

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Thursday, 20 January 2022 6:39 PM
To: Patrick Emery <Patrick.Emery@acma.gov.au>
Cc: Radcoms Licensing <radcomslicensing@acma.gov.au>
Subject: Re: Amateur call sign VK3KI [REDACTED]

Thank you Patrick

I have indeed already taken legal advice and the first stage will be another FoI request.

This will be forwarded to the appropriate area in due course.

Kind regards

[REDACTED]

On 20 Jan 2022, at 2:00 pm, Patrick Emery <Patrick.Emery@acma.gov.au> wrote:

Dear [REDACTED]

The designation of a callsign under the ACMA-AMC Deed is not a decision listed in section 285 of the Radiocommunications Act, and so is not subject to internal reconsideration by the ACMA and subsequent review by the AAT.

You will need to seek your own legal advice about any other options you may have.

Regards,

Patrick Emery
Manager
Licence Allocation Section

Australian Communications and Media Authority

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E patrick.emery@acma.gov.au

acma.gov.au

The ACMA acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to elders past, present and future.

From: [REDACTED]

Sent: Tuesday, 18 January 2022 11:05 AM

To: Patrick Emery <Patrick.Emery@acma.gov.au>

Subject: Re: Amateur call sign VK3KI [REDACTED]

[SEC=OFFICIAL]

Dear Mr Emery

Thank you for your detailed reply. Much of which, although of interest is well known and not relevant to the current situation that is the rules for the management of call signs of deceased amateurs.

You clearly acknowledge that the actions of the ACMA over the call sign VK3KI do not meet the current regulatory and administrative framework in that amongst other extraneous matters that you raise, the principal reasoning for your actions is [REDACTED]", neither of which is mentioned anywhere that I can find and furthermore could have been resolved by positive action many years ago to protect these concerns. The ACMA has not used this argument to assist the relatives of other deceased amateurs and there is no mention of the concept of the special status of any individual and their call sign retention on becoming deceased that is any different to any other deceased amateur. It is also clear that in the past actions that are contrary to the rules have been taken that are clear mismanagement and should have been corrected. I fail to understand why the ACMA should be acting to protect the WIA who have had every opportunity to remedy the situation and preserve the call sign, but failed to do so. Such preservation is relatively common practice in the amateur community but for whatever reason this was not undertaken by the previous deed holder.

Such a failure in compliance should not be perpetuated. As examples I refer you to the situation for two esteemed deceased amateurs [REDACTED] and [REDACTED] whose call signs were transferred and licences paid for by either a club or an individual on the deceased amateurs family's behalf. The ACMA did not act to reserve these two call signs beyond the two year limit, did not engage in discussions with the family over [REDACTED] and the furthermore the WIA did not act as it did over [REDACTED] situation. This inconstancy is significant.

I also appreciate that you have a problem in removing this call sign from the reserve list in view of the precedent actions by the Department and others over

nearly 11 years and that this put you in a difficult position. This is, however, no excuse for your refusal to act, especially as it requires the Department to admit errors and a lack of administrative control and oversight of the actions of the previous holder of the deed.

Despite the previous incorrect actions there is still a requirement for the ACMA to make decisions that are consistent, fair, transparent and based upon the regulations and administrative framework. Your reasons for retaining this call sign on the reserve list do not meet those tests.

I intend to take this matter further, not out of disrespect to the [REDACTED] family, but because it is clear that there are no regulatory or administrative rules allowing you the “broad discretion” that you refer to, when such a long time has passed since [REDACTED] death and the multiple opportunities that have been given to the WIA and the family so that the call sign could be protected.

Are the contents of your letter a decision that can be reviewed? If not what is the process to formalise a complaint? If, as I suspect there is no mechanism to either request a review or to complain then is my only course of action that of taking the matter to an administrative affairs tribunal?

Regards

[REDACTED]

On 18 Jan 2022, at 6:02 am, Patrick Emery
<Patrick.Emery@acma.gov.au> wrote:

Dear [REDACTED],

In light of your recent email correspondence, I have reviewed the ACMA's position regarding VK3KI. As explained in Peter Wardle's letter to you of 16 November 2020, the Commonwealth-Australian Maritime College (AMC) Deed (the Deed) is a bilateral agreement that facilitates, amongst other things, the specification of callsigns on amateur licences.

Under the Deed, the ACMA has designated VK3KI as 'not available' and as such, the AMC may not recommend that the ACMA specify VK3KI on an amateur licence (the Deed refers to this as 'assignment').

Notwithstanding the absence of a formal right of review of ACMA decisions to designate VK3KI as 'not available', made under the Deed, I have reviewed the circumstances surrounding the availability of

VK3KI for recommendation by the AMC.

Background

The AMC is responsible for recommendations to the ACMA in relation to 'available' callsigns. A callsign is available if, amongst other things, it is not included on the 'reserve list'.

Reserve list

The reserve list is a concept used in relation to amateur callsigns that dates back many years. In summary, a callsign that is included on the reserve list is not available for recommendation by the AMC to the ACMA, for specification on an amateur licence. Historically, the reserve list has included callsigns that, because of their specific syntax, are considered offensive or inappropriate or callsigns that were specified on the licences held by deceased amateur licensees within the previous 2-year period.

Under the current regulatory and administrative framework for amateur licensing, the reserve list arrangements are contained in the Deed. In summary:

- The AMC must maintain a list of reserved callsigns (ie. the 'reserve list').
- Callsigns on the reserve list must be either designated by the ACMA as 'not available' or have been specified on a licence held by a deceased licensee within the past 2 years.
- The AMC must not recommend to the ACMA the allocation of a callsign that is on the reserve list.
- In making callsign recommendations to the ACMA, the AMC must, amongst other things, have regard to the callsign guidelines in Appendix i of the Deed (often referred to informally as 'the callsign template') or any other policy notified by the ACMA to the AMC.
- A partner or next of kin, personal representative, executor or administrator of a deceased amateur may, within the 2-year period, write to the AMC requesting that the callsign be specified on a licence issued to a particular suitably qualified person or that the callsign be removed from the reserve list.

The ACMA has broad discretion in deciding whether to designate a callsign for inclusion on the reserve list. It is also open to the ACMA to change a designation or other policy instruction given to the AMC under the Deed.

Because callsigns facilitate the use of radiofrequency spectrum by amateur licensees, and there is a finite supply of callsigns, callsigns are only included on the reserve list on an exceptional basis.

Notwithstanding the absence of any express policy on the grounds for including a callsign on the reserve list, it is clear from the Deed and historical practices that callsigns are typically 'reserved' in two broad circumstances: (a) when the combination of letters in the callsign is likely to be offensive or inappropriate, and (b) if the callsign was held by a now deceased licensee. The latter circumstance was described in Mr Wardle's letter to you of 16 November 2020 (attached) as 'compassionate reasons' and reflects a long-standing policy that is understood and accepted within the amateur licence community.

Callsign VK3KI

VK3KI was previously specified in a licence issued to [REDACTED]. Upon [REDACTED] death in 2012, VK3KI was placed automatically in the reserve list. At the time, the WIA performed the role currently performed by the AMC, and the WIA proposed to the ACMA that VK3KI not be available until such time as a member of [REDACTED] family obtain an Amateur Operator Certificate of Proficiency (AOC), at which time VK3KI would be specified on an amateur licence issued to that person. Mr Wardle's letter acknowledges that the WIA arrangement provided for reservation of the callsign for a longer period than provided under the Deed but also noted that the family of the [REDACTED] would have been relying on representations made to them by the WIA. This arrangement was affirmed and extended by the ACMA in September 2020, with a revised date of 31 December 2021, after which VK3KI would become available for recommendation.

Inclusion of VK3KI on the reserve list

I note that you do not appear to dispute the compassionate grounds for including VK3KI on the reserve list originally (ie. following the death of [REDACTED]), only the length of time that VK3KI has been kept on the list.

VK3KI has been kept on the reserve list for significantly longer than the standard 2-year period for 'deceased callsigns'. The ACMA previously agreed with the WIA's request for the WIA to keep VK3KI on the reserve list beyond the 2-year period. I understand that this was in recognition of [REDACTED] status and reputation within the amateur licence community, consistent with the compassionate grounds that underpin the 'deceased callsign' element of the reserve list. [REDACTED] family has also relied on the representations given to them by the WIA under the original reservation arrangement and. However, as far as I am aware, the ACMA has not given assurances to

██████████ family that VK3KI will always remain on the reserve list; the extended period was always intended to provide a relative of ██████████ with sufficient time to obtain the required qualifications to be issued an amateur licence.

In our most recent correspondence with ██████████ family, we have stated that VK3KI will only be included in the reserve list until 30 September 2022 or such earlier time as a relative obtains an AOCP. We have reiterated that a relative should actively take steps to obtain an AOCP as soon as practicable and that the ACMA's intention is, if an amateur licence is not issued to a relative of ██████████ by 30 September 2022, that VK3KI will cease to be on the reserve list. The most recent extension agreed in December 2021 was the result of a ██████████ ██████████ which have impeded a relative of ██████████ obtaining an AOCP. I accept that the circumstances cited reasonably impeded the obtaining of an AOCP.

In my view, the further, but still temporary, decision in December 2021 to extend the timeframe for inclusion of VK3KI on the reserve list to September 2022, was justified. This is because the delays experienced by were unforeseen and outside of the control of ██████████ ██████████ family. Further, to cause VK3KI to be removed from the reserve list – and potentially included in a recommendation from the AMC – would, in my opinion, cause distress to ██████████ family, thereby, undermining the compassionate reasons underpinning the original reservation.

For these reasons, it is my view that VK3KI should remain on the reserved list until 30 September 2022 or such earlier time as a relative of ██████████ obtains an AOCP. ██████████ family has confirmed with ACMA staff that a family member is currently taking active steps to obtain an AOCP.

Other matters raised in your correspondence

In relation to the prospect of specifying VK3KI in a licence held by you, you stated that you “would in effect be holding the call[sign] in trust” and that you would arrange a transfer to them when someone in the direct family has the qualifications to use the call sign.”

There is no concept of ‘trust’ arrangements that can apply in relation to callsigns. A callsign identifies the person to whom an amateur licence is issued, and, consequently, to identify the person responsible for making a transmission using that licence. It is not a thing that can be held ‘in trust’ for another person.

For your information, the ACMA has been asked on previous

occasions to specify VK3KI in licences held by persons who are not members of [REDACTED] family. In each case, it was suggested to the ACMA that the person would, in effect, hold VK3KI 'in trust' for the family of [REDACTED]. On each occasion the ACMA did not agree to specify VK3KI in the person's licence.

Broader callsign policy

Your correspondence has identified a number of matters relating to callsign policy (including reservation of callsigns) which would benefit from clarification, including the basis for and timing of callsign reservations. I thank you for bringing these matters to my attention. It is our intention to seek the views of the amateur community on a range of callsign policy issues, most likely in 3Q-4Q 2022. I look forward to receiving your views on these important matters.

Patrick Emery

Manager
Licence Allocation Section

Australian Communications and Media Authority

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From: [REDACTED]

Sent: Thursday, 6 January 2022 11:01 AM

To: Patrick Emery <Patrick.Emery@acma.gov.au>

Cc: Mark Williamson <Mark.Williamson@acma.gov.au>; Radcoms Licensing <radcomslicensing@acma.gov.au>

Subject: Re: Amateur call sign VK3KI [REDACTED]

[REDACTED]=OFFICIAL]

Dear Mr Emery

I would not apply for a call sign as a badge of honour, so it would be active.

I am however aware that the family of the deceased amateur does hold his call sign with a degree of family history and so would arrange a transfer to them when someone in the direct family has the qualifications to use the call sign.

I would in effect be holding the call in trust, as should have been done at the outset, was offered and was not activated..

I would not be attempting to sell the call sign as has occurred with others recently.

Kind regards

[REDACTED]

On 6 Jan 2022, at 4:57 am, Patrick Emery
<Patrick.Emery@acma.gov.au> wrote:

Dear [REDACTED]

Thank you for your email. We are considering the matters raised in your most recent correspondence and will respond in due course. While we will respond as soon as practicable, I cannot guarantee that we will meet the 7 January timeframe stated in your email.

While we are considering a range of matters relating to your request, there is one particular matter raised in your correspondence in relation to which we require clarification. I note that you have advised, should you be allocated VK3KI, that the family can contact you and you will "arrange to maintain it for [the family] until a relative has an advanced AOCP". If you are allocated the callsign, do you intend to actively use the callsign in the use of an amateur radio service until such time as the relative has obtained an advance AOCP? If the relative does subsequently obtain an AOCP, is it your intention to then offer the relative VK3KI?

Regards,

Patrick Emery
Manager
Licence Allocation Section

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acma.gov.au

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From: [REDACTED] >
Sent: Tuesday, 4 January 2022 11:21 AM
To: Patrick Emery <Patrick.Emery@acma.gov.au>
Cc: Mark Williamson <Mark.Williamson@acma.gov.au>;
Radcoms Licensing <radcomslicensing@acma.gov.au>;
ACMA Customer Service Centre <info@acma.gov.au>
Subject: Re: Amateur call sign VK3KI [REDACTED]
[REDACTED]=OFFICIAL]
Importance: High

Dear Mr Emery

With respect this does not follow the guidelines set up by the ACMA. There are no provisions to allow the preservation of ownership of call signs for 10 years.

How is it that this family gets treated in a way that no other does?

Why is it that previous opportunities for the call sign to have been transferred to protect it were not taken up, after suggestions by the WIA and ACMA were made?

Why is it that the family of the deceased amateur have already been advised of a time limit and failed to act to protect the call sign?

How is it that when the ACMA is approached about this call sign there is direct communication with the family of the deceased amateur? Is this not a breach of privacy and confidentiality?

As a consumer I expect a level playing field and fairness in these matters. In this case this is clearly not the case.

I understand that a callsign is not a licence and members of your department have already explained to me that I do not have the right to request a review of your decision as apparently it is not a decision.

Mr Emery, this situation neither passes the pub or the smell tests and I request that you reconsider your actions .

I expect to be allocated the call sign VK3KI on 7th January 2022 and then the family can be in touch with me and I can arrange to maintain it for them until a relative has an advanced AOCP.

I await your response.

On 4 Jan 2022, at 6:10 am, Patrick Emery
<Patrick.Emery@acma.gov.au> wrote:

Dear [REDACTED],

Thank you for your email, which has been forwarded to me for response. As you will be aware, VK3KI was placed on the 'reserved' callsign list in 2012, with the caveat that the callsign would be made available to a surviving relative of the original callsign holder, once that relative has obtained the necessary advanced qualifications. This arrangement was affirmed by the ACMA in 2020, with the stipulation that the callsign would be made available from 7 January 2022 if the prospective applicant had not obtained the required qualifications by that date.

Unfortunately, due to unavoidable circumstances, the relative in question has not been able to obtain advance qualifications this year. The ACMA has recently instructed the AMC to keep callsign VK3KI on the 'reserved callsign list' maintained by the AMC under the ACMA-AMC Deed until 30 September 2022, with the same caveat as previously agreed. Should the prospective applicant not be allocated the callsign by that revised date, the callsign will be allocated to the first applicant after that date. The prospective applicant is aware that the callsign will not be reserved beyond 30 September 2022.

Regards,

Patrick Emery

Manager
Licence Allocation Section

Australian Communications and Media Authority

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E patrick.emery@acma.gov.au
acma.gov.au

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present and future.*

----- Original Message -----

From: [REDACTED]

Received: Mon Dec 20 2021 11:05:53
GMT+1100 (AUS Eastern Summer Time)

To: ACMA Customer Service Centre; Mail
Delivery System; svc_crm c2c_prod; System
Contact

Subject: Fwd: VK3KI

Please can this be forwarded to the correct
Department

Dear Sir

Please see below from AMC

I understand that after 9 years VK3KI is to
be kept on the reserved list.

Why and how is this the case?

The relatives of the deceased amateur have
had plenty of time to retain the call sign
within the family. Despite repeated
requests, not offered to relatives of other
amateurs they seem to be singled out for
special treatment. Indeed the WIA has
been involved and offered to retain the call
sign in the past but both parties have
repeatedly failed to take any action. Why's

rare the rules being disregarded for this callsign. Is there some type of nepotism, undue coercion, breach of privacy or even fraud going on here?

Where in the regulations does it allow for such a length of time to pass before a call sign becomes available.

I wish to be allocated the call sign VK3KI as in my original application as this is a reasonable request and consistent with the current rules.

I expect to hear from you forthwith that the Callsign VK3KI has been allocated to me.

Kind regards

[REDACTED]

Begin forwarded message:

From: AMC Amateur Radio
<AMC.AR@utas.edu.au>
Subject: Re: VK3KI
Date: 20 December 2021
at 5:38:32 am AWST
To: [REDACTED]

Good morning [REDACTED]

VK3KI was discussed at the quarterly ACMA / AMC meeting and ACMA have directed AMC to keep VK3KI on the reserved callsign list, until September 2022.

If not taken up by then it will be returned to the call sign pool.

Regards Dean

On 18/12/21, 2:47 pm,

[REDACTED]
[REDACTED]
wrote:

Hi Dean

I wondered what was happening with my application for VK3KI as I havent heard anything?

I do hope ACMA has been sensible as if they have decided not to allow me to have the call sign then I will be appealing their decision.

Please let me know what is the situation and if it is a negative outcome will you please confirm that this is actually a "decision" of the ACMA as they have in the past made "decisions" that they actually state aren't "decisions" and therefore cannot be appealed. A classic Yes Ministerism!

Regards

[REDACTED]

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