



Quality Telecommunications Outcomes in New Developments – Regulation Impact Statement

Draft for Comment – 18 December 2015

Context

The Government has released a new Telecommunications Infrastructure in New Developments policy (the Policy). The Policy is part of the Government's response to the Vertigan Review and replaces the previous *Fibre in New Developments: policy update* of 22 June 2011 (the 2011 policy). The Policy took effect on 1 March 2015.

The Policy seeks to increase efficiency and innovation in the provision of telecommunications infrastructure in new developments by encouraging competition. It does this by requiring NBN Co Limited (NBN Co) to charge up front for the provision of infrastructure. The Government considers the previous policy, which prohibited NBN Co from charging, unduly tilted the playing field against private infrastructure providers, limiting their ability to compete.

The policy also aims to ensure occupants of new developments receive timely access to high quality telecommunications services. This is especially the case since developments are often serviced by a single fixed network provider, and there is a lack of ongoing competitive pressure, and occupants are reliant on these providers having other incentives to install and maintain telecommunications infrastructure that deliver quality telecommunications outcomes.

The key elements of the new policy are:

- Developers will choose among competing infrastructure providers. Competition will put downward pressure on costs and encourage providers to develop better offerings.
- NBN Co will charge developers for the installation of in-estate infrastructure and, if it is not already available, backhaul infrastructure.
- NBN Co will also charge the retail service provider (RSP) which places an order for an NBN service to a premises in a new development a one-time end-user contribution of \$300.
- Developers will remain responsible for the cost and delivery of appropriate pit and pipe infrastructure in their development.
- NBN Co will provide developers with information relating to backhaul availability throughout the development process that will enable developers to make informed costing decisions.
- To ensure infrastructure in new developments meets consumer expectations, networks should meet minimum quality standards.
- The Federal Government will work over time with state, territory and local governments and other stakeholders to have planning laws support quality telecommunications infrastructure and protect consumers in new developments.

Another important element of the policy is the establishment of an online portal which will accurately map the location and boundaries of new developments and the carriers serving them. This will assist carriers to better co-ordinate the provision of infrastructure; allow developers to locate carriers operating nearby networks; enable consumers to check who can connect their premises; and allow governments to verify that infrastructure has been provided in those developments. This data will be open source and widely useable. The Department of Communications and the Arts (the Department) 'soft launched' its online map on 14 August. The map currently relies on carriers to voluntarily upload open source data about developments they service.

The Government's policy goal is for occupants in new developments to have access to high speed broadband services comparable to those they would receive on the National Broadband Network, while fostering a competitive user-pays environment.

The Department prepared and submitted a regulation impact statement for the Policy which was approved by Office of Best Practice Regulation in April 2015. The RIS is available from the [OBPR website](#).

Assessing the problem

While competition in the provision of telecommunications infrastructure will provide many benefits, it also raises a number of risks that need to be mitigated. These are the issues this RIS focuses on.

In today's technology-focused world, home buyers expect ready access to modern, high-quality telecommunications infrastructure and phone services when they move into a new home. While the provision of these services in new developments could be left to the market to deliver and developers generally have a commercial incentive to provide such infrastructure, there is a risk that some developments may have no infrastructure or receive low quality solutions, particularly if developers and carriers seek to minimise costs. In the past, residents have written to their local members and the Minister for Communications about poor broadband outcomes in their new developments.

The former Minister and the Department have also received a number of complaints about other providers for poor delivery of services in their developments, the lack of choice of RSPs over the network and pricing.

A large number of new premises are built each year. The Department estimates that an average of 146,000 new residential premises are built per year¹.

With the introduction of charging by NBN Co under the Policy, there is an increased risk that some developers may choose not to provide telecommunications infrastructure or to provide sub-optimal solutions due to the costs of providing better quality services. If this is the case, occupants of such developments will be subject to high costs to fix the problem.

While there will be competition to service new developments, once a carrier receives a contract to do so, due to the high costs of providing fixed line networks, it is likely to have an effective monopoly over the supply of services in that area. Competition to service an estate creates an incentive to reduce

¹ The estimate is based on figures in the Australian Bureau of Statistics (ABS), *8752.0 – Building Activity, Australia, Sep 2014*, 'Table 37 – Number of Dwelling Unit Completions by Sector, Australia', accessed at www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/8752.0Sep%202014?OpenDocument. The table provides historical data on the number of dwelling units completed (houses and other residential dwelling units) each quarter from 1955 to 2014. As the number of dwelling units completed is largely consistent from year to year, the Department has estimated the number of new residential premises to be completed over the next 10 years using this historical data. Based on an analysis of the number of dwelling units completed per year between 2004 and 2013, the average number of completions per year is 146,593. As such, it is estimated that about 146,000 new residential premises will be completed each year over the next 10 years.

prices, but also a potential incentive to reduce the cost and the quality of infrastructure provided. In the absence of ongoing competition in the market, there may also be reduced incentives for a network provider to continue to operate at a high level of service. This is because it faces a reduced threat of competitive entry. If poor levels of service were provided, occupants in such developments may face additional costs to achieve better services, for example, the cost of replacing or upgrading infrastructure or bringing new or additional RSPs onto the network. There may be pressure for the development to be overbuilt by the NBN. However, this would raise issues about the appropriate expenditure of public money, particularly where a developer has already paid for a carrier to provide a network solution and expected it would be of a high quality. Moreover, if a development was to be overbuilt by NBN Co, it would still require funding.

The principal-agent problem is a market issue that exists in the new development sector. Developers have few, if any, ongoing obligations to landowners after they sell the land. Therefore, developers may have an incentive to secure a low cost telecommunications solution and hence a lower quality telecommunications outcome in their new developments on the basis that they can sell their land for a lower price knowing any problems will essentially be ones for the buyers to address at a later time. The contrary view is that developers who seek lower costs or lower quality solutions may suffer reputational damage. This may be true for developers that have ongoing businesses, but is less so for small developers who may only be involved in one or two developments.

The installation of poor quality networks could have a large impact on occupants in new developments and Government, as developments that receive lower quality telecommunications infrastructure may need to have the situation fixed by overbuilding of any available network with the NBN. The cost of such a solution would need to be recovered. Conversely, if a quality network is installed in the first instance, the additional cost and inconvenience to occupants could be avoided.

There is also a risk that a developer could contract a carrier to provide a network in its estate but that network operator fails to attract RSPs. RSPs may not be attracted to small networks because of the limited commercial opportunities or to poor quality networks because of the potential reputational risks to their companies. This would be a waste of developer's investment and a significant inconvenience to consumers. While Telstra has an ongoing obligation to provide retail voice services across Australia, it may choose the network it uses to do this. It may be reluctant to use third party infrastructure that is of poor quality or limited scale due to cost and/or quality concerns, meaning it may need to invest in alternative platforms.

Stakeholders who responded to the draft Policy paper, released in December 2014, broadly supported the provision of minimum service standards for infrastructure in new developments, but did not put forward concrete proposals on how this could be achieved.

Objective

The main objective for the provision of telecommunications infrastructure in new developments is to support occupants having ready access to modern, quality telecommunications services and information about service availability in new developments. Because property buyers expect quality telecommunications to be readily available, they may assume it will be available and may not research the matter carefully. Developers and suppliers have an incentive to minimise costs in new developments to increase the profitability of their developments. As such, some developers may choose not to install quality telecommunications networks to reduce costs.

Options

The Department has considered four options to implement its policy of ensuring end-users have ready access to quality telecommunications infrastructure and to provide information about the telecommunications networks available in new developments.

Option 1: Retain the Status Quo – no new regulatory requirements

Option 1 is to retain the status quo and not implement any mandatory minimum service requirements on providers. Under this option, it would be up to individual providers to choose the type and quality of telecommunications infrastructure that will be installed when they are contracted to service a development.

Under this option, the Policy would be in place and the Government would rely on the market and competitive forces to encourage developers to install quality telecommunications infrastructure in their developments. This means developers would need to actively manage the provision of telecommunications solutions – just as they manage the provision of other utilities such as roads, drainage and water – and choose a telecommunications provider that can provide quality infrastructure for their occupants.

The Department would conduct an advertising campaign to encourage property buyers to check what telecommunications they are getting before entering into a purchase with a view to ensuring they have access to a network of acceptable quality.

Under this option, the Department would also operate an online portal where carriers could provide geo-spatial information on the location and boundaries of the new developments they are servicing. Carriers would not be required to provide such geo-spatial data. This would be a voluntary matter for carriers. Carriers would have an incentive to provide this information on a voluntary basis as it will help them identify cross-overs with other carriers and allow developers to find out who is servicing nearby developments.

Option 2: Carrier Licence Conditions

Under option 2, the Minister would put in place carrier licence conditions (CLCs) under the Telecommunications Act 1997 which specify minimum standards for the provision of telecommunications infrastructure in new developments. This approach aims to ensure that occupants of new developments have timely access to high quality telecommunications infrastructure and there is accurate and up to date information about the availability of telecommunications services in new developments.

The proposed CLCs would regulate carriers providing telecommunications infrastructure in new developments. There would be two separate CLCs – 1) Networks in New Developments and 2) Networks in New Developments Reporting Requirements.

Under the first CLCs – Networks in New Developments – carriers providing telecommunications infrastructure in new developments would need to ensure that their infrastructure and the services provided over it meet the minimum requirements. Carriers' networks would need to be upgradeable and affordable and be able to deliver solutions consistent with those delivered on the NBN. Their networks would also be required to be capable of supporting the delivery of voice, dependent, free-to-air broadcasting, and subscription broadcasting services. As such, it would be similar to the CLCs imposed on adequately served operators under the Adequately Served Policy – which aims to avoid unnecessary duplication of networks where premises are already being provided with NBN comparable outcomes.

Also under the first CLCs – Networks in New Developments – carriers would be required to have their networks independently certified to ensure the quality of the network prior to the first end-user being connected. It is envisaged that the independent certifier would be suitably qualified and would have skills in engineering and telecommunications. Carriers would be required to publish the certification reports on their website and, if required, provide them to the local council approving the development, upon request. Under the proposed CLCs, carriers would also be responsible for ensuring they have an agreement with at least three RSPs before they start building a network in a development, to ensure occupants have a choice of retail services.

Under this option, carriers would need to meet mandatory connection and fault repair times depending on the location and proximity of the premises to their networks. The connection and fault repair times would be consistent with the obligations currently on NBN Co under the Special Access Undertaking (SAU) and on Telstra under the customer service guarantee (CSG).

Under the second CLCs – Networks in New Developments Reporting Requirements – carriers would be required to lodge standardised geo-spatial information with the Department on the location and boundaries of new developments that they are servicing. However, unlike option 1, data provision would be on a mandatory basis. This information will be displayed as open source data on data.gov.au and be viewable on the National Map and the Department's website. The specified information to be lodged would include, but not limited to, the name and boundaries of the development, the carrier servicing it, and the type of network installed. This approach aims to help carriers co-ordinate the provision of infrastructure, help developers locate nearby carriers and enable consumers to check who is servicing their development. Under this instrument, carriers would be required to provide updates to the map on a monthly basis, if there are any changes required. Carriers would also be responsible for updating their data if an agreement for a development terminates.

The first CLCs – Networks in New Developments – would not apply to NBN Co and Telstra because they are subject to separate network requirements under other instruments. However, NBN Co and Telstra would be required under the second CLCs – Networks in New Developments Reporting Requirements – to provide geo-spatial data to the Department on the developments they are servicing for developments of 20 or more premises. This limit is intended to reduce the burden on NBN Co and Telstra who, as infrastructure providers of last resort, in practice, service many small developments by extending their networks.

Option 3: Introduction of Legislation

Option 3 would entail amendments to the *Telecommunications Act 1997* to legislate minimum requirements for the installation of telecommunications infrastructure in new developments. This option is similar to option 2 but would take a legislative approach to setting minimum standards for the provision of such infrastructure and collecting data from carriers on the developments they are servicing.

Similar to option 2, carriers would need to have their networks certified by an independent certifier to ensure they meet the legislated requirements prior to the first end-user being connected.

Option 4: Voluntary Industry Code

Under Option 4, industry would develop a binding industry code that sets out minimum requirements for the installation and operation of quality telecommunications infrastructure in new developments. This code would most likely be developed by the Communications Alliance (CA) and, if acceptable, registered by the Australian Communications and Media Authority (ACMA).

The code could include a certification scheme for compliant carriers that undertook to meet minimum outcomes agreed by industry. Certified carriers could use their certification status and branding in their

marketing campaigns to encourage developers to choose an infrastructure provider to service its developments.

The code could also provide for industry or the Department to host a map for the provision of geo-spatial information. As with the other options, this information will be displayed on an online map that shows new developments and the carriers that are servicing them.

This option would be entirely voluntary and a matter for industry to consider. Industry would need to develop the scheme. If the code is registered with the ACMA, industry would need to comply with the code.

Analysis of options

The four options have been assessed against the following criteria:

1. Does the option ensure quality infrastructure and service outcomes for occupants in new developments and the availability of information about those services?
2. Does the option provide developers with a choice of network providers to service their development?
3. Does the option promote efficient provision of telecommunications infrastructure in new developments, including data provision by carriers?
4. What is the cost of each option on carriers, developers and consumers? Does the option impose burdensome compliance costs on industry, whether one-off or ongoing?
5. What are the implementation timeframes for each option?

The following analysis outlines the advantages and disadvantages of each option in terms of the criteria above and the stakeholders affected.

Option 1: Retain the Status Quo – no new regulatory requirements

Advantages

- **Quality infrastructure** – Developers would generally have a commercial incentive to install quality infrastructure as property buyers expect access to good quality telecommunications services when they move into new homes.
- It is expected that most carriers already deliver quality networks in new developments, so consumers would receive a good outcome from the majority of carriers.
- **Choice** – The Policy promotes competition so developers will have the choice of any telecommunications infrastructure provider that offers to service their development.
- **Compliance costs** – This option has a negligible cost, as no changes are being made to the current situation. There would be no additional costs on carriers to deliver telecommunications infrastructure in new developments and it would allow carriers to compete freely in the market.
- **Timeframe** – This option has the shortest implementation timeframe as there are no changes being made to the current situation.
- **Efficient provision** – Carriers would have the option of providing geo-spatial information to an online map if they so choose. This would help improve the efficiency and coordination of work among carriers and developers. It would contribute to effective competition by providing information about the carriers operating in new developments but in a more limited way than options 2 and 3.

Disadvantages

- **Quality infrastructure** – There are no minimum quality standards for the provision of telecommunications infrastructure in new developments. Therefore, in the interests of saving money, some developers and carriers may choose not to provide infrastructure or low quality

solutions to save costs. The quality of outcomes would depend on the level of upfront competition to service the sector. Ongoing operation may not be subject to effective competitive discipline, leading to poorer service over time.

- Occupants of new developments would have no guarantee that their development has high quality telecommunications infrastructure, despite the critical importance of such infrastructure. Small or poor quality networks may also have difficulty attracting RSPs, again leading to limited choice for consumers.
- An education campaign may not be effective in encouraging property buyers to consider telecommunications issues or telecommunications may be seen as a minor factor in their purchasing decisions, relative, to say, location, space, or overall cost. Property buyers may also have the strong expectation that access to telecommunications is or should be required by planning or other laws.
- **Efficient provision** – This approach does not support the efficient delivery of telecommunications infrastructure in new developments as the installation of sub-optimal solutions means that the development may need additional infrastructure to be provided at additional costs, most likely met by the occupants in the development. If appropriate infrastructure is installed in the development stage, these additional costs would be avoided.
- As carriers will not be required to provide geo-spatial data for the online map, the map may be less accurate. This would limit the amount of information available to potential occupants choosing property, developers selecting carriers based on their proximity and carriers trying to coordinate the installation of infrastructure.

Option 2: Carrier Licence Conditions

Advantages

- **Quality infrastructure** – The CLCs would set minimum requirements for telecommunications infrastructure and services in new developments. The requirements would ensure occupants in new developments receive access to high quality telecommunications infrastructure.
- As most carriers already deliver quality infrastructure in new developments, the requirements would be more of a safeguard and require minimal change to existing networks. The proposed minimum standards are probably lower than those already provided by most carriers operating in new developments. The requirements would also minimise the need for carriers to retrofit developments with quality infrastructure, which can be costly.
- **Choice** – Developers will be able to choose from multiple carriers to provide infrastructure, provided these carriers can meet the CLCs. They can also be confident the carriers will provide a solution comparable to or better than the NBN.
- **Compliance Costs** – The CLCs should not impose large red tape restrictions on industry as many carriers are already delivering these requirements. If this is the preferred option, the final CLCs will be based on consultation with carriers and will have regard to their concerns about compliance costs and proposals for minimising costs.
- **Timeframe** – The CLCs could be implemented relatively quickly as a declaration by the Minister after a public consultation period.
- **Efficient provision** – The online map would provide ready and reliable data for developers, and carriers. The information collected on the online map would help carriers to identify efficiencies in installing telecommunications infrastructure as they can determine where other carriers are delivering services and avoid potential overbuild.
- This option reduces the need for overbuilding and retro-fitting for developments that are not serviced with adequate infrastructure and the significant cost of doing this. Retrofitting costs are generally considered to be higher than initial installation costs, for example, due to the need to replan, remobilise resources and remove and make good established assets like existing cabling, footpaths, verges or gardens.

Disadvantages

- **Substantive costs** – The CLCs could increase the cost of providing infrastructure in new developments by raising the standard of infrastructure or services required, if these standards are not already being met. However, the requirements are arguably consistent with general industry practices and should not involve significant new costs. The proposed requirements are seen as aligning with expectations of property buyers.
- **Compliance costs** – There could be additional costs to carriers for the implementation of minimum standards for telecommunications infrastructure in new developments. These costs could include:
 - the cost of ensuring their network meets the minimum connection requirements, such as minimum speed requirements, ability to integrate into other networks and timeframes, if they are not already meeting these standards;
 - reporting requirements for providing the Department with geo-spatial information on the developments they are servicing;
 - obtaining independent certification to ensure their network is of sufficient quality; and
 - other administrative costs – for example, providing certifications in response to requests from councils and publishing compliance reports on their websites.
- **Choice** – The CLCs may reduce the level of competition if carriers are not prepared to meet the minimum conditions specified, however this needs to be balanced against consumers having access to reasonable quality services.

Option 3: Introduction of Legislation

The advantages and disadvantages of option 3 are similar to those under option 2. However, option 3 would provide less regulatory flexibility than option 2.

Advantages

- **Quality infrastructure** – This option would impose the same service quality standards and information provision requirements on carriers as option 2 and would have the same advantages of delivering access to high quality telecommunications infrastructure in new developments. Legislated requirements would also minimise the need for carriers to retrofit developments with quality infrastructure, which can be costly.
- Inclusion of requirements in statute would provide greater certainty to carriers and the community that new developments would receive timely access to quality telecommunications infrastructure, on the basis such requirements were less likely to change.
- **Efficient delivery** – The online map would provide ready and reliable data for developers, carriers and consumers. The information presented on the online map would help carriers to identify efficiencies in installing telecommunications infrastructure as they can determine where other carriers are delivering services and avoid any overbuild. This would improve the efficiency in the delivery of infrastructure in new developments.
- This option reduces the need for overbuilding and retro-fitting for developments that are not serviced with adequate infrastructure and the significant cost of doing this.
- **Choice** – As with option 2, developers will be able to choose from multiple carriers to provide infrastructure, provided these carriers can meet the legislative requirements. Occupants may also receive better retail options due to more choice. They can also be confident the carriers will provide a solution comparable to or better than the NBN.

Disadvantages

- **Substantive costs** – Legislation could increase the cost of providing infrastructure in new developments by raising the standard of infrastructure or services required, if these standards are not already being met. However, the requirements are arguably consistent with general industry practices and should not involve significant new costs. The proposed requirements are seen as aligning with expectations of property buyers.

- **Compliance costs** – As with option 2, there could be additional costs to carriers for the implementation of minimum standards for telecommunications infrastructure in new developments. These costs could include:
 - the cost of ensuring their network meets the minimum connection requirements, such as minimum speed requirements, ability to incorporate into other networks and timeframes;
 - providing the Department with geo-spatial information on the developments they are servicing;
 - obtaining independent certification to ensure their network is of sufficient quality; and
 - administrative costs – for example, in providing certification in response to requests from councils and publishing compliance reports on their websites.
- **Efficient provision** – Legislation is not the most appropriate vehicle to specify detailed operational requirements such as the geospatial data requirements. It may be difficult to change the data requirements later, making it a rather inflexible option.
- Statute would not allow ready fine-tuning of requirements if needed; CLCs are more readily adaptable.
- **Implementation** – This option is likely to have the longest implementation timeframe as it is unlikely the bill will be able to be introduced into Parliament before early 2016 and time would be needed for its passage. This means it would not be implemented until mid-late 2016 and many new developments built during this period would not have the guarantee that the infrastructure meets minimum standards for telecommunications infrastructure in new developments or information about the availability of services.
- The same outcomes can be achieved under CLCs and the Parliament has provided this mechanism to deal with issues such as these, meaning legislation is unnecessary and it would divert Parliament's valuable time.

Option 4: Voluntary Industry Code

Advantages

- **Quality infrastructure** – Depending on how industry approaches the development of a code, the advantages of this option could be similar to those of option 2 and 3 with occupants in new developments receiving access to quality telecommunications infrastructure. This would depend on industry agreeing on a reasonable set of standards, reflecting their views of the general expectations of consumers.
- As carriers should have a better understanding of consumers' preferences, the inclusions in a code may be better aligned with customer expectations than a regulatory approach. This option could support a more tailored response to minimum standards because it would be based on direct industry experience in the market.
- **Efficient provision** – As with all the options, if the code provided for an online map, the information presented on such a map could help carriers to identify efficiencies in installing telecommunications infrastructure as they can determine where other carriers are delivering services and avoid potential overbuild.
- As with Option 1, the data requirements are largely flexible under this option as they are not regulated and can be determined by industry. Because it is an industry-based scheme, it may be seen as a more flexible option by industry.
- **Compliance costs** – The costs of the industry code and compliance with it would be a matter for industry itself and not the Government. If a code is registered by the ACMA, carriers can be directed to comply.

Disadvantages

- **Quality infrastructure** – Occupants in new developments have no guarantee that their development has high-quality telecommunications infrastructure unless the code sets

appropriate requirements and a developer engages a carrier that complies with the code. The ACMA can direct a carrier to comply with a registered code if required.

- **Efficient provision** – This approach does not guarantee the efficient provision infrastructure in new developments as the code may not specify appropriate requirements or carriers may fail to follow them, though this may be a low risk. However, if inadequate infrastructure is installed, property buyers may be subject to additional costs in the future to rectify shortcomings. If appropriate infrastructure was installed in the development stage, the additional costs to occupants could be avoided.
- The online map may be less accurate because it may not capture all carriers and new developments in the market if it is not a mandatory requirement on carriers.
- **Implementation** – As this option proposes an industry code, there is no certainty it will come into effect and carriers could choose whether or not they participate. If a code is developed, it is likely to take six to 12 months based on past experience. If there is a need to provide or replace infrastructure due to sub-optimal solutions, property buyers could be subject to significant additional costs to access quality telecommunications in their development.

Preferred option

The preferred option is option 2. By implementing minimum standards for the delivery of telecommunications infrastructure in new developments, developers and consumers will be less likely to receive sub-optimal solutions in their developments. This option gives developers and home buyers greater control over the quality of infrastructure provided in their estate. Option 2 also provides efficiencies as the infrastructure installed will not be required to be overbuilt in future at a likely cost to occupants in the developments. Option 2 ensures that the online map of telecommunications infrastructure in new developments would capture the wider market and be kept up to date and relevant. The details of the CLCs would be developed and tailored through consultation with industry. It is anticipated that carriers would already meet or exceed the proposed network quality standards and they would act more as safeguards for consumers than onerous obligations. CLCs can be implemented relatively quickly, providing protection sooner for property buyers, and are readily adaptable to changing market conditions.

While option 2 would impose additional costs on carriers to deliver telecommunications infrastructure in new developments, it would ensure that the infrastructure installed is good quality and provides timely connection and access for end-users. Option 2 reduces the need to upgrade new developments in the future as providers will be installing NBN equivalent infrastructure. This option could create a number of cost savings as new developments will not need to be upgraded to higher quality infrastructure in the near future.

While carriers providing infrastructure may face additional costs, these are unlikely to be significant because most carriers would be expected to already provide infrastructure of the quality proposed in the CLCs.

While option 1 would impose no additional costs on providers to deliver telecommunications infrastructure in new developments, it poses risks that some developments may receive sub-optimal telecommunications solutions. Under this option, while developers would have a commercial incentive to provide quality infrastructure to increase the value of their developments, they may choose not to due to the initial cost of doing so. While developers face a reputational risk, they do not have ongoing responsibilities for developments and therefore may be inclined to do this. As there is a wide range of developers, many are small and poorly informed, an extensive education campaign may need to be completed alongside the implementation of this option. Under this model, some networks that do not meet the standards, may need to be upgraded at the cost of the occupants in those areas.

The Government is committed to ensuring occupants in new developments have ready access to telecommunications infrastructure, option 1 does not meet this objective by relying on the Policy alone.

Under options 2 and 3, the online map could be regularly updated by carriers and therefore maintain relevant and up to date information on telecommunications infrastructure in new developments. The online map would help to identify carriers that are servicing developments and promote the efficient delivery of telecommunications infrastructure.

Option 3 has many of the same benefits as option 2. However option 3 would require the introduction of detailed amendments to the *Telecommunications Act 1997*. Introducing legislation would have similar requirements to a CLC.

Option 3 has the longest implementation timeframe as preparing legislation to be introduced in Parliament can be time consuming and is unlikely to be completed before 2016. Under this approach it will also be difficult and time consuming for the Government to make changes when required, particularly in relation to the provision of geo-spatial data for the online map. Option 3 would have similar costs and benefits to option 2 but added cost of Parliament time and inflexibility of provisions. The data collection requirements for the map may change over time due to the nature of the information needed by the different stakeholders. Other requirements may also need to evolve in order to meet changing expectations and to deal with unforeseen events in the market. Because of the longer implementation time, it is likely that fewer new developments would be subject to the mandatory minimum standards or information requirements.

Option 4 allows for industry to develop minimum standards for infrastructure that carriers install in new developments. Such an approach may better align carrier and customer expectations. The code approach would also better allow carriers to manage costs. However, it is uncertain if industry would develop a code or whether it would be considered to be adequate by the community. While it has incentives to align requirements with community expectations, it also has incentives to minimise standards so as to reduce costs. It is also uncertain whether the code will be developed, as it would be consensus driven and may also take a long time to fine tune the requirements given all the different parties involved. Compliance with the code would be voluntary in the first instance. As such it does not deliver the degree of certainty considered appropriate given the significant role of telecommunications infrastructure in contemporary life.

Consultation

Verigan Review

The Vertigan panel undertook extensive consultation in 2014 prior to publishing its reports. For the Regulatory Report, the Vertigan panel released a Regulatory Framing Paper in February 2014 to take soundings from industry and the public on key factors that should be considered, including the provision of telecommunications infrastructure in new developments. The panel received 43 submissions.

Following the release of the Vertigan Panel's Regulatory Report, the Department of Communications had discussions with carriers and industry organisations including, the Property Council of Australia (PCA), the Urban Development Institute of Australia (UDIA) and the Housing Institute of Australia (HIA), in relation to the panel's recommendations and invited industry stakeholders to provide feedback on the recommendations.

Draft Telecommunications Infrastructure in New Developments Policy

On 11 December 2014, the Minister released for comment a paper setting out the Government's preferred approach to the provision of telecommunications infrastructure in new developments. The

paper set out the key elements of the Government's proposed approach including the proposal to consider CLCs to set minimum standards.

The Government received 19 submissions on the draft policy paper from a range of stakeholders, including industry bodies, developers, carriers and consultants in the new developments sector.

The Department reviewed the stakeholder feedback on the policy paper and the introduction of minimum standards. Stakeholders generally supported the introduction of minimum service standards. However, stakeholders did not provide views on what the requirements for the minimum standards should be (e.g. minimum download speeds, infrastructure type, etc).

Some stakeholders suggested that the standards should require all RSPs to offer their services on certified network provider's networks. Smaller providers consider they are at a competitive disadvantage if larger RSPs do not offer services on other networks. This is not considered acceptable because it involves forcing RSPs to operate in developments they may not wish to. By contrast, the proposed CLCs are to condition conduct that carriers want to undertake.

Following the release of the draft policy paper, the Department and the former Minister for Communications participated in a range of follow-up discussions with stakeholders, including state and territory government representatives, developers, developer organisations, NBN Co and Telstra.

The Department has consulted with industry on the data provision requirements for the online map through a range of discussions and formal consultation periods with stakeholders. The views of stakeholders were taken into account when developing the online map.

Consultation on the draft carrier licence conditions

Under the *Telecommunications Act 1997*, the Minister for Communications must consult affected carriers on draft CLCs for at least 30 days and consider submissions before the CLCs declaration is made.

The Department will provide a copy to all carriers holding a licence as well as publishing the CLCs on its website for public comment. All submissions will be considered prior to providing further advice to the Minister on next steps. Next steps could include proceeding with CLCs as drafted or amending the draft CLCs. If significant amendments are made, further consultation may be undertaken.

Implementation and review

If the Minister decides to proceed with the CLCs, they would be made as a declaration by the Minister for Communications.

The Government would evaluate the effectiveness of the CLCs through its ongoing monitoring of industry and liaison with carriers and developers. The Government would review the policy framework and make any adjustments as required.

If it has not done so prior, the Department envisages the Policy, including the CLCs will be reviewed three years after implementation.

Questions for Consultation

This RIS has been prepared to assess the different options that are available to address the policy problem identified above. Before the RIS can be finalised, the Department needs to consult with stakeholders on the RIS and regulatory costings. To assist the Department develop its regulatory costings, a number of questions are provided below.

The Department has compiled a list of questions for stakeholders to consider and answer. For each question, stakeholders should also provide reasons for why they agree or do not agree with the question:

RIS

1. Do you agree with the problem description? Why or why not?
2. Do you agree with the assessment criteria? Why or why not?
3. Do you agree with the assessment of options? Why or why not?
4. Do you agree with the tentative preferred option?

Regulatory Costings

All RISs must be accompanied by a costing of the regulatory compliance burden of regulatory and policy options. If costs will be imposed by the new measures, the RIS must also identify measures that offset those costs, including countervailing savings from the changes.

The costs are measured against the regulatory burden measurement (RBM) framework. The purpose of the RBM framework is to determine the annual regulatory costs or savings incurred by the regulated entity under each option considered in the RIS, measured over a 10 year period. The RBM framework involves consideration of:

- compliance costs (administrative costs and substantive compliance costs); and
- delay costs (expenses and loss of income incurred by a regulated entity through an application or approval delay).

For each of the following questions, stakeholders should also provide reasons for why they agree or do not agree with the question.

5. What are the main cost drivers for each option? What is the estimated cost of each driver?
6. What are the estimated costs to comply with the proposed reporting and certification requirements in the CLCs?
7. What would be the cost of retrofitting a development with telecommunications infrastructure relative to the cost of installing infrastructure of specified quality upfront?
8. Would your infrastructure meet the network quality and integration standards set out in the CLCs? If no, what is the estimated increase (in % terms) in up-front rollout costs to meet those requirements?
9. Would you have to implement any new business practices and training programs as a result of the CLCs? If yes, how many estimated hours of training and documentation redesign would be required to align with the new requirements?
10. Would your current business practices meet the service connection and repair timeframes in the CLCs? If no, what is the estimated increase (in % terms) in your operating costs to meet the higher service standards?
11. How many individual developments do you rollout infrastructure in per annum?

Comment on any other aspect of the RIS is welcome.