

Explanatory Statement

Section 26 *Legislative Instruments Act* *2003*

Variation to Licence Area Plan – Deniliquin Radio – No.1 of 2010

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Legislative Instruments Act 2003

Section 26 – Explanatory Statement

Variation to Licence Area Plan for Deniliquin Radio – No. 1 of 2010 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 (ACMA) has exercised powers and functions under the *Broadcasting Services Act 1992* (BSA) previously exercised by the Australian Broadcasting Authority (ABA).

On 29th March 2010, the ACMA made a variation to the licence area plan (LAP) for Deniliquin Radio. The variation was made under section 26(2) of the BSA and is referred to in this explanatory statement as “the instrument”.

The LAP 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 Deniliquin Radio* on 15 September 1997. It is referred to in this explanatory statement as “the Deniliquin LAP”.

Intended impact and effect

In relation to broadcasting services, the instrument varies the characteristics, including technical specifications, of broadcasting services in the Deniliquin area by;

- making FM frequency 100.9 MHz available for a new national radio broadcasting service at Deniliquin co-channelled with the News Radio upper Murray service. The service to be provided is the Parliamentary News Network (PNN) radio service; and
- changing the frequency and maximum effective radiated power of the planned but not operating community radio broadcasting service under service licence number SL10409 at Deniliquin from 100.9 MHz with a maximum ERP of 2 kW to 89.7 MHz with a maximum ERP of 500 W.

The instrument also deletes information, included for reference only, that does not form part of the 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’s (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 Deniliquin area. The ACMA does not intend the variation to alter any existing rights and obligations, 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 recommendations in the instrument gives rise to low impact regulatory obligation. Therefore, the regulatory impact analysis process has not been applied.

Consultation and submissions

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

On the 11 November 2009, the ACMA published the following papers on its web site:

- a draft of the instrument;
- a draft variation to the frequency allotment plan (FAP);
- a draft variation to the licence area designation (LAD);
- an explanatory paper about the changes proposed in the draft instrument, inviting public comment by 11 December 2009;
- a media release announcing the proposed variation to the Deniliquin licence area plan.

On 11 November 2009, the ACMA wrote to the licensees providing radio broadcasting services to Deniliquin, to advise them of the release of the draft instrument and to invite their comments.

The ACMA placed advertisements in the *Deniliquin Pastoral Times* on Friday 13 November 2009, outlining the effect of the draft instrument. The advertisement contained details of how to obtain copies of the draft instrument, how to access it on the ACMA web site, and inviting public comment.

The ACMA received two submissions on the draft instrument and the accompanying explanatory paper. Both submissions supported the proposed variations to the Deniliquin LAP.

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 Deniliquin Radio – No. 1 of 2010*.

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) deletes the heading “September 1997” from the front page of the Deniliquin LAP. The information was included for ease of reference only, but may be confusing.

Clause (4)(b)

Clause (4)(b) numbers each of the paragraphs of the determination in the Deniliquin LAP consecutively as clause (1), (2), (3), (4) and (5).

Clause (4)(c)(i)

Clause (4)(c) varies the words in clause (2) of the Deniliquin LAP to increase the number of national radio broadcasting services to be available in the Deniliquin RA1 licence area by one, to allow the PNN service to be extended to Deniliquin.

Clause 4(c)ii

Clause 4(c)ii of the instrument varies the words in clause (2) to include Attachment 1.14. Attachment 1.14 contains the technical specifications for the PNN service in Deniliquin.

Clause (4)(d)

Clause (4)(d) inserts a new clause (6) into the Determination in the Deniliquin LAP to ensure that it refers to schedules and attachments that have been amended from time to time by the ACMA.

Clause (4)(e)

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

Clause (4)(f)

Clause (4)(f) of the instrument replaces Schedule One and Schedule Two of the Deniliquin LAP. These schedules set out the details of the national, commercial and community radio broadcasting services, and the open narrowcasting radio services, that are to be available on particular frequencies in the licence areas in the Deniliquin 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 Deniliquin LAP, and specify the attachments which contain the technical specifications for each of those transmitters.

The new Schedule One has added technical specifications for a national radio broadcasting service in the Deniliquin RA1 licence area. The new Schedule Two is modified to reflect a change to the transmitter specification number of the technical specifications in Attachment 2.2 for the community radio broadcasting service at Deniliquin. This change was in order to make the frequency 100.9 MHz available to allow the PNN to be extended to the Deniliquin area.

Additional changes include removing the words "- Radio - September 1997" from the headings in Schedule One and Schedule Two. The information was included for ease of reference only, but may be confusing.

Clause (4)(g)

Clause (4)(g) of the instrument removes Attachment 1.1 and Attachment 2.1 and substitutes in the corresponding places the attachments of the instrument having those same numbers. These new attachments contain the definitions of the Deniliquin RA1 and Deniliquin RA2

licence areas in terms of areas defined by the ABS, using 2006 census data. The Deniliquin RA1 licence area itself is unchanged. The Deniliquin RA2 licence area has been modified to reflect a reduction in the size of the licence area as a result of a reduction in the coverage provided by the transmitter specified at Attachment 2.2.

Clause (4)(g) of the instrument also removes the other attachments to the Deniliquin LAP and substitutes in the corresponding places the attachments of the instrument having those same numbers. These new attachments contain the technical specifications for each transmitter to be used by the radio services planned in the Deniliquin LAP. The site tolerance has been updated in each of these attachments to refer to the *Broadcasting Services (Technical Planning) Guidelines 2007*. This information has been updated for ease of reference only.

Additional changes include removing the words “- Radio - September 1997” from the headings in each of these attachments. The information was included for ease of reference only, but may be confusing.

The nominal location of the transmitter specified in each Attachment 1.2, Attachment 1.3, Attachment 1.4, Attachment 1.5, Attachment 1.6, Attachment 1.7, Attachment 1.8, Attachment 1.9, Attachment 1.10, Attachment 1.11, Attachment 1.12 and Attachment 1.13 will be updated to provide a more accurate description of the transmitter site. This information is updated for ease of reference only and does not signify a change in broadcast site.

The antenna height at Attachment 1.2 and Attachment 1.3 has been updated to reflect the actual operating conditions for these services on the advice of the ABC. The change in antenna height does not change the planned performance of either of the services.

Attachment 2.2 has been modified to reflect a change in carrier frequency from 100.9 MHz to 89.7 MHz and a change to maximum effective radiated power from 2 kilowatts to 500 watts. This change occurred in order to make the frequency 100.9 MHz available to allow the PNN service to be extended to the Deniliquin area.

Clause (4)(h)

Clause (4)(h) of the instrument inserts Attachment 1.14 into the Deniliquin LAP. This attachment contains the technical specifications for a new national radio broadcasting service to be provided to the Deniliquin area. The service is the ABC's PNN service.