

MOBILE PHONE BASE STATION DEPLOYMENT INDUSTRY CODE

EXPLANATORY STATEMENT

Introduction

This is the Explanatory Statement for the C564:2020 **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 C564:2018 Mobile Phone Base Station Deployment Industry Code.

The objectives of this revision to the Code are:

- (a) to specify the public notification obligations for deployment of temporary facilities;
- (b) to align the Code with legislative changes made to the Telecommunications (Low-impact Facilities) Determination 2018; and
- (c) to clarify that the Code does not apply to certain activities under subclause 17(6) of Schedule 3 to the *Telecommunications Act 1997* that need to be carried out without delay.

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 the site selection, design and operation of mobile phone base stations.

Why a Code is required

The Code provides a positive consultative framework to improve the community knowledge of mobile phone 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.

What the latest revision accomplishes

The 2020 revision to the Code aims to improve the means of communication and accessibility of information to local Council and the community relating to the deployment of temporary facilities.

For the purposes of this Code, the recent amendments to the Telecommunications (Low-impact Facilities) Determination 2018 enable Carriers to deploy a temporary facility when used to:

- (a) provide additional capacity during one or more events (such as a cultural, festival or sporting event);
- (b) provide additional capacity during a high-demand holiday period; or
- (c) minimise service disruption during the maintenance or replacement of an existing facility.

The Working Committee did not include the temporary facility public notification obligations during the Code's revision in 2018 as the Government had yet to settle the temporary facility amendments to the Telecommunications (Low-impact Facilities) Determination 2018.

In order not to delay the registration of the 2018 Code, the Working Committee agreed to reconvene once the legislative changes to facilitate the deployment of temporary facilities took effect.

These revisions finalise the Working Committee's 2018 Terms of Reference.

The 2020 revision of the Code includes:

- (a) clarification that the Code does not apply to the activities that need to be carried out without delay under subclause 17(6) of Schedule 3 to the *Telecommunications Act 1997*;
- (b) an updated definition for Temporary Mobile Phone Radiocommunications Infrastructure;
- (c) inclusion of Section 8 which sets out the public notification obligations for Temporary Mobile Phone Radiocommunications Infrastructure (temporary facilities) in operation for more than one month;
- (d) inclusion of Appendix D5 – showing the example template for a temporary facility notification sign on site; and
- (e) minor editorial amendments.

Background

This Code was developed in 2002 to compliment the radiofrequency standard by applying a precautionary approach to the siting, design 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:

- (a) notify Councils and the local community about proposals for installation of all mobile phone base stations prior to construction;
- (b) have regard to community sensitive sites;
- (c) design and operate mobile phone base stations to minimise electromagnetic energy (EME) exposure;
- (d) develop a consultation plan for the deployment of infrastructure that is not subject to Development Approval / Approval in accordance with state or local planning laws;
- (e) turn off out-of-service transmitters;
- (f) test their decisions about the deployment of infrastructure against a range of important factors; and
- (g) document their decision-making processes about the deployment of infrastructure.

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 to 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 are the Code's objectives achieved

This Code is made under Part 6 of the *Telecommunications Act 1997* 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 and temporary facilities. The benefits for consumers and communities from the installation of infrastructure to service these new technologies and temporary facilities 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, including temporary facilities, whilst simplifying and clarifying 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 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.

Previous revisions to the Code

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 Code was revised and enhanced the consultation provisions for mobile phone base station deployments at a new site.

The 2018 revision of the Code further refined the following:

- 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 Working Committee simplified Appendix A to ensure the information provided is relevant to its application in the Code. The removal of historic reference material further aided in the readability and simplification of Appendix A.

Removal of Appendix H - Guidelines for quality EMF research

In the previous version of the Code, information was provided in Appendix H in an attempt to provide an outline of practices and techniques for the conduct of experimental research into the possible health effects of EME.

It also referenced international study collaborations including the International EMF Project — a special project of the World Health Organization.

The Working Committee considered such material outside of the practical scope of the Code and the expertise of the Working Committee. Its 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 mobile phone radiocommunications infrastructure that has minimal visual impact and is 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 (Section 5.1 of the 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.communicationsalliance.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.

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Chair

WC83 Mobile Phone Base Station Deployment

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