

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Variation to Licence Area Plan for Cooma 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).

On 8 August 2011, the ACMA made a variation to the licence area plan (LAP) for Cooma 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 Cooma Radio* on 29 July 1999 and varied it on 6 November 2003 and 23 September 2004. It is referred to in this explanatory statement as “the Cooma LAP”.

Intended impact and effect

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

- > making the FM frequency 92.5 MHz with a maximum effective radiated power (ERP) of 50 watts (W) with an omni-directional antenna pattern available at Charlotte Pass for a translator for the existing commercial radio broadcasting service 2XL;
- > making the FM frequency 91.7 MHz with a maximum ERP of 50 W with an omni-directional antenna pattern available at Charlotte Pass for a translator for the existing commercial radio broadcasting service 2SKI; and

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 Cooma LAP.

The instrument 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 Cooma 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 regulation impact statement nor a business cost calculator report is necessary in relation to the regulatory proposal.

The OBPR has issued an exemption reference number: 2011/12792

Consultation

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

On 19 May 2011, the ACMA published the following papers on its web site:

- > a draft variation to the Cooma LAP and a draft variation to the frequency allotment plan;
- > an Explanatory Paper outlining the changes proposed in the draft variation to the Cooma LAP and inviting public comment by 17 June 2011; and
- > a media release announcing the draft variation to the Cooma LAP.

On 19 May 2011, the ACMA wrote to the licensees providing radio broadcasting services to the Cooma and adjacent licence areas to advise them of the release of the draft variation and to invite their comments by 17 June 2011.

On 24 May 2011, the ACMA placed an advertisement in the "Cooma Monaro Express" newspaper announcing the draft variation. The advertisement provided details of how and where to obtain copies of the draft variation and invited public comment by 17 June 2011.

Submissions

The ACMA received no submissions on the draft variation to Cooma LAP.

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 Cooma 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) removes the words "JULY 1999" from the front page of the Cooma LAP.

Clause (4)(b)

Clause (4)(b) removes the heading "DETERMINATION" on page two of the Cooma LAP.

Clause (4)(c)

Clause (4)(c) of the instrument numbers each of the paragraphs of the plan in the Cooma LAP consecutively as clauses (1), (2), (3), (4) and (5).

Clause (4)(d)

Clause (4)(d) of the instrument omits clauses (2),(3),(4) and (5) and substitutes new clauses (2),(3),(4) and (5). These new clauses:

- omit the word ‘Determination’ and substitutes the word ‘plan’ in all of the clauses;
- inserts the words “attachments 1.31 to 1.32 in clause (3) to reflect the addition of the new translators for the commercial radio broadcasting services to be available in Cooma;
- omit the words “Attachments 1.26-1.29” in Clause (4) and substitutes “Attachments 1.26 to 1.30” to reflect the addition of an open narrowcasting radio service to be made available at Perisher as described in Attachment 1.30;
- omits the words “Attachments 2.2-2.4” in Clause (5) and substitutes “Attachments 2.2 to 2.5” to reflect the addition of a community radio service to be made available at Bombala as described in Attachment 2.5.

Clause (4)(d) of the instrument also inserts a new clause (6) into the plan that will 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 omits all text appearing immediately under the heading “SCHEDULES” in the Cooma LAP (including the heading itself). This material was originally included for reference only and is no longer considered relevant or necessary.

Clause (4)(f)

Clause (4)(f) of the instrument replaces Schedules One and Two of the Cooma LAP. These schedules set out the details of the national, commercial and community and open narrowcasting radio broadcasting services that are to be available on particular frequencies in the Cooma RA1 and Cooma RA2 licence areas.

In particular, the schedules provide the technical specification numbers for each transmitter to be used by the services in the licence areas, and specify the attachments which contain the technical specification for each of those transmitters.

The changes from the previous schedules are the removal of the words “- Variation – September 2004” from the headings of Schedule One and “- November 2003” from the heading of Schedule Two. This material was originally included for reference only and is no longer considered relevant or necessary.

Clause (4)(g)

Clause (4)(g) of the instrument omits all text appearing immediately under Schedule Two in the Cooma LAP including the paragraph immediately following the hash (#); the text appearing immediately under the heading ‘Status Column’ (including the heading itself); and the paragraph immediately under the heading ‘Frequency Column’ (including the heading itself). This material was originally included for reference only and is no longer considered relevant or necessary.

and Clause (4)(h) and (4)(i)

Clause (4)(h) of the instrument removes attachments 1.1 to 2.5 and then clause (4)(i) inserts new attachments 1.1 to 2.5 to the Cooma LAP in their place.

The new Attachment 1.1 contain the definition of the Cooma RA1 licence area in terms used by the ABS in the 2006 census, but otherwise remains unchanged to the license area previously described in the removed Attachment 1.1.

The new attachments 1.2 to 1.32 contain the technical specifications for each transmitter to be used by the radio services in the Cooma RA1 licence area.

The new Attachment 2.1 contain the definition of the Cooma RA2 licence area in terms used by the ABS in the 2006 census, but otherwise remains unchanged to the license area previously described in the removed Attachment 2.1.

New attachments 2.2 to 2.5 contain the technical specifications for each transmitter to be used by the radio services in the Cooma RA2 licence area.

The changes to these attachments include amending the heading of each attachment to "LICENCE AREA PLAN: Cooma Radio". This replaces the words:

- > "LICENCE AREA PLAN: Cooma" from attachments 1.2 to 1.19, 1.21 to 1.25, 1.27 to 1.29 and 2.2 to 2.5;
- > the words "Cooma – November 2003" from the headings to attachments 1.26, 1.26.1 and 2.5; and
- > the words "Cooma Radio – Variation – September 2004" from attachments 1.20 and 1.30.

The 'Site Tolerance' specification in each attachment has been updated 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. This does not signify a change in the broadcast site.

Part two of the special conditions of Attachment 1.10 has been modified to improve the description of the condition. These changes do not signify a change to the intent of the condition.

The special condition of Attachment 1.12 has been modified to improve the description of the condition. These changes do not signify a change to the intent of the condition.

The special condition of attachments 1.26 and 1.26.1 and 1.27 have been modified to correct typographical errors and to improve the description of the condition. These changes do not signify a change to the intent of the conditions.

Attachments 1.31 and 1.32 contain the technical specifications for the new commercial radio broadcasting services to serve Charlotte Pass in the Cooma RA1 licence area.