



## Power to Councils in Telco Planning

Date : February 17, 2015

*Telstra Corporation Limited v Coffs Harbour City Council* [2014] NSWLEC 1254 was an appeal against the council's refusal of a development application (DA) for the construction of a mobile telecommunications base. The council rejected the DA on a number of grounds including that the development would have caused unacceptable visual impacts, negative EMR and EMI impacts on people and the fact Telstra had not considered alternative sites.

The court considered the application of the *State Environment Planning Policy (Infrastructure) 2007* planning instrument which prompts councils to consider what environmental obligations, guidelines and operating principles must be considered when determining a DA for a telecommunications facility. The relevant guidelines are in the *NSW Telecommunications Facilities Guideline including Broadband*. These guidelines contain 3 principles that must be considered:

1. The telecommunications facility must be designed in a way that minimises visual impact.
2. Telecommunications facilities should be co-located wherever practical.
3. Health standards for exposure to radio emissions must be met.

It was held by the court that the visual impacts were too great and Telstra had not considered practical site alternatives, thus the council was justified in rejecting the DA by way of the first 2 principles. The decision is positive for councils as it provides greater discretion to councils when considering DA for telecommunication base stations. Telecommunication carriers must ensure designs meet the site's dynamics and ensure there are no better alternative site locations.

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