



**Australian  
Communications  
and Media Authority**

# **Expiring spectrum licences**

## Application guidelines

MAY 2026

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# Important information

This guide is intended to help holders of spectrum licences due to expire between June 2028 and October 2032 apply to the ACMA for renewal of those licences. The guide covers expiring spectrum licences (ESLs) in the 700 MHz, 850 MHz, 1800 MHz, 2 GHz, 2.3 GHz, 2.5 GHz, 2.5 GHz mid-band gap and 3.4 GHz frequency bands.

The content in this guide reflects the current policies of the ACMA. These policies may change, or we may depart from these policies in particular cases. Nothing in this guide should be taken to bind the ACMA to any particular course of action in relation to the consideration of a renewal application.

This guide may be updated to reflect substantive changes to the process.

We may also separately publish additional information and guidance relevant to applications in particular bands where necessary, including draft template licences for that band, prior to the commencement of the relevant application period.

Stakeholders will be notified when we make modifications to this process and publish additional guidance material.

Questions about this guide or making an application for renewal may be sent to [ESL@acma.gov.au](mailto:ESL@acma.gov.au).

# Version history

Date	Comments
May 2026	Original guide.

# Background

Spectrum licences across multiple frequency bands are due to expire between June 2028 and October 2032. Under the process established by the *Radiocommunications Act 1992* (the Act), licensees may apply for the renewal of these licences, and in response, the ACMA must consider whether to renew the relevant licences.

Table 1 identifies the relevant licensees, use-cases and dates for each frequency band covered by ESLs.

**Table 1: Frequency bands subject to process**

Band	Licensees	Use-case/s	First day an application can be made	Licence expiry
<a href="#">850 MHz original band</a>	TPG, Telstra	Wireless broadband (WBB)	18 June 2026	17 June 2028
<a href="#">850 MHz downshift licences</a>	Optus	WBB	18 June 2026	17 June 2028
<a href="#">1800 MHz</a>	TPG, Telstra, Optus  Rail operators (in WA, SA, Qld, Vic, NSW)	WBB and rail communications	18 June 2026	17 June 2028
<a href="#">2.5 GHz</a>	Telstra, Optus	WBB	1 October 2027	30 September 2029
<a href="#">2.5 GHz mid-band gap</a>	ABC, Channel 7, Nine Network, Network 10	Television outside broadcasting	1 October 2027	30 September 2029
<a href="#">700 MHz</a>	TPG, Telstra, Optus	WBB	1 January 2028	31 December 2029
<a href="#">2.3 GHz</a>	NBN, Telstra, Optus	WBB	25 July 2028	24 July 2030
<a href="#">3.4 GHz</a>	NBN, Telstra, Optus, TPG	WBB	14 December 2028	13 December 2030
<a href="#">2 GHz</a>	TPG, Telstra, Optus	WBB	12 October 2030	11 October 2032

# Our approach to ESL decision-making

## Preferred views and ESL policy and decision-making framework

All applications for renewal will be considered in the context of our [ESL policy and decision-making framework](#). We developed this framework through our 4-stage process. An overview of the process is available from our [website](#).

Our preferred views set out this framework. They identify the uses and options for each ESL frequency band that are likely to promote the long-term public interest. They also set out our preferred views on duration and the inclusion of renewal statements for renewed licences. Preferred views are the result of our staged, consultative approach to considering the arrangements likely to promote the long-term public interest.

Development of preferred views has been guided by a public interest framework and 5 public interest criteria. This framework reflects the object of the Act and incorporates relevant Commonwealth communications policy objectives and priorities.<sup>1</sup> Relevant policy objectives and priorities include objectives specified in the Radiocommunications (Ministerial Policy Statement – Expiring Spectrum Licences) Instrument 2024 ([ESL MPS](#)), and policy priorities identified by the minister as relevant in the 2024 Statement of Expectations (SoE) given to the ACMA.<sup>2</sup>

We provided stakeholders information on how we may consider each of the public interest criteria as part of [our finalised framework and response to submissions](#) in stage 1. This was reproduced and updated in [stage 3](#) to reflect changes in policy priorities and objectives.

## Legislative framework applicable to ESL decision-making

Our approach to deciding whether ESLs should be renewed is guided by the object of the Act to promote the long-term public interest derived from the use of the spectrum. It is also guided by the broader legislative framework applicable to ESL decision-making, namely the matters that the Act specifies we *must* or *may* have regard to when considering whether to renew a spectrum licence.

When deciding whether to renew a spectrum licence, we must also decide the duration and contents of any renewed licence, including renewal statements, and may impose a spectrum access charge for the issue of a new licence.

### Matters we must have regard to when deciding whether to renew a licence

The Act requires that we must have regard to all matters that we consider relevant to the decision whether to renew a licence and the effect on radiocommunications that the proposed operation of any devices that would be authorised under the new licence.<sup>3</sup> In

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<sup>1</sup> The 5 public interest criteria included: 1) facilitates efficiency; 2) promotes investment and innovation; 3) enhances competition; 4) balances public benefits and impacts; and 5) supports relevant policy objectives.

<sup>2</sup> In December 2023, the minister wrote to the Chair of the ACMA and identified several policy priorities contained within the 2022 SoE as being relevant to the ESL process. These priorities were retained with slight changes in the 2024 SoE. These changes were incorporated into our updated guidance on the public interest criteria published as part of stage 3. If Radiocommunications (Ministerial Policy Statement – 3.4–4.0 GHz) Instrument 2022 (3.4 GHz MPS) is still in effect at the time at which decisions on 3.4 GHz licences are made, we will also have regard to the objectives of that MPS.

<sup>3</sup> Subsection 77C(7) of the Act.

practice, relevant matters will generally include whether renewal of a licence is likely to promote the long-term public interest with reference to our ESL policy.

Relevant matters may also include other matters or issues relating to the long-term public interest, reflecting the evolving dynamics affecting the spectrum, use-cases and users. For example, our ESL policy may be that renewal of licences used for a particular service in a frequency band is likely to promote the long-term public interest, but changing competition dynamics within the market may also be a relevant consideration for our decision-making.

The Act requires that we must be satisfied that it is in the public interest to renew a licence for 10 years or longer before doing so. We have considered the public interest in relation to licence duration and set out our reasoning as part of our preferred views.

The Act also requires that we must consider any relevant ministerial policy statements when performing our spectrum management functions or exercising our spectrum management powers under the Act.<sup>4</sup> The former minister issued the ESL MPS, which sets out Commonwealth policy objectives specified as relevant to the consideration of licences used for WBB. We have considered these objectives throughout the ESL process by incorporating them into our public interest framework that guided our development of preferred views.<sup>5</sup>

We will continue to consider the long-term public interest, the ESL MPS, and other relevant Commonwealth communications policy objectives, when we assess renewal applications in the context of our preferred views.

### **Matters we may have regard to when deciding whether to renew a spectrum licence**

The Act provides that we may consider several matters when deciding whether to renew a spectrum licence:

- Whether the licensee has any outstanding liabilities for spectrum or apparatus licence taxes or charges.
- Whether the licensee has contravened any conditions of the licence.
- Whether the licensee was aware or ought to have been aware that an authorised person contravened a condition of the licence and failed to take reasonable steps to prevent that contravention.
- Whether the licensee held a licence that was cancelled in the previous 2 years for reasons other than those specified in sections 87 (licence variation), 128B (cancellation of international broadcasting licences), 153H (re-allocation) or 307 (licence surrender).

### **Considering an application for renewal**

Decisions on whether to renew a licence will be made on a licence-by-licence basis, with each application considered on its own merits. Information provided by the licensee as part of an application will be used to identify the current and planned use-cases for the licence relevant to the application, enabling consideration of the application in the context of our ESL policy.

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<sup>4</sup> Section 28C of the Act.

<sup>5</sup> The ACMA would also consider policy objectives specified in the 3.4 GHz MPS if it is still in effect when we consider applications for renewal of licences in that band.

Our ESL policy will inform evaluation of each application and consideration of whether renewal of the relevant licence is likely to promote the long-term public interest and support Commonwealth communications policy objectives. Our ESL policy will also help inform the duration and contents of any licence that may be renewed, as well as the spectrum access charge imposed upon the issue of a new licence.

### **Decisions to renew a licence**

We may decide to renew a licence where we think renewal will likely promote the long-term public interest and relevant Commonwealth communications policy objectives. This could include the full renewal of a licence, or what we have described as ‘partial renewal’.

Before renewing a licence, we will also need to be confident that the spectrum will continue to be used in a manner that promotes the long-term public interest, and that spectrum licensing arrangements will remain appropriate throughout the duration of the renewed licence.

For example, we may renew a licence where there is evidence that a licence is being used, and will probably continue to be used, to provide services we have identified in our preferred views as likely to promote the long-term public interest from the use of the relevant spectrum band.

### **Decisions to refuse to renew a licence**

We may decide to refuse to renew a licence where we think that renewal will not promote the long-term public interest and relevant Commonwealth communications policy objectives.

For example, this could include where there is no, or limited, evidence that the licence is being used to provide a service. Refusal could also occur where refusal is necessary to support a change in arrangements that may better support the long-term public interest, such as a change in licence type or to facilitate re-allocation.

We may also refuse to renew a licence for other reasons, such as where there is evidence that the licensee has breached the conditions of the licence, or where the applicant does not pay the spectrum access charge.

# Overview of application and decision-making process

Tables 2, 3 and 4 describe the multi-step process and timeframes that we will use to consider whether to renew a licence in response to an application. This includes the steps where actions by the applicant will be required (in light blue). Figures 1 and 2 illustrate how the process will work in practice and against relevant timeframes.

Modifications to the steps described below may be needed in particular cases (for example, where we have consulted with the applicant about refusal and now intend to renew the licence).

## Process steps for considering a renewal application

Table 2 sets out the initial steps by which we will consider all applications for renewal and engage with the applicant about our draft decision either to renew or refuse to renew the licence.

**Table 2: Process steps (all applications)**

Steps	Activity
1	Licensee makes an application to the ACMA for renewal of their licence(s).
2	We consider each application and whether to renew the licence.  Requests for further information, if made, would likely be made during this step.
3	We write to the applicant and directly consult on our draft decision on whether to renew the licence.  Where our draft decision is to renew a licence, we will also directly consult on the draft spectrum licence and spectrum access charge determination.
4	We consider the applicant's views and whether to change our draft decision.

## Process steps for refusing to renew a licence

Table 3 describes the steps by which, following the steps described in Table 2, we would refuse to renew a licence.

**Table 3: Process steps on refusal to renew**

Steps	Activity
5	We write to the applicant informing them of our decision to refuse to renew the licence.
8	The ESL expires.

## Process steps for renewing a licence

Tables 4 and 5 describe the steps by which, following the steps described in Table 2, we would renew a spectrum licence.

The 2 tables reflect the 2 scenarios we have contemplated for a licensee to pay for any renewed licences. More detail about these payment timing scenarios and when they are available is provided in section 4.1 of this guide.

### Scenario 1: Payment after licence issue and prior to commencement of the new licence

Under this scenario, the licensee applies for renewal within 9 months of the renewal window opening. If the licence is renewed, the licensee will need to **pay the spectrum access charge 2 months prior to the commencement of the new licence**. This is set out in Table 4.

For example, for the 850 MHz and 1800 MHz band processes, if the licensee applies for renewal between 18 June 2026 and 17 March 2027, and we decide to renew the licence by issuing a new licence, payment of the spectrum access charge will be required by 19 April 2028.

**Table 4: Process steps: renewal and payment after licence issue and prior to commencement (scenario 1)**

Steps	Activity
5	We renew the licence, make the spectrum access charge determination and write to the applicant informing them of our decision to renew.
6–7	The applicant pays the spectrum access charge by the date specified in the spectrum access charge determination. This date will be 2 months prior to licence commencement.  Failure to pay may result in debt recovery action for amounts owed, and suspension or cancellation the licence.
8	The ESL expires and the new licence commences.

### Scenario 2: Payment prior to licence issue

Under this scenario, the licensee applies for renewal later than 9 months into the renewal window opening. If the licence is to be renewed, the licensee will generally need to **pay the spectrum access charge prior to licence issue**. This is set out in Table 5.

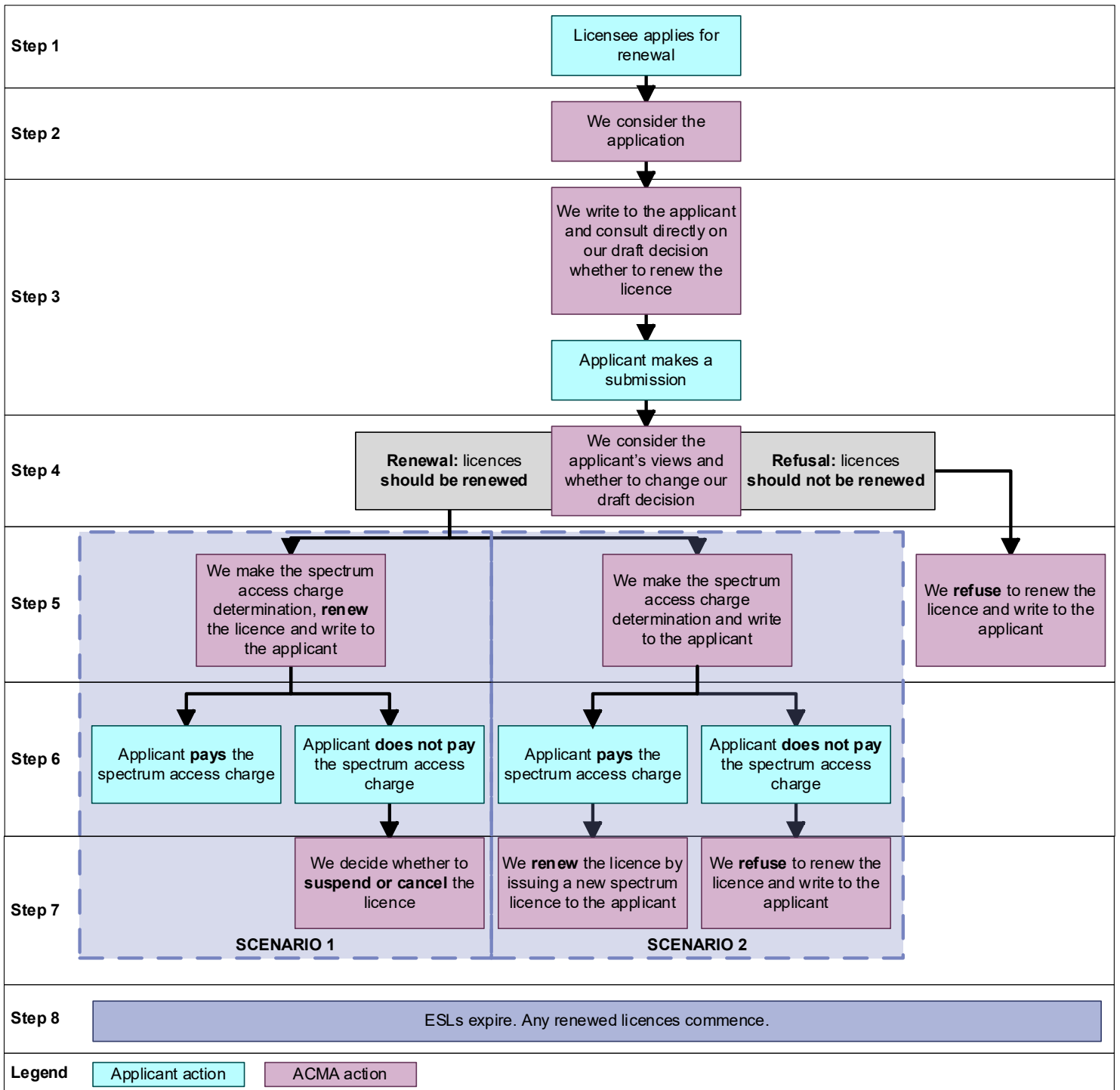
For example, for the 850 MHz and 1800 MHz band processes, if the licensee applies for renewal after 17 March 2027, and we plan on renewing the licence subject to payment of the spectrum access charge, then we expect that payment will generally be required 5 months after the application is made.

That is, for an application made on 1 April 2027, the spectrum access charge would be made on 31 July 2027, requiring payment by 30 August 2027. The licence would then be issued after payment is received.

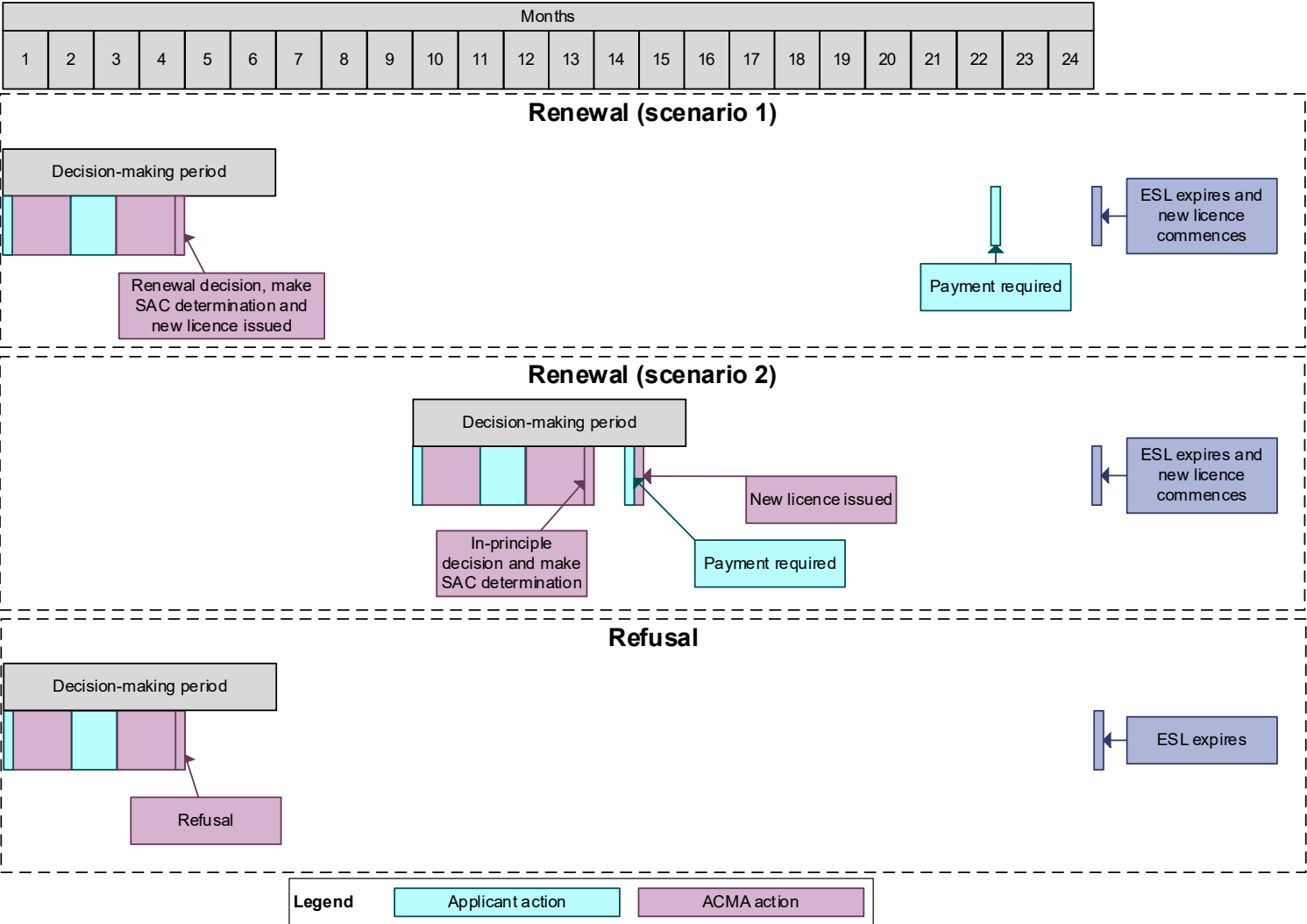
**Table 5: Process steps: renewal and payment prior to licence issue (scenario 2)**

Steps	Activity
<b>5</b>	<p>We make the spectrum access charge determination and write to the applicant informing them of our in-principle decision to renew, subject to payment of the spectrum access charge.</p> <p>Payment of the spectrum access charge will be due 30 after the determination is made.</p>
<b>6–7</b>	<p>The applicant pays the spectrum access charge by the date specified in the spectrum access charge determination.</p> <p>Where the applicants pay the amount by the specified date, we will renew the licence.</p> <p>Failure to pay the spectrum access charge by the due date may result in a decision to refuse to renew the licence.</p>
<b>8</b>	<p>The ESL expires and the new licence (if any) commences.</p>

Figure 1: Flowchart illustrating the application and decision-making process



**Figure 2: Estimated process timing (assumes application at earliest possible date)**



*Note: The specific timing of events illustrated in Figure 2 will vary depending on when a renewal application is made. Time taken to complete each step are estimates only. Processes outlined assume no requests for further information are made.*

# 1. Preparing and making an application

To apply for renewal of a licence, licensees must complete an application form, identifying the relevant licences sought to be renewed, and submit it by email to [ESL@acma.gov.au](mailto:ESL@acma.gov.au).<sup>6</sup>

Applications must be accompanied by all relevant documents and information specified in the Radiocommunications (Spectrum Licence Renewal – Information and Documents) Instrument 2026 (Required Information Instrument). Guidance about how to provide this information to the ACMA will be provided directly to existing licensees.

We will only consider complete applications. An application is not complete until both an application form and all required information and documents have been submitted to the ACMA. The 6-month decision-making period does not commence until a completed application is made.

## 1.1 When to apply for renewal

We strongly recommend that licensees apply as soon as possible after the application period commences (that is, 2 years prior to licence expiry) so that we can provide early certainty about renewal outcomes. This will also enable us to work with licensees to ensure arrangements, such as site registrations, are in place in advance of the commencement of any new licences.

We also strongly recommend that licensees apply for renewal of all licences they wish to have renewed in a particular frequency band at the same time.

Application dates for licences that do not include renewal application period statements in the licence are identified in Table 1 above. Application dates for licences that include renewal application period statements are specified in the licence.<sup>7</sup>

### 1.1.1 Applications made later in the application period and operating unlicensed

Where decision-making extends beyond the expiry of a licence (for example, where an applicant has made an application late in the application period) the applicant may need to cease operating services or risk operating services unlicensed where we ultimately do not renew a licence.

### 1.1.2 Applications made outside the application period

We cannot renew a licence in relation to an application if made before or after the application period. We cannot extend or change the application period set in the Act.

## 1.2 Application forms

Application forms are available from our website and must be completed and submitted to the ACMA by email to apply for renewal.

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<sup>6</sup> The Radiocommunications (Approval of Manner of Applications – Spectrum Licence Renewal) Instrument 2026 approves email as a manner of making a renewal application for the purposes of subsection 77A(4)(a) of the Act.

<sup>7</sup> The 850 MHz downshift licences and 3.4 GHz licences that were allocated in 2023 include renewal application period statements.

Licensees may apply for renewal of multiple licences across a single band using a single application form where the licensee on the expiring licence is the same across all relevant licences.

Where the licensee is a different, but related, entity, different application forms must be submitted as licences may only be renewed to the existing licensee.

While a form allows for a licensee to apply for the renewal of multiple licences, these are taken to be separate applications and are each subject to distinct consideration and decision-making. That is, a decision to renew one licence does not bind the ACMA to renew a different licence included in the same form.

### **1.2.1 Requesting partial renewal**

Application forms provide that applicants may request a change to the spectrum access core conditions (that is, the frequency and geographic areas where operation of a device is authorised). This is described as a request for ‘partial renewal’ of a licence.

For example, the expiring licence may cover all of Australia and an applicant may wish to seek renewal of the licence with conditions changed so that the new licence applies only to certain areas or frequencies.

Where a licensee is contemplating seeking partial renewal, we strongly encourage them to make this intention known to us early and make an application as soon as possible. We expect consideration of a request for partial renewal will likely involve further consultation with applicants, and it is likely that further requests for information may be required, with the overall process taking longer than 6 months.

The preferred views contained in our ESL policy relate to renewal of licences in full. Any request for partial renewal will be considered on a case-by-case basis, including the impact of partially renewing a licence on the long-term public interest and the resulting unlicensed spectrum.<sup>8</sup>

As part of our preliminary views in stage 3 of the ESL process, we considered whether partial renewal would be likely to promote the long-term public interest. We broadly determined that partial renewal (in the case of sub-national licences) might not promote the long-term public interest.

An applicant may not apply for an expansion of an existing licence (in frequency bandwidth or geographic area), consolidation of existing licences, or for a licence to be issued to another entity. Licence consolidation or transfer of licences to another entity should be effected via existing variation and trading mechanisms, either before applying for renewal or after renewal, if any, has occurred.

## **1.3 Documents and information required to be provided with an application**

We have made the Required Information Instrument that requires that applicants must provide us information and signed documents about current and future use of the spectrum relevant to an application when applying for renewal.

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<sup>8</sup> This could include, for example, the extent to which the request would fragment the spectrum and whether the resulting unlicensed spectrum could likely be used by another user to provide a service without causing interference.

These requirements, in addition to the application form, set out the information and documents that must be provided as part of an application. It is open to applicants to provide additional information in support of their application.

All information provided with an application that is not otherwise publicly available will be treated on a commercial-in-confidence basis and personal information will be dealt with in compliance with our [privacy policy](#). We may be required or authorised by law to disclose information in particular circumstances, including under the *Freedom of Information Act 1982* and Part 7A of the *Australian Communications and Media Authority Act 2005*.

### **1.3.1 Information about current use**

All applicants must provide a list of all sites where spectrum relevant to the application have been deployed. Lists should be provided in an Excel supported format (for example, .csv or .xlsx) and include:

- identifiers for each site using either Register of Radiocommunications Licence site ID or, where possible, the RFNSA site ID
- coordinates for each site
- technology deployed at each site using each frequency band relevant to the application.

MNOs are additionally required to provide information about the geographic areas where the relevant spectrum is used to provide outdoor mobile coverage. NBN Co is similarly required to provide geographic information about where the relevant spectrum is used and planned to be used to provide fixed wireless services.

MNOs and NBN Co are also required to provide information about the areas in which they have authorised an unrelated entity to use spectrum relevant to the application, unless the devices used by the entity are not required to be registered on the Register of Radiocommunications Licences.

All geographic information relating to coverage and authorised areas should be provided in ESRI Shapefile format (.shp) or Keyhole Markup Language (.kml or .kmz) format.

This information may be provided once in connection with multiple applications across a single band. That is, if the applicant is applying for the renewal of multiple licences across a single band, applicants do not need to provide the information separately with each application and may provide information that relates to all licences relevant to each application across that band.

### **1.3.2 Information about planned future general use**

All applicants are required to provide information about how they plan to use the spectrum over the period beginning on the 31 January preceding the date the application was made and ending 3 years after the expiry of the current spectrum licence (the reference period). This period is, in practice, what would be the first 3 years of the renewed licence, should it be renewed.

The information that must be provided in connection with an application depends on whether the licensee plans to change its general use of the relevant spectrum over the reference period compared to the current use.

In requiring these signed documents, we acknowledge that that information about planned general use of the spectrum is made at a point in time based on the information available to

the applicant and that it is subject to change for a range of reasons. However, licensees must provide information that is accurate at the 31 January occurring before the time of application and note that it is an offence to provide false or misleading information to the Commonwealth.

#### **No planned change in general use – all applicants**

If the applicant does not plan to change the general use of the spectrum over the reference period, it must provide a signed document confirming that no change is planned and acknowledging that it is a serious offence to give false or misleading information.<sup>9</sup>

#### **Planned change in general use – all applicants**

If the applicant does plan to change the general use of the spectrum over the reference period, it must provide a signed document that includes description of:

- the technology type relevant to the use
- the nature of the proposed service (if any) to be provided
- the end-users (if any) of any proposed service.

#### ***Change in general use – spectrum licence used in mobile networks***

For spectrum licences used in mobile networks, an example of a change in general use would be a change from providing a public mobile telecommunications service to providing private networks.

For these licences, changes in technology type would not be an example of changes in general use. This is because operation of these networks is premised on refarming spectrum for new technologies (such as from LTE to 6G) and our preferred views specifically contemplate this occurring.

#### ***Change in general use – spectrum licences held by NBN Co***

For these licences, an example of a change in use would be providing any service other than fixed wireless broadband.

#### ***Change in general use – spectrum licences used in rail***

For these licences, an example of a change in general use would include providing any service other than rail safety and control communications, or a change in technology type, such as changing from the Global System for Mobile Communications – Railway (GSM-R) to the Future Rail Mobile Communication System (FRMCS).

Our preferred views take into account anticipated upgrades from GSM-R to FRMCS, and the implications these upgrades have for the long-term use of 1800 MHz ESLs and newly planned spectrum in 1900 MHz band.

Understanding timeframes and requirements around use of these bands is an important factor in assessing how use of the spectrum is likely to promote the long-term public interest.

#### ***Change in general use – spectrum licences used in outside broadcasting***

For these licences, an example of a change in general use would be providing any service other than outside broadcasting.

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<sup>9</sup> Documents must be signed by the chief executive officer or a director of the relevant licensee.

## 2. Consideration of an application

Once we receive an application, we will begin to consider whether to renew the relevant spectrum licence, including the duration, conditions and renewal statements to be included in any new licence.

Consideration of whether to renew a licence will be done on a licence-by-licence basis, with each application considered on its own merits. Information provided by licensees as part of an application will be used to identify the current and planned use-cases for the licence relevant to the application, enabling consideration of the application in the context of our ESL policy, consistent with [Our approach to ESL decision-making](#) above.

### 2.1 Requests for further information

There may be circumstances where we require additional information to assist us in making a decision.

In these circumstances, we may write to the applicant and make a request for further information under section 77B of the Act. A request will identify the further information requested and timeframes by which the information is requested.

We have, in most cases, a further 6 months from when the further information is received to make a decision on the relevant application.<sup>10</sup> While we may make multiple requests for further information, the total time for making a decision can only be extended up to a maximum of 12 months, plus the time taken for licensees to provide information to us (that is, the initial 6 month decision-making period, plus a further 6 months from when further information is received).<sup>11</sup>

Where an applicant does not provide this further information in response to a request, we may decide to refuse to renew the licence or decide to take no further action in relation to the application under subsection 77B(2) of the Act (which will mean the licence will not be renewed).

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<sup>10</sup> See subsection 286(6) of the Act.

<sup>11</sup> This assumes a request for further information is made on the last day of the initial 6-month decision-making period.

# 3. Advising applicant of initial consideration

Once we have considered an application, whether the relevant licence should be renewed and on what terms, we will engage directly with the applicant on our draft decision.

All applications will be considered in accordance with 'Our approach to ESL decision-making' described above.

Applicants will be given one month to make submissions in response to our views. Due to time constraints, we will generally be unable to provide an extension to this timeframe.

## 3.1 Where renewal is proposed

We may propose to renew a licence where we find that renewing the licence is likely to promote the long-term public interest.

Where we are proposing to renew a licence, including partially renewing a licence, we will provide the applicant and seek their views on:

- A draft copy of the proposed spectrum licence.
- A draft copy of the spectrum access charge determination.
- Key reasoning for why this outcome, including the terms and conditions of the renewed licence, has been proposed.

Draft spectrum access charge determinations provided to the applicant as part of this consultation will be based on our preferred views on \$/MHz/population prices we published in May 2026. While preferred views on pricing will give applicants clarity about the likely charge to be imposed, consultation on a draft determination will provide additional confidence about the total charge to be imposed, reflecting the bandwidth and geographic area proposed to be included in the renewed licence. Consultation will also provide the applicant clarity about when payment of the spectrum access charge will be due.

Consistent with our preferred views on pricing, we will update benchmarking data to ensure that prices continue to be informed by and are consistent with spectrum market valuations. We will publicly consult on any updates to our benchmarking sample and the resulting impacts on our preferred views on pricing for each band prior to the start of the relevant renewal application window.

## 3.2 Where refusal is proposed

We may propose to refuse to renew a licence where we find that renewal of the licence is unlikely to promote the long-term public interest.

Where we are proposing to refuse to renew a licence, we will provide the applicant the key reasoning for why refusal has been proposed, and in response, the applicant may provide additional information in support of their application.

## 4. Decisions on applications

After we have consulted with the applicant about our views, we will consider any views or information put to us before proceeding with making decisions to either renew or refuse to renew licences.<sup>12</sup>

Final decisions on whether to renew a licence will be made in a manner consistent with ‘Our approach to ESL decision-making’ described above.

### 4.1 Renewal

Where we plan to renew a licence, we will make a spectrum access charge determination under section 294 of the Act, imposing the spectrum access charge that must be paid for the issue of a new licence.

The spectrum access charge determination will require payment by a specified date based on when the initial renewal application is received, and subject to any views raised in consultation with the applicant. Depending on when payment is due, we will follow slightly different processes for renewing licences, which are outlined above in the [Overview of the application and decision-making process](#) and discussed in further detail below. In all cases, payment of the spectrum access charge in full is required (that is, our policy is not to provide payment by instalment as an option).

Where a new licence is issued with changed conditions compared to the expiring licence, the applicant will be provided a statement of reason for those changes.

#### 4.1.1 Applications made in first 9 months (scenario 1)

Where a licence is renewed in response to an application made within the first 9 months of the relevant application period, the applicant will be required to pay the spectrum access charge in full, no later than 2 months prior to when the new licence is due to commence. That is, 2 months prior to the expiry of the ESL the new licence replaces.

For these licences, renewal will occur prior to when payment is due. After considering any views raised in consultation with the applicant, renewed licences will be issued at the same time as making the spectrum access charge determination, with written notice provided to the applicant informing them of these outcomes. Invoices will be provided shortly before payment is due.

This payment timing has been provided in response to feedback from licensees that it is desirable to apply as soon as practical to provide certainty over any outcomes well in advance of expiry, while also paying the spectrum access charge close to the commencement of any renewed licences.

This payment timing can only be provided with confidence to applications received during the first 9 months of the relevant application period. This timing ensures that, even where a

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<sup>12</sup> Additional consultation may be required in some cases prior to the ACMA making a decision. For example, where we initially consulted with an applicant on a view to refuse to renew a licence and subsequently formed a view to renew the licence, as consultation on draft licences and spectrum access charge determinations may be required.

process takes up to 12 months, the spectrum access charge determination can be made and provide sufficient time for an applicant to pay the charge.<sup>13</sup>

#### **4.1.2 Applications made after initial 9-month period (scenario 2)**

For licences renewed in response to an application made after the initial 9-month period, applicants will generally be required to pay the spectrum access charge prior to licence issue. We expect that payment will be due approximately 5 months after an application is made in most cases, and subject to any requests for further information.

For these licences, renewal will occur after payment has been made. After considering any views raised in consultation with the applicant, we will make the spectrum access charge determination and provide written notice, including an invoice, to the applicant informing them of this outcome.

If the applicant pays the required amount by the date specified in the determination, we will issue a new licence. If the applicant fails to pay the required amount by the date specified in the determination, we may decide not to issue a new licence.

The ACMA may consider requiring payment 2 months prior to commencement, or an alternative payment timing, upon request, when we consult with the applicant about making the spectrum access charge determination.

However, these requests will be considered on a case-by-case basis and provision of an alternative payment timing is not guaranteed. We strongly encourage licensees to apply for renewal within the initial 9-month period if they seek the certainty of paying 2 months prior to commencement.

## **4.2 Refusal**

If we decide to refuse to renew a licence in response to an application, we will write to the applicant informing them of our decision and provide a statement of reasons for that decision.

## **4.3 Seeking internal reconsideration or merits review of decisions**

An affected person may apply to us for reconsideration of a decision where we have decided to renew a licence with changed conditions or refused to renew a licence.<sup>14</sup>

Applications for reconsideration must generally be made within 28 days of an applicant being informed of the decision, unless we extend that period.

We must reconsider our decision and decide whether to affirm, change or revoke it within 90 days of receiving an application for reconsideration. Applicants for reconsideration must be provided written notice of the outcome of this reconsideration.

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<sup>13</sup> Spectrum access charge determinations require licensees to pay the spectrum access charge at a specified time after the determination has been made. As the spectrum access charge imposed reflects the conditions and duration of the licence to be issued, the spectrum access charge determination will need to be made after we have first received and considered an application, forming a view on whether the licence should be renewed.

<sup>14</sup> Section 285 of the Act sets out the decisions for which internal reconsideration may be sought.

Where we affirm or vary a decision on reconsideration, applications may be made to the Administrative Review Tribunal for a review of the decision.<sup>15</sup>

The Act does not provide for an affected person to seek internal reconsideration, and ultimately merit review, of the making of a spectrum access charge determination.

It may also be open to affected persons to seek judicial review, such as under the *Administrative Decisions (Judicial Review) Act 1977*.

#### **4.4 Public communications of outcomes**

Outcomes relating to applications for renewed licences will be of interest to the market, the public and a wide range of stakeholders.

We will engage with licensees on publicly communicating the outcomes of licence applications, as appropriate.

Renewed spectrum licences will also appear on the Register of Radiocommunications Licences as soon as practical after they have been issued.

#### **4.5 Licence commencement**

New licences will commence, or be taken to commence, on the day after the licences they replace have expired.

Unless surrendered by the licensee, or cancelled in response to a breach of licence conditions, ESLs will continue on until the date they are due to expire, regardless of whether the licensee applies for renewal, or any renewal decisions we make.

##### **4.5.1 Site registrations**

Operation of radiocommunications devices will not be authorised under the new licences until they commence. We will work with licensees to transfer existing site registrations from ESLs to any new licences, in the lead up to the commencement of those new licences.

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<sup>15</sup> Section 292 of the Act.