

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Broadcasting Services Act 1992

Variation to Licence Area Plan – Goulburn Radio – 2021 (No. 1)

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Variation to Licence Area Plan – Goulburn Radio – 2021 (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) – June 1999* (F2005B00637) (**Goulburn LAP**) on 17 June 1999. The Goulburn LAP was subsequently varied in 2004, 2015, 2017 and 2019.

The instrument primarily varies the characteristics, including the technical specifications, of radio broadcasting services in the Goulburn area in New South Wales. The main variations are to technical specifications for a national broadcasting service in the Goulburn area that will enable this service to convert to the FM frequency band and a variation to an antenna radiation pattern for a commercial radio broadcasting service in the Goulburn area. The instrument also corrects an omission from the description of the Braidwood community radio broadcast licence area.

The instrument also makes other minor variations 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**).

Documents incorporated by reference

In accordance with section 14 of the LA, the instrument incorporates 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 at: www.legislation.gov.au.

The instrument also incorporates the Geocentric Datum of Australia known as GDA94, gazetted in the Commonwealth of Australia *Gazette* No. GN 35 on 6 September 1995, as in existence at the time the instrument commences. *Gazette* No. GN 35 can be accessed, free of charge, at: 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 published a consultation paper on its website on 18 May 2021 which provided the background to the proposal. The following stakeholders were notified by email about the release of the consultation paper: radio broadcasting licensees and national broadcasters in the Goulburn RA1, Braidwood RA1 and adjacent radio licence areas, the peak industry bodies Commercial Radio Australia and Community Broadcasting Association of Australia, State and Federal members of Parliament whose electorates include the Goulburn area, and civic bodies including a local council, shire library and community associations.

The consultation period ended on 15 June 2021. The ACMA received one submission in response to the consultation process. The submission from Goulburn Mulwaree Council supported the Goulburn commercial broadcasting service converting to an FM frequency.

The ACMA decided to make the variation without changes.

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 varies the *Licence Area Plan – Goulburn Radio*. The Instrument makes changes to the existing characteristics, including technical specifications, of certain radio broadcasting services in the Goulburn 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.

Notes to the *Variation to Licence Area Plan – Goulburn Radio – 2021 (No.1)*

Section 1 Name

This section provides for the instrument to be cited as the *Variation to Licence Area Plan – Goulburn Radio – 2021 (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 Goulburn LAP as set out in paragraphs 4(a) to 4(z).

Paragraph 4(a) makes changes to clause (2) by omitting a reference to Attachment 1.16 and substituting a new reference to Attachment 1.15. Attachment 1.16 has been repealed and replaced by Attachment 1.7A (see paragraphs 4(k) and (u)).

Paragraph 4(b) amends clause (4) by omitting a reference to Attachment 3.2.

Subparagraph 4(c)(i) amends Schedule One by omitting details of a national broadcasting service that has ceased operation.

Subparagraph 4(c)(ii) amends Schedule One by inserting details of a new national radio broadcasting service including the frequency the service will broadcast on, the technical specification number, and the area served.

Subparagraph 4(c)(iii) amends Schedule One by omitting “1.16” in the “Attach No” column and substituting “1.7A”.

Paragraph 4(d) amends Schedule Three by omitting reference to a specification for a Braidwood based community radio broadcasting service which is no longer operating.

Subparagraphs 4(e)(i) and (ii) amends Attachment 1.1 under the heading ‘Note’ by omitting and substituting the text “(LGA) = Local Government Area” so that the terms appear in alphabetical order. The terms used reflect current terms used by the Australian Bureau of Statistics.

Paragraph 4(f) amends Attachments 1.2 and 1.3A by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Paragraph 4(g) repeals Attachment 1.3 which relates to a national radio broadcasting service which is no longer operating. A new service is provided according to Attachment 1.3A.

Subparagraph 4(h)(i) amends Attachment 1.4 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(h)(ii) inserts a new special condition that the AM service (transmitter specification TS1550001) will cease 28 days after the commencement of the FM service (TS12000595).

Paragraph 4(i) inserts a new Attachment 1.4A (at Part 1 of Schedule 2 to the instrument) after Attachment 1.4 which provides details of the national FM radio broadcasting service.

Subparagraph 4(j)(i) amends Attachments 1.5, 1.6 and 1.7 in the description of General Area Served by omitting “(Town)” and substituting the text “Town”.

Subparagraph 4(j)(ii) amends Attachments 1.5, 1.6 and 1.7 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Paragraph 4(k) inserts a new Attachment 1.7A (at Part 2 of Schedule 2 to the instrument) after Attachment 1.7 which provides details of the national service (transmitter specification TS10008597) that was previously at Attachment 1.16, which has been repealed (see paragraph 4(u)).

Paragraph 4(l) amends Attachment 1.8 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(m)(i) amends Attachment 1.8A by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(m)(ii) amends Attachment 1.8A by replacing the output radiation table in the Attachment with the table at Schedule 1 to the instrument.

Subparagraph 4(m)(iii) amends Attachment 1.8A by omitting the heading “Availability of TS12000224” and the text that follows as it is no longer relevant because it relates to the service previously specified at Attachment 1.3 which has been repealed.

Paragraph 4(n) amends Attachment 1.9 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(o)(i) amends Attachment 1.10 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(o)(ii) amends Attachment 1.10 by omitting “66 dBuV/m” and substituting “66 dBμV/m”.

Paragraph 4(p) amends Attachment 1.11 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(q)(i) amends Attachment 1.12 by omitting “Km” and substituting “km”.

Subparagraph 4(q)(ii) amends Attachment 1.12 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(r)(i) amends Attachment 1.13 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(r)(ii) amends Attachment 1.13 by omitting “66 dBuV/m” and substituting “66 dBμV/m”.

Subparagraph 4(s)(i) amends Attachment 1.14 in the description of General Area Served by omitting “(Town)” and substituting “Town”.

Subparagraph 4(s)(ii) amends Attachment 1.14 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(s)(iii) amends Attachment 1.14 by omitting the Advisory Note and substituting a new note that provides revised GDA94 co-ordinates.

Subparagraph 4(t)(i) amends Attachment 1.15 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(t)(ii) amends Attachment 1.15 by omitting the Advisory Note and substituting a new note that provides revised GDA94 co-ordinates.

Subparagraph 4(t)(iii) amends Attachment 1.15 by omitting “66 dBuV/m” and substituting “66 dB μ V/m”.

Paragraph 4(u) amends repeals Attachment 1.16 which has been replaced by an equivalent Attachment 1.7A (see paragraph 4(k)).

Paragraph 4(v) amends Attachment 2.1 under the heading “Note” by omitting and substituting the text “(SLA) = Statistical Local Area” so that the terms appear in alphabetical order.

Paragraph 4(w) amends Attachment 2.2 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(x)(i) amends Attachment 3.1 by inserting an area description for the Braidwood RA1 licence area that was unintentionally omitted in a previous variation.

Subparagraph 4(x)(ii) amends Attachment 3.1 under the heading “Note” by omitting the text “(CD) = Collection District”.

Subparagraph 4(x)(iii) amends Attachment 3.1 under the heading “Note” by omitting the text Level “2” and substituting “Level 2”.

Paragraph 4(y) repeals Attachment 3.2 as a higher power service has commenced by transmitter SL1150816 . The replacement service is specified at Attachment 3.3.

Subparagraph 4(z)(i) amends Attachment 3.3 by omitting Australian Map Grid references and substituting Nominal co-ordinates (GDA94).

Subparagraph 4(z)(ii) amends Attachment 3.3 by omitting the heading “Availability of TS12000323” and related text that is no longer relevant and inserting an Advisory Note regarding interference protection.