Multipoint Distribution Station

Regional Australia Transmitter Licence Allocations

Information Memorandum

April 1995
IMPORTANT NOTICE

Prospective applicants for Multipoint Distribution Station transmitter licences should read the Radiocommunications (Allocation of Multipoint Distribution Station Licences - Regional Licences) Determination No. 1 of 1995 as it governs the allocation system. The licences that are available under the present allocation system are specified in the Determination. A copy of the Determination is at Attachment A.

Prospective applicants for licences should, on their own responsibility, take whatever steps, independently of the Commonwealth, they consider necessary to ensure that they have access to appropriate technical or other specialist advice concerning:-

- their applications;
- operation of radiocommunications equipment and services; or
- other matters relevant to the proposed licence allocation system and operation of transmitters and services under the licences.

This Information Memorandum regarding licences to operate Multipoint Distribution Stations in the Spectrum between 2076 and 2111 MHz and between 2300 and 2400 MHz is not intended, and should not be taken either to give rise to, or to acknowledge the existence of, any liabilities on the part of the Commonwealth in regard to the issue or non-issue of any licences by the Spectrum Management Agency. Intending applicants should not rely on statements made in this Memorandum about the policies that may be followed by other authorities, nor about the effect of any legislation. The comments made about the Radiocommunications Act 1992 reflect the present policies of the Spectrum Management Agency.

The policies and laws of the Commonwealth, a sovereign entity, may change from time to time. The Spectrum Management Agency reserves the right to terminate the allocation process or withdraw from allocation any licence in accordance with the terms set out in the Determination and relevant legislation.
FURTHER INFORMATION

Any questions about the allocation system or the licences to be issued should be directed to:

Postal Address
MDS Registration Centre
Spectrum Management Agency
PO Box 78
Belconnen ACT 2616

Street Address
MDS Registration Centre
Spectrum Management Agency
Fifth Floor, Purple Building
Benjamin Offices
Chan St
Belconnen ACT 2617

Telephone: 06 256 5512
Facsimile: 06 253 3009

Some questions (especially those of a technical nature or substantive questions about the allocation system) will only be answered on receipt of a written request. It is intended that these questions and answers, but not the identity of the questioner, will be circulated to all Applicants.

All documents required under the Determination must be delivered to the postal or street address above.
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1.1 MDS Licences

Multipoint Distribution Station (MDS) licences are licences which permit the operation of transmission apparatus within the bands 2076 - 2111 MHz (Group A licences) and 2300 - 2400 MHz (Group B licences). MDS licences may be used for the transmission of any of the following: text, graphics, still pictures, sound, non-entertainment video, and entertainment video including pay television.

The Spectrum Management Agency (the 'SMA') has previously issued MDS licences in 13 major cities in Australia (Sydney, Melbourne, Brisbane, Perth, Adelaide, Hobart, Canberra, Darwin, Cairns, Gold Coast, Newcastle, Wollongong and Alice Springs). This Information Memorandum outlines the framework for the allocation of 19 MDS licences in each of 18 areas of regional Australia. A map outlining the areas of regional Australia is on the inside cover of this Information Memorandum. A more detailed description is in Schedule 1 of the Radiocommunications (Allocation of Multipoint Distribution Station Licences - Regional Licences) Determination No. 1 of 1995 (the 'Determination') at Attachment A.

1.2 Purpose of this Memorandum

This Memorandum provides information about the allocation process, technical matters relating to the licences, and licence issue. It also provides a statement of the current SMA proposed approach to MDS licences in Remote Areas. A separate information handbook titled “MDS Regional Australia - Coordination Handbook”, (‘the Handbook’) contains more detailed information on technical matters.

Terms and expressions used throughout the Memorandum are defined in the Glossary of Terms at the end of the Memorandum.

Prospective licensees should note that the legislative basis for this process is contained in three legislative documents:

- the Radiocommunications (Allocation of Multipoint Distribution Station Licences - Regional Licences) Determination No. 1 of 1995, (‘the Determination’; see Attachment A);
- the Radiocommunications (Coordination) Regulations, (‘the Regulations’ see ‘the Handbook’); and
- the MDS Guidelines (‘the Guidelines’ see ‘the Handbook’).

Applicants will need to be fully conversant with the specific requirements of all three documents.
In particular, applicants should familiarise themselves with the standard forms that must be completed (see Attachment B). These forms are important. Their completion is central to the allocation system and can give rise to significant legal rights and obligations. Failure to complete them legibly and submit them in accordance with the Determination and the Regulations will mean that an Applicant is not entitled to apply for or be issued with a licence.

Applicants should also ensure that they fully understand how the coordination system established by the Regulations works. Failure to provide a Transmitter proposal, or information, or a response to a Transmitter proposal by the deadlines set by the Regulations could have serious results, including the ‘lapsing’ of an application, without refund of monies paid.

Finally, it is important that prospective licensees follow the Guidelines in undertaking their technical coordination. The SMA is required to impose licence conditions to ensure that interference is not caused contrary to the protection requirements established by the Guidelines. This could lead to a licence condition prohibiting operation of equipment.

1.3 Application of the Determination

The Determination applies to the initial issue of the licences specified in the Determination. It does not apply to the renewal of licences issued under the Determination or under the Act (clause 3 of the Determination refers to the application of the Determination).

Additional MDS licences may be made available in the future - either in other areas, or in other frequency bands.

1.4 How to become an MDS licensee

There are three stages in the process that need to be undertaken in order to become a MDS licensee. A summary of the process is outlined below.

A Price-Based Allocation Process

The SMA has now determined a system under section 106 of the Radiocommunications Act 1992 (the 'Act') providing for the price-based allocation of licences in 18 areas of regional Australia. A copy of the Determination is at Attachment A. Interested parties wishing to obtain an MDS licence must first apply to the SMA to become a Registered Applicant. If at the closing date for applications, there is only one Registered Applicant for any of the 18 Areas, the Lone Applicant for that Area will be offered all 19 MDS licences for that Area at the reserve price per channel for that Area. If a Lone Applicant pays the reserve price for any or all of the 19 channels, the Lone Applicant becomes the Nominated Applicant for those licences in that Area. If there is more than one Registered Applicant in an Area, the SMA will conduct a price-based allocation process similar to an auction. The highest bidder for a licence at that process may become the Nominated Applicant for that licence, (clause 22 of the Determination).

B Coordination of Transmitter Sites and Licence Conditions
The SMA will not plan Multipoint Distribution Systems. Nominated Applicants must coordinate the placement of MDS transmitters within an Area so as to minimise interference caused by the operation of these transmitters. (In some cases this may require licences within the same Group and Area to have some identical technical licence conditions.) The Regulations are made under the Act and establish a process by which applicants for licences can become aware of each other’s proposed systems, and coordinate them.

In outline the system for coordinating is as follows. When a Nominated Applicant sends a form called a Transmitter Proposal to the SMA (see the Regulations) which details each proposed transmission site and its technical operating characteristics, the SMA will circulate the proposal to other Nominated Applicants in the relevant Group and Area. Other Nominated Applicants in the Group and Area may expressly agree or disagree with a proposal. If they do neither within three months they will be deemed to have agreed. If another Nominated Applicant sends the SMA an incompatible Transmitter Proposal the matter will be referred to conciliation under the Act.

The Guidelines (see the Handbook) are made under section 112 of the Act and amongst other things, establish the parameters for technical coordination between regional Area MDS services and other MDS and non-MDS services. Nominated Applicants should follow the Guidelines in their systems planning.

Prospective Applicants should note that the SMA will always issue a licence in accordance with a Transmitter Proposal agreed between the applicants in the Group and Area. The SMA is required to impose licence conditions to ensure that interference is not caused contrary to the protection requirements established by the Guidelines. This could lead to a licence condition prohibiting operation of equipment.

 Coordination arising out of proposed addition of transmitters to a licence, or variation of the conditions for existing transmitters, will be conducted in the same manner as above.

Nominated Applicants are strongly encouraged to agree on sites and technical parameters.

C Licence Issue

The licence will be issued as soon as practicable after the coordination process is complete. The first instalment of the licence fee is payable at this time. Fees are set out in Attachment C. The licence fee will be payable even if the licence contains a condition that a transmitter cannot be operated.
1.5 Transmitters and Repeaters

For MDS licences allocated in the Major City MDS Allocation, a site-based planning model was used including a requirement for main transmitters to use vertical polarisation and for repeaters to use horizontal polarisation. This requirement was imposed to give maximum opportunity for repeaters to fill in coverage with minimum interference from co-channel transmitters from within or outside an area. For regional MDS licences, an area-based planning model applies so that the concept of main transmitters and repeaters is not meaningful in this allocation.

1.6 Licence Areas

Subject to coordination licensees will be able to site and operate any number of transmitters within a defined geographical area. The areas are, broadly speaking, based upon previous or existing terrestrial commercial television areas, or a combination of those areas. The areas are depicted on the map on the inside cover of this Memorandum. This map is indicative only and should not be used for planning purposes. The areas are described in Attachment D. A definition of each area is given in the Determination. The white circles on the map denote areas where MDS Licences were previously allocated in the Major Cities allocation process and which are not part of this allocation process.

In brief, the Areas in which licences are available under the Determination in Regional Australia are described as:

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<th>NSW</th>
<th>Southern NSW Area</th>
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<tr>
<td></td>
<td>Northern NSW Area</td>
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<td></td>
<td>Gosford Area</td>
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<tr>
<td></td>
<td>Broken Hill Area</td>
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<tr>
<td>QLD</td>
<td>South-East Qld Area</td>
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<td>Mackay/Rockhampton Area</td>
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<td>Townsville Area</td>
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<td>Sanctuary Cove Area</td>
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<td>VIC</td>
<td>Regional Victoria Area</td>
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<td>TAS</td>
<td>Regional Tasmanian Area</td>
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<td>WA</td>
<td>South west Western Australia Area</td>
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<td></td>
<td>Kalgoorlie Area</td>
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<td>Geraldton Area</td>
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<td>SA</td>
<td>Spencer Gulf Area</td>
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<td>Mt Gambier Area</td>
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<td></td>
<td>Renmark/Loxton Area</td>
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Each Area is defined in Schedule 1 of the Determination by use of the Australian Bureau of Statistics 1991 Population Census statistical collection districts, and local Government areas. These MDS licence Areas will remain fixed for the duration of the licences, that is, for five years.

Licences will also be available in those parts of Australia not covered by the Areas marked on the map. These licences, known as Remote Area licences, are dealt with in section 5.
1.7 Licences Available under the Determination

The Determination provides for the allocation of licences to operate transmitters on 19 channels in each of the 18 Areas in this process - a total of 342 licences. The licences will be issued for a period of five years from the time of issue.

MDS licences allocated in this process will allow licensees to erect as many transmitters in an Area as they wish subject to coordination under the Guidelines and Regulations. The licence fee payable will not be dependent on the number of transmitters covered by the licence.

1.8 Reserve Prices

The SMA has set reserve prices for the allocation of licences in this process. Please see Attachment C for a list of reserve prices.

1.9 Adjacent bands and areas

Adjacent areas

No two parties will be licensed to operate an MDS transmitter on the same channel in an Area. Generally speaking, licensees will be able to claim protection from interference from transmitters in other Areas (see the Guidelines for details on interference protection levels).

If a licensee wants to install a transmitter in an adjacent Area to obtain better coverage of the licensee’s own Area, it will be the licensee’s responsibility to obtain third party authorisation from the adjacent Area licensee (see s. 114 of the Radiocommunications Act).

A separate MDS licence will have to be obtained for any MDS transmitter to be located outside areas allocated in the Major City Allocation process or in this Regional Allocation process - that is, a licence in a Remote Area (see section 5 of this Information Memorandum).

Adjacent bands

Certain fixed links currently operating in spectrum immediately adjacent to MDS bands may cause interference to regional MDS services, and the fixed links could themselves experience interference from those regional MDS services. Consequently, the SMA proposes to limit the assignment of fixed links in that adjacent spectrum so that MDS licensees can plan their services in the knowledge that they will not experience interference as a result of a subsequent issue. At the same time, a five year limit on the allocation of licences in that adjacent spectrum may lead to inefficient spectrum use.
The SMA proposes to give MDS licensees a two year ‘planning period’ in which the SMA will not issue licences for new fixed links within the frequency bands 2030-2157 MHz and 2256-2420 MHz that would result in emissions above specified levels in any Area. The two year period in respect of any Group and Area will run from the date on which the first licence is allocated in respect of that Group and Area. After two years, the SMA may issue licences for primary fixed links in the adjacent spectrum and secondary fixed links within the MDS Bands in accordance with the relevant procedures (see the Handbook).

After the two year planning period, MDS licensees will still have to co-ordinate any new MDS transmitters amongst themselves under the process established by the Regulations. That coordination will also have to take account of any non-MDS services which then exist in adjacent bands.

The ITU is currently developing a new 2.1 GHz channel plan for fixed link systems. It is possible that the current secondary status of the fixed service allocation in the MDS Band Plan may be raised to primary status in accordance with ITU developments. This change however would occur only after public consultation and would not be undertaken until after the two year planning period.

1.10 Transitional Areas

There are 3 small Areas centred on Gosford, Sanctuary Cove and Port Douglas known as transitional areas for which licences will be offered during this allocation process.

In each case, prospective licensees should be aware that to provide MDS transmissions in these Areas without either causing or being subject to considerable interference from the adjacent major city transmitters will be extremely difficult. Transmission in these Areas may require agreement from adjacent MDS licences.

Applicants should take whatever steps they consider necessary to ensure that they have access to appropriate technical advice on adjacent area interference which they may cause or suffer in a transitional area.

1.11 Provision of Broadcasting Services

Some of the services that may be provided by transmitters are subject to the Broadcasting Services Act 1992. The issue of a radiocommunications licence under the allocation system set out in this Information Memorandum should not be taken as an indication that any licence required under the Broadcasting Services Act 1992 will be issued. Nor should it be taken as an indication that the service would fall within the terms of any class licence issued under that Act. Administration of the Broadcasting Services Act 1992 is the responsibility of the Australian Broadcasting Authority (the ‘ABA’).
Advice on licensing broadcasting services may be sought from:

The Manager  
Allocation and Renewals Section  
Program Services Branch  
Australian Broadcasting Authority  
Level 15, Darling Park  
201 Sussex Street  
Sydney NSW 2000  

Telephone: 02 334 7871  
Facsimile: 02 334 7799

1.12 Spectrum Licences

While spectrum licences will not be issued in this allocation round, applicants are advised that the Minister for Communications and the Arts may, at any time, designate a band for allocation by and conversion to spectrum licensing. The SMA may make recommendations to the Minister to designate a band for allocation by or conversion to spectrum licensing and the Act requires the SMA to give members of the public a reasonable opportunity to make representation about any recommendation that it proposes to make.

As part of its implementation process for spectrum licensing, the SMA has prepared a discussion paper booklet called *Implementing Spectrum Licensing* which raises an option to recommend to the Minister that the MDS bands be designated for conversion to spectrum licensing. Copies of this booklet are available from the MDS Registration Centre. The SMA is seeking public comments in respect of this discussion paper by 26 May 1995.

If the Minister designates the MDS bands for spectrum licensing, existing apparatus licensees will be offered a single opportunity to convert their existing apparatus licences to a spectrum licence that, as far as practicable, authorises the operation of radiocommunications devices to the same extent as, or to a greater extent than, they are authorised under the apparatus licences being replaced. Licensees accepting the offer to convert will be required to pay a “spectrum access charge” (see below).

Licensees not wishing to accept the offer of conversion will not have their apparatus licences renewed.

Under the Act, the SMA’s draft conversion plans are subject to public consultation. The final decisions on the form of spectrum licensing, conversion of apparatus licences and spectrum access charges are statutory decisions for the SMA. The SMA is unable to provide definitive advice about the form of spectrum licensing or advice on conversion plans for specific bands.

In determining the value of any “spectrum access charge” levied on licensees converting to spectrum licences, the SMA may have regard to the fact that MDS licences would have already been allocated following a “price-based” allocation system.

**NOTE**
The Minister has not made any decisions on which bands will be designated for allocation by or conversion to spectrum licensing.

Nothing in this document should be taken to mean that MDS regional licences allocated under the process outlined in this memorandum will be converted to spectrum licences.

1.13 Additional Information Available

The map of the MDS Regional Areas is produced using a digital database prepared by the Australian Land and Survey Group (AUSLIG). AUSLIG is able to supply a variety of additional information and maps in a range of scales for prospective Applicants. This would include overlays of this map with population density, topography and other characteristics of these Areas. Further information may be sought from:

<table>
<thead>
<tr>
<th>The Manager</th>
<th>Canberra Office</th>
<th>AUSLIG</th>
<th>PO Box 2</th>
<th>PHONE:  (06) 201 4201</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>BELCONNEN ACT 2616</td>
<td>FAX:        (06) 201 4366</td>
</tr>
</tbody>
</table>

Please quote “MDS Regional Areas”. AUSLIG will apply a fee for the supply of this information.

The Areas in which these MDS licences are to be allocated are defined in the Determination using Local Government Areas and census collection districts. The Australian Bureau of Statistics (ABS) is able to link the Areas with any of the information collected in the 1991 population census and generate reports for potential applicants. Further information may be sought from:

<table>
<thead>
<tr>
<th>The Director</th>
<th>Client Services</th>
<th>Australian Bureau of Statistics</th>
<th>PO Box 10</th>
<th>PHONE:  (06) 252 6622</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>BELCONNEN ACT 2616</td>
<td>FAX:        (06) 253 1404</td>
</tr>
</tbody>
</table>

Please quote “MDS Regional Areas”. ABS will apply a fee for the supply of this information.
1.14 Privacy Considerations

The SMA maintains a database of the names, addresses and contact telephone and facsimile numbers of persons who have previously expressed interest in matters relating to Multipoint Distribution Station licences. This database is used by the SMA to disseminate information about MDS and radiocommunications matters generally. If you received a copy of this Information Memorandum by mail from the MDS Registration Centre, then your name is included on the database. If you would like your name removed, please advise the MDS Registration Centre.
SECTION 2 - OBTAINING A LICENCE

Summary

Step one: Informing yourself: Prospective applicants should read the Determination, the Regulations, the Guidelines, the approved forms and this Memorandum carefully. The Determination governs the allocation system; its requirements must be met at all times.

Step two: Submitting forms: Prospective applicants must complete legibly an Applicant Registration Form; Form(s) of Authority as necessary (to authorise representatives to act on their behalf); and Deeds of Guarantee where required (guaranteeing the payment of deposits and certain damages that the Commonwealth may claim if an Applicant that is a company defaults in its bid for a licence). These forms must be returned to the MDS Registration Centre.

There is an application fee of $400 for each Area. For example if an applicant nominates four Areas, then a cheque for $1,600 should accompany the application.

There is one applicant registration period only. Persons wishing to apply for any of the licences to be allocated under the Determination must submit forms no later than 4:00 pm EST on Friday 5 May 1995.

Late Applicant Registration Forms cannot be accepted.

Step three: Applicant Registration: Applicants must nominate on their Applicant Registration Forms the regional Areas in which they are applying for licences. An application will cover all licences in an Area including any licences that may be made available in an additional allocation because of default. The SMA will register an Applicant if it receives the required application fee and all the necessary forms, completed and legible, by the time and date mentioned above. The SMA will send applicants a receipt verifying delivery of their application and a receipt for the application fee.

Step four: Applicant Notification: When Applicant Registration closes, the SMA will tell all applicants which Areas have only one applicant, and which Areas have more than one applicant.

If only one applicant is registered for licences in an Area, the next step is Step five.

If more than one applicant is registered for licences in an Area, the next step is Step six.
Step five: Lone Applicant: If there is only one Registered Applicant for a particular Area, that person will be referred to as the Lone Applicant for the Area. The Lone Applicant will be able to nominate the channels in the Area for which it requires licences. Subject to the Determination, the SMA will allocate licences for those channels on payment of the reserve price. The procedure is as follows:

Once registration has closed the SMA will send each Lone Applicant:

- a set of 19 Licence Contracts for the Area; and
- advice on the procedure for the allocation of licences.

The Lone Applicant will then have fourteen (14) days in which to give to the SMA:

- a completed Licence Contract for each channel for which the Lone Applicant wants a licence. Up to 19 channels are available in any Area, subject to technical coordination, and
- a bank cheque for the amount of the reserve price for the licence(s).

If the Lone Applicant does not provide a correctly completed Licence Contract, or does not pay the correct amount, within the 14 day period, the Lone Applicant's application for that licence will cease to have effect.

Step ten is the next step in the process if there is a Lone Applicant for an Area.

Step six: Multiple Applicants: If more than one Registered Applicant nominates a particular Area, an auction style allocation process will be conducted to determine the Applicant to whom each licence for that Area is to be allocated. After the close of registration, the SMA will send Registered Applicants:

- advice of the time, date and place of the allocation; and
- a Bidder Identification Form for the Applicant (if an individual) and for any applicant representative(s) for whom the Applicant has submitted a Form of Authority.

- the Bidder Identification Form enables an individual to register as a bidder in respect of the Areas named on the form.
If, during an auction style process, the situation arises that there is a single Applicant in respect of one or more licences in an Area, the licence(s) will be offered to that Lone Applicant in the same manner as under Step five).

Step seven is the next step for Multiple Applicants in an Area.

Step seven: **Bidder Registration:** Within an allocation period, licence allocations will be carried out on as many days as necessary to allocate all the licences for the Areas. Only Registered Bidders may bid for licences and act on the Applicant's behalf at allocation days. **Bidders must register on the first day of an allocation period in which they wish to bid for a licence.** Bidder Registration will entail showing the SMA the Bidder Identification Form, showing identification and signing a bidder’s Acknowledgement.

Bidders may only bid for those Areas nominated on the Applicant Registration Form and recorded on the Bidder Identification Form. A separate Bidder’s Paddle will be issued for each Area. (Where all the registered bidders for an Area represent a single Applicant, the licences will be offered to that Lone Applicant in the same manner as under Step five).

Step eight is the next step for Multiple Applicants in an Area.

Step eight: **Multiple Applicant Allocation Process:** A Bid Co-ordinator will conduct an auction-style process to identify the highest bid for each licence. No bid for a licence in an Area will be accepted below the reserve price set for licences in that Area.

The Applicant who bids, or whose Registered Bidder bids, the highest amount for a licence becomes the Nominated Applicant for that licence. The Nominated Applicant, or a Registered Bidder representing the Nominated Applicant, must then immediately execute a Licence Contract and tender a deposit of 10% of the bid price.

Note:- where there is only one registered bidder, or all registered bidders represent a single Applicant for an Area, the licences will be offered to that Lone Applicant in the same manner as under Step five.

Step nine is the next step for Multiple Applicants in an Area.
Step nine: **Payment of the Bid Price:** The Nominated Applicant has until 4:00 pm on the day after the Licence Contract is executed to pay the remainder of the bid price. Final payment can be made only:

- for licences allocated in Sydney, at the SMA's Sydney Office; and
- for licences allocated in Melbourne, at the SMA's Melbourne or Sydney Offices.

**CO-ORDINATION**

Step ten: **Technical Co-ordination:** After the licences have been allocated, technical coordination will be required before licences are issued. Nominated applicants will have to decide where and how they propose to site and operate their transmitters. They will then have to coordinate those proposed services with any other existing services.

Having coordinated its proposed services, a Nominated Applicant will submit a Transmitter Proposal to the SMA for each proposed transmitter, together with supporting information to assist the SMA in assessing whether the coordination has been correctly carried out.

The SMA will circulate the Transmitter Proposals to any other Nominated Applicants in the same Group and Area. Nominated Applicants will have 3 months from the time the SMA sends out a Transmitter Proposal to either expressly agree to it, or to submit an alternative Transmitter Proposal. **A Nominated Applicant who takes no action within the 3 month period will be deemed to have agreed with a Proposal (Regulation 14).**

Nominated Applicants are strongly encouraged to co-ordinate with other Nominated Applicants in an Area before submitting a Transmitter Proposal.

*At least one Transmitter Proposal for a Group and Area must be submitted within 12 months of the date on which the first Nominated Applicant is identified for the Group and Area. If no Transmitter Proposal has been received by this time, the applications for all the licences in the Group and Area cease to have effect. In this event Applicants are not entitled to a refund of any money paid.*
Nominated Applicants should follow the Guidelines in establishing their technical operating parameters. **The SMA will always issue a licence in accordance with, and only with, an agreed Transmitter Proposal. However, the SMA is required to impose licence conditions to ensure that interference is not caused contrary to the protection requirements established by the Guidelines. This could lead to a licence condition prohibiting operation of equipment.**

Where a Transmitter Proposal is received which is technically incompatible with another Transmitter Proposal, the issues of the potential interference and the effect on each of the Nominated Applicants will be considered by a conciliator appointed under the Act.

**Step eleven: Licence Issue:** The licence will be issued as soon as practicable after the coordination process is complete. The first instalment of the licence fee is payable at the time of issue. Fees are set out in Attachment C.

Note:- The coordination process under the Regulations and the Guidelines also applies to any licence variation after the initial licence issue.
2.1 Notification of Opportunity

The SMA has published an invitation to apply for licences. A copy of the text is at Attachment E. Prospective applicants must register with the SMA before the closing date of 5 May 1995. No registrations may be accepted after that date.

If any licences remain unallocated as a result of the default of an applicant, the SMA may either offer the licences again at the same allocation period, or arrange additional allocation periods (clause 28 of the Determination). Any additional allocation periods will be notified to Applicants in accordance with subclause 4(1) of the Determination. Only Applicants who previously registered in an Area may participate in additional allocation periods for that Area.

The SMA can also withdraw any licences which remain unallocated from the allocation system altogether, and will then decide whether those licences will later be allocated and, if so, how. The options would include allocating “over the counter”, and allocating by a different price-based allocation system, for example a pre-determined price. The SMA makes no commitment about future allocation of those licences.

2.2 Applicant Registration

Applicants must register with the SMA in order to participate in the allocation of the MDS licences (clause 8 of the Determination). Registration will cover all licences to be allocated under this price-based allocation system, including any licences that may become available for reallocation because of default. Applicants must nominate the Areas for which they are seeking licences at registration.

Applicants are advised to register early - as far in advance of the closing date as possible. This will enable the SMA to contact prospective applicants who have not completed or submitted all the necessary forms, and to accept further forms.

Prospective applicants must complete the application forms correctly, and submit them on time. The SMA will not register an applicant who, by the closing day, has not lodged all the necessary forms, correctly completed.

The forms used in this process are unique. Forms provided under the 1994 Major City MDS process must not be used.

Except as required by law the SMA does not intend to release the names of persons who have submitted Applicant Registration Forms, or the names of the Bidders or Guarantors.

Completing and Submitting Applicant Registration Forms

A copy of the Applicant Registration Form is at Attachment B. Applicant Registration Forms are available from the MDS Registration Centre of the SMA. Applicant registration must be in the form approved by the SMA.
Instructions for completing an Applicant Registration Form are on the rear of the Form. These instructions should be followed carefully.

Sections A, D and G of the Applicant Registration Form must be correctly completed or the application cannot be accepted.

An Applicant Registration Form jointly submitted by more than one person must be signed by each of those persons. Each party to an application is jointly and severally liable in respect of the application.

An unincorporated body cannot hold a licence. If an unincorporated body wants to apply for a licence, at least one office holder of the body must apply for the licence in his or her own name.

Similarly, a trust cannot hold a licence. If a trust wants to apply for a licence, at least one trustee must apply for the licence in his or her own name.

A foreign corporation is also unable to hold a licence. A foreign corporation that wants to apply for a licence must have either one or more natural persons, or a company registered under the Corporations Law, apply for the licence.

Where the prospective applicant is a company, the Applicant Registration Form must be executed under seal with a certification that the seal was duly affixed.

Applicant Registration Forms must be completed and the Form submitted to the SMA must have an original signature or other means of execution. A facsimile or a copy of a signed Applicant Registration Form cannot be accepted. The SMA can only accept Applicant Registration Forms that are complete and legible. To assist legibility, Applicant Registration Forms should be completed in block letters.

Applicant Registration Forms must be received at the MDS Registration Centre no later than 4:00 pm AEST, Friday, 5 May 1995. The SMA cannot accept late Applicant Registration Forms (subclause 8(2) of the Determination).

There is no facility for the SMA to accept Applicant Registration Forms or other forms by facsimile or electronic means.

**Application Fee**

Applicants must nominate the Areas for which they wish to be allocated licences in Section E of the Applicant Registration Form.

An application fee of $400 for each nominated Area is payable. If, for example, an applicant applies for 10 Areas, a payment of 10 x $400 = $4000 must accompany the application.

Bank cheques for this amount should be made payable to "Spectrum Management Agency" and crossed "Not Negotiable". Payment must be in Australian dollars.
Please do not forward cash. Personal or company cheques will not be accepted (clause 8 of the Determination).

An application is not valid without payment of the correct application fee. The application fee is not refundable.

If the wrong amount is tendered, the SMA will advise the applicant, who will then have 7 days following the date of the advice or the Closing Day, whichever is the later, in which to pay the difference. If the total application fee has not been received within that time, the application will cease to have effect.

Amending the Areas in an Application

An applicant who wants to nominate any additional Areas must submit a replacement Applicant Registration Form, together with the additional application fee(s), prior to the Closing Day.

Completing and Submitting Deeds of Guarantee

Applicants who are not individuals must provide Deeds of Guarantee if they are to be registered as Applicants, unless the SMA decides otherwise. These Deeds, amongst other things, guarantee the payment of deposits and certain damages that the Commonwealth may claim if a company defaults in its bid for a licence following an auction process (clause 9 of the Determination).

Only the Deed of Guarantee approved by the SMA under the Determination can be used for this purpose. Other deeds of guarantee cannot be accepted. A copy of the Deed of Guarantee is at Attachment B. Deeds of Guarantee are available from the MDS Registration Centre of the SMA.

Exemption from submitting a Deed of Guarantee

An Applicant who is not an individual will not have to provide a Deed of Guarantee if it satisfies the SMA that the company:

- is not a foreign company and has paid up capital of $5 million value or more in Australian currency; or

- is an authority of the Commonwealth, or of a State or Territory (paragraph 9(1)(b) of the Determination); or

- is a subsidiary, within the meaning of the Corporations Law, of an authority of the Commonwealth, or of a State or Territory.

A company is not automatically exempt from the requirement to provide a guarantee if it falls into one of these categories. The SMA must be satisfied that the company does fall into one of the categories. A company must satisfy the SMA that the company does not have to provide a guarantee. If a company does not take
action to do so, it will have to provide a Deed of Guarantee. Foreign companies must always submit a Deed of Guarantee.

The SMA will accept as evidence that a company falls into one of the above categories a duly executed statutory declaration that:

- is made by a director, or member of the governing body of the company; and
- states the capacity in which the person is making the declaration; and
- states that the company;
  - is registered in Australia and has paid up capital of $5 million value or more in Australian currency; or
  - is an authority of the Commonwealth, a State or a Territory within the meaning of the Determination; or
  - is a subsidiary, within the meaning of the Corporations Law, of such an authority,

as the case may be.

Non-Profit Organisations

The SMA can decide that a company is not required to give the SMA a Deed of Guarantee if the company satisfies the SMA that it does not carry on business for profit.

The SMA will accept as evidence that a company does not carry on business for profit a duly executed statutory declaration that:

- is made by a director, or member of the governing body of the company; and
- states the capacity in which the person is making the declaration; and
- states that the company does not carry on business for profit.

Companies should also provide full details of all other matters of which they are aware that may be relevant to the SMA's consideration of the issue of whether the company carries on business for profit.

In exercising its discretion to waive the requirement for guarantees for non-profit making companies, the SMA will take all relevant factors into account.

Submitting a Deed of Guarantee

Where an applicant who is not an individual cannot, or does not, satisfy the SMA that it is 'exempt' as above, it must both provide a guarantee as required by the
Guarantees can only be given by:

- a director of the Applicant company; or

- a company registered in Australia with a paid up capital of $5 million value or more in Australian currency; or

- certain authorities of the Commonwealth, or of a State or Territory (for information on which bodies can give a Deed of Guarantee see paragraph 9(6)(b) of the Determination).

Guarantees may only be provided by completing and submitting the Deed of Guarantee in the form approved by the SMA. Instructions for completing the Deed are provided on the front of the form. These instructions should be followed carefully.

Applicants who are not individuals, and who give the SMA a Deed of Guarantee must satisfy the SMA that the guarantor is qualified to give the guarantee. The SMA will accept as evidence that a guarantor is qualified a statutory declaration that:

- states the capacity in which the person is making the declaration; and

- states that the guarantor in the guarantee given to the SMA by the company is:
  - a director of the Applicant company; or
  - a company that has a paid up capital of $5 million value or more in Australian currency; or
  - is a statutory authority of the Commonwealth, a State or Territory
Instructions on how to complete a Deed of Guarantee are provided on the front of the Deed of Guarantee. These instructions should be followed carefully. Deeds of Guarantee, where required, must be completed and the form submitted to the SMA must have an original signature or other means of execution.

Photocopies and facsimile transmissions of completed Deeds are not acceptable. A Deed of Guarantee must be complete and legible to be accepted by the SMA. To assist legibility, Deeds of Guarantee should be completed in block letters. An original statutory declaration attesting to the status of the guarantor or other evidence of status should accompany Deeds of Guarantee that are submitted.

Deeds of Guarantee must be received by the MDS Registration Centre at the same time as the Applicant Registration Form and prior to the Closing Day.

If a Deed of Guarantee does not accompany an Applicant Registration Form submitted by an Applicant, an original statutory declaration should be submitted in order to satisfy the SMA that the Applicant is entitled to an exemption from the requirement to submit a Deed of Guarantee.

Completing and Submitting the Form of Authority

Forms of Authority are provided to permit an Applicant to authorise an individual to act on the Applicant's behalf under the Determination. An individual Applicant may authorise one or more persons to act on his or her behalf in an allocation (clause 8 of the Determination). An Applicant that is not an individual must authorise at least one individual to act on its behalf (clause 12 of the Determination).

Applicants should note that a Form of Authority authorises an individual to represent an Applicant generally during the process. This will include bidding on the Applicant's behalf in respect of licences in all Areas nominated by the Applicant, executing a Licence Contract and tendering money. (For details of the extent to which bidders are authorised see the Form of Authority.) Applicants will be bound by any action of their representatives taken under the Form of Authority.

A copy of the Form of Authority is at Attachment B. Forms of Authority are available from the MDS Registration Centre of the SMA. The authority must be in the form approved by the SMA.

There is no limit to the number of representatives an Applicant may authorise to act on its behalf. Applicants must complete a Form of Authority for each individual.

The Applicant named on the Form of Authority must be the same as on the Applicant Registration Form. Where there are joint Applicants, each Applicant must execute the Form of Authority. In the case of a company Applicant, the seal of the company must be duly affixed to each Form of Authority the company gives.

Individuals authorised to represent Applicants do not need to sign the Form of Authority. It is the responsibility of Applicants to make their representatives aware of their duties and obligations.
Instructions on how to complete a Form of Authority are provided on the front of the Form. These instructions should be followed carefully.

A facsimile or a copy of a signed Form of Authority cannot be accepted. The SMA can only accept Forms of Authority that are both complete and legible. To assist legibility, Forms of Authority should be completed in block letters.

Forms of Authority must be received by the SMA no later than the Closing Day, unless submitted in special circumstances (see following section). In the case of Applicants that are companies, **at least one** Form of Authority must be provided prior to this deadline in order for an Applicant to be registered.

**Receipt of Late Forms of Authority in Special Circumstances**

Registered Applicants may be able to lodge Forms of Authority after the Closing Day in special circumstances. The SMA will decide whether the special circumstances exist allowing for late lodgement. An example of special circumstances might be an illness that will prevent a previously authorised representative from attending an allocation period. The Applicant must submit the additional Forms of Authority and set out the special circumstances in a letter accompanying the Forms of Authority.

No additional Forms of Authority may be accepted within two business days of any allocation period at which the Applicant's Representative first intends to represent the Applicant (subclause 12(2) of the Determination).

All Forms of Authority must be lodged at the MDS Registration Centre.

**Revocation of Forms of Authority**

The authorisation of a person named as a representative in a Form of Authority is not revoked by the Applicant until the allocation for the Area is completed or the SMA is advised of the revocation (clause 3 of the Form of Authority).

**Acceptance of Registration**

Applicant Registration will be complete only when the Applicant has completed registration requirements and the SMA enters the names of Applicants in the register of applicants (clause 10 of the Determination). The SMA must refuse registration if the Applicant Registration Form, Application Fee or required Forms of Authority and Deeds of Guarantee/evidence of exempt status are not provided in accordance with the Determination. The SMA must also refuse registration if the Applicant has had a radiocommunications licence cancelled in the preceding two years, other than by the voluntary surrender of that licence.

**2.3 Notification of the Results of Applicant Registration**
If the SMA registers only one applicant for an Area, the SMA will as soon as practicable after the Closing Day of applications, give the applicant a Licence Contract for each licence in the relevant Area (subclause 13(1) of the Determination).

If the SMA registers more than one applicant for an Area, the SMA will despatch to all registered applicants advice on the allocation process to be undertaken. Registered applicants will get at least 14 days notice of the first allocation period (clause 19 of the Determination).

The SMA will also advise all registered applicants of the Areas for which there are Lone Applicants, and the Areas for which there are Multiple Applicants.

2.4 Lone Applicant - Becoming a Nominated Applicant

Where there is a Lone Applicant for an Area the SMA will, as soon as practicable after the Closing Day, send that applicant:

- advice that the Applicant is the Lone Applicant for the Area;
- confirmation of the procedures for the Applicant to become the Nominated Applicant for licences in the Area;
- a Licence Contract for each of the 19 licences in the Area.

A specimen copy of a Licence Contract is at Attachment B. Lone applicants must return the properly completed Licence Contract within 14 days of the date sent by the SMA.

The reserve price for each licence sought must be sent to the SMA with the Licence Contracts. Details of the reserve prices are set out at Attachment C. Payment must be by bank cheque made payable to the "Spectrum Management Agency".

NOTE

If a Licence Contract is returned within 14 days incorrectly completed or executed, the SMA will notify the Lone Applicant who can then take steps to rectify the error within the 14 day period. If a Licence Contract is returned with a bank cheque for the wrong amount, the SMA will notify the Lone Applicant under clause 15 of the Determination.

The SMA can, under clause 14 of the Determination, extend the time within which a Lone Applicant can give the SMA correctly completed Licence Contracts, and pay the reserve price, but can only do so before the end of the 14 day period. A Lone Applicant who thinks it may not be able to meet the 14 day deadline should immediately advise the SMA, in writing, of the reasons why the deadline may not be met. The SMA cannot extend the deadline for contracts and payment after the 14 day period has expired.
If an applicant pays the wrong amount of reserve price, the SMA will give the Applicant a notice setting out the additional amount payable. The Lone Applicant then has until the date specified in the notice to make up the shortfall (clause 15 of the Determination).

The deadlines set under clause 14 and 15 of the Determination for giving the SMA completed contracts, and for paying the reserve price are important. If those deadlines are not met, the Lone Applicant’s application for licences in the relevant Area will cease to have effect. Once an application ceases to have effect it cannot be reinstated. If the Lone Applicant does not have a reasonable excuse for failing to meet the deadlines, the Lone Applicant’s application for all other Areas will also cease to have effect, and the Lone Applicant will not be able to participate at any later allocation of the licences.

Where an application ceases to have effect the licences for the Area in question will be withdrawn from allocation under the Determination. The SMA can make no commitment about any future allocation of those licences.

When a correctly completed and executed Licence Contract and reserve price have been received, the Applicant will become the Nominated Applicant for the channel set out in the Licence Contract.

2.5 Multiple Applicants - Becoming a Nominated Applicant

Where there is more than one applicant for licences in an Area, following the close of registration the SMA will provide to each Applicant:

- advice that there are Multiple Applicants for licences in the Area;
- confirmation that an auction-style allocation process will be held to identify the Nominated Applicant from amongst the Applicants for the Area;
- advice of the dates, times and places for each allocation period when the auction-style process will be conducted;
- Bidder Identification Forms for each Applicant representative named on a Form of Authority and for the applicant personally, if the applicant is an individual. The Bidder Identification Form will specify the Areas in respect of which an applicant may bid for licences.

The advice will not name the other applicants nor will it indicate the total number of Multiple Applicants for any Area.

Bidder Identification Forms will be sent to registered Applicants. It will be the responsibility of the Applicants to distribute the forms to their Applicant representatives as necessary.
An original Bidder Identification Form must be presented by the individual named in it, in order to register as a Bidder on the first day of each allocation period (see 'Bidder Registration' below).

Sections 2.6, 2.7 and 2.8 detail the remainder of the process to become a Nominated Applicant when there are Multiple Applicants.

### 2.6 Multiple Applicants - Bidder Registration

Within the notified allocation periods, licence allocations will be carried out on as many days as are necessary to offer all of the licences for bidding. **Individuals holding Bidder Identification Forms who wish to bid during an Allocation Period must register as Bidders on the first day of an Allocation Period.** This is different to the arrangements under the previous price-based allocation. **There will be only one opportunity to register.** Only Registered Bidders may bid in an allocation period (subclause 22(1) of the Determination). Any person who intends during an allocation period to sign a Licence Contract or tender a deposit on behalf of an Applicant must also be registered as a Bidder (clause 23 of the Determination).

Bidder registration will take place only on the first day of each allocation period between 8.30 and 9.30 am. There are two allocation periods:

<table>
<thead>
<tr>
<th>AREAS</th>
<th>ALLOCATION PERIOD</th>
<th>ALLOCATION VENUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW and Queensland Regional Areas</td>
<td>29 May to 1 June</td>
<td>Smith Room Wesley Centre</td>
</tr>
<tr>
<td></td>
<td></td>
<td>220 Pitt Street SYDNEY</td>
</tr>
<tr>
<td>Victoria, Tasmania, Western Australia and South Australia Regional Areas</td>
<td>5 June to 7 June</td>
<td>MELBOURNE (Venue to be advised)</td>
</tr>
</tbody>
</table>

Allocations will not be conducted on a Friday, on weekends or on days that are public holidays in the State where the allocation is taking place.

Licence allocations will continue for as many days within an allocation period as are required to complete the allocations. Registered Applicants will be notified of any change to these dates and venues.

Bidders are advised **not** to leave their registration to the last moment. Registration for the allocation of licences in an allocation period will close **on the first day of the allocation period** before bidding begins and, once closed, cannot be re-opened.
To become Registered Bidders on the first day of an allocation period, individuals must produce an original Bidder Identification Form provided to them and meet the other requirements of clause 21 of the Determination. Photocopies of the Bidder Identification Form will not be accepted (subclause 21(3) of the Determination). Persons wishing to register as Bidders must also provide the evidence of their identity referred to in the Bidder Identification Form. The evidence required is:

- photographic identification being either a driver's licence or passport;

or

- two forms of other suitable identification (such as a birth certificate or credit card), one of which must include a signature.

A photocopy of the identification will be retained by the SMA for records purposes.

After showing the SMA a Bidder Identification Form and identification, Bidders will be asked to sign a Bidder’s Acknowledgment stating, amongst other things, that they are the person authorised by the relevant applicant and they understand the obligation of Bidders (clause 21(3) of the Determination). A copy of the Bidder’s Acknowledgment is at Attachment B.

Persons who have not registered as applicants, and who have not given the SMA Forms of Authority for their representatives, can neither register as a Bidder, or have their representatives registered as Bidders. Applicant representatives who do not show the SMA a Bidder Identification Form and identification on the first day of an allocation period will not be able to bid for licences in that allocation period (subclause 21(5) of the Determination). A Registered Bidder will only be able to bid for licences in the Area(s) nominated on the Bidder Identification Form.

**Replacing Lost or Destroyed Bidder Identification Forms**

Lost or destroyed Bidder Identification Forms can be replaced (11(3) of the Determination). The SMA can also replace a Bidder Identification Form if satisfied that the Form cannot reasonably be made available.

The SMA will accept a statutory declaration as evidence of loss or destruction, and of the reasons for unavailability. Prior to Allocation Periods, the SMA would prefer that Applicants, rather than their representatives, seek replacement Bidder Identification Forms (clause 21 of the Determination).

**Bidder's Paddle**

Registered Bidders will be provided with a bidder's paddle with which they may bid for the Area identified on the paddle (subclauses 21(6) and 21(7) of the Determination).
Only one paddle will be issued to each Bidder for each Area nominated on each 
Bidder Identification Form presented. Paddles will be issued for all Areas on the first 
day of the allocation period.

There is no restriction on an Applicant representative representing more than one 
Applicant in an Area or in respect of more than one Area. It is possible that one 
Applicant Representative will hold a number of bidder's paddles. An Applicant may 
also wish to authorise more than one Applicant Representative, so that several 
bidder's paddles may be identified with one Applicant.

2.7 Multiple Applicant Allocation - Auction Style Process

Reserve Prices

Reserve prices have been set for licences in each Area. Details are set out at 
Attachment C of this Memorandum.

Process

The SMA will manage the auction style allocation process.

A Bid Co-ordinator will be appointed by the SMA. The Bid Co-ordinator will 
conduct an auction-style allocation process in accordance with the Determination.

Registered Bidders will be asked to sit in a designated Area of the allocation venue, 
separate to other persons in attendance, to facilitate the identification of persons with 
authority to bid and to assist the Bid Co-ordinator in identifying bids.

Daily Timetable

On the first day of each allocation period Bidder Registration will open at 8.30 am 
and close 1 hour later. The allocation of licences is expected to commence at 
approximately 10:00 am and proceed until 5:00 pm. There will be a one hour lunch 
break. On the remaining days of the allocation period bidding is expected to 
commence at 10.00am. Any changes to these proposed daily timetables will be made 
known to Registered Bidders.
NOTE

Registered Applicants will be notified in writing of the Areas that will be allocated during each allocation period, and the order in which they will be dealt with. Licences will be allocated in the order notified, but because a registered applicant can become a Lone Applicant in respect of an Area during the course of the auction-style process, licences could be allocated at any time during the allocation period. In other words, an entire Area could be dealt with in a matter of minutes.

It is the responsibility of registered bidders to be in attendance at the allocation venue when bids are invited for licences for which they want to bid. Because it is not known how many, or how quickly, licences will be allocated on any particular day, registered bidders are advised to remain at the allocation venue at all times whilst allocations are taking place.

The SMA is not obliged to take any action to locate registered bidders, and will bear no responsibility if licences in an Area are allocated whilst a registered bidder for that Area is absent from the place of allocation. Applicants should thoroughly familiarise themselves with the provisions of the Determination relating to the conduct of the auction-style process.

Bidding

The Bid Co-ordinator will announce each licence as it becomes available. It is intended that licences in each Area will be allocated sequentially, commencing with the licence with the highest channel number. Bids will be invited for all the licences in one Area before bids are invited for licences in another Area. Licences in more than one Area may be allocated on the same day, or the allocation of licences in a given Area may be split across two days.

Persons intending to bid should note that section 302 of the Act makes it an offence to knowingly or recklessly make a false or misleading statement for the purposes of or in connection with the Act.

Identifying the Highest Bidder

The Bid Co-ordinator will identify the Registered Bidder who bids the highest amount for a particular licence (subclause 22(2) of the Determination).

To assist identification the Bid Co-ordinator will ask that Bidder to show the bidder's paddle for the relevant Applicant and the relevant Area. Bidders should be careful to show the correct paddle.

Any bid below the reserve price will not be accepted (subclause 22(4) of the Determination).
If the highest bidder is a Registered Applicant, he or she becomes the Nominated Applicant. If the highest bidder is a Registered Bidder, the person he or she represents becomes the Nominated Applicant (subclause 22(4) of the Determination).

**Execution of the Licence Contract and Payment of Deposit**

Immediately on being identified, the Nominated Applicant or a Registered Bidder representing the Nominated Applicant must meet with SMA staff, and will be required to prove that he or she is registered to bid as, or on behalf of, the Nominated Applicant (subclause 23(1) of the Determination).

The Nominated Applicant, or a Registered Bidder representing the Nominated Applicant, will then be required to execute a Licence Contract (copy at Attachment B). No alteration to the Licence Contract is permitted.

The Nominated Applicant or a Registered Bidder representing the Nominated Applicant must also tender 10% of the bid price as a deposit (subclause 23(2) of the Determination). The deposit tendered must be in one payment and may consist of cash, bank cheque or personal/company cheque, or any combination of these. Any cash payment made must be less than $10,000 (subclause 23(3) of the Determination). Cheques should be made payable to the “Spectrum Management Agency”. Note: Personal/company cheques are accepted for the deposit because it is recognised that it may not be possible to arrange a bank cheque in the time available. Personal/company cheques are not acceptable for the balance of the bid price.

Following execution of the Licence Contract and payment of the deposit, the Nominated Applicant will be given:

- a receipt; and
- a notice setting out the arrangements for payment for the remainder of the bid price.

If a delay occurs in executing the Licence Contract or tendering the deposit, the SMA may direct that these actions be completed within a reasonable time (subclause 23(2) of the Determination refers to the SMA’s ability to direct the Nominated Applicant). The SMA will only do this when necessary, and when fixing a time limit will have regard to all relevant factors. In particular, the SMA will take into account the fact that clause 23 of the Determination otherwise requires immediate completion of formalities, the circumstances of the delay, the interests and views of the Nominated Applicant, and the interests of the other Bidders in progressing bidding expeditiously.

Failure to execute the Licence Contract or tender the deposit as directed by the SMA will constitute default (clause 24 of the Determination). Section 2.9 of this Memorandum describes 'default' in more detail.
2.8 Multiple Applicant Allocation - Payment of the Remainder of the Bid Price

The remainder of the bid price must be paid no later than 4:00 pm on the business day following the day when the Licence Contract was executed (clause 25 of the Determination). The Nominated Applicant has until 4:00 pm on the day after the Licence Contract is executed to pay the remainder of the bid price. Final payment can be made only:

- for licences allocated in Sydney - at the SMA’s Sydney Office; and
- for licences allocated in Melbourne, at the SMA’s Melbourne or Sydney Office (see Attachment G).

Payment may be made only by cash and/or bank cheque. Any cash payment must be less than $10,000 (clause 25 of the Determination). Cheques should be made payable to the “Spectrum Management Agency”.

*Personal or company cheques cannot be accepted for payment of the balance of the bid price.*

Following payment of the remainder of the bid price, the Nominated Applicant will be given:

- a receipt; and

- details of the procedure for the issue of the licence, including the need for Nominated Applicants to refer to the Regulations and Guidelines.

If a Nominated Applicant fails to pay the full amount of the bid price by the specified time then the Nominated Applicant will have defaulted (clause 26 of the Determination). Section 2.9 of this Memorandum describes 'default' in more detail.

2.9 Multiple Applicants - Default

*Default on Allocation Day*

If a Nominated Applicant defaults by failing to execute the Licence Contract or failing to tender or pay the 10% deposit relating to that licence as directed by the SMA, the allocation of that licence will be set aside (clause 24 of the Determination). Any deposit paid will be forfeited. If no deposit has been paid, an amount equal to the deposit becomes a debt due to the Commonwealth and the Commonwealth will be able to sue to recover it.

In addition, the Nominated Applicant may be sued by the Commonwealth for damages. The Commonwealth may also proceed under any relevant Deed of Guarantee, for the amount of the deposit and damages.

Further, subject to the Determination, the defaulting Applicant will not be able to bid for that or any other licences to be allocated under the Determination. Similarly,
none of that Applicant's representatives will be allowed to bid for that or any other licence (clause 26 of the Determination).

The SMA recognises that there could be circumstances where default is unavoidable and not deliberate on the part of the Nominated Applicant. If the Nominated Applicant can satisfy the SMA that he or she had a reasonable excuse for not executing the Licence Contract or not tendering the deposit, the SMA may decide that Applicant and his/her representatives, if any, need not be excluded from bidding for further licences (clause 26 of the Determination). The amount of the deposit will still be forfeited.

If a Nominated Applicant defaults, the licence in question may be reallocated in the same or an additional allocation period (clause 24 of the Determination). The SMA could also withdraw the licence from the allocation system altogether, and will then decide whether that licence will later be allocated and, if so, how. The options would include allocating “over the counter”, or by a different price-based allocation system such as by pre-determined price. The SMA makes no commitment about future allocation of those licences.

Where default results in there being a Lone Applicant for licences in an Area, the process set out at section 2.4 above will then apply.

**Later Default**

If a Nominated Applicant defaults by failing to pay the balance of the bid price for a licence, the application for that licence ceases to have effect, and the SMA may withdraw the licence from allocation or reallocate it (clause 26 of the Determination.). Any deposit paid will be forfeited, or an amount equal to a deposit tendered but not paid will become a debt to the Commonwealth.

In addition, the Nominated Applicant may be sued by the Commonwealth for damages. The Commonwealth may proceed under any relevant Deed of Guarantee for the amount of the deposit and/or damages.

Further, subject to the Determination, the defaulting Applicant will not be able to bid for that or any other licence to be allocated under the Determination. Similarly none of that Applicant's representatives will be allowed to bid for that or any other licence (clause 26 of the Determination).

The SMA recognises that there could be circumstances where default is unavoidable and not deliberate on the part of the Nominated Applicant. If the Nominated Applicant is able to satisfy the SMA that he or she had a reasonable excuse for not paying the balance of the bid price, the SMA may decide that the Applicant and his/her representatives, if any, need not be excluded from bidding for further licences (clause 26 of the Determination). The amount of the deposit will still be forfeited.
Where default results in there being a Lone Applicant for licences in an Area, the process set out at section 2.4 above will then apply.

2.10 Allocation of Licences where Default has Occurred

Where there are still Multiple Applicants for a licence after a default, the licence may be reallocated in the same or an additional allocation period. If additional allocation periods are held, only Applicants who were previously registered may participate in the allocation (clause 28 of the Determination).

The SMA could also withdraw the licence from the allocation system altogether, and will then decide whether that licence will later be allocated and, if so, how. The options would include allocating “over the counter”, or by a different price-based allocation system such as by pre-determined price. The SMA makes no commitment about future allocation of those licences.

If additional allocations of licences are conducted, Registered Applicants may wish to lodge Forms of Authority under clause 12 of the Determination, which deals with the lodging of Forms of Authority in special circumstances (see Receipt of Late Forms of Authority in Special Circumstances, above). All Forms of Authority must be lodged at the MDS Registration Centre.

The SMA will notify remaining Multiple Applicants of the available licences and the times and venues of additional allocation periods.

COORDINATION PROCESS

2.11 Technical Coordination Process

MDS transmitters must be co-ordinated with other MDS services in the same Group of channels in an MDS Area if an acceptable standard of service is to be enjoyed. Group A channels are channels 1-5. Group B channels are channels 6-19. MDS transmitters must also be co-ordinated with any other affected MDS and non-MDS services, both within and outside the Area.

The SMA will not undertake the coordination of services to be provided by those who become Nominated Applicants under the price-based allocation system. It will be Nominated Applicants who must coordinate the siting and operating characteristics of transmitters so as to minimise the interference they may cause. To facilitate coordination, the Regulations and Guidelines establish a process by which applicants for licences can become aware of each other’s proposed systems and coordinate their services, and if there is disagreement, the matter can be referred to conciliation under the Act.
The process for coordinating is the same for both the initial issue of licences, and for dealing with any proposed alterations to licences; for example, where a licensee wishes to change the method of operating a licensed transmitter, or to establish a new transmitter in an Area. The process is as follows. Nominated Applicants will be able to send forms (called Transmitter Proposals) to the SMA detailing the sites, and the technical operating characteristics, for each of the transmitters that they intend to operate in an Area. A Transmitter Proposal must be in the approved form, and should be supported by certain required documentation (see the Handbook) and sent to the MDS Registration Centre or such other address as may be advised. The SMA will circulate the Transmitter Proposals, and accompanying documentation, to all the other Nominated Applicants in the relevant Group and Area. It is the Nominated Applicant’s responsibility to ensure that the Transmitter Proposal is complete, accurate and conforms with all requirements.

Nominated Applicants should then assess the Proposals to see if the proposed operation of the transmitters would be likely to cause interference to their own proposed services. (The assessment of Transmitter Proposals should be carried out in accordance with the Guidelines, see 2.12 below.)

A Nominated Applicant who has carried out the assessments contained in the Guidelines, and who agrees with a Transmitter Proposal, may advise the SMA in writing of that agreement. A Nominated Applicant who does not expressly agree or disagree with a Transmitter Proposal within 3 months of it being sent, will be deemed to have agreed to it. If all the Nominated Applicants for a Group and Area have either expressly agreed, or have been deemed to have agreed with a Transmitter Proposal, the SMA will issue licences for that Group and Area to give effect to that agreed Transmitter Proposal.

It is important that Nominated Applicants themselves assess a Transmitter Proposal for potential interference to or by their service (using the methods for assessment contained in the Guidelines) before they agree, or are deemed to agree, to a Transmitter Proposal. The SMA will not assess a Transmitter Proposal until it is agreed. Furthermore, Nominated Applicants should not rely on the assessment of Transmitter Proposals by other Nominated Applicants. The assessment conducted by others may be incorrect.

It is important that Nominated Applicants themselves assess a Transmitter Proposal because the SMA is required by the Determination to always issue licences to give effect to an agreed Transmitter Proposal. The SMA is required to impose licence conditions to ensure that interference is not caused contrary to the protection requirements established by the Guidelines. This could lead to a licence condition prohibiting operation of equipment. In other words, once a Transmitter Proposal is agreed, the licences with certain identical conditions will be issued to all Nominated Applicants in a Group and Area, and the licence fees will become payable, but the licensees may not be able to operate a service.

A Nominated Applicant who assesses a Transmitter Proposal in accordance with the Guidelines, and disagrees with it should, within 3 months of it being sent:
Section 2. Obtaining a Licence

(1) if it has not already done so, give the SMA its own Transmitter Proposal with transmitter sites or operating characteristics that will, if assessed under the Guidelines, give rise to interference with transmitters operated under the Transmitter Proposal with which the Nominated Applicant disagrees; and

(2) lodge a complaint under section 205 of the Act with the SMA:

(a) that the operation of the transmitter(s) under the Transmitter Proposal is likely to cause:

(i) interference or risk of interference to radiocommunications; or
(ii) any other disruption or disturbance, or risk of disruption of disturbance, to radiocommunications; and

(b) that the interests of the complainant have been, are or are likely to be affected.

Both of these actions are necessary if the SMA is to be able to refer the matter to conciliation under the Act. The process of conciliation is dealt with in 2.13 below.

Nominated Applicants are strongly encouraged to discuss and, if possible, agree their proposals between themselves before submission to the SMA.

Prospective applicants should also note that in some circumstances, if none of the Nominated Applicants in a Group and Area submits a Transmitter Proposal, all applications for licences in that Group and Area will cease to have effect. In such a case, neither the application fees nor the bid prices paid by those applicants would be refundable.

The circumstances in which failure to submit a Transmitter Proposal will lead to applications ceasing to have effect may vary. Prospective applicants should read the Regulations and the Determination carefully in this regard.

Further detail of the coordination process is provided in the Handbook, which was issued with this Information Memorandum. Additional copies of the Handbook are available on request from the MDS Registration Centre.

2.12 The Guidelines

The Guidelines (see the Handbook) are made under section 112 of the Act and establish, amongst other things, the parameters for technical coordination between regional Area MDS services and other MDS and non-MDS services. Nominated Applicants should follow the Guidelines in establishing their proposed systems.

Section 112(2) of the Radiocommunications Act 1992 requires the SMA to comply with the Guidelines in exercising its powers under sections 107, 108 and 111 (imposing or varying licence conditions) in relation to Multipoint Distribution Station - Regional licences:
Section 2. Obtaining a Licence

(a) to give effect to agreed transmitter proposals in accordance with the Radiocommunications (Allocation of Multipoint Distribution Station Licences - Regional Licences) Determination No. 1 of 1995; and

(b) to give effect to any agreement reached following conciliation; and

(c) in imposing or varying licence conditions in circumstances where no agreement is reached at conciliation.

The Guidelines are aimed at minimising the potential for interference by:

(a) requiring the SMA to impose or vary licence conditions on all licences to ensure both the viable operation of services, and the protection of certain space services; and

(b) establishing specific interference assessments which identify certain protection requirements and requiring the SMA to impose or vary licence conditions to ensure that those protection requirements are not exceeded; and

(c) providing criteria for the imposition of licence conditions to deal with the case where, notwithstanding that licence conditions have been imposed in accordance with the Guidelines and the Assessments, interference is in practice caused by the operation of a service; and

(d) establishing certain criteria to which the SMA may have regard in circumstances where licensees have not been able to agree on how services should be provided.

The specific interference assessments required by the Guidelines are:

A. MDS Transmitter to MDS Receiver
B. MDS Transmitter to Fixed Link Receiver
C. Fixed Link Transmitter to MDS Receiver
D. MDS Transmitter to Earth Station Receiver

The assessments follow the following methodology:

1. For a proposed MDS service, identify which interference assessments are necessary using the criteria specified. If an assessment is necessary, steps 2 - 4 must be completed.
2. Calculate (as appropriate):

a) the terrain loss between antennas for the services being assessed, when the field strength of an unwanted signal at a receiver, or at a boundary of or within an Area, is to be calculated; or

b) the propagation loss between antennas for the services being assessed, when the received power of an unwanted signal at the antenna output of a receiver is to be calculated.

3. Using 2 and other technical parameters, calculate received signal levels.

4. Assess the values calculated at 3 against the relevant receiver protection requirements.

2.13 Conciliation

Where a matter has been referred to a conciliator under Part 4.3 of the Act, the conciliator will try to settle the dispute regarding technical coordination. If as a result of a conciliation the parties reach agreement, one of the parties should submit a Transmitter Proposal to the SMA. If the SMA then verifies that the agreed Transmitter Proposal conforms with the agreement reached at conciliation, the SMA will issue licences in accordance with that Transmitter Proposal.

If the parties cannot agree, then the conciliator will report to the SMA with a recommendation as to how the matter may be resolved. The SMA must consider what technical conditions to impose on the licences. The same coordination process applies to any licence variation after the initial licence issue.

The SMA must have regard to any relevant factor in making its decision about the imposition or variation of conditions. The SMA may have regard to the following:

(a) the recommendation of the conciliator in relation to the matter, if any; and

(b) any transmitter proposals that have been sent to the SMA in respect of licences in the Group and Area to which the matter relates; and

(c) the bid prices paid by each Nominated Applicant, or licensee, for licences in the Group and Area to which the matter relates; and

(d) the number of channels in the Group and Area to which the matter relates in respect of which a party to conciliation is a Nominated Applicant or licensee; and
(e) the extent to which, in the opinion of the SMA, the interests of each Nominated Applicant for licences, or licensee, in the Group and Area to which the matter relates are likely to be substantially adversely affected by the imposition or variation of licence conditions; and

(f) the terms and conditions upon which each Nominated Applicant for licences in the Group and Area, or licensee, to which the matter relates would be able to obtain access to transmitter sites.

2.14 Licence Issue

Subject to the Determination, the SMA will issue a Regional MDS licence as soon as practicable after a Transmitter Proposal has become agreed or conciliation is completed. The first instalment of the licence fee is payable at this time. Once a licence has been issued licensees can operate subject to licence conditions.

2.15 Licence Class

Applicants should be aware that Regional MDS licences do not have the distinction between Class A licences and Class B licences which exist in MDS licences issued earlier. **Regional MDS licences are defined in the Radiocommunications (Definitions) Determination No. 2 of 1993**.

2.16 Licence Fees


Licences in this allocation system will be issued for a 5 year period. The fee for a 5 year period for a Regional MDS licence is currently $5,000, $30,230, $60,455, or $120,905 depending upon the population in the Area in respect of which the licence is issued. The fee is payable in five equal instalments, calculated as follows:

<table>
<thead>
<tr>
<th>Population based on 1991 Australian Bureau of Statistics population census districts</th>
<th>Annual Licence Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than or equal to 500,000</td>
<td>$24,181</td>
</tr>
<tr>
<td>Less than 500,000 but greater than or equal to 200,000</td>
<td>$12,091</td>
</tr>
<tr>
<td>Less than 200,000 but greater than or equal to 10,000</td>
<td>$6,046</td>
</tr>
<tr>
<td>Less than 10,000</td>
<td>$1,000</td>
</tr>
</tbody>
</table>
The population figures on which these fees are based will be fixed for the five year duration of the licence. These fees are fixed until 1 December 1995. If the licence is issued after 1 December 1995 the current policy of the SMA is that the fee will be increased by the previous year’s Consumer Price Index. Once a licence is issued, however, the annual payments are fixed for the term of the licence. The first instalment is payable on the issue of the licence and the remaining four instalments are payable on the anniversaries of the issue of the licence.

The licence fees payable in each Area at the date of publication are set out at Attachment C.

Note that fees are payable in respect of the licence. Subject to technical coordination, the number of transmitters which may be included on each licence without additional licence fees being imposed, is unlimited.

To facilitate the issue of the licence, the SMA seeks payment of the first instalment of the licence fee at the time of issue of the licence.

A successful Applicant will be authorised to operate one or more MDS transmitters on the specified channel once the licence fee is paid and the licence issued. If licence fee instalments are not paid when due the licensee is in breach of a condition of licence, and the SMA may take action under section 113, section 126 and section 128 of the Act. This could include penalty payment, suspension or cancellation of the licence.

2.17 Notification

The SMA will make the following information public with regard to allocated licences:

- name of licensee;
- channel number assigned to the licensee;
- amount paid by the Applicant for the allocation of the licence; and
- contact name and address.

(see clause 34 of the Determination)

The SMA intends to announce the results of allocations at the end of each day's business, including the names of Nominated Applicants and the amounts bid for licences.

Information concerning the licence including licence conditions, transmitter sites, power levels and contact details for a licensee, will be available on the Register of Licences to be established.
SECTION 3 - TECHNICAL INFORMATION

3.1 MDS Spectrum Arrangements

Band Plan

The MDS spectrum arrangements are described in the Band Plan established for the 2076 to 2111 MHz and 2300 to 2400 MHz bands (The Band Plan is at Attachment F).


Planning Assumptions

Applicants should not rely on either:

(a) the document, 'Planning Criteria and Technical Specification for Multipoint Distribution Systems in the 2076 to 2111 MHz and 2300 to 2400 MHz Bands' ('DOC 321') which was used as the technical basis for the development of the Band Plan in 1988 and the issue of MDS licences up to the present time, and any related information; or

(b) the planning information provided in the Major Cities Information Memorandum.

[NOTE. A particular change from DOC 321 is that Group A and Group B MDS Licences have the same sound/vision relationship with the sound carrier frequency above the vision carrier frequency.]

Channels

The channels, as specified in the Band Plan, fall into two groups:

- Group A channels - those numbered from 1 to 5 inclusive and located in the 2076 to 2111 MHz range.
- Group B channels - those numbered from 6 to 19 inclusive and located in the 2300 to 2400 MHz range.

The centre frequencies for each channel numbered 1-19 are identified in the Band Plan. Each channel is 7 MHz wide.
The SMA is aware of no material technical difference in the characteristics of Group A and Group B channels but the use of certain channels may be restricted because of the need to coordinate with adjacent band services (refer to 3.6 - Other Adjacent Band Services). Both Group A and Group B channels should be suitable to deliver the full range of services that can be delivered in the MDS bands (ie text, graphics, still pictures, sound, non-entertainment video, and entertainment video including pay television).

Licences

A copy of a specimen licence for a Multipoint Distribution Station that would be licensed as a result of this process has been provided in the Coordination Handbook. The licence is for a Pal B Vision licence. It should be noted that the Area, the operating power, frequency and other factors may vary from licence to licence. Each licence will authorise the licensee to operate any number of transmitters in a single specified channel in a specified Area.

Transmitters and Repeaters

For MDS licences allocated in the Major City Allocation, a site-based planning model was used including a requirement for main transmitters to use vertical polarisation and for repeaters to use horizontal polarisation. This requirement was imposed to give maximum opportunity for repeaters to fill in coverage with minimum interference from co-channel transmitters from within or outside an area. For regional MDS licences, an area-based planning model applies so that the concept of main transmitters and repeaters is not meaningful in this allocation.

For regional MDS, it is desirable to give as much planning flexibility to licensees as possible and consideration has been given to removing unnecessary technical constraints. The SMA has decided that the requirement for co-siting and common power levels for transmitters at a site will still be imposed but there is no need to regulate the polarisation of transmitters at any site in a regional Area.

Licensees may be able to exploit the benefits of polarisation discrimination in their network planning although it should be noted that polarisation discrimination does not reduce the level of protection to be given to other MDS services. Whilst it is not mandatory for different licensees to have co-polar transmissions at a common site, it may simplify the receiver equipment requirements and it may better facilitate the future amalgamation of channels to support multi-channel or high definition digital transmission. Applicants are advised to get independent technical advice on this matter.

3.2 Characteristics and Planning Assumptions

Typically, a Multipoint Distribution System consists of a microwave transmitter and associated omnidirectional antenna (together known as a Multipoint Distribution Station) with receiving stations (known as Multipoint Distribution Station Receivers) located within radio line of sight of the Multipoint Distribution Station. MDS
receivers generally consist of a highly directional microwave receive antenna, a
down converter, and a high quality receiver.

The planning framework for Multipoint Distribution Systems is significantly
different from broadcasting services. It should also be noted that broadcasting
services use lower frequencies, and this provides acceptable reception even when
there is an obstructed radio path between the transmitter and receiver. The higher
frequencies used for MDS will only provide reliable reception when there is an
unobstructed radio path between the Multipoint Distribution Station and the MDS
receiver.

Planning Objective

The planning objective for MDS is to allow the maximum number of services by
using every channel in every Area.

To achieve this, adjacent channel operation is essential and several compromises are
necessary. This results in the need for:

- the establishment of an Area, in which receivers within radio line of sight of
  the MDS transmitter are afforded a measure of protection;
- restrictions on the performance characteristics and the siting of transmitting
  installations;
- a high quality receive system, particularly the antenna and receiver (compared
  with television broadcasting practice); and
- Guidelines under section 112 of the Act to give certainty to licensees who, if
  they undertook their planning according to those Guidelines, would be issued a
  licence in terms of their Transmitter Proposal.

Basis of Technical Specifications

The technical specifications for Regional Multipoint Distribution Systems are based
on the following assumptions:

- effective co-siting of MDS transmitters to achieve the use of adjacent channels
  in the same Area;
- a definition of Area;
- receive sites within radio line of sight of the transmitter;
- co-channel protection ratio of 45 dB (CCIR Rec.655);
- emission limits as specified in this Memorandum; and
- average performance of a sample of receivers (TVs and VCRs).
**Reference Receiving System**

Planning by the SMA for Multipoint Distribution Systems is based on providing a minimum wanted to unwanted signal level protection ratio at the input to a reference receiving system. That reference receiving system is defined as having the following characteristics:

**Antenna**

- gain 21 dBi on all channels
- front to back ratio 25 dB
- cross polar discrimination 25 dB at the main lobe of the antenna radiation pattern

**Receiver**

- adjacent channel protection ratio -5 dB based on a vision to sound ratio of 15 dB and receive level = 1 mV
- image protection ratio* -5 dB
- IF beat protection ratio* -5 dB

**Downconverter**

- downconverter noise figure 4 dB

* Where two or more adjacent image and IF beat signals are present receivers with better protection or additional filtering may be necessary.

**System Margins**

The SMA assumes that the maximum difference between wanted and unwanted adjacent channel signals from co-sited and co-polar MDS transmitters can be maintained within 5 dB. This figure is based on a 1 dB allowance for difference in transmitter powers, a 2 dB allowance for transmitter radiation pattern variations, and a 2 dB allowance for propagation and downconversion gain differences.
The SMA expects that with an increased vision to sound ratio of 15 dB most receivers would achieve an adjacent channel protection ratio of -5 dB or better.

 Receivers that provide a better adjacent channel rejection ratio are available, and can provide an additional margin of protection against adjacent channel interference. Receivers that are not able to meet the above performance may need to be fitted with adjacent channel rejection filters.

3.4 Technical Aspects

Area

A licence will enable transmitters on a specified frequency to be used in the MDS bands for the delivery in designated Area of the services specified in the MDS Band Plan. Applicants should note that the Area in which a transmitter is licensed is not a licence area for the purposes of broadcasting planning. It is a geographic definition for the purposes of the Act and in particular for:

• frequency coordination and interference management; and
• delineating where transmitters may be installed.

The SMA does not propose to afford licensees any further interference management from existing services that are operating in accordance with their licence conditions.

Any fortuitous reception of transmission by transmitter licensees outside each Area will not be considered for the purposes of frequency coordination and interference management with existing or future radiocommunications services that may be licensed.

Applicants should take whatever steps they consider necessary to ensure that they have access to appropriate technical advice on potential interference to other services.

Applicants should be aware that, subject to the Act, the Commonwealth has no responsibility for reception quality from MDS (or other radiocommunications) services, even where transmitter locations and power levels comply with the licence conditions. Reception quality can be affected by a number of factors, including atmospheric changes, receiver quality and location. These are matters entirely for the licensee and/or operators of receivers to resolve.
**Radiated Power Levels**

Radiated power levels are a licence condition.

There is no upper power limit for transmitters but the minimum power necessary to achieve the desired coverage should be used. In addition, power will be limited naturally by the need to coordinate with other MDS and non-MDS services.

All co-sited transmitters in each Group of channels and Area must be operated at close to equal radiated power levels. This will minimise the potential for interference between transmission on adjacent channels, and will allow directional receiver antennas to be oriented to a single source for multiple services.

Power limits in the vertical plane are included in the licence conditions. This is to limit the potential for interference to space services that use the MDS band.

To minimise the potential for interference to other services, licensees should use the minimum practical transmit antenna height and power consistent with coverage of the Area. In many cases the antenna height will not be determined by the coverage requirement, but by the height of buildings or by local terrain. Where the height exceeds that required for coverage within the Area, the transmitting antenna should be constructed and erected to minimise signals radiated outside the Area. In considering the intended coverage, it may be necessary to include some degree of beam tilt in the transmit antenna design.

Power will be limited by the need to co-ordinate with adjacent MDS Areas and other non-MDS services (see the Guidelines).

**Emissions**

Emission formats are a licence condition.

Transmission complying with the emission mask accepted by the SMA for video services under DOC 321 will be approved. This mask reflects emission characteristics of a PAL-B video signal with one vision carrier and a sound carrier with a reduced sound carrier power level. If emissions conform to this mask, modulation and carrier frequency relationships, there can be confidence that adjacent channel operation will be satisfactory.

Other types of transmissions may be authorised on application to the SMA, however, the effect on adjacent channel operation would need to assessed. The person proposing a type of transmission different to the above will be required to demonstrate that the likelihood of interference to adjacent channel MDS services is not increased.
Transmitter Location

Licensees are strongly encouraged to share the same sites and transmission infrastructure to minimise interference. This is because transmitters that are not co-sited (that is, located so that they can be encompassed within a circle with a 500 metre radius) are likely to suffer adjacent channel interference.

Applicants should be aware that even when transmitters are ‘co-sited’, reception close to the limit of the 500 metre radius circle, or close to one or another of separate transmitter locations, could be at increased risk of adjacent channel interference and/or be unable to rely on a single directional antenna to receive services from the different transmitters.

Applicants should note that a licence does not give the licensee any authority to enter, erect or operate a transmitter at a particular site. Applicants must make their own arrangements with site owners for access to sites.

3.5 Adjacent Space Research Services

Potential exists for interference to some regional MDS Group A channels from transmitters in the space research service operating at Tidbinbilla (near Canberra), and from Gnangara near Perth. The Tidbinbilla service operates in the band 2025 - 2120 MHz, with transmitter power typically up to 20 kW, coupled to large dish antennas with on-axis gains between 52 and 63 dBi. Occasionally transmitter power levels of up to 400 kW are used, but only at higher antenna elevation angles and in several small sub-bands within the range 2025 - 2120 MHz.

The Gnangara service also operates in the band 2025 - 2120 MHz, with a transmitter power typically of 400 W, coupled to a dish antenna of 48 dBi gain. Occasionally a transmitter power of 2 kW is used if required.

The space research (deep space) receivers at Parkes (NSW) and Tidbinbilla in the 2290 - 2300 MHz band are highly sensitive and the Guidelines require the SMA to impose licence conditions to protect these services.

Potentially all of these space services could operate continuously.

More detail on the potential for interference to and from these deep space research services is provided in the Handbook. Additionally, the Guidelines provide detailed technical information on the procedures to be used to co-ordinate MDS services with the deep space receivers at Tidbinbilla and Parkes.

Prospective licensees should also note that the SMA, in allocating MDS licences, does not guarantee that receivers under an MDS licence will not suffer interference from Earth Station transmitters. It is the responsibility of licensees to undertake their technical planning so as to minimise interference from Earth station transmitters (see Assessment E of the Guidelines).

3.6 Other Adjacent Band Services
There are approximately 1000 fixed link services in bands adjacent to MDS services Australia-wide which may require coordination with proposed MDS services depending upon the proposed location of transmitters and receivers. Prospective licensees should make their own assessment on the impact of these fixed link services on the usability of particular MDS channels. A list of services operating adjacent to the MDS bands is available from the MDS Registration Centre. A map showing the locations of those adjacent services is in the Handbook.

The interference potential of these adjacent services is likely to vary across a Regional Area because of its size. It is possible that a Multipoint Distribution System channel that is unavailable in one part of a relatively large Area (due for example to an existing fixed link, or a deep space research service), will be available in another part of the Area (due to the distance separation between the services). The information in the Handbook will assist prospective licensees to evaluate such possibilities.

The SMA does not propose to initiate clearance of any of these adjacent band services. However, MDS licensees may wish to pursue commercial agreements with adjacent band licensees to enable greater MDS usage.

See also 1.7 Adjacent Bands and areas.
SECTION 4 - TRANSMITTER LICENCES

All services are subject to the licence conditions outlined in the Act (refer section 107 and section 108). Applicants should familiarise themselves thoroughly with the Act, Regulations, Guidelines and other relevant statutory instruments.

4.1 Transfer of Licences

There is presently no provision in the Act to enable apparatus licences to be transferred between parties. Licensees may use the licences themselves or authorise third party users, under section 114 of the Act, but may not assign or transfer their licences to another person or organisation. There is no present intention by the SMA to make a determination limiting third party use under section 115 of the Act.

Amendments to the Radiocommunications Act 1992 to permit the transfer of apparatus licences between parties have been introduced into Parliament in 1994 with passage anticipated in the first half of 1995.

The SMA should be advised of any change of contact name for a Company holding a licence.

4.2 Licence Conditions

A licence will allow the licensee to operate transmitters within an Area. Licences will come into effect on the date of issue and be for a period of 5 years (clause 33 of the Determination).

A number of technical conditions will be included on the licence such as:

- transmitter locations;
- emission designator/s in accordance with ITU designations1;
- carrier frequencies;
- power (eirp) and power limits in the horizontal and vertical plane and
- antenna characteristics, such as orientation, polarisation and antenna height.

A copy of a specimen licence is in the Handbook.

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1The designation of radio emissions according to bandwidth and classification is to be as defined in Article 4 of the International Telecommunication Union Radio Regulations (Edition of 1990). Examples are 6M25C3F for the video signal of a PAL-B television signal and 150KF3E for the associated sound signal.
4.3 Licence Use

Applicants should note that other regulatory requirements, such as the provisions of the Broadcasting Services Act 1992, where applicable may need to be met. Applicants should also consider whether the requirements of any other legislation may need to be met.

If a licensee wants to change the way that licensed equipment is used, the coordination process dealt with in the Handbook above must be followed.

Although there are limits on the purposes for which licences can be used, there is presently no requirement that licences be used.

Applicants for licences should be aware that the SMA has powers regarding apparatus licences under section 111, section 126 and section 128 of the Act to:

- vary conditions on licences;
- impose additional conditions on licences;
- suspend or cancel licences.

4.5 Licence Renewal

The Determination does not apply to the renewal of licences issued under the Determination (clause 3 of the Determination).

The SMA can make no commitment about the renewal of licences, and the cost of such renewals. Where the SMA refuses to renew an apparatus licence or renews the licence on different conditions, the SMA must comply with the Act. In accordance with subsection 130(5) of the Act, the SMA must give the licensee a written notice stating that it is renewing the licence on different conditions, together with a statement of its reasons. Refusals to renew apparatus licences and changes to licence conditions on renewal are reviewable under Part 5.6 of the Act.
SECTION 5 - REMOTE AREA LICENCES

Licences to provide MDS services in Remote Areas of Australia, that is areas outside the Major Cities or Regional Areas, are not available under this Determination.

The SMA has not finalised a process for issue of Remote Area MDS licences. However one option being considered is that intending licensees approach the SMA with a proposal for licence(s) to be issued in regard to a particular Remote Area. The SMA will then take steps to ascertain the level of interest from other parties in the licences being allocated in the proposed Remote Area. If SMA determines that there is no interest, then the proponent will be asked to submit application(s) for licences in the proposed Remote Area. If there is a sufficient level of interest to justify a price-based allocation, the SMA will then decide its preferred method of price-based allocation. This may require the making of a further Determination under s.106.

As mentioned above the SMA has not finalised the procedure for allocation of licences in Remote Areas. Prospective licensees seek further details from the SMA when the regional MDS allocation process has been completed.
# Glossary of Terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act</td>
<td>Radiocommunications Act 1992</td>
</tr>
<tr>
<td>AEST</td>
<td>Australian Eastern Standard Time</td>
</tr>
<tr>
<td>Applicant</td>
<td>A person who has submitted an Applicant Registration Form</td>
</tr>
<tr>
<td>Area</td>
<td>One of the 18 Areas defined in Schedule 1 of the Determination</td>
</tr>
<tr>
<td>Bid Co-ordinator</td>
<td>A person appointed by the SMA under clause 18 of the Determination to identify the highest bidder</td>
</tr>
<tr>
<td>Closing Day</td>
<td>As defined in clause 2(1) of the Determination. The day identified as the last day on which a person may give the SMA an Applicant Registration Form in the notice published by the SMA</td>
</tr>
<tr>
<td>Determination</td>
<td>Radiocommunications (Allocation of Multipoint Distribution Station Licences - Regional Licences) No. 1 of 1995</td>
</tr>
<tr>
<td>EIRP</td>
<td>Equivalent Isotropically Radiated Power</td>
</tr>
<tr>
<td>Group</td>
<td>Group A is channels 1 - 5</td>
</tr>
<tr>
<td></td>
<td>Group B is channels 6 - 19</td>
</tr>
<tr>
<td>Guidelines</td>
<td>The Radiocommunications (Multipoint Distribution Station - Regional Licences) Guidelines No. 1 of 1995</td>
</tr>
<tr>
<td>Handbook</td>
<td>The MDS Coordination Handbook</td>
</tr>
<tr>
<td>Lone Applicant</td>
<td>As defined in clause 13 of the Determination. A person who has submitted the only application for a licence in a particular Area</td>
</tr>
<tr>
<td>Major City</td>
<td>Any city to which the Major Cities Information Memorandum applies</td>
</tr>
<tr>
<td>MDS</td>
<td>Multipoint Distribution Station</td>
</tr>
</tbody>
</table>
| **MDS Registration Centre** | MDS Registration Centre  
Spectrum Management Agency  
PO Box 78  
BELCONNEN ACT 2616  
or  
Fifth Floor, Purple Building  
Benjamin Offices  
Chan Street  
BELCONNEN ACT 2617 |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Major Cities Information Memorandum</strong></td>
<td>Multipoint Distribution Station Transmitter Licence Allocation - Information Memorandum, May 1994</td>
</tr>
<tr>
<td><strong>Multiple Applicant</strong></td>
<td>A person who has submitted an application for a licence in a particular Area in respect of which other Applicants have also submitted applications</td>
</tr>
<tr>
<td><strong>Nominated Applicant</strong></td>
<td>As defined in clause 22 of the Determination. An Applicant that has been allocated a licence that has not yet been issued</td>
</tr>
<tr>
<td><strong>Nominated Lone Applicant</strong></td>
<td>A Lone Applicant who has been allocated licences in a particular Area</td>
</tr>
<tr>
<td><strong>Regional Area</strong></td>
<td>An Area defined for the purpose of the Regional licence allocation process</td>
</tr>
<tr>
<td><strong>Regulations</strong></td>
<td>Radiocommunications (Coordination) Regulations made under the Act - copy in Handbook</td>
</tr>
<tr>
<td><strong>Remote Area</strong></td>
<td>An Area defined as an Area not covered in this Memorandum or in the previous major city MDS licence allocation.</td>
</tr>
<tr>
<td><strong>Reserve Prices</strong></td>
<td>The minimum price payable for allocation of a licence in the Area</td>
</tr>
<tr>
<td><strong>SMA</strong></td>
<td>Spectrum Management Agency</td>
</tr>
<tr>
<td><strong>Transmitter</strong></td>
<td>Includes repeater</td>
</tr>
</tbody>
</table>
ATTACHMENT A

THE DETERMINATION
Attachment A - The Determination

The Radiocommunications (Allocation of Multipoint Distribution Licences – Regional Licences) Determination No.1 of 1995 is only available in hard copy.

For a copy please email mat@aca.gov.au
ATTACHMENT B

FORMS APPROVED UNDER THE DETERMINATION
Attachment B - Forms Approved Under The Determination

Forms are available only in hard copy.

For a copy please email mat@aca.gov.au
ATTACHMENT C

TABLE OF RESERVE PRICES AND LICENCE FEES
Attachment C – Table Of Reserve Prices And Licence Fees

For a more detailed description of Areas see Schedule 1 of the Determination

PROPOSED SYDNEY ALLOCATION

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Area Name</th>
<th>(3) Reserve Price Per Channel</th>
<th>(4) Five Year Licence Fee</th>
<th>(5) Annual Licence Fee Instalment (Column (4) / 5 )</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>Southern NSW Area</td>
<td>$79,500</td>
<td>$120,905</td>
<td>$24,181</td>
</tr>
<tr>
<td></td>
<td>Northern NSW Area</td>
<td>$66,100</td>
<td>$120,905</td>
<td>$24,181</td>
</tr>
<tr>
<td></td>
<td>Gosford Area</td>
<td>$10,200</td>
<td>$30,230</td>
<td>$6,046</td>
</tr>
<tr>
<td></td>
<td>Broken Hill Area</td>
<td>$2,500</td>
<td>$30,230</td>
<td>$6,046</td>
</tr>
<tr>
<td>QLD</td>
<td>South-East Qld Area</td>
<td>$57,000</td>
<td>$120,905</td>
<td>$24,181</td>
</tr>
<tr>
<td></td>
<td>Mackay/Rockhampton Area</td>
<td>$29,700</td>
<td>$60,455</td>
<td>$12,091</td>
</tr>
<tr>
<td></td>
<td>Townsville Area</td>
<td>$22,500</td>
<td>$60,455</td>
<td>$12,091</td>
</tr>
<tr>
<td></td>
<td>Sanctuary Cove Area</td>
<td>$15,600</td>
<td>$30,230</td>
<td>$6,046</td>
</tr>
<tr>
<td></td>
<td>Mount Isa Area</td>
<td>$2,600</td>
<td>$30,230</td>
<td>$6,046</td>
</tr>
<tr>
<td></td>
<td>Port Douglas Area</td>
<td>$1,000</td>
<td>$5,000</td>
<td>$1,000</td>
</tr>
</tbody>
</table>
### PROPOSED MELBOURNE ALLOCATION

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Area Name</th>
<th>(3) Reserve Price Per Channel</th>
<th>(4) Five Year Licence Fee</th>
<th>(5) Annual Licence Fee Instalment (Column (4) / 5 )</th>
</tr>
</thead>
<tbody>
<tr>
<td>VIC</td>
<td>Regional Victoria Area</td>
<td>$147,200</td>
<td>$120,905</td>
<td>$24,181</td>
</tr>
<tr>
<td>TAS</td>
<td>Regional Tasmania Area</td>
<td>$26,000</td>
<td>$60,455</td>
<td>$12,091</td>
</tr>
<tr>
<td>WA</td>
<td>South west Western Australia Area</td>
<td>$25,400</td>
<td>$60,455</td>
<td>$12,091</td>
</tr>
<tr>
<td></td>
<td>Kalgoorlie Area</td>
<td>$5,500</td>
<td>$30,230</td>
<td>$6,046</td>
</tr>
<tr>
<td></td>
<td>Geraldton Area</td>
<td>$4,200</td>
<td>$30,230</td>
<td>$6,046</td>
</tr>
<tr>
<td>SA</td>
<td>Spencer Gulf Area</td>
<td>$20,900</td>
<td>$30,230</td>
<td>$6,046</td>
</tr>
<tr>
<td></td>
<td>Mt Gambier Area</td>
<td>$6,400</td>
<td>$30,230</td>
<td>$6,046</td>
</tr>
<tr>
<td></td>
<td>Renmark/Loxton Area</td>
<td>$3,900</td>
<td>$30,230</td>
<td>$6,046</td>
</tr>
</tbody>
</table>
ATTACHMENT D

DESCRIPTION OF MDS REGIONAL AREAS AVAILABLE
**Attachment D - Description Of MDS Regional Areas Available**

For a more detailed description of Areas see Schedule 1 of the Determination

### PROPOSED SYDNEY ALLOCATION

<table>
<thead>
<tr>
<th>Area</th>
<th>Area Name</th>
<th>General Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NSW</strong></td>
<td>Southern NSW Area</td>
<td>Southern NSW but not including parts of NSW near the Victorian border which are part of the Regional Victoria MDS Area. Also not including the existing MDS area within a radius 50 km of Sydney nor the existing MDS area within a 50 km radius of Canberra nor the existing MDS area within a 50 km radius of Newcastle nor the existing MDS area within a 20 km radius of Wollongong.</td>
</tr>
<tr>
<td></td>
<td>Northern NSW Area</td>
<td>Northern NSW but not including the existing MDS area within a 50 km radius of Newcastle nor the Gosford MDS area nor the existing MDS area within a 20 km radius of the Gold Coast.</td>
</tr>
<tr>
<td></td>
<td>Gosford Area</td>
<td>Area centred on Gosford but not including the existing MDS area within a 50 km radius of Newcastle nor the existing MDS area within a 20 km radius of Sydney.</td>
</tr>
<tr>
<td></td>
<td>Broken Hill Area</td>
<td>Area centred on Broken Hill.</td>
</tr>
<tr>
<td><strong>QLD</strong></td>
<td>South-East Qld Area</td>
<td>Area centred on Maryborough, Brisbane and Toowoomba but not including the existing MDS area within a 50 km radius of Brisbane.</td>
</tr>
<tr>
<td></td>
<td>Mackay/Rockhampton Area</td>
<td>Area centred on Mackay and Rockhampton.</td>
</tr>
<tr>
<td></td>
<td>Townsville Area</td>
<td>Area centred on Townsville but not including the existing MDS area within a 50 km radius of Cairns.</td>
</tr>
<tr>
<td></td>
<td>Sanctuary Cove Area</td>
<td>Area centred on the area between the existing MDS area within a 20 km radius of the Gold Coast and the existing MDS area within a 50 km radius of Brisbane, but not including them. Bounded in the west by the Darlington Range.</td>
</tr>
<tr>
<td></td>
<td>Mount Isa Area</td>
<td>Area centred on Mount Isa.</td>
</tr>
<tr>
<td></td>
<td>Port Douglas Area</td>
<td>Area centred on Port Douglas but not including the existing MDS area within a 50 km radius of Cairns.</td>
</tr>
</tbody>
</table>
(continued)

**PROPOSED MELBOURNE ALLOCATION**

<table>
<thead>
<tr>
<th>Area</th>
<th>Area Name</th>
<th>General Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>VIC</td>
<td>Regional Victoria Area</td>
<td>The majority of regional Victoria (see Mt Gambier below) and some parts of NSW near the Victorian border, but not including the existing MDS area within a 50 km radius of Melbourne.</td>
</tr>
<tr>
<td>TAS</td>
<td>Regional Tasmania Area</td>
<td>All of Tasmania but not including the existing MDS area within a 50 km radius of Hobart.</td>
</tr>
<tr>
<td>WA</td>
<td>South west Western Australia Area</td>
<td>An area centred on South west Western Australia but not including the existing MDS area within a 50 km radius of Perth.</td>
</tr>
<tr>
<td></td>
<td>Kalgoorlie Area</td>
<td>An area centred on Kalgoorlie.</td>
</tr>
<tr>
<td></td>
<td>Geraldton Area</td>
<td>An area centred on Geraldton but not including the existing MDS area within a 50 km radius of Perth.</td>
</tr>
<tr>
<td>SA</td>
<td>Spencer Gulf Area</td>
<td>The Spencer Gulf and areas surrounding Adelaide but not including the existing MDS area within a 50 km radius of Adelaide.</td>
</tr>
<tr>
<td></td>
<td>Mt Gambier Area</td>
<td>Area centred on Mt Gambier including a small area of Victoria.</td>
</tr>
<tr>
<td></td>
<td>Renmark/Loxton Area</td>
<td>Area centred on Renmark/Loxton.</td>
</tr>
</tbody>
</table>
## MULTIPOINT DISTRIBUTION STATION (MDS) LICENCES  
### REGIONAL AUSTRALIA

### INVITATION TO APPLY FOR A LICENCE

The Spectrum Management Agency (SMA) is undertaking the price-based allocation of 342 Multipoint Distribution Station (MDS) licences in defined areas of Regional Australia. MDS licences can be used for the transmission of text, graphics, still pictures, sound, non entertainment video and entertainment video including pay TV.

Licences will be allocated in accordance with the Radiocommunications (Allocation of Multipoint Distribution Station Licences - Regional Areas) Determination No. 1 of 1995 (the Determination) under the Radiocommunications Act 1992.

The frequency channels of these licences lie within the bands 2076 - 2111 MHz and 2300 - 2400 MHz and are specified in the MDS Band Plan and the Determination.

The SMA is now inviting applications for licences. Application is by registration as an applicant for licences in at least one Area. Applicants seek registration by submitting completed and legible Applicant Registration Forms and associated forms and forwarding a bank cheque for a non refundable application fee of $400 for each Area to the MDS Registration Centre no later that 4:00pm AEST on 5 May 1995.

If only one applicant applies for an Area, that applicant will be offered up to 19 MDS licences for that Area at a Reserve Price. If there is more than one applicant for an Area, the licences for that Area will be allocated in an auction style process to be held in Sydney and Melbourne in late May/June. Licence allocation will not take place on Fridays, weekends or local public holidays.

Prospective applicants are advised to read the Determination carefully. Any departure from the procedures set out in the Determination for all stages of the process could render an application invalid.

### OBTAINING ADDITIONAL INFORMATION

Interested parties may obtain copies of the Determination, the MDS Information Memorandum, Coordination Handbook, Applicant Registration Form and other associated Forms by writing to the MDS Registration Centre or from any Regional Office of the SMA. Forms and application fees must not be lodged at a Regional Office, and must be sent to the MDS Registration Centre.

### ADDRESSES FOR CORRESPONDENCE

**POSTAL ADDRESS**

MDS Registration Centre  
Spectrum Management Agency  
PO Box 78  
BELCONNEN ACT 2616

**STREET ADDRESS**

MDS Registration Centre  
Spectrum Management Agency  
Level 5  
Purple Building  
Benjamin Offices  
Chan Street  
BELCONNEN ACT

**FACSIMILE NUMBER**

06 253 3009

**ENQUIRY NUMBER**

06 256 5512

APPLICANT REGISTRATION FORMS AND APPLICATIONS FEES MUST BE RECEIVED AT THE MDS REGISTRATION CENTRE BY 4:00PM AEST ON 5 MAY 1995
ATTACHMENT F

MDS BAND PLAN
Attachment F - MDS Band Plan


Or, for a hard copy please email mat@aca.gov.au
ATTACHMENT G

SMA ADDRESSES FOR PAYMENT OF BID PRICE
Attachment G - SMA Addresses For Payment Of Bid Price

**Sydney**

6th Floor  
Victoria Cross Building  
60 Miller Street  
NORTH SYDNEY NSW 2060

Telephone (02) 922 9164

**Melbourne**

3rd Floor  
Building 3  
6 Riverside Quay  
SOUTH MELBOURNE VIC 3205

Telephone (03) 685 3585