



COVERSHEET

Minister	Hon Paul Goldsmith	Portfolio	Media and Communications
Title of Cabinet paper	Urgent Amendment to Support Continued Fibre Uptake	Date to be published	30 October 2024

List of documents that have been proactively released		
Date	Title	Author
August 2024	Urgent Amendment to Support Continued Fibre Uptake	Office of the Minister for Media and Communications
12 August 2024	Urgent Amendment to Support Continued Fibre Uptake CBC-24-MIN-0080 Minute	Cabinet Office

Information redacted	<u>YES</u> / NO <i>(please select)</i>
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In Confidence

Office of the Minister for Media and Communications

Cabinet Business Committee

Urgent Amendment to Support Continued Fibre Uptake

Proposal

- 1 This paper proposes to continue existing provisions in the Telecommunications Act 2001 that support fibre uptake, by reducing the compliance burden when fibre is installed through shared property.

Relation to government priorities

- 2 The proposal supports our focus on removing unnecessary barriers to productivity and economic growth.

Background

- 3 In 2017, provisions were inserted as Subpart 3 of Part 4 of the Telecommunications Act 2001 (the Act) to support fibre uptake under the Ultra-Fast Broadband programme. These provisions provide a streamlined process for installing fibre through shared property. The provisions are set to expire on 1 January 2025, however, there continues to be a need for these provisions as fibre uptake sits at 75% across the existing fibre footprint, and demand for fibre installations continues.
- 4 In certain circumstances, the provisions allow fibre installation on shared property, such as a shared driveway, without needing to go through the process of obtaining the consent of all affected property owners.
- 5 The provisions include protective requirements that limit the impact of installations. Specifically, the installation can only be of low to medium impact, there is an objection process for affected persons, and fibre providers must be members of the prescribed dispute resolution scheme.

Analysis

- 6 I have heard from fibre providers that there is continuing demand for these provisions to support further fibre uptake and deployment of fibre. Providers have indicated that approximately Commercial Informs fibre installations in the past two financial years were possible because of the provisions. Providers have raised concerns that the absence of the rights will greatly impact their business operations.
- 7 Without the provisions, installing fibre through shared property will become more time consuming and costly. One fibre company noted that installing fibre without the provisions could result in an average of 50 days increased waiting time. Fibre providers have also raised their concern that delays will result in order cancellations and increased consumer complaints.

- 8 I have recently consulted on the long-term operation and scope of these provisions, as part of a broader discussion document on telecommunications regulatory issues. Changes resulting from that process will not be in place until 2026 at the earliest. I am seeking an interim continuation of the provisions for three years while this longer-term work is undertaken.
- 9 The mandatory membership with the prescribed disputes resolution scheme also requires amendment to continue. This requirement currently expires on 1 January 2026, one year after the sunset date for the rights to access shared property. I propose that the membership requirement also be continued for three years, so that it remains in place for one year after the revised sunset date for the access rights.

Risks

- 10 There is the risk that property owners may be concerned that these amendments will widen the scope of the rights. This will be mitigated with clear communication that no changes beyond temporarily continuing the provisions will be made at this time, and that the protective measures for affected persons will remain in place.

- 11 Constitutional conventions

Cost-of-living Implications

- 12 No cost-of-living implications would arise from the proposals in this paper.

Financial Implications

- 13 No financial implications for the Crown would arise from the proposals in this paper.

Legislative Implications

- 14 Due to the urgency of these amendments, I am asking that they be progressed through the Regulatory Systems (Economic Development) Amendment Bill (the Bill). I have the support of the Minister for Economic Development, who is responsible for this Bill, for this approach.
- 15 The Parliamentary Business Committee has determined (under Standing Order 300(2)) that the Economic Development, Science and Innovation Committee is authorised, when considering the Bill, to consider and recommend the amendments I am seeking. This is on the proviso that I make the amendments available to the Select Committee on an Amendment Paper, and that the Select Committee take submissions on it. To have the Amendment Paper ready in time, and because of the narrow scope of the amendments, I am seeking Cabinet's authorisation to approve the Amendment Paper prepared by the Parliamentary Counsel Office for release, without reference to the Cabinet Legislation Committee or Cabinet.

- 16 Constitutional conventions

Impact Analysis

Regulatory Impact Statement

- 17 The Ministry for Regulation has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that temporarily continuing the provisions, while further work is underway, will have minor impacts on businesses, individuals or not-for-profit entities, and notes that relevant issues have previously been addressed by existing impact analysis [EGI-16-MIN-0029 and Regulatory Impact Statement *Land access for telecommunications to support the deployment of Ultra-Fast Broadband*].

Climate Implications of Policy Assessment

- 18 The Ministry for the Environment has been consulted and confirms that the Climate Implications of Policy Assessment requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

- 19 The proposals in the paper will have no impacts on particular population groups.

Human Rights

- 20 There are no perceived human rights implications associated with the temporary continuation recommended in this Cabinet paper.

Consultation

- 21 The Ministry for Regulation, the Ministry of Justice, and the Treasury have been consulted on the proposals in this paper. The Department of the Prime Minister and Cabinet has been informed.

Communications

- 22 My officials will inform fibre providers, network operators, and other relevant parties, such as the disputes resolution provider, of the changes as appropriate.

Proactive Release

- 23 This Cabinet paper will be proactively released on the Ministry of Business, Innovation and Employment's website, subject to redactions as appropriate, and following the guidance of the Cabinet Manual.

Recommendations

The Minister for Media and Communications recommends that the Committee:

I N C O N F I D E N C E

- 1 **note** that Subpart 3 of Part 4 of the Telecommunications Act 2001 provides rights of access to shared property for fibre installations, which will expire on 1 January 2025;
- 2 **note** that a continuation of the rights is required to support continued fibre uptake;
- 3 **note** the Parliamentary Business Committee has determined (under Standing Order 300(2)) that the Economic Development, Science and Innovation Committee is authorised, when considering the Regulatory Systems (Economic Development) Amendment Bill, to consider and recommend the amendments to continue the provisions relating to shared property fibre installations, provided that the amendments are available to the Select Committee on an Amendment Paper and submissions are taken on it;
- 4 **note** that the Minister for Media and Communications has support from the Minister responsible for the Regulatory Systems (Economic Development) Amendment Bill, to include the proposed amendments in recommendation 5 in the Bill;
- 5 **agree** that necessary amendments be made to the Telecommunications Act 2001 to ensure the continuation of the rights to access shared property for fibre installations for a period of three years, and the continuation of the requirement to be a member of the prescribed dispute resolution scheme for a period of three years so that it remains in place for one year after the new expiry date for the rights;
- 6 **invite** the Minister for Media and Communications to issue drafting instructions to the Parliamentary Counsel Office for an Amendment Paper to give effect to recommendation 5;
- 7 **authorise** the Minister for Media and Communications to make decisions on minor policy matters that may arise during the drafting process;
- 8 **authorise** the Minister for Media and Communications to approve the Amendment Paper prepared by the Parliamentary Counsel Office for release without reference to the Cabinet Legislation Committee or Cabinet;
- 9 **authorise** the Minister for Media and Communications to write to the Chair of the Economic Development, Science and Innovation Select Committee to ask the committee to consult on and, if it sees fit, recommend the amendments set out in the Amendment Paper when it considers the Regulatory Systems (Economic Development) Amendment Bill.
- 10 **note** that the Minister for Media and Communications may further report back to Cabinet later this year with additional proposals on the operation and scope of the shared property access for fibre installations for the longer term, to be progressed in a separate legislative vehicle, depending on the outcomes of the recent discussion document titled *Enhancing telecommunications regulatory and funding frameworks*.

Authorised for lodgement

Hon Paul Goldsmith

Minister for Media and Communications

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