EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Intelligent Transport Systems) Class Licence 2017

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Intelligent Transport Systems) Class Licence 2017* (**the instrument**) under section 132 of the *Radiocommunications Act 1992* (**the Act**).

Section 132 of the Act empowers the Australian Communications and Media Authority (the ACMA), by legislative instrument, to issue class licences.

Purpose and operation of the instrument

The purpose of the instrument is to authorise the use of a range of wireless technologies that enable vehicle-to-vehicle, vehicle-to-person or vehicle-to-structure communications. Intelligent Transport Systems (ITS) have the potential to reduce the number of transport accidents, relieve traffic congestion, and reduce the environmental impacts of transport on Australian roads.

The instrument will authorise the operation of a range of wireless devices for the purposes of ITS without the need for the operators of those devices to obtain individual licences. The instrument sets out the conditions for the use of ITS stations.

The authorisation given by the instrument to operate an ITS station is dependent, among other things, on:

- the operation of the transmitter meeting conditions set out in Part 2 of the instrument;
- the transmitter not being operated within 70 kilometres of the Murchison Radioastronomy Observatory, so as to avoid causing interference to radioastronomy observations; and
- the transmitter meeting the applicable equipment standards and its operation meeting the Australian Radiation Protection and Nuclear Safety Agency (**ARPANSA**) electromagnetic emission standard when used in areas accessible to the public.

A provision-by-provision description of the instrument is set out in the notes at **Attachment A**.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (**the LA**).

Documents incorporated by reference

As permitted by section 314A of the Act, the ITS Class Licence incorporates a number of documents by reference, as in force from time to time. Compliance with these standards and instruments is a condition of using a device under the ITS Class Licence. These documents are:

- ETSI Standard EN 302 571, *Intelligent Transport Systems (ITS); Radiocommunications equipment operating in the 5 855 MHz to 5 925 MHz frequency band; Harmonised Standard covering the essential requirements of article 3.2 of Directive 2014/53/EU* prepared by the European Telecommunications Standards Institute (**ETSI**) (available from the ETSI website: www.etsi.org);
- *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz* prepared by ARPANSA (available from http://www.arpansa.gov.au); and
- any standard, made under section 162 of the Act, which applies to a relevant transmitter (available from http://www.legislation.gov.au).

Consultation

Before the instrument was made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA.

On 5 August 2016, the ACMA published a notice on its website, inviting public comment on the draft version of the instrument until 23 September 2016.

Twelve submissions were received in response and the ACMA took those submissions into account in making the instrument including by making a number of minor changes to the draft version of the instrument.

The ACMA subsequently engaged in further consultation on a revised version of the draft instrument with automotive and telecommunications carrier industry members who have liaised with the ACMA regarding the introduction of ITS stations into the 5855 MHz-5925 MHz frequency band. This included the Connected and Automated Vehicles Industry Reference Group, which provides a forum for relevant industry and government stakeholders to discuss ITS related issues.

Regulatory impact assessment

Prior to releasing a draft version of the instrument for public comment, the ACMA consulted with the Office of Best Practice Regulation (the OBPR) on the requirement for a Regulation Impact Statement (the RIS). The OBPR advised the ACMA that the proposed instrument did not give rise to the need for a RIS because it is only likely to have minor and machinery impacts. The OBPR reference for this assessment is ID 20092.

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 LA applies to cause a statement of compatibility to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

Overview of the instrument

The *Radiocommunications (Intelligent Transport Systems) Class Licence 2017* (**the instrument**) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
The instrument is made under section 132 of the *Radiocommunications Act 1992*.
The instrument authorises the use of a range of wireless devices that enable vehicle-to-vehicle, vehicle-to-person or vehicle-to-structure communications.

Human rights implications

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument does not engage any of those rights or freedoms.

Conclusion

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

Attachment A

Notes to the *Radiocommunications (Intelligent Transport Systems) Class Licence 2017*

Part 1–Preliminary

Section 1 Name

This section provides for the instrument to be cited as the *Radiocommunications (Intelligent Transport Systems) Class Licence 2017*.

Section 2 Commencement

This section provides for the instrument to commence at the start of the day after it is registered on the Federal Register of Legislation.

The Federal Register of Legislation may be accessed at www.legislation.gov.au.

Section 3 Authority

This section identifies the provision of the Act that authorises the making of the instrument, namely section 132 of the *Radiocommunications Act 1992* (**the Act**).

Section 4 Interpretation

This section defines a number of key terms used throughout the instrument.

A number of other expressions used in the instrument are defined in the Act or by reference to the *Radiocommunications (Interpretation) Determination 2015*.

This section also states how latitude and longitude are measured.

Section 5 References to other instruments

This section provides that in the instrument, unless the contrary intention appears:

- a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- a reference to any other kind of instrument is a reference to that other instrument as in force from time to time.

Part 2– Class Licence

Section 6 Class Licence

This section sets out certain conditions under which operation of an ITS station will be authorised by the instrument including that a relevant transmitter:

- must operate on a frequency, or within a range of frequencies, greater than 5855 MHz and not greater than 5925 MHz;
- must operate at a radiated power that does not exceed a maximum EIRP of 23 dBm/MHz;
- must not be operated within 70 kilometres of the Murchison Radioastronomy Observatory;
- must comply with ETSI Standard EN 302 571; and
- must comply with the conditions set out in section 7.

Section 6 also includes a number of notes providing information on the protection to be afforded to ITS stations from other radiocommnications services operating in and around the frequency range 5855 to 5925 MHz. These are:

- in the frequency range 5855 to 5875 MHz an ITS station will not be afforded protection from interference caused by other radiocommunications devices;
- in the frequency range 5905 to 5925 MHz an ITS station will not be afforded protection from interference caused by operation of fixed radiocommunications devices;
- ITS stations will not be afforded protection from interference caused by fixed-satellite services (**FSS**) with an elevation angle of greater than 15 degrees within a 1 kilometre radius from the FSS service location;
- ITS stations will not be afforded protection from interference caused by FSS with an elevation angle of less than 15 degrees; and
- in the frequency range 5725 to 5875 MHz an ITS station will not be afforded protection from interference caused by industrial, scientific and medical (ISM) applications devices;

A further note provides that the operation of a device with an external antenna, other than an antenna supplied with the device, may result in a breach of the conditions authorising operation of an ITS station.

Users of devices authorised to operate under the instrument should note that those devices may be required to meet additional requirements outside the scope of the instrument, and that the use, marketing and supply of such devices in Australia may be dependent upon the satisfaction of regulatory requirements not the subject of the instrument.

Section 7 Applicable instruments

Section 7 provides that a person must operate a transmitter authorised by the ITS Class Licence in accordance with:

- any standard made under section 162 of the Act that applies to ITS stations; and
- the *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3 kHz to 300 GHz.*