

# EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

## *Variation to Licence Area Plan for Bourke Radio – No.1 of 2011*

### ***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).

The ACMA has made a variation to the licence area plan (LAP) for Bourke 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 *Community and Open Narrowcasting Radio Licence Area Plan for Bourke Radio* on 10 December 1996 and varied it on 3 November 2004. It is referred to in this explanatory statement as “the Bourke LAP”.

#### **Intended impact and effect**

This instrument varies the technical specifications of broadcasting services in the Bourke area by:

- > making the FM frequency 103.1 MHz with a maximum effective radiated power (ERP) of 50 watts with an omni-directional antenna pattern available at Wilcannia for a new community radio broadcasting service; and
- > determining the new Wilcannia RA1 licence area using 2006 census data.

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 wording and composition of the Bourke 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 ACMA does not intend to alter any existing rights and obligations, except as set out above.

#### **Regulatory impact analysis**

The ACMA's Best Practice Coordinator has considered the matter and referred it to the Office of Best Practice Regulation (OBPR). The OBPR formed the opinion that the proposed regulation is likely to have no or low impact on business or the economy; hence neither a regulatory impact statement nor a business cost calculator report is necessary in relation to the regulatory proposal. The OBPR has issued an exemption reference number 2011/12204.

## **Consultation and submissions**

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

On 19 October 2010, the ACMA published the following papers on its web-site:

- > a draft variation to the Bourke LAP, a draft variation to the frequency allotment plan and draft licence area designation;
- > an explanatory paper outlining the changes proposed in the draft variation to the Bourke, Cairns and Maryborough LAPs, inviting public comment by 29 October 2010; and
- > a media release announcing the proposed draft variation to the Bourke, Cairns and Maryborough LAPs.

On 20 October 2010, the ACMA wrote to the providers of national, commercial, community and high power open narrowcasting radio broadcasting services in the Bourke region to advise them of the release of the draft variation to the Bourke LAP and to invite their comments.

On 21 October, the ACMA placed an advertisement in the "Bourke Western Herald" newspaper outlining the effect of the draft variation to the Bourke LAP. The advertisement provided details of how to obtain copies of the draft variation, how to access it on the ACMA's web-site, and invited public comment.

The ACMA received two submissions on the draft variation to the Bourke LAP and accompanying explanatory paper.

## **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 Bourke Radio – No. 1 of 2011.

### **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) renames the Bourke LAP as the "Licence Area Plan for Bourke Radio" by removing the words "Community and Open Narrowcasting Radio" from the title of the LAP.

### **Clause (4)(b)**

Clause (4)(b) of the instrument numbers each of the clauses of the plan in the Bourke LAP consecutively as clauses (1), (2), (3) and (4).

### **Clause (4)(c)**

Clause (4)(c) of the instrument inserts a new clause (5) after clause (4) of the Bourke LAP to reflect the addition of a new community radio broadcasting service which is to be provided in the new Wilcannia RA1 licence area.

Clause (4)(c) of the instrument also inserts a new clause (6) into the plan, the effect of which is to ensure that references to schedules and attachments in the plan include schedules and attachments as amended from time to time.

#### **Clause (4)(d)**

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

#### **Clause (4)(e)**

Clause (4)(e) of the instrument omits Schedules One to Three to the Bourke 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 Bourke 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 Bourke LAP, and specify the attachments which contain the technical specification for each of those transmitters.

The changes to the schedules include omitting the words “December 1996” from each heading, and inserting a new column that identifies the frequency used by each national, commercial and community radio broadcasting services, and open narrowcasting radio services. No substantive changes are made to any of the contents of the Schedules.

#### **Clause (4)(f)**

Clause (4)(f) of the instrument inserts Schedule Four into the Bourke LAP. Schedule Four provides the technical specification numbers for the transmitter to be used by the new community radio broadcasting service in the Wilcannia RA1 licence area and specifies the attachment which contains the technical specification for this transmitter.

#### **Clause (4)(g)**

Clause (4)(g) of the instrument replaces all the Attachments to the Bourke LAP.

The new Attachment 1.1 contains the definition of the Bourke RA1 licence area in terms of the areas defined by the ABS, using 2006 census data, but otherwise remains unchanged.

New Attachments 1.2 to 1.17 contain the technical specifications for each transmitter to be used by the radio services in the Bourke RA1 licence area.

The new Attachment 2.1 contains the definition of the Bourke RA2 licence area in terms of the areas defined by the ABS, using 2006 census data, but otherwise remains unchanged.

New Attachments 2.2 to 2.6 contain the technical specifications for each transmitter to be used by the radio services in the Bourke RA2 licence area.

The new Attachment 3.1 contains the definition of the Lightning Ridge RA1 licence area in terms of the areas defined by the ABS, using 2006 census data, but otherwise remains unchanged.

New Attachments 3.2 to 3.3 contain the technical specifications for each transmitter to be used by the radio services in the Lightning Ridge RA1 licence area.

The changes to these Attachments include updating the 'site tolerance' specifications 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 the transmitter specified in some of the Attachments has been updated to provide a more accurate description of the transmitter site. This does not signify a change in the broadcast site.

The method of recording the output radiation pattern at Attachments 1.2, 1.3 and 1.5 has been changed to the format common across all radio LAPs. This information is updated for ease of reference only and does not signify a change in maximum ERP.

Attachment 4.1 contains the definition of the newly created Wilcannia RA1 licence area in terms of the area defined by the ABS, using 2006 census data.

Attachment 4.2 contains the technical specifications for a new community radio broadcasting service to serve the Wilcannia RA1 licence area.