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NBN Review
Department of Communications
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Review Panel,

**Cost-Benefit Analysis and Review of Regulatory Arrangements for the National
Broadband Network**

The Property Council of Australia welcomes the opportunity to provide input on the Cost-Benefit Analysis and Review of Regulatory Arrangements for the National Broadband Network (NBN).

The Property Council represents the \$670 billion property investment industry in Australia. Our 2,000 member firms and 55,000 active industry professionals span the entire spectrum of the property and construction industry.

Our members operate across all property asset classes—including office, shopping centres, residential development, industrial, tourism, leisure, aged care, retirement and infrastructure.

The NBN rollout has significant implications for the property industry and the residential development sector in particular.

Regulatory and policy frameworks for NBN provisioning in new property developments have been subject to a number of reviews since 2009.

Despite these, the industry still experiences frustrations with NBN provisioning, which stem from:

- A lack of transparency and timeframes around NBN network planning, including back haul to the development head-end;

- On-going developer liability for pit and pipe infrastructure, which is designed and built to NBN Co specification; and
- Anti-competitive structure for the reticulation of fibre-to-the-premise; and
- Loss of oversight for contractors and subcontractors delivering fibre to new developments.

The NBN Co's own Strategic Review noted that there are issues in respect of NBN Co's role in new developments. This submission outlines the property industry's preferred approach to addressing systematic failures in NBN's delivery to new developments.

Preferred Approach in New Property Developments

1. Improve transparency and timeframes around NBN network planning, including back haul to the development head-end

There have been significant delays in connecting new property developments into the broader NBN system.

Largely, this has been due to delays in approving existing conduit runs external to sites or the need to install new conduit runs.

Delays have also been caused by mismatches in delivery to pre-identified staged developments, which has led to a failure to receive sign-off on telecommunications services from government planning authorities.

This has led to compromised settlements as developers are unable to get property titles without telecommunications connection.

Issues with property purchasers include:

- not getting NBN service as promised or expected;
- a perception that telecommunications facilities are compromised; and
- fibre cabling delivered by NBN co is often of a poorer quality than that promised.

Telecommunication services, especially telephone services, are considered minimum standard for new homes such that marketability is severely affected if they cannot be guaranteed at time of settlement.

In some cases consumers are still on less reliable and slower 3G and 4G services as an alternative to NBN—even though fibre infrastructure has been installed between the head-end and individual premises—due to delays by NBN Co.

It is essential that delivery of backhaul infrastructure is coordinated with urban land release programmes on a state-by-state basis.

This will limit wasteful duplication and provide certainty around planning for the development industry.

Greater numbers of premises can be connected to the NBN at a lower price by focussing on timely and coordinated roll-out of NBN back-haul to new property developments.

In order to achieve this, the NBN Co must address structural inefficiencies within its own operations, including:

- early identification of back haul programme priority areas;
- improved staffing and expertise in property development and urban planning;
- increasing resourcing for back haul delivery to new development; and
- offering alternatives, including giving developers the ability to manage the delivery of NBN on-site.

2. Remove the on-going developer liability for pit and pipe infrastructure built to NBN Co specification

Developers are required to provide lifetime guarantees that indemnify NBN Co against any defect or fault associated with NBN pit and pipe infrastructure built during development.

This is despite the designs being lodged and approved by NBN Co's contracted agent and having been built by developers according to the specification of the NBN Co.

The cost and risk for the industry associated with this requirement is unsustainable, especially since ownership is relinquished at the point of completion with the understanding that all responsibility for maintenance rests with NBN Co, not the developer.

Ironically, the same lifetime guarantee is not required for copper, electricity or sewer networks built by developers.

It is the view of industry that there is already strong oversight from the NBN Co to ensure the standard of pit and pipe infrastructure. This oversight includes requirement that developers:

- submit master plans for overall development;

- enter into a master developer agreement;
- design pit and pipe infrastructure to NBN Co specifications and standards;
- submit to NBN Co for review prior to installation;
- install pit and pipe infrastructure to NBN Co specifications and standards; and
- relinquish ownership to the NBN Co.

A workable alternative to ongoing developer liability is ensuring there is an inspection by the NBN Co of a development's pit and pipe infrastructure.

This would be completed prior to the transfer of ownership and would ensure that the NBN Co was satisfied with the standard of build prior to assuming full control and responsibility for the infrastructure.

The requirement to indemnify should be removed both in contract and in practice.

3. Improve competition and timeliness in the reticulation of fibre-to-the-premise

Competitive and free markets have driven innovation and cost reductions in telecommunications since the early 1990s.

Impediments to more competitive and timely provision of reticulated fibre-to-the-premise should be removed or waived.

This would reduce risk and timeframes for developers who who have no control or certainty of the delivery timetables for NBN Co and its subcontractors for the completion of reticulated fibre-to-the-premise.

It would also maximise efficiency and lower costs by allowing fibre to be installed like a utility service when pit and pipe are open.

This was the principle driving the policy but it has not been delivered in practice.

The proposed rebate would ease the burden on the NBN Co and improve connection outcomes. It also reflects a net cost savings for the NBN Co, provided such networks meet NBN specified standards.

Currently, NBN Co is the only provider of last resort to comply with requests for installation of fibre at developments of 100 or more premises.

A change would ensure that established and suitable infrastructure is recognised by NBN as of sufficient quality to provide NBN services and that property developers are adequately compensated for managing and delivering the rollout.

This goes to the Review Panel's objective to seek views on how to encourage innovation and diversity in areas or markets that are less competitive.

Specifically, the industry supports the introduction of a system of rebates, which will encourage faster deployment of fibre infrastructure in new development by allowing developers to manage through an approved sub-contractor.

This gives the developer back control over the work programme, the developer is able to advise buyers and local government that the infrastructure has been delivered and represents a net cost saving for the NBN Co from improved efficiencies.

The NBN Co should consult with industry to determine the parameters that set the price for the rebate. There should also be consultation to determine:

- how the shift will impact overall cost to the NBN system;
- who will incur liability; and
- in the absence of a monopoly, how to ensure the NBN remains open to a range of service providers.

4. Retirement Villages should be treated as 'Complex Premises' to protect emergency call needs

Retirement Villages need to be treated as 'complex premises' because they share similar emergency calling requirements to aged care facilities and hospitals, in particular:

- Special consideration needs to be given to how emergency call systems can best be supported under the new NBN rules, and the regulatory requirements imposed on all operators.
For example, is it more cost-effective for villages to be encouraged to move to wireless technology for emergency buttons, than have battery back-up installed for fixed line networks (such as the NBN).
- There is a real and present risk that emergency call systems in villages will be unable to keep up with current standards (AS4607-1999 – Personal response systems) and not meet operational requirements, heightening the risk of malfunction.
- Recognition that due to special circumstances some retirement villages may continue to require copper and fibre connections.

5. Commit to enforceable installation guidelines for the NBN Co and contractors working in established buildings

Amendments to the Telecommunications Act associated with the NBN have exacerbated the problem of carriers not fulfilling their obligations under the Act.

The NBN has increased the number of facilities that can be installed without a building owner's consent, which increases the likelihood of problems.

Building owners are concerned that NBN providers:

- do not provide sufficient notice or information before undertaking work within a building;
- fail to observe critical safety standards, creating OHS and fire hazards;
- impede building maintenance by inappropriately installing cables and other equipment within common areas such as ceiling spaces;
- use space inefficiently and rarely remove redundant equipment from buildings, leading to clogged risers and tenant areas;
- do not properly label equipment or document work making it difficult for owners to manage their buildings and rectify issues;
- do not supervise or audit contractors who install equipment in buildings; and
- do not compensate building owners for costs associated with:
 - providing space for installing equipment within their buildings;
 - managing carrier equipment installed within their buildings.

The property industry supports the introduction of a more stringent framework for NBN providers installing telecommunications equipment in buildings. Our solutions include:

- clear, regulated requirements for carriers to engage with building owners;
- model access terms and conditions;
- a properly enforced code of access; and
- better guidance materials for building owners and managers.

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We thank you for the opportunity to provide comment on the Cost-Benefit Analysis and Review of Regulatory Arrangements for the National Broadband Network. If you have any questions regarding the Property Council or this submission, please do not hesitate to contact me on 02 9033 1900 or ckakas@propertyoz.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C. Kakas', with a long horizontal flourish extending to the right.

Caryn Kakas
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