



20 May 2011

The Committee Secretary
Joint Committee on the National Broadband Network
Parliament House
CANBERRA ACT 2600

Via e-mail: jcnbn@aph.gov.au

Inquiry into The provisions of the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011

The Urban Development Institute of Australia (UDIA) welcomes the opportunity to provide this submission to the Joint Committee on the National Broadband Network's Inquiry into The provisions of the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011.

UDIA is the peak body representing the property development industry throughout Australia, representing over 4,000 companies that directly employ more than 400,000 Australians including developers and a range of specialist and industry fields involved in the development sector including lawyers, engineers, town planners and contractors.

For the past two years, UDIA has been actively involved in discussions with the Government in relation to this legislation and development of the Government's NBN and greenfields policy, including as a member of the Government's Stakeholder Reference Group, and we are thankful to the Government and the Department of Broadband for this opportunity.

UDIA acknowledges that following consultations with the Government there have been significant and positive changes to this legislation from when it was originally submitted to Parliament prior to the 2010 federal election. In particular UDIA welcomes the decision to make NBN Co the fibre provider of last resort, and developers to be responsible for the provision of 'pit and pipe' in Greenfield developments.

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UDIA has also been actively involved in discussions with both NBN Co and Telstra in relation to the implementation of the Government's NBN and Greenfields policy, particularly in relation to the current transition period.

UDIA wishes to make the point up front that in general, the development industry is very supportive of the opportunity for improved telecommunications services to be made available in Greenfield sites offered by the NBN.

A number of developers across Australia have already undertaken to implement Fibre-To-The-Premises (FTTP) in their residential developments, and UDIA is keen to see the current issues relating to the transition of the new regime for the deployment of FTTP to Greenfield developments resolved as soon as possible.

The Legislation

The development industry is seeking certainty in relation to the roll-out of NBN Co in Greenfield developments. The development process for a housing estate is a long-term project, often taking up to 8 to 10 years. To ensure the financial viability of a project, developers require a level of certainty in relation to costs, timelines and technical specifications.

Over the past two years there have been a number of changes in relation to the government's proposed policies for the roll-out of FTTP in Greenfields, and also in relation to the timing for the roll-out to commence. This has caused significant uncertainty in the industry.

Therefore UDIA welcomes the regulatory certainty that legislation will provide.

In relation to the proposed legislation, as outlined above, UDIA was given the opportunity to provide feedback to the Department in relation to an earlier draft and acknowledges that several of our comments have been taken on board by the Government.

However UDIA notes that the obligations and proscribed activities outlined in the legislation, are focused on the developer, rather than putting any positive obligation on NBN Co – particularly in relation to the timing of the NBN roll-out in new developments.

UDIA is of the view that there should be some positive obligations placed on NBN Co in the legislation or regulations, particularly in relation to timing of the roll-out of FTTP in Greenfield developments.

In addition, UDIA notes that the legislation only applies to 'constitutional corporations' rather than 'natural persons'. We understand the constitutional reasons why this is the case, however we are uncertain whether this will create any potential issues/anomalies in terms of the entities that the legislation will apply to.

Other Issues

As outlined above, there are currently issues relating to the “transitional” arrangements of the introduction of the Government’s policy regarding the roll-out of FTTP in Greenfield developments, that are impacting on the development industry.

Currently there is significant confusion within the industry, essentially due to different information being provided to the industry by the main players, (NBN Co and Telstra) as well as other providers in the market who maybe providing information appropriate to their own commercial interests.

There is particular uncertainty regarding the delivery of telecommunication services by Telstra under the Universal Service Obligation (USO) for any developments of less than 100 lots.

It appears that there is not yet an agreement between NBN Co and Telstra regarding the provision of services for developments of less than 100 lots, which has created an inconsistency in how telecommunication services are being delivered in these developments.

For example, some developers have informed us that they will still be receiving copper, whereas others have indicated that they have been told they will not get copper and must pay for fibre. This issue appears to be most significant in the regions where developments are generally smaller, so more likely to be less than 100 lots.

UDIA has been in discussions with both NBN Co and Telstra regarding this situation and are aware that there are discussions are underway between the main parties to attempt to address this, but the situation is becoming increasingly urgent.

There is also confusion in relation to the ownership of pit and pipe. NBN Co contracts call for ALL pit and pipe to be transferred to NBN Co, whereas Telstra’s contracts require that the ownership of any pit and pipe they install be transferred to Telstra.

Whilst Telstra have indicated to UDIA that they intend to eventually transfer ownership of pit and pipe to NBN Co, as it currently stands developers are getting conflicting messages - particularly those with less than 100 lots who have to sign contracts with Telstra for their pit and pipe.

In several states it appears that there are issues in relation to the Certificate which councils request to allow plan-sealing. Under the proposed system whereby a Certificate is only

provided after an NBN Co inspection, on completion of the installation of pit and pipes, in Queensland the sealing of plans will be delayed at least 4 weeks.

Finally, many developers have a "clean roof" policy throughout their estates, piping free-to-air and pay-tv into homes through an RF signal as part of their fibre rollout. However NBN Co, as the fibre provider of last resort, has a policy that they will not install an RF signal in any fibre networks that they or their agents install.

NBN Co's policy not to install RF signals means that now developers are faced with the dilemma of either going back to a policy where they need to install aerials on rooftops (at the cost of about \$1,000 per dwelling), or use a private fibre provider who can put an RF signal through the fibre they install rather than using NBN Co.

This is resulting in the situation whereby in some estates the developer (and therefore the new home buyer) is required to pay for everything in relation to the installation of fibre, not just the pit and pipe, which appears to be contrary to the intent of the Government's policy.

Yours sincerely



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