

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Digital Radio Channels – Queensland) Plan Variation 2021 (No.1)

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Digital Radio Channels – Queensland) Plan Variation 2021 (No. 1)* (the **instrument**) under section 44A of the *Radiocommunications Act 1992* (the **Act**).

Subsection 44A(1) of the Act provides that, before issuing the first digital radio multiplex transmitter (**DRMT**) licence for a radio area designated under the *Broadcasting Services Act 1992* (**BSA**), the ACMA must prepare a digital radio channel plan that:

- allots a frequency channel or channels for use by DRMT licensees where each allotted frequency channel has a bandwidth of at least 1.536 MHz;
- reserves a frequency channel of at least 1.536 MHz bandwidth for a category 3 DRMT licence for the designated BSA radio area;
- determines which of the following types of licences, or which combination of those types, are to be issued for the designated BSA radio area:
 - category 1 DRMT licence;
 - category 2 DRMT licence;
- if a particular type of category 1 or category 2 DRMT licence is to be issued in the designated BSA radio area, determines whether a single licence of that type is to be issued, or 2 or more licences of that type are to be issued; and
- determines the technical specifications of multiplex transmitters operated under DRMT licences for the designated BSA radio area.

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

When preparing or 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).

Purpose and operation of the instrument

The instrument varies the *Radiocommunications (Digital Radio Channels – Queensland) Plan 2007* (the **Plan**).

In particular, the instrument amends the digital radio channel plan for the designated BSA radio area, Brisbane RA1. The instrument makes changes to the technical specifications of DRMTs that are operated to provide digital radio services in the Brisbane RA1 licence area. The purpose of the changes is to relax power restrictions that apply to those DRMTs to improve the coverage of digital radio services in the Brisbane RA1 licence area.

The instrument also amends the digital radio channel plan for the designated BSA radio area, Gold Coast RA1. The instrument includes additional technical specifications for DRMTs deployed at Lower Beechmont for the provision of digital radio services in the Gold Coast RA1 licence area.

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

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

Documents incorporated by reference

The instrument refers to the following legislative instruments, and other instruments or writing, in accordance with section 314A of the Act, section 10 of the *Acts Interpretation Act 1901* and section 14 of the LA:

- the Geocentric Datum of Australia, gazetted in the Commonwealth of Australia *Gazette* No. GN 35 on 6 September 1995 (**GDA94**), as existing on that date. *Gazette* No. GN 35 can be accessed, free of charge, at www.legislation.gov.au;
- the *Broadcasting Services (Technical Planning) Guidelines 2017 (Guidelines)*, as in force from time to time. The Guidelines are a legislative instrument and are publicly available, free of charge, at www.legislation.gov.au.

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.

On 1 July 2021, the ACMA published a consultation paper on its website about a proposal to amend the digital radio channel plans for the Brisbane RA1 and Gold Coast RA1 licence areas in the Plan. Radio broadcasting licensees and the national broadcasters in those licence areas, as well as in the surrounding licence areas, were notified about the release of the consultation paper and invited to make submissions. Peak bodies representing industry stakeholders and civic bodies were also notified, as were state and federal members of parliament. The public consultation period closed on 13 August 2021.

The ACMA received 6 submissions and a few comments on social media in response to the public consultation process. The submissions were from two national broadcasters, one DRMT licensee, two commercial radio broadcasting licensees, and the community radio industry peak body.

The consultation paper included two options in relation to the Brisbane RA1 licence area. Most of the submitters objected to the proposed specification known as ‘Alternative 1’ which was included in Appendix I to the consultation paper. Four submitters preferred a proposed specification known as ‘September 2020’ that was included in Appendix A to the consultation paper and was also previously consulted on in September 2020.

Four submitters supported the proposal in relation to the Gold Coast RA1 licence area. The specification for that proposal was included in Attachment J to the July 2021 consultation paper.

The comments made on social media were of a general nature about digital radio services and broadcasting services more broadly.

The instrument reflects the proposals contained in Appendix A and Appendix J to the consultation paper published on 1 July 2021.

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 the *Radiocommunications (Digital Radio Channels — Queensland) Plan 2007* to amend the digital radio channel plans for the Brisbane RA1 and Gold Coast RA1 licence areas.

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 human 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 – Queensland) Plan Variation 2021 (No. 1)*

Section 1 Name

This section provides for the instrument to be cited as the *Radiocommunications (Digital Radio Channel – Queensland) Plan Variation 2021 (No. 1)*.

Section 2 Commencement

This section provides for the instrument to commence at the start of the day after the day 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 section 44A of the Act.

Section 4 Variation

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

Schedule 1 Amendments

Item 1 amends Attachments 1.1, 1.2 and 1.3 of the Plan to change the nominal location of the transmitter for broadcasting services, from the Channel 2 Site, Mount Coot-tha to a different nominal location at Sir Samuel Griffith Drive, which is also at Mount Coot-tha.

Item 2 amends Attachments 1.1, 1.2 and 1.3 of the Plan to transform site coordinates for the nominal locations of planned transmitters for broadcasting services, to a latitude and longitude format using GDA 94, rather than the Australian Map Grid.

Item 3 amends Attachments 1.1, 1.2 and 1.3 of the Plan to increase the maximum antenna height from 161 metres to 192 metres. The increased maximum antenna height is to reflect the operating conditions at the nominal location.

Item 4 amends Attachments 1.1, 1.2 and 1.3 of the Plan by repealing and replacing the output radiation pattern table for the planned transmitters.

Item 5 amends Attachment 1.1 to the Plan by repealing an additional technical specification to remove the protection of analogue Channel 9, which is no longer needed.

Item 6 amends Table 1 in Schedule 2 of the Plan to insert two new items. Table 1 includes the frequency channels and other technical information for DRMTs operating in the Gold Coast RA1 licence area. The two new items specify the frequency channels and other technical information for the two new DRMTs to be deployed at Lower Beechmont.

Item 7 amends Schedule 2 to the Plan by inserting details of new transmitters for a commercial service at Attachment 2.5 and a community service at Attachment 2.6, for the Gold Coast RA1 licence area (Lower Beechmont site). The two new Attachments provide the technical specifications for those

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services. The Lower Beechmont site is an alternative site to the Mount Tamborine site (specified in Attachments 2.1 and 2.3 to the Plan).