

Commonwealth of Australia

*Telecommunications Act 1997*

**Telecommunications (Network Exemption—  
Specified TransACT Networks)  
Instrument 2012  
as amended**

Made under subsection 141A(1) and subsection 144(1) of the *Telecommunications Act 1997*.

This compilation was prepared on 19 November 2012 taking into account amendments made on 30 May 2012 and 9 November 2012.

Prepared by the Department of Broadband, Communications and the Digital Economy

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## **1 Name of Instrument**

This Instrument is the *Telecommunications (Network Exemption—Specified TransACT Networks) Instrument 2012*.

## **2 Cessation**

This Instrument ceases to have effect on the designated day.

*Note* By virtue of paragraph 4(1)(a) and subsection 4(2A) of the *Acts Interpretation Act 1901*, this Instrument will commence immediately on the commencement of Part 3 of Schedule 1 to the *Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Act 2011*.

## **3 Definitions**

In this Instrument:

*Act* means the *Telecommunications Act 1997*.

*access seeker* has the same meaning as in Part XIC of the *Competition and Consumer Act 2010*.

*declared service* has the same meaning as in Part XIC of the *Competition and Consumer Act 2010*.

*designated day* has the same meaning as in section 577A of the Act.

*Layer 2* has the same meaning as in the Open System Interconnection (OSI) Reference Model for data exchange.

*Telecommunications (Network Exemption—Specified TransACT Networks)  
Instrument 2012 (as amended)*

**Layer 3** has the same meaning as in the Open System Interconnection (OSI) Reference Model for data exchange.

**Specified TransACT Network** means an optical fibre-based telecommunications network:

- (a) that is owned by TransACT; and
- (b) which comprises:
  - (i) a network located in:
    - (A) a real estate development project specified in column 1 of the table at Schedule 1 to this Instrument; and
    - (B) an area of land depicted in the corresponding map at Annexure A to Schedule 1 (refer to column 2 of the table at Schedule 1 to this Instrument); and
  - (ii) those local access lines or parts of access lines located outside the areas specified in subparagraph (b)(i) necessary for the provision of carriage services to premises located within the areas specified in subparagraph (b)(i); and
- (c) constructed by TransACT in accordance with a legally enforceable agreement:
  - (i) in force prior to 26 March 2011; and
  - (ii) between TransACT and the person responsible for the real estate development project; and
- (d) which uses fibre-to-the-premises architecture.

**TransACT** means TransACT Capital Communications Pty Ltd (ACN 093 966 888), a company incorporated in the Australian Capital Territory.

**TransACT FTTP Layer 3 Wholesale Interconnection Service** means a carriage service that:

- (a) is offered to be supplied on a wholesale basis; and
- (b) is supplied to internet service providers for connectivity to end users; and
- (c) is supplied by means of an optical fibre line; and
- (d) is offered as an aggregation service to support the aggregation of access services at each of the following maximum transmission speeds:
  - (i) download transmission speed of at least 10 Mbps but less than 25 Mbps and upload transmission speed of at least 1 Mbps;

- (ii) download transmission speed of at least 25 Mbps but less than 100 Mbps and upload transmission speed of at least 5 Mbps;
- (iii) download transmission speed of at least 100 Mbps and upload transmission speed of at least 20 Mbps; and
- (e) is configured as a ‘best effort’ or non-prioritised service; and
- (f) has connectivity made either:
  - (i) via Layer 3 interconnect with:
    - (A) Internet Protocol version 4 (**IPv4**) connectivity provided to end user sessions; and
    - (B) end-user sessions terminated in the TransACT network via Point to Point Protocol over Ethernet and supplied as IPv4 over Ethernet; or
  - (ii) via Layer 2 Tunnelling Protocol (**L2TP**) interconnect with:
    - (A) direct access to end user sessions via L2TP; and
    - (B) end-user sessions aggregated together in TransACT’s network via static L2TP tunnels supplied over the Ethernet.

**Note** By virtue of paragraph 46(1)(b) of the *Acts Interpretation Act 1901*, expressions used in this Instrument that are also used in the Act have the same meaning as in the Act.

#### **4 Exemptions**

- (1) Subject to the conditions set out in subclauses (2) and (3), and pursuant to subsections 141A(1) and 144(1) of the Act, each Specified TransACT Network is exempt from sections 141 and 143 of the Act.
- (2) The exemptions are subject to the condition that, if a TransACT FTTP Layer 3 Wholesale Interconnection Service is not a declared service:
  - (a) TransACT must offer and supply to access seekers, upon reasonable request, a TransACT FTTP Layer 3 Wholesale Interconnection Service over the Specified TransACT Network; and
  - (b) TransACT must:
    - (i) publish, on the wholesale section of its website, the terms and conditions (price and non-price) on which it offers to supply the TransACT FTTP Layer 3 Wholesale Interconnection Service on a Specified TransACT Network (**TFL3WIS reference offer**); and
    - (ii) each time it enters into an agreement with an access seeker, where the terms and conditions are not the same as those set out in the TFL3WIS reference offer,

*Telecommunications (Network Exemption—Specified TransACT Networks)  
Instrument 2012 (as amended)*

provide the following information to the ACCC within 14 days of entering into the agreement:

- (A) the identity of the parties to the agreement; and
- (B) the differences between the terms and conditions set out in the agreement and the terms and conditions set out in the TFL3WIS reference offer; and

(iii) each time it implements a material change to either the TFL3WIS reference offer or the product specification for the TransACT FTTP Layer 3 Wholesale Interconnection Service, provide the following information to the ACCC within 14 days of implementing the change:

- (A) the nature of the change; and
- (B) the date the change took effect; and

(iv) make available to the ACCC or ACMA, within 14 days of receipt of request, copies of executed contracts it has entered into with the person responsible for the real estate development for the construction of a Specified TransACT Network.

- (3) The exemptions are subject to the condition that TransACT must offer and supply over a Specified TransACT Network a standard telephone service to an end user, upon reasonable request from that end user.

**Note 1** Paragraph 141A(4)(b) provides that an instrument made under subsection 141A(1) may be subject to such conditions as are specified in the instrument.

**Note 2** Paragraph 144(4)(b) provides that an instrument made under subsection 144(1) may be subject to such conditions as are specified in the instrument.

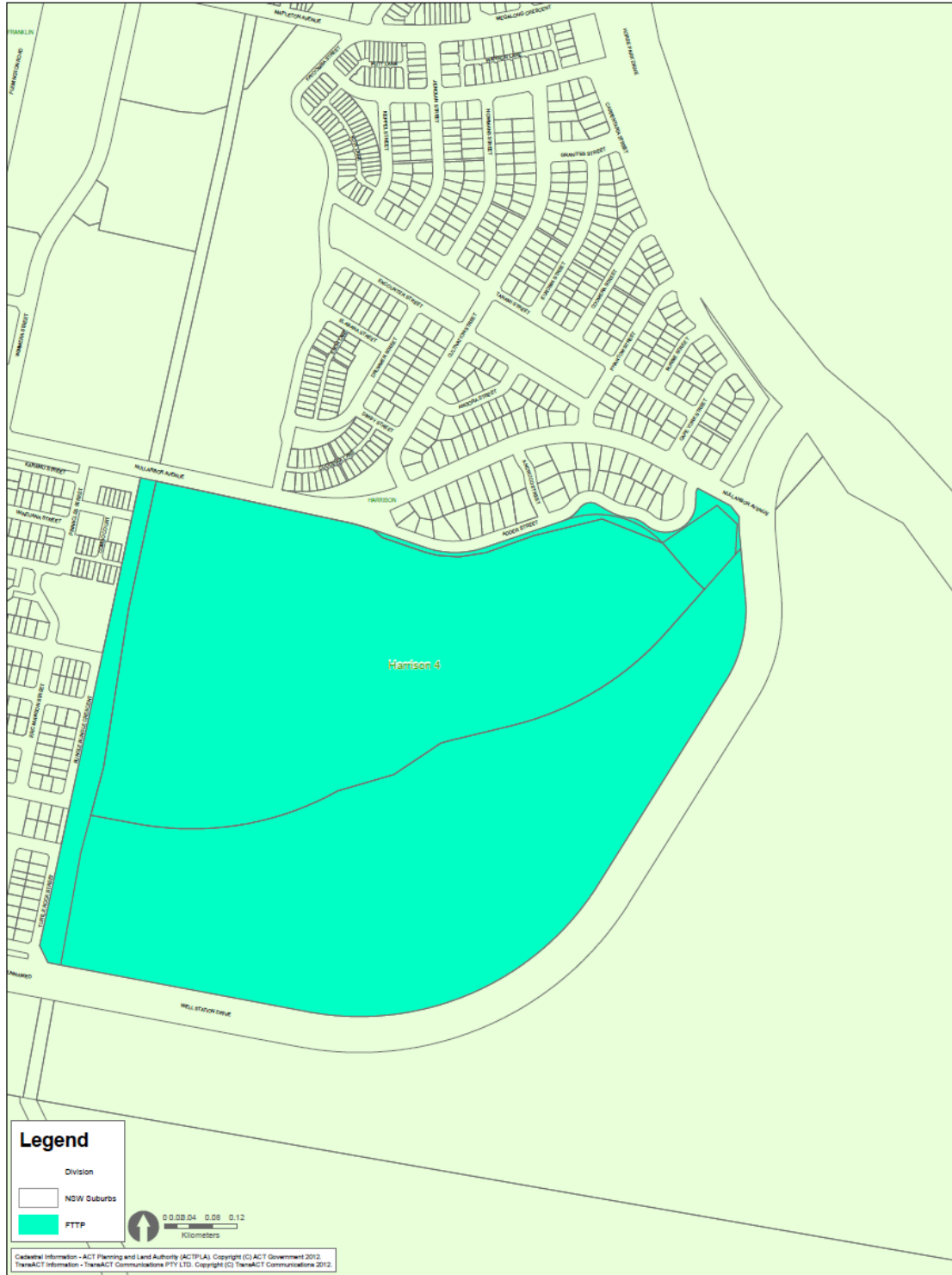
**SCHEDULE 1 – SPECIFIED TRANSACT NETWORKS**

<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Name and location of real estate development project</b>	<b>Area of project (Map Number)</b>
1	Harrison 4 Estate – Canberra ACT	The area identified as ‘FTTP’ in map1 at Annexure A
2	Fyshwick Section 26 Commercial Precinct – Canberra ACT	The area identified as ‘FTTP’ in map 2 at Annexure A
3	Coombs and Wright – Canberra ACT	The area identified as ‘FTTP’ in map 3 at Annexure A

**ANNEXURE A TO SCHEDULE 1**

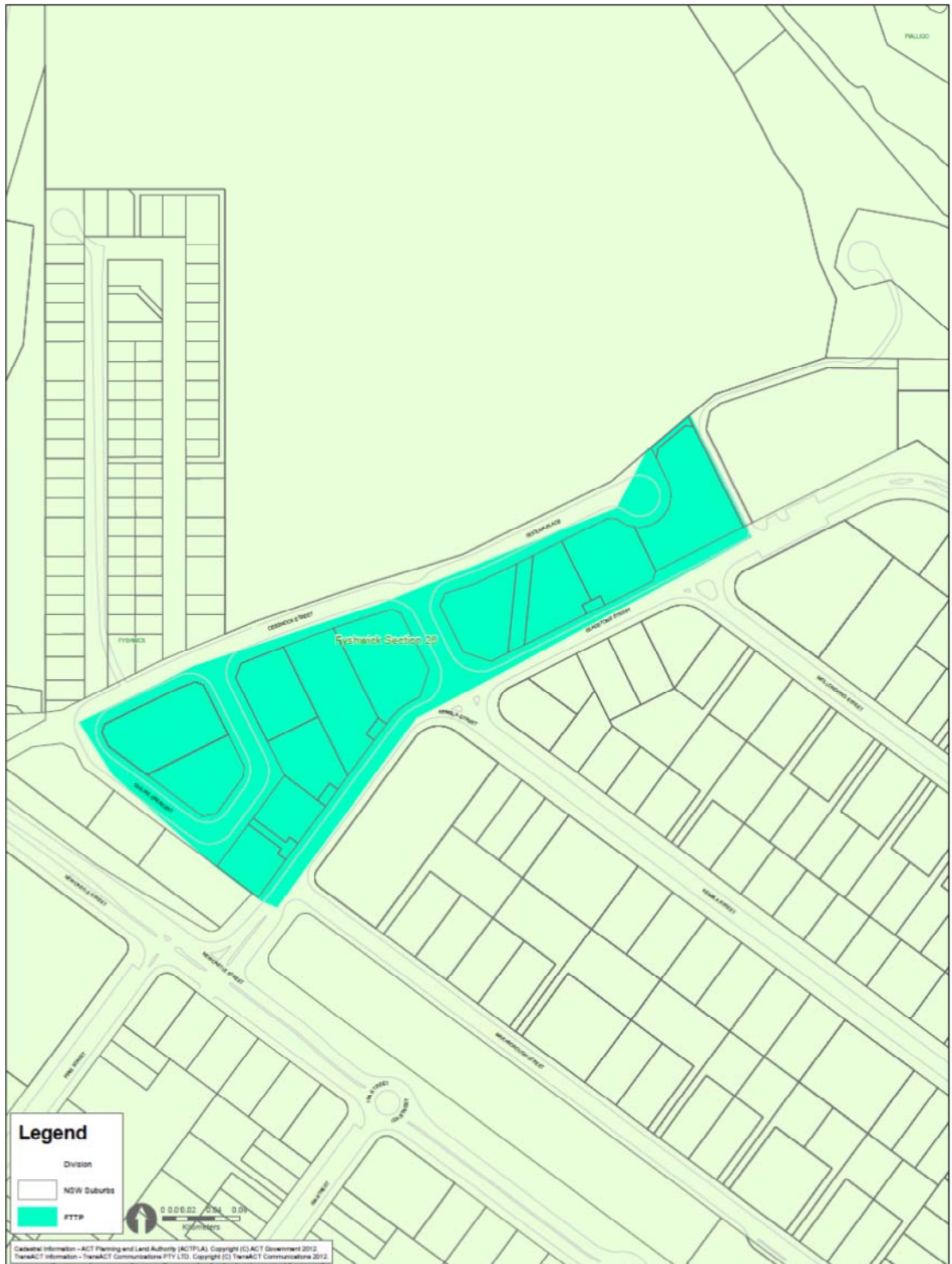
**Map 1**

**Harrison 4 Estate- Canberra ACT**



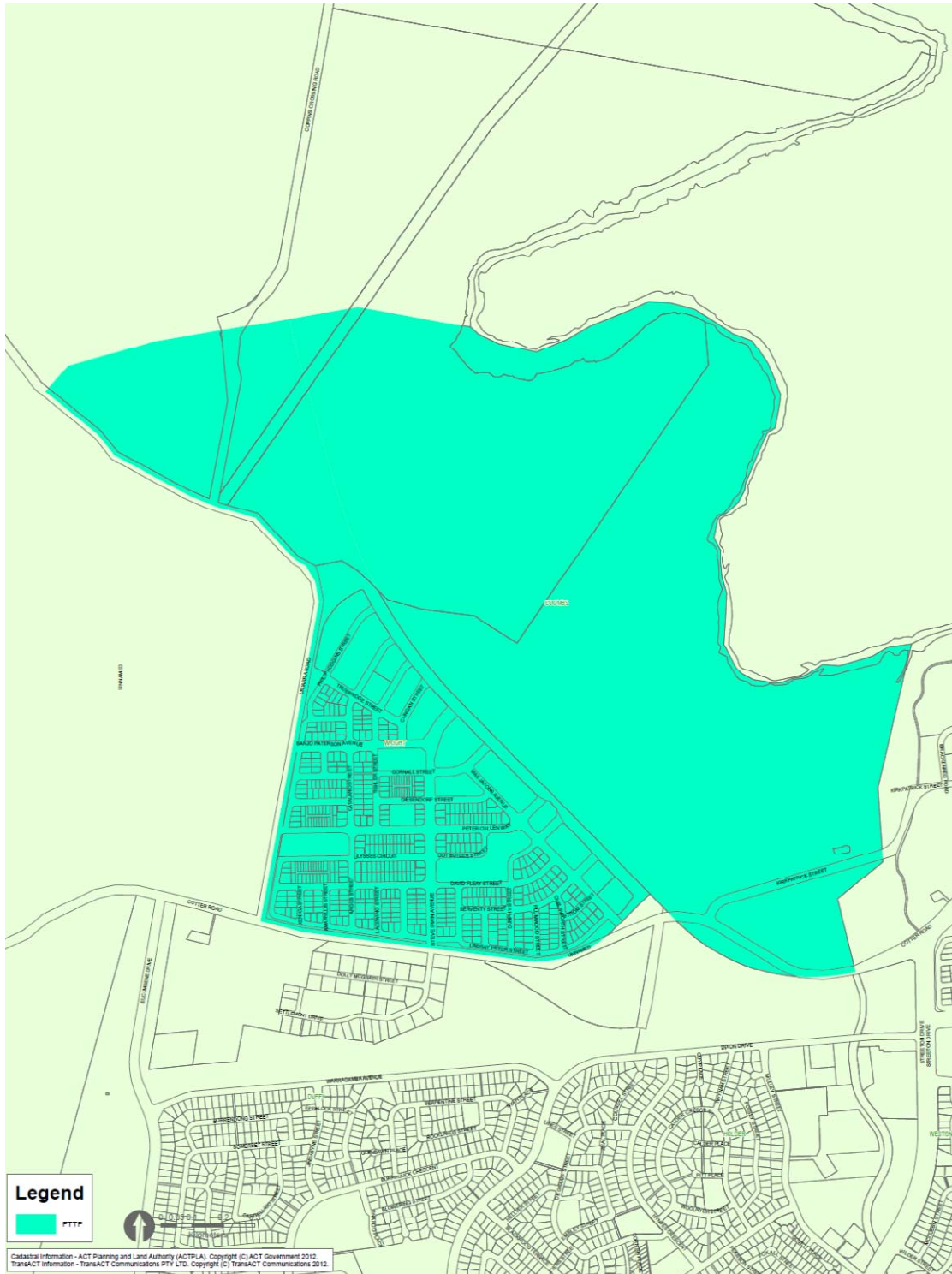
## Map 2

### Fyshwick Section 26 Commercial Precinct – Canberra ACT



### Map 3

### Wright and Coombs – Canberra ACT





*Telecommunications (Network Exemption—Specified TransACT Networks)  
Instrument 2012 (as amended)*

## Table of Amendments

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

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<b>Provision affected</b>	<b>How affected</b>
Paragraph 3(d)(iii), definition of TransACT FTTP Layer 3 Wholesale Interconnection Service ..	rep. by Telecommunications (Network Exemption—Specified TransACT Networks) Instrument 2012 (Amendment No.1 of 2012)
Paragraph 3(d), definition of TransACT FTTP Layer 3 Wholesale Interconnection Service ..	rs. by Telecommunications (Network Exemption—Specified TransACT Networks) Instrument 2012 (Amendment No.2 of 2012)
Subclause 4(1), numbering.	am. by Telecommunications (Network Exemption—Specified TransACT Networks) Instrument 2012 (Amendment No.2 of 2012)