

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Broadcasting Services Act 1992

Variation to Licence Area Plan – Goulburn Radio – 2019 (No. 1)

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Variation to Licence Area Plan – Goulburn Radio – 2019 (No. 1)* (**the instrument**) under subsection 26(2) of the *Broadcasting Services Act 1992* (**the Act**).

The ACMA may, by legislative instrument, vary licence area plans (**LAPs**) under subsection 26(2) of the Act.

Purpose and operation of the instrument

LAPs determine the number and characteristics, including technical specifications, of broadcasting services that are to be made available in particular areas of Australia with the use of the broadcasting services bands.

The Australian Broadcasting Authority determined the *Licence Area Plan – Goulburn Area (Radio) – July 1999* (F2005B00637) (**Goulburn LAP**) on 29 July 1999.

The instrument varies the Goulburn LAP by inserting three new attachments into the LAP. It also makes changes to existing attachments. The attachments are the technical specifications for transmitters that are used to provide broadcasting services in the Goulburn area. Further details regarding the instrument are set out in **Attachment A**.

The instrument is a disallowable legislative instrument for the purposes of the *Legislation Act 2003* (**the LA**).

Document incorporated by reference

The instrument varies the Goulburn LAP to incorporate the *Broadcasting Services (Technical Planning) Guidelines 2017*, as in force from time to time.

The *Broadcasting Services (Technical Planning) Guidelines 2017* may be accessed from the Federal Register of Legislation: www.legislation.gov.au.

Consultation

Before the instrument was made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA.

Before making the decision to vary the Goulburn LAP, the ACMA invited comment on a consultation paper which provided the background to the proposal by publishing it on the ACMA website on 29 March 2019. The ACMA also announced the release of the consultation paper via social media and by direct correspondence to other radio broadcasting licensees in the Goulburn RA1 and Braidwood RA1 licence areas and adjacent radio licence areas, peak industry bodies Commercial Radio Australia and Community Broadcasting Association of Australia, and civic bodies including a local council shire library and community associations. State and Federal politicians for the area were also directly informed.

The consultation period ended on 26 April 2019. The ACMA received one submission in response to the consultation process, which was from the Australian Broadcasting Corporation. This submission related to the frequency change for its radio national service at Crookwell. The ACMA also received one social media post from a member of the public which was of a general nature about FM coverage.

Regulatory impact assessment

The Office of Best Practice Regulation (**OBPR**), in a guidance note entitled “Carve-outs” (available at: <https://www.dpmc.gov.au/resource-centre/regulation/carve-outs-guidance-note>), has established a “carve-out” for variations to LAPs where those variations are unlikely to have more than a minor regulatory impact (OBPR reference number: 13301). A carve-out is a standing agreement between OBPR and a government agency which sets aside the requirement for a preliminary assessment to be sent to OBPR for certain types of proposed regulatory change. The ACMA has formed the opinion that the instrument falls within the terms of the carve-out with OBPR reference number 13301.

Statement of compatibility with human rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

Overview of the instrument

The instrument inserts a new technical specification into the Goulburn LAP for an FM transmitter for the 2GN commercial radio broadcasting service which serves Goulburn in New South Wales. The new specification facilitates the conversion of the service from AM to FM transmission. The instrument also amends the technical specification for the service’s AM transmitter to provide for the simultaneous transmission of the service in both AM and FM for a 28-day period.

The instrument also inserts a technical specification for an FN transmitter for the 2ABCRN national radio broadcasting service which serves Crookwell in New South Wales. This is to reassign the frequency on which the service is provided so as to facilitate the AM-FM conversion of the 2GN service.

Further, the instrument inserts a new technical specification into the Goulburn LAP for an FM transmitter for the 2BRW community radio broadcasting service which serves Braidwood in New South Wales. The new specification enables the community broadcaster to transmit to a wider geographic area. The instrument also makes changes to the description of the licence area of the service to give effect to that expansion.

The instrument also makes a number of other, minor amendments to the Goulburn LAP. The amendments include: updates to transmitter site nominal locations and Australian Map Grid references; changes to output radiation patterns and coordinates, the deletion of redundant information, changes to special conditions and advisory notes, including their addition and deletion.

Human rights implications

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument does not engage any of those rights or freedoms.

Conclusion

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

Notes to the *Variation to Licence Area Plan – Goulburn Radio – 2019 (No.1)*

Section 1 Name

This section provides for the instrument to be cited as the *Variation to Licence Area Plan – Goulburn Radio – 2019 (No.1)*.

Section 2 Commencement

This section provides for the instrument to commence at the start of the day after it is registered on the Federal Register of Legislation.

Section 3 Authority

This section identifies the provision of the Act that authorises the making of the instrument, namely subsection 26(2) of the Act.

Section 4 Amendments

This section varies the Goulburn LAP as set out in paragraphs 4(a) to 4(v).

Paragraph 4(a)

Paragraph 4(a) omits paragraph (5) of the Goulburn LAP and replaces it with a new paragraph (5).

Paragraph 4(b) and Schedule 1

Paragraph 4(b) repeals and replaces Schedules One and Three of the Goulburn LAP.

Paragraph 4(c)

Paragraph 4(c) makes two changes to Attachment 1.1. The changes are the removal of the licence area ID which is not considered necessary and the correction of a typographical error.

Paragraphs 4(d)

The paragraph makes changes to Attachment 1.2, which is the technical specification for the 2ABCRN national radio broadcasting service transmitter which serves Crookwell in New South Wales. The paragraph changes the Nominal location' and 'Australian Map Grid Reference' and removes the special condition in the attachment which is no longer needed following the making of the *Broadcasting Services (Technical Planning) Guidelines 2017*.

Paragraph 4(e)

Paragraph 4(e) makes changes to Attachment 1.3, which is the technical specification for a national radio broadcasting service transmitter which serves Crookwell in NSW.

In particular, the paragraph also adds an advisory note to Attachment 1.3 The note refers to the commencement of transmission under the technical specification in new Attachment 1.3A (discussed below under paragraph 4(f)) and its inter-relationship with the commencement of transmission under the technical specification in new Attachment 1.8A (discussed below under paragraph 4(j)).

Paragraph 4(f) and Schedule 2

This paragraphs inserts new Attachment 1.3A. Transition by the national broadcaster to transmission under this specification facilitates the AM-FM conversion by the commercial radio broadcasting service, 2GN which is discussed below.

Paragraph 4(g)

This paragraph makes changes Attachment 1.4. The paragraph adds additional wording to the ‘Nominal location’ and inserts a special condition about maximum cymomotive force.

Paragraph 4(h)

This paragraph makes a typographical change in relation to the ‘General Area Served’ in each of Attachments 1.5-1.7.

Paragraphs 4(i) and 4(j) and Schedule 2

These paragraphs relate to the AM-FM conversion by the commercial radio broadcasting service 2GN. Paragraph 4(i) amends Attachment 1.8 which is the technical specification for the service’s AM transmitter which serves Goulburn. The paragraph adds additional wording to the ‘Nominal location’ and removes two special conditions in the attachment that are no longer needed. Further, it adds wording to the attachment which limits operation of the AM transmitter to a finite period.

Paragraph (j) inserts Attachment 1.8A into the Goulburn LAP. This is the new technical specification for the FM transmitter for the 2GN service.

Paragraphs 4(k) and 4(m)

Paragraphs (4(k) and 4(m) makes changes to Attachments 1.9 and 1.12. These attachments are the technical specifications for two FM infill transmitters for the 2GN and 2SNO services planned to serve Braidwood in NSW. The changes are to each attachment’s technical specification number and ‘Nominal location’ where additional wording is added to provide clarity about the location. The planned operating frequencies of the transmitters are also changed to avoid mutual interference to another commercial radio broadcasting service, 2XL.

Paragraphs 4(l) and 4(n)

These paragraphs make the same changes to Attachments 1.10 and 1.13. The changes are to the ‘Nominal location’ where additional wording is added to provide clarity about the location. Also, the first of two special conditions in each attachment is changed to an advisory note of the same wording. This advisory note is about protection from interference and provides guidance as to how the service was planned. Further, in each attachment, the second condition is removed. This condition is no longer needed following the making of the *Broadcasting Services (Technical Planning) Guidelines 2017*.

Paragraph 4(o)

This paragraph makes two changes to Attachment 1.14 which is the technical specification for an open narrowcasting radio service transmitter which serves Goulburn Town in NSW. The first is a typographical change in relation to the ‘General Area Served’. The second change replaces the special condition with an advisory note with similar wording which is about the coverage area of the transmission.

Paragraph 4(p)

Paragraph 4(p) changes the two special conditions in Attachment 1.15 to advisory notes that are of similar wording. The first note is about the coverage area of the transmission. The second note is about protection from interference and provides guidance as to how the service was planned.

Paragraph 4(q)

This paragraph makes two changes to Attachment 1.16 which is the technical specification for a national radio broadcasting service transmitter which serves Goulburn Town. The first change is typographical in relation to the ‘General Area Served’. The second is to change the special condition to an advisory note of similar wording and to add an additional note. The notes are about protection from interference and provide guidance as to how the service was planned.

Paragraph 4(r)

Paragraph 4(r) makes a change to Attachment 2.1 by removing the licence area identification number which is no longer necessary.

Paragraph 4(s)

Paragraph 4(s) omits the licence area identification number from Attachment 3.1 for the same reason referred to immediately above. Attachment 3.1 is the licence area description for the Braidwood RA1 licence area. The paragraph also changes the Census date in the attachment and makes a change to the area description to expand the licence area in relation to the 2BRW community radio broadcasting service discussed in paragraph 4(u).

Paragraphs 4(t) and 4(u) and Schedule 2

Paragraph 4(t) makes changes to Attachment 3.2. This is the technical specification for an FM transmitter for the 2BRW community radio broadcasting service which serves Braidwood in NSW. The first change is to the ‘Nominal location’ to provide clarity about the location. The second is to change the special condition to an advisory note of similar wording and to add an additional note. The notes are about protection from interference and provide guidance as to how the service was planned.

Paragraph 4(u) inserts new Attachment 3.3 into the Goulburn LAP. This attachment is the technical specification for an FM transmitter for the 2BRW service. This specification is to enable the service’s FM transmitter to transition from one operating frequency to another.

The purpose of the changes is to facilitate the AM-FM conversion of the 2EC commercial radio broadcasting service which is planned in the *Licence Area Plan – Bega Radio*. The planning changes required for that conversion are found in the *Variation to Licence Area Plan – Bega Radio – 2019 (No. 1)*.

Paragraph 4(v)

Paragraph 4(v) makes the same typographical change to each of Attachments 1.2-1.16 and 2.2.