

My name is

To Quote ARPANSA and the Radiation Protection Standard of 2002:

“There is currently a level of concern about RF exposure, which is not fully alleviated by existing scientific data. It is true that data regarding biological effects, at levels below the limits specified in the Standard, are incomplete and inconsistent. The health implications for these data are not known”.

The standard goes on to say that “laws require relevant parties to continually assess and improve the safety and health impact of their activities.”

In the 16 years since 2002, Telcos may not have followed the Standard’s requirement of continual improvement, but clearly the staff of Byron Shire Council have. We applaud your staff, and their application of the Precautionary Principle in recommendations 4 and 5 to reject the DA.

Moreover, the ARPANSA Standard states: “It is recognised that the Standard does not operate in isolation from the legal framework within Australia.” To this end, we look to Section 1.3 of the ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 and find that

(ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 1.3

Objects of Act

1.3 OBJECTS OF ACT

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

The objective of the Act, in summary, is to promote the social welfare by facilitating ecologically sustainable development whilst integrating social considerations.

S1.4 tells us the definition of “ecologically sustainable development” is found in

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 1.4

Definitions

1.4 DEFINITIONS

(cf previous s 4)

(1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

"**ecologically sustainable development**" has the same meaning it has in section 6 (2) of the *Protection of the Environment Administration Act 1991* .

section 6(2) of the Protection of the Environment Administration Act 1991. We find in Section 6, the Objectives of this Act include preventing and reducing pollution.

PROTECTION OF THE ENVIRONMENT ADMINISTRATION ACT 1991 - SECT 6

Objectives of the Authority

6 OBJECTIVES OF THE AUTHORITY

(1) The objectives of the Authority are:

(a) to protect, restore and enhance the quality of the environment in New South Wales, having regard to the need to maintain ecologically sustainable development, and

(b) to reduce the risks to human health and prevent the degradation of the environment, by means such as the following:

- promoting pollution prevention,
- adopting the principle of reducing to harmless levels the discharge into the air, water or land of substances likely to cause harm to the environment,

On the matter of pollution: Consciously, or unconsciously residents chose to live in an area without mobile reception to be safe from harm and not to be assaulted by a pollutant against our will.

(2) For the purposes of subsection (1) (a), ecologically sustainable development requires the effective integration of social, economic and environmental considerations in decision-making processes.

We further find 6(2(a)) of the Act specifically mentions the implementation of the precautionary principle -

Ecologically sustainable development can be achieved through the implementation of the following principles and programs:

(a) the precautionary principle--namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(ii) an assessment of the risk-weighted consequences of various options,

(b) inter-generational equity--namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,

(c) conservation of biological diversity and ecological integrity--namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,

(d) improved valuation, pricing and incentive mechanisms--namely, that environmental factors should be included in the valuation of assets and services, such as:

(i) polluter pays--that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,

(ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,

(iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

**In recommendations for refusal of the DA, Council refer to the
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 4.15**

Evaluation

4.15 EVALUATION

(1) Matters for consideration--general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

Though the words 'ecologically sustainable development' are not express in section 4.15 (b) and (c) **the evaluation of the DA must automatically follow the objective of the Act and the precautionary principle** as raised earlier **and must consider ecologically sustainable development.**

If approved, Telstra will have a facility on its land that is intent on irradiating its neighbours with EMR. The EMR will become a nuisance if it causing interference to the neighbour in the form of any discomfort, fear and/harm.

Based on the advice in the ARPANSA Fact Sheet from 2015, community members have obtained medical advice and provided this to Council. Council is therefore aware that EMR emissions from the tower will clearly cause a public or common nuisance as implied in the majority of the 114 objection submissions.

To this end, Council is correct in its application of the precautionary principle and to reject the DA.

In several legal cases (of R v Ward (1836) 4 A&E 384; 111 ER 832 and R v Train (1862) 2 B&S 640 and in the High Court in McKell v Rider (1908) 5 CLR 480 at 485-6) **the current law makes it clear as follows;**

“It is no justification that the inconvenience caused by it is less than the public benefit derived from its existence”

In conclusion, we congratulate our elected Byron Shire Council in advance, for making the decision to reject the Telstra Tower Development Application and thereby preserve the Wilson’s Creek and surrounding valleys as a sanctuary for the environment, for community health and community amenity.

Thank you.