

Broadband Investment Fund – Draft Urban Criteria

Outcome Sought

The deployment of high speed broadband connections to key businesses and users in the health and education sectors (tertiary institutions, schools and health organisations) in urban centres and their surrounds, with all operators having the opportunity to access the underlying passive infrastructure.

Objectives in Providing Seed Funding

The eligibility criteria will achieve the following:

- enabling the provision of rich media applications through the deployment of high-speed broadband connections to businesses and users in the health and education sectors;
- promoting competition at the deepest level of the network through the deployment and wholesaling of passive infrastructure (ducting and dark fibre) on an open access basis;
- building the competition and infrastructure necessary at a local level to provide the telecommunications sector with a stepping stone for future network expansions (fixed and wireless), including achieving the high-level goal of widespread fibre-to-the-home within a decade; and
- ensuring that local traffic on supported networks can remain local by providing for peering points and points of interconnection, operating on a non-discriminatory basis.

Process

There is a two-staged process for applying for funding:

- **Stage One: *Expressions of Interest***: the purpose of which is to satisfy the decision-maker that the proposal is sufficiently robust to merit consideration of a full application; and
- **Stage Two: *Full Application***: those applications that were successful at the Expression of Interest stage will subsequently be considered against:
 - Eligibility Criteria: these conditions are required to be met in order for the project to be assessed for funding; and
 - Assessment Criteria: these are weighted considerations against which the decision-maker will exercise its discretion on whether to allocate funding.

Expressions of Interest

Expressions of Interest will be assessed on the nature of the project, the expected outcomes, and the likelihood that applicants will meet the Eligibility Criteria by the time that full applications are to be submitted.

Applicants at the Expression of Interest stage are required to submit a proposal (suggestion of 10-20 pages) that demonstrates, amongst other aspects:

- (a) likely levels of co-investment and support from local authorities and/or local providers (in-kind or otherwise);
- (b) the extent to which the Network will be new infrastructure, an extension of existing infrastructure or a combination of both;
- (c) the likely number of Key Public Users and businesses that will be targeted to receive connections;
- (d) projected demand scenarios and anticipated levels of usage (these are projections only and do not need to be finalised);
- (e) the proposed business model of the applicant, including reference to open access principles, wholesale and retail services, if applicable;
- (f) the nature and experience of proposed business partners and their potential role in this proposal; and
- (g) an estimate of the likely total project cost, contribution from the applicant and partners, and the likely level of funding needed from central government to complete the project.

Applicants must also complete an Expression of Interest application form, which will require:

- (a) applicant comment on each of the Eligibility Criteria (Section A) of the full application (note: eligibility criteria do not need to be met at this stage); and
- (b) confirmation that the applicant has taken the Assessment Criteria (Section B) into account and that they consider they have a reasonable chance of being successful at the full application stage.

Full Application

The key terms used in this application can be found in Section C: Index of Terms.

Section A: Eligibility Criteria

An application is required to meet each of the following criteria before the application will be considered for funding under the Assessment Criteria in Section B. The decision-maker retains full discretion in determining whether an application is deemed to meet these criteria.

1. Nature of the Applicant

1.1 The Applicant will be a legal entity applying in its own right or on behalf of a formally defined Partnership (the Applicant).

2. Nature of the Project

2.1 The application will relate to a Project that will invest in new and/or upgraded broadband access capability (the Network).

2.2 The application will specify the geographic area that the Network will cover (the coverage area).

2.3 The decision-maker may determine that a part of an application that does not involve direct connection to End-Users (and therefore does not meet the definition of a Network in clause 2.1) is nevertheless eligible for funding if the decision-maker is satisfied that:

- (a) The part of the application is for broadband capability that links the Network with another network or networks; and
- (b) The application demonstrates a particular need for investment in such capability.

3. Wholesale and Open Access Requirements

3.1 The application will demonstrate that the Network Entity will, as a minimum offering, make Infrastructure Services available to all Third Party Service Providers on a fair and non-discriminatory basis.

3.2 The application will demonstrate that where the Network Entity chooses to offer Bearer Services and/or Application Services to any End-User or Third Party Provider, the Network Entity will make access to Bearer Services available to all Third Party Service Providers on a fair and non-discriminatory basis.

3.3 The application will demonstrate that the Network Entity will comply with the following features:

- (a) Where the Network Entity provides Infrastructure Services, Bearer Services and/or Application Services, it will do so in an unbundled manner, so that an End-User who purchases only one of these services from the Network Entity can do so on the same terms and conditions as

an End-User who purchases more than one of the above services from the Network Entity;

- (b) Any End-User will be able to purchase any permutation of Infrastructure Services, Bearer Services, and Application Services from any combination of the Network Entity, and any number of Third Party Service Providers;

3.4 The application will demonstrate that the physical and logical design of the Network, and any technologies used as part of the Network, will support the requirements in clauses 3.1, 3.2 and 3.3.

3.5 The application will demonstrate that the Network Entity will facilitate interconnection services that enable Third Party Service Providers to be connected to the Network in a manner that supports the requirements in clauses 3.1, 3.2 and 3.3, and meets the requirements set out in Appendix 1: Interconnection Requirements.

3.6 The application will demonstrate that the ownership and governance arrangements of the Network Entity, and the operational and commercial strategies and processes of the Network Entity, support the open access features stated in clauses 3.1, 3.2 and 3.3.

3.7 Should the application be successful, the Applicant will consent to taking sufficient safeguards to maintain the open access features stated in clauses 3.1, 3.2 and 3.3 over the long-term.

4. Fit for Purpose Requirements

4.1 The application will demonstrate that the applicant has made all reasonable endeavours to provide, as a minimum, Passive Infrastructure to all relevant Key Public Users in the coverage area.

[Note to Applicants: the number of these entities that will receive a connection is a primary consideration for assessing whether projects will be allocated funding under Section B].

5. Government Funding

5.1 The application will demonstrate that funding allocated from the Broadband Investment Fund will not account for more than 50 percent of the total cost of the Project.

5.2 The Applicant's contribution towards the total cost of the Project will be clearly outlined as specified in Appendix 2: Valuation Methodology.

[Note to Applicants: the relative proportion of the total Project cost that is sought from the Broadband Investment Fund will be a key consideration for assessing whether projects will be allocated funding under Section B].

Section B: Assessment Criteria

The following assessment criteria will be used by the decision-maker when considering applications that are deemed eligible under Section A. The decision-maker retains full discretion in whether or not to approve funding under these criteria and reserves the right to approve funding for a lesser amount than that sought by the applicant.

The assessment criteria will be accorded the following indicative weightings by the decision-maker (with specific weightings outlined in the text below):

- 30% - *Demonstration of the Project's Benefits*
- 30% - *Commitment of the Applicant, including any partners*
- 25% - *The Capability of the Applicant*
- 15% - *The Network Entity's Sustainability and Potential for Expansion*

6. Demonstration of the Project's Benefits (30%)

6.1 Applications will be assessed on the provision of documentation that supports the likelihood of the Project achieving the following objectives:

- (a) provision of significant community benefits; and
- (b) satisfaction of a community demand that has not been met by existing commercial providers.

6.2 The following matters may be relevant in relation to clause 6.1:

- (a) the extent of the Network's coverage, including the number of Key Public Users that are provided with Passive Infrastructure connections;

- (b) the network capability to service the broader community, including business users;
- (c) the nature of unmet community demand that is likely to be satisfied by the Project;
- (d) the degree to which the Network does not unnecessarily duplicate similar infrastructure;
- (e) the degree to which the Network is able to support a number of access technologies (i.e. as a 'last mile' and/or backhaul solution for other 'local loop' technologies within an urban location);
- (f) the degree of alignment and integration of the Project with other community, regional, and national Information and Communication Technology initiatives (including where relevant any Digital Strategy 2.0 initiatives and the One Plan for Auckland); and
- (g) any other information or factors the decision-maker considers, in its sole discretion, to be relevant.

7. The Commitment of the Applicant, including any partners (30%)

7.1 Applications will be assessed on the level of ongoing commitment from the Applicant, including financial and/or in-kind contributions. Applications will be assessed on the likelihood that:

- (a) the Applicant will bring a significant level of financial and in-kind contributions to the project (which must be at least 1:1 and for which higher levels of private co-investment will be preferred); and
- (b) the Applicant will have sufficient and evidenced aggregated demand to ensure the viability of the capital expenditure needed to complete the Project (and confirmed through the Business Plan).

7.2 The following matters may be relevant in relation to clause 7.1:

- (a) the relative proportion of the total Project cost that is sought from the Broadband Investment Fund as compared to other Projects;
- (b) the proportion of financial or in-kind contributions from non-government sources, including monetary, infrastructural or other in-kind assets;
- (c) the extent of involvement and support (not required to be financial) from local authorities and/or regional economic development agencies;
- (d) the relativity between the level of funding sought from government and the number of Passive Infrastructure connections provided to Key Public Users and businesses;
- (e) the extent to which government funding is needed to ensure the viability of the Project;
- (f) the level of indicated aggregated demand, including commitments from current or potential broadband users in a given sector or geographical region; and
- (g) any other information or factors the decision-maker considers, in its sole discretion, to be relevant.

8. The Capability of the Applicant (25%)

8.1 Applications will be assessed on the likelihood that the Project is capable of being successfully delivered. Applications will be assessed on whether the capability of the Applicant:

- (a) is sufficient to ensure the Project meets the requirements set out in the eligibility criteria; and
- (b) is sufficient to ensure the timely achievement of the Project.

8.2 The following matters may be relevant in relation to clause 8.1:

- (a) the level of relevant expertise available to the Applicant;
- (b) the experience and track-record of the proposed implementers of the Project;
- (c) the robustness of the proposed governance and ownership arrangements and the extent to which they support the requirements set out in the eligibility criteria;
- (d) the financial viability and management capability of the Applicant and the extent to which they support the requirements set out in the eligibility criteria;
- (e) where a Partnership is involved, the steps the parties in the Partnership will take to ensure there is no opportunity for conflicts of interest when dealing with any potential customer;
- (f) evidence of effective project planning for all stages of the Project;
- (g) the Applicant's assessment of risks and ability to mitigate risks; and
- (h) any other information or factors the decision-maker considers, in its sole discretion, to be relevant.

9. The Network Entity's Sustainability and Potential for Expansion (15%)

9.1 Applications will be assessed on the likelihood that they will deliver a long-term, scalable broadband solution, including the likelihood that:

- (a) the Network Entity is sustainable beyond the term of any government grant (as evidenced in the Business Plan); and
- (b) the Network Entity has the capacity and potential to expand in the future.

9.2 The following matters may be relevant in relation to clause 9.1:

- (a) the likelihood of the Network Entity attaining a positive cash-flow within its first four years of operation;
- (b) the extent to which the Network Entity will be able to attract non-government equity investment to fund any expansion;
- (c) the extent of market opportunities that are feasibly available to the Network Entity as potential avenues for any expansion;
- (d) the level of scalability or excess capacity in the infrastructure aspects of the Project;
- (e) the Network Entity's proposed wholesale services and pricing methodologies;
- (f) the extent to which the Network is designed so that the Passive Infrastructure can potentially be extended to provide fibre-to-the-home services in the future (implementation not required);
- (g) the capability of the Network Entity to maintain the Open Access features stated in clause 3 of the eligibility criteria over the long-term;
- (h) where relevant, the extent of the Network Entity's commitment to open and transparent reporting of performance (financial and build-out), including reporting on the use of public funds; and
- (i) any other information or factors the decision-maker considers, in its sole discretion, to be relevant.

Section C: Index of Key Terms

'Applicant' means the entity who is applying for funding under this programme.

'Application Service' means a service carried by a Bearer Service over the Network (e.g. email, ISP services).

'Bearer Service' means provision of an active transmission service over the Network to an End-User or Third Party Service Provider.

'End-User' means a user of any of the Bearer or Application Services provided over the Network.

'Infrastructure Service' means access to Passive Infrastructure.

'Key Public Users' means including, but not limited to, health organisations, tertiary institutions, schools and municipal entities.

'The Network' means any combination of capability, including Infrastructure, Bearer or Application Services that allow an End-User, within a defined coverage area, to be connected with any other End-User connected to the same capability within the coverage area and/or to any Third Party Service Provider interconnected to the capability.

'Network Entity' means the legal entity that is the final owner and/or controller of the Network.

'Partnership' means the group of organisations, persons, and customers acting collaboratively on the Project, including but not limited to a partnership under the Partnership Act 1908.

'Passive Infrastructure' includes, where available, one or more of passive duct and/or micro-duct services, the supply of aerial pole access way services, or the supply of passive dark fibre optic services.

'The Project' means the proposed set of actions that will result in the creation of an operational Network.

'Third Party Service Provider' means any other service provider which offers a type of telecommunications service independent of the Network Entity, including, but not limited to Infrastructure Service Providers, Bearer Service Providers and Application Service Providers.