

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Digital Radio Channels – NSW/ACT) Plan Variation 2019 (No.1)

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan Variation 2019 (No. 1)* (**the instrument**) under subsection 44A(6) of the *Radiocommunications Act 1992* (**the Act**).

Subsection 44A(6) of the Act provides that the ACMA may, by legislative instrument, vary a digital radio channel plan.

Purpose and operation of the instrument

The instrument varies an existing legislative instrument — the *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan 2007* (**the Plan**) — which is made under subsection 44A(1) of the Act. The Plan allots the frequency channels and determines the technical specifications for each digital radio multiplex transmitter licence in the designated BSA radio areas known as ‘Sydney RA1’ (see Schedule 1 to the Plan) and ‘Canberra RA1’ (see Schedule 2 to the Plan). The Canberra RA1 licence area is the area defined by Attachment 1.1 to the *Licence Area Plan – Canberra Radio*, a legislative instrument made under subsection 26(1) of the *Broadcasting Services Act 1992*.

The instrument amends Attachment 2.1 and Attachment 2.2 of the Plan, increasing the maximum effective radiated power (ERP) of the digital radio transmission from 5 kW to 20 kW. This will provide better digital radio transmission coverage for the Canberra RA1 licence area.

A provision-by-provision description of the instrument is set out in the notes at **Attachment A**.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (**the LA**).

Documents incorporated by reference

The instrument does not incorporate any other document by reference.

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.

When varying a digital radio channel plan the ACMA must have regard to the digital commercial, community and national radio broadcasting services, that are, or will be, authorised by radio broadcasting licences for the designated BSA radio area (subsection 44A(8) of the Act).

On 23 November 2018, a draft version of the instrument and an accompanying consultation paper were released on the ACMA website. Radio broadcasters in the Canberra RA1 licence area, relevant industry associations and licensees in surrounding licence areas were alerted to the proposal and the consultation process. The invitation to comment closed on 17 December 2018. Six submissions were received, representing the interests of digital radio listeners as well as commercial, community and national licensees within and neighbouring the Canberra RA1 licence area. All submissions supported the proposal.

Regulatory impact assessment

The Office of Best Practice Regulation (OBPR) has determined that any regulatory change effected by the instrument is minor and machinery in nature and that no further regulatory impact analysis is required (OBPR reference number: 2138).

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 an existing legislative instrument — the *Radiocommunications (Digital Radio Channels — NSW/ACT) Plan 2007* by amending the technical specifications for digital radio multiplex transmitters authorised to operate in the Canberra RA1 licence area. The anticipated outcome is improved digital radio coverage of the licence area.

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 *Radiocommunications (Digital Radio Channels – NSW/ACT) Plan Variation 2019 (No. 1)*

Section 1 Name

This section provides for the instrument to be cited as the *Radiocommunications (Digital Radio Channel – NSW/ACT) Plan Variation 2019 (No. 1)*.

Section 2 Commencement

This section provides for the instrument to commence at the start of the day after it is registered on the Federal Register of Legislation.

The Federal Register of Legislation may be accessed at www.legislation.gov.au.

Section 3 Authority

This section identifies the provision of the Act that authorises the making of the instrument, namely subsection 44A(6) of the *Radiocommunications Act 1992*.

Section 4 Amendment

This section provides that the Plan is amended as set out in Schedule 1.

Schedule 1 - Amendment

Item 1

This item amends Schedule 2 to the Plan and increases the maximum effective radiated power (ERP) of the digital radio multiplex transmitters for the category 1 and category 3 licences for the Canberra RA1 licence area from 5 kW to 20 kW.