



27<sup>th</sup> July 2015

Land Access Project Team  
ICT Policy and Programmes  
Ministry for Business, Innovation and Employment  
PO Box 1473  
**Wellington 6140**

By Email

Dear Sir/Madam

**Re: Submission in regards to the Land Access for Telecommunications  
Discussion document**

Please find attached our formal submission in which we generally support the tenor of the proposals within the discussion document.

We have seen a draft of the submission prepared by the Telecommunications Forum, and we support the general direction of their submission. As the group that represents the telecommunications service providers, they are more aware of the operational issues that surround the provision of services whilst we are focused on the outcomes for users.

As the organisation that represents the widest range of users of telecommunications services, we provide a unique perspective on the views of the organisations and people that are the ultimate beneficiary of telecommunications services.

Yours sincerely

A handwritten signature in black ink, appearing to read "Craig Young".

Craig Young  
**Chief Executive Officer**  
**TUANZ**

# Land Access for Telecommunications: Submission template

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The closing date for submissions is **5.00pm, Friday 24 July 2015**.

You can make a submission by emailing [landaccess2015@mbie.govt.nz](mailto:landaccess2015@mbie.govt.nz) or by posting your feedback to:

Land Access Project Team  
ICT Policy & Programmes  
Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington 6140  
New Zealand

If you post your submission, please also send it electronically if possible (as a PDF or Microsoft Word document).

**Please complete the following contact details:**

<b>Your name:</b>	<b>Craig Young</b>
<b>Your postal address:</b>	P O Box 302 469 North Harbour AUCKLAND 0751
<b>Your email address:</b>	<b>Craig.young@tuanz.org.nz</b>

**Is your feedback on behalf of an organisation?**

√

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

If yes, please write the name of the organisation and your position here:

Telecommunications Users Association of NZ (TUANZ) Chief Executive Office
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**What is your involvement in the telecommunications industry? (please tick those relevant)**

√

<input checked="" type="checkbox"/>	Network operator
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	Retail service provider
	Customer or end-user (current or potential) of fibre
	Affected or potentially affected property owner
√	Other (please specify)

If you or your organisation do not wish your name to be included in any summary of submissions that the Ministry may publish, please advise here:

No, I do not want my name / organisations name published in any summary of submissions

If you or your organisation object to the release of any information contained in this submission, please advise here:

#### Section A: Questions on the existing framework

1. Which elements of the existing land access framework for telecommunications do you think are working well and should not be changed? Why?

As the group that represents users, the current framework that recognises the primacy of private ownership and therefore private property rights is an important principle to be recognised. It is with this in mind that our position is that this framework should only be altered in cases where the benefit to the end-user is significant, which we believe is the case here. The issues outlined in this discussion document are the ones which should be addressed to ensure that the benefits to end users and NZ as a country are realised.

2. If you have encountered issues with the application of the existing rules for telecommunications land access, what are the specific aspects of the rules that you have found to be problematic and why?

As above, the issues addressed in this document are those that we have consistently raised over time, as recently as our submission to MBIE on this issues we believed should be addressed as part of the Telco Review.

Our overriding issue is that the social and economic benefits of the roll-out of new technology and infrastructure will only be fully realised if the ability to take up the use of these technology's has as few barriers to end users as is possible.

**Section B: Questions on the nature of the barriers to FTTP connections**

3. If you or your business is involved in the installation of Ultra-fast Broadband, is your view of the barriers to FTTP connections aligned with what we have outlined in this section (pg 14)?

We are not directly involved, but our own research and anecdotal evidence points to the delays being caused by the barriers identified in this section.

4. Are you aware of any problems relating to the installation of FTTP that are not outlined in this section (pg 14)?

We are not aware of any other specific issues which relate to the legal framework around FTTP connections.

5. In your view, are problems with the current requirements for the installation of fibre-to-the-premises significant enough to warrant legislative change? Please provide reasons.

√

√	Yes
	No

Reasons for preference:

Anecdotal evidence suggests that the delays being caused by the current framework are causing frustration by end users who desire to take up UFB in particular. The process also causes frustration and unwarranted costs to the infrastructure provider, which reduces the amount able to be invested elsewhere more productively.

**Section C: Questions on proposal 1 - options to facilitate FTTP connections**

6. Would you prefer the deemed consent approach or the low impact facilities approach or some combination of the two? Please state your reasons for your preference.

√

√	Deemed Consent approach
	Low Impact Facilities approach
√	Combination of both

Reasons for preference:

We support the deemed consent model as we believe it is the simplest way to resolve the major “no response” issue that providers and users are current experiencing. We also support a combination of both, if after further development, that is shown to provide a better end user experience than just option 1 alone.

We would like to see further discussion around the approach including information from the Australian environment where this deemed- consent process is in place.

7. Would you support a move away from requiring written consent from affected property owners to a request to connect UFB to an approach that assumed consent is implied but provides a mechanism to opt-out?

v

v	Yes, I support an approach that assumes consent with a mechanism to opt-out
	No, I do not support an approach that assumes consent with a mechanism to opt out

Reasons for preference:

The mechanism for an opt-out approach allows there to be a way for active participants to still indicate their non approval for access but will ensure that non-active participants do not delay the install process.

8. If the requirement for written permission for access is changed, what conditions or safeguards should be applied?

Adequately covered in the paper.

9. In what circumstances should an affected property owner be allowed to object to a network operator accessing land they share with a neighbour to install a connection?

Property Owners should have a relatively low bar for objecting to access, where they believe it will be detrimental to the physical condition of their property. An example may be a newly paved area which is unable to be reinstated to the condition it is in without significant disruptive and expensive work. Our belief is this will be a relatively small number of situations given the learnings made by the LFC's over the first half of the UFB programme around reinstatement.

**Section D: Questions on proposal 2 – allowing for deployment using existing utilities**

10. If you are a network operator who also owns or can arrange access to electricity infrastructure, how would you make use of a right to deploy fibre alongside these existing utilities? Please include as much detail as possible including whether you intend to provide backhaul and/or customer connections and where you would use such a right of access to deploy these services.

N/A

11. Do you consider that the safeguards and conditions outlined above (pg 23) strike the right balance between enabling efficient deployment and protecting the rights of property owners?

v

v	Yes
	No

If no, please explain why:

12. If you, or someone you represent, have land that is currently crossed by electricity infrastructure, under what situations would you support the co-location of fibre on this existing infrastructure?

N/A

13. Any right to deploy and maintain fibre with existing utilities needs to have a low impact for those affected. What matters should the Ministry take into account when setting the terms and conditions for access to private land to minimise the impact on owners?

We support this ability to deploy fibre utilising existing assets even if those assets primary use is not for telecommunications services. We recognise this has been a significant issue, particularly in the rural community and we would encourage, and actively participate in, extensive consultation with the right representative groups to ensure the understanding of the economic and social imperative of this proposal be widely understood and supported.

**Section E: Questions on proposal 3 – ongoing rights of access**

14. Should the rights that network operators have to access and maintain fibre networks be similar to rights they have to access and maintain legacy copper telecommunications networks?

v

v	Yes
	No

Please provide reasons for your answer:

The fibre infrastructure is the future replacement of the current copper network, and so the same rights to maintain the network should be in place.

15. What factors should MBIE take into account when setting conditions for access to installed infrastructure in order to minimise the impact on property owners and provide for an efficient access process in this context?

The document covers this adequately. We do not currently have a view on whether the access rights should be noted on the local authority LIM document and will look to organisations such as LGNZ to provide advice on this.



16. If you are a provider of fibre services, how would the implementation of this proposal impact on your decisions to follow through with complex or otherwise problematic installations?

N/A

**Section F: Questions on proposal 4 – a fair, accessible and expanded disputes resolution process**

17. Do you support the stated objectives for dispute resolution set out in this section (pg 29)?

v

v	Yes
	No

Please provide reasons for your answer:

It is crucial for this process to work that organisations and individuals have access to an efficient and effective disputes resolution process. We would like to see the option of extending the current TDRS to cover these disputes be explored – TUANZ is currently represented on the Scheme council and would look to continue to represent to needs and views on users on any other dispute resolution process.

18. Do you support the proposed expanded scope for dispute resolution?

v

v	Yes, I support the proposed expanded scope for dispute resolution
	No, I do not support the proposed expanded scope for dispute resolution

Please provide reasons for your answer:

See above

Are there any grounds you would add or remove?

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19. What factors should the Ministry take into account when deciding on a body to hear or decide these disputes?

Speed of resolution is critical to ensure that no unwarranted delay is put on the delivery of services to end users.

## Section G: Other comments

20. What other comments or questions do you have about land access for telecommunications?

We believe the proposal contained in the document positively addresses several of our current concerns around the take up of the new telecommunications technologies. We look forward to continuing to be involved in the consultation and development of the proposals going forward.

**Thank you for taking the time to complete this submission. Your feedback is appreciated.**

## Publication of submissions

Written submissions may be published at [www.med.govt.nz](http://www.med.govt.nz) or [www.mbie.govt.nz](http://www.mbie.govt.nz). We will consider you to have consented to publication by making a submission, unless you clearly specify otherwise in your submissions. **If sensitive material in your submission cannot be published, please provide two versions of your submission – a full version and a publishable version.**

In any case, all information provided to the Ministry in response to this discussion document is subject to public release under the Official Information Act 1982 (OIA). **Please advise if you have any objection to the release of any information contained in a submission**, and in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. The Ministry will consider all such objections when responding to requests for copies and information on submissions to this document under the OIA.

The Privacy Act 1993 establishes certain principles with respect to the collection, use, and disclosure of information about individuals by various agencies including the Ministry. It governs access by individuals to information about themselves held by agencies. Any personal information you supply in the course of making a submission will be used by the Ministry only in conjunction with the matters covered by the documents. **Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that the Ministry may publish, or in any responses to OIA requests.**