

Explanatory Statement

Section 26 *Legislative Instruments Act* 2003

Variation to Licence Area Plan for Coffs Harbour Radio No.1 of 2010

JUNE 2010

Legislative Instruments Act 2003

Section 26 – Explanatory Statement

Variation to Licence Area Plan for Coffs Harbour Radio – No. 1 of 2010 made under the *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 24 June 2010, the ACMA made a variation to the licence area plan (LAP) for Coffs Harbour 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 Coffs Harbour Radio* on 22 October 1998. It is referred to in this explanatory statement as “the Coffs Harbour LAP”.

Intended impact and effect

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

- making channel capacity (90.7 MHz) available for a new Australian Broadcasting Corporation (ABC) Parliamentary News Network/NewsRadio (PNN);
- providing an FM translator service for an AM commercial radio broadcasting service to rectify deficient coverage at Woolgoolga; and
- adding a new community radio broadcasting service (94.1 MHz) to serve the general area of Coffs Harbour.

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 Coffs Harbour LAP. The instrument also 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 Coffs Harbour 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 has considered whether a regulatory impact statement is required and formed the view that the recommendations in the instrument would give rise to a regulatory obligation, and has therefore undertaken a regulatory analysis process. The ACMA formed the view that the proposed regulation is likely to have no or low impact on business or the economy, and a regulation impact statement is not necessary in relation to the proposal.

Consultation and submissions

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

On 29 April 2010, the ACMA published the following papers on its web site:

- a draft variation to the Coffs Harbour LAP, a draft variation to the frequency allotment plan (FAP) and draft licence area designation (LAD);
- an explanatory paper outlining the changes proposed in the draft variation to the Coffs Harbour LAP, inviting public comment by 28 May 2010; and
- a media release announcing the proposed draft variation to the Coffs Harbour LAP.

On 29 April 2010, the ACMA wrote to the licensees providing radio broadcasting services to the Coffs Harbour region to advise them of the release of the draft variation to the Coffs Harbour LAP and to invite their comments.

On 29 April 2010, the ACMA placed an advertisement in the “Coffs Harbour Advocate” newspaper outlining the effect of the draft variation on the Coffs Harbour LAP, providing details of how to obtain copies of the draft variation, how to access it on the ACMA’s web site, and inviting public comment.

The ACMA received one submission on the draft variation to the Coffs Harbour LAP and accompanying explanatory paper.

The ACMA also received a comment on its Facebook page asking why the PNN service is restricted to 2 kW, whilst the existing 91.5 MHz 2JJJ service has a maximum ERP of 100 kW in the same direction. The ACMA’s engineers have advised that 90.7 MHz has a higher potential to cause interference to the NBN3 service as it is closer to the colour-sub carrier frequency for NBN3 (90.684 MHz) than the 2JJJ service on 91.5 MHz.

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 Coffs Harbour Radio – No. 1 of 2010*.

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) of the instrument removes the date “October 1998” from the title page of the Coffs Harbour LAP.

Clause (4)(b)

Clause (4)(b) of the instrument numbers each of the paragraphs of the determination in the Coffs Harbour LAP consecutively as clauses (1), (2), (3) and (4).

Clause (4)(c)(i)

Clause (4)(c)(i) of the instrument amends clause (2) of the Coffs Harbour LAP to add an additional national radio broadcasting service in Coffs Harbour.

Clause (4)(c)(ii)

Clause (4)(c)(ii) of the instrument omits the words “Attachments 1.2 – 1.9” and substitutes the words “Attachments 1.2 – 1.11” from clause (2) of the determination in the Coffs Harbour LAP in order to reflect the addition of Attachment 1.10 and Attachment 1.11 described further at clause (4)(k).

Clause (4)(d)

Clause (4)(d) of the instrument inserts a new clause (5) after clause (4) of the Coffs Harbour LAP to reflect the addition of a new community radio broadcasting service which is to be provided in the new Coffs Harbour RA3 licence area, and is described further at clause (4)(m).

Clause (4)(e)

Clause (4)(e) of the instrument inserts a new clause (6) into the determination the effect of which is to ensure that refers to schedules and attachments in the determination include schedules and attachments as amended from time to time..

Clause (4)(f)

Clause (4)(f) of the instrument omits all text appearing immediately under the heading "SCHEDULES" in the Coffs Harbour LAP (including the heading itself). The material was included for reference only and is not relevant or necessary.

Clause (4)(g)

Clause (4)(g) of the instrument omits Schedules One to Three to the Coffs Harbour LAP and substitutes new schedules in their place. These schedules set out the details of the national, commercial and community radio broadcasting services, and the open narrowcasting radio services, that are to be available on particular frequencies in licence areas determined by the Coffs Harbour LAP.

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

The changes to the schedules include omitting the words "- October 1998" from the each heading, omitting some irrelevant material including the 'status' column', and inserting a new column that identifies the frequency used by each national, commercial and community radio broadcasting services, and open narrowcasting radio service.

The new Schedule One has added technical specifications for a new national radio broadcasting service (Parliamentary News Network/ NewsRadio) and a new FM translator for an existing AM commercial radio broadcasting service to be available in the Coffs Harbour RA1 licence area.

Clause (4)(h)

Clause (4)(h) of the instrument omits all of the text that appears immediately after the table in Schedule Three in the Coffs Harbour LAP. This information was included for reference only, and is not relevant.

Clause (4)(i)

Clause (4)(i) of the instrument inserts Schedule Four into the Coffs Harbour LAP. Schedule Four provides the technical specification numbers for the transmitter to be used by the new community radio broadcasting service in the Coffs Harbour RA3 licence area and specifies the attachment which contains the technical specification for this transmitter.

Clause (4)(j)

Clause (4)(j) of the instrument omits Attachments 1.1 to 1.9 to the Coffs Harbour LAP and substitutes new attachments in their place.

The new Attachment 1.1 contains the definition of the Coffs Harbour RA1 licence area in terms of the areas defined by the Australian Bureau of Statistics, using 2006 Census data, but otherwise remains unchanged.

New Attachments 1.2 to 1.9 contain the technical specifications for each transmitter to be used by the radio services in the Coffs Harbour RA1 licence area.

The changes to these Attachments include adding the words "Coffs Harbour Radio" after the words "LICENCE AREA PLAN" to the heading in each attachment. The 'site tolerance' specifications have been updated in each Attachment to refer to the Broadcasting Services

(Technical Planning) Guidelines 2007 rather than referring to the “Technical Planning Guidelines”.

The nominal location of each transmitter site name has also been updated to reflect the current transmitter site name but does not signify a change to the broadcast site for the transmitters.

The antenna height at attachments 1.2 – 1.5 has been changed from 90 to 113 meters on the advice of Broadcast Australia. The change in antenna height does not change the performance of each of the services.

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 but does not signify a change in the broadcast site.

Clause (4)(k)

Clause (4)(k) of the instrument inserts new Attachment 1.10 and Attachment 1.11 into the Coffs Harbour LAP.

Attachment 1.10 contains the technical specifications for a new national radio broadcasting service to be provided at Grafton/Kempsey. The service is the ABC’s Parliamentary News Network/NewsRadio service.

Attachment 1.11 contains the technical specifications for an FM translator service for an AM commercial radio broadcasting service (2HC) that is to be provided to rectify deficient coverage to the north of the Coffs Harbour licence area at Woolgoolga.

Clause (4)(l)

Clause (4)(l) of the instrument omits Attachments 2.1 to 3.3 to the Coffs Harbour LAP and substitutes new attachments in their place.

Attachment 2.1 and Attachment 3.1 contain the definition of the Coffs Harbour RA2 and Bellingen RA1 licence areas in terms of the areas defined by the Australian Bureau of Statistics, using 2006 Census data, but otherwise remain unchanged.

Attachment 2.2 and Attachment 2.3 contain the technical specifications for each transmitter to be used by the community radio broadcasting services in the Coffs Harbour RA2 licence area.

Attachment 3.2 and Attachment 3.3 contain the technical specifications for each transmitter to be used by the community radio broadcasting services in the Bellingen RA1 licence area.

The changes to these attachments, containing the technical specifications of the transmitter, include adding the words “Coffs Harbour Radio” after the words “LICENCE AREA PLAN” to the heading in each attachment. The ‘site tolerance’ specifications have been updated in each Attachment to refer to the *Broadcasting Services (Technical Planning) Guidelines 2007* rather than referring to the “Technical Planning Guidelines”.

The nominal location of each transmitter site name has also been updated to reflect the current transmitter site name but does not signify a change to the broadcast site for the transmitters.

The nominal location of the transmitter specified in the attachments containing the technical specifications is updated to provide a more accurate description of the transmitter site but does not signify a change in broadcast site.

Clause (4)(m)

Clause (4)(m) of the instrument inserts new Attachment 4.1 and Attachment 4.2 into the Coffs Harbour LAP.

Attachment 4.1 contains the definition of the newly created Coffs Harbour RA3 licence area in terms of the area defined by the Australian Bureau of Statistics, using 2006 Census data.

Attachment 4.2 contains the technical specifications for a new community radio broadcasting service to serve the Coffs Harbour RA3 licence area.