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UDIA Response to the Government's Proposed Approach to the Provision of Telecommunications Infrastructure in New Developments

The Urban Development Institute of Australia (UDIA) welcomes the opportunity to provide this submission in response to the Government's proposed approach to the provision of telecommunications infrastructure in new developments, as outlined in the document *Telecommunications infrastructure in new developments: policy update for comment*.

UDIA is the peak body representing the interests of the development industry around Australia, acting on behalf of over two thousand members across the country, from a wide variety of fields and professions.

UDIA supports the goals of the proposed policy relating to fostering greater competition, improving regulatory provisions, and reducing red tape in the rollout of the NBN, in order to support businesses, and ensure that households in greenfield areas receive high quality telecommunications infrastructure in a timely manner.

However UDIA has serious concerns with aspects of the proposed policy that will cause cost shifting from NBN Co to developers and subsequently greenfield home buyers through higher new home prices.

This will negatively impact on housing affordability and economic activity in the sector, and will unfairly burden new home buyers with paying for infrastructure that the rest of the community gets for free.

Fundamentally, UDIA believes that savings to the Government in rolling out the NBN must come from improving efficiency and reducing costs, not by inequitably and unjustly cost shifting to new home buyers.

Introduction of Additional Connection and Infrastructure Charges

-NBN Co will levy a one-time connection charge of \$300, which it is anticipated retail service providers (RSPs) will pass through to end-users.

-NBN Co will levy a deployment charge on developers for infrastructure. The charge is \$600 for single-dwelling units (SDU) and \$400 for multi-dwelling units (MDU).

Developers, and subsequently new home buyers, already make enormous up front contributions to the cost of providing the infrastructure to service new developments, both through existing directly levied infrastructure charges/levies/contributions, infrastructure provided in kind, and also through taxes such as stamp duty and GST. As a result, new housing is presently one of the most highly taxed sectors in the Australian economy, with taxes and charges accounting for up to 44% of the cost of a new home in some areas¹.

New home buyers already cover the significant cost of installing pit and pipe infrastructure, typically at a cost of \$500-\$1500 per lot, which existing households do not have to pay. In this context, the proposal to impose yet more costs on new home buyers whilst simultaneously providing the associated infrastructure to existing households at no cost is highly inequitable. It is also particularly concerning given that many new home buyers are some of the least financially able to bear this cost (for example young families and first home buyers).

Further, the introduction of new charges on top of the multitude already levied is likely to have a perceptible impact on housing affordability, and will drag on jobs and activity in the development and construction industries, at a time when supporting new housing activity is of great economic importance. The impact is likely to be particularly pronounced at the lower and 'affordable' end of the market, which is highly price sensitive.

The Government must not inequitably burden new home buyers with an additional connection charge, infrastructure contribution, and the cost of backhaul. Other options should be pursued to improve contestability and 'level the playing field', such as a build and transfer model.

Introduction of Charging for the Provision of Backhaul

Where it doesn't have backhaul available to connect a new development, NBN Co may charge developers a co-contribution of up to 50 per cent of the first \$1000 per lot of capital costs it incurs. Developers will be liable for 100 per cent of backhaul costs in excess of \$1000 per lot.

¹ CIE Taxation of the Housing Sector 2011

Unlike infrastructure provided within a greenfield estate, backhaul serves as trunk infrastructure that benefits the wider community. Backhaul provided to new estates will be utilised by the established areas along its path as the Government rolls out FTTN to existing households currently serviced by the copper network. It is extremely inequitable to require new home buyers to bear the cost of that backhaul infrastructure upfront, whilst the broader community and established households receive it at no cost.

There are also major practical problems with charging up front for the cost of providing backhaul infrastructure. It is likely that in cases where backhaul must be brought to a new greenfield area, the first developer to that area will have to cover the cost of backhaul to the area, whilst subsequent developments are able to free ride off that initial investment. This creates a first mover disadvantage that is likely to discourage developers from developing new areas, distorting investment, consumer purchasing decisions, and the supply of new housing.

Additionally, charging up front for backhaul will particularly disadvantage home buyers in regional Australia, where backhaul requirements to new estates tend to be greater on average. These areas tend to have lower land and house prices than capital cities, so the additional charge will translate into a larger percentage increase in end prices for new home buyers in regional areas, relative to their capital city counterparts.

UDIA notes that the draft policy provides an example where the backhaul contribution is lowered with the expectation that the backhaul will be used to service additional premises at a later date, however no other details are provided within the document. Given the uncertainty about the future utilisation of backhaul to service future developments and established areas, it would be difficult to assess the true cost of providing backhaul to a new development. Such a mechanism, if proposed, would need to be transparent and provide certainty in its operation.

UDIA believes that **the Government must continue to cover the cost of providing backhaul to greenfield areas, not impose it up front on new home buyers.** NBN Co has the ability to cover the cost of providing backhaul through ongoing network charges, and this should be pursued, rather than recovering costs up front at the expense of new home buyers.

Pit and Pipe Specifications

NBN Co will consider simplifying its pit and pipe specification with a view to it being promulgated as the default industry standard which non-carriers would need to follow. Licensed carriers would be able to diverge from these specifications where they have their own established alternatives and they comply with the industry guideline.

UDIA has long been of the view that NBN's existing pit and pipe specifications are unnecessarily 'gold plated', and as such, welcomes the proposal for a set of simplified specifications.

In particular, UDIA understands that the network hardware used by NBN has shrunk since the original pit and pipe specifications were created, and thus there is a considerable opportunity to lower the cost to new home buyers and industry by revising the specifications.

The extent to which pit and pipe costs could be reduced by removing 'gold plating' is evidenced by the much lower cost of providing pit and pipe for infrastructure used by private carriers.

As such, UDIA welcomes the proposal to introduce a simplified set of pit and pipe specifications, and supports further removal of 'gold plating' from network infrastructure. Additionally, if NBN Co wishes to promulgate an industry standard set of specifications, it should consider adopting the specifications devised by the Communications Alliance.

Changes to Planning Laws

The Australian Government will continue to work with state and territory governments directly and through the Council of Australian Governments (COAG) process to amend planning laws to require the provision of quality telecommunications infrastructure, to the greatest extent appropriate, as a condition of development approval and occupancy.

Access to quality telecommunications, along with access to other essential services such as water and electricity, is considered an absolute necessity by the vast majority of new home buyers. Inferior access to telecommunications is simply not tolerated by buyers in the competitive market for new homes.

As such, developers have an extremely good commercial incentive to ensure that their estates are provisioned with high quality telecommunications infrastructure from the time new buyers move in. Apart from a handful of exceptions, it is almost universally the case that high quality telecommunications are in fact provided in new estates.

Given that the current arrangements already result in the provision of high quality telecommunications infrastructure, amending planning laws to require its provision is likely to be redundant, and would create the possibility for additional costs, delays, and regulatory compliance burden.

UDIA believes that **the Government should not seek to have planning laws amended to require the provision of telecommunications infrastructure.** This is likely to amount to additional red tape, and is unnecessary given the success of the existing arrangements.

Transitional Arrangements

The Government proposes that NBN Co cost recovery charges for deployment and backhaul should apply for all applications received on or after 1 March 2015.

Urban development is a very time consuming process, with many projects taking several years to reach completion. Uncertainty is a major problem for businesses when dealing with such long time frames, as it increases costs and serves as a barrier to investment.

In the case of the NBN rollout, many developers have undertaken planning and made commercial decisions based on the existing long standing arrangements regarding the provision of telecommunications infrastructure.

The Government's proposal to commence its new NBN rollout policy by 1 March 2015 is far too little notice, and is likely to have major impacts on many projects. In the context of projects taking years to plan and commence, 1 March 2015 is less than 4 months' notice, a large proportion of which was during the Christmas break when many in industry were away on leave.

The draft policy document also creates uncertainty as to which projects will and will not be subject to the new policy. The document is not clear about whether the new fees and charges will only apply to applications accepted by NBN Co by the commencement date, or by applications received by NBN Co by that date as well. There is concern within industry that processing of current applications by NBN Co may be delayed, and subsequently not accepted by the commencement date.

Additionally, contrary to the intention of the policy not to affect existing agreements, and also contrary to advice received previously, there is the potential for the policy to impact on estates that already have existing agreements in place, where the agreement only covers a portion of the estate.

Given the uncertainty for the industry the draft policy has created, and the likelihood for major impacts on the industry as a result of the policy's introduction, **UDIA believes that a commencement date of 1 March 2015 is unacceptable, and a minimum of 12 months' notice should be provided before the commencement of the new policy, to allow industry sufficient time to make any necessary arrangements.**

Other Elements of the Policy

Industry (through the Communications Alliance) will be asked to establish an adjudicator to resolve disputes over IPOLR responsibilities. Alternatively, the Government will establish an adjudicator at industry's expense.

Disputes regarding the infrastructure provider of last resort (IPOLR) have been a considerable problem in the rollout of the NBN in the past, and a significant cause of delays and additional cost borne by the development industry. In too many previous instances it has been the case that disputes between Telstra and NBN Co over IPOLR responsibilities have resulted in unnecessary costs and delays in the rollout of network infrastructure.

UDIA supports the appointment of an adjudicator (through the Communications Alliance) to resolve disputes over IPOLR responsibilities.

NBN Co will trial arrangements for purchasing networks built to its specifications at pre-agreed prices from infrastructure providers, contractors or developers.

The introduction of a build and transfer model of network rollout, whereby infrastructure is built privately and then transferred to NBN Co at an agreed price is likely to have a number of benefits:

- Increased capacity for infrastructure delivery and a faster rollout by utilising the capacity of private providers (in the past the rollout has been delayed by internal capacity constraints within NBN Co).
- A more level playing field, whereby private network operators can compete for a contract to build and transfer network infrastructure to NBN Co at lowest cost.
- By improving competition and by utilising the technical expertise, knowledge, and skills of private network providers, it is anticipated that in many cases, network infrastructure can be rolled out at a substantially lower cost than is currently done by NBN Co.

UDIA supports the introduction of a trial build and transfer model for the provision of the NBN, along with the investigation of other contractual models. Such models present a potentially viable way to 'level the playing field', reduce the cost, and improve the speed of the NBN rollout in greenfield areas, without burdening new home buyers with additional upfront costs.

Additional Opportunities for Improvement

The following comments highlight additional areas where UDIA believes that Government's NBN policy could be improved to affect a more efficient and less costly rollout.

- Network activation needs to be improved so that retail service providers (RSPs) are better informed about the practical completion of stages so they can connect customers. This is a major point of frustration for developers.
- One of the causes of roll-out delays is reaching practical completion and NBN defecting entire stages over sometimes relatively minor issues. NBN should devise remediation methods that don't affect an entire estate for a minor problem.

Conclusion

UDIA thanks the Department of Communications for the opportunity to provide this submission in response to the Government's proposed approach to the provision of telecommunications infrastructure in new developments. UDIA would welcome the opportunity to discuss any aspect of this submission in greater detail. For further information, please contact UDIA National on 02 6230 0255 or at udia@udia.com.au.