



24 March 2023

Ms Sarah Proudfoot
Executive General Manager, Infrastructure Division
Australian Competition and Consumer Commission
By email: sarah.proudfoot@acc.gov.au

CC:

Ms Gina Cass-Gottlieb – Chair
Ms Anna Brakey – Commissioner
Ms Liza Carver – Commissioner
Mr Peter Crone – Commissioner

Dear Ms Proudfoot

Response to issues raised in ACCC Consultation Paper on the variation to nbn’s Special Access Undertaking (SAU)

We write in response to the ACCC’s consultation paper published on 13 January 2023 (**Consultation Paper**), and submissions from interested parties in response to that paper, in relation to the Special Access Undertaking lodged by **nbn** on 29 November 2022 (the **Variation**).

nbn considers that the overall regulatory framework established by the SAU Variation will deliver appropriate outcomes for all stakeholders, and should afford **nbn** the opportunity to achieve its financial objectives while managing any impacts on competition and economic efficiency as **nbn** moves to a cost-recovery position. Additionally, in respect of pricing and service standard commitments in the SAU Variation it is important to note that **nbn** cannot extend these commitments beyond those achievable within the current financial objectives agreed with Government.

nbn has considered a range of issues raised by the ACCC, RSPs and other interested parties, and is proposing to address a number of those issues by way of adjustments to the Variation, as described further in this letter. This letter also provides explanation as to why **nbn** is unable to provide further concessions as part of this process to address some other issues that have been raised by RSPs in submissions to the ACCC. In addition to the more detailed changes outlined in this letter, Annexure 4 includes a number of additional amendments that **nbn** proposes to make in response to feedback received during the ACCC’s consultation process.

It is important to consider this letter in the context of the significant concessions that **nbn** has already offered as part of the Variation lodged in November 2022. **nbn** remains committed to engaging constructively with the ACCC and industry to ensure we have a varied, fit-for-purpose SAU in place as soon as possible, and **nbn**’s inability to provide further concessions in certain areas should not be seen as **nbn** being unresponsive to feedback received from industry.



Post-2032 arrangements

In its Consultation Paper the ACCC has raised the following key concerns with the proposed post-2032 arrangements:

- several factors that ratings agencies use to assess a credit rating would typically fall outside of the regulatory framework;
- the post-2032 arrangements, as per the Variation, would require the ACCC to provide **nbn** with an annual revenue allowance that ensures **nbn** can achieve and maintain a stand-alone investment-grade credit rating (**SAIGCR**) in each year from the commencement of Module 3, even if **nbn** was to incur expenditure inefficiently or imprudently, or that to do so would impose a price shock; and
- the ACCC's understanding is that the arrangements proposed in the Variation would require it to set a combined ABBRR and ICRA allowance at a level which would allow **nbn** to achieve and maintain a SAIGCR even if **nbn** had already drawn down all of the Module 3 ICRA, meaning the ACCC would need to effectively 'top up' the ABBRR in each of the remaining years of the SAU term.

nbn proposes to make a number of changes to the Variation to address the concerns raised by the ACCC. These changes seek to clarify that **nbn** has designed the post-2032 arrangements to ensure that it is afforded a reasonable opportunity to recover the Module 3 ICRA amount in a way that enables **nbn** to transition to a position in which it can satisfy quantitative financial metrics consistent with achieving and maintaining a SAIGCR with a stable outlook. This intention underpins **nbn**'s ability to commit to crystallising the ICRA and submit to the post-2032 arrangements. To fulfil that intention and enable **nbn** to make those commitments, **nbn** proposes the following clauses in the place of the existing Module 3 principle regarding **nbn** achieving and maintaining a SAIGCR:

- 1) The first clause would require the ACCC to set the annual ICRA allowance to, while avoiding price shocks, provide **nbn** with a reasonable opportunity to transition to, in the shortest timeframe practicable, and maintain, a position where **nbn** satisfies quantitative financial metrics consistent with a SAIGCR with a stable outlook from one or more established and reputable rating agencies.
- 2) The second clause would require the ACCC, when setting the Forecast Nominal ABBRR, to have regard to the objective of allowing a prudent and efficient operator in NBN Co's position (and with benchmark efficient capital structure) a reasonable opportunity to maintain a stand-alone investment grade credit rating with a stable outlook. This clause would be in addition to the existing clause in the SAU which provides that the ACCC must take into account the relevant statutory criteria when making an ACCC Replacement Module Determination (**RMD**).

In the description above, **nbn** has not placed a precise definition on the term 'price shock'. **nbn** considers that it is preferable to not define 'price shock' in the SAU, such that the term is given its ordinary meaning at the relevant time it is applied by the ACCC.

nbn has prepared a draft rider to the Variation which implements the changes described above. This is provided as a separate annexure to this letter (Annexure 1).

The changes described above clarify that the intention of the post-2032 arrangements is to establish an appropriate drawdown profile of the Module 3 ICRA over the period from 2032 to 2040 that affords **nbn** the reasonable opportunity to transition to achieving and maintaining a SAIGCR as soon as practicable. **nbn** is not seeking to be allowed to draw down any additional ICRA amount over and above that specified in the Variation – and the revised drafting does not provide for that to occur.



nbn notes that it is common to require that regulatory decisions be made ‘having regard’ to certain factors – which is what **nbn** proposes in the second clause referred to above (complementing the existing SAU provision that the ACCC must take into account the relevant statutory criteria when making a Replacement Module Determination). Including such a clause simply recognises this objective in the SAU framework as being a relevant consideration, in particular in the post-2032 period when the SAU framework will largely consist of high-level principles. **nbn** considers that such a clause is reasonable, in circumstances where:

- **nbn** has already offered to forego the opportunity to recover approximately \$31bn of the ICRA (and forego the recovery of any additional losses in the period after FY23) on the basis that **nbn** would have a reasonable opportunity to achieve and maintain a SAIGCR in the post-2032 period, and, importantly for the company and its shareholder, this was the basis on which **nbn** calculated the amount of ICRA we were prepared to forego;
- **nbn** has already offered to substantially expand the ACCC’s role under the SAU from FY32 onwards, including by giving the ACCC the power to reset **nbn**’s revenue and pricing regulation framework from FY32, significantly reducing the long-term certainty provided to **nbn** by the SAU; and
- an SAU is intended to provide a framework by which bespoke and fit-for-purpose regulatory arrangements can be accepted by the ACCC if they are reasonable and, as a whole, consistent with the LTIE. Given the context in which **nbn** was created and operates, bespoke arrangements which differ to some extent from other regulated entities were always likely to form part of **nbn**’s regulatory framework.

Replacement Module Determination Process

nbn’s understanding of the ACCC’s concerns in respect of the proposal in the Variation to address a potential scenario in which the ACCC does not make an RMD in the relevant timeframe include that:

- It could place a limitation on the ACCC’s decision-making;
- It may pose issues if the ACCC were waiting on relevant information from **nbn** which impacted the ACCC’s ability to make an RMD on time; and
- It does not require **nbn** to provide the ACCC with all relevant information at the time **nbn** makes its Replacement Module Application (**RMA**) to the ACCC.

nbn proposes to make two changes to the Variation to address the issues raised by the ACCC:

- 1) Include a new clause that makes clear the ACCC can require **nbn** to provide specific information upfront when it lodges an RMA; and
- 2) Provide for the ACCC to be able to extend its decision-making period for an RMD for up to six months, via a notification process similar to the legislative provisions that apply to the ACCC making a decision on a special access undertaking. During this extended decision-making period, **nbn** proposes a limited number of interim terms would apply until a decision was made on the RMD. In the event that an RMD was not made within that extended timeframe, an RMD would be taken to be in effect on the terms set out in **nbn**’s RMA.

These new provisions would operate in conjunction with existing clauses in the Variation to provide the ACCC with increased certainty at the “front end” of the replacement module process that it will have available the information required to make an RMD within the required timeframe, and to afford the ACCC additional time at the “back end” of the process should this still be required. A draft rider to the Variation which implements the changes described above is provided as a separate annexure to this letter (Annexure 2).



nbn notes that clause 6.3 of the Variation already provides for the ACCC to request **nbn** to provide certain information up front with its RMA¹; however, for clarity, we propose to include an additional clause that will make it clear that the ACCC can request **nbn** to provide specific information up front with its RMA. In addition, the ACCC has a number of existing statutory powers in relation to requiring **nbn** to provide information, including their ability to make Record Keeping Rules.

Taking into account both the existing terms in the Variation, the ACCC's pre-existing powers, and the two proposed modifications, **nbn** considers that the Replacement Module process strikes an appropriate balance between the objectives of ensuring the ACCC has sufficient time to make an informed decision and providing RSPs and **nbn** with regulatory certainty as to the terms that apply at any point in time. While still retaining an "end point" on the ACCC's decision-making period, this timeframe is effectively extended to up to 24 months after **nbn** lodges an RMA (depending on the date the ACCC specifies for **nbn** to lodge the RMA). This is in addition to the consultation that will take place in the twelve months prior to **nbn** lodging its RMA with both the industry and the ACCC. At the same time, by limiting the extended decision-making period to the end of the first calendar year of the Regulatory Cycle, only a relatively small number of interim terms need to be dealt with to "fill the gap" that **nbn** is concerned could otherwise lead to regulatory uncertainty for **nbn** and RSPs.

Pricing of the 50/20 Mbps Bundled TC-4 Offer

In response to submissions to the Consultation Paper, the ACCC has suggested more could be done in relation to pricing complexity and certainty for the TC-4 50/20 Mbps product. One RSP suggestion was for **nbn** to cap the total overage paid by RSPs in respect of individual 50 Mbps services, noting that this would mean RSPs would no longer have to manage rebalancing their service mix between 50 Mbps and 100 Mbps services.

While **nbn** acknowledges the feedback provided by RSPs and the ACCC, implementing a change of the nature described above would have a significant financial impact on **nbn** and we are unable to make any further pricing concessions in relation to the 50/20 Mbps product.

nbn acknowledges RSPs' desires to minimise the time and resources required to optimise their costs and to respond to the needs of end-users under the wholesale pricing structure in the Variation. **nbn** has incentives to support RSPs in this optimisation. In that context, and as outlined in **nbn**'s submission to the Consultation Paper, **nbn** will provide, or continue to provide, a number of additional tools to RSPs in the form of new APIs, data and additional reporting.¹ These tools will provide RSPs with valuable insights into individual end-users' bandwidth consumption behaviours, enabling them to better identify opportunities to optimise their cost base and improve end-user experience.

In addition, **nbn** notes that smaller RSPs covered by the Overage Waiver Threshold (OWT) are effectively on AVC-only pricing across all speed tiers (as they only pay the fixed monthly charge, with no overage charge). This helps ensure that the smallest of RSPs who may not have the capability to optimise, do not need to. For larger RSPs not covered by the OWT, **nbn** notes that RSPs only need to be successful in upselling a small proportion of high-usage end-users to achieve significant changes to their average usage in respect of the new Bundled TC-4 Offers, and hence experience meaningful cost savings. This is because a small proportion of heavy-usage end-users consume a disproportionate amount of bandwidth. For example, as indicated in **nbn**'s draft Statement of Pricing Intent, the

¹ **nbn** Submission to ACCC Consultation Paper, p. 14.



current 50 Mbps to 100 Mbps upsell threshold is for end-users costing RSPs more than \$55 on a 50 Mbps service (i.e., greater than approximately 3.125Mbps of CVC). More than 27% of end-users on a 50 Mbps service currently meet this criterion. If RSPs were able to upsell just 2 per cent of their heaviest users on 50 Mbps, they could reduce the average usage on 50Mbps by more than 10 per cent (from 2.5 Mbps of CVC to 2.24 Mbps of CVC); a \$2 per SIO saving for every customer they have on a 50 Mbps service.

Finally, **nbn** considers it is not unreasonable that RSPs must, to a certain extent, actively manage their service mix on the **nbn**[®] network. An efficient RSP seeking to maximise end-user experience on any broadband network must actively manage its customer base to minimise costs, maximise use of network capacity and proactively match end-users with the right broadband plan based on usage patterns. This is true in the case of any broadband network, including **nbn**'s network.

Pricing certainty – ‘bounding’ CPI in the WAPC

In submissions to the Consultation Paper, some RSPs raised concerns about the current high inflation environment, and the impact of this if **nbn** was to increase prices by CPI (noting that under the Weighted Average Price Control (**WAPC**) in the Variation, the ‘basket’ of prices would initially be allowed to increase each year on average (on a ‘use-it-or-lose-it’ basis) at CPI). In response, **nbn** has considered the feasibility of ‘bounding’ the band of the CPI that could apply, e.g., to ‘cap’ CPI at no more than 5% when used in the WAPC or in any individual price controls.

nbn has formed the view that it is not commercially viable or appropriate to make such a commitment in the Variation for the following reasons:

- Many of **nbn**'s costs are impacted, either directly or indirectly, by inflation – including contracts that are CPI-indexed such as **nbn**'s Infrastructure Payments to Telstra which are a material ongoing expenditure commitment.
- It is very uncommon for a regulated business to be subject to a price control in which the value of CPI is bounded in this manner. This would result in an inefficient transfer of risk from RSPs and end-users to **nbn**. It is unclear as to why such an obligation would be appropriate in **nbn**'s context, especially given **nbn** is still transitioning to a cost-recovery position and that **nbn** faces increasing levels of competition.

Separately, **nbn** considers it would be valuable to clarify some aspects of the WAPC provisions, and has set out those clarifications in **Annexure 5**.

NNI pricing

A number of submissions to the Consultation Paper raised concerns with the potential impact that **nbn**'s pricing for Network-Network Interface (**NNI**) ports may have on RSPs with smaller scale at particular points of interconnect (**POIs**). While these potential impacts are more a function of the scale of operation of some RSPs, **nbn** is committed to continuing to ensure its pricing promotes the LTIE, and we are currently reviewing NNI pricing with a view to identifying solutions to the concerns that have been raised. We anticipate providing the ACCC and industry with an update on NNI pricing following the ACCC's draft decision on the SAU Variation.

Pricing Roadmap

The three-year Pricing Roadmap proposed in the SAU Variation is intended to be published in advance of the pricing for the new NBN Offers proposed in the SAU Variation (e.g., Flat-Rate Offers, Bundled TC-4 Offers), and in any case, would have no effect or role prior to any SAU variation being accepted. **nbn** notes that our August 2022



SAU Discussion Paper² articulated the intended TC-4 charges for year one of the Pricing Roadmap, which was subsequently confirmed by the maximum price provisions in the November Variation.³ Thus, the key prices for the first year of the Pricing Roadmap have been well ventilated with industry for some time.

The pricing for TC-4 services for the second and third financial years of the Pricing Roadmap must be set by reference to the prices in the first year of the roadmap, and those prices will ultimately be subject to the WAPC, which imposes overall constraints on any price increases in the long term. While the pricing in these second two financial years would only be indicative (subject to the pricing relativity commitments in the SAU Variation that apply to the TC-4 pricing in the second year of the roadmap), they must be set on the basis that they are expected to be compliant with the WAPC framework established in the SAU.

As such, **nbn** does not consider it necessary to publish a Pricing Roadmap prior to, or as part of, any ACCC decision on the SAU Variation, as the variation sets up a framework in which the roadmap will be updated every year to reflect the then-current competitive and market conditions that apply.

However, a number of submissions to the Consultation Paper have suggested that a decision to accept the SAU variation should not be made in the absence of a published Pricing Roadmap that covers the first Regulatory Cycle of the Subsequent Regulatory Period. While **nbn** does not agree that this is the case, particularly as the Pricing Roadmap will be updated annually within the framework established by the varied SAU, we are open to publishing such a roadmap prior to the ACCC finalising its decision in relation to the varied SAU. The publication of this initial Pricing Roadmap is contingent on **nbn** finalising its internal business planning, and will be published as soon as practicable, which will be after the ACCC's draft decision on the current SAU Variation.

Voice-only Bundled Offer

A number of submissions to the Consultation Paper raised concerns with the definition of the new Voice-only Bundled Offer included in the SAU Variation, including that it may be overly restrictive in the way it may be used by RSPs as an input to retail services. **nbn** has considered this feedback and is proposing to amend the definition of the Voice-only Bundled Offer to allow for some basic broadband usage (in addition to its availability for voice services). This change will be given effect principally by removing the strict 'voice-only' requirement and replacing it with the requirement that the service be a broadband service which includes a voice component. As a result, **nbn** will change the terminology of this offer from "Voice-Only Bundled Offer" to "Basic Bundled Offer", but will retain the existing structure of the offer (i.e., that individual services must utilise less than 0.1 Mbps of TC-4 capacity).

Annual Service Improvement Plan and Service Performance Review

In both the Benchmark Service Standards proposed in the Variation and the WBA5 consultation process, **nbn** has sought to identify potential improvements to its service level commitments. A summary of the improvements that **nbn** is proposing above WBA 4 is set out in Attachment A. **nbn** acknowledges that, notwithstanding these improvements, enhanced service levels and customer experience remain a key issue for RSPs and a consideration in the ACCC's review of the SAU variation. Areas highlighted by RSPs in response to the ACCC consultation include service stability and speed, along with outage notification and processes.

² Available at: <https://www.nbnco.com.au/content/dam/nbn/documents/media-centre/media-statements/2022/sau-variation-discussion-paper-august-2022.pdf>

³ See clause 2B.2.5(a) and Attachment E



These aspects of service quality remain a focus for **nbn** and **nbn** is committed to continued collaboration with the industry to improve those service elements identified as critical from an end user and RSP perspective. For example, the current Communications Alliance forum focused on outages is seeking to deliver changes that benefit end users while acknowledging the complexity and trade-offs in the outages process (e.g., providing enhanced notification to end users impacted by a potential outage must be balanced with ensuring services experiencing a fault do not have rectification of the service unreasonably delayed).

nbn has also considered how the SAU can support enhanced transparency of key service performance and customer experience initiatives that inform cyclic capex and opex investment forecasting – in order to both evidence the nexus between these expenditure forecasts and service quality, and to further inform expenditure review processes. One such example might be the IT simplification initiatives (such as the transition from B2B to API interfaces) that inform certain expenditure forecasts for the First Regulatory Cycle.

In response to this feedback **nbn** is proposing to incorporate into the SAU a commitment for the First Regulatory Cycle (FY24-FY26) for **nbn** to:

- 1) Publish an annual **service improvement plan**; and
- 2) Conduct an annual **service performance review** against WBA service levels / performance objectives.

1. Service Improvement Plan

On an annual basis, **nbn** will prepare a Service Improvement Plan that summarises:

- initiatives focused on uplifting the RSP / end user experience commencing or continuing in the next 12 months for which **nbn** has forecast material capital or operating expenditure in its operating plan for that Financial Year;
- the benefits that **nbn** intends the initiatives to deliver for end users or RSPs;
- planned timeframes for **nbn** implementing these initiatives; and
- the category of capex and/or opex forecasts for the Regulatory Cycle to which the initiative relates.

This plan would be indicative and non-binding and would be published on **nbn**'s website.

The Service Improvement Plan is intended to capture and provide transparency on the key initiatives that underpin our forecast expenditure for uplifting customer experience and service performance for the Regulatory Cycle. It would not include, for example, network maintenance or augmentation activities.

2. Service Performance Review

By the end of the first and second Financial Years of the First Regulatory Cycle, **nbn** will conduct a review of **nbn**'s performance against, and the effectiveness and relevance of, existing WBA service levels and performance objectives for **nbn**[®] Ethernet. **nbn** will publish on its website a report that:

- describes **nbn**'s performance in respect of each service level and service performance objective in the 12-month period prior to the commencement of the review;
- in the case of each service performance objective, includes an explanation of any material difference between **nbn**'s performance and the service performance objective included in the WBA;
- summarises any non-confidential input received from RSPs regarding the effectiveness, relevance and/or impacts on End User experience of the Service Standards;



- considers how initiatives in **nbn**'s Service Improvement Plans have contributed to changes in **nbn**'s performance in respect of service levels and performance objectives for the 12-month period prior to the commencement of the review; and
- sets out any changes that **nbn** is considering in response to that review (including in response to any submissions by RSPs) including, for example, any changes **nbn** is considering to Service Standards in the SFAA, the Benchmark Service Standards or to **nbn**'s processes.

This Service Performance Review mechanism will ensure that enhanced service level commitments are only made where **nbn** is confident of its ability to meet the commitment.

This Service Performance Review commitment should be considered together with the broader Benchmark Service Standards framework that provides the ACCC with appropriate powers to revisit benchmarks both between and during Regulatory Cycles. While **nbn** anticipates that the Service Performance Review will provide a structured review of **nbn**'s capability to provide enhanced service levels on an annual basis, the ACCC will also have the ability to amend the Benchmark Service Standards in response to Retail Service Standard Regulation or a Systemic Service Standard Event during a Regulatory Cycle. In response to feedback from the ACCC in its consultation, the definition of a Systemic Service Standard Event will be expanded to include a recurring material adverse impact on end-users (in addition to RSPs).

nbn considers that these additional commitments respond to those service quality concerns highlighted during the consultation process, while recognising that further enhanced service level commitments cannot be made at this time without requiring **nbn** to incur significant and unplanned expenditure that would require prices to be revisited. These commitments provide a framework for: (1) enhancing industry confidence in **nbn** expenditure forecasts dedicated to service improvement by ensuring the progress of such initiatives is traceable; and (2) identifying where **nbn** and the **nbn**[®] network is capable of delivering enhanced service level commitments, and delivering these to industry.

Annexure 3 contains the amendments **nbn** is proposing to make to the Variation to give effect to the Service Improvement Plan, Service Performance Review and Benchmark Service Standards changes referred to above.

WACC methodology – post-First Regulatory Cycle

In the Variation, **nbn** proposed that for Regulatory Cycles after the First Regulatory Cycle, the allowed rate of return used to set **nbn**'s ABBRR must be determined having regard to the following two objectives:

- The objective of producing reliable estimates of the market cost of capital in a wide range of plausible market conditions.
- The objective of promoting stability in the rate of return over time.

nbn remains of the view that these objectives are reasonable and achieve an appropriate balance between providing **nbn** with some (albeit limited) regulatory certainty for **nbn** (by expressly recognising these are relevant factors for consideration) and providing the ACCC with flexibility over the WACC methodology it decides to adopt in future Regulatory Cycles. Of note, the Variation requires the ACCC to *have regard to* these objectives when determining the rate of return – the ACCC may make a determination on the rate of return that is not consistent with these objectives, as long as it has had regard to them when making its decision.

In any case, **nbn** considers the two objectives promote the long-term interests of end-users (**LTIE**) by recognising the relevance of methods for estimating the required rate of return that are capable of producing reliable estimates in a wide range of market conditions – including periods of financial crises, economic booms and



market normality. The objectives also emphasise the relevance for ensuring that rate of return estimates are not unduly influenced by volatility and random statistical noise.

These objectives promote the LTIE by promoting estimates that are as close as possible to the true cost of capital associated with investing in a benchmark efficient firm delivering the regulated services provided by **nbn**. As the AER has previously recognised, the long-term interests of end-users (consumers) is promoted when the allowed rate of return is set in line with the true cost of capital associated with delivering the regulated services:

In our view, for the expected rate of return to contribute to the achievement of the legislative objectives it should reflect an unbiased estimate of the expected efficient return, consistent with the relevant risks involved in providing regulated network services. If it does, then it will (all else being equal) promote both efficient investment in, and efficient use of, energy network services.⁴

...

If the expected rate of return deviates from the market cost of capital then the expected rate of return may not achieve the legislative objectives - it may not promote efficient investment in and use of the service provider's energy network for the long term interests of consumers. That is, there may be costs associated with the expected rate of return being higher or lower than the market cost of capital.⁵

⁴ AER, May 2021, Assessing the long-term interests of consumers, p. 7.

⁵ AER, May 2021, Assessing the long-term interests of consumers, p. 8.



Implementation of the Weighted Average Remaining Asset Lives approach

nbn notes that in its submission Telstra questioned the consistency of **nbn**'s Building Block Model (**BBM**) with the SAU in respect of its treatment of depreciation and the calculation of the Weighted Average Remaining Lives (**WARL**) approach. In particular Telstra raised the following concerns:

- The approach used in the **BBM** is not consistent with the SAU Variation as lodged in November 2022.⁶
- The asset lives used to depreciate assets rolled forward in FY24 appear to not reflect the remaining accounting lives that **nbn** has applied to depreciate assets in the past.⁷

Following consideration of Telstra's feedback **nbn** can confirm that the calculation of the **WARL** for each asset class in the **BBM** is consistent with the SAU Variation and we reaffirm the appropriateness of **nbn**'s approach to calculating **WARL**s. This detailed thinking and worked examples are set out in the attached memo.⁸

Next steps

nbn anticipates that the ACCC will take into account **nbn**'s willingness to make adjustments to the SAU Variation as set out in this letter, in making its draft decision. **nbn** is happy for the ACCC to publish this letter in due course.

nbn remains committed to working constructively with the ACCC and other stakeholders to secure timely acceptance and implementation of the SAU Variation, adjusted as proposed in this letter.

nbn expects that the ACCC will shortly make a draft decision in relation to the SAU Variation. Based on views expressed in the Consultation Paper and subsequent submissions by RSPs and other parties, **nbn**'s expectation is that this draft decision will not accept the SAU Variation. Assuming this is the case, as part of the standard operation of the statutory process, this will require **nbn** to consider amending the SAU Variation and to subsequently lodge an amended variation. Subject to the content of the draft decision, **nbn** intends to lodge any such amended SAU variation as soon as practicable after **nbn** has had the opportunity to consider the draft decision. Any such updated SAU variation will incorporate the changes described in this letter, which **nbn** considers respond to the substantial issues already raised by the ACCC and industry, as well as **nbn**'s response to any other issues raised in the draft decision.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jane van Beelen', written in a cursive style.

Jane van Beelen

Chief Legal & Regulatory Officer, **nbn**

⁶ Telstra Submission in relation to NBN's proposed SAU variation, Public version, 17 February 2023, p. 43

⁷ Ibid.

⁸ Frontier Economics, *nbn's depreciation approach for Module 2*



ATTACHMENT A – Improvements to WBA4 Service Standards

nbn® Ethernet Service Level Schedule	Type	WBA 4	WBA 5	Uplift included in SAU BSS lodged in November	Confirmed for inclusion in SAU BSS since November
Activations					
Activations – NNI Group, NNI Link and V-NNI	Performance Objective	90%	95%	No	Yes
End User Connection	Service Level – Isolated Area (Fibre)	-	Service Class 1 = 40 Business Days Service Class 2 = 35 Business Days Service Class 3 = 1 Business Day	No	Yes
Priority Assistance Connections for logical connections	Service Level - Isolated Area (Service Class 3, 13, 24 & 34)	-	48 hours	No	Yes
Completion Advices					
Completion Advices - End User Connection	Activity duration	30 min	15 min	Yes	N/A
	Performance Objective	70%	85%		
Completion Advices– Service Transfer	Activity duration	30 min	15 min	Yes	N/A
	Performance Objective	90%	95%		
	Performance Objective (Service Level – 1 hour)	95%	99%		
End User Fault Rectification					
End User Fault Rectification requires external or internal plant work or nbn attendance at Premises	Service Level - Isolated Area (Fibre, FTTB/N/C, HFC and Wireless)	-	5:00pm tenth Business Day	No	Yes
Disconnections					



Disconnections	Performance Objective Service Level	90% Following BD	99% 4 Operational Hours	No	Yes
Trouble Ticket Management					
Trouble Ticket Management (respond, send or notify within 2 hours)	Performance Objective	90%	95%	No	Yes
Service Modifications					
Access Component Modifications that do not require attendance at Premises	Service Level	1 Business Day	4 Operational Hours	Yes	N/A
Access Component Modification that requires attendance at Premises	Service Level - Isolated Area	-	35 Business Days	No	Yes
CVC Modifications	Service Level	1 Business Day	4 Operational Hours	Yes	N/A
Dropout threshold for Service Faults					
Performance Incident Threshold	Upper unexpected dropout threshold	9 (>9 qualifies as service fault) HFC & FTTN	7 (>7 qualifies as service fault) HFC & FTTN	Yes	N/A
Performance Incident Threshold	Upper unexpected dropout threshold	-	7 (>7 qualifies as service fault) FTTC	No	Yes