

# COMMUNICATIONS ALLIANCE DRAFT MOBILE PHONE BASE STATION DEPLOYMENT CODE DR C564:2018

Submission lodged by B Bebbington

## 2.2 DEFINITIONS- AUSTRALIA POST DELIVERY TIME

The definition stated is “means the delivery timetables relating to items posted in Australia as published by Australia Post from time to time.”.

In the first instance the definition should be amended to refer to “regular delivery timetables” due to the introduction of priority mail since the last review of this code.

The Australia Post website states-

### **Delivery timetables**

There are two delivery timetables available for letters within Australia; Regular and Priority. The delivery times are guidelines only and based on reasonable expectations and experience. Australia Post will not be liable for any loss or damage (including but not limited to consequential loss) resulting from a failure to deliver in accordance with these times.

### **Regular delivery timetable**

The usual delivery times for letters sent to the regular delivery timetable within Australia, in business days after day of posting, are shown in the table. Letters sent to the regular delivery timetable are delivered within a two-business day window.

### **For delivery: Same state**

Within metropolitan areas of capital cities or within the same city or adjacent city or town 2 - 3 –

Between metropolitan areas of capital cities –other states 3 - 4

Between metropolitan areas of capital cities and country locations 3 - 4 other states 4 - 5

Between country locations 3 - 4 other states 5 - 6

### **Priority delivery timetable**

The usual delivery times for letters sent to the priority delivery timetable within Australia, in business days after day of posting, are shown in the

Source-Australia Post website publication Post charges 19 March 2018, doc ref 8833665 (MS11) 19 March 2018

Any dates for delivery are a guide only and are calculated on the basis that parcels and letters will be lodged on the send date by the relevant close off time at the Post Office or street posting box. Any dates for delivery do not take into account public holidays and are subject to change at the discretion of Australia Post. Surface Mail delivery estimates are not included. Service conditions apply.

Source- Australia Post website, postal calculator as at 9 July 2018.

The Australia Post timetables specifically state-

- a) Delivery times are guidelines only,
- b) Are based on reasonable expectations, and
- c) Surface mail delivery estimates are not included in the timetable.

The Australia Post timeframes show no difference between regional and remote areas or offshore islands.

The timetables also do not take into account that residents Australia wide do not receive daily weekday mail deliveries.

Our mail is on a rural mail run, or RMB delivery and this delivery only occurs on Monday, Wednesday and Friday, if there is no public holiday. The postal calculator shows the same expected delivery timetable for mail delivered to Bridgetown town deliveries (or PO box deliveries) as it does for the rural deliveries despite there being no mail deliveries two days per week.

Despite the Australia Post terms and conditions specifying that RMB mail is to be sorted daily and available at the post office for collection, this does not apply. This has been formally complained about with Australia Post in June 2017. I am still awaiting a reply- maybe it got lost in the mail.

The Mobile Black Spot Program funding of new mobile base stations means that the majority are in rural and remote areas. Therefore, this code should reflect the actual mail delivery timetables that occur in regional, rural and remote areas.

The timeframes also do not allow for known delay periods for mail. Australia Post has in the past made announcements that in the lead up to Christmas, mail delivery timetables may not be achieved, yet there is no provision for an allowance for known annual delays to be taken into account in the definition. Australia Post does not adjust its timeframes in its publication on a day to day basis, only by issuing alerts.

There is no published timetable for lower cost bulk mail or unaddressed mail.

Bulk mail is processed as a lower priority because of its lower fee and is only despatched when space is available. This is reflected in delivery of items such as magazines, which historically have been delivered up to three weeks after they go on sale in newsagents and retail outlets due to being sent bulk mail.

On page 42 of this draft under D2 the envelope to be used is depicted and described, primarily for use for bulk mail drops as unaddressed mail. This code fails in its definition to allow for slower bulk mail and the delivery times nor does it allow for the timeframe of

unaddressed mail being sent from the distribution point to the delivery post office and then for the delivery to occur.

If the unaddressed envelopes or notifications are delivered by delivery services (for example Salmat delivering shop catalogues) these are often only once per week, provided they meet the distributors deadline and are not delivered to all physical addresses (specifically those without letterboxes) or to areas of lower population density (such as larger blocks on the edge of townships or rural areas). There is no reference to the timetables of such deliveries in determining consultation timeframes.

A code designed to notify people in an area of low population density that is receiving a mobile phone tower, does not allow for the fact that the unaddressed mail won't get to the impacted residents.

## **2.2 Definitions- Exempt Mobile Phone Radiocommunications Infrastructure**

(e) fixed, mobile or portable radiocommunications equipment that is intended for operation by Carriers or non-Carriers, and which would otherwise meet the exemption from evaluation requirements set out in Schedule 5 to the **Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields - 3 kHz to 300 GHz (2002)** or any other equivalent ACMA requirements.

There is no indication of where this document is available or any reference to the Australian Radiation Protection and Nuclear Safety Agency or its website.

Is there a better way for this exemption to be described?

I would like this to be reviewed, in particular

- a) Whether the term "to" is correct rather than "of" in relation to schedule 5,
- b) Whether the term "equivalent ACMA requirements" is appropriate rather than "ACMA requirements" as the draft wording precludes any higher ACMA requirements in the future or the development of a more comprehensive ACMA document outlining the requirements of Schedule 5.
- c) A reference in the text to ARPANSA in relation to the Radiation Protection Standard.

## **No definition of community sensitive locations**

Within the draft code there are 19 references to community sensitive locations or sensitive locations, yet there is no definition in the list of what a community sensitive location is.

The 19 instances are-

- a) Page 8, 2.2 Definition of Interested and affected parties
- b) Page 13, 4.1.4. (c)

- c) Page 13, 4.14. (c) Note identifying sensitive locations
- d) Page 13, 4.1.4 (d)
- e) Page 18, 5.2.4
- f) Page 19, 6.1.2 (c)
- g) Page 19, 6.1.2(c) Note identifying sensitive locations
- h) Page 19, 6.1.3 note
- i) Page 24, 6.3.14
- j) Page 24, 6.3.14 (c)
- k) Page 36, C2
- l) Page 36, C2.1 (a)
- m) Page 37, C2.1 (b)
- n) Page 37, C2.1 (b) enclosed box
- o) Page 37, C2.2
- p) Page 37, C2.2 (a)
- q) Page 38, C2.2 (b)
- r) Page 38, C2.2 (b) enclosed box
- s) Page 40, C2.3 Consultation tools.

There are two different examples used to outline community sensitive locations referred to throughout the notes and enclosed boxes.

These are-

- a) 4.1.4 (c) *“NOTE: Examples of sites which may be considered to be sensitive include, residential areas, childcare centres, schools, aged care centres, hospitals and regional icons”*
- b) C2.1 (a) *“Some examples of facilities which previously have been shown to be sensitive are large visually prominent facilities located very close to where people live.”*

The reference in 4.14 (c) is also used at 6.1.2 (c) and C2.1 (b).

As community sensitive locations are a critical element of this code and the assessment of consultation, undertaking consultation and determining likely impact, to the extent that it is inserted 19 times in the code, then it would seem prudent and sensible to include a definition of what community sensitive locations includes but is not limited to.

Inclusion of this extremely important and obvious definition would strengthen this code and may result in the removal of the notes within the draft.

## **2.2 DEFINITIONS *Temporary Mobile Phone Radiocommunications Infrastructure***

“means Mobile Phone Radiocommunications Infrastructure that is in place for no more than one month to cover a public event. It does not include equipment installed for reoccurring annual events at a specific site”

Is the intention that the second sentence refers to temporary mobile phone infrastructure, such as a mobile tower on a trailer, brought in annually for the same event at the same site,

or does it refer to a permanent installation that is only activated when the annual event is on?

If the intention is, consistent with the title of the definition, that it does not include a permanent installation, it would be more appropriate to state, "It does not include permanently installed infrastructure that is activated for an annual event".

The use of "reoccurring" is not relevant because if it is an annual event then it would be occurring every year.

The definition as it appears in the draft, which refers to a maximum timeframe of one month, would also apply for temporary installations where damage has occurred to other infrastructure during a flood, fire or cyclone.

What provision is there for when the infrastructure damage is so severe that the normal infrastructure can not be replaced within a month? Can the provider simply shift the temporary tower to a new location or can they apply for an extension.

To comply with the wording of the draft, a temporary tower put in place following infrastructure damage in a cyclone or flood would have to be removed, after a month, as it would need consultation under this code.

Under this draft code, a community that has suffered considerable damage will lose its mobile phone communications, simply because the wording of this code does not allow it. Is the loss of mobile communications in such a community the aim of this code?

An example of this would be the fires which destroyed a large part of the Yarloop township in Western Australia in 2016. Due to asbestos concerns access to the town to rebuild infrastructure was prohibited, which would have meant that any mobile facility if installed would have been necessary to remain in place until access for workers repairing infrastructure was possible.

Consideration should be given to including a provision that allows for the one-month limit to be extended in circumstances where the area is not accessible, or the area of damage is widespread, and the infrastructure can not be replaced within the month.

### **3.2 TIMEFRAMES**

As already outlined in this submission, under "2.2 Definitions- Australia Post delivery time" the timeframes referred to in 3.2.1(a) of those for the Australia Post delivery timetable for the specific Australia Post services utilised, does not allow for actual delivery times.

A letter posted to me in Sydney (GPO BOX NO) which arrived in the last week, took 8 business days after the day of posting and is a clear example of the failure of the timeframes outlined in this draft code, which only provides for 5 business days after posting.

Another tracked example was a letter posted in Brisbane in April, which took 6 business days after notification of posting day, compared to the 5-business day timetable.

I also note that at no point in this code, is there any allowance given for the return of consultation responses. If a member of the public has 15 days to respond and the mail takes eight days to arrive and the person has no access to email (15 days minus 9 days for posting being the posting day plus 8 days to be received, gives six days to left for the response to be received, If responded to on date of delivery, allow 8 posting days means the response will arrive 2 days late) it would be impossible to post a reply in time.

We are not in a remote area, if the mail to us takes 8 business days after posting, and it takes 10 days in other areas, they would have to send their response before they receive the notification.

Is this code fair if impacted persons in a sensitive area, are prohibited from responding?

On page 38 of the draft reference is made to blackout periods for Christmas and New Year and specifically for “festivals of significance for Aboriginal and Torres Strait Island communities...”

Such blackout periods should form part of 3.2 rather than being an afterthought in the code.

#### **SECTION 6 AND 7 NOT APPLYING IF THERE IS A DEVELOPMENT APPLICATION REQUIRED.**

The draft code contains notes in Sections 6 and 7 that-

*“The consultation requirements of this Code do not apply to Mobile Phone Radiocommunications Infrastructure that require Development Approval. In such cases it is expected that public consultation will occur through the Development Application process”.*

There is no guarantee that public consultation will occur or that the public consultation process of a local government will ensure that all the persons referred to in this draft would receive notification of the proposal.

The local government requirement is often only for neighbours and adjoining properties, has discretionary provisions in determining “affected area” or “affected persons”.

Local governments do not have to adhere to any definition in this code of community sensitive locations.

The local government may also have lesser public advertising requirements or lesser timeframes than those allowed.

If affected residents are impacted by an installation whilst they may blame their local government, the local government will not lose any customers, as ratepayers can not opt out of paying rates.

Those impacted residents will blame the carrier, who is liable for loss of customers and revenue.

It would therefore be in the best interests of the carrier that they ensure that the minimum standard of notification and consultation would be that which is specified in this code, to ensure that they can show they have applied a national standard to the approach under this code, rather than having to explain why, this code failed the carrier and impacted residents, because it said “it expected that public consultation will occur “without any supporting evidence.

I would propose that Section 6 and 7 should instead reflect, that “Public consultation for Mobile Phone Radiocommunications Infrastructure that require Development Approval, shall be not less than that required by this code”

In that way, the national standard of notification and consultation is guaranteed to be of the same standard or higher than is required for this code but can never be lower.

#### **6.2.4 based on date of request not date of receipt**

The draft contains the following -

“6.2.4 The Carrier must allow Council 10 Business Days from the date of request, to provide written comment on the draft consultation plan (provided under clause 6.1).”

The use of the term “date of request” is inconsistent with the other terms and timeframes used within this code.

The date of request is not the date of deemed receipt, as per 3.2.

6.2.4 should refer to the date of receipt in accordance with 3.2 to become “The Carrier must allow Council 10 business days from the date the notification is given in accordance with 3.2, to provide written comment on the draft consultation plan (provided under Clause 6.1)”

The notes to the table 1(a) on page 21 refer to delivery timetables, which supports my comments that the term “date of request” is incorrect.

The note in the box at the top of page 21 of the draft should also reflect not before 10 days from receipt by council.

#### **WEBSITE DETAILS TO REMAIN UNTIL OPERATIONAL NOT JUST UNTIL CONSTRUCTED**

6.3.9 of the draft states that the website information must remain publicly accessible until the construction is complete.

It should remain until the construction of the infrastructure is complete and the facility is operational, as one of the key elements of this code is not just the visual impact, but information on the emission hazard from the site.

The same applies to 6.3.12 (c) regarding signage.

## **ON SITE SIGNAGE REQUIRED EVEN IF LOCAL GOVERNMENT APPROVAL REQUIRED**

“6.3.11 The Carrier must place a sign about the proposed Mobile Phone Radiocommunications Infrastructure at the site proposed in a manner that ensures that it is clearly visible and legible from a public road or footpath, unless local government approval is required for the sign or the Council instructs otherwise, or it is not practical to do so.

The text of the draft states that a sign is not to be placed if it requires local government approval.

The sign is a requirement and if it needs local government approval, then this approval to erect and display a sign is required to be obtained and the sign is required to be displayed, unless the local government prohibits signage.

The carrier will be required to include any timeframe for seeking approval for signage in their notification and consultation process, so that the signage can be displayed during the entire consultation period.

As the requirement to display the sign is from Federal legislative requirements about safety due to radio and electromagnetic emissions and workplace safety, such legislation should override local government policies or local laws.

It is reprehensible that this code says that a safety sign does not need to be erected if it involves going to the effort of seeking approval for the sign.

## **BLACKOUT PERIODS FOR CONSULTATION TIMEFRAMES**

C2.2(e) has a table for timeframes for consultation activities.

*The timeline should take into account blackout periods relevant to the community concerned during which time messaging is unlikely to be seen or responded to. Periods such as the Christmas – New Year interval, or festivals of significance to the Aboriginal and Torres Strait Islander communities should ensure longer consultation windows.”*

This timeline should form part of definitions and 3.2.

Many local governments shut down for a period over the Christmas and New year period yet there is no mention of this blackout period for the 10-business day notification under

6.2.4. The actual wording of the draft text for 6.2.4 refers to 10 business days from the date of request not receipt, so the current wording for notification for local government allows that a carrier can post the notification to a local government from Sydney to a regional council interstate, in the full knowledge that the timeframe is 6 business days, immediately before the Christmas shutdown and therefore this code prevents a council response.

#### **PAGE 41 INCORRECT REFERENCE IN TEXT**

“by the placement of onsite signs (clauses 6.3.10 and 6.3.11).”

The correct clauses are 6.3.11 and 6.3.12

#### **WEB PAGE IN DRAFT SHOWS PROBLEMS WITH THE REQUIREMENTS OF THE DRAFT IN RELATION TO WEBSITE REQUIREMENTS**

The example of the website shows the problems created by the draft.

Bottom left of page shows closing date 28 February.

The closing date for submissions is 5pm 28<sup>th</sup> February.  
This web site will be updated when the consultation report is sent to council.

This is reiterated by the text which reiterates the closing date of 28 February

#### **Community Consultation & Having Your Say**

Our community consultation program runs from 3<sup>rd</sup> to 28<sup>th</sup> February. Carrier X has appointed Y Planning consultations to

However, there are two problems

The first being that the information kiosk only exists after the closing date for consultation

**Information Kiosk**  
Location: Level 1, 101 Sunshine St Nth Sydney  
Times: Thursday 17 March 1-3pm  
Friday 18 March 9-11am

The second is that the closing date for the consultation displayed is incorrect.

#### **Community Update & Announcements**

17<sup>th</sup> February 2011  
The consultation period has been extended by 2 weeks to 14<sup>th</sup> March due to the floods in Nth Sydney.

Therefore, the example contained in the draft, which if not picked up in this consultation process, breaches 6.3.8 of the code.

"6.3.8 The Carrier must update the information on this website to reflect any amendments to the consultation plan, and the dates of those amendments, as soon as practical".

The two places where the closing date is displayed have not been updated, and these are the key elements of the consultation.

If there are additional "recent updates and announcements", the amended closing date would no longer be on the display, it would be hidden as it would have been pushed off the page by the inclusion of updates.

The argument will be put forward that this would not happen in real life, so the reaction would be to dismiss this concern.

The level of accuracy of this document reflects ongoing sloppiness with public notification and website display across the whole Telecommunications industry.

I have raised on multiple occasions with ACMA, TIO and ACCC about the dates of public notification by carriers in relation to mass service disruption notices under the Customer Service Guarantee standard 2011.

Despite ACMA being the regulator of that legislation, they refused to investigate multiple incidents of different dates being displayed in the notices to those on websites.

The TIO would not rule on incorrect dates as they maintained ACMA as the regulator checked the notices for compliance.

As ACMA, the TIO and ACCC have shown they will not take any action on this type of misleading information, then it is imperative that this code should reiterate that-

- a) Updates must be notified to all interested parties, not just on a website,
- b) Protocols must exist to ensure changes to dates and information are made on websites and all correspondence issued from the date of change, and
- c) The display of incorrect or misleading information, in this case the information kiosk dates or the incorrect closing date, will automatically deem a requirement to recommence the public consultation process.

This may seem harsh, however, with the refusal of the regulator and failure to act of ACCC and TIO to ensure compliance with legislation, failure to do so would make a mockery of the objectives of the code

"1.4 (d) to ensure relevant stakeholders are informed, notified or consulted and engaged with before Mobile Phone Radiocommunications Infrastructure is constructed;  
(e) to specify standards for consultation, information availability and presentation ".

## **PAGE 44 ON-SITE SIGNAGE**

"The Code requires the Carrier to install a notification sign at the proposed site where possible (see clause 6.3.10)."

The clause is 6.3.11.

## **UPDATING OF SIGNAGE**

On Page 44 the example of the on-site signage, which if the draft code is adopted, would not exist if local government approval for the sign was required (6.3.11 wording)

It also shows the closing date of 28 February on the example where the consultation has been extended to 14 March.

There is no requirement under the code to amend the details on the sign if the information changes. 6.3.8 only stipulates the website must be updated.

The code permits the display of the incorrect information on the closing date of consultation and does not require this to be updated.

This contradicts objecting 1.4. (d) and is inconsistent with 6.3.8.

If the closing date has been extended either due to a failure to comply with the code or due to a reason such as the flooding referred to in the webpage example, then it stands to reason that everyone is entitled to be able to submit up until the closing date.

The code shall require that signage is updated to reflect the correct information, including any extension of the closing date.

## **PAGE 44 ON SITE SIGNAGE**

### **Notice lodged under requirements of Communications Alliance Code C564:2011**

This should reflect C564-2018 as the draft should show what is proposed and considering other errors pointed out, needs raising to ensure it is amended in the final code.

## **DRAFT CODE DOES NOT REFLECT BEST PRACTICE GUIDELINES FOR PLACEMENT OF SIGNS**

Pages 45 and 46 of the draft code list the best practice guidelines for placement of signs, and importantly emphasises the reasons for the signage.

The code fails to address the guidelines as it does not require the updating of signage.

## **E1 Introduction**

### **E BEST PRACTICE GUIDELINES FOR PLACEMENT OF SIGNS**

The placement of a sign or signs on the site of a proposed mobile phone base station is intended to provide an opportunity for members of the community to be informed of the proposal.

The purpose is to supplement the other methods used to inform Interested and Affected parties.

It is intended to ensure that people who regularly pass by the site, or who regularly visit the locality, are informed and given the opportunity to participate in the consultation process. In addition, it is intended to provide an opportunity for people who move into the area after the completion of the consultation process, or observe the construction activities, to have an opportunity to learn about the proposal, or obtain information about what is being built.

## **FAILURE TO MEET OBJECTIVES OF THE CODE**

This draft code has seven objectives.

It fails to meet four of those.

### **“1.4 Objectives**

The objectives of the Code are:

(a) to apply a Precautionary Principle to the deployment of Mobile Phone Radiocommunications Infrastructure;

(d) to ensure relevant stakeholders are informed, notified or consulted and engaged with before Mobile Phone Radiocommunications Infrastructure is constructed;

(e) to specify standards for consultation, information availability and presentation;

(g) to ensure Council and community views are incorporated into the Mobile Phone Radiocommunications Infrastructure site selection. “

A precautionary principle does not apply because consultation with local government is not ensured.

A precautionary principle does not apply when consultation with the public is prohibited by the code where the public can not receive and respond immediately to the consultation notification, due to the codes failure to understand postage times outside of CBD areas.

Relevant stakeholders are not informed if the local government consultation remains based on date of request, prohibiting local government from receiving notification during blackout periods and not allowing response times, even by email.

Relevant stakeholders are not informed when the code does not require the minimum consultation of this code to apply to infrastructure requiring local government approval.

Relevant stakeholders are not informed when there is no update of websites and no update of signage if the consultation period changes.

Council and community views are not incorporated in infrastructure site selection if they local government is not able to respond due to the reference to date of request.

Community views are not incorporated in infrastructure site selection when they do not receive the notification due to known postage timeframes, unaddressed mail delivery timeframes, non-receipt of unaddressed mail and no requirement to update websites or signage.

## SUMMARY

The number of basic errors in the text of this draft would indicate that no one read this draft before it was released for public consultation.

Non-inclusion of a definition of the most important part of this code, being community sensitive locations when it appears 19 times in the draft code, is inexcusable.

Reference to date of request for local government must be considered a deliberate act, because otherwise it would have to be admitted that no one read the document.

No one could argue that this document is truly intended to meet objectives 1.4 (d), 1.4 (e) and 1.4 (g) when it

- a) has the wording about date of request,
- b) does not relate to actual delivery times,
- c) has no provision for updating signage,
- d) fails to ensure a national base standard for consultation (where local government approval is required),
- e) allows for no on-site signage (where local government approval is required),
- f) and precludes the public and local government from responding due to not being able to receive and respond within the timeframes.

Bruce Bebbington

July 18, 2018