

ATTACHMENT D

Community broadcasting allocation report

Mount Barker RA1

SEPTEMBER 2020

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Executive summary

On 16 October 2019, in accordance with section 80 of the *Broadcasting Services Act 1992* (the BSA), the Australian Communications and Media Authority (the ACMA) advertised for applications for an analog long-term community broadcasting licence SL1180024 (the licence) to use the 88.9 MHz frequency planned in the Mount Barker RA1 licence area (the licence area).

Applications closed on 29 November 2019. Applications were received from:

- > Hills Radio Incorporated (Hills)
- > Lofty Community Media Incorporated (Lofty).

Both applicants have expressed an intention to represent the general community interest of the licence area.

The ACMA considers that community participation and engagement are the cornerstone of community broadcasting.

The ACMA has assessed both applications, having regard to the statutory criteria at subsection 84(2) of the BSA (the statutory criteria).

The ACMA has also assessed the relative merits of each application.

The ACMA is of the view that each applicant meets, or could readily meet, the minimum statutory requirements. However, an assessment of the relative merits of both applications demonstrates that Lofty has made a more persuasive case that it has the capacity to provide a community broadcasting service on a long-term basis. The ACMA notes the following:

- > Each applicant's initial application raised concerns about the degree to which it had the capacity to provide the service (paragraph 84(2)(d) of the BSA). For Hills, these concerns were about its capacity to comply with the community participation licence conditions at paragraph 9(2)(c) of Schedule 2 to the BSA. For Lofty, these concerns were about its financial capacity to provide the service.
- > Each applicant was given reasonable opportunities to respond to the ACMA's questions about these concerns by providing submissions at a scheduled video meeting with the ACMA, and by providing written answers to subsequent written questions.
- > Lofty's submissions have addressed concerns about its financial capacity. It is currently running a deliberately lean operation noting the temporary nature of its licence. It has provided additional information, based on reasonable assumptions, about how it can and will adapt to meet its financial obligations should the ACMA agree to allocate a long-term licence.
- > The ACMA is not persuaded that Hills' submissions have fully addressed the ACMA's concerns about its compliance capacity. Hills' constitution and by-laws raise some concerns about community participation which the responses have only partly addressed. In this context the ACMA also notes that in responding to a 2017 breach of the Community Radio Broadcasting Codes of

Practice 2008 relating to community participation issues Hills did not take action recommended by the ACMA to fully remedy that breach.

- > In addition, Lofty's methods to identify and monitor community needs, considered overall, make use of greater direct engagement with the community than do Hills'.
- > On balance, Lofty appears to have a greater capacity to provide its proposed service.

As a result, the ACMA considers that, overall, Lofty's application presents the more persuasive case, having regard to the criteria at subsection 84(2) of the BSA, and Lofty should therefore be granted the licence.

Introduction

Community broadcasting

Australian community broadcasting services are provided by, and for, the community and are not operated for profit or as part of a profit-making enterprise. Community broadcasters differ from other broadcasting services in that they have a local focus and a role in attracting local community participation in broadcasting.¹ Community participation and engagement are the cornerstone of community broadcasting and is a key feature that distinguishes community broadcasting from commercial broadcasting services.

Community radio services meet the objectives of the BSA by promoting the diversity of broadcasting services available to the Australian public, developing and reflecting Australian identity, character and cultural diversity, and providing programming material that is locally significant.

It is in this context that, having regard to the statutory criteria, the ACMA assesses applications for a long-term community broadcasting licence and decides whether to allocate the licence.

When there is more than one applicant for a long-term community broadcasting licence, the ACMA is to have regard to the statutory criteria in assessing the relative merits of each application.

Allocation of a community broadcasting licence

When making a community broadcasting licence available for allocation, the ACMA advertises for applications (section 80 of the BSA). Both applicants have expressed an intent to represent the general community interest of the licence area.

There is no requirement that the ACMA allocate a licence once advertised (section 85 of the BSA).

The ACMA advertised the availability of the licence on 16 October 2019, in local press and online, and received applications from Hills and Lofty.

This assessment of the applications is based on the following sources.²

- > Demographic information about the licence area.
- > The applications made by Hills and Lofty on 27 and 28 November 2019, respectively.
- > Hills' by-laws, dated December 2015, sent to the ACMA on 27 July 2017 as part of its application for a temporary community broadcasting licence (TCBL).³
- > Lofty's Prospectus, provided on 8 April 2020.

¹ See Revised Explanatory Memorandum to the Broadcasting Services Bill 1992, p. 46.

² Any other sources are identified in this report where relevant.

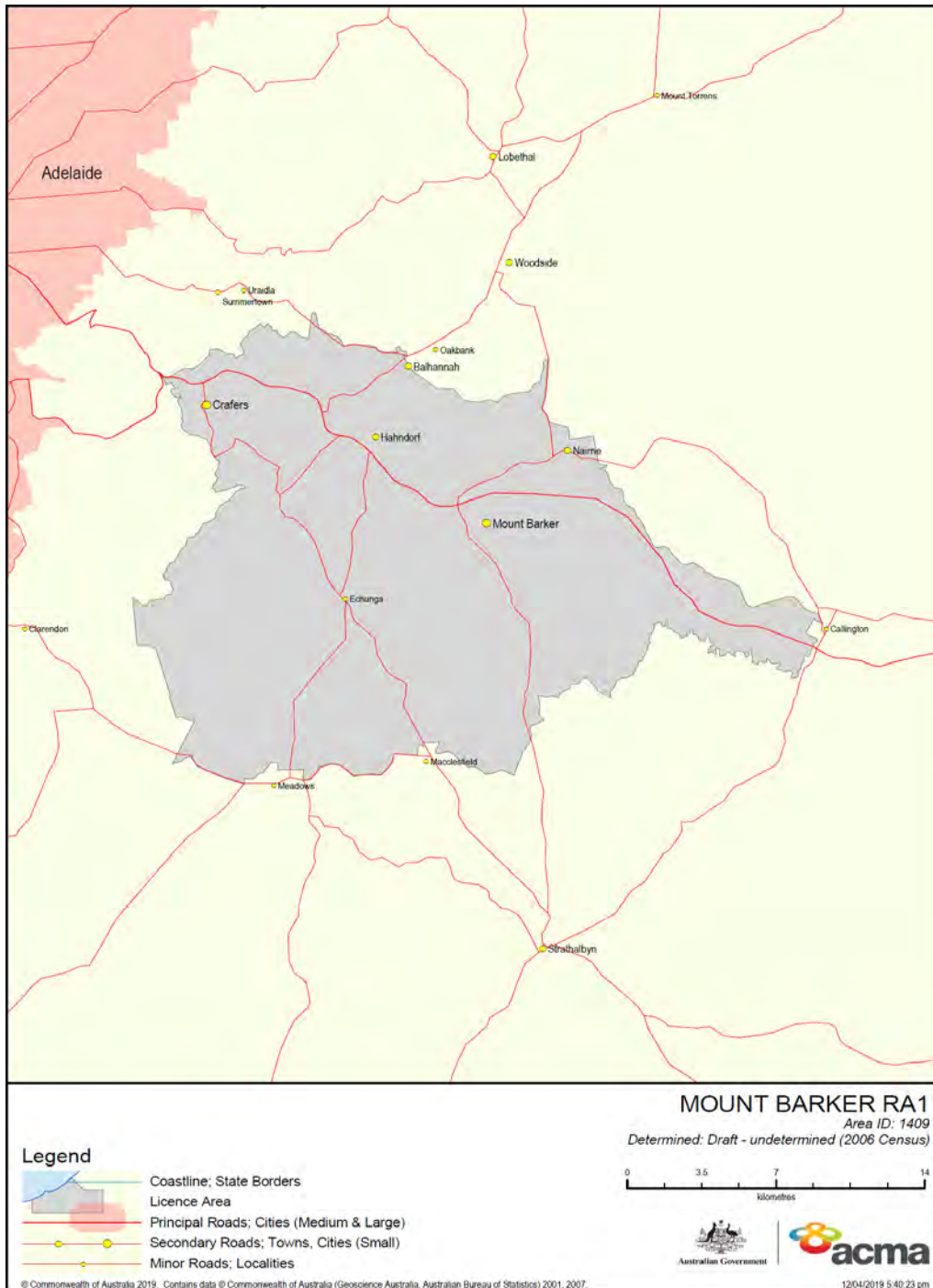
³ Hills did not provide by-laws with its application but confirmed at the video meeting on 6 April 2020 that the by-laws provided on 27 July 2017 were current.

- > Information provided by Hills and Lofty during meetings with the ACMA on 6 and 9 April 2020, respectively.
- > Written submissions provided by Hills on 9 June 2020 in response to additional ACMA questions dated 22 May 2020, including updated by-laws dated June 2020.
- > Written submissions provided by Lofty on 24 and 25 June 2020 in response to additional ACMA questions dated 22 May 2020, and an oral submission on 8 July 2020 in response to an ACMA question.
- > Each applicant's history of compliance in relation to their prior and current broadcasting licenses.

The licence area

Murray Bridge Radio Licence Area Plan

The Murray Bridge Radio Licence Area Plan (the LAP) was determined in December 2001. In September 2019, a variation to the LAP made the 88.9 MHz frequency available for a long-term community radio broadcasting service in the Mount Barker RA1 licence area (the licence area). A map of the licence area is provided below.



The licence area is located in South Australia to the east of Adelaide. It borders the Adelaide RA1 licence area and overlaps with the Murray Bridge RA1 licence area.

Previous and present use of the spectrum

In August 2014 the ACMA allocated a TCBL to Hills to serve the Mount Barker area and broadcast on the 88.9 MHz frequency. The duration of this TCBL was 12 months, from 22 August 2014 to 21 August 2015. On expiry of this TCBL, the ACMA allocated successive 12-month TCBLs to Hills from 22 August 2015 to 21 August 2018. The ACMA then allocated a TCBL to Hills from 22 August 2018 to 21 November 2018.

In November 2018 the ACMA allocated TCBLs to both Hills and Lofty to serve the Mount Barker area on the same frequency. Since then, the ACMA has allocated successive TCBLs to Hills and Lofty. The two services currently 'time-share', with Lofty broadcasting for three days per week and Hills broadcasting for four days per week.⁴ Both current TCBLs are due to expire on 30 September 2020.

The allocation of these TCBLs is in line with the ACMA's practice to issue TCBLs to aspirant broadcasters to test the viability of a community radio broadcasting service in the area being served until the opportunity arises to consider the addition of a long-term community radio broadcasting service in the relevant LAP.

⁴ Under subsection 92G(2) of the BSA, in determining the timing conditions and licence period, the ACMA is to have regard to: (a) any other applications for temporary community broadcasting licences in the licence area of the proposed licence; and (b) any other temporary community broadcasting licences in the licence area of the proposed licence; and (c) such other matters as the ACMA thinks fit.

Assessment against the statutory criteria

The extent to which the proposed service would meet the existing and perceived future needs of the community (paragraph 84(2)(a))

The extent to which a service meets the existing and perceived future needs of the community in a licence area relates both to how the service identifies and monitors the needs of the community in the licence area, and to programming.

Hills

Identifying and monitoring community needs

Hills provided evidence of how it proposes to identify and monitor community needs, including the following information:

- > Hills has an outside broadcast bus, which is used to 'connect directly and meaningfully with local townships in our area'.
- > Hills has stated that 'more than 40 programs aired on Hills Radio are produced locally by residents solely for the Hills community, ensuring the relevance and currency of material is specific to the people of the Adelaide [H]ills'.
- > A strategic plan for 2020-24 which includes a goal of developing a greater variety of programs for broadcast that meet the age, religion, gender, culture, and language diversity of listeners. The strategic plan states that this goal will be met by using measures such as the following:
 - o developing a plan to improve the method and timeliness of obtaining listener feedback.
 - o encouraging the use of the feedback facility so that listener comments registered are heeded by the Board and management.
- > A community participation policy which states the following:
 - o At all times the station will endeavour to identify and meet the needs of the community through programming and associated activities.
 - o In meeting these needs, Hills will provide high quality programming that is a genuine alternative to content available on other services.
 - o Hills will actively engage members of the community and interested listeners in the provision of the service.
 - o This engagement will include individuals and organisations from within the community of interest.

In its submission received on 9 June 2020, Hills provided further evidence of how the community provides feedback to the station, including the following:

- > Engaging with the outside broadcast team at community events.
- > Visiting the station.
- > Sending music requests by telephone, email, Facebook, and in person.
- > Providing feedback via the portal on Hills' website.

- > An online community survey.

Hills' website includes contact information, membership and volunteer registration forms, a program proposal and feedback form, program information, daily program schedules, information on the outside broadcast bus, and an outside broadcast application form.⁵

Hills' Facebook page includes reviews from listeners providing feedback, posts promoting local events and outside broadcasts, posts promoting Hills' programs, and posts sharing community information.⁶ When accessed in July 2020, Hills' Facebook page had 3,917 'likes', 4,072 followers, 15 reviews, and 15 recommendations.

The application form, ACMA B32 *Application for a community radio broadcasting licence*, asks applicants to complete a table and list up to five key community needs that have been identified that support the selected community interest for the proposed service. In its application form, Hills provided the following table which, by reference to 2016 ABS Census Data, identifies needs of the general community in the licence area, and Hills' proposed response to each need. The table is reproduced below as presented in the application form:

⁵ <http://wordpress.hillsradio.com.au/>, accessed on 21 July 2020.

⁶ <https://www.facebook.com/www.hillsradio.com.au/>, accessed on 21 July 2020.

Community need identified and how the need was identified	How the applicant proposes to respond to that need
More Youth Involvement Enquiries from schools, students and parents. 2016 ABS Census data showed 27% of Mount Barker population < 18 years.	Extend workplace learning from one day pw currently to five days per week in the future. Provide an opportunity for students to produce and present their own programs. Encourage volunteer membership to develop and enhance radio skills.
Recognition of ethnic diversity 2016 ABS Census data shows up to 13.1% of local town populations are of German descent.	Extend the current German programs. Monitor Census data and respond appropriately to other cultural influxes.
Voice for the Disabled Community Individual approaches from disabled people and disability advocates. 2016 Census data showed 4.6% of the Mt Barker community have a disability.	Expand on current Radio for the Print Handicapped (RPH) program for people with other disabilities by facilitating on air training and support. Explore opportunities for greater access to the station for people with disabilities.
Outside Broadcasts [OBs] at Community Events Consistent requests from local community groups as evidenced by 71 OBs conducted in 2019. (Appendix 8 - outside broadcast events 2019.)	Expansion of OB team, training and equipment. Streamlining of setup procedures, improve on promise of performance. Increase community awareness of OB availability via website, local newspapers, social media etc. Allow for more weekday engagement.
Voice for the Indigenous community There is Increased presence, awareness and respect demonstrated for the traditional custodians at local community events. The Peramangk People represent 1.4% of Mt Barker population as per 2016 ABS Census.	Ongoing engagement with local Indigenous Elders to produce and present their own program which will enhance community education of the historical significance of the Peramangk People.

Programming

Hills' proposed weekly program schedule (**Appendix C**) shows that it intends to broadcast full-time, 168 hours per week, if allocated the licence.

Hills has stated that it intends to broadcast:⁷

- > 88.8 hours of spoken word content per week (53% of its programming). This is 33% more than the average proportion of spoken word programming broadcast by a community station in a regional area.⁸

⁷ Figures taken from Hills' submission received on 9 June 2020, which revised the figures provided in its application form.

⁸ [Community Broadcasting Sector Programming & Community Development Census](#), report prepared on behalf of the CBAA by Survey Matters, June 2017, p. 17.

- > 79.2 hours of music per week (47% of its programming). This is 32% less than the average proportion of music programming broadcast by a community station in a regional area.⁹

Hills states that it intends to broadcast 30 hours per week of programming that is produced outside of the licence area. A review of its proposed schedule indicates that 26 of these 30 hours represent syndicated third-party programming. Community broadcasting licensees should aim to limit their reliance on syndicated programs.¹⁰ The proportion of third-party programming on Hills' proposed schedule is not significant (15.5% of its programming, half of which is scheduled to be broadcast overnight between 12am and 3am).

Assessment

Hills' proposed service would adequately meet the existing and perceived future needs of the community in the licence area. Hills has identified a number of areas of community need in the licence area and proposes to address them. It has an active Facebook presence, has stated that feedback is received by various means, and has provided documents showing policies and procedures aimed at providing a service to meet the needs of the general community. Hills' outside broadcast facility provides opportunities for direct engagement with the community.

Lofty

Identifying and monitoring community needs

Lofty has provided evidence of how it proposes to identify and monitor community needs. A number of methods are outlined in its 'Community Needs and the Guidelines' policy, including the following:

- > Using data from the CBAA/McNair yellowSquares National Listener Survey.
- > Working relationships with community and sporting groups.
- > A suggestion box in its studio.
- > Feedback via phone, email, instant messaging and the contact form on its website.
- > Using the ABS Census TableBuilder service to build a customised geographical profile for Mount Barker RA1.
- > Creating a position on its programming subcommittee for a non-member Community Representative.
- > Regularly reviewing programming against community needs via the programming subcommittee.
- > Maintaining a sound relationship with the Mount Barker District Council community engagement team to identify linguistic diversity trends in Mount Barker RA1.

The 'Community Needs and the Guidelines' policy states in its 'precis' that the policy is 'Lofty's interpretation of the phrase "community needs" as set out in the ACMA's Community Broadcasting Participation Guidelines 2010 (the Participation Guidelines).'

This policy demonstrates that Lofty has considered the Participation Guidelines when deciding the methods that it uses to identify community needs. For example, it sets out

⁹ Ibid.

¹⁰ [Community Broadcasting Participation Guidelines](#), ACMA 2010, p. 22.

a number of methods for identifying community needs, as set out in the Participation Guidelines, and how Lofty applies, or intends to apply, these methods to identify the needs of its proposed community interest.

In its application, Lofty has stated that it intends to commission its own surveys, run focus groups, and adopt additional mechanisms to facilitate audience and community feedback in the future.

In submissions of 24 and 25 June 2020, Lofty provided further evidence of how it intends to identify and monitor community needs, including the following:

- > Direct contact with community groups such as community service departments/associations, schools, service clubs, and local sporting leagues.
- > Knowing the community organisations and activities that are active within its region, and understanding their aims and aspirations for the community through their activities.
- > Using internet and social media portals for direct community interaction and feedback.
- > Working with local Peramangk elders to help integrate and facilitate the changing nature of the appreciation of Aboriginal culture into everyday Australian life.
- > Community engagement at outside broadcasts.
- > Commissioning surveys at least every four to five years, starting after about 18-24 months of full-time operation.
- > Conducting online surveys as an immediate priority should it be granted the long-term licence.

Lofty's website includes contact information, a membership enquiry form, a general enquiry form, a membership application form, program information and weekly schedules, sponsorship information, and a community service announcement form.¹¹

Its Facebook page includes posts promoting programming and local events.¹² When accessed in July 2020, the Facebook page had 678 'likes', and 729 followers.

The application form, ACMA B32 *Application for a community radio broadcasting licence*, asks applicants to complete a table and list up to five key community needs that have been identified that support the selected community interest for the proposed service. On its application form, Lofty provided the following table which identifies needs of the general community in the licence area, and its proposed response to each need. The table is reproduced below as presented in the application form:

¹¹ <http://lofty.org.au/>, accessed on 21 July 2020.

¹² <https://www.facebook.com/radiolofty>, accessed on 21 July 2020.

Community need identified	How the applicant proposes to respond to that need
<p>1. Local football. In late 2017, the Hills Football League (HFL) radio broadcast team on Hills Radio, ended further association with that station. Lofty was subsequently approached by the HFL in early 2018 to set up its own independent media unit viz. technical consulting re: outside broadcasting (OB).</p> <p>Hills Radio, who still controlled the Saturday PM session¹³, were offered a clean feed of the HFL's commentary, as transmitted via live streaming, to allow the continued broadcasting of HFL on FM in 2018, however, Hills Radio refused this offer.</p> <p>HFL has now teamed with Lofty for the FM broadcast rights to their live stream, which Lofty is ready to do either upon being granted a requested TCBL adjustment of the current (less than 50/50 airtime access time/share allocation) to include the Saturday PM (noon to midnight) session or, subsequently, on being granted a full-time licence. Lofty is ready, and would broadcast the Hills sports program every Saturday between 13:00-17:00.</p>	<ul style="list-style-type: none"> • Live broadcasts of the Hills Football League Match of the Week, including all finals during the local football season • Specialist weekly sports program all year round focused on the Hills Football League and including interviews with past players and other identities.
<p>2. Local history. Members of two historical societies based in Mount Barker RA1 have indicated that they would each like to produce local history material for broadcast on Lofty.</p> <p>One of these groups, Mount Lofty Districts Historical Society (MLDHS), has approximately 700 followers on social media.</p> <p>The MLDHS recently approached Lofty to assist in building an educational radio broadcasting display, which is to be exhibited in August 2020. This display will feature a radio studio and some periods of live interactive interviews on air. A further element of the display focuses on the history of the School of the Air, and features a localised interactive opportunity for students to participate in a School of the Air session.</p>	<ul style="list-style-type: none"> • Each historical society located in Mount Barker RA 1 shall be offered airtime on Lofty; initially 30 minutes per fortnight (with a view to increasing airtime as each society becomes more comfortable with creating content). • To assist each historical society to capture more local oral history, Lofty will provide portable recording equipment to historical society members to facilitate interviews with local senior citizens that may have limited mobility, along with training on how to prepare recorded material for broadcast. • Lofty will also offer each historical society technical assistance and file hosting where said historical society wishes to make their material available on-demand in podcast form. • In addition to locally produced local history content, Lofty is keen to air material discussing South Australian history. A

	suitable podcast has been identified for potential adaptation into broadcast content.
<p>3. Local motorsport. Several members of the local motorsport community have approached Lofty, suggesting that a motorsport show with a bias towards local grass-roots motorsport disciplines would fill a community need.</p>	<ul style="list-style-type: none"> Development of a local a motorsport program (working title "Lofty Torque") is well advanced. Lofty's local motorsport program is expected to commence in early 2020.
<p>4. Emergency service broadcasting. Mount Barker RA 1 is situated in Mount Lofty Fire Ban District, with many residents living in High bushfire risk areas.</p> <p>Lofty expects to complement and supplement emergency broadcasting provided by Mount Barker RA 1's current official emergency broadcasters; ABC Adelaide 891 (5AN), 5MU and Power FM (5EZY).</p>	<ul style="list-style-type: none"> Recruitment of more on-air presenters, thus increasing Lofty's capability to broadcast live emergency information. Development and implementation of emergency broadcasting policies and procedures, aligned with those used by the official emergency broadcast partners of the South Australia Country Fire Service (CFS). Implementation of emergency broadcaster training with the assistance of suitable providers viz. CMT0, SACBA Multiple fallbacks engineered into Lofty's broadcast chain to maximise reliability in an emergency situation, as specified Lofty Technology Blue Paper series 2.2 and 3.2. In the medium term, Lofty to investigate potential of becoming one of the official CFS emergency broadcast partners in Mount Barker RA 1.
<p>5. Science and environment material. Identified as a result of listener suggestions and feedback.</p> <p>2016 Census data reports that the percentage of residents in Mount Barker RA 1 with post-secondary qualifications in natural and physical sciences is significantly higher than that of the general Australian population.</p>	<ol style="list-style-type: none"> Broadcasting a selection of quality programming covering an array of scientific and environmental topics, viz: <ol style="list-style-type: none"> Beyond Zero (environment) Diffusion (science) Earth Matters (environment) Living Planet (science) Lost in Science (science) Radio Ecoshock (environment) Sea Change Radio (environment) Spectrum (science) Lofty shall also encourage suitability qualified residents living within Mount Barker RA 1 to develop material relating to science and/or the environment at a local level.

Programming

Lofty's proposed weekly program schedule (**Appendix D**) shows that it intends to broadcast full-time, 168 hours per week, if allocated the licence.

¹³ Hills broadcasts on Saturday afternoons in accordance with the timing conditions on its licence.

Lofty has also stated that it intends to broadcast:¹⁴

- > 64 hours of spoken word content per week (38% of its programming). This is 44% more than the average proportion of spoken word programming broadcast by a community station in a regional area.¹⁵
- > 104 hours of music per week (62% of its programming). This is 17% less than the average proportion of music programming broadcast by a community station in a regional area.¹⁶

Appendix 10 to Lofty's application provides analysis of each program on the proposed weekly schedule with data to explain the community need met and local significance of the program. It assessed each program in the context of four programming policies: Policy 4.2.1[a] Programming > Community > Community Needs and the Act, Policy 4.2.1[b] Programming > Community > Community Needs and the Code, Policy 4.2.2 Programming > Community > Local Significance, and Policy 4.2.3 Programming > Community > Syndication.

Lofty states that its assessments found 100% of its proposed programming meets community needs. Some of the explanations provided about how syndicated third-party programs meet a community need are unconvincing. However, the proportion of third-party programming on Lofty's proposed schedule is not significant (17.5% of its programming or 29.5 hours per week). The program guide at Appendix 10 to Lofty's application states that third-party material 'has been used during Lofty's TCBL phase to gauge local significance and/or community needs in several musical genres not covered by other broadcasters in Mount Barker RA1' and that Lofty expects to replace this material 'with equivalent material that is hosted and/or produced within Mount Barker RA1'.

Assessment

Lofty's proposed service would adequately meet the existing and perceived future needs of the community. Lofty has identified a number of areas of community need in the licence area and proposes to address them. It has an active Facebook presence and has stated that feedback is received by various means. Lofty has provided documents showing policies and procedures aimed at providing a service to meet the needs of the general community, and evidence that it has assessed whether/how each program on its proposed schedule meets a community need. It will engage directly with the community using a range of methods including direct contact with community groups and knowing the community organisations and activities that are active, as well as outside broadcasts.

Comparative assessment

Both Lofty's and Hills' proposed services are expected to adequately meet community needs, but in different ways. While Hills has a somewhat larger Facebook following than Lofty, this might be explained in part by it being an older organisation and also that it broadcasts for one day per week more than Lofty. Both applicants propose a broad array of methods to identify and monitor community needs. Lofty's methods,

¹⁴ Figures taken from Lofty's submission received on 24 June 2020, which revised the figures provided in its application form.

¹⁵ [Community Broadcasting Sector Programming & Community Development Census](#), report prepared on behalf of the CBAA by Survey Matters, June 2017, p. 17.

¹⁶ Ibid.

considered overall, make use of greater direct engagement with the community than do Hills’.

Nature and diversity of interests of the licence area community (paragraph 84(2)(b))

Both applicants have expressed an intent to represent the general community interest of the licence area and have demonstrated how they intend to meet the existing and perceived future needs of this community. In assessing the nature and diversity of the interests of the general community in the licence area, the ACMA has had regard to available information about that community, and to the submissions made by each applicant.

2016 Census data

Based on the 2016 ABS Census data:¹⁷

- > The total population of the licence area was 42,552, of whom 90.8% were Australian citizens.
- > 79.1% of the licence area population were born in Australia, 15.4% were born elsewhere, and 5.5% did not state their country of birth.
- > The largest foreign-born population in the licence area was from England (6.9%).
- > After England, the largest foreign-born populations were born in Germany (0.9%), New Zealand (0.8%), the Netherlands (0.5%), South Africa (0.6%), and Scotland (0.5%).
- > 90.6% of the licence area population spoke only English at home, 4.3% spoke a language other than English at home, and 4.6% did not state the language spoken at home.
- > The largest language groups after English were German (0.6%), Afrikaans (0.2%) and Mandarin (0.2%).
- > 0.8% of the population identified as Indigenous or Torres Strait Islander.
- > The age profile of the population was: under 15 years (20.1%), 15 to 24 years (12%), 25 to 39 years (16%), 40 to 49 years (14.9%), 50 to 69 years (26.3%) and over 70 years (10.3%).
- > 46.5% of the licence area population identified as Christian (with the three largest denominations being Catholic (12.2%), Anglican (11.4%) and Uniting Church (7.3%)). 41.8% of the population identified as having no religion, 9% did not state a religious affiliation, and 1% identified as Buddhist.
- > The largest employment industries in the licence area were health care and social assistance (7.1%), education and training (5.2%), retail trade (5%), construction (3.9%), and professional, scientific and technical services (3.7%).

¹⁷ Totals may not add up to 100% due to rounding. Hills’ application has slightly different figures and may be based on slightly different Census data (e.g. not covering the precise licence area and/or a more recent Census).

The extent to which the proposed service provides material of local significance (paragraph 84(2)(ba))

Each community broadcasting service has a responsibility to provide programming of local significance to its community, particularly programming that is not provided by other broadcasting services available in the licence area.

For the purposes of paragraph 84(2)(ba), material is of local significance if it is hosted or produced in the licence area or if it relates to the licence area.¹⁸

Programming may relate to the licence area if, for example, it relates to a person, community organisation or event in the licence area, or if it relates to a social, economic, political or cultural issue as it affects the licence area (either in the sense of the geographic area or a community within the licence area).¹⁹

Hills

Hills has stated that it intends to broadcast:

- > 138 hours of locally produced content per week (82% of its programming). This is 20% more than the average proportion of locally produced content broadcast by a community station in a regional area.²⁰
 - Of this locally produced content, Hills proposes that 80 hours per week will be broadcast live-to-air as opposed to pre-recorded (48% of its programming). This is 13% less than the average proportion of live-to-air locally produced content broadcast by a community station in a regional area.²¹
- > 8 hours per week of Australian produced content (5% of its programming).
- > 22 hours per week of overseas produced content (13% of its programming).

Assessment

Hills' proposed service would adequately provide material of local significance to the community within the licence area.

Lofty

Lofty has stated that it intends to broadcast:

- > 138.5 hours of locally produced content per week (82.5% of its programming). This is 20% more than the average proportion of locally produced content broadcast by a community station in a regional area.²²
 - Of this locally produced content, Lofty proposes that 77.5 hours per week will be broadcast live-to-air as opposed to pre-recorded (46% of its programming). This is 15% less than the average proportion of live-to-air

¹⁸ BSA, subsection 84(3).

¹⁹ See Explanatory Memorandum to the Broadcasting Legislation Amendment (Foreign Media Ownership and Community Radio) Bill 2017, p. 45.

²⁰ [Community Broadcasting Sector Programming & Community Development Census](#), report prepared on behalf of the CBAA by Survey Matters, June 2017, p. 9.

²¹ Ibid, p. 10.

²² Ibid, p. 9.

locally produced content broadcast by a community station in a regional area.²³

- > 14.5 hours per week of Australian produced content (9% of its programming).
- > 15 hours per week of overseas produced content (9% of its programming).

Assessment

Lofty's proposed service would adequately provide material of local significance to the community within the licence area.

Comparative assessment

In the ACMA's assessment both Lofty's and Hills' proposed services are expected to adequately provide material of local significance to the community. Hills has expressed an intent for locally produced content to comprise 82% its proposed weekly schedule, and Lofty has expressed an intent for locally produced content to comprise 82.5% of its proposed weekly schedule. The ACMA has not identified on this criterion any material point of distinction between the applications.

Nature and diversity of other broadcasting services in the licence area (paragraph 84(2)(c))

Needs met by other broadcasting services available in the licence area

A list of services available in the licence area is at **Appendix A**. The national and commercial radio broadcasting services available in the licence area provide general English-language and multilingual programming, including music, news, entertainment and information.

Some of the national and commercial services available in the licence area, such as ABC News and ABC Radio National, largely provide news and information from a national or international perspective. Any news and information specific to the licence area is likely to be provided by these services only if they have a broader significance beyond the licence area. ABC Local Radio (Adelaide) provides news and information from a state perspective, some of which may be of specific relevance to the licence area.

The two commercial services available in the licence area (5MU and 5EZY) are licenced to broadcast in the Murray Bridge RA1 licence area, which partially overlaps with the Mount Barker RA1 licence area. These services predominantly broadcast music and may also provide some news and information that is of specific relevance to the Mount Barker licence area.

Some sections of the community have broadcasting services targeting their specific needs, including the following:

- > Classical music – 5ABCFM (national).
- > Contemporary hits – 5EZY (commercial).
- > Youth programming – 5JJJ (national).
- > Multilingual programming – 5SBSFM (national).

²³ Ibid, p. 10.

Hills

Noting that Hills currently provides a streaming service seven days per week, of which four days is also broadcast, Hills describes how its programs will be different to or complement the programs on existing services in the licence area in its proposed Program Schedule. For example, it notes that:

- > Breakfast shows are locally hosted each week keeping people aware of emergency situations relevant to Mount Barker and Hills dwellers.
- > More than 40 programs aired on Hills Radio are produced locally by residents solely for the Hills community, ensuring the relevance and currency of material is specific to the people of the Adelaide Hills.
- > Specific programming will cater for identified groups and interests including:
 - o a joint Veterans/Current Service personnel program that is being considered to serve the large veteran demographic in the Adelaide Hills
 - o two German programs to serve the large German population in the station's broadcast area
 - o a specific Hills Food and Wine show with local producers and suppliers
 - o four Radio for the Print Handicapped (RPH) reading programs
 - o an 'age specific program', Chit Chat and Tunes serves the local seniors demographic
 - o a sports program that is 'Hills-focused involving all local sporting bodies'
 - o a local gig guide to 'advise our Hills listeners what band or singer is playing, and their venue, in the Hills or Adelaide City'
 - o a proposed Indigenous program 'to provide a voice to the Peramangk People and Kaurna People of the Adelaide Hills region'
 - o a religious program that a local religious group is considering creating.
- > The proposed production of radio plays is an initiative incorporating local arts body, Inkpot Arts, and Hills Radio members.

Hills notes that the use of an outdoor broadcast bus allows the station to connect directly and meaningfully with local townships in its area. Community events happen frequently.

Hills provided a list of program titles from its proposed weekly program schedule that it says will meet the specific needs of the community that are not available on other broadcasting services in the licence area. This list includes programs that are targeted to a range of communities in the licence area, including students, youths, Afrikaans speakers, and people interested in specialist music (such as jazz and funk).

In its submission received on 9 June 2020, Hills made the following statement:

Programming is different [to other services in the area] because Hills Radio is based on a variety of music, ideas, tastes and interests which aim to embrace the lifestyle of the Adelaide Hills with entertainment and information. Programming is by volunteer broadcasters who each compile and present their shows with their own musical tastes, scripted word content, personal views, conversational topics, local public interest or sporting topics and other aspects they consider will interest the local audience.

Individuality cannot be copied and Hills Radio programming is individual and therefore is welcome at variance to other broadcasting services in the licence area.

Hills' submission also included examples of programs that it has stated are different from programs available on other broadcasting services in the licence area. In addition to the programs listed above, these include the following:

- > Life without Barriers provides a voice for local people with life challenges
- > The Rainbow Hour provides a voice for the local LGBTQI+ community
- > a South African program is broadcast weekly to serve and inform the large South African population in the Adelaide Hills
- > The Student Voice gives local secondary students and young people the opportunity to host and produce their own program.

Assessment

Hills' proposed service is likely to add to the nature and diversity of broadcasting services in the licence area.

Lofty

Lofty currently provides a streaming service seven days per week, of which three days is also broadcast. Lofty states:

Lofty's raison d'être is to provide a service that is progressive and diverse, meeting its brief via community engagement and filling niches that other broadcasters are not able to fill. As such, Lofty's programming policies in general – and music policies in particular – are designed to provide clear demarcation between Lofty's sound and that of our fellow Mount Barker RA1 broadcasters.

Appendix 10 to Lofty's application includes a nature and diversity assessment of each of the programs on its proposed schedule. This assessment places each program into one of the below three categories:

- > **Different:** Programming that is unique to Lofty within Mount Barker RA1.
- > **Complements/supplements:** Programming that may share some characteristics to other programming within Mount Barker RA1, yet offers at least one distinct point of difference that is of relevance to the local community.
- > **Similar:** Programming sharing many characteristics to other programming within Mount Barker RA1.

In its consideration of how its programming is different to and/or complements the programs provided by existing broadcasters, Lofty categorises most programs as 'different' or 'complements/supplements'. Some explanations for how syndicated third-party programs fall within these two categories are unconvincing. However, as previously noted, the proportion of third-party programming on Lofty's proposed schedule is not significant and Lofty has stated that it expects to replace this material with locally hosted or produced material.

The only program that is categorised as 'similar' is an existing Hills program that Lofty expects to broadcast if Hills ceases broadcasting (Breakfast in the Hills). Appendix 10 to Lofty's application states that it will 'actively encourage and support ex-Hills Radio presenters/producers in building a clear point of difference between their programming

and that offered elsewhere, to ensure their program reaches complement/supplement status’.

Examples of programs that are categorised as ‘different’ include the following:

- > Calamity Pen’s Hillbilly Hoe-Down: Country and western music program.
- > The Cheese Factory Live from The Big Room: Recordings from The Cheese Factory Studio Gallery live music venue.
- > Have We Got News for You!: Local news roundup presented in a radio for the print handicapped (RPH) format. This is a program currently broadcast by Hills that Lofty intends to broadcast should it be allocated the licence.
- > It’s a Chick Thing: ‘Each week, a mystery female announcer takes a music genre and features women that produce excellent music in said genre.’
- > Local History Shows produced by the Mount Lofty Historical Society and Nairne Historical Society.
- > Lofty Mental Health Hour: ‘Lofty Mental Health Hour aims to improve the community’s understanding of mental illness. Several local mental health professionals have expressed an interest in presenting this program.’
- > Lofty Motorsport Show: Includes coverage of local motorsports.
- > Lofty Veterans’ Show: ‘A show produced to maintain camaraderie among local veterans, and inform the wider community of the issues affecting all veterans.’
- > New Schools/Youth Show: ‘We already have three students volunteering over two shows; a third show is being created to allow for student presenters to rotate on a regular basis.’
- > On the Bench: Including interviews with Hills Football League players, coaches and administrators.

Examples of programs that are categorised as ‘complements/supplements’ include the following:

- > Anything Goes: Vintage music (pre-1970).
- > The Bile Lab: ‘Some of the heaviest music we can get away with broadcasting, with an emphasis on local artists that make a lot of noise.’
- > Cool Beans: ‘Youth-oriented magazine style program with short sets from upcoming local DJs.’
- > The German Show: ‘German-language program produced by members of Adelaide Hills’ German community.’
- > Jazztralia: ‘Substitute for ABC Jazz, which is not available on FM in LAP [the licence area].’
- > Lofty Gardening Show: ‘Weekly gardening show focusing on the unique nature of the Adelaide Hills climate when compared with other parts of South Australia.’

Assessment

Lofty’s proposed service is likely to add to the nature and diversity of broadcasting services in the licence area.

Comparative assessment

Both Lofty’s and Hills’ proposed services are likely to add to the nature and diversity of broadcasting services in the licence area. Each applicant has explained how programs

on its proposed schedule will be different to or complement the programs on existing services in the licence area, or will meet the specific needs of the community that are not available on other broadcasting services in the licence area.

The capacity of the applicant to provide the proposed service (paragraph 84(2)(d))

The capacity of an applicant to provide a proposed service includes 'such matters as the management, financial, and technical resources available to an applicant for the purposes of the proposed service'.²⁴ This includes an applicant's capacity to comply with the licence conditions of the BSA.

Hills

Management capacity

Hills is an incorporated association, incorporated on 16 January 2015 under the *Associations Incorporation Act 1985* (SA). Hills has provided a copy of its certificate of incorporation. Hills is also a charity registered with the Australian Charities and Not-for-profits Commission (ACNC).

Constitution

In a number of respects Hills' constitution contains provisions that are consistent with operating a community broadcasting service. However, the ACMA has some concerns about the alignment of its Constitution and by-laws with key obligations of a community broadcasting service. Further details are included under **Compliance capacity** below.

Board

Hills' constitution states that the Board comprises six Elected Directors who must be members, and up to three Appointed Directors who do not need to be members.

Elected Directors may appoint Appointed Directors who 'may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition'.

Elected Directors serve for two-year terms. Elected Directors who have served for three consecutive full terms are not eligible for re-election until the next AGM after the conclusion of their last term.

Appointed Directors also serve for two-year terms. Appointed Directors who have served for two consecutive full terms are not eligible for reappointment until the next AGM after the conclusion of their last term.

Office bearers are not defined in Hills' constitution. The constitution states that the General Manager (GM), who is also defined in the constitution as the Executive Director (ED), acts as Secretary and Public Officer. However, Hills' current Secretary is not the GM.

Currently, Hills has nine Directors: Chairman, Vice Chairman, Treasurer, Secretary, and five other Directors. Hills has provided information that demonstrates that its Directors have adequate skills and experience to manage a community broadcasting service.

²⁴ Revised Explanatory Memorandum to the Broadcasting Services Bill 1992, p. 48.

Staff

Community broadcasters are not restricted from having paid employees. However, they must comply with the licence conditions to encourage members of the community to participate in the operations of the licensee in providing the service and in the provision and selection of programming.²⁵

Hills has stated that it has the following three paid staff positions:

- > 1 x General Manager/Sponsorship – salaried.
- > 1 x Production Manager – salaried.
- > 1 x Bookkeeper – commissioned.

Members and volunteers

In its submission received on 9 June 2020, Hills provided its current number of volunteers and members.

Hills' number of members (130) is above the national average of 115 members for a general community broadcasting service in a regional licence area.²⁶

Hills' number of volunteers (58) matches the national average of 58 volunteers for a general community broadcasting service in a regional licence area.²⁷

Financial capacity

Hills has provided audited financial statements for 1 July 2017 to 30 June 2018, and 1 July 2018 to 30 June 2019.

In 2017-18 Hills had a total income of \$179,510, total expenditure of \$204,111, resulting in a loss of \$24,601. At 30 June 2018, Hills' total retained earnings were \$57,630.

In 2018-19, Hills had a total income of \$166,601 and total expenditure of \$166,425, resulting in a profit of \$176. At 30 June 2019, Hills' total retained earnings were \$57,806.

Hills' profit and loss statements show that its four main income sources were as follows:

Source	2018-19	2017-18
Sponsorship	\$106,753 (64%)	\$171,950 (96%)
Membership	\$2,135 (1%)	\$3,837 (2%)
Grants	\$53,578 (32%)	\$0 (0%)
Other income	\$2,408 (1%)	\$2,416 (1%)

Hills' AGM minutes for 2019 note that sponsorship income reduced by one-third as a result of the time-sharing arrangement with Lofty reducing its broadcast days from seven days per week to four days per week.

Hills' answer to question 15 in its application form states the following:

²⁵ *Broadcasting Services Act 1992*, paragraph 9(2)(c) of Schedule 2.

²⁶ *Ibid*, p. 20.

²⁷ *Ibid*, p. 34.

The income for the 2019 year included significant grant income that was achieved via the excellent work of the Grant Team for development of the station. In prior years the grant income has been lower (\$0 in 2018). The station's budget does not require grant income for its day to day operations.

Hills' profit and loss statements show that its main expenses were as follows:

Source	2018-19	2017-18
Wages	\$77,468 (46.6%)	\$74,158 (36.3%)
Rent	\$21,927 (13.2%)	\$23,137 (11.3%)
Depreciation	\$18,762 (11.3%)	\$23,238 (11.4%)
Superannuation	\$3,369 (2%)	\$4,178 (2.1%)
Commission paid	\$7,208 (4.3%)	\$27,082 (13.3%)

At a meeting with the ACMA on 6 April 2020, Hills noted that figures recorded as commissions paid were made to a sponsorship manager retained in those financial years on a commission basis. Hills also advised that it currently does not retain a sponsorship manager, and that Hills' GM was involved in obtaining sponsorship and does so for no commission.

Hills has provided a five-year budget for 2020-21 to 2024-25, which includes the following forecasts:

- > Hills will make a surplus of between \$1,228 and \$11,502 each year.
- > Hills will have a closing bank balance of \$49,082 in 2024-25.

These forecasts appear to be based on realistic assumptions. For example, the budget assumes that Hills will be able to sell sponsorship spots for seven days per week (rather than the current services which operates for four days per week), forecasts sponsorship income based on the sponsorship income received in 2017 and 2018, and does not include grants which may be available to Hills if it is allocated the licence.

Technical capacity

Hills has provided a temporary community broadcasting service since August 2014, in accordance with the technical specifications for the long-term licence at **Appendix B**. The transmitter is located at the nominal location specified in the technical specifications, namely RAA District Council Site, Old Mount Barker Road, Echunga SA 5153. The studio, which Hills rents, is located at Level 1, 31 Gawler Street, Mount Barker SA 5251, which is in the licence area.

Hills has provided information that demonstrates that its technical team has adequate skills and experience for a community broadcasting licensee. Hills has also provided letters of support from the owner of the broadcast tower that Hills uses, a broadcast engineer, and a supplier of technical assistance, support and equipment.

Compliance capacity

Policies

The Community Radio Broadcasting Codes of Practice 2008 (the Codes) set out the guiding principles and policies for programming on community broadcasting stations. The Codes' guiding principles include that community broadcasting licensees will work to 'increase community involvement in broadcasting'..

Hills has provided the policies required under the Codes including corporate governance, internal conflict, complaints handling, community participation, programming, volunteering and sponsorship.

In July 2017, the ACMA commenced an investigation into Hills' compliance with several of the Codes.²⁸ The investigation, which was finalised in August 2017, found that Hills had breached the following Codes:

1.4 We will have written policy documents in place that outline:

- (a) the principles of financial membership,
 - (b) the rights and responsibilities of financial members within the organisation, and
 - (c) the rights and responsibilities of the organisation to financial members.
- [...]

2.4 All policy documents will be freely available

The investigation noted that Codes 2.1 to 2.5, including 2.4, are aimed at achieving the stated purpose of Code 2:

To make sure that community radio stations have written policies and procedures in place that promote diversity and encourage community participation.

In response to the investigation, Hills advised the ACMA that it had taken remedial action to ensure future compliance with the relevant provisions. The ACMA advised Hills that this remedial action did not satisfy the requirements of Codes 1.4 and 2.4, and recommended that Hills take active steps to address this.

Since then, contrary to the ACMA's earlier recommendations Hills did not review or amend its governing documents. They therefore retain the deficiencies the ACMA previously identified. Given the importance of complying with the Codes as a mechanism which supports a community broadcaster to encourage community participation, Hills' inaction to adequately deal with deficiencies about which it had been made aware casts some doubt on its capacity to fully comply with the community participation licence conditions at paragraph 9(2)(c) of Schedule 2 to the BSA.

This is the only investigation that the ACMA has conducted into Hills' compliance with the Codes, or with the licence conditions of the BSA.

Community participation in operations

As noted above, community participation is a crucial element which must be satisfied in order to qualify for the grant of a community licence. Community broadcasters must comply with the licence conditions to encourage members of the community to participate in the operations of the licensee in providing the service and in the provision and selection of programming.²⁹

²⁸ Investigation BI-327, finalised 30 August 2017.

²⁹ *Broadcasting Services Act 1992*, paragraph 9(2)(c) of Schedule 2.

Subcommittees

Licensees encourage community participation in their operations when they have an effective and transparent committee structure.³⁰ Committees are an important way in which members, and other people in the community served by the licensee, can have a say in the running of the service.³¹ Licensees should aim to make their members aware of how to nominate for committee positions.³²

Hills' constitution allows for subcommittees of the Management Committee, which is the governing committee of Hills. The organisation structure diagram, provided by Hills, states that it has a Grants Committee, a Programming Committee and a Technical Committee.

Hills' corporate governance policy states that each subcommittee is to consist of a chairperson and have three to five persons in total. The current and proposed subcommittees are as follows:

- > Broadcast program
- > Finance (includes grants and sponsorship)
- > Technical (includes audio and computer)
- > Membership (including volunteers)
- > Multicultural (includes ethnic broadcasters)
- > Training.

Hills' answer to question 11 in the application form indicates that a number of program committee members are not members of the Board.

Constitution and by-laws

Licensees encourage community participation in their operations when they have sound corporate governance practices, which include measures to prevent the concentration of control in the hands of a few individuals.³³

The ACMA is not persuaded that Hills, through its constitution and by-laws, has adequately demonstrated its capacity to comply with the community participation licence conditions. A full list of constitution and by-law provisions of concern are set out at **Appendix E**. In summary, the ACMA notes the following issues:

- > Hills' constitution and by-laws appear to place significant control of Hills in the hands of the Board and the GM/ED. For example:
 - o If a volunteer announcer expresses dissatisfaction with the management of Hills in any forum, regardless of whether these comments are made on air or off air, by-law 8.7 gives 'Management and the Board' wide discretion to discipline the announcer.
 - o By-law 8.8 gives 'Management' the broad power to create new ad-hoc by-laws that have strong sanctions attached. These new by-laws can be created by issuing 'signage and memorandums' [...] 'in the workplace'.

³⁰ [Community Broadcasting Participation Guidelines](#), ACMA 2010, p. 3.

³¹ Ibid, p. 17.

³² Ibid.

³³ Ibid, p. 9.

- > Membership is one of the primary ways of encouraging community participation in the operations of a service.³⁴ The ACMA's strong preference is for community radio broadcasting services to have open membership policies to encourage community participation.³⁵ Membership is open if it is automatic on lodgement of a membership application form and payment of the membership fee. A licensee can only refuse membership applications on the basis of specific, transparent and reasonable criteria, and there should be adequate grievance or review mechanisms for rejected applicants.³⁶ Hills' constitution and by-laws do not appear to provide for open membership. For example:
 - o Subclause 5.3(a) of the constitution gives the Board the discretion to reject membership applications regardless of whether the applicant has met the criteria for membership as set out in the by-laws. Subclause 8.3(b) of the constitution gives the Board a wide discretionary power to accept or reject membership applications from people who have been expelled as members. These subclauses do not set out specific, transparent and reasonable criteria for rejecting membership applications.
 - o The grounds for bringing disciplinary measures against members, as outlined in subclauses 9(a)(I) and 9(a)(II) of the constitution, are not clearly defined. For example, 'acting in a manner unbecoming of a member' and bringing 'any other member into disrepute'.

At a meeting on 6 April 2020, the ACMA explained to Hills that it had concerns that several provisions of Hills' constitution, by-laws and policies concentrated control of Hills in the hands of the GM, and the Board, in such a way that they do not encourage community participation. The ACMA asked Hills if it saw these issues as readily addressable. Hills' response included the following points:

- > The constitution does not operate that way in the real world.
- > Hills has a transparent culture and wants to promote inclusion and input from all members.
- > The constitution was drafted by a solicitor who specialises in not-for-profits.
- > It was a good time to revise the constitution.

The ACMA noted by-law 1.6.2 as an example. This by-law states that the Board may reject membership applications where 'applicants are employed or volunteer at competing broadcasters, radio stations or internet based streaming services'. As noted in **Appendix E**, the ACMA considers that by-law 1.6.2 discourages participation by members of the community who fall into the category of an applicant described in the by-law.

The ACMA asked Hills if it saw these issues as readily addressable. Hills' response to the ACMA's concerns about by-law 1.6.2 included noting that it was a question of resourcing and loyalty, and noting that recently the Board agreed to allow a Hills volunteer to volunteer with another station in South Australia, and that it promoted cross-station activity.

³⁴ Ibid, p. 10.

³⁵ Ibid, p. 11.

³⁶ Ibid, p. 10.

At the meeting on 6 April 2020, the ACMA asked Hills if the GM/ED sits on Hills' Judiciary Committee if it is considering a complaint about the GM/ED (see by-law 5.2). Hills' response included the following points:

- > Hills has had Judiciary Committees without the GM/ED and can do so in future.
- > Hills tells members that there is an alternative process for complaining about the GM/ED, i.e. go to the Board, and that this alternative process is explained at member inductions.

To address the concerns raised by the ACMA on 6 April 2020, and in the ACMA's written questions dated 22 May 2020, Hills has submitted revised by-laws which state that the GM/ED must recuse him/herself from its Judiciary Committee if the committee is to consider a complaint against the GM/ED. Hills also submitted that it intends to amend its constitution to comply with the community participation licence conditions at its AGM in September 2020 (COVID-19 permitting), but has not provided additional details about the proposed amendments.

The ACMA considers that the revised by-laws and submitted constitution still contain several provisions that raise doubts about Hills' capacity to comply with the community participation licence conditions, as identified in **Appendix E**.

Community participation in the selection and provision of programs

Hills' community participation policy includes procedures to encourage and assist people in the community, who are not adequately served by other media, to participate in providing its service, as required by Code 2.1 of the Codes. The policy states that Hills will engage continuously with its community of interest by the following means:

- > On air: informing listeners of programs, station events, promotions, activities and inviting them to participate and join as a volunteer.
- > Website: updated with news and information about the radio station, programs, events, promotions, activities and inviting them to participate.
- > Newspaper: a column in the local weekly community newspaper, The Adelaide Hills Weekender Herald, with information about station programs, activities and volunteers, inviting participation.
- > Social media engagement through Facebook and Twitter.

Hills' community participation policy also includes methods for encouraging community participation in the following areas:

- > Governance: encouraging members of the community to become members.
- > Operations: encouraging members of the community to volunteer in all aspects of the service, including management and administration.
- > Program presentation: the majority of spoken word programs will be presented by volunteers.
- > Programs: active involvement of listeners on air will be encouraged through programming that allows feedback and other forms of participation.
- > Listenership: encourage members of the community to participate by becoming a listener to the station.
- > Outside broadcasts: each weekend, and often during the week, Hills attends community events to connect directly with listeners and attendees via outdoor broadcasts.

- > Open days: in addition to the station being open to the public between 9am and 4pm Monday to Friday.

Selection of programs

As required by Code 2.2 of the Codes, Hills' programming policy includes mechanisms to enable active participation by the community in station management, programming and general operations. The policy states that Hills shall have a programming team of four to five people who are members, volunteers, regular listeners, represent a variety of age groups, represent a wide variety of music preferences, and are willing to attend regular meetings. The policy includes the following statements that outline the programming team's roles:

- > The Programming Team and General Manager will ensure that all staff and volunteer members are aware of and follow, the policies and legal responsibilities of the Station.
- > The Programming Team and General Manager will select, train, develop and mentor staff and volunteer members to be as professional as possible.
- > Programming shall be such that the Station is appealing to the community of interest and the specific audience targets as determined by the Programming Team from time to time.
- > The Programming Team and General Manager will ensure that the programming is consistent with the target audience, the objectives of the Station and the strategies agreed upon with the Board.

Hills has stated that the members of the programming team are elected annually for a one-year term. Two of the five current programming team members are Board members, and none are paid staff. Hills' application does not state whether programming team members can be re-elected at the end of each term, and there is no provision in its constitution excluding re-election to the programming team. Hills' application does not explain the process for how people can nominate to be on the programming team, or how programming team elections are held. Hills' 'Financial Volunteer Member Information Policy' states financial members are entitled to nominate for membership of boards and committees and participate in boards and committees. Hills' 2018 AGM minutes state that people who would like to join the programming team should 'chat with Chris' [Hills' GM/ED] and that new 'ideas for shows or segments are always welcome'.

Hills' strategic plan includes a plan to review the diversity of the programming team, including considering increasing its size, increasing the frequency of consultation, and incorporating suggested changes.

Hills' programming policy states:

Music and talk content should be selected to target the largest listening audience which conforms to the objectives agreed by the Board and the GM each year in its strategic plan and budget.

By-law 8.1.1 states:

All programs are on a 12 month trial and may be revoked by Management or the Board at any time should it be decided that it is in the best interest of the organization for the time slot be used otherwise.

This appears to concentrate control of programming decisions in the hands of the GM/ED.

Provision of programs

Giving members of the community an opportunity to produce and present programs is a concrete way to demonstrate that a licensee has encouraged community participation in the provision of programming.³⁷ Licensees encourage community participation in the production and presentation of programs when they are open to new programming ideas from the community.³⁸

Hills stated, at question 11 in its application form, that it does not provide information to the general community about making program proposals, and its programming policy does not state that this information should be provided. However, at the video meeting on 9 April 2020, Hills indicated that this was incorrect. Hills' submission received on 9 June 2020 states that it has the following procedures for making program proposals:

1. Inform the general community of the opportunity to make program proposals by live on-air promotion, articles in the local newspapers (example provided), social media, invitation to community groups when representatives are interviewed as studio guests, and outside broadcasts.
2. The general community can express their interest and provide feedback by responding with a program proposal and feedback on Hills' website, email, telephone or call in at the station, engaging with the outside broadcast team at community events, or submitting a written response to Hills' feedback flyer.
3. Discussion with interested parties as to the feedback and type of program suggested. Advice and assistance is given by Hills Radio to the individual or group, but the subject and format is their choice, subject to approval.
4. Submit to the programming team for further discussion and potential implementation.

Hills has stated, in Appendix 10 to its application, that 'Hills Radio is custom made for everyone and anyone can approach the station to air a program'. The appendix provides an example of two groups (religious and veterans) that appear to have approached Hills to discuss providing a program.

Hills has stated that it has 34 presenters.

Assessment

Hills has demonstrated that it has the capacity to provide the service in almost all respects.

Its current management and technical teams have skills, experience and equipment that are appropriate for providing a community broadcasting service. It has an above average membership base and an average number of volunteers. Hills is in a sound financial position with total retained earnings of \$57,806 at June 2019 and a high level of income. Hills' five-year budget shows that it expects to make annual surpluses of between \$1,228 and \$11,502 until 2024-25.

However, the ACMA has some doubts about Hills' capacity to comply with key licence conditions that require it to encourage participation in the operations of its service and in the provision and selection of programming, particularly because of the many

³⁷ Ibid, p. 20.

³⁸ Ibid, p. 21.

features of its constitution, by-laws and policies that concentrate control with the GM and Board.

The ACMA is satisfied that Hills could meet the capacity criterion with some changes to its governance documents and policies. To this end, during consideration of this application the ACMA directly raised its concerns about Hills' capacity to comply with the community participation licence conditions with Hills. While Hills has undertaken to amend the relevant governance documents to address the ACMA's concerns, the lack of detail about those proposed changes in combination with comments at the 6 April meeting regarding membership rules leaves some doubt about the degree to which Hills would have the capacity to meet the community participation licence conditions. In this regard the ACMA has also noted Hills' past failure to take full remedial action following the breach of the Codes identified in 2017 (as discussed above).

Lofty

Management capacity

Lofty is an incorporated association, incorporated on 5 June 2017 under the *Associations Incorporation Act 1985* (SA). Lofty has provided a copy of its certificate of incorporation.

Constitution

The ACMA is satisfied that Lofty's constitution is appropriate for a community broadcasting service. For example, its constitution contains provisions that appear designed to prevent the concentration of control in the hands of a few individuals. Examples are provided below:

- > Clause 13: The Board may not create, amend or delete a policy unless all members have been given a copy of the proposed creation, amendment or deletion, it has been considered at a general meeting, and at least 75% of members present at the meeting vote to adopt it.
- > Subclause 33(c): A serving Board member may not join a subcommittee unless authorised by the Board.
- > Subclause 33(d): A member may serve on a maximum of two subcommittees.

Lofty's constitution also contains adequate grievance or review mechanisms for rejected applicants, for example:

- > Clause 48: An applicant who has had their membership application rejected by the Board has a right of reply to the Board.
- > Clause 49: An applicant who has had their membership application rejected by the Board may appeal to the Association at a general meeting.

Board

Lofty's constitution states that the Board comprises the four office bearers (Chair, Vice-Chair, Treasurer and Secretary) and between two and four ordinary members. Board members hold office until the conclusion of the second AGM following the date of their election, and are eligible for re-election.

Currently, Lofty has seven board members: Four office bearers and three ordinary members. Lofty has provided information that demonstrates that its board members have adequate skills and experience to manage a community broadcasting licensee.

Staff

Community broadcasters are not restricted from having paid employees. However, they must comply with the licence conditions to encourage members of the community to participate in the operations of the licensee in providing the service and in the provision and selection of programming.³⁹

Lofly's constitution states that it is prohibited from offering paid employment to any person, unless approved by resolution by the members at a general meeting. Lofly's submission received on 24 June 2020 states that it anticipates employing up to four part-time staff members as the station grows.

Members and volunteers

In its submission received on 24 June 2020, Lofly states that it has 36 members, and 11 members pending/processing. The total number of 47 members/pending members is well below the national average of 115 members for a general community broadcasting service in a regional licence area.⁴⁰

Lofly's submission states that all members are volunteers. The total number of 47 volunteers/pending volunteers is below the national average of 58 volunteers for a general community broadcasting service in a regional licence area.⁴¹

[REDACTED]. At the video meeting on 9 April 2020, Lofly stated that it plans to include as many presenters from Hills as possible if it is allocated the licence, but that it is not reliant on Hills presenters joining Lofly.

Financial capacity

Lofly has provided unaudited financial statements for 1 July 2017 to 30 June 2018, and 1 July 2018 to 30 June 2019.

In 2017-18 Lofly had a total income of [REDACTED], and total expenditure of [REDACTED], resulting in a [REDACTED].

In 2018-19, Lofly had a total income of [REDACTED] and total expenditure of [REDACTED], resulting in a [REDACTED].

Lofly's profit and loss statement shows that its four main income sources were as follows:

Source	2018-19	2017-18
Fundraising - Donations	[REDACTED]	[REDACTED]
Grants and subsidies		
Membership		
Fundraising – Goods for sale		

Lofly provided a five-year budget for 2020-21 to 2024-25 with its application, which

³⁹ *Broadcasting Services Act 1992*, paragraph 9(2)(c) of Schedule 2.

⁴⁰ [Community Broadcasting Station Sector Financial Health of Community Radio Survey for the 2015-2016 Financial Year](#), report prepared on behalf of the CBAA by Survey Matters, October 2017, p. 20.

⁴¹ *Ibid*, p. 34.

forecasts that surpluses will [REDACTED]

While Lofty has a very low level of financial reserves, this is in the context of a service that has been on air for less than two years and broadcasts three days per week.

Lofty's 2019 Treasurer's report states the following:

- > Thanks to public donations, 'Lofty felt no pressure to actively canvass potential sponsors during the 2018-19 Financial Year.'
- > 'Lofty has attracted a number of approaches from potential local sponsors. We expect to convert many of these opportunities into paid sponsorships as the 2019-20 Financial Year progresses.'

At the meeting on 9 April 2020, Lofty stated that it ran a low-cost model, was 'self-funding', and that sponsors were offering substantial money but that it was not signing up sponsors due to the uncertainty over the future of the licence.

In response to the ACMA's questions about Lofty's funding sources, dated 22 May 2020, Lofty's submission received on 24 June 2020 provided information (marked 'confidential'), including the following:

- > Studio costs of [REDACTED]
- > Studio systems and equipment maintenance of [REDACTED] are provided by in-kind support, donations and sponsorship arrangements, including:
 - o Loaned equipment from the South Australia Community Broadcasting Association (SACBA). This loan has been confirmed in a letter from SACBA provided with Lofty's application, and by SACBA Treasurer Tim Borgas, who attended the video meeting on 9 April 2020 at Lofty's request.
 - o External in-kind technical support from SACBA and Tribe FM.
 - o Loan of surplus equipment from [REDACTED].
 - o Hosting of Lofty's transmitter and antenna [REDACTED]
- > 'Pledged or otherwise available sponsors' can provide approximately [REDACTED] if Lofty is allocated the licence [REDACTED] and Lofty expects to raise more from other sponsors.
- > Lofty can raise [REDACTED] in fundraising through its food caravan.

- [REDACTED]
- > [REDACTED]
- > Grants totalling of up to \$26,000 are available from the Community Broadcasting Foundation, Mount Barker Council and Kiwanis.⁴³
- > In summary, Lofty states that it can raise [REDACTED], compared to [REDACTED].

Lofty has provided a detailed business plan which includes forecasted income that appears to be based on reasonable and realistic assumptions. Its forecasts are benchmarked against nine community broadcasters, including Hills which had a total income of \$179,510 when broadcasting seven days per week in the licence area in 2017-18. The average annual income for a regional community station in 2015-16 was \$140,000.⁴⁴

Technical capacity

Lofty has provided a temporary community broadcasting service since 22 November 2018, in accordance with the technical specifications for the long-term licence at **Appendix B**. The transmitter is located at Cleggett Farm, Cleggett Road Littlehampton SA 5250 (site ID 305178). Lofty has stated in its submission received on 24 June 2020 that it has no issue with relocating to the nominal location specified in the technical specifications if that is a condition for being allocated the licence, but that it believes that its current site offers several major advantages over the nominal site as noted in Appendix 16 to its application. Should Lofty be allocated the licence, ACMA engineering staff will consider Lofty's proposed alternative location.

Lofty has provided information that demonstrates that its technical team has adequate skills and experience for a community broadcasting licensee.

Compliance capacity

The ACMA has not had cause to conduct any investigations into Lofty's compliance with the Codes, or with the licence conditions of the BSA.

Policies

The Codes sets out the guiding principles and policies for programming on community broadcasting stations. Lofty has provided the policies required under the Codes including corporate governance, internal conflict, complaints handling, community participation, programming, volunteering and sponsorship.

When accessed on 21 August 2020, Lofty's website included the following statement:⁴⁵

⁴² Ibid.

⁴³ Ibid. The Kiwanis Australia District website states that it is 'a global organization of volunteers dedicated to improving the world one child and one community at a time'. See <https://aus.kiwanisone.org/>, accessed 10 August 2020.

⁴⁴ [Community Broadcasting Station Sector Financial Health of Community Radio Survey for the 2015-2016 Financial Year](#), report prepared on behalf of the CBAA by Survey Matters, October 2017, p. 9.

⁴⁵ <https://lofty.org.au/index.php/about/constitution/>, accessed 21 August 2020.

In the interests of full disclosure to current members, potential members and other stakeholders, Lofty is delighted to make its Constitution and Policy Documents freely available for your perusal.

Of the policies required under the Codes, its complaints policy was freely available on its website.⁴⁶ Lofty has addressed this issue in Appendix 17 to its application, which states:

Availability of policy documents

In person

All policy documents are available at Lofty's premises for perusal.

Online

As at the time of writing, Policy Family 6 (Listener Complaints) is available for viewing and/or download at lofty.org.au/compliance as a series of PDF documents.

Work is underway to provide an enhanced Policy repository on Lofty's website, including search and hyperlink functions. We expect this to go live during 2020.

Other methods

Lofty welcomes requests for copies of respective policy documents via email.

Rule 14 of Lofty's constitution states:

- a. The Constitution and current policy documents shall be made freely available to any potential member upon their initial expression of interest in joining the Association, or as soon as practicable thereafter.
- b. The Constitution and current policy documents must be kept at the principal place of administration of the Association and must be open for inspection, free of charge, by any member of the Association at any reasonable hour.

Community participation in operations

Community participation is a crucial element which must be satisfied in order to qualify for the grant of a community licence. Community broadcasters must comply with the licence conditions to encourage members of the community to participate in the operations of the licensee in providing the service and in the provision and selection of programming.⁴⁷

Subcommittees

Licensees encourage community participation in their operations when they have an effective and transparent committee structure.⁴⁸ Committees are an important way in which members and other people in the community served by the licensee can have a say in the running of the service.⁴⁹ Licensees should aim to make their members aware of how to nominate for committee positions.⁵⁰

⁴⁶ Ibid.

⁴⁷ *Broadcasting Services Act 1992*, paragraph 9(2)(c) of Schedule 2.

¹⁵ [Community Broadcasting Participation Guidelines](#), ACMA 2010, p. 3.

⁴⁹ Ibid, p. 17.

⁵⁰ Ibid.

Lofty's constitution allows for subcommittees. Board members are not eligible to join subcommittees unless authorised by the Board. Members may not serve on more than two subcommittees.

The organisation structure diagram provided by Lofty states that it has the following subcommittees:

- > Marketing and Community Engagement
- > Membership and Admin
- > Production and Training
- > Programming
- > Technology and Facilities.

Lofty's policies outline that each subcommittee, except for the programming subcommittee, has a Board representative and up to three members. The programming subcommittee has a Board representative, a Program Coordinator and up to two members.

Community participation in the selection and provision of programs

As required by Code 2.1 of the Codes, Lofty's community participation policy includes procedures to encourage and assist people in the community who are not adequately served by other media to participate in providing its service.

Lofty's policy documents contain evidence that Lofty has considered the Codes, the ACMA Community Broadcasting Participation Guidelines (the Guidelines) and the BSA when creating its policies. Lofty's membership, community participation, programming and programming subcommittee policies, in particular, show evidence that it has considered the community participation provisions/guidance in the Codes, Guidelines and BSA.

Selection of programs

Lofty has stated that it has a programming subcommittee with four members who are elected annually for a one-year term. One programming subcommittee member is also a Board member. The programming subcommittee is responsible for selecting programs.

Lofty's 'Subcommittee Parameters' policy states that full subcommittee members are appointed by the Board following an expression of interest process. Lofty's policies do not state whether programming committee members can be re-elected at the end of each term. The programming subcommittee policy states that the programming committee may include between two and four full members, a Board representative, a community representative/observer with no voting rights, and a junior member with provisional voting rights. Where there is an equality of votes the 'Subcommittee Parameters' policy states that the 'Presiding Officer shall consider the Junior Member's provisional vote as their casting vote'.

Lofty has included detailed information about how the programming committee selects programs to meet community needs, provide material of local significance and add to the services available in the area. For example, the programming committee must record information about how it has determined whether a program meets community needs. Each program is subject to regular review.

Provision of programs

Giving members of the community an opportunity to produce and present programs is a concrete way to demonstrate that a licensee has encouraged community participation in the provision of programming.⁵¹ Licensees encourage community participation in the production and presentation of programs when they are open to new programming ideas from the community.⁵²

Lofty has a programming proposals policy which outlines the process by which it 'welcomes program proposals from people residing within Mount Barker RA1'. This process includes the following points:

- > The decision to accept or decline a proposal is at the discretion of the programming subcommittee.
- > Lofty is to provide feedback to proposers of declined proposals. Where appropriate, feedback may include advice about how the declined proposal could be amended.
- > Where a proposal has been declined, the proposer may seek a review of this decision.
- > The rejection of a proposal shall have no bearing on future proposals by the proposer.

Lofty has stated that it has 24 trained presenters, two trained presenters whose memberships are pending, and five presenters in training. As noted above, Lofty intends to encourage current Hills presenters to participate in the provision of programs, if it is allocated the licence. Appendix 10 to Lofty's application states:

An on-air position shall be offered to each Hills Radio member that successfully completes Lofty's training, subject to said ex-Hills Radio presenter being accepted as a Lofty member in terms of Lofty's membership policies and Rule 16 of the Lofty Constitution. Said training shall be offered at no extra cost to ex-Hills Radio members.

Assessment

Lofty has demonstrated the capacity to provide the service. Its management and technical teams have skills, experience and equipment that are appropriate for providing a community broadcasting service. Lofty also has the support of SACBA, the peak body for community broadcasters in South Australia, in the form of loaned equipment and in-kind technical support. While it currently has a low level of members, this can be partly explained by it being a new organisation. The number of volunteers is close to the average. The ACMA is satisfied it will have the financial capacity to provide the service if it is allocated the licence.

Comparative assessment

Both Lofty and Hills appear to have the capacity to provide their respective proposed services. The key areas of difference in capacity were the persuasiveness of the cases for financial and compliance capacity. Further information on the ACMA's comparative assessment in those areas is set out below.

⁵¹ [Community Broadcasting Participation Guidelines](#), ACMA 2010, p. 20.

⁵² *Ibid*, p. 21.

Financial capacity

Hills is in a sound financial position with total retained earnings of \$57,806 at June 2019 and a high level of income. Hills' five-year budget shows that it expects to make annual surpluses of between \$1,228 and \$11,502 until 2024-25.

Lofty appears to be running a very lean operation based on loan equipment and minimum sponsorship. This reflects a deliberate strategy that the ACMA considers is sound given the status of its licensing arrangements and the short time Lofty has been in existence. Lofty has also demonstrated that it expects its financial position to change should it be allocated the licence. This expectation appears to be based on reasonable assumptions.

Overall, the ACMA notes that, while Hills and Lofty are in quite different financial positions, these are explicable by reference to the history of the respective organisations combined with sound decision making on financial matters by each entity. The ACMA considers that both entities have demonstrated financial capacity to deliver the service and each application shows this to similar levels of merit.

Compliance capacity

Overall, the ACMA considers that Hills' application exposes material doubts about its compliance capacity while Lofty's application does not.

As discussed in detail above, Hills' constitution and by-laws raise concerns about its capacity to comply with the community participation licence conditions which have only partly been addressed to date. Hills' constitution and by-laws appear to place significant control of Hills in the hands of the Board and the GM/ED.

In addition, the ACMA considers that the revised by-laws and submitted constitution still contain several provisions that raise concerns about Hills' capacity to comply with the community participation licence conditions, as identified in **Appendix E**.

Hills has submitted an undertaking to amend its constitution to comply with the community participation licence conditions at its AGM in September (COVID-19 permitting). This suggests that Hills intends to improve this aspect of its capacity to comply with the participation licence conditions. However, Hills has not indicated which provisions of its constitution and by-laws it intends to amend.

The ACMA's level of confidence about Hills' application is also affected by Hills' failure to take action to fully remedy breaches of the Codes in 2017.

As a result there remains doubt about the degree to which Hills will have the capacity to meet the community participation licence conditions.

Lofty's constitution does not raise concerns about its capacity to comply with the community participation licence conditions at paragraph 9(2)(c) of Schedule 2 to the BSA. Lofty's policy documents contain evidence that Lofty has considered the Codes, the Guidelines and the BSA when creating its policies. Lofty's membership, community participation, programming and programming subcommittee policies, in particular, show evidence that it has considered the community participation provisions/guidance in the Codes, Guidelines and BSA.

Community participation is a crucial element which must be satisfied in order to qualify for the grant of a community licence. On balance, Lofty has provided the more persuasive case, having regard to the criteria at paragraph 84(2)(d) of the BSA, particularly with regard to its capacity to comply with the community participation licence conditions at paragraph 9(2)(c) of Schedule 2 to the BSA.

Control of the licence (paragraphs 84(2)(e) and (f))

Hills

There is no evidence to suggest that any one person involved in the service would be able to exercise control of more than one community broadcasting licence in the same licence area if the licence is allocated to Hills.

There is no evidence to suggest that the Commonwealth, a State or a Territory or a political party would be in a position to exercise control of the licence if it is allocated to Hills.

Lofty

There is no evidence to suggest that any one person involved in the service would be able to exercise control of more than one community broadcasting licence in the same licence area if the licence is allocated to Lofty.

There is no evidence to suggest that the Commonwealth, a State or a Territory or a political party would be in a position to exercise control of the licence if it is allocated to Lofty.

Appendix A

Existing broadcasting services available in the Mount Barker RA1 licence area

Overlapping radio and television services	Category of broadcasting service	Nature of programming
Television services		
ABC	National	General programming including news, information, education, entertainment and arts
ADS	Commercial	General programming including news, information and entertainment
NWS	Commercial	General programming including news, information and entertainment
SAS	Commercial	General programming including news, education and entertainment
SBS	National	Multilingual programming including news, education and entertainment
Radio services		
5ABCFM 103.9 MHz	National	ABC classic FM—classical music
5ABCRN 729 kHz	National	ABC Radio National – general programming with a local and national perspective including news, information and entertainment
5AN ABC Adelaide 891 kHz	National	ABC Local Radio (Adelaide) - general programming with a local perspective including news, information and entertainment
5JJJ 105.5 MHz	National	Triple J—Youth contemporary music and programming
5PB 972 kHz	National	ABC News—news programming
5SBSFM 106.3 MHz	National	Multilingual programming including news, education and entertainment
5EZY 100.3 MHz	Commercial	General programming including news, information and entertainment
5MU 94.3 kHz	Commercial	General programming including news, information and entertainment
88.9 FM Hills Radio 88.9 MHz	Temporary Community	Representing the general community interest
Lofty 88.9 88.9 MHz	Temporary Community	Representing the general community interest

Appendix B

Technical specifications for SL1180024 in the Mount Barker RA1 licence area

LICENCE AREA PLAN: Murray Bridge

Category: Community
General area served: Mount Barker (SA)
Service licence number: SL1180024

TECHNICAL SPECIFICATION—FM Radio

Specification number: TS12000553

Transmitter Site:

Nominal location: RAA District Council Site Old Mount Barker Road ECHUNGA

Nominal Co-ordinates (GDA94):
Latitude Longitude
-35.101159 138.813272

Site tolerance: Refer to *Broadcasting Services (Technical Planning) Guidelines 2017*

Emission:

Frequency band & mode: VHF-FM
Carrier frequency: 88.9 MHz
Polarisation: Mixed
Maximum antenna height: 45 m

Output Radiation Pattern:

Bearing or Sector (clockwise direction)	Maximum ERP
At all angles of azimuth	500 W

Advisory Note:

Any transmission in accordance with this specification is planned on the basis that it will be protected to a minimum median field strength level of 66 dBuV/m against interference from other broadcasting services.

Appendix C

Hills' proposed weekly program schedule

Hills Radio 88.9 FM Proposed Weekly Program Schedule							
as at June 2020							
	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
00:00	Deutsche Welle World link	Deutsche Welle World link	Deutsche Welle World link	Deutsche Welle World link	Deutsche Welle World link	Friday Overnight Australian music for all generations	Saturday Overnight Music for all generations
01:00	DW Spectrum	DW Spectrum	DW Spectrum	DW Spectrum	DW Spectrum		
02:00	World in Progress	DW Living Planet	DW Living Planet	DW Living Planet	DW Living Planet		
03:00	World in Progress	World in Progress	World in Progress	World in Progress	World in Progress		
04:00	Music 40's at Four	Music 40's at Four	Music 40's at Four	Music 40's at Four	Music 40's at Four		
05:00	Music 50's at Five	Music 50's at Five	Music 50's at Five	Music 50's at Five	Music 50's at Five		
06:00	Sunday Morning Chill featuring the Community Buy Swap and Sell	Bright Breakfast Music featuring the Community Notice Board	Bright Breakfast Music featuring the Community Notice Board	Bright Breakfast Music featuring the Community Notice Board	Bright Breakfast Music featuring the Community Notice Board	Bright Breakfast Music featuring the Community Notice Board	The Big Band Show with Bill
07:00		Breakfast in the Hills - live morning breakfast program	Breakfast in the Hills - live morning breakfast program	The Mighty Quin Breakfast Program - live morning breakfast program	Breakfast in the Hills with Lokky - live morning breakfast program	The Launch Pad with Glenn - live morning breakfast program	
08:00	Music of Faith						Adventure Before Dementia - SA camping show
09:00	No Country for Old Men - country music program with Australian content	Monday Hills Chat Live Community engagement program	Tuesday Hills Chat Live Community engagement program	Wednesday Hills Chat Live Community engagement program	Thursday Hills Chat Live Community engagement program	Friday Hills Chat Live Community engagement program	Saturday Hills Chat Live Morning breakfast program
10:00							The Food and Wine Show
11:00							
12:00	Indigenous Radio, featuring CBAA Power Radical Radio	Hits of the 70s reliving Australian hits of the 70's	The Rainbow Hour (The LGBTQIA+ show)	Newspapers on Air RPH (Courier)	Newspapers on Air RPH (Herald)	AMRAP Top 10 and Local Gig Guide	The Random Hour - youth program
13:00				AMRAP Top 10 and Local Gig Guide	The Johnny Parr Show		Lekker Downunder Afrikaans Show
14:00	Life Without Barriers Disability Program - presented by people with life challenges	The Weekend in Review - community review of past and coming local events.	The Funk! Dylan brings you 70's Funk	Chit Chat & Tunes - music for your memories	The Aussie Music Hour with Johnny Parr	Hills Retro Mix70's, 80's and 90's with Peter Franz	The Weekend Jam (Off Season)
15:00				Alan Musa and Music			
16:00	Lekker Downunder Afrikaans Show	Monday Drive. Update on freeway traffic, emergency services and music	Tuesday Drive. Update on freeway traffic, emergency services and music	Life Bursts Christian program	Thursday Drive with Geoff. Update on freeway traffic, emergency services and music	Drive with the 'G' Update on freeway traffic, emergency services and music	Live coverage of Local Hills Football League (In Season)
17:00							Kelly Kountry
18:00	Mt Barker Theatre on the Air	The Student Voice - youth program	The Random Hour Youth Program	Hills Sports Show	Who Wants To Rock? Locally produced music program	627 with Mikayla Youth Program	Timomatic Rocks (off season)
19:00	Relax and Enjoy RPH Book reading program	627 Australian Music with Mikayla Youth Program	AMRAP Top 10 and Local Gig Guide			The Local Music Show. Featuring local artists live in studio	Live coverage of local Soccer team - The Hawks (in season) Otherwise Jukebox
20:00	Music to Feed your Soul - Classical Music Program	Best of Chit Chat & Tunes	Indigenous Radio, featuring CBAA Power Radical Radio	The Big Band Show with Bill			
21:00	Learn German	Music of our Lives - local music program for seniors	DW Spectrum	Sitting in a Bar in Adelaide	Psychotropic Jungle. Local heavy music program	Jake and Friends - interactive local music program.	Saturday Night JukeBox request Program
22:00	The German Show					The James Risby Show	
23:00	Jazz Leur	The Jazz Ship with Philip	Jazz Leur		AMRAP Top 10 and Local Gig Guide	Friday Night Jukebox	

				HOURS		
				Spoken Word	Music	
Pre-Recorded and Locally Produced				17.2	40.8	.
Live-To-Air and Locally Produced				45.6	34.4	.
Australian Produced				4	4	.
Overseas Produced				22	0	.
		Sub-Total		88.8	79.2	
		TOTAL		168 HOURS		

Appendix D

Lofty's proposed weekly program schedule

PROPOSED PROGRAM GUIDE

Effective 1 July 2020

FM AND ONLINE

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Program	Music/Genre	Program	Music/Genre	Program	Music/Genre	Program
Overnight	0000-0059 Blow Ya Speakers EDM, Deep House	0100-0159 Uplifting Only EDM, Trance	0200-0259 White Noise EDM, Techno	0300-0359 Revolution Radio EDM, Min, Techno	0400-0459 Beatbox Attack EDM, Tech House	0500-0559 Democracy Now!	0600-0629 Democracy Now!
Morning	0630-0659 Sunday Morning Easy Listening (rtn 50% Aus. music content)	0700-0729 Chill	0730-0759 Chill	0800-0829 Chill	0830-0859 Chill	0900-0929 DW Living Planet	0930-0959 Sea Change Radio
Afternoon	1000-1029 Radio Footbook	1030-1059 Diffusion	1100-1129 Lost in Science	1130-1159 Lost in Science	1200-1229 Clashy Pops	1230-1259 Hardly Mac: Down w/ Penelope Herbert	1300-1329 Herbert
Evening	1330-1359 The Temple with Michelle Braden	1400-1429 The Temple with Michelle Braden	1430-1459 Jungle Telegraph	1500-1529 with Al Thorne	1530-1559 Jungle Telegraph	1600-1629 Jungle Telegraph	1630-1659 with Al Thorne
	1700-1729 Jazzzball with Tony Sander	1730-1759 Jazzzball with Tony Sander	1800-1829 Jazzzball with Tony Sander	1830-1859 Jazzzball with Tony Sander	1900-1929 Jazzzball with Tony Sander	1930-1959 Jazzzball with Tony Sander	2000-2029 Jazzzball with Tony Sander
	2030-2059 Jazzzball with Tony Sander	2100-2129 Jazzzball with Tony Sander	2130-2159 Jazzzball with Tony Sander	2200-2229 Jazzzball with Tony Sander	2230-2259 Jazzzball with Tony Sander	2300-2329 Jazzzball with Tony Sander	2330-2359 Jazzzball with Tony Sander
	Program	Music/Genre	Program	Music/Genre	Program	Music/Genre	Program
	Music/Genre	Program	Music/Genre	Program	Music/Genre	Program	Music/Genre
	Program	Music/Genre	Program	Music/Genre	Program	Music/Genre	Program
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Appendix E

Aspects of Hills' constitution and by-laws that raise concerns about community participation

Constitution	
Provision/description	Issues raised
<p>5.3(a): The board has the discretion to reject membership applications regardless of whether the applicant has met the criteria for membership as set out in the by-laws.</p> <p>8.3(b): The board has a wide discretionary power to accept or reject membership applications from people who have been expelled as members.</p>	Does not set out specific, transparent and reasonable criteria for rejecting membership applications, and does not encourage open membership as contemplated by the Community Broadcasting Participation Guidelines. ⁵³
7.1(b): Members must comply with 'any determination, resolution or policy which may be passed or made by the Board or other entity with delegated authority'. The GM/ED would appear to be such a delegated authority, with a broad delegation to make decisions on behalf of the organisation (see subclause 18.4 of the constitution below).	Concentrates control of the creation of policies that members must comply with in the hands of the GM.
9 and 8.2: The board may follow the 'discontinuance for breach' procedures outlined in subclause 8.2 if a member has 'allegedly' breached certain provisions. However, subclause 8.2 does not appear to allow members to challenge the view that they have breached the constitution or by-laws. Instead they are given the opportunity to appeal to the board to 'explain' or 'remedy' the breach. Further, the board has the power to decide whether the appeal is successful, and members cannot appeal.	Not giving members a fair hearing regarding alleged breaches of the constitution could discourage community participation.
9(a)(I) and 9(a)(II): Grounds for disciplinary measures and expulsion are not clearly defined, e.g. 'acting in a manner unbecoming of a member' and bringing 'any other member into disrepute'.	Members may be removed for breaching rules that are not specific, transparent and reasonable. This does not encourage open membership as contemplated by the Community Broadcasting Participation Guidelines.
29(c): The grievance procedure allows the GM to be on the Judiciary Committee tasked with resolving a dispute involving him/herself.	Concentrates control in hands of the GM. The GM can be involved in disciplining members who complain about him or her. This has been partially addressed by Hills revising its by-laws following the ACMA's query to state that the GM must recuse him/herself from the Judiciary Committee if the committee is to consider a complaint against them.

⁵³ [Community Broadcasting Participation Guidelines](#), ACMA 2010, p. 10.

18.4: The ED has broad powers 'to perform all things as appear necessary or desirable for the proper management and administration of the Association'.	Concentrates control in the hands of the GM/ED.
36: The Board has a broad power to create binding by-laws without consulting members.	Not allowing members to be involved in creating/voting on by-laws, which state that they 'form part of' the constitution, restricts community participation in operations.
37.2(b), 37.2(c) and 37.2(d): Members must agree to abide by unclear terms. E.g. they must agree to 'not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of the Association [...]'.	Members may be removed for breaching rules that are not specific, transparent and reasonable. This does not encourage open membership as contemplated by the Community Broadcasting Participation Guidelines.

By-laws	
Provision	Issues raised
1.2: Nominations for membership must be proposed and seconded by two members of the association.	Does not encourage open membership as contemplated by the Community Broadcasting Participation Guidelines. Prospective members must gain the support of two existing members before they can become a member themselves.
1.6.2: The Board may reject applications where 'applicants are employed or volunteer at competing broadcasters, radio stations or internet based streaming services'.	Discourages participation by members of the community who fall into the category of applicant described in by-law 1.6.2 , and does not seem to be a reasonable reason to reject membership applications.
3.4: Applicants for Director positions are interviewed by the Board to discuss potential conflicts of interest, be reminded of the 'legal duty to represent the best interests of the Association and of Hills Radio', and be reminded of the 'necessity to put all other interests aside'.	Applicants being interviewed by the Board appears to place a degree of control over the process for director nominations in the hands of the existing Board. The 'necessity to put all other interests aside' seems to be an unduly restrictive measure placed on members of the community who wish to become Directors.
6.2 and 6.4: 'All operational activities shall be performed by people under terms specified in a volunteer service agreement' [...] 'Operational activities include all activities deemed by the General Manager to involve providing services to Hills Radio.'	By-law 6.4 allows the GM/ED to define 'operational activities' as referred to in by-law 6.2 . This may constrain the activities that volunteers can perform and concentrates control in the hands of the GM.
8.1.1: 'All programs are on a 12 month trial and may be revoked by Management or the Board at any time should it be decided that it is in the best interest of the organization for the time slot be used otherwise.'	Appears to concentrate control of programming decisions in the hands of the GM/ED.

<p>8.5: ‘Any member copying, distributing or removing the Hills Radio Constitution and By-Laws will be subject to discontinuance of membership to the association under Clause 8.2 of the Constitution.’</p>	<p>Unreasonable reason for removing a member. Does not encourage open membership as contemplated by the Community Broadcasting Participation Guidelines.</p>
<p>8.7: ‘Announcers making controversial or derogatory comments on air or off air in relation to management or the general conduct of the Radio Station, whether deemed offensive or not shall be subject to disciplinary action by Management and the Board.’</p>	<p>If volunteer announcers express dissatisfaction with the management of Hills in any forum, regardless of whether these comments are made on air or off air, the GM/ED and the Board appear to have wide discretion to discipline the announcer.</p>
<p>8.8: ‘All signage and memorandums issued by Management in the workplace shall be deemed as binding Rules and Guidelines as set out in these By-Laws and any breach shall be dealt with relying on the appropriate workplace disciplinary regime.’</p>	<p>Appears to concentrate control in the hands of the GM/ED, giving them a broad power to create new ad hoc by-laws that have strong sanctions attached.</p>