EXPLANATORY STATEMENT

ISSUED BY THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY

VARIATION TO LICENCE AREA PLAN – MOUNT ISA RADIO – NO.1 OF 2013

BROADCASTING SERVICES ACT 1992

In accordance with the Australian Communications and Media Authority Act 2005, the Australian Communications and Media Authority (ACMA) exercises powers and functions under the Broadcasting Services Act 1992 (BSA).

The ACMA has made a variation to the licence area plan (LAP) for Mount Isa radio. The variation was made under subsection 26(2) of the BSA and is referred to in this explanatory statement as “the instrument”.

The LAP and variations to the LAP

The ACMA prepares LAPs under subsection 26(1) of the BSA. LAPs determine the number and characteristics, including technical specifications, of broadcasting services that are to be available in particular areas of Australia with the use of the broadcasting services bands.

The ACMA may, by legislative instrument, vary LAPs under subsection 26(2) of the BSA.

The original LAP for Mount Isa Radio (“the Mount Isa LAP”) was made on 16 September 1996.

Intended impact and effect

The instrument varies the characteristics, including technical specifications, of radio broadcasting services in the Mount Isa area by making available the frequency 104.9 MHz with a maximum effective radiated power (ERP) of 1 kilowatt (kW) with an omni-directional radiation pattern for a new national radio broadcasting service.

The instrument also deletes some material, included for reference only, that does not form part of the LAP and which may create confusion, and makes some minor amendments to revise the drafting of the Mount Isa LAP. It also updates each of the licence area definitions so that they are defined in terms of the Australian Bureau of Statistics (ABS) 2006 census data.

The intended impact and effect of this variation is to clarify the characteristics, including technical specifications, of radio broadcasting services in the Mount Isa area. The ACMA does not intend the variation to alter any existing rights and obligations, except as set out above.

Regulatory Impact Analysis

The ACMA’s Best Practice Coordinator has considered the matter and referred it to the Office of Best Practice Regulation (OBPR). The OBPR formed the opinion that the proposed regulation is likely to have no or low impact on business or the economy; and neither a regulation impact statement nor a business cost calculator report is necessary in relation to the regulatory proposal.

The OBPR has issued an exemption reference number: 2011/13329.

Consultation

Before making a decision to vary the Mount Isa LAP, the ACMA undertook the following consultation:
1. On 31 October 2012, the ACMA published the following papers on its web site:
   a. a draft instrument;
   b. an explanatory paper outlining the changes proposed in the draft instrument and inviting public comment by 30 November 2012; and
   c. a media release announcing the draft instrument.

2. On 31 October 2012, the ACMA wrote to the licensees providing radio broadcasting services in the Mount Isa RA1 and Mount Isa RA2 and in adjacent radio licence areas to advise them of the release of the draft instrument and to invite their comments by 30 November 2012.

3. On the 2 November 2012 the ACMA placed an advertisement in the “Mt Isa North West Star” announcing the draft instrument. The advertisement provided details of how and where to obtain copies of the draft instrument and invited public comment by 30 November 2012.

Submissions
The ACMA received no submissions on the draft instrument.

Description of the provisions of the instrument

Clause 1
Clause 1 identifies the power under which the ACMA makes the instrument, subsection 26(2) of the BSA.

Clause 2
Clause 2 names the instrument the Variation to the Licence Area Plan for Mount Isa Radio – No 1 of 2013.

Clause 3
Clause 3 provides the instrument commences the day after it is registered on the Federal Register of Legislative Instruments.

Paragraph 4(a)
Paragraph 4(a) renames the Mount Isa LAP as “Licence Area Plan – Mount Isa Radio”.

Paragraph 4(b)
Paragraph 4(b) amends the heading on the title page of the Mount Isa LAP so that it reads “Licence Area – Mount Isa Radio”.

Sub-paragraph 4(c)(i)
Sub-paragraph 4(c)(i) amends the heading on page two of the Mount Isa LAP so that it reads “Licence Area Plan – Mount Isa Radio”.

Sub-paragraph 4(c)(ii)
Sub-paragraph 4(c)(ii) removes the heading “Determination” from page two of the Mount Isa LAP.

Sub-paragraph 4(c)(iii)
Sub-paragraph 4(c)(iii) numbers the three paragraphs consecutively as clauses (1), (2) and (3).

Sub-paragraph 4(c)(iv)
Sub-paragraph 4 (c)(iv) omits clauses (1), (2) and (3) and substitutes new clauses (1), (2) and (2) and inserts a new clause (4) into the instrument.

The new clause (1) states that this plan for radio broadcasting services in the Mount Isa area of Queensland is made under subsection 26(1) of the Broadcasting Services Act 1992.

The new clause (2) of the instrument reflects the addition of Attachment 1.13 to the Mount Isa LAP which will increase the number of national radio broadcasting services to be available in the Mount Isa RA1 licence area from five to six. The new clause (2) also reflects the substitution of the word ‘determination’ with the word ‘plan’ and the word ‘Schedule’ with the words ‘Schedule One’.

The new clauses (3) reflects the substitution of the word ‘determination’ with the word ‘plan’ and the word ‘Schedule’ with the words ‘Schedule Two’ in the clause.

The new clause (4) will ensure that a reference to a schedule or an attachment includes a reference to a schedule or attachment as amended from time to time.

**Sub-paragraphs 4(d)(i) and 4(d)(ii),**

Sub-paragraphs 4(d)(i) and 4(d)(ii) remove from the Mount Isa LAP all the text, immediately before Schedule One under the heading “SCHEDULES” (including the heading itself). This material was originally included for reference only and is no longer considered relevant or necessary.

**Sub-paragraph 4(e)**

Sub-paragraph 4(e) replaces Schedules One and Two of the Mount Isa LAP. These schedules set out the details of the national, commercial and community and open narrowcasting radio broadcasting services that are to be available on particular frequencies in the Mount Isa RA1 and Mount Isa RA2 licence areas.

In particular, the Schedules provide the technical specification numbers for each transmitter to be used by the services in the licence areas, and specify the attachments which contain the technical specification for each of those transmitters and are described in the same manner as previous radio LAP variations.

**Sub-paragraph 4(f)**

Sub-paragraph 4(f) omits Attachments 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 2.1, 2.2 and 2.3 from the Mount Isa LAP and inserts Attachments 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 2.1, 2.2 and 2.3.

The new Attachments 1.1 and 2.1 contains the definitions of the Mount Isa RA1 and Mount Isa RA2 licence areas updated to 2006 census data.

The new Attachments 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 2.2 and 2.3 have been varied so that their headings read ‘LICENCE AREA PLAN: Mount Isa Radio’, the site tolerance fields refer to the Broadcasting Services (Technical Planning) Guidelines 2007 and the nominal location and Australian map grid reference changed to better reflect the location of the transmitter (the transmitters have not, however, moved).

The new Attachments 1.2, 1.3, 1.4, 1.5, 1.12, 2.2 and 2.3 have been varied so that the maximum antenna height reflects actual operating conditions.

The special condition on Attachment 1.7 and 1.8 have been amended to better reflect the operating conditions for AM Radio Day/Night Switching.

A special condition has been added to Attachments 1.11 and 1.12 to include a defined coverage radius for both services.
The new Attachment 1.13 contains the technical specifications for the new national radio broadcasting service to be available at Mount Isa in the Mount Isa RA1 licence area.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Variation to Licence Area Plan – Mount Isa Radio – No.1 of 2013**

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The legislative instrument varies the Mount Isa licence area plan (LAP) to make frequency 104.9 MHz with a maximum effective radiated power of 1 kilowatt with an omni-directional radiation pattern available at Mount Isa for a new national radio broadcasting service.

The legislative instrument also updates the description of the existing commercial and community radio licence areas in the Mount Isa LAP so that they are defined in terms used in the 2006 census and are consistent with the ACMA’s most recent determination of population of the licence areas under section 30 of the *Broadcasting Services Act 1992*.

The legislative instrument also makes minor amendments to delete information included for reference only that does not form part of the Mount Isa LAP and which may create confusion.

The intended impact and effect of the legislative instrument is to clarify the characteristics, including technical specifications, of radio broadcasting services in the Mount Isa area. The ACMA does not intend the variation to alter any existing rights and obligations, except as set out above.

**Human rights implications**

The legislative instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

The legislative instrument is compatible with human rights as it does not raise any human rights issues.

*Australian Communications and Media Authority*