Explanatory Statement
Section 26 – Legislative Instruments Act 2003
Variation to Licence Area Plan – Murray Bridge Radio – No.1 of 2009

NOVEMBER 2009
Legislative Instruments Act 2003

Section 26 – Explanatory Statement

Variation No.1 of 2009 to licence area plan for Murray Bridge 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 (the ABA).

On 5 November 2009, the ACMA made a variation to the licence area plan (LAP) for Murray Bridge Radio. The variation was made under subsection 26(2) of the BSA and is referred to in this explanatory paper as “the instrument”.

The licence area plans 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 Murray Bridge Radio on 6 December 2001. It is referred to in this explanatory statement as “the Murray Bridge LAP”.

Intended impact and effect

The instrument varies the number and characteristics, including technical specifications, of radio broadcasting services in the Murray Bridge area by:
• changing the technical specification of the community radio broadcasting service 5EFM, operated under licence number SL1150781, to facilitate a change in frequency to mitigate off-air feed interference and a change in polarisation of its antenna;

• changing the technical specification of the community radio broadcasting service 5GSFM, operating under licence number SL1150786, to facilitate a change in the height and polarisation of its antenna;

• adding a new technical specification for a long-term community radio broadcasting service to operate under licence number SL1130054, to serve the general area of Goolwa; and

• defining the licence area of this additional community radio broadcasting service.

The instrument also deletes information, included for reference only, that does not form part of the Murray Bridge LAP and which may create confusion, and makes some 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 these variations is to clarify the number and characteristics, including technical specifications, of community radio broadcasting services in the Murray Bridge area. The ACMA does not intend the variations to significantly alter any existing rights and obligations materially, except as set out above.

**Regulatory impact analysis**

The ACMA has considered whether a regulatory impact statement is required and formed the view that the changes made by the instrument would give rise to a regulatory obligation and
has undertaken a regulatory analysis process. The ACMA has formed the view that the 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 Murray Bridge LAP, the ACMA undertook the following consultation:

On 26 August 2009, the ACMA published the following papers on its website:

- a draft variation to the Murray Bridge LAP;
- an explanatory paper about the changes proposed in the draft variation to the Murray Bridge LAP, inviting public comment by 25 September 2009; and
- a media release announcing the proposed draft variation to the Murray Bridge LAP.

On 26 August 2006, the ACMA wrote to the licensees providing radio broadcasting services to the Murray Bridge region to advise them of the release of the draft variation to the Murray Bridge LAP and to invite their comments.

On 27 August 2009, the ACMA placed an advertisement in the ‘The Victor Harbor Times’ outlining the effect of the draft variation on the 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.

On 29 September 2009, the ACMA published on the ACMA web site a revised version of the draft variation to the Murray Bridge LAP following the discovery of an administrative error in the description of the licence area of the proposed long-term community
broadcasting service at Goolwa. The public comment period was extended to the 14 October 2009.

On 29 September 2009, the ACMA wrote to the existing radio broadcasting licensees alerting them to the revised draft variation and the extension for public comment.

The ACMA received two submissions on the draft variation to the Murray Bridge 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, section 26(2) of the BSA.

**Clause (2)**

Clause (2) names the instrument the *Variation to the Licence Area Plan for Murray Bridge 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 Murray Bridge LAP.
**Clause (4)(b)**

Clause (4)(b) of the instrument numbers each of the paragraphs of the Determination in the Murray Bridge LAP consecutively as clauses (1), (2), (3) and (4).

**Clause (4)(c)**

Clause (4)(c) of the instrument inserts a new clause (5) into the Determination in the Murray Bridge LAP. Clause (5) provides for a new community radio broadcasting service to be available in the Goolwa RA1 licence area (a new licence area). The clause makes reference to the Schedule and Attachments containing the description of the new licence area and the technical specifications for the transmitter for the community radio broadcasting service. The relevant Schedules and Attachments are inserted by later provisions of the instrument.

Clause (4)(c) also inserts a new clause (6) into the Determination in the Murray Bridge LAP that will ensure that it refers to Schedules and Attachments that have been amended from time to time by the ACMA.

**Clause (4)(d)**

Clause (4)(d) of the instrument deletes all text appearing immediately under the heading “SCHEDULES” in the Murray Bridge LAP (including the heading itself). The information was included for reference only, but may be confusing.

**Clause (4)(e)**

Clause (4)(e) of the instrument replaces Schedule One, Schedule Two and Schedule Three to the Murray Bridge LAP. These Schedules set out the details of the commercial and community radio broadcasting service available on particular frequencies in licence areas determined by the Murray Bridge LAP. In particular, the Schedules provide the technical
specification numbers for each transmitter to be used by the services in each licence area in
the Murray Bridge LAP, and specify the Attachments which contain the technical
specification for each of those transmitters. The changes to the Schedules merely remove
some irrelevant material, and effect a change of frequency for the Yankalilla transmitter for
the community radio broadcasting service in the Victor Harbour RA1 licence area.

Clause (4)(f)

Clause (4)(f) of the instrument inserts Schedule Four into the Murray Bridge LAP. The
Schedule sets out the details of the new community radio broadcasting service that is to be
available in the new Goolwa RA1 licence area and provides the technical specification
number for the transmitter for that service and specifies the Attachment which contains the
technical specification for this transmitter.

Clause (4)(g)

Clause (4)(g) omits the words “Radio – December 2001” from Attachment 1.2, Attachment
1.3, Attachment 1.4, Attachment 1.5, Attachment 2.2 and Attachment 2.3 in the Murray
Bridge LAP. The information was included for reference only, but may be confusing.

Clause (4)(h)

Clause (4)(h) of the instrument removes Attachment 1.1, Attachment 2.1 and Attachment 3.1
of the Murray Bridge LAP and substitutes in the corresponding places the Attachments of the
instrument having those same numbers. These new Attachments contain the definitions of
the Murray Bridge RA1, Victor Harbor RA1 and Victor Harbor RA2 licence areas in terms
used by the ABS, using 2006 Census data. The licence areas themselves are unchanged.
Clause (4)(h) also removes Attachment 2.4 of the Murray Bridge LAP and substitutes a new Attachment 2.4. This new Attachment contains the technical specifications for the community radio broadcasting service that is available at Yankalilla under the service licence number SL1150781. The inserted Attachment 2.4 reflects a change in frequency to mitigate off-air feed interference and a change in the polarisation of its antenna from vertical to mixed.

Clause (4)(h) also removes Attachment 3.2 of the Murray Bridge LAP and substitutes a new Attachment 3.2. This new Attachment contains the technical specifications for the community radio broadcasting service that is available at Victor Harbor under the service licence number SL1150786. The inserted Attachment 3.2 reflects a change to the antenna height and polarisation from horizontal to mixed.

The change of singular polarisation (vertical or horizontal) to mixed polarisation in Attachment 2.4 and Attachment 3.2 will allow the licensee to facilitate transmission on mixed polarisation. A mixed polarised service will allow the broadcaster to provide good coverage to listeners in domestic, portable and mobile environments and such optimal operation of a service is also considered to be efficient use of the allocated spectrum. The change in polarisation does not change the planned performance of each of the services.

**Clause (4)(i)**

Clause (4)(i) of the instrument inserts Attachment 4.1 into the Murray Bridge LAP. This new Attachment contains the definition of the new Goolwa RA1 licence area in terms used by the ABS using 2006 Census data.
Clause (4)(i) also inserts Attachment 4.2 into the Murray Bridge LAP. This new Attachment contains technical specifications for a new community radio broadcasting service that is available at Goolwa under service licence number 1130054.

The technical specifications for the transmitter in Attachment 4.2 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).

The Attachment also includes a special condition that allows the transmitter for the service to be operated at less than the minimum power level set out in the *Broadcasting Services (Technical Planning) Guidelines 2007*. 