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## WIA Information Update

4 March 2019

### RE: WIA Position on outcomes of the Approach to Market for Examination Services.

Dear Member,

As you are no doubt aware the Australian Communications and Media Authority (ACMA) have recently announced the signing of the Deed of arrangement between the Australian Maritime College (AMC) for the provision of examination and other services.

The AMC have subsequently released their pricing and preliminary information on other processes.

The result of the negotiations between the AMC bid team and ACMA procurement has resulted in the “headline” entry price to the *hobby* of Amateur Radio rising:

- \$75 to \$115 (Foundation Assessment, Practical Assessment & Callsign Recommendation) for adults - an increase of over 140%, (WIA’s proposal was \$49)
- \$40 to \$115 (Foundation Assessment, Practical Assessment & Callsign Recommendation) for youth - an astonishing 285% increase. (WIA’s proposal was \$27)

The WIA board and the Education Group is horrified by the existential risk that this creates for the hobby of Amateur Radio, especially given the widespread community support (at both a local and international level) for attracting younger participants to the hobby.

Not only has the process increased costs and failed to provide continuity (despite solutions to this being offered by the WIA), the processes described by the AMC in their recent release paint a picture of an exam service that, in the opinion of the Education Group, is of a significantly lower standard than that which was previously offered by the WIA and vastly inferior to that which the WIA proposed.

A succession of royal commissions have demonstrated the consequences of decision making that fails to consider the customer.

The only rational conclusion the WIA can draw is that the AMC, parties to the AMC bid and those involved in the ACMA procurement process have weighted political, commercial and personal factors ahead of their customers’, the community and the hobby of Amateur Radio.

The WIA, as the only Amateur Radio organisation that is demonstrably committed to furthering the hobby, remains committed to resolving this situation for the benefit of our members and the community we represent.

On behalf of the WIA Board.

A handwritten signature in black ink, appearing to read "Justin Giles-Clark". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Justin Giles-Clark  
President & Director

## Status of handover to ACMA

It would be reasonable to acknowledge that the Deed signed in 2009 lacked expiry provisions.

Whilst it contains a robust process for managing termination for non-performance (Clause 24 and 25 - see appendix) it contains no provisions for the handover of services should the deed simply expire.

In recognition of this, the WIA engaged the ACMA in 2018 to agree a high-level plan should this eventuality arise.

Following the announcement of the AMC as the successful respondent, and prior to the new deed being signed, the WIA returned the intellectual property to the ACMA as required by the Deed.

The previous deed, signed in 2009, defines the intellectual property to be returned *on expiry of the deed* in clause 18.3 (see appendix). This includes:

- 18.3(a) The database of qualified operators
- 18.3(b) Examination records
- 18.3(c) Any other material created in consultation with the Commonwealth around which there is a specific agreement that it should be returned on expiry of the deed.

Despite a significant search by both the ACMA and the WIA there is no evidence of any material that is captured by 18.3(c). Consequently, the ACMA have agreed that there are material components of the WIA's service delivery that belong to the WIA. This includes critical information such as the entire foundation question bank and hundreds of alterations to the original question (which was supplied to the WIA in 2005).

The WIA has provided all electronic intellectual property (including that belonging to the WIA) to the ACMA in good faith using in 3 encrypted datasets:

- ACMA owned IP that contains no personal information
- ACMA owned IP that contains confidential personal information
- WIA owned IP that contains no personal information

The ACMA has declined access to the WIA owned intellectual property and has requested that we engage the AMC with respect to this data.

The WIA recognises the impact that the lack of this IP might have on the ability for the new provider to deliver services to at least the same level as has been in the past. As it is with a number of the aspects of this new arrangement the WIA and its members are forced to choose between what is right for the organisation and members, and that which is right for the broader community.

The WIA has engaged the AMC on this matter and will update our members with information as it comes to hand. If any member has thoughts on how they believe the WIA should proceed please do not hesitate to email your thoughts to [support@wia.org.au](mailto:support@wia.org.au).

## **Concerns relating to examination processes.**

The Education Group has raised a number of critical concerns regarding the limitations imposed on the process of training aspirants by the AMC's processes.

The AMC is proposing to use the same processes that are employed in the delivery of the marine radio licence.

Given that the subject matter in the marine radio licence is largely operational whilst that in the amateur syllabus (in particular the advanced and standard) deals with complex subject matter founded in physics and chemistry the question has been raised as to whether the proposed model is fit-for-purpose.

The Education Group has written to the AMC regarding a number of matters, several are highlighted below:

### **1. Immediate Feedback**

One of the advantages of the previous and proposed WIA models is that candidates are provided with immediate feedback on their performance during the examination.

This provides a forum for the educator who is overseeing the exam to correct a candidates understanding of a concept immediately after the exam whilst this concept is still front of mind.

The Education Group is concerned that the move to "invigilators" will create an environment where candidates do not have the immediate support and feedback that would naturally follow from having an immediate result.

The WIA board are concerned that this process of remote marking is regressive. It presents material barriers to entry, is inconsistent with broader community expectations and strengthens the argument that amateur radio is failing to progress.

### **2. For profit vs Not for Profit**

Many assessors have reached out in dismay at the fact that they are being caught in a "pincer move" where their voluntary efforts are being leveraged on a "for profit basis" by a third party organisation that is entirely unrelated to the hobby.

These assessors feel disdain at the thought of "giving their time for free while someone else profits with no hope of these profits being returned to the hobby" whilst at the same time a recognition that without their efforts the hobby will die.

The WIA board is of the view that preying on the good nature of the amateur community by organisations and individuals who are seeking commercial, personal and political outcomes is unconscionable and support those who for this reasons decide they cannot continue in the assessment process.

## **Why was the WIA proposal cheaper?**

The answer, in short, is “Because it has to be”.

The long answer, however, is a little more complicated.

In developing the proposed solution the WIA started with the fundamental premise of improving community outcomes and reducing barriers to entry. A key barrier to entry is cost.

The WIA’s proposal sought to manage the cost of exams by:

- Removing the reliance on inelastic costs and shifting the cost base to one that varies based on the number of exams conducted and licences issued.
- Using technology to decrease fulfilment times and reduce human processing time
- Identifying alternative sources of revenue

In addition to cost management the WIA sought, as part of the bid process, corporate funding to help support the strategy outlined in the proposal.

Commitments for donations of over \$500,000 were secured to assist with the technology aspects of the WIA execution over the life of the contract. In addition to this, other other viable funding sources were also identified that may have provided considerable direct funding should the WIA have been successful.

It was the view of the team that alternative funding arrangements would ensure:

- a world class assessment system was available to Australian aspirant radio amateurs;
- barriers to entry remain as low as possible; and
- existing members would not be funding new entrants into the hobby.

It is the view of the board that the process of developing “out of the box” solutions that result in more money being directed towards amateur radio in Australia is central to the objects of the organisation. It is disappointing that in this instance the decisions that underpin the winning proposal were clearly not made with this in mind.

## Appendix - 2009 Deed Expiry and Termination Clauses.

### 18. Intellectual Property

- 18.1 On the Commencement Date of this Deed the Commonwealth shall ensure that ACMA grants the WIA access to the Database of Qualified Operators.
- 18.2 Intellectual Property in the Database of Qualified Operators remains vested in the Commonwealth at all times (including any adaptations, additions or other changes to the Database).
- 18.3 On the expiration or termination of this Deed or the expiry of the period of renewal of this Deed the WIA shall assign to the Commonwealth all Intellectual Property in:
- (a) the Database of Qualified Operators (in the case where any such Intellectual Property does not already vest in the Commonwealth);
  - (b) any database or other records of the results of Examinations relating to identified candidates; and
  - (c) any other material created by the WIA in consultation with ACMA or the Commonwealth after the Commencement Date for the purposes of providing the Statutory Functions and Administrative Services specifically agreed and identified between the parties as being material to which this clause 18 applies.

### 24. Termination

- 24.1 Each of the following is a Default Event:
- (a) the WIA commits a breach of this Deed which is capable of being remedied but the breach continues for more than 14 Working Days after the WIA is given a notice by the Commonwealth requiring the breach to be remedied;
  - (b) the WIA commits a breach of this Deed which cannot be remedied, which breach is, in the reasonable opinion of the Commonwealth, a serious breach of this Deed;
  - (c) a summons or other process seeking orders which, if granted, would render the WIA an externally-administered body corporate or insolvent under administration, is filed and is not withdrawn within 28 Working Days; or
  - (d) a conflict of interest arises in the performance of the WIA's obligations under this Deed which, in the reasonable opinion of the Commonwealth, significantly affects the interests of ACMA or the Commonwealth.
- 24.2 Without limiting clauses 24.3, 24.4 and 24.5 and without prejudice to any other right or remedy that the Commonwealth has, if any Default Event occurs the Commonwealth may terminate this Deed by giving 30 Working Days written notice to the WIA.

## **25. Consequences of Termination**

- 25.1 If the WIA receives a Termination Notice under clause 24.2 then, from the date it receives the Termination Notice, the WIA must:
- (a) not accept any further applications for Amateur Certificates of Proficiency;
  - (b) continue to provide the other Statutory Functions and Administrative Services in accordance with this Deed until transfer under paragraph (c);
  - (c) co-operate with ACMA and any relevant third parties to achieve a seamless transfer to another provider of the Statutory Functions and Administrative Services of all records associated with the Statutory Functions and Administrative Services, including:
    - (i) the Database of Qualified Operators; and
    - (ii) the Database of Assessors; and
  - (d) apart from the versions of the databases transferred under paragraph (e) and unless ACMA otherwise directs, return all copies of the databases (including derivatives of it) to ACMA.
- 25.2 The Commonwealth through ACMA may give written directions to the WIA that reasonably relate to paragraphs 25(1)(b) to (f) on any matter arising out of the termination of this Deed and the WIA must comply with those directions.
- 25.3 If this Deed is terminated, the accrued rights of the Parties remain unaffected except to the extent that the Parties expressly agree otherwise.