



In Confidence

# Cabinet

CAB Min (08) 31/10

## Minute of Decision

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### Implementation of the Broadband Investment Fund

Portfolio: Communications and Information Technology

On 11 August 2008, following reference from the Cabinet Policy Committee, Cabinet:

#### Background

- 1 noted that, in April 2008, the Cabinet Business Committee (CBC) agreed the priorities for the government accelerating investment in broadband infrastructure in urban centres, in rural regions, and regarding international connections [CBC Min (08) 10/12];
- 2 noted that the recent consultation period on the Broadband Investment Fund (the BIF) has resulted in a large number of submissions, and that the Ministry of Economic Development has taken these submissions into account when finalising the criteria and process;

#### Urban eligibility and assessment criteria

- 3 noted that, under the final urban eligibility and assessment criteria:
  - 3.1 only applicants for whom more than 75 per cent of their project costs relate to deploying open access ducts with associated open access dark fibre will be eligible for the highest rate of government funding (up to 50 per cent);
  - 3.2 applicants for whom more than 75 per cent of their project costs relate to deploying open access ducts alone, open access ducts with closed access dark fibre, or open access dark fibre, will be eligible for a slightly lower rate of government funding (up to 33 per cent);
  - 3.3 applicants whose project costs are otherwise composed (e.g. because they relate mainly to bearer services) will be eligible for only up to 10 per cent government funding;
  - 3.4 these percentages are maximums, and that preference will be given to projects that offer higher leverage ratios;
  - 3.5 the onus is on applicants to choose the levels at which they wish to offer open access, to encourage greater participation in the application process;

- 3.6 the criteria stress that preference will be given to those applicants who offer open access at the deepest layers;
- 3.7 to prevent open access requirements from being frustrated by high pricing, the final criteria include a mechanism for controlling the wholesale prices that successful applicants offer to competitors;
- 3.8 applicants will have to specify in their applications:
  - 3.8.1 fund pricing principles: the wholesale pricing methodology that they will apply for the life of the project (being at least five years). Strong preference will be given to applicants whose proposed prices are cost-oriented;
  - 3.8.2 predictable prices: the actual prices that applicants will apply for the first three years of their network's operation. They will have to commit to limiting any increase in charging to no more than 10 per cent more than the indicated prices during that period (excluding the effects of the Producer Price Index);
- 4 **agreed** to the final urban eligibility and assessment criteria for the BIF in Appendix Two of the paper under CAB (08) 420, subject to any minor editing changes;

#### **Rural eligibility and assessment criteria**

- 5
  - 5.1 **noted** that the rural eligibility and assessment criteria were drafted to support projects which extend broadband coverage to communities that do not have a terrestrial-based broadband service;
  - 5.2 **noted** that the criteria are aimed at the deployment of broadband infrastructure such as backhaul and access links that will support high coverage of 1 Mbps service and significant 5 Mbps coverage;
  - 5.3 **noted** that a bundled urban and rural bid will be considered where it is clear that the rural component is significantly small in comparison to the urban component, for example small rural areas on the fringe of major urban conurbations;
- 6 **agreed** to the final rural eligibility and assessment criteria for the BIF in Appendix Three of the paper under CAB (08) 420, subject to any minor editing changes;

#### **Timing of applications**

- 7 **noted** that a majority of submitters on the BIF considered that the proposed process was unnecessarily lengthy, particularly for a number of likely applicants that are known to have already developed business cases;
- 8 **noted** that it is unlikely to be feasible for the Cabinet Policy Committee to be able to make informed final funding decisions before December 2008;
- 9
  - 9.1 **noted** there is a greater risk of judicial review of decisions if both slow and fast-track processes are run in parallel than would be the case for a single-track process;

9.2 **noted** that there may also be risks if timeframes for evaluation processes and funding decisions are shortened;

10 **agreed** to a parallel application process whereby applicants have the option of submitting their application at an earlier date, based on the following:

	Stream A: Two-step application process	Stream B: Fast-track
Criteria released	August 2008	August 2008
Expression of Interest due	September 2008	-
Decision made on expression of interest	October 2008	-
Full application due	February 2009	End September 2008
Decision made on full application	May 2009	December 2008

11 **agreed** that this parallel application process is a one-off process and that expressions of interest will subsequently be due every twelve months, starting from 31 July 2009, with full applications due six months later, starting from 31 January 2010;

12 **noted** that in April 2008, CBC agreed that no more than 30 per cent of the total appropriation for urban or rural projects can be allocated in any given financial year [CBC Min (08) 10/12];

13 **agreed** that the cap of 30 per cent per funding round referred to in paragraph 12 above be raised to 40 per cent and be subject to reassessment at the end of year one;

#### Decision-making process

14 **noted** that in April 2008, CBC agreed that Cabinet has responsibility for making the final decisions on which projects will be supported, with recommendations provided by the Digital Strategy Steering Group (the DSSG) [CBC Min (08) 10/12];

15 **authorised** the Minister for Communications and Information Technology to make the decisions on which expressions of interest (EOI) should be invited to submit full applications for funding, with recommendations provided by the DSSG;

16 **directed** the Chief Executive of the Ministry of Economic Development to appoint a sub-group for the DSSG, with appropriate representation from independent experts, tasked with assessing proposals and providing advice to Ministers;

#### Applicant support

17 **noted** that applicants will have applicant assistance documentation available to them, including applicant guidelines, the Broadband Friendly Protocol, and the Broadband Know How Guide, and will be able to direct enquiries to the BIF Programme Manager (or his or her delegate);

- 18 **agreed** that EOI applicants be entitled to apply for funding to assist them in the preparation of their full applications, but that:
- 18.1 such assistance funding is predominantly aimed at local authorities and organisations representing community interests;
  - 18.2 applicants who choose to proceed straight to the full application will have no right to apply for such funding;
- 19 **agreed** that EOI applicants who apply for assistance funding should be able to apply for no more than ten per cent of the BIF financing requested, within a limit of \$100,000;
- 20 **agreed** that applicant assistance funding will not need to be refunded if applicants are unsuccessful at the full application stage;

### **Demand aggregation and the Broadband Investment Fund**

- 21 **noted** that, in April 2008, CBC agreed in principle, subject to a report by 30 July 2008, that a maximum of \$40.0 million of the funding allocated to support urban fibre projects through Vote Communications Accelerating Broadband, would be kept available to support demand aggregation initiatives within the state sector [CBC Min (08) 10/12];
- 22 **noted** that on 6 August 2008, the Cabinet Policy Committee:
- 22.1 agreed to the establishment of a Joint Procurement Group to facilitate demand aggregation for broadband services;
  - 22.2 approved the transfer of \$5.0 million from Vote Communications to Vote State Services to support increased usage costs in up to four proof-of-concept pilots, from within the \$40.0 million previously allocated in principle to demand aggregation;

[POL Min (08) 14/24]

### **International connections and the Broadband Investment Fund**

- 23 **noted** that in April 2008, CBC:
- 23.1 agreed that the priority for the government regarding international connections is to facilitate the deployment of a trans-Tasman cable to provide increased resilience to New Zealand's international communication links and to place downward pressure on the pricing of international bandwidth;
  - 23.2 noted that \$15.0 million (capital) in 2008/09 has been made available through Budget 2008 to support the deployment of another international cable;

[CBC Min (08) 10/12]

- 24 **noted** that the Research and Education Advanced Network New Zealand (REANNZ) Board has put a proposal to the Minister for Communications and Information Technology that REANNZ undertake an open tender process based on the Budget 2008 parameters and subject to conditions that will require:

- 24.1 an open tender process (i.e. open to all interested commercial participants);
  - 24.2 the purchase of a transferable right of use (so that if REANNZ's role changes in the future, that right can be transferred to another Crown agency);
  - 24.3 consistency with the agreed public policy objectives for the use of the funding (i.e. improved resilience and downward pressure on pricing for international bandwidth);
- 25 **authorised** the Minister for Communications and Information Technology to approve the terms for REANNZ conducting the tender process, and to the Request for Information documentation;
- 26 **authorised** the Minister of Finance and the Minister for Communications and Information Technology to approve the use of the \$15.0 million for this project once the tender process has concluded;

### **Fiscal implications**

- 27 **noted** that, in April 2008, Cabinet:
- 27.1 established the Non-Departmental Output Expense "Accelerating Investment in Broadband Infrastructure" in the 2008 Budget to develop and implement mechanisms to accelerate investment in broadband infrastructure;
  - 27.2 appropriated funding totalling \$325.0 million over five years from 2008/09;
  - 27.3 directed the Ministry of Economic Development, in consultation with the Treasury, to report to the appropriate Cabinet committee on the details of the proposed mechanisms prior to any funding being allocated;
- [CAB Min (08) 14/1(8) Initiative 4654]
- 28 **agreed** to establish the current Non-departmental Output Expense "Accelerating Broadband" (the Fund) as a five-year Other Expense to be incurred by the Crown appropriation in Vote Communications;
- 29 **agreed** that the scope of the multi-year Other Expense be "This appropriation is limited to the delivery of increased investment in broadband infrastructure";
- 30 **noted** that funding will be required for administering the Fund, including (but not limited to) design, implementation and evaluation;
- 31 **agreed** to establish the Departmental Output Expense "Administration of Broadband Investment Mechanisms" as an annual appropriation in Vote Communications;
- 32 **agreed** that the scope of the Departmental Output Expense be "This appropriation is limited to developing mechanisms and administering and monitoring grant funding to deliver increased investment in broadband infrastructure";

- 33 **approved** the following changes to appropriations to put into effect the proposals in paragraphs 28 to 32 above, with no impact on the operating balance;

	\$m – increase/(decrease)				
	2008/09 to 2012/13				
<b>Vote Communications Minister for Communications and Information Technology</b>					
Other Expenses to be Incurred by the Crown:					
Accelerating Broadband	308.750				
Departmental Output Expense: Administration of Broadband Investment Mechanisms (funded by revenue Crown)	3.250	3.250	3.250	3.250	3.250
Non-departmental Output Expense: Accelerating Broadband	(65.000)	(65.000)	(65.000)	(65.000)	(65.000)
Total Operating	-	-	-	-	-

- 34 **noted** that the indicative funding profile for the multi-year appropriation in paragraph 28 above is as follows:

	\$m – increase/(decrease)				
Indicative annual spending profile	2008/09	2009/10	2010/11	2011/12	2012/13
Operating Balance Impact	61.750	61.750	61.750	61.750	61.750

- 35 **agreed** that the proposed changes to appropriations for 2008/09 above be included in the 2008/09 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;
- 36 **authorised** the Minister of Finance and the Minister for Communications and Information Technology, whereby the annual appropriation “Administration of Broadband Investment Mechanisms” is specifically established to make the costs of administering the Fund transparent, to transfer:
- 36.1 up to \$1.6 million per year from the Fund to the Departmental Output Expense “Administration of Broadband Investment Mechanisms”;
- 36.2 any unspent funding from the same Output Expense to the multi-year appropriation;
- 37 **noted** that on 6 August 2008, the Cabinet Policy Committee authorised the transfer of \$5.0 million out of the multi-year appropriation proposed in paragraph 28 above, to be spent on demand aggregation pilot projects [POL Min (08) 14/24];

#### Future evaluations

- 38 **directed** the Ministry of Economic Development to report to the Minister for Communications and Information Technology by December 2008 on:
- 38.1 a review of the implementation of the first funding round of the BIF;

- 38.2 a policy review of the eligibility criteria;
- 38.3 a review of the Departmental Output Expense administrative allowance.

*Rebecca Kitteridge*

Secretary of the Cabinet

Reference: CAB (08) 420; POL Min (08) 14/25; POL (08) 221

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**Distribution:**

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