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Attn: Philip Mason, Assistant Secretary
Universal Service Guarantee (USG) Taskforce
Communications Services & Consumer Division
Department of Infrastructure, Transport,
Regional Development and Communications

new.developments@communications.gov.au

Dear Mr. Mason

Review of Instrument under Part 20A of the *Telecommunications Act 1997*

The following comments are provided by the Housing Industry Association (HIA) in regards to the Review of Instrument under Part 20A of the *Telecommunications Act 1997*. HIA is committed to working with all sectors of government to support a regulatory environment that facilitates efficient provision of infrastructure that facilitates growth in the economy, reduces red tape, and enables the supply of new housing in all forms in an affordable way.

HIA has reviewed the Consultation Paper and understands the two main reasons for the review, in summary being: the instrument will sunset in April 2022 and the Senate Standing Committee for the Scrutiny of Delegated Legislation has stated the matters contained in the other instrument may be more appropriately placed in the statute.

HIA's dealings with the deployment of optical fibre is through the operations of our members, particularly in land development. Based on member feedback provided the responses below address the most relevant questions contained in the Consultation Paper. If required HIA is willing expand on these answers either in writing or by meeting with the USG Taskforce.

- Do the matters covered by the 2011 Instrument remain important and need to continue?

Yes, the provision of adequate telecommunication services for all Australians is important and it is acknowledged exemptions may be pertinent particularly when considering present and emerging technologies. As the matter of deployment of optical fibre is extensive and complex this does make it difficult to determine whether the specifics of the Instrument remain important beyond their facilitation of infrastructure to all new buildings.

- Is the process by which developers claim exemptions appropriate?

Yes, most planning approval processes allow for conditions of consent and this is an appropriate means for developers to claim exemptions.

- Should pit and pipe exemptions generally remain available in rural and remote areas where the provision of fixed lines is unlikely for the foreseeable future?

Yes.

- If so, do the exemption criteria need to be refined and, if so, how? For example, are the utility, frontage and kerb and channelling requirements valid and appropriately worded?

It may be appropriate that this be reviewed as kerb and channelling requirements in rural and remote

areas may not always be pertinent depending on the local authority design requirements.

- Should the willingness of NBN Co or another entity to take ownership for pit and pipe in a rural and remote area be a criterion in considering whether an exemption to install pit and pipe be granted?

No. However, it would be worth considering if local authorities (Councils) should take ownership of maintenance, keeping in mind some local authorities already have agreements with infrastructure / service to maintain other critical infrastructure.

- What proof should be required that a developer has contacted NBN Co or another appropriate entity?

Such proof could be required as part of the information required to be submitted as part of a planning approval application.

- What role, if any, should local governments play in setting telecommunications requirements in their jurisdictions and the grant of exemptions?

Setting telecommunication requirements and the grant of exemptions should have a high degree of national consistency. However, considering a very large proportion of developments are assessed in some form by local governments, it does seem eminently sensible that local governments are tasked with disseminating information and guidance regarding the requirements (prepared and published by the Commonwealth), rather than the setting of requirements.

- What should happen if there are differences between Commonwealth policy and local government requirements, noting Commonwealth law would prevail over inconsistent local requirements?

It would be reasonable that some flexibility should exist, it is the extent of the flexibility that requires further exploration.

- Should Commonwealth policy generally apply? Do Commonwealth requirements need to be clearer in this regard?

Being that the deployment of optical fibre is a National agenda item, it is logical that Commonwealth policy should generally apply. Whilst it is acknowledged the requirements are technical in nature and do require lengthy and detailed explanation industry could benefit from an abridged and plain English version of the requirements.

- Should exemptions from pit and pipe installation not be available where a development is within 1,000 metres of the NBN fixed-line network?

Generally Yes, however a clear description of surrounding environment would be required in instances where barriers or constraints or other limiting factors exist that are unreasonable to overcome i.e. exemption applicable unless a clear connection path is established.

- Should exemptions from pit and pipe installation not be available where a development is in a strategic growth corridor or similar?

Logically the answer is No, however the speed at which growth is undertaken must be considered i.e. exemptions apply where a 10 year plan is in place.

- Are there other circumstances that need to be considered in terms of exemptions being available or not available? If so, what are they, how should they be handled?

Yes, where existing pits and pipes have already been installed but are inactive, i.e. incomplete developments.

Thank you for the opportunity to provide comment at this stage, HIA would appreciate being consulted with regard to any further review of the instrument and any other matters relating to the NBN rollout that may impact the residential construction industry.

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