

**Review of ACIF C564:2004 Deployment of Mobile Phone Network
Infrastructure Industry Code
REVIEW REPORT**

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1 Background

The **Deployment of Mobile Phone Network Infrastructure** Industry Code (ACIF C564:2004) was published in 2004. This Industry Code provides specifies the best contemporary practices in the areas of design, installation and operation of radiocommunications infrastructure.

The Code requires the application of a precautionary approach to the deployment of radiocommunications infrastructure and contains obligations on carriers to consult.

It applies to Carriers who are installing or intending to install, operating or contracting or arranging for the installation of fixed radiocommunications infrastructure used to supply Public Mobile Telecommunications Services. It does not apply to Carriers in relation to the intended installation or operation of Exempt Radiocommunications Infrastructure.

As a part of the ongoing review of our publications, Communications Alliance initiated a scheduled review of the Code. A notification was sent to stakeholders on 6 April 2010 requesting comments and providing an invitation to participate in a Communications Alliance Roundtable to review those comments.

The review focuses on the obligations of the Code and what it delivers, rather than compliance with the document, noting that it operates in the current legislative framework. Comments that are out of scope of the review have been listed in Section 6.

Explanation of the Review Report

This Report has been structured into the following sections to assist stakeholders in the consideration of comments received for the Code review.

- Section 3 Comments referring to the six review aims as listed in the original notification have been listed in this Section.
- Section 4 Comments that have addressed specific clauses of the Code have been listed against those clause headings. Many of these comments are also relevant to the review aims and should be considered in conjunction with those in Section 3.
- Section 5 A number of examples and case studies have been provided in the submissions. A list of these has been provided in this Section and the reader is directed to the individual submissions for the specific examples and case studies.
- Section 6 Topics that have been raised in comments that are outside of the scope of the Code are listed in this Section, together with references to the relevant Attachments.

Note that not all comments have been reproduced in full in the Review Report. The reader is directed to Attachments 1 to 19 of this Report where the individual submissions have been reproduced in full.

2 List of submissions

Communications Alliance received nineteen submissions on the review of the **Deployment of Mobile Phone Network Infrastructure** Industry Code. These submissions have been recorded in order of receipt and have been reproduced in the Attachments as indicated below.

Organisation/Individual	Submitter	Attachment
ACT Planning and Land Authority	Fred Arugay	1
Rainworth State School	Sandra Boland, P&C President	2
Rainworth State School	Carolyn Berge, parent	3
EMR Australia	Lyn McLean	4
Department of Public Works, Queensland	Tim Daly Peter McDermott	5
Telstra	Mike Wood	5
Summer Hill Action Group (SHAG)	Sabiene Heindl	7
Individual	Kristen Elliott, Moruya	8
Australian Competition and Consumer Commission (ACCC)	John Skinner	9
Vodafone Hutchison Australia (VHA)	Roslyn Young	10
Mobile Carriers Forum (MCF)	Matt Evans	11
Rainworth community member	Anne Tredenick	12
Crown Castle Australia	David Andrew McKean	13
Vividwireless	Amy La Spada	14
Optus	Howard Game	15
No Towers Near Schools, Bardon	Fiona Andrews	16
Individual	Stephen Irwin, Bardon	17
Australian Centre For Radio Frequency Bioeffects Research (ACRBR)	Rodney J. Croft PhD	18
Australian Communications and Media Authority (ACMA)	Michelle Richardson	19

3 Comments relating to the aims of the review

The original notification of this Code Review listed the following six aims, being to identify:

- any existing issues with the Code
- whether any process improvement is required, from operational experience in dealing with the Code
- any gaps in the Code
- clarifications that improve requirements
- whether the document is meeting the needs of industry and the community satisfactorily
- expected impact of technology changes

Comments that were listed in the submissions relating to these aims have been listed in Section 3. In addition, under Aim A *Any existing issues with the Code*, a reference has been included to submissions that are listed under Section 4 of this Report containing specific comments.

A. Any existing issues with the Code

Comments from ACT Planning and Land Authority (Attachment 1)

No major comments (Also refer to comments under Section 4 on *Specific comments on sections of the Industry Code*).

Comments from Rainworth State School, Sandra Boland (Attachment 2)

I strongly recommend a revision of the code in order to find a balance between community concerns, and the broader need for an efficient telecommunications network. The following recommendations are made with respect to the obligations and outcomes of the ACIF code to achieve this balance; as such I have not addressed compliance with the code in Bardonia specifically.

Comments from Rainworth State School, Carolyn Berge (Attachment 3)

Refer to comments under Section 4 on *Specific comments on sections of the Industry Code*.

Comments from EMR Australia (Attachment 4)

Refer to comments under Section 4 on *Specific comments on sections of the Industry Code*.

Comments from Department of Public Works, Queensland (Attachment 5)

A response will not be provided [to the review] as the existing code appears to be satisfactory.

Comments from Telstra (Attachment 6)

Telstra's view is that the Code is working effectively and we do not believe that there are any substantial issues to be addressed.

Since its implementation in 2002, Australian communities have significantly benefited from the Code in a number of ways, such as:

- having access to online information relating to:
 - location of base stations;

- Environmental EME reports for base stations; and
- EME compliance certificates for base stations.
- notification to both communities and councils of new base station proposals.
- participation in the community consultation process for new base station proposals.
- minimisation of EME levels by:
 - adopting a precautionary approach for site selection and design; and
 - locating infrastructure where communities require service.
- having a formal process for escalating issues and complaints to the ACMA.
- the adoption by the carriers of a design and innovation guideline to minimise the visual impact of some of the installations.

Comments from Summer Hill Action Group (SHAG) (Attachment 7)

The Code specifically states that it requires telecommunications carriers to take a precautionary approach to the deployment of radio-communications infrastructure and contains a number of obligations to consult with the community.

We have a number of grave concerns about the practical application of the Code, particularly about the practical ability of carriers to pay it 'lip service' without any meaningful consequences. In order to illustrate the basis for this assertion we have set out in some detail the situation in Summer Hill from the residents' perspective.

The Summer Hill case study illustrates the need for a comprehensive review of the Code to ensure a balance between the need for telecommunications infrastructure and the interests of the community. See Section 5 for the case study.

Comments from Kristen Elliott, Moruya (Attachment 8)

Refer to comments under Section 4 on *Specific comments on sections of the Industry Code*.

Comments from ACCC (Attachment 9)

At this point in time, the ACCC does not see that a need exists to amend the Code.

However, given that the Code's principle aim is to deal with the concerns of the community about the risks of radiofrequency electromagnetic radiation, the Australian Communications and Media Authority (the ACMA) is well placed to comment on whether there is a need to amend the Code. I understand that staff from the ACMA are aware of the Review.

Comments from VHA (Attachment 10)

- The Code processes are well-founded; based on in-depth discussions on the principles of precaution and good practice in community consultation; and, provide proper checks and balances.
- There are mechanisms in place, such as continuous improvements through the Mobile Carriers Forum initiatives such as industry training & education programs and the MCF National Site Archive where EME reports and site compliance certificates are made publicly available; and engagement with Australian Communications and Media Authority (ACMA) that address minor

issues within the Code raised by stakeholders, including community feedback to ACMA and the industry.

- The Code meets the needs of industry and the community satisfactorily. Case study examples show that VHA has been successful in delivering sites whilst responding to stakeholder needs, in areas where there has been previously identified community sensitivities by rigorously applying the ACIF Code.
- An industry rollout of more than 1000 Low-Impact base station sites annually has generated a minimal number of formal ACIF Code Complaints, for example ACMA report 6 complaints in 2007/08 and 8 in 2008/09 financial year. This translates to 1 complaint for every 200 base stations deployed and supports the view that the Code satisfactorily meets the needs of both the industry and the community.

Comments from MCF (Attachment 11)

The 2004 Code (registered 2005) has been in force for five years. It continues to meet its objectives and remains relevant.

Statistics from Calendar year 2009 show that the Code is achieving what it is meant to achieve.

- i) Carriers' deployment processes remain sound and provide for significant notification and consultation and the provision of further information to the public.
- ii) Deployment processes are not rushed, they in fact take longer as a result of more comprehensive requirements that are more responsive to stakeholder views.
- iii) Where appropriate carriers are altering their siting decisions based on council and community feedback.
- iv) There is a proper mechanism for complaint handling which has resulted in the rectification of a number of Code issues.
- v) Carriers deployment processes continue to ensure that the precautionary behaviours specified in the Code are adopted in day to day operations.
- vi) The Code's requirements are resulting in better considered sites being built.

The Code has continued to deliver a substantial 'benchmark' change in the way carriers deploy networks. Carriers' deployment processes have been modified to ensure that the precautionary behaviours specified in the Code are adopted in day to day operations.

Requirements for the provision of notification, conduct of consultation, engagement with stakeholders, and provision of information to the public and local councils remain sound.

Carrier's roll-out timeframes for ACIF Code consultation processes remain lengthy, and in many cases carriers extend the timeframes for consultation well beyond the days mandated in the Code. Their costs to follow the Code processes remain a significant element of the overall cost of deploying the infrastructure. However, over the past five years since 2005 the carriers have remained committed to the successful implementation of the Code.

The Code requires Carriers to:

- Have written procedures for site selection;
- Improve notification and community consultation procedures;

- Design and operate base stations with the objective of minimizing electromagnetic emissions; and
- Provide electromagnetic radiation emission reports as per Federal Department of Health and Ageing requirements.

All of the above requirements have been undertaken by carriers since the C564:2004 Code came into full force after the first review.

The Code cannot provide the panacea for all deployment issues, however it has resulted in what it intended to achieve – greater community participation in the installation of mobile phone base stations. Specifically, the Code has resulted in:

- the increased transparency and accountability of carriers;
- Carriers demonstrating compliance with the Code;
- Carriers providing information to the public upon request; and
- Carriers having developed best practice consistent processes for step by step deployment and community engagement.

The Code also details how the community can have their say when mobile phone base stations are to be installed in their area and what they can do if they have a complaint about a carrier's fulfilment of the Code.

The Code itself is well founded in that it was developed through the former ACIF initially over a two to three year period by representatives from the community, mobile phone carriers, unions and local government. It was then reviewed after 2 years of operation in 2004. It is rare to have such a comprehensive process undertaken – in fact it was a world first for the telecommunications industry in the area of mobile infrastructure deployment.

The checks and balances in the Code are an important element of the Code's success. If the carriers do not comply with the Code they may face a direction from ACMA to comply and/or penalties for not complying.

Having regard to the facts outlined above, the MCF considers that there are no significant existing issues with the Code.

Comments from Anne Tredenick (Attachment 12)

I believe that the current ACIF Code requires updating so that it can truly represent the interests of both the Carrier and communities. At present, I feel that this representation is not equitable or just. The ACIF Code should be readily available to all in a user-friendly format (e.g. website & with examples of consultation plans etc) and it should be specific in its meaning (e.g. consultation process obligations; sensitive sites).

Comments from Crown Castle Australia (Attachment 13)

In summary Crown Castle's key submission is that the Code should retain a 'co-location first principle'. In this submission we argue that while the Code currently encourages co-location and the efficient sharing of radiocommunications facilities where this is appropriate and compatible with other community and council considerations, this principle does not go far enough. Crown Castle believes that the Code needs to be amended to incorporate more robust co-location requirements in the form of a 'co-location first principle' which would require that radiocommunications facilities, must, where practical, be co-located.

In addition to our main submission that the Code be amended to adopt a 'co-location first principle', we make the following secondary but important submissions:

- the Code in its current form is working well to achieve its stated aims and objectives;
- given the satisfactory operation of the Code there is no need for any further Government or regulatory intervention in the process of mobile infrastructure deployment;
- the community consultation provisions of the Code are working; and
- there have been relatively few complaints under the Code and any complaints have been dealt with efficiently and effectively.

Comments from Vividwireless (Attachment 14)

Refer to comments under Section 4 on *Specific comments on sections of the Industry Code*.

Comments from Optus (Attachment 15)

The ACIF Code has been operating since 2002. We believe that it is operating successfully and meeting the needs of both industry and the wider community. We are of the opinion that it is an effective Code which provides clear processes and timeframes for both the public and local Councils.

We are satisfied with the prescriptions imposed on Optus by the Code. We have adapted our processes to enable compliance with these prescriptions. We note that Code compliance can add time and cost to deployment of mobile network infrastructure, but believe the longer term benefits for Optus, its clients and the wider community outweigh these time and cost considerations

Refinement of the Code since 2002 and an ever growing understanding of the Code's objectives has enabled Optus Mobile to incorporate the spirit of the Code into its network deployment practices and processes. This is evidenced by a reduction in site complaints received by ACMA and by Optus over this period. In this regard, we refer the reader to Appendix B of the MCF submission.

We would reiterate the MCF's submission that there are no existing issues with the Code. However, we also endorse the MCF's observations on the continuing need to provide Local Government with education about the Code and their role in the notification process. In Optus Mobile's view some local Councils are not fully aware of their obligations under the Code and we believe that the MCF has an important role in supplying relevant information in this regard.

Optus Mobile is of the view that the ACIF Code is a workable and effective way of regulating the building of Low Impact telecommunications infrastructure whilst also addressing principles of public health and safety and sensitive siting. We believe that implementation of the Code over the last 8 years has lead to a reduction in community concern whilst providing relevant information about Optus deployment activities. It strikes the right balance between the need to deploy mobile telephone facilities in a timely and cost effective manner, and the need to address the genuine interests and concerns of local Councils and communities.

Further, we endorse the submission to this review, made by the MCF. We are of the view that MCF initiatives in regard to ongoing education, the RFNSA database, EME compliance certificates, local government education and dissemination of Code specific information sheets have assisted the operation of the Code over the last 8 years.

Comments from No Towers Near Schools, Bardon (Attachment 16)

Refer to comments under Section 4 on *Specific comments on sections of the Industry Code*.

Comments from Stephen Irwin, Bardon (Attachment 17)

Refer to comments under Section 4 on *Specific comments on sections of the Industry Code*.

Comments from ACRBR (Attachment 18)

Although I think that there are difficulties with the Code in that some community concerns cannot be addressed due to constraints on it that are imposed by the Act, I think that it is a very useful Code none-the-less. My main reason for viewing it as useful is that it places the onus on the carriers to plan the siting process in a detailed and clear manner, and to make such plans accessible to the public. Without such a process it may invite ad hoc siting that has not been appropriately thought through in light of community concerns, and whose carelessness could conceivably be hazardous. Whereas I do think that given the level of transparency that the Code requires, should poor siting plans be put forward, the Code would allow for considered opinion to intervene and rectify the situation.

Comments from the ACMA (Attachment 19)

In general, ACMA staff are of the view that the Code has been successful and effective in meeting its objectives to:

- notify and consult with local councils on proposed facilities;
- consult and engage with local communities;
- provide meaningful EME information;
- standardise approaches of carriers in deployment related activities; and
- set criteria to responsibly exercise carrier rights under Commonwealth legislation to install 'low-impact' facilities.

As the Code obligates carrier compliance and requires the ACMA to examine Code complaints, it has been influential in establishing effective lines of communication to address issues in a timely manner. This communication has been one of the successes of the Code.

The Code has also been effective in engaging ARPANSA in EME issues.

B. Whether any process improvement is required, from operational experience in dealing with the Code

Comments from MCF (Attachment 11 extract)

One of the primary roles of the MCF is to coordinate continuous improvement across the carriers to ensure that their processes are effective, consistent and sound.

In support of the new processes brought about by the introduction of the Code in April 2005, the MCF conducted comprehensive programs to support implementation, raise local government and community awareness of the Code and disseminate operational guidance to carriers and their partners.

The following describes key MCF initiatives and programs developed over the past five years which were designed to complement Code processes **[See Attachment 11 for details]**.

- The ACIF Code Guidelines for Local Government
- MCF Operational Guidance and Training
- The Revised EME Environmental Report

The examples of continuous improvement in Code processes and information outlined **[in Attachment 11]** have been critical to the ongoing success of the Code. These clearly demonstrate that the MCF can play a significant role in the implementation of any operational improvements that may arise from this Code review.

Having regard to the facts outlined above, the MCF considers that there are no substantive process improvements required in the Code.

Comments from Telstra (Attachment 5)

Based on Telstra's experience and the complaint statistics published by the ACMA, it is Telstra's view that the Code is working effectively and that the aims of the Code are being met. Telstra is of the view that no process improvements to the Code are required.

Comments from VHA (Attachment 10 extract)

VHA's fully documented processes based on the stated requirements within the Code have led to the adoption of a proactive open transparent and responsive approach by VHA staff and Partners/Contractors who deploy Vodafone and/or Hutchison sites. This approach is embedded within and exemplifies the spirit of the ACIF Code. **[See Case Studies in Attachment 10 as listed in Section 5]**.

See Attachment 10 for further information on:

- complaint statistics and consultation processes
- process improvements from operational experiences
- MCF initiatives support the successful implementation of the Code
- the MCF ACIF Code Implementation Procedures including supporting documentation and on-line tracking systems (MCF National Site Archive)
- The ACIF Code Guidelines for Local Government
- the training of field staff and contractors deploying on behalf of carriers

C. Any gaps in the Code

Comments from MCF (Attachment 11)

Having regard to the facts outlined **[in Attachment 11]**, the MCF considers that there are no substantive gaps in the Code.

Comments from Optus (Attachment 15)

The Code has been refined since 2002 and it has now had a lengthy period of implementation. We believe that it established a clear framework for site selection and well defined notification procedures. The Code established clear guidelines for consultation and notification. Overall, it strikes the right balance between the need to provide additional mobile telephone facilities in a timely manner and cost effective manner whilst ensuring that the interests and concerns of local councils and communities are considered and addressed.

D. Clarifications that improve requirements

Comments from MCF (Attachment 11)

While the industry is of the view that no substantive changes are required to the Code, set out **[in Attachment 11]** are some [6] suggested 'house-keeping' related changes for consideration.

Comments from Optus (Attachment 15)

Optus has been involved in clarification of certain issues under the Code with ACMA from time to time. These clarifications have lead to better operation of the Code with the relevant parties having a clearer understanding of the practicalities of operating within the Code. A specific example is Optus' agreement to suspend notifications over the Christmas period, which seeks to ensure that the community does not miss receiving notifications over this holiday period. We believe that this clarification works well for both the carriers, councils and the community.

Comments from VHA (Attachment 10 items)

Existing Issue within Code: Alignment of C564:2004 Appendix B: EME Environmental Report with current industry practice

It is suggested that the current ACIF Code C564:2004 Appendix B EME Environmental Report be updated with the 2007 revised ARPANSA report.

E. Whether the document is meeting the needs of industry and the community satisfactorily

Comments from MCF (Attachment 11)

In assessing the effectiveness of the Code in meeting the needs of industry and the community, it is necessary to review the Code performance against the original Code Objectives, which are found in section 1.2 of the Code.

[See Attachment 11 for an assessment of MCF's performance against the following objectives of the Code]

- (a) to apply a Precautionary Approach to the deployment of radiocommunications infrastructure
- (b) to provide best practice processes for demonstrating compliance with relevant exposure limits and the protection of the public;
- (c) to ensure relevant stakeholders are informed and consulted before radiocommunications infrastructure is constructed;
- (d) to specify standards for consultation, information availability and presentation;
- (e) to consider the impact on the well being of the community, physical or otherwise, of radiocommunications infrastructure;
- (f) to ensure Council and community views are incorporated into the radiocommunications infrastructure site selection

Comments from Optus (Attachment 15 extract)

Optus is of the view that the existing ACIF Code meets the requirements of Optus and the community. The Code embraces a precautionary approach to the siting of mobile network facilities whilst to protecting the safety and well-being of the community. These are principles that Optus incorporates into its every day practices when deploying our network. **[See Attachment 15 for further details]**

Comments from Telstra (Attachment 5)

Community — The Code notification and consultation statistics collated by the MCF and presented in the MCF submission demonstrate the Code is meeting the needs of the community. **[See Attachment 5 for further details]**

Industry — The Code has provided a stable framework for carriers to deploy mobile networks. The Next G™ network is meeting the growing communication needs and demands of Australian industry. **[See Attachment 5 for further details]**

Comments from VHA (Attachment 10)

Rigorous application of the ACIF Code provides an adequate framework for site deployment, particularly in areas previously identified as community sensitivity.

In recent years, Vodafone and now VHA has successfully applied the ACIF Code for the deployment of mobile network infrastructure in areas previously identified as having high community sensitivity. Vodafone's success has been based on a thorough application of ACIF processes and an approach that involves continual improvement based on learnings from historical and recent deployment activity. **[See case studies in Attachment 10 as listed in Section 5]**

F. Expected impact of technology changes

Comments from EMR Australia (Attachment 4)

In the eight years since the Code was first published, there have been enormous changes in mobile phone technology and supporting infrastructure and this is not adequately addressed by the current Code.

Comments from MCF (Attachment 11 extract)

In reviewing the expected impact of technology changes on the operation of the Code, there are two distinct issues that are considered here.

Expected Impact of technology changes on network infrastructure

The MCF considers that the consultation processes in the existing Code will remain valid and relevant to future technology changes.

The second aspect of technology change is to ensure that the Code continues to reference the ARPANSA RPS3 RF safety standard to ensure a consistent and uniform approach to EME safety in Australia.

Expected Impact of technology changes on consultation practices

Any changes to the Code resulting from the five year review should allow for notification and consultation practices and the provision of information to stakeholders via traditional postal services and also the internet/email.

[Refer to Attachment 11 for further details]

Comments from Optus (Attachment 15 extract)

The current Code does not need to be altered to accommodate the ongoing work for new network. **[Refer to Attachment 15 for further details]**

Comments from Telstra (Attachment 5 extract)

In Telstra's view the Code, in its current form, adequately caters for technology changes.

With the ongoing development of new wireless technologies, it is very important that the Code continue to reference the ARPANSA RPS3 RF safety standards to ensure a consistent and uniform approach to EME safety in Australia. **[Refer to Attachment 5 for further details]**

Comments from VHA (Attachment 10 extract)

ACIF Code responds to the public perception of risk with respect to new technologies.

The existing ACIF Code processes remain effective and appropriate. No ACIF process changes are recommended as consultative processes proportionate to the deployment scenario are covered by ACIF C564:2004 and balance the needs of both industry and the community. **[Refer to Attachment 10 for further details]**

4 Specific comments on sections of the Industry Code

General

Comments from Rainworth State School, Sandra Boland (Attachment 2)

Familiarity: Most communities are unfamiliar with the ACIF code process, and may only experience it being applied in their community once or twice in their lifetime, however telecommunications companies may erect thousands of towers, as such there is a major imbalance of power, and understanding of the ACIF code. I recommend the application, consultation and appeals process be clarified.

Comments from EMR Australia (Attachment 4)

Furthermore, the Code is not in language that is accessible to the layman and is therefore not as easy to understand as it should be in order for the material to be most meaningful.

Comments from MCF (Attachment 11)

Since registration of the Deployment of Mobile Phone Network Infrastructure Code C564:2004 ('the Code') in 2005 the Carriers have followed the Code processes for more than 10,000 upgraded or new mobile network telecommunications facilities.

The delivery of information has been provided with a very high level of compliance with Code provisions and also in the spirit of the intended purpose of the Code.

Explanatory Statement

Comments from Rainworth State School, Sandra Boland (Attachment 2)

Most property owners are unfamiliar with the Land Access and Activity Notice (LAAN) process. This process can have dramatic consequences for property owners, should one be served on their property under the ACIF code. The code is currently unclear what the process is for serving a LAAN on a property, the statutory timeframes for serving and responding to notices, and what rights of appeal a property owner has under the current legislation. The LAAN process, and circumstances when a LAAN would be used, could be better explained in the ACIF code, possibly using a flowchart.

Comments from Anne Tredenick (Attachment 12)

In relation to the following: There is also provision for a Carrier to apply to the ACA for a 'facilities installation permit' to carry out installation of facilities where the Carrier does not obtain the approval of the relevant State, Territory or local government body or the owner of the land. However, this process involves onerous obligations and is little used. (ACIF C564:2004 (ii))

I recommend that not only should the code identify the provision of a Carrier's ability to apply for a 'facilities installation permit' but it should also outline the processes involved in a Carrier obtaining such a permit. If the term 'facility installation permit' is the same as to what those in the industry refer to as a LAAN, I would question the use of the word 'onerous'. Those in the industry might suggest to community members that obtaining a LAAN is not too onerous to them. Thus indicating to those who do not readily agree to such an installation on their property, an easy alternative option for the Carrier.

Comments from the ACMA (Attachment 19)

In a written complaint received in late 2009 it was alleged that a contractor, acting on behalf of a carrier, in negotiations on a lease arrangement with a property owner to install a mobile phone facility, advised the property owner that if the lease was not signed then the carrier had the right to install the facility under Commonwealth law and the person was not entitled to compensation.

Under Schedule 3 of the Telecommunications Act 1997 ('the Act'), carriers do have the right to install 'low-impact' facilities and compensation is payable in circumstances of financial loss and damage (section 42 of Schedule 3) and the acquisition of property (section 62 of Schedule 3).

It was further alleged by the property owner that the incorrect information provided by the contractor about compensation influenced the property owner's decision about the lease.

In responding to the complaint, the ACMA advised the property owner in writing of carrier's rights and obligations under the Act with includes compensation requirements.

Although the alleged matter about the misinformation is not specific to any particular aspect of the Code, it does however involve an activity associated with mobile phone deployment that could be covered by a revised Code. A possible way forward is to include information about compensation with existing legislative information in the Code's preface. Where it is necessary to advise a person about carrier's rights and obligations, for example in lease negotiations, then the Code's preface could be used as the industry standard for such advice and preferably the advice be provided in written form (i.e. copy of the preface). (Complaint No. 1)

5.1 Application of the Precautionary Approach to Site Selection

Comments from ACT Planning and Land Authority (Attachment 1)

Sufficient information is provided to easily determine the location of the works should be part of the code. At the moment the plans submitted often make it extremely difficult to determine the location and therefore any impacts.

As an example, Transact's plans are often much easier to decipher than Telstra's plans because they include street names etc and aren't covered in masses of technical information.

Comments from Summer Hill Action Group (SHAG) (Attachment 7)

There should be more transparency in Code compliance – for example, with respect to co-location, the onus should be upon the telecommunications carrier to show that it has investigated all possibilities and given them appropriate consideration; and

The Code should set out that draft heritage items should be afforded the same status as heritage items.

Comments from Crown Castle Australia (Attachment 13)

Absolutely fundamental to Crown Castle's 'co-location first principle' is the view that the strengthening, extension and replacement of existing towers must be considered a practical co-location solution prior to constructing new facilities.

In this submission we argue that this more robust 'co-location first principle' approach is strongly supported because:

- co-location reduces the duplication of radiocommunications facilities and increases competition and efficiency in the industry;
- the rapidly increasing consumer demand for high bandwidth mobile data services will continue to drive the deployment of new radiocommunications facilities, and collocation is vital to ensure that this deployment is conducted in an efficient, rational and environmentally sustainable way;
- the National Broadband Network Implementation Study has recognised that backhaul is often a bottleneck and recommend that NBN Co deploy transit backhaul to wireless tower locations and that this backhaul should be offered to operators on an equivalent open access basis. Clearly the efficacy of these steps is maximised where co-location is actively encouraged;
- co-location is an environmentally sustainable practice and a critical factor for minimising the contribution of the telecommunications infrastructure to Australia's carbon emissions (i.e. co-location facilitates mitigation).

Further, we argue that these supporting factors for co-location should be given far greater primacy than other competing factors set out in the Code (for example, factors such as collocation being visually unacceptable).

Comments from ACRBR (Attachment 18)

In Section 5.1.4.d, it instructs the carrier to plan with regard to the objective of avoiding community sensitive locations. I do not think that this is appropriate, given the lack of science behind such an objective (for example, the citing on a child care facility may result in a very low exposure for the children there, whereas if placed 50 m away could result in a higher exposure). Thus this objective could be said to be instructing carriers to increase exposures to sensitive locations. Thus it would appear more appropriate to me to have the issue of sensitive locations dealt

with in Section 5.5 in terms of consultation. That is, I agree that consultation is very important for such sensitive locations, where the issues can be addressed in a manner that provides the appropriate information and discussion, but do not think that it is appropriate to remove science from the original decision to cite in a sensitive location... If the community consultation process results in the decision that science should be ignored (or the uncertainty in science is too great to rely on current science) and that the perceived risks are too great, then this could be a valid result, but I would argue that the community consultation process is where such 'evaluative' decisions should be made, rather than in Section 5.1.4.d.

Comments from the ACMA (Attachment 19)

Late last year, the ACMA received a written complaint alleging carrier non-compliance of clause 5.1.3 of the Code because the carrier had not considered all factors of clause 5.1.4, for each candidate site in applying its site selection procedures (clause 5.1.2).

In the above circumstances, the carriers had examined several possible sites (in a contentious locality) but because of reasons of inadequate coverage or structural difficulties on buildings, the full factors of clause 5.1.4 were not considered for each candidate site.

The ACMA advised the complainant that while it is conceivable that the carrier could have regard to all factors contained in clause 5.1.4 in relation to all candidate sites, it is not unreasonable for the carriers to not consider all the factors if a site does not initially meet key requirements such as coverage objectives, structural and technical requirements.

As there is an interpretation that all the factors of clause 5.1.4 must be applied irrespective of the site unsuitability, the ACMA would suggest that the Code be amended to not require the full application of specified factors in cases where a candidate site is considered to be unsuitable for the carriers purposes.
(Complaint No. 4)

5.3 Low RF Power Infrastructure and Fixed Radio Links – Notification

Comments from ACRBR (Attachment 18)

In Section 5.3.2 'close proximity' is used to determine who should be consulted about Low RF Power installation. This seems problematic to me, as it would only seem relevant to ascetics or property value, and not RF levels (which may be low closer by and higher further away). I appreciate that the Low Power levels means that no-one is likely to be exposed at a significant level, but given that consultation is required for such devices and that there is still community concern about low levels, it would seem that proximity would not be a useful metric here. Perhaps there should be an 'and' added, to require consultation also with those occupying locations where the levels are the largest (or perhaps where the levels are the largest, but only if such levels are greater than a threshold level).

5.4 Notification to Council – Installation at a New Site Without Development Application

Comments from EMR Australia (Attachment 4)

State planning policies have, in some cases, superseded council planning documents and effectively changed the way that councils respond to the issue of mobile phone infrastructure and respond to the Code. This, in turn, impacts on the communities that these councils represent.

Comments from Summer Hill Action Group (SHAG) (Attachment 7)

The Code should require telecommunication carriers to comply with the same notice periods and response procedures as are required for Local Development Applications.

5.5 Consultation with Local Communities – Installation at a New Site Without Development Application

Comments from Rainworth State School, Sandra Boland (Attachment 2)

2-tier Consultation process:

Development of a 2-tier approach to consultation, requiring greater community engagement for facilities planned be located near (say within 300m) of community sensitive locations, such as aged care facilities, schools, child care facilities and the like, and a less onerous process for sites away from community sensitive locations.

Revised requirements for Community Consultation plans

The consultation plans under the code currently require carriers to provide evidence of considering community-sensitive, details of the desired outcomes, stakeholder analysis, potential concerns to be raised about a facility, timeline for consultation, details of consultation tools, background to the proposal, informal consultation so far undertaken, and carrier's response to community feedback. In addition it is suggested that the community consultation plan should include

- a. Consultation strategy (i.e. inform, consult or actively engage the community)
- b. Key messages to communicate to the community
- c. Service level agreement (e.g. response times to various queries such as oral, written, parliamentary etc.)
- d. Programme of Activities – can be wrapped up in a community engagement plan, but should detail what is happening when
- e. Performance measurement (i.e. how to measure Telstra's performance against the requirements of the industry code)
- f. Communication of consultation outcomes to stakeholders/community (the code mentions reporting to the Council only – p35)
- g. Who from the Teleco approved the consultation plan and date of approval
- h. Version control (to ensure everyone's working to the most current version of the plan)

Quality of documentation produced by carriers

Consultation plans produced by carriers appear to be below the minimum standard required by the code (see item 5 above for requirements of the consultation plan). Inclusion of some example consultation plans or template consultation plans (as annexures in the code) would assist carriers in meeting the code's expectations.

Contacting property owners

The code is unclear who should be contacted when a base station is to be located on a property managed by a body corporate (for example a block of flats), first contact may sometimes be made with property owners or tenants directly. Recommend the code clarify that initial contact should be through the body corporate administrator.

Comments from Rainworth State School, Carolyn Berge (Attachment 3)

Development of higher duty of care towards community consultation and engagement, for facilities planned be located near community sensitive locations, such as aged care facilities, schools, child care facilities and the like than currently exists

Increased community involvement through elected representatives, including provision for federal ministerial intervention at contentious sites, and greater Council involvement, for example through the Development Application (DA) process

Greater adherence to the code's current requirements for community consultation plans.

Comments from EMR Australia (Attachment 4)

A clear gap in the Code is that it doesn't provide processes by which communities can be engaged or can engage. To a very large extent, the existing Code relies on councils to mediate with communities, but this is no longer appropriate, given councils' changing relationships with this issue.

Comments from Telstra (Attachment 6)

The community consultation requirements for new base stations under the Code are often far more rigorous than for most developments under a Local Government Development Approval (DA) process.

For example, in Queensland a Code assessable development application for a base station may simply require the consent of the relevant land owner to be obtained with no more broader public consultation or notification required as part of the application process. A similar proposal in Victoria would typically involve a notification letter to abutting properties as a minimum. In contrast, the same antennas installed on an existing building with no other telecommunication infrastructure may require notification to 200 - 300 surrounding residents and interest groups under the Code.

Since the Code was introduced in 2002, Telstra has made significant investments in new consultation processes, procedures, online applications and training to ensure ongoing competency and compliance with the Code. Specifically, Telstra has implemented:

- an internal ACIF Code Management team;
- Regional ACIF Code Coordinators;
- annual Community Consultation training programs for all regions; and
- monthly review of ACIF Code processes and regional issues.

Comments from Summer Hill Action Group (SHAG) (Attachment 7)

In circumstances where towers are to be constructed within a close radius, say 300 meters, of 'community sensitive locations' there should be additional community consultation procedures required under the Code including for example a requirement that the telecommunications carrier must convene public forums and they must specifically contact residents in a certain radius;

Comments from Kristen Elliott, Moruya (Attachment 8)

Further to point (1), there is a need for more transparency in the planning process. Communities should be given the right to comment on a planned development in their area, and be given an opportunity to voice their concerns. I have noticed that development applications are often not lodged under the carriers trading name (for example, Optus towers are often lodged by Daly & Co), and are rarely described as 'mobile phone towers' or 'base stations'. In my opinion, this is a deliberate attempt to deceive the public, as it seems to indicate the carrier's aim of gaining planning approval without openly stating their intentions. Why the veil of secrecy?

Comments from MCF (Attachment 11)

The Industry has provided substantial information through direct notification and consultation and via the Industry's Radio Frequency National Site Archive (RFNSA).

Comments from Anne Tredenick (Attachment 12)

Correct use of definitions, for example:

- 'Consultation' (more fully defined as to what is meant by 'consultation'). The consultation processes need to be outlined. At the moment the term consultation refers merely to notification, which is not by definition, consulting with other parties.
- 'other parties' Definition of who are considered 'other parties' and how and when should they be contacted by the Carrier
- 'considered' How does a Carrier 'consider' community responses; and how does a community member know that its response was considered.

Greater accountability by the Carrier in meeting the object of the definitions is required. As often, members of the community are told by the Carrier, 'we are meeting all of our obligations, as required by the Code'. What is really required, is greater accountability by the Carrier, and it being seen to be accountable by the community.

In reference to the following 'The aim of the Code is to deal with the concerns of the community about the risks of radiofrequency electromagnetic radiation (RF EMR) exposure by allowing the community and councils to have greater participation in decisions made by Carriers. (ACIF C564:2004 (ii))

I would recommend greater consultation between community and carriers. A standard consultation plan procedure (e.g. checklist) needs to be readily available to both the Carrier and public, so that they can both be informed as to the processes that should occur. It should outline Carrier and community rights and obligations.

Comments from Vividwireless (Attachment 14)

We would not like to see increased consultation requirements as the current processes are sufficient.

Comments from No Towers Near Schools, Bardon (Attachment 16)

I reside 30 meters from the proposed site and was not given sufficient information from Telstra at any time regarding their tower. They did not respond to our community questions in a proper manner. My request is that the attached proposals be put into place for future Telstra tactics, so that residents can have a fair voice in these vital matters of health and safety issues.

Comments from No Towers Near Schools, Bardon (Attachment 16)

Secondly, I think there needs to be enshrined in the code an obligation to consult more deeply with the community regarding the placement of base-stations; my concern is particularly with regard to placement of base stations near schools, playgrounds, and child-care centres.

Comments from the ACMA (Attachment 19)

Specific issues tabled at MCF meetings

- place the following statement on the front of plain (i.e. no carrier logo) envelopes: Important Information: Proposed telecommunications facility in your

area' except in cases where carriers are able to use name and addresses on envelope; and

- take photographs of signs at sites including a clear picture of the sign and another picture showing the location of the sign on the site. Dates of photographs would also be recorded.
- It was suggested that no consultation be undertaken during the Christmas holiday period and that the carriers agree on dates spanning Christmas/ New Year for a continuous period no less than 2 weeks for notification to the ACMA.
- It was also agreed that letter boxes marked with 'no junk mail' should receive notification letters.
- It was suggested that if a school was identified in the consultation plan then the consultation period for the school should be extended beyond the holiday period.

Comments from the ACMA (Attachment 19)

Some 3 years ago, the ACMA in examining a complaint about the consultation activities of a carrier regarding a contentions site, found that the carrier relied on the body corporate of an adjacent multi-tenanted building to 'pass on' the consultation notice to occupiers of the building. Paragraph 5.5.6 (d) of the Code obligates carriers to 'consult immediate residential neighbours'. However the Code does not place an obligation on a third party such as a body corporate to 'hand on' any notices it receives from a carrier in relation to a proposed facility to any relevant persons, including multi-tenanted immediate residential neighbours and/or interested parties.

At the time, the carrier advised that in some circumstances where it is difficult to gain access to multi-tenanted building mail boxes because of security restrictions; it was common to advise the Body Corporate in-lieu of individual tenants. The ACMA also found that in notifying the body corporate, the letter contained only standard proforma wording and failed to make any mention of an expectation that the body corporate would pass on the notification to other relevant persons.

The ACMA is of the view that in circumstances where it is not possible to gain access to mail boxes of immediate multi-tenanted buildings, then the Code should have reasonable flexibility to allow for notification to the Body Corporate with an appropriate letter requesting that tenants be advised. To assist the Body Corporate, the letter should include copies of the general notification for distribution to tenants.

- In making the suggestion, the ACMA would point out that the above suggested approach cannot be extended to occupiers of a proposed facility site (paragraph 5.5.6 of the Code) as it would breach section 17 in Schedule 3 of the Act and the Ministerial Telecommunications Code of Practice 1997 that requires carriers to notify property owners and occupiers of such sites. (Complaint No. 3)

6.2 RF EMR Health and Safety Information

Comments from Vividwireless (Attachment 14)

We would like to see less emphasis on sensitive sites and more support/education on the misunderstanding surrounding EME and health impacts.

Comments from the ACMA (Attachment 19)

Some 12 months ago the ACMA received a telephone complaint that the RFNSA site information did not comply with paragraph 6.2.2(b) of the Code as it did not list specific frequencies of base stations but rather the frequency band (i.e. WCMA 850, GSM900, WCDMA2100).

To align the Code with information provided in the RFNSA, the ACMA would suggest an amendment to paragraph 6.2.2(b) to change the requirement to provide from 'operating frequency' to 'frequency band'. (Complaint No 5)

7 Complaint Handling

Comments from Telstra (Attachment 6)

Complaints specifically relating to Telstra base station deployment have significantly reduced from a very low number of just 14 in 2003/04 to a negligible 2 in 2008/09.

This reduction in complaints is consistent with the industry trends which show that since 2002, complaints to the ACMA regarding base stations (for all carriers) have significantly reduced from a total of 137, relating to 31 sites in 2002/03, to 8 complaints, relating to 6 sites in 2008/09.

Since 2003, more than 8,000 facilities for all carriers have been deployed using notification and/or consultation processes under the Code.

Since 2003, Telstra has deployed more than 4,200 base stations for which it has undertaken ACIF notification and /or consultation in accordance with the Code.

The significant reduction in complaints since 2002 and overall low numbers of complaints generally demonstrate the ongoing effectiveness of the Code.

Comments from MCF (Attachment 11)

Over the past five years the MCF has observed a continuing decline in 'Complaints' to the ACMA regarding the Industry's consultation practices under the Code when establishing telecommunications facilities.

Comments from Vividwireless (Attachment 14)

Over the past 9 months we have received several comments/requests for information but no formal complaints. Thus indicating the process of community consultation is working as expected. On several occasions negotiated design changes have been agreed and resulted in a better outcomes for the community.

Comments from the ACMA (Attachment 14)

In a telephone complaint made in mid-2009 it was pointed out that Section 7 (Complaint Handling) of the Code did not provide contact details of carriers to enable the lodgement of a complaint about a proposed facility. The complainant saw the absence of contact information as a deliberate method to obstruct community consultation. In responding, the ACMA provided the complainant with contact details of the relevant carrier. The ACMA would suggest that contact details of each carrier be included in an appropriate area of the Code. Elements of the ACMA's contact information within Section 7 are obsolete and need updating. (Complaint No.2)

[Also see complaints listed under the following Clause headings in Section 4 of this Report: Explanatory Statement, 5.1, 5.5 and 6.2]

Compliance

Comments from Rainworth State School, Sandra Boland (Attachment 2)

Inclusion of a code compliance checklist. This would assist carriers in ensuring consultation plans for facilities near community sensitive locations meet the minimum requirements of the ACIF Code, I have developed a draft checklist (Attachment A) which could be amended for a revised Code. This would also prove useful to carriers in ensuring they meet the Code's obligations and to Councils in reviewing consultation plans submitted by carriers.

Comments from VHA (Attachment 10)

ACMA Report on ACIF Code Complaints -Financial Year Summary 2002/03 – 2008/09

Financial Year	No of Complaints	Relating to No of Sites	No. of sites deployed & consultations conducted (Low-Impact base station sites)	% of site complaints per sites deployed
2002 / 03	137	31	Not collected	Not collected
2003 / 04	48	28	> 1,300	2.15%
2004 / 05	42	25	> 1,100	2.27%
2005 / 06	27	20	3,639	0.55%
2006 / 07	31	21	1,292	1.62%
2007 / 08	6	5	2,587	0.19%
2008 / 09	8	6	1,159	0.51%
2009/10*	10	7		

* The figures for 2009/10 are as at 22 June 2010. They have been provided by the ACMA separate to the VHA submission and have been appended to this table for completeness.

Comments from Anne Tredenick (Attachment 12)

As you would appreciate, the ACIF Code is a type of document which the general public is not too familiar with. To assist the Carrier/Council/community relationship, I would recommend a checklist for procedures undertaken when installing telecommunication facilities (both low and high impact), so that the Carrier, Council and general public can be aware as to what obligations need to be met.

5 List of case studies and examples

Fremantle, WA (VHA Attachment 10)

Glenn Valley, NSW (VHA Attachment 10)

Kirralie, NSW (VHA Attachment 10)

Leabrook, SA (VHA Attachment 10)

Leura, NSW (VHA Attachment 10)

North Epping, NSW (VHA Attachment 10)

Summer Hill, NSW (Summer Hill Action Group Attachment 7)

Warnbro, WA (VHA Attachment 10)

6 List of out-of-scope issues

This Code fits within an existing regulatory scheme that comprises:

- the *Radiocommunications Act 1992*;
- the *Telecommunications Act 1997*, particularly Schedule 3 of that Act;
- the *Telecommunications Code of Practice 1997* issued by the Minister which is made under Schedule 3;
- the *Telecommunications (Low Impact Facilities) Determination 1997*; and
- laws and regulations at State Territory and Local Government level.

This Code is intended to supplement the present regulatory regime by extending the obligations on Carriers, particularly in relation to the consideration of radiation exposure and community consultation. It is not within the scope of this Code to change that 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.

Further information on aspects of the regulatory regime can be found in the Explanatory Statement of the Code.

The following topics have been raised in the comments received for the Code review and are considered to be out-of-scope of the Code:

- intervention by Ministerial discretion on individual roll-outs of concern to the community (Attachment 2)
- auditing and regulating the application of the Code by an independent body such as the ACMA (Attachments 2, 3, 8, 12 and 17)
- additional powers be granted to ACMA, including the engagement of independent expert advice, fines and penalties, requirement to remove existing facilities etc (Attachment 2)
- sanctions against Carriers for not meeting obligations required under the Code and in particular Carriers should be held accountable for the information that they give (Attachment 12)
- local government given more power in the planning process (Attachments 8 and 17)
- all facilities, low-impact included, need to gain planning permission from local government (Attachments 8)
- the Australian EMR emissions standards to be compared to other countries around the globe (Attachment 8)
- more studies undertaken on the health effects experienced by people living in close proximity to base stations (Attachment 8)
- 'low-impact' should refer to its emissions of a base station as well as the visual aspects (Attachment 8)
- the lack of consumer representation on the Communications Alliance Board, and limited government (ACMA) representation or power (Attachment 2)