

# EMR LEGAL PREPARATION CHECKLIST

Ver. 1.1 – 27 February 2020

## 22 Steps Action Plan

This template can be used as a checklist to assist you to easily record your data collection when preparing the evidence as outlined by the “Broomhall Method” presented at the 5G Crisis Summit. A lot of the groundwork can be done by you gathering the required information, but it is recommended that you **engage a lawyer to interpret the applicable South Australian laws and prepare the required legal documents on your behalf.**

**SOURCE: Based on MAN MADE NON IONIZING ELECTROMAGNETIC RADIATION STEPS TO PREPARE EVIDENCE FOR LITIGATION and POTENTIAL REMEDIES © Raymond J Broomhall**

Please note: This document and associated documents is intended to be for educational purposes only and is not intended to be legal advice and you should not rely on them as such. It is highly recommended that you seek legal advice as to the procedures and law as discussed in this document, associated documents and/or video. The authors and publishers accept no responsibility whatsoever for any loss or liability incurred as a result of failing to follow the recommendation aforementioned.

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|---|-------------------------------------|-------------------------------------|
| <b>1. Identify the source of non-ionizing electromagnetic radiation (EMR) emissions or proposed emissions- Is it a mobile phone base station, communications tower, 5G (4G)small cell, SMART meter, WiFi router, HAPS drone, Satellite or other device?</b> |                                     |                                     |
| <i>Search Tower</i><br><a href="https://www.rfnsa.com.au">https://www.rfnsa.com.au</a><br><i>(type in your address in the search function)</i>  | RFNSA ID:                           |                                     |
|   | 4G, 5G:                             |                                     |
|   | Tower description:                  | e.g. Structure, small cell facility |
|   | Proposed new/<br>upgrade, existing: |                                     |
| Smart Meter   |                                     |                                     |
| WiFi router   |                                     |                                     |
| Other   |                                     |                                     |
| <b>2. Identify the site where the emissions or proposed emissions will be irradiated upon - for example upon your home, workplace, school, hospital, retirement home, public transport etc.</b>   |                                     |                                     |
| Home  | Address:                            |                                     |
| Work  | Address:                            |                                     |
| School  | Address:                            |                                     |
| Other   | Address:                            |                                     |
| <b>3. Measure and record the distance between you and the EMR emission device and/ or facility.</b>   |                                     |                                     |
| <i>To measure the distance from a tower, you can use:</i><br>RFNSA<br><a href="https://www.rfnsa.com.au">https://www.rfnsa.com.au</a><br><i>(type in your address in the search), or use Google Maps or Google Earth</i>                                    | Distance:                           |                                     |
| <b>4. Identify the emitter/proposed emitter, the installer, public relations, local council, and the land owner. Names of involved corporations and their respective ABN numbers, also include the names of directors of such corporations.</b>             |                                     |                                     |
| <i>Emitter (the emitter is the Telco, Utility co, etc)</i><br><br><a href="#">ABN Look up</a>   | Name:<br>ABN:<br>Directors:         |                                     |

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|--|---|---|
| <i>Installer (Contractor)</i>  | Name:<br>ABN:<br>Directors:                     |   |
| <i>Public Relations</i>  | Name:<br>ABN:<br>Directors:                     |   |
| <i>Local Council</i>   | Name:<br>ABN:<br>CEO:<br>Mayor:<br>Councillors: |   |
| <i>Land Owner</i>  | Name:<br>ABN:<br>Directors:                     |   |
| <b>5. In Australia you can find your mobile communications tower on the RFNSA website at <a href="https://www.rfnsa.com.au">https://www.rfnsa.com.au</a> – type in your suburb, identify the tower, click on it and retrieve the EME report and compliance certificate to find the emissions or proposed emissions in your area. You can find telecommunication licences for emitters using HAPS and satellites on the Australian Communication and Broadcasting Commission’s website.</b> |   |   |
| <i>EME Report</i><br><a href="https://www.rfnsa.com.au">https://www.rfnsa.com.au</a>   | <i>Download and save</i>                        | <i>Date of report:</i>  |
| <i>Complaints Report</i>   | <i>Download and save</i>                        | <i>Date of report:</i>  |
| <i>EMF Meter readings:</i>   |   | <i>Before installation:</i><br><br><i>After installation:</i> |
| <i>HAPS/ Satellite Licence</i>   | <i>If applicable</i>                            | <i>Date of licence:</i><br><i>Term of Licence:</i>            |
| <a href="#">Register of Radiocommunications Licences</a><br><a href="#">Information on searching the Register of Radiocommunication Licences</a>   |   |   |
| <b>6. Is it an existing installation? - If yes – most likely it has already been approved by council or in the alternative it did not require development approval – contact council to confirm.</b>   |   |   |
| <i>Existing installation?</i>  | <i>Y/N:</i>                                     |   |
| <i>Development Application (if applicable)</i>   | <i>Y/N:</i>                                     | Request copy of DA (if applicable):                           |
| <b>7. Is it a proposed installation? - Does it require development approval? – contact council – if development approval is required ask council for the expiry date that any objection submissions are to be submitted by.</b>  |   |   |
| <i>Proposed installation – does it require DA?<br/>Note: Small Cell Installations do not require council approval</i>  | <i>Y/N:</i>                                     | If Yes, contact council.<br>Expiry date:                      |
| <i>Development Application details (if applicable)</i>   | Request copy of DA (if applicable):             |   |



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| <b>14. If you have the funds you could also obtain an independent radiation dosimetry report as to radiation levels emitted from the device or facility and SAR levels entering yours or your children's body.</b>  |  |   |
| <i>Dosimetry Report</i>   | Y/N  |   |
|   | <i>If Yes, Report results summary:</i><br><br><i>Device Emissions:</i><br><i>SAR Levels:</i><br><i>Person 1:</i><br><i>Person 2:</i><br><i>Person 3:</i> |   |
| <b>15. Collate all documents as mentioned above and forward copies of evidence to your lawyer/attorney.</b>   |  |   |
| <i>Engage a Lawyer to interpret relevant South Australia laws.</i>  | Y/N  |   |
|   | <i>Lawyer Name:</i><br><i>Firm:</i><br><i>Address:</i>   |   |
| <b>16. Instruct your lawyer/attorney to draft an advice for you on their letterhead as to your legal position, legal options, legal remedies, chance of success and pitfalls etc, – the advice may include opinion as to remedy concerning laws that apply the precautionary principle. The precautionary principle is an integral component in State or Federal policy and is usually found embedded in the majority of State and Federal legislation. The precautionary principle as a rule should be actioned when an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause-and-effect relationships are not fully established scientifically. Health risks associated with EMR though not fully established scientifically at present would still require precautionary measures to be taken by emitter and governmental decision makers.</b> |  |   |
| <i>Notes:</i>   |  |   |
| <b>17. Once you have a legal advice, send the said advice and the medical advice to your council and all parties such as the emitter, installers, land owners, inclusive of directors of the emitting companies involved. Attach a cover letter to your advices and call it an 'objection notice'. In the objection notice state that you 'do not consent to be irradiated with their EMR emissions and that you have established a reasonable belief and fear and/or apprehension that the emissions pose a risk of harm to health and a risk of damage to your property. Send by registered mail.</b>   |  |   |
| <i>Legal Advice</i>   | <i>Sent to all parties: Y/N</i>  |   |
| <i>Cover Letter</i>   |  |   |
| <i>Attach Medical Opinion</i>   | <i>Registered mail: Y/N</i>  | <i>Date sent:</i><br><i>Response due date:</i>            |
| <b>18. Lobby your councillors/aldermen. Send your objection notice to each councillor/aldermen within the council, try to meet with them to explain your situation.</b>   |  |   |
| <i>Councillors</i>  | <i>Name:</i>   | <i>Objection Notice sent: Y/N</i><br><i>Meeting date:</i> |
|   | <i>Name:</i>   | <i>Objection Notice sent: Y/N</i><br><i>Meeting date:</i> |
|   | <i>Name:</i>   | <i>Objection Notice sent: Y/N</i><br><i>Meeting date:</i> |

**19. Hopefully after receiving your objection notice, the emitters will tactfully withdraw from installing the facility and/or the council will issue an abatement notice against the emitters and/or reject any development application.**

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|--------------------------|-----|---------------|
| <i>Emitter Withdrawn</i> | Y/N | <i>Notes:</i> |
|--------------------------|-----|---------------|

|   |     |               |
|---|-----|---------------|
| <i>Council issued abatement notice:</i> | Y/N | <i>Notes:</i> |
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|                             |            |               |
|-----------------------------|------------|---------------|
| <i>Council rejected DA:</i> | Y/N    N/A | <i>Notes:</i> |
|-----------------------------|------------|---------------|

**20. However, if the emitters and/or council decide not to heed your objection notice and make it known to you by a response letter to your objection and/or by their conduct (commence building and installing) that they intend to proceed with the installation or development then you may have various legal options available to you. If such an intention to proceed is made known to you and their intention to proceed caused you discomfort in the form of fear of harm and that they will irradiate you and your family, then such an action would constitute a threat to assault under section 75 of the Criminal Code Act 1889 (Queensland) for example.**

|                                  |     |  |
|----------------------------------|-----|--|
| <i>Objection Notice Ignored?</i> | Y/N | <i>If Yes, proceed to Step 21 (and get legal advice)</i> |
|----------------------------------|-----|--|

**21. The objection notice should provide the requisite evidence to enable you to apply various legal options and remedies. In the State of Queensland (Australia) for example some options and remedies include (but are not limited to);**

**I. Civil- abatement notices (environmental nuisance), personal injury claim (psychological injury), damage to property claim (home uninhabitable thus requires shielding), mandatory injunction (court order to force council to abate or prosecute the emitters).**

**II. Quasi Criminal - applying for Court ordered restraint orders (Peace and Good Behaviour Orders – also known in other States and Territories as Protection Orders and/or Apprehended Violence Orders, Keep the peace orders);**

**III. Criminal - prosecution of various criminal offences for trespass against the person such as;**

**o Assault - Section 245 Criminal Code 1899 (Qld) Section 245 provides the definition of assault and indicates that a person who strikes, touches or moves or “otherwise applies force of any kind” to the person of another, either directly or indirectly without the other persons consent or “threatens” to apply force of any kind to the person of another without the other persons consent under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect the person’s purpose, is said to assault that other person and the act is called an assault. Please note that “applies force” includes the case of “applying heat and electrical force” or any other substance or thing whatever if applied in such a degree as to “cause injury” or “personal discomfort”. Further note that to ‘threaten’ to apply force such as electrical force is considered unlawful and that it is not essential that a person threatened should be put in fear: an apprehension or expectation of assault is sufficient.**

**o Threatening violence Criminal Code 1899 (Qld) Section 75 provides that any person who with intent to intimidate or annoy any person, by words or conduct threatens to enter or damage a dwelling or other premises; or does any other act that is likely to cause any person in the vicinity to fear bodily harm to any person or damage to property; commits a crime. Maximum penalty—2 years imprisonment. If the offence is committed in the night the offender is liable to imprisonment for 5 years.**

**o Endangering life of children by exposure - Section 326 Criminal Code 1899 (Qld). Any person who exposes a child under the age of 7 years, whereby the life of such child is or is likely to be endangered, or the child's health is or is likely to be permanently injured, commits a crime. Maximum penalty—7 years imprisonment.**

**o Assault occasioning bodily harm - Section 339 Criminal Code 1899 (Qld). Any person who unlawfully assaults another and thereby does the other person bodily harm is guilty of a crime and is liable for imprisonment for 7 years but if the offender uses a dangerous or offensive instrument the offender is**

liable to imprisonment for 10 years. A dangerous or offensive instrument is anything that is capable of being used for offensive purposes even though it is also capable of being used for innocent purposes see *R v Sutton (1887)* 13 Cox CC 648. An assault causing any hysterical and nervous condition is an assault occasioning bodily harm see *R v Miller [1954]* 2 QB 282. Bodily injury occurs if 'pain' has lasted for a couple of days then the body has suffered damage as defined in *Brown v Blake [2000]* WASCA 132.

o **Serious assault - Section 340 Criminal Code 1899 (Qld).** Any person who commits an unlawful assault on a person who is sixty years of age or more and assaults any person who relies on a guide, hearing or assistance dog, wheelchair or other remedial device is guilty of a crime and liable to 7 years imprisonment.

o **Negligent act causing harm - Section 328 Criminal Code 1899 (Qld).** Any person who unlawfully does any act, or omits to do any act which it is the persons duty to do so, by which act or omission bodily harm is actually caused to any person is liable to imprisonment for 2 years and may be arrested without warrant.

o **Duty of persons in charge of dangerous things – Section 289 Criminal Code 1899 (Qld).** It is the duty of every person who has in the persons charge or under the person’s control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health, of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger, and the person is held to have caused any consequences which result in the life or health of any person by reason of any omission to perform that duty. It could be said that the substance or thing called EMR is a dangerous thing. The Carriers are in control of this dangerous thing and pursuant to 288 of the Criminal Code 1889 they have a duty to control the said dangerous thing. **Duty of person doing dangerous acts - Section 288 Criminal Code 1899 (Qld)** It is a duty of every person who, except in a case of necessity to do any lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act, and the person is held to have caused any consequences which result to the life or health of any person by reason of omission to observe or perform that duty.

o **Common nuisance – section 230 Criminal Code 1899 (Qld) .** Any person who without lawful justification or excuse, the proof of which lies on the person, does any act, or omits to do any act with respect to any property under the person's control, by which act or omission danger is caused to the lives, safety, or health, of the public; or without lawful justification or excuse, the proof of which lies on the person, does any act, or omits to do any act with respect to any property under the person's control, by which act or omission danger is caused to the property or comfort of the public, or the public are obstructed in the exercise or enjoyment of any right common to all Her Majesty's subjects, and by which injury is caused to the person of some person is liable to imprisonment for 2 years.

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| <i>Legal advice sought on legal options</i> | Y/N | <i>Notes:</i> |
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**22. Commencing legal action can be a complicated process, it has many pitfalls and can be a costly exercise, especially if you do not win your case. It is highly recommended that you seek legal advice to clarify your options and position before you take any steps and/or proceed in a court of law**

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|---|-----|---------------|
| <i>Legal Advice sought before proceeding.</i> | Y/N | <i>Notes:</i> |
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*The information contained within is not provided as legal or medical advice. This template is to be used as a guide only and can be amended as required.*