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ENVIRONMENT AND COMMUNITY SAFE FROM RADIATION INC.
C/- STEPHEN TONEGUZZO
361 HUONBROOK ROAD,
HUONBROOK, NSW, 2482

Dear Mr Toneguzzo,

CE: MEDICAL EVIDENCE & THE PRE

I thank you for requesting an 'urgent' advice in regards to the above matter

My advice is as follows;

The precautionary principle is a relevant consideration to be made by Council of its evaluation of the development under s 4.15 of the *Environmental Planning and Assessment Act 1979* given the reference to ecologically sustainable development in that Act's objectives as found in section 1.3(b). The objective being to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.

The *Protection of the Environment Operations Act 1997*, amongst other sources, can provide assistance on what ecologically sustainable development and the numerous principles incorporated in it mean. I consider these matters can be taken into account under s 4.15.

This approach was taken by Lloyd J in (1999) 111 LGERA 1 and in *Hutchison Telecommunications (Australia) Pty Ltd v Baulkan Hills Shire Council* [2004] NSWLEC 104..

The absence of a definition of ecologically sustainable development in the *Environmental Planning and Assessment Act 1979* and the ARPANSA approach to the precautionary principle is not the only relevant consideration. The Land and Environmental Court is not limited on a merits assessment by the ARPANSA approach to the precautionary principle.

The Council must have a legally valid basis under which the principles of ecologically sustainable development and the precautionary principle can be applied by the said Court.

Developers who intend to emit electromagnetic radiation have appealed many decisions made by other Local Governments who have rejected DA's in the past.

Councils have lost appeals based on unsupported 'subjective' evidence. Subjective evidence usually comes in the form of letters submissions by individuals and community organisations. These letter usually raise personal unsupported opinion that their residences, persons and businesses will be will be affected and/or harmed by electromagnetic radiation. Unfortunately, this subjective, unsupported evidence will have little credibility and be of little weight to enable Councils to make an informed decision. If a Council relied on this evidence to reject a development the decision can easily be overturned by appeal.

To remedy I suggest the 'objective' test needs to be applied in order for the Council to have the tools it requires to make a solid and informed decision in order to enable the precautionary principle to be enacted if needed to reject a development.

What is the objective test?

The Australian Government under the Australian Radiation Protection and Nuclear Safety Authority (ARPANSA) published a fact sheet in June 2015 headed 'Electromagnetic Sensitivity'. In that fact sheet ARPANSA advise the following:

'On the basis of current scientific information, there is no established evidence that EHS is caused by EMF at levels below exposure guidelines. ARPANSA acknowledges that the health symptoms experienced by the effected individuals are real and can be a disabling problem, and advise those affected to seek medical advice from a qualified medical specialist'.

The advice of ARPANSA infers with clarity that an opinion from a qualified medical specialist reigns supreme over any information provided or adopted by ARPANSA under ARPANS Act. The advice rightly infers that a medical specialist's can interpreting the science collated by ARPANSA at the medical specialist's sole discretion to assist in consulting, diagnosing and treating his/her patients who present with symptoms associated with exposure to electromagnetic radiation.

If the Council were to be presented with a medical specialist's opinion as to harm or potential harm caused by exposure to electromagnetic radiation then the 'objective test' would be satisfied.

Letters to Council armed with a medical specialists opinion would provide decision makers in Council with the necessary tools to make an informed and objective decision. A developer would be hard pressed to appeal a 'rejection' decision based on medical opinion of harm to members of the public.

That concludes my opinion of the matter, please contact me if you require further clarification or assistance.

Yours faithfully,

RAYMOND J. BROOMHALL