



To: Mayor and Councillors
From: Terry Crowe
Manager, Policy Planning

Date: March 13, 2014
File: 08-4040- 01-2014 Vol. 1

**Re: Richmond Response:
Industry Canada's Proposed Amendments to Antenna Tower Siting Procedures**

Purpose

The purpose of this memorandum is to update Council regarding Industry Canada's invitation to comment on proposed amendments to its antenna tower siting procedures titled: "*Radiocommunication and Broadcasting Antenna Systems Procedures - Client Procedures Circular: CPC -2-0-03 (Procedures)*" (Attachment 1).

Background

Industry Canada regulates the development, siting, and local government and community consultation regarding radiotelecommunications antenna systems through the above *Procedures* which were approved on January 1, 2008. The main objective of the *Procedures* is to facilitate an open, transparent process that promotes the continued safe expansion of wireless technologies and services, while ensuring that the associated infrastructure is deployed responsibly by allowing for local input into antenna siting decisions. Industry Canada is proposing to amend the *Procedures* which focus on enabling more local government and community consultation in the siting of towers and is seeking comments on them.

Analysis

The proposed changes to the *Procedures* are summarized below:

- *Post-Consultation Construction Time Limit*
Approved antenna systems would be required to be completed within three (3) years after the conclusion of consultation, or additional consultation would be required.
- *Limiting of Exclusions from Public Consultation*
Public consultation for free standing antenna systems (towers) under 15m (48 ft.) in height used by broadcasting or telecommunications carriers would be required. Also, existing antenna systems which, within one year of being constructed, propose to increase their height by 25% of the original height, would be required to consult with the public.
- *Definition of Tower Height*
The height of towers is to be better defined by no longer allowing artificial mounding (e.g., soil and aggregate) around the towers to be exempt from the height calculations.

– *Canadian Environmental Assessment Act*

The construction and modification of antenna systems would be done in a manner that complies with appropriate environmental legislation, including the *Canadian Environmental Assessment Act*.

Staff have reviewed the proposed changes and find that they are beneficial to the City, as there would be consultation opportunities for free standing towers under 15 m (48 ft.), improved clarity regarding the types of tower proposals which require consultation and when it is to occur, and improved environmental regulations for towers. Staff find the proposed changes acceptable.

Recommendation

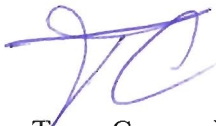
Given the above, staff offer the following recommendation for Council’s consideration:

That Industry Canada be advised that the City of Richmond supports the proposed changes to the document, “Radiocommunication and Broadcasting Antenna Systems (CPC-2-0-03)”.

Next Steps

Once the proposed federal changes are approved, staff will bring forward a report to enable Council to make complementary changes to the City’s *Telecommunication Antenna Consultation and Siting Protocol Policy 5043* and *Zoning Bylaw 8500*.

Staff will be available at the March 18, 2014, Planning Committee meeting to answer any questions.



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Policy Planning (4139)



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Attachment 1: Amendments to Industry Canada's Antenna Tower Siting Procedures

pc:

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Industry
Canada

Industrie
Canada

DGSO-001-14
February 2014

Consultation on Amendments to Industry Canada's Antenna Tower Siting Procedures

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1. Intent

1. Radiocommunication antenna systems, including their supporting towers, are a matter of exclusive federal jurisdiction, with the Minister of Industry being responsible for the orderly development of communication facilities. In this context, Industry Canada is proposing specific updates to the procedures for the siting of antenna systems in order to improve transparency and to address concerns that local residents and municipalities have expressed about antenna tower siting. Comments are being sought on: the application of the procedures; an updated default public consultation process; a new construction time limit; updates to the exclusions from consultation; as well as updates to reflect the new *Canadian Environmental Assessment Act, 2012* (CEAA 2012).

2. Mandate

2. Under the *Radiocommunication Act*, the Minister may, taking into account all matters that the Minister considers relevant for ensuring the orderly development and efficient operation of radiocommunication in Canada, approve each site where antenna systems, including antenna towers, may be located. The installation or operation of an antenna system that is not in accordance with the Minister's requirements may result in its alteration or removal and other sanctions against the operator in accordance with the *Radiocommunication Act*.

3. Policy

3. Although the siting of antenna systems is a matter of federal jurisdiction, Industry Canada has procedures in place to address reasonable and relevant concerns of the local land-use authority (generally, the local municipality) and the community that it represents. The main objective of the antenna siting procedures is to facilitate an open, transparent process that promotes the continued safe expansion of wireless technologies and services while ensuring that the associated infrastructure is deployed responsibly by allowing for local input into antenna siting decisions.

4. Anyone (also referred to herein as "the proponent") planning to install or modify an antenna system is required to notify and consult with the municipality and the local community as set out in Industry Canada's antenna siting procedures. Unless the proposal meets exclusion criteria, proponents must consult with the local land-use authority, with the aim of obtaining its concurrence in writing. The Department's procedures include a dispute resolution process to be followed in the event that a proponent and municipality reach an impasse, which allows either one of them to ask Industry Canada to resolve the concerns under dispute. In cases where the local authority does not have an applicable public consultation process, proponents must follow Industry Canada's default public consultation process in order to ensure that local residents are consulted.

4. Background

5. Updated procedures for the siting of antenna systems, outlined in Client Procedures Circular CPC-2-0-03, Issue 4, *Radiocommunication and Broadcasting Antenna Systems*, came into effect on January 1, 2008. The procedures apply to everyone seeking to install or modify an antenna system, irrespective of their nature of business or legal status, including government, Crown agencies and

federally incorporated companies. The proposed changes below are suggested updates to CPC-2-0-03, Issue 4.

6. Since 2008, the mobile phone industry has experienced tremendous growth, which has been driven largely by the public's demand for mobile broadband services. To facilitate the growth, operators of mobile services have sought to install a growing number of new antenna systems and, increasingly, the locations sought for the new installations are located in residential neighbourhoods. This is because the antenna systems must be located nearby to those who use the services in order that Canadians have access to the latest and fastest services. Consequently, finding appropriate locations has become more difficult and has resulted in growing concerns about antenna systems, highlighting the importance of including municipalities and communities in the process.

7. The vast majority of antenna installations are constructed in a spirit of cooperation between municipalities, other land-use authorities, local residents and proponents and in accordance with any applicable consultation procedures. However, given the factors of growth, all stakeholders are interested in ensuring that antenna siting procedures keep pace with current circumstances.

8. On February 28, 2013, the Federation of Canadian Municipalities (FCM) and the Canadian Wireless Telecommunications Association (CWTA) announced the release of an *Antenna System Siting Protocol Template*.¹ The two national organizations worked together in partnership in order to establish a template to provide municipalities with a tool to develop customized protocols for the siting of antenna systems within their municipality. Industry Canada supports development of local consultation protocols and stakeholders working together to find mutually agreeable solutions.²

9. The members of both the FCM and CWTA support the use of the protocol template as a model for an effective public consultation process under Industry Canada's antenna siting procedures. Municipalities that are members of the FCM are not obligated to use the protocol template; however, it is recognized that there is merit in harmonizing antenna siting protocols across the country. Some of the proposed updates, outlined in Section 5 below, align Industry Canada's antenna siting procedures with key elements of the FCM/CWTA protocol template.

10. Moreover, since the publication of the antenna siting procedures in 2008, Industry Canada has received and responded to several requests for clarification. Some of the proposed updates reflect these clarifications. Furthermore, the procedures require an update to reflect the new CEAA 2012.

11. This document refers to "antenna systems," which are normally composed of an antenna and some type of supporting structure. For the purposes of this consultation, we will refer to all structures that are built for the purpose of supporting antennas as "towers." Most antennas have their own integral mast so that they can be fastened directly to a building or a tower. Thus, where this document refers to an "antenna," the term includes the integral mast or other fastener. Finally, for the purposes of this document, a "proposal" means either the planned installation or modification of an antenna or an antenna system.

¹ The FCM/CWTA template can be found on the FCM's website.

² See Industry Canada's *Guide to Assist Land-use Authorities in Developing Antenna Siting Protocols*.

5. Review of Updates

12. The following are proposed updates to Industry Canada's antenna siting procedures and a discussion on the rationale for the updates. Noteworthy changes appear in **bold** text.

5.1 Antenna Siting Procedures

Proposed Update to Section 1.2 of CPC-2-0-03

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. **This includes telecommunications carriers,³ businesses, governments, Crown agencies and the public. Anyone who proposes, uses or owns an antenna system must follow these procedures. 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, parts of this process contain obligations that apply to existing antenna system owners.

Rationale for Update

13. The term "telecommunications carriers", or "carriers", replaces the terms "Personal Communications Services (PCS)" and "cellular" in order to capture various types of operators that provide a broad range of services that have evolved significantly over the past 30 years. Over this period, Canadians have increasingly demanded better coverage, faster data rates and more advanced, data-intensive mobile applications, such as video-on-demand. In response, carriers have deployed ubiquitous, high-capacity radio networks based on state-of-the-art technologies, which rely on antenna systems, including towers.

14. Third party tower owners have become more prevalent in Canada and other countries. This is especially true in the United States where carriers rely extensively on the sites provided by third party tower owners. In Canada, under the *Radiocommunication Act*, the Minister's mandate on siting applies to any mast, tower or other structure built for the purpose of supporting an antenna. This is the case whether the proponent is subject to a radio authorization or wishes to build on behalf of, or in order to lease antenna space to, an authorized user. Accordingly, Industry Canada is of the view that the antenna siting procedures should be updated to explicitly include third party tower owners.

15. Industry Canada is seeking comments on the proposed update.

³ Under the *Telecommunications Act*, "telecommunications common carrier" means a person who owns or operates a transmission facility used by that person or another person to provide telecommunications services to the public for compensation.

5.2 Industry Canada's Default Public Consultation Process

Proposed Update to Section 4.2 of CPC-2-0-03

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. **Public notification of an upcoming consultation must be clearly marked, making reference to the proposed antenna system, so that it is not misinterpreted as junk mail. The notice must be sent by regular mail or be hand delivered. The face of the envelope must clearly indicate that the recipient is within the prescribed notification radius of the proposed antenna system.**
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 systems 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. **Height is measured from the lowest ground level at the base, including foundation, to the tallest point of the antenna system. Any attempt to artificially reduce the height (addition of soil, aggregate, etc.) is unacceptable.**

Rationale for Update

16. Industry Canada requires that nearby residents be consulted regarding non-excluded antenna proposals. The Department is concerned that residents may not realize that they have received notification of a proposed tower. The FCM/CWTA protocol template includes specific language to be used on the outside of the envelope addressed to the occupant.⁴ Industry Canada supports the use of clear messaging to identify the notification and prevent the notification as being viewed as junk mail.

17. Similarly, the Department has concerns regarding notification when the proposed support structure is 30 metres or more in height. The update includes new language to clarify how height is measured.

18. Industry Canada is seeking comments on the appropriateness of these proposed updates.

⁴ See [FCM/CWTA protocol template](#), page 20.

5.3 Post-Consultation Construction Time Limit

Proposed New Section 4.4 to be added to CPC-2-0-03

Whether the proponent followed a land-use authority's process or Industry Canada's default public consultation process, construction of an antenna system must be completed within three years of conclusion of consultation. After three years, previous consultations will no longer be deemed to be valid.

Rationale for Update

19. The FCM/CWTA protocol template includes a limit on the duration of a concurrence by a municipality.⁵ Specifically, a concurrence will remain in effect for a maximum of three years from the date that it was issued.

20. The Department agrees that there is benefit in specifying a time frame for construction following completion of the consultation given that many factors, such as additional residential development, could occur in the interim.

21. Industry Canada is seeking public input on the appropriateness of specifying a three-year time frame for completion of construction.

5.4 Exclusions

Proposed Update to Section 6 of CPC-2-0-03

All proponents must consult the land-use authority and the public unless a proposal is specifically excluded. Individual circumstances vary with each antenna system installation and modification, and the exclusion criteria below should be applied in consideration of local circumstances. Consequently, it may be prudent for the proponent to consult even though the proposal meets an exclusion noted below. 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's marking and lighting requirements for the proposed structure.

The following proposals are excluded from land-use authority and public consultation requirements, but must still satisfy the General Requirements outlined in Section 7:

- ***New Antenna Systems***: where the height is less than 15 metres above ground level. **This exclusion does not apply to antenna systems to be used by broadcasting undertakings or**

⁵ See [FCM/CWTA protocol template](#), page 24.

telecommunications carriers;

- **Existing Towers:** modifications may be made, or the tower may be replaced, to facilitate sharing or the addition of antennas, provided that the total height increase is no greater than 25% of the height of the initial antenna system installation.⁶ **No increase in height may occur within one year of completion of the initial construction;**
- **Non-Tower Structures:** antennas on buildings, water towers, lamp posts, etc. may be installed provided that the height of the structure is not increased by more than 25%; **and**
- **Temporary Antenna Systems:** used for special events or emergency operations and must be removed three months after the start of the emergency or special event.

No consultation is required prior to performing maintenance on an existing antenna system.

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

Height is measured from the lowest ground level at the base, including foundation, to the tallest point of the antenna system. Any attempt to artificially reduce the height (addition of soil, aggregate, etc.) will not be taken into account in the measurement.

Rationale for Update

22. Industry Canada has concerns about the application of the current exclusions. In developing the FCM/CWTA protocol template, the FCM and CWTA agreed that proponents will follow all or part of the consultation process for previously excluded antenna systems, as long as these requirements are reasonable. Industry Canada believes that local residents and municipalities should be consulted and the proposed update modifies certain exclusions.

23. The explosive demand for broadband services is accelerating new site development. With advancements in wireless technology, new sites will increasingly involve smaller cells deployed in localized indoor and outdoor areas. Newer technologies will be deployed on utility poles and street lamps. The smaller cells will also transmit signals at power levels much lower than existing larger cells. Some installations may also be less visible (e.g. rooftop installation). Given that the small cells cover a smaller area, more installations will be required to provide the same coverage area as a larger cell.

24. With this proposed update to its procedures, Industry Canada's objective is to allow local residents and municipalities to be informed about new commercial towers in their communities. However, municipalities and proponents may feel increased administrative burden if these proponents must consult on all towers. The Department recognizes the potential administrative burden from this update; however, the antenna siting procedures also provide municipalities and other land-use authorities with the latitude to exclude certain antenna systems from all, or part of, their consultation process or to have different public consultation processes tailored to different types of locations or structures.

25. Industry Canada is seeking comments on the updates to the exclusions proposed above.

⁶ Initial antenna system installation refers to the system as it was first consulted on or installed.

5.5 Canadian Environmental Assessment Act, 2012

Proposed Update to Section 7.4 of CPC-2-0-03

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 Canadian Environmental Assessment Act, CEAA 2012, where the antenna system is incidental to a physical activity or project designated under CEAA 2012, or is located on federal lands.**

An antenna system may not proceed where it is incidental to a designated project (as described in the Regulations Designating Physical Activities), or is otherwise expressly designated by the Minister of the Environment without satisfying certain requirements applicable to designated projects. Therefore, a proponent of this type of project must contact Industry Canada for direction on how to proceed.

Any proposed antenna system on federal land may not proceed without a determination of environmental effects by Industry Canada. In order to assist the Department in making such a determination, proponents must submit a project description to Industry Canada, considering and addressing those elements of the environment described in CEAA 2012, as well as any determination of environmental effects that may have been made by the authority responsible for managing the federal land. Industry Canada may also require further information before it can complete its assessment. Industry Canada will inform the proponent of the results of its determination and may impose conditions related to mitigating any adverse effects after making its determination and/or may need to refer the matter to the Governor-in-Council under CEAA 2012.

Also, notices under Industry Canada's default public consultation process require written confirmation of the project's status under CEAA 2012 (e.g., whether it is incidental to a designated project or, if not, whether it is on federal lands).

In addition to CEAA requirements, proponents are responsible to ensure that antenna systems are installed and operated in a manner that respects the local environment and that complies with other statutory requirements, such as those under the *Canadian Environmental Protection Act, 1999*, the *Migratory Birds Convention Act, 1994*, and the *Species at Risk Act*, as applicable.

For projects north of the 60th parallel, environmental assessment requirements may arise from federal statutes other than the aforementioned Acts or from Comprehensive Land Claim Agreements. Industry Canada requires that installation or modification of antennas or antenna-supporting structures be done in accordance with these requirements, as appropriate.

Rationale for Update

26. Industry Canada's antenna siting procedures require an update to reflect the requirements of CEAA 2012. The Act offers an updated approach that responds to Canada's current economic and environmental context. The former CEAA captured thousands of small and routine proposals that had little risk of significant adverse environmental effects. CEAA 2012 focuses on major proposals with significant risks to the environment. Under the former CEAA, the vast majority of antenna installations

were excluded from environmental assessment, and so, even fewer assessments are anticipated under CEAA 2012.

27. Industry Canada is seeking comments on these updates.

6. Submitting Comments

28. Industry Canada is seeking comments on the specific updates noted above, and also welcomes comments on any other suggested changes to CPC-2-0-03 that relate to the above updates. Industry Canada may make consequential updates elsewhere in the antenna siting procedures (CPC-2-0-03).

29. Respondents are requested to provide their comments in electronic format (Microsoft Word or Adobe PDF) to the following email address: spectrum.operations@ic.gc.ca. Soon after the close of the comment period, all comments will be posted on Industry Canada's Spectrum Management and Telecommunications website at www.ic.gc.ca/spectrum. All comments will be reviewed and considered by Industry Canada in order to arrive at the final procedures.

30. Written submissions should be addressed to the Director, Spectrum Management Operations, Industry Canada, 235 Queen Street, Ottawa, Ontario K1A 0H5. All submissions should cite the *Canada Gazette*, Part I, the publication date, the title and the notice reference number (DGSO-001-14). Parties should submit their comments no later than March 31, 2014, to ensure consideration.



Industry
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CPC-2-0-03

Issue 4

Released: June 2007

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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

PLN - 285

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>.

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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 office¹ 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](http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01742e.html) 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 processes² 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-2⁵ in order to minimize the malfunctioning of electronic equipment in the local surroundings. Broadcasting proponents and existing undertakings should refer to Broadcasting

⁴ [Safety Code 6](http://www.hc-sc.gc.ca/ewh-semt/pubs/radiation/radio_guide-lignes_direct-eng.php) 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: <http://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf01005.html>.

Procedures and Rules - Part 1, *General Rules* (BPR-1) for additional information and requirements⁶ 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 list⁷ to see if their proposed installation meets the requirements to be excluded from assessment under the CEAA.

⁶ [BPR-1 - Part I: General Rules](http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01326e.html) 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](http://laws.justice.gc.ca/en/C-15.2/SOR-94-639/index.html) 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](http://www.ceaa-acee.gc.ca/050/index_e.cfm) 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

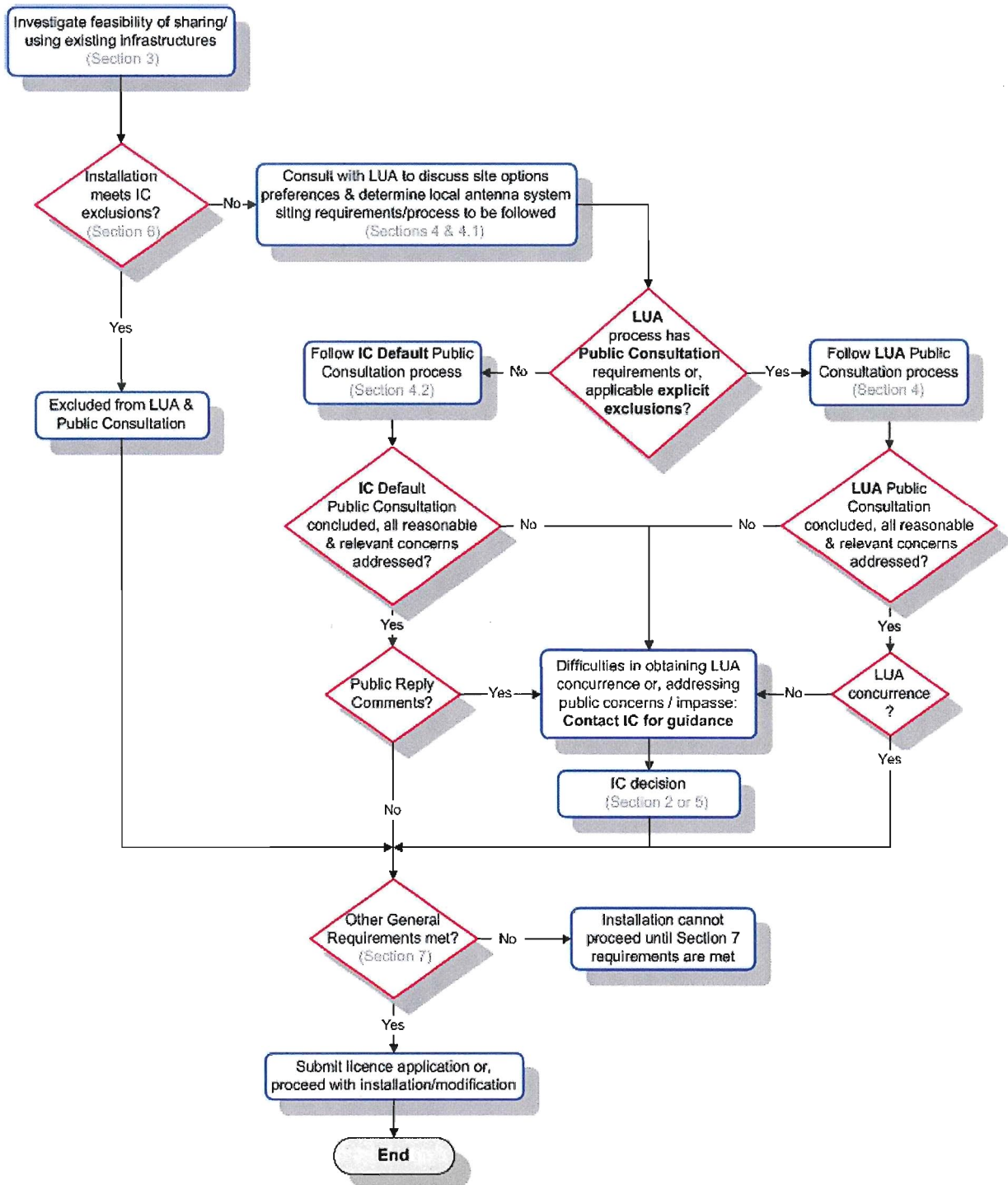
Aeronautical Obstruction Clearance forms are available from any Transport Canada Aviation Group Office. Both the Aeronautical Obstruction Clearance form (#26-0427) and a list of Transport Canada Aviation Group regional offices are available on the Transport Canada website.⁹ Completed forms are to be 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 CANADA¹⁰ and completed forms are to be sent to the appropriate NAV CANADA General Manager Airport Operations (GMAO) office, East or West.

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

¹⁰ Search keywords "Land-use Proposal" on the [NAV CANADA website](http://www.navcanada.ca) 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 attestation¹ 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.;

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).