



# **NBN Co Limited submission: Draft Telecommunications in New Developments (TIND) policy**

**June 2020**



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## Introduction

Thank you for the opportunity to provide a submission on the Australian Government's Draft Telecommunications in New Developments (TIND) policy. NBN Co Limited (**nbn**) welcomes a clearer and more succinct draft policy and agrees with the two policy objectives:

- *to provide people moving into new developments with ready access to modern telecommunications, both voice and broadband;*
- *to support a competitive and sustainable market for the provision of such infrastructure, thereby fostering efficiency, innovation and choice.*

As outlined in **nbn**'s submission on last year's discussion paper titled *Review of the 2015 Telecommunications in New Developments (TIND) Policy (Discussion Paper)* many parts of the TIND policy work well and should not be changed. **nbn** is pleased to see that the revised draft policy retains many key features, but provides **nbn** with greater commercial flexibility overall.

**nbn** would like to provide specific comment on:

- changes to the way **nbn** can charge developers
- removal of the Ministerial approval requirement to overbuild other carrier networks
- definitions of new developments
- broadband and voice services on fixed networks
- Fibre-ready and other telecommunications facilities
- developer responsibilities.

### 1. Changes to the way nbn can charge developers

The draft policy allows **nbn** to charge up to the amounts set out in **Annex A**. This provides **nbn** with additional commercial flexibility and also provides the industry with a level of certainty about the cost of provisioning telecommunications infrastructure in new developments. **nbn** is supportive of the pricing model provided in the draft policy.

In addition to capped pricing, **nbn** notes that the draft TIND policy enables **nbn** to charge above the capped prices for value-added services, such as expedited delivery. **nbn** supports being able to charge for value-added services, though notes that a market assessment and consultation with customers would need to be undertaken before any such charges would be operationalised. **nbn** considers that late applications fall under this category as **nbn** may need to expedite delivery. This may also encourage timely applications, which should also have benefits for residents by aiding installation of services before occupation.

As outlined in the draft policy, *'consistent with established practice, the provision of telecommunications to one-off major projects like major office complexes, industrial sites, commercial premises, hospitals, airports, hotels or similar, would be subject to commercial negotiations'*. **nbn** would like to treat any commercial premises that requires a business grade service in this manner and understands this to include new developments that contain a proportion of commercial premises.



## 2. Removal of Ministerial approval requirement to overbuild other carrier networks

**nbn** welcomes the removal of the requirement to gain Ministerial approval to overbuild other carrier networks. As outlined in the TIND Discussion Paper and in **nbn**'s submission to the Discussion Paper, there are other checks and balances in place that help to ensure **nbn** will only overbuild other carrier networks where there is a commercial case to do so. The draft TIND policy makes specific mention of lower density residential markets. It is unlikely that **nbn** would overbuild a residential grade service in a lower density area as it would likely be uncommercial for **nbn** to do so.

Additionally, the TIND policy and **nbn**'s requirement to meet the Commonwealth Government's Competitive Neutrality policy only permits **nbn** to overbuild in circumstances where **nbn** will recover its costs, including a commercial rate of return. The relaxation on requiring Ministerial approval does not change this.

To the extent that **nbn** has market power, **nbn** is prohibited by Part IV and Part 11B of the *Competition and Consumer Act* (Cth) from overbuilding any competing network if doing so has the purpose, effect or likely effect of lessening competition. In this regard, **nbn** believes that the draft policy accords with best practice regulation whereby competition regulation is most appropriately monitored and enforced by the competition regulator.

## 3. Definitions of new developments

The draft TIND policy provides more clarity under 'what is a development' about the range of building activities that could constitute a new development, and the subsequent requirements both from developers and **nbn** to ensure a service is provisioned. **nbn** also notes that it will be required to publish information on the treatment of infill developments including construction of new premises on vacant land, new subdivisions, and knock-down rebuilds. **nbn** commits to publishing this information to ensure developers have visibility of which charges apply under **Annex A**. **nbn** suggests the final TIND policy clarifies that **nbn**'s website is the source of truth for pricing information.

## 4. Broadband and voice services on fixed networks

**nbn** suggests that this paragraph (2.3) in the draft TIND policy make specific reference to the fact that new developments should be predominantly served by fixed-line infrastructure, unless they fall outside **nbn**'s fixed-line footprint and it is not commercially viable to provide a fixed-line service.

## 5. Fibre-ready and other telecommunications facilities

**nbn** notes that this section (2.4) in the draft TIND policy refers to fibre ready facilities and active infrastructure. Fibre ready facilities are defined under 20A of the *Telecommunications Act 1997* and includes pit and pipe infrastructure required to service a new development. However, the definition under 20A does not include a description of the conduit required to connect an apartment building in a multi-dwelling structure. **nbn** suggests that this is something that should be updated in the *Telecommunications Act 1997*, separate to the TIND policy review process. This change would help ensure developers are providing fit-for-purpose infrastructure during the development process in apartment buildings.

## 6. Developer responsibilities

**nbn** requests minor wording changes are made to this section (3.2) to clarify developer responsibilities in practice:



From:

The *'standard'* notice period for a developer to apply to NBN Co to install infrastructure is six months...

To:

The *'minimum'* notice period for a developer to apply to NBN Co to install infrastructure is six months...

From:

NBN Co asks for a minimum of four months (120 calendar days) between *'the provision of pit and pipe and the ready for service date'*.

To:

NBN Co asks for a minimum of four months (120 calendar days) between *'completion of pit and pipe to the satisfaction of NBN Co and the ready for service'*.

**In summary**

**nbn** is supportive of the draft TIND policy, believing it retains many of the parts of the policy that worked well and addresses many of the asymmetric policy settings which can hinder **nbn** from competing in the new developments market. **nbn** looks forward to continuing to innovate and provide high quality telecommunications services to its customers and to the revised TIND policy taking effect in the near future.