



# Update

Property & Projects

May 2010

## Federal Government Seeks to Create Greener Pastures with New Fibre Scheme

As part of the National Broadband Network regime, many new real estate development projects will need to have optical fibre installed, or be “fibre-ready” from July 1.

The Telecommunications Legislation Amendment (Fibre Deployment) Bill 2010 (**Bill**), which seeks to extend the federal government’s rollout of fibre networks, is currently before the House of Representatives. Assuming the Bill passes through both Houses before the end of the financial year, it will commence on 1 July 2010. The Bill proposes to amend the Telecommunications Act 1997 (**Act**) by inserting a new Part 20A.

The new legislation will impact relevant projects that receive planning approval after 1 July. In some cases, it will require that any fixed telecommunications line installed is an optical fibre line (the **fibre connection requirement**), and in other cases will require that any fixed-line facility (such as a conduit or pit) installed is “fibre-ready” (that is, ready for an optical fibre line to be installed at a later date – the **fibre-ready infrastructure requirement**). This is part of ensuring that fibre-to-the-premise (**FTTP**) technology is available not only to existing (“brownfield”) premises, as part of the government’s National Broadband Network rollout, but also to new (“greenfield”) premises.

### What type of premises will be affected?

The Bill describes a “real estate development project” as one in which it is intended to establish “building lots”, or “building units”, or both, for either sale or lease.

However this definition will be refined by subordinate legislation, to be conceived by the Minister for Broadband, Communications and the Digital Economy (**Minister**). By means of this legislation, the Minister will determine which developments, or classes of developments (which may be defined, for example, geographically), the new provisions will apply to.

### How will those premises be affected?

Currently, the government intends that the fibre connection requirement will only apply to premises where it is practicable (and cost-effective) to install fibre now. The premises to which the fibre connection requirement will apply are to be defined in the subordinate legislation. The fibre-ready infrastructure requirement will apply to other premises, and the Minister will determine what is meant by “fibre-ready”.

### Are there consequences for not complying?

Yes – non-compliance with these requirements will expose both carriers and non-carriers (potentially including developers) to the civil penalties regime contained in the Act.



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### Anything else?

Yes. The government has made it clear that it expects its legislative program to be supported by the States and local councils. Therefore, should the Bill be passed, it is expected that there will be consequent changes to State, Territory and local planning arrangements.

If you require any assistance in understanding the nature of your potential obligations under the proposed "greenfield" fibre scheme, please don't hesitate to contact us.

For further information please contact:



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