



**Submission to MBIE on:
Consultation - Reform of the Residential Tenancies Act 1986
October 2018**

This submission is made by the New Zealand Telecommunications Forum Incorporated (TCF). The TCF is the telecommunications sector's industry body which plays a vital role in bringing together the telecommunications industry and key stakeholders to resolve regulatory, technical and policy issues for the benefit of the sector and consumers. The TCF enables the industry to work together and to discuss issues and topics collaboratively, to reach acceptable solutions that can be developed and implemented successfully. Its members represent 95% of the New Zealand telecommunications industry by customer numbers.

This submission has been drafted in response to the Reform of the Residential Tenancies Act 1986: Discussion Document (Discussion Document). This submission focuses on the ability of tenants to make modifications to a rental property for the installation of telecommunications infrastructure, primarily related to the installation of Ultra-fast Broadband (UFB). Individual TCF members will be making their own submissions on aspects of the Discussion Document that are of particular importance to them.

We are of the view that the Residential Tenancies Act 1986 (RTA) needs to be modernised to enable tenants to receive the benefits available from having broadband installed. Access to broadband at home can significantly enhance the overall quality of life for consumers. As an isolated country with a distributed population, New Zealanders rely on technology to stay connected to other parts of the world, the country and their communities. Broadband services enhance New Zealanders' access to services such as education, health, communications, and video streaming.

The benefits of providing a fast broadband connection directly to a tenant residing in a rented property are two-fold; it enhances the value of the property for the landlord, and provides current and future tenants, landlords and owner occupiers reliable access to the services mentioned above. To enable these benefits, the TCF supports changes to the RTA to better equip tenants and landlords to reach agreement about minor alterations to the property.

The Government's policy is that faster and better broadband services are critical to improving the productivity in the economy, New Zealand's global competitiveness and the lives of New Zealanders.

The UFB build is currently 74.8% complete and is 7% ahead of schedule¹. There are 605,345 users connected to UFB with uptake at 44%². However, significant parts of the New Zealand population are tenants with a third of New Zealand households renting (589,000 households).³ The Act currently prevents a tenant from modifying a rental property unless the tenant obtains agreement from their landlord, although it is acknowledged that permission cannot be withheld unreasonably.

If it is assumed that requests for UFB installations replicate the general divide between rental and owner-occupied dwellings, then approximately 8%⁴ of tenanted properties have their orders cancelled because of a lack of cooperation by the landlord. The TCF collates cancellation data across the industry for its own monitoring purposes. This data shows that each month approximately 2.6%⁵ of all new orders for fibre connections are cancelled because the landlord either failed to respond to a request for permission to install fibre at the property, or declined permission. These figures may understate the issue as the industry collated data does not include the number of people who never continued with their request to order fibre services after they were told by their retailer service provider that they needed their landlord's permission.

The TCF understands that two options for allowing modifications to rental properties have been posited. The TCF supports Option 2 with broadband installations being available direct to tenants who reside in rented properties included as a specified modification, subject to the work being carried out by a regulated Telecommunication Network Operator⁶. The TCF would be available to assist MBIE develop appropriate criteria to be included in the allowable specified modification list.

Option 1 provides that if a landlord fails to respond within 21 days from the date of receiving the request, or an objection is inconsistent with a list of reasonable reasons, they are 'deemed' to have consented to the modification. The TCF would support this option if Option 2 was deemed untenable for broadband installations and would then recommend that further consultation on the 21 working day criteria be carried out. Option 2 is the preferred option for the TCF as it allows for the tenant to have a basic statutory right to undertake specified "low risk" modifications to their rental property in order for that tenant to receive a new broadband service.

The TCF does not support the requirement for a tenant to reverse any telecommunications infrastructure modifications made to the rental property. Once installed, broadband services would remain in place (even if no access services are being supplied) for the benefit of any future tenants, landlords and owner occupiers.

We agree with the Discussion Document that the changing nature of the rental market makes it timely to assess whether current laws are still suitable for the current tenancy environment. We

¹ <https://www.mbie.govt.nz/info-services/sectors-industries/technology-communications/fast-broadband/documents-image-library/jun-2018-quarterly-broadband-report.pdf>

² <https://www.mbie.govt.nz/info-services/sectors-industries/technology-communications/fast-broadband/documents-image-library/jun-2018-quarterly-broadband-report.pdf>

³ Reform of the Residential Tenancies Act 1986 Discussion document, August 2018, page 6

⁴ This is based on the period April 2018 to June 2018 – being the total cancellations in the period due to landlord declined tenant request for UFB services to be installed at the property compared to one third of total requests for installation

⁵ This is based on the period April 2018 to June 2018 - being the percentage of cancellations declined due to landlord declined tenant request for UFB services to be installed at the property when compared to all requests for installations

⁶ Telecommunications Act 2001

support the inclusion of the installation of UFB infrastructure to be a statutory right, subject to the qualifications identified above.

We have responded to questions 2.3.3 to 2.3.10 in Appendix 1, below. We are happy to discuss this matter further. Please contact me if you have any questions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Thorn', followed by a horizontal line extending to the right.

Geoff Thorn
Chief Executive Officer
New Zealand Telecommunications Forum (TCF)

Appendix 1: Responses to specific questions in Discussion Document

All of these questions have been written solely considering the aspect of UFB on this Discussion Document.

No.	Question	Response
2.3.3	Should a tenant be under an obligation to reverse any modifications they make in rental properties, unless the landlord agrees to take on the modification? Please explain your answer.	A tenant should not be required to reverse any telecommunications infrastructure modifications made to the rental property. Once installed, broadband services would remain in place (even if no access services are being supplied) for the benefit of any future tenants, landlords and owner occupiers.
2.3.4	Do you think that if the landlord doesn't wish to take on a modification at the end of a tenancy and the tenant doesn't reverse it, that this should be an unlawful act with a potential financial penalty? Please explain your answer.	If a modification is made to a property to allow for the installation of broadband services, it should be clear that the tenant will not be required to reverse it at the end of their tenancy. This will benefit future tenants, landlords and owner occupiers.
2.3.7	Depending on the type of modification, should a landlord be able to require the tenant to use a suitably qualified trade person? If so, what modifications should, or should not, be subject to this requirement?	Any broadband installation should be done only by a regulated Telecommunication Network Operator. Any power supply or building work should be completed by a qualified tradesperson.
2.3.8	What are sorts of modifications that could be included on a list of alterations tenants have a right to make without seeking their landlord's permission?	All broadband installations. The TCF would like to have input into the kinds of common modifications included on the list for these installations.
2.3.9	Do you think that the advantages, disadvantages and impacts of each option have been correctly identified?	The Discussion Document should note the benefit of allowing for broadband installations is in-line with government policy and is a benefit to consumers
2.3.10	If the government was to develop either option one or two further, which model do you prefer and why?	Option 2 will support the Government's broadband programme and assist the industry to meet the uptake target of 87% of New Zealanders by the end of 2022.

Contact

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