



## ACCC preliminary view on LTRCM capital expenditure and operating expenditure for 2021-22

On 31 October 2022, NBN Co submitted its regulatory information for the 2021-22 financial year as part of the annual Long Term Revenue Constraint Methodology (LTRCM) process.

The LTRCM process occurs under the current NBN Co Special Access Undertaking (the SAU), which is one of the key components of the regulatory framework governing the supply of NBN Co's wholesale services.

In accordance with the SAU, the ACCC must make an LTRCM determination for each financial year of Module 1 of the SAU (until 30 June 2023) that specifies key matters. These include NBN Co's annual allowable revenues, unrecovered costs, the initial cost recovery account (which allows recovery of initial losses later in the SAU period) and compliance with expenditure requirements specified in the current SAU. As part of this process, the ACCC must notify NBN Co of the extent to which, if any, the ACCC intends to determine a substitute amount of capital expenditure or operating expenditure (as opposed to amounts proposed by NBN Co). The ACCC must then issue a draft LTRCM determination prior to making a final determination.

This note sets out our preliminary view on NBN Co's capital expenditure and operating expenditure.

### **Preliminary view on expenditure compliance for 2021-22**

Under clause 1E.1.2(c)(vii), the ACCC must provide NBN Co with a preliminary view on the extent to which the ACCC proposes to determine substitute amounts of capital expenditure and/or operating expenditure (as opposed to the values provided by NBN Co) for the period in question.

The ACCC has reviewed and considered the regulatory information provided by NBN Co for the purposes of the LTRCM determination and has reached a preliminary view for 2021-22. Provided that NBN Co has appropriately excluded capital expenditures that were funded by grants or other third party payments, the ACCC does not intend to determine a substitute amount of capital expenditure in accordance with clause 1D.3.2(d) of the SAU or a substitute amount of operating expenditure in accordance with clause 1E.8.2(c) of the SAU.

The ACCC will consider NBN Co's advice on its treatment of any such funding before publishing our draft determination.

### **Other relevant matters**

#### *Review of the NBN regulatory framework*

NBN Co submitted an SAU variation proposal to the ACCC on 29 November 2022. The ACCC is consulting publicly on the SAU variation proposal, including on proposed changes to the assessment of NBN Co's allowable revenues, unrecovered costs, initial cost recovery account and compliance with expenditure requirements and price controls. Acceptance of any proposed SAU variation will be subject to public consultation and consideration against the statutory criteria.

### *Price control compliance*

The ACCC has a role under the SAU to assess NBN Co's compliance with the maximum regulated prices and price controls set out in Schedule 1C of the SAU. We will set out our decision on price compliance in our LTRCM determination.

### *Transition to module 2 of the SAU*

Subject to any accepted SAU variation proposal, under the SAU, the present annual ex-post LTRCM process will end in June 2023 (at the end of SAU Module 1). After this time, the SAU provides that the assessment of NBN Co's expenditure will take place on a forecast basis every 3 to 5 years through replacement module applications (SAU Module 2).

### **Next steps**

The ACCC is required to follow the process set out in the SAU prior to publishing a final LTRCM determination. The next stage of the process requires the release of a draft LTRCM determination for public consultation. We expect to release the draft determination for public consultation in the first quarter of 2023.

Should interested parties want to provide a submission on this preliminary view we request this by **3 February 2023** and sent to [nbn@acc.gov.au](mailto:nbn@acc.gov.au).