

# National Broadband Network (Tasmania) Bill 2010

## FACT SHEET

The purpose of the *National Broadband Network (Tasmania) Bill 2010* is to support the introduction of an 'opt-out' model for connecting premises to the National Broadband Network (NBN) as it is rolled out in Tasmania.

Stage 1 of the NBN roll-out in Tasmania has been completed with NBN Tasmania, in conjunction with Aurora Energy, installing new 'backbone' optical fibre from George Town to Scottsdale and through to St Helens; from Port Latta to Smithton; from Cambridge to Midway Point; and from Midway Point to Triabunna. The fibre to the premises (FTTP) roll-out has also occurred in the three 'smart towns' of Midway Point, Scottsdale and Smithton.

Design work has begun on Stage 2, involving FTTP footprints in 10 000 premises in Sorell, Deloraine, George Town, St Helens, Triabunna, Kingston Beach and South Hobart. The Commonwealth Government has also announced details of the Stage 3 roll-out, to cover 86 000 premises in the major population centres of Hobart, Launceston, Devonport and Burnie.

During Stage 1 of the roll-out, optical fibre connections were offered free-of-charge as premises were passed. The written consent of property owners was obtained before the connection was installed and overall around 50 per cent of property owners provided the necessary approval to enable them to take up a free connection. While this is a good early result, it is important to increase the participation rate and provide every opportunity for all Tasmanian households, businesses, schools and hospitals that want access to super-fast broadband to get it easily and efficiently.

Moving to an 'opt-out' connection model will enable all accessible premises to be automatically connected, free-of-charge, to the NBN, as the distribution network is being rolled out across the State, unless they actively choose not to do so. Property owners who choose to decline the offer of connection may connect at a later time, although costs may apply.

An 'opt-out' connection model will maximise the opportunity for as many properties as possible to be connected to the NBN during the roll-out stages, thereby increasing the efficiency of the roll-out and reducing the future cost to taxpayers of connecting these properties at a later time.

**The Bill allows an 'opt-out' connection process to be followed for connecting premises to the NBN distribution network at the time of construction of the network in the area that the premises is situated. It does not apply once construction of the distribution network has been completed in any given area.**

This will ensure that powers of entry onto land are limited to the period during which the roll-out of the NBN distribution network is occurring in the street, suburb or area in which premises are located. If a property owner chooses to decline the offer of connection made during this period, the 'opt-out' process no longer applies. While an owner can request connection at a later time, charges may apply.

Nothing in the Bill obliges the installer of the connection to premises (the installer) to connect premises during or after the roll-out period.

**Under the Bill, the 'opt-out' process only applies to the connection to premises, which means the installation of an aerial or underground optical fibre cable from the NBN distribution network to the outside of the relevant premises, and all works necessary for the purposes of connecting those premises.**

Subject to an owner declining connection in accordance with the 'opt-out' process set out in the Bill, the Bill allows the installer to enter onto and remain on land to attach an aerial or underground optical fibre cable to the outside of the premises. This includes the attachment of a premises connection device and, in limited circumstances, may include the installation of an external optical network terminal. While the Bill allows the installer to undertake all works necessary for this purpose, including trenching, digging and clearance of vegetation where applicable, these must be done in a way that minimises their impact on the land and the activities of the owner and occupier. The Bill in no way authorises the installer to enter premises.

Installation of the connection does not mean that the occupier can activate services. For this to occur, the occupier will need to engage a retail service provider.

**The Bill establishes a process to maximise the number of properties connected during the roll-out stages while safeguarding the rights of property owners who choose to decline the offer of connection.**

The Bill requires the installer to notify the property owner, and the owner of any adjoining land that the installer intends the cable connection to pass over or under, that the installer intends to connect the premises to the NBN. This includes providing the owner, and the owner of any relevant adjoining land, with 28 days within which to elect not to have the connection installed or, in the case of the adjoining land owner, pass over or under their land. Property and adjoining land owners may also make submissions on the placement and route of the connection cable during this 28 day period.

Where no notice of election is received by the installer, the Bill provides that the owner, and the owner of adjoining land where relevant, are taken to have consented to a connection cable being installed and where relevant traverse adjoining land. The installer must then give ten business days notice to the occupier of the premises, and the occupier of any relevant adjoining land, of the date and type of work to be undertaken (for example, aerial connection works or digging and trenching

works for an underground connection). The installer must also take into account any submissions about the placement and route of the cable before proceeding with the installation.

Once installed, the Bill allows the owner of premises or adjoining land to request the removal of the connection cable in certain circumstances, for example where it has been mistakenly installed despite the owner's election not to have it installed or where the installer has otherwise failed to serve a notice of intention to install on the owner. Removal must be requested within six months of the installation and must be completed within 60 days of a request.

**The Bill requires the installer to remedy any damage to land or property occasioned during installation or pay compensation to the owner.**

Under the Bill, the installer must notify the owner and occupier if any land or property is damaged or destroyed during installation of the connection cable. The installer must either remedy the damage as soon as practicable or pay reasonable compensation. The Bill sets out a process for resolving any disputes about the amount of compensation payable.

**The Bill enables the installer to authorise officers to enter onto land and undertake cable connection works on behalf of the installer.**

The Bill requires that authorised officers be provided with an identity card that identifies them and the installer and the fact that they are authorised to undertake connection works under the Bill. This card must be produced on request to the owner or occupier of premises before the authorised officer can carry out, or continue to carry out, cable works. While the Bill makes it an offence to refuse or obstruct an authorised officer from entering onto, or remaining on, land the Bill requires the authorised officer to leave the land in these circumstances.

The Bill also contains liability and indemnity provisions in relation to the installer and authorised officer and some other offence provisions, including an offence for maliciously damaging or interfering with a connection cable.