10 October 2025

[redacted]
Assistant Secretary
Broadband and Emerging Communications Branch
Department of Infrastructure, Transport, Regional
Development, Communications, Sport and the Arts
[redacted]

Dear [redacted]

Government Policy Project Notice – NBN Transformation Projects

I am writing in response to the letter addressed to NBN Co Limited (NBN Co/ the Company) received from the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (the Department) on 23 September 2025 providing NBN Co with an updated draft Government Policy Project Notice (Updated Draft GPPN) and seeking feedback. NBN Co welcomes the opportunity to respond.

Following the initial draft notice provided to the Company by the Minister for Communications, the Hon Anika Wells MP on 3 July 2025, the process has benefitted from constructive engagement between NBN Co, our Shareholder Departments and the Australian Competition and Consumer Commission (ACCC). As a result, NBN Co appreciates some of the material changes in the Updated Draft GPPN described in your letter as they relate to:

- the structure;
- description of the scope of the projects; and
- reporting requirements.

With these changes, the Updated Draft GPPN is better aligned to the requirements of NBN Co's Special Access Undertaking (SAU) and adopts a pragmatic approach to ongoing compliance and reporting. The Company does not have any other feedback on these matters.

The overall forecast expenditure for the NBN Transformation Projects covers:

- the NBN Network Upgrade Project, comprising up to $3 billion from the Commonwealth and an $800 million contribution from NBN Co, and
- the NBN Premises Upgrade Project which is funded by NBN Co.

The Updated Draft GPPN clearly sets out that the NBN Transformation Projects are reasonably required to achieve Commonwealth Government Policy.

Therefore, should the Minister decide to issue a Government Policy Project Notice (GPPN) for the NBN Projects, this would be a positive step that provides for these projects to be deemed prudent investments under the SAU while maintaining the ACCC's role to review the efficiency of the expenditure over time.

To respond to the Minister's concerns about the long-term implications of issuing a GPPN on cost for retailers and consumers, the most notable change in the Updated Draft GPPN is the proposal to specify a maximum amount of $2.0 billion out of the forecast $3.8 billion capital expenditure for the NBN Network Upgrade Project for the purposes of certain processes under the SAU. Specifying a maximum amount does not require NBN Co to spend less than forecast, but limits how much of the Company's expenditure is taken into account by the ACCC in making certain decisions that may in turn affect how much NBN Co can charge for services in the future.

The Company remains of the view that no maximum amount should be specified for the NBN Network Upgrade Project, or alternatively, should a maximum amount be specified, this should be set at a higher value than that proposed in the Updated Draft GPPN.

NBN Co notes that the Updated Draft GPPN does not propose to specify a maximum amount for the NBN Premises Upgrade Project so the full amount of that expenditure will be recognised for the purposes of certain processes under the SAU, as long as the expenditure is efficient.

Maximum Amount in relation to the NBN Network Upgrade Project

NBN Co notes that, if no maximum amount is specified for the NBN Network Upgrade Project, the full amount of capital expenditure on the NBN Network Upgrade Project could be included in the Company's Regulatory Asset Base. This would be consistent with the treatment of past investments such as the rollout of the nbn Fixed Wireless and Satellite networks to provide the benefits of high-speed broadband to rural and remote users. It would also be consistent with general notions of universal service funding. In that context, it is useful to highlight that the amount by which the projected incremental building block costs may exceed incremental revenue from the project would ultimately be spread across the entire nbn network.

Nonetheless, the Company does not anticipate that the removal of the maximum amount, or an increased maximum amount which allows for more capital expenditure to be recoverable through the SAU processes, would substantially impact NBN Co's wholesale pricing forecasts. These forecasts would remain similar when compared to a scenario where no NBN Transformation Project work occurs. We consider that any price implications would also naturally be tempered by customers' willingness to pay, competition from other telecommunications networks (e.g., wireless networks, LEO and alternative fixed line networks), and general economic conditions.

Furthermore, the Government is briefed on any changes or implications of changing market conditions, project expenditure or otherwise well in advance of any potential impacts on customers or retailers through the Company's compliance with Government Business Enterprise (GBE) reporting and annual pricing obligations under the SAU. Informed by this, there are alternative and potentially more effective mechanisms available to the Commonwealth, apart from the imposition of a maximum amount, should affordability concerns arise in the long-term. For example:

- the Minister for Communications has the option of issuing a Ministerial Pricing Determination under Part XIC of the *Competition and Consumer Act 2010*;

- nbn's Shareholder Minsters are able to provide a pricing-related direction to NBN Co as a GBE; or
- the ACCC may exercise its enhanced powers to set maximum prices, and the framework for controlling or setting maximum prices, for the period FY33-FY40.

A restrictive maximum amount will limit NBN Co's opportunity to recover possible project revenues, limiting the Company's ability to recover efficiently incurred costs under the regulatory framework that NBN Co operates in, should more favourable market conditions transpire.

Should the Minister still be minded to specify a maximum amount, NBN Co requests increasing the amount specified so that it would better balance the Minister's long-term pricing concerns with NBN Co's ability to preserve the option to recover more of its efficient NBN Network Upgrade Project costs over time should market conditions permit the Company to do so.

NBN Co's Shareholder approved Capital Management Strategy outlines the Company's target financial ratios, and its objective of achieving a standalone investment grade credit rating which is a requirement for all prescribed GBEs. To support the delivery of its financial targets, including the future achievement of a standalone investment grade credit rating, NBN Co's Capital Management Strategy is predicated on the principle that NBN Co will seek to recover efficient costs related to its capital programs including Commonwealth Government policy driven projects such as the NBN Transformation Projects. This is critical in enabling the Company to execute prudent capital management practices and to continue to upgrade the network from legacy to more advanced technologies.

The proposed approach to setting a maximum amount by the Department is based on analysing the difference between NBN Co's forecast additional revenue from the NBN Transformation Projects with the forecast increase in the Annual Building Block Revenue Requirement (ABBRR) expected to result from delivering the upgrades, whilst also taking into account some scenarios that may result in positive revenue outcomes for NBN Co.

However, the long-term economic modelling out to FY40 is inherently uncertain as key inputs are based on assumptions and are, by nature over an extended period of time, subject to change. In these circumstances, should a maximum amount be deemed necessary, a more cautious approach to setting a maximum amount should be applied. For example, specifying an amount that is too low, as currently proposed in the Draft Project Notice, adds greater risks to NBN Co achieving its target revenues, funding ongoing investment in the network and meeting financial objectives.

Movement of Expenditure between Financial Years

The Updated Draft GPPN contemplates setting maximum amounts per financial year between FY25 to FY32 for the NBN Network Upgrade Project (as required by the SAU). Noting that construction projects are dynamic in nature, the level of capital expenditure incurred each financial year may result in the Company underspending or overspending in any given year. NBN Co seeks the inclusion of a mechanism in the Updated Draft GPPN which acknowledges the uncertainty associated with profiling the expenditure in each financial year and allows for rollover of any unused maximum amount between years (in circumstances where a maximum amount remains part of the Updated Draft GPPN).

We look forward to continuing to engage with the Department and ACCC on the approach for setting the maximum amount in relation to the NBN Network Upgrade Project and in relation to any other matters arising regarding the Updated Draft GPPN.

Should your Office or Department require further information on these matters, please contact [redacted] Executive General Manager – Government Relations, on [redacted]

Yours sincerely

[redacted]

[redacted]
Executive General Manager
Economic Regulation, NBN Co

<u>Copied to</u>:
[redacted] Chief Legal and Regulatory Officer, NBN Co
[redacted] Deputy Secretary, Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts
[redacted] First Assistant Secretary, Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts