



Australian Government

Australian Government response to the
Senate Select Committee on the
National Broadband Network

Second Interim Report

June 2015

INTRODUCTION

On 14 November 2013 the Senate established a Select Committee on the National Broadband Network (the Committee) to inquire into and report on the Australian Government's (the Government) reviews of the national broadband network (NBN) and the governance of NBN Co Limited (NBN Co).

The Committee's Terms of Reference require it to report to the Parliament with particular reference to:

- a. the establishment of the Government's Strategic Review of the NBN;
- b. the outcome of the Strategic Review of the NBN;
- c. the establishment and findings of the Government's cost benefit analysis;
- d. the conduct and findings of the Government survey of the availability of broadband in Australia; and
- e. any related matter.

On 26 March 2014 the Committee tabled its first interim report. The report made five recommendations and included a dissenting report that rejected the majority report. The Government responded in July 2014.

On 19 March 2015 the Committee tabled a second interim report. The report made five recommendations and included a dissenting report that rejected the majority report.

AUSTRALIAN GOVERNMENT RESPONSE

The Australian Government has considered the Committee's second interim report and provides the following response to the recommendations.

Recommendation 1

The committee recommends that NBN Co release an unredacted version of the Strategic Review to enable proper public scrutiny of the assumptions underpinning Scenarios 1 to 5. The Committee considers that there are no commercial implications to releasing analysis and forecasts relating to abandoned scenarios.

The Government does not support this recommendation.

NBN Co prepared the Strategic Review to evaluate its position and to inform decisions to be made by Government. On 17 December 2013, the Minister for Communications wrote to Dr Switkowski, advising that the unredacted document is classified Cabinet-In-Confidence and redacted sections cannot be discussed publicly. This letter was tabled with the Committee in December 2013.

Recommendation 2

The committee recommends that the government release the full version of NBN Co's 2014-17 corporate plan, as was the practice under the former government, to enable the proper public scrutiny of the project.

NBN Co released its Corporate Plan for the period 2014-17 in November 2014. This was the full version of the document.

Recommendation 3

The committee recommends that the government release the full version of NBN Co's 2015-18 corporate plan, when finalised, to enable the proper public scrutiny of the project.

The Government supports this recommendation.

The Statement of Expectations from the Australian Government to NBN Co requires the preparation of annual corporate plans for the purpose of "consideration by Government and subsequent public release".

Recommendation 4

The committee recommends that the government reinstitute the external independent review process of NBN Co's corporate plan to restore the proper probity to the project.

The Government does not support this recommendation.

As the principal sources of advice to Government on the annual NBN Co corporate plans, it is appropriate that Shareholder Departments use their expertise and take the lead role in conducting reviews of NBN Co's corporate plans, with specialist external advice as required to support the process.

The Government is satisfied that the review process undertaken by Shareholder Departments is appropriate, providing a high level of governance and scrutiny in relation to the plans and forecasts used by NBN Co in preparing the corporate plan.

The Government has already implemented a range of further measures to improve the transparency of NBN Co, on top of the normal public reporting that Government Business Enterprises undertake. For example, NBN Co is now publishing weekly rollout data, it is providing a monthly report on rollout and end user take-up, and is reporting quarterly on its financial performance, including conducting quarterly industry presentations.

Recommendation 5

The committee recommends that the government investigate the governance and probity issues identified in this report and the first interim report. This should include consideration of NBN Co personnel shareholdings, the awarding of contracts to board members, the pervasive secrecy shrouding the project and the potential liabilities that have been transferred to the Commonwealth as part of the Revised Agreements.

The Government does not support this recommendation.

NBN Co is a Government Business Enterprise (GBE) incorporated under the *Corporations Act 2001*. It operates under the *Public Governance, Performance and Accountability Act 2013*. The Government is satisfied that NBN Co is meeting the obligations of all the applicable legislation.

All Government employees, including those of GBEs, are required to uphold the highest levels of integrity to maintain public confidence and avoid perceptions of conflicts of interest. NBN Co, as with all other Commonwealth entities, has processes and procedures in place in relation to the disclosure of relevant interests held by its employees and to manage real and apparent conflicts.

As outlined in the NBN Co Board Charter, adopted by the Board on 15 July 2014 and available at the NBN Co website, Directors must disclose the nature and extent of any material personal interest they have in any matter which relates to the affairs of NBN Co unless permitted to avoid doing so by the *Corporations Act 2001*. A Director with a material personal interest may not be present when that

matter is being discussed or voted on except in accordance with the *Corporations Act 2001*. The Company Secretary records all notifications of interest both in the minutes of the relevant meeting and in a register which is available for inspection by any Director.

The Government is satisfied that both NBN Board members and Executives - are demonstrating high levels of personal and professional integrity, are operating in the best interests of the Commonwealth and are focused on delivering fast affordable broadband for all Australians as soon as possible.