EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Variation to Licence Area Plan – WANGARATTA 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 Wangarattta 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 Wangaratta Radio (“the Wangaratta LAP”) was made on 15 September 1997.

Intended impact and effect

The instrument varies the characteristics, including technical specifications, of radio broadcasting services in the Wangaratta area by making frequency 92.9 MHz available with a maximum effective radiated power (ERP) of 50 watts (W) at Bright for an in-fill transmitter for the Mount Beauty community radio broadcasting service 3VKV.

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 Wangaratta LAP.

The intended impact and effect of this variation is to clarify the characteristics, including technical specifications, of radio broadcasting services in the Wangaratta 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 Wangaratta LAP, the ACMA undertook the following consultation:

1. On 31 October 2012, the ACMA published the following papers on its web site:
	1. a draft instrument;
	2. an explanatory paper outlining the changes proposed in the draft instrument and inviting public comment by 30 November 2012; and
	3. a media release announcing the draft instrument.
2. On 31 October 2012, the ACMA wrote to the licensees providing radio broadcasting services in the Wangaratta RA, Mount Beauty RA1 and Wangaratta RA2 licence areas 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 3 November 2012 the ACMA placed an advertisement in the “Albury Border Mail” 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 Wangaratta – 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 Wangaratta LAP as *Licence Area Plan – Wangaratta Radio*.

***Paragraph 4(b)***

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

***Sub-paragraph 4(c)(i)***

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

***Sub-paragraph 4(c)(ii)***

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

***Sub-paragraph 4(c)(iii)***

Sub-paragraph 4(c)(iii) omits clauses (1) and (5) and substitutes new clauses (1) and (5) into the Wangaratta LAP.

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

The new clause (5) of the Wangaratta LAP reflects the addition of Attachment 2.3 which details the technical specifications of the new in-fill transmitter for the community radio broadcasting service at Mount Beauty.

***Sub-paragraph 4(c)(iv)***

Sub-paragraph 4(c)(iv) substitutes the word “determination” with the word “plan” in Clauses (2), (3), (4), (6) and (7) of the Wangaratta LAP.

***Sub-paragraph 4(c)(v),***

Sub-clauses 4(c)(v) omits the word “(Wangaratta)” from Clauses (2), (3), (4) and (6) of the Wangaratta LAP.

This material was originally included for reference only and is no longer considered relevant or necessary.

***Paragraph 4(d)***

Paragraph 4(e) replaces Schedules Two of the Wangaratta LAP. This Schedule sets out the details of the community radio broadcasting services that are to be available on particular frequencies in the Mount Beauty RA1 licence area.

In particular, the Schedule provide the technical specification numbers for each transmitter to be used by the services in the licence area, 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.

***Paragraph 4(e)***

Paragraph 4(e) varies the description of the nominal location of the transmitter in Attachment 1.8 to better reflect the location of the transmitter site (the transmitter has not, however, moved).

***Paragraph 4(f)***

Paragraph 4(f) varies the description of the nominal location of the transmitter in Attachment 1.9 to better reflect the location of the transmitter site (the transmitter has not, however, moved).

***Paragraph 4(g)***

Paragraph 4(g) substitutes the entry “Refer to Technical Planning Guidelines” with “Refer to *Broadcasting Services (Technical Planning) Guidelines 2007*”.

These modifications have been made for ease of reference only and do not signify a change to the broadcast site for the transmitters nor will they alter the operation of the relevant services.

***Paragraph 4(h)***

Paragraph 4(h) inserts new Attachment 2.3 into the Wangaratta LAP.

New Attachment 2.3 contains the technical specifications for a new in-fill transmitter for the community radio broadcasting service at Mount Beauty, so that it may transmit into the town of Bright.

  **Statement of Compatibility with Human Rights**

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

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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 Wangaratta licence area plan (LAP) to make frequency 92.9 MHz with a maximum effective radiated power of 50 watts available at Mount Beauty for an in-fill transmitter for the Mount Beauty community radio broadcasting service 3VKV so that it may transmit into the town of Bright.

The legislative instrument also makes minor amendments to delete information included for reference only that does not form part of the Wangaratta 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 Wangaratta 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**