



10 November 2023

By Email: new.developments@infrastructure.gov.au

RE: UNITI GROUP SUBMISSION RE TIND POLICY REVIEW 2023

Dear New Developments Team

Uniti is a leading supplier of fibre broadband infrastructure in new developments under open-access non-discriminatory conditions under a Functional Separation Undertaking. Uniti has extensive experience in operating under the TIND from a fixed broadband perspective and has long expressed a keen interest in expanding its business activities including into neutral-host mobile sites.

Uniti commends the Department on this consultation and the trajectory of its proposals. Uniti agrees that a serious review of the TIND and associated policy and regulatory settings is required to ensure that Australians have timely and effective access to essential communications services including mobile. The government's housing policy and injection of much-needed capital into the social and affordable housing space make this a higher and more urgent priority.

Uniti is increasingly surprised that alternative fibre players such as Uniti are subject to extensive/constantly increasing regulatory requirements, whereas mobile communications services, which communities are likely to regard as equally if not more important, remain largely unregulated. Fixed broadband operators are subject to SIP rules, Functional Separation/Non-Discrimination requirements, the RBS Levy and a swathe of reporting and record-keeping requirements. These regulatory requirements are generally "binary" with the full obligations "turned on" and applying in total as soon as alternative fibre players pass a nominal size (e.g. 12,000 premises for RBS purposes).

In this context, it seems increasingly odd that such a prescriptive, extensive and escalating policy approach backed by extensive legislative and regulatory requirements is applied to ensure the availability of fixed broadband in new developments, yet there are no policy, legislative or regulatory requirements which require the provision of mobile coverage. Uniti, therefore, fully supports the trajectory of the revised TIND policy, but has a number of suggestions as to how to maximise the prospects of significant steps forward for the benefit of Australian communities.

Uniti's submissions apply to greenfield single dwelling units and rooftops for multi-dwelling units; i.e. apartment buildings.

Uniti submits that:

1. A mere policy statement is unlikely to produce results given the significance of the change, the entrenched inertia and incentives and evidence that even the extensive fixed broadband policy, legislative and regulatory framework has not resulted in compliance with key requirements from many of Uniti's competitors (fibre ready facilities, wholesale-only/non-discrimination). The

complexity of the proposed policy change and the potential resistance or at least very different incentives of the mobile network operators (MNOs) should not be underestimated.

Government should consider introducing a regulatory framework simultaneously even if in the form of a binding industry code or other “lighter” regulatory instrument. If government does not take this path, it is essential to outline a modest but specific time period (e.g. 6-12 months) to test whether the policy change has any significant desired effect, and be prepared to move very quickly at that stage if it has not.

2. Unifi also submits that the TIND must introduce some principles to guide developers, mobile network infrastructure providers (MNIPs) or MNOs on key parameters to maximise public benefit. For example, in new developments it should be entirely possible to install a single tower which can accommodate all three MNOs, rather than allowing the current approach under which communities often end up bearing the environmental and visual amenity costs of multiple towers which add no incremental value, coverage or capacity.

The TIND should specify that the objective should be maximum multi-carrier coverage with the minimum number of sites, a default principle that a single shared site must be prioritised and multiple separate sites are only permitted if extensive efforts to deliver a single site have failed.

3. Unifi is also concerned that two different sets of concepts have each been conflated in the consultation paper since there seems to be an assumption that:
 - a) mobile infrastructure is only provided by “carriers” (which seems to be used as a synonym for an even narrower concept of “mobile network operators”); and
 - b) SIP rules only apply to and guarantee NBN services as opposed to guaranteeing fixed broadband services for all registered SIPs including Unifi.

On the former topic, the consultation proposes that developers need to engage with “carriers”. However, much passive mobile infrastructure is provided by non-carrier MNIPs and these at least should be explicitly recognised in the revised policy. Otherwise, MNOs will be tempted to hold the policy up as evidence that only they can control this bottleneck infrastructure.

Unifi considers that there is in fact a strong case in the context of the TIND to specifically prioritise and encourage, or even to require, engagement with third-party neutral hosts which are not controlled by an MNO. The purpose of the TIND is to maximise the benefit to new developments, and therefore should aim to maximise the prospects of multi-carrier coverage rather than encouraging the slow delivery of a frustrating patchwork of unique coverage from different mobile networks. The primary incentive of MNOs will always be to maximise their own coverage and commercial position, whereas neutral hosts will have far stronger incentives to identify and deliver sites which maximise the chances of all MNOs joining sites and delivering the coverage communities expect. The policy should at least recognise and encourage engagement with MNIPs and neutral hosts as this maximises the prospects of the multi-carrier coverage which communities need as opposed to proprietary coverage from a single carrier which leaves residents with no choice.

Uniti strongly suggests that government should in fact require any new greenfield and MDU rooftop wireless passive infrastructure deployments to be only via multi-carrier neutral hosts which are not controlled by an MNO. This maximises the prospects of securing multi-carrier coverage and provides a third party to manage the process of site selection since MNOs are likely to have divergent views which unnecessarily produces duplicative infrastructure. With an increasing focus on sustainability and climate change, Australia should not promulgate a policy which is likely to produce a slow patchwork of duplicated concrete and steel with little benefit in terms of increased coverage.

On the latter, the consultation paper seems to conflate “fibre” with “NBN”. For example, the paper states:

“There are two relevant Parts under the Telecommunications Act 1997 (the Tel Act) that currently support fixed line infrastructure requirements under the TIND Policy. These are: • Part 20A of the Tel Act, which sets out requirements for developers to install fibre-ready facilities in proximity to building lots or building units prior to sale or lease; and • Part 19 of the Tel Act, which sets out the statutory infrastructure provider (SIP) regime. This makes NBN Co the default SIP for the whole of Australia, thereby ensuring NBN Co is available to provide broadband telecommunications infrastructure if required.”

Uniti would request that the Department consider how statements such as this might unintentionally give the impression that NBN is the only “government approved” option, or the only option backed by legislative, consumer and competition guarantees.

4. Uniti also submits that any significant changes in TIND policy need to be accompanied by a significant communications exercise as the policy affects a surprisingly large number of players across several different industries including developers, fixed broadband players, MNIPs and MNOs and there is already patchy understanding of the existing TIND. For example, this should include a checklist of requirements so that developers and others have a clear understanding of the key elements of the TIND.
5. Uniti strongly supports the inclusion of the principle that “developers building multi-unit buildings should also provision in-building pathways and risers” as the costs and complexities of retro-fitting such infrastructure are exponentially higher, again with no value added above and beyond planned installation during development.

Uniti would be pleased to answer any questions or provide further submissions and is available to meet on this or other topics at the Department’s convenience.

Best regards

DocuSigned by:

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Dan Lloyd