

Form 7 – Eligibility nomination form

For the purposes of Part 4, Division 4, and sections 28 and 34 of the [Radiocommunications \(Spectrum Licence Allocation – 26 GHz Band\) Determination 2020](#) (allocation determination).

Introduction

This eligibility nomination form has been approved by the Australian Communications and Media Authority (ACMA) pursuant to paragraph 26(1)(l) and subsection 27(2) of the allocation determination.

Subsection 28(2) and subparagraph 34(6)(a)(i) of the allocation determination provide that an applicant is required to give the ACMA a completed eligibility nomination form, which:

- (a) specifies the number of lots of each product desired by the applicant as valid provisional start demands of the applicant before the pre-bidding phase of the primary stage, at the starting price for the lots of the product; and
- (b) specifies the maximum eligibility points of an applicant, based on the specified provisional start demands; and
- (c) in relation to each product, either does not select a provisional minimum spectrum requirement, or selects only one option as the provisional minimum spectrum requirement, for the lots of each product.

The amount required to secure the maximum eligibility points specified by the applicant in this form is calculated in accordance with subsection 36(2) of the allocation determination and Part 3 of this form.

This eligibility nomination form must be used by applicants for the purposes of specifying the provisional start demands, calculating maximum eligibility points and selecting/not selecting a provisional minimum spectrum requirement (MSR). This form provides guidance about how to:

- > nominate provisional start demands
- > select provisional MSR for products
- > calculate the maximum eligibility points
- > secure the maximum eligibility points by making an eligibility payment and/or providing a deed of financial security.

Before the auction commences, and subject to subsections 36(4) and (5) of the allocation determination, the auction manager will enter into the auction system the provisional start demands and provisional MSRs (if any) for the lots of each product for each bidder as recorded in the register of bidders, in accordance with paragraphs 3(1)(a) and 3(1)(b) of Schedule 1 to the allocation determination.

About start demands

Pursuant to subsection 28(2) of the allocation determination, applicants are required to nominate their provisional start demands in their eligibility nomination form. Applicants should note:

- > their provisional start demands may not:
 - > exceed the applicant's allocation limits for any product or any of the combined products
 - > exceed the supply of a product
- > the provisional start demands nominated by the applicant in this form may be changed or confirmed in the pre-bidding phase, but the resulting actual start demands may not:
 - > exceed the allocation limits for any product or any of the combined products
 - > exceed the supply of a product
 - > result in their initial eligibility points exceeding their maximum eligibility points calculated in accordance with this form
- > if a bidder chooses not to participate in the pre-bidding phase, their start demands and MSRs are taken to be their provisional start demands and provisional MSRs as recorded for the bidder in the register of bidders, in accordance with subclause 3(3) of Schedule 1 to the allocation determination. In that case, the provisional start demands may result in the **allocation of some or all of the nominated products at the starting price** (subject to, amongst other things, demand for the nominated spectrum, the auction process and the auction rules).

An overview of the auction rules, and an example of how they may work in practice, is provided in the *Auction guide*.

About eligibility points

The maximum eligibility points secured by an applicant, in accordance with section 36 of the allocation determination, determine an applicant's maximum eligibility (expressed in eligibility points) for the pre-bidding phase of the primary stage of the auction. An applicant's maximum eligibility points may be reduced in the circumstances set out in subsection 36(4).

In accordance with section 35 of the allocation determination, the maximum eligibility points that an applicant may specify on this form is the sum of the lot ratings for the number of lots of each product, up to the applicant's allocation limits (expressed in eligibility points) applicable to the product or any of the combined products to be auctioned.

In accordance with clause 3 of Schedule 1 to the allocation determination, in the pre-bidding phase a bidder may change or confirm their provisional start demands and provisional MSRs in the auction system. At the conclusion of the pre-bidding phase, a bidder's start demands and MSRs become binding and their initial eligibility points will apply to the first clock round of the primary stage. If a bidder changes their provisional start demands, they may do so such that their initial eligibility points do not exceed their maximum eligibility points. If a bidder does not participate in the pre-bidding phase, their initial eligibility points will be taken to be the maximum eligibility points as nominated in this form.

Pursuant to subclause 12(2) of Schedule 1 to the allocation determination, a bidder is not entitled to bid in such a way that the sum, in eligibility points, of:

- (a) the total value of the lots of each product, in eligibility points, for the start demands of the bidder; and
 - (b) the total value of the lots of each product, in eligibility points, for all the increase bids of the bidder;
- less:
- (c) the total value of the lots of each product, in eligibility points, for all the decrease bids of the bidder;

in any one clock round is greater than the bidder's eligibility points at the time of the bid or bids.

About the MSR

Applicants will need to decide whether or not to select an MSR for each product in the auction. The ACMA has set the MSR for each product to be two lots. Therefore:

- > in Greater Perth, Margaret River and Hobart, where the lot size is 100 MHz, the MSR will be 2 lots (200 MHz)
- > for all other products, where the lot size is 200 MHz, the MSR will be 2 lots (400 MHz).

When completing Table 1 of Part 2 of this form, for each product in column K, indicate whether the applicant wishes to select the provisional MSR for that product. Write "Y" to select the provisional MSR for that product (being two lots of the product). Write "N" if the applicant does not wish to select the provisional MSR for the product.

If you select "Y", you will set a provisional MSR of two lots for a product. This means a bidder is prevented from winning a single lot for that product. If you select "N" for a provisional MSR, this enables the bidder to reduce demand in such a way that the bidder can end up with a single lot for that product. Pursuant to subsection 35(2) of the allocation determination, if a selection is not made, the applicant is taken to have no provisional MSR for the lots of the product

A bidder may change or confirm their provisional MSRs in the pre-bidding phase.

If a bidder, who has selected a MSR for a product, does not 'win' any spectrum of that product during the primary stage, that bidder will not be permitted to bid for lots of that product in the secondary stage.

About the allocation limits

The [Radiocommunications \(Spectrum Licence Limits – 26 GHz Band\) Direction 2020](#) specifies that no person or specified group of persons may, as a result of the allocation of a spectrum licence, use more than an aggregate of **1 GHz** of the 26 GHz band in each designated area. These designated areas form the regions that are defined in the [Radiocommunications Spectrum Marketing Plan \(26 GHz Band\) 2020](#) (marketing plan) and listed in Chapter 2 of the *Auction guide*. When specifying your provisional start demands on this form, please ensure no designated area has an aggregate bandwidth over **1 GHz**. This means:

- > in Greater Perth, Margaret River and Hobart, the maximum aggregate provisional start demand across the lower and upper products in each area is 10 lots
- > in all other areas, the maximum provisional start demand is 5 lots.

How to complete the eligibility nomination form

To complete the eligibility nomination form:

- > In Part 1: Provide applicant details.
- > In Part 2: Provide details of the applicant's provisional start demands and provisional MSRs, and calculate the applicant's maximum eligibility points.
- > In Part 3: Calculate the amount required to secure the maximum eligibility points.
- > In Part 4: Nominate the method by which you intend to secure the maximum eligibility points, read the declaration and sign the form.

When to give the eligibility nomination form to the ACMA

If a person applies to become a registered bidder under sections 28 or 34 of the allocation determination, the eligibility nomination form must be given to the ACMA before the eligibility deadline. An application is incomplete if the applicant fails to give the eligibility nomination form before the eligibility deadline. The eligibility deadline is published by the ACMA on its website and included in the *Auction guide*.

Where the ACMA varies a starting price under section 37 of the allocation determination, the ACMA must approve and publish an updated eligibility nomination form.

How to give the eligibility nomination form to the ACMA

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 7 of the allocation determination. The eligibility nomination form can be delivered to:

Email: spectrumallocations@acma.gov.au
Post: Auction Manager
Major Spectrum Allocations Section
Australian Communications and Media Authority
Red Building, Benjamin Offices, Chan Street
Belconnen ACT 2617

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.

Who should sign 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.

Who can witness signing the eligibility nomination form?

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.

How to sign and witness the eligibility form

Physical signature and witnessing

Applicants may choose to complete the eligibility form with a physical signature and an in-person witness.

Electronic signature and remote witnessing

Alternatively, applicants may choose to complete the eligibility form with an electronic signature, witnessed remotely by audio-visual link. The signatory and witness may:

- > paste a copy of their signature into the eligibility form
- > sign the eligibility form on a tablet, smartphone or laptop using a stylus or finger
- > use a cloud-based signature platform.

The witness must:

- > observe the signatory sign the document in real time. The witness may do this over an audio-visual link
- > sign the document, or an exact copy of the document, attesting that they witnessed the signature. The witness may sign a counterpart of the document or a scanned copy of the document as soon as practicable after the signature has been witnessed
- > be satisfied that the document they sign is the same document or a copy of the document signed by the signatory.

The witness may choose to either physically or electronically sign the eligibility form in order to attest that they witnessed the signature.

How to make an eligibility payment or give a deed of financial security

Information about how to make an eligibility payment, and how to give a deed of financial security, is provided at Part 4 of the form.

Part 1: Applicant details

Applicant's name:

enter applicant's name as it appears in Part 1 of the application form submitted
by the applicant under section 28 or section 34 of the allocation determination

Applicant's ACN/ARBN (if applicable):

enter ACN/ARBN as is appears in Part 1 of the application form submitted by the applicant
under section 28 or section 34 of the allocation determination

Part 2: Provisional start demands, provisional minimum spectrum requirements and maximum eligibility points

The instructions below involve entering information into Table 1 on the page below. Completion of Table 1 is mandatory.

To specify provisional start demands (Column H)

Step 1: For each product, enter in Column H the number of lots of each product you wish to specify as your provisional start demand for the auction. If you do not wish to specify a provisional start demand for a particular product, enter '0'. Leaving the row blank signifies a '0' entry.

Note:

- > Your provisional start demands are the number of lots in each product you want and intend to bid for.
- > You will have the opportunity to change or confirm your provisional start demands in the auction system prior to the commencement of the auction. Bidders that choose to amend their provisional start demands must not exceed their maximum eligibility points.
- > Bidders should be aware they may 'win' the provisional start demand they have specified in this form, if they do not change it during the pre-bidding phase. If aggregate start demand (demand from all bidders) is below supply for a certain product and remains so until the conclusion of the primary stage of the auction, the bidder will be liable to pay the starting price for their provisional start demand for that product.
- > Your provisional start demand in each product must not exceed 1 GHz (10 lots in each of Greater Perth, Margaret River and Hobart; 5 lots in all other products) to comply with the allocation limits in the 26 GHz band, specified in Part 2 of the allocation determination.

To select provisional MSRs (Column K)

For each product, indicate in Column K whether the applicant wishes to select a provisional MSR for that product. Enter 'Y' to select a provisional MSR for the product (being 2 lots of the product). Enter 'N' if the applicant does not wish to select a provisional MSR for the product (being zero lots of the product). Leaving a cell in Column K blank will result in the provisional MSR for that particular product to be set to 'N'.

To calculate maximum eligibility points (Box L)

Step 2: For each product, multiply the number you entered on Column H (provisional start demand in lots) by the number in Column F (the lot rating) and enter the result in Column I.

Step 3: Add all of the entries you made in Column I, and enter the result as a number in Box L.

Note: Part 3 of this form explains how the bidder's provisional start demand value is used to calculate the amount to secure the maximum eligibility points.

To calculate the sum of the provisional start demand values (Box M)

Step 4: For each product, multiply the number you entered on Column H (provisional start demand in lots) by the number in Column G (the starting price per lot) and enter the result in Column J.

Step 5: Add all of the entries you made in Column J, and enter the result as a number in Box M.

Table 1: For use by applicants to specify provisional start demands, provisional MSR selections and calculate maximum eligibility points

	A	B	C	D	E	F	G	H	I	J	K
No.	Cat.	Product	Product name	Band-width (MHz)	No. of lots avail.	Lot rating	Starting price per lot	Prov. start demand (in lots)	Lot rating multiplied by provisional start demand (Column F x Column H)	Starting price multiplied by provisional start demand (Column G x Column H)	Prov. MSR (Y/N)
1	1	ADEL01	Adelaide	200	12	2,400	\$1,163,000				
2	1	CANB01	Canberra	200	12	800	\$375,000				
3	1	DARW01	Darwin	200	12	240	\$115,000				
4	1	GBRL01	Greater Brisbane/ Lismore	200	12	6,000	\$3,044,000				
5	1	MELB01	Melbourne/ Ballarat	200	12	9,000	\$4,129,000				
6	1	SYBA01	Sydney/ Bathurst	200	12	10,000	\$4,969,000				
7	1	ALAN01	Albany	200	12	60	\$28,000				
8	1	ALUR01	Albury	200	12	180	\$79,000				
9	1	ARMI01	Armidale	200	12	40	\$20,000				
10	1	BEND01	Bendigo	200	12	180	\$87,000				
11	1	BNHB01	Bundaberg/ Hervey Bay	200	12	240	\$123,000				
12	1	CAIR01	Cairns	200	12	300	\$137,000				
13	1	COFF01	Coffs Harbour	200	12	140	\$64,000				
14	1	FRTC01	Forster/ Tuncurry	200	12	40	\$19,000				
15	1	LAUN01	Launceston	200	12	180	\$85,000				
16	1	MACK01	Mackay	200	12	140	\$73,000				
17	1	MILD01	Mildura	200	12	100	\$45,000				
18	1	PTMC01	Port Macquarie	200	12	100	\$46,000				
19	1	ROCK01	Rockhampton	200	12	140	\$71,000				
20	1	SHMO01	Shepparton/ Mooroopna	200	12	100	\$45,000				
21	1	TOWN01	Townsville	200	12	300	\$156,000				
22	1	TRMO01	Traralgon/ Morwell	200	12	140	\$63,000				
23	1	WAGA01	Wagga Wagga	200	12	100	\$49,000				
24	1	WARR01	Warrnambool	200	12	60	\$32,000				
25	2	GPER01	Greater Perth Lower	100	19	1,800	\$869,000				
26	3	GPER02	Greater Perth Upper	100	5	1,800	\$652,000				
27	2	HOBA01	Hobart Lower	100	19	180	\$92,000				
28	3	HOBA02	Hobart Upper	100	5	180	\$69,000				
29	2	MARG01	Margaret River Lower	100	19	10	\$5,000				
30	3	MARG02	Margaret River Upper	100	5	10	\$4,000				
Box L is the sum of column I and is the maximum eligibility points. Box M is the sum of column J and is the total value of the applicant's provisional start demands. Box M is used to calculate the amount to secure the maximum eligibility points in Part 3 of this form.								Total of Column	Box L	Box M	

Note: In total, there are 360 lots available. The geographic area for the GPER01 product is the Perth/Bunbury region as declared by the Minister in the Radiocommunications (Spectrum Re-allocation—26 GHz Band) Declaration 2019.

Explanatory notes to the columns and boxes in Table 1

- A. Specifies the category to which the product belongs, as identified in Table 1 of Schedule 1 to the marketing plan.
- B. Specifies the product, as identified in Table 1 of Schedule 2 to the marketing plan.
- C. Specifies the product name relevant to each product, as identified in Table 1 of Schedule 2 to the marketing plan.
- D. Specifies the bandwidth of each lot of a product.
- E. Specifies the number of lots of a product that are available for allocation.
- F. Specifies the lot rating for each lot of a product, set by the ACMA in accordance with paragraph 27(1)(b) of the allocation determination.
- 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 27(1)(a) of the allocation determination.
- H. This is where the applicant enters the number of lots of each product that the applicant wishes to specify as its provisional start demand for the auction.
- I. This is where the applicant enters the number of eligibility points required to bid on the number of lots of a product entered by the applicant in column H. The figure to be entered in column I is calculated by multiplying the number of lots entered by the applicant in column H by the lot rating (in column F). Where an applicant has entered '0' in column H, they should also enter '0' in column I.
- J. This is where the applicant enters the value of the provisional start demands for each product entered in column H. This is calculated by multiplying provisional start demands for a product by the starting price for that product in column G. Where an applicant enters '0' in column H, they should also enter '0' in column J. The sum of these amounts in Box L is used to calculate the amount to secure the maximum eligibility points.
- K. This is where the applicant indicates if they wish to select the only option available for a provisional MSR for each product by writing 'Y' for yes and 'N' for no.

Box L. The sum of the calculation when adding the figures entered in column I for each product. This is the applicant's maximum eligibility points.

Box M. The sum of the calculations for each product listed in column J. The amount in Box M is used to calculate the amount to secure the maximum eligibility points in Part 3 of this form.

Part 3: Amount to secure the maximum eligibility points

Applicants are required to make an eligibility payment and/or provide a deed of financial security to secure their maximum eligibility points for the auction in accordance with section 36 of the allocation determination.

The amount required to secure the maximum eligibility points specified by the applicant in this form is 10% of the amount entered in **Box M** of Part 2.

Please enter the resulting figure in **Box N**, below:

Amount entered in Box M x 0.10 = \$

Box N

Part 4: Eligibility payment and/or deed of financial security for maximum eligibility points

Step 1: To secure the maximum eligibility points specified in **Box L** of Part 2, the applicant must select the appropriate option(s) below, and enter dollar figures which will equal the amount calculated in **Box N** in Part 3:

- ☐ Option 1: giving a deed of financial security for \$ _____.
- ☐ Option 2: making an eligibility payment of \$ _____ by electronic transfer
- ☐ Option 3: making an eligibility payment of \$ _____ by bank cheque.

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

Step 2: Make an eligibility payment and/or give your deed 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 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 and provisional start demands of the applicant are reduced in accordance with subsection 36(4) of the allocation determination.

Eligibility payments must be made in Australian currency by either:

Electronic transfer:

Bank: ANZ Bank

Branch: Belconnen

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

Account name: ACMA Official Administered Receipts

Transfers should be labelled: '26 eligpay [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 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

Red Building, Benjamin Offices, Chan St

Belconnen ACT 2617

Subsection 9(4) 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 three 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. An applicant or bidder must add the value of any bank charge or government duty to the amount of their eligibility payment in order to secure their nominated 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** in the *Auction forms booklet* accessible through the Applicant information package. The deed of financial security form 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.

Declaration and signature

I understand that knowingly or recklessly making a false or misleading statement in, or 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.

Signed by or on behalf of the applicant

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