

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Variation to Licence Area Plan for Cairns Radio – No.1 of 2011

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).

The ACMA has made a variation to the licence area plan (LAP) for Cairns radio. The variation was made under subsection 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 Cairns Radio* on 18 October 1997 and varied it in October 1998 and again on 24 September 2004. It is referred to in this explanatory statement as “the Cairns LAP”.

Intended impact and effect

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

- > making the FM frequency 99.9 MHz with a maximum effective radiated power (ERP) of 50 Watts with an omni-directional antenna pattern available at Mossman for a new community radio broadcasting service; and
- > determining the new Mossman RA1 licence area using 2006 census data.

The instrument also deletes some material, included for reference only that does not form part of the LAP and which may create confusion, and also makes some minor amendments to revise the drafting of the Cairns LAP. 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 impact and effect of this variation is to clarify the characteristics, including technical specifications, of radio broadcasting services in the Cairns 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's Best Practice Coordinator has considered the matter and referred it to the Office of Best Practice Regulation (OBPR). The OBPR formed the opinion that the

proposed regulation is likely to have no or low impact on business or the economy; and neither a regulatory impact statement nor a business cost calculator report is necessary in relation to the regulatory proposal. The OBPR has issued an exemption reference number 2011/12204.

Consultation and submissions

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

On 19 October 2010, the ACMA published the following papers on its web-site:

- > a draft variation to the Cairns LAP, a draft variation to the frequency allotment plan and draft licence area designation;
- > an explanatory paper outlining the changes proposed in the draft variation to the Bourke, Cairns and Maryborough LAPs, inviting public comment by 29 October 2010; and
- > a media release announcing the proposed draft variation to the Bourke, Cairns and Maryborough LAPs.

On 20 October 2010, the ACMA wrote to providers of national, commercial, community and high power open narrowcasting radio broadcasting services in the Cairns region to advise them of the release of the draft variation to the Cairns LAP and to invite their comments.

On 20 October 2010, the ACMA placed an advertisement in the “Cairns Post” newspaper outlining the effect of the draft variation on the Cairns LAP, providing details of how to obtain copies of the draft variation, how to access it on the ACMA’s web-site, and inviting public comment.

The ACMA received five submissions on the draft variation to the Cairns 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, subsection 26(2) of the BSA.

Clause (2)

Clause (2) names the instrument the Variation to the Licence Area Plan for Cairns Radio – No. 1 of 2011.

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) omits the text of the Cairns LAP and inserts new clauses (1), (2), (3), (4), (5) and (6) in its place. The new clauses reflect the national, commercial, community radio broadcasting and open narrowcasting radio services that are to be available in the Cairns area.

New clause (5) describes the new community radio broadcasting service that is to be made available at Mossman in the Mossman RA1 licence area, and is described further at clause 4(f) below.

New clause (6) ensures that references to schedules and attachments in the Cairns LAP include schedules and attachments as amended from time to time.

Clause 4(b)

Clause 4(b) of the instrument omits all text appearing immediately under the heading “SCHEDULES” in the Cairns LAP (including the heading itself). The material was included for reference only and is not relevant or necessary.

Clause (4)(c)

Clause (4)(c) of the instrument omits Schedules One to Three to the Cairns LAP and substitutes new schedules in their place. 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 licence areas determined by the Cairns 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 Cairns LAP, and specify the attachments which contain the technical specification for each of those transmitters.

The changes to the schedules include omitting the words “October 1997” from each heading, and inserting a new column that identifies the frequency used by each national, commercial and community radio broadcasting services, and open narrowcasting radio services.

Clause (4)(d)

Clause (4)(d) of the instrument inserts Schedule Four into the Cairns LAP. Schedule Four provides the technical specification numbers for the transmitter to be used by the new community radio broadcasting service in the Mossman RA1 licence area and specifies the attachment which contains the technical specification for this transmitter.

Clause (4)(e)

Clause (4)(e) of the instrument omits Attachments 1.1 to 3.2 to the Cairns LAP.

The nominal location of the transmitter specified in many of the attachments has been updated to provide a more accurate description of the transmitter site but does not signify a change in the broadcast site.

Clause (4)(f)

Clause (4)(f) of the instrument inserts new Attachment 1.1 to 4.2 into the Cairns LAP.

The new Attachment 1.1 contains the definition of the Cairns RA1 licence area in terms of the areas defined by the ABS, using 2006 census data, but otherwise remains unchanged.

The new Attachments 1.2 to 1.27 contain the technical specifications for each transmitter to be used by the radio services in the Cairns RA1 licence area.

The new Attachment 2.1 contains the definition of the Cairns RA2 licence area in terms of the areas defined by the ABS, using 2006 census data, but otherwise remains unchanged.

The new Attachments 2.2 to 2.3 contain the technical specifications for each transmitter to be used by the radio services in the Cairns RA2 licence area.

The new Attachment 3.1 contains the definition of the Cairns RA3 licence area in terms of the areas defined by the ABS, using 2006 census data, but otherwise remains unchanged.

The new Attachment 3.2 contains the technical specification for the transmitter to be used by the radio services in the Cairns RA3 licence area.

The changes to these Attachments include updating the 'site tolerance' specifications in each Attachment to refer to the *Broadcasting Services (Technical Planning) Guidelines 2007* rather than referring to the "Technical Planning Guidelines".

The nominal location of the transmitter specified in many of the Attachments has been updated to provide a more accurate description of the transmitter site but does not signify a change in the broadcast site.

The method of recording the output radiation pattern at Attachments 1.8, 1.14, 1.15, 1.16, 1.17, 1.20, 2.2 and 2.3 has been changed to a format common across all radio LAPs. This information is updated for ease of reference only and does not signify a change in maximum ERP.

Attachment 4.1 contains the definition of the newly created Mossman RA1 licence area in terms of the area defined by the ABS, using 2006 census data.

Attachment 4.2 contains the technical specifications for a new community radio broadcasting service to serve the Mossman RA1 licence area.