

# Auction forms booklet

## 3.4/3.7 GHz bands auctions

JULY 2023



## List of forms

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# General information

## Introduction

This booklet contains 8 forms that auction participants may be required to complete. The auction will be conducted in accordance with the procedures contained in the [Radiocommunications \(Spectrum Licence Allocation – 3.4/3.7 GHz Bands\) Determination 2023](#) (the allocation determination). The *Auction guide* provides practical information to guide participants through the auction process – including information about when and by whom each form must be given to the ACMA.

The beginning of each form provides information about:

- > the purpose of each form
- > who must complete the form (including, where applicable, who can execute or witness the form)
- > when the completed form must be given to the ACMA
- > any amount payable in association with the form (for example, an application fee or eligibility payment)
- > other relevant matters.

## Completing forms

Auction participants must complete all relevant forms, execute all deeds and ensure the execution of those deeds are appropriately witnessed before giving the completed forms to the ACMA by the applicable deadline in accordance with the lodgement procedures set out below.

Where appropriate, forms in the Auction forms booklet are digitally writeable PDFs. Applicants should note that the requirements for electronic execution and witnessing of documents differs depending on the type of document being executed and/or witnessed, as well as the relevant jurisdiction it is being executed in. The ACMA has introduced, where possible, arrangements that will permit electronic execution of some documents.

## Attaching additional information to a form

Where an applicant provides additional information in an attachment to a form, the attachment must clearly indicate:

- > the name of the applicant, as it appears in the application form; and
- > the form and the part of the form to which the attachment relates (for example, 'Part C of Form 4: Directors and secretaries of related bodies corporate').

## Giving forms to the ACMA

Completed forms may be given to the ACMA by:

- > Online portal: <https://www.acma.gov.au/acma-assist#/auctions/3a71276a-3d16-ee11-9cbd-000d3a798fb7>
- > Email: [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au)
- > Delivery to: Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
Level 32, Melbourne Central Tower  
360 Elizabeth Street  
Melbourne VIC 3000

Section 6 of the allocation determination sets out procedures for giving documents to the ACMA by email, via delivery of documents to the physical address listed above or using the online portal.

If a document is **emailed**:

- > the document must be included as an attachment; and
- > the document must be:
  - > if it is a statutory declaration, a statement under section 70 of the allocation determination, or a deed – in PDF format or another format approved by the auction manager; or
  - > if it is not a document mentioned above – in Word or PDF format or another format approved by the auction manager.

Special rules in the allocation determination apply in relation to giving the ACMA a deed of financial security:

- > If a deed of financial security is executed by a person acting under a power of attorney for a body corporate, a copy of the power of attorney must be given with the deed in accordance with subsection 41(6).
- > If a deed of financial security is given to the ACMA by email or the online portal, the original deed of financial security must be received by the ACMA no later than 3 working days after the eligibility deadline or the extended eligibility deadline, or, if the ACMA agrees to a later time, the agreed time.

## Privacy collection notice

The ACMA will collect personal information directly from applicants in accordance with the procedures and requirements contained in the allocation determination and related forms. The ACMA will use that personal information for purposes related to the conduct of an auction pursuant to the allocation determination, which may include the provision of information about the auction to applicants, to verify the identity of auction participants and to investigate potential contraventions of the allocation determination. The information may also be provided to the Australian Competition and Consumer Commission under section 154 of the allocation determination, or be disclosed in accordance with section 154 of the allocation determination and under Part 7A of the [Australian Communications and Media Authority Act 2005](#) or as otherwise authorised by law.

A failure to provide personal information as requested by the ACMA for the purposes of the allocation determination and related forms may affect an auction participant's ability to participate in the auction.

The ACMA may disclose personal information collected from applicants to [Power Auctions LLC](#) being the provider of the software used to conduct the auction. Power Auctions LLC is based in the United States.

The ACMA will not otherwise use or disclose the personal information it collects from auction participants unless as required or permitted by law.

The ACMA's privacy policy is available on the [ACMA website](#) and sets out:

- > how auction participants can access their personal information as held by the ACMA and seek correction of that personal information; and
- > how auction participants may complain about an alleged breach of the Australian Privacy Principles as set out in the [Privacy Act 1988](#) and how the ACMA will deal with such complaints.

## Queries

Queries about the auction process may be directed to the auction manager, by:

Email: [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au)

Telephone: (02) 6219 5151

Post: Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
Level 32, Melbourne Central Tower  
360 Elizabeth Street  
Melbourne VIC 3000

## Form 1 – Application form

For the purposes of sections 34, 45 and 50 of the [Radiocommunications \(Spectrum Licence Allocation – 3.4/3.7 GHz Bands\) Determination 2023](#) (allocation determination).

### Notes on completion

#### For all applicants:

This application form has been approved by the Australian Communications and Media Authority (ACMA) pursuant to paragraph 23(1)(a) of the allocation determination.

Subsection 34(2) and subsection 45(2) of the allocation determination provide that a person who applies to become a registered bidder in the allocation process must, among other things, before the application deadline or new application deadline:

- > give the ACMA a completed application form; and
- > pay the application fee.

Subsection 45(2) of the allocation determination provides that a new applicant must give the ACMA a completed application form and pay the application fee within 10 working days of the ACMA notifying the affiliated applicants in accordance with section 44. For applications made under section 45 of the allocation determination, the new applicant must be a body corporate whose only members are one or more of the applicants identified as being affiliated. The new applicant must not be affiliated with any other applicant in the updated list of all other applicants and their associates, who have not withdrawn their application, including another new applicant.

#### The application process

The application process occurs in two stages. A person wishing to participate in the allocation process must complete both of the following stages:

- > 'Application' stage: Complete and lodge the relevant forms by the application deadline, including this application form, in accordance with section 34 of the allocation determination.
- > 'Registration' stage: Secure eligibility to bid in the allocation process, having satisfied requirements in accordance with section 39 and 41 of the allocation determination.

An applicant is only entitled to participate in an auction as a registered bidder when it has fulfilled all of the requirements of the application process (including the completion and lodgement of all relevant deeds and other forms) within the applicable deadlines.

Practical information to guide applicants through the application and registration process is provided in the *Auction guide*. Applicants should read the allocation determination and the *Auction guide* carefully to make sure they are aware of all of the steps they need to take if they wish to be registered as a bidder.

## Disclosure of information

Pursuant to sections 37 and 52 of the allocation determination, information given to the ACMA in the application form about the identity of the applicant, and the applicant's associates, will be given to all other applicants. This information will be given to the other applicants for the purpose of enabling them to make a statutory declaration pursuant to the requirements of those sections.

The allocation determination, the *Auction guide* and Form 2—Deed of acknowledgement describe other circumstances in which information and documents obtained by the ACMA in the performance of its functions under the allocation determination may also be released by the ACMA.

## When to give the application form to the ACMA

Where a person gives an application form to the ACMA under section 34 of the allocation determination, this must be done before the application deadline. An application is incomplete if the person fails to give the application form before the application deadline. The application deadline is published by the ACMA on its website and available in the *Auction guide* and via the online application portal.

Where a person gives a new application form to the ACMA under section 45 of the allocation determination as a result of an affiliation, this must be done within 10 working days of the ACMA's request for a new application form.

In the event starting prices are varied by the ACMA in accordance with section 25 of the allocation determination, a new applicant must give an application form to the ACMA under section 50 of the allocation determination before the new application deadline. The ACMA will publish the new application deadline on its website and on the online application portal. An application is incomplete if the person fails to give the application form before the new application deadline.

## How to give the application form to the ACMA

The application form must be lodged in accordance with the procedures for giving documents to the ACMA set out in section 6 of the allocation determination. The application form can be delivered to:

Online portal: <https://www.acma.gov.au/acma-assist#/auctions/3a71276a-3d16-ee11-9cbd-000d3a798fb7>

Email: [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au)

Post: Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
Level 32, Melbourne Central Tower  
360 Elizabeth Street  
Melbourne VIC 3000

The procedures are also summarised in the *Auction guide*. The procedures contain specific requirements where a document is given by email.

## **Attaching additional information to the application form**

Where an applicant provides additional information in an attachment to the application form:

- > the first page of the attachment must clearly indicate:
  - > the name of the applicant, as it appears in Part 1 of the application form; and
  - > the part of the form to which the attachment relates (for example, 'Part 3: Details of the applicant's authorised persons'); and
- > each page of the attachment must show the page number and the total number of pages in the attachment (for example, 'Attachment 1, Page 1 of 3').

## **Who should sign the application form?**

If the application is from a body corporate, the form must be signed by a director, a secretary or an authorised officer of the body corporate.

If the application form is from an individual, the form must be signed by that individual.

## **Who can witness the application form?**

The application form must be signed before a person who is above the age of 18.

## **How to sign and witness the application form**

Section 8 of the allocation determination outlines the requirements for executing this form. Please see the *Auction guide* for more information about how to sign and witness the application form.

## **How to pay the application fee**

Information about how to pay the application fee is provided in Part 5 of this form.

## Part 1: Applicant details

If the applicant is a body corporate:

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Name

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ACN/ARBN

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Trading name

If the applicant is an individual:

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Title: Mr/Mrs/Ms/Dr/Other

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Given names

---

Surname

All applicants to complete:

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ACMA client number (if known/if any)

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Address (if the applicant is a body corporate, enter the applicant's registered office address or principal office address).

Tick whichever is applicable below:

- This is an application made for the purposes of section 34 of the allocation determination.
- This is an application made for the purposes of section 45 of the allocation determination.
- This is an application made for the purposes of section 50 of the allocation determination.

## Part 2: Details of principal and backup contact persons

The ACMA may need to contact auction participants to make queries, or to provide information or material.

During the course of the allocation process, the ACMA will communicate with participants primarily through the 'authorised persons' nominated in Part 3 of this form, using the electronic messaging facility in the online auction system. Where an alternative mode of communication is appropriate (for example, during the bidder registration process, before participants have access to the online auction system), the ACMA will communicate with participants directly through the contact persons nominated below.

The same individual can be nominated in Part 2 and Part 3 of this form.

Provide name and contact details for:

- > the person through whom the ACMA should communicate with the applicant in relation to the allocation process, as described above (the principal contact person)
- > an alternative person through whom the ACMA should communicate with the applicant if the principal contact person cannot be reached (the backup contact person).

### Principal contact person:

_____	
Title: Mr/Mrs/Ms/Dr/Other	
_____	
Given names	
_____	
Surname	
_____	
Position	
_____	
Business address	
_____	
_____	_____
Work phone	Email
_____	_____
Mobile	Additional contact if relevant

The following secret questions may be used for verification purposes – for example, where the person takes delivery of auction-related material or contacts the ACMA to seek information:

_____	_____	_____
Date of birth	City of birth	First primary school

**Backup contact person:**

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Title: Mr/Mrs/Ms/Dr/Other

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Given names

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Surname

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Position

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Business address

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Work phone	Email
Mobile	Additional contact if relevant

The following secret questions may be used for verification purposes – for example, where the person takes delivery of auction-related material or contacts the ACMA to seek information:

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Date of birth	City of birth	First primary school
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### Part 3: Details of the applicant's authorised persons

Provide the name and contact details of each 'authorised person' who the applicant authorises to access and use the online auction system (for example, to make bids in the auction) on its behalf (authorised persons).

The same individuals can be nominated in Part 2 and Part 3.

In the interests of operational efficiency and security, applicants are encouraged to nominate no more than 3 authorised persons. However, applicants can nominate an additional 2 authorised persons (that is, a total of up to 5 persons) if they wish. Where an applicant wishes to nominate more than 3 authorised persons, the name, contact details and signature (as required below) of each additional person must be provided as an attachment to this form, in accordance with the instructions set out under the heading 'Attaching additional information to the application form', above.

#### Authorised person #1

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Title: Mr/Mrs/Ms/Dr/Other

---

Given names

---

Surname

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Position

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Business address

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Work phone	Email
Mobile	Additional contact if relevant

The following secret information may be used for verification purposes – for example, where the person submits a bid using the alternative bidding procedures (to be supplied after the application deadline) or contacts the ACMA to seek information:

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Date of birth	City of birth	First primary school
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## Authorised person #2

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Title: Mr/Mrs/Ms/Dr/Other

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Given names

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Surname

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Position

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Business address

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Work phone

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Email

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Mobile

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Additional contact if relevant

The following secret information may be used for verification purposes – for example, where the person submits a bid using the alternative bidding procedures (to be supplied after the application deadline) or contacts the ACMA to seek information:

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**Date of birth**

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**City of birth**

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**First primary school**

### Authorised person #3

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Title: Mr/Mrs/Ms/Dr/Other

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Given names

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Surname

---

Position

---

---

Business address

---

Work phone

---

Email

---

Mobile

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Additional contact if relevant

The following secret information may be used for verification purposes – for example, where the person submits a bid using the alternative bidding procedures (to be supplied after the application deadline) or contacts the ACMA to seek information:

---

**Date of birth**

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**City of birth**

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**First primary school**

## Part 4: Details of the applicant's associates

Information about the applicant's 'associates' is required for the purposes of ensuring compliance with the allocation limits as described in Division 2 of Part 2 of the allocation determination. The allocation limits restrict the total amount of spectrum that a person or relevant group of persons can acquire in the allocation process. The allocation limits, the meaning of 'associate' and other relevant matters are set out in the allocation determination, and are discussed in the *Auction guide*.

An applicant that is a **body corporate** must provide the information set out in Table 1, by completing **Form 4 – Associates form – body corporate**.

An applicant that is an **individual** must provide the information set out in Table 2, by completing **Form 5 – Associates form – individuals**.

An applicant may provide the same information in a different format than specified in Form 4 or Form 5 (as is relevant). For example, if the applicant's associates' information can be obtained from a database or similar program, the applicant may choose to provide the information according to the database's format. However, applicants should ensure that all of the information in tables 1 or 2 below (as is relevant) is provided.

It is recommended that the applicant's associates' information is provided in a searchable format (that is, an electronic format rather than a scan of a physical copy).

The completed Form 4 or Form 5 as applicable must be provided to the ACMA as an attachment to this form, in accordance with the instructions set out under 'Attaching additional information to the application form', above.

**Table 1: Information about the applicant’s associates that must be provided where the applicant is a *body corporate***

	<b>A</b>	<b>B</b>
	<b>Category of associate in relation to the applicant (the body corporate)</b>	<b>Information that must be provided about each of the applicant’s associates that falls within the category in column A</b>
1	A director or secretary of the body corporate	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; Position</li> <li>&gt; Registered office address or principal office address</li> </ul>
2	A ‘related body corporate’ within the meaning of the <i>Corporations Act 2001</i> .	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; ACN/ARBN</li> <li>&gt; Registered office address or principal office address</li> <li>&gt; Why the associate meets the definition of a ‘related body corporate’</li> </ul>
3	A director or secretary of a ‘related body corporate’ within the meaning of the <i>Corporations Act 2001</i> .	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; Position</li> <li>&gt; Name and ACN/ARBN of the related body corporate</li> <li>&gt; Registered office address, or principal office address, of the related body corporate</li> </ul>
4	An individual who controls at least 15% of the voting power or holds at least 15% of the issued shares in the body corporate	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; Address</li> </ul>
5	<p>Each person (other than the Commonwealth when represented by the ACMA) who is party to a relevant agreement with the body corporate that either or both:</p> <ul style="list-style-type: none"> <li>&gt; is for the use, by one party to the agreement, of spectrum licensed to another party to the agreement under a spectrum licence, for a part of the spectrum referred to in the re-allocation declaration</li> <li>&gt; relates to the acquisition of a spectrum licence for a part of the spectrum referred to in the re-allocation declaration.</li> </ul> <p>This does not include an agreement that, to the extent it deals with a part of the spectrum referred to in the re-allocation declaration, deals only with spectrum associated with leftover lots.</p>	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; ACN/ABN/ARBN (if applicable)</li> <li>&gt; Address (if the person is a body corporate, enter the person’s registered office address or principal office address)</li> <li>&gt; The nature of the agreement</li> </ul> <p>Note: ‘relevant agreement’ and ‘re-allocation declaration’ are defined in the allocation determination</p>

This information must be provided by completing **Form 4 – Associates form – body corporate**.

**Table 2: Information about the applicant’s associates that must be provided, where the applicant is an *individual***

	<b>A</b>	<b>B</b>
	<b>Category of associate in relation to the applicant (the individual)</b>	<b>Information that must be provided about each of the applicant’s associates that falls within the category in column A</b>
1	The individual’s spouse or de facto partner, within the meaning of the <i>Acts Interpretation Act 1901</i>	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; Address</li> </ul>
2	A body corporate in which the individual controls at least 15% of the voting power or holds at least 15% of the issued shares	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; ACN/ARBN</li> <li>&gt; Registered office address or principal office address</li> </ul>
3	A body corporate of which the individual is a director or secretary	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; ACN/ARBN</li> <li>&gt; Registered office address or principal office address</li> </ul>
4	A ‘related body corporate’ (within the meaning of the <i>Corporations Act 2001</i> ) of a body corporate of which the individual is a director or secretary	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; ACN/ARBN</li> <li>&gt; Registered office address or principal office address</li> <li>&gt; Why the associate meets the definition of a ‘related body corporate’</li> </ul>
5	<p>Each person (other than the Commonwealth when represented by the ACMA) who is party to a relevant agreement with the individual that either or both:</p> <ul style="list-style-type: none"> <li>&gt; is for the use, by one party to the agreement, of spectrum licensed to another party to the agreement under a spectrum licence, for a part of the spectrum referred to in the re-allocation declaration</li> <li>&gt; relates to the acquisition of a spectrum licence for a part of the spectrum referred to in the re-allocation declaration.</li> </ul> <p>This does not include an agreement that, to the extent it deals with a part of the spectrum referred to in the re-allocation declaration, deals only with spectrum associated with leftover lots.</p>	<ul style="list-style-type: none"> <li>&gt; Name</li> <li>&gt; ACN/ABN/ARBN (if applicable)</li> <li>&gt; Address (if the person is a body corporate, enter the person’s registered office address or principal office address)</li> <li>&gt; The nature of the agreement</li> </ul> <p>Note: ‘relevant agreement’ and ‘re-allocation declaration’ are defined in the allocation determination</p>

This information must be provided by completing **Form 5 – Associates form – individuals**.

## Part 5: Application fee

The amount of the application fee set by the ACMA under section 20 of the allocation determination is A\$10,000 (no GST is payable). Indicate, by ticking the appropriate box, whether you wish to pay the application fee by:

- electronic transfer
- bank cheque

The application fee must be paid in Australian currency by either:

### Electronic transfer

**Bank:** ANZ Bank

**Branch:** Belconnen

**BSB:** 012-951 **Account number:** 8379 24272

**Account name:** ACMA Official Administered Receipts

**Transfers should be labelled:** '3437 fee [name of applicant]'.

Note: Because transfer labels are limited to 15 alphanumeric characters, abbreviations must be used.

Evidence of the electronic transfer (for example, a transfer receipt) should be emailed to [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au) as soon as practicable after the transfer is made.

### Bank cheque

Crossed 'not negotiable'

**Made payable to:** Australian Communications and Media Authority on behalf of the Commonwealth

**Delivered to:**  
Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
PO Box 13112 Law Courts  
Melbourne, Victoria 8010

Subsection 9(5) of the allocation determination sets out when an amount is taken to have been paid by a relevant deadline. An amount is taken to have been paid by a deadline specified in the allocation determination if:

- > the ACMA receives a bank cheque for the full amount on or before the deadline; or
- > the ACMA receives evidence that an electronic transfer of the full amount was made on or before the deadline (for example, a transfer receipt) *and* the amount is received in the ACMA's bank account no later than 3 working days after the deadline; or
- > the ACMA receives other evidence that satisfies it that the person making the payment has taken all reasonable steps to pay the amount on or before the deadline.

Subsection 9(6) of the allocation determination provides that an amount due under the allocation determination is not paid in full if bank charges or government duties imposed on a payment reduce the net payment to less than the amount due. The effect of subsection 9(6) is that an applicant or bidder must add the value of any bank charge or government duty to the amount of the payment in order to validly apply to participate in the auction. The application fee is not subject to GST and therefore GST is not payable on the application fee.

## Part 6: Declaration and signature

If the application is from a body corporate, this section must be signed by a director, a secretary or an authorised officer of the body corporate. If the application form is from an individual, the form must be signed by that individual.

I understand that knowingly or recklessly making a false or misleading statement or omitting any matter or thing without which the statement is misleading in, or in connection with, an application is an offence under section 136.1 of the *Criminal Code*. I believe that the statements made in this document and its attachments are true in every particular.

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Signed by or on behalf of the applicant

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Name of the signatory if signed on behalf of the applicant

Signed at:

---

Place

On

---

Day / Month / Year

Before me,

---

Signature of person before whom the declaration is made

---

Name of person before whom the declaration is made

---

Address of person before whom the declaration is made

---

Method by which this form is witnessed (e.g. in person, via audio visual link etc.)

**Note** It is a serious offence under Part 7.4 of the *Criminal Code* to give false or misleading information to the Commonwealth.

## Form 2 – Deed of Acknowledgement

For the purposes of paragraphs 34(2)(c), 45(2)(c) and 50(2)(c) of the [Radiocommunications \(Spectrum Licence Allocation – 3.4/3.7 GHz Bands\) Determination 2023](#) (allocation determination).

### Notes on completion

#### Introduction

This deed of acknowledgement form (Deed) has been approved by the Australian Communications and Media Authority (ACMA) pursuant to paragraph 23(1)(c) of the allocation determination.

Paragraphs 34(2)(c) and 50(2)(c) of the allocation determination provide that a person who applies to become registered as a bidder under the allocation determination must give the ACMA a completed Deed before the relevant application deadline.

Where the ACMA has notified applicants that it is satisfied that they are affiliated under subsection 44(1) of the allocation determination and those applicants decide to submit a new application, the new applicant must give the ACMA a completed Deed under paragraph 45(2)(c) of the allocation determination.

Persons completing this Deed should read the allocation determination and, if necessary, seek independent advice. The Deed affirms the statutory obligations imposed upon an applicant in respect of their participation in the allocation process conducted under the allocation determination and requires an applicant to agree to be bound by the allocation determination. Prospective applicants should review and clearly understand their obligations under the allocation determination and this Deed before completing this Deed.

All sections of this Deed must be completed. The prospective applicant referred to in this Deed must be the same as on the application form given by the applicant as part of this application.

#### When to give the Deed to the ACMA

Where an applicant gives this Deed to the ACMA for the purposes of section 34 of the allocation determination, this must be done before the application deadline. An application is incomplete if the applicant fails to give the Deed to the ACMA before the application deadline. The application deadline is published by the ACMA on its website and in the *Auction guide*.

Where an applicant gives a completed Deed to the ACMA for the purposes of section 45 of the allocation determination, this must be done before the deadline set by the ACMA.

In the event that starting prices are varied under section 25 of the allocation determination, new applicants for the purposes of section 50 of the allocation determination must submit a completed Deed by the new application deadline. The new application deadline will be published on the ACMA's website, if required.

## How to give the Deed to the ACMA

The Deed must be given to the ACMA in accordance with the procedures for giving documents to the ACMA set out in section 6 of the allocation determination through the following methods:

Online portal: <https://www.acma.gov.au/acma-assist#/auctions/3a71276a-3d16-ee11-9cbd-000d3a798fb7>

Email: [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au)

Post: Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
Level 32, Melbourne Central Tower  
360 Elizabeth Street  
Melbourne VIC 3000

### **Where a copy of the Deed is given using the online portal or by email, the applicant should retain the original Deed.**

A summary of the procedures (including an email address and physical address for giving documents to the ACMA) is provided at the beginning of the *Auction forms booklet*. The procedures are also summarised under the heading 'Giving documents to the ACMA' in the *Auction guide*.

### **Who should execute the Deed?**

Where the ACMA receives a Deed from an applicant that is a body corporate, it must be executed by either:

- > 2 directors of the company; or
- > a director and a company secretary of the company; or
- > if it is a proprietary company that has a sole director who is also the company secretary, that director.

Where the ACMA receives a Deed from an applicant who is an individual, it must be executed by that individual.

### **Who can witness the Deed?**

Where the Deed is executed by an individual, this must be witnessed by a person who is above the age of 18 and is not a party to the Deed. The witness must print their full name next to their signature.

People executing a Deed may want to obtain legal advice about the manner of its execution.

# Deed of Acknowledgement

This Deed of Acknowledgement is made on this

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Day / Month / Year

in favour of the Commonwealth of Australia (the Commonwealth) for the benefit of the Australian Communications and Media Authority, ABN 55 386 169 386, (the ACMA), established under the [Australian Communications and Media Authority Act 2005](#)

by the Applicant:

---

Insert name

---

Insert ACN or ARBN if applicable

of:

---

Insert address

## Purpose:

- A. The ACMA proposes to allocate spectrum licences in the 3.4/3.7 GHz bands by a combination of auction and direct allocation.
- B. Under sections 60 and 294 of the *Radiocommunications Act 1992* (the Radiocommunications Act), the ACMA has determined the procedures to be applied in allocating spectrum licences, and has fixed the method for calculating the spectrum access charges payable for issuing those licences, as set out in the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (allocation determination).
- C. The Applicant wishes to submit an application and participate in the allocation process, in accordance with the terms and conditions set out in the allocation determination and in this Deed.

## Operative part:

### Part 1: General undertakings

#### 1. Acknowledgement and agreement that Applicant will be bound

- 1.1 This Deed is entered into as a deed poll in favour of the Commonwealth (for the benefit of the ACMA) and is enforceable by the Commonwealth.
- 1.2 The Applicant:
  - a. acknowledges that it understands, and agrees to be bound by, the obligations contained in the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (**the allocation determination**); and
  - b. agrees to comply with each and every applicable provision of the allocation determination.
- 1.3 The Applicant:
  - a. acknowledges and agrees that, where acting on behalf of the Applicant, its officers, employees, agents, contractors, subcontractors and associates are bound by the obligations contained in the allocation determination; and
  - b. agrees to ensure its officers, employees, agents, contractors, subcontractors and associates comply with each and every applicable provision of the allocation determination.
- 1.4 The remaining clauses of this Deed supplement, and do not in any way limit, the acknowledgement and agreement by the Applicant that it and, where acting on behalf of the Applicant, its officers, employees, agents, contractors, subcontractors and associates, are bound by the obligations contained in the allocation determination.
- 1.5 The remaining clauses of this Deed supplement, and do not in any way limit, the Applicant's agreement that it will comply with, and will ensure that, where acting on behalf of the Applicant, its officers, employees, agents, contractors, subcontractors and associates will comply with, each and every applicable provision of the allocation determination. Notwithstanding anything in this Deed, neither the Applicant's obligations under this Deed nor the binding effect of this Deed will in any way be affected or impaired by the allocation determination, or a deed of financial security (if any) provided under the allocation determination, or both, being void, voidable or otherwise unenforceable in whole or in part.
- 1.6 The Applicant acknowledges and agrees that it is responsible for obtaining appropriate technical, legal or other specialist advice, independent of the ACMA, before submitting its application under sections 34, 45 or 50 of the allocation determination, and that the ACMA is not responsible for the provision of any advice to the Applicant.
- 1.7 The Applicant warrants that it has read and understood the applicant information package published under section 27 of the allocation determination and its attachments, including each of the following documents:
  - a. the allocation determination;
  - b. Radiocommunications Spectrum Marketing Plan (3.4/3.7 GHz Bands) 2023 (**the marketing plan**);
  - c. Radiocommunications (Spectrum Re-allocation—3.4 GHz and 3.7 GHz Bands) Declaration 2022.

- 1.8 The Applicant warrants that it is empowered and authorised to execute this Deed and to agree to the obligations set out in this Deed. The Applicant warrants that it has executed this Deed in accordance with any applicable laws in relation to execution, including any laws that relate to execution electronically and witnessing remotely.

## **Part 2: Allocation process**

### **2. Security**

- 2.1 The Applicant agrees that it will keep secure any information and items provided to it for the purpose of accessing the auction system, as required by section 63 of the allocation determination.
- 2.2 The Applicant agrees that it will immediately notify the ACMA if any information or item provided to the Applicant for the purpose of accessing the auction system is lost or stolen, as required by section 63 of the allocation determination, or if the Applicant otherwise forms the view that the security, confidentiality or integrity of such information or such an item has been compromised.
- 2.3 The Applicant agrees that it will not misuse the auction system and will comply with section 151 of the allocation determination.

### **3. Allocation limits and affiliations**

- 3.1 The Applicant agrees to comply with the allocation limits set out in Part 2 of the allocation determination.
- 3.2 If, before the deadline for giving a statutory declaration in accordance with section 37, 45 or 52 of the allocation determination, the Applicant believes that it may be affiliated with another applicant, the Applicant:
- a. agrees to give a statutory declaration that notifies the ACMA of the affiliation by the relevant deadline, as required by sections 37, 45 or 52 of the allocation determination; and
  - b. acknowledges that section 44 of the allocation determination may apply in relation to the Applicant.
- 3.3 If, at any time after the eligibility deadline and before the end of the assignment stage of the 3.4 GHz auction, the Applicant believes that it may be affiliated with another bidder, the Applicant:
- a. agrees to immediately notify the ACMA of the affiliation as required by section 67 of the allocation determination; and
  - b. acknowledges that Division 3 of Part 5 of the allocation determination may apply in relation to the Applicant.
- 3.4 The Applicant agrees to comply with Division 3 of Part 5 of the allocation determination, and acknowledges the consequences of affiliation set out in sections 72 and 73 of the allocation determination.
- 3.5 If, after the eligibility deadline and before the commencement of the assignment stage of the 3.4 GHz auction, the ACMA notifies the Applicant that the ACMA believes that an affiliation exists between the Applicant and another applicant, the Applicant may be required to provide a statement as required by section 70 of the allocation determination.
- 3.6 The Applicant acknowledges that the allocation determination makes provision for the direct allocation of leftover lots.

#### **4. Confidentiality**

- 4.1 The Applicant agrees to comply with the obligations set out in Division 1 of Part 4 of the allocation determination, and agrees to ensure its officers, employees, agents, contractors, subcontractors, advisors and associates comply with those obligations.

#### **5. Payment of application fee**

- 5.1 The Applicant agrees that it will pay the application fee as required by paragraph 34(2)(e), 45(2)(e) or 50(2)(e) of the allocation determination.
- 5.2 The Applicant agrees that payment of the application fee will be made to the ACMA on behalf of the Commonwealth in accordance with section 9 of the allocation determination.
- 5.3 The Applicant acknowledges that:
- a. subject to paragraph (b), in accordance with section 35 of the allocation determination, any application fee paid by the Applicant will not be refunded by the ACMA; and
  - b. in accordance with subsection 35(2) of the allocation determination, an application fee paid is refundable if the ACMA varies starting prices under section 25 of the allocation determination and the Applicant withdraws its application before the extended eligibility deadline by giving the ACMA notice in writing.
- 5.4 The Applicant acknowledges that a failure to pay the application fee in accordance with the allocation determination will prevent the Applicant from taking part in the allocation process.

#### **6. Eligibility payment and Deed of Financial Security**

- 6.1 The Applicant agrees to make an eligibility payment to the ACMA (on behalf of the Commonwealth) or give the ACMA (on behalf of the Commonwealth) a Deed of Financial Security, or both, as required by sections 41 and 48 of the allocation determination.
- 6.2 The Applicant agrees to make any eligibility payment to the ACMA (on behalf of the Commonwealth) in accordance with section 9 of the allocation determination, and to give any Deed of Financial Security to the ACMA (on behalf of the Commonwealth) in accordance with section 6 and subsections 41(4) and 41(5) of the allocation determination, by the relevant deadline in accordance with sections 34, 45 or 50 of the allocation determination.
- 6.3 The Applicant acknowledges that a failure:
- a. to give an eligibility nomination form by the eligibility deadline, under section 39 of the allocation determination; or
  - b. to give an updated eligibility nomination form by the extended eligibility deadline, under section 48 or 50 of the allocation determination;
- will prevent the Applicant from taking part in the allocation process.
- 6.4 The Applicant acknowledges that a failure to make an eligibility payment or give a Deed of Financial Security securing the eligibility points specified by the Applicant in its eligibility nomination form, or updated eligibility nomination form, by the applicable deadline, in accordance with section 41 of the allocation determination, may affect the maximum number of lots of each product the Applicant is eligible to bid on, in the manner set out in section 42.

## **7. Registration, and conduct of and participation in the allocation process**

- 7.1 The Applicant acknowledges that it will only be registered as a bidder and be entitled to participate in the allocation process if the requirements referred to in section 54 of the allocation determination are satisfied (and, for the avoidance of doubt, if the Applicant has not withdrawn, or is not taken to have withdrawn, its application).
- 7.2 The Applicant agrees to comply with section 56 of the allocation determination to ensure the ACMA has the correct information about the Applicant in the register of bidders.
- 7.3 The Applicant acknowledges that the allocation process will be conducted in accordance with, and the Applicant agrees to comply with, Part 5 and Part 6 of the allocation determination.
- 7.4 The Applicant acknowledges and agrees that it will be responsible for its acts and omissions, and the acts and omissions of its officers, employees, agents, contractors, subcontractors and associates, in relation to the allocation process.
- 7.5 If the Applicant withdraws its application, in accordance with section 53 of the allocation determination, or is taken to have withdrawn its application under another provision of the allocation determination, the Applicant acknowledges that it will not be re-admitted to the allocation process, except where permitted by Division 5 of Part 4 of the allocation determination.

## **8. Pre-bidding round and bids**

- 8.1 The Applicant acknowledges and agrees that:
  - a. its start demands for products must be consistent with the requirements described in section 101 of the allocation determination in relation to the pre-bidding phase and the validity of start demand entries for the Applicant, whether or not those entries were made by the Applicant or with the Applicant's authority;
  - b. if the Applicant elects, for a product, to adopt the minimum spectrum requirement for the primary stage, it will not be possible for the Applicant to be allocated a single lot of that product.
- 8.2 The Applicant acknowledges and agrees that its bids must be consistent with the requirements described in Part 6 of the allocation determination in relation to the validity of the Applicant's bids.
- 8.3 The Applicant acknowledges and agrees that:
  - a. its bids will be subject to the data validation checks that are performed by the auction system for bids made and the processing of bids in the primary stage as set out in section 103 of the allocation determination; and
  - b. the Applicant will be bound by the bids validated by the auction system, whether or not those bids were made by the Applicant or with the Applicant's authority.
- 8.4 The Applicant acknowledges and agrees that it will be responsible for and bound by its acts and omissions, and the acts and omissions of its officers, employees, agents, subcontractors and associates, in relation to any bid in the primary stage, secondary stage or assignment stage of the 3.7 GHz auction or the 3.4 GHz auction.

## **9. Failure to pay balance of the total winning price**

- 9.1 If, on becoming a winning bidder for any lot, the Applicant fails to pay the balance of the total winning price, or fails to comply with the requirements to pay the balance of the total winning price, in accordance with Division 7 of Part 5 of the allocation determination:
- a. the Applicant acknowledges that section 91 of the allocation determination applies; and
  - b. the Applicant agrees to indemnify the Commonwealth (for the benefit of the ACMA) from and against any loss, damage, liability, cost or expense incurred by the Commonwealth or the ACMA in connection with arranging for, and conducting, an allocation of lots to which section 150 of the allocation determination applies as a result of the Applicant's failure to pay the balance of the total winning price. This indemnity includes, but is not limited to:
    - i. the Commonwealth's and the ACMA's legal costs and expenses on a solicitor/own client basis; and
    - ii. the cost of all time spent or resources used or disbursements paid by the Commonwealth or the ACMA.
- 9.2 The Applicant acknowledges that, notwithstanding anything in this Deed, the Commonwealth (represented by the ACMA) may recover any amount guaranteed or indemnified by the Applicant's Promisor under any Deed of Financial Security, at any time, in accordance with the relevant Deed of Financial Security. For the purposes of this Deed, '**Promisor**' has the meaning given to that term in such Deed of Financial Security.

## **10. Obligation to provide information**

- 10.1 The Applicant acknowledges and agrees that the ACMA may, by written notice, require the Applicant to provide information or documents to the ACMA in accordance with section 152 of the allocation determination and the Applicant agrees to provide such information or documents pursuant to such notice.
- 10.2 The Applicant acknowledges that a failure to provide such information or documents in accordance with the written notice may result in the Applicant's eligibility payment being retained, or Deed of Financial Security being enforced, as set out in section 155 of the allocation determination, and the Applicant may not be entitled to be issued a spectrum licence as a result of the allocation process, as set out in section 156 of the allocation determination.
- 10.3 The Applicant acknowledges that the ACMA's power to require the provision of information or documents in accordance with section 152 of the allocation determination is in addition to, and does not replace, any other power the ACMA or another person has under the Radiocommunications Act (including Part 5.5A of the Radiocommunications Act).

## **11. Information provided by Applicant**

- 11.1 The Applicant acknowledges and agrees that information or documents obtained by the ACMA in the performance of its functions under the allocation determination, may be used, possessed and disclosed as set out in section 153 of the allocation determination.

- 11.2 The Applicant acknowledges and agrees that, if it has provided or does provide information or documents to the ACMA for the purposes of the allocation process, and that information or documents contains the personal information of any person, the Applicant has or will notify the person of the following matters:
- a. that the personal information has been, or will be, provided to the ACMA;
  - b. the contact details of the ACMA;
  - c. the circumstances in which the personal information has been, or will be, provided to the ACMA;
  - d. that the personal information has been, or will be, provided to the ACMA for the purposes of the allocation determination, and is authorised by the allocation determination;
  - e. that the Applicant may not be able to participate in the allocation process if it does not provide the personal information;
  - f. that the ACMA may disclose the personal information to the Australian Competition and Consumer Commission;
  - g. that the ACMA's privacy policy contains information about how the person may access their personal information held by the ACMA, and how the person may seek the correction of such information; and
  - h. that the ACMA may disclose the personal information to its auction system provider, which is based in the United States of America.

11.3 However, the Applicant does not have to comply with the obligation in clause 11.2 if it would cause the Applicant to contravene its Deed of Confidentiality or the confidentiality obligation in subsection 29(1) of the allocation determination.

11.4 In this clause, '**personal information**' has the meaning given by the *Privacy Act 1988*.

## **12. Failure to comply with obligations**

12.1 If the Applicant or any of its officers, employees, agents, contractors, subcontractors and associates fails to comply with any of the obligations contained in the allocation determination, the Applicant acknowledges and agrees that sections 155 and 156 of the allocation determination may apply in accordance with their terms.

## **13. Issue of spectrum licence**

- 13.1 The Applicant acknowledges and agrees that the issue of any spectrum licence to a winning bidder is subject to, and the Applicant agrees to comply with, all applicable laws, including the following:
- a. section 67 of the Radiocommunications Act, which requires a spectrum licence to include a condition that the licensee must meet all obligations (if any) of the licensee to pay, among other things, the spectrum access charges fixed by determinations made under section 294 of the Radiocommunications Act;
  - b. section 69A of the Radiocommunications Act, which requires a spectrum licence to include a condition that the licensee, for income tax purposes, is to be an Australian resident or to have income, profits or gains attributable to a permanent establishment in Australia through which the licensee carries on business;
  - c. section 71A of the Radiocommunications Act, which states that, for the purposes of provisions of the *Competition and Consumer Act 2010*, the issue of a spectrum licence to a person is taken to be an acquisition by the person of an asset of another person and conduct engaged in by the Applicant.

#### **14. Use of spectrum licence**

- 14.1 The Applicant acknowledges and agrees that the use of radiocommunications devices under a spectrum licence issued pursuant to the allocation determination will be subject to the operation of the Radiocommunications Act and other laws, and will be subject to any conditions imposed on the licence by the Radiocommunications Act or the ACMA.
- 14.2 In particular, without limitation, the Applicant acknowledges and agrees to comply with the 3.4/3.7 GHz bands technical framework instruments, where applicable, that are listed from time to time on the ACMA website with the heading '*Technical frameworks for spectrum licences*'. The Applicant acknowledges and agrees that, at the time this Deed was executed, the 3.4/3.7 GHz bands technical framework instruments consisted of:
- a. the Radiocommunications Advisory Guidelines (Managing Interference from Spectrum Licensed Transmitters – 3.4 GHz Band) 2015;
  - b. the Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers – 3.4 GHz Band) 2015;
  - c. the Radiocommunications (Unacceptable Levels of Interference – 3.4 GHz Band) Determination 2015.

#### **15. Changes to instruments and processes**

- 15.1 The Applicant acknowledges that the ACMA, of its own initiative or as a result of a direction from the Minister for Communications, may do any of the following:
- a. vary, replace or repeal the instruments referred to in clause 1.7 of this Deed in accordance with the Radiocommunications Act, or other instruments associated with the allocation process;
  - b. vary the allocation process;
  - c. vary the content of spectrum licences issued or to be issued as a result of the allocation process;
  - d. suspend the allocation process, under or in accordance with the terms of the allocation determination, the other instruments referred to in clause 1.7 of this Deed, and the Radiocommunications Act.
- 15.2 The Applicant agrees that this Deed applies in respect of the allocation determination and the other instruments referred to in clause 1.7 as in force or in existence from time to time, or as repealed and replaced, with such amendments as may be necessary for the proper operation of this Deed. In the event that the allocation determination is repealed, the ACMA (representing the Commonwealth) may terminate this Deed by notice to the Applicant.
- 15.3 The Applicant acknowledges the effect section 153K of the Radiocommunications Act may have on any allocation process conducted under the allocation determination.

#### **16. No reliance**

- 16.1 The Applicant warrants that it has made its own independent inquiries about and assessment of the proposed allocation of spectrum licences pursuant to the allocation determination, including the stages of the auction and rules in Part 5 and 6 of the allocation determination, the rights and responsibilities of the holder of a spectrum licence to be issued pursuant to section 62 of the Radiocommunications Act as a consequence of the allocation process, the cost of and value of such spectrum licences, and the use and effectiveness of the spectrum.
- 16.2 The Radiocommunications Act and other Commonwealth legislation, the allocation determination and the other instruments referred to in clause 1.7, any deeds, statutory

declarations, statements or completed forms given in accordance with the allocation determination, and this Deed form the relationship between the Applicant and the ACMA and the Commonwealth on everything connected with the subject matter of this Deed, and this Deed supersedes any prior deed, agreement, arrangement or understanding on anything connected with that subject matter.

16.3 The Applicant agrees that it has not relied on any information or advice given or statement or representation made by the ACMA or any person purporting to represent the ACMA, in relation to its application for, or the allocation of, spectrum licences, or any other matters referred to in clause 17.1, including but not limited to any information, advice, statement or representation contained in or made in the applicant information package, the marketing plan, or any other instrument referred to in clause 1.7 of this Deed, any consultations or briefings given by or on behalf of the ACMA, or any other written or oral communications by or on behalf of the ACMA.

## **17. Indemnity**

17.1 The Applicant agrees to indemnify the Commonwealth and the ACMA from and against any:

- a. liability sustained or incurred by the Commonwealth or the ACMA; or
- b. costs or expenses incurred by the Commonwealth or the ACMA in enforcing a Deed of Financial Security given to the ACMA (on behalf of the Commonwealth) for the Applicant under the allocation determination; or
- c. loss of or damage to property of the Commonwealth; or
- d. loss or expense sustained or incurred by the Commonwealth or the ACMA in dealing with any Claim against it, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Commonwealth or the ACMA;

arising from:

- e. any act or omission by the Applicant, its officers, employees, agents, subcontractors or associates in connection with the Applicant's participation in the allocation process conducted under the allocation determination; or
- f. any breach by the Applicant of its obligations or warranties under this Deed, or its obligations under the allocation determination, or both;

irrespective of whether there was fault on the part of the person whose conduct gave rise to that liability, cost or expense, loss or damage, or loss or expense.

17.2 The Applicant's liability to indemnify the Commonwealth and the ACMA under this clause 17 will be reduced proportionately to the extent that any negligent act or omission of the Commonwealth or the ACMA contributed to the relevant liability, cost or expense, loss or damage, or loss or expense.

17.3 The Applicant releases the Commonwealth and the ACMA from all sums of money, accounts, claims, actions, proceedings, demands and expenses which the Applicant at any time had or has against the Commonwealth or the ACMA for or by reason or in respect of any act, cause, matter or thing in connection with this Deed, the allocation determination, or any of the matters described in clause 19.1(a) to (c) of this Deed, including an allocation process conducted under the allocation determination, the Applicant's application to participate in the allocation process, the payment by the Applicant or retention by the Commonwealth (represented by the ACMA) of any money, the Applicant's participation (or non-participation) in an allocation process, the allocation (or non-allocation) of spectrum licences pursuant to an allocation process, the cancellation or cessation of an allocation process for any reason, the rules in Part 6 of the allocation determination, or any spectrum licences issued (or not issued) pursuant to

section 62 of the Radiocommunications Act as a consequence of the allocation process or the allocation determination.

## **18. Liability of the Commonwealth or the ACMA**

18.1 The Applicant acknowledges and agrees that, to the fullest extent permitted by law, the Commonwealth, the ACMA, the auction manager, and their officers, employees, agents, contractors, subcontractors, associates and delegates (including any person to whom the auction manager delegates its functions and powers), are not and will not be liable to the Applicant for, or in respect of, any damages, losses, costs or expenses whatsoever, whether arising in contract, in tort (including negligence), in equity, under statute or otherwise, directly or indirectly from, or in connection with:

- a. this Deed or the allocation determination, or their contents, any statement or information contained in them, or any error in, or omission from this Deed or the allocation determination; or
- b. any act or omission in relation to this Deed or the allocation determination, or their implementation, including, but not limited to, the procedures before auction, the Applicant's application to participate in the allocation of spectrum licences under the allocation determination, the payment by the Applicant or retention by the Commonwealth (represented by the ACMA) of any fees or charges, the allocation processes, the rules in Part 6 of the allocation determination, the Applicant's participation (or non-participation) in an allocation process, the determination of winning bids and winning prices, or the allocation of, or contents of, spectrum licences, referred to in this Deed or the allocation determination; or
- c. the auction system, its operation by, or on behalf of, the ACMA or the auction manager or their delegates, or its use by bidders, including, but not limited to, any failure of, error or defect in, or non-availability of the auction system, non-compliance of the auction system with the allocation determination or any description or specifications, or any viruses, hacker attacks or other harmful or malicious code.

18.2 The Commonwealth (for the benefit of the ACMA) excludes all statutory and implied conditions, guarantees and warranties to the extent permitted by law.

## **19. Rights cumulative**

19.1 The Applicant acknowledges and agrees that:

- a. the rights, powers and remedies provided by the clauses of this Deed are in addition to, and do not in any way limit any other right of action or remedy which the Commonwealth or the ACMA has, against a person, whether arising under the allocation determination, statute, common law, equity or otherwise; and
- b. each right, power and remedy provided in this Deed (including any right of indemnity) is additional to and not exclusive of any other right, power or remedy provided in this Deed or the allocation determination.

## **20. Waiver**

20.1 The ACMA's or the Commonwealth's failure or delay to exercise a power or right does not operate as a waiver of that power or right.

20.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.

20.3 A waiver is not effective unless it is in writing.

20.4 Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

## **21. Severability**

21.1 If any provision of this Deed is unenforceable, illegal or void, or makes this Deed or any part of it unenforceable, illegal or void, then that provision is severed and the rest of this Deed remains in force.

## **22. Joint and several liability**

22.1 If:

- a. after the pre-bidding round for the primary stage of the 3.7 GHz auction, the Applicant has a start demand of at least one lot of one 3.7 GHz product; and
- b. the Applicant is affiliated with another applicant that, after the pre-bidding round for the primary stage of the 3.7 GHz auction, has a start demand of at least one lot of one 3.7 GHz product (whether or not the same as the product mentioned in paragraph (a)) (**affiliated applicant**); and
- c. section 72 of the allocation determination applies in relation to the products mentioned in paragraphs (a) and (b);

the Applicant agrees that it will be jointly and severally liable for any liability owed to the Commonwealth or the ACMA by the affiliated applicant in relation to any lots of any 3.7 GHz products.

22.2 If:

- a. after the pre-bidding round for the primary stage of the 3.4 GHz auction, the Applicant has a start demand of at least one lot of one 3.4 GHz product; and
- b. the Applicant is affiliated with another applicant that, after the pre-bidding round for the primary stage of the 3.4 GHz auction, has a start demand of at least one lot of one 3.4 GHz product (whether or not the same as the product mentioned in paragraph (a)) (**affiliated applicant**); and
- c. section 72 of the allocation determination applies in relation to the products mentioned in paragraphs (a) and (b);

the Applicant agrees that it will be jointly and severally liable for any liability owed to the Commonwealth or the ACMA by the affiliated applicant in relation to any lots of any 3.4 GHz products.

## **23. Inconsistency**

23.1 To the extent that there is an inconsistency between a provision in the allocation determination and a clause of this Deed, to the extent necessary to resolve the inconsistency, the provision in the allocation determination prevails.

## **24. Applicant agrees to meet its own costs**

24.1 The Applicant agrees that its participation in any stage of the procedures referred to in the allocation determination is at its sole risk, cost and expense.

## 25. Return of information to the ACMA

25.1 The Applicant agrees to, at its sole expense, upon request by the ACMA in its absolute discretion at any time, return to the ACMA any items or written information provided to the Applicant (and copies of the information).

## 26. Survival of obligations

26.1 Termination of this Deed does not relieve the Applicant from the Applicant's obligations under clauses 1.6, 1.7, 2, 4, 9, 11, 12, 13, 14, 15, 17, 18, 19, 25, and 26, and this clause 27 of this Deed, and any other provisions that by their nature survive termination.

## 27. Governing law

27.1 This Deed is governed by the laws in force in the Australian Capital Territory and the Commonwealth of Australia.

27.2 The Applicant irrevocably submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and of the Commonwealth of Australia.

## 28. Definitions and interpretation

28.1 This Deed is to be interpreted in accordance with the provisions of the Radiocommunications Act, the allocation determination and the marketing plan. Unless otherwise provided, terms in this Deed have the same meanings as provided in the Radiocommunications Act, the allocation determination or the marketing plan. In particular, '**associate**' has the same meaning as provided in section 16 of the allocation determination.

28.2 In this Deed:

- a. **Radiocommunications Act** means the *Radiocommunications Act 1992*;
- b. **Claim** means any prosecution, claim, writ, action, proceeding, suit, demand, cause of action, arbitration, verdict, judgment, or other like matter whether present, prospective or contingent, whether arising in contract, tort (including negligence), in equity, under statute, or otherwise, and whether or not the facts, matters or circumstances giving rise to any such claim or other matter are known as at the date of this Deed;
- b. **Commonwealth** means the Crown in right of the Commonwealth and all departments, agencies and authorities of the Commonwealth.

28.3 In this Deed:

- a. words importing a gender include any other gender;
- b. words in the singular number include the plural and words in the plural number include the singular;
- c. a person includes a body corporate;
- d. a reference to any statute or other legislation, legislative instrument or notifiable instrument is to a statute or other legislation, legislative instrument or notifiable instrument of the Commonwealth of Australia as amended or replaced from time to time;
- e. '**ACMA**' includes the members, officers, employees, agents, contractors, subcontractors, associates and delegates of the ACMA;
- f. '**including**' and similar expressions are not words of limitation;

- g. headings are for convenience only and do not form part of this Deed or affect its interpretation; and
- h. a provision of this Deed must not be construed to the disadvantage of the ACMA or the Commonwealth merely because the ACMA or the Commonwealth was responsible for the preparation of the Deed or the inclusion of the provision in the Deed.

**29. No variation of Deed**

29.1 The Applicant acknowledges and agrees that there can be no variation of this Deed unless it is in writing and the Commonwealth (represented by the ACMA) consents in writing to the variation.

## Executed as a Deed

### Where the Deed is executed by a body corporate:

Signed, sealed and delivered for and on behalf of:

---

Name of Applicant

---

ACN or ARBN

by authority of the directors:

---

Name of director

---

Signature of director

---

Name of director/secretary

---

Signature of director/secretary

(If the Applicant is a statutory authority or other body corporate, then please execute in the appropriate manner for a Deed.)

**OR**

**Where the Deed is executed by an individual:**

Signed, sealed and delivered by:

---

Name of Applicant

---

Signature of Applicant

of:

---

Insert address

in the presence of:

---

Name of witness

---

Signature of witness

of:

---

Insert address

I, the Applicant, confirm that I am aware of the rules for executing deeds in my State/Territory and have executed this Deed accordingly

## Form 3 – Deed of Confidentiality

For the purposes of Division 1 of Part 4, and paragraphs 34(2)(d), 45(2)(d) and 50(2)(d) of the [Radiocommunications \(Spectrum Licence Allocation – 3.4/3.7 GHz Bands\) Determination 2023](#) (allocation determination).

### Notes on completion

#### Introduction

This deed of confidentiality form has been approved by the Australian Communications and Media Authority (ACMA) pursuant to paragraph 23(1)(e) of the allocation determination.

Confidential information in relation to an applicant or bidder is defined in section 28 of the allocation determination.

Paragraphs 34(2)(d) and 50(2)(d) of the allocation determination provide that a person who applies to become a registered bidder in the allocation process must give the ACMA a completed deed of confidentiality before the relevant application deadline.

Where the ACMA has notified applicants that it is satisfied the applicants are affiliated under section 44 of the allocation determination and those applicants decide to submit a new application, the new applicant must give the ACMA a completed deed of confidentiality under paragraph 45(2)(d) of the allocation determination by the specified time.

Section 33 of the allocation determination provides that a related person of an applicant or bidder, or a contractor of an applicant or bidder, who has knowledge of the applicant's or bidder's confidential information must give the ACMA a completed deed of confidentiality.

In the case of a related person, the person must give the ACMA a completed deed of confidentiality if they are:

- > an employee of the applicant or bidder; or
- > an employee of a related body corporate of the applicant or bidder that provides services to the applicant or bidder.

Section 33 of the allocation determination also provides that a contractor of an applicant or bidder who has knowledge of confidential information of the applicant or bidder must give the ACMA a completed deed of confidentiality.

However, in the case of a contractor, the person is not required to give the ACMA a completed deed of confidentiality if the contract is:

- > for the sole purpose of providing, in the contractor's professional capacity, advice relating to the allocation process; or
- > for the sole purpose of obtaining finance to make a payment in relation to the allocation process.

## When to give the deed of confidentiality to the ACMA

Where an applicant gives a completed deed of confidentiality to the ACMA for the purposes of section 34 of the allocation determination, this must be done before the application deadline. An application is incomplete if the applicant fails to give a deed of confidentiality before the application deadline. The application deadline is published by the ACMA on its website and in the *Auction guide*.

Where an applicant gives a completed deed of confidentiality to the ACMA for the purposes of section 45 of the allocation determination, this must be done before the deadline set by the ACMA.

In the event that starting prices are varied under Division 5 of Part 4 of the allocation determination, new applicants for the purpose of section 50 of the allocation determination must submit a completed deed of confidentiality by the new application deadline. The new application deadline is published by the ACMA on its website.

Where a deed of confidentiality is given to the ACMA by a related person or a contractor of an applicant or bidder, for the purposes of section 33 of the allocation determination, and the related person or contractor receives knowledge of an applicant's confidential information before the application deadline, the completed deed must be given to the ACMA before the application deadline. Otherwise, this deed must be given to the ACMA as soon as reasonably practicable after the related person or contractor receives knowledge of an applicant's or bidder's confidential information.

## How to give the deed of confidentiality to the ACMA

The completed deed of confidentiality must be given to the ACMA in accordance with the procedures for the giving of documents to the ACMA as set out in section 6 of the allocation determination through the following methods:

Online portal: <https://www.acma.gov.au/acma-assist#/auctions/3a71276a-3d16-ee11-9cbd-000d3a798fb7>

Email: [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au)

Post: Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
Level 32, Melbourne Central Tower  
360 Elizabeth Street  
Melbourne VIC 3000

## Where a copy of a deed of confidentiality is given using the online portal or by email, the applicant should retain the original deed of confidentiality.

A summary of the procedures (including an email address and physical address for giving documents to the ACMA) is provided at the beginning of the *Auction forms booklet*. The procedures are also summarised under the heading 'Giving documents to the ACMA' in the *Auction guide*.

## Who should execute the deed of confidentiality?

Where the ACMA requires a deed of confidentiality from an applicant that is a body corporate, or from a contractor of an applicant or bidder that is a body corporate, it must be executed by either:

- > two directors of the company; or
- > a director and a company secretary of the company; or
- > if it is a proprietary company that has a sole director who is also the company secretary, that director.

Where the ACMA requires a deed of confidentiality from:

- > an individual; or
- > a related person who is an employee of the applicant or bidder; or
- > a related person who is an employee of a related body corporate of the applicant or bidder; or
- > a contractor of an applicant or bidder

the deed of confidentiality must be executed by that individual.

### **Who can witness the deed of confidentiality?**

Where the deed of confidentiality is executed by an individual, this must be witnessed by a person who is above the age of 18 and is not a party to the deed. The witness must print their full name next to their signature.

People executing a deed of confidentiality may want to obtain legal advice about the manner of its execution.

# Deed of Confidentiality

This Deed of Confidentiality is made on this

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Day / Month / Year

in favour of the Commonwealth of Australia (the Commonwealth) to the benefit of the Australian Communications and Media Authority, ABN 55 386 169 386, (the ACMA) established under the *Australian Communications and Media Authority Act 2005*,

by the Confidant:

---

Insert name

---

Insert ACN or ARBN if applicable

of:

---

---

Insert address

as:

- an applicant who proposes to participate in the allocation process
- a related person of the following applicant who proposes to participate in the allocation process, or following bidder who is registered as a bidder in the allocation process.

---

insert name of applicant as it appears in Part 1 of the application form submitted by the applicant, or the name of the bidder as it appears on the register of bidders.

- a contractor of the following applicant who proposes to participate in the allocation process, or following bidder who is registered as a bidder in the allocation process

---

insert name of applicant as it appears in Part 1 of the application form submitted by the applicant, or the name of the bidder as it appears on the register of bidders.

## Purpose:

- A. The ACMA proposes to allocate spectrum licences in the 3.4/3.7 GHz bands by a combination of auction and direct allocation.
- B. Under sections 60 and 294 of the *Radiocommunications Act 1992*, the ACMA has determined the procedures to be applied in allocating spectrum licences, and has fixed the spectrum access charge payable for issuing those licences, as set out in the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (allocation determination).
- C. The Confidant is:
  - (i) an applicant who proposes to participate in an auction of spectrum lots held in accordance with the allocation determination; or
  - (ii) a related person of either an applicant or a bidder, to whom subsection 33(1) of the allocation determination applies; or
  - (iii) a contractor of either an applicant or a bidder to whom subsection 33(2) of the allocation determination applies.
- D. Disclosure of an applicant's or bidder's confidential information about the allocation process by an applicant, a bidder, a related person or contractor may severely damage the allocation process and the allocation of spectrum licences.
- E. An applicant's or bidder's confidential information about the allocation process must not be disclosed to any person except as authorised by section 29 of the allocation determination.
- F. The Confidant provides this Deed for the purposes of, and in accordance with, Division 1 of Part 4, and paragraphs 34(2)(d), 45(2)(d) and 50(2)(d) of the allocation determination, as applicable.

## Operative part

### 1. Information to be kept confidential

- 1.1 The Confidant acknowledges and understands that **confidential information** in relation to an applicant or bidder, has the same meaning as specified in section 28 of the allocation determination, and means:
  - a. documents the applicant or bidder has given to the ACMA for the purpose of the allocation process;
  - b. information provided to the applicant or bidder under section 24, section 46, section 51, or subsection 54(3) of the allocation determination for the purpose of participating in the allocation process;
  - c. a start demand of the bidder for a clock round of the primary stage;
  - d. a posted demand of the bidder for a clock round of the primary stage;
  - e. eligibility points available to a bidder in the allocation process;
  - f. a bid made by the bidder in an auction;
  - g. a proposed bid by the applicant or bidder or a bid under consideration by the applicant or bidder;
  - h. a proposed start demand of the applicant or bidder, or a proposed start demand under consideration by the applicant or bidder;
  - i. the applicant's or bidder's bidding strategy;
  - j. the amount the applicant or bidder is willing to pay for a lot or combination of lots, or for a part or parts of the spectrum available for allocation in accordance with the allocation determination;
  - k. information about the terms of agreements, or possible future agreements, affecting the use of relevant spectrum, to the extent the agreements:

- i. relate to authorisations that are, or would be, permitted by section 68 of the Radiocommunications Act; or
    - ii. relate to assignments made, or to be made, under section 85 of the Radiocommunications Act; or
    - iii. deal with spectrum that is available in this allocation process;
  - l. information that, if disclosed, could be reasonably expected to affect or be capable of affecting:
    - i. bids made or proposed to be made by another applicant or bidder; or
    - ii. start demands or proposed start demands by another applicant or bidder; or
    - iii. another applicant's or bidder's bidding strategy;
  - m. information that, if disclosed, could be reasonably expected to affect or be capable of affecting the outcome of the allocation process.
- 1.2 The Confidant acknowledges and understands that it must not directly or indirectly disclose the applicant's or bidder's confidential information to any person in accordance with subsection 29(1) of the allocation determination, except as set out in clause 1.3 of this Deed and subsections 29(2) and 28(3) of the allocation determination.
- 1.3 The Confidant may disclose confidential information in accordance with subsections 29(2) and 29(3) of the allocation determination:
- a. for the purpose of obtaining advice relating to the allocation process from a person in the person's professional capacity; or
  - b. for the purpose of obtaining finance to make a payment in relation to the allocation process; or
  - c. to the ACMA; or
  - d. if the Confidant is an applicant or bidder—to a related person or contractor of the Confidant; or
  - e. if the Confidant is a related person or contractor of an applicant or bidder—to the applicant or bidder, or to a related person of the same applicant or bidder; or
  - f. for the purpose of announcing or publishing that the applicant or bidder is participating in the allocation process; or
  - g. as authorised by the allocation determination or as otherwise required by law; or
  - h. if the confidential information is already publicly available, and the information was not made available because of a breach of section 29 of the allocation determination.
- 1.4 The Confidant agrees not to disclose confidential information, in accordance with the obligation in section 29, until:
- a. the applicant, as a withdrawn applicant, is notified under section 83 of the allocation determination that the applicant's confidentiality obligation is at an end; or
  - b. if the Confidant is a bidder (whether or not a winning bidder), the ACMA announces or publishes the information mentioned in subsection 92(1) of the allocation determination.

## **2. No variation**

- 2.1 The Confidant acknowledges and agrees that there can be no variation of this Deed.

## **3. Governing law and jurisdiction**

- 3.1 This Deed is governed by the laws in force in the Australian Capital Territory and the Commonwealth of Australia.
- 3.2 The Confidant irrevocably submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and of the Commonwealth of Australia.

## 4. Interpretation

4.1 In this Deed, unless the contrary intention appears:

**ACMA** means the Australian Communications and Media Authority.

**allocation determination** means the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023.

**allocation process** has the same meaning as specified in the allocation determination.

**applicant** has the same meaning as specified in the allocation determination and, if the Confidant is not the applicant, means the applicant for whom the Confidant is a related person or contractor.

**auction** has the same meaning as specified in the allocation determination.

**bidder** has the same meaning as specified in the allocation determination and, if the Confidant is not the bidder, means the bidder for whom the Confidant is a related person or contractor.

**confidential information** has the same meaning as specified in section 28 of the allocation determination.

**Deed** means this document, including any schedule or annexure to it.

**lot** has the same meaning as specified in the allocation determination.

**register** means the register of bidders maintained by the ACMA under section 55 of the allocation determination.

**related person** has the same meaning as specified in the allocation determination.

**Executed as a Deed**

**Where the Deed is executed by a body corporate:**

Signed, sealed and delivered:

For and on behalf of:

\_\_\_\_\_  
Name of Confidant

\_\_\_\_\_  
ACN or ARBN

by authority of the Directors:

\_\_\_\_\_  
Name of Director

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Name of Director/Secretary

\_\_\_\_\_  
Signature of Director/Secretary

(If the Confidant is a statutory authority, then please execute in the appropriate manner for a Deed.)

**OR**

**Where the Deed is executed by an individual:**

Signed, sealed and delivered by:

---

Name of Confidant

---

Signature of Confidant

of:

---

Insert address

in the presence of:

---

Name of witness

---

Signature of witness

of:

---

Insert address

- I, the Confidant, confirm that I am aware of the rules for executing deeds in my State/Territory and have executed this Deed accordingly.

## Form 4 – Associates form – body corporate

To be completed for the purposes of Part 4 of the application form: 'Details of the applicant's associates' where the applicant is a body corporate.

### Notes on completion

This form must be used by an applicant that is a body corporate to provide the information listed in Table 1 in Part 4 of the application form (**Form 1**).

The applicant must complete this form by inserting, either electronically or in legible handwriting, the relevant information where prompted. Where there is insufficient space to provide information in a particular category, the applicant can supply the required information as a list annexed to this form. The annexure should clearly state the applicant's name, the name of the form and define the parts of this form being addressed. Applicants must ensure the annexure contains all the required information for the specified part.

An applicant may provide the information in a different format than specified in this form. For example, if the applicant's associates' information can be obtained from a database or similar program, the applicant may provide the information according to the database's format. However, applicants should ensure that they:

- > clearly indicate the applicant's name as it appears in Part 1 of the application form
- > clearly indicate that the attachment is for the purposes of 'Table 1 in Part 4 of the application form'
- > clearly indicate the form and part of the form the information relates (for example, Form 4, Part A 'Directors and Secretaries of the Applicant')
- > provide all of the required information.

The ACMA recommends applicants provide their associates' information in a searchable electronic format rather than a scan of a physical copy, if possible.

Applicants are reminded that Part 6 of the application form requires the applicant to declare that they:

- > understand that a person who knowingly or recklessly makes a false or misleading statement or omits any matter or thing without which the statement is misleading in connection with an application is guilty of an offence under section 136.1 of the *Criminal Code*
- > believe that the statements made in the application form and its attachments are true in every particular.

**Name of applicant**

--

[Insert applicant's name as it appears in Part 1 of the application form]

**Part A: Directors and secretaries of the applicant (body corporate)**

Insert the relevant information in the right-hand column of each table.

Details of director or secretary #1

Name	
Position	
Registered office address or principal office address	

Details of director or secretary #2

Name	
Position	
Registered office address or principal office address	

Details of director or secretary #3

Name	
Position	
Registered office address or principal office address	

Details of director or secretary #4

Name	
Position	
Registered office address or principal office address	

Applicants can provide details about all additional directors or secretaries that fall within this category as a list annexed to this form. The annexure must specify that it is addressing **'Part A of Form 4'** as specified in the notes on completing this form and must contain all the required information for each additional director or secretary.

Additional details annexed for Part A:      Yes       No

## Part B: Related bodies corporate

Insert the relevant information in the right-hand column of each table. The term 'related body corporate' is defined in sections 9 and 50 of the [Corporations Act 2001](#).

### Details of related body corporate #1

Name	
ACN/ARBN	
Registered office address or principal office address	
Why the associate meets the definition of a 'related body corporate'	

### Details of related body corporate #2

Name	
ACN/ARBN	
Registered office address or principal office address	
Why the associate meets the definition of a 'related body corporate'	

### Details of related body corporate #3

Name	
ACN/ARBN	
Registered office address or principal office address	
Why the associate meets the definition of a 'related body corporate'	

Applicants can provide details about all additional related bodies corporate that fall within this category as a list annexed to this form. The annexure must specify that it is addressing **'Part B of Form 4'** as specified in the notes on completing this form and must contain all the required information for each additional related body corporate.

Please indicate if additional details are annexed for Part B:      Yes       No

## Part C: Directors and secretaries of related bodies corporate

Insert the relevant information in the right-hand column of each table. The term 'related body corporate' is defined in sections 9 and 50 of the [Corporations Act 2001](#).

### Details of director or secretary #1

Name	
Position	
Name and ACN/ARBN of the related body corporate	
Registered office address or principal office address	

### Details of director or secretary #2

Name	
Position	
Name and ACN/ARBN of the related body corporate	
Registered office address or principal office address	

### Details of director or secretary #3

Name	
Position	
Name and ACN/ARBN of the related body corporate	
Registered office address or principal office address	

Applicants can provide details about all additional directors and secretaries that fall within this category as a list annexed to this form. The annexure must specify it is addressing **'Part C of Form 4'** as specified in the notes on completing this form and contain all the required information for each additional director or secretary.

Additional details annexed for Part C:      Yes       No

**Part D: Individuals who control at least 15% of the voting power or hold at least 15% of the issued shares in the applicant**

Insert the relevant information in the right-hand column of each table.

Details of individual #1

Name	
Address	

Details of individual #2

Name	
Address	

Details of individual #3

Name	
Address	

Details of individual #4

Name	
Address	

Details of individual #5

Name	
Address	

Details of individual #6

Name	
Address	

**Part E: Each person who has a relevant agreement with the applicant that is of a type described in paragraph 16(1)(c) of the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (the allocation determination)**

Insert the relevant information in the right-hand column of each table. The term ‘relevant agreement’ is defined in subsection 16(2) of the allocation determination.

Details of person #1

Name	
ACN/ABN/ARBN (if applicable)	
Address (if the person is a body corporate, enter the person’s registered office or principal office address)	
Nature of the relevant agreement	

Details of person #2

Name	
ACN/ABN/ARBN (if applicable)	
Address (if the person is a body corporate, enter the person’s registered office or principal office address)	
Nature of the relevant agreement	

Details of person #3

Name	
ACN/ABN/ARBN (if applicable)	
Address (if the person is a body corporate, enter the person’s registered office or principal office address)	
Nature of the relevant agreement	

Applicants can provide details about all additional persons that fall within this category as a list annexed to this form. The annexure must specify it is addressing ‘**Part E of Form 4**’ as specified in the notes on completing this form and contain all the required information for each additional person.

Additional details annexed for Part E:      Yes       No

## Form 5 – Associates form – individuals

To be completed for the purposes of Part 4 of the application form: 'Details of the applicant's associates' where the applicant is an individual.

### Notes on completion

This form must be used by an applicant that is an individual, to provide the information listed in Table 2 in Part 4 of the application form (**Form 1**).

The applicant must complete this form by inserting, either electronically or in legible handwriting, the relevant information where prompted. Where there is insufficient space to provide information in a particular category, the applicant can supply the relevant information as a list annexed to this form. The annexure should clearly state the applicant's name, the name of the form and define the parts of this form being addressed. Applicants must ensure the annexure contains all the required information for that specified part.

An applicant may provide the information in a different format than specified in this form. For example, if the applicant's associates' information can be obtained from a database or similar program, the applicant may provide the information according to the database's format. However, applicants should ensure that they:

- > clearly indicate the applicant's name as it appears in Part 1 of the application form
- > clearly indicate that the attachment is for the purposes of 'Table 2 in Part 4 of the application form'
- > clearly indicate the form and part of the form the information relates to (for example, Part C of Form 5, 'Bodies Corporate of which the applicant is a director or secretary')
- > provide all of the required information.

Where the applicant provides to the ACMA the personal information of another individual, the applicant must inform that individual that the applicant has provided that individual's personal information to the ACMA, and what information was provided.

The ACMA recommends applicants provide their associates' information in a searchable electronic format rather than a scan of a physical copy, if possible.

Applicants are reminded that Part 6 of the application form requires them to declare that they:

- > understand that a person who knowingly or recklessly makes a false or misleading statement or omits any matter or thing without which the statement is misleading in connection with an application commits an offence under section 136.1 of the *Criminal Code*
- > believe that the statements made in the application form and its attachments are true in every particular.

**Name of applicant**

--

[Insert applicant's name as it appears in Part 1 of the application form]

**Part A: Applicant's spouse or de facto partner**

Insert the relevant information in the right-hand column of the table. The terms 'spouse' and 'de facto partner' have the meaning given by sections 2CA and 2D respectively of the [Acts Interpretation Act 1901](#).

Details of the spouse or de facto partner

Name	
Address	

**Part B: Bodies corporate in which the applicant controls at least 15% of the voting power or holds at least 15% of the issued shares**

Insert the relevant information in the right-hand column of each table.

Details of body corporate #1

Name	
ACN/ARBN	
Registered office address or principal office address	

Details of body corporate #2

Name	
ACN/ARBN	
Registered office address or principal office address	

Details of body corporate #3

Name	
ACN/ARBN	
Registered office address or principal office address	

Applicants can provide details about all additional bodies corporate that fall within this category as a list annexed to this form. The annexure must specify that it is addressing **'Part B of Form 5'** as specified in the notes on completing this form must contain all the required information for each additional body corporate.

Additional details annexed for **Part B:**      Yes       No

### Part C: Bodies corporate of which the applicant is a director or secretary

Insert the relevant information in the right-hand column of each table.

#### Details of body corporate #1

Name	
ACN/ARBN	
Registered office address or principal office address	

#### Details of body corporate #2

Name	
ACN/ARBN	
Registered office address or principal office address	

#### Details of body corporate #3

Name	
ACN/ARBN	
Registered office address or principal office address	

Applicants can provide details about all additional bodies corporate that fall within this category as a list annexed to this form. The annexure must specify that it is addressing **'Part C of Form 5'** as specified in the notes on completing this form and must contain all the required details for each additional body corporate.

Additional details annexed for **Part C**:      Yes       No

**Part D: Related bodies corporate in relation to a body corporate of which the applicant is a director or secretary**

Insert the relevant information in the right-hand column of each table. The term 'related body corporate' is defined in sections 9 and 50 of the [Corporations Act 2001](#).

Details of related body corporate #1

Name	
ACN/ARBN	
Registered office address or principal office address	
Why the associate meets the definition of a 'related body corporate'	

Details of related body corporate #2

Name	
ACN/ARBN	
Registered office address or principal office address	
Why the associate meets the definition of a 'related body corporate'	

Applicants can provide details about all additional bodies corporate that fall within this category as a list annexed to this form. The annexure must specify that it is addressing **'Part D of Form 5'** as specified in the notes on completing this form and must contain all the required details for each additional related body corporate.

Additional details annexed for **Part D**:      Yes       No

**Part E: Each person who has a relevant agreement with the applicant that is of a type described in paragraph 16(1)(c) of the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (the Allocation Determination)**

Insert the relevant information in the right-hand column of each table. The term 'relevant agreement' is defined in subsection 16(2) of the allocation determination.

Details of person #1

Name	
ACN/ABN/ARBN (if applicable)	
Address (if the person is a body corporate, enter registered office address or principal office address)	
Nature of the relevant agreement	

Details of person #2

Name	
ACN/ABN/ARBN (if applicable)	
Address (if the person is a body corporate, enter registered office address or principal office address)	
Nature of the relevant agreement	

Applicants can provide details about all additional bodies corporate that fall within this category as a list annexed to this form. The annexure must specify that it is addressing **'Part E of Form 5'** as specified in the notes on completing this form and must contain all the required details for each additional person.

Additional details annexed for **Part E**:      Yes       No

## Form 6 – Statutory declaration about affiliations

For the purposes of section 37, subsection 45(5) and section 52 of the [Radiocommunications \(Spectrum Licence Allocation – 3.4/3.7 GHz Bands\) Determination 2023 \(allocation determination\)](#).

### Notes on completion

#### Introduction

This statutory declaration form has been approved and is provided by the Australian Communications and Media Authority (ACMA) in accordance with paragraph 23(1)(g) and for the purposes of paragraph 18(1)(c) the allocation determination.

This form should be used by applicants for the purposes of section 37, subsection 45(5), and section 52 of the allocation determination.

Subsection 37(1) of the allocation determination provides that, after the application deadline, the ACMA must:

- > give each applicant details about the identity of all other applicants and the persons identified as the associates of other applicants; and
- > ask each applicant to make a statutory declaration stating whether the applicant is affiliated with another applicant and, if so, identifying the other applicant and giving details of the affiliation.

Subsection 45(5) provides that a new applicant, formed from one of more of a group of affiliated applicants, must no later than 3 working days after receiving updated information from the ACMA about the identity of all other applicants, and the persons identified as the associates of other applicants, make and give the ACMA a statutory declaration that the new applicant is not affiliated with any other applicant.

If the ACMA varies a starting price under section 25 of the allocation determination and the ACMA receives a completed application from a new applicant under section 50, subsection 52(1) provides that, after the new application deadline, the ACMA must:

- > give each applicant (including each new applicant) details about the identity of all other applicants, and the persons identified as the associates of other applicants; and
- > ask each applicant to make a statutory declaration stating whether the applicant is affiliated with another applicant and if so, identifying the other applicant and giving details of the affiliation.

#### When to make the statutory declaration

The ACMA will state the lodgement deadline when it asks an applicant to make the statutory declaration.

## How to give the statutory declaration to the ACMA

The statutory declaration must be given to the ACMA in accordance with the procedures for giving documents to the ACMA set out in section 6 of the allocation determination.

A summary of the procedures (including an email address and physical address for giving documents to the ACMA) is provided at the beginning of the *Auction forms booklet*. The procedures are also summarised under the heading 'Giving documents to the ACMA' in the *Auction guide*. The procedures contain specific requirements where a document is given by email or the online portal.

Where a copy of the statutory declaration is given using the online portal or by email, the applicant should retain the original statutory declaration.

## Who should make the statutory declaration?

Where the ACMA receives a statutory declaration from an applicant that is a body corporate, it must be made by a director or secretary of the body corporate.

Where the ACMA receives a statutory declaration from an applicant who is an individual, it must be made by that individual.

## How to sign and witness the statutory declaration

A statutory declaration made under the [Statutory Declarations Act 1959](#) must be made before:

**(1) a person who is currently licensed or registered under a law to practise in one of the following occupations:**

- > Architect
- > Chiropractor
- > Dentist
- > Financial adviser
- > Financial planner
- > Legal practitioner
- > Medical practitioner
- > Midwife
- > Migration agent registered under Division 3 of Part 3 of the *Migration Act 1958*
- > Nurse
- > Occupational therapist
- > Optometrist
- > Patent attorney
- > Pharmacist
- > Physiotherapist
- > Psychologist
- > Trade marks attorney
- > Veterinary surgeon

**(2) a person who is enrolled on the roll of the Supreme Court of a state or territory, or the High Court of Australia, as a legal practitioner (however described); or**

**(3) a person who is in the following list:**

- > Accountant who is:
  - > a fellow of the National Tax Accountants' Association; or
  - > a member of any of the following:
    - > Chartered Accountants Australia and New Zealand;
    - > the Association of Taxation and Management Accountants;
    - > CPA Australia;
    - > the Institute of Public Accountants
- > Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
- > APS employee engaged on an ongoing basis with 5 or more years of continuous service who is not specified in another item in this list
- > Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)
- > Bailiff
- > Bank officer with 5 or more continuous years of service
- > Building society officer with 5 or more years of continuous service
- > Chief executive officer of a Commonwealth court
- > Clerk of a court
- > Commissioner for Affidavits
- > Commissioner for Declarations
- > Credit union officer with 5 or more years of continuous service
- > Employee of a Commonwealth authority engaged on a permanent basis with 5 or more years of continuous service who is not specified in another item in this list
- > Employee of the Australian Trade and Investment Commission who is:
  - (a) in a country or place outside Australia; and
  - (b) authorised under paragraph 3(d) of the *Consular Fees Act 1955*; and
  - (c) exercising the employee's function at that place
- > Employee of the Commonwealth who is:
  - (a) at a place outside Australia; and
  - (b) authorised under paragraph 3(c) of the *Consular Fees Act 1955*; and
  - (c) exercising the employee's function at that place
- > Engineer who is:
  - > a member of Engineers Australia, other than at the grade of student; or
  - > a Registered Professional Engineer of Professionals Australia; or
  - > registered as an engineer under a law of the Commonwealth, a State or Territory; or
  - > registered on the National Engineering Register by Engineers Australia
- > Finance company officer with 5 or more years of continuous service
- > Holder of a statutory office not specified in another item in this list
- > Judge
- > Justice of the Peace
- > Magistrate

- > Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*
- > Master of a court
- > Member of the Australian Defence Force who is:
  - > an officer
  - > a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with 5 or more years of continuous service
  - > a warrant officer within the meaning of that Act
- > Member of the Australasian Institute of Mining and Metallurgy
- > Member of the Governance Institute of Australia Ltd
- > Member of:
  - > the parliament of the Commonwealth
  - > the parliament of a state
  - > a territory legislature
  - > a local government authority
- > Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*
- > Notary public, including a notary public (however described) exercising functions at a place outside
  - (a) the Commonwealth
  - (b) the external territories of the Commonwealth
- > Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office providing postal services to the public
- > Permanent employee of
  - > a state or territory or a state or territory authority
  - > a local government authority
 with 5 or more years of continuous service, other than such an employee who is specified in another item of this list
- > Person before whom a statutory declaration may be made under the law of the state or territory in which the declaration is made
- > Police officer
- > Registrar, or Deputy Registrar, of a court
- > Senior executive employee of a Commonwealth authority
- > Senior executive employee of a state or territory
- > Senior Executive Service employee of the Commonwealth
- > Sheriff
- > Sheriff's officer
- > Teacher employed on a permanent full-time or part-time basis at a school or tertiary education institution.

# Commonwealth of Australia statutory declaration

## *Statutory Declarations Act 1959*

I,

---

name of person making the declaration

---

occupation of person making the declaration

---

---

address of person making the declaration

make the following declaration under the *Statutory Declarations Act 1959*:

1. I am:

---

where applicant is a body corporate, insert 'a director of' or 'a secretary of' as appropriate;  
otherwise, leave blank

---

insert name of applicant as it appears in Part 1 of the application form  
given to the ACMA by the Applicant under section 34, 45 or 50 of the *Radiocommunications (Spectrum  
Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023*

which is the 'Applicant' under section 34, 45 or 50 of the Radiocommunications  
(Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (allocation  
determination).

2. I have fully read and understand the provisions set out in Part 2 of the allocation determination, including the meaning of 'associate' in section 16 of the allocation determination and the meaning of 'affiliated' in section 17 of the allocation determination.
3. I have examined the details given to the Applicant by the Australian Communications and Media Authority (the ACMA) in accordance with subsection 37(1), subsection 45(3) or subsection 52(1) of the allocation determination, about the identities of all other applicants or persons identified as associates of other applicants (within the meaning of that term as defined by the allocation determination).
4. I have made my own reasonable inquiries into the identities of the associates of the Applicant, and into whether the Applicant is affiliated with any other applicant.

5. In response to the request made by the ACMA in accordance with subsection 37(1) and/or subsection 45(5) and/or subsection 52(1)) of the allocation determination, I declare that the Applicant (tick the appropriate boxes):

**is not** affiliated with another applicant named in the details provided by the ACMA.

**is** affiliated with another applicant named in the details provided by the ACMA;

The other applicant(s) with whom the Applicant is affiliated is/are:

---

Insert name of applicant(s)

---

---

Insert address of applicant(s)

---

The details of the affiliation(s) are as follows:

---

describe why the Applicant's relationship with the other applicant(s) falls within the meaning of 'affiliated' in section 16 of the allocation determination, with reference to section 17 of the allocation determination, as appropriate.

---

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959* and I believe that the statements in this declaration are true in every particular.

---

signature of person making the declaration

Declared at:

---

Place

On:

---

Day of Month Year

Before me,

---

signature of person before whom the declaration is made

---

full name of person before whom the declaration is made (in printed letters)

---

qualification of person before whom the declaration is made (in printed letters)

---

address of person before whom the declaration is made (in printed letters)

**Note 1** A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of four years—see section 11 of the *Statutory Declarations Act 1959*.

**Note 2** Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959*—see section 5A of the *Statutory Declarations Act 1959*.

## Form 7A – Statement about affiliations given before assignment stage of 3.7 GHz auction

For the purposes of section 70 of the [Radiocommunications \(Spectrum Licence Allocation – 3.4/3.7 GHz Bands\) Determination 2023 \(allocation determination\)](#).

### Notes on completion

#### Introduction

This form has been prepared by the Australian Communications and Media Authority (ACMA) for the purposes of subsections 70(2) and (3) of the allocation determination.

If assistance is required in completing this form, please contact the auction manager or email [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au).

Section 69 of the allocation determination provides that, if the ACMA has reason to believe that 2 or more bidders (notified bidders) are affiliated during the allocation period, the ACMA must, in writing, notify the bidders and tell them the basis on which the ACMA believes that the affiliation exists.

Subsection 70(2) of the allocation determination provides that, after giving such a notice, the ACMA must give each notified bidder the details of all other notified bidders and ask each notified bidder to make a statement about whether the bidder is an affiliate of another notified bidder and, if so, identifying the other notified bidder and giving details of the affiliation.

Paragraphs 70(3)(a), (c) and (d) of the allocation determination provide that, if the ACMA gives such a notice after the start of the allocation period but before the end of the primary stage (if there is no secondary stage) or the secondary stage of the 3.7 GHz auction, then the ACMA must, as soon as practicable before the end of the relevant stage and once the results of the stage are known:

- a) give each primary winner and each secondary winner in the 3.7 GHz auction details about the identity of all other persons who are primary winners and secondary winners in the 3.7 GHz auction; and
- b) ask each primary winner and each secondary winner in the 3.7 GHz auction to make a statement about whether the bidder is an affiliate of another person who is a primary winner or secondary winner in the 3.7 GHz auction and, if so, identifying the other winner and giving details of the affiliation.

When the ACMA gives details to a notified bidder of other notified bidders after the primary winners and secondary winners in the 3.7 GHz auction are known but before the start of the assignment stage of the 3.7 GHz auction, the ACMA will include information about whether any of the other notified bidders is a primary winner or secondary winner, or both, in the 3.7 GHz auction.

This form should be used to give a statement **before** the start of the assignment stage of the 3.7 GHz auction. However, if the statement is given before the results of the primary stage or secondary stage of the 3.7 GHz auction are known, then the statement **cannot** say that any

notified bidder (including the bidder making the statement) is a primary winner or secondary winner, or both, in the 3.7 GHz auction.

A statement using this form **cannot** be given after the start of the assignment stage of the 3.7 GHz auction. A bidder's failure to give the statement by the required time may affect the spectrum licences to be allocated to the bidder.

### **When to make the statement**

The ACMA will state the deadline for making the statement about affiliations when it asks each notified bidder to make the statement. The deadline will be at least 10 working days after the date of the request.

### **How to give the statement to the ACMA**

The statement must be given to the ACMA in accordance with the procedures for giving documents to the ACMA set out in section 6 of the allocation determination. The statement can be delivered to:

Online portal: <https://www.acma.gov.au/acma-assist#/auctions/3a71276a-3d16-ee11-9cbd-000d3a798fb7>

Email: [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au)

Post: Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
PO Box 13112 Law Courts  
Melbourne Victoria 8010

### **Who should make the statement?**

Where the ACMA receives a statement from a notified bidder (including a primary winner or secondary winner) that is a body corporate, it must be made by a director, secretary or authorised officer of the body corporate.

Where the ACMA receives a statement from a notified bidder (including a primary winner or secondary winner) who is an individual, it must be made by that individual.

### **Who can witness the statement?**

The statement must be witnessed by a person who is above the age of 18.

### **How to sign and witness the statement**

Section 8 of the allocation determination outlines the requirements for executing this form. Please see the *Auction guide* for more information about how to sign and witness the statement.

# Statement about affiliations

I,

---

Name of person making the statement

---

Occupation of person making the statement

---

Address of person making the statement

make the following statement:

1. I am:

---

where the bidder is a body corporate, insert 'a director of' or 'a secretary of' as appropriate; otherwise, leave blank

---

name of the bidder as it appears in the register of bidders maintained by the ACMA under section 55 of the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023

(the Participant) which is a (tick the appropriate box):

- primary winner or secondary winner, or both, in the 3.7 GHz auction
- neither a primary winner nor a secondary winner in the 3.7 GHz auction

for the purposes of subsections 70(2) and (3) of the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (the allocation determination).

2. I have fully read and understand the provisions set out in Part 2 and in Division 3 of Part 5 of the allocation determination, including the meaning of 'associate' in section 16 of the allocation determination and the meaning of 'affiliated' in section 17 of the allocation determination.
3. I have examined the details given to the Participant by the Australian Communications and Media Authority (the ACMA) in accordance with paragraph 70(2)(a) and, if relevant, paragraph 70(3)(c), of the allocation determination, about the identities of all other bidders who are relevant to this statement (relevant bidders).
4. I have made my own reasonable inquiries into the identities of the associates of all other relevant bidders, and whether the Participant is affiliated with any of the other relevant bidders.

5. In response to the request made in accordance with section 70 of the allocation determination, I declare the Participant (tick the appropriate box or boxes):

- is not** affiliated with another relevant bidder named in the details provided by the ACMA. *(if this box is ticked, do not tick another box)*
- is** affiliated with another relevant bidder named in the details provided by the ACMA, and, according to those details, the relevant bidder **is** a primary winner or secondary winner, or both, in the 3.7 GHz auction
- is** affiliated with another relevant bidder named in the details provided by the ACMA, and, according to those details, the relevant bidder **is not** a primary winner or secondary winner, or both, in the 3.7 GHz auction.

The relevant bidders with which the Participant is affiliated are:

---

Insert name of first other relevant bidder

---

---

Insert address of first other relevant bidder

---

The details of the affiliation(s) are as follows:

---

---

---

Describe why the Participant's relationship with the other relevant bidder falls within the meaning of 'affiliated' in section 17 of the allocation determination, with reference to section 16 of the allocation determination, as appropriate.

If there are more relevant bidders with which the Participant is affiliated, please include an attachment providing the details of those bidders and the nature of the Participant's affiliation with them.

I understand that giving false or misleading information is a serious offence, and, in particular, knowingly or recklessly making a false or misleading statement or omitting any matter or thing without which the statement is misleading in connection with an application is an offence under section 136.1 of the *Criminal Code*. I believe that the statements made in this document and attachments are true in every particular.

---

Signature of person making the statement

Made at:

---

Place

On:

---

Day / Month / Year

Before me,

---

Signature of person before whom the statement is made

---

Name of person before whom the statement is made (printed)

**Note** Part 7.4 of the *Criminal Code* creates offences in relation to false and misleading statements.

## Form 7B – Statement about affiliations given before assignment stage of 3.4 GHz auction

For the purposes of section 70 of the [Radiocommunications \(Spectrum Licence Allocation – 3.4/3.7 GHz Bands\) Determination 2023 \(allocation determination\)](#).

### Notes on completion

#### Introduction

This form has been prepared by the Australian Communications and Media Authority (ACMA) for the purposes of subsections 70(2) and (3) of the allocation determination.

If assistance is required in completing this form, please contact the auction manager or email [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au).

Section 69 of the allocation determination provides that, if the ACMA has reason to believe that 2 or more bidders (notified bidders) are affiliated during the allocation period, the ACMA must, in writing, notify the bidders and tell them the basis on which the ACMA believes that the affiliation exists.

Subsection 70(2) of the allocation determination provides that, after giving such a notice, the ACMA must give each notified bidder the details of all other notified bidders and ask each notified bidder to make a statement about whether the bidder is an affiliate of another notified bidder and, if so, identifying the other notified bidder and giving details of the affiliation.

Paragraphs 70(3)(b), (c) and (d) of the allocation determination provide that, if the ACMA gives such a notice after the start of the pre-bidding round of the primary stage of the 3.4 GHz auction but before the end of the primary stage (if there is no secondary stage) or the secondary stage of the 3.4 GHz auction, then the ACMA must, as soon as practicable before the end of the relevant stage and once the results of the stage are known:

- a) give each primary winner and each secondary winner in the 3.4 GHz auction and 3.7 GHz auction details about the identity of all other persons who are primary winners and secondary winners in the 3.4 GHz auction and 3.7 GHz auction; and
- b) ask each primary winner and each secondary winner in the 3.4 GHz auction and 3.7 GHz auction to make a statement about whether the bidder is an affiliate of another person who is a primary winner or secondary winner in those auctions and, if so, identifying the other winner and giving details of the affiliation.

When the ACMA gives details to a notified bidder of other notified bidders after the primary winners and secondary winners in the 3.4 GHz auction are known but before the start of the assignment stage of the 3.4 GHz auction, the ACMA will include information about whether any of the other notified bidders is a primary winner or secondary winner, or both, in the 3.4 GHz auction as well as information about whether any of the other notified bidders is a primary winner or secondary winner, or both, in the 3.7 GHz auction.

This form should be used to give a statement **after** the start of the assignment stage of the 3.7 GHz auction. However, if the statement is given before the results of the primary stage or secondary stage of the 3.4 GHz auction are known, then the statement **cannot** say that any notified bidder (including the bidder making the statement) is a primary winner or secondary winner, or both, in the 3.4 GHz auction.

A statement using this form **cannot** be given after the start of the assignment stage of the 3.4 GHz auction. A bidder's failure to give the statement by the required time may affect the spectrum licences to be allocated to the bidder.

### **When to make the statement**

The ACMA will state the deadline for making the statement about affiliations when it asks each notified bidder to make the statement. The deadline will be at least 10 working days after the date of the request.

### **How to give the statement to the ACMA**

The statement must be given to the ACMA in accordance with the procedures for giving documents to the ACMA set out in section 6 of the allocation determination. The statement can be delivered to:

Online portal: <https://www.acma.gov.au/acma-assist#/auctions/3a71276a-3d16-ee11-9cbd-000d3a798fb7>

Email: [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au)

Post: Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
PO Box 13112 Law Courts  
Melbourne Victoria 8010

### **Who should make the statement?**

Where the ACMA receives a statement from a notified bidder (including a primary winner or secondary winner) that is a body corporate, it must be made by a director, secretary or authorised officer of the body corporate.

Where the ACMA receives a statement from a notified bidder (including a primary winner or secondary winner) who is an individual, it must be made by that individual.

### **Who can witness the statement?**

The statement must be witnessed by a person who is above the age of 18.

### **How to sign and witness the statement**

Section 8 of the allocation determination outlines the requirements for executing this form. Please see the *Auction guide* for more information about how to sign and witness the statement.

# Statement about affiliations

I,

---

Name of person making the statement

---

Occupation of person making the statement

---

Address of person making the statement

make the following statement:

1. I am:

---

where the bidder is a body corporate, insert 'a director of' or 'a secretary of' as appropriate; otherwise, leave blank

---

name of the bidder as it appears in the register of bidders maintained by the ACMA under section 55 of the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023

(the Participant) which is a (tick the appropriate box or boxes):

- primary winner or secondary winner, or both, in the 3.7 GHz auction
- primary winner or secondary winner, or both, in the 3.4 GHz auction
- neither a primary winner nor a secondary winner in either the 3.7 GHz auction or the 3.4 GHz auction

for the purposes of subsections 70(2) and (3) of the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (the allocation determination).

2. I have fully read and understand the provisions set out in Part 2 and in Division 3 of Part 5 of the allocation determination, including the meaning of 'associate' in section 16 of the allocation determination and the meaning of 'affiliated' in section 17 of the allocation determination.
3. I have examined the details given to the Participant by the Australian Communications and Media Authority (the ACMA) in accordance with paragraph 70(2)(a) and, if relevant, paragraph 70(3)(c) of the allocation determination, about the identities of all other bidders who are relevant to this statement (relevant bidders).

4. I have made my own reasonable inquiries into the identities of the associates of all other relevant bidders, and whether the Participant is affiliated with any of the other relevant bidders.
5. In response to the request made in accordance with section 70 of the allocation determination, I declare the Participant (tick the appropriate box or boxes):
  - is not** affiliated with another relevant bidder named in the details provided by the ACMA. *(if this box is ticked, do not tick another box)*
  - is** affiliated with another relevant bidder named in the details provided by the ACMA and, according to those details, the relevant bidder **is** a primary winner or a secondary winner, or both, in the 3.7 GHz auction
  - is** affiliated with another relevant bidder named in the details provided by the ACMA and, according to those details, the relevant bidder **is not** a primary winner or a secondary winner, or both, in the 3.7 GHz auction
  - is** affiliated with another relevant bidder named in the details provided by the ACMA and, according to those details, the relevant bidder **is** a primary winner or a secondary winner, or both, in the 3.4 GHz auction
  - is** affiliated with another relevant bidder named in the details provided by the ACMA and, according to those details, the relevant bidder **is not** a primary winner or a secondary winner, or both, in the 3.4 GHz auction.

The relevant bidders with which the Participant is affiliated are:

---

Insert name of first other relevant bidder

---



---

Insert address of first other relevant bidder

---

The details of the affiliation(s) are as follows:

---



---



---

Describe why the Participant's relationship with the other relevant bidder falls within the meaning of 'affiliated' in section 17 of the allocation determination, with reference to section 16 of the allocation determination, as appropriate.

If there are more relevant bidders with which the Participant is affiliated, please include an attachment providing the details of those bidders and the nature of the Participant's affiliation with them.

I understand that giving false or misleading information is a serious offence, and, in particular, knowingly or recklessly making a false or misleading statement or omitting any matter or thing without which the statement is misleading in connection with an application is an offence under section 136.1 of the *Criminal Code*. I believe that the statements made in this document and attachments are true in every particular.

---

Signature of person making the statement

Made at:

---

Place

On:

---

Day / Month / Year

Before me,

---

Signature of person before whom the statement is made

---

Name of person before whom the statement is made (printed)

**Note** Part 7.4 of the *Criminal Code* creates offences in relation to false and misleading statements.

## Form 8 – Deed of financial security

For the purposes of sections 41 and 42 of the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (**allocation determination**).

### Notes on completion

#### Introduction

This deed of financial security form has been approved by the Australian Communications and Media Authority (ACMA) pursuant to paragraph 23(1)(d) of the allocation determination.

Subsection 41(2) of the allocation determination provides that an applicant must, before the eligibility deadline (or extended eligibility deadline, if there is one), secure its eligibility points by:

- > making an eligibility payment of an amount to the ACMA on behalf of the Commonwealth; or
- > giving the ACMA on behalf of the Commonwealth a deed of financial security, which has been completed in the approved form and executed, for an amount; or
- > making an eligibility payment of part of an amount and giving a deed of financial security for the remainder.

Paragraph 41(3)(b) of the allocation determination provides that applicants who apply to be directly allocated a leftover lot must secure those leftover lots by paying 10% of the set price for the leftover lot to the ACMA.

Applicants must use this deed of financial security form for the purposes of sections 41 and 42 of the allocation determination where they propose to give the ACMA a deed of financial security. Section 41 of the allocation determination contains further requirements in relation to the deed of financial security.

#### Who can be the Promisor

The Promisor who makes a deed of financial security must be one of the following:

- > an authorised deposit-taking institution within the meaning given by the *Banking Act 1959*;
- > a person authorised to carry on business in Australia as an insurer under the *Insurance Act 1973*;
- > a Lloyd's underwriter authorised to carry on insurance business under Part VII of the *Insurance Act 1973*.

## **Working out the amount secured by the deed of financial security**

The information needed to calculate the amount secured by the deed of financial security (that is, the amount to be inserted at clause 1.1 of the deed) is included in the eligibility nomination form. The eligibility nomination form will be made available to applicants after the application deadline.

The amount required to be secured by the deed of financial security is calculated as follows:

- > the sum of:
  - > the product of the number of eligibility points specified in the eligibility nomination form and the dollar value of those points; and
  - > 10% of the value of leftover lots that the applicant applies for;
- > less any eligibility payment made by the applicant to the ACMA on behalf of the Commonwealth under the allocation determination.

The amount inserted in clause 1.1 of the deed of financial security must be the same as the amount inserted by the applicant at Option 1 of Part 4 of the eligibility nomination form.

## **When to give the deed of financial security to the ACMA**

If an applicant who applies before the application deadline gives a deed of financial security to the ACMA, they must do so before the eligibility deadline. If there is a new applicant to whom section 45 applies, the new applicant must give the deed of financial security to the ACMA before the eligibility deadline.

### *Failure to secure an eligibility payment*

Under subsection 43(1) of the allocation determination, an applicant (other than an applicant who applied to be directly allocated a leftover lot) is taken to have withdrawn their application if the applicant fails to make an eligibility payment or give a deed of financial security before the eligibility deadline. An applicant who applied to be directly allocated a leftover lot is not entitled to bid during the primary stage or the secondary stage of either the 3.7 GHz auction or the 3.4 GHz auction if the applicant fails to make an eligibility payment or give a deed of financial security before the eligibility deadline. The eligibility deadline is published on the ACMA's website.

### *Insufficient amount secured*

If an applicant makes an eligibility payment or gives a deed of financial security (or both) for less than the required amount, the ACMA must, pursuant to subsection 42(3) of the allocation determination, notify the applicant that the applicant has secured an insufficient amount and that the applicant must make a payment or give a deed of financial security (or both) for the remaining amount within 3 working days.

Under subsections 42(4) to 42(6), if the applicant fails to secure the remaining amount, the applicant's eligibility points may be recalculated accordingly.

### *Variation of starting and/or set prices*

If the ACMA replaces the eligibility deadline with an extended eligibility deadline under section 25 of the allocation determination, an applicant may give the ACMA an additional deed of financial security no later than the extended eligibility deadline. If a new applicant applies after the ACMA sets the extended eligibility deadline and gives a deed of financial security to the ACMA for the purposes of subsection 48, they must give the deed before the extended eligibility deadline.

## How to give the deed of financial security

The deed of financial security must be given to the ACMA in accordance with the procedures for giving documents set out in section 6 of the allocation determination.

A summary of the procedures (including an email address and physical address for the lodgement) is provided at the beginning of the *Auction forms* booklet. The procedures are also summarised under the heading 'Giving documents to the ACMA' in the *Auction guide*. The procedures contain specific requirements where a document is lodged by email or the online portal.

Where a copy of a deed of financial security is given to the ACMA by email or the online portal before the eligibility deadline (or extended eligibility deadline, if there is one), the original document must be received by the ACMA no later than 3 working days after the eligibility deadline (or the extended eligibility deadline, if there is one) or, if the ACMA agrees to a later time, by the agreed time, for the deed to be taken to have been given to the ACMA.

## Who should execute and witness the deed of financial security?

A deed of financial security must be executed by one of the following:

- > an authorised deposit-taking institution within the meaning given by the *Banking Act 1959*;
- > a person authorised to carry on business in Australia as an insurer under the *Insurance Act 1973*;
- > a Lloyd's underwriter authorised to carry on insurance business under Part VII of the *Insurance Act 1973*.

An applicant (other than an applicant who applied to be directly allocated a leftover lot) is taken to have withdrawn its application if the ACMA is not satisfied that the person executing the deed of financial security is such a person.

Where the deed is executed by a body corporate, it must be executed by any of the following:

- > 2 directors
- > a director and a company secretary
- > for a proprietary company that has a sole director who is also the company secretary, that director;
- > a person acting under a power of attorney for the body corporate.

If the deed is executed by a person acting under a power of attorney for a body corporate:

- > the applicant must give the ACMA a copy of the power of attorney with the deed; and
- > the execution of the deed must be witnessed by a person who is above the age of 18 and is not a party to the deed.

If the deed is executed by a person acting under a power of attorney for a body corporate and the applicant does **not** give the ACMA a copy of the power of attorney with the deed, then:

- > for an applicant who applied to be directly allocated a leftover lot – the participant is not entitled to bid during the primary stage and the secondary stage of an auction; or
- > in any other case – the applicant is taken to have withdrawn its application.

# Deed of financial security

This deed of financial security is made on this

\_\_\_\_\_ 2023  
day of month

in favour of the Commonwealth of Australia (the Commonwealth) to the benefit of the Australian Communications and Media Authority, ABN 55 386 169 386, (the ACMA) established under the *Australian Communications and Media Authority Act 2005*,

by:

\_\_\_\_\_  
Insert name

\_\_\_\_\_  
Insert ACN or ARBN if applicable

of:

\_\_\_\_\_

\_\_\_\_\_  
Insert business address

(the Promisor) in relation to the allocation of spectrum licences, and an application for registration as a bidder in an auction, under the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023.

On behalf of the Applicant:

\_\_\_\_\_  
Insert name

\_\_\_\_\_  
Insert ACN or ARBN if applicable

of:

\_\_\_\_\_

\_\_\_\_\_  
Insert address

## Purpose:

- A. The ACMA has made the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023 (**allocation determination**) under subsections 60(1) and 294(1) of the *Radiocommunications Act 1992*.
- B. The Applicant has given, or intends to give, the ACMA an application form under the allocation determination and proposes to be registered as a bidder in the allocation process.
- C. The Promisor provides this deed of financial security for the purposes of, and in accordance with, section 41 of the allocation determination.
- D. In giving this Deed, the Promisor relies solely on its own judgment and does not rely on any representations or warranties made to it or to any other person by the ACMA or the Commonwealth.

### 1. Financial undertaking

- 1.1 The Promisor unconditionally and irrevocably undertakes and covenants to pay to the ACMA on behalf of the Commonwealth immediately on demand in writing, without reference to the Applicant, and notwithstanding any notice given by the Applicant not to pay the same, and irrespective of the performance or non-performance by the Applicant under the allocation determination, any sum or sums which may from time to time be demanded in writing by the ACMA on behalf of the Commonwealth of a dollar amount not exceeding the Amount in aggregate. The Amount is:

Insert amount

\$
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- 1.2 The Promisor is not to make any inquiry as to the grounds of the ACMA's demand under clause 1.1.
- 1.3 The Promisor's obligations under this Deed are continuing obligations and continue in full force and effect until either:
  - a. the Chair of the ACMA, by written notice to the Promisor, has cancelled the undertaking under clause 1.1; or
  - b. the Promisor has made payment to the ACMA on behalf of the Commonwealth of the whole of the Amount.
- 1.4 In addition to clause 1.1, the Promisor may, at any time in its discretion, pay unconditionally to the ACMA on behalf of the Commonwealth the whole of the amount referred to in clause 1.1 (or, if applicable, that whole amount less any amount already paid to the ACMA on behalf of the Commonwealth pursuant to this Deed), and in such circumstances:
  - a. the Promisor's liability to pay under clause 1.1 is deemed to be fully satisfied; and
  - b. the Promisor, at and from the time of such payment, is deemed to have relinquished all rights and interests in the amount paid.

- 1.5 Any notice by the ACMA or the Commonwealth to the Promisor about this undertaking will be deemed to have been duly given or served if it is in writing and purports to be signed for and on behalf of the ACMA or the Commonwealth and is either delivered by hand or posted in a letter addressed to the Promisor at its above address. Any notice to the ACMA or the Commonwealth is to be deemed to have been duly given or served if it is in writing signed by or on behalf of the Promisor and is either delivered by hand, or posted in a letter addressed to:

Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
PO Box 13112 Law Court  
Melbourne Victoria 8010

## 2. No discharge

- 2.1 Neither the Promisor's obligations under this Deed nor the binding effect of this Deed are in any way to be affected, waived or impaired by any of the following:
- a. any furnishing to, or acceptance by, the ACMA or the Commonwealth of additional security;
  - b. any release by the Chair of the ACMA of any security (except this Deed);
  - c. any waiver, compromise, forbearance, abandonment, renewal, consent or other action or inaction or any exercise or non-exercise by the ACMA or the Commonwealth of any right, remedy or power (including the granting of any time or indulgence) with respect to the Promisor or the Applicant (whether with or without the consent of the Promisor);
  - d. any insolvency, bankruptcy, reorganisation, arrangement, composition, liquidation or dissolution of, or appointment of a liquidator and/or receiver, receiver and manager or administrator to, the Promisor or the Applicant;
  - e. any amendment of the allocation determination or deed of acknowledgement with or without the consent of the Promisor;
  - f. the allocation determination or the deed of acknowledgement, or both, being void or otherwise unenforceable in whole or in part; or
  - g. the revocation of the allocation determination or the termination of the deed of acknowledgement, or both.
- 2.2 For the avoidance of doubt, no variation to the terms of the allocation determination or deed of acknowledgement will increase the liability of the Promisor under this Deed without the Promisor's prior consent or confirmation.

## 3. Representations and warranties

- 3.1 The Promisor represents and warrants that:
- a. it is one of the following:
    - i. an authorised deposit-taking institution, within the meaning of the *Banking Act 1959*;
    - ii. a person authorised to carry on business in Australia as an insurer under the *Insurance Act 1973*;
    - iii. a Lloyd's underwriter authorised to carry on insurance business under Part VII of the *Insurance Act 1973*; and
  - b. it is a duly organised and validly existing legal entity and it has the power and authority to execute and deliver this Deed and to carry out its terms and conditions; and

- c. the execution, delivery and performance by the Promisor of this Deed does not:
- i. contravene any law applicable to it; or
  - ii. contravene any provision of the Constitution, Charter, Memorandum or Articles of Association, or any instrument or law, constituting or defining the Promisor or for the governance of the Promisor.

#### **4. Severability**

- 4.1 If any provision of this Deed is invalid and not enforceable in accordance with its terms, all other provisions that are capable of separate enforcement without regard to the invalid provision are, and continue to be, valid and enforceable in accordance with their terms.

#### **5. Governing law and jurisdiction**

- 5.1 This Deed is to be construed and take effect in accordance with the laws in force in the Australian Capital Territory and the Commonwealth of Australia, and any dispute relating to the construction, meaning or effect of this Deed is governed by those laws.
- 5.2 The Promisor irrevocably submits to the jurisdiction of the courts of the Australian Capital Territory and the Federal Court of Australia.
- 5.3 The submission to the jurisdiction of the courts of the Australian Capital Territory and the Federal Court of Australia is exclusive except in so far as the High Court of Australia has jurisdiction to hear any matter involving the ACMA or the Commonwealth.

#### **6. No variation**

- 6.1 The Promisor acknowledges and agrees that there can be no variation of this Deed.

#### **7. No assignment**

- 7.1 Neither the ACMA nor the Commonwealth may assign its rights under this Deed.

#### **8. Definitions and interpretation**

- 8.1 In this Deed:

**allocation determination** means the Radiocommunications (Spectrum Licence Allocation – 3.4/3.7 GHz Bands) Determination 2023.

**allocation process** has the meaning specified in the allocation determination.

**Amount** means the dollar amount specified in clause 1.1.

**Deed** means this document, including any schedule or annexure to it.

**deed of acknowledgement** means the deed of acknowledgement in the form approved by the ACMA under paragraph 23(1)(c) of the allocation determination and executed or to be executed by the Applicant.

**Promisor** means the person making this Deed.

## Executed as a deed

### Where the Deed is executed by a body corporate:

For and on behalf of:

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Name of Promisor

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ACN or ARBN

by authority of the directors:

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Name of director

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Signature of director

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Name of director/secretary

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Signature of director/secretary

**OR**

## Executed as a deed

### Where the Deed is executed by a person acting under a power of attorney for a body corporate:

Signed, sealed and delivered for and on behalf of:

---

Name of Promisor

---

ACN or ARBN

by:

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Name of Attorney

---

Signature of Attorney

who is duly authorised by power of attorney

---

Insert number or date or other means of document identification

in the presence of

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Name of witness

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Signature of witness

**Note** If the Deed is executed by a person acting under a power of attorney for a body corporate, the Applicant must give the ACMA a copy of the power of attorney with the Deed; and the execution of the Deed must be witnessed by a person who is above the age of 18.

## Form 9 – Eligibility nomination form

For the purposes of sections 39 and 48 and subsection 50(3) of the [Radiocommunications \(Spectrum Licence Allocation – 3.4/3.7 GHz Bands\) Determination 2023 \(allocation determination\)](#).

### Introduction

This eligibility nomination form has been approved by the Australian Communications and Media Authority (ACMA) pursuant to paragraph 23(1)(f) of the allocation determination.

Subsection 39(1) of the allocation determination requires an applicant to give the ACMA a completed eligibility nomination form, which:

- > specifies the number of eligibility points the applicant wishes to have immediately before the start of the 3.7 GHz auction; and
- > if the applicant is eligible to apply to be directly allocated a leftover lot, and wishes to so apply—applies to be directly allocated the leftover lot.

Applicants should use this form to calculate the eligibility points desired, and select how to secure the eligibility points by making an eligibility payment and/or providing a deed of financial security.

If the applicant is eligible to apply to be directly allocated a leftover lot, this form will also guide the applicant on how to secure its leftover lots by making an eligibility payment and/or providing a deed of financial security.

Information provided by the applicant as part of the eligibility nomination form, including eligibility points, will be recorded in the register of bidders in accordance with subsection 55(2) of the allocation determination. Before the pre-bidding round of the primary stage of the 3.7 GHz auction commences, the auction manager will enter into the auction system the bidder's eligibility points. Bidders must enter their start demands, which will be affected by their eligibility points, during the pre-bidding round.

### Eligibility points

In order to participate in the 3.7 GHz band or 3.4 GHz band auctions, an applicant must secure eligibility points.

To calculate the eligibility points the applicant requires, the applicant should multiply the number of lots of each product the applicant seeks to acquire by the specified lot rating (as outlined in table 1 of this form) for each product. The sum of these amounts equals the eligibility points an applicant needs to secure for the allocation process. An applicant's unused eligibility points from the 3.7 GHz auction may be used in the 3.4 GHz band auction.

At an auction, including in the pre-bidding round of the primary stage of an auction, bidders cannot make entries in the auction system or bid in a way that exceeds their total eligibility points secured in the application process. In the 3.4 GHz auction, including in the pre-bidding round of the primary stage, bidders cannot make entries in the auction system or bid in a way that exceeds the difference between:

- > their total eligibility points secured in the application process; less
- > the eligibility points represented by lots allocated to the bidder during the 3.7 GHz auction.

Eligibility points are secured by making an eligibility payment to the ACMA, and/or giving the ACMA a deed of financial security (Form 8) for the required amount.

### **Electing to be directly allocated leftover lots**

The ACMA may directly allocate leftover lots to adjacent licensees, or a related body corporate of an adjacent licensee, for a set price. In this form, these applicants are referred to as eligible recipients (as outlined in Part 1 of this form). The ACMA has determined the set price of each leftover lot in accordance with paragraph 22(c) of the allocation determination.

If an eligible recipient wishes to be directly allocated one or more leftover lots in accordance with paragraph 34(1)(c) of the allocation determination, they must apply in the eligibility nomination form and give that form to the ACMA before the eligibility deadline (or extended eligibility deadline, if there is one). Once an application to be directly allocated one or more leftover lots has been made and the eligibility deadline, or extended eligibility deadline, has passed, the application cannot be changed.

### **Securing eligibility points and/or leftover lots**

Pursuant to section 41 of the allocation determination, an applicant must secure its eligibility points specified in this form by either or both of the following:

- > making an eligibility payment of the required amount to the ACMA
- > giving the ACMA a deed of financial security for the required amount.

Failure to do so may result in a reduction in the applicant's total eligibility points secured, or the applicant being taken to have withdrawn from the auction as set out in subsection 43(1) of the allocation determination.

The amount required when making an eligibility payment or deed of financial security is the product of the number of eligibility points specified in the form and the dollar value of those points (as set under paragraph 22(b) of the allocation determination. An eligible recipient who applies to be directly allocated a leftover lot, the required amount is the sum of:

- > the product of the number of eligibility points specified in the form and the dollar value of those points; plus
- > 10% of the set price for the leftover lot (as set under subsection 22(c) or paragraph 25(1)(c) of the allocation determination).

Pursuant to paragraph 43(1)(a) of the allocation determination, an eligible recipient that applies to be directly allocated a leftover lot but fails to make an eligibility payment or provide a deed of financial security will be excluded from bidding during the primary stage or the secondary stage of either the 3.7 GHz auction or the 3.4 GHz auction.

Pursuant to subsection 42(6) of the allocation determination, if an applicant that makes an insufficient eligibility payment or deed of financial security to secure all the eligibility points specified in the eligibility nomination form, the number of eligibility points for the applicant is reduced to the number secured by the eligibility payment actually paid, or the deed of financial security actually given (**insufficient amount**). This number may be reduced to zero, in which case the applicant is taken to have withdrawn its application. If the applicant were an eligible recipient that also applied to be directly allocated a leftover lot:

- > if the insufficient amount equals or falls short of the amount required to secure their leftover lot, the bidder will have zero eligibility points for the auctions, but will still be directly allocated the leftover lot (for payment of the set price)
- > if the insufficient amount exceeds the amount required to secure their leftover lot, their maximum eligibility points will be reduced in the manner set out in the allocation determination.

Information about how to make an eligibility payment, and how to give a deed of financial security (Form 8), is provided in Part 4 of this form.

### **Completing the eligibility nomination form**

Where the ACMA receives an eligibility nomination form from an applicant that is a body corporate, the form must be signed by a director, a secretary or an authorised officer of the body corporate.

Where the ACMA receives an eligibility nomination form from an applicant that is an individual, the form must be signed by that individual.

The signature of the applicant or authorised person of the applicant on the eligibility nomination form must be witnessed by a person who is above the age of 18.

This form may be executed in accordance with section 8 of the allocation determination.

### **Giving the eligibility nomination form to the ACMA**

The eligibility nomination form must be given to the ACMA before the eligibility deadline or, if there is one, the extended eligibility deadline. An application is taken to be withdrawn if the applicant fails to give the eligibility nomination form before the relevant deadline. The eligibility deadline is **2pm on Tuesday 12 September 2023**. The ACMA will publish information if there is an extended eligibility deadline.

The eligibility nomination form must be given to the ACMA in accordance with the procedures for giving documents to the ACMA set out in section 6 of the allocation determination. The eligibility nomination form can be delivered to:

Online portal: <https://www.acma.gov.au/acma-assist#/auctions/3a71276a-3d16-ee11-9cbd-000d3a798fb7>

Email: [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au)

Post: Auction Manager  
Major Spectrum Allocations Section  
Australian Communications and Media Authority  
Level 32, Melbourne Central Tower  
360 Elizabeth Street  
Melbourne VIC 3000

A summary of the procedures is also in the Auction forms booklet and the Auction guide. The procedures contain specific requirements where a document is given by email or via the online portal.

## Part 1: Applicant details

Applicant's name:

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enter applicant's name as it appears in Part 1 of the application form submitted by the applicant under section 34, section 45 or section 50 of the allocation determination

Applicant's ACN/ARBN (if applicable):

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enter ACN/ARBN as is appears in Part 1 of the application form submitted by the applicant under section 34, section 45 or section 50 of the allocation determination

Adjacent licensees, or their related bodies corporate, are eligible to be allocated 'leftover lots' as defined in Schedule 3 to the marketing plan. Tick whichever is applicable below:

- This applicant is not eligible to be directly allocated a leftover lot under section 39 of the allocation determination, or is eligible but does not wish to be directly allocated a leftover lot.
- This applicant is eligible and wishes to be directly allocated a leftover lot under subsection 57(2) of the allocation determination (an adjacent licensee to a leftover lot in column 5 of the table in Schedule 3 to the marketing plan).
- This applicant is eligible and wishes to be directly allocated a leftover lot under subsection 57(2) of the allocation determination (a related body corporate of an adjacent licensee to a leftover lot in column 5 of the table in Schedule 3 to the marketing plan). Please provide the name of the adjacent licensee to which the applicant is a related body corporate and the nature of the relationship between the two:

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## Part 2A: Determine eligibility points

Table 1 below can be used by applicants to determine eligibility points and the amount required for eligibility payment and/or deed of financial security.

Applicants should identify the lots of each product they wish to acquire, then determine the number of eligibility points required to bid on the lots of each such product. The number of eligibility points required to bid on one lot of any product is the same as the lot rating for that product in column F. The sum of the eligibility points required for all the lots the applicant wishes to acquire determines the total eligibility points the applicant has to secure.

**Table 1: Starting prices and lot ratings of products available in the 3.7 and 3.4 GHz bands auctions**

A	B	C	D	E	F	G
Product	Product name	Frequency range (MHz)	Bandwidth (MHz)	Supply (in lots)	Lot rating	Starting price per lot
ADEL03	Adelaide Upper	3700 MHz to 3800 MHz	5 MHz	20	3000	\$1,149,300
BRIS03	Brisbane Upper	3700 MHz to 3800 MHz	5 MHz	20	5500	\$1,967,900
CANB03	Canberra Upper	3700 MHz to 3800 MHz	5 MHz	20	1000	\$420,500
MELB03	Melbourne Upper	3700 MHz to 3800 MHz	5 MHz	20	11000	\$4,159,000
PERT03	Perth Upper	3700 MHz to 3800 MHz	5 MHz	20	4500	\$1,767,900
SYDN03	Sydney Upper	3700 MHz to 3800 MHz	5 MHz	20	12500	\$4,704,900
HOBA03	Hobart Upper	3750 MHz to 3800 MHz	5 MHz	10	1000	\$235,000
CQLD03	Rural Central QLD Upper	3700 MHz to 3750 MHz	5 MHz	10	1500	\$529,300
NNSQ03	Rural North NSW / South QLD Upper	3700 MHz to 3750 MHz	5 MHz	10	4750	\$2,007,000
NQLD03	Rural North QLD Upper	3700 MHz to 3750 MHz	5 MHz	10	600	\$225,900
SOAU03	Rural SA Upper	3700 MHz to 3750 MHz	5 MHz	10	650	\$318,800
SWNS03	Rural South / West NSW Upper	3700 MHz to 3750 MHz	5 MHz	10	3000	\$1,290,300
TASM03	Rural TAS Upper	3700 MHz to 3750 MHz	5 MHz	10	1000	\$461,500
VICT03	Rural VIC Upper	3700 MHz to 3750 MHz	5 MHz	10	3000	\$1,330,100
WEAU03	Rural WA Upper	3700 MHz to 3750 MHz	5 MHz	10	650	\$275,400
RNSW03	Regional NSW Upper	3750 MHz to 3800 MHz	5 MHz	10	3000	\$994,700
RQLD03	Regional QLD Upper	3750 MHz to 3800 MHz	5 MHz	10	4750	\$1,468,400
RSAU03	Regional SA Upper	3750 MHz to 3800 MHz	5 MHz	10	650	\$180,800
RVIC03	Regional VIC Upper	3750 MHz to 3800 MHz	5 MHz	10	3000	\$920,100
RWAU03	Regional WA Upper	3750 MHz to 3800 MHz	5 MHz	10	650	\$200,300
ALBU01	Albury Lower	3400 MHz to 3425 MHz	5 MHz	5	100	\$38,600
CAIR01	Cairns Lower	3400 MHz to 3425 MHz	5 MHz	5	150	\$59,100
HOBA01	Hobart Lower	3400 MHz to 3425 MHz	5 MHz	5	250	\$88,100
LAUN01	Launceston Lower	3400 MHz to 3425 MHz	5 MHz	5	100	\$43,300
ROCK01	Rockhampton Lower	3400 MHz to 3425 MHz	5 MHz	5	100	\$37,300
TOWN01	Townsville Lower	3400 MHz to 3425 MHz	5 MHz	5	150	\$60,100
ALBU02	Albury Middle	3495 MHz to 3540 MHz	5 MHz	9	100	\$38,600
CAIR02	Cairns Middle	3495 MHz to 3540 MHz	5 MHz	9	150	\$59,100
HOBA02	Hobart Middle	3495 MHz to 3540 MHz	5 MHz	9	250	\$88,100
LAUN02	Launceston Middle	3495 MHz to 3540 MHz	5 MHz	9	100	\$43,300

A	B	C	D	E	F	G
Product	Product name	Frequency range (MHz)	Bandwidth (MHz)	Supply (in lots)	Lot rating	Starting price per lot
ROCK02	Rockhampton Middle	3495 MHz to 3540 MHz	5 MHz	9	100	\$37,300
TOWN02	Townsville Middle	3495 MHz to 3540 MHz	5 MHz	9	150	\$60,100
CQLD01	Rural Central QLD Lower	3400 MHz to 3440 MHz	5 MHz	8	250	\$101,100
NNSQ01	Rural North NSW / South QLD Lower	3400 MHz to 3440 MHz	5 MHz	8	500	\$191,100
NQLD01	Rural North QLD Lower	3400 MHz to 3440 MHz	5 MHz	8	75	\$25,600
SOAU01	Rural SA Lower	3400 MHz to 3440 MHz	5 MHz	8	150	\$51,800
SWNS01	Rural South / West NSW Lower	3400 MHz to 3440 MHz	5 MHz	8	300	\$110,800
TASM01	Rural TAS Lower	3400 MHz to 3440 MHz	5 MHz	8	100	\$41,200
VICT01	Rural VIC Lower	3400 MHz to 3440 MHz	5 MHz	8	300	\$114,900
WEAU01	Rural WA Lower	3400 MHz to 3440 MHz	5 MHz	8	75	\$28,100
CQLD02	Rural Central QLD Middle	3475 MHz to 3540 MHz	5 MHz	13	250	\$101,100
NNSQ02	Rural North NSW / South QLD Middle	3475 MHz to 3540 MHz	5 MHz	13	500	\$191,100
NQLD02	Rural North QLD Middle	3475 MHz to 3540 MHz	5 MHz	13	75	\$25,600
SOAU02	Rural SA Middle	3475 MHz to 3540 MHz	5 MHz	13	150	\$51,800
SWNS02	Rural South / West NSW Middle	3475 MHz to 3540 MHz	5 MHz	13	300	\$110,800
TASM02	Rural TAS Middle	3475 MHz to 3540 MHz	5 MHz	13	100	\$41,200
VICT02	Rural VIC Middle	3475 MHz to 3540 MHz	5 MHz	13	300	\$114,900
WEAU02	Rural WA Middle	3475 MHz to 3540 MHz	5 MHz	13	75	\$28,100
RNSW02	Regional NSW Middle	3475 MHz to 3510 MHz	5 MHz	7	550	\$203,900
RQLD02	Regional QLD Middle	3475 MHz to 3510 MHz	5 MHz	7	550	\$206,800
RSAU02	Regional SA Middle	3475 MHz to 3510 MHz	5 MHz	7	150	\$49,200
RVIC02	Regional VIC Middle	3475 MHz to 3510 MHz	5 MHz	7	450	\$176,400
RWAU02	Regional WA Middle	3475 MHz to 3510 MHz	5 MHz	7	200	\$75,100
RWAC02	Regional WA Central Middle	3510 MHz to 3575 MHz	5 MHz	13	10	\$3,800

## Explanatory notes to Table 1

**Column A:** Specifies the code for each product, which will be used in the auction system.

**Column B:** Specifies the product name relevant to each product, as identified in Schedule 1 to the marketing plan.

**Column C:** Specifies the frequency range for each of the products available for allocation in the auction.

**Column D:** Specifies the bandwidth of each lot of a product.

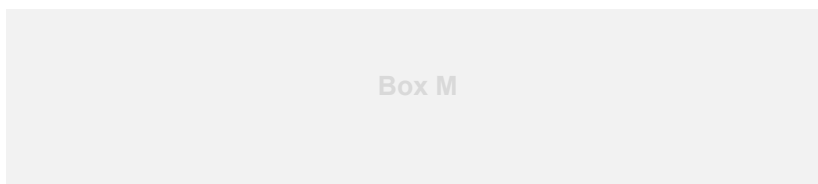
**Column E:** Specifies the supply of lots for each product.

**Column F:** Specifies the lot rating for each lot of a product, set by the ACMA in accordance with paragraph 22(a) of the allocation determination. The lot rating for a product is also the number of eligibility points a bidder will need to bid for each lot of that product.

**Column G:** Specifies the starting price for each lot of a product for the first round of the auction, set by the ACMA in accordance with paragraph 22(d) of the allocation determination. This is not required to calculate the amount required for the eligibility payment or deed of financial security, and has been included here for informational purposes only.

**Box M:** The amount in Box M is number of eligibility points the applicant wishes to secure. This can be calculated by multiplying the number of lots of each product the applicant seeks to acquire by the specified lot rating for that product. The sum of all of these values is the total number of eligibility points the applicant may use in the 3.7 GHz and 3.4 GHz auctions.

Total number of eligibility points secured



Box M

## Part 2B: Apply to be directly allocated leftover lots

Eligible recipients who wish to be directly allocated a leftover lot should indicate which leftover lots they wish to be allocated in table 2 below.

Section 40 of the allocation determination sets out who is eligible to be directly allocated a leftover lot. Subsection 41(2) and paragraph 41(3)(b) of the allocation determination set out the requirements to secure leftover lots, and subsection 43(1) of the allocation determination sets out the consequences for failing to secure a leftover lot.

Under subsection 57(2) of the allocation determination, an applicant who applies to be directly allocated a leftover lot will be allocated the leftover lot immediately after the eligibility deadline (or the extended eligibility deadline, if there is one). An applicant applies to be directly allocated a leftover lot by putting a Y in column F of the entry for the lot in Table 2. An N, or any other mark, or leaving column F blank for the entry means the applicant has not applied to be directly allocated the leftover lot.

The details of the leftover lots are provided in Schedule 3 to the marketing plan.

**Table 2: Leftover lots**

A	B	C	D	E	F	G
Lot name	Frequency range	Region	Adjacent product	Adjacent licensee	Direct allocation (Y/N)	Set price
Albury 1	3492.5 MHz to 3495 MHz	Albury	Albury Middle	NBN Co		\$9,700
Albury 2	3540 MHz to 3542.5 MHz	Albury	Albury Middle	Telstra		\$9,700
Cairns 1	3492.5 MHz to 3495 MHz	Cairns	Cairns Middle	NBN Co		\$14,800
Cairns 2	3540 MHz to 3542.5 MHz	Cairns	Cairns Middle	Telstra		\$14,800
Hobart 1	3492.5 MHz to 3495 MHz	Hobart	Hobart Middle	NBN Co		\$22,000
Hobart 2	3540 MHz to 3542.5 MHz	Hobart	Hobart Middle	Telstra		\$22,000
Launceston 1	3492.5 MHz to 3495 MHz	Launceston	Launceston Middle	NBN Co		\$10,800
Launceston 2	3540 MHz to 3542.5 MHz	Launceston	Launceston Middle	Telstra		\$10,800
Rockhampton 1	3492.5 MHz to 3495 MHz	Rockhampton	Rockhampton Middle	NBN Co		\$9,300
Rockhampton 2	3540 MHz to 3542.5 MHz	Rockhampton	Rockhampton Middle	Telstra		\$9,300
Townsville 1	3492.5 MHz to 3495 MHz	Townsville	Townsville Middle	NBN Co		\$15,000
Townsville 2	3540 MHz to 3542.5 MHz	Townsville	Townsville Middle	Telstra		\$15,000
Rural Central QLD 1	3440 MHz to 3442.5 MHz	Rural Central QLD	Rural Central QLD Lower	NBN Co		\$25,300
Rural Central QLD 2	3540 MHz to 3542.5 MHz	Rural Central QLD	Rural Central QLD Middle	NBN Co		\$25,300

A	B	C	D	E	F	G
Lot name	Frequency range	Region	Adjacent product	Adjacent licensee	Direct allocation (Y/N)	Set price
Rural North NSW / South QLD 1	3440 MHz to 3442.5 MHz	Rural North NSW / South QLD	Rural North NSW / South QLD Lower	NBN Co		\$47,800
Rural North NSW / South QLD 2	3540 MHz to 3542.5 MHz	Rural North NSW / South QLD	Rural North NSW / South QLD Middle	NBN Co		\$47,800
Rural North QLD 1	3440 MHz to 3442.5 MHz	Rural North QLD	Rural North QLD Lower	NBN Co		\$6,400
Rural North QLD 2	3540 MHz to 3542.5 MHz	Rural North QLD	Rural North QLD Middle	NBN Co		\$6,400
Rural SA 1	3440 MHz to 3442.5 MHz	Rural SA	Rural SA Lower	NBN Co		\$12,900
Rural SA 2	3540 MHz to 3542.5 MHz	Rural SA	Rural SA Middle	NBN Co		\$12,900
Rural South / West NSW 1	3440 MHz to 3442.5 MHz	Rural South / West NSW	Rural South / West NSW Lower	NBN Co		\$27,700
Rural South / West NSW 2	3540 MHz to 3542.5 MHz	Rural South / West NSW	Rural South / West NSW Middle	NBN Co		\$27,700
Rural TAS 1	3440 MHz to 3442.5 MHz	Rural TAS	Rural TAS Lower	NBN Co		\$10,300
Rural TAS 2	3540 MHz to 3542.5 MHz	Rural TAS	Rural TAS Middle	NBN Co		\$10,300
Rural VIC 1	3440 MHz to 3442.5 MHz	Rural VIC	Rural VIC Lower	NBN Co		\$28,700
Rural VIC 2	3540 MHz to 3542.5 MHz	Rural VIC	Rural VIC Middle	NBN Co		\$28,700
Rural WA 1	3440 MHz to 3442.5 MHz	Rural WA	Rural WA Lower	AKAL		\$7,000
Rural WA 2	3540 MHz to 3542.5 MHz	Rural WA	Rural WA Middle	AKAL		\$7,000
				<b>Total</b>		<b>Box N</b>

## Explanatory notes to Table 2

**Column A:** Specifies the lot name relevant to each leftover lot, as identified in Schedule 3 to the marketing plan.

**Column B:** Specifies the frequency range for each of the leftover lots available for direct allocation.

**Column C:** Specifies the region of the leftover lot.

**Column D:** Specifies the adjacent product for determining who is adjacent licensee of the leftover lot.

**Column E:** Specifies the adjacent licensee of the leftover lot:

- > **NBN Co:** NBN Co Limited (ACN 136 533 741)
- > **Telstra:** Telstra Limited (ACN 086 174 781)
- > **AKAL:** AKAL Pty Ltd (ACN 094 107 794)

**Column F:** Used by the applicant to indicate whether they apply to be directly allocated the leftover lot. The applicant must put a Y in the entry to apply.

**Column G:** Specifies the set price of the leftover lot.

**Box N:** The amount in Box N is the sum of the set prices of all leftover lots the applicant wishes to be directly allocated.

### Part 3: Secure maximum eligibility points and leftover lots

Applicants are required to make an eligibility payment and/or give a deed of financial security to secure their eligibility points for the auctions, in accordance with section 41 of the allocation determination. To determine the amount required to secure eligibility points calculated under Part 2A of this form, multiply the total number of points desired (Box M) by the value of one eligibility point. The value of an eligibility point is \$37.60.

Eligible recipients are required to secure their leftover lots, by making an eligibility payment and/or giving a deed of financial security, in accordance with section 41 of the allocation determination. For eligible recipients, 10% of the starting price for the leftover lots will be required to secure the leftover lots, in addition to any amount required to secure eligibility points calculated under Part 2A of this form.

**Box O:** The amount in Box O is the amount the applicant must make an eligibility payment and/or give a deed of financial security for, in order to secure its total eligibility points and/or secure its leftover lots (if applicable).

(Amount entered in Box M x \$37.60) + (Amount entered in Box N x 0.10)

Box O
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## Part 4: Eligibility payment and/or deed of financial security for eligibility points and leftover lots

**Step 1:** To secure the eligibility points specified in **Box M** of Part 2A, and the leftover lots under Part 2B (if applicable) the applicant must select the appropriate option(s) below, and enter dollar figures which will total the amount calculated in **Box O** in Part 3:

- Option 1: giving a deed or deeds of financial security for \$
- Option 2: making an eligibility payment of \$ \_\_\_\_\_ by electronic transfer
- Option 3: making an eligibility payment of \$ \_\_\_\_\_ by bank cheque
- Option 4: if submitting this form via the online portal, making an eligibility payment of \$ \_\_\_\_\_ by BPAY
- Option 5: if submitting this form via the online portal, making an eligibility payment of \$ \_\_\_\_\_ by credit card.

Note: The amounts inserted by the applicant in clause 1.1 of **Form 8 – Deed of financial security** should total the amount inserted against Option 1.

**Step 2:** Make an eligibility payment and/or give a deed or deeds of financial security before the eligibility deadline, in accordance with the procedures below.

Note: If an applicant makes an eligibility payment or gives a deed or deeds of financial security, or both, for an amount less than that worked out in Part 3 above, and another eligibility payment or deed, or both, is not made or given to make up the difference, maximum eligibility points are reduced in accordance with subsection 42(5) of the allocation determination. If an eligible recipient makes an incomplete eligibility payment then subsection 42(6) of the allocation determination will apply.

Eligibility payments must be made in Australian currency by:

### Electronic transfer:

**Bank:** ANZ Bank

**Branch:** Belconnen

**BSB:** 012-951 **Account no.:** 8379 24272

**Account name:** ACMA Official Administered Receipts

**Transfers should be labelled:** '3437 elig [name of applicant]'

Note: Because transfer labels are limited to 15 alphanumeric characters, abbreviations must be used.

Evidence of the electronic transfer (for example, a transfer receipt) should be emailed to [spectrumallocations@acma.gov.au](mailto:spectrumallocations@acma.gov.au) as soon as practicable after the transfer is made.

### Bank cheque:

Crossed 'not negotiable'

**Made payable to:** Australian Communications and Media Authority on behalf of the Commonwealth

#### Delivered to:

Auction Manager

Major Spectrum Allocations Section

Australian Communications and Media Authority

PO Box 13112 Law Courts

Melbourne Victoria 8010

Where this form is submitted via the online portal, the payment may be made using the above methods, or by BPAY or credit card. An invoice will be provided through the online portal that provides details of how to make payments.

Section 9 of the allocation determination sets out how an amount must be paid by a relevant deadline. An amount is taken to have been paid by a deadline if:

- > the ACMA receives a bank cheque for the full amount on or before the relevant deadline; or
- > the ACMA receives evidence that an electronic transfer of the full amount was made on or before the deadline (for example, a transfer receipt) *and* the amount is received in the ACMA's bank account no later than 3 working days after the deadline; or
- > the ACMA receives other evidence that satisfies it that the person making the payment has taken all reasonable steps to pay the amount on or before the deadline.

An amount due under the allocation determination is not paid in full if bank charges or government duties imposed on a payment reduce the net payment to less than the amount due. For an applicant that has made an eligibility payment, the applicant must add the value of any bank charge or government duty to the amount of its eligibility payment in order to secure its specified maximum eligibility points.

If you choose to give the ACMA a deed of financial security for all or part of the amount worked out in this Part, the deed of financial security must be given to the ACMA using **Form 8—Deed of financial security** accessible through the applicant information package. Form 8 contains information about how to complete the deed, who can execute the deed and how to lodge the deed with the ACMA.

GST is not payable on an eligibility payment.

## Part 5: Declaration and signature

I understand that giving false or misleading information is a serious offence, and, in particular, knowingly or recklessly making a false or misleading statement or omitting any matter or thing without which the statement is misleading in connection with an application is an offence under section 136.1 of the *Criminal Code*. I believe that the statements made by or on behalf of the applicant in this document and its attachments are true in every particular.

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Signed by or on behalf of the applicant

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Name of signatory where signed on behalf of the applicant

*Signed at:*

---

Place

On

---

Day / Month / Year

Before me,

---

Signature of person before whom the declaration is made

---

Name of person before whom the declaration is made

**Note** Part 7.4 of the *Criminal Code* creates offences in relation to false and misleading statements.