HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
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Item No. 11.2.1
Halifax Regional Council
April 28, 2015

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Councillor Waye Mason, Chair, Community Planning and Economic Development Standing Committee

DATE: April 20, 2015

SUBJECT: Case 18166: Developing a New Telecommunication Tower Protocol

ORIGIN

Motion passed by the Community Planning and Economic Development Standing Committee at a meeting held on April 16, 2015.

LEGISLATIVE AUTHORITY

Community Planning and Economic Development Terms of Reference, Section 3 (a) – 'overseeing HRM's Regional Plan and Regional Planning Initiatives;'

RECOMMENDATION

The Community Planning and Economic Development Standing Committee recommends Halifax Regional Council direct staff to:

1. Consult with industry stakeholders on Option 2, as outlined in the March 3, 2015 staff report for a new telecommunications tower application process for HRM; and
2. Develop a new HRM telecommunications tower protocol based on Option 2 as outlined in the March 3, 2015 staff report and the FCM/CWTA "Antenna System Siting Protocol Template"

BACKGROUND

At the April 16, 2015 meeting of the Community Planning and Economic Development Standing Committee, staff provided a presentation in regard to developing a new telecommunication tower protocol.

DISCUSSION

The Committee expressed its appreciation and support with regard to the work carried out on this matter, and with the recommendation staff has put forward. The Committee passed a motion in support of the recommendation as noted above.

FINANCIAL IMPLICATIONS

The attached staff report addresses financial implications.

COMMUNITY ENGAGEMENT

The attached staff report addresses community engagement associated with the process for developing a new telecommunication tower protocol.

The Community Planning and Economic Development Standing Committee is a Committee of Regional Council comprised of six Councillors. The meetings are open to the public and the Committee's agendas, minutes, and reports can be viewed at Halifax.ca.

ENVIRONMENTAL IMPLICATIONS

The attached staff report addressed environmental implications.

ALTERNATIVES

The Committee did not provide alternatives.

ATTACHMENTS

Attachment 1: Staff report dated March 3, 2015.

A copy of this report can be obtained online at http://www.halifax.ca/council/agendasc/cagenda.php then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Sheilagh Edmonds, Legislative Assistant

Attachment 1

P.O. Box 1749
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Item No. 9.1.2
Community Planning and Economic Development Standing Committee
April 16, 2015

TO: Chair and Members of the Community Planning and Economic Development Standing Committee

SUBMITTED BY: Original Signed
Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: March 3, 2015

SUBJECT: **Case 18166: Developing a New Telecommunication Tower Protocol**

ORIGIN

- Policy SU-26 of the Halifax Regional Municipal Planning Strategy requiring HRM to prepare a Communication Tower/Antenna Functional Plan.
- October 25, 2011 motion of Regional Council requesting a staff report on how to move forward to ensure that Land Use By-laws, at a minimum, require some form of public input on cell towers in urban areas with a view to standardizing/harmonizing the criteria around permits and the role of the Community Council relative to cell tower applications.
- May 28, 2012 declassified report from HRM Legal Services and Risk Management.
- June 25, 2012 motion of the former Western Region Community Council requesting that Industry Canada, in consultation with HRM staff, come forward with a clear process for telecommunication tower applications including an improved public notification process.
- February 28, 2013 release of a Joint Antenna System Siting Protocol Template by the Federation of Canadian Municipalities (FCM) and the Canadian Wireless Telecommunications Association (CWTA).

LEGISLATIVE AUTHORIY

The *Federal Radio Communication Act;* HRM has no jurisdiction to regulate telecommunications towers, however, Industry Canada requires that proponents consult with local land use authorities to address reasonable and relevant concerns on any proposed antenna system.

HRM Charter; S.58. (1)The Council shall make decisions in the exercise of its powers and duties by resolution, by policy or by by-law.
(2) The Council may exercise any of its powers and duties by resolution unless a policy or a by-law is required by an enactment.

RECOMMENDATIONS

It is recommended that the Community Planning and Economic Development Standing Committee recommend that Regional Council direct staff to:

1. Consult with industry stakeholders on Option 2, as outlined in this report, for a new telecommunications tower application process for HRM; and

2. Develop a new HRM telecommunications tower protocol based on Option 2 as outlined in this report and the FCM/CWTA "Antenna System Siting Protocol Template".

SUMMARY

Radiocommunication, including telecommunication (telecom) towers, are the exclusive jurisdiction of the federal government. However, municipalities are allowed to review and provide comment, and are further encouraged to develop guidelines relative to telecom facilities. The federal government refers to these local guidelines as a 'protocol'.

In recent years, HRM has witnessed an increase in the number of requests for telecom towers. In many cases, concern and opposition was expressed from the public and the respective Community Council. Aside from concern over the location of certain proposals, primary concerns from Community Council have been the lack of municipal authority in these matters.

To help municipalities, Industry Canada has developed a 'Guide to assist municipalities when developing Antenna Siting Protocols' (Attachment A). This information is to provide direction and guidance when updating HRM's Protocol. On February 28, 2013, the Federation of Canadian Municipalities (FCM) and Canadian Wireless Telecommunication Association (CWTA) announced a Joint Antenna System Siting Protocol Template to provide municipalities with a tool to develop customized protocols for the siting of antenna systems, which includes telecom towers. The Regional Plan supports the initiative to establish a new telecom tower protocol for HRM.

This report provides the Committee with a brief background on telecom towers within HRM and highlights four administrative options for a new Telecom Tower protocol. Of the four options, staff recommends that a new Telecom Tower Protocol for HRM should be based upon a delegated authority model where Council approves the standards and staff carries out administration of the same. In this option, Community Councils would not be required to make recommendations to Industry Canada.

The purpose of this report is to seek direction from the Community Planning and Economic Development Standing Committee on an approach for a new telecommunications application protocol before consulting with stakeholders and preparing a detailed protocol.

BACKGROUND

Telecommunication towers (telecom towers) can be found throughout HRM and across the country in many forms, including stand-alone towers and antennas attached to taller buildings. Due to changes in cellular technology (i.e., smartphones and data requirements), HRM has seen the installation of many new telecommunication towers within the past few years. Staff has received feedback from Council, the telecom industry, and the public that the current telecom tower protocol used by HRM to provide comment to Industry Canada needs to be reviewed. This initiative is supported by the Regional Plan which calls for a Communication Tower/Antenna Functional Plan (i.e. Protocol).

Jurisdiction

HRM is not the approving authority for telecom towers. The federal government has exclusive and comprehensive jurisdiction over the area of radiocommunication and telecommunications (radio and television broadcasting, microwave communication, private radio transmissions, etc.). For wireless communications facilities (cell towers, antennae, etc.), Industry Canada - Spectrum Management & Telecommunications, is the licensing body which regulates these facilities under the provisions of the *Telecommunications Act* (S.C. 1993, c.38). Communication companies must apply to Industry Canada for a license to operate an installation at each specific location.

In March of 2012, HRM Legal Services provided clarification regarding the applicability of HRM's Land Use By-laws as it pertains to telecom towers. In summary, Legal Services' position is that municipal and provincial legislation, including zoning by-laws, cannot regulate the location of telecom towers. As a result, all telecom towers, unless exempt by Industry Canada, are routed through the respective Community Council for recommendation, subject to the current public consultation process as outlined in Attachment C.

Federal Process
The federal government recognizes municipal authorities may have an interest in the location of telecom towers. To facilitate municipal consultation, a federal public consultation policy has been instituted, which is referred to as the Client Procedures Circular for Radiocommunication and Broadcasting Antenna Systems – CPC-2-0-03 Issue 4 (Attachment B). The policy requires an applicant to notify the appropriate municipality of its intentions. The municipality is then given an opportunity to review the proposed telecom tower and provide comment. If any objections arise, the municipality is to provide written notice to the local office of Industry Canada. The submissions will be reviewed by Industry Canada, who will then determine whether or not a license is to be granted and/or upon what conditions such license is granted. However, Industry Canada also identifies the types of telecom towers which are considered minor in nature and thereby exempt from consultation with the local municipality (i.e. most roof-top installations – see Attachment B).

HRM's Existing Protocol
Up until March of 2012, HRM's protocol included a review by staff to first determine whether or not the telecom tower was consistent with current zoning. If it was consistent, staff issued a letter of concurrence to the proponent. If the telecom tower was not permitted by zoning, staff held a public information session (similar to the processing of planning applications). Upon hearing from the public, staff would review the application against any relevant planning policy. Most planning documents contain only general planning policy regarding compatibility and appropriateness of new land uses, not specific policies regarding telecom towers. Upon review of plan policy, staff would prepare a report for Community Council's review and comment to Industry Canada.

Issues with Existing HRM Protocol
Over the past five years, HRM has witnessed an increase in the number of requests for telecom towers. In instances where applications are required to be considered by Council, the outcome typically involves Council supporting the concerns which have been brought forward by the surrounding community and/or staff. These concerns are then forwarded on to Industry Canada for their review, as Council does not possess decision making authority for applications of this type. Central goals of the protocol involve ensuring that the concerns of communities are heard and responded to, while still attempting to process applications in an efficient and timely manner. Staff has identified opportunities for efficiencies in the existing process.

Staff has consulted with Industry Canada regarding potential changes to our existing telecommunications antenna application process. Amongst the concerns expressed for the current process was the speed at which decisions could be made and applications processed. Given that HRM offers comments and feedback but not approvals in applications of this type, Industry Canada felt it important that any HRM protocol fit into federal timelines. At present, this is not the circumstance.

Additionally, Community Councils are put into a difficult situation where there is an appearance of decision making authority, where in reality this authority lies with a different level of government. Staff advise that by delegating the responsibility to them, to assess applications against pre-determined criteria and compile the concerns raised by community members, this situation could be avoided without impacting community opportunity to provide input.

Developing a New Protocol
The Regional Plan calls for Council to establish a Communication Tower/Antenna Functional Plan which is intended to provide recommendations regarding an appropriate formal consultation process and the

establishment of siting and design guidelines for the various types of antenna structures. Staff has discussed the concept of a new Telecom Tower Protocol with Industry Canada. Industry Canada advises that any written local guideline, policy, or process that addresses the issue of tower placement will be referred to as 'protocol'. Council could implement such a protocol through the adoption of an Administrative Order. Industry Canada has developed a 'Guide to assist municipalities when developing Antenna Siting Protocols' (Attachment A). This information provides direction and guidance when updating the Protocol.

The Federation of Canadian Municipalities (FCM) and the Canadian Wireless Telecommunication Association (CWTA) has also recently partnered to develop a Joint Antenna System Siting Protocol Template (the template) to provide municipalities with a tool to develop customized protocols for the siting of antenna systems. The template provides a starting point for discussion relative to the approach and potential protocol used by HRM for telecommunication facilities. The following table provides a general comparison of the major differences between HRM's current protocol and the template:

Criteria	HRM's Current Protocol	FCM/CWTA Template
Municipal Comment provided by:	Applicable Community Council	Designated Municipal Officer
Review Administered by:	Planning Staff	Designated Municipal Officer
Public Consultation Required for:	All installations, except those excluded by Industry Canada	Certain types of installations
Public Consultation Undertaken by:	Planning Staff	The Proponent
Preferred & Discouraged Locations:	Not Included	Included
Preferred & Discouraged Heights/Designs:	Not Included	Included
Level of Evaluation Criteria:	General	Detailed
Review Small Installations (<15m):	Not available, unless unique circumstance	Not available, unless unique circumstance

Other Canadian Municipalities
Many Canadian municipalities have updated or adopted new Telecommunication Tower/Antenna Facilities Evaluation Protocol in recent years, which commonly include customized location, design, and public consultation guidelines. In many cases, these new protocols require the proponent to fulfill any public consultation requirements, and defer municipal comment to staff. This is the administrative approach outlined in the FCM/CWTA template.

DISCUSSION

The purpose of this report is to confirm the overall approach for dealing with telecom tower applications prior to engaging with the telecom industry to receive their feedback on the proposed process. There are several factors which a new process would improve upon. These include:

- Responding to telecommunication antenna applications in a timeline which is consistent with existing federal protocol;
- Expand the role which the telecommunications industry currently plays in the public engagement process while allowing HRM staff to consolidate feedback gathered; and
- Ensure staff and Council resources are better allocated to maximize benefit while minimizing processing costs

Options

Staff has identified four options for the creation of a new Telecom Protocol as follows:

Option 1**:** Council Review of All Proposals (Current Approach): This option would require the formalization of the current process through the creation of municipal public consultation guidelines and would requires Council to review and provide comment to Industry Canada on all proposed telecom towers, unless determined to be excluded by Industry Canada. Staff would review the proposal against relevant evaluation criteria contained in a new protocol, and prepare a report. Council will either raise objection or concur with the proposal.

Option 2: Staff Review of All Proposals (Attachment D): This option involves municipal public consultation guidelines and requires designated municipal staff to review and provide comment to Industry Canada on all proposed telecom towers unless determined to be excluded by Industry Canada. Staff would review a proposal against the relevant evaluation criteria contained in a new protocol, and providing corresponding comments to Industry Canada. This response will either raise objection or concur with the proposal. This approach is used by many Canadian municipalities, particularly in Ontario.

Option 3: Staff Review of Most Proposals / Council Review of Limited Proposals: This option involves municipal public consultation guidelines and requires designated municipal staff to review and provide comment to Industry Canada on most proposed telecom towers, unless determined to be excluded by Industry Canada. For these proposals, staff's role is the same as outlined in option 2. Where the municipal protocol identifies a tower is subject to review by Council, staff would review the proposal against any relevant evaluation criteria contained in a new protocol, and prepare a report for Council to make a recommendation to Industry Canada.

Option 4: Industry Canada Default Process (Attachment A): This option does not include the creation of municipal public consultation guidelines; rather the proponent is required to follow Industry Canada's public consultation process. Along with informing the public of the proposal, the proponent is required to notify the applicable Municipality unless the telecom tower is excluded by Industry Canada. The public and the Municipality (through staff) are given an opportunity to engage with the proponent and respond in writing to the proponent regarding questions, comments, and concerns.

Administrative Order

Staff advise that an Administrative Order is the appropriate means by which to adopt a new telecommunications tower protocol for HRM. A general application by-law is not an appropriate mechanism given that decision-making authority for these facilities lies with the federal government and not the Municipality. By adopting the protocol as policy through an Administrative Order, Council is also afforded the ability to make changes to the protocol in an efficient manner that does not involve the requirement for a public hearing.

Recommended Option

Staff recommend that industry consultation be conducted focusing on a process best described in 'Option 2' above. The largest proposed change to the existing process is removing the requirement to attend Community Council prior to providing a response to Industry Canada. In the current system, the role of Community Council is limited to consolidating the feedback of community members received through the consultation process and forming a Council resolution based on said feedback. In the proposed process, the same public consultation would be completed by the applicant for the tower, with a Council delegated staff member then being responsible for either the consolidation of this feedback or provision of a letter of concurrence, whichever may apply given the circumstance.

The estimated time to final decision within the current framework is approximately 3 months. In a new process, the proponent of an application would be responsible for completing the public consultation component of the application prior to submission of a formal application. It is anticipated that once a formal application is received, it is reviewed, and responded to within a total of 21 days.

While the Administrative Order has not been drafted at this stage of the process, the process would involve the following steps:

1) Pre-Consultation with staff: A package of information would be submitted to HRM providing details regarding tower location, height, adjacent property information, as well as a written synopsis of what other nearby telecommunication towers may exist, and why the needed equipment could not be co-located on an existing piece of infrastructure. Staff would provide response indicating if a site is located within a location that is "preferred" or not. A preferred location would be defined as one located in an Industrial, Resource, or Utility designation within the applicable Municipal Planning Strategy, which also conforms to a number of other locational criteria including proximity to residential uses, and locations in or impacting areas of cultural, heritage, environmental, or aesthetic resources.

2) If Preferred Location Criteria is Met: The focus of the process is to, wherever possible and practical, direct applicants to low impact locations where telecommunications towers are not like to not have a significant impact on adjacent lands, uses, or residents. The preferred location criteria would be stringently applied, and when it is met, no further consultation would be required, and a letter of concurrence could be issued by HRM following the submission of a full application package.

3) If Preferred Location Criteria is Not Met: In cases where it is impossible or impractical for a telecommunications tower to be located in a preferred location, this would result in a more fulsome consultation process being required. Applicants would be notified they do not meet the preferred location criteria, and would then be responsible for fulfilling the requirements of a consultation program outlined in the policy. This program would include mail notification to adjacent land owners, signage on the site, newspaper advertisements, creation of a website, and the holding of a public information session. Consultation would be wholly the responsibility of the applicant, the results of which would be provided as part of the materials required when submitting a full application.

4) Full Application Submission: Following public consultation, it would be expected that amendments to the proposal would be made to address any concerns expressed by residents through consultation or by staff at the pre-consultation stage. Following this, the applicant would then submit a full application to HRM staff for review. The contents of this submission would include the following:
   - A summary of consultation completed;
   - A copy of all notification materials provided to the public;
   - Written comments received from the public;
   - A written submission responding to all reasonable and relevant concerns identified by the public, or by staff at the pre-consultation stage of application; and
   - A resubmission of updated materials initially required at the pre-consultation stage.

   Staff would review this submission and respond in writing within 21 days of submission.

5) Following the Review Period: Staff reviews the full application submission and would respond in writing within 21 days of its submission. Responses would indicate either that concurrence has been reached, concerns held by the community or staff still remain and this information will be provided to Industry Canada or that the submission materials are incomplete and do not comply with the Administrative Order. A letter of concurrence would expire three years from its date of issue at which time the process would need to be re-started in order to receive a further letter of concurrence.

Attachment D contains a flow chart of the major steps with the above descripted process.

Summary and Recommendation
The federal government has exclusive and comprehensive jurisdiction over the area of radiocommunication and telecommunications. Notwithstanding this jurisdiction, the federal government has recognized that municipal authorities may have an interest in the location of telecom towers, and has established a process for municipalities to provide comment. HRM's current telecom tower protocol needs to be revised and updated, which is supported by the Regional Plan. Staff recommend that a new protocol be established which focuses on a delegated authority model administered by staff as outlined in this report.

FINANCIAL IMPLICATIONS

The current application fee for a telecommunications antenna is $1,130. An informal assessment was completed on the fees charged by other Canadian municipalities for similar applications, which resulted in a wide range of values, including $4,668 by the City of Toronto and $3,061 by the City of Calgary. At a later date, when a fully drafted Administrative Order will be brought to Regional Council for consideration, staff will recommend an appropriate fee level in consideration of HRM's existing fee schedule and the actual value of staff resources required to assess and process these applications.

All other work and consultation proposed can be carried out within the approved 2014/15 Development Approvals operating budget.

COMMUNITY ENGAGEMENT

The community engagement process for this project will be consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement will be information sharing. Policy SU-26 of the Regional Plan requires HRM to prepare a functional plan / protocol to address telecommunication Tower/Antenna in consultation with both industry stakeholders as well as Industry Canada. The new process described within this report has been a result of discussions with Industry Canada. It is anticipated that a draft of the full document, subsequent to direction from the Committee, would also be provided to Industry Canada for their further review.

The next step in this process would be to consult with industry stakeholders to receive feedback on the newly proposed process. As there are a limited number of companies involved in this field, it is expected that this engagement be relatively brief, with a full draft of the Administrative Order being presented to Regional Council for their consideration early next year.

ENVIRONMENTAL IMPLICATIONS

All tower proposals must comply with the Federal *Environment Act*. HRM will evaluate telecom proposals relative to environmental considerations (such as wetlands, riparian buffers, etc.) as part of a new Telecom Tower Protocol, but will not review or make revisions to Safety Code 6 which is the Federal environmental regulations for wireless telecom structures.

ALTERNATIVES

The Community Planning and Economic Development Standing Committee may recommend that Regional Council:

1) Direct that the status quo for telecommunications tower installations be maintained and formalized within an Administrative Order, as outlined in Option 1.

2) Direct staff to prepare a new telecommunications tower protocol based upon Council or a combination of Council and staff administering the document, as outlined in Option 3.

3) Direct staff to prepare a new telecommunications tower protocol which is based on the Industry Canada default process as found in Attachment A of this report, as outlined in Option 4.

4) Provide more specific alternative direction to staff in their preparation of a draft Administrative Order which is different from the options presented in this report. This option may require further consultation with Industry Canada regarding the alignment of this direction with Federal Policy, and could require a supplementary staff report.

ATTACHMENTS

Attachment A:	Industry Canada Guide to Assist Land-use Authorities in Developing Antenna Siting Protocols
Attachment B:	Industry Canada Radiocommunication and Broadcasting Antenna Systems (Formerly CPC-2-0-03)
Attachment C:	Current HRM Telecommunication Tower Application Workflow
Attachment D:	Proposed HRM Telecommunication Tower Application Workflow (Report Option 2)

A copy of this report can be obtained online at http://www.halifax.ca/council/agendasc/cagenda.php then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Carl Purvis, Major Projects Planner, 902-490-4797
Miles Agar, LPP, Planner 1, 902-490-4495

Original Signed

Report Approved by: _____
Kelly Denty, Manager of Development Approvals, 902-490-4800

Industry Canada Industrie Canada

Attachment A

Issue 2
August 2014

Spectrum Management and Telecommunications

Guide to Assist Land-use Authorities in Developing Antenna System Siting Protocols

Aussi disponible en français

Canada

Contents

1. Introduction

This guide is intended to assist Land-use Authorities (LUA) in ensuring effective local participation in decisions regarding proposals to build antennas and their supporting structures within their communities. For the purposes of this guide, an LUA means any local authority that governs land-use issues and includes a municipality, town council, regional commission, development authority, township board, band council or similar body. This guide complements Industry Canada's Client Procedures Circular CPC-2-0-03, Issue 5, *Radiocommunication and Broadcasting Antenna Systems*. LUAs are encouraged to consult CPC-2-0-03 to better understand roles and responsibilities.

The requirements of CPC-2-0-03 apply to anyone (referred to as a "proponent") who is planning to install or modify an antenna system,[1] regardless of the type. This includes telecommunications carriers, businesses, governments, Crown agencies, operators of broadcasting undertakings and the public (including for amateur radio operation and over-the-air and satellite TV reception). The requirements also apply to those who install towers or antenna systems on behalf of others or for leasing purposes ("third party tower owners"). As well, the procedures contain obligations that apply to existing antenna system owners and operators, including those relating to the use of existing infrastructure (sharing).

This guide specifically addresses two areas:

- **Participation Process:** Addresses the LUA's role in effectively participating and influencing decisions with respect to proposed antenna systems within Industry Canada's antenna siting procedures. Industry Canada believes that antenna siting protocols jointly developed between proponents and LUAs can supplement the Department's antenna siting procedures, while at the same time having a higher degree of acceptance and compliance.

- **Local Protocol Development:** Sets out elements that LUAs might wish to include when developing protocols with proponents of antenna systems.

The federal Minister of Industry has the authority under the *Radiocommunication Act* to issue radio authorizations, to approve each site on which radio apparatus, including antenna systems(referred to as "antenna systems" or "installations"), may be located and to approve the erection of all masts, towers and other antenna-supporting structures.Industry Canada's role includes ensuring the orderly development and efficient operation of radiocommunications in Canada. In this regard, Industry Canada considers that the questions, comments and concerns of the local public and the LUA are important elements for proponents to consider when seeking to install, or make major modifications to, an antenna system.

Radiocommunication and broadcasting services are important for all Canadians and are used daily by the public, safety and security organizations, all levels of government, wireless service providers, broadcasters, utility companies and other businesses. Antenna systems are an essential component in providing these services and must be installed on towers, buildings or other antenna-supporting structures. Antennas and the structures that support them are integral to wireless network communication systems

1 For the purposes of this document, an "antenna system" is normally composed of an antenna and some sort of supporting structure, normally a tower. Most antennas have their own integral mast so they can be fastened directly to a building or a tower.

and they provide the radio coverage the public and safety services need. With advancements in technology and given the growing demand for high-speed wireless access, communities in Canada are currently experiencing, or will soon experience, the deployment of new antenna systems.

Thanks to their local knowledge, LUAs are well qualified to explain to proponents the particular amenities, cultural or environmental sensitivities, planning priorities and other relevant characteristics of their area. The LUA may also be aware of potential Aboriginal or treaty rights or land claims that may be affected by a proposed installation. Working together, LUAs and proponents can find solutions which address reasonable and relevant concerns or point the way to alternative antenna system siting arrangements. Accordingly, Industry Canada encourages LUAs to develop local protocols to manage the process of identifying their own concerns, as well as those of the public they represent, regarding antenna system modifications or installations.

For the purposes of this document, Industry Canada will refer to any written local guideline, policy or process that addresses the issue of antenna placement as a "protocol". Cooperation between LUAs and proponents through clear and reasonable protocols can result in the development of new and enhanced wireless services in a community-friendly manner.

Industry Canada[2] is available to assist in the creation of local land-use protocols for antenna system installations.

2. Participation Process

There are a number of steps a proponent typically follows in choosing a site for an antenna system installation; unless specifically excluded under Industry Canada's process, one of these steps is consulting with the LUA. The community in an LUA's area expect it to provide local knowledge, experience and leadership. The LUA can also ensure that any questions, comments or concerns are appropriately addressed by the proponent.

The subsections that follow suggest various aspects of a consultation process that an LUA may want to take into consideration when developing antenna siting protocols. Protocols are an effective means for an LUA to use to convey its preferences, as well as those of the community it represents, to antenna system proponents.

2.1 Placement of Antenna System

Proponents must consider various antenna system placement options, including using existing structures such as building rooftops and water towers, to minimize the impact on the local community. Radiocommunication antennas need to be strategically located to satisfy specific technical criteria and operational requirements. Therefore, there is a limited measure of flexibility in the placement of antennas and proponents are constrained to some degree by:

2 Please refer to *Radiocommunication Information Circular RIC-66* for a list of addresses and telephone numbers for Industry Canada's regional and district offices. RIC-66 is available via the Internet at: http://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/h_sf06073.html.

- the need to achieve the required radiocommunication coverage, often in response to public demand;
- the availability and physical limitations of nearby existing structures (towers, rooftops, water towers, etc.) to accommodate additional antennas; and
- the securing of lease agreements to permit access to an existing structure.

Consequently, the LUA's or the public's preferred location for siting an antenna installation may not always be feasible.

LUAs are encouraged to develop protocols that are clear and within their area of responsibility. Protocols can include promoting the placement of antennas in optimal locations from a land-use point of view, or excluding certain types of installations from protocol requirements. Through protocols, an LUA can highlight its local knowledge and expertise related to area sensitivities, including environmental or cultural concerns, and land-use compatibility. Protocols can recognize local amenities and planning priorities while expediting the planning and approvals necessary for the installation of radiocommunication and broadcasting antenna systems.

2.2 Use of Existing Infrastructure (Sharing)[3]

The installation of a new antenna structure may at times reveal sensitivity in the local community. Therefore, Industry Canada requires proponents to first consider using existing towers or infrastructure (such as rooftops, water towers, utility poles, etc.). This approach is intended to minimize the proliferation of antenna towers. However, it is important to note that technical constraints, such as the need to: achieve a certain amount of radiocommunication coverage; re-use frequencies; and address equipment isolation issues; etc., may prevent a proponent from using an existing structure.

2.3 Preliminary Consultation

LUAs may wish to include in their protocols a mechanism for preliminary consultation. This would allow the proponent, before making any site selection decisions, to inform the LUA of its plans. Also, this initial contact allows a proponent to determine whether an LUA has a protocol in place regarding antenna system installations preferences. Within its own process, Industry Canada considers written formal contact as marking the official commencement of its 120-day[4] consultation process between the LUA and the proponent.

With a protocol in place, this initial contact allows the LUA an excellent opportunity to:

- inform the proponent of established and documented local requirements and consultation procedures;

3 See also Client Procedures Circular CPC-2-0-17, *Conditions of Licence for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements*. CPC-2-0-17 is available via the Internet at: http://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf09081.html.

4 The 120-day consultation period commences only once the proponent has formally submitted, in writing, all plans required by the LUA, and does not include preliminary discussions with the LUA.

- advise the proponent of historic and environmental land-use sensitivities including any related to potential Aboriginal or treaty right or land claim;[5]
- provide guidance and preferences to the proponent on the various preferred areas and sites to be considered;
- indicate its preferences; and
- provide information concerning any aesthetic or landscaping preferences.

2.4 Involving Local Public

Local public consultation offers a forum for members of the public located near the proposed installation to make comments, ask questions or raise concerns related to the proposed antenna system installation. This is an opportunity for the local public and the LUA to make the proponent aware of local considerations and, in so doing, influence the siting.

Industry Canada's own process recognizes two possible public consultation scenarios:

1. The LUA can set the format for public consultation in its protocol. This could identify situations that require public consultation and those that do not. It is important to note that, in all cases, telecommunications carriers, broadcasting undertakings and third party tower owners must notify and consult with the local public when proposing a new antenna tower.

2. If an LUA's protocol is silent on the issue of public consultation, or if there is no protocol, then the proponent will be required to follow Industry Canada's default public consultation process.

However an LUA is in an ideal position to develop a public consultation process because of its local experience and knowledge. For this reason, the Department encourages LUAs to include public consultation as part of their processes. The LUA, as the representative of the local community, can assist and guide proponents to conduct meaningful consultation by establishing reasonable and timely protocols which ensure local land-use concerns are appropriately addressed.

2.5 Responding to Consultation

Even in cases where the LUA does not have a local protocol, the LUA should take the opportunity built into Industry Canada's procedures to examine carefully the details of the proponent's proposal. During its examination of the proposal, an LUA may ask the proponent for additional information to determine whether there are any local land-use or public concerns. As part of the discussions, the LUA can engage the proponent by suggesting reasonable alternatives and/or mitigation measures that would address any questions, comments or concerns.

To maximize the benefit of this consultation process, both parties have to consider each other's requirements and constraints so they can work effectively together. In so doing, the parties can devise solutions that will minimize the impact of the proposed structure on the local surroundings, while at the same time taking into consideration each other's interests.

5 LUAs are encouraged to refer to online resources [for example, the Aboriginal and Treaty Rights Information System (ATRIS) (http://sidait-atris.aadnc-aandc.gc.ca/atris_online/home-accueil.aspx)] as applicable.

2.6 Concluding Consultation

Industry Canada advises that an LUA's protocol should include a mechanism for issuing a formal concurrence to mark the end of the consultation with the proponent. This may consist of a formal decision by a designated official or relevant committee or another formal means, such as a sentence or other reference in the town council minutes. If an LUA decides that a consultation ends with the issuance of a building permit, then the protocol should indicate this.

If the proponent has met the public consultation requirements, either through the LUA's or Industry Canada's default process, and neither the LUA nor the public formally communicates any concerns to the proponent about its proposal, Industry Canada will deem that the land-use authority and the public have no objections.

2.7 Impasse Negotiations, Dispute Resolution Process

When developing protocols, LUAs should consider the means by which disputes will be resolved, ensuring they are appropriate for the local community. By documenting this process, all stakeholders will understand their roles and responsibilities as well as the process for resolving disputes. Industry Canada generally favours having the proponent, the local public and the LUA work toward a solution which takes each other's interests into consideration. Where an LUA or a proponent feels it may be helpful to do so, it may engage Industry Canada in an effort to move the discussions forward. Under Industry Canada procedures, if either the LUA or proponent believes discussions have reached an impasse, either can formally request departmental intervention concerning a reasonable and relevant concern. It is anticipated this will occur rarely.

LUAs may wish to consider incorporating alternate dispute resolution options into their protocols. Many alternate dispute resolution processes are interest-based rather than regulatory in nature. Therefore, the parties are more likely to find a mutually beneficial resolution.

2.8 A Timely Process

To avoid unnecessary delays, Industry Canada's process indicates that LUAs are normally expected to conclude the consultation process within 120 days from the receipt of the formal consultation request. Accordingly, when developing protocols, LUAs should not exceed these timelines.

3. Local Protocol Guide Development[6]

3.1 Protocol Principles

The following set of considerations and suggested principles may serve as a guide to LUAs developing protocols that respectfully balance local land-use interests with the benefits that radiocommunication, including broadcasting, brings to a community. The protocol should, as appropriate, address the following:

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6 Municipalities may also wish to refer to the protocol template developed in partnership between the Federation of Canadian Municipalities (FCM) and the Canadian Wireless Telecommunications Association (CWTA). The FCM/CWTA template can be found on the FCM's website, www.fcm.ca.

- Information to proponents describing:
  - areas of historic or environmental importance to the community and the need to minimize the impact of the proposal on these areas; and
  - local preferences for antenna siting.
- Incentives to encourage aesthetically pleasing structures.
- Exclusions, which may build upon those established by Industry Canada (CPC-2-0-03, Section 6).
- Public consultation requirements that Industry Canada believes should be proportional to the proposal and its impact on the local surroundings. LUAs may wish to consider establishing a two-track process:
  - a streamlined concurrence process for less controversial proposals, such as new sites in industrial areas or on municipal properties, for emergency services or personal installations by members of the public (including for amateur radio operation and over-the-air and satellite TV reception), and
  - a process that includes broader public consultation for non-excluded structures likely to be of interest to the local community, such as the construction of new towers used by telecommunications carriers, broadcasting undertakings and third party tower owners.

The protocol should also establish a reasonable processing timeline that respects the timelines established in CPC-2-0-03 for proposals submitted to the LUA for concurrence.

3.2 General Protocol Template

The following elements are provided to aid LUAs in developing protocols dealing with antenna system installations:

Objectives

A short discussion on the overall objectives of the local protocol.

Jurisdiction

A discussion of the LUA's responsibilities and obligations in safeguarding legitimate concerns related to local land-use. Also, the role and responsibility of Industry Canada and the authority granted under the *Radiocommunication Act* to approve the location of radiocommunication facilities.

Consultation with the LUA

This may include:

- criteria for excluding additional antenna systems, other than those listed in the CPC-2-0-03, from LUA consultation;
- process for LUA notification;
- list of all documents and drawings that the proponent must submit;
- processing and administrative fees;
- the means by which the LUA will indicate concurrence; and
- process time frames that respect those established by CPC-2-0-03.

Excluded Antenna Structures

Industry Canada believes that not all antenna systems should be subject to a full land-use or public consultation process. Subjecting all proposals to the full consultation process would place an unnecessary and significant administrative burden on proponents, the LUA and the local public. Under Industry Canada's process, certain proposals are considered to have minimal impact on the local surroundings and so are excluded from public and land-use consultations. Industry Canada believes that consultation requirements should be proportional to the potential impact of the proposal. When establishing a local protocol, LUAs should consider the types of proposals that have minimal impact and so would warrant exemption from land-use and/or public consultation. It should be noted that any exclusion criteria established by the LUA can only augment, as appropriate, those established under Industry Canada's Exclusion List (CPC-2-0-03, Section 6).

Antenna Structures Not Excluded

LUAs may wish to consider the following when developing consultation protocols:

- the type of structure: new, temporary or existing antenna systems as well as non-tower structures;
- the intended use of the structure, whether personal, commercial or safety;
- the effect on significant natural or cultural features; and
- the landscaping, access control, fencing and road access.

Furthermore, LUAs can:

- encourage the placement of new towers in commercial, industrial/agricultural areas and utility or roadway easements;
- ask the proponent to suggest various options for consideration; and
- identify preferred criteria for antenna structure siting for new structures that exceed a specified height.

Public Consultation

Public consultation is an important part of the overall consultation process. Industry Canada believes that the local public should be consulted regarding non-excluded antenna proposals. Consultation allows the community to be involved and so ultimately influence the proposal's siting. Discussions can allow stakeholders to work towards a consensus. While LUAs are free to structure their public consultation process to meet their needs, Industry Canada's process consists of two distinct components:

- Public Notification - where the proponent informs the public of the proposed antenna system installation or modification, providing the information needed for a complete understanding of the proposal.
- Public Engagement - where the proponent engages the public and responds to all questions and comments, addressing all reasonable and relevant concerns. Public engagement may take various forms, from answering letters to hosting a public meeting or drop-in, depending on the community's level of interest.

Establishing Appropriate Time Frames

It is important that the protocol establish time frames for a consultation process, to ensure timely response to any questions or concerns and to avoid unnecessary delays to the proponent and the LUA. Industry Canada expects that any time frames established within an LUA's protocol will respect those established by CPC-2-0-03.

Under Industry Canada's procedures (CPC-2-0-03, Section 4.4), construction of an antenna system must be completed within three years of the conclusion of consultation. After three years, consultations will no longer be deemed valid except in the case where a proponent secures the agreement of the relevant land-use authority to an extension for a specified time period in writing. While Industry Canada does not

support a reduction of the three-year time limit, LUAs may wish to consider including in their protocols procedures related to extending the time limit for construction.

Criteria not Necessary to Address Through Local Protocols

As described in Industry Canada's procedures (CPC-2-0-03, Section 7), proponents have specific obligations already subject to federal requirements. Protocols should not impose additional obligations in these areas. However, an LUA may wish to ask questions or seek clarification from proponents concerning their proposed steps and the alternatives available to satisfy these and any other radio authorization requirements. Proponents must comply with:

Health Canada's public radio frequency exposure guidelines - Safety Code 6 *(Limits of Human Exposure to Radiofrequency Electromagnetic Energy in the Frequency Range from 3 kHz to 300 GHz - Safety Code (2009));*
Radio Frequency Interference and Immunity - *EMCAB-2 — Criteria for Resolution of Immunity Complaints Involving Fundamental Emissions of Radiocommunications Transmitters*;

- *Canadian Environmental Assessment Act,2012* – CEAA 2012
- Aeronautical Safety - Transport Canada and NAV CANADA requirements for aeronautical safety

4. Conclusion

Land-use authorities, with their local knowledge, experience and leadership ability, have an important role in the consultation process relating to the siting of antenna systems. Clear and reasonable protocols will enable effective participation and cooperation between the LUA and the proponent. Such protocols can be used to identify the interests of the community as well as guiding land-use principles. Moreover, protocols allow for the introduction of radiocommunication services, including broadcasting, in the local community in a timely manner. Protocols can assist proponents planning to install antenna systems, while at the same time giving due consideration to local land-use issues.

Industry Canada Industrie Canada

Attachment B

CPC-2-0-03
Issue 4
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Spectrum Management and Telecommunications

Client Procedures Circular

Radiocommunication and Broadcasting Antenna Systems

(Formerly CPC-2-0-03 - Environmental Process, Radiofrequency Fields and Land-Use Consultation)

Aussi disponible en français - CPC-2-0-03

Canada

Comments and suggestions may be directed to the following address:

Industry Canada
Radiocommunications and
Broadcasting Regulatory Branch
300 Slater Street
Ottawa, Ontario
K1A 0C8

Attention: DOSP

Via e-mail: spectrum_pubs@ic.gc.ca

All Spectrum Management and Telecommunications publications are available on the following website at: http://strategis.gc.ca/spectrum.

Contents

1. Introduction

Radiocommunication and broadcasting services are important for all Canadians and are used daily by the public, safety and security organizations, government, wireless service providers, broadcasters, utilities and businesses. In order for radiocommunication and broadcasting services to work, antenna systems including masts, towers, and other supporting structures are required. There is a certain measure of flexibility in the placement of antenna systems which is constrained to some degree by: the need to achieve acceptable coverage for the service area; the availability of sites; technical limitations; and safety. In exercising its mandate, Industry Canada believes that it is important that antenna systems be deployed in a manner that considers the local surroundings.

1.1 Mandate

Section 5 of the *Radiocommunication Act* states that the Minister may, taking into account all matters the Minister considers relevant for ensuring the orderly development and efficient operation of radiocommunication in Canada, issue radio authorizations and approve each site on which radio apparatus, including antenna systems, may be located. Further, the Minister may approve the erection of all masts, towers and other antenna-supporting structures. Accordingly, proponents must follow the process outlined in this document when installing or modifying an antenna system. Also, the installation of an antenna system or the operation of a currently existing antenna system that is not in accordance with this process may result in its alteration or removal and other sanctions against the operator in accordance with the *Radiocommunication Act.*

1.2 Application

The requirements of this document apply to anyone (referred to in this document as the proponent) who is planning to install or modify an antenna system regardless of the type of installation or service. This includes, amongst others, Personal Communications Services (PCS) and cellular, fixed wireless, broadcasting, land-mobile, licence-exempt and amateur radio operators. As well, parts of this process contain obligations that apply to existing antenna system operators.

1.3 Process Overview

This document outlines the process that must be followed by proponents seeking to install or modify antenna systems. The broad elements of the process are as follows:

1. Investigating sharing or using existing infrastructure before proposing new antenna-supporting structures.

2. Contacting the land-use authority (LUA) to determine local requirements regarding antenna systems.

3. Undertaking public notification and addressing relevant concerns, whether by following local LUA requirements or Industry Canada's default process, as is required and appropriate.

4. Satisfying Industry Canada's general and technical requirements.

It is Industry Canada's expectation that steps (2) to (4) will normally be completed within ***120 days***. Some proposals may be excluded from certain elements of the process (see Section 6). It is Industry Canada's expectation that all parties will carry out their roles and responsibilities in good faith and in a manner that respects the spirit of this document.

2. Industry Canada Engagement

There are a number of points in the processes outlined in this document where parties must contact Industry Canada to proceed. Further, anyone with any question regarding the process may contact the local Industry Canada office[1] for guidance. Based on a query by an interested party, Industry Canada may request parties to provide relevant records and/or may provide direction to one or more parties to undertake certain actions to help move the process forward.

3. Use of Existing Infrastructure (Sharing)

This section outlines the roles of proponents and owners/operators of existing antenna systems. In all cases, parties should retain records (such as analyses, correspondence and engineering reports) relating to this section.

Before building a new antenna-supporting structure, Industry Canada requires that proponents first explore the following options:

- consider sharing an existing antenna system, modifying or replacing a structure if necessary;
- locate, analyze and attempt to use any feasible existing infrastructure such as rooftops, water towers etc.

Proponents are not normally expected to build new antenna-supporting structures where it is feasible to locate their antenna on an existing structure, unless a new structure is preferred by land-use authorities.

Owners and operators of existing antenna systems are to respond to a request to share in a timely fashion and to negotiate in good faith to facilitate sharing where feasible. It is anticipated that 30 days is reasonable time for existing antenna system owners/operators to reply to a request by a proponent in writing with either:

- a proposed set of reasonable terms to govern the sharing of the antenna system; or
- a detailed explanation of why sharing is not possible.

[1] Please refer to Radiocommunication Information Circular 66 (RIC-66) for a list of addresses and telephone numbers for Industry Canada's regional and district offices. RIC-66 is available via the Internet at: http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01742e.html.

4. Land-use Authority and Public Consultation

Contacting the Land-use Authority

Proponents must always contact the applicable land-use authorities to determine the local consultation requirements unless their proposal falls within the exclusion criteria outlined in Section 6. If the land-use authority has designated an official to deal with antenna systems, then proponents are to engage the authority through that person. If not, proponents must submit their plans directly to the council, elected local official or executive. Proponents are expected to establish initial formal contact with the land-use authority in writing in order to mark the official commencement of the ***120-day*** consultation process.

Proponents should note that there may be more than one land-use authority with an interest in the proposal. Where no established agreement exists between such land-use authorities, proponents must, as a minimum, contact the land-use authority(ies) and/or neighbouring land-use authorities located within a radius of three times the tower height, measured from the tower base or the outside perimeter of the supporting structure, whichever is greater. As well, in cases where proponents are aware that a potential Aboriginal or treaty right or land claim may be affected by the proposed installation, they must contact Industry Canada in order to ensure that the requirements for consultation are met.

Following the Land-use Authority Process

Proponents must follow the land-use consultation process for the siting of antenna systems, established by the land-use authority, where one exists. In the event that a land-use authority's existing process has no public consultation requirement, proponents must then fulfill the public consultation requirements contained in Industry Canada's Default Public Consultation Process (see Section 4.2). Proponents are not required to follow this requirement if the LUA's established process explicitly excludes their type of proposal from consultation or it is excluded by Industry Canada's criteria. Where proponents believe the local consultation requirements are unreasonable, they may contact the local Industry Canada office in writing for guidance.

Broadcasting Undertakings

Applicants for broadcasting undertakings are subject to Canadian Radio-television and Telecommunications (CRTC) licensing processes in addition to Industry Canada requirements. Although Industry Canada encourages applicants to consult as early as practical in the application process, in some cases it may not be prudent for the applicants to initiate public and municipal/land-use consultation before receiving CRTC approval, as application denial by the CRTC would result in unnecessary work for all parties involved. Therefore, assuming that the proposal is not otherwise excluded, broadcasting applicants may opt to commence land-use consultation after having received CRTC approval. However, broadcasting applicants choosing this option are required, at the time of the CRTC application, to notify the land-use authority with a Letter of Intent outlining a commitment to conduct consultation after receiving CRTC approval. If the land-use authority raises concerns with the proposal as described in the Letter of Intent, applicants are encouraged to engage in discussions with the land-use authority regarding their concerns and attempt to resolve any issues. See Broadcasting Procedures and Rules, Part 1 (BPR-1), for further details.

4.1 Land-use Authority Consultation

Industry Canada believes that any concerns or suggestions expressed by land-use authorities are important elements to be considered by proponents regarding proposals to install, or make changes to, antenna systems. As part of their community planning processes, land-use authorities should facilitate the implementation of local radiocommunication services by establishing consultation processes for the siting of antenna systems.

Unless the proposal meets the exclusion criteria outlined in Section 6, proponents must consult with the local land-use authority(ies) on any proposed antenna system prior to any construction with the aim of:

- discussing site options;
- ensuring that local processes related to antenna systems are respected;
- addressing reasonable and relevant concerns (see Section 4.2) from both the land-use authority and the community they represent; and
- obtaining land-use authority concurrence in writing.

Land-use authorities are encouraged to establish reasonable, relevant, and predictable consultation processes[2] specific to antenna systems that consider such things as:

- the designation of suitable contacts or responsible officials;
- proposal submission requirements;
- public consultation;
- documentation of the concurrence process; and
- the establishment of milestones to ensure consultation process completion within ***120 days***.

Where they have specific concerns regarding a proposed antenna system, land-use authorities are expected to discuss reasonable alternatives and/or mitigation measures with proponents.

Under their processes, land-use authorities may exclude from consultation any antenna system installation in addition to those identified by Industry Canada's own consultation exclusion criteria (Section 6). For example, an authority may wish to exclude from public consultation those installations located within industrial areas removed from residential areas, low visual impact installations, or certain types of structures located within residential areas.

[2] Industry Canada is available to assist land-use authorities in the development of local processes. In addition, land-use authorities may wish to consult Industry Canada's guide for the development of local consultation processes.

4.2 Industry Canada's Default Public Consultation Process

Proponents must follow Industry Canada's Default Public Consultation Process where the local land-use authority does not have an established and documented public consultation process applicable to antenna siting. Proponents are not required to follow Industry Canada's Default Public Consultation Process if the land-use authority's established process explicitly excludes their type of proposal from public consultation or it is excluded by Industry Canada's criteria (see Section 6). Industry Canada's default process has three steps whereby the proponent:

1. provides written notification to the public, the land-use authority and Industry Canada of the proposed antenna system installation or modification (i.e. *public notification*);

2. engages the public and the land-use authority in order to address relevant questions, comments and concerns regarding the proposal (i.e. *responding to the public*); and

3. provides an opportunity to the public and the land-use authority to formally respond in writing to the proponent regarding measures taken to address reasonable and relevant concerns (i.e. *public reply comment*).

Public Notification

1. Proponents must ensure that the local public, the land-use authority and Industry Canada are notified of the proposed antenna system. As a minimum, proponents must provide a notification package (see Appendix 2) to the local public (including nearby residences, community gathering areas, public institutions, schools, etc.), neighbouring land-use authorities, businesses, and property owners, etc. located within a radius of three times the tower height, measured from the tower base or the outside perimeter of the supporting structure, whichever is greater. For the purpose of this requirement, the outside perimeter begins at the furthest point of the supporting mechanism, be it the outermost guy line, building edge, face of the self-supporting tower, etc.

2. It is the proponent's responsibility to ensure that the notification provides at least ***30 days*** for written public comment.

3. In addition to the minimum notification distance noted above, in areas of seasonal residence, the proponent, in consultation with the land-use authority, is responsible for determining the best manner to notify such residents to ensure their engagement.

4. In addition to the public notification requirements noted above, proponents of antenna-supporting structures that are proposed to be 30 metres or more in height must place a notice in a local community newspaper circulating in the proposed area.[3]

[3] The notice must be synchronized with the distribution of the public notification package. It must be legible and placed in the public notice section of the newspaper. The notice must include: a description of the proposed installation; its location and street address; proponent contact information and mailing address; and an invitation to provide public comments to the proponent within ***30 days*** of the notice. In areas without a local newspaper, other effective means of public notification must be implemented. Proponents may contact the local Industry Canada office for guidance.

Responding to the Public

Proponents are to address all reasonable and relevant concerns, make all reasonable efforts to resolve them in a mutually acceptable manner and must keep a record of all associated communications. If the local public or land-use authority raises a question, comment or concern relating to the antenna system as a result of the public notification process, then the proponent is required to:

1. respond to the party in writing within ***14 days*** acknowledging receipt of the question, comment or concern and keep a record of the communication;

2. address in writing all reasonable and relevant concerns within ***60 days*** of receipt or explain why the question, comment or concern is not, in the view of the proponent, reasonable or relevant; and

3. in the written communication referred to in the preceding point, clearly indicate that the party has ***21 days*** from the date of the correspondence to reply to the proponent's response. The proponent must provide a copy of all public reply comments to the local Industry Canada office.

Responding to reasonable and relevant concerns may include contacting a party by telephone, engaging in a community meeting or having an informal, personal discussion. Between steps 1 and 2 above, the proponent is expected to engage the public in a manner it deems most appropriate. Therefore, the letter at step 2 above may be a record of how the proponent and the other party addressed the concern at hand.

Public Reply Comments

As indicated in step 3 above, the proponent must clearly indicate that the party has ***21 days*** from the date of the correspondence to reply to the response. The proponent must also keep a record of all correspondence/discussions that occurred within the ***21-day*** public reply comment period. This includes records of any agreements that may have been reached and/or any concerns that remain outstanding.

The factors that will determine whether a concern is reasonable or relevant according to this process will vary but will generally be considered if they relate to the requirements of this document and to the particular amenities or important characteristics of the area surrounding the proposed antenna system. Examples of concerns that proponents are to address may include:

- Why is the use of an existing antenna system or structure not possible?

- Why is an alternate site not possible?

- What is the proponent doing to ensure that the antenna system is not accessible to the general public?

- How is the proponent trying to integrate the antenna into the local surroundings?

- What options are available to satisfy aeronautical obstruction marking requirements at this site?

- What are the steps the proponent took to ensure compliance with the general requirements of this document including the *Canadian Environmental Assessment Act* (CEAA), Safety Code 6, etc.?

Concerns that are not relevant include:

- disputes with members of the public relating to the proponent's service, but unrelated to antenna installations;

- potential effects that a proposed antenna system will have on property values or municipal taxes;

- questions whether the *Radiocommunication Act*, this document, Safety Code 6, locally established by-laws, other legislation, procedures or processes are valid or should be reformed in some manner.

4.3 Concluding Consultation

The proponent may only commence installation/modification of an antenna system after the consultation process has been completed by the land-use authority, or Industry Canada confirms concurrence with the consultation portion of this process, and after all other requirements under this process have been met. Consultation responsibilities will normally be considered complete when the proponent has:

1. concluded consultation requirements (Section 4.1) with the land-use authority;

2. carried out public consultation either through the process established by the land-use authority or the Industry Canada's Default Public Consultation Process where required; and

3. addressed all reasonable and relevant concerns.

Concluding Land-use Authority Consultation

Industry Canada expects that land-use consultation will be completed within ***120 days*** from the proponent's initial formal contact with the local land-use authority. Where unavoidable delays may be encountered, the land-use authority is expected to indicate when the proponent can expect a response to the proposal. If the authority is not responsive, the proponent may contact Industry Canada. Depending on individual circumstances, Industry Canada may support additional time or consider the land-use authority consultation process concluded.

Depending on the land-use authority's own process, conclusion of local consultation may include such steps as obtaining final concurrence for the proposal via the relevant committee, a letter or report acknowledging that the relevant municipal process or other requirements have been satisfied, or other valid indication, such as the minutes of a town council meeting indicating LUA approval. Compliance with informal city staff procedures, or grants of approval strictly related to zoning, construction, etc. will not normally be sufficient.

Industry Canada recognizes that approvals for construction (e.g. building permits) are used by some land-use authorities as evidence of consultation being concluded. Proponents should note that Industry Canada does not consider the fact a permit was issued as confirmation of concurrence, as different land-use authorities have different approaches. As such, Industry Canada will only consider such approvals as valid when the proponent can demonstrate that the LUA's process was followed and that the LUA's preferred method of concluding LUA consultation is through such an approval.

Concluding Industry Canada's Default Public Consultation Process

Industry Canada's Default Public Consultation Process will be considered concluded when the proponent has either:

- received no written questions, comments or concerns to the formal notification within the ***30-day*** public comment period; or

- if written questions, comments or concerns were received, the proponent has addressed and resolved all reasonable and relevant concerns and the public has not provided further comment within the ***21-day*** reply comment period.

In the case where the public responds within the ***21-day*** reply comment period, the proponent has the option of making further attempts to address the concern on its own, or can request Industry Canada engagement. If a request for engagement is made at this stage, Industry Canada will review the relevant material, request any further information it deems pertinent from any party and may then decide that:

- the proponent has met the consultation requirements of this process and that Industry Canada concurs that installation or modification may proceed; or

- the parties should participate in further attempts to mitigate or resolve any outstanding concern.

5. Dispute Resolution Process

The dispute resolution process is a formal process intended to bring about the timely resolution where the parties have reached an impasse.

Upon receipt of a written request, from a stakeholder other than the general public, asking for Departmental intervention concerning a reasonable and relevant concern, the Department may request that all involved parties provide and share all relevant information. The Department may also gather or obtain other relevant information and request that parties provide any further submissions if applicable. The Department will, based on the information provided, either:

- make a final decision on the issue(s) in question, and advise the parties of its decision; or

- suggest the parties enter into an alternate dispute resolution process in order to come to a final decision. Should the parties be unable to reach a mutually agreeable solution, either party may request that the Department make a final decision.

Upon resolution of the issue under dispute, the proponent is to continue with the process contained within this document as required.

6. Exclusions

For the following types of installations, proponents are excluded from the requirement to consult with the LUA and the public, but must still fulfill the General Requirements outlined in Section 7:

- maintenance of existing radio apparatus including the antenna system, transmission line, mast, tower or other antenna-supporting structure;

- addition or modification of an antenna system (including improving the structural integrity of its integral mast to facilitate sharing), the transmission line, antenna-supporting structure or other radio apparatus to existing infrastructure, a building, water tower, etc. provided the addition or modification does not result in an overall height increase above the existing structure of 25% of the original structure's height;

- maintenance of an antenna system's painting or lighting in order to comply with Transport Canada's requirements;

- installation, for a limited duration (typically not more than 3 months), of an antenna system that is used for a special event, or one that is used to support local, provincial, territorial or national emergency operations during the emergency, and is removed within 3 months after the emergency or special event; and

- new antenna systems, including masts, towers or other antenna-supporting structure, with a height of less than 15 metres above ground level.

Individual circumstances vary with each antenna system installation and modification, and the exclusion criteria above should be applied in consideration of local circumstances. Consequently, it may be prudent for the proponents to consult the LUA and the public even though the proposal meets an exclusion noted above. Therefore, when applying the criteria for exclusion, proponents should consider such things as:

- the antenna system's physical dimensions, including the antenna, mast, and tower, compared to the local surroundings;

- the location of the proposed antenna system on the property and its proximity to neighbouring residents;

- the likelihood of an area being a community-sensitive location; and

- Transport Canada marking and lighting requirements for the proposed structure.

Proponents who are not certain if their proposed structure is excluded, or whether consultation may still be prudent, are advised to contact the land-use authority and/or Industry Canada for guidance.

7. General Requirements

In addition to roles and responsibilities for site sharing, land-use consultation and public consultation, proponents must also fulfill other important obligations including: compliance with Health Canada's Safety Code 6 guideline for the protection of the general public; compliance with radio frequency immunity criteria; notification of nearby broadcasting stations; environmental considerations; and Transport Canada/NAV CANADA aeronautical safety responsibilities.

7.1 Radio Frequency Exposure Limits

Health Canada has established safety guidelines for exposure to radio frequency fields, in its Safety Code 6 publication, entitled: *Limits of Human Exposure to Radiofrequency Electromagnetic fields in the Frequency Range from 3 kHz to 300 GHz*.[4] While the responsibility for developing Safety Code 6 rests with Health Canada, Industry Canada has adopted this guideline for the purpose of protecting the general public. Current biomedical studies in Canada and other countries indicate that there is no scientific or medical evidence that a person will experience adverse health effects from exposure to radio frequency fields, provided that the installation complies with Safety Code 6.

It is the responsibility of proponents and operators of installations to ensure that all radiocommunication and broadcasting installations comply with Safety Code 6 at all times, including the consideration of combined effects of nearby installations within the local radio environment.

For all proponents following Industry Canada's Default Public Consultation Process, the proponent's notification package must provide a written attestation that there will be compliance with Safety Code 6 for the protection of the general public, including consideration of nearby radiocommunication systems. The notification package must also indicate any Safety Code 6 related signage and access control mechanisms that may be used.

Compliance with Safety Code 6 is an ongoing obligation. At any time, antenna system operators may be required, as directed by Industry Canada, to demonstrate compliance with Safety Code 6 by (i) providing detailed calculations, and/or (ii) conducting site surveys and, where necessary, by implementing corrective measures. Proponents and operators of existing antenna systems must retain copies of all information related to Safety Code 6 compliance such as analyses and measurements.

7.2 Radio Frequency Immunity

All radiocommunication and broadcasting proponents and existing spectrum users are to ensure that their installations are designed and operated in accordance with Industry Canada's immunity criteria as outlined in EMCAB-2[5] in order to minimize the malfunctioning of electronic equipment in the local surroundings. Broadcasting proponents and existing undertakings should refer to Broadcasting

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[4] Safety Code 6 can be found on Health Canada's website at: http://www.hc-sc.gc.ca/ewh-semt/pubs/radiation/radio_guide-lignes_direct-eng.php.

[5] For more information see EMCAB-2, entitled: *Criteria for Resolution of Immunity Complaints Involving Fundamental Emissions of Radiocommunications Transmitters* available on Industry Canada's Spectrum Management and Telecommunications website at: www.strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01005e.html.

Procedures and Rules - Part 1, *General Rules* (BPR-1) for additional information and requirements[6] on this matter.

Proponents are advised to consider the potential effect that their proposal may have on nearby electronic equipment. In this way, they will be better prepared to respond to any questions that may arise during the public and land-use consultation processes, or after the system has been installed.

Land-use authorities should be prepared to advise proponents and owners of broadcasting undertakings of plans for the expansion or development of nearby residential and/or industrial areas. Such expansion or development generally results in the introduction of more electronic equipment in the area and therefore an increased potential for electronic equipment to malfunction. By keeping broadcasters aware of planned developments and changes to adjacent land-use, they will be better able to work with the community. Equally, land-use authorities have a responsibility to ensure that those moving into these areas, whether prospective residents or industry, are aware of the potential for their electronic equipment to malfunction when located in proximity to an existing broadcasting installation. For example, the LUA could ensure that clear notification be provided to future prospective purchasers.

7.3 Proximity of Proposed Structure to Broadcasting Undertakings

Where the proposal would result in a structure that exceeds 30 metres above ground level, the proponent is to notify operators of AM, FM and TV undertakings within 2 kilometres, due to the potential impact the physical structure may have on these broadcasting undertakings. Metallic structures close to an AM directional antenna array may change the antenna pattern of the AM broadcasting undertaking. These proposed structures can also reflect nearby FM and TV signals, causing ‘ghosting’ interference to FM/TV receivers used by the general public.

7.4 Canadian Environmental Assessment Act

Industry Canada requires that the installation and modification of antenna systems be done in a manner that complies with appropriate environmental legislation. This includes the CEAA and local environmental assessment requirements where required by the CEAA.

Proponents will ensure that the environmental assessment process is applied as early as is practical in the planning stages. This will enable proponents and other stakeholders to consider environmental factors in any decisions that may be made. As part of their environmental assessment, proponents are to give due consideration to potential environmental impacts including cumulative effects.

Proponents are advised to view the current CEAA exclusion list[7] to see if their proposed installation meets the requirements to be excluded from assessment under the CEAA.

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[6] BPR-1 - Part I: General Rules can be found on the Spectrum Management and Telecommunications website at: http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01326e.html.

[7] The CEAA exclusion list can be found at http://laws.justice.gc.ca/en/C-15.2/SOR-94-639/index.html.

If not excluded, the proponent must first notify the local Industry Canada office which will direct the proponent on how to proceed with an environmental assessment. At this point, the proponent must not proceed with any construction related to the proposal.

Where the proposal requires assessment under the CEAA, the proponent must either:

- abandon the proposal; or

- participate in the environmental assessment process as established under the CEAA.

Should the environmental assessment identify that there is the potential for an adverse environmental effect, the proponent will be required to describe the effect and propose mitigation measures. Through an environmental assessment, careful consideration may be given to potential adverse environmental effects during the planning stages. This makes it possible to introduce measures which permit the project to proceed while protecting the environment.

Should any significant adverse environmental effect become apparent at any time during the installation, all construction must be stopped, regardless of whether the installation was excluded from environmental assessment.

For all proponents following Industry Canada's Default Public Consultation Process, the proponent's notification package must provide written confirmation of the project's status under the *Canadian Environmental Assessment Act*.

In those situations where an environmental assessment is required, Industry Canada will post a notification of the commencement of the assessment on the Canadian Environmental Assessment Registry website.[8] This will help to ensure that all interested parties, including the general public, are aware of an assessment from the outset. The notification will include the name, location and a summary description of the project, and identify the project proponent(s) and federal department(s) directly involved in the assessment. Other pertinent documents will be placed on the Internet site as the assessment proceeds, including all public notices, decisions and information about follow-up programs. Should mitigation measures be identified further to the assessment, Industry Canada will ensure that the project does not proceed unless these measures are adequately addressed.

In addition, proponents are responsible to ensure that antenna systems are installed and operated in a manner that respects the local environment and complies with other statutory requirements such as the *Canadian Environmental Protection Act*, the *Migratory Birds Convention Act* and the *Species at Risk Act*, where applicable.

[8] The Canadian Environmental Assessment Registry website can be found at: http://www.ceaa-acee.gc.ca/050/index_e.cfm.

7.5 Aeronautical Safety

Proponents must ensure their proposals for any antenna system are first reviewed by Transport Canada and NAV CANADA.

Transport Canada will perform an assessment of the proposal with respect to the potential hazard to air navigation and will notify proponents of any painting and/or lighting requirements for the antenna system. NAV CANADA will comment on whether the proposal has an impact on the provision of their national air navigation system, facilities and other services located off-airport.

As required, the proponent must:

1. submit an Aeronautical Obstruction Clearance form to Transport Canada;

2. submit a Land-use Proposal Submission form to NAV CANADA;

3. include Transport Canada marking requirements in the public notification package;

4. install and maintain the antenna system in a manner that is not a hazard to aeronautical safety; and

5. retain all correspondence.

For those antenna systems subject to Industry Canada's Default Public Consultation Process, the proponent will inform the community of any marking requirements. Where options are possible, proponents are expected to work with the local community and Transport Canada to implement the best and safest marking options. Proponents should be aware that Transport Canada does not advise Industry Canada of marking requirements for proposed structures. Proponents are reminded that the addition of, or modification to, obstruction markings may result in community concern and so any change is to be done in consultation with the local public, land-use authority and/or Transport Canada, as appropriate.

References and Details

Aeronautical Obstruction Clearance forms are available from any Transport Canada Aviation Group Office. Both the Aeronautical Obstruction Clearance form (#26-0427) and a list of Transport Canada Aviation Group regional offices are available on the Transport Canada website.[9] Completed forms are to be submitted directly to the nearest Transport Canada Aviation Group office. (Refer to Canadian Aviation Regulations, Standard 621.19, Standards Obstruction Markings).

Land-use Proposal Submission forms are available from NAV CANADA[10] and completed forms are to be sent to the appropriate NAV CANADA General Manager Airport Operations (GMAO) office, East or West.

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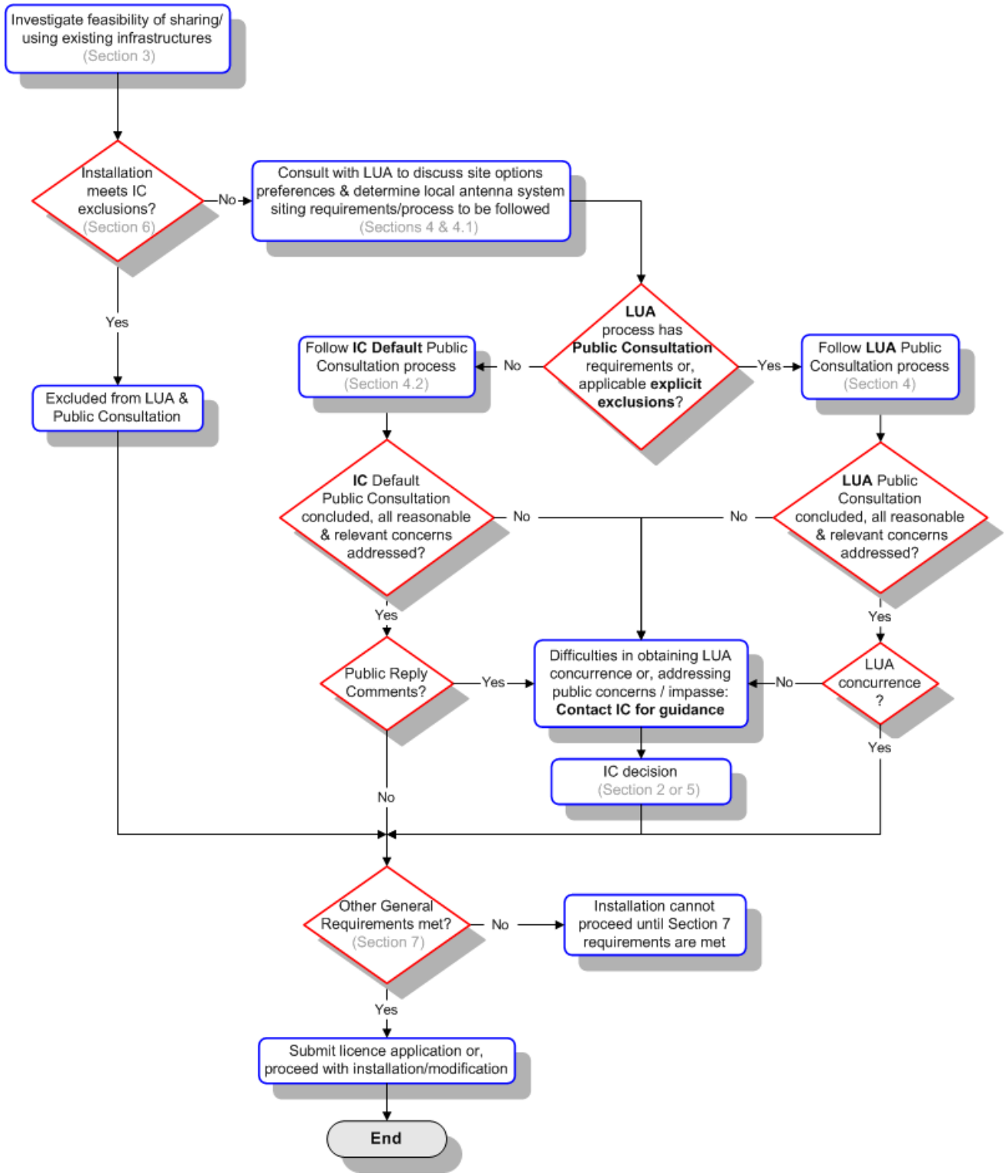
[9] The Transport Canada website can be found at: http://www.tc.gc.ca.

[10] Search keywords "Land-use Proposal" on the NAV CANADA website at: http://www.navcanada.ca.

Appendix 1 - Consultation Flow Chart



Appendix 2 - Industry Canada's Default Public Consultation Process - Public Notification Package (See Section 4.2)

The proponent must ensure that at least ***30 days*** are provided for public comment. Notification must provide all information on how to submit comments to the proponent in writing. The proponent must also provide a copy of the notification package to the land-use authority and the local Industry Canada office at the same time as the package is provided to the public.

Notification must include, but need not be limited to:

(1) the proposed antenna system's purpose, the reasons why existing antenna systems or other infrastructure cannot be used, a list of other structures that were considered unsuitable and future sharing possibilities for the proposal;

(2) the proposed location within the community, the geographic co-ordinates and the specific property or rooftop;

(3) an attestation[1] that the general public will be protected in compliance with Health Canada's Safety Code 6 including combined effects within the local radio environment at all times;

(4) identification of areas accessible to the general public and the access/demarcation measures to control public access;

(5) the project's status under the *Canadian Environmental Assessment Act*[2];

(6) a description of the proposed antenna system including its height and dimensions, a description of any antenna that may be mounted on the supporting structure and simulated images of the proposal;

(7) Transport Canada's aeronautical obstruction marking requirements (whether painting, lighting or both) if available; if not available, the proponent's expectation of Transport Canada's requirements together with an undertaking to provide Transport Canada's requirements once they become available;

(8) an attestation that the installation will respect good engineering practices including structural adequacy;

(9) reference to any applicable local land-use requirements such as local processes, protocols, etc.;

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[1] Example: I, (*name of individual or representative of company*) attest that the radio installation described in this notification package will be installed and operated on an ongoing basis so as to comply with Health Canada's Safety Code 6, as may be amended from time to time, for the protection of the general public including any combined effects of nearby installations within the local radio environment.

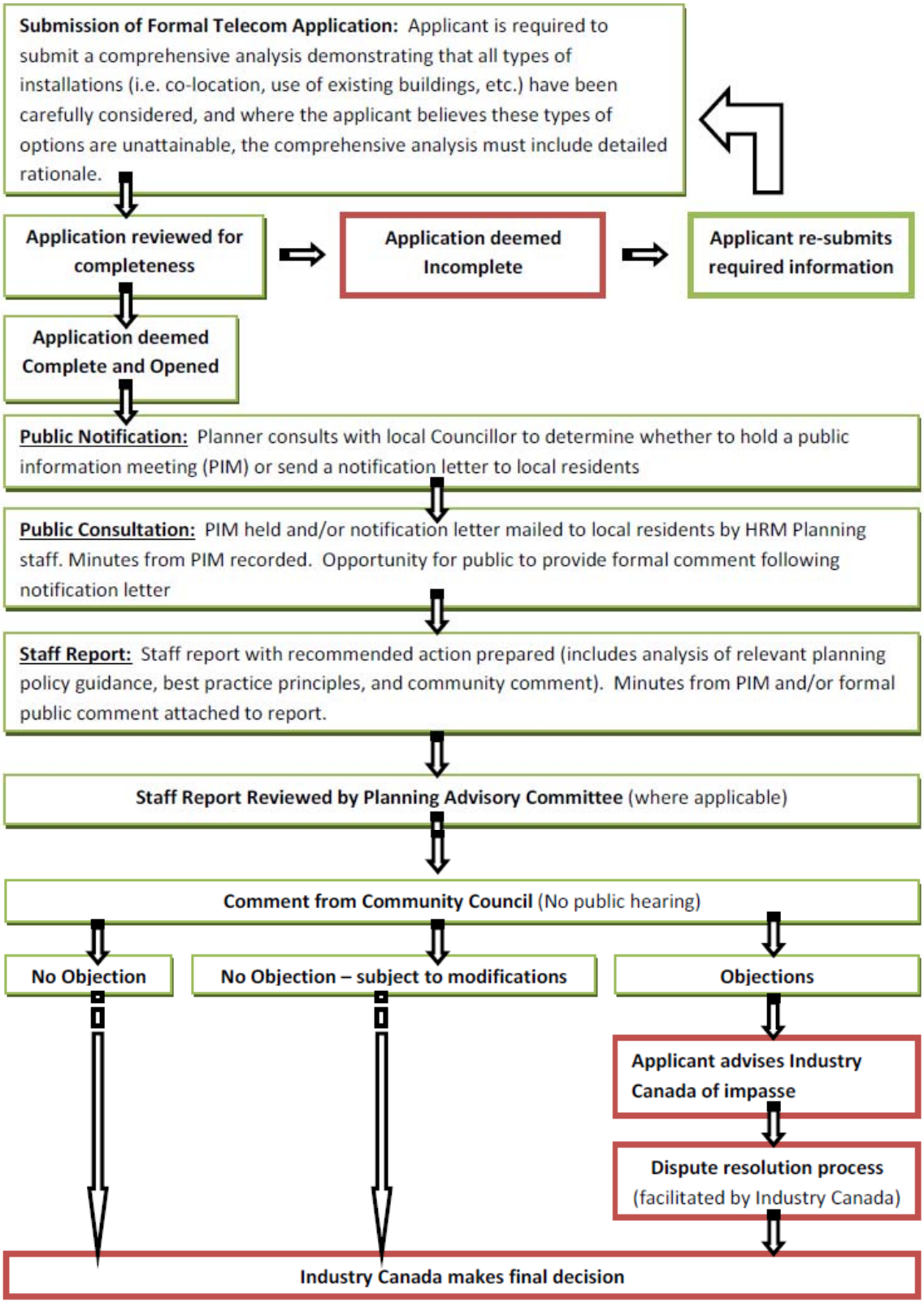
[2] Example: I, (*name of individual or representative of company*) attest that the radio antenna system described in this notification package is excluded from environmental assessment under the *Canadian Environmental Assessment Act*.

(10) notice that general information relating to antenna systems is available on Industry Canada's Spectrum Management and Telecommunications website (http://strategis.ic.gc.ca/antenna);

(11) contact information for the proponent, land-use authorities and the local Industry Canada office; and

(12) closing date for submission of written public comments (not less than ***30 days*** from receipt of notification).

Attachment C – Current HRM Telecommunication Tower Workflow



Attachment D: Proposed HRM Telecommunication Tower Application Workflow (Option 2)