Telecommunications (Protection Zone and Submarine Cable Permit — Application Charges) Determination 2008

Australian Communications and Media Authority Act 2005

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Determination under subsection 60 (1) of the Australian Communications and Media Authority Act 2005.

Dated 25th January 2008

CHRIS CHAPMAN
Chair

LYN MADDOCK
Member

Australian Communications and Media Authority
1 Name of Determination
This Determination is the Telecommunications (Protection Zone and Submarine Cable Permit — Application Charges) Determination 2008.

2 Commencement
This Determination commences on the day after it is registered.

3 Revocation
The Telecommunications (Submarine Cable Permit — Application Charge) Determination 2007 is revoked.

4 Interpretation
(1) In this Determination:
ACMA means the Australian Communications and Media Authority.
ACMA Act means the Australian Communications and Media Authority Act 2005.
actual costs are external costs incurred by ACMA in the course of determining an application, and include, but are not limited to, the following:
(a) advertising;
(b) venue hire and catering;
(c) consultation costs;
(d) travel expenses.

*linked non-protection zone installation permit* means a non-protection zone installation permit for a submarine cable that is, or will be, located partly in a protection zone and partly in waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory.

*Telecommunications Act* means the *Telecommunications Act 1997*.

(2) Terms used in this Determination and in the Telecommunications Act have the same meaning in this Determination as they have in the Telecommunications Act.

*Note* The following expressions used in this Determination are defined in the Telecommunications Act:
- coastal waters
- non-protection zone installation permit
- protection zone
- protection zone installation permit
- submarine cable.

### 5 Purpose of this Determination

(1) Under subsection 60 (1) of the ACMA Act, ACMA may make determinations fixing charges for:

(a) services provided by ACMA; and

(b) any matter in relation to which expenses are incurred by ACMA under the Acts specified in the subsection (including the Telecommunications Act).

(2) This Determination fixes charges in relation to the following:

(a) an application for a declaration, variation or revocation of a protection zone;

(b) an application for a permit to install submarine cables.

*Applications for a declaration, variation or revocation of a protection zone*

(3) Clause 4 of Schedule 3A to the Telecommunications Act provides that ACMA may declare a protection zone in relation to submarine cables proposed to be installed in Australian waters.

(4) Clause 5 of the Schedule 3A to the Telecommunications Act provides that a declaration of a protection zone may be made on ACMA’s own initiative or at the request of a person.

(5) Clause 23 of Schedule 3A to the Telecommunications Act provides that ACMA may vary or revoke a declaration of a protection zone.
Section 6

(6) Clause 24 of Schedule 3A to the Telecommunications Act provides that a variation or revocation of a protection zone declaration may be made on ACMA’s own initiative or at the request of a person.

Applications for certain permits to install submarine cables

(7) Clause 51 of Schedule 3A to the Telecommunications Act provides that a carrier may apply to ACMA for a permit to install 1 or more submarine cables in a protection zone (a protection zone installation permit).

(8) Clause 53 of Schedule 31 to the Telecommunications Act provides that an application for a protection zone installation permit must be accompanied by the charge (if any) imposed on the application by a determination under section 60 of the ACMA Act.

(9) Clause 64 of Schedule 3A to the Telecommunications Act provides that a carrier may apply to ACMA for a permit to install 1 or more submarine cables in waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory (a non-protection zone installation permit).

(10) Clause 66 of Schedule 3A to the Telecommunications Act provides that an application for a non-protection zone installation permit must be accompanied by the charge (if any) imposed on the application by a determination under section 60 of the ACMA Act.

6 Charges payable in relation to an application for a declaration, variation or revocation of a protection zone

(1) This section applies to an application for a declaration, variation or revocation of a protection zone.

(2) The charge, or the hourly rate of charge, for a matter mentioned in an item in Schedule 1 is the amount mentioned for that item in column 3.

(3) If:
   (a) a deposit is paid under item 1 or 2 of Schedule 1; and
   (b) an amount is payable under item 3 of Schedule 1;
   the amount payable under paragraph (b) will be deducted from the deposit paid under paragraph (a).

(4) If the charge referred to in item 3 of Schedule 1 is greater than the amount of the deposit paid under item 1 or 2 of Schedule 1, the charge under item 3 is taken to be increased by the amount of the difference.

(5) If the charge referred to in item 3 of Schedule 1 is less than the amount of the deposit paid under item 1 or 2 of Schedule 1, ACMA must refund to the applicant the excess amount paid by the applicant.
7 Charges payable in relation to an application for a permit to install a submarine cable

(1) This section applies to an application for a permit to install a submarine cable.

(2) The charge for a matter mentioned in an item in Schedule 2 is the amount mentioned for that item.

(3) If ACMA’s expenditure on external consultants is greater than the amount specified in item 4 of Schedule 2, the charge under item 4 is taken to be increased by the amount of that difference.

(4) If ACMA’s expenditure on external consultants is less than the amount specified in item 4 of Schedule 2, ACMA must refund to the applicant the amount by which the expenditure is less than the amount paid by the applicant.

8 By whom and when are the charges payable

(1) A charge mentioned in:
   (a) item 1 or 2 of Schedule 1; or
   (b) items 1 to 6 in Schedule 2;
   is payable by the applicant when the application is made.

(2) A further charge mentioned in subsection 6 (4) or 7 (3) is payable by the applicant by the due date of an invoice issued by ACMA for that charge.

(3) An actual cost mentioned in item 4 of Schedule 1 is payable by the applicant by the due date of an invoice issued by ACMA for that cost.
## Schedule 1

### Charges payable to declare, vary or revoke a protection zone

*(section 6)*

<table>
<thead>
<tr>
<th>Item</th>
<th>Matter</th>
<th>Charges payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Deposit payable on account of the expenses to be incurred by ACMA in relation to an application to declare a protection zone</td>
<td>$162,000</td>
</tr>
<tr>
<td>2</td>
<td>Deposit payable on account of the expenses to be incurred by ACMA in relation to an application to vary or revoke a protection zone</td>
<td>$116,000</td>
</tr>
<tr>
<td>3</td>
<td>Charges for the activities of ACMA staff in relation to an application to declare, vary or revoke a protection zone</td>
<td>$164 for each hour or part of an hour</td>
</tr>
<tr>
<td>4</td>
<td>External costs incurred by ACMA in relation to an application to declare, vary or revoke a protection zone including, but not limited to, advertising, venue hire, catering, travel expenses and consultation costs</td>
<td>Actual costs</td>
</tr>
</tbody>
</table>
### Schedule 2  Charges payable in relation to certain permits to install a submarine cable  
(under section 7)

<table>
<thead>
<tr>
<th>Item</th>
<th>Matter</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Protection zone installation permit — considering and processing application for permit</td>
<td>$2,215 for each submarine cable</td>
</tr>
<tr>
<td>2</td>
<td>Protection zone installation permit — considering and processing application to extend duration of permit, including extension of linked non-protection zone installation permit (if any)</td>
<td>$495</td>
</tr>
<tr>
<td>3</td>
<td>Non-protection zone installation permit, other than a linked non-protection zone installation permit — considering and processing application for permit, other than for use of external consultants</td>
<td>$6,810 for each submarine cable</td>
</tr>
<tr>
<td>4</td>
<td>Non-protection zone installation permit — use of external consultants in considering application for permit (payable whether or not an external consultant is used in considering the application)</td>
<td>$25,000</td>
</tr>
<tr>
<td>5</td>
<td>Non-protection zone installation permit, other than a linked non-protection zone installation permit — considering and processing application to extend duration of permit</td>
<td>$495</td>
</tr>
<tr>
<td>6</td>
<td>Linked non-protection zone installation permit — considering and processing application for permit, other than for use of external consultants</td>
<td>$6,150 for each submarine cable</td>
</tr>
</tbody>
</table>