

## ACCAN Submission: Consultation Paper 1 NBN 2025 RMA

22 January 2024

### Recommendations

This submission recommends NBN Co:

- > Provide more granular and disaggregated detail on capital and operating expenditure within Consultation Paper 2 and the Regulatory Proposal Forum.
- > Tie investment in climate and resilience initiatives to consumer welfare.
- > Clearly detail the benefits of >2Gbps services for Australian consumers.
- > Develop a medium-term plan to upgrade the Entry Level Plan from 25 Mbps to 50+ Mbps.

### About this submission

The Australian Communications Consumer Action Network (**ACCAN**) is pleased to provide this submission on NBN Co's Consultation Paper 1 nbn 2025 Replacement Module Application (**the Paper**) as part of NBN Co's compliance under the economic regulation regime established by the August 2023 Variation of the Special Access Undertaking (**SAU**).

ACCAN received an Australian Government grant of \$2.5 million over two years to represent consumer voices and interests in the development of NBN Co's expenditure proposals and service standards for Financial Years 2026 – 2029, to ensure they meet the needs of Australian consumers.

ACCAN thanks NBN Co for the opportunity to provide a consumer voice into this Consultation Paper. Should you wish to discuss any of these matters further, please contact [audrey.reoch@accan.org.au](mailto:audrey.reoch@accan.org.au).

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**Australian Communications  
Consumer Action Network**

### **Australian Communications Consumer Action Network**

ACCAN is the peak body that represents consumers on communications issues including telecommunications, broadband, and emerging new services.

ACCAN provides a strong unified voice to industry and government as we work towards communications services that are trusted, inclusive and available for all.

## Introduction: ACCAN's Overview of the Consultation Paper

Australia's National Broadband Network (**NBN**), as administered by the publicly owned NBN Co, has entered into a new period of economic regulation. This new era of regulation began on 1 November 2023, once the Australian Competition and Consumer Commission (**ACCC**) approved NBN's SAU Variation of August 2023 which would eclipse the previous and highly out-of-date 2013 SAU.

Far from being a 'set-and-forget' series of regulations, the 2023 SAU Variation has instituted a series of successive regulatory changes, which will see NBN Co's regulatory environment continue to develop through the present day until 2040, when the SAU is scheduled to expire. This evolving regulatory system means that NBN Co's ability to respond to emerging consumer needs will be central to its successful operation over the next decade and a half.

Consultation Paper 1 is one of two public-facing papers that NBN Co is seeking feedback on, to better inform their expenditure proposals over the Financial Years 2026 – 2029. The Paper provides a useful and informative overview of NBN's capital expenditure (**capex**), operating expenditure (**opex**), its climate transition and resilience initiatives, as well as its plans to invest further in fibre-optic cables to enable household speeds of above 2 Gbps.

By providing this information, the Paper represents a substantial step forward in NBN Co's approach to consultation, allowing consumers, members of the public and community sector organisations across the country to provide their input into how the nation's broadband service should best operate. This is a positive development in keeping with the intent of the SAU.

While the Paper marks a positive step forward, the obligations required by the ACCC for NBN Co to submit a Replacement Module Application (**RMA**)<sup>1</sup> may require it to provide significantly more detailed and granular information in its second consultation paper, and in discussions with the Regulatory Proposal Forum and the ACCC. ACCAN recommends that NBN Co:

- 1) Provide more granular and disaggregated details on capital and operating expenditure within Consultation Paper 2 and the Regulatory Proposal Forum.
- 2) Tie investment in climate and resilience initiatives to consumer welfare.
- 3) Clearly detail the benefits of >2Gbps services for Australian consumers.
- 4) Develop a medium-term plan to upgrade the Entry Level Plan from 25 Mbps to 50+ Mbps.

Without this information, it is not possible for external observers such as ACCAN to provide effective input. Even though NBN Co's proposals appear to be plausible and consistent, without granular details at this consultative period of the process, stakeholders will have little ability to inform NBN Co as to how and where it could better prioritise its expenditure, as intended under the SAU.<sup>2</sup>

Therefore, in order to gain better feedback for Consultation Paper 2 and throughout the later stages of the regulatory process more broadly, ACCAN advises NBN Co to provide more granular detail on its expenditure priorities, its climate transition initiatives, and how it can more effectively deliver quality and affordable services to consumers across Australia.

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<sup>1</sup> Australian Competition and Consumer Commission, 'NBN Co SAU Replacement Module - Regulatory cycle commencing 2026' (Web Page, 2 July 2024) <<https://www.accc.gov.au/by-industry/telecommunications-and-internet/national-broadband-network-nbn-access-regulation/nbn-co-sau-replacement-module-regulatory-cycle-commencing-2026/accc%E2%80%99s-notice>>

<sup>2</sup> NBN Co, *NBN Co Special Access Undertaking* (Report, August 2023) cl 5.7(a)-(b).

## Background: What is the Purpose of Regulatory Resets?

Regulatory resets are the processes by which State and Commonwealth regulatory agencies work with, challenge, and ultimately approve the expenditure proposals put up by the regulated entities. This process is best understood in the energy sector, in which the Australian Energy Regulator (AER) undertakes reset processes to ensure that consumers pay no more than necessary for energy.<sup>3</sup>

The benefit of reset processes is that it forces the regulated entity – usually a utility company with monopoly power in its sector, and therefore not subject to the economic pressures of competition – to engage with the regulator to determine how much revenue the company is allowed to recover over a multiyear period. Given that this monopoly power allows these companies to pass on their costs directly to consumers, this leaves regulatory reset processes as one of the few mechanisms to reduce utility prices for consumers.

As the leading authority on this regulatory process within Australia, the AER details the significant benefits to an effective regulatory reset process in their *Better Resets Handbook*:

*Networks that engage in genuine engagement with consumers are likely to result in better quality proposals being submitted... Proposals that reflect consumer preferences, and meet our expectations, are more likely to be largely or wholly accepted at the draft decision stage, creating a more effective and efficient regulatory process for all stakeholders.<sup>4</sup>*

Consumers benefit significantly from these processes, as effective representation of their interests during the development of expenditure gives them a seat at the table:

*By encouraging network businesses to improve their consumer engagement, consumers will be central to the regulatory determination process. This will allow consumers to have a greater influence over the development of regulatory proposals by network businesses and, more importantly, ensure network businesses deliver outcomes valued by consumers.<sup>5</sup>*

Crucially, these are not simply benefits for consumers, but also for the regulated entity itself:

*We consider this will also lead to many other benefits including; improved relationships and understanding between networks and consumers, greater faith from all parties in regulatory processes, and the generation of new ideas and regulatory approaches that benefit both consumers and networks.<sup>6</sup>*

The application of this process to the communications sector is an important opportunity for all involved. It grants the ACCC a more effective mechanism to generate its desired regulatory outcomes, allowing NBN Co greater opportunity to fulfil consumer needs and improve its social licence through open and transparent engagement with government, industry, and consumers.

ACCAN is conscious that inaugural regulatory reset processes are widely regarded as difficult processes and recognise the significant efforts by NBN Co to meet the regulatory needs of this

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<sup>3</sup> Australian Energy Regulator, 'Determinations and access arrangements,' *aer.gov.au* (Web Page, 2024) <<https://www.aer.gov.au/industry/networks/determinations-access-arrangements>>

<sup>4</sup> Australian Energy Regulator, 'Better resets handbook - Towards consumer-centric network proposals' (Report, July 2024) 3 <<https://www.aer.gov.au/industry/registers/resources/guidelines/better-resets-handbook-towards-consumer-centric-network-proposals>>.

<sup>5</sup> Ibid 3.

<sup>6</sup> Ibid 3.

process. However, we note with some caution the relatively hurried nature of this reset process, which only began in earnest in October 2024, leaving NBN Co only nine months to develop a complete RMA with engagement from access seekers (Retail Service Providers (**RSPs**)) and consumer advocacy groups, as per the requirements of the SAU.<sup>7</sup>

ACCAN's own assessment was that for this process to succeed, NBN would need to establish strong connections with community groups across Australia through extensive on-the-ground consultation, likely taking place over several months and potentially years:

*This would involve making local contacts and holding community town halls and face-to-face meetings with community members, consumers and their representatives across Australia. While intensive, this is precisely the depth of engagement required to accurately inform NBN Co of consumers' diverse needs and interests in this monopoly service.*<sup>8</sup>

Given NBN Co's decision to pursue an online-only model of engagement over a highly condensed time period, ACCAN is concerned that there may not be sufficient scope to effectively incorporate consumer voices within the development of NBN Co's RMA. As a regulated entity, NBN Co has a positive obligation to substantiate and justify its expenditure to its regulatory stakeholders.

While NBN Co has provided useful information to the Regulatory Proposal Forum and in Consultation Paper 1, ACCAN is concerned that it may not yet be adequately fulfilling its requirement to ensure that it develops expenditure proposals that adequately reflect consumer input, as required under the SAU.<sup>9</sup>

Failure by NBN Co to lodge a compliant RMA would result in a highly undesirable situation of regulatory uncertainty and likely higher borrowing costs, with subsequent impacts upon RSPs and consumers. ACCAN therefore recommends NBN Co provide more granular detail in subsequent consultation papers to ensure it adequately reflects the needs and interests of RSPs and consumers to ensure regulatory compliance in this new process.

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<sup>7</sup> NBN Co, *NBN Co Special Access Undertaking* (Report, August 2023) cl 5.7(a)-(b).

<sup>8</sup> Audrey Reoch, 'Making NBN's Monopoly Broadband Work for All Australians' (Journal Article, 2023) 31 *Australian Journal of Competition and Consumer Law* 340.

<sup>9</sup> NBN Co, *NBN Co Special Access Undertaking* (Report, August 2023) sch 2G cl 2.5(d)(iii).

# Consultation Questions

## Expenditure

1. How does the reduction in forecast overall expenditure by 18.2% for FY27-29 compared with FY24-26 align with your expectations?

It is difficult for ACCAN, as a consumer advocacy group, to provide a useful answer to this question, based on the information provided in the Paper. NBN Co summarises the case for the reduction of expenditure as follows:

*Forecast expenditure is 18.2% lower...reflecting realisation of benefits as nbn transitions from a 'build' to an 'operate' business, completion of the local fibre network build for the FTTN to FTTP upgrade program in December 2025, and implementation of cost reduction initiatives.<sup>10</sup>*

As a consumer advocacy group, ACCAN has no reason to doubt the case that NBN Co has provided here. However, as the participant in a rigorous regulatory reset process designed to promote accountability, it is incumbent upon ACCAN to remark that, based on the above, there is little basis upon which our organisation can effectively determine whether the reduction in NBN expenditure by 18.2% meets our expectations, let alone if it is effectively tied to consumer benefit.

While the rationale that NBN Co provides appears reasonable, without substantive justification from NBN Co as the regulated entity in this reset process, ACCAN is not in a position to consider whether NBN should expand its expenditure, whether it should invest less capital, or whether the current level and allocation of expenditure is maximally efficient. Without effective rubrics to determine how efficiently NBN Co is developing its expenditure plans, it is difficult for our organisation to determine whether it is meeting its obligations to maximise consumer benefit.

- > ACCAN recommends NBN Co:
  - provide detailed and disaggregated expenditure data to explain and justify its 18.2% decrease in expenditure.

2. What are your thoughts on the forecast expenditure being sufficient to meet the needs of nbn's customers?

As reflected above, ACCAN would require greater context and detail from NBN regarding the trade-offs between investment and maintenance in the network to effectively detail the needs of Australia's diverse consumer needs.

Australian broadband users require a wide variety of services, such as affordable lower-speeds, high-powered faster broadband services, satellite, wireless, and community Wi-Fi services, all of which are contingent upon the needs of the respective household and communities across Australia's diverse social and physical geography.

Based on the information provided in the Paper, ACCAN is not in a position to judge or determine whether NBN Co expenditure is sufficient to meet these needs. As a consumer advocacy group, we

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<sup>10</sup> NBN Co, 'Consultation Paper 1: nbn 2025 Replacement Module Application' (Consultation Paper, November 2024) 29 < <https://www.nbnco.com.au/content/dam/nbn/documents/sell/sau/consultation-paper-1-nbn-2025-replacement-module-application.pdf.coredownload.pdf>>.

restate our long-standing interest in the creation of a concessional broadband internet service,<sup>11</sup> an expanded USO policy,<sup>12</sup> and for faster speeds to be delivered to consumers across the board.

For future papers, ACCAN requests further detail on the methodology and reporting mechanisms used to forecast demand for NBN. Specifically, ACCAN requests that NBN provides detailed figures on the growth arising from household demand, as well as their estimates as to how much further the network will continue to penetrate into household demand, or whether the network has reached a natural plateau of roughly 8.8 million Services In Operation (SIOs), noting Australia's current estimated population of over 27 million,<sup>13</sup> and households measured around 10 million in 2021.<sup>14</sup>

If NBN Co is able to develop international benchmarks to inform what level of broadband penetration is common based on similar jurisdictions, or other meaningful research to set targets for it as a company to achieve, this would provide a useful long-term metric to determine the efficacy of NBN's expenditure vis-à-vis the needs of its consumer base and Australian consumers more broadly.

- > ACCAN recommends NBN Co:
  - provide greater context on the trade-offs between investment and maintenance in the network, with regard to consumer needs.
  - consider ACCAN's long-standing requests for a concessional broadband policy and to commit to delivering faster speeds.
  - substantiate its projections for growth in household demand.
  - develop benchmarks for broadband penetration in similar jurisdictions.

### 3. If you could reprioritise nbn's forecast capital expenditure, what would you suggest?

ACCAN considers that the broad pattern of expenditure appears to be plausible, in the context of the broader transition from FTTN services to a mainly FTTP network. This is further supported by the recent announcement by the Australian Government to invest \$3b in equity to complete the fibre rollout.<sup>15</sup> There are however several areas where ACCAN requested additional information to better evaluate NBN Co's capital expenditure, in order to recommend where it could be prioritised.

#### **Network capacity and upgrades**

ACCAN requests NBN Co provide more context on the *Plant Modernisation* program, including detailing the consumer benefits attributable to this program of investment, as well as what investment governance frameworks have been undertaken to oversee this investment.

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<sup>11</sup> ACCAN, 'No Australian Left Offline' (Web Page, 2019) <<https://accan.org.au/accans-work/no-australian-left-offline>>.

<sup>12</sup> ACCAN, 'Better delivery of universal services' (Policy Submission, 8 March 2024) <<https://accan.org.au/files/Submissions/2024/ACCAN%20submission%20to%20Better%20delivery%20of%20universal%20services%20consultation.pdf>>.

<sup>13</sup> Australian Bureau of Statistics, 'National, state and territory population' (Web Page, June 2024) <<https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/jun-2024>>.

<sup>14</sup> Australian Institute of Family Studies, 'Population, households and families' (Web Page, July 2023) <<https://aifs.gov.au/research/facts-and-figures/population-households-and-families#:~:text=With%20the%20population%20growth%2C%20the,9.275%20million%20households%20in%20Australia.>>>.

<sup>15</sup> NBN Co, 'NBN Co announces upgrades for remaining homes and businesses on Fibre to the Node 13 January 2025' (Media Release, 13 January 2025) <<https://www.nbnco.com.au/corporate-information/media-centre/media-statements/upgrades-for-remaining-homes-businesses-on-fttn>>.

On the *Transit Networks*, ACCAN requests NBN Co provide more detail on its investment in ‘DWDM technology’ and substantiate the basis for its investment of \$300 million in transit network architecture. Similarly, ACCAN requests more information from NBN Co on the consumer benefits that are attributable to this program of investment.

Regarding the *FTTX Capacity and Underperforming Lines* program, ACCAN accepts NBN Co’s rationale for replacing and upgrading underperforming copper lines to ensure that NBN Co delivers upon its obligations under the Statutory Infrastructure Provider regime. However, like the above two programs of investment, ACCAN requires more information to effectively judge the consumer benefits of this investment. It is incumbent upon NBN Co to connect this investment to consumer benefits in a cohesive and granular matter.

- > ACCAN recommends NBN Co:
  - detail the consumer benefits attributable to, and investment governance frameworks overseeing, the *Plant Modernisation*, *Transit Networks* and *FTTX Capacity and Underperforming Lines* programs.

### **Market demand capex**

ACCAN requests further detail from NBN Co in terms of what methodology it adopted to forecast the capex required for new developments. ACCAN accepts NBN Co’s reasoning that its capex has reduced due to a reduction in the Enterprise Ethernet build caused by the prominence of business-grade products over the HFC and FTTP networks, which ACCAN considers to be reasonable services for small-medium sized businesses, however disaggregated data would help demonstrate this case.

- > ACCAN recommends NBN Co:
  - detail its methodology used to forecast the capex required for new developments.
  - provide disaggregated data demonstrating the transition of business services from Enterprise Ethernet plans to HFC and FTTP services.
  - detail the modelling used to project the estimated 500,000 new residential and business premises over the regulatory cycle period.

### **Non- Fixed Line Build and Capacity Capex**

ACCAN considers that this line item in particular is lacking in sufficient detail to effectively judge, especially given the importance of connectivity in the largely regional, rural, and remote areas that access non-fixed line services, including fixed wireless and satellite services. Noting the projected end of life for Sky Muster services by the early 2030s, ACCAN is concerned by the absence of scope for expenditure and planning for satellite services which will be required over the coming decades. We are also concerned about the lack of detail regarding expenditure on community Wi-Fi services in First Nations communities, as well as the Public Interest Premise program.

- > ACCAN recommends NBN Co:
  - provide significantly more information about its investment plans for *Non-Fixed Line Build And Capacity Capex*.
  - detail its mid-long term plan for satellite services post-Sky Muster.
  - provide further detail on its plans for community Wi-Fi for First Nations communities and the Public Interest Premise program.



## Connect and Assure

ACCAN notes the size of this program, as representing just over half of NBN Co's projected capex for the regulatory cycle. Given the size of the investment, roughly \$3.3 billion, ACCAN requests NBN Co to provide greater detail on the breakdown of activities and associated expenditure.

Concerning the *Upgrade Connections* line item, which at \$2.2 billion reflects the single largest capex line item that NBN Co is proposing, ACCAN requests significantly more detail on activities, expenditure, and consumer benefits, to ensure that NBN Co is meeting its regulatory obligations. In particular, we request that NBN Co provide a breakdown of the cost and activities involved in upgrading a node from FTTN to FTTP.

ACCAN also requests greater detail on expenditure and activities with regard to the *Customer Service & Assurance & Other* line item. Greater articulation of how this capex connects to NBN Co's broader goals of resilience would also help substantiate this line of expenditure.

- > ACCAN recommends NBN Co:
  - articulate the distinction between *Customer Connect* line item and the *New Developments* in the Market Demand capex section, noting both are dedicated towards new connections to the network.
  - provide significantly more detail on the *Upgrade Connections* line item, including a breakdown of activities.
  - provide a breakdown of the cost involved in upgrading a node from FTTN to FTTP.
  - provide more detail on the *Customer Service & Assurance & Other* line item, including estimates for material costs and maintaining minimum levels of service standards.

## Other Capex

Similar to ACCAN's feedback with regard to other capex line items, we request greater detail on the *Other Network, Software Engineering* and *Facilities & Other* investment programs. In particular, noting the needs of consumers in regional, rural and remote areas, ACCAN notes with concern NBN Co's projected 64.9% reduction of expenditure in *Facilities & Other*, noting that this projected to mostly come from a decline in 'regional co-investment activity'.<sup>16</sup> NBN is critical to consumers living in regional, rural and remote areas, who have limited access to alternative services, so any reduction in activity in these areas should be justified with the assurance that these consumers will continue to have access to quality, affordable and reliable services.

- > ACCAN recommends NBN Co:
  - greater detail on expenditure, activities, consumer benefits and investment governance framework regarding the *Other Network, Software Engineering* and *Facilities & Other* investment programs.
  - provide further context to its 64.9% reduction of expenditure which it has attributed to a decline in 'regional co-investment activity.'
  - articulate how this line item connects to NBN Co's overall vision for investment in Australia's regional, rural and remote areas.

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<sup>16</sup> NBN Co, 'Consultation Paper 1: nbn 2025 Replacement Module Application' (Consultation Paper, November 2024) 41 < <https://www.nbnco.com.au/content/dam/nbn/documents/sell/sau/consultation-paper-1-nbn-2025-replacement-module-application.pdf.coredownload.pdf>>.

## Capex Summary

ACCAN accepts that NBN Co requires significant capital expenditure and investment in maintaining and expanding its network, especially in the transition to a full-fibre network. However, with the level of detail provided in Consultation Paper 1, we are not in a position to consider whether these expenditures are effectively substantiated with regard to consumer benefits.

Consumer advocacy groups such as ACCAN should be in a confident position to assess that capital expenditure leads to material benefits in the services used by consumers, such as increased speeds, more reliable services, or connecting more residences and businesses to the network. ACCAN recommends that NBN Co provide significantly greater detail in future consultation efforts.

- > ACCAN recommends NBN Co:
  - review the entire Capex section to provide granular detail on capital expenditure and tie its investment programs to consumer benefits.
  - review its approach to Consultation Papers to ensure it provides greater detail, including disaggregated capex figures, in future papers and consultations.

### 4. If you could reprioritise nbn's forecast operating expenditure, what would you suggest?

ACCAN accepts NBN Co's proposed decrease in opex, from a high of \$11.6b in FY21-23 to a proposed \$8b in FY27-29, as being broadly consistent with the network's transition to being a predominantly FTTP network. Unfortunately, the Paper does not provide sufficient information on the underlying assumptions or alternative approaches countenanced by NBN Co, which would better demonstrate the value for money or benefits to consumers of the suggested approach.

There are several areas where ACCAN requests additional information to better evaluate NBN Co's operating expenditure, in order to recommend where it could be better prioritised.

### Resourcing Costs and Infrastructure Payments

Greater substantiation of the aggregate figures provided in this section would better indicate how this expenditure fulfils consumer needs and would assist ACCAN in providing greater input. More granular detail is required of how NBN Co staff are divided between office, corporate and support positions, and 'on the ground' field roles. Linking NBN staffing to the output of the company would better allow stakeholders to provide more effective input.

- > ACCAN recommends NBN Co:
  - detail the estimated split of Resourcing Costs and Infrastructure Payments for the years FY24-26 and FY27-29, as NBN Co has only provided aggregate figures.
  - articulate the assumptions directing their overall predicted resourcing costs, such as staff headcount.
  - provide further detail on staff numbers between corporate and field roles.
  - substantiate the consumer benefit of staff employment in both fields.
  - provide the total number of external contractors used to support NBN activities.

## Direct Operating Costs

As only 23.7% of NBN Co's total forecast opex is predicted for the direct operating costs, ACCAN is concerned to see more detail about what these costings.

- > ACCAN recommends NBN Co:
  - provide a breakdown of the costs associated with direct operating costs and associated activities and work programs.

## Other Operating Costs and Service Level Rebates

ACCAN considers that NBN Co's Marketing and Product Costs, of roughly \$100 million, are a significant expenditure for a wholesale telecommunications company which does not deal directly with consumers. ACCAN staff have anecdotally noted the appearance of NBN advertisements during prime-time events such as the Border-Gavaskar Test Cricket series. Without clear linking of this marketing expenditure, which has declined over the last expenditure cycles, to consumer interests, ACCAN considers that this may be an appropriate expenditure line item to reduce, if not eliminate.

With regard to the other costs, including *Service Level Rebates, Facilities Costs & Other*, and *IT and Software Costs*, ACCAN requests substantially more detail in these items of expenditure, and encourages NBN Co to investigate efficiencies to exploit. Finally, ACCAN wishes to see more information about how NBN Co is operating in accordance with the *Cost Allocation Manual*,<sup>17</sup> which requires NBN Co to separate its competitive service offerings from its core monopoly services.

- > ACCAN recommends NBN Co:
  - advise whether government relations, stakeholder engagement, marketing and regulatory staff are employed under these costings.
  - substantiate the consumer benefits of its marketing budget.
  - substantiate the consumer benefits of its *Service Level Rebates, Facilities Costs & Other*, and *IT and Software Costs* line items.
  - provide additional information on the cost breakdowns of facilities costs and the consumer benefits they provide.
  - consider where additional efficiencies can be found in facilities costs.
  - substantiate the consumer benefits attributable to its IT and software expenses.
  - detail how it ring-fences its competitive services from its core monopoly offerings.

## Opex Summary

ACCAN accepts that NBN Co has significant operating expenditures due to maintaining a continent-spanning infrastructure network. However, with the level of detail provided in this paper, ACCAN as a consumer advocacy organisation is not in a position to effectively evaluate whether these expenditures are effectively substantiated with regard to consumer benefits. Without disaggregation and justification of opex, ACCAN can only consider that such expenditures are not justifiable and may be contributing to higher consumer prices, and would recommend a reduction in expenditure.

- > ACCAN recommends NBN Co:
  - provide substantially more information to justify its overall opex.

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<sup>17</sup> NBN Co, 'nbn Cost Allocation Manual' (Report, November 2023).

5. What trade-offs between expenditure and outcomes would you like nbn to consider?

It is difficult for even an informed stakeholder such as ACCAN to provide effective feedback on the appropriate trade-offs between expenditure and outcomes that NBN Co may make, as the aggregate expenditure figures listed within the Paper provide little insight into how NBN Co could best exploit efficiencies within either capex or opex.

As a guiding principle, ACCAN notes that each item of expenditure will inevitably have to be cost recovered, meaning that there is a clear and linear relationship between the degree of investment in the network and the prices that Australian consumers are required to pay at the retail level, as the market dynamics of monopoly infrastructure services mean that wholesale prices are uniformly passed onto consumers.

Therefore, ACCAN advises NBN Co to propose its expenditures with consideration that every increased dollar of expenditure will lead to greater prices for consumers. If expenditure is likely to provide benefits to consumers who have the means to pay for such improvements to the network, ACCAN recommends ensuring that such costs are recovered through an effective price/speed tier, which ensures that those on slower speeds or low-cost products are not cross-subsidising the services of those on higher speed services.

- > ACCAN recommends NBN Co:
  - provide more detailed methodology indicating its approach to minimising unnecessary expenditure while prioritising consumer welfare.

## Climate Transition Plan

### 6. What are your views on the cost/complexity and benefit assessment of initiatives to contribute to nbn's net-zero goal? Has nbn got the balance right?

It is unclear to ACCAN what initiatives NBN Co proposes to proceed with, and on what timeline it wishes to implement these measures. While ACCAN is strongly supportive of initiatives designed to reduce NBN Co's carbon emissions and mitigate the network against the impacts of climate change, it is difficult for our organisation to assess the efficiency and efficacy of NBN Co's proposed activities, as they are presented without quantification of costs, and with little reference to timelines.

- > ACCAN recommends NBN Co:
  - quantify its investment in its climate transition plan.
  - generate a timeline of investment in its climate transition plan.

### 7. Are there other activities that nbn could undertake that would produce greater benefits and/or at lower costs?

As the regulated entity, ACCAN recommends NBN Co conduct research with reference to other domestic and international wholesale infrastructure and broadband providers to assess their climate transition plans and present such findings to the Regulatory Proposal Forum and the ACCC. Any such consideration should come with multiple approaches to consider what the best trade-off would be to maximise efficient investment and environmental outcomes.

- > ACCAN recommends NBN Co:
  - develop domestic and international benchmarks to allow it to best consider how it can invest in and implement its climate transition plan.

### 8. How can nbn address energy consumption associated with broadband use in customer premises? What challenges and opportunities does it create?

ACCAN considers that line items such as *Reducing Number of Devices in Households* have not been substantiated with efficiency or consumer benefits in mind. It is unclear from the information presented how NBN Co would be effectively able to influence RSPs to reduce the total number of devices in consumers' households, nor is it clear what cost this programme would require or save, nor how it aligns with NBN Co's role as a wholesale infrastructure provider.

ACCAN recommends NBN Co to give greater consideration to *Accelerate Energy Efficient Fibre to Replace Copper*, including presenting detailed and granular information in its next consultation paper. This should include the split of costs associated with fibre as opposed to copper services, in terms of both emissions and monetary costs, as well as the associated cost savings and potential environmental benefits in the upgrade from copper to fibre. ACCAN further recommends NBN Co detail a strategy of implementation to ensure high uptake of fibre connections.

- > ACCAN recommends NBN Co:
  - consider ending the Reducing Number of Devices in Households program.
  - give greater consideration to, and provide more granular detail about, the Accelerate Energy Efficient Fibre to Replace Copper program.
  - develop an implementation strategy for all activities in this section.

9. How through nbn's shared investments and supply chains can it collaborate to reduce emissions? What barriers do you foresee?

ACCAN recommends NBN Co adopt a more strategic and integrated approach to better reflect how its investment can tie into consumer benefits, through a more resilient and low-emissions network. While the Paper presents numerous activities that NBN Co is adopting, it has not presented a consistent strategy for emissions reduction or articulated how line items such as green bonds or investment in resilience are tied to long-term consumer benefit.

Climate impacts are likely to affect the NBN's resilience and its overall capex program, so such considerations should be made salient. Greater and more granular detail on NBN Co's proposed activities would better allow ACCAN and other stakeholders to understand how NBN Co is planning its investment in a changing climate.

- > ACCAN recommends NBN Co:
  - develop a cohesive investment plan to underpin the climate transition program.

## Resilience

10. To what extent do you think nbn has struck the right balance between proactive risk management measures and reactive response and recovery measures? If not, what should nbn prioritise differently?

Disaster resilience is an increasingly important aspect for telecommunications infrastructure companies such as NBN Co to consider, both with regard to unplanned network outages as well as natural disasters impacting the physical infrastructure itself.

NBN Co has articulated some of the challenges and risks associated with resilience planning, however, the Paper does not actually detail a plan for how to implement such a resilience plan. Therefore, ACCAN requests NBN Co to provide a clearer and more articulated vision for the goal they are attempting to achieve. For instance, clear service level targets would provide a benchmark and allow NBN Co to better manage their operations to meet this target.

Without a clearer articulation of where NBN is investing its expenditure in order to stabilise the network and respond to anthropogenic and natural disasters, it is difficult for a consumer advocacy group such as ACCAN to endorse expenditure within this realm. As network resilience is vital for the needs of Australian consumers, particularly with the increasing onset of climate change-related disasters, ACCAN considers this to be a high priority for NBN Co to substantiate in future papers.

- > ACCAN recommends NBN Co:
  - articulate a clearer vision for its resilience program and how it links to its climate transition plan.
  - develop benchmarks for service levels for reactive response and recovery measures.

11. Considering the current and future activities nbn is undertaking: i. What aspects of nbn's proactive risk mitigation should it focus more on? ii. What else should nbn do to respond during major emergencies? What could nbn do more of or differently in relation to expedited recovery after an event?

ACCAN considers that NBN Co should provide a more specific definition of its scope concerning risk mitigation, that is benchmarked to other domestic and international jurisdictions. Unfortunately, this section does not contain costing or quantification to demonstrate NBN Co has proposed expenditure that is efficient and provides effective value for money.

Similarly, with regard to expedited recovery after an event, ACCAN requests NBN Co to provide more detail on the scope of activities undertaken within this program, in addition to detailing how expenditure is tied to consumer benefits. While resilience is essential for network security and longevity, for this reset process it is incumbent upon the regulated entity to substantiate this expenditure and demonstrate that it is tied to substantive outcomes for its user-base.

There have been considerable efforts in recent years in the communications sector to promote resiliency and ensure that communication services are available when consumers need them most.<sup>18</sup> ACCAN recommends NBN Co ties its work program more directly to these activities, with more granular detail and rationale behind its expenditure, in order to demonstrate how its investment in resilience is meeting its targets and delivering a better network for consumers.

- > ACCAN recommends NBN Co:
  - use domestic and international benchmarks to better inform its approach to risk mitigation, specifically with regard to costings.
  - detail the consumer benefits tied to its resilience program, better substantiating the benefits that it provides to its user-base.
  - connect its resilience plan to the broader emerging communications sector resilience initiatives.

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<sup>18</sup> For example, see ACCAN, 'ACMA's Proposed Telecommunications (Customer Communications for Outages) Industry Standard 2024', (Policy Submission, 23 October 2024) <<https://accan.org.au/accans-work/submissions/2362-acma-s-proposed-telecommunications-customer-communications-for-outages-industry-standard-2024>>; ACCAN, 'Senate Inquiry on the Optus Network Outage' (Policy Submission, 21 November 2023) <<https://accan.org.au/accans-work/submissions/2258-optus-network-outage>>; ACCAN, 'Select Committee on Australia's Disaster Resilience', (Policy Submission, 11 September 2023) <<https://accan.org.au/accans-work/submissions/2235-select-committee-on-australia-s-disaster-resilience>>; ACCAN, 'Telecommunications during Australia's 2019-2020 Bushfire Season', (Policy Submission, 20 March 2020) <<https://accan.org.au/accans-work/submissions/1705-2019-20-bushfire-submissions>>;

## Investment in FTTP and HFC to enable speeds above 2 Gbps

### 12. How important is increasing internet speed to customers?

High-speed internet is an essential service for Australians to access government services, healthcare, and economic opportunities. To this end, the Australian Government has mandated a minimum service level of 25/5 Mbps under its Statutory Infrastructure Provider (**SIP**) regime,<sup>19</sup> under which wholesale providers – chiefly NBN Co – are obligated to deliver this minimum service.

However, ACCAN does not consider 25/5 to be a fixed speed and recommends raising the NBN's Entry-Level Offer to the 50/20 Mbps service (see our response to Question 18). In ACCAN's view, increasing internet speeds for consumers means raising the baseline quality of service that all Australian consumers can access. While there is certainly capacity for investing in faster internet speeds at the Gigabit level and above, ACCAN cautions NBN Co against pursuing this as a model for cost recovery, as most Australian consumers are unlikely to significantly increase their household expenditure on >2 Gbps speeds for the marginal benefit.

NBN Co needs to carefully consider the trade-offs between investing in faster internet speeds at the Gigabit level and uplifting the speeds of the vast majority of consumers. Noting that only 485,347 NBN SIOs out of a total of 8.8 million are using speeds above the 100 Mbps category,<sup>20</sup> making them 5.5% of NBN users, ACCAN consider that NBN Co should prioritise the uplifting of the internet speeds of the vast majority of Australians, as opposed to investing in higher-tier speeds which only a small percentage of Australians are opting for.

- > ACCAN recommends NBN Co:
  - provide further detail on the trade-off between >2 Gbps internet speeds and increased prices for consumers.
  - substantiate the assumption that Australian consumers are likely to rapidly adopt 100+ Mbps speed services.
  - invest in the uplift of speeds across the network, ensuring that they are balanced with the needs of affordability.

### 13. How important is it for Australia to offer services comparable with other developed countries worldwide? Why?

International benchmarks serve a useful role in setting expectations and establishing global norms for what services consumers should expect to consume. However, it is essential to consider what benchmarks are used and acknowledge what their limitations are.

For the purposes of communications infrastructure, a large continent-spanning nation like Australia has more in common with geographically large nations with significant urban/rural divides such as the United States, Canada and Brazil, as opposed to smaller European nations with more condensed geography.<sup>21</sup> In this instance, adopting outdated reference points such as 'developed countries' may not be useful to understand how best to fulfil the needs of Australian consumers.

<sup>19</sup> *Telecommunications Act 1997* (Cth) Part 19.

<sup>20</sup> NBN Co, 'September quarter 2024 report' (Report, 21 November 2024) <<https://www.accc.gov.au/by-industry/telecommunications-and-internet/national-broadband-network-nbn-access-regulation/nbn-wholesale-market-indicators-report/september-quarter-2024-report>>.

<sup>21</sup> DITRCDA, 'Better delivery of universal services - discussion paper' (Consultation Paper, 30 October 2023).



Australian consumers have diverse needs, and their access and use of communications technology should be measured in the capabilities they enable rather than ‘set and forget’ standards.<sup>22</sup> Ensuring the availability, reliability and affordability of broadband internet services is a key concern for ACCAN in meeting the needs of consumers across Australia, particularly low-income, regional, rural and remote, and First Nations consumers.

While high speeds are important to Australian consumers, the question is whether they are provided at an affordable rate for most households to reasonably pay for them. Australians pay high prices for broadband internet services by international standards. Analysis from Picodi in 2023 showed that Australians pay the third highest prices in the world for 100 Mbps services, just behind Iceland and Norway.<sup>23</sup> More shockingly, the Australian Digital Inclusion Index shows that 75.9% of Australians pay more than the international affordability benchmark of 2% of their household income on broadband internet.<sup>24</sup> These are useful benchmarks for NBN Co to consider in how it develops its pricing with regard to speed tiers – many Australians are already paying too much for internet.

ACCAN has received advice, consistent with NBN Co’s high-speed offerings, which suggests that NBN Co’s cost recovery modelling is built upon shifting consumers to higher speed tiers, cementing the Home Fast (currently 100 Mbps, soon to potentially be the 500 Mbps category<sup>25</sup>) as the flagship product above the current Home Standard (the 50/20 Mbps plan).

While ACCAN welcomes the delivery of higher speed services across the NBN Co network, as a consumer advocacy group our priority is to ensure that consumers are able to access the broadband services they need, meaning such services should be provisioned in a manner which is available and affordable for all consumers. As it currently stands, ACCAN is concerned that NBN Co’s current approach will entrench a two-tier digital divide among Australian households. We therefore recommend NBN Co reconsider its current approach to expand higher speeds for all service levels.

- > ACCAN recommends NBN Co:
  - adopt international benchmarks of relevance to Australia’s geography and economy.
  - prioritise the availability, reliability, and affordability of broadband services.
  - move away from cost recovery based on shifting more consumers to higher speed tier offerings.
  - ensure that its investment in >2 Gbps speeds, if it goes ahead, does not entrench a digital divide within Australia’s broadband market.

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<sup>22</sup> ACCAN, ‘Better delivery of universal services’ (Policy Submission, 8 March 2024) <<https://accan.org.au/files/Submissions/2024/ACCAN%20submission%20to%20Better%20delivery%20of%20universal%20services%20consultation.pdf>>.

<sup>23</sup> Picodi Australia, ‘Worldwide comparison of Internet prices in 2023 – how much does Internet cost in Australia?’, *Picodi* (Web Page, 14 November 2023) <<https://www.picodi.com/au/bargain-hunting/internet-prices-2023>>.

<sup>24</sup> Thomas, J., McCosker, A., Parkinson, S., Hegarty, K., Featherstone, D., Kennedy, J., Holcombe-James, I., Ormond-Parker, L., & Ganley, L. ‘Measuring Australia’s Digital Divide: Australian Digital Inclusion Index: 2023’ (Report, 2023), 18 – 19.

<sup>25</sup> NBN Co, ‘Australians feel the need, the need for speed: nbn reveals plan to turbo-charge high-speed tiers’ (Web Page, 4 March 2024) <<https://www.nbnco.com.au/corporate-information/media-centre/media-statements/nbn-plans-to-accelerate-highest-speed-tiers>>.

14. What are your views about expected consumer demand for >2 Gbps speeds in the medium-term?

ACCAN considers that NBN Co has not provided sufficient evidence or justification in their proposed offering of a 2Gbps service. NBN Co refers to an estimated average of 22 devices in Australian households in 2022, rising to an average of 33 by 2026,<sup>26</sup> without reference to the Census data indicating that the average Australian household had 2.5 residents in 2021.<sup>27</sup>

While undoubtedly Australians possess many devices that require high-speed broadband internet services, it is unclear that the proliferation of devices necessarily draws upon broadband internet use in a linear fashion. That is to say, most consumers are only capable of using a few high-data services such as a smartphone, computer, or gaming device at a time.

NBN's suggested drivers of demand for broadband, such as 'increase in time spent online' and 'development of immersive technologies such as virtual reality and augmented reality',<sup>28</sup> are not adequately substantiated, nor is it clear what consumer benefit these trends will deliver. Similarly, the listed benefits of greater speeds as 'Live 3D TV', 'XR free-viewpoint', 'High Quality XR' and '8K video'<sup>29</sup> point towards fringe cases of emerging technology, as opposed to meeting the extant needs of Australian consumers over FY26 – FY29.

Without adequate evidence as to widespread consumer benefit – or meeting hitherto underserved needs within the Australian community – NBN Co has not provided a clear rationale here for its investment in these greater speed services that go beyond the existing 1 Gbps offering.

If NBN Co is likely to take over the universal service obligation contract from Telstra and become responsible for maintaining voice and data services across Australia, as recommended within the 2024 Regional Telecommunications Review,<sup>30</sup> ACCAN considers that NBN Co will have to more carefully consider the balance between investing in higher speeds and in the maintenance, resilience and accessibility of the existing network.

- > ACCAN recommends NBN Co:
  - substantiate its claims tying greater demand for higher speeds with higher device numbers in Australian households.
  - provide greater evidence for its drivers of demand for broadband services.
  - explain the benefit that >2 Gbps services provide not met by 1 Gbps services.
  - balance the needs of maintain and investing in voice and data services with the expansion in higher speed services.

<sup>26</sup> NBN Co, 'Consultation Paper 1: nbn 2025 Replacement Module Application' (Consultation Paper, November 2024) 61 <<https://www.nbnco.com.au/content/dam/nbn/documents/sell/sau/consultation-paper-1-nbn-2025-replacement-module-application.pdf.coredownload.pdf>>.

<sup>27</sup> Australian Institute of Family Studies, 'Population, households and families' (Web Page, July 2023) <<https://aifs.gov.au/research/facts-and-figures/population-households-and-families#:~:text=With%20the%20population%20growth%2C%20the,9.275%20million%20households%20in%20Australia.>>>.

<sup>28</sup> NBN Co, 'Consultation Paper 1: nbn 2025 Replacement Module Application' (Consultation Paper, November 2024) 63 <<https://www.nbnco.com.au/content/dam/nbn/documents/sell/sau/consultation-paper-1-nbn-2025-replacement-module-application.pdf.coredownload.pdf>>.

<sup>29</sup> NBN Co, 'Consultation Paper 1: nbn 2025 Replacement Module Application' (Consultation Paper, November 2024) 64 <<https://www.nbnco.com.au/content/dam/nbn/documents/sell/sau/consultation-paper-1-nbn-2025-replacement-module-application.pdf.coredownload.pdf>>.

<sup>30</sup> Regional Telecommunications Review, '2024 Regional Telecommunications Review' (Report, 2024) 8 <[rtirc.gov.au](https://rtirc.gov.au)>.

15. What would RSPs require as part of a minimum viable product to productise a new speed tier above 2 Gbps?

As a consumer advocacy group, ACCAN is not in a position to speak on behalf of RSPs. However, ACCAN understands that NBN is of the view that RSPs do not expect high demand for multi-gigabit plans. Therefore, we would encourage NBN to engage with RSPs to better understand how they view the uptake of these services to be over the short, medium, and long term.

- > ACCAN recommends NBN Co:
  - engage with RSPs to better understand their approach to promoting uptake of higher speed services such as the >2 Gbps services.

16. What would be required for customers to require and/or take-up a new speed tier above 2 Gbps?

As a consumer advocacy group with roots in community groups across the country, ACCAN has not encountered grassroots campaigns or demands for NBN speed tiers above 2 Gbps. ACCAN considers that NBN Co should provide greater evidence of consumer benefits attributable to their investment in high bandwidth services in order to better substantiate this investment. As expressed above, ACCAN considers it more pressing to pass on speed increases to lower-tier plans, to ensure more Australians are able to reap the benefits of the publicly owned broadband network.

- > ACCAN recommends NBN Co:
  - demonstrate the consumer demand and currently unrealised benefits emerging from >2 Gbps services.
  - explain its prioritisation of investment in >2 Gbps services above passing the network's additional capacity onto lower-speed tier services.

17. What action should nbn be taking now to deliver higher speeds in the future?

If NBN Co is determined to invest in >2 Gbps services in the coming years, ACCAN advises NBN Co to consider and inform stakeholders, the Regulatory Proposal Forum and the ACCC on a range of matters (see question box below) to ensure that there is sufficient consumer demand and business interest in such services, and that they will cost recover

If NBN Co is able to isolate the class of consumers who demand a >2 Gbps service and provide a business case to indicate how the company would recover the costs required for investment in these higher speeds, and tie this into its broader goal of expanding communications services across Australia, this would better allow NBN Co to justify this expenditure to the ACCC as part of its RMA.

- > ACCAN recommends NBN Co:
  - articulate the target consumer profile who would take up >2 Gbps services.
  - articulate whether there is a split between household and business consumers demanding these higher speed services.
  - provide additional context on the economic trade-off between investing in fibre upgrades for NBN's remaining copper services and investing in >2 Gbps services.
  - explain how these higher speed services further NBN Co's goal of expanding economic opportunities of Australians through communications technology.

## Entry-Level Offer

18. To what extent is the 25/5 Mbps speed tier the appropriate Entry Level Offer which would be subject to stricter price controls under the SAU?

ACCAN considers that given NBN Co's own assumption is for "the proportion of nbn customers on wholesale download speeds of 100 Mbps or higher expected to increase to 65% by the end of FY29"<sup>31</sup> then there appears to be agreed-upon rationale for considering the Entry-Level Offer to be upgraded from 25 Mbps to 50 Mbps (or higher) over the next half a decade.

As a consumer advocacy group, it is incumbent upon ACCAN to advise NBN Co as the regulated entity that the communications services that it provides are essential services for the daily lives of Australian consumers, who use broadband internet to access government services, health appointments and to conduct their work and business.

Given NBN Co's interest in greater investment in >2 Gbps services and its advocacy for faster internet speeds, ACCAN requests NBN Co to provide its rationale for retaining the 25/5 category as the Entry-Level Offer, among other affordability concerns for low-income and low-use consumers.

ACCAN recommends NBN Co to give greater consideration to increasing the speed, and reducing the price, of the Entry-Level Offer, in order to secure faster internet speeds for Australian consumers who would benefit from the stricter price controls that such a plan offers.

- > ACCAN recommends NBN Co:
  - detail the estimated split of Resourcing Costs and Infrastructure Payments.
  - explain the assumptions underlying their predicted staff headcount.
  - provide granular detail on how staff are divided between corporate and field roles.
  - provide the total number of external contractors used to support NBN activities.

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<sup>31</sup> NBN Co, 'Consultation Paper 1: nbn 2025 Replacement Module Application' (Consultation Paper, November 2024) 33 < <https://www.nbnco.com.au/content/dam/nbn/documents/sell/sau/consultation-paper-1-nbn-2025-replacement-module-application.pdf.coredownload.pdf>>.

## Conclusion: Recommendations for NBN Co

As Australia's peak communications consumer body and a participant within NBN Co's Regulatory Proposal Forum, ACCAN is highly interested in the success of this regulatory reset process. As we have expressed above, NBN Co has provided a wealth of information in Consultation Paper 1 that would otherwise not have been readily accessible to the broader public.

However, while ACCAN acknowledges NBN Co's efforts in this new regulatory process, we remain concerned that – based on the information made available in this paper – NBN Co is not in a position to submit a successful RMA to the ACCC. This would be a highly undesirable outcome for NBN Co, who may face higher credit costs, RSPs who may face higher wholesale costs, and Australian consumers who may face higher broadband prices as a result.

Throughout our response to this paper, ACCAN has made numerous suggestions for the expanded information and rationale that NBN Co could provide to put the publicly owned company in a better position to meet its regulatory obligations. In particular, we emphasise the need for disaggregated and granular expenditure data, as well as stronger rationales for how expenditure ties to the fulfilment of consumer needs.

If NBN Co is able to provide more detailed and granular expenditure data within the Regulatory Proposal Forum and as part of future Consultation Papers, then ACCAN considers it will be in a significantly better position to submit a compliant RMA to the ACCC. ACCAN recommends that NBN Co engage further with the RPF and other key stakeholders, including the ACCC itself, to ensure that it is on the right path to completing its first regulatory reset process.

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*The Australian Communications Consumer Action Network (ACCAN) is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers. ACCAN is committed to reconciliation that acknowledges Australia's past and values the unique culture and heritage of Aboriginal and Torres Strait Islander peoples. [Read our RAP.](#)*

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