



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

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

Dated

Michelle Rowland **DRAFT ONLY—NOT FOR SIGNATURE**  
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.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## 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 (3) is satisfied.

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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"><li>(a) no part of the project area is located inside the fixed-line SIP network region of a relevant SIP;</li><li>(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;</li><li>(c) there is no underground utility infrastructure installed or planned to be installed in proximity to each building lot situated in the project area;</li><li>(d) the average lot size in the project area must be 1000 square metres or greater;</li><li>(e) there is no kerb and channelling constructed or planned to be constructed in proximity to each building lot situated in the project area;</li></ul>
2	<p>Any real estate development project in respect of which (at the relevant time):</p> <ul style="list-style-type: none"><li>(a) where items 1(a) and (b) above apply; and</li><li>(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.</li></ul>

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

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- (2) For the avoidance of doubt, where there is more than one relevant SIP for a service area, item 1(b) or item 2(b) in the table to subsection (1) applies if one of the relevant SIPs has provided written notice.
- (3) 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 there is any underground utility infrastructure installed or planned to be installed in proximity to each building lot situated in the project area;
  - (f) the average lot size of the building lots within the development;
  - (g) whether there is any kerb and channelling constructed or planned to be constructed in proximity to each building lot situated in the project area;
  - (h) 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; and
  - (i) where applicable, written notice provided by a relevant SIP pursuant to item 1(b) or item 2(b) in the table to subsection (1).

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## **Schedule 1—Repeals**

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

#### **1 The whole of the instrument**

Repeal the instrument

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