



Telecommunications (Fibre-ready Facilities — Exempt Real Estate Development Projects) Instrument 2023

I, Michelle Rowland, Minister for Communications make the following instrument.

Dated 4 December 2023

Michelle Rowland

Minister for Communications

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1 Name

This instrument is the *Telecommunications (Fibre-ready Facilities — Exempt Real Estate Development Projects) Instrument 2023*.

2 Commencement

This instrument commences on the day after this instrument is registered.

3 Authority

This instrument is made under paragraphs 372K(1)(b), (c), (d), (e) and (f) of the *Telecommunications Act 1997*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) building lot (section 7);
- (b) building unit (section 7);
- (c) fibre-ready facility (section 7);
- (d) fixed-line facility (section 7);
- (e) project area (section 7);
- (f) proximity (section 372Y);
- (g) real estate development project (section 7);
- (h) service area (section 360A);
- (i) statutory infrastructure provider (section 360A).
- (j) telecommunications network (section 7).

(1) In this instrument:

Act means the *Telecommunications Act 1997*.

fixed-line SIP network means any fixed-line telecommunications network that is owned or controlled by, or operated by, or on behalf of, a relevant SIP or a related entity of a relevant SIP.

fixed-line SIP network region means a geographic region with an ascertainable boundary that has been determined by a relevant SIP within which a fixed-line telecommunications network is deployed or planned to be deployed.

headworks means underground utility infrastructure that is installed at the point from which existing underground infrastructure ends, to the boundary of a real estate development project.

relevant SIP means a statutory infrastructure provider for a service area within which a project area is located.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

6 Exempt real estate development projects

- (1) Pursuant to paragraph 372K(1)(b) of the Act, a real estate development project ascertained in accordance with the following table, is exempt from the requirements in sections 372E, 372F, 372G and 372H of the Act, provided that subsection (4) is satisfied.

Exempt real estate development projects	
Column 1	Column 2
Item	Exemption
1	<p>Any real estate development project in respect of which (at the relevant time) all of the following apply:</p> <ul style="list-style-type: none">(a) no part of the project area is located inside the fixed-line SIP network region of a relevant SIP;(b) a relevant SIP has provided written notice to the person responsible for the project that the relevant SIP will not install a fixed-line network inside a project area;(c) there is no new underground utility infrastructure installed or planned to be installed in proximity to each building lot situated in the project area, as part of the project, or as headworks to service the project.
2	<p>Any real estate development project in respect of which (at the relevant time):</p> <ul style="list-style-type: none">(a) where items 1(a) and (b) above apply; and(b) a relevant SIP has provided written notice to the person responsible for the project that the relevant SIP will not take ownership of any fibre-ready facilities located inside a project area.

Note: Subsection 13(3) of the *Legislation Act 2003* allows specification of matters by class or classes of matters.

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- (2) If, after receiving a written request from the person responsible for the real estate development project (*the responsible person*) in respect of the matters set out in item 1(b) or item 2(b) in the table to subsection (1), a relevant SIP for that service area does not provide written notice within 30 business days of the day after receiving the responsible person's written request, or otherwise by a later date agreed in writing between the parties, the relevant SIP will be taken to have provided written notice in accordance with item 1(b) or item 2(b) (as the case applies).
- (3) For the avoidance of doubt, where there is more than one relevant SIP for a service area:
- (a) item 1(b) or item 2(b) in the table to subsection (1) applies if one of the relevant SIPs has provided written notice (as the case applies); and
 - (b) subsection (2) applies if one of the relevant SIPs has received a written request from the person responsible for the real estate development project.
- (4) The person responsible for the real estate development project (or a person on behalf of the real estate development project) has provided to the Secretary of the Department a written notice setting out the following details about the project for which the exemption under this instrument is claimed:
- (a) the name of the development (if available);
 - (b) the development's stage name or number (if available);
 - (c) the development type, in terms of whether it is 'residential', 'commercial', 'industrial', 'mixed development', 'public/private institution' or 'other';
 - (d) the total estimated number of building lots or building units in the development;
 - (e) whether any part of the project area is located inside the fixed-line SIP network region of a relevant SIP;
 - (f) whether there is any new underground utility infrastructure installed or planned to be installed in proximity to each building lot situated in the project area, as part of the development, or as headworks to service the development;
 - (g) any of the following:
 - (i) the location and boundary of the development; or
 - (ii) the lot/plan number of the development; or
 - (iii) the address of the development;
 - (h) in circumstances where subsection (2) does not apply, the written notice provided by a relevant SIP pursuant to item 1(b) or item 2(b) in the table to subsection (1); and
 - (i) in circumstances where subsection (2) applies, either (as applicable):
 - (i) the written request sent to the relevant SIP to which the relevant SIP did not provide written notice; or
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- (ii) the written correspondence between the person responsible for the real estate development project and the relevant SIP agreeing to a later date than 30 business days of the day after the relevant SIP receives the written request.

Schedule 1—Repeals

Telecommunications (Fibre-ready Facilities — Exempt Real Estate Development Projects) Instrument 2021

1 The whole of the instrument

Repeal the instrument.