

Friday, January 23, 2015

The Hon. Malcolm Turnbull  
Minister for Communications  
House of Representatives  
Parliament House  
CANBERRA  
ACT 2600

Delivered by email: [greenfields@communications.gov.au](mailto:greenfields@communications.gov.au)

**Submission on the Telecommunications Infrastructure in New Developments Policy**

Dear Minister

The Property Council of Australia welcomes the opportunity to make submissions in response to the release of the Telecommunications Infrastructure in New Developments Policy.

We would also like to recognize the valued interaction and communications with industry through the New Developments Committee, the Department and your office to bring about realistic efficiencies, cost savings and drive practical advancement in the roll out of the NBN network.

The Property Council's submission focuses on the introduction of additional infrastructure and backhaul charges and the concerns of industry for new developments. Industry has questions about how the timing of such a proposal to increase charges would add costs to home buyers in the future and identifies that it contributes significantly to infrastructure provision already.

Alternatively, the submissions focuses on the need to work together to develop a build transfer rebate system as well as to simplify pit and pipe specifications, both of which would maximise efficiency and lower costs to the roll out into the future.

If you have any further questions regarding the Property Council's submissions please do not hesitate to contact me to discuss.

Yours Sincerely,



Nicholas Proud  
Executive Director—Residential Development Council  
Property Council of Australia

# **Submission on the 'Telecommunications infrastructure in new developments policy'**

January 2015

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### About the Property Council

The Property Council represents the \$670 billion property investment industry in Australia.

The Property Council's 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 villages and infrastructure.

The Residential Development Council (RDC) is a national policy division of the Property Council of Australia. The leadership of the Residential Development Council represent the most senior management of Australia's leading residential development companies.

### The property industry by numbers

- \$34 billion p.a. in property-specific taxes;
- \$340 billion in investment grade assets under management;
- 1.3 million jobs (12.8 percent of the total workforce);
- \$148 billion in direct economic activity;
- 11.5 percent of Australia's GDP.

### NBN New Policy Overview

On 12 December 2014, the Federal Government released its New Developments Policy.

The Telecommunications infrastructure in new developments policy ('the policy') outlines the Government's proposed approach to the provision of telecommunications infrastructure in new developments. This includes proposals for cost recovery measures for the provision of telecommunications infrastructure in new residential developments.

## Introduction

This submission focuses on the key issues arising from the policy which will significantly impact residential developers and homeowners nationally.

The residential development industry remains concerned about the quantum and timing of additional costs, particularly backhaul charges for new developments. It is likely that the implementation of these charges will increase the cost of delivering housing, which will in turn be reflected in the prices paid by homebuyers.

In order to ensure housing affordability is not compromised the Property Council supports alternate measures being considered. In order to reduce costs and simplify infrastructure provision we recommend:

- Introducing a Build Transfer model for NBN provision;
- Simplifying the design specifications and providing flexibilities for the location of pit and pipe;
- Reviewing pit and pipe warranties;
- Increasing development flexibilities;
- Using planning reform to achieve efficiencies;
- Reducing overall costs and support pre-provisioning by co-development; and,
- Improving communications regarding connections scheduling and delivery timeframes.

Further discussion about the proposals in the policy with particular focus on build transfer is needed prior to any changes coming into effect.

The Residential Development Council and its members look forward to working with industry, the Department of Communications, NBN Co. and the Government as the New Developments Committee to ensure critical communications infrastructure is delivered in a timely, equitable and cost-effective way.

## 1. Backhaul Charges

The policy currently proposes that 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.

### 1.1 Impacts on housing affordability

#### The Issue:

The cost structure stated in the policy raises concerns for RDC members, particularly the backhaul co-contribution.

The development industry has had to incur additional costs over the past decade due to changes to regulations, which result in an additional cost to the price of a new home.

Home buyers already pay up to \$90,000 in Sydney, \$80,000 in Melbourne and \$60,000 in Brisbane for infrastructure to be delivered to an average priced housing lot.

Minister Turnbull's response to the Vertigan review indicating that full cost recovery will not be sought from developers for NBN to be delivered in new housing estates is welcome relief for an industry already smothered by taxes, charges and red/green tape.

Further, the RDC are of the understanding that backhaul should actually be a minimal, if not zero cost for developers as in the majority of cases as they will fall within the Transit Network. However, the boundaries of the transit network are uncertain and development outside these boundaries could be affected.

Additionally, the proposal raises an equity issue for new home buyers as opposed to those buying existing stock i.e. new home buyers may be forced to pay for backhaul costs whereas existing home owners will not.

Buyers in new housing estates, many purchasing their first home, would be charged to build the system while established suburbs residents will pay a substantially cheaper connection fee.

There is also a sovereign risk issue for developers who have acquired land based on the feasibility of development who will not have factored in these additional costs. In this case the developer's only options are to try to pass the cost onto buyers or simply not develop.

If the developer has not already purchased the land then landholders inadvertently should expect to see their land value reduce as it will need to take into account this cost if developed. This will be a concern for those landholders who are yet to have this realisation.

#### **The Solution:**

Caution must be taken when considering any policy which will result in additional costs for new homebuyers. In its current form, the policy will reduce supply of new dwellings in some locations and place upward pressure on prices.

Further consideration should also be given to the equitable distributions of costs for the provision of infrastructure that the wider community benefits from.

The development of a build transfer model, with input from the development industry, would address many of the issues raised above, and also result in budget savings for NBN Co and Government.

### **1.2 Uncertainty created by the policy**

#### **The Issue:**

The current recommendation regarding backhaul charges does not sufficiently consider the unique nature of backhaul requirements for

individual developments, nor whether it in fact services a much larger development catchment.

It is noted that the recommendation has a mechanism to cost-share between NBN Co and the developer where the backhaul cost is in the lower range. However, the proposal can place an inequitable burden on the 'first mover' developer where the backhaul cost is significant in a new development frontier, i.e. where a project is first to go to market and is required to pay more than its nearby competitors.

There is a lack of detail on transparency on backhaul costs and whether these are derived from a competitive tender process to drive best value and minimise cost on the developer and end purchaser. In lieu of transparency of the backhaul costs, there is concern that NBN may just adopt the maximum backhaul charges under the current proposal.

Under this scenario, there is potential for an adjoining landowner/developer to receive a 'free ride' by benefiting from the first developer's major up-front cost.

This is an inefficient deployment of resources and could also force smaller developers without the financial capacity to fund major backhaul costs to wait until a larger nearby development has commenced. Not only will this place great financial strain on small-scale developers who will continue to incur land holding costs, it will artificially distort development pipelines and impact supply in many areas.

Further, other issues raised by the policy that require clarification include:

1. The timing of such a recommendation and its effect on stage developments in progress in 2015;
2. Whether backhaul costs will be calculated over the total number of lots in a development or only the number of lots in the current MDA;
3. The degree of transparency provided by NBN when advising developers of cost liability for backhaul and the necessity for these costs (or cost

- estimates) to be made well ahead of scheduled roll out to inform feasibilities;
4. Eligibility to treat backhaul costs as a creditable works item where the first developer gets monies refunded as new developments connect to the backhaul they paid for;
  5. Methods of payment;
  6. The charges for small developers i.e. 6-pack town house developments, under the policy, as they are most likely not to make an application. Therefore they will not be 'caught up in the act' and will not be required to pay anything towards the connection of their development;
  7. The potential for a rebate model for developers undertaking, and paying for, development and infrastructure provision well outside the urban fringe. In particular, whether costs will be recouped from developments between the urban fringe and the outlying development which benefit from the NBN infrastructure already being in place. In the absence of such a model, some projects will be rendered unviable;
  8. The methods by which NBN intend to recoup costs from developers of less than 100 lots;
  9. The payment collection framework and when/how payments need to be made;
  10. Alignment between the timing of completion of a development and the completion of the backhaul by NBN Co:
    - a. At the master planning stage of a multi stage development, the required date of the delivery for the backhaul is based upon a long term construction program.
    - b. While this schedule is always subject to weather and other delays, it can easily be communicated to NBN Co by developers at regular site meetings to ensure their backhaul services are delivered in time for the first residents/customers.
    - c. To the absence of such communication, and similar transparency from NBN Co, connection delays occur causing frustration for the first residential customers.

- d. In the past, RDC members have had to fund temporary wireless internet connections for early residents in estates whilst NBN finalise the backhaul servicing of the first stages of some projects.
- e. Timing for backhaul to developments can be significantly delayed when compared to practical completion of pit and pipe, especially during early stages of new development, and communication between developers and NBN Co is critical to minimise confusion and costs.

### **The Solution:**

When Developers are conducting feasibility studies on potential new sites, NBN Co must be able to provide information on any cost estimates for backhaul and pit and pipe. This would ensure these costs are part of the negotiations between landowner and Developer, and can be factored into the feasibility modelling of the project.

It is important to note that this is the only opportunity developers have to consider the acquisition price before passing the cost of NBN onto the homebuyer. Obtaining cost estimates at Development Application stage as suggested under the current proposal is too late in the process.

In addition to greater clarity and certainty regarding the issue raised above, consideration should be given to a system of caps and a system to justify and notify of pre-determined cost increases to provide certainty to all parties and ensure that cost increases are managed appropriately.

## **2. Infrastructure Deployment Charges**

### **2.1 Additional deployment charge**

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

### The Issue:

State Government, Council and other authorities continue to levy additional charges on the residential development industry.

Post the introduction of regulatory requirement the cost of telecommunications per-lot costs have roughly tripled from the costs under the old copper system.

A full breakdown of aggregated feedback from our members provided in the table below:

	Copper Connection	Pre-NBN Fibre Connection	NBN
High	\$800	\$2,500*	\$2,000
Low	\$250	\$1,600	\$1,500
Median	\$525	\$2,050	\$1,750

\*large scale regional developments were up to twice this price

An additional deployment charge of \$600 per lot for greenfield developments and \$400 for multi dwelling units may appear to be a small additional cost for developers, but it is another cost in a long list of charges on new home developments, and cannot be considered in isolation.

Further, while the costs proposed seem modest, there is ample precedent to suggest that, if introduced, these costs will continue to rise in the future.

Every additional cost on development compromises affordability. We urge the government to consider alternatives that will achieve the desired outcome without costing homebuyers or industry.

### The Solution:

The proposed costs for deployment should not be adopted. A more sensible solution is for NBN Co to deliver savings to the budget through a build transfer model.

## 3. Budget Saving Build Transfer Model

### 3.1 Build transfer of networks

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

### The Issue:

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 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 other utility services when pit and pipe are open.

This was the principle driving its inclusion in the policy and was the position of the Government at the election. It should be delivered in practice.

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

Currently, NBN Co is the only provider of last resort for installation of fibre at developments of 100 or more premises. A change would ensure that established

infrastructure can be recognised by NBN Co as suitable for delivery of NBN services, and that property developers are adequately compensated for managing and delivering the rollout.

This is in keeping with the Vertigan 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 delivery through an approved sub-contractor.

This gives the developer control over the work program, allowing them 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.

RDC members have no issue with this proposal and would be willing to participate with NBN Co in the trial.

Fundamentally this was the position taken by the Federal Government into the last election and should be considered over adding additional charges to the cost of a new dwelling.

#### **The Solution:**

Proceed with this recommendation as this commitment maximises efficiency and lowers costs by allowing fibre to be installed like other utility services when pit and pipe are open.

The rebate will ease the burden on NBN Co and improve connection outcomes by aligning with construction that developers are already undertaking. This will result in a net cost savings for NBN Co.

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. Improving Pit and Pipe Delivery**

### **4.1 Pit and Pipe Specification**

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

#### **The Issue:**

In the original 'carve up' of costing and provision, industry agreed with the Federal Government on pit and pipe cost and provision sitting with the developer and the cost of the fibre provision to be borne by the Federal Government.

This arrangement has provided a sharing of costs, but the pit and pipe specifications can be further simplified to reduce the burden of this cost on new homes.

NBN equipment has reduced in size since the original specifications were introduced, however the NBN pit and pipe specifications have not reflected this and remain arguably 'gold plated'. There is still substantial scope for reducing the cost of pit and pipe through applying a more appropriate specification.

Some issues of the overdesign in the specifications for the pit and pipe reticulation of NBN have been resolved, but a main issue that continually arises is the required location and design of the NBN pits. With the industry wide move to smaller lots the location of the pits is an issue as quite often they clash with the drive way locations. This is particularly an issue where there is no zero lot boundary nominated and the owner is free to choose which side their garage is built.



### **The Solution:**

The specifications for pit and pipe need to be simplified and there should be a greater ability for the developer to design/build any part of the pit and pipe. An industry standard developed in consultation with that industry and private providers is recommended.

NBN Co should consider a move to more broadly authorise second tier contractors to also further reduce this cost. Developers should have the option to contract the services of 'tier two' contractors and build the pit and pipe infrastructure on behalf of NBN Co. This would reduce costs, and support a build transfer/rebate option.

In terms of location of pits, a solution would be to have greater pit location flexibility. Such flexibility includes:

- locating the pits directly opposite the common boundary between two allotments, which was common practice in the past;
- alternatively, pits could be retrofitted with a trafficable lid, when location clashes with a proposed driveway.
- A third option is to place the pit in the middle of the lot, however this requires longer lead-ins and would not be the preferred location for a homebuyer, i.e. they would not want a pit in the middle of their yard.

### **4.2 Pit and pipe warranties**

#### **The Issue:**

It is noted that under the 'Developer obligations' in the NBN deed it states: *"Warrants that the Works (Pit and Pipe), as constructed, will be fit for the purpose of installing and housing the Network Infrastructure, as reasonably ascertainable from the NBN Co Specifications."*

If an NBN Co approval regime is in place, and the constructor installs the Pit and Pipe as per the approved drawings, developers question why they must provide a warranty for fit for purpose.

Defect costs are sometimes incurred by the developer after practical completion has been issued by NBN. This is due to either delays with installation of cable in pit and pipe, or the NBN backhaul contractor taking a different view to NBN Co's previous certification of practical completion, especially where road has already been dedicated to Council.

#### **The Solution:**

A 'Deem to Satisfy' Pit and Pipe system that is acceptable to NBN Co to allow fast track approval/delivery of civil early works packages for greenfield and infill apartment projects.

### **4.3 Pit and Pipe information**

#### **The Issue:**

When a new application is made to NBN Co, arrangements are in place with Telstra to confirm "existing pit and pipe" pathways between the exchange and a new development site, to determine the most appropriate route.

There is no certainty beyond the new site pit and pipe system that the existing pit and pipe system is clear and fit for backhaul. The only mechanism to determine this is for NBN Co to send out teams to rod and rope the pathway. Once this has been done, NBN Co will approve the new pit and pipe system inside the site.

Large pit sizes can clash with other services and are expensive to construct. Additionally, NBN Co specified pit lids have on occasion been difficult to source.

**The Solution:**

The NBN Co rod and rope process should happen concurrently, in order to avoid delays to the letting of the pit and pipe in the civil contract.

**4.4 Acceptance of 'As Constructed' documentation**

**The Issue:**

There is a significant delay between the acceptance of the 'As Constructed' drawings and the installation and commissioning of the NBN reticulation. This appears mainly due to NBN Co only commencing their design after the signoff of the "As Constructed".

**The Solution:**

NBN Co to design their reticulation systems off the design plans supplied by the developer and confirm the design once the 'As Constructed' drawings are received. Specified timeframes for this stage of the process should be clear. This will result in a more efficient process.

**5. Better Planning**

**5.1 Planning**

The policy recommends that the Federal Government work with State and Territory governments to ensure planning laws support quality telecommunications infrastructure and protect consumers.

**The Issue:**

Planning systems across Australia differ significantly in scope and application, creating major delays for developers and adding to the cost of new homes.

Reform is underway in most states however there are still inconsistencies not just from State to State, but from city to city and town to town.

**The Solution:**

This recommendation should be taken up by all levels of Government to improve development assessment efficiencies, drive down cost and support quality infrastructure provision.

**6. Managing Disputes**

**6.1 Dispute resolution**

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

**The Issue:**

There is some uncertainty for industry around what the establishment of this adjudicator role involves and why, as well as to what extent, these costs would be borne by industry.

Clarity is needed around the Retailer of Last Resort provisions, particularly in relation to all other providers outside of NBN Co and Telstra. Clarity is also required around whether/how NBN Co and Telstra will accept systems that may not comply with their network standard, and how NBN Co and Telstra propose to comply with the IPOLR provisions if other providers' system have equipment/hardware located on specific sites that deliver services outside of telephony and internet services i.e. pay TV, pay per view etc.

There are questions of independence and its governance arrangements also to be considered here.

**The Solution:**

Further discussions with industry to consider this policy are required.

## **7. Other Issues**

### **7.1 Communication between providers**

**The Issue:**

Communication between providers requires significant improvement. The delay between NBN being installed in new developments and these details being updated on the providers' databases can be uncertain, and causes frustration for customers and developers alike.

Once the building is active and commissioned, NBN Co confirm which retailers have been advised of the new development via email notification to the applicant and reference to their website for details.

Unless a retailer connection application check of each of the retailers has been done for the development, most customers cannot get their service connected as the Call Centres of the respective retailers cannot 'see' the connections.

Industry report that there is a 2-4 week delay for RSP's to have new development sites uploaded in their respective systems. This causes issues with retail services availability to new customers.

This not an NBN Co issue per se, but an associated customer facing issue that needs addressing as a brand related matter.

There is confusion among new purchasers regarding NBN Co's responsibilities for the wholesale network delivery and RSPs' responsibilities for the retail services delivery.

**The Solution:**

A better system developed in conjunction with developers should be put in place to facilitate the delivery of NBN to new developments.

### **7.2 Co-development**

**The Issue:**

Joint trenching of pit and pipe with gas and electrical services creates significant time & cost efficiencies.

**The Solution:**

NBN Co should provide information to developers including, but not limited to, the following: the number of, size and specification of conduits down one side of the road; the minimum and maximum distance between pits; the minimum size and specification of pits; and number of road crossings.

### **7.3 Supplier of Choice**

**The Issue:**

Developers have found out that some developments have been left with no options of supplier in the NBN Co rollout map on the NBN Co website.

Developers may not have intended to use such a supplier but now there is a requirement to get the supplier to lodge an application changing the extent of the mapping, before we can enter an agreement with NBN.

When considering the provision of fibre to new developments, especially with providers other than NBN Co and Telstra, developers need to be cognisant of not incurring a future debt on behalf of an unformed Strata Owners Corporation or Community Association.

**The Solution:**

NBN Co should accept the developer's written nomination of supplier of choice and subsequently amend the maps accordingly without reference to other suppliers. Developers should be able to choose the supplier they use.

**7.4 Free to air**

**The Issue:**

Currently developers incur costs for the installation of antennas on dwellings in new developments due to NBN Co failing to include Free-to-Air TV in its service provision.

**The Solution:**

NBN Co must commit to delivering Free-to-Air TV via the NBN cable. This will provide a small amount of cost relief not having to install antenna's on dwellings. There needs to be greater clarity on Free to Air TV provision and costs and whether they are wholly borne by NBN.



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