

BROADBAND INVESTMENT FUND

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 compete in offering services across the supported 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; and
- 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.

Process

The following process will be used to allocate seed 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.

Applicants will also need to identify a need for assistance with the development of a business case at this stage.

Note: In the first funding round, Applicants can elect to go straight to Stage Two, below, as part of an accelerated *One-Stage Process*.

- **Stage Two:** *Full Application:* applications 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.



Those who choose the *One-Stage Process* will not have access to funding to develop the business case. These projects will be evaluated and assessed against each other for allocation of seed funding.

The timelines associated with the first year of the Broadband Investment Fund can be summarised as:

	Two-Stage Process	One-Stage Process
Criteria released	26 August 2008	26 August 2008
Expression of Interest due	30 September 2008	-
Decision made on Expression of Interest	October 2008	-
Full Application due	February 2009	30 September 2008
Decision made on Full Application	May 2009	December 2008

Note: unsuccessful *One-Stage Process* Applicants will subsequently have the opportunity to submit a new Full Application in February 2009 as part of the *Two-Stage Process*.

In subsequent years, these two separate processes will be replaced with a single process involving an Expression of Interest followed by a Full Application. Expressions of Interest will be due every twelve months, starting from end July 2009, with Full Applications due six months later, starting end January 2010.

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 at a relatively high level) that describes their project and demonstrates, amongst other aspects:

- (a) the project’s core objectives and outcomes sought;
- (b) the proposed business model of the Applicant, including reference to Open Access principles, wholesale and retail services, if applicable;
- (c) the likely number of Key Public Users and businesses that will be targeted to receive connections;
- (d) the extent to which the Network will be new infrastructure, an extension of existing infrastructure or a combination of both;
- (e) likely levels of co-investment and support from local authorities and/or local providers (in-kind or otherwise);

- (f) projected demand scenarios and anticipated levels of usage (these are projections only and do not need to be finalised);
- (g) the nature and experience of proposed business partners and their potential role in this proposal; and
- (h) an estimate of the likely total project costs, revenues, contribution from the Applicant, 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.

EOI Applicants will be able to apply for applicant development assistance (ADA) funding, to assist them in the preparation of a Full Application, should their EOI be successful.

[Note to Applicants: ADA funding is predominantly aimed at local authorities and organisations representing community interests]

Applicants will be able to apply for no more than 10% of the BIF funding requested (within a limit of \$100,000) and will be required to justify why they need ADA funding - i.e. their estimated overall budget will need to be provided as part of the EOI application and Applicants will need to clearly explain why they cannot fund their application from existing funding streams. ADA funding will not need to be refunded if applicants are unsuccessful at Full Application stage.

FULL APPLICATION

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

[Note to Applicants: Where pragmatic, 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]

1. Nature of the Applicant

- 1.1 The Applicant will be the Network Entity or a legal entity applying on behalf of a Network Entity to be formed.

[Note to Applicants: The final funding agreement will be with and must be executed by the Network Entity]

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 a direct connection to End-Users 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 operate the Network on an Open Access basis.
- 3.2 The Applicant must specify whether the Network Entity will provide Open Access at the:
 - (a) Duct layer; and/or
 - (b) Dark Fibre layer, and/or
 - (c) Bearer Services layer.

[Note to Applicants: When assessing whether Projects will be allocated funding under Section B, preference will be given to those Projects where the Network Entity offers Open Access at the deepest layer and access arrangements that are planned to meet the future needs of the community.]

[Note to Applicants: When assessing whether Projects related to Bearer Services will be allocated funding under Section B, preference will be given to those Projects that target areas affected by low educational achievement or poor health outcomes.]

[Note to Applicants: For the avoidance of doubt, where an Applicant:

- *proposes deployment of a Duct that can only support the installation of a single cable, the Network Entity will not be considered to be offering Open Access at the Duct layer;*
- *seeks to offer an Open Access extension to an existing “closed” network, then this will be considered to be Open Access at the Bearer Services layer]*

- 3.3 The application will demonstrate that the Network Entity will:
 - (a) provide the access it offers at the layers mentioned in section 3.2, including interconnection, in an unbundled manner;

- (b) where applicable, allow any End-User 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; and
 - (c) maintain publicly available records of the location and extent of the Open Access facilities.
- 3.4 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 referred to in clauses 3.1, 3.2 and 3.3.
- 3.5 Should the application be successful, the Network Entity will take sufficient safeguards to maintain the Open Access features referred to in clauses 3.1, 3.2 and 3.3 over the long-term.

[Note to Applicants: the Open Access provisions apply to the Network facilities that are supported by funding from the Broadband Investment Fund and any assets that the Applicant wishes to include in the valuation of its contribution.]

4. Fit for Purpose Requirements

- 4.1 The application will demonstrate that:
- (a) the Applicant has made all reasonable endeavours to provide, as a minimum, Passive Infrastructure to all relevant Key Public Users in the coverage area;
 - (b) the proposed Project addresses the assessed demand and supports the Project's goals; and
 - (c) the Project has been discussed with the relevant local authority/ies and they have not expressed any opposition to the Project going ahead (this does not necessarily require views on relative merits of Resource Management Act applications).

[Note to Applicants: the number of Key Public Users 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:
- (a) where 75% or more of the Project's cost relates to Open Access Ducts with associated Open Access Dark Fibre, funding to be received under the Broadband Investment Fund will not represent more than 50% of the total cost of the Project;
 - (b) where 75% or more of the Project's cost relates to Open Access Ducts alone, to Open Access Ducts with closed access Dark Fibre, or to Open Access Dark Fibre, funding to be received under the Broadband Investment Fund will not represent more than 33% of the total cost of the Project; and

- (c) in other cases, funding to be received under the Broadband Investment Fund will not represent more than 10% of the total cost of the Project.

[Note to Applicants: The 33% figure referred to in clause 5.1(b) will be reassessed at the end of the first year of funding. Furthermore, the funding rules in all of clause 5.1 will reassessed at the end of the second year of funding]

[Note to Applicants: In relation to clause 5.1(c), priority will be given to Projects which target key businesses and users in the health and education sectors (tertiary institutions, schools and health organisations)]

- 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. Preference will be given to Projects with higher leverage ratios].

6. Wholesale Pricing

- 6.1 The application will set forth:

- (a) the wholesale pricing methodology that the Network Entity intends to apply for the life of the Project, being at least five years; and
- (b) the actual prices that the Network Entity intends to apply for each of the first three years of the Network's operation.

- 6.2 Should the application be successful, the Network Entity:

- (a) will retain the wholesale pricing methodology referred to in clause 6.1(a) above, for the life of the Project, being at least five years; and
- (b) will not charge more than 10% more than the prices indicated in clause 6.1(b) (excluding the effects of PPI), over the first three years of the Network's operation.

[Note to Applicants: Preference will be given to cost based pricing methodologies.]

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:

- o 60% - Project's Benefit and Effectiveness Assessment
- o 40% - Applicant Capability and Project Risk Assessment

7. Project's Benefit and Effectiveness Assessment (60%)

7.1 Applications will be assessed on the provision of documentation that supports the likelihood of a successful, cost effective Project that achieves the following objectives:

- (a) provision of significant community benefits;
- (b) satisfaction of a community demand that has not been met by existing commercial providers; and
- (c) maximises the use of the Broadband Investment Fund contribution.

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

- (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's 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 level of evidenced demand, including commitments from current or potential users in the proposed service area, and an assessment of the effects of competition;
- (e) the level of financial and in-kind contributions provided by the Applicant (Appendix 2 outlines how the Applicant's contribution will be valued);
- (f) the Project cost and Broadband Investment Fund funding calculated on a per user basis;
- (g) the relative proportion of the total Project cost that is sought from the Broadband Investment Fund as compared to other projects;
- (h) the degree to which the Network can:
 - i. 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);
 - ii. provide connection points to other networks (Appendix 1 contains further details regarding interconnection requirements); and
 - iii. scale to meet future demand and ultimately facilitate a fibre-to-the-home service.
- (i) 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
- (j) any other information or factors the decision-maker considers, in its sole discretion, to be relevant.

8. Applicant Capability and Project Risk Assessment (40%)

8.1 Applications will be assessed on the provision of documentation that demonstrates that the Applicant has the organisational and financial capacity to:

- (a) deliver the Project;
- (b) operate and maintain the Network, and
- (c) ensure that the business model has a viable long term future.

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

- (a) the robustness of the proposed governance and ownership arrangements and the extent to which they support the requirements set out in the Eligibility Criteria;
- (b) possibility for conflicts of interest between the Network Entity's shareholders;
- (c) the Applicant's relevant experience including the experience of any project partners and contracted suppliers;
- (d) the short-term financial viability of the Project including such matters as:
 - i. the strength of the Applicant's balance sheet,
 - ii. access to working capital,
 - iii. funding arrangements,
 - iv. revenue forecasts, and
 - v. guaranteed demand;
- (e) the extent of involvement and support (not required to be financial) from local authorities and/or regional economic development agencies;
- (f) the Applicant's approach to project delivery (preference will be given to Applicants that use a formal project delivery approach);
- (g) the Applicant's assessment of risks and ability to mitigate risks;
- (h) the long-term financial viability of the Project:
 - i. the likelihood of the Network Entity attaining a positive cash-flow within its first four years of operation;
 - ii. the extent to which the Network Entity will be able to attract non-government equity investment to fund any expansion;
 - iii. the extent of market opportunities that are feasibly available to the Network Entity as potential avenues for any expansion;
 - iv. the level of scalability or excess capacity in the infrastructure aspects of the Project; and

- v. 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.
- (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.

'Dark Fibre' means dark fibre optic services.

'Duct' includes passive duct and / or micro-duct services.

'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' includes, but is not limited to, health organisations, tertiary institutions, schools and municipal entities.

'The Network' means any combination of capability, including Infrastructure, Bearer or Application Services provided by the Applicant that allows End-Users to be provided with broadband services.

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

'Open Access' means fair and non-discriminatory wholesale access allowing Third Party Service Providers to provide competitive offerings across the Network.

'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.

Section D: Supporting Documents for Full Application

The Full Application will include the following information to demonstrate compliance with the Eligibility Criteria (Section A):

- (a) a completed application form (to be provided);
- (b) a technical plan and map of the proposed network (clauses 2, 3, 4);
- (c) a business plan that includes, amongst other aspects:
 - i) a proposed Governance and Ownership Framework for the Network Entity (including constitutional arrangements) (clauses 1, 3);
 - ii) the services the Network Entity will provide to Third Party Service Providers and/or End-Users (clauses 3, 4);
 - iii) relevant financial costings and statements (clause 5); and
 - iv) a proposed wholesale pricing methodology, including a breakdown of proposed wholesale prices for the first year (or, as appropriate, years) of operation (clause 6).
- (d) evidence of 'reasonable endeavours' to connect Key Public Users and proposed connections (clause 4);
- (e) Project implementation plan; and
- (f) any other documents that are relevant to the application.

It is up to each Applicant to consider the supporting documentation that they will need to provide to demonstrate the merits of their application under the Assessment Criteria Section B. Applicants should take into account the relative weightings that have been allocated to assessment criteria when considering the supporting documentation that should be submitted. As part of the submission, it is strongly recommended that Applicants submit a robust and long-term business plan that reflects the value of the Project, the capability and commitment of the Applicant, and potential strategies for future investment.

Appendix 1: Interconnection Requirements

Referred to in: Section B, clause 7.2 (h)ii)

As appropriate for the capability being delivered, the Network will facilitate one or more Points of Interconnection, which will support:

- an interconnection facility between sites connected to the Network and any Third Party Service Provider;
- one or more points at which interconnection can be facilitated on a seamless and non-discriminatory basis with other Third Party Service Providers;
- the ability to aggregate local data traffic, if required;
- connections to other local, national and international networks to enable End-Users to access a wide variety of applications, locally, nationally and internationally;
- where appropriate, a facility for Bearer Service access that is well located and that places no unreasonable restrictions on Third Party Service Provider access or the type of service provided;
- where appropriate, a facility for Application Service access that is well located and that places no unreasonable restrictions on Third Party Service Provider access or the type of service provided;
- where appropriate, a peering mechanism for the efficient exchange and routing of information between the Network and other Third Party Service Providers; and
- where appropriate, a peering regime that avoids expensive and unnecessary national or international transit where source and destination are within the same regional or national boundary.

Where appropriate, the physical housing for an Interconnection Facility will:

- provide housing for the appropriate infrastructure and/or network equipment;
- enable the convenient linking of terminal equipment and/or systems to enable the provision of inter-network connectivity; and
- provide the environmental services required to support the above.

Where physical housing is required it will also be designed so as to provide very high standards of robustness, physical security and access security, and the ability to maintain operational capability through at least short-term power failures.

Appendix 2: Valuation Methodology

Referred to in: Section A, clause 5.2

The decision-maker retains full discretion for determining the total Project cost and the appropriate contribution made by the Applicant and other contributors for the purposes of satisfying these criteria. Contributions may fall under the following four categories and should be valued following the designated methodology:

- **Direct Monetary Contributions**

Monetary contributions will only be counted toward the Applicant's aggregate contribution if they are transferred to the Network Entity. Note, direct monetary contributions will not be counted if there is any obligation to repay in the future (including loans, bonds, convertible notes, forward contracts, advanced payments for services).

Monetary contributions are to be valued at their nominal value.

- **Existing Infrastructure Contributions**

Existing assets will only be counted if they are owned and controlled by the Network Entity.

The value of their contribution will be determined by the lesser of either:

- the savings (avoided costs) that accrue to the Project less any costs that are incurred to refurbish the assets, or
- the net present value (NPV) of a fair rental for the use of the asset. (The fair rental will be determined by either a benchmarking or long run incremental cost based calculation.)

- **Leased or rented infrastructure**

Applicants are permitted to claim the "net present value" of rental or lease payments provided that the contract:

- has an NPV greater than \$25,000;
- has a term of five or more years;
- does not exclude other parties from entering into similar agreements with the supplier; and
- has been established on an arms-length basis.

- **Other In-kind Contributions**

Other in-kind contributions may include equipment or services provided by the Applicant or the community.

Other in-kind contributions are to be valued at market replacement cost.

Applications should clearly outline the extent to which 'other in-kind' contributions are additional to existing baseline activity and certify that the expenses would not be incurred by the Applicant or other contributors if the Project did not go ahead. For example, the reprioritisation of staff within an organisation to support the Project would not be counted as an appropriate in-kind contribution to the Project.