



EXPLANATORY STATEMENT

Section 26 – Legislative Instruments Act 2003

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VARIATION TO LICENCE AREA PLAN FOR WAGGA WAGGA – NO. 1 OF 2006 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* (the BSA) previously exercised by the Australian Broadcasting Authority (ABA).

On 3 August 2006, the Australian Communications and Media Authority (ACMA) made a variation to the Licence Area Plan for Wagga Wagga Radio. The variation was made under section 26(2) of the *Broadcasting Services Act 1992* (the BSA) and is referred to in this explanatory paper 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 Wagga Wagga Radio (the licence area plan) on 6 December 2001 and varied it on 24 February 2005. It is referred to in this explanatory statement as “the licence area plan”.

Intended impact and effect

The instrument:

- provides technical specifications for additional transmitters for the community radio broadcasting service with service licence (SL) No 3039, operating as 2AAA Wagga Wagga, (2AAA) to serve the areas of Wagga Wagga South, Gundagai, Coolamon and Junee;

- defines a new licence area (the Wagga Wagga RA3 Licence Area), including the areas of Wagga Wagga, Gundagai, and Coolamon, in which the 2AAA service will be available.
- removes a technical specification for an alternative transmitter for the 2AAA community radio broadcasting service to serve the general area of Wagga Wagga;
- provides technical specifications for additional transmitters for the community radio broadcasting service with service licence (SL) No 1150803, operating as 2TVR Tumut, (2TVR) to serve the areas of Gundagai and Talbingo; and
- redefine the Tumut RA1 licence area to cover a larger area, including the towns of Gundagai and Talbingo.

In relation to the 2AAA service, ACMA intends the effect of the variation to:

- to rectify deficiencies in reception in the areas of Wagga Wagga South and Junee;
- make 2AAA available to audiences in a new and larger licence area that includes the towns of Gundagai and Coolamon; and
- reverse a decision, made by the then ABA in a variation to the licence area plan made on 24 February 2005, to provide a technical specification with an alternative location for the transmitter for 2AAA to serve the area of Wagga Wagga. ACMA has determined that the alternative location for the transmitter is not suitable.

In relation to 2TVR, ACMA intends the effect of the variation to make 2TVR available to a larger licence area that includes the towns of Gundagai and Talbingo.

Consultation

Following wide public consultation, on 24 February 2005 the then ABA determined to vary the licence area plan. The variation provided an additional technical specification with an alternative location for the transmitter for 2AAA to serve the area of Wagga Wagga.

On 28 February 2005 the licensee of 2AAA advised the ABA that:

- the alternative specified location for the transmitter used to serve the general areas of Wagga Wagga was not appropriate; and

- it wished the ABA to provide additional specification in the licence area plans for transmitters for it to serve the areas of Coolamon and Gundagai and to improve its service to the areas of Wagga Wagga South and Junee.

Before making a decision to vary the licence area plan, the then ABA undertook the following steps by way of consultation:

- On 14 June 2005 the ABA published the following papers on its website:
 - a draft variation to the licence area plan in accordance with the licensee's submission; and
 - an explanatory paper about the changes proposed in the draft variation, inviting public comment by 8 July 2005.
- On 11 June 2005, the ABA placed an advertisement in the Wagga Daily Advertiser newspaper outlining the effect of the draft variations to the licence area plan, providing details of how to obtain copies of the draft variation or how to access it on the website and inviting public comment.

The ABA wrote to the following interested persons and organisations to advise them of the draft variation and to invite their comments:

- operators of radio broadcasting services within the Wagga Wagga licence areas and in neighbouring licence areas;
- industry bodies including the Community Broadcasting Association of Australia, Commercial Radio Australia and the Australian Subscription Television and Radio Association; and
- interested agencies including the Australian Competition and Consumer Commission, Air Services Australia and the Australian Communications Authority.

The ABA received two submissions on the draft proposal and explanatory paper released including a submission from 2TVR. 2TVR supported the proposal and requested that it be allowed to extend its licence area to include Gundagai and Talbingo. On the basis of this submission, ACMA prepared a revised draft variation to the licence area plan 2TVR's proposal.

Before making the revised variation to the licence area plan, ACMA undertook the following steps by way of consultation:

On 2 February 2006 ACMA published the following papers on its website:

- the revised draft variation to the licence area plan in accordance with the licensee's submission; and
 - an explanatory paper about the changes proposed in the draft variation, inviting public comment by 25 February 2006.
- On 4 February 2006, ACMA placed an advertisement in the Wagga Daily Advertiser newspaper outlining the effect of the draft variations to the licence area plan, providing details of how to obtain copies of the draft variation or how to access it on the website and inviting public comment.
- ACMA wrote to the following interested persons and organisations to advise them of the draft variation and to invite their comments:
- operators of radio broadcasting services within the Wagga Wagga licence areas and in neighbouring licence areas;
 - industry bodies including the Community Broadcasting Association of Australia, Commercial Radio Australia and the Australian Subscription Television and Radio Association; and
 - interested agencies including the Australian Competition and Consumer Commission, Air Services Australia and the Australian Communications Authority.

ACMA received 15 submissions on the revised proposal to vary the licence area plan. Only one submission, from Macquarie Regional Radioworks Pty Ltd (Macquarie) did not support the proposal.

Macquarie's submission generally opposed the extension of the areas in which community radio services are currently available to include other regional areas. Macquarie's apprehension is that the "regionalisation" of community radio broadcasters may result in community broadcasting losing its focus on localism and local access.

ACMA took Macquarie's submission into account but was not persuaded by it. ACMA was satisfied that, in this case, there are real community of interest links between the regional area in which 2TVR and 2AAA have been available and the regional areas (the new regional areas) in which they will now be available. Those links derive from the relative geographical proximity of Gundagai and Tumut and Gundagai and Wagga Wagga and the fact that there are many employment, business, sporting, educational and other service relationships between those areas.

In addition, ACMA took into account that:

- there were no community services available in the new regional areas;
- both 2AAA and 2TVR propose to provide services that meet the needs of the communities in the new regional areas and facilitate participation in the operation of their services by people in those communities; and
- both services appear to have the financial capacity to extend the operation of their services, and spectrum is available for them to do so.

Description of the provisions of the instrument

Clauses (1)(a)(i) and (ii) of the instrument varies the text of clause (3) of the determination in the licence area plan to change the number of community radio broadcasting services (previously including 2AAA) to be available in the Wagga Wagga RA2 licence area from two to one. Clause (1)(a)(ii) deletes the references in clause (3) to the attachments that contain the technical specifications for transmitters for 2AAA to serve the general area of Wagga Wagga.

Clause (1)(b) of the instrument varies the text of clause (4) of the determination in the licence area plan to refer to inserted attachments that contain the technical specifications for transmitters for 2TVR to serve the general area of Tumut.

Clause 1(c) of the instrument inserts a new clause (4A) into the determination in the licence area plan. The new clause provides that:

- there will be one community radio service (that is, 2AAA) to be available in a licence area described at attachment 4.1; and
- it will have the characteristics set out in attachments 4.2-4.6.

The area described at attachment 4.1 is the Wagga Wagga RA3 licence area which includes the areas in the Wagga Wagga RA2 licence area and additional areas referred to above in which 2AAA will be available.

Attachments 4.2-4.6 are inserted by later provisions. The attachments contain technical specifications for the transmitter for the transmitter used by 2AAA to service the licence area of Wagga Wagga RA2 and the additional transmitters to be used to make the service available to the larger Wagga Wagga RA3 licence area.

Clause (2) of the instrument deletes all text appearing immediately under the heading “Schedules” in the licence area plan. This includes text under the subheadings “Status column” and “Frequency column”. The information in that text, included for reference only, does not form part of the licence area plan and may be confusing.

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

Clause (3)(a) of the instrument updates Schedule Two to the licence area plan which sets out the relevant details of the broadcasting service made available in the licence area plan in the Wagga Wagga RA2 area, including the 2AAA service. The Schedule is omitted and substituted with an updated schedule in Item 2 on page three of the instrument. The updated schedule does not refer to 2AAA.

Clause (3)(b) of the instrument updates Schedule Three to the licence area plan which sets out the relevant details of the broadcasting service made available in the licence area plan in the Tumut RA1 area. The Schedule is omitted and substituted with an updated schedule in Item 4 on page four of the instrument. The schedule refers to the 2TVR service and provides three technical specification numbers for transmitters for that service, including

- the technical specification number of the transmitter currently used by 2TVR to serve the Tumut area; and

- the technical specification numbers for the additional transmitter to be used by 2TVR to serve the areas of Talbingo and Gundagai.

Clause (3)(c) of the instrument inserts Schedule Four to the licence area plan. The schedule refers to the 2AAA service and provides five technical specification numbers for transmitters for that service, including

- the technical specification number of the transmitter currently used by 2AAA to serve the Wagga Wagga area; and
- the technical specification numbers for the additional transmitters to be used by 2AAA to serve the areas of Junee, Coolamon and Gundagai.

The updated schedule does not contain the technical specification number for the transmitter located at the alternative but unsuitable location, referred to above.

The updated schedules do not include a status column. The status column contained information, included for reference only, that may be confusing.

Clause 3(d) of the instrument deletes column 2 of Schedule One. This column had the heading “Status” and, as noted above, contained information, included for reference only, that does not form part of the licence area plan and which may be confusing.

Clause (4)(a) of the instrument omits Attachment 2.1 of the licence area plan and substitutes Attachment 2.1 of the instrument. Attachment 2.1 describes the Wagga Wagga RA2 licence area plan in terms used by the Australian Bureau of Statistics at the most recent Census. The inserted Attachment 2.1 does not contain a reference to 2AAA but is not altered in any other way.

Clause (4)(b) omits Attachments 2.2 and 2.4 of the licence area plan. Attachments 2.2 and 2.4 of the licence area plan contain the technical specifications for the transmitter currently used by 2AAA and the transmitter at the alternative but unsuitable location, referred to above.

Clause (4)(c) of the instrument omits Attachment 3.1 of the licence area plan and substitutes Attachments 3.1 of the instrument. Attachment 3.1 describes the Tumut RA1 licence area

plan in terms used by the Australian Bureau of Statistics at the most recent Census.

Attachment 3.1 is updated by the instrument to include the towns of Talbingo and Gundagai.

Clause 4(d) of the instrument inserts Attachments 3.3 and 3.4 into the licence area plan. The inserted Attachments 3.3 and 3.4 contain the technical specifications for new transmitters for 2TVR to serve areas in the expanded Tumut RA1 licence area, including the areas of Talbingo and Gundagai.

Clause (4)(e) of the instrument inserts Attachments 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6 of the instrument into the licence area plan. Attachment 4.1 of the instrument defines the Wagga Wagga RA3 licence area in terms used by the Australian Bureau of Statistics at the most recent Census. The Wagga Wagga RA3 licence area includes the areas in the Wagga Wagga RA2 licence area and additional areas, including the areas of Gundagai and Coolamon. The inserted Attachment 4.2 contains the unchanged technical specification for the existing transmitter for the community radio broadcasting service to serve the area of Wagga Wagga. The inserted Attachments 4.3, 4.4, 4.5, and 4.6 contain the technical specifications for new transmitters for 2AAA to serve other areas in the new Wagga Wagga RA3 licence areas, including the areas of Wagga Wagga South, Junee, Gundagai and Coolamon.

The technical specifications for those transmitters 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).