

Safety and protection zones

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1. Background

The Offshore Infrastructure Regulator (OIR) is provided with functions and powers under the *Offshore Electricity Infrastructure Act 2021* (OEI Act). The OIR is responsible for regulating work health and safety, **infrastructure integrity**¹ and environmental management of **offshore infrastructure activities**² in the **Commonwealth offshore area**³.

2. Purpose

This guideline provides advice on the requirements for the establishment and management of safety and protection zones under the OEI Act framework.

This guideline should be read in conjunction with related policies listed in section 15 of this document.

3. Scope

This guideline applies to applications for and the OIR's determination of a **safety zone**⁴ and/or a **protection zone**⁵ around specified infrastructure in the Commonwealth offshore area where:

- a safety zone is an area around **eligible safety zone infrastructure**⁶ that must not be entered by vessels, or by particular kinds of vessels
- a protection zone is a specified area around **offshore renewable energy infrastructure**⁷ or **offshore electricity transmission infrastructure**⁸ where certain activities posing a risk to safety or a risk of damage to infrastructure may be restricted or prohibited.

4. Disclaimer

This document is not legally binding and is provided to inform stakeholders as to how the OIR exercises its discretion under relevant legislation. It reflects the current policies of the OIR, which may change from time to time, with all changes being notified publicly.

5. Relevant legislation

The following Commonwealth legislation is relevant to the OIR's administration of safety and protection zones:

- *Offshore Electricity Infrastructure Act 2021* (OEI Act)

¹ See section 8 of the OEI Act

² Ibid

³ Ibid

⁴ See section 136(2) of the OEI Act

⁵ See section 142(1) of the OEI Act

⁶ See section 136 of the OEI Act

⁷ See section 10 of the OEI Act

⁸ See section 11 of the OEI Act

- *Offshore Electricity Infrastructure (Regulatory Levies) Act 2021*
- Offshore Electricity Infrastructure Regulations 2022 (OEI Regulations)
- *Native Title Act 1993* (Native Title Act)
- *Legislation Act 2003*.

This document does not cover requirements beyond the scope of the OEI Act framework and relevant legislation listed above. Licence holders should be aware of and comply with all other Commonwealth, State and Territory legislative requirements that may apply to their activities.

6. Safety and protection zone determinations

6.1. Safety zone determinations

In accordance with subsection 136(2) of the OEI Act, the OIR may, by notifiable instrument, determine that a specified area, not exceeding 500m from the outer edge of eligible safety zone infrastructure, is a safety zone.

The definition of eligible safety zone infrastructure includes offshore renewable energy infrastructure (OREI), offshore electricity transmission infrastructure (OETI) and any intra-array cables within the same licence area but does not include other transmission cables connecting to areas outside the licence area or to shore.

The intent of a safety zone is to provide for the safety of offshore workers and other marine users and to provide for the protection of infrastructure.

Vessels identified under the safety zone determination are prohibited from entering or being present in the safety zone without the written consent of the OIR.

6.2. Protection zone determinations

In accordance with subsection 142(1) of the OEI Act the OIR may, by legislative instrument, determine that a specified area in the Commonwealth offshore area is a protection zone in relation to OREI or OETI that is, or is proposed to be, installed in the area under a specified licence.

Protection zones are intended to provide long-term infrastructure protection during the operational life of an offshore renewable energy project and may extend up to one nautical mile (1,853 metres) from the outer edge of the offshore infrastructure.

Protection zones do not limit general access to an area but may place limits on certain activities that may present a risk to safety or risk damage to OREI or OETI.

The OIR may only make a protection zone determination if satisfied:

- there is, or would be, a risk human safety, or to OREI or OETI, in the protection zone; and
- the establishment of a protection zone would avoid or reduce this risk.

6.3. Is a safety or protection zone required?

The OEI Act framework operates under the principle of shared use of the offshore marine environment, recognising all users and balancing competing interests. In line with the principle of shared use, access to

and transit through OEI licence areas should not be restricted more than is necessary to ensure the safety of navigation and operations and the protection of infrastructure.

Safety zones

Safety zones will typically be established during the construction phase of an offshore renewables development when lighting and marking of OREI or OETI may not be operational, and there is a higher than usual number of vessels conducting activities in the field. Safety zones may also be established during major maintenance and decommissioning campaigns to ensure the protection of workers and reduce the risk of vessel collisions and damage to infrastructure.

The establishment of safety zones during steady-state operations will only be considered where there is clear justification for restriction of access around eligible safety zone infrastructure.

Protection zones

Protection zones are typically required to provide long-term protection of infrastructure from high-risk activities, which may:

- involve a serious risk to human safety; or
- involve a serious risk of damaging OREI or OETI.

Before applying for a protection zone, consideration should be given to whether the proposed scope of a protection zone is justified, and existing and reasonably foreseeable activities are not restricted more than is necessary.

The need for a safety or protection zone should also be balanced against the obligation to monitor and report infringements of a safety zone.

6.4. Consultation in relation to safety zones and protection zones

Prior to the establishment or significant variation to a safety zone or protection zone, the relevant applicant is required to demonstrate adequate consultation has been undertaken with:

- any licence holder who may be affected by the application
- relevant Commonwealth and state or territory agencies
- where applicable, relevant individuals or organisations with native title rights and interests under the Native Title Act
- any other marine users (person or organisation) likely to be directly affected by the proposed zone.

Please note, the OIR considers consultation with the Australian Maritime Safety Authority (AMSA) necessary in all cases prior to submitting an application for a safety or protection zone determination.

Applications will require attachment of a consultation report, expected to include:

- a summary of each response from agencies, licence holders, individuals, or organisations consulted
- an assessment by the applicant of the legitimacy of any objection or claim of adverse impact
- a statement outlining how the applicant has responded or proposes to respond to each objection or claim.

The OIR recognises that consultation will occur during project establishment and management plan development. Where relevant, information from the management plan may be referenced in the application instead of duplicating content in a separate consultation report. This is only acceptable if the consultation conducted during the management plan process provided sufficiently specific information for stakeholders to understand the implications of the proposed zone for their activities.

7. Applications for safety or protection zones

An applicant may apply to the OIR to make, vary or revoke a safety or protection zone determination. Importantly, applications will need to be provided to the OIR in the approved manner and form as published on the OIR's website.

Applications can be submitted via the OIR online application portal or by completing editable PDF forms available on the OIR's website oir.gov.au.

The OIR's preferred method of submission is via the online application portal. All mandatory fields must be completed, and the application must be accompanied by any information or documents required by the application form and supporting details form, including:

- details of the legal entity (person) making the application
- nominated contact person for the application
- licence details of the related OEI Act licence
- details of infrastructure within the proposed safety or protection zone relates
- reason and justification for submission of the application
- timing for the commencement and completion of the safety or protection zone
- details of the consultation the applicant has undertaken
- any supporting attachments as required
- evidence of application fee payment⁹ and
- the applicant declaration.

In addition, an application to make or vary a safety zone determination is required to provide:

- details of vessels to be prohibited from the safety zone (see section 7.5).

In addition, applications to make or vary a protection zone determination are required to provide:

- details of the proposed prohibitions and restrictions on activities within the proposed protection zone (see section 7.5).

⁹ Relevant fees are set in section 136 of the OEI Regulations

7.1. Details of the applicant

The application form must include the details of the person (legal entity) making the application; the relevant OEI licence number; and a nominated contact person for the application.

Please note, if an application is made by a person other than the relevant licence holder, the OIR must notify the licence holder and invite the licence holder to make a written submission about the application.

7.2. Details of the infrastructure within the proposed safety or protection zone

Applicants are required to identify eligible safety zone infrastructure to be covered under the proposed safety zone by providing the following:

- the area being requested for the safety or protection zone
- identification and details of eligible infrastructure within the zone, including the location in GDA94
- a layout/map of the proposed zone with all relevant infrastructure clearly identified.

An individual safety zone may surround multiple items of infrastructure provided that the zone does not extend beyond 500 metres from the outer edge of the infrastructure to which the zone relates. In considering whether to apply for a safety zone that covers multiple items of infrastructure, applicants should have regard to whether a proposed safety zone will restrict access for other marine users more than is necessary.

Applications should not be submitted until all pre-construction site planning has been completed and final infrastructure locations have been determined.

In the case of an application for a variation or revocation, the applicant will be required to provide a reference number for the existing safety zone determination.

7.3. Information to support an application

To support a safety or protection zone application, the applicant should provide sufficient information to demonstrate that risks to the safety of people and infrastructure will be balanced with the potential impacts on other marine users. Information may include (but not be limited to) consideration of factors such as:

- proximity to commercial fisheries
- proximity to shipping lanes
- results of traffic analysis of the area concerned
- risks related to planned activities in relation to licence activities
- explanation of the need to protect the integrity of certain equipment or structures during the duration of the proposed safety or protection zone
- the outcomes of consultation.

In the case of the application being for revocation of a determination, the applicant should outline the justification for the request.

7.4. Timing of safety or protection zone determinations

A determination will take effect at the time specified by the regulator and continue in effect until a time specified in the determination, or until it is revoked or repealed in accordance with the *Legislation Act 2003*.

The applicant will be required to provide the requested commencement and/or cessation dates of the zone. For applications to revoke a safety or protection zone, applications should include the requested date of revocation.

Where an application relates to eligible infrastructure that is not yet installed, the OIR must be satisfied that the installation of the infrastructure will commence before the time specified in the determination. This means applications should only be made once sufficient pre-construction site planning has been completed, the specific area of the proposed zone is certain and the date of installation of infrastructure is scheduled.

In general, the commencement date requested by the applicant should not exceed 30 days prior to beginning the relevant operations and may be aligned with the notification of offshore infrastructure activities as required under 116A of the OEI Act.

7.5. Details of prohibition and restriction from safety or protection zones

7.5.1. Safety zone prohibition

For safety zone applications, the applicant is required to identify what vessels, or types of vessels, they are requesting to be prohibited from entering or remaining in the area of a safety zone.

Specifically, should the safety zone determination apply to:

- all vessels
- all vessels other than specified vessels
- all vessels other than the vessels included in specified classes of vessels.

For example, for a determination that allows for specified vessels to enter and be present in a safety zone, an applicant can specify:

- vessels under the control of [ORGANISATION NAME]
- vessels under the control of the operator of [NAME OF PROJECT/INFRASTRUCTURE]
- vessels under the control of the holder of the OEI [LICENCE NUMBER]
- the specific vessels [NAME and ID NUMBER of VESSEL(s)].

7.5.2. Activity prohibitions and restrictions in a protection zone

For protection zone applications, the applicant will be required to clearly identify the activities they are requesting be prohibited or restricted within the protection zone.

As a guide, and without limiting the scope of protection zone determinations, the type of activities that may be prohibited, or restricted may include:

- anchoring

- recreational fishing that targets mid or upper-water fish
- recreational fishing that targets bottom-dwelling fish
- commercial fishing methods such as purse seining, beach seining, squid jigging, pelagic longlining, pelagic haul netting
- use, tow, operate or suspend from a ship any trawl gear designed to work on or near the seabed, or a mid-water trawl
- use, tow, operate or suspend from a ship a net anchored to the seabed
- use, tow, operate or suspend from a ship a dredge, including for scallop dredging
- use, tow, operate or suspend from a ship a demersal longline, including setlines and trotlines
- use, tow, operate or suspend from a ship any type of net, rope, chain, pot, trap, or other object used in fishing operations that can touch the seabed
- use, tow, operate or suspend from a ship a Scottish or Danish seine
- use of, or towing, operating or suspending from a ship, a grapnel
- use, tow, operate or suspend from a ship a structure moored to the seabed with the primary function of attracting fish for capture, such as a fish aggregating device (FAD)
- lowering, raising or suspending from a ship a shotline
- establish, maintain or use a spoil ground or other ocean disposal point (including dumping materials at sea)
- scuttle or attempt to scuttle a ship
- harvesting the benthos
- use of an explosive or explosive device.

Specific activities that are requested to be prohibited or restricted will need to be defined as clearly as possible by the applicant.

8. Assessment of safety and protection zone applications

Assessment of safety and protection zone applications will be conducted by the OIR in accordance with Part 5 and Part 6 of the OEI Regulations and the principles contained in the OIRs assessment policy N-04001-PL2048 – Policy – Assessment.

The elements and criteria for assessment that are specific to an application for a safety or protection zone determination are detailed in this section. Please see **Appendix 1** for flowcharts summarising the application and assessment process.

8.1.1. Criteria for application assessment

The OIR will undertake assessment on the merits of each application and may consider all the information required by the application form as relevant to the decision-making process.

The OEI Act also sets out specific criteria which must be considered in the assessment of an area to be covered by a safety or protection zone determination.

For safety zones these are that the determination:

- must be entirely within the Commonwealth offshore area
- must be a specified area surrounding eligible safety zone infrastructure
- may extend to a distance of 500 metres around the eligible safety zone infrastructure specified in the determination, where that distance is measured from each point of the outer edge of the infrastructure.

For protection zones, the OIR may only make a determination if the OIR is satisfied that any of the following conditions apply:

- there is a risk to human safety, or to OREI or OETI;
- there would be such a risk if offshore infrastructure activities were carried out in accordance with a management plan that the OIR has approved; and
- the protection zone determination would avoid or reduce the identified risks.

In addition, assessment of an application will consider the following general principles:

- the establishment of safety and protection zones are intended to provide for the protection of infrastructure, the safety of offshore workers and other marine users
- that access to, and transit by, other marine users should not be restricted any more than is necessary.

8.1.2. Regulator must invite submissions from the public on a protection zone application

The OIR must consider public feedback when deciding whether to grant or refuse the application for a protection zone. To do so, the OIR must post a notice on its website in accordance with regulation 134. The notice must:

- describe the infrastructure involved
- describe the area of the proposed protection zone
- describe what activities would be restricted or prohibited in the zone
- invite the public to make submissions by a specific date.

The OIR will provide up to 60 days for the public to provide feedback on a protection zone application.

8.1.3. Timing for assessment

The OIR has a 60-day period in which to review an application and make an assessment decision. For protection zone applications, this time is in addition to the required public feedback period.

The decision period commences once the application has been lodged and the associated application fee has been paid. Non-payment of the application fee may result in the OIR declining to consider the application.

The OIR may extend the decision period by issuing a written notice to the applicant setting out the reasons for the extension. For example, the OIR may extend the decision period if the application is particularly complex. The OIR may extend the decision period more than once if necessary.

8.1.4. Request for further information

The OIR may issue a written request for further information in relation to the application for a safety or protection zone determination. The written request will:

- specify the information required
- specify the day on or before which the information must be provided
- specify the manner in which the information must be provided
- include notification of any extension to the decision period as appropriate.

The OIR may make multiple follow-up requests if insufficient information is provided in the response.

8.1.5. Withdrawal of an application

A person who has made an application for a safety or protection zone determination may, by written notification to the OIR, withdraw the application if the OIR has not made a decision on the application.

8.1.6. Decision on an application

The OIR may decide to grant, or refuse to grant, a safety or protection zone application. If the OIR proposes to refuse the application, the applicant will receive a written notice of the proposed decision.

The notice must:

- set out the OIR's reasons for the proposed decision; and
- invite the applicant to make a written submission about the proposed decision within a reasonable timeframe.

If the applicant makes a submission within the specified period, the OIR must take the submission into account in deciding whether to grant, or refuse to grant, the application.

If the OIR decides to grant the application, the OIR must give notice of the decision to the applicant, and any other licence holder who was required to be notified.

The OIR has up to 30 days after the decision is made to give effect to the decision by notifiable instrument (for safety zones), or legislative instrument (for protection zones).

9. Approved entry to a safety zone

Vessels identified under a safety zone determination are prohibited from entering or being present in the safety zone without the written consent of the OIR.

If access to a safety zone is required for a vessel otherwise prohibited by the safety zone determination, please contact the OIR to obtain written consent by emailing offshorerenewables@oir.gov.au.

Requests for consent for a vessel(s) to enter and be present in a safety zone should be made via, or in consultation with, the relevant licence holder.

10. Communication and monitoring obligations

Safety and protection zone determinations will be published on the Federal Register of Legislation and the OIR website. A subscription service for notification of safety or protection zone determination information will be available on the OIR website.

OIR will provide the determination to the Australian Hydrographic Office to ensure all necessary amendments to nautical charts and publications, and necessary information is promulgated through Maritime Safety Information (MSI).

Notice of safety and protection zones should be communicated by the licence holder through all means appropriate to the local situation and marine user base. This can include but is not limited to Australian Notices to Mariners, local marine bulletins, and dissemination through the relevant port / harbour authorities, and recreational boating authorities. The licence holder is to ensure information is published to advise vessels of the location or intended location of offshore installations or structures, the breadth of any safety or protection zones established and the rules which apply therein, and any fairways available.

Licence holders should implement adequate measures to prevent infringement of safety and protection zones. Such measures may include effective lights and sound signals, racons, Automatic Identification System (AIS), visual look-out and radar watch, listening for and warning vessels on VHF channel 16 or other appropriate radio frequencies and the establishment of vessel traffic services or guard vessels, as required.

11. Enforcement of safety and protection zone determinations

Safety zone

It is an offence for a person to either enter and/or remain within a designated safety zone in contravention of the notifiable instrument, without the written consent of the OIR. Failure to comply may result in enforcement action being taken in accordance with the OIR's enforcement policy.

Specific enforcement actions may be taken by an **authorised safety zone official**, being an appointed member of the Australian Federal Police, Border Force or the Defence Force, in accordance with Section 140 of the OEI Act.

In accordance with section 141 of the OEI Act, should an unauthorised vessel either enter or remain within a safety zone, an authorised safety zone official is empowered to require the master of the vessel to vacate the safety zone.

If a disabled vessel is present in the safety zone and the authorised safety zone official reasonably believes that the vessel is likely to cause damage to any infrastructure in a safety zone, then the master is required to permit the vessel to be towed away from the safety zone or accept any other assistance that the authorised safety zone official considers necessary.

It is an offence, carrying significant penalty, for a person to obstruct or hinder an authorised safety zone official who is acting in accordance with the OEI Act.

Protection zone

It may be an offence for a person to engage in prohibited or restricted conduct within a protection zone, unless acting on behalf of the licence holder, in accordance with the licence or management plan for the

licence (if any). Failure to comply may result in enforcement action being taken in accordance with OIR's enforcement policy.

Section 149 of the OEI Act sets out the defences to engaging in prohibited or restricted activity. This includes conduct necessary to save a life or vessel, prevent pollution or where all reasonable steps to avoid contravention of the protection zone determination.

11.1.1. Reporting an infringement of, or issue within, a safety zone or protection zone

Licence holders are required to notify the OIR as soon as reasonably practical of incidents involving a contravention, or apparent contravention, of a safety or protection zone determination.

The OIR can be notified by calling the incident notification line on **1300 674 472**. A subsequent report including further details, and actions taken by the licence holder in response, is required no later than 48 hours after the initial report using the OIR incident report form. For more information regarding notifications please see the OIR Guideline - Notification and reporting of incidents, events and occurrences.

12. Australian Maritime Safety Authority

The Australian Maritime Safety Authority (AMSA) has published a Policy on Offshore Renewable Energy Infrastructure, available at: <https://www.amsa.gov.au/safety-navigation/navigating-coastal-waters/offshore-renewable-energy-infrastructure-policy>.

This policy makes recommendations in relation to freedom of navigation and traffic analysis which may be relevant to the preparation of a safety zone or protection zone application, as well as subsequent monitoring requirements of an established safety or protection zone.

The OIR considers consultation with AMSA necessary in all cases prior to submission of a safety or protection zone application. Evidence of consultation with AMSA on risk mitigation measures should be included in the application.

AMSA is responsible for implementation of IMO RESOLUTION A.671(16) - Safety Zones and Safety of Navigation around Offshore Installations and Structures. This resolution tasks flag states with ensuring their vessels do not wrongly enter established safety zones and suggests coastal states report infringements to the vessel's flag state.

Vessel operators are to report any incident involving infringement of a safety or protection zone to AMSA using form 18 and form 19, by emailing reports@amsa.gov.au. Reports are to include the OREI reference number, who was involved, what happened, where, when and how the incident occurred. For foreign flagged vessels, AMSA may notify the flag State of the vessel involved in the alleged infringement, in accordance with IMO RESOLUTION A.671(16).

13. Native Title

Where appropriate, safety zone determinations may be issued with repeal provisions to ensure the determination does not permanently exclude access or otherwise limit Native Title rights and interests.

Where Native Title is claimed in relation to the areas of a determined safety zone, the OIR will engage with the relevant licence holder.

14. Monitoring

This guideline is to be reviewed periodically by the OIR. Further reviews will be undertaken as a result of changes to legislation, through feedback elicitation or as a result of accumulated experience.

15. Related documents

N-04401-PL2048 – Policy - Assessment

N-05501-PL2096 – Enforcement

N-17101-PL2102 – Policy – Sharing information with Australian Agencies

N-04405-GL2115 – Notification and reporting of incidents, events and occurrences

N-03402-FM2255 – Report of an accident, dangerous occurrence or environmental incident

N-04405-FM2181 – Safety zone determination application

N-04405-FM2181 – Protection zone determination application

N-04405-FM2221 - Safety Zone Application Supporting Details

N-04405-FM2225 - Protection Zone Application Supporting Details

Appendix 1

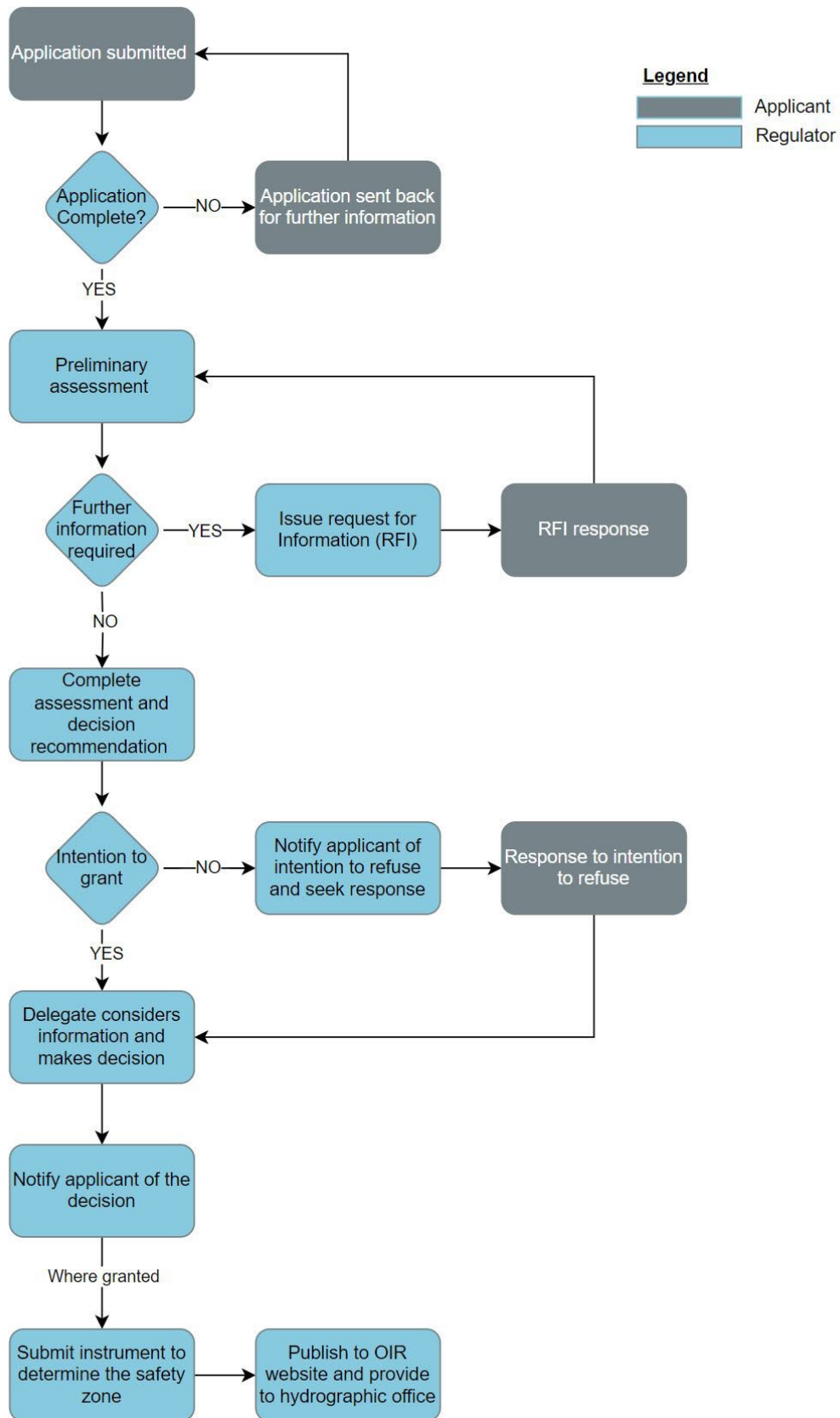


Figure 1: Safety zone application and assessment process

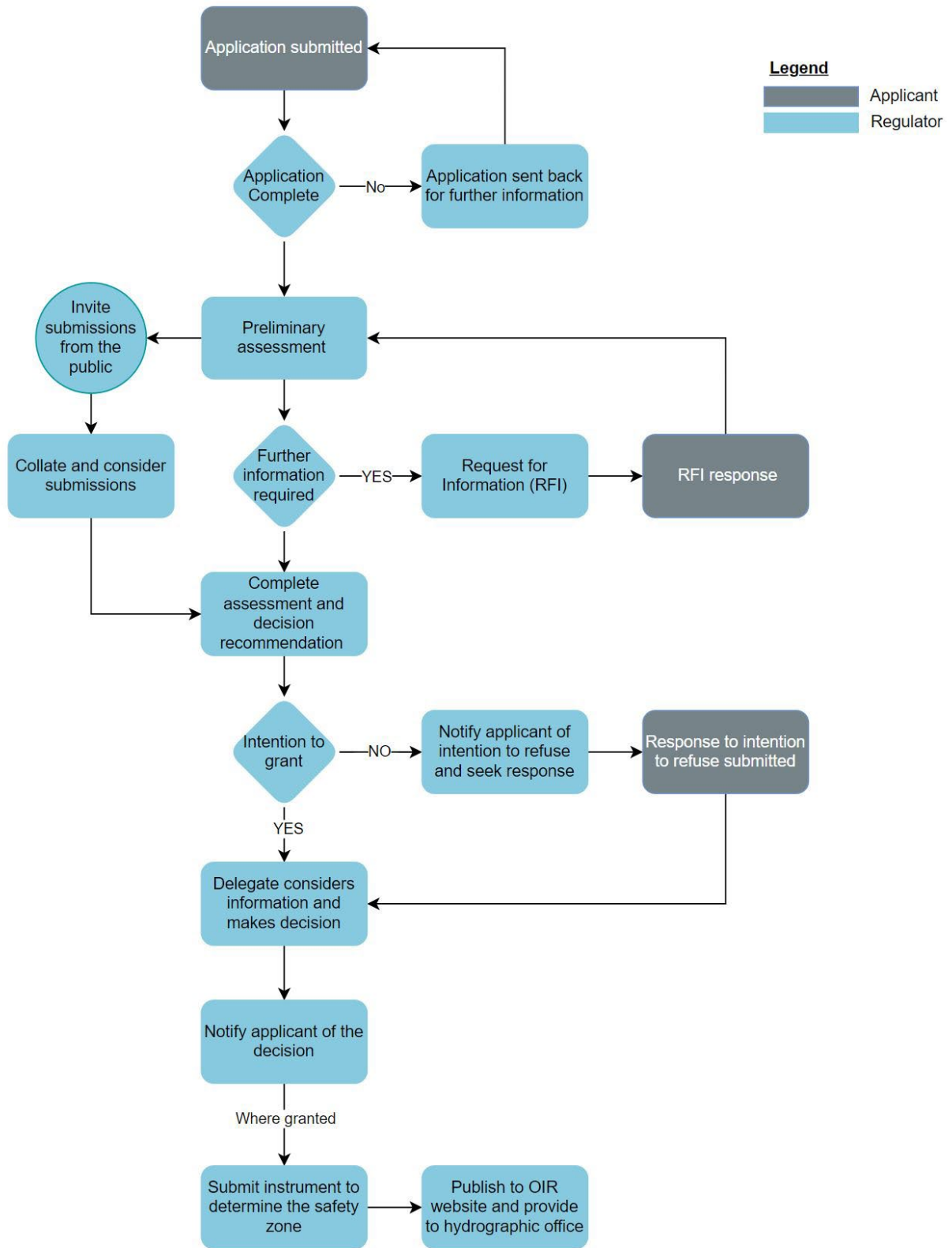


Figure 2: Protection zone application and assessment process