EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications Act 1992

Purpose
The purpose of the Radiocommunications (Public Safety and Emergency Response) Class Licence 2013 (the Class Licence) is to authorise persons to operate radiocommunications devices to provide public safety and emergency response services.

Legislative Provisions
Under section 132 of the Radiocommunications Act 1992 (the Act), the Australian Communications and Media Authority (the ACMA) may issue class licences. Section 133 of the Act allows the ACMA to include conditions in a class licence.

A class licence is a legislative instrument under the Legislative Instruments Act 2003.

Background
The International Telecommunication Union (ITU) World Radiocommunication Conference 2003 identified the 4940-4990 MHz band (the 4.9 GHz band) to support public safety services in Regions 2 and 3 for use by government agencies responsible for the provision of defence, national security, law enforcement and emergency services.

With this in mind, the ACMA has allocated spectrum in the 4.9 GHz band to public safety agencies (PSAs) to enhance their ability to perform public safety activities. The arrangements include the Class Licence which authorises access to 50 MHz of the 4.9 GHz band on a non-exclusive basis by PSAs (that is, the PSAs must share the spectrum among themselves, not with other users), without the need for individual device licences.

A class licensing arrangement provides significant flexibility in deployment during emergency response and disaster recovery activities. Also, PSAs can access spectrum to facilitate their activities without administrative overheads.

Operation
Use of the band for purposes other than public safety, or by non-public-safety agencies (except under strict conditions), will not be authorised under the Class Licence. Use of the band is principally to support high-speed localised coverage around an incident or event. Other potential applications that might be supported in the 4.9 GHz band include:

> data offload for the Public Safety Mobile Broadband (PSMB) network (where devices automatically connect to local, high-capacity wi-fi services in areas of high activity)
> Broadband wireless access (BWA) networks to provide high-data-rate services to nomadic and mobile terminals from a network of fixed infrastructure locations
> stand-alone local area networks (LANs), such as deployable command support systems or ‘incident area networks’ (IANs)
> temporary fixed links
> ad hoc mobile mesh networks (for remote out-of-coverage areas where deployment of transportable base stations is not possible)
> transfer of multiple video streams, and/or other sensor data (unlike a cellular broadband network the 4.9 GHz band can simultaneously handle many streams) to a local collection point

> downlinking video and other sensor data from manned or unmanned airborne platforms.

The 4.9 GHz band is intended to either complement other dedicated public safety and commercial options, or be utilised for stand-alone systems.

Consultation

The ACMA has consulted extensively with stakeholders about the use of the 4.9 GHz band to support public safety and emergency response services. In 2011, the ACMA undertook targeted consultation with representatives of government agencies responsible for providing public safety services on the proposed spectrum management arrangements within the 4.9 GHz band. The parties consulted were the National Coordination Committee for Government Radiocommunications (NCCGR), the Law Enforcement and Security Radio Spectrum Committee (LESRSC) and the Department of Defence.

A public consultation pack was released to give interested parties an opportunity to comment on the proposed class licensing arrangements for PSA in the 4.9 GHz band and variation to the Australian Radiofrequency Spectrum Plan. The ACMA considered six submissions with four submissions from stakeholders who were involved in the initial targeted consultation. After considering the submissions, the ACMA made some minor changes to the draft Class Licence. This included changing the geographic coordinates to be referred to in accordance with the Geocentric Datum of Australia 1994 (GDA94 Datum) and removing Hobart from the list of radio astronomy sites to align this Class Licence with the ACMA’s Radiocommunications Assignment and Licensing Instruction – RALI MS31 which specifically excludes the frequency range 4.4-5 GHz at the Hobart observatory.

Regulatory Impact

Prior to releasing the draft Class Licence, the ACMA consulted with the Office of Best Practice Regulation (the OBPR) on the requirement for a Regulation Impact Statement (RIS) for this legislative instrument. The OBPR advised that the Class Licence does not warrant the preparation of a RIS because it is only likely to have minor and machinery impacts. The reference for the OBPR’s assessment is ID 13725.

Documents Referenced

The Class Licence refers to the following document:

> The GDA94 Datum is used for all spatial data published since 2000, by the Commonwealth, State and Territory surveying and mapping agencies. This also corresponds with the ACMA’s policy decision to progressively move to GDA94 Datum as the basis for coordinate references for spectrum licensing.

Detailed Description of the Instrument

Details of the instrument are set out in Attachment A.

Statement of Compatibility with Human Rights

Subsection 9(1) of the Human Rights (Parliamentary Scrutiny) Act 2011 requires the rule maker in relation to a legislative instrument to which section 42 (disallowance) of the Legislative Instruments Act 2003 applies to cause a statement of compatibility to be prepared in respect of that legislative instrument. This statement is Attachment B.
DETAILS OF THE RADIOMMUNICATIONS (PUBLIC SAFETY AND EMERGENCY RESPONSE) CLASS LICENCE 2013

Part 1 Preliminary

Section 1 Name of Class Licence
This section provides that the Class Licence is to be cited as the Radiocommunications (Public Safety and Emergency Response) Class Licence 2013.

Section 2 - Commencement
This section states that the Class Licence will commence on the later of the day after it is registered and the day on which it is published in the Gazette. The notes to the section outline where the Class Licence will be registered and that the Class Licence will only commence once it has been both registered and published.

Section 3 – Definitions and interpretation
This section provides definitions and interpretations for the terms used in the Class Licence. The note to the section clarifies that terms used in the Class Licence that are defined in the Act have the meanings given to them in the Act, unless the Class Licence indicates a contrary intention.

Part 2 Class Licence

Section 4 – Class Licence
This section provides that the Class Licence authorises any person to operate a radiocommunications device for the purposes of performing public safety or emergency response functions. This section also clarifies which functions are public safety or emergency response functions.

Part 3 Conditions

Section 5 – Operation subject to conditions
This section provides that the operation of radiocommunication devices are subject to conditions set out in the Class Licence. The note to this section sets out that under subsection 132(3) of the Act the operation of a radiocommunications device is not authorised by a class licence if it is not in accordance with the conditions of the class licence.

Section 6 – Operator of a radiocommunications device
This section provides that a person must not operate a radiocommunications device under the Class Licence unless the person is a member or employee of a public safety body or an authorised body. The terms public safety body and authorised body are defined in the Class Licence. This section also provides that public safety body may authorise an authorised body (as defined by the Class Licence) to operate a radiocommunications device and the requirements for that authorisation.

Section 7 – Operation in the course of performing functions or duties
This section provides that operation of radiocommunication devices under the Class Licence must only be in the course of performing the functions or duties as a member or employee of a public safety body or authorised body.
Section 8 – Limitation in relation to authorised bodies

This section provides that members or employees of an authorised body (as defined by the Class Licence) must not operate radiocommunication devices under the Class Licence unless for the purpose of facilitating a public safety or emergency response function performed by a public safety body. Also, the operation of radiocommunication devices must be in accordance with the terms of the authorisation given by the public safety body.

Section 9 – Operation of radiocommunications transmitter within emission mask

This section provides that a person must not operate a radiocommunications transmitter under the Class Licence unless the transmitter complies with the emission mask specified in the table included in this section. The table specifies two different emission masks, Mask L for low power transmitters (with a maximum transmitter power of 7 dBm/MHz), and Mask M for high power transmitters (with a maximum transmitter power of 20 dBm/MHz). The applicable mask to be complied with would depend on the operating parameters of the operator’s radiocommunications transmitter. If the operator is operating its radiocommunications transmitter at 7dBm /MHz or below must comply with Mask L. However if the operator is operating its radiocommunications transmitter between 7-20dBm/MHZ must comply with Mask M. This means that those radiocommunications transmitters compliant with Mask M are also compliant with Mask L, which is less stringent.

The first note to the section outlines that emission masks are employed to keep emissions into adjacent frequencies at an acceptable level. The second note to the section outlines that the maximum transmitter power is to be measured in a 1 MHz reference bandwidth.

Section 10 – Operation of radiocommunications transmitter within maximum EIRP level

This section provides that a person must not operate a radiocommunications transmitter under the Class Licence unless it complies with the EIRP limit specified in the table included in this section. The table provides four different types of transmitters, each with a maximum EIRP requirement. This table also specifies the emission mask (detailed in section 9) with which each type of transmitter must comply.

The note to the section outlines that the maximum EIRP in column 2 is to be measured in a 1 MHz reference bandwidth.

Section 11 – Harmful interference

This section outlines that a person must not operate radiocommunications transmitters if the operation causes harmful interference to another radiocommunication device operated under a licence. This means that transmitters operate under a condition that they do not cause interference. This section also outlines that the condition that transmitters do not cause interference applies not withstanding any other condition in the Class Licence.

The note to the section outlines that radiocommunications receivers communicating with radiocommunications devices operated under the Class Licence will not be afforded protection from interference. All operators of radiocommunications devices authorised by the Class Licence are expected to coordinate their use with other operators so as to minimise the risk of interference.

Section 12 – Permitted channels

This section specifies that a person can only operate a radiocommunications device on a channel or two or more contiguous channels prescribed in Schedule 1 of the Class Licence. Each channel is referenced by lower and upper frequencies set out in Schedule 1.

Section 13 – Limitation in respect of fixed services

This section specifies that a person may only operate a radiocommunications device in the fixed service at a particular fixed located on a temporary basis (not exceeding six months). This limit has
been imposed because fixed services in the 4.9 GHz band are intended to be used on a temporary and itinerant basis.

Section 14 – Interference with radio astronomy observations

This section specifies the requirements for coordination with radio astronomy observatories. This requirement applies to radiocommunications transmitters in the fixed service and airborne mobile transmitters in the mobile service, operating within the prescribed radius of a radio astronomy site (as detailed in Schedule 2) and operating on channels 11 to 22 (as mentioned in Schedule 1). For successful coordination any interference caused by these devices must not exceed the threshold levels specified in Schedule 2.

Schedules of the Class Licence

Schedule 1 – Channel plan frequencies for operation of radiocommunications devices

This Schedule details the channel number, bandwidth, and the lower and upper frequency of each channel that may be used to operate radiocommunications devices under the Class Licence. The notes to the section outline that channels 11 to 22 are subject to the conditions relating to radio astronomy observatories set out in section 14 of the Class Licence. Also noted is that where channels are aggregated, the increase in transmitter power and EIRP should not exceed the maximum power spectral density limits as specified in subsection 9(2) and section 10 respectively.

Schedule 2 – Radio astronomy observations

Table 1 - Radio astronomy sites

Table 1 in Schedule 2 provides the geographic coordinates of each radio astronomy site. The note to the section outlines that the coordinates are as set out in GDA94 Datum.

Table 2 - Prescribed radii

Table 2 in Schedule 2 provides the prescribed radii for each radio astronomy site, applicable to either a transmitter in the fixed service or an airborne mobile transmitter in the mobile service.

Table 3 - Radio astronomy interference thresholds

Table 3 in Schedule 2 provides the prescribed interference threshold level measured in dBm/Hz applicable for each radio astronomy site.
ATTACHMENT B

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

Radiocommunications (Public Safety and Emergency Response) Class Licence 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
Subsection 9(1) of the Human Rights (Parliamentary Scrutiny) Act 2011 requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the Legislative Instruments Act 2003 applies to cause a statement of compatibility to be prepared in respect of that legislative instrument.

The Class Licence is a legislative instrument that is subject to disallowance under section 42 of the Legislative Instruments Act 2003.

Human Rights Implications
The Class Licence does not engage any of the applicable rights or freedoms.

Conclusion
The Class Licence is compatible with human rights as it does not raise any human rights issues.