



nbn Special Access Undertaking Variation 2023 – Supporting submission

14 August 2023



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Contents

1	Executive Summary	4
2	Introduction	10
2.1	Context	10
2.2	Expanded scope of regulation	11
2.3	Key aspects of the November Variation considered reasonable and in the LTIE in the Draft Decision	13
2.4	Structure of this submission and additional information	15
3	The Amended SAU Variation	17
3.1	Addressing concerns with the November Variation	17
3.2	Updated BBM parameters	30
3.3	Grex Consulting draft report	30
4	Pricing commitments for 12, 25 and 50 Mbps services	33
4.1	Industry consultation following Draft Decision	33
4.2	Modified Floor and Ceiling Proposals	34
4.3	SAU Floor and Ceiling Model (Option 2)	35
4.4	Implementation of the SAU Floor and Ceiling Model	36
4.5	The SAU Floor and Ceiling Model satisfies criteria relevant to the LTIE	38
5	Other pricing matters	45
5.1	NNI pricing commitments	45
5.2	Price Transition Date	51
5.3	CVC inclusion adjustment	51
5.4	AVC utilisation reporting	52
5.5	Treatment of inaccurate or missing utilisation data	52
5.6	nbn proposes \$20 million in transitional support for RSPs	53
6	The Amended SAU Variation is capable of acceptance	55
Appendix A	Compliance with the statutory criteria	56
Appendix B	Positions put forward by RSPs and other industry stakeholders	57
Appendix C	Summary of inflation and WACC updates	75
Appendix D	BBM parameters	77
Appendix E	SAU Floor and Ceiling Model – further detail on implementation	80



1 Executive Summary

nbn's Special Access Undertaking (**SAU**) which was first accepted in 2013 and varied on 9 April 2021 (**Current SAU**) plays a central role in the telecommunication industry's regulatory framework. **nbn** is pleased to be lodging its revised SAU variation (**Amended SAU Variation**), which follows significant consultation with industry and consumer stakeholders over the last two years.

The Amended SAU Variation responds to the matters of substance identified in the Australian Competition and Consumer Commission's (**ACCC**) draft decision dated 2 May 2023 (**Draft Decision**) on **nbn**'s November 2022 SAU variation proposal (**November Variation**) and submissions in response to the Draft Decision from industry and consumer advocacy groups. The November Variation has now been withdrawn.

nbn considers that the Amended SAU Variation:

- is capable of acceptance by the ACCC;
- addresses all of the key matters raised in the Draft Decision;
- responds to stakeholder concerns about residual cost certainty by introducing a floor and ceiling for the combined charge for the 50 Mbps speed tier services and below;
- on balance improves price and regulatory certainty, in turn promoting competition and efficiency; and
- benefits from extensive engagement with the ACCC, Retail Service Providers (**RSPs**) and industry stakeholders.

In addition to the amended SAU pricing commitments, to assist with some of the costs associated with usage growth and transitioning **nbn**[®] Ethernet TC-4 services to the new pricing construct, **nbn** has offered to provide a total of \$20 million in transitional credits to RSPs.

The Amended SAU Variation is capable of acceptance and supports Australians now and into the future

If accepted, the Amended SAU Variation will vary the Current SAU in a way that ensures the SAU continues to play an important role in the telecommunications landscape and should remain fit for purpose until the end of the SAU term.

nbn considers that the Amended SAU Variation satisfies all relevant legislative requirements. The ACCC has already acknowledged in its Draft Decision that it considers several aspects of **nbn**'s November Variation, and the additional changes communicated by **nbn** to the ACCC in its letter of 24 March 2023, are reasonable and would be in the long-term interests of end-users (**LTIE**). The additional commitments set out in the Amended SAU Variation, which respond to the substantive matters raised in the Draft Decision, are also reasonable and in the LTIE, for the reasons set out in section 3.1.



In addition to satisfying the applicable statutory criteria, **nbn**'s preparation of the Amended SAU Variation has been guided by (and addresses) the ACCC Working Group Outcomes while enabling achievement of the Government's policy objectives.

Five Key Outcomes identified by 2021 Working Groups

1. **nbn** has the opportunity to earn the minimum revenues it needs to meet its legitimate financing objectives, including to transition to a stand-alone investment grade credit rating.
2. End-user customers are protected from price shocks and from prices that are higher than necessary in later years.
3. The regulatory framework provides incentives for **nbn** to operate efficiently and promote use of the **nbn**[®] network.
4. **nbn** access seekers have greater certainty over the costs that they will face when using the **nbn**[®] network.
5. There is a clear and robust quality of service framework so that access seekers and end-user customers know what to expect from **nbn** services, including a review mechanism so that service standards remain fit for purpose.

In our view, the Amended SAU Variation strikes a sensible economic balance by providing **nbn** a reasonable opportunity to generate cashflows required to transition the company to a stand-alone investment grade credit rating, an expectation of all Government Business Enterprises (**GBEs**). This would enable continued investment in the **nbn**[®] network to ensure it supports Australians now and into the future.

Operationalising the Amended SAU Variation as soon as possible will deliver significant benefits to industry stakeholders and end-users. For all of these reasons, **nbn** submits that it should be accepted by the ACCC.

nbn has addressed all the key matters raised in the Draft Decision

nbn is confident that it has addressed all of the key matters raised in the Draft Decision and the consultation on the November Variation.¹ These key matters include:

- a range of pricing matters:
 - addressing residual cost certainty for the TC-4 50 Mbps speed tier services and below (see below and chapter 4 for more detail);
 - reducing prices for some Network to Network Interface (**NNI**) services in 2024 and committing to complete a price review of NNI prices by the end of Financial Year 2027 (see chapter 5 for more detail);
 - conferring an additional power on the ACCC to allow it to change the Entry Level Offers for an upcoming Regulatory Cycle (for price control purposes) earlier than it may have done otherwise; and

¹ The Amended SAU Variation includes those commitments set out in **nbn**'s letter to the ACCC of 24 March 2023 ([Response to issues raised in ACCC Consultation Paper on the variation to **nbn**'s Special Access Undertaking \(SAU\)](#)), together with additional changes responding to industry consultation following the Draft Decision.

- publishing the indicative three-year Pricing Roadmap in May 2023 and including a further indicative Pricing Roadmap as part of this submission in August;
- clarifying that **nbn** will ensure the Low-Income Forum provides for members to provide views and feedback on a range of matters and enhancing **nbn**'s related public reporting commitments;
- providing for the ACCC to be able to extend its decision-making period for a Replacement Module Determination by up to six months;
- refining the post-2032 arrangements to address concerns in the Draft Decision and clarify that those arrangements provide for **nbn** to have a reasonable opportunity to recover the Module 3 ICRA amount in a way that enables **nbn** to transition to a position in which it meets the credit rating objective;
- clarifying how **nbn** will engage with stakeholders in understanding RSP priorities for service improvement initiatives, and how these may result in improved Benchmark Service Standards and RSP experience; and
- changing **nbn**'s regulatory treatment of third-party funding of capital expenditures (**Capital Contributions**).

nbn has provided further cost certainty to industry and proposes financial support via transitional credits of \$20 million

Following several rounds of engagement with the ACCC and two formal consultations addressing the issues of residual cost certainty for RSPs, including three options covered in the *Floor and Ceiling Modified Pricing Options* proposal submitted in July, **nbn** has adopted a \$55 'ceiling' for the combined charges for the 50 Mbps and below speed tier services in FY24, with a 'floor' set at the fixed bundle price for the respective speed tiers. **nbn** has also reduced the TC-4 CVC (overage) price to \$5.50 per Mbps from the Price Transition Date and has increased the CVC inclusions on the 50 Mbps speed tier to 3.5 Mbps. This option had the broadest support from RSPs and best addresses the residual pricing certainty issue that featured in the Draft Decision (as highlighted by RSPs throughout the SAU consultation processes). Further details on RSP engagement, assessment of the specific options, and how the selected option promotes the LTIE and outcomes from the 2021 Working Group are covered in chapter 4.

nbn is aligned with industry in the desire to bring the variation process to a close so that the price and non-price benefits of an updated SAU can be realised by RSPs, **nbn** and, most importantly, end-users of the **nbn**[®] network. To support RSPs in this transitional phase, **nbn** is proposing to offer RSPs a transitional credit to help alleviate the costs associated with usage growth, as well as implementation of the new TC-4 pricing arrangements. The transitional credit will have a total value of \$20 million across all RSPs and further details on how and when this will be distributed are provided in chapter 5.

Amended SAU Variation on balance improves price and regulatory certainty, in turn promoting competition and efficiency

The proposed long-term pricing framework ensures that industry stakeholders are supported to meet the current and future digital needs of all Australians. To become a world-leading digital economy, Australia needs an efficient, reliable national broadband network that is affordable to end-users and the Amended SAU Variation supports this.

In the Amended SAU Variation, **nbn** has proposed a pricing framework that provides cost certainty sought by RSPs, and better promotes competition in downstream markets. With rising demand for faster speeds and greater data demand, **nbn** is also committed to price in a way that puts higher speed tier plans within easier reach of



more customers and encourages RSPs to help customers see the value in upgrading – to maximise overall use of the network to the benefit of end-users and all of industry.

The commitments by **nbn** in the Amended SAU Variation, such as those covering ex-ante and ex-post expenditure assessment as part of future Regulatory Cycles, will further incentivise ongoing innovation and prudent and efficient investment in the **nbn**[®] network to meet end-user demand, to improve end-user experience and to maximise social and economic benefits across Australia.

The Amended SAU Variation benefits from extensive engagement with the ACCC, RSPs and industry stakeholders and nbn is aligned with industry stakeholders to implement expeditiously via WBA5

The current variation process is atypical for a regulated business – the SAU variation is a major resetting of the regulatory framework that governs **nbn** rather than a standard utility-style regulatory proposal under a defined set of regulatory rules and processes.

Lodgement of the Amended SAU Variation follows significant consultation with industry and consumer stakeholders over the last two years. As Figure 2 below shows, the consultation process included the ACCC’s *Industry roundtable on regulatory arrangements under NBN Co’s Special Access Undertaking* held in June 2021, the subsequent series of ACCC Working Groups conducted throughout the remainder of 2021, the industry forum held in August 2022 and consecutive ACCC consultations following lodgement of the November Variation and the Draft Decision.

nbn has put considerable time and resources into industry stakeholder consultations, reflecting its commitment to develop an SAU that is fit for purpose and will deliver the intended benefits for industry. **nbn** has provided industry stakeholders with detailed information on its proposals that respond to ACCC and industry concerns, including in its supporting submissions on the March and November Variations, letter of 24 March 2023 leading up to the Draft Decision, and indicative Pricing Roadmaps in May and August 2023.

More recently, **nbn** has published several targeted submissions for stakeholder feedback, including in relation to:

- NNI pricing (23 May 2023);²
- service quality (23 May 2023);³
- a proposed floor and ceiling for combined charges for the 50 Mbps and lower speed tiers (2 June 2023);⁴ and
- further options to modify the floor and ceiling approach (4 July 2023),⁵ which was then followed by a stakeholder forum on 14 July.

Industry stakeholders have had the opportunity to engage on these proposals and **nbn** has sought to address stakeholder feedback – including in developing the commitments in the Amended SAU Variation. **nbn**’s responses to key RSP and industry stakeholder feedback are described in more detail in Appendix B. **nbn** considers that the appropriate and necessary amount of time has been afforded to industry and **nbn** to work through the level of change to implement the substantially updated regulatory framework. Given the central role that **nbn** plays in the

² **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – NNI](#), 23 May 2023, p.11.

³ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Service Quality](#), 23 May 2023, p.11.

⁴ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – 50 Mbps cost certainty](#), 2 June 2023.

⁵ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Floor and Ceiling – Modified Pricing Options](#), 4 July 2023.



telecommunications industry and the wider economy, taking the time up-front to get these settings correct is well spent.

nbn acknowledges and agrees with RSP and industry stakeholder views that there is an urgent need for clarity as to the pricing and effective date for implementation. In addition to ensuring the pricing commitments set out in the Amended SAU Variation deliver appropriate certainty for RSPs, it is important that such commitments are implemented as soon as possible. In the absence of a revised SAU that can be implemented there are understandable concerns that RSPs may be required to delay particular investment, sales or other planning decisions.

nbn is now aiming to implement the new Wholesale Broadband Agreement (**WBA5**) on 1 December 2023 should the Amended SAU Variation be accepted by the ACCC by no later than mid-October 2023. Once the ACCC has published its consultation paper and provided a deadline for industry submissions, **nbn** will reassess the likelihood of implementing WBA5 on 1 December 2023.

If it appears unlikely that the Amended SAU Variation will be accepted by mid-October 2023, **nbn** will revise the target WBA5 commencement date. Based on industry feedback received to date, should 1 December 2023 not be feasible, the preferred alternative date for WBA5 implementation is 1 February 2024.

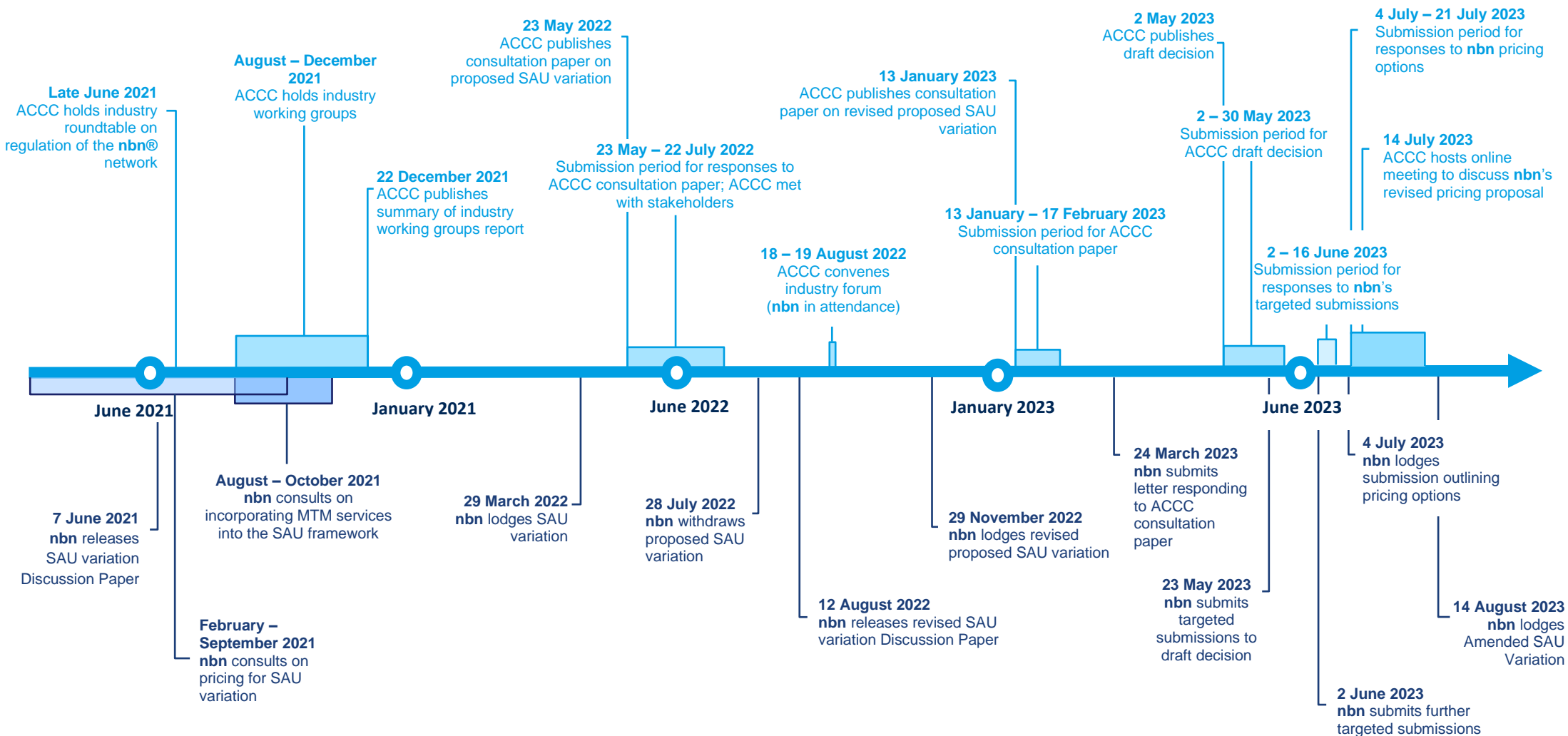
To provide certainty and support for RSPs until WBA5 implementation, **nbn** is taking the following steps:

- **Extending WBA4 including discounts/rebates:** It will be necessary to extend WBA4, which currently expires on 30 September 2023, to allow the SAU Variation process to conclude and provide commercial certainty until WBA5 is implemented. To enable this, **nbn** has provided industry with extension documentation until 1 February 2024.
- **Progressing WBA5 releases:** **nbn** will release the proposed final WBA5 changes as soon as possible after the Amended SAU Variation is lodged, ensuring that RSPs can immediately commence their final reviews and approval processes.
- **RSP enablement:** Recognising there is ongoing work required in preparing for the WBA5 implementation, **nbn** will be working closely with the industry to ensure preparedness for 1 December 2023 implementation, including by conducting training and commencing reporting activities.
- **RSP development fund:** **nbn** will be offering an RSP development fund of up to \$100,000 per RSP to assist with some of the costs involved in transitioning from WBA4 to WBA5.
- **CVC inclusions review:** **nbn** will conduct a review of CVC inclusions as part of the WBA4 TC-4 Bundles Discount⁶ pricing in October 2023.

⁶ Section 12 of the of the WBA **nbn**[®] Ethernet – Price List.



Figure 1. SAU Variation consultation timeline





2 Introduction

This chapter covers:

- The background to the SAU and the operating context for **nbn**;
- How the Amended SAU Variation expands the scope of regulation that applies to **nbn**;
- Aspects of the November Variation that the ACCC’s Draft Decision noted as being reasonable and in the LTIE; and
- Structure of this submission and accompanying artefacts.

2.1 Context

Since **nbn**’s SAU was first accepted in 2013, both **nbn**’s operating context and the broader telecommunications market have changed significantly. **nbn** was established to improve wholesale broadband services and supply across the nation, while also enabling the provision of reasonably priced services to residential and business customers via supply to RSPs on a non-discriminatory basis. In addition to the network having passed the milestone of being declared treated as built and fully operational in December 2020, the role played by **nbn** in the market for high-speed broadband has evolved significantly.

It was originally anticipated that **nbn** would be the primary wholesale provider of high-speed broadband services throughout Australia – particularly in relation to residential and small business services. **nbn** now faces significant and increasing competition in the provision of residential and business services in areas where the **nbn**[®] network has been rolled out and must also compete for the rights to extend its network into new developments.

The evolution of **nbn** is also borne out in its technology make-up. Initially established to deploy FTTP, fixed wireless and satellite services, **nbn**’s mandate was subsequently updated to deploy high-speed broadband services more rapidly through a Multi Technology Mix (**MTM**) – incorporating the use of FTTN, FTTB, FTTC and HFC technologies. While this has enabled all Australians earlier access to high-speed broadband services (largely ahead of what turned out to be a critical time due to COVID-19), the need to address long-term speed and stability concerns with copper-based technologies has required **nbn** to put in place FTTP upgrade programs for the FTTN and FTTC network. This investment in upgrading copper services to fibre underpins **nbn**’s strategy for increasing service standards on, and reliability of, the **nbn**[®] network over time.

With **nbn**’s transition from a build-focused company to a network operator, it is appropriate that **nbn**’s SAU regulatory framework is updated to ensure it continues to meet the needs of industry stakeholders and end-users. As a wholesale-only provider, **nbn** relies on effective partnerships with RSPs and is dedicated to addressing their concerns regarding pricing certainty and service quality. These concerns need to be appropriately balanced with **nbn** having a reasonable opportunity to recover its efficiently incurred costs so that it can operate as a standalone commercial entity – consistent with the Government’s Statement of Expectations (**SoE**) 2022.⁷

⁷ [Statement of Expectations for NBN Co Limited](#), 19 December 2022.

2.2 Expanded scope of regulation

The Amended SAU Variation will significantly expand the scope of the Current SAU and the way **nbn**, and access to the **nbn**[®] network, is regulated.

The Amended SAU Variation makes several key commitments representing material changes from the way in which **nbn**'s products and pricing are offered and from the regulatory treatment of **nbn**'s expenditure in the Current SAU. Through the substantive changes summarised in Table 1 below, the SAU will provide a more comprehensive regulatory framework that should enhance RSP and industry stakeholder confidence in **nbn**'s commitments and the resulting products and pricing for RSPs and end-users.

Table 1. Scope of the Amended SAU Variation

Topic	Current SAU	Amended SAU Variation
MTM networks	Product and price commitments do not cover services delivered over nbn 's MTM networks.	Scope of nbn 's product and price commitments expanded to services it supplies over the MTM networks (i.e., FTTB, FTTN, FTTC and HFC).
Pricing constructs	The SAU sets out the initial prices for nbn offers and methods for changing prices over time (including individual price controls).	Reforming the prices of nbn 's mass-market residential (TC-4) services, including: <ul style="list-style-type: none"> introducing AVC-only prices for wholesale speed tiers of 100 Mbps and above; introducing a 'floor' and 'ceiling' on the combined charge (fixed bundle price plus CVC overage charge) of Bundled TC-4 Offers where the 'floor' is equal to the fixed bundle price and the 'ceiling' is no more than the price of the 100/20 Mbps speed tier (\$55 per month in FY24); reducing the maximum CVC TC-4 (overage) charge from \$8 to \$5.50 per Mbps from the Price Transition Date, with subsequent reductions to \$4.50 on 1 July 2024 and \$3.50 on 1 July 2025 (noting that the maximum price for CVC TC-4 in the current SAU is \$15.75 per Mbps); shifting to charging for any CVC TC-4 (overage) on the basis of CVC capacity actually utilised rather than provisioned; providing RSPs with automatic twice-yearly adjustments to CVC inclusions on Bundled TC-4 Offers to reflect changes in end-user demand; and providing extensive additional price control and price certainty commitments.
Price control arrangements	An overall revenue cap, with individual price controls.	Adopting a weighted average price control (WAPC), with associated sub-caps. The WAPC will initially apply on a CPI-0 basis and then move to CPI-X after nbn is expected to reach annual cost recovery in respect of Core Regulated Services.
Service standards	Specific service quality elements not set out explicitly.	Incorporating a Benchmark Service Standard framework, including a set of Benchmark Service Standards for the First Regulatory Cycle. nbn is also committing to the following additional service-related commitments for the First Regulatory Cycle: <ul style="list-style-type: none"> consulting with Access Seekers and publishing an annual Service Improvement Plan setting out key initiatives to uplift service experience; and conducting an annual Service Performance Review against set WBA service levels and performance objectives which will inform whether there are potential changes that should be made to the WBA, nbn's processes and/or Benchmark Service Standards.



Topic	Current SAU	Amended SAU Variation
ACCC role and power	ACCC has been conferred powers regarding: pricing of new products / price increases; price review of the maximum regulated prices applicable; product withdrawal and dispute resolution.	Expanding the ACCC powers, including: <ul style="list-style-type: none"> the power to set Benchmark Service Standards for a Regulatory Cycle upfront, and set additional and alternate Benchmark Service Standards during a Regulatory Cycle in certain circumstances; new pricing review powers in the event that nbn's prices are inconsistent with its Statement of Pricing Intent or where specified TC-4 discount thresholds are met; additional powers to request information that the ACCC considers reasonably necessary for the exercise and performance of its powers and functions under the SAU, or to administer and assess nbn's compliance with the SAU; and the power to reset nbn's pricing, service standards and product development/withdrawal regulation framework from 2032, subject to high-level principles.
Recovery of unrecovered losses	nbn has the opportunity to carry forward any initial regulatory losses (in the form of an Initial Cost Recovery Account (ICRA)).	Specifying the balance of the ICRA as at 30 June 2023 in current (2022-23) nominal terms. There will be no further additions of unrecovered costs to the total real value of the ICRA as from 30 June 2023, and the nominal value of the ICRA will be indexed at CPI rather than the weighted average cost of capital (WACC) over time.
Prudency and efficiency of nbn 's expenditure	In respect of Module 1, methodology in place for the ACCC to determine nbn 's annual building block revenue requirement (ABBRR) and assess the prudency of expenditure. In respect of Module 2, nbn 's ABBRR requirement is based on forecast, rather than actual, costs.	Implementing a framework for assessing nbn 's prudent and efficient costs, including: <ul style="list-style-type: none"> a requirement, ahead of submitting a Replacement Module Application, to consult with Access Seekers and Consumer Advocacy Groups on relevant expenditure nbn proposes to undertake during the relevant Regulatory Cycle; a requirement for forecast expenditure in the ABBRR to reasonably reflect the expenditure that a prudent and efficient operator in nbn's position would incur to meet certain objectives; and a process for the ACCC to undertake an ex-post prudency and efficiency assessment of nbn's Capital Expenditure.
Low-income customers	No specific commitments or measures set out in the SAU aimed at improving access to nbn 's network for low-income, vulnerable and unconnected end-users.	nbn commits to convening an industry working group, focused on targeting initiatives to improve access to the nbn [®] network for low-income, vulnerable and unconnected end-users. nbn will also publish an annual report on its initiatives to improve access for low-income, vulnerable and unconnected customers.
Change of control	SAU will expire on 30 June 2040.	The SAU will expire earlier than the current expiry date of 30 June 2040 if a Change of Control occurs. This is a significant departure from the Current SAU, the terms of which are not subject to nbn 's status as a private or public entity. This change directly addresses the concern expressed by the ACCC that the SAU may not be the appropriate vehicle for regulation of nbn post-privatisation.

Topic	Current SAU	Amended SAU Variation
Cost recovery	<p>nbn can accumulate past regulatory losses, which can be recovered in later years of the SAU term.</p> <p>The long term revenue constraint methodology (LTRCM) provides nbn with the opportunity to recover its prudent and efficient costs of supply over the term of the SAU, including an appropriate commercial return.</p>	<p>The quantum of past regulatory losses that nbn will be allowed to recover over the SAU period is capped. nbn's revenues will be constrained by the recovery profile determined by the ACCC in accordance with the SAU.</p> <p>Given the market and policy constraints imposed on nbn to date, nbn's prices are not presently sufficient to recover its allowable costs and while they will be set to recover nbn's prudent and efficient costs over time, nbn's prices are expected to be below cost recovery levels for several years to come.</p>

2.3 Key aspects of the November Variation considered reasonable and in the LTIE in the Draft Decision

The November Variation and Amended SAU Variation reflect **nbn**'s willingness to make concessions and adapt or amend its commitments in response to feedback. The ACCC acknowledged in the Draft Decision that the November Variation proposes a number of important initiatives that **nbn** developed "in response to the views that it has received from stakeholders, including at stakeholder forums and working groups and in written submissions provided during consultation on an earlier SAU variation".⁸ This is supported by stakeholder responses to the Draft Decision, with a number of RSPs and industry stakeholders expressing support for aspects of the November Variation.

It is worth reiterating that in its Draft Decision the ACCC identified key aspects of **nbn**'s proposed commitments, as being reasonable and would be in the LTIE, subject to addressing further considerations or improvements outlined in the Draft Decision. These include expanding the scope of the SAU to include the MTM, the proposed replacement module process, arrangements for the post-2032 period of the SAU (amended as set out in **nbn**'s letter of 23 March 2023⁹), the framework for setting and reviewing Benchmark Service Standards during the Subsequent Regulatory Period, and proposed performance and operational reporting commitments. The Draft Decision notes that there are several positive aspects of **nbn**'s proposed commitments such as:

1. the proposed opening balance of the ICRA of \$12.5 billion as of 1 July 2023 and rules for recovery of the ICRA in each of the Subsequent Regulatory Period and the Post-2032 Regulatory Period;
2. expenditure review and assessment criteria for the Subsequent Regulatory Period;
3. cost allocation principles and framework for the Subsequent Regulatory Period;
4. the proposed WACC principles that the ACCC will have regard to in making Replacement Module Determinations;

⁸ Draft Decision, p.3.

⁹ **nbn**, [Response to issues raised in ACCC Consultation Paper on the variation to nbn's Special Access Undertaking \(SAU\)](#), 24 March 2023



5. the proposed WACC values for the First Regulatory Cycle (subject to updates to reflect latest market conditions, e.g., risk free rate), on the basis that the WACC is unlikely to have a material impact on prices in the First Regulatory Cycle and the ACCC will review the WACC methodology for the Second Regulatory Cycle;
6. the overall pricing framework that:
 - adopts a WAPC¹⁰ which will apply to all of **nbn**'s services with limited exceptions;
 - establishes individual price controls for TC-4 services and a TC-4 Price Relativity Restriction;
 - sets out Pricing Principles that **nbn** must have regard to when changing or setting new prices;
 - requires **nbn** to publish a Statement of Pricing Intent for each Regulatory Cycle; and
 - requires annual publication of a Tariff List and three-year Pricing Roadmap;
7. the proposed increase in the 50 Mbps service fixed charge (i.e., excluding overage) by \$5 to \$50 per month;
8. the ability to increase prices (on average) annually by the Consumer Price Index (**CPI**) over the period to the earlier of FY32 and the year after **nbn** is first expected to achieve its Core Services ABBRR, currently expected to be between FY30-FY32;
9. the introduction of AVC-only pricing for 100 Mbps speed tier services and above from when new prices are implemented via WBA5; and
10. CVC charges being phased out over the period to FY26 (for 12, 25 and 50 Mbps speed tier services), except for services provided on **nbn**'s satellite network.

nbn agrees with the ACCC's assessment in the Draft Decision that these elements would satisfy the statutory criteria and these commitments remain unchanged in the Amended SAU Variation. The remainder of this submission does not cover these matters further.

Notwithstanding significant components of the proposed SAU being considered reasonable and in the LTIE, the ACCC has identified specific aspects of the November Variation as requiring amendment in order for the SAU to be considered reasonable and in the LTIE. These are addressed in section 3.1 below.

¹⁰ This includes the simplifications and clarifications to the WAPC as set out in **nbn**, [Response to issues raised in ACCC Consultation Paper on the variation to nbn's Special Access Undertaking \(SAU\)](#), 24 March 2023, Annexure 5.



2.4 Structure of this submission and additional information

The remainder of this submission:

- provides an overview of the Amended SAU Variation and how **nbn** has responded to the ACCC's concerns (chapter 3);
- describes **nbn**'s pricing commitments for 12, 25 and 50 Mbps speed tier services (chapter 4);
- details additional pricing commitments which form part of the Amended SAU Variation and other pricing matters (chapter 5);
- explains why the Amended SAU Variation is capable of acceptance (chapter 6);
- explains why the Amended SAU Variation complies with the statutory criteria (Appendix A);
- summarises the positions put forward by RSPs and other industry stakeholders in response to the Draft Decision and **nbn**'s response (Appendix B);
- provides a summary of inflation and WACC updates (Appendix C);
- covers the updated Building Block Model (**BBM**) parameters (Appendix D); and
- presents further implementation information regarding the SAU Floor and Ceiling Model (Appendix E).

Unless the context provides otherwise, capitalised terms used in this submission have the same meaning as in the Dictionary set out in Attachment C to the main body of the Amended SAU Variation.

Additional information

The following additional materials have been provided to assist the ACCC to assess, and stakeholders to provide feedback on, the Amended SAU Variation:

1. **SAU Variation:** Clean and mark-up versions of the Amended SAU Variation. In addition to the mark-up to the Current SAU as varied on 1 April 2021, **nbn** has provided a compare showing changes in mark-up against the November Variation and explanatory notes on key changes in the form of balloon comments, together with a Table of Explanations, which is referred to in certain explanatory notes and provides further information about key changes since the November Variation.
2. **Indicative Pricing Roadmap:** This indicative three-year Pricing Roadmap is provided to facilitate the assessment of the Amended SAU Variation. If the Amended SAU Variation is accepted by the ACCC, **nbn** is required to publish a Pricing Roadmap for FY24-FY26 by no later than one month before the Price Transition Date.
3. **Draft WAPC model reflecting indicative Pricing Roadmap:** The draft WAPC model reflects the indicative Pricing Roadmap and is provided to facilitate the assessment of the Amended SAU Variation.
4. **Financial forecasts file FY24-26:** **nbn**'s financial forecasts in support of the Amended SAU Variation for the period FY24 to FY26. These reflect the IOP23 forecasts as provided along with the November Variation, adjusted for recent changes in inflation expectations.



5. Supporting materials for the BBM:

- a. **The BBM applicable to end of FY23:** A backward-looking model that captures calculations with historical data from FY09 to FY22 and one year of forecasts – FY23. The only updates since the lodgement of the November Variation are to the WACC, CPI and recognition of government grants as Revenue (consistent with the ACCC’s FY22 LTRCM Determination, but only applicable up to 30 June 2023).
- b. **BBM Handbook applicable up to end of FY23:** This handbook documents how the BBM implements the calculations in the Amended SAU Variation and the principles in the initial Cost Allocation Manual (CAM)¹¹ up to the end of FY23. The handbook has been updated from the version lodged with the November Variation, including to provide greater clarity in how the roll up and roll forward of Capital Expenditure to the start of FY24 is calculated.
- c. **BBM applicable from commencement of FY24:** Forward-looking model for FY24 to FY40 which captures calculations using forecast data. The only updates since lodgement of the November Variation are to the WACC and inflation expectations (see Appendix C), the treatment of Capital Contributions, and a minor correction to the scope of service level rebates included in the forecast Operating Expenditure.
- d. **BBM Handbook applicable from commencement of FY24:** This handbook documents how the BBM implements the calculations in the Amended SAU Variation and the principles in the initial CAM from the commencement of FY24. The handbook has been updated from the version lodged with the November Variation to provide additional clarity in how nbn rolls up Capital Expenditure into asset classes and to reflect changes in treatment of Capital Contributions.

¹¹ The initial CAM lodged in December 2022 in support of the November Variation is interim in nature. Under the Amended SAU Variation, nbn will lodge a Proposed CAM for ACCC approval within 30 days of acceptance of the Amended SAU Variation.



3 The Amended SAU Variation

This chapter covers:

- Addressing concerns with the November Variation that were raised in the ACCC's Draft Decision;
- Updates to the BBM parameters; and
- Further information provided by **nbn** in response to the Grex Consulting draft report.

3.1 Addressing concerns with the November Variation

nbn's enhanced and amended commitments in the Amended SAU Variation are described in detail in Table 2 below. These commitments comprise:

- the changes **nbn** articulated between lodgement of the November Variation and the Draft Decision being published;¹² and
- additional commitments that **nbn** is making in response to the Draft Decision and subsequent industry consultation.

For the reasons set out in Table 2, the Amended SAU Variation as a package of commitments is reasonable and in the LTIE. In proposing these changes, **nbn** has given specific consideration to the ACCC Working Group Outcomes proposed by the ACCC as central to the SAU variation.

¹² **nbn**, [Response to issues raised in ACCC Consultation Paper on the variation to *nbn*'s Special Access Undertaking \(SAU\)](#), 24 March 2023.



Table 2. Summary of Amended SAU Variation commitments relative to November Variation

#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
<i>The replacement module framework</i>				
1.	Replacement module process	<p>Under the November Variation, if the ACCC does not make a Replacement Module Determination in the relevant timeframe, the ACCC is deemed to have accepted nbn’s Replacement Module Application. Further, nbn is not required to provide the ACCC with all relevant information at the time nbn makes its Replacement Module Application. This may:</p> <ul style="list-style-type: none"> place a limitation on the ACCC’s decision-making; and pose issues if the ACCC were waiting on relevant information from nbn which impacted the ACCC’s ability to make a Replacement Module Determination on time.¹³ 	<p>nbn has addressed these concerns under the Amended SAU Variation.</p> <p>The ACCC will have the explicit power to request nbn to provide specific information up-front when it lodges a Replacement Module Application and extend its decision-making period for a Replacement Module Determination by up to six months, via a notification process.¹⁴</p> <p>Further detail regarding this change was also included in nbn’s letter to the ACCC of 24 March 2023.¹⁵</p>	<p>ACCC Working Group Outcomes</p> <p>Incentives for nbn to operate and invest efficiently: Ensuring the ACCC has access to all relevant information at the time a Replacement Module Application is submitted will ensure that the ACCC is appropriately informed regarding the basis of nbn’s forecast expenditure and investment decisions at the start of the Regulatory Cycle when determining nbn’s ABBRR, and also help to inform the ACCC’s ex-post assessment of nbn’s Capital Expenditure at the end of a Regulatory Cycle – which processes are directly targeted at ensuring nbn is incentivised to operate efficiently and recover only against those costs it incurs efficiently.</p> <p>Statutory criteria</p> <p>Providing the ACCC with the power to reset nbn’s ABBRR every three to five years and conduct an ex-post assessment of nbn’s Capital Expenditure at the end of the Regulatory Cycle promotes the LTIE (primarily efficient investment) by providing a clear framework by which efficiency and prudence will be judged, while giving the ACCC the opportunity to confirm ex-post that the requirements of the framework are met before investments are added to the RAB. Ensuring the ACCC has the ability to request the necessary information – at the appropriate time – will further support the effectiveness of this framework and addresses the key LTIE risk highlighted with the replacement module process in the Draft Decision.¹⁶</p>

¹³ Draft Decision, pp.19-20.

¹⁴ Clauses 5.2, 5.8 and 5.9 of the Amended SAU Variation.

¹⁵ **nbn**, [Response to issues raised in ACCC Consultation Paper on the variation to nbn’s Special Access Undertaking \(SAU\)](#), 24 March 2023, p.3.

¹⁶ Draft Decision, p.80.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
Post-2032 framework and principles				
2.	Post-2032 period credit rating principle	<p>Several factors that ratings agencies use to assess a credit rating would typically fall outside of the regulatory framework.¹⁷ The November Variation post-2032 arrangements:</p> <ul style="list-style-type: none"> 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;¹⁸ and would require the ACCC to set a combined ABBRR and ICRA allowance at a level which would allow nbn to achieve and maintain a SAIGCR even if nbn 	<p>nbn has addressed these concerns under the Amended SAU Variation. During the post-2032 period, the ACCC is required:</p> <ul style="list-style-type: none"> 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; and when setting the Forecast Nominal ABBRR, to have regard to the objective of allowing a prudent and efficient operator in nbn’s position (and with benchmark efficient capital structure) a reasonable opportunity to maintain a SAIGCR with a stable outlook.²⁰ <p>These changes 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.²¹ nbn is not seeking to be allowed to draw down any additional ICRA amount over and above that specified in the Amended SAU Variation – and the revised drafting does not provide for that to occur.</p> <p>nbn notes that it is common to require that regulatory decisions be made ‘having regard’ to certain factors – which is what nbn proposes</p>	<p>ACCC Working Group Outcomes</p> <p>RSP cost certainty: nbn has proposed significant detailed commitments that will provide RSP cost certainty between now and 2032 (e.g., Individual price controls in addition to the WAPC, Pricing Roadmap, Statement of Pricing Intent, TC-4 Discount restriction). Requiring that the annual ICRA allowance must avoid price shocks long term means that RSP cost certainty will continue to be a central consideration in determining nbn’s revenue allowance when the SAU transitions into the post-2032 phase.</p> <p>Opportunity to meet legitimate financing objectives: Consideration of nbn’s opportunity to transition to and maintain a SAIGCR in determining the annual ICRA allowance and ABBRR is consistent with the first of the ACCC Working Group Outcomes.</p> <p>Statutory criteria</p> <p>nbn is accepting greater forward-looking risk in relation to market outcomes under the annual ICRA and ABBRR proposal and placing conditions on its revenue allowance that will promote both competition and efficient investment in the network. In particular:</p> <ul style="list-style-type: none"> requiring that the annual ICRA allowance must avoid price shocks means that nbn is providing greater pricing certainty to industry, continuing to support a competitive retail market; and requiring the ACCC to have regard to the objective of allowing a prudent and efficient operator in nbn’s position (and with benchmark efficient capital structure) a reasonable opportunity to maintain a SAIGCR with a stable outlook is consistent with promoting efficient investment in the nbn[®] network.

¹⁷ Draft Decision, p.25.

¹⁸ Draft Decision, p.25.

²⁰ Clauses 3B.3.2(d) and 3B.3.6(b) of the Amended SAU Variation.

²¹ See also **nbn**, [Response to issues raised in ACCC Consultation Paper on the variation to nbn’s Special Access Undertaking \(SAU\)](#), 24 March 2023, p.2.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
		had already drawn down all of the Module 3 ICRA. ¹⁹	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.	This directly addresses the risk highlighted by the ACCC regarding the credit rating objective principle in its Draft Decision. ²²

Pricing and product constructs

3.	CVC coverage on 50/20 Mbps	There remains a level of residual cost uncertainty associated with CVC charging for the 50/20 service for the First Regulatory Cycle, and RSPs could find it difficult to efficiently manage this residual cost uncertainty. RSPs would need to invest in systems and processes to make efficient use of tools / reporting proposed by nbn to assist with cost management. ²³	<p>nbn has addressed these concerns under the Amended SAU Variation by moving to a ‘floor and ceiling’ pricing construct for Bundled TC-4 Offers where the charge for an AVC TC-4 that is the subject of a Bundled TC-4 Offer, and any CVC TC-4 utilised by an AVC TC-4, is calculated independently on a per service basis and capped at no more than the Price of the 100/20 Mbps Flat-Rate Offer.</p> <p>The following commitments will apply from the Price Transition Date:</p> <ol style="list-style-type: none"> 1. a hard cap on an individual AVC’s maximum overage cost such that no bundled TC-4 service will cost more than the 100/20 Mbps Flat-Rate Offer (meaning a ‘ceiling’ price of \$55 in FY24 for the 12, 25 and 50 Mbps bundled offers); 2. Retaining a bundle price for the 50 Mbps service of \$50 in FY24. This means the 50 Mbps service will have an initial effective ‘floor’ of \$50; 3. reducing the maximum Price for CVC TC-4 (overage) utilised in conjunction with a Bundled TC-4 Offer from \$8/Mbps to \$5.50/Mbps from the Price Transition Date (reducing to no more than \$4.50 and \$3.50 in FY25 and FY26, respectively); and 	<p>ACCC Working Group Outcomes</p> <p>RSP cost certainty: RSPs will have certainty that no bundled TC-4 service will cost more than the 100/20 Mbps Flat-Rate Offer, which will be particularly significant to those RSPs that do not have the resources or capability to engage in comprehensive optimisation. The material reduction in the CVC overage charge, as well as the increase in CVC inclusions for the 50 Mbps service, will mean that a greater proportion of 50 Mbps services experience no overage, and RSPs will face reduced cost exposure on all bundled TC-4 services in response to increased usage by customers.</p> <p>nbn’s revenue requirement: Supplementing the price cap with a price floor is intended to ensure the pricing changes have a neutral impact on nbn’s revenue forecasts for those services below 100 Mbps. With the combination of the floor and ceiling on prices for bundled TC-4 services, as well as reduced variability in overage revenue due to the lower CVC overage charges and increased inclusions, nbn will have greater certainty of the average charge that will apply to each Bundled TC-4 Offer, and hence greater ability to forecast the Average Combined Charge for these services.</p> <p>Incentives for nbn to operate efficiently and promote use of the network: By reducing the uncertainty faced by nbn in relation to forecasting revenue, the floor and ceiling pricing</p>
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¹⁹ Draft Decision, p.24.

²² Draft Decision, p.24.

²³ Draft Decision, p.46.



#	Topic	Matters raised by ACCC	nbn's Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
			<p>4. increasing the CVC inclusion for 50 Mbps services from 2.5 Mbps to 3.5 Mbps.</p> <p>The Amended SAU Variation also includes a commitment for nbn to provide daily and monthly AVC utilisation reports to RSPs to help them better understand end-user behaviour.²⁴</p>	<p>construct will create a more predictable environment conducive to efficient debt-raising and robust business cases for ongoing investment.</p> <p>Statutory criteria</p> <p>The introduction of these commitments extends the already significant pricing commitments that nbn proposed in the November Variation. The introduction of a floor and ceiling model for Bundled TC-4 Offers, and associated commitment regarding tools and reporting, complements the pricing certainty achieved through Flat-Rate Offers. These comprehensive commitments to cost certainty for RSPs should translate to enhanced pricing certainty for end-users, thus supporting the LTIE.</p>
4.	NNI pricing to promote RSP expansion and retail competition	Some smaller RSPs have raised concerns about nbn 's NNI charges disadvantaging smaller RSPs due to economies of scale. ²⁵	<p>nbn has addressed these concerns under the Amended SAU Variation. nbn commits to the following pricing changes, effective for the Financial Year starting 1 July 2024:</p> <ul style="list-style-type: none"> reducing the activation charges on 10G NNI to \$3,000 (from \$5,000);²⁶ reducing the activation charges on 100G NNI to \$20,000 (from \$30,000);²⁷ and reducing the 10G NNI bearer recurring charges by 50% to \$200 per month (for the BaseLR variant) and \$250 per month (for the BaseER variant) where an RSP has a single 10G NNI group at a POI used either in single or diverse chassis configuration and no 100G NNIs. This price reduction will cease to apply when the RSP adds additional 10G NNIs or 100G NNIs at the same POI.²⁸ 	<p>ACCC Working Group Outcomes</p> <p>RSP cost certainty: The NNI pricing commitments are a direct response to RSP cost certainty concerns. The significant reductions in NNI charges are targeted at reducing barriers to entry and expansion for RSPs, and providing a smoother cost pathway for RSPs as they grow their customer base and provide higher speed services. By committing to these future price reductions and the NNI Upsize Migration rebate in the SAU, nbn is providing RSPs with increased certainty about the NNI costs they will face over the coming years.</p> <p>The NNI Pricing Review commitment provides certainty to RSPs that nbn will continue to review NNI pricing to identify and address potential barriers to RSPs upgrading NNI capacity to support growth in usage and download speeds in a proactive manner.</p> <p>Incentives for nbn to operate efficiently and promote use of the network: Ensuring that NNI pricing does not act as a potential barrier to entry or expansion for smaller RSPs is intended to help sustain a competitive retail market that, in turn, can deliver choice and value in retail products available to end-users – further promoting use of the nbn[®] network.</p>

²⁴ Clause 2C.6 of the Amended SAU Variation.

²⁵ Draft Decision, p.39.

²⁶ Clause 2 of Attachment E.1 of the Amended SAU Variation.

²⁷ Clause 2 of Attachment E.1 of the Amended SAU Variation.

²⁸ Clause 1 of Attachment E.1 of the Amended SAU Variation.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
			<p>Further detail regarding this change was also included in nbn’s submission to the ACCC of 23 May 2023.²⁹</p> <p>nbn is also including the following commitments in the Amended SAU Variation in response to additional RSP feedback:</p> <ul style="list-style-type: none"> introducing an NNI Upsize Migration rebate that covers Set-up and Activation charges for ‘returned’ NNI ports where these rebates offset the Set-up and Activation charges for new upgraded NNI ports. This rebate will be effective from 31 March 2024 to 30 June 2027 (inclusive);³⁰ and conducting and completing an NNI Pricing Review by no later than 30 June 2027. As part of this review, nbn must consult with RSPs and Consumer Advocacy Groups and provide a report describing how it has considered feedback received.³¹ 	<p>Statutory criteria</p> <p>The lowering of 10G and 100G NNI activation charges by \$2,000 and \$10,000 respectively, the reduction of NNI bearer recurring charges, and the introduction of the NNI Upsize Migration rebate are material pricing changes that respond directly to concerns that smaller RSPs face barriers to entry and expansion due to NNI charges. The proposed price reductions will further support entry and expansion by smaller retailers at each POI, promoting efficient use and take-up of the nbn[®] network and ensuring downstream competition continues to be promoted consistent with the LTIE.</p>
5.	Entry Level Offers	Whether a redesignation of the Entry Level Offers in subsequent Regulatory Cycles could take effect more quickly than the second year of the relevant Regulatory Cycle. ³²	<p>nbn has addressed these concerns under the Amended SAU Variation. As in the November Variation, the ACCC can set the Entry Level Offers for an upcoming Regulatory Cycle by issuing a Replacement Module Determination by 31 March of the last Financial Year of the previous Regulatory Cycle.</p> <p>In addition, under the Amended SAU Variation, the ACCC can also make a ‘transitional’ determination which sets the Entry Level Offers for the first Financial Year of the upcoming Regulatory Cycle by 31 March of the last year of the previous cycle,³³ and later issue a separate Replacement Module Determination which sets (among</p>	<p>Statutory criteria</p> <p>The updated arrangements facilitate the ACCC setting new Entry Level Offers for an upcoming Regulatory Cycle as a separate, earlier decision to the ACCC’s Replacement Module Determination. This increases the flexibility of the ACCC’s powers under the SAU.</p>

²⁹ **nbn**, [nbn Special Access Undertaking Variation: Response to issues raised in ACCC Draft Decision - NNI](#), 23 May 2023.

³⁰ Clause 2B.6.2 of the Amended SAU Variation.

³¹ Clause 2B.6.3 of the Amended SAU Variation.

³² Draft Decision, p.44.

³³ Clause 5.12 of the Amended SAU Variation.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
			<p>other things) the Entry Level Offers for the second and later years of the Regulatory Cycle.³⁴</p> <p>If the ACCC has not issued any such determination by 31 March before the new Regulatory Cycle starts, for the purposes of the Tariff List published by nbn for the first Financial Year of the new Regulatory Cycle, the Entry Level Offers would be those from the previous Regulatory Cycle.³⁵</p>	
6.	Low-Income Forum	<p>The SAU variation does not expressly state the scope of consultation and reporting that will be undertaken in connection with the Low-Income Forum.³⁶</p> <p>The SAU does not commit nbn to respond to the Low-Income Forum’s recommendations.³⁷</p>	<p>nbn has addressed these concerns under the Amended SAU Variation. The Low Income Forum will provide members the opportunity to provide views and feedback on:</p> <ul style="list-style-type: none"> possible targeted initiatives to improve access to the nbn® network for low-income, vulnerable and unconnected end-users; the potential impact of nbn’s prices (including as set out in nbn’s latest Pricing Roadmap) on low-income, vulnerable and unconnected end-users; and the potential impact of any proposed withdrawal of Products, Product Components or Product Features by nbn on low-income, vulnerable and unconnected end-users.³⁸ <p>nbn will, in each Financial Year, publish on its website a report on:</p> <ul style="list-style-type: none"> the progress of nbn’s initiatives to improve access to its network for low-income, vulnerable and unconnected end-users; and 	<p>Statutory criteria</p> <p>Ensuring the scope and transparency of the Low-Income Forum are clearly articulated will support the effectiveness of this forum in identifying initiatives that can improve access to the network for low-income, vulnerable and unconnected end-users. A continued focus on these initiatives, and effective collaboration between industry participants, is in the LTIE.</p>

³⁴ Clause 2B.4 of the Amended SAU Variation.

³⁵ Clause 2B.4 of the Amended SAU Variation.

³⁶ Draft Decision, p.4.

³⁷ Draft Decision, p.38.

³⁸ Clause 2B.7(e) of the Amended SAU Variation.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
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- how **nbn** has taken into account the views and feedback received from the Low-Income Forum since the last such report was published (or since the Low-Income Forum was first convened).³⁹

BBM proposals and nbn’s approach to the BBM

7.	Capital Contributions	The SAU should recognise third-party funding (including Telstra’s remediation credits) and government grants to ensure nbn does not over-recover costs associated with delivering core services within the SAU. ⁴⁰	<p>nbn has addressed these concerns under the Amended SAU Variation. nbn maintains that the treatment of third party payments to fund capital expenditure in the November Variation did not involve any expected over-recovery of costs by nbn over time, noting how the ICRA was determined and the operation of the WAPC over time. Nonetheless, based on further engagement with the ACCC, and standard practice in other regulated sectors, nbn has made amendments to the text of the Amended SAU Variation. The changes go to the general treatment in nbn’s RAB of ‘Capital Contributions’ (which include capital expenditure funding from government grants and other third party payments, such as from developer deployment contributions, commercial works and nbn’s technology choice program), and a specific treatment of the previous grant from the Commonwealth Government to part-fund upgrades to nbn’s Fixed Wireless network which was received in the Initial Regulatory Period under the Current SAU.⁴¹</p> <p>Capital Contributions are no longer treated as ‘Revenue’ for SAU purposes and are instead netted off from capital expenditure as it flows into the RAB.⁴² Once nbn first achieves recovery of its annual building block model costs (expected to be around FY31) the</p>	<p>ACCC Working Group Outcomes</p> <p>Incentives for nbn to operate efficiently and promote use of the network: The amendments to the treatment of Capital Contributions under nbn’s RAB are consistent with the objective to ensure nbn operates efficiently. While nbn faces sufficient commercial incentives to incur expenditure efficiently and transition to a SAIGCR, and has already committed to ex-post review of the prudence and efficiency of its costs over a Regulatory Cycle, the Amended SAU Variation provides industry with further confidence that nbn will not over recover capital expenditure funded by Capital Contributions.</p> <p>Statutory criteria</p> <p>Clarity in the treatment of Capital Contributions is consistent with economically efficient investment in the nbn[®] network, thus promoting the LTIE.</p>
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³⁹ Clause 2B.7(g) of the Amended SAU Variation.

⁴⁰ Draft Decision, p.51.

⁴¹ Clause 2G.5.11 of the Amended SAU Variation.

⁴² See, for example, clause 2G.5.113(b) of the Amended SAU Variation.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
			<p>combined effect of the change in treatment on the ABBRR and the SAU’s definition of Revenue is forecast to be approximately neutral over the period to FY40. However, the closing RAB in FY40 (at the end of the SAU) is forecast to be lower. nbn has conceded the change in treatment for Capital Contributions in order that the SAU variation can proceed without delay and noting that there is nothing in the Amended SAU Variation about arrangements post FY40 and that over the next 17 years there may be many technology, demand and market changes.</p> <p>Separately, the 2013 SAU and November Variation already provided an effective and appropriate basis for accounting for Telstra’s remediation credits - future infrastructure remediation credits would be offset against nbn’s forecast Operating Expenditure, consistent with past practice with the duct remediation credits.⁴³ That treatment will continue under the Amended SAU Variation.</p>	
8.	Increased transparency of weighted average asset lives	<p>BBM supporting material should provide greater transparency of the asset classes and weighted average asset lives calculations in the BBM. Encourage nbn to consider including provision in Schedule 2G which defines separate asset classes for assets commissioned prior to the 2024 financial year and those commissioned from that time.⁴⁴</p>	<p>Following further engagement with the ACCC since the Draft Decision, nbn has addressed these concerns through updates to the BBM Handbooks (FY09 to FY23 and FY24 to FY40). The BBM Handbooks provide greater transparency of the asset classes and weighted average asset lives calculations, enabling users to understand how pre and post-FY24 depreciation has been calculated. The updated BBM Handbooks include numerical examples demonstrating how remaining asset lives are calculated, and explicitly state the use of depreciation weights (versus value weights). Depreciation for assets commissioned pre-FY24 is proposed to be treated separately from depreciation for assets commissioned from the start of FY24.</p>	<p>ACCC Working Group Outcomes</p> <p>Incentives for nbn to operate efficiently and promote use of the network: This clarity on the treatment of asset lives is consistent with the role of the BBM Handbooks more broadly - providing the ACCC and industry with clarity and certainty regarding nbn’s BBM and the revenue requirements this informs. Not only do the BBM Handbooks support industry confidence in the calculation of nbn’s revenue requirements, but ensure that nbn remains appropriately incentivised to maintain the BBM in line with detailed guidelines in the knowledge that deviation from this will be open to ACCC and industry stakeholder scrutiny.</p> <p>Statutory criteria</p> <p>Increased transparency under this proposal enhances nbn’s incentives to investment efficiently in its network, thus promoting the LTIE.</p>

⁴³ See **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Grant funding of capital expenditure](#), 2 June 2023, p.4.

⁴⁴ Draft Decision, p.50.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
Expenditure review and criteria				
9.	Broader powers for ACCC for expenditure review purposes	No clear ACCC power to specify the materials to accompany a Replacement Module Application. ⁴⁵ Properly framed, this power would give assurance that nbn would prepare specified categories of documentation (such as business cases for its material investments and operations). ⁴⁶ Further assurance that nbn would implement such a framework could be provided by conferring a power on the ACCC to request that nbn provide particular information and documents to it in support of a Replacement Module Application and, if needed, by issuing record keeping rules. ⁴⁷	nbn has addressed these concerns by including a new power for the ACCC to request that nbn provide particular information and documents to the ACCC in support of nbn ’s Replacement Module Application, supplementing the information request power clause in the November Variation and the ACCC’s statutory information gathering and Record Keeping Rules (RKR) powers. ⁴⁸ That new SAU power is not an RKR power and does not seek to duplicate the statutory RKR regime. The expenditure assessment framework in the Amended SAU Variation also ensures that nbn is sufficiently incentivised to consult with the ACCC and ensure that its documentation in support of any expenditure proposals will meet the ACCC’s information needs in conducting ex-post capital expenditure and ex-ante expenditure reviews.	ACCC Working Group Outcomes The ACCC’s key outcomes include a regulatory framework that provides incentives for nbn to operate efficiently (and promote use of the nbn). Clarity on the information the ACCC needs and incentives for nbn to provide that information at the time a Replacement Module Application is submitted will ensure that the ACCC is appropriately informed regarding the basis of nbn ’s forecast expenditure and investment decisions at the start of the Regulatory Cycle when determining nbn ’s ABBRR, which also includes an ex-post assessment of nbn ’s expenditures for the previous Regulatory Cycle. Statutory criteria Providing the ACCC with the power to reset nbn ’s ABBRR every three to five years, and request nbn to provide specific information up-front when it lodges a Replacement Module Application, provides confidence to industry that the regulatory outcomes will be well-informed over time. This will encourage efficient use of, and investment in, communications infrastructure.
Cost allocation and accounting separation				
10.	Initial Cost Allocation Manual	Scope for improvements to the initial CAM exists, such as, the CAM’s level of detail and transparency of approaches, the allocation of	nbn welcomes the Draft Decision to accept the proposed cost allocation framework as reasonable and in the LTIE in the circumstance proposed, which gives the ACCC an approval and oversight role.	ACCC Working Group Outcomes Incentives for nbn to operate efficiently and promote use of the network: As with the BBM Handbook, the initial CAM provides the ACCC and industry with clarity and certainty regarding nbn ’s BBM and the revenue requirements this informs. In due course, following

⁴⁵ Draft Decision, p.20.

⁴⁶ Draft Decision, p.57.

⁴⁷ Draft Decision, p.56.

⁴⁸ Clauses 5.2(c) and (d) of the Amended SAU Variation. See also **nbn**, [Response to issues raised in ACCC Consultation Paper on the variation to nbn’s Special Access Undertaking](#), 24 March 2023, p.3.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
		operational costs, and the rationale for cost allocators proposed. ⁴⁹	In relation to the CAM (which forms part of the cost allocation framework), nbn will lodge, for the ACCC’s approval and consultation, a Proposed CAM 30 days after acceptance of the Amended SAU Variation. nbn proposes to consider the possible improvements to a Proposed CAM, highlighted by the ACCC in its Draft Decision, as well as the key themes and concerns raised by RSPs in response to the November Variation.	nbn ’s lodgement of the Proposed CAM after acceptance of the Amended SAU Variation, the CAM as approved by the ACCC will support industry confidence in nbn ’s allocation of costs, and ensure that nbn remains appropriately incentivised to maintain the BBM in line with specified cost allocation processes in the knowledge that deviation from this will be open to the ACCC and industry scrutiny. Statutory criteria As outlined above, clarity in the cost allocation process is consistent with economically efficient investment in the nbn [®] network, thus promoting the LTIE.
Service quality				
11.	RSP input into service improvement initiatives	nbn should commit to periodically consult stakeholders over the measures that nbn should prioritise during the First Regulatory Cycle, and update the Benchmark Service Standards to incorporate improvements that are identified in this way. ⁵⁰	nbn has introduced two new service quality commitments for the First Regulatory Cycle: <ul style="list-style-type: none"> nbn will publish an annual Service Improvement Plan setting out key initiatives to uplift service experience that will commence or continue in the applicable Financial Year. In developing the Service Improvement Plan, nbn will consult with Access Seekers and consider Access Seeker proposals as part of its operational planning process;⁵¹ and nbn will conduct an annual Service Performance Review against set WBA service levels and performance objectives, with Access Seeker consultation a key element of the review. In identifying whether there are potential changes to the WBA and/or Benchmark Service Standards, nbn will give specific consideration to those improvements delivered under the Service Improvement Plan.⁵² 	ACCC Working Group Outcomes Quality of service framework: The Service Improvement Plan will provide transparency regarding the delivery of key initiatives that will impact quality of service, and help to ensure RSP service experience concerns are considered and integrated effectively into nbn ’s operational planning process. Incentives for nbn to operate efficiently and promote use of the network: The enhanced consultation and transparency commitments will require nbn to demonstrate benefits to RSPs and end-users associated with service improvement initiatives. This will contribute to a framework that incentivises nbn to operate efficiently and invest in those initiatives that promote efficient use of the nbn [®] network. Statutory criteria The enhanced service improvement commitments are intended to ensure that end-user priorities regarding service quality can be effectively communicated to nbn through Access Seeker consultation and considered more effectively in nbn ’s operational planning

⁴⁹ Draft Decision, p.65.

⁵⁰ Draft Decision, p.71.

⁵¹ Clauses 4A.4.1 and 4A.4.2 of the Amended SAU Variation.

⁵² Clause 4A.4.3 of the Amended SAU Variation.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
			<p>In publishing the Service Improvement Plan, nbn will provide transparency in respect of: (1) those initiatives that have been prioritised in response to RSP feedback; (2) those RSP proposals that were already addressed by nbn planned initiatives; and (3) the reasons that other RSP proposals cannot be pursued or require further consideration.</p> <p>Further detail of these processes is also set out in nbn’s submission to the ACCC dated 23 May 2023.⁵³</p>	<p>processes. This should assist in ensuring investment in the nbn® network is responsive to RSP and end-user needs and is economically efficient.</p>
12.	Benchmark Service Standards for First Regulatory Cycle	<p>The SAU should include a commitment for nbn to:</p> <ul style="list-style-type: none"> • update the Benchmark Service Standards proximate to acceptance of the SAU variation; and • inform the ACCC and other stakeholders whether the updated Benchmark Service Standards will be part of a future cost pass-through application. 	<p>The Benchmark Service Standards for the First Regulatory Cycle have been updated to include those enhancements to relevant service levels and performance objectives that have been proposed for inclusion in WBA5 since lodgement of the November Variation. No cost pass-through application will be submitted in relation to these amendments to the Benchmark Service Standards.⁵⁴</p> <p>The Service Performance Review process (the first to be completed by 30 June 2024) will also identify whether there are any additional service levels that have been included in the WBA since the lodgement of the SAU Variation and which should be incorporated in the benchmarks, or any potential changes to service standards.⁵⁵ For example, the Network Activity performance objectives that have been included in the Benchmark Service Standards (based on WBA4) do not account for the overbuild of FTTN and FTTC areas with FTTP under the fibre upgrade program.</p>	<p><u>ACCC Working Group Outcomes</u></p> <p>Quality of service framework: With the Benchmark Service Standards aligned to incorporate relevant updates to service standards planned for WBA5, the Amended SAU Variation will ensure a clear link is established between price and quality for the First Regulatory Cycle – and that the benchmarks in the SAU are aligned with those to be offered under nbn’s updated SFAA.</p> <p><u>Statutory criteria</u></p> <p>The proposed price-quality link, together with the broader Benchmark Service Standards mechanism, is consistent with the LTIE: the Amended SAU Variation establishes a definitive and appropriate set of minimum service standards which not only provide end-users with confidence in quality commitments of the nbn® network, but also incentivise competing networks to deliver equivalent or better service standards.</p>

⁵³ **nbn**, *nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Service Quality*, 23 May 2023, p.11.

⁵⁴ The Draft Decision notes that “cost pass-through applications would be limited to service improvement initiatives that cannot be funded from within the expenditure amounts specified for the regulatory cycle.” For clarity, it is noted that: (a) the SAU contemplates cost pass-through applications may be submitted in relation to events other than service improvement initiatives; and (b) **nbn** may submit a pass-through application if a pass-through event happens which ‘materially’ changes **nbn**’s costs from what they would have been if the event hadn’t occurred. However, when setting the allowed pass-through amount, the ACCC can consider the extent to which the costs from the event have already been factored into the ABBRR.

⁵⁵ Clause 4A.4.3 of the Amended SAU Variation.



#	Topic	Matters raised by ACCC	nbn’s Amended SAU Variation commitments	ACCC Working Group Outcome and statutory assessment
			Further detail of the service standards that have been updated from WBA4 is also set out in nbn ’s submission to the ACCC dated 23 May 2023. ⁵⁶	
13.	Systemic Service Standard Event	Some RSPs are concerned that the Systemic Service Standard Event definition only enables mid-cycle review of Benchmark Service Standards where there is an adverse impact on Access Seekers, and that it should be expanded to include impact on end-users. ²¹	<p>The definition of a Systemic Service Standard Event has been expanded to include a recurring material adverse impact on end-users (in addition to Access Seekers).</p> <p>Systemic Service Standard Event is now defined to mean a new event or circumstance:</p> <ol style="list-style-type: none"> arising during a Regulatory Cycle that results in a recurring material adverse impact on Access Seekers’ or end-users’ access to a Service Standards Product due to a matter for which nbn is responsible; and in respect of which the ACCC considers, acting reasonably, that nbn has not taken reasonable steps to address the recurring material adverse impact on Access Seekers or end-users.⁵⁷ 	<p>ACCC Working Group Outcomes</p> <p>Quality of service framework: The ability of the ACCC to initiate a change to Benchmark Service Standards where material adverse impact is evidenced on end-users strengthens the quality of service commitments nbn has already proposed through the Benchmark Service Standards mechanism.</p> <p>Statutory criteria</p> <p>Even in the absence of this change to the definition, the Systemic Service Standard Event power that enables mid-cycle review of Benchmark Service Standards is clearly in the LTIE. The additional commitment to enable consideration of the impact on end-users, and not only RSPs, is a logical extension of the review power and further promotes the LTIE.</p>

⁵⁶ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Service Quality](#), 23 May 2023, p.11.

⁵⁷ Attachment C of the Amended SAU Variation.



3.2 Updated BBM parameters

Since the November Variation, **nbn** has updated the BBM for WACC and inflation expectations, the treatment of Capital Contributions (see Table 2 above), and a minor correction to account for the FTTN/B/C PIR Objective within the scope of service level rebates included in the forecast Operating Expenditure.⁵⁸

Consequently, Module 4 of the Amended SAU Variation includes an updated set of BBM parameters for each of the Financial Years in the First Regulatory Cycle (FY24 to FY26):

- the Forecast Nominal ABBRR, Forecast Real ABBRR, Forecast Nominal Core Services ABBRR and Forecast Real Core Services ABBRR;
- the Annual Core Services Forecast Revenue; and
- inputs required for the calculation of each of the above, including the rate of return and taxation parameters.

The updated BBM parameters are set out in Appendix D.

Related to the updates described above, **nbn** has updated the split of the ICRA between Modules 2 and 3 to maintain the same proportional relationship between the IOP23 revenue forecast, the ICRA and the ABBRR over the period to FY40. The key aspects remain that:

- The nominal value of the ICRA in FY23 dollar terms is \$12.5 billion;
- This amount is split between Module 2 and Module 3, with specific amounts set out in clause 2G.3.1 of the Amended SAU Variation;
- Drawdown of the Module 2 ICRA can only occur after the initial glidepath period of the WAPC (i.e., after **nbn** is expected to first achieve cost recovery levels for Core Regulated Services). The total amount of ICRA drawn down in Module 2 (in FY23 dollar terms) cannot exceed the Module 2 ICRA amount specified in clause 2G.3.1 and any amount of the Module 2 ICRA not drawn down by the end of FY32 does not carry over into Module 3;
- Drawdown of the Module 3 ICRA is as described in Table 2 above in relation to the Post 2032 arrangements (see also clause 3B.3.6 which provides for the drawdown of the Module 3 ICRA over the period from 2032 to 2040); and
- The Amended SAU Variation continues to state, for completeness, that the ICRA will be extinguished at the end of the SAU Term.

3.3 Grex Consulting draft report

Alongside the Draft Decision, the ACCC also released a draft report by Grex Consulting (**Grex**) on **nbn**'s forecast expenditure for the First Regulatory Cycle (FY24 to FY26).

nbn notes at the outset the ACCC's statement in the Draft Decision that *"While we are unable to reach a conclusive view at this stage about the prudence and efficiency of NBN Co's proposed expenditures in the First Regulatory Cycle, we do not consider they are likely to have any material bearing on our assessment of the*

⁵⁸ Relative to the IOP23 expenditure forecasts described in Appendix A to the November 2022 Supporting Submission (which were presented in real June 2021 dollar terms) this adds an immaterial \$7 million to the over \$7 billion of total Operating Expenditure for the First Regulatory Cycle, FY24 to FY26.



*proposed SAU variation against the statutory criteria for acceptance of that variation.*⁵⁹ **nbn** agrees that there is no need to reach a conclusive view at this stage, noting that there will be an ex-post assessment of Capital Expenditure towards the end of the First Regulatory Cycle and that Operating Expenditure has no impact on pricing until **nbn** first achieves recovery of its annual building block model costs (forecast to be around FY31).

The Grex draft report included draft conclusions on the prudence and (separately) the efficiency of each of **nbn**'s expenditure categories, using a five-step rating scale: 'Yes'; 'Qualified Yes'; 'Qualified No'; 'No'; and 'Inconclusive'. Based on information provided by **nbn** up to a few weeks prior to the ACCC's Draft Decision, the Grex draft report included one draft conclusion rated as 'Qualified No' and several rated as 'Inconclusive'.

Focusing in on these through the course of a series of meetings between **nbn**, the ACCC and Grex in mid-June 2023, Grex indicated what further information may be useful for the purposes of finalising their report. **nbn** provided a range of follow-up material in early July 2023, including in relation to the FTTN/C to FTTP upgrade and the Fixed Wireless upgrade.

nbn's further material highlighted the following:

- **nbn** maintains that all of its forecast expenditure is prudent and efficient. **nbn**'s integrated operating plan (**IOP**) process is rigorous and subject to government oversight. However, the IOP and many of **nbn**'s other internal processes were designed in the context of Module 1 of the SAU, which has a different set of expenditure criteria to Module 2. **nbn** is currently augmenting/uplifting these processes to address the future needs of a best practice regulatory assessment of prudence and efficiency (ex-post and ex-ante).
- The concepts of prudence and efficiency are complementary and inter-linked, and standard regulatory practice (e.g., by the AER⁶⁰) involves a combined conclusion. Although different assessment tools and tests may be used by regulators in considering the prudence aspect and the efficiency aspect, there is a need to recognise the trade-offs and interdependencies between prudence and efficiency, and this is not readily provided for using completely separate assessments.
- In considering the prudence of forecast Capital Expenditure for FY24 to FY26 it is important to frame the question appropriately in terms of the transition from Module 1 to Module 2 of the SAU. What is accepted is that the Capital Expenditure under Module 1 complies with the prudence requirements in that Module. Therefore, the residual question is whether the Capital Expenditure forecast for FY24 to FY26 is prudent. Narrowing the question in this way is necessary and appropriate in this context because to do otherwise would undermine the certainty that the SAU is intended to provide to all stakeholders in terms of cost recovery arrangements over time. This framing of the prudence question is particularly significant for the FTTN/C to P upgrade program because of the linkage between Capital Expenditure in Module 1 and Module 2 of the SAU (e.g., with the local fibre network built in an area during Module 1 and the associated lead-ins for that area being built during Module 2), and it is also relevant to any other expenditure programs where similar linkages exist across time.

⁵⁹ Draft Decision, p.57.

⁶⁰ AER, *Expenditure Forecast Assessment Guideline for Electricity Distribution*, August 2022, p.9.



- Under the treatment of Capital Contributions in the Amended SAU Variation, grants such as the \$480 million received from the Commonwealth to fund the Fixed Wireless upgrade will be netted off against capital expenditure to be included in the RAB. As such, end-users will not end up paying for that part of the upgrade funded by the grant. Given this, the question of prudence should be approached on a much narrower basis for projects funded by grants (and Capital Contributions more generally) than for other capital expenditure projects. For example, the outcomes to be delivered under the grant funding agreement between **nbn** and the Commonwealth should not need to be further justified.



4 Pricing commitments for 12, 25 and 50 Mbps services

This chapter covers:

- **nbn**'s further consultation on 12, 25 and 50 Mbps services;
- Overview of the modified floor and ceiling proposals;
- Explanation of the selected option;
- Implementation overview; and
- Why **nbn** considers these updated pricing commitments satisfy criteria relevant to the LTIE.

4.1 Industry consultation following Draft Decision

In response to concerns raised by the ACCC and RSPs about the potential residual cost uncertainty faced by RSPs in respect of the 50 Mbps service,⁶¹ **nbn** has amended its pricing approach for its 50 Mbps and below speed tiers.⁶² **nbn** proposed an initial 'floor and ceiling' pricing approach in June 2023 (**Initial Floor and Ceiling Proposal**) responding directly to the Draft Decision and RSP feedback.⁶³ This proposal reduced residual cost uncertainty for RSPs by capping the price charged by **nbn** for individual services supplied to RSPs on Bundled TC-4 Offers. It also created a more level competitive playing field by reducing any potential advantage some RSPs may have as a result of either their scale or characteristics of their customer base.

In response to feedback from RSPs and other stakeholders on the Initial Floor and Ceiling Proposal, **nbn** developed further proposals (**Modified Floor and Ceiling Proposals**) for stakeholder consideration.⁶⁴ In assessing the potential impact of wholesale optimisation⁶⁵ on the competitive dynamic across the industry, and understanding the potential impacts of the Modified Floor and Ceiling Proposals, **nbn** grouped RSPs into three 'archetypes':

- **Type 1:** Mature RSPs with high proportion of entry level customers. Capable of managing high frequency wholesale optimisation.
- **Type 2:** Mature RSP with low proportion of entry level customers. Capable of managing high frequency wholesale optimisation.
- **Type 3:** Challenger RSPs that lack the capability or scale to perform high frequency wholesale optimisation.

⁶¹ These concerns were expressed by the ACCC in its Draft Decision (p.4) as follows: "the pricing model proposed in the SAU variation leaves open a very broad range of cost outcomes when using the standard 50 Mbps wholesale offer over this period, and it is unlikely that retailers could efficiently manage the residual cost uncertainty without further support from NBN Co".

⁶² These changes are not applicable to TC-4 satellite services which remain on the current two-part pricing.

⁶³ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – 50 Mbps cost certainty](#), 2 June 2023.

⁶⁴ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Floor and Ceiling – Modified Pricing Options](#), 4 July 2023.

⁶⁵ Wholesale optimisation, in this context, refers to RSPs moving end-users between speed tiers at the wholesale layer only (often on a daily basis), while providing the same retail speed tier to the end-user, in order to minimise costs.



While there were some differences in the potential impact of these modified proposals - depending on an RSP's mix of end-users and their usage characteristics – each of the Modified Floor and Ceiling Proposals narrowed the variation of outcomes between different types of RSPs relative to the November Variation pricing (see section 4.5 below), thus continuing to provide a more level competitive playing field, while addressing the residual cost uncertainty concerns raised to date. Importantly, each option is expected to result in lower wholesale costs for RSPs than those forecast by **nbn** under the November Variation at the time it was lodged, resulting in **nbn**'s forecast average revenue per user (**ARPU**) remaining relatively flat from FY23 (\$48.10) to FY24 (\$48.17)⁶⁶ as the industry transitions to a new pricing construct.

4.2 Modified Floor and Ceiling Proposals

The Modified Floor and Ceiling Proposals were the focus of engagement with industry stakeholders between 4 and 21 July 2023 and discussed at a stakeholder forum facilitated by the ACCC on 14 July 2023. The options were:

- **Option 1:** Reducing the bundle price for the 50 Mbps service (and hence the 'floor') from \$50 to \$48, retaining the CVC overage rate at \$8/Mbps (with the overage rate reducing to \$7 and \$6 in future years), and increasing the CVC inclusion for 50 Mbps services from 2.5 Mbps to 2.6 Mbps from the date by which **nbn** implements the new pricing in FY24 (the Price Transition Date).
- **Option 2:** Retaining the same bundle price for the 50 Mbps service (\$50) and reducing the CVC overage rate from \$8/Mbps to \$5.50/Mbps and increasing the CVC inclusion for 50 Mbps services from 2.5 Mbps to 3.5 Mbps from the Price Transition Date in FY24 (with the overage rate reducing to \$4.50 and \$3.50 in future years).
- **Option 3:** Reducing the bundle price for the 50 Mbps service (and hence the 'floor') from \$50 to \$49, increasing the CVC inclusion for 50 Mbps services from 2.5 Mbps to 2.6 Mbps and reducing the overage rate from \$8/Mbps to \$6/Mbps (reducing to \$5 and \$4 in future years), each from the Price Transition Date in FY24.

Each of the Modified Floor and Ceiling Proposals was designed to:

- preserve the elevated level of wholesale cost certainty for RSPs by ensuring that no bundled TC-4 service would cost an RSP more than the 100/20 Mbps Flat-Rate Offer;
- offer increased value with combinations of lower 50 Mbps bundle prices, reduced CVC prices, and additional CVC inclusions;
- promote competition in downstream markets by providing additional reporting and tools to all RSPs;
- improve economically efficient outcomes by reducing the need for RSPs to expend material resources on wholesale optimisation;
- facilitate consumer choice by providing greater cost certainty for 50 Mbps and below speed tiers;
- promote efficient investment in **nbn**'s network by delivering **nbn** an opportunity to earn the level of revenue **nbn** needs to offer broadband services on a sustainable basis over time; and
- be revenue neutral relative to **nbn**'s financial projections in the November Variation.

⁶⁶ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Floor and Ceiling – Modified Pricing Options](#), 4 July 2023.

Further detail regarding the floor and ceiling option adopted in the Amended SAU Variation and how it achieves the above is set out in section 4.5 below.

4.3 SAU Floor and Ceiling Model (Option 2)

Of the three Modified Floor and Ceiling Proposals described above, the Amended SAU Variation adopts Option 2 (referred to from here onwards as the **SAU Floor and Ceiling Model**), which has the following key elements:

1. **a hard cap on an individual AVC's maximum overage cost**, such that no individual service on a bundled TC-4 service will cost more than the 100/20 Mbps Flat-Rate Offer (meaning a 'ceiling' price of \$55 in FY24 for the 12, 25 and 50 Mbps bundled offers);
2. **Retaining bundle price for the 50 Mbps service of \$50 in FY24**, meaning the 50 Mbps service will have an initial effective 'floor' of \$50 (the 12 Mbps and 25 Mbps bundle prices remain unchanged from the November Variation at \$24.40 and \$26, respectively, and will be the effective 'floor' for these speed tiers);
3. **reducing the maximum Price for CVC TC-4 (overage) utilised in conjunction with a Bundled TC-4 Offer from \$8/Mbps to \$5.50/Mbps** in FY24 (reducing to no more than \$4.50 and \$3.50 in FY25 and FY26, respectively); and
4. **increasing the CVC inclusion for 50 Mbps services from 2.5 Mbps to 3.5 Mbps**.

In assessing the three options, **nbn** considered the feedback received from stakeholders via the consultation process as well as considering each of the different options against the LTIE. Stakeholder submissions identified LTIE-based arguments for each of the three options, as summarised in Table 3 below. Of the three options, more stakeholders expressed a preference for option 2 compared with the other options.

Table 3. Stakeholder feedback on Modified Floor and Ceiling Proposals

Option	Arguments in favour	Arguments against
1	<ul style="list-style-type: none"> • The lower 50 Mbps fixed charge would lead to lower input costs for RSPs, which would result in a lower price for retail customers. 	<ul style="list-style-type: none"> • Annual price changes (in accordance with the SAU price controls) would quickly erode the benefit of a lower starting price. • This option doesn't address either price certainty or have any impact on the 12 Mbps and 25 Mbps offers.
2	<ul style="list-style-type: none"> • The reduced impact of usage on costs will increase price certainty. • This option will increase price stability, thus supporting competitive dynamics. • Reduced 12 Mbps and 25 Mbps effective charges due to their large variable components. • The benefits of a reduced CVC charge and increased CVC inclusions is that these compound over time providing for a quicker and smoother pathway to the AVC-only transition for 50 Mbps and below speed tiers. 	<ul style="list-style-type: none"> • This option has the largest difference between 25 Mbps and 50 Mbps effective prices, increasing the likelihood that consumers would downgrade to lower speed tiers. This may result in the inefficient 'under-use' of nbn's network.
3	<ul style="list-style-type: none"> • Provides for a reasonable sharing of proposed price reductions across the 12/1 Mbps, 25/5 Mbps and 50/20 Mbps speed tiers. • Option 3 is a compromise between 1 and 2, and in a very marginal way reduces the negative impact of a wholesale price floor to consumers and RSPs. 	N/A



4.4 Implementation of the SAU Floor and Ceiling Model

Under the SAU Floor and Ceiling Model, the charge for an AVC that is the subject of a Bundled TC-4 Offer, and any CVC TC-4 utilised by that AVC, will be calculated independently on a per-service basis and capped at no more than the Price of the 100/20 Mbps Flat-Rate Offer (i.e., the ‘ceiling’).

In the Amended SAU Variation, the SAU Floor and Ceiling Model is given effect by:

1. capping the fixed Bundled Price for an AVC that is the subject of Bundled TC-4 Offer at the Price in the Tariff List;⁶⁷ and
2. capping the charge for CVC TC-4 (overage) utilised in conjunction with an AVC that is the subject of a Bundled TC-4 Offer.⁶⁸

The first point above is unchanged from the November Variation. However, the second point is a new feature in the Amended SAU Variation to give effect to the SAU Floor and Ceiling Model and is achieved by:

- Introducing a “Bundled Offer Ceiling”, which must not exceed the Price of the 100/20 Mbps service (defined as the Reference Flat-Rate Offer), which is \$55 in FY24. **nbn** must also publish the Bundled Offer Ceiling in the Tariff List for transparency.
- Establishing a “Maximum Overage Charge” for CVC TC-4 utilised in conjunction with an AVC that is the subject of a Bundled TC-4 Offer. The Maximum Overage Charge is equal to the difference between the Bundled Offer Ceiling and the fixed Bundled Price for the relevant Bundled TC-4 Offer. For example, in FY24, the Maximum Overage Charge for CVC TC-4 utilised by a 50 Mbps service will be \$5, where the Bundled Offer Ceiling is \$55 and the fixed Bundle Priced of the 50 Mbps Bundled TC-4 Offer is \$50.
- Providing for a “Daily AVC Overage Charge” to be calculated for each AVC that is the subject of a Bundled TC-4 Offer, which is equal to:

$$(Daily\ AVC\ Peak\ Utilisation - CVC\ Inclusion) \times Overage\ Charge,$$

and cannot be less than zero or more than the Maximum Overage Charge.

- Finally, the monthly recurring charges for CVC TC-4 utilised in conjunction with an AVC that is the subject of a Bundled TC-4 Offer is capped at the sum of the Daily AVC Overage Charge for that AVC for each day on which that AVC TC-4 is supplied in that month, divided by the total number of days in that month (noting that the Daily AVC Overage Charge is capped at the Maximum Overage Charge).

Further detail on how services will be billed under the SAU Floor and Ceiling Model is set out in Appendix E.

4.4.1 Amendments to Average Combined Charge calculation

nbn has considered whether the adoption of the SAU Floor and Ceiling Model requires changes to the price control provisions in the November Variation and concluded that no such changes are necessary to accommodate this construct.

However, those price controls use the concept of an Average Combined Charge (**ACC**) to account for the price of Bundled TC-4 Offers. The calculation of the ACC has been updated in the Amended SAU Variation to reflect the

⁶⁷ Clause 2B.1.6(a) of the Amended SAU Variation.

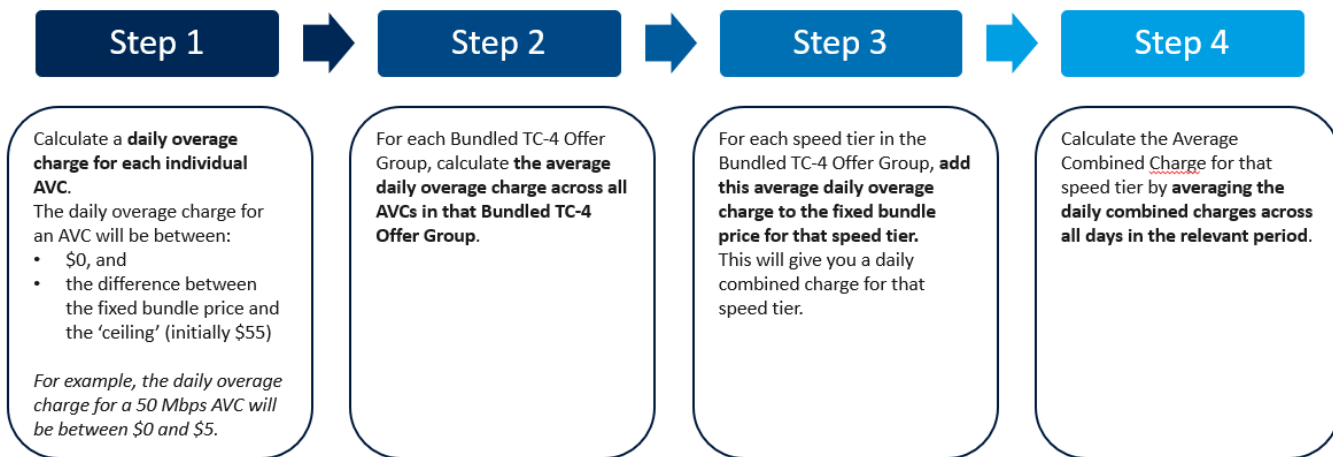
⁶⁸ Clause 2E.2.2(e) of the Amended SAU Variation.



change in the way that bundled TC-4 services will be charged in practice under the SAU Floor and Ceiling Model, where CVC TC-4 (overage) charges are calculated on a per-service basis and a ‘ceiling’ applies to the combined charge of each individual bundled TC-4 service.

The updated ACC calculation is demonstrated in Figure 2 below. By updating the method for calculating the ACC, the existing price control provisions proposed previously can continue to operate and will account appropriately for the adoption of the SAU Floor and Ceiling Model.

Figure 2. Overview of updated Average Combined Charge calculation



The Amended SAU Variation also contains changes to the Forecast Average Combined Charge provisions to ensure that the Forecast Average Combined Charge must be forecast in a manner consistent with the method for calculating the Average Combined Charge, including how the ‘floor’ and ‘ceiling’ concepts are applied on a daily basis when calculating the Average Combined Charge.



4.5 The SAU Floor and Ceiling Model satisfies criteria relevant to the LTIE

In developing the Initial and Modified Floor and Ceiling Proposals, and in selecting which option to proceed with, **nbn** has sought to balance a number of objectives. A description of these objectives and how the SAU Floor and Ceiling Model performs against them is set out below.

4.5.1 Wholesale cost certainty for RSPs

nbn recognises that wholesale cost certainty for RSPs plays an important role in enabling RSPs to better plan their future marketing and pricing strategies and make necessary investments to support delivery of **nbn** services to end-users. By supporting RSPs' ability to develop these strategies, wholesale cost certainty promotes efficient use of the **nbn**[®] network in terms of both uptake of new services and ensuring end-users are on plans that best meet their needs. As a whole-sale only service provider, **nbn** has strong pre-existing incentives to ensure all RSPs can effectively market and sell broadband services.

While the November Variation included a broad package of price and cost certainty measures, the Draft Decision queried the ability of RSPs to manage the residual cost uncertainty they faced under the proposed pricing arrangements. This was in part due to the effort required by RSPs to optimise their customer base to manage that residual cost uncertainty.

The SAU Floor and Ceiling Model directly responds to the concerns raised by ensuring that no bundled TC-4 service would cost an RSP more than the 100/20 Mbps Flat-Rate Offer. It also provides a high degree of cost certainty to all RSPs regardless of whether they have the ability or willingness to closely monitor and wholesale optimise their customer base on an active and ongoing basis. In addition to the cost certainty of the 50 Mbps services, the SAU Floor and Ceiling Model provides significantly greater cost certainty in respect of 12 Mbps and 25 Mbps services. Through the reduction in the overage price together with the price ceiling, the variability of wholesale costs associated with 12 Mbps and 25 Mbps services is much lower.

The increase in cost certainty provided by the SAU Floor and Ceiling Model is reflected in a much narrower distribution of outcomes between RSPs under this model as compared to both the November Variation proposal and the current WBA4 pricing. As an example, **nbn**'s analysis shows that, under the November Variation pricing proposal, the average wholesale cost to serve end-users on:

- a 50 Mbps service could vary by up to \$3.60 (\$48.30 for Type 1 RSPs under a high optimisation scenario, compared to \$51.90 for Type 2 RSPs under a no optimisation scenario),⁶⁹ and
- a 25 Mbps service could vary by up to \$5.70 (\$33.20 for Type 1 RSPs under a high optimisation scenario, compared to \$38.90 for Type 2 RSPs under a no optimisation scenario),

creating significant cost differences between RSPs. These impacts are shown in Figure 3 and Figure 4 below.

⁶⁹ Consistent with **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Floor and Ceiling – Modified Pricing Options](#), 4 July 2023, references to high, medium and low optimisation refer to three wholesale optimisation scenarios (low-25%, medium-50% and high-75%), where the percentages reflect the proportion of overage costs removed by RSPs due to optimisation at the wholesale level, and assuming that the optimisation is able to be performed in a highly targeted manner.



Figure 3. Average 50 Mbps wholesale prices by RSP Type and potential optimisation activity, based on November Variation pricing proposal

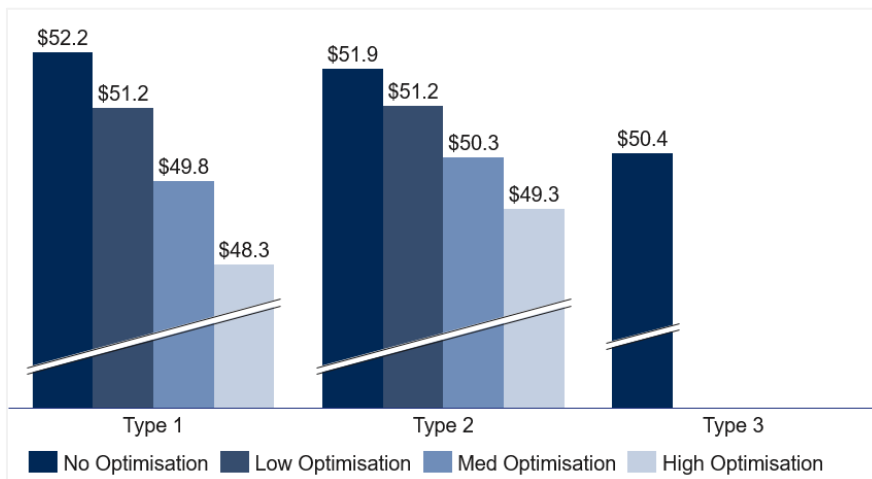
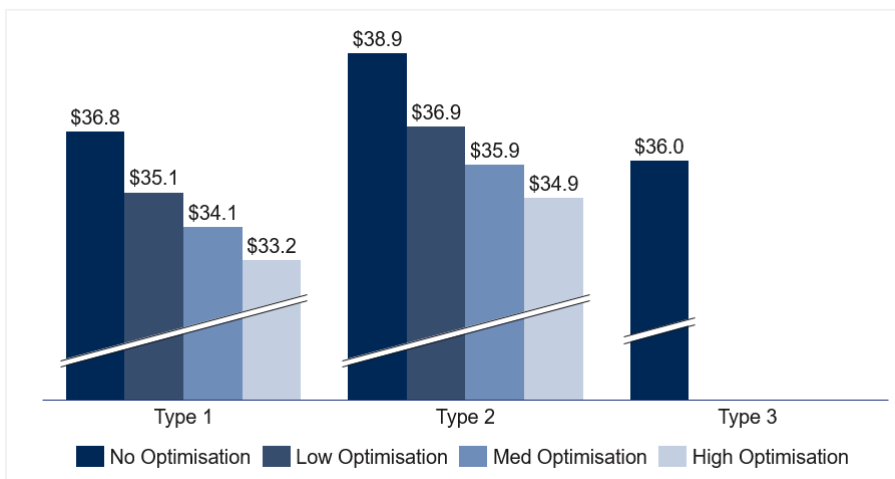


Figure 4. Average 12 and 25 Mbps monthly wholesale yields by RSP Type and potential optimisation activity, based on November Variation pricing proposal



Similarly, under the current TC-4 Bundles Discount pricing (as per WBA4), the average wholesale cost to serve end-users in June 2023 on:

- a 50 Mbps service varied by up to \$2.88 (from \$46.93 to \$49.81); and
- a 25 Mbps service varied by up to \$2.33 (\$36.71 to \$39.04).

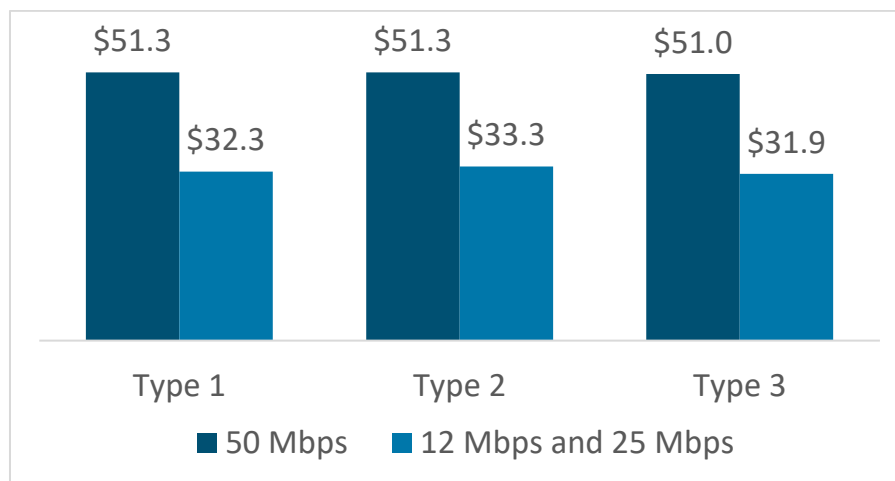
While the analyses above relate to variances in *average* wholesale costs, the SAU Floor and Ceiling Model caps wholesale costs on a per-service basis. A comparison of wholesale costs when viewed on a per-service basis under the November Variation pricing proposal results in variability that is orders of magnitude higher.

For example, in May 2023 the peak CVC usage for the first thousandth quantile of 50 Mbps end users by RSP was over 35 Mbps, equating to an effective monthly wholesale cost of over \$306. The same cohort of 25 Mbps customers had peak CVC usage of 17 Mbps, equating to an effective monthly wholesale cost of \$159. In respect of

both 50 Mbps and 25 Mbps services, there are customers that have no usage in the peak hour and consequently would, at an individual service level, have an effective monthly wholesale cost of \$45 and \$37, respectively.

Under the SAU Floor and Ceiling Model, the range of potential wholesale cost outcomes in respect of the 50 Mbps and below speed tiers narrows to within a much smaller band for all RSPs. The residual differences in outcomes for each RSP Type primarily arise from the differences in the usage behaviour of the end-users served by each RSP archetype – see Figure 5.

Figure 5. Average 12 Mbps and 25 Mbps, and 50 Mbps monthly wholesale yields under the SAU Floor and Ceiling Model



4.5.2 Promoting competition in downstream markets

Facilitating genuine competition in retail broadband services was a fundamental principle of **nbn**'s establishment and remains critical to ensuring end-users continue to experience the benefits of choice and value in their internet plans – with RSPs offering services of varied price and quality.

While **nbn** supplies products at the same price to all RSPs, consistent with its non-discrimination obligations, **nbn** recognises that there can nonetheless be differential outcomes for RSPs, depending on (among other things) their scale, go-to-market strategy, degree of pre-existing investment and characteristics of their customer base. To the extent that **nbn**'s wholesale prices provide a more level playing field between RSPs, this should promote efficient investment by, and competition between, existing RSPs and entry by new RSPs, to the benefit of end-users in terms of greater choice and value (lower price and/or higher quality). In turn, this should promote efficient use of **nbn**'s network and, through increased adoption of **nbn** services, support **nbn**'s ongoing ability to efficiently invest in the quality and capability of its network.

The SAU Floor and Ceiling Model provides a much more level competitive playing field for RSPs, relative to the pricing proposed in the November Variation, by removing the potential cost disadvantage faced by smaller RSPs from their inability to optimise wholesale end-user wholesale plans in a highly targeted and frequent manner.⁷⁰ The extent to which RSPs would have been able to take advantage of wholesale optimisation under the pricing

⁷⁰ As noted by Telstra in its submission to the ACCC's Draft Decision, under the November Variation pricing arrangements, "RSPs that are less able to perfectly migrate customers will be at a competitive disadvantage to those that can. This would harm the competitive process". See, Telstra, [Submission to the ACCC NBN Co Special Access Undertaking Draft Decision](#), 2 June 2023, p.9.



proposed in the November Variation varies significantly across the industry. **nbn** understands some RSPs have the capability to wholesale optimise to a significant extent, while others simply do not have the resources or IT capability to undertake such extensive optimisation.⁷¹

This is relevant not only to existing RSPs, but potential new RSPs for whom the cost and capability required to optimise wholesale costs could be considered a potential barrier to entry, and may discourage them from entering the market where it would otherwise be efficient for them to do so.

4.5.3 Improving economically efficient outcomes

As **nbn** supplies a range of different products (based on speed tier, level of CVC inclusions, etc.), it has always been open to RSPs to seek to ‘optimise’ their customer base to a certain extent to reduce their overall costs or level of potential cost uncertainty by seeking to move end-users to different speed tiers, or by providing different quality services (e.g., the level of CVC supplied in peak hour, backhaul provisioning, etc.).

Price levels and structures at the wholesale layer impact the extent of RSP incentives to seek to optimise the services they supply. A pricing structure that creates strong incentives for highly targeted and frequent cost optimisation, where RSPs do not pass on higher speeds to end-users, creates high transaction costs and may lead to allocative inefficiency in the sense that the capacity and capability of **nbn**’s network is not being flowed through to end-users, and hence not putting **nbn**’s investment in the network to the highest value use.

nbn understands that wholesale optimisation of this nature may result in RSPs devoting a material level of resources in terms of the time, money and effort to undertake the optimisation. In its submission to the Draft Decision, Telstra relevantly noted (in respect of the November Variation pricing proposal):⁷²

“If the cost of a 50/20 plan (AVC and overage) is not capped, RSPs are likely to carry out costly and complex arrangements to migrate 50/20 customers that individually cost more than \$55 to a 100/20 plan (and back down again if their usage falls). That will require complex analysis and predictive tools built and maintained by all RSPs. It would also require multiple orders for plan migrations to NBN Co, moving customers up and down speed tiers so that RSPs ensure their 50/20 customers don’t cost more than the 100/20 plan. Those migrations would need to occur daily to minimise overage... The effort involved in ensuring no individual 50/20 customers cost more than \$55, and no 100/20 customer would cost less on a 50/20 plan, could involve tens of thousands of customer migration orders each day.”

The SAU Floor and Ceiling Model that has been adopted by **nbn** reduces the need for RSPs to allocate resources to such activities. While this is true in respect of each of the floor and ceiling proposals put forward by **nbn**, the SAU Floor and Ceiling Model most significantly reduces the extent of cost variability experienced by RSPs, due to the lower CVC overage charges and higher CVC inclusions on the 50 Mbps service, in turn further removing incentives for RSPs to shift services between speed tiers purely for the purpose of reducing wholesale costs. In turn, this should promote efficient use of the **nbn**[®] network and, through increased adoption of **nbn** services, support **nbn**’s ongoing ability to efficiently invest in the quality and capability of its network.

⁷¹ See Launtel, [Public response to NBN’s proposals concerning speed tier pricing and service standards](#), 15 June 2023.

⁷² Telstra, [Submission to the ACCC NBN Co Special Access Undertaking Draft Decision](#), 2 June 2023, p.8.



4.5.4 Impact on consumer choice and retail prices for 12 Mbps and 25 Mbps services

A feature of **nbn**'s wholesale pricing to date is that CVC charging allows RSPs to provide 'capped' data plans for lower-usage end-users at a lower retail price point than for the more widely used 'uncapped' plans. This is one of the reasons that **nbn** has not proposed immediately moving to AVC-only pricing for all speed tiers. Doing so would have the effect of increasing prices for lower-usage customers on 12, 25 and 50 Mbps plans, which would have detrimental impacts on those end-user cohorts and likely lead to customers leaving the **nbn**[®] network (thus reducing the efficient use of the network).

During consultation on the Initial Floor and Ceiling Proposal, some RSPs raised concerns about the impact on the price and availability (at a retail level) of 12 Mbps and 25 Mbps services due to the removal of national CVC pooling. It was suggested that this would remove RSPs' ability to effectively 'cross-subsidise' higher-use end-users with 'unused' inclusions from low-use end-users. In particular, RSPs referred to concerns about the loss of the ability to support 12 Mbps and 25 Mbps services with inclusions from 50 Mbps services, reducing the incentive for RSPs to offer plans on these lower speed tiers.

nbn's analysis suggests that the extent to which RSPs currently 'cross-subsidise' the usage of their lower speed customers with inclusions from 50 Mbps services is relatively limited. In fact, based on data from the month of May 2023, only one RSP would be in 'underage' on the 50 Mbps (with average usage below the CVC inclusion of 2.5 Mbps), meaning they are the only RSP that would have been able to use inclusions from 50 Mbps services to offset the cost of usage on 25 Mbps services.

Even if cross-subsidisation is limited, the SAU Floor and Ceiling Model has been designed to directly address this feedback. Specifically, the lower overage price of \$5.50 reduces the effective price of 12 Mbps and 25 Mbps services (where those services are in overage), and reduces their sensitivity to changes in usage, further increasing the cost certainty provided by the floor and ceiling framework.

4.5.5 Promoting efficient investment in **nbn**'s network

A key objective of economic regulation is to promote efficient use of, and investment in, networks that are subject to regulation. A key factor that impacts **nbn**'s ability to efficiently invest in the performance and capability of its network is the degree of revenue predictability afforded by its pricing construct.

nbn acknowledges that there will always be an element of revenue forecast uncertainty as a result of evolving end-user behaviour and preferences, competitive market dynamics, and broader economic factors that may change willingness to pay for particular services. However, if aspects of **nbn**'s pricing lead to greater instability or ability to forecast future revenue, this is likely to reduce **nbn**'s ability to invest with confidence in future network upgrades, reducing the overall level of investment in the network, or introducing delays to enhanced performance and capability outcomes for end-users.

The SAU Floor and Ceiling Model reduces revenue forecasting uncertainty faced by **nbn** due to lower variability in combined charges resulting from both the lower sensitivity of overage revenue to changes in end-user demand, and a significant reduction in targeted wholesale optimisation by RSPs. Accordingly, the SAU Floor and Ceiling Model creates a more predictable environment conducive to efficient debt-raising and robust business cases for ongoing investment.



4.5.6 Revenue neutrality relative to nbn’s financial projections in the November Variation proposal

This objective is closely related to the objective immediately above, i.e., promoting efficient investment in **nbn**’s network. However, it has been separated out here as the principle of revenue neutrality was a key factor in designing the various floor and ceiling options, and it has been a key point of interest for both RSPs and **nbn**.

The SAU Floor and Ceiling Model provides **nbn** an opportunity to earn the level of revenue it needs to offer broadband services on a commercially sustainable basis over time. In the Draft Decision, the ACCC noted that **nbn**’s overall revenue outcomes over the First Regulatory Cycle were – albeit not yet at the level of efficient cost recovery – reasonable and that any changes to the pricing construct should lead to the same revenue outcomes as were expected by **nbn** under the November Variation pricing arrangements. In that context, it is important to note that **nbn**’s expected ARPU in FY24 under the SAU Floor and Ceiling Model is essentially flat compared to FY23, a reduction from the prior forecast FY24 ARPU under the November Variation.⁷³

nbn has set out in Table 4 and Table 5 below the usage and speed tier mix forecasts underlying its ARPU forecasts under the SAU Floor and Ceiling Model.⁷⁴ Importantly, **nbn** does not expect the shift to the SAU Floor and Ceiling Model to change overall usage on the **nbn**[®] network. However, **nbn**’s speed tier mix forecasts have changed as a result of moving to the SAU Floor and Ceiling Model.

⁷³ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Floor and Ceiling – Modified Pricing Options](#), 4 July 2023.

⁷⁴ Note that the demand forecasts on which **nbn** has based its ARPU forecasts under the SAU Floor and Ceiling Model differ to those set out in the financial forecasts file FY24-26 that **nbn** has provided along with the Amended SAU Variation, which are based on IOP23. The ARPU forecasts under the SAU Floor and Ceiling Model are based on **nbn**’s most up-to-date view of demand.

**Table 4. Usage forecasts (as at 30 June)**

Usage Forecast	FY24	FY25	FY26
Utilisation (Mean Busy Hour Throughput, Downstream)	2.71	2.99	3.27

Table 5. Speed tier mix forecasts (average over Financial Years)

Speed Tier (TC-4)	FY24*	FY25	FY26
Basic Bundle	3%	3%	2%
12/1 Mbps	2%	2%	2%
25/5 – 25/10 Mbps	21%	20%	20%
50/20 Mbps	52%	49%	47%
100/20 Mbps	15%	18%	20%
100/40 Mbps	4%	4%	4%
250/25 Mbps	2%	3%	4%
250/100 Mbps	0%	0%	0%
500/200 Mbps	0%	0%	0%
1000/50 Mbps	1%	1%	2%
1000/400 Mbps	0%	0%	0%

* FY24 values are average for the period from the Price Transition Date to 30 June.



5 Other pricing matters

This chapter covers:

- **nbn's** additional NNI pricing commitments;
- updates to the Price Transition Date provisions;
- timing of the first CVC inclusion adjustment;
- an overview of AVC utilisation reporting;
- how **nbn** intends to treat inaccurate or missing utilisation data; and
- support **nbn** will provide to RSPs in the form of transitional credits.

5.1 NNI pricing commitments

In addition to the NNI pricing changes announced as part of **nbn's** *NNI Enhancements* consultation finalised in February 2023,⁷⁵ the Amended SAU Variation includes a number of additional commitments in respect of NNI pricing. These new commitments include:

- NNI 10G Starter Offer – effective on 1 July 2024;
- reduction of 10G and 100G NNI Set-up and Activation charges – effective on 1 July 2024;
- NNI Upsize Migration rebate – effective on 31 March 2024; and
- NNI Pricing Review – to be completed by 30 June 2027.

nbn considers that the combination of price changes from the *NNI Enhancements* consultation and the new commitments listed above directly and substantially address the concerns raised by RSPs⁷⁶ and the ACCC in respect of NNI pricing throughout the SAU variation process, including those identified by the ACCC in the Draft Decision.

This section outlines the new commitments and measures that **nbn** is making in the Amended SAU Variation in respect of NNI pricing.

⁷⁵ **nbn** industry consultation, *NNI Enhancements RMID 1118*, February 2023. NNI pricing changes announced as part of this consultation also include a 50% reduction in the 1G NNI and v-NNI monthly recurring charges made effective from 1 November 2022.

⁷⁶ See, for example, Launtel, [Public response to NBN's response to the draft ACCC decision concerning NNI pricing](#), 30 May 2023; X-Integration, [Response to NBN Co SAU variation – NBN responses to draft decision](#), 16 June 2023; IAA, [Response to Draft Decision – Variation to the NBN Co Special Access Undertaking](#), 30 May 2023.



5.1.1 10G NNI Starter Offers and new charges for the activation of NNI Product Components

10G NNI Starter Offers

As described in **nbn**'s submission to the ACCC in response to the Draft Decision,⁷⁷ **nbn** commits to introduce, from 1 July 2024, reduced monthly recurring charges in circumstances where an RSP acquires the following configurations of 10G NNI Bearers at a POI:

- only one 10G NNI Bearer, if acquired in single chassis configuration; or
- a single pair of 10G NNI Bearers, if acquired in chassis-diverse configuration.

The reduced charges are set out in Table 6 below.

Table 6. 10G NNI Starter Offer charges in FY25

NNI Bearer profile	Monthly recurring charge	Charge where 10G NNI Starter Offer does not apply
10GBaseLR	\$200 per NNI Bearer	\$400 per NNI Bearer
10GBaseER	\$250 per NNI Bearer	\$500 per NNI Bearer

An RSP will still receive this reduced charge if the RSP also acquires any number of 1G NNI Bearers or V-NNIs in conjunction with these 10G NNI Bearer configurations at a POI. If an RSP acquires additional 10G NNI Bearers or any 100G NNI Bearers at the same POI, none of that RSP's 10G NNI Bearers at that POI will qualify for these reduced recurring charges.

These price reductions respond to RSP concerns identified by the ACCC in its Draft Decision that NNI pricing is a barrier to expansion and that the economies of scale embedded in the NNI price structure make it challenging for smaller providers to compete with larger RSPs.⁷⁸ Further, the ability of smaller RSPs to upgrade to a 10G NNI was highlighted on the premise that a 1G NNI is not adequate to support Home Ultrafast services.⁷⁹

These commitments, as well as those described in the subsequent sections, are intended to make 10G NNI more accessible and reduce the cost for RSPs to expand their operations both within existing areas (POIs or CSAs) and to new areas (POIs or CSAs).

⁷⁷ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Network-Network Interface \(NNI\)](#), 23 May 2023.

⁷⁸ Draft Decision, p.39.

⁷⁹ Launtel, [Submission in response to the ACCC consultation paper](#), February 2023, p.2.



5.1.2 Reduced Set-up & Activation Other Charges for certain NNI Bearers

nbn is also committing to reduce the upfront costs of setting up and activating 10G and 100G NNI Bearers, no later than 1 July 2024. The reductions are shown in Table 7.

Table 7. Reduced NNI Set-up and Activation charges in FY25

NNI Bearer profile	Charge in Amended SAU Variation	Charge under WBA4
10GBaseLR	\$3,000	\$5,000
10GBaseER	\$4,000	\$6,000
100GBaseLR4	\$20,000	\$30,000
100GBaseER4	\$24,000	\$36,000



5.1.3 Rebate for NNI Upsize Migrations

As described in **nbn**'s response to the Draft Decision,⁸⁰ **nbn** is currently undertaking a multi-year program of POI upgrades. This includes replacing NNI assets to provide greater capacity and to support future network traffic volumes. At these upgraded POIs, **nbn** will allow RSPs to migrate services associated with an existing NNI Group (a Source NNI Group)⁸¹ to a newly activated NNI Group that supports higher capacity at the same POI (a Target NNI Group). Each migration will also involve **nbn** disconnecting the relevant Source NNI Group. Further details are set out in Table 8 below where each row represents a permissible migration from Source NNI Group to Target NNI Group.

As POIs are upgraded to support these migrations (to support the continued growth in RSPs' services), **nbn** commits to rebating RSPs for qualifying migrations (NNI Upsize Migrations) completed between 31 March 2024 and 30 June 2027 (inclusive). Generally, the amount of the rebate for an NNI Upsize Migration will be the sum of prices set out in the Tariff List for the set-up and activation of the NNI Bearers comprising the Source NNI Group at the time that **nbn** completes the NNI Upsize Migration. However, **nbn** will cap the rebate for each NNI Upsize Migration at the sum of the prices set out in the Tariff List for the set-up and activation of the NNI Bearers comprising the Target NNI Group.

The qualifying NNI Group configurations for which **nbn** will provide this rebate are set out in Table 8.

Table 8. NNI Upsize Migration rebate qualifying configurations

Source NNI Group	Target NNI Group
Up to eight 1G NNI Bearers in single chassis configuration	Up to eight 10G NNI Bearers, or up to two 100G NNI Bearers, in single chassis configuration
Up to four pairs of 1G NNI Bearers in chassis diverse configuration	Up to four pairs of 10G NNI Bearers, or up to two pairs of 100G NNI Bearers, in chassis diverse configuration
Up to eight 10G NNI Bearers in single chassis configuration	Up to two 100G NNI Bearers in single chassis configuration
Up to four pairs of 10G NNI Bearers in chassis diverse configuration	Up to two pairs of 100G NNI Bearers in chassis diverse configuration

Set-up and Activation charges have been identified as a significant barrier to expansion for smaller RSPs. Some RSPs have raised concerns that the existing structure is a barrier to entry that results in sunk costs as they build scale and upgrade their NNI capacity.⁸² RSPs have provided feedback that capital cost for the setup fees associated with an NNI connection are not able to be easily amortised through a loan structure as this does not provide a product for financial security.⁸³ The NNI Upsize Migration rebate addresses these issues by carrying over the value of the initial NNIs and providing a rebate against the Set-up and Activation charges of new NNIs when upgrading. Table 9 below demonstrates the reduction in effective charges for RSPs as a result of the proposed pricing changes.

⁸⁰ **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Network-Network Interface \(NNI\)](#), 23 May 2023.

⁸¹ Including any V-NNIs.

⁸² Launtel, [Public response to NBN's response to the draft ACCC decision concerning NNI pricing](#), 30 May 2023; X-Integration, [Response to NBN Co SAU variation – NBN responses to draft decision](#), 16 June 2023.

⁸³ Kinetix, [SAU Response from Kinetix Networks](#), 19 July 2023.

**Table 9. Examples of changes to Set-up and Activation charges due to NNI Upsize Migration rebate**

Source NNI Group	Target NNI Group	Incremental Set-up and Activation charge*		
		Current pricing	From 31 March 2024 (once NNI Upsize Migration rebate effective)	From 1 July 2024 (once 10G price reductions effective)
-	1G	\$1k	\$1k	\$1k
1G	2G	\$1k	\$1k	\$1k
2G	3G	\$1k	\$1k	\$1k
-	10G	\$5k	\$5k	\$3k
1G	10G	\$5k	\$4k	\$2k
2G	10G	\$5k	\$3k	\$1k

* Short range NNI variants in single chassis configuration are assumed in the examples above

As demonstrated in Table 9 above, currently an RSP would pay \$1,000 for every additional 1G NNI and then pay \$5,000 to upgrade to a 10G NNI. With the NNI Upsize Migration rebate, if an RSP had paid \$2,000 for two 1G NNIs they would be rebated this amount when upgrading to a 10G NNI, resulting in an incremental charge of \$3,000. Once the reductions in the 10G NNI Set-up and Activation charges come into effect from 1 July 2024, this incremental charge will reduce even further.

5.1.4 NNI Pricing Review

The Amended SAU Variation commits **nbn** to, by no later than 30 June 2027,⁸⁴ conduct and complete a review of NNI pricing. The review will cover:

- the list prices of each Network to Network Interface Offer;
- the 10G NNI Starter Offer;
- Other Charges that relate to Set-up and Activation of NNI Product Features; and
- the NNI Upsize Migration rebate as described in section 5.1.3 above.

When conducting this review **nbn** must have regard to the Pricing Principles,⁸⁵ consult with Access Seekers and Consumer Advocacy Groups and have regard to any feedback received during those consultations. To ensure smaller RSPs have a meaningful opportunity to participate in the consultation **nbn** will also consult with RSP representative groups, such as the Internet Association of Australia (**IAA**) and Commpete.

The outcomes of the NNI Pricing Review will be captured by **nbn** in a report, which **nbn** will be required to provide to RSPs and Consumer Advocacy Groups, also by 30 June 2027. In particular, the report must:

- describe the review's outcomes (including any changes **nbn** proposes to make to the rebate or any of the prices that are in scope for the review);

⁸⁴ This would be the end of the first Financial Year of the second Regulatory Cycle.

⁸⁵ Clause 2B.2.1 of the Amended SAU Variation.



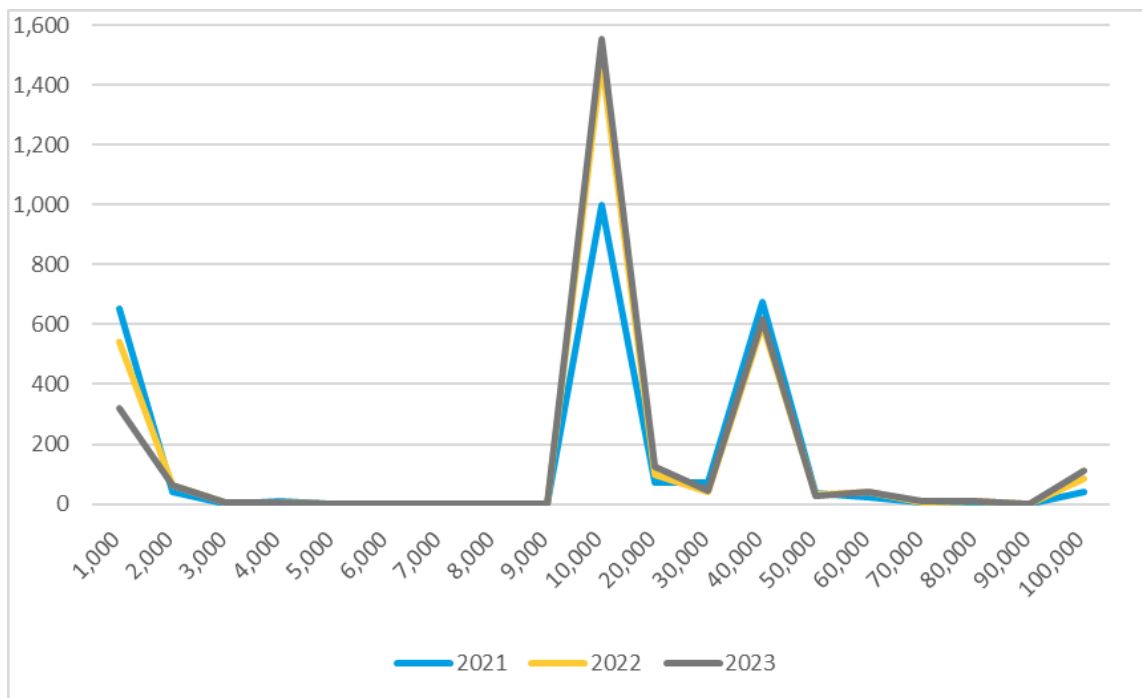
- summarise, subject to confidentiality, any feedback from Access Seekers or Consumer Advocacy Groups during **nbn**'s consultation; and
- set out how **nbn** has considered that feedback.

This NNI pricing review commitment is intended to provide certainty to industry stakeholders that **nbn** will continue to review the pricing of network elements as the market and technology evolves.

The commitment responds to RSP feedback received throughout the SAU variation process. **nbn** has committed to a number of changes to NNI pricing as part of the Amended SAU Variation to address current RSP concerns. As outlined above, **nbn** is in the midst of a multi-year upgrade program for POIs which will expand the available NNI capacity in line with demand. The timing of the NNI pricing review is intended to ensure that **nbn** identifies and addresses potential barriers to RSPs upgrading NNI capacity to support growth in usage and download speeds before they become a potential problem.

As shown in Figure 6 below, the current demand for NNI Group capacity is bi-modal at 10G and 40G NNI capacity. There has been a reduction in demand for 1G NNI over the past three years that is expected to accelerate with the reduction in 10G NNI charges – both Set-up and Activation charges and monthly recurring charges – and the introduction of the NNI Upsize Migration rebate. While demand for 100G NNI Groups has also grown over the same period, the number of RSPs with 100G NNI only increased from one in 2021 to three in 2022 and remained flat in 2023. **nbn** will continue to monitor NNI Group demand, in particular the share of 50G NNI Groups and higher which has grown from 4% of total NNI Groups to 7% over the period and represents an impending decision point for upgrade to 100G NNI capacity.

Figure 6. Count of NNI Groups by capacity ordered at 30 June from 2021 to 2023





5.2 Price Transition Date

The Price Transition Date is the date on which **nbn** first supplies the new Flat-Rate Offers, Bundled TC-4 Offers and Bundled TC-2 Offers. Where the Amended SAU Variation is accepted on or before 22 December 2023, the requirement for the Price Transition Date to be within three months of acceptance has been retained, but the calculation of the three-month period will exclude any days between 23 December 2023 and 14 January 2024 to account for the Christmas / New Year period.⁸⁶

If the Amended SAU Variation is accepted by mid-October, **nbn** would aim to implement by 1 December 2023.

If it appears unlikely that the Amended SAU Variation will be accepted by mid-October 2023, **nbn** will revise the target WBA5 commencement date. Based on industry feedback received to date, should 1 December 2023 not be feasible, the preferred alternative date for WBA5 implementation is 1 February 2024.

The Price Transition Date provisions have been drafted with an assumption that the Amended SAU Variation will be accepted by 22 December 2023. Relevantly, the SAU price controls and associated transitional machinery have also been drafted with an underlying assumption that acceptance of the Amended SAU Variation will occur in calendar year 2023 and the Price Transition Date will be on or before 1 March 2024.

5.3 CVC inclusion adjustment

Consistent with the November Variation, and as described in **nbn**'s supporting submission to the November Variation,⁸⁷ the Amended SAU Variation commits to twice-yearly adjustments to the amount of included CVC TC-4 capacity for each Bundled TC-4 Offer (except the 12/1 Mbps offer), where the adjustment amount is equal to 50% of utilisation growth. Except for the first Financial Year of the Subsequent Regulatory Period, the two CVC inclusion adjustments will take place on 1 January and 1 July each year (each an Adjustment Date).

In respect of the first Financial Year of the Subsequent Regulatory Period, there will be only one Adjustment Date which will be either:

- 1 December 2023, if the Price Transition Date occurs before 1 January 2024 (e.g., 1 December 2023); or
- 1 January 2024, if the Price Transition Date is on or after 1 January 2024.

nbn has committed to bringing forward the first CVC inclusions adjustment if the Price Transition Date is 1 December 2023 to ensure RSPs benefit from any adjustment in CVC inclusions as soon as the new SAU pricing comes into effect, and to avoid a scenario where there is a CVC inclusion adjustment only one month after the Price Transition Date.

The single CVC inclusion adjustment for FY24 will be based on any change in utilisation for the relevant Bundled TC-4 Offer Group between the Previous Measurement Period (1 April 2022 – 30 September 2022) and the Measurement Period (1 April 2023 – 30 September 2023). The CVC inclusion adjustment for a Bundled TC-4 Offer will be made to the starting CVC inclusion for that Bundled TC-4 Offer as set out in clause 1.2 of Attachment E in the Amended SAU Variation.

⁸⁶ Clause 2B.1.4 of the Amended SAU Variation sets out the Price Transition Date applicable to the NBN Offers set out in clauses 2B.3.1 and 2B.4.1.

⁸⁷ See **nbn**'s November Variation Supporting Submission, [nbn Special Access Undertaking Variation 2022 – Supporting Submission – Part B: Pricing and Price Controls](#), November 2022, pp.13-15.



5.4 AVC utilisation reporting

nbn is committed to supporting RSPs to ensure that they and their customers have access to information they need to make informed choices about product selection. An important aspect of that is enabling RSPs to identify consumers that could benefit from plan adjustments based on their level of usage. The Amended SAU Variation includes a commitment to provide daily and monthly AVC utilisation reports to RSPs:

- The new **daily AVC utilisation report** will provide usage information for each AVC being supplied as part of a Bundled TC-4 Offer, including the utilisation peak hour and measured throughput during that peak hour for each day. This usage information will help RSPs more readily observe individual consumer usage behaviour and quantify their contribution to total overage costs. The daily AVC utilisation report will complement the wealth of information **nbn** already provides to RSPs on a monthly basis via the plan matching report.
- **nbn** will deliver the **monthly AVC utilisation report** as an augmentation to the existing monthly plan matching report **nbn** already provides to RSPs. In addition to the new AVC utilisation information, the augmented report will include detailed network information in respect of each AVC along with information regarding potential upgrade capabilities within **nbn**'s network such as available TC-4 products based on technology and fibre upgrade options. The network information in respect of each AVC includes aggregate usage information in the form of gigabytes downloaded per month, and whether consumers are bottlenecked by their bandwidth limit (measured by the number of times their utilisation reached the maximum bandwidth in each month).⁸⁸

The shift to the SAU Floor and Ceiling Model means that the additional AVC utilisation reporting **nbn** is committing to provide to RSPs (including daily and monthly AVC utilisation reports) will not play as important a role as it would otherwise have done under the November Variation pricing proposal. However, **nbn** recognises that this reporting may still be valuable to RSPs as they seek to better understand end-users' behaviour, their relative contribution to CVC overage and to identify opportunities for upsell.

5.5 Treatment of inaccurate or missing utilisation data

In response to RSP feedback, **nbn** has clarified in the Amended SAU Variation how it proposes to treat the utilisation of an AVC TC-4 when calculating CVC TC-4 (overage) charges in the event it cannot accurately observe that utilisation data (e.g., in the event of data loss or data quality issues).⁸⁹

The Amended SAU Variation does this by including a new definition of an 'Excluded AVC TC-4' which means *"an AVC TC-4 Product Component that is the subject of a Bundled TC-4 Offer and for which NBN Co cannot accurately observe, or cannot access the observation of, download usage, but only for the period of time that NBN Co cannot accurately observe, or cannot access the observation of, such download usage"*.

The Amended SAU Variation provides that **nbn** will exclude and not charge for CVC TC-4 utilised by a particular bundled AVC TC-4 service during a period in which that AVC is an Excluded AVC TC-4 (i.e., where **nbn** cannot accurately observe, or access the observation of, the download usage on that service).

Consistent with that approach, the Amended SAU Variation also provides that:

⁸⁸ Clause 2C.6 of the Amended SAU Variation.

⁸⁹ Clauses 2B.5.1, 2C.6, 2E.2.2, 2F.4.1 and Definitions in the Amended SAU Variation.



- To ensure the **CVC inclusion adjustment** and **Average Combined Charge** calculations are not distorted by missing or inaccurate utilisation data, **nbn** will exclude the utilisation of an Excluded AVC TC-4 for the purpose of calculating the Average Combined Charge and CVC inclusion adjustment;
- In the **daily AVC utilisation report**, where an AVC TC-4 is an Excluded AVC TC-4 during the relevant peak hour for that AVC, the AVC will be listed in the utilisation report, but no utilisation data will be reported for that day; and
- In the **monthly AVC utilisation report**, for the calculation of the monthly average utilisation of each AVC, **nbn** will exclude each day of the month in which that AVC is an Excluded AVC TC-4 during the relevant peak hour for that AVC.

5.6 nbn proposes \$20 million in transitional support for RSPs

In the broader context of the regulatory process, though outside the scope of the Amended SAU Variation, **nbn** is offering RSPs a transitional credit to alleviate costs associated with usage growth, as well as implementation of new TC-4 pricing arrangements.

The transitional credit will have a total value of \$20 million across all RSPs and will be allocated on the following basis:

- **Fixed component:** a \$25,000 fixed component will be provided to each eligible RSP, recognising fixed costs associated with transition to the new TC-4 pricing construct; and
- **Variable component:** the remainder of the \$20 million will be distributed among eligible RSPs in proportion to the number of TC-4 Services in Operation (**SIO**) each eligible RSP has as at 31 July 2023.

Eligible RSPs means those RSPs that are a party to a WBA that have at least one active TC-4 SIO as at 31 July 2023. Where an eligible RSP is part of a corporate group and one or more of its Related Bodies Corporate (as defined in the WBA) are also party to a WBA, the following treatment will apply:

- the corporate group will only receive one \$25,000 amount (i.e., **nbn** will not provide each Related Body Corporate within that corporate group a separate \$25,000 amount); and
- each RSP within that corporate group will separately receive a variable component based on the number of TC-4 SIOs that the individual RSP has as at 31 July 2023.

As outlined in chapter 1, to provide certainty and support for RSPs until WBA5 implementation, **nbn** is also taking the following steps:

- **Extending WBA4 including discounts/rebates:** It will be necessary to extend WBA4, which currently expires on 30 September 2023, to allow the SAU Variation process to conclude and provide commercial certainty until WBA5 is implemented. To enable this, **nbn** has provided industry with extension documentation until 1 February 2024.
- **Progressing WBA5 releases:** **nbn** will release the proposed final WBA5 changes as soon as possible after the Amended SAU Variation is lodged, ensuring that RSPs can immediately commence their final reviews and approval processes.



- **RSP enablement:** Recognising there is ongoing work required in preparing for the WBA5 implementation, **nbn** will be working closely with the industry to ensure preparedness for 1 December 2023 implementation, including by conducting training and commencing reporting activities.
- **RSP development fund:** **nbn** will be offering an RSP development fund of up to \$100,000 per RSP to assist with some of the costs involved in transitioning from WBA4 to WBA5.
- **CVC inclusions review:** **nbn** will conduct a review of CVC inclusions as part of the WBA4 TC-4 Bundles Discount pricing in October 2023.

6 The Amended SAU Variation is capable of acceptance

The Amended SAU Variation varies the Current SAU in a way that ensures the SAU continues to play an important role in the telecommunications landscape and should remain fit for purpose until the end of the SAU Term.

The Amended SAU Variation satisfies all relevant legislative requirements. The ACCC has already acknowledged in its Draft Decision that it considers several aspects of **nbn**'s November Variation proposal, and the additional changes communicated by **nbn** to the ACCC in its 24 March 2023 letter, are reasonable and would be in the LTIE. The additional commitments set out in the Amended SAU Variation, which respond to the substantive matters raised in the Draft Decision and in consumer and industry stakeholder submissions responding to the Draft Decision, are also reasonable and in the LTIE, for the reasons set out in Table 2 above.

Further, **nbn**'s preparation of the Amended SAU Variation has been guided by and addresses the ACCC's Working Group Outcomes, including the opportunity for **nbn** to earn the minimum revenues it needs to meet its legitimate financing objectives, while enabling achievement of the Government's policy objectives.

In the absence of the Amended SAU Variation, seeking to establish a new regulatory framework distinct from the Current SAU will, among other things, result in uncertainty and operational complexity. Such uncertainty and complexity is not desirable or in the LTIE, particularly given the role that the **nbn**[®] network is playing, and needs to play, in enabling Australia's digital capability. This is a role that has taken on even greater significance following the COVID-19 pandemic.

Ultimately, the SAU variation submitted by **nbn** must balance the needs and concerns of all parties, and provide **nbn** the opportunity to remain a sustainable commercial enterprise that can continue to implement government policy. The Amended SAU Variation does this and **nbn** submits that it therefore should be accepted by the ACCC.

Appendix A Compliance with the statutory criteria

nbn's assessment of how the individual commitments that comprise the Amended SAU Variation meet the statutory criteria is set out at Table 2 above and in chapter 22 of Part G to nbn's November Variation supporting submission.⁹⁰

nbn submits:

- that in accordance with subparagraph 152CBD(2)(b)(ii) of the *Competition and Consumer Act 2010* (Cth) (CCA), the ACCC should regard the terms and conditions in the Amended SAU Variation relating to compliance with the Category B Standard Access Obligations (SAOs) as consistent with the applicable SAOs because:
 - the terms and conditions of the Amended SAU Variation are consistent with the Category B SAOs in that they conform to nbn's obligations under section 152AXB of the CCA, by providing Access Seekers with supply of the declared services, and by permitting interconnection;
 - there are no terms and conditions in the Amended SAU Variation that are inconsistent with applicable SAOs and as such the terms and conditions of the Variation are likely to be consistent with applicable SAOs; and
 - where there may be terms and conditions in the Amended SAU Variation that may place appropriate conditions upon the manner in which the Category B SAOs will be complied with, those conditions do not amount to any inconsistency with the Category B SAOs;
- that the ACCC should regard the terms and conditions in the Amended SAU Variation relating to compliance with the Category B SAOs as reasonable;
- that the ACCC should regard the conduct specified in the Amended SAU Variation in relation to access under subsection 152CBA(3B) of the CCA as promoting the LTIE and the related terms and conditions as reasonable;
- that the ACCC should regard the conduct specified in the Amended SAU Variation in relation to additional activities specified in subsection 152CBA(3C) of the CCA as promoting the LTIE; and
- that the Amended SAU Variation, as a comprehensive suite of commitments that promote the LTIE, is capable of acceptance.

⁹⁰ See nbn's November Variation Supporting Submission, [nbn Special Access Undertaking Variation 2022 – Supporting submission - Part G: Statutory Assessment](#), November 2022.

Appendix B Positions put forward by RSPs and other industry stakeholders

nbn has considered the specific positions put forward by RSPs and industry stakeholders, particularly those regarding matters identified in the Draft Decision. Table 10 sets out nbn’s position in response to those positions.

Table 10. Additional commitments responding to positions put forward by RSPs and industry stakeholders relative to November Variation

#	Topic	Stakeholder concern	nbn response
<i>The replacement module framework</i>			
1.	Replacement module process	Recommendation to remove restrictions on the ACCC’s power to issue a Replacement Module Determination.	This concern is addressed by the Amended SAU Variation through changes to the Replacement Module Determination arrangements that allow the ACCC to extend the timeframe for its decision-making. ⁹¹ The ACCC can take up to an additional six months through this extension process – this would allow for the ACCC to make a Replacement Module Determination as late as five months after the start of a Regulatory Cycle (rather than 20 Business Days prior to the start of that cycle, as provided for in the November Variation).
<i>Post-2032 framework and principles</i>			
2.	Post-2032 period credit rating principle	The ACCC should primarily have regard to the statutory criteria (reasonableness). The SAIGCR may be relevant to the statutory consideration of legitimate business interests of the access provider (as per section 152AH(1)(b)), but it should not be given undue weight over the other criteria.	One of the five key outcomes from the 2021 ACCC Working Groups was that nbn should have the opportunity to earn the minimum revenues it needs to meet its legitimate financing objectives, including to transition to a SAIGCR. The way that the SAIGCR is reflected in the Amended SAU Variation is consistent with this outcome. Further reasoning is set out in section 3.1 and nbn’s letter to the ACCC of 24 March. ⁹²

⁹¹ Clause 5.8 of the Amended SAU Variation

⁹² nbn, [Response to issues raised in ACCC Consultation Paper on the variation to nbn’s Special Access Undertaking](#), 24 March 2023.



#	Topic	Stakeholder concern	nbn response
3.		<p>The ICRA allowance providing nbn with a reasonable opportunity to transition to a SAIGCR should not include consideration of the timeframe to achieve an investment grade credit rating – which it is suggested should remain an operational concern for nbn, rather than the ACCC.</p> <p>If nbn service growth does not eventuate and the ICRA is spread across fewer services, this could lead to further price rises.</p>	<p>The Amended SAU Variation provides for the ICRA to be drawn down in a manner which gives nbn a reasonable opportunity of transitioning to a SAIGCR in the shortest timeframe practicable, while avoiding price shocks. That transition is appropriate and necessary to enable nbn to cost-effectively finance its investments.</p> <p>During and after this transition, nbn's prices will better reflect the economic resources involved in the provision of nbn's services over time, consistent with the rationale of the Government's Competitive Neutrality Policy, which in turn will promote economic efficiency and competition across the telecommunications sector.</p>
4.		<p>nbn's business model and its dominant market position enable it to achieve its investment grade credit rating with higher debt levels than Sapere has outlined in its modelling. View that Sapere may have incorrectly interpreted a baseline credit assessment to mean the same as a stand-alone credit assessment when evaluating nbn's potential credit rating. Sapere appears to have placed undue weight on nbn's government ownership.</p>	<p>The weighted average formula used by Moody's quantitative model to calculate a credit score makes it possible for an entity to achieve a target credit score with a relatively high Debt to EBITDA ratio as long as its effect is offset by other metrics. Castalia's 7 December 2022 report calculated the minimum amount of ICRA required to achieve the weighted average credit score.⁹³ Those calculations already optimise across different metrics and allow for higher Debt to EBITDA ratios where that is consistent with the overall target. We understand that Sapere Research Group do the same.</p> <p>In regard to whether Moody's may adjust the quantitative results by qualitative factors, such as the ownership of the business or the nature of the business, we understand this is the case. However, within the context of the SAU variation it would be inappropriate to take into account the fact that nbn is owned by the government—as Moody's would no doubt do in its qualitative adjustments.</p> <p>Overall, nbn agrees with the Sapere Research Group that the use of Moody's quantitative model without qualitative adjustments is appropriate for the calculation of ICRA. However, consistent with Castalia's 7 December 2022 report, we disagree with the sole reliance on the credit ratings calculation. In that report, Castalia set out alternative approaches to calculating ICRA by using appropriate information about nbn as a benchmark firm. These alternative approaches provide insights into achieving the necessary consistency between various regulatory assumptions, as well as ensuring consistency with the usual regulatory approaches adopted by the ACCC.</p>

⁹³ Castalia, [Economic effects of ICRA](#), 7 December 2022



#	Topic	Stakeholder concern	nbn response
Pricing and product constructs			
5.	50/20 Mbps price level	The proposed wholesale price increase for the 50 Mbps wholesale offer is 11% while the included CVC is reduced by 6% - even before the variability of CVCs are included – the combined impact is ~14% worse for RSPs. This will drive a segment of customers to either downgrade their plan or consider alternative networks.	<p>This calculation is not based on an accurate comparison of the usage impacts, as it factors in a 6% reduction in CVC inclusions (2.65 Mbps reducing to 2.5 Mbps) – nbn has since increased inclusions on the 50 Mbps service to 3.5 Mbps. The shift from provisioned to utilisation-based CVC billing also reduces RSPs’ CVC costs.</p> <p>Under the Amended SAU Variation, the wholesale cost of the 50 Mbps service is expected to increase by approximately 1% overall at the industry level, based on June 2023 industry observed data, while the maximum increase in the wholesale cost of a 50 Mbps service is expected to be no more than 11% for a small percentage of 50 Mbps services acquired by RSPs that do not incur any CVC TC-4 (overage) as at the Price Transition Date.</p>
6.		<p>In response to the November Variation, RSPs expressed significant concern that if the cost of a 50/20 plan (AVC and overage) is not capped, RSPs are likely to carry out costly and complex arrangements to migrate 50/20 customers that individually cost more than \$55 to a 100/20 plan (and back down again if their usage falls).</p> <p>Imperfect information or a reduced ability to undertake dynamic customer plan migrations may mean that RSPs are not able to perfectly migrate 50/20 customers and end up paying costs for individual customers in excess of \$55.</p>	The Amended SAU Variation addresses cost certainty concerns by introducing the SAU Floor and Ceiling Model (refer section 4).
7.		In response to nbn ’s floor and ceiling proposals designed to address cost certainty feedback, RSPs expressed concerns about the removal of national CVC pooling under the floor and ceiling model, including the impact on the price of 12 and 25 Mbps services.	<p>The removal of national pooling of CVC inclusions (via the ‘floor’ price) as part of the SAU Floor and Ceiling Model is required to ensure that nbn maintains the opportunity to earn the level of revenue it needs to offer broadband services on a commercially sustainable basis over time.</p> <p>In response to concerns from some RSPs about the impact of the floor and ceiling proposals on the price and availability of 12 Mbps and 25 Mbps services due to the removal of national CVC pooling, nbn’s analysis suggests that the extent to which RSPs currently ‘cross-subsidise’ the usage of their lower speed customers with inclusions from 50 Mbps services is relatively limited. Based on observed May 2023 data, only one RSP would be in ‘underage’ on the 50</p>



#	Topic	Stakeholder concern	nbn response
			Mbps service (based on their average usage being below the current CVC inclusion of 2.5 Mbps), meaning only one RSP would be able to use inclusions from 50 Mbps services to offset the cost of usage on 12 Mbps and 25 Mbps services.
8.		nbn should consider mitigations in the event of two price increases within seven months or less.	<p>nbn's TC-4 ARPU is effectively remaining flat from FY23 to FY24, despite increases in speed tier mix, usage, and the number of TC-4 services, which means that the average effective price is declining. Based on June 2023 data, compared to current WBA4 pricing, the SAU Floor and Ceiling Model will result in significant decreases in effective prices for 12 Mbps and 25 Mbps services, an approximate 1% increase in the effective price for the 50 Mbps speed tier, and a 2% decrease across the 100/20 Mbps and above speed tiers on a weighted average basis.</p> <p>The magnitude of the effective price change on the 50 Mbps speed will differ across RSPs, however this is driven by differences in the effective prices RSPs face under the current pricing, reflecting their respective customer bases.</p>
9.		Does nbn expect usage forecasts to change as a result of moving to a floor and ceiling model? If not, why not?	<p>nbn does not expect usage forecasts to change as a result of moving to the SAU Floor and Ceiling Model. The aggregate level of utilisation on nbn's network is primarily driven by end-user behaviour, which is unlikely to be impacted by the implementation of the SAU Floor and Ceiling Model.</p> <p>Utilisation on nbn's network is also impacted by RSP traffic management, either on the RSP's own network or through constraining how much CVC bandwidth the RSP provisions on nbn's network. The key changes in the Amended SAU Variation that are expected to impact RSP traffic management behaviour are the introduction of utilisation-based billing and NNI overbooking. These changes were already proposed as part of the November Variation.</p> <p>Importantly, to the extent that an RSP does decide to further unwind constraints on its customers' usage, the SAU Floor and Ceiling Model will dampen the impact of any change in usage on effective prices.</p>
10.	Demand management	<p>A significant driver of the cost pressures faced by RSPs is exceptionally high use consumers who are utilising 50 Mbps services at a level well in excess of ordinary or reasonable usage.</p> <p>While restricting exceptionally high use consumers should not be the option of first resort, where a consumer utilises a service at rates that are several standard deviations away from ordinary patterns of use, consideration should be given to how these consumers might be encouraged to migrate to service tiers that better align with their profile of use.</p>	<p>In respect of the cost pressures faced by RSPs due to high usage end-users, the SAU Floor and Ceiling Model directly addresses this concern (see chapter 4).</p> <p>nbn is aligned with the need to ensure that end-users are served on speed tiers aligned with their usage patterns. In this respect, nbn is committing in the Amended SAU Variation to provide RSPs with daily and monthly AVC utilisation reports for each AVC being supplied as part of a Bundled TC-4 Offer to enable RSPs to better understand end-users' behaviour and identify opportunities to align end-users with plans that better meet their needs.</p>



#	Topic	Stakeholder concern	nbn response
11.	NNI pricing to promote RSP expansion and retail competition	Concerns raised regarding NNI pricing as a volumetric charge, and view that proposed reductions in the monthly recurring charges for the 10G NNI charges do not sufficiently address industry concerns because of the remaining high cost for NNI activation charges. Suggestion that nbn move some (but not all) of its NNI costs across to the “general revenue” received from AVC charges.	<p>nbn has made a series of commitments to reduce NNI charges – aimed at addressing the issues raised by RSPs through the SAU process. In addition to the substantial reduction of activation charges for 10G and 100G NNIs, and 10G NNI Bearer recurring charges (where an RSP has no more than one 10G NNI Bearer at the POI), nbn is also including the following commitments in the SAU in response to additional RSP feedback:</p> <ul style="list-style-type: none">• Introducing an NNI Upsize Migration rebate that covers Set-up and Activation charges for ‘returned’ NNI ports where these rebates offset the Set-up and Activation charges for new upgraded NNI ports. This rebate will be effective from 31 March 2024 to 30 June 2027 (inclusive).⁹⁴• Conducting and completing an NNI Pricing Review by no later than 30 June 2027. As part of this review, nbn must consult with Access Seekers and Consumer Advocacy Groups and provide a report describing how it has considered feedback received.⁹⁵ <p>These commitments are in addition to the 50% reduction in the 1G NNI and V-NNI monthly recurring charges that nbn made effective on 1 November 2022.</p>
12.		When purchasing v-NNI: <ul style="list-style-type: none">• the ordering RSP must use the v-NNI provider’s backhaul - there is no possibility of using an alternate provider (e.g., for redundancy);• underlying NNI costs are still paid by the v-NNI provider and are quite reasonably passed on down to the small RSP. While the utilisation on the underlying NNI may be higher there is an extra layer of margin and ends up being a cost of typically 12c extra per Mb; and	<p>nbn appreciates the concerns raised by smaller RSPs regarding the costs required to acquire NNIs at multiple POIs. It was in response to similar concerns that nbn originally introduced the v-NNI capability, lowering the commercial barrier to entry by removing the need for each RSP to have a physical point of interconnection and instead acquire access at a POI through another provider’s NNI. This is a substantial RSP favourable product change that is being embedded in the SAU under the variation.</p> <p>While the v-NNI may not remove all costs faced by smaller RSPs in connecting at all POIs on the network, nbn has responded further to these concerns through the proposed reduction of 10G and 100G NNI activation charges and 10G bearer recurring charges, proposed NNI Upsize Migration rebate and NNI Pricing Review. nbn is committed to continued engagement with industry on enhancements that further promote competition at all POIs – while ensuring that nbn retains the opportunity to recover its efficiently incurred costs in building, maintaining and upgrading the network.</p>

⁹⁴ Clause 2B.6.2 of the Amended SAU Variation.

⁹⁵ Clause 2B.6.3 of the Amended SAU Variation.

#	Topic	Stakeholder concern	nbn response
		<ul style="list-style-type: none"> v-NNI cannot be sold on top of another v-NNI - it is common for smaller RSPs to group together to share backhaul costs. This can only be done if one of the RSPs is acquiring the physical NNI. 	
13.		<p>nbn’s proposal to provide rebates for ‘returned’ ports to offset activation charges for upgraded ports will not provide great practical benefit in certain cases. Suggestion that when RSPs that have multiple lower capacity ports seek to upgrade to a single larger capacity port the rebate will only be given for one port.</p>	<p>All 1G ports that are returned will be eligible for the NNI Upsize Migration rebate, up to the value of the Set-up and Activation charge of the Target NNI (10G or 100G) in the SAU Tariff List at the time of order completion, irrespective of the configuration those ports were operating in.</p>
14.		<p>Question raised if the “upgrade route” involves v-NNI (e.g., 1 Gb NNI to 1.5 Gb v-NNI to 10 Gb NNI) whether the 1Gb NNI rebate will still apply.</p>	<p>v-NNI is not a physical port and is therefore not eligible for the NNI Upsize Migration rebate.</p>
15.	Entry Level Offer	<p>nbn’s changes to the requirements of the Voice-Only Bundled Offer do not materially address the increased cost to what is the current entry level broadband service as the existing structure of the service will remain.</p>	<p>The Amended SAU Variation implements a price rebalancing for nbn’s current Entry Level Bundle product and a price reduction to the 25/5 Mbps product on fixed-line and fixed wireless networks. This is intended to both provide a lower TC-4 price for voice-only services and ensure nbn remains price-competitive for low speed services.</p> <p>Under the current WBA, nbn offers an Entry Level Bundle based on a 12/1 service – with a minimum bundle charge of \$22.50. The pricing for the 12/1 Mbps Basic Bundled Offer under the Amended SAU Variation provides a \$10.50 reduction to this charge, automatically applied, for those services using data equal to or lower than the data threshold (0.1 Mbps). Where these services use data above the threshold, the AVC charge increases to \$24.40.</p> <p>The 25Mbps offer has been reduced by \$11 to provide flexibility for RSPs to offer a lower priced retail plan and effectively promote this as the entry level broadband offer. A service using 0.2 Mbps or more of data will have the same effective charge irrespective of whether that service is provided on a 12 Mbps offer or a 25 Mbps offer.</p> <p>While this rebalancing may result in an effective increase for a cohort of 12/1 services using data above 0.1Mbps, it is important that this change is considered in the context of the multiple benefits offered through the rebalancing of these speed tiers.</p>



#	Topic	Stakeholder concern	nbn response
16.	Service Transfers	Proposal that ‘Service Transfer’ and Non-Infrastructure Transfer’ fees should be removed – view that these charges inhibit competition as they prevent smaller RSPs from migrating end-users.	<p>Continuing to enable and support a competitive retail market is not only a foundational principle of the nbn[®] network, but in the commercial interests of nbn. nbn is committed to working with industry to identify potential challenges for all RSPs, while ensuring that it maintains the opportunity to recover its efficiently incurred costs.</p> <p>In response to the latest RSP feedback on Non-Infrastructure Type Transfers, nbn has reviewed the potential to further reduce this charge and is reducing the Non-Infrastructure Type Transfer (per Service Transfer) charges from \$5 to \$1.50 as part of WBA5. This is a substantial reduction that will support RSPs looking to transfer multiple end-users from one RSP to another RSP as part of a commercial arrangement.⁹⁶</p> <p>This price reduction will be effective from the commencement of WBA5 (i.e., from the Price Transition Date, rather than the date the Amended SAU Variation is accepted), and as such is not reflected in Attachment E of the Amended SAU Variation. However, the reduced price is set out in the indicative Pricing Roadmap that nbn has provided along with the Amended SAU Variation lodgement package, and will be reflected in the FY24 Tariff List and Pricing Roadmap that nbn is required to publish at least one month prior to the Price Transition Date.</p>
17.	Low-Income Forum	<p>Feedback from RSPs includes:</p> <ul style="list-style-type: none">• nbn can and should strengthen its commitments regarding its Low-Income Forum, including the development of a fit for purpose baseline package that should be progressed and endorsed by the Low-Income Forum stakeholders.• nbn needs to set clear objectives for increasing the digital adoption of low-income, vulnerable and unconnected users.• The forum does not provide any assurance as to how low-income disadvantaged consumers will be suitably and appropriately serviced.	<p>Previous consultation on low-income measures has given rise to a range of views within the industry. While there is a degree of support for nbn bringing a low-income offer to market, there is not a clear consensus on how such an offer should be funded. For example, if nbn were to introduce a broad-based low-income offer, this could be financially challenging for nbn and the industry, and would lead to price increases for full-priced services if implemented through a cross-subsidy. Some RSPs have instead expressed a preference that a broad based low-income offer could be addressed in the retail market or by Government.</p> <p>nbn has demonstrated its commitment to working with industry on solutions through embedding the forum within the SAU. Given the multiple stakeholder views, and the recent establishment of the forum, it is not possible to yet confirm a solution or solutions that will provide further support to low-income end-users that can be embedded within the SAU. nbn has received positive feedback from multiple stakeholders on the establishment and objectives of the forum and will continue to work constructively with industry on this important issue.</p>

⁹⁶ See WBA **nbn**[®] Ethernet – Dictionary, definition of Non-Infrastructure Type Transfer.



#	Topic	Stakeholder concern	nbn response
Price controls and transparency measures			
18.	Pricing Roadmap	The proposed price control and roadmap arrangements fall short of providing certainty to RSPs. The year 2 and year 3 prices in a proposed 3-year roadmap are not binding and the multiple price control arrangements available add complexity without providing the necessary certainty to RSPs.	<p>The Amended SAU Variation requires nbn to publish a Tariff List and 3-year Pricing Roadmap by 1 May each year with those documents taking effect on 1 July of that year. The Tariff List and Year 1 of the Pricing Roadmap set out maximum prices for that Financial Year. The prices in Years 2 and 3 of the Pricing Roadmap are indicative but must be set such that nbn expects them to comply with the WAPC and individual price controls. In addition, the price relativities between the TC-4 prices in Year 2 of the Pricing Roadmap are binding and must be maintained to within \$1 when nbn publishes the Tariff List for the next Financial Year.</p> <p>The Amended SAU Variation sets out the limited circumstances in which nbn can change the Tariff List and Pricing Roadmap during a Financial Year. For example, one of those circumstances is where the TC-4 discounting restrictions in the SAU result in nbn being required to decrease the price of a TC-4 speed tier in the Tariff List during a Financial Year (this example was raised by an RSP submission on nbn's November Variation). In that circumstance, nbn would publish an updated Tariff List to reflect that reduced price for the speed tier, which would apply for the rest of that Financial Year. nbn would also publish an updated Pricing Roadmap to maintain consistency, ensuring that the Pricing Roadmap accounts for the decrease in the price of that speed tier in Year 1 and any impact on the indicative prices for that speed tier in the second and third years of the Pricing Roadmap (e.g. due to the more restrictive impact that the individual price controls would have on the price of that speed tier in future years as a consequence of the Year 1 price being reduced).</p> <p>nbn considers that this framework appropriately balances the need for cost certainty for RSPs while providing some flexibility for nbn to respond to changes in wholesale demand and market conditions as it moves towards cost-reflective pricing. In response to RSP feedback, nbn has also provided an updated indicative Pricing Roadmap and working WAPC model to assist stakeholders in their assessment of the Amended SAU Variation.</p>
19.	Price control arrangements	View that multiple price control mechanisms (WAPC, individual price controls and limiting drawdown of the ICRA) are unnecessarily complex.	<p>nbn's existing SAU provides a more confined set of price controls – specifically Maximum Regulated Prices that apply to each price point covered by the SAU and enable an individual price increase of CPI-1.5%. The WAPC (and sub-caps), together with the constraint on the annual ICRA drawdown, was introduced in direct response to ACCC and industry concerns and operates as a binding regulatory control which allows nbn to transition to 'cost reflective' prices over time, encouraging efficient investment while ensuring that end-users are protected from prices that are higher than necessary in later years. nbn provided its working WAPC and price control model in May 2023 and an updated version with the Amended SAU Variation in August 2023.</p>



#	Topic	Stakeholder concern	nbn response
20.	WAPC formula	<p>If the mix of demand changes between consecutive years, the WAPC will not pick this up and nbn:</p> <ul style="list-style-type: none"> • has a strong incentive to force customers to higher value plans even though they might not want or be capable of achieving those speeds; and • would face a strong incentive to set prices in a way that minimises demand for low priced products – which tend to be consumed by low-income customers or customers experiencing hardship. <p>Proposal that the WAPC be amended so that the numerator is an average price for a second period (i.e., P2Q2/SUM[Q2]) and the denominator is an average price for the last period (i.e., P1Q1/SUM[Q1]).</p>	<p>The WAPC model proposed by nbn is a standard approach adopted in relation to other regulated networks and is based on the concept of a fixed basket measure of price changes. That is, keeping historical quantities (the fixed basket of consumption) constant so as to isolate ex ante pure forecast/expected price changes.</p> <p>The use of lagged quantities as weights in the WAPC promotes certainty, minimises compliance issues that would arise from the use of forecast quantities, and is consistent with the application of a WAPC in other regulated sectors.</p> <p>The weights used in the WAPC for year t are for the 12-month period ending only 3 months prior to the commencement of that financial year (t). As such, they are reasonably contemporary in nature and are as up to date as possible given the need to publish a Tariff List by 1 May prior to the start of the financial year.</p> <p>One of the main benefits of the WAPC, and why it was suggested by the ACCC in favour of a revenue cap, is that it strengthens the incentive on nbn to promote efficient take-up and usage of the network, which will assist with nbn's transition to pricing levels that recover its building block costs. Once the WAPC applies on a CPI-X basis (from the WAPC Factor Change Year), the X-factor will be set such that nbn is expected to recover its costs based on forecast demand over the Regulatory Cycle, and nbn will continue to have an incentive to promote efficient take-up and usage of the network. In responding to these incentives, initially and from the WAPC Factor Change Year in Module 2, nbn must also comply with a range of individual price controls, including that the Entry Level Offer must not increase by more than CPI each year.</p>

BBM proposals and nbn's approach to the BBM

21.	Third-party funding and government grants	nbn should consider its treatment of funding from third parties and grants obtained from government in the SAU (including Telstra's infrastructure remediation credit which should be considered in the BBM as payment to nbn each year of each Regulatory Cycle).	As set out in section 3.1 above, nbn has made amendments in the text of the Amended SAU Variation that respond to this concern – refer row 7 of Table 2.
22.	Increased transparency of weighted average asset lives	nbn should define in Schedule 2G separate asset classes for those commissioned prior to FY24 and those commissioned from FY24 to promote investment that is more economically efficient.	Refer row 8 of Table 2 in section 3.1.



#	Topic	Stakeholder concern	nbn response
23.		nbn needs to provide stakeholders with greater transparency in the public BBM explanatory notes.	nbn has adopted relevant ACCC and RSP suggestions by increasing transparency within the BBM Handbooks. Specifically, the updated BBM Handbooks include numerical examples demonstrating how remaining asset lives are calculated explicitly stating the use of depreciation weights (versus value weights). Depreciation for assets commissioned pre-FY24 is proposed to be treated separately from depreciation for assets commissioned from the start of FY24.
Expenditure review and criteria			
24.	GreX report	More rigorous assessment is required for proposed expenditures to avoid future pricing uncertainty. View that recommendations by GreX involving the expenditure review process in the First Regulatory Cycle would provide benefits for nbn and the ACCC.	Refer section 3.3.
Cost allocation and accounting separation			
25.	Cost allocation	Concern regarding the splitting of costs between ‘core’ and ‘non-core’ services, and the risk that this could result in nbn holding a pricing advantage versus other competitors in that market.	nbn agrees with the ACCC’s Draft Decision on this issue. In particular, in its Draft Decision, the ACCC states that (in the circumstances outlined in that decision) the cost allocation framework proposed under the November Variation for the Subsequent Regulatory Period provides a good foundation for ongoing regulatory oversight and monitoring by the ACCC of nbn ’s implementation of cost allocation and accounting separation arrangements - and is reasonable and would promote the LTIE. ⁹⁷ The ACCC noted that it can make changes to those arrangements as circumstances change and where issues arise, given the ACCC’s ongoing oversight of the CAM and accounting separation in the Subsequent Regulatory Period.
26.		The development and introduction of nbn ’s ‘Smart Communities’ product – and whether this product will be regarded as a core or non-core service.	If nbn introduces a new product within the SAU framework, then there is a process for determining whether the service is to be classified as core or competitive and the appropriate allocation of associated costs. ⁹⁸

⁹⁷ Draft Decision, p.61.

⁹⁸ Clause 2G.6.4 of the Amended SAU Variation.



#	Topic	Stakeholder concern	nbn response
27.		Question raised as to whether nbn has excluded all the costs associated with the Cell Site Access Service (CSAS) product from the RAB (and ensured that those costs are not allocated to other services, including residential services) given the planned withdrawal of this product.	CSAS was developed under Module 1 of the SAU. Accordingly the costs have been included in the RAB and the service is allocated to Core Services.
Service quality			
28.	Benchmark Service Standards for First Regulatory Cycle	No material improvement in service quality will be experienced by end-users in the First Regulatory Cycle and limited consequences when service standards not met.	<p>The variation responds directly to ACCC and RSP concerns that the SAU establish a more direct price-quality link. The Benchmark Service Standards proposed for the First Regulatory Cycle are premised on the associated pricing commitments and expenditure forecasts. Service standards that would incur significant and unplanned expenditure would require nbn to review pricing commitments, contrary to RSP requests for lower price points and enhanced price certainty, and potentially divert investment from the core strategy of upgrading copper services to fibre.</p> <p>nbn's network strategy prioritises this evolution of the network. Enhanced service level commitments should be assessed for their impact on nbn's ability to continue upgrading and maintaining the network. While it is essential that end-users continue to receive a service that meets their expectations, and nbn is committed to continual improvement of services for all end-users, it is important that nbn does not introduce and entrench higher service standards on those access technologies that are subject to overbuild if such commitments would divert capital expenditure that is more efficiently spent on upgrading the network over time, or would impact nbn's ability to maintain the network to meet existing service quality commitments.</p> <p>The Benchmark Service Standards also commit nbn to significant consequences for not meeting service standards in the First Regulatory Cycle – requiring that nbn include in its SFAA service standards no less favourable than the key rebate and corrective action requirements that exist in the WBA today.⁹⁹</p>
29.		Benchmark Service Standards must be expanded to address areas of concern raised by RSPs that have not been resolved through commercial negotiations.	nbn has sought to respond to key RSP performance concerns raised through SAU consultation without triggering significant and unplanned expenditure that would require pricing commitments under the SAU to be revisited. This includes:

⁹⁹ See, for example, Schedule 4A, Attachment I, sections 1.4, 1.5, 14, 15 and 17 of the Amended SAU Variation.

#	Topic	Stakeholder concern	nbn response
		<p>Proposed benchmarks and nbn's service standard framework do not address key issues including: outage notification, priority assistance, speed rebates, dropouts / underperforming lines.</p>	<ul style="list-style-type: none"> • Dropouts: As part of the Benchmark Service Standards proposed in the SAU, nbn has committed to lowering the dropout threshold for a service incident to qualify as an end-user fault on FTTC and HFC services. Under the Amended SAU Variation nbn has also committed to applying this same threshold to FTTC services. • Outages: nbn is committed to working with RSPs and addressing concerns related to the volume of outages and associated notification processes. In addition to enhancing publicly available outage information, nbn has been engaged with RSPs through a dedicated Communications Alliance outages forum since October 2022. This working group has identified a number of potential improvements that nbn and industry will continue to progress. Most recently nbn has communicated with RSPs regarding a planned trial of updates to the outage notification process for the HFC proactive maintenance program. • Speed rebates: The Benchmark Service Standards include the existing PIR Objective Rebate, FTTC/B/C Connection Performance Rebate or Service Fault Rebate that nbn offers under WBA4. These existing rebates already provide RSPs with rebates in the event that: <ol style="list-style-type: none"> 1. an FTTC/B/C nbn[®] Ethernet TC-4 service is not capable of achieving its PIR Objective and is designated for a Network Activity (i.e., network remediation);¹⁰⁰ 2. a service does not meet its Downstream Performance Threshold following connection;¹⁰¹ or 3. a Service Fault (including where a service exceeds the specified dropout threshold in a 24-hour period) is not rectified within the applicable Service Level.¹⁰² <p>Not all service improvements lead to a direct change in service standards. Under WBA4 nbn has continued to work with RSPs to improve the end-user and RSP experience, including in relation to copper access technologies. Key examples include:</p>

¹⁰⁰ Section 5.1 of the WBA **nbn**[®] Ethernet - Service Levels Schedule. The PIR Objective Rebate does not apply to an **nbn**[®] Ethernet (FTTC) Ordered Product with an AVC TC-4 bandwidth profile of 25 Mbps PIR (TC-4) downstream and 10 Mbps PIR (TC-4) upstream or higher, unless the Line Rate at the **nbn**[®] Downstream Network Boundary in respect of the relevant Premises is not capable of achieving the provision of an AVC TC-4 bandwidth profile of 25 Mbps PIR (TC-4) downstream and five Mbps PIR (TC-4) upstream.

¹⁰¹ Section 16 of the WBA **nbn**[®] Ethernet - Service Levels Schedule. Where the Connection Assured Rate is available in **nbn**'s Service Qualification system at the time of ordering, the service must also fall below the Connection Assured Rate to be eligible for the rebate.

¹⁰² Section 8.5 of the WBA **nbn**[®] Ethernet - Service Levels Schedule.



#	Topic	Stakeholder concern	nbn response
			<ul style="list-style-type: none">• Service performance: In 2021 nbn commenced rolling out VDSL2 features (SOS and ROC) designed to reduce the number of resyncs on, and increase the stability of, services on the FTTB and FTTC networks.• Service information: To enable RSPs to better inform and support end-users connecting to and using the network nbn has continued to evolve the information provided to RSPs and its operational support systems. Examples of this include the introduction of Service Health Summary (which provides an improved and simplified interface for retrieving service health information for a given service), and the evolution of line speed information available for FTTB, FTTC and FTTC services.• Assurance processes: Key initiatives in the assurance space have included the performance incident framework and proactive assurance. Under WBA4 nbn introduced the performance incident framework on FTTC and HFC services (to be expanded to FTTC under WBA5), enabling RSPs to lodge service incidents where a service may be experiencing issues but not meet the threshold for an end-user fault. nbn subsequently lowered the dropout threshold for accepting a performance incident on these networks. In relation to proactive assurance, nbn has introduced a solution by which RSPs are able to implement digitised assurance processes, which streamline customer interactions and drive positive industry cost outcomes. Further proactive assurance opportunities are being investigated and assessed to identify process changes that could benefit end-users, RSPs and nbn.• Network Activities: nbn has established a specific program to provide enhanced and regular reporting to RSPs regarding Network Activities relevant to that RSP. This reporting identifies how the Network Activity is intended to be addressed once the remediation option has been determined (e.g., fibre upgrades via the FTTP program of work, copper remediation). nbn will continue to work proactively and collaboratively with RSPs on options and timing to address Network Activities.
30.		The existing capabilities of the network should not be the starting point in determining what service level commitments nbn is capable of delivering. Instead, the focus should be on the desired consumer outcomes to identify the deficiencies in network capabilities where operations need to be improved. The focus must be on the end-user and what they should expect to be delivered over nbn 's network, especially as the cost of services increases.	Given the market and policy constraints imposed on nbn to date, nbn 's prices are not presently sufficient to recover its allowable costs and, while they will be set to recover nbn 's prudent and efficient costs over time, nbn 's prices will be below cost recovery levels for several years to come. Service standards that do not account for nbn currently operating below cost recovery, and which are not referable to the capability of the network, could drive inefficient investment and/or be inconsistent with providing nbn the opportunity to achieve a SAIGCR.



#	Topic	Stakeholder concern	nbn response
31.		Greater consultation on service standards required and alignment with newer standards as discussed under WBA5.	nbn has responded to this concern under the Amended SAU Variation through the introduction of the annual Service Improvement Plan and Service Performance Review during the First Regulatory Cycle – both of which involve genuine Access Seeker consultation to inform: (a) nbn 's operational planning as it relates to service experience initiatives; and (b) potential changes to the Benchmark Service Standards within the SAU and the associated service standards offered under the WBA. ¹⁰³
32.	RSP input into service improvement initiatives	The SAU should prioritise investment and expenditure to address those dimensions of service delivery that are most important to consumers.	nbn will publish an annual Service Improvement Plan for each Financial Year in the First Regulatory Cycle setting out key initiatives to uplift service experience that will commence or continue in the applicable Financial Year. In developing the Service Improvement Plan for FY25 and FY26, nbn will consult with Access Seekers and consider Access Seeker proposals as part of its operational planning process. ¹⁰⁴
33.		Scepticism that proposals that commit nbn to consult (rather than committing to better service standards or undertake measures that will lead to improved consumer experience) will lead to any meaningful positive outcomes for end-users.	nbn 's commitment in relation to the Service Improvement Plan go beyond consultation to enhanced transparency of nbn 's consideration of Access Seeker views. The SIP specifically requires nbn to outline how Access Seeker initiatives have been considered in the development of the SIP for FY25 and FY26. ¹⁰⁵
34.		Whether access seekers can contribute to the development of the service improvement plan via a representative body and what involvement consumer advocacy groups could have in contributing views to assist nbn in prioritising Access Seeker initiatives.	<p>It is important that the planned annual Service Improvement Plan consultation is focused on Access Seekers as:</p> <ul style="list-style-type: none">• Access Seekers are well placed to identify the potential pain points and improvements that nbn can consider making that will potentially improve RSP/end-user experience; and• In order to facilitate nbn's consideration of proposed service improvement initiatives nbn will need Access Seekers to provide sufficient information to support proposals (e.g., the potential cost impact, feasibility, market and readiness of Access Seekers in respect of such initiatives). <p>While the Amended SAU Variation commitment to consult on the Service Improvement Plan is specific to Access Seekers, however, nbn plans to invite ACCAN (as a Consumer Advocacy Group) and Compete and IAA (as RSP</p>

¹⁰³ Clauses 4A.4.1, 4A.4.2 and 4A.4.3 of the Amended SAU Variation. See also **nbn**, [nbn Special Access Undertaking Variation: Response to ACCC Draft Decision – Service Quality](#), 23 May 2023, p.11

¹⁰⁴ Clauses 4A.4.1 and 4A.4.2 of the Amended SAU Variation.

¹⁰⁵ Clause 4A.4.2(b)(i) of the Amended SAU Variation.



#	Topic	Stakeholder concern	nbn response
			representative bodies) to participate in the consultation process given the additional insight that these bodies may provide.
35.	Service Performance Review	The proposed Service Performance Review is backwards-focused and aimed at ensuring that enhanced service level commitments are only made where nbn is confident of its ability to meet the commitment. nbn has proposed a review of its own performance against, and the effectiveness and relevance of, existing WBA service levels and performance objectives for nbn Ethernet. Suggestion that the service performance review would be more appropriately undertaken by an independent party appointed by the ACCC, who will be better placed to make an objective assessment.	The fundamental purpose of the Service Performance Review is to ensure that service standards remain appropriate to meet RSP and end-user expectations, while aligned with the capability of the nbn [®] network and nbn 's operations. nbn considers that Access Seekers and nbn are best placed to assess the operations of existing service standards and potential changes. To the extent that the Service Performance Review does not effectively address areas of RSP or end-user concern, however, the ACCC's power to trigger a review of service standards mid-Regulatory Cycle where a Systemic Service Standard Event is identified provides appropriate regulatory oversight. ¹⁰⁶
36.	Performance incentive framework	There must also be a performance incentive framework included in the SAU that ensures nbn faces appropriate consequences where it fails to meet service standards. The framework should also be supported by an independent review of nbn performance that assesses the impact on end-users.	Service incentive schemes are traditionally symmetric to enable the operator to benefit from increased efficiency where performance standards are met, while placing financial consequences on reduced service standards. It would be premature to implement a service incentive scheme until nbn is in a position to recover its costs because it could only be asymmetric in nature (i.e., up until 2030). Under the Amended Variation nbn faces strong incentives to maintain and improve service levels through the Benchmark Service Standards. Should it be necessary, the ACCC has the power to set alternate service levels for future Regulatory Cycles or intervene mid-cycle in response to Systemic Service Standard Events (or new retail regulation).
37.		The transparency and reporting mechanism proposed do not appear to provide any incentive to uplift service performance over the First Regulatory Cycle. While useful for transparency and information purposes, the Service Improvement Plan is non-	The framework is not only intended to provide greater transparency of service improvement initiatives forecast to incur material capital or operating expenditure, but also to enable more co-ordinated RSP feedback on priorities that can be considered in nbn 's operational planning. It is important that the Service Improvement Plan framework does not remove nbn 's flexibility to reprioritise initiatives as part of its operational planning process.

¹⁰⁶ Clause 21.2.2(a) of the Amended SAU Variation.



#	Topic	Stakeholder concern	nbn response
		binding with no direct consequences under the SAU for a failure to deliver the improvements included.	nbn is subject to significant incentives to deliver on proposed service improvements. An increasingly competitive high speed broadband market means that a failure to deliver on RSP and end-user expectations of its services will have impacts on the demand for nbn services. Additionally, the enhanced transparency framework will also act as further incentive for nbn to deliver on planned initiatives – given the reputational impacts that could result from a failure to deliver on planned milestones.
38.	ACCC powers to amend service standards	The ability to change service standards in the First Regulatory Cycle is relatively limited. nbn has proposed to expand the ACCC's power to request changes to service standards to include where a recurring event impacts end-users. More clarity is needed about what the threshold impact needs to be to trigger a review and how this would be practically implemented.	The Benchmark Service Standards mechanism provides appropriate triggers for the ACCC to initiate changes to the benchmarks both between and within Regulatory Cycles. nbn considers the definition of a Systemic Service Standard Event is appropriate given that it considers both recurring material adverse impact on Access Seekers and, under the Amended SAU Variation, end-users' access to a Service Standards Product. ¹⁰⁷ If the definition of a 'threshold impact' is overly prescriptive, there is potential for the definition to not account for unforeseen circumstances – which could be to the detriment of RSPs or end-users.
Reporting			
39.	Reporting to monitor benchmark service standards	The SAU should contain minimum reporting commitments to support monitoring Benchmark Service Standards without restricting future improvements. Recognising that nbn will provide monthly network utilisation reporting and quarterly reporting on the shared network, nbn should continue its own public reporting on congestion, network availability, and connection and assurance performance, among other things.	Reporting commitments beyond the WBA4 operational reporting would be duplicative and potentially inconsistent / inefficient given the ACCC's planned RKR that is intended to cover a range of network and service performance metrics.

¹⁰⁷ See Attachment C of the Amended SAU Variation.

#	Topic	Stakeholder concern	nbn response
<i>Other</i>			
40.	Product development and network change consultation	Clauses 1D.11.1 and Schedule 11: Annexure 1, Clause 6.3 could be interpreted as stating that Consumer Advocacy Groups have endorsed a position where they have not been in a position to engage. nbn cannot, through the terms of the SAU seek to unilaterally impose obligations on Consumer Advocacy Groups. Clarification sought as to what ‘raising the issue’ might entail in clause 6.3 of the SAU.	<p>The Endorsed Network Change process (which includes the development of a Prudency Implementation Paper):</p> <ul style="list-style-type: none"> • has never been used by nbn; • forms part of the prudency regime applied to expenditure in Module 1; • did not impose any obligations on Access Seekers or Consumer Advocacy Groups; and • does not continue over into Module 2 which commenced on 1 July 2023.
41.	Resources for industry engagement	nbn ’s current proposal provides no commitment to resourcing consumer engagement despite a clear expectation that consumers will engage on technical economic and regulatory matters.	nbn is committed to working with ACCAN and other Consumer Advocacy Groups to ensure consumer input into nbn ’s future Replacement Module Application processes. Whilst it is not currently appropriate that nbn is the source of funding for those bodies representing consumer interests, nbn expects to collaborate with ACCAN and other stakeholders to develop a fit-for-purpose consumer engagement model for future regulatory processes.
42.		<p>Smaller RSPs are disadvantaged because they are not able to engage in product development consultation processes due to their limited resources.</p> <p>nbn proposes to continue to use dedicated account management and operational engagement teams, and the Product Development Forum (PDF) to consult on service standards going forward and the Product Development Forum is limited to customers, access seekers, and consumer advocacy groups.</p>	<p>For effective engagement, the PDF is set up to ensure all Access Seekers can provide their views / appetite for a new or amended product or feature and identify how a specific product proposal would impact them. In addition, the PDF provides access to Consumer Advocacy Groups to ensure that these stakeholder views are taken into account.</p> <p>While nbn is conscious that not all RSPs can dedicate extensive time to PDF consultation, interaction on PDF proposals does not need to take the form of a formal consultation. nbn is dedicated to ensuring all RSPs’ interests are represented – but must balance this with extending the PDF forum beyond what is practical so that managing the forum does not become unnecessarily complex and less effective. For example, if smaller RSPs would prefer to provide feedback to PDF proposals through workshops this method of engagement is already possible under the existing PDF provisions.¹⁰⁸</p> <p>To the extent that an RSP considers they would benefit from the support of an RSP body in responding to a particular proposal, there is the potential to share specific PDF papers with non-PDF members such as IAA – on the basis that confidentiality requirements are observed.</p>

¹⁰⁸ See Schedule 11: Annexure 1 (PDF Processes), section 6.1 of the Amended SAU Variation.



#	Topic	Stakeholder concern	nbn response
43.	Timeframes for consultation	Minimum guaranteed periods for consultation and engagement with consumer representatives are critical to offering consumers reasonable opportunity to engage on matters that materially impact upon them.	Under the Amended SAU Variation, before submitting its Replacement Module Application nbn is required to give Access Seekers and Consumer Advocacy Groups reasonable notice of, and a reasonable opportunity to participate in, consultation on the Relevant Expenditure which nbn proposes to undertake in a Regulatory Cycle. nbn considers that this is appropriate – balancing certainty and flexibility for all parties.
44.	Network boundary point	Proposal that nbn change the network boundary point (to include the FTTC Network Connection Device) for some FTTC services.	nbn is aligned with the ACCC’s assessment that nbn is committed to maintaining the NCD. ¹⁰⁹ Under the Amended SAU Variation the definition of Service Fault confirms nbn ’s responsibility for the FTTC-NCD. The Service Fault definition covers faults with nbn services, including where those faults are contributed to by equipment used by nbn in connection with the supply of that service – by reference to the Product and NBN-Related Network definitions. The Access Component Reactivation definition is consistent with this position as it contemplates nbn replacing a missing or damaged FTTC-NCD at a premises connected to the nbn FTTC Network in connection with a subsequent activation of a service at that premises.

¹⁰⁹ Draft Decision, p.70.

Appendix C Summary of inflation and WACC updates

nbn has maintained the same methodology¹¹⁰ for inflation and the WACC as in the November Variation but we have updated our estimates to the extent there have been movements in relevant market input values over the intervening period – see Table 11 below.

- The inflation expectations and related Cumulative Inflation Factor forecasts are based on the RBA’s Statement on Monetary Policy (SMP), as released on 4 May 2023. Although the RBA released an updated SMP on 3 August 2023, this was not available sufficiently ahead of the lodgement of the Amended SAU Variation to be factored into the inflation and WACC updating process.
- The nominal vanilla WACC estimates are updated based on the most recent data available, the day immediately following the release of the May 2023 SMP (i.e., from 5 May 2023).

Table 11. Updates to WACC parameters and inflation

WACC parameter	Estimate as of November 2022			Estimate as of May 2023		
	Current	Long-term	Midpoint	Current	Long-term	Midpoint
Risk-free rate (for Return on equity)	3.9%	5.0%	4.5%	3.4%	5.0%	4.0%
Equity beta	0.66	0.66	0.66	0.66	0.66	0.66
Market risk premium (for Return on Equity)	7.9%	6.5%	7.2%	7.7%	6.5%	7.1%
Return on equity (nominal, post-tax)	9.1%	9.3%	9.2%	8.6%	9.3%	8.9%
Return on debt (nominal, pre-tax) ¹ – FY24	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
Return on debt (nominal, pre-tax) ¹ – FY25	5.1%	5.1%	5.1%	5.0%	5.0%	5.0%
Return on debt (nominal, pre-tax) ¹ – FY26	5.3%	5.3%	5.3%	5.2%	5.2%	5.2%
Gearing	37%	37%	37%	37%	37%	37%
Nominal vanilla WACC (FY24)	7.6%	7.8%	7.7%	7.2%	7.7%	7.5%
Nominal vanilla WACC (FY25)	7.6%	7.8%	7.7%	7.3%	7.7%	7.5%
Nominal vanilla WACC (FY26)	7.7%	7.9%	7.8%	7.3%	7.8%	7.6%
Gamma	0.585	0.585	0.585	0.585	0.585	0.585
Inflation			3.7%			3.1%

Note Midpoint values are input values taken for the WACC which will apply in each year and refers to the average of current and long-term parameters, which apply only for the return on equity.
¹ – includes 12.5 basis points for debt issuance cost and is calculated as the 10-year trailing average of the 'on the day rate' for each successive year

¹¹⁰ See chapter 18 of nbn’s November Variation Supporting Submission, [nbn Special Access Undertaking Variation 2022 – Supporting submission – Part E: Calculation of nbn’s Regulated Revenue Requirement](#), November 2022.



The decreases in the nominal vanilla WACC estimates as of May 2023 (relative to November 2022) are a function of the net effect of:

- **Decrease in the forecasts of the return on debt¹¹¹ for FY25 and FY26:** The trailing averages based on 10-year non-financial corporate BBB-rated bonds have decreased slightly for FY25 and FY26. This is based on the RBA's F3 Statistical Tables.
- **Decrease in the forecast 'Current' return on equity:** This is a result of the decrease in the short-term expectations of the yield on 10-year Commonwealth Government Securities (from interpolation of the RBA's F2 Statistical Table) and the decrease in the average market risk premium generated from four Dividend Growth Models (calibrated to the long-term market risk premium of 6.5%). Although the estimate from one model increased, the estimates from the three other models decreased, resulting in an average decrease of 0.15 percentage points between November 2022 and May 2023.

nbn notes that the RBA's F16 Statistical Tables data series for Commonwealth Government Securities has been historically used to estimate risk-free rate expectations for equity and debt returns. However, the series was discontinued on 31 March 2023.¹¹² As a replacement, the RBA has recommended the use of the RBA F2 Statistical Table as a substitute. As mentioned above, the F2 series has been used to estimate the risk-free rate for the 'Current' Return on Equity for May 2023.

¹¹¹ The cost of debt includes a 12.5 basis point allowance for debt issuance costs.

¹¹² See: <https://www.rba.gov.au/statistics/tables/changes-to-tables.html>.

Appendix D BBM parameters

As noted in section 3.2, this appendix sets out the updated BBM parameters for the First Regulatory Cycle – see Table 12 below.

Table 12. nbn’s BBM parameters in respect of First Regulatory Cycle¹¹³

Item	Calculated in accordance with / for the purposes of the following clauses	Units	2023-24	2024-25	2025-26
Estimated average annual rate of inflation expectations over the Regulatory Cycle (π)	2G.1.4	Percentage	3.139%	3.139%	3.139%
Cumulative Inflation Factor	2G.1.4	Factor	1.305	1.346	1.388
Statutory company taxation rate	2G.7.2	Percentage	30%	30%	30%
Gamma	2G.7.4	Number	0.585	0.585	0.585
Forecast Nominal RAB (start period)	2G.5.8(b)	\$'000	30,842,758	31,104,482	31,179,072
Forecast Nominal RAB (end period)	2G.5.8(b)	\$'000	31,104,482	31,179,072	31,249,136
Forecast Real RAB (start period)	2G.5.6	\$'000	24,378,397	23,837,122	23,167,167
Forecast Real RAB (end period)	2G.5.6	\$'000	23,837,122	23,167,167	22,512,652
Forecast Capital Expenditure (nominal)	-	\$'000	3,560,428	2,961,651	3,232,175
Forecast Capital Contributions (nominal)	-	\$'000	794,247	106,918	106,835
Forecast Capital Expenditure (nominal) net of forecast Capital Contributions (nominal)	-	\$'000	2,766,181	2,854,732	3,125,340
Forecast Capital Expenditure (real)	2G.5.6	\$'000	2,728,557	2,200,612	2,328,539
Forecast Capital Contributions (real)	2G.5.6	\$'000	608,676	79,444	76,966
Forecast Capital Expenditure (real) net of forecast Capital Contributions (real)	2G.5.6	\$'000	2,119,881	2,121,168	2,251,572
Forecast Real Disposals	2G.5.6	\$'000	-	-	-
Forecast Nominal Disposals	-	\$'000	-	-	-
Forecast Real Depreciation	2G.5.6	\$'000	2,661,157	2,791,123	2,906,088

¹¹³ Real values included in Table 12 are in FY14 terms, reflecting the terms of the SAU.



Item	Calculated in accordance with / for the purposes of the following clauses	Units	2023-24	2024-25	2025-26
Forecast Nominal Tax Depreciation	2G.7.1	\$'000	3,038,681	3,228,606	3,396,811
Forecast nominal regulatory depreciation	2G.2.1	\$'000	2,504,458	2,780,142	3,055,277
Forecast Operating Expenditure (nominal)	2G.2.1	\$'000	2,918,290	2,921,356	2,961,895
Forecast Construction in Progress (start period) (nominal)	2G.2.3(b)	\$'000	2,000,806	1,761,766	1,601,227
Annual Construction in Progress Allowance (nominal)	2G.2.3(b)	\$'000	149,541	132,103	120,903
Forecast Tax Allowance (nominal)	2G.7.2	\$'000	-	-	-
Forecast Nominal ABBRR	2G.2.1	\$'000	7,877,482	8,165,913	8,492,304
Forecast Real ABBRR	2G.2.4(g)	\$'000	6,036,959	6,067,566	6,118,066
Nominal rate of return ($R_t^{nominal}$)	2G.2.4	Percentage	7.474%	7.498%	7.551%
Expected return on equity (Re)	2G.2.4	Percentage	8.939%	8.939%	8.939%
Expected return on debt (Rd_t)	2G.2.4	Percentage	4.979%	5.045%	5.186%
Benchmark gearing ratio (G)	2G.2.4	Factor	37.000%	37.000%	37.000%
Core Regulated Services					
Forecast Nominal Core Services RAB Portion (start period)	2G.5.9(b)	\$'000	30,440,039	30,588,373	30,558,515
Forecast Nominal Core Services RAB Portion (end period)	2G.5.9(b)	\$'000	30,588,373	30,558,515	30,526,658
Forecast Real Core Services RAB Portion (start period)	2G.5.7	\$'000	24,060,084	23,441,598	22,706,071
Forecast Real Core Services RAB Portion (end period)	2G.5.7	\$'000	23,441,598	22,706,071	21,992,161
Forecast Core Services Capital Expenditure (nominal)	-	\$'000	3,432,465	2,840,474	3,111,557
Forecast Core Services Capital Contributions (nominal)	-	\$'000	794,247	106,918	106,835
Forecast Core Services Capital Expenditure (nominal) net of forecast Core Services Capital Contributions (nominal)	-	\$'000	2,638,219	2,733,555	3,004,722
Forecast Core Services Capital Expenditure (real)	2G.5.7	\$'000	2,630,492	2,110,574	2,241,643



Item	Calculated in accordance with / for the purposes of the following clauses	Units	2023-24	2024-25	2025-26
Forecast Core Services Capital Contributions (real)	2G.5.7	\$'000	608,676	79,444	76,966
Forecast Core Services Capital Expenditure (real) net of forecast Core Services Capital Contributions (real)	2G.5.7	\$'000	2,021,816	2,031,129	2,164,676
Forecast Nominal Core Services Disposals	-	\$'000	-	-	-
Forecast Real Core Services Disposals	2G.5.7	\$'000	-	-	-
Forecast Real Core Services Depreciation	2G.5.7	\$'000	2,640,302	2,766,657	2,878,586
Forecast Nominal Tax Depreciation in respect of the forecast Nominal Core Services RAB Portion	2G.7.1	\$'000	3,015,789	3,200,992	3,365,579
Forecast nominal regulatory depreciation in respect of the forecast Nominal Core Services RAB Portion	2G.2.2	\$'000	2,489,885	2,763,413	3,036,579
Forecast Nominal Core Services Operating Expenditure	2G.2.2	\$'000	2,841,290	2,831,431	2,866,503
Forecast Construction in Progress in respect of Core Regulated Services (start period) (nominal)	2G.2.3(c)	\$'000	1,908,249	1,686,983	1,539,430
Annual Construction in Progress Allowance in respect of Core Regulated Services (nominal)	2G.2.3(c)	\$'000	142,623	126,495	116,237
Forecast Core Services Tax Allowance (nominal)	2G.7.3	\$'000	-	-	-
Forecast Nominal Core Services ABBRR	-	\$'000	7,748,892	8,014,953	8,326,692
Forecast Real Core Services ABBRR	2G.2.4(g)	\$'000	5,938,414	5,955,397	5,998,755
Annual Core Services Forecast Revenue	5.3(a)(iv)	\$'000	5,313,438	5,626,860	5,955,471
Forecast Annual RBS Amount	2G.4.1	\$'000	29,297	31,769	40,585

Appendix E SAU Floor and Ceiling Model – further detail on implementation

This appendix sets out further detail on how the SAU Floor and Ceiling Model will be implemented, including some worked examples.

While key aspects of how the SAU Floor and Ceiling Model will be implemented are set out in the Amended SAU Variation, some of the detailed implementation rules below are dealt with in the WBA (consistent with the approach taken under the Current SAU).

Calculation of CVC TC-4 (overage) charges under the SAU Floor and Ceiling Model¹¹⁴

This section sets out the methodology by which CVC TC-4 (overage) charges will be calculated under the SAU Floor and Ceiling Model.

1. **nbn** will calculate, for each individual AVC, a Daily AVC Overage Charge, which is equal to:

$$(Daily\ AVC\ Peak\ Utilisation - CVC\ inclusion) \times Overage\ Charge$$

The Daily AVC Overage Charge will be a value between \$0 and the Maximum Overage Charge, where the Maximum Overage Charge is equal to the difference between the ‘ceiling’ price (initially \$55) and the fixed bundle price for the relevant AVC speed tier (as shown in Table 13 below).

Table 13. Maximum and minimum Overage charges for Bundled TC-4 Offers

Bundled TC-4 Offer	Maximum Overage Charge	Minimum Overage charge
12 Mbps	\$30.60 (\$55.00 - \$24.40)	\$0
25 Mbps	\$29.00 (\$55.00-\$26.00)	\$0
50 Mbps	\$5.00 (\$55.00-\$50.00)	\$0

2. To calculate the CVC TC-4 (overage) charge for a given RSP for a billing period, the Daily AVC Overage Charge for each of that RSP’s AVCs that are part of a Bundled TC-4 Offer are summed to get a total daily CVC TC-4 (overage) charge for the RSP for each day in the billing period. The total daily CVC TC-4 (overage) charges for the RSP are then averaged across the billing period to get a CVC TC-4 (overage charge) for the RSP for that billing period. This is set out in example 2 below.

The methodology set out above ensures that the calculation of the Daily AVC Overage Charge for an AVC *for a given day* is based on the CVC inclusion and Maximum Overage Charge for the speed tier of that AVC *on that day*. For example, if the speed tier of an AVC TC-4 is modified during the billing period from a 25/5 Mbps speed

¹¹⁴ Note that, if a CSA for a given RSP falls under the Overage Waiver Threshold, no CVC TC-4 (overage) will be calculated for any bundled services for that RSP in that CSA. The Overage Waiver Threshold commitment will be set out in WBA5, rather than in the Amended SAU Variation.

tier to 50/20 Mbps speed tier, the Maximum Overage Charge that would apply on and from the day the AVC TC-4 moves to the 50/20 Mbps speed tier would be \$5 (i.e., the Maximum Overage Charge for the 50/20 Mbps speed tier), and the higher CVC inclusion for the 50/20 Mbps speed tier would be factored into the calculation of the Daily AVC Overage Charge on and from the day it is upgraded.

For completeness, a similar pro-rating applies in respect of fixed bundle charges. Where the speed tier of an AVC TC-4 is modified during a billing period, **nbn**'s billing system applies the fixed bundle charge on a pro-rata daily basis to reflect the days on which the original speed tier was supplied and the days on which the new speed tier was supplied.

Note that if an AVC changes speed tier during a day, **nbn**'s billing system treats that AVC based on the speed tier it is assigned at the end of the day, where end of day is based on AEST.

Example 1 - Calculation of Daily AVC Overage Charge for a single AVC

AVC details

- AVC speed tier: 25/5 Mbps
- CVC Inclusions: 0.2 Mbps
- Daily AVC Peak Utilisation: 2.7 Mbps
- Overage Charge: \$5.50 per Mbps

Daily AVC Overage Charge

- (Daily AVC Peak Utilisation – CVC inclusion) x Overage Charge
= (2.7 – 0.2) * \$5.50
= \$13.75

Note that in this example the Daily AVC Overage Charge of \$13.75 is above \$0 and below the Maximum Overage Charge of \$29 for that AVC.

Example 2 – CVC TC-4 (overage) charge for an RSP with multiple AVCs over a billing period¹¹⁵

Assume an RSP has six AVCs and the relevant billing period is five days. The speed tier profiles of these AVCs over the five days of the billing period are set out in Table 14 below. Note that AVCs 4 and 6 change speed tiers during the billing period.

¹¹⁵ Note that the tables in this example do not necessarily mirror the way information will be presented to RSPs in billing files. They are provided here to show the logic flow of how TC-4 CVC (overage) charges will be calculated.

Table 14. Example 2 – AVC speed tier profiles (Mbps)

AVC ID	Day 1	Day 2	Day 3	Day 4	Day 5
1	12	12	12	12	12
2	12	12	25	25	25
3	25	25	25	25	25
4	25	25	50	50	50
5	50	50	50	50	50
6	50	50	100	100	100

The Daily AVC Peak Utilisation for each AVC on each day of the period is set out in Table 15 below.

Table 15. Example 2 – Daily AVC Peak Utilisation (Mbps)

AVC ID	Day 1	Day 2	Day 3	Day 4	Day 5
1	0.31	2.47	0.34	2.05	2.25
2	0.86	1.35	1.43	1.82	0.66
3	1.58	2.00	2.43	0.10	2.13
4	2.00	1.68	1.02	1.75	0.82
5	3.00	4.20	4.50	4.80	5.20
6	2.05	0.38	1.47	1.32	2.13

The CVC Inclusions (based on speed tier) for each AVC on each day of the period are set out in Table 16 below.

Table 16. Example 2 – CVC Inclusions (Mbps)

AVC ID	Day 1	Day 2	Day 3	Day 4	Day 5
1	0.0	0.0	0.0	0.0	0.0
2	0.0	0.0	0.2	0.2	0.2
3	0.2	0.2	0.2	0.2	0.2
4	0.2	0.2	3.5	3.5	3.5
5	3.5	3.5	3.5	3.5	3.5
6	3.5	3.5	0.0	0.0	0.0

The interim step of calculating the daily AVC overage in Mbps for each AVC on each day in the period is set out in Table 17 below (i.e., Daily AVC Peak Utilisation – CVC Inclusions). The values in red text and square brackets are those for which the difference between the Daily AVC Peak Utilisation and CVC Inclusions would result in a Daily AVC Overage Charge either below \$0 (where the red text value is negative, indicating that CVC inclusions for that AVC on that day exceed that AVC’s Daily AVC Peak Utilisation) or above the Maximum Overage Charge (where the

red text is positive, indicating that the AVC’s Daily AVC Peak Utilisation exceeds CVC inclusions for that AVC on that day) for that AVC.

Table 17. Example 2 – Daily AVC Overage (Mbps)

AVC ID	Day 1	Day 2	Day 3	Day 4	Day 5
1	0.31	2.47	0.34	2.05	2.25
2	0.86	1.35	1.23	1.62	0.46
3	1.38	1.80	2.23	[-0.10]	1.93
4	1.80	1.48	[-2.48]	[-1.75]	[-2.68]
5	[-0.50]	0.70	[1.00]	[1.30]	[1.70]
6	[-1.45]	[-3.12]	-	-	-

The Daily AVC Overage Charge for each AVC on each day of the period is set out in Table 18 below. Note that all values are equal to or greater than \$0 and equal to or less than the Maximum Overage Charge for that AVC on that day. Where the Daily AVC Peak Utilisation for an AVC is below the CVC Inclusions for that AVC on that day, the Daily AVC Overage Charge is set at \$0. Where the difference between the Daily AVC Peak Utilisation and CVC Inclusions for an AVC would result in a Daily AVC Overage Charge above the Maximum Overage Charge for that AVC on that day, the Daily AVC Overage Charge is set at the Maximum Overage Charge.

Table 18. Daily AVC Overage Charge (\$)

AVC ID	Day 1	Day 2	Day 3	Day 4	Day 5
1	\$1.72	\$13.57	\$1.85	\$11.25	\$12.36
2	\$4.71	\$7.40	\$6.75	\$8.92	\$2.52
3	\$7.61	\$9.88	\$12.29	\$0.00	\$10.60
4	\$9.92	\$8.16	\$0.00	\$0.00	\$0.00
5	\$0.00	\$3.85	\$5.00	\$5.00	\$5.00
6	\$0.00	\$0.00	-	-	-
Total	\$23.95	\$42.87	\$25.89	\$25.17	\$30.48
				CVC TC-4 (overage) charge for the billing period	\$29.67

Note that in the example above, the Daily AVC Overage Charge for ‘AVC 4’ on days 1 and 2, when it is a 25 Mbps service, is based on a CVC inclusion of 0.2 Mbps and a Maximum Overage Charge of \$29.00. On days 3, 4 and 5, when AVC 4 is a 50 Mbps service, the Daily AVC Overage Charge is based on a CVC inclusion of 3.5 Mbps and a Maximum Overage Charge of \$5.00.