

On behalf of the Māori Economic Taskforce as appointed by the Minister of Māori Affairs

27 April 2009

Broadband investment submissions
ICT Regulatory Group
Energy and Communications Branch
Ministry of Economic Development
PO Box 1473
WELLINGTON

Copies to:

Hon Steven Joyce
Minister of Information and Communication Technology

Hon Dr Pita Sharples
Minister of Māori Affairs

Tēnā koe

Government Broadband Investment Initiative

Please find attached a submission on behalf of the Māori Economic Taskforce, with Te Huarahi Tika Trust (formerly known as the Māori Spectrum Trust) on the Broadband Investment Initiative.

The Taskforce is supportive of the initiative and sees it as having significant potential benefit for New Zealand, Māori, iwi and hapū.

Our submission is focused on resolving and exploring issues around:

- a) the flexibility of ownership and operating settings for Local Fibre Companies to ensure Māori have the greatest opportunity to enjoy the benefits of the new infrastructure – we have a particular interest in discussing with the government how different investment proposals within the core model might be treated and assessed;
- b) seeking assurances that the proposal does not exacerbate any rural/urban digital divide; and

- c) seeking a commitment from the government to involve Māori, iwi and hapū organisations as part of the priority roll-out for the infrastructure over the next six years.

Our key points are summarised in the insert below with further detail in the attached submission:

- That LFCs look to leverage off other technologies to support the fibre roll-out or improve its value-for-money where practicable
- That LFC Regions on the bottom half of the list are given priority for deployment
- That LFCs are not awarded exclusive geographical areas
- That iwi/hapū are natural investment partners for the Crown
- That regulation of some form will be needed particularly in terms of access to infrastructure (both access and pricing for use of ducts, power poles, roading etc) and the resource consent process
- Access by communities (Trusts, non-profits) to provide infrastructure be on terms no worse than that for LFC's
- Committing to a policy response and subsequent work programme to reduce digital exclusion across all New Zealanders, both rural and urban
- Making an explicit commitment to the inclusion of Māori, iwi and hapū organisations in the priority areas for the infrastructure roll-out over the next six years

Thank you for the opportunity to make a submission on this important matter. We look forward to engaging further with the government as this initiative is progressively implemented.

Heoi anō



June McCabe, Chair Investment and Enterprise
Māori Economic Taskforce

Government Broadband Investment Initiative

Submission on behalf of the Māori Economic Taskforce

with Te Huarahi Tika Trust (Māori Spectrum Trust)

Tēnā koe e te Minita

- 1) We are pleased to provide you with a submission on the Government's Broadband Investment Initiative ('the initiative/the proposal') prepared on behalf of the Māori Economic Taskforce (the Taskforce) with Te Huarahi Tika Trust (THTT) previously known as the Māori Spectrum Trust.
- 2) Please note this submission is provided by way of response to the MED public consultation process and is not a substitute for the discussion that the government needs to have with Māori to honour its partnership relationship through the Treaty of Waitangi. We expect the government to meet these expectations through a separate process.
- 3) In terms of the proposal itself we agree with its intent to significantly improve and accelerate the nation's infrastructure for the purposes of improving our economic and social wellbeing. We are also supportive of the focus on fibre as a reliable and "future-proofed" technology.
- 4) We see the proposal as having significant benefits for the country and for Māori, iwi and hapū¹. We acknowledge that many of the benefits will come from uses and applications of the new infrastructure that we have not even thought of yet. We also acknowledge the government's desire to share risk and improve the ability of the taxpayer to make a return on capital without excessive recourse to regulation or the involvement of the government in areas better left to the private sector.

What is our focus?

- 5) The submission is centred on:
 - a. Exploring how the Local Fibre Company (LFC) model could be made more flexible in order to provide for the involvement of Māori (especially Māori in

¹ We make references to Māori, and also iwi and hapū as distinct groupings as appropriate and not at the specific exclusion of these groupings.

more remote/rural areas) in broadband and improve their ability to enjoy the economic and well-being benefits that can accrue from this investment.

- b. Seeking assurances that, as part of other work-streams and policy decisions yet to be made, rural access to broadband – be it through fibre or through other technologies – will be supported by the government to ensure no deepening in New Zealand of the so-called “digital-divide” between urban and rural locations.
- c. Ensuring that the government recognises the importance of consulting with Māori around key aspects of its proposal in-particular which organisations and areas will be considered as part of the “priority” roll-out in the first six years of the infrastructure build.

Consultation

- 6) Together the Taskforce and THTT have consulted with a number of Māori organisations and individuals. A hui was held in Wellington on the 23rd of April for the day with interested organisations to specifically discuss this proposal. Those organisations supporting this submission are listed later in this document.
- 7) In terms of wider consultation issues we are an interested party and we expect there will need to be a number of engagements between Māori with the Crown on the implications of this proposal. This is appropriate and we look forward to this happening.

Acknowledging the government’s principles underpinning the proposal

- 8) We acknowledge and support the fundamental principles underpinning the government’s investment proposal. These being:
 - a. making a significant contribution to economic growth;
 - b. neither discouraging, nor substituting for, private sector investment;
 - c. avoiding entrenching the position, or "lining the pockets", of existing broadband network providers;
 - d. avoiding excessive infrastructure duplication;
 - e. focussing on building new infrastructure, and not unduly preserving the "legacy assets" of the past; and
 - f. ensuring affordable broadband services.

Our key issues:

That LFCs look to leverage off other technologies to support the fibre roll-out or improve its value-for-money where practicable

Rationale: While we recognise the government wishes to focus its investment on fibre, this may inhibit investment and development in areas where alternative technologies may be more appropriate. Our example proposal discussed later in this document looks at hybrid models where alternative technologies, particularly in backhaul, could potentially extend the reach of the government's investment without increasing its fiscal exposure.

That LFC Regions on the bottom half of the list are given priority for deployment

Rationale: Competition to provide LFC services is more likely to occur in the large urban areas, while the economics of the proposals may also be more attractive in larger urban regions. Different incentives then may be required to attract other operators to, for example, the smallest 10 cities and towns set out in the LFC region list. We do not support direct subsidies or "stop-loss" provisions for providers but accepting, for example, a lower level of return over a longer-period may provide sufficient incentive for different types of providers to begin operating in less populous or more isolated areas.

That LFCs are not awarded exclusive geographical areas

Rationale: LFC's cannot be barriers themselves in allowing communities or other operators to concentrate on geographic areas and cannot stifle broadband deployment with nil activity within an agreed maximum timeframe ie from award of contract as an LFC within a region. Additionally that LFCs are not awarded exclusive geographical areas, or be able to hold exclusive rights beyond a maximum time period without realising capability, as this may have unintended effects of reducing broadband deployment

That iwi/hapū are natural investment partners for the crown

Rationale: Iwi and hapū will take long-term, intergenerational time-frames to investment proposals. They will also, in regions not necessarily covered by the main urban LFCs,

potentially increase coverage and access in more cost-effective ways because of their commitment to improving the wider economic and social wellbeing of their constituent groups.

Additionally iwi and hapū bring with them an inherent interest in building the capability of their people to participate in new opportunities. This may accelerate the uptake of the technology in those regions where iwi and hapū are involved in their LFC. Furthermore, across the world indigenous people have shown a “hunger” and entrepreneurial spirit for utilising ICT for leveraging new technologies to create wealth and opportunity. For New Zealand this could, for example, help diversify Māori wealth from a predominant focus on the primary economy.

If sufficient flexibility is available in the LFC selection model (or expanding the LFC model as we discuss in our proposal later in this document) iwi and hapū could potentially provide a number of benefits as LFC partners. This includes capital for equity stakes in LFCs but possibly investment-in-kind such as labour, training and access to land and sites.

We want to look for and discuss these opportunities with the government in the course of this process.

As a related issue we also suggest that government-owned LFC equity could be a potential redress for pre-settlement iwi and hapū in lieu of cash and assets. This will help protect the future ability of iwi and hapū, who do not have capital to participate in the investment, to take some ownership of the infrastructure at a later date.

That regulation of some form will be needed particularly in terms of access to infrastructure (both access and pricing for use of ducts, power poles, roading etc) and the resource consent process

Rationale: Important infrastructural components such as ducts, power lines and roading access cannot become barriers, either by owners or preferred users denying access or through pricing mechanisms, particularly for communities who might wish to deploy their own infrastructure.

We are concerned that once implemented, LFC’s will become mini-monopolies and will naturally tend towards monopolistic behaviour that maximises financial returns. This could result in undesired consequences for equity of access, social benefit or the long term potential of New Zealand. For this reason, pricing and terms for access to the infrastructure needs to be regulated to ensure longer term benefits for all and to maintain consistency across the country.

We will want to see how the government proposes to manage questions of access as the infrastructure is rolled-out over the country. More importantly we do not want innovative proposals being precluded, including the example we discuss in this submission, because access to infrastructure is limited by the terms of LFC ownership and operation.

Access by communities (Trusts, non-profits) to provide infrastructure be on terms no worse than that for LFC's

Rationale: Trusts, non-profit organisations, iwi and hapū should not be precluded or disadvantaged in the selection of LFCs by being prepared to develop proposals that will take lower rates of return over time in return for greater accessibility and coverage to the community to the new infrastructure.

There are also innovative ways in which a not-for-profit or Trust-owned LFC (or Local Broadband Company) could be responsible for providing fibre-to-the-home but by using microwave backhaul, for example, connect back to the nearest major LFC. Our example discussed later in this submission sets out our view in this regard.

Committing to a policy response and subsequent work programme to reduce digital exclusion across all New Zealanders, both rural and urban

Rationale: We consider that the proposal is likely to exacerbate the “digital-divide” between New Zealanders who are already accessing digital services and those who are not. This is because the propensity of New Zealanders to utilise the infrastructure will be greater amongst those already accessing these types of services. This is further likely to be a problem in rural/isolated regions with already limited or no access. We seek assurances that, as part of other work-streams and policy decisions yet to be made, access to broadband – be it through fibre or through other technologies – will be supported by the government to ensure no deepening in New Zealand of the digital-divide. Some of the solutions here will be related to “demand-side” mechanisms/programmes designed to increase awareness and understanding of the potential of the technology amongst user groups.

Making an explicit commitment to the inclusion of Māori, iwi and hapū organisations in the priority areas for the infrastructure roll-out over the next six years

Rationale: This will ensure that Māori organisations are fully considered as part of the ongoing roll-out of the infrastructure. It will also confirm that the government recognises the importance of consulting with Māori around key aspects of its proposal in-particular which organisations and areas will be considered as part of the “priority” roll-out in the first six years of the infrastructure build.

As part of the government’s commitment to investigating the demand-side uptake and applications for the new technology, we expect that Māori will need to work to develop the ability of their constituent groups to leverage the infrastructure. This may require another level of engagement across education and training activities, for example, which is outside the scope of this submission but an issue we will want to continue discussing with the government.

Expanding the LFC model – a practical example

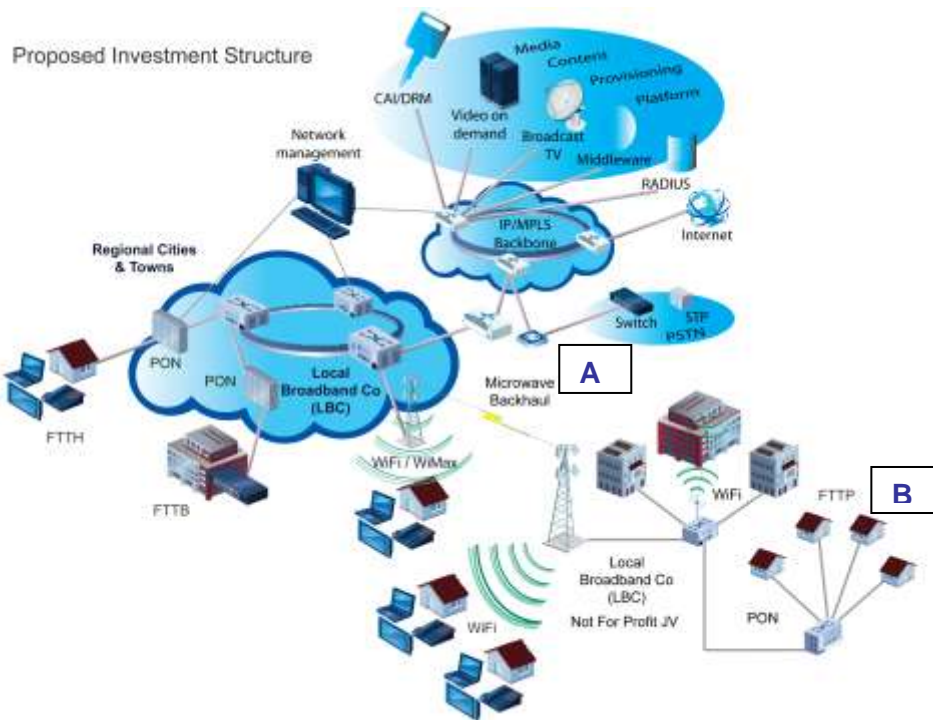
- 9) We have considered an approach in which the goals and objectives set out in this submission might get practical realisation through an extension of the LFC investment model.
- 10) The diagram overleaf sets out one hypothetical example where a dedicated “Local Broadband Company” 50% owned by local iwi and hapū, established in an area that might cover remote geographical areas such as Northland or the East Coast, could provide for the installation of fibre-to-the-home in smaller centres.
- 11) It would, however, use microwave backhaul² to the LFC (or another LBC) based in the nearest major urban centre. This would reduce the costs of having to extend the infrastructure into more remote regions while still allowing the government to focus the vast majority of its investment in fibre.
- 12) The government may need to entertain lower levels of return on their share of the LBC for a greater period of time. Analysis would need to be done, therefore, to ensure the wider benefits of the infrastructure are being captured by the communities involved and that this will outweigh the cost of the initial investment.
- 13) Coupled with some imagination and ingenuity about the installation of the infrastructure, (for example micro-trenching, looping cable through power-lines) as well as displaying flexibility around the LFC vehicle, the government could potentially:

² The feasibility of this approach will need testing – for example if there are significant differences in connectivity speeds this might make the use of microwave backhaul difficult.

- a. increase the likelihood that rural areas access fast broadband within the scope of the present proposal as well as extending the overall coverage in more cost-effective means,
- b. access sources of capital and ownership that might not have been available under the present proposal; and
- c. recognise the value of Māori investors as long-term, intergenerational investors who may be willing to take sub-normal returns on investment *over a longer period of time* in return for the wider economic and social benefits for their regions.

Explaining the flow of the investment proposal

- 14) The diagram below retains the key components of the current government and investment proposal for LFCs. The key point of difference is the concept of the “Local Broadband Company” or LBC that can utilise a range of other technologies, microwave-satellite or wireless, particularly around backhaul, to ensure cost-effective coverage for the fibre investment in more isolated areas or rural “hinterlands” attached to an urban LFC or LBC.
- 15) Point “A” notated on the diagram illustrates the link for the microwave backhaul from the LBC. For argument’s sake this is a dedicated LBC for smaller centres in say Northland. Fibre-to-the-home is undertaken by the LBC in smaller centres such as Dargaville (notated as Point “B”) but the cost-efficiencies come through the back-haul to say the LFC or LBC based in Whangarei.



We wish to acknowledge this concept as the work of Mr Roger MacDonald of NetCentric Ltd.

- 16) The Māori Economic Taskforce, its advisors and contributors are ready to begin development of such a proposal in conjunction with the government.

Other acknowledgements

List of organisations consulted with:

- 17) The following organisations were consulted on and have confirmed their support of the discussion set out in this submission document: Te Huarahi Tika Trust; Federation of Māori Authorities; Te Rūnanga o Ngāti Whātua, Hautaki Limited, Te Whānau Ipurangi o Te Au, Raukawa Media Charitable Trust, TāngataWhenua.com, PhoCom Solutions, Paua Interface Ltd/nekeneke.com, Te Rūnanga o Te Rarawa, Tuaropaki Communications, Tuaropaki Trust.
- 18) The Telecom Users Association of New Zealand and InternetNZ also participated in the consultation hui. They are not directly affiliated with this submission though their thoughts and input are acknowledged. Other organisations and professional advisors made informal contributions to the preparation of this document but are not associated with nor do they endorse the contents of this submission. Their contribution is acknowledged, particularly guidance offered by Dr Paul Winton of Temple Capital Limited and Debbie Francis of PricewaterhouseCoopers.

Drafters

19) The preparation of this submission was led by June McCabe (Māori Economic Taskforce) and Antony Royal (Trustee Te Huarahi Tika Trust). Hamiora Bowkett (a seconded resource from PricewaterhouseCoopers) provided drafting support. Te Puni Kōkiri, the Ministry of Māori Development is gratefully acknowledged for the provision of secretariat and resourcing support for the Taskforce.