EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Variation to Licence Area Plan – CoLAC 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 Colac 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 Colac Radio (“the Colac LAP”) was made on 22 June 2000.

Intended impact and effect

The instrument varies the characteristics, including technical specifications, of radio broadcasting services in the Colac area by varying the technical specifications of the existing community broadcasting service 3OCR for its Apollo Bay in-fill transmitter so that it will operate on FM frequency 88.7 MHz at a new transmitter site and vary the technical specifications of its in-fill transmitter site at Lorne so that it will operate from a new site.

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 Colac 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 Colac 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 Colac 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 Colac RA1 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 “Colac Herald” 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 Colac 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)***

Clause 4(a) renames the Colac LAP as *Licence Area Plan – Colac Radio* .

***Paragraph 4(b)***

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

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

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

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

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

***Sub-paragraph 4(c)(iii)*** omits clause (1) and inserts new clause (1).

New paragraph (1) states that this plan for radio broadcasting services in the Colac area of Victoria is made under subsection 26(1) of the Broadcasting Services Act 1992.

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

Sub-paragraph 4(c)(iv) substitutes the word “determination” with the word “plan” in clauses 1 and 2 of the Colac LAP and adds the words “or attachments” after the words “reference to a schedule” in clause 3.

***Paragraph 4(d)***

Paragraph 4(d) replaces Schedule One of the Colac LAP. This schedule sets out the details of the national, commercial and community radio broadcasting services that are to be available on particular frequencies in the Colac RA1 licence area.

***Paragraph 4(e)***

Paragraph 4(e) substitutes the heading ‘Licence Area Plan : Colac – June 2000’ with the heading ‘Licence Area Plan : Colac Radio’ in Attachments 1.2, 1.3, 1.4 and 1.5 of the Colac LAP.

***Paragrapah 4(f)***

Paragraph 4 (f) varies the description of the nominal location of Attachment 1.2 to better reflect the location of the transmitter (the transmitter has not, however, moved).

***Paragraph 4(g)***

Paragraph 4(g) varies the Australian map grid reference of Attachment 1.2 to better reflect the location of the transmitter (the transmitter has not, however, moved).

***Paragraph 4(h)***

Paragraph 4(h) varies the description of the nominal location of Attachment 1.3 to better reflect the location of the transmitter (the transmitter has not, however, moved).

***Paragraph 4(i)***

Paragraph 4(i) varies the description of the nominal location of Attachment 1.4 to better reflect the location of the transmitter (the transmitter has not, however, moved).

***Paragraph 4(j)***

Paragraph 4 (j) varies the description of the nominal location of Attachment 1.5 to better reflect the location of the transmitter (the transmitter has not, however, moved).

***Paragraph 4(k)***

Paragraph 4(k) varies the special condition included in Attachment 1.5. This modification will ensure consistency with other recently varied radio LAPs.

***Paragraph 4(l)***

Paragraph 4(l) varies the description of the nominal location of Attachments 1.6 and 1.9 to better reflect the location of the transmitter (the transmitter has not, however, moved).

***Paragraph 4(m)***

Paragraph 4(m) changes the entry for the Site Tolerance in particular attachments from “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(n)***

Paragraph 4(n) replaces Attachments 1.1, 1.7 and 1.8 of the Colac LAP with versions included in the instrument.

The new Attachment 1.1 contains the definition of the Colac RA1 licence area updated to 2006 census data.

The new Attachment 1.7 contains the new technical specifications for the in-fill transmitter for the community radio broadcasting service at Apollo Bay.

The new Attachment 1.8 has been varied to reflect the new transmission site for the in-fill transmitter for the community radio broadcasting service at Lorne.

**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 – Colac 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 characteristics, including the technical specifications, of the community radio broadcasting service 3OCR for its Apollo Bay in-fill transmitter so that it operates on FM frequency 88.7 MHz and from a new transmitter site and vary it’s in-fill transmitter site at Lorne to allow a change of site.

The legislative instrument also updates the description of the existing commercial and community radio licence areas in the Colac 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 Colac 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 Colac 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**