

Reporting on the Rollout of the National Broadband Network

Introduction

- 1.1 On 7 April 2009, the Australian Government (the Government) announced the establishment of NBN Co. Limited (NBN Co) to 'design, build and operate a new super-fast National Broadband Network' (NBN). The NBN would service all premises across Australia and more broadly, would help drive national 'productivity, improve education and health service delivery and connect... cities and regional centres, enhancing ... Australia's international competitiveness.'¹
- 1.2 The Government intended that the NBN would be built through a joint partnership arrangement with the private sector with an investment of up to \$43 billion over an 8 year construction period. The Government's investment in the NBN would be funded through the 'Building Australia Fund' and the issuance of 'Aussie Infrastructure Bonds' to the general public.² The Government stated that it expected to divest its interest in NBN Co within five years of the completion and operation of the NBN.³

1 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

2 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009; NBN Co Limited, *Corporate Plan 2011-2013*, 17 December 2010, p. 12.

3 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

- 1.3 On 20 December 2010, the Government estimated the total capital expenditure of the NBN at \$35.9 billion with the Government expected to contribute \$27.5 billion in rollout equity.⁴
- 1.4 The Government's 2009 NBN policy and subsequent creation of NBN Co was intended as a micro economic reform measure for the Australian telecommunications sector with the required separation 'between the infrastructure provider and retail service provider.' In 2009, the Government stated that the structural separation nature of the reform would mean 'better and fairer infrastructure access for service providers, greater retail competition, and better services for families and businesses.'⁵
- 1.5 More specifically, the Government announced the NBN would:
- 'connect [with 90 per cent coverage] homes, schools and workplaces with Fibre-to-the-Premise (FTTP), providing broadband services ... in urban and regional towns with speeds of up to 100 Megabits per second (Mbps) - 100 times faster than those currently used by most people - extending to towns with a population of around 1,000 or more people'⁶
 - use next generation wireless and satellite technologies that will be able to deliver 12 Mbps or more to 'remote and regional areas
 - 'provide fibre optic transmission links connecting cities, major regional centres and rural towns
 - be Australia's first national wholesale-only, open access broadband network
 - be built and operated on a commercial basis by a company established at arm's length from Government involving private sector investment

4 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'Government Releases NBN Co Corporate Plan', *Joint Media Release*, 20 December 2010.

5 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

6 This was later increased to 93 per cent coverage following a recommendation of the July 2010 NBN Implementation Study. Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'Government releases NBN Co Corporate Plan', *Joint Media Release*, 20 December 2010.

- be expected to be rolled-out, simultaneously, in metropolitan, regional, and rural areas.⁷
- 1.6 The Government's announcement was made following advice it had sought and received from an expert panel. The expert panel recommended investment in 'optical fibre technology, supplemented by next generation wireless and satellite technologies.'⁸
- 1.7 In its review of the types of rollout for the proposed superfast broadband network, the Australian Competition and Consumer Commission (ACCC) advised the use of FTTP technology over FTTN technology.⁹
- 1.8 To initiate the NBN policy, the Government:
- commissioned an implementation study to determine operating arrangements, detailed network design, methods to attract investment and provide procurement opportunities for business
 - fast-tracked negotiations and arrangements to begin a FTTP and wireless network rollout in Tasmania (which would commence in July 2009)
 - commenced rollout of fibre optic transmission links between cities, major regional centres and rural towns to address 'blackspots'
 - took steps to 'progress legislative changes' to govern NBN Co and facilitate NBN rollout including in new (or Greenfield) developments (from 1 July 2010)
 - made an initial investment of \$4.7 billion in the NBN
 - commenced consultation on required amendment to the telecommunications regulatory regime.¹⁰
- 1.9 On 8 November 2010 as part of its obligations as a Government Business Enterprise (GBE), NBN Co delivered its Corporate Plan 2011-2013 to its

7 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

8 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

9 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

10 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

Shareholder Ministers.¹¹ The Corporate Plan was publicly released on 20 December 2010. The Corporate Plan details how NBN Co will proceed with the design, construction, delivery and operation of the NBN over the three year period from 1 July 2010 to 30 June 2013. In addition to legislative requirements for reporting by GBEs, the Corporate Plan was drafted in accordance with the Statement of Expectations (SoE) document released by the Government on 20 December 2010.

- 1.10 The Government's SoE provided an outline of the 'Government's policy implementation objectives for the NBN' as well as its 6 May 2010 response to the NBN Implementation Study.¹²
- 1.11 The NBN Implementation Study was undertaken over a seven month period and delivered to the Government on 5 March 2010. Broadly, the Implementation Study 'confirmed high-speed broadband for all Australians was achievable and could be built on a financially viable basis, with affordable prices for consumers.'¹³
- 1.12 The Implementation Study involved 'comprehensive stakeholder consultation with industry, vendors, consumer groups, the finance sector, and international experience and trends.' The Implementation Study made 84 recommendations in the areas of: technology, financing, ownership, policy framework and market structure.'¹⁴
- 1.13 The Government's response to the Implementation Study included consideration of a number of issues highlighted through consultation as well as factoring in three main events. These were the:
 - 'Financial Heads of Agreement between NBN Co and Telstra

11 The Shareholder Ministers are Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation.

12 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

13 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

14 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

- commitments to Regional Australia agreed with the Independent Members Mr Windsor MP and Mr Oakeshott MP following the 2010 Federal election
 - joint ACCC and NBN Co consultation process on the number and location of the Points of Interconnect (POI) to the NBN conducted in October and November 2010.¹⁵
- 1.14 Further, on 25 November 2010, the Government introduced NBN legislation into the Parliament and on 9 December 2010 issued its Fibre in New Developments policy statement in response to findings in the Implementation Study.¹⁶
- 1.15 The Government's changes to its expectations for the NBN in response to the Implementation Study included:
- increasing the FTTP coverage of the NBN by the end of the rollout period from 90 per cent of premises to 93 per cent of premises
 - requesting NBN Co to 'build the wireless network that will deliver fixed wireless services, delivering peak speeds of at least 12 Mbps to premises in the 94 to 97 percentile of premises.'
 - an expectation of NBN Co 'to maximise the use of existing infrastructure where it is efficient and economic to do so in the delivery of the fixed wireless network.'¹⁷
- 1.16 In March 2011, in response to ongoing concerns raised in the Parliament over the significant economic and time-intensive investment in the NBN, the Parliament established the Joint Committee on the National Broadband Network to enable the ongoing parliamentary scrutiny of all aspects relating to the rollout of the NBN.

15 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

16 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

17 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

Establishment and Role of the Committee

Background

- 1.17 A motion to establish a Joint Select Committee on Broadband to inquire into and report on the NBN was introduced by the Federal Opposition into the House of Representatives on 25 October 2010.
- 1.18 The motion would enable a 'Joint Select Committee on Broadband [to 'be appointed to inquire into and report on all aspects of the business of the NBN Co including its construction, operations, financing and any other matters related thereto.'
- 1.19 Establishment of the proposed joint select committee was intended to enable ongoing parliamentary scrutiny and oversight of the NBN and NBN Co. The proposed joint select committee would consist of four members from each major party represented in the Parliament with two crossbench members from the House of Representatives and the Senate respectively. On 25 November 2010, the motion was negated.
- 1.20 On 22 November 2010, to facilitate the passage of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) through the Senate, the Prime Minister agreed on a package of measures with Senator Xenophon and later confirmed this agreement through correspondence of 23 November 2010 which was tabled in the Senate (see Appendix C).
- 1.21 Through this agreement, the Government committed to establishing a Joint Committee on the National Broadband Network, which would report to the Parliament on the rollout of the NBN on a six-monthly basis until the completion of the project.
- 1.22 The proposed NBN committee would also be empowered to 'report against the final business plan, assess risk management processes and look at other matters the committee determines are relevant to its deliberations.' The composition of the proposed committee was to mirror that of the Joint Committee on Public Accounts and Audit with commencement from 1 July 2011, drawing on 'any relevant material from the Standing Committee on Infrastructure and Communications' (which is due to report to the Parliament by August 2011).
- 1.23 In addition, the proposed committee would be able to call witnesses including Members and Senators to appear before it in relation to 'performance of the NBN or other matters of local interest.'

- 1.24 The Prime Minister also confirmed that NBN Co, the ACCC, the Productivity Commission (PC) and the Australian Communications and Media Authority (ACMA) would be able to appear before or contribute advice to the committee. Further, the Prime Minister stated that the Government would write to the ACCC and the PC to advise of the arrangements. At this early stage, the committee has met with or taken evidence from each of these bodies, with the exception of the ACMA.
- 1.25 On 1 March 2011, the Government introduced a motion to establish the Joint Committee on the National Broadband Network. On debate of the motion in the House of Representatives, the opposition requested adequate resources to enable scrutiny of the NBN and also requested that the committee commence meeting without delay. These terms were subsequently agreed to by the Government.
- 1.26 The composition and general rules relevant for the committee's operations are provided for in its resolution of appointment including the appointment of an independent, non aligned member of the committee as the chair and the appointment of participating members. In reference to the committee's composition, its resolution of appointment provides for the appointment of 16 members to the committee and states:
- ...that the Committee consist of 16 members, 4 Members of the House of Representatives to be nominated by the Government Whip or Whips, 4 Members of the House of Representatives to be nominated by the Opposition Whip or Whips, and one non-aligned Member, 3 Senators to be nominated by the Leader of the Government in the Senate, 3 Senators to be nominated by the Leader of the Opposition in the Senate, and one Senator to be nominated by any minority group or groups or independent Senator or independent Senators
- 1.27 Prior to its first meeting, there were 51 participating members¹⁸ appointed to the committee. With the recent end to the terms of a number of Senators, and the appointment of two participating members from the House of Representatives, the number of participating members is 41, with total committee membership of 57.
- 1.28 With respect to the committee's resolution of appointment, while participating members 'may participate in hearings of evidence and deliberations of the Committee, and have all the rights of a member of the Committee, [they] may not vote on any questions before the Committee'.

18 The original 51 participating members were Senators.

Role

- 1.29 The Joint Committee on the National Broadband Network (the committee) is a new committee¹⁹ and was established by a resolution of appointment passed by the House of Representatives on 1 March 2011 and by the Senate on 3 March 2011.
- 1.30 The committee was appointed to inquire into and report on the rollout of the NBN which includes the Government's objectives for NBN Co to:
- 'connect 93 per cent of Australian homes, schools and businesses with fibre-to-the-premises technology providing broadband speeds of up to 100 Mbps, with a minimum fibre coverage obligation of 90 per cent of Australian premises;
 - service all remaining premises by a combination of next-generation fixed wireless and satellite technologies providing peak speeds of at least 12 Mbps;
 - The achievement of take-up targets (including premises passed and covered and services activated) as set out in NBN Co's Corporate Plan (released on 20 December 2010 as revised from time to time);
 - Network rollout performance including service levels and faults;
 - The effectiveness of NBN Co in meeting its obligations as set out in its Stakeholder Charter;
 - NBN Co's strategy for engaging with consumers and handling complaints; and
 - NBN Co's risk management processes.'²⁰
- 1.31 The committee is also empowered to inquire into and report on 'any other matter pertaining to the NBN rollout that the committee considers relevant.'
- 1.32 Prior to the release of its first report, the committee inquired into and reported on the Communications Legislation Amendment (Fibre Deployment) Bill 2011.²¹

19 The Joint Committee on the National Broadband Network is the first such committee to be established. Consecutive committees are expected to be established for the life of the National Broadband Network.

20 Resolution of Appointment for the Joint Committee on the National Broadband Network, The Parliament of the Commonwealth of Australia, House of Representatives *Votes and Proceedings* No. 28, 1 March 2011, pp 371-372, *Journals of the Senate*, No. 23, 3 March 2011, p. 673.

- 1.33 To date the committee has sought and received information about various aspects of the rollout of the NBN including the:
- fibre in new developments policy and related competition issues²²
 - the process that led to the awarding of major NBN construction contracts to Silcar and Fujitsu
 - broad scope of the Definitive Binding Agreements between NBN Co and Telstra and NBN Co and Optus
 - regional and remote issues relating to the installation, timeframe and use of the NBN
 - competition issues associated with operation of the NBN including:
 - ⇒ the decision based on advice from the ACCC to increase the number of POIs from 14 to 121 and
 - ⇒ uniform wholesale pricing of the NBN to Retail Service Providers (RSP).
 - technology innovation and the impact on the price of access to the NBN
 - skilled labour force recruitment, demand and supply.

Previous Inquiries into the National Broadband Network

- 1.34 The committee's first inquiry relating to the NBN was conducted in reference to the proposed Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011 (Fibre Deployment Bill). The committee reported on the proposed Bill on 5 July 2011. Through its inquiry, the committee reported on the proposed legislation, but also issues surrounding the Government's policy of Fibre in New Developments.
- 1.35 This inquiry followed an inquiry by the Senate Environment, Communications and the Arts Legislation Committee in 2010 on an earlier version of the same proposed legislation. The Senate committee presented its report to the Parliament in May 2010. The proposed Bill elapsed when

21 Joint Committee on the National Broadband Network, June 2011, *An Advisory Report on the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011*, Parliament of the Commonwealth of Australia.

22 The Joint Committee on the National Broadband Network was referred an Inquiry into the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011 and reported on the proposed legislation in June 2011.

the 42nd Parliament was prorogued and an updated version of the Bill presented early in the 43rd Parliament.

- 1.36 In addition to the committee's recent advisory report on the Fibre Deployment Bill, the NBN has been examined through a number of parliamentary inquiries and reviews including the: Senate Select Committee on the National Broadband Network, Senate Environment and Communications Legislation Committee (and its predecessor committee), and the Senate's Estimates process.
- 1.37 Since 2008 Senate committees have examined proposed NBN and NBN Co related legislation.²³
- 1.38 The inquiry into the Role and Potential of the NBN by the House of Representatives Standing Committee on Infrastructure and Communications was referred on 16 November 2010. The House Infrastructure and Communications Committee is expected to report to the Parliament by August 2011.

Reporting Timeframe

- 1.39 The committee's resolution of appointment provides that 'until the NBN is complete and operational', the committee is to report on a six monthly basis to both Houses of Parliament and its shareholder Ministers.²⁴ The committee's first reporting period ends on 31 August 2011.
- 1.40 The committee's first report includes the six month review period from its establishment in early March 2011 to its reporting date by end 31 August 2011.
- 1.41 Due to the delay in the reaching of a Definitive Binding Agreement between NBN Co and Telstra, a review of this matter will be included in a

23 This included examination of the Telecommunications Legislation Amendment (National Broadband Network) Bill 2008, Telecommunications Legislation Amendment (Communications Fund) Bill 2008, Telecommunications Legislation Amendment (National Broadband Network Measures No 1) Bill 2009, Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009, Telecommunications Legislation Amendment (Fibre Deployment) Bill 2010, National Broadband Network Companies Bill 2010; and Telecommunications Legislation Amendment (National Broadband Network Measures - Access Arrangements) Bill 2010, and the Broadcasting Legislation Amendment (Digital Dividend and Other Measures) Bill 2011.

24 The NBN Shareholder Ministers are Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation.

future report. The timeframe for the completion of the Agreement between NBN Co and Telstra is expected in mid to late October 2011 pending a review by the ACCC and endorsement of the terms of the Agreement by Telstra shareholders.

- 1.42 The committee is intends to present its second report on the rollout of the NBN to the Parliament by the end of 2011. In so doing, the committee proposes to adjust its reporting timeframe to June/December instead of the August/February timetable that currently exists.

Review of National Broadband Network Rollout Progress

Background

- 1.43 The Government's SoE for NBN Co in terms of planning, reporting and performance management in line with its obligations as a GBE.
- 1.44 In reference to planning, reporting and performance management to the Government, NBN Co is expected to:
- regularly report (including an annual report and interim reports) to the Government to enable NBN Co performance to be measured
 - ⇒ the annual report is to include details regarding the network rollout performance and cost, achievement of service levels, faults, customer complaints, details of its progress towards meeting its coverage objectives and expenditure incurred in doing so, as well as other matters as advised by the Shareholder Ministers
 - in consultation with the Government, develop Key Performance Indicators (KPIs) to monitor progress against the NBN Co Corporate Plan and Business Plan
 - continue to report to the Parliament and its committees (with particular reference to this committee)
 - develop a comprehensive strategy (and regularly report against this strategy to Government) for engaging with individual consumers (including handling complaints) during the NBN rollout

- 'continue to conduct its planning and the execution of its strategy in a publicly transparent manner subject to any requirements for commercial confidentiality, and reflect this in its annual reporting.'²⁵
- 1.45 Early after its establishment, the committee asked NBN Co (and where relevant, the Government through DBCDE) to report regularly to the committee to enable it in turn to report to the Parliament and portfolio Ministers as required on the rollout of the NBN.
- 1.46 As the committee was aware that similar reporting information was to be prepared for the Government, NBN Co and the DBCDE were asked to provide a version of a report to the committee, so as not to duplicate reporting mechanisms. The committee proposed to consider the format and information contained within the first report and to comment on whether the material met its needs. To date, no such report has been provided.
- 1.47 In response to honouring the committee's request for regular reports against KPIs and NBN Co rollout of the NBN targets, the Shareholder Ministers wrote to the committee in early July 2011 to advise of reporting arrangements on the NBN rollout. (see Appendix D)
- 1.48 However, this report would not be made available to the committee before mid September 2011²⁶ which would be after the committee's required first reporting date to the Parliament.²⁷
- 1.49 The unsatisfactory consequence of this delay is that in this, the first report of the committee appointed to oversee the construction of the NBN, the committee is unable to provide Parliament with the most up to date information about the progress of the construction, the rate of connection not speak of the amount of capital drawn down and expended by the NBN Co.
- 1.50 The Government stated that the report could not be made available to the committee earlier as more time was required to:
-

25 Australian Government, *Statement of Expectations*, 20 December 2010, p. 11.

26 Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation, Correspondence to the Joint Committee on the National Broadband Network, dated 7 July 2011.

27 The committee's resolution of appointment requires the committee to report to the Parliament and the Shareholder Ministers by 31 August 2011. The Parliament of the Commonwealth of Australia, House of Representatives *Votes and Proceedings* No. 28, 1 March 2011, pp 371-372, *Journals of the Senate*, No. 23, 3 March 2011, p. 673.

...enable NBN Co management to prepare a report of satisfactory quality, for the NBN Co Board to perform appropriate due diligence in reviewing the content of the report, and for initial Government consideration of the report. This timing would also ensure that the Government is able to provide the Committee with relevant information surrounding recent developments as part of its first report.²⁸

Key Performance Indicators and Reporting Intervals

NBN Co Targets

- 1.51 The NBN Co Corporate Plan lists a 'number of specific high level deployment targets to be achieved by 30 June 2013.'²⁹
- 1.52 These targets are stated as incremental year-on-year figures for June 2011, 2012 and 2013 for two broad NBN rollout categories. These categories are:
- premises Passed or Covered
 - premises with Active Service.³⁰
- 1.53 These two categories are further reported against in three classifications for type of service which are:
- FTTP
 - satellite first release
 - wireless.³¹
- 1.54 The NBN Co Corporate Plan states that the targets are indicative only as the NBN rollout is dependent on:
- 'the availability of exchange facilities for the location of the semi-distributed POIs
 - negotiations yet to finalise on commercially attractive terms the procurement of Greenfields Build-Operate-Transfer (BOT)

28 Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation, Correspondence to the Joint Committee on the National Broadband Network, dated 7 July 2011.

29 NBN Co, *Corporate Plan 2011-2013*, 17 December 2010, p. 15.

30 NBN Co, *Corporate Plan 2011-2013*, 17 December 2010, p. 15.

31 NBN Co, *Corporate Plan 2011-2013*, 17 December 2010, p. 15.

- securing contracts with suppliers and construction contractors on competitive terms and conditions.³²
- 1.55 The FTTP service is reported on in Brownfields, Greenfields build and Greenfields BOT.
- 1.56 At the committee's 5 July 2011 public hearing, in reference to the targets outlined in its Corporate Plan, NBN Co provided figures on premises passed in Brownfields (existing premises) by end June 2011, number of premises served through the interim satellite service by end June 2011 and Greenfields lots passed by end June 2011. The NBN Co provided information that it had exceeded its targets for Brownfields and satellite for end June 2011, but due to the ongoing policy debate on Greenfields, there had been delay in this area. The NBN Co stated:

... [In] our Corporate Plan that we submitted last December, we had projected that we would have passed 13,000 Brownfields premises by the end of June... . I am pleased to report that, as of the end of June, we have passed 14 256 premises. We had also anticipated launching our interim satellite service by 30 June. We did so on 1 July. We had anticipated that the interim satellite service would cover 165 000 eligible premises; that was our estimate at the time. Our latest estimate is, in fact, somewhat more than that: we expect that it will be above 200,000 eligible premises that that interim satellite service will cover. We had also anticipated prior to December of last year that there would be some 45 000 Greenfields lots that would need to be passed, but, as everybody in the room probably knows, there has been ongoing policy debate about the Greenfields – the new developments. In fact, that policy has been particularly around the responsibility of Telstra and NBN Co, and it has taken some time to resolve that.³³

Development of Key Performance Indicators

- 1.57 At the committee's 16 May 2011 public hearing, NBN Co stated that it was reviewing 'a number of KPIs with the NBN Co Board.'³⁴
- 1.58 Later at the committee's 5 July 2011 public hearing, the NBN Co indicated that it had been working closely with the Government to develop KPIs. The NBN Co stated that once this process was complete, that the
-

32 NBN Co, *Corporate Plan 2011-2013*, 17 December 2010, p. 16.

33 Mr Mike Quigley, NBN Co, Transcript of Evidence, Canberra, 5 July 2011, pp 2 and 3; NBN Co, Submission 2.1, pp 1-2.

34 Mr Mike Quigley, NBN Co, Transcript of Evidence, Canberra, 15 May 2011, p. 4.

Government would consult with the committee to determine which KPIs it would seek figures on. The NBN Co stated:

We have been working closely with the Government on a range of KPIs. My understanding is that the instructions to us from the Government are that when that is established the Government will liaise with the committee to find which of those KPIs you would be interested in seeing.³⁵

- 1.59 In its letter of 7 July 2011 in reference to reporting arrangements for the rollout of the NBN, the Government stated that NBN Co is in the process of finalising ‘an appropriate reporting framework including KPIs on NBN Co’s activities which can be used as the basis for reports to both the Government and the committee.’³⁶

Objectives and Scope of the Review

- 1.60 In undertaking its first six-monthly review of the rollout of the NBN, the committee primarily sought relevant information from NBN Co, the DBCDE and the Department of Finance and Deregulation. The committee also received submissions from interested individuals and organisations.
- 1.61 In addition, as the Government’s SoE provides that the timeframe for the introduction of wireless and satellite services will be brought forward,³⁷ the committee undertook to receive evidence from a regional area. The committee selected Broken Hill to enable it to receive evidence on regional issues pertaining to the rollout of the NBN as Broken Hill is yet to receive NBN services, but is a site through which the Regional Backbone Blackspots network³⁸ runs.

35 Mr Mike Quigley, NBN Co, Transcript of Evidence, Canberra, 5 July 2011, p. 4.

36 Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation, Correspondence to the Joint Committee on the National Broadband Network, dated 7 July 2011.

37 Bringing forward the timeframe for wireless and next generation satellite services for regional Australia was included under the 7 September 2010 *Commitment to Regional Australia Agreement* reached between the Government and the Independent Members Mr Tony Winsor MP, Member for New England and Mr Robert Oakeshott MP, Member for Lynne, Australian Government, *Statement of Expectations*, October 2010, Minister for Broadband, Communications and the Digital Economy and the Minister for Finance and Deregulation.

38 The Regional Backbone Blackspots Program is outlined in Chapter 2.

- 1.62 During the course of its review, a Binding Definitive Agreement was signed between NBN Co and Telstra with three main components. These are:
- 'it grants NBN Co access to Telstra facilities and infrastructure over a minimum period of 35 years, ensuring that the fibre optic component of the National Broadband Network, serving 93 per cent of premises, can be rolled out efficiently and avoids duplicating infrastructure
 - it provides for the progressive disconnection of Telstra's copper and Hybrid Fibre Coaxial (HFC) customers (other than HFC pay-TV customers) and NBN Co will be Telstra's preferred fixed-line network
 - in addition, NBN Co and Telstra have negotiated interim arrangements for immediate access to Telstra infrastructure.'³⁹
- 1.63 The agreement requires examination by the ACCC and ratification by Telstra shareholders before it comes into force.
- 1.64 The committee intends to continue its examination of the Telstra Agreement in more detail once the Agreement has been completed.
- 1.65 As part of the review, the committee also intended to examine KPIs and performance measures relevant to the rollout and subsequent initial operation of the NBN. However, the committee is still awaiting receipt of this statistical information and so it will not be able to report on the performance of the rollout of the NBN as required under its resolution of appointment.
- 1.66 In addition, the committee has reported on the timeliness and inquiry challenges presented to the committee during its first review period.
- 1.67 The committee has also included within the scope of its first review, important regional issues in relation to the rollout of the NBN as raised by the Broken Hill and surrounding communities and Julia Creek. These issues include technology innovation to enable enhanced remote service delivery and improved opportunities for economic development.
- 1.68 Competition issues were also raised as part of the committee's Inquiry into the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011. Potential competition generated by the rollout and operation of the NBN and the impact on existing competition in the telecommunications market was raised as an issue during the review. Competition issues have

39 NBN Co Ltd, 'NBN Co and Telstra Sign Binding Definitive Agreements', *Media Release*, 23 June 2011.

been prevalent throughout this review and will continue to be examined in the committee's next reporting period.

Conduct of the Review

- 1.69 The committee issued a media release on 9 May 2011 announcing its establishment and role in the ongoing six-monthly review of the rollout of the NBN. The committee also wrote to inform and invite individuals and organisations to participate in the review by providing submissions or appearing before the committee at public hearing. The invitation to receive submissions closed on 8 August 2011.
- 1.70 The 21 submissions and 11 exhibits received in relation to the review are listed at Appendix A.
- 1.71 The committee held four public hearings as listed. Each of the public hearings held were announced and publicised through the issue of media releases.

Date	Venue and Place
16 May 2011	Parliament House, Sydney
5 July 2011	Parliament House, Canberra
27 July 2011	Trades Hall, Broken Hill
28 July 2011	Parliament House, Melbourne

- 1.72 The committee also conducted two infrastructure inspections in Broken Hill and Melbourne on 27 and 28 July 2011. Sites visited by the committee are listed.

Date and place	Infrastructure inspection sites
27 July 2011 Broken Hill, NSW	<ul style="list-style-type: none"> <li data-bbox="756 517 1356 640">■ Regional Backbone Blackspots Program - Controlled Environment Vault facility <li data-bbox="756 667 1356 741">■ Backbone Point of Interconnect Site, corner of Blende and Chloride Streets <li data-bbox="756 768 1174 804">■ Broken Hill Film Studio
28 July 2011 Melbourne, Vic	<ul style="list-style-type: none"> <li data-bbox="756 837 1283 911">■ Brunswick Fibre Access Node (previously a Telstra Exchange) <li data-bbox="756 938 1334 1012">■ Pit and Fibre Distribution Hub and lead-in to premises

- 1.73 Witnesses who appeared before the committee and gave evidence to the review are listed at Appendix B. Transcripts of the public hearings are available at www.aph.gov.au/jcnbn.

Report Outline

- 1.74 Chapter 1 outlines the main areas of review of the progress of the rollout of the NBN including: reporting intervals and key performance measures and indicators. Discussion on the methods of obtaining timely and relevant information is included.
- 1.75 Chapter 2 provides an overview of the components of the NBN and includes discussion about competition issues and issues associated with the benefits and challenges of access to the NBN in regional and remote areas.

Concluding Comments

Review of National Broadband Rollout Progress

- 1.76 The Government's Statement of Expectations (SoE) provides clarity and guidance to the NBN Co Limited (NBN Co) on how it should proceed with and report on rollout of the National Broadband Network (NBN). In particular, in regard to reporting on NBN targets and Key Performance Indicators (KPIs), the committee expected the KPIs and performance measures to be resolved between the NBN Co, the Department of Broadband, Communications and the Digital Economy (DBCDE) and the committee as a matter of priority.
- 1.77 Recent correspondence from the Shareholder Ministers has informed the committee that it will not receive its first report on progress of the rollout of the NBN until mid September 2011.
- 1.78 At the earliest, the DBCDE and the NBN Co were aware of the committee's terms of reference and its August reporting date at its establishment in March 2011 and could have anticipated the committee's requirements in terms of reporting on NBN data. In addition, the committee made repeated requests for data on NBN rollout KPIs and performance measures.
- 1.79 As the committee has not received a report on the relevant NBN rollout KPIs and performance measures, the committee cannot report on this data as required under its resolution of appointment.
- 1.80 In terms of the timing of receiving NBN rollout performance information and KPIs, the committee will seek an amendment to its resolution of appointment to allow it to report to the Parliament biannually in June and December. This would allow for the NBN Co and the DBCDE to prepare reports for the committee in line with more streamlined reporting timeframes and current public sector practice. This timeframe would also enable more thorough examination of NBN rollout issues by the committee. The committee proposes to write to portfolio Ministers to obtain their concurrence to the new arrangements.
- 1.81 The committee would also see a benefit in receiving NBN rollout performance information on a quarterly basis, in line with its expected June/December reporting timetable, so that short-term and long-term trends may be easily identified, examined and possibly benchmarked.

Telstra Agreement

- 1.82 The committee notes that there have been delays in the negotiating of the Definitive Binding Agreement between NBN Co and Telstra, and that the Binding Definitive Agreement between NBN Co and Optus required time and effort to reach and was not factored into the current NBN Co Corporate Plan.
- 1.83 The committee understands the Binding Definitive Agreement between NBN Co and Telstra requires review by the ACCC and endorsement by Telstra shareholders, and notes that this should be finalised by mid to end October 2011.
- 1.84 The committee is interested in having the opportunity to examine in more detail, the Binding Definitive Agreement between NBN Co and Telstra.

Timeframe for Receiving Answers to Questions Taken on Notice

- 1.85 Since its establishment, the committee has held five public hearings covering two inquiries. Given the high importance placed on the matters under consideration by the committee and the tight reporting timeframes, the committee is reliant on the evidence it receives from the NBN Co and the DBCDE. This includes formal evidence received by the committee at hearing, through written submissions and in answers to questions taken on notice.
- 1.86 On a number of occasions during the committee's hearings, witnesses from the NBN Co and the DBCDE have taken questions on notice and been provided with a timeframe in which the answers should be provided to the committee.
- 1.87 The majority of answers to questions taken on notice were received by the committee well outside of the notified timeframe. In addition to appearing before this committee, NBN Co and the DBCDE are required to appear before Estimates Committees. The committee acknowledges the timeframes for preparing responses to questions taken on notice for this committee and for Estimates hearings has created an additional reporting burden for these agencies.
- 1.88 However, the committee is of the view that adherence to timeframes for receiving answers to questions on notice allows the committee to include relevant formal evidence to be included in the committee's report deliberations and often provides useful evidence, further informing the committee's findings and recommendations. This is especially important in reference to the committee's ongoing reviews in consideration of the significant investment in the NBN project.

- 1.89 The committee strongly urges NBN Co and the DBCDE to give their responses to answers to questions taken on notice greater priority. This will assist the committee to undertake its role as intended by the Parliament.

Commercial-in-Confidence

- 1.90 In addition, the NBN Co has on a number of occasions not provided information to the committee or failed to answer questions on commercial-in-confidence grounds, limiting the committee's scope in its inquiry of matters that is within its remit.
- 1.91 The Government's SoE encourages NBN Co to continue to conduct its planning and execution of its strategy in a publicly transparent manner, subject to commercial-in-confidence requirements.
- 1.92 However, the committee draws to the attention of the NBN Co the Senate resolution of 30 October 2003 which requires any claim for commercial-in-confidence to be made by a Minister accompanied by a ministerial statement of the basis of the claim, including a statement of the commercial harm which may result from the disclosure of the information.
- 1.93 In reference to a statutory authority, the Senate resolution states if a committee is satisfied that a statutory authority has such a degree of independence from ministerial direction that it would be inappropriate to have a minister make the claim the committee may receive the claim from officers of the authority.
- 1.94 The committee notes that there are avenues available to deal with commercial-in-confidence material including taking evidence 'in-camera' - although the committee is generally unable to use such material in its public reports.
- 1.95 The committee will continue to monitor claims of commercial-in-confidence and may seek to press the issue if it believes its mandate from the Parliament and the Government is being unduly impeded by such claims without satisfactory explanation.

Recommendation 1

- 1.96 **The committee recommends that the NBN Co together with the Department of Broadband, Communications and the Digital Economy, commencing for the first quarter 2011-2012, provide a six-monthly report on the progress of the rollout of the National Broadband Network, using established Key Performance Indicators and performance measures, no later than three months before the committee is due to report to the Parliament.**