Draft television licence area plans for Adelaide, Brisbane, Melbourne, Perth and Sydney
Discussion paper

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Introduction

This discussion paper accompanies the draft television licence area plans (TLAPs) for Adelaide, Brisbane, Melbourne, Perth and Sydney (the draft metropolitan TLAPs) to be made under subsection 26(1B) of the *Broadcasting Services Act 1992* (the BSA).

The Australian Communications and Media Authority (ACMA) proposes to make:

> the *Television Licence Area Plan (Adelaide)* 2012
> the *Television Licence Area Plan (Brisbane)* 2012
> the *Television Licence Area Plan (Melbourne)* 2012
> the *Television Licence Area Plan (Perth)* 2012
> the *Television Licence Area Plan (Sydney)* 2012.

The draft metropolitan TLAPs propose to allot channels for particular broadcasting services and identify timeframes for the clearance of the digital dividend spectrum.

Detailed technical information can be found in the accompanying documents:

> draft metropolitan TLAPs
> planning data
> engineering reports.

This discussion paper:

> seeks comment on the draft metropolitan TLAPs and accompanying draft variations to the Frequency Allotment Plan (FAP)
> provides background on the restack and associated regulatory arrangements
> briefly explains channel allotments and timeframes for the purposes of restack in metropolitan markets.

**Restack—what is it?**

The switchover from analog to digital television will free up a significant amount of spectrum. This freed spectrum is known as the digital dividend. Senator Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, made an announcement in June 2010 in which he identified the size (126 MHz) and frequency band (694–820 MHz) of the digital dividend.

There are three key processes related to realising the digital dividend:

> completing of the switchover to digital television, which results in the cessation of analog television services
> clearing digital television services from the identified digital dividend spectrum
> configuring and allocating the cleared spectrum to new users.

This discussion paper concerns the second process: the clearing of digital television services from the identified digital dividend spectrum, commonly referred to as the ‘restack’.

The restack process will have two phases. The first phase is the revision, in consultation with broadcasters and other affected persons, of the channel plans to determine which digital television services will move to which channels.
The second phase of the restack involves broadcasters, transmission service providers and site owners implementing the channel changes. This will require changes to the transmission infrastructure to retune or replace the transmitters and related equipment, such as the combiners, which are used to combine the output of several transmitters into the antenna feeder cable. In some cases, transmission antennas may also need to be changed, as may program input arrangements.

When the restack occurs at a particular transmission site, viewers receiving their television services from that site will likely need to retune their televisions or set-top boxes to reacquire the digital television signals.

The relationship between restack and reallocation

While this discussion paper focuses on the second key process—clearing the digital dividend—it is worth noting the dependencies between parts of the three key processes. Both the switch off of analog television and the restacking of continuing television services are necessary preconditions to reallocation of the digital dividend.

Part 3.6 of the Radiocommunications Act 1992 (the Radiocommunications Act) sets out a process for clearing apparatus licences from a spectrum band, so that the spectrum can be reallocated in a price-based process (such as an auction). The ACMA is using the processes under Part 3.6 of the Radiocommunications Act to reallocate spectrum through the digital dividend auction.

As part of that process, the ACMA made a reallocation recommendation to the minister (under subsection 153(F)). The recommendation identified the spectrum proposed for reallocation by frequency and geographical area and suggests a ‘reallocation period’ within which the reallocation process is to be completed.

Taking into account the ACMA’s recommendation, on 1 November 2011, the minister made spectrum reallocation declarations under section 153B of the Radiocommunications Act, which, among other things, set out that the 703–748 and 758–803 frequency bands in the 700 MHz band are to be reallocated as spectrum licences.1

Ordinarily, a spectrum reallocation declaration has the effect of cancelling any apparatus licences remaining in the spectrum to be reallocated, at the end of the reallocation period.2

However, the declared spectrum in the 700 MHz band lies in the broadcasting services bands. Apparatus licences held by commercial broadcasting licensees and national broadcasters operating in this spectrum are not cancelled as a result of the reallocation declaration.

The 700 MHz spectrum will instead be cleared through the restack process, which is the managed relocation of affected broadcasting services to other parts of the spectrum. These broadcasting services in the 700 MHz band will be cleared by broadcasters in accordance with the minister’s direction3 and Part 3 of the BSA.

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1 Radiocommunications (Spectrum Re-allocation) Declaration No. 1 of 2011 and Radiocommunications (Spectrum Re-allocation) Declaration No. 2 of 2011.

2 For the 700 MHz band, the reallocation period ends on 31 December 2014. See also s.153H of the Radiocommunications Act.

3 The Australian Communications and Media Authority (Realising the Digital Dividend) Direction 2010. See additional explanation at page 5.
Part 3 of the BSA sets out the process for planning the broadcasting services bands through the use of legislative instruments. TLAPs will be the primary instruments used for restacking of digital services after the end of simulcast period, specifying both the pre and post-restack channels for affected broadcasters in each area. In some areas, restacking of digital services is required before the end of simulcast. As TLAPs cannot be made prior to the end of the simulcast period for an area, to enable restacking of digital services in these areas, the ACMA is also making variations to the relevant national and commercial digital channel plans (DCPs), made under the Commercial Television Conversion Scheme 1999 and the National Television Conversion Scheme 1999. These variations will allot digital channels with special conditions defining the restack timing within these areas. When the TLAPs come into effect (after end of simulcast) the proposed TLAPs will replace the DCPs for these areas.4

Once made, TLAPs may be varied at the ACMA’s discretion. The ACMA would consider whether to vary a TLAP using the same planning criteria that are used when making the TLAP, which are set out in section 23 of the BSA. Variations (if any) will be consulted on in accordance with the requirements in s.27 of the BSA. Variations made before the designated restack day will use the s.27(1B) modified consultation process, and those made after that time will use the standard ‘public consultation’ process as set out in section 27.

4 Retransmission services licensed under open narrowcasting licences will be set to expire at the end of the simulcast period, as determined by the minister for each area.
Background

Introduction of digital television
Legislation to enable planning for the introduction of digital television was passed in 1998, with the first digital services commencing in metropolitan areas in January 2001. The rollout of digital television services is now complete in metropolitan areas, and nearing completion in most regional areas of Australia. Viewers in areas where digital services have been rolled out are either receiving analog and digital transmissions, where the simulcast period has not yet ended, or digital transmissions only, where the simulcast period has ended. On 19 October 2008, the minister released the Australian Government’s digital switchover timetable, setting out the timetable for the switchover to digital-only television. The analog transmissions are being progressively switched off region-by-region across Australia, to be completed by the end of 2013.

The first Australian full analog-to-digital television broadcasting switchover took place in the Mildura/Sunraysia region, where analog television ceased broadcasting on 30 June 2010. Switchover to digital-only transmissions has now also occurred in regional South Australia, Broken Hill, regional Victoria, regional Queensland, southern New South Wales and Griffith and the Murrumbidgee Irrigation Area. Following switchover, broadcasters are delivering digital-only television services to viewers who previously received analog services in the licence area.

As digital switchover continues throughout Australia, the ‘same coverage’ objective of the conversion schemes will ensure that most viewers will continue to receive terrestrial television services after the cessation of analog transmissions at the end of the simulcast period.

The digital dividend
The completion of the digital switchover process will free up parts of the spectrum formerly used for analog transmissions (the digital dividend), permitting reallocation of spectrum for alternative uses.

In January 2010, the Australian Government released the Digital Dividend Green Paper (the green paper), which indicated that the government had agreed on a target UHF digital dividend of 126 MHz. Studies by the ACMA and by Kordia Solutions Pty Ltd (commissioned by the DBCDE), referred to in the green paper, demonstrated the feasibility of planning six digital television services at each location and achieving a 126 MHz digital dividend.

The minister’s announcement on 24 June 2010 confirmed the size (126 MHz) and frequency band (694–820 MHz) of the digital dividend.

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5 This statement is correct with respect to current broadcaster operated transmission sites. New gap filler and digital retransmission site conversions are also being implemented in metropolitan and regional areas.
7 Digital Switchover Taskforce, Rollout Map.
The digital dividend band corresponds to current television channels 52 to 69. Removing these 18 channels from those available for digital television will reduce the number of available television channels to 32. DAB+ digital radio also needs to be accommodated within these channels and the minister has directed the ACMA to retain 14 MHz (equivalent to two television channels) in VHF for digital radio. This leaves 30 channels, or six VHF and 24 UHF channels, available for digital television services Australia-wide.

In July 2010, the minister directed the ACMA on a range of issues about the replanning of digital television to yield the 126 MHz of digital dividend. The minister’s direction sets several high-level objectives for the ACMA’s restack planning. These objectives include:

> the requirement to clear the digital dividend band (694-820 MHz)
> the requirement to complete restack as soon as possible after the final digital television switchover day (with a target of end 2014)
> the number of services to be planned at each location
> the retention of 14 MHz of VHF spectrum for digital radio purposes
> specific planning arrangements for metropolitan area main transmission sites (all services to be in VHF)
> the requirement to consider viewer and broadcaster costs and viewer disruption resulting from any changes that are not necessary for, or consequential to, the achievement of the policy objectives of the minister’s direction.

A copy of the minister’s direction and the accompanying explanatory statement can be found at www.comlaw.gov.au.

The ACMA is generally required to consider the matters contained in the minister’s direction, including the number of services to be planned at each location and the amount of spectrum reserved for digital radio, in performing the re-stack planning work.

**Restack channel planning**

The minister’s direction left a number of planning issues for the ACMA to determine. These issues needed to be settled and a clear and unambiguous set of guiding principles developed before the commencement of restack channel planning.

Following government decisions on the digital dividend, the ACMA engaged in extensive consultation throughout late 2010 and the first half of 2011 to address a range of technical policy matters necessary to undertake detailed restack channel planning. The primary purpose of this consultation process was to develop a set of planning principles that would pave the way for restack channel plans to be developed to clear the digital dividend band.

In developing the planning principles, by far the most complex and important issue requiring resolution was the choice of overall channel planning approach. Two main planning approaches—termed the ‘block’ and ‘minimum moves’—were identified and considered in detail.11

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10 Australian Communications and Media Authority (Realising the Digital Dividend) Direction 2010.
11 The block planning approach involves the use of ‘blocks’ of adjacent channels; for example, 28, 29, 30, 31, 32, and 33. The minimum moves planning approach reflects the more conservative, incremental approach previously used for television planning in Australia.
After extensive analysis, the ACMA determined that, on balance, a ‘block’ channel planning approach was the most appropriate way forward and therefore developed planning principles consistent with this decision. The block approach will move away from the current configuration of digital channels, which has been largely driven by pre-existing analog allocations. Under the block model, the remaining VHF and UHF spectrum in the broadcasting services bands is divided into five ‘blocks’ of six contiguous channels each, with one block comprising VHF channels and four blocks in UHF. All television services at each site will be assigned to one or other of these blocks, with provision for nine channel blocks where regional and metropolitan commercial services overlap at a site. On 26 May 2011 the ACMA released Clearing the Digital Dividend – Decisions on planning principles for restacking digital television channels (see), containing final restack planning principles that would be taken into account in the detailed channel planning for the restack of digital television services.

The ACMA will follow these planning principles while also considering the relevant circumstances and specifics of each planning task. If any of the principles conflict, a case-by-case judgement will be made as to which one should be preferred. As the planning principles are policies rather than legislative instruments, the principles are not binding on the ACMA. However, where individual channel planning proposals depart from the principles, an explanation will generally be provided during the consultation phase.

Regulatory background
The channel planning undertaken to date for the introduction of digital television services has been given effect by creating DCPs. DCPs for metropolitan and regional licence areas are prepared under section 9 of the Commercial Television Conversion Scheme 1999 (CTCS) and section 9 of the National Television Conversion Scheme 1999 (NTCS). Metropolitan and regional DCPs are prepared having regard to the policy objectives set out in subclauses 6(3) and 19(3) of Schedule 4 to the BSA.

DCPs in remote licence areas are prepared under sections 94 and 88 of the CTCS and NTCS respectively, and are prepared having regard to the policy objectives in section 90 of the CTCS and section 84 of the NTCS.

The DCPs remain in force after switchover (i.e., when the analog/digital simulcast ends) and can be amended until such time as the TLAPs come into force and replace them.

Until recently, licence area plans (LAPs) prepared under Part 3 of the BSA were the only other current broadcast planning power that could be used.

On 26 May 2011, the BSA was amended by the Broadcasting Legislation Amendment (Digital Dividend and Other Measures) Act 2011 (the Digital Dividend Act), which introduced new provisions on the ACMA’s planning powers for television broadcasting services. The changes were introduced, ‘…to enable the ACMA to undertake efficient planning and restack of the radiofrequency spectrum used to deliver television services needed to achieve the digital dividend’.13

The BSA now empowers the ACMA to make TLAPs under Part 3. The ACMA will prepare TLAPs under subsection 26(1B) of the BSA, guided by the restack planning principles. When a TLAP comes into effect in any given area it will replace the LAP(s) and the DCP(s) for that area.

12 The channels in the VHF block are not fully continuous. Two television channels in the middle of the block are to be left clear for the possible introduction of digital radio services in regional areas.
13 Broadcasting Legislation Amendment (Digital Dividend and Other Measures) Bill 2011, Explanatory Memorandum
Regulatory framework

TLAPs overview

TLAPs will:

> specify both the pre-restack digital channels and the future, ongoing, ‘post-restack’
channels for each area
  > ensuring three commercial and two national channels will be available post-
restack to broadcasters in each area (where appropriate)
  > identifying an additional unallotted channel (‘the sixth channel’)
  > ensuring that none of the post-restack channels use spectrum in the
126 MHz UHF digital dividend
  > in general, will follow the block channel approach outlined in the restack
planning principles.

> identify dates on which each pre- and post-restack channel allotment will either end
or commence. The overlap of the period in which both the pre and post-restack
channels are available for use becomes a ‘timing window’
  > during which, either or both the pre-restack digital channels and post-restack
channels can be used to facilitate restack implementation
  > after which, only the post-restack channels can be used.

TLAPs reflect the requirements of subsection 26(1B) of the BSA and will be the long
term planning instrument for television broadcasting services. A TLAP for a licence
area can only come into effect after the end of the simulcast period for the licence
area, replacing any LAPs and DCPs for the licence area.

Where a TLAP is made, it must come into effect before the designated restack day.
The designated restack date for a licence area is 31 December 2014.\(^\text{14}\) However, the
minister may specify a later date for the licence area.\(^\text{15}\) While TLAPs must not come
into effect prior to the end of the simulcast period for a particular licence area, the
ACMA may, before that date, prepare draft TLAPs for consultation with television
broadcasters and appropriate persons prior to the making of or variation to TLAPs and
variations to the Frequency Allotment Plans (FAPs) pursuant to subsections 27(1A)
and 27(1B) of the BSA.

Aside from being long term planning instruments, TLAPs were designed to provide a
framework for the restack of digital television channels. In general, TLAPs:

> specify the channels that are to be available in specified parts of a particular
licence area to provide commercial television broadcasting services, national
television broadcasting services and other television broadcasting services

> allot channels to particular providers of television broadcasting services

> determine the characteristics, including technical specifications, of broadcasting
services that are to be available in particular areas of Australia with the use of the
broadcasting service bands

> enable the ACMA to determine additional specifications and technical limitations,
or to determine events or circumstances related to the use of a particular channel.

\(^{14}\) Section 26(1K)(a)

\(^{15}\) Section 26(1K)(b)
To minimise or avoid unnecessary changes to television licence area plans in future, when designing TLAPs the ACMA took the opportunity to review the information previously routinely included in licence area plans for television. To maintain a simple and administratively efficient instrument, the ACMA identified the key defining characteristics of the right to use the broadcasting spectrum. The ‘characteristics’ and ‘technical specifications’ of the transmission of services proposed to be determined in the TLAP are the ‘maximum effective radiated power (ERP)’ and ‘polarisation’ of the transmission. These characteristics, combined with the channel allotted, define the right to use the broadcasting spectrum in the manner planned and are included in the TLAP instruments.

Planning data
Other information previously included in LAPs and DCPs—such as detailed site coordinates, and antenna pattern and height—will now be included in separate planning data which will be published with the TLAPs on the ACMA website. Some of these matters will be dealt with by conditions imposed on the relevant apparatus licence under the Radiocommunications Act. The planning data will be used by the ACMA in considering whether to issue or vary relevant transmitter licences, as operating a transmitter in a way that is inconsistent with the planning data could lead to interference issues.

Description of the provisions of the instrument
Although each of the TLAPs is a separate legislative instrument, the form and effect of the provisions of each of the instruments is substantially the same.

Section 1—Name of plan
A formal provision specifying the name of the TLAP. It sets the official citation of the TLAPs, for example, Television Licence Area Plan (Sydney) 2012.

Section 2—Commencement
Provides that the instrument commences on the day noted in the section.

Section 3—Definitions
Sets out definitions of the key terms to be used in the TLAP.

Section 4—Specification of channels to be available in particular areas
Creates the ‘restack window’ for the allotment of pre- and post-restack channels during the restack period. The section provides both ‘start dates’ for pre and post-restack allotments and ‘end dates’ by which the broadcasters must restack.

Subsection 4(1) specifies the channels available for digital television services in the relevant licence area or part of the licence area by reference to column 1 in the tables in the Schedules and with reference to the ‘general area served’ in column 7. Schedules have been organised according to three different broadcasting service categories:

- Schedule 1—commercial broadcasting services
- Schedule 2—national broadcasting services
- Schedule 3—other broadcasting services.

Column 1 in the relevant tables identifies the channel being allotted. According to the applicable channel allotment dates, the channel may be a ‘pre-restack’ channel or a final ‘post-restack’ channel. A licensee will not be entitled to use an allotted channel except in accordance with the date as set out in column 1 of a table in a Schedule.
Subsection 4(2) is the means by which the ‘restack window’ will be specified by reference to the date set out in column 3 in a table in a Schedule to the TLAP. This section specifies the pre-restack channel for a period until the end of the restack window, which is indicated by the date in column 3. After the date specified in column 3 of a table in a Schedule, the relevant broadcaster will no longer have the right to use that channel. Where there is no date specified in column 3, the allotment is continuing.

Section 5—Allotment of channels to commercial television broadcasting licensees—Schedule 1
Contains the operative provisions relating to the allotment of channels to commercial television broadcasting licensees as set out in Schedule 1 to the TLAP. Each broadcaster’s allotment and technical specifications are identified in a separate table in Schedule 1. The operative provisions are a series of options that relate to the level of certainty about which services will be offered in the particular licence area.

Subsection 5(1) contains an option to allot channels to a commercial television broadcasting licensee for use in the area specified in column 7 (the ‘general area served’) of the relevant table when the allotment date and broadcaster are known.

Subsection 5(2) provides an option for the ACMA to allot channels by administrative decision when the allotment date is not known. The allotment date may be specified at a later stage using the TLAP subordinate instrument power. A TLAP may also be varied effectively to specify a particular date of allotment.

Subsection 5(3) permits the ACMA, if no licensee is specified in Schedule 1, to allot, by way of an administrative decision, the channel specified in column 1 of the relevant table to the commercial television broadcasting licensee of a licence for the licence area specified in the table for use in the area specified in column 7 (the ‘general area served’).

Subsection 5(4) requires licensees to comply with the technical specifications and other characteristics as set out in the relevant table in Schedule 1. The subsection states that the transmission must not have an ERP greater than specified in the relevant table under column 4, must have the polarisation as specified in the relevant table under column 5 and must comply with any other additional specification as set out in the relevant table under column 6.

To give practical effect to the technical realities of broadcast engineering, subsection 5(5) provides the ACMA with the ability to permit minor variations in ERP through the transmitter licence conditions that are part of the normal variations in planning broadcasting services. In the event that a proposed variation in ERP goes above the variation amount of 5 dB, then a TLAP variation would be required. An option has also been included to reflect the potential for a licence condition regime allowing transmissions above the maximum ERP to be inserted into the Broadcasting Services (Technical Planning) Guidelines 2007 (TPGs).

Subsection 5(6) restricts the use of the channel listed in the column 1 of the table to Schedule 1 in accordance with any technical limitations specified in the relevant table in Schedule 1.

16 The variation of ERP up to the amount of 5 dB through licence conditions is intended to allow the ACMA flexibility in addressing minor adjustments on a case-by-case basis. The ACMA will assess the impact of interference with other services in deciding whether to approve minor adjustments of up to 5 dB in ERP in the conditions on individual licences.
Subsection 5(7) provides the ACMA with the administrative decision making power to specify additional technical limitations on the use of the channel. The note to this subsection explains that, even if no technical limitation is specified in the relevant table, the ACMA may still determine technical limitations on the use of a channel by making a decision to do so under this subsection. This note alerts licensees to check whether any subordinate instruments have been made under the relevant TLAP which determine the technical limitations.

Subsection 5(8) restricts use of the channel specified in the relevant table(s) in Schedule 1 to the events or circumstances (if any) specified in the tables for those channels listed in that table.

Subsection 5(9) provides the ACMA with the power to determine additional events or circumstances which must occur before the channel may be used. Subsection 5(9) also contains an explanatory note which states that if no event or circumstance is specified for the table, the ACMA may still determine additional events or circumstances that must occur before the channel may be used. The ACMA may do this by making an administrative decision under the subsection. Again, this note is provided for the purpose of alerting licensees to check whether any subordinate instruments have been made under the relevant TLAP that specify events or circumstances.

Section 6—Allotment of channels to national broadcasters—Schedule 2
Section 6 is modelled on the provisions set out above relating to commercial television broadcasting licensees, but instead applies to the national broadcasters, the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS).

The section empowers the ACMA in a similar manner as explained in relation to section 5 above to allocate channels, specify additional technical limitations on the use of the channel or specify additional events or circumstances that must occur before the channel may be used by determining such matters in an administrative instrument.

Section 7—Allotment of channels to providers of other television broadcasting services—Schedule 3
Section 7 is modelled on the provisions set out above relating to commercial television broadcasting licensees. It applies to providers of other television broadcasting services (for example, providers of some open narrowcasting television services).

The section empowers the ACMA in a similar manner as explained in relation to section 5 above to allocate channels, specify additional technical limitations on the use of the channel or specify additional events or circumstances that must occur before the channel may be used by determining such matters in an administrative instrument.

Schedule 1
Contains information about the allotment of channels to the commercial television broadcasting licensees in the relevant licence area. Each table in the Schedule is arranged on the basis of licensee (i.e., one licensee per table). Schedule 1 should be read in conjunction with the operative provisions in section 5.

The clauses accompanying each table identify the relevant licensee (subclause (1)) and contain additional technical information (if any) (subclause (2)) and circumstances or events (if any) which apply to the allotment of the channels (paragraphs 3(a) and (b)). The note to subclause (1) sets out the relevant licence area and call sign for the licensee specified in the relevant table for ease of reference.
The columns of the tables specify the channel (column 1); the allotment date (column 2); the date on which the allotment ends, where relevant (column 3); the maximum ERP (column 4); the polarisation (column 5); additional specifications (if any) (column 6); the general area served (column 7) and the transmitter specification number (column 8).

Column 8 is advisory only, and is provided for historical and operational reasons. It provides a cross reference to the relevant transmitter specification set out in the planning data document (as mentioned earlier in this section) that will accompany the TLAP.

Schedule 2
Contains information about the allotment of channels to the national television broadcasting services in the relevant licence area. Schedule 2 should be read in conjunction with the operative provisions in section 6.

Each table in the Schedule is arranged on the basis of broadcaster, being either the ABC or the SBS.

The clauses accompanying each table identify the relevant national broadcaster (subclause (1)) and contain additional technical information (if any) (subclause (2)) and circumstances or events (if any) which apply to the allotment of the channels (subclause (3)). The note to subclause (1) sets out the relevant licence area.

The tables in Schedule 2 are identical in form to the tables in Schedule 1, except that they apply to the national broadcasters.

Schedule 3
Contains information about the allotment of channels to providers of other television broadcasting services in the relevant licence area. Schedule 3 also contains channels that have not yet been allotted but that may be allotted at a later stage. Schedule 3 should be read in conjunction with the operative provisions in section 7.

The tables in Schedule 3 refer generically to providers of other television broadcasting services. The clauses accompanying each table identify the relevant licensee (if any) (subclause (1)) and contain additional technical information (if any) (subclause (2)) and circumstances or events (if any) which apply to the allotment of the channels (subclause (3)). The note to subclause (1) sets out the relevant licence area.

The tables in Schedule 3 are identical in form to the tables in Schedules 1 and 2, except that they apply to providers of other television broadcasting services.
Discussion

Metropolitan TLAPs

The five metropolitan areas each comprise a single licence area: Adelaide TV1, Brisbane TV1, Melbourne TV1, Perth TV1 and Sydney TV1. TLAPs are being developed for each of the five metropolitan licence areas.

The minister determined on 7 September 2012 that the simulcast periods for these areas will end on:

- 2 April 2013 for Adelaide TV1
- 28 May 2013 for Brisbane TV1
- 10 December 2013 for Melbourne TV1
- 16 April 2013 for Perth TV1
- 3 December 2013 for Sydney TV1.

The proposed TLAPs will replace the current DCPs and LAPs for Adelaide, Brisbane, Melbourne, Perth and Sydney from the day after each simulcast period ends.

Channel planning

Since early 2011 the ACMA has undertaken extensive restack channel planning in conjunction with industry through the Restack Planning Advisory Group (RPAG) and its working group. The result of this channel planning work is available on the ACMA website in an Indicative Channel Chart.

The channel blocks and allotment of channels included in the draft metropolitan TLAPs are generally in accordance with the published restack channel planning principles, the indicative restack channel chart and draft engineering reports that have been previously socialised with the RPAG working group. Where channel planning proposals have departed from the planning principles, details have been provided in the engineering report.

Commercial and national broadcaster channels

The proposed metropolitan TLAPs will, for each general area served, specify and allot channels for use by the three metropolitan commercial television broadcasters and the two national broadcasters.

Unallotted channels

Consistent with the minister’s direction, a sixth, ‘unallotted’, channel is also specified in the proposed TLAPs under Schedule 3 – ‘...other television broadcasting services’. In some cases an unallotted channel may not be available due to its interim use by a community television (or trial) service.

Community television services

Community television broadcasting licensees provide community television (CTV) services in digital mode in each of Brisbane, Melbourne and Sydney. Spectrum for these services is planned in licence area plans. Additionally, trial CTV services are provided under open narrowcasting transmitter licences in both Adelaide and Perth, also in digital mode, on a trial basis using spectrum that has been made available under section 34 of the BSA.

CTV broadcasting services are provided for community purposes. These services are not operated for profit and provide programs that are made available free to the general public.
On 4 November 2009 the minister announced a pathway for metropolitan CTV services to make the transition to digital TV. In late 2009, the Government asked the ACMA to temporarily allocate unassigned spectrum to metropolitan CTV licensees, to simulcast their services until the analog switchover in 2013.

CTV services are able to operate using the temporarily allocated spectrum until 31 December 2013 when, pursuant to a determination under subsection 103(4A) of the Radiocommunications Act, apparatus licences will cease to have effect. The trial CTV transmitter licences for Adelaide and Perth currently expire on 30 June 2013.

Community television broadcasters and trial broadcasters are in discussions with DBCDE and the minister regarding the future of CTV services.

In each of the metropolitan areas, CTV services and CTV trial services operate in digital mode on UHF channels, while the unallotted channel in those areas is a VHF channel. Until decisions are made on both the long-term future of CTV and the allocation of the sixth unallotted channel, use of additional channels may be required on an interim basis (interim channels). These additional (seventh or eighth) channels are essentially unallotted channels for other geographically adjacent areas that can only be made available until the unallotted channel is required in the other area from which it has been ‘borrowed’.

Interim channels have been allotted to the three CTV licensees in the proposed TLAPs for Brisbane, Melbourne and Sydney (see Table 3.2 of Schedule 3 to each TLAP). These allotments have been set to end on 31 December 2013 in accordance with the minister’s determination made under subsection 103(4A) of the Radiocommunications Act 1992 for the duration of CTV transmitter licences. Proposed interim channels can be found in the engineering reports and in Table 1.

As spectrum for trials is made available in accordance with the criteria set out in section 34 of the BSA, the draft TLAPs do not identify or allot channels for trial CTV services in Adelaide or Perth. The trial CTV services for Adelaide and Perth can continue to operate in the short term on the same basis.

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18 Senator the Hon Stephen Conroy, Digital Pathway for Community TV, Media Release, 4 November 2009.
19 The Hon Anthony Albanese MP, House of Representatives Hansard, Question No. 1293, 12 May 2010. p183
20 All analog transmission of CTV services in metropolitan areas have now ceased.
Table 1 The proposed channel allotments for CTV broadcasting licensees

<table>
<thead>
<tr>
<th>Call sign</th>
<th>Area served</th>
<th>Interim channel until end of 2013 or until restacked</th>
<th>Restacked interim channel until 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>CTQ</td>
<td>Brisbane</td>
<td>38</td>
<td>28</td>
</tr>
<tr>
<td>MGV</td>
<td>Melbourne</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>MGV</td>
<td>South Yarra</td>
<td>66</td>
<td>42</td>
</tr>
<tr>
<td>TSN</td>
<td>Sydney</td>
<td>29</td>
<td></td>
</tr>
</tbody>
</table>

Restack implementation timing

In the May 2012 budget, the Government committed $143.2 million for the timely restack and release of the digital dividend with minimal disruption for viewers. In the same media release, the Government stated its expectation that restack will be completed by 31 December 2014. DBCDE subsequently engaged Broadcast Australia (BA) to assist with the development of an indicative nationwide restack implementation timetable in consultation with the broadcasting industry. BA was also contracted to deliver a detailed site-by-site restack timetable in November 2012.

The BA/DBCDE report presenting the indicative restack implementation timetable, along with supporting assumptions and explanations, is available from the DBCDE website.

The BA/DBCDE report includes an indicative timetable that is the best current estimate of when restack would occur in each licence area. The report also notes that setting separate, area-by-area end-dates for restack windows in TLAPs in advance of the detailed restack timetable (expected in November 2012) could constrain exploration of options for planning and coordinating the sequencing of the restack of services in the development of the site by site timetable. To maximise flexibility for the next stage of restack implementation planning (i.e., development of the detailed timetable to be released in November), the ACMA proposes that TLAP timing windows included in all outstanding draft TLAPs conclude on 31 December 2014.

A restack completion date of 31 December 2014 is consistent with the Government’s expectation for the completion of restack and the commencement of spectrum licences to be allocated as part of the digital dividend auction. This date also allows for further optimisation of the restack implementation timetable and ongoing flexibility in restack implementation.

22 Some CTV broadcasting licensees will be required to move to a restacked interim channel during 2013 as part of the restack process.
24 Broadcast Australia Group Entities: Broadcast Australia Pty Limited (ABN 99 086 048 562); Broadcasting Australia No. 1 Pty Limited (ABN 88 126 949 031); The Bridge Networks Pty Limited (ABN 18 106 646 340); Hostworks Pty Limited (ABN 88 087 307 695); and Airwave Solutions (Australia) Pty Limited (ACN 133 800 129).
Table 2 Summary of the TLAP timing windows included in the draft metropolitan TLAPs

<table>
<thead>
<tr>
<th>Area</th>
<th>TLAP window start date*</th>
<th>TLAP window end date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide</td>
<td>3 April 2013</td>
<td>31 December 2014</td>
</tr>
<tr>
<td>Brisbane</td>
<td>29 May 2013</td>
<td>31 December 2014</td>
</tr>
<tr>
<td>Melbourne</td>
<td>11 December 2013</td>
<td>31 December 2014</td>
</tr>
<tr>
<td>Perth</td>
<td>17 April 2013</td>
<td>31 December 2014</td>
</tr>
<tr>
<td>Sydney</td>
<td>4 December 2013</td>
<td>31 December 2014</td>
</tr>
</tbody>
</table>

* Based on end of simulcast dates determined by the minister on 7 September 2012.

Variation to the frequency allotment plan

Each TLAP is required to be consistent with the relevant frequency allotment plan (FAP). The relevant FAP will be varied to make between six to 14 channels available in each general area served during the restack window, and six channels available after restack is completed.
Consultation process for draft television licence area plans

An important aspect of restack planning reflects Parliament’s intention that during the restack period, the planning criteria and consultation obligations for television licence area planning would be modified to provide the ACMA with flexibility to undertake restack within a tight timeframe. As the Explanatory Memorandum states:

[This is because re-stack is primarily a technical and engineering exercise concerning the technical specifications for existing television broadcasting services.]

As a consequence, during the restack period, consultation with affected parties will be an on-going process. The ACMA will use a number of targeted consultation mechanisms for consulting on draft TLAPs. The ACMA’s consultation mechanisms include direct correspondence with commercial and community television broadcasting licensees and national broadcasters and other persons the ACMA considers appropriate, consultation through meetings and correspondence with the Restack Planning Advisory Group (RPAG). Draft instruments will also be published on the ACMA website for the information of other persons.

ACMA’s consultation obligations

Section 27 of the BSA sets out the ACMA’s obligations regarding decisions about the TLAPs during the restack period. Subsection 27(1A) of the BSA provides that the usual requirements for wide public consultation do not apply to the following activities undertaken before the designated restack day (31 December 2014 or a later date as specified by the minister):

- the preparation of a TLAP for a particular area
- variation of a TLAP for a particular area
- the performance of a function, or the exercise of a power, by the ACMA under a TLAP for a particular area
- the variation of a frequency allotment plan, to the extent that the variation:
  - relates to a determination of the number of channels that are to be available in a particular area to provide television broadcasting services
  - was made in connection with the preparation or variation of a TLAP for the area.

Where the ACMA undertakes any of the above listed activities before 31 December 2014, subsection 27(1B) of the BSA requires the ACMA to make provision for consultation only with:

- commercial television broadcasting licensees who are likely to be affected by the preparation or variation of the plan
- national broadcasters
- community television broadcasting licensees who are likely to be affected by the preparation or variation of the plan
- such other persons (if any) as the ACMA considers appropriate.

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26 For information about RPAG, see www.acma.gov.au.
27 Paragraph 26(1K)(b)
In accordance with its statutory obligations, the ACMA will consult directly with commercial and community television broadcasting licensees who are likely to be affected by a TLAP, national broadcasters and such other persons (if any) as the ACMA considers appropriate.

The ACMA will publish information about the draft metropolitan TLAPs on its website.

Consultation process during restack
The following consultation process will apply to the draft TLAP instruments.

Affected parties wishing to make a submission on the draft metropolitan TLAPs must do so in accordance with the instructions set out below.

Initial Consultation on draft metropolitan TLAPs
The ACMA will seek comments directly from affected licensees and national broadcasters, broadcaster service providers and such other persons as the ACMA considers appropriate, on the draft TLAP instruments.

In addition, a copy of the draft metropolitan TLAPs, discussion paper and associated documents will be published on the ACMA website. If any person considers that they are an appropriate person for consultation in relation to one or more of the draft metropolitan TLAPs, they may contact the ACMA within the consultation period.

The consultation period will be a period of 4 weeks.

Consultation on substantive changes to draft TLAPs
Consultation on changes to the draft TLAP instruments will only take place if there are substantive changes to the TLAP instruments.

The ACMA will undertake further consultation by direct correspondence with licensees, broadcasters, broadcast service providers and other affected parties (if any).

The period of consultation on substantive changes will be determined by the ACMA on a case by case basis.

IMPORTANT NOTE FOR OTHER AFFECTED PARTIES—‘OPT-IN’ FOR FURTHER CONSULTATION ON SUBSTANTIVE CHANGES TO THE DRAFT TLAPs

Please note that if you would like to be consulted on any proposed changes to the draft metropolitan TLAPs, you must:

1. provide reasons as to why you are an affected party
2. indicate in your submission that you wish to be consulted in the event that further consultation is undertaken by the ACMA on a substantive change.

The ACMA will make the final decision about whether you are an appropriate person to be consulted should further consultation be required.

Proposed substantive changes will not be published on the ACMA website.
Invitation to comment

Making a submission

The ACMA invites submissions on the matters raised in this discussion paper and on the draft TLAPs for Adelaide, Brisbane, Melbourne, Perth and Sydney. Submissions should be made:

By email: dtls@acma.gov.au

By mail: Draft metropolitan television licence area plans
Digital Television Licensing Section
Australian Communications and Media Authority
PO Box 78
Belconnen ACT 2616

Please quote file reference ACMA2012/539 in your reply.

The closing date for submissions to this discussion paper is 5 pm on Monday 22 October 2012.

Electronic submissions in Microsoft Word or Rich Text Format are preferred.

Enquiries may be directed to Kylie Trengove, Digital Television Licensing Section, on (02) 6219 5415.

Please note that the ACMA is not in a position to accept any submissions received beyond the closing date.

If you would like to be consulted on any proposed changes to the draft metropolitan TLAPs, you must indicate in your submission that you wish to be consulted in the event that further consultation is undertaken by the ACMA on a substantive change, providing reasons as to why you are an affected party.

Publication of submissions

Note that the ACMA cannot accept claims of confidentiality over submissions received (for example, any submission marked “In Confidence”, “Confidential” or similar). All submissions it receives are required to be made available for public inspection under section 27(2) of the BSA. Please contact the ACMA prior to lodgement if you have any concerns or queries about this.

Please note that the ACMA does not acknowledge receipt of submissions.

Effective consultation

The ACMA is working to enhance the effectiveness of its stakeholder consultation processes, which are an important source of evidence for its regulatory development activities. To assist stakeholders in formulating submissions to its formal, written consultation processes, it has developed a guide called Effective consultation: A guide to making a submission. This guide provides information about the ACMA's formal, written, public consultation processes and practical guidance on how to make a submission. A copy can be found at: www.acma.gov.au.