

# **MOBILE PHONE BASE STATION DEPLOYMENT INDUSTRY CODE**

## **EXPLANATORY STATEMENT**

### **Introduction**

This is the Explanatory Statement for the C564:2018 *Mobile Phone Base Station Deployment* Industry Code (the Code).

This Explanatory Statement outlines the purpose of the Code and the factors that have been taken into account in its development.

The Code replaces the C564:2011 Mobile Phone Base Station Deployment Industry Code.

The objectives of this revised Code are:

- (a) to encourage an upfront collaborative approach between Carriers, local Councils and the community for proposed deployment of new mobile phone base stations;
- (b) to enhance the level of information supplied to Councils and the community with respect to mobile phone base stations;
- (c) to specify and improve standards, in particular relating to consultation, accessibility and availability of information;
- (d) to identify at an early stage community sensitive locations and to apply a Precautionary Approach towards the deployment of mobile phone base stations; and
- (e) to ensure appropriate levels of notification and consultation are undertaken by the Carriers to local Councils and communities.

The Code supplements the requirements already imposed on Carriers under the existing legislative scheme by requiring them to consult with local communities and to adopt a Precautionary Principle in planning, installing and operating mobile phone base stations.

### **Why a Code is required**

The Code provides a positive consultative framework to improve the community knowledge of mobile base stations and deployments.

An underlying principle of this Code is that public health and safety is of paramount importance. In the context of this Code, the precautionary principle therefore means that precautions are taken to minimise exposure to radio emissions by virtue of their possible association with health problems in order to protect people even though radio emissions at low levels have not been proven to cause such problems.

In this Code, the Precautionary Principle is manifested in the obligations it imposes on Carriers.

### **Background**

This Code was developed in 2002 to compliment the radiofrequency standard by applying a precautionary approach to the design, siting and operation of mobile phone base stations. It was also intended to improve Carriers' consultation processes with Councils and communities living near proposed infrastructure.

The benefits of the Code are that it standardises the obligations on Carriers by providing a set of rules so that Carriers are made aware of their increased responsibilities. Specifically, it requires Carriers to:

- notify Councils about proposals for installation of all mobile phone base stations prior to construction;
- have regard to community sensitive sites;

- design and operate mobile phone base stations to minimise RF EMR exposure;
- develop consultation plans for the deployment of infrastructure that is not subject to Development Approval;
- turn off out-of-service transmitters;
- test their decisions about the deployment of infrastructure against a range of important factors; and
- document their decision-making processes about the deployment of infrastructure.

In 2004 the Code was revised and renamed the *Deployment of Mobile Phone Network Infrastructure Industry Code*. During this revision the Code was amended to:

- extend Carrier consultation obligations; and
- incorporate the revised format of the RPANSA EME Report.

In 2010 and 2011, the second (current) revision of the Code took place and was limited primarily to consultation for new sites.

## **Current Regulatory Arrangements**

This Code fits within an existing regulatory scheme that comprises:

- (a) the *Radiocommunications Act 1992*;
- (b) the *Telecommunications Act 1997*, particularly Schedule 3 of that Act;
- (c) the *Telecommunications Code of Practice 2018* issued by the Minister which is made under Schedule 3;
- (d) the *Telecommunications (Low Impact Facilities) Determination 2018*;
- (e) laws and regulations at State, Territory and Local Government level; and
- (f) the right to access to land to inspect, install or maintain low impact facilities.

## **What the Code cannot do**

It is not within the scope of this Code or within the power of the Communications Alliance Committee to change the legislative scheme. Changes to this legislation are the responsibility of the Commonwealth, State and Territory Governments and Parliaments only. This Code can fit within the scheme but not change it.

## **How the Objectives are achieved**

This Code is made under Part 6 of the *Telecommunications Act* and upon their satisfaction that certain statutory criteria has been met, is registered by the ACMA. Upon registration (this process applies to each revision of the Code), the Code becomes mandatory on all Carriers.

Following registration, if there is a contravention of this Code, the ACMA may warn a Carrier about the contravention, or direct the Carrier to comply with the Code. Failing to comply with a direction may render the Carrier liable to significant financial penalties.

Carriers may also have obligations under State and Territory laws. However, these matters are outside the operation of this Code.

## **Anticipated Benefits to Consumers and the Public**

The Code seeks to encourage Carriers to minimise, wherever possible, unnecessary and incidental radio emissions from mobile phone base stations by adopting a Precautionary Principle towards deployment activities.

Registration of this Code will strengthen and increase Carrier's consultation obligations with local Council and community, especially with the deployment of new technologies. The

benefits for consumers and communities from the installation of infrastructure to service these new technologies is expected to far outweigh the imposition of the additional consultation, while still allowing for transparency and ensuring greater and easier methods of accessing information are available.

### **Anticipated Benefits to Industry**

The revised Code provides for improved processes across both existing and new technologies, whilst simplifying other areas in the Code to make its use and understanding easier for all. It continues to encourage the early identification of stakeholders, both from the community and Councils, thus allowing industry to make informed decisions based on this involvement.

### **Anticipated Costs to Industry**

Training programs for industry members to raise awareness of the changes and impacts of the Code and ensure compliance, will always be an ongoing cost. There is also a need to update consultation materials and the industry database [www.rfnsa.com.au](http://www.rfnsa.com.au) to reflect changes.

### **Anticipated Costs to Consumers and the Public**

Where it is not economically or technically feasible for Carriers to deploy mobile phone base stations following the provisions of the Code, some consumers may experience an absence of or reduction of performance in service.

Councils may also experience increased demand on their resources as a result of Carrier's code compliance.

### **What the latest revision accomplishes**

The revised Code looks to improve the means of communication and accessibility of information to local Council and the community. This Code outlines the process that ultimately provides the Carriers, Council and the community with greater flexibility and increased opportunity by way of online content and direct communication.

The 2018 revision of the Code includes:

- changes to address the current way stakeholders are notified via newspaper, electronically and social media;
- introduction of section 5 to address new small scale technologies;
- refinements to the handling of Complaints;
- consideration of appropriate consultation for community sensitive locations - hospitals, schools, aged care centres;
- improvements to the management of damaged or stolen signage on properties;
- improved clarity around whether a facility is classified as 'low-impact', 'complying development', 'exempt development', or 'subject to development application';
- updates to notifications provided when more than one site address exists;
- updates to address changes made to Australia Post's standard delivery times, blackout periods for notifications (e.g. Christmas holidays, school holidays) and the inclusion of electronic communications; and

- the review and revision of the appendices to ensure the information provided is relevant and up to date.

Other changes made to the Code are outlined below, with additional rationale to provide clarity.

#### Appendix A – The Precautionary Principle.

This appendix provides additional information on the risk management principle carried throughout the Code. The Appendix has been revised and simplified to ensure the information provided is relevant to its application in the Code. Historic reference material has been removed to aid in the readability and simplification of the Appendix.

#### Removal of Appendix H: Guidelines for quality EMF research:

In the previous version of the Code, information was provided in Appendix H with an attempt to provide an outline of practices and techniques for the conduct of experimental research into the health effects of EME. It also referenced international study collaborations including the International EMF Project (a special project of the World Health Organisation, WHO). Such material has been deemed outside of the practical scope of the Code and the expertise of the Working Committee undertaking the revision. It's relevance and accuracy, which is liable to change over the life of the code, cannot therefore be assured either by the authors or the users of the Code.

Such information, if required by the community for any reason, is therefore best sourced directly by appropriately qualified expert authorities. In Australia, the primary expert authority on EME safety is the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and so users will now be directed to ARPANSA for information of this kind.

#### Small scale infrastructure

Section 5 has been updated in line with the Terms of Reference to provide a suitable framework for an appropriate level of consultation for new technologies, primarily small scale infrastructure telecommunication facilities that have minimal visual impact and are designed to provide coverage to a reduced area.

Section 5.1 allows for notifications for Low RF Power Mobile Phone Base Station Infrastructure and Fixed Radio Links (as per Section 5.1 of existing Code), Section 5.2 is a new section to cover new technologies such as small cells and microcells. Notification requirements for Section 5.2 have additional notification requirements to Section 5.1 (Low Power).

#### Templates and editorial changes

Letter templates have been moved outside of the Code. This allows for easier editing if necessary. Examples of letters for customer reference are still available at [www.communicationslliance.com.au](http://www.communicationslliance.com.au)

Editorial changes have been made to Section 6 to the flow and readability, although it is important to note that the consultation requirements for low impact facilities that are not small scale remain the same.