LEGISLATIVE INSTRUMENTS ACT 2003

Section 26 - Explanatory Statement

Variation to the licence area plan for Scottsdale radio made under the Broadcasting Services Act 1992

In accordance with the Australian Communications and Media Authority Act 2005, from 1 July 2005 the Australian Communications and Media Authority (ACMA) exercises powers and functions under the Broadcasting Services Act 1992 (BSA) the previously exercised by the Australian Broadcasting Authority (ABA).

On 4 August 2005, ACMA made a variation to the Licence Area Plan for Scottsdale Radio. The variation was made under section 26(2) of the BSA and is referred to in this explanatory statement as “the instrument”.

The licence area plan and variations

ACMA prepares licence area plans under section 26(1) of the BSA. Licence area plans determine the number and characteristics, including technical specifications, of broadcasting services that are to be available in particular areas of Australia with the use of the broadcasting services bands.

ACMA may vary licence area plans under section 26(2) of the BSA.

The ABA made the Licence Area Plan for Scottsdale Radio on 13 December 2001. It is referred to in this explanatory paper as “the licence area plan”.

Intended impact and effect

The instrument varies the technical specifications with which radio services in the Scottsdale Area of Tasmania must comply by inserting the technical specification for an additional transmitter to be available for the community radio broadcasting service SL1150792 operating as 7BOD (the community radio service) to serve the general areas of Bicheno and Coles Bay.
ACMA intends the effect of the variation to be that the community radio service will be available to serve the general areas of Bicheno and Coles Bay.

The instrument also updates the descriptions of the licence areas in the licence area plan. The ABA intends the effect of that variation to redefine the relevant licence areas in the terms used by the Australian Bureau of Statistics in the most recent Census. This variation is of a minor and machinery nature and ensures consistency between the licence area plan and the Census. The ABA does not intend that the licence areas are to be altered in a substantial way.

The instrument also makes minor and technical variations to the licence area plan to:

- correct previous drafting errors; and
- delete information, that was included for reference only, that does not form part of the licence area plan and which may be confusing.

ACMA intends the effect of the minor and technical variations to be to clarify the rights and obligations of radio broadcasting licensees in the Scottsdale area. ACMA does not intend the variations to alter those rights and obligations.

**Consultation**

On 31 January 2005, the ABA received an unsolicited request from the licensee of the community radio service to allow it to extend the existing service to the areas of Bicheno and Coles Bay.

Before ACMA made the decision to vary the licence area plan, the ABA undertook the following steps by way of consultation:

- On 30 May 2005, the ABA published the following papers on its website:
  - a proposed variation to the licence area plan in the same form as the instrument, and
  - an explanatory paper about the changes proposed and inviting public comment by 9 June 2005.
On 3 June 2005, the ABA placed an advertisement in the Launceston Examiner newspaper outlining the effect of the draft variation on the licence area plan, providing details of how to obtain copies of the draft variation, how to access it on the ABA’s website and inviting public comment.

The ABA wrote to persons providing broadcasting services to the Scottsdale licence area to advise them of the release of the draft variation and explanatory paper and to invite their comments.

The ABA wrote to industry bodies and other interested agencies or organisations, including the Community Broadcasting Association of Australia, Free TV Australia, the Australian Subscription Television and Radio Association and Commercial Radio Australia, Broadcast Australia, Digital Broadcasting Australia, AirServices Australia and the Australian Communications Authority, to advise them of the release of the draft variation and explanatory paper and to invite their comments.

The ABA received one comment on the draft variation and explanatory paper.

**Description of the provisions of the instrument**

Clause (1)(a) of the instrument varies the text of the determination in the licence area plan to number each of the paragraphs in the determination consecutively as clauses.

Clause (1)(b) of the instrument remedies a previous drafting error. The clause varies the text in paragraph (2) of the determination to refer to an attachment that contains the technical specification for a transmitter for the commercial radio broadcasting service SL1150791 (operating as 7RGS) to serve the general area of Weldborough. The ABA included the technical specification in the licence area plan in a variation made in June 2004. However, it did not make a variation to the determination to take account of the inclusion of the additional technical specification.

Clause (1)(c) of the instrument varies the text in paragraph (3) of the determination to refer to the attachment that contains the technical specification for the additional transmitter, discussed above under the heading “intended impact and effect”, that is to
be available for the community radio service to serve the general areas of Bicheno and Coles Bay.

Clause (1)(d) of the instrument varies the text of the determination in the licence area plan to insert a new clause that will ensure that it refers to schedules and attachments that have been amended from time to time by the ABA.

Clause (2) of the instrument deletes the nine paragraphs marked with dot points under the heading “SCHEDULES” and following the determination in the licence area plan. The paragraphs contained information, included for reference, that does not form part of the licence area plan and which may be confusing.

Clause (3) of the instrument varies the schedules to the licence area plan. The schedules set out details of the national, commercial and community radio broadcasting services that are to be available on particular frequencies in the Scottsdale area. In particular, the schedules provide the technical specification numbers for the transmitters to be used by the services and specify the attachments which contain the technical specification for each of those transmitters.

Column 2 of Schedule One in the licence area plan is headed “Status” and contains information, included for reference, that does not form part of the licence area plan and which may be confusing.

Clause (3)(a) of the instrument deletes the column headed “Status” from Schedule One to the licence area plan.

Clause (3)(b) of the instrument omits Schedule Two from the licence area plan and substitutes the updated schedule contained in item 2 of page 5 of this instrument. The updated schedule:

- does not contain a status column;
- contains the technical specification number of the additional transmitter to be available for the community radio service to serve the Bicheno and Coles Bay areas; and
refers to attachment 2.4 of the licence area plan as containing the technical specification for that additional transmitter.

Clauses 4(a) and (b) of the instrument omit attachments 1.1 and 2.1 of the licence area plan and substitute attachments 1.1 and 2.1 of the instrument. The updated attachments contain descriptions of the licence areas in terms used by the Australian Bureau of Statistics at the most recent Census.

Clause 4(c) inserts attachments 2.4 of this instrument into the principal instrument. Attachment 2.4 contains the technical specification for the additional transmitter for the community radio service, including:

- the nominal location of the transmitter;
- the frequency on which the service may be transmitted (98.5Mhz);
- other emission details; and
- the output radiation pattern (including power limitations).