

# Declaring a submarine protection zone

## Guide for applicants

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# Introduction

Submarine cables are an important component of Australia's national communications infrastructure. These cables carry the bulk of Australia's international voice and data traffic and provide a vital link between Australia and the rest of the world. However, due to their nature and location on the seabed, submarine cables are susceptible to damage from certain activities, such as anchoring large vessels, some types of fishing, dumping materials, dredging and minerals exploration.

Schedule 3A to the *Telecommunications Act 1997* (the Act), sets out the regulatory framework for the installation and protection of international submarine cables landing in Australia. It enables the Australian Communications and Media Authority (the ACMA) to declare protection zones to provide enhanced protection for submarine cables of national significance by deterring activities that may damage the cables.

This guide provides an overview of the legislative framework and our approach to declaring protection zones. It provides information to assist applicants who wish to request the ACMA declare a protection zone.

In making decisions related to matters covered in this guide, we will consider all relevant factors and decide each request on its merits. This guide is not intended to be a substitute for independent legal advice.

We have developed a separate guide to [applying for a submarine cable installation permit](#).

For information about requesting a declaration of a protection zone, please contact the ACMA on:

- > phone: 1300 850 115
- > email: [subcablesenquiries@acma.gov.au](mailto:subcablesenquiries@acma.gov.au).

# Protection zones

## What is a protection zone?

A protection zone is a declaration made by the ACMA that prescribes one or more geographical area(s) relating to one or more existing or proposed submarine cables.

There are 2 main purposes of a protection zone. The first is to provide enhanced security and protection for submarine cable(s) that lie within the limits of the zone by restricting or prohibiting activities that have the potential to damage cables. The second is to enable cable planning and location decisions to be made in a considered way, taking into account the interests of all users of the sea and seabed. This allows carriers to co-locate cables in existing protection zones.

A protection zone declaration prohibits or restricts the activities that can be undertaken within the geographical area(s) specified in the declaration. Activities that may be prohibited or restricted are those that present a risk of damage to cables installed in the area.

It is an offence to undertake prohibited or restricted activities, or cause damage to a submarine cable in a protection zone, and criminal penalties apply.

## How are protection zones declared?

The process of declaring a protection zone can commence in either of 2 ways:

- > the ACMA can initiate the process of declaring a zone
- > a person can request that the ACMA declare a zone.

The ACMA has declared 3 protection zones on its own initiative:

- > The [Submarine Cable \(Northern Sydney Protection Zone\) Declaration 2007](#)
- > The [Submarine Cable \(Southern Sydney Protection Zone\) Declaration 2007](#)
- > The [Submarine Cable \(Perth Protection Zone\) Declaration 2007](#).

A request to the ACMA to declare a protection zone requires us to undertake a preliminary assessment of the request before deciding whether to develop a proposal for a protection zone. The same consultation and decision-making process for consideration of a protection zone proposal applies regardless of how the proposal was initiated.

The ACMA is not obliged to develop a protection zone proposal following an application to declare a protection zone. Nor is there a statutory time limit within which the ACMA is required to decide on whether to develop a proposal in response. However, if we decide not to develop a proposal, we must notify the applicant in writing of our decision and the reasons for the decision. If we decide to develop a proposal, we must give a copy of the proposal to the person who requested the protection zone.

### The process of declaring a protection zone

Schedule 3A to the Act sets out a number of prerequisites to declaring a protection zone. These requirements underpin a comprehensive consultation process that enables the ACMA to ensure the impact on all users of the sea and seabed in the proposed zone has been considered.

Before declaring a protection zone, the ACMA must:

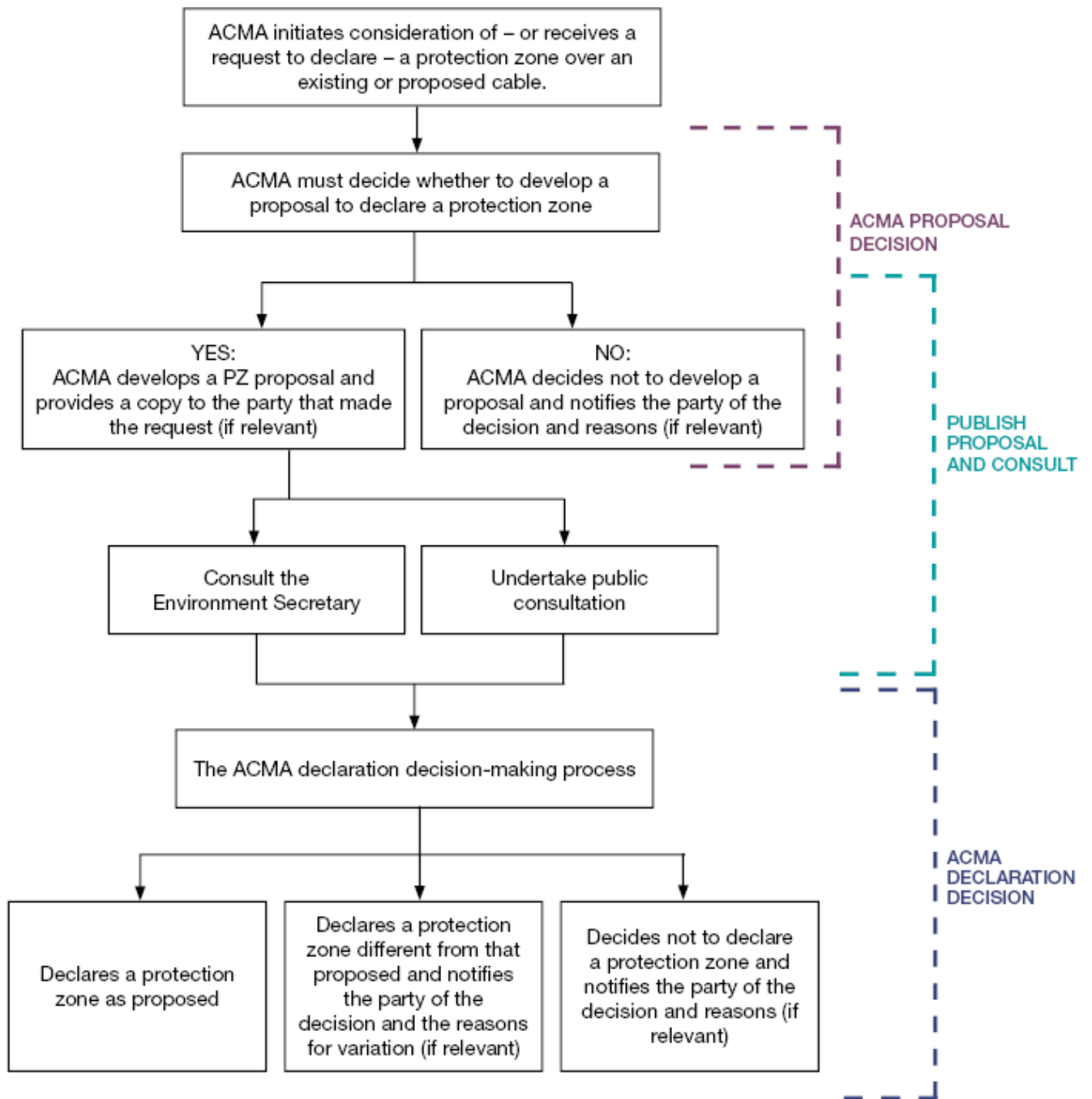
- > develop a proposal for the protection zone
- > publish the proposal on our website
- > invite public submissions on the proposal
- > consult with the Environment Secretary
- > be satisfied the cable(s) or the proposed cable(s) are of national significance
- > consider:
  - > any public submissions
  - > environment and heritage considerations
  - > the objective of facilitating the supply of efficient, modern and cost-effective carriage services to the public.

If the protection zone relates to a cable to be installed, the ACMA must consider:

- > the impact of the installation on the environment
- > any relevant technical and economic aspects of the installation
- > whether the cable is to be co-located with an existing submarine cable/s
- > the economic and social benefits that are likely to result from the installation
- > any other relevant matters.

Figure 1 illustrates the key decision-making points for declaring a protection zone. These points are expanded in the following sections.

Figure 1: Steps for declaring a protection zone





## **The protection zone proposal**

The ACMA is responsible for developing and publishing a proposal for a protection zone. The proposal is a key document in the consultation process to consider whether to declare a protection zone, and must include:

- > a statement of the nominal location of the cable/s in Australian waters
- > details of the area of the proposed zone
- > details of the activities that are proposed to be prohibited and restricted in the zone.

### **Consultation on the proposal**

The ACMA will publish the proposal and a summary of the proposal on our website and invite public submissions. We will also publish a summary of the proposal in newspapers across Australia and in the Commonwealth Gazette.

As part of the public consultation process, we will seek to consult directly with affected stakeholders in the relevant geographic area. This may include local meetings and information sessions.

The ACMA must not declare a protection zone for one or more submarine cables unless we have consulted with the Environment Secretary about the proposal for the protection zone. The ACMA must consider the advice or recommendations provided by the Environment Secretary about the proposal.

Once a protection zone proposal is published, the ACMA must decide whether to declare the protection zone as soon as practicable, and in any event, within 12 months after the day on which the proposal was published.

### **National significance test**

A key requirement of Schedule 3A is that the ACMA must be satisfied that the cable to which the proposal relates is, or will be, a cable of national significance. The national significance test ensures that critical communications infrastructure is sufficiently protected, while the number of protection zones and their effect on other users of the sea, is appropriate.

In determining whether a cable is of national significance, the ACMA will consider whether the cable will:

- > be a high-capacity cable
- > link Australia to global communications systems
- > be vital to Australia's national interest.

For example, we may regard a cable as nationally significant if it carries a large amount of communications traffic between Australia and global communications systems linked to it and is of particular importance to Australia's economy, national security or defence.

## Requesting a protection zone

A written request to the ACMA must be made to declare a protection zone. On receipt of a request, we will undertake a preliminary assessment to determine whether to develop a proposal for the protection zone.

If we decide to develop a proposal, we will prepare and publish a proposal for the protection zone, and also provide a copy of the proposal to the person who requested it. If we decide against developing a proposal, we will advise the applicant in writing and provide reasons for our decision.

Anyone considering applying to the ACMA to declare a protection zone should contact us to discuss the application beforehand on:

- > phone: 1300 850 115
- > email: [subcablesenquiries@acma.gov.au](mailto:subcablesenquiries@acma.gov.au).

### What does it cost to request a protection zone?

A request to the ACMA for a declaration of a protection zone must be accompanied by a deposit. The [Telecommunications \(Charges\) Determination 2022](#) sets the deposit of \$161,251.

The deposit accounts for expenses incurred by the ACMA to consider the request, including:

- > staff costs
- > actual external costs incurred by the ACMA, such as (but not limited to) advertising, venue hire and catering, travel and consultation.

If the costs incurred by the ACMA in relation to a protection zone declaration request exceed the deposit amount, the applicant will be invoiced directly for the additional costs. If the costs incurred are less than the deposit, the ACMA will refund the difference to the applicant.

### How to request an invoice?

Before submitting your request, please contact [subcablesenquiries@acma.gov.au](mailto:subcablesenquiries@acma.gov.au) to obtain an invoice for the deposit.

For an invoice to be raised, the ACMA requires the following information of the applicant:

- > ABN/ACN of the applicant
- > postal address
- > registered business address (if different from the postal address)
- > details of the contact person for the purposes of the application (full name, position, telephone and email).

Once an invoice has been issued, payment can be made by direct deposit to the ACMA.

## **What information should be provided?**

A request to declare a protection zone must be made in writing to the ACMA. The request must be accompanied by sufficient information to enable us to assess the request and determine whether the cable is, or will be, of national significance.

Submissions should provide technical, economic and geographical information that will assist us in making a preliminary decision. This information should include:

- > details of the area and dimensions of the proposed protection zone
- > the nominal location of the submarine cable (or proposed submarine cable) in Australian waters
- > if the cable is not yet installed, details of when the cable is scheduled for installation and operation
- > the activities proposed to be prohibited in the proposed zone
- > the activities proposed to be restricted in the proposed zone.

In relation to the national significance test, submissions should provide information about:

- > the capacity of the cable (that is the subject of the request)
- > how the cable links Australia to global communications systems
- > how the cable is vital to Australia's national interest.

An applicant should include such information as it considers will satisfy the ACMA that the cable is – or will be – of national significance.

## **Preliminary assessment**

Following a request to declare a protection zone, the ACMA will make a preliminary assessment of the request and decide whether to develop a proposal for the zone. We may also seek additional information (for example, details of a proposed cable installation) from an applicant before making a formal decision whether to develop a proposal. If we decide to develop a proposal, we will provide a copy of the proposal to the applicant.

If we decide not to develop a proposal, the person making the request will be notified of the decision and the reasons for the decision.

## **The decision to declare a protection zone**

Schedule 3A sets out the matters that the ACMA must consider when deciding whether to declare a protection zone in relation to one or more cables. These include:

- > any advice or recommendations from the Environment Secretary in relation to the proposal
- > any submissions from the public about the proposal for the protection zone
- > the objective of facilitating the supply of efficient, modern and cost-effective carriage services to the public
- > any other matters the ACMA considers relevant.

As a matter of procedural fairness, any comments provided by other bodies that, in the ACMA's opinion, weigh against the declaration of a protection zone and which the ACMA proposes to consider in making its decision, will be put to the applicant for comment before a decision is made.

## **A cable that is not yet installed**

While Schedule 3A provides for a protection zone to be declared in relation to a submarine cable that is yet to be installed, there are a number of specific matters that need to be considered before such a protection zone can be declared:

1. The ACMA must be satisfied that the proposed cable will be a cable of national significance before a protection zone can be declared for it.
2. A protection zone cannot take effect until the ACMA is satisfied that installation of the cable will begin.

There are also a number of additional matters we must consider in making a decision about a protection zone if it relates to a cable that is not yet installed. These are:

- > the impact of the installation on the environment (see note below)
- > any relevant technical and economic aspects of the installation
- > whether the cable is to be co-located with an existing submarine cable/s
- > the economic and social benefits that are likely to result from the installation of the cable.

**Note:** In considering the impact of the installation on the environment for a cable that is not yet installed, clause 21 of Schedule 3A lists additional environment and heritage matters to which the ACMA must have regard.

An applicant requesting a protection zone for a cable that is yet to be installed should include detailed information about each of the matters listed in clause 21 of Schedule 3A.

## **Notification of the ACMA's decision**

If the ACMA develops a proposal for a protection zone in response to a request and decides not to declare the protection zone, the applicant will be notified in writing of the ACMA's decision and reasons for the decision. Similarly, if the ACMA declares a protection zone that is different from the requested protection zone, the applicant will be notified of the ACMA's reasons for declaring a different zone.

Once a protection zone has been declared, the ACMA will disseminate information about the zone to various authorities, including:

- > the Department of Home Affairs
- > the Australian Defence Force
- > the Australian Federal Police
- > the Australian Fisheries Management Authority
- > the Australian Hydrographic Office
- > the Australian Maritime Safety Authority
- > affected ports authorities
- > the National Offshore Petroleum Safety and Environmental Management Authority
- > the National Offshore Petroleum Titles Administrator.

# More information

For further advice about protection zones for submarine cables in Australian waters, contact the ACMA. Correspondence should be addressed to:

The Australian Communications and Media Authority  
PO Box 13112 Law Courts  
Melbourne VIC 8010

Phone: 1300 850 115

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