OF THE NSW TELECOMMUNICATIONS FACILITIES GUIDELINES

Principle	Consideration of the Principle
Principle 1: a telecommunications facility is to be designed and sited to minimise visual impact.	
As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.	Not applicable – the tower is not being mounted to an existing building
The visual impact of telecommunications facilities should be minimised, visual clutter is to be reduced particularly on tops of buildings, and their physical dimensions (including support mounts) should be sympathetic to the scale and height of the building to which it is to be attached, and sympathetic to adjacent buildings.	The visual impact is discussed in section 5.8 of the REF
Where telecommunications facilities protrude from a building or structure and are predominantly backgrounded against the sky, the facility and their support mounts should be either the same as the prevailing colour of the host building or structure, or a neutral colour such as grey should be used.	A visual representation of the tower is included in Appendix B of the REF. The tower will be a neutral colour
Ancillary facilities associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical.	Ancillary facilities are existing.
A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.	Not applicable – the tower is not located in a rural setting.
A telecommunications facility located on, or adjacent to, a State or local heritage item or within a heritage conservation area, should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage item or conservation area	There are no listed heritage items in the vicinity of the tower.
A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.	The visual impact is discussed in section 5.8 of the REF
The relevant local government authority must be consulted where the pruning, lopping, or removal of any tree or other vegetation would contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.	Not applicable
A telecommunications facility that is no longer required is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.	The existing water tank (which is used to mount communications equipment) is proposed to be removed.
The siting and design of telecommunications facilities should be in accordance with any relevant Industry Design Guides	Communications being designed to meet Hunter Water communication requirements.
Principle 2: telecommunications facilities should be co-located wherever practical.	
Telecommunications lines are to be located, as far as practical, underground or within an existing underground conduit or duct.	There would be no above ground telecommunication lines.

Overhead lines, antennas and ancillary telecommunications facilities should, where practical, be co-located or attached to existing structures such as buildings, public utility structures, poles, towers or other radio- communications equipment to minimise the proliferation of telecommunication facilities and unnecessary clutter.	The tower is being located where there are existing telecommunication facilities.
Towers may be extended for the purposes of co-location.	The proposal does not involve the extension of an existing tower.
The extension of an existing tower must be considered as a practical co-location solution prior to building new towers.	The existing Telstra tower is at capacity and would not meet Hunter Water communication requirements
If a facility is proposed not to be co-located the proponent must demonstrate that co-location is not practicable.	The Telstra tower onsite at capacity and at 15m high is lower than the required height of the proposed tower meaning a complete upgrade\replacement would be needed.
If the development is for a co-location purpose, then any new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.	The proposed tower is not co-located. Regardless the radio frequency emissions of the proposed tower will be within the maximum human exposure levels
Principle 3: health standards for exposure to radio emissions will be met.	
A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard.	Radio emissions requirements are stated in section 6.1 of the REF as mitigation measure H1
An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency. It is to show the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrate compliance with the Mobile Phone Networks Code.	Not applicable - the proposal is not for a mobile phone network.
Principle 4: minimise disturbance and risk, and maximise compliance	
The siting and height of any telecommunications facility must comply with any relevant site and height requirements specified by the *Civil Aviation Regulations* 1988 and the *Airports (Protection of Airspace) Regulations* 1996 of the Commonwealth. It must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia.	Discussed in section 3.2 of REF
The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment, including the Morundah Communication Facility, Riverina.	The proposal will operate using same frequencies as those on existing water tank structure. All frequencies are used under

	license from the ACMA and will not cause adverse interference.
The telecommunications facility and ancillary facilities are to be carried out in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.	Where there are manufacturer's specifications these will be utilised during construction
The telecommunications facility is not to affect the structural integrity of any building on which it is erected.	Not applicable – the tower will not be erected on a building.
The telecommunications facility is to be erected wholly within the boundaries of a property where the landowner has agreed to the facility being located on the land.	The tower would be located on Hunter Water land. Refer section 2.1 of the REF
The carrying out of construction of the telecommunications facilities must be in accordance with all relevant regulations of the Blue Book – 'Managing Urban Stormwater: Soils and Construction' (Landcom 2004), or its replacement.	Refer to mitigation measures listed in Section 6.1 of REF
Obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction are to be mitigated	Refer to mitigation measures listed in Section 6.1 of REF
Where practical, work is to be carried out during times that cause minimum disruption to adjoining properties and public access. Hours of work are to be restricted to between 7.00am and 5.00pm, Mondays to Saturdays, with no work on Sundays and public holidays.	Hours of work are stated in the REF, refer section 2.3. Work would be undertaken during standard construction working hours as follows: • 7am to 6pm Monday to Friday • 8am to 1pm Saturdays • No work Sundays or public holidays.
Traffic control measures are to be taken during construction in accordance with Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads.	Refer to mitigation measures listed in Section 6.1 of REF
Open trenching should be guarded in accordance with Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps.	There will be no open trenches outside Hunter Water land for the construction of the communication tower.
Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.	Refer section 5.3 of the REF for discussion of vegetation removal and section 6.1 for mitigation measures.
The likelihood of impacting on threatened species and communities should be identified in consultation with relevant state or local government authorities and disturbance to identified species and communities avoided wherever possible.	Refer section 5.3 of the REF for discussion of vegetation removal and section 6.1 for mitigation measures.
The likelihood of harming an Aboriginal Place and / or Aboriginal object should be identified. Approvals from the Department of Environment, Climate Change and Water (DECCW) must be obtained where impact is likely, or Aboriginal objects are found.	Refer to Section 5.6 of the REF
Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunications carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.	Not Applicable.

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