**EXPLANATORY STATEMENT**

Approved by the Australian Communications and Media Authority

*Broadcasting Services Act 1992*

***Variation to Licence Area Plan – Taree Radio – 2020 (No.1)***

**Authority**

The Australian Communications and Media Authority (**the ACMA**) has made the *Variation to Licence Area Plan – Taree Radio – 2020 (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 – Taree (Radio) – October 1998* (**the Taree LAP**) in October 1998. The Taree LAP was subsequently varied in 1998 and 2003.

The instrument varies the characteristics, including technical specifications, of radio broadcasting services in the area of Taree, New South Wales.

The main variations are:

* In relation to the 2RE commercial radio broadcasting service (**2RE**), the instrument makes spectrum available for a main FM transmitter to enable 2RE to convert from AM to FM transmission;
* Planning for two new FM coverage extension transmitters for the 2MVB and 2RE commercial radio broadcasting services to improve their coverage in Hannam Vale, within the Taree RA1 licence area;
* Planning for long-term community radio broadcasting services in Gloucester and Taree, including specifying a new licence area, Gloucester RA1.

The instrument also makes other more minor amendments including updates to some transmitter site nominal locations, and replacing Australian Map Grid References for these transmitters with coordinates using the Geocentric Datum of Australia 1994 (**GDA94**).

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 Taree 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 free of charge from the Federal Register of Legislation: <https://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 Taree LAP, on 29 July 2020 the ACMA published a consultation paper on its website which provided the background to the proposal. The ACMA also announced the release of the paper via social media in the relevant radio licence areas. The following stakeholders were separately notified about the release of the consultation paper: radio broadcasting licensees and national broadcasters in the Taree RA1 licence area and in adjacent radio licence areas, the peak bodies Commercial Radio Australia and the Community Broadcasting Association of Australia, Airservices Australia, and state and federal members of Parliament whose electorates include the Taree area. Civic bodies including local councils and libraries were also contacted.

The ACMA received five submissions and four Facebook comments. Most submissions were broadly supportive of the proposals made in the consultation paper. One submission was not supportive of the ACMA proposals and suggested some alternative proposals. The Facebook comments were seeking clarifications without objecting to the AM-FM conversion.

The ACMA has taken these comments and submissions into account in making the instrument.

**Regulatory impact statement**

## The Office of Best Practice Regulation (OBPR), in a guidance note entitled “Carve-outs” (available free of charge 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.

## 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 with human rights set out below has been prepared to meet that requirement.

***Overview of the instrument***

The instrument varies the *Licence Area Plan – Taree (Radio) – October 1998.* The instrument makes radiofrequency spectrum available for, and changes existing characteristics including technical specifications of, certain radio broadcasting services in the Taree area of New South Wales.

***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.

**Attachment A**

**Notes to the *Variation to Licence Area Plan – Taree Radio – 2020 (No.1)***

**Section 1 Name**

This section provides for the instrument to be cited as the *Variation to Licence Area Plan – Taree Radio – 2020 (No.1)*.

**Section 2 Commencement**

This section provides for the instrument to commence at the start of the day after the day 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 Variation**

This section varies the Taree LAP as set out in paragraphs 4(a) to 4(j)

Paragraph 4(a) renames the instrument as the *Licence Area Plan – Taree Radio.*

Paragraph 4(b) amends the title page so that the heading reads “Licence Area Plan – Taree Radio”.

Paragraph 4(c) amends the heading before the first paragraph of the instrument so that it reads “LICENCE AREA PLAN – TAREE RADIO”.

Paragraph 4(d) numbers the clauses of the instrument sequentially as clauses (1), (2), (3), (4) and (5).

Paragraph 4(e) omits clauses (1), (2), (3), (4) and (5) and substitutes new clauses (1) to (5). These clauses update information about the national, commercial and community broadcast services available in the Taree LAP.

Paragraph 4(f) omits some words that appear after clause (5) and inserts new clauses (6) and (7). Clause (6) provides information about a new community service in a new licence area to be included in the Taree LAP. Clause (7) ensures that a reference to a schedule or an attachment is a reference to a schedule or an attachment to the Taree LAP, and that a reference to the *Broadcasting Services (Technical Planning) Guidelines 2017* or any other legislative instrument includes a reference to that legislative instrument as in force from time to time. Clause (7) also provides that a reference to any other kind of instrument or writing in the Taree LAP is a reference to that other kind of instrument or writing as in force or existence at the time the reference was included in the LAP.

Paragraph 4(g) omits all the text on the page with the heading “SCHEDULES”.

Paragraph 4(h) omits all Schedules and substitutes new Schedules One, Two, Three, Four and Five at Schedule 1 to the instrument.

Paragraph 4(i) omits the text that appears below Schedule Four but before Attachment 1.1.

Paragraph 4(j) omits all Attachments and substitutes new Attachments 1.1 to 5.2 at Schedule 2 to the instrument.

Schedule 1 to the instrument contains new Schedules One, Two, Three, Four and Five. Schedule One has been amended to include planning for the conversion of the 2RE commercial radio broadcasting service from AM to FM transmission, and planning for the FM coverage extension transmitters for the 2MVB and 2RE commercial radio broadcasting services in Hannam Vale. Schedules Three and Five have been amended to include planning for long-term community radio broadcasting services in Gloucester and Taree, including specifying a new licence area, Gloucester RA1. Minor amendments have been made to the remaining Schedules.

Schedule 2 to the instrument contains new Attachments 1.1 to 5.2. A summary of each attachment follows:

* The new Attachment 1.1 contains the definition of the Taree RA1 licence area in terms used by the Australian Bureau of Statistics (ABS). Minor changes have been made to the way in which the licence area details are described.
* The new Attachment 1.2 contains the technical specifications for a national radio broadcasting service in Taree with updated licence area information in the title, nominal location and site tolerance, Australian Map Grid references as GDA94 nominal coordinates, and a special condition.
* The new Attachments 1.3-1.6 contain technical specifications for national radio broadcasting services in Manning River with updated licence area information in the title, updated nominal location and site tolerance, Australian Map Grid references as GDA94 nominal coordinates, and an amendment to increase the specified antenna height.
* The new Attachment 1.6A contains the technical specifications for the existing transmitter for the 2PNN national radio broadcasting service in Manning River.
* The new Attachments 1.7 and 1.8 contain technical specifications for the national radio broadcasting service in Gloucester with updated licence area information in the title, updated nominal location and site tolerance and Australian Map Grid references as GDA94 nominal coordinates.
* The new Attachment 1.9 contains the technical specifications for the commercial radio broadcasting service in Taree under licence number SL4131 with updated licence area information in the title, updated nominal location and site tolerance, Australian Map Grid references as GDA94 nominal coordinates, and a new special condition and a statement that notes that the AM service (transmitter specification number: TS4131001) will cease 28 days after the commencement of the FM service (transmitter specification number: TS12000136).
* The new Attachment 1.9A contains the technical specifications for the proposed 2RE FM commercial radio broadcasting service in Taree under licence number SL4131 (transmitter specification number: TS12000136).
* The new Attachment 1.10 contains the technical specifications for the commercial radio broadcasting service in Forster under licence number SL4131 with updated licence area information in the title, updated nominal location and site tolerance, and Australian Map Grid references as GDA94 nominal coordinates.
* The new Attachment 1.11 contains the technical specifications for the commercial radio broadcasting service in Gloucester under licence number SL4131 with updated licence area information in the title, updated nominal location and site tolerance, and Australian Map Grid references as GDA94 nominal coordinates.
* The new Attachment 1.11A contains the technical specifications for a new FM transmitter for the 2RE commercial radio broadcasting service in Hannam Vale under licence number SL4131 (transmitter specification number: TS12000748).
* The new Attachment 1.12 contains the technical specifications for the commercial radio broadcasting service in Taree under licence number SL10326 with updated licence area information in the title, updated nominal location and site tolerance, and Australian Map Grid references as GDA94 nominal coordinates as well as an updated ‘Output Radiation Pattern’ table.
* The new Attachment 1.13 contains the technical specifications for the commercial radio broadcasting service in Gloucester under licence number SL10326 with updated licence area information in the title, updated nominal location and site tolerance, and Australian Map Grid references as GDA94 nominal coordinates.
* The new Attachment 1.13A contains the technical specifications for a new FM transmitter for the 2MVB commercial radio broadcasting service in Hannam Vale under licence number SL10326 (specification number: TS12000765).
* The new Attachments 1.14 and 1.15 contain technical specifications for open narrowcasting services in Taree and Gloucester, with updated licence area information in the title, updated nominal location and site tolerance, Australian Map Grid references as GDA94 nominal coordinates and advisory notes.
* The new Attachment 2.1 contains the definition of the Taree RA2 licence area in terms used by the ABS.
* The new Attachment 2.2 contains the technical specifications for a community radio broadcasting service in Taree under licence number SL1823 with updated licence area information in the title, updated nominal location and site tolerance, Australian Map Grid references as GDA94 nominal coordinates, and amendments to the carrier frequency and antenna height.
* The new Attachment 2.3 contains the technical specifications for a community radio broadcasting service in Elands under licence number SL1823 with updated licence area information in the title, updated nominal location and site tolerance, Australian Map Grid references as GDA94 nominal coordinates and an advisory note.
* The new Attachment 3.1 contains the definition of the Taree RA3 licence area in terms used by the ABS.
* The new Attachment 3.2 contains the technical specifications for a community radio broadcasting service in Taree under licence number SL1150314 with updated licence area information in the title, updated nominal location and site tolerance, Australian Map Grid references as GDA94 nominal coordinates and an advisory note.
* The new Attachment 3.3 contains the technical specifications for a long-term community radio broadcasting service in Taree under licence number SL1180026 (transmitter specification number: TS12000591).
* The new Attachment 4.1 contains the definition of the Forster RA1 licence area in terms used by the ABS.
* The new Attachment 4.2 contains the technical specifications for a community radio broadcasting service in Forster under licence number SL1583 with updated licence area information in the title, updated nominal location and site tolerance, Australian Map Grid references as GDA94 nominal coordinates and amendments to the direction of travel of the radiated signal (polarisation).
* The new Attachment 5.1 contains the definition of the new Gloucester RA1 licence area in terms used by the ABS.
* The new Attachment 5.2 contains the technical specifications for a new long-term community radio broadcasting service in Gloucester under licence number SL1180030 (specification number: TS12000675).