



**Telstra submission to the Senate Standing Committee on  
Environment and Communications inquiry into the  
Telecommunications Legislation Amendment (Enhancing  
Consumer Safeguards and Other Measures) Bill 2023**

19 February 2024



## Changes to the Statutory Infrastructure Provider rules

The updates to the Statutory Infrastructure Provider (SIP) rules contained in the *Telecommunications Legislation Amendment (Enhancing Consumer Safeguards and Other Measures) Bill 2023* (the Bill) collectively work to improve the operational clarity of the SIP regime and are supported overall by Telstra on that basis. Even with the updates, however, the SIP regime remains flawed.

### Telstra supports changes in the Bill that clarify when the SIP is triggered

Expressly excluding backhaul infrastructure connecting a real estate development project (REDP) or a building redevelopment project (BRP) as infrastructure which, when installed, can trigger the SIP, will ensure that SIP obligations are not placed on entities with no ability to meet them (s360H).

Extending the SIP obligation to carriage service providers (CSPs) in some circumstances will make it clearer that the CSP customers of wholesale service suppliers bear the SIP obligations, not the wholesale service supplier (s360HB).

Narrowing the contractual trigger for the SIP to a contract with the person responsible for the REDP or BRP will ensure the SIP is not triggered when a carrier or CSP providing services in a completed REDP or BRP enters a contract with any other entity including end user customers. There is scope to make this even clearer than drafted, by changing the definition of “person responsible for the REDP or BRP” to the “person responsible for *undertaking* the REDP or BRP” (s360H(2)(b)).

### Telstra does not support the SIP applying to only part of an REDP or BRP

With the updates in place, the SIP will be triggered by deploying infrastructure serving only part of a REDP or BRP. This could establish multiple SIP areas within a single REDP or BRP that change dynamically over time, making it very difficult for CSPs to apply accurately and for wholesale customers to understand. It is a recipe for unnecessary complexity and confusion.

The SIP should be applied only at the level of the whole of an REDP or BRP. Carving out individual premises does not provide a cost-avoidance benefit to NBN Co as the default SIP because it must have infrastructure installed in the REDP or BRP to serve the remaining premises anyway. In contrast, NBN Co would have a cost-avoidance benefit if another carrier contracts to connect the whole of an REDP or BRP, because it would then not need to be present in that area at all.

The proposed change is designed to avoid a situation where a non-NBN carrier avoids triggering the SIP by contracting with the developer to provide infrastructure to most of an REDP or BRP, but not the whole of it. It is not clear whether this is a realistic risk, but in any event it should be dealt with in another way that does not make the scheme more complex than it already is.

### NBN Co should always be a SIP where it has infrastructure in place

The SIP regime does not adequately reflect NBN Co’s status as the default SIP. If another carrier chooses to overbuild NBN infrastructure, the area is carved out of NBN Co’s general service area and NBN Co is no longer a SIP for that area, despite having infrastructure in place. In contrast, if NBN Co chooses to overbuild another SIP’s infrastructure, NBN Co does not become a SIP for that area. The rule should always be that where NBN Co has infrastructure, it is a SIP.