

CONSULTATION DRAFT

NOTE: This draft Instrument is provided for the purposes of consultation only.
The final terms of the Instrument may vary from the text of this draft.



Telecommunications (Fibre-ready facilities- Exempt Real Estate Development Projects) Instrument 2016

I, MITCH FIFIELD, Minister for Communications, make the following Instrument.

[CONSULTATION DRAFT- NOT FOR SIGNATURE]

Dated 2016.

MITCH FIFIELD
Minister for Communications

1 Name of Instrument

This Instrument is the *Telecommunications (Fibre-ready facilities- Exempt Real Estate Development Projects) Instrument 2016*.

2 Commencement

This Instrument commences on the day after it is registered on the Federal Register of Legislation.

3 Legislative Authority

This Instrument is made under paragraphs 372K(1)(c), (d), (e) and (f) of the *Telecommunications Act 1997*.

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4 Expiry

This Instrument expires on [insert end date].

5 Definitions

In this Instrument:

electrical supply network infrastructure does not include any infrastructure directly forming part of an electrical transmission grid.

NBN Co means NBN Co Limited (ACN 136 533 741), as the company exists from time to time (even if its name is later changed).

NBN Co fixed-line network has the same meaning as in the *Telecommunications (Migration Plan Principles) Determination 2015*.

Region ready for service date in relation to a rollout region, means the date published by NBN Co on its website as the disconnection commencement date for that rollout region.

rollout region means a geographic region with an ascertainable boundary that has been determined and published by NBN Co within which the NBN Co fixed-line network is planned to be deployed.

Note 1: Several other words and expressions used in this Instrument have the meaning given by section 7 of the Act (see subsection 13(1) of the *Legislation Act 2003*). For example:

- building lot
- facility
- project area
- real estate development project.

Note 2: The term 'proximity' has the same meaning as in section 372Y of the Act (subsection 13(1) of the *Legislation Act 2003*).

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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 (2) is satisfied.

Item	Exemption
1	<p>Any real estate development project in which (at the relevant time):</p> <ul style="list-style-type: none">(a) the only kind of utility infrastructure installed or planned to be installed in proximity to each building lot situated in the project area is above-ground electricity lines that form electrical supply network infrastructure (other than electrical lead-ins to each building unit);(b) there is no kerb and channelling constructed (or planned to be constructed) in proximity to each building lot situated in the project area;(c) the average length of the street frontages of the building lots within the real estate development project exceeds 60 metres; and(d) the project area is not located in an NBN Co fixed-line network rollout region in which the region ready for service date:<ul style="list-style-type: none">(i) has occurred; or(ii) NBN Co has publicly announced will occur within 3 years from the date the real estate development project received planning approval or consent under the applicable State or Territory law.

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

- (2) The person responsible for the real estate development project has provided the Secretary of the Department with 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;
 - (b) the development's stage name or number;
 - (c) the development type;
 - (d) the total estimated number of building lots or building units in the development; and
 - (e) 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.