EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

*Variation to Licence Area Plan – Central Western Slopes Radio – 2016 (No.1)*

*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* (BSA).

The ACMA has made a variation to the *Licence Area Plan – Central Western Slopes Radio – June 1997*. The variation was made under subsection 26(2) of the BSA and is referred to in this explanatory statement as “the variation”.

The LAP and variations to the LAP

The ACMA prepares Licence Area Plans (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 Australian Broadcasting Authority made the *Licence Area Plan – Central Western Slopes Radio – June 1997* on 2 June 1997 and varied it on 19 January 2006.

It is referred to in this explanatory statement as “the Central Western Slopes LAP”.

Intended impact and effect

The variation varies the characteristics, including technical specifications, of radio broadcasting services in the Central Western Slopes area of New South Wales by:

* making the FM frequency 101.3 MHz available for an additional in-fill transmitter at Gilgandra, New South Wales for the commercial radio broadcasting service 2DBO;
* making the FM frequency 94.9 MHz available for an additional in-fill transmitter at Narromine, New South Wales for the commercial radio broadcasting service 2DBO;
* making the FM frequency 106.3 MHz available at Mount Cenn Cruaich, New South Wales for an additional transmitter for a national radio broadcasting service;
* making the FM frequency 91.5 MHz available in Wellington, New South Wales for a community radio broadcasting service; and
* defining the Wellington RA1 licence area for the community radio broadcasting service at Wellington.

The ACMA does not intend the variation to alter any existing rights and obligations, except as set out above. The variation also updates some transmitter site nominal locations, Australian Map Grid references for transmitters and advisory notes for commercial and community radio broadcasting services where required. However, these updates do not reflect changes to the ways in which these services are provided.

Regulatory Impact Statement

The Office of Best Practice Regulation (OBPR) has determined that the regulatory changes effected by this variation are minor or machinery in nature and has advised that no regulatory impact statement is required. The OBPR has issued an exemption reference number: ID 2014/18023.

Consultation

Subsection 17(1) of the *Legislation Act 2003* requires that, before the ACMA makes a legislative instrument, it must be satisfied that any consultation that the ACMA considers is appropriate and reasonably practicable to undertake, has been undertaken.

Before making the decision to vary the Central Western Slopes LAP, the ACMA published a draft variation instrument together with a discussion paper on the ACMA website inviting public comment on 5 November 2015. The ACMA also wrote to the commercial radio broadcasting licensees and other broadcasting licensees in the Central Western Slopes licence areas and adjacent radio licence areas to advise them of the proposed changes to the Central Western Slopes LAP and to invite comment.

Consultation closed on 4 December 2015 and the ACMA received one submission.

Description of the provisions of the variation

***Section 1 - Name of Instrument***

Section 1 provides that the name of the variation is the *Variation to Licence Area Plan – Central Western Slopes Radio – 2016 (No.1).*

***Section 2 - Commencement***

Section 2 provides that the variation commences on the day after it is registered on the Federal Register of Legislation.

***Section 3 - Variation***

Section 3 varies the Central Western Slopes LAP as set out in paragraphs (a) to (f).

***Paragraph 3(a)***

Paragraph 3(a) renames the instrument as the *Licence Area Plan – Central Western Slopes Radio.*

***Paragraph 3(b)***

Paragraph 3(b) amends the heading on the title page of the Swan Hill LAP so that it reads “Licence Area Plan – Central Western Slopes Radio”.

***Subparagraph 3(c)(i)***

Subparagraph 3(c)(i) amends the heading on the first page of the instrument so that it reads “Licence Area Plan – Central Western Slopes Radio”.

***Subparagraph 3(c)(ii)***

Subparagraph 3(c)(ii) numbers each of the paragraphs on the first page of the instrument under the heading “Licence Area Plan – Central Western Slopes Radio” as clauses (1), (2), (3), (4) and (5).

***Subparagraph 3(c)(iii)***

Subparagraph 3(c)(iii) omits clauses (1), (2), (3), (4) and (5) substitutes new clauses (1), (2), (3), (4), (5) and (6).

The new clause (1) highlights that this plan is for radio broadcasting services in the Central Western Slopes area of New South Wales and is made under subsection 26(1) of the BSA.

The new clause (2) reflects the change in the Central Western Slopes LAP to ten national broadcasting services in the Central Western Slopes area of New South Wales, the inclusion of Attachments 1.1 – 1.22 and the substitution of the word ‘determination’ with the word ‘plan’ in the clause.

The new clauses (3) and (4) reflect the substitution of the word ‘determination’ with the word ‘plan’ in the clauses.

The new clause (5) reflects the addition of a community radio broadcasting service in the Wellington area of New South Wales and the addition of Attachments 4.1 and 4.2 to the Central Western Slopes LAP.

The new clause (6) will ensure that a reference to a schedule or an attachment includes a reference to a schedule or attachment as amended from time to time.

***Paragraph 3(d)***

Paragraph 3(d) removes from the Central Western Slopes LAP the heading ‘SCHEDULES’ immediately before Schedule One.

***Paragraph 3(e)***

Paragraph 3(e) replaces Schedules One, Two and Three and inserts the new Schedule Four in the Central Western Slopes LAP. These Schedules set out the details of the national, commercial, community and open narrowcasting radio broadcasting services that are to be available on particular frequencies in the Dubbo RA1, Dubbo RA2 and Cobar RA2 licence areas and in the new Wellington NSW RA1 licence area.

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 from the headings of Schedules One, Two and Three of the words “- (Radio) – June 1997”, and the addition of the ‘Channel/Frequency’ and ‘Attachment No.’ columns (for ease of reference only).

***Paragraph 3(f)***

Paragraph 3(f) omits all attachments and substitutes new Attachments 1.1 to 1.22, 2.1, 2.2, 3.1 to 3.5 and 4.1 and 4.2.

The new Attachment 1.1 contains the definition of the Central Western Slopes RA1 licence area in terms used by the Australian Bureau of Statistics (ABS) in the 2001 census.

The new Attachments 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10 and 1.11 contain the technical specifications for transmitters for the national radio broadcasting services at Central Western Slopes and Dubbo (City).

The new Attachments 1.12 and 1.13 contain the technical specifications for the transmitters for the commercial radio broadcasting service under Service Licence number SL10249 to be available at Dubbo and Cobar in the Dubbo RA1 licence area.

The new Attachments 1.14, 1.15, 1.16 and 1.17 contain the technical specifications for the transmitters for the commercial radio broadcasting service under Service Licence number SL10054 to be available at Dubbo, Cobar, Dubbo (City) and Wellington in the Dubbo RA1 licence area.

The new Attachments 1.18, 1.19, 1.20 and 1.21 contain the technical specifications for the transmitters for the commercial radio broadcasting service under Service Licence number SL10053 to be available at Dubbo, Cobar, Gilgandra and Narromine in the Dubbo RA1 licence area.

The new Attachment 1.22 contains the technical specifications for a transmitter for the open narrowcasting service to be available at Dubbo City in the Dubbo RA1 licence area.

The new Attachment 2.1 contains the definition of the Dubbo RA2 licence area in terms used by the ABS in the 2001 census.

The new Attachment 2.2 contains the technical specifications for a transmitter for the community radio broadcasting service under Service Licence number SL 10052 to be available at Dubbo in the Dubbo RA2 licence area.

The new Attachment 3.1 contains the definition of the Cobar RA2 licence area in terms used by the ABS in the 2001 census.

The new Attachments 3.2 and 3.3 contain the technical specifications for the transmitters for the national broadcasting services to be available at Cobar in the Cobar RA2 licence area.

The new Attachment 3.4 contains the technical specifications for a transmitter for the community broadcasting service under Service Licence number SL 10231 to be available at Cobar in the Cobar RA2 licence area.

The new Attachment 3.5 contains the technical specifications for a transmitter for the open narrowcasting broadcasting service to be available at Cobar in the Cobar RA2 licence area.

The new Attachment 4.1 contains the definition of the Wellington RA1 licence area in terms used by the ABS in the 2006 census.

The new Attachment 4.2 contains the technical specifications for a transmitter for the community broadcasting service under Service Licence number SL 1130299 to be available at Wellington in the Wellington RA1 licence area.

Minor amendments to the descriptions of nominal locations of transmitter sites, Australian Grid references and advisory notes have been made in some of the Attachments. In each case the information has been updated to better reflect current operations and for ease of reference only. These amendments do not signify a change to the planned performance of the relevant transmitter.

 **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***Variation to Licence Area Plan – Central Western Slopes Radio – 2016 (No.1)***

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The legislative instrument varies, under subsection 26(2) of the *Broadcasting Services Act 1992,* the *Licence Area Plan – Central Western Slopes Radio.* The variations add new, or change existing, characteristics, including technical specifications, of certain radio broadcasting services in the Dubbo RA1, Dubbo RA2, Cobar RA2 and Wellington RA1 licence areas. These changes are in order to improve the coverage of those services and/or to improve the accuracy of site location data.

**Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.