Explanatory Statement

Section 26 Legislative Instruments Act 2003

Variation to Licence Area Plan for – Launceston Radio – No.1 of 2009

OCTOBER 2009
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**Legislative Instruments Act 2003**

Section 26 – Explanatory Statement

Variation to Licence Area Plan for Launceston Radio – No. 1 of 2009 made under the *Broadcasting Services Act 1992*

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

On 1 October 2009, the ACMA varied the Licence Area Plan (LAP) for Launceston Radio. The variation was made under subsection 26(2) of the BSA and is referred to in this explanatory statement as “the instrument”.

The licence area plan and variations

The ACMA prepares LAPs under subsection 26(1) of the BSA. LAPs 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.

The ACMA may, by legislative instrument, vary LAPs under subsection 26(2) of the BSA.
The ABA made the *Licence Area Plan for Launceston Radio* on 13 December 2001 and varied it on 24 March 2005. It is referred to in this explanatory statement as “the Launceston LAP”.

**Intended impact and effect**

The instrument varies the number and characteristics, including technical specifications, of broadcasting services in the Launceston area by:

- adding technical specifications for translator services for the existing commercial radio broadcasting services 7EX and 7LA to rectify deficient coverage in the Launceston city area; and

- adding a technical specification for a new open narrowcasting radio service for the Launceston area.

The instrument also deletes information, included for reference only, that does not form part of the Launceston LAP and which may create confusion, and makes minor amendments to correct drafting errors. The instrument also updates each of the licence area definitions so that they are defined in terms of the Australian Bureau of Statistics’ (ABS) 2006 Census data.

The intended effect of this variation is to clarify the number and characteristics, including technical specifications, of radio broadcasting services in the Launceston area. The ACMA does not intend the variation to alter any existing rights and obligations, except as set out above.
Community Broadcasting Considerations

Section 23 of the BSA imposes specific obligations on the ACMA when carrying out its planning functions, including, amongst other things, that the ACMA is required to perform its functions in a way that promotes the objects of the Act, including the economic and efficient use of the radiofrequency spectrum.

The ACMA received a submission from an aspirant broadcaster asserting that it should make channel capacity available for an additional community radio broadcasting service. After applying the planning criteria set out in section 23 of the BSA, the ACMA considered that it should not make this capacity available. The reasons for this include:

a. demographics and social and economic characteristics: Launceston is under-represented in diverse multi-cultural groups, and there is limited cultural demand for a service of this type;

b. existing services: Launceston is already well served with community broadcasting services in relation to comparable regional centres; and

c. other matters:

i. the arguments put forward were not compelling or indicative of substantial community support; and

ii. the addition of a new community broadcaster might result in a reduction in the sponsorship available to the existing community broadcasters, thus reducing the financial capacity they have to provide their services.
Regulatory impact statement exemption

The ACMA has considered whether a regulatory impact statement is required and formed the view that the recommendations in the instrument would give rise to a regulatory obligation and has undertaken a regulatory analysis process. The ACMA has formed the view that that proposed regulation is likely to have no or low impact on business or the economy, and a regulation impact statement is not necessary in relation to the regulatory proposal.

Consultation and Submissions

Before making a decision to vary the Launceston LAP, the ACMA undertook the following consultation:

On 27 July 2009, the ACMA published the following papers on its website:

- a draft variation to the Launceston LAP;
- an explanatory paper about the changes proposed in the draft variation to the Launceston LAP, inviting public comment by 28 August 2009; and
- a media release announcing the proposed draft variation to the Launceston LAP.

- On 29 July 2009, the ACMA wrote to the licensees providing radio broadcasting services to the Launceston region, to advise them of the release of the draft variation to the Launceston LAP and to invite their comments.

- On 29 July 2009, the ACMA placed an advertisement in the Launceston Examiner outlining the effect of the draft variation on the Launceston LAP, providing details of how to obtain copies of the draft variation, how to access it on the ACMA’s website, and inviting public comment.
The ACMA received six submissions on the draft variation to the Launceston LAP and accompanying explanatory paper.

**Description of the provisions of the instrument**

**Clause 1**

Clause 1 identifies the power under which the ACMA makes the instrument, that is, subsection 26(2) of the BSA.

**Clause 2**

Clause 2 names the instrument the *Variation to the Licence Area Plan for Launceston Radio – No. 1 of 2009*.

**Clause 3**

Clause 3 provides that the instrument commences the day after it is registered on the Federal Register of Legislative Instruments.

**Clause 4(a)**

Clause 4 (a) of the instrument removes the words “December 2001” from the heading of the Determination in the Launceston LAP.

**Clause 4(b)(i)**

Clause 4 (b)(i) of the instrument inserts words into clause 2 of the Launceston LAP to add an open narrowcasting radio service in the Launceston RA1 licence area.

**Clause 4(b)(ii)**

Clause 4 (b)(ii) of the instrument omits the words “Attachments 1.2 – 1.11” and substitutes the words “Attachments 1.3 – 1.6 and 1.9 – 1.14” from clause 2 in the
Determination in the Launceston LAP in order to accurately reflect the removal of Attachment 1.2, Attachment 1.7 and Attachment 1.8 and the inclusion of Attachment 1.12, Attachment 1.13 and Attachment 1.14.

Further explanation on the removal of Attachment 1.2, Attachment 1.7 and Attachment 1.8 is at Clause 4(e).

Further explanation on the inclusion of Attachment 1.12, Attachment 1.13 and Attachment 1.14 is at Clause 4(f).

**Clause 4(c)**

Clause 4(c) of the instrument replaces Schedule One to the Launceston LAP. This schedule sets out the details of the national and commercial radio broadcasting services, and the open narrowcasting radio service that are to be available on particular frequencies in the Launceston RA1 licence area determined by the Launceston LAP. In particular, Schedule One provides the technical specification numbers for each transmitter to be used by the services in Launceston RA1 licence area and specifies the Attachments which contain the technical specifications for each of those transmitters. The new Schedule One has added technical specifications for the two commercial radio broadcasting services, for new translators to improve coverage in the central business district of Launceston. The new Schedule One also adds technical specifications for an open narrowcasting radio service in the Launceston RA1 licence area.

**Clause 4(d)**

Clause 4 (d) of the instrument omits the words “- December 2001” from relevant Attachments in the Launceston LAP. The information was included for reference only, but may be confusing.
Clause 4(e)

Clause 4(e) of the instrument removes Attachment 1.2, Attachment 1.7 and Attachment 1.8 of the Launceston LAP.

Attachment 1.2 contained the technical specifications for a transmitter for a national radio broadcasting service to serve the general area of Launceston, which is no longer available. This service has now been converted to the FM band and the technical specifications for the FM service can be found at Attachment 1.10 of the instrument.

Attachment 1.7 contained the technical specifications for a transmitter for a commercial radio broadcasting service with the service licence number SL4220 that served the general area of Launceston, which is no longer available. That service has been converted to the FM band. The new technical specifications for the FM service can be found at Attachment 1.11 of the instrument.

Attachment 1.8 contained the technical specifications for a transmitter for the commercial radio broadcasting service with the service licence number SL4221 that served the general area of Launceston, which is no longer available. That service has been converted to the FM band. The new technical specifications for the FM service can be found at Attachment 1.9 of the instrument.

When the Launceston LAP was varied in March 2005 to convert these broadcasting services to the FM band, Attachment 1.9, Attachment 1.10 and Attachment 1.11 contained special conditions that set out the commencement provisions for these services. These services have commenced in accordance with the technical specifications and the special conditions are now redundant and have been removed.
Clause 4 (f)

Clause 4(f) of the instrument inserts Attachment 1.12, Attachment 1.13 and Attachment 1.14 into the Launceston LAP.

Attachment 1.12 of the instrument outlines the characteristics, including technical specifications for commercial radio broadcasting service 7EXX (SL4220) to serve the Launceston City area. This FM translator service provides supplementary coverage where the coverage from the main transmitter is restricted.

Attachment 1.13 of the instrument outlines the characteristics, including technical specifications for commercial radio service 7LAA (SL4221) to serve the Launceston City area. This FM translator service provides supplementary coverage where the coverage from the main transmitter is restricted.

Attachment 1.14 outlines the characteristics, including technical specifications, for a new high power open narrowcasting radio service in Launceston.

The technical specification for the transmitters at Attachment 1.12, Attachment 1.13 and Attachment 1.14 include the following characteristics:

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

Clause 4(g)

Clause 4 (g) of the instrument removes Attachment 1.1, Attachment 2.1, Attachment 3.1 and Attachment 4.1 of the Launceston LAP and substitutes in the corresponding places the Attachments of the instrument having those same numbers. These new Attachments
contain the definitions of the Launceston RA1, Launceston RA2, George Town RA1 and Northern Midlands RA1 licence areas in terms used by the ABS, using 2006 Census data.

Clause (4)(g) also removes Attachment 1.9 of the Launceston LAP and substitutes a new Attachment 1.9. This new Attachment contains technical specifications for the commercial radio broadcasting service that is available at Launceston under the service licence number 4221.

Clause 4 (g) also removes Attachment 1.10 of the Launceston LAP and substitutes a new Attachment 1.10. This new Attachment contains technical specifications for the national radio broadcasting service that is available at Launceston under the call sign 7NT.

Clause 4 (g) also removes Attachment 1.11 of the Launceston LAP and substitutes a new Attachment 1.11. This new Attachment contains technical specifications for the commercial radio broadcasting service that is available at Launceston under the service licence number 4220.

Clause 4 (g) also removes Attachment 3.2 of the Launceston LAP and substitutes a new Attachment 3.2. This new Attachment contains technical specifications for the community radio broadcasting service that is available at George Town under the service licence number 1150789.

When the 2001 Launceston LAP was made, Attachment 3.2 contained a special condition that set out the requirements to eliminate interference to the reception of the ABNT3 television service, if it occurred. The ABNT3 television service in North East Tasmania has ceased operation. The special condition is now redundant and has been removed.
Clauze 4(h)

Clause 4 (h) specifies that all Attachments 1.1 – 4.2 to the Launceston LAP are reordered so that they are in sequential order.