Australian Submarine Cable Legislation

Professor Stuart Kaye
Melbourne Law School

Australian Legislation

- *Submarine Cables and Pipelines Protection Act* 1963
  - Applies in the Australian EEZ and high seas
  - Does not apply in cable protection zones
  - Offences for breaking a cable from an Australian registered ship
    - Deliberately
    - Negligently
  - Liability for damaging cables if while laying/repairing a cable or pipeline
  - Indemnity for loss of anchor/fishing gear to save a cable by cable owners

Australian Legislation

➤ *Telecommunications and Other Legislation Amendment (Protection of Submarine Cables and Other Measures) Act 2005* (Cth)

➤ Relevant provisions comprise a new Schedule 3A to the *Telecommunications Act 1997* (Cth)

- Australian Communications Management Authority (ACMA) is the designated responsible agency

Telecommunications Act 1997

- ➤ ACMA can proclaim a protected zone over one or more cables
  - Protected zones may operate in the territorial sea, EEZ or upon the Australian continental shelf
  - Protected zone can declared on ACMA's initiative or on the request of a person
    - ACMA must give reasons if a request by a person is refused
      - This would entitle access to administrative and judicial review
    - Similar for variation of a proposal
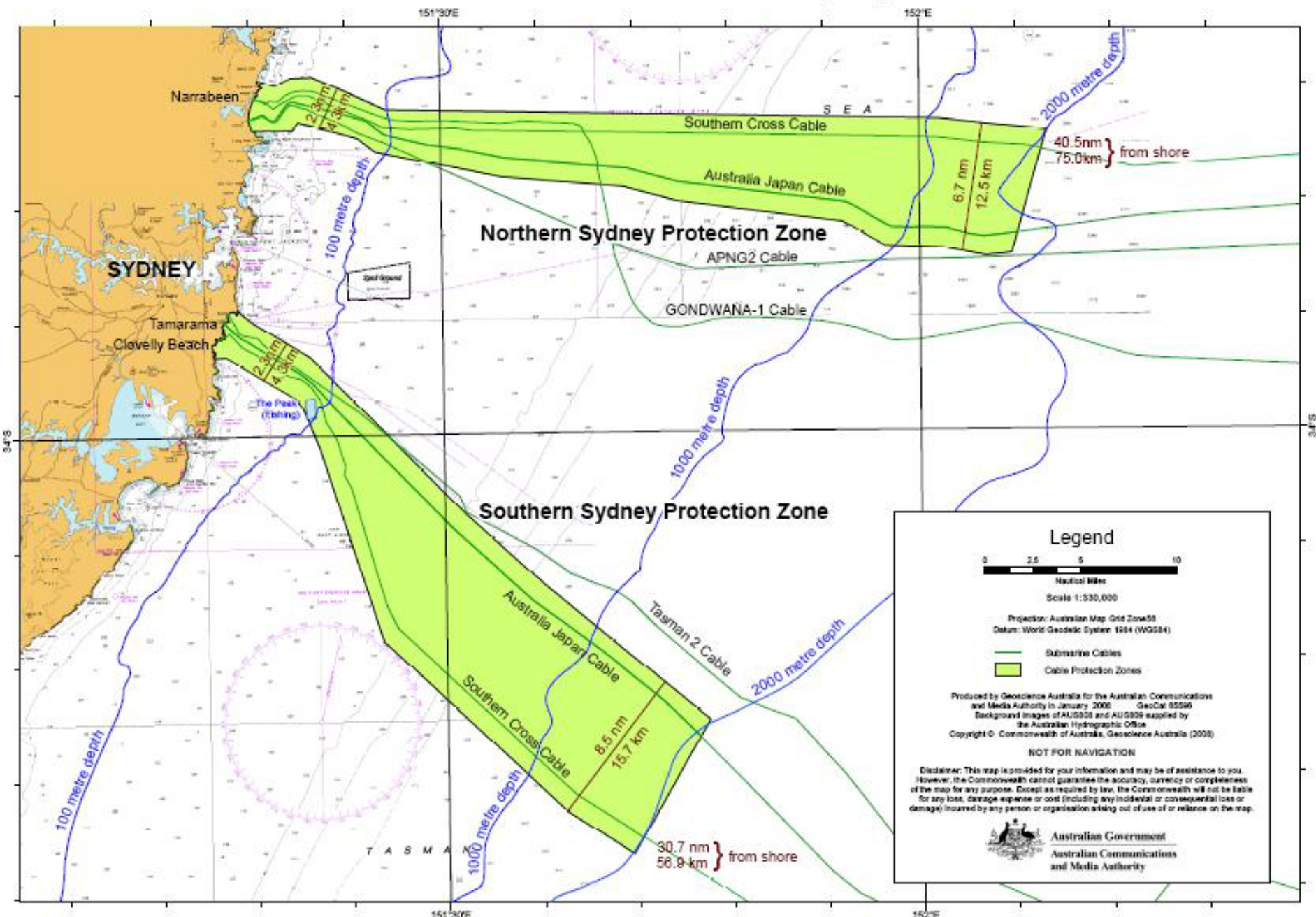
Telecommunications Act 1997

- ➢ Extensive consultation process to accompany a proposal for a protected zone
  - Advisory committee
  - Public submissions
  - Cable to be of "national significance"
- ➢ Decisions to be taken within 12 months of proposal being published

Telecommunications Act 1997

➤ Protected zones are to be 1 nm on either side of cable, or in an area between cables

➤ Range of activities may be prohibited or restricted

➤ Offences

Submarine Cable Protection Zones off Sydney, NSW

Southern Cross Cable

Australia Japan Cable

Northern Sydney Protection Zone

APNG2 Cable

GONDWANA-1 Cable

SYDNEY

Narrabeen

Tamarama
Clovelly Beach

The Peak
(Fishing)

40.5nm } from shore
75.0km }

6.7 nm
12.5 km

2.3km
4.3km

Southern Sydney Protection Zone

Australia Japan Cable

Tasman 2 Cable

Southern Cross Cable

8.5 nm
15.7 km

30.7 nm } from shore
56.9 km }

T A S M A N   S E A

100 metre depth

1000 metre depth

2000 metre depth

Legend

| 0 | 2.5 | 5 | 10 |

Nautical Miles

Scale 1:330,000

Projection: Australian Map Grid Zone56
Datum: World Geodetic System 1984 (WGS84)
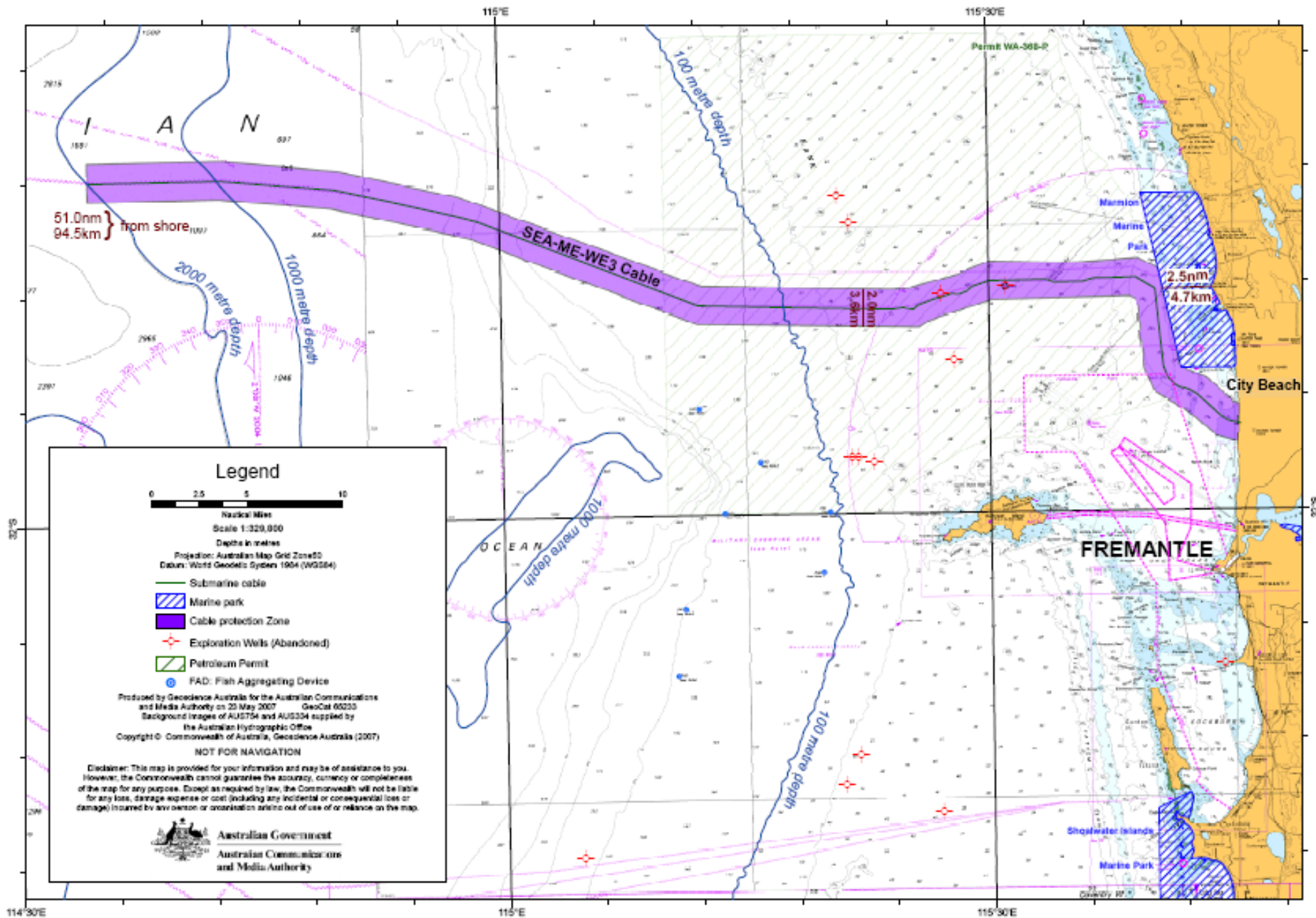
Submarine Cables

Cable Protection Zones

Produced by Geoscience Australia for the Australian Communications
and Media Authority in January 2006   GeoCat 65596
Background images of AUS808 and AUS809 supplied by
the Australian Hydrographic Office
Copyright © Commonwealth of Australia, Geoscience Australia (2006)

NOT FOR NAVIGATION

Disclaimer: This map is provided for your information and may be of assistance to you.
However, the Commonwealth cannot guarantee the accuracy, currency or completeness
of the map for any purpose. Except as required by law, the Commonwealth will not be liable
for any loss, damage expense or cost (including any incidental or consequential loss or
damage) incurred by any person or organisation arising out of use of or reliance on the map.

Australian Government
Australian Communications
and Media Authority

Submarine Cable Protection Zone off Perth, WA

Telecommunications Act 1997

➢ Damages
  - Person who suffers damage, _directly or indirectly_, can recover against a person who breaches a protected zone and damages a cable

➢ Indemnity by cable owners for anchors or fishing gear lost to save a cable
  - Not applicable if the vessel was in breach of the protected zone

➢ Permit regime