

IN CONFIDENCE

OFFICE OF THE MINISTER FOR  
COMMUNICATIONS

OFFICE OF THE MINISTER FOR THE  
ENVIRONMENT

The Chair  
Cabinet Economic Growth and Infrastructure Committee

**POLICY APPROVAL FOR PROPOSED AMENDMENTS TO THE RESOURCE  
MANAGEMENT (NATIONAL ENVIRONMENTAL STANDARDS FOR  
TELECOMMUNICATION FACILITIES) REGULATIONS 2008**

**Proposal**

- 1 We are seeking final policy approval for proposed amendments to the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 to achieve national consistency across a wider range of technologies, in a wider range of areas.
- 2 We are seeking Cabinet's authorisation to issue drafting instructions to the Parliamentary Counsel Office to amend the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 in accordance with the proposals in this paper.

**Executive summary**

- 3 Proposed amendments to the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 (NESTF) are outlined in this paper. We are seeking Cabinet's agreement to the proposed amendments.
- 4 We consider the amendments will allow the NESTF to continue to assist in infrastructure design and sourcing, and to reduce the costs and timeframes to industry and councils associated with infrastructure rollout, while ensuring that community participation in planning is maintained in key areas of local significance.
- 5 We also consider that the changes allow the NESTF to continue meeting the purpose of the Resource Management Act 1991 as they will help to meet social and economic needs while continuing to manage the environmental effects associated with telecommunication facilities.
- 6 We propose to classify the following as permitted activities:
  - aerial and underground placement of cables
  - a wider scope for the placement of antennas outside the road reserve
  - larger antennas to take into account new mobile network technologies.
- 7 The NESTF currently allows for local authorities to control the effects of existing permitted activities at sites of significance. As the proposed amendments extend the coverage of the NESTF beyond the road reserve, we propose to extend these

protections to apply to activities outside the road reserve, and to areas protected for their ecological significance.

- 8 We also propose minor amendments to existing standards, to provide clarity of interpretation and ensure the standards incorporated by referenced are up-to-date.
- 9 In accordance with the statutory process for amending a national environmental standard, the Ministry of Business, Innovation and Employment (MBIE) and the Ministry for the Environment (MfE) carried out public consultation on the proposed amendments for a period of six weeks.
- 10 We recommend retaining the majority of the proposals outlined in the discussion document presented for public consultation, with some changes to conditions to ensure interpretation is straightforward, visual and environmental effects are managed adequately, and network deployment is facilitated.
- 11 Updating the NESTF is time-sensitive. The UFB and RBI programmes are already halfway through their nine-year timeframe, with the MBSF programme scheduled to commence in 2016. Resource consent applications for these infrastructure builds are generally applied for early in the build schedule to create certainty for project timelines and reduce costs. While many of the consents required for the initial phase of the programmes will likely be in place, the expansions of these programmes mean there is still significant opportunity to achieve efficiencies in this area.
- 12 **[s.9(2)(b)(ii)]**

## **Background**

- 13 National environmental standards (NES) are regulations under the Resource Management Act 1991 (RMA). They can provide certainty about requirements across the country by setting nationally consistent planning requirements for certain specified activities.
- 14 An NES prevails over district or regional plan rules unless expressly stated. An NES must be consistent with the purpose of the RMA (to promote the sustainable management of natural and physical resources).
- 15 The NESTF came into force in 2008 and provides a national planning framework that allows network operators to install some low impact telecommunications infrastructure in road reserves without the need to apply for resource consent, provided that they meet specified conditions around size, location and noise. It also sets a national standard for radiofrequency exposure for all telecommunications infrastructure.

- 16 The objective of the NESTF is to provide for a nationally consistent planning framework for low impact telecommunications activities that will:
- assist in network and infrastructure design and equipment sourcing
  - reduce compliance costs and timeframes for service providers
  - reduce the timeframe for the availability of new services to consumers
  - reduce workload to councils in processing and determining consent applications
  - ensure that local participation in community planning is maintained in areas of greatest local significance.
- 17 In 2013, MfE carried out a review of the NESTF and found that it was largely meeting its objectives. However, it was becoming out of date in the rapidly developing telecommunications landscape. An opportunity was identified to update it, in order to realise greater economic and social benefits.
- 18 The Government's Ultra-Fast Broadband (UFB), Rural Broadband Initiative (RBI) and Mobile Black Spot Fund (MBSF) programmes involve large-scale deployment of new infrastructure nationally. **[s.9(2)(j)]**
- 19 In addition, the increasing uptake of new mobile technologies (e.g. smartphones and tablets) means that mobile infrastructure needs to be upgraded to maintain current levels of service. New technology is likely to be deployed in different ways to those activities permitted by the existing NESTF. Particular trends are:
- 4G<sup>1</sup> mobile technology, which generally requires antennas that are taller and wider than the limits specified in the NESTF
  - the roll-out of small cell units (such as microcells, picocells, femtocells, and Wi-Fi) which service smaller areas and fill in gaps in the coverage of larger antennas
  - co-location of different operators' equipment on the same mast, which requires higher structures as the equipment needs to be sufficiently spaced to avoid interference. Co-location would result in fewer individual structures in an area.
- 20 Both telecommunications cabling and mobile infrastructure (not already provided for in the current NESTF) are subject to significant inconsistency in district plan rules across the country; however the infrastructure and the environmental effects are largely the same across all districts. Regional variation under the RMA creates uncertainty for providers, drives up compliance costs, and delays the installation of new telecommunication facilities. These costs ultimately result in delays to service and increased costs for consumers.

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<sup>1</sup> 4G Long-Term Evolution is a mobile broadband service that is capable of speeds up to ten times faster than 3G mobile data networks.

- 21 Updating the NESTF is time-sensitive. The UFB and RBI programmes are already halfway through their nine-year timeframe, with the MBSF programme scheduled to commence in 2016. Resource consent applications for these infrastructure builds are generally applied for early in the build schedule to create certainty for project timelines and reduce costs. While many of the consents required for the initial phase of the programmes will likely be in place, the expansions of these programmes mean there is still significant opportunity to achieve efficiencies in this area.
- 22 **[s.9(2)(b)(ii)]**

### **Public consultation process**

- 23 In February 2015, Cabinet agreed to the Minister for the Environment and the Minister for Communications releasing the “Proposed Amendments to the National Environmental Standards for Telecommunications Facilities: Discussion Document” (EGI Min (15) 2/3).
- 24 In accordance with the statutory process for amending a national environmental standard, MBIE and MfE carried out public consultation on the proposed amendments for a period of six weeks. Iwi authorities were contacted directly about the consultation process. This consultation included the release of the discussion document above, along with other supporting documentation to outline the estimated costs and benefits and environmental effects.
- 25 A total of 145 submissions were received in response to the public consultation process. The majority of submitters who commented on the proposals in the discussion document (local government, iwi organisations, industry and professional associations, central government) stated support for the general purpose and direction of the proposed amendments.
- 26 The main concerns raised on the proposals were the management of the visual effects of the infrastructure and the environmental effects of earthworks. There was also concern that culturally significant sites would not be adequately protected.
- 27 Two thirds of the submissions received were not on the proposals in the discussion document, but from individuals concerned about the perceived health effects of radiofrequency exposure. The majority of these submissions were pro forma submissions requesting that the maximum radiofrequency field exposure standard incorporated by reference in the NESTF be reviewed.
- 28 The current exposure standard is based on international guidelines that have used analysis of scientific literature, and safeguard against all identified hazards of radiofrequency field exposure levels. The standard was confirmed as still being relevant in the 2013 review of the NESTF. As such, a review of the exposure standard is not within the scope of the proposed amendments.

- 29 MfE and MBIE also consulted with a Technical Advisory Group, consisting of local government, telecommunications network operators, and an iwi organisation representative, who provided technical advice to inform the proposals.<sup>2</sup>
- 30 Taking into account submissions to the public consultation process, and subsequent information from the Technical Advisory Group, MBIE and MfE reported to us with recommendations. We propose to retain the majority of proposals presented in the discussion document, with some changes to conditions to ensure interpretation is straightforward, visual and environmental effects are managed adequately, and network deployment is facilitated. We propose that Cabinet approve these proposals, which are set out in the following sections.

### Proposed Additions to the NESTF

- 31 To reduce the costs and delays produced by the current management regime for telecommunications infrastructure, we propose to provide central direction by widening the scope of the NESTF to classify more activities associated with the installation of telecommunications infrastructure as permitted (subject to conditions).
- 32 We consider the proposed amendments will achieve national consistency for a greater range of telecommunications infrastructure, assisting in the efficient development of telecommunications networks, whilst ensuring effects on the environment are managed appropriately.
- 33 The proposals outlined would extend the scope of the NESTF by allowing the placement of telecommunication facilities outside the road reserve. The proposed standards do not impact on private property rights. Where an activity outside the road reserve is classified as permitted, the telecommunications operator will need to come to agreement with landowners to enter their land and install and maintain infrastructure. The telecommunications operator also needs to comply with all applicable laws, including but not limited to the Telecommunications Act 2001, the Radiocommunications Act 1989, the Utilities Access Act 2010, and the Heritage New Zealand Pouhere Taonga Act 2014.
- 34 The proposed permitted activities are summarised in Appendix One. The final proposals, and changes made to those originally outlined in the discussion document as a result of consultation, are outlined in the table below.

Proposed permitted activity <sup>3</sup>		Proposed change following consultation
1.	Aerial telecommunications cables alongside existing cabling	Control on size of ancillary equipment added to mitigate visual impact.
2.	Aerial telecommunications cables for customer connections	No change.
3.	Underground telecommunications cables	Earthworks managed through separate provision.

<sup>2</sup> Members were Local Government New Zealand, Wellington City Council, NZ Telecommunications Forum, Tasman District Council, Porirua City Council, Chorus Ltd, Northpower Fibre Ltd, Enable Network Services Ltd, Spark New Zealand Ltd, 2Degrees Mobile Ltd, Vodafone New Zealand Ltd, Te Runanganui o Ngāti Porou, Crown Fibre Holdings, Ngā Pū Waea and Auckland Council.

<sup>3</sup> Note that all proposed permitted activities include proposed conditions to manage their effects. For simplicity the proposed conditions are not included in full here, but are referred to where changes are proposed.

Proposed permitted activity <sup>3</sup>		Proposed change following consultation
4.	Earthworks required for installing telecommunication facilities in the NESTF	Controls on earthworks added to manage environmental effects (new proposal).
5.	New masts to carry antennas in the road reserve	No change.
6.	Relocation of replacement utility structures	Control on location relaxed to ensure appropriate placement.
7.	New antennas in the road reserve	No change.
8.	Replacement of existing antennas with larger antenna	No change.
9.	Additional antennas at existing sites	Exclusion from road reserve introduced to manage visual impact. Height increased slightly.
10.	New masts and antennas up to 25 m high and 6 m in diameter in rural areas	Controls on location and vegetation amended to manage visual effects.
11.	Co-location of multiple telecommunications operators' antennas at existing sites	Exclusion from road reserve added to manage visual impact. Control on height increase modified for clarity.
12.	Antennas on buildings	Control on building height removed for buildings outside residential areas. Provision for dish antennas added.
13.	Cabinets servicing antennas on buildings	Slight changes to conditions for clarity.
14.	Small cell units on existing structures (e.g. buildings, bus stops, light poles).	No change.
15.	New telecommunications cabinets	No change.
16.	Replacement telecommunications cabinets	Provision for network transfer added.

### Application of the NESTF

- 35 As suggested in the discussion document, we propose that the provisions in the NESTF apply to the infrastructure of network operators (as defined in section 5 of the Telecommunications Act 2001), the Crown, and Crown agents – an extension of the current NESTF's application to only network operators. This extension is to ensure that government organisations that are, or may in the future be operating their own telecommunications networks, such as those for emergency services, are subject to these same provisions. Excluding the Crown and Crown agents would have the effect of requiring compliance with district plan rules for each of these activities, even though the facilities have the same environmental effects as network operators' facilities.
- 36 In their submission on the discussion document, the New Zealand Police noted that, by proposing to expand the NESTF beyond the road reserve, their utility buildings could be inadvertently captured by the definition of 'cabinet'. Since these buildings are larger than the size allowance for cabinets, they would therefore be subject to resource consenting requirements where they are not currently. For clarity, we therefore propose to exclude utility buildings able to be entered by a person from the scope of cabinets.

## Protection from significant adverse effects

- 37 Under section 43A(3) of the Resource Management Act 1991 (RMA), a National Environmental Standard (NES) must not state that an activity is a permitted activity if the activity has significant adverse effects on the environment. Advice indicates that under some circumstances, depending on the receiving environment, the new activities proposed to be classified as 'permitted activities' may have significant adverse effects.
- 38 The existing NESTF complies with the section 43A(3) requirement by setting conditions protecting trees and vegetation, historic heritage values, visual amenity values, and coastal marine area. If the area is identified in the relevant district plan as having historic heritage values or visual amenity values, the district plan rules prevail. District plan rules also prevail if the facility is located in the road reserve on the same side of the road as and next to coastal marine area, and if the facility is to be located in the drip line of a tree and the activity would require a resource consent if not for the NESTF.
- 39 In expanding the scope of the NESTF outside the road reserve, while adding additional permitted activities, there is a risk that the proposed amendments to the NESTF would not comply with section 43A(3) as the existing protections apply to too limited a range of sensitive environments to mitigate the potential significant adverse effects of this expanded scope.
- 40 We therefore recommend expanding the protections for historic heritage areas, visual amenity value and the coastal marine area to activities both inside and outside the road reserve. Where a tree is listed in a schedule in a district plan for its significance, we propose that it is protected through new conditions controlling earthworks (outlined in the following section), rather than by expanding the existing policy so that it protects all vegetation outside the road reserve.
- 41 We also propose to expand protections to include additional types of environments with specific protections in the relevant district plan. We propose the additional protections be aligned with the matters of national importance in section 6 of the RMA. We propose to expand the policy so that district plan rules prevail if the plan specifically identifies an area for protection in relation to one of the following matters:
- the protection of outstanding natural features and landscapes
  - the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- 42 We do not propose to add natural hazard zones to the list of special areas managed by district plans, as was proposed in the discussion document. Legislation such as the Building Act 2004 and industry practices already require the appropriate placement of facilities that are adequately protected in zones where there may be natural hazard risks.
- 43 Telecommunications operators generally avoid placing infrastructure in natural hazard zones where possible, due to the costs associated with additional strengthening and hazard avoidance. However if placement in these areas is

needed to meet customer demand, industry works with information from councils to engineer a solution. In addition, local government submitters who expressed support for adding natural hazard zones did not generally offer any supporting information or show how council management processes would result in better resilience for networks or communities than current industry practice.

### **Radiofrequency fields**

- 44 The New Zealand Standard currently incorporated by reference into the NESTF that specifies assessment methods for radiofrequency fields (NZS 6609.2:1990) has been replaced with a new Australia/New Zealand standard (AS/NZS 2772.2:2011). The new exposure assessment standard supersedes the old standard.
- 45 We therefore propose to replace the reference to the NZS 6609.2:1990 standard with reference to AS/NZS 2772.2:2011 in the NESTF. This standard will not affect the maximum exposure limits for radiofrequency fields.

### **Costs and Benefits**

- 46 An analysis of the costs and benefits of the proposals indicates that, while many impacts are not able to be quantified, there will be a net benefit from adopting the proposed amendments to the NESTF. This benefit will primarily be experienced through the cost savings that could be made by both industry and local government through reducing the number of resource consent applications that need to be made and processed, and the wider public through enabling a faster and more efficient roll-out of RBI, UFB and mobile infrastructure. For example, the GDP impact of the UFB and RBI programmes is estimated to be \$5.5 billion over 20 years, and the economic benefits to New Zealand end-users of high-speed broadband applications is estimated to amount to \$32.8 billion over 20 years. The faster the infrastructure is installed, the faster the benefits will accrue.
- 47 The assessment identified some risk associated with amending the NESTF relating to potential environmental effects and the reduction of public participation in community planning decisions. However, the assessment found that these risks will be adequately managed through provisions in the proposed NESTF, particularly the ability of local authorities to protect sensitive areas from inappropriate development, and through the consultation process in developing these amendments.

### **Consultation**

- 48 Public consultation was undertaken from 3 March 2015 to 17 April 2015, with 145 submissions received. The majority of submitters who commented on the proposals were supportive of the objective and direction of the proposals. The proposals in this paper reflect the outcomes of the consultation process. A Technical Advisory Group also provided expert advice to MfE and MBIE.
- 49 MfE and MBIE consulted the following agencies on this paper: Department of Internal Affairs, Heritage New Zealand, Ministry of Civil Defence & Emergency Management, Ministry for Culture and Heritage, Ministry of Health, Ministry of Transport, New Zealand Defence Force, New Zealand Fire Service, New Zealand Police, Te Puni Kōkiri, New Zealand Transport Agency, and the Treasury.
- 50 The Department of the Prime Minister and Cabinet has been informed.

## Statutory requirements

- 51 The Minister for the Environment considers the proposed amendments to the NESTF are consistent with the purpose of the Resource Management Act 1991 in promoting sustainable resource management for the following reasons:
- The efficient deployment of new and upgraded broadband technologies allowed will enable the use and development of telecommunications infrastructure as a physical resource.
  - Broadband technologies which are deployed will assist fulfilling the evolving requirements of communities for improved broadband services to meet their social and economic needs, including those for education and learning.
  - The management of adverse environmental effects is addressed in two ways. Firstly, by setting an appropriate balance between local participation and national environmental standards. The existing and proposed standards provide for local participation by allowing areas of cultural or historic heritage significance, visual amenity, the coastal marine area, and ecological areas to be managed by the relevant district plan. Secondly, environmental effects are also addressed by the inclusion of conditions to avoid, remedy or mitigate adverse effects.
- 52 Under section 44(2) of the RMA, the Minister for the Environment is required to notify the public and iwi authorities of the proposed subject matter of the standard when proposing an NES. The steps are—
- (a) to notify the public and iwi authorities of—
    - (i) the proposed subject matter of the standard; and
    - (ii) the Minister's reasons for considering that the standard is consistent with the purpose of the Act; and
  - (b) to establish a process that—
    - (i) the Minister considers gives the public and iwi authorities adequate time and opportunity to comment on the proposed subject matter of the standard; and
    - (ii) requires a report and recommendation to be made to the Minister on those comments and the proposed subject matter of the standard; and
  - (ba) to prepare an evaluation report for the standard in accordance with section 32 and have particular regard to that report when deciding whether to recommend the making of the standard; and
  - (c) to publicly notify the report and recommendation made in accordance with paragraph (b)(ii).
- 53 The Minister for the Environment considers that the process is meeting these requirements. The Minister intends to publicly notify the summary of submissions and a report and recommendation on these comments and the proposed amendments on the Ministry for the Environment's website following Cabinet approval to proceed with drafting.

## Financial Implications

- 54 There are no financial implications resulting from the proposed amendments to the NESTF.

## Human Rights

- 55 There are no human rights implications from this paper. We consider that the proposals are consistent with the New Zealand Bill of Rights Act 1990.

## Legislative Implications

- 56 This paper proposes amendments to the Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2008.

## Regulatory Impact Analysis Requirements

- 57 The Regulatory Impact Analysis requirements apply to the proposals set out in this paper. A Regulatory Impact Statement has been prepared by the Ministry of Business, Innovation and Employment and is attached.
- 58 The Regulatory Impact Analysis Review Panel has reviewed the attached Regulatory Impact Statement (RIS) prepared by the Ministry of Business, Innovation and Employment. They consider that the information and analysis summarised in the RIS meets the criteria necessary for ministers to fairly compare the available policy options and take informed decisions on the proposals in this paper.

## Next steps

- 59 We propose to release an exposure draft of the amended regulations to the Technical Advisory Group prior to finalisation, to ensure interpretation of the regulations is straightforward and unambiguous.
- 60 We will then report to Cabinet Legislation Committee in December for final approval of the amended regulations and promulgation in early January 2016.

## Publicity

- 61 MBIE and MfE will work with local authorities to ensure they understand and can apply the regulations.
- 62 The Users' Guide which accompanies the NESTF will be updated in conjunction with the amended regulations.

## Recommendations

The Minister for Communications and the Minister for the Environment recommend that the Cabinet Economic Growth and Infrastructure Committee:

- 1 **Note** that the Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2008 (NESTF) were evaluated in 2013 as largely meeting its objectives
- 2 **Note** that the NESTF could provide greater benefits by providing national consistency for a greater range of telecommunications infrastructure

- 3 **Note** that the following proposed amendments provide for a greater range of telecommunications infrastructure, including activities integral to nationwide network deployment programmes such as the Ultra-Fast Broadband and Rural Broadband Initiative programmes

*Statutory prerequisites*

- 4 **Note** that the Minister for the Environment considers that the proposed amendments are consistent with the purpose of the Resource Management Act 1991, for the following reasons:
- 4.1 The efficient deployment of new and upgraded broadband technologies allowed will enable the use and development of telecommunications infrastructure as a physical resource.
- 4.2 Broadband technologies which are deployed will assist fulfilling the evolving requirements of communities for improved broadband services to meet their social and economic needs, including those for education and learning.
- 4.3 The management of adverse environmental effects is addressed in two ways. Firstly, by setting an appropriate balance between local participation and national environmental standards. The existing and proposed standards provide for local participation by allowing areas of cultural or historic heritage significance, visual amenity, the coastal marine area, and ecological areas to be managed by the relevant district plan. Secondly, environmental effects are also addressed by the inclusion of conditions to avoid, remedy or mitigate adverse effects.
- 5 **Note** that the Minister for the Environment has followed a process that has allowed the public and iwi authorities adequate time and opportunity to comment on the proposed subject matter of the proposed amendments
- 6 **Note** that the Minister for the Environment will release the report and recommendations on submissions from officials on the Ministry for the Environment's website in accordance with 44(2)(c) of the Resource Management Act 1991 (RMA) once decisions are made on the recommendations in this paper

*Amendments to extend the application of the NESTF*

- 7 **Agree** that the activities and requirements in the NESTF will apply to the Crown and Crown agents as well as telecommunications network operators (together referred to as telecommunications operators)
- 8 **Agree** that the jurisdiction of the NESTF be extended to cover activities outside the road reserve
- 9 **Note** that New Zealand Police utility buildings may be inadvertently captured by the definition of a 'cabinet' in the current NESTF if its scope is extended outside the road reserve, and if not amended, this would create a consenting requirement for the Police that does not currently exist
- 10 **Agree** to ensure utility buildings able to be entered by a person are excluded from the definitions of a cabinet

*Amendments to add new permitted activities to the NESTF*

- 11 **Agree** to amend the NESTF to give effect the matters referred to in recommendations 12 to 39
- 12 **Agree** that aerial placement of telecommunications cables be a permitted activity, including any necessary ancillary equipment, subject to conditions relating to size, existing locations, and infrastructure
- 13 **Agree** that underground placement of telecommunications cables, by a telecommunications operator, including any necessary underground ancillary equipment, be a permitted activity
- 14 **Agree** that earthworks related to the installation/replacement of telecommunication facilities be a permitted activity, subject to conditions controlling managing, and mitigating the adverse environmental effects on; water bodies, the coastal marine area, adjoining properties, and trees identified in a schedule to a district plan
- 15 **Agree** that the placement of antennas and necessary ancillary equipment, on the roof or side of a building is a permitted activity, subject to conditions controlling the zoning and size of the building, the size of the antenna, and relevant property boundaries.
- 16 **Agree** that telecommunication cabinets necessary for the operation of antennas on the roof or side of buildings are permitted, subject to conditions on size and location.
- 17 **Agree** that the placement of new masts to carry antennas in road reserve, and their necessary ancillary equipment, be a permitted activity, subject to conditions controlling size and proximity to other facilities.
- 18 **Agree** that, where a utility structure is relocated or replaced, the relocated structure be a permitted activity subject to conditions related to proximity with the existing structure, and the location within a road reserve
- 19 **Agree** that the placement of new antennas on an original utility structure or other structure in the road reserve, including any necessary ancillary equipment, be a permitted activity, subject to conditions relating to height and diameter of the total structure and the antenna
- 20 **Agree** that replacing an antenna with another antenna, including any necessary ancillary equipment and widening of the support mast be a permitted activity, subject to conditions relating to total height and diameter of the mast and antenna, and lawfulness of the existing utility structure.
- 21 **Agree** that the placement of additional antennas on an existing mast or utility structure in areas not zoned residential areas or not in the road reserve, including any necessary ancillary equipment, be a permitted activity subject to conditions controlling the total height, diameter, and size increase of the total structure, and lawfulness of the existing utility structure
- 22 **Agree** that the placement of masts and antennas up to a total of 25m in height and 6m in diameter be permitted in areas zoned rural, including any necessary ancillary equipment, subject to conditions controlling distance from buildings and vegetation reinstatement

- 23 **Agree** that the placement of antennas, including any necessary ancillary equipment, by one or more additional telecommunications operators on an existing utility structure (co-location) in areas not zoned residential or road reserve, be a permitted activity, subject to conditions controlling the total height and width increase of the structure
- 24 **Agree** that the installation of a small-cell unit on a structure, including any necessary ancillary equipment be permitted, subject to conditions related to total volumetric dimension

*Amendments to existing permitted activities in the NESTF*

- 25 **Note** that the placement of telecommunications cabinets in the road reserve to support the operation of antennas is a permitted activity under the current NESTF, subject to conditions on size and placement
- 26 **Agree** that the size limits for cabinets in areas zoned residential be modified so the maximum height permitted is consistent across all cabinets
- 27 **Agree** that the definition of a 'site' for cabinet placement will be clarified to prescribe distances to be set between cabinets, and between sites, and to exclude 'rooftops' from this definition
- 28 **Agree** that the replacement of cabinets which contravenes the prescribed distances for a site be a permitted activity where the replaced cabinet is intended to be removed subject to conditions on timeframes

*Amendments to jurisdiction of the NESTF*

- 29 **Note** that the NESTF allows more stringent district plan rules for telecommunication facilities to prevail over the NESTF if the activity is located within the dripline of a tree or other vegetation that would mean the activity would require resource consent
- 30 **Note** that the NESTF allows more stringent district plan rules for telecommunication facilities to prevail over the NESTF in areas identified in the relevant district plan for their historic heritage or visual amenity value, as well as in the coastal marine area
- 31 **Note** that the purpose of the policy set out in recommendations 29 and 30 is to ensure that the NESTF does not permit activities which have significant adverse effects, and to allow for appropriate planning input from local communities
- 32 **Agree** that this policy be extended to the new permitted activities referred to in recommendations 15 to 28
- 33 **Note** that the conditions referred to in recommendation 14 control the effects of earthworks on trees listed in a schedule in district plans
- 34 **Agree** that the protections for the dripline of a tree or other vegetation continue to apply in the road reserve only
- 35 **Agree** that, for the new permitted activities referred to in recommendations 15 to 28 as well as existing permitted activities in the NESTF, district plan rules will prevail over the NESTF in areas identified in the relevant district plan for the protection of significant indigenous vegetation, the protection of significant habits of indigenous fauna, and outstanding natural landscapes and features

- 36 **Agree** regional councils will continue to manage the areas of beds of lakes and rivers in accordance with their functions under section 30 of the RMA

*Technical amendments*

- 37 **Note** that the NESTF requires network operators to produce reports showing compliance with radiofrequency field maximum exposure levels for each facility installed
- 38 **Note** that the exposure assessment standard for radiofrequency fields incorporated by reference in the NESTF (NZS 6609.2:1990) has been replaced by a new assessment standard (AS/NZS 2772.2:2011)
- 39 **Agree** that the reference to NZS 6609.2:1990 be replaced with reference to AS/NZS 2772.2:2011

*Next steps*

- 40 **Authorise** the Minister for the Environment and Minister for Communications to issue drafting instructions to the Parliamentary Counsel Office to give effect to the policy decisions in this paper
- 41 **Invite** the Minister for the Environment and Minister for Communications to report back to the Cabinet Legislation Committee in December 2015 with draft amendment regulations.

Hon Amy Adams  
**Minister for Communications**

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Hon Dr Nick Smith  
**Minister for the Environment**

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## Appendix One: Proposed amendments

Note that the following wording is illustrative of policy intention only, and will change as a result of the drafting process.

Area	Final draft proposal – permitted activity
<p>1. Aerial telecommunications cables alongside existing cabling</p>	<p>Aerial placement of telecommunications cables by a telecommunications operator is permitted, including any necessary ancillary equipment, subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• no additional poles are installed</li> <li>• the total diameter of the new cabling does not exceed 30 mm</li> <li>• ancillary equipment does not exceed a total volumetric dimension of 0.4m<sup>3</sup>, excluding auxiliary cables, if there are any.</li> </ul> <p>Relocation and/or replacement poles where necessary for structural or safety reasons may be up to 3 m from the original location.</p>
<p>2. Aerial telecommunications cables for customer connections</p>	<p>Aerial placement of telecommunications cables by a telecommunications operator, including any necessary ancillary equipment, is permitted for customer connections (lead-ins) from existing poles to a building</p>
<p>3. Underground telecommunications cables</p>	<p>Underground placement of telecommunications cables and any necessary underground ancillary equipment by a telecommunications operator is permitted</p>
<p>4. Earthworks required for installing telecommunication facilities in the NESTF</p>	<p>Earthworks are a permitted activity, subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• erosion sediment control must be applied and maintained, during and after the earthworks, to avoid the adverse effects of sediment on water bodies and the coastal marine area</li> <li>• all areas of soil exposed by the earthworks must be stabilised against erosion as soon as practicable after the earthworks end to avoid the adverse effects of sediment on water bodies and the coastal marine area</li> <li>• the earthworks must not create or contribute to— <ul style="list-style-type: none"> <li>(a) instability or subsidence of a slope or another land surface; or</li> <li>(b) erosion of the bed or bank of a water body or the coastal marine area; or</li> <li>(c) drainage problems or flooding of overland flow paths</li> </ul> </li> <li>• soil or debris from the earthworks must not be placed where it can enter a water body or the coastal marine area</li> <li>• the earthworks avoid creating a dust nuisance on adjoining properties</li> <li>• earthworks must not be carried out if it disturbs a tree or trees described in a Schedule to a District Plan, including disturbing the roots</li> <li>• wherever possible, the ground must be reinstated following installation</li> </ul>
<p>5. New masts to carry antennas in the road reserve</p>	<p>The installation of a new mast in the road reserve is permitted, provided that the total height and width of the mast and antenna is no larger than it would have been if installed in accordance with Regulation 7 (of the existing NESTF) on an original utility structure within 100 m of the installation site. If there are multiple poles in the 100 m radius, operators must take the average of the poles.</p>
<p>6. Relocation of replacement utility structures</p>	<p>A replacement utility structure may be moved to within a 5 m radius of the location of the original utility structure, provided the structure is still located on the road reserve.</p>

Area	Final draft proposal – permitted activity
<p><b>7.</b> New antennas in the road reserve</p>	<p>A new antenna placed on an existing utility structure in the road reserve, including any necessary ancillary equipment, is a permitted activity, subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• the total height of the structure including the antenna must be no more than 3.5 m higher than the height of the existing utility structure</li> <li>• antennas must fit within the dimensions of a cylindrical shape that, when measured along the centre line of the utility structure, is not more than 0.7 m in diameter, including the shroud</li> <li>• replacement utility structures must not have a diameter that is more than 100 per cent wider than the original utility structure’s diameter at its widest point</li> </ul>
<p><b>8.</b> Replacement of existing antennas</p>	<p>Replacing an antenna with another antenna, including any necessary ancillary equipment is permitted, subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• the total height of the mast and antenna is increased by no more than 3.5 m over the height of the existing mast</li> <li>• the diameter of any panel antenna is no more than 0.7 m</li> <li>• the diameter of any replacement mast is no more than 30 per cent greater than the diameter of the existing mast</li> <li>• the existing replacement utility structure was lawfully established (ie, authorised by a regulation, plan or consent under the RMA).</li> </ul> <p>Lightning rods may extend beyond the height of the antenna</p>
<p><b>9.</b> Additional antennas at existing sites</p>	<p>Installation of additional antennas on an existing mast or replacement utility structure, including any necessary ancillary equipment, is permitted, subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• the total height of the mast and antenna is increased by no more than 3.5 m over the height of the existing structure</li> <li>• the total diameter of the head frame, if there is one, or of the structure(mast, antenna and headframe), at its widest point is no more than the diameter of the existing structure plus 100 per cent</li> <li>• the diameter of a replacement mast at its widest point is no more than 30 per cent greater than the diameter of the existing mast</li> <li>• the area is not zoned residential in the relevant district plan or located on the road reserve</li> <li>• the existing replacement utility structure was lawfully established (ie, authorised by a regulation, plan or consent under the RMA).</li> </ul> <p>Lightning rods may extend beyond the height of the antenna.</p>
<p><b>10.</b> New masts and antennas up to 25 m high and 6 m diameter in rural areas</p>	<p>The placement of a mast and antenna in an area zoned rural in the relevant district plan is permitted, including any necessary ancillary equipment, subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• the total height (of the mast and antenna) does not exceed 25 m</li> <li>• the diameter of the mast and antenna at its widest point (excluding the concrete plinth) does not exceed 6 m</li> <li>• the antenna is not located closer than 50 m from the closest external wall of a dwelling, residential home, or educational facility</li> <li>• if any vegetation disturbance (including trimming or removal) is required to prepare the site: <ul style="list-style-type: none"> <li>- the tree(s) must not be scheduled</li> <li>- any vegetation disturbed must be reinstated where possible.</li> </ul> </li> </ul> <p>Lightning rods may extend beyond the height of the antenna</p>

Area	Final draft proposal – permitted activity
<b>11.</b> Co-location of multiple operators' antennas at existing sites	Increasing the total height of a mast and antenna by up to 5 m over the height of the existing structure for the purposes of co-location, including any necessary ancillary equipment, is permitted up to a maximum of 25 m, subject to the following conditions: <ul style="list-style-type: none"> <li>• the area is not zoned residential in the relevant district plan or in the road reserve</li> <li>• the diameter of a replacement mast at its widest point is no more than 30 per cent greater than the diameter of the existing mast</li> <li>• the existing replacement utility structure was lawfully established (ie, authorised by a regulation, plan or consent under the RMA)</li> </ul> Lightning rods may extend beyond the height of the antenna.
<b>12.</b> Antennas on buildings	The placement and replacement of antennas and necessary ancillary equipment on the roof or side of a building in is permitted, subject to the following conditions: <ul style="list-style-type: none"> <li>• in a residential area, the part of the building to which the antenna is attached is no less than 15 m high</li> <li>• antennas do not extend 5 m above the part of the building to which they are attached</li> <li>• the maximum face area of a panel antenna is 1.5m<sup>2</sup></li> <li>• the maximum diameter of a dish antenna is 1.2 m</li> <li>• associated cabinets are permitted</li> </ul> Lightning rods may extend beyond the height of the antennas.
<b>13.</b> Cabinets servicing antennas on buildings	The placement of telecommunications cabinets servicing antennas on buildings is permitted, subject to the following conditions: <ul style="list-style-type: none"> <li>• each associated cabinet must not have a footprint of more than 2 m<sup>2</sup></li> <li>• the cabinets must be no higher than the height of the concrete foundation plinths, if there are any, plus 2 m</li> <li>• in a residential area, associated cabinets must be located within the property boundary</li> </ul>
<b>14.</b> Small-cell units on existing structures	The installation of a small-cell unit on a structure including any necessary ancillary equipment is permitted, provided that each small-cell unit and the ancillary equipment do not exceed a total volumetric dimension of 0.11 m <sup>3</sup> , excluding auxiliary cables.
<b>15.</b> New telecommunication cabinets	The placement of telecommunications cabinets is permitted, subject to the following conditions: <ul style="list-style-type: none"> <li>• in a residential area, each cabinet's footprint must be no more than 1.4 m<sup>2</sup> and the total footprint per site no more than 2 m<sup>2</sup></li> <li>• in a residential areas, cabinets must be no higher than the height of the concrete foundation plinths, if there are any, plus 1.8 m</li> <li>• in areas not zoned residential under the relevant district plan rules, the dimensions in the current NESTF apply.</li> </ul>
<b>16.</b> Replacement telecommunication cabinets	The placement of cabinets which exceed the maximum footprint per site is permitted, subject to the following conditions: <ul style="list-style-type: none"> <li>• where a cabinet is being installed to replace a cabinet, one cabinet is removed no later than 3 months following installation of the other cabinet</li> <li>• where a cabinet is being installed for a different type of service to replace a current service, one cabinet is removed as soon as practicable</li> </ul>

Terminology	Interpretation
<b>Telecommunications cables</b>	As defined by “line” in Section 5 or the Telecommunication Act 2001: (a) means a wire or a conductor of any other kind (including a fibre optic cable) used or intended to be used for the transmission or reception of signs, signals, impulses, writing, images, sounds, instruction, information, or intelligence of any nature by means of any electromagnetic system; and (b) includes— (i) any pole, insulator, casing, fixture, tunnel, or other equipment or material used or intended to be used for supporting, enclosing, surrounding, or protecting any of those wires or conductors; and (ii) any part of a line
<b>Telecommunications operator</b>	As defined by “network operator” in Section 5 of the Telecommunications Act 2001, and the Crown or Crown agents network operator means any person declared under— (a) section 105 of the Telecommunications Act 2001 to be a network operator for the purposes of this Act or any provision of this Act; or (b) section 2A of the 1987 Telecommunications Act (as it read immediately before the commencement of this Act) to be a network operator for the purposes of that Act or any provision of that Act
<b>Telecommunication facility</b>	Telecommunication facility means— (a) an antenna; (b) a cabinet and, if there is one, the concrete foundation plinth for the cabinet. (c) a small cell unit (d) aerial or underground cables
<b>Ancillary equipment</b>	Equipment required to support the technology and frequencies deployed. Ancillary equipment may include for example, but is not limited to: power distribution unit, microwave unit, DC and surge arrestor/units, cables, remote radio unit, fibre access terminals, fibre coils, protection guards, ducting, aerial to underground connections, feeder breakout points.
<b>Auxiliary cables</b>	(a) means any cabling leading to the antenna, small cell unit or ancillary equipment which is necessary to ensure the operation of the facility; and (b) does not include telecommunications cables or coils.
<b>Rural</b>	A zone/s which provides predominantly for rural type activity/businesses.
<b>Rural residential</b>	A zone/s in a rural area for the purpose of a very low density residence with opportunity for a small rural productive activity.
<b>Residential</b>	A zone/s which provides for predominantly forms/types of residential housing/accommodation and does not include land zoned for rural residential or countryside living purposes.
<b>Commercial</b>	A zone/s which provides for predominantly retail, commercial and business type activities.
<b>Industrial</b>	A zone/s which provides predominantly for businesses and industry both light and heavy
<b>Antenna</b>	As defined in the current NESTF (including the mount) but excluding small cell units (a) means a device that – (i) received or transmits radiocommunication or telecommunication signals; and (ii) is operated by a network operator; and (b) includes the mount, if there is one, for the device; and

Terminology	Interpretation
	(c) includes the shroud, if there is one, for the device; and (d) is not a small cell unit
<b>Mast</b>	As in the discussion document:  any pole, tower or similar structure designed to support antennas to facilitate telecommunications, radio communications and/or broadcasting - and does not include an antenna.
<b>Small cell unit</b>	A low-powered radio access node that provides improved cellular coverage or capacity and is operated by a telecommunications operator.
<b>Natural area</b>	An area that is protected by a district plan rule because it has outstanding natural features or landscapes, significant indigenous vegetation, or significant habitats of indigenous fauna
<b>'Existing'</b>	The state existing at the date the amended regulations came into force.
<b>Site</b>	'Site' is an area where there is a complying cabinet or sets of cabinets and where there is no more than 500mm between any two adjacent cabinets (at the closest point).. Sites must be at least 30 m apart (measured from the 2 closest points of the cabinets nearest to each other). For the avoidance of doubt, a rooftop is not a site.

**Appendix Two: Regulatory Impact Statement**

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