



NBN Co Special Access Undertaking

Long Term Revenue Constraint
Methodology 2020-21: Final
Determination

and

Price compliance reporting 2020-21

22 June 2022

Contents

List of abbreviations and acronyms	
Executive Summary	1
1. Introduction	2
1.1. Purpose	2
1.2. The LTRCM process under the SAU	2
1.3. The broader review of the NBN regulatory framework.....	3
1.4. Submissions to the 2020-21 LTRCM draft determination	3
1.5. Structure of the report	3
2. NBN Co's 2020-21 regulatory information	4
2.1. Expenditure compliance.....	4
2.2. Financial information	4
2.3. Price compliance reporting.....	5
3. Proposed amendment to 2019-20 LTRCM determination.....	6
3.1. Relevant SAU provisions	6
3.2. ACCC final decision on the proposed amendment.....	6
3.3. Process to correct the 2019-20 LTRCM determination.....	6
4. Assessment of NBN Co's regulatory information	7
4.1. Expenditure compliance and reporting	7
4.2. Financial information	8
4.3. Price compliance	8
5. The ACCC's LTRCM final determination and price compliance.....	9

List of abbreviations and acronyms

ABBRR	Annual Building Block Revenue Requirement
ACCC	Australian Competition and Consumer Commission
ASAE	Australian Standard on Assurance Engagement
CFO	Chief Financial Officer
CPI	Consumer Price Index
EGM	Executive General Manager
ICRA	Initial Cost Recovery Account
LTRCM	Long Term Revenue Constraint Methodology
MRP	Maximum Regulated Price
NBN	National Broadband Network
NBN Co	NBN Co Limited
PwC	PricewaterhouseCoopers
RAB	Regulatory Asset Base
SAU	Special Access Undertaking

Executive Summary

The ACCC has completed its assessment of NBN Co's Long Term Revenue Constraint Methodology (LTRCM) and NBN Co's price compliance reporting for 2020-21. The ACCC's final determination is to accept without modification NBN Co's proposed values for all elements of the LTRCM, including the:

- Annual Building Block Revenue Requirement (ABBRR) – the amount of revenue NBN Co is allowed to earn in each financial year
- Regulatory Asset Base (RAB) – the net value of NBN Co's regulated assets, and
- Initial Cost Recovery Account (ICRA) – an account for accumulating (and rolling forward) NBN Co's initial unrecovered costs.

The ACCC is also satisfied that NBN Co's prices did not exceed the maximum regulated prices (MRPs) allowed and that prudence conditions for expenditure, set out in the current Special Access Undertaking (SAU), have been satisfied.

The LTRCM is a component of the framework to regulate the National Broadband Network (NBN). An objective of the LTRCM is to provide NBN Co with the opportunity to recover prudently incurred costs, including a return on investment, over the term of the current SAU, which is set to expire in 2040. While the current SAU only applies to fibre-to-the-premises, fixed wireless and satellite services, the LTRCM determination includes expenditure associated with all of the access technologies that NBN Co provides under the multi-technology mix.

This is the eighth consecutive year the ACCC has undertaken the LTRCM process with NBN Co. On all previous occasions we have accepted NBN Co's LTRCM proposal without modification. We published a LTRCM draft determination on 6 April 2022. The draft determination proposed to accept NBN Co's LTRCM proposal for 2020-21, as we were satisfied NBN Co had complied with its LTRCM requirements under the current SAU.

Submissions to our draft determination were due on 13 May 2022. We did not receive any submissions.

The ACCC will also correct a typographical error in the 2019-20 LTRCM final determination, which we are able to do under the SAU. We agree that the closing value of the nominal RAB should be corrected and will amend the 2019-20 LTRCM report with the correct figure.

1. Introduction

The ACCC has made a final determination in relation to NBN Co's LTRCM for 2020-21 in accordance with clause 1E.1.2 of NBN Co's SAU.

In making its decision, the ACCC has assessed the regulatory information submitted by NBN Co for 2020-21 against the relevant requirements of the SAU. The ACCC has determined that the values proposed by NBN Co for allowable revenues, the RAB, ICRA, and all associated inputs have been determined in accordance with the requirements set out in the SAU. The ACCC is satisfied that prudence requirements for expenditure have been met, and that NBN Co's prices did not exceed maximum regulated prices (MRP) at any point during 2020-21.

1.1. Purpose

NBN Co's current SAU specifies the overarching framework that regulates access to the NBN and in its current form is set to apply until June 2040.

The SAU establishes the LTRCM which is an approach to determine NBN Co's annual regulated revenue, regulated asset base and an account to accumulate initial unrecovered costs that NBN Co can recover later in the SAU period. The LTRCM process gives NBN Co the opportunity to recover costs in accordance with conditions outlined in the SAU. The LTRCM is one component of the SAU that works together with other elements of the NBN regulatory framework to ensure the NBN delivers outcomes that are in the long-term interests of end-users.

The SAU requires NBN Co to submit regulatory information to the ACCC each financial year for the purposes of our LTRCM assessment. NBN Co's submission must include the financial information necessary to determine its allowed revenue. NBN Co must also certify that its prices have not exceeded the MRP set in the SAU during the relevant financial year.¹

1.2. The LTRCM process under the SAU

The ACCC is required to undertake a sequential process before it publishes a LTRCM final determination for the relevant period. These stages include receiving NBN Co's submission of regulatory information, publishing a preliminary view on capital and operating expenditure, publishing a draft determination and then publishing a final determination.

The current SAU adopts a modular structure. In module 1 of the SAU (until 30 June 2023), the ACCC must make annual determinations that specify the amount of revenue NBN Co is allowed to earn on an ex-post basis.

The LTRCM adopts a different approach in module 2 (from 1 July 2023) and is calculated on an ex-ante basis for each replacement module for the remainder of the SAU period that applies until 2040.

1.2.1. The ACCC's assessment role

The ACCC's role in considering the LTRCM is to:

- assess whether NBN Co's capital expenditure and operating expenditure meet the relevant requirements in the SAU for inclusion in the RAB and ABBRR

¹ Public versions of this information are available on the ACCC website - <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-co-special-access-undertaking/ltrcm-2020-21>

- assess if the relevant LTRCM components have been calculated in accordance with the formulas set out in the SAU, and
- determine whether the expenditures (as set out in NBN Co's LTRCM proposal) should be included in the LTRCM determination.²

The ACCC may determine LTRCM values that differ from those submitted by NBN Co, as long as the values are determined in accordance with schedule 1D and schedule 1E of the SAU.³ The factors that the ACCC must consider when determining a substitute amount of capital expenditure or operating expenditure are set out in the SAU.⁴

1.3. The broader review of the NBN regulatory framework

In our 2020-21 LTRCM draft determination we noted that the ACCC would be undertaking a broader review of the NBN regulatory framework.⁵

On 29 March 2022, NBN Co lodged a variation to its SAU with the ACCC. On 23 May 2022, the ACCC published a consultation paper on NBN Co's proposed SAU variation and invited interested parties to make submissions by 8 July 2022.⁶

Among other things, the current SAU variation process seeks to incorporate fibre-to-the-node and other copper-based technologies in the SAU, to create a regulatory framework that covers all network technologies. The variation also proposes other significant changes, including to the rules for the ACCC assessment of network expenditure.

In this context, the ACCC will continue to review and refine its annual LTRCM determination process in accordance with the current SAU requirements.

We expect that any changes to the revenue constraints in the SAU will only apply from 1 July 2023 onwards.

1.4. Submissions to the 2020-21 LTRCM draft determination

The ACCC did not receive any submissions in response to our consultation process on the draft determination that concluded on 13 May 2022.

1.5. Structure of the report

This report outlines the ACCC's LTRCM final determination and decision on NBN Co's price compliance for 2020-21 and is structured as follows:

- Section 2 provides an overview of the regulatory information submitted by NBN Co
- Section 3 outlines the ACCC's proposed process to correct the typographical error in the 2019-20 LTRCM determination
- Section 4 outlines the ACCC's assessment of NBN Co's regulatory information, and
- Section 5 sets out the ACCC's LTRCM final determination and decision on price compliance.

² For more detail on each of these LTRCM assessment requirements see the 2017-18 LTRCM draft determination, pp. 8-9.

³ Clause 1E.1.2(c)(iv) of the SAU

⁴ In determining a substitute amount, the ACCC must have regard to expenditure from previous years and adjust for relevant factors. See clauses 1D.3.2(d) and 1E8.2(c) of the SAU.

⁵ The ACCC's 2020-21 LTRCM draft determination is available on our website: <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-co-special-access-undertaking/ltrcm-2020-21>

⁶ NBN Co's SAU variation proposal, supporting documents and the ACCC's consultation paper is available on our website: <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-co-sau-variation-2022>

2. NBN Co's 2020-21 regulatory information

On 29 October 2021, NBN Co submitted its regulatory information for 2020-21. This information consisted of NBN Co's actual and proposed financial information, an expenditure compliance report, a procurement compliance report, and a price compliance report.

NBN Co also submitted three independent reports from PricewaterhouseCoopers (PwC), a price compliance spreadsheet, a LTRCM spreadsheet and a copy of its chart of accounts. The ACCC has published public versions of NBN Co's regulatory information on the ACCC website.⁷

2.1. Expenditure compliance

NBN Co's regulatory information included an expenditure compliance report for 2020-21, pursuant to clause 1F.2.1(a) of the SAU. This report contained certification from NBN Co's Chief Financial Officer (CFO) that NBN Co's proposed capital and operating expenditure complies with the relevant expenditure conditions set out in the SAU.

As in previous years, NBN Co engaged PwC to perform an independent limited assurance review in relation to the design of controls applicable to capital and operating expenditure prudence. PwC's report expresses an unqualified opinion and complements the certification from NBN Co's CFO.

In its regulatory information, NBN Co submitted a procurement rules compliance report in accordance with clause 1F.2.3(a) of the SAU. The report contained a certification from NBN Co's Executive General Manager (EGM) Procurement that NBN Co has developed and maintained Procurement Rules that satisfy the relevant conditions in clause 1D.5.1 of the SAU.⁸

2.2. Financial information

In addition, NBN Co submitted its actual and proposed financial information for 2020-21. This submission consisted of the following six schedules:

- Schedule 6 – Statement of Capital Expenditure, Disposals, Construction in Progress, Asset Lifetimes and Taxation Asset Lifetimes
- Schedule 7 – Statement of Operating Expenditure
- Schedule 8 – Statement of Interest Expense
- Schedule 9 – Statement of Revenue
- Schedule 10 – Statement of LTRCM and RAB items, and
- Schedule 11 – Statement of Material Operating Expenditure, Capital Expenditure and Construction in Progress Variances.

NBN Co also submitted a LTRCM spreadsheet that set out the underlying calculations of NBN Co's proposed ABBRR, RAB and ICRA values.

We have summarised the key financial information submitted by NBN Co for the 2020-21 LTRCM determination along with a comparison of the percentage change of the corresponding values in the previous period (Table 2.1).

⁷ See: <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-co-special-access-undertaking/ltrcm-2020-21> .

⁸ NBN Co's EGM Procurement is the successor to the Chief Procurement Officer role.

Table 2.1: Summary of NBN Co's financial information, 2019-20 and 2020-21 (nominal)⁹

	2019-20 (\$'000)	2020-21 (\$'000)	Percentage Change
Operating expenditure	5,212,619	4,174,955	-19.91%
Capital expenditure	6,669,153	3,282,773	-50.78%
Construction in progress (start of period)	3,309,660	1,699,456	-48.65%
Interest expense	649,327	771,036	18.74%
Revenue	3,836,984	4,629,109	20.64%
Unrecovered costs	5,333,785	2,724,175	-48.93%
RAB (end of period)	27,345,750	28,737,716	5.09%
ABBRR	9,170,768	7,353,283	-19.82%
ICRA (end of period)	32,038,694	36,183,087	12.94%

Source: NBN Co, LTRCM spreadsheet 2020-21

NBN Co also lodged three independent assurance reports from PwC to support its actual and proposed financial information submissions. This included:

- a reasonable assurance audit report for Schedules 6 to 9: PwC's opinion in this report was unqualified and complements the audit of NBN Co's general purpose financial statements
- a factual findings of agreed upon procedures report for Schedule 10: PwC checked that in respect of years prior to FY2020-21, the relevant values in the LTRCM spreadsheet are in accordance with the ACCC's 2019-20 LTRCM determination¹⁰; in respect of FY2020-21, the relevant input values are extracted from Schedules 6 to 9 into the LTRCM spreadsheet; and the relevant LTRCM calculations are undertaken in accordance with the SAU in order to arrive at the output values in Schedule 10, and
- a limited assurance engagement on the design and implementation of controls around expenditure compliance in relation to NBN Co.

2.3. Price compliance reporting

In its regulatory information, NBN Co submitted a price compliance report and a price compliance spreadsheet for the period from 1 July 2020 to 30 June 2021.¹¹

The price compliance report provides certification from NBN Co's CFO that the pricing of NBN offers and other charges over the period from 1 July 2020 to 30 June 2021 satisfied the relevant requirements in Schedule 1C of the SAU.¹² The report does not identify any exceptions although there is some qualifying language that expresses negative assurance conclusions, similar in nature to the expenditure compliance report and the procurement rules compliance report.¹³

⁹ These figures have been rounded to whole numbers. Note, figures have also been rounded throughout the document where appropriate.

¹⁰ Aside from the typographical error that was recorded in the 2019-20 LTRCM determination and set out in section 3 of this report.

¹¹ Pursuant to clause 1F.3(a) of the SAU.

¹² The certification provided by NBN Co's CFO was informed by a range of investigations and testing conducted by NBN Co.

¹³ Negative assurance is a technique commonly used by auditors to provide a representation that particular facts are believed

3. Proposed amendment to 2019-20 LTRCM determination

In the 2020-21 LTRCM draft determination, we set out our intention to correct a typographical error identified by NBN Co in the 2019-20 LTRCM determination. The 2019-20 LTRCM final determination determined the closing value of the nominal RAB as \$27,245,750,000, however, this value should be \$27,345,750,000.¹⁴

3.1. Relevant SAU provisions

Under clause 1E.1.3(a) of the SAU, there is provision for the ACCC to amend or revoke a LTRCM determination no later than 12 months after the date of such a determination. To do so, the ACCC must be satisfied there is a material error or deficiency in the LTRCM determination of one or more of the following kinds:

- a clerical error or an accidental omission
- a miscalculation or misdescription
- a defect in form, or
- a deficiency resulting from the provision of false or materially misleading information to the ACCC.

3.2. ACCC final decision on the proposed amendment

The ACCC considers that the error in the LTRCM determination for 2019-20 was material and was a clerical error. Therefore, the ACCC proposes to revoke the 2019-20 LTRCM determination and issue a corrected version. We did not receive any submissions that objected to our proposed approach.

3.3. Process to correct the 2019-20 LTRCM determination

The ACCC will revoke the 2019-20 LTRCM determination under clause 1E.1.3 of the SAU and make a new LTRCM determination in substitution for the revoked LTRCM determination.¹⁵ The substituted LTRCM determination will only vary from the revoked LTRCM determination to the extent necessary to correct the relevant error or deficiency.¹⁶

to be accurate since no conflicting/contrary evidence has been found. NBN Co has had regard to Australian Standard on Assurance Engagement (ASAE) 3150 "Assurance Engagements on Controls" in developing the qualifying language in the certification.

¹⁴ Note these numbers have been rounded to the nearest thousand.

¹⁵ Clause 1E.1.3(b) of the SAU.

¹⁶ Clause 1E.1.3(c) of the SAU.

4. Assessment of NBN Co's regulatory information

On 6 April 2022, the ACCC published its 2020-21 LTRCM draft determination. The ACCC's draft determination proposed to accept NBN Co's proposed values (and inputs to the values) for the ABBRR, RAB and ICRA. The draft determination set out the ACCC's detailed assessment of NBN Co's regulatory information, which was submitted under Schedule 1F of the SAU.

The ACCC's draft view was that:

- NBN Co had incurred capital and operating expenditure in accordance with the relevant provisions of the SAU
- NBN Co's proposed LTRCM values had been calculated in accordance with Schedules 1D and 1E of the SAU, and
- NBN Co's prices had not exceeded the MRP set out in Schedule 1C of the SAU.

This section summarises the ACCC's draft determination, which remains unchanged in the final determination.

4.1. Expenditure compliance and reporting

4.1.1. Expenditure compliance

The ACCC assessed NBN Co's expenditure compliance by considering the expenditure compliance report signed by NBN Co's CFO, PwC's limited assurance reports and NBN Co's supporting submission. The ACCC's draft decision was that NBN Co's expenditure has complied with the relevant prudency conditions in the SAU.

The expenditure compliance report did not identify any exceptions during 2020-21 and expressed a negative assurance conclusion.¹⁷ The ACCC also considered NBN Co's other supporting materials to determine the extent to which it could rely on the certification.

The ACCC considered PwC's limited assurance report on the design of controls for expenditure compliance to determine whether there are processes and controls in place to support compliance with the prudency conditions in the SAU. The PwC report expressed an unqualified limited assurance conclusion.

The ACCC also considered NBN Co's supporting submission, which outlined its internal audit work, to assess whether NBN Co complied with these processes and controls.

4.1.2. Procurement compliance

The ACCC considered that NBN Co had provided a procurement rules compliance report that met the requirements of the SAU.

The procurement rules compliance report did not identify any exceptions for 2020-21 and expressed a negative assurance conclusion.¹⁸ The ACCC also considered the material in NBN Co's supporting submission outlining what has informed the EGM Procurement's certification.

Based on this consideration, the ACCC is satisfied with NBN Co's procurement compliance for the purposes of the LTRCM determination.

¹⁷ See footnote 13.

¹⁸ See footnote 13.

4.2. Financial information

The ACCC considered NBN Co's regulatory information and whether NBN Co had calculated its proposed values for the RAB, ABBRR and ICRA in accordance with the formulas in Schedules 1D and 1E of the SAU. The ACCC's draft decision was to accept NBN Co's proposed values for the RAB, ABBRR and ICRA without amendment.

The ACCC considered NBN Co's actual and proposed financial information in assessing whether NBN Co had calculated its proposed LTRCM values in accordance with Schedules 1D and 1E of the SAU. The ACCC also had regard to NBN Co's LTRCM spreadsheet, which set out the inputs and calculations used by NBN Co to determine its proposed values for the RAB, ABBRR and ICRA. In making its draft decision, the ACCC reviewed the calculations NBN Co submitted in its LTRCM spreadsheet and confirmed that the formulas used in the spreadsheet were as set out in Schedule 1E of the SAU.

Further, the ACCC considered the independent assurance reports from PwC and the statement of material variances, which support NBN Co's financial reporting.

The declaration provided by NBN Co's CFO and the independent assurance reports from PwC provide the ACCC with assurance that NBN Co's financial information has been prepared in accordance with the relevant provisions of the SAU.

NBN Co's regulatory information included a statement of material variances (Schedule 11), in accordance with clause 1F.1.3(b) of the SAU. The ACCC has reviewed Schedule 11 and is satisfied that it does not raise any significant concerns.

4.3. Price compliance

The ACCC considered NBN Co's price compliance report and its supporting submission. The ACCC was satisfied that NBN Co's prices in 2020-21 did not exceed the MRP set out in Schedule 1C of the SAU.

The ACCC undertook analysis of the price compliance spreadsheet submitted by NBN Co. We reviewed the prices listed in the spreadsheet and compared them to Schedule 1C of the SAU. We did not find any instances in which the listed prices exceeded the applicable MRP.

The ACCC was satisfied that NBN Co's price compliance report and supporting submission provide assurance that NBN Co has key control procedures in place to ensure that the prices for NBN Co's products do not exceed the applicable MRP. Our analysis of the price compliance spreadsheet supported this conclusion. Therefore, the ACCC was satisfied that NBN Co has met its price compliance obligations in the SAU.

5. The ACCC's LTRCM final determination and price compliance

The ACCC has determined the values in Table 5.1 for the purposes of the 2020-21 LTRCM final determination. These are consistent with those provided in this year's LTRCM draft determination. We have derived these figures from the regulatory information provided by NBN Co.¹⁹

The ACCC is also satisfied that NBN Co's prices for 2020-21 did not exceed the MRP applicable at any point in time, in accordance with Schedule 1C of the SAU.

Table 5.1: 2020-21 LTRCM Final Determination²⁰

Year	2020-21
Consumer Price Index (CPI) and Cumulative Inflation Factor	
June Quarter CPI (annual percentage change) – as per Attachment C to the SAU	3.846%
Cumulative Inflation Factor – as per Clauses 1E.9.4(b) and (c)	1.122
Rate of return – as per Clause 1E.7.1	
Risk free rate of interest – as per Clause 1E.7.1(b) and (c)	0.933%
Nominal rate of return – as per Clause 1E.7.1(a)	4.433%
Regulatory Asset Base (\$'000 REAL) – as per Clause 1D.2.1	
Real RAB (start period) – as per Clause 1D.2.1(a) and (b)	25 313 941
Real capital expenditure	2 926 310
Real disposals	-
Real straight-line depreciation	2 623 045
Real RAB (end period) – as per Clause 1D.2.1(b)	25 617 207
Regulatory Asset Base (\$'000 NOMINAL) – as per Clause 1D.2.2	
Nominal RAB (start period) – as per Clauses 1D.2.1(a) and 1D.2.2	27 345 750
Nominal straight-line depreciation (as per Clause 1E.9.1(b))	2 942 566
Nominal RAB (end period) – as per Clause 1D.2.2	28 737 716
ABBRR (\$'000 NOMINAL) – as per Clause 1E.4.1	
Return on capital	1 212 188
Nominal regulatory depreciation – as per clause 1E.9.1(c)	1 890 807
Nominal operating expenditure	4 174 955
Net tax allowance	-
Annual construction in progress allowance – as per Clause 1E.10	75 334
ABBRR	7 353 283
Taxation calculations (\$'000 NOMINAL) – as per Clause 1E.9.3	

¹⁹ In accordance with Clause 1E.1.2(c)(vi) of the SAU.

²⁰ The clause references in this table refer to the formulas in the SAU. Note: figures have been rounded.

Nominal revenue	4 629 109
Add value of assets received for nil consideration	55 510
Less nominal operating expenditure	4 174 955
Less nominal tax depreciation	2 793 725
Less interest expense	771 036
Taxable profit – as per Clause 1E.9.3	(3 055 098)
Tax loss carried forward (Start period) – as per Clause 1E.9.3	(22 265 147)
Tax loss carried forward (End period) – as per Clause 1E.9.3	(25 320 244)
Net tax allowance – as per Clause 1E.9.3	-
ICRA and CFRA (\$'000 NOMINAL) – as per Clause 1E.5	
ICRA (start period) – as per Clause 1E.5.2	32 038 694
Unrecovered cost – as per Clause 1E.5.1	2 724 175
ICRA (end period) – as per Clause 1E.5.2	36 183 087
Carry forward revenue adjustment – as per Clause 1E.5.3	n/a