

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Digital Radio Channels – NSW/ACT) Plan Variation 2015 (No. 1)

Radiocommunications Act 1992

Purpose

Pursuant to section 44A of the *Radiocommunications Act 1992* (the RA), the Australian Communications and Media Authority (the ACMA) prepares digital radio channel plans (DRCPs) that, among other things, allot frequency channels for use by digital radio multiplex transmitter licensees and determine technical specifications of multiplex transmitters operated under digital radio multiplex transmitter licences.

The ACMA may, by legislative instrument, vary a DRCP under subsection 44A(6) of the RA.

The *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan Variation 2015 (No. 1)* (the Variation) varies the *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan 2007* (the NSW/ACT DRCP) by inserting a section that provides that the technical specifications for a co-channel transmitter licensed under a relevant digital radio multiplex transmitter (DRMT) licence are those determined by the technical planning guidelines developed by the ACMA under section 33 of the *Broadcasting Services Act 1992* (the BSA).

The Variation also specifies the technical parameters for the Winmalee co-channel transmitter, which is located outside of the Sydney designated BSA radio area but transmits into that area.

Background and operation

Co-channel transmitters are additional transmitters to main digital radio multiplex transmitters. A co-channel transmitter operates on the same frequency as the main transmitter and transmits an identical data stream. Co-channel transmitters with controlled timing between them form a single frequency network and are able to boost digital radio coverage in dense urban areas, as well as extending coverage in geographically challenging environments and at the boundaries of licence areas.

Paragraph 44(1)(e) of the RA requires that DRCPs prepared by the ACMA determine the technical specifications of multiplex transmitters (which include co-channel transmitters) operated under DRMT licences. The operation of, and technical specifications for, co-channel transmitters are provided for in the technical planning guidelines (TPGs) made by the ACMA under section 33 of the BSA.

In order to give effect to the requirements of paragraph 44(1)(e) of the RA, the NSW/ACT DRCP has been varied to provide that the technical specifications for co-channel transmitters licensed under the relevant DRMT licence are those determined by the TPGs.

DRMT licences for the Sydney RA1 designated BSA radio area¹ authorise the operation of co-channel transmitters at six locations.

¹ 'Designated BSA radio area' is defined in section 5 of the RA to mean the BSA licence area of a commercial or community radio broadcasting licence, where that BSA licence area is the same as the BSA licence area of a commercial radio broadcasting licence.

The *Broadcasting Services (Technical Planning) Guidelines 2007*, made by the ACMA under section 33 of the BSA state, at guideline 178, in respect of the location of a digital radio transmitter site:

The transmitter site must be located within the designated BSA radio area, unless a different site is specified in the technical specifications of the DRCP or an approved implementation plan.

Prior to varying the DRMT licences in the Sydney RA1 designated BSA radio area the ACMA sought and obtained written agreement for a proposed co-channel transmitter at Winmalee (Hawkesbury Heights) from the commercial radio broadcasting licensees whose licence areas would be affected by any overspill.

The Winmalee transmitter site is approximately 4km outside the Sydney RA1 licence area and increases digital radio overspill into urban centres inside the Lithgow RA1 licence area, between Winmalee and Springwood.

For the purposes of guideline 178 of the *Broadcasting Services (Technical Planning) Guidelines 2007*, the Variation inserts into the NSW/ACT DRCP the technical parameters for the Winmalee co-channel transmitter.

Regulatory impact analysis

The Office of Best Practice Regulation (OBPR) has determined that the proposed regulatory changes resulting from the Variation are minor and machinery in nature and that no further regulatory impact analysis is required (OBPR ID: 16851).

Consultation

Subsection 44A(7) of the RA requires that before varying a DRCP, the ACMA must:

- publish a draft of the variation on the ACMA's website; and
- invite members of the public to make submissions to the ACMA about the variation within a specified period of at least 30 days; and
- consider any submissions the ACMA receives from members of the public within that period.

On 19 November 2014, the ACMA published, on its website:

- a draft version of the Variation; and
- a discussion paper concerning the proposed Variation, which invited public comment by 24 December 2014.

On the same day, the ACMA wrote to the relevant commercial and community radio industry associations: Commercial Radio Australia and the Community Broadcasting Association of Australia as well as the national radio broadcasters (ABC and SBS), Broadcast Australia, FreeTV Australia and others, alerting them to the variation proposed and inviting comment.

The ACMA received one submission from Commercial Radio Australia on the draft variation which it considered prior to making the Variation.

Detailed description of the Variation

Details of the Variation are set out in Attachment A.

Documents incorporated in the Variation by reference

The Variation incorporates, by reference, the *Broadcasting Services (Technical Planning) Guidelines 2007*, which can be accessed at www.comlaw.gov.au, and standard ETSI EN 300 401 V1.4.1, issued by the European Telecommunications Standard Institute, which can be accessed at <http://www.etsi.org/>.

Statement of Compatibility with Human Rights

In accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*, the ACMA has prepared a Statement of Compatibility with Human Rights to consider the human rights implications of the Variation.

The Statement of Compatibility prepared for the Variation is provided in Attachment B.

ATTACHMENT A

DETAILED DESCRIPTION OF RADIOCOMMUNICATIONS (DIGITAL RADIO CHANNELS – NSW/ACT) PLAN VARIATION 2015 (NO. 1)

Section 1 Name of Plan Variation

Section 1 names the Variation the *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan Variation 2015 (No. 1)*.

Section 2 Commencement

Section 2 provides that the Variation commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 Amendment of *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan 2007*.

Section 3 specifies that Schedule 1 varies the *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan 2007*.

Schedule 1 Amendments

Item 1

Item 1 of Schedule 1 to the Variation inserts a new section 6 into the *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan 2007* which provides that the technical specifications for a co-channel transmitter licensed under a relevant digital radio multiplex transmitter licence are those determined by technical planning guidelines. At the time of the commencement of new section 6, the technical specifications of a co-channel transmitter are set out in Division 8 of Part 8 of the *Broadcasting Services (Technical Planning) Guidelines 2007*.

Item 2

Item 2 of Schedule 1 to the Variation inserts new attachments (1.4, 1.5, 1.6) to Schedule 1 to the *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan 2007*. These attachments specify the technical parameters for the Winmalee co-channel transmitter, which is located outside of the Sydney RA1 designated BSA radio area.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

RADIOCOMMUNICATIONS (DIGITAL RADIO CHANNELS – NSW/ACT) PLAN VARIATION 2015 (NO. 1)

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan Variation 2015 (No.1)* varies the *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan 2007* by adding a provision specifying that the technical specifications for co-channel transmitters licensed under a relevant digital radio multiplex transmitter licence are those determined by the technical planning guidelines prepared by the ACMA under section 33 of the *Broadcasting Services Act 1992* and by specifying technical parameters for the Winmalee co-channel transmitter, which is located outside of the Sydney RA1 designated BSA radio area.

Human Rights Implications

The ACMA has considered whether the *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan Variation 2015 (No.1)* engages any applicable human rights or freedoms and has formed the view that it does not.

Conclusion

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