

Media Q&A – Telecommunications (Property Access and Other Matters) Bill

What are the changes made in this Bill?

The Telecommunications (Property Access and Other Matters) Bill proposes changes to make it easier and quicker for people to connect to Ultra-Fast Broadband (UFB) in situations where the consent of more than one party is required, such as shared driveways or apartment complexes.

Why is this change necessary?

There are thousands of New Zealanders with shared property access who are currently unable to get the benefits of ultra-fast broadband because they can't get permission from neighbours.

They currently need permission from neighbours for the fibre cable to run across shared property and UFB installation is often delayed or cancelled because neighbours can't be contacted, don't complete the paperwork or decline the request.

What are the benefits of the change?

The Bill will allow people who may otherwise not be able to connect to ultra-fast broadband to do so. At the same time it will speed up the installation process in situations where neighbours' consent is required. The Bill could also facilitate a shift towards less invasive methods of installation and better protect homeowners through providing recourse to a disputes resolution scheme.

What kind of delays are we talking about?

Even when consent is achieved, significant delays can occur to obtain it. As of April 2016, half of all requests to consent properties down rights of way had been open for thirty working days or more. Of these requests, 704 orders had been open for between thirty and fifty working days and 778 orders had been open for fifty working days or longer.

The Bill will improve this by establishing a ceiling of 15 working days to obtain consent in most instances.

How will the new consenting regime work?

A new tiered consent regime will be created for different fibre installation methods, such as aerial cabling, micro trenching, burying the cable in grass or mounting the cable on structures like fences or retaining walls in certain instances.

The regime establishes two new categories for installation methods depending on the impacts each method has on the property that neighbours share. Each category has a different consent requirement.

Category One methods have no lasting impacts on the shared property, such as a fibre cable buried in grass on the side of a driveway. For these installations, network operators installing fibre will not require consent but will need to provide neighbours with no fewer than five working days' notice.

Category Two methods have lasting impacts, for example an incision about 1cm wide is made in a concrete drive to conceal a cable and is then reinstated. For these installations neighbours will be provided a high level design of what is proposed and will have 15 working days to object based on a limited number of grounds. If they do not object within that timeframe, their consent will be deemed.

Higher impact installations that have an impact that go beyond these two categories are outside this regime. For example, if the length of a driveway needs to be dug up it will still require all parties to agree.

How will the regime work in a shared driveway?

1. A property owner (or tenant acting with the owner's permission) wants to have UFB installed at their address.
2. They place an order for UFB with a network operator.
3. The network operator visits and determines how to install it.
4. If only Category One methods are needed, a notice is served to each person whose legal consent is required, outlining what is proposed.
5. The Installation can legally go ahead 5 working days later (or when the operator is able to do so.)
6. If Category Two methods are needed, a notice will be served to each person whose legal consent is required outlining what is proposed.
7. The installation can legally go ahead 15 working days later if no objection is received.
8. If an objection to a Category Two installation is made, parties will have the option of referring it to a new disputes resolution service if one of them considers it unreasonable.

How will the process work in a multi-unit complex/apartment building?*

1. A property owner (or tenant acting with the owner's permission) wants to have UFB installed at their address.
2. They place an order for UFB with a network operator.
3. The network operator visits the property to determine how to install it. Unless they need to access a secure area like a communications room, they won't need the body corporate's permission for this.
4. The body corporate will be issued with a notice outlining how fibre is proposed to be installed and clarifying that it won't cost them anything.
5. The installation can legally go ahead after 15 working days, if no objections are received.
6. The network operator will have a responsibility to maintain the aspects of the network installed in common areas of the development, the body corporate will not have to factor this into its long term maintenance plan.

When will the new regime come into effect?

This depends on the business before Parliament. It's possible that a new land access regime could be in effect by 2017.

The legislation amends access rights to private property for fibre installations, until 1 January 2025, when the Ultra-Fast Broadband consumer access network is estimated to be largely built.