

FAQs: 26 GHz band auction

Responses to any auction-related questions will be posted here, without attribution. We may modify the wording of questions to assist with clarity.

Before The Auction

When will the 26 GHz band auction commence?

Notification: Commencement date of the auction

The 26 GHz band spectrum auction will commence on Monday 12 April 2021. The ACMA cannot predict how long the auction will last. The ACMA will publish the results of the auction after its conclusion.

If a bidder elects to secure their eligibility payment by providing the ACMA with a deed of financial security, is a bank guarantee also required?

There is no need to provide a bank guarantee at the eligibility nomination stage.

A bank guarantee is only required where a winning bidder elects to pay for their winning high bid by instalments rather than in an upfront payment. In that case, bank guarantees are used to secure the remainder of the winning high bid after each instalment is paid.

Can the physical copy of Form 8 – Deed of financial security, be delivered to any of the ACMA's offices?

The deed of financial security must be delivered to the ACMA's Canberra office address, as specified in the auction guide and forms booklet.

Can an applicant make changes to its associates list (Form 4) after submitting an application?

If there are changes to an applicant's associates – and therefore its list of associates – the applicant should submit an amended associates list (Form 4). This should include amendments in track changes, or otherwise clearly marked. It enables the ACMA, and other applicants who have been provided with the associates list, to clearly see where changes have been made.

In Form 2 – Deed of acknowledgment executed by bodies corporate, is it possible to submit 2 versions of the signature page, with one version signed by a director and the second version signed by a director or company secretary?

The ACMA will accept split execution of deeds executed by bodies corporate.

For the physical execution of a deed by a body corporate:

- Each director should print and sign a copy of the deed.
- Each director should send a copy of signed deed to the other director (scanned copy by email or fax).
- Each director should print and sign the scanned or faxed copy of the deed.
- Each of these signed deeds (each with one photocopied signature and one original) should be delivered to the ACMA in accordance with section 7 of the Radiocommunications (Spectrum Licence Allocation — 26 GHz Band) Determination 2020.
- The ACMA will then treat the 2 deeds as a single instrument executed by the corporation in accordance with s.127(1) of the *Corporations Act 2001*.

In the case of the electronic execution of a deed by a body corporate, each signatory may submit a signed copy of the deed to the ACMA in accordance with the [Corporations \(Coronavirus Economic Response\) Determination \(No. 3\) 2020](#). The copy of the deed must include the entire contents of the document, but does not have to include the signature of the other person signing the document.

Do company directors have to complete Form 3 – Deed of confidentiality?

A company director does not have to complete the deed of confidentiality unless they are also an employee of the company or of an associated body corporate. Section 21 of the Radiocommunications (Spectrum Licence Allocation—26 GHz Band) Determination 2020 outlines who needs to complete a deed of confidentiality. This may include, but is not limited to, employees that the company director may engage.

If a deed has been physically signed and witnessed in person, and the signatory has ticked the box indicating they are aware of electronic signature requirements in their state/territory, will the ACMA accept the signed deed?

We will accept deeds that have been signed in adherence to the relevant state or territory laws for deeds. If the deed has been signed physically with an in-person witness in accordance with the relevant law, then we will accept it.

Will the ACMA accept a transfer receipt as evidence of payment of the application fee before the application deadline?

Paragraph 9(4)(b) of the Radiocommunications (Spectrum Licence Allocation—26 GHz Band) Determination 2020 outlines how the ACMA will apply deadlines relating to the electronic transfer of funds. If we receive evidence (such as a transfer receipt) indicating that payment of the application fee was made *on or before* the application deadline, we will accept the fee has been paid on time. In addition to the evidence of payment, the application fee must be received in the ACMA's bank account no later than 3 working days after the application deadline – this means the application fee must be received by the ACMA on or before 27 January 2021.

When returning deeds of confidentiality (Form 3), is it sufficient just to submit the pages that require signing, or should the entire form be submitted?

The instructions in the deed of confidentiality – the first 3 pages – does not need to be returned to the ACMA. However, the entire deed – pages 4 to 9 – must be included, as it captures the terms of the deed that the signatory is signing. This should be returned as a single PDF file, not a separate PDF file per page.

Part 3 of the application form (Form 1) states that a signature is required in addition to the details of authorised persons, but no signature field is provided. Are authorised persons required to sign Part 3 of the application form?

Authorised persons are not required to sign Part 3 of the application form. The purpose of this section is to provide information for verifying the identity of authorised persons and contacting them, if needed. Rather than a signature, we will use the secret questions in the application form to verify the identity of authorised persons if required.

To clarify, the only signatures required are on page 14 of the application form.

When paying the application fee, what is the correct label for the electronic transfer? Does it matter if spaces are included in the description?

The label on any electronic transfer of the application fee to the ACMA must include:

- '26'
- 'appfee'
- The applicant's name

The use of spaces does not matter. The label must be limited to 15 alphanumeric characters.

During the auction

Can bidders modify their start demands in the pre-bidding phase?

Bidders may reduce or maintain their start demands in the pre-bidding phase if they like. Bidders may not exceed the start demands nominated in the eligibility nomination form, as it is not secured by the eligibility payment.

How are eligibility points used in the auction?

Eligibility points may be 'redeployed' and 'spent' elsewhere than originally nominated in the eligibility nomination form (Form 7) or at the pre-bidding phase. This is subject to whether or not there is excess demand in the area the bidder wishes to reduce demand.

For example, during the primary stage the bidder may specify their starting demand in Region A, and secure eligibility points by making an eligibility payment and/or providing a deed of financial security. The bidder may realise there is high (excess) demand in Region A and prices are rising rapidly.

The bidder may then reduce demand in Region A, and increase demand in Region B, as they will have sufficient eligibility points to do so from reducing demand in Region A. More information about eligibility points is at section 4.2.2.6 of the auction guide.

What happens to the eligibility payment at the end of the auction?

The ACMA refunds eligibility payments to all unsuccessful bidders at the conclusion of the auction. We note that the application fee is non-refundable regardless of whether a bidder is successful or unsuccessful.

If the bidder is successful at auction and acquires one or more lots of spectrum, then the payment the bidder owes to the ACMA will be the winning bid price less the eligibility payment.

If provisional start demands are reduced in the bidding phase, does the difference in the eligibility payment get refunded?

In this case, theoretically the difference in eligibility payment may be refunded at the end of the auction. However, if the bidder is successful at auction and acquires one or more lots of spectrum, then the payment the bidder owes to the ACMA will be the winning bid price less the eligibility payment. If the winning bid price is equal to or greater than the eligibility payment, then there will be no refund.

Will the number of bidders be visible in the pre-bidding stage?

The number of bidders will not be visible in the pre-bidding or primary stage. This will only be visible in the secondary stage, if there is one.

What spectrum is available at auction?

There are 12 x 200 MHz lots available across 24 areas. Lots in each of the 24 areas form one single product.

There are also 24 x 100 MHz lots available across 3 areas, including Greater Perth, Hobart, and Margaret River. The lots in each area form 2 products, with separate lower (below 27 GHz) and upper (above 27 GHz) products.

More information about the spectrum available at auction is in the [Auction guide](#).

What are the applicable allocation limits for the 26 GHz band auction?

Through the [Radiocommunications \(Spectrum Licence Limits – 26 GHz Band\) Direction 2020](#) (direction), the Minister for Communications, Urban Infrastructure, Cities and the Arts has set a maximum allocation limit of 1 GHz in each of the designated areas as defined in the direction.

Can bidders participate in the auction from outside of Australia?

Bidders will be able to access the bidding software from overseas locations. Any authorised persons bidding from overseas should ensure that they have a reliable internet connection and that their device meets the minimum requirements specified in section 4.1.2 of the [Auction guide](#).

Bidders participating from overseas may wish to note that auction rounds may only take place between 9 am and 5 pm ACT time on working days.

What will bidders be able to see in the pre-bidding phase? What is the timing of the pre-bidding phase?

Bidders will only be able to see their own provisional start demands and provisional minimum spectrum requirements in the pre-bidding phase.

We expect to consult shortly with bidders on auction parameters and scheduling, including the proposed start date and time of the first and second clock rounds in the primary stage. At this stage, we propose that Round 1 of the auction will start the day after the pre-bidding phase. This will allow for a full day of bidding, similar to the approach taken in previous auctions.

What information is available about instalment payments?

All information about instalment payments is in Schedule 4 of the [Radiocommunications \(Spectrum Licence Allocation—26 GHz Band\) Determination 2020](#) and section 15 of the [Radiocommunications Spectrum Marketing Plan \(26 GHz Band\) 2020](#). Information on payment arrangements is also included in section 5.2 of the auction guide, which is part of the [applicant information package](#).

If a winning bidder elects to pay by instalments, then they must pay the first instalment and provide the ACMA with a bank guarantee (Form 10) for 5% of the outstanding amount. This must be done by the date specified in the notice for the first instalment.

Each instalment payment is 20.32% of the winning price, in accordance with the arrangements set out in the [Radiocommunications \(Spectrum Access Charges – 26 GHz Band\) Direction 2020](#).

Does stamp duty apply to spectrum licence bids and/or other spectrum licence payments?

Stamp duty is not payable on a spectrum licence bid.

Stamp duty may be payable on spectrum licence transfers and trades. This varies on a state and territory basis.

Separately, spectrum licences attract a spectrum licence tax, as set out in the Radiocommunications (Spectrum Licence Tax) Determination 2014. The spectrum licence tax is payable annually on 11 October.

When will spectrum licences commence and expire?

Spectrum licences issued to winning bidders after the auction will be for a duration of up to 15 years.

The licences will commence 12 weeks after the auction manager publishes the results of the auction, or the day the licence is issued – whichever is later.

Will network rollout or coverage requirements be imposed on spectrum licences issued in the upcoming 26 GHz band auction?

There are no network rollout or coverage requirements imposed on spectrum licences allocated as a result of the 26 GHz band spectrum auction.