

# REGIONAL DISTRICT OF NANAIMO

## POLICY

SUBJECT:	<i>Electoral Area Telecommunication Antenna System Consultation and Information Policy</i>	POLICY NO:	B1-23
		CROSS REF.:	
EFFECTIVE DATE:	January 24, 2017	APPROVED BY:	Board
REVISION DATE:		PAGE:	1 of 10

### 1. PURPOSE

The purpose of this protocol is to outline the Regional District of Nanaimo's (RDN) role in the siting of Telecommunication Antenna Systems in the Electoral Areas, excluding Electoral Area 'B'; communicate the RDN's expectations of the proponent with regards to public consultation and application submissions; establish that Innovation, Science and Economic Development Canada (ISED) has exclusive authority over the approval of the siting and installation of telecommunication infrastructure in Canada; and provide the RDN Board with consistent procedures and information in which to evaluate the siting of a Telecommunication Antenna System.

### 2. OBJECTIVES

The objectives of the protocol are:

1. To acknowledge that ISED has exclusive jurisdiction over the approval of the siting and installation of telecommunication infrastructure in Canada;
2. To establish a harmonized RDN-wide process for reviewing, evaluating and considering Board comment on telecommunication structure proposals in Electoral Areas, Excluding Electoral Area 'B';
3. To set out an objective process, succinct criteria and clear expectations that are transparent, consistent and predictable for the evaluation of telecommunication antenna structure proposals that:
  - I. Encourage efficient and effective Telecommunication Antenna System infrastructure siting within the RDN while minimizing the number of new antenna sites by encouraging Co-location and the construction of taller towers;
  - II. Establishes when public consultation is required; and
  - III. Assists the proponent in identifying potential land-use, siting, or design concerns with the RDN at an early stage in the process.
4. To establish a local land use consultation framework that respects the authority of ISED in the approval of telecommunication infrastructure while ensuring the RDN and members of the public contribute local knowledge that facilitates and influences the siting, location, and development of telecommunication infrastructure within the Regional District;

5. To advocate for the responsible siting of telecommunication infrastructure within the Regional District;
6. To inform Proponents that the Regional District supports the construction of taller towers over shorter towers for the reason of public safety and supporting Co-location; and
7. To recover costs from telecommunication proponents with consideration given to the costs to the RDN to evaluate and process telecommunication infrastructure proposals.

### 3. JURISDICTION AND ROLES

#### **A. Role of Innovation, Science and Economic Development Canada**

Under the Radiocommunication Act, the Minister of ISED has sole jurisdiction over inter-provincial and international communication facilities. The final decision to approve and license the location of Telecommunication Antenna Systems is made only by ISED. All technical aspects and siting of telecommunication and broadcasting services are regulated by the Federal government under the *Radiocommunication Act*. ISED has an established procedure, *Radiocommunication and Broadcasting Antenna Systems Client Procedures Circular (CPC-2-0-03)*, which prescribes the process and review of proposed telecommunication structures. As part of the process, proponents are required to notify the local land-use authority and nearby residents. Moreover, the proponent is required to address the public's questions, concerns and comments through ISED's prescribed public consultation process.

#### **B. Other Federal Legislation**

With regard to public health, ISED refers to the standards set by Health Canada for determining acceptable levels of radiofrequency electromagnetic energy produced by telecommunication infrastructure. All telecommunication proponents are required to follow the guidelines outlined in Health Canada's *Safety Limits of Human Exposure to Radiofrequency Electromagnetic Fields in the Frequency Range from 3 kHz to 300 GHz – Safety Code 6 (2009)*.<sup>1</sup> In addition to Health Canada's requirements, proponents must comply with the *Canadian Environmental Assessment Act* and any painting and lighting requirements for aeronautical safety prescribed by NAV Canada and Transport Canada.

#### **C. Role of Local Government**

Local governments are referred applications for proposed towers and are provided the opportunity to comment on the proposal. Ultimately, the role of the Regional District is to issue a statement of concurrence or non-concurrence to the Proponent and ISED.<sup>2</sup> The statement considers the land-use compatibility of the antenna structure, the responses of the impacted residents and the proponent's adherence to this protocol. In addition, local government can communicate and provide guidance to the Proponent on the particular sensitivities, planning priorities, and characteristics of an area. Moreover, local government can establish siting guidelines, which includes reasonably augmenting the public consultation process as defined in ISED's *Radiocommunication and Broadcasting Antenna Systems Client Procedures Circular (CPC-2-0-03)*.

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<sup>1</sup> The Regional District of Nanaimo does not assess any submission for an Antenna System with respect to health and radiofrequency exposure issues or any other non-placement or non-design related issues. Any questions or comments the public may wish to make regarding health issues related to cell phones, cell towers and radiofrequency exposure guidelines (Safety Code 6) should be directed to Health Canada on-line at [healthcanada.gc.ca](http://healthcanada.gc.ca) and to the Proponent's representative.

<sup>2</sup> Regardless of whether the Regional District issues a statement of concurrence or non-concurrence, ISED has exclusive jurisdiction over the approval of the siting and installation of telecommunication infrastructure in Canada.

#### 4. INTERPERTATION

##### **Definitions**

**Co-location** means the placement of antennas and equipment operated by one or more Proponents on a Telecommunication Antenna System owned by a different party, thereby creating a shared facility;

**Community Association** means an active area or neighbourhood specific group or association within the Regional District;

**Emergency Service Providers** means any police, fire, ambulance or search and rescue organization with a typical response area within the Notification Distance of a proposed Telecommunication Antenna System;

**Localized Content** means any public consultation materials, supporting documentation and/or other relevant promotional material provided by a Proponent for a proposed Telecommunication Antenna System which has been tailored specifically to the context of the RDN;

**Neighbouring Land-Use Jurisdiction** means any land-use authority or First Nations within a Prescribed Distance of any proposed Telecommunication Antenna System;

**Notification Distance** means the prescribed horizontal distance measured from the base of a proposed Freestanding Antenna System or the base of any building or structure that a Building/Structure-Mounted Antenna System is mounted to;

**Proponent** means a company or organization, including contractors or agents undertaking work for telecommunication carriers, for the purpose of providing commercial telecommunication services;

**Regional District** means the Regional District of Nanaimo;

**School District** means an area created or constituted as a school district under the *School Act*;

**Sensitive Community Locations** means institutions and services, such as schools, daycares, recreation facilities, public parks, or other sensitive locations;

**Telecommunication Antenna System** means an exterior transmitting device – or group of devices – used to receive and/or transmit radio-frequency (RF) signals, microwave signals, or other federally-licensed communications energy transmitted from, or to be received by, other antennas. Telecommunications Antenna Systems include the antenna, and may include a supporting tower, mast or other supporting structure, and an equipment shelter. This protocol refers to the following two types of Telecommunication Antenna Systems:

**Freestanding Antenna System** means a structure built from the ground for the expressed purpose of hosting transmitting devices; and

**Building/Structure-Mounted Antenna System** means a Telecommunication Antenna System mounted on an existing structure or building and for the purposes of height calculations, height shall be measured from the base of any building or structure to the most elevated portion of any antenna system.

## 5. INFORMATION AND CONSULTATION POLICY

### ***A. Exemptions from Telecommunication Antenna System Proposal Review and Public Consultation***

Activities exempt from public consultation requirements by ISED through its policies and procedures are also exempt from the Regional District's Telecommunication Antenna System proposal review and public consultation requirements. Exempt activities include the following:

1. Existing Freestanding Antenna Systems: where modifications are made, antennas added or the tower replaced, including facilitating Co-location, provided that the total cumulative height increase is no greater than 25% of the height of the initial Antenna System installation. No increase in height may occur within one year of completion of the initial construction;
2. Maintenance of existing radio apparatus including the Telecommunication Antenna System, transmission line, mast, tower or other antenna-supporting structure;
3. An addition to or modification of an existing Telecommunication Antenna System that does not result in an overall height increase;
4. Maintenance of a Telecommunication Antenna System's painting or lighting in order to comply with either Transport Canada or NAV Canada's requirements;
5. Installation, for a limited duration of not more than three months, of a Telecommunication Antenna System that is used for a special event, or one that is used to support local, provincial, territorial or national emergency operations during an emergency, and is removed within three months after the emergency or event.

### ***B. Site Investigation Meeting and Regional District Notification***

Prior to submitting a Telecommunication Antenna System siting proposal, the Proponent will notify the Manager of Current Planning that locations in the community are being considered for potential siting options. At such time the proponent will initiate a site investigation meeting with the Regional District.

The Proponent will bring information pertaining to the following to the site investigation meeting:

- The proposed location;
- Potential alternative locations;
- The type and height of the proposed Telecommunication Antenna System and alternatives considered;
- Preliminary drawings or visual renderings of the proposed Telecommunication Antenna System superimposed to scale; and
- Documentation regarding the investigation of Co-location potentials on existing or proposed Telecommunication Antenna Systems within 1000 metres of the subject proposal.

The purpose of the site investigation meeting is to:

- Identify preliminary issues of concern;
- Give opportunity for the Proponent to outline the proposal to the Regional District;
- Give opportunity for the Regional District to provide initial feedback to the Proponent;
- Identify any potential Sensitive Community Locations as defined by this policy;

- Identify any potential Neighbouring Land-Use Jurisdictions, School Districts, Emergency Service Providers and Community Associations that may be required to provide comment on the proposal as outlined in this Policy;
- Guide the proponent on creating Localized Content for public notification and distribution; and
- Inform the Proponent of the Regional District's preference of taller towers over shorter towers for the reason of public safety and supporting future Co-location opportunities.

### ***C. Following the Site Investigation Meeting***

Following the site investigation meeting, the Regional District will provide the proponent with an information package that includes:

1. This Protocol, which outlines the approval process and requirements for public consultation; and
2. Proposal submission requirements.

### ***D. Submission to the Regional District: Initial Application Proposal***

The Proponent must include the following information when submitting a Telecommunication Antenna System siting proposal to the Regional District that does not meet the exemption criteria for the proposal review and public consultation requirement:

1. A letter or report from the Proponent indicating the need for the proposal, the proposed site, the rationale for site selection, a map of RF coverage and capacity of existing Antenna Systems in the general area and a summary of opportunities for Co-location potentials on existing or proposed Antenna Systems within 1000 metres of the subject proposal;
2. A written and signed attestation that there are no Co-location opportunities within 1000 metres of the proposed siting location;
3. Engineering plans of the proposed structure which includes information outlining the number of antennas proposed on the structure, the type of wireless service each antenna provides, and the structure's ability to accommodate future antennas (including Co-location);
4. Visual rendering(s) of the proposed Antenna System superimposed to scale;
5. A site plan showing the proposed development situated on the site;
6. A map showing the horizontal distance between the property boundary of the proposed site and the nearest property in residential use;
7. Confirmation of legal ownership of the lands subject to the proposal, or a signed letter of authorization from the registered property owner of the land, their agent or other person(s) having legal or equitable interest in the land;

8. A copy of Certificate of Indefeasible Title (dated within the past 30 days of proposal submission and any restrictions, restrictive covenants, easements or rights-of-way registered against the lands the Telecommunication Antenna System is proposed on;
9. A written and signed attestation that the Telecommunication Antenna System will respect Health Canada's Safety Code 6 which sets safe radiofrequency emission levels for these devices including the cumulative effects of multiple Telecommunication Antenna Systems at the location and in the immediate area;
10. A map showing the maximum electromagnetic radiation power levels as watts per square metre, at ground level within 1000 metres of the proposed Telecommunication Antenna System. The map should include the cumulative effects of multiple Telecommunication Antenna Systems at the proposed location with any other existing Telecommunication Antenna Systems broadcasting in the area;
11. A preliminary geotechnical site investigation report where the potential for geotechnical hazards exist;
12. Any other documentation as identified by the Regional District following the site investigation meeting; and
13. The applicable application fee as required by Bylaw No. 1259, 2002.

***E. Submission to the Regional District: Prior to Public Notification***

Prior to public notification, the proponent must include the following information to the Regional District:

1. A draft of all public notices to be delivered by mail to the public, School Districts, Community Associations and Neighbouring Land-use Jurisdictions, which is to be approved by Regional District staff prior to mail out;
2. An address list and map indicating all properties which are to be notified by mail of the proposal;
3. A draft of newspaper advertisements indicating the time and date of any public information meeting, which is to be reviewed by Regional District staff prior to publication (if a public information meeting is required); and
4. A copy of written correspondence indicating that the Proponent has referred the proposal to local fire, police and ambulance services, and if given, any comments received from emergency services should be submitted to Regional District staff prior to mail out.

***F. Submission to the Regional District: Request for Concurrence***

Prior to submitting a formal request for siting concurrence, the proponent must include the following information to the Regional District:

1. A summary of and a copy of all public submissions and responses, as well as the proponent's response to public submissions as outlined in ISED's *Radiocommunication and Broadcasting Antenna Systems Client Procedures Circular (CPC-2-0-03)*;
2. A letter outlining any NAV Canada and Transport Canada requirements for lighting and painting on the proposed Telecommunication Antenna System;
3. A copy of all plans and studies (i.e. Environmental Review, Geotechnical Reports, etc.) required for the construction of the proposed Telecommunication Antenna System;
4. A package summarizing the results of the public information meeting containing at a minimum, the following:
  - i. The time, date, location and number of people in attendance of any public information meeting held;
  - ii. A List of attendees, including names, addresses and phone numbers (where provided voluntarily);
  - iii. Copies of all letters and other written communications received; and
  - iv. A letter outlining how all the concerns and issues raised by the public were addressed.

## **6. PUBLIC CONSULTATION PROCESS**

In addition to ISED's public consultation requirements as prescribed in *Radiocommunication and Broadcasting Antenna Systems Client Procedures Circular (CPC-2-0-03)* the Regional District requests the applicant complete the following augmentations to the public consultation process.

### **A. Notification Requirements**

1. The Proponent will provide written notice, sent by regular mail or hand delivered, to all property owners with a Notification Distance of:
  - i. 10 metres for every one metre in height for a Freestanding Antenna System; or
  - ii. 10 metres for every one metre in height for a Building/Structure-Mounted Antenna System;
2. The Proponent will provide written notice, sent by regular mail or hand delivered, to all Neighbouring Land-Use Jurisdictions, Emergency Service Providers and School Districts with a Notification Distance of the greater of:
  - i. 500 metres; or
  - ii. 10 metres for every one metre in height for a Freestanding Antenna System or 10 metres for every one metre in height for a Building/Structure-Mounted Antenna System;
3. The Proponent will provide notice to ISED's regional office;
4. The Proponent will provide written notification to Community Associations identified at the site investigation meeting;
5. The proponent will place notice of the Telecommunication Antenna System proposal in at least two editions of a local newspaper;

6. Where a public information meeting is to be held for a proposed Telecommunication Antenna System, a notice of the meeting shall be placed in at least two editions of a local newspaper and the proponent will provide written notice of the meeting sent by regular mail or hand delivered, to all property owners, Land-Use Jurisdictions, Emergency Service Providers and School Districts with a Notification Distance of:
  - i. 10 metres for every one metre in height for a Freestanding Antenna System; or
  - ii. 10 metres for every one metre in height for a Building/Structure-Mounted Antenna System.

### **B. Public Information Session**

The Regional District requests the Proponent chair a public information meeting for all proposed Telecommunication Antenna Systems exceeding 15 metres in height or where there is significant public interest in the proposed Telecommunication Antenna System. The type of public meeting to be conducted is up to the discretion of the proponent, however:

- An appropriate date, time and location for the public information meeting will be determined in consultation with the Regional District's Current Planning Department;
- The Proponent will make available at the public information meeting an appropriate visual display of the proposal, including a copy of the site plan submitted with the application and an aerial photograph of the proposed site; and
- All information and materials presented should consist of Localized Content.

The Proponent shall not schedule a public information meeting less than seven days prior to the close of the public consultation period.

### **C. Notice Requirements**

The Proponent shall include at a minimum the following information in any mailed or otherwise delivered public notice:

1. Information on the location, height, type, design and colour of the proposed Telecommunication Antenna System, including a copy of the site plan submitted with the application;
2. The rationale, including height and location requirements, of the proposed Telecommunication Antenna System;
3. Clear information on the role of ISED as the sole approving authority for the siting of Telecommunication Antenna Systems and that the Regional District only provides a statement of siting concurrence/non-concurrence at the request of the proponent;
4. Information that comments and responses should be directed to the proponent and that all submissions received by the proponent will be forwarded to ISED and the Regional District for their records;
5. The name and contact information of a contact person for the Proponent;
6. The name and contact information of ISED;
5. The name and contact information of the Regional Districts Current Planning department;



6. An attestation that the Telecommunication Antenna System will respect Health Canada's Safety Code 6 which sets safe radiofrequency emission levels for these devices; and
7. The date, time and location of the public information meeting where required.

The notification shall be sent in an envelope addressed to the "Occupant" and/or "Tenants" and shall clearly show in bold type on the face of the envelope the statement: "NOTICE FOR RESIDENTS: NEW PROPOSED CELL TOWER - INFORMATION IS ENCLOSED."

## **7. FEES**

The Proponent must pay the applicable planning fee as required by Bylaw No. 1259, 2002.

The Proponent is responsible for securing applicable applications or permissions from all relevant Regional District departments and paying any applicable application fees or charges as required to the Regional District.

## **8. CLOSE OF CONSULTATION AND REQUEST FOR CONCURRENCE**

The purpose of this protocol is to provide the RDN Board with consistent procedures and information in which to evaluate the siting of a Telecommunication Antenna System. Following the commencement of the consultation period, the Proponent may request a statement of concurrence from the RDN Board. Once a request is received, RDN staff will prepare a report, to be received first by the Electoral Area Services Committee, who will provide a recommendation to the Board. The staff report will include information on the proposed Telecommunication Antenna System, a site plan, the location of the proposal, an overview of the application and all public consultation materials submitted by the Proponent for the Board's review. It is the discretion of the Board to provide a statement of siting concurrence, non-concurrence or to provide no comment with respect to the Proponent's proposal.

### ***A. Rescinding a Concurrence***

The Regional District may rescind its concurrence if following the issuance of a concurrence statement, it is determined by the Regional District that the proposal contains a misrepresentation or a failure to disclose all the pertinent information regarding the proposal, or the plans and conditions upon which the concurrence was issued in writing have not been complied with, and a resolution cannot be reached to correct the issue. In such cases, the Regional District will provide notification in writing to the Proponent and to ISED and will include the reason(s) for the rescinding of its concurrence.

### ***B. Duration of Concurrence***

A concurrence statement remains in effect for a maximum period of three years from the date it was issued by the Regional District for a specific tower proposal. If construction has not commenced within this time period, the concurrence expires and a new submission and review process, including public consultation as applicable, is necessary prior to any construction occurring. In addition, the Regional District requests that the Proponent send a written notification of an intent to construct to the Regional District's Current Planning Department once the work to erect the structure is about to start. This notification should be sent 60 days prior to any construction commencing. No further consultation or notification by the Proponent is required.

### ***C. Transfer of Concurrence***

Once concurrence has been issued, that concurrence may be transferred from the original Proponent to another Proponent without the need for further consultation provided that:

- All information gathered by the original Proponent in support of obtaining the concurrence from the Regional District is transferred to the current Proponent;
- The structure for which concurrence was issued to the original Proponent is what the current Proponent builds; and
- Construction of the structure is commenced within the duration of the concurrence period.

### **9. TERMS OF USE OF THIS POLICY**

The Board of the Regional District of Nanaimo is not in any way bound by this policy and is free to apply, or not apply, any evaluation criterion it deems appropriate in its consideration of applications.