

Submarine cable installation permits

Guide for applicants

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Introduction

We have prepared this guide to assist licensed telecommunications carriers in applying for submarine cable installation permits under Schedule 3A to the *Telecommunications Act 1997* (the Act). It outlines the legislative requirements when applying for a permit and the ACMA's policies for overseeing this process

This guide is not a substitute for the Act and is intended to be read in conjunction with Schedule 3A to the Act.

For information about the submarine cable installation permit process, please contact the ACMA on:

- Tel: 1300 850 115
- Email: subcablesenquiries@acma.gov.au
- Post: PO Box 13112 Law Courts Melbourne VIC 8010.

Information is provided in this guide without prejudice to a decision by the ACMA. We reserve the right to exercise our powers under the Act to refuse an application or impose conditions on a permit to install a submarine cable.

We will evaluate permit applications on their merits. Applicants should seek their own independent legal advice when preparing a permit application. This guide is not intended to be a substitute for independent legal advice.

Permits to install submarine cables

Terminology

Terms used in this guide have the same meaning as in the Act. For example:

- Australian waters
- Carrier
- Coastal Waters
- Domestic submarine cable
- International submarine cable
- Non-protection zone installation permit
- Protection zone installation permit
- Submarine cable.

For other definitions relating to the submarine cable regime, refer to subclause 2(1) of Schedule 3A to the Act.

What type of permit is required?

International submarine cables laid in Australian waters require one of 2 types of installation permit from the ACMA:

- a submarine cable laid inside a protection zone only, or both inside a protection zone and in other Australian waters, requires a **protection zone installation permit**
- a submarine cable laid in Australian waters and wholly outside a protection zone requires a **non-protection zone installation permit**.

A domestic submarine cable only requires a **protection zone installation permit** if laid inside a protection zone.

Protection zone installation permits

A protection zone installation permit authorises the installation of either:

- one or more submarine cables in a protection zone
- a single international submarine cable in both a protection zone and in Australian waters that are not in a protection zone, and that are not coastal waters of a state or the Northern Territory
- each of 2 or more international submarine cables in both a protection zone and in Australian waters that are not in a protection zone and that are not coastal waters of a state or the Northern Territory.

Carriers may require separate regulatory approvals for installations in the coastal waters of a state or the Northern Territory that are outside a protection zone.

Non-protection zone installation permits

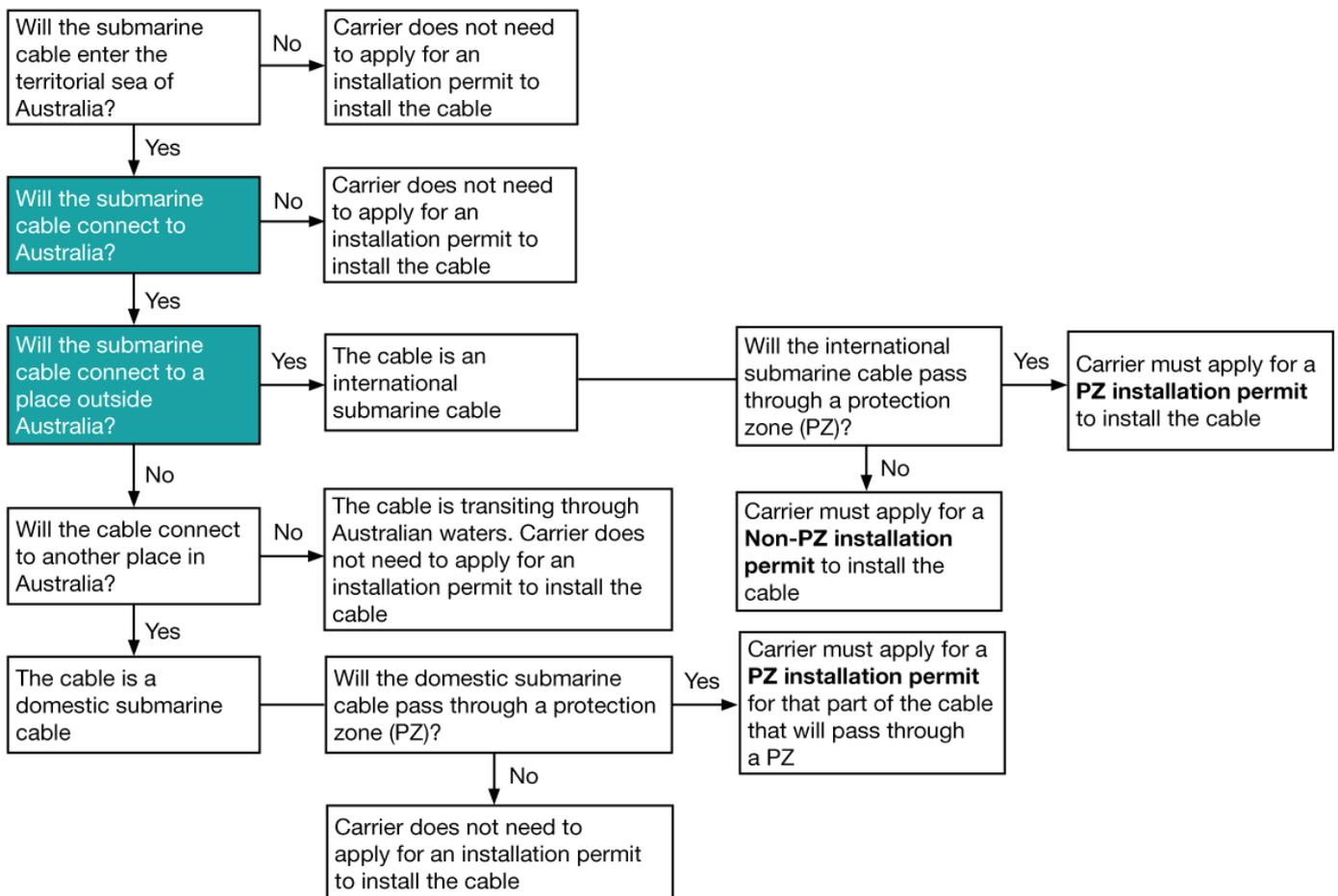
A non-protection zone installation permit authorises the installation of one or more international submarine cables in Australian waters that are not in a protection zone and that are not coastal waters of a state or the Northern Territory.

Carriers may require separate regulatory approvals for installations in the coastal waters of a state or the Northern Territory.

International submarine cables that are not to be installed in a protection zone require a non-protection zone installation permit.

Figure 1 outlines whether a carrier needs a permit to install a submarine cable in Australian waters and, if so, what type of permit is required.

Figure 1: Flowchart to determine whether a permit is required



What does it cost to apply for a permit?

An application for a permit must be accompanied by payment of the appropriate charge per cable and the consultancy deposit (if applicable).

The [Telecommunications \(Charges\) Determination 2022](#) sets the fees associated with a permit application. [Find out more](#) about the application charges.

Before lodging an application, please email subcablesenquiries@acma.gov.au to request an invoice for payment of the applicable charge.

Once an invoice has been issued, payment can be made by BPAY, EFT direct deposit to the ACMA, or credit card online via the ACMA website.

Consultancy deposit to accompany non-protection zone installation permit applications

The consultancy deposit is for the cost of external consultancy services associated with non-protection zone installation permit applications. The deposit should be paid with the application charge prior to lodging a permit application. We will use the consultancy deposit if a situation arises where we consider independent expert advice is needed.

For example, a consultant may provide technical information about the likely operation of a proposed cable if there are concerns relating to the impact of the proposed installation on the environment.

Any unspent portion of the deposit is refundable to the applicant. A further charge may be levied on the applicant if the actual costs of an external consultant exceed the deposit.

Applying for a permit

Carrier representatives are advised to contact the ACMA to discuss a new cable proposal early in the planning phase of the project. This will enable our staff to provide guidance about the permit process and whether the proposed cable route conflicts with routes already permitted.

Only a licensed telecommunications carrier may apply for a permit to install a submarine cable. An application must be in writing and in the form approved by the ACMA. The application form for a submarine cable installation permit is available on the [ACMA website](#).

Processing permit applications

Timeframes for processing an application

After considering an application from a carrier, the ACMA may grant or refuse to grant the installation permit.

We are required to take all reasonable steps to ensure a decision is made on a permit application within the following timeframes:

- **Protection zone installation permit:** 25 business days after the day the application for the permit was received. We may extend this period up to, but not exceeding, 35 business days.
- **Non-protection zone installation permit:** 60 business days after the day the application for the permit was received. We may extend this period up to, but not exceeding, 90 business days.

Requests for additional information

After receiving an application for a permit to install a submarine cable, we will either:

- proceed to consideration of the application
- request additional information from the applicant.

To assist in consideration of an application for a permit, we may seek clarification or additional information from the applicant about their application. We will give applicants a reasonable period in which to provide the requested information.

If we have requested additional information (under Schedule 3A to the Act), the application will not be considered further until the requested information has been received.

Notification of change of circumstances

If an application has been made and the applicant becomes aware of a change of circumstances relating to the information provided, the applicant must advise us of the change as soon as practicable.

We will decide whether the change should be treated as material and will notify the applicant accordingly.

If we decide that the change **should be** considered a material change, the decision-making timeframe for the ACMA is extended:

- for protection zone installation permit applications, by **25 business days**, or at the ACMA's discretion, a longer period of up to **35 business days** by written notice
- for non-protection zone installation permit applications, by **60 business days**, or at the ACMA's discretion, a longer period of up to **90 business days** by written notice.

If the change is not treated as material, the application assessment period will be extended by 5 days.

Treatment of information

Applicants should clearly indicate specific material contained in the application that is commercial-in-confidence. However, any information provided to the ACMA may be released under the [Freedom of Information Act 1982](#) (unless an exemption applies) or shared with various other government agencies and certain other parties under Part 7A of the [Australian Communications and Media Authority Act 2005](#).

We may also be required to release information for other reasons including for the purpose of parliamentary processes, or where otherwise required by law (for example under a court subpoena). While we will seek to consult an applicant about the potential release or disclosure of their information, we cannot guarantee that this information will not be released through these or other means.

Consultation on permit applications

The ACMA consults the Secretary of the Attorney-General's Department and the Home Affairs Secretary on permit applications.

To meet this statutory responsibility, a copy of the application will be forwarded to each secretary within 2 business days after the day on which the ACMA receives the application.

Each of the above-mentioned secretaries can advise us that there is no objection to the application, make a submission to the ACMA on the application, or extend the consultation period by giving notice to the ACMA.

The Home Affairs Minister may also direct the ACMA not to grant a permit if the Minister, after consulting the Prime Minister and the Minister responsible for administering the Act, considers that the granting of the permit would be prejudicial to security. The ACMA must comply with a direction of this kind.

We may also consult any other persons we consider relevant in deciding whether to issue a permit. In assessing an application, we will rely on information submitted by the applicant, but may seek other inputs (for example, from other government departments or agencies) if considered necessary. The persons the ACMA considers relevant to a decision to issue a permit will depend on the circumstances of the application, including the location of the proposed cable. Generally, we will consult with:

- the Department of Climate Change, Energy, the Environment and Water
- the Department of Defence
- state/territory government bodies such as ports and environment authorities.

Decision to grant or refuse a permit

Matters to be considered by the ACMA in making a decision about a permit application

Schedule 3A to the Act requires the ACMA to consider the following when deciding whether to grant a protection zone installation permit:

- if the Secretary of the Attorney-General's Department or the Home Affairs Secretary makes a submission about the application – that submission
- any other matter that the ACMA considers relevant.

For non-protection zone installation permits, the ACMA must also have regard to:

- the objective of facilitating the supply of efficient, modern and cost-effective carriage services
- if the Secretary of the Attorney-General's Department or the Home Affairs Secretary makes a submission about the application – that submission
- any relevant technical and economic aspects of the installation
- whether the installation involves co-location of proposed cable(s) with other cable(s)
- any other matter that we consider relevant.

Review rights

An application may be made to the ACMA for reconsideration of a decision to refuse to grant a permit. Applications may also be made to the Administrative Appeals Tribunal to review any decisions affirmed or varied after internal reconsideration by the ACMA.

Offences and related penalties

Installing an international submarine cable without a permit, or a domestic cable in a protection zone without a permit, are offences under the Act. These offences are punishable by a penalty of 200 penalty units.

We may direct a carrier to remove an international or domestic submarine cable if it has installed a submarine cable, or caused the submarine cable to be installed, in a protection zone or in Australian waters without a permit. A penalty of 200 penalty units may apply if a carrier does not comply with such a direction.

It is also an offence to breach a condition of a permit, which is punishable by a penalty of 100 penalty units.

Preparing an application for a permit

This section provides general guidance about the information requested by the ACMA for an application for a permit. Applicants are encouraged to provide any additional information considered relevant to the assessment of an application.

Part A: type of permit

Indicate the type of permit required. Use the information on pages 2 and 3 for guidance.

Part B: applicant details

Under the Act, only a carrier may apply to the ACMA for a permit.

For information about the carrier licensing regime please contact the ACMA on:

- Tel: 1300 850 115
- Email: carriers@acma.gov.au.

Part C: proposed installation information

This section of the application form requires applicants to provide information (including maps where appropriate) about the proposed installation of one or more submarine cables.

Item 1: The proposed route(s) in Australian waters of the submarine cable(s) specified in the application

Applicants should provide information specifying:

- the geographic coordinates and geodetic datum for the proposed installation
- geospatial data for the proposed route (file formats compatible with Google Earth or ArcGIS preferred)
- the geographic location of the beach manhole and cable landing station
- details of any branching cables or units
- whether there are any points along the proposed cable route at which permission to deviate from the route position list is expected to be required (and if so, what is the expected range of deviation from the route position list). Factors that may result in cable installation that deviates from the route position list include the splicing of cables.

Applicants should submit an A3 or A4 size copy of a desktop or hydrographic survey of the proposed submarine cable route to illustrate the exact location of the proposed cable installation.

Item 2: Details about the ownership and control of the submarine cable(s) specified in the application

This information is required to provide the ACMA with accurate information about any persons that may own or control a proposed submarine cable. The information is relevant to the consultation process between the ACMA, the Attorney-General's Department and the Department of Home Affairs.

For the purposes of this item, 'control' includes control as a result of, or by means of, trusts, agreements, arrangements, understandings and practices:

- whether or not having legal or equitable force

- whether or not based on legal or equitable rights
- whether or not capable of being exercised indirectly through one or more interposed companies, partnerships or trusts.

Item 3: The anticipated start and finish dates for installation of the submarine cable

Applicants should indicate (as accurately as possible) the proposed installation dates of the submarine cable. Information should include a brief explanation of the anticipated:

- commencement date of the proposed installation
- duration of the actual installation process
- operational date for the submarine cable(s).

Item 4: Relevant technical and economic aspects of the installation

Applicants should provide information on technical aspects of the proposed installation including:

- the capacity of the proposed submarine cable
- design aspects relating to cable protection (including, for example, burial, armouring and strategic route planning)
- any additional measures designed to minimise future damage to the cable
- whether the installation will comply with Recommendations made by the International Cable Protection Committee¹ (ICPC) which are intended to aid submarine cable owners and other seabed users in promoting reliability and safety in the submarine cable environment
- cable or pipeline crossing arrangements.

Applicants should also provide information on economic aspects of the proposed installation including:

- the party or parties responsible for the installation of the proposed cable
- the party or parties responsible for the maintenance and repair of the proposed installation; and
- expected economic benefits to Australia because of the proposed installation.

Item 5: How the proposed installation facilitates the supply of efficient, modern and cost-effective carriage services to the public

Applicants should provide information about how the proposed installation will facilitate the supply of efficient, modern and cost effective carriage services to the public. This may include details of:

- the proposed market(s) to be serviced by the relevant submarine cable network
- how the installation will advance the delivery of reliable services to Australian end-users (or, a company or other entity)
- how the installation will facilitate competition in the supply of carriage services to the public in Australia.

¹ The ICPC's primary goal is to promote the safeguarding of international submarine cables against man-made and natural hazards. More information is at www.iscpc.org.

Item 6: Status of regulatory approvals from other Commonwealth bodies that are required to install the cable

Applicants should briefly outline:

- the Commonwealth approvals that are applicable to the proposed installation
- the Commonwealth departments or bodies the applicant has consulted about the approvals or permits required
- the status of any permits or approvals required
- whether any restrictions or conditions on the proposed installation have been placed on the applicant by a Commonwealth department or body.

The installation of a submarine cable outside a protection zone does not exempt a carrier from state and Northern Territory laws. Within coastal waters outside a protection zone, carriers are required to comply with state and Northern Territory laws applicable to the installation of submarine cables. The nature of the legislative requirements may vary between the states and the Northern Territory, and applicants may wish to seek independent legal advice about their obligations.

Item 7: Proposed co-location of the submarine cable or cables with one or more other submarine cables.

Applicants should provide information about the proximity of the proposed installation to other existing submarine cable(s) and what steps have been taken to appropriately manage any risks of the installation to the operation, maintenance or repair of the other submarine cable(s).

Relevant details may include how the installation will adhere to applicable ICPC guidelines and whether crossing agreements have been reached with the carrier(s) responsible for the other submarine cable(s).

Item 8: Any other matters relevant to the ACMA's consideration of the application

Applicants may provide any other information that may be relevant to the ACMA's consideration of a permit application. We recommend contacting us ahead of submitting an installation permit application to discuss what additional information may be relevant in the circumstances. Correspondence should be directed by email to subcablesenquiries@acma.gov.au.

Part D: conditions applicable to the installation of submarine cables

The form requires applicants to acknowledge that they have read and understood the conditions applicable to the installation of submarine cables.

A protection zone installation permit is subject to the conditions set out in clause 58A of Schedule 3A to the Act. A non-protection zone installation permit is subject to the conditions set out in clause 73A of Schedule 3A. Breaching permit conditions may result in suspension or cancellation of a permit. It is also an offence for a person to breach a condition of a permit

Part 3, Division 4 of Schedule 3A to the Act imposes further general conditions on the installation of a submarine cable by or on behalf of a carrier. These include conditions that the applicant:

- does as little damage as possible
- ensures all reasonable steps are taken to act in accordance with good engineering practice, to protect the safety of persons and property, and to protect the environment

- complies with industry standards and international agreements.

The conditions specified in Schedule 3A to the Act apply to the installation of a submarine cable in a protection zone and in Australian waters (other than coastal waters of a state or the Northern Territory). Installation of a submarine cable in coastal waters (outside protection zones) is subject to the jurisdiction of relevant state and/or Northern Territory planning authorities. Applicants may wish to seek legal advice concerning their obligations in coastal waters.

Applicants should also note that:

- the installation of telecommunications facilities on land may be subject to the requirements detailed in Schedule 3 to the Act
- we may require, as a general condition on permits, that applicants confirm the date and method of installation (once occurred) to ensure that any conditions on the permit as granted by us are met.

We may also grant a permit subject to additional specified conditions that relate to security or the installation of the cable. We may vary a condition on a permit by giving written notice of the variation to the permit holder.

Part E: applicant declaration

Applicants must confirm that the information contained in the application form is true and correct, and sign accordingly. Penalties apply for making false and misleading statements in connection with an application for a permit.

Permit duration and extensions

Duration of a permit

A permit will remain in force for 18 months from the day the permit is granted, unless it is surrendered, cancelled or suspended under the Act.

Before a permit expires, a carrier may seek to extend the duration of the permit for a further 180 days. To extend a permit, a carrier must apply to the ACMA before the permit expires and provide reasons for seeking the extension in writing. An application to extend a permit **after** the permit has expired will not be accepted.

There is no statutory limit to the number of extensions that may be granted.

A fee applies for each request for an extension. The [Telecommunications \(Charges\) Determination 2022](#) sets the fees associated with a permit extension request. [Find out more](#) about the fees.

Information required by the ACMA to extend a permit

All requests to extend a permit must be accompanied by a statement setting out the reasons for the request. These reasons may include information about delays in obtaining overseas approvals, permits or licences, delays because of survey work, manufacturing, or cable laying problems, or other technical or commercial impediments (as applicable).

To support a request for a permit extension, an applicant should provide an outline of their submarine cable project plan and scheduled dates for key milestones including (as relevant):

- completion of marine route survey
- granting of application for landing station and associated permits
- contract-in-force for cable and component supply
- commencement of cable manufacture and assembly
- installation of cable landing facilities
- commencement of cable laying
- proposed ready-for-service date
- any other key milestones.

The request should be sent to the ACMA by emailing subcablesenquiries@acma.gov.au. We may contact the applicant to clarify the information provided.

ACMA decision-making

The ACMA will assess the information provided by the applicant to determine whether there is sufficient evidence to justify the reasons for requesting a permit extension.

Where an application is made for a second or subsequent permit extension, we will consider the reasons provided, as well as the applicant's progress against previously provided key milestones (as set out in their submarine cable project plan). We may also consider the impact of any extension on other cable proponents.

We will notify the applicant of our decision regarding the permit extension. If the application is refused, we will give the holder of the permit written notice and the reason for the decision.

Suspension or cancellation of a permit

We may suspend or cancel a permit by giving written notice to the holder of the permit.

Process for suspension or cancellation

We may suspend or cancel a permit in certain circumstances, including if we are satisfied that the holder of the permit has breached a permit condition. Carriers should refer to clause 62 (protection zone installation permit) or 77 (non-protection zone installation permit) of Schedule 3A of the Act for the circumstances in which we may suspend or cancel a permit.

The ACMA will give the holder of the permit written notice of its intention to suspend or cancel a permit at least 30 days before it does so. The grounds on which the suspension or cancellation is based will be provided in the notice.

We will give the permit holder the opportunity to submit to us any matters for consideration and will consider matters submitted and any remedial action taken before deciding whether to cancel or suspend.

Review rights

If, following our consultation with the permit holder, we decide to suspend or cancel a permit, an application may be made to us for reconsideration of that decision. Applications may also be made to the Administrative Appeals Tribunal to review any decisions affirmed or varied after internal reconsideration by the ACMA.

Checklist for permit applications

Before submitting an application for a submarine cable installation permit to us, please check that you have:

- Contacted the ACMA to confirm the type of permit required for your proposed submarine cable(s).
- Used the ACMA-approved application form.
- Contacted the ACMA to arrange for a tax invoice to be issued for the application fee and consultancy deposit (if applicable).
- Made the correct payment to the ACMA.
- Completed the application form and included all required and any additional relevant information.
- Attached geospatial data for the proposed installation (file formats compatible with Google Earth or ArcGIS preferred).

More information

For further information about permits for the installation of submarine cables in Australian waters, contact us. Correspondence should be addressed to:

The Manager
Infrastructure and Equipment Safeguards Section
The Australian Communications and Media Authority
PO Box 13112 Law Courts
Melbourne VIC 8010

T: 1300 850 115

E: subcablesenquiries@acma.gov.au.