



MASTER BUILDERS
A U S T R A L I A

28 April 2010

Mr Stephen Palethorpe
Committee Secretary
Senate Standing Committee on the
Environment, Communications and the Arts
Parliament House
CANBERRA ACT 2600

Dear Mr Palethorpe

Inquiry into the *Telecommunications Legislation Amendment (Fibre Deployment) Bill 2010* (Fibre Deployment Bill)

Response to Senate Inquiry Question on Notice 19 April 2010

During oral evidence on 19 April 2010, the Chair asked Master Builders to provide a response to the Departmental Position Paper entitled *Proposed Subordinate Legislation to Give Effect to Fibre in New Developments*. This letter sets out our initial response.

General

Master Builders supports moves by the Government to construct and upgrade the country's infrastructure for the common good, including the provision of telecommunications services. Master Builders supports the policy of improving access to high-speed broadband for business and the community and for Australia's future economic prosperity. However, we believe it should be achieved in an equitable and cost-effective way. Master Builders in our written submission takes as given the premise that the government's fibre-to-the-premises (FTTP) technology is the optimal communications technology of the future.

Obviously the Bill is intended to help implement the Government's policy for FTTP to be installed in new developments that receive planning approval from 1 July 2010. This is a tight time frame with a somewhat amorphous criterion by which to gauge when approval will actually be in place.

In our view, above all the Fibre Deployment Bill facilitates the making of crucial subordinate legislation as proposed in the Position Paper. It is therefore a Bill that gives a head of power so that more detailed arrangements can be put in place. That is the reason we were cautious in our submission about the Bill; because the implementation detail is not yet settled and this detail is all-important.

Implementation Date

In this regard we believe the current implementation date will be very difficult to achieve. Master Builders notes that, in the Departmental paper, the Government will be providing time and perhaps funding for education about these far-reaching, indeed historical, requirements. We note that allocation of funding for education is only implied. This should be made express. The education programme should only occur when all details are legislated.

Essential Services

The Government has advised that given the nature of the proposed arrangements in ensuring that appropriate forward-looking telecommunications infrastructure is installed in new developments, it is likely that the proposed arrangements will become part of the package of regulation for the provision of critical (essential) services such as water, power and sewerage to new developments. We understand that this is also being considered by the New South Wales Government. Master Builders does not accept this need. The other critical services are essential for health and amenity; high-speed broadband is not.

It is unlawful to build homes without adequate arrangements for water, sewerage and electricity but Master Builders questions whether it should be unlawful to build a home without super-fast broadband. The proposed cap of \$3,000 per lot could well become meaningless within a regulatory environment that mandates fibre installed facilities as a condition of building the home.

Should fibre installed facilities be classed as an essential service and provided for the benefit of the community, then it should legislate for the community to pay for its installation, i.e. through the National Broadband Network (NBN Co.) and/or the Universal Service Obligation (USO) arrangements.

Cost Responsibilities

As a general rule, we are of the view that the developer should only be responsible for the provision of pit and pipe reticulation for fibre within the development that would allow future fibre installation when the super-fast broadband service is available. All other costs should become the responsibility of the Service Provider and/or Government.

We believe that this is the approach that should be taken if the Bill is to proceed. Fibre installation facilities can then be provided when the NBN or other provider installs the network in the area.

We are strongly against the proposal for the developer to be responsible for the cost of backhaul to the nearest point of interconnection with an existing super-fast broadband network. We believe this to be an onerous up-front imposition on the developer, regardless of the proposed cap. It would also impact on the homeowner as the developer would seek to pass the cost on.

Master Builders believes that there should be equitable treatment of both greenfield and brownfield homeowners in relation to the funding of the national fibre deployment and that the NBN project should align with and include the greenfields fibre deployment requirements. The proposed legislation and the Paper are highly likely to adversely affect the commerciality of affordable and low-income housing developments. Accordingly, we believe that there should be no difference in relation to the treatment of new estates and the retrofitting of existing housing for fibre. New homeowners should not be required to pay for the provision of fibre installation facilities while owners of existing homes are not.

Master Builders believes that all the implementation issues must be resolved before the Bill proceeds.

Conclusion

We also have concern that there is uncertainty as to how the Bill would operate in conjunction with State and Territory legislation and with local government requirements. Master Builders strongly supports the principle of nationally consistency in regulatory systems and would be very concerned if the introduction of the FTTP produced another set of State, Territory and local government variations to Greenfield sites. Experience shows this occurring on a regular basis.

A further concern with this is the possibility of added delays in development approvals and the introduction of new costs of fees and/or levies associated with the process. That matter should be resolved with the States and Territories before the Bill proceeds, even if that causes delay.

Yours sincerely

Richard Calver
National Director Industrial Relations and Legal Counsel