

## EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

### *Radiocommunications (Allocation of Transmitter Licences – Low Power Open Narrowcasting Licences) Determination 2015*

#### *Radiocommunications Act 1992*

#### **Purpose**

The *Radiocommunications (Allocation of Transmitter Licences – Low Power Open Narrowcasting Licences) Determination 2015* (the Determination) provides an allocation system for low power open narrowcast licences (LPONs). Lots are allocated by open outcry auction if there are competing bidders, or upon payment of the reserve price if there is only one applicant, with the successful applicant being entitled to apply for an LPON licence.

The Determination revokes and replaces the *Radiocommunications (Broadcasting (Low Power Open Narrowcasting) Transmitter Licence – Allocation) Determination 2001* (the 2001 Instrument) without making any significant changes to the regulatory arrangements created by the 2001 Instrument.

The Australian Communications and Media Authority (ACMA) has made the Determination because the 2001 Instrument was due to 'sunset' (i.e. be automatically repealed) on 1 October 2015, in accordance with Part 6 of the *Legislative Instruments Act 2003* (the LIA). Following review, and consultation as described below, the ACMA formed the view that the 2001 Instrument was operating effectively and efficiently, and continued to form a necessary and useful part of the legislative framework. Accordingly, the ACMA has remade the 2001 Instrument by making the Determination, without any significant changes, so that its ongoing effect is preserved.

#### **Legislative Provisions**

The Determination is made under subsection 106(1) of the *Radiocommunications Act 1992* (the Act) and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA).

Under section 106, the ACMA may determine, in writing, a price-based allocation system for allocating and/or issuing specified transmitter licences. A determination made under section 106 of the Act is a legislative instrument for the purposes of the LIA.

Subsection 33(3) of the AIA relevantly provides that where an Act confers a power to make a legislative instrument, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

#### **Background**

On 20 December 2000, the then Minister for Communications, Information Technology and the Arts gave the Australian Communications Authority (the ACA) the *Australian Communications Authority (LPON Transmitter Licence Allocation) Direction No.3 of 2000* (the Price-based Allocation Direction). The Price-based Allocation Direction requires the allocation or issue of transmitter licences for low power open narrowcasting services by the ACMA (excluding the renewal of licences) to be by way of price-based allocation systems.

Accordingly, the ACA made the 2001 Instrument on 17 August 2001.<sup>1</sup>

The 2001 Instrument was due to be automatically repealed by operation of section 50 of the LIA on 1 October 2015. However, following internal review and public consultation, the ACMA considers that the instrument is still required, and is effective and efficient in achieving its regulatory purpose. The ACMA has made the Determination (revoking the 2001 Determination) without any significant changes, so that its ongoing effect is preserved. Minor administrative changes were made to replace outdated legislative references and banking details, and to improve drafting style.

## **Operation**

The Determination sets out a process whereby:

- The ACMA invites applicants for potential transmitter licences for LPON services to register to participate in an allocation;
- Each person wishing to participate in the allocation lodges an application form with the ACMA, including a proposed transmitter site and frequency for the intended service, along with a Deed of Acknowledgement and an entry fee for each lot;
- The ACMA considers each nominated transmitter site and frequency, and decides whether each nominated site and frequency is consistent with the ACMA's planning model on the operation of LPON services, as if each applicant were the only applicant for that site and frequency;
- The ACMA assigns a lot number for each application that it decides is consistent with the planning model, assigning the same lot number for applications that nominate the same frequency for transmitter sites that are within the minimum separation distances specified in the planning model;
- The ACMA holds an auction for the allocation of lots for which there is more than one applicant;
  - Registered applicants must pay an auction deposit for each lot that includes the transmitter site and frequency that it nominated, and on which it intends to bid;
  - The auction is conducted in accordance with the procedures set out in the Determination;
  - The ACMA allocates lots to the successful applicants once those applicants are identified and verified;
  - The ACMA issues transmitter licences to successful applicants if the successful applicant pays the balance of a bid price, applies for a licence under section 99 of the Act and pays the applicable transmitter licence tax.
- The ACMA issues licences to registered applicants for lots for which the applicant is the only applicant, provided that they pay the applicable transmitter licence tax, pay the balance of the bid price, and apply for the licence under section 99 of the Act within 10 business days of notification by the ACMA.

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<sup>1</sup> The ACMA succeeded to responsibilities of the ACA on 1 July 2005. Directions given to the ACA are taken to be given to the ACMA and instruments made by the ACA are taken to be made by the ACMA by virtue of the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005*.

## Consultation

Subsection 17(1) of the LIA requires that, before the ACMA makes a legislative instrument, the ACMA must be satisfied that any consultation that it considers is appropriate and reasonably practicable to undertake has been undertaken.

Accordingly, the ACMA published a consultation paper and draft of the Determination on its website and invited submissions from 11 March to 22 April 2015. The consultation paper explained the sunseting process and the ACMA's preliminary view that the 2001 Instrument was operating effectively and efficiently and, as such, continues to form a necessary and useful part of the legislative framework. The ACMA received one submission in response to the consultation paper that supported the remaking of the 2001 Instrument and did not suggest any changes.

### Detailed Description of the Determination

Details of the Determination are set out in **Attachment A**.

### Documents incorporated in the Determination by Reference

The Determination incorporates by reference the following Acts, legislative instruments and documents or otherwise refers to them, as in force from time to time, as permitted by sections 13 of the LIA, and section 314A of the Act:

- ACMA information paper: *LPON Applicant Information Package* (available on the ACMA website: <http://www.acma.gov.au/>)
- ACMA information paper: *Planning Model* (available on the ACMA website: <http://www.acma.gov.au/>)
- *Broadcasting Services Act 1992*
- *Radiocommunications Act 1992*
- *Corporations Act 2001*
- *Radiocommunications (Interpretation) Determination 2015*
- *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2015*
- *Radiocommunications Licence Conditions (Broadcasting Licence) Determination No.1 of 1998*, as in force from time to time.
- *Radiocommunications Regulations 1993*
- *Radiocommunications (Transmitter Licence Tax) Act 1983*.

Acts and legislative instruments referenced in the Determination can be found on the Australian Government's ComLaw website (<http://www.comlaw.gov.au/>).

### Statement of Compatibility with Human Rights

As required under the *Human Rights (Parliamentary Scrutiny) Act 2011*, a Statement of Compatibility with Human Rights has been prepared by the ACMA and is at **Attachment B**.

### Regulation Impact Statement

Under the Guidance Note *Sunsetting Legislation* published by the Office of Best Practice Regulation (OBPR) in March 2013, streamlined administrative processes apply to sunseting legislative instruments.

As the ACMA has determined that the 2001 Instrument was fit for purpose, and should be remade without any significant changes, and has certified those matters to OBPR, no Regulation Impact Statement (RIS) is required in relation to the making of the Determination (OBPR reference number ID 18511).



## **Attachment A**

### **Details of the *Radiocommunications (Allocation of Transmitter Licences – Low Power Open Narrowcasting Licences) Determination 2015***

#### **PART 1 PRELIMINARY**

Part 1 deals with the preliminary provisions of the Determination, such as the Determination's purpose and commencement, and the revocation of the 2001 Instrument. It also sets out the circumstances in which the Determination applies, and defines terms used in the Determination.

##### **Section 1.1 – Name of Determination**

Section 1 provides that the Determination is called the *Radiocommunications (Allocation of Transmitter Licences – Low Power Open Narrowcasting Licences) Determination 2015*.

##### **Section 1.2 – Commencement**

Section 1.2 provides that the Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.

##### **Section 1.3 – Purpose**

Section 1.3 provides that the purpose of the Determination is to set out a price-based allocation system for allocating lots that entitle a person to apply for a transmitter licence for the provision of an LPON service.

##### **Section 1.4 – Application of Determination**

Section 1.4 provides that the ACMA may allocate lots and issue transmitter licences in respect of LPON services only in accordance with the price-based allocation system set out in the Determination.

##### **Section 1.5 – Definitions**

Section 1.5 defines various terms which are used in the Determination. Notably, transmitter licence is defined such that in this Determination it refers to an apparatus licence that authorises the operation of an LPON service in an area consistent with the ACMA's planning model.

##### **Section 1.6 – Revocation of previous Determination**

Section 1.6 revokes the 2001 Instrument.

#### **PART 2 PREPARING FOR THE ALLOCATION**

Part 2 provides details on the preliminary preparations for the allocation of transmitter licences for LPON services. It includes details on the information that the ACMA will provide to the public about the proposed allocation of the transmitter licences. It also details the matters that the ACMA must decide prior to the allocation, including setting relevant prices and fees, and approving requisite forms. Part 2 also sets out how the payment of monies due to the ACMA must be made.

##### **Section 2.1 – Publication of notice by the ACMA**

Section 2.1 requires the ACMA to publish a notice about the proposed allocation. This notice must invite applications for potential transmitter licences for LPON services to be determined under the planning model; briefly describe how the allocation will be conducted; state the closing date and time for applications; state that the lots will be determined and allocated in accordance with the Determination; state that an applicant may only bid on a lot that the applicant has nominated; and state that the Applicant Information Package containing further information can be obtained from the ACMA.

The ACMA may publish the notice in any way that it deems appropriate. If information provided in the notice subsequently changes, the ACMA must publish another notice in any way it deems

appropriate, providing details of the changes. The ACMA generally publishes such notices on its website.

Section 2.1 provides that the ACMA may also publish other information about allocations in any way that it considers appropriate.

### **Section 2.2 – Entry fee, closing date, reserve price and auction deposit amount**

Section 2.2 requires the ACMA to set, in writing, the entry fee, the application closing date and time, and the reserve price and auction deposit amounts for each lot, prior to publishing a notice about the proposed allocation.

### **Section 2.3 – LPON Applicant Information Package**

Section 2.3 provides that the LPON Applicant Information Package must contain a guide to the allocation system, the Determination, the application form with instructions for completion and lodgement, the Deed of Acknowledgement, the Form of Authority, the entry fee, the application closing date and time, the reserve price and auction deposit amounts, and the address of the auction centre. The LPON Applicant Information Package may also contain other information about allocation.

### **Section 2.4 – Approval of forms and documents**

Section 2.4 requires the ACMA to approve in writing an application form, a Deed of Acknowledgement and a Form of Authority.

### **Section 2.5 – Payment of monies due to the ACMA**

Section 2.5 sets out the manner in which payments of the entry fee, auction deposit and balance of the bid price are to be paid to the ACMA, on behalf of the Commonwealth. Payments must be paid by the date required by the Determination and be made in Australian currency. Payments must be made by cheque or bank transfer.

A payment is considered to have been made by a specific date if the applicant gives the ACMA a cheque for the payment, or does everything necessary to make the payment by bank transfer and provides the ACMA with evidence that the payment has been made, by the date required.

If a payment is not received in the ACMA bank account by the required date, and the applicant has not done everything necessary to make the payment by bank transfer and provided the ACMA with evidence, the person's application ceases to have effect and that person is not permitted to participate in the allocation or to obtain a transmitter licence through the allocation. The applicant is required to pay all bank charges and Government duties imposed on a payment, which is not considered to have been made unless the full amount net of those charges is received by the ACMA.

## **PART 3 REGISTERING FOR AN ALLOCATION**

Part 3 provides information about how people interested in obtaining a transmitter licence must register for the allocation; the register of applicants maintained by the ACMA; the initial assessment of applications and determination of lots.

### **Section 3.1 – Applications**

Section 3.1 requires that a person who wants to register for a lot to obtain a transmitter licence must give the ACMA a completed application form (nominating a transmitter site and frequency) and Deed of Acknowledgement for each transmitter licence sought, and pay an entry fee for each application.

### **Section 3.2 – Lodging of applications**

Section 3.2 requires that registration documents must be lodged with the ACMA on or before the closing date. The ACMA must confirm receipt in writing, noting the applicant's name, address and ABN or ARBN if the applicant is a company or registrable body, as soon as practicable after receiving the documents.

### **Section 3.3 – Register of applicants**

Section 3.3 requires the ACMA to maintain a register of applicants, containing the name, address, telephone number, fax number, ABN or ARBN, and nominated transmitter site and frequency for each applicant. The register may be in electronic form, and may contain any other information that the ACMA considers necessary. If the ACMA becomes aware that any information on the register is incorrect, or if an applicant tells the ACMA of any change of name address, telephone or fax numbers, the ACMA must make the changes to the register that it considers necessary or convenient as soon as practicable.

The ACMA must ensure that any details about applicants are not disclosed until finalisation of the allocation, except as authorised by the Determination, or as otherwise authorised by law. The ACMA may publish the name of each registered applicant and the lots for which they are eligible to bid no later than five business days before the start of an auction.

### **Section 3.4 – Registration of applicants**

Section 3.4 provides that the ACMA must not register an applicant unless the applicant has lodged completed registration documents and paid the entry fee. The ACMA must inform each registered applicant, in writing, that they have been registered within five business days after the closing date.

### **Section 3.5 – Initial assessment of potential transmitter licence for LPON service.**

Section 3.5 requires that the ACMA consider each nominated transmitter site and frequency within 20 business days after the closing date, and decide whether the proposed site and frequency is consistent with the planning model, as if each applicant were the only one for that site and frequency.

The planning model details ACMA policy about the frequency coordination requirements for LPON transmitters. It has been developed having regard to the minimum separation distances for co-channel and adjacent-channel LPONs; the location of FM radio broadcasting services below 88.4 MHz; and the locations of LPON services operating within 88.1 – 108 MHz that are required to transition to the 87.5 - 88.0 MHz sub-band. The planning model is available at [www.acma.gov.au](http://www.acma.gov.au).

### **Section 3.6 – Determination of lots**

Section 3.6 requires the ACMA to assign a lot number for each application for which it decides that the nominated transmitter site and frequency are consistent with the planning model. If two or more applicants nominate transmitter sites within the minimum separation distances specified in the planning model, and the applications are for the same frequency, the ACMA must assign all those applications the same lot number.

## **PART 4 ALLOCATION WHERE THERE IS MORE THAN ONE APPLICANT FOR THE LOT**

Part 4 describes the process for allocating a licence by auction, where there is more than one application for a lot. It includes information on who is eligible to participate in an auction; how the ACMA will notify registered applicants of the auction; the payment of auction deposits by registered applicants; how registered applicants may authorise others to bid on their behalf; how to register as a

bidder; how bidding will be conducted and concluded; the refund of deposits to unsuccessful bidders and the treatment of unallocated lots.

#### **Section 4.1 – Application of Part 4**

Section 4.1 provides that Part 4 applies if there is more than one applicant for a lot.

#### **Section 4.2 – Holding an auction**

Section 4.2 requires that the ACMA hold an auction for allocation of the lot, or lots, in accordance with the Determination.

#### **Section 4.3 – Appointment of auctioneer**

Section 4.3 requires the ACMA to appoint a person as auctioneer to conduct the auction.

#### **Section 4.4 – Eligibility of applicants to participate in an auction for a lot**

Section 4.4 provides that a registered applicant is only eligible to participate in an auction for a lot if the applicant has nominated the transmitter site and frequency included in that lot in their registration documents.

#### **Section 4.5 – Notice to registered applicant**

Section 4.5 requires the ACMA to give each registered applicant who is eligible to participate in an auction for a particular lot, within 25 business days after the closing date, a notice setting out that:

- there is more than one registered applicant eligible to participate in the auction for the lot, and the number of applicants;
- the ACMA will conduct an auction for that lot;
- the starting time, date and place of the auction;
- the auction deposit amount for that lot; and
- the date by which the auction deposit must be paid and the Form of Authority lodged.

The ACMA must also provide each eligible registered applicant with the Form of Authority to be completed for each person authorised by the applicant to bid at the auction on its behalf.

The ACMA may change the number of registered applicants eligible to participate in the auction, and the starting time, date and place of the auction provided that any change in the starting date is not a change to an earlier date. If the ACMA changes such information it must tell all affected applicants of the change in writing as soon as practicable.

#### **Section 4.6 – Payment of auction deposit**

Section 4.6 requires registered applicants intending to bid at auction to pay an auction deposit for each lot for which they are eligible and intend to bid. The auction deposit for a lot is fully refundable if the applicant withdraws prior to the start of the auction, or if the applicant is not a successful bidder for that lot. The auction deposit is forfeited if the applicant is a successful applicant who fails to pay the balance of the bid price in accordance with section 6.3. Registered applicants who have not paid an auction deposit for a particular lot will not be eligible to bid on that lot.

#### **4.7 – Confirmation of registration for auction**

Section 4.7 requires the ACMA to confirm in a notice to each registered applicant, within 15 business days before the start of the auction:



- the applicant's payment of the auction deposit for each lot;
- each person for whom the applicant has lodged a Form of Authority;
- each lot for which the applicant is eligible to bid;
- whether the ACMA will allow telephone bidding at the auction.

#### **4.8 – Telephone bidding**

Section 4.8 provides that the ACMA may allow bidding by telephone at an auction. Registered applicants who wish to bid by telephone must advise the ACMA in writing no later than five business days before the start of the auction. The ACMA will issue registered applicants who wish to bid by telephone a password and identification number, which must be provided to the ACMA immediately before the start of the auction, to verify an applicant's identity.

#### **4.9 – Lodgement of another Form of Authority**

Section 4.9 applies if a registered applicant wishes to have someone represent them at auction other than by telephone, and the applicant has not previously given the ACMA a Form of Authority for that person. Section 4.9 requires the applicant to give the ACMA a completed Form of Authority for the person they wish to bid on their behalf, no later than two hours before the start of the auction. If the applicant had previously provided a Form of Authority for a different person, and no longer wishes that person to bid on their behalf, they must provide confirmation to that effect.

#### **4.10 – Bidder identification as registered bidder**

Section 4.10 requires registered applicants, or people for whom a Form of Authority has been lodged by a registered applicant, who wish to bid at the auction in person, to register as a bidder, and present evidence of their identity to the ACMA, no later than one hour before the start of the auction.

#### **4.11 – Bidding in an auction**

Section 4.11 provides that only a registered bidder or verified telephone bidder may bid for a lot.

Only registered bidders who are registered applicants, or for whom a registered applicant has provided the ACMA with a Form of Authority, may bid for a lot; and the lot must have been nominated in the registration documents submitted by the registered applicant. An auction deposit must have been paid for the lot.

A verified telephone bidder may only bid for a lot that has been nominated by the registered applicant in the registration documents, and for which an auction deposit has been paid.

The auctioneer will invite bids for a lot and identify the registered bidder or verified telephone bidder who has made the highest bid. If a bid is disputed the auctioneer is the sole arbiter and the auctioneer's decision is final. If the highest bid made for a lot is equal to or higher than the reserve price for that lot, the registered applicant who made the highest bid, or on whose behalf the highest bid was made, is the successful applicant for that lot.

#### **4.12 – Identification and verification to the ACMA**

Section 4.12 requires that immediately following the identification of the successful applicant:

- if the successful applicant is a registered bidder they must meet with the ACMA to identify themselves;
- if the successful applicant is a verified telephone bidder they must verify to the ACMA by telephone that the successful bidder's identification is that of the successful applicant;

- if the successful applicant is not a registered bidder, the registered bidder with a Form of Authority from the successful applicant must meet with the ACMA to identify themselves.

#### **4.13 – Close of auction**

Section 4.13 provides that the auction of a lot is closed after the successful applicant has been identified or verified to the ACMA. The ACMA must notify each successful applicant for a lot, by receipted mail, of the balance of the bid price. A successful applicant must pay the balance of the bid price within 10 business days after the date of the notice.

#### **4.14 – Lot offered at auction but not allocated**

Section 4.14 provides that if a lot is not allocated at the auction, applications for that lot cease to have effect. However, if a successful applicant is in default of their financial obligations to the ACMA and the lot is treated as unallocated, the ACMA may treat the registration documents lodged by an unsuccessful applicant for that lot as valid registration documents in any future allocation for that lot, with the consent of the unsuccessful applicant.

#### **4.15 – Refund of auction deposit to unsuccessful applicant(s)**

Section 4.15 requires the ACMA to refund auction deposits to unsuccessful applicants for a lot as soon as practicable after the auction.

### **PART 5 ALLOCATION OF A LOT IF THERE IS ONLY ONE APPLICANT**

Part 5 describes how lots will be allocated if there is only one applicant for a particular lot, including notification by the ACMA that a registered applicant is the successful applicant and payment of the reserve price.

#### **5.1 – Application of Part 5**

Section 5.1 provides that Part 5 applies if there is only one applicant for a lot.

#### **5.2 – Notice to registered applicant**

Section 5.2 requires the ACMA to give the registered applicant for a lot a notice by receipted mail, within 25 business days after the closing date, setting out that the applicant is the successful applicant, and the amount of the reserve price for the lot. The successful applicant must pay the reserve price for the lot or advise the ACMA in writing that the application has been withdrawn, within 10 business days after the date of the notice.

#### **5.3 – Default by successful applicant**

Section provides that a successful applicant that fails to pay for the lot it has won is not entitled to obtain a licence for that lot.

### **PART 6 ISSUE OF A LICENCE TO A SUCCESSFUL APPLICANT**

Part 6 describes how licences will be issued to successful applicants, including the form of the licence; payment of the reserve price or balance of the bid price; and consequences of not paying the balance of the bid price in the case of an auction.

#### **Section 6.1 – Form of licence**

Section 6.1 provides that the transmitter licence issued to the successful bidder must be substantially in accordance with the sample transmitter licence in Schedule 1 of the Determination. The licence comes into force on the day specified in the licence, and remains in force for the period specified in the licence (this may be a period of up to five years).

### **Section 6.2 – Issue of licence to successful applicant**

Section 6.2 provides that unless the ACMA has terminated an advertised allocation, a successful applicant will be issued a transmitter licence if they pay the balance of the bid price or reserve price for the lot; apply for a licence under section 99 of the Act within 10 business days after the date of a notice from the ACMA that they are the successful applicant; and pay the transmitter licence tax under the *Radiocommunications (Transmitter Licence Tax) Act 1983*.

### **Section 6.3 – Liability for failure to comply with auction payment requirements**

Section 6.3 provides that if a successful applicant does not pay the balance of the bid price, the applicant ceases to be entitled to be allocated the lot and the associated transmitter licence; their auction deposit is forfeited; and the applicant is taken to be in default of their financial obligations to the ACMA (on behalf of the Commonwealth) and is liable to pay to the ACMA (on behalf of the Commonwealth) 10 percent of the bid price (the default amount). In such an event, the lot may be treated as unallocated. The total of the default amount payable to the ACMA, on behalf of the Commonwealth, is a debt due to the ACMA on behalf of the Commonwealth, and is recoverable by the ACMA, on behalf of the Commonwealth, from the successful applicant in a court of competent jurisdiction.

## **PART 7 MISCELLANEOUS**

Part 7 includes information on miscellaneous matters. These include limitations on the ACMA's liability; the treatment of information provided by applicants; information the ACMA may provide about successful applicants and prices of allocated lots; the termination of an advertised allocation and refund of monies paid; and the recovery of damages by the ACMA.

### **Section 7.1 – ACMA not liable under the allocation system**

Section 7.1 provides that the ACMA is not liable to pay damages or costs arising from an act or omission of any person in relation to the allocation procedures set out in the Determination.

### **Section 7.2 – Information provided by applicant**

Section 7.2 provides that a document given to the ACMA for the purposes of the allocation procedures set out in the Determination becomes the property of the Commonwealth, represented by the ACMA. This does not apply to a document given to the ACMA to establish a person's identity. The ACMA may use the information provided by an applicant for the purposes of performing its functions or exercising its powers under the Determination.

### **Section 7.3 – Recovery of damages by the ACMA**

Section 7.3 provides that the Determination does not affect any right of action or remedy that the ACMA has against any person which arises under the Deed of Acknowledgement, statute, common law, equity or otherwise.

### **Section 7.4 – Giving of information by the ACMA**

Section 7.4 provides that the ACMA may announce or publish a notice of the name of each person to whom a licence is to be issued and the highest final bid or reserve price for the lots comprising the licences, before it issues a transmitter licence.

#### **Section 7.5 – Termination of advertised price-based allocation system**

Section 7.5 provides that the ACMA may terminate an advertised allocation under the Determination at any time before a transmitter licence is issued.

#### **Section 7.6 – Refund of payments to the ACMA**

Section 7.6 provides that the ACMA must refund any entry fee, reserve price, auction deposit or balance of bid price that has been paid, if the ACMA terminates an allocation.

#### **SCHEDULE 1 SAMPLE TRANSMITTER LICENCE**

Schedule 1 provides a sample of a transmitter licence that would be issued to a successful applicant under the Determination.

## **Attachment B**

### **Statement of Compatibility with Human Rights**

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

#### ***Radiocommunications (Allocation of Transmitter Licences – Low Power Open Narrowcasting Licences) Determination 2015***

The 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 (Allocation of Transmitter Licences – Low Power Open Narrowcasting Licences) Determination 2015* provides an allocation system for transmitter licences for low open narrowcasting (LPON services) through auction of lots by open outcry if there are competing bidders for that lot; or to allocate a lot for a reserve price if there is only one applicant. The ACMA must (subject to conditions) issue an apparatus licence to a registered applicant by whom, or on whose behalf, the highest bid is made for a lot, or who is the only applicant for a lot, provided that the registered applicant applies for a licence within 10 business days after the date of a notice issued to the successful applicant and pays all applicable charges.

#### **Human Rights Implications**

The *Radiocommunications (Allocation of Transmitter Licences – Low Power Open Narrowcasting Licences) Determination 2015* does not engage any of the applicable rights or freedoms.

#### **Conclusion**

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