



Broadband Shared Property Access Scheme Evaluation

Key Findings Report

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Executive summary

The Broadband Shared Property Access Disputes Scheme (the Scheme) is a disputes resolution process administered by Utilities Disputes (UDL) on behalf of the Ministry of Business, Innovation, and Employment (MBIE). As part of the mandatory legislative review process, *Allen + Clarke* independently reviewed the Scheme against a number of criteria to measure performance and value. While this review coincided with the conclusion of the statutory right of access, enabled through the Telecommunication (Property Access and Other Matters) Amendment Act 2017 (the Amendment Act) on January 1, 2025, the right of access was not the focus of this review, with a decision still to be made by MBIE and the relevant Minister on a potential extension. The Scheme is currently set to cease on 1 January 2026, following the resolution of any outstanding disputes.

Our review assessed:

- the performance of the Scheme against its stated purpose
- the quality of performance standards
- usefulness of in-house reviews
- appropriateness of the funding model
- the opportunity for an extension in duration and / or scope of the Scheme.

The Scheme has demonstrably met its purpose of enabling fibre connectivity throughout New Zealand. The Scheme allows homeowners to contest fibre installation in their shared driveway or other shared property situations and has made a significant contribution to New Zealand's fibre connection rate being 75 percent.¹ A significant proportion of these connected households belong to shared driveways that would otherwise rely on a consent-based approach, which has historically achieved limited connection. **Both providers that are members of the Scheme and end-users, think that the Scheme appropriately straddles the line of allowing statutory property access for fibre installation and a pathway for objection to this access.**

There are no Performance Standards that are specific to the Scheme, instead, administration of the Scheme is under the same standards and expectations of the other utilities-based disputes schemes that UDL administers. **The broader UDL Performance Standards are generally appropriate measures to ensure quality delivery of the Scheme.** The two main measures of the Performance Standards are timeliness and customer satisfaction. Relative to other schemes, the BSPAD Scheme generally has shorter timelines, and subsequently the Scheme consistently meets these broader performance standards.

While the Scheme generally meets the set Performance Standards, if it were to be continued a more concerted focus on **increasing the public awareness of the Scheme would be beneficial for both member providers and the public.** Increasing awareness of the Scheme

¹ MBIE – *Discussion Document: Enhancing telecommunications regulatory and funding networks*



would provide fibre providers with more confidence in referring any complainants to the Scheme. A focus on increased awareness is particularly relevant in the case of reinstatement disputes – disputes relating to the maintenance of already-completed works – as there is currently no notice given to consumers during this work that provides the details of UDL and the Scheme.

UDL develops yearly in-house reviews that are fit for purpose and provide quantitative and qualitative insights of the Scheme’s performance to its intended audience. While these cover all schemes, there is dedicated information about the Scheme included in these reviews. Individuals who received (and read) the reviews commented on the high standard and level of detail.

The current funding model of the Scheme was reviewed and deemed generally appropriate by member fibre providers. **The tiered structure for fixed membership fees based on market share is appropriate and members generally regard them as good value.** Because of the low number of cases incurring the additional case levy in recent years, **lower volume users of the Scheme may be disadvantaged by the fixed fee element.**

The current Scheme fee structure means that UDL is currently running a surplus for the Scheme year on year. Once the Scheme has concluded and there is no possibility of an extension, providers will be paid back their share of any remaining surplus. UDL expressed some concern of about whether they should be returning this surplus now even if an extension of the Scheme is announced. **Our review found that the surpluses held through Scheme fee collection are considered a “rainy day fund” by providers and they are not concerned about being repaid their share immediately.**

As UDL is waiting for information about whether the Scheme is being extended in scope and/or duration, our review included an assessment of the Scheme’s ability to deal with any extension of scope or duration. **Extending the Scheme’s timeframe would facilitate continued uptake in connectivity. Possible maintenance on original fibre installation works, and reduction in alternatives will likely create an increase in the number of future cases.** Conversely, without an extension in the duration of the scheme, **any new fibre installation would revert to a consent-based approach, which significantly decreases the efficiency of these installations.**

UDL’s ability to deliver an increase in the scope of installations included in Category 2 installations – installations that have medium-level impacts on properties – was also considered in this review. As the current fibre connectivity rate is 75 percent, it is likely that **many of the remaining fibre installations that could be facilitated through the Scheme are installations that are neither Category 1 or Category 2 and haven’t been completed due to their ineligibility under the current Scheme.** While these installations may result in more complex disputes, since the Scheme’s inception in 2017 **UDL has developed the institutional knowledge and processes to manage more complex disputes through the Scheme.** Subsequently, the Scheme, as administered by UDL, is currently well positioned to deal with a possible extension of both duration and scope of the Scheme following ministerial approval.

1 Introduction

The Broadband Shared Property Access Disputes Scheme (the Scheme) is a disputes resolution mechanism that was developed following the enactment of the Telecommunication (Property Access and Other Matters) Amendment Act 2017 (the Amendment Act). The Amendment Act provides statutory shared property access to fibre installation providers, and the Scheme provides a disputes resolution process for any occupants of shared driveways or accessways to object to the works taking place. Fibre providers who are members of the Scheme are able to use the statutory property rights permitted in the Amendment Act but are beholden to any disputes that are managed through the Scheme. Utilities Disputes (UDL) administers the Scheme on behalf of the responsible agency, the Ministry of Business, Innovation and Employment (MBIE).

The Scheme has been active since 2017, and the legislative mandate associated with the Scheme ended on 1 January 2025. As part of the five-yearly mandated legislative review, *Allen + Clarke* were engaged to evaluate the Scheme against a number of mandatory standards. As the statutory right of access enabled through the Amendment Act came to a close during the evaluation, *Allen + Clarke* also considered the possible impacts of extending the duration and potential scope of the Scheme. As at the time of developing this report, a decision is still to be made by the Minister regarding any potential extension of the Scheme.

Given the current uncertainty around the future of the Scheme, *Allen + Clarke* developed this report under the assumption that no decision had been made and there was still a case to be made to potentially inform and influence any decision-makers around the future of the Scheme.

1.1 Methodology

Allen + Clarke undertook a mixed-methods evaluation of the Scheme and its effectiveness. We completed a desktop review of key documentation from the inception of the Scheme until the time of review. Key documentation included the original Deed for Services between MBIE and UDL, the Rules for the Scheme, previous independent reviews of the Scheme, and examples of regular reporting to member fibre providers and MBIE. A full list of the documents reviewed during this evaluation can be found in [Appendix A](#).

As well as this document review, we completed 12 semi-structured interviews with 15 relevant stakeholders to gather their perspectives on the performance of the Scheme, how it is managed, and the potential future of the Scheme. A full copy of the general interview guide that was used for this engagement is available in [Appendix B](#). The stakeholders interviewed included UDL staff members, fibre providers who were both members and non-members of the Scheme, the UDL Board and a former UDL Board Chair, MBIE staff, members of the Scheme's Advisory Committee, and complainants that had engaged with the Scheme.

Following our engagement and document review, the *Allen + Clarke* team presented a sense-making session to the core UDL senior management, to show our findings, key themes, and raise potential focusses of recommendations from the evaluation. This report details those themes, findings and recommendations.

2 Findings

The following section outlines what *Allen + Clarke* discovered during the review of the Scheme. The findings are split into sub-sections based on the different questions that were the focus of our review. For each question topic, information is provided from our stakeholder engagement, as well as our desktop review of relevant documents relating to the Scheme.

2.1 BSPAD's purpose

A mandated aspect of the legislative review of the Scheme was to understand whether the Scheme was still meeting its stated purpose, over seven years on from its inception. The stated purpose of the Scheme is established in the Scheme Rules (the Rules), published by Utilities Disputes in 2017. The Rules state:

“The purpose of the Broadband Shared Property Access Disputes (BSPAD) Scheme is to ensure any Disputes which arise as a result of the exercising of statutory rights of access under subpart 3, part 4 of the Act for broadband fibre-to-the-premises installations, or the installation of any prescribed other technology, are dealt with fairly and efficiently to help achieve the desired outcomes of the Amendment Act.”

As well as engaging with a range of materials relating to the inception of the Scheme, the *Allen + Clarke* team asked interviewees whether they thought the Scheme is meeting its purpose.

What we heard

Interviewees told us that the Scheme's purpose is twofold. Firstly, the Scheme is a byproduct of the Amendment Act. Through this Act, fibre providers are granted authority to breach property rights in the interests of installing fibre connectivity in both single and shared access ways. The Scheme acts as a necessary compromise to enable this limited loss of property rights.

Secondly, we heard that the Scheme represents a government-mandated focus on increasing fibre connectivity across New Zealand. Interviewees told us that without the Scheme and the ability it gives to providers to access accessways that previously required the consent of all property owners, connectivity would be significantly reduced as any disputes would ultimately result in a delay or abandonment of the installation work. The frequency of shared driveways across New Zealand would mean that without the Scheme, there is a likelihood that fibre installation and connectivity would be well below current rates.

“Auckland (alone) has over 100,000 shared driveways, I don't think our uptake would have been anywhere near what it is (without the Scheme).”

Interviewees also added that the Scheme increases connectivity as it acts as an independent resolution for existing (or new) neighbourly disputes: *“It also allows people to get connected and not unreasonably denied a connection”*.

The independence and binding nature of decisions made under the Scheme means that complaints that are borne out of neighbourly disputes are resolved in a way that would not otherwise be possible.

When speaking to a previous complainant, they noted that the Scheme provided important clarification that informed them of their rights to object. The complainant said the process of using the Scheme meant that they understood what their rights were in terms of objecting to a fibre installation. Ultimately, in this case, the Scheme enabled further connection, as the complainant was satisfied with the explanation provided through the Scheme, and chose not to pursue the matter further. This provides a valuable example of where the Scheme has provided information and comfort to the initial complainant while still enabling connectivity for providers.

While the Scheme is meeting its purpose of increasing connectivity across New Zealand and providing a disputes resolution process that acknowledges the loss of property rights as a result of the Amendment Act, one interviewee said that the communication of the Scheme's rule in the disputes process is not always clear. This interviewee told us that while providers are knowledgeable about the purpose and process of the Scheme, some complainants are not aware that the decisions made are effectively final and carry legislative weight (unless the complainant chooses to take the dispute to the District Court, which we heard is very rare).

"When a decision is reached and is not in the favour of the complainant, it can sometimes be unclear to these people that this is now a binding decision and the only next step that can be taken is going to the District Court."

The interviewee suggested that the purpose of the Scheme to act as a less formal resolution process for disputes is being achieved, however public knowledge of the finality of these decisions could and should be clarified. This would ultimately benefit providers who sometimes deal with strong resident opposition even after the case has been resolved through the Scheme. Both the fibre providers and complainant that we spoke to said clarification of the scope of the decisions made by the Scheme would be beneficial for all parties.

What we found

Fibre connection rates across New Zealand are stated as around 75 percent of all households². Increasing the rate of connectivity across New Zealand was identified by interviewees as a core purpose of the Scheme and this data suggests that the Scheme has been successful in doing so.

Another key indicator of the Scheme's alignment with its stated purpose is the result of customer surveys following the completion of the disputes process. While the data is reliant on complainants choosing to complete the feedback survey, the results of average consumer satisfaction from December 2023-24 (4.17)³ suggests that there is an understanding and appreciation of the Scheme's process and function. This is particularly promising given that

² MBIE – Discussion Document: Enhancing telecommunications regulatory and funding networks

³ This data-set was used as it is the most recent available customer satisfaction data. Earlier data used a different customer survey which was ultimately updated, as data is collected from different surveys it is not appropriate to aggregate scores.

the positive experience was shared even by complainants that did not have the outcome that they had originally hoped for.

Where complainants have otherwise lost aspects of their property rights as a result of the Amendment Act, the Scheme offers a reasonable and fair disputes resolution process.

2.2 Performance standards

The *Allen + Clarke* team evaluated the effectiveness and relevance of the UDL Performance Standards that are placed on the administration of the Scheme. These Performance Standards are set by the UDL Board. *Allen + Clarke* noted that these are general standards that are placed against all schemes that UDL administer e.g., there are no BSPAD specific performance measures.

Allen + Clarke considered the relevance of these general Performance Standards in the specific context of the Scheme, as well as asked all interviewees whether they had any oversight of the Performance Standards and whether they thought that they were effective.

What we heard

Interviewees told us that the broad nature of UDL's Performance Standards mean that it can be difficult to track how effective they are in the context of the Scheme specifically. One interviewee described the Performance Standards as a "blunt instrument" and the design of the Scheme's complaint and resolution process limits the relevance of the broader Standards. The Scheme has well-defined criteria for grounds of objection and complaint, and these criteria limit the room for negotiation and mediation compared to other disputes managed by UDL and which fall under the broader Performance Standards set by the Board. Because of this, the Performance Standards risk not being particularly relevant to the implementation of the Scheme and are often viewed as a "worst case scenario" by those who are administering the Scheme.

Despite this, we heard from interviewees that the presence of some kind of Performance Standard – broad or otherwise – provides a level of service that is useful to consider while administering the Scheme. One interviewee said that "having some sort of standard gives UDL something to aim for".

Generally, providers and complainants should know when things are going to happen and how issues are going to be resolved. The Performance Standards – focusing on satisfaction and timeliness – provide relevant guides to all parties about when things are going to be resolved (at the latest) and a level of service and satisfaction that complainants can expect.

One interviewee said the original performance standards that were set were guided by MBIE, and these standards were "ambitious". There was some discomfort that Performance Standards had been set that were not always realistic with the Scheme's operations as this was not good practice.

Another interviewee suggested that another performance measure that exists but is not a current focus in Scheme operations is public awareness and visibility of the Scheme, particularly for complainants.

“You’d like to see the awareness target and measure creep upwards. I think it’s a really important measure, second most important outside of consumer satisfaction rates”.

Without a focus on increasing the Scheme’s awareness, the effectiveness of the Scheme is significantly limited. Including a metric for increasing and sustaining awareness of the Scheme would be a practical addition to existing Performance Standards for the Scheme. This is particularly relevant where the access to private property relates to reinstatement work, where there is currently no formal notice provided to owners that includes details about UDL and the Scheme.

What we found

We noted that the issue of developing specific Performance Standards for the Scheme has been considered previously by UDL and the Board but ultimately this was not pursued. Given the delivery of the Scheme and its performance against the broader timeliness and customer satisfaction levels, we do not think the Scheme requires more specific Performance Standards applied to its delivery.

The Rules for the Scheme, as published by UDL in 2017, also provide guidance on expected timeframes for different aspects of the Scheme e.g., 32 days to complete a complaint. These timeframes are being monitored by UDL and used to improve efficiencies, but they are not part of the Performance Standards as published in UDL’s annual report. There is also a UDL-wide goal set in the Standards that aims for complainant and member satisfaction to be an average of four out of five.

We believe that these rules are followed by the UDL team that administer the Scheme and having these timeframes publicly available through UDL’s website⁴ increases understanding for complainants about what they can expect when they enter the disputes process.

We believe that reinforcing the existing Performance Standard that relates to public awareness of the Scheme would be valuable, however we are conscious that this may be something that is difficult to consistently measure. Currently, the Performance Standard measures this by aiming for 20 percent unprompted recognition in general awareness surveys. Potential integration into the post-dispute complainant survey would be an efficient way to collect some of this data, including a question about how complainants knew about the Scheme / their journey to referral. Adding this Performance Standard would not create any issues regarding the existing Standards that are outlined in the aforementioned Rules.

Overall, the Performance Standards set by the UDL Board are relatively effective in keeping administration of the Scheme “on track”. While these Standards are not specific to the Scheme, they remain appropriate in ensuring a level of timeliness and satisfaction with the Scheme that is understood and experienced by complainants.

⁴ <https://www.udl.co.nz/en/our-publications-and-schemes/scheme-rules/>

2.3 In-house reviews

As part of our evaluation of the Scheme, we reviewed UDL's in-house reviews that are developed annually for key stakeholders, internal staff and the Advisory Group. We considered the contents and accessibility of these in-house reviews, as well as speaking to relevant stakeholders to understand how useful these reviews are.

What we heard

Interviewees commented on the comprehensive nature of UDL's in-house reviews. They said that the completeness and quality of data presented in these reviews demonstrate UDL's commitment to being transparent and trusted administrators of the Scheme. One interviewee said they were impressed with the process of developing and presenting the in-house reviews, and that the amount of effort that goes into their development shows that UDL takes its role seriously. They considered the reports were a particular strength given the size of UDL as an organisation.

"I was pretty blown away [in a good way] by the amount of detail provided in the in-house reviews. I wouldn't have anticipated an organisation of this size to provide the level of detail that is included in the review".

One interviewee noted that the way certain data is used within the annual reporting may not be the best fit for the volume and variability of cases that are relevant to the Scheme. This interviewee noted that the data presented for the number of days for cases to be closed within the Scheme was taken as an average (in working days). Because of the relatively small number of cases that have gone through the Scheme in the last few years, using an averaging system when presenting data means that it is susceptible to misrepresenting the performance of the Scheme more broadly. In individual cases where complainants and / or providers have a particularly complex dispute, there is the chance that cases are more drawn out.

This is particularly relevant where UDL facilitates mediation or site visits that are reliant on the timetables and availability of either providers or complainants. These cases can be drawn out by a significant time period compared to cases that do not require these processes. As there are a relatively small number of cases going through the Scheme year on year, these individual cases can drastically impact the average time taken to complete all cases. There was a suggestion that a more appropriate metric to include in the in-house reviews may be a percentage of cases completed within the BSPAD Performance Standards (32 working days).

What we found

Similar to the Performance Standards, the in-house reviews provide an overview of the performance of all of UDL's schemes, as well as the performance of UDL more broadly. Unlike the Performance Standards, however, these in-house reviews include a specific section dedicated to the trends and performance of the Scheme. The in-house reviews feature a summary of disputes that were closed over the year being reviewed, as well as a comparison with the previous year.

The in-house reports provide contextual information which provides clarification for providers, complainants, and other stakeholders on the status and progress of the Scheme. For example, the 2022-23 report also recognised the trend in a reduction of cases dealt with by the Scheme, and provided a number of reasons for this reduction. Reasons listed in the in-house review included:

- near completion of the fibre rollout under the Scheme (as the end of the existing Scheme was slated for the start of 2025)
- increased customer confidence in fibre due to normalisation and greater awareness leading to fewer disputes
- improved and refined installation methods through practice and the number of installations already completed.

The in-house reviews also provide valuable oversight into UDL's overall practices and operations providing a complete picture of the state of UDL's workforce and financial position, as well as an update on the strategic vision of UDL. This additional information provides the intended audience of the reviews an insight into how UDL is operating and increases confidence in their ability to administer all of their schemes, including the BSPAD Scheme.

Overall, the in-house reviews are very well regarded by users and provide a good degree of information. UDL should ensure that their distribution and discussion methods in response to these reviews are consistent and appropriate, so all members of the target audience are aware when they have been developed, where to access them and how to engage on points of interest.

2.4 Funding model

There is currently interest from some fibre installation providers, industry stakeholders, and UDL in reviewing the Scheme's current funding model. This was specifically requested of *Allen + Clarke* given the scheduled end to the Scheme at the start of January 2025 and corresponding reduction in the number of cases that have been dealt with by the Scheme. This reduction in cases has also highlighted the importance of reviewing the existing funding model to ensure that it is still appropriate for a lower volume of cases.

The current funding model is made up of two key components – a fixed annual fee, and a case levy based on case numbers that are brought to UDL. The fee structure is covered in further detail in the “what we found” part of this section.

What we heard

Overall, the stakeholders we spoke to – including fibre providers working under the Scheme – said the fees that are charged are reasonable. This sense of fairness was founded in an agreement that the split approach of fees (fixed and additional case levies) was appropriate and generally both were set at the right level. Additionally, stakeholders told us that they have trust in UDL to appropriately hold and/or redistribute any surpluses gained through reductions in case numbers on account of UDL operating as a not-for-profit organisation. According to

these stakeholders, the not-for-profit element of UDL acts as a form of self-regulation for any surpluses resulting from the Scheme's funding model.

There was strong support for the use of case levies to account for complaints only when they get to a certain stage within the Scheme. Interviewees told us that this keeps the overall cost for members low, and is appropriately used only for a reduced number of cases.

"The additional layer of a case-based levy is very smart, when you consider how many disputes are resolved really quickly, it's much higher than the number of complaints that require more complex and extensive processes".

However, one interviewee said – as a relatively low-level user of the Scheme – the annual fee seems like "quite a high cost for the level of use that we require from the Scheme". Because the annual fee is derived from a percentage of market share, this allocation of cost may not appropriately recognise the different levels of use across fibre installation providers.

While the case levy is designed to account for variation in the number of cases that are dealt with, the annual fee may still lead to some inequalities based on the level of use across providers.

Because the number of cases going through the Scheme have been lower in recent years, the Scheme has run at a surplus. When we asked providers about paying this back (based on a pro rata rate derived from a function of their time as members of the Scheme and their market share), they were not concerned about receiving this money. In their view, members saw these funds as a "rainy day fund", that will or can be either returned to them at the end of the Scheme or used when the existing funding model does not cover increased or unexpected demand. The interviewees also felt that if they were to be paid back, the relatively small amount of money in question means it would not be worth the administrative cost to receive this before the conclusion of the Scheme, including any extension in the duration of the Scheme. Additionally, one interviewee who manages fibre installation but is not a member of the Scheme said that for their level of need and installation, the costs are too high and difficult to justify membership. However, this provider acknowledged that they were in a unique situation due to the demographic and geographic context in which they operated in and existing customer base, leading to a very low perceived need for the Scheme generally. This provider also indicated that they prefer to get things done through agreement amongst affected stakeholders to preserve customer relationships as much as possible.

What we found

The Rules for the Scheme set out expectations around the setting and publishing of fees associated with the Scheme. This includes providing the Board the authority to set the specific Scheme fees, provided they are in accordance with the rules outlined.

According to the Scheme Rules, all Scheme fees should be compiled into a Fees Document, which is to be published by UDL as the administrators of the Scheme. The Rules also prescribe that members of Scheme must pay an annual membership fee and also dictate that the fee should be determined based on the size of a member's market share in relation to fee tiers – however the setting of these tiers is left to the Board.

The Rules also specify that new members must pay a signup fee – set at 25 percent of the Member’s first annual membership fee amount. Case fees (or, levies, as they’re referred to in other documents) are to be determined in the Fees Document, according to the Rules.

UDL has developed an appropriate Fees Document – and fees structure – that is consistent with the requirements set out in the Scheme Rules. The Fees Document outlines the annual membership fee tiers based on provider market share. A copy of the fees is included below in Table 1 below.

Table 1: Annual Membership Fees

Tier	Share bracket	Membership Fees (ex. GST)
1	>80%	\$200,000
2	50-80%	\$165,000
3	25-50%	\$80,000
4	10-25%	\$40,000
5	0-10%	\$15,000

The Fees Document also outlines the additional case fees (or levies). There are two distinct additional case fees that can apply during the operation of the Scheme. The first additional fee comes when a dispute reaches a deadlock and is accepted by UDL. A second fee is prescribed when UDL spends 10 or more hours working on a Dispute.

UDL’s Fees Document is consistent with the requirements under the Rules set out for the Scheme. Providers are generally happy with the fees arrangement, and there is little appetite from providers for these additional funds to be returned, as it is understood that any current surplus generated through fees will ultimately be carried into any future work under the Scheme or returned to providers when the Scheme is completed. UDL’s not-for-profit status acts as safeguard and allays any concerns members may have with regards to these surplus funds.

Any decisions on changing the funding model are dependent on the decisions made by MBIE and the Minister relating to an extension of the Scheme. If the Scheme is extended in duration and not scope, for example, the Board will reserve the right to revisit the funding model and change the fee structure to recognise the lower volumes of cases going through the Scheme. The Board should only make this decision when they are confident that the Scheme will not receive an increase in cases, which could occur at the time of writing this report through an extension of the Scheme’s duration, scope, or both. According to the Scheme Rules, the Board reserves the right to consider a change in the annual membership fee amount however the need for this will be dependent on MBIE’s decision on an extension of the duration and scope of the Scheme.

2.5 Extension of the Scheme

As of January 2025, the statutory access rights enabled through the Amendment Act have concluded. In preparation for this, MBIE made a call for submissions in May 2024, proposing an amendment of the Regulatory Systems (Economic Development) Amendment Bill, which will result in an extension of the statutory rights for access to shared property for new fibre installations (through an amendment to the Telecommunications Act).

This extension would ultimately result in an extension of the Scheme, as this acts as a response to the statutory rights permitted in the Amendment Act.

The same consultation paper also requested views on an extension to the scope of installations that are covered under the Amendment Act (and ultimately subject to the Scheme). This extension would include higher impact installations – referred to in this report as “category 2” installations. Category 2 installations have a more lasting impact on the land that they are affecting. For example, this may be a result of having to dig into and reseal a small part of a concrete drive to conceal a cable. Extending the scope of the Scheme to include a broader scope of Category 2 installations would likely increase the number of cases referred to the Scheme, as it has been suggested that these more complicated installations are likely a large component of the remaining 25 percent of sites in New Zealand that currently do not have fibre access and capability.

UDL responded to this consultation and was in favour of an extension in both the time and scope of the Scheme. The decision is currently still with MBIE and the relevant Minister.

During our evaluation, we reviewed whether the Scheme is in the position to support both types of extension.

2.5.1 Duration

We asked relevant stakeholders how well placed the Scheme is to consider an extension of duration of the Scheme. We also considered results from annual and regular reporting from UDL and adherence to Performance Standards and the Rules of the Scheme to consider whether UDL’s assertion of continuing the Scheme was well-founded.

What we heard

Interviewees who were members of the Scheme expressed strong support for extending the duration of the Scheme beyond January 2025. One of the key drivers for this was the continued development of new subdivisions as well as government support for urban intensification. New developments and intensification will likely result in an increased need for the right to install on shared property and subsequently, a continued need for the Scheme.

Some members also cited the planned removal of the existing copper network that has been flagged for the short-to-medium term. This will mean that existing copper users will have to make a decision between fibre installation or wireless internet options such as Starlink. This represents another core group of those New Zealand households that currently do not have fibre and may require an installation in a shared driveway or property.

Interviewees said they were aware that the number of cases that had gone through the Scheme had decreased in recent years: however, this did not mean that the reduction in demand for the Scheme was going to continue in the future.

The issues listed above would suggest that there may be a further increase in shared property access disputes, and making sure the Scheme is made available for this increase would be a necessary step to continue to enable fibre uptake and connectivity on properties with shared access.

“It’s hard to think of many reasons why you wouldn’t extend the duration of the Scheme”.

Some other stakeholders also said that the age of some of the early fibre installations means that shared property access issues may be due to rise in the near future as a result of required maintenance. These interviewees felt that ensuring that the Scheme is still active when this arises is integral to allow for effective and fair resolutions to disputes associated with reinstatement work.

What we found

The Scheme has been effective in meeting the needs of both providers and complainants throughout its duration. While UDL’s 2024 reporting to MBIE suggested that there are low numbers of new cases coming through the Scheme, we understand that this is partly caused by the reduction in new installations from providers as they were aware the Scheme was coming to close.

Despite the reduction in cases in 2024, it is worth noting that over a six-month period in 2024, 80 percent of all complaints coming from one provider related to reinstatement disputes. As mentioned above, the age of some of the original fibre installations means that reinstatement disputes are likely to increase in the coming years, so it would be practical for both providers and end-users for the Scheme to remain in place for the foreseeable future.

UDL’s internal processes, and the prescriptive nature of the Scheme, mean that they are in a good place to deliver the Scheme going forward in an increasingly efficient way. UDL’s workforce often work across several different schemes, which means there is little to no lost or wasted resource if the Scheme is extended, and case numbers remain low.

If the Scheme is not extended, then providers would have to revert to a consents-based approach to fibre installation and / or remediation, and end-users would have no dispute resolution levers to enable connection. As the infrastructure and systems are already in place from the administrators of the Scheme, and the Scheme is popular across all users, an extension of the duration of UDL’s delivery of the Scheme makes good sense. There were mixed views on the appropriate length of the extension, although the most common responses were generally between three and five years.

2.5.2 Category extension

We also asked relevant stakeholders how well placed the Scheme is to handle an extension of the scope to consider Category 2 disputes. Additionally, we have considered how the Scheme is currently administered and the processes and knowledge that informs decisions made as part of the Scheme.

What we heard

Some interviewees said that an extension of the Scheme to broaden the scope of Category 2 installations would be appropriate and further maximise the benefits already seen through the implementation of the Scheme. We heard that for providers, opening up the Scheme to a broader range of Category 2 installations would provide more benefits than just new installations that are categorised under this category.

According to these interviewees, widening the scope of the Scheme would open the door to dealing with more reinstatement issues or complaints, which would be a positive outcome and something that the Scheme is well equipped to deal with.

Stakeholders from within UDL also said that the skills, systems, and technical knowledge within the organisation means that the Scheme would be well placed to deal with a widening of its scope. These interviewees said there is already the knowledge within UDL to deal with the “vast majority” of additional cases that would come under the Category 2 extension. UDL’s administration of the Scheme also has the ability to scale and flex to deal with an increase in the number of cases, suggesting that any increases in Category 2 disputes through the Scheme would not create any financial risk for UDL or increase the financial burden on member providers in terms of the fees that they currently pay.

One interviewee said that the current approach taken to administering the Scheme is one that targets perfection, and this may lead to complications and delays through the broadening of the scope of Category 2 installations that may be more complex. Provided that the decisions made are correct, there was concern that the additional time taken to complete complex cases may not always add value.

“Sometimes 80% is good enough and the time taken to get it 100% isn’t worth the additional time that it will take.”

Ensuring that correct outcomes are met within a reasonable time would need to be a clear focus for UDL if the scope of Category 2 installations was extended to include more complex cases.

What we found

If the broadening of Category 2 installations within the Scheme resulted in a significant increase in the number of disputes, UDL’s current processes, performance and standards are well-equipped to deal with this. We observed that the vast majority of cases that have been dealt with through the Scheme in recent years have been resolved quickly and effectively. This means that the Scheme is currently administered in a way that could deal with both

potential increases in resource, increases in the volume of cases, and increases in the complexity of the disputes.

We have noted that throughout UDL's administration of the Scheme, there has been significant progress in the effectiveness of processes as well as institutional and technical knowledge held within the existing workforce. The increase in efficiency is notable in the performance against timeliness targets for cases that have been managed through the Scheme since its inception. Since 2018-19, the Scheme has delivered at least 58 percent of cases closed within 30 working days, with a maximum of 83 percent of cases closed in this time during 2020-21. Every year of the Scheme, this rate has been greater than the 45 percent target stated in the Performance Standards.

Not only has the delivery of the Scheme maintained efficiency in the face of increased variable cases – including a rapid increase over the initial and middle period of the Scheme (2018-2021) – but the institutional knowledge across the workforce has continued to grow. With this institutional knowledge, UDL is well-equipped to deal with any increased complexity in cases that a broadening of Category 2 installations may bring to the Scheme.

Based on this review, we consider that the Scheme, as it is currently delivered by UDL, is in a strong position to deal with any increase in volume or complexity that a potential extension of the scope of Category 2 installations may cause.

3 Summary of Findings and Recommendations



The Scheme is meeting its purpose of enabling fibre connectivity throughout New Zealand.



Providers and end-users think the Scheme is a valuable tool that straddles the line of allowing statutory property access and a pathway for objection.



Broader UDL Performance Standards are generally appropriate measures to ensure quality delivery of the Scheme.



Increasing the focus on public awareness of the Scheme – if it continues – would be beneficial for both members and the public.



UDL's in-house reviews are fit for purpose and provide valuable quantitative and qualitative insights of the Scheme's performance to its intended audience.



The tiered structure for fixed membership fees based on market share is appropriate and members generally regard them as good value. However, lower volume users of the Scheme may be disadvantaged by the fixed element of fees due to their low use.



The Board reserves the right to consider a change in the annual membership fee amount as per the Scheme Rules, however the need for this will be dependent on MBIE's decision on an extension of the duration and scope of the Scheme.



Any surpluses that are currently held through Scheme fee collection is considered a "rainy day fund" by providers and they are not concerned about being repaid their share immediately.



Extending the Scheme's duration would facilitate continued uptake in connectivity. Possible maintenance on original fibre installation works, and reduction in alternatives (ie copper network) may create an increase in the number of cases in the future.



If the duration of the Scheme was not extended then any new fibre installation would have to revert to a consent-based approach, which significantly decreases the efficiency of these installations.



There is a high likelihood that many of the remaining fibre installations that could be facilitated through the Scheme would fit under the broadened scope of Category 2 installations and haven't been completed due to their complexity and ineligibility in the current Scheme.



UDL have the institutional knowledge and processes in place and are therefore well placed to manage more complex disputes through the Scheme.

Appendix A: Full list of documents reviewed

BSPAD 2019 review and following actions

BSPAD Fees document

BSPAD Internal reporting, providers and MBIE

BSPAD Survey Analysis April 2021-23 & December 2023-24

Deed for Services – Broadband Shared Property Access Disputes Resolution Scheme

MBIE Discussion Paper – Enhancing telecommunications regulatory and funding frameworks (2024)

Rules for Broadband Shared Property Access Disputes

Sapere Review of Broadband Shared Property Access Disputes Scheme

Telecommunications Property Access and Other Matters Amendment Act 2017

Telecommunications Property Access Regulations 2017

UDL Annual Review 2022-23

UDL BSPAD Independent Review – Terms of Reference

UDL Constitution and Governance Charter

UDL Submission – Discussion document: Enhancing telecommunications regulatory and funding frameworks

Appendix B: Interview guide for stakeholder engagement

How long have you been in your role?

What is your role?

Who or what groups do you work/deal with the most?

How well is the BSPAD Scheme meeting its purpose?

Now, if you consider through the lens of UDL's six principles...

- accessibility,
- independence,
- fairness,
- accountability,
- efficiency (timeliness), and
- effectiveness (outcomes).

...what would your assessment be?

Can you give me some examples?

What are some areas of excellence/ room for improvement?

How effective are the Performance Standards set by the Board?

Can you give me some examples?

How could they be improved?



How useful are the annual in-house reviews?

What aspects do you find particularly useful/not so?

How could they be improved?

What are your thoughts on the current funding model?

How could it be improved?

How well placed is the BSPAD scheme is to consider the extension of duration of the scheme?

Can you give me some examples?

And, what about extending the scope of category 2 installations?

Do you have any other thoughts or comments on the BSPAD Scheme – either current or future state?



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