

10 November 2016

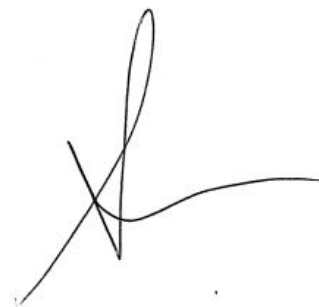
InternetNZ Submission: Telecommunications (Property Access and other Matters) Amendment Bill

1. Introduction

- 1.1 InternetNZ supports better connectivity throughout New Zealand. Fibre, and other fast new networks, are unlocking the potential of the Internet in New Zealand. We welcome the present proposals, and the broader land access reforms, as enablers of broader, more efficient access to these networks.
- 1.2 We welcome the present process as an innovative way to enable consultation on an innovative proposal.
- 1.3 Overall we think the proposed new subpart 4 of Part 4 reaches a reasonable balance between the interests of private land-owners, and the potential for extending efficient fibre rollouts.
- 1.4 Below we address the key question of “required install” distance. We also see some potential issues with the draft language and we offer comments on those issues. We hope these are useful, and assist with efficient improvements in connectivity throughout New Zealand.

We thank you for the opportunity to submit. Should further detail be desired, please contact James Ting-Edwards, Issues Advisor at InternetNZ on james@internetcnz.nz or 0211565596.

Yours sincerely,



Andrew Cushen
Deputy Chief Executive
InternetNZ

Summary of submission

- 1.5 We welcome the purpose of this consultation draft, but see some potential problems in the draft language. Below we aim to constructively explain and address these concerns, to better achieve the stated purpose.

A. Setting “required install” distance for landowner connections

Issue	Suggested approach
Setting the required install distance too high may make install costs prohibitive for some paths, denying access to other users.	Set a reasonably conservative “required install” distance, and allow for this to be reviewed in regulations after a reasonable period of time.

B. Definition of “existing works”

Issue	Suggested approach
The definition of “existing works,” taken from the Electricity Act 1992, appears to exclude works constructed after 1 January 1993.	A new definition of “existing works” may be needed, to include the infrastructure relevant for potential fibre installs.

C. Consider fibre as enabling other access modes

Issue	Suggested approach
Clause 155ZT requires “a single fibre connection” to a building on the property, up to the required distance of X metres	Consider whether any changes are justified to enable fibre to support other access modes.

D. Other tidying up

Issue	Suggested approach
Language avoiding “injurious effect” is repeated in 155ZR and 155ZS(2)(c).	Consider removing “injurious effect” from definition of “fibre optic works” under 155ZR.

2. Detailed response to issues

- 2.1 InternetNZ supports the efficient rollout of fast new networks which realise the potential of the Internet in New Zealand. Our geography presents a range of challenges, best addressed through a mix of technologies and approaches.
- 2.2 Fibre, where economic, is the technology of choice, offering unmatched potential speeds. Efficiently extending fibre installs to more New Zealanders is a great way to share those benefits more widely.

- 2.3 Wider fibre coverage can also enable broader access and faster speeds on other modes. Fibre networks can allow wireless endpoint services to deliver respectable speeds, with broad coverage. This is a model proven in and around Ashburton, by EA Networks and Ultimate Broadband.

Barriers to installs: costs and consents

- 2.4 The present proposals address particular barriers to a fibre install. When considered as an investment, any install faces two barriers: costs and consents. If both barriers are low enough to hurdle, there is a business case for fibre.
- 2.5 Install costs increase with distance. Using electricity infrastructure can lower, but not eliminate, this cost barrier, allowing economic supply of fibre across longer, but still finite, distances.
- 2.6 Consents can be difficult and expensive to obtain. As the document identifies, a widely supported route can be blocked by an objection from a single land-owner. Allowing access to existing infrastructure lowers the barrier of consents, enabling more fibre installs, and realising the potential of lower-cost install methods.
- 2.7 The present proposals usefully address the zone of “low-hanging fruit” for installs, where consent costs are the blocker, and where access to electricity infrastructure can lower that barrier.
- 2.8 Beyond that zone, the distances covered may make fibre uneconomic, even with very efficient install methods.

We prefer a low “required install” distance

- 2.9 We agree that it is pragmatic and fair to require a benefit to land-owners whose properties are crossed. However, the costs of delivering those benefits must be weighed against the
- 2.10 Clause 155ZT creates a “required install” obligation, to deliver fibre to a land-owner’s primary residential building, up to distance of X metres. This affects the economics of fibre routes.
- 2.11 A long “required install” length will make costs higher, making some otherwise-economic routes non-viable. A short “required install” length will make more routes viable, but may result in fewer net-cost connections to buildings owned by land-owners. We assume that profitable, net-gain connections to land-owners will be offered regardless of a “required install” obligation.
- 2.12 We think it is better, for now, to encourage more fibre routes rather than, per-route, to serve more individual land-owners with connections which are net-cost to the network builder. Building more routes will make it relatively easy to efficiently connect affected land-owners at a later date.
- 2.13 Of the suggested options, we therefore support a “required install” length of 200 metres. Ideally this distance would be set based on data, and reviewed after a reasonable period of time - we suggest three years.
- 2.14 As background, and based on conversations with existing operators, we understand that the economics of a 200m overhead drop are comparable to a 30m underground installation. Assuming all costs are roughly linear with distance, a 500m overhead drop would compare with an underground install of around 70m. More precise data would be useful in reviewing any distance.

Fibre-backed wireless: must a “building” be connected by fibre?

- 2.15 Increased fibre coverage can support faster access on other modes, such as fast wireless services. This should mitigate concerns that a shorter “required install” length will leave some land-owners without a direct benefit. Though less directly useful than a fibre connection to a building, owners do benefit from a breakout point which makes eventual fibre or wireless connections cheaper.
- 2.16 The Committee might consider how the required install Clause 155ZT(1)(b) could allow for the required “single fibre connection” to enable wireless or other fibre-supported connections.

Definition of “existing works”

- 2.17 We are confused by the apparently time-bound definition of “existing works.” We think the intention is to include essentially all electricity infrastructure throughout the country - particularly overhead lines and their supporting structures - as “existing works,” whose owners have rights of access to land. The proposals intend fibre to be installed on these structures, and to become an “existing work” for purposes of relevant land access rights.
- 2.18 However, as we read the definition, “existing works” seems to exclude any thing whose construction began after 1 January 1993. On the face of it, this definition bars yet-to-be-installed fibre from becoming an “existing work.”
- 2.19 It is possible that we have misread the relevant law. We prefer to raise the concern in any case, so that the Committee can consider whether a response is needed to serve the purpose of the proposal. We explain our reasoning below.
- 2.20 Clause 155ZR defines “existing works” to have “the same meaning as in Section 2 of the Electricity Act 1992” with one modification:

155ZR Interpretation

In this subpart, unless the context otherwise requires,—

breakout point means a point along a fibre optic cable where provision is made for the installation of 1 or more fibre optic connectors

existing works—

(a) has the same meaning as in section 2 of the Electricity Act 1992; and

(b) includes fibre optic cable installed on existing works that is itself an existing work

- 2.21 As below, [Section 2 of the Electricity Act](#) defines “existing works” to mean works whose construction began before 1 January 1993:

existing works,—

- a) in relation to works owned by the Corporation, means any works constructed before 1 January 1988; and includes any works that were wholly or partly in existence, or work on the construction of which commenced, before 1 January 1988:
- b) in relation to works owned by any other person, means any works constructed before 1 January 1993; and includes any works that were wholly or partly in existence, or work on the construction of which commenced, before 1 January 1993

- 2.22 This definition includes things wholly or partly constructed before 1 January 1993. By implication it appears to exclude anything whose construction began after that date.
- 2.23 We believe the intent is to include existing electricity infrastructure throughout the country, as well as current and eventual fibre installs which are supported by this electricity infrastructure.
- 2.24 We have concerns that the proposed definition may not include:
- a) All of the intended electricity infrastructure;
 - b) All of the intended fibre now installed or yet to be installed.
- 2.25 If our concerns are correct, a new definition of “existing works” will be required to achieve the intended purpose: expanding existing access rights to enable broader fibre coverage.