

# Determining specified fibre areas

## Framework and initial approach

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## Glossary

<b>Copper services</b>	Means copper fixed line access services as defined under section 5 of the Telecommunications Act 2001.
<b>CSV</b>	Comma-Separated Value Plain Text File.
<b>CWC</b>	Copper withdrawal code.
<b>End-user</b>	In relation to a telecommunications service, means a person who is the ultimate recipient of that service or of another service whose provision is dependent on that service.
<b>GIS</b>	Geographic Information System.
<b>LFC</b>	Local Fibre Company.
<b>LINZ</b>	Land Information New Zealand.
<b>NBAP</b>	Non-Building Access Point.
<b>Primary survey parcel</b>	A primary survey parcel is a portion of land used by Land Information New Zealand (LINZ) to define ownership.
<b>S-POI</b>	Specified Point of Interconnection.
<b>QA</b>	Quality Assurance.
<b>Regulated fibre service provider</b>	a person prescribed by the Governor-General as being subject to regulation under s 226 of the Act.
<b>RSP</b>	Retail Service Provider.
<b>Shapefile</b>	A simple format for storing geometric location attribute information of geographic features eg, an area of land.
<b>SFA</b>	Specified Fibre Area.
<b>Specified fibre service</b>	a telecommunications service of the kind that enables access to, and interconnection with, a regulated service provider's fibre network.
<b>STD</b>	Standard Terms Determination.
<b>TCF</b>	NZ Telecommunications Forum Inc.
<b>TSO</b>	Telecommunications Service Obligation.
<b>UBA</b>	Unbundled Bitstream Access is a DSL-enabled service that enables access to, and interconnections with, part of Chorus' fixed Public Data Network. It provides retail service providers with a managed bitstream service from an exchange to an end-user, so that companies do not need to manage their own network equipment.
<b>UCLFS</b>	Unbundled Copper Low Frequency Service is a service that enables access to, and interconnection with, the low frequency (being the frequency band between 300 and 3400 Hz) in Chorus' copper local loop network that connects the end-user's building to the handover point in Chorus' local telephone exchange.
<b>UFB</b>	The New Zealand government's Ultrafast Broadband initiative.

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## Introduction

### Purpose and structure of this paper

1. The Telecommunications (New Regulatory Framework) Amendment Act 2018 (**Amendment Act**) came into force on 13 November 2018. It amends the Telecommunications Act 2001 (**Act**).
2. The Act requires us to carry out an assessment to determine the geographic areas in which specified fibre services are available to end-users. These geographic areas will be known as specified fibre areas (**SFAs**). The first assessment must be carried out before 1 January 2020, and thereafter assessments must be carried out at least annually.<sup>1</sup>
3. The purpose of this paper is to confirm our framework for determining SFAs and to outline how we will give effect to this framework in our initial assessment.
4. The paper is divided into three chapters:
  - 4.1 Chapter 1 provides a brief background and context to SFAs and summarises the consultation process we have followed;
  - 4.2 Chapter 2 provides the legal framework for SFAs; and
  - 4.3 Chapter 3 outlines our framework for assessing and declaring SFAs and provides our reasons for key decisions. Both the framework and the key decisions are informed by our consultation process.
5. The assessment and notification of SFAs is, in turn, a prerequisite to enabling Chorus Limited (**Chorus**) to withdraw supply of copper fixed line access services (**copper services**) to end-users within those SFAs. It is, however, not the only prerequisite. Before Chorus can withdraw supply of a copper service it must also comply with the consumer protection requirements set out in the Copper Withdrawal Code (**CWC**).<sup>2</sup>
6. The CWC is being developed through a separate consultation process (and must be in place by 1 January 2022, although we have indicated that we propose to finalise the CWC by June 2020). The CWC will set the minimum protections for consumers of copper services during the transition to fibre and other next generation technologies.<sup>3</sup>

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<sup>1</sup> Specified fibre service is defined in s 69AB(6) and includes all fibre fixed line access services provided by a regulated fibre service provider. This is discussed in more detail at paragraphs 32 - 35.

<sup>2</sup> Copper fixed line access services are Chorus' unbundled bitstream access service and Chorus' unbundled copper low frequency service.

<sup>3</sup> Commerce Commission, Copper Withdrawal Code Framework Paper for the New Zealand Telecommunications Forum (TCF) to provide information to assist the Commission in developing the Copper Withdrawal Code (01 August 2019).

7. A requirement for the definition of “specified fibre services” under section 69AB(6), and a prerequisite to our initial assessment of SFAs, is the making of regulations under s 226 of the Act prescribing regulated fibre service providers and the services in respect of which they are subject to regulation under Part 6 of the Act. We anticipate that the regulations will be in force before the end of the year, enabling us to assess and declare SFAs by 1 January 2020, with the SFA declaration taking effect on 1 February 2020. In addition, to define specified fibre services, we will need to prescribe points of interconnection under s 231 of the Act. We intend to prescribe points of interconnection before the end of the year.
8. For the reasons given above at paragraph 7 we will use our compulsory information gathering powers under s 98 of the Commerce Act to obtain the information we require to complete our initial assessment of SFAs before 1 January 2020, as required under the Telecommunications Act.

## Chapter 1: Context for assessment of specified fibre areas

9. This chapter provides the background to SFAs and of our process for assessing SFAs.
10. SFAs will be geographic areas in which specified fibre services are available to end-users. Subject to the scope of regulations that we expect to be made under s 226, we anticipate these areas will largely be derived from the fibre access networks being rolled out under the Ultrafast Broadband (**UFB**) initiative.

### Background to specified fibre areas

11. The copper access network, owned and managed by Chorus, is currently regulated under Schedule 1 of the Act and the relevant standard terms determinations (STDs) made under section 30M of the Act.
12. The copper access network is being overlaid by fibre access networks as part of the UFB initiative launched in 2009. Chorus and the other local fibre companies (**LFCs**) are building these fibre access networks. The other LFCs are Enable Networks Limited (**Enable**), Northpower Fibre Limited and Northpower LFC2 (**Northpower**) and Ultrafast Fibre Limited (**Ultrafast**).<sup>4</sup>
13. Neither Chorus nor the other LFCs provide telecommunications services directly to end-users. Instead, they provide wholesale services to both retail service providers (**RSPs**) and other wholesale service providers (**WSPs**) of telecommunication services. Other entities (eg, Unison), which are not part of the UFB initiative, also operate fibre access networks.
14. Although the declaration of an area as an SFA is a prerequisite for the process of withdrawing copper services from an area, it does not necessarily mean copper services will be withdrawn. Chorus, as the copper network operator, ultimately makes the final decision on the withdrawal of copper services and can then only do so if the requirements of the CWC are met.
15. Chorus will be required to continue to supply copper services in areas which are not SFAs in accordance with the relevant STDs. The prices under the STDs are the year 5 prices specified in the STDs, with annual inflation adjustments.<sup>5</sup>
16. Although those services continue to be subject to STDs, we may not review or reconsider the STDs until we have completed an investigation under either s 69AH(1)(a) of the Act or Schedule 3 of the Act. Chorus' telecommunications service obligations (**TSO**) will be retained in non-SFA areas.<sup>6</sup>

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<sup>4</sup> The Act's definition of 'LFC' includes Chorus. However, the term 'LFC' is typically used to refer only to the other three LFCs (ie, Enable, Northpower and Ultrafast). In this paper, we adopt the definition in the Act, which includes Chorus. When we refer to the non-Chorus LFCs, we use the term 'other LFCs'.

<sup>5</sup> Telecommunications Act 2001, s 69AG(5).

<sup>6</sup> Telecommunications Act 2001, s 69AG(5)(b) and s 69AG(8).

## **Our consultation process on framework and approach for determining specified fibre areas**

17. In November 2018, we published a paper Determining Specified Fibre Areas - Process and Issues Paper to engage with stakeholders about the best approach to completing our initial assessment.<sup>7</sup>
18. We received submissions from Spark, Vodafone, Chorus, the Telecommunications Forum (TCF), Enable and Ultrafast Fibre, TUANZ, Internet NZ, Trustpower, 2degrees and Vocus.
19. Issues arising from submissions and cross-submissions were subsequently discussed at a technical workshop held at the Commission on 18 July 2019. The workshop was attended by TCF, Chorus, Vodafone, Spark, Enable, Internet NZ, Northpower, Ultrafast Fibre and 2degrees. A summary of views expressed at the workshop was published on 28 August 2019.<sup>8</sup>
20. This paper has considered submitters' comments, and significant matters raised and discussed at the workshop. This paper details our process for determining SFAs, closing off our consultation on the SFA framework and initial approach.
21. Our timeline for the process for the assessment of SFAs is outlined in Table 1 below.

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<sup>7</sup> Commerce Commission, Determining specified fibre areas: Process and Issues Paper (26 November 2018), at [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0022/107572/Determining-specified-fibre-areas-Process-and-issues-paper-26-November-2018.PDF](https://comcom.govt.nz/_data/assets/pdf_file/0022/107572/Determining-specified-fibre-areas-Process-and-issues-paper-26-November-2018.PDF).

<sup>8</sup> Commerce Commission, Specified Fibre Areas Technical Workshop: Summary of view expressed, (29 August 2019), at [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0025/170368/SFA-technical-workshop-Summary-of-views-expressed-July-2019.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0025/170368/SFA-technical-workshop-Summary-of-views-expressed-July-2019.pdf).



**Table 1: Timeline for SFAs**

Description	Timeframe
SFA Process and Issues Paper published	26 November 2018
Submissions on SFA Process and Issues Paper closed	15 February 2019
Cross-submissions on SFA Process and Issues Paper closed	1 March 2019
Letter from Kate Mackenzie to Dr Stephen Gale	17 June 2019
Technical industry workshop held	18 July 2019
Determining specified fibre areas: Framework and initial approach published	31 October 2019
Initial assessment due	By 31 December 2019
Annual (and supplementary) assessments	2020 onwards

22. Additional information that informed our approach to the assessment of SFAs can be found at Appendix D.

## Chapter 2: Legal framework for specified fibre areas

23. This chapter outlines the provisions in the Act relevant to our assessments of SFAs, and our interpretation of these provisions. We have included our obligations and associated definitions under the Act in Appendix A.
24. In this chapter we discuss:
  - 24.1 Our SFA obligations;
  - 24.2 What is a specified fibre service;
  - 24.3 Who are end-users;
  - 24.4 Meaning of available;
  - 24.5 What are the requirements for an SFA; and
  - 24.6 Effect of SFAs.

### Our SFA obligations

25. Under Part 2AA of the Act, we are required to:
  - 25.1 before 1 January 2020 carry out an initial assessment to determine the geographic areas in which a specified fibre service is available to end-users (**initial assessment**);<sup>9</sup> and
  - 25.2 at least annually after our initial assessment, carry out further assessments to determine the geographic areas in which a specified fibre service is available to end-users (**annual assessments**).<sup>10</sup>
26. If we determine that a specified fibre service is available in a geographic area to end-users, we must, by public notice, declare the area to be an SFA. This notice must specify the date on and after which the area is an SFA (**effective date**).<sup>11, 12</sup>
27. Our notice may describe an area by any means, including by use of a map and by a narrative description of the area.<sup>13</sup>
28. Further, we must maintain a record of all SFAs. The list must be available, at all reasonable times, for inspection on our website.<sup>14</sup>

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<sup>9</sup> Telecommunications Act 2001, s 69AB(1).

<sup>10</sup> Telecommunications Act 2001, s 69AB(1).

<sup>11</sup> Telecommunications Act 2001, s 69AB(2).

<sup>12</sup> Telecommunications Act 2001, s 69AB(3). Section 69AB(3) of the Act also specifies that the date on and after which the area is to be a specified fibre area must not be before 1 January 2020.

<sup>13</sup> Telecommunications Act 2001, s 69AB(4). The Act has indicated (without limitation) that a notice may be described through the 'use of a map' or 'a narrative description of the area'.

<sup>14</sup> Telecommunications Act 2001, s 69AB(5).

### What is a specified fibre service?

29. A specified fibre service is defined in s 69AB(6) of the Act as:
- (a) a fibre fixed line access service;
  - (b) a telecommunications service provided by a regulated fibre service provider (F) over fibre media where the ultimate recipient of the service is F or a related party of F (as if the test for related parties were the same as the test in section 69U, applied with any necessary modifications).
30. A fibre fixed line access service is a telecommunications service that enables access to, and interconnection with, a regulated fibre service provider's fibre network, but does not include a telecommunications service:
- 30.1 provided in any place over a copper line, other than where the copper line is within an end-user's premises or building;<sup>15</sup> or
  - 30.2 used exclusively in connection with a telecommunications service provided in any place over a copper line.<sup>16</sup>
31. We consider that the existence of a specified fibre service is a factual question depending on the existence of a 'regulated fibre service provider', a 'fibre network' and a 'fibre handover point', as those terms are defined in the Act. We explain each of these concepts below in paragraphs 32 - 35.

#### *Regulated fibre service provider*

32. Specified fibre services only relate to telecommunications services provided by a person prescribed by the Governor-General as being subject to regulation under s 226 of the Act. The timeframe for the s 226 regulations is outlined above at paragraph 7. We expect that Chorus and the other LFCs will be prescribed as 'regulated fibre service providers' under the Act. In carrying out our assessment of SFAs, we will only assess telecommunications services provided by regulated fibre service providers.<sup>17, 18</sup>

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<sup>15</sup> Telecommunications Act 2001, paragraph (b)(ii) of the definition of 'fibre fixed line access service' in s 5.

<sup>16</sup> Telecommunications Act 2001, paragraph (b)(iii) of the definition of 'fibre fixed line access service' in s 5.

<sup>17</sup> Telecommunications Act 2001, s 226.

<sup>18</sup> Telecommunications (New Regulatory Framework) Amendment Bill (8 August 2017), Explanatory note.

*Fibre network*

33. To be a specified fibre service, a telecommunications service must be of the kind that enables access to, and interconnection with, a regulated service provider's fibre network. The term 'fibre network' is defined in the Act as a 'network structure used to deliver telecommunications services over fibre media that connects the user-network interface (or equivalent facility) of an end-user's premises, building, or other access point to a regulated fibre service provider's fibre handover point'. We provide a fibre network diagram at Appendix B.<sup>19</sup>

*Fibre handover point*

34. A specified fibre service will need a fibre handover point, which is defined in the Act as 'the external network-to-network interface (**E-NNI**) (or equivalent facility) located at the specified point of interconnection for the relevant end-user's premises, building, or other access point that enables access to and interconnection with that regulated fibre service provider's fibre network'.<sup>20</sup>
35. To establish fibre handover points, the Commission must specify points of interconnection under s 231 of the Act. A project has been initiated to specify points of interconnection before 31 December 2019. An initial draft will be published for consultation allowing two weeks for submissions. We do not anticipate cross-submission before finalising the recommendation.

*Submission on non-building access points*

36. A joint submission from Enable Networks and Ultrafast Fibre stated that a fibre service to a non-building access point (**NBAP**) should not be a specified fibre service for the purposes of Part 2AA of the Act.<sup>21</sup>
37. The submission contended that, "[a]s none of the services being deregulated under part 2AA (Unbundled Bitstream Access Service (**UBA**) and Chorus' Unbundled Copper Low Frequency Service (**UCLFS**)) terminate at an access point which is not a building, the availability of fibre services to NBAPs has no relevance to, and should not be considered in, the Commission's analysis under s 69AB(1) of the Act".<sup>22</sup>
38. Our view is that, in determining whether an area is an SFA, we must apply the definition of 'specified fibre services' set out in s 69AB of the Act. The definition requires that we treat a fibre service to a NBAP as a specified fibre service.

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<sup>19</sup> Telecommunications Act 2001, s 5 definition of 'fibre network'.

<sup>20</sup> Telecommunications Act 2001, s 5 definition of 'fibre handover point'.

<sup>21</sup> NEW REGULATORY FRAMEWORK FOR FIBRE Submission of Enable Networks Limited and Ultrafast Fibre Limited (collectively LFCs) on NZCC Process and Issues Paper on determining specified fibre areas, (14 February 2019), page 2.

<sup>22</sup> NEW REGULATORY FRAMEWORK FOR FIBRE Submission of Enable Networks Limited and Ultrafast Fibre Limited (collectively LFCs) on NZCC Process and Issues Paper on determining specified fibre areas, (14 February 2019), page 2.

39. As we note above at paragraph 29, to be a specified fibre service, a telecommunications service must be of the kind that enables access to, and interconnection with, a regulated service provider's fibre network. The definition of 'fibre network' expressly includes connections to 'other access point[s]', which includes NBAPs. Accordingly, a fibre service to a NBAP falls within the scope of specified fibre services.
40. We consider that it would be difficult to exclude properties that don't have copper services and would require the LFCs to have knowledge on the availability of Chorus' copper network. As result any determination based on this approach would be difficult to audit or validate against external records.

#### **Who are end-users?**

41. An 'end-user' is defined in relation to a telecommunications service as a 'person who is the ultimate recipient of that service or of another service whose provision is dependent on that service'.<sup>23</sup>
42. In the context of s 69AB(2), we consider the end-user to be both actual and potential end-users of a specified fibre service within an SFA, unless expressly stated otherwise. An end-user's location in the context of a specified fibre service will be a premise, building, or other access point.

#### **Meaning of 'available'**

43. As part of our initial and annual assessments, we must determine the geographic areas in which a specified fibre service is 'available' to end-users.<sup>24</sup>
44. We consider that a specified fibre service is available where, in relation to an end-user, the key components of that service exist as outlined above ie, a regulated fibre service provider, a fibre network and a fibre handover point. We do not consider it necessary that an end-user be able to connect to the fibre network for there to be a specified fibre service available to the end-user. This is because issues relating to an end-user's actual ability to connect to the fibre network are more appropriately addressed under the CWC.
45. Later in this paper, at paragraphs 72 - 90 we discuss how we intend to practically assess whether a specified fibre service is available for the initial assessment.

#### **What are the requirements for a specified fibre area?**

46. The minimum size of an SFA needs to be at a level of granularity that interested parties can identify an end-user location (for example an address point and property boundary).

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<sup>23</sup> Telecommunications Act 2001, s 5.

<sup>24</sup> Telecommunications Act 2001, s 69AB(1).

47. It is important to be able to identify individual end-user locations so that Chorus, RSPs and end-users can understand Chorus' obligations under s 69AC of the Act and the CWC.
48. Our assessments will be conducted at a point in time. If a property boundary is declared to be in an SFA, the whole of that property is within the SFA. If the property is subsequently subdivided, the newly created parcels of land will still all be within the SFA displayed on our website even though the specific boundaries of each property are not specified as part of our declaration.
49. We propose a complete national update of the **SFA Map** at each annual assessment to take account of all changes to property boundaries and subdivisions since the previous annual SFA assessment. In the case of supplementary assessments, the SFA Map will be amended accordingly. This is most likely to reflect regional or local changes.
50. We will assess whether an area is an SFA irrespective of whether there is an existing copper network in the area, as the Act directs us to identify all areas where specified fibre services are available. For example, for areas such as greenfield subdivisions where fibre has been laid, we will declare these areas as SFAs so long as specified fibre services are available.
51. In practice, although Chorus will not need these areas to be declared as SFAs (as there was never any copper services in those areas to withdraw), they will still be declared as an SFA. The exclusion of greenfield developments and certain fibre NBAPs would likely result in observable differences between the SFA Map published on our website and the fibre coverage maps published on Chorus' and LFCs' websites that may confuse end-users.

### **Effect of specified fibre areas**

52. Once an area is declared as an SFA, there are two immediate effects in that SFA:
  - 52.1 Copper services cease to be designated access services under Schedule 1 of the Act.<sup>25</sup>
  - 52.2 The TSO Deed for Local Residential Telephone Service ceases to apply (except to the extent that it relates to 111 call services), as does the TSO Deed for TSO Network Service.<sup>26</sup>
53. Although copper services cease to be designated access services in the SFA, s 69AC imposes certain obligations on Chorus to continue to supply copper services in SFAs to protect end-users during the transition from copper to fibre. Section 69AC provides:

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<sup>25</sup> Under Schedule 1, it is a condition of each of Chorus' Unbundled Bitstream Access and Chorus' Unbundled Copper Low Frequency Service that the service is available only where the end-user's building (or, where relevant, the building's distribution frame) is not located in an SFA.

<sup>26</sup> Telecommunications Act 2001, s 69AE.

- (1) This section applies if—
  - (a) Chorus is required by a standard terms determination made under section 30M to supply a copper fixed line access service to an access seeker; and
  - (b) Chorus started supplying the service at a time when the end-user's building (or, where relevant, the building's distribution frame) was not located in a specified fibre area; and
  - (c) as a result of a notice under section 69AB,—
    - (i) the end-user's building (or, where relevant, the building's distribution frame) becomes located in a specified fibre area; and
    - (ii) the service ceases to be a designated access service in the specified fibre area on and after the date specified in the notice.
- (2) Chorus may stop supplying the service referred to in subsection (1) only if—
  - (a) a copper withdrawal code has been approved and Chorus complies with the requirements of the code in relation to stopping the supply of the service; or
  - (b) the end-user chooses to have the service disconnected (other than a temporary disconnection).

54. We note that, under s 69AC:

54.1 Chorus' obligation to continue to supply the copper service applies only where an end-user was receiving a copper service supplied in accordance with the relevant STD. There is no obligation on Chorus where an end-user was receiving a copper service not supplied in accordance with the relevant STD. Chorus has provided information to us which indicates that it considers much of the copper services it supplies are regulated copper services;<sup>27</sup> and

54.2 In our view, where Chorus is obliged to continue to supply a copper service, it must do so in accordance with the terms of the relevant STD, including in relation to price.

55. During consultation, Chorus disagreed with our view that, where Chorus is obliged to continue to supply a copper service, it must do so in accordance with the terms of the relevant STD. Chorus submitted that its obligation is limited to providing a service meeting the **UBA** and **UCLF** designated service description (in Schedule 1 of the Act) on commercial terms.<sup>28</sup>

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<sup>27</sup> Email from Chorus to Commerce Commission (27 September 2019).

<sup>28</sup> Chorus submission on SFA Process and Issues Paper, (18 February 2019) at para 63.

56. Despite its differing view, Chorus has given an assurance, in the form of a letter from the CEO of Chorus Kate Mackenzie to Telecommunications Commissioner Stephen Gale, that where it is required to continue to supply a copper service under s 69AC, it will do so in accordance with the relevant STD until the CWC is approved, or 30 June 2020 (whichever is the sooner).<sup>29</sup>
57. Finally, we note that there is no explicit provision in the Act that allows for modification once an area has been declared to be an SFA. However, we consider that we may modify SFAs in circumstances where it is necessary to ensure accuracy. Such circumstances may include a data error, a natural disaster that alters end-user locations, and where there is a subdivision of land resulting in an end-user location for which there is no longer a specified fibre service available to the end-user.

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<sup>29</sup> Letter to Commerce Commission about specified fibre areas and continued application of Standard Terms Determinations, (17 June 2019), at [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0031/154795/Letter-to-Commerce-Commission-about-specified-fibre-areas-and-continued-application-of-Standard-Terms-Determinations-13-June-2019.PDF](https://comcom.govt.nz/_data/assets/pdf_file/0031/154795/Letter-to-Commerce-Commission-about-specified-fibre-areas-and-continued-application-of-Standard-Terms-Determinations-13-June-2019.PDF).



### Chapter 3: Framework for assessing and declaring Specified Fibre Areas

58. This chapter sets out our framework for assessing and declaring SFAs. We currently intend to apply this framework for our initial assessment and for future assessments. We may make amendments to this framework as we learn from each assessment. For each amendment, we will consider whether it is necessary to consult with interested parties before making the amendment.
59. This chapter also sets out key steps of our approach to our initial assessment that must be completed by before 1 January 2020.
60. The framework and key decisions in this chapter were informed by our initial views as expressed in our November 2018 SFA Process and Issues Paper, our consideration of matters raised by interested parties in submissions and cross-submissions on the SFA Process and Issues Paper, and discussions held at a technical workshop we held in July 2019.

#### Declaring specified fibre areas

61. We intend that our declaration of SFAs will take the form of a Geographic Information System (**GIS**) datafile (the **SFA Datafile**) referencing the Land and Information New Zealand (LINZ) survey parcels where specified fibre services are available to end-users. We are required to give public notice by way of notice in the Gazette. This notice will record that we have made a declaration as required by the Act and provide a link to the SFA Datafile on our website.
62. For each assessment of SFAs we will publish on our website:
  - 62.1 The SFA Datafile available for download and interrogation by interested parties, including:
    - 62.1.1 the underlying metadata which will include Commission contact details, the purpose, description and extent of the SFA coverage;<sup>30</sup>
    - 62.1.2 SFA shapefiles available for download and use with GIS software. The shapefile will contain the LINZ survey parcels that are within an SFA and will be attributed with the parcel identifier, service provider(s), assessment date and effective date; and
    - 62.1.3 a narrative description of each SFA.
  - 62.2 An interactive national web map of the SFAs (SFA Map) that enables a user to determine, by address, if any location in New Zealand is inside or outside of an SFA.

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<sup>30</sup> The metadata will be based on the Australia New Zealand Land Information Council (ANZLIC) Metadata Profile. The Profile defines a minimum set of elements that must be collected for spatial datasets and other resources. It also provides the flexibility to capture more information about a dataset or resource to meet specific business requirements and was endorsed by the State Services Commission in July 2010.

63. The narrative description will be derived from the extents of localities within the NZ Fire Services Locality dataset. By using a naming convention that closely aligns with real-world names of areas of towns and cities, users of the published SFA description will find it to be user-friendly.
64. The SFA Datafile is the definitive representation of our assessment and declaration of the availability of specified fibre services. The narrative material supports the SFA Datafile but is indicative only as a user-friendly description. In the event of any conflict between the narrative description, the metadata and the SFA Datafile and the SFA Map, the SFA Datafile takes precedence.

#### *Public notice*

65. We will issue a public notice in the *Gazette* on the completion of our assessments of SFAs. The notice will specify the effective date for the SFAs in that assessment.
66. We will also notify interested parties via email, and on our website.

#### **Assessment information requirements**

67. To determine where end-users are located, we require an accurate database of end-user address points mapped to property boundaries and land parcels.<sup>31</sup>
68. We will obtain information on the as-built fibre network from 'regulated fibre services providers' to determine where specified fibre services are located. The regulated fibre service providers will be required to provide us with updated information for each assessment to ensure we maintain an accurate record.
69. We will then determine where specified fibre services are available at end-user locations. This will produce the SFA Map of land parcels where specified fibre services are available.<sup>32</sup>
70. To enable us to make our assessment, the regulated fibre service providers will be required to provide us with the location of all end-user premises, buildings, or other access points that have specified fibre services available and for which an order for provision of a service can be placed, ie, the address point is 'Active' within the service provider's system. This will be either as a series of geographic points or as a shapefile of LINZ survey parcels. To validate the accuracy of this information, we will also require:

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<sup>31</sup> Note that some properties will contain more than one address point, and an address point may be known by more than one name or alias. Land parcels provide a definitive record whereas address points may not provide the level of certainty we require.

<sup>32</sup> Each land parcel and end-user address point will be assigned an attribute for SFA=Y/N assigned to it (ie, is this address point in or out of an SFA). The aggregate shape resulting from aggregation of all the property boundaries for address points where SFA=Y then defines the boundaries of each SFA.

- 70.1 the as-built location of the regulated fibre service provider's communal fibre access network assets; and
  - 70.2 copies of a regulated fibre service provider's relevant fibre service coverage maps, such as those published on their website.
71. The provided information will be in the form of shapefiles and comma-separated values (CSV) suitable for loading into a GIS.

### **Approach to assessing availability of specified fibre services**

#### *Introduction*

72. In this section we outline our approach to assessing the availability of specified fibre services for the initial assessment.<sup>33</sup>
73. In our SFA Process and Issues Paper, we considered a specified fibre service to be available when the key elements of the service exist as established by the legislation. In this section we address the practicalities of giving effect to the legal definition availability in our SFA assessment.<sup>34</sup>

#### *Our initial view*

74. We expanded on our initial views derived from our reading of the Act and set out in the SFA Process and Issues Paper at the workshop. We stated that we were open to the idea of assessments being based on premises that have been passed by the provider's fibre network but would require a modified definition of premises passed that addressed specified fibre services and not just UFB fibre.
75. We explained a modified definition was needed to include premises otherwise excluded from the definition of 'premises passed' under the UFB network infrastructure partner agreements. Those exclusions were schools and medical centres (otherwise known as priority users).
76. We proposed an alternative method to assess availability. At the workshop we stated the method to define availability as:
- 76.1 a primary survey land parcel in the LINZ title database that can connect to the regulated service provider's fibre network (UFB or Non-UFB) from a premises boundary termination point without further significant civil works required on the Communal Infrastructure or outside the premises boundary.

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<sup>33</sup> We note here that although some elements of availability are clearly set out in the Act, there might be reason to re-visit our interpretation and practical usage for our SFA assessment purpose as the UFB build nears completion and when we have greater visibility of Chorus' withdrawal plans ie, when the copper footprint becomes very small.

<sup>34</sup> Para 64 of Process and Issues Paper paraphrased.

*What we heard in submissions and at the workshop*

77. Chorus and the LFCs told us at the workshop that it is not practicable to determine whether an end-user can connect to a specified fibre service.
78. Spark suggested an end-user's physical connection to a fibre network is not necessary for determining the availability of specified fibre services, as end-users would be safeguarded from connection issues following the completion of the CWC (if Chorus chooses to issue a notice, which triggers the CWC process).<sup>35</sup>
79. In its submission on our SFA Process and Issues Paper Vocus also acknowledged the practical difficulties with the level of information required to assess an SFA down to the level of an individual user's ability to connect.
80. Vocus suggested that as a matter of practicality the Commission could "loosen" the SFA test criteria, so long as certain protections to ensure an end-user's access to fibre is addressed by the CWC.<sup>36</sup>
81. 2degrees' cross-submission on the SFA process reinforced views generally expressed in other submissions. 2degrees noted a broad view of the issue of availability is consistent with a multi-level regime that relies on the grandfathering process and the CWC for appropriate end-user protection during the deregulation process.<sup>37</sup>
82. For declaring specified fibre service availability, 2degrees noted our assessments should focus on a premises passed test and not include a requirement that individual end-users are physically able to connect to the fibre network.<sup>38</sup>
83. Chorus and the other LFCs recommended in submissions to our SFA Process and Issues Paper that we undertake assessments based on the premises that have been passed by the regulated fibre provider's network.<sup>39</sup>
84. Chorus noted such assessments in UFB areas should be based on premises passed, as certified by Crown Infrastructure Partners (CIP), and in non-UFB areas (eg, greenfield developments) as evidenced by the provider's own records.
85. There was general agreement at the workshop that using a modified definition of premises "passed" would work for defining a specified fibre service as being available.

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<sup>35</sup> Spark submission on Process and Issues Paper, (12 February 2019), n.p.

<sup>36</sup> Schedule 2A Copper Withdrawal Code s(3)(a). Vocus submission on SFA Process and Issues Paper, 14 February 2019), page 3.

<sup>37</sup> 2degrees Cross-submission on SFA Process and Issues Paper & minimum Requirements of the Copper Withdrawal Code, (1 March 2019), page 2.

<sup>38</sup> 2degrees Cross-submission on SFA Process and Issues Paper & minimum Requirements of the Copper Withdrawal Code, (1 March 2019), page 2.

<sup>39</sup> Chorus submission on SFA Process and Issues Paper, (18 February 2019), page 6. NEW REGULATORY FRAMEWORK FOR FIBRE Submission of Enable Networks Limited and Ultrafast Fibre Limited (collectively LFCs) on NZCC Process and Issues Paper on determining specified fibre areas, (14 February 2019), page 4.

86. Chorus proposed, however, that we remove the reference to civil works, as in practice Chorus (and the other LFCs) would not know the cost of civil works until they arrived at a premise to physically install the connection. This was discussed at the workshop and there was general agreement amongst Chorus and the other LFCs that reference to civil works was unnecessary as it could not be readily quantified without first inspecting the site, as each installation can encounter a different set of issues.
87. Ultrafast Fibre also said putting additional qualifications beyond the definition of a "passed" premises as per the UFB contracts with the Crown may be excessive.

*Considerations of matters arising from the consultation process*

88. Considering feedback received from submissions, cross-submissions and the workshop, we consider a simplified assessment of availability based on premises passed by regulated providers' specified fibre services is appropriate for the purposes of determining SFAs.
89. We agree with submitters that end-user connection issues are best addressed by the provisions of the CWC and should not be a consideration of the SFA assessment process.

*Current position*

90. Therefore, we will assess whether a specified fibre service is 'available' by considering whether there is a primary survey land parcel in the LINZ title database that has an associated premises boundary termination point, or equivalent, on the regulated service provider's fibre network. This approach will be implemented in practice in relation to an end-user's premises, building, or other access point, as each of these has an associated land parcel to which a boundary termination point can be provided.

**Scope and scale of the initial assessment approach (Granularity)**

*Introduction*

91. SFAs will be geographic areas in which specified fibre services are available to end-users.
92. The Act does not provide any guidance on how we should determine specified fibre areas, other than the requirement that a specified fibre service must be available to end-users before we can declare an area to be an SFA. We therefore have some discretion regarding the design of our approach to SFAs.
93. Our assessments of SFAs can be done at a general (broad) level by declaring large geographic areas where fibre is generally available to end-users (e.g. a suburb). Alternatively, the assessments could be done at the more specific (granular) level of identifying those premises (or buildings, other access points) where a specified fibre service is available to end-users.

94. Granularity is important as it has consequences for the CWC. If the scale of SFA assessment is broad, then the CWC would most likely have to be highly prescriptive. A granular approach to determining SFAs will enable a premise-by-premise approach to the question of specified fibre availability (the same approach we will be using for the CWC). The gathering of fibre availability data at this level of detail ought to make the test for end-users being ‘able to connect’ less onerous.

*Our initial view*

95. In our SFA Process and Issues Paper, we stated that the minimum size of an SFA needs to be at the level of granularity that interested parties can identify an end-user location (for example an address point and property boundary). The ability to identify end-user locations is important to enable us to use the information gathered to determine if Chorus is meeting the conditions of the CWC.

*What we heard in submissions and at the workshop*

96. Interested parties did not generally engage with this point in submissions, but rather focused on the design of a simple process and relying on UFB information where possible.<sup>40</sup>
97. At the workshop, we indicated that the SFA should be derived from an amalgamation of LINZ primary survey parcels<sup>41</sup> that can connect to a regulated services providers’ fibre network and that this would result in non-contiguous areas eg, roads, rivers, parks etc being excluded from the coverage area.
98. Chorus considered that having gaps in an SFA would be difficult for end-users to understand and difficult for Chorus and RSPs to manage their obligations. Chorus suggested an alternative approach of the regulated fibre service provider indicating by way of an outline (polygon) the general boundary of the areas they service. They also suggested that they may be prepared to provide a written undertaking relating to their obligations for end-users within such an SFA.
99. The extent of a given SFA relies on the assurance from Chorus and the LFCs that all end-users in the area have specified fibre services available. For UFB areas this can be validated using CIP certification. That certification forms part of the formal QA mechanisms and contractual arrangements between CIP and Chorus/LFCs and must be submitted at the completion of each stage of the network build.
100. For the non-UFB areas the Commission will be relying on the accuracy and completeness of the information provided by Chorus and the LFCs.

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<sup>40</sup> Chorus submission on SFA Process and Issues Paper (15 February 2019), page 19. Spark submission on SFA Process and Issues Paper, (12 February 2019), n.p. TCF Submission on Process and Issues Paper, (15 February 2019), page 3. Vodafone submission on Process and Issues Paper, (14 February 2019), page 1.

<sup>41</sup> A primary survey parcel is a portion of land used by Land Information New Zealand (LINZ) to define ownership.

101. As around 90% of the fibre coverage occurs in UFB areas (which have been certified by CIP) we concluded that these areas, to the extent they have been completed, will form the basis of the initial SFA declaration. The availability of fibre services in non -UFB (eg, greenfield) and incomplete UFB2 and UFB2+ areas as at the time of initial assessments may have to be assessed in future annual or supplementary assessments, as the circumstances dictate.

*Considerations of matters arising from the consultation process*

102. We considered Chorus' suggestion at the workshop that we assess SFAs based on large outlines of areas where regulated fibre service providers have, or are willing to make, specified fibre services available to end-users. However, this is not our preferred option as we see some practical shortcomings with this approach that, if implemented, will lead to increased levels of uncertainty. Those shortcomings include:
- 102.1 The boundary of the supplied polygon, if not accurately mapped by the regulated provider to the boundaries of the underlying land parcels, will result in properties not being clearly identified as fully within, or outside of, a specified fibre area; and
- 102.2 The polygon, as it was proposed at the workshop, will inherently incorporate property types (eg, roads and rivers) within the SFA declaration for which specified fibre services are not currently available.
103. Instead, we will adopt a granular premises-by-premises approach that aligns with how CIP assess the performance of Chorus and LFC fibre network builds under the UFB agreements and aligns with the end-user by end-user requirements and protections of the CWC.
104. Furthermore, a granular approach is consistent with the requirements of the Act that there be a specified fibre service available for an area to be declared an SFA. Chorus' suggested approach could mean that areas where specified fibre services are not available would be included in an SFA.

*Current position*

105. We will build the extent of an SFA using the LINZ primary survey parcels as this is a dataset that is readily and publicly available, is used extensively by Chorus and the LFCs, and is a good representation of property boundaries.
106. We will identify the individual survey parcels that contain at least one specified fibre service premise. This will form the basis of the SFA Map that we will make available for download and publish on our website.

## Regularity of assessments

### *Introduction*

107. We are required to assess specified fibre service availability on an annual basis, but we discuss below the reasoning behind our approach to the initial assessment and the rationale for allowing supplementary assessments.

### *Our initial view*

108. The Act requires the Commission to complete the initial assessment for SFAs before 31 December 2019, and at least annually thereafter.<sup>42</sup>

108.1 The initial assessment will be the first assessment and declaration of SFAs.

108.2 The subsequent annual assessments are also a requirement of the Act.

108.3 The supplementary assessments will be conducted on a discretionary ad-hoc basis.

109. In our SFA Process and Issues Paper, we proposed allowing for supplementary assessments if the following criteria were met:

109.1 The application for assessment is not within three months of either the most recent annual assessment, or the next annual assessment;

109.2 The application affects a substantial number of premises; and

109.3 The application to classify an area as an SFA follows the urgent deployment of local access fibre to replace copper, eg, flooding or earthquake.

### *What we heard in submissions and at the workshop*

110. Chorus submitted that it agreed with the Commission that supplementary assessments may be required. Chorus stated that there was little need to subject these requests to the criteria set out in our SFA Process and Issues Paper and that we should take a more pragmatic and flexible approach to supplementary assessments. We agree with Chorus' argument and will not set out criteria as outlined at paragraph 109 above.<sup>43</sup>

111. Spark submitted that if the Commission opted for quarterly assessments then supplementary ones would not be required. We consider it preferable to retain a degree of flexibility and discretion as to the timing of any request for a supplementary assessment, as we cannot discount the possible need for an urgent assessment in the future.<sup>44</sup>

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<sup>42</sup> Telecommunications Act 2001, s 69 AB(1).

<sup>43</sup> Chorus submission on SFA Process and Issues Paper (15 February 2019), page 8.

<sup>44</sup> Spark submission on SFA Process and Issues Paper (12 February 2019), n.p.



112. Vodafone submitted that it agreed with the “Commission’s proposed approach to the review of SFA areas, with an annual review, limits on supplementary mid-term reviews and alignment between reviews of Chorus and LFC reviews”.<sup>45</sup>
113. By completing our initial assessment in December 2019, our next annual assessment will need to be completed by December 2020, although we can set a date which is prior to that date, for example, to align with LFC information disclosure requirements.
114. This was discussed at the workshop and there was no issue raised with this timeframe. Chorus and LFCs saw potential benefits from aligning the annual assessments with information disclosure requirements (due end of November annually) which should reduce compliance costs on Chorus and LFCs, as well as limiting duplication of effort on our part.
115. The initial SFA assessment will cover existing CIP certified UFB areas and any additional areas that Chorus or LFCs wish to include, subject to Chorus and the other LFCs satisfying us that a specified fibre service is available within those areas.

*Considerations of matters arising from the consultation process*

116. The Act requires us to carry out assessments of SFAs at least annually. At this stage we intend to conduct the annual assessment each year regardless of the timing of any supplementary assessments.
117. We understand that from time to time there may be a need for a more frequent assessment of SFAs than the annual assessment. If for example, we complete an assessment on 30 November and a significant amount of fibre build is completed in the following January, it may not meet the purpose of Part 2AA of the Act to wait almost a full year for those fibre areas to be declared as an SFA. This may be particularly relevant as the UFB initiative nears build completion in 2022.
118. Allowing for limited supplementary assessments will ensure that the information we make publicly available remains reasonably current. We do not anticipate the supplementary assessments will be resource intensive.

*Initial assessment and its effective date*

119. For each assessment and declaration, we are required to specify the date when the declaration of the SFA takes effect. This date has implications for the CWC process. The effective date is the date at which, should it choose to do so, Chorus can initiate the process of withdrawing copper services from an SFA.<sup>46</sup>

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<sup>45</sup> Vodafone submission on SFA Process and Issues Paper (18 February 2019), page 2.

<sup>46</sup> Telecommunications Act 2001, s 69AB(3).

120. We said in our SFA Process and Issues Paper that we will set the effective date for the first SFAs determined in our initial assessment as 1 January 2020, in accordance with the Act.<sup>47, 48</sup>
121. Chorus preferred a short period between the declaration and effective dates for the purposes of error correction only.<sup>49</sup>
122. Spark proposed a period of notice before an area is declared an SFA and effective date to give RSPs notice of the change. It did not indicate in its submission how long this period should be.<sup>50</sup>
123. There was general agreement from all participants that because of office closures over the summer holiday period, early January would not be an ideal time for the effective date of our initial assessment or subsequent annual assessments and that a short delay between the declaration of our initial assessment in December 2019, and the effective date would be appropriate.
124. We will issue a draft SFA assessment to Chorus and the other LFC's prior to the December declaration to allow for error checking and correction to be carried out before making public notice of the declaration and effective date.
125. The assessment and declaration of the first SFAs will be made in December 2019, with an effective date of 1 February 2020. This decision is reflective of what we heard in submissions and the consensus reached at the workshop.

*Summary of our current position*

126. Annual assessments will occur at the same time each year. The timing of the annual assessment will be consistent between Chorus and the other LFCs so that the information is accurate for all New Zealand at a set point in time. One annual assessment process is also easier for our own internal planning and communications to interested parties. We intend to complete our initial assessment and declaration in December 2019 but have yet to determine the most appropriate and practical time of year for subsequent annual assessments and declarations.
127. A set annual assessment date is useful for regulated fibre service providers as it can be aligned to annual business planning and reporting dates to minimise compliance costs.
128. There will be a review period between the date that the assessment is completed, and the date when areas are declared as SFAs. The review period will enable affected parties to communicate with the Commission if they consider that the assessment requires amendment or if they consider that a material error has been made.

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<sup>47</sup> Commerce Commission, Determining specified fibre areas: Process and Issues Paper (26 November 2018), at para 11.

<sup>48</sup> Telecommunications Act 2001, s 69AB(1).

<sup>49</sup> Chorus Submission on SFA Process and Issues Paper (18 February 2019), page 20.

<sup>50</sup> Spark Submission on SFA Process and Issues Paper (12 February 2019), n.p.

129. The initial assessment will be conducted as set out above and supplementary assessments will be carried out at the Commission's discretion. By not specifying upfront criteria for a supplementary assessment, we retain the discretion to choose to do a supplementary assessment (or not) as the need arises.

### **Data gathering mechanism for initial SFA assessment**

#### *Introduction*

130. We need to know where specified fibre services are available to be able to assess SFAs. To do this we need to request information from regulated fibre service providers (Chorus and the other LFCs).<sup>51</sup>

#### *Our initial view*

131. We said in our SFA Process and Issues Paper that we will require regulated fibre service providers to provide us with the following:
- 131.1 GIS shapefiles detailing the as-built location of communal fibre access network assets; and
  - 131.2 GIS datasets detailing the LINZ property parcels and address points the communal fibre access networks are deemed to be passed and for which an order for provision of service can be placed ie, the address point is 'Active' within the service provider's system.

#### *What we heard in submissions and at the workshop*

132. Chorus submitted they could provide GIS information (shapefiles) and address data for the areas CIP had certified as complete under the UFB agreement.<sup>52</sup>
133. Enable and Ultrafast submitted that geospatial information is already provided to the Commission under the existing fibre information disclosure regime. We note that this information is not in the correct format and we will need different and more detailed information for our assessment of SFAs. We outlined this information in detail at the workshop.<sup>53</sup>
134. At the workshop, Chorus and each LFC confirmed that the information we require for our initial assessment is readily available and would be provided on a voluntary basis.

#### *Considerations of matters arising from the consultation process*

135. We can gather information for each assessment either by use of our compulsory information gathering powers or on a voluntary basis, dependent upon the facts at the time.

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<sup>51</sup> Regulated Fibre Service Providers will be confirmed when the s 226 regulations are finalised by the Ministry of Business Innovation and Employment (MBIE).

<sup>52</sup> Chorus Submission on SFA Process and Issues Paper (18 February 2019), page 7.

<sup>53</sup> Enable and Ultrafast Fibre submission on Preliminary findings, (14 February 2019), para 5.1.

136. For the initial assessment, we have decided to use our information gathering powers under s 98 of the Commerce Act. We are doing this because we consider it necessary and desirable to do so, primarily to meet a statutory deadline.

*Current position*

137. We will collect the information required for the initial assessment by using our compulsory information gathering powers. We will require an appropriate quality assurance (QA) regime for any subsequent assessments where we intend relying on data provided voluntarily. We will consider the nature of the task, the data involved, and the effect of SFAs. This will include regulated fibre service providers confirming the accuracy of the data provided.
138. In that instance, we consider that an assurance regime similar to the technical certification currently provided under our existing fibre information disclosure determinations will be appropriate.<sup>54</sup>
- 138.1 The data provided by Chorus/LFC's must be certified by a suitably qualified technical expert within the LFC at a level of seniority equivalent to the Chief Financial/Technology Officer. The Commission will issue a template certification for use by Chorus and the LFCs. (attached at Appendix C to this paper).

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<sup>54</sup> Chorus Information Disclosure Determination 2018, NZCC 9, (29 June 2018). LFC Information Disclosure Determination 2018, NZCC 10, (22 August 2018).

## Appendix A: Relevant statutory references

### A1. Section 5 of the Act defines the following terms:

**copper fixed line access services** means the following (as they are described in subpart 1 of Part 2 of Schedule 1):

- (a) Chorus's unbundled bitstream access;
- (b) Chorus's unbundled copper low frequency service

**fibre fixed line access service**—

- (a) means a telecommunications service that enables access to, and interconnection with, a regulated fibre service provider's fibre network; but
- (b) does not include the following:
  - (i) a telecommunications service provided by a regulated fibre service provider (**F**) if the ultimate recipient of the service is F or a related party of F (as if the test for related parties were the same as the test in section 69U, applied with any necessary modifications);
  - (ii) a telecommunications service provided, in any part other than a part located within an end-user's premises or building, over a copper line;
  - (iii) a telecommunications service used exclusively in connection with a service described in paragraph (ii)

**fibre handover point** means the external network-to-network interface (or equivalent facility) located at the specified point of interconnection for the relevant end-user premises or access point that enables access to, and interconnection with, a regulated fibre service provider's fibre network

**fibre network** means a fibre-to-the-premises access network (as defined in section 156AB) that connects the user-network interface (or equivalent facility) of an end-user premises or access point to a regulated fibre service provider's fibre handover point

**regulated fibre service provider** means a person who is prescribed in regulations made under section 226 as being subject to 1 or both of the following:

- (a) information disclosure regulation;
- (b) price-quality regulation

**specified fibre area** means an area that has been declared by the Commission, under section 69AB, to be a specified fibre area

### A2. Other key provisions are as follows:

#### 69AA Purpose

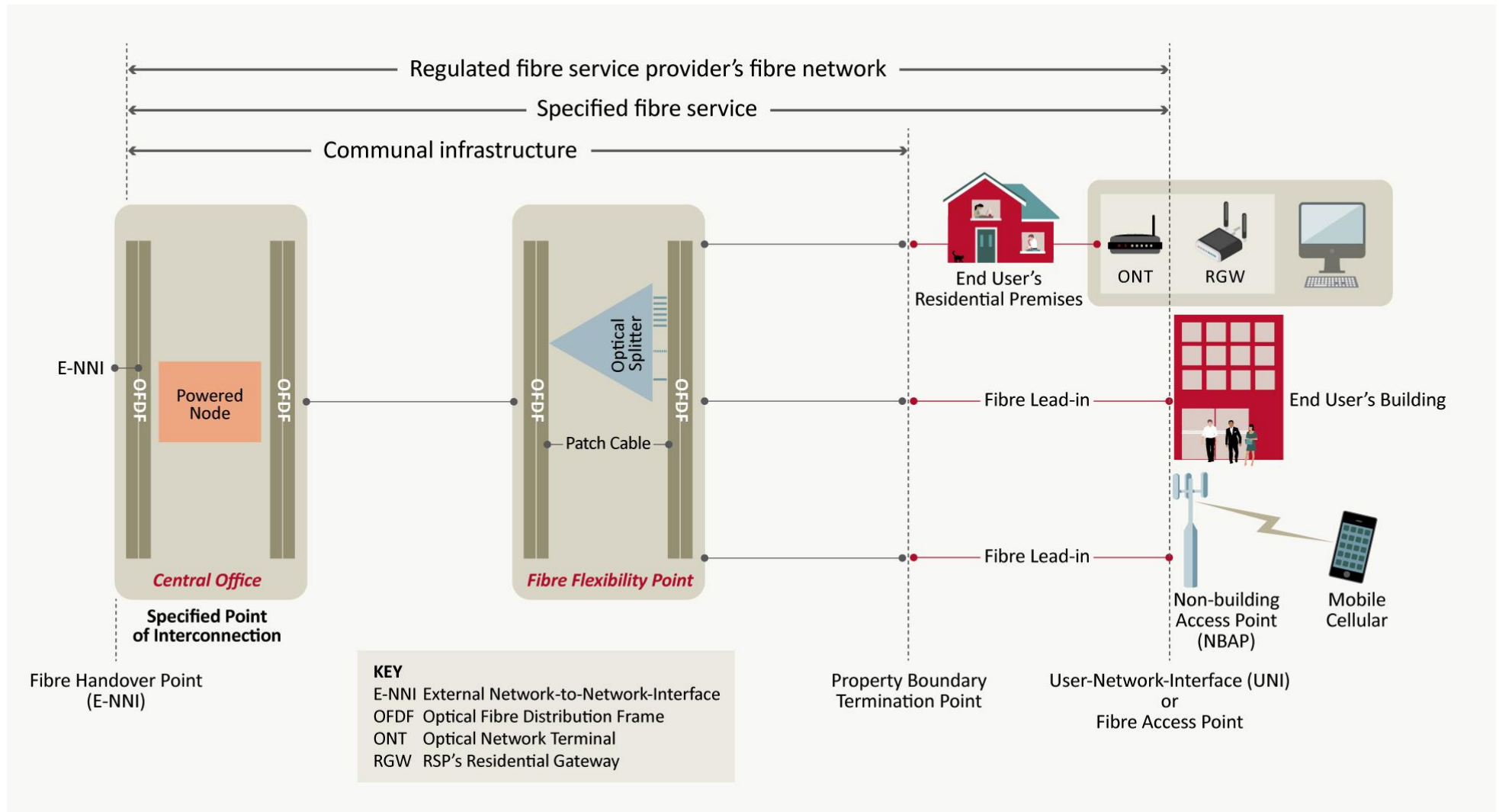
The purpose of this Part is to—

- (a) deregulate copper fixed line access services in areas where fibre fixed line access services are available; and
- (b) provide protections for end-users of copper fixed line access services and certain other designated services in deregulated areas; and
- (c) provide for the Commission to investigate whether the regulation of copper fixed line access services and certain other designated services should be altered.

**69AB Specified fibre areas**

- (1) The Commission must, before the implementation date 1 January 2020 and at least annually thereafter, carry out an assessment to determine the geographic areas in which fibre fixed line access services are a specified fibre service is available to end-users.
- (2) The Commission must, by public notice, declare an area to be a specified fibre area if the Commission determines in an assessment under subsection (1) that fibre fixed line access services are a specified fibre service is available to end-users in the area.
- (3) A notice under this section must specify the date on and after which the area is to be a specified fibre area, and that date must not be before 1 January 2020.
- (4) A notice under this section may describe an area by any means, including (without limitation)—
  - (a) by use of a map; and
  - (b) by a narrative description of the area.
- (5) The Commission must maintain a record of all specified fibre areas that is available, at all reasonable times, for inspection on the Commission's Internet site in an electronic form that is publicly accessible.
- (6) In this section, **specified fibre service** means either of the following:
  - (a) a fibre fixed line access service;
  - (b) a telecommunications service provided by a regulated fibre service provider (F) over fibre media where the ultimate recipient of the service is F or a related party of F (as if the test for related parties were the same as the test in section 69U, applied with any necessary modifications).

## Appendix B: Specified services network diagram



## Appendix C: Information Quality Assurance Sign-off template

### Certificate by technical expert

I *[insert full name]*, being a *[insert role of technical expert]*, which must be the Chief Technology Officer of the company (or equivalent) of *[insert name of company]*, certify that having made all reasonable enquiry, to the best of my knowledge:

- the information disclosed to the Commission on *[insert date]* for enabling the Commission to assess and declare specified fibre areas accurately reflects the extent and availability of *[insert name of company]*'s specified fibre services and is in all material respects correct; and
- the methods and processes used in preparing the information disclosed are in all material respects objectively justifiable and reasonable.

*[Signature of technical expert]*

Authorised signatory

*[Date]*



## Appendix D: Useful information to inform our assessment of SFAs

### *The current information disclosure regime for fibre services*

- D1. We first introduced an information disclosure regime for fibre following the 2011 amendments to the Act. These provisions require the companies deploying UFB to provide us with information about their fibre networks.
- D2. The purpose of the first information disclosure regime for fibre was described in s 156AT of the Act:
- “The purpose ... is to promote competition in telecommunications markets for the long-term benefit of end-users of telecommunications services in New Zealand by requiring LFCs who have given undertakings in relation to certain services to provide reliable and timely information to the Commission to enable it to record over time the costs and characteristics of LFC fibre networks to inform the Commission’s statutory processes and determinations.”
- D3. We now hold six years of data dating from the launch of the UFB initiative.
- D4. Under the information disclosure regime, we have been provided with GIS information about Chorus’ and the other LFCs’ fibre networks. While we consider this data will be helpful in the design of our process for the assessment of SFAs, our current view is that specific GIS information will be required for this process.<sup>55</sup>

### *Section 9A study of fibre services*

- D5. In April 2018 we commenced a study of fibre services under section 9A of the Act.
- D6. The purpose of the study was to improve our understanding of the nature of fibre networks and operations in New Zealand, allowing us to prepare for the regulation of fibre networks in the future.<sup>56</sup>
- D7. The study enabled us to collect information from Chorus and the other LFCs on aspects of their GIS systems and processes specific to the assessment of SFAs, such as processes for recording fibre connections. We have used this information to inform our views in this paper.
- D8. We published a summary of our main findings of the study on 17 December 2018. We found that the preparation of standard form information for both ID and CIP reporting provides useful base line data, and these obligations have usefully introduced LFCs to the process of regulatory reporting. Key non-financial metrics such as network coverage, asset quantities, and fibre up-take will also be relevant as we look to implement the new regulatory framework.

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<sup>55</sup> Commerce Commission (2018) “Chorus information disclosure determination 2018” NZCC 9 at paragraph 2.2(1)(d), available at <https://comcom.govt.nz/regulated-industries/telecommunications/regulated-services/fibre-regulation/ultrafast-broadband-information-disclosure>.

<sup>56</sup> Commerce Commission “Section 9A Fibre Services Study in New Zealand – Terms of reference” (27 April 2018), <https://comcom.govt.nz/regulated-industries/telecommunications/regulated-services/fibre-regulation/fibre-services-study>.